

# Probation Task Force

## Date: March 13th, 2009, 8:30am-10:30am

**Attendees:**

Gil Martinez, Chair  
Mike Riede, Task Force Leader  
Larry Abrahamson, District Attorney  
Allison Boyd, 1<sup>st</sup> Judicial District DA's office Victim Advocate  
Brian Connors, Public Defender  
Paul Cooper, Chief Probation Officer  
Sherri Hufford, Judicial/Probation  
Mary Claire Mulligan, Defense Attorney  
Sean McAllister, Defense Attorney  
Paul Herman, Center for Effective Public Policy Consultant  
Christine Adams, Facilitator  
Kerry Cataldo, DCJ  
Nicki Griffin, CU Student

**Absent:**

Charlie Garcia, Community Corrections  
Bill Kilpatrick, Golden Police Department  
Michael Kirkland, Douglas County Sheriff  
Tom Moore, Community Corrections  
Ken Plotz, Senior Judge  
Steve Siegle, Victim's Rights Representative  
Ann Terry, CDPS  
Meg Williams, DCJ/OAJA

Issue/Topic:	Discussion:
<p data-bbox="232 174 561 237">Updates on Task Force/PAC Meeting</p> <p data-bbox="354 281 440 308"><b>Action</b></p> <p data-bbox="188 352 602 453">Sherri Hufford is going to take the suggestions of the Task Force back to the working group.</p>	<p data-bbox="630 174 1349 201"><b>GP-14: Standard Conditions (See sample at end of minutes)</b></p> <p data-bbox="630 243 1507 273">The work group looked at the standard conditions based on the three R's:</p> <ul data-bbox="630 281 870 384" style="list-style-type: none"> <li>• Realistic</li> <li>• Relevant, and</li> <li>• Research based.</li> </ul> <p data-bbox="630 464 808 491"><b>Condition #12:</b></p> <p data-bbox="630 499 1321 529">Discussed when it is OK for an offender to have a weapon.</p> <p data-bbox="630 569 1419 632">Do we want all misdemeanants to not have a weapon when under supervision?</p> <ul data-bbox="630 640 1507 814" style="list-style-type: none"> <li>• It was noted that a portion of the probation population (misdemeanants with no domestic violence charges) could still legally carry a firearm if it weren't for the probation conditions. <ul data-bbox="727 747 1484 814" style="list-style-type: none"> <li>○ However, a domestic violent offender can still carry a gun if appropriate to their job (i.e., law enforcement).</li> </ul> </li> </ul> <p data-bbox="630 852 1159 882">2<sup>nd</sup> amendment issue: the right to bear arms</p> <p data-bbox="630 926 781 955">Suggestions:</p> <ul data-bbox="678 963 1528 1318" style="list-style-type: none"> <li>• Moving condition #12 to the front of the conditions page to be an additional condition.</li> <li>• Include in condition #12 : "if convicted of a felony, domestic violent offender, and/or federal law"; <ul data-bbox="776 1106 1523 1169" style="list-style-type: none"> <li>○ and then take out "unless you obtain written permission of the court."</li> </ul> </li> <li>• If the person doesn't fall under these three conditions (felony, domestic violence, and/or federal offense) then the Probation Officer can give the offender discretionary permission to use a gun (e.g., hunting) and this would be included under "Other."</li> </ul> <p data-bbox="630 1358 792 1386"><b>Condition #7:</b></p> <p data-bbox="630 1394 1507 1495">There was a suggestion at the work group to add "truthfully" to condition #7. The Task Force decided not to add "truthfully" because the probation officers said that no one has ever been violated on this condition.</p> <p data-bbox="630 1535 927 1564"><b>Confidential Informants:</b></p> <p data-bbox="630 1572 1474 1635">The work group is going to fix the typo in the memo, as well as remove "only waived by the court from this probation condition."</p> <ul data-bbox="630 1644 1419 1707" style="list-style-type: none"> <li>• It was noted that probationers serving as informants is a rarity nowadays.</li> </ul> <p data-bbox="630 1747 808 1776"><b>Condition #15:</b></p> <p data-bbox="630 1785 1523 1848">It was agreed to leave condition #15 as is and then recommend removal of the additional two check boxes on the front page of the conditions.</p> <p data-bbox="630 1892 792 1921"><b>Condition #9:</b></p> <p data-bbox="630 1929 1474 1992">The work group had a discussion about the duty to warn vs. third party disclosure.</p>

- They presented the example that some probation offices are having domestic violence offenders who embark in a new relationship inform the individual that they are domestic violence offender. Work group concerned that any time a blanket practice is instituted with a particular group of probationers, red flags are raised. Condition #9 should only be used on a case by case basis, with plenty of support for using this condition.
  - This condition was originally created for sex offenders, embezzlers, etc.
- The work group suggested making training for Probation Officers more clear around this condition.

