

Colorado Commission on Criminal and Juvenile Justice
Post-Incarceration Supervision Task Force
Date: August 12, 2009, 9:00AM - 12:00PM
Minutes

Attendees:

David Kaplan, Chair
Christie Donner, Task Force Leader
Tamara Brady, Colorado State Public Defender
Joe Cannata, Voices of Victims
Kerry Cataldo, DCJ
Stefan Chodkowski, Political Works
Kim English, DCJ
Kevin Ford, DCJ
Tim Hand, Deputy Director of Regional Operations (Parole)
Regina Huerter, Manager of Denver Public Safety
Kathie Izor, CURE
Greg Mauro, Community Corrections
Shelby McKinzey, CU student
David Michaud, Parole Board Representative
Jeaneene Miller, Division Director (Parole)
Maureen O'Keefe, DOC
Sarah Steen, CU
Carolyn Turner, CURE

Absent:

Paul Herman, Consultant
Lacey Berumen, Executive Director, National Alliance for the Mentally Ill (NAMI)
Carl Blesch, DCJ/Community Corrections
Pete Hautzinger, District Attorney
Melissa Thrasher
Dianne Tramutola-Lawson, CURE
Heather Wells, DOC

<p>Issue/Topic:</p> <p>Welcome</p>	<p>Discussion:</p> <ul style="list-style-type: none"> • David Kaplan welcomed the group, and then everyone introduced themselves.
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<p>Issue/Topic:</p> <p>Update on the Oklahoma Parole Board Training</p>	<p>Discussion:</p> <p>David Michaud attended a 2.5 day Parole Board training in Norman, Oklahoma. This training was sponsored by the National Institute of Corrections (NIC). Several states were in attendance.</p> <p>He learned that every state is dealing with the same issues: prison overcrowding and a budget crisis. He reported discussions concerning:</p> <ul style="list-style-type: none"> - the necessity for risk assessment instruments to work for males and females, possibly requiring different measures. - the necessity for risk tools to work for specific populations, like sex offenders. - the definition and criteria for identifying an evidence-based practice. - the importance of motivational interviewing. - spending on programming. Investments in educational and vocational programs result in better outcomes than a sole focus on substance abuse treatment for those with addictions. <p>David Michaud reported that parole board members from several states including Maryland, New York and Georgia offered models and practices for additional study. They have worked out issues regarding access to data, efficiencies regarding parole hearings, among other innovations. He would like to study these and practices in other states in hopes of adapting some of their ideas for Colorado's use.</p>
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<p>Issue/Topic:</p> <p>JAG Funding</p>	<p>Discussion:</p> <p>Kim English reported that as part of the Recovery Act \$16 million was awarded to Colorado for use for criminal justice and the creation of jobs. The Commission on Criminal and Juvenile Justice initiated efforts by several groups to apply for grant funding. Three of these proposals were awarded funding: Multi-Agency Training Center on Evidence-Based Practice (Department of Public Safety), Criminal Justice Clinical Specialists (Department of Human Services) and Metro Crisis and Access Line (City of Golden).</p> <p>The Multi-Agency Training grant will be housed in the Executive Director's Office within the Colorado Department of Public Safety. The money will be used for training on evidence based practices (e.g. include training coordinators for cases managers at DOC, Parole, Probation, and Community Corrections; grant managers; research and evaluation; train the trainers; training of 1200 professional; and consulting).</p>
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Issue/Topic:	Discussion:
<p>Parole Board Data Concerns</p>	<p>David Michaud reports that currently the Parole Board does not have procedures in place to collect data enough on parole board hearings or an accessible database where this data can be queried (e.g. number of parole hearings held, types of parole decisions, recidivism outcomes, etc.). David Michaud is currently working with Maureen O’Keefe and her research staff at DOC to address this problem. They are in the process of converting the data into Microsoft Access and then will take a look at the data.</p> <p>Due to the lack of data/database, the Parole Board is not able to accomplish their mandate of providing an annual report to the Governor’s Office. There maybe a need for a statutory change so data can be collected, analyzed, and reported.</p> <p>Without the ability to collect this basic data, it is very difficult to derive policy decisions and develop and track potential parole innovations.</p>

