

*Colorado Commission on Criminal and Juvenile Justice*  
**Sentencing Reform Task Force**

**Sentence Structure Working Group**  
**Stakeholder Listening Session #2: Felony Sentencing**

**MINUTES**

June 22, 2021 / 11:30AM-4:30PM  
Virtual Meeting

**WORKING GROUP MEMBERS**

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

\* *Not present at this Stakeholder Listening Session*

**ATTENDEES**

JoyBelle Phelan, DU Prisoner Arts Project  
Liam Donevan, Brain Injury Alliance of Colorado  
Jamie Cowan, Former Prosecutor  
Jocelyn Rhymer, Colorado Organization for Victim's Assistance  
Fran Lanzer, Mothers Against Drunk Driving  
Cynthia Randall, Latino Coalition for Community Leadership  
Agueda Morgan, Colorado Coalition Against Sexual Assault  
Jenna Harper, Colorado Coalition Against Sexual Assault

**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 held a previous Listening Session (#1) on June 21, 2021.*

<p><b>Stakeholder</b> DU Prisoner Arts Project <i>Belle Phelan</i></p>	<p><b>Discussion Topics</b></p> <p>Phelan presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> <li>- <b>Recommendation.</b> Truth in sentencing is needed and should be kept in mind during any sentencing reforms.             <ul style="list-style-type: none"> <li>o Individuals involved in the criminal legal system are frequently confused over the length of sentences, how parole is calculated, and how time earned is factored into the equation.</li> </ul> </li> <li>- <b>Recommendation.</b> Provide incentives and/or acknowledgements that reward good behavior for individuals on parole.</li> <li>- There is a serious lack of wraparound services for individuals on parole and in halfway houses.             <ul style="list-style-type: none"> <li>o With no established support systems, individuals are unable to get transportation, ID's required for obtaining employment etc.</li> </ul> </li> </ul>
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<p><b>Stakeholder</b> Brain Injury Alliance of Colorado <i>Liam Donevan</i></p>	<p><b>Discussion Topics</b></p> <p>Donevan presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> <li>- Traumatic Brain Injuries (TBI) are commonly associated with memory loss, attention issues, impulse control, difficulty in processing new information and operating in stressful environments, and a wide range of emotional and behavioral issues.</li> <li>- Individuals who suffer from TBIs are labeled as difficult or challenging by the criminal justice system.</li> <li>- 60.25% of inmates have a history of TBIs.             <ul style="list-style-type: none"> <li>o <b>Recommendation.</b> Implement screening standards for the newly incarcerated to detect TBIs</li> </ul> </li> <li>- Services designed to help individuals dealing with mental illnesses rely on the presence of executive functions that those suffering from TBIs lack.             <ul style="list-style-type: none"> <li>o <b>Recommendation.</b> Design services and probation requirements around the limitations imposed by TBIs (consistent structure, TBI awareness, and connections with treatment providers qualified to treat TBIs).</li> </ul> </li> </ul>
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Stakeholder	Discussion Topics
<p>Former Prosecutor <i>Jamie Cowan</i></p>	<p>Cowan presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> <li>- Sentencing for 2<sup>nd</sup> degree assault has been changed to remove a mandatory prison sentence, but the bond statute has not been changed. Therefore, offenders will sit in prison because they are ineligible to receive bond but will not be convicted for the crime.                             <ul style="list-style-type: none"> <li>o <b>Recommendation.</b> The bond statute should be changed.</li> </ul> </li> <li>- The amount of money involved in felony theft and property damage cases is based on the victim’s estimation of the losses. In civil court, damages are based on receipts and are more formally calculated.                             <ul style="list-style-type: none"> <li>o <b>Recommendation.</b> Damages valuations should not be based on a victim’s evaluation, more formal calculations should be implemented.</li> </ul> </li> <li>- <b>Recommendation.</b> The 2-prior-felony rule should be rescinded.</li> <li>- <b>Recommendation.</b> Habitual criminal rules should only apply to violent crimes and not property crimes.</li> <li>- Habitual criminal rules have not been evenly applied by judges.</li> <li>- <b>Recommendation.</b> Sentencing guideline reform should include a range of sentencing options available to judges.</li> </ul>

