



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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SEX OFFENDER POLICY BOARD

July 30, 2015 9:00am – 12:00pm
Criminal Justice Training Commission
19010 1st Avenue S, Room C-220
Burien, WA 98148

Members Present:

Kecia Rongen
Brad Meryhew
Dan Yanisch
Julie Door
Jonathan Meyer
Keri Waterland
Jeff Patnode
James McMahan
Richard Torrance
Michael O'Connell

Members Absent:

Hon. James E Rogers
Holly Coryell
Andrea Piper-Wentland

Staff:

Keri-Anne Jetzer

Guests: Jamie Yoder, WASPC; Alison Mendiola, Senate Committee Services; Keith Barnes, Pierce County Prosecutor's Office; Doug Levy; Steve Kerlie, City of Puyallup; John Gower, House of Representatives Republican Caucus.

I. CALL TO ORDER

Kecia Rongen called the meeting to order and asked everyone to introduce themselves.

II. APPROVAL OF MINUTES

MOTION #15-1: MOTION TO APPROVE MEETING MINUTES FROM JULY 6, 2015

MOVED: Michel O'Connell

SECONDED: Brad Meryhew

PASSED: Unanimously

Chair Rongen briefly reviewed the four components that the Board was directed by the legislature to address and will be discussed at this meeting. She asked Keri-Anne Jetzer to provide an update on the contract position that will assist the Board in the work assigned by the legislature. Keri-Anne informed the Board that OFM has approved a sole source contract but unfortunately, the candidate of choice was no longer interested in the contract. Because of the tight time lines of the project, a recruitment process would take too long to allow the contractor to complete all the work needed for the project. Michael O'Connell suggested a possible candidate. Keri-Anne said she would email him to obtain the contact information. Once a candidate has been found, Keri-Anne will send out the candidate's background information to the Board for feedback.

III. PUBLIC DISCLOSURE AND SEX/KIDNAPPING REGISTRATION INFORMATION

Jeff Patnode briefed members on the sex offender public disclosure requests that had been occurring across the state by a citizen, Donna Zink, who was interested in creating a public registry of Level 1 sex offenders. Brad Meryhew added that Ms. Zink has broadened her requests to include psychosexual evaluations and Jeff noted that she did get such an evaluation for one adult offender. Ms. Zink has also requested a copy of the database from the WSP. The WSP-AG released a brief stating that the information should be released because Level 1 sex offender registration information does not meet the requirements for an exemption from Chapter 42.56 RCW, which seems to be the consensus across the legal community as well. Additionally, in Chapter 4.24 RCW, there is no clarifying language for an exclusive method for the disclosure of this information. Jeff said those are the two issues as it relates to the legal analysis. He added that the WSP-AG brief also likened the sex offender registration information to that of voter registration.

Ms. Zink, he said, continues to make requests from various counties. She has also submitted a request to DOC and WASPC. In most of the cases, attorneys have been successful in getting an injunction or are in process of getting an injunction.

Jeff went on to say that a request was submitted recently in Skagit County from a different group. Brad explained that this is an offender-based organization that advocates the reform of sex offender registration laws. After speaking with the ACLU and learning of the situation, the organization has withdrawn its request and will wait to see what happens in the litigation and the legislation.

Jeff commented that the Supreme Court issued a ruling that juvenile psychosexual information is exempt from public disclosure in December 2014.

Brad added that the public disclosure requests have been consolidated into one piece litigation which is set for oral argument in the Supreme Court in September or October. He noted that the Supreme Court issued an opinion in the SJC case where King County challenged the ability to seal juvenile sex offense records (passed in

2011) that the records are to be sealed. He offered to provide a copy of the opinion to members.

Jeff talked about the legislative requests that have addressed this issue. James McMahan talked about the negotiations that surrounded the bills.

Members supported inviting the media lobbyist to a discussion. Keri-Anne informed members that the contractor is required to create summary of the research found and present it to the Board. She suggested that might a good opportunity to invite the media lobbyist. Members agreed.

Michael mentioned that an underlying principles behind the original legislation in 1990 is the finding that sex offenders are likely to reoffend and that the community has a right to protect itself. He went on to say that it has been learned that that is true for some and not for others and a lot has been a lot learned about risk assessments as well. If leveling is done correctly (we are talking about public disclosure related to low risk offenders) there is not the community safety issue of the sort that was the foundation for the legislation.

Doug Levy added that that the Board might consider extending in invitation to the Washington Coalition for Open Government whose president is Toby Nixon. The Board agreed.

Chair Rongen asked James McMahan to talk about how the language in SB 5154 addressed public disclosure. He said there were several pieces and any one of them would have fixed the issue.

