

Colorado Commission on Criminal and Juvenile Justice
Sentencing Reform Task Force

Sentence Structure Working Group
Stakeholder Listening Session #1: Felony Sentencing

MINUTES

June 21, 2021 / 11:00AM-2:00PM
Virtual Meeting

WORKING GROUP MEMBERS

*Michael Dougherty, District Attorney, 20th Judicial District, *Leader*
Maureen Cain, Office of the State Public Defender
Christie Donner, Colorado Criminal Justice Reform Coalition
*Valarie Finks, Crime Victim Compensation, 1st Judicial District
Jessica Jones, Defense Attorney
Tom Raynes, Colorado District Attorneys' Council
Dan Rubinstein, District Attorney, 21st Judicial District
Lisa Wayne, Defense Attorney

** Not present at this Stakeholder Listening Session*

ATTENDEES

Jason Vitello, Denver Public Health & President of the CO Public Health Association
Amanda Myers, CO DHS, Office of Behavioral Health Forensic Support Team Director
Dr. Lisa Calderon, Chief of Staff, to Councilwoman Candi CdeBaca, Formerly Community Reentry Project
Lisa Raville, Harm Reduction Action Center
Taj Ashaheed, Second Chance Center/SRTF
Tristan Gorman, Colorado Criminal Defense Bar
Beale Tejada, Colorado Criminal Defense Bar

STAFF

Jack Reed, Division of Criminal Justice
Damien Angel, Division of Criminal Justice
Laurence Lucero, Division of Criminal Justice
Stephane Waisanen, Division of Criminal Justice
Kevin Ford, Division of Criminal Justice

Note: The Sentence Structure Working Group also held a Listening Session (#2) on June 22, 2021.

Stakeholder	Discussion Topics
<p>Denver Public Health & President of the CO Public Health Association <i>Jason Vitello</i></p>	<p>Vitello presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> - Systemic and societal issues contribute to, and can cause, mental health issues resulting in violent crimes. Men in particular are more likely to avoid talking about and seeking treatment for mental health issues, contributing to the acts of violent crime and substance abuse issues which are more common among men. - The majority of men convicted in Colorado are fathers, Mr. Vitello mentioned that studies have shown a strong correlation between absent fathers and negative outcomes (like future criminality) among children. - 75% of children facing disciplinary issues in schools are boys, 75% of the chronically houseless are men, men are twice as likely as women to have substance abuse issues and die from accidental overdose, 80% of violent crimes are committed by men, 80% of prisoners in Colorado have substance use disorders and 20% have mental health issues. - Recommendations. Specifically regarding the criminal legal system, Mr. Vitello recommended a comprehensive approach to public health and violent crime. Mr. Vitello advocated for substance use disorder treatment, vocational programs, and mental health treatment to attack the root causes of violent crime.

Stakeholder	Discussion Topics
<p>CO DHS, Office of Behavioral Health Forensic Support Team Director <i>Amanda Myers</i></p>	<p>Myers presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> - The probation system in CO is wasting valuable resources on low-risk offenders with little benefit to public safety. <ul style="list-style-type: none"> o Recommendations. Decrease the number of people on supervision and the length of their probation, focusing instead on high-risk individuals with a high likelihood of reoffending or who pose a threat to public safety. o Recommendation. Reallocate resource to individuals who need the most help on probation and into residential programs - The probation system as a whole should be examined. <ul style="list-style-type: none"> o Recommendations. Individual risk factors, the factors that can send an individual back to prison, caps on how probation terms should all be reexamined. Additionally, probation should be structured to interfere in daily life to the least extent possible. o Recommendations. Diversion programs should be expanded (including standardized screening practices to mitigate the impact of conscious or unconscious bias), providing short pre-trial diversion periods for low-level offenders.

