



Commission on Criminal and Juvenile Justice

Minutes

April 11, 2008
National Enforcement Training Institute
12345 W. Alameda Parkway

Commission Members Attending:

Peter Weir, Chairman	Ari Zavaras	Dean Conder
David Kaplan, Vice-Chairman	Jeanne Smith	J. Grayson Robinson
Peter Hautzinger	Reo Leslie, Jr.	Regina Huerter
Bill Kilpatrick	Don Quick	Debra Zwirn
Inta Morris (via phone)	Steven Siegel	Regis Groff
John Suthers	Karen Beye	Melissa Esquibel
Rhonda Fields	Gilbert Martinez	Tom Quinn
Doug Wilson		

Absent: David Michaud, Ellen Roberts, Terrance Carroll, Ted Harvey, Ken Gordon

Call to Order and Opening Remarks:

The Chairman, Peter Weir, called the meeting to order at 1:08 p.m. Mr. Weir began the meeting by explaining the CCJJ website was down due to problems with the CDPS website. Department personnel are working to bring the website back up and make it operational as soon as possible.

Mr. Weir introduced representatives of the Vera Institute who were visiting today. Michaela Bowman explained the focus of the Vera Institute.

Vote on By-laws:

Mr. Weir opened the discussion concerning the By-Laws by stating that after the draft was submitted to the Commission, only Doug Wilson submitted comments. Mr. Wilson was concerned that the CCJJ Executive Director would report to the Executive Director of CDPS. Mr. Weir explained the location of the CCJJ Executive Director in CDPS was put in the By-Laws so that *if* an Executive Director was hired, he/she would have someone to whom he/she could report under the state system. Mr. Weir asked for any other thoughts or criticism.

What about making Division of Criminal Justice responsible for data collection and research? Shouldn't DOC and YOS be included in this? Mr. Weir stated the legislature gave DCJ some

resources to provide data collection for the Commission. When writing the By-Laws, he did not want to mandate another department's resources be dedicated to the Commission.

Ari Zavaras made the motion to approve the By-laws for the Commission on Criminal and Juvenile Justice. Sheriff Robinson seconded the motion. The By-laws were approved by a unanimous vote.

DOC Presentation by Kristi Rosten – Answer to Questions Raised at March Meeting and Review of LSI Implementation:

During the last meeting of the Commission, several questions were asked of the Department of Corrections that required further research. The questions ranged from the administration or use of the LSI; the wait-list for inmate programs; training provided by DOC; and the sex offender treatment.

LSI: It is a risk assessment tool that DOC uses in the diagnostic process. The LSI is administered during the intake of the offender and is finished at that time. It is not updated until the offender is being paroled or going into supervision through community corrections. This tool helps the parole officer to know what areas of treatment would be beneficial to the offender and the work skill level of the offender. This information is used when determining parole.

Is there any difference between the LSI and Probation's LSIR? No. This is an interagency agreed upon format that all agencies use.

How often is the LSI updated? It is not incorporated into the case management process. It is only updated at the time for community transition or parole. It would be quite an additional workload to keep the LSI updated by the case managers.

Program Assignments and Wait-lists: Each DOC facility offers their own mix of programs based on their budget as well as the needs of their specific prison population. If an offender does not have a GED, they will be flagged as needing a GED. It is statutorily mandated to provide a GED to prison inmates.

Is there any historical data on the wait-list? Is it getting shorter, longer? No prior data is available since this is the first time anyone has asked about the wait-list.

Do you still pay inmates for going to the GED program? Yes. There is much better success if the offenders are being paid to attend the GED program. Inmates are paid \$0.25 a day for each day they attend classes. Offering a system of rewards has had a positive effect in this program.

Could DOC make the assignment categories match the categories in the LSI? The Commission has not yet addressed the issue of how responsive the programs are to the needs of the offenders. This issue should be placed in the "Parking Lot" and addressed at a future meeting.

Ari Zavaras will try to get the Commission members a copy of the LSI so everyone knows what it looks like.

DOC Sex Offender Treatment Program: There are various classification levels for sex offenders. These classification levels impact the treatments they receive. (For specific information on treatment, visit the DOC website). There are 136 lifetime offenders in treatment, 65 of those are in the Arrowhead Correctional Facility. There are 932 offenders on the wait-list or in the referral process. There are 3636 offenders that are not participating or are not eligible because they are not close enough to their parole date.

Has the treatment been administered long enough to provide us data that would indicate if it is working? The data shows the DOC's sex offender treatment program is effective. Using violent re-arrests as a measure, those individuals who did not go through the sex offender treatment were seven times more likely to re-offend with a violent crime as those who did go through treatment. (This report is available on the DCJ's Office of Research & Statistics' web site.)

