



Colorado Commission on Criminal and Juvenile Justice

Minutes

October 9, 2015

Employee Relations Training Room, Lakewood Civic Center
480 South Allison Parkway, Lakewood, CO 80226

Commission Members Attendance

Stan Hilkey, Chair	Norm Mueller	Scott Turner
Doug Wilson, Vice-Chair	Kevin Paletta	Dave Weaver
Jennifer Bradford - ABSENT	Joe Pelle	Michael Vallejos
John Cooke - ABSENT	Eric Philp	Peter Weir
Kelly Friesen	Rick Raemisch	Robert Werthwein
Charles Garcia	Rose Rodriguez	Meg Williams
Kate Horn-Murphy- ABSENT	Joe Morales - ABSENT	Dave Young
Evelyn Leslie	Lang Sias - ABSENT	Jeanne Smith, <i>Ex Officio</i>
Beth McCann	Pat Steadman	Juv. Justice Rep. - VACANT

Substitutes: Rebecca Oakes for Joe Morales

CALL TO ORDER AND OPENING REMARKS

Stan Hilkey, Chair

Stan Hilkey (Chair and Colorado Department of Public Safety Executive Director) welcomed commissioners and additional attendees to the meeting. Mr. Hilkey noted that due to scheduling issues some of the agenda items would be rearranged. He also noted a few absentees including Jennifer Bradford, Senator John Cooke and Kate Horn-Murphy. He added that Judge Vallejos would be arriving late. Mr. Hilkey announced that Joe Morales has been appointed as the new Parole Board Chair and replaces Brandon Shaffer who resigned in August, however for this meeting Rebecca Oakes will substitute for Joe Morales. Mr. Hilkey shared that since the last Commission meeting Jeff McDonald has resigned as the Juvenile Justice representative for the CCJJ and that his replacement is yet to be determined.

Mr. Hilkey asked for approval of the August minutes and requested any additions, corrections or suggestions. No changes were offered and he subsequently made a motion to approve the minutes. The motion was moved and seconded and the minutes for the August meeting were unanimously approved.

MANDATORY PAROLE SUBCOMMITTEE RECOMMENDATIONS

Doug Wilson, Mandatory Parole Subcommittee Chair

Doug Wilson addressed the commissioners and reminded them that the (then) Chair of the Parole Board, Brandon Shaffer, requested a committee be established to explore issues surrounding mandatory parole. The initial concept that sparked that discussion was whether there was a need to continue mandatory parole in its current form.

Mr. Wilson then offered a PowerPoint presentation and began by explaining that the Mandatory Parole Subcommittee was created in the spring of 2015 and held its first meeting in May. He shared a list of the subcommittee members and added that the group met seven times between May and October with another meeting scheduled for November. Initial group discussions centered on the efficacy of continuing the current system of parole. The subcommittee then started collecting data and gathering information around parole release decision making.

Mr. Wilson explained he would present two recommendations on behalf of the subcommittee, one regarding the statutory purposes of parole and one suggesting release date be determined by severity of the offense with mandatory parole periods based on the Colorado Actuarial Risk Assessment Score (CARAS).

The first recommendation (recommendation FY16-MP#1) calls for an update to the statute that describes the purposes of parole in Colorado by amending C.R.S. 17-22.5-102.5 to reflect contemporary and evidence-based practices. Mr. Wilson explained this recommendation came about following concerns by subcommittee members that currently, the first purpose of parole is to punish a convicted offender. He displayed the full current purposes of parole statute and then described the recommended changes. The proposed concept is to prioritize public safety by reducing the incidence of crime committed by people on parole. Another primary goal is to emphasize assisting and preparing people on parole to transition into the community, while at the same time holding them accountable for their progress and obligations during their parole period.

Regarding the proposed language that states “to improve public safety by reducing the incidence of crime committed by people on parole”, Chief Kevin Paletta asked what the reduction would be in comparison to. Mr. Wilson replied that the verbiage refers to a general reduction in recidivism rates.

Rick Raemisch suggested that it might be beneficial to add the verbiage “reducing the incidence of crime AND TECHNICAL VIOLATIONS committed by people on parole”.

Mr. Wilson explained that the subcommittee’s initial discussion regarding the purposes of parole then led to a conversation on the efficacy of current lengths of parole periods. He provided a summary of the data that was gathered to inform that discussion including the following Fiscal Year 2014 Parole Board Release Decision statistics:¹

- In FY2014, the **Board** designated 25% of offenders for release and 75% of offenders for deferral. The **Guidelines** recommended 49% of offenders for release and 51% for deferral.
- The Board agreed with the Guidelines decision to DEFER 93% of the time.
- The Board agreed with the Guidelines decision to RELEASE 43% of the time.

