

***Sentencing Reform Task Force***

**Sentencing Alternatives/Decisions & Probation Working Group**

**MINUTES**

July 2, 2021 / 9:00-11:00 AM

Virtual Meeting

**ATTENDEES**

**WORKING GROUP MEMBERS**

Glenn Tapia, Director, Probation Services/ Judicial Branch, *WG Leader*

Kristin Heath, Assistant Director, Jefferson County Justice Services

Clay McKisson, Judge/ 3<sup>rd</sup> Judicial District

Kazi Houston, Rocky Mountain Victim Law Center

Chris Gallo, Deputy District Attorney/ 18<sup>th</sup> JD

Abigail Tucker, Psychologist/ Mental health services provider and consultant

Greg Otte, Deputy Chief Parole Officer/ 8<sup>th</sup> Judicial District

**STAFF**

Richard Stroker, CCJJ Consultant

Jack Reed, Division of Criminal Justice

Damien Angel, Division of Criminal Justice

Laurence Lucero, Division of Criminal Justice

**Absent**

Jenifer Morgen, Chief Probation Officer/ 17<sup>th</sup> Judicial District

Matthew James, Denver District Attorney's Office

Heather McClure, Adams County Division of Community Safety and Well-Being

Kathryn Herold, Public Defender Office/ Boulder County

Elaina Shively, District Attorney's Office/ 20<sup>th</sup> Judicial District

Issue/Topic	Discussion
<p>Welcome &amp; Timelines for CCJJ Sentencing Task Force  <i>Glenn Tapia, Working Group Leader</i></p>	<p>Glenn Tapia, WG Leader, welcomed members, and reviewed the Working Group’s timeline:</p> <ul style="list-style-type: none"> <li>• Group to review the five recommendations in today’s agenda</li> <li>• Present recommendations to the Structure Reform Task Force by September 2021</li> <li>• Present recommendations to the Commission by October 2021</li> <li>• Continue to work on additional recommendations; revocations to prisons, ethnic disparities, and sex offender supervision</li> </ul>

Issue/Topic	Discussion
<p>New Recommendations  <i>Glenn Tapia</i></p>	<p>Glenn presented the following concepts for review for inclusion in future recommendations by the group:</p> <ul style="list-style-type: none"> <li>• What is our recommendation to capitalize on blended in-person/telehealth treatment for probationers?</li> <li>• What is our recommendation to improve person-based (individualized and responsive) treatment for probation?</li> <li>• Do we have a recommendation to reduce stigma and improve access to behavioral health treatment (including access to community corrections inpatient treatment for misdemeanors?)</li> <li>• What is our recommendation for more individualized and RNR based terms and conditions to include drug testing/sobriety monitoring?</li> <li>• What is our recommendation, if any, to increase education of judicial officers from the State Court Administrative Office (SCAO) judicial education program?</li> </ul>

Issue/Topic	Discussion
<p>Potential Recommendation Elements and Drafting  <i>Glenn Tapia, All</i></p>	<p>Glenn mentioned that many members are absent today and he would like to delay discussion of the draft recommendation - <i>Individualized and RNR based terms and conditions to include drug testing/sobriety monitoring.</i></p> <p>The group will proceed with discussions of other draft recommendations: 1) <i>Increasing Access to Telehealth Services for Behavioral Health</i>; 2) <i>Improving Collaborative Treatment for Justice Involved People</i>; and 3) <i>Criminal and Juvenile Justice Treatment Provider Endorsement</i>. Glenn asked whether the recommendations should be drafted as statutory or as policy.</p> <p>The members preferred to develop policy recommendations, rather than ones requiring legislation, because telehealth and behavioral health are constantly changing and need the flexibility. Members reviewed concepts related to each recommendation draft, and after a lengthy discussion and collaboration, included the following elements in the recommendation drafts:</p>

