Community Corrections Task Force Colorado Commission on Criminal and Juvenile Justice

Minutes

June 12, 2014, 12:30PM-4:30PM 710 Kipling, 3rd floor conference room

ATTENDEES:

CHAIR

Theresa Cisneros, 4th Judicial District, District Court Judge Peter Weir, 1st Judicial District

TASK FORCE MEMBERS

Alaurice Tafoya-Modi, Private Defense Attorney
Brandon Shaffer, Parole Board
David Lipka, Public Defender (by phone)
Eric Philp, Division of Probation Service
Glenn Tapia, Division of Criminal Justice
Gregg Kildow, Intervention Community Corrections Services
Greg Mauro, City and County of Denver
Jacqueline McCall, Department of Corrections
Kathryn Otten, Jefferson County Justice Services
Shannon Carst, Colorado Community Corrections Coalition
Susan White (for Walt Pesterfield), DOC Division of Adult Parole and Community Corrections

ABSENT

Christie Donner, Criminal Justice Reform Coalition Dennis Berry, Mesa County Criminal Justice System

Harriet Hall, Jefferson Center for Mental Health Joe Cannata, Voices of Victims Steve Reynolds, 9th Judicial District Steve King, State Senator

STAFF

Paul Herman, CCJJ consultant Christine Adams, Division of Criminal Justice Kim English, Division of Criminal Justice

	Discussion:	
Issue/Topic:		
Welcome and Introductions	Theresa Cisneros welcomed the group and had everyone introduce themselves	
	before previewing the agenda.	

Issue/Topic:

Community and Community Boards
Work Group Report Back

Action

- By August we should have full recommendations.
- By September we will have our final recommendations for the Task Force.

Discussion:

Greg Mauro, on behalf of David Lipka, reported back for the Boards Work Group.

- See handout for draft recommendations.
- Current status of the work group:
 - There are varying levels of infrastructures and resources available to boards.
 - How will the training tool(s) be developed? This may ultimately be up to DCJ but stake holders should be involved in the process.
 - Who is recommending that the offender is ready for release? What is this recommendation based on? We may get to a point where an instrument (e.g., the URICA, University of Rhode Island Change Assessment Scale) is used or we may just use a statement from a case manager. This follows recommendations from the previous work groups.
 - The URICA is used on a single person at a time. But there is no such thing as universal readiness. It is a well-researched instrument and it doesn't take much to administer. How applicable is it to those in a controlled/institutional setting? A lot of it addresses an individual's thinking. It's relevant to the 5 stages for change.
 - What is involved to administer the URICA? It's pretty short 10 or 12 items - that are answered with yes or no. I believe it's available to the public.
 - Another similar assessment has been developed specifically for substance abuse offenders to determine their readiness for release.
 - There is a website (University of Rhode Island; http://www.uri.edu/research/cprc/measures.htm) that has more info on this and other assessments that are available.
 - Probation uses the URICA on juveniles.
 - We seem to want to be totally objective about risk but then we guess at readiness so it makes sense to look into this.
 - A core curriculum may be more appropriate than a specific number of hours. But it's important to send the message that everyone has to do it and to make sure everyone is on the same page.
 - Part of the curriculum needs to be orientation but also what is involved in, and offered by, each program.
 - We may not need to know everything about each program but the fundamental parts would be useful.
 - Maybe we shouldn't get caught up on the hours of training right now but more on what the curriculum should include.
- Next Steps

 We will discuss term limits, board communication regarding denials, and the use of a validated decision making instrument.

Issue/Topic:

Population Work Group Report Back

Action

- By August we should have full recommendations.
- By September we will have our final recommendations for the Task Force.

Discussion:

Glenn Tapia reported back for the Population Work Group.

