STATE OF WASHINGTON
SEX OFFENDER POLICY BOARD
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FULL BOARD MEETING
MINUTES
Thursday, March 10, 2011
10 a.m. to 3 p.m.
Criminal Justice Training Center
19010 1st Ave. South, Rm. C-220
Burien, WA 98148

Members Present:
Kecia Rongen
Bev Emery
Maureen Saylor
Lynne N. DeLano
Dr. Holly Coryell
Hon. Laura G. Middaugh
Brad Meryhew
Anmarie Aylward
Andrea Piper-Wentland
Lindsay Palmer for Mary Ellen Stone

Members Absent:
Brooke Burbank
Joanna Arlow
Lynda J. Ring Erickson
Mary Ellen Stone
Russ Hauge
Stacy Krantz

Staff Present:
Shoshana Kehoe-Ehlers
Sandy Mullins
Andi May

Others Present:
Amy Pearson, Office of Crime Victim Advocacy; Kim Johnson, Washington State Patrol; Kim McParland, Washington State Patrol; Lori Ramsey-Gilkey, Department of Corrections; Lisa Johnson, King County Prosecuting Attorney; Julia McLawlsen, Special Commitment Center; Dawn Larsen, Washington Association Sheriff and Police Chiefs
1. **Call to Order**
   SOPB Chair Kecia Rongen called the meeting to order at 10:08 a.m.

2. **Introductions**
   Kecia asked members and guests to introduce themselves.

3. **Approve December 2, 2010 and January 13, 2011 Minutes**

   **MOTION # 11-3 APPROVE DECEMBER 02, 2009 MINUTES WITH CORRECTIONS**
   Moved: Maureen Saylor
   Second: Lynn DeLano
   Passed: Unanimously

   **MOTION # 11-4 APPROVE JANUARY13, 2011 MINUTES WITH CORRECTIONS**
   Moved: Lynn DeLano
   Second: Andrea Piper-Wentland
   Passed: Unanimously

4. **Revise and Adopt Agenda**
   Kecia reviewed the agenda with the members and asked if any of the members would like to add or amend anything. The Board agreed to adopt the agenda in its original form.

   **MOTION # 11-5 APPROVE THE MARCH 10, 2011 AGENDA**
   Moved: Anmarie Aylward
   Second: Andrea Piper-Wentland
   Passed: Unanimously

5. **Committee Reports**
   - **Case Review Protocol Ad Hoc Committee:**
     Maureen Saylor gave a quick overview of the Case Review protocol. Maureen explained that they could not use another state’s protocol as an outline because there no other states that have a review process. The committee used the Child Fatality Review (CFR) process as a template for modifications to the previous guidelines the Board established for case reviews. Maureen let members know that the protocol that in their packets was an updated version of the one they received by email last week.

     The Board made a minor correction.

   **MOTION # 11-6 APPROVE THE CASE REVIEW PROTOCOL WITH CORRECTIONS**
   Moved: Bev Emery
   Second: Andrea Piper-Wentland
   Passed: Unanimously
SOPB legislative Committee:
Andrea Piper-Wentland informed members that the committee has been meeting by teleconference on a weekly basis. Andrea let members know that there were bill summaries in their packets.

SB 5203 - Improving the administration and efficiency of kidnapping and sex offender registration.
Sponsors: Senators Regala, Hargrove, Stevens and Shin
Summary: Terminology currently used throughout the registration and notification provisions is defined for the first time. Fixed residence is defined generally as a building that a person lawfully and habitually uses as living quarters a majority of the week.

For the purposes of registration in this state, a sex offense includes:
- any federal conviction classified as a sex offense under the federal Sex Offender Registration and Notification Act;
- any military conviction for a sex offense; and
- any conviction in a foreign country for a sex offense obtained with sufficient safeguards for due process.

A person with a federal or out-of-state conviction for a sex offense may request to be removed from the registry if the person was relieved of the duty to register in the person's state of conviction.

