

# Community Corrections Task Force Colorado Commission on Criminal and Juvenile Justice

## Minutes

August 7, 2014, 12:30PM-4:30PM  
710 Kipling, 3<sup>rd</sup> floor conference room

### **ATTENDEES:**

#### **CHAIR**

Theresa Cisneros, 4<sup>th</sup> Judicial District, District Court Judge  
Peter Weir, 1<sup>st</sup> Judicial District

#### **STAFF**

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

#### **TASK FORCE MEMBERS**

Alaurice Tafoya-Modi, Private Defense Attorney  
Brandon Shaffer, Parole Board  
Dennis Berry, Mesa County Criminal Justice System  
Eric Philp, Division of Probation Service  
Glenn Tapia, Division of Criminal Justice  
Greg Mauro, City and County of Denver  
Kathryn Otten, Jefferson County Justice Services  
Shannon Carst, Colorado Community Corrections Coalition  
Walt Pesterfield, DOC Division of Adult Parole and Community Corrections

#### **ABSENT**

Christie Donner, Criminal Justice Reform Coalition  
David Lipka, Public Defender  
Gregg Kildow, Intervention Community Corrections Services  
Harriet Hall, Jefferson Center for Mental Health  
Jacqueline McCall, Department of Corrections  
Joe Cannata, Voices of Victims  
Steve King, State Senator  
Steve Reynolds, 9<sup>th</sup> Judicial District

<p><b>Issue/Topic:</b> Welcome and Introductions</p>	<p><b>Discussion:</b> Theresa Cisneros welcomed the group and had everyone introduce themselves before previewing the agenda.</p>
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<p><b>Issue/Topic:</b> Referral Process Work Group Report Back</p> <p><b>Action</b></p> <p>In September we will have our final recommendations for the Task Force to vote on.</p>	<p><b>Discussion:</b></p> <p>Greg Mauro reported back for the Referral Process Work Group.</p> <ul style="list-style-type: none"> <li>• See handout for most recent draft of our recommendations. We settled on the CARAS because it's a known commodity. Those with a low risk assessment score would immediately go to ISP if approved.</li> <li>• What is the applicability of the CARAS to sex offenders?             <ul style="list-style-type: none"> <li>▪ Some of the instruments don't link to sex offenders. But if Kim English were here she would tell you that this was a concern that was brought up the last time the CARAS was looked at and that while it may have some limitations this was looked at and it was found to be a predictor for sex offenders.</li> <li>▪ DOC uses the VSAOR and the STATIC-99 right now for sex offenders.</li> <li>▪ Parole has always used the VASOR.</li> <li>▪ It's inconsequential as to what instrument we're using, that's the devil in the detail. It's more about the concept.</li> </ul> </li> <li>• I'm going to have more issues with the automatic referrals. The CARAS was supposed to be a tool not something that was meant to be used for automatic referrals.</li> </ul> <p>The second track will be for moderate to high risk track. To be honest this looks like community corrections today. The only thing that is to new is to ask the case manager to review the referral every year after the initial denial. Currently there is no mandatory review. At least a review to generate a referral.</p> <ul style="list-style-type: none"> <li>• One concern is, does this tell the case manager that they don't have to worry about this until the year has passed? Are there other unintended consequences? Is there some sort of structure to force it? We need to take victim impact into account.</li> </ul> <p>The last chart would require statutory change if it were supported. The very high risk population would automatically be referred at their parole eligibility date (PED). We don't think there would be an unintended consequence because we don't think they'd be accepted anyway. Right now, regardless of risk, violent offenders can apply for release 6 months prior to thier PED and non-violent offenders can apply for release 16 months prior to release.</p> <p>***The flow charts from this working group go with Recommendation 1.</p> <p>Concerns:</p> <ul style="list-style-type: none"> <li>• The CARAS and the bench mark to use → states run into problems when naming tools rather than being concept specific but not tool specific.             <ul style="list-style-type: none"> <li>▪ I get nervous if we're too loose with the process up front. That there will be too much erosion too fast with presumption. People will work with the exception not the rule.</li> </ul> </li> <li>• The mandatory referral – but remember that accepting them is not</li> </ul>
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mandatory.

- Annual review causing case managers to ignore offenders until they have to – this would be no more than a year, but that can be reviewed sooner.
  - Officially the referral comes from the offender but they can opt out and it's really just a process.
  - It's an illusion that someone is really working with a case manager that knows that they're "ready" to be out in the community.
  - Some of the other recommendations are aimed at fixing this illusion.

One of the goals of this recommendation is to be more efficient and educated in the process.

Recommendations 2 and 3:

Is there a process by which new issues can be pipelined to the case managers?

- We've done that a few times but the problem is that it doesn't stick. It ends up only applying to one of their 88 duties and it just doesn't stick.

For recommendation number 3, I'm wondering if we wouldn't want independent navigators?

- Part of this is why community corrections isn't part of DOC.
- If you have an outside person or group it raises the credibility. There would be money attached but that's part of our charter.