¹ For more information, see the annual report describing parole board decision making prepared by the Division of Criminal Justice, Office of Research and Statistics, at https://cdpsdocs.state.co.us/ors/docs/reports/2014_SB11-241-Rpt.pdf.

Mr. Wilson presented additional statistics that were gathered to inform the Subcommittee's discussion as follows:

- 2.3% of new court commitments are Crime of Violence offenses (COVs) (approximately 121 in FY2014); 97.7% are Non-COVs (5114 in FY2014).
- 7.7% of the prison population is comprised of COVs.
- COVs serve 66% of their sentence, on average.
- Non-COVs serve 68% of their sentence, on average.
- Due to earned time credits, the average length of stay on parole is 26 months (although current lengths or parole range from one year to five years).

Mr. Wilson continued to present data on the average length of time on parole, by felony class, which showed that the overall average time spent on parole across felony classes is 26 months. He summarized that this is just some of the data the subcommittee considered during its discussions.

Mr. Wilson directed member's attention to the second recommendation (FY16-MP#2) from the subcommittee titled "Prison Release Date Determined by Crime of Violence (COV)/Non-Crime of Violence (Non-COV) status AND Mandatory Parole Period Based upon Risk Score." The two lines of demarcation for this recommendation are COVs/Non-COVs and the CARAS risk score.

Before offering details of the recommendation Mr. Wilson clarified that this proposal is strictly prospective and not retroactive. The proposal does not apply to individuals currently sentenced to the Department of Corrections.

The first element of this recommendation is that the prison release date would be determined by whether an inmate was convicted of a Crime of Violence (C.R.S. 18-1.3-406) or Non-Crime of Violence. Inmates with a COV conviction would be released on mandatory parole after serving at least 75% of their sentence. Non-COV inmates, presuming they earn all their earnable time, would be released at 50% of their sentence. To clarify, the initial sentence for both COVs and Non-COVs would start at 100% of the sentence, with the option of earning their way down to 50% (Non-COVs) and 75% (COVs). Current 'good time' and 'earned time' statutes would have to be rewritten under this proposal and Michael Dohr from Legislative Services is already tracking anticipated changes. Additionally, there will be no discretionary release so therefore there would be no need for what is currently called "good time."

Element #2 of the recommendation outlines mandatory parole periods based on risk to reoffend, and the primary consideration on the proposed parole periods is risk to reoffend. Mr. Wilson added that even with these revised parole periods the model would still pick up 82% of technical violators because most people who reoffend do so early in their parole term. The proposed parole periods are as follows:

Crime of Violence (COV) mandatory parole periods:

- | | |
|-------------------------|----------|
| • Very Low / Low Risk | 6 months |
| • Medium Risk | 1 year |
| • High / Very High Risk | 2 years |

Non Crime of Violence mandatory parole periods:

- Very Low / Low Risk 6 months
- Medium / High & Very High Risk 1 year

Mr. Wilson added that additionally there would be no earned time while on parole.

Meg Williams asked about the effectiveness of the tool used to determine risk (the CARAS) since so much of this recommendation hinges on that tool. Mr. Raemisch replied that the CARAS is the best tool that is out there right now. Jeanne Smith added that the tool has been validated multiple times. Kim English commented that the CARAS takes into account the offender's behavior while in the institution and is administered at the point of release.

Additional features of this recommendation include the fact that the parole board would stay intact for a variety of reasons. Primarily, since this recommendation is not retroactive, discretionary release decisions will need to continue to be made on the current Department of Corrections population. The parole board will also continue to set supervision conditions, make revocation decisions, and make discretionary release decisions for all indeterminate sentences.

Mr. Wilson continued with an explanation of how the recommendation would impact both notification and input from victims. Mr. Wilson added that the subcommittee recommends victims not only be notified but have input on these decisions: 1) conditions of parole, 2) revocations, and 3) any requests for early termination from parole. Regarding early terminations from parole, the parole officer will have the ability to make a recommendation of early terminations from parole. However, all recommendations of early termination are currently, and will continue to be, processed under full board review.

Rebecca Oakes, vice-chair of the parole board, shared that under the current statute the parole board can revoke someone back to prison for 90 or 180 days. She asked how this would work if someone's original parole term was six months long. Mr. Wilson replied that the subcommittee had a discussion about this scenario and they agreed that the recommendation would not impact that decision making process around revocations nor subsequent prison time.