Changes clarify that two or more prior felony convictions for failure to register will classify a new conviction for failure to register as a class B felony regardless if those convictions were in Washington or in another state.

A person who is required to register in Washington for a crime committed in another state may petition for relief from registration in the county of the person's residence rather than being required to file in Thurston county.

The responsibility of law enforcement and a school in response to notification that a sex offender will attend the school is set out in a separate statute. Law enforcement must provide notice to the school principal and the school district. Information about the student that must be provided is specified to include the risk level classification.

SB 5204 - Concerning juveniles who have been adjudicated of a sex offense
Sponsors: Senators Regala, Hargrove and Stevens
Summary: A person who has a duty to register for a Class A kidnapping or sex offense committed as a juvenile, age 15 or older, must have spent at least 60 months in the community with no new sex or kidnapping offense before the person may petition to be relieved of the duty to register. Any other person
who has a duty to register for a sex or kidnapping offense committed when the person was a juvenile must have spent at least 24 months in the community with no new sex or kidnapping offense before the person may petition to be relieved of the duty to register. In order to be relieved, the person must show by a preponderance of the evidence that he or she is sufficiently rehabilitated to warrant removal from the registration system. This burden of proof applies regardless if the person was under or over the age of 15 at the time of the offense.

A person who committed a sex offense as a juvenile and who has been relieved of the duty to register or whose duty to register has ended, may have his or her records sealed in the same manner and under the same conditions as other offenses unless the person was adjudicated of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion.

If the court orders 24 hour continuous monitoring of an offender who is awarded a SSODA, the court must include the basis of this condition in its findings.

The ESRC must assign the initial risk classification for juveniles under the jurisdiction of the county juvenile court and juveniles supervised from out-of-state under the interstate compact for juveniles.

The Superintendent of Public Instruction must publish a revised and updated sample policy for schools to follow regarding students required to register as sex or kidnapping offenders.

**Discussion:** This bill is scheduled to be heard by the House Early Learning & Human Services Committee on March 17th @ 8 a.m. Andrea explained that the section regarding the school safety plan had been removed due to the large fiscal note from OSPI. The Board discussed the possibility of the House putting the school section back in the bill if it was changed to reduce the associated fiscal note. Andrea mentioned that she would take all comments back to the legislative committee when they have their next conference call.

**SB 5790 – Concerning crime-related boards and commissions**

**Sponsors:** Senators Hargrove, Regala, Stevens & Shin

**Summary:** The SGC is eliminated as a standalone agency. The structure of the SGC remains in the code as a dormant commission within the Office of Financial Management that may be convened by the Governor or the Legislature and within amounts appropriated. The Department of Corrections (DOC) serves as the clearinghouse and information center on adult and
juvenile sentencing, and assumes full responsibility for administering the interstate compact for adult offender supervision in the state.

The SOPB is established in the OCVA. The SOPB meets at least quarterly and is tasked with responding to requests from the Governor and the Legislature on issues relating to sex offender policy, conducting case reviews of sex offense incidents as requested by the Governor and the Legislature, and responding to legislative mandates. The SOPB must report annually with a staff review of new research and evidence-based practices relating to sex offender management, policy options discussed, and any recommendations for policy changes.

**Discussion:** Board members questioned why this bill would have the Governor appointing the members and the chair of the board. Staff will check with Shani Bauer to clarify. Sandy went ahead and explained the history of the bill.

**5102- Concerning registered persons in adult family homes, boarding homes, and other assisted living situations.**

**Sponsors:** Carrell, Stevens, Schoesler, Pflug, Ericksen, Roach, Holmquist-Newbry

**Summary:** The Sex Offender Policy Board (SOPB) must conduct a thorough review of the housing options for sex offenders who are aging and/or have health-related issues and therefore need some form of assisted living. By December 1, 2011, the SOPB must report to the Governor and the Legislature regarding:

- the scope of the need for housing, including populations releasing from the Special Commitment Center and the Department of Corrections, as well as sex offenders already in the community; and
- the types of housing currently available and how sex offender populations are currently being served; and recommended policy options to increase available housing while protecting the general public and other vulnerable persons.

