

MINUTES
Sex Offender Policy Board
The Ramada Inn
4520 Martin Way East
Olympia, WA 98503
September 17, 2009

Member Present:

Sheriff Mark Brown
Anmarie Aylward
Brad Meryhew
Bev Emery
Mary Ellen Stone
Kecia Rongen
Russell Hauge
Andrea Piper
Maureen Saylor
Brooke Burbank
Carey Sturgeon
Betsy Hollingsworth

Members Absent:

Lynda Ring-Erickson
Hon. Laura Middaugh
Ida Ballasiotes
Andrew Neiditz

Staff Present:

Shoshana Kehoe-Ehlers
Shannon Hinchcliffe
Stevie Peterson

Others Present

Carolyn Sanchez, Washington State Patrol; Becky Miner, Washington State Patrol; Shani Bauer, Senate Counsel; Dawn Larsen, Washington Association of Sheriff and Police Chiefs; Terry Price, Washington State House of Representative; David Charles, Department of Social and Health; Charles Shelan, Community Youth Services; Lisa Johnson, King County Prosecutor's Office; Ed Holm, Thurston County Prosecuting Attorney; Frank Frawley, Thurston County Sheriff; Robert Wilson, Lacey Police Department; Dianne Ashlock, Department of Corrections; Laura Johnson, Office of Crime Victims Advocacy; Rashad Morris, Senate Democratic Caucus; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; Patricia Layden, Freedom Project/Host Family; Amy Pearson, Office of Crime Victims Advocacy; Dru Swain, Washington State House of Representative; Jael La'Salle, Juvenile Services Coalition; Christmes Covell, Washington Association for the Treatment of Sexual Abusers

1. Call to Order

The meeting was called to order by Chair Russell Hauge at 10:10 a.m.

2. Introductions

Board and Committee members introduced themselves.

3. Revise and Adopt Agenda

Chair Russell Hauge added an agenda item after the Sex Offender Leveling State Survey Presentation agenda item to discuss the Board's decision-making process specific to the SHB 2714 legislative report content.

4. Approval of Minutes

- **July 16, 2009 – Tabled**

- **August 20, 2009**

MOTION # 25 APPROVAL OF THE AUGUST 20, 2009 MINUTES

Moved: Mary Ellen Stone

Seconded: Kecia Rongen

Passed: Unanimously

5. Sex Offender Leveling State Survey Presentation

SOPB Policy Counsel Shannon Hinchcliffe presented her research on Washington State law and other state laws regarding adult leveling processes for sex offender registration and notification. The scope of research was “consequences for risk-based leveling” which included the following areas of focus:

- Risk-based vs. offense-based system
 - Leveling tools
 - Body responsible for leveling decision
 - Models of due-process
 - Use of multi-disciplinary board/committee(s) in process
- Ms. Hinchcliffe provided a chart summarizing all states' leveling processes and presented a snapshot of five states (Arizona, Minnesota, Idaho, New Jersey, and Massachusetts) to illustrate differences.
 - Brad Meryhew noted that in Washington State if a sex offender fails to register their risk level increases. He inquired if this was the practice in any other state(s). Ms. Hinchcliffe noted that while other states typically do have a list of dynamic factors that may increase risk-level, she did not remember seeing “failure to register” on these lists.
 - Chair Hauge inquired if the survey showed any other states where ultimate leveling decisions are dispersed across counties. Ms. Hinchcliffe was not aware of any.

Break 11:15 a.m. – 11:25 a.m.

6. Legislative Report Discussion (appended agenda item)

Chair Hauge and Vice-Chair Andrea Piper spoke to the importance of defining how the Board will make decisions about what to include in the final legislative report in response to SHB 2714 and opened the topic for discussion.

- Mr. Meryhew suggested that the Board establish a clear definition of their “consensus” decision-making. Mr. Meryhew and Bev Emery also encouraged the Board to figure out where they have consensus, where they disagree, and then decide how to report on issues of discrepancy. These issues are not covered in the SOPB Bylaws.
- Ms. Emery noted that the Board has a complex task and therefore their decision-making process should involve a written record of a vote.
- The Board discussed that “consensus” means they are each consenting on behalf of the agencies they represent. The SOPB then has a responsibility to bring recommendations to the agencies they represent for discussion.
- Ms. Stone offered to develop a proposal, with Ms. Emery’s assistance, that will break down the decision-making process on legislative report content into steps and include a definition of “consensus.”

7. Registration and Community Notification Committee Presentation on Proposed Recommendations for the November 1, 2009 Legislative Report

Registration and Community Notification Committee Chair Kecia Rongen explained that, as part of the assignment pursuant to SHB 2714, the Legislature asked the Committee to research community notification practices in jurisdictions nation-wide to help determine recommendations for Washington State. Ms. Rongen introduced the three workgroups conducting this research: Juvenile Sex Offender Registration and Notification, Community Notification, and Failure to Register/Registration/Risk Assessment. Committee workgroups were then called upon to present their recommendations for the legislative report.