- See handout for draft recommendations.
- Current status of the work group
 - We focused on employment but for high risk offenders we need to first focus on criminal thinking and other mental health issues.
 - Our standards are currently one size fits all regarding how we deal with each offender risk category. But we need to be more case specific.
 - o In a perfect world we'd like to know which programs are best for each risk category.
 - On page 5 of the handout we list the qualifiers, or the things we considered in addition to risk category when deciding which group individuals should be part of.
 - Low risk/High Stakes
 - Persistent DUI
 - Vehicular Homicide
 - Persistent DV
 - VRA crimes (excluding sex offenders)
 - Very HR/High need
 - We have the technology to consider these folks and place them in our programs (when appropriate). But this would take some real architectural changes.
 - o On page 6 we've provided conceptual definitions of each group and how we define and would like to manage them.
 - Note that when we're talking about community corrections I'm talking about every day populations, not special populations.
 - Medium risk is basically how community corrections is currently designed.
 - On page 7 we've provided our priorities based on impact and feasibility.
 - Those in Category A are the real drivers of our recommendations.
 - We need to increase the availability of specialized programs.
 - Offenders shouldn't need to focus on employment to cover their daily fee from the moment they enter community corrections.
 - Assessments don't provide criminal history information like the PSI does. It may give you criminal risk based on history but not their specific history.
 - Community Corrections should be considered at the plea stage of a case – we may be cleaning up something that happened earlier in the process (See recommendation #10).
 - When the funding model started it was about the offender and the state sharing the cost but this makes the offender focus on

employment right away to pay their share. But now that we have more high risk offenders this isn't appropriate. By definition they won't follow the rules right away because they're high risk and they need help thinking more pro-socially. They tend to fail [the current system] within 90 days.

- What's the time frame that we could be asking the state to absorb the cost? This is hard to answer. The dosage research is good as far as how much is needed. But it's hard to determine for how long treatment is needed. Based on when people are failing it's probably around 60-90 days. People tend to fail a diversion program, go to prison, come back as a transition client and they're right back where they started within a short amount of time.
- What's you're actual collection rate? About \$11/day (should be \$17/day).
- If we go to this weighted supervision model the low risk offenders will get out quicker than they currently are but the high risk offenders will be in there longer than they currently are overall and longer without employment. This is why we need various programs that can accommodate these differing needs.
- Is there some way to make this revenue neutral? If the low risk folks get out quicker will that pay for the high risk folks?
 - We haven't worked through the money part yet, just the concept. But our goal was to decide if this was a path we wanted to follow and the work group feels that it is.
 - You could put this in place with the current funding.
 You'd have fewer beds but the beds you'd have would be with the right people.
 - Would this work though? Wouldn't it back up DOC?
 Or would they now go on parole without community corrections in between?
- There hasn't been a decrease in funding for corrections but a shift. We still break the funding down by bed.
- One thing to look at would be to change the way things are funded by the legislature – to fund services rather than beds.
- If we could increase our success rate we could show our value rather than just being a cheaper option than DOC. We want people to get out and stay out. Not just get out and then go back to DOC.
- Cost savings are typically not rewarded by the legislature by giving money back to a program. Instead those savings are absorbed by the state.
 - Brandon Schaffer said that as a former legislator he would have been all over an opportunity to improve public safety and improve treatment options without cutting funding.
- Some may ask why we need more funding for community corrections when there are already programs for these

offenders through DOC and parole. Isn't going into the community the purpose of community corrections?

- The community corrections system provides steps, teaches skills and provides interventions to practice the skills they need to be successful.
- Research suggests that these programs are significantly more useful when used in the community than in prison.
- Next Steps
 - Make sure we remain aligned with the Referral Work Group.
 - We shouldn't move too far forward without this group and/or before we start to address Diversion issues.
 - o Also, there is some overlap with the Boards Work Group.
 - We want to make sure that we're all in line before moving forward.

Issue/Topic:

Referral Process Work Group Report Back

Action

- By August we should have full recommendations.
- By September we will have our final recommendations for the Task Force.

Discussion:

Greg Mauro reported back for the Referral Process Work Group.

- See handout for draft recommendations.
- Current status of the work group
 - Purpose is to develop and define a referral process that considers factors that are consistent with elements of evidence based principles for intervening with offenders and measures of offender readiness or preparation for release.
 - Scope of work will involve reviewing the current referral process and, if necessary make recommendations for changes to accomplish the goals of the working group and CCJJ CCTF. This may include statutory provisions as well as administrative regulation or rule.
 - We are not limited by fiscal constraints or statutes. We're concerned about the process.
 - Three referral processes:
 - Condition of parole
 - Transition
 - Diversion
 - We focused on transition which is normally a time driven process.
 But we want to develop a smart process.
 - Our first recommendation is to adopt a risk informed referral process for transition offenders
 - See the flow chart handout for examples of the possible referral processes we've been working with.
 - We need direction for how to best define the low risk category (see flowchart #1). Or do we just want to say low risk and look to the other work groups for more specific definitions?
 - Is there a population that should be excluded even if they're low risk?
 - Moderate risk low/high population flow chart (see flowchart #2)
 - Encouragement of feedback from the boards when someone is denied to help the case manager understand what they need to do to better prepare.

