

Incarceration Task Force

Date: July 30, 2008 2:30 – 5:30 PM

Attendees:

Grayson Robinson (Chair)
Michelle Sykes (TFL)
Christine Adams, Facilitator
Tony Carochi, Deputy Director of Prisons, DOC
Pam Clifton, CCJRC
Kevin Ford, DCJ Staff
Gary Golder, Director of Prisons, DOC
Shelby McKinzey, CU graduate student
Norm Mueller, Defense Attorney
Yilan Shen, Colorado Counties Legislative Associate
Martin Stuart, CCDB
Glenn Tapia, DCJ
Debbie Zwrn, Logan County Commissioner

Absent:

Rhonda Johnson, Victim advocate
Bill Lovingier, Denver jail
John Suthers, Attorney General

Issue/Topic:

Introduction

Issue/Topic:

Good time/earned time

Action:

Discussion:

Christine Adams reviewed the meeting agenda and provided:

- A status report on the progress of the task force.
- The plan for the construction of task force recommendations.
- An explanation for the prioritizing task force recommendations.
- A tentative plan and logistics for the next meeting where final wording of recommendations will be completed.

The task force then undertook this last discussion of major issues from which recommendations will be derived.

Good Time Discussion

Recent history of good time

- Members began the discussion referring to the history of “good time” in statute and practice.
- The statute for good time was implemented with some variation by sheriffs from county to county based on local expectation and tolerance (for the reduction of sentences).
- A lawsuit was filed in Denver County that challenged discretionary departures from the strict wording of the good time statute.
- The consequence of the lawsuit, which returned practice to the strict reading of the statute (by eliminating community variation), increased the jail population by 10% in Denver County. Increases were also likely to have occurred in other counties.

Discussing the statutes.

- The goal of the task force is to re-write the statute to allow for flexibility in the good time implementation, based on the input from sheriffs and the local community.
- Good time is an evidence-based practice that enhances an atmosphere with focus on motivation and positive behaviors.
- The good time calculation change that resulted in the increase of inmates was adhering to calculations based on “calendar month” rather than “month.”
 - The related statutes are:
 - 17-26-109. Mandatory 2 days per calendar month should be given in good time.
 - 17-22.5-405. DOC: Earned time not to exceed 10 days per month. (In DOC, total good time accumulated is not to exceed 25% of sentence).
 - 17-26-115. Trustee prisoner good time. In addition to 2 days, good time should not to exceed 10 days in a calendar month

Brain-storming. The subsequent, discussion regarded the ways the statute may be written to alter the wording as well as the pros and cons of altering the statute. Discussion topics included:

- Should there be a specific range of potential good time days?
- Should there be a statement to allowing flexibility for community variation?
- Should reward options be included (e.g., earning a GED)?
- Rewards should be based on accomplishment and not mere participation.
- In addition to the above, several other ideas were expressed for wording inclusions or exclusions.

Issue/Topic:

**Good time/earned time
(cont'd)**

Action:

Discussion:

Good Time Discussion (cont'd)

Discussion of work release, trustees, and the calculation of good time.

- Work release inmates typically earn good time on a day-for-day rate.
- Trustees are discouraged by the day-for-day rate available to work release inmates when trustees are often engaged in similar kinds of work.
- Judges authorize work release, but jail administrators and sheriffs are responsible for reviewing and exercising discretion regarding inmates participating in work release programs.

Brain-storming the modified statute continued...

- Should the modified statute created by the task force be more advisory in nature or be more mandatory?
- In what way will the number of days be presented? The wording should replace the "calendar month" reference with "month."
- The altered statute shouldn't just re-write the specific trustee statute, but address all the related statutes.
- Should the statute address both additions to and subtractions from the amount of good/earned time?
 - Maybe the deduction aspect should be written in mandatory form to remove the responsibility from the sheriffs.
 - Vesting of good/earned time though would not allow for the subtraction of good time.
 - Instead of subtraction as the consequence for inappropriate behavior, use a suspension-of-reward approach where no good time can be earned for a period of time following the inappropriate behavior.
- Are there models of best practices from the states to use as models?
- What if discretionary language is included that would allow for the creation of locally driven a performance-based good time systems?
 - Yes. From county to county, sheriffs do not have the same incentives to offer inmates. Sheriffs can creatively design the rewards to fit the programs and culture specific to their jail setting.
 - This allows rural sheriffs with more limited resources the flexibility to designate rewards relevant to their situation.
 - The good time system should all be behaviorally based and rewards should not be granted for "going through the motions."
- Any savings realized in jails from the use of good/earned time should be folded into programs. In reality, though, there may be no "real" savings, but, instead, cost avoidance by the reduction in recidivism. This is just as importance, but difficult to document.

Opposition to modification of these statutes?

- Victims groups and advocates
- Possibly judges and DAs due to the alteration (shortening) of sentences.

Issue/Topic:

**Good time/earned time
(cont'd)**

Issue/Topic:

**Recommendations
Discussions**

**Bond Issue -
Summons / Commissioner**

Discussion:

Good Time Discussion (cont'd)

The tentative modification language should include:

- Behavioral/performance based (17-26-106)
- Remove "calendar" from 17-26-115

- Sheriffs will build a good time schedule based on the local facility opportunities and programs and the will of the local community.
 - Additional discretionary time of 3-5 days will be allowed as determined by the local jail administrator and/or sheriff.
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The Task force based discussions of each of the recommendation topic areas around the handout prepared by Christine Adams that included proposed recommendations submitted since the last meeting by task force members. The goal of these discussions was to choose the best wording for a first draft of the recommendations in each of the topic areas.

