



STATE OF WASHINGTON
SEX OFFENDER POLICY BOARD

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SEX OFFENDER POLICY BOARD

June 16, 2022 1:00pm-4:00pm

Zoom Meeting

Members Present:

Blanche Barajas
Keith Devos
Linda Farmer
Jimmy Hung
Brad Meryhew
Christine Minney
Michael O'Connell
Jedd Pelander
Terrina Peterson
Lori Ramsdell-Gilkey
Shawn Sant
Jamie Weimer

Members Absent:

Maryann Moreno

Staff:

Whitney Hunt, OFM

Members Represented by

Proxy:

Dante Harper for Mac Pevey
Mikah Semrow for Richard
Torrance

Guests: Brandon Williams, DOH; Jennifer Williams, DOC; Shoshana Kehoe-Ehlers, OPD; Sonja Hardenbrook, SnoCo PDA; Emily Hancock, SnoCo PDA; Brandon Duncan, DOC; Joanne Smieja, WA Voices; Bruce Glant, CAGE; Marla Polin, Attorney; Candice Yi, SCC; Lorraine Lynch, KSARC; Laura Merchant, Harborview Abuse and Trauma Center; Sheriff Brad Manke, Stevens County; Lydia Schoen, citizen; Karl Tobey, citizen; Heidi Brodt, CAGE; Cathy Johnston, citizen; Dominic Winter, SCC

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 and there will be an opportunity for public comment at the end of the meeting during the “For the Good of the Order” section.

- **Brad** called the meeting to order and introduced himself and asked that board members introduce themselves.
- **Brad** stated that Judge Maryann Moreno will be retiring soon and a replacement has not yet been found for her board seat.

Meeting Objectives

Approval of Minutes

Brad Meryhew asked the Board to approve the meeting minutes from May 19, 2022.

MOTION #22-6: MOTION TO APPROVE THE MAY 19, 2022, MEETING MINUTES.

- **MOVED: Brad Meryhew**
- **SECONDED: Linda Farmer**
- **ABSTAINED: N/A**
- **PASSED: Unanimously**

The Criminal Processing of an Allegation of Sexual Misconduct in Washington – Discussion Part 1

- **Whitney** shared a map of the Washington State Adult Offender Management System and Washington State Juvenile Offender Management.
 - **Brad** stated the intention for this is to illustrate how complex this system is and how many moving parts there are.
 - The goal is to go through each of these steps and discuss how each of them work according to the role of today’s meeting participants.
 - This document is available upon request.
- **Brad** asked **Terrina** and/or **Jamie** to describe what happens once a crime is alleged to have occurred or, alleged to have occurred in the past and a report is made to the police.
- **Terrina** stated that once law enforcement receives a report, typically from a patrol officer, a screening process occurs followed by an investigation and consultation with the prosecutor’s office.
 - **Brad** asked if the initial report can also be made at a hospital that may include an examination which law enforcement can collect for evidence in the case.
 - **Terrina** confirmed yes, if a report is made to the police by the hospital or the individual.
- **Brad** asked at what step in this process is a victims advocate first assigned to the victim and what is their role.
- **Shawn** stated that it depends on the type of case and where law enforcement is at with the investigation. Typically, they will conduct interviews to gather key information in conjunction with law enforcement. This needs to take place within 72 hours of a criminal hold. In most scenarios, there is enough time to gather any needed information before charges are brought forward.

