

MINUTES
Sex Offense/Offender Task Force
Colorado Commission on Criminal and Juvenile Justice
September 21, 2010 9AM-12PM
150 East 10th Avenue, Denver

ATTENDEES:

CHAIR

David Kaplan, Private Defense Attorney

TASK FORCE MEMBERS

Michael Anderson, Parole Board

Norma Anderson, Former State Senator

Maureen Cain, Criminal Defense Bar

Peggy Heil, Department of Corrections

Erin Jemison, Colorado Coalition Against Sexual Assault

Chris Lobanov-Rostovsky, Division of Criminal Justice

Scot Smith, Colorado Judicial Branch

Steve Siegel, Victim Advocacy, Victim organizations and Denver DA's Office

Ted Tow, Colorado District Attorneys' Council

PUBLIC PARTICIPANTS

Allison Boyd, Victim Witness Assistance Unit, 1st Judicial DA's Office and SOMB

Colleen Hackett, CU Boulder

Jan Hunsaker, Advocates for Change

Trisha Kelly

Marlena MacArthur, CU Boulder

Terri Morrison, Colorado Judicial Branch

Roberta Ponis, Advocates for Change

Casey Sloan, CU Boulder

Carolyn Turner, Advocates for Change

STAFF

Paul Herman, CCJJ Consultant

Kim English, Division of Criminal Justice

Kevin Ford, Division of Criminal Justice

Kerry Cataldo, Division of Criminal Justice

Peg Flick, Division of Criminal Justice

ABSENT MEMBERS

Richard Schneider, Denver PD, SO Registration

Laurie Kepros, Colorado Criminal Defense Bar

Dianna Lawyer-Brook, CURE and SOMB

Issue/Topic:	Discussion:
<p data-bbox="142 247 483 273">Welcome and Introductions</p> <p data-bbox="237 283 389 308">David Kaplan</p>	<p data-bbox="561 247 1513 308">David Kaplan welcomed the group and provided a brief orientation to task force members:</p> <ul data-bbox="574 319 1503 491" style="list-style-type: none"> <li data-bbox="574 319 1463 380">• Provided a brief description of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) <li data-bbox="574 390 1414 415">• Described the process to create the Sex Offense/Offender Task Force <li data-bbox="574 426 1503 487">• Addressed the politically sensitive nature of the work to be done around sex offenses and offenders <p data-bbox="561 537 1513 669">David thanked the members of the public in attendance at the meeting and encouraged a participatory role for non-members attendees. David provided an overview of the meeting agenda and described the mission of the task force to delineate issues and potential solutions.</p> <p data-bbox="561 716 1528 953">David introduced the DCJ staff and CCJJ consultant Paul Herman. Paul Herman invited the Task Force members to introduce themselves and to describe the most important attribute they bring to the Task Force and its deliberations. Members indicated such characteristics as: experience with victims and victim’s issues, experience representing sex offenders in court, knowledge of sex offense laws and policies, experience prosecuting sex offenders, probation supervision of sex offenders, enacting sex offense legislation, and treating sex offenders.</p>

Issue/Topic:	Discussion:
<p data-bbox="126 1108 500 1169">Membership and participation Task Force voting</p> <p data-bbox="237 1180 389 1205">David Kaplan</p>	<p data-bbox="561 1108 1503 1241">David provided information regarding the participation of members and non-members in Task Force discussions. Discussions are open to all in attendance and anyone may contribute to Task Force discussions and deliberations. Voting privileges are available only to individuals officially appointed to the Task Force.</p> <p data-bbox="561 1287 1520 1419">After a presentation of proxy voting alternatives, it was unanimously decided that the Task Force would allow proxy voting. Specifically, a Task Force member can designate a substitute to attend the meeting in their place and this individual would be allowed to vote.</p>

Issue/Topic:	Discussion:
<p data-bbox="180 1572 448 1633">Sex Offense/Offender Task Force Charter</p> <p data-bbox="147 1644 480 1669">David Kaplan / Paul Herman</p>	<p data-bbox="561 1572 1520 1810">Those in attendance were provided a draft of the Sex Offense/Offender Task Force Charter for review. The logic underlying the selection of the Task Force membership was described as reflecting the relevant constituencies in the smallest number of members possible. David and Paul Herman led a discussion of the elements included in the Charter. The text provided below reflects the modifications and additions made to the Charter during the discussion. The draft charter included the following components:</p> <p data-bbox="561 1856 659 1881">MISSION</p> <p data-bbox="561 1892 1528 1982">The mission of the Colorado Commission on Criminal and Juvenile Justice (CCJJ or “the Commission”) is to enhance public safety, to ensure justice, and to ensure protection of the rights of victims through the cost-effective use of public resources. The mission of the</p>

Issue/Topic:

**Sex Offense/Offender
Task Force Charter
(cont'd)**

David Kaplan / Paul Herman

Action:

- This charter will be a working document that will be updated as needed.
- If any Task Force members have additional ground rules to add, please forward these to Kevin Ford for review at the October meeting.

