



Colorado Commission on Criminal and Juvenile Justice

Minutes

May 13, 2022 / 1:30pm-3:05pm

Virtual Meeting

Commission Member Attendance

Stan Hilkey, Chair	Bob Gardner – ABSENT	Steve O’Dorisio
Abigail Tucker, Vice Chair	Priscilla Gartner – ABSENT	Angie Paccione - ABSENT
Taj Ashaheed	Julie Gonzales – ABSENT	Tom Raynes
Terri Carver – ABSENT	Serena Gonzales-Gutierrez – ABSENT	Megan Ring - ABSENT
Minna Castillo-Cohen	Kristiana Huitron - ABSENT	Michael Rourke
Shawn Day	Jessica Jones – ABSENT	Gretchen Russo
Chad Dilworth	Rick Kornfeld	Glenn Tapia
Janet Drake	Greg Mauro	Dean Williams
Valarie Finks	Derek McCoy	<i>Chief of Police (appoint. pending)</i>
Jaime FitzSimons	Patrick Murphy	Joe Thome, ex officio

Guests: Kara Veitch, David “Dave” Hayes

Call to Order and Opening Remarks

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

Mr. Hilkey, Commission Chair and Executive Director of the Department of Public Safety, called the meeting to order at 1:42 pm and thanked Commissioners and members of the public in attendance. Mr. Hilkey apologized for the late start of the meeting due to technical difficulties. Mr. Hilkey acknowledged the attendance of David “Dave” Hayes, Louisville Chief of Police and Vice President of the Colorado Association of Chiefs of Police. Chief Hayes will attend the Commission meetings until the vacant police chief position is discussed at the July Colorado Associations of Chief of Police Conference.

Mr. Hilkey reviewed the agenda and solicited any additions or corrections to the April 8 minutes. A motion was offered and seconded to approve the previous minutes; Commissioners unanimously approved the minutes.

Update: Behavioral Health Administration (BHA)

Dr. Morgan Medlock, BHA Commissioner

Mr. Hilkey introduced Dr. Morgan Medlock, the new BHA Commissioner, and a member of the Governor’s Cabinet. Dr. Medlock previously served as the Chief Medical Officer and Director of Crisis and Emergency Services for the Washington, D.C. Department of Behavioral Health. She also serves on the faculty of the Massachusetts General Hospital Center for Law, Brain, and Behavior and Howard University College of Medicine and has held a previous appointment as a Clinical Fellow in Psychiatry at Harvard Medical School. Among her many leadership positions, Dr. Medlock served on the American Psychiatric Association’s Council on Minority Mental Health and Health Disparities, including a term as Vice-Chair from 2019 to 2020. She also participated in the District of Columbia Hospital Association’s

Opioid Taskforce, serving as Co-Chair from 2019 to 2020. Dr. Medlock began her role as BHA Commissioner on January 18, 2022.

Dr. Medlock started her presentation by thanking Mr. Hilkey for his introduction and the opportunity to present before the Commission. The full presentation by Dr. Medlock is available under the May 13, 2022 meeting tab on the Commission website at, ccjj.colorado.gov/meetings/meetings-2022.¹

House Bill 2022-1278 established the duties of the BHA, which will launch on July 1, 2022. The BHA is forming a BHA Advisory Council (BHAAC) and inviting Coloradans with lived behavioral health experience to co-create and inform the BHA's vision and strategic plans. Member responsibilities will include, for example: a) Providing diverse community input on challenges, gaps, and potential solutions to inform the BHA's vision and strategic plan, b) Providing expertise, on-the-ground perspective, and insights on implementation challenges as part of working groups to support the BHA in problem solving and developing solutions, and c) Ensuring there is public accountability and transparency through reviewing the BHA's public-facing transparency activities, including the BHA's data dashboards. Applications to serve on the BHAAC will be accepted through June 11, 2022 and appointments should be made by July 1. The applications for the BHAAC can be found on the website at, cdhs.colorado.gov/BHAAC.

Highlights of Dr. Medlock's presentation included the following:

- Vision: A behavioral health system that works for all Coloradans
 - A system where nobody is left behind, including those who are justice-involved.
 - A unified vision & strategy across the continuum of care
 - Improved funding services
 - Comprehensive data
 - System coordination

- Statewide Tour: Dr. Medlock and her team embarked on a statewide tour to better understand the behavioral health needs of Coloradans. Dr. Medlock described a new crisis center model in Salida offering mobile and on-site crisis responses, a drop-off center for behavioral health services with the promise of rapid assessments, and on-site acute behavioral health treatments. The BHA vision is to have a comprehensive, equitable, accessible, affordable, and effective continuum of behavioral health services.

