

**Probation Task Force Minutes
June 5, 2008
CDPS Complex, 700 Kipling**

Present:

Judge Gil Martinez, Chair
Mike Riede, Task Force Leader
Christine Adams, Facilitator
Germaine Miera, staff
Kim English, DCJ
Bill Kilpatrick, Golden Police Dept.
Sherri Hufford, Probation
Ann Terry, CDPS
Mary Claire Mulligan, CCDB
Kevin McGreevy, CCDB
Ken Plotz, Senior Judge
Tom Moore, Community Corrections
Ken Gordon, Senator
Steve Siegel, Victim's rights/DA's office

Absent:

Charles Garcia, Community Corrections

Data:

Discussion Topics:

Introductions & review of May 22nd minutes

Task Force members introduce themselves

Overview of Legislative Roadblocks – Judge Martinez

Chair Martinez says he had a brief review with some of his fellow judges and the following issues keep coming up in the criminal justice field over and over. He prepared an overview of statutory issues and handed out a document covering the top 11 issues.

- Statute 16-4-201.5 –Right to bail after conviction exceptions. One issue that hinders probation is when you commit a felony with a handgun. Putting defendant behind the 8-ball. You know they're getting probation but they have to sit in jail for 7-8 weeks. People lose their job. And this affects jail overcrowding as well. This puts a burden on county jails and offenders may lose their job.
- Statute 16-5-206 – Summons in lieu of warrant.
- Statute 16-11-205
- Statute 42-2-127.3 – Authority to suspend license-controlled substance violations. When an offender pleas in drug case their driver's license is

taken away. Hard for defendant to pay fines and serve probation if they have no transportation

- Statute 18-18-208.1 Escape and Attempt to Escape. These are NOT escapes at Canon city.. these are people walking away from Comm. Corr. Defendant starts with a minor charge, get hit with a harder Felony (F3 or F4) escape. PLUS they have to serve this consecutively.
- 18-19-103 – Sources of revenues-allocation of moneys. On drug case surcharges can be extremely high and we're setting up the defendant for failure.
- 18-21-103. Same as above, high charges
- 18-1.3 1004. Four to five thousand sex offenders at DOC and one program that handles 90 people. There is no good treatment for sex offenders.
- 18-1.3-501. Minimum sentence of two years and one day.
- 18-1.3-404. Judges have to say this speech and VERY few judges actually do this.
- Prior sex offense. Offender required to get a sex evaluation, no matter the offense, if there is a prior sex offense case anywhere in their criminal history.

Concerns and comments

Q- Are these issues beyond the scope of Probation?

A- Consequences of many of these issues affect the persons time when they're on probation.

The task force is charged with looking at items that set people up to fail rather than succeed

Q- Ann had a question about Statute #2

A- (per Steve S.) summons in lieu of warrant is fine if harm done and likelihood of recidivism has some measurement. Fraud is one thing, criminal impersonation is a different thing. There's a piece that relates to harm to victim or harm to community. Likelihood of recidivism is our charge, but the impact of recidivism is another over-lay.

Truth in sentencing is what victims and EVERYONE wants.

Offender surcharges – While we may set offenders up to fail, those surcharges actually go to programs that people use. Allocations of moneys is a difficult issue.

Another issue with surcharge money is that only 25% of the money is collected. If someone doesn't pay and they get revoked, we really end up paying a LOT for the \$3000 surcharge (incarceration, etc.) *(This comment was specifically referring to collection of sex offender surcharge fees the last time Kim did a fiscal analysis, which was about 4 years ago).*

Judge Plotz says HE couldn't have even been able to afford the surcharges he was putting on offenders in his courts.

Multiple reasons why people fail. As far of the financial burden is the impact of stacking. Recent report called dealing with debt.

Escape concerns

There needs to be SOME sort of punishment for people who walk away from Comm. Corr., etc. An intermediate sanction or SOME kind of sanction needs to occur.

MCM – Not every county offers an F5 (1 year) for escape

Most walk-aways are done with no thought. Offenders leave regardless. They don't think past the next 22 seconds.

Overview of attorney and client Opinions of the Ideal Probation System – Kevin McGreevy and Mary Clair Mulligan

Getting a job and keeping a job. Most crucial element of success for probationers.

Job training for probationers.

Treatment issue. The cookie cutter nature of treatment programs are very 'must do this' and not tailored to individuals.

Impact of PO. Who your probation officer is is going to have a huge impact on your success. An offender can do poorly with one officer and great with another. A PO is critical who enforces the rules but is mindful of individual differences with offender needs. A PO should realize that the most critical thing is for the offender to keep their job.

In defense of the PO. Many times a PO doesn't have the resources to tailor their plan to individual offenders. Difficult in metro area, very hard in rural.

Taylor costs, etc. Offenders despair over the amount of time.

Employment. The best public safety issue. If the offender is employed they are much more likely to be law abiding. You can occupy the probationers lawfully with a job, rather than cookie cutter requirements.