Issue/Topic:	Discussion:
<p>Early Release Proposal (Department of Corrections / Parole Board)</p>	<p>Due to the state’s budget crisis, the Parole Board is looking at releasing offenders before their parole eligibility date (PED). The proposal involves:</p> <ul style="list-style-type: none"> - A review of 4,200 offenders who are within 6 to 8 months of their PED (parole eligibility date). - File reviews will be conducted on these offenders. The file review criteria will include: victim notification alerts; any serious instances of institutional misbehavior violating disciplinary codes; participation in a therapeutic community (determining whether release disrupt therapeutic progress); parole residential status (will the parolee have a place to live); and the score on the Colorado Actuarial Risk Assessment Scale (CARAS). - If deemed appropriate for early release, offenders will be mandatorily released 6 months early. It is assumed that 80 percent of the 4,200 offender may qualify for the 6-month early release, which would be a significant cost savings. - However, the Division of Parole would be expected to absorb the approximately 3400 additional offenders. Parole’s plan is to “front load” services to these 3400 offenders and, to counterbalance the increase, evaluate the existing population of parolees to determine if any might be eligible for early discharge from Parole. - This proposal would also involve special tracking of the estimated 3,400 early-release offenders. - While exploring the details of this proposal designed to respond to short-term budget pressures, DOC/ Parole appreciates and acknowledges efforts by the Post Incarceration Task Force and CCJJ to address long-term solutions surrounding length of stay in DOC and Parole. <p>David Kaplan observes that this period of budget crisis offers an opportune moment to review the practices surrounding Parole Board and Parole for potential long-term efficiencies and innovation. The task force and its members should explore the models reported by David Michaud existing in other states.</p>

Issue/Topic:	Discussion:
<p>CARAS risk assessment update</p>	<p>Maureen O’Keefe informed the group that DOC is currently working with the Division of Criminal Justice (DCJ) on questions regarding the development and validation of the CARAS (Colorado Actuarial Risk Assessment Scale). DOC is looking at whether or not the CARAS works with special populations (e.g. sex offenders, violent offenders, gender, and ethnicity). They hope to have completed their predictive validity study of special populations (by gender, by ethnic minorities, sex offender vs. non-sex offender, technical violators, etc.) by the end of August.</p> <p>There was a concern expressed that the CARAS may underscore the risk for sex offenders. Kim English comments that the Sex Offender Risk Scale (SORS; a part of the Sexually Violent Predator Assessment Screening Instrument) is a risk assessment scale available for use with sex offenders that predict commission of future violent crime.</p> <p>A question was posed whether risk assessment predicts specific crimes. Risk assessments, in general, are each designed to predict a particular outcome variable (for example, re-arrest, conviction, or violent vs. non-violent crime), but these assessments do not predict which specific crime an offender may commit in the future.</p> <p>David Kaplan observes that risk assessment should play a crucial role in the release decisions of the Parole Board and the early release proposal and hopes that the validity questions by DOC for the CARAS can be settled quickly.</p>

Issue/Topic:	Discussion:
<p>Parole structure decision making model: Early parole discharge</p> <p>Action:</p> <p>Tim Hand will present at the next PIS meeting (9/9/09) on what he learned at APPA conference.</p> <p>Regi Huerter will send Tim Hand a copy of the juvenile probation sanctions grid. Also told him to look into Thinking Locks.</p>	<p>Tim Hand spoke about the decision-making model for early discharge from Parole. He identified a couple of challenges Parole is working to overcome:</p> <ol style="list-style-type: none"> 1. Parole is having trouble constructing an algorithm in their data system to identify those who have served 50 percent of their parole sentence. <ul style="list-style-type: none"> o Parole is currently working with IT to solve the problem. o Parole is already integrating the S.B. 02-252 benchmarks as criteria for Parole release. 2. Need to develop and pilot a sanctions grid/intermediate sanctions. <ul style="list-style-type: none"> o Tim is doing research and reading on sanctions grids and guidelines and technical violations guidelines being used in other states. o Tim will be gleaning additional information on sanction grids/guidelines at the 34th Annual Training Institute of the American Probation and Parole Association in CA August 23-26, 2009. <p>The success of any of these potential Parole improvements is dependent on the buy-in of the Parole Board who could mitigate or aggravate any new Parole sanction or technical violation guidelines.</p> <p>Regi Huerter offered to share the juvenile probation sanctions grid as a model for consideration. There is also value in looking at the “Thinking Logs” technique for offender cognitive intervention.</p>

