



Colorado Commission on Criminal and Juvenile Justice

Minutes

November 12, 2021 / 1:00pm-2:00pm

Virtual Meeting

Commission Member Attendance

Stan Hilkey, Chair	Julie Gonzales – ABSENT	*Steve O’Dorisio
Abigail Tucker, Vice Chair	Serena Gonzales-Gutierrez – ABSENT	Angie Paccione - ABSENT
*Taj Ashaheed	Kristen Hilkey	Tom Raynes
Terri Carver - ABSENT	*Kristiana Huitron	Megan Ring
Minna Castillo-Cohen – ABSENT	Jessica Jones	Michael Rourke
Shawn Day	Bill Kilpatrick - ABSENT	Gretchen Russo - ABSENT
Janet Drake	Rick Kornfeld - ABSENT	Glenn Tapia
Valarie Finks	Greg Mauro	Dean Williams
Bob Gardner	*Derek McCoy	^ <i>Sheriff</i>
Priscilla Gartner - ABSENT	Patrick Murphy	Joe Thome, <i>ex officio</i>

Guest: Phil Weiser, Attorney General; David Oppenheim, Governor’s Office; Lauren Jorgensen, Office of State Planning and Budgeting; Kara Veitch, Governor’s Office; Jamie Short, Governor’s Office

^ *pending appointment*

Call to Order and Opening Remarks

Stan Hilkey, CCJJ Chair, Executive Director/Colorado Department of Public Safety

Mr. Hilkey, Chair of the Commission and Executive Director of the Department of Public Safety, called the meeting to order at 1:04 pm and thanked Commissioners and members from the public for attending. Mr. Hilkey acknowledged the attendance of Attorney General Phil Weiser and Kara Veitch, Chief Legal Counsel/Governor’s Office.

Mr. Hilkey asked Commission members save the date for a tentative additional Commission meeting on Friday, Jan. 28, 2022, to consider recommendations from the Sentencing Reform Task Force. This does not affect the regularly scheduled meetings upcoming on Friday, Jan. 14 and Friday, Feb. 11.

The Governor’s Office recently released a memo providing guidance to Boards and Commissions regarding COVID-19 attestations and testing. Considering the spread of the COVID-19 Delta variant, Governor Polis strongly recommended that Boards and Commissions continue to meet virtually for the foreseeable future. For those boards and commissions that schedule an in-person meeting, virtual participation should still be offered as an option to board members and the public and for those who choose to attend in person, all members must wear masks and provide proof of vaccination or a negative COVID-19 test within 48 hours of the meeting to the board administrator. Mr. Hilkey confirmed that the Commission will continue to meet virtually until further notice.

Mr. Hilkey reviewed the agenda and asked whether there were additions or corrections to the October 8 minutes. A motion was offered and seconded to approve the previous minutes; Commissioners unanimously approved the October 8 minutes.

*[*NOTE: Prior to the regular meeting of the Commission, recently appointed Commission members (noted above with an asterisk (*)) attended the CCJJ New Member Orientation. Members were briefed on the Commission background, mandates, norms and foundation. The background information covered such topics as the Commission mission, history, statutory duties, membership, staff member roles, and CCJJ website. The presentation on Commission norms instructed the new members on the Guiding Principles, Bylaws, mandates and all Commission policies and procedures. The Foundations portion of the orientation provided a basic introduction to evidence-based decision making and highlights of recent Commission efforts and accomplishments.]*

GOVERNOR'S BUDGET: PUBLIC SAFETY INVESTMENT

David Oppenheim, Legislative Director and Jamie Short, Legislative Office, Governor's Office
Lauren Jorgensen, Office of State Planning and Budgeting, Governor's Office

Mr. Oppenheim shared that the Governor recognizes the importance of public safety and has made it a priority for FY 2022-23. This year, the Governor's budget includes a \$113 million comprehensive Public Safety Investment Package to fund a breadth of multi-disciplinary strategies. The Public Safety Investment Package involves several agencies: local law enforcement, Department of Corrections (DOC), Department of Human Services (DHS), the Governor's Office, and the Department of Public Safety (DPS). Below are highlights from the presentation.