Sex Offense/Offender Task Force of the Commission is to uphold the CCJJ mission and to conduct a comprehensive and thorough analysis and assessment of adult and juvenile sex offenses and the issues surrounding the disposition of sex offenders in Colorado. The task force will develop recommendations to address these issues for the Colorado Commission on Criminal and Juvenile Justice.

BACKGROUND

In the summer of 2009, the CCJJ created the Sentencing Policy Task Force and the Drug Policy Task Force. The mission of the Drug Policy Task Force was to examine laws and sentencing specifically related to drug statutes. The Sentencing Policy Task Force was charged with undertaking a wider review of the overall sentencing scheme in Colorado. During the summer of 2010, the Commission evaluated its direction and future focus, agreeing to reframe the work of the Sentencing Policy Task Force which will be known as the Comprehensive Sentencing Task Force. Following a study of potential areas of focus, the Commission agreed to create two new task forces, one to study Juvenile Justice and one to study Sex Offenses/Offenders.

GROUND RULES

The new Sex Offense/Offender Task Force will carry out its work adhering to the Ground Rules developed by the Commission that state:

1. Public safety should always be paramount in our thoughts.
2. It is important that we are inclusive of all represented perspectives and areas of expertise, and that we commit to non-partisanship.
3. We agree to question our assumptions, maintain respect for differences and work towards common goals that meet the Commission's mandate.
4. We should seek outside help for areas where we are lacking in knowledge.
5. Because our decisions impact all of Colorado, they should be carefully considered from the perspectives of the various regions and diverse populations and the perspectives of offenders and victims across the state.
6. To the best of our ability, our decisions should be straightforward and timely.
7. Decisions are guided by data and should be aimed at crime prevention, reducing recidivism, achieving public safety through the most cost effective means and achieving justice.
8. We should be mindful that a need for treatment is not an adequate reason to incarcerate someone in DOC (other options should be available).

PROBLEM AREAS

A study group seated by the CCJJ met twice during the summer of 2010, identifying sex offense/offender issues for consideration by the Commission. In authorizing the Sex Offense/Offender Task Force, the Commission charged its members to address the issues raised by the study group and any other issues or problems identified during the course of its work. The study group identified **seven problem areas** where members felt consensus solutions could be found:

1. Registration / De-registration / Failure to Register
 - Complications due to homelessness
 - Registration procedures are not well defined
 - Registry entrants are not prioritized by risk
 - SVP designation is of dubious value
 - Adam Walsh compliance complicates innovation
2. SOMB Sunset Review Bill
 - Must collaborate with SOMB on bill [as per Veto Message by Gov. Ritter for H.B.10-1364 on May 21, 2010]
3. Refinement of Indeterminate Sentencing

**Sex Offense/Offender
Task Force Charter
(cont'd)**

David Kaplan / Paul Herman

- Inconsistent definitions of “sex offense” in statutes
 - Lack of determinate sentencing options
 - Sentencing structure anomalies in statute (e.g., range consistency, economic crimes)
4. Lack of Resources
- Lack of treatment resources
 - Deleterious impact of SVP designation on offenders
 - Community corrections acceptance practices restrictive, inconsistent
 - Community housing/SLA options are restrictive
5. Conditions of Supervision
- SOMB guidelines on conditions not followed
 - Inconsistent probation/parole response to technical violations
6. Parole Release
- Parole decisions for sex offenders are inadequately documented
 - No release guidelines for determinate-sentence offenders [as per C.R.S. 17-22.5-404 (4) (c) (II)]
7. Juveniles Who Have Committed Sexual Offenses
- Will be addressed by this task force and not by the Commission’s Juvenile Justice Task Force

The Task Force will avoid the labeling language inherent in the term, “juvenile sex offenders.” Instead the group will use “juveniles who have committed sexual offenses.” This is the same terminology used by the Sex Offender Management Board (SOMB). A sexual offense is defined in statute.