Mr. Wilson reported that Steve Allen from the Joint Budget Committee supplied the Mandatory Parole Subcommittee with an estimate for cost savings that could possibly result from this recommendation. He emphasized that the numbers being presented were only an estimate. Savings from the reduction in DOC bed time and parole supervision time by Fiscal Year 2018 are estimated at approximately 31 million dollars. Regardless of the amount of cost savings, if there is indeed a monetary savings that would be split equally between community-based services for victims and offenders. Both of those groups would be funded through grant programs by the Division of Criminal Justice.

Senator Steadman asked how much of that cost savings would occur in the first year. Mr. Wilson replied that the savings for the first year are estimated at about 12 million dollars. That number is broken down into a little over 2 million on bed savings and about 10 million on reduced parole supervision time. Mr. Wilson clarified that this recommendation would slow the growth of the overall prison population.

Mr. Wilson explained that he was motivated to suggest a cost savings split between both offender and victim communities after the July 2015CCJJ meeting, which included a presentation by crime victim representatives that touched on the long term needs of victims. He said he learned at that time that current victim services funding dollars are targeted more toward acute intervention rather than long term care. Additionally, when subcommittee members discussed the long term needs of offenders and victims, they realized those needs were the same in the long term and centered on housing and employment. The goal of the cost savings would be to help stabilize and help victims past the initial offense or conviction.

Kelly Friesen asked if all of the grant money would go specifically toward adult populations only. Mr. Wilson replied that there was not a specific discussion about this but since victims could be juveniles there would likely be an opportunity for funding for juvenile victim programs.

Eric Philp asked if people convicted of a crime of violence are more likely upon release to commit another crime of violence, versus a non-crime of violence. Kim English answered that when the CARAS was developed researchers looked at violent offenses specifically, COVs specifically, and that conviction for violent offense does not predict recidivism.

Mr. Philp added that oftentimes offenders come with a myriad of problems and if this recommendation goes forward he's unsure if two years of parole for someone who is very high risk is enough time to do this kind of work. Rick Raemisch answered that he is a firm believer that people can be over-supervised and can serve too long. He believes it is a fair assessment that someone is either going to make it or not in the first two years. He believes if there has to be a cut-off somewhere two years is a good time period.

Jeanne Smith said she is still struggling with first year savings and how the bill would be written. She asked if it would be written to apply to offenses occurring on or after a certain date (which would mean savings much farther out), or to parole granted after a certain date. Mr. Wilson replied the recommendation would not be retroactive and that the numbers take that into account.

Mr. Weir asked if there is a commitment that the savings would be redirected toward these programs rather than lost in the general fund budget. Mr. Wilson replied that the concept is that this is a packet, and it included in that packet would be the fact that those monies would be directed toward offender and victim services. If this were to get modified in the legislative process the recommendation would go back to the CCJJ Legislative Subcommittee for discussion. The concept is to build this stipulation into the bill.

Mr. Weir also asked if the fundamental issue driving the recommendation is cost savings, public safety or both. Mr. Wilson replied that there are three things driving the recommendation as follows:

- Research shows longer periods of parole are not evidence-based and that longer parole periods are not indicative of better outcomes,
- DCJ's analysis shows that 82% of the technical violations would occur during the time periods established in the recommendation, and
- There may be problems with over-supervision, particularly of low risk individuals.

He added that money savings came about as a byproduct of the discussions, and the subcommittee did not start with cost savings as a goal. Charley Garcia added that what the

subcommittee really focused on in the beginning was clarity and certainty of the sentence.

Mr. Wilson agreed and explained that there can be 100% clarity with 75% or 50% straight time, however, both DOC and the parole board were concerned about not having the ability to grant time credits as a population management tool. The recommendation is a compromise. The subcommittee had to decrease clarity in order to ensure good time was available.

Mr. Weir asked if there would be any consideration of an offender's prior record. Mr. Wilson replied that the recommendation has to do with the offense for which the person is currently serving time for. The line of demarcation between COV and Non-COV is where the distinction is made with this recommendation. The CARAS includes factors on prior record.

Norm Mueller added that as a supplement to the clarity and certainty issue, there is a caveat that includes the potential of early termination from parole but only upon recommendation by the parole officer and approval by the full board. Other than that the victim and offender will both know the exact amount of time on parole, be it 6 months, 1 year or 2 years.

Evelyn Leslie asked for clarification about what "over-supervision" means. Mr. Wilson explained that putting too many conditions on parolees along with the length of time probationers or parolees are under supervision, has been proven to have a negative effect on outcomes. There is no evidence that shows that one period of time is more effective than another period of time, however, research indicates that resources should target higher risk offenders.

Mr. Wilson conveyed to commissioners that Mr. Allen has clarified that as far as initial one year cost savings, his estimates were based on numbers reflecting the current (today) population, therefore, the projected 12 million dollar savings is more likely to be seen in FY17 not FY16.

