

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

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

February 4, 2022 / 9:00AM-11:30AM  
Virtual Meeting

**ATTENDEES:**

**WORKING GROUP MEMBERS**

Glenn Tapia, Director, *Working Group Leader*, Probation Services/ Judicial Branch  
Chris Gallo, Chief Deputy District Attorney/ 18<sup>th</sup> Judicial District (JD)  
Kristin Heath, Assistant Director, Jefferson County Justice Services  
Clay McKisson, Judge/ 3<sup>rd</sup> JD  
Jenifer Morgen, Chief Probation Officer/ 17<sup>th</sup> JD  
Greg Otte, Deputy Chief Parole Officer/ 8<sup>th</sup> JD  
Megan Ring, Office of the State Public Defender  
Abigail Tucker, (CCJJ Vice Chair) Psychologist/ Mental health services provider and consultant

**STAFF**

Richard Stroker, CCJJ Consultant  
Laurence Lucero, SRTF staff, Division of Criminal Justice  
Jack Reed, Research Director, Division of Criminal Justice  
Stephané Waisanen, WG staff, Division of Criminal Justice  
Erin Austin, Sex Offender Management Board (SOMB), Division of Criminal Justice

**ABSENT**

Kazi Houston, Rocky Mountain Victim Law Center  
Matthew James, Denver District Attorney's Office/2<sup>nd</sup> JD  
Heather McClure, Adams County Division of Community Safety and Well-Being  
Elaina Shively, District Attorney's Office/ 20<sup>th</sup> JD

**GUESTS**

Dana Wilks, State Court Administrators Office  
Kristin Kubacki, Probation Division  
Emily Tofte Nestaval, Rocky Mountain Victim Law Center  
Jessica Dotter, Colorado District Attorneys' Council

<b>Issue/Topic</b>	<b>Discussion</b>
<p><b>Welcome &amp; Agenda</b>  <i>Glenn Tapia,</i>  <i>Working Group Leader</i></p>	<p>Glenn Tapia (Working Group Leader) welcomed Working Group members and guests to the meeting. Glenn acknowledged the attendance of Erin Austin (Division of Criminal Justice, Sex Offender Management Board [SOMB], Dana Wilks (State Court Administrator’s Office), and Kristin Kubacki (Probation Officer).</p> <p>Glenn provided an overview of the meeting agenda and explained that, after a quick Sex Offender Intensive Supervision Program (SOISP) data review for members who were not present at the last meeting, the group will focus on the issues surrounding the supervision of sex offenders.</p>

<b>Issue/Topic</b>	<b>Discussion</b>
<p>Presentation:                      Sex Offenders &amp; SOISP Data  <i>Glenn Tapia, Working Group Leader</i></p>	<p>Glenn reviewed the data from the presentation, “Sex Offenders and SOISP Basic Data” (FY19-data set). The full presentation can be found on the Commission website at <a href="http://ccjj.colorado.gov/ccjj-srtf">ccjj.colorado.gov/ccjj-srtf</a></p> <ul style="list-style-type: none"> <li>• Assessed risk levels using VASOR/SOTIPS* are approximately the same for both the regular and SOISP populations, favoring more the low-risk individuals in SOISP versus regular supervision, essentially there are more low-risk individuals in SOISP.</li> <li>• Regarding successful probation outcomes and completion rates:</li> <li>• Non-SOISP have higher success rates and lower revocation absconder rates than the SOISP individuals.</li> <li>• SOISP have lower success rates, possibly due to over-supervision.</li> <li>• Because risk levels and supervision are not aligned with research, it is impossible to explain the success rates and cannot attribute the outcomes to anything related to risk.</li> <li>• Regarding the reasons for probation revocation, 90% of revocations are technical violations (rule violations) with the remainder attributed to a new misdemeanor and new felonies.</li> </ul> <p>(* Vermont Assessment of Sex Offender Risk/ Sex Offender Treatment Intervention and Progress Scale)</p> <p>Outcome by Type of Offenses (2014-2021)</p> <ul style="list-style-type: none"> <li>• Felony Sex Offenses – Intensive Supervision                      56% of individuals on probation were successful, 36% revoked were for technical violations, 3% were revoked from new misdemeanor offenses and 6% were revoked for new felony offenses.</li> <li>• Misdemeanor Sex Offenses – Regular Probation                      60% of individuals on probation were successful, 32% revoked for technical violations, 5% revoked for new misdemeanor offenses and 3% revoked for new felony offenses.</li> </ul> <p>Outcomes by Initial Risk/Supervision Level (2014-2021):</p> <ul style="list-style-type: none"> <li>• Max Risk Category from VASOR/SOTIPS risk assessment tool                      26% of individuals on probation were successful, 58% revoked for technical</li> </ul>

