SEX OFFENDER POLICY BOARD
October 21, 2013  9am – 3pm
Washington Association of Sheriffs and Police Chiefs
3060 Willamette Dr. NE  #200
Lacey, WA  98516


Members Absent: Reagan Dunn  Jeff Patnode  Jonathan Meyer

Staff: Keri-Anne Jetzer

Others Present: Shani Bauer, Senate Human Services & Corrections  Michael O’Connell, WATSA

I. CALL TO ORDER
Chairperson Andrea Piper-Wentland called the meeting to order.

II. APPROVE MEETING MINUTES FROM NOVEMBER 16, 2012

MOTION #13-1:  MOTION TO APPROVE NOVEMBER 16, 2012, MEETING MINUTES

MOVED: Bev Emery  SECONDED: Dan Yanisch  PASSED: Unanimously
III. SPECIAL SEX OFFENDER SENTENCING ALTERNATIVE REVIEW

Chair Piper-Wentland reminded members of last year’s request for the Board to review the Special Sex Offender Sentencing Alternative. She noted that the report being reviewed today is a draft and she and Vice-chair Emery are interested in discussing the content, collecting feedback and thoughts and incorporating them into the report rather than dealing with spelling, format or grammatical issues. An editor will review the document for those issues later.

Chair Piper-Wentland reviewed the questions in the request letter the Board was asked to answer.

Chair Piper-Wentland provided background as to the historical environment within Washington state and in the nation as relates to sex offender treatment programs and laws pertaining to sex offenders. Brad Meryhew suggested adding that Washington state was the first state to start a state-wide notification system. Judge Middaugh suggested formatting the report in a way to make the information quickly accessible to the legislators who will be reading it. Chair Piper-Wentland asked if an executive summary would be helpful and members agreed. Dan Yanisch added that it would be important to note that the philosophy at that point in time was that ‘nothing worked’ in the criminal justice system.

Vice-chair Emery reviewed the elements related to SSOSA. Members felt the progression through the changes in statutes was somewhat confusing. Vice-chair Emery said she would re-think the information and create a better way to provide the chronology of changes to the statute. Keri-Anne suggested adding the list of SSOSA legislative changes as an appendix to the report.

Chair Piper-Wentland briefly reviewed the Community Protection Act of 1990. Dan Yanisch suggested that DOC may have a list of the changes to SSOSA law. He thought Kim Acker at DOC may have worked on putting something like that together.

Chair Piper-Wentland moved the discussion to the trends and observations portion of the report. She told the members that more recent data was sought but because they were unable to find any to which they had access they had to use 2004 data. Brad Meryhew suggested highlighting the part of the 2006 WSIPP study that shows the lower recidivism rate of sex offenders in general and SSOSA offenders specifically. The findings from that study are critical to the report. Dawn Larsen added that that would also highlight that the treatment provided twenty years ago worked and yet we know even more now than we did back then.

Chair Piper-Wentland presented data on incarceration costs vs. treatment costs for SSOSA offenders. She acknowledged the work that Jeff Patnode did on creating the cost comparison. The bottom line of the comparison was that SSOSA has high cost effectiveness. There is a savings of $201,870 per offender sentenced to SSOSA who completes his/her sentence and is not revoked.
Responses from the surveys directed toward three of the questions in the request letter were presented by Chair Piper-Wentland. As regards victim input, the general response was that the victim’s input held great weight but it also needed to be tempered with other factors such as whether the victim was an adult or child, number of victims involved, seriousness of allegation, etc. Chair Piper-Wentland noted that one thing that became evident was that there wasn’t a consistent means to get this kind of data. The work group discussed adding a line to the pre-sentence investigation form to indicate that a victim consultation was conducted and whether there was a SSOSA preference. Brad Meryhew stated that most of the PSIs he sees already have a note related to this. Chair Piper-Wentland noted that that is not what the survey results indicate. Mr. Meryhew said he would like to see DOC, to the extent possible, solicit input from the victim during the PSI. There was discussion about where, when and who could collect this data. Chair Piper-Wentland said that this was currently just a suggestion and asked the members if they wanted it to be a recommendation instead. There was more discussion about the merits of collecting the data. Judge Middaugh added that there is no place to add victim input findings on the SSOSA judgment and sentence pattern form. She is on that committee and will get it added to that form, although she noted that J&S forms are not mandatory.

