

Probation Task Force

Date: April 10th, 2009, 8:30am-10:30am

Attendees:

Mike Riede, Task Force Leader
Larry Abrahamson, Larimer County District Attorney
Christine Adams, Division of Criminal Justice (ORS)
Allison Boyd, 1st Judicial District DA's office Victim Advocate
Kerry Cataldo, Division of Criminal Justice (ORS)
Brian Connors, Public Defender
Paul Herman, Center for Effective Public Policy
Sherri Hufford, Division of Probation Services
Bill Kilpatrick, Chief of Golden Police Department
Sean McAllister, Defense Attorney
Tom Moore, Community Corrections
Mary Claire Mulligan, Defense Attorney
Jalice Vigil-Kelly, Victim Services at Judicial

Absent:

Gil Martinez, Chair
Paul Cooper, Chief Probation Officer, Larimer County
Charlie Garcia, Community Corrections
Michael Kirkland, Douglas County Sheriff
Ken Plotz, Senior Judge
Steve Siegle, Victim's Rights Representative
Ann Terry, Department of Public Safety
Meg Williams, Division of Criminal Justice (OAJJA)

Issue/Topic:	Discussion:
Welcome and Introductions	<p>Mike Reide welcomed the group. He also noted that PEW published an executive summary that looks at 13 strategies for successful supervision and reentry and noted that this may be of interest to this as well as the other Task Forces.</p> <ul style="list-style-type: none"> • It is available at http://www.pewcenteronthestates.org <p>Christine Adams reviewed the goals for the meeting. The main goal being to finalize the recommendations which would wrap up this Probation Task Force.</p>

Issue/Topic:	Discussion:
<p>GP-14: Standard Conditions and BP-32: Special Conditions Action</p> <p>Christine will make all discussed wording changes.</p>	<p>***Note that the full list of conditions can be found in the separate attachment of the Phase II Summary for this task force that was emailed with these minutes. Furthermore, only the notable discussion is covered in these minutes. Finalized wording of the summary and the included recommendations can be found in the summary document. ***</p>

Issue/Topic:	Discussion:
<p>Standard Condition # 4 Action</p>	<p>4. You shall maintain a permanent residence and shall report any change of address, as directed by the probation officer.</p> <ul style="list-style-type: none"> • It was noted that this condition is primarily used when offenders abscond or when their stability needs to be forced. It is not primarily used to reduce homelessness. • Furthermore, a defense attorney stated that homeless offenders are rarely recommended for probation as they will have a difficult time complying with multiple conditions of probation without a permanent address. <p><i>Discussion:</i></p> <p><i>The following condition was also discussed, but the working group and task force did not make any changes to this recommendation.</i></p>

Issue/Topic:	Discussion:
<p>Standard Condition # 7 Action</p>	<p>7. You shall answer all reasonable inquiries by the probation officer.</p> <ul style="list-style-type: none"> • The working group suggested that the word “truthfully” be added to this condition. However, the Task Force decided that nothing be changed since this condition is rarely used against an offender. <p><i>Discussion:</i></p> <p><i>The following condition was also discussed, but the working group and task force did not make any changes to this recommendation. Sherri mentioned that this recommendation will ultimately not be accepted.</i></p>

