



Colorado Commission on Criminal and Juvenile Justice

MINUTES

May 12, 2023 / 1:30pm – 3:00 pm

Virtual Meeting

Commission Member Attendance

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

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 1:32 pm and thanked Commissioners and members of the public for attending. Mr. Hilkey reviewed the agenda.

CCJJ Sunset

Stan Hilkey

The Colorado Commission on Criminal and Juvenile Justice was not reauthorized during the FY 2023 session of the General Assembly. The Department of Public Safety is the administrative home of the CCJJ, and, although the Commission is authorized through September 1, 2023, the Department has to plan for the end of the Commission at the end of the current fiscal year, June 30, 2023.

Mr. Hilkey read a letter from Governor Polis addressed to the Commission. The letter will be sent to Commissioners and posted on the Commission website under the “May 12, 2023” tab at ccjj.colorado.gov/meetings-2023.

Commissioner Comments

Senator Gardner agreed with everything said in Governor Polis’ letter. He expressed disappointment that CCJJ was not reauthorized, as he believes everyone on the Commission has done valuable, important, and tremendous work. He expressed the privilege it has been to serve on the Commission.

Chief Hayes expressed his appreciation for the work accomplished by the Commission. He also felt it has been a privilege to serve on the Commission, and he thanked Mr. Hilkey for his leadership.

Below are comments offered by commissioners in the chat box:

From Mr. Tapia: *The hidden heroes of the CCJJ are also the DCJ staff who make this all happen so seamlessly. None of this could have been done without the strong commitment and resilience of the DCJ staff over the years who make the behind-the-scenes work a success. Gratitude to all DCJ staff and leadership.*

From Ms. Russo: *Agree with Glenn! Thank you for all you do!*

From Ms. Finks: *Agree with a huge thank you to all the DCJ staff and all their help through the past several years!*

From Dr. Tucker: *I echo Glenn's sentiments. Thank you, DCJ staff. I also want to thank each of you for your dedication, competency, commitment, and collaboration over the years. I have learned so much from each of you / all of you. I am grateful for having spent time with such a passionate and intelligent group of professionals. Thank you, Stan, for your leadership.*

From Mr. Raynes: *Staff is awesome – thanks, all of you.*

From Mr. O'Doriso: *Special thanks to Stan, staff, and commissioners for your work.*

CCJJ by the Numbers

Mr. Hilkey offered a few statistics compiled by the staff:

- **MEETINGS = 1,350**
 - 162 = CCJJ meetings
 - 788 = Task Force, Subcommittee, Working Group meetings
 - 300 = Study Group meetings
 - 100 = Working Groups & Study Groups, “Undocumented” meeting estimate
- **DOCUMENTS generated = 3,000**
(Agendas, Minutes, Recommendations, Presentations, Reports, etc.)
- **RECOMMENDATIONS = 300**
 - 148 Legislative recommendations leading to 123 successful bills
 - 152 Policy recommendations
- **GROUPS created = 90**
 - 31 = “Big” Groups (Task Forces & Subcommittees)
 - 59 = “Small” Groups (Working Groups and Study Groups)
- **PEOPLE = 850 terms of service + 30 Staff members**
 (“Terms of service” counted because MANY individuals served on multiple groups over the years!)
 - 127 = CCJJ members
 - 723 = Terms on Task Forces, Subcommittees, Working Groups & Study Groups
 - 30 = Staff members contributing to CCJJ work
- **Of note**, among those currently serving the Commission in some capacity are individuals who were among the earliest CCJJ, Task Force, or Subcommittee Members (IN 2008 & 2009): Maureen Cain, Tim Hand, David Kaplan, Greg Mauro, Tom Raynes, and Glenn Tapia.

Mr. Hilkey referenced his May 10 communication in which he described that today's meeting might be the last regular meeting of the CCJJ. This will depend upon several factors, including: how Commissioners choose to review the forthcoming recommendation from the Community Corrections Task Force, that June meetings have always typically been challenging to achieve a quorum due to summer vacations, the desire for a bit of relief from meetings following the legislative session, and the fact that the Commission has not been reauthorized.

Mr. Hilkey shared there are ongoing discussions with the Governor's Office about the development and continuity of criminal justice policy reform efforts. Mr. Hilkey expressed the expertise of Commissioners is valued and asked Commissioners for their readiness to continue the criminal justice policy conversation in the future.

Mr. Hilkey thanked all Commissioners for their work, effort, thoughtfulness, and selfless service to the Commission and the State of Colorado. He expressed appreciation for the significant contribution of Mr. Stroker, the CCJJ Consultant, and the CCJJ staff.