The investment package proposes the following:

1. Community Investments -- \$35.9M

- Community Based Competitive and Targeted Grants
A flexible grant program for multi-disciplinary crime prevention and intervention programs by law enforcement and other local agencies to be managed through DPS.
- Crime Prevention through Safer Streets Grant Program
This strategy includes a "hot spots" study as well as a grant program where DPS and local governments evaluate and design safer streets and neighborhood models and discourage crime and revitalize community image. Managed through DPS.
- Preventing Bias-Motivated Violence Grants
Funding would support a preventing bias-motivated violence grant program to provide funds for training programs focused on building strong communities, increased awareness and understanding, and preventing bias-motivated violence. Managed through DPS.
- Young Offender Intervention and Prevention Pilot Program Grants
This grant program is intended to create a blueprint that connects schools, public safety, public health, and other agencies into a single response to reduce crime and violence among young people. Managed through DPS.
- School Safety Resources Grants
A competitive grant program for school districts to apply for school safety enhancements.

Allowable uses would include an expansion of mental health resources, training for mental health professionals, and infrastructure improvements such as locked doors. Managed through DPS.

2. Public Safety Workforce Investment \$16.6M

- Statewide Crime Prevention Forum
One-time funding for a front-end forum in which the findings will be used to inform the design of the grant programs within the package. DPS will engage a national Crime Justice Technical Assistance Organization to facilitate a convening of state and local stakeholders to socialize best practices on crime prevention. Managed through DPS.
- Workforce Recruitment, Expansion, Retention
A grant program for recruitment, retention, and tuition support activities to assist in a plus-up of the public safety workforce shortages being experienced by agencies. Managed through DPS.
- Colorado Bureau of Investigations Plus Up
DPS reports that the Colorado Bureau of Investigation (CBI) is understaffed for its workload and in comparison, to other states of similar circumstances. Managed through DPS.
- Central Evidence Facility
The Department reports that the facility is not big enough, nor secure enough, to store a growing amount of state-held evidence. Managed through DPS.
- DPS: Project Oversight
The project management team will ensure that individual strategies of the Public Safety Package are coordinated, manage project timelines, conduct budget work, and so forth to ensure successful implementation of the entire project package. Managed through DPS.

3. Recidivism Reduction Investments \$7.1M

- Restorative Justice Pilot
One-time funding to implement a pilot of a trauma-responsive, restorative culture through Restorative Justice (RJ) practices and interventions. Managed through DOC.
- Fire Mitigation Equipment of Inmate Fire Team
Funding to provide additional critical equipment to assist in meeting fire mitigation goals in partnership with the Department of Natural Resources (DNR). Managed through DOC.
- Department of Human Services – Division of Youth Services - Youth Employment
One-time funding to bolster education and job readiness training programs for the youth in DYS care to improve outcomes after release. Managed through DHS.
- Take Two Program Expansion
An existing barrier to implementation of the Take TWO program is difficulty transporting offenders to employers. This one-time funding will be used to hire a consultant and implement recommendations for cost-effective transportation, thus expanding the number of employers and offenders who can partake in Take TWO. Managed through DOC.
- Behavioral Health Share in the Criminal Justice System.
This project will allow the Division of Criminal Justice (DCJ) within DPS to enable Colorado jails interoperability with Colorado Integrated Criminal Justice Information System (CICJIS). Managed through DPS.

4. Domestic Violence - \$6M

- Domestic Violence Program Support

As proposed in the Governor's budget request, DHS would receive \$6M for gender-based violence services, including anti-domestic violence and anti-sexual assault services to mitigate the compounded safety concerns faced by interpersonal violence survivors during the COVID-19 pandemic. The funds will be split to support anti-domestic violence organizations, anti-sexual assault organizations, enhance pet safety in domestic violence shelters, directly support survivors of interpersonal violence, develop public awareness, expand the "Caring Dads" pilot program, and support broad domestic violence prevention work at the Department. Managed through DHS.

