



## Commission on Criminal and Juvenile Justice

### Minutes

November 14, 2008  
National Enforcement Training Institute  
12345 W. Alameda Parkway

#### Commission Members Attending:

Peter Weir, Chairman	Tom Quinn	Doug Wilson
David Kaplan, Vice-Chairman	Jeanne Smith	J. Grayson Robinson
Reo Leslie, Jr.	Ellen Roberts	Regina Huerter
Bill Kilpatrick	Don Quick	Debra Zwirn
Inta Morris	Steven Siegel	Rhonda Fields
John Suthers	Karen Beye	Regis Groff
Gilbert Martinez		

**Absent:** Peter Hautzinger, Ari Zavaras, Terrance Carroll, Dean Conder, Ken Gordon, David Michaud and Ted Harvey

#### Call to Order and Opening Remarks:

The Chairman, Peter Weir, called the meeting to order at 1:13 p.m. The staff in the Division of Criminal Justice are reviewing the recommendations and preparing the report to the Governor.

Peter Hautzinger expressed his concern that the language in Legislative Recommendations 21 and 22 is incorrect. The minutes reflect that the language was reworked by Attorney General Suthers. The use of summons would be preferred on Class 4, 5 and 6 felonies. His language also preserved the district attorney's prerogative to use arrest warrants if there is a concern about a risk to public safety.

Suggested correction:

**The commission encourages law enforcement agencies to enact policies that are consistent with CRS 16-5-206 and 16-5-207, relative to issuing summons rather than arrest warrants on appropriate Class 4, 5, and 6s. Pursuant to CRS 16-5-206 and 16-5-207, a summons should be issued for misdemeanors, class 4, 5 and 6 felonies, unless law enforcement presents in writing a basis to believe there is a significant risk of flight or that the victim or public safety may be compromised.**

Unanimous agreement was reached for the wording of the recommendation as above stated.

**Media Contact / Public Education:**

Quite a bit of research shows that the public is not well informed on this issue. We have reached some conclusions that can be shared with our constituencies. We could present the recommendations as our suggestions and then ask for feedback. It is an important thing to do and help us focus what the message is and draw upon the resources around the table.

Tom Quinn offered to develop a strategy or plan for public education. He will present this plan in December. Mr. Weir offered the services of Lance Clem, the PIO for the Department of Public Safety.

**Draft Report:**

Mr. Weir asked for comments on the draft report. The final report will be on-line in late November or early December. There was concern that statements made in the introductory portion of the report may not be philosophically in line with every Commission member. Should the introduction come from just the Chairman (Peter Weir) or from the Commission as a whole? The introduction should come from everyone. The introduction will contain some qualifying language – something to the effect that the introduction is not unanimously supported by the Commission. Only the recommendations and business practices have been voted on by the Commission

Suggestions for the introduction are to be sent to Mr. Weir by November 21<sup>st</sup>.

**Overview of Governor's Recidivism Reduction Package:**

When the package was presented by the OSPB, there were 20 pages that went with each recommendation. Kim looked at these recommendations and summarized them.

1. Expansion of Functional Family Therapy (DYC/DHS)
  - Creates four additional teams to serve 480 youth and families
  - This is an evidence based practice that has found significant cost savings in the long term.
  - It is consistent with recommendations that came out of the post incarceration task force and incarceration task force. They are General Practice 16, 20 and 21.
  - This is targeted to youth with mental health problems. This is dead center on with the recommendations talked about in the task forces and with the overarching issues.
2. Expand Diversion Community Corrections:
  - Community Corrections beds increased by 397, transition beds increase by 49. Includes 421 non-residential beds.
  - It costs \$4 - \$6 per day to put someone in a non-residential bed. Community Corrections beds saves \$6,200 a year over a prison bed. One of the concerns is

that the standards may be lessened to fill these beds. This will not happen. There is a backlog now that can use these beds. The backlog goes from 480 to 600.

