

Colorado Commission on Criminal and Juvenile Justice
Sentencing Reform Task Force

Sentence Progression Working Group
MINUTES

January 5, 2021 / 3:00PM-4:00PM
VIRTUAL MEETING

ATTENDEES

WORKING GROUP MEMBERS

Dean Williams, DOC, WG Leader
Joseph Archambault, Office of the State Public Defender
Bob Gardner, State Senate
Rick Kornfeld, Defense Attorney
Andrew Matson, Colorado CURE
Greg Mauro, Denver Division of Community Corrections
Steve O'Doriso, Adams County Commissioner
Amber Pedersen, DOC
Michael Rourke, District Attorney, 19th JD
Catrina Weigel, 20th JD District Attorney's Office

STAFF

Kim English, Division of Criminal Justice
Laurence Lucero, Division of Criminal Justice
Richard Stroker, CCJJ Consultant

ABSENT

Valarie Finks, Crime Victim Compensation, 1st JD DA's Office

GUESTS

Merideth McGrath, DOC
Mark Wester, Comcor, Inc.

Issue/Topic	Discussion
<p>Welcome & Introductions <i>Dean Williams, WG Leader</i></p>	<p>Dean Williams thanked members for participating in the meeting and proceeded with introductions. Dean reviewed the goals for the meeting as follows:</p> <ul style="list-style-type: none"> • Review of homework/Transitional Confinement program elements • Outline recommendation <ul style="list-style-type: none"> - Define problem to be addressed - Target population - Identify statutory language • Recommendation: Discussion/Pros and Cons • Next Steps: Draft recommendation

Issue/Topic	Discussion
<p>Define Transitional Confinement Program Elements <i>Dean Williams, Members</i></p>	<p>The group reviewed and discussed a document of the compiled feedback from working group members prepared for this meeting. The comments and discussion are highlighted below:</p> <p><u>Problem to be addressed/Why a Transitional Confinement program</u></p> <ul style="list-style-type: none"> • Target population: <ul style="list-style-type: none"> - 700 incarcerated individuals who are at 6 Months from their Mandatory Release Date (MRD) - 1400 incarcerated individuals are at 12 months from MRD - 2000 incarcerated individuals are at 18 months from MRD These individuals will be released in the community and no longer under DOC supervision. • Many of incarcerated individuals who are near to their MRD do not know where to go when released, do not have support and often end up homeless. • A Transitional Confinement program would allow DOC to provide reintegration and reentry supervision with a hand-off to the community, rather than a drop-off. The program would also allow DOC to assist securing needs of treatment, education, employment, social adjustment, and other nodes of support within the community. • Such program would give these individuals a chance to adjust and work on the tools they learned inside DOC to be successful, productive members of society, and not recidivate. This would allow individuals to be in an environment that is conducive to change where they can start building positive habits and relationships.

