



STATE OF WASHINGTON
SEX OFFENDER POLICY BOARD

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SEX OFFENDER POLICY BOARD

April 28, 2022 1:00pm-4:00pm

Zoom Meeting

Members Present:

Keith Devos
Patricia Flores
Jimmy Hung
Brad Meryhew
Maryann Moreno
Michael O'Connell
Jedd Pelander
Terrina Peterson
Mac Pevey
Lori Ramsdell-Gilkey
Richard Torrance
Jamie Weimer

Members Absent:

Shawn Sant

Staff:

Whitney Hunt, OFM

Members Represented by

Proxy:

Sharon Swanson for Linda
Farmer

Guests: Brandon Williams, DOH; Alex Mayo, WA Voices; Jennifer Williams, DOC; Shoshana Kehoe-Ehlers, OPD; Sonja Hardenbrook, SnoCo PDA; Emily Hancock, SnoCo PDA; Brandon Duncan, DOC; Joanne Smieja, WA Voices; Dominic Winter, SCC; Heidi Brodt, CAGE; Bruce Glant, CAGE; Kathleen Hambrick, CAGE; Megan Allen, KCSARC; Joe Field, social worker; Jill Getty, ISRB; Lorraine Lynch, KCSARC; Corey McNally, DOC; Jenny Graham, Washington State Representative

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

Meeting Notes

Welcome & Call to Order

- **Whitney** reminded meeting participants to mute their microphones when not speaking and asked them to use the chat function through Zoom whenever they would like. **Whitney** also reminded everyone that the meeting is being recorded and that recording is available upon request.
- **Brad** called the meeting to order, began introductions, and welcomed new board members.
- **Whitney** encouraged all attendees to introduce themselves in the Zoom chat.

Meeting Objectives

Approval of Minutes

Brad Meryhew asked the Board to approve the meeting minutes from March 31, 2022.

MOTION #22-4: MOTION TO APPROVE THE MARCH 31, 2022, MEETING MINUTES.

- **MOVED:** Brad Meryhew
- **SECONDED:** Jedd Pelander
- **ABSTAINED:** Maryanne Moreno, Richard Torrance
- **PASSED:** Unanimously

Indeterminate Sentence Review Board (ISRB) Presentation on Lifetime Supervision

by Jill Getty and Lori Ramsdell-Gilkey

- The ISRB was first established in 1935 as the Board of Prison Terms and Paroles.
- There are four main functions of the board:
 - Make decisions about release from prison for individuals under ISRB jurisdiction
 - Must follow relevant RCW, WAC, and court decisions in decision making
 - Approve/deny offender release plans for individuals under ISRB jurisdiction
 - Impose conditions of parole/community custody for individuals under ISRB jurisdiction.
 - Address violations of parole/community custody for individuals under ISRB jurisdiction.
- ISRB Jurisdiction includes:
 - Pre-84 (PAR) cases, RCW 9.95.100
 - Felony level offenses committed prior to July 1, 1984. Serve 3 years parole supervision upon release.
 - Community Custody Board (CCB), RCW 9.94A.507
 - Certain sex offenses committed after September 1, 2001. Nearly all of these cases have lifetime community custody requirements upon release.
 - Juvenile Board (JUVBRD), RCW 10.95.030 and RCW 9.94A.730
 - Juveniles convicted of Aggravated Murder in the 1st Degree or sentenced to confinement terms over 20 years. Serve 3 years community custody upon release.
- CCB Qualifying Offenses:

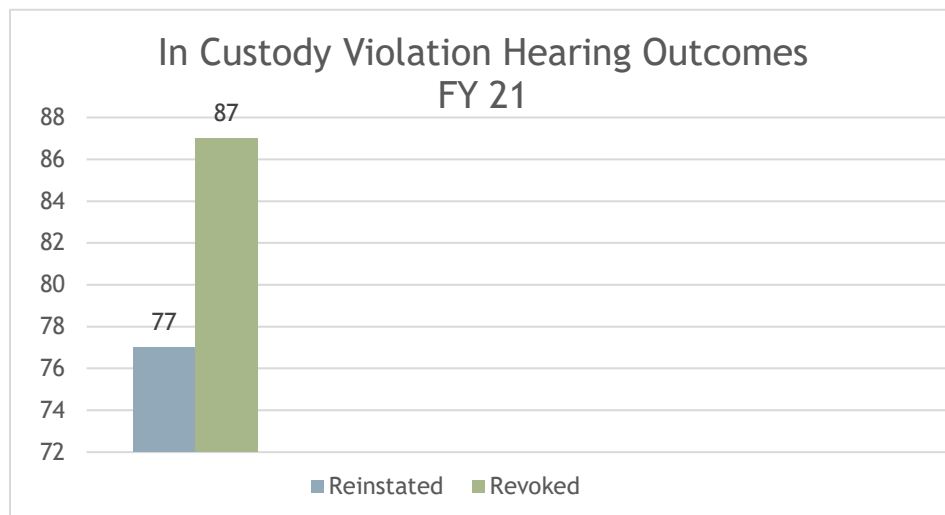
Pursuant to RCW 9.94A.507	Or any of the following offenses with a finding of sexual motivation
<ul style="list-style-type: none">• Rape in the First Degree• Rape in the Second Degree• Rape of a Child in the First Degree	<ul style="list-style-type: none">• Murder in the First Degree• Murder in the Second Degree• Homicide by Abuse• Kidnapping in the First Degree

<ul style="list-style-type: none"> • Rape of a Child in the Second Degree. • Child Molestation in the First Degree • Indecent Liberties with Forcible Compulsion • Sexually Violent Predator Escape 	<ul style="list-style-type: none"> • Kidnapping in the Second Degree • Assault in the First Degree • Assault in the Second Degree • Assault of a Child in the First Degree • Burglary in the First Degree
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- People who have committed these offenses are under the jurisdiction of the ISRB until the expiration of their maximum term. All the offenses referenced above are Class A offenses which is lifetime supervision.
- Background on CCB Sentencing
 - Community Protection Act - 1990
 - Limitations of RCW 71.09 – Civil Commitment as a Sexually Violent Predator
 - Sex Offender Management Act – 2001
- Total ISRB Population: (numbers taken from ISRB presentation materials)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Prison	2108	2115	2175	2273	2376	2429	2415	2349
Community	644	717	842	942	1066	1130	1307	1457

- Sex Offender Registration Levels of CCBs on Community Custody breakdown:
 - Level I: 62%
 - Level II: 30%
 - Level III: 8%
- Community Supervision:
 - DOC minimum standards
 - Addressing violation behavior
- Revocation: (graphic from ISRB presentation materials)



- Additional Violation Information
 - Anecdotally, sexual recidivism for individuals released under ISRB jurisdiction is low.
 - Most frequently, revocation is related to:
 - Drug or alcohol use and/or other substance related violations.
 - Unapproved dating/sexual relationships – especially with people that have care or custody of minors.
 - Sexually explicit material
- Challenges with Lifetime Supervision
 - No formal step-down process
 - ISRB imposed conditions
 - Judgement & Sentence conditions
 - Changing Community Corrections Officers (CCOs)
- Alternatives to Lifetime Supervision:

Establish a timeframe for automatic completion of supervision.	Establish a timeframe and specific criteria for review for completion of supervision.
<ul style="list-style-type: none"> • There are already established processes. • But may miss individuals that are engaged in high-risk behavior 	<ul style="list-style-type: none"> • Suggest that timeframes be related to risk and based on research.

Questions

Brad asked if there was going to be an agency that decided on criteria, which branch of government should make those judgements?

Lori replied that they would recommend the ISRB because they have the most immediate knowledge about the individual and the case is already under their jurisdiction.

Brad asked can you make any generalizations about offense behavior/violation behavior as people get 10+ years into supervision?

Lori replied that she has seen very few people who have been on supervision for more than 10 years that are seen for a violation hearing.

