

**Community Corrections Task Force
MINUTES**

April 10, 2023/ 10:30AM-12:00PM
Virtual Meeting

ATTENDEES

TASK FORCE MEMBERS

Glenn Tapia, *Task Force Chair*, Division of Probation Services
Tim Hand, *Task Force Vice-Chair*, Larimer County Community Corrections
John Draxler, Probation Services/ 13th Judicial District (JD)
James Karbach, State Public Defender/ Arapahoe County
Ken Kupfner, DA Office/ 20th JD
Chris Meeks, Denver Community Corrections Board
Katie Ruske, Office of Community Corrections/ Division of Criminal Justice
Mark Wester, ComCor Inc.

ABSENT

Doug Carrigan, Advantage Treatment Centers
David Coleman, Second Chance Center
Kristiana Huitron, Voces Unidas for Justice
Todd Rowell, Sheriff's Office/ Mesa County

STAFF

Richard Stroker, CCJJ Consultant
Laurence Lucero, CCJJ Staff, Division of Criminal Justice
Jack Reed, Research Director, Division of Criminal Justice
Stephane Waisanen, CCJJ Staff, Division of Criminal Justice

GUEST

Justin Brakke, Joint Budget Committee
Dianne Tramutola-Lawson, Colorado CURE

<p>Issue/Topic Welcome <i>Glenn Tapia, Task Force Chair</i></p>	<p>Discussion Glenn Tapia, Task Force Chair, welcomed members and guests to the Community Corrections Task Force (CCTF) meeting. Glenn reviewed the agenda and solicited members for any additions or corrections to the March 6 minutes. A motion was offered and seconded to approve the minutes. Task Force members unanimously approved the March 6 minutes.</p>
--	---

<p>Issue/Topic Review of Preliminary Recommendation & Discussion <i>All</i></p>	<p>Discussion</p> <p>Glenn began by sharing that the preliminary recommendation presented today included the concepts approved by the group at the last meeting. James Karbach developed a document including an alternative recommendation and additional background and data (background and data was added in Appendix 2). Appendix 2 provides information on community corrections facilities, current practices regarding misdemeanants in community corrections, work release, treatment, and sentencing options for high-need drug misdemeanants, misdemeanor sentencing, and community corrections.</p> <p>Glenn reviewed the preliminary recommendation and invited feedback from Task Force members. The documents were forwarded electronically to the Task Force members before the meeting. The group discussed some revisions, marked in BOLD/CAPS below.</p> <p><u>Recommendation FY23-CC #01</u> Amend the statute regarding the placement of and funding for misdemeanants in community corrections to allow for high-risk/high-need probationers at risk of revocation to be placed into a community corrections facility with funding provided by the General Fund. The language should include a requirement to evaluate the effectiveness of these placements. The successful completion rate of high-risk and high-risk/high-need probationers is very low and the revocation and reinstatement of individuals on traditional probation has not shown to be a useful tool to improve their outcomes. This recommendation would allow for the placement of misdemeanor probationers classified as high risk and high need, as determined by validated risk and need assessment tools, into participating programs and with the approval of local community corrections boards and providers. [See <u>Proposed Statutory Language</u> below.]</p> <p><u>Discussion</u></p> <p><i>Background</i> House Bill 2022-1368 directed CCJJ to analyze aspects of community corrections and develop recommendations to the legislature regarding the potential use or expansion of community corrections programs that may be beneficial to individuals convicted of misdemeanors who may not be eligible to be placed in community corrections programs with state supported funding. (See Section 16-11.3-103.3k C.R.S.).</p>
--	--

