



Colorado Commission on Criminal and Juvenile Justice

Minutes

November 8, 2019

Jefferson County Government Center
 100 Jefferson County Parkway
 Golden, CO 80401

Commission Member Attendance

Stan Hilkey, Chair	Serena Gonzales-Gutierrez	Tom Raynes
Abigail Tucker, Vice Chair	Kristen Hilkey	Cliff Riedel
Chris Bachmeyer - ABSENT	Nancy Jackson	Megan Ring
Minna Castillo-Cohen - ABSENT	Jessica Jones	Gretchen Russo - ABSENT
Shawn Day	Bill Kilpatrick	Matt Soper
Janet Drake	Rick Kornfeld - ABSENT	Jennifer Stith
Valarie Finks	Matt Lewis	Glenn Tapia
Bob Gardner	Andrew Matson	Anne Tapp
Priscilla Gartner	Greg Mauro - ABSENT	Dean Williams - ABSENT
Julie Gonzales - ABSENT	Angie Paccione - ABSENT	Joe Thome, <i>ex officio</i>

Guests: Susan White for Dean Williams; Sarah Pak for Angie Paccione; Phil Weiser, Attorney General

CALL TO ORDER AND OPENING REMARKS

Stan Hilkey, Chair and Executive Director of the Department of Public Safety

Mr. Hilkey, Commission Chair, called the meeting to order at 1:11 pm. Mr. Hilkey asked Commissioners to introduce themselves, reviewed the agenda and asked for any additions or corrections to the October meeting minutes. A motion was made and seconded to approve the minutes; Commissioners unanimously approved the minutes. In reviewing the agenda, Mr. Hilkey noted that Commissioners would spend some time exploring areas of interest for the Commission’s future work.

TASK FORCE UPDATES

Pretrial Release Task Force

Stan Hilkey, CCJJ Chair

The Pretrial Release Task Force met twice in October and again this week to review a number of recommendations presented by the *Recommendations Review/HB19-1226 Working Group*. Task Force members reached a consensus on the recommendations, and statutory language is being drafted. All current recommendations will be rolled into one recommendation that will be presented as a package. It is anticipated that this recommendation will be presented preliminarily at the December 2019 Commission meeting and finally at the January 2020 meeting for a vote.

Mr. Hilkey referred to the Governor's budget which was delivered to the Joint Budget Committee last week. Within the budget, there is a set-aside of \$5M for to address the goals of the pretrial recommendations and to accommodate the 48-hour detention hearing model. The amount was established with the assistance of members of the Pretrial Release Task Force and stakeholders and should be sufficient to begin the work that is described. The \$5M is a placeholder and the legislature will determine how the money will be split between the two concepts. The advocacy has begun for additional funds to be added next year.

Mr. Tapia described that a meeting has been arranged on November 25 to include representative members of the CCJJ Pretrial Release Task Force and Judicial's Blue Ribbon Commission to discuss the differences that have emerged between last year's Blue Ribbon Commission recommendations and the upcoming Pretrial Release Task Force recommendations. Mr. Tapia explained that the Blue Ribbon Commission recommendations were aligned with the original pretrial recommendations proposed by the Commission last year. During the FY 2019 legislative process, changes were made to the Commission's recommendation concepts (appearing in House Bill 19-1226), and the Pretrial Release Task Force has reviewed and integrated some of those legislative changes in the current draft of pretrial recommendations. The purpose of the meeting with Blue Ribbon Commissioners is to provide an opportunity for Pretrial Release Task Force members to discuss the recommendation revisions derived from the modifications found in H.B. 19-1226.

Age of Delinquency Task Force

Joe Thome and Jes Jones, Task Force Co-chairs

The Age of Delinquency Task Force is currently focused on exploring approaches regarding the management of emerging adults (ages 18-24) in response to a mandate from the General Assembly pursuant to House Bill 19-1149 (*Concerning directing the age of delinquency task force of the Colorado commission on criminal and juvenile justice to study serving emerging adults in the juvenile justice system*). The Task Force established the following two Working Groups and identified specific topics for further study:

- 1) The *Youthful Offender System Working Group*--to study YOS eligibility, capacity and regulations.

Discussions by this Working Group are ongoing and members have scheduled a tour of the Youthful Offender System on December 5.

- 2) The *Community Supervision Working Group*--to identify opportunities to develop sentencing and diversion options, and match community services to individual cases.