Issue/Topic:	Discussion:
<p data-bbox="175 279 448 306">Standard Condition # 9</p> <p data-bbox="269 388 354 415">Action:</p>	<p data-bbox="561 279 1528 342">9. You may be required to notify third parties of your criminal record, as directed by the probation officer.</p> <p data-bbox="561 384 784 411">Recommendation:</p> <p data-bbox="561 432 1498 569">The working group discussed the issues concerning one’s duty to warn vs. third party disclosure. The example that was presented was that some probation officers are having domestic violence offenders who embark in a new relationship inform their partner that they are domestic violence offenders.</p> <ul data-bbox="561 575 1528 716" style="list-style-type: none"> <li data-bbox="561 575 1528 638">• It was suggested that rather than instituting a blanket practice, Condition #9 should only be used on a case by case basis. <li data-bbox="561 644 1528 716">• The working group suggested making sure that training for Probation Officers is clear regarding this condition. <p data-bbox="561 753 691 781"><i>Discussion:</i></p> <p data-bbox="561 825 1528 961"><i>Sherri Hufford noted that the an offender will be required to notify third parties when there is a legitimate purpose (e.g., Domestic violence offender, white collar criminal, etc.). She also noted that Judicial’s current policy includes a duty to warn and third party disclosure.</i></p> <p data-bbox="561 1003 1471 1066"><i>Someone asked how this condition will be enforced, and the comments made were:</i></p> <ul data-bbox="610 1073 1498 1287" style="list-style-type: none"> <li data-bbox="610 1073 1498 1136">• <i>When a disclosure is necessary, the Probation Officer will note that the disclosure was made.</i> <li data-bbox="610 1142 1498 1205">• <i>If an offender is out of compliance, Probation will bring in the girlfriend (or whomever) and have the offender disclose their criminal record.</i> <li data-bbox="610 1211 1498 1287">• <i>If an offender has a history of domestic violence, the offender must disclose their criminal history.</i> <p data-bbox="561 1329 1498 1430"><i>The recommendation mentions training for Probation Officers, and Sherri mentioned that the training would take place during the Probation Academy as well in the on-going legal training.</i></p>

Issue/Topic:	Discussion:
<p data-bbox="168 1648 456 1675">Standard Condition # 11</p>	<p data-bbox="561 1682 789 1709">Original Condition:</p> <p data-bbox="561 1730 1377 1839">11. You shall support your dependents and meet your other family responsibilities, including any obligations for child support or spousal maintenance.</p> <p data-bbox="561 1885 784 1913">Recommendation:</p> <p data-bbox="561 1934 1528 1997">It was suggested that “meet other family responsibilities” be removed in addition to tightening the condition language so as to match the statute that this</p>

condition is based on (see condition vs. statute comparison, below).

Discussion:

Sherrri Hufford mentioned that the working group agreed on this. However, there is going to be some deletion of a few words. This is because we want the standard and the statute to match.

Issue/Topic:	Discussion:
<p data-bbox="168 491 456 520">Standard Condition # 12</p> <p data-bbox="94 527 172 556">Action</p> <p data-bbox="94 600 532 699">This condition will be sent to PAC for them to tackle and decide on an outcome.</p>	<p data-bbox="561 522 789 552">Original Condition:</p> <p data-bbox="561 573 1528 672">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.</p> <p data-bbox="561 716 691 745"><i>Discussion:</i></p> <p data-bbox="561 787 1446 850"><i>Sherrri Hufford mentioned that the working group had no consensus on this condition.</i></p> <p data-bbox="561 892 1503 955"><i>There were some concerns/questions that came up during today's meeting that need to be addressed:</i></p> <ul data-bbox="610 999 1235 1104" style="list-style-type: none">• <i>Does this condition violate the federal law?</i>• <i>Does this go against their 2nd amendment rights?</i>• <i>Need to define destructive device?</i> <p data-bbox="561 1146 1520 1209"><i>It is the decision of the Probation Task Force to send this issue to PAC for them to tackle and reach an outcome.</i></p>

Issue/Topic:	Discussion:
<p data-bbox="168 1323 456 1352">Standard Condition # 13</p> <p data-bbox="272 1541 350 1570">Action</p> <p data-bbox="94 1614 532 1713">This condition will be sent to PAC for them to tackle and decide on an outcome.</p>	<p data-bbox="561 1354 789 1383">Original Condition:</p> <p data-bbox="561 1404 1528 1470">13. You shall not use alcohol (to excess) or use unlawfully any controlled substance or other dangerous or abusable drug or substance.</p> <p data-bbox="561 1512 786 1541">Recommendation:</p> <p data-bbox="561 1562 1528 1793">It was noted that in non-alcohol related crimes it may not otherwise be illegal for an individual to consume alcohol, thus this may not be necessary for all probationers. Also, because the word "excess" is subjective and thus very difficult to define it was suggested that "controlled substance or other dangerous or abusable substance" be left as is but that "alcohol" be made a check box, to be included only when appropriate on a case-by-case basis.</p> <p data-bbox="561 1835 669 1864"><i>Decision:</i></p> <p data-bbox="561 1906 1503 1969"><i>Sherrri Hufford mentioned that the working group had no consensus on this condition. The working group had a few concerns: (1) it is very difficult to define</i></p>

“excess”; and (2) did not want to move the alcohol condition to the front on the form.

