

Final
STAFF SUMMARY OF MEETING
COMMITTEE ON JOINT JUDICIARY

Date: 09/26/2013

ATTENDANCE

Time: **10:01 AM to 04:55 PM**

Place: HCR 0112

This Meeting was called to order by
Representative Kagan

This Report was prepared by
Jessika Shipley

Buckner	X
Hudak	X
King	X
Lambert	X
Lawrence	X
Lee	X
Levy	X
McLachlan	X
Murray	E
Pettersen	X
Salazar	*
Ulibarri	X
Waller	X
Wright	X
Kagan	X
Guzman	X

X = Present, E = Excused, A = Absent, * = Present after roll call

Bills Addressed:	Action Taken:
Opening Comments	Committee Discussion Only
Historical and Policy Overview of Intensive Supervision Parole	Witness Testimony and/or Committee Discussion Only
Budgetary Overview of Intensive Supervision Parole	Witness Testimony and/or Committee Discussion Only
Best Practices in Supervision and Risk Assessment	Witness Testimony and/or Committee Discussion Only
Presentation Regarding Electronic Monitoring	Witness Testimony and/or Committee Discussion Only
Presentation Regarding C-WISE	Witness Testimony and/or Committee Discussion Only
Overview of the Parole Board Review Process	Witness Testimony and/or Committee Discussion Only
Presentation Regarding Reentry Programs for Parolees	Witness Testimony and/or Committee Discussion Only
Presentation Regarding Community-based Offender Treatment	Witness Testimony and/or Committee Discussion Only

10:03 AM -- Opening Comments

Representative Kagan made opening remarks regarding the purpose of the hearing. He indicated that the joint committee intended to inquire into whether recent problems with intensive supervision parole (ISP) were adequately addressed by the Department of Corrections (DOC). He discussed the questions that would be addressed over the course of the two-day hearing and stated his opinion that there are no simple solutions, but that public safety must be protected. He thanked all of the members of the committee for their assistance in setting the agenda for the meeting.

Senator Guzman thanked legislative staff for their efforts in preparing for the hearing. She indicated that the purpose of the hearing is to examine the strengths and weaknesses in the Colorado parole system. She expressed her hope that the committee would be able to assist the DOC to find real solutions to the problems that came to light in the spring of 2013.

10:10 AM -- Historical and Policy Overview of Intensive Supervision Parole

Jessika Shipley and Hillary Smith, Legislative Council Staff, presented a historical and policy overview of ISP. Committee members received a memorandum prepared by Legislative Council Staff (Attachment A). Ms. Smith began her presentation by walking the committee through Attachment A. She first discussed sentencing schemes for felonies, including newly implemented sentencing schemes for drug crimes. She next discussed the mandatory parole period. Ms. Smith discussed parole eligibility dates (see pages 6 and 7 of Attachment A), and explained that a parole eligibility date is the earliest date an offender is eligible for parole whereas a mandatory eligibility date is the date an offender is required to be released. She next discussed mandatory parole, beginning on page 13 of Attachment A. Ms. Smith explained Table 5 on page 19 of Attachment A. She concluded her presentation with a description of the circumstances under which parole can be revoked and an overview of recent legislation concerning parole and earned time.

10:21 AM

Ms. Smith responded to a question from the committee about earned release time for offenders assigned to administrative segregation. Discussion ensued on this topic. Ms. Smith addressed a follow-up question from the committee about how earned time is awarded by the Department of Corrections. Specifically, she addressed questions about whether earned time is discretionary and can be revoked. Discussion continued on the topic of earned time.

10:27 AM

Ms. Shipley provided the committee with a brief legislative history of ISP. She explained that there is more than one category of ISP. Ms. Shipley next explained minimum contact requirements that must be followed for individuals placed in ISP. In response to a question from the committee, she explained that minimum contact requirements are not statutory, but are established in administrative regulations. She also addressed a question from the committee about how the department handles parole officers who do not meet minimum contact requirements. Ms. Smith responded to a question about whether there is a correlation between the number of complaints registered against Community Parole Officers (CPOs) and future incidents of violent crime.

10:40 AM -- Budgetary Overview of Intensive Supervision Parole

Steve Allen, Joint Budget Committee (JBC) Staff, referred to two documents that were distributed to the committee, a memorandum entitled "Budgetary Overview of Intensive Supervision Parole" and the non-prioritized interim supplemental request for a DOC fugitive unit (Attachments B and C, respectively). He discussed the budget request and supplemental process of the General Assembly in great detail. He stressed the fact that there is a great deal of forecasting and adjustment required when setting the budget for the DOC and parole population.