- Where will these beds be located? All over the state. There is new construction in several places.
- Is it possible to get the breakdown of where available bed be?
- For folks that come in as diversion clients there is a continuum of care that goes from residential to non-residential. The 421 non-residential beds are to make up for a shortage.
- Will this open the door for violent offenders to get out? The explanation should contain a statement that these beds are to help with the backlog of offenders. The standards won't be lessened on who gets these beds.
- There is a two-stage review of who would be excluded from Community Corrections. For examples, offenders charged with any crime of violence. This needs to be made known to the public.

3. Implement Non-Residential Diversion Pilot Program.

- Reduces low risk offenders in residential facility.
- Early placement in non-residential status.
- Study will demonstrate outcome.
- Studies show that there are some low risk offenders (marriage, jobs, age). There is some research that shows that no supervision of these people is not good. Folks who meet these low risk criteria get into non-residential programs, but have greater supervision while in a non-residential bed.

4. Increase in Therapeutic Diversion Beds in Southern Colorado.

- 24 new therapeutic community beds for those with behavioral health issues. This is consistent with recommendations General Practice 16, 20 and 21.

5. Community Corrections Discharge Planning

- To fund to two people to assist with transition planning between DOC and community corrections for those with behavioral health problems.
- Modeled on nurse discharge planners
- Consistent with recommendations from incarceration and transition task forces (match programs with needs, identify re-entry gaps in services)
- Overarching critical issue identified by Oversight Committee

6. Enhance/expand substance abuse outpatient treatment services (ADAD/DHS)

- ADAD is now the Commission on mental health
- Consistent with recommendations that came out of PIS and Incarceration Task Forces (GP-20 and 23) to substantially increase community based evidence based behavioral health.

7. Re-Entry and Pre-Release Programs (DOC)

- 15 state employees and 18 offender paraprofessionals. Offenders can have a voice and make a contribution.
- Inmates within 120 days of release

- 10 model pre-release program
  - Expansion of space/programming at John Inmann Work and Family Center
  - Generally consistent with Transition Task Force recommendation (BP-44) regarding release assessment and services.
8. Expand Substance Abuse Therapeutic Community by 843 beds (DOC)
- Implement nine in-prison therapeutic community and after-care. Currently there are four therapeutic communities serving 300 offenders
  - 648 beds for men
  - 195 beds for women
  - Funding for 72 TC beds at Peer 1 for those who complete DOC therapeutic community program
  - Funding for 144 parolees/ year outpatient treatment fees.
9. Expand Academic and Vocational Training (DOC)
- 17 GED instructors for math and math-related classes. This is where people are really weak. Targeting 1140 students annually. In FY07 998 offenders completed GED. There are 5432 offenders on the GED priority list.
  - 21 new vocational programs and professional licensing programs (barbering, auto collision repair, renewable energy management, heavy equipment operators. Targets 916 more students per year.
  - Reduces idleness in living units.
10. Expand drug treatment (DPS) – IRT beds
- Implement pilot program that extends 45 day program to 90 days for 120 offenders a year in Transition Community corrections
  - Cognitive based substance abuse program
11. Research and evaluation of the Recidivism Reduction Package in Fiscal Year 2010.
- 1 person in DCJ and 2 FTE in DOC

Division of Probation Services - Budget requests consistent with CCJJ Recommendations

- Increase support to existing adult drug courts to serve an additional 10% of those requiring these services.
- Increase number of probation officers to continue to reduce the number of offenders with technical violations that go to prison
- Increase training for officers, and assessment and treatment services for offenders with substance abuse problems
- Funding to support individualized case management: assessment, treatment, intermediate supervision/sanctions.

Sending offenders back to prison because of a technical violation has drawbacks. However, sometimes technical violations are perpetrated by individuals who need to go back to prison. Probation is utilizing more intermediate sanction that can keep offenders out of prison but still hold them accountable for not following the terms of their probation.

**Strategy for forwarding CCJJ Re-Entry Recommendations:**

During the October meeting, the need to measure the outcomes of the recommendations classified as “general principals” was discussed. DCJ staff was instructed to develop the performance measures and present them to the Commission in December. The December meeting is canceled. DCJ will present these measurements at the January meeting.