Currently the use of alcohol (or not) is a judgment call by the Probation Officer.

Since no decision could be made about this condition, it was the decided by the Probation Task Force to send this issue to PAC for them to tackle and reach an outcome.

Issue/Topic:	Discussion:
<p>Standard Condition # 15</p> <p>Action</p> <p>This condition will be sent to PAC for them to tackle and decide on an outcome.</p>	<p>Original Condition:</p> <p>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.</p> <p>Recommendation:</p> <p><i>Decision:</i></p> <p><i>Sherri Hufford mentioned that the working group had no consensus on this condition. They felt that the check boxes can be used at different time (i.e., one can be used for sentencing while the other used during probation supervision). Paul Herman mentioned that they way he reads this condition allows for the Probation Officer to order a drug and alcohol evaluation and/or treatment at any time (ie., one calls for the evaluation during sentencing whereas the other calls for the evaluation during probation supervision).</i></p> <p><i>The task force had a few concerns of their own about this condition:</i></p> <ul style="list-style-type: none"><i>• It is felt that the check boxes are repetitive of the back</i><i>• Terms and conditions of Probation should be imposed by the Judge vs. the Probation Officer</i> <p><i>Since no decision could be reached, and because there are several judges on the PAC, it was decided by the Probation Task Force to send this issue back to PAC for them to tackle and reach an outcome.</i></p>

Issue/Topic:	Discussion:
<p>Standard Condition # 16</p> <p>Action</p>	<p>Original Condition:</p> <p>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.</p> <p>Recommendation:</p> <p>It was noted that probationers rarely serve as informants today. However, because this condition is essentially asking the individual to commit an illegal act, the working group agreed to remove “This can only be waived by the Court” from the condition.</p>

Discussion:

The task force agreed with the working group, and there will be some deletion of words from this condition → You shall not act as a confidential informant.

Issue/Topic:

**BP-33: Earned Time
Action**

Larry Abrahamson is going to find out from the District Attorney's around the state how they are using earned time (if they are allowing it at all).

Early discharge needs to be looked at for Diversion Community Correction clients.

Judicial is going to figure out what the Judicial Districts who do not use this need in order to do so, and link them to evidence based practices to reduce recidivism.

Discussion:

Discussion:

Judicial's strategy is to figure out what those Judicial District's need and link them to evidence based practices to reduce recidivism.

Also noted by Allison Boyd is that if a case involves victims rights, the victim will need to be notified of the offender's early discharge from Probation.

Issue/Topic:

**BP-36: Technical Violations Sanction
Guidelines
and
CS-63: Technical Violations Program
with Probation**

Discussion:

Discussion:

Sherrri Hufford noted that the working group spent a lot of time looking at absconders.

- *Absconders are defined as such when a warrant has been issued and remains active after 90-120 days. At this time the case will be closed and the absconder will no longer be on a probation caseload. However, if the offender gets picked up after the case is closed a new case will be started.*
- *Most of the absconders are being supervised under regular adult probation, which has limited resources that don't allow for the Probation Officer to go look for the offender.*
 - *Denver Adult Probation is the only probation department that has a person designated to finding absconders.*
- *Judicial's current policy for trying to find absconders includes:*
 - *Reviewing the policy and checklist before issuing a warrant.*
 - *Using collection investigators to pull certain offender information from Dept of Labor, etc.*

Sherrri Hufford provided the task force with some tables and charts regarding reasons for probation terminations and revocations.