Dave Young shared that he is concerned that six months is not enough time on parole for an offender to become a contributing member of society. He believes the advantage of having a longer period of parole is the carrot and the stick (in the form of earned time) needed for supervision and that the proposed shorter parole periods eliminate incentives for the parolee to do well. He added that another consideration is that each defendant is an individual and six months might not be enough time to motivate some people.

Mr. Wilson explained that in 2013 there were 260 early parole termination requests and 210 of these were granted by the parole board. He added that these proposed time frames would still pick up the majority of technical violations.

Scott Turner stated that the determination of parole periods is a very individualized process and he's concerned that someone who has been in prison for decades is not going to get the services they need in six months. Ms. English added that the literature shows the longer someone is in prison the poorer the outcomes in general.

Ms. Friesen asked if offenders get a risk assessment when they arrive in prison, and if so, do they receive another one when they are on their way out of prison. Mr. Wilson replied that the CARAS would be administered at the time of release and would provide the basis for the parole period. That risk score will then drive the duration of the parole period. For example, a low risk person would receive a shorter parole period, which is evidence-based rather than arbitrary. Low risk people have worse outcomes when they are over-supervised.

Mr. Philp clarified that risk is always future oriented. There are two classifications of risk, static and dynamic. Static markers are things that do not change like age and gender. Dynamic markers represent someone's ability to function in society (e.g. employment, relationships, and education level). On probation, low risk offenders are seen once every two months and medium risk probationers are seen once a month. People on a maximum level of supervision are seen three times a month. For probationers, the success rate for low risk exceeds 84%. Outcomes are worse if a low risk person is over-supervised and if a high risk person is under-supervised. The evidence is very clear on this.

Mr. Wilson continued with a discussion about how community corrections would play into this recommendation. He explained that COVs would be paroled to community corrections at the termination of their sentence (provided they are accepted by the local community corrections board and program). Non-COVs could be placed in community corrections six months prior to the termination of their sentence (again, provided they are accepted). COVs would go into community corrections as parolees rather than on inmate status. Non-COVs if accepted and placed would go in on inmate status. COVs would go in as parolees if accepted and Non-COVs would go in on inmate status. This would be only if the parole board decides community corrections should be a condition of parole for the COV-- this is not mandated but rather up to the parole board.

Regarding the impact on the prison population, it will slow the rise of the prison population based on DCJ's projections. This is where part of the cost savings would be factored in. The greater impact would be seen on the size of the parole caseload. Ms. English clarified that the numbers on the final slide of the PowerPoint should be shifted to the right by one year when referring to cost savings. 'Days of parole supervision' would decrease from four million days to 1 million days.

Mr. Weir thanked Mr. Wilson and the members of the Mandatory Parole Subcommittee and said he appreciates all the work and discussion that went into the recommendation. He shared that there was a Community Corrections Task Force meeting yesterday and that Paul gave an overview of what would be presented today. He added there were some strong sentiments by people on the Community Corrections Task Force and that there was disappointment that there was no community corrections representation on the Mandatory Parole Subcommittee. At the same time he stated that he does realize the community corrections system was not the focus of this subcommittee. However, this proposal would be an impact on community corrections.

He reminded everyone that what is being proposed here is significant and is fundamentally about sentencing reform. He said that while the actual time served may not be much different under this recommendation, it will be hard to explain the change to constituents. The Community Corrections Task Force is very concerned about unintended consequences and the impacts on community corrections. He added that the Community Corrections Task Force requests this recommendation NOT be voted on next month (November), but instead be pushed out 60 days. The Community Corrections Task Force has scheduled an additional meeting on October 22nd to further discuss this recommendation and the group hopes to have members of the Mandatory Parole Subcommittee present at that time to help explain the details.

Mr. Weir also stated that he does not mean to imply that the Community Corrections Task Force would necessarily be opposed to this recommendation, but the task force members simply do not have enough information at this time to have an opinion one way or another. Currently, the task

force is in the middle of an in-depth analysis looking at possible programmatic changes in regards to high risk/high needs offenders and how to work more effectively with that population. The concern with this proposed recommendation is how the set parole periods might impact offender programming. Mr. Weir noted that slowing this recommendation process down would allow for various stakeholders to work together and gain consensus, resulting in a more unified front and more likelihood it could move forward legislatively.

Rose Rodriguez added that she is most concerned about the motivation and incentive the clients would have with shorter placements, especially as they pertain to the evidence-based models community corrections facilities are implementing. There is also concern about how this recommendation will affect the number of placements. If there is an increase in placements, facilities would need to be ready for that. She shared she also wonders about the funding structure.