- 1) Language created an exemption in Chapter 42.56 RCW for sex offender information held by a criminal justice agency or such, except as provided in RCW 4.24.550.
- 2) In RCW 4.24.550, language was added to say this is the exclusive manner for release of sex offender information held by these agencies.

WASPC is open to any other ways to achieve the goal.

Chair Rongen asked what the members would see as next steps:

- Look at research related to registration and community notification
- What is the impact of public registries, particularly on Level 1 sex offenders
- Look at research on ex post facto implications of public registries

It was mentioned that some of this research can be found in prior SOPB reports.

IV. REVIEW OF ASSIGNED RISK LEVEL CLASSIFICATION BY LAW ENFORCEMENT

Chair Rongen asked James McMahan to give the members an overview of the proposed language in SB 5154 related to assigned risk level classification. James deferred to Brad Meryhew who created the language in the bill. Brad said that sheriffs and police chiefs didn't believe that they had the authority to make a change

to the risk level because the statute didn't explicitly say that they could reduce it; it indicated they could set a level but not that they could reduce it. He went on to say that the change would add 'may' so as to indicate they could do it but aren't required to do it. This was passed and became effective about two weeks ago.

James noted that they found a Division II Court of Appeals out of Kitsap County unpublished decision where the judge upheld the Superior Court judge's ruling that, while the court has the authority to relieve someone of their duty to register, they do not have the authority to set a level. That was all they found for applicable law on the topic.

He mentioned that Jamie Yoder had inquired of WASPC members who has a process and what their process is. He said that about half of the agencies responded and, of those, all but two have a process in place.

Chair Rongen asked the members if they thought there would be benefit in recommending that WASPC place their leveling review form into the model policy around some specific criteria for local jurisdictions to look at to increase consistency among the agencies. There were comments that the relief of registration and the review of an assigned risk level are different. Brad mentioned that he felt the language should say "shall" so that there would be equal treatment regardless of where the sex offender resides.

Chair Rongen commented that she is hearing two issues:

- Whether the language should be 'shall' instead of 'may'.
- Whether there should be some uniform criteria in WASPC's model policy around what they would look at if they were to do this review.

Chair Rongen asked to see specific examples from a selection of counties of what criteria they are looking at as well the relief of registration criteria for the next meeting so that the Board can review and see if an agreement on what that criteria would look like. Brad encouraged also looking at the risk assessment tools that are available and recommending the use of empirically-validated assessments of static and dynamic risk, as relates to the criteria for reducing a risk level classification. Chair Rongen said she wasn't aware of any empirically-validated tool that would provide a 'quick-and-dirty' assessment for law enforcement outside of the STABLE assessment that is currently being used. Dan Yanisch suggested asking other states what they use. Members thought that was a good idea.

V. GUIDELINES ON SEX OFFENDER COMMUNITY NOTIFICATION RCW 4.24.5501

James McMahan explained that another concern that arose during conversation of SB 5154 was that the public has trouble getting access to WASPC's model policy and that it should be more publicly available. James said it is posted on their Model Policies webpage where all the model policies are posted. Jamie added that WASPC has an RSO Resource Center webpage where this model policy is posted along with

anything sex offender coordinator-related. She added that there is a page for Public Resources which has a sex offender page and the model policy is posted there as well. They are also going to have it posted on the Offender Watch website on the tab for additional information/links.

James added that that during the bill hearings there seemed to be interest by some lobbyists to have the model policy placed within the statute. When asked how many model policies are currently in statute, James replied none that WASPC is involved with. Other members acknowledged that they were unable to cite examples of other model policies that were embedded in statutes. Brad noted that if they were part of the statute, that only legislators could change the model policy. It was also mentioned that model policies are suggested policies only and if the public wants the information, they should seek out the actual policy from the respective local agency.

James offered to provide a list of the locations where the model policy can be found for the final report to the legislature.

Chair Rongen discussed items to be worked on for the next meeting.

- James/Jamie provide criteria around review of assigned risk level
- Relief of registration criteria

Brad inquired about the possibility of another website location where members can access all articles submitted by members for the research. Keri-Anne said she would check with OFM. Dan reminded members to include both pro and con research articles.

- Member submission of registration and community notification research articles by Sept 1st.

Members discussed the timing and location of the next meeting. There was general consensus to have the meeting in Olympia. Chair Rongen informed members that they will likely be meeting on a monthly basis and twice per month once working on the recommendations and research with the contractor. Keri-Anne will send out a Doodle poll for times during the weeks of August 17 or 24.

VI. OTHER BUSINESS

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

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Chair Kecia Rongen

Date