

**Colorado Commission on Criminal and Juvenile Justice**

**Sentencing Reform Task Force  
MINUTES**

September 8, 2021 / 1:30PM-4:00PM  
Virtual Meeting

**ATTENDEES:**

**TASK FORCE MEMBERS**

Michael Dougherty, *TF Co-chair*/District Attorney, 20th Judicial District  
Taj Ashaheed, Second Chance Center  
Maureen Cain, Office of the State Public Defender  
Christie Donner, Colorado Criminal Justice Reform Coalition  
Valerie Finks, Victim Compensation Program, DA Office, 1st Judicial District  
Julie Gonzales, State Senator (Senate District 34)  
Serena Gonzales-Gutierrez, State Representative (House District 4)  
Kazi Houston, Rocky Mountain Victim Law Center  
Sarah Keck, Court Services  
Andrew Matson, Colorado CURE  
Greg Mauro, Division of Community Corrections  
Heather McClure, Adams County Division of Community Safety & Well-Being  
Tom Raynes, Colorado District Attorneys' Council  
Michael Rourke, District Attorney, 19th Judicial District  
Glenn Tapia, Judicial Branch/ Director, Div. of Probation Services  
Dean Williams, Department of Corrections

**STAFF**

Richard Stroker, CCJJ Consultant  
Jack Reed, Division of Criminal Justice  
Damien Angel, Division of Criminal Justice  
Kevin Ford, Division of Criminal Justice  
Laurence Lucero, Division of Criminal Justice  
Stephane Waisanen, Division of Criminal Justice

**ABSENT**

Rick Kornfeld, *TF Co-chair*/Defense Attorney  
Terri Carver, State Representative (House District 20)  
Jeff Chostner, District Attorney, 10th Judicial District  
Bob Gardner, State Senator (Senate District 12)  
Kristen Hilkey, Adult Parole Board  
Henry Jackson, Metro State University  
Jessica Jones, Defense Attorney  
Dan Rubinstein, District Attorney, 21st Judicial District  
Lisa Wayne, Defense Attorney