The goal of the Sex Offense/Offender Task Force is to develop recommendations for consideration by the Commission. To accomplish this goal, the task force members must identify the need for self-education, must prioritize the issues to address, develop clear and precise recommendation statements, and adhere to the timeline set forth by the Commission.

The Task Force may create working groups to explore specific areas of interest or carry out specific tasks requested by the Task Force. These working groups will not make final decisions on solutions or decision alternatives, but will bring all options to the Task Force for discussion.

STRUCTURE

- The Task Force will make recommendations directly to the Commission.
- The Task Force shall comprise a representative sampling of the stakeholders and the community.
- The Task Force Chair will be a Commission member.
- The Task Force shall consist of approximately fifteen (15) voting members identified by the CCJJ Chair and Vice-chair.
- Non -voting Task Force participants will be encouraged to provide input as directed by the Task Force Chair.
- The Commission consultant will chair the Task Force when the Chair is unavailable.
- The meetings will be held in the Denver Metro area. Conference calls will be used when possible to include stakeholders statewide.
- The team will implement the CCJJ “Ground Rules” to facilitate effective interaction.
- Research staff from the DCJ Office of Research and Statistics will:
 - Work with the chair to organize meetings and prepare the meeting agenda
 - Facilitate meetings to free the chair to lead the discussions
 - At the request of the Task Force Chair and members will,

<p>Sex Offense/Offender Task Force Charter (cont'd) David Kaplan / Paul Herman</p>	<ul style="list-style-type: none"> ▪ Provide information on existing knowledge and research ▪ Identify local data sources ▪ Analyze local data sources when feasible ▪ Work with researchers from other agencies to obtain relevant information. <p>DESIRED OUTCOME The task force will develop recommendations for the Commission on Criminal and Juvenile Justice that:</p> <ul style="list-style-type: none"> • Are consistent with and support the mission and goals of the Commission; • Enhance the goal of public safety through rehabilitation, deterrence and punishment; • Are rational and consistent; • Reduce unwarranted disparity; • Are comprehensible to the public, the victim and the offender; • Take into account the fiscal impact on state and local jurisdictions; and • Allow for individualized disposition of offenders while maintaining accountability and consistency. <p>ESTIMATED TIME FRAMES</p> <ul style="list-style-type: none"> • Short-term → Prepare specific legislative recommendations for CCJJ that are possible for the 2011 legislative session • Long-term → Prepare remaining legislative recommendations and policy recommendations
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<p>Issue/Topic:</p> <p>SOMB Sunset Review Bill David Kaplan</p> <p>Action:</p> <ul style="list-style-type: none"> • Erin Jemison, CCASA, will provide an update on the status of the SOMB Sunset Review bill. 	<p>Discussion:</p> <p>Upon reviewing the Charter, there was a question why the Task Force, and by extension the Commission was involved in the SOMB Sunset Review bill. David provided the the veto message by Gov. Ritter for H.B.10-1364 on May 21, 2010...</p> <p><i>I will direct my office, the Colorado Criminal Justice Commission, the Sex Offender Management Board, and the impacted executive agencies to work with the members of the General Assembly to prepare a bill that can be introduced on the first day of the 2011 legislative session.</i></p> <p>Because the Commission is mentioned in the veto message, the Task Force will honor this veto message. However, many other groups (i.e. COVA, DCJ, CCASA, etc) are taking the lead on the bill. Members decided that through representatives serving on the TF and working on the bill, that the TF will monitor the progress on the bill and receive updates on the process. Once the bill is prepared the TF will take an opportunity to review the bill, provide feedback, and, ultimately, decide whether to endorse its content.</p> <p>There was a brief discussion regarding the efforts by CCASA (www.ccasa.org/) and COVA (www.coloradocrimevictims.org/) to include stakeholder input. Erin Jemison and Chris Lobanov-Rostovsky described the plan for stakeholder input.</p>
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Issue/Topic:	Discussion:
<p data-bbox="196 212 428 275">Issue Prioritization David Kaplan</p> <p data-bbox="272 428 354 453">Action</p> <ul data-bbox="94 464 516 810" style="list-style-type: none"> • Education is needed on various topics (i.e. Adam Walsh) • Task force members or participants should provide Kevin Ford with any additional information that they wish to share with the task (e.g. sex offenses, statutes, Adam Walsh, etc). 	<p data-bbox="561 212 1528 453">David Kaplan led a discussion with TF members to prioritize the issues to be addressed by the TF. There are particular areas where the TF has the opportunity to forward legislative recommendations to the CCJJ for the upcoming session. Following a long discussion of the problem areas, the TF generated a list of initial issues they wish to prioritize. The TF will plan to develop legislative recommendations regarding these topics for the 2011 legislative session.</p> <ol data-bbox="561 495 1463 774" style="list-style-type: none"> 1. Registration / Deregistration <ul data-bbox="643 533 959 669" style="list-style-type: none"> ○ Failure to register ○ Transient sex offenders ○ SVP designation ○ Juvenile registration 2. "Refinement" (Indeterminate/Determinate) <ul data-bbox="643 711 1187 737" style="list-style-type: none"> ○ Review statutes for inconsistency and gaps 3. Parole Release/Guidelines with Lifetime Supervision (<i>if time permitting</i>) <p data-bbox="561 816 1528 1020">The TF decided to address the first two items first and, if time permits in the current legislative round, address the third item. See below for a summary of the topics to be addressed by the two Working Groups created to work on the first two prioritized items. The elements included below to describe the two Working Groups were derived from the issues prioritization discussion. It was felt that Juvenile issues should be addressed simultaneously with adult issues.</p>

