

Incarceration Task Force

Date/Time: March 11, 2009, 2:00-4:00pm

Attendees:

Christine Adams, Facilitator
Germaine Miera, DCJ
Tony Carochi, Deputy Director of Prisons
Pam Clifton, CCJRC
Martin Stuart, CCDB
Norm Mueller, Defense Attorney
Debbie Zwirn, Logan County Commissioner
Inta Morris, Dept. of Education
Tony Romero, DOC
Bennie Lombard, Division of Behavioral Health
Glenn Tapia, DCJ

Absent:

Michelle Sykes (TFL)
Grayson Robinson (Chair)
Paul Herman, The Center for Effective Public Policy
Bill Lovingier, Denver Undersheriff
Gary Golder, DOC
Rhonda Johnson, Victim advocate
John Suthers, Attorney General

<p>Issue/Topic: Welcome and introductions</p> <p>Action:</p>	<p>Discussion: Christine Adams welcomes the group in place of Grayson Robinson</p>
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<p>Issue/Topic: Grayson updates</p> <p>GP-40: Bond Commissioners - Wording revision</p> <p>GP-39: Statewide Bond Schedule</p> <p>Domestic Violence Statute</p> <p>Action</p>	<p>Discussion: Christine went over these issues briefly as follows. Post-meeting information sent to Christine can be found near the end of this document.</p> <p>Rewording of bond commissioner issue. Rewording has been done, Grayson will send to Christine and Christine will send to group</p> <p>Bond Schedule- Grayson wasn't able to meet with group but he believes, after speaking to a few individuals, that they would be strongly opposed to the wording.</p> <p>Domestic violence statute for transferability. This will be ready at the end of the current week.</p>
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<p>Issue/Topic: Substance Abuse Standards Pam Clifton & Bennie Lombard</p> <p>Action</p>	<p>Discussion: Pam met with people from various agencies over the last couple of weeks and she believes this is not truly a DOC issue, but more about continuity of care for treatment.</p> <p>What does treatment look like in Colorado and how does it work? Bennie Lombard from the Division of Behavioral Health (DBH) reported on the following-</p> <ul style="list-style-type: none"> • Per Bennie, the Division of Behavioral Health is the state licensing authority for drug and alcohol treatment programs in Colorado (including outpatient, inpatient, residential, public, private, DOC, etc.). All programs are licensed by the DBH. • There is an application process for all of these organizations and it is the same no matter who the organization is that is applying. • What that means is that any program that wants to become licensed has to meet certain DBH criteria to become licensed to provide drug and alcohol treatment services. <p>DOC-</p> <ul style="list-style-type: none"> • There are currently 22 public prisons and 6 private prisons (overseen by DOC but contracted out). • Private prisons are exempt from the jurisdiction of the DBH. • Up until this year programs in DOC were operated by community based programs outside of the prisons. They hired staff, trained staff and
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brought them into prisons to provide services.

- As of this year, providers are now full time state employees which means DBH licensing now had to go through DOC (rather than the community based programs).
- DOC had to basically start over with re-licensing. It was a huge task.
- As part of the transferability issue, difficulty was mainly in the DUI arena. When a driver's license gets revoked the offender is mandated to fulfill a certain number of treatment hours. DUI education was based in the community before, meaning that offenders had to take the DUI portion of their education outside of DOC once they got into the community do the community based treatment.
- This year, as far as the licensed programs go there is offender education and offender treatment and DOC is licensed for DUI.
- Treatment staff members now in DOC need to be trained on DUI curriculum. Now when an offender leaves DOC their treatment inside is transferred outside. What DOC will do now is enter the number of courses and treatment hours that were given to the offender.
- If you're licensed you have to provide information for the DACODS data system. DOC & NYC, because they have such advanced record keeping, are not required to enter the DACOD info. However, community based organizations are required to enter the info into DACOD.
- The bottom line, as far as DOC is concerned, is that all the facilities are licensed for offender education and treatment.
- Types of treatment include:
 - Outpatient (Less than 9 hours of therapeutic contact a week), Therapeutic community (5 hours of therapeutic contact per week), EOP, Intensive OP (9 hours of treatment per week, not just AA but with a counselor and standardized curriculum).
- All DOC facilities are licensed for outpatient, 3 are licensed for TC.
- DOC is required to use an approved curriculum.
- The DUI program has a required curriculum, looking at drinking and driving component whereas offender based curriculum looks at criminal thinking that relates to drinking and drugging.
- Community based agencies must also use this approved curriculum. Therefore transferability should be easier.
 - However, this huge hurdle and not happening.
- This curriculum, SSC, is implemented in 3 phases. This makes it very easy for someone to take the curriculum and implement it within a new program. When they leave this is not always transferred due to a lack of knowledge and communication.