FY08 Probation Terminations (This chart can be found at the end of these minutes)

FY08 Probation Terminations by Adult Case Type (This table can be found at the end of these minutes)

FY08 Probation Revocations Types (This chart can be found at the end of these minutes)

FY08 Probation Revocations by Adult Case Type (This table can be found at the end of these minutes)

It was asked if Probation knew any of the underlying causes for absconding? Sherri responded that they have found that there is a very low number of absconders participating in the intensive programs because of the good relationship that has formed between offender and probation officers in these programs. So Probation's focus is to build good relationships with the probationers.

Sherri Hufford provided the task force with Probation Services Statewide Success Rates new quarterly document, which can be found at the end of these minutes.

Sherri Hufford informed the task force that the Division of Probation Services is going to be conducting probation client surveys around the state. Here are some examples of the questions that are going to be asked to the probationer:

- Is the Probation Officer available to you?
- Did the Probation Officer solve your problems?
- Did you and the Probation Officer have the same goals?
- Did the Probation Officer think you were going to be successful on probation?

The recommendations that came out of the working group include:

- Partner with local law enforcement agencies to find absconders.
- Review the absconder checklist to see if any changes can be made to that.

Issue/Topic:	Discussion:
BP-41: Summons in Lieu of Arrest	<p><i>Discussion:</i></p> <p>At today's meeting the Probation Task Force agreed and supported this recommendation as it stands with minor word changes.</p>

Issue/Topic:	Discussion:
BP-42: Arrest Alternatives Action Pass this issue onto PAC for them to	<p><i>Discussion:</i></p> <p>At today's meeting there was mention that no bond schedule exists for probation revocations. The bond amount is determined by the Judge, which is usually two times the original amount. Mary Claire suggested adding probation revocations</p>

identify where the best venue to address this issue would be.

to the bond schedule.

The recommendation from the Probation Task Force is to pass this issue onto PAC for them to identify where is the best venue to address this issue, possibly the Chief Judge meeting, with the suggestion of possibly adding probation revocations to the bond schedule.

Issue/Topic:

BP-43: Expanded Use of Home Detention

Action

Mike Reide will call the Chief Probation Officers in Broomfield and Fort Logan to check to see if these jurisdictions have in-home detention.

Tom Moore was going to check on how you get around not needing a land line for in-home detention.

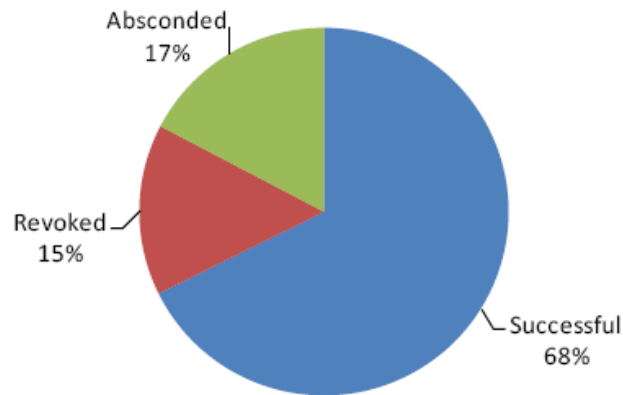
Discussion:

Discussion:

There were some concerns discussed regarding this recommendation:

- *In-home detention is not available in every jurisdiction (e.g., Broomfield and Fort Logan)*
- *In-home detention requires the use of a land line. However, Tom Moore mentioned that there should be ways to work around that issue.*

FY08 Probation Terminations (regular adult, private and intensive- excludes SOISP)



FY08 Terminations*	Successful		Unsuccessful				Total
	Successful	%	Revoked	%	Absconded	%	
Regular	9,041	59%	2,968	20%	3,206	21%	15,215
Private Non-DUI/DWAI	4,217	78%	391	7%	770	14%	5,378
Private DUI/DWAI	4,703	82%	338	7%	647	11%	5,738
AISP	727	54%	443	33%	164	12%	1,334
FOP	112	65%	39	23%	21	12%	172
Total	18,800	67.54%	4,179	15.01%	4,808	17.27%	27,837