Mr. Weir also expressed his concern that the legislative subcommittee may not be able to handle all the technical issues that will result from the bill drafting process. He added that he also received an email from Kate Horn-Murphy stating that there are still some outstanding issues from the victim's community.

In conclusion, Mr. Weir reminded commissioners that he is excited about the possibilities provided by the recommendation and the potential for such meaningful reform. He pointed out that good work has been done and at the same time he wants to be sure everyone has thoroughly discussed and vetted all the issues and impacts that would result from such potential broad sweeping changes.

Mr. Raemisch agreed that he too would support allowing 60 days before the vote on this recommendation. On another note he added that if the Commission ever decides to go down the road of truth in sentencing he would be firmly against that concept. He added that coming from a 'truth in sentencing' state (Wisconsin) he knows what a disaster that can result in and the danger that can result for correctional officers. (Truth-in-sentencing means no time credits can reduce the sentence, and time credits are an important inmate management tool.)

Mr. Weir reminded commissioners that the supplementary Community Corrections Task Force meeting is scheduled for October 22nd, 1:30pm at 700 Kipling in the 4th floor training room. Glenn Tapia added that the Governors Community Corrections Advisory Council meeting is scheduled for Friday, November 6th, at noon, 710 Kipling in the 3rd floor conference room, and that this recommendation will also be a topic at that meeting.

Mr. Wilson concluded the conversation by saying that he and the members of the subcommittee were fully aware that this recommendation would have an impact on community corrections and that they anticipated a need for more meetings and discussions. With that in mind the subcommittee scheduled another meeting in November and the group is open to more meetings in order to thoroughly vet the recommendation with all stakeholders. He added that if need be there is flexibility to defer decision making by 60 days.

Mr. Hilkey recapped that after the three aforementioned meetings take place, Mr. Wilson will know better as to whether November 13th would be the day to vote on this recommendation, or if the Commission should push the recommendation out another 30 days. He added that it is great to see robust and challenging work come out of the Task Forces and the Commission.

COMMUNITY CORRECTIONS TASK FORCE UPDATE**Peter Weir, Community Corrections Task Force Chair**

Mr. Weir provided an update on the work of the Community Corrections Task Force. He noted that at the request of the full Commission, the task force has been taking a look at last year's Senate Bill 15-007 which did not pass. The bill was the result of a handful of recommendations that were passed by the Commission regarding defining community corrections populations and devising a better way to meet offender needs. The general consensus was that this was an important bill that supported positive changes; however it failed due to the fiscal note. When the bill failed, the Commission requested that the task force go back and explore other ways to possibly move the recommendations forward or revise the recommendations to reduce the fiscal concerns. Mr. Weir explained that Mr. Tapia has been working on these issues and would provide more specific details.

Mr. Tapia pointed to a one-page handout in commissioner's packets that outlines the details of Senate Bill 15-007. He explained that the goal of the recent work was to reduce the fiscal note without changing the critical elements of the bill. To this end, the group worked to change some of the assumptions that affected the cost. He noted that in order to cut the fiscal note there would need to be some changes made to the program evaluation tool. However, there were no changes made to the cost of community corrections board training or the cost of board decision making. Cost reductions were made only to the program evaluation tool. Those changes included using permanent FTE rather than consultant funds along with reducing the frequency by which DCJ's Office of Community Corrections would evaluate the individual programs. Those reductions place the fiscal note at about half of what it was last year.

Mr. Weir noted that the substance of the recommendation is the same as what was voted on and approved by commissioners last year. The question is whether the Commission wants to support this going forward as there remains a significant fiscal note attached to it (approximately \$500,000). Mr. Hilkey noted that the executive branch is not in a position to carry this as a bill this session, which means the Commission would need to rely on other legislative partners in the room that would be willing to carry it forward.

Senator Steadman noted that Senator Guzman carried this bill last year. Senator Steadman also clarified that if the only thing that has changed is the assumptions behind the fiscal note, and then there is nothing more to vote on as the Commission already voted to support this bill last year. Senator Steadman offered to ask Senator Guzman if she is interested in carrying this bill again this year but with a reduced fiscal note.

RESTITUTION INTEREST RATE / CHANGES IN COLLECTION PRACTICES**Eric Philp, Division of Probation Services****Marty Galvin, Deputy Director Financial Services, Judicial Department**

Mr. Hilkey introduced CCJJ commissioner Eric Philp and the Deputy Director of Financial Services for the Judicial Department, Marty Galvin.