**Discussion:** It is Andrea’s understanding that if the SOPB continues into the next biennium it would be tasked to follow this bill’s directive.

**5351 - Prohibiting certain registered sex offenders from entering school grounds.**

**Sponsors:** Honeyford, Swecker and Schoesler.

**Summary:** A school is defined as a public or private school regulated under Title 28A RCW or chapter 72.40 RCW. Law enforcement may issue a written notice to leave or written permission of entry to a covered offender when the covered entity is a school. A school must take action if it becomes aware that a level III sex offender is on the school premises by either:
• issuing a notice for the person to leave or giving them written permission of entry; or
• requesting that law enforcement make a determination as to the safety of the individual on the premises and either issue a notice to leave or written permission of entry.

The designations of risk level II and risk level III are removed from the definition of a covered offender. The list of sex crimes involving a minor is updated to include crimes for the commercial sexual abuse of a minor.

**Discussion:** This bill did not pass out of the Senate before the March 7th cutoff date.

6. **Program Director’s Reports**
Shoshana Kehoe-Ehlers commented on SB 5790, discussing how this bill would affect the Board’s functions and the importance of keeping an ongoing list of accomplishments and developing a plan to continue the work of the Board when there is certainty as to its future.

Sandy Mullins updated the members regarding the work of the college intern and the development of the communication plan. The website has a new list of informational websites and the intern is finalizing a list of media contacts.

**BREAK 11:04 a.m. to 11:15 a.m.**

7. **Adam Walsh/SORNA**
Sandy led the Board through a review of the Adam Walsh Act/SORNA Compliance Checklist that would need to be submitted to the Federal SMART Office by July 26, 2011. Members assisted in filling in unanswered questions. See completed checklist in the meeting materials.

The governor’s policy office requested that the SOPB complete a draft of the AWA/SORNA compliance packet to submit to the SMART office before July 2011. SOPB staff anticipates completing this by early April 2011 for the governor’s office review. The SMART Office has also requested that states submit their compliance packets in April to allow sufficient time for the SMART Office staff to review and request any additional information from the States. During the last two years, the SOPB has drafted a substantial amount of materials documenting compliance and the effectiveness of Washington’s state registration and tracking system.

There are still very few states and tribes found in “substantial compliance” with AWA/SORNA. Some states such as California and Texas have stated that they do not anticipate being in compliance with SORNA due to cost and
dispute with SORNA’s tiering/offense based system. At this time, the SMART Office will not grant any further extension requests. However, SMART does appear to be working individually with states to accomplish “substantial compliance”.

Sandy discussed the federal grant opportunity through the SMART Office to assist states in implementing SORNA. Members discussed compliance areas that would be appropriate for grant funding. Brad Meryhew suggested that the Board apply for funding to conduct a study regarding the proper assessment of risk level, perhaps in the context of risk versus offense based tiering. It was also suggested that the Board could use this funding to assist in the integration of sex offender registration data between the state and Washington tribes. Sandy stated that she would follow-up with the SMART Office to see what type of projects they would be more likely to fund.

**Lunch 12:15 p.m. to 12:55 p.m.**

8. **Board Members’ Presentations**

Dr. Holly Coryell from the Special Commitment Center introduced Julia McLawsen, a Fellow at the Special Commitment Center. Julia gave an overview of the Center’s history and Dr. Coryell outlined current issues faced by the Special Commitment Center. See PowerPoint presentation in meeting materials.

Dawn Larsen from Washington Association of Sheriff and Police Chiefs discussed the issues faced by tribes as they try to implement the requirements of SORNA. The two primary hurdles relate to tribes maintaining their sovereignty and possessing the appropriate technology in tracking both tribal and non-tribal registered sex offenders.