- Equity: The BHA is hiring a Deputy Commissioner for Equity and System Effectiveness. The BHA sponsored five equity fellows named to the national equity-grounded behavioral health leadership program with the College for Behavioral Health Leadership.

- House Bill 22-1278. The Behavioral Health Administration
 - Creation of the BHA Advisory Council (BHAAC)
 - Positions of Advisory Council members with lived experience are currently open.
 - The BHAAC will be Co-chaired by a person with lived experience and 50% of the BHAAC members will have lived experience.
 - Accountability
 - Robust grievance process
 - Enhanced public reporting

¹ Additional information on the Behavioral Health Administration can be found at cdhs.colorado.gov/behavioral-health-reform and at <https://cdhs.colorado.gov/about-cdhs/featured-initiatives/behavioral-health-reform/change-management>.

- Collaborative data sharing
 - Access to High-Quality Services
 - Creation of Behavioral Health Administrative Services Organization (BHASO)
 - Expanded Safety net
 - Efficiency
 - Agency Agreements
 - Universal Contracting Provisions
- The BHAAC will launch on July 1, 2022. An implementation tracking dashboard will be posted on the new BHA website, along with a public-facing care directory.
- Priorities for Criminal Justice Partners:
- Build on existing collaborations to improve the relationship and connection between criminal justice and behavioral health.
 - Raise awareness and understanding of criminal justice within the BHA to inform policy, strategy, and standards.
 - Incorporate priorities of criminal justice partners in improving BHA assessment, treatment, and services for justice-involved individuals.
 - Expand and streamline a comprehensive continuum of care for justice-involved individuals.
 - Improve payment models and address current barriers to service availability, particularly for high-risk and high-need cases transitioning out of institutional care (e.g. Institutes or Corrections).
 - Improve accountability of providers to serve those with justice involvement
 - Address and improve data interoperability.
- Criminal Justice/Behavioral Health Roadmap Objectives:
- Objective 1: Colorado's criminal justice and behavioral health systems promote and invest in accessible and effective programs, strategies, and practices.
 - Objective 2: Colorado's behavioral health and criminal justice workforce has the capacity and resources needed to provide deflection, diversion, and intervention services.
 - Objective 3: State and local agencies and organizations serving people dually involved in Colorado's criminal justice and behavioral health systems are coordinated, communicating, and aligned.
- *Senate Bill 22-196. Health Needs of Persons in Criminal Justice System.* This bill establishes the early intervention, deflection, and redirection from the criminal justice system grant program in the BHA:
- to provide grant to local governments, federally recognized Indian Tribes, healthcare providers, and community-based organizations,
 - to fund programs and strategies that prevent people with behavioral health needs from becoming involved with the criminal justice system, or that redirect individuals in the criminal justice system with behavioral health needs from the system to appropriate services.
 - Local law enforcement agencies are eligible for a grant to develop or expand a co-responder community response program.

DISCUSSION

Mr. Hilkey asked about the appointments of the BHA executive team, specifically the appointment of a Criminal Justice Liaison. Dr. Medlock responded that the Criminal Justice Liaison will report directly to the Deputy Commissioner of Equity whose appointment should be announced by early June. The hiring

process for this Criminal Justice Liaison has yet not started. Dr. Medlock announced that Ms. Summer Gathercole has been appointed as Deputy Commissioner of Operations. The Chief of Staff interviews are currently ongoing, as well as for the Division Director for Quality and Standards.

Mr. Hilkey thanked Dr. Medlock for her presentation. He proposed to invite her back in a few months to hear more updates on the BHA and discuss further collaboration between the criminal justice and behavioral health systems.

LEGISLATIVE UPDATES

Joe Thome, Director/Division of Criminal Justice at the Colorado Department of Public Safety

Mr. Joe Thome explained that Mr. Joel Malecka, CDPS Legislative Liaison, could not attend the meeting and that he will present a complete legislative update at the next Commission meeting in June. In his absence, Mr. Thome offered a legislative update on *House Bill 22-1368. Community Corrections Programs Access*.