<p><b>Issue/Topic</b>                  Presentation:                  Sex Offenders &amp; SOISP Data  <i>Glenn Tapia, Working Group Leader</i>                  (Cont.)</p>	<p>violations, 7% revoked for new misdemeanor offenses and 9% revoked for new felony offenses.</p> <ul style="list-style-type: none"> <li>• Medium Category from VASOR/SOTIPS risk assessment tool                      48% of individuals on probation were successful, 40% revoked for technical violations, 5% revoked for new misdemeanor offenses and 7% revoked for new felony offenses.</li> <li>• Minimum Risk Category from VASOR/SOTIPS risk assessment tool                      77% of individuals on probation were successful, 19% revoked for technical violations, 1% revoked for new misdemeanor offenses and 2% revoked for new felony offenses.</li> </ul>
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<p><b>Issue/Topic</b>                  SOISP Statute Proposed                  Language Review  <i>Glenn Tapia, Working Group Leader</i></p>	<p style="text-align: center;"><b>Discussion</b></p> <p>Glenn provided a quick summary of changes to §18-1.3-1007, C.R.S., Probation - Intensive Supervision Program (which is specific to sex offenders):</p> <p>18-1.3-1007 (1)(a)- Probation Intensive Supervision Program                  The General Assembly in enacting this section to recognize that high-risk individuals can be managed in the community with the appropriate supervision and with the use of evidence-based treatment programs and practices.</p> <p>18-1.3-1007 (1) (a) (1-V) Removes language for SOISP that is offense-based placements and replaces with risk-based placements.</p> <p>18-1.3-1007 (b) The Judicial Department would create a Work Group to include a district attorney, a state public defender, or his/her designee, a chief probation officer, a member of the SOMB, and a victim’s representative.</p> <p>18-1.3-1007 (1.5) Removes language that currently allows the court discretion to place an individual convicted of a failure to register as a sex offender in an intensive supervision probation program.</p> <p>18-1.3-1007 (2) This section changes the requirement for a sex offender to have “daily” contact to “frequent” contacts with a probation officer, monitored curfew, home visitation, and employment verification.</p> <p>18-1.3-1007 (2.5) This section requires the use of validated assessment tools to place individuals if reassessed into the SOISP program.</p> <p>18-1.3-1007 (3) Requires state court administrator to establish standards and criteria for administration of an intensive supervision probation program.</p> <p>18-1.3-1004 (2) (a) Removes language about the sentence option.</p> <p>18-1.3-1008 (1), (1.5), and 18-3-412.5 - Probation conditions release – Removing language about court order rather than risk-based placements.</p>
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Issue/Topic	Discussion
<p>Working Group Member Feedback on Reforms to Sex Offender Intensive Supervision Program (SOISP) <i>Glenn Tapia, Working Group Leader</i> <i>All</i></p>	<p>Glenn shared with the group some of the feedback received from WG members who were not present.</p> <p>Heather McClure, who works with a homeless sex offender population, stated there are many cases of individuals who are under-supervised after they are placed on the sex offender register. She believed there is an opportunity to supervise people who are otherwise not being supervised.</p> <p>Elaina Shively shared some suggestions from the Chief Probation Officer regarding statutory proposal language and the belief that there are no low-risk sex offenders.</p> <p>Kristin Heath discussed some of the feedback received, which supports risk-based supervision. There is concern that, in some instances, individuals withhold information during an assessment and score inaccurately into a lower-risk category. Kristin suggested that additional responsibility factors should be considered when determining the level of supervision.</p> <p>Dr. Abigail Tucker offered the following comments regarding the statutory language:</p> <ul style="list-style-type: none"> <li>• (1)(b) Include local sex offense treatment providers in the SOISP and recommend representation in this working group.</li> <li>• (3)(a) Validated assessments should include substance use and mental health needs. Substance Use Disorder (SUD) is often overlooked/undertreated. She suggested using assessment tools such as, for example, the Cut Down, Annoyed, Guilty, and Eye Opener (CAGE) and/or Community Reinforcement and Family Training (CRAFT) to identify individuals with SUD and to refer them to treatment.</li> <li>• (1.5) What are the alternative options with Community Corrections beds if they are at full capacity?</li> </ul>

