

Comprehensive Sentencing Task Force

November 8, 2012, 1:30PM-4:30PM
710 Kipling, 3rd Floor Conference room

ATTENDEES:

CHAIR

Jeanne Smith, Chair/Division of Criminal Justice

TASK FORCE MEMBERS

Dianne Tramutola-Lawson/CURE

Joe Cannata/Voices of Victims

Judge Theresa Cisneros/4th Judicial District, District Court Judge

Pete Hautzinger/DA 21st Judicial

Mark Evans/ Public Defender's office (*non-voting member*)

Christie Donner/Criminal Justice Reform Coalition

Jason Middleton/Public Defender

Claire Levy/State Representative

Joe Pelle/Sheriff, Boulder County (phone)

Charles Garcia/Denver Crime Prevention & Control Commission

J.P. Moore/DA 17th Judicial

Glenn Tapia/Division of Criminal Justice

Tim Hand/DOC Division of Parole

Denise Balazic/Parole Board

STAFF

Paul Herman/CCJJ consultant

Germaine Miera/Division of Criminal Justice

Kim English/Division of Criminal Justice

Peg Flick/Division of Criminal Justice

Jana Locke/CDPS

ABSENT

Judge William Hood III/Denver District Court

Michael Dougherty/ Deputy Attorney General

Norm Mueller/Private Defense Attorney

<p>Issue/Topic: Welcome and Introductions</p>	<p>Discussion: Jeanne Smith welcomes the group and previews the agenda.</p>
--	--

<p>Issue/Topic: Review of Sentencing Task Force Progress to Date</p> <p>Action</p>	<p>Discussion:</p> <p><i>DISCUSSION POINTS</i></p> <p><u>Accomplishments</u> (Handout)</p> <ul style="list-style-type: none"> • During the task force’s early meetings, the group spent a lot of time getting educated about various issues • Much has been accomplished in the past two years • The group tackled the issue of Designer Crimes • The issue of walkaway escapes was also a logical topic for the group to address early on and resulted in a successful effort • The next issues at hand were theft consolidation, theft classification, Extraordinary Risk and Diversion • This task force and all of its working groups have a lot to show for their efforts • In looking at the handout of progress to date, there’s only one initiative that was proposed but didn’t move forward and that was the recommendation to reduce the habitual criminal statutes sentence multiplier as applied to nonviolent presenting offenses <p><u>Common ground</u> (Handout)</p> <ul style="list-style-type: none"> • Originally, the Commission and this task force agreed that work on sentencing reform should include three different sentencing grids (Violent, Nonviolent and Drugs) • There were many long conversations about the purposes of sentencing and three different grids • Everyone agreed that mandatory sentencing was not the way to go • The group also spent a good amount of time discussing risk/needs in the sentencing schemes • There were also three requests from the Public Defender’s office regarding their proposals for reform which included <ol style="list-style-type: none"> 1-Creation of a statewide Diversion program 2-Statutory presumption of non-DOC sentencing for first and second time nonviolent offenders 3-Revision of theft offenses
--	---

Issues, Suggestions and Opportunities (Handout. This document features outcomes from the interviews with individual Sentencing TF members during the summer of 2011)

- Jeanne reviews the list that came out of interviews the summer of 2011

PSI

- Regarding PSI's, Eric Philp indicated Judicial was going to take a look at this issue
- In Mesa, probation is looking at new PSI's to go along with the EBDM process
- There is pushback to eliminate criminal history from PSI (from PD's, etc.)
- DA's also have concerns regarding eliminating criminal history
- As far as this task force – the group still needs another replacement from Judicial

Community Corrections

- One issue that comes up often is that this task force hasn't been able to truly address topics regarding Community Corrections.
- One major problem is Comm. Corr. Boards that have the authority to reject someone who is sentenced to Comm. Corr.
- The initial conversations in this group regarding pathways to sentencing focused a lot on community corrections and the execution of sentences.
- There is a big piece of work regarding Comm. Corr. that this group could still address
- For instance, how are offenders moving through the system, how are decisions being made, who is making the decisions, how many are considered and rejected?
- We need to include private providers in the discussion if we're going to talk about Comm. Corr. Revisions
- Boards should be looking at risk assisted data decision making for allowing offenders into comm. Corr. Programs, etc.
- There's also a direct tie between info provided in the PSI and acceptance into Comm. Corr.
- Joe P. adds that regarding competency evaluations and "return to competency services", there is a project being spearheaded by Arapahoe County and includes the five metro counties
- The end goal is to evaluate and treat competency cases in the metro area in jail rather than transporting to the state hospital (with back logs, waiting periods and transportation costs.
- California is seeing success with a similar project (a partnership with the State, local jails, and Liberty Health Services).

