

**Final**  
**STAFF SUMMARY OF MEETING**  
**COMMITTEE ON JOINT JUDICIARY**

Date: 12/12/2013

Time: **09:08 AM to 02:41 PM**

Place: HCR 0107

This Meeting was called to order by  
Senator Guzman

This Report was prepared by  
Hillary Smith

ATTENDANCE

Buckner	*
Court	X
Gardner	*
Johnston	X
King	X
Lawrence	*
Lee	X
Lundberg	X
McLachlan	X
Murray	X
Newell	X
Pettersen	X
Roberts	E
Salazar	X
Waller	X
Kagan	*
Guzman	X

X = Present, E = Excused, A = Absent, \* = Present after roll call

Bills Addressed:	Action Taken:
Department of Public Safety Presentation	Witness Testimony and/or Committee Discussion Only
Colorado Commission on Criminal and Juvenile Justice Presentation	Witness Testimony and/or Committee Discussion Only
Judicial Branch Presentation	Witness Testimony and/or Committee Discussion Only

**09:09 AM -- Department of Public Safety Presentation**

Senator Guzman, chair, called the meeting to order. She thanked everyone for their work at the previous day's meeting.

**09:10 AM**

Mr. Jim Davis, executive director of the Colorado Department of Public Safety (DPS), introduced himself to the committee and distributed a copy of the department's performance plan and a copy of the Colorado Bureau of Investigation's strategic plan (Attachments A and B, respectively). Committee members also received a copy of the department's regulatory agenda, the briefing document prepared by Joint Budget Committee (JBC) staff, and the JBC hearing document (Attachments C through E, respectively). Mr. Davis discussed the changes that the department has undergone over the past few years, including the addition of emergency management and wildfire management responsibilities.

**09:14 AM**

Mr. Davis walked the committee through the DPS's budget requests, including a request for lease-purchase authority for a Pueblo forensic facility for the Colorado Bureau of Investigation (CBI) and requests related to cyber crime. He then discussed the work of the School Safety Resource Center. He moved on to a discussion of the DPS's regulatory agenda.

**09:17 AM**

Senator King asked for information about the advantages of giving the CBI original jurisdiction over cyber crime. Mr. Davis explained how the investigation of cyber crime currently operates. Discussion continued between Senator King and Mr. Davis. Mr. Davis stated that a significant number of cyber crimes go unreported. He spoke about the potential vulnerability of the state system to cyber crime attacks.

**09:21 AM**

Senator Lundberg asked if the DPS is looking at taking up the toxicology testing responsibilities that the Colorado Department of Public Health and Environment recently gave up. Discussion continued concerning the use of private labs for toxicology testing. Mr. Davis spoke about local costs related to expert testimony. Senator Lundberg asked if it would be appropriate for the DPS to engage in toxicology testing. Mr. Davis stated that the CBI already operates an extensive forensic laboratory and that toxicology testing would likely be no different. Discussion continued.

**09:25 AM**

Senator King shared his thoughts on the DPS's ability to take over toxicology testing. He asked how much expert testimony costs in a basic driving under the influence (DUI) case, and how this cost varies depending on whether the expert is from a private or a state-run lab.

**09:27 AM**

Mr. Ron Sloan, director of the CBI, came to the table to answer Senator King's questions. He stated that expert testimony costs approximately \$200 per hour. Senator King noted that those costs do not include travel and meal expenses. Senator Newell asked for information about other states' practices on this issue. Mr. Sloan said that it is not unusual for state crime labs to do toxicology testing. Representative Court asked if Denver has its own toxicology lab. Conversation turned to whether it would be possible to use Denver's crime lab for state issues.

