Colorado Criminal Justice Reform Coalition     Spring 2023

Colorado Justice Report

Founded in 1999, CCJRC is a network of organizations, faith communities, and individuals working to eliminate the overuse of the criminal justice system and advance community health and safety in Colorado.
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2023 Legislative wrap-up
Christie Donner, Executive Director

It's hard to figure out how to summarize this past legislative session except it seemed to be a confused and inconsistent criminal justice agenda. Maybe that's just indicative of our times as policymakers have a foot in two worlds between the old approach of "getting tough" (which always seems to be a more politically safe landing space) and the new approach of "what works" and making policy based on data, research and lived experience.

There were so many bills this session, that I've summarized them together by issue area. The electronic issue includes links to each bill so folks can get more in the weeds if they want. For our members that don't have access to the internet, just let us know if you want us to mail you more information.

Prison expansion and DOC budget (aka "when crazy came to town")
The biggest disappointment for CCJRC was the passage of two budget bills, SB23-113 (DOC FY22-23 supplemental funding bill that, among other things, increased funding for 400 more prison beds) and SB23-214 (FY23-24 state budget bill that included a $1 billion DOC budget and funding for an additional 700 prison beds). This is despite a staff crisis in DOC where the staff vacancy rate is around 25% across all staff positions and upwards of 50% for clinical staff.

CCJRC raised this issue with legislators and even released a report, but the prevailing attitude was that DOC would be able to hire the 1,600 new staff needed since the budget included funding for hiring/retention bonuses. This is just magical thinking and is disconnected from the economic reality in Colorado which has a very low unemployment rate, and a changing workforce. DOC has been scrambling to hire but there aren't enough people available who want to work in DOC.

The reality inside prisons is that DOC has increased mandatory overtime, reassigned program staff and case managers to security duties, and lowered the hiring and training standards so now an 18-year-old can go through a 10-day academy and be a correctional officer. Consequently, most educational and vocational programming is severely disrupted, if it's available at all. Being able to see your case manager is unpredictable and infrequent, and access to health/behavioral health care is dangerously inadequate. We've heard from numerous folks inside prison that they were denied parole because they haven't completed a program that isn't offered. Obviously, just increasing the prison population will only make the staff vacancy rate, conditions of confinement and overall functionality of DOC worse.

We raised all these issues in our report and in talking with legislators and the Governor's staff, but it made absolutely no difference. All the Democratic legislators in both the House and Senate and all but a handful of Republican legislators voted in favor of SB23-214, the FY23-24 state budget bill. CCJRC literally had more votes for a moratorium on prison expansion in 1999, than we did in 2023. That's pathetic.

Although an important thing to remember is that the DOC population is still substantially lower today (16,982-total inmate jurisdictional population) than it was pre-COVID in March 2020 (19,357) and the number of new prison beds just approved is less than the number of prison beds taken off-line when releases increased during COVID. But the prison population is growing (up 500 people last fiscal year), so the debate around prison expansion vs. prison population management will be on the agenda for the next legislative session and CCJRC plans to be right in the middle of it.

On the bright side, SB23-242 passed which requires a financial audit of community corrections.
Community Reinvestment (aka “the big winner!”)

At CCJRC, we believe that the community has a significant influence in promoting public safety and should receive public support and a recognized role to do so. However, what has been the norm is that the criminal legal system has been dominant go to for public safety and funding. In 2014, CCJRC decided to try and change that by engaging in state budget advocacy to redirect public funding deeply into impacted communities for community-led health and safety strategies and services. We call this strategy Community Reinvestment and CCJRC has successfully advocated for the creation of four Community Reinvestment Initiatives that provide funding for community-based reentry, crime prevention, undeserved victim services, and harm reduction.

Drug policy (aka “I Dunno…whatach want to do?”)

Legislators couldn’t land on a cohesive path regarding drug policy, even in the face of an overdose crisis. There were two “get tough” bills, SB23-109 that would have expanded the drug-induced homicide law that is currently being pursued in several places with mixed results. The other provides drugs to someone who dies from an overdose. SB23-1146 would have made it easier to charge someone with a felony for possessing a small quantity of a drug that contained fentanyl by removing the forecasted fentanyl act which actu- actually knew the drug contained fentanyl. Both of those bills died (yay!). But the Legislature also killed SB23-1156 which would have allowed local law enforcement to operate an overdose prevention center (BOO!). OPCs started in Switzerland in the 1980s and there are 200 OPCs in over 15 countries that have demonstrated their effectiveness in preventing over- dose deaths.

