



STATE OF WASHINGTON
SEX OFFENDER POLICY BOARD

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SEX OFFENDER POLICY BOARD

October 29, 2020 9:00am-12:00pm

Microsoft Teams Meeting

Members Present:

Joshua Choate
Robert Gelder
Linda Farmer
Dave Flynn
Brad Manke
Brad Meryhew
Michael O'Connell
Jedd Pelander
Jennifer Ritchie
Stephanie Sacks
Richard Torrance

Members Absent:

Roger Rogoff

Members Represented by

Proxy:

Elyse Balmert (Jill Getty)
Mac Pevey (Donta Harper)

Staff:

Leah Landon

Guests: Dan Davis, Pierce County Prosecutor's Office; Brandon Duncan, DOC; Corey McNally, DOC; Daniel Yanisch, SCC; Devon Gibbs, King County Dept. of Public Defense; Elena Lopez, SCC; Zainab Ghazal, SCC; Jamie Weimer, WASPC; Jennifer Williams, DOC; Kelsey-anne Fung, Senate Committee Services; Rachael Seevers, DRW; Sharon Swanson, AWC; Shoshana Kehoe-Ehlers, OPD; Sonja Hardenbrook, Snohomish County Public Defender; Terrina Peterson, WASPC; Theo Lewis, DOC; Lowell Porter, SCC; Brad Klippert, WA State Representative; Kevin Black, Senate Committee Services.

Meeting Notes

Welcome & Call to Order

Brad Meryhew called the meeting to order and asked everyone to introduce themselves. Meeting participants were asked to mute their microphones when not speaking, and asked to use the chat function through Zoom whenever they would like. Leah provided an overview of the basic functions in Zoom, and added that votes during the meeting would be done as a Zoom poll.

Approval of Meeting Minutes

Brad Meryhew asked the Board to approve the meeting minutes from October 15, 2020.

MOTION #20-18: MOTION TO APPROVE THE OCTOBER 15, 2020 MEETING MINUTES.

MOVED: Linda Farmer

SECONDED: Jedd Pelander

ABSTAINED: Dave Flynn and Rick Torrance

PASSED: Unanimously

Discussion – Final SOPB Report to the Legislature

Brad Meryhew mentioned that some stakeholders returned the draft report to Leah with substantial changes and reconsiderations of their decisions from previous meetings. Brad said the meeting would be an opportunity for those people to talk about their changes and where appropriate ask for a revote. Brad added that some of the issues and new and invited the public and other stakeholders to provide insight during the discussion.

David Flynn asked for revotes on several items and recognized that frustration people have with the revote being requested so late in the process. He added that the SCC has been dedicated to responding to the pandemic and their understanding of these recommendations has evolved. Dave said he is committed to improving the SCC processes, he added that it is clear that there is frustration with the current processes at the SCC.

Brad Meryhew asked Dave why revotes needed to happen. He asked that we go through each item individually and Dave explain why a revote was necessary as the SCC was involved in the process through the duration of the project.

Recommendation 12:

Dave said there is a lot of presumption around this recommendation. It is presumed that the SCC can be more successful than the defense attorneys in doing this work and we do not know this to be true. The SCC has had people involved in the work though they have not been able to give their full attention to the work due to COVID-19. Much of the recommendation is not clear and it speaks to the shift of the work being done but it also builds timeframes around some of the work. This does create a higher level of liability for DSHS and the SCC.

- **Dave** said he was challenging the recommendation as the defense is funded to do the work and the SCC is not.
- **Brad** clarified that the SCC does not want to assume the responsibilities associated with #12. Dave said this is correct.
- **Michael O'Connell** said he prepared for the meeting and asked if he is the only one who is seeing and hearing about the objection for the first time.
 - **Leah Landon** said this is correct, it is the first time this is being brought up.
- **Jedd Pelander** asked if the issue is funding because part of the recommendation includes funding.
 - **Dave** said they have a concern about an unfunded mandate, but also about the actual work.
- **Rachael Seevers** said it has been pretty clear from everyone that all stakeholders would advocate for funding and the report makes clear that funding would be needed. She added

that DRW has had these conversations with several entities for years, about why the current process works the way it does, and the thing consistently heard is the SCC does not want to be responsible for this because of the political implications. She added that DSHS and BHA may never have been on board to begin with.