- Annual review of possible re-referral. Not a mandatory rereferral. Up to the CM but don't want them to get stuck and never reviewed.
- Very High Risk (see flowchart #3) this group is probably not appropriate for community corrections.
- Very High Risk would have to hit their parole eligibility date (PED) for a referral.
- What does the task force think about how we've defined low, moderate, and high risk clients? How should we assess risk? And is there a population to immediately exclude from the low risk category?
- Currently risk is not a factor. Violent offenders must be within 6 months of their PED while non-violent offenders mist be within 16 months.
 - We don't think that there will be an adverse effect because very high risk violent offenders are typically not released prior to parole anyway.
 - We could say that we're not going to release them to parole but we'd like to see them transition (in a stepdown method) rather than directly out.
 - This info would be useful to the board members. We (the Community Corrections board) don't usually know why someone was rejected by a parole board and this information could be useful. Especially for the high risk offenders.
- From the DOC Data (as stated by a DOC representative) there are 41% medium risk, 57% high risk, and 2% low risk offenders in the population for those accepted into doc in 2013 (based on LSI-R).
- The group decided to go with Low, Moderate and High Risk
 - Moderate is now moderate/high and the high is the very high
 - O-31
 - **32-43**
 - 44+ on CARAS
- Do we know what the corresponding CARAS scores are for the LSI scores? NO. We don't have parallel data. The CARAS is not in the community corrections database. But we could possibly do some more detailed research on this.
- The CARAS is more powerful than the LSI-R because it's solely for risk whereas LSI-R is for risk and need.
- The group discussed statistical predictability, probability, and the use of these assessments as a decision making tool. We can't say that Joe Smith WILL commit another crime based on his score but you can make a decision based on his probability or likelihood.
 - It is significantly likely (this is a statistical term) that high risk offenders will commit another crime or commit a technical violation but you can't be certain that <u>THIS</u> person <u>WILL</u> do this.
- There is an educational component here for community corrections boards about what these scores are really saying.

- They need to know what to do with the risk scores and how to structure the decision making from this point. We don't want everyone doing something different with these scores.
- These success/failure rates are based on what the program are currently capable of doing.
 - We want to improve our success rate. Our structure is currently based on the medium risk offenders but we need an infra-structure to deal with the high risk folks that are coming to us anyway. We're also applying medium risk standards to low risk offenders that are unnecessary. But it will take some changes (funding and programing) to deal with everyone more appropriately.
- Right now everyone is eligible to apply for community corrections at a certain point (statutorily). A broader discussion should be had about when people should be eligible.
 - Definitions of low, medium and high based on assessment scores (need cut points) need to be clarified.
 - Other factors that may go into definitions include LSI and CARAS scores (cut points for categories); VRA cases may be excluded.
 - Should there be more leniencies for property offenses than person offenses? Should this be another factor that is considered when deciding if someone is eligible (or should be accepted)?
- You mentioned a statement about readiness but was there any discussion about things that measure readiness?
 - There has been some discussion about developing a measure for this.
 - This would be especially useful when someone is denied. Readiness should be noted. Specifically whether you, or the board, think they are or not.
- Mechanically, how do you make the referrals (cut points, decisions, etc.)?
 - It was stated that statistically a parole board will make you serve a larger portion of your sentence if it's a shorter sentence. Statutorily someone may be eligible to apply but that doesn't guarantee anything. We need to educate the boards about this. Currently being referred doesn't mean DOC thinks they should be accepted necessarily. But this is not something that the boards are aware of.
- Recommendation #1 works hand in hand with the flow charts.
 - This is about the referral process. Should we discuss if they're even eligible for community corrections? Isn't that more relevant to sentencing?
 - Whether they've had COPDs doesn't tell me a lot. Would like to see a statement from a case manager that knows the individual more closely (this is recommendation #3).
 - Right now everyone that is parole eligible is referred. We're not addressing this. We're just trying to refer them appropriately. Hopefully you would see more acceptances because there would be more trust in the referral system.
 - DOC is making 2000 referrals a month. We need to not just let everyone who wants to apply do so. That number is

