

# Comprehensive Sentencing Planning Group

**Date: 09-7-10      Time: 1:30pm – 4:30pm**

## **Attendees:**

### **Chair**

Jeanne Smith/Division of Criminal Justice

### **Planning Group Members**

Tom Quinn/Director of Probation Services

Pete Hautzinger/District Attorney, 21<sup>st</sup> Judicial District

Jason Middleton/ Public Defender/Appellate Division

Doug Wilson/State Public Defender

J.P. Moore/DA 17<sup>th</sup> Judicial

Dianne Tramutola-Lawson/CURE

Gil Martinez/District Court Judge

Joe Cannata/Voices of Victims

Michael Anderson/Parole Board

Charles Garcia/Denver Crime Prevention & Control Commission

Paul Herman/Center for Effective Public Policy

Kim English/ Division of Criminal Justice

Germaine Miera/ Division of Criminal Justice

### **Absent**

Jeaneene Miller/DOC Division of Parole

Claire Levy/State Representative

Christie Donner/Criminal Justice Reform Coalition

Issue/Topic:	Discussion:
Welcome and Introductions	<p>Jeanne welcomes the group. Members introduce themselves and discuss their expectations for the task force and also inform other members about what ‘they bring to the table’. Jeanne and Paul then go over the ground rules for the group process.</p> <p><b><u>Ground Rules</u></b></p> <ul style="list-style-type: none"> <li>• As you think about groups that you’ve worked with that have been successful, they often follow and use a set of ground rules.</li> <li>• Leaving agendas at the door is a lot of the reason that groups succeed. Look at the issues, look through your own lens, but always keep in mind the areas where we can find common ground.</li> <li>• The group discusses whether or not the task force should allow proxy votes when a task force member is unavailable.</li> <li>• The group agrees that in a member’s absence, the absent member may give their proxy to <b>another member of the task force</b>.</li> <li>• The group agrees that at least 50% of the group in attendance equals a quorum (9 members)</li> </ul>

Issue/Topic:	Discussion:
Discuss outcomes of August CCJJ meeting and Task Force charge	<p><b><u>August CCJJ meeting</u></b></p> <ul style="list-style-type: none"> <li>• The task force has been given the charge (by the CCJJ) to approach sentencing reform by analyzing specific categories of crimes, looking at them in some detail through the lens of a philosophy that we will set out over the next two meetings.</li> <li>• Other task forces are addressing Drugs and Sex offender/Sex offenses so we don’t need to go down that road.</li> <li>• Another area the task force was charged with is to address a possible Sunrise Review Process for new criminal legislation. The thought is that legislation is not always driven by logic or sensible decisions. Rep. Levy proposed the Sunrise review process during the mini group meetings this summer. The sunrise review process is a very finite process and we think it might be more achievable by a small subgroup.</li> <li>• Table the Sunrise review issue until we have more legislators in the room.</li> <li>• Maybe for the next meeting we can have DORA come in to talk about their process and how it might work for Sentencing laws.</li> </ul> <p><b><u>Review Charter</u></b></p> <ul style="list-style-type: none"> <li>• The group reviews the proposed draft charter.</li> <li>• The mission basically is “what’s the reason for this group”</li> <li>• Background – Not everyone has been intimately involved in the sentencing reform process, so the background was included to describe everything that has happened with the (previous) Sentencing task force since 2009.</li> <li>• We will add language about the quorum and voting into the charter.</li> </ul>

	<ul style="list-style-type: none"> <li>• Paul asks the group to take a look at the charter and email Germaine with suggestions for issues that should be added, clarifications, etc.</li> <li>• We want to be clear in the charter about what we're supposed to do, how to do it, the roadmap basically that we've agreed upon in terms of moving forward.</li> <li>• We will revise the charter and bring it back for approval at the next meeting</li> </ul>
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<b>Issue/Topic:</b>	<b>Discussion:</b>
<p>Sunrise Review Process</p> <p><b>Action</b></p>	<p><b><u>Sunrise Review Process</u></b></p> <ul style="list-style-type: none"> <li>• We will have a presentation by DORA for the next meeting on how they use the Sunrise Review process.</li> <li>• We will revisit this issue when we have more legislators at the next meeting</li> </ul>