**09:31 AM**

In response to questions from Senator King, Mr. Sloan said that about 10,000 toxicology samples are tested per year. Senator Guzman asked for further information about the department's request for a new facility in Pueblo. Mr. Davis stated that the request does not include the toxicology lab. He said that the department is analyzing whether it is feasible to house a toxicology lab in Pueblo. Senator Lundberg asked for additional information concerning the location of the Pueblo lab. Mr. Sloan discussed studies that the department has done on this issue. Mr. Davis shared additional thoughts concerning the department's discussions regarding the Pueblo lab and the possibility of taking on toxicology responsibilities.

**09:40 AM**

Senator Johnston asked if the Pueblo lab would be serving cases in Fort Collins and Greeley. Mr. Sloan noted that the forensic laboratory primarily serves the southern Colorado area, but if toxicology testing were to be located there, it would serve the entire state. Discussion continued between Senator Johnston and Mr. Sloan. Representative Gardner asked what local departments currently operate toxicology labs. Mr. Sloan spoke about local departments that do most of their toxicology tests in-house.

**09:43 AM**

Mr. Sloan moved on to an overview of the CBI's functions and strategic initiatives. He discussed decision items related to the CBI, including the new Pueblo forensic facility. Representative Lee asked for further information concerning the total costs of the Pueblo facility. Senator Guzman asked if it would be possible to use the Colorado State Penitentiary II for the CBI's purposes. Mr. Sloan then discussed the CBI's cyber crime initiative. Representative Lee asked for more information about the threats faced by the state's computer system. Conversation continued on this issue, with Representative Lee asking for information about the results of successful cyber attacks.

**10:05 AM**

Senator Newell spoke about the work of the Joint Technology Committee on this issue. Senator King shared additional information about the work of the Legislative Audit Committee. Committee discussion continued, with Mr. Sloan describing the variety of crimes included within cyber crime. He noted that these crimes are usually multi-jurisdictional.

**10:12 AM**

Representative Salazar asked if Colorado's criminal laws are strong enough to address evolving forms of cyber crime. Mr. Sloan spoke about the implementation of House Bill 13-1020, concerning the testing of evidence from sexual assault cases. Senator Newell asked for information about crimes that have been solved as a result of Senate Bill 09-241, concerning the collection of DNA samples from felony arrestees. Mr. Sloan stated that around 120,000 samples have been collected, about 85 percent of which are from people who are formally charged. He said that there have been over 700 hits against other forensic evidence.

**10:19 AM**

Colonel Scott Hernandez, Chief of the Colorado State Patrol (CSP), introduced himself to the committee and provided data related to highway deaths. He said that the CSP's focus this year will be on impaired driving. He provided an overview of the CSP's functions and strategic priorities. Representative Court asked about the effects of a bill requiring truckers to have chains. Colonel Hernandez spoke about the CSP's work with the Colorado Department of Transportation.

**10:25 AM**

Representative Waller thanked the CSP for its work. He spoke about the challenge of reducing impaired driving. He asked for data concerning how many traffic fatalities are related to impaired driving. Colonel Hernandez replied that it is close to half of all traffic fatalities. Representative Waller asked for an estimate of how many fatalities involve offenders with multiple DUIs. Representative Waller asked if Colonel Hernandez would support a felony DUI law. Discussion continued concerning data on DUIs related to drugs.

**10:30 AM**

Colonel Hernandez summarized the CSP's decision items. He responded to questions from Senator Lundberg concerning the costs of portable radios. Representative Lawrence asked if anyone is offsetting the costs to the CSP for controlling traffic related to the World Alpine Ski Championship. Conversation then turned to the possibility of using a dispatcher for CSP communication.

**10:39 AM**

Senator Newell asked for data related to driving while texting.

**10:40 AM**

Ms. Jeanne Smith, the director of the Division of Criminal Justice, introduced herself to the committee and discussed the work of the Division of Criminal Justice. She spoke about the division's work in the Office of Community Corrections. She discussed the costs and benefits of providing treatment to offenders within the community. She then spoke about the costs of training for community corrections employees. She noted that the division currently only does programmatic, rather than financial, audits. She responded to questions from Representative Lee related to data collected by the division that compares various community corrections programs.

