

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

## Minutes

September 11, 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  
David Lipka, Public Defender (by phone)  
Glenn Tapia, Division of Criminal Justice  
Greg Mauro, City and County of Denver  
Gregg Kildow, Intervention Community Corrections Services  
Harriet Hall, Jefferson Center for Mental Health  
Joe Cannata, Voices of Victims  
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  
Dennis Berry, Mesa County Criminal Justice System  
Eric Philp, Division of Probation Service  
Jacqueline McCall, Department of Corrections

<p><b>Issue/Topic:</b></p> <p>Welcome</p>	<p><b>Discussion:</b></p> <p>Co-Chairs, Theresa Cisneros and Pete Weir welcomed the group and began the meeting. Today we will be voting on recommendations. Items that pass will be passed on to the Commission.</p>
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<p><b>Issue/Topic:</b></p> <p>Board Working Group</p> <p><b>Action</b></p> <p>Items 1 through 6 were voted on and each passed unanimously. *See the final recommendation document for official language.</p>	<p><b>Discussion:</b></p> <p>It was suggested that recommendations 3, 4, and 5 might be combined into one recommendation?</p> <ul style="list-style-type: none"> <li>• The work group members were fine with this if this it would be more effective.</li> <li>• Others liked them separate. Although they may overlap they address specific needs.</li> <li>• The original reason for this suggesting that they might be combined was that they are all about membership.</li> </ul> <p>It was asked if we have thought about what track these items will follow: funding, statutory, or policy?</p> <ul style="list-style-type: none"> <li>• The work group chair didn't have an answer for this.</li> <li>• Priority would be statutory if we want this to be for all the boards across the state. These are good suggestions and non-controversial. The only issue is with respect to the training. Wondering if we want some consistency with that.</li> <li>• It would be great for these to take statutory form. If the board [task force] chooses to go that route that would be fine. We purposely kept the training language broad because we thought it was out of our purview to be more specific but it would be better to develop a mandatory minimum curriculum. To get a better idea and to develop the minimum standards to sculpt each board's needs.</li> <li>• Will put in a phrase to include the dichotomy of the universal training as well as the specific needs of each board. "With local community corrections boards and other key stake holders to develop..." (Recommendation 1).</li> </ul> <p>Number 6 and 7 will not be grouped with the others</p> <p>Codify the intent. We like the idea of it looking like the bail recs.</p> <p>All 7 recommendations will go forward with statutory intent. Would this change your contract with the boards?</p> <ul style="list-style-type: none"> <li>• It would be more of a performance indicator.</li> <li>• Recommendations 2 and 7 look like business practices while the others look like statutes.</li> </ul> <p>Does the Referral group discuss #7? Yes.</p> <ul style="list-style-type: none"> <li>• We'll come back to this item then when we get to the same thing within the Referral Group's recommendations.</li> </ul> <p>Another way to get something done is a directive to have CDPS/DCJ do a white</p>
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	<p>paper on this. (Discussing #7) in 12 or 18 months.</p> <p>We should separate this out since I'm hearing us saying that the other items should be part of a package.</p> <p>What is the protocol for items that we say should be statutory? Can the Commission change that?</p> <ul style="list-style-type: none"> <li>There is history that CCJJ has changed things but more in language than in intent. Things have been reduced and expanded. But typically they will vote something down before changing it entirely. And if the legislature changes the intent it will no longer be a CCJJ bill. We also have a drafter assigned to us which will help make sure amendments follow the intent.</li> </ul> <p>Can we go back to recommendations 2 and 7 → if you put lists of things into statute you may create more problems.</p> <p>Are you getting the risk tool scores now? No. They may be there but we just don't have access. It's info that currently exists. It's the consistency.</p> <p>Recommendation #2 – add "including but not limited to" the second sentence.</p> <ul style="list-style-type: none"> <li>It was then pointed out by our legislative liaison that this is language that is currently avoided by statutory drafters but it was decided that we would leave it as we see it fit and let them deal with it later.</li> </ul> <p>What was the decision with number 7? Are we going to set it aside and look at it with the referral group's items? Yes.</p> <p>Vote on recommendations 1-6 and then 7 with the referral group items. Yes.</p>
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<b>Issue/Topic:</b>	<b>Discussion:</b>
<p style="text-align: center;">Population Working Group</p> <p style="text-align: center;"><b>Action</b></p> <p>Recommendation 1: passed unanimously</p> <p>Recommendation 2: passed: 1 no, 12 yes</p> <p>Recommendation 3: passed unanimously as amended</p> <p>Recommendation 4: passed unanimously</p> <p>Recommendation 5: passed unanimously</p> <p>*See the final recommendation document for official language.</p>	<p>Reformatted the doc to show which type of recommendation each is: funding/budget, statutory, or policy; as well as if and how each is related to another: independent, dependent, and interdependent.</p> <p>We don't see recommendation 1 being able to happen without #3 and we see #1 having a strong relationship with #4. Recommendations 1, 3, and 4 should probably be a package deal.</p> <p>Recommendation 2 should possible be deferred to the Board WG. (GAC? )</p> <p>Recommendation 4 had a substantive change, shown in the red text. Originally it recommended an assessment tool be developed. The language was changed to be consistent with what is currently being done in the Governor's Advisory Council (GAC) and with DCJ resources.</p> <p>Recommendations 6 and 7 are deferred to the Board Working Group.</p>