<p><b>Welcome &amp; Agenda</b>                  Welcome, Approval of Minutes, and Agenda  <i>Michael Dougherty, Task Force Co-chair</i></p>	<p><b>Discussion</b>                  Michael Dougherty welcomed the group and explained that Rick Kornfeld would not be in attendance. Michael provided an overview of the agenda. A motion was offered and seconded to approve the minutes from August 11, 2021. Task Force members unanimously approved the minutes.</p>
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<p><b>Issue/Topic</b>                  Update: Sentencing Alternatives, Decisions &amp; Probation Working Group  <i>Glenn Tapia, WG Leader</i></p> <p><b>ACTION</b>                  Sentencing Alternatives, Decisions &amp; Probation Working Group to formally present recommendations to the Task Force on October 6, 2021</p>	<p><b>Discussion</b>                  Glenn Tapia provided an update on behalf of the Sentencing Alternatives, Decisions &amp; Probation Working Group. He offered a high-level, conceptual preview of the group’s first three proposals and explained that more detailed recommendations will follow in October for consideration by the Task Force and eventually the full Commission. Additionally, three or four more proposals from the Working Group will likely follow in the next calendar year.</p> <p>Glenn walked the group through a presentation. The summary of this presentation is as follows:</p> <p>Overview</p> <ul style="list-style-type: none"> <li>● The Working Group consists of 12 members who meet on a regular basis and are highly engaged in the work.</li> <li>● The original Scope of Work was determined by the Commission and the Sentencing Reform Task Force and includes 7 subject areas.</li> <li>● The current work focuses on the following topics:                         <ul style="list-style-type: none"> <li>- Defining the statutory purpose of probation</li> <li>- Evaluating probation level of supervision in the interest of proper dosage and approaches (e.g. avoiding over-supervision)</li> <li>-Considering alternatives that can be utilized at the time of sentencing</li> </ul> </li> </ul> <p>Proposal #1 - Define the statutory purposes of probation:</p> <ul style="list-style-type: none"> <li>● The Proposed Purposes of Probation from the Working Group is a Legislative Recommendation and includes 7 statutory attributes.</li> <li>● The intention of the proposed Purposes of Probation is focused on reparation, cost control and rehabilitation and less about prevention, deterrence, incapacitation, retribution and punishment.</li> </ul> <p>Proposal #2 - Develop a Swift Restorative Intervention Program for Persons Convicted of a Petty Offense:</p> <ul style="list-style-type: none"> <li>● The Working Group discussed multiple areas where there is risk of over-supervision and focused first on the subject of petty offenses.</li> <li>● A snapshot of an average day shows 650 people on probation (including 127 juveniles) with the most frequent crime types including: 39.5% Disorderly Conduct, 25.8% Theft for less than \$50, and 9.9% Drug (mostly marijuana related).</li> <li>● The successful completion rate is 50% with an average sentence of one year and a cost to the person on probation of \$1,000-\$1,500.</li> </ul>
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<p style="text-align: center;"><b>Issue/Topic</b></p> <p style="text-align: center;">Update: Sentencing Alternatives, Decisions &amp; Probation Working Group <i>Glenn Tapia, WG Leader</i> (continued)</p>	<ul style="list-style-type: none"> <li>● Working Group members agree there should be a sentencing option for petty offense behavior that is swift, proportional and fair, and that the court should have additional options to use rather than just fines, probation and jail.</li> <li>● The resulting proposal is a <i>legislative cecommendation</i> to Develop a Swift Restorative Intervention Program (SRIP) for Persons Convicted of a Petty Offense. Options for the Court would include: a fine, a jail term not to exceed 10 days, and a term of probation not to exceed 180 days. Additionally, the SRIP would include a service-oriented option for those convicted of a petty crime.</li> </ul> <p>Proposal #3 - Increase Access to Telehealth Services:</p> <ul style="list-style-type: none"> <li>● The group also addressed Barriers to Success on Probation including barriers to telehealth, and believed that increased access to telehealth services should be available as: a) a supplement to weekly outpatient treatment, or b) as an aftercare option for those completing inpatient treatment.</li> <li>● The proposal entitled ‘Increase Access to Telehealth Services’ is a <i>policy recommendation</i> and calls for relevant state agencies to modernize their respective regulatory and funding structures in order to facilitate easier, broader, and more permanent access to telehealth services for those on community supervision.</li> <li>● The proposal also calls for: clearer communication between agencies and providers; revised standards to incentivize providers to build capacity for telehealth services; and standards around licensing, certification and service delivery to maintain or increase quality of services and to remove duplicative or conflicting requirements for providers.</li> </ul> <p>The Working Group is considering a fourth area pertaining to the Barriers to Success on Probation, regarding the access to quality behavioral health treatment. Members will discuss this in further detail at its next meeting.</p> <p>Proposal #4 - Improve Collaborative Treatment for Justice-Involved People:</p> <ul style="list-style-type: none"> <li>● Glenn presented research showing the importance of treatment quality and fidelity and pointed out that, currently, neither the justice system nor the behavioral health system provides good measurement of quality.</li> <li>● Ideal outcomes in this area would include integrated service delivery, integrated sharing of information, and improved treatment matching.</li> <li>● This proposal would be a <i>legislative recommendation</i> requiring that the state criminal justice system and behavioral health agencies collaborate with input from local jails and behavioral health entities to integrate ASAM (American Society of Addiction Medicine), Social Determinates of Health, and Risk/Need Responsivity frameworks for more effective treatment matching and delivery.</li> <li>● The proposal also calls for better alignment of treatment matching criteria and the development of fiscal and regulatory methods to incentivize behavioral health providers to accept and treat justice-involved people.</li> </ul>
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<p style="text-align: center;"><b>Issue/Topic</b></p> <p>Update: Sentencing Alternatives, Decisions &amp; Probation Working Group <i>Glenn Tapia, WG Leader</i> (continued)</p>	<p>In conclusion, Glenn explained that these proposals are on track to be formally presented to the Sentencing Reform Task Force at its October meeting.</p> <p>In the next few months, the Working Group will also examine the issues of behavioral interventions for positive drug tests on probation, and risk/need-based supervision for Sex Offender Intensive Supervision Program (SOISP). Then in 2022, the Working Group plans to address: revocations; terms and conditions; traumatic brain injury; ethnic and gender disparities; impacts on prison populations; and alternatives at the time of sentencing.</p> <p>Following Glenn’s presentation, Michael facilitated the following question and comment session with the group.</p> <p><u>Questions and Comments</u></p> <ul style="list-style-type: none"> <li>● Are these reforms also intended for juveniles, or only for adults? - In theory, this would apply to juveniles as well and could help shrink the JV population.</li> <li>● A question was raised about funding and the increase in the number of probation officers that Judicial received pursuant to Senate Bill 271, specifically regarding the increase in petty offenses. - Glenn replied that the population could indeed shrink. He added that the Working Group will also explore the issue of early terminations in the coming year.</li> <li>● A request was made that if any of these reforms are to apply to juveniles, that they be considered through a juvenile lens.</li> <li>● An observation was made that the court likely sentences people convicted of a petty offense on probation because they are “high need,” and that Probation’s purpose is to supervise based on the level of need and not based on offense.</li> <li>● There was a suggestion that the cap on the length of probation could be reduced to 90 days rather than 180 days.</li> <li>● It was noted that the Correctional Treatment Board (CTB) was created years ago to address many of these issues, for example regarding funding, program quality, and “need matching.” - Glenn replied that the creation of the Behavioral Health Administration competes with some of the early intentions for the CTB and that the CTB’s only vehicle for quality assurance is through funding choices. The CTB can only govern what it does with its money, but that money is a fraction of what is spent on treatment resources and services in the larger state system.</li> </ul>
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<p><b>Next Steps and Adjournment</b>  <i>Richard Stroker, CCJJ Consultant &amp; Michael Dougherty, WG Leader</i>                  (continued)</p> <p><b>ACTION</b>                  Sentencing Reform Task Force to provide direction to the Progression Working Group during the October meeting</p>	<p>The Sentence Structure Working Group will continue to refine its proposal regarding a new felony sentencing grid (or grids) and sentence ranges and the placement of felony offenses in these categories.</p> <p>The Progression Working Group is currently on hiatus and will remain on hiatus until they receive further direction from the Task Force. Richard asked the Task Force to consider the charge for this Working Group during the October meeting.</p> <p>The next meeting of the full Commission will take place Friday, October 8, during which time the Sentencing Reform Task Force will provide an update on their work.</p> <p>Hearing no further comment from the group, Michael thanked everyone for their time and adjourned the meeting.</p> <p><b>The next meeting is scheduled on 10/6/2021 from 1:30 pm to 4:00 pm with details posted at <a href="http://ccjj.colorado.gov/ccjj-meetings">ccjj.colorado.gov/ccjj-meetings</a>.</b></p>
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**Next Meeting**

October 6, 2021, 1:30-4:00pm  
 Virtual Meeting

Virtual meeting information will be emailed to members and posted at, [colorado.gov/ccjj/ccjj-meetings](http://colorado.gov/ccjj/ccjj-meetings)