Washington State requires members of a tribe to register with the State if they attend school or reside in the State’s jurisdiction. Tribes require all RSOs in their jurisdiction to register. Some tribes will not permit non-tribal members required to register to enter or reside in their jurisdiction. In addition, some tribes, like the Tulalip tribe, will not permit a tribal member required to register to reside in their jurisdiction.

Since the inception of the AWA, tribes have followed the SMART office’s lead in entering the registration data into a software program named Tribe and Territory Sex Offender Registry System (TTSORS). TTSORS was created to assist the 197 Indian tribes that have elected to implement SORNA and the 5 principal U.S. territories. It includes a customizable public website and a private administrative website for managing sex offender information. This software links into a federal portal where information is shared and can be
viewed nationwide by both state and tribal jurisdictions. There is no cost associated with using TTSORS.

Washington State uses OffenderWatch software to enter and maintain registration data. Users must purchase OffenderWatch and pay an annual maintenance fee. Approximately 40 states use OffenderWatch, but not necessarily statewide. OffenderWatch users can directly link with other OW users. A few tribes already have memorandums of understanding (MOU) with state county law enforcement agencies to investigate and prosecute sex related crimes which then allows for information to be entered into that individual county's website and the state registry. Washington's 39 counties use OffenderWatch. Federal, state and tribal jurisdictions continue working on the issue of linking to each other so that information can be easily shared.

The Washington State Patrol expressed concern that they do not believe they have immunity from entering tribal incorrect registration information into registry. Local sheriffs and police chiefs do have statutory immunity.

It is clear that bringing tribes and states into compliance with SORNA in the area of sharing registration information and effectively tracking RSO is an ongoing challenge, especially in Washington due to the number of federal and state recognized tribes. However, during the last two years, there has been a substantial increase in communication and collaboration between and amongst jurisdictions.

9. **2011 Direction of the Board and Workplan**

Members used a chart listing the Board's statutory duties and the suggested list of topics from the January 2011 meeting to frame this discussion. See chart in the meeting materials. Members discussed documenting the Board's analysis and accomplishments along with a list of projects and issues that still need to be addressed. Lindsay Palmer discussed the possibility of future grants to fund the work of the Board as well as how best to use the media contact list. Lynne DeLano discussed issues that the Indeterminate Sentence Review Board was encountering with sex offenders who had completed sex offender treatment and met criteria for release but remained a concern to public safety.

Sandy stated that the Adam Walsh Act Compliance packet and grant application would take up most or all of staff time so we will need to set realistic goals of what can be accomplished, particularly in light of the Board's uncertain future.

It was decided that staff and Board members would work on the following three short-term projects over the next two months:
• Adam Walsh Act (AWA)/SORNA Compliance Packet (SMART Office requested April 2011 submission). This is a staff project, with input from Kecia Rongen, that will be submitted to John Lane in the Governor’s Office for his review and input before final submission.

• AWA/SORNA Compliance Grant Application (Due in April). This is a staff project with assistance and input from Bev Emery, Amy Pearson, Anna Aylward and Brad Meryhew.

• Flow Chart demonstrating the process of special commitment and other procedural steps involving sexually violent predators (SVPs). This project would be led by Dr. Coryell, Anna Aylward and Lynne DeLano.

• Benchmark maps IT functionality by adding pop-up information boxes to the benchmark maps. This project would be led by Amy Pearson and Andrea Piper-Wentland.

10. May 12, 2011 Full Board meeting plan
The next meeting will take place at WASPC in Olympia from 10:00 a.m. to 3:00 p.m.

11. Public Comment
There were no comments from the public.

12. Adjournment
Chair Kecia Rongen adjourned the meeting at 3:02 p.m.

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

_________________________________  ______________________________
Chair Kecia Rongen                     Date

_________________________________  ______________________________
Shoshana Kehoe-Ehlers                  Date