



**Colorado Commission on Criminal and Juvenile Justice**

**Minutes**

November 14, 2014  
 Jefferson County District Attorney’s Building  
 500 Jefferson County Parkway  
 Golden, CO

**Commission Member Attendance**

Stan Hilkey, Chair	Steve King - <b>ABSENT</b>	Rick Raemisch
Doug Wilson, Vice-Chair	Julie Krow	Brandon Shaffer
Jennifer Bradford	Evelyn Leslie	Pat Steadman
Theresa Cisneros	Beth McCann	Alaurice Tafoya-Modi
Sallie Clark - <b>ABSENT</b>	Jeff McDonald - <b>ABSENT</b>	Mark Waller (Resigned)
Matthew Durkin	Norm Mueller - <b>ABSENT</b>	Pete Weir
Kelly Friesen	Kevin Paletta	Meg Williams
Charles Garcia	Joe Pelle	Dave Young
Kate Horn-Murphy	Eric Philp	Jeanne Smith, <i>Ex Officio</i>

**CALL TO ORDER AND OPENING REMARKS**

Commission Chair, Stan Hilkey, called the meeting to order at 12:44 p.m.

Joe Pelle moved to approve the October 2014 CCJJ Minutes. Alaurice Tafoya-Modi seconded the motion. The Minutes were approved by unanimous vote.

**EXPLORATORY PLANNING GROUPS: Updates**

**Re-Entry Group.** Mr. Hilkey gave an update on the Exploratory Re-entry Planning Group. The planning group met on November 12 with a good turnout of members both in person and on phone. The group discussed what the possible work if and when a full official Re-entry Task Force is seated. The group also performed an environmental scan of other organizations or agencies that also are working on re-entry issues. The group also discussed stakeholders who weren’t present but should be in attendance if and when the group moves forward. As for next steps, Paul Herman (CCJJ Consultant) and staff are pulling together all of the outcomes from the first meeting and will report that to the group at its December meeting. The December meeting is scheduled for the 18<sup>th</sup>, with the January meeting to follow on the 5<sup>th</sup>. A third meeting will be scheduled to wrap up the preliminary work, if it is deemed necessary. During those meetings, specific criminal justice stakeholders and barriers will be discussed.

**Data Group.** Eric Philp provided an update on the Exploratory Data Planning Group. Members of this group met on October 8<sup>th</sup> with 15 people in attendance. Mr. Philp reported that the group worked through a robust process with a lot of good discussion. The group explored two paths to move forward – one was to create a criminal history record of sorts similar to a medical record,

which would follow an offender from the point of entry through the criminal justice system. This would result in any given individual having a comprehensive and complete criminal record. The group is looking not just at collecting this data but how it could be shared, and how to make sharing easier. The other path that was explored is about collecting data for the purposes of policy. More specifically, this regards collecting common data from multiple agencies, not on specific individuals, but on the frequency of the occurrence of different events for research to develop policy. At the group's next meeting on December 11<sup>th</sup>, members will look at pros and cons of these possible directions.

### **CYBERBULLYING SUBCOMMITTEE: Update**

Chief Kevin Paletta presented a PowerPoint update to the Commission on work done by the Cyberbullying Subcommittee. In April, 2014 the General Assembly delivered a request to the CCJJ asking that a special committee be convened to conduct a comprehensive review of the issue of cyberbullying to determine whether there is a need for legislation to address the issue.

The Commission's reply to the legislative directive is due on December 1<sup>st</sup>. Due to the tight timeline, the Subcommittee will forward a draft response letter to the Chair and Vice-Chair of the Commission for their approval. A copy of the final letter will then be shared with the entire membership of the Commission.

#### Cyberbullying Subcommittee: Outcomes Presentation

- A letter was sent to the CCJJ in April from the General Assembly asking the Commission to study Cyberbullying.
- The subcommittee convened in August.
- Legislation regarding cyberbullying was proposed last year, but it raised some concerns from the ACLU.
- The legislation passed the House, but did not pass the Senate.
- The Subcommittee gathered research with help from the Division of Criminal Justice researchers on the phenomenon of cyberbullying.
- A presentation by colleagues of Jen Bradford showed that very few states have created specific bullying legislation. Instead, existing legislation is used or enhanced to address acts of cyberbullying. Most states that address the issue direct school districts to develop policies and prevention and intervention programs to deal with cyberbullying.
- Mr. Paletta provided an array of statistics including the fact that 20% of Colorado high school students report being bullied within the past 12 months (15% report cyberbullying). A higher proportion of middle school students report ever being bullied (47%) and ever being cyberbullied (22%).
- Research shows that victims of bullying are more likely to suffer emotional and academic impacts. Victims of bullying also are 1.5 to 2 times more likely to attempt suicide. Complicating this picture is that bullying victims also tend to suffer from other emotional and psychological issues that may increase their likelihood to become targets of bullying.
- Other research findings indicate that 75% of those who are bullied report that they are not upset by the experience.

- Other findings show, and the Subcommittee agreed, that cyberbullying should not be dealt with separately from bullying and that the response to bullying should be multi-disciplinary approach involving schools, families, community resources, and, where necessary, legislation.
- The Subcommittee felt that most instances of bullying should not be criminalized through prosecution, but that it should be an option.
- In the few states that have passed cyberbullying-specific criminal legislation, there are instances where laws have been overturned due to overly broad definitions of bullying behavior.
- The General Assembly asked six specific questions in its request to the CCJJ. Those six questions and the responses by the Cyberbullying Subcommittee are described briefly as follows:
  - **Request #1 – Are existing (CO) criminal statutes adequate to address acts of cyberbullying and what gaps exist?** The Subcommittee found that, for the most part, the *Colorado Revised Statutes* (C.R.S.) has adequate legislation to address acts of cyberbullying. Changes to the language of the harassment statute (similar to that found in the stalking statute regarding direct and indirect actions using electronic media) could close any perceived gaps in the ability to address instances of bullying.
  - **Request #2 – Provide recommendations on effective prevention and intervention programs.** Legislation already requires schools to have bullying prevention and response policies (for example, the Safe Schools Act, C.R.S., 22-32-109.1). Additional research on the effectiveness of bullying programs would be advantageous as data on effective programs is limited. Also, program implementation is limited by a lack of funding.
  - **Request #3 – What role should victim-initiated restorative justice (RJ) play in cyberbullying?** RJ is a tool that may be useful in a bullying situation, but its use should be a local and situational decision, primarily due to localized resources and decisions around judicious use of the process. Care must be taken to ascertain the circumstances regarding the imbalance in power between the perpetrator and the victim that occurs in bullying and whether the RJ process might re-traumatize the bullying victim. RJ should be used appropriately, but cautiously, and remain at the discretion of local jurisdictions.
  - **Request #4 – Address the specific role pornography plays in cyberbullying.** Pornography is a common element in cases of cyberbullying and there is existing legislation to form a response, the same as other forms of bullying. (The Subcommittee expressly chose not to discuss the topic in the context of sexual exploitation laws).
  - **Request #5 – What methods and interventions are or should be available for victims of cyberbullying?** The justice system offers victim services for many offenses through the Victim Rights Act. Community-based services include Safe2Tell, Project Unify, StopBullying.gov, Rocky Mountain Crisis Partners, school-based bullying prevention programs and outreach services for the LGBT community.
  - **Request #6 – What other research does the committee deem relevant to include best practices and evidence-based models?** No purely evidence-based programs exist. Some programs show positive results, but more research is needed in the U.S.

The report conclusions are as follows:

- Existing legislation is adequate with some possible enhancements.

- Cyberbullying legislation has the risk of criminalizing a broad range of typical adolescent behaviors. Legislation may be susceptible to constitutionality challenges if written too broadly.
- Cyberbullying is difficult to investigate and prosecute.
- The justice system is not always the best remedy for addressing adolescent actions.
- Many prevention and intervention programs already exist in schools and communities.
- Funding is needed to support more local intervention programs and research.

#### Discussion:

- There are specific struggles with cyberbullying related to the “24/7” nature of the behavior and the anonymity of the actions and resulting challenges.
  - Jeanne Smith added that there are other challenges related to the current statute asking schools to implement bullying prevention programs by acquiring funding through gifts, grants and foundations.
  - Mr. Paletta added that the final conclusion from the Subcommittee is that passing new legislation may not be the best way to address this problem. Instead, funding for prevention programs that address bullying would be a more effective approach.
  - Mr. Paletta will have final report to the Commission before the end of the month.
  - Meg Williams said, from her perspective, RJ has a more positive impact on victims than was portrayed in the presentation. She added that victims often are empowered by the experience. Ms. Williams feels RJ is appropriate for this issue.
  - Will members of the Commission, especially the legislative members, be copied on the report? Yes.
  - Has there been a discussion of sponsors for any necessary legislation? No.
  - Question - How is cyberbullying defined?
    - The definition is contained in the letter from the General Assembly, but it focuses on electronic bullying (...via Twitter, Facebook, other mediums).
    - Ms. Bradford added that there’s not a lot of broad-based, evidence-based research on the topic and, therefore, the definition of cyberbullying varies. There is a standardized definitional context for cyberbullying which is an electronic form of contact which occurs beyond school borders and extends the circumstance to the “24/7 realm.” There are ongoing challenges defining adolescent behavior vs. responses specific to cyberbullying.
    - Mr. Paletta read the definition of bullying that exists in the education statute that the Subcommittee used as its foundation from which it extended to the electronic aspects of the cyberbullying concept:

Bullying: “Any written or verbal expression or physical or electronic act or gesture or pattern thereof that is intended to coerce or intimidate or cause any physical or mental or emotional harm to any student.”
- The Subcommittee’s extension of this definition was:  
Cyberbullying: “The use of electronic mediums including e-mail, texting, messaging, blogs, websites, online gaming, and other social networking to commit acts of bullying (as defined above).”

**COMMUNITY CORRECTIONS TASK FORCE****Final Recommendations**

Mr. Hilkey introduced the next section of the agenda by stating that the Community Corrections Task Force had presented preliminary recommendations last month at the October meeting, and that these recommendations were now being presented to members for a vote.

