

**SEX OFFENDER MANAGEMENT BOARD
MINUTES**

Friday, August 19, 2011

Board Members

Jim Austin
Mary Baydarian
Carl Blake III
Allison Boyd
Merve Davies
Cheryl Davis
Robert Erler
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Jeff Geist
Missy Gursky
Peggy Heil
Bill Hildenbrand
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Mimi Scheuermann
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Bill Martinez
Eric Philp

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Charla Phagan
Nancy Bullis
Cathy Rodriguez
Kristy Alles-Serrant
Jay Raiola

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Marci Brewer
Valerie Estrada
David Hoinojosa
Karen Vigil
Robertta Ponis
DeAnn Major
Bryce Gilmour
Yvonne Parietti
Dawn Bienek
Jennifer Leonard
Laurie Kepros
Rich Lins
Mindee Mitchell Brown
Kristina Ives

Visitors

Rob Meredith
Lori Freyta
Paul Prendergast
Maureen O'Brien
Burl McCullar
Jan Hunsaker
Allison Brittsan
John Anderson
Nancy Gifford
Debbie Stjernholm
Christine Tyler
Ted Romero
Norma Anderson
Tess Henry

Board Meeting Begins: **Introductions**

Future Agenda Items

A presentation by Jen Duncan (parole officer) was seen by Allison Boyd and she suggests that Jen Duncan should be contacted to make her presentation to the Board.

Announcements

- Debbie Stjernholm is now with Department of Corrections (DOC). Jay Raiola has filled the Grant Site Coordinator position. Amy Dethlefsen has left the SOMB so the research position is available.
- Board Member expense sheets-please submit at least every 2 months.
- Adam Walsh Act (AWA)-still awaiting response from SMART office. Most of the registration scheme is meeting requirements however, notification of employer address is still a point of contention. Only 14 states are in compliance.
- Southern Colorado Indian tribes are working on AWA compliance. They will be reliant on local county jurisdictions.
- Colorado Commission Juvenile Justice (CCJJ) - Sex Offender registration workgroup is working on transient registration status which includes defining transient. The Refinement workgroup is working on residence restrictions, including looking at a statewide ban on residence restrictions. The next meeting will be on 8/31/11; 1:30 pm at HMF law firm downtown (10th & Sherman).
- AWA Grant Update- still have not heard if the SOMB will receive this grant, however much of what has been suggested in the compliance package is based on receiving this funding. Hopefully the SOMB will know by September. Douglas County made a presentation on the SOTAR system before the CCJJ.
- Road-trip Board meeting will be to Durango in October.
- Treatment & Evaluation Services (TES) has been working on the issue of evaluations for sex offenders (current offense is a non-sex offense) who have a previous sex offense in their history. A rough draft of criteria for such an evaluation has been completed. The group would like to screen this rough draft before as many stakeholder groups as possible. If your stakeholder group would like to preview the criteria, contact Chris Lobanov-Rostovsky.
- Conference had close to 300 professionals attend. Thank you to the sponsors. Staff is currently working on presenter evaluations. Hope to have contract signed within the next month for 2012.
- Trainings: if you have suggestions let Kristy know. Plans include developmentally disabled sex offenders training and female offenders among others.
- Working with DORA regarding changes in statute about complaints and the training required. Last year staff gave trainings to all the Mental Health Boards, and has planned trainings for this year that will cover the standards as well as the entire complaint process.
- Commissioner Austin is addressing residence restrictions with Colorado Counties Inc. He presented the Residence Restriction Whitepaper and asked that the other commissioners become informed so they can represent their

Motion made to approve the Definitions section of the Juvenile Standards to include the amended definition of developmental disability. Motion seconded.

Vote:

Approve: 19 Oppose: 2 Abstentions: 0 Motion carries.

Introduction Section:

Motion to approve the Introduction Section as is. Motion seconded.

Discussion:

- For consistency, the language needs to say juveniles with developmental disabilities who have committed a sexual offense throughout the entire document.
- On the first page, paragraph 3, sentence beginning: However. . . it was suggested to strike and/or pretrial services and replace with: prior to or in lieu of prosecution.

Motion withdrawn.