Bond Issue: Summons / Commissioner

- Members discussed the statutes related to summonses.
- Statute 16-5-207 addresses how summonses are issued.
- A suggested wording alteration would allow the court (judges and bond commissioners acting under the authority of a judge) to issue a summons without additional consultation with a district attorney (a DA office already having been consulted at the time of filing).
- There was also reference to Statute 16-5-206 to be altered to allow a judge to issue a summons in lieu of a warrant through the bond commissioner.
- Bond commissioners would be in a position to determine the appropriateness of issuing a summons having already made a determination of the appropriate type of bond to apply.

RECOMMENDATION: From handout.

Recommend that summons be fully implemented by police districts in Colorado to be in compliance with CRS 16-5-206 and 16-5-207.

Recommend that the CCJJ encourage each judicial district to establish bond commissioners, who upon completion of training of bonding criteria, will be recognized as bond commissioners with the authority to authorize bonds AND/OR ISSUE A SUMMONS for certain misdemeanors/felonies.

Issue/Topic:

Bond-to-the-Court

Issue/Topic:

Bond-to-the-Court

Issue/Topic:

Assessment

Discussion:

Bond Issue: Bond-to-the-Court

- This recommendation will be advisory and presented as an option for judicial jurisdictions.
 - The task force can draw language from the H.B. 1382 from the previous state congressional session.
 - The final recommendation should address any issues the bond lobby is likely to raise.
 - Although this option will be advisory, the implementation could be more widespread dependent on any orders from the chief judge.
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Bond Issue: Bond Schedule

- As discussed during previous task force meetings, many bond schedules are out of date and judges may not be aware of the bond standards being used in other courts.
 - This topic will require that the recommendation be written as a request that the current bond schedules be reviewed in order to generate a more uniform advisory bond schedule.
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Assessment: Timely, accurate, evidence-based, ongoing assessment

- The entire offender assessment process should be reviewed closely.
- Assessment procedure and reports that are based on self report should be closely scrutinized and, where possible, more objective measures employed or procedures for the confirmation of self-report data outlined.
- More of the assessment battery should be based on valid and reliable construct measures and valid and reliable actuarial measures of risk.
- An improved PSIR and all assessments should follow the offender through the system.
- Assessment of risks and needs in several areas should be administered (e.g., mental health, substance abuse, domestic violence, sex offender)
- Rather than on an arbitrary time-based assessment cycle (e.g., every 6 months), offenders should be assessed at progress and transition milestones. Assessment should be administered that will inform the decision-making process as the offender moves through and reaches milestones in the system.
- An offender's file should be updated with any new information regarding accomplishments which may or may not require a complete assessment update.

Issue/Topic:

Case Plan

Issue/Topic:

**Programming, Education,
& Treatment**

Issue/Topic:

35B

Discussion:

Case Plan: An individualized plan addressing risk/need areas identified by assessment.

- A case plan should be constructed that is built on offender assessment.
- Although jails are not currently staffed to provide comprehensive case planning, the task force recommendation will address both prisons and jails.
- Opposition is likely to be in financial form, qualified staff to construct the case plan, and the “under-resourced” rural areas.

Programming, Education, & Treatment: A plan addressing these services should derive from risk/need areas identified by assessment.

- One of the primary issues is with transferability of skills
- There was a discussion of the typical transferability problems:
 - Programs outside the prison often disallow credit for programs completed in prison.
 - Private programs often require offenders to repeat program elements
 - Programs, driven by the profit motive, offer high demand program elements and not others.
 - “Inside” (DOC) programs are viewed as less valuable because the offender is not in the “real world” facing actual survival challenges.
- Does successful treatment really depend on the offender being in the community?
- The recommendation should create standard programs that are amenable to all, including program providers and offender management boards.
- Can the typically used programs provide program evaluation data supporting the validity of their programs?

35B: Increase the provision time from 120 to 365.

- Norm provided information about the statute and the advantage of the time extension.
- The extension would create incentives for offenders to accomplish goals during their jail time.
- This recommendation is likely to meet with resistance from DAs.

The recommendation will take the form of Norm’s memo.

Issue/Topic:

Other: Education

Action:

Tony Carochi will look into details of the College Opportunity Fund.

Issue/Topic:

Other: Vocational

Issue/Topic:

Other: Mom/Kids

Issue/Topic:

Other: Tech. Violations

Issue/Topic:

Meeting conclusion

Discussion:

Other: Education (Opportunities for DOC Staff)

- Look for opportunities to provide educational outlets for DOC Staff.
- Look at who is eligible for the College Opportunity Fund (<http://cof.college-assist.org/>)
- Opposition: Cost versus Investment and public opposition.
- Use the Pew Report on education and recidivism to support the recommendation.

Other: Vocational (Expanding vocational options)

- This recommendation will focus on increasing vocational class options.
- Include language for the expansion of correctional industries. (CI)
- Expand or offer job placement services (The DOC currently has 16 newly hired re-integration specialists, but more staff would be needed to meet the need and serve all the offenders being released.).
- Allow DOC supervisors (for inmates participating in the Correctional Industries and other relevant programs) to write employment recommendation letters.

Other: Mom/Kids (Allow women who give birth to return to facilities with babies)

- It is recommended that a program be instituted at the Colorado Women's Correctional Facility that allows female inmates who give birth to bring their infants back to the facility for a short period of time.

Other: Technical violations

- This recommendation is being explored by the Post Incarceration Task Force.
- Maybe there could be oversight of technical violation revocations of parole.

Christine Adams offer ideas on the prioritization of recommendations which is to occur at the next meeting. The task force will categorize recommendations and then rank them within these categories (e.g., low hanging fruit, medium level changes, or broad changes).