



Colorado Commission on Criminal and Juvenile Justice

Minutes May 10, 2013

Jefferson County District Attorney's Office
500 Jefferson County Parkway
Golden, CO 80401

Commission Members Attending:

James H. Davis, Chair	Bill Kilpatrick	Alaurice Tafoya-Modi
Doug Wilson, Vice-Chair	Julie Krow	Peter Weir
Sallie Clark	Claire Levy	Anthony Young
Matthew Durkin	John Morse	Dave Young
Kelly Friesen	Norm Mueller	Tim Hand (for DOC)
Charles Garcia	Eric Philp	Jeanne Smith, <i>ex officio</i>
Kate Horn-Murphy	J. Grayson Robinson	
Regina Huerter	Debbie Rose	

Absent: Theresa Cisneros, Steve King, Henry Jackson, Evelyn Leslie, Mark Waller

Call to Order and Opening Remarks

Jim Davis, Chair, called the meeting to order at 12:45 p.m. and reviewed the day's agenda. Grayson Robinson moved to approve the minutes from the April 12, 2013 CCJJ meeting. Sallie Clark seconded the motion. The minutes were approved by unanimous vote.

Legislative Update

Jeanne Smith and Jana Locke presented a review of the 2013 legislative session. The presentation began with a review of bills that direct actions to be taken by the Commission. Pursuant to House Bill 2013-1195 (Concerning Human Trafficking), The CCJJ has been directed to study human trafficking and compile a list of trafficking cases in the state since 2006. The study would require a review of the sentences imposed and a discussion of the appropriateness of each sentence. The research staff within the Division of Criminal Justice (DCJ) will conduct the study for review by the Commission and include the results in the required report.

Pursuant to Senate Bill 2013-283, the Drug Policy Task Force of the Commission is directed to determine whether criminal laws in Title 18 and other criminal statutes are compatible with Section 16 (Personal Use and Regulation of Marijuana) of Article XVIII of the State Constitution and other impacts of the passage of Amendment 64. DCJ was also assigned a study related to Amendment 64 issues. A number of those issues are being investigated by other entities, such as the Rocky Mountain High Intensity Trafficking Area (rmhidta.org/) and various drug-enforcement related metro task forces.

Through a letter, Governor Hickenlooper, the Senate President John Morse and the House Speaker Mark Ferrandino requested the Commission research whether Jessica's Law would improve the existing laws applicable to sex offenders in Colorado or if its provisions are already present or less effective than laws already enacted. DCJ staff members believe most of the information necessary to respond to the letter already exists and will prepare a report for the Commission.

Ms. Smith and Ms. Locke, referring to the handout, then highlighted the legislative outcomes of particular bills derived from Commission recommendations. House Bill 2013-1114, originally from the Drug Policy Task Force, concerned driving under the influence of drugs. The bill was postponed indefinitely by the Senate Judiciary Committee, but was then reintroduced as House Bill 13-1325 on May 2nd. This version of the bill later passed on May 7th.

Senate Bill 2013-007 concerning the repeal date of the CCJJ passed. An amendment proposed by Representative Waller was passed to assign a bill drafter to the Commission. Thus, an individual from the Office of Legislative Legal Services (a "bill drafter") will regularly attend CCJJ meetings. In addition, the new sunset date is July 1, 2018.

House Bill 2013-1148 concerning aggravated sentence enhancement provisions was postponed indefinitely by the sponsor after consultation with representatives of the Commission's Legislative Subcommittee and the Comprehensive Sentencing Task Force. Further work is needed on this bill.

The Governor will conduct a signing of some of the Commission-related bills later in May.

Membership Turnover and 2013 Schedule

There will be no Commission meeting on July 12, 2013. However, task forces will still meet at their regularly scheduled times in July. Three members of the Commission are at the end of their terms, including Regina Huerter, Grayson Robinson and Bill Kilpatrick.

These three positions are appointed by the Governor. The Governor's Office has not formally appointed new members. However, we know that Lakewood Police Chief Kevin Paletta has been nominated by the Colorado Association of Chiefs of Police to replace Bill Kilpatrick and Boulder County Sheriff Joe Pelle has been nominated by the County Sheriff's of Colorado to replace Grayson Robinson. It is hoped that new members will be appointed in time to be seated at the August meeting.

Parole Board Overview

Dr. Anthony Young (Chair, Colorado State Board of Parole), via a PowerPoint presentation, provided an overview of the Parole Board and its decision-making processes. The Stakeholders Educational Outreach Project was created to lift the veil of secrecy on how decisions are made. As part of the project, a new website is being created that will contain demographic information.

