



STATE OF WASHINGTON
SEX OFFENDER POLICY BOARD

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SEX OFFENDER POLICY BOARD

August 19, 2021 1:00pm-4:00pm
Zoom Meeting

Members Present

Linda Farmer
Jimmy Hung
Susan Marks
Brad Meryhew
Michael O'Connell
Jeff Patnode
Jedd Pelander
Terrina Peterson
Richard Torrance
Jamie Weimer

Members Absent:

Robert Gelder
Hon. Maryann Moreno
Hon. Shawn Sant

Members Represented by Proxy:

David Flynn (Dr. Zainab Ghazal)
Mac Pevey (Donta Harper)

Staff:

Megan Schoor

Guests: Megan Allen, King County Sexual Assault Resource Center; Devon Gibbs, King County Department of Public Defense; Katie Hurley, King County Department of Public Defense; Emily Hiskes, Snohomish County PDA; Lorraine Lynch, King County Sexual Assault Resource Center; George Yeannakis, Office of Public Defense; Joanne Smieja, WA Voices; Dr. Elena Lopez, DSHS BHA; Alex Mayo, WA Voices; Laura Martin, Snohomish County PDA; Brandon Williams, WA DOH; Michael Althaus, Washington Senate Democratic Caucus; Thea Mounts, Office of Financial Management; Gina Romero, Airway Heights Corrections Center; Jennifer Williams, Department of Corrections; Maureen Fitzgerald, Children's Advocacy Centers of WA; Norrie Gregoire, Washington Association of Juvenile Court Administrators; Julie Tran, Washington State Senate Committee Services; Mary Laskowski, Children's Justice Center of King County; Theodore Lewis, Department of Corrections; Margaret McCurdy, King County Prosecuting Attorney's Office

IMPORTANT NOTE: The recording for this meeting is available upon request.

Meeting Notes

Welcome & Call to Order

- **Megan Schoor** reminded meeting participants to mute their microphones when not speaking and asked them to use the chat function through Zoom whenever they would like. **Megan** also reminded everyone that the meeting is being recorded and that recording is available upon request.

- **Megan** reviewed the agenda with the board.
- **Brad Meryhew** invited board members to introduce themselves. He then asked guests to introduce themselves.

Approval of Minutes

Brad Meryhew asked the Board to approve the meeting minutes from July 15, 2021.

MOTION #21-5: MOTION TO APPROVE THE JULY 15, 2021 MEETING MINUTES.

- **MOVED:** Linda Farmer
- **SECONDED:** Michael O'Connell and Jimmy Hung
- **ABSTAINED:** None
- **PASSED:** Unanimously

SOPB Coordinator Hiring Update: Thea Mounts

- **Whitney Hunt** will start September 1, 2021 as new SOPB Coordinator. **Megan** will stay on through transition until end of September.

SOPB Project Timeline

- **Megan** shared and reviewed the project timeline for the SOPB and its subcommittees. By September 24th, the three SOPB subcommittees (i.e., the Juvenile Treatment Subcommittee, Legal and Legislative Best Practices Subcommittee, and the Registration and Notification Subcommittee) submits final list of proposed recommendations. By October 8th, the SB 5163 Workgroup should submit their final list of proposed recommendations.
- **Brad** stated that there might not be sufficient time for the consultation process. Each SOPB full board member is a representative of an organization who needs to consult with their organizations prior to voting.
 - **Jamie** agreed that adequate time is needed to share recommendations with each person's organization. **Jamie** also stated the need for time allotted to build consensus for the proposed recommendations.
 - **Susan** asked what happens when it's time to vote and there is a broader disagreement or lack of consensus.
 - **Brad** stated that the board is focused on meaningful change and will take the time to discuss where consensus can be found and focus on that.
- **Megan** asked how the timeline could be made more realistic in terms of meeting the deadline and allowing adequate time for discussions to reach consensus.
 - **Brad** recommended extending some of the already scheduled meetings and include the possibility of adding an additional meeting.
- The September full board meeting will be moved to October 4th from 1:00PM – 4:00PM, so that full board members can review and discuss recommendations with their organizations. The September 24th deadline for the three subcommittees does not change. **Brad** encouraged subcommittees to extend meetings or add extra meetings, if needed.