- multiplied because they can apply to multiple boards. So we need to be more organized about the referral system.
- It needs to be the right person at the right time referred to the right place.
- Recommendation #2 -
 - There is already some good work happening in DOC and the legislature is providing some funding for this but we feel it's very important to acknowledge how important this is.
- Recommendation #3 this was addressed some during our conversation about recommendation #1.
- Recommendation #4
 - The referral form needs work.
 - CTAP has provided an opportunity for us to improve the referral form.
 - We need a copy of the pre-sentence information (PSI) form.
 - It may be good to ask the Attorney General for a statement about privacy because a lot of information is currently redacted before the Boards see it which affects their ability to make informed decisions.
 - Why not have the offenders sign a release of information document in order to be referred?
 - But victim information has to be redacted (e.g., sex offense victims).
 - We tend to over-redact out of HIPPA fear but usually more than legally necessary.
 - Probation now has a thorough electronic method of transferring the PSI data.
 - Only PSI data not available is for those not initially sentenced to DOC but regressed and then sent to court.
 - It could be made into a PDF and included in the referral package.
 - It would be useful to have a formal definition, ruling, or opinion on what can and can't be shared. We have to decide if someone needs mental health but we usually can't have mental health information.
 - What about victim impact (not DOC but relevant)?
- Side question: How are the LSI and CARAS scores for sex offenders?
 - LSI is good and important for sex offenders. They have many of the same risks and needs. But it doesn't specifically predict risk of sex offenses. That's why we use other assessments for that purpose in addition to the LSI-R.
 - The VASOR (Vermont Assessment of Sex Offender Risk) and SO-TIPS (Sex Offender Treatment, Intervention, and Progress Scale) and J-SOAP (Juvenile Sex Offender Assessment Protocol) are now being used by probation.
 - STATIC-99 is currently being used at DRDC. This is a good assessment but it only measures static factors whereas the VASOR and SOTIPS also measure dynamic items.
 - The STATIC-99 should be seen more as a screening device.
 - The parole board doesn't get any of this. Only the CARAS.
- Recommendation #5 –

- We need to know why people are accepted and rejected by boards.
 We need to communicate both ways.
- This may be a challenge though. Some boards may not want to articulate why they make the decision they do. Also, there may not be <u>A</u> reason. Instead, there could be 35 reasons (for example). It may be difficult to pinpoint.
 - It will depend on the board, but it's too easy to hide behind the difficulty in doing this to avoid it. This feedback is critical for improving the system.
- Maybe just take minutes at board meetings and pass that on?
- Or reverse the question and ask the board what would need to change for them to be accepted?
- The general goals of sentencing should also be part of the purpose statement.
- Next Steps
 - Should there be groups excluded from the low risk category? Should there be automatically accepted group?
 - The Sentencing Task Force has brought this group of offenders up because they're low risk so prison is too much but politically probation isn't enough.
 - Low Risk/Low Stakes would go to ISP but Low Risk/High Stakes would go to medium residential community corrections.
 - They're expected to go through residential.
 - Whether or not someone does "hard time" is beyond this group. That is for the judge to decide at sentencing.
 We need to decide what track they should be on regarding our referral process.
 - The eligibility criteria are what drive this process (as well as the Population Work Group) which is where this group is struggling because of these high stakes cases (e.g., vehicular homicide).
 - Either people objectively meet the criteria we set or they don't. We don't want decisions based on the fact that we don't like a sentence.
 - We should leave them in the moderate category to satisfy the "hard time" concern.
 - Other goals of sentencing are not just to reduce recidivism.
 - But Punishment doesn't work for medium and high risk offenders because they're used to it. It does, however, works for low risk offenders.
 - Some people may argue that community corrections is more punishment than prison.
 - Sex offenders and child abuse are other categories that tend to score low on the risk scales and would be immediately eligible but they're a major concern.

- Science may say that we should get out of the way of low risk. But you can't ignore the crime. It may be appropriate and safer to put them on the medium referral track – we're not necessarily putting them in a medium program by doing this.
 - We'd be putting them in the moderate risk track; it's not an absolute decision.
- We're artificially changing the category because of the type of offense because it's too hard to change sentencing at the front end.
- Remember we're only talking about 2% of the DOC population (2% were low risk, but were not sure how many were low risk/high stakes).
- There are still other checks and balances programs have to accept them, for example.
- Once we do this (implement this referral system) we'll have time to collect data to see if this was a good thing to do and if so, we may want to make some changes at the front end.
- Since we're arbitrarily moving these folks from low to medium, why
 not high? Because we're trying to meet the social demand for some
 more than others. The difference is how long before their PED they
 can apply.