So, while the Legislature rightly rejected old-school drug-warrior bills, they also rejected the shift to public health-led drug policy. Even HB23-1256 which would have created a task force to study the costs associated with enforcement and incarceration for drug crimes was passed by the Legislature only to run into the brick wall of the Gover- nor’s veto. Apparently, for Polis the study wasn’t balanced enough (try to include a focus on the potential negative impacts from reduc- ing drug enforcement (insert eye roll). At the end of the day, the only drug policy bill that made it through the gauntlet was HB23-1162 which strengthens the Good Samaritan law, so at least that something.

Behind the Walls (aka “invisible not invisible”)

Simultaneously to legislators ignoring the crisis in prison conditions, there are many numbers of bills that were signed into law that will benef- it people in prison. HB23-1031 requires DOC to align with national standards on the use of 4pt restraints. HB23-1037 created a new category of earned time for people convicted of a misdemeanor or petty offenses to receive a college degree or accreditation program. HB23-1133 requires DOC to cover 25% of the cost of phone calls for people in prison and their loved one’s which would increase to 50% the following year, and 100% beginning July 1, 2023 where phone calls will be free. HB23-1200 requires that people released from prison will be continuously Medicaid eligible for up to 1 year, regardless of whether they received DOC to consult with a third-party organization and incarcerated people to develop a pre-release and reentry program at Sterling.

Child welfare (aka “it’s about time…”)

CCJRC was really pleased to be asked to be involved in several child welfare bills to better maintain support and families who are impacted by both the child welfare and criminal legal systems. That’s a particu- larly dangerous and damaging intersection for families to be in. These are long overdue efforts and much more needs to be done. But a new and very important conversation and policy agenda happened during this legislative session that we haven’t seen before. All of these bills were signed into law.

HB23-1024 and HB23-104 both aim to increase the number of children that are placed with a relative/kin when a child has been removed from their home, rather than foster care. CCJRC’s involvement was to ensure that relatives/kin who have a criminal record could not be denied as a placement option solely because of their criminal history. HB23-104 imposes new requirements on the Department of Human Services and DOC to better support the relationship between an incarcerated par- ent and the child when the child has been placed. Because of the number of our members may be affected by this legislation, we wanted to pro- vide more details (see page 3). CCJRC will stay involved with the Office of Respondent Parent Counsel to assist with implementation.

SB23-039: Reduce Child and Incarcerated Parent Separation

Spouses/Children of a defendant accused of murder in (CM) (D) CCJRC Position: support advocacy led by the Office of Respondent Par- ent Counsel

Status: signed by Governor on 5/15/23

Description: Makes numbers of requirements of the Department of Human Services to ensure that incarcerated parents and their children have op- portunities for communication and family time when there is a depen- dency and neglect case filed by child welfare. Also requires DOC and child welfare to cooperate on communication and coordination so that incarcerated parents can fully participate in all child welfare proceedings and that any treatment ordered by the court must take into consideration the programs/ treatments that could be made available to incarcerated parent. Dismisses the ter- mination of parental rights when a parent is incarcerated. Requires the Department of Human Services to issue a report each year on the number of DMN cases involving an incarcerated parent in DOC/private prisons/ jails and demographics including race, ethnicity, sex, age, and any known disability.

We were so inspired by being involved in these bills that we’ve decided to update and republish, Parenting from Prison, a publication we first devel- oped over twenty years ago. It is scheduled to be released by the end of this year, so stay tuned.

Sentencing-related (aka “a foot in two worlds”)

There were three sentencing bills that were based on recommendations from the Commission on Criminal & Juvenile Justice that all passed.

One reduced the potential sentence for offenses committed on or after 7/1/2023 that are eligible for habitual and mandatory consecutive sentencing (HB23-1292), including a “second look” opportunity where a defendant could petition the court for resentencing if criteria is met. Another bill increased the sentence for most motor vehicle thefts (HB23-97), and the last reclassified some felony offenses (HB23-1293).

