



Colorado Commission on Criminal and Juvenile Justice

MINUTES

April 14, 2023 / 1:30pm – 4:00 pm

Virtual Meeting

Commission Member Attendance

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

Guests: Michael Dougherty

Call to Order and Opening Remarks

Stan Hilkey, CCJJ Chair

Mr. Hilkey, Commission Chair (Executive Director, Department of Public Safety) called the meeting to order at 1:34 pm and thanked Commissioners and members of the public for attending. Mr. Hilkey reviewed the agenda and solicited any additions or corrections to the February 24 and March 10 minutes. A motion was offered and seconded to approve the minutes; Commissioners unanimously approved the February 24 and March 10 minutes. Mr. Hilkey reminded Commissioners the meeting was moved to a virtual platform due to a power outage at the CDPS Kipling complex.

Legislative Updates

• **Liaison Update**

Joel Malecka, Legislative Liaison Colorado Department of Public Safety provided an update on legislative activity regarding bills derived from Commission recommendations and other criminal justice-related bills recently considered during the 2023 legislative session. The summary of Mr. Malecka’s presentation follows:

CCJJ RELATED BILLS

Senate Bill 2023-097. Motor Vehicle Theft and Unauthorized Use.

This bill regarding motor vehicle theft passed the Senate and was assigned to the House Judiciary Committee. The bill includes revisions that eliminate felony class for motor vehicle theft based on the value of the car and create the crime of unauthorized use of a motor vehicle.

(Related to CCJJ Recommendation FY23-SR #02. Amend and Append Motor Vehicle Theft Provisions [Statutory])

House Bill 2023-1292. Enhanced Sentencing.

This bill includes revisions of post-conviction review and sentence reconsideration. This bill was introduced in the House on April 13 and assigned to the House Judiciary Committee.

(Related to CCJJ Recommendation FY23-SR #04. Change Felony Crime Classifications and Sentence Enhancement Provisions of the Criminal Code [Statutory])

House Bill 2023-1293. Felony Sentencing Commission Recommendations.

This bill reclassifies various felony criminal offenses to a felony to a different felony or misdemeanor level. This bill was introduced in the House on April 13 and was assigned to the House Judiciary Committee.

(Related to CCJJ Recommendation FY23-SR #03. Reclassify Selected Felony Crimes [Statutory])

Senate Bill 2023-088. Sentence Served before Parole and Notify Victim.

This bill requires the Commission to report to the General Assembly about its study of sentencing reform. This bill passed the Senate and was assigned to the House Judiciary Committee.

Senate Bill 2023-158. Sunset Colorado Commission on Criminal and Juvenile Justice.

This bill was heard in the Senate Judiciary Committee on April 12, and will continue under consideration “for action only” on April 24, during which committee members will review amendments to the bill.

OTHER CRIMINAL JUSTICE RELATED BILLS

House Bill 2023-1169. Limit Arrest for Low-level Offenses.

This bill was postponed indefinitely by the House Judiciary Committee Judiciary.

House Bill 2023-1249. Reduce Justice-involvement for Young Children.

This bill changes the minimum age of a child subject to the juvenile court’s jurisdiction from 10 to 13 years of age. This bill passed the House Appropriations Committee and was assigned to House Judiciary Committee.

Senate Bill 2023-164. Sunset Process Sex Offender Management Board.

Some amendments are expected to be introduced in a second hearing of the bill on April 17 in the Senate Judiciary Committee.

- **Legislative Subcommittee Update**

Stan Hilkey, Subcommittee Chair & Tom Raynes, Subcommittee member

Mr. Hilkey indicated that the CCJJ Legislative Subcommittee convened this week on Wednesday, April 12, to discuss drafting details related to the bill derived from *CCJJ Recommendation FY23-SR #04*.

Mr. Raynes explained that during the drafting of *House Bill 23-1292*, the bill sponsor removed the extraordinary risk element (element 4.3) from the Commission’s recommendation. Mr. Raynes asked the Legislative Subcommittee to convene and determine whether the Commission should continue to endorse it as a Commission bill. Mr. Raynes shared that the members of the Sentence Structure Study Group acknowledged that the extraordinary risk provisions eliminated for Class 5 and 6 felonies

would affect the following four offenses: *sexual exploitation of a child, child abuse, stalking, and invasion of privacy for sexual gratification*. Given the Study Group intended to review the sex offense statutory provisions in future work and that the remaining offenses (child abuse and stalking) would indeed require additional work, the Legislative Subcommittee members unanimously voted to continue to support *House Bill 23-1292* as drafted, without the extraordinary risk element.

Mr. Hilkey mentioned the Legislative Subcommittee meets on an as-needed basis, often under conditions of urgency. However, considering the decision was not under such a time constraint and the full Commission was meeting today, the group asked Commissioners whether they supported the Legislative Subcommittee's conclusion that the bill as drafted continued to reflect the Commission intent in *CCJJ Recommendation FY23-SR #04* (without the extraordinary risk element).

