

Drug Policy Task Force

Date: October 1, 2009 1:00 – 5:00

Attendees:

Chairs

Grayson Robinson/Arapahoe County Sheriff – Chair
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
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
Dan Rubinstein/Chief Deputy D.A., 21st Judicial District (via phone)
Sean McAllister/Defense attorney
Paul Hoffman for Shane Bahr/ State PSC Coordinator/ Colorado Judicial Department
Carmelita Muniz/Colorado Association of Alcohol and Drug Service Providers
Jim Welton/Inspector General, Dept. of Corrections

Absent:

Nancy Feldman/Manager Victims of Crime Unit, Division of Criminal Justice
Mark Hurlbert/District Attorney, 5th Judicial District
Mark Waller/State Representative

<p>Issue/Topic:</p> <p>Welcome and Review the Agenda</p> <p>Action</p>	<p>Discussion:</p> <p>Grayson Robinson welcomed the group and reviewed the day's agenda.</p>
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<p>Issue/Topic:</p> <p>Update on the Evidence-Based Practices Work Group</p> <p>Action</p> <p>This work group will meet again to consolidate and finalize their recommendations.</p>	<p>Discussion:</p> <p>Doyle Forrestal reviewed the proposed legislative declaration and statement of purpose developed by the Evidence-Based Practices Work Group.</p> <ol style="list-style-type: none"> 1. Editing of this portion of the Task Force recommendations took place. However, the development of these recommendations are still in progress.
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<p>Issue/Topic:</p> <p>Update on Policy Work Group</p> <p>Action</p> <p>This work group will meet again to finalize their recommendations.</p>	<p>Discussion:</p> <p>Don Quick discussed the work of the Policy Work Group.</p> <ol style="list-style-type: none"> 1. Section one is about the different kinds of offenders. We need to distinguish between individuals who are using drugs and don't commit crimes or the crimes they commit are non-violent versus those who are using and committing violent crimes. 2. We should stop providing money to programs that don't work. We need a system that defines and identifies successful treatment programs. The treatment providers should report to DBH. The report should include the types of offenders they are treating, how they are providing the treatment, how their treatment is evidence based, and how successful it is. Good data needs to be provided. 3. System change should be done through collaboration between the DA, defense, judge and probation. The goal would be to identify the best sentence for the offender that will help him/her not reoffend. 4. Employment is a key to reducing recidivism. We should consider expanded use of split pleas, deferred judgment, and sealing of records on possession cases. 5. Minority overrepresentation: One of the reasons this occurs is because the minorities live in higher-crime areas that result in police saturation patrols. The more affluent areas also have drug usage, but the police are not there to arrest the offender. 6. Statistics show that white, more affluent individuals are more likely to successfully complete diversion. There is a support structure for that group. The support structure is lacking for the minorities. As we put emphasis on these evidence-based practices, we need to emphasize the need for improving support systems. 7. Drug courts should evaluate and create the services for the needs of those who are not successful. We should have interventions that focus on treatment and not create criminal records. 8. A lot of drug use ties to poverty. There is a greater percentage of minorities who are poor and that is a result of prejudice. The legislature has created a Poverty Reduction Task Force. In the past, the Commission has recommended supporting the work of another task force. Should we consider supporting the work of this task force? Not yet - the Poverty Reduction Task Force is still in its infancy.
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9. We need to identify where the funding sources are. Concerns were expressed regarding the work of this task force and possible unfunded mandates.

