

Colorado Commission on Criminal and Juvenile Justice
Sentencing Reform Task Force

Sentence Structure Working Group
MINUTES

August 9, 2022 / 3:00PM-5:00PM
Virtual Meeting

ATTENDEES

WORKING GROUP MEMBERS

Michael Dougherty, *Working Group Leader*, District Attorney/ 20th Judicial District (J.D.)
Valarie Finks, Crime Victim Compensation/ 1st J.D.
Jessica Jones, Defense Attorney

STAFF

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

ABSENT

Maureen Cain, Office of the State Public Defender
Christie Donner, Colorado Criminal Justice Reform Coalition
Tom Raynes, Colorado District Attorneys' Council
Dan Rubinstein, District Attorney/ 21st J.D.
Lisa Wayne, Defense Attorney

GUESTS

Anne Andrews, Staff, Colorado State Board of Parole
J.R. Hall, Chair, Colorado State Board of Parole
Jocelyn Rhymer, Mothers Against Drunk Driving (MADD)
Mike Tessean, Director, Colorado State Board of Parole

Issue/Topic	Discussion
<p>Welcome <i>Michael Dougherty</i> Working Group Leader</p>	<p>Michael welcomed Working Group members and introduced members of the Parole Board, Justin “J.R.” Hall, Chair, Mike Tessean, Director, and Anne Andrews, Statistical Analyst.</p>

Issue/Topic	Discussion
<p>Background of the Sentence Structure Working Group <i>Michael Dougherty</i> Working Group Leader</p>	<p>Michael provided a brief background regarding the Sentencing Reform Task Force (SRTF). The SRTF was formed to address the sentencing topics delineated in the 2020 Biennial Letter from Gov. Jared Polis (available at ccjj.colorado.gov/ccjj-mandates). In 2020, one of the main priorities listed was sentencing reform initiatives. Several Working Groups, including the Sentence Structure Working Group, were created to study the topics and develop recommendations for the issues outlined in the letter.</p> <p>The Sentencing Structure WG completed the work on misdemeanor sentencing reform and is currently working on felony sentences.</p>

Issue/Topic	Discussion
<p>Updates from the Study Group & the Enhanced Felony Severity Classification Chart <i>Michael Dougherty</i> Working Group Leader</p> <p>ACTION</p> <p>Preliminary recommendation regarding felony sentencing to be presented in the coming months</p>	<p>Michael informed members that the Study Group met last week and continues to review and analyze the enhanced felony severity classification chart, felony sentencing grid, sentence ranges, habitual sentence enhancers, mandatory/ consecutive sentences for crimes of violence, certainty in sentencing, and length of stay for felony offenses. The immediate focus is on the crime severity chart and Michael expected that the crime severity chart proposal will be presented to the Task Force in the following months. Michael reiterated the goal of the WG is to continue building more certainty in sentencing.</p> <p>Michael updated the WG members on current discussions on the crime severity chart regarding extreme indifference to vehicular homicide, mandatory consecutive, and assaults on police officers:</p> <ul style="list-style-type: none"> • Examining extreme indifference (first-degree murder, penalty of life without the possibility of parole); discussion on categorization to an Felony Class 1. • Reviewing affidavits for filings on extreme indifference, identifying two categories: <ul style="list-style-type: none"> ▪ Drive by shootings ▪ Aggravated/egregious vehicular fatalities. • Consideration on reducing extreme indifference crimes from an F1 to F2. Determining whether the offenses have appropriate sentence ranges (under current Colorado law, vehicular homicide maximum sentence is twelve years in state prison). • Assessing consistency of sentencing in multiple extreme indifference crimes, including murder and assault charges. • Evaluating whether the current sentencing scheme is appropriate in attempted extreme indifference.

<p>Issue/Topic Updates from the Study Group & the Enhanced Felony Severity Classification Chart <i>Michael Dougherty</i></p> <p>ACTION Schedule a presentation from Mental Health of Colorado Send a copy of the current version of the crime severity chart</p>	<ul style="list-style-type: none">Reviewing assaults and other crimes committed against police officers and first responders. The following are two perspectives:<ul style="list-style-type: none">The current law – If an individual commits a crime against a first responder/law enforcement officer, they are attacking the rule of law resulting in a higher penalty/sentence, (assaults on first responders/ law enforcement officers are categorized as specific offenses),An alternative perspective to be considered – Assault crimes against first responders/law enforcement officers should be equal to standard assault crimes. Currently, charges filed are not specific and therefore, may not accurately reflect the seriousness of the conduct of an individual, which can result in a higher penalty or sentence. <p>The study group will meet with Jocelyn Rhymer and Fran Lanzer from Mothers Against Drunk Driving (MADD) to receive feedback on extreme indifference in vehicular homicide and mandatory consecutive sentences. Michael will arrange for MADD to present to the Working Group and the SRTF.</p> <p>Jes asked whether the study group is consulting with law enforcement officials regarding police officers who are assaulted by individuals with mental health issues. Michael responded that the study group will meet with Megan Baker and Lauren Regan from Mental Health of Colorado and discuss the following:</p> <ul style="list-style-type: none">What mental health treatments are individuals receiving,What are some of the consequences for assault on first responders/law enforcement officers,Is there an increase in delays due to competency evaluations or restorations pending examinations outside of a state hospital,How does this influence sentencing with the SRTF? <p>Michael will ask representatives from Mental Health of Colorado to present some of the challenges with law enforcement and mental health issues to the Working Group.</p> <p>Valarie asked whether there was a current version of the crime severity chart. Michael will send the current draft to Working Group members by the end of the week.</p>
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Issue/Topic	Discussion
Next Steps & Adjourn <i>Michael Dougherty</i>	<p>Michael informed members that CCJJ will soon receive the 2022 Biennial Letter from the Governor’s Office, which may suggest additional study topics for the SRTF. Michael thanked everyone for their participation.</p> <p>The next Working Group meeting is on September 6 from 3:00 to 5:00 pm.</p>

Next Meeting

Tuesday, September 6, 2022 / 3:00 – 5:00pm