These three bills are a pretty good microcosm of the culture of having a foot in two worlds. The habitual and mandatory consecutive sentencing laws are part of the “get tough” era that have sowed the seeds of exorbitant sentences so the fact that the CCJJ recommended changes was based, at least in some part, on a recognition that current law was unfair. But it won’t help people currently in prison serving those offenses since the change only applies to offenses committed after the new laws go into effect. In contrast, much of rhetoric around SB23-97 revolved around the need to increase penalties for car theft rather than a “second chance” in response to the fact that, statewide, less than 8% of car thefts even result in an arrest. There are many research-backed strategies that could help reduce motor vehicle thefts. We were also thrilled that HB23-1187 passed, which among other things, creates a presumption against a judge ordering detention or a sentence to incarceration of a pregnant or post-partum defendant.

Some of the bigger headlines was the getting of HB23-1292 that, as introduced, would have prevented the prosecution of children who are 10-12 years old unless charged as an adult. The current law aims to address the needs of children who come into contact with law enforcement through community-based services, not juvenile system involvement. That provision was stricken from the bill, but the bill did pass with other provisions aimed at strengthening the referral to com- munity services and expanding data collection and reporting.

And last, but not least, our Razzie Award goes to Governor Polis for vetoing SB23-1212 that would have increased transparency and func- tional accountability from the governor’s fiscal veto letter that the bill was unconstitutional and infringed upon his execu- tive authority despite the sponsors having received a legal opinion from Legislative Legal Services to the contrary.

CCJRC is already working on bills for the 2024 legislative session so stay tuned for more!
14th Annual Voices for Justice fundraiser

COLORADO CRIMINAL JUSTICE REFORM COALITION

Working to eliminate the overuse of the criminal justice system and advancing community health and safety.

Thursday, September 7, 2023
5:30 p.m. to 8:00 p.m.

COCKTAILS AND CUISINE

BASKETS AND BUNDLES SILENT AUCTION

MILE HIGH STATION

2027 West Lower Colfax, Denver, CO.

On Thursday September 7, 2023 we will celebrate our fourteenth annual night of fun and fundraising with an open bar, delicious food, and silent auction at Mile High Station in Denver, Colorado. CCJRC has been successfully advocating for an end to mass incarceration and designing new approaches to community-centered public health and safety strategies and programs in Colorado for over two decades. CCJRC was founded as community members came together in 1999 to support a prison moratorium bill introduced Senator Dorothy Rupert and Representative Penfield Tate, which was the first bill introduced in the country calling for a halt to state prison expansion. The Rupert Tate Game Changer Award honors their legacy and recognizes outstanding efforts to transform the status quo to advance community health, safety, and equity. CCJRC proudly announces that we will awarding two separate Rupert-Tate Game Changer Awards at our annual event on September 7, 2023, to:

Project Elevate

Cassandra Harris (Empowerment Program), Project Elevate Director of Services and Stephanie Robertson (City & County of Denver), Project Elevate Director of Operations for their leadership with Project Elevate.

and

Denver Jail-Based Voting Project

R. Todd Davidson, Director of Elections, Director Denver Elections Division and Paul Lopez, Denver Clerk and Recorder for the collaboration with CCJRC on the Denver Jail-Based Voting Project

Tickets and Sponsorship Opportunities Available Now at www.ccjrc.org
YES! Count me in! I want to support CCJRC and help eliminate the overuse of the criminal justice system in Colorado. Enclosed is my tax-deductible contribution!

Your support makes all the difference!

NAME:____________________________________________________
ADDRESS________________________________________________________________________
CITY:_________STATE:__________ZIP_____________________
EMAIL:____________________________________________________
  □ Individual  $35  □ Low Income/senior  $15
  □ Household  $50  □ Prisoner  Free in 2021
  □ Sustainer  $100 or more
  □ Freedom Fighter $___ charge me monthly/quarterly
Credit Card # ___________________________________________ Exp date____________________

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After 9 years with CCJRC, I have decided to move on to my next adventure. It has been an absolute privilege and honor to work with such an amazing team of colleagues at such an impactful organization on behalf of those who have been impacted by the criminal legal system. I want to thank all of you for your support over the years and continued support of CCJRC going forward. I am humbled by the work that has been accomplished over the years in an effort to reduce the impact of the criminal legal system, in particular the footprint of the Department of Corrections, and advance community health and safety. I hope that our paths will continue to cross somewhere along this journey. I am forever grateful for all of you and wish you all the best.

With aloha ~
Terri Hurst
Health Justice Manager

CCJRC is a proud member of Community Shares of Colorado!