Issue/Topic:	Discussion:
<p>Update on Structure Work Group Action</p> <p>This work group will meet again to finalize their recommendations.</p>	<p>Tom Raynes gave an overview of the work of the drug statute working group. The group agreed on several major concepts:</p> <ol style="list-style-type: none"> 1. Drug use, simple possession and in certain cases distribution, should be treated differently than sale/manufacturing. 2. Distribution of sharing a rock of cocaine is different from distributing a kilo of cocaine, yet the current sentence is the same. 3. Cases with deadly weapons or firearms and cases involving sales or distribution to children should be the most serious cases. 4. Drug abusers and addicts should get treatment. 5. Work needs to continue on aggravators such as weapons. 6. Something has to be done with the medical marijuana piece. Dispensaries should be regulated by state laws and fees should be diverted to drug treatment. 7. Money laundering should be removed from 18-18 and be inserted in the criminal code. 8. Any statutory barriers to treatment for misdemeanor offenses should be removed. 9. All drug offenders should be assessed for treatment needs prior to sentencing. <p>Concerns were again expressed regarding lack of funding for treatment. The discussions that have occurred revolve around getting treatment for the offenders. Who will provide the treatment and at what cost?</p> <p>Grayson Robinson made a motion to move forward with the work of the group. We should not allow the issue of treatment dollars, or lack thereof, to be a limiting factor. Pat Steadman seconded the motion.</p> <p>Discussion on the motion:</p> <ol style="list-style-type: none"> 1. The national average for probation is 18 months to two years. 2. What we are doing is not working. If we admit this, we need to do something radical to fix it. 3. Drug courts focus on individualized treatments. Should we come through with a recommendation on this? 4. We all agree that the concepts we're working on assume that the money would be there for treatment. This is imperative. <p>Vote Yes: 19 No: 1</p> <p><u>Sentencing Grid discussion:</u></p> <p>If you have a separate philosophy for drug crime sentencing, there should be a separate grid. There are some areas that still need to be finalized. The final penalties for misdemeanor crimes have to be finalized. There is also a need for further discussion on how long treatment should be. What about the habitual offender piece. The working group is looking at removing level 3 crimes from being habitual eligible. What about parole eligibility? Surcharges also need to be looked at.</p> <ul style="list-style-type: none"> • Discussion of the current grid recommendation took place.

- This new grid idea is still in the works and will be presented with the other recommendations.

Miles Madorin offered an alternative plan. The plan embraces the re-classification of most drug crimes, amending sealing procedures, treatment options and increase in the amount of jail time. His plan *opposes* the creation of the new grid and sentencing code.

1. Doesn't believe that this radical of a change is needed.
2. Has seen mistakes made. The more complicated a change that is made, the more likely a mistake will be made.
3. A change of this magnitude would take months with many stakeholders at the table. We were not given months, we were given weeks.
4. A new grid does not create simplicity. Some will say that their crime is different from other crimes and ask for their own sentencing grids.
5. Important to remember, to compare us to other states is not accurate all the time. Care needs to be exercised when comparing our number of years to other states.

Sen. Hudak:

1. How do you mesh three levels of drug crimes when you have six levels of crimes for everything else? Can you eliminate the doubling of crimes that was added several years ago?
2. We need to look at the outcome of having a felony conviction and the inability to get employment. We have to look at what can be classified as a misdemeanor. If we can provide treatment for these individuals and make them productive members of society, this is a positive outcome. Any recommendations on the sealing of records should be kept simple.

Objections:

1. Where is the money coming from for treatment? The surcharge for Class 3 and 4 felonies is much higher than for Class 6 felonies.
2. There will be an increase in misdemeanor pleas which will result in an increase in probationary sentences.

Issue/Topic:	Discussion:
<p>DUI Task Force Update Action</p> <p>Meeting adjourned at 4:35 p.m.</p>	<p>Grayson Robinson gave an update on last week's Multi-Agency DUI Task Force meeting. In addition to the four main recommendations of the DUI Working group, they will also recommend that there are still areas that need work and further research.</p> <p>The DUI Working Group came up with four recommendations that were discussed.</p> <p>The DUI working group would like to continue to meet and examine the effectiveness of the Hope project in Hawaii and a variety of other programs. Later, they would come back to Commission with a set of recommendations with the implementation of some of those programs.</p> <p>Sheriff Robinson asked the chairs of the working groups to send their draft recommendations to the DCJ staff. The recommendations will be sent out via email for a final approval vote after further word-smithing takes place.</p>