<p>Issue/Topic Review of Preliminary Recommendation & Discussion All</p>	<p><i>Statutory Purposes of Probation and Community Corrections</i> As recommended by the Colorado Commission on Criminal and Juvenile Justice, statute establishes the purposes of probation and community corrections, which include provisions to assist people in behavior change (§16-11-201.5(b), C.R.S.) and to address their assessed risks and needs (§17-27-101.5 (c), C.R.S.). Outcome data, analyzed by risk and need levels, suggests an opportunity to improve supervision and treatment of particular misdemeanants on probation by placement in community corrections under certain conditions.</p> <p><i>Misdemeanant Population</i> Some individuals convicted of misdemeanors could benefit from additional response options. The group of high-risk/high-need probationers who have a difficult time complying with conditions and continue to violate has shown that the typical course of probation is not effective. Identifying this group through validated risk assessments and providing the possibility of new placement options to assist them in the process of stabilization, and to improve future performance on probation. House Bill 19-1263 (drug felony to drug misdemeanor) has had the unintended consequences of placing high-risk/high-need individuals who might experience homelessness, unemployment, continued drug use, and criminal behavior on misdemeanor probation. This population is at a high risk of probation failure and future recidivism. See Appendix 1 for supporting analyses regarding considerations and outcomes for the high-risk/high-need misdemeanor population in probation.</p> <p><i>Community Corrections Services</i> There are services provided by Community Corrections programs that can be advantageous for the high/risk/high need misdemeanor population in specific conditions. Services include substance use disorder treatment, assistance obtaining post-release housing, mental health treatment, veterans services, and others provided in the community corrections setting that could improve long-term outcomes in this high-risk/high-need population.</p> <p><i>Current Limitations</i> Placement options for misdemeanants in community corrections are limited by funding and current law. Previous legislation, and thus, current law, allows for limited Correctional Treatment Cash Fund to be used for drug misdemeanants to be placed in inpatient substance use treatment in community corrections. The current need in probation, however, greatly exceeds those convicted of DRUG misdemeanors, and the client risk/need profiles also indicate services beyond 90-day Intensive Residential Services Treatment (IRT) which is currently the only option funded in the CDPS Long Bill for Community Corrections. The needs in probation suggest options for all types of misdemeanants as well as for regular community corrections supervision, residential dual diagnosis supervision, therapeutic community, etc. OR CURRENT LIMITATIONS PLACEMENT OPTIONS FOR MISDEMEANANTS IN COMMUNITY CORRECTIONS ARE LIMITED BY FUNDING AND CURRENT LAW. PREVIOUS LEGISLATION, AND</p>
---	---

<p>Issue/Topic Review of Preliminary Recommendation & Discussion <i>All</i></p>	<p>THUS, CURRENT LAW, ALLOWS FOR LIMITED CORRECTIONAL TREATMENT CASH FUND TO BE USED FOR SOME OFFENDERS TO BE PLACED IN INPATIENT SUBSTANCE USE TREATMENT IN COMMUNITY CORRECTIONS BUT THE DEPARTMENT OF PUBLIC SAFETY ONLY REQUEST FOR AND APPLIES SUCH FUNDING TO INTENSIVE RESIDENTIAL TREATMENT (IRT). DUE TO THE RISK/NEED PROFILE OF THOSE PLACED IN PROBATION, THERE IS A NEED FOR SERVICES BEYOND 90-DAY INTENSIVE RESIDENTIAL SERVICES TREATMENT (IRT) WHICH IS CURRENTLY THE ONLY OPTION FUNDED IN THE CDPS LONG BILL FOR COMMUNITY CORRECTIONS. THE NEEDS IN PROBATION SUGGEST OPTIONS FOR ALL TYPES OF MISDEMEANANTS AS WELL AS FOR REGULAR COMMUNITY CORRECTIONS SUPERVISION, RESIDENTIAL DUAL DIAGNOSIS SUPERVISION, THERAPEUTIC COMMUNITY, ETC.</p> <p><i>Proposed Program Structure</i></p> <p>The Office of Community Corrections (OCC) will be the state oversight agency for funding and compliance auditing. Statutory authority pursuant to §17-27-103, C.R.S., gives local community corrections boards the ability to establish community corrections programs with the local government determining the accept/reject criteria and program guidelines. The program will be a partnership between community corrections boards, programs, courts, and state probation departments.</p> <p>The target population shall be high-risk/high-need individuals on misdemeanor supervision who have failed on several occasions to comply with the terms and conditions of their probation requirements. All referrals shall include a risk/need level using the Level of Supervision Inventory and/or another validated assessment tool approved by the OCC. Referrals are initiated by the local probation department and sent directly to the community corrections board and program for screening to accept/reject. A progression matrix will be created by a collaborative team (probation and program) and approved by the local community corrections board and OCC.</p> <p>Failure to participate in programming and/or violations of rules could result in rejection after acceptance by either the program or the community corrections board. The consequences of failing to complete the program will be decided by the probation department and/or the courts. All walkaways (unauthorized absence) would be treated as a technical abscond violation and not a new crime. All subsistence fees will be waived while a probationer is participating in the program. Capacity should be determined based on available bed space, staffing, and what is in the best needs of the community.</p> <p>Length of placement will be determined on an individualized basis based on the length of the sentence imposed, pre-sentence confinement and credits, the risk/need profile of the person to be placed, and the targeted dosage of services that would best meet the assessed risks and needs of the person served. Programs will offer a variety of services which will include but are not limited to stabilization, employment, case planning, Cognitive & Dialectical</p>
--	--

