



Colorado Commission on Criminal and Juvenile Justice

MINUTES

December 9, 2022 / 1:30pm – 2:55pm

Virtual Meeting

Commission Member Attendance

Stan Hilkey, Chair	Julie Gonzales - ABSENT	Steve O'Dorisio
Abigail Tucker, Vice Chair	Serena Gonzales-Gutierrez	Angie Paccione
Taj Ashaheed	Justin (JR) Hall	Tom Raynes
Terri Carver – ABSENT	Dave Hayes	Megan Ring
Minna Castillo-Cohen	Kristiana Huitron	Michael Rourke
Shawn Day	Jes Jones	Gretchen Russo - ABSENT
Janet Drake	Kira Jukes	Moses (Andre) Stancil - ABSENT
Valarie Finks	Rick Kornfeld - ABSENT	Glenn Tapia
Jaime FitzSimons	Greg Mauro	Joe Thome, ex officio
Bob Gardner - ABSENT	Patrick Murphy - ABSENT	<i>Victim/Survivor rep.</i> - VACANT

Guests: Michael Dougherty

Call to Order and Opening Remarks

Stan Hilkey, CCJJ 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 1:35 pm and thanked Commissioners and members of the public for attending. Mr. Hilkey reviewed the agenda and solicited any additions or corrections to the November 18 minutes. A motion was offered and seconded to approve the minutes; Commissioners unanimously approved the November 18 minutes.

Mr. Hilkey informed the Commission that Governor Polis appointed Mr. Moses (Andre) Stancil as the Interim Executive Director of the Colorado Department of Corrections and welcomed Mr. Stancil as a new Commissioner.

PRESENTATION: Sentencing Reform Task Force - Preliminary Recommendation Glenn Tapia, Sentencing Alternatives / Decisions & Probation Working Group Leader

On behalf of the Sentencing Reform Task Force, Glenn Tapia offered a PowerPoint presentation related to preliminary Recommendation FY23-SR #01 that can be found on the Commission website under CCJJ Meetings - "Meetings: 2022" (December 9, 2022 tab) at, ccjj.colorado.gov/meetings/meetings-2022. The recommendation was presented on Wednesday (Dec. 7) to members of the Sentencing Reform Task Force who approved it unanimously for submission to the Commission.

An excerpt of preliminary Recommendation FY23-SR #01 is presented below.

[Given that this recommendation is preliminary, only the title and general description are included.]

FY23-SR #01. Standardize Early Termination Policy in Probation [Policy]

There should be a standardized process within all of the Colorado Probation judicial districts to ensure a transparent, consistent, and timely review of each adult case for early termination. Following these recommendations (in Appendix A) is a list of technical considerations and areas that will need to be addressed by a working group for this process to be successful.

DISCUSSION

Dr. Paccione asked whether probation officers receive implicit bias training. Mr. Tapia replied that implicit bias training is offered in many individual judicial districts but not deployed statewide. The Division of Probation is considering developing a statewide curriculum.

Mr. Hilkey reminded Commissioners that this recommendation will be presented for a vote at the next Commission's meeting in January.

UPDATES: TASK FORCES AND WORKING GROUPS**SENTENCING REFORM TASK FORCE (SRTF)****Rick Kornfeld & Michael Dougherty, SRTF Co-chairs**

Mr. Dougherty informed Commissioners that a Question and Answer Session is scheduled on December 16, 2022 at 1:30 pm with the members of the Sentence Structure Working Group to address questions from members of the Commission and Sentencing Reform Task Force, stakeholders, and the public on matters related to motor vehicle theft.

Offered a PowerPoint presentation related to preliminary Recommendation FY23-SR #01 that can be found on the Commission website under CCJJ "Meetings: 2022" (December 9, 2022 tab) at, ccjj.colorado.gov/meetings/meetings-2022.

SRTF WORKING GROUPS***Sentence Structure Working Group - Michael Dougherty, WG Leader***

The Sentence Structure Study Group continues to develop proposals to amend statutes related to auto theft, extreme indifference-murder, mandatory consecutive sentencing, vehicular homicide, and the reclassification of certain felony crimes. Mr. Dougherty estimated that these proposals would be presented as recommendations at the January 11 Sentencing Reform Task Force meeting with a vote by the Task Force in January.

Mr. Dougherty offered a PowerPoint presentation that can be found on the Commission website under MEETINGS: "Meetings: 2022" on the Dec. 9, 2022 tab at, ccjj.colorado.gov/meetings/meetings-2022.

DISCUSSION

Chief Hayes shared that the Colorado Chiefs of Police met Dec. 8, 2022 with members of the Colorado District Attorneys' Council (CDAC) to discuss proposed legislation that would remove the vehicle valuation in the auto theft statute. Chief Hayes agreed with the removal of the valuation and asked Mr. Dougherty whether the Working Group is considering aligning with this proposal. Mr. Dougherty responded that the Working Group continues to discuss and consider this option.

Chief Hayes suggested the Working Group also discuss possible aggravators for the repeat offense of unauthorized possession, a misdemeanor offense under the proposed recommendation.