Stakeholder	Discussion Topics
<p>Colorado Organization for Victim Assistance (COVA) <i>Jocelyn Rhymer</i></p>	<p>Rhymer presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> <li>- Victim’s rights and experiences are largely ignored during the trial and sentencing processes.</li> <li>- <b>Recommendation.</b> In regard to truth in sentencing, victims need to know how long an offender will realistically spend incarcerated.</li> <li>- <b>Recommendation.</b> Offenders should serve the majority of their time and any sentencing reforms should not be retroactive.</li> <li>- <b>Recommendation.</b> COVA would support serious crimes against individuals and VRA crimes being separated into their own class of felonies that does not receive lower sentencing.</li> <li>- <b>Recommendation.</b> Victims should be consulted during the process.</li> </ul>

<p><b>Stakeholder</b>                  Mothers Against Drunk Driving  <i>Fran Lanzer</i></p>	<p><b>Discussion Topics</b></p> <p>Lanzer presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> <li>- <b>Recommendation.</b> Supports lower sentences if drivers stay at scene of accident and higher sentences for hit and runs to incentivize drivers to stay.</li> <li>- <b>Recommendation.</b> Increase in services for victims of hit and runs and drunk driving collisions.</li> <li>- People will not drive drunk if they think there is a high likelihood of getting caught.                         <ul style="list-style-type: none"> <li>o <b>Recommendation.</b> Increase resources to combat DUI.</li> </ul> </li> <li>- Based on a NITSA study, 70% of individuals who are charged with 1 DUI don't get another.</li> <li>- The average DUI arrestee has driven drunk 80 times before being caught.</li> </ul>
<p><b>Stakeholder</b>                  Latino Coalition for Community Leadership  <i>Cynthia Randall</i></p>	<p><b>Discussion Topics</b></p> <p>Randall presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> <li>- Wraparound services and access to comprehensive and holistic treatment options are important.</li> <li>- <b>Recommendation.</b> Services must incorporate community involvement.</li> <li>- <b>Recommendation.</b> Behavioral programs for juvenile offenders are needed.</li> <li>- Resources and access to programs will increase the likelihood that offenders are able to successfully reintegrate after being in prison.</li> </ul>
<p><b>Stakeholder</b>                  Colorado Coalition Against Sexual Assault  <i>Agueda Morgan and Jenna Harper</i></p>	<p><b>Discussion Topics</b></p> <p>Morgan and Harper presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> <li>- Victims do not feel acknowledged by the criminal/legal system. They also lack trust in the system and believe that they will not be represented. This problem is exacerbated by confusion over how the system operates and communication barriers.                         <ul style="list-style-type: none"> <li>o This leads to widespread underreporting of sexual assault.</li> </ul> </li> <li>- <b>Recommendation.</b> Sexual assault victims must be involved in any reform process.</li> <li>- <b>Recommendation.</b> Accurate studies on the recidivism rates of sexual offenders are needed.</li> <li>- <b>Recommendation.</b> Victims should be included post-conviction, and restorative justice programs should focus on their needs.</li> <li>- <b>Recommendation.</b> Restorative justice programs must be well-rounded and involve education and health departments.</li> <li>- There are existing models of restorative justice programs that work.</li> </ul>

Stakeholder	Discussion Topics
<p>Driving Under the Influence of Drugs (DUID) Victim's Voices <i>Ed Wood</i></p>	<p>Ed Wood presented the following information, perspectives, and points of discussion to the Working Group:</p> <ul style="list-style-type: none"> <li>- <b>Recommendation.</b> Vehicular Homicide/Driving While Ability Impaired charges should be Felony level 3 charges rather than Felony Level 4.</li> <li>- <b>Recommendation.</b> Vehicular Assault/Driving While Ability Impaired charges should be Felony level 4 charges rather than Felony Level 5.</li> </ul> <p>Ed Wood's presentation can be found under, "Materials – Working Group," at, <a href="http://ccjj.colorado.gov/ccjj-srtf">ccjj.colorado.gov/ccjj-srtf</a>.</p>