Can DOC provide a breakdown of how many offenders are refusing to participate as opposed to not being eligible? There are offenders that are not eligible because of their length of sentence. You have to be within eight (8) years of your parole eligibility date (PED) to be eligible for treatment. Of the non-lifetime offenders, there are many that are eligible that fall under the *Martin/Cooper* decision. (Offenders sentenced between 1993 and 1998 were discharged directly out of DOC without parole requirements.)

Do you have any required treatment? If you have some offenders that decline treatment or if they deny the offending behavior, is there any sort of treatment that you require so the offenders can work through some of their issues? It has been discussed but not implemented.

Profile of Offenders Sentenced to Probation, Community Corrections and Prison in 2006 presented by Kim English and Paul Herman:

Who goes where?

The underlying question the Commission may be asking is, "Is there a group of offenders that are sentenced to prison that could be sentenced to a less expensive place? Can they be diverted to someplace else?" DCJ staff spent several months collecting data on who went to probation and prison by examining a sample of 417 probation violators. These cases were spread over 17 counties and 10 judicial districts. DCJ then broke the offender's sentences into four categories: probation only; probation and community corrections; probation and jail; and DOC. They categorized the crimes into four areas: violent crime, drug, escape and non-violent.

In the category of offenders sentenced directly to DOC, 20% were charged with a violent crime, 20% were there on drug charges, 20% were there on escape and 40% were charged with a non-violent crime.

- We are comfortable with the violent offenders going directly into DOC.
- What about the 80 percent that have other charges: drug, escape and non-violent?

- Of the offenders charged with non-violent crime, 1.6% had no previous criminal offense. 65% had a previous history that included a violent crime. 35% have drug, escape or other non-violent crime and no history of violent crime.
- Of the offenders sentenced to prison with no CURRENT violent conviction or filing crime: 93% were sentenced on drug convictions, 77% were illegal residents, and 87% didn't speak English.

What happens to offenders who violate probation? Do they all go to prison?

Of the 417 sampled inmates, 29% went to DOC, 8.6% went to Community Corrections, 46.5% had their probation reinstated and 16% were sentenced to jail / work release. At least 2/3 of people going to DOC have a violent criminal history.

What kind of needs for services and programming do these offenders have?

An overview of the needs of those who were sentenced to DOC in 2006 was given. Of 1388 offenders sentenced in 2008, using a very broad definition of need, 24% had mental health problem, 47% had alcohol problems, 80% had drug problems, 15% had problems with stability such as homelessness, and 50% - 80% were unemployed. In summary, this is a high-need population requiring significant services, in and out of prison.

Discussion of Presentations from February and March Meetings facilitated by Paul Herman:

If we can come up with better ways, more acceptable ways of managing individuals who violate probation other than throwing them into prison, we will come out ahead.

Tying up previous meetings: Paul Hermann summarized the presentations of information given in the meetings from January, February and March. (See attached)

The change in how we are dealing with offenders today is like the transition to community policing several years ago. It took 4 – 6 years to integrate community policing.

In summation: Governor Ritter wants the Commission to fulfill its mandate. Progressive efforts are underway in other states, some efforts are underway in Colorado but these could be expanded. There is a lot of crime, and the criminal justice system only addresses a small part of it. The part we address can be made more effective. There is a lot of information available – we don't have to work in the dark or reinvent the wheel. But we do need to build an excellent wheel for Colorado.

Finalization of Guiding Principles and Definition of Success:

Mr. Herman prepared a list of the guiding principles and definitions of success that he obtained during his interviews of the Commission members. He then asked the Commission to vote on

each goal. If someone could not vote “Yes” on a goal, the member was asked what changes to the goal would be needed to make it a “Yes” vote.