Issue/Topic:	Discussion:
<p>Parole Structure Memo</p>	<p>Christie Donner reviewed a memo describing the history of statutes defining the Parole Board and Parole Board decision processes. The memo also reports on the interviews she conducted with 47 stakeholders about their vision for the perfect parole system. And, finally, Christie presented a very preliminary section on parole structure that is intended to stimulate task force discussion. Presented below are some of her findings...</p> <p>Understanding the different parole models used in Colorado</p> <p>Colorado has had essentially four different and very distinct parole models in the past thirty years.¹</p> <ul style="list-style-type: none"> • Prior to 1979, sentencing was indeterminate where a sentence had a minimum and maximum length (e.g. 20-40 years). The parole board had wide discretion to make release decisions along a potentially very long timeline (aka the 211 law). • Next and in diametric opposition to the previous model, from 1979-1985 the parole board was required to release a person after serving 50% of the sentence, less any pretrial confinement or earned time credit. The total award of earned time could not exceed 25% of the length of the sentence. For people convicted of a sex offense or habitual offense, the parole board had sole discretion to parole for a term up to the remainder of the sentence. Inmates were required to serve a mandatory parole period of one year and were eligible for earned time on parole (aka the 331 law). This parole period was increased in 1984 to require people to serve up to three years of mandatory parole (aka the 334 law), with the potential for earned time. • From 1985-93, discretion was returned to the parole board (aka the 336 law). For most offenses, the parole <i>eligibility</i> date was set at 50% of the sentence (minus credit for earned time and pretrial confinement). Inmates could be awarded earned time but earned time credited could not exceed 25% of the total length of sentence. If the current conviction was for a specific violent offense and the person had a prior conviction for a specific violent offense, then the parole eligibility date was set at 75% of the sentence (minus credit for earned time and pretrial confinement). If the person had two or more prior convictions for a specific violent offense, they were required to serve 75% of the sentence and were not eligible for earned time. The length of parole would be no longer than the length of time remaining until the statutory discharge date, although it could be shortened. An inmate could serve the entire sentence in prison and not have a period of supervision after release (known as “killing their number”). • Our current model² was created by legislation in 1993 that maintained the discretionary parole model under the “336 law” and superimposed a consecutive mandatory period of parole from one to five years depending on the felony class of conviction, except for people convicted of a Class 1 felony or those on death row³ (aka 447 law). This change was made in response to the increase in the number of prisoners who were waiving their parole hearings and “killing their number” in prison to

avoid supervision after release. Once a prisoner reaches his/her parole eligibility date, the parole board can consider them for discretionary release. If this release is granted, the prison sentence is deemed discharged and the person starts to serve their mandatory parole period. If discretionary release is not granted, then the prisoner will be released on his/her mandatory release date to begin to serve their mandatory parole period. Per legislation passed in 2009, the total award of earned time cannot exceed 30% of the sentence. People on parole are eligible for earned time but people reincarcerated for a parole violation are not.

Colorado also has a separate sentencing and parole structure for people convicted under the lifetime sex offender supervision law. In 1998, legislation was enacted that requires people convicted of Class 2, 3, or 4 sex offense felonies to be sentenced to prison for a set minimum term and a maximum term of life (similar to the indeterminate sentencing model in effect prior to 1979). These people must meet specific criteria including participation in sex offender treatment before the parole board will grant release. Parole supervision is set for the remainder of the person's natural life, with possible termination of supervision after 10 or 20 years depending on the felony class of the conviction. Because of the separate sentencing and parole structure for these offenses, the parole reforms outlined in this document do not include these offenses.

Identifying the purpose and values of the parole system

PURPOSE OF THE PAROLE SYSTEM

Colorado state law identifies three purposes of parole (CRS § 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.