10:49 AM

Mr. Allen continued his explanation of the budget process with a discussion of how the DOC decides how much to request each year. The process involves a parole population forecast made by the Division of Criminal Justice (DCJ) in the Department of Public Safety. He spoke about staffing ratios in the Division of Adult Parole, Community Corrections, and the Youthful Offender System (Division of Adult Parole). He indicated that the department attempts to maintain specified supervision ratios for parolees as the parole population expands and contracts. The current ratio is 1 parole officer per 68.7 parolees for regular parole and 1 parole officer per 22.8 offenders on ISP-parole. These supervision ratios have been lower in past years and the DOC has indicated that it would like to reestablish the historical ratios of 1:60 for regular parole and 1:20 for ISP-parole.

10:56 AM

Senator Guzman asked how the actual cost of supervising ISP parolees is determined. Mr. Allen indicated that the costs are related to the salaries, benefits, and operating costs of the personnel required for supervision, monitoring, and support. He continued his explanation of the factors that drive the costs of ISP-parole. He discussed specialized support expenses, including housing vouchers, substance abuse treatment services, and mental health treatment services. He talked about one-time costs that are required for any expansion of supervision personnel. These may include training, body armor, weapons, furniture, computers, and a cell phone, among others. He responded to questions from Representative Kagan about the replacement of body armor. Senator King asked whether the historical staffing ratios for parolee supervision represent best practices nationally. Mr. Allen indicated that there are differences of opinion in the professional community as to the proper staffing ratios.

11:05 AM

Mr. Allen discussed the use of parole population forecasts by the JBC. He said that appropriations are never exactly right, and supervision ratios often need to be adjusted. He responded to questions from Representative Kagan about whether parole supervision is affected by the decisions made by the JBC. He also spoke about the department's discretion to determine how many individuals to place on specific types of parole. He discussed the role of the parole board in affecting parole populations. Representative Waller spoke about predicting the overall corrections population and why it is so difficult to forecast the parole population. He asked if funding that is currently appropriated for incarcerated offenders may be moved to paroled offenders. Mr. Allen indicated that such a transfer of funding would be difficult, given the current budget structure.

11:18 AM

Mr. Allen spoke about complexity inherent in determining staffing ratios. Representative Levy asked questions about the figure on page 4 of Attachment B, which shows differences between the actual parole population and projections.

11:25 AM

Mr. Allen continued his discussion of historical parole and ISP-parole data, which is covered in section D of Attachment B. He spoke about figures 1 through 6 in detail. The figures show average daily parole population, the portion of parolees on ISP, parolees per supervising parole officer and per full-time equivalent (FTE) employee in the supervising program, spending per parolee, inflation-adjusted spending per parolee, and spending per parolee on parole office operating expenses, monitoring, and support with and without an inflation adjustment.

11:34 AM -- Best Practices in Supervision and Risk Assessment

Kim English, representing the DCJ, and Eric Philp, representing the Division of Probation Services in the Colorado Judicial Branch, joined the committee to discuss best practices in supervision and risk assessment. Ms. English provided a copy of her PowerPoint presentation to the committee (Attachment D). She began with an outline of her presentation and discussed definitions commonly used in the area of community supervision.

11:45 AM

Ms. English continued her presentation with a discussion of the eight principles of evidence-based practices (EBP). These include:

- assessing each defendant's actuarial risk and criminogenic needs;
- enhancing the offender's intrinsic motivation to change;
- targeting programming to criminogenic needs and to higher-risk offenders;
- building staff skills to implement EBP;
- delivering treatment programs using cognitive-based strategies;
- increasing positive reinforcements to influence pro-social behavior;
- engaging ongoing supports such as family members and community programs; and
- identifying outcomes and measuring progress.

She distributed a report on EBP in corrections (Attachment E) and spoke about offender assessment, criminogenic needs, recidivism reduction as a function of targeting multiple criminogenic versus non-criminogenic needs, and residential community corrections.

11:53 AM

Ms. English continued discussing the principles of effective intervention, which are risk, need, and responsivity. Senator Lambert asked how much mental health needs affect recidivism. Ms. English and Mr. Philp responded that the research shows that mental illness only has a moderate effect on criminal behavior. Representative Salazar asked for more information about whether time spent in administrative segregation affects the likelihood of future criminal behavior. Discussion ensued.

