

Colorado Commission on Criminal and Juvenile Justice
Sentencing Reform Task Force

Sentence Progression Working Group
MINUTES

August 9, 2022 / 9:00 AM - 11:00 AM
VIRTUAL MEETING

ATTENDEES

WORKING GROUP MEMBERS

Brian Mason, *WG Co-leader*, District Attorney's Office/ 17th Judicial District (JD)
Greg Mauro, *WG Co-leader*, Denver Division of Community Corrections
Joseph Archambault, Office of the State Public Defender
Taj Ashaheed (CCJJ Member), Second Chance Center
Christie Donner, Co. Criminal Justice Reform Coalition
JR Hall (CCJJ Member), Parole Board Chair
Andrew Matson, Colorado CURE
Amber Pedersen, Exec. Dir. Office /CDOC
Catrina Weigel, District Attorney's Office /20th JD

STAFF

Laurence Lucero, Division of Criminal Justice
Jack Reed, Division of Criminal Justice
Richard Stroker, CCJJ Consultant

ABSENT

Emily Fleischmann, *WG Co-leader*, Office of the State Public Defender
Rick Kornfeld, (CCJJ member), *TF Co-chair*, Criminal Defense
Merideth McGrath, Division of Parole/CDOC
Richard Morales, Latino Coalition
Steve O'Dorisio, (CCJJ member) Adams County Commissioner
Michael Rourke, District Attorney's Office/ 19th JD
Emily Tofte Nestaval, Rocky Mountain Victim Law Center
Abigail Tucker, CCJJ Co-Chair, Behavioral Health provider

Guests

Anne Andrews, Analyst /Parole Board
Tammy Murphy, Staff /Parole Board
Chrystal Owin, Office of Community Corrections (OCC) /Division of Criminal Justice
Mike Tessean, Director /Parole Board
Andrew Wozniak, OCC/Division of Criminal Justice

Issue/Topic	Discussion
<p>Welcome & Introductions <i>Brian Mason and Greg Mauro,</i> <i>WG Co-leaders</i></p>	<p>Working Group Co-leaders Brian Mason and Greg Mauro welcomed everyone and initiated introductions for the group members. Brian stated that Co-leader Emily Fleischmann could not be attend due to a conflict. Greg welcomed new member, Justin (JR) Hall, Chair of the Parole Board. He acknowledged the attendance of Mike Tessean, Parole Board Director, and Anne Andrews from the Parole Board. Brian then provided a brief overview of the meeting agenda:</p> <ul style="list-style-type: none"> • Presentations <ul style="list-style-type: none"> ○ Community Corrections Programs ○ Intensive Supervision Program-Inmate ○ Discretionary Parole • Initial discussion of scope of work • Next steps

Issue/Topic	Discussion
<p>Presentations: Community Corrections Intensive Supervision-Inmate (ISP-I) Parole Board</p>	<p>The full presentations are available on the CCJJ website under “Materials – Working Groups: Sentence Progression Working Group” at ccjj.colorado.gov/ccjj-srtf</p> <p>Community Corrections (CC) Chrystal Owin explained that her presentation was intended to address some of the questions formulated by the Working Group on “<i>What is working well and what is not working well.</i>” Greg Mauro, Amber Pedersen, Katie Ruske, and she met to gather the information for the PowerPoint presentation today. Highlights of the presentation are found below:</p> <p>Purpose and goals of Department of Corrections Transition (DOCT) Placements:</p> <ul style="list-style-type: none"> • Reduce Risk Provide treatment services, programming, cognitive behavioral interventions, skill development, and social support. • Improve Protective factors Employment, financial stability, and housing services. • Provide reentry services Provide both in-house and community partnership services. • Referrals for placement are statutorily time-driven <ul style="list-style-type: none"> ○ 19 months (9 for violent) to Parole Eligibility Date (PED) for referral ○ 16 months (6 for violent) to PED for placement ○ Timing is regardless of Case Manager recommendation <p>Whom should we serve?</p> <ul style="list-style-type: none"> • Great opportunity to support higher risk clients • And should be a fair opportunity for all clients regardless of risk level <ul style="list-style-type: none"> ○ eligibility = time-based ○ lower risk = in DOC longer to be eligible for ISP-I or Parole

