



STATE OF WASHINGTON  
SEX OFFENDER POLICY BOARD

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**SEX OFFENDER POLICY BOARD**  
**Treatment, Discharge Planning, and Conditions of Release**  
**Sub-Committee Meeting**  
June 17, 2020 1:00pm-3:00pm  
Microsoft Teams Meeting

In Attendance: Leah Landon, Staff; Michael O'Connell, Chair; Jennifer Williams, DOC; Terrina Peterson, WASPC; Shoshana Kehoe-Ehlers, OPD; Dan Yanisch, SCC; Sonja Hardenbrook, Snohomish Co. Public Defender; Jamie Weimer, WASPC; Jedd Pelander, DCYC-JR; Corey McNally, DOC; Rachael Seevers, Disability Rights Washington; Shawn Candella, SCC; Zainab Ghazal, SCC; Daniel Davis, Pierce County Prosecutors Office; Devon Gibbs, OPD; Kelsey-anne Fung, Senate; Brandon Duncan, DOC; Andrew Morrison, Contract Attorney for OPD; John Hayes, SCC; Joshua Choate, AGO

**Meeting Notes**

**Welcome & Call to Order**

Leah Landon (staff) called the meeting to order and discussed tips for participating in the virtual meeting. Meeting participants were asked to mute their microphones when not actively participating. The meeting was recorded and can be provided upon request. Leah introduced Michael O'Connell as the sub-committee Chair. Michael introduced himself and then Leah invited other sub-committee members to introduce themselves.

**Approval of Meeting Minutes**

The sub-committee was asked to approve the meeting minutes from June 2, 2020.

**MOTION 20-1-2: MOTION TO APPROVE THE MEETING MINUTES FROM JUNE 2, 2020 AS WRITTEN.**

**Moved: Corey McNally**  
**Seconded: Jedd Pelander**  
**Passed: Unanimously**  
**Abstained: Joshua Choate**

## Meeting Objectives

### Objective 1: Learn more about civil commitment in other states

- **Devon Gibbs** gave a presentation to sub-committee members on civil commitment in other states using materials from SOCCPN. These materials and the presentation are available upon request.
  - The group briefly discussed Circles of Support and COSA which are two different things. Several members expressed an interest in implementing COSA in Washington.
    - To clarify, one is Circles of Support and the other is a 12-step program called COSA.
- **Brandon Duncan** provided an overview of conversations he has had with 5 different states in the course of his work. Their goal was to try and understand condition monitoring specifically in these other programs.
  - **Brandon** mentioned that some states have multiple agencies involved while others do not, and others have a privatized monitoring program.
  - Some states do a containment model approach to individuals who fit a criteria, but they do not have civil commitment. These people stay under correctional jurisdiction and the program is similar, but there is no civil commitment court process. It is all managed by the correctional or parole entity.
    - It is important to consider differences like this when talking about various programs.
  - Also discussed barriers to monitoring, and there were a few common themes. One is that the aging population and those with acute needs have limitations when it comes to housing and services. There is a social work aspect to this, and a lot of places do not realize who is supposed to do this piece of the work. **Brandon** also acknowledged that some of the best programs have social workers.
  - Another barrier was getting caught up in the court system and how long it takes to get a court decision, and sometimes the court system makes it difficult for timing of releases to be consistent.
  - The program that seems to have the best infrastructure is actually owned and operated by a private business. It has one chain of command and everyone is part of one thing. It is a private business contracted by the Department of Health in this state.
  - **Michael O'Connell** asked how **Brandon** came to compile all this information. **Brandon** said he started contacting anyone who could who might provide information on conditions monitoring.
  - **Josh Choate** asked **Brandon** to explain specific roadblocks that are affecting people's ability to release and find housing, etc. **Josh** mentioned that in some cases where conditions are not agreed, or not all the way agreed upon, are these the cases **Brandon** is thinking of?
    - **Brandon** said the conditions setting portion is a lot easier than the modifications, but there are also dueling ethics. These can be in slight

conflict with other ethical obligations. One thing that has come up is continuity of care.

- Out of commitment treatment has a lack of standards, and information and transparency is not always possible and some of this may be lost to the corrections team.
- **Brandon** also discussed the arrest and custody process in other states vs. Washington.
  - **Corey McNally** asked if this is similar to Washington's swift and certain laws.
  - **Brandon** said kind of, but swift and certain is more behavior driven and no intentional requirements whereas in this program there is.
  - **Sonja Hardenbrook** mentioned that the process for revocation is difficult and this is in part because people are arrested for things they should not have been arrested for, and the process **Brandon** mentioned assumes they were arrested for good reason. **Sonja** mentioned that in many cases she has had the treatment provider opposes the return to the island, and the DOC approach is less therapeutic. If we can give more power to the treatment providers we may see improvement here.
    - **Brandon** said that in the specific program he was referring to this was part of their conditions and if/when they violated their conditions they were up for revocation. Or, they could be put into a 60-day program. **Brandon** added that the main thing that needs to happen is more collaboration with treatment providers.
    - **Brandon** added that in Washington it is a minority of arrests that end in revocations.