In the current referral system there is a fear of being subjective. There may actually be an AR saying that no DOC personnel can advocate for an offender – a disciplinary action can actually happen – but something useful should come with the recommendation.

- What are you asking the case manager to provide, that they recommend that the offender be accepted?
  - No – It'd be better for them to provide more information about what the offender's done and achieved and what he may need.
  - Provide the factual information for them to use to make the decision.

Is the word recommendation what we really mean?

There may be things from community corrections that you may want them to have completed before they can be accepted.

- Recommendations 3, 4, and 5 could be pulled together and revised to address the items to be included on the form.

Recommendation 6:

Obviously don't stop them from refusing placement. If they're not going to cooperate don't force it. But if they don't want to go with a referral it's often because of a misunderstanding and/or peer pressure and misunderstanding.

- Sometimes having a placement approval in front of them puts a new message in front of them. It's easy to say no to something they don't think they'll get.
- Would the local boards be informed that at that stage they didn't express an interest in community corrections?
  - Maybe, maybe not. We'd rather them come through our program than go homeless.
  - That's not true for all offenders – sex offenders with

indeterminate sentences for instance.

Recommendation 7 – Need feedback on what needs to change for them to be accepted vs why they were denied. It needs to be things that can change (not criminal history).

- This is difficult in practice. Because you might have a unanimous decision to reject someone but everyone has different reasons why. Or if public safety is the issue.
  - Couldn't everyone fill out the form?
- It would be helpful to focus on the positive – what do they need to do for the board to accept them?
- This is educational for the board too. Just saying “public safety” doesn't do anything. Most offenders will get out eventually, but if you keep rejecting them they'll go straight to parole.

Have to be sure that creating a list of things we're looking for is not a guarantee but just what it takes for you to get to the “starting line.” From there it's based on what more you've done.

One of the risks in working to be released is having your hope squashed. We need to be very clear about what it takes to be seen in a favorable light.

We can't ignore, regardless of need, two important parts of our system: punishment and deterrence.

- I don't argue against that but we've set up a system where at some point you are eligible for release and we need to decide what it takes to be released once you are eligible.

Recommendation 8 :

If the information is available we should provide the secondary location with information about why the individual was rejected.

Recommendation 9:

The bigger picture is that they shotgun out the referrals.

- It's not a person saying no. It's the “shot gunning” and seeing where they stick.
- If someone has a dual diagnosis there is no way to flag them as needing special programming. Instead it's just luck if they end up in a program that happens to be able to handle it.

\*\*Going back to moderate high/high risk individuals – It was suggested that violent crime folks to not be eligible until they reach their PED.

- Does a judge enter that it was crime of violence? It should be designated on the MIT.
- “I would prefer that they're not eligible until they've met the parole board once.”
- Crime of violence doesn't mean they're very high risk alone. Judge Cisneros is reluctant to put them all into the “Very High Risk” category because the CARAS addresses this and puts the Very High people at PED only.
  - That's looking at it from a needs perspective, and I understand that. But I'm looking at it from a different policy perspective. We

have additional sentencing goals in this state.

Current statute presumes that a referral will occur unless certain criteria are met.

- We want the presumption in statute. How we get the exception is still in need of conversation. The work group will come back with more on this.
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Could you add a category that while you may deny someone parole you may strongly recommend community corrections?

Would we want to take the criteria out of statute and put it into policy, into rules and regulations?

- This would make it more malleable and prevent the need to go back to the legislature every time something needs adjusted. The statute would now say risk based and PED based with exceptions based on policy.

In Colorado many operational things are described in statute. This gives you the best of both worlds. You want in statute, the presumptive mandate. But the downside is that could be that you have a bad director that now has too much power. Politics would definitely be at play too.

- How effective are ARs right now in DOC?
- We may legislate everything in CO but we also seem to AR everything.
- If it's important enough to put in law maybe we should do that. Or maybe we should create an AR first?

Crimes of violence cases – should discussion about this be placed on the next agenda? We're in a place to finalize this issue. And other issues need to be finalized and voted on (and passed on to the Commission) before the task force should move on.

**Issue/Topic:**

**Discussion:**

Population Work Group Report Back

Dennis Berry reported back for the Population Work Group.

• See handout for most recent draft of our recommendations.  
The goal is to slow down and really focus on the interventions their needs rather than just throw them out into the work force right away. This will require some resources though. This will require a whole new approach to transitioning them from incarceration to release.

**Action**

- In September we will have our final recommendations for the Task Force to vote on.

- We need to be careful about the messaging. We don't want it to sound like there is a profit for taking the high risk offenders.
- We may not want to specify the type of case we're referring to. Vehicular homicide was meant only as an example for this group in the handout. We can strike that.
- The red text (in the handout) is to be applied to the very high risk/high stakes cases.
  - This is meant to allow for some flexibility. Building that flexibility into the system.
- SB-94 funds have been cut for showing improvement.

