

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

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OVERARCHING PRINCIPLES

- Penal Code Section 17.5-Legislative intent towards community based corrections, justice reinvestment and community based punishment which requires "realigning low level offenders." Evidence based practices are to be utilized to guarantee public safety and decline in recidivism.
- Penal Code Section 3450-Same criteria for release process.
- Implications for the court system.

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

- NO SUPERVISION
 - P.C. Section 1170(h) sentence with no tail
 - PTOR
 - Refusal of Parole (Current)

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

• PROBATION

- Eligibility-Penal Code Sec. 1203, et seq.;CJER Felony Sentencing Monograph.
- Conditions set by court
- Supervision up to five years
- Intermediate sanctions(?)
- Revocation Process

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

• MANDATORY SUPERVISION

- Eligibility-P.C. Section 1170(h)(5)(B)-The so called "split" or "blended" sentence. No existing or prior violent offense, no existing or prior serious offense, no offense registerable or the defendant registerable, no aggravated white collar offense. There are over 500 offenses in the 16 mon., 2 year, 3 year triad which are eligible. There are many excellent lists detailing eligible and excludable.

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

• MANDATORY SUPERVISION (CONT.)

- Mechanics-Court imposes a sentence of months and reserves a balance to be done on mandatory supervision. The court sets the conditions similar to a grant of probation, but it is not. 1) this counts a prison prior; 2) duties on court and jail for documentation; 3) all respects a prison sentence served at the local level.
- Intermediate sanctions-potentially. (Currently unknown)

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

- MANDATORY SUPERVISION (CONT.)
 - Revocation-Proceeds like a PRCS revocation and the maximum is the balance of the term yet unserved.

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

- POST RELEASE COMMUNITY SUPERVISION
 - Who gets it-non, non, non, non after 10-1-11. Penal Code Section 3451-3451(b)
 - Conditions-Penal Code Section 3453
 - Contract
 - Includes "flash incarceration" as a part of the contract. Penal Code Sec. 3454(c).
 - Probation can modify conditions. (Court participation or solo)

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

- POST RELEASE COMMUNITY SUPERVISION (CONT.)
 - Revocations-Penal Code Section 3455 and Rule of Court 4.540
 - Who Hears?-Hearing officer with qualifications. (Government Code Sec. 71622.5)
 - Probable cause determination prior to warrant or arrest is required.
 - Hearing within reasonable time
 - Options-1) 180 day max. sentence; 2) Modify conditions; 3) Parolee Reentry Court. (Penal Code Section 3455)
 - Burden of proof-Same as VOP. (Preponderance of evidence)

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

- PAROLEES

- Eligibility-Penal Code Section 3000-These are the persons falling into the yes, yes, yes, and yes category.
- CDCR sets conditions
- Terms last 4 years, 7 years, 15 years, 20 years and six months, and life depending on the offense.
- No flash incarceration until 7/1/13. P.C.Sec. 3000.08

WHO ARE THE PEOPLE IN YOUR NEIGHBORHOOD?

- PAROLEES (CONT.)

- Revocations-Penal Code Sec. 3000.08-BPH conducts until 7/1/13. There is a requirement of probable cause to revoke, and hearings within a reasonable time. (Morrissey v. Brewer (1972) 411 U.S. 778) Due process hearings.
- Sanction-up to one year; after 7/1/13-same as PRCS. Lifers and High Risk Sex (3 Saratso) remain.

POST RELEASE COMMUNITY SUPERVISION REVOCATION

- Adopting a Court Strategy which Implements the Legislation

- Arriving at Court consensus as to where your court is with evidence based practices; cooperation with Probation; Flexibility in process-Clarity in Purpose
- Remembering goals of the legislation
- Raising comfort level of bench with periodic meetings, and consistency in approaches.

POST RELEASE COMMUNITY SUPERVISION REVOCATION

- Working with Court Staff to guarantee a clear path on the receipt of documents and a time line for the execution of all important steps in the process.
 - Who does what?
 - Receipt of the probable cause and warrant request.
 - Receipt of the petition, and service of it.
 - Open a new file?

POST RELEASE COMMUNITY SUPERVISION REVOCATION

- Adopting a protocol in conjunction with the justice partners which is clear as to responsibilities for certain actions, the follow up paper work, and the next steps clearly stated.
 - Bedrock for this will California Rule of Court, Rule 4.540 and the forms generated.
 - There are forms on the CPOC and CSAC websites which more clearly guarantee due process rights

POST RELEASE COMMUNITY SUPERVISION REVOCATION

- The justice partners should meet on a periodic basis to guarantee a smooth transition into this new world.
 - Using Community Corrections Partnership to monitor all phases of the transition.
 - Active participation by the bench.
 - Ethical concerns