Motion to use the language as follows: “However, many juveniles with developmental disabilities who have committed a sexual offense are either found incompetent to stand trial, or are not charged with offenses; instead their case opens on a Dependency and Neglect (D&N) Petition and/or prior to or in lieu of prosecution and may receive services provided by the Department of Human Services (DHS).”; as well as to consistently use the language: “juveniles with developmental disabilities who have committed a sexual offense” consistently throughout the document. Motion seconded.

Vote:

Approve: 20 Oppose: 0 Abstentions: 0 Motion carries.

Motion to accept the Introduction Section of the Standards with the approved amendments. Motion seconded.

Vote:

Approve: 21 Oppose: 0 Abstentions: 0 Motion carries.

Section 2.0

Discussion: None presented.

Move to approve Section 2.0 with the amended language. Motion seconded.

Vote:

Approve: 21 Oppose: 0 Abstentions: 0 Motion carries.

Section 3.0

Discussion:

- Will formatting be cleaned up? Yes, the SOMB is approving language only now and the formatting will be cleaned up.

Motion to accept Section 3.0 with the amended language. Motion seconded.

Vote:
Approve: 21 Oppose: 0 Abstentions: 0 Motion carries.

Section 4.0

Discussion:

- Page 2 section 4.210 DD: The Standards need to show what compliance is with; use the language “show compliance with these standards.” Use this language consistently throughout the document.

Motion to approve Section 4.0 with amended language. Motion seconded.

Vote:
Approve: 20 Oppose: 0 Abstentions: 0 Motion carries.

Section 5.0

This section was previously approved by the Board. At this time only the developmental disability standard language is up for approval.

Discussion:

Motion to approve Section 5.0 with amended language.
Motion seconded.

Vote:
Approve: 21 Oppose: 0 Abstentions: 0 Motion carries.

Section 8.0

Discussion:

Contact with other developmentally disabled juveniles from 5.0 (pg. 13 D) should be mimicked here. Add line contact with victims who are nonverbal or lower functioning as a discussion point in 8.200 or put at the end of 8.210; multi-disciplinary team should recognize victims who are at higher risk. It was noted that the title of this section is misleading because it is referring to contact with the victim for clarification. Should the title be changed? It would have to be done within the regular standards revisions committee. Let the document stand as is.

Motion to approve Section 8.0 with amended language. Motion seconded.

Vote:
Approve: 21 Oppose: 0 Abstentions: 0 Motion carries.

Break

Adult Standards Revision- Section 5.0

Handout provided. Changes reviewed by Cathy Rodriguez & Karen Vigil.

This has already been reviewed by the Board, only the feedback from the Board and other subcommittees will be reviewed.

Public Comment:

- Laurie Keprose: She reminded the Board that statute requires the standards to be evidence based. The use of the language “absolutely/never” needs to be taken out of the standards, as this language does not allow for individual cases to be evaluated on its own merit. For example sections 5.723 and 5.724 refer to requirements met before treatment can be received. Because of this language, judges are ruling that offenders go without treatment. Section 5.725 requires no contact with children if a diagnosis of a listed condition is ever made. This does not allow for conflicting diagnosis. In section 5.732 the mentioned language is also included in the scenario for Sexually Violent Predator (SVP) designation as well as section 5.740 requiring the passing of a polygraph and not allowing denial status. Note that psychopathy is not predictive of sexual reoffending.
- DeAnn Major: Please note that the Hare psychopathy assessment is not valid with individuals with developmental disabilities.

Board Discussion:

It was requested that a response to Laurie Kepros’ comments be given.

- There is only one study that says sadism is not linked to recidivism however, there are multiple studies that do show correlation to violent recidivism.
- Evidence based is a higher standard that is hard to come by for newer instruments that do not have enough research because of a lack of time for complete studies.
- When talking about exclusionary criteria for contact with children, the board needs to remember that these are convicted adult offenders with concerning issues who meet the cut off score. There are cases that allow contact with children via the Child Contact Assessment (CCA).
- SVPs have the opportunity for contact if they meet the criteria; they just cannot have a CCA.
- The PRA instrument was a first time process done to the best of abilities. Now problematic areas are recognized and changes have been made. Literature was used to correlate individual factors in sexual abusing to create the instrument because there was not a preset instrument.
- Based on research, psychopathy and sadism became exclusionary factors.
- Not all research/studies created equally. The committee is experts in the field and can discern what research is reliable.
- Judges are not above the law and the decision for no treatment can be appealed.
- The Board needs to track unintended consequences/results of the Standard to see if it is doing what is intended. In the new revision, the offenders who have a CCA will have to sign a release allowing information to be tracked.
- The exclusionary criteria are the same except that the SVP designation was removed from the exclusionary criteria.
- Anytime the language “shall or never” is used, trouble is invited. The SOMB needs to invite feedback from Community Supervision Teams (CSTs) to find out about exceptions to the standards in regards to the exclusionary criteria.
- Is there anything in place for family members to go to with a complaint? Complaints can go up the chain of command in probation/parole or they can go back to court. Parts of 5.7 can be waived by the CST with a unanimous decision.
- 5.110 F does not make sense- The point is that when the CST convenes after