**Condition #11:**

It was noted that in the 1<sup>st</sup> Judicial District, the Probation and Child Support units are working together.

Probation officers mentioned at the work group meeting that they are only taking offenders back to Court when there is obvious manipulation to get at or get back at the victim.

It was suggested that they take out “meet other family responsibilities” as well as tighten the condition language to match the statute.

**Condition #4:**

A defense attorney mentioned that they don’t even try for probation when the offender is known to be homeless.

- It is very hard for a homeless person to comply with the conditions of Probation, and therefore they would be set up for failure.

It was noted that this condition is primarily used when offenders abscond or when they need to be stable. It’s a way to prevent “couch surfing”.

Also it was noted that a probation officer does need to know when there is a change of address.

**Condition #13:**

It was what exactly excess means?

- It is very hard to define because excess is discretionary.

Who should be the one marking off excess: the probation officer or the judge?

If person doesn’t have an alcohol problem, then should there be a violation since alcohol is legal?

- The statute says to refrain from excess use of alcohol.

Probation officers at the work group noted that they won’t take the offender back to court if it is their first offense. However, they may look to see if alcohol may be an issue though.

The Task Force suggested that drugs be left as is and then have the probation officer check the box about using alcohol.

Mary Claire Mulligan is going to continue reviewing the probation conditions statute to see what is

mandated vs. what is discretionary.

The work group will continue working on this.

Focus on the Judicial Districts that have the problems with early termination and going away from the earn time for Probation.

Mike Riede is going to email Christine Adams a copy of the TV report to pass out to the Probation Task Force to review.

- Have PAC sign off on, and then have Justice Mullarkey approve and sign.

### **BP-32: Special Conditions**

It was decided to leave the conditions as currently are, but to remove the special condition check boxes [that repeat standard conditions].

### **General Conditions**

It was noted that some of the probation conditions are mandated in C.R.S. 18-1.3-204, while other are discretionary.

The work group also discussed and recommended that the probation conditions be categorized.

- The conditions are going to remain the same, but the look/format of the form may change.

Also they are going to suggest the conditions are clear and easy to read (e.g. 6<sup>th</sup> grade reading level) so that probationers are able to retain and understand the information.

### **BP-33: Earned Time:**

Sherri Hufford polled the Chief Probation Officers regarding the use and problems associated with early termination?

- She found that five judicial districts are struggling to utilize early termination (districts report consistency issues or barriers with the district attorney or bench).
- Two judicial districts experiencing difficulties are large and make up over 20% of the probation population in the state.
- It was previously suggested that a pilot project be conducted to look at what the outcome measures would be.
- The Probation Task Force determined that only the areas having difficulty using early terminations should be focused on. Due to the complexities of a pilot, it might be a better use of resources to focus on the handful of districts experiencing difficulties.
  - Thus, the Chief Judge, Chief Probation Officer, and Chief District Attorney should meet and discuss supporting the practice of early terminations around the state.
  - Probation Services can support this effort in multiple ways (e.g. reference research in policy to support early termination-benefits associated with incentives/behavior change, maximum benefit research)

It was noted that the Victim's community would be resistant to a statewide policy for earned time on probation.

- It was stated that probation is already a privilege and since early termination is possible additional earned time is not necessary.

### **BP-36/CS-63: Technical Violations:**

The group's first priority is to develop a statewide policy that leaves room for flexibility in local departments.

- The group will need to educate/train staff on this statewide policy.
- The statewide policy should demonstrate a balanced approach that encourages the use of sanctions and incentives to reinforce positive behavior change.

