



STATE OF WASHINGTON
SEX OFFENDER POLICY BOARD

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SEX OFFENDER POLICY BOARD

October 13, 2022 1:00pm-4:00pm
Zoom Meeting

Members Present:

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

Members Absent:

Hon. Nelson Lee
Mac Pevey
Shawn Sant

Staff:

Whitney Hunt, OFM

Members Represented by

Proxy:

Candice Yi for Keith Devos

Guests: Brandon Duncan, DOC; Keri-Anne Jetzer, OFM; Kathleen Hambrick, CAGE; Bruce Glant, CAGE; Alex Mayo, WA Voices; Joanne Glant, WA Voices; Corey McNally, DOC; Sonja Hardenbrook, SnoCoPDA; Emily Hancock, SnoCoPDA; Devon Gibbs, King County PDA

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 the 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.

Meeting Objectives

Approval of Minutes

Sex Offender Policy Board

October 13, 2022 Meeting Minutes

Brad Meryhew asked the Board to approve the meeting minutes from September 29, 2022.

MOTION # 22-14 MOTION TO APPROVE THE SEPTEMBER 29, 2022, MEETING MINUTES.

- **MOVED: Brad Meryhew**
- **SECONDED: Richard Torrance**
- **ABSTAINED: N/A**
- **PASSED: Unanimously**

Full Board Discussion and Voting

Voting on Recommendations: 5163 Implementation Assignment

- Recommendation No.1: The SOPB recommends that the 500ft rule in RCW 71.09.096(4)(a) be stricken.
 - **Devon** provided an overview of this recommendation and listed concerns associated with the current law.
 - There have been facilities that have lost LRA status as the current law does not account for waterways, ravines, etc.
 - **Jedd** asked how long this rule has been in effect.
 - **Brad** stated it was a part of 5163.
 - **Jamie** asked for clarification on the support of these three recommendations within the workgroup.
 - **Whitney** confirmed that all three recommendations received unanimous support from the subcommittee.
 - **Brad** added that this subcommittee consisted of a diverse group of stakeholders.
- Recommendation No.2: The SOPB recommends that the blanket rule for zoning requirements in RCW 71.09.097(2)(a) be removed.
 - **Devon** provided an overview of this recommendation and stated this rule was a floor amendment during the creation of 5163.
 - **Dr. O'Connell** asked if, beyond the DOC report, that placements would need to be made by a superior court judge.
 - **Devon** confirmed yes, that's correct.
- Recommendation No.3: The SOPB recommends that the definition of "secure transition community facility (SCTF)" under 71.09.020(16) and the definition of "secure facility" under 71.09.020(17) be clarified to provide a distinction between SCTFs and community LRA housing.
 - **Devon** provided an overview of this recommendation and stated that the current statute is not clear and does not offer a clear distinction between SCTFs and community LRA housing.
 - In this recommendation's identifying statement, **Brad** suggested we change the word "clear", to "clearer" to better support its goal.

- **Dr. O’Connell** also found a typo in the statement that **Whitney** corrected.
 - The first sentence was changed from, “secure transition community facility”, to “secure community transition facility.”
- **Brad** asked the board members that are present to submit their votes on the three recommendations in the meeting chat.

Voting on Recommendations: House Public Safety Committee Assignment

SOSSA Recommendations

- **Brad** provided an overview and the goals of the recommendations shown below:
 - No.1: The SOPB recommends that the SSOSA statute be protected and preserved. We believe the evidence is strong that this sentencing alternative is an effective tool to resolve many cases and has proven itself over the decades.
 - No.2: The SOPB recommends that cost barriers to SSOSA be reduced by the implementation of sliding scale fee schedules for evaluations and treatment and the creation of low-cost treatment options.
 - No.3: The SOPB recommends that, where possible, work release programs be established and expanded to allow those who otherwise lack the resources to take advantage of SSOSA and other treatment alternatives.
 - No.4: The SOPB recommends that RCW 9.94A.670 be clarified to include language that requires an individual to enter a plea of guilty prior to trial in order to be eligible for this sentencing alternative.
 - **Brad** asked the board members that are present to submit their votes on the four SOSSA recommendations in the meeting chat.