<p>Issue/Topic Review of Preliminary Recommendation & Discussion <i>All</i></p>	<p>Behavioral Therapy, budgeting and finance, veteran’s services, parenting, breathalyzer and urinalysis testing, medication management, accountability, global positioning system (GPS) monitoring.</p> <p>Nothing in this recommendation is intended to remove judicial or prosecutorial discretion and is intended to use such discretion for individual placement decisions. Local jurisdictions should still use work release options for this population to the degree that local resources are available.</p> <p><i>Funding and Program Selection</i> The Division of Criminal Justice (Office of Community Corrections) will utilize their annual allocation process and contract provisions to apply general funds, upon new appropriations from the General Assembly to boards and providers who are interested and prepared to serve this population. The DCJ/OCC should establish selection guidelines for those who are interested in this population through its procurement process and as required by state fiscal rule and Department policy. The OCC may limit annual appropriations to boards and providers as needed based on fluctuating trends in felony population for Diversion, Transition, and Condition of Parole placements with the intention of avoiding unnecessary displacement of other important populations to serve.</p> <p><i>Program Evaluation and Effectiveness</i> The evaluation of this program is critical to determine if it is worthwhile and whether it should become available more broadly across the state. This requires collecting some additional information from probation regarding their behavior prior to entry into this program, the services they received, prior terms of probation, prior revocations, and other data that would be necessary. It is necessary for there to be sufficient time for individuals to transition out of the program and be at risk for recidivism, which will allow for a comparison to similar high-risk/high-need misdemeanor probationers who do not go through the program.</p> <p><u>Proposed Statutory Language</u> Amend §18.1.3-301(4)(b): (b) A district court, county court, and any other criminal justice official may enter into agreements with community corrections programs that provide residential SUPERVISION, substance abuse, MENTAL HEALTH OR DUAL DIAGNOSIS treatment, for the placement and supervision of offenders as a term and condition of probation when assessed RISK AND treatment need levels indicate that residential substance abuse treatment SUPERVISION OR TREATMENT is necessary and appropriate. The agreement is subject to review and approval by the community corrections board in the jurisdiction where a community corrections program is located. A community corrections program used pursuant to this subsection (4)(b) may receive funds from the correctional treatment cash fund OR STATE GENERAL FUND, as well as local funding, public or private grants, or offender fees. THE DEPARTMENT OF PUBLIC SAFETY MAY LIMIT PLACEMENTS FOR CONDITION OF PROBATION THROUGH CONTRACTS AND ANNUAL ALLOCATIONS TO COMMUNITY CORRECTIONS BOARDS AND PROVIDERS.</p>
--	--

<p style="text-align: center;">Issue/Topic Review of Preliminary Recommendation & Discussion <i>All</i></p>	<p><i>Exact statutory placement and phrasing determined in drafting.</i></p> <p>ON OR BEFORE JANUARY 1, 2024, THE OFFICE OF COMMUNITY CORRECTIONS IN THE DEPARTMENT OF PUBLIC SAFETY AND THE STATE COURT ADMINISTRATORS OFFICE IN THE JUDICIAL BRANCH SHALL DEVELOP CRITERIA THAT WOULD GUIDE APPROPRIATE PLACEMENT FOR HIGH RISK AND HIGH NEED MISDEMEANANT PROBATIONERS IN RESIDENTIAL OR NON-RESIDENTIAL COMMUNITY CORRECTIONS. THE GUIDELINES SHALL PRIORITIZE USE OF VALIDATED RISK AND NEED ASSESSMENTS IN PROBATION AND COMMUNITY CORRECTIONS PROGRAMS. THE GUIDELINES SHOULD ALSO ESTABLISH CRITERIA WHERE PLACEMENT IN COMMUNITY CORRECTIONS AS A CONDITION OF PROBATION UNDER THIS CIRCUMSTANCE REQUIRES A COURT ORDER AS WELL AS A RECOMMENDATION OF A PROBATION OFFICER, CONSENT OF THE PROBATIONER, APPROVAL OF THE LOCAL COMMUNITY CORRECTIONS BOARD, APPROVAL OF THE COMMUNITY CORRECTIONS PROVIDER AND COMPLIANCE WITH THE VICTIMS RIGHTS ACT.</p> <p>ON OR BEFORE JULY 1, 2024, THE OFFICE OF COMMUNITY CORRECTIONS IN THE DIVISION OF CRIMINAL JUSTICE SHOULD MODIFY OR SET STANDARDS FOR THE APPROPRIATE SUPERVISION, PROGRAMMING, AND TREATMENT OF HIGH RISK AND HIGH NEED MISDEMEANANTS WHO ARE PLACED AS A CONDITION OF PROBATION PURSUANT 18.1.3-301(4)(b) AND SHALL COLLECT BILLING, SERVICE, AND OUTCOME DATA AND SHALL PERFORM PERFORMANCE AUDITS AND PROVIDE TECHNICAL ASSISTANCE AS NEEDED TO STATE FUNDED PROVIDERS IN ORDER TO COMPLY WITH STATE COMMUNITY CORRECTIONS STANDARDS. THE STANDARDS SHALL INCLUDE GUIDELINES FOR APPROPRIATE LENGTH OF STAY AND CONDITIONS UNDER WHICH CLIENTS ARE RELEASED FROM RESIDENTIAL SUPERVISION.</p> <p>ON OR BEFORE JANUARY 1, 2029, THE DEPARTMENT OF PUBLIC SAFETY SHALL REPORT SHORT TERM AND LONG-TERM OUTCOMES FOR MISDEMEANANTS PLACED IN COMMUNITY CORRECTIONS AS A CONDITION OF PROBATION TO THE STATE COURT ADMINISTRATORS OFFICE AND THE GENERAL ASSEMBLY.</p> <p>THE GENERAL ASSEMBLY SHOULD SET A PER DIEM RATE FOR REGULAR RESIDENTIAL SUPERVISION AND SHOULD MODIFY THE LONG BILL FOOTNOTES IN THE COMMUNITY CORRECTIONS PLACEMENTS, CORRECTIONAL TREATMENT CASH FUND RESIDENTIAL PLACEMENTS, AND SERVICES FOR SUBSTANCE ABUSE AND CO-OCCURRING DISORDERS LINES IN ORDER TO AUTHORIZE PLACEMENTS OF MISDEMEANANTS WITH STATE GENERAL FUNDS AS WELL AS CORRECTIONAL TREATMENT CASH FUNDS.</p> <p>THE LEGISLATION SHOULD BE SET FOR SUNSET REVIEW ON OR BEFORE JANUARY 1, 2030.</p>
---	--