	<ul style="list-style-type: none"> <li>• What about the ¾ house idea, or a step between residential and non-residential? Some have been able to do this but it needs funding to increase its use. May help reduce non-res failures.             <ul style="list-style-type: none"> <li>○ Research supports not putting low risk offenders in with high risk offenders.</li> <li>○ This could apply to any of the low risk and some of the medium risk offenders. It wasn't designed to specifically address the low risk/high stakes offenders (it could be used for them, but it wasn't designed for them).</li> </ul> </li> <li>• Some of the data we don't capture and some we do. We capture DUIs but not persistent DUIs.</li> </ul> <p>Statutorily there isn't anything for this group to move forward on.            What did you envision as the next steps for this work group?</p> <ul style="list-style-type: none"> <li>• A lot of it involves going to other groups for support and/or to request funding and changing standards.</li> <li>• What this committee can do is monitor how these items moves through the governor's advisory council.</li> <li>• I wonder though if A1 is something that we could move forward? Develop the criteria to move this forward.</li> </ul> <p>The purpose of this Task Force is to present something to CCJJ that can take legs and move forward not just monitor other groups.</p> <ul style="list-style-type: none"> <li>• Well then maybe #5 is something CCJJ could have influence on as well.</li> <li>• This task force will have to decide, at the next meeting, what recommendations they would like the Task Force to vote on, if anything.</li> </ul>
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Issue/Topic:	Discussion:
<p style="text-align: center;">Community and Community Boards Work Group Report Back</p> <p style="text-align: center;"><b>Action</b></p> <ul style="list-style-type: none"> <li>• In September we will have our final recommendations for the Task Force to vote on.</li> </ul> <p><b>NOTE:</b> Item numbers in minutes refer to the recommendation number.</p>	<p>Kathy Otten reported back for the Boards Work Group.</p> <ul style="list-style-type: none"> <li>• See handout for the most recent draft of our recommendations. We looked at Board composition as well as educating the boards about the fact that 97% of offenders will be released. It's important that board members that are already in the system still come to the training. They may think they already know everything about community corrections but additional training may be beneficial.</li> <li>• Who will participate in putting the training together? We need to make sure that all perspectives are covered.             <ul style="list-style-type: none"> <li>▪ We discussed having DCJ put together a curriculum. But we make sure that local control is not overlooked.</li> </ul> </li> <li>• What is the basic information that needs to be known?             <ul style="list-style-type: none"> <li>▪ Boards need consistent information from DOC about offenders.</li> <li>▪ Difference between deferred and denied needs to be understood.                 <ul style="list-style-type: none"> <li>▪ For parole these terms are synonymous.</li> </ul> </li> </ul> </li> </ul> <p>Minimum membership – there used to be a statute about minimum membership. Some local ordinances exist but there isn't a current statute that has a minimum membership.</p> <p>Term limits can be detrimental but they can also be a positive. One of the</p>

	<p>benefits it broaden the exposure. But you can also have ex officio people that are not relevant to the term limit.</p> <p>Use evidence based tools and processes that help us get past the “gut feeling” way of making decisions.</p> <ul style="list-style-type: none"> <li>• I have a problem with the “shall” part. Maybe use “encouraged.” So many things are called evidence based when they may not actually be evidence based. It may be an evidence based practice or research supported.</li> <li>• This is one of the more important recommendations that we have. This is the first step into community. “Evidence based practice” means it has undergone two independent studies that have produced significantly predictive results. This term gets thrown around when it’s not always due. Research supported may be the better term.             <ul style="list-style-type: none"> <li>▪ But not to the exclusion of the expertise and life experiences of the board members.</li> <li>▪ We’re not saying that you will have this perfect tool to make the decisions for you.</li> <li>▪ A series of protocols a person goes through may be one’s professional judgment rather than a gut feeling.</li> </ul> </li> </ul> <p>This goes along with the recommendation from the referral group about making sure DOC knows why someone was rejected.</p> <p>On building these tools we know that Denver has worked with Richard Stroker. It would be nice if some funds, through DCJ, could be set aside.</p> <p>These will all need to be voted on by this task force before they are passed on to the Commission.</p>
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<p><b>Issue/Topic:</b> New Issue</p> <p><b>Action</b></p> <p>Pete Weir presented six possible statutory changes for discussion.</p>	<p><b>Discussion:</b></p> <p>Possible Incentives for Communities Willing to Allow Community Corrections Facilities</p> <p>We’re having a major problem in Jefferson County incentivizing communities to allow facilities to be placed there. One of my proposals is that the funding for these facilities comes from DOC because this would provide a major service to DOC by taking offenders.</p> <p>Who votes how is covered by the sunshine law - Public action by a public body. Regarding the money – do you feel that DOC should provide this money or would you take the money if it came from elsewhere?</p> <ul style="list-style-type: none"> <li>• I’ll take the money if you can find it but I think there should be a connection to DOC because of the influx of people being pushed to Community Corrections from DOC.</li> </ul> <p>It’s a fact that there will need to be some resources spent on these individuals.</p> <p>These issues may be discussed further at a future meeting.</p>
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Meeting was adjourned at 4:15pm.

**Meeting Schedule and Location for 2014**

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