

**Sentencing Reform Task Force
MINUTES**

February 9, 2022 / 1:30PM-3:00PM
Virtual Meeting

THIS MEETING DID NOT ACHIEVE A QUORUM

ATTENDEES

TASK FORCE MEMBERS

Rick Kornfeld, *Task Force Co-chair/Defense Attorney*
Michael Dougherty, *Task Force Co-chair, District Attorney/20th Judicial District*
Chad Dilworth, Adult Parole Board
Christie Donner, Colorado Criminal Justice Reform Coalition
Valerie Finks, Victim Compensation Program/DA Office, 1st Judicial District
Kazi Houston, Rocky Mountain Victim Law Center
Brian Mason, District Attorney/17th Judicial District
Andrew Matson, Colorado CURE
Heather McClure, Adams County Division of Community Safety & Well-Being
Tom Raynes, Colorado District Attorneys' Council
Michael Rourke, District Attorney/19th Judicial District
Dan Rubinstein, District Attorney/21st Judicial District
Glenn Tapia, Director, Div. of Probation Services/Judicial Branch
Lisa Wayne, Defense Attorney

GUESTS

STAFF

Richard Stroker, CCJJ Consultant
Jack Reed, Interim Research Director, Division of Criminal Justice
Laurence Lucero, Sentencing Reform Task Force Staff, Division of Criminal Justice
Stephane Waisanen, Sentence Structure Working Group Staff, Division of Criminal Justice
Kevin Ford, Commission Staff, Division of Criminal Justice

ABSENT

Taj Ashaheed, Second Chance Center
Maureen Cain, Office of the State Public Defender
Terri Carver, State Representative/House District 20
Bob Gardner, State Senator/Senate District 12
Julie Gonzales, State Senator/Senate District 34
Serena Gonzales-Gutierrez, State Representative/House District 4
Henry Jackson, Metro State University
Jessica Jones, Defense Attorney
Sarah Keck, Court Services/Judicial Branch
Greg Mauro, Denver Division of Community Corrections
Dean Williams, Colorado Department of Corrections