<p>Issue/Topic Presentations: Community Corrections Intensive Supervision-Inmate (ISP-I) Parole Board (continued)</p>	<ul style="list-style-type: none"> ○ lower risk could benefit from community corrections (CC) with more focus on stabilization/reentry ● Movement through CC via Progression Matrix and level system is designed to be individualized for clients' risk and needs. <ul style="list-style-type: none"> ○ However, a lower-risk client potentially could complete the program more quickly and not yet be eligible for ISP-I <p>FY22 DOCT Data</p> <table border="0"> <thead> <tr> <th><u>Risk Levels</u></th> <th><u>Avg LSI (successful)</u></th> <th><u>Terminations</u></th> </tr> </thead> <tbody> <tr> <td>6% Low</td> <td>Intake: 27</td> <td>59% successful</td> </tr> <tr> <td>37% Medium</td> <td>*Final: 22</td> <td>9% tech violation</td> </tr> <tr> <td>34% High</td> <td>*LSI done every 6 months, not all</td> <td>18% escape</td> </tr> <tr> <td>22% Very High</td> <td>successful clients stay 6 months</td> <td><u>Avg LoS successful</u> 231 days/7.5 months</td> </tr> </tbody> </table> <p>Who is not appropriate? There is no particular type of felony offender who is not appropriate for CC.</p> <ul style="list-style-type: none"> ● It is a challenge for some programs to accommodate those with high-level medical needs or other barriers to access necessary community resources or transportation <ul style="list-style-type: none"> ○ Community Corrections programs do not have on-site medical staff ○ Programs do their best in these situations, but there may be better options ○ It is reportedly a challenge when a Diversion client is regressed to DOC and, with the earned time they have from CC, are quickly eligible to be referred for a CC Transition placement. A jurisdiction may not be ready to take the client back so soon and deny them. <p>Thoughts about the timing of transition</p> <ul style="list-style-type: none"> ● Time frames are intended to align as a client transitions through levels of supervision: CC, ISP-I and/or Parole <ul style="list-style-type: none"> ○ ISP-I potential placement: 6 months to PED ○ Parole consideration: PED met ○ Per <i>HB 18-1251</i>, if a client is eligible for parole and successfully completes CC, a parole date must be assigned within 60 days of program completion. This can be overridden by the parole board. ● Timing can be a challenge if a client completes CC and is not eligible for ISP-I due to statutory-related time guidelines. ● Clients can waive referral to CC. Possible reasons for a waiver include: <ul style="list-style-type: none"> ○ lack of knowledge/understanding about CC ○ personal or secondhand negative experience of CC ○ may be close enough to PED and will wait and see if they get regular parole ○ Possible options to decrease waivers: <ul style="list-style-type: none"> ■ waive placement upon acceptance vs before referral ■ may be less likely to waive if the opportunity for CC placement is real 	<u>Risk Levels</u>	<u>Avg LSI (successful)</u>	<u>Terminations</u>	6% Low	Intake: 27	59% successful	37% Medium	*Final: 22	9% tech violation	34% High	*LSI done every 6 months, not all	18% escape	22% Very High	successful clients stay 6 months	<u>Avg LoS successful</u> 231 days/7.5 months
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<p>Issue/Topic Presentations: Community Corrections Intensive Supervision-Inmate (ISP-I) Parole Board (continued)</p>	<p>Ideas for consideration</p> <ul style="list-style-type: none"> • Quick turnaround of referrals of Diversion regressions and short DOC sentences • Challenge for programs to support clients with special needs • Allow waivers after acceptance to CC vs before referral <p>Present and Future</p> <ul style="list-style-type: none"> • <i>HB 2018-1251</i> impacts <ul style="list-style-type: none"> ○ requires boards to use structured decision-making in screening ○ requires case manager to make a recommendation ○ requires training of DOC staff and boards • DOC in-reach programs • Performance-based contracting: incentivizes quality programming to enhance public safety, successful rehabilitation for individuals, and long-term fiscal savings in relationship to reduced recidivism <p>DISCUSSION</p> <ul style="list-style-type: none"> • One must take into consideration the limited capacity of some local community corrections facilities if there is a substantial increase of incarcerated individuals transitioning from prison. • Each