Chief Hayes moved to concur with the Legislative Subcommittee's decision to continue endorsing *House Bill 23-1292* as reflecting the intent of the Commission. Sheriff FitzSimons seconded the motion. Mr. Hilkey asked whether any member was opposed. Seeing none, the motion was approved by acclamation.

PRESENTATION: Crime Justice Trends in Colorado

Mr. Hilkey welcomed Mr. Jack Reed from the Office of Research and Statistics in the Division of Criminal Justice to offer a presentation to members. The full presentation can be found on the Commission website under the April 14, 2023, meeting tab at ccjj.colorado.gov/ccjj-mtg2023. The highlights of the subsequent discussion are provided below.

DISCUSSION

Mr. Ashaheed asked about the contributors to the increase in violent crime.

Mr. Hilkey acknowledged the challenge of the question. He shared that with the Governor's Wildly Important Goals (WIGs) to become one of the top ten safest states, the Department of Public Safety has focused efforts on decreasing the rate of motor vehicle thefts and aggravated assaults. As part of the crime reduction goals, Mr. Hilkey interviewed the Chiefs of Police and Sheriffs on their understanding of the increase in violent crime rates. Some mentioned the increase in juvenile crimes in their jurisdictions, issues surrounding homelessness, and motor vehicle thefts that are used to commit other crimes. One of the prevailing themes in these interviews was the escalation of individuals "resolving" conflict with the use of guns or knives.

Dr. Tucker referenced a paper by Lisa Pasko, Ph.D. (Denver University), that describes that crime increase does correlate with societal instability, such as mental health, guns, housing, unemployment, job, and education (The Pasko brief, "Crime Increase in Colorado: Multiple Explanations" is available under the April 14, 2023, meeting tab at ccjj.colorado.gov/ccjj-mtg2023).

Mr. Raynes asked whether there was a correlation between the decrease in DUI arrests and law enforcement staff shortages.

Sheriff FitzSimons and Chief Hayes agreed that, for their jurisdictions, the law enforcement officer shortage has significantly reduced DUI enforcement and that resources have been reallocated to calls for services, which has also increased. Mr. Hilkey echoed that Colorado State Patrol and most other law enforcement agencies experienced a similar shortage of personnel and the shuffling of duties to respond to the rise of civil unrest activities.

During Mr. Reed's presentation, Commissioners shared additional research in the chat box regarding juvenile access to firearms from the recent Colorado Healthy Kids Survey and the Food and Drug Administration warning of a sharp increase in the trafficking of fentanyl mixed with xylazine. Representative Gonzales-Gutierrez asked about data on juveniles on probation and juvenile detention.

Mr. Reed will update the PowerPoint presentation with that information.

PRESENTATION: Pre-Adolescent Services Task Force - Final Report

Kelly Abbott & Sarah Boylan, Task Force members

The Pre-Adolescent Services Task Force (PASTF) was established in the Department of Human Services pursuant to *House Bill 2022-1131*. In the related June 7, 2022 "signing statement" by Gov. Jared Polis, he stated, "I strongly encourage the CCJJ to invite the pre-adolescent services taskforce to present to the CCJJ to inform the Commission's important work regarding juvenile justice." PASTF representatives were invited to offer the presentation to honor this request. The presentation (bill and signing statement) can be found on the Commission website under the April 14, 2023, meeting tab at ccjj.colorado.gov/ccjj-mtg2023. The highlights of the subsequent discussion are provided below.

The Pre-Adolescent Services Task Force Final Report also is posted on the Colorado Department of Human Services (CDHS) website under the "Agendas and Minutes" tab at cdhs.colorado.gov/pre-adolescent-services-task-force.

DISCUSSION

Ms. Russo summarized the Pre-Adolescent Services Task Force process. The Task Force comprised 31 appointed members and met from August 2022 to February 2023. The CDHS hired a consultant to facilitate the meetings and produce a report. The Task Force established bylaws that required a supermajority quorum for all official voting purposes. Due to scheduling challenges, a supermajority was not reached at enough meetings to vote on the recommendations. The Task Force decided to take unofficial votes, and members provided feedback on each recommendation (see Appendix B of the report).

Stimulated by the information offered in the PASTF Final Report representation, Rep. Gonzales-Gutierrez asked for a breakdown by type of offense in the non-consensual sex crime category and Mr. Raynes also asked for a breakdown by type of arrests for juveniles. These requests for information were made in reference to the previous "Crime Trends" presentation.

Mr. Reed will add these data to the Crime Trends presentation that will be posted on the CCJJ website as indicated above.

