

Governor's Community Corrections Advisory Council
Meeting Minutes
Meeting Date: September 5, 2008

Present: Larry Abrahamson, Thomas Giacinti, Dr. Harriet Hall, Paul Isenstadt, Jeffrey Mannix, Ernest Marquez, Barry Pardus and Dianne Tramutola-Lawson

Absent and

Excused: Christopher Cross, Charles Garcia Frank Dubofsky, Dr. Kalash Jaitly, Honorable John Kuenhold, Alex Marquez, Liane McFadyen, David Michaud, Jeaneene Miller, Dr. Charlie Smith, Peter Weir and Ari Zavaras

DCJ Staff: Carl Blesch, Glenn Tapia and Arlene Duran

Invited

Guests: Gregg Kildow, Barry Pardus, Shannon Carst and Jennifer Hoffman

The meeting was called to order at 12:20 PM. Tom Giacinti agreed to serve as acting chair. Approval of the preceding minutes was postponed until the Council's next meeting.

Old Business

Offenders' Ability to Pay

At the Council meeting of July 25, 2008, Paul Isenstadt agreed to conduct a survey and gather information on offender's ability to pay the current 17.00 per day subsistence charge. Mr. Isenstadt handed out a graph of a poll which was conducted by Dr. Evan Crist.

Mr. Isenstadt reminded the Council that the maximum \$17.00 offender subsistence fee was adopted in a fiscal note as the result of an 8% cut in the budget several years earlier. Dr. Crist's poll indicated that the average per hour rate for offenders is \$9.28 per hour, based on 160 hours a month. The minimum was \$2.65 per hour and maximum was \$21.67 per hour.

Larry Abrahamson felt that an offenders need to face the same situations they will encounter once they have completed their sentence, and \$510.00 for food and housing did not seem excessive. Mr. Abrahamson thought that offenders should pay on a sliding scale, based on what they can afford.

Mr. Blesch described an offender who seemed to be a model community corrections client. After working 60 hours a week at \$8.00 an hour for six months, he was able to pay his subsistence and yet save only \$350.00 and pay only \$375.00 of his \$1,400.00 restitution order. The offender was regressed to prison after committing another burglary. Mr. Blesch questioned whether the economic realities of the system had in reality encouraged the offender to recidivate.

Mr. Abrahamson asked what we have taught the offenders if we give them everything. Diane Tramutola-Lawson reminded the Council that Dave Cutter in Arapahoe County has a sliding scale fee and perhaps we should get his input. Tom Giacinti explained that Human Services experiences this situation all the time. People get a job and are making too much money to be

eligible for welfare, but are not making enough money to live. We have created this situation across a broad spectrum of government. Dr. Hall stated that the money has to come from somewhere if offenders cannot pay.

Mr. Isenstadt reported that programs write off \$1M every year from unsuccessful terminations. In addition to owing money, there are other issues, including treatment for substance abuse and mental health. It doesn't take long to expend the entire paycheck of some offenders at a subsistence level of \$17.00; however, if an offender has legitimate financial issues, all facilities are willing to help.

Mr. Abrahamson asked if there is data on how many offenders are unsuccessfully terminated because they are without financial assets. Glenn Tapia explained that the data could be obtained for each program from last year's fiscal data.

Ernest Marquez asked how many programs have failed financially and is there documentation on how much was owed? Mr. Blesch noted that three programs have failed, but those failures seemed more the result of a lack of investment at the corporate level than from unsuccessful offender terminations. Mr. Marquez also asked if outcomes were different for non-profit programs.

Mr. Blesch asked if Council would like to hear a presentation on sliding scale fees. Council requested such a presentation. Mr. Blesch will make the arrangements.

Risk Factor Analysis

At the last meeting, Glenn Tapia provided a detailed outline of changes that DCJ wants to make to the Risk Factor Analysis. After Council agreed with the potential changes, Glenn took the proposal to the Coalition, which recommended no substantive changes. He also took the proposal to board representatives at CACCB, who offered no additional feedback, but expressed appreciation for the process. In January, DCJ will publish and begin to implement the new Risk Factor Analysis.