Theresa Cisneros started the discussion by introducing David Lipka and Glenn Tapia. Judge Cisneros explained that Mr. Lipka is a public defender in Pueblo and Mr. Tapia heads the Community Corrections office at the Division of Criminal Justice. Both men chaired a working group of the Community Corrections Task Force. Greg Mauro, who also chaired a working group, was unable to attend. Mr. Tapia and Mr. Lipka were on hand to address any additional questions regarding the recommendations.

Ms. Cisneros started by introducing the recommendations from the Boards Working Group.

**BOARDS WORKING GROUP****Final Recommendations****FY15-CC#01. Community Corrections Board Member Training****Recommendation FY15-CC#01**

The Department of Public Safety shall work with local community corrections boards and key stakeholders to develop and implement a mandatory introductory orientation and an annual continuing education curriculum to ensure appropriate and consistent community placement decisions by board members.

*Background.* To promote the use of evidence-based correctional practices along with an understanding of the larger criminal justice system and local community concerns, new community corrections board members must complete an introductory orientation within the first six months of membership on the board. After the first year, all members must participate in continuing education annually which may be tailored to the local community's needs.

There should be some minimum level of training necessary to participate on a community corrections board. For example, there should be a basic level of understanding of how community corrections works, the underlying philosophy of community corrections, and a familiarity with statutes related to community corrections. This training should occur within the first six months of board membership. Subsequent training could address the availability of local resources and cross-training to understand other criminal justice entities.

This recommendation is considered statutory.

**Discussion:**

- Ms. Cisneros described that community corrections boards have often voiced problems related to a lack of information to support the decision to accept or reject offenders.

- Mr. Lipka added that this recommendation encourages the use of evidence-based practices and, at the same time, preserves local control while providing a more accurate picture of the offender.
- Peter Weir added that he supports the new language, but states that it will be important to review and evaluate the final training products and materials.

**VOTE:** (a) I support it           20  
           (b) I can live with it       0  
           (c) I do not support it    1

**Recommendation FY15-CC#01 was approved.**

### **FY15-CC#02. Reliable and Consistent Information from DOC**

#### **Recommendation FY15-CC#02**

The Department of Corrections (DOC) shall include the following information in the community corrections referral packet: current objective offender risk information, projected release dates, official accounts of the current crime(s) of conviction, criminal history, institutional conduct, programming completed, re-entry plan, victim statement (if Victim Rights Amendment case), offender statement, and a recommendation concerning the appropriateness of placement in community corrections.

*Background.* Currently, information on DOC transition referrals received by community corrections boards is often incomplete and dated. Local community corrections boards must have the information in order to make the best placement decision. Approximately one-third of DOC inmates are released through the state's community corrections system. DOC should immediately develop a process that ensures complete, relevant, and timely information is available to local boards.

This recommendation identifies information and documents that should follow an offender transitioning from DOC to community corrections. The information should be the most current possible. This will allow boards to make more informed decisions. This will assist in reducing idiosyncratic decision-making, either by case workers or by community corrections board members.

This recommendation is considered a policy change and not statutory.

#### **Discussion:**

- Theresa Cisneros summarized the list of informational items required from the Department of Corrections and indicated that these were items the Task Force felt were highly relevant to board considerations and determinations.
- There were extensive discussions among all Working Groups and the Task Force about the use of the word "shall" in recommendations. The majority of participants in the discussion felt that "shall" was an important word to use in regard to these recommendations, given the

potential impacts to public safety and the decision-making process. The word “shall” is needed to ensure a mechanism for boards to get the information they need.

- Pete Weir explained the current frustration by boards over the lack of information received for transition offenders. Board members felt that, without sufficient information, they often vote not to accept simply due to a lack of information. Having this information will advance the decision-making process.
- Charlie Garcia stated that he has concerns with the word “shall.” He expressed concern regarding occasions when official accounts of current crimes are not available. Is there a sanction when the information is not available?
- Brandon Shaffer added that he is also somewhat concerned by the use of “shall.” He is also curious whether there are additional costs associated with the recommendation.
  - A different Working Group is investigating what these changes would cost.
  - FOLLOW-UP: Mr. Shaffer added that he would support verbiage similar to “highly encourages” rather than “shall,” especially as this would be an unfunded mandate.
- Rick Raemisch stated the following:
  - For every recommendation presented during the meeting that includes the word “shall,” he requested that Commissioners either vote to defeat or to table the recommendation.
  - He has a number of concerns, but his initial concern was in regard to the potential costs of implementing the recommendations. He hasn’t had an opportunity to review the recommendations since they were only introduced to the Commission last month.
  - He was concerned that some of the recommendations would require statutory change that might conflict with current law.
  - He was concerned that he would be in violation of Colorado state law, if some of the recommendations were approved. *[Editorial note: Commission approval of recommendations does not change state law. State law is only modified by the Colorado General Assembly.]*
  - From his prior experience of compliance with federal sentencing guidelines, he indicated that it is very difficult to be micromanaged by external parties and this micromanagement often leads to more injustice than justice. Micromanagement by statute prevents the department from dealing with exceptions effectively. It is much easier to change a policy than to change a law. He requested the recommendation language be modified from a statutory change to a policy.
  - He explained that he was hired to fix problems such as these and that he has the faith of the Governor to do just that. It is his responsibility to protect the constitutional authority of his position for the Governor. He has spoken to the Governor’s Office about this and the Governor’s Office does not want to see the Governor’s authority eroded. Every time Colorado statute is enacted in this way, it limits the authority of Mr. Raemisch to do the work he needs to do.
  - Although the recommendation may have the best of intentions, he did not feel that the Department of Corrections has been allowed enough opportunity to participate in the recommendation development process.
  - He again requested, for each recommendation presented, that the language be changed, that the recommendation be tabled to allow more comment by DOC, or that each simply be defeated.

- Julie Krow inquired whether a missing or unavailable item among the required item package would slow the person's transition to community corrections or require the person be held longer while the information was being obtained?
  - Yes.
  - Mr. Raemisch added that this may lead to civil liability for the state.
- Senator Pat Steadman asked whether anyone from the Department of Corrections participated on the Community Corrections Task Force.
  - David Lipka described that there were two DOC representatives who participated on the Boards Working Group and the items included on the list for this recommendation was created with DOC input throughout the development process.
- Senator Steadman then asked the difference or overlap between this item (Recommendation #2) and Recommendation #11, which allows DOC personnel to make recommendations? Is implementation of Recommendation #2 contingent on the approval of #11?
  - Ms. Cisneros answered that current DOC Administrative Regulations (AR) do not allow employees to make recommendations. The AR would have to be changed.
  - Mr. Tapia added that #11 could happen without providing the other information in item #2. He clarified that one is dependent on the other, but in the converse (#11 is dependent on #2).
- Alaurice Tafoya-Modi offered that the language could be changed to "shall include the following information, if available."
  - Mr. Lipka replied that a county commissioner representative can always call DOC to request any missing information.
- Mr. Raemisch reiterated his fiscal concerns, regardless of the wording of the recommendation. Reporting that he is the most sued person in the state, his primary concern is that, if DOC cannot provide the statutorily required information, he will be sued, the state will lose the case, and this will cost the state a lot of money.
  - Would the "if available" wording address his concern?
  - Mr. Raemisch indicated that changing the wording to a policy would give DOC time to determine whether all the information could be collected and, if not, how to allow for exceptions. He reiterated his comment regarding micromanaging by statute and that, like him, any department head would oppose such micromanagement.
- Representative Beth McCann concurred that the requirement should not be written into statute, but could be accomplished through policy. She provided a counter to her own argument by saying that a subsequent director could reverse the policy if the information is not required by statute. Ultimately, she prefers a policy solution, but if in statute, it should not be written as "a shall" in order to avoid litigation.
- Sheriff Joe Pelle offered that the recommendation has excellent intent and that the boards do need this information. However, he felt there was an issue with the degree of specificity of the recommendation. Assessment tools and information can change daily and the policy should have the flexibility to take into account ongoing changes. The recommendation request that DOC develop a policy to identify the contents of the packet and describe the flexibility for packet updates.
- Mr. Raemisch stated that the Commission can count on his developing a new policy and that a statute is not necessary to accomplish this. He will assign the necessary individuals to work on the policy. Continuing, he observed that if community corrections boards are not getting the necessary information, he is just a phone call away to accommodate such requests.



- Senator Steadman moved approval of the recommendation with an amendment to re-word the recommendation as a DOC policy and to include all of the proposed items in the policy with the “if available” phrasing.
- Mr. Tapia explained to Commissioners that this has been a long-standing issue with several prior efforts to address it without success. The continuing issue is the inability for boards to get essential information to make decisions. This is not a new issue; there has never been any success in getting any meaningful change.
- Mr. Hilkey, summarizing previous comments, added that two other recommendation elements should be considered, including flexibility around the opportunity for future change in information, and that a lack of one of the items should not prevent an individual from being considered.
- If the DOC is encouraged to develop a policy, this gives the Department some “wiggle room.”
- Ms. Krow proposed that, rather than creating statutory language, whether the Commission might simply ask Mr. Raemisch to develop a policy and present it to the Commission.
- Mr. Raemisch still felt that the phrasing retained a legal obligation that cannot be met and still would result in a civil liability.
- Jeanne Smith reminded Commissioners that previously the Commission has generated recommendations directed at statutory change and at business practices. The policy and business changes are nothing more than the Commission’s statement of intent for positive system change. These recommendations do not become law upon approval by the Commission. These recommendations are simply added to the recommendation record and the progress of work on the recommendations is monitored by staff.
- Mr. Shaffer stated his concern that the modified language still included a “shall” and he suggested that should be revised to “encourage.” He added there’s a lot of good intention in this recommendation, but he is uncertain whether the unintended consequences have been thoroughly analyzed.
- Mr. Raemisch added that everyone wants the community corrections boards to have adequate information to make good decisions, but that a policy rather than a statute allows him the flexibility to create a functional policy that will not introduce problematic limitations. He reassured the members that, if he had been approached with this problem, it would not have required a recommendation for the DOC to act on the problem.
- Mr. Weir countered that this request for information has been repeated for many years and it has never been addressed. The purpose of the Community Corrections Task Force is to have diverse stakeholders with expertise to examine all of these issues. The Task Force was formed as the avenue to bring these issues to the DOC and to legislators, if they are inclined to address the issues legislatively. These informational items were identified as very important to the decision-making process and the process is need of change. The whole reason to have a Task Force and Working Groups is to identify gaps and to propose ideas in the form of recommendations that will improve these identified gaps.
- Mr. Hilkey clarified that there was an amendment on the floor with a motion and a second.
- Senator Steadman asked to add the words, “if available” before the colon on line 4.
- The revised amendment was moved and seconded.