<p style="text-align: center;">Issue/Topic Define Transitional Confinement Program Elements <i>Dean Williams, Members</i> (continued)</p>	<ul style="list-style-type: none"> • Many incarcerated individuals don't have the skillset to fill out a Parole Plan or application for Community Corrections. Could there be assistance provided by DOC staff to help build a parole plan and fill out Community Corrections applications? • The program should have continued access to programs as needed such as outside treatment services, counseling and assistance with housing / education/employment opportunities. • There is a concern that local governments and communities may look at the proposed Transitional Confinement as simply a means for DOC to reduce prison populations and costs, at the expense of local communities. It was suggested that the proposed Transitional Confinement should be developed as a comprehensive reentry/transition program along a continuum, rather than simply another option enabled to bypass the community's /discretion. • The following questions should be discussed: <ul style="list-style-type: none"> - What will the proposed Transitional Confinement do better than the other programs? A comparison of all services and supervision among all respective programs, including the proposed Transition Confinement program should be developed. - Will Transitional Confinement programs for treatment, education, employment, and social adjustment be staffed and run by DOC? If so, what are the proposed costs of establishing a DOC presence in each community to provide such services? - Or will the Transitional Confinement program rely on existing community resources, such as providers, non-profits, and others? If so, who determines how much DOC will pay for such programs? - Other necessary services (beyond treatment, education, employment, and social adjustment) include: identification cards, financial instruments, transportation/mobility, internet access, computer, cell phone, clothing, dental, vision, and health coverage. • DOC would pay for housing and treatment and possibly engage communities to help with reentry services.
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<p style="text-align: center;">Issue/Topic</p> <p style="text-align: center;">Define Transitional Confinement Program Elements <i>Dean Williams, Members</i> (continued)</p>	<p style="text-align: center;"><u>Elements of the Transitional Confinement</u></p> <ul style="list-style-type: none"> • Whenever possible individuals should first go through the normal Community Corrections / ISP-I processes • Review/approval process <ul style="list-style-type: none"> • DOC Board created to review eligible individuals against criteria • Transitional placement at the discretion of CDOC • Approaching MRD: Prioritize those approaching their MRD from 6, 12, 18, or 24 months out. <p style="text-align: center;">DISCUSSION</p> <ul style="list-style-type: none"> ➤ A member suggested to start at least 12 months from MRD for non-VRA clients. It was believed that that because of the lengthy application process, individuals might be only entering the transitional confinement close to 6 months from MRD ➤ The eligibility of individuals who are 6 months within their MRD was suggested. An earlier release of an inmate would continue to erode any truth in what a sentence to the DOC means and not give effect to the sentence a judge imposes on any given case. ➤ Another member believed that all individuals should be eligible as those individuals will be released in 12 – 18 months. There should be enough time to start building positive habits and eligibility should be similar to the eligibility for Community Corrections. ➤ A certain portion of a sentence should be served before being eligible for release so that an inmate is not sentenced and then, because of pre-sentence confinement credit and other good time/earned time, is immediately eligible for transitional confinement. ➤ It was suggested to limit the program to those individuals serving a sentence for a class 4, 5, and 6 felony. The group discussed this option and opted to not limit by felony class. ➤ Based on feedback received from stakeholders, it makes sense to limit the application of the proposed Transitional Confinement to 12 months or less because other programs (such as Community Corrections) may be better suited for longer-term support and engagement. The Transitional Confinement and ISP-I could become valuable options to transition from Community Corrections into the community as well. This could make the programs more compatible and complementary of each other, rather than duplicative and inconsistent.
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<p style="text-align: center;">Issue/Topic</p> <p style="text-align: center;">Define Transitional Confinement Program Elements <i>Dean Williams, Members</i> (continued)</p>	<ul style="list-style-type: none"> • Non-VRA Status & VRA <ul style="list-style-type: none"> • To consider those with VRA crimes either: <ul style="list-style-type: none"> ▪ Provide an option waiver for eligibility, to be signed off by warden and director of prisons, granted by virtue of positive performance or behavior to those with VRA status. ▪ Stagger eligibility time to a half or a quarter of non-VRA eligibility requirement <p>DISCUSSION</p> <ul style="list-style-type: none"> ➤ First focus should be on non-VRA clients. VRA clients should also be eligible for this program but will have to meet additional requirements, such as victim notification compliance, etc. ➤ Individuals who committed VRA crimes should not be included. Doing so would add another layer of uncertainty for victims of crime as to what a sentence to the Department of Corrections means. Victims are already called upon to offer input when an inmate is seeking release to community corrections and/or parole – that process in and of itself is sometimes draining and re-traumatizing to victims. ➤ It was suggested a way to “stagger” times based on VRA status by looking at the VRA crimes and factors to determine the risk. A supplemental letter from Steve for some suggestions about how “risk” and “need” might be used to determine application of discretion). In addition to VRA status, other factors might also be considered, such as non-VRA sex offenses and other offenses that impacted victims but were not deemed VRA crimes. The following questions should be addressed: <ul style="list-style-type: none"> - Will victims of crimes have any input regarding the placement of inmates in communities in close proximity to the victim? - Will the DOC prohibit contact with victims or provide support for victims to obtain a restraining order <ul style="list-style-type: none"> • Presence of approved housing placement <p>DISCUSSION</p> <ul style="list-style-type: none"> ➤ Housing is a necessary component to establishing stability and should be mandatory under this plan. ➤ Many local governments and communities may look at the proposed Transitional Confinement as simply a means for DOC to reduce prison populations and costs, at the expense of local communities. As such,