New Business

New Board Contracts

Mr. Blesch reported that the contracts with the Boards will expire June 30, 2009. He recommended changes in the wording of the standard board contract that will tie the continued funding of habitually troubled programs to the Risk Factor Analysis. Mr. Blesch stated that the proposed change in language is intended to give both the state and local community corrections boards more leverage in dealing with programs that have habitually failed to make important improvements.

In summary, the proposed contract would contain the following provisions:

- The statutorily-mandated Risk Factor Analysis will be published each January.

- Beginning on and after July 1, 2011, a program that has been rated as Level I (formerly "High Risk") for both of the past two years in the published Risk Factor Analysis *and* that has had at least one additional follow-up audit in the twelve months preceding publication of the Risk Factor Analysis without successfully emerging from Level I status will be ineligible to receive funding under a subcontract with the board at the beginning of the next fiscal year. In effect, troubled programs will have more than two years to emerge from Level I status.
- This provision shall not apply to programs that are less than twenty-four months old when the most recent annual Risk Factor Analysis document is published.
- For good cause shown, DCJ may elect to waive this provision.

The proposed contract modifications also contained a provision dealing with the emergency suspension of payment to a community corrections program when, after an appropriate inquiry, it appeared that the continued operation of the program posed an immediate and significant threat to public safety. To invoke this provision, the State Court Administrator and the Executive Directors of the Department of Corrections and the Department of Public Safety, or their designees, would all need to agree in writing that the immediate and significant threat existed. The suspension of payment would continue until it appeared that the threat had been abated and was unlikely to recur. Payments for past services already rendered would not be affected by this provision.

Mr. Blesch indicated that, with the Council's approval, these changes would be presented to the Office of the Attorney General and state contracting authorities for approval. If the proposed changes survived the internal and legal review process intact, they would then be sent to DOC and State Judicial, and published to all boards and programs for comment. Mr. Blesch stated that he would present the results of those agency reviews and any comments received to the Council.

The Council discussed these proposals. Larry Abrahamson suggested that the nature of an immediate and significant threat be better defined. Mr. Giacinti stated that time would be required for the various county attorneys to review the provisions of the contracts, and suggested that the finalized documents be published to the counties in sufficient time for the contracts to become effective on July 1, 2009.

Mr. Giacinti moved to forward the contract revisions for review in the manner described. Dr. Hall seconded the motion. The motion carried unanimously.

Waiver Requests

For good cause shown, DCJ is authorized to waive individual provisions of the *Colorado Community Corrections Standards* upon the request of a program and with the approval of the appropriate local community corrections board. Requests of this kind are received frequently.

Mr. Blesch wished to inform the Council of the most common waiver requests and to learn more about the Council's position regarding such requests.

- DCJ commonly receives requests to waive square footage requirements, particularly when the waiver is occasioned by construction or some other temporary cause. Waivers for discrepancies of 2-3 ft.² are routinely granted.

More recent requests have been for 5-6 ft.² per offender. In general, DCJ tries to consider the totality of the circumstances. For example, in one recent request, a bedroom with a square footage deficiency opened onto a readily-accessible area measuring more than 2000 ft.². Suppose that room had opened onto a hallway?

Council members expressed the view that good cause must be shown before any square footage waivers, and that such waiver requests should be well documented. However, DCJ should demonstrate flexibility, with a view to the intent of the *Standards*.

- DCJ occasionally receives requests for the waiver of training hours, as specified by the *Standards*. For example, the *Standards* require 40 hours of professional training for administrators and line personnel and 20 hours for administrative staff members each year.

DCJ has received a waiver request that would permit the facility to consider twenty hours of in-service training to be sufficient for administrators and line personnel, and ten hours to be sufficient for administrative staff members. The reasons given for their request included the fact that the requesting facility has a staff with many years experience, and that training can be expensive to plan and execute because staff members must divert their attention from other matters to seek training or attend class.

Council members extensively discussed waivers of training hours. It was noted that most programs complete the training requirements set forth in the *Standards*, even though they may have a cadre of experienced employees. Several Council members expressed the opinion that it seemed inappropriate to grant a waiver for training when many other programs have met the requirements.

Dr. Hall expressed the belief that the term "training" seems to be broad, and that many types of training might meet the requirement. Mr. Isenstadt agreed that "training" as contemplated by the *Standards* is very flexible and program administrators, line personnel and staff should complete training to stay current. The view was expressed that training is essential in order to relate to our offender populations.