Issue/Topic:	Discussion:						
<p data-bbox="164 1190 464 1253">Working Group Creation and Expectations</p> <p data-bbox="272 1331 354 1356">Action</p> <ul data-bbox="94 1367 524 1503" style="list-style-type: none"> • Terri Morrison and Chris Lobanov-Rostovsky are going to send Kevin Ford a copy of their registration charts. 	<p data-bbox="561 1190 902 1220">Registration Working Group</p> <p data-bbox="561 1226 688 1251">Members:</p> <table data-bbox="561 1262 1081 1362"> <tr> <td>Maureen Cain (Leader)</td> <td>Rick Schneider</td> </tr> <tr> <td>Norma Anderson</td> <td>Scot Smith</td> </tr> <tr> <td>Chris Lobanov-Rostovsky</td> <td></td> </tr> </table> <p data-bbox="561 1404 716 1430">Expectations</p> <ul data-bbox="581 1440 1528 1787" style="list-style-type: none"> • Groups will serve as research bodies to prepare materials, options, and arguments for the Task Force to consider. Work Groups should not prematurely narrow alternatives or perspectives. The substantive discussions leading to decisions will occur in the Task Force and not in the Work Group. • Working group meetings will be public and the times and places will be provided in advance to allow any task force participants or interested parties to participate. Meetings conducted primarily by phone should still accommodate public members. 	Maureen Cain (Leader)	Rick Schneider	Norma Anderson	Scot Smith	Chris Lobanov-Rostovsky	
Maureen Cain (Leader)	Rick Schneider						
Norma Anderson	Scot Smith						
Chris Lobanov-Rostovsky							

<p style="text-align: center;">Issue/Topic:</p> <p style="text-align: center;">Working Group Creation and Expectations</p> <p style="text-align: center;">Registration Working Group (cont'd)</p>	<ul style="list-style-type: none"> • Submit materials to Kevin Ford for dissemination to the Task Force by the Friday preceding the next Task Force meeting. Any materials considered “required reading” before the upcoming task force meeting will be sent via e-mail on the preceding Friday, along with the Task Force meeting agenda. <p>Topics: Adult and juvenile matters related to</p> <ul style="list-style-type: none"> • Registration, de-registration, failure to register, • Disparate, exorbitant registration fees, • STAR program in Douglas County (promote as a state-wide model?), • Regarding juveniles, the registration process for juveniles transitioning to adult “status,” or to group homes, • Inadequacy of the SO registry to differentiate level of public risk (especially, with the potential elimination of the not-useful and not-required SVP designation), • Multi-jurisdictional communication regarding transferring registration and/or de-listing of offenders. <p>Tasks:</p> <ul style="list-style-type: none"> • Prioritize short- vs. long-term topics (Identify legislative vs. policy) • Identify need for task force education and education materials on topics • Identify any existing groups or work on topics <p>Deliverables:</p> <ul style="list-style-type: none"> • List and provide rationale for order of prioritized topics • Provide educational materials for short-term topics (If possible, identify materials needed for long-term topics) • List of groups/contacts already working on topics <p>Meeting Schedule:</p> <p>Dates: Friday, October 1, 2010 October 8, 2010 Wednesday, October 13, 2010</p> <p>Time: 10:00am-Noon</p> <p>Location: 150 E. 10th Avenue, Denver</p> <p>(Additional Working Group meetings will be scheduled after the Oct. 20 SO TF meeting.)</p>
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<p style="text-align: center;">Issue/Topic:</p> <p style="text-align: center;">Working Group Creation and Expectations</p>	<p style="text-align: center;">Discussion:</p> <p>Refinement (Indeterminate/Determinate Sentencing)</p> <p>Members:</p> <p>Ted Tow (Leader) Laurie Kepros Peggy Heil Dianna Lawyer-Brook Erin Jemison</p> <p>Expectations</p> <ul style="list-style-type: none"> • Groups will serve as research bodies to prepare materials, options, and arguments for the Task Force to consider. Work Groups should not prematurely narrow alternatives or perspectives. The substantive
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Issue/Topic:

**Working Group Creation
and Expectations**

**Refinement Working Group
(Indeterminate/Determinate
Sentencing) (cont'd)**

Action

- Terri Morrison and Ted Tow are going to work together on updating a chart on sex offenses.

discussions leading to decisions will occur in the Task Force and not in the Work Group.

- Working group meetings will be public and the times and places will be provided in advance to allow any task force participants or interested parties to participate. Meetings conducted primarily by phone should still accommodate public members.
- Submit materials to Kevin Ford for dissemination to the Task Force by the Friday preceding the next Task Force meeting. Any materials considered "required reading" before the upcoming task force meeting will be sent via e-mail on the preceding Friday, along with the Task Force meeting agenda.

Topics: Adult and juvenile matters related to

- Determinate F4 option
- Drop-off from indeterminate F4 to F5
- Inconsistent/illogical sentencing, for example consequences of acts of penetration vs. acts of contact
- Inadequate application of "position of trust"
- Review "indeterminate optional" crimes (Why subject to SVP assessment?)
- Economic crimes

Tasks:

- Prioritize short- vs long-term topics (Identify legislative vs. policy)
- Identify need for task force education and education materials on topics
- Identify any existing groups or work on topics

Deliverables:

- List and provide rationale for order of prioritized topics
- Provide educational materials for short-term topics (If possible, identify materials needed for long-term topics)
- List of groups/contacts already working on topics

Meeting Schedule:

Dates: Thursday, September 30, 2010

Thursday, October 7, 2010

Thursday, October 14, 2010

Time: 10:00am-Noon

Location: CDAC, 1580 Logan Street, Suite 420, Denver, CO 80203

(Additional Working Group meetings will be scheduled after the Oct. 20 SO TF meeting.)

<p>Issue/Topic:</p> <p>Parole Release/Guidelines and Lifetime Supervision David Kaplan</p> <p>Action</p> <ul style="list-style-type: none"> Judicial will publish a report on the types of technical violations committed by sex offenders. Once this report is finalized and released, a judicial representative will share it with the Task Force. 	<p>Discussion:</p> <p>Time permitting during the upcoming legislative session, the task force would like to also focus on parole release and guidelines regarding offenders under lifetime supervision. If there is not enough time to address these issues in the current legislative session, the TF will return to this work later with the intent to include this material in the subsequent legislative session.</p> <p>The problem areas the members would like to address include:</p> <ul style="list-style-type: none"> Is lifetime supervision being used correctly? Are judges trained on lifetime (DOC vs Probation)? Conditions of release and supervision Community Corrections Boards Victims Services Housing and Local government (e.g. SLA/zoning laws)
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<p>Issue/Topic:</p> <p>Next Steps David Kaplan</p>	<p>Discussion:</p> <p>David summarized the goals before the next Sex Offense / Offender Task Force meeting:</p> <ul style="list-style-type: none"> David will provide an update to the CCJJ on the initial work and plans of the Task Force The two Working Groups will attempt to meet at least three times prior to the next SO TF meeting The timeline for the next steps by the Task Force will be governed by the deadlines imposed by the CCJJ. The goal is for the Commission to complete all reviews of and voting on legislative recommendations by the December 10, 2010 CCJJ meeting. <p>The documents produced at this meeting are available on the Sex Offense / Offender Task Force webpage on the CCJJ website. The direct link to the Task Force page is: http://cdpsweb.state.co.us/ccjj/Sex_offender_task_force.htm</p>
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Future Sex Offense/Offender Task Force Meeting Dates:

Date	Location	Time
Wednesday, October 20, 2010	150 E. 10 th Avenue, Denver	1:30-4:30PM
Wednesday, November 17, 2010	TBD	1:30-4:30PM
Wednesday, December 15, 2010	TBD	1:30-4:30PM