- **Jennifer Ritchie** said she was surprised by this because she did not see it coming, and that she agrees with Rachael. She added that this is outrageous and that everyone has spent countless hours of work and personal times going through all of this in the spirit of collaboration. This is not just a law for sex offenders, it is for victims also. We may not have all the data the SCC wants, and Dave's heart was in this. She added that she knows a lawyer's statement when she hears one, and this must be a liability issue. Jennifer added that the SCC already has a liability, and this may help limit their liability by adding regulatory oversight.
- **Shoshana Kehoe-Ehlers** said Dave had called her and she shares everyone's feelings of frustration. She added that OPD is not funded and has never been funded for their social workers and this work. Shoshana said that the OPD social workers do not have the ability to create a system that the community and victims will trust.
- **Linda Farmer** said she respected Dave's position, but the group was called together to make recommendations and that was the report was meant to do. She added that she has concerns about the report going into a digital file and everyone still seeing the same issues. We don't want this work to die before funding is available.
- **Josh Choate** said he wanted to echo Jennifer and Shoshana and it seems that as a matter of fairness and victim safety, there is an obligation on DSHS to have some part of the process after recommending that an LRA is appropriate.
- **Brad Meryhew** said previously the legislature had wanted proposals where there was consensus, and it is unfortunate we will not be able to do that.
- **Stephanie Sacks** asked Dave to clarify if he feels that someone else is better fit to determine or develop placements.
 - **Dave** said he didn't think there was anyone better suited to do the clinical review, but there are funding issues that are creating concern. The SCC cannot be successful without the appropriate resources. If not the SCC though, there needs to be additional research on this.
 - **Stephanie** said she respects everyone on the group but if we are choosing between the two, from a victim-centered perspective there are concerns about the defense taking this on and this should be housed with the same group making the clinical decisions.

MOTION #20-19: MOTION TO REVOTE ON RECOMMENDATION 12.

MOVED: Dave Flynn

SECONDED: Brad Meryhew

ABSTAINED: None

PASSED: Majority (11 yea, 1 nay)

Recommendation 22:

Dave said their concern is regarding the inability to compel someone to provide a release address. These recommendations do not provide the mechanism by which to compel people to provide this.

- **Brad Meryhew** said the recommendation is to provide other means to obtain the information. This is what the SCC objects to?
- **Dave** said he does not know that the SCC will be successful in obtaining the address.
- **Brad** clarified that Dave objects to the requirement that the SCC formalize their law enforcement notification process.
 - **Dave** said he objects to there not being more compelling language in the law.
 - **Brad** said that this is a policy recommendation and not legislation, and that the SOPB does not draft legislation and never have.
 - **Dave** said he is only objecting to the first sentence of recommendation 22.
- **Terrina Peterson** said it is a policy recommendation that the SCC formalize their process in notifications because they currently are inconsistent and confusing for law enforcement. But the residents are required by statute to provide their address at the time of release. This is not a change to RCW, it is just formalizing the process so it can be more effective.
 - **Dave** said he doesn't have an issue doing the work but really the lack of the ability to compel people to provide the address. This is for people with unconditional releases also and there are no means for making people provide an address. He added that he objects to there not being more formal recommendations for compelling people to provide addresses.
- **Jennifer Ritchie** mentioned that she feels that we already do this, and this is simply formalizing it. She added she isn't sure why this is a problem.
 - **Dave** said he just doesn't want to be in a position where they can't provide where they are statutorily required to provide.
 - **Donta and Jennifer** both added that this is only a recommendation and not statutory.
- **Jennifer Williams** said this work is currently being done and that DOC is getting better at it. There have been some cases that aren't willing to share addresses, but if there was a more formal process it would be just how to deal with those people.