Interview results: What did stakeholders see as the purpose of parole system

- *Punishment/incapacitation* – to ensure that punishment is fair, reasonable, appropriate to the crime and clearly defined where there is an adequate degree of certainty and predictability in the length of time someone will serve prior to release on parole.
- *Rehabilitation* - to create an incentive and reward for participation in required prison programs and treatment and compliance with prison rules and regulations.
- *Transition period* - to provide a meaningful, appropriate, and individualized transition process from prison that includes both assistance to the offender and supervision for an adequate period of time to monitor for public safety wherein expectations and conditions of release are clear, appropriate and reasonable.

- *Reduction of recidivism* - to reintegrate people successfully back into the community as law-abiding and stable members of society and appropriately using re-incarceration for noncompliance to prevent crime and future victimization.
- Although not necessarily seen as a direct purpose of the parole system, many stakeholders stressed the importance of having opportunities in prison to help people be *ready* for release through access to meaningful and appropriate programs, classes, treatment, and prerelease planning.

VALUES

A value is defined as a principle, standard, or quality considered worthwhile or desirable. Ideally, the laws, policies, and practices that govern and operationalize the parole system would align with the values adopted for the parole system. The following list describes the values stakeholders wanted reflected in the parole system.

Interview results: Stakeholders describe the values they want in the parole system

- *Rationality* - that there be a clear rationale for the laws, policies, and practices of the parole system and that the rationale is based on data, evidence-based practices, or best known practices
- *Clarity* - that the parole system and roles of various people can be easily understood and described
- *Simplicity* - in design to the greatest extent possible
- *Certainty* - need to have a degree of predictability about what a sentence is actually likely to mean in terms of time served prior to release
- *Integrity* - high system standards; properly using assessments and fidelity in program design to match evidence-based or best practices
- *Humanistic* - to the greatest extent possible, respecting and responding to the diverse needs of the people involved in the parole system and those impacted by the parole system. (This was expressed with many different examples including: manageable work loads and adequate resources for system employees; reducing anxiety and negative impact on victims, inmates and families; and adequate programs for people in prison so they can be successful upon release.)
- *Flexibility* - allow for a case-by-case determination and an appropriate range of options
- *Due process* - a legitimate decision-making process related to release and revocation that ensures adequate protections for the rights of victims and offenders
- *Discernment* - informed decision-making; the ability to determine differences and to act with good judgment and insight, sincerity, and thoughtfulness
- *Public confidence* - transparency in decision-making, policies and practices so that the public can understand the structure, process and outcomes and can access mechanisms for accountability when there are grievances or concerns
- *Public safety* - recognizing those factors that can put the public at risk and making a best effort to minimize or eliminate that risk
- *Efficiency* - that processes allow for decision-making that is swift (as advisable), and that best utilize system resources, including human

resources

- *Proportionality* - that the punishment fits the crime and that conditions and length of supervision are appropriate
- *Success-oriented* - understanding what helps create successful outcomes, striving for success, clearly defining “success,” and measuring success
- *Consistency* - that similarly situated people will be treated similarly
- *Inclusivity* - that there is meaningful and timely opportunities for stakeholders to have input prior to decision-making
- *Connectivity* - that the parole system be integrated with the rest of the criminal justice system, while maintaining the integrity of its specific role and unique responsibilities

Structural Changes to the Parole Model

STAKEHOLDER SURVEY RESULTS

Part of the intention of surveying stakeholders was to identify the concerns people had regarding the current parole model.⁴ Some of these concerns include:

- no clarity in what a sentence means or predictability in how long people will serve prior to release; the lack of predictability in the release date creates a lot of anxiety and uncertainty for victims and their families as well as for inmates and their families; lack of predictability makes release planning very difficult
- parole laws are chaotic and confusing due to the “layer effect” of changes to the parole laws over time
- the current “hybrid” model of having both a discretionary and mandatory model in place simultaneously is confusing and contradictory
- going to multiple parole board hearings is very traumatic for victims/families and inmates/families

When asking stakeholders about their vision for the perfect parole structure, specific questions were developed to help identify some fundamental components of any parole structure.⁵

Stakeholder question 1: Do you want a parole board to make release decisions?

One of the fundamental structural elements of the parole system is whether a parole board is authorized and utilized to make release decisions.⁶ Some states have a parole board making release decisions while other states do not.

