

Mandatory Parole Subcommittee
Colorado Commission on Criminal and Juvenile Justice
Minutes

September 29, 2015, 9:00AM-Noon
700 Kipling, 4th Floor Training Room, Lakewood

ATTENDEES:

CHAIR

Doug Wilson, Public Defender's Office

TASK FORCE MEMBERS

Joe Morales, Parole Board

Christie Donner, Colo. Criminal Justice Reform Coalition

Melissa Roberts for Kellie Wasko, Department of Corrections

Charles Garcia, Colorado Bar Association

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

Norm Mueller, Defense Attorney

James Quinn, Attorney General's Office

ADDITIONAL CONTRIBUTORS

Anne Carter, Parole Board

Steve Allen, Joint Budget Committee

STAFF

Paul Herman, CCJJ consultant

Kim English, Division of Criminal Justice

Germaine Miera, Division of Criminal Justice

ABSENT

Daniel Kagan, State Representative, House District #3

Michael Dougherty, Jefferson County District Attorney's office

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| <p style="text-align: center;">Issue/Topic:</p> <p style="text-align: center;">Welcome and Introductions</p> | <p style="text-align: center;">Discussion:</p> <p>Doug welcomed the subcommittee members and reviewed the agenda.</p> <p>He noted that there would be a report out from Steve Allen of the Joint Budget Committee regarding the “75/50% recommendation” and estimated cost savings. He also noted that the subcommittee would be discussing that same recommendation and five issue areas yet to be addressed.</p> <p>Doug added that lastly, the group would review wording for the recommendation regarding the language modification for the statutory purposes of parole.</p> |
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| <p style="text-align: center;">Issue/Topic:</p> <p style="text-align: center;">Data Report Back</p> <p style="text-align: center;">Action:</p> | <p style="text-align: center;">Discussion:</p> <p>Steve Allen of the Legislative Joint Budget Committee distributed a handout to subcommittee members with estimated parole cost savings and estimated prison cost savings. He noted that he based his numbers on DCJ’s data Exhibit #4 which was distributed at the September 9th subcommittee meeting.</p> <p>Estimated Cost Savings: <i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> • Steve noted the numbers presented here are estimates and are based on massaging average cost data. • He clarified that on his handout ‘CPD’ stands for cost per day. • The preliminary parole savings estimates are based on DCJ projections and range from 10.6M (FY2016) to 31M (FY2018). • Using average cost per day has its limitations. • Steve emphasized that these numbers are preliminary and that it would take someone who knows a lot about how the parole office functions to have solid detail and projections. • These numbers assume proportionate reductions in all the populations. • Steve said he doesn’t know enough about parole for detailed numbers regarding administration reduction. • The savings estimates for prison are easier because the current model places offenders in private prisons. These estimate are based on using direct ‘cost per day’ and assuming all reductions happen in private prisons. The estimated savings for prisons come in at 2.7M (FY2016) and increase to 7.7M (FY2019). • An important issue is that we would be reducing private prison usage by 10% or so. • Colorado might need to spread those reductions into state prisons. • The FY2018 numbers are based on a 322 bed reduction in private prisons. |
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| Issue/Topic: | Discussion: |
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| <p data-bbox="196 212 435 243">75% / 50% Proposal</p> <p data-bbox="264 285 354 317">Action:</p> | <p data-bbox="548 212 1500 348">Doug reminded subcommittee members that there were a handful of questions that came out of the last meeting about going to the 75/50% proposal. He shared that there are a variety of options on the table today to try to resolve those issues/questions.</p> <p data-bbox="548 390 1500 485">He directed the group to a handout with 5 question areas and options for those questions. The document is titled “75/50% Proposal: Issues to be addressed/agreement areas/compromise elements:</p> <p data-bbox="548 495 792 527"><i>DISCUSSION POINTS</i></p> <p data-bbox="548 569 1284 600"><u>Question #1 – Earned time included toward release to parole?</u></p> <ul data-bbox="597 600 1500 1860" style="list-style-type: none"> • The group began a discussion on Option 1 and Option 2 as follows: • Option 1 – Release date at 75% or 50%, period. • Option 2 – Sentence length starts at 100%. Earned-time reduction reduces sentence length down to a maximum of 75% or 50% (depending on COV). • Doug reminded subcommittee members that the driving purpose behind the ‘75/50%’ recommendation is to address clarity and certainty. • Joe shared that having the incentive inside the facility is critical for both safety and security. • If there was no incentive it could create real issues with management. • Joe added he believes there needs to be incentive in the facility – and that the parole length should be straight parole with no early out, primarily for treatment purposes. • Can parolees get through most programs in six months? Besides TCs what programs are there other than six months? • There’s a need for step down guidance and stability and that can happen in a 6 month period. • Keep in mind the folks who are low risk, but possibly high needs. • Option 1 and option 2 on this question both provide clarity – just different clarity • How does DOC feel about earned time? Melissa answered that the carrot needed for inmates in facilities is important for expectations when someone comes out on parole and for institutional conduct. • Melissa also shared that she thinks it is important for earned time availability on the parole period. • What about earned days on parole? Maybe they could get earned time but in a different way on the outside (parole) than on the inside (institution). • Kate said she’s not supportive of earned time on these shortened parole periods. Less than six months is unacceptable. There needs to be a period of demonstrating that an offender can sustain the good behavior. • From the victim’s perspective, cutting parole down from five years is significant already. She supports no earned time on parole. |