Mr. Raynes thanked the presenters and expressed the importance of the Commission continuing to work on juvenile justice issues, highlighted in both presentations today. Mr. Raynes reiterated the Governor's expectation for the Commission to pursue Juvenile Justice work during the signing of House Bill 22-1131. He also reminded Commissioners of the Age of Delinquency Task Force, which concluded in July 2020.

Mr. Tom Raynes offered the following motion:

Re-start the Age of Delinquency Task Force with new membership and, to the extent resources currently exist or can be made available, be instructed to undertake a study and review of the age of prosecution for the 10-12-year-old offenders to include the study and consideration of whether any

offenses committed by this population or specific ages within this population might be safely and beneficially served outside the scope of the juvenile justice system without any increased threat to public safety, and while fully respecting and providing for the rights of victims at the same level as current law provides. The Task Force shall submit and present a report, including any recommendations made, to the Joint Judiciary Committee of the General Assembly no later than January 31, 2024.

Michael Rourke seconded the motion.

Representative Gonzales-Gutierrez requested that the motion and discussion be tabled. She reminded Commissioners that *H.B. 2023-1249. Reduce Justice-involvement for Young Children* still is currently under consideration by the General Assembly. The bill, related to the work and recommendations of the PASTF, intends to address this matter by changing the minimum age of a child subject to the juvenile court's jurisdiction. Representative Gonzales-Gutierrez suggested waiting for the legislative outcome of *H.B. 2023-1249* and the upcoming reauthorization consideration of the Commission (*S.B. 2023-158*) before re-engaging in the discussion of juvenile justice issues. She relayed concerns she expressed at the previous Commission meeting and conversation at the Legislature about the appropriateness of the Commission to tackle juvenile justice issues due to the lack of subject matter experts.

Ms. Jones was Co-chair of the CCCJJ Age of Delinquency Task Force that was tasked with reviewing and examining age of delinquency issues and was comprised of juvenile justice subject matter experts. Ms. Jones informed the group that Task Force members decided not to undertake the work to raise the age of delinquency for 10-12 years old. This was done with the understanding that, at the time, such a recommendation would have been unlikely to reach a consensus among the group or receive support from stakeholders.

Ms. Jones questioned the underlying process implied by the motion to re-activate a Task Force, as proposed by Mr. Raynes. In previous years, the Commission held a retreat during which Commissioners offered, discussed and prioritized topics of interest for the Commission and created Task Forces to study those prioritized topics.

Ms. Russo clarified that the Pre-Adolescent Services Task Force only looked at services and has not discussed raising the floor for prosecution. Ms. Russo added that she was also a member of the Age of Delinquency Task Force and echoed that, at the time, there was no interest in addressing the topic of raising the age of delinquency.

Ms. Castillo-Cohen concurred that the Commission should wait for the outcome of *H.B. 2023-1249*. If the bill is passed by the legislature this session, the Commission could visit any issues remaining for study.

Chief Hayes expressed his support for the Commission to examine the age of delinquency issues. He believed the Commission seems to have momentum, and juvenile issues are significant topics for the Chiefs of Police in Colorado. As a Police Chief, the Commission has increased his awareness of criminal justice issues and is very appreciative of the work of the Commission.

Ms. Jones and Representative Gonzales-Gutierrez asked for an opportunity to consider the motion and vote at the next Commission meeting in May.

Ms. Drake asked whether the Commission has enough resources to support a new Task Force.

Mr. Reed responded that an Age of Delinquency Task Force, in addition to the ongoing groups, would stretch the Commission capacity both for Commission members and for staff. He reminded Commissioners that the newly formed Reentry Task Force held its first meeting on April 11 and is expected to create several working groups.

Mr. O'Dorisio mentioned he heard significant concerns from several counties about the current "raise-the-floor" (raise the age of delinquency) legislation in *House Bill 2023-1249*. Several local governments have expressed interest in participating in potential Age of Delinquency Task Force discussions and legislation.

Mr. Raynes acknowledged the request by Ms. Jones and Rep. Gonzales-Gutierrez and agreed to table the motion for further consideration the next Commission meeting on May 12.

TASK FORCE UPDATES

Due to time constraints, the Task Force updates were postponed to the next meeting.

PUBLIC COMMENT

Ms. Maureen Cain suggested that the Commission continue to discuss an expand the membership of the Reentry Task Force. Mr. Hilkey agreed and acknowledged Ms. Cain's suggestion.

ADJOURNMENT

Mr. Hilkey thanked Commissioners for their attention and participation. With no further business, Mr. Hilkey adjourned the meeting at 3:50 pm.

The next Commission meeting is Friday, May 12, 2023, at 1:30 pm.

Details of all Commission related-meetings may be found on the CCJJ web and calendar (ccjj.colorado.gov/ccjj-meetings & ccjj.colorado.gov/ccjj-calendar).