STATE OF WASHINGTON

SEX OFFENDER POLICY BOARD

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FULL BOARD MEETING
MINUTES

Thursday, December 02, 2010

1 p.m. to 3 p.m.

Criminal Justice Training Center
19010 1st Ave. South Rm. C-216
Burien, WA 98148

Members Present:

Bev Emery
Andrea Piper
Anmarie Aylward
Brad Meryhew
Joanna Arlow
Hon. Laura G. Middaugh
Lynne N. DeLano
Stacy Krantz
Dr. Holly Coryell

Members Absent:

Brooke Burbank
Kecia Rongen
Lynda Ring Erickson
Mary Ellen Stone
Maureen Saylor
Russ Hauge

Staff Present:

Shoshana Kehoe-Ehlers
Sandy Mullins
Andi May

Others Present:

Amy Pearson, Office of Crime Victims Advocacy; Brian Enslow, Association for Washington Counties; Nathan Johnson, House Republican Caucus; Shani Bauer, Counsel for Senate Human Services & Corrections; Terry Price, House Democratic Caucus; and Senator Pam Roach.

1. **Call to Order**

   SOPB Vice Chair Bev Emery called the meeting to order at 1:06 p.m. There was a quorum of members at that time. Anmarie Aylward from DOC agreed to proxy for Kecia Rongen from JRA, and Lindsey Palmer from KCSARC agreed to act as a proxy for both Maureen Saylor from WATSA, and Mary Ellen Stone from the Sentencing Guidelines Commission. Mary Ellen Stone is a non-voting member. These proxy appointments were submitted in accordance with the SOPB bylaws.

2. **Introductions**

   Bev Emery delayed this agenda item moved to agenda item #5 2011 SOPB meeting schedule.

3. **2011 Meeting Schedule**

   Shoshana Kehoe-Ehlers, Program Director, suggested that the full board meet every other month on the 3rd Thursday with committees can meet on the alternate months. Bev Emery advised that we set the full board schedule and then move onto the Committee dates as issues arise during the following months. The Board took a break from this discussion to conduct introductions.

4. **Introductions**

   Members, proxies, staff and legislative staff in attendance introduced themselves to the Board. This is Board member Stacy Krantz's first meeting. She replaces Andrew Neiditz, Lakewood City Manager, as the SOPB representative for the Association of Washington Cities. Ms. Krantz is a prosecutor for the City of Auburn.

5. **2011 Meeting Schedule (continue from agenda item #3.)**

   Bev Emery led a brief discussion about adopting a revised meeting schedule which was followed by a motion.

   MOTION: MOVED THAT THE 2011 FULL BOARD MEETINGS WILL TAKE PLACE THE 3RD THURSDAY OF EVERY OTHER MONTH, EXCEPT FOR OCTOBER AND NOVEMBER. THE BOARD SHALL MEET DURING BOTH THOSE MONTHS. FURTHER THE BOARD WILL NOT MEET IN JUNE OR JULY.
   Moved: Lynne DeLano
   Second: Stacy Krantz

   Discussion:

Joanna Arlow with WASPC mentioned that it would be very hard for her to make the meetings because WASPC has meetings every 3rd Thursday of the month.

AMENDED MOTION: MOVED THAT THE 2011 FULL BOARD MEETINGS WILL TAKE PLACE THE 2ND THURSDAY OF JANUARY, MARCH, MAY, AUGUST OCTOBER AND NOVEMBER.
MOVED: Lynne Delano
SECONDED: Stacy Krantz
PASSED: Unanimously

The Board discussed that the 2011 committees should be established to reflect the priorities as set by the Board priority areas within the parameters of the SOPB enabling statute. Bev Emery asked members to brainstorm and prioritize agenda items for discussion at the January 2011 Board meeting. At that meeting, the Board will evaluate last year's workplan and meeting structure and then identify the issues and tasks that the Board would like to accomplish during 2011, creating the new workplan and committee structure.

6. REVISE AND ADOPT AGENDA

Bev Emery asked the members if they had any comment of the order or content of the agenda. There no comments.