Mr. Philp explained that a question was raised during one of the Re-entry Task Force meetings about the effects of including interest on restitution and whether or not that could trigger an increased number of revocations due to non-compliance. After further discussion it was

determined that this issue would be of interest to the full Commission rather than just the Re-entry Task Force. Mr. Philp explained that Marty Galvin was the lead in working through this process and is in attendance to explain the issue. He will offer a presentation that he has given to a number of stakeholder groups across the state.

Mr. Galvin explained that he was tasked by the State Court Administrators Office with implementing the collection of restitution interest. He then described the background of the issue.

Mr. Galvin began by stating that Judicial is fully committed to implementing *the Assessment of Restitution – Corrective Orders* statute (C.R.S. 18-1.3-603(4) (b) (l)) as it is written. This is a very sizeable task that touches all parts of probation business from case management through fees collection. He explained that legislation was passed in 2000 that addressed many different aspects of restitution including a provision that unpaid restitution incurs interest at a rate of 12% a year. When this statute was put into place, Judicial began working on various plans to implement the procedure on a statewide basis. However, over the next 14 years the individual judicial districts implemented the policy, but on an inconsistent and individualized basis. There was no statewide process for assessing and collecting interest. In 2014, the Office of the State Auditor issued an audit report requesting that the State Court Administrator's Office implement the interest collection practice on a statewide, systematic basis as part of the case management system.

Judicial immediately began working on the effort to make the collection practice consistent and systematic around the state. Judicial also began talking with stakeholders both within and outside of the Judicial Department including chief judges, victim advocates, and the District Attorney's Council to inform them of the conversion to the new system.

The statute in question (C.R.S. 18-1.3-603(4)(b)(l)) states that "any order for restitution made pursuant to this section shall also be deemed to order that the defendant owes interest from the date of the entry of the order at the rate of twelve percent per annum." The judge may not waive the interest requirement. Judicial based their project and programming on that premise and began conveying that information to all the clerks, judges and other stakeholders.

The next part of the implementation project was to undertake the notification aspect of the change. Notification letters were sent out to approximately 80,000 defendants notifying them that Judicial would begin calculating and assessing interest on any restitution balance owed. Judicial also worked with the Department of Corrections and Community Corrections to distribute those letters. After offenders were notified, letters then went out to victims informing them of the procedure. The process for notifying victims was vetted with victim advocate groups.

Mr. Wilson pointed out that with this new system Judicial is not only making it consistent but assessing interest back 15 years. Mr. Galvin explained that there is no automatic, global assessment of historical interest. Mr. Wilson shared that he was told by the State Court Administrators Office that even though the concept is about consistency going forward, it would be retroactive if a victim asks for it. He then expanded that there would be no hearing, no judicial review, but just a request by the victim and someone at the district level who assesses that retroactive interest. Mr. Galvin replied that yes, every order for restitution after 2000 also included an order for interest. Mr. Wilson disagreed and stated that many restitution orders were entered since 2000 that did not include an interest assessment.

Mr. Wilson continued by saying many people were not advised that interest was going to be assessed and that it is common for plea agreements to include a specific amount of restitution. He continued that there is no procedure set up by the Judicial Department to have a contested hearing on this back interest assessment, therefore it just gets requested and added and the defendants do not have the opportunity to contest or be heard. The request is signed by the victim, submitted to the court and retroactively assessed. He added that the Public Defender's office did some research and there is only one other state in the country that has a higher interest rate than Colorado, 11 states have no interest rate and 22 states have a lower interest rate.

Mr. Wilson pointed out that Colorado is off the charts already on the rate of interest and that now the state is going to back-date the interest for 15 years without the ability for a defendant to be heard in court. Mr. Philp said that for the most part, Judicial will welcome those cases in court.

Senator Steadman asked that (for example) if a defendant has made their restitution payment in full from 2003 to 2013, and is currently "off paper," but no interest was ever collected, can the victim now come back and ask for interest? Mr. Galvin replied that yes, the victim is able to request the defendant pay the interest on restitution that has been paid in full. Senator Steadman asked if there is a document issued by probation that shows a defendant has completed their time and they are released from all obligations. Mr. Wilson replied that there is a document that shows when a defendant has been released off probation. The problem is that people that are off paper can now be assessed interest even though they have paid their debt literally and figuratively. Mr. Wilson believes this is going to open up a significant amount of litigation.

Mr. Galvin reiterated that yes, if a case is closed and paid in full, but there was never any interest assessed to the restitution, it can be owed to the victim if they request it.

Mr. Philp explained that the 12% rate was put into place when the statute was created back in 2000. He added it was determined to be put at that level in order to incentivize people to pay it off more quickly.

Mr. Hilkey summarized that he senses there will be litigation or legislation or both to address the issues being raised by commissioners. He asked if there is anything this commission wants to do or feels they could do in response to the issue.