Attitude of PO's. Take PO's out of the level 2 peace officer. Less like a 'cop' and more along the attitude of treatment. PO not out there to police you but to help you succeed. (Kim's note EBP supervision for success).

Money Collection. Take this duty away from the PO and give it to someone else. Sometimes an offender doesn't have money and so therefore doesn't see their PO. The revocation will say "failure to meet with PO" but the driving factor was a money issue.

Drug offenses. 'Use' statute is under-used because it give drug defendants an automatic deferred

Driver's License. Already addressed.

Cost and Jobs. Probation needs to work around employment instead of employment working around probation.

Treatment completion. If a person has been in compliance with probation, and is successful but hasn't finished their restitution. Take them off probation and make it a civil judgement so they don't have to keep paying supervision fees.

Private probation agencies. They have no motivation to get someone off of probation early because they have no incentive to get the offender to finish early and successfully. They don't want to terminate early.

ITC. Integrated Treatment Model. Positive reinforcement with movie tickets etc.

Concerns and comments

Sherry says "we follow trends in probation". In the past we hired more law enforcement oriented folks. The trend now is less law enforcement and more community safety balanced with offender success, our trend now is to hire different folks. We have shifted our hiring practices but it takes time.

Ken Plotz, should we prioritize conditions of probation? No new offenses, employment, and treatment. Read Connecticut report. Find the EB practices that relate. The offenders who had their treatment arranged first had more success?

What about a TV unit?

Per Ann – who does the collections in the Federal model?

Steve S. – uncomfortable feeling of a merry-go-round. As a state we don't want to pay for this stuff. We have people failing for all this. Lots of offenders won't pay because they partied over the weekend instead. Why don't we go to a model where probation is funded so we can determine the people who want to change and those who don't.

Federal Probation. Better pay, caseloads are smaller.

A suggestion. Legislative mandate that prohibits supervised probation for first time misdemeanor. Across the board. Period. Unsupervised would be fine but not supervised for first time misdemeanor first-time offenses.

District Attorney Survey - Steve Siegel

DA's counsel will forward the questionnaire out soon to DA's. Steve will get results to Chrissy and she will forward to the group.

Discuss and narrow down issues of interest - All

Employment issues are paramount. Employment can be one of the best public safety incentives.

Let's suggest proposed legislation if it is needed.

What are ideal principles to govern probationers.

The group wants to bring in a DA or two at THIS stage rather than wait to the Re-entry committee. Possibilities..

Mark Holbert.

Mike Goodbee/Quick's assistant DA.

Larry Abrahamson 8th Judicial

What are the legislative hurdles

Earned time release for probation. Why won't it work for probation?

Training – The better the PO, the better chance the probationer has

Incentive – we need to allow probationers to earn their way OUT of probation. Prioritize the conditions of probation. #1 go out and get a job. Give them incentives.

Sr. Judge Plotz made the comment that a change in the culture was necessary. The power the judge has is threat of prison. Statutory change – rather than judge SHALL revoke probation. Why can't we give them permission to NOT revoke and re-grant but make their own decisions? Judge Martinez clarified that judges DO have the ability to revoke and re-grant probation and it happens quite frequently. A revocation from probation that is upheld by the court does not always result in a sentence to DOC.

What about automatic legislative earned time. For every 3 months in compliance with probation you get a month off the back end. Steve wants to see earned time that is more 'earned', they have to do more than just breathe.

Sex offenders are gobbling up offender services \$.

Employee X – an agency that existed before and helped get jobs for parolees. Work force development office. Job readiness, is there no job preparedness.

Jeffco is one of the best offices in the state, but which is the lowest? What do we do about that circumstance.

Concerns and comments

MCM – What do we honestly think we can suggest that will actually end in change?

Ken G – Probation doesn't work as well as it should because it tries to deal with moral repulsion rather than treatment.

Sherry – will bring in 2-year plan for probation.

Probation is trying to be more of an agent for change rather than law enforcement.

Are our issues more resource issues than anything else?

There are more PO's but not more supervisors, so the supervisors can't make sure PO's are in compliance with what they should be doing.

Where is technology? Our PO's have one of the more advanced technology systems in the country.

Supervisors are one of the most important positions. They are critical in making sure the system works.

Tom Moore – Comm. Corr. Case managers are similar to probation. There is change underway to look at different ways of doing things. Policy makers need to help change the attitude. We don't necessarily need to throw money at issues to change the attitude of PO's and case managers.

Offender services budgets have increased in the past few years.

Legislation:

Next Agenda:

Steve Siegel will present the DA opinions he receives from his survey.
Probation department educates us about what they do and why they do it.

- Training

- Incentives
- How to get ahead
- 2 year plan
- Absconder issue
- PO incentives

Prioritize Issues

Plan our process

Miscellaneous:

Other issues:

- Money
- Probationer Employment
- PO/probationer relationship
- Discuss how to fix legislative issues.
- Connecticut model summary
- Absconder issue
- Domestic Violence