

**SEX OFFENDER MANAGEMENT BOARD  
MINUTES**

**Friday, October 16, 2009**

**Board Members**

Meg Allen  
Carl Blake  
Merve Davies  
Cheryl Davis  
Jeff Geist  
Missy Gursky  
Peggy Heil  
Bill Hildenbrand  
Marcie Howell  
Jeff Jenks  
Tom Kennedy  
Rick Levenson  
Tom Leversee  
Daniel Makelky  
Bill Martinez  
Kandy Moore  
Paul Prendergast  
Kari Quevli  
Doug Stephens

**Absent Board Members**

Mary Baydarian  
Kellie Hotter  
Dave Long  
Chris Rowe  
Marianne Tims

**Vacant Board Position**

Department of Education  
Representative

**Staff**

Chris Lobanov-Rostovsky  
Cathy Rodriguez  
Charla Phagan  
Nancy Bullis

**Visitors**

Karen Vigil  
John Odenheimer  
Carolyn Turner  
Suzanne MacKinnon  
Susan Walker  
Maureen O'Brien  
Sara Phelps  
Ted Romero  
David Emerson  
Carla Spence  
Dianna Lawyer-Brook  
Dawn Bienek  
Terry Bennett  
Tess Henry  
Lauren Dingboom  
Katherine Belcher  
Jan Hunsaker  
Karen Moldova  
Kelly Radke  
Rick May  
Burl McCullar  
Dustin Powell  
Robert McCormick  
Maureen Cain  
Diane Dash  
Jennifer Kok  
Holly Haman-Marcum

## **Board Meeting Begins:** **Introductions**

### **Future Agenda Items**

- None stated.

### **Announcements**

- The Sunset Review of the SOMB report is finished and available on the Department of Regulatory Agencies (DORA's) website. Bruce Harrelson and Vivienne Belmont from DORA will be summarizing the report for the Board later in this meeting.
- Debbie Stjernholm was hired as the Grant Site Coordinator for the SOMB. There was a call for volunteers to serve on the Grant Advisory Committee, which will provide oversight for this position.
- Adam Walsh Act (AWA) Update- The state of Ohio and the Umatilla Tribe have been granted substantial compliance. There has been a shift in the position of the Federal Government and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, And Tracking (SMART) to grant substantial compliance without all components of the AWA fully intact. The state of Ohio and the Umatilla Tribe did not pass the juvenile registration component as written in the AWA. The Colorado Multi-agency AWA committee recommended submitting for substantial compliance. The Governor's office will have to give further direction.
- Application Review Committee (ARC) Sonda complaint update - ARC reviewed the new materials provided during the Sonda appeal. The ARC determined that Ms. Sonda took proper actions to accommodate the client's needs. As a result, the ARC reversed the earlier finding and the complaint was dismissed.
- Update on the SOMB outreach to the Evans Police Department in regard to passing a residency restriction law: The Chief of Police welcomed Cathy Rodriguez and Merve Davies and listened to the research they presented. It was helpful that Merve is also a local citizen. The end result was that a recommendation was made that the City of Evans not go forward with plans to pass a Residence Restriction law. The staff of the SOMB offered to help with community education.
- Cathy Rodriguez will be representing the SOMB at the CASCI and COVA conferences. She will be handing out the new protocol for Community Notification and the White Paper on Residency Restrictions as well as the Shared Living Arrangement (SLA) report.
- The SOMB needs to hire a new contractor to replace Debbie Stjernholm on the Community Notification Team.
- On November 6<sup>th</sup>, the Office of Domestic Violence and Sex Offender Management will be presenting a training for potential Rural Initiative Supervisors. Information is posted on the SOMB website.
- Today is Bosses Day; Thank You Chris for all you do; from your staff!
- Chris Lobanov-Rostovsky & Paul Prendergast met with representatives of the Aurora Police Department about their sex offender registration program and municipal sex offender ordinances. Aurora is open to working with SOMB on these issues. A long term goal of the SOMB is to meet with mayors from metro area municipalities to have similar discussions.

- Mary Baydarian (Board Member) will present to the National Governors Association on the subject of housing for Juveniles Who Have Committed a Sex Offense. Mary will present to the Board at the next meeting.