<p><b>Issue/Topic:</b></p> <p>Data Update</p> <p><b>Action</b></p> <p>It was asked that Sherri Hufford report out on 2007 warrant data (the percentage of absconders vs. new offenses).</p> <ul style="list-style-type: none"> <li>This information will be provided at the April Task Force meeting.</li> </ul>	<p><b>Discussion:</b></p> <p><b>BP-41:</b> Sherri Hufford was able to pull a random sample of 154 cases with a technical violation from around the state for CY 2008.</p> <p>Summons vs. Arrest (n = 154)  Arrest: 2% (3 incidents of arrest; 2 were arrested due to harm to themselves; 1 due to an increased use of drugs)  Warrant: 54% (overwhelmingly absconders; new offenses)  Summons: 44%</p> <p>Summons vs. Arrest (based on LSI scores)</p> <table border="1" data-bbox="625 558 1523 926"> <thead> <tr> <th>LSI Level</th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td rowspan="3">Maximum</td> <td>Arrest</td> <td>4.5%</td> </tr> <tr> <td>Warrant</td> <td>59.7%</td> </tr> <tr> <td>Summons</td> <td>35.8%</td> </tr> <tr> <td rowspan="3">Medium</td> <td>Arrest</td> <td>0%</td> </tr> <tr> <td>Warrant</td> <td>47.6%</td> </tr> <tr> <td>Summons</td> <td>52.45%</td> </tr> <tr> <td rowspan="3">Minimum</td> <td>Arrest</td> <td>0%</td> </tr> <tr> <td>Warrant</td> <td>32%</td> </tr> <tr> <td>Summons</td> <td>68%</td> </tr> </tbody> </table> <p>*See PowerPoint slides (sent as PDF with these minutes) for graphs of the above information).</p> <p>Overall it was found that summons' were being used more often than arrests for a technical violation.</p> <p><b>BP-42:</b> Sherri Hufford was not able to provide data for this.</p> <p><b>BP-43:</b> Sherri Hufford was not able to provide data for this.</p>	LSI Level			Maximum	Arrest	4.5%	Warrant	59.7%	Summons	35.8%	Medium	Arrest	0%	Warrant	47.6%	Summons	52.45%	Minimum	Arrest	0%	Warrant	32%	Summons	68%
LSI Level																									
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	Summons	68%																							

<p><b>Issue/Topic:</b></p> <p>Other Information</p> <p><b>Action</b></p> <p>Christine Adams will draft this report.</p>	<p><b>Discussion:</b></p> <p>It was decided that a rough draft of where the group is at with each of the issues should be written and disseminated prior to the April meeting.</p> <ul style="list-style-type: none"> <li>This draft will be approved/edited by the group at the April meeting and then be provided for the upcoming Oversight meeting.</li> </ul>
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Issue/Topic:	Discussion:
<p data-bbox="219 205 571 275">Summary of Actions/ Plan for April Meeting</p> <p data-bbox="186 352 565 594"><b>Next Meeting</b>  <b>April 10, 2009,</b>  <b>8:30-10:30AM</b>  <b>National Enforcement Training Institute (NETI)</b>  <b>12345 W. Alameda Pkwy</b>  <b>Lakewood, CO</b></p>	<p data-bbox="626 205 1279 237">The April meeting will cover the following information:</p> <ul data-bbox="626 243 1500 674" style="list-style-type: none"> <li data-bbox="626 243 1471 312">• Report back from PAC work groups on their response to Task Force suggestions. <i>Sherri Hufford</i></li> <li data-bbox="626 319 1442 388">• Update from PAC work group on the categorization of Probation Conditions. <i>Sherri Hufford</i></li> <li data-bbox="626 394 1458 464">• Final approval/Editing of draft to be sent to Oversight Committee. <i>Christine Adams</i></li> <li data-bbox="626 470 1479 539">• Data report - the percentage of absconders vs. new offenses. <i>Sherri Hufford</i></li> <li data-bbox="626 546 1500 674">• Other Updates <ul style="list-style-type: none"> <li data-bbox="724 573 1500 642">○ Discretionary vs. mandatory probation conditions. <i>Mary Clair Mulligan</i></li> <li data-bbox="724 648 1235 674">○ Technical Violations report. <i>Mike Riede</i></li> </ul> </li> </ul>

<input type="checkbox"/> County Court <input type="checkbox"/> District Court  _____ County, Colorado Court address:  <hr/> People of the State of Colorado  v.  Defendant:	▲  <b>COURT USE ONLY</b>  ▲
Attorney or Party Without Attorney (Name and Address):    Phone Number:                      E-mail: FAX Number:                          Atty. Reg. #:	Case Number:  ML Number:  SID Number:  Division                      Courtroom
<b>CONDITIONS OF _____ FOR THE OFFENSE(S) OF</b> <b>_____ GRANTED ON ___/___/___ to ___/___/___</b>	

You shall be supervised by the probation department for a period of \_\_\_\_  months  years and shall comply with the following conditions and those listed on the reverse side of this form. You may be supervised in specialized programs, as determined by the probation department, with additional conditions imposed.

**As a condition of supervision, you shall pay the following amounts:**

Victim compensation cost (VCMP)	\$ _____	Drug offender surcharge (DRUG)	\$ _____
Victims assistance surcharge (VAST)	\$ _____	Special advocate surcharge (SPAD/SPAG)	\$ _____
Restitution (REST)	\$ _____	Sex offender surcharge (SXOF)	\$ _____
Time payment fee (TIME)	\$ _____	Youthful offender surcharge (YTHO)	\$ _____
Sheriff costs (ASSF)	\$ _____	Drug standardized assessment fee (DSAS)	\$ _____
Attorney fees (ATYF)	\$ _____	PSI drug testing fee (PDTS)	\$ _____
Supervision fee (SUPV)	\$ _____	Genetic testing (Offender ID Fee) (OFID)	\$ _____
ADDS fee (ALCV)	\$ _____	Public defender fee (PDAR)	\$ _____
Fine (FLNF/MISD)	\$ _____	Child abuse investigation surcharge (CHLD)	\$ _____
Court security fund (CSCF)	\$ _____	Victim address confidentiality surcharge (ADDR)	\$ _____