Issue/Topic:	Discussion:	
Action	Referral Group: We will move forward with determining cut points. We need to make sure that the groups' recs line up. Diversion referrals are not even on our radar yet. Should it be? We don't know. There's a different gate keeper for this group. But the biggest difference is that the transition folks are being recommended on risk (this is the recommendation) but diversion folks are not. We will wait on this for now. We need to address referrals for specialized beds. We need to finitely define what information is included in a referral and where it comes from. This is addressed to some extent by the recommendations from the Board and Referral work groups. Boards Group: The training piece can move forward. We will start with boards, then referral process, then programs. Things being decided at earlier phases of the process by attorneys and with plea bargaining plant seeds for the next steps. We have to remember that we're not always doing what is	

- best for the defendant but what they want.
- For some offenders I may be more comfortable with them being given the community corrections opportunity if they've already met the parole board.
- We're not confident that we have the right people to discuss/recommend changes to eligibility. Our conversation has been based on current eligibility and how they should move forward.
 - Whether or not someone should be eligible is a philosophical issue that we may never agree on. We can't solve that emotional part of sentencing.
 - Saying that a vehicular homicide offender should serve a certain amount of time before being eligible is beyond our group.
 - No. That's what CCJJ and this group is about.
 We should decide who is appropriate for community corrections.
 - The dilemma is looking at risk whereas others are looking at crime type for eligibility.
 - But if DOC is able to address whether or not someone is appropriate we can addresses the concern that applying leads to the assumption that they're appropriate.
 - Eligibility doesn't equal appropriate.
 - There is so much that goes into when an offender actually gets out that is beyond the judge. It goes beyond math. Its way more complicated than that. We shouldn't try to micromanage these specifics because there are so many things that go into when someone is eligible.
 - We were trying to get away from a time driven system but this conversation seems to be going back to that.
 - Are there crimes that should be excluded and not considered until they reach their PED? We need to see some research on this because we were trying to base decisions on risk and need. This is more about punishment.
 - If you're looking back in time to make future decisions you're assuming that non-violent offenders will not commit violent offenses in the future and vice versa. But we know this is not true.
- The high risk folks are going to have to hit their PED before being eligible but this doesn't cover all of the crimes that are of concern to some of us.
 - There is already a distinction between violent and nonviolent offenses but maybe certain, specific, crimes should be listed.

- But this takes us away from evidence based decision making.
 - We've already moved away from evidence based by specifying the high stakes group as a moderate even when they're low risk.
- We want these decisions to be objective so we need to remove the emotion.
 - o Or is it a policy issue? Not emotion.
 - We could say that violent crimes are automatically high riskbut why do a risk assessment then?
- To an extent the referral group has addressed some of these concerns. But should certain offenses be excluded? The group can continue to discuss this but they don't feel that they may be the appropriate group to make these "just desserts" decisions. Maybe this is something that the whole Commission should discuss.
- Do the risk assessment tools consider the offense? No. Criminal history is considered but the offense itself is not a very good predictor of risk.
 - That is where you would go to one of the other goals of sentencing.

Meeting was adjourned at 4:15pm.

The <u>July task force meeting is canceled</u>. The <u>work groups will still meet</u> to refine their recommendations to present at the August task force meeting. See below for room reservation information.

Meeting Schedule and Location for 2014

Thursday, July 10 th	Task Force is CANCELLED	Work Groups can still meet at 710 Kipling St., 3 rd floor conference room from 10:00am -12:00pm
*Thursday, August 7	12:30pm-4:30pm	710 Kipling St., 3rd floor conference room
Thursday, Sept. 11	12:30pm-4:30pm	710 Kipling St., 3rd floor conference room
Thursday, Oct. 14	12:30pm-4:30pm	710 Kipling St., 3rd floor conference room
Thursday, Nov. 13	12:30pm-4:30pm	710 Kipling St., 3rd floor conference room
Thursday, Dec. 11	12:30pm-4:30pm	710 Kipling St., 3rd floor conference room

Unless noted below, work groups can meet at the same location as the task force, from 10am-12pm, on the same day.

NOTE: The August meeting is <u>NOT the second Thursday</u> but is the Thursday before the CCJJ meeting.

^{*}In August, work groups will NOT be able to meet at the Kipling conference room in the morning (10am-12pm). Other locations will have to be found independently. Sorry for any inconvenience.