<p>Potential Recommendation Elements and Drafting  <i>Glenn Tapia, All</i>                  (cont.)</p> <p><b>Issue/Topic</b></p>	<p>Draft recommendation: <u>Increasing Access to Telehealth Services for Behavioral Health</u></p> <ul style="list-style-type: none"> <li>• The Office of Behavioral Health, Department of Human Services, the Behavioral Health Administration, and the Department of Health Care and Policy Finance to modernize regulatory and funding structures, facilitate easier, broader, and more permanent access to telehealth services for those in community supervision.</li> <li>• The Division of Criminal Justice in the Department of Public Safety with the Sex Offender Management Board (SOMB) and the Domestic Violence Offender Management Board (DVOMB) to revise standards and to facilitate easier, permanent fiscal and structural access to telehealth services for individuals in community supervision without compromising identity of the victims of crime.</li> <li>• Agencies identified above, should establish clear intent and formal communication with providers to support telehealth services as an adjunct to an in-person treatment.</li> <li>• Standards should be revised to not only reduce barriers to telehealth, but to incentivize providers and build capacity for telehealth services as an adjunct to in-person treatment. There should be fiscal and regulatory incentives for providers to serve rural areas in Colorado.</li> <li>• Standards around licensing, certification, and service delivery should be developed or revised to maintain or increase quality of service whether in person or via telehealth adjunct services and remove duplicative or conflicting requirements for providers. Increased access to treatment should not compromise quality of treatment.</li> <li>• At a minimum, state standards for behavioral health treatment should address the following key areas of telehealth services and infrastructure:                         <ul style="list-style-type: none"> <li>○ <u>Competency of the provider</u> – Providers should earn continuing education credits and demonstrate course knowledge of telehealth practices.</li> <li>○ <u>Ethical considerations in standards of care</u> – Providers ensure ethical considerations and uphold client rights during and after telehealth services.</li> <li>○ <u>Informed Consent</u> – Proactive, continuous services for individuals.</li> <li>○ <u>Diversity and inclusivity considerations</u> – Providers ensure awareness of and address any diversity or inclusivity concerns related to telehealth. Special considerations given to indigent individuals who cannot afford access to telehealth and in-person treatment.</li> <li>○ <u>Criteria or Guidelines</u> – Create criteria or guidelines regarding appropriate population for telehealth participation and measures used to assess or evaluate engagement/participation in treatment.</li> <li>○ <u>Decision Making</u> – Decision making guidelines should be developed to serve or admit clients with telehealth services to include the preference of the client, clinical reasoning of the provider and agreement of the supervision/treatment teams where appropriate (e.g., problem-solving courts, community supervision teams).</li> </ul> </li> </ul>
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<p>Potential Recommendation Elements and Drafting  <i>Glenn Tapia, All</i>                  (cont.)</p> <p><b>Issue/Topic</b></p>	<ul style="list-style-type: none"> <li>○ <u>Cost Considerations</u> – Develop guidelines that consider costs to the provider and the client.</li> <li>○ <u>Safety Considerations</u> – Guidelines around assessing safety risks for patient and victims, and assessing privacy concerns for telehealth (such as whether there are other individuals in the room).</li> </ul> <p>Draft recommendation: <u>Improving Collaborative Treatment for Justice Involved People</u></p> <ul style="list-style-type: none"> <li>● Create a group of subject matter experts, providers, and consumers to address the criminogenic risk factors and behavioral health treatment needs of individuals in the criminal justice system and the systemic social determinants of health that can drive criminal justice involvement</li> <li>● Conduct a review of current state and local treatment standards to align different criteria that exist in the justice and behavioral health systems to coordinate an effective plan of care for clients receiving services in multiple systems.</li> <li>● Develop and implement program standards and formal criteria for criminal justice treatment providers, an endorsement/license, and client placement criteria for comprehensive criminal justice and behavioral health programs/services to include high intensity behavioral health treatment programs. This includes developing and implementing state program standards, admission criteria, and procedures for clients who have assessed risk/need profile that exceed provider capacity and licensing status. Priority focus on the reduction of duplicative treatment authorizations, reporting, training, and funding requirements for treatment providers.</li> <li>● Develop and implement a comprehensive, collaborative, and cross-system training curriculum of evidence-based treatment and evidence-based criminal justice approaches for staff working in programs that obtain a criminal justice treatment provider endorsement. This includes training to ensure cross-system alignment around a proactive, coordinated, and pre-release care plan for those that are incarcerated in jail, prison, and community corrections facilities. This includes specialized training and skill building in cultural competence and culturally responsive approaches to supervision and treatment of justice-involved persons. This should also include specific strategies to address the rights and needs of crime victims and the provider’s role in preventing harm and increased risk to identified crime victims.</li> <li>● Establish a strategy to ensure cross-system partnerships between payers, providers, state, and local criminal justice agencies, problem solving courts, forensic navigators, and other stakeholder groups with a focus on increasing quality of care and training requirements for providers.</li> <li>● Revise and modernize standardized treatment matching procedures and assessment tool pursuant to §16-11.5-102, C.R.S., that include mental health screening, substance use assessments, and criminogenic risk/need assessments to improve treatment matching and outcomes.</li> </ul>