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| <p>Issue/Topic:</p> <p>75% / 50% Proposal</p> <p>Action:</p> | <ul style="list-style-type: none"> • Instead of earned time on parole what about an option for a parole officer to have the ability to recommend early discharge from parole on a case by case basis? • It would be a recommendation to the parole board, it would be the board’s decision • The PO would consider stable employment, stable housing and no violations. • A parolee could be recommended for early discharge if they were compliant over a period of time, good on restitution, good on employment, housing and treatment. • Board takes early release recommendations seriously. It works as an incentive for someone to do the right thing. • Question - Is the incentive for an early release recommendation an adequate substitute for earned time? • Is early release alone enough of an incentive to give PO’s the tools they need? • Melissa answered that the parolee needs continued incentive. Maybe they don’t earn as many days in the community as when they’re on the inside. • Someone should have completed treatment in the institution if they have a six month period. • The incentive is do the right thing and someone may get recommended for early release. • Isn’t there enough incentive on the ‘stick’ side? If someone messes up they’ll go back. Do they really need a carrot on shorter parole period? • Melissa noted that the Parole Division has been working hard to address violations. There are other ways to build incentives and the carrot is certainly motivational. • Many of the components of parole are critical for the integration piece. • James said that if we’re talking about giving earned time on six months we would need to increase these periods. Is three months enough to get some reintegrated? • Most victims want to know the offender is doing the right thing, and meeting their end of the deal. • Is three months long enough? It depends. • The goal of parole is to transition folks into the community. • Kate noted that in the real world people don’t get earned time for keeping a job, etc. if we’re transitioning folks they need time, they need to do the work; they need to put in the time. • What about a mandatory review for early release from parole? • For example, if someone meets a certain criteria and the PO supports it, then he/she can submit a recommendation to the board. • Melissa added that a system like this would need to be behavior based. If they are stable on all points and they don’t need parole, why do they need to stay on parole? • Joe added that the progression matrix is important as far as motivation. |
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| <p>Issue/Topic:</p> <p>75% / 50% Proposal</p> <p>Action:</p> | <p><u>Question #2 – Community Corrections / who, what, when – and- outcomes vs. straight release to community?</u></p> <ul style="list-style-type: none"> • The group began a discussion on Option 1 and Option 2 as follows: • Option 1 – An individual may be placed in community corrections on release date – no ‘inmate’ status. • Option 2 – An inmate may be placed in community corrections 6 months (?) prior to release date with ‘inmate status’ staying intact. • Inmate status means they’re still considered an inmate, if they walk away it’s a new felony. They must be supervised at the most intensive level. • If they complete the program – they continue supervision under ISP. • One problem is these folks are not eligible for Medicaid and they’re also not eligible if they’re in community corrections. • Norm noted that for many of his clients working on movement to community has been a huge incentive. • Melissa said it puts Parole in awkward position when someone is doing everything they’re supposed to, but PO’s are required to see someone every week, and they’re on ankle bracelet, etc. • The current system of comm. corr. eligibility is bizarre with the time computations, etc. • With this new system they would only be on inmate status in residential because it’s a six month program. • Community corrections success rates vary by program, which is problematic. • With very high risk cases they respond to cognitive behavioral interventions so they need a different kind of strategy than your normal comm. corr. client. There are different needs with these folks when it comes to treatment. • Medium to medium high are appropriate, low and very low are not unless it’s a ‘high stakes’ low or very low case. • Michael pointed out that when talking about option 2 and six months as a possibility, in Jeffco offenders are serving less than six months currently. This would actually extend the time served in comm. corr. by offenders, overall transition and diversion. So are we good with extending this period? • Paul answered that his recollection was that the average completion across all programs is about 8 months • Question - In looking at option 2 - are we mandating a certain period of comm. corr.? • If we’re talking about certainty and clarity do we want to mandate length of time in comm. corr.? Or do we trust comm. corr. to make the release decision? • If we don’t release anyone until their mandatory parole date – who will go to comm. corr.? • DOC would make that decision. • What about the incentives for TC people with this scenario? • There are issues around ‘Inmate status’ and the affordable care act – under ACA if someone is residing in comm. corr. under any status they’re not eligible by virtue of the fact that that they’re ‘residing’. • Medicaid and Medicare assume if you’re in a facility you’re an inmate. |