1. Public safety should always be paramount in our thoughts. (Yes)
2. It is important that we are inclusive of all represented perspectives and areas of expertise, and that we commit to non-partisanship. (Yes)
3. We must question our own assumptions and trust each other to do the right thing.
Discussion: A member stated from the beginning the group has been told we should all trust each other to do the right thing, but the discussions have been very partisan. Possible solutions to make this guiding principle better:
 - a. Trust that each of us is committed to the guiding principles that we are agreeing on or to achieving the goals of the Commission.
 - b. Work toward common goals.
 - c. Gain consensus and agreement on doing the right thing.
 - d. We should get rid of all our assumptions. Work on evidence-based practices. We could have much more open minds than we have here right now.
 - e. Trust is something we should work toward because it develops over time.
 - f. We must question our own assumptions and agree to gain consensus and agree to do the right thing.
 - g. Reggie Huerter suggested, “We agree to question our assumptions maintain respect for differences and work toward common goals that meet the Commission’s mandate.” (Yes)
4. We should seek outside help for areas where we are lacking in knowledge. (Yes)
5. The impact our decisions will have on all of Colorado should be well thought out (big and small counties alike, as well as offenders and victims). John Suthers rewrote the goal as follows: “Because our decisions impact all Colorado, they should be carefully considered from both perspectives of the various regions and diverse populations of both offenders and victims across the state.” (Yes)
6. To the best of our ability our decisions should be simple and not complex and made with a sense of urgency. Should also be aimed at meeting the goals of the Commission’s mandate / charge. Change this guiding principle to: To the best of our ability, our decisions should be straight forward and timely. (Yes)
7. Any and all decisions are data-driven and should be aimed at slowing penetration into the system. Discussion:
 - a. The idea is to slow the number of people going into the system. If we can keep people out of the system, that would be great. If an individual is in the system, can we keep him/her in probation or community corrections rather than progressing into prison?
 - b. Whose data are we using? How are we going to make the determination? Kim English will do a one page document that would address the metrics to rank the credibility of the data.
 - c. Reggie Huerter suggested using the term “data guided” not data driven. The Commission voted to change the goal to: “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.” (Yes)

8. We should be mindful that a need for treatment is not an adequate reason to incarcerate someone (other options should be available). Language “incarcerate” means other things that just DOC. Add “incarcerate in DOC.” We should increase effective treatment options throughout the community. The goal should read: “We should be mindful that a need for treatment is not an adequate reason to incarcerate someone in DOC (other options should be available).” (Yes)

Anything not covered? Yes. How do we handle dissenting opinions? Will it be a breach of the Commission rules to testify in the Legislature against a specific point? Will there be a dissenting opinion? The document that would come out will show the whole story. Members who disagree with something should voice their disagreement, and should not hold back and then later undermine the work of the Commission. Mr. Herman will frame this concept into another principle for consideration.

Mr. Weir suggested another guiding principle should be to think in terms of big solutions and not get mired down in nuisances that would distract the Commission from its mandate. The Commission voted to make this a guiding principle. (Yes)

Definition of Success:

1. Develop an evidence-based plan for reducing recidivism. Discussion: Concern expressed about reducing the return to DOC by 50%. Should the Commission be tied to a specific number (if not met then could be a sign of failure?) Should the focus be on significantly reducing recidivism? Do we need to be pushed out of our comfort zone and not be satisfied with chipping away at the margins? This should be a working number, but as the Commission gets closer to its recommendations, this number should be revisited. .
2. Assess Probation, Institutions, Reentry, Parole, and Community Corrections.
3. Focus on juvenile programs and policies.
4. Focus on crime prevention programming. Will the Commission’s work impact the high school graduation rate? Could the Commission research or promote programs that help keep juveniles from dropping out of school? If we save money by reducing recidivism, can we take the money saved and invest it in programs that reduce truancy?
5. Review Sentencing and Parole Laws.

Rep. Mary Marshall added some language to the function of the Commission in recent legislation. (HB08-1119) The language is, “The areas of study shall include but not be limited to, the reduction of racial and ethnic disparities within the criminal and juvenile justice systems.” The Commission voted unanimously to make this a guiding principle.

Identify Accomplishments by November 1, 2008:

The first subcommittee will assess reentry and will be examining issues that can “bear fruit” between now and November. The subcommittee will be broken down into five working groups: Probation, Institutions, Reentry (6 months before parole date to 6 months after parole date),

Parole, and Community Corrections. Each working group will use the same criteria in their examination. The Division of Criminal Justice will prepare charters that each working group will use.

Peter Hautzinger made the motion that all the goals of the Commission should be examined. Jeanne Smith said such a large undertaking all at once would strain her division's resources. The Commission cast a unanimous vote that re-entry will be the focus of the first subcommittee.

DCJ can put together some issues or large areas of focus for the working groups. The working groups can identify the most pressing issues or identify the areas we can make a difference in. The working groups do not need to be limited to Commission members. If there are individuals in your Department with expertise in a certain area that could contribute their time, include them in the working group.

Please let Adrienne Loye or DCJ staff know if you want to participate in the subcommittee or any of the working groups.

Wrap-up and Next Meeting:

Next meeting will be May 9th. Topics to be discussed will be

1. Wrap up of today's discussion
2. Sentencing structures
3. What did the Legislators commit to during the Legislative session?

The June meeting will begin discussions on juvenile issues.

In the interim, the Subcommittee can begin its work.

The meeting adjourned at 5:00 p.m.