

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

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

May 6, 2022 / 9:00AM-11:00AM  
Virtual Meeting

**ATTENDEES:**

**WORKING GROUP MEMBERS**

Glenn Tapia, *Working Group Leader*, Director, 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  
Kazi Houston, Rocky Mountain Victim Law Center  
Heather McClure, Adams County Division of Community Safety and Well-Being  
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  
Elaina Shively, District Attorney's Office/ 20<sup>th</sup> JD  
Abigail Tucker, (CCJJ Vice Chair) Psychologist/ Mental health services provider and consultant

**STAFF**

Richard Stroker, CCJJ Consultant  
Jack Reed, Research Director, Division of Criminal Justice  
Stephané Waisanen, WG staff, Division of Criminal Justice  
Laurence Lucero, SRTF staff, Division of Criminal Justice

**ABSENT**

Matthew James, Denver District Attorney's Office/2<sup>nd</sup> JD

**GUESTS**

Amanda Terrell-Orr, Program Administrator, City of Colorado Springs

<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 (WG) members and guests to the meeting.</p> <p>Glenn reviewed the agenda and mentioned that Richard Stroker’s presentation and a recording of the meeting will be available online at <a href="http://ccjj.colorado.gov/ccjj-srtf">ccjj.colorado.gov/ccjj-srtf</a> under the tab, Previous Meetings - 2022.</p>

<b>Issue/Topic</b>	<b>Discussion</b>
<p>Review of April Meeting  <i>Glenn Tapia, WG Leader</i>  <i>All members</i></p>	<p>At the April meeting, the WG conducted a virtual poll to determine the next area of work. The group decided first to examine the length of probation supervision, with an immediate focus on the areas of early termination and revocation.</p> <p>Glenn asked the group the following two questions:</p> <ul style="list-style-type: none"> <li>• What is the problem the WG is trying to solve regarding early termination?</li> <li>• How do we know that we have a problem with early termination?</li> </ul> <p>It was discussed and concluded that policies regarding early termination should not be a “one-size-fits-all” approach.</p> <p>The group identified the following areas of concerns with early termination:</p> <ul style="list-style-type: none"> <li>• There is no consistency in Colorado; not all jurisdictions have the same policy regarding early termination</li> <li>• Due to variations in jurisdictions, probation staff do not have discretion over when/how early termination is implemented</li> <li>• In some districts, the District Attorneys have sole discretion to file early termination; in other districts this is at the discretion of the probation department</li> <li>• In some cases, individuals are under supervision longer when early termination is allowed in the sentencing plan</li> <li>• Longer supervision can lead to collateral consequence with costs/finances and sometimes revocations</li> <li>• Some districts have particular policies in place regarding to early termination, for example: Probationer has to serve 50% of the sentence, terms and conditions are met, and there are no outstanding obligations for restitution</li> <li>• Counties that manage “courtesy” probation of individuals for another county may not have the option of early termination</li> <li>• Probation sentences could double if early termination is part of the probation condition</li> </ul>

Issue/Topic	Discussion
<p>Presentation -                      Probation Supervision Practices:                      Supervision term, early termination,                      and earned credit option  <i>Richard Stroker</i>  <i>CCJJ Consultant</i></p>	<p>Richard Stroker, CCJJ Consultant and Director of the Center for Effective Public Policy presented <i>Probation Supervision Practices: Supervision term, early terminations, and earned credit option</i>. The full presentation can be found on the Commission website under the tab, Materials - Working Groups, at <a href="http://ccjj.colorado.gov/ccjj-srtf">ccjj.colorado.gov/ccjj-srtf</a></p> <p>Richard presented general information related to probation supervision in the U.S., probation terms imposed for misdemeanors and felonies, the impact of longer probation terms, earned credits, and early discharge and termination practices in different jurisdictions. Richard also discussed how “dosage probation” (a specific initiative supported by NIC) is explored in different jurisdictions. He also discussed the time imposed for probation revocation and summarized the different options practiced regarding the length of probation.</p> <p>The length of probation is determined by:</p> <ul style="list-style-type: none"> <li>• The length of the imposed supervision term</li> <li>• The options to reduce term length through credits</li> <li>• Options for early termination and dosage determinations</li> </ul> <p>There are approximately three million people currently under probation supervision in the U.S.:</p> <ul style="list-style-type: none"> <li>• There are approximately 66,000 adults on probation in Colorado (June ‘21)</li> <li>• Colorado has the 17<sup>th</sup> largest probation population amongst the states.</li> </ul> <p>The number of individuals on probation is impacted by:</p> <ul style="list-style-type: none"> <li>• The number of people placed on probation at sentencing,</li> <li>• The period of probation imposed by the court,</li> <li>• Opportunities to reduce the probation period,</li> <li>• Early termination determinations, and</li> <li>• Revocation/case closure practices.</li> </ul> <p>The “average” term of probation imposed in the U.S. is just under two years. There are many types of probation (misdemeanor, felony, specialized, and intensive):</p> <ul style="list-style-type: none"> <li>• The average term of probation imposed varies substantially from state to state with a low of 9 months (KS, MS) to a high of 5 years (HI, NJ).</li> <li>• The average term of probation in felony cases was longer than the average term for misdemeanor cases (e.g., MN – twice as long for felony cases).</li> </ul> <p>Richard reviewed options the group could consider regarding probation supervision, early termination, and earned credit:</p> <ol style="list-style-type: none"> <li>1. Length of probation:                         <ul style="list-style-type: none"> <li>• Suggest legislation that would create a shorter maximum period of probation for misdemeanors</li> <li>• Pursue legislation that would create a definite period of time for probation supervision in felony cases – which could be based on the type of felony</li> </ul> </li> </ol>