The problem is that guys are receiving phase one treatment on the inside and then they should be able to pick up and start at another agency with phase 2. BUT THIS IS NOT HAPPENING and this is the problem.

In DOC there is qualified staff, approved curriculum, approved assessments, and individualized treatment plans. All this is done while they're in DOC but when offenders hit the community their treatment progress is not always transferred.

Small community organizations may not have enough staff to provide all 3 phases of the curriculum. So if all they can provide is phase 1 then that's what the offender will get, even though they've already completed phase 1.

Pam is meeting with Carl Blesch to discuss the transferability of credit for Community Corrections.

Per Pam-

- People on parole are often required to complete treatment as part of their parole requirements. However, sometimes the board doesn't always get all of the information on what treatment a person has completed. This often means that there is difficulty in the actual assessment of what the individual treatment needs. Parole officers are required to assign treatment based on what the parole board requires.
- Pam talked to people at TASC. TASC has access to the DOC database. They can pull up an offender and see what they've already done and what they need.
- TASC has an office everywhere that there is a parole office in Colorado. In some places (Colorado Springs and Grand Junction) PO's are sending offenders directly to TASC for assessment.
- According to TASC, PO's may have relationships with providers and send the offender directly to the provider for treatment (without assessment).

Could the board change the box that says 'refer to treatment' to 'refer directly to TASC'?

There is a complication with Comm. Corr. because Comm. Corr. isn't doing this either. Comm. Corr. does not use TASC. TASC is only for parolees. The Case manager does the assessment for Comm. Corr. clients. TASC is the case management arm of parole.

Per Bennie-

- There is another important element. If someone wants to provide treatment services to a parolee as a community organization they have to fill out a complex application to get on the approved treatment provider list for DOC. It would be nice if you could refer to a regularly licensed facility, rather than a DOC approved provider.
- Comm. Corr. does not have the access that TASC has to DOC data.
- Once an offender starts drug and alcohol classes they automatically have federal protection for release of information.
- TASC has a contract with DOC and for that purpose is part of DOC (i.e., under the umbrella of).

Transferability has many issues. For example, even though on paper TASC "performs the assessment" it doesn't necessarily happen that way. Parole does part of the assessment, TASC does part of the assessment. Certain parts of the assessment can be years old. Hard to get a full current assessment.

TASC COULD do this if given direction by DOC. Parole has an academy and there is an instructor who want to train all officers on LSI (George Dennis). He is really motivated to get parole to do a current full assessment. George is working to become a state approved LSI trainer.

There are a lot of moving parts. TASC is appropriately set up but it would take a bit of work.

When a client comes into DOC they get the full assessment with LSI. When offender goes to Parole the case manager will 'F10' the LSI. This means that the computer will copy the old LSI information into the new assessment.

Assessments are not done in prison because they want to keep the inmate at the

same classification level.

The LSI is actually more of a screening rather than assessment tool.

A huge cultural shift needs to take place. It is starting to take place but it's going to take a long time to get there.

Bennie says he is pleased with the direction that DOC is taking. DBH is willing to work with DOC to improve treatment that is available for the offender population.

State agencies are talking more now and working together more now to make change and improvements.

DBH, DCJ, Parole, DOC met earlier this week and were all at the table trying to figure out a very specific program for dually diagnosed offenders coming out of prison. There are a lot of problems to untangle at the moment. DOC is overwhelmed, case managers are overwhelmed.

David Stevens is the new chief of Behavioral Services and he's really working on change in the institutions as well.

<p>Issue/Topic: Parenting</p> <p>Action Pam is meeting next week with more heads of agencies to find out how to get approved parenting classes in place.</p>	<p>Discussion:</p> <p>Pam met with different heads of county community service organizations.</p> <ul style="list-style-type: none"> • Every county has a different community services office that runs independently of the state. • The director of each county is on one board for DHS. • They say they don't have an approved curriculum for parenting classes. <p>Children are pulled from families based on sentence length. This is an education piece for DHS. There is no training manual on parenting.</p>
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<p>Issue/Topic: Distance Learning Inta Morris</p> <p>Action</p>	<p>Discussion:</p> <p>This is more of a DOC issue than a higher education issue. Therefore, Inta Morris invited Tony Romero from DOC to talk to the group.</p> <p>Per Tony-</p> <ul style="list-style-type: none"> • Distance learning (i.e., piping in a college class, etc.) is not done in Colorado right now for inmates. The only states doing this are New Mexico, Massachusetts, and Indiana. The fear is about inmates getting on the internet. <p>There are some other options-</p> <ul style="list-style-type: none"> • A "talking head" computer program shows the professors head talking to the student. There is a proposal out now for English 121, and English 122. <ul style="list-style-type: none"> ○ All DOC programs must be approved by Dept. of Education. • All of our programs are transferable but as of now no distance learning is available.
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- Exploring an intranet system rather than an internet system is a possibility.
- Tony Carochi has sent an email to his counterparts in the other 49 states to ask them what they're doing and how they're doing it in regards to distance learning for inmates.
- Inta Morris talked to an Adam's State College representative that said for them it is actually better to do education in person.
 - There's also the issue of having a real instructor in the room as being beneficial.
 - If you take an instructor out of the picture you have to bring a security guy into the room (which means an additional body) anyway.