- Here in Colorado a similar project could save the state millions of dollars and speed the progress of these particular offenders through the system.

Issue/Topic:	Discussion:
<p>Discussion of Potential Future Direction</p> <p>Action</p> <p>Jason, Claire and Peg to gather info/data regarding habitual offenders who don't receive earned time and forward to Germaine who will distribute to the group before January.</p>	<p><u>What's next</u></p> <ul style="list-style-type: none"> • Part of what happened with the issue of parole is that there were so many other committees already looking at parole issues that this task force didn't force the issue • One of the big issues we wanted to tackle by addressing parole was to see if there was a way to know what a 'true sentence' was from the time someone went into DOC through their parole period. • First, this group wanted to look at incentive based progress opportunities • The second goal was to be able to provide people (victims and offenders) with information about what they can expect from their sentence • Glenn has worked on this initiative with the state's LEAN project • This group hasn't had the time to focus on the issue here – but many people have called for more predictability and transparency in the parole end. <p><u>2013</u></p> <ul style="list-style-type: none"> • As we move into the New Year we want to get clear about the direction for the Commission and direction for individual task forces, etc. • Also, task force membership is going to be reset. Task Forces are morphing and people are moving around. <p><u>Letter regarding 109 DOC prisoners who receive no earned time</u></p> <ul style="list-style-type: none"> • Dianne Tramutola-Lawson is interested in pursuing the issue regarding 109 habitual offenders at DOC who were sentenced pre-1993 and don't receive earned time • She talked to Sen. Roberts last session and Sen. Roberts drafted a bill • Dianne also talked to Tom Clements and his original response was that this would need statutory change • Dianne wants to know if this group would endorse pursuing this issue and advancing it forward to the Commission • Under the current law, these people don't get good time

- Good time is not a time credit
- Good time is a phrase used to calculate eligibility, so it's not earned time.
- Technically, these inmates get good time but not earned time
- Good time is set based on a sentence, earned time is based on behavior
- Dianne is asking to find out what these guys would've been eligible for
- Any discussion about retroactively changing laws? Sen. Roberts didn't think this was a problem
- These people don't get any time credit
- These inmates get a flat 40 years, it's a hard floor.
- This isn't about commuting a sentence; it's more of a time computation issue.
- This isn't about changing the sentence; it's just changing the earned time.
- This is asking DOC to compute new earned times based on time served, infractions, etc.
- Even if it were only prospective it would have an effect.
- These guys are different; they're serving 40 years because of multipliers, not because it was murder, etc.
- We need to be clear that this is not changing a sentence
- The only role of this task force is to make recommendations to CCJJ
- We need to be careful on taking opinions expressed here and pushing them around the CCJJ
- Let's take this up in January and have Peg do some analysis in the meantime.
- Let's find out the number of people were looking at that are in this situation. Second, let's discuss the legal authority, legal barriers. Third, let's see the research from Jason on the change made with Juveniles, any research we can get our hands on. Also, aging out research. And fourth, what are the alternatives? From July 1st 2013 forward, the second would be looking backwards – are there other legal ramifications? Let's get these 4 things in place for the January meeting.
- Can Jason get the memo? Claire will try to get this.
- Jason, Claire and Peg to gather info/data and forward to Germaine who will distribute to the group before January. If anyone else wants to do some research get it to the group.
- Anyone averse too taking this up in January? No

