

# Drug Policy Task Force

**Date: June 13, 2012 Time:**

## **Attendees:**

### **Members**

Grayson Robinson/Arapahoe County Sheriff, CCJJ Member / Chair

Bill Kilpatrick / Golden Police Chief / CCJJ Member

Eric Philp / Probation Services / Judicial Department / CCJJ Member

Maureen Cain / Colorado Criminal Defense Bar

Brian Connors / State Public Defender's Office (via phone)

Kathleen McGuire / Douglas County Office of the Public Defender

Terri Hurst / Colorado Behavioral Healthcare Council

Christie Donner / Colorado Criminal Justice Reform Coalition

Pat Steadman / Colorado State Senator, Senate District 31

Chris Brousseau / District Attorney's Office, 1<sup>st</sup> Judicial District

Tim Hand / DOC – Division of Parole

### **Absent:**

Don Quick / District Attorney, 17<sup>th</sup> Judicial District / CCJJ Member

Reo Leslie / Colorado School for Family Therapy / CCJJ Member

Regina Huerter / Denver Crime Prevention and Control Commission/ CCJJ Member

Greg Long / District Attorney's Office, 2<sup>nd</sup> Judicial District

Carmelita Muniz / Colorado Association of Alcohol and Drug Service Providers

Evie Hudak / Colorado State Senator, Senate District 19

Dan Rubinstein / District Attorney's Office, 21<sup>st</sup> Judicial District

Mark Hurlbert / District Attorney, 5<sup>th</sup> Judicial District

Tom Raynes / Colorado District Attorney's Council

Mark Waller / State Representative, House District 15

Christine Flavia / Division of Behavioral Health

John O'Dell / Parole Board

Katherine Spicer / Private Defense Counsel

**Special Guests:** Judge Ben Strand (Sessions and Juvenile Judge, Jefferson County Tennessee), Linda Leathers (Director, The Next Door / Female Transitional Housing), Lee Ragsdale III (Tennessee Criminal Justice Coordinating Council)

<p><b>Issue/Topic:</b></p> <p>Welcome and Introductions</p>	<p><b>Discussion:</b></p> <p>Grayson Robinson called the meeting to order at 1:35 p.m. Present for today's meeting are visitors from Tennessee who are here to learn more about our commission and task forces. Sheriff Robinson asked Task Force members to introduce themselves for the benefit of the visitors.</p> <p>Sheriff Robinson contacted all members of the Task Force and received commitment to continue with the work of the Task Force. The newest member, who will begin in July, is Vince Vinski who will replace Rod Walker.</p>
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<p><b>Issue/Topic:</b></p> <p>Legislative Outcomes / Discussion <b>Action</b></p>	<p><b>Discussion:</b></p> <p>Sheriff Robinson began the discussion by stating his overall disappointment in the past legislative session. The turmoil was unnecessary and impacted important matters which needed to be addressed.</p> <p>Senator Steadman briefed the Task Force on SB12-104 Concerning Treatment Funding Consolidation. The bill's purpose was to consolidate three treatment funding streams for individuals involved in the criminal justice system and created one oversight board to distribute the funding. SB12-104 was killed prior to the end of the General Session but was then attached to HB12-1310 in the Special Session and passed.</p> <p>Christie Donner outlined the purpose of SB12-116 and HB12-1310. Both bills asked for the criminalization of bath salt distribution (designer drugs). HB12-1310 authorizes the Attorney General's Office and local district attorneys to seize bath salts or anything claimed to be bath salts. If a substance is falsely labeled as bath salts, the substance can still be seized as a consumer protection violation and fined up to \$250,000. Sheriffs' across Colorado are issuing letters to businesses that are believed to be selling bath salts. The letters are alerting the businesses they will be inspected and any bath salts on the premises will be seized.</p>
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<p><b>Issue/Topic:</b></p> <p>Treatment &amp; Prevention Working Group <b>Action</b></p>	<p><b>Discussion:</b></p> <p>Carmelita Muniz was not able to attend today's meeting to present the Working Group's update. Don Quick is questioning his continued participation in the Drug Policy Task Force. If Mr. Quick decides not to continue, Sheriff Robinson will ask for recommendations for his replacement from Task Force members.</p>
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<p><b>Issue/Topic:</b></p> <p>Structure Working Group <b>Action</b></p>	<p><b>Discussion:</b></p> <p>Maureen Cain began the update by discussing SB12-163 which was included in HB12-1310, during the special session. HB12-1310 requires the Drug Policy Task Force to make recommendations for a comprehensive sentencing grid with a report back to the legislature by December. In order to meet the deadline, this working group's work must be done by September. The Structure Group is looking at the wobbler system in California to see if it would be viable in Colorado. This system is based on rewards and consequences.</p>
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The working group has had some pre-meetings to go over fundamental questions such as: What bothers your group about drug possessors? What does one group need to see done? How do you categorize charges? What are the public safety issues? If money is saved in one area, can it be expended in another? If someone is arrested, does the offender have to go to jail or can they go to treatment? How do you address the family component?