The paroling process in Colorado started in 1899. In 1951, the first parole board was created and comprised the Governor, Lieutenant Governor and Attorney General. In 1987, the current structure of the Parole Board was created.

The seven members of the Board are appointed by the Governor and confirmed by the Senate. Each member of the Board conducts hearings individually, except when the individual has a life sentence with the possibility of parole. In this case, two members conduct the hearing. The mission of the Parole Board is two-fold: first is to ensure public safety, and second to assist parolees in successfully transitioning into the community.

There are two types of parole: Mandatory and Discretionary. Mandatory parole is determined by a date set in statute according to the sentence; whereas, releases to parole are termed “discretionary” when they occur on or after the parole eligibility date, but before the mandatory release date.

There are three types of hearings conducted by the parole board: The first type is a release application hearing based on an application for release submitted by the inmate (or their representative) and is conducted, typically, annually (offenders committing more serious offenses may only qualify for such hearings once every three or five years). The second type, a rescission hearing, is conducted when a granted parole release is withdrawn, typically because a disciplinary infraction has occurred prior to release. A revocation hearing is conducted when a parolee receives a new sentence or has a significant technical violation of their parole agreement.

If an offender convicted of a violent crime is being reviewed for discretionary parole, a full Board review must be conducted. The offender must receive 4 affirmative votes to be approved for parole. This process does not apply to those who have reached their mandatory parole date.

- How do you determine who is a violent criminal? These crimes are statutorily defined and include sexual offenses, felony assaults, and injuring a child.
- There are certain offenses that statutorily require a full board review.

All cases are reviewed and treated individually. Victim input as well as input from the offender’s family is taken into account. Forty-eight percent of hearings are conducted by video which increases the efficiency of the Board and also saves state dollars. In fiscal year 2012, over 21,000 application hearings and over 8,000 revocation hearings were conducted representing nearly 2,500 parole board decisions per month.

Many sources of information are used when making a decision to grant parole. These sources include input from the victim(s), the Colorado Actuarial Risk Assessment Scale (CARAS), the presence of DOC Code of Penal Discipline violations, a record of any escapes/absconds or attempts, risk mediators as offender age and medical condition(s), the level of community/family support, and the quality of participation in DOC programs and/or treatment and the parole plan.

The Parole Board uses the latest research in what works for reducing recidivism and enhancing public safety. Providing education and vocational programming to offenders prior to their release will increase the rate of employment and help to increase self-esteem. For instance, substance abuse treatment works for offenders with substance abuse problems. We know that the longer the treatment, the better the chance of success.

Thanks to the Evidence-Based Practices Implementation for Capacity (EPIC) program, Parole Board members have been introduced to motivational interviewing (MI) which has been shown to help offenders take responsibility for their own behaviors.

Questions:

1. How much were the assessments that were being developed and used driving the decision? The risk assessment scale developed by the CCJJ is in its fifth version. It is considered in every parole release decision.
2. What percent of hearings are conducted face-to-face vs. electronically? How many are conducted through paper reviews? Eight percent of hearings are conducted via paper reviews and the rest are done interactively. Forty-eight percent of hearings are conducted by video which provides several logistic and fiscal advantages. The social dynamics of the hearing are still present, for example, the ability to view the body language of the offender. The remainder of hearings are conducted face-to-face or by phone.
3. How much time is delegated for each case? The Parole members hear a maximum of 24 hearings a day. This allows members to maintain intense focus and to avoid decision fatigue that can affect cognitive abilities when conducting many cases in one day.
4. How often do all the Board members meet together? Do they have the opportunity to sit down and collectively discuss how criteria can be uniformly applied? The Board members sit together to conduct full board reviews on Fridays. These days when all members are present, the Board conducts its policy discussions and schedules trainings.
5. Is there any additional information or data to which the Parole Board would like access? Do you want/need other information? The Parole Board does not have its own analyst. Currently, the Board must request data and reports from analysts at DOC who are inundated with work.
6. The Juvenile Parole Board can add terms of conditions including treatment. Can the Adult Parole Board do the same? Yes.
7. Have recidivism rates changed because of the use of evidence-based practices? Can you compare them from three or four years ago to present? Parole is still collecting data and will be able to respond to that question in a couple of years. The current (return-to-prison) recidivism rate is 49.6% which is down from 51.8% (in the FY11 report) and from 53.2% (in the FY10 report).
8. When the Parole Boards reviews a file, how many of them contain the victim impact statement from the sentencing hearing? The total amount is unknown. Statements sent to the Victim Services Office at DOC scans and loads victim impact statements directly into the parole board hearing system for access by parole board members. The victim's community has found that the victim impact statements are not automatically following the offender through the system.
9. Years ago, the practice of paroling offenders who were homeless to Denver was a problem. Does this still happen? Do parolees come to the Board with a Parole plan in place? There are individuals who are "paroled homeless," but the Board attempts to avoid this practice. However, if the offender has reached the mandatory release date, they must be paroled whether or not they will be homeless. They will re-enter local communities with an inadequate parole plan. There are a number of offenders who are being paroled who, following a court hearing, have reduced sentences and who have not had sufficient time for treatment or program participation. The Division of Parole does