Ms. Shawn Cohn, the Denver Juvenile Chief Probation Officer and Working Group Leader, met with several community stakeholders to discuss the pros and cons of transferring this population into the juvenile justice system. The Working Group also discussed a model implemented in the 20th judicial district where 18-20 year olds are supervised by juvenile probation officers.

Drug Offense Task Force

Megan Ring and Tom Raynes, Task Force Co-chairs

Ms. Ring referred to Mr. Thome, *Diversion Working Group* Leader to provide the Task Force update. The Task Force established two Working Groups:

1) The *Diversion Working Group*--to study alternatives to filing criminal charges against individuals with substance use disorders who have been arrested for drug-related offenses.

The Working Group heard from Chief Butler from the Longmont Police Department about the Law Enforcement Assisted Diversion (LEAD)/co-responder program and other national models. Ms. Ring highlighted data provided by Mr. Tapia during the Diversion Working Group meeting that showed when people are assessed on Probation with substance abuse needs and treatments, only one-third of individuals with drug offenses had addiction problems, reflecting that the current charge doesn't necessarily reflect a person's need for services.

The *Diversion Working Group* created several small study groups: Definition of Drug-related Offenses, Diversion Eligibility, Diversion Referral Process, Diversion Suitability Evaluation, and Service Delivery and Screening Tools.

2) The *Sealing Working Group*--to study a process for automatically sealing criminal records for drug offense convictions.

The *Sealing Working Group* is conducting a review of other states' automated processes for sealing and discussing the record-sealing processes by the Colorado Bureau of Investigation and the Judicial Branch.

Opioid Investigations Subcommittee

Sheriff Matt Lewis and Bill Kilpatrick, Subcommittee Co-chairs

The Opioid Investigations Subcommittee heard several presentations from state, local and federal drug enforcement partners regarding different strategies and tools utilized to investigate opioid distribution. At the next meeting in December, the group will discuss common themes drawn from the presentations and will start to outline recommendations.

Chief Kilpatrick described that one of the presentations highlighted how rural communities face significant issues with opioid-related problems and that the Subcommittee discussions should focus on the need for resources in non-metropolitan areas.

Mr. Hilkey acknowledged the efforts by and programs offered by the Harm Reduction Action Center in Denver (harmreductionactioncenter.org) and encouraged Commissioners to learn about this program.

PUBLIC COMMENT

No members of the public signed up to comment.

PRETRIAL RELEASE TASK FORCE: FINAL RECOMMENDATION PRESENTATION

Kim English, Data Working Group Member

Becca Curry, Data Working Group Member

Ms. English and Ms. Curry addressed the Commission regarding Recommendations FY20-PR#01 and FY20-PR#02 and explained that the preliminary presentations of these recommendations, developed by the Pretrial Task Force's Data Working Group, were offered at the October 2019 Commission meeting.

Ms. English directed Commissioners to the documents in their packets. A summary of each draft recommendation follows.

Recommendation FY20-PR#01 was displayed and Ms. English and Ms. Curry reviewed the elements of the recommendation and fielded questions.

FY20-PR#01. Implement Pretrial Measurement and Data Requirements [Policy]

Recommendation FY20-PR#01

Local pretrial service programs, State Court Administrators' Office and other data repository entities shall gather and submit specific, case and/or person level data elements to the Division of Criminal Justice (DCJ) annually. These data must include distinct performance and outcome measures (the detailed data elements may be found in the appended Addendum). The Division of Criminal Justice in consultation with a statutorily created statewide pretrial services data advisory group (see CCJJ Recommendation FY20-PR#02) will establish the required data elements [Note: The required 1.0 FTE and the one-time appropriation for information technology requirements related to these functions are found in FY20-PR#02.]. The elements of this policy recommendation include:

- To promote statewide data consistency, a statewide central repository for all pretrial services data is required. This central repository will be located in the Division of Criminal Justice of the Colorado Department of Public Safety.
- The following distinct categories of pretrial services data to be utilized by pretrial services entities and reported to DCJ as outcome and performance measures have been identified:
 - Crime rate, arrest and demographics;
 - Initial bond period, including assessment, bond recommendations, bond ordered, and jail pretrial data;
 - Jail pretrial population data and sentencing outcomes; and
 - Supervision related outcomes.
- The statewide pretrial services data advisory group is recommended to use the Recommended Pretrial Services Data Elements (see Addendum) to guide oversight of data collection for pretrial outcomes and to gain agreement among system stakeholders for performance measurement of pretrial programs.
- Implementation timelines for the collection and submission of required pretrial data by the required pretrial entities will be determined by DCJ in collaboration with the statewide pretrial services data advisory group.
- DCJ shall also undertake the following:
 - Determine that risk assessment instruments have been evaluated and validated in Colorado to maximize accuracy and to statistically minimize bias on the basis of race, ethnicity and gender.
 - The data analysis and evaluation for bias on the basis of race, ethnicity and gender regarding the outcomes of the bond setting process, including the type of bond set, the amount of any secured monetary condition of bond, and any other conditions of release on bond must be performed.
 - The development of training, technical support processes and software to assist the impacted entities in the collection and submission of the required data elements.

DISCUSSION

Mr. Hilkey asked whether there was further discussion of the recommendation. Seeing none, Mr. Hilkey requested a motion to approve the recommendation. A motion was offered by Ms. Drake and Mr. Raynes provided a second. The process for supermajority voting on a final recommendation was explained. To pass, a Commission recommendation requires approval by 66% of the members, combining the A and B votes of the following:

A = I support it B = I can live with it C= I do not support it

Final Vote: FY20-PR#01. Implement Pretrial Measurement and Data Requirements [Policy]

A: 20, B: 0, C: 0

Recommendation FY20-PR#01 was APPROVED.

Recommendation FY20-PR#02 was displayed and Ms. English and Ms. Curry reviewed the elements of the recommendation and fielded questions.

FY20-PR#02. Create a Statewide Pretrial Services Data Advisory Group [Statutory]

Recommendation FY20-PR#02

Create a statewide pretrial services data advisory group staffed by the Division of Criminal Justice with a sunset of five years from legislative enactment. The data advisory group must include representation of pretrial stakeholders, including the State Court Administrator's Office. The Division of Criminal Justice is the central repository for all pretrial services data (see CCJJ Recommendation FY20-PR#01). One (1.0) FTE is required for staffing the statewide pretrial services data advisory group and for pretrial services data management, analysis, and annual reporting and an additional one-time appropriation will be necessary to meet the information technology requirements.

The current statutory pretrial data reporting requirement language in §16-4-106, C.R.S., should be revised to include:

- Remove specific data elements from §16-4-106 to be replaced with recommendations from the statewide pretrial services data advisory group made to the DCJ office responsible for implementation of the defined data requirements.
- Replace the State Court Administrator's Office as the reporting body with the Division of Criminal Justice.
- Create a statewide pretrial services data advisory group appointed by the Executive Director of the Colorado Department of Public Safety and staffed by the Division of Criminal Justice.
- Data reporting will be annual, consistent with current language in statute §16-4-106.

[The "Proposed Statutory Language" is available in the recommendation document available in the November 8, 2019 CCJJ meeting materials at, colorado.gov/ccjj/ccjj-mtgs2019.]

DISCUSSION

Ms. Jackson asked for clarification on the appointment and representation of the data advisory group, especially whether criminal justice planners would be represented. Ms. English responded affirmatively.

Mr. Hilkey asked whether there was further discussion on the recommendation. Seeing none, Mr. Hilkey asked for a motion to approve the recommendation. A motion was offered by Ms. Drake and Ms. Jackson provided a second. A supermajority vote was conducted (as described above).

Final Vote: FY20-PR#02. Create a statewide pretrial services data advisory group [Statutory]

A: 20, B: 0, C: 0

Recommendation FY20-PR#02 was APPROVED.

COMMISSION: FUTURE WORK

Mr. Hilkey indicated that there is typically time set aside annually for Commissioners to discuss potential areas of focus for Commission attention, but, due to the recent increase in legislative mandates directing specific areas of study and limited staff resources, this discussion had been postponed. Although it is unknown whether there will be legislative mandates forthcoming from the FY 2020 session, Commissioners were directed to divide into small groups to discuss suggestions and ideas for future work by the Commission. As the current task forces complete the mandated assignments in early Spring 2020 and as information from the FY 2020 legislative session becomes available, the Commission may be in a position to address the topics generated today.