The bill requires the Colorado Commission on Criminal and Juvenile Justice to establish a task force to examine and make findings and recommendations to the Commission concerning whether to improve access to community corrections programs for persons convicted of misdemeanors. Duties include:

- 1) an analysis of the population convicted of misdemeanors;
- 2) the services provided by community corrections that may be beneficial to persons convicted of misdemeanors;
- 3) which persons convicted of misdemeanors, based on their assessed risk, would benefit from services provided by community corrections programs;
- 4) the ability to provide services to persons convicted of misdemeanors that align with their risk using existing community corrections program resources;
- 5) the parameters for persons convicted of misdemeanors to access those services;
- 6) what cost persons convicted of misdemeanors are responsible;
- 7) what funding is necessary for community corrections programs to serve persons convicted of misdemeanor; and
- 8) what changes, including legislation, are necessary for community corrections programs to better serve persons convicted of misdemeanors.

The bill allows funding of such community corrections programs (for misdemeanants) to derive from the general fund. The bill defines the membership of the Task Force, which will be appointed by the Commission Chair. The Task Force must convene by July 29, 2022, report findings to the Commission by July 1, 2023 and the Commission present the finding and recommendations during at its SMART hearing with the joint Judiciary Committee during the 2024 legislative session.

Given that the bill specifies positions of representation, Mr. Thome informed members that the Commission staff will soon reach out to Commissioners who fit the position definitions to invite them to participate in the Community Corrections Task Force.

DISCUSSION

Mr. Michael Rourke mentioned *House Bill 2022-1131: Reduce Justice-involvement for Young Children*, which increases the age of prosecution in juvenile court to 13 years of age, and *Senate Bill 2022-023: Deceptive Tactics Juvenile Custodian Interrogation*. Mr. Rourke expressed frustration with this year's legislative process. The legislators, co-sponsors of these justice-related bills, two of whom are

Commissioners, firmly opposed the assignment of the work to the Commission, a body comprising criminal justice experts. Mr. Rourke raised concern that bills have been diverted from the Commission by Commission members and suggested that the roles and responsibilities of Commissioners should be discussed and re-visited.

Commissioner O’Dorisio echoed Mr. Rourke’s concern and reiterated that the Commission should be recognized by the legislature as a body of criminal justice experts working collaboratively to address legislative or policy criminal-justice matters.

Mr. Tom Raynes observed that this seemed to be the first instance when Commission member legislators sponsored bills that are contrary to the intent of the Commission recommendations. He agreed with Mr. Rourke that the roles and responsibilities of members should be visited when legislative appointments are made. While Mr. Raynes recognized the frustration expressed with this legislative session, he believed that the Commission process effectively vets topics with its depth of research, collaborative discussions, and compromises made by criminal justice experts serving on the Commission. Mr. Raynes proposed that the Commission address the criminal justice aspects of the work to be conducted by the Pre-Adolescent Services Task Force created in *H.B. 22-1131* and combine expertise and research to address the age of delinquency issue. He also suggested that the Commission study the issues included in *S.B. 22-023* (the bill “died on the calendar” during the legislative session).

Ms. Minna Castillo-Cohen indicated that the Pre-Adolescent Services Task Force created in *H.B. 22-1131* reports to the Office of Children and Family at the Colorado Department of Human Services, an office that Ms. Castillo-Cohen supervises. As a Commission member, Ms. Castillo-Cohen welcomed coordinated efforts from the Commission and the Pre-Adolescent Services Task Force and will keep the Commission regularly informed of the progress of the Task Force.

Mr. Hilkey suggested that a meeting be arranged between representatives of the Commission and the Pre-Adolescent Services Task Force to start the conversation about sharing data, research, and how the Commission can add value and expertise to the work.

Mr. Hilkey agreed that, in a perfect world, criminal justice matters would be vetted by the Commission as it promotes a broad and diverse partnership of stakeholders from the criminal justice field. He also pointed out that legislators on the Commission are not obligated to assign bills to the Commission and must be responsive first to their legislative responsibilities and their constituents. The legislators who are Commission members are encouraged to refrain from sponsoring bills that are contrary to a CCJJ recommendation, but are not obligated. Mr. Hilkey informed members that the Commission leadership will have a conversation with the Commission legislators to discuss their experiences with the Commission and whether they wish to remain on the Commission before the General Assembly announces their re-appointments.