### **Approval of September Minutes**

A call was made for additions and/or corrections to the September minutes. No additions or corrections were made.

A motion to approve the September Minutes was made. The motion was seconded. The minutes were approved with no opposition and 7 abstentions.

### **Supreme Court Ruling on the Interest of M.M., Jr. and A.M, Children, Court Case-Diane Dash from the Attorney General Office**

In this case the Trial Court upheld the testimony of the therapist in a Parental Risk Assessment (PRA) case. The decision was appealed and the Court of Appeals reversed the decision of the Trial Court. The reversal was due to the fact that the therapist's testimony seemed to be based on the results of polygraph tests. The County Attorney submitted the case to the Supreme Court for cert. The Supreme Court denied cert. The decision of the Appeal Court stands.

The Attorney General's office is not recommending any changes for the SOMB at this time. She stated that there is no clear direction based on this case. The case was very fact specific.

Diane also informed the Board of a change to the Open Meetings Act that took place in August. This legislation requires all deliberations that take place in executive sessions to be electronically recorded and preserved. The definition of a Public Meeting is any gathering convened to discuss public business. This applies to all meetings with two or more members of any state public body to discuss public business. It was asked if this new legislation applies to subcommittees such as the Application Review Committee (ARC), since this committee is discussing personal and disciplinary matters. Diane confirmed that the legislation does apply to the ARC meetings. There is a procedure to follow when going into an executive session. According to Diane, when a meeting is taking place a script needs to be followed stating why a committee will be going into executive session, then stating that they are in executive session. At that time a separate recording can begin. During executive sessions only discussions can be held. No decisions can be made or votes taken. When coming back into public session another script must be stated and the recording continued. All votes and decisions must be during a public session. It was asked who would have access to these recordings. Anyone can have access to the recording, however it must be obtained through a petition to the court. How long do the tapes have to be maintained? Diane indicated the belief that 90 days would be the minimum but suggested a longer period of time. Diane will check on this requirement and report back. A script of the above noted procedure will be given Chris Lobnaov-Rostovsky and Paul Prendergast.

## **Sexually Violent Predator Risk Assessment Instrument-Chris Lobanov-Rostovsky & Cathy Rodriguez**

Current status:

**Part 1:** Defining crimes/Time parameters have not changed, as they are set in statute.

**Part 2:** Definition of the relationship between offender and victim has not changed as it is also set in statute. A subgroup of the committee would like to see if there is a need to make any changes to this definition, so there is a possibility this may change in the future.

**Part 3:** There are three separate parts to this section. All three sections are required to be filled out for each offender.

**3A-** The committee is recommending that if an offender meets the current defining crime type and has **One** prior adult felony conviction or **Two** prior adult misdemeanor convictions (using the sex crimes types on the SOMB statutory list) will score affirmative for this section. Cases with factual basis, hands off crimes (internet) and out-of-state convictions will be included. Crimes to be excluded are deferred judgments/sentences, adjudicated juvenile cases and failure to register cases.

**3B-** SOMB Sex Offender Risk Scale (SORS). This is a weighted scale with the highest possible score being a nine.

**Question One:** Age of the Offender- No changes

**Question Two:** Offender known to the victim- No changes

**Question Three:** Offender has been revoked from community placement as an adult 2 or more times in the past- No changes

**Question Four:** Offender did not graduate from high school. GED excluded unless offender also attended post-secondary educational program (college, trade school or community college).

New: If data is unknown a score of 1 is given. Those doing assessment should do due diligence to finding data, as they will need to show process of trying to find data.

Note that self-reporting of an offender is acceptable.

It was questioned as to why this particular question would have an automatic hit if the information about the offender graduating from school was not available. The research department's analysis showed that missing information for this particular question predicted information that led them to recommend the default of 1.

**Question Five:** Offender has one or more prior adult felony convictions- No changes

**Question Six:** Offender moved 2 or more times in the 2 years prior to arrest for the index/instant crime. If the information was not known for this question the default would be 0.

