



Colorado Commission on Criminal and Juvenile Justice

Minutes

June 10, 2022 / 1:30pm-3:05pm

Virtual Meeting

Commission Member Attendance

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

Guests: Kara Veitch, David “Dave” Hayes, David Brandon, Ruth Coffman for Dean Williams

Call to Order and Opening Remarks

Abigail Tucker, CCJJ Vice Chair, representing Mental Health

Commission Vice-Chair called the meeting to order at 1:35 pm and thanked Commissioners and members of the public in attendance, explaining that Chair Stan Hilkey could not attend the meeting. Dr. Tucker acknowledged the attendance of David “Dave” Hayes, Louisville Chief of Police, Ms. Kara Veitch and Mr. David Brandon from the Governor’s Office, and Ms. Ruth Coffman attending for Mr. Dean Williams.

Dr. Tucker reviewed the agenda and noted that, in the absence of a quorum, the approval of the May 13 minutes is postponed until the Commission meeting on July 8.

LEGISLATIVE UPDATE

Jack Reed, Research Director/Division of Criminal Justice

Mr. Reed provided an update on *House Bill 22-1368: Opportunities to Access Community Corrections Programs*. Mr. Reed reminded the group that the bill required 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. The bill defines the membership of the task force, which will be appointed by the Commission Chair. Commission staff is reaching out to commissioners and other stakeholders who fit the position definitions and inviting them to participate in the Community Corrections Task Force. The Task Force must be assembled by July 29, 2022, report findings to the Commission by July 1, 2023, and the Commission present the findings and recommendations during its SMART hearing with

the Joint Judiciary Committee during the 2024 legislative session. Mr. Reed expected the membership to be finalized in July and the first meeting in August.

PRESENTATIONS: PRETRIAL OUTCOME RESEARCH

Michael Dougherty, District Attorney's Office, 20th J.D.

Allison Birchard, Boulder County Criminal Justice Services

John Hilgendorf, Jefferson County Justice Services

The full presentations are available under the June 10, 2022 meeting tab on the Commission website at ccjj.colorado.gov/meetings/meetings-2022.

Boulder County COVID Outcomes

Mr. Dougherty started the presentation by expressing appreciation for the partnership between the 20th J.D.'s District Attorney's office, the Boulder County Criminal Justice Services, the Sheriff's Office, and community stakeholders.

In March 2020, the onset of COVID-19 necessitated a swift and significant response to reduce the jail population. Through system-wide collaboration, and over the first month of COVID, the jail population was reduced by 46% through releases that included:

- The immunocompromised
- Those with 45 days or less remaining on their sentence
- Those on work release.

In addition, new arrest standards and presumptive PR bond eligibility were implemented to reduce the number of individuals booked into jails. In the first few months of 2020, Boulder County released eligible inmates on Personal Recognizance (PR) bonds who were at 45 days or less of their original release dates to reduce the jail population during the COVID-19 pandemic.

The highlights of Ms. Birchard's presentation included:

- Goal of the study
 - To understand public safety and court appearance outcomes for individuals released from jail during the first 3 months of COVID
 - Findings will help inform what practices may be maintained, to support ongoing efforts to ensure public safety and effectively manage the jail population in Boulder County.
- Methodology
 - Data was collected for all jail releases during the first three months of COVID (3/16/20-6/15/20) and compared with the same three-month period in 2019.
 - Tracked public safety and court appearance for the six-month period after release
- Recidivism: Key Takeaways
 - Recidivism rates include new charges (new case filed), not including failure to appear. Public safety rates are defined as no new charges or filings during the supervised pretrial period. Overall recidivism rates were comparable in 2019 and 2020 when looking at new charges within Boulder County.
 - In 2019, the recidivism rate was lower for PR bonds than for secured bonds.
 - In 2020, the recidivism rate was comparable by bond type when looking at new cases statewide.
 - Though fairly low in both years, the rate of escalation from misdemeanor to felony was somewhat higher in 2020 compared to 2019.