12:01 PM

Senator Ulibarri commented that the expansion of Medicaid will provide continuity of care for offenders with mental health needs who are transitioning from prison to the community. Representative McLachlan asked whether medical and mental health records can be reviewed by DOC physicians. Representative Kagan stated that the research does not indicate that the mere fact of mental illness correlates with violent behavior. Senator Lambert asked for information about bipolar disorder and paranoid schizophrenia. Ms. English pointed out that there are multiple needs and characteristics of offenders and staff, as well as program components, that affect responsivity.

12:09 PM

Ms. English provided information about using cognitive behavior theory to address criminogenic needs. She spoke about training needed for staff to implement EBP. She provided the five dimensions of effective correctional treatment, which are crucial in interacting with offenders if the desired outcome is a change in behavior. She spoke about some paradigm shifts in the area of community supervision of offenders, which distinguish between traditional supervision and research-informed supervision.

12:16 PM

The committee recessed for lunch.

01:43 PM

The committee returned to order. Senator Lambert clarified a comment he made earlier in the morning about the DOC policy regarding the collection of mental health records on intake.

01:45 PM

Ms. English resumed her presentation with a discussion of the current paradigm shift in supervision, which is moving toward officers taking a more direct role in the therapeutic change process, ongoing training in an EBP environment, and staff participation in assessments, case plans, relationship skills, and supervision practices. She talked about the results from research studies that look at these issues. She provided a number of characteristics that effective programs have. Effective programs need to do the following:

- be based on research and sound theory;
- have strong leadership;
- assess offenders using risk and need assessment instruments;
- target crime-producing behaviors;
- use effective treatment models;
- vary treatment and services based on risk, needs, and responsivity factors;
- disrupt criminal networks;
- have qualified, experienced, dedicated, and educated staff;
- evaluate what they do; and
- be stable with sufficient resources and support.

01:52 PM

Senator Lambert asked for information about how to operationalize the positive results of the research. Mr. Philp provided an outline of his presentation and a document discussing strategies for behavior change in individuals convicted of criminal offenses (Attachments F and G, respectively). He indicated that ISP-probation was established in statute in 1986 as a sentencing option in felony cases, but it was substantially changed with the passage of Senate Bill 13-250, which takes effect on October 1, 2013. He began by providing a background of ISP-probation through September 30, 2013. The original capacity of the program was 750 offenders with 30 probation officers and a capped caseload of 25 offenders per officer. Based on the effectiveness of the program, capacity was doubled to 1,500 offenders over the course of FY 1995-96 and FY 1996-97. Mr. Philp discussed the statutorily defined program elements and stressed that those elements are not research-based. He discussed assessment, acceptance criteria, and the program design.

02:01 PM

Dana Wilks, representing the Division of Probation Services in the Colorado Judicial Branch, joined the committee to discuss the new ISP-probation program that will begin operation on October 1, 2013. She indicated that the program will target the highest-risk offenders and the top four criminogenic needs. The capacity is expected to remain the same and the program elements will be similar, including surveillance, sanctions and incentives, and cognitive behavioral groups. Assessment will occur within the first 30 days after sentencing using validated instruments as needed. In terms of acceptance criteria, the program will serve offenders with three to four of the top four criminogenic needs, few mental health or substance abuse needs, and a cut-off score developed from large data analysis. These criteria have been automated to minimize calculation errors and subjective placements. The program will be blind to offense type, with the exception of sex offenders. Ms. Wilks discussed the program design in detail and spoke about the research evidence that led to the development of the new program. She touched on the issue of evaluation.

02:11 PM

Ms. Wilks indicated that the program will focus heavily on cognitive behavioral therapy because the evidence shows a strong correlation between that type of therapy and low recidivism rates. She responded to questions from Representative Lee about training that will be available going forward for everyone involved in the ISP-probation process. Representative Kagan asked how the Division of Probation Services tracks the required contacts among probation officers, program staff, and offenders. Ms. Wilks discussed the various methods of tracking whether contact standards are being met. Senator Lambert asked about discussions between the Judicial Branch and the DOC about using common information technology solutions to accomplish similar goals. Mr. Philp discussed the tools used by the Judicial Branch.