Robert Werthwein shared that the data shows the practice of charging high interest rates as a motivation to pay does not work for things like child support. Research shows that people are not more motivated to pay child support if there is an increase in the interest. He asked if there are outcomes from districts that have been collecting interest versus districts that have not been collecting, in regards to restitution paid. Mr. Galvin replied that the frequency with which the statute was carried out was not done with enough frequency to produce any reliable data.

Mr. Galvin described that as for the details, interest will be calculated as simple interest, interest amounts will be added to the case as a financial receivable each month, interest will be paid to each victim based on the percentage of restitution owed, payments by defendants will be first applied to the restitution principal.

Interest will be assessed once a month on the second Saturday of the month. All cases with a restitution order after 9/1/2000 are subject to interest.

Collections investigators have changed the way they work on collection procedures and Judicial has over 120 individuals around the state working with defendants on payment plans. Judicial revised the collection process and payment plan in response to restitution interest. And collections investigators are working with defendants on job searches, financial planning, and meeting financial obligations over time.

Mr. Galvin reported that restitution payments between July and September 2014 came in at 6.2 million dollars and that between July and September 2015 those restitution payments were about 40% higher and came in at 8.9 million dollars. This is an indication that the notification of the interest being assessed letters motivated offenders to pay restitution. Lastly, any unclaimed interest will be collected and sent to VALE board or a Victim Compensation fund.

Ms. Williams asked if this applies to juvenile cases and if there is a place for further discussion on this issue with the Judicial Department rather than the issue going to litigation. Mr. Galvin said this does apply to juvenile cases and Mr. Philp added that this mandate to systematically collect interest came from the State Auditor's Office and the Legislative Audit Committee. Ms. Williams asked if the Commission could submit a recommendation or opinion on the matter. Mr. Mueller commented that this will set up permanent debtors and will be counter-productive over time. He believes the fix should be legislative and that the Re-entry Task Force should also take this on as an issue.

Mr. Galvin shared that there is about 900 million dollars of outstanding restitution, and that the top 100 defendants owe almost 45% of that amount or approximately ½ billion dollars.

Representative McCann asked that if Judicial is going to go back to collect all this unpaid interest, won't there be a need for additional collections people. She also asked what happens to people who refuse to pay the interest. Mr. Galvin replied that current staffing levels are sufficient to manage the workload and that the programming is taking place automatically.

Mr. Philp shared that part of the challenge going back 15 years is in trying to locate both victims and defendants. He added that some victim advocate groups also believe notifying victims and perpetrators could pose possible danger to the victim if the two parties still live in the same location. Therefore the focus is on calculating interest on a date going forward and to not take away the rights of a victim to request the interest owed retroactively.

Mr. Galvin shared that the outstanding interest from the past 15 years is over a billion dollars.

Mr. Hilkey offered that the Re-entry Task Force has yet to tackle the issue of collateral consequences and that the task force could look at this issue at that time. Senator Steadman requested direction from the Commission for the Re-entry Task Force to explore this issue further. Representative McCann agreed that as a member of the Re-entry Task Force, the group should explore this issue.

COLLABORATION SURVEY OUTCOMES**Paul Herman, Commission Consultant**

Mr. Hilkey introduced Commission consultant Paul Herman to discuss the collaboration survey outcomes.

Mr. Herman directed commissioners to a handout in their packets containing multi-colored graphs. He thanked commissioners for completing the collaboration survey. He noted this is the third time that survey has been used with the Commission since it was empaneled eight years ago. He added that the survey acts as a barometer to check how things are working in general by gathering information on commissioners' perceptions regarding reaching common goals. The survey sheds light on where there may be room for improvement.

Mr. Herman started with survey responses before moving to the comments section. He recalled there were five categories of questions pertaining to collaboration. Mr. Herman noted that the survey results reflect important ways that the Commission is doing well and there are many very positive results and outcomes from this group that should be recognized by all members. He noted commissioners responded positively to survey questions pertaining to the following:

- The issues that are being addressed are timely and relevant:
 - The commission has adequate information and data that supports problem solving and decision making,
 - The commission has adequate methods of communicating the activities and decisions of the individual groups to all members,
 - The presence of strong, recognized leaders who support this collaborative environment, and
 - The group is effective in obtaining the resources it needs to accomplish its objectives.

Mr. Herman added that there is always room for improvement, and some items on the survey suggested some gaps in collaboration. He noted that many of the following areas for improvement were identified in the prior two surveys also:

- Members are more interested in getting a good group decision than in improving the position of their own organization,
- Members monitor the effectiveness of the process,
- Members trust one another sufficiently to honestly and accurately share information for feedback,
- We frequently discuss how we're working together,
- The openness and credibility of the process help members set aside doubts, and
- We set aside vested interests to achieve our common goal.