judicial district has a community board and acceptance rates vary across jurisdictions. • Additional challenges occur when individuals with short sentences are incarcerated. People with shorter sentences are sometimes serving longer periods of incarceration because, by the time they are processed into prison, they are past or at their Parole Eligibility Date (PED) and may even be close to their Mandatory Release Date (MRD). This issue particularly affects women and introduces problems in reentry planning. • People with special medical or behavioral needs present challenges to community corrections facilities. Because Community Corrections programs emphasize employability, disabled individuals are not placed in Community Corrections and wait in prison with limited off-ramp (transition) options. What should be the right path for disabled people? • <i>Issues with waivers.</i> People are waiving their placement to community corrections even after being accepted into a program. Is it due to a lack of knowledge about programs? • All community corrections facilities abide by performance-based contracting guidelines. If facilities do not reach their performance targets their <i>per diem</i> is decreased. Chrystal will send the Performance-Based Contracting information, targets, and pay-out charts. • <i>Successful Completion and recidivism.</i> Chrystal will send the most recent data on successful completion and recidivism. • <i>Acceptance Rates - Are there standards?</i> It should be noted that there are important variations in the availability of services across jurisdictions including the lack of programming in some districts. The acceptance
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<p>Issue/Topic Presentations: Community Corrections Intensive Supervision-Inmate (ISP-I) Parole Board (continued)</p> <p>ACTION Chrystal will send: Successful program completion and recidivism data HB 2018-1251 Annual Report Community Corrections Dashboard</p>	<p>criteria are unique in each jurisdiction. When Community Corrections boards make acceptance decisions, they must consider capacity when balancing the number sentenced directly to community corrections and those who transition to CC from prison. Chrystal will send the recently released <i>House Bill 2018-1251 Annual Report</i> that includes acceptance rates for each jurisdiction. The report can be found at ors.colorado.gov/ors-commcorr.</p> <ul style="list-style-type: none"> • <i>Recidivism rates for the last two years in Community Corrections.</i> Chrystal will forward the link to a Community Corrections dashboard updated by the Office of Research and Statistics at DCJ (ors.colorado.gov/ors-commcorr). Chrystal also mentioned that Community Corrections boards have adopted a new recidivism definition: a new county or district court filing within one or within two years of successful program termination. Can the dashboard provide recidivism data/outcome by risk level? Staff will follow up. • Another suggested topic for exploration is to identify alternatives to the regression of individuals to CDOC for those who experience failures in community corrections programs. <p>Intensive Supervision Program-Inmate (ISP-I) In the absence of Merideth McGrath, Amber Pedersen presented on ISP-I. Highlights of the presentation are found below:</p> <p>General purpose of ISP-I ISP-I has been used both as a population management tool and as a step-down option from community corrections facilities for those who are not parole eligible due to time frames or who are not yet paroled by the board, but have completed the CC programming.</p> <p>ISP Inmate Referral Criteria: (CC board approval required)</p> <ul style="list-style-type: none"> • From a residential CC facility: <ul style="list-style-type: none"> ○ 180 days to PED ○ Level 3/equivalent for progression matrix ○ Felony detainers cleared • From CDOC facility directly: <ul style="list-style-type: none"> ○ 180 days to PED ○ Acceptable Institutional Behavior <ul style="list-style-type: none"> ▪ No class 1 COPD 18 months ▪ No class 2 COPD 12 mos ▪ No STG activity 2 years ▪ No MCU 2 years ▪ Participation in CDOC recommended programs ▪ SB 20-085 compliance for lifetime sex offender ▪ No felony detainers <p>General CDOC Stats (for example, CDOC monthly population numbers) are available under the tab, "Dashboard Measures" at, cdoc.colorado.gov/about/data-and-reports/statistics</p>
