

Drug Policy Task Force

Date: September 10, 2009 1:00 – 5:00 PM

Attendees:

Chairs

Dean Conder/Chairman, Juvenile Parole Board – Vice-Chair

Task Force Members

Bill Kilpatrick/Chief of Golden Police Department

Don Quick/District Attorney, 17th Judicial District

Reo Leslie/Colorado School for Family Therapy

Regina Huerter/Executive Director, Denver Crime Prevention and Control Commission

Greg Long/Chief Deputy District Attorney, 2nd Judicial District

Maureen Cain/Colorado Criminal Defense Bar

Evie Hudak/Colorado State Senator, 19th District

Brian Connors/Public defender

Kathleen McGuire/Public defender

Tom Raynes/Deputy Attorney General's Office

Miles Madorin/Deputy District Attorney, 1st Judicial District

Nancy Feldman/Manager Victims of Crime Unit, Division of Criminal Justice

Doyle Forrestal/Colorado Behavioral Health Care Council

Christie Donner/Executive Director Colorado Criminal Justice Reform Coalition

Pat Steadman/Colorado State Senator, 31st District

Paul Thompson/Peer 1

Mark Hurlbert/District Attorney, 5th Judicial District

Sean McAllister/Defense attorney

Shane Bahr/ State PSC Coordinator/ Colorado Judicial Department

Jim Welton/Inspector General, Dept. of Corrections

Absent:

Grayson Robinson/Arapahoe County Sheriff – Chair

Carmelita Muniz/Colorado Association of Alcohol and Drug Service Providers

Dan Rubinstein/Chief Deputy D.A., 21st Judicial District

Mark Waller/State Representative

Issue/Topic:	Discussion:
Welcome and review of Agenda	Dean Condor, Vice-Chairman, welcomed the members of the task force and reviewed the agenda for the day.

Issue/Topic:	Discussion:
Review of objectives and mission of the Task Force, Review of CCJJ Sentencing Purposes and Guiding Principles	Paul Herman reviewed the guiding principles established by the Commission on Criminal and Juvenile Justice. The task force may find that the entire drug statutes cannot be re-written in the next few weeks. However, there may be some areas that can be improved and can be forwarded on to the Commission and the General Assembly.

Issue/Topic:	Discussion:
Review of the Science behind Evidence-Based Practice	<p>Kim English reviewed the science behind evidence-based practices.</p> <ol style="list-style-type: none"> 1. What are we working toward? We are working toward using evidence-based practices to reduce recidivism. There has been 30 years of research that has been examined and compiled in the last 10 years. This research has pushed our knowledge on how to reduce crime and prevent crime. Not everything is being followed. Well-designed programs, such as Peer I, can reduce recidivism by 30%. 2. What Works Report written by the Division of Criminal Justice compiles programs that have been identified that work to reduce recidivism or prevent the onset of criminal behavior. The report was written for the Commission by reviewing more than 400 documents and Colorado Specific Information. 3. Highlights: Time period immediately following release from prison is riskiest. Work and marriage are important factors in desistance. Research underscores the need for evidence-based recidivism reduction programs both in prisons and the community. Education and vocation training have strong ties to work are linked to desistance. Drug courts. Certain types of sex offender treatment. 4. Substance abuse treatment: Duration matters. Repeated episodes matter, even if there is a relapse in between. Relapses are expected. Catching folks early with a hot UA and intervene quickly by getting them back into treatment. Consequences for relapse don't always register with the offender – increasing the consequences for a relapse is not as important as getting them back into treatment. 5. Based on 30 years of research: <ol style="list-style-type: none"> a. Assess the offender using validated instruments to determine risk, based on need and responsivity. b. Enhance offender motivation. c. Target interventions based on the need and risk level. Low risk people should be left alone. They will do worse if we intervene too much. Medium risk and high risk individuals need the intervention. He high-high risk folks should be incarcerated. d. Train staff in specific skills. e. Increase positive reinforcement. f. Engage ongoing support I natural communities. g. Measure staff performance h. Measure program effectiveness 6. Risk principle: Target high risk need offenders for most intensive

interventions. Duration of 3 – 9 months for some programs. Aftercare should follow residential programming. Occupy 40-70% of offenders' time.

7. Positive reinforcement works. It can be something that is said from the probation officer, or programs that recognize achievements (even if they are small). Is there evidence on what kind of positive reinforcements work? Is getting earned time more important than a certificate? It is not what you give them as an incentive or sanction, it is the delivery.
8. Drug courts work because there is a shorter time period between the offense and the consequence. Drug courts have done the most research on the effectiveness of incentives.
9. Should the responsibility of the prosecutor be expanded beyond the sentencing? Does there need to be more feedback from the system? The system only shows the failures – the individuals that you see over and over again. You forget the successes because you do not see them again.
10. You don't want to forget that getting someone into treatment is what works. This is an actionable item.
11. Clark did a study in 2001 that identified four factors that reduce recidivism. These factors were put forth by the offender. The most important factor is the individual's motivation to change himself/herself. Second most important factor is having social and family support. Third is having a probation officer that installs hope that the individual could get better. The final factor is an effective program.
12. Programs must be delivered with fidelity and integrity to be effective. Adaptation can degrade program effectiveness. Support and buy-in needs to be cultivated and on-going monitoring is essential.
13. To what extent would a sort stay in jail be effective to help a person recognize they have a problem? It depends on the person.
14. Where is the line where we say treatment is important? Where is the line that says the action is criminal and incarceration is the next step?

Issue/Topic:

DUI Work Group
Action

Creation of a DUI working group. Membership is Brian Connors, Regi Huerter, Christie Donner, Don Quick, and Paul Thompson, and Chief VanHauten.

Discussion:

Dean Condor made a presentation on the DUI work group.