<p>CONTINUED... CO DHS, Office of Behavioral Health Forensic Support Team Director <i>Amanda Myers</i></p>	<ul style="list-style-type: none"> - Drug courts have too much freedom to make decisions on their own leading to a confusing system that regularly departs from established models and best practices. <ul style="list-style-type: none"> o Recommendations. Drug courts should follow best practices and established models (e.g. some models allow for offenders to exit probation programs based on a risk score). o Recommendations. To increase the efficacy of drug courts and keep people out of prison, do not base probation on maintaining sobriety. Recovery is a process and a break in sobriety should not be a condition of freedom provided that there are no other offenses. - Sealing of criminal records should be examined in addition to probation and other sentencing guidelines.
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<p>Stakeholder</p>	<p>Discussion Topics</p>
<p>Chief of Staff, to Councilwoman Candi CdeBaca Formerly with the Community Reentry Project <i>Dr. Lisa Calderon</i></p>	<p>Calderon presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> - There is a serious lack of diversion opportunities for black women in Colorado. - Black women routinely face stricter sentencing than white women, in addition to limited opportunities to access diversion programs. - Recommendations <ul style="list-style-type: none"> o Collect and analyze complete data (including inclusion in diversion programs and the rates of success for black women in said programs). o Develop expansive metrics to measure the impact of diversion programs. o Compile complete demographics report across CO jails, including prison disciplinary measures and their impact on black women. o Create an environment of cooperation among stakeholders and state officials to remove system barriers that prevent black women from accessing diversion programs. o <i>Hire and promote black women [strongly emphasized]</i> o Incorporate the voices of incarcerated black women in program designs and when reevaluating domestic violence laws that may disproportionately impact black women. o Cultivate a diverse network of partners and stakeholders that can speak to the needs of black women and other minority populations. o Felony Sentencing Specific <ul style="list-style-type: none"> ▪ Look at diversion program eligibility and the barriers that prevent black women from accessing these programs. ▪ Reexamine domestic violence laws that may victimize black women ▪ <i>Programs run by black women for black women [strongly emphasized]</i>

Stakeholder	Discussion Topics
<p>Harm Reduction Action Center <i>Lisa Raville</i></p>	<p>Raville presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> - The formerly incarcerated are more likely to die from overdose than those regularly using. - Barriers to treatment and to housing drive drug use and overdose deaths. - Drug courts routinely ignore best practices, sometimes requiring a longer commitment to the program than the offender would receive in a traditional court. This drives offenders to choose incarceration. - Recommendations. Address the warrant check rumor that prevents substance abusers from seeking treatment in the event of an overdose, ensure funding goes to the correct recipients and will increase treatment beds available, and increase access to syringe exchange programs and warrant clearance systems. <i>Do not condition freedom on an offender’s ability to stay sober.</i>

Stakeholder	Discussion Topics
<p>Second Chance Center <i>Taj Ashaheed</i></p>	<p>Ashaheed presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> - Clarity in sentencing is hugely important and must be addressed, individuals should not need a law degree to know how long they will be incarcerated under a plea deal. - The parole system should also be clarified and re-worked to increase its benefit for offenders. <ul style="list-style-type: none"> o Recommendations. Technical violations should not result in incarceration, parole violation punishments should also be clarified (will an offender face additional time in prison, or finishing the term of their parole in prison? Does good behavior time apply?) - Incentives to reward good behavior on parole may be beneficial long-term, but may also contribute to confusion about the remaining sentence time. - The 120-day period after which an offender can file for a reconsideration of their sentence is too short. <ul style="list-style-type: none"> o Recommendations. A longer period would allow for the incarcerated to build a better resume and create a stronger argument for reconsideration. The current 120-day period is not long enough, and means many who would be eligible with a longer period remain in prison. - Recommendations. Any immediate changes to sentencing should be retroactive to reduce the prison population. - Recommendations. Starting sentencing guideline reform with non-VRA crimes is a good idea, but addressing VRA crimes must take place at some point.

Stakeholder	Discussion Topics
<p>Colorado Criminal Defense Bar <i>Tristan Gorman & Beale Tejada</i></p>	<p>Gorman and Tejada presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> - The CCDB is in favor of habitual offender reform, including life, burglary, and DC habitual offender reforms. - Recommendations. Reforms should include ranges of sentences instead of sentence multipliers, and should be structured to allow parties to argue before the judge and allow for judicial discretion in sentencing. - Recommendations. CCDB supports structural reforms with multiple sentencing grids (similar to Minnesota). - CCDB hopes to discuss mandatory parole and parole violation reform as we move throughout the process. - Recommendations. Truth in sentencing should be a major piece of sentencing guideline reform.