It was also noted that past performance audits have seemed reasonable in checking training requirements. Generally, a certificate or a signed roster is permissible.

Mr. Abrahamson asked whether it would be appropriate to set guidelines as to what constitutes training. Jeff Mannix asked why the Division does not provide syllabi for training that is relevant to community corrections positions. Mr. Blesch agreed to research these questions and report back to the Council.

Paul Isenstadt reminded Council that the Community Corrections Coalition provides training once a month. Mr. Giacinti indicated that some training might be available online.

- Mr. Blesch reported that the Division has also received requests to decrease the number of home visits required as the offenders progress through phases of nonresidential treatment. As offenders progress, supervision – including home visitation – decreases.

One provider has requested that certain home visits be changed from monthly to quarterly.

Discussion of that waiver request led to questions about why and how programs perform home visits for nonresidential offenders. It seems valuable to know where and with whom offenders are living, but some providers have instructed their home visitation staff not to enter the house or apartment of the offenders. Mr. Isenstadt stated that, because community corrections employees are not peace officers, it is difficult to make home visitation safe for staff members.

Mr. Abrahamson noted that monitoring has been important to the community in its decision to permit the existence of community corrections. Other Council members expressed the opinion that, unless staff members can actually enter a residence, home visitation may be of relatively little value.

It was agreed that Mr. Blesch would report back to the Council regarding any research that might reflect how home visitation could be accomplished safely and effectively.

- Mr. Blesch reported that the Division has routinely received waiver requests from facilities that desire to employ former felons, usually in a security capacity. Peer I and The Haven have been granted waivers for their employee interns for years. Mr. Blesch asked the Council's opinion regarding how long a person should be off supervision before that person should be considered eligible for employment if approved by the local board, DOC and DCJ.

Mr. Giacinti remarked that, in the 1970s, some facilities were operated by former felons. Paul Isenstadt indicated that many former felons who have rehabilitated have served community corrections well. Several Council members expressed the opinion that, if the community corrections system encourages employers to hire offenders in the community, it should "walk the walk" by trusting appropriate offenders to become employees at community corrections facilities.

Mr. Abrahamson noted that hiring offenders could be risky, but that most local boards include judges and prosecutors. If the board has approved a request, it probably has been vetted appropriately.

Announcements

Executive Director Weir announced that CDPS has communicated with the Governor's Office regarding the Council's vacancies and the desire to have a representative of the Division of Labor and Employment on the Council. It is unknown when the Boards and Commissions office will announce the new appointees.

Mr. Blesch reported to the Council concerning the new Community Corrections Information and Billing (CCIB) computer system. After about six weeks of operation, reviews are mixed. A few programs would prefer to return to paper billing; other programs have been enthusiastic about the system. A number of additional "bugs" must still be fixed before the system is considered fully functional.

Cooperative arrangements between providers, DOC and DCJ have made it possible to fill designated mental health beds with appropriate clients. There remain some concerns about how to appropriately continue the care of an offender who has transferred from a community corrections mental health placement to a community corrections program that does not have a formal mental health program. Dr. Hall reminded Council that many mental health providers are not set up to deal with the felony population.

Mr. Giacinti reported that he will try to convene the technology subcommittee of the Council in the near future. He described a Jefferson County project in which digital pens to prepare reports and to transmit data, saving time and money.

CDPS Executive Director Weir noted that the Criminal and Juvenile Justice Commission has nearly completed work on its initial recommendations to the Governor and the General Assembly. The Commission typically endorsed the work of the Council with respect to several of its projects, including an exploration of early, enhanced nonresidential placement for selected Diversion offenders, the potential for 2-4 weeks of in-house stabilization for new residential offenders and the Council's upcoming plan to explore the validity of the connections between offender assessment, treatment plans and actual treatment.

Council agreed that its next meeting would occur on Friday, November 7, from 12 PM until 3 PM. Shannon Carst of Community Education Centers (CEC) has offered a tour of a female treatment facility, the location of which will be announced.¹ Lunch will be served to Council members and invited guests. A regular Council meeting will follow the tour.

The meeting was adjourned at 3:00p.m.

¹ The location has been selected as Arapahoe County Residential Center (ACRC) , 2135 W Chenango Ave., Littleton, CO 80120 (303) 738-1109