Recommendation 8 is deferred to Referral Working Group.

Recommendation 9 is deferred to the EBDM group.

Recommendation 10 is deferred to Interagency Advisory Committee on Correctional Treatment.

Recommendations 1, 3, 4, and 5 are the only actionable items.

With regard to #1 would it be that prescriptive?

- We came up with these points to get us close to the research.

Is #3 a matrix that is based on assessment scores?

- The problem is that our programs are based on one size fits all. But research shows that we need to consider risk.
- Why do we need the bullet points? Why not just say what you mean? That would be fine as long as the intent is clear.
- When the format of the final recommendations are revised for the Commission the bullet points will go into the discussion section.

Recommendation 3 and the Council stuff are related, while recommendation 4 and the Council stuff are separate. This is why we can't do this one without Recommendation 1 but can do #1 without this.

How do sex offenders fit into this (recommendation #3)? We haven't put any thought into this regarding sex offenders.

- I have concern about Sex offenders. Sex offenders usually come out low risk on the LSI, you'll need to use the STATIC-99 on them instead. You need some qualifying language – 'except for sex offenders...' SOMB guidelines are more restrictive. Maybe say that they are excluded from this and shall be dealt with pursuant to the SOMB?
- Not all facilities accept sex offenders, correct? Correct.
- See final recommendation document for wording changes.

We don't name the LSI (or other assessment tools) elsewhere. So we may not want to here. It may be best to be less specific.

The language of #3, as written, is sufficient, to allow for flexibility. But sex offenders should be excluded.

- Some are saying the language is broadened enough to change the flexibility of standards. Others are saying sure, but exclude sex offenders.
- I can't see any facility being okay with slow tracking every with SOMB supervision.

Recommendation 4: There are bench marks for all of these items. This is a key step. We think this may need to proceed #1.

Some of these items are already being done by the Advisory Council (GAC) so why are you asking the CCJJ to do more?