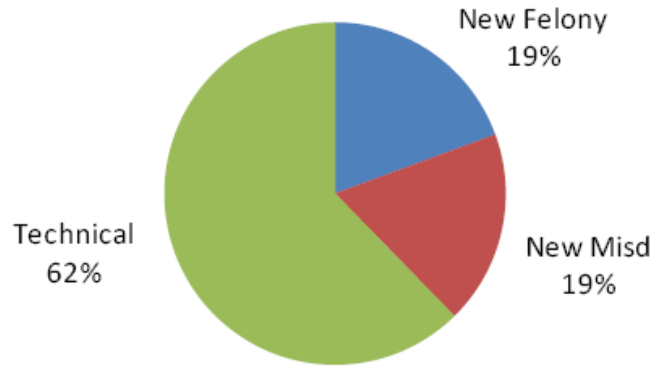
*Excludes SOISP cases

FY08 Termination Data	Successful	%	Revoked	%	Absconded	%	Total
SOISP*	101	35%	150	53%	34	12%	285

*SOISP Active Count 6/30/08 1,184

Information obtained from the Colorado Judicial Branch Annual Statistical Report FY08

FY08 Probation Revocation Types (regular adult, private, intensive - excludes SOISP)



	Type of Revocation						Total
	New Felony	%	New Misd	%	Technical	%	
Regular Adult	605	20.38%	568	19.14%	1795	60.48%	2968
Private Non-DUI	50	12.79%	72	18.41%	269	68.80%	391
Private DUI	15	3.87%	84	21.65%	289	74.48%	388
AISP	136	30.70%	51	11.51%	256	57.79%	443
FOP	13	33.33%	2	5.13%	24	61.54%	39
Total	819	19.37%	777	18.37%	2633	62.26%	4229

	New Felony	%	New Misd	%	Technical	%	Total
SOISP Revocation	10	7%	10	7%	130	87%	150

Information obtained from the Colorado Judicial Branch Annual Statistical Report FY08

Statewide Success Rates – Keep an eye on the mark!

Based on the recidivism reduction literature, consideration of historic performance, and strategies for improving success rates, the Management Advisory Committee (MAC) established target success rates for three probation programs for FY09. Every quarter, each district will receive updates indicating progress towards this goal. This quarter provides information from July 2008 thru December 2008.



The chart below lists the statewide averages for FY08 and 1st and 2nd quarters of FY09 combined with the actual number of successful terminations in parentheses.

Program	FY08 Statewide Averages	FY09 Statewide Target Success Rates	FY09 Statewide Success Rates (1st & 2nd Q)
Adult Regular	59%	60%	64% (5,026)
AISP*	54%	60%	66% (422)
JISP*	41%	53%	44% (113)

Good Job! Keep up the good work– six months into FY09, **422 of 640 (66%)** adults statewide completed AISP successfully!

Strategies for Improving Success

- **FOCUS RESOURCES ON HIGHER RISK OFFENDERS**– research has consistently demonstrated that providing intensive services to low risk offenders doesn't deter future crime, it in fact, does the opposite and poor outcomes are the result. To get the most out of your time and resources, focus your efforts and offender services dollars on your high to medium risk probationers. Resist the temptation to over-supervise low-risk probationers.
- **FRONTLOAD SUPERVISION RESOURCES**– the time immediately following a probationer's release from jail can be a very high-risk period. Probationers have a heightened need for housing, medical or mental health treatment, substance abuse treatment or other services. Probation officers should be prepared to respond quickly to meet those basic needs in an effort to prevent violations or new crime. Creating a joint plan with the probationer before release from jail will help ensure a seamless transition to the community.

For more information on these strategies, visit the web:



A Research in Brief is available on judicialnet titled, "The Role of Probation in Reentry from Jail" <http://judicialnet/prob/ResearchinBriefs/RIB-JailReentry.pdf>

A short executive summary published by the PEW, Center on the States as part of a Public Safety Performance Project provides 13 Strategies for Successful Supervision and Reentry and is available for download: <http://www.pewcenteronthestates.org/>

Questions? Contact Sherri Hufford (Sherri.Hufford@judicial.state.co.us)

*Due to the small number of probationers in some intensive programs– the actual success rates may experience drastic fluctuations. The established target success rates should remain the year-end goal for all districts.