Treatment Alternatives for Certain Sex Offenses

- **Brad** provided an overview and the goals of the recommendations shown below:
 - No.1: The SOPB recommends that a sentencing alternative similar to SSOSA be enacted for those convicted of violations of RCW 9.68A. related to Depictions of Minors Engaged in Sexually Explicit Conduct so long as the person did not create the images in question.
 - No.2: The SOPB recommends that a sentencing alternative similar to SSOSA be enacted for those convicted of an internet sting or other sex offense not involving an identifiable victim.
 - No.3: The SOPB recommends that this treatment alternative only be available to those who are willing to take some responsibility for some sexual misbehavior/a strong willingness to address behaviors that led them to their offense.
 - **Terrina** requested we remove the word “some” from this recommendation.
 - **Brad** agreed and **Whitney** made the change.
 - No.4: The SOPB recommends the following criteria for this treatment alternative, similar to the current criteria for SSOSA eligibility, which we endorse:

No prior sex offenses and no adult convictions for a violent offense committed within five years of the instant offense; and a standard sentencing range includes a sentence of eleven years or less.

- **Terrina** asked if this criteria means no prior sex offenses within 5 years, or no sex offenses ever.
- **Brad** responded saying that it means no prior sex offenses ever, and no violent sex offenses within 5 years, which mirrors the SOSSA statute.
- **Brad, Terrina, Jimmy, and Dr. O’Connell** agreed to change the language to “no prior sex offense convictions or adjudications.”
- **Whitney** made these changes.
- No.5: The SOPB recommends that the Court impose standard conditions similar to SSOSA:
 - Annual review hearings, including treatment termination hearings; and
 - Up to five years of SOTP treatment.
 - **Brad and Dr. O’Connell** agreed to add the clarifying language of, “community-based SOTP treatment” to the last sentence in this recommendation.
- No.6: The SOPB recommends that the Court hold a supervision termination hearing at the end of the suspended sentence for the Court to agree with the termination of community custody.
- **Dr. O’Connell** noted the information we had received from CAGE describing the methods of the stings which raised several concerns about the fairness and appropriateness of those investigations. And while he agreed that there wasn’t a place in the report to address this, he wanted to raise those concerns which he felt were legitimate.
- **Brad** asked the board members that are present to submit their votes on these six recommendations in the meeting chat.

Lifetime Supervision

- **Brad** provided an overview and the goal of the recommendation shown below:
 - No.1: The SOPB recommends that a pathway off of lifetime supervision should be created for individuals who have committed sexual offenses and meet eligibility criteria, including all of those currently subject to lifetime community custody. Specifically, (criteria noted in final recommendation)
 - **Jamie** added that they’re primarily in agreement with a concern about the differing process for individuals that are level 2 and level 3.
 - **Jamie** had some additional language to add to this recommendation which she will be sending to **Whitney** to help wordsmith.
 - **Dr. O’Connell** suggest we adjust the language in the first paragraph under the “Disqualifying Event” section to include, “if they have had disqualifying events which include:”

- **Terrina** suggested it read as, “if they have had disqualifying events. A disqualifying event is defined as:”.
 - **Whitney** made these changes.
- Under the disqualifying Event section, **Jimmy** suggested we strike the language that says, “related to the treatment.
- **Whitney** made this change.
- **Jedd** added that we should strike the word “not” in the first and second bullet points as the prior language has now been changed.
 - **Brad** agreed and also added that the language in bullet point 3 should now read as, “has not”.
 - **Whitney** made these changes.
- **Lori** shared her concern with bullet point one being attached to DOC policies as those could change.
 - **Brad** suggested it read as, “as currently outlined”.
 - **Dr. O’Connell** suggested we reference the date of the behavioral guide in the recommendation.
 - The group agreed to instead make it read as, “as defined in DOC policy”, and strike the remaining language.
 - **Whitney** made the changes and will add the current DOC policy to the appendix.
- **Brad** asked the board members that are present to submit their votes on this recommendation in the meeting chat.