Following revisions, the recommendation appeared as follows:

The Department of Corrections (DOC) ~~shall~~ **IS ENCOURAGED TO DEVELOP A POLICY TO** include, **BUT NOT BE LIMITED TO**, the following information in the community corrections referral packet, **IF AVAILABLE**: current objective offender risk information, projected release dates, official accounts of the current crime(s) of conviction, criminal history, institutional conduct, programming completed, re-entry plan, victim impact statement (if Victim Rights Amendment case), offender statement, and **a recommendation concerning the appropriateness of placement in community corrections -- CONTINGENT UPON PASSAGE OF REC. FY15-#11.**

**VOTE: On the amendment to FY15-CC#02:**

- |                         |   |
|-------------------------|---|
| (a) I support it        | 8 |
| (b) I can live with it  | 7 |
| (c) I do not support it | 5 |

**The amendment to FY15-CC#02 was approved by supermajority vote [≈75%, combining alternatives (a) and (b) ].**

- There was a motion and a second to vote on the amended Recommendation FY15-CC#02.

**VOTE:** (a) I support it           8  
 (b) I can live with it       3  
 (c) I do not support it     9

**Recommendation FY15-CC#02 was not approved.**

**FY15-CC#03. Community Corrections Board Membership and Composition**  
**Recommendation FY15-CC#03**

Colorado community corrections boards from every judicial district must have a mandatory minimum membership that includes representatives from the offices of the district attorney, public defender, law enforcement, probation, the Department of Corrections, a victim or survivor representative, and a citizen member. Board membership should strive to reflect the composition and values of the local community.

*Background.* To ensure consistency across jurisdictions, and to ensure that the voices of key stakeholders are heard, local community corrections boards must include, at a minimum, the perspectives of the multidisciplinary group described above. Further, board membership should represent the configuration and the values of the local community.

This recommendation outlines the mandatory minimum number of members on the Board and which groups should be represented in addition to whoever else the local community sees as important. An informal survey of community corrections boards was conducted and the Working Group concluded that every board has input from law enforcement, district attorneys, and citizens. Some did not have input from the defense perspective. The proposal only suggests the minimum and not the maximum number and types of members.

This recommendation is considered statutory.

Discussion:

- Theresa Cisneros introduced this recommendation and described that, based on the discussion at the October meeting, the provision for a victim representative was added to the mandatory minimum representation on community corrections boards delineated in the recommendation.
- Julie Krow asked how this might impact smaller rural communities and whether each type of individual would be available to serve on community corrections boards.
  - Mr. Lipka reported that he performed a review of communities and community corrections boards and the mandatory minimum membership requirement is based on that review. The inclusion of each type of representative should not be problem. It was observed that communities may actually add additional representation to their boards, but this list was distilled to the members that were already typical across the boards that were reviewed.
- Eric Philp asked if the first word of the second line should be “shall” and not “must.”
  - Following a brief discussion of “must” vs. “shall,” the wording was not altered.
- Charlie Garcia raised a question about victim or survivor representation verbiage? Would a victim from a DA’s office count? Does this require a lawyer that represents a survivor?
  - Mr. Lipka replied that the Task Force debated the use of the term “victim,” which is more common in the criminal justice system, and “survivor,” which is often used by the public and therapeutic communities. He stated that local boards will determine how to fill this board position.
- Mr. Hilkey asked if any aspect of the recommendation currently exists in statute.
  - No. The entire recommendation would be new to statute.
- Senator Steadman asked, if this recommendation were in place, would all boards currently be in compliance?
  - Mr. Lipka replied - no - and that there is one jurisdiction that does not have a public defender representative, but he believed that county commissioners in that jurisdiction are addressing this issue.
- Ms. Krow asked for clarification on the evolution of this recommendation. Are there significant variations in board membership?
  - Mr. Lipka responded by saying that Working Group members wanted to preserve local control for boards to add any members they feel are necessary, but also to attempt to standardize a minimum balance of voices in determining acceptance to community corrections. The goal was to identify an adequate minimum balance of representatives.
  - Mr. Tapia added that DOC representatives (from either institutions or parole) tend not to be well-represented on boards, but the judicial branch is typically well-represented on boards. When the board statute was first developed it did have similar language, but it was removed. This recommendation is to restore this language.
- Dave Young moved the recommendation to a vote and Doug Wilson seconded the motion.

**VOTE:** (a) I support it           14  
           (b) I can live with it       5  
           (c) I do not support it    1

**Recommendation FY15-CC#03 was approved.**

**FY15-CC#04. Community Corrections Board Member Reappointment Procedures**  
**Recommendation FY15-CC#04**

Each judicial district and appointing authority<sup>1</sup> shall review how often each community corrections board member should apply for reappointment to the board.

*Background.* Jurisdictions vary considerably in the length of the members' appointments to the local community corrections board. Because it is important to retain local control, this variation is appropriate as long as membership is reviewed periodically to allow for the rotation of individuals on and off the board.

This is another recommendation where the advantage of standardization must be balanced against local control. State boards have standard of lengths of tenure and procedures for re-appointment. The Working Group did not want to prescribe such detailed standards, but there should be a way for heads of local boards to address chronic absenteeism that might imbalance the perspective of the board or overload participating members with additional work. This recommendation would encourage boards to focus on healthy functioning.

This recommendation is considered statutory.

**Discussion:**

- Theresa Cisneros introduced Recommendation FY15-CC#04 and that, being fairly straightforward, it did not generate a lot of discussion at the Task Force and that it encourages boards to actively review the participation of board members.
- Representative McCann asked whether it is necessary to enact this recommendation into statute.
  - David Lipka answered - yes - and that this is an ongoing accountability issue for some boards. The goal is to avoid situations where “symbolic” or honorary members occupy a space, but do not participate, disrupting the balance of board voices and representation. The Task Force did not want to suggest specific term limits, but rather wanted to encourage and empower the regular review of member participation.
- Joe Pelle added that the recommendation seemed an odd statutory requirement. It does not establish time periods, sanctions, or direct oversight, and it appears rather weak as statutory language.
- Julie Krow expressed concern regarding the impact on very small communities. She was concerned that, given the previous recommendation, requiring turnover and appointment of new members, this might create an undue challenge for small communities.
  - Mr. Lipka reiterated that the goal, especially for small communities, was to avoid creating term limits, and that, if there is a reliable person in the community, this person could remain on the board indefinitely. This recommendation can assist in the management of members in cases where, for example, a board chair/vice chair is concerned about ineffective representation of community perspectives. They could then approach the appointing authority to replace that person.

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<sup>1</sup> C.R.S. § 17-27-103

- Mr. Pelle added that appointment or re-appointment could be required on some regular basis without establishing term limits. If the intent is to modify statute, it seems as though there should be some required action and, if not, why couldn't this simply be a policy statement?
- Mr. Hilkey asked members whether there was an interest in moving an amendment to revise the recommendation to reflect a policy statement rather than a statutory change.
- Mr. Garcia stated that the recommendation would not reduce local control, but rather would allow "locals" the flexibility to define board membership representation.
- Commission Consultant Paul Herman clarified that one of the ways the Task Force addressed the work in general was to aim for a sense of standardization across boards, but to acknowledge the need for local control. Currently, there is little guidance on these matters. Similar to the previous Commission recommendations on Diversion and Bond, there are certain standards that should be in statute. Mr. Herman added that there are five recommendations, including the one under consideration, which are related or "go together" that address board composition and decision making. The idea was to improve community corrections and to assist boards in their decision making. Therefore, standardization of boards and board processes is essential to this effort. These five recommendations could have been combined; however, it was decided that consideration would be facilitated by offering separate recommendations.
- Representative McCann suggested the verbiage might read, "shall establish," rather than, "shall review." Is it the intent of the group to establish how often board members reapply?
  - Mr. Lipka reiterated that the Working Group wanted to leave the authority on this matter to local control. There was concern about the current gaping hole in monitoring board membership, especially for very large boards where non-participation might be more likely.
- Peter Weir moved the recommendation to a vote and Sen. Pat Steadman seconded the motion.

**VOTE:** (a) I support it            9  
           (b) I can live with it        8  
           (c) I do not support it      3

**Recommendation FY15-CC#04 was approved.**

## **POPULATION WORKING GROUP**

### **Final Recommendations**

There were two sources of directives for this Working Group. The Comprehensive Sentencing Task Force forwarded questions about whether community corrections can offer viable alternatives to incarceration for low-risk/high-stakes offenders. The other area of study was whether community corrections could better address re-entry for high-risk or very high-risk offenders.

### **FY15-CC#05. Funding for Very High Risk Offenders**

#### **Recommendation FY15-CC#05**

The General Assembly should provide funding for a specialized program in the community corrections budget for very high risk offenders. This program requires

a differential per diem, appropriate standards of practice, and services to address what criminologists term the “top four criminogenic needs.”<sup>2</sup>

*Background.* The target population for this specialized program is very high risk offenders as identified by the Level of Service Inventory (LSI-R). According to research,<sup>3</sup> the program should provide:

- 60 days of intensive behavioral change/Cognitive Behavioral Therapy (CBT) interventions prior to community access;
- 150 hours minimum of direct therapeutic contact (within 60 days) with a CBT intervention; and
- Minimum of 50% of overall time structured in clinical, psycho-educational, and re-entry services.

Programming should prioritize antisocial attitudes, peer relations, and impulse control over all other criminogenic or non-criminogenic needs. The risk profile, based on the LSI, of the current community corrections population is as follows:<sup>4</sup>

- Very high: 14%
- High: 37%
- Medium: 41%
- Low: 8%

Specifically, this proposal is to develop a specialized program with funds from the General Assembly for high-risk offenders that score high on the top four criminogenic needs (for example, anti-social thinking, criminal-peer associations, and impulse control skills). Currently, regardless of the offender’s risk level, employment is the primary focus upon entry into community corrections. After a brief orientation, offenders are asked to find a job. For high risk offenders, focusing on employment immediately is actually counter-productive to effective behavior change. The proposal suggests that these offenders participate in a specialized program for at least 60 days to focus on criminogenic needs. After that therapeutic intervention, the focus would shift to employment readiness and the job search.