<b>Issue/Topic:</b>	<b>Discussion:</b>
<p>Crime Category Approach</p> <p><b>Action</b></p>	<p><b><u>Crime Categories</u></b></p> <ul style="list-style-type: none"> <li>• Paul reviews the Sentencing Process Flowchart and talks to the group about how we may want to fill in the boxes (see attached below).</li> <li>• Possible Policy Questions- <ul style="list-style-type: none"> <li>-What does it cost? Whatever the sentence is that we're generating, what is that cost? Let's be aware about how to meet that cost.</li> </ul> </li> <li>• Analysis of Crime Categories Box <ul style="list-style-type: none"> <li>-Are there some specific policy questions related to theft (for example)</li> <li>-Policy questions will be different for different categories of offense</li> <li>-In the analysis of crime categories we would want to be sure to look at boutique offenses for example</li> </ul> </li> <li>• We'll want to look at Offense Characteristics-Offense Structure and Offender Characteristics</li> <li>• You'll want to define the disposition, what kind of information will be available to the prosecution, defense and the judge.</li> <li>• Duration means 'for how long' – Regardless of HOW you want to punish the offender, the question is 'for how long'</li> </ul> <p><b><u>Other issues</u></b></p> <ul style="list-style-type: none"> <li>• Can we talk about Judicial Discretion as a group? We haven't talked about this with this new plan</li> <li>• Judicial discretion and Judicial Accountability would be policy questions</li> <li>• Let's look at discretion from arrest to discharge</li> <li>• Add MOR disparity to charter, maybe even gender</li> </ul> <p><b><u>Policy Questions –what does this group need to address as far as addressing this issue</u></b></p> <ul style="list-style-type: none"> <li>• Impact on state and local resources</li> <li>• Judicial Accountability</li> </ul>

- System Accountability
- Discretion arrest to Discharge
- MOR
- Gender
- Harm to community/harm to victim (Severity of offense, Restoration to comm./victim)
- Define Theory/Philosophical Method in regards to Recidivism Reduction/Rehabilitation, etc.
- Understandability/Clarity
- Tolerance for Risk
- Can we sell it?
- Proportionality
- Parsimony
- Public Safety

#### **Where do we want to start?**

- Let's pick a non-violent crime category
- Theft
  - Has a lot of the boutique offenses
  - Sentences range from probation to DOC
  - This covers so many topics that we want to cover
- This template will be used across the board

#### **What data or info do we need?**

1. List of theft statutes - **Jason**
  2. How many people are actually doing DOC sentences for those offenses, how long, and why? Prior record. Who ends up in DOC for theft, tech. violations? Revocations? Why? What were the placements in general for theft (Probation, Community Corrections, Jail and DOC) - **Kim**
  3. Jurisdiction and consistency - **Kim**
  4. Restitution ordered vs. restitution collected - **Tom Q.**
  5. What do other states look at regarding 'value' - **Paul**
- What about embezzlement, welfare fraud, fraud
  - This first time around let's just look at felony theft. Later we'll look at embezzlement, fraud, etc.
  - First look at value crimes (MVT, Value theft), then move across and the second layer (e.g., theft of tractors, medical records, id theft, etc.)

Issue/Topic:	Discussion:
Next Steps	<ul style="list-style-type: none"> <li>• We need to Define Theft</li> <li>• How do we look at theft with a value vs. theft without a value?</li> <li>• What do other states do</li> </ul>
Action	

<p>Items needed for next meeting</p> <ul style="list-style-type: none"> <li>*Sunrise Review Info</li> <li>*Ground rules put in charter</li> <li>*Review and feedback on charter to Germaine by COB 9/15</li> <li>*Data and Info on theft (see list #1-#5 above)</li> </ul>
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<p><b>Issue/Topic:</b></p> <p>Adjourn</p> <p><b>Action</b></p>	<p><b>Discussion:</b></p> <p>The meeting adjourned at 4:20pm.</p> <p>The group will meet again on October 7<sup>th</sup> from 1:30pm-4:30pm, location TBD</p>
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## SENTENCING PROCESS FLOWCHART

The general purposes of sentencing are:

- (i) To achieve justice for all and ensure public safety;
- (ii) To render sentences in all cases within a range of severity proportionate to the gravity of offense(s);
- (iii) To achieve offender rehabilitation, reduce risk, reduce recidivism, general deterrence, incapacitation of dangerous offenders, and restoration of crime victims and communities;
- (iv) To render sentences no more severe than necessary to achieve the above.

### Policy Questions

Analysis of Crime Categories	Offense Characteristics – Offense Structure	Offender – Offender Characteristics
<ol style="list-style-type: none"> <li>1. Public policy considerations including: ↓</li> <li>2. Consider Data and Evidence Based Practice ↓</li> <li>3. Review Scope of Category (i.e. include or exclude certain crimes) ↓</li> <li>4. Weigh Offense Structure and Offender Characteristics (i.e. determine appropriate sentencing ranges and structure)</li> </ol>		

### Disposition

Pre-Trial Issues/Sentencing Issues

### Duration