Legislative Updates

Stan Hilkey

In the absence of Joel Malecka, Legislative Liaison of the Colorado Department of Public Safety, Mr. Hilkey provided an update on legislative activity.

Bills derived from Commission recommendations

House Bill 2023-1292 (Concerning the adoption of the 2023 recommendations of the Colorado commission on criminal and juvenile justice regarding enhanced sentencing.)

This bill, derived from the Commission Recommendation FY23-SR04, includes revisions of post-conviction review and sentence reconsideration. This bill passed.

House Bill 2023-1293 (Concerning the adoption of the 2023 recommendations of the Colorado commission on criminal and juvenile justice regarding felony sentencing.)

This bill, derived from the Commission Recommendation FY23-SR03, reclassifies various felony criminal offenses to a felony to a different felony or misdemeanor level. This bill passed.

Senate Bill 2023-097 (Concerning the adoption of the 2023 recommendations of the Colorado commission on criminal and juvenile justice regarding motor vehicle offenses committed by a person who is not the owner of the motor vehicle.)

This bill, derived from the Commission Recommendation FY23-SR02, 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. This bill passed.

Other Criminal Justice-related bills

House Bill 23-279. Unserialized Firearms and Firearm Component. Bill passed.

House Bill 23-170. Extreme Risk Protection Order Petitions. Bill passed.

House Bill 23-1258. Drug Crime Cost Task Force. Bill passed.

Senate Bill 23-257. Auto Theft Prevention Cash Fund. Bill passed.

Senate Bill 23-022. Possession of Weapon by Previous Offender Crime. Bill failed.

House Bill 23-1249. Reduce Justice-involvement for Young Children. Heavily-amended bill passed.

COMMUNITY CORRECTIONS TASK FORCE UPDATE

Mr. Hilkey reminded Commissioners that the Community Corrections Task Force (CCTF) anticipates producing a recommendation for consideration. At the May 8 CCTF meeting, members felt strongly that the statutory mandates to the Task Force should be completed and that the required report and potential recommendation(s) be submitted to the Commission. Mr. Tapia, Task Force Chair, will present an overview of the elements of a draft recommendation that will be the subject of final consideration at the June 5 CCTF meeting. For the reasons stated in the email sent earlier this week, Mr. Hilkey suggested a process to allow Commissioners to suspend the rules to allow a VOTE BY EMAIL in the coming weeks, if the recommendation is submitted to the Commission for consideration. Should the Commission choose not to conduct an email vote or otherwise resolve the recommendation, it will remain unfinished Commission work, approved by the Task Force, but not considered by the Commission.

Chief Hayes offered a motion to suspend the rule to allow a vote by email on the recommendation at a later date in June. Sheriff FitzSimons seconded the motion.

Mr. Raynes was hesitant, given the sunset decision by the legislature, to complete any additional work, including a vote on any potential recommendations.

Ms. Ring suggested first hearing the overview, before considering the (vote-by-mail) motion, as she believed the recommendation might warrant discussions that would necessitate a meeting.

Chief Hayes agreed with Ms. Ring's suggestion to hear the overview of the recommendation and tabled his motion.

Overview of Draft Recommendation**Glenn Tapia, Community Corrections Task Force Chair**

Mr. Hilkey invited Glenn Tapia, Task Force Chair, to present an overview of the draft recommendation to the Commission. Mr. Tapia reported the Community Corrections Task Force developed two proposals and selected one of the two proposals at the May 8 CCTF meeting by a simple majority (4 to 3) vote. The recommendation is scheduled for final consideration and vote at the June 5 CCTF meeting. If approved, the Task Force will submit the recommendation to the Commission.

Mr. Tapia provided an overview of the recommendation and related background report prepared by the Task Force. If approved, the recommendation will be included in the report and, if not, the only the background report will be prepared for submission to the General Assembly, as mandated by statute. The full content of the presentation can be found on the Commission website under the May 12, 2023, meeting tab at, ccjj.colorado.gov/meetings-2023. The highlights of the subsequent discussion are provided below.

DISCUSSION

Upon the conclusion of the overview, Mr. Tapia invited members of the Task Force in attendance to provide additional comment and/or information regarding the draft recommendation.

Ms. Ring reiterated that two proposals had been developed and the selected recommendation had garnered only a minimum, slim majority (by a 4-3 vote). She asked whether the Commission would have

an opportunity to hear the details regarding the alternate proposal. Mr. Tapia invited Mr. James Karbach to discuss the main concepts of the alternate recommendation.