5. Behavioral Health Investments - \$47.4M

- Criminal Justice Early Prevention Program

The proposed grant program will allow for communities to develop criminal justice redirection infrastructure to prevent at-risk individuals from becoming involved in the criminal justice system or penetrating further into the system. Managed through DPS.

- New Beds at Mental Health Institute at Fort Logan to Address Competency Waitlist

The Colorado Department of Human Services (DHS) is statutorily required to provide competency evaluations and restoration services for patients in the forensic system. In FY 19-20, the Office of Behavioral Health received approval for Capital Construction funding to renovate two units at the Colorado Mental Health Institute at Fort Logan. The renovation and associated operating funds will add 44 forensic treatment beds. These units will be ready for occupancy in October 2022. Managed through DHS.

- Behavioral Health Worker Loan Forgiveness

Funding would be used to expand this program, which can be done by increasing the amount each professional is eligible for, increasing the number of providers services, incentivizing (i.e. increasing the payment for) participation in the program for serving certain populations like those experiencing homelessness and/or those involved in the criminal justice system. Additionally, funds will be used for granting scholarships and/or bonuses so that otherwise eligible individuals without loans may become eligible. Managed through Department of Public Health & Environment.

DISCUSSION

Mr. Hilkey noted that the Public Safety package includes both ongoing and one-time General Funds. These investments represent a strong commitment to increase public safety, reduce crime, and expand services for victims and justice-involved individuals.

Ms. Jorgensen explained that even though many of those grants are one-time investments, the intent is to evaluate effective programs in the communities and possibly consider long-term funding in the future.

Mr. Weiser described that the Colorado Office of the Attorney General has asked for a \$10M investment to support law enforcement agencies in providing mental health and welfare services for their officers across all agencies in Colorado.

Mr. O’Dorisio asked for more information about the “Take Two” program. Mr. Williams responded that “Take Two” is a transitional work program to provide an opportunity for incarcerated individuals to work for designated employers, earn wages, and live in a non-prison environment within the community.

Mr. McCoy discussed some studies conducted by the Colorado Department of Public Health & Environment (CDPHE) that show how strength-based approaches are more effective than approaches centered solely around violence reduction. *Are organizations utilizing such approaches targeted in the Public Safety Investment package to encourage these health-based approaches and positive outcomes?*

Mr. Hilkey and Mr. Oppenheim responded that the Public Safety Investment package is designed to allow flexibility and collaboration with community partners with the end goal of reducing crime and recidivism. With the grant award process, it was anticipated that stakeholders will be engaged and strength-based approaches evaluated.

Mr. Oppenheim offered his appreciation for the opportunity to present and invited Commissioners to contact him directly for additional questions.

UPDATE: SENTENCING REFORM TASK FORCE

Michael Dougherty, Task Force Co-chair

Mr. Dougherty indicated that Task Force Co-Chair Rick Kornfeld was unable to attend due to a work conflict. Mr. Dougherty described that the Sentencing Reform Task Force continues its work to address the sentencing topics delineated in the 2020 Biennial Governor’s Letter [ccjj.colorado.gov/ccjj-mandates] and thanked the members of the Task Force and Working Groups for their time and dedication. Mr. Dougherty introduced Working Group Leaders to provide updates of the efforts of the Working Groups (WG).

WORKING GROUP UPDATES

- ***Sentence Structure Working Group - Michael Dougherty, WG Leader***

With the implementation of Senate Bill 2021-271 (*Misdemeanor Reform*) expected in March 2022, the Working Group continues to review and make necessary adjustments for the successful implementation of the bill. Mr. Dougherty noted that many of the adjustments are mostly technical in nature except for more substantial changes in the statute related to the Possession of a Weapon by Previous Offender (POWPO) offense. The Working Group is identifying offenses to add to the POWPO statute.

In preparation for the 2022 legislative session, Mr. Dougherty explained that the Working Group and Task Force recommends an additional Commission meeting on January 28 to allow for the review of the proposed “general” felony grid and the assignments made to the “general” felony levels.