## Objective 2: Learn more about discharge planning in Washington

- **Andrew Morrison** provided a brief overview of discharge planning in Washington.
  - The definition the defense provides is “a plan to support an individual's needs as they transition from one level of care to another”.
    - In the current system, there is not a specific definition or a written policy for the Washington LRA system and the way the current system is (defense attorneys doing the planning), there cannot be. There will be a different method by social worker, firm, and attorney within a firm. Most attorneys depend on social workers who like themselves are contracted. Each attorney does it differently, so the overview Andrew provided of what his firm does is not representative of what others do.
    - **Andrew's** firm typically creates an 8-10 page written plan that discusses responsibility needs, then goes across behavioral health domains, and a plan

will be covered for how to address all those needs. **Andrew** added that only about 50% of the contents of his plan get implemented as he does not have control over the client's life on an LRA and there may not be buy in on the plan from the transition team.

- **Sonja Hardenbrook** added her process as a defense attorney in Snohomish County.
  - **Sonja** said the social worker will work with the attorney a year or so before the actual release. They talk about needs, abilities, and the social worker will develop a 7-10 page document that proposes how they will meet all those needs (how they will get around, treatment, assistive technology, supplemental treatment, etc.). Usually they propose using public benefits to meet these needs. This is typically shared as trial exhibit and will get expanded upon during trial. Once the conditions are set, they have 30 days to implement what is left in the discharge plans. This often involves the social worker driving around with the client to help them get bank accounts, IDs, groceries, etc. and this support continues after release.
- **Michael O'Connell** asked if the discharge plans ever include information from the SCC.
  - **Sonja** said this has never happened in her practice as the SCC normally does not want to have a role in supporting the LRA.
  - **Michael** said one of his LRAs was generated from the SCC, and he is curious from the SCC members if this has happened recently.
    - **John Hayes** said to his knowledge this has not happened recently, and that the SCC does not conduct discharge planning.
    - **Corey McNally** asked what type of discharge planning is done at the SCC currently. **Leah Landon** reiterated that the SCC is not currently doing any discharge planning.
  - **Rachael Seevers** added that the Disability Rights Washington settlement with the SCC requires that they do discharge planning for the high acuity clients. **John Hayes** said in the time he has been in his position, there has been a chat meeting where they get all of the parties involved to discuss everyone's roles and better define the situation. But **John** said he has only been part of one or two of these.
    - **Sonja Hardenbrook** said she had been to a couple of these meetings and they were helpful, but the timing was problematic as the SCC would not schedule the chat until after the LRA had been ordered and the client is pending release.
  - **Michael O'Connell** said **Sonja** mentioned having 30 days to implement the discharge plan and asked for elaboration.
    - **Sonja** explained the 30 day law enforcement notification requirement, and that in this 30 days is when they really start the nitty gritty planning and no one is worried anymore about looking as though they "support" the LRA. **Sonja** adds that many of the conditions in the court order make it difficult or impossible to implement some of the proposals in the discharge plan.

- **Michael** asked for more information on when court conditions prevent implementation of part of the discharge plan.
  - **Andrew Morrison** said in his discharge plan he may provide information on how they will setup bank accounts, etc. but many of those locations have to be reviewed and approved by the transition team. So the defense ends up buying their first groceries, getting basic supplies, etc. because this is not legally possible for the person, but of course they needs things like food and a bed.
  - **Andrew** added that the AGO has been great in helping get to a point where some language may be reviewed prior to release, but of course this does not always happen.
- **Jennifer Williams** added that due to a lack of resources, DOC is unable to assign specialists until the client is released into the community, which is why it may be difficult to do some of these things in advance. DOC is typically 2 years out on FTEs, what they have in the field today is what is being used to project numbers for the next biennium.
  - **Michael** confirmed that DOC is always playing “Catch up” and there are not necessarily people in reserves that they can bring up to help with LRAs. **Jennifer** confirmed that this is the case.
  - **Sonja Hardenbrook** said that the way we do LRAs now is forbidden unless you have specific permission, and when we are trying to reintegrate someone into the community but are more restricted than they were on the island, this is difficult. Because of all the restrictions and no one wants the liability of providing more freedom, people get frustrated and give up.
  - **Devon Gibbs** added that DOC does engage in some of the discussions around discharge planning as they do the 60-day report and most LRA orders ask for at least one transition team meeting. Someone from DOC is typically assigned to this and at this meeting they try to approve the initial locations.
    - **Jennifer** said they do participate in the court order review meetings, and there are some initial discussions happening, but some people want a specialist assigned the case prior to release and DOC cannot do this. The specialist assigned may be the person who did the investigation, but not always.
    - **Michael** said he can attest to the resource limitations. Approving new locations can have a therapeutic approach reference (Dr. Packard’s letter to Jennifer Ritchie), but this is difficult without the bandwidth. In order to be a better program we need more resources. One of the reasons we have restricted programs like we do now is because there is no one else to do the work.