- **Community Notification Workgroup:** Amy Pearson presented on behalf of the Community Notification workgroup. Ms. Pearson spoke to the importance of making a clear distinction between community notification and registration. Amy noted that the workgroup feels education is a missing piece in community notification and suggested providing community forums to provide citizens with information about sex offenders and tips for prevention. This approach would require maximum community involvement, including law enforcement and victim advocates.

- **Juvenile Registration and Community Notification Workgroup:** Ms. Rongen presented on behalf of the Juvenile Sex Offender workgroup. Ms. Rongen explained the workgroup's focus is on a nationwide examination of juvenile vs. adult sex offender practices and results. The workgroup presented the following recommendations:

- **Issue #1: Juvenile Re-registration**

Recommendation (in summary):

Remove required 90-day check-ins for Level II and Level III Juvenile Sex Offenders. The workgroup is considering the proposed law enforcement "address verification program" for adult registered sex offenders as a more effective alternative to the 90-day check-in.

Discussion:

- The Board discussed whether this change would require a new codified statute, or if they can just propose to change the 90-day check-in within the existing statute.

- **Issue #2: Relief from Registration and Automatic Termination for Adjudicated Juveniles**

Recommendation (in summary):

(Level I) Automatic termination from the juvenile sex offender registry on their 25th birthday — Prosecutor's Office can object. If petitioner fails to be relieved they would be transferred to adult registration system.

(Level II and III) May petition for relief from duty to register if petitioner can present evidence of being "significantly rehabilitated" based on specific criteria/requirements. If petitioner fails to be relieved they would be transferred to adult registration system.

Discussion:

- There was a question posed whether the recommendation for relief at 25 years old takes into consideration other criminal activity. Juvenile workgroup member Ms. Emery clarified that both the Level I and the Level II and III recommendation is based on no new offenses.
- The Board discussed lowering the age for Level I relief to 21 years old, as noted in the original recommendation.

➤ **Issue #3: Validated Juvenile Risk-Assessment Tool**

Recommendations (in summary):

Request the Legislature authorize funding for: 1) the training on a current standardized and accepted juvenile risk assessment tool, and 2) the creation and/or validation of a risk assessment tool.

Discussion:

- The Board inquired if the workgroup has found a “model” tool to look at. Ms. Rongen noted they are currently looking at the JSO assessment tool in New Jersey.

➤ **Issue #4: Assigning a Risk Level to Juvenile Sex Offenders**

Recommendation:

Change law so a multi-disciplinary body of experts levels JSOs. The workgroup recommended increasing involvement and responsibility of the End of Sentence Review Committee (ESRC) in leveling JSOs.

Discussion:

- There was an expressed concern regarding law enforcement’s reaction to sharing the responsibility of establishing risk-level because law enforcement will ultimately bear the responsibility in the community. It was clarified that part of the purpose is to relieve law enforcement from having ultimate responsibility.
- The Board discussed the recommendation that sharing the leveling responsibility is best-practice and best public policy.

➤ **Issue #5: Who in the Community Should be Notified of a Juvenile Registered Sex Offender?**

Recommendation (in summary):

Level 1 offenders are posted on the WASPC Web site only when the juvenile sex offender is out of compliance. No changes to Level II and III law.

Discussion:

- The Board discussed the one county in Washington that posts Level I offender information.
- The Board discussed how to handle feedback and opposition to workgroup recommendations since the recommendations are based on extensive research. Attending legislative staff advised the Board to include in their report if and when they make a recommendation that goes against the evidence gathered by the workgroup.
- There was discussion about whether the Board is recommending evidence-based best practices, or only those they believe can and

will be funded. It was noted that the Board's duty should be to report on evidence-based best practices; it's up to the Legislature what to fund.

- Ms. Rongen noted the workgroup was skipping Issues #6 and #8.

➤ **Issue #7: Create Separate Juvenile and Adult Registries by Statute**

Recommendation (in summary): Create a statute to separate adjudicated juveniles from adults titled the "Juvenile Sex Offender Registration and Notification Law."

Discussion: The Board discussed this issue and had no questions.

- Mr. Meryhew's presentation of recommendations from the Failure to Register/Registration/Risk Assessment Workgroup was tabled until the next meeting.
- Discussion of recommendations for Report pursuant to SHB 2714 will continue at next meeting.

8. Meeting Schedule

The next SOPB meeting is tentatively scheduled for October 5, 2009 from 1:30-5:00 p.m. at the Department of Corrections in Tumwater.

9. Other Business

- Ms. Stone will submit a proposal to the Board via email regarding the definition of consensus and how to make note of "no" votes in the legislative report. The proposal will also include a statement confirming the Board is providing recommendations based on best practices for the "real world."
- SOPB Program Director Shoshana Kehoe-Ehlers informed the Board that staff will be starting to draft the legislative report on Monday, September 28th. It is therefore important the Board continue to meet frequently and be prepared to make headway at the October 5th meeting.

10. Public Comment

- A representative from Clallam County made note of the problem presented by Level I offenders crossing the state border from Oregon because they don't have to register when they arrive in Washington.

11. Adjournment

The meeting was adjourned by Chair Russell Hauge at 1:50 p.m.

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

Chair Russell Hauge

Date

Shoshana Kehoe-Ehlers

Date