Dr. Tucker discussed finding the balance between the rights of victims and the response to these crimes. Dr. Tucker referenced a paper by Lisa Pasko, Ph.D. (Denver University) that describes that there is no correlation between criminal justice reform and the increase in crime in Colorado. Crime increase does correlate with societal instability, such as mental health, guns, housing, unemployment, job, and education. With the limited resources of correctional facilities, Dr. Tucker asked whether the Working Group had discussed access to care and the potential impact of longer sentences on people with mental health and substance use disorders. Should a comprehensive review of why and by whom these auto theft crimes are committed?

Mr. Dougherty, Mr. Raynes, and Ms. Jones, members of the Sentence Structure Working Group, responded that these considerations underlie all the conversations of the Working Group regarding the comprehensive review of the misdemeanor and felony offenses. The Working Group engaged in these conversations in an attempt to identify the most appropriate sentence that reflects the harm caused while acknowledging other instability factors that led to the crime. Regarding auto theft, a large majority of auto theft cases are currently classified as Class 4 or Class 5 felonies. Most of the cases receive a sentence of probation. The proposed change from a misdemeanor to a felony class would represent only a few cases.

Mr. Hilkey indicated that only a small percentage of auto theft cases are “cleared” (solved and prosecuted). Referencing the priorities in the Governor’s Biennial Letter to the Commission, several policing and preventive efforts are ongoing in the state.

Ms. Castillo-Cohen asked whether the WG discussions on motor vehicle theft have included the potential impact on juveniles in general and also on the detention and commitments of juveniles. She added that, for the first time since 2015, there has an increase in juvenile detentions and commitments and asked whether the group includes a juvenile representative who might raise these issues.

Mr. Dougherty acknowledged that the Working Group considered the impact on juveniles and that the members of the Working Group have experience in dealing with juvenile cases. Mr. Dougherty will relay Ms. Castillo-Cohen’s comment to the Task Force and encourage Commissioners to join the Question and Answer Session on December 16.

Mr. Tapia echoed Dr. Tucker regarding the balance between addressing risks and needs and identifying the appropriate sentence. Mr. Tapia believed there are better outcomes when the sentencing decision includes an assessment/awareness of stability factors and the offender's risks/needs rather than just the severity of the crime.

Commissioner O’Dorisio shared that the public perceives there is little support for victims of auto theft and few consequences for offenders. He appreciated those questioning the validity of simply applying harsher sentences and the need to understand the causes for committing these crimes, but expressed the necessity to identify an appropriate response, considering the harm done to the victims. Commissioner O’Dorisio agreed with the enhancement of sentences for repeat offenses and organized activities.

Mr. Ashaheed mentioned his work to assist people releasing from the Department of Corrections who are navigating the reintegration into society. Mr. Ashaheed reiterated some points discussed that we must thoughtfully consider the underlying factors (i.e. mental health, poverty, etc.) in the sentencing decision. The broad challenge is to address repeat offenses.

Dr. Tucker shared a brief titled, *Crime Increase in Colorado: Multiple Explanations* authored by Lisa Pasko, Ph.D., Denver University, and a policy brief titled, *How Better Access to Mental Health Care Can Reduce Crime* by Elisa Jacome, Stanford Institute for Economic Policy Research.

Mr. Reed, Research Director from the Division of Criminal Justice, offered a summary titled "Motor Vehicle Theft Filings: 2018 to June 2022.

The documents mentioned above can be found on the Commission website under Meetings: "Meetings: 2022" in the December 9, 2022 meeting tab at ccjj.colorado.gov/meetings/meetings-2022.

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

Mr. Tapia reported that the Working Group continues to focus on whether there is gender and/or race/ethnicity disparity in probation practices. The Working Group heard data presentations and is currently focused on gathering data on the Pre-Sentence Investigation process. The WG will probably have time for one more study area topic and terminate the WG in the fall. [See the preliminary recommendation above from the Sentencing Reform Task Force and this Working Group regarding consistency across judicial districts in the timing and criteria for early probation termination.]

COMMUNITY CORRECTIONS TASK FORCE (CCTF)

Glenn Tapia, Task Force Chair

The broad mission of the Task Force is to consider whether services provided by community corrections programs might be valuable to persons convicted of misdemeanors. The Task Force met on December 5 and established broad consensus points, particularly regarding the implementation of pilot programs. At future meetings, the group will discuss finer points related to the framework such as the scale and duration of the pilot programs, the type of programming, funding, and research questions that should be answered. Glenn expected the Task Force would develop a recommendation in early spring of 2023.

OTHER UPDATES

Richard Stroker, CCJJ Consultant

Mr. Stroker reminded Commissioners of the newly authorized Reentry Task Force. The CCJJ staff will invite Commissioners to participate in the work of this Task Force.

PUBLIC COMMENT - No members of the public offered comment.

ADJOURNMENT

Mr. Hilkey thanked Commissioners for their attention and participation. With no further business, Mr. Hilkey adjourned the meeting at 2:55 pm.

**The next meeting of the Commission is Friday, January 13, 2023, at 1:30 pm.
Information on all Commission-related meetings can be found at, ccjj.colorado.gov/ccjj-meetings.**