02:19 PM

Representative Levy asked if the program redesign has affected the cost of services per offender. Ms. Wilks indicated that they are not expecting an increase in the costs of supervision; however, the cost of training for staff has been substantial at the front end. Mr. Philp stated the the Judicial Branch is prohibited from providing therapy services, but they do provide skill-building and stabilization services. Discussion ensued about the targeting of services to specific offenders and whether such targeting is cost effective. Representative McLachlan asked about pre-trial assessments and pre-trial release. Senator Lambert asked Ms. Wilks to comment about the dangers of the oversupervision of offenders. Ms. Wilks indicated that oversupervision of low-risk offenders interrupts the flow of structure and support those offenders have in the community. She stated that giving offenders the skills to manage themselves appropriately is more effective in the long term than simply supervising their every action.

02:31 PM

Committee discussion ensued about the benefits and drawbacks of electronic monitoring.

02:35 PM -- Presentation Regarding Electronic Monitoring

Mike Miles, representing the Division of Adult Parole, provided an overview of electronic monitoring (EM) used by the DOC (Attachment H). He spoke about EM equipment types and uses, which may include:

- radio frequency monitoring transmitters paired with a landline or a cellular base station for curfew compliance;
- global positioning systems (GPS) paired with advanced forward link trilateration location transmitters with embedded cellular communication for curfew compliance, exclusion zone enforcement, and tracking movement in the community;
- continuous alcohol monitoring transdermal alcohol detection (TAD) paired with a landline base station to detect alcohol used or abuse that can also monitor curfew compliance using radio frequency technology;
- electronic pagers paired with automatic number identifier technology for documenting return calls for curfew compliance and tracking movement in the community; and
- curfew checks using a random call generation program.

02:46 PM

Representative Waller asked a number of questions about the consequences for DOC personnel who do not meet monitoring requirements. Mr. Miles attempted to respond about new policies that require a two-hour response to an EM tamper alert. Representatives Kagan, McLachlan, and Salazar asked additional questions about the sanctions facing offenders who tamper with an EM device. Mr. Miles spoke about the procedure for arresting a parolee who tampers with an EM device or absconds from parole.

02:55 PM -- Presentation Regarding the Colorado Web-based Integrated Support Environment (C-WISE)

Mr. Miles continued his presentation with an overview of the Colorado Web-based Integrated Support Environment (C-WISE), which is an enterprise solution that includes a web-based case management system integrated with treatment providers, law enforcement officials, and EM vendors, and is supported by a call center staffed by 164 operators that assist in data collection and documentation on a 24/7/365 basis. He responded to questions from Representative McLachlan about statistics provided by the DOC about C-WISE (Attachment I). He discussed the amount of data that is generated by EM devices and how difficult it is to process all of that data. In response to a question from Representative Kagan, Mr. Miles talked about the reasons that tamper alerts occur and what must happen to address those alerts.

03:05 PM

Senator King commented that EM technology does not appear to be reliable.

03:06 PM -- Overview of the Parole Board Review Process and Discussion of Challenges Facing the Current Parole System

Former Senator Brandon Shaffer, chair of the Colorado State Board of Parole, came to the table to provide an overview of the parole board review process. He distributed a memorandum as a complement to his presentation (Attachment J). He spoke about his role as a member of the parole board. He began by defining terms that are commonly used in the parole process. Representative Levy asked questions about the training required for parole board members in EBT for the purpose of setting appropriate conditions of parole. Senator Shaffer indicated that the parole board has had some training, but could use more. He listed a number of questions that he anticipated the committee asking and provided responses for those questions, which are included in Attachment J. He stated that the number one priority of the parole board is public safety.

03:18 PM

Senator Shaffer discussed the types of hearings conducted by the board and how those hearings are conducted. He spoke about the factors considered in making parole decisions and provided statistics regarding the risk assessment levels for offenders who were granted discretionary parole in 2013. He indicated that the board followed the administrative release guideline instrument recommendation in 64 percent of cases. In response to a question from Representative Kagan, Senator Shaffer spoke about the differences between the various risk assessment instruments used in relation to parolees.

03:26 PM

Representative Salazar asked a question about the release of offenders to parole directly from administrative segregation. Senator Shaffer made a distinction between offenders released on discretionary parole versus those released on their mandatory release date. He stressed that, prior to releasing any high-risk offender, the parole board requires a structured transition plan. Senator King expressed his opinion that the vast majority of individuals paroled directly from administrative segregation were released on their mandatory release date. He asked Senator Shaffer how Colorado compares to other states in terms of the effectiveness of the parole system. Senator Shaffer responded to that question and spoke about additional resources that will help the board function more efficiently and effectively.