- **Brad** clarified that law enforcement typically refers to victim’s advocacy in the early stages of the investigation.
 - **Shawn** confirmed yes. While it’s not automatic, it almost always happens simultaneously with the interview of a juvenile victim or witness.
- **Brad** asked **Shawn** what happens to the referral once it is sent to WAPA and assigned to a prosecutor. How are they handled and what considerations are made in regard to how to file? Additionally, why do things get backed up in the prosecutor’s office?
- **Shawn** stated that with most cases there is one witness/victim and one alleged perpetrator which creates two contrasting versions of events. Building a sufficient case will require an assigned Deputy Prosecuting Attorney (DPA). The DPA that’s assigned is determined by the specifics of the case, other cases pending, etc. The DPA then looks at the details of the case and the allegations and begins the process of follow-up interviews, weighing the merits of the allegations, confirming the location of where the alleged crime took place, disclosures that were made but not yet reported, etc. All of these things are taken into account when considering what level of charges to bring.
- **Brad** asked what happens if WAPA declines prosecution.
- **Shawn** said it depends on things like the reason(s) for a decline, if there is a lack of evidence or if a witness or defendant disappears making it impossible to file charges.
- **Jamie** added that not all allegations of sexual misconduct are going to be reported to law enforcement and asked **Larraine** or **Mikah** to weigh in on what happens when this occurs.
- **Larraine** clarified if **Jamie** was asking about the victims that contact King County Sexual Assault Resource Center (KCSARC) that don’t want to make a report.
 - **Jamie** stated yes.
- **Larraine** answered saying that, if the survivor is an adult, they have the choice to report or not. They then have a conversation about what they want and discuss what services KCSARC offers, what reporting would look like, what a medical exam would entail, therapy options, support for their partner, etc. If the survivor is a minor, KCSARC is a mandatory reporter so they discuss what is involved with that process.
- **Brad** asked **Larraine** if she agrees that law enforcement is making these referrals early on in the investigation.
 - **Larraine** replied yes, and a large part of what they do is nurture those relationships with different law enforcement organizations by maintaining good communication, providing trainings on victims’ advocacy, and offering information on the services that KCSARC offers.
- **Laura** added that their experience primarily sees victims come through the “medical door” and rarely sees them get very far in the legal system.
 - **Brad** asked how many people they work with in a single year.
 - **Laura** stated the number was over 600 last year for counseling or other services.
- **Brad** asked for an overview of the next step in the process being a psychosexual evaluation.

- **Dr. O’Connell** stated there is a range of evaluations that may be conducted. A defense attorney may be looking for a sentencing alternative such as SSOSA. The evaluations have three objectives to determine the following:
 1. Does the defendant have treatment needs?
 2. Are they amenable to the treatment process?
 3. What kind of risk do they pose for future sexual misbehavior?
 - **Brad** asked if there is anything stopping the individual entering into a therapeutic relationship with the provider once the forensic evaluation is completed.
 - **Dr. O’Connell** stated there are statutes in place, such as SSOSA, that prevents that unless otherwise determined by the court that continued treatment by that provider is in the public’s best interest.
- The next step in the process is negotiations. **Brad** asked the victim’s advocates what happens at this stage with a victim that is participating in the process and what they want to see happen in these negotiations.
 - **Lorraine** stated the legal advocate is in communication with the prosecutor about the status of the case and asks if the victim is open to sentencing alternatives such as SSOSA or SSODA.
 - **Jimmy** added that if a prosecutor feels that their case is strong and that they will prevail in court then they will recommend that the victim move forward. However, they also have to take public safety and victims’ feelings on the matter into account on whether or not they want to go through the sometimes difficult court process.
- **Brad** asked if anyone wanted to give information about the PSI process and what that report is used for before and after sentencing.
 - **Dante** stated the intention for the report is to give the court additional information such as education and employment history, etc., in a comprehensive and clear format of who this individual is as a person.
- **Brad** asked if anyone could give their review of what happens at sentencing.
 - **Lorraine** stated that sentencing hearings are very emotionally difficult for the victim and secondary victims, such as loved ones and friends. Sometimes the sentence can also be disappointing which can add to the existing trauma.
 - **Jimmy** added that sentencing in these cases are imperfect. Additionally, Jimmy recommended we can also advocate for more training for judges in how these hearings effect the victims.
- Next, **Brad** asked **Jedd** to give an overview of the ERSC process.
 - **Jedd** stated that the ERSC is in statute 72.09.345 which is a body required to make recommendations to law enforcement for any individual with a registerable sex offense releasing from prison, DSHS in a civil commitment center, juvenile institution, SSODA sentence or, any juvenile coming in for out-of-state. This risk level committee is run through DOC and **Jedd** oversees the juvenile section of the committee. The body is made up of victim/witness representation, behavioral health representation, DSHS, DOC, law enforcement, etc. They make a risk level

assessment based on documents available in an individual's file that includes the PSI and treatment records. Recommendations are sent out 30 days prior to release.

- **Brad** asked if the ISRB process happens before or during this.
- **Jedd** stated it depends, but they first have to be found releasable.
- **Lori** added that ESRC levels them first and their report is referred to during the individual's hearing.

