

Mandatory Parole Subcommittee
Colorado Commission on Criminal and Juvenile Justice
Minutes

June 8, 2015, 1:30PM-4:30PM
1300 Broadway, Conference Room 1E, Denver

ATTENDEES:

CHAIR

Doug Wilson, Public Defender's Office

TASK FORCE MEMBERS

Brandon Shaffer, Parole Board

Michael Dougherty, Jefferson County District Attorney's office

Christie Donner, Colo. Criminal Justice Reform Coalition

Kellie Wasko, Department of Corrections

Daniel Kagan, State Representative, House District #3

Norm Mueller, Defense Attorney

James Quinn, Attorney General's Office

Melissa Roberts, Division of Adult Parole

Steve Allen, Joint Budget Committee

Anne Carter, Parole Board

STAFF

Paul Herman/CCJJ consultant

Kim English/Division of Criminal Justice

Germaine Miera/Division of Criminal Justice

ABSENT

Ellen Roberts, State Senator, Senate District 6

Charley Garcia, Colorado Bar Association

Kate Horn-Murphy, Victims Advocate, 17th Judicial District

<p>Issue/Topic:</p> <p>Welcome and Introductions</p>	<p>Discussion:</p> <p>Doug welcomed the task force members and asked Kellie Wasko from the Department of Corrections to introduce Melissa Roberts, the new Director of Adult Parole. Melissa introduced herself and described her experience and her extensive career with the Wisconsin Department of Corrections.</p>
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<p>Issue/Topic:</p> <p>Data Clarification</p> <p>Action:</p>	<p>Discussion:</p> <p>CCJJ Consultant Paul Herman reviewed the outcomes from the May and provided a recap of the data elements. Brandon Shaffer and Anne Carter offered some additional information.</p> <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> • Paul explained that at the last meeting the group talked about expectations and expressed a desire for more clarity and transparency. The group discussed discretionary parole, looked at the efficacy of mandatory parole, parole inside or outside the sentence, concerns and problems with the current structure and complications of parole. • The group also discussed what a sentence is or might be. Common ground was found in terms of the desire for greater clarity, defining what parole is, agreeing on purpose and ensuring the best possible parole structure. • Paul added that he explained the history of parole both in Colorado and nationally. The group reviewed current data, discussed the 'truth in sentencing era' and the 'get tough on crime' initiatives. • Paul also said that one of the goals for this meeting is to find more clarity and to agree on the purpose of parole. • Anne offered some revisions to the data presented at the last meeting. This data included one, two and three year recidivism rates broken out by Discretionary Parole, Mandatory Parole and Sentence discharge. • Anne also provided information regarding the percentage of CDOC Admissions that were Technical Parole Violators. She also included data on 'Release Types' by Calendar Year for those eligible for a Discretionary Release. • Anne provided data regarding Parole Population by Release Type and Amount of Time from PED to PB Hearing by CARAS Risk Level and Release Type. • A discussion ensued after Anne's presentation in an attempt to clarify data points including: <ul style="list-style-type: none"> -Escapes vs. attempted escape, absconders and people waiting in jail -Issue of possible double counting including what happens if someone faces both a burglary charge and an escape charge -Issues surrounding felony escapes filed by a DA
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	<ul style="list-style-type: none"> -Issues regarding “inmate status” offenders vs. people on parole? -Absconding vs. new crimes -Walkaways -The issue of 40% of DOC population being people sent back on technicals • Discussion points continued as follows: <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> • A year-long reentry period gets as much ‘bang for your buck’ as somebody who has a five year tail. • There’s an enormous amount of waste trying to supervise someone for five years. • Instead of continuing with a long tail – shorten the mandatory parole period and repurpose some of the resources used for long time supervision. • Anne presented a slide highlighting the percentage of CDOC Admissions that were Technical Parole Violators along with timeframes of different legislative changes. • The slide indicates the assumption that SB-252 in 2004 resulted in increased revocations. • Brandon said he feels there’s a culture within a culture of parolees who don’t do their treatment and that “The mechanism designed for the turnaround isn’t working as intended in legislation”. • Christie Donner clarified that SB-252 wasn’t about “getting more services inside”. She said the intent was to try to address the issue of technical violations that were going through the roof. 252 simply provides a mechanism to limit the amount of time someone goes back on a technical violation. • Kellie Wasko added that with the “90 day turnarounds”, by the time you place them in jail, pick them up and return them to DRDC they’re ready for release again. • A comment was made that if the goal is really services than we need to figure out a way to keep the offenders in the community. • Kim added that if there’s an assumption certain people are coming back and cycling through – there would need to be a different data analysis. She said the data on slide #2 doesn’t relate to 252 the way it lays out. But she said there is a way to test the assumption that individuals are getting revoked multiple times. • Christie added the goal of 252 was not to revoke for treatment. • Why are we putting people back in prison at all for technical violations? Anything that was in place for the offender (a job, housing, etc.) is “blown up” when you send them back. • The questions should be ‘Why do we revoke back to prison’? • Anne went on to describe her findings on her slides #3, #4 and #5. • Brandon stated that the majority of people are going to their MRD or they are coming to the parole board once or twice and then making parole. • It was noted that the new Parole Guidelines report shows the board is
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	releasing about 50% of people from the entire pool. Some unknown subset has seen the parole board more than once – and that’s a number worthy of exploring.
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Issue/Topic:	Discussion:
<p>Broader Context Conversation</p> <p>Action:</p>	<p>Paul led the group on a discussion of the purpose of parole, the purpose of sentencing, release decision making, supervision and revocation.</p> <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> Paul presented six slides containing: <ul style="list-style-type: none"> -The Purposes of Sentencing per Colorado statute -The Purposes of Parole per statute -The Parole Guidelines statute -Two sample examples of other possible Purposes of Parole <i>(Please note these six slides can be found at the end of this document)</i> Paul noted that what’s in statute right now includes some old stuff and some additional things that have floated to the top over the years. Purpose of Parole: <ul style="list-style-type: none"> – Paul noted that the purpose of parole has gone through multiple iterations through the years, starting with ‘punishment’ in the 1980’s with parole boards making all these decisions. -Then the system went to ‘truth in sentencing’ -Then it was decided that legislatures or the courts should make the decision -At one time it was about fair treatment and to promote rehabilitation -In Colorado the General Assembly makes the decision -Paul noted that in regards to the second bullet on the Purposes of Parole in Colorado → you can look at this statement in several different ways. One is a concern about fairness and consistency. The other is to interpret it to mean ‘we don’t want to give the board discretion’. This statement can be looked at through two different perspectives - He noted that bullet #3 is the precursor to reentry / and that this was the primary purpose of parole in the beginning. Parole Guidelines statute: <ul style="list-style-type: none"> -In this statute Paul noted that the “risk of re-offense” shall be the central consideration by the state board of parole in making decisions, and then the statute goes on to explain why. He added that this statute also emphasizes consistent policy as a whole and part of an overall system, and that it’s important for the board to operate under structure rather than unfettered discretion. This statute shows “Risk” as the #1 issue. That means there should be structure and the parole board should act as a whole. Paul added that this statute was created to ensure the use of the best