Jill added that there are sometimes violations of complacency once an individual has been out for a long time so they may make smaller violations that are generally not sexual offenses.

Lori adds that not every sex offender has the same problem and just because we have a list of restrictions doesn't mean we need to impose them on every individual. The ISRB tries to be particular about the restrictions and have them be tied to an individual's risk and safety to the community. This can be complicated by the original conditions that have been imposed by the court that may need to be adapted later. She would like to see conditions reviewed more frequently.

Jill adds that there is a lot of research out on violations and individuals back in prison on technical violations as opposed to violations related to risk. We try to be very mindful to

have the right individuals who are engaged in risk-related behavior that places the community at risk.

Brad notes that he has seen some of this in his practice as well and DOC has to follow the list of conditions that they are given. Is there a way to create a dynamic list of conditions based on current research and understanding of the individual?

Jill replied that cases under the ISRB jurisdiction do not have the wrinkle of DOC imposed conditions. DOC is not able to impose their own conditions on ISRB cases. Conditions can only be added by the sentencing board or the ISRB. It makes sense to leave the majority of the conditions to be imposed to be done by the ISRB. We usually have more of their information at the time of their release regarding risk than the judge.

Dr. O'Connell notes that a point to recognize in the process is that each of the changes to law were all designed to correct the problem that was widely understood and accepted it. But each of those changes had some unintended and intended consequences. So, whatever gets recommended and gets done, it likely won't be perfect - releasing someone from prison creates risk and releasing someone from conditions may create risk. Individuals on SSOSA – if they are convicted of any of the offenses listed – receive lifetime supervision but by definition, these individuals are the lowest risk and they were inadvertently swept up in the wake of legislative changes.

Terrina asked if there was any specific data that the ISRB had between the time of release to violations and revocations?

Jill noted we don't have the data but would be willing to work with DOC to gather data that may be useful to the SOPB.

Mac added some observations to share. The state in 2009 made a conscious decision as it applies to community supervision that DOC will only supervise the highest risk individuals that pose a risk to re-offense/recidivate. Something we should consider is how do we apply the science and the tools to this population? Fundamentally, lifetime supervision flies in the face of principles of risk-needs-responsivity which are very individual and very specific. It also takes a tremendous amount of resources. An individual that commits an offense at age 23 is very different than when they are 75 and still being supervised. We know that people tend to age out of offense behavior. We also know that for every 5 years that an individual remains in the community crime-free, their risk reduces by 50%. DOC chartered a workgroup that talked about these issues of lifetime supervision and came with some recommendations about step-down model which included: (1) no significant violations of supervision within the last 5 years, (2) successful completion of any ordered treatment programs, (3) compliance with mental health treatment program, (4) no imminent victim or community concerns, and (5) the stable assessment to be completed by trained staff before a determination is made in reductions. There is a call for expertise and science in these cases which is something I think the data would bear out. Supervision is something that is court-ordered and largely court-driven by conditions and those are things that are not negotiable or interpretable by our staff other than we need to adhere to what the court ordered. The Legislature authorized DOC to move more towards a coaching/mentoring model of supervision which is person-centered and focuses on re-entry within the first 90-days of release which is super important. It really is to reduce barriers and set people up for success.

Additional Highlights from Post-presentation Discussion

- The ISRB works to stay connected with stakeholders, the National Institute of Corrections, and up-to-date on research. They remain open to any additional trainings in this area.
- The ISRB consents to their PowerPoint presentation being shared and is willing to work on data and resources to be provided to the board. Once received, this will be distributed to the full board members for review.
- The victims' community notes and reminds that sexual assault is an under-reported crime
- Looking at state comparisons is part of the legislative assignment and gathering this information will likely require assistance from the ISRB and other stakeholders so that the board can review and include this information in the report.