The group had additional discussion on remedies for when someone does not provide an address, and how often it happens.

MOTION #20-20: MOTION TO BIFURCATE RECOMMENDATION 22.

MOVED: Brad Meryhew

SECONDED: Rick Torrance

ABSTAINED: None

PASSED: Majority (10 yea, 2 nay)

MOTION #20-21: MOTION TO APPROVE RECOMMENDATION 22.

MOVED: Brad Meryhew
SECONDED: Michael O'Connell
ABSTAINED: None
PASSED: Majority (11 yea, 1 nay)

MOTION #20-22: MOTION TO APPROVE RECOMMENDATION 22A.

MOVED: Brad Meryhew
SECONDED: Michael O'Connell
ABSTAINED: None
PASSED: Unanimous

Dave Flynn retracted his request for a revote on recommendations 26, 27, and 34.

Report Walk-through

- Leah guided the Board through the updated report draft.

Addition of Recommendation 35:

- **Linda Farmer** said that the work of the SOPB has been tremendous, and thorough. AWC and WSAC are asking for the addition of recommendation 35 in order to ensure oversight and to keep this on people's radars.
- **Rob Gelder** said there needs to be some acknowledgement that this work does not stop with the report. There needs to be some way to support everyone who is part of the system as we move forward. We need to continue the ongoing connection points though, this is related to the entire body of work.
- **Brad** added that ongoing effort by the SOPB makes sense.
- **Michael O'Connell** said that when he read this he appreciated that the cities and counties took the work so seriously.
- **Brad Manke** asked if recommending that the SOPB continue to meet quarterly is in keeping with the current bylaws.
 - **Brad Meryhew** said no, the SOPB does not have the independent authority to continue meeting, but we are asking the legislature to continue to engage us in the process.
- **Jamie Weimer** asked about the use of the word "oversight" in the recommendation.
 - **Brad Meryhew** said it is a term of art and it might be more appropriate to say "provide ongoing input".
- The group discussed additional verbiage changes.

MOTION #20-23: MOTION TO APPROVE THE ADDITION OF RECOMMENDATION 35.

MOVED: Linda Farmer
SECONDED: Rob Gelder
ABSTAINED: None
PASSED: Majority (11 yea, 1 nay)

Page 13 Report Edit

- The SCC requested the removal of a quote on page 13 of the report. The quote and historical context do not accurately reflect the stance of DSHS and the SCC.
 - **Shawn Candella** spoke more about this.
 - The group made changes to the verbiage and agreed to include a link to a fiscal note in the footnotes. They agreed that a vote to approve the final language could take place over email.

Recommendation 14 – Request for Additional Language

- **Dave Flynn** explained the additional language the SCC is requesting be added to the item.
- The group discussed the proposed language.
 - **Michael O’Connell** spoke to how prior SCC contract requirements drove providers away and the language being proposed would reduce the availability of treatment providers.
 - **Brad Meryhew** asked if the issue was discussed during the subcommittee process, multiple people said yes.
 - **Sonja Hardenbrook** said this was never previously brought up.
 - **Brad Meryhew** and **Dave Flynn** agreed to finalize the language outside of the meeting and send to the full board via email for approval.

Current State Section – Request for Additional Language

- The defense requested specific language be removed from this section.
 - The group discussed the language and made edits as appropriate.

The group returned to Recommendation 1

- Discussion continued on wording for recommendation 1.

MOTION #20-24: MOTION TO APPROVE WORDING CHANGES TO RECOMMENDATION 1.

MOVED: Brad Meryhew

SECONDED: This was not seconded.

ABSTAINED: None

PASSED: Majority (10 yea, 2 nay)

MOTION #20-25: MOTION TO APPROVE REPORT FOR SUBMISSION TO OFM COMMS TEAM.

MOVED: Brad Meryhew

SECONDED: Michael O’Connell

ABSTAINED: None

PASSED: Majority (11 yea, 1 nay)

- The SCC voted no on the final report moving forward as they are not supportive of the language in recommendation 12.