1. Grayson Robinson believes it is important to have a DUI work group. There have been some high-profile cases that and it is assumed the legislature will take action on the DUI laws in the next session. This working group will take a look at DUI laws and come up with some evidence-based recommendations.
2. Is there anyone willing to serve on a DUI work group? We should coordinate with the other committees that are also examining this issue. The Interagency Task Force on Drunk Driving is one of those organizations and their next meeting is the 25th of September at CDOT at 9:00. We can get on their agenda.
3. Brian Connors, Regi Huerter, Christie Donner, Don Quick, and Paul Thompson, Chief VanHauten will be on the DUI working group. These names will be forwarded on to Grayson Robinson

Issue/Topic:	Discussion:
<p>Reports from Break-out Groups and draft recommendations</p> <p>Action</p> <p>Doyle Forrestal's group will examine why distribution is a crime. What do other states do with distribution?</p> <p>They will also work on the justification/position statement for the Task Force as relevant to the recommendations put forward by the other work groups.</p> <p>Tom Raynes' group has scheduled another meeting for Friday (9/18) at 10:30 at Maureen Cain's Office</p> <p>Don Quick's group can work with ADAD to look at how reporting is done and come up with reporting requirements.</p>	<p>Doyle Forrestal: Her work group looked at specific areas where there is public support.</p> <ol style="list-style-type: none"> 1. Treatment is more important than incarceration. 2. The group would like to look at what practices are evidence based and have the research to prove their effectiveness. 3. There is a need to have a legislative statement of intent that would state how important treatment is reducing recidivism in drug crimes. 4. This group would like to observe the trends of the other two working groups and provide the research in those areas. <p>Don Quick: His working group came up with several areas of consensus:</p> <ol style="list-style-type: none"> 1. The current structure is difficult. There needs to be communication between the sentencing groups and the treatment groups. 2. In looking at drug offenders, public safety is more important than risk reduction. 3. There should be different approaches with addicts based on if a crime was involved and what crime was. Individuals dealing drugs should be dealt with differently than those who use them. 4. The working group agreed that some drugs be treated differently. Cocaine and methamphetamine should be treated differently than marijuana. 5. The use of drugs creates harm – harm to the individual, the family and the community. 6. The use of schedules should be reexamined. Instead of having the schedules based on medical use, the level to harm should decide what schedule it is. 7. The treatment resources need to be investigated. It is important to obtain an inventory of programs in Colorado, find out how much money is being spent on them and determine if the programs effective. Decide how to spend the dollars after that. 8. Need to have valid assessments statewide. There should be a collaborative discussion between assessment folks and treatment folks. 9. In dealing with addicts that are also criminal offenders - the treatment providers should have training in dealing with offenders. 10. Treatment providers should be allowed to add on sanctions for minor violations. You should not need to go to court for that. 11. Access to resources. Program should be evidence based. There needs to be a commitment to using evidence based programs and keep data on effectiveness. 12. Need to have specially trained prosecutors that deal with drugs offenders. 13. Employment is important for reducing recidivism. 14. What the working group could not agree on the how the individuals who continually reoffend while in probation should be treated. 15. Should definitions be developed? Definition of "success", "completion" and the like. <p>Tom Raynes' discussed the areas of consensus reached in the working group looking at the drug statutes.</p> <ol style="list-style-type: none"> 1. The group would like to come up with a different type of tier structure for drug sentences. The structure has four levels and four tiers. Level 1

is highest level of offenses and the lowest level offense would be misdemeanors.

- 2 The group agreed that there should be a distinction between personal use and distribution.
- 3 The working group reached consensus on the following charges being classified as misdemeanors: (The treatment dollars that would be sent to district courts for felony charges would be redirected to the county courts for their use.)
 - a. Cultivation of marijuana for personal use and tie the amount to that which is listed in the Colorado Constitution.
 - b. Personal Use of Schedule I through V drugs.
 - c. Simple Possession of Prescription drugs (Schedule III, IV and V), Psilocybin (mushrooms) less than an ounce and Hash (marijuana concentrate)
 - d. Increase the misdemeanor Possession of Marijuana from less than 8 ounces to less than 16 ounces.
 - e. Distribution of less than a gram of a Schedule III, IV and V for personal use, less than 1 gram, no remuneration.
 - f. Increase the petty offense Possession of Marijuana from less than 1 ounce to 4 ounces.
- 4 What makes distribution of a controlled substance a crime? What are other states doing?
- 5 The factors used when developing the misdemeanor level. Dollars that would be sent to district courts for treatment on felony cases would be sent to the county court for the treatment of the misdemeanor cases. There is a need for intermediate sanctions which would include the ability to impose some jail time. The dollars would also need to follow the cost putting misdemeanants in county jail. Denver has found that having a felony conviction and the potential of going to prison is a great motivator.
- 6 Can you have an individual plea to a felony, and be sentenced to treatment or probation for a specified time. If the individual successfully completes treatment or probation, the felony conviction is reduced to a misdemeanor. Would need to have the felony record sealed.
- 7 Is there any distinction on the weight of the drugs? The same weight may mean something different for different drugs. Pills weigh more than powder. Can we get drug cops involved to help with the weight question?
- 8 Can something be a misdemeanor for the first time and have treatment as the sentence. At some point, reoffending makes it a felony. This could be seen as an incentive to continue with treatment.

Issue/Topic:	Discussion:
What to expect when taking recommendations to the Commission Action	Paul Herman discussed how recommendations will be presented to the Commission. <ol style="list-style-type: none">1. There will be a presentation on what is the current law.2. There will be a presentation on what are the problems with the law.3. A recommendation will be presented.4. The pros and cons will be discussed.5. A straw vote will be taken to get a sense of the Commission.

The meeting adjourned at 4:35 p.m.