SSOSA Discussion

Led by Brad Meryhew and Megan Allen

- **Brad** reviewed RCW9.94A.670 regarding the Special Sex Offender Sentencing Alternative (SSOSA)
- **Brad** noted that a study conducted by WSIPP on SSOSA recidivism was released and indicated a very low re-offense rate for individuals who receive SSOSA.
- **Megan** added:
 - Agreement that the victims community valued and collaborated in SSOSA's development
 - We should consider how we help continue to create a process and system that really does allow victims to feel capable of coming forward
 - Inherently, our system is adversarial. Especially with child victims who have been victimized by a known individual. It is uniquely challenging for minors who have been victimized and all of the demands that the system places on them (ex: reporting, testifying, etc.)
 - This is a unique piece of the law that includes the victim's voice. The main thing sought by victims in this process is the admission of the harm.
 - SSOSA requires accountability early on
 - The majority of SSOSA's going forward are agreed
 - There is accountability and transparency built into the statute if the judge deviates from this agreement
 - This reinforces the legitimacy and fairness in the system when a victim is given the respect of being heard and their input being considered and having weight
 - The process gives victims a fair chance of being heard and validated which is different from the majority of other cases
 - With SSOSA, defendants are also pleading guilty to crimes that more accurately reflect the abuse, which is often different in many other cases (ex: when plea agreements are made)
- **Brad** adds: SSOSA is really about victims – it's created by them and for them

- Question from **Brad**: How does your community feel if we expand this alternative without named victims?
 - **Megan** gave input that the biggest concern is the appropriate “fit” - essentially, is the right “fit” for treatment to be in the community receiving community-based services or is the “fit” more appropriate to be incarcerated and receiving treatment (including considering the community benefit). Connecting this to risk is very important.
- Potentially there is a separate statute that could be developed to address low risk offenses.
- **Patricia** echoed Megan’s sentiments and emphasized accountability.
- **Megan** added that a concern for adding other crimes into SSOSA statute would be legal language of the victims’ input being greatly weighed.
 - This is very unique and it doesn’t exist in a lot of other aspects of civil or criminal processes that victims participate in
 - It could be difficult to include this if there is not a named victim.
 - Because of this, it likely would need to be a separate alternative for low-risk offenders.

Additional Takeaways in Discussion

- **Dr. O’Connell** agreed that SSOSA has accountability “baked into the process”. With regards to an identifiable victim, this was not in the original statute. In the early 2000s, several bills were put forward to eliminate SSOSA. The standard language didn’t really include accountability. An addition that came out of the Legislative session was that there has to be a victim where the relationship was not solely for the purpose of committing the offense. The language was then interpreted in an appeals court hearing to mean that if the relationship with the victim was not for the purposes of sexual abuse then there had to be an identifiable victim. Thus, for child sexual exploitation materials and sting cases, when there is not an identifiable relationship, it has been translated into there has to be an identifiable victim. This was never in the mind of the Legislators when they wrote the statute. Social media and the internet were very different in 2005.
- **Rick** extended an offer with The Office of Crime Victims Advocacy & Public Safety to Representative Graham, and any other interested stakeholders/individuals, to have further discussions around the services that they offer, what they do, how they can be supportive of victims, and the support from the Legislature.
- Acknowledgment from numerous attendees and board members that, despite best efforts, there aren’t enough resources for victims and there is support for increasing these resources

Next Steps

- Subcommittees will begin meeting in May
 - Lifetime Supervision Subcommittee meets 1st/3rd Mondays 9a-11a
 - Failure to Register (FTR) & Washouts Subcommittee meets 1st/3rd Tuesdays from 1p-3p
 - SB 5163 Implementation Subcommittee meets 2nd/4th Wednesdays from 9a-11a
 - SSOSA & Sentencing Alternatives Subcommittee meets 2nd/4th Thursdays from 10a-12p

- The next full board meeting will be Thursday, May 19, 2022. Full board meetings will occur on the third Thursday of the month beginning at 1:00 p.m.

For the Good of the Order

None.

Meeting Adjourned at 3:33 p.m.

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

_____/s/_____
Chair Brad Meryhew

____5/19/22____
Date