

Colorado Commission on Criminal and Juvenile Justice
Sentencing Reform Task Force

Sentence Progression Working Group
Minutes

April 6, 2021 / 3:00 PM - 4:30 PM
VIRTUAL MEETING

ATTENDEES

WORKING GROUP MEMBERS

Greg Mauro, *WG Co-leader*, Denver Division of Community Corrections
Kristen Hilkey, *WG Co-leader*, Colorado State Parole Board
Taj Ashaheed, Second Chance Center
Joseph Archambault, Office of the State Public Defender
Valarie Finks, Crime Victim Compensation, DA Office/1st JD
Andrew Matson, Colorado CURE
Meredith McGrath, Division of Parole, CDOC
Steve O'Doriso, Adams County Commissioner
Amber Pedersen, Exec. Dir. Office, CDOC
Michael Rourke, District Attorney/ 19th JD
Abigail Tucker, CCJJ Vice Chair,

STAFF

Kim English, Division of Criminal Justice
Kevin Ford, Division of Criminal Justice
Linda Harrison, Division of Criminal Justice
Laurence Lucero, Division of Criminal Justice
Richard Stroker, CCJJ Consultant

ABSENT

Bob Gardner, State Senate
Rick Kornfeld, Defense Attorney
Catrina Weigel, District Attorney Office/20th JD
Dean Williams, CDOC

GUESTS

Chrystal Owin, DCJ/Office of Community Corrections
Katie Ruske, DCJ/Office of Community Corrections

Issue/Topic	Discussion
<p>Welcome & Introductions New Working Group Member <i>Greg Mauro & Kristen Hilkey,</i> <i>WG Co-leaders</i> <i>Richard Stroker, CCJJ Consultant</i></p>	<p>Co-leaders Greg Mauro and Kristen Hilkey welcomed the Sentence Progression Working Group members and reviewed the agenda.</p> <p>Abigail Tucker, representing mental health providers and serving as CCJJ Vice-Chair, was welcomed as new Working Group member.</p>

Issue/Topic	Discussion
<p>Previous Meeting Recap <i>Richard Stroker, CCJJ Consultant</i></p>	<p>Richard recapped the last meeting and goals for the current meeting.</p> <p>The group generally agreed that too many people return to prison after being released from prison, and that the end of a sentence should look different from the beginning of a sentence.</p> <p>At prior meetings, the Working Group decided to focus on examining the existing transition options for incarcerated individuals who are approaching their release dates.</p> <p>The group decided to gather additional information to be better informed about the existing transition options (community corrections [Comcor], parole and the Intensive Supervision Program-Inmate [ISP-I]). Today, the Working Group will continue to hear presentations about these different systems.</p>

Issue/Topic	Discussion
<p>Presentation: Overview of CDOC case management tools and Referral processes and timeline (Parole, ISP-I, & Comcor) <i>Patti Gabriel, CDOC Offender Services</i></p>	<p>Patti Gabriel from Offender Services at CDOC shared her screen to present an overview of the case management tool used at CDOC. The tool is used to help incarcerated individuals prepare for their parole hearings and applications to community corrections programs or ISP-I.</p> <ul style="list-style-type: none"> • Case managers start working with individuals early on to prepare their parole plan and parole board hearings. Referrals are made about 120 days prior to the parole board hearing. All dates are scheduled based on the parole eligibility date (PED). Earned time is factored into the calculation of the PED. • Parole referrals: The discretionary parole is a release determined by a parole board based on its assessment of the individual’s preparedness. • Community Corrections referrals: Eligibility dates to refer to community corrections are statutorily defined. Those dates are entered in the CDOC case management tool upon entry. Non-violent offenders are referred 19 months prior to their PED and transitioned to community corrections at 16 months. Violent offenders are referred at nine months to PED and transitioned to community corrections at 6 months. Offenders who committed a Class 1 Code of Penal Discipline (COPD) violation and scored <i>High</i> risk to recidivate are not eligible to transfer. Incarcerated individuals

