



STATE OF WASHINGTON
SEX OFFENDER POLICY BOARD
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MINUTES
Thursday, February 18, 2010
1:30 p.m. to 4 p.m.
Office of Crime Victim Advocacy
906 Columbia St. SW, 2nd Floor
Olympia, WA 98504

Members Present

Russ Hauge
Brad Meryhew
Lynne DeLano
Kecia Rongen
Bev Emery
Andrew Neiditz
Anmarie Aylward
Carey Sturgeon
Maureen Saylor
Andrea Piper

Members Not Present

Chief Ed Holmes
Hon. Laura G. Middaugh
Lynda Ring Erickson
Brooke Burbank
Ida Ballasiotes
Mary Ellen Stone

Staff Present

Shoshana Kehoe-Ehlers
Andi May

Others Present

Carolyn Sanchez, Washington State Patrol; Amy Pearson, Office of Crime Victims Advocacy; and Joanna Arlow, Washington Association of Sheriffs and Police Chiefs.

1. Call to Order

Chairman Russ Hauge called the meeting to order at 1:30 p.m.

2. Revise and Adopt Agenda

The agenda was revised to include discussion on Senator Hargrove's request for a recommendation from the SOPB regarding the homelessness registration issue raised in Washington State Court of Appeals case State v. Flowers.

3. Approval of Minutes

In discussing the January 2010 minutes, a request was made to correct what Ms. Saylor stated with respect to putting together a case review committee. The following motion was made:

MOTION# 64 MOVED THAT A CASE REVIEW COMMITTEE IS FORMED WITH MAUREEN SAYLOR AS CHAIR, AND INCLUDE THE FOLLOWING MEMBERS: ANDREA PIPER, RUSS HAUGE, AND BEV EMERY.

Moved: Bev Emery

Seconded: Kecia Rongen

Motion: Passed Unanimously

The Board then moved to adopt the January 2010 minutes with a correction.

MOTION# 65: MOVED TO APPROVE THE JANUARY 21, 2010 FULL BOARD MINUTES WITH A CORRECTION, ADDING THAT MS. SAYLOR VOLUNTEERED TO ASSEMBLE AND CHAIR A CASE REVIEW/POLICY COMMITTEE.

Moved: Maureen Saylor

Seconded: Brad Meryhew

Motion: Passed Unanimously

4. Program Director's Report

- **Legislative Bills:** Ms. Kehoe-Ehlers summarized the following bills, including providing status reports of these bills (ESHB 2424; SHB 2534; HB 2883; HB 2945; SSB 6338; SSB 6361; SSB 6414; and ESSB 6476)

This spurred a discussion as to what, if any, bills the Board should involve themselves in at this point in the session.

- **HB 2883 Concerning sex offender registration fees.** The Board decided to keep this on their radar, but not act at this time.
- **SSB 6338 Concerning intermediate tenancies for offenders.** The Board does not want to get involved in this bill. There were concerns expressed about the bill; including the bill's proposal to criminalize the offender's housing violations, by charging the offender with a criminal trespass charge. If the Senate requests input from the Board, the members will further discuss the bill at that time.

There was a request some Board members for staff to maintain a 2010 session legislation log.

- Ms. Rongen would like the Board to study the “sexting” laws, and their recent use to charge juveniles with “Possession of depictions of minors” offense(s). Senator Hargrove expressed that that is not what the law was intended to address. The recent Thurston County “sexting” case was not supported by the mainstream legal community, including WAPA. The Board will put together an Ad Hoc Committee after session to study these laws. The Registration and Notification Committee will look at the impact “sexting” laws have on juveniles.
- **Adam Walsh Update.**

The Registration and Notification Committee will discuss this issue at its next meeting.

 - Ms. Arlow mentioned that she did a radio interview with NPR on 94.9 FM about Adam Walsh. It can be accessed on the NPR website. Ms. Arlow will also send the link.
 - The SMART Tribal Conference will take place March 15-16, 2010 in La Push, WA. CSOM will be present. A few Board members will attend the conference and report back to the Board.
 - Board would like staff to invite John Lane from the Governor’s Office to the next Registration and Notification meeting on March 9th, 2010. The purpose of the invitation is to discuss how the Governor’s Office would like the Board to advise on compliance with AWA, as well as what to do about the upcoming extension request deadline in July 2010.
 - Tribal Representation: The Board agreed that we need to contact the tribes that are of concern as it relates to SORNA and invite tribal representatives to discuss SORNA at a separate meeting.
- The Board briefly discussed comparability of military sex offense convictions and requirements to register. If SSB 6414 passes, military convictions will be subject to the comparability clause.
- The SMART Office will be holding a National Symposium in Portland from May 18 - 20th. Ms. Kehoe-Ehlers was provided a scholarship by SMART and will be attending the conference. Others are encouraged to attend.