Once the Governor receives the final report, he will review which recommendations will become part of his legislative agenda. A Legislative Subcommittee was created.

**Legislation and Legislative subcommittee:**

- Don Quick and Dave Kaplan will co-chair this subcommittee:
- There are 10-12 recommendations that have been identified as legislative recommendations. The specific language needs to be made consistent with the intent of the Commission,
- Identify legislators who will sponsor the legislation. Once the sub-committee is comfortable with the language, the language will be sent to the Commission. Dave Kaplan said that one of the reasons that the task forces were pushed as they were was so that we wouldn't miss a legislative session.
- Identify the priorities of the Commission. Which recommendations are of the highest priority?
- Is the Commission comfortable with delegating the authority to the sub-committee to prioritize, draft language and find sponsors for bills? The Governor said he would not support anything until he saw the details. Are we proposing to go forward without the Governor's support? The Governor's Office has found a couple of sponsors that would like to take our bills and run with them.

Steve Siegel made the motion to form a Legislative Sub Committee. Reo Leslie seconded the motion. The vote passed unanimously. Additional members of the committee are: Steve Siegel, Regi Huerter, Doug Wilson, Ann Terry, Grayson Robinson. Ann Terry will send out an email to the sub-committee to find a meeting date.

**Report from the Identification Sub-Committee by Carol Peeples:**

Until 2002, a person convicted of a felony was able to legally petition the court to change his/her name. In 2002 the law made it illegal to change your name if you have been convicted of a felony. There are some legitimate reasons for a person with a felony conviction to need to change his or her name. (i.e., marriage, divorce, religious reasons).

The sub-committee is making several recommendations that would allow an individual to change their name. Ms. Peeples handed out a document entitled “ID Subcommittee Revised Recommendation Regarding Identification for People Leaving DOC and Jail.” The highlighted portions were discussed.

**A. The Department of Revenue will work to ensure that its database will combine and link all known driving records associated with that person so law enforcement can review the person's complete driving history during traffic stops.**

**B(d) Inmates who request a birth certificate will be provided with a standardized advisory statement written by the office of the Colorado State Public Defender.**

Was there any discussion with DOC about dealing with people sentenced to DOC under a false name? If someone is in DOC under a false name and the inmate wants to clean it up prior to release, the inmate could open themselves up for a new Criminal Impersonation charge. The point of this change is to get birth certificates for inmates.

**G. If the district attorney's office receives information from law enforcement or the defense counsel concerning a defendant's true name and identity, the district attorney's office will review the documents and, when appropriate, notify the Court so that the mittimus may reflect the defendant's true name and identity.**

**H. If the defense counsel receives information concerning a defendant's true name and identity, the defense counsel will review the documents and, when appropriate, notify the district attorney's office and the Court so that the mittimus may reflect the defendant's true name and identity.**

The purpose of these two recommendations is to clean up the mittimus.

**K. THIS IS A LEGISLATIVE RECOMMENDATION. This recommendation would amend CRS 13-15-101 to once again allow someone with a felony conviction to petition the court to legally change his or her name. Prior to granting the name change, the Court would be required to make a finding that the name change is not for fraudulent reasons, to avoid the consequences of a criminal conviction, or to facilitate criminal activity. This recommendation would also require the court to transmit a copy of any order granting a name change to the relevant law enforcement agencies including the Colorado Bureau of Investigation and the Federal Bureau of Investigation (*for more information about this recommendation, see the memo regarding CRS 13-15-101.*)**

This recommendation would return this recommendation back to the Courts. The name change will not be for fraudulent purposes.

Can the local law enforcement agency be informed that a name change has been requested? Who would be responsible to provide information that the name change could be important to the felony conviction?

Who checks if you have a felony conviction? When you apply for a name change, the individual has to submit their fingerprints to CBI to see if there is a felony conviction. If the individual has

been granted the name change, the information needs to be communicated back to CBI to link the new name with the fingerprint.