sentencing, they need to be aware of any low risk cases meeting the low risk protocol.

Motion to amend section 5.110 F to read: The CST should be aware of any of those low risk cases that meet the low risk protocol. Motion seconded.

Vote:

Approve: 16 Oppose: 1 Abstentions: 2 Motion carries.

Section 5.202-

- Releases of information should be consistent for whomever the CST deems appropriate to receive the information; do not specify persons. This change should be applied throughout the document.
- Suggested wording: Including but not limited to the following:
- The list of people is meant to be a list for the CST to double check for inclusion.
- A request was made for a list of sections with the inconsistencies.

Section 5.205-

- Concerned about sentencing blocking maximum behavioral modification is a conflict.
- Standards are advisory for supervising officers with wording of should not shall.

Section 5.207-

- Can probation officers do all these? This is something the CST does together.
- First bullet- standardized risk assessments have no use of victim input or what the precipitating offense.

Motion to change the language in the first bullet to read: “Risk assessment of each sex offender to include the agency’s standardized risk assessment instruments.” There was consensus for this change.

Section 5.500-

- What qualifies a victim representative?
- What is definition of adjunct member?

Motion that the Board needs to set minimum qualifications for a victim representative, or strike Section 5.000.

- This was discussed in committee and it was decided against setting criteria because this is already a big gap in the CST. Flexibility to the CST in choosing a victim representative is necessary.

Consensus is to leave Section 5.500 as is.

Section 5.620C-

- Those are judicial conditions and SOMB does not have purview to change the wording.
- If the Board wants to make changes, it should not be in the Standards first.

Motion to change the language to read: “In addition to general conditions imposed on all offenders under supervision, the supervising agency imposes the following special conditions on sex offenders under supervision”. Motion seconded.

Discussion:

- The Standards need to say what the Board feels is appropriate. If the board agrees with these special conditions then they should not be changed.
- 5.620 & 5.720 are different; one is a term of probation (5.620) and the other (5.720) is the SOMB Standard which tells how to get it.
- If changes are wanted, it needs to go through the Judicial process.

Vote:

Approve: 0 Oppose: 14 Abstentions: 5 Motion fails.

Is there any place in the standards that indicates who pays for the victim representative- no not within our purview.

Section 5.725-

Motion to take out the absolutes such as “never” in the language then refer back to the committee to reword allowing for exceptions.

- Does the board really want to say an offender can never have contact with children?
- Contact will be allowed when the minor turns 18 or if the clinical diagnosis changes the contact order can change.
- Remember the focus is public safety
- Are all 3 bullets required? Yes.
- If the word is stricken, then it is grammatically incorrect and says something different.
- There is a variance process within the standards, so it can be considered instead of taking out the word “never.”

Vote:

Approve: 7 Oppose: 12 Abstentions: 1 Motion fails.

Motion to change the language in the second bullet changing the word “each” to “all”. There is consensus for this change.

Lunch

SOMB Awards Announced:

Excellence in Advocacy- Alane Holsteen
 Gary Burgin Leadership Award- Kristine Jensen
 Also the Board has re-named the Excellence in Advocacy Award to honor Senator Norma Anderson.

Section 5.722-Discussion Point

- In the event of a pregnancy- does this apply only to female offenders?
- No, it also applies to male offenders who are expectant fathers as well.

Section 5.726-

Add language to include the CCA in this language. There is consensus for this change.

Section 5.761 B-

Change language to read: Unsupervised contact shall never be allowed for a sex offender diagnosed with any type of pedophilia (per current version of DSM) or with an established

pattern of “deviant sexual arousal/interest to minors.” There is consensus for this change.