**10:49 AM**

Ms. Smith continued to discuss the Division of Criminal Justice's decision items. Representative Salazar spoke about comparisons between the recidivism rate of offenders in community corrections and the recidivism data from the Department of Corrections. Ms. Smith noted that there are some differences in the ways the data is compiled. She indicated that she would contact the Department of Corrections to further elucidate those differences. Ms. Smith noted that no one uses the word "recidivism" in the same way, which leads to imprecision.

**10:56 AM**

Ms. Smith moved on to a discussion of the Offices of Sex Offender Management and Domestic Violence Offender Management. She then spoke about the Office of Evidence-Based Practices for Capacity (EPIC). Ms. Smith responded to questions from Senator Newell concerning data related to changes made to school discipline laws.

**10:59 AM**

Mr. Paul Cooke, the director of the Division of Fire Prevention and Control, introduced himself to the committee and discussed the work of his division. He responded to questions from Representative Waller related to the hazards of beetle-kill wood. Discussion continued concerning fire hazards on federal land.

**11:08 AM**

Senator King spoke about the threat of wildfires to Colorado's watershed. He asked for any predictions about Colorado's coming fire season. Senator Lundberg asked about a decision item related to staffing for fire engines. Conversation ensued between Senator Lundberg and Mr. Cooke on this issue. Mr. Davis noted that there are two different sets of state engines.

**11:16 AM**

Representative Murray asked about the division's regulation of cigarettes. Mr. Cooke noted that all cigarettes sold in the country are required to be produced with self-extinguishing paper. He spoke about the various budget decision items related to the division.

**11:18 AM**

Mr. Kevin Klein, the director of the Division of Homeland Security and Emergency Management, introduced himself and spoke about the charge of the newly created division. He listed the various offices included in the division and explained the functions of each of the offices. He discussed the types of intelligence the division provides to various federal, state, and local law enforcement agencies. He briefly explained the division's budget decision item and its legislative agenda related to the Governor's authority to offer individual assistance in the event of a disaster.

**11:26 AM**

Mr. Klein responded to questions from Representative Lee. Mr. Davis introduced Jana Locke, the legislative liaison for the department, and noted that Trooper Dave Hall is the legislative liaison for the CSP.

**11:29 AM**

Ms. Christine Harms, director of the School Safety Resource Center, introduced herself to the committee. Senator Newell asked for information about suicide-prevention training. Discussion continued between Ms. Harms and Senator Newell.

The following individual testified regarding the DPS:

**11:32 AM** -- Ms. Susan Walker, representing the Colorado Coalition for Sex Offense Restoration, spoke about studies related to sex offender management. She discussed her concerns that individuals who support "old" methods of containing sex offenders are allowed to remain on the Sex Offender Management Board. She expressed support for reexamining the membership of the board, and stated that advocates for sex offenders should be on the board. Ms. Walker said that public education concerning truths and myths related to sex offenders is needed. She spoke about the use of Circles of Support and Accountability in treating sex offenders.

**11:40 AM -- Colorado Commission on Criminal and Juvenile Justice Presentation**

Mr. Jim Davis, chair of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) and director of the Department of Public Safety, briefly described the CCJJ's work. He was joined by Mr. Doug Wilson, the vice-chair of the CCJJ and the Colorado State Public Defender. Two handouts concerning the CCJJ's work were distributed to the committee (Attachments F and G). Mr. Davis discussed recent difficulties the CCJJ has had reaching consensus on certain issues.

**11:44 AM**

Mr. Wilson shared additional thoughts concerning the amount of work that goes into serving on the CCJJ. He spoke about the work of the CCJJ's Juvenile Justice Task Force, and expressed hope that this task force could be involved in upcoming legislation related to juvenile justice.