<p><b>Issue/Topic</b>                  Presentation -                  Probation Supervision Practices:                  Supervision term, early termination,                  and earned credit option  <i>Richard Stroker</i>  <i>CCJJ Consultant</i>                  (continued)</p>	<p>2. Earned credits:</p> <ul style="list-style-type: none"> <li>• Consider pursuing legislation that would allow for earned credits to be applied to probation cases for each month of satisfactory completion</li> <li>• Credits could be specified for certain types of cases.</li> </ul> <p>3. Early termination:</p> <ul style="list-style-type: none"> <li>• Clarify criteria or expectations regarding early termination reviews</li> <li>• Consider requiring a review of early termination at a fixed point in time after supervision starts</li> <li>• Consider requiring that an early termination request be submitted under certain circumstances by probation staff</li> </ul> <p>4. Behavior-related case closures dates:</p> <ul style="list-style-type: none"> <li>• Consider exploring options for judges to establish a “behavior incentive date” to terminate cases</li> <li>• Consider exploring dosage probation possibilities through NIC or other behavior-related options that may be linked to probation termination requests</li> </ul> <p>5. Length of probation revocation:</p> <ul style="list-style-type: none"> <li>• Pursue legislation that would limit the length of time that could be imposed as a result of a probation revocation</li> <li>• Length of revocation could be tied to the nature of the violation</li> </ul>
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<p><b>Issue/Topic</b>                  Continue to Examine/Discuss                  Areas of Over-Supervision:                  Early Termination &amp; Revocation  <i>Glenn Tapia</i>  <i>Working Group Leader</i>                  All members</p>	<p style="text-align: center;"><b>Discussion</b></p> <p>Members continued their discussion of early termination processes began last month, in light of the information in Mr. Stroker’s presentation.</p> <p>Richard was asked how early termination hours are applied in the dosage model. Richard indicated that hours are determined through a collaborative effort by judges, prosecutors, defense attorneys, probation staff, victims, and community members who develop a framework that includes services and programs that count for hours earned.</p> <p>There was also discussion of the semantics and perception of the term “early termination,” and that it might be advantageous to apply the term, “successful completion,” as it implies that an individual has to complete what is required through the program, rather than receiving “time off.”</p> <p>Glenn asked the group if they agreed that the probation officer is the best person to determine when an individual is ready for early termination.</p> <p>Members agreed the probation officer has the most interactions/contact with the probationer; therefore, they would make the most informed decision in determining early termination.</p> <p>Glenn asked WG members whether they agreed that the determination of early release should be based on a performance, rather than a time served approach.</p>
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<p><b>Issue/Topic</b>                  Continue to Examine/Discuss                  Areas of Over-Supervision:                  Early Termination &amp; Revocation  <i>Glenn Tapia</i>  <i>Working Group Leader</i>  <i>All members</i>                  (continued)</p>	<p>The group discussed that there may be an opportunity to recommend that the opportunity for early termination begin when probationers complete 50% of their sentences, are in good standing, and when no restitution is owed.</p> <p>If an individual’s probation sentence has a pre-determined 50% point for the option of early termination, should “successful termination” be considered when the probationer has not fully complied with the terms and conditions, including restitution?</p> <p>It was noted that additional considerations should include victims’ perspectives, restitution status, and transparency of the process.</p> <p>Richard suggested that if an individual is aware of the possibility of an early termination and complies with programs/services with good behavior, it might provide for more successful outcomes.</p>
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<p><b>Issue/Topic</b>                  Next Steps &amp; Adjourn  <i>Glenn Tapia, WG Leader</i></p>	<p style="text-align: center;"><b>Discussion</b></p> <p>The group will continue to examine various models and discuss early termination from probation. Glenn anticipated recommendations will be developed to present to the Task Force in the coming months.</p> <p>Glenn reminded the group that the next meeting is June 3, from 9:00 am to 11:30 am. As is the ongoing practice for hybrid meetings, members wishing to attend the meeting in person, rather than virtually, must RSVP Stephane Waisanen for this meeting option. Fifty percent of members are required for the in-person option to be offered.</p> <p>Glenn thanked members for their time and adjourned the meeting.</p>
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### Next Meeting

Next Meeting - Friday, June 3, 2022 / 9:00am – 11:30am