Problem with established pattern- move to change the language. Unsupervised contact shall never be allowed for a sex offender diagnosed with any type of pedophilia (per current version of DSM) or with an established and on-going pattern of deviant sexual arousal interest to minors.

A variance should work for unusual cases like this.

Motion that the language should be changed to read: “Unsupervised contact shall never be allowed for a sex offender diagnosed with any type of pedophilia (per current version of DSM) or with an established and on-going pattern of deviant sexual arousal interest to minors.” Motion seconded.

Vote:

Approve: 8 Oppose: 10 Abstentions: 0 Motion fails.

Motion to add a discussion point to Section 5.761 B to clarify the meaning of established pattern. Motion seconded.

There is consensus to have a discussion point.

Motion to approve the 5.0 section as amended. Motion seconded.

Vote:

Approve: 17 Oppose: 1 Abstentions: 0 Motion carries.

Discussion Point:

An established pattern is determined to exist when an offender has shown deviant sexual interest/arousal to minors based on a history of offending, self-report or assessments of sexual interest/arousal over various intervals of time.

Adult Standards Revision- Section 4.0

Handout provided. Changes reviewed by Cathy Rodriguez.

Public Comment:

- Will the SOMB be offering trainings in the required areas? Yes, trainings will be offered.
- Providers often need accreditation for other agencies for the trainings attended, can SOMB look into getting that accreditation for the SOMB trainings? This will be referred to the Training Coordinator.
- Associate level developmental disability provider - It is recommended that providers have a good understanding of what happens to institutionalized offenders and sexuality awareness; training needs to be available in this area.
- Requiring 4 hours for female sex offenders is out of balance; it is recommended to limit it to 2 hours.

Board comments:

- Bill Hildenbrand agrees that a reduction of female offender training to 2 hours.

- Four hours is really a minimum for providers working with female sex offenders. Can the board require 4 hours for those working with female offenders? Adding a specialty is not an option and it would be hard to regulate.

Motion to reduce the required female sex offender training hours to (2) from (4). Motion withdrawn.

Motion made to approve section 4.0 as is. Motion seconded.

Vote:

Approve: 20 Oppose: 0 Abstentions: 0 Motion carries.

Adult Standards Revision- Section 2.0

Handout provided. Changes discussed by Cathy Rodriguez.

Public Comment:

- This language is better and should be carried out in section 5.0. Discussion point should be considered across the board in the standards.

Motion that section be approved with amendments.

Vote:

Approve: 18 Oppose: 0 Abstentions: 0 Motion carries.

Adult Standards Revision- Section 3.0

Handout provided. Changes reviewed by Cathy Rodriguez.

Public Comment:

- Use SLA for unstable offenders or offenders who have no positive support as well as higher risk.
- There are some wills that should be shalls for consistency.
- Notify landlord, but do not notify law enforcement. In the past there have been problems caused by not notifying law enforcement.
- Should there be individualized treatment plans - is that separate from an offense specific treatment plan; does not have to be separate but it does need to exist. Commensurate with progress in treatment

Board Comments:

3.160 N

Change language to read: In collaboration with the CST, the treatment provider shall utilize the Low Risk Protocol (LRP) for eligible sex offenders. (See Appendix D) There is consensus for this change.

Motion to remove section 3.230. Motion seconded.

Discussion:

- Many Board members wanted to know how the LPR was to be used; not comfortable with only option being recommending discharge from sex offense treatment.

- This is a positive tool for probation officers.
- Court is not mandated to grant, and protections are still in place.

Vote:

Approve: 10 Oppose: 6 Abstentions: 1 Motion carries.

Section 3.170

11th bullet change the language to read “Treatment progress in a SLA will be identified through the use of the individualized treatment plan which meets specific goals and objectives, which may or may not incorporate specific time frames.” There was consensus for this change.

Motion to approve Section 3.0 as amended. Motion seconded.

Vote:

Approve: 17 Oppose: 0 Abstentions: 0 Motion carries.

Break

Adult Standards Revision- Definitions

Handout provided. This item has been continued to the September Board meeting.

Adult Standards Revision- Section 6.0

Handout provided. This item has been continued to the September Board meeting.

Variance Request

Handout provided. Missy Gursky and Sarah Marlowe presented the case.