Court costs - docket fee (CRTX)	\$ _____	Other _____	\$ _____
LEAF fee (LEAF)	\$ _____	Other _____	\$ _____
		<b>TOTAL</b>	\$ _____

A Time Payment Fee shall be assessed on your case unless all amounts (excluding supervision fee) are paid when the Order for payment is entered. In addition, late payments are subject to late fees, additional collection action, and collection costs. A cost of care reimbursement may be assessed in addition to the amounts above and may also be a continuing obligation after probation is terminated.

The total amount shall be paid to the Clerk of Court at the address listed above, as follows:

- According to a payment schedule as determined by the Collections Investigator.
- At the rate of \$ \_\_\_\_\_, per \_\_\_\_\_ (time period), beginning \_\_\_\_\_ (date).

**Additional conditions:** You shall participate in, cooperate with, pay any fees required, and successfully complete the following as indicated:

- Substance abuse evaluation/treatment
- Mental health evaluation/counseling or treatment
- Community corrections for \_\_\_\_\_ beginning \_\_\_\_\_
- Community service of \_\_\_\_\_ hours completed by \_\_\_\_\_
- Electronic monitoring for \_\_\_\_\_ days **or**  Global position monitoring for \_\_\_\_\_ days.
- Jail for \_\_\_\_\_ beginning \_\_\_\_\_
- Work release for \_\_\_\_\_ beginning \_\_\_\_\_
- You shall not contract any financial obligations without approval of your probation officer and/or Collections Investigator.
- You shall comply with all terms and restrictions imposed by any Protection Order.
- Other \_\_\_\_\_
- Other \_\_\_\_\_

\_\_\_\_\_  
 Judge Date

I have received a copy of these conditions and have read them carefully with full understanding. I understand that if I violate these conditions, I may be brought before the Court for revocation and imposition of sentence.

\_\_\_\_\_  
 Defendant Date Probation Officer/Witness Date



## STANDARD CONDITIONS

1. You shall not violate any local, state or federal law.
2. You shall not harass, molest, intimidate, retaliate against, or tamper with any victims of or any prosecution witnesses to the crime.
3. You are required to register as a sex offender if you are convicted of an offense involving unlawful sexual behavior, pursuant to §16-22-101, et.seq.
4. You shall maintain a permanent residence and shall report any change of address, as directed by the probation officer.
5. You shall not leave the State of Colorado without written permission from the probation officer or the court.
6. You shall report to the probation officer at reasonable times, as directed by the court or the probation officer, and permit the probation officer to visit you at reasonable times at home or elsewhere.
7. You shall answer all reasonable inquiries by the probation officer.
8. You shall report any law enforcement contacts to the probation officer.
9. You may be required to notify third parties of your criminal record, as directed by the probation officer.
10. You shall maintain or seek suitable employment or faithfully pursue a course of study or vocational training and shall report any change in employment or educational status, as directed by the probation officer.
11. You shall support your dependents and meet your other family responsibilities, including any obligations for child support or spousal maintenance.
12. You shall not possess any firearm, explosive or other destructive device, or any other dangerous weapon, unless you obtain written permission from the Court.
13. You shall not use alcohol (to excess)\* or use unlawfully any controlled substance or other dangerous or abusable drug or substance.
14. You shall submit to substance testing at the direction of the probation officer, and it may be at your expense.
15. You shall obtain counseling or treatment for drug abuse, alcohol abuse, or a mental condition and shall remain in a specified residential facility if necessary for that purpose, as required by the court or the probation officer. You may be responsible for the costs of the program.
16. You shall not act as a confidential informant. This can only be waived by the Court. Pursuant to State Court Administrator Memorandum OPS-00-04 dated August 10, 1999.
17. If convicted of a Felony, you shall sign a written prior waiver of extradition indicating you waive all formal proceedings in the event you are arrested in another state and you agree to be returned to Colorado.
18. You shall comply with any other requirements of the probation officer in order to meet the conditions imposed by the Court.
19. If you are convicted of **1)** any Felony, **2)** any Misdemeanor offense involving unlawful sexual behavior or **3)** if you receive a deferred sentence for an offense involving unlawful sexual behavior you shall be required to submit to and pay for a test of your biological substance to determine genetic markers (DNA) in accordance with §16-11-102.4, C.R.S.

**\*Strike as appropriate**