Research indicates that high-risk offenders should participate in at least 300 hours of clinical work over at least 90 days of treatment and that 40-70% of their time should be spent in structured activities. The details of the proposal above include guidance shaped from these research findings. The proportions of offenders by risk indicate how many of the community corrections transition clients may participate in this specialized program.

This recommendation is considered a budgetary initiative.

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<sup>2</sup> These include antisocial thinking, antisocial companions, antisocial personality/temperament, and family and/or marital problems. For more information see National Institute of Corrections. (2004). *Implementing evidence-based practice in community corrections: The Principles of effective intervention*. Washington, DC: Department of Justice.

<sup>3</sup> See for example Sperber, K.G., Latessa, E.J., & Makarios, M.D. (2013). Establishing a risk-dosage research agenda: Implications for policy and practice. *Justice Research and Policy*, 15, 123-141.

<sup>4</sup> Division of Criminal Justice, Office of Research and Statistics (2014).

Discussion:

- Theresa Cisneros introduced this recommendation by describing how community corrections clients tend to be treated in a one-size-fits-all manner and the purpose of this recommendation was to help differentiate offender needs based on risk.
- Glenn Tapia explained that the next couple of recommendations originated with the Comprehensive Sentencing Task Force, which asked the Community Corrections Task Force to explore low risk/high stakes cases. Another purpose of the Population Working Group was to better address the data around about failures and recidivism which are more likely to occur among high and very high risk offenders. One of the goals of this recommendation is to develop a specialized program that carves out a subset of offenders that are high risk and focus the programming around that subpopulation. The development of this specialized program model is intended to address the unique needs of this subpopulation and to improve the existing “business-as-usual” approach. Another goal is to provide the dosage and intensity of treatment that is appropriate to high-risk offenders.
- Julie Krow asked how such programs would be established. Would there be a request for proposals (RFP) process? Would programs be distributed around the state?
  - Mr. Tapia responded that the intention of this recommendation is to distribute these programs statewide. The goal is to evaluate current programs that would meet this need, to identify the gaps and then to initiate a competitive (RFP) process to locate providers with the infrastructure to create such programs to fill these gaps.
- Mr. Hilkey added that there are different ways to forward this as a budgetary recommendation, either through a legislative sponsor, a member of the Joint Budget Committee or as a budget item within the CO Dept. of Public Safety budget.
- Mr. Philp asked if the intent is to seek funding for the FY 2016 budget or whether the first step is to study the availability and gaps of such programs first, followed by a later funding request?
  - Mr. Tapia responded that the budget request would probably be made in FY 2017, following a gaps analysis.
- The recommendation was moved to a vote and seconded.

**VOTE:** (a) I support it            16  
           (b) I can live with it        3  
           (c) I do not support it      1

**Recommendation FY15-CC#05 was approved.**

**FY15-CC#06. Professional Judgment and Research-Based Decision Making**

**Recommendation FY15-CC#06**

Community corrections boards shall develop and implement a structured, research-based decision making process that combines professional judgment and actuarial risk assessment tools. This structured decision making process should sort offenders by risk, need and appropriateness for community placement. The Division of Criminal Justice shall receive resources to assist local boards in developing these processes.

*Background.* Evidence-based correctional practices include the use of structured and data-informed decision making processes that include considerations of risk of recidivism combined with needs assessments and service availability. Community corrections boards should develop and build an empirically-supported decision making process for the purpose of identifying and accepting higher risk offenders when services are available to meet their needs. Recidivism rates are reduced an average of 30% when medium and high risk offenders receive appropriate behavior changing programming.<sup>5</sup> Conversely, offenders assessed as low risk to reoffend do not benefit from behavior changing programming<sup>6</sup> and are slightly more likely to recidivate when they are overly supervised or programmed.<sup>7</sup>

The purpose of this recommendation is to equip community correction boards with the necessary resources to advance decision making. Boards could improve decision-making by utilizing actuarial risk assessments along with knowledge and experiences when deciding who should and should not be accepted into the community. This proposal is related to other recommendations that will request additional data to help improve the actuarial risk assessment of offenders.

This recommendation is considered a budgetary initiative unless the Commission wishes to make this a statutory recommendation.

#### Discussion:

- Theresa Cisneros introduced the recommendation by stating that historically boards have lacked consistency, training tools, or assistance in decision making. This recommendation would help create a structured decision-making process.
- Glenn Tapia added that this recommendation would encourage boards to embrace evidence-based decision making and enhance professional judgment with actuarial decision information.
- Eric Philp observed that the training indicated in Recommendation FY15-CC#01 would provide the opportunity to prepare boards to use evidence-based decision making.

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<sup>5</sup> See for example Andrews, D. A. (2007). Principles of effective correctional programs. In L. L. Motiuk and R. C. Serin (Eds.), *Compendium 2000 on effective correctional programming*. Ottawa, ON: Correctional Services Canada. Andrews, D. A., & Bonta, J. (2007). *Risk-need-responsivity model for offender assessment and rehabilitation* (2007-06). Ottawa: Public Safety Canada; Lipsey, M. W., & Cullen, F. T. (2007). The effectiveness of correctional rehabilitation: A review of systematic reviews. *Annual Review of Law and Social Science*, 3, 297–320. Smith, P., Gendreau, P., & Swartz, K. (2009). Validating the principles of effective intervention: A systematic review of the contributions of meta-analysis in the field of corrections. *Victims and Offenders*, 4, 148–169.

<sup>6</sup> Ibid.

<sup>7</sup> See for example Andrews, D. A., & Bonta, J. (2007). *Risk-need-responsivity model for offender assessment and rehabilitation* (2007-06). Ottawa: Public Safety Canada; Bonta, J., Wallace-Capretta, S., & Rooney, R. (2000). A quasi-experimental evaluation of an intensive rehabilitation supervision program. *Criminal Justice and Behavior*, 27(3), 312–329; Cullen, F. T., & Gendreau, P. (2000). Assessing correctional rehabilitation: Policy, practice, and prospects. In J. Horney (Ed.), *Criminal justice 2000: Policies, processes, and decisions of the criminal justice system*. Washington, DC: U.S. Department of Justice, National Institute of Justice; Lowenkamp C. T., Latessa E. J., & Holsinger, A. M. (2006). The risk principle in action: What have we learned from 13,676 offenders and 97 correctional programs? *Crime and Delinquency*, 52, 77–93.



- Alaurice Tafoya-Modi moved the recommendation to a vote and Joe Pelle seconded the motion.

**VOTE:** (a) I support it           16  
           (b) I can live with it       1  
           (c) I do not support it    3

**Recommendation FY15-CC#06 was approved.**

### **FY15-CC#07. Flexibility within Programs**

#### **Recommendation FY15-CC#07**

The Colorado Community Corrections Standards developed by the Division of Criminal Justice (DCJ) shall be changed to allow flexibility within a program to provide appropriate and effective supervision and treatment of sex offenders in accordance with the Sex Offender Management Board (SOMB) Standards and Guidelines, and to provide effective and appropriate supervision and treatment of low, medium, high and very high risk offenders.

*Background.* Currently, DCJ's Colorado Community Corrections Standards are inflexible and do not allow for differential supervision of low, medium and high risk clients. Community Corrections programs would benefit from more flexibility in the Standards with respect to supervision and monitoring of low risk versus high risk clients. The current one-size-fits-all Standards could have a negative impact on a program's ability to effectively manage clients. Examples of standards that can be modified include:

- 4-110 Interim UA Testing
- 4-130 BA and UA for Alcohol
- 4-220 On Grounds Surveillance (Pat Searches and Room Searches)
- 6-070 Weekly Meetings with Case Managers
- 4-160 Off Site Monitoring (Frequency and Method)
- 4-170 Passes
- 4-260 Escape (keep timeframes at 2 hours but encourage programs to consider offender risk level as part of decision to keep or terminate an offender who returns from escape status)
- 4-161 Job Search Accountability

This recommendation requests that the Office of Community Corrections in the Division of Criminal Justice modify its standards to allow community corrections programs the flexibility to differentially supervise offenders based on risk level. Currently, program standards are "one-size-fits-all" and, regardless of the offenders risk level, the programs treat all offenders the same. Based on the risk-needs-responsivity principle, it is more effective to supervise offenders based on this principle. The caveat is that sex offenders, who often score low on risk assessments, may not actually be low risk. Therefore, sex offenders would be supervised according to SOMB Guidelines, regardless of their assessment on standard risk tools.

This recommendation is considered a policy change and not statutory.

Discussion:

- Theresa Cisneros introduced this recommendation by referring to the previously described, “one-size-does-not-fit-all” problem with community corrections programming and is designed to give the Division of Criminal Justice (DCJ) the flexibility to provide appropriate services for offenders with different needs.
- Glenn Tapia added that this would introduce program flexibility to differentially respond to the varying risks/needs of offenders. The recommendation would compel the Office of Community Corrections in DCJ to revise program standards to tailor supervision and programming to fit the needs of offenders based on the Risk-Needs-Responsivity Principle.
- Rick Raemisch asked Jeanne Smith whether this recommendation reflects what the DCJ wants.
  - Ms. Smith responded that DCJ is fine with this recommendation. She added that recommending policy changes through CCJJ task forces is an additional way to inform the community of providers, boards, and everyone concerned about policy directions and priorities. She stated that the standards are under constant review and adjustment, especially through the Governor’s Community Corrections Advisory Council. When a policy recommendation is made at CCJJ, it is another way to say that the community of experts who have looked at an issue would like to see it prioritized. She felt it is an advantage.
- Mr. Garcia asked which particular standards the recommendation addresses.
  - Mr. Tapia pointed out the recommendation included a bulleted list of the particular standards that would be affected.
- Kate Horn-Murphy asked the reason for the specific mention of the SOMB Standards.
  - Mr. Tapia explained that requirements and standards relevant to sex offenders defer to the SOMB standards to avoid any conflict with those standards. However, this does require additional training for staff who will work with sex offenders. In terms of day-to-day supervision practices, the SOMB standards prevail.
  - FOLLOW-UP: Ms. Horn-Murphy asked if there was a specific problem being solved by mentioning the SOMB Standards in this recommendation.
  - Mr. Tapia replied that the issue is that some sex offenders are categorized as low-risk offenders (according to their LSI scores). The inclusion of the SOMB Standards was to clarify that the sex offender designation overrides the LSI risk level when making supervision and programmatic decisions. It is critical not to supervise a sex offender as one might supervise other offenders labeled low risk.
- The recommendation was moved to a vote and seconded.