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<p>Issue/Topic Presentations: Community Corrections Intensive Supervision-Inmate (ISP-I) Parole Board (continued)</p>	<p>Suitable ISP-I candidates may include:</p> <ul style="list-style-type: none"> • Those who are not time eligible for parole but may have a stable residence and community treatment plan either from CC or from a CDOC facility • Those who fall under special needs parole (SNP) guidelines and can be better served medically in the community or a long-term care setting but who aren't parole eligible, even under the SNP statute due to age/time frames etc. • Phased approach to Take TWO employees who may not have a sponsored residence but could afford their own placement or transitional housing/sober living support/WAGEES supportive housing • Those who may qualify for and/or benefit from a behavioral health peer assist/group living setting • Those who would otherwise be revoked to prison, but perhaps don't need a prison bed ("nuisance vs scary") <p>Time frames</p> <ul style="list-style-type: none"> • Consider incentivizing ISP-I by lengthening the time prior to PED (similar to those in place for residential), • This should come with clearly-defined criteria for those who should go to CC versus ISP-I. <p>DISCUSSION</p> <ul style="list-style-type: none"> • How is the significant drop in ISP-I explained? Amber believed that the decrease is explained by the significant drop in those incarcerated during COVID. • What other issues regarding ISP-I, should the Sentence Progression WG address? Additional information about the program should be provided by CDOC. Members were reminded that individuals on ISP-I are still on "inmate status" and violations of the Code of Penal Disciplinary (CODP) is still a concern. • Catrina Weigel and Joe Archambault recalled previous conversations about the lengthy application process for ISP-I. Individuals are eligible 180 days prior to PED but the lengthy process can result in individuals being close to or past their PED. Richard Stroker believed that the efforts to gather information to place individuals in ISP-I didn't seem worth the effort considering the little interest from incarcerated individuals to be placed in this program. Amber will provide information about the placement process and the timeline for ISP-I programs. • Is there data on denials vs. approvals for placement in ISP-I? Chrystal will provide the denial rate from the community corrections boards on people directly referred to ISP-I or transitioning from community corrections to ISP-I.
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<p>Issue/Topic Presentations: Community Corrections Intensive Supervision-Inmate Parole Board (continued)</p> <p>ACTION: Amber to provide process timeline for ISP-I referral Chrystal to provide denials & approval rates from CC to ISP-I</p>	<p>Parole Board Anne Andrews, Analyst with the Parole Board, presented an overview of the Colorado Board of Parole.</p> <ul style="list-style-type: none"> • The mission of the Parole Board is to increase public safety by evaluating an individual’s potential for successful reintegration into the community through the use of innovative, evidence-informed practices. • Discretionary Parole <ul style="list-style-type: none"> ○ The Parole Board strives to enhance public safety through critical evaluation and evidence-based practices to maximize the potential for each individual’s successful reentry into society. ○ Discretionary parole honors the foundational principle that people can change. • Discretionary and Mandatory Releases FY2017-FY2022 can be found under the “Dashboard Measures” tab (under the sub-tab, “Admits/Releases”) on the CDOC website at, https://cdoc.colorado.gov/about/data-and-reports/statistics. • Parole Eligibility: The initial parole board hearing is scheduled three months prior to an inmate’s parole eligibility date (PED). The PED calculation is provided by Time and Release Operations at the CDOC. • Estimated Average Length of Stay. These statistics are available in the <i>CDOC Annual Statistical Report</i> (see p. 15 of the FY2020 Report at, drive.google.com/file/d/1YgwkSLhLUiOtt46QD6Mhe9iqREGM06ei/view) and in the <i>DCJ Adult and Juvenile Correctional Populations Forecasts</i> (see p. 24 of the FY 2021 Report at: cdpsdocs.state.co.us/ors/data/PPP/2022-PPP.pdf). • Decision Making The Parole Board leverages numerous data points and tools to guide