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| <p>Issue/Topic:</p> <p>75% / 50% Proposal</p> <p>Action:</p> | <ul style="list-style-type: none"> • The big issue for Centers for Medicare/Medicaid Services (CMS) is that a halfway house is considered a jail, even though they're privately owned. And it doesn't matter if it's diversion or transition. • However, there appears to be some movement this year and a recommendation to CMS to modify the restriction. • People are working now to try to get clear with Colorado Department of Healthcare Policy and Finance (HCPF) if it's the location (comm. corr.) or the status (inmate). • Doug asked if non-inmate status help advance this issue. Don't know. • Status vs. location is the big question right now. • Medicaid directors around the country are talking about this. Trying to switch the definition so that halfway houses are NOT considered jails or prisons. • The structure of this proposal will force the issue about who should be at the table making better decisions about who should be in comm. corr., etc. • Comm. corr. simply can't be all things to all people if we want it to be successful. There's a very low success rate in CC right now. • Comm. Corr. would like to narrow down who should be placed and how they should be treated. Trying to be everything to everyone has been a problem • Kim shared that in FY14 all terminations from comm. corr. averaged 5.7 months. The average length of stay for successful terminations is 7.3 months. • There was a pilot program that experimented with not charging comm. corr. residents the \$ 17/day fee. The theory was that it was too much of a burden for them starting day one and owing money. But the pilot showed giving a grace period on the fee didn't affect outcomes at all. <p><u>Question #3 – Is earned time factored into the parole period?</u></p> <ul style="list-style-type: none"> • The only option on this question is as follows: No earned time option. Early discharge from parole on recommendation from parole officer ONLY. <p><u>Question #4 – Is this recommendation a package only? Or could there be separate elements?</u></p> <ul style="list-style-type: none"> • Michael expressed that his school of thought is that this should be done as a package. If we want to make meaningful reform we should do the whole package. Doug agreed that package would result in more meaningful reform. • Norm shared that if this passes the commission and ends up with the Legislative Subcommittee they may try to divide it or alter it. If that were to happen the 'CCJJ' stamp of approval may have to be removed. • Michael agreed that there's something to be said for going big and doing a global overhaul rather than piece meal. |
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| <p>Issue/Topic:</p> <p>75% / 50% Proposal</p> <p>Action:</p> | <p><u>Question #5 –Money and funding – how much exactly and where do savings go specifically?</u></p> <ul style="list-style-type: none"> • The current option on the table is as follows: • Money to be split equally between victim and offender community – based services AND Money to go toward: <ul style="list-style-type: none"> -Housing -Employment -Treatment, including mental health and substance abuse • The group needs to be careful talking about savings vs. cost avoidance; it's going to be awhile until we see actual savings. • Charley asked if some of the savings needs to be kept in parole. Christie answered no. She said that's been done before. They have money for clinicians and services already. • There will still be some transition costs and up-front costs operationally. • The group also may need to work on different dosages for appropriate treatment. • Melissa reminded everyone that the greatest need right now is for housing. Skills and employability don't matter when someone doesn't have a place to live. • This is true for victims and offenders both. And we're talking real housing, not vouchers. There's a two year wait for section 8, and then many of them won't take an offender. • We have two huge gaps - there's not enough residential treatment and infrastructure and Medicaid doesn't pay for residential treatment beds. • Also need greater infrastructure for non-profits working on affordable housing and mixed use developments. • There are limited financing incentives for builders. • New York is doing work with their division of housing to address issues with section 8, etc. and break down those obstacles with justice involved individuals and a tight housing market. • The bulk of current resources for victims in the state are geared toward the time period immediately after the incident, the funds from this initiative would be available for longer-term needs. • There are needs for victim's long term which is where this money needs to be put. • Housing is huge for both of these populations. • Victims sometimes need therapy when the offender gets out down the road. • One segment that is really hurting is emergency shelters for victims. • Many of the increased VOCA funds will go to upfront services, for capacity building. And a lot of the money will go toward (much needed) higher based salaries for non-profit workers, etc. to do better services. But it will be awhile before seeing any expansion. • This money would address a different component than the VOCA funds. • Doug – can we agree that any savings will be split between community based offender and victim organizations? Yes. |