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<p style="text-align: center;">Issue/Topic Define Transitional Confinement Program Elements <i>Dean Williams, Members</i> (continued)</p>	<p>DOC should not shift the burden of housing to local communities and families.</p> <ul style="list-style-type: none"> ➤ Housing should be viewed as a “need” to be met, not an “obstacle” for participation in the program. For example, housing can be a factor on a sliding scale depending on stability and circumstance. ➤ DOC should bear the responsibility to place individuals into supportive, group housing that is monitored and staffed by professionals who can support individuals transitioning to the community. When possible and reasonable, placement in housing with consenting family and friends might be considered, but with assurances that the housing plan is viable and include support systems. In addition, DOC needs to assist with the costs associated with such placement (rent, food, support, etc.). <p>• Conduct in prison</p> <ul style="list-style-type: none"> ○ Individuals who have engaged in violent or gang related activity in prison or who have incurred a COPD within the last year would not receive priority. <p>DISCUSSION</p> <ul style="list-style-type: none"> ➤ The group should consider excluding inmates who are in DOC for parole or community corrections violations or crimes committed while serving such a sentence. Exclude from eligibility anyone who applied for and was denied release to community corrections, ISP, or parole. ➤ No major COPD violations for a year. ➤ It is reasonable to consider a person’s conduct in prison (and criminal history) in assessing the “risk” of a person considered for the proposed Transitional Confinement program. Because not all “violations” are the same, this should be a qualitative factor to be considered by professionals (including local representation) reviewing the application, rather than a quantitative factor that might trigger automatic ineligibility. <p>➤ For non-compliance in Transitional Confinement, prioritize the use of intermediate sanctions and IARs (Immediate Accountability) over COPD</p> <p>DISCUSSION</p> <ul style="list-style-type: none"> ➤ It would depend on what the non-compliance is for and the individual’s history of non-compliance. For minor, one-time violations this would make sense. However, if the point is that the individual who is released is still in the custody of DOC, then there needs to exist
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<p>Issue/Topic Define Transitional Confinement Program Elements <i>Dean Williams, Members</i> (continued)</p>	<p>a real possibility that the person will be returned to DOC for significant and/or pervasive violations.</p> <ul style="list-style-type: none"> ➤ What are the sanctions? Use of DOC sanctions as applicable for minor violations. ➤ Abscond should be similar in terms of sanctions to a walk-away from Community Corrections. ➤ DOC needs to assure local communities and victims that the proposed Transitional Confinement program does not negatively impact safety. As stated below, there may be times when a victim or the community should have input on how to address non-compliance. <ul style="list-style-type: none"> ● Supervision: An electronic monitoring will be required whenever appropriate to prevent violations <p>DISCUSSION</p> <ul style="list-style-type: none"> ➤ Depends on level of monitoring (is it active or passive monitoring)? Who is monitoring for violations and is that 24/7? How can we address reactive enforcement with electronic monitoring? (Oftentimes electronic monitoring is only effective at letting case managers know that there was a violation after it happened and is not effective at reacting to current, on-going non-compliance.) ➤ What level of supervision ensures a release plan is being followed? ➤ It is reasonable to use electronic monitoring as a default strategy in the proposed Transitional Confinement, since participants are still considered in custody? Nevertheless, sanctions and/or progress steps should be available for clients within the proposed program. For example, removal of electronic monitoring may also serve as an incentive for participants who are successful in the program or who pose low risk to the community. <ul style="list-style-type: none"> ● Cost: DOC will be bearing the costs of these clients and the program as a whole. ● Pilot program <p>DISCUSSION</p> <ul style="list-style-type: none"> ➤ The group agreed with proposing a pilot program with a limited number of participants for 18 months/2 years. ➤ Data collection and program evaluation should be included in the package so that the pilot program can be evaluated.
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<p>Issue/Topic Define Transitional Confinement Program Elements <i>Dean Williams, Members</i> (continued)</p>	<p>Dean summarized today’s discussion. The group will continue discussing the elements of the Transitional Confinement Outcome specifically whether VRA crimes should be included with other vetting and notification and other bullet points not discussed today. Additionally, the group will address the following questions that arose from today’s discussions (“WHAT”):</p> <ul style="list-style-type: none"> - What will the proposed Transitional Confinement do better than the other programs? A comparison of all services and supervision among all respective programs, including the proposed Transition Confinement program should be developed. - What Transitional Confinement programs for treatment, education, employment, and social adjustment will be staffed and run by DOC? If so, what are the proposed costs of establishing a DOC presence in each community to provide such services? - Or will the Transitional Confinement program rely on existing community resources, such as providers, non-profits, and others? If so, who determines how much DOC will pay for such programs? - Other necessary services (beyond treatment, education, employment, and social adjustment) include: identification cards, financial instruments, transportation/mobility, internet access, computer, cell phone, clothing, dental, vision, and health coverage.
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<p>Issue/Topic Public Comment</p>	<p>No public comment was offered.</p>
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<p>Issue/Topic Next Steps & Adjourn <i>Dean Williams, Members</i></p>	<p style="text-align: center;">Discussion</p> <p>The agenda for the next meeting:</p> <ul style="list-style-type: none"> • Continue defining the elements of the Transitional Confinement Program: <ul style="list-style-type: none"> ➤ Include VRA Crimes? ➤ Should individuals first go through the normal Community Corrections / ISP-I processes? ➤ Describe the review/approval process. • Address the “WHAT” questions (further defining the program elements) <p>The meeting adjourned at 4:00pm.</p> <p>The next Sentence Progression Working Group meeting is: Tuesday, January 12, 2021 at 3pm.</p>
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