decision making, including: <ul style="list-style-type: none"> Risk and Readiness assessments <ul style="list-style-type: none"> ○ Risk assessment instruments place offenders into subgroups that have different rates and/or probabilities of future offending. The assessments include the Colorado Actuarial Risk Assessment Scale (CARAS), Level of Service Inventory (LSI), and the Ohio Risk Assessment System within the Colorado Transitional Accountability Plan (CTAP) ○ Parole Board Release Guideline Instrument (PBRGI) - The PBRGI provides a decision matrix with two dimensions: the risk of recidivism and the readiness for parole. <p>DISCUSSION The group discussed the issue regarding individuals coming into CDOC who are already at or past their PED/MRD. Anne Andrews confirmed that the Parole Board has observed an increase in individuals entering the CDOC who are past PED or even close to or past MRD dates.</p>
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<p>Issue/Topic Presentations: Community Corrections Intensive Supervision-Inmate (ISP-I) Parole Board (continued)</p> <p>ACTION: Anne will send the FY2021 Parole Board Annual Report</p>	<p>This issue presents a challenge to prepare individuals for reentry with little or no time for programming and/or treatment. This even affects the complete and proper entry of information for consideration by the Board when individuals come before the Board for their parole application hearing.</p> <p>Anne Andrews offered to forward the <i>FY21 Annual Parole Board Report</i> to members.</p>
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<p>Issue/Topic Scope of Work</p>	<p style="text-align: center;">Discussion</p> <p>WG members discussed the following topics to prioritize at future meetings:</p> <ul style="list-style-type: none"> • Timing of placement for Community Corrections & ISP-I. The system is entirely time-driven. Do these time marks make sense or should we revisit the timing and eligibility process? Should referrals happen sooner? • Criteria for ISP-I vs. CC vs. Parole. Who should be placed in each program? Should each program have unique opportunities for a specific population? • People with short sentences – Idea to release in parole at PED. • People with high medical and BH needs - Issue of individuals denied because of treatment needs. An idea refocusing ISP-I for a specific population was discussed. • What type of program should low risk and nonviolent offenders be recommended for? • For those regressed from community corrections, what could be alternative options other than return to prison? • Waiver – Data to be collected about waivers. Should inmates have the ability to waive their placement after they are accepted into a program? Better information should be provided to inmates about CC programs. • Recommendations (in addition to referrals) from DOC managers for Community Corrections? Is the data collected about recommendations? • Variation with acceptance rates in community corrections boards. Currently, each board is obligated to adopt a decision-making tool but tools are not identical across judicial districts. • How are treatment needs identified before people leave prison? What is the plan to address needs wherever they are placed? • ISP-I; the amount of paperwork vs. process and outcome for ISP-I
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<p>Issue/Topic Public Comment</p>	<p style="text-align: center;">Discussion</p> <p>Brian Mason opened the floor for public comment. No member of the public offered public comment.</p>
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Issue/Topic	Discussion
<p>Next Steps & Adjourn <i>Richard Stroker, CCJJ Consultant</i> <i>Brian Mason and Greg Mauro,</i> <i>WG Co-leaders</i></p>	<p>Richard will submit the scope of work topics to the Co-leaders of the Working Group for the agenda next month. The data and information requested today will be gathered and forwarded to the group and/or posted on the CCJJ website (ccjj.colorado.gov/ccjj-srtf, see “Materials – Working Groups: Sentence Progression Working Group”) for review prior to the next meeting.</p> <p>The next Sentence Progression Working Group meeting is on September 6 from 9 am - 11:00 am. Details of the meeting will be forwarded to the group and posted on the CCJJ calendar (ccjj.colorado.gov/ccjj-calendar).</p> <p>The meeting adjourned at 10:45 pm</p>

Next Meeting

Tuesday, September 6, 2022 / 9:00am – 11:00am