In response to this question:

38%- yes, they want a parole board making release decisions

32%- no, they don't want a parole board making release decisions

26%- don't know⁷

4%- other⁸

Stakeholder question 2: Should the amount of time served prior to *eligibility* for release vary by the nature of the crime of conviction (i.e., nonviolent or violent offense)?

In response to this question:

48%- yes, it should vary

37%- no, it should not vary

15%- don't know

Stakeholder question 3: How much time should a person serve before eligibility for release?

When asked how much time someone convicted of a *violent offense*⁹ should serve prior to parole eligibility,

37%-should serve 75% of sentence prior to eligibility for release

35%- don't know

11%- should serve 50% of sentence prior to eligibility for release

11%- other

2%- should serve 66% of sentence prior to eligibility for release

2%- should serve 70% of sentence prior to eligibility for release

2%- should serve 80% of sentence prior to eligibility for release

When asked how much time someone convicted of a *nonviolent offense* should serve prior to parole eligibility,

35%- don't know

22%- should serve 50% of sentence prior to eligibility for release

20%- should serve 75% of sentence prior to eligibility for release

11%- other¹⁰

4%- should serve less than 50% of sentence prior to eligibility for release

4%- should serve 70% of sentence prior to eligibility for release

2%- should serve 66% of sentence prior to eligibility for release

Stakeholder question 4: Should the parole period be within or consecutive to the prison sentence?

37%- don't know

30%- parole period should be within the sentence

24%- parole period should be consecutive to the prison sentence

9%- other

This was a challenging question for many people to answer in the hypothetical because it was viewed as a secondary issue. What was viewed as most important was having a cohesive paradigm, a rationale basis for the model, and some degree of predictability as to release date.

SUMMARY OF POTENTIAL PAROLE MODELS

Because there was no consensus on a preferred parole model, three different parole models are proposed for future discussion. These models attempt to capture the various parole models described by stakeholders. The details of the models will be presented at a future date after task force members have had the opportunity to study and discuss the models.

Reform Model 1:Modified Current Model

This reform model was developed to reflect the desire of some stakeholders to make as few changes as necessary but to have more clarity about how much time someone would be likely to serve prior to release. Very few stakeholders wanted to retain the current hybrid-model (integrating both a mandatory and discretionary parole model); however, because it was described, it is included.

Reform Model 2: Discretionary Parole

This model was developed to reflect the vision of some stakeholders to have a discretionary parole model where a parole board makes release decisions and the period of parole would be the time remaining on the sentence imposed by the court (i.e., where the parole period would be within the sentence.) In order to ensure that people could not “kill their number” and be released without supervision, a mandatory consecutive period of supervision would only be imposed in those circumstances where an inmate refused to participate in a parole hearing in an effort to avoid supervision after release. Changes would also be made to provide greater clarity in the minimum amount of time a person would serve prior to consideration for release.

Mandatory Parole

This model was developed to reflect the vision of some stakeholders where the parole board would not make release decisions and the length of time served in prison would be the total length of the sentence minus any credits for pretrial confinement and earned time.

Issue/Topic:	Discussion:
Next steps	<ul style="list-style-type: none"> • Tim Hand will present at the next PIS meeting (September 9th) what he learned at the APPA Training Institute regarding parole sanctions and guidelines. • David Kaplan is going to coordinate with DOC to report the status of the risk assessment instrument (CARAS). • David Kaplan and Christie Donner are going to work with Paul Herman and put together some examples of good structured decision making (e.g. Maryland). • David Kaplan and David Michaud will take a look at the Parole Board’s data collection issues (e.g. what type of data do they need to collect and what current statutes require). • David Kaplan is going to look in to Parole’s statutory provisions regarding release guidelines and technical violations guidelines (for example, SB 02-252, 17-2-103, C.R.S., etc) • Regi Huerter will send Tim Hand the juvenile probation sanctions grid for reference and information about "Thinking Logs." • Tim Hand and Jeaneene Miller will look at their policies and statutes regarding revocation.

**Next meeting:
Wednesday, September 9, 2009
9AM-12PM
150 East 10th Avenue**