UPDATE: SENTENCING REFORM TASK FORCE (SRTF)

Rick Kornfeld, SRTF Co-chair

Mr. Kornfeld initiated his update by mentioning that he and Mr. Dougherty, Co-chairs of the Sentencing Reform Task Force, meet regularly with the Governor’s Chief Legal Counsel who reiterated that the Governor remains committed and supportive of the work of the Commission and the Sentencing Reform Task Force (SRTF).

The SRTF met this week and heard reports from the Working Groups. The group then discussed the reactivation of the Sentence Progression Working Group that was placed on hiatus in July 2021. Mr. Greg Mauro (Denver Division of Community Corrections), Mr. Brian Mason (17th Judicial District Attorney's Office), and Ms. Emily Fleischmann (Office of the State Public Defender) have been appointed Co-leaders of the Working Group (WG) and were tasked to develop a preliminary scope of work and timeline. Several Commissioners, members of the Task Force, and "pre-hiatus" Sentence Progression WG members have expressed interest in serving on the reconstituted Sentence Progression Working Group. A meeting was held this morning (May 13, 2022) with the WG Co-leaders and SRTF Co-Chairs to outline the scope of work and membership. The overarching goal for the Sentence Progression WG will be to examine transition programs for people serving their sentences in the Department of Corrections. In the upcoming months, the Sentencing Reform Task Force will discuss the role of discretionary parole in the design of the future sentencing structure and consequently help define the scope and areas of work for the Sentence Progression WG.

SRTF WORKING GROUPS

- ***Sentence Structure Working Group – Rick Kornfeld, SRTF Co-chair***

In the absence of Mr. Dougherty, WG Leader, Mr. Rick Kornfeld reported the Sentence Structure WG had met less frequently these past weeks, given that several members of the WG were very engaged with this legislative session. The Sentence Structure WG and its Study Group (which meets weekly) will continue the review and analysis of discretionary parole, the enhanced felony severity/classification chart, sentencing ranges along with habitual sentences, mandatory consecutive sentences for crimes of violence, and the felony sentencing grid.

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

The Working Group continues to examine areas of over-supervision in probation and prioritized the areas of study related to early termination and revocation. The group is now focusing on the length of probation supervision, particularly on whether the behavior and performance of probationers should affect the length of their probation. At the last WG meeting, Mr. Richard Stroker, CCJJ Consultant, presented general information related to probation supervision practices in the U.S., and on different models of early termination and length of probation. Mr. Tapia expected that the work related to revocation practices and early termination will continue through the summer and early fall.

DISCUSSION

Mr. Tapia understood the Sentence Structure Working Group is currently examining the role of discretionary parole in the sentencing structure. If the Sentence Structure Working Group recommends the elimination of discretionary parole and is approved by the Sentencing Reform Task Force, Mr. Tapia asked whether the Sentence Progression WG will be tasked to design parole supervision under a new mandatory release model and to determine what tools will be available to parole officers to ensure compliance to parole conditions.

Mr. Kornfeld agreed that it will be important to coordinate the efforts of the Sentence Structure and the Sentence Progression Working Groups, as there are many correlated issues to address with the common goal of developing a sentencing framework in Colorado that promotes consistency and certainty in sentencing.

PUBLIC COMMENT

Chief Hayes described that he had testified several times this year in legislative hearings on *House Bill 2022-1326: Fentanyl Accountability and Prevention* and heard testimonies from devastated families and victims of fentanyl overdoses. The Colorado Association of Chiefs of Police is drafting a policy to guide law enforcement officers to respond to drug-related poisoning and assist families during these tragic circumstances. Chief Hayes offered to share the policy with the Commission and welcomed feedback from Commission members.

WRAP-UP AND ADJOURNMENT

Mr. Kornfeld informed the group that he had been absent for several months due to work demands. He expressed his appreciation and thanked the Commission, Mr. Dougherty, and the staff for covering for him during his absence.

Mr. Hilkey thanked Commissioners for their attention and participation. With no further business, Mr. Hilkey adjourned the meeting at 3:05 pm.

**The next meeting of the Commission is Friday, June 10, 2022, at 1:30 pm.
Information on all Commission-related meetings can be found at, ccjj.colorado.gov/ccjj-meetings.**