do pre-release plans for especially high-risk offenders. One's pre-release plan is focused on the critical period of the first two months after release.

10. When considering someone for parole, are you aware of any immigration detainees? Yes, the board is aware of detainees. However, if a person is being considered for discretionary parole, the presence of a detainer does not mean the person will automatically be released to that detainer. On the other hand, when an offender has reached the mandatory release date, the detainer does indicate the offender's destination.

Community Corrections Task Force

During January's Commission meeting members were asked to identify areas in the criminal justice system in need of examination. Community corrections was identified as one such area. The Community Corrections Task Force was created and has met twice. The task force is comprised of 20 members. One of the first steps has been to educate its members on the current state of community corrections and where it fits in the criminal justice continuum. Glenn Tapia, Director of the Office of Community Corrections within DCJ, presented an overview of Community Corrections to the task force at its first meeting and presented the overview to the Commission.

Community corrections programs originated in the mid-1970s. Such programs were created because it was felt that local communities, and not just the state, should participate in the rehabilitation of offenders. Communities were given local control to supervise low-risk offenders. Community corrections was originally intended to establish a cheaper method of supervision. As a result, its use grew in the 1980's. This growth led to the introduction of policy and practice standards in the 1990s. Recently, the focus and utilization of community corrections has shifted and grown dramatically in the area of specialized treatment for substance use disorders, mental health disorders and sex offender treatment.

DCJ is statutorily responsible for the oversight of community corrections programs and facilities in the state. Its responsibilities include administering funds, establishing state standards for program performance, auditing for compliance with standards and training, measuring and reporting program performance, and providing training and technical assistance to local community corrections boards.

Local control is a central feature of the community corrections system. Originally, local entities determined zoning for community corrections facility startup as well as determining who was and was not accepted, garnered local political support, and provided local support for the programs. Today, local community corrections boards, administer state funds, work to ensure programs are in compliance with state and local standards, serve as the initial regulatory agency for complaints (from offenders, community members, or victims), work with local governments to expand programs, educate and train officials and community members, enforce the Victims Rights Amendment, and screen referrals for program placement.

Due to the overall growth of community corrections and the types of clients being served in specialized programs, the risk level of the clients has increased. The use of "regular" beds has decreased while beds for specialized programs have increased. Currently, 1 in 6 offenders

occupies a specialized bed. Fifteen years ago that would have been 1 in 20. The rate of successful completion has dropped and the rate of escape and technical violations has increased. But, this is due to the shift in the level of risk associated with the populations being served. In addition, a third of the technical violations are a result of violations associated with drug use. Over the past 10 years, the recidivism rates have remained stable.

Among the many challenges faced by community corrections facilities and programs are the large number of practice and treatment standards and regulations imposed by a variety of agencies and organizations and having to accommodate a high rate of staff turnover. In addition, the per diem rate a facility receives for an offender has remained static for years.

- Has there been any discussion about expanding the use of community corrections for misdemeanor DUI offenders? This might be something that commissioner members would like to examine. Housing misdemeanor DUI offenders in a community corrections facility would be less expensive than housing the offender in a county jail.
- Is there a way to help communities that don't yet have halfway houses create strong community corrections organizations?
- Is there a way to make sure more offenders coming out of the Department of Corrections go through and participate in a community corrections program?

2013 Issues to Address

Commission staff will examine the feasibility of holding the September meeting in Colorado Springs.

The Colorado Organization for Victim Assistance (COVA) is looking for speakers for its annual conference. Kate Horn-Murphy is attempting to compile a panel to discuss public policy and would like to include a CCJJ member. Those interested in participating should contact Kate.

Adjournment:

Julie Krow moved to adjourn. Debbie Rose seconded the motion. The meeting adjourned at 3:32 p.m.