**11:45 AM**

Representative Court commended the work of the CCJJ. Senator Newell spoke about her work on the Juvenile Justice Task Force. Representative Kagan asked whether Mr. Wilson would have liked the Juvenile Defense Attorney Interim Committee to have been more involved with the Juvenile Justice Task Force. Mr. Wilson expressed his opinion that the members of the Juvenile Justice Task Force should have made an effort to be present at the interim committee meetings.

**11:49 AM**

Representative Murray noted that there are many new members on the Judiciary committees who may not be aware of the work of the CCJJ.

**11:50 AM**

The committee recessed for lunch.

**01:38 PM -- Judicial Branch Presentation**

The committee came back to order.

**01:38 PM**

Colorado Supreme Court Chief Justice Michael Bender introduced himself to the committee. He introduced Justice Nancy Rice, who will become the Chief Justice in January 2014. He also introduced Mr. Jerry Marroney, the State Court Administrator for the Colorado Judicial Branch. He distributed a handout of his presentation (Attachment H). Chief Justice Bender walked the committee through the Judicial Branch's budget requests. He spoke about the importance of people believing that they are treated fairly within the justice system. He noted that since 2004, the Judicial Branch has become extremely dependant on cash funds. He spoke about the recent decline in civil cases and explained how this decline affects cash fund revenue.

**01:45 PM**

Chief Justice Bender spoke about the number of *pro se* litigants. He then discussed an expectation on the part of court users that the judicial system be technologically up-to-date. He discussed a budget request related to information technology. A handout listing the branch's budget requests was distributed to the committee (Attachment I). He then discussed a request for additional judges and a need for more language interpreters. He spoke about the benefits of self-represented litigant coordinators to assist *pro se* litigants.

**01:58 PM**

Chief Justice Bender continued to walk the committee through the branch's budget requests. He then spoke about the large number of problem-solving courts in the state and the use of evidence-based sentencing. Mr. Marroney thanked the members of the committee for their support. Chief Justice Bender spoke about the elements that distinguish Colorado's judicial system, including: merit-based selection; centralized administrative and financial control over the system; and a legislature that has fundamentally supported the judiciary.

**02:05 PM**

Senator Newell expressed her appreciation for Chief Justice Bender's work. She sought additional information concerning a budget request for family court facilitators. Chief Justice Bender explained the differences between self-represented litigant coordinators and family court facilitators.

**02:08 PM**

Representative Lee asked for more information about the satisfaction survey conducted by the Judicial Branch. Chief Justice Bender spoke about the administration of the Judicial Branch throughout various judicial districts. Representative Murray sought additional information concerning the Judicial Branch's request related to bandwidth capacity. Chief Justice Bender and Mr. Marroney responded to her question. Mr. Marroney made clear that budget requests from the Judicial Branch include the Office of the State Public Defender, the Office of the Alternate Defense Counsel, the Office of the Child's Representative, and other items.

**02:19 PM**

Representative Salazar asked whether the branch has done a survey on the use of the Integrated Colorado Courts E-Filing System (ICCES). Representative Gardner asked Mr. Marroney about a budget request related to underfunded rural court facilities, noting that counties are required to maintain their court houses. Mr. Marroney spoke about the ways to balance a unified court system that relies on local funding.



**02:26 PM**

Chief Justice Bender returned to his discussion of surveys related to ICCES, noting that some surveys had been conducted. He then responded to questions from Representative Kagan about Colorado's trial rate. Senator Newell asked if the increase in mediation has affected the trial rate.

**02:33 PM**

Representative Waller thanked the Chief Justice for his work in educating school children throughout Colorado. Chief Justice Bender thanked the committee for their support. Senator Johnston asked Chief Justice Bender for his advice on what to protect in the future. Chief Justice Bender stated his concerns that the Judicial Branch lacks the resources to be an equal branch of government. He spoke about the importance of competitive salaries. Senator Guzman thanked Chief Justice Bender and Mr. Marroney for their work.

**02:40 PM**

No one signed up to testify regarding the Colorado Judicial Branch.

**02:41 PM**

The committee adjourned.