Moving on to the topic of offender amenability, Chair Piper-Wentland reported that survey results around the definition of amenability indicate that there is not a common definition of amenability to treatment and, where there is one, that it is not always used. The members discussed what may be included in making the determination of amenability to treatment. The members agreed that the answer is there are no consistent standards for amenability to treatment and it needs defining. Vice-chair Emery suggested that perhaps this would be something the sex offender treatment advisory board could define and would be another reason to re-instate it. Maureen Saylor confirmed that there is no definition for amenability to treatment in the statute.

Chair Piper-Wentland discussed the survey results related to SSOSA efficacy. Members wondered if there was data available to indicate how many of the SSOSA revocations were for a new sex offense. Vice-chair Emery said she would revisit the studies to see if there was something available. Chair Piper-Wentland asked for feedback on the ‘swift and certain’ language. Brad Meryhew reiterated that, while SSOSA offenders do not meet the conditions for Swift and Certain violation responses, DOC already supervises SSOSA offenders at a heightened level so there is no reason to believe that DOC is not responding quickly to violations by SSOSA offenders. Judge Middaugh suggested noting that the reason SSOSA offenders do not meet the criteria for Swift and Certain is because they need to report to the judge for the violation.

The members presented the report recommendations.

a. **Recommendation #1 – Elimination of lifetime supervision (Kecia Rongen)**

Chair Piper-Wentland introduced Brad Meryhew who spoke about the elimination of lifetime supervision.
Mr. Meryhew stated that data has shown that SSOSA offenders are largely successful, thus, these offenders may not need the lifetime supervision given to other sex offenders because this intervention has reduced their risk sufficiently. It also gives offenders a powerful incentive to complete SSOSA knowing that the difference is 30 years of supervision. This recommendation would comport with the ideas to use resources wisely and create incentives for offenders to comply. Mr. Meryhew provided the example of a misdemeanor offense for child pornography that does not receive any supervision in the community, yet an offender who successfully completed their SSOSA treatment five years ago and has been in the community for 11 years is still fully supervised. Supervision for nearly all misdemeanor sex offenses has been cut, yet the state continues to supervise one of the groups known to have the lowest risk to reoffend for life.

Dawn Larsen noted that the length of supervision is not tied to the length of time a sex offender is required to register. For example, class A offenders have a lifetime reporting requirement but after 10 or 15 years they are able to petition the court for relief from registering. They could potentially be relieved from reporting but still be on supervision.

Vice-chair Emery noted that this is one of the recommendations that WAPA supported. Dawn Larsen added that this also fits within the risk-responsivity model that DOC is using.

Chair Piper-Wentland confirmed that members wanted emphasis added that lifetime supervision is appropriate for high-risk offenders and reference its consistency with DOC’s use of the risk-responsivity model.

<b>The Board stopped for a quick lunch></b>

**b. Recommendation #2 – SSOSA eligibility based on risk and amenability to treatment (Dan Yanisch)**

Dan Yanisch talked about the different technologies that can be used today to create, receive and distribute pornography. He also talked briefly about the improvements in the past 20 years in the instruments designed to assess risk for re-offense in regard to sex offending. This recommendation would seek to modify the statute so that offenders may be eligible based on individual level of risk and to include other offense types, such as non-family cases like possession of child porn where the victim is unknown to the offender.

Brad Meryhew inquired as to WAPA’s position on this recommendation. Chair Piper-Wentland indicated they were generally supportive of it, although they offered some caution as some legislators may feel SSOSA sentences are only for cases that are intra-familial. Mr. Meryhew asked if it were possible to expand the concept of community-based treatment to certain sex offenders as opposed to widening the
eligibility of SSOSA. He added that there are many offenders who could use the treatment but are not eligible for SSOSA because their offenses don’t involve a ‘real’ victim. Vice-chair Emery stated that the recommendation was mostly about changing eligibility based on risk and amenability which could include offenses that are currently not included. The members discussed SSOSA eligibility and community-based treatment sentencing options. Dawn Larsen reminded members of a work group discussion that centered on returning SSOSA to its original intent and that the numbers of SSOSA sentences has declined over the years due to practice narrowing the definition. If the definition and the practice were expanded and add in risk and amenability as criteria that would provide a framework and allow further expansion later. Vice-chair Emery added that the statutory requirements were more often based on politics than science and this would bring science into the definition, via the risk assessment.