<p>Welcome & Agenda Welcome, Approval of Minutes, and Agenda <i>Rick Kornfeld & Michael Dougherty, Task Force Co-chairs</i></p>	<p>Discussion Rick Kornfeld, Task Force Co-chair, welcomed attendees and noted that the approval of minutes would take place later in the meeting when a quorum was present. He outlined what was expected to be a short meeting.</p>
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<p>Issue/Topic Working Group Report-outs Sentencing Alternatives/Decisions & Probation Working Group <i>Glenn Tapia, Working Group Leader</i> and Sentence Structure Working Group <i>Michael Dougherty, Working Group Leader</i></p> <p>ACTION The “Probation WG” will continue its work in the areas of risk/need based supervision for the SOISP population, over and under-supervision issues, and revocations</p> <p>ACTION The Sentence Structure WG will continue its efforts on the categorization of crimes in the crime severity charts for categories of offenses</p>	<p>Discussion</p> <p><u>Sentencing Alternatives/Decisions & Probation Working Group</u> Glenn Tapia described that the Working Group (WG) had welcomed a handful of new guests to its most recent meeting with subject matter expertise regarding the current topics under discussion: sex offenders, the Sex Offender Intensive Supervision Program (Probation; SOISP), and related risk assessment and supervision issues.</p> <p>Glenn reminded attendees that the WG was charged by the Sentencing Reform Task Force (SRTF) with examining the level of supervision and instances of under- and over-supervision in Probation. The WG is studying comparative data for the SOISP and “regular” probation populations. He pointed out that the risk distribution for these two populations is essentially the same, but the outcomes for SOISP population are worse than the outcomes of the regular population. He summarized that Probation is not doing a sufficient job at differential supervision based on risk and need considerations. The WG is carefully discussing the degree to which SOISP eligibility and participation should be risk-based, rather than offense-based. While these are complicated and challenging discussions, the WG continues to examine the data and will eventually return to the SRTF for feedback on concepts, opportunities and proposals. Glenn shared that in the coming months the WG will also examine other assigned topics, including over-supervision and probation revocation.</p> <p><u>Sentence Structure Working Group</u> Michael Dougherty offered that the “Clean-up” bill for <i>Senate Bill 2021-271</i> is in the final stages drafting and is sponsored by Representative Weissman. It is hoped the bill will be passed by the legislature and signed by Governor Polis before the March 1, 2022 implementation deadline for <i>S.B. 21-271</i>.</p> <p>On Jan. 28, 2022, the SRTF provided a preliminary presentation of <i>Recommendation FY22-SR #09. Revise Felony Offenses Eligible for the Crime of POWPO (Statutory)</i> to the Commission. A related “Question & Answer” Session was offered on Feb. 4, which resulted in helpful feedback from attendees and presenters. This recommendation is scheduled for final consideration and vote by the Commission on Feb. 11, 2022. Based on stakeholder feedback, Michael anticipates that an amendment may be offered to include <i>§18-4-409, C.R.S., Aggravated Motor Vehicle Theft</i> on the list of POWPO-eligible crimes.</p> <p>Based on his previous stint as a CCJJ Commissioner (2010-2012), Michael recalled that when legislation is derived from a CCJJ recommendation, it carries with it the stamp of approval from the Commission. There is a protocol</p>
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<p>Issue/Topic Working Group Report-outs Sentencing Alternatives/Decisions & Probation Working Group <i>Glenn Tapia,</i> <i>Working Group Co-chair</i> and Sentence Structure Working Group <i>Michael Dougherty,</i> <i>Task Force Co-chair</i> (continued)</p> <p>Approval of Minutes Rick Kornfeld, Task Force Co-Chair</p>	<p>assigned to the CCJJ Legislative Subcommittee to determine whether bill amendments retain the intent of any underlying CCJJ recommendation. It is likely bill amendments will be proposed during the legislative process and he wanted Commissioners to be prepared for this possibility.</p> <p>Michael relayed that Christie Donner had recently taken on additional projects and will discontinue her work on the Sentence Structure Study Group while continuing to participate in the Working Group. David Kaplan, former State Public Defender (200-2006) and former CCJJ Vice-chair (2007-2012), will offer his assistance and expertise to the Study Group.</p> <p>The Sentence Structure Working Group has identified a plan and timeline for future work to include the sentencing grid (felony levels and sentence ranges) and crime severity charts (for different categories of offenses), along with considering discretionary parole, habitual offenses, extraordinary risk sentence enhancers and mandatory consecutive sentences.</p> <p>Clarification was requested regarding the protocols of the CCJJ Legislative Subcommittee. Staff described the information on the decision protocol of the Subcommittee, all of which is available on the Commission website (ccjj.colorado.gov/ccjj-bylaws-policy; see especially, “Policy on Legislative Recommendations & Legislative Subcommittee Role and Membership”).</p> <p>Tom Raynes, one of the five members of Legislative Subcommittee, offered general thoughts regarding the decision processes of the Legislative Subcommittee when determining whether an amended bill retains the intent of a related CCJJ recommendation. Depending on the urgency of the decision timeframe, the Subcommittee will make that determination or, when there is enough time, the Commission members will participate in that determination.</p> <p>Michael thanked staff and Tom for their information and thoughts. He offered that the Commission may want to discuss possible scenarios during its upcoming meeting if for no other reason than to have a clear understanding of what lies ahead as the proposal moves through the legislative process. He added that the group had great collaborations with multiple stakeholders on <i>Recommendation FY22-SR #09</i> and that he is hopeful any bill derived from it sails through the legislative process.</p> <p>By this point in the meeting, a quorum was reached. Rick Kornfeld requested a motion to approve the January 26, 2022 minutes. Members moved, seconded, and unanimously approved the minutes.</p>
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Issue/Topic	Discussion
<p>Discussion: Reactivation of the Sentence Progression Working Group <i>Rick Kornfeld, TF Co-chair</i> <i>Michael Dougherty, TF Co-chair</i></p>	<p>Rick Kornfeld reminded members that a brief discussion was held at the previous SRTF meeting about the potential reactivation and recomposition of the Sentence Progression Working Group that was placed on hiatus on July 7, 2021. That Working Group originally explored “off-ramps” from prison (prison-to-community transition options) regarding who should be referred, when they should be referred, where they should be referred, and the role of community corrections.</p> <p>Subsequent to the previous SRTF meeting, Rick and Michael Dougherty met with the previous Co-Leader of the WG, Greg Mauro, and a few representative Task Force members. They all believed it will be critical for the Sentence Progression Working Group to recommence the work and to interface with the Sentencing Alternatives/Decision & Probation WG and the Sentence Structure WG. Although a comprehensive discussion of the reactivation and scope of work would be premature in the current meeting, Rick inquired whether there were Task Force members interested in participating, based simply on the broad topics proposed for the WG and whether members had initial thoughts.</p> <p><u>DISCUSSION</u></p> <ul style="list-style-type: none"> ● Rick offered the following list of potential representative entities or individuals on the WG: Parole, Community Corrections, the Department of Corrections, the Public Defender’s Office, a District Attorney, a formerly incarcerated individual, and additional subject matter experts. ● Christie Donner expressed that she would like to join and to assist as a liaison between the Sentence Progression and the Sentence Structure Working Groups, given the potential for task overlap. ● Andrew Matson, a “pre-hiatus” member of the Sentence Progression WG, expressed interest in joining. ● Richard suggested that those interested or who might recommend participants, as well as entities or organizations that should be represented, should contact CCJJ Staff, Laurence Lucero with that information. ● Richard added that, based on previous work, there are three primary components to study: <ol style="list-style-type: none"> 1. “Off-ramps” (prison-to-community transition options)/Eligibility - what are the current and needed programs, services, timing options and eligibility criteria; how can all of those elements be improved? 2. Pre-release preparation - how is transition and re-entry organized and how are people prepared for re-entry? 3. Supervision - how are individuals released into related programs supervised, whether that occurs in parole, community corrections, or other community programs. <p>Richard summarized that these are all complex and interrelated questions. Detailed guidance from the SRTF on the scope of work and an effective WG structure will be critical for its success.</p> ● Glenn recalled that a struggle of the previous WG was the complexity and enormity of the issues, combined with the small size of the WG. At the time of the hiatus, there was a debate whether this group should actually be its own Task Force, allowing sufficient resources to address the work. With that