Issue/Topic	Discussion
<p>Discussion: Potential Reforms to Sex Offender Intensive Supervision Program (SOISP) <i>All</i></p>	<p>Erin explained that when an individual is in an LS-Adult Intensive Supervision Program (LISP) he/she is placed on probation at a level that is determined by the probation officer. Treatment providers treat individuals in SOISP and non-SOISP equally.</p> <p>Jessica Dotter shared stakeholders' concerns related to the VASOR/SOTIPS risk assessments tools. It is believed that those tools have a 70% accuracy rate. It is suggested that the group consider the reliability and validity of the risk assessment tool with other populations (for example, females or child offenders). The assessments are mainly designed for a white male population and often do not include minority populations.</p> <p>Glenn reiterated that the goal for the Working Group is to examine the four levels of supervision (minimum, medium, maximum, and SOISP).</p>

Issue/Topic	
<p>Discuss Reforms to Sex Offender Intensive Supervision Program (SOISP)  <i>All</i>                      (continued)</p>	<p>The process of sex offender assessment was clarified. When an individual is sentenced to probation for a sexual offense, the probation officer (PO) ensures that the appropriate assessment is conducted, and if additional risks are identified, the PO adjusts the level of supervision. Both risk assessments and human judgment are used to determine the level of supervision.</p> <p>Jessica recently spoke with Denise Metz from Boulder County probation and discussed the rigorous components of phase I of the SOISP program. An individual who is in the program has six-to-eight contacts per month with the probation officer plus two other forms of contacts (emails, employment verification, etc.). Once an individual has successfully progressed through treatment, the probation officer can phase the individual to a lower risk level.</p> <p>Glenn reiterated that 51% of individuals in SOISP are assessed at low-risk levels and yet they have six-to-eight contacts a month with their probation officer. Glenn believed that over-supervision leads to a higher recidivism rate.</p> <p>Chris noted that there are very few differences in the outcomes of individuals who have committed misdemeanor or felony offenses, or whether they are placed in intensive or regular probation supervision programs. He expressed that under-supervision for misdemeanors and over-supervision for low-risk individuals is a concern. Should the underlying decision factor be the treatment versus supervision?</p> <p>Jessica expressed concern that risk levels (low, moderate, and high) are only used for non-SOISP probation. It has been found that risk assessments are 30% inaccurate and often sentenced at a lower level of supervision. Jessica expressed concern that those individuals who have been inadequately assessed at a lower risk level and serve probation in the community could become a public safety concern. Jessica also felt that the determination of probation for sex offenders should start at a higher level of supervision with the ability to phase out.</p> <p>Erin offered to reach out to her colleagues at the SOMB unit to present data of evidence of risk need responsivity-based treatment for individuals at the March meeting.</p> <p>Chris expressed some general concerns about the level of supervision inadequately determined for misdemeanor sex offenses and suggested that all sex offenders be relegated to a high-risk category until all assessments are completed and show that individuals can be placed in a lower-risk category.</p>

<b>Issue/Topic</b>	<b>Discussion</b>
<p data-bbox="191 214 456 243">Next Steps &amp; Adjourn</p> <p data-bbox="272 569 375 598"><b>ACTION</b></p> <p data-bbox="126 604 527 701">Erin Austin to prepare an SOMB presentation with Yuanting Zhang for the March meeting</p>	<p data-bbox="565 214 1498 348">Richard stated that the group’s discussion today has created a foundation for broader discussions about the relevance of risk and the use of resources to manage the probation population. Reviewing data would be helpful in regards to the next steps.</p> <p data-bbox="565 390 1498 420">Glenn asked Jessica and Chris to discuss with their stakeholders the following:</p> <ul data-bbox="613 426 1515 567" style="list-style-type: none"><li>• Concerns with sex offenses are more risk-based than offense-based.</li><li>• Concerns with the SOISP intake period – all sex offenders relegated to a high-risk category, until all assessments are completed and if they were not high-risk, the individual would be placed into a lower-risk category.</li></ul> <p data-bbox="565 604 1498 672">Erin to have Yuanting Zhang, present evidence of risk-need responsivity based treatment for individuals at the March meeting.</p> <p data-bbox="565 714 1515 781">Glenn thanked members and guests for their participation in the discussion and reminded the group of the next meeting, Friday, March 4 at 9:00 am.</p>

**Next Meeting**

Next Meeting - Friday, March 4, 2022 / 9:00am – 11:30am (Virtual Meeting)