	<ul style="list-style-type: none"> <li>The Council doesn't have the same teeth that the CCJJ has. And they could just stop at any time. It seems that if the CCJJ supports something as well it would have more strength.</li> </ul> <p>Recommendation 5 – why do we need this? I don't have the authority to fund this right now. I can't administratively create this currently. The ¾ house would be relaxed supervision for the low risk/high stakes. Payments would be between res and non-residential (bullet point 1). Zoning would be an issue for facilities. We went round and round trying to figure out the right rate for this so we decided to see if the idea was even approved.</p> <p>So Recommendations 1, 3, 4, and 5 are really the only actionable items, correct?</p> <p>Recommendation 2 talks about resources.</p> <ul style="list-style-type: none"> <li>No, we didn't discuss resources, we discussed decision making processes. Which is it?</li> </ul> <p>So we're going to vote on 1, 2, 3, 4, and 5? Yes.</p> <p>What are your thoughts on 6? It's really just not ready?</p> <ul style="list-style-type: none"> <li>Correct, It's not ready.</li> <li>Traditionally, the Commission and it's task forces don't make recommendations that defer to other groups. So items 7-10 don't need to be voted on.</li> <li>We will not vote on items 6-10.</li> </ul>
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<p><b>Issue/Topic:</b> Referral Work Group</p> <p><b>Action</b>                  Recommendation 1 – passed unanimously                  Recommendation 2 – tabled for further study                  Recommendation 3 – passed unanimously                  Recommendation 4 - removed                  Recommendation 5 – passed unanimously                  Recommendation 6 – passed: 1 no, 12 yes                  Recommendation 7 – passed: 1 no, 12 yes                  Recommendation 8 – passed unanimously                  Recommendation 9 – passed unanimously</p>	<p><b>Discussion:</b></p> <p>At the last task force meeting we tried to not get hung up on which risk assessment is used for recommendation 1 and the corresponding flow charts.</p> <ul style="list-style-type: none"> <li>Is the first referral discretionary or mandatory? And what could be done to stop the mandatory?</li> <li>Low Risk offenders serving for a crime of violence would have to wait for the second track.</li> </ul> <p>Recommendations 2, 4, and 5 may be a package.</p> <p>We do now have, or will soon have, 19 CPOs in the institutions that can help with something like this. Maybe this is a duty they can have?</p> <ul style="list-style-type: none"> <li>Not every prison will have these people but they aren't the ones doing the releasing. There's a few more pre-releasing. These people are doing things to prepare offenders for parole.</li> <li>But who is the agent that knows about community corrections and knows about the programs and unbiased.</li> <li>Do we know if there are any other programs that use that sort of system? Some states use an individual called an "institutional" parole officer to work with offenders in regard to their release plan be it parole,</li> </ul>
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halfway house, other state, etc. Some states have release planners (not a case manager). The benefit of institutional parole officers is their focus is always on release and there is an automatic connection. But they may be more attune to what the parole board wants rather than what is best for the offender. The release planners have been successful in many states and unsuccessful in other states. They don't do a lot of the other tasks like assessments and others don't always participate in release planning because it's not seen as their job. Keep in mind that these are all DOC jobs examples.

- The idea has merit but it's just another person doing the same thing. Need an "in-reach" person like the JERP person.
- So instead of having all these different people shouldn't we collapse them?
- Their stake is not to a provider but in the best interest of the offender.
- People end up by-passing community corrections or a specialized programs because they're just missed without these in-reach people.

In the interest of moving forward what do we want to do with #2?

- I don't feel comfortable moving on with this we don't know what case managers are doing. I'm concerned about an outside person.
- Maybe we should request a report? As it's written, how many would like to consider it?
- Is it 2 or a discharge planner; or 2 and a discharge planner? I was under the assumption that #2 was about stripping case managers of institutional duties. Part of the case manager duties is to do the discretionary referrals. Case managers will no longer be made the jack of all trades. The Warden was previously making them do everything when someone was needed. But we'll see what actually happens.
- CPOs work for parole so they don't fall under the warden. That was by design.

Getting back to "what do we do about #2?" It sounds like everyone is saying we should table it and study it some more.

- As we look at this, if we're going to table #2 for further study do we need to table 3, 4, & 5 as well? Unless we look at them as separate issues.
- They can be amended if needed.

Recommendation 6 prohibits an inmate from refusing a referral.

- They can still refuse a placement. But they can't refuse the referral.
- They often do this because they think they're going to be denied anyway or they tell each other that they're just going after their money. But if they're referred and accepted they may accept the placement.

Recommendation 7 is the same as Recommendation 7 from the Board Work Group.

- They will be voted on as one item.
- The Referral Work Group's language was used as the final language.

