

**MINUTES**  
**Criminal Justice Oversight Council Working Group**  
**August 31, 2018**

Attendance:

Working Group: Judge Kurt Krueger, Chair  
Marty Lambert, Gallatin County Attorney  
Peter Ohman, Public Defender Division Administrator (by phone)  
Kim Lahiff, Probation and Parole Bureau Chief, Missoula  
Brian Gootkin, Gallatin County Sheriff  
Rich St. John, Chief of Police, Billings

Other: Rhonda Schaffer, Director OPD  
Ingrid Rosenquist, Yellowstone Senior Deputy County Attorney  
Adrienne Cotton, Operations Manager, DOC

Welcome and Introductions:

Judge Krueger, Chair, welcomed the group and thanked everyone for attending.

The committee members as well as additional attendees introduced themselves.

Conditional Discharge from Supervision (CDFS):

Marty Lambert, Gallatin County Attorney, presented suggested changes to MCA 46-23-1011 *Supervision on probation*. Changes included conditions of a petition for CDFS including victims and ensuring the county attorney agrees with the petition.

Kim Lahiff, Probation and Parole Bureau Chief, said that they never had policy that staff could use but the Department followed the law. That defined compliance as to meet criteria is defined by the agency.

Ingrid Rosenquist, Yellowstone Senior Deputy County Attorney, advised that CDFS is multi-faceted, 2 issues; process of serving CDFS and getting to Court and the process of qualifying to CDFS, do they qualify best on risk assessment.

Peter Ohman, Public Defender Division Administrator, advised that PD's are overwhelmed with number of petitions, resources, and don't have enough PD's to help. DOC should be concerned that county attorney isn't getting a copy currently, the process needs cleaned up.

Marty wants to make sure that these are properly adjudicated. Needs individual scrutiny in cases and moving through process. Formal service should be used. Marty has concerns regarding Parole Board granting parole and standard supervision. District Judges sentences mean something, arbitrarily 2 years is all you have to do – not good. Judges give 15 years, DOC says 3 years – not good policy. Not acceptable that 90% of victims aren't being notified.

Kim wants to take steps to notify victims.

Marty advises that on the reinvestment bill, victims aren't considered.

Rich St. John, Chief of Police, states that some communities are getting more than others because more services are available – maybe hire more probation and parole.

Kim said that Petition should be structured by probation and parole.

Marty indicated that he would revise his proposal on statutory drafts and provide a new draft at the next meeting.

#### Early Termination from Supervision:

Marty presented suggested changes to MCA 46-18-203 *Revocation of suspended or deferred sentence*. Changes included revoking or resuspending a sentence.

Presented suggested changes to MCA 46-18-208 *Termination of remaining portion of deferred or suspended sentence – petition*. Changes included conditions of a petition including victims, DOC supports the petition, and removes the requirement that the petition is granted after 30 days.

Marty indicated that he would revise his proposal statutory drafts and provide a new draft at the next meeting.

#### Other Issues:

Judge Kurt Krueger, Chair, handed out the Adult Offender Cost Snapshot analysis. The handout showed that there is underutilization of treatment, prerelease, and transitions slots in the community and an overutilization of prison beds. Judges are making recommendations, but DOC is not following the Court's recommendation and has taken away pre-screening individuals for programs such as Connections, Nexus, etc.

Kim said we need chemical dependency evaluations. Judge stated that there are limited resources in the community to accomplish that.

Judge also stated that the Courts make determinations at sentencing in regard to placement to Nexus, Connections, Watch, etc. after considering several factors in the case. This is a judicial determination based on the Court's assessments of the factors, recommendations, and in accordance with the statutes. Judges are very concerned that DOC is not following their recommendations made at the time of sentencing and included in the judgements.

We are finding that every prison facility is 100-200 beds over and also the underutilization of treatment beds which are 20+ beds down in a single facility. Many probation and parole releases to the community are resulting in new crimes and lack of probation and parole supervision. DOC has been given the opportunity and tools to assist in the placement of defendants and to aid in their

rehabilitation, not to circumvent the judge's ultimate decision. Judges are very frustrated. DOC isn't utilizing services as much as they should – disregarding judicial process. After a Judge sentences a defendant to a DOC commitment, the defendant is released only a few months after sentencing. DOC isn't utilizing community-based treatment tools and following the judgment. In 2004-06 Governor Schweitzer worked hard to establish community-based programs to alleviate the overcrowding of the prison population and to provide effective treatment programs for offenders. Conditional releases and early parole were used to utilize these programs and provide an effective transition. Judges will be forced to take away this discretion from DOC if they do not utilize the resources available. At the present time, we are seeing increased crime, not less crime.

Brian Gootkin, Gallatin County Sheriff, said that the Law and Justice interim committee mandated DOC only 250 jail beds. We are full, we need beds for our jail. Put offenders in another bed not, release them. Where are they going, who's watching them? Need more probation and parole – being released and not supervised – reoffending.

Rhonda Schaffer, Director OPD, stated that there were 35,000 cases taken on misdemeanors, HB 133 created a 15% increase. Treatment services aren't on front end and if not provided, the cycle will continue. We need tools and check-ins for offenders to be successful.

Adrienne, Operations Manager, DOC said DOC has authority to break from Judges' recommendation on a DOC commitment.

Judge stated that the current re-entry program is not utilizing the needed structure and tools available. While there is cost savings, they've also changed the level of supervision by probation and parole and there appears to be a general disconnect with the defendant.

Adrienne said in examining the breakdown of programs, statistics show that those released from prison don't commit new crimes as much as those who have gone through pre-release.

Judge disagreed and asked Adrienne to provide those statistics or studies at the next meeting.

Brian said that he is also frustrated with the lack of concern for public safety by DOC, emphasis is on the budget.

Rich agrees. Release without supervision and without providing for proper resources offenders will reoffend.

Marty stated that the DUI legislation/HB 133 changes are an example that DOC didn't step up on utilization of a treatment program.

Adrienne said that you are making a lot of very good points. DOC values their programs.

Judge stated that there was underutilization and treatment resources will be lost.

Rhonda stated that in June 2018, Montana challenges will continue. 74% of prison admissions are technical violations - goes along with what Judge Krueger is saying.

Kim said that lots of changes need to happen and they may need to be statutory.

Judge stated that DOC has a lot of discretion and is not using it properly. It does not have to always be a legislative issue.

Marty said their needs to be consistency from DOC, and answers on underutilization of facilities.

Brian said there needs to be discretion, leadership of organization – public safety vs. budget.

Adrienne said that the number one goal is public safety. Keep kids safe walking to school.

Ingrid stated that offenders need to be assessed for programs. DOC is underassessing their risk which results in a lower level of supervision in the community. Determine appropriate placement and supervision in the community and need more probation and parole.

We will continue to discuss these issues at the next meeting.

Marty to call Peter to reach agreements on the motion for petition.

It was determined that the next meeting would be held on **Wednesday, September 19, 2018 at 10:00 a.m., Archives, Butte, Montana.**

Adjourn.