**VOTE:** (a) I support it            18  
           (b) I can live with it        2  
           (c) I do not support it      0

**Recommendation FY15-CC#7 was approved.**

*[There was a 10-minute break at this point in the meeting.]*

**FY15-CC#08. Develop Program Evaluation Tool****Recommendation FY15-CC#08**

The Division of Criminal Justice (DCJ) shall develop a program evaluation tool that will assess each programs' adherence to evidence-based principles and practices and identify each program's capacity for providing appropriate programming to very high risk offenders. The DCJ should receive funding from the General Assembly to obtain expert consultation on the development of the instrument and to complete a statewide assessment of community corrections programs using the new tool. The current Risk Factor Analysis requirement of DCJ shall be removed from statute.<sup>8</sup>

*Background.* The current DCJ Risk Factor Analysis for community corrections programs does not measure the quality of programming nor does it measure adherence to the Principles of Effective Correctional Intervention.<sup>9</sup> The new instrument should be rooted in best practice principles. With project-specific funding, DCJ's Office of Community Corrections should hire a consultant to review the new instrument and hire temporary staff to immediately assess all community corrections programs.

This recommendation requires DCJ to develop a tool to assess community corrections programs' adherence to the principles of effective intervention. Funding would be requested from the General Assembly to provide professional consultation and temporary staff assistance to develop the tool and to establish a baseline measurement. This would also require a statutory change to eliminate the language regarding the Risk Factor Analysis process tool that is currently mandated and that is no longer effective. This new assessment will help identify those community corrections sites that could effectively manage the specialized program for higher-risk offenders mentioned previously.

This is a policy recommendation that requires a statutory change.

**Discussion:**

- Peter Weir introduced this recommendation and clarified that it directs the development of a program evaluation tool to assess community corrections programs adherence to evidence-based practices, especially in regard to serving high-risk offenders. It also requests money from the General Assembly to develop the instrument.
- Glenn Tapia added that, currently, there is a statute that requires a "risk factor analysis." This recommendation would change the statute to replace that tool with the proposed program evaluation tool. This would ensure that the tool is aligned with research.
- Julie Krow asked whether the existing "risk factor analysis" tool measures offender risk or risks associated with the community corrections program.
  - Mr. Tapia clarified that the current tool is aimed at program risk (meaning, the risk related to failure to comply with program standards), not offender risk. He added that the current tool, which measures minimal expectations for program compliance, is no longer useful and that a new tool could enhance the level of compliance with new evidence-based standards.

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<sup>8</sup> C.R.S., §17-27-108.

<sup>9</sup> For more information about the "risk principle" and evidence based correctional practices, see [http://www.colorado.gov/ccjdir/Resources/Resources/Ref/CCJJ\\_EBP\\_rpt\\_v3.pdf](http://www.colorado.gov/ccjdir/Resources/Resources/Ref/CCJJ_EBP_rpt_v3.pdf).

- Jeanne Smith added that the original program risk tool was intended to determine how often programs should be audited for compliance. DCJ was directed to assess the “degree of concern” regarding a program’s level of basic performance and whether additional audit attention would maintain an acceptable level of program compliance. The assessment had nothing to do with the viability of the program or the performance of the offenders in the program. It was simply to determine the length of a program’s audit cycle. The measure has become superfluous, given the way programs are operating today, and it is somewhat misleading because it implies to the public that it provide a grade for the success of particular programs, when it does not provide this at all.
- The recommendation was moved to a vote and seconded.

**VOTE:** (a) I support it            19  
           (b) I can live with it        0  
           (c) I do not support it      1

**Recommendation FY15-CC#08 was approved.**

### **FY15-CC#09. Three-Quarter House Living Arrangement**

#### **Recommendation FY15-CC#09**

The General Assembly should increase the community corrections appropriation to include a specialized Three-Quarter House or Shared Living Arrangement program for lower risk offenders that includes a specialized per diem, appropriate program standards, and access to services to address stabilization and the minimum supervision needs of lower risk offenders.

*Background.* This new program should focus on life skills rather than clinical behavior change; the per diem rate should be between that of residential and non-residential programs; and offenders should augment funding with a small subsistence fee.

This recommendation addresses the request from the Comprehensive Sentencing Task Force to identify a place in community corrections appropriate for low-risk / high-stakes cases. An example might be a low-risk offender with a vehicular homicide conviction. Probation would not provide the appropriate level of punishment, but a DOC sentence would be inappropriate as well.

The Three-Quarter House model (also referenced as a shared living arrangement) is conceptually placed on the supervision continuum as an intermediate step between residential supervision and non-residential supervision in community corrections. This is envisioned as structured housing in an apartment community or shared living circumstance where the offender would live with staff supervision. These offenders would not be combined with the high-risk offenders, who comprise such a large part of the current community corrections population.

A secondary benefit of the proposal is that it would offer an additional option to fulfill the need of some offenders for housing and minimal supervision. New standards and a new contract structure must be developed to implement this option. There may be zoning issues that would be impacted by this recommendation resulting in a challenge to locate sites for these programs. The

per diem rate would be set somewhere between those for residential and nonresidential programs.

This is a budget initiative related to policy.

Discussion:

- Pete Weir introduced this recommendation by describing that the current design of community corrections programs do not provide the most effective way to deal with low-risk offenders. The recommendation addresses the need for an intermediate step between current programs and immediate release to the community. This would develop a program for lower risk offenders and for services that are customized only to these offenders.
- Glenn Tapia stated that, from a larger perspective, there is demand for an option to serve low risk/high stakes cases with structured community supervision, but not at the same intensity level as that found in a residential supervision program. This option would serve a small population, but would give the court an intermediate supervision option “between” residential community corrections and probation.
- Sheriff Pelle asked if this proposal would reduce the community corrections backlog?
  - Mr. Tapia replied that this option could, in fact, provide that secondary benefit.
- Charlie Garcia asked whether this would provide increased bed capacity or whether it would reduce bed capacity for higher risk clients.
  - Mr. Tapia responded that - no -, this would expand a different realm that is not the typical community corrections residential facility. It would be funded at a rate lower than a residential, but higher than a nonresidential, facility and it would incorporate staff supervision, but at a level lower than is typical in residential community corrections.
  - FOLLOW-UP: Wouldn't that require zoning changes?
  - Mr. Tapia concurred that zoning issues would have to be addressed, but pointed out that this option did exist in the past in Mesa County and the 6<sup>th</sup> Judicial District.
- Doug Wilson asked if this would be a direct sentence option and who would make the decision that the offender would be placed in the three-quarter house?
  - Mr. Tapia described this as an implementation issue that would require discussion, if the Commission approves the recommendation. Currently, a judge sentences an offender to community corrections and the decision to move an offender to non-residential placement or to return an offender to residential status is made by community corrections, depending on offender assessments and performance. The three-quarter house placement could be made by community corrections or a judge could sentence an individual directly to a three-quarter house.
  - FOLLOW-UP: Mr. Wilson asked whether this would decrease direct placements to the non-residential option. He added that the court tends to over-sentence individuals and more individuals, who would have performed well in a non-residential placement, may be unnecessarily shifted to this higher level of supervision. He would prefer that more individuals be placed in this proposed option from the residential population than reducing the number that would have been placed in the non-residential option.
  - Mr. Tapia clarified that 99% of offenders start in a residential placement, rather than being placed directly into non-residential status. This would allow an intermediate step for some offenders to pass through the three-quarter house rather than being placed directly on non-

residential status. He added that the development of regulatory boundaries to guide these placements would be necessary.

- Mr. Philp observed that there have been times when community corrections appropriations increased, but the number of beds has decreased. Would there be wisdom in the request tying the appropriation increase to the increase in the number of beds?
  - Mr. Tapia responded that this issue is not as critical as has been the case in the past. There are quite a few empty residential beds and the issue is centered more on acquiring funding for this intermediate per diem level.
- Mr. Garcia asked whether individuals might be sentenced directly to the three-quarter house rather than receiving the typical sentence to residential community corrections?
  - Mr. Tapia would hope that the three-quarter house would be the preferred initial placement for this smaller population of low risk/high stakes offenders. And, not every offender starting in a residential placement would need to move through the three-quarter house; some could be placed on non-residential status without needing this intermediate step.
- Julie Krow moved the recommendation to a vote and Doug Wilson seconded the motion.

**VOTE:** (a) I support it            17  
           (b) I can live with it        3  
           (c) I do not support it      0

**Recommendation FY15-CC#09 was approved.**

## **REFERRAL WORKING GROUP**

### **Final Recommendations**

This Working Group was tasked to explore the transition referral process and determine whether the principles for effective intervention could be embedded into the referral process. The current process is primarily time-driven (namely, eligibility is determined by the number of months prior to the parole eligibility date, PED). The volume of offenders who can be accommodated was another significant factor considered. The goal was to include matters of risk and readiness into the transition decision.

### **FY15-CC#10. Risk Informed Referral Process**

#### **Recommendation FY15-CC#10**

The Department of Corrections (DOC) shall adopt a risk-informed process for referring inmates to community corrections. This process should mirror the decision making flow charts that accompany this recommendation.

*Background.* As illustrated in the accompanying flow charts, the DOC referral process should allow for early and immediate referral of low risk offenders; automatic referral at 19 months for moderate-high risk offenders (or 9 months to PED for a crime of violence); and referral at the parole eligibility date (PED) for very high risk offenders. Research supports assessing offender risk/need levels by using an actuarial instrument to determine

the appropriate level of intervention.<sup>10</sup> An actuarial risk assessment, such as the Colorado Actuarial Risk Assessment Scale (CARAS),<sup>11</sup> can determine the probability of re-offense.