<p style="text-align: center;">Issue/Topic</p> <p>Presentation: Overview of CDOC case management tools and Referral processes and timeline (Parole, ISP-I, & Comcor) <i>Patti Gabriel, CDOC Offender Services</i> (continued)</p>	<p>can submit waivers to <i>not be referred</i> to community corrections programs and CDOC case managers discuss the waivers with them every six months. Many choose to waive their transfer to a community corrections program to wait for their parole hearing with hopes of being paroled.</p> <p>DISCUSSION</p> <ul style="list-style-type: none"> • <i>Are risks/needs factored in the decision to refer someone to community corrections? Do case managers identify who is most appropriate for a particular program in Comcor or ISP-I?</i> The risks/needs are not factored in the community referrals process. However, case managers can suggest the most appropriate option. • <i>What happens to the people who waived their referrals to community corrections waiting for parole but ultimately denied parole?</i> Case managers discuss the follow-up plan with individuals and revisit their waivers. Since a significant number of individuals waive their referral to Comcor, the group suggested this might be important to examine at a future meeting. • <i>What is the average case load for the DOC case managers?</i> Approximately 60 to 80 cases per case manager (pre-COVID). • The group agreed to explore further the denial reasons for referrals to community corrections and possibly define the profile of individuals who are most appropriate to community corrections programs, ISP-I, or parole. • The concern of possible inequitable outcomes and bias in the referral process was mentioned. The group should continue to discuss how to address inequity and improve outcomes (training for case managers, defining who is “the right person to the right program,” providing more information about existing programs, etc.). • Individuals may be referred to Comcor every six months; parole board hearings are held on an annual basis. During each of these hearings (possibly three times a year), victims have the opportunity to talk about the impact of the crime. However, re-living the crime is a very stressful experience for the victims. Understanding the process and participating in these multiple hearings is challenging for victims. • The current referral process is exclusively based on the parole eligibility dates. This is a time-driven system. <i>Is there an opportunity to integrate risk and need factors in this process? Should programs address the needs/risks of certain profiles of individuals (i.e., specialized Comcor programs)?</i> • Because individuals often waive the referral to Comcor to wait for the parole hearing, and when they are denied parole, case managers at CDOC will revisit a possible referral to Comcor. In many instances, <u>how</u> the case manager discusses Comcor will influence the individual’s decision to be referred to community corrections. • There is no correlation between the risk to recidivate and the seriousness of the conviction crime. For example, a person who commits murder can score low in the risk assessment tool. The issue is that some of those
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<p>Issue/Topic Presentation: Overview of CDOC case management tools and Referral processes and timeline (Parole, ISP-I, & Comcor) <i>Patti Gabriel, CDOC Offender Services</i> (continued)</p>	<p>individuals who have served a long sentence and do not get transferred to Comcor will be released on parole at their mandatory release date (MRD), perhaps without a solid parole plan and support from the community.</p> <ul style="list-style-type: none"> • <i>Would such low-risk individuals who committed violent offenses be appropriate for Comcor programs?</i> Research shows that over-supervising low-risk defendants could result in more harm and could increase their risk to recidivate. • Objectivity vs. Subjectivity. The group discussed how to improve the referral process including other factors. Currently the referral process is solely based on parole eligibility date. • The group decided to review the type of services and supervision available in each program and which are associated with better outcomes. • Perhaps information about risks, needs, treatment participation, and strengths should be shared with community-based service providers as they could be part of the solution that promotes the success of these individuals. <p>Richard noted that today’s discussion expanded the scope of the work to a broader consideration. The following questions were discussed:</p> <ul style="list-style-type: none"> - <i>How do we prepare people for their release and reentry into the community?</i> - <i>How to re-define these transition options to address the risks/needs of the incarcerated individuals who are approaching their MRD and engage community-based providers to be part of the solution?</i>
<p>Issue/Topic Presentation: FY19 Parole Decisions <i>Kim English, DCJ</i></p>	<p>Kim English from DCJ presented an overview of discretionary parole decisions in FY19. This presentation is posted on the CCJJ website.¹ The information presented was drawn from, <i>Analysis of Colorado State Board of Parole Decisions: FY 2019 Report</i>.²</p> <ul style="list-style-type: none"> • The Parole Board holds 25,000-30,000 hearings/reviews annually, including application hearings, file reviews, full board reviews, special needs reviews, release rescission hearings, probable cause hearings, early discharge reviews, parole revocation hearings and SVP (Sexually Violent Predator) hearing designations. • Today’s focus will be on FY 19 Discretionary Hearings (8,594) which include Regular, Full Board, and File Reviews. • 8,594 Discretionary Hearings: 43% release (3,650), 57% Defer (4,944) - 6434 Regular Hearings (including 1502 file reviews [18%]) + 35 % Release (2,243) + 57% Defer (4,191) —29% deferred to MRD

¹ Can be found in the SRTF “Materials” section at, ccjj.colorado.gov/ccjj-srtf and the direct document link is: cdpsdocs.state.co.us/ccjj/Committees/SRTF/Materials/2021-04-06_CCJJ-SRTF-SentProgWG_FY19PBDec.pdf

² Can be found on the CCJJ “Reports” page at, ccjj.colorado.gov/ccjj-reports and the direct document link is: cdpsdocs.state.co.us/ccjj/Resources/Report/2019_PBDecRpt_17-22.5-404.6.pdf

<p>Issue/Topic Adjourn <i>Kristen Hilkey & Greg Mauro,</i> <i>WG Co-leaders</i></p> <p>ACTION Further analyses of Community Corrections and ISP-I samples.</p>	<ul style="list-style-type: none"> • Examine the issue of waivers these placements. • Review the referral process to include the use of risks/needs factors. • Define the possible characteristics or the profile of individuals appropriate for each transition program. <p>Based on the direction provided by the Data Study Group, at a subsequent Working Group meeting, Linda Harrison will present additional analyses on referrals to Community Corrections and Intensive Supervision Program-Inmate. If possible, this presentation will occur at the May meeting but, due to the time necessary for the data extraction at the CO Dept. of Corrections and analysis time, the presentation may occur at the June meeting.</p> <p>Details of the upcoming Sentence Progression Working Group and the Data Study Group meetings will be forwarded to the group and posted on the CCJJ website (ccjj.colorado.gov/ccjj-meetings) and calendar (ccjj.colorado.gov/ccjj-calendar).</p> <p>The next Sentence Progression Working Group meeting is: Tuesday, May 11, 2021 at 3:00pm-4:30pm.</p> <p>The meeting adjourned at 4:30 pm.</p> <p><i>Note: Subsequent to this meeting, the Data Study Group meeting was scheduled on: Tuesday, April 13, 2021 at 4:00-5:00pm.</i></p>
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