E2SSB 5163 Workgroup Updates

- **Megan** provided an update on the E2SSB 5163 Workgroup's efforts since they launched at the end of July. The workgroup is inviting SOTPs with experience serving less restricted alternative (LRA) clients to participate in a 30-minute Listening Session at their August 26th meeting from 1:45 to 2:15 pm. Providers in the meeting are invited to join or email feedback to Megan.
- **Brad** asked **Devon Gibbs** if there's a list of SOTPs who can be invited to share their input. **Devon** confirmed that there is a list with contact information, and it will be sent to Megan.

-BREAK-

Subcommittee Update: Legal and Legislative Best Practices

- **Terrina Peterson** shared the following updates:
 - The subcommittee has had some great discussion around Item 2C. Currently, the subcommittee is exploring two areas of focus:
 1. No juvenile sex offenses should be subject to auto decline to adult court, whether it be auto-decline or discretionary decline in adult court.
 2. Remove all juvenile sex offenses from auto declines and put them in with discretionary hearings.
 - The subcommittee is currently leaning towards #2 above. Recommendation should also include draft changes to RCW. There is a draft being made that will be sent to the subcommittee members.
 - The subcommittee is working on narrowing the focus for the Item 2B assignment. Members are currently sharing ideas for renaming juvenile sex offenses based on RCW 9A.44.
 - Terrina and Megan will be developing an online survey to gather feedback from all subcommittee members to about the Item 2C assignment and narrow down focus for the Item 2B assignment.
 - **Jimmy Hung** asked about the reasoning for taking Rape 1 out of AA.
 - **Terrina** stated that it was part of a compromise. There were no prosecutors present during the discussion which posed a difficulty.
 - **Terrina** expressed the need to have a prosecutor(s) present at these subcommittee meeting as it would greatly help the discussions.
 - **Michael O'Connell** added that there is a large majority of subcommittee members who want to remove auto decline, and some members want to remove both auto and discretionary decline. **Jamie** added that the subcommittee is focused on listening to opinions from all sides and they're focused on getting a consensus for the recommendation to the full board and the Legislature.

Subcommittee Update: Juvenile Treatment

- **Jedd Pelander** began by reviewing the assignment and focus of the subcommittee.
- The draft Juvenile treatment provider survey was sent out to WATSA members and SOTP directory.
- 30 SOTPs in Washington participated in the survey, which was available from June 1st to July 1st. Survey results indicate that the state may lose providers faster than it is gaining new providers, which is concerning. Most referrals are from state agencies, which is also a concern. Most surveyed providers are holding weekly individual sessions. Provider availability in Eastern Washington seems much more limited than Western Washington, based on the survey results.
- The subcommittee is in the process of discussing the following topics and areas of focus for their recommendations:
 - Draft language to review and update statutes and policies regarding juvenile offenders.
 - Create a task force to expand training and treatment options for clinicians.
 - Expand the Sexually Aggressive Youth (SAY) funding stream / program eligibility to assist more youth.
 - **Terrina** asked, what law enforcement agencies are notified about SAY participants? **Jedd** explained that it is not notifications, but rather more of an update to the detective assigned to the case.
 - Recommend that the Department of Health explore the SOTP licensing process for different types of providers. SOTP licensing is very costly because there are so few providers in the state.
 - Rename SAY by using person-first or developmentally appropriate language, such as Children with Problematic Sexual Behaviors for youth 12 years old and younger. This could allow fewer youth being placed in dependency.
- **Brad** asked, is there a way to incentivize CSOTPs to bring on additional affiliate SOTPs? **Jedd** said the subcommittee is exploring this idea, including the current maximum of two affiliate SOTPs that a certified SOTP can bring on.