As discussed at previous Commission meetings, the Working Group remains committed to develop a new felony sentencing framework in Colorado that promotes consistency and certainty in sentencing. The Working Group is currently comparing sentence length and actual length of stay for individuals who were released from prison in 2018 and 2019. Mr. Dougherty provided two scenarios to illustrate the analysis:

1) For a Class 2 Felony, the sentencing range is 8-24 years. The average sentence imposed by the court is 14.25 years and the average length of stay is 5.5 years.

2) For a Class 3 Felony, the sentencing range is 4-12 years in prison. The average sentence imposed by the court is 7 years and the average length of stay is approximately 3.5 years.

The Working Group continues to determine how to simplify sentence ranges while maintaining similar lengths of stay.

- ***Sentencing Alternatives/Decisions & Probation Working Group - Glenn Tapia, WG Leader***

Mr. Tapia described that three of the five concepts presented at the October 2021 Commission meeting were tabled by the Sentencing Reform Task Force for further work by the Working Group, specifically:

- *Reparative Intervention for Persons Convicted of Petty Offenses*: The Sentencing Reform Task Force members were concerned that the program might be an over-response to the needs of petty offenders and about the costs associated with a new program, given the relatively small number of applicable petty offenders.
- *Improve Collaborative Treatment for Justice-Involved People*: The Sentencing Reform Task Force members asked the members of the Working Group to reevaluate whether the proposal should be focused on statutory revisions or a policy proposal, considering that the focus of the proposal - the Behavioral Health Administration - is under development with a July 2022 date of implementation.
- *Implement Individualized Behavioral Health Responses to Probation Violation*: Members of the Sentencing Reform Task Force volunteered to revise and correct the proposed statutory language. The revised proposal will be presented for review at the December 8 Sentencing Reform Task Force meeting.

Sentencing Reform Task Force: Preliminary Recommendations Glenn Tapia, Sentencing Alternatives/Decisions & Probation WG Leader

The Sentencing Reform Task Force offered two preliminary recommendations developed by the Sentencing Alternatives/Decision & Probation Working Group. Mr. Tapia directed Commissioners to the preliminary recommendations forwarded electronically to Commissioners prior to the meeting. *[Given that these recommendations are preliminary, only the title and general descriptions are provided.]*

PRELIMINARY FY22-SR #01. Define the Purposes of Probation [Statutory]

Amend Part 2 of §16-11, C.R.S. to include the following to define the purposes of probation:

- To serve as a sentencing option and a response to crime in order to moderate and deter future criminal behavior and victimization.
- To support persons in behavior change through the coordination and provision of effective and individualized services which may include, but are not limited to, educational, therapeutic, restorative, and skill building services
- To hold persons accountable for their behavior through supervision and interventions that promote reparation of harm to community and victims which shall include, but is not limited to, restitution to victims.
- To serve as a cost-effective option for persons appropriate for community supervision.
- To honor the statutory and constitutional rights of victims of crime.

PRELIMINARY FY22-SR #03. Increase Access to Telehealth Services for Behavioral Health [Policy]

Agencies in the state should develop policies to standardize and increase access to telehealth services for behavioral health treatment for those individuals on community supervision within the criminal justice system. This recommendation includes the following propositions:

1. The Office of Behavioral Health in the Department of Human Services, the Behavioral Health Administration (being established pursuant to House Bill 2021-1097), and the Department of Health Care Policy and Financing should modernize their respective regulatory and funding structures in order to facilitate easier, broader, and more permanent access to telehealth services for those on community supervision.
2. The Division of Criminal Justice, in the Department of Public Safety, should revise its standards for the Sex Offender Management Board (SOMB) and Domestic Violence Offender Management Board (DVOMB) in order to facilitate easier, broader, and more permanent access to fiscally and structurally accessible telehealth services for those on community supervision without compromise to identified crime victims.
3. These agencies should also establish a clear intent and formal communication with providers to support telehealth services as an adjunct to in-person treatment.
4. Standards should be revised to not only limit barriers to telehealth but to incentivize providers to continually build capacity for telehealth services as an adjunct to in-person treatment. There should be fiscal and regulatory incentives for providers to serve rural areas in Colorado.
5. Standards around licensing, certification, and service delivery should be developed or revised to maintain or increase quality of service whether in person or via telehealth adjunct services, and to remove duplicative or conflicting requirements for providers. Increased access to treatment should not compromise quality of treatment.