<p style="text-align: center;">Issue/Topic Review of Preliminary Recommendation & Discussion <i>All</i></p>	<p>DISCUSSION</p> <p>In the “Current Limitation” section of the recommendation, Glenn Tapia offered alternative language in BOLD/CAPS to address issues related to funding community correction treatment beds for misdemeanants.</p> <p>James Karbach objected to the information he provided being included as an Appendix but felt it should be included in the body of the report. He believed this background and data information responded to the charge of the group. The group agreed to integrate Appendix 2 in the report.</p> <p>In Appendix 2., B. Condition of Probation Placements for Clients who Need Residential Drug Treatment, a further explanation should be added on how community corrections facilities applied for Correctional Treatment Cash Fund for substance abuse services to place misdemeanor clients.</p> <p>The group discussed legislative deadlines to produce the report. Jack Reed clarified that according to House Bill 2022-1368, the Task Force shall create a report of its findings and recommendation and submit them to the Commission on or before July 1, 2023.</p> <p>James Karbach asked that the remaining sections of his proposal, not currently included in Appendix 2 be included in the report. Those remaining issues should be reported and highlighted, particularly regarding the waitlists. The sections are Outcome of Probation versus Community Corrections, Felons in Community Corrections, and Waitlist and Displacement of Felons from Community Corrections.</p> <p>Ken Kupfner and James Karbach discussed the alternative recommendation they developed regarding grant funding and mechanisms. They asked how to submit this alternative recommendation for consideration by the group.</p> <p>Jack Reed explained the process for a Task Force to consider alternative language. The Task Force discusses the recommendation presented for final consideration. Additional discussion and recommendation amendments occur at this time. The recommendation with proposed changes (strikethrough to replace) will be displayed. The group will then conduct a simple majority vote (51%) to approve or reject amendments. Jack offered James Karbach assistance in putting the amendment in proper format before the next meeting.</p> <p>Glenn asked for the Task Force members to submit to CCJJ staff potential edits/revisions as soon as possible for a vote at May’s meeting.</p> <p>The original recommendation and the amendment document will be sent at least a week before the next Task Force meeting.</p>
--	---

<p style="text-align: center;">Issue/Topic Public Comment</p>	<p style="text-align: center;">Discussion No public comment was offered.</p>
--	---

Issue/Topic	Discussion
Next Steps & Adjourn <i>Glenn Tapia, Task Force Chair</i> <i>Richard Stroker, CCJJ Consultant</i>	Glenn asked if there were additional questions, and with none, thanked participants and guests and adjourned the meeting.

Next Meeting

Monday, May 8, 2023 / 10:30 am-12:00 pm

Details of the next meeting will be forwarded to the group and posted on the CCJJ web and calendar (ccjj.colorado.gov/ccjj-meetings & ccjj.colorado.gov/ccjj-calendar).