The intent of this recommendation is to match offenders with available services. There are three flow charts to describe its related processes to place low, medium-to-high, and very-high risk offenders in community corrections. Risk could be determined by whatever instrument is in use, whether that be the CARAS (the Colorado Actuarial Risk Assessment Scale) or the ORAS (the Ohio Risk Assessment Scale, which is currently being introduced as part of the Colorado Transitional Accountability Plan or CTAP program at DOC).

The three referral tracks are:

- Low risk offenders should be treated with minimal services as quickly as possible. Specifically, these offenders would be referred to ISP-I or a short-term stint in residential community corrections. Those who committed a “VRA crime” would not be eligible for this placement track. Placement would occur at 16 months prior to PED for non-violent offenders and 6 months prior to PED for those convicted of a violent crime.
- The medium-to-high risk track is similar to the process that currently exists. Referral would occur at 19 months prior to PED for non-violent offenders (placement at 16 months) and 9 months prior to PED for those convicted of a violent or VRA-related crimes (placement at 6 months).
- The very high risk track would require offenders to remain in DOC until the PED is met to receive a community corrections referral.

This is a policy recommendation directed to DOC that would involve statutory change.

#### Discussion:

- Peter Weir introduced this recommendation by stating that it is advantageous to employ a risk-informed process for referring inmates rather than using an ad hoc approach. Greg Mauro and the Referral Working Group have developed an extensive process to refer inmates at different levels of risk. Mr. Weir indicated that he supported the recommendation, but he was concerned about the factors included in the transition decision-making. He acknowledged that the core of his issue may be more relevant to sentencing practices. Even so, personally, he would prefer to see categories of violent/nonviolent and person/non-person crimes somehow integrated into the risk considerations of the referral process. For this reason only, Mr. Weir stressed that he was the only dissenting vote on this recommendation in the Task Force.
  - In Mr. Mauro’s absence, Glenn Tapia added that the current referral-to-community process is based solely on the time prior to an offender’s Parole Eligibility Date (PED) and does not take risk into account. This proposal is aligned with evidence-based decision-making to

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<sup>10</sup> For more information about the “risk principle” and evidence based correctional practices, see [http://www.colorado.gov/ccjdir/Resources/Resources/Ref/CCJJ\\_EBP\\_rpt\\_v3.pdf](http://www.colorado.gov/ccjdir/Resources/Resources/Ref/CCJJ_EBP_rpt_v3.pdf).

<sup>11</sup> For more information see [http://www.colorado.gov/ccjdir/ORS2/pdf/docs/CARAS/2-14-11%20CARAS\\_V5-BriefDescription.pdf](http://www.colorado.gov/ccjdir/ORS2/pdf/docs/CARAS/2-14-11%20CARAS_V5-BriefDescription.pdf) and for an example see [http://www.colorado.gov/ccjdir/Resources/Resources/Handout/2009/021309\\_R\\_2%202008-ActuarialRiskAssessmentScale.pdf](http://www.colorado.gov/ccjdir/Resources/Resources/Handout/2009/021309_R_2%202008-ActuarialRiskAssessmentScale.pdf).

- include considerations of risk. In essence, this recommendation would refer the low-risk population sooner and not refer the very high-risk offenders until they have met their PED.
- Mr. Tapia continued his comments by describing each of the referral tracks. The overarching concept is “to get out of the way” of low-risk offenders, preferably with immediate referrals to IPS-I (Intensive Supervision-Inmates), and to promote differentiated decision-making around higher risk offenders (see the recommendations handout for the three risk-based referral tracks).
  - Rick Raemisch reiterated his earlier comments that this is another recommendation that should not propose statutory change, but instead should be offered as a policy change. He argued that it would not be feasible to introduce the three charts depicting the referral process into statute. He added that, if the recommendation was translated into statute, the statute would not allow for future developments. He pledged to take the recommendation to his staff for study and that either this recommendation or something similar would be implemented.
    - Mr. Weir clarified that the recommendation, as drafted, would not be the actual statutory language. The recommendation simply provided direction and explanation for drafters to adapt. His other concern was that the referral process is already in statute. Therefore, changes to the referral process must modify the existing statute.
    - Theresa Cisneros added that it is possible to address DOC’s concerns by eliminating the language that specifies the decision-making flow charts. Instead, the language could recommend a risk-based process, offering the flow charts as examples. Given that Commission deliberations are grounded in research, it makes sense to make recommendations focused on all aspects of criminal justice, including those in DOC, like the transition to community corrections.
    - Mr. Tapia stated that this recommendation is also nicely aligned with the Colorado Transition Accountability Tool (CTAP) tool already in use at DOC. The risk information would follow the offender from intake through the referral process.
  - Mr. Raemisch repeated that this and all other recommendations focused on the DOC should not be addressed by statute, but instead should be policy only. He further requested that Commissioners defeat this and any proposal that addresses the activities of the DOC. Defeating the recommendations will allow him to fix the problems and to protect the Governor’s and Mr. Raemisch’s authority to run the DOC.
    - Mr. Weir disagreed with Mr. Raemisch, stating that this recommendation was not an effort to micromanage DOC. He added that the purpose of the CCJJ is to recommend constructive policy with respect to our system. Given that the policy is already in statute, it requires a statutory change to modify the policy. The CCJJ is directed in statute to produce evidence-based recommendations.
  - Doug Wilson added that the recommendation appropriately focuses attention on the higher risk offender while moving the low-risk offenders more quickly through to the community. Because the referral timeframes are in statute, it requires a statutory change to modify the referral process.
  - Julie Krow was curious whether this referral system would unduly restrict the flow of offenders to community corrections.
  - Joe Pelle added that the recommendation language around risk-informed tools, in general, is fine for statute, but that flowcharts are problematic in statute. Could the flowchart descriptions and mentioned of specific risk assessment tools be more flexible and adaptable to changing practices?



- Brandon Shaffer appreciated the revisions to make the referral process risk-based and that the revisions to statute would be necessary. He suggested that the recommendation be tabled to allow further discussion with DOC and to give the Commission additional time to study the complexities of the recommendation.
- Ms. Krow agreed with the suggestion to table the recommendation, especially given the misgivings expressed by Mr. Raemisch (the DOC Executive Director).
- Mr. Hilkey reminded the group that three options had been proposed during the discussion: the first, make this a policy recommendation rather than a statutory change; the second, to remove the flowchart verbiage; and third, to table the recommendation altogether.
- Mr. Shaffer moved to table this Recommendation FY15-CC#10 for additional discussion. The motion was seconded by Mr. Raemisch.
- During discussion of the motion, Dave Young proposed a substitute motion that the Commission should vote on the current recommendation, have it drafted into legislative language, and, if deemed acceptable upon review at a subsequent meeting, proceed in finding a legislative sponsor. This substitute motion was seconded.
- There was a lengthy discussion regarding the exact intent of the substitute motion. It was decided that the substitute motion is to adopt the recommendation. Discussion of the motion to adopt continued.
- Julie Krow argued that, although the recommendation has great merit, more work should be done on the recommendation because the Executive Director (Rick Raemisch) does not support it at this time.
- Rick Raemisch stated to any member of the Commission who represents a department, that he would not vote on any recommendation in the future that would direct them to an action that they would not want and that they believe would place roadblocks in their efforts to do what they feel is right for their organizations.

**VOTE on motion to adopt Recommendation FY15-CC#10:**

- |                         |    |
|-------------------------|----|
| (a) I support it        | 11 |
| (b) I can live with it  | 1  |
| (c) I do not support it | 8  |

**Recommendation FY15-CC#10 was not approved.**

*[Discussion of the recommendation continued.]*

- Doug Wilson asked whether there were DOC representatives on the Community Corrections Task Force who already worked on the recommendation as it existed.
  - Mr. Raemisch replied that there were DOC representatives on the Task Force, but that the DOC representatives did not comprise a majority of the membership of the Task Force.
- A procedural discussion occurred regarding the reconsideration of the recommendation and options for tabling it for further work. The discussion concluded with a motion by Brandon Shaffer to reconsider Recommendation FY15-CC#10. The motion was seconded by Charlie Garcia. *[Votes to reconsider require a majority for approval.]*

**VOTE to reconsider Recommendation FY15-CC#10:**

- (a) I support it           15  
 (b) I do not support it    4

**Reconsideration of Recommendation FY15-CC#10 was approved.**

- Mr. Shaffer moved to table Recommendation FY15-CC#10 for further discussion and work by the Community Corrections Task Force in collaboration with representatives of the Department of Corrections. *[The vote to table requires a majority for approval.]*

**VOTE:** (a) I support it           15  
 (b) I do not support it    4

**Tabling Recommendation FY15-CC#10 was approved.****FY15-CC#11. Allow for Objective Recommendation  
Recommendation FY15-CC#11**

The Department of Corrections (DOC) shall develop a process that allows appropriate personnel familiar with the offender to provide a current recommendation, positive or negative, based on objective factors, for community placement.

*Background.* Currently, the DOC does not allow staff to make a recommendation. Currently (AR) 1450-01 prohibits advocacy for an offender. Transition cases are referred based on time-driven eligibility only.

This recommendation is related to Recommendation FY15-CC#02 from the Board Working Group. This and following recommendations are somewhat interdependent. This recommendation would require DOC to develop a process that would allow appropriate personnel to offer an objective recommendation regarding the appropriateness of placement in community corrections. This would allow community corrections boards to make a more informed acceptance decision. There are instances where referrals, based only on time determinations, are made to community corrections for offenders that case managers do not feel are appropriate.

Codifying this process in statute might provide DOC staff a degree of protection from liability. The Task Force could not decide whether the recommendation should be framed as a legislative change. There were also discussions about who the “appropriate personnel” should be. Aside from the liability issues, there could be concerns regarding objectivity and impartiality of DOC employees embedded in the organization with a vested interest in the outcome of the decision. It would probably be prohibitively expensive to create an outside party to provide such recommendations.

This is a policy recommendation directed to DOC that might involve statutory change.