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| <p>Issue/Topic:</p> <p>75% / 50% Proposal</p> <p>Action:</p> | <ul style="list-style-type: none"> • CCJJ has done this before with savings, how directive can they be in their proposal? • Historically CCJJ has been listened to as far as money and CCJJ has been very prescriptive. • Politically if you have a bill, fiscal note, savings, and you need to account for the money right then. • DOC has never been harmed when this has happened, when they've come back for a supplemental they've gotten it. • If we want to have influence over money we need to do this now. • Melissa added that the group needs to be very thoughtful about this. • DOC is a staff driven budget, not a population driven budget. You have to reduce FTE's before you see some reduction. • To know if all of this works we have to track recidivism. <p>Doug summarized that at this point in the meeting he would like to recap the proposal and discussions on the five issues, ensure everyone's questions have been answered and find out if there's agreement. He reminded everyone that the group ISN'T voting but rather looking for an agreement to put these components down on paper and bring them back to the group at the next meeting for more discussion and a vote at that time.</p> <ul style="list-style-type: none"> • Question #1 - the group agreed there is consensus for option #2, which is that sentence length starts at 100% with an option for offenders to earn reduced time down to 50% or 75% based on COV. • Question #2 <ul style="list-style-type: none"> -Norm said he's in favor of option 2. -Melissa added that we're talking about time served and earned time. -Is there an option to do comm. corr. re COV? Let's make the comm. corr. options COV based • Question #3 – the group agrees on no earned time but discretion for early release recommendation by the PO. • Question #4 – The group agrees that separate elements are an option but not the ideal. • Question #5 – Money and Funding. <ul style="list-style-type: none"> -If this gets too prescriptive, then we can't back out of it. If we put it all toward housing and housing falls off as an issue then what do we do? -Melissa said that from the offender perspective, this should be categorized as reentry services. -Christie – we can't be generic with the legislature. -Kate, when we're looking at EBP, housing and mental health needs are critical. Until you are safe and have a job, mental health doesn't matter. They need security in their environment before mental health services. -For offender let's call this reentry. -For victim, give the community based agencies some flexibility for what's going on in their community, could be training for employment, could be housing, this will be different community to community. -It's not just reentry for offenders. The bulk of justice-involved people are not just coming out of DOC. From a community perspective, do it based on whoever walks in your door – NOT just folks coming out of DOC. There's a problem with all the money going to DOC. From a |
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| <p>Issue/Topic:</p> <p>75% / 50% Proposal</p> <p>Action:</p> | <p>community perspective we provide services at a community level.</p> <ul style="list-style-type: none"> -Christie suggested language such as ‘permissible services by community need’. -Define scope of permissible services. <ul style="list-style-type: none"> • The group agreed to put together a recommendation with the agreements on questions 1, 3 and 5 and then have a separate community corrections discussion at the next meeting to further vet question #2. • Also, keep in mind we need to fix comm. corr. statute |
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| <p>Issue/Topic:</p> <p>Statutory Modification Recommendation (FY16-MP #01)</p> <p>Action:</p> | <p>Discussion:</p> <p>Paul reminded the subcommittee that another issue that this group agreed needed to be addressed was the statutory definition of the purpose of parole.</p> <p><i>DISCUSSION POINTS</i></p> <ul style="list-style-type: none"> • Paul directed the group to the draft recommendation “FY16-MP #01 Update and Rewrite the Statutory Purposes of Parole to Reflect Contemporary and Evidence-based Common Practices”. • Two things came up at the last meeting and Paul said he has addressed both those issues. The updated verbiage is on the recommendation handout that everyone has in their packet. • Paul reviewed items a – d on the statutory revisions. • Question on A - why is the word ‘select’ in there if this is not discretionary? Because there still will be selection for prior cases and indeterminate sentencing. • We flip between ‘offenders’ and ‘parolees’, let’s make this verbiage consistent. • Should A & B be flipped? The primary purpose is that public safety should take precedence. |
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| <p>Issue/Topic:</p> <p>Adjourn and Next Steps</p> <p>Issue/Topic:</p> | <p>Discussion:</p> <p>Doug recapped that the group will spend the next meeting discussing the community corrections piece at length and then go through both recommendations in their entirety.</p> <ul style="list-style-type: none"> • Next meeting: comm. corr. – see how/if we’ll plug the community corrections piece into the recommendation. • Go through both recommendations and the rewrites for agreement. |
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Upcoming Meetings

October 5th, (Monday) 1:30 pm – 4:30 pm 1300 Broadway, Conference Room #1E