5. **SB 6849 An act relating to consolidating forecast functions**

Chair Hauge reported on this bill. Under this bill, the SGC and SOPB data functions would be consolidated with the economic and revenue forecast council and the caseload forecast council. The SGC does not support this bill because the integrity of the forecast system would be lost. Further, the SGC and SOPB would lose its independence. The SOPB agreed with this position.

6. SB 6414 Improving the administration and efficiency of sex and kidnapping offender registration.

- The Board is in agreement with this bill. Board recommends staff bring House Human Services Committee Counsel Linda Merelle and Senate Counsel Shani Bauer together to clarify any confusion the House may have about the Senate's bill.
- Ms. Arlow discussed a possible amendment to the "out of state convictions" provision; if you have to petition to be relieved from registration, it should not just be limited to petitioning in Thurston County. The Board and Ms. Arlow acknowledged that this amendment could slow or kill the bill this year. The Board is fine with SSB 6414 as is; no amendments. The Board can look into that issue next session.

7. Committee Reports

- **Benchmarks Committee Report**

- The Committee started drafting a map of the all the sex offender management system component parts. Members drafted components applicable to their stakeholder group(s). The Committee reviewed members' maps. The Committee then started piecing together the components into a fluid map of the sex offender management system in Washington State.
- The Committee continued developing benchmarks for the proposals that the Board presented to the Legislature in its December 2009 report, starting with the proposals that were unanimous and then those with strong support.
- Committee also discussed a workplan for 2010.

- **Registration and Notification Committee Report**

No report at this time. The Committee members spent quite a bit of session working with Senate staff in drafting SSB 6414. The next Committee meeting will be March 9, 2010 from 9 a.m. to 12 p.m. at WASPC.

- **Sex Offenders in the Community Committee Report**

No report at this time. This Committee will meet after session is complete.

8. Report on State v. Flowers

Senator Hargrove requested that the Board propose a temporary fix to a recent decision rendered by the Washington State Court of Appeals in State v. Flowers.

Summary of case:

- The Court affirmed the trial court's decision to grant Phillip Flowers's motion to dismiss based on its ruling that he did not commit the crime of failing to register as a sex offender under RCW 9A.44.130(6)(b) and its ruling that the statute violates our constitution.
- The State charged Flowers with failure to register as a sex offender under RCW 9A.44.130(11)(a). Specifically, the State alleged that Flowers, a convicted transient sex offender residing in Cowlitz County required to register as a sex offender with the Cowlitz County Sheriff, knowingly failed to "accurately report to the Cowlitz County Sheriff the locations he stayed at during the previous week.
- The Court held RCW 9A.44.130(11)(a) makes it a crime for sex offenders to knowingly fail to comply with any of the requirements of "this section," referring to RCW 9A.44.130. RCW 9A.44.130(6)(b) authorizes, but does not require, the county sheriff to command that transient sex offenders list their locations during the previous week. Because the statute does not mandate that transient sex offenders list their locations, it is not a "requirement" for which noncompliance is a crime under RCW 9A.44.130(11)(a). Flowers simply failed to comply with the sheriff's requirements.

The Board would like additional time to study this issue in the context of sex offender homelessness. As a temporary fix, the Board recommends amending the "False Reporting to the Officer" statute to include when homeless sex offenders provide false information; and ask for the following year to study the issue.

WASPC would like the Board to evaluate the registration of homeless/transient sex offenders over the next year. Questions like: Is homelessness a risk to safety or not; if so, what are the solutions.

10. Board Legislative Committee

Committee Chair, Andrea Piper, recapped the meetings that the Committee has had to date. She also discussed the meetings that leg. committee members have had with some of the legislators to educate them on SSB 6414. Overall, there has been a pretty good response.

11. New Business

Board member Anna Aylward addressed the misinformation about the Department of Corrections SAU division being disbanded. The specialized sex offense units may be disbanded. There are only 5 in the state. However, there is no intention to stop supervising sex offenders, nor end specialized monitoring of these offenders.

12. Public Comment

There were no comments made by any members of the public.

13. Adjournment

Chair Hauge adjourned the meeting at 3:40 p.m.

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

Chair Russ Hauge

Date

Shoshana Kehoe-Ehlers

Date