Lifetime Supervision (continued) for Special Sexual Offender Sentencing Alternative Offenders

- **Brad** provided an overview and the goals of the recommendations shown below:
- No.2: The SOPB recommends that individuals who are granted a SSOSA sentence should be supervised by the Department of Corrections for the length of their suspended sentence or 36 months, whichever is longer.
- No.3: The SOPB recommends that the sentencing Judge in the Superior Court hold a supervision termination hearing at the end of the presumed community custody period to determine if the person should be released from community custody.

BREAK

Lifetime Supervision (continued) for Special Sexual Offender Sentencing Alternative Offenders – Continued

- No.4: The SOPB recommends that the DOC and ISRB submit an annual report to the governor and appropriate committees of the legislature detailing the number of individuals eligible for discharge from lifetime supervision; the number of individuals granted discharge from lifetime supervision; and the number of individuals who, subsequent to discharge from lifetime supervision, are investigated for a recent overt act

as defined by RCW 71.09.020 or new sex offense as defined by RCW 9A.44.128 or 9.94A.030.

- This recommendation was suggested by **Jamie**.
- **Brad** asked the board members that are present to submit their vote on the recommendation in the meeting chat.

Failure to Register

- **Brad** provided an overview and the goals of the recommendations shown below and spoke about the areas where we did not reach consensus.
 - No.1: The SOPB recommends that the offense of Failure to Register, pursuant to RCW 9A.44.132, be reduced from a Seriousness Level III offense to an Unranked Felony for the purposes of sentencing. This would result in a presumed sentencing range of 0 – 12 months.
 - No.2: The SOPB recommends that for the crime of Failure to Register, defendants would be given one year of community custody for a first offense and two years of community custody for subsequent offenses.
 - No.3: The SOPB recommends that Failure to Register offenses should not be defined as a “sex offense” under RCW 9A.44.128 of 9.94A.030. Under current law the second offense of Failure to Register and thereafter are defined as “sex offenses.”
 - No.4: The SOPB recommends that Failure to Register should be classified as a “disqualifying offense” as defined in RCW 9A.44.128, which would restart the waiting periods for relief from registration for a conviction. The SOPB recommends that Attempted Failure to Register should not be a “disqualifying offense.”
 - No.5: The SOPB recommends that individuals under the jurisdiction of the Department of Corrections for a Failure to Register offense, whether they are in the community or still in prison, be assessed to identify the individual’s barrier(s) to registration compliance and provided with resources and tools to support compliance and improve functioning in the community, including housing, vocational rehabilitation, treatment as necessary, and community supports. The SOPB specifically endorses the use of navigators or other specialized corrections approaches in meeting the needs of this population.
 - No.6: The SOPB recommends that the Washington Association of Sheriffs and Police Chiefs (WASPC) review the Model Policy for Washington Law Enforcement regarding Adult and Juvenile Sex Offender Registration and Community Notification (4.24.5501) to identify opportunities to utilize technology to streamline initial and ongoing registration processes.
 - **Dr. O’Connell** asked if this would be a disqualifying offense for release from lifetime supervision?
 - **Terrina** confirmed yes, if it’s a felony offense.

- **Terrina** and **Brad** agreed to add the word “shall” in No.2 and struck the language in No.4 that states, “The SOPB recommends that Attempted Failure to Register should not be a ‘disqualifying offense’”.
 - **Whitney** made these changes.
- With **Keri-Anne’s** recommendation, the group agreed to also add “regardless of risk” in No.2. and reference RCW 9.94A.501.
 - **Whitney** made these changes.
- **Brad** asked the board members that are present to submit their votes on these recommendations in the meeting chat.
 - There are 11 voting members present, and the votes were submitted as follows:

Washouts

Offender Score Washout for Prior Sex Offenses

- **Brad** spoke about how difficult this particular piece of assignment has been and spoke about the three options offered.
 - Option 1: The SOPB recommends no washouts for subsequent offenses. The current state of the law.
 - Option 2: The SOPB recommends the law allow washouts for subsequent offense only if those are non-violent offenses that are not sex offenses as defined in RCW 9.94A.030.
 - Option 3: The SOPB recommends that the portion of this assignment related to washouts be completed after the Sentencing Guidelines Commission task force has completed their work on this subject.
 - **Keri-Anne** had one change to this option: that, “Sentencing Guidelines Commission task force” be changed to “Criminal Sentencing Task Force”.
 - **Whitney** made this change.
- **Brad** asked the board members that are present to submit their votes on these options in the meeting chat.