The members agreed that a paragraph should be added noting that many survey responses suggested that pornography offenses should be included in SSOSA, even though it does not meet the statutory criteria and note to the legislators that this may be something to look into in the future.

c. **Recommendation #3 – Re-instate the Sex Offender Advisory Committee (Michael O’Connell)**

Michael O’Connell briefed the members on the creation and activity of the prior advisory committee. He mentioned that the discussions around SSOSA so far have demonstrated the evolution of the profession, such as the development of risk assessment tools. Mr. O’Connell said there is a need to keep sex offender treatment providers on top of the science and research otherwise they will fall behind. In order to have quality sex offender treatment providers, some mechanism is needed to monitor that, hence the recommendation to reestablish the advisory committee and have the Department of Health use them for creating examinations, reviewing standards and practices, dealing with complaints and establishing disciplinary actions.

Brad Meryhew suggested listing all the duties that the advisory committee would do as what had just been mentioned by Mr. O’Connell seemed to include more than what is included in the recommendation, such as keep providers up to date on the latest science, promulgate best practices, provide technical information to the Department of Health on disciplinary proceedings, update and make recommendations on licensing requirements and incorporate actuarial-based risk assessments into practice. Chair Piper-Wentland added that this would be a group that could work on the definition of amenability and provide continuity among all providers.

Judge Middaugh inquired as to what issue this recommendation was addressing. Various members responded that there is currently no oversight for providers in an area where the science changes every few years, the credentials to become a provider
has been watered down and there is no consultative body to advise the treatment providers. Dawn Larsen suggested that if the Board is promoting more community-based treatment then there needs to be assurance that it is working toward public safety. We are not sure we can say that because those providing it may not have access to best practices and are not being monitored.

d. **Concept for Consideration – Prison-based SSOSA (Brad Meryhew)**
Brad Meryhew provided an example of a case of a sex offender who was low risk, and amenable to treatment but lacked the stability to successfully complete SSOSA. He proposed a prison-based SSOSA where the offender would receive a prison term of 24-36 months to give DOC enough time to get the offender into treatment, then once treatment is completed the offender is released to the community in the DOC treatment program. With that amount of support and resources, the likelihood of success is much greater. If the offender is not successful, there is still a suspended sentence that would bring him/her back to prison. Mr. Meryhew continued saying that the offenders would stay under the supervision jurisdiction of the court and would only come to the ISRB if they their SSOSA sentence was revoked. This would also include cases where the ‘ick’ factor is a little too high to give the offender a sentence that puts them back in the community right away. But these offenders may be low risk and amenable to treatment. It is a way to expand SSOSA but still putting in place some safeguards for those cases who reoffend.

Lori Ramsdell-Gilkey added that this could potentially save the state money. Mr. Meryhew proffered that this would get the offender into treatment sooner than, for example, if they had received an 89 month sentence and would have to wait to get into treatment for several years and have a lot of dead time on their hands which could increase criminogenic factors. Lynn DeLano agreed that such a program could ultimately decrease the ISRB’s work load.

Chair Piper-Wentland mentioned that this was a model that was discussed with WAPA and that they were interested in having further discussions. They asked Tom McBride of WAPA to provide some language to describe the model.

Chair Piper-Wentland asked the members how they felt about this proposal. Members were supportive of the proposal. Maureen Saylor was concerned that by adding this proposal at this time that it may alienate the legislature to the point that they are not willing to look at any of the report. Vice-chair Emery mentioned that this could be added as a concept for the legislature to consider or, if there is enough support, it could be included as a recommendation. Brad Meryhew suggested waiting to see what WAPA provided before making that decision. The members discussed the potential for traditional SSOSA sentence numbers to decrease because the offender could get both prison and treatment under the proposal.

Chair Piper-Wentland suggested keeping it as a proposal until the Board meets again on November 7th.
Chair Piper-Wentland asked the members for any additional thoughts or suggestions on the report. Dawn Larsen suggested the executive summary be added but keep all the background information.

The members applauded Chair Piper-Wentland and Vice-chair Emery on the great work they did in compiling and writing the report.

IV. ADJOURNMENT

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

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Chair Andrea Piper-Wentland Date