What about the victims? The communication between the Courts, prosecutors, law enforcement and victims still need to be worked out. If a judge grants the order, and gives the information to the local prosecutor and the CBI, who is responsible for contacting the victim? What happens if the felony was 20 years ago? Would the victim want to know the name change? The Victim Right's act would have to be amended to have the victim be notified.

Reo Leslie made a motion for the Commission accept the recommended changes except for the statutory change contained in paragraph K. The motion was second by Sheriff Grayson Robinson. Motion passed unanimously.

Ms. Peebles will work on the statutory recommendation and return with the changes.

### **Report on Direct File Sub-Committee by Ann Terry:**

The Direct file Sub-Committee met three times with the DA's and defense bar meeting privately to hammer out areas where they could agree. These are the issues and the results of the sub-committee meetings.

1. Expansion of Youth Offender Services (YOS): Could it be expanded to accept 18 and 19 year olds (and sentenced by the age of 21)? YOS can handle this increase in juveniles. This was an area where everyone could agree. All parties agreed that nothing should hurt the integrity of the YOS program. If this suggestion would harm YOS, then everyone would back off.

**Recommendation: Eligibility for the Youth Offender system be expanded to persons who commit a crime prior to their 20<sup>th</sup> birthday and are sentenced prior to their 21<sup>st</sup> birthday.**

Doug Wilson made the motion. Reo Leslie seconded the motion.

Discussion: Rep. Roberts agreed to be the sponsor on this if the title was very tight. Was there any discussion about how many youth we are talking about? YOS did not know exactly the numbers. What is the cost? The number of beds is there already and there is space available. No cost for additional beds. DOC said that there will be an increase in cost in the area of programming and staff. Phase III would have to have an increase in its fiscal note. Could this include that youths who fit the criteria, be sentenced to YOS and not DOC? There was no consensus on that. There needs to be a tight title. When this was discussed by the DA's, there was little discussion – it was not controversial. Are there any YOS facilities that are private? No. Could we try this for a couple of months and then find out what the numbers would be? There are still issues revolving around direct file that are being discussed.

**Vote: Passed unanimously**

2. Can the records of juveniles charged as an adult, but adjudicated as a juvenile, be sealed? This was an area of agreement.

**Recommendation: If a juvenile has been filed on as an adult, but the case resulted in adjudication as a juvenile, that person's record would be subject to sealing.**

Regi Huerter made the motion. Rep. Ellen Roberts seconded the motion. Discussion: none. Vote: The motion passed unanimously.

3. Can direct file juveniles be placed in detention facilities as opposed to adult jails? There was no consensus on this issue. There is an issue of the need to separate adults from juveniles.
4. Can there be a 30-day delay for a direct file decision? This is an area where there was no consensus. Concerns revolved around not a proper place to house the juvenile.
5. The last area was to remove 14 and 15 year olds from direct files unless they were charged with Class 1 and 2 felonies. This issue will be taken back to the district attorneys for their review.

What does the Commission want to do with this information? Rep. Roberts would be interested in sponsoring this legislation so long as the title is very tight.

Karen Beye said they are having problems with juveniles with split sentences. (Juveniles sentenced to a period of time in juvenile detention facilities, and then the rest of their sentence in DOC.) There are sight and sound separation issues in having offenders with split sentences are in the same facility as ten year olds.

The two recommendations approved will be referred to the Legislative sub-committee.

The Direct File subcommittee shall continue to meet.

**30-60 day earned time Recommendation / Length of Stay and Public Safety / Risk Assessment:**

This is a lengthy topic and will be deferred until the January meeting. The individuals in DCJ have completed the risk assessment and it will be used for parole purposes. Hopefully it will be populated by the IT staff in conjunction with DOC staff. They would like to bring this to the attention of the Commission in January.

**Wrap-up and Next Meeting:**

Next meeting will be January 9, 2009 from 1:00 – 5:00 at NETI.

The meeting adjourned at 4:22 p.m.