Regarding Recommendation 8, for various reasons it is inefficient to have 3<sup>rd</sup> and 4<sup>th</sup> options. It's best to just have two options.

	<p>What is the difference between your #7 and the #7 from the Boards group?                  There is a language difference but the intent was the same.                  There's a motion and a second to vote on the items as one. All in favor – all</p> <p>Are these policy or statutory? Maybe decide after we vote?</p> <p>Regarding Recommendation 3 - we have to first get past the fact the DOC doesn't allow their people to recommend a person.</p> <ul style="list-style-type: none"> <li>• Maybe just provide arguments for and against. Maybe we don't need this.</li> <li>• The reality is that we're all going to get blamed. At some point we just need to be bold. Cases go bad now. At what point has that resulted in any one entity being blamed? I don't see that happening. The recommendation should include the pros and cons.</li> <li>• This actually puts you in a better position if something goes wrong.</li> <li>• Maybe it's not fair to request DOC to recommend someone.</li> <li>• We need to call it something else. Provide current and objective information? That is so watered down. We're trying to advance the system. The current recommendations are mandated, but you didn't realize that until these meetings. We need them to mean something. We need them to mean something or just not do it.</li> <li>• Could we have three options: we recommend, we don't recommend, we don't have a recommendation? I'm afraid that no recommendation would be seen as negative rather than neutral.</li> <li>• But are we addressing risk or are we addressing taboo?</li> <li>• What do other states do? Early on they made recommendations. But they get concerned about risk.</li> <li>• I say we move it forward and let the Commission decide if they want to move forward.</li> </ul> <p>Recommendation 4 is the same as Recommendation 2 from the Board Work Group.</p> <ul style="list-style-type: none"> <li>• This recommendation will be removed (the Board Recommendation, which was already voted on and approved, will be kept).</li> </ul> <p>Recommendation 5 - Is this two issues, research and readiness? Or is it about readiness with the idea that it be researched?</p> <p>Recommendations were voted on.</p>
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<p><b>Issue/Topic:</b></p> <p>CCJJ at a Glance and Recommendation Process</p> <p><b>Action</b></p>	<p><b>Discussion:</b></p> <p>Judge Cisneros went over the CCJJ at a Glance document.</p> <p>What happens next with the recommendations? Who presents them to the Commission?</p> <ul style="list-style-type: none"> <li>• They will be put into our own format (one per page with some</li> </ul>
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discussion) and the chairs will present them to the Commission in October. They Commission will then vote on them in November.

<b>Issue/Topic:</b>	<b>Discussion:</b>
<p>New Issues</p> <p><b>Action</b></p> <p>A new work group was created to discuss Item 1.</p> <ul style="list-style-type: none"> <li>• Pete Weir will Chair</li> <li>• Kathy Otten and Alaurice Tafoya-Modi will participate.</li> </ul> <p>Item 2 → Next steps to be determined.</p> <p>Christine Adams will analyze Community Corrections data for Item 3 regarding mental health ONLY offenders.</p> <p>Item 4 → Should be discussed with item 1.</p> <p>Item 5 has been sent to the Board Work Group for further discussion.</p> <p>Item 7 has been sent to the Referral Work Group for further discussion.</p>	<p>Need to address the issues, current situation and the proposed solution.</p> <ol style="list-style-type: none"> <li>1. The first issue is local communities rejecting new facilities. The idea would be for DOC to allocate funds to the government entity where the offenders are located as an incentive to have communities accept facilities. This would be to build new and/or relocate old facilities.                     <p>A and B are two separate funds: for the community and DCJ.</p> <ul style="list-style-type: none"> <li>• The money would be contingent on allowing for beds. This would provide us with a way to help the community. And it would be an ongoing, every year fund.</li> <li>• It would go up if the number of beds were increased. It's contingent on the number of beds.</li> <li>• Is it specific to siting a facility?</li> <li>• Should it end after a certain number of years? No, because some communities are pushing programs out. I like the concept but once it's there and established, as a tax payer I may not like just paying endlessly. But it's not like it's disappearing back into the state. It's coming back to my community. This is a good point though. The idea is just to not come empty handed when we ask to build a new facility.</li> <li>• The place where it's not fair is for the municipality that has already welcomed them in. Or it's a onetime shot to site a new facility. It looks a little different in the smaller communities when it creates jobs.</li> <li>• What's the next step for how this group can move forward? Pete, Kathy, Alaurice will meet about this and the zoning issue (39-30-103)</li> </ul> </li> <li>2. More and more burden is being placed on community corrections and this should be funded. Funding is needed for program enrichment to reduce recidivism and to promote self-sufficiency. The group discussed funding options. We need to provide an appropriation.</li> <li>3. DOC needs to help fund the mental health treatment of offenders in community corrections.                     <ul style="list-style-type: none"> <li>• We already have that mechanism. The Department of Public Safety has the 2<sup>nd</sup> largest share of mental health funds. But it can't be mental health only. It has to be dual diagnosis. We don't have a lot of "mental health only" offenders. This is relatively recent increase and it's a pretty large fund, about \$5M. We just can't legally spend it on mental health only.</li> <li>• Maybe this proposal could provide for the mental health only people.</li> </ul> </li> </ol>