James Karbach described the overall concept of the alternate recommendation. This recommendation proposed a grant program under the current statutory scheme that would allow small- or medium-sized local jurisdictions to enter into contracts to either provide work release through community corrections or intensive residential treatment. The grant program would be administered by the Division of Criminal Justice and include data collection requirements on recidivism, the acceptance rate for felony transition, felony diversion, misdemeanants, and reporting waitlists. Mr. Karbach commented that this proposed grant program would be available to those jurisdictions with vacant beds or work release programs to serve the misdemeanor population. Mr. Karbach believed this alternate recommendation would address the concern discussed at the Task Force of the potential for displacement of transition or diversion beds for felony clients.

Mr. Thome asked whether the Task Force had estimated the number of beds needed for the misdemeanor population and the number of transition or diversion felony beds that could be affected.

Mr. Tapia responded that the Office of Community Corrections at the Division of Criminal Justice recently surveyed Community Corrections facilities to assess bed vacancies. Task Force members believed it would be important for the Division of Criminal Justice to provide oversight of the initiative to adjust the allocations and contracts, weighing the needs of transition and diversion felony clients to prevent displacements. The probation population sums about 70,000 people, and approximately two-thirds of probationers have committed a misdemeanor offense. Thirty percent of misdemeanor probationers are classified as high-risk or high-risk/high-need. Mr. Tapia concurred that estimating required misdemeanor beds is a challenge, given the criteria and conditions to enter the proposed program, such as the vacancy rate, the willingness of the community corrections facility and local boards to accept misdemeanor probationers, and whether facilities have the appropriate services to address the risk profile of such clients.

Commissioner O’Dorisio agreed there should be more options than jail or continued probation for those misdemeanants who keep being recycled through the same criminal justice system options. He asked about the alternate proposal regarding work release programs and why this aspect was not adopted.

Work release is not uniformly available in all jurisdictions. Community Corrections programs offer more individual-based treatment than most work release programs. Mr. Tapia reported that the Division of Criminal Justice had expressed hesitancy to provide funding and oversight of work release programs, which are outside the scope of regular Community Corrections programs.

Ms. Jones asked about the consequence for the failure to participate in or complete a community corrections program.

Failure to participate in programming and/or violations of rules could result in rejection after acceptance by either a program or a community corrections board. The consequences for program failure will be decided by the probation department and/or the courts. All walkaways (unauthorized absence) would be treated as a technical abscond violation, not a new crime.

Mr. Mauro asked for clarification regarding the two proposals. It seemed that both proposals implied support for the concept of the placement of misdemeanants in community corrections. He asked whether the main difference between the two proposal was simply related to the funding source.

Mr. Karbach explained that the alternate proposal would create a grant program under the current statutory scheme to enable small- or medium-sized jurisdictions to enter into contracts with local community corrections facilities to serve misdemeanants in intensive residential beds or work release programs. Mr. Karbach added that facilities, particularly in the metro area, that currently have significant waitlists of felony clients would be less likely to apply, to avoid further expanding their waitlists and potentially displacing felony clients. However, small- or medium-sized facilities with bed vacancies might be interested in serving the misdemeanor population, given the reduced risk of displacing felony clients from transition or diversion beds.

NEXT STEPS

Stan Hilkey

The Community Corrections Task Force anticipates finalizing and voting on the recommendation at its June 5, 2023 meeting. Mr. Hilkey asked members for their thoughts regarding the process to consider the recommendation, if approved by the Community Corrections Task Force. Would the Commission consider voting by email or prefer to hear a preliminary presentation of the recommendation at the June 9 CCJJ meeting?

Mr. Raynes believed more robust conversations should occur and was hesitant to hasten the process by conducting an email vote that would not include any additional discussion of the recommendation.

Ms. Ring suggested hearing and discussing the preliminary recommendation from the Community Corrections Task Force at the June 9 CCJJ meeting and then deciding the voting process.

If approved, members agreed to hear the preliminary recommendation from the Community Corrections Task Force at a June 9 Commission meeting. At that meeting, Commissioners will decide whether to conduct a final vote immediately on the recommendation, to vote by email by a subsequent date or to hold a July Commission meeting for final consideration of the recommendation.

If the recommendation is not approved by the Task Force, the June Commission meeting will be canceled.

PUBLIC COMMENT - No members of the public offered comment.

ADJOURNMENT

Mr. Hilkey thanked the Commissioners for their attention and participation. With no further business, Mr. Hilkey adjourned the meeting at 3:03 pm.

The next Commission meeting is Friday, June 9, 2023, at 1:30 pm.

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

NOTE: On June 5, the Community Corrections Task Force failed to achieve a quorum and, therefore, the pending draft recommendation was abandoned. With no recommendation to consider, the June 9 Commission meeting was canceled.