- In 2020, felony releases had a higher recidivism rate than 2019, with new misdemeanor charges making up the majority of the increase.
 - The proportion of felony releases that had a new felony was comparable by bond type in 2019 and 2020.
 - Those who had an initial property charge had a higher rate of recidivism than other charge types.
 - 23% of individuals who recidivated had four or more recidivism events.
 - Homeless individuals and those with mental health issues comprised a significant proportion of those with four or more recidivism events.
- Court Appearance: Key Takeaways
 - 68% did not have an FTA within 6 months of initial release.
 - 66% of those who received a PR Bond did not have an FTA within 6 months.
 - A greater proportion of those who received a summons had an FTA.
 - Those who had an FTA on the first release had a higher recidivism rate.
- Three-year Pretrial Trends 2019-2021
 - While already fairly high, PR bond rates ordered for CPAT 1s and 2s [lower risk defendants] increased somewhat in 2020 and 2021.
 - PR bond rates ordered for CPAT 3s and 4s [higher risk defendants] increased significantly during COVID.
 - The agreement rate between bond type recommended and what was ordered for CPAT 3s and 4s was particularly disparate in 2020 and 2021, with a higher percentage being ordered PR bonds than was recommended by the CPAT tool.
 - Among CPAT 3s and 3s, public safety rate was comparable regardless of bond type. (PR or secured)
- Recommendations
 - Address behavioral health needs and stability factors such as homelessness as early as possible in the process of system involvement.
 - Develop a better understanding of release conditions that best support successful pretrial outcomes.
 - Assess current practices around court date notification to identify areas of opportunity for supporting increased court appearance.
 - Gain a better understanding of the interplay between court appearance and recidivism and how best to mitigate increased risk.
 - Engage law enforcement in dialogue about the impact of practice changes on outcomes.
 - Study the impact of sentencing practices and reform on outcomes.
 - Continue to monitor public safety and court appearance outcomes post-COVID to understand whether these outcomes will improve in a post-COVID landscape or are part of a new normal.

DISCUSSION

What were the factors considered for early release in Boulder County?

Mr. Dougherty described the process used in Boulder County to identify the potential inmates eligible for early release. The Boulder County Jail compiled lists of three categories of offenders: immunocompromised individuals, those at 45 days or less of their release date, and those on work release. Each case was then carefully reviewed for criminal history, the type of offenses (violent or non-violent), instances of failure to appear, the type of offenses for which offenders were currently

incarcerated (violent or non-violent), and the length of the sentence served. If the cases involved victims, the victims were notified and consulted whether they agreed to an early release. Last, a motion to the court was submitted with a notice to the defense bar.

Why is there a recent increase in jail bookings in Boulder County despite the policies implemented to reduce the jail population during the first months of COVID-19?

The rise of crime throughout the state led to an increase in the number of arrests, which then led to an increase in jail bookings. Mr. Dougherty also relayed that, during the COVID period, a significant number of individuals who received summonses instead of being arrested failed to appear and were returned to jail because of outstanding warrants for failure to appear.

How do public safety rates compare pre-COVID and during COVID?

The public safety rates before COVID were approximately 75% but dropped to 60% during COVID, resulting in higher recidivism rates. Mr. Dougherty believed that such an increase in recidivism rates could be explained by individuals released from jails having reduced access to treatment and other forms of community support during the pandemic compared to the pre-pandemic circumstances. Mr. Reed commented that the gradual increase in jail population since COVID-19 is being observed throughout the state.

Jefferson County Pretrial Outcomes

Below are the highlights of Mr. Hilgendorf's presentation:

- The focus of the study included failure to appear (FTA) warrants, the impact of increased use of Personal Recognizance (PR) bonds on appearance rates among pretrial defendants, and who failed to appear while on pretrial supervision.
- There was a notable increase in PR bonds ordered at advisements since April 2021.
- There was an increase in FTA rates, especially for those with a Colorado Pretrial Assessment Tool (CPAT) Risk levels 3 or 4.
- Who failed to appear on pretrial supervision?
 - When accounting for CPAT risks, criminal history, prior failure to appear, and current offense, there was no significant relationship between the type of bond posted and failing to appear in court while on pretrial supervision.
 - The strongest predictors for failure to appear were CPAT risk levels, failure to appear history, and certain offense types.
 - CPAT 3 and 4 cases were more likely to FTA, compared to CPAT 1 cases; CPAT 3 cases were three times more likely to FTA; CPAT 4 cases were about twice as likely to FTA.
 - Defendants with multiple prior FTAs were more likely to FTA on pretrial supervision when compared to defendants with no history of failing to appear.
 - Trespass and Identification Theft cases were significantly more likely to FTA, especially CPAT 3 and 4 cases.
 - Theft cases, especially CPAT 3 and 4 cases, had high rates of failure to appear.
 - CPAT 3 theft cases had a 43.5% FTA rate.
 - Domestic Violence and DUI had low rates of failing to appear, regardless of the type of bond posted.
 - These two case types account for a large proportion of the Jefferson County pretrial population.
 - Domestic Violence cases given a PR bond had an FTA rate of just 6.5%.
 - The overall FTA rate for DUI cases on pretrial supervision was just 4%; 7% for PR bonds; and 3% for summons.