- We have a fund in our budget already that we use for these people but it's only \$56K so mechanically this is where that money would go.
- Is there a need? Sounds like it. It may also increase the number of providers who accept mental health only offenders.
- But what percent don't have a co-occurring disorder? Are there a lot of connections to mental health providers? They used to not be interested but then they saw the money available but now they're backing away again because there's a lot of strings attached.
- I (Glenn) am just not sure about the 2.5%. May be it's too much. We run out of our \$56k at about ¾ of the year but we over spend our CTF money.
- I (Glenn) don't know how to assess how many mental only community corrections offenders have unmet mental health needs. If we can get help from the research office in pulling and analyzing this data from our current data set maybe we can figure it out (see Action Items on the left).

4. To be examined with #1

5. How does knowing the votes of board members benefit Community Corrections?

- It may not benefit community corrections but it's the right thing for community accountability.
- Policy becomes politics. We don't want to diminish the integrity of the board.
- Judges have to make these kinds of decisions every day. If folks are being driven by politics then we have the wrong people on our boards.
- We'll lose the elected officials who may be concerned about risking someone who may go bad and then that being used against them in the next election.
- I am in favor of transparency and the public has a right to know.
- But if I'm a community member am I open to being sued? No but they'd be open to harassment.
- It should be sent to the Board WG.

6. This was already handled by a work group.

7. With this proposal a person would not be eligible for Community Corrections placement until their parole eligibility date (PED).

- My preference is that you're not eligible for community corrections until you've met the parole board.
- I will reiterate that this is not necessary. Not all crimes of violence (COVs) are violent offenders. Others agreed.
- This is a policy that is more appropriate for the legislature.
- This would be a statute.
- I don't think we can forget about the other legs of the judicial system. Punishment is part of it and this says that those

	<p>convicted of COVs are not eligible for Community Corrections placement until their PED.</p> <ul style="list-style-type: none"> <li>• Does this undo anything from the referral group’s flow chart? No, because that was more about treatment.</li> <li>• This is narrower than VRA crimes. All COVs are VRA but not all VRA are COV.</li> <li>• May want to send this to the Referral group to make sure it doesn’t interfere with the approved flow charts.</li> <li>• When does the punishment part end and when does the behavioral change part begin. We’re not seeing these before 6 months anyway, that’s current law. My guess is they’re not getting out on that first attempt anyway. Not if it’s a COV. So we’re just talking about pushing them back 6 months.</li> <li>• Our referral group moved them to medium risk if they somehow scored low risk. This would basically move them one step higher to the high risk flow chart. I don’t think we’re going to have a strong enough consensus. The referral group is meeting anyway so we’ll discuss it.</li> </ul>
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Meeting was adjourned at 5:15pm.

**Meeting Schedule and Location for 2014**

Thursday, Oct. 9	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