What was the motivator behind this recommendation?

- The hope of expanding opportunities as well as whether or not long distance learning might be a part of that.
- DOC and the Dept. Of Ed are working together so that an inmate, no matter where they are, can enroll and take a course.
- Inta says they're looking at pilots and multiple versions of distance learning.
 - However, internet learning will not happen anytime soon.
 - DOC still wants to look at evidence based practice regarding distance learning.

Education can be critical for inmates in prison.
 DOC is the third largest producer of GED's in the state.

<p>Issue/Topic: Sex Offender Statute update Martin Stuart</p> <p>Action</p> <p>Laurie Rose Kepros and Peggy Heil to present at the next meeting</p>	<p>Discussion:</p> <p>Martin says that he unfortunately didn't get very far with this issue. He tried to move forward and his colleagues said 'we've been working on that for years'.</p> <ul style="list-style-type: none"> ● CCDB has been working on revising the SOMB statute for the last year and a half. ● This doesn't appear to be within this group's realm. <p>Sex Offender system issues are far reaching. This is a big, big task. It was suggested that we should drop the issue or discuss what to do to move it forward.</p> <p>The group would like Laurie Rose Kepros will be a guest speaker to present on the top issues that need to be addressed in regards to this topic.</p> <ul style="list-style-type: none"> ● We need to define the problem specifically and get her perspective. ● The harsh reality is that this may not affect enough people to try to tackle it right now. <p>After the above was stated, the following statistics were given by Norm Mueller:</p> <ul style="list-style-type: none"> ● 5012 people have been assessed as sex offenders. ● As of January 1, 2009 - 1368 law says you can't classify someone as a sex offender unless the judge says "he's a sex offender" <ul style="list-style-type: none"> ○ Those classified before 2009 cannot appeal.
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<p>Legislative update from Pam Clifton</p> <p style="text-align: center;">Action</p> <p>Final outcomes of legislation by the next meeting</p>	<p>1262 – through house, passed senate judiciary yesterday</p> <p>1263 – passed the house, senate calendared for second tomorrow</p> <p>1264- through house, introduced to the senate will be heard next Thursday</p> <p>1266 – This is stuck because there is a fiscal note stating that we would lose money. Made it through finance.</p> <p>1122- through both house and senate, now sitting on Governor’s desk</p> <p>1044- also on the Governor’s desk.</p>
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UPDATES FROM GRAYSON Robinson (provided after the meeting)

The original wording is provided first and Grayson’s proposed modifications are presented in red.

GP-40 ESTABLISH BOND COMMISSIONERS

Each judicial district should be encouraged to establish a bond commissioner and process that give authority to the specially trained commissioner or their designee to undertake an individual assessment of the accused and set bonds and/or summonses as appropriate.

The Division of Criminal Justice (DCJ) of the Colorado Department of Public Safety should conduct a detailed analysis of the bond commission project currently functioning in Larimer County Colorado. Once the detailed DCJ research of the existing bond commission is completed, the data will be provided to the Colorado Criminal and Juvenile Justice Commission for further consideration. In the event that the research data related to the bond commission demonstrates a potential for positive and sustainable impacts, the Colorado Criminal and Juvenile Justice Commission should establish a recommendation that all judicial districts initiate the measures required to replicate the Larimer County Bond Commission project.

GP-39 DEVELOPMENT OF A STATEWIDE BONDING SCHEDULE

A statewide committee should be formed to develop an advisory, statewide bond schedule that is generally consistent across jurisdictions. Each judicial district shall develop a committee of stakeholders to review the existing bond schedule.

A representative of the Colorado Criminal and Juvenile Justice Commission should meet with representatives of state Judicial regarding the feasibility of consideration for a statewide bonding schedule. While the original recommendation focused upon a consistent bonding schedule across jurisdictions, concerns related to local control and to the community specific issues associated with a establishment of standard bonding schedules requires the perspective of state judicial. (Although initial discussions have demonstrated a strong opposition to the concept of a consistent statewide bonding schedule, a meeting to discuss the matter will be accomplished in the very near future).