	<p>research available in terms of what's effective, which is an actuarial risk assessment.</p> <ul style="list-style-type: none"> • The Guidelines take into account all the issues relating to the risk of re-offense. • Paul explained that he researched dozens of "Purposes of Parole" documents to find other examples from other states and he explained that he pulled two examples. • Colorado's Purpose of Parole statute is 30 years old but newer ones from other states focus on preparation, selection, and ensuring public protection. • Paul said he would argue that the Purposes of Parole are more generic today than 30 years ago and less prescriptive. • He asked the group what Colorado's purpose should be considering the overall sentencing structure in Colorado and since it's all part of the same system. • ½ the states have discretion and ½ don't. • He noted that If we look at those states that don't have paroling authorities they do have releasing authorities. • Theoretically a system without discretionary parole would address 'how is someone released'? Releasing authorities decide conditions and decide when someone comes back after violating. • Who or what makes the decision will influence how you articulate the purpose of parole. • The essential question is when is the time to release, under what circumstances, and by whom. • This could be better described as "What is the release mechanism"? • The decision to be made by someone when someone leaves prison. • Paul asked the group that in Colorado "What is the purpose of the time and method of release / NOT supervision" <ul style="list-style-type: none"> -clarity of sentence length / how much time will actually be done -incentivize good behavior -to ensure society is safe, to ensure we're not over-incarcerating people / public safety -successful reintegration -alternative to excessive incarceration -reducing alienation of inmates -avoiding institutionalization – they don't know what they need to do to exist in society • Paul then asked that if these are goals "What does our current system do to help achieve these"? <ul style="list-style-type: none"> -How does the current system move us toward the goal of Public Safety? The proper use of the guideline instrument does enhance public safety. Current use supports the decision to defer. Some people believe that keeping an individual in prison when the instrument says to release ensures public safety. Other people would say it is a short-term benefit (incapacitation). The long-term affect does not support public safety. • Paul asked if the current system incentivizes good behavior. The answer is 'not necessarily'. An example would be someone who served a significant amount of time on their sentence with no behavioral
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	<p>problems who is not released due to the circumstances of the original offense.</p> <ul style="list-style-type: none"> • Paul asked if the system provides clarity. The answer is no. • As for the impact on beds and dollars – the rate of discretionary releases affects the amount of money you’re saving on a daily bed count. • Does the current system help avoid institutionalization? No. • Paul outlined the five main core purposes/elements of parole identified by the group: <ol style="list-style-type: none"> 1. Public Safety 2. Clarity 3. Successful transition 4. Incentivize 5. Socializing • Paul challenged the group to look at potential alternative parole structures and determine if they could achieve these goals. • The goal is to create a system that does accomplish these five definitions of parole success. • Paul called for three groups to get together and work on some options. • He added that if this is what we want to achieve, we need to figure out a system and structure that makes sense. • The three options are: <ul style="list-style-type: none"> -Release someone at a certain percentage of time -Discretionary release inside the sentence - current -Or Mandatory release inside the sentence – current • Let’s match the five goals into each structure and see which one fits best. • Does everyone released need to be on supervision – do we need parole at all (this fits under mandatory discussion)? • Norm volunteered to run one group, the ‘no parole’ group which will look at release after a certain percentage of time. • Christie, Michael and Melissa offered to help Norm with this group. • Brandon volunteered to work on the Discretionary release inside the sentence (plus will add in mandatory length of time on parole). • James, Rep. Kagan and Doug offered to help with this group. • Paul clarified that the groups are to take the five principles and build two models. • The groups should have something to Germaine by June 22nd if possible.
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Issue/Topic:	Discussion:
<p>Next Steps and Adjourn</p> <p>Action:</p>	<p>Paul recapped that the two small groups will meet and provide outcomes to Germaine by June 22nd.</p>