Issues to address in the future

- Community Corrections
- Comprehensive Sentencing Scheme (the purposes for sentencing for these three categories might be very different. Recidivism reduction, rehabilitation, deterrence, restoration, punishment are not all drivers for each one. What we're trying to accomplish with revisions in each area is very different)
 - Nonviolent
 - Violent
 - Drugs
- Structural level of parole eligibility
- PSI
- Sentencing options/pathways
- We have been missing the 'sync up' with other value based nonviolent crimes. We talked specifically about criminal mischief, we got there – then started moving quickly onto other things.
- Comm. Corr. is a huge issue. Boards serve an important role but they have too much power to stymie the objectives of everybody else in the CJ system.
- There are different facets to the problem.
- There are two players in the comm. Corr. issue, the board and the provider
- The information about EB sentencing practices is not getting filtered outside of this group. Other agencies don't know that this is what we're supposed to be doing.
- We really do need to tackle the Comm. Corr. Issue.
- These are all state dollars but the legislature hasn't set any guidelines. Very unencumbered funds. Some assessment criteria but not much.
- Community Corrections is supposed to be a Diversion from prison. Higher risk people aren't getting sent there.
- The % of violent offenders coming in is increasing.
- Part of the challenge is community corrections was designed as a money saver to take the lower risk offenders out of DOC and put them in a community where they can be managed cheaper. Now we use it because of treatment availability, help with employability, it became a different thing with treatment costs, etc.
- The purpose it's being used for now is different from when it was first established.
- Is this a problem in all jurisdictions? Or just some? Boulder doesn't seem to have a problem with this.
- Community corrections has many faces these days

- The origin was to put safer ones back into the community, now it's different.
- Comm. Corr. Budget started at 25K, now it's 56 million.
- Very logical as far as consistency, simplification and clarification. Look at syncing up crimes. What other crimes are like 'theft' and would be easy to categorize. Then look at the other nonviolent. Are there other crimes we can simplify? Are there other crimes that shouldn't be considered? Is burglary violent or not? We need a recommendation for organization of types of crimes and types of sentencing. Can we do a quick run through on this? Already did it. There were only a couple that matched up exactly and had a truly equal basis. Then MV theft and others didn't fit in with dollar amounts. Now, there are probably 2 or 3 that are separated out. People had different concerns about criminal mischief and theft, etc.
- Let's throw those in with the rest of the NV crimes.
- How would you want to prioritize? What's easy to tackle? What about bang for the buck?
 1. Continue non-violent work
 2. Sentencing options and pathways
 3. PSI
 4. Community Corrections (30 years later and vastly different from the original intent – how should it look now?)
 5. Parole issues (Inside or Outside the sentence)

**Also – keep in mind the Bail Subcommittee has requested that the Sentencing Task Force take on the issue of mandatory sentencing regarding 18-8-212/Violation of Bail Bond conditions.

Issue/Topic:	Discussion:
Acknowledgement of Outgoing members	Jeanne Smith acknowledges Pete Hautzinger, Michael Dougherty and Doug Wilson for their contributions to this group. All three will not be returning in 2013 due to a variety of reasons.
Action	

Issue/Topic:	Discussion:
Next Steps and Discussion of Future meeting dates/times	<p><u>NEXT STEPS</u></p> <ul style="list-style-type: none"> • Peg will pull data regarding the 109 habitual offenders who are not getting earned time. The group will look at the outcomes in January and

Action

- decide next steps.
- Jason and Claire to provide info on memo regarding juveniles
- Goals for 2013 include
 - Continuation of non-violent work
 - Continued work regarding Sentencing options and pathways
 - Study regarding PSI
 - Work in the area of Community Corrections (30 years later and vastly different from the original intent – how should it look now?)
 - Examination of Parole issues (Inside or Outside the sentence)
 - And work regarding the Bail Subcommittee’s request that the Sentencing Task Force take on the issue of mandatory sentencing regarding 18-8-212/Violation of Bail Bond conditions.

FUTURE MEETING DATES/TIMES

- The group discusses a proposal to change the date/time that the task force meets starting in 2013.
- The current schedule of meeting on the Thursday before CCJJ proves to be problematic
- This discussion will continue at a later date and after the CCJJ decides its next steps for 2013
- For now, the group will meet at our regularly scheduled time in January (the second Thursday of the month, January 10th).
- Starting in February 2013, the group will likely meet on the second Tuesday of the month.

Future Meeting Dates:

Meeting Schedule 2013

January 10 th (Thurs.)	1:30pm – 4:30pm	710 Kipling St., 3 rd floor conference room
February 5 th (Tue.)	1:30pm – 4:30pm	710 Kipling St., 3 rd floor conference room