- **Andrew Morrison** said he had a chat meeting well before the conditions meeting, so there is some willingness to have these meetings before the last minute. Andrew added that COSA is something Washington should be doing as there is research and empirical support behind it.
- **Rachael Seevers** added that she is hearing the SCC saying they are not doing discharge planning but it is not necessarily a resource issue or if they feel like they would be able to do some of this if they had the additional resources.
  - **Dan Yanisch** said his understanding is it is a resource issue and they have not had the resources necessary to do all the community outreach in addition to the work on the island. If given more resources, they would be able to do more.
  - **Jennifer Williams** added that she had done some research at DOC and she uncovered that there is an Executive Order (16-05) that involves several agencies and resources around successful reentry into the community. DSHS is mentioned, however the SCC is not identified in the executive order. The EO brings several agencies together to do pre-release work to help with the transition.
    - **Josh Choate** asked if any monetary resources were allocated as part of this. Jennifer said she believed so and that the agencies were tasked with making these things happen.
- **Shoshana Kehoe-Ehlers** added that when Rep. Kilduff and Rep. Levitt worked last fall to put together stakeholder meetings and this led to proposed legislation. She added that when DSHS was there, they said they did not want to be part of someone being released when they did not to agree with it. **Shoshana** went on to ask if this was somewhat tied to discharge planning. Is this because DSHS needs resources and wants help fighting for them, or do they not see this as their role?
  - **Dr. Ghazal** pointed out the conflict of interest. Residents under the care of the SCC are released in several ways and in cases where the SCC does not support the release, how can they turn around and do the planning? But the SCC also only has one person doing that type of work in their office.
  - **Shoshana** said this is something the group might want to talk about and while the SCC may not agree with a release, in those cases an individual may not enjoy the same benefits that other residents may receive.
  - **Jennifer Williams** added that if discharge planning could be broken down into reintegration process, and map out prior to decisions being made, and work through the ultimate definition of discharge planning. But if we could break it down, it might be helpful. As this would allow the group to look at the smaller chunks and start making recommendations.

- **Devon Gibbs** pointed out that DOC is required under statute to make recommendations to the court on the LRA, and they recommend conditions. It seems possible for DSHS to do a similar type of recommendation for not whether they agree with the release, but if the person is going to be released, these are the resources that would best meet their needs.
- **Michael O’Connell** added that it seems the processes are in different siloes and there is sort of a “seat of the pants” quality to some of it. What would be ideal is if all of the parties could get into a room and come up with a plan that they are all wanting to see successfully implemented. This has to happen in someplace in the world, it would be interesting to hear from Brandon Duncan on this. Michael added that Andrew Morrison had shared a book chapter on best practices in civil commitment and he recommend that members of the group give it a look if they had not already. The way things work now, we fall short of what is recommended here.
- **Sonja Hardenbrook** added that while we can do better, the defense is doing it all and they also have limited resources and funding.
- **Dan Davis** mentioned that he talks with a lot of citizen groups and they often have questions about the releases from the SCC and where they end up. To the regular people in the community, if the public understood how they were discharged and that the bulk of the work is done by the defense, this would not sit well with the community. The whole discharge planning process should have independent oversight.
  - **Shoshana** asked if **Dan** was proposing an ISRB type of process. **Dan** said yes, some type of review that brings multiple entities into the process.
  - **Sonja** added that there had not been much discussion around the oversight, but, whatever she comes up with has to get agreement from one of the prosecuting attorneys. They also have to in some cases get by a jury, and then have to get by a judge. **Sonja** adds though that she does want some help and wants an agency actually involved in this stuff to be doing it.
  - **Dan** added that if DSHS opposes the release then they can still go on the record saying that, but they could still be part of the discharge planning.
    - **Devon Gibbs** added that this is what she was suggesting. **Andrew Morrison** also added to this and agreed with **Dan** that the public would not feel this is a robust process or program. **Andrew** added he is not sure a new apparatus needs to be created, but an agency should be accountable and responsible for it.

- **Shoshana** said she disagreed with some of what **Andrew** and **Dan** were saying.
- **Jennifer Williams** said even when people are on LRA, DOC is not a party in the case and does not have legal standing. Jennifer asked if this was another legal hurdle.
  - **Josh Choate** said he does not know if it a hurdle but there is a case on appeal right now where the court had ordered DSHS to pay a specific amount every month to support an LRA and DSHS is claiming the amount is too high and that the court did not have the jurisdiction to order that amount.
  - **Michael O’Connell** added that so much of what happens in this area is the result of litigation. The process was never really meant for releases such as LRAs and we have had to create these processes, and state agencies do not want their fingerprint on these.

**Next Steps**

- Leah asked members to come to the next meeting prepared to talk more about discharge planning and asked members to consider bringing recommendations on how to address the areas for improvement.
- Next Full Board meeting on June 24, 2020 from 1:00pm-5:00pm.
- Leah will send out Doodle poll to schedule next meeting.

Meeting adjourned at 3:00pm

**APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD**

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 /s/  
 Sub-Committee Chair  
 Michael O’Connell

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 July 14, 2020  
 Date