Issue/Topic:	Discussion:
Adjourn	The meeting adjourned at 4:45pm.
Issue/Topic:	Paul stated that he and staff will pull notes together and a synopsis for the next meeting.

Next Meeting

July 6th, (Monday) 1:30pm – 4:30pm 1300 Broadway, Conference Room 1E

PowerPoint slides below presented during the “Broader Context Conversation” portion of the agenda

Purposes of Parole

(C.R.S. 17-22.5-102.5)

- To punish a convicted offender by assuring that his length of incarceration and period of parole supervision are in relation to the seriousness of his offense
- To assure the fair and consistent treatment of all convicted offenders by eliminating unjustified disparity in length of incarceration, and establishing fair procedures for the imposition of a period of parole supervision; and
- To promote rehabilitation by encouraging the successful reintegration of convicted offenders into the community while recognizing the need for public safety.

Parole Guidelines Statute

(C.R.S. 17-22.5-404)

- The risk of re-offense shall be the central consideration by the state board of parole in making decisions related to the timing and conditions of release on parole or revocation of parole.
- Research demonstrates that actuarial risk assessment tools can predict the likelihood of risk of reoffense with significantly greater accuracy than professional judgment alone. Evidence-based correctional practices prioritize the use of actuarial risk assessment tools to promote public safety. The best outcomes are derived from a combination of empirically based actuarial tools and clinical judgement.

Parole Guidelines Statute (cont.)

(C.R.S. 17-22.5-404)

- Although the state board of parole is made up of individuals, using structured decision-making unites the parole board members with a common philosophy and set of goals and purposes while retaining the authority of individual parole board members to make decisions that are appropriate for particular situations. Evidence based correctional practices support the use of structured decision-making.
- Structured decision-making by the state board of parole provides for greater accountability, standards for evaluation outcomes, and transparency of decision-making that can be better communicated to victims, offenders, other criminal justice professionals, and the community.
- An offender's likelihood of success may be increased by aligning the intensity and type of parole supervision, conditions of release, and services with assessed risk and need level.

Purpose of Parole (example #1)

- The purpose of parole is to improve public safety by reducing the incidence and impact of crime committed by parolees. Parole is not leniency or clemency but an extension of the sentence to provide the opportunity to return offenders to society as productive and law abiding citizens after a reasonable period of incarceration and at a time when they are assessed to have the capability and desire to succeed and live up to the responsibilities inherent in such a release.

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Purpose of Parole (example #2)

- The purpose of parole is to prepare, select and assist offenders who, after a reasonable period of incarceration, could benefit from an early release while, at the same time, ensuring an appropriate level of public protection conditions of parole and provision of supervision services.