Sex Offender Management System Improvements

- **Brad** provided an overview and the goals of the five recommendations listed below:
 - No.1: The SOPB recommends that the Department of Health Sex Offense Treatment Provider requirements outlined in RCW 18.155.020 be amended to expand the definition of providers who are eligible to be Affiliate SOTP providers by allowing Licensed Mental Health Counselor Associates (LMHCAs), Licensed Independent Clinical Social Worker Associates (LICSWA), Licensed Advanced Social Worker Associates (LASWA), and Licensed Marriage and Family Therapist Associates (LMFTAs) who have the required experience, to increase provider availability to ensure a sufficient supply of appropriate providers.

- No.2: The SOPB recommends that the Department of Health Sex Offense Treatment provider requirement in RCW 18.155.020 be modified to allow SOTPs to supervise up to 4 Affiliates, regardless of full-time or part-time status.
- No.3: The SOPB recommends that an agency be directed to administer a funding program to assist in reducing the costs associated with the licensure for Sex Offender Treatment Providers (SOTPs).
- No.4: The SOPB recommends that, subject to judicial approval by the sentencing court, the ISRB may recommend, via letter to the sentencing court, modification to conditions of supervision imposed by the court under ISRB jurisdiction. The ISRB may not address restitution or other legal financial obligations and the sentencing court retains the authority to delete or modify conditions.
- No.5: The SOPB recommends the following in order to correct the current contrast between RCW 4.24.550 and Washington’s Public Records Act:
 - The SOPB recommends that RCW 4.24.550 be amended to add a new section: (12) Sex offender and kidnapping offender registration information is exempt from public disclosure under chapter 42.56 RCW, except as otherwise provided in 4.24.550.
 - The SOPB recommends that RCW 42.56.240 be amended to add a new section: Information compiled and submitted for the purposes of sex offender and kidnapping offender registration pursuant to RCW 4.24.550 and 9A.44.130, or the statewide registered kidnapping and sex offender website pursuant to RCW 4.24.550, regardless of whether the information is held by a law enforcement agency, the statewide unified sex offender notification and registration program under RCW 36.28A.040, the central registry of sex offenders and kidnapping offenders under RCW 43.43.540, or another public agency.
- **Brad** asked the board members that are present to submit their votes on six options in the meeting chat.

Next Steps

- **Whitney** will send out an updated document containing all of the changes and results once all of the votes have been received.
- In order to be in compliance with OPMA standards, **Whitney** suggested that a motion be made to finalize all votes received at the next meeting since no official motions were made today.
 - **Brad** agreed and this matter will be discussed further at the next meeting.
- Next full SOPB meeting is scheduled for October 27, 2022.
- The November meeting needs to be scheduled before the board’s assignment deadline of December 1, 2022.
 - The board agreed to schedule the meeting for **Monday, November 28, 2022, at 1:00 PM.**

For the Good of the Order

- **Brad** thanked the stakeholders for all of their hard work.
 - **Alex** joined **Brad** in sharing his thanks for everything accomplished by those involved.
- **Heidi** shared that CAGE has concern about the recommendations concerning stings. There should be further investigation into how they're being conducted because currently how they're being done on adult platform is wasting taxpayer money and not protecting Washington's children as there aren't any stings on youth platforms.
 - **Bruce** added that the board should add these concerns to their report to the Legislature.
 - **Brad** acknowledged **Heidi** and **Bruce's** comments and stated that the board is constrained to only looking into questions asked by the Legislature and encouraged her and CAGE to reach out to their legislator(s) on these issues.

Meeting Adjourned at 3:56 p.m.

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

_____/s/_____
Chair Brad Meryhew

____10/27/22_____
Date