Discussion:

- Theresa Cisneros introduced Recommendation FY15-CC#11 by describing it as a policy. The recommendation requests that the DOC develop a process to allow appropriate personnel to make recommendations regarding inmate referral to community corrections boards. Currently, DOC personnel are not authorized to make recommendations regarding inmate candidacy for placement in community corrections. This would aid community corrections boards in making more informed decisions.
- Senator Steadman stated that he doesn't support this recommendation. Although he does favor improved information sharing between DOC and community corrections boards, he was concerned that this would diverge from a policy that exists for justifiable reasons. From the perspective of DOC, what is the rationale for the policy and what are the reasons to reverse the policy?
  - Mr. Raemisch answered that current policy is formulated around safety for staff and ensures that staff are not placed in a position of risk to be bribed or compromised. He found advantages to such a policy, but is primarily concerned about the safety of staff.
  - Mr. Tapia stated that, under the current practice, there is no information from the institutional side regarding the readiness of the inmate for community corrections. Because the current referral process is time-based, as mentioned previously, case managers simply state that, "This is a mandatory referral," which may be interpreted by boards as code for "I don't think this person will function well in the community." Allowing a case manager to openly provide pros and cons regarding an inmate's readiness would be more informative for boards.
- Mr. Hilkey reiterated Mr. Raemisch's comments that he was not averse to the idea, if the safety concerns could be addressed.
- The recommendation was moved to a vote and seconded.

**VOTE:** (a) I support it                    6  
           (b) I can live with it            5  
           (c) I do not support it        8

**Recommendation FY15-CC#11 was not approved.****FY15-CC#12. Readiness-To-Change Assessment****Recommendation FY15-CC#12**

The Department of Corrections (DOC) shall research readiness-to-change assessment options and implement an offender readiness assessment to assist with the community placement decision.

*Background.* Community corrections board members need more information about DOC offenders who are referred for community placement. The readiness-to-change assessment should be conducted as of the community corrections referral process for transition offenders. Examples of such instruments include the University of Rhode Island Change Assessment Scale

(URICA)<sup>12</sup> and the Stages of Change Readiness and Treatment Eagerness Scale (SOCRATES).<sup>13</sup>

This recommendation bolsters the information that is forwarded from the DOC to community corrections boards. It requires the DOC to investigate and implement readiness-to-change assessments as part of the referral documentation. The combination of readiness-for-release with actuarial risk would enhance the transition referral decision.

This is a policy recommendation directed to DOC.

Discussion:

- Theresa Cisneros introduced Recommendation FY15-CC#12. This recommendation proposed the development of a readiness-to-change assessment. This would be the avenue by which the referral recommendation from the institution (proposed in the previous failed recommendation FY15-CC#11) could be implemented, rather than placing staff in an insecure position, argued as possible when providing a personal referral recommendation.
- Glenn Tapia added that this recommendation was to simply request the DOC to explore actuarial assessment to determine readiness for referral to community placement. This assessment by DOC would supplement, on the referral side, the evidence-based practices being requested of boards in previously addressed recommendations.
- The recommendation was moved to a vote and seconded.
- Mr. Raemisch, although not opposed in concept, requested that Commissioners defeat the recommendation because he was unsure whether this could be implemented and, if so, how much implementation would cost. He indicated that he would explore the options and feasibility for such assessment and report his findings to the Commission.

**VOTE:** (a) I support it            9  
           (b) I can live with it        2  
           (c) I do not support it      7

**Recommendation FY15-CC#12 was not approved.**

**FY15-CC#13. Disallow Refusal To Be Referred**

**Recommendation FY15-CC#13**

The Department of Corrections shall revise Administrative Regulation (AR) #250-03,<sup>14</sup> which currently allows inmates to refuse a referral to community corrections, to disallow this refusal option except for inmates who are completing a vocational rehabilitation or treatment program.

<sup>12</sup> For more information see <http://alcoholrehab.com/drug-addiction-treatment/university-of-rhode-island-change-assessment-scale-urica/> and <http://www.uri.edu/research/cprc/Measures/urica.htm> for an example of the measure.

<sup>13</sup> For more information see <http://alcoholrehab.com/drug-addiction-treatment/readiness-to-change-socrates/> and <http://casaa.unm.edu/inst/SOCRATESv8.pdf> for an example of the measure.

<sup>14</sup> For a full view of the Administrative Regulation see [http://www.doc.state.co.us/sites/default/files/ar/0250\\_03\\_060114.pdf](http://www.doc.state.co.us/sites/default/files/ar/0250_03_060114.pdf).

*Background.* Currently, offenders may refuse a referral to community corrections. It is believed that this often occurs when they anticipate being denied placement by the local community corrections board. This likely reduces the number of offenders who could benefit from placement. Note that offenders would still retain the right to refuse placement if accepted.<sup>15</sup>

Currently, DOC Administrative Regulations allow the offender to refuse the application to community corrections. Offenders will refuse due to previous rejections by community corrections boards or they may have an expectation that the Parole Board will release them to parole. The proposal would allow the application to be submitted. If an offender is accepted, he/she still has the right to refuse placement. The case manager could then engage the offender to explore the reasons for the refusal or the perceived obstacles regarding placement in the community.

This is a policy recommendation directed to DOC.

Discussion:

- Theresa Cisneros described that this recommendation addressed a concern that inmates refuse a referral to community corrections based on other inmates stating that the likelihood for acceptance is small. Based on this misperception, inmates who would benefit from a “stepped down” experience in community corrections are instead paroled to the streets. Ms. Cisneros indicated that Pete Weir opposed the recommendation because it would place inmates, who are uninterested in community corrections placement, under consideration by community corrections boards.
- DOC employees reported that, if they have the ability to refer such inmates, they could convince the inmates of the advantages of community placement.
- Glenn Tapia summarized the findings from a previous policy review of the topic that inmates who fail in community corrections report to others that community corrections is a bad option. Inmates do not hear the positive stories of inmates who succeed in community corrections because, obviously, they do not return to DOC. The recommendation still would allow inmates to refuse placement, if they are accepted; it simply disallows the refusal to be referred.
- Risk Raemisch emphasized that, given their constitutional rights, inmates can refuse such actions. They cannot be forced to accept a placement in community corrections. Mr. Raemisch also was concerned by the inefficiency of boards considering the acceptance of inmates who will ultimately refuse placement. He felt that building a process for community corrections success stories to be shared would be a more viable option.
- Alaurice Tafoya-Modi asked for clarification regarding the number of inmates refusing referral, which she believed was small. She also believed that those who go through community corrections are much more likely to be successful and, therefore, this is a good recommendation.

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<sup>15</sup> This right is in compliance with C.R.S. § 18-1.3-301(j)(2)(a, b, and c). See also, AR Form 250-03A at [http://www.doc.state.co.us/sites/default/files/ar/0250\\_03\\_060114.pdf](http://www.doc.state.co.us/sites/default/files/ar/0250_03_060114.pdf).

- Mr. Tapia confirmed that the number of offenders this would affect is relatively small. He added that this recommendation originally came out of a LEAN (policy review) event, which found that only 34% of inmates transition through community corrections.
- Charlie Garcia asked whether parole board members are aware when an inmate refuses placement in community corrections.
  - Brandon Shaffer (Parole Board, Chair) indicated that the Board is aware if an inmate is not accepted into community corrections, but there is no documentation that an inmate refused to be referred or placed. They will, on occasion, receive his information from a case manager, but there is no consistent documentation of these events.
- Julie Krow asked that, given there is some evidence that forcing people into treatment works, why there is an exception for treatment?
  - Ms. Cisneros responded that this exception allows an inmate to refuse a referral for a reason considered justifiable...namely, to complete a vocational or treatment.
  - FOLLOW-UP: Ms. Krow asked that the language be clarified to indicate that the inmate is enrolled in a program in the DOC.
- Dave Young stated that he would oppose the recommendation because it seems based on assumptions regarding the “rumor mill” in the DOC. Rather, it may be true that the inmate has no motivation to complete the requirements in community corrections.
- Joe Pelle asked how it would be possible to force an individual to participate in the community corrections alternative to incarceration.
- The recommendation was moved to a vote and seconded.

Following revisions, the recommendation appeared as follows:

The Department of Corrections shall revise Administrative Regulation (AR) #250-03, which currently allows inmates to refuse a referral to community corrections, to disallow this refusal option except for inmates who are **CURRENTLY ENROLLED IN** ~~completing~~ a vocational rehabilitation or treatment program.

**VOTE:** (a) I support it           5  
 (b) I can live with it       1  
 (c) I do not support it   11

**Recommendation FY15-CC#13 was not approved.**

#### **FY15-CC#14. Feedback on Referral Rejection**

##### **Recommendation FY15-CC#14**

Community corrections boards and programs, in conjunction with the Department of Corrections (DOC) shall develop a communication mechanism to provide appropriate feedback to the inmate regarding the decision to reject placement for a transition referral.

*Background.* Currently, community corrections boards notify DOC that a case was rejected and do not provide the rationale for the decision. Details regarding the reasons for the placement denial would assist the inmate to prepare for future release to community corrections (a checklist of common reasons could be

created). This information is particularly useful if there are dynamic risk factors that can be addressed that allow the offender to be a more suitable candidate in the future.

This recommendation would require community corrections boards and programs to devise a mechanism to provide meaningful feedback regarding the decision to deny placement in community corrections. This would allow an elaboration of the generic reasons that are currently reported. If there are dynamic reasons for rejection, the case manager could work with the offender to address these matters and improve the chances for acceptance in the future.

Representatives of boards and programs felt this would be very difficult to achieve, but that there would be value to case managers and offenders in providing this feedback.

This is a policy recommendation directed to DOC.