Richard Stroker, Commission Consultant, was designated to lead Commissioners through an exercise to identify these potential areas of focus. Mr. Stroker offered guidance and instructions on how the three break-out groups of Commission members might generate and prioritize suggestions for new areas of focus.

- Members were reminded that the mission of CCJJ is, “To enhance public safety, to ensure justice, and to ensure protection of the rights of victims through the cost-effective use of public resources. The work of the Commission will focus on evidence-based recidivism reduction initiatives and the cost-effective expenditure of limited criminal justice funds.”
- Members were also reminded that the current Committees, and associated study areas, are: Age of Delinquency, Drug Offense, Opioid Investigations, and Pretrial Release.
- Of the ideas generated, each group was asked to reach a consensus on a prioritized list of four substantive issue areas or topics appropriate for future study.
- Each group was asked to identify a spokesperson who would describe that group’s four topics to the entire Commission.

Mr. Raynes questioned the purpose of the exercise and was concerned that members of task forces had already completed such an exercise. Mr. Stroker explained that it is typical for task forces to brainstorm ideas and issues related to *the specific charge/topic assigned to the task force*. On the other hand, it is the Commissioners’ responsibility to annually review the overall direction of the Commission and to generate the topics that are assigned to task forces for study.

[COMMISSIONERS ENGAGED IN THE SMALL GROUP EXERCISE FOR 45 MINUTES.]

Upon the conclusion of small group discussions and setting of topic priorities, the overall Commission reconvened for reports from each of the small groups.

Table 1 Topics

Mr. Thome reported four prioritized work areas by his group as follows:

1. Strategic criminal justice decision-making/sentencing strategy: Deflection/Diversion, treatment
 2. Right-size appropriate response (best placement)
 3. Individualized case plan
 4. Address Implicit bias/over-representation (training/mitigation)
- Overall concern: Ensure the voice of victims

Table 2 Topics

Dr. Tucker reported three prioritized work areas by her group as follows:

1. Evaluating victim services and identification of best practices
 2. Revisiting the sentencing grid
 3. Uniform system to share criminal justice info
- Overall theme: Judicial engagement

Table 3 Topics

Mr. Hilkey reported four prioritized work areas by his group as follows:

1. Universal data sharing, especially jail data. Continue pretrial efforts

2. Over-representation of minorities in the criminal justice system and implicit bias
3. Truth-in-sentencing
4. Diversion and pre-arrest diversion

SYNTHESIS AND PRIORITIZATION OF POTENTIAL AREAS OF FOCUS

Richard Stroker and Commissioners discussed and synthesized the topics from the small group discussions listed above. Mr. Stroker and Commissioners compiled six, unique, broad topics that were displayed on a large meeting board. Mr. Stroker then asked each Commissioner to endorse their preferred TWO items from the list of six potential study topics in order to rank the choices. A count of the preferences assigned to each topic yielded the following prioritized list:

- 1) Uniform system to share criminal justice info (10 votes)
- 2) Strategic criminal justice decision-making (8 votes)
- 3) Evaluating victim services and identification of best practices (8 votes)
- 4) Over-representation of minorities in the criminal justice system (7 votes)
- 5) Revisiting the sentencing grid (6 votes)
- 6) Diversion/pre-arrest (1 vote)

The Commission will revisit these potential topics in Spring 2020 and discuss the potential impact and feasibility associated with these areas of focus. Mr. Stroker alerted the group that the capacity to address the identified topics will be affected by any mandates received from the General Assembly and any directives received from the Governor,* while also considering the necessity to continue the work of existing committees. As Commissioners are well aware, there are capacity limitations due to staffing considerations and Commissioner time and availability.

[NOTE: The Commission re-authorization pursuant to H.B. 2018-1287 states, "On or before May 1 of each even-numbered year, the Commission shall request a letter from the Governor suggesting topics for the Commission to study. In preparing the letter, the Governor is encouraged to consult with the Chief Justice of the Colorado Supreme Court and the majority and minority leaders of the House of Representatives and the Senate." The first of these letters will be requested by May 2020.]*

ADJOURNMENT

The next meeting of the Commission will be held **at an alternate location**:

"Building 100" / Colorado State Patrol
15350 S. Golden Road, Golden, CO 80401

Mr. Hilkey thanked the Commissioners and asked the group for any final comments. Seeing no further business, Mr. Hilkey adjourned the meeting at 3:44 pm.