A female offender who recently had a child met 5.7 criteria and had two informed supervisors; however the father of the then unborn child was arrested for a felony and lost informed supervisor status. The other informed supervisor has to work. The variance is requesting unsupervised time with the baby while the informed supervisor is at work. The treatment team has worked out the following terms to insure the safety of the child:

Increase home visits to twice a month

Taken parenting classes

All parole requirements have been met.

Social services made no findings against her or the family.

Daily journaling.

Polygraph every 3 months

ARC is recommending approval of the variance.

Motion to approve the variance approved by ARC.

There was an incident when the offender was 11 and the victim was 8.

Motion withdrawn.

Motion to amend the variance with a polygraph every 2 months, then quarterly polygraphs will take place after that. Motion seconded.

Vote:

Approve: 12 Oppose: 6 Abstentions: 1 Motion carries.

Motion to approve the variance with the approved amendment.

Vote:

Approve: 17 Oppose: 0 Abstentions: 1 Motion carries.

No Known Cure Position Paper

Handout provided.

Discussion about paper:

There should be an introduction that states who this paper does/does not apply to. (Not applicable to low risk & developmentally disabled adults). There were other comments that the language is fine as is.

Motion that the document should stay as is.

Vote:

Approve: 12 Oppose: 2 Abstentions: 1 Motion carries.

In the third paragraph change the language to read: “We cannot accurately predict who will or will not reoffend.” There was consensus for this change.

Should have a statement about under-reporting on page 2; add a statement in the next to last sentence of the middle paragraph. The last three sentences of the paragraph will read: “Treating offenders in a system that minimizes the harm perpetrated on victims or the risk of the offender poses to society undermines the very core of the criminal justice system. Research indicates that most victims never report sexual assault to law enforcement, and therefore, recidivism data is a significant underestimate of the actual sexual offense and re-offense rates. When victims report these crimes, they should be able to trust that the offender will be managed with the primary goal of community safety”. There was consensus for this change.

Change the language in the Opening Statement to read: “Sex offenders present a risk to community safety and their crimes cause significant trauma to victims. The phrase “no known cure” reflects the current known research about adult sex offenders.* It emphasizes the importance of ongoing long-term management and containment of adult sex offenders.” After the second sentence, site the SOMB recidivism meta-analysis presentation for the Board.

It was suggested to take out the language: “with the propensity to commit sexual offenses” in the second sentence of the Purpose paragraph. There was consensus for this change.

Comments from Rick Levinson: No Known Cure is no longer in the statute. The Board is

not being candid and open about this being researched based and the Board should not be publishing this paper.

Changes submitted by Tom Leverage, who is unable to be here, for discussion were presented by Carl Blake.

Motion to change the word system to manner

Vote:

Approve: 9 Oppose: 3 Abstentions: 3 Motion carries.

Motion not to include the changes submitted by Tom Leverage.

Vote:

Approve: 8 Oppose: 5 Abstentions: 1 Motion carries.

The Board needs to change judicial system to criminal justice system throughout the paper. There is consensus for this change.

If the Board comes to a vote and rejects this paper, the Board still gave instructions to have a paper.

Motion to accept the paper with the approved changes. Motion seconded.

Vote:

Approve: 9 Oppose: 5 Abstentions: 4 Motion carries.

Parole Determinate Sentence Guidelines-

Handout provided.

This is a mandate that came to the Board through a criminal justice bill.

Currently there are criteria (for treatment & parole) for lifetime supervision offenders in prison. However, there are no criteria established for determinate sentence offenders.

What information can the Board supply to the Parole Board in order to make decision?

If the determinate offenders are in treatment the same 7 criteria that are used for lifetime offenders can be used. Determinate criteria would also be base upon their sentence. A lot of determinate offenders are not in treatment; some just do not have the opportunity. There is an exception called the 'L' qualifier. They have a sex offense but they are not a high priority for offense specific treatment in prison. If a determinate offender is on a waitlist; risk factors that are considered include: not an SVP and no sex offense history. To get on the waitlist, the offender has to acknowledge that they committed a sex offense.

Group B getting a positive report (meet the criteria) from the Sex Offender Treatment Program in the Department of Corrections looking at what type of offense history of parole revocation. Many were revoked on probation.

Direct feedback or comments to Chris Lobanov-Rostovsky or Peggy Heil.

Meeting Adjourned