Mr. Herman added that as a caveat, although these were identified as potential areas of improvement, nothing in the survey was calling out for major improvement in these areas. Mr. Herman then discussed the "Comments" section of the survey which resulted in a wide variety of feedback.

In terms of comments there were two major themes identified. The first was a desire for more involvement and engagement by all commissioners rather than a select few. The second theme called for commissioners to focus on what is good for the system as a whole rather than what is best for individual agendas. He then asked commissioners if anything stuck out in particular for

individuals regarding the outcomes of the survey or if there were any surprises or concerns. Ms. Williams replied that it can be difficult because each commissioner is appointed or designated as a representative of a certain group, and therefore it can be challenging to abstain from taking a stance that supports the desires of that particular group. She noted that this is simply inherent in the process and the make-up of the Commission.

Mr. Hilkey noted that while he does not have a long historical perspective on this Commission process throughout the years, the door is always open to work better together to build trust and overcome barriers.

Ms. Smith added that one of the things the staff tries to do when looking forward to coordinating the retreat agenda is to give everyone the opportunity to put the issues they are excited about on the plate for the Commission to vote on as priorities. When the commission has been at its most effective is when the commissioners were engaged about the issues and excited to participate. She noted that staff is currently working to coordinate the retreat agenda and that this is a very good time for commissioners to start thinking about the issue areas they are interested in tackling in the coming year. She reminded everyone that the current task forces arose from outcomes from the previous retreat.

Senator Steadman asked if there would be a way to poll commissioners prior to the next Commission retreat to try to gather information on people's various interest areas ahead of time. That way the group could spend less time trying to ferret out interest areas and more time talking and discussing common goals for moving forward. Mr. Hilkey added that identifying areas ahead of time would be a good way to jump-start the process.

Mr. Hilkey called for any additional feedback and seeing none he thanked Mr. Herman and moved on to the next agenda item.

DATA SHARING TASK FORCE

Jeanne Smith, Data Sharing Task Force Chair

Mr. Hilkey introduced Ms. Smith, the Chair of the Data Sharing Task Force, and asked her to update commissioners on the work of the group.

Ms. Smith summarized that during the group discussions it has been determined that criminal justice professionals who work most with people in the system are in need of a centralized place where they can obtain the information they need in order to create an effective case management plan. She added that aside from its ongoing work, the Data Sharing Task Force has some additional exciting news to report. She explained that Peggy Heil who works in the Office of Research and Statistics has been working with representatives from multiple task forces to apply for a U.S. Bureau of Justice Assistance grant that was awarded to only seven entities across the country.

Ms. Smith went on to explain that the Division of Criminal Justice received notification that it was awarded approximately \$95,000 dollars for a one-year planning grant to work on the development of a health information exchange between jails, the Department of Corrections and community mental health centers. The focus is to look at behavioral health information supporting medication consistency as well as early the exchange of early diagnosis and assessment information. The Data Sharing Task Force will be tracking the progress of this grant

and planning committee and participating with it as is appropriate. Ms. Smith added that if the planning year is successful, Colorado will have an opportunity to then apply for an implementation grant that would come to a total of three million dollars over three years.

Ms. Smith shared that the Data Sharing Task Force is also observing the work in Adams County, spearheaded by the Adams County Criminal Justice Coordinating Committee, as they develop and implement an information sharing portal. Depending how this project progresses that effort could possibly be taken. She concluded by stating that this group does not meet monthly, but convenes every two months or so on an as-needed basis.

REENTRY TASK FORCE

Stan Hilkey, Chair, Re-entry Task Force

Mr. Hilkey reported that this group continues to address the issue of technical violations with subgroups drilling down into the areas of “conditions of supervision” and “recidivism definitions.” The task force is also exploring the use of the current Level of Supervision Inventory (LSI) tool in Colorado and options for possible improvements or upgrades to the current assessment practice. He added that the task force is also exploring race, ethnicity and gender issues through another working group and that CDPS legislative liaison Jana Locke provided a presentation earlier this month on the work of the legislative Profiling Initiated Contacts by Law Enforcement (PICLE) committee and some of the challenges that group is facing concerning data collection issues.

Mr. Hilkey summarized that this task force will continue to focus on issues regarding technical violations and will keep the Commission updated on its progress.

Adjournment

Mr. Hilkey thanked both commissioners and presenters for their participation in the meeting and the informative and passionate conversations. He asked the group for final comments. With no further business, Mr. Hilkey adjourned the meeting at 3:17 p.m.