<p>Issue/Topic Discussion: Reactivation of the Sentence Progression Working Group <i>Rick Kornfeld, TF Co-chair</i> <i>Michael Dougherty, TF Co-chair</i> (continued)</p> <p>ACTION The SRTF will discuss the WG membership and scope of work at the next SRTF meeting</p>	<p>in mind, he suggested, at a minimum, that the Working Group be expanded to include enough members to handle the volume of the complex, substantial scope of work.</p> <ul style="list-style-type: none"> ● Christie recalled that the hope for this group was to focus on the “off-ramps” and the “architecture” of those transition options (e.g., eligibility, timing and alternatives), because that will integrate with the other sentencing work. The intent for the previous work was to focus less on post-release supervision and more on the end-of-sentence considerations within the comprehensive sentencing reform package. ● Rick recalled there also were issues related to funding (in other words, the imposition of program costs in particular locations) and the availability and disparity in resources between urban and rural locations. He recommended that the perspectives of a county commissioner and/or a rural representative would be critical. ● Michael Rourke offered to participate to attempt to address the urban vs. rural concerns. ● Christie recommended Richard Morales, Deputy Executive Director of the Latino Coalition, who has a very good sense of the “reentry landscape” from both the criminal justice system and the community advocacy perspectives. ● Kazi Houston noted that Emily Tofte Nestaval from the Rocky Mountain Victim Law Center has offered to participate on the Working Group to offer a Victim Rights perspective.
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<p>Issue/Topic Next Steps and Adjournment <i>Richard Stroker, CCJJ Consultant & Rick Kornfeld & Michael Dougherty, Task Force Co-chairs</i></p>	<p>Conclusion</p> <p>Rick asked for any public comment and, seeing none, asked Richard Stroker, CCJJ Consultant, for thoughts on next steps. Richard shared that, working with staff and members, he hopes to have a compiled list of potential members and entities for the WG and feedback on the potential scope of work. He added that <i>Recommendation FY22-SR #09. Revise Felony Offenses Eligible for the Crime of POWPO</i> will be presented for final consideration and vote at the Friday, Feb. 11 meeting of the Commission.</p> <p>With no further business, Rick adjourned the meeting. The next meeting of the Sentencing Reform Task Force is March 9, 2022 at 1:30pm.</p>
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Next Meeting

Wednesday, March 9, 2022 / 1:30-4:00pm (Virtual meeting)

Virtual meeting information will be emailed to members and posted at, colorado.gov/ccjj/ccjj-meetings