What did the legislature mean by comprehensive sentencing? What did they think could be done by the next session? The structure group was almost able to create a product that would have worked last year but in the end an agreement couldn't be reached. This year the focus will remain on small minor drug offenses. The bulk of the change in sentences was found in the lower level crimes (F6) because that is where the bulk of the cases lie. However, sentences for other higher level crimes (F4) were also adjusted.

Where was the breakdown? The changes recommended did not result in fiscal savings. The district attorneys did not think there should be a comprehensive sentencing grid for drugs separate from other crimes. Another issue revolved around higher sentences. The third issue could be that the parties were not ready for more change. It's possibly that this is too much change too fast and we're not ready to go there yet.

Ms. Donner stated that she is working with Mike Dougherty (Deputy Attorney General) to identify cut points. What kind of drug and in what amount can be considered personal use? Developing cut points can help differentiate users from distributors. What is the role of Community Corrections (comm corr) in treatment? Most of Colorado's residential treatment is provided through comm corr, yet a misdemeanor offender is never sentenced to comm corr. So how can a misdemeanor offender receive treatment?

Ms. Donner is also trying to identify what non-prison options are missing in rural areas. Could there be a partnership with the state, through grants, to help local governments invest in infrastructure for treatment centers.

During sentencing, who does the assessment and where is the assessment in the time line? Before the plea or after? The correct timing of the assessment can help place the right person into treatment at the right time.

This is a critical time for this Commission. It has important work to do and there may not be enough time to do it. The Commission will pass sunset review if its reputation to produce work product that is important and relevant continues.

From the prosecutor perspective the Drug Task Force should only be working on sentences for drug possessors, and users. The district attorneys will not support reducing sentences for drug distributors. But there are individuals who are drug addicts that distribute drugs to support their habits.

The issue in reviewing sentences is to have a clear sentencing scheme. No judge gives the full sentence available for a crime. Prosecutors plea down charges to give a "fair" sentence. The reform in sentences should be to have accurate sentences for a crime. Our statutory scheme is disproportionate to the sentences given. If an offender is sentenced to 32 years, why is that a better

sentenced than 28 years? What is the benefit of the additional four years?

<b>Issue/Topic:</b>	<b>Discussion:</b>
DUID Working Group <b>Action</b>	The DUID working group will be re-commissioned after the July 11 <sup>th</sup> meeting of the Drug Policy Task Force. It is Sheriff Robinson's intention to retain the existing members of the DUID working group and add more individuals if needed or bring in content experts for discussion.

<b>Issue/Topic:</b>	<b>Discussion:</b>
Comments from the Tennessee delegation <b>Action</b>	In Tennessee, the legislature sets the range of sentences based on the level of offense (e.g., Class C-misdemeanor/felony, Class B-misdemeanor/felony or Class A-misdemeanor/felony). The judge determines his classification based on the offender's criminal history (e.g., low level offender, standard offender, high-level offender or aggravated offender.) The judge then uses his/her discretion to determine the sentence within the statutory range based on the type of offender and circumstances of the case.

Next meeting is July 11<sup>th</sup> at 710 Kipling on the third floor.

Meeting adjourned at 3:07 p.m.