**3C-** Mental abnormality as defined by the statute. This was a policy decision made at the state legislature. No changes to the PCL-R or the MCMI-III. DOC is not using either the PCL-R or the MCMI-III. The tool that they are using is the Coolidge Correctional Inventory scales. The Coolidge Correctional Inventory scale was cross validated with the MCMI-III. It was found to be consistent in predicting risk via the mental abnormality. DOC will continue to use this scale. This should be done at the time of sentencing.

With the score of 8 and prior convictions, the assessment is capturing the target of Sexually Violent Predators (SVP). Research shows that with the score of 8 or more a sex offender population of less than 5% would apply. Add 1 prior and it would apply to 10% of the population. If there are 2 or more priors the population would be less than 2%. There were

no cases found where there were 2 or more misdemeanors. The committee is recommending that the Board approve the scale based on the score of 8 or higher with 1 prior adult felony and 2 prior misdemeanors. There will now be two different pathways to SVP status, scoring high on the instrument or through prior history.

Will there be guidance for the screeners when there are multiple counts? This situation will be accounted for in the Handbook. There will be instruction on the instrument to reference the Handbook in areas where questions might arise.

Probation will need to fill out the information about an offender's prior criminal history at the presentence phase.

Goal was originally to have implementation by January 1, 2010, due to the current status on this it is recommended to change implementation to March 1, 2010 so that training can be complete before the implementation process.

A motion was made to approve the document before us today and change the implementation date to March 1, 2010. Motion seconded.

Discussion: SORS check list should be further edited for language clarification. It was pointed out that the sex offenses in 3a are not consistent with list of sex offenses in other places in the statute. It was acknowledged that there are several lists of sex offenses in the statute. The committee decided to use the list that applied to the Sex Offender Management Board directly.

Call for vote. Motion carries with 1 opposition and 2 abstentions.

## **Break**

### **Defense Bar Committee Information Sheet- Maureen Cain**

The need to provide information for offenders, family members as well as victims was identified and led to the creation of this document. Many clients did not understand what they were agreeing to at the time of their plea. Many issues were confrontational, but this committee was able to come to consensus on the information in this document. The committee would like this information sheet to be considered for adoption as an official document of the SOMB. Maureen let the Board know that the document has not gone through final editing in the DOC section. It was decided to make this an agenda item for next month's meeting in order to vote on the document with the final changes.

It was also suggested that the Board make the information sheet an appendix to the Standards & Guidelines. If this is to be done, it would be done at the next revision. In the meantime, the Board would approve the information sheet to be posted on the SOMB website.

Staff will post a Draft Edition on the SOMB website, asking for comments and input. Audience members were encouraged to provide feedback to Cathy Rodriguez. Board members were encouraged to take this document to their constituency and ask for input.

Be sure to mark the copy as “Draft Document”.

It was suggested that the last paragraph on page 11 be bolded. A list of resources at end was suggested. The committee has decided to handle this by adding the website as a resource at the end of the document.

At this time this document is intended for Adult Sex Offenders, not Juveniles Who Have Committed a Sexual Offense (JWHCSO). The committee would like to investigate to see if there is a need for such a document for JWHCSO’s.

## **Lunch**

### **Research Corner: Intimate Partner Rape- Prevalence and Characteristics Among Domestic Violence and Sex Offenders- Merve Davies**

**Handout available**

### **Sunset Review Update-Bruce Harrelson**

A review of the recommendations from DORA in the sunset review was presented to the Board. A copy of the Sunset Review Report can be found on the DORA website.

### **Letter of Support for Massachusetts**

The SOMB has had a request from stakeholders in Massachusetts to write a letter of support for the state of Massachusetts to create a Sex Offender Management Board with legal standing. A handout of their proposed legislation is in your handout packet.

Staff can draft a letter of support coming from the Colorado Department of Criminal Justice or we can draft the letter on behalf of the SOMB.

A motion was made that the staff draft a letter of support on behalf of the SOMB, emphasizing the benefits of collaboration and sharing of information. Motion was seconded. A friendly amendment was suggested. It was suggested that the letter point out the variety of community representation on our Board and their importance to developing policy for sex offender management. Friendly amendment was accepted and seconded.

Call for a vote. Motion carried with 1 abstention.

### **Juvenile Advisory Board: Housing Options for Juveniles Who Commit Sexual Offenses**

This item was not presented and looked to put on a future agenda.

## **Meeting Adjourned**