#### Discussion:

- Theresa Cisneros reported that the Community Corrections Task Force believed strongly there should be a communication mechanism from community corrections boards to DOC regarding the reasons for a referral rejection. Under the current practice, inmates are rejected, but the reasons are unknown.
- Julie Krow stated that it is possible that an offender is rejected due to victim concerns. She was concerned how the information would be protected, if rejection was due to victim input.
  - Jeanne Smith responded that the issue was discussed in the Task Force and that a process could be developed to restrict the information to the reasons that are in the inmate's control to modify. There would be value in reporting reasons related to behavior the inmate could change.
- Mr. Philp supported the concept, adding that currently people are rejected without knowing why. Part of the conversation around the development of the recommendation was to create a set of reasons to support the case manager's efforts to help make the inmate a better candidate.
- Mr. Tapia clarified that this recommendation, as one part of the set of recommendations, was to complete the feedback loop between the Department of Corrections and the community. A previous recommendation addressed the sharing of information from DOC to community corrections boards, along with the referral recommendation (*FY15-CC#02 and CC#11, neither of which passed*), and this recommendation addressed the sharing of information regarding board deliberations from community corrections to the DOC. The recommendation would complete the communication loop between institutions, community corrections boards and programs.
- Ms. Krow stated she would support this recommendation, if there was language that would protect information about victims.
  - Brandon Shaffer indicated that the Colorado Victim Rights Act already requires that victim input and information must be kept confidential.
- Senator Steadman asked how this recommendation would work in practice. Is there an easily communicated reason for rejection? Is there typically a single reason for rejection or multiple reasons from different community corrections board members? Would every board create their own list of "boilerplate" reasons or would that be developed elsewhere and provided to boards? Would boilerplate reasons be useful?

- Dave Young offered his experience as a member of a community corrections board. Most often there was simply a show of hands for acceptance without an expression of the individual reasons for the decision. He was dubious that boards could develop a checklist that would be viable for every referral decision.
- Mr. Tapia agreed with the comments regarding the challenge of providing quality feedback regarding the acceptance decision. Ultimately, it's the right thing to do. Boards need to work toward articulating the reasons for and against acceptance. There may be as many different reasons as there are board members, but these reasons should be explored, described, and documented.
- The recommendation was moved to a vote and seconded.

**VOTE:** (a) I support it            10  
           (b) I can live with it        4  
           (c) I do not support it      3

**Recommendation FY15-CC#14 was approved.**

### **FY15-CC#15. Limit Referrals to Two Options**

#### **Recommendation FY15-CC#15**

Transition referrals from the Department of Corrections (DOC) to community corrections shall be to a *primary* and *alternate* release destination only. A primary referral shall be a viable and verified county of parole destination or county of conviction. County of conviction shall not be used for crimes occurring within a Department of Corrections facility

*Background.* Currently, DOC provides up to four location recommendations. However, due to low acceptance rates by the 3<sup>rd</sup> and 4<sup>th</sup> level referrals, this process requires significant additional work for DOC staff and local boards. Additionally, these options are not typically associated with a relevant parole plan or county of conviction.

This recommendation alters the current process to send referrals to a primary site, an alternate site, and up to two other community corrections jurisdictions. The pattern of decisions shows that the acceptance rates at the third and fourth sites is very low, possibly because these sites are often not geographically preferable to the offender or the community corrections site. Limiting the application to two sites would also reduce the review caseload by limiting the number of applications that boards receive from DOC.

This is a policy recommendation directed to DOC.

#### **Discussion:**

- Theresa Cisneros described that this recommendation is to limit the number of referral locations to two: a primary and a secondary placement. The current process was described as a “shotgun approach,” in hopes that an inmate will be accepted somewhere.
- Charlie Garcia asked about the last sentence in the recommendation regarding “county of conviction.”



- Glenn Tapia responded that the potential referral sites should not include the prison location simply because a recent crime may have occurred in the facility.
- Mr. Tapia added that the current practice is to refer inmates to one primary and three alternate locations with the 3<sup>rd</sup> and 4<sup>th</sup> locations being random. The current proposal would reduce the number of locations where victims would need to participate in the community corrections board decision process, would streamline the referral process, and would reduce the workload on community corrections boards.
- Mr. Garcia was concerned about the cases where the crime occurred in a community corrections facility. Offenders may have no ties to the county where the community corrections facility is located - similar to the concern regarding recent crimes committed in a DOC facility. He requested that the phrase, “or a community corrections facility” be appended at the end of the last sentence of the recommendation.
- There was a motion and second to add the language Mr. Garcia suggested. Mr. Hilkey asked for discussion of the amendment.
- Rick Raemisch stated that it is really hard to find placements for inmates. Even if based on a “shotgun approach,” if a county accepts the inmate, it is still an acceptance that benefits the inmate and may prevent releasing the inmate to homelessness. Additionally, for difficult-to-place inmates, like sex offenders, placements are limited by the locations where sex offender treatment is available and, in this case, a random placement where the offender has no community ties may be advantageous. He opposed the recommendation, not because he doesn’t agree with its intent, but because the options are sometimes so limited that there is just no better option than a random placement.
- Stan Hilkey clarified that the previous comment was in regard to the recommendation itself. He asked whether there were comments regarding the proposed amendment to the recommendation.

Following revisions, the recommendation appeared as follows:

Transition referrals from the Department of Corrections (DOC) to community corrections shall be to a *primary* and *alternate* release destination only. A primary referral shall be a viable and verified county of parole destination or county of conviction. County of conviction shall not be used for crimes occurring within a Department of Corrections facility **OR A COMMUNITY CORRECTIONS FACILITY.**

Amendment to FY15-CC#15-

**VOTE:** (a) I support it           13  
           (b) I can live with it       2  
           (c) I do not support it     2

**The amendment to Recommendation FY15-CC#15 was approved.**

*[Discussion of the recommendation continued.]*

- Senator Steadman asked for a reiteration of the problem that the recommendation was intended to solve.
  - Mr. Tapia explained that offenders are referred to 4 locations at once and these may be anywhere in the state. The 3<sup>rd</sup> and 4<sup>th</sup> location will probably not be locations where the offender has any ties. Offenders are often rejected from the 3<sup>rd</sup> and 4<sup>th</sup> locations; boards are required to expend resources on the review of these 3<sup>rd</sup> and 4<sup>th</sup> referrals; and asking victims

to travel to these locations to testify is a burden. Also, these “extra” rejections are recorded in offenders’ records.

- Mr. Garcia added that most of the offenders will either return to the county of conviction or to Denver.
- The recommendation as amended was moved to a vote and seconded.

**VOTE:** (a) I support it           11  
           (b) I can live with it       4  
           (c) I do not support it     2

**Recommendation FY15-CC#15 (with amendment) was approved.**

### **FY15-CC#16. Intensive Residential Treatment (IRT) Referral Process**

#### **Recommendation FY15-CC#16**

The Department of Corrections shall collaborate with community corrections stakeholders to develop an Intensive Residential Treatment (IRT)<sup>16</sup> and Residential Dual Diagnosis Treatment (RDDT)<sup>17</sup> referral process that is focused on where the individual will eventually parole.

*Background.* Currently, the DOC sends a single referral to each of the six IRT programs, regardless of where the offender will live and work upon release. The first IRT program to respond with an acceptance decides placement. Similar concerns exist for the RDDT placement referral process.

This recommendation requests that DOC collaborate with community corrections programs, boards and the Division of Criminal Justice to develop referral processes directed toward Intensive Residential Treatment (IRT) and Residential Dual Diagnosis Treatment (RDDT) programs that are more logical and more geographically based.

There are only six IRT programs in the state and referrals are sent to all six. The first to respond will serve as the official placement for the offender when the offender may actually be located in a different jurisdiction. Another problem arises when a program accepts an offender but requires the offender to wait for an opening when there may be openings in other programs. The lack of logic and functionality in the referral process has been a long-standing problem that produces discontinuity of treatment.

This is a policy recommendation directed to DOC and other community corrections stakeholders.

#### **Discussion:**

- Theresa Cisneros described that the current practice of referral to IRT programs involves a referral to all six programs and there are no geographic considerations for a referral.

<sup>16</sup> For more information on IRT programs see section III of the *Colorado Community Corrections FY2012 Annual Report*. <https://docs.google.com/a/state.co.us/file/d/0B2U96WYBS1wNd3RUVe1VUHA0ZUE/edit>.

<sup>17</sup> For more information on RDDT programs see section IV of the same report report <https://docs.google.com/a/state.co.us/file/d/0B2U96WYBS1wNd3RUVe1VUHA0ZUE/edit>.

- Glenn Tapia added that, among these six referrals, acceptance is first-come, first-served. An individual may spend a period in IRT in one location then be placed in a different community corrections location, which is disruptive to that offender's continuity of care. There is also no indicator in the DOC system that an offender is in need of RDDT placement. This recommendation is to create intentional referrals for these specialized programs based on an offender's risk and needs.
- Rick Raemisich observed that this recommendation does avoid micromanaging by statute by focusing on policy. He continued that more and more individuals commit technical violations and are returned to prison multiple times. When this is due to problems related to substance abuse, these offenders are placed on six-month waiting lists because there are not enough treatment beds. Parole officers will submit the individual to all the possible referral locations in hopes that the offender can get treatment somewhere. Mr. Raemisich asked that the recommendation be defeated, but indicated that he would have his staff explore the situation to improve the process. He felt that the recommendation closes doors on the few opportunities that are available.
  - Mr. Tapia confirmed Mr. Raemisich statement regarding the waiting period for a treatment bed. However, it is for this reason the recommendation was developed. Currently, an RDDT location may accept individuals for treatment, but place them on the waiting list for treatment at that location. The acceptance makes the offender ineligible for any other location where there may actually be empty treatment beds. This proposal would encourage the creation of an intentional and efficient referral process to place offenders in the right program at the right place for the right offender.
- The recommendation as amended was moved to a vote and seconded.

**VOTE:** (a) I support it            11  
           (b) I can live with it        4  
           (c) I do not support it      3

**Recommendation FY15-CC#16 was approved.**

This concluded the presentation of recommendations from the Community Corrections Task Force.

Stan Hilkey asked whether there were any other comments or business for the consideration of the Commission.

Charlie Garcia announced that, serving as the President of the Colorado Bar Association, he is working on helping unaccompanied children [*This is in reference to unaccompanied minors entering the country*]. He acknowledged that this issue may fall more in the federal court realm, but asked Commissioners interested in the issue to contact him.

**NEXT MEETING**

The December Commission meeting was canceled. The next meeting on January 9, 2015 at 12:30pm and the meetings scheduled through March will be held at the Lakewood Civic Center.

The meeting adjourned at 5:10 p.m.