

Colorado Commission on Criminal and Juvenile Justice
Sentencing Reform Task Force

Sentence Structure Working Group

MINUTES

November 8, 2022 / 3:00PM-5:00PM
Virtual Meeting

ATTENDEES

WORKING GROUP MEMBERS

Michael Dougherty, *WG Leader*, /District Attorney/20th Judicial District
Maureen Cain, Office of the State Public Defender
Valarie Finks, Crime Victim Compensation/ 1st JD
Jessica Jones, Defense Attorney
David Kaplan, Defense Attorney
Tom Raynes, Colorado District Attorneys' Council

STAFF

Stephané Waisanen, CCJJ Staff, Division of Criminal Justice
Laurence Lucero, CCJJ Staff, Division of Criminal Justice

ABSENT

Dan Rubinstein, District Attorney, 21st JD

GUESTS

J.R. Hall, Chair, Colorado State Board of Parole
Mike Tessean, Director, Colorado State Board of Parole

Issue/Topic	Discussion
<p>Welcome <i>Michael Dougherty, Working Group Leader</i></p>	<p>Michael Dougherty, WG Leader, welcomed participants and asked Maureen to provide an update on the progress by the Study Group.</p>

Issue/Topic	Discussion
<p>Review of Charts for Sex Offenses, General Felonies, & Mandatory Consecutive Sentences for a Single Criminal Episode <i>Maureen Cain, WG Member</i></p>	<p>Maureen explained that the Study Group continues to review and analyze the crime severity classifications, and four separate charts were presented:</p> <ul style="list-style-type: none"> • Sex offense felonies • Drug offense felonies (reviewed by CCJJ in 2013-- will remain the same) • Enhanced felonies • General felonies <p>The Study Group had a robust discussion of the clarity of presumptive and aggravated sentencing ranges and is examining sentencing policies around clarity.</p> <p>Maureen presented documents containing charts for sex offenses, general felonies, and mandatory consecutive sentences for a single criminal episode. She highlighted the Study Group recommendations were marked in red.</p> <p>The Study Group is currently focused on extreme indifference, vehicular homicide, and the mental health element of an individual’s intent to commit a crime.</p> <p>Maureen stated that the group continues to discuss the extraordinary risk sentencing range and consider the increase the sentencing range for aggravated vehicular homicide.</p> <p>Lastly, the Biennial letter from the Governor’s Office asked the Sentencing Reform Task Force to continue reviewing mandatory consecutive sentencing. The Study Group proposes the creation of a safety valve at the sentencing hearing which would give the option for the court to not impose mandatory consecutive if the following factors are proven by a preponderance of the evidence, by the defense or by stipulation of the parties:</p> <ul style="list-style-type: none"> • Defendant has no prior Victim Rights Act (VRA) felony convictions, and • Defendant has not used or possessed a firearm or explosive in the commission of the offense or threatened to use a firearm or explosive during the commission of the offense, and • The defendant’s action did not result in serious bodily injury (SBI).

Issue/Topic	Discussion
<p>Next Steps & Adjourn <i>Michael Dougherty, WG Leader</i></p>	<p>Members will review the charts over the next couple of weeks and decide whether there should be an additional December meeting to discuss the sentencing classifications.</p> <p>Jes Jones asked whether the Study Group considered classifying the <i>failure to register as a sex offender</i> in the “General Felonies” rather than in the “Sex Offense Felonies” classification. She added that this offense seems to relate more to a failure to meet a requirement rather than sexual behavior. Michael responded that this issue is still being discussed and is currently in the “Sex Offense Felonies” category.</p> <p>Michael asked participants whether there were further comments or questions, and with none, thanked members for their contributions and adjourned the meeting.</p>

Next Meeting

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

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).