- Using technology to improve outcomes
 - In November 2021, Jefferson County started a text notification program to remind pretrial defendants of upcoming court hearings.
 - Defendants receive two reminders per court hearing. One reminder a week before and one a day before the court hearing.
 - There is no noticeable increase in appearance rates among CPAT 1 and 2 defendants who appeared for court, regardless of text notifications.
 - However, there was a significant difference in appearance rates among higher risk (CPAT 3 and CPAT 4) defendants who received multiple text reminders.
 - CPAT 3: 85% appearance rate before text notifications were implemented; after multiple notifications were implemented, the appearance rate was 92% among defendants.
 - CPAT 4: 76% appearance rate before text notifications; after, the rate was 82% among defendants who received multiple text reminders.
 - Text messages were implemented to remind GPS defendants to charge their GPS units.
 - The number of violations filed for defendants failing to charge their GPS unit decreased since GPS charge notifications began.
 - Before texting: Filings were consistently between 50 and 60 violations per quarter.
 - After texting: Filings dropped to less than 20 per quarter.

DISCUSSION

Following the presentations, Mr. Tapia and Mr. Mauro expressed that there are still several important pretrial issues remaining to tackle and asked about the re-activation of the Pretrial Release Task Force. Dr. Tucker and Mr. Stroker will relay to the Commission's leadership the interest in further exploring pretrial issues.

UPDATE: SENTENCING REFORM TASK FORCE (SRTF)

Michael Dougherty, SRTF Co-chair

The SRTF met this week (6/8/22) and heard reports from the Working Groups (WG).

SRTF WORKING GROUPS

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

The Sentence Structure WG met this week (6/7/22) and prepared to move forward with the review of the felony sentencing grid, the Enhanced Felony severity/classification chart, sentencing ranges, habitual sentences, and mandatory consecutive sentences for crimes of violence.

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

The WG continues to examine areas of over-supervision in probation and prioritized the areas of study related to early termination and revocation. Mr. Tapia described that there are inconsistencies across the state among the judicial districts regarding early termination policies and practices. These variations will be measured in an upcoming report on probation and parole from the Crime and Justice Institute. The WG examined various models related to early termination and drafted the elements of a recommendation. Mr. Tapia expected a concept will be presented to the Sentencing Reform Task Force in the summer.

- ***Sentence Progression Working Group – Greg Mauro, WG Co-leader***

The Sentencing Reform Task Force reactivated 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 WG. The WG is tasked with examining the end-of-sentence and transition-to-community options for people serving their sentence in the Department of Corrections. The Co-leaders met with the Co-chairs of the Sentencing Reform Task Force, focusing on membership and representation. Members of the previous pre-hiatus Sentence Progression Working Group and other interested stakeholders will participate. The first meeting is scheduled on Tuesday, June 28 at 9:00 am with a focus on providing background information, examining existing community transition options (Community Corrections, Intensive Supervision Inmate-Program, and Parole), identifying gaps or needs for improvement in those existing options, and possibly the creation of alternate options.

OTHER UPDATES

Dr. Tucker announced the recent appointment of Mr. Daric Harvey as Vice Chair of the Adult Parole Board to represent the Board until the appointment of Mr. Justin Hall, Chair of the Adult Parole Board, effective July 1.

Ms. Minna Castillo-Cohen indicated that *House Bill 2022-1131 (Measures to Reduce Justice-Involvement for Young Children and to Focus on Prevention and Age-Appropriate Interventions)*, which creates the Pre-Adolescent Services Task Force, was signed by the Governor. She informed the group that Ms. Gretchen Russo will lead the Task Force. The Task Force membership comprises 32 statutorily-defined members and the first meeting will be scheduled before August 1, 2022. Ms. Castillo-Cohen expected that the Task Force will hold two meetings every month. The Task Force will examine gaps in services for juveniles who are ten to thirteen years of age if the minimum age of prosecution of juveniles were to be increased from ten years old to thirteen years old. A report of finding is required by December 30, 2022.

PUBLIC COMMENT

No members of the public offered comment.

ADJOURNMENT

Dr. Tucker thanked Commissioners for their attention and participation. With no further business, Dr. Tucker adjourned the meeting at 3:04 pm.

**Subsequent to the June 10 meeting, the July 8 meeting of the Commission was canceled.
The next meeting of the Commission is Friday, August 12, 2022, at 1:30 pm.**

Information on all Commission-related meetings can be found at, ccjj.colorado.gov/ccjj-meetings.