

Chief Judge Directive 98-01

State of Colorado
Eleventh Judicial District
Office of the Chief Judge

The Court has received and considered the attached memorandum from Chief Probation Officer Randy Heberer regarding deferred sentences for inmates of the Department of Corrections.

After full and careful consideration of the concerns expressed by Mr. Heberer, it is now ordered that to conserve and properly utilize the scarce resources of the Probation Department of the Eleventh Judicial District, no such resources shall be expended in any case where an inmate of the Department of Corrections is to receive or does in fact receive deferred sentencing.

This directive is intended to include investigatory as well as supervisory resources, and therefore no presentence investigative report shall be prepared in such cases.

Done at Canon City, this 4th day of June, 1998.

/s/ John Anderson
Chief Judge
Eleventh Judicial District

cc: Randy Heberer, Chief Probation Officer
Hon. Julie G. Marshall
Hon. Kenneth M. Plotz
Hon. Stanley J. Mayhew
Hon. William G. Fox
Hon. William P. Alderton
Hon. Harold D. Taylor
District Attorney

(Attachment)

MEMORANDUM

January 8, 1998

TO: Chief Judge John Anderson
FROM: Randy Heberer, Chief Probation Officer
SUBJECT: Deferred Sentences on DOC Inmates

It has recently come to my attention that inmates who have positive urine screenings within the Department of Corrections are being charged with either Possession Contraband or Unlawful Use / Possession of Controlled Substance. The first six of these have occurred in Chaffee County and concern inmates in the Buena Vista Correctional Facility. All six were given deferred sentences by Judge Plotz and were referred to probation to sign up for supervision.

Although I agree that this is a good tool to involve inmates in substance abuse treatment and a way to hold a subsequent felony conviction over their head as a hammer, there are numerous concerns I have when probation becomes involved in this process:

1. I do not have sufficient staff to send officers out to various correction facilities, sign deferred sentence agreements, and attempt to keep track of an inmate's progress in treatment.
2. The number of inmates within the 11th Judicial District is a staggering amount; those who test positive have the potential to overwhelm the ability of probation to sign up and monitor them.
3. Inmates are regularly transferred around the state to various institutions not in the 11th Judicial District. A deferred sentence supervision is nontransferable between separate judicial districts which could then require me to send officers to Limon, Ordway, Las Animas, Denver, or wherever state correctional facilities are located.

In summary, I am unable to allocate additional time of probation officers who are already overtaxed doing regular duties within the community. I therefore recommend that the 11th Judicial District Probation Department be exempt from this project.