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<p>Potential Recommendation Elements and Drafting <i>Glenn Tapia, Abigail Tucker, All</i> (cont.)</p> <p><b>Issue/Topic</b></p>	<p>The treatment matching procedures revised pursuant to §16-11.5-102, C.R.S., shall incorporate research-informed elements to include but are not limited to the risk/need/responsivity research, as well as the American Society for Addiction Medicine (ASAM) criteria. The group should enlist consultation from external subject matter experts in both criminology and addiction medicine (e.g. NIDA, George Mason University) to facilitate revisions to treatment matching protocols for justice populations.</p> <ul style="list-style-type: none"> <li>• Identify opportunities to leverage and expand additional evidence-based models of care by implementing pilot programs and best practices to leverage telehealth and alternative staffing models that can be integrated into the standards of care.</li> <li>• Recommend payment rates and structures that incentivize treatment providers to accept justice-involved clients, allow flexibility to adjust payments to match reimbursement rates to state and national standards and that address ongoing training requirements for clinical staff to provide quality services to the criminal justice system.</li> <li>• Develop and implement formal state policy, procedures, tools, and staffing models within the Behavioral Health Administration developed under (§27-60-203, C.R.S.) to periodically measure and report quality of treatment and fidelity to evidence-based treatment approaches to the General Assembly and to the state criminal justice and behavioral health agencies.</li> </ul> <p>Draft recommendation: <u><i>Criminal and Juvenile Justice Treatment Provider Endorsement</i></u></p> <p>Behavioral health training and specific courses/requirements:</p> <ul style="list-style-type: none"> <li>• Treatment providers to include Community Mental Health Centers (CMHC), Managed Services Organization (MSO), hospital/hospital networks, group practice, and anyone licensed through DORA</li> <li>• Develop a training curriculum on evidence-based treatment</li> <li>• Subject Matter Experts (SME) to create standardized risk assessments for substance use and mental health criminogenic risk</li> <li>• Improve treatment matching and outcomes</li> <li>• Create a uniformed assessments for behavioral health</li> </ul> <p>Justice system specific training courses/requirements:</p> <ul style="list-style-type: none"> <li>• Justice System: Department of Corrections (DOC), Parole, Division of Youth Services (DYS), Probation, specialty courts, and court services</li> <li>• Risk/need/responsivity concepts</li> <li>• Certification courses/licensing specializing in the criminal justice population</li> <li>• Crime victim rights and provider’s role in preventing harm or increasing risk to identified crime victims</li> </ul> <p>Continuing education opportunities</p>
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<p>Potential Recommendation Elements and Drafting <i>Glenn Tapia, All (cont.)</i></p>	<ul style="list-style-type: none"> <li>• Improve treatment matching and outcomes</li> <li>• Telehealth with the justice population</li> <li>• Colorado based behavioral health conferences specific to serving justice individuals</li> <li>• Recidivism: Definitions, discussions, and the role of treatment</li> </ul> <p>Higher Education</p> <ul style="list-style-type: none"> <li>• Offer more classes on substance use in the criminal justice system to graduate level classes</li> <li>• Offer competitive salaries/bonuses for new behavioral health specialists</li> </ul>
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<b>Issue/Topic</b>	<b>Discussion</b>
<p>Next Steps/Adjourn <i>Glenn Tapia</i></p> <p><b>Action Item</b> Glenn will draft preliminary recommendations: - Increasing access to telehealth services for behavioral health - Improving collaborative treatment for justice involved people</p> <p><b>Action Item</b> Abigail will draft preliminary recommendations - Behavioral health certification - Criminal and juvenile justice treatment provider endorsement</p> <p><b>Action Item</b> Glenn and Abigail will present these preliminary recommendations at the next meeting</p>	<p>Glenn stated the goal that three other issues...revocation, disparities, and intensive sex offender supervision...might be addressed by October. The group will attempt to complete drafts of seven recommendations (policy and legislative) for presentation to the Sentencing Reform Task Force in October.</p> <p>The group discussed the possibility of a hybrid meeting for the August 6 meeting, depending on the circumstances of COVID-19 with a location to be determined.</p> <p>Richard Stroker summarized the main points of the recommendations:</p> <ul style="list-style-type: none"> <li>• Encouraging individuals to use telehealth and eliminating barriers that are associated with it</li> <li>• Criminal justice agencies and treatment providers working together efficiently and sharing information and create treatment matching approaches             <ul style="list-style-type: none"> <li>▪ Higher education – creating criminal justice and intersections of criminal justice treatment curriculum for individuals in higher education</li> <li>▪ De-stigmatize the offender population for individuals coming into the criminal justice behavioral health field</li> <li>▪ Specialized credentials for justice involved treatment</li> <li>▪ Treatment providers having competitive rates/bonuses</li> </ul> </li> <li>• Promote fidelity to treatment and measure the quality of treatment             <ul style="list-style-type: none"> <li>▪ Matching assessment</li> <li>▪ Crisis management</li> </ul> </li> </ul> <p>The group agreed to discuss the inclusion of judges in the yearly training at the next meeting. Glenn will speak with Jennifer Mendoza who works in judicial education about how to implement judicial curriculum ideas.</p> <p>Glenn thanked the group for their contributions and adjourned the meeting.</p> <p><b>The next meeting of the Sentencing Alternatives/Decisions &amp; Probation Working Group is scheduled August 6, 2021; 8:30-11:30am.</b></p>