DOMESTIC VIOLENCE STATUTES

Please find attached two statutes that are relevant to the investigative and pre-sentence perspective related to domestic violence. In some specific situations, the two statutes are in conflict and resent a significant challenge to local law enforcement, prosecution and possibly to the defense. I am reviewing an existing domestic violence treatment curriculum meeting with private sector treatment providers to determine what portions of the treatment could be provided while an individual is incarcerated and to explore the possibilities of transferability of those matters.

Grayson is trying to get copies of the curriculum sent to me now via email so I can also include them with the information that you have needed.

18-6-803.6. Duties of peace officers and prosecuting agencies - preservation of evidence.

(1) When a peace officer determines that there is probable cause to believe that a crime or offense involving domestic violence, as defined in section 18-6-800.3 (1), has been committed, the officer shall, without undue delay, arrest the person suspected of its commission pursuant to the provisions in subsection (2) of this section, if applicable, and charge the person with the appropriate crime or offense. Nothing in this subsection (1) shall be construed to require a peace officer to arrest both parties involved in an alleged act of domestic violence when both claim to have been victims of such domestic violence. Additionally, nothing in this subsection (1) shall be construed to require a peace officer to arrest either party involved in an alleged act of domestic violence when a peace officer determines there is no probable cause to believe that a crime or offense of domestic violence has been committed. The arrested person shall be removed from the scene of the arrest and shall be taken to the peace officer's station for booking, whereupon the arrested person may be held or released in accordance with the adopted bonding schedules for the jurisdiction in which the arrest is made.

(2) If a peace officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if a crime has been committed by one or more persons. In determining whether a crime has been committed by one or more persons, the officer shall consider the following:

- (a) Any prior complaints of domestic violence;
- (b) The relative severity of the injuries inflicted on each person;
- (c) The likelihood of future injury to each person; and
- (d) The possibility that one of the persons acted in self-defense.

(3) (a) A peace officer is authorized to use every reasonable means to protect the alleged victim or the alleged victim's children to prevent further violence. Such peace officer may transport, or obtain transportation for, the alleged victim to shelter. Upon the request of the protected person, the peace officer may also transport the minor child of the protected person, who is not an emancipated minor, to the same shelter if such shelter is willing to accept the child, whether or not there is a custody order or an order for the care and control of the child or an order allocating parental responsibilities with respect to the child and whether or not the other parent objects. A peace officer who transports a minor child over the objection of the other parent shall not be held liable for any damages that may result from interference with the custody, parental responsibilities, care, and control of or access to a minor child in complying with this subsection (3).

(b) For purposes of this subsection (3), "shelter" means a battered women's shelter, a friend's or family member's home, or such other safe haven as may be designated by the protected person and which is within a reasonable distance from the location at which the peace officer found the victim.

(4) (a) The arresting agency shall make reasonable efforts to collect and preserve any pertinent evidence until the time of final disposition of the matter, including, but not limited to, the following:

- (I) Any dispatch tape recording relating to the event;
- (II) Any on-scene video or audio tape recordings;

{ (III) Any medical records of treatment of the alleged victim or the defendant; and

(IV) Any other relevant physical evidence or witness statements.

(b) However, in the absence of bad faith, any failure to collect or preserve any evidence listed in paragraph (a) of this subsection (4) shall not be grounds to dismiss the matter.

(4.5) When a peace officer responds to a call or is otherwise responding to a report about an alleged offense involving domestic violence, as defined in section 18-6-800.3 (1), or other domestic dispute, the officer shall include in his or her written or oral report concerning such incident whether children may have seen or heard the alleged offense; except that, in the absence of bad faith, the failure of a peace officer to note that a child may have seen or heard the alleged offense shall not be grounds to dismiss the matter.

(5) A peace officer shall not be held civilly or criminally liable for acting pursuant to this section if the peace officer acts in good faith and without malice.

Source: L. 94: Entire section added, p. 2029, § 5, effective July 1. L. 95: (1) amended, p. 568, § 4, effective July 1. L. 98: (1) amended, p. 1231, § 2, effective July 1; (3)(a) amended, p. 1404, § 59, effective February 1, 1999. L. 2001: (4.5) added, p. 980, § 4, effective August 8.

ANNOTATION

Law reviews. For article, "1994 Legislature Strengthens Domestic Violence Protective Orders", see 23 Colo. Law. 2327 (1994).