Failure to Register (FTR) Discussion by Stevens county Sheriff and WASPC representative Brad Manke

- **Brad Manke** introduced himself and stated that level 1's are checked once a year, level 2's 6 months, and level 3's every 3 months.
- The primary reason the department will look at someone for FTR is if the individual misses a check in, is missing from the address where they should be residing, or a random law enforcement contact such as a traffic stop. An offender that is transient is required to check in weekly.
- If the individual is missing from their residence or misses a check in, an investigation occurs and interviews are conducted with family and/or friends.
- **Terrina** asked **Brad Manke** to clarify what their prosecutors file standards are.
 - **Brad Manke** stated the prosecutor will file if the individual does not respond within 3 days of their release.
- **Bruce** stated the process sounds more lenient than what he has been told by clients. He suggested we look at the requirements to be more standard across the board.
 - **Jamie** stated that there is a difference between supervision requirements and registration requirements.
 - **Brad Manke** added that the way these cases are approached do vary from department to department, but ultimately the guidelines laid out in the RCW are followed.

BREAK

The Criminal Processing of an Allegation of Sexual Misconduct in Washington – Discussion Part 2

- **Jedd** asked if an individual has depiction offenses, or noncontact offenses, is the individual still referred for a psychosexual evaluation?
 - **Brad** answered by stating that the psychosexual evaluation is a standard tool. There doesn't need to be an identifiable victim to look at all of the dynamic risk factors of an individual.
 - **Sonja** noted in the chat that for indigent defense, we have to tie any court funds (for psychosexual evaluation, for example to an outcome. If clients are not eligible for a SSOSA because of no identifiable victim, then we have to declare in advance how such an evaluation would concretely impact the outcome. Sometimes that is a hard sell, particularly in our jurisdiction. We cannot do a

psychosocial on every offense - in fact we are currently facing a huge shortage of SOTPs willing to do evaluations for us. There are often very long delays even when we find a provider to evaluate a client. If the client is in-custody they may overserve or the Court may not be willing to continue the case long enough.

- **Terrina** presented on registration as outlined in 9A.44.130
 - **Brad** asked if there were any updates with regards to community notification as this has evolved over the years.
 - **Terrina** added that there weren't any formal updates but that notification varies from county to county.
- **Bruce** brought up the topic of net nanny stings as an area of concerns which was discussed by several stakeholders.
 - **Whitney** informed the board that WSIPP is conducting a study with regards to net nanny stings. The board expressed interest in reviewing the information that is available. Whitney will provide the information that is currently available to the full board and the subcommittees to review.

Subcommittee Updates

Lifetime Supervision Subcommittee – by Jamie Weimer, chair

- **Jamie** provided an update to the board about the ongoing work at the subcommittee level including reviewing resources, research and literature that relates to lifetime supervision. This work is ongoing.
 - **Brad** asked for an update around the consensus work that the subcommittee is doing.
 - **Jamie** responded by saying that the subcommittee previously identified that there is consensus around the lifetime supervision framework being very expensive and ineffective. The subcommittee is continuing to review research on this topic to help inform conversations around recommendations.
- The subcommittee's next meeting is June 24th.

SSOSA & Sentencing Alternatives Subcommittee – by Dr. Michael O'Connell, co-chair

- **Michael** provided updates about the ongoing work at the subcommittee level including reviewing resources, research and literature that relates to sentencing alternatives and cases that do not have an identified victim. This work is ongoing.
 - **Brad** recommended that the subcommittee continue to review research around cases that do not have an identified victim, including voyeurism and indecent exposure.
 - **Michael** agreed that the subcommittee will look into these further.
- The subcommittee's next meeting is June 23rd.

Failure to Register (FTR) & Washouts Subcommittee – by Terrina Peterson, chair

- **Terrina** provided updates about the ongoing work at the subcommittee level including reviewing resources, research and literature that relates to FTRs & washouts. This work is ongoing.
 - **Brad** asked if there was an update with regards to washouts at this time.
 - **Terrina** replied that the subcommittee is still doing a dive into understanding washouts.
 - **Brad** recommended looking into what other states are doing on this issue.
- The subcommittee’s next meeting is June 21st.

SB 5163 Legislative Assignment Subcommittee - by Emily Hancock, co-chair

- **Brad** reminded the board about the ongoing Legislative assignment with regards to ESSB 5163. He advised the board that about the specific request to look into the Community Protection Program and that there would be more to come from the subcommittee around this area at later meetings for the board to review and consider.
- **Emily** confirmed this and informed the board that the subcommittee continues to work on authoring their report for the board to review. The goal is to have the draft of the report to the board in advance of the July full board meeting to review and discuss.
- The subcommittee’s next meeting is June 22nd.

Next Steps

For the Good of the Order

Meeting Adjourned at

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

_____/s/_____
Chair Brad Meryhew

7/21/22
Date