Subcommittee Update: Juvenile Registration and Notification

- **Brad** reviewed his outline of juvenile sex offender issues with the board.
 - Should we require juveniles to be registered at all? If so, for limited offenses.
 - Option 1. Maintain current laws for juvenile sex offender registration.
 - Option 2. Completely eliminate sex offender registration for all youth adjudicated in juvenile court.
 - Option 3. Require sex offender registration only for youth adjudicated or certain serious and violent sex offenses.
 - **Jeff Patnode** asked if there was any discussion about using something beyond offensive conviction to determine who has to register and for how long?

- **Brad** responded saying yes, other states receive recommendations from multiple sources, but the judge ultimately makes the decision.
- **Jeff** also mentioned the End of Sentence Review Committee (ESRC) and the general notion of a qualified committee or body that could weigh in on the registration requirement and risk level of the juvenile. There are a lot of different ways that a discretionary model could work.
- **Jedd** described his experience on the ESRC's juvenile sentence review subcommittee, which he chairs. The subcommittee provides a recommendation to law enforcement on what the risk level should be set at for a juvenile. Typically, there is a two-week turnaround for the subcommittee to provide recommendations to law enforcement. Law enforcement tends to wait on rating the juvenile until they are provided the recommendations from the subcommittee. One potential disadvantage to the idea of a judge making the recommendation is that inconsistencies may happen across counties.
- **Norrie Gregoire asked**, Juveniles who successfully complete a SSODA sentence already have the ability to ask the court to relieve them of the duty to register. Are we speaking only of youth deemed ineligible for SSODA and committed to JR?
 - **Brad** stated, SSODA subgroup has the right to ask at the end of their probation period, if successfully completed. If we are in a world where fewer juveniles are required to register, this idea could conceivably apply to juveniles on SSODA, too, if they have a ROC 1 offense. We are exploring whether the juvenile should register, not what the juvenile's risk level should be.
 - **Jedd** shared that, based on how the statute is currently written, it only addresses juveniles in the SSODA program, but it does not account for juveniles without a SSODA sentence. The statute does not relieve the duty to register.
- **Jamie** commented that the issues of who should determine when youth must register are very complicated. We should keep in mind the importance of making these recommendations equitable for all youth.
- **Katie** mentioned Dr. Letourneau's research on the effect of registration which found that the use of registration in South Carolina resulted in changes to how resolutions were crafted. There may still geographic disparities in Washington when it comes to the impact of discretion. Having registration itself can cause different practices in how prosecutors and defense come to conclusions. We may be more likely to minimize disparities and differing practices if registration was not a component to consider. What information would someone demonstrate to show that registration improves public safety?
- **Jedd** shared that Washington has received praise from other states for their ESRC structure, which has a multitude of different disciplines represented.

- **Laura** asked, if we were to move to some sort of model like ESRC, when would they convene? Would it involve an evaluation of youth for the process and/or existing documentary evidence?
 - **Jedd** clarified that existing documentary evidence is used by the ESRC, not an evaluation of the youth. A recommendation from an ESRC-like body could be a tool for the judge to use in their decision-making process.
- **Jamie** suggested to consider how to ensure that a review process like this would be timely and not delay any future proceedings in the process. What if the ESRC recommend that the juvenile not register, so that the courts could incorporate that insight into their decision?
 - **Norrie** supports **Jamie's** idea of a body weighing in to make a recommendation post-change of plea, so that the judge can holistically weigh in at pre-sentence as to whether the juvenile should register.

Next Steps

- Reviewed schedule of upcoming meetings.

For the Good of the Order

- **Comment:** Alex suggests that Registration and Notification Subcommittee still needs to consider the idea of no registration.

Meeting Adjourned at 4:00 pm

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

Chair Brad Meryhew

Date