

Colorado Commission on Criminal and Juvenile Justice
Sentencing Reform Task Force

Sentencing Alternatives/Decisions & Probation Working Group
MINUTES

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

ATTENDEES:

WORKING GROUP MEMBERS

Glenn Tapia, *Working Group Leader*, Director, Probation Services/ Judicial Branch
Chris Gallo, Chief Deputy District Attorney/ 18th Judicial District (JD)
Kristin Heath, Assistant Director/ Jefferson County Justice Services
Kazi Houston, Rocky Mountain Victim Law Center
Clay McKisson, Judge/ 3rd JD
Greg Otte, Deputy Chief Parole Officer/ 8th JD
Thea Reiff, Office of the State Public Defender
Elaina Shively, District Attorney's Office/ 20th JD

STAFF

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

Heather McClure, Adams County Division of Community Safety and Well-Being
Matthew James, Denver District Attorney's Office/ 2nd JD
Jenifer Morgen, Chief Probation Officer/ 17th JD
Abigail Tucker, (CCJJ Vice-Chair) Psychologist/ Mental health services provider and consultant

<p>Issue/Topic Welcome & Agenda <i>Glenn Tapia,</i> <i>Working Group Leader</i></p>	<p>Discussion</p>
	<p>Glenn Tapia welcomed attendees. Glenn reviewed the agenda and reminded the group that the goal of the meeting is to finalize the Early Termination proposal and for presentation to the Sentencing Reform Task Force (SRTF) in October. If approved by the SRTF, the preliminary recommendation will be presented to CCJJ by November.</p>

<p>Issue/Topic Standardize Early Termination Policy in Probation (Revised Proposal) <i>Glenn Tapia, Working Group Leader</i> <i>All</i></p>	<p>Discussion</p>
	<p>The Sentencing Reform Task Force (SRTF) met earlier this week (<i>September 7</i>), and Glenn updated SRTF members on the progress of the Working Group.</p> <p>Glenn mentioned that members of the defense community at the SRTF expressed concerns that the court may not review an early termination petition if there is a lack of agreement between the district attorney and the probation office.</p> <p>Members of the SRTF asked whether the Working Group discussed plea agreements in which there is a stipulation that a client cannot be eligible for early termination as part of the plea agreement. How does that impact the plea-bargaining process?</p> <p>Glenn responded that the intent is to resolve the variability in the timing of early termination reviews at the district level and to determine when early termination requests should be submitted to the court. When district attorneys disagree with the decision for early termination, the judge may not review such requests. The purpose of the proposal is to standardize a mandatory review for early termination at a 50% completion point. The proposal will include inputs from the probation office and the finalized decision will come from the courts.</p> <p>Language was added in the proposal to clarify that probation can petition district attorneys and judicial for early termination, but the final decision obviously remains with the court.</p> <p><i>This proposal is intended to influence but not to control judicial or prosecutorial discretion applied to individual cases in early termination considerations.</i></p> <p>Glenn reviewed the revised proposal and engaged the group to finalize the following outstanding items:</p> <ul style="list-style-type: none"> • Review language to address victim concerns. • If an individual does not meet eligibility requirements at the 50% completion level, should the case be reviewed at another standardized timeframe? For example, at 70-80% of the probation sentence. • Should early termination apply to intensive supervision cases, such as Lifetime Supervision- Intensive Probation program (for sex offenders; LSIP) and Community Corrections-Intensive Probation program (for probation clients in community corrections; CCIP) • Should early termination apply to juvenile cases?

<p>Issue/Topic Standardize Early Termination Policy in Probation (Revised Proposal) <i>Glenn Tapia, Working Group Leader</i> All (continued)</p>	<p>The group discussed that, if an individual is not eligible for early termination at 50% of the probation sentence, any further determinations for early termination beyond the 50% point will remain discretionary. In addition, the group added the following language: <i>To create an approach with more consistency and transparency to probationers, victims, and other stakeholders in the criminal justice process.</i></p> <p>Should intensive supervision cases be considered for early termination at 50% of the sentence, or should cases be reviewed and placed under regular supervision? The group added the following language to the proposal: <i>Specialized Intensive Programs: Standards should be developed to assure that probationers placed on intensive supervision serve at least 6 months on regular supervision before being submitted for early termination or that judicial officers at least consider the amount of time served on regular supervision before granting early termination at 50% of the sentence period for those who were assessed at higher risk and higher need at intake of probation.</i></p> <p>Should early termination be available to juveniles? The group discussed the significant work done in the juvenile justice arena, and agreed this proposal does not include juveniles.</p> <p>Will the recommendation include a date for implementation date? The group added the following language to the process development aspect: <i>The State Court Administrators Office (SCAO) and the Division of Probation Services (DPS), in collaboration with probation staff, stakeholders (e.g.: treatment providers, prosecuting and defense attorneys), and victim representatives, should develop a protocol for the standardization of reviewing adult cases for early termination by June 30, 2024.</i></p>
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Issue/Topic	Discussion
<p>Next Steps & Adjourn <i>Glenn Tapia,</i> <i>Working Group Leader</i></p>	<p>Glenn reviewed the Scope of Work from CCJJ and the Sentence Reform Task Force for the Working Group: Scope of Work:</p> <ol style="list-style-type: none"> 1. Redefine statutory purpose of probation, 2. Evaluate probation level of supervision in the interest of proper dosage and approaches (e.g. avoiding over-supervision), 3. Examine probation practices regarding the use of conditions, length of supervision, responses to violations, and revocations, 4. Examine the impact of Traumatic Brain Injury (TBI) in revocations and other outcomes and recommend strategies to better accommodate persons with TBI, 5. Examine ethnic and gender disparities in probation outcomes/practices and recommend strategies to abate disparate treatment and/or outcomes, 6. Examine the impact on the prison population, and 7. Consider alternatives that can be utilized at the time of sentencing.

<p>Issue/Topic Next Steps & Adjourn <i>Glenn Tapia, Working Group Leader</i> (continued)</p> <p>ACTION Glenn will ask Erin Crites to present race/ethnicity data for those on Intensive Supervision</p> <p>ACTION DCJ to present Clear Act information</p> <p>ACTION Glenn to provide the Probation Scope of Work</p>	<p>The WG group decided that the next focus area will be #5 - Examine ethnic and gender disparities in probation outcomes/practices and recommend strategies to abate disparate treatment and/or outcomes.</p> <p>Glenn asked members to review the Crime and Justice Institute (CJI) report and prepare to discuss the next area of focus at the next meeting in October.</p> <p>Glenn will arrange for Dr. Erin Crites from Probation Services to present data related to race/ethnicity of those under intensive supervision.</p> <p>Jack Reed, from the Division of Criminal Justice, will present on race/ethnicity and revocations from the CLEAR Act Report.</p> <p>Glenn will provide a copy of the Probation Scope of Work to the Working Group.</p> <p>Glenn reminded the group that the next Probation meeting is Friday, October 7, from 9:00 am to 11:30 am.</p>
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Next Meeting

Friday, October 7, 2022 / 9:00am – 11:30am

Details of the next meeting will be forwarded to the group and posted on the CCJJ web and calendar (ccjj.colorado.gov/ccjj-meetings & ccjj.colorado.gov/ccjj-calendar).