At a minimum, state standards for behavioral health treatment should address the following key areas of telehealth services and infrastructure:

- Competency of the Provider - Providers can and should have continuing education credits/demonstrated course knowledge of telehealth practices in addition to practice itself.
- Ethical Considerations in Standards of Care - Ask how providers will ensure ethical considerations and how client rights will be thoroughly upheld before, during, and after any telehealth service.
- Informed Consent - Should be proactive, continuous, and responsive to changing consumer circumstances.
- Diversity and Inclusivity Considerations - How will providers ensure they are aware of and appropriately address any diversity or inclusivity concerns related to telehealth? Special considerations should be given to people who are indigent and cannot easily afford access to either telehealth or in-person treatment.
- Confidentiality of Data & Information - How will client information remain confidential?
- Security & Transmission of Data & Information - How will client information remain secure?
- Guidelines and Criteria - Delineation of criteria or guidelines regarding appropriate population for telehealth participation and measures used to assess or evaluate engagement/participation in treatment.
- Decision-Making – Decision-making guidelines should be developed to serve or admit clients to telehealth services that include the preferences of the client, the provider, and the supervision/treatment teams where appropriate (e.g. problem-solving courts, community supervision teams)

The presentation concluded with a reminder that these two preliminary recommendations from the Sentencing Reform Task Force will be offered to members for final consideration at the next Commission meeting on December 10, 2021. Commissioners were encouraged to study and review the recommendations during the intervening period prior to the next meeting.

PUBLIC COMMENT

No members of the public offered comment.

WRAP-UP AND ADJOURNMENT

Mr. Weiser briefly returned to the topic of the Take Two program hosted by the Colorado Department of Corrections. This re-entry program is designed to help incarcerated individuals improve their job skills, enhance their employability, and re-establish social networks in the community with a goal to reduce recidivism. The high recidivism rates in the correctional/justice system are driven by a multitude of factors, including the lack of work, poor (or no) housing options, and a lack of connection to the community. Mr. Weiser expressed appreciation to Mr. Williams and his team for the program.

Ms. Huitron asked whether the Governor's budget includes housing investments for people released from prison. Mr. Hilkey responded that the Governor's budget involves different Departments that provide wrap-around services, including housing.

Mr. McCoy referenced statistics regarding the "school-to-prison pipeline" and the affects on the drop-rate in Colorado schools and that some of these students penetrate the criminal justice system resulting in significant and life changing collateral consequences. Mr. McCoy asked whether there is budget support for initiatives directed to youth prevention programs to prevent criminal justice involvement. Mr. Weiser confirmed that such prevention programs will be supported that address life skills, career preparation behavioral health needs, and employability. Mr. Hilkey mentioned the Youthful Intervention part of the budget package as the likely item to support programs that provide youth and families such prevention and intervention services. Mr. Tapia mentioned that Senate Bill 19-222 *Improving Access to Behavioral Health Services for Individuals At-risk of Institutionalization* includes a housing "safety net plan" as well as early intervention programs.

Ms. Hilkey encouraged Commissioners to be cognizant of evidence and best practices when evaluating proposals that address recidivism and the criminogenic needs of people released from prison. People released from prison often struggle with employment and positive community re-engagement when criminogenic needs are not addressed. Research shows that cognitive-based treatments are effective methods to enhance crime prevention and to reduce recidivism.

Mr. Hilkey stated that, while recent Commission meetings have been short, members should be aware that robust and rigorous efforts are occurring within the Task Force and Working Groups. He encouraged members to prepare for and attend the Dec. 10 meeting when Commissioners will undertake final consideration of the preliminary recommendations presented earlier. He thanked all committee members for their hard work and Commissioners for their attention and participation. With no further business, Mr. Hilkey adjourned the meeting at 1:56 pm.

**The next meeting of the Commission is Friday, December 10 at 1:00 pm.
Information on all Commission-related meetings can be found at, ccjj.colorado.gov/ccjj-meetings.**