03:35 PM

Senator Lambert asked about awarding earned time to offenders on administrative segregation. Senator Shaffer stressed that the parole board is extremely careful to ensure that administrative segregation offenders have a substantial parole plan with plenty of support in place prior to release. Representative McLachlan asked if the recidivism rates shown in Attachment J include the commission of a new crime or just parole revocations. Senator Shaffer talked about the six-month and twelve-month recidivism rates for all offenders released on parole on page 6 of Attachment J. Representative McLachlan asked how Colorado compares with the national rate of recidivism. Senator Shaffer indicated that he would bring that information back on Friday.

03:44 PM

Representative Salazar asked about the discretion of CPOs to file complaints about violations of conditions of parole. Senator Shaffer responded that the board works very closely with the Division of Adult Parole with regard to those complaints, but they do not have oversight over CPOs. Representative Lawrence asked for information about self-revocation of parole. Senator Shaffer discussed a number of reasons why some offenders prefer to self-revoke. Representative Kagan asked about loopholes by which offenders receive additional parole hearings that most offenders do not receive. Senator Shaffer expressed his opinion that the board could use more flexibility to review cases. He provided a list of five other suggestions for improving the process.

03:57 PM

The committee took a brief recess.

04:10 PM -- Presentation Regarding Reentry Programs for Parolees

The committee returned to order. Representative Kagan indicated that the presentation regarding the process of transitioning from prison to parole would be moved to Friday.

04:12 PM

Carl Wotowis, representing the Division of Adult Parole, came to the table to speak about the DOC's pre-release program and community reentry. He provided a written document as a complement to his presentation (Attachment K). He stated that the DOC reentry continuum is modeled after evidence-based practices in correctional programming nationally and internationally and provided information about the research studies that led to those evidence-based practices. The department's pre-release program has ten modules designed to increase awareness, personal accountability, self-sufficiency, networks of support, and action around critical reentry components. The pre-release program operates in 15 DOC correctional facilities.

04:22 PM

Mr. Wotowis continued his presentation of reentry with a discussion of the community reentry units that are located in seven parole offices and cover eight remote offices. The units provide services designed to stabilize and assimilate offenders back into communities. Specialists in this area coordinate reentry services with case managers, correctional education providers, CPOs, other state and local agencies, and faith-based organizations. Representative Lee asked if the division helps parolees get access to identification cards. Mr Wotowis committed to providing that information at a later date. He continued his discussion of the services and supports provided by community reentry specialists.

04:31 PM

Senator Lambert asked whether offenders can be released directly from a private prison facility and whether that would reduce costs of reentry. Mr. Wotowis indicated that he would provide that information at a later date. Representative Lee asked whether all inmates receive pre-release services prior to leaving prison. Representative Lawrence asked if such services are provided to offenders in administrative segregation. Mr. Wotowis spoke at length about the services and supports provided to inmates at all levels.

04:40 PM -- Presentation Regarding Community-based Offender Treatment Services

Barry Pardus, representing the Division of Adult Parole, joined the committee to discuss community-based offender treatment providers and services. He distributed two handouts to the committee (Attachments L and M). He began by talking about approved treatment provider program services, which is a network of treatment providers that offenders on regular parole who require mental health services and sex offender treatment may access. He shared statistics about the provision of mental health and sex offender treatment from FY 2010-11 to FY 2012-13.

04:48 PM

Mr. Pardus continued his presentation with a discussion of substance abuse treatment services provided through the Colorado Treatment Accountability for Safer Communities (TASC) program, administered by a contractual relationship with Peer Assistance Services, Inc. TASC provides the following services in ten offices statewide:

- case management, drug use monitoring, substance abuse treatment referral, and monitoring of parole condition compliance;
- daily reports provided to parole staff indicating noncompliance in the interest of public safety;
- travel to 15 rural areas to provide case management services;
- skilled staff who are trained in the mandated Standard Offender Assessment and are certified addictions counselors;
- baseline urinalysis tests for parolees;
- capability of handling co-occurring offender assessment and case management; and
- recording and documenting offender treatment contact information in C-WISE.

04:55 PM

The committee recessed until Friday, September 27, 2013, at 9:00 a.m.