MOTION: MOVED TO ADOPT THE AGENDA IN ITS ORIGINAL FORM
Moved: Anmarie Aylward
Second: Joanna Arlow
Passed: Unanimously

7. Proposed Recommendations for the 2010 Report to the Legislature

The Board discussed and voted on the following proposed recommendations for both the Jose Reyes Case review Report, the 2010 SOPB Annual Report to the Legislature. These recommendations were a result of committee and Full Board research and discussion about relevant issues related to adult sex offender, youths who sexually offend, and the sex offender management. The Reyes recommendations resulted from the Jose Reyes Case Review. Senators Hargrove and McAuliffe formally requested that the Board review this case and report its findings and recommendations in time for the 2011 session.

***Senator Hargrove's Request regarding notification to the public of a Registered Sex Offender's supervision requirements.**

Discussion:
Joanna Arlow noted that the public can visit their local law enforcement agency to inquire about sex offender supervision or other conditions of release and that this is preferable because law enforcement is in a better position to provide this information to the public.

The basis of this recommendation will be further clarified in the final report.

MOTION: MOVED THAT THE BOARD RECOMMEND THAT IF THE LEGISLAURE WOULD LIKE TO NOTIFY THE PUBLIC OF REGISTERED SEX OFFENDER (RSO) CONDITIONS OF SUPERVISION, THE PUBLIC WEBSITE CAN PROVIDE INFORMATION AS TO WHETHER AN RSO IS ON SUPERVISION AND SHOULD DIRECT ANYONE WITH INQUIRIES ABOUT A PARTICULAR OFFENDER TO LOCAL LAW ENFORCEMENT OR THE DEPARTMENT OF CORRECTIONS.

Moved: Andrea Piper
Second: Brad Meryhew
Passed: Unanimously with 11 in favor

REYES CASE REVIEW RECOMMENDATIONS
The Reyes recommendations will be included in both the Jose Reyes Case Review Report to the Senate, and the 2010 SOPB Annual Report to the Legislature.

At the beginning of the meeting, members were provided a packet of voting sheets. These voting sheets listed the issue to be addressed, the proposed recommendation as developed in committees and the full Board, current law, and other considerations that the Board relied upon when drafting these recommendations. Each sheet had a place for the member to sign their name and indicate their vote. The vote key was as follows: Affirmative; Neutral; or Object. At the beginning of the voting process, 11 voting members were present.

R-1 STANDARDIZED NOTIFICATION FORM TO SCHOOLS

DESCRIPTION: Notification practices vary among law enforcement jurisdictions and the result is schools do not always understand information provided about a juvenile student who sexually offends and is therefore required to register. In a survey of law enforcement, it

was learned that while notification is done routinely, the information and method varies**.**

RECOMMENDATION: *In order to ensure accurate, complete, and timely notification by law enforcement to schools regarding juvenile sex offenders attending a specific school, when funded the Washington Association of Sheriffs and Police Chiefs (WASPC) should develop a standardized notification form to provide schools when notifying about a register sex or kidnapping offender who will be or is attending school. Form will include Risk Level Definitions of what risk level means.*

Discussion:
It was noted that this was one of the recommendations that might be cost prohibitive at this time and that language would be included in the report to this effect. Sample language was provided on the voting sheet as follows:

While this is a recommendation of the Sex Offender Policy Board (SOPB), it is made with the acknowledgement that current economic conditions in Washington preclude funding of any recommendation. However, the SOPB asserts the recommendation is of such value and importance that we submit the recommendations, to be considered at such a time as budget factors make it possible.

Vote: 11 Affirmative

R-2 NOTIFICATION TO SCHOOL DISTRICTS AND SCHOOL PRINCIPALS

DESCRIPTION: In recent years, the Legislature revised RCW 9A.44.130 which removed the requirement for law enforcement to forward registered sex offender notification to school districts. Because school districts need this information as well as the principles, law enforcement shall send notification to school district(s) <u>and</u> principal(s).

RECOMMENDATION: *Expand law enforcement sex offender notification to include both school districts and specific school(s) principals.*

Amend RCW 9A.44.130 (1)(c) to include school districts/superintendents and principals shall be provided notice from law enforcement when a student will be attending.

There is no fiscal request associated with this recommendation, however, it will require a statute amendment to RCW 9A.44.130 (1)(c)

Discussion:
Members asked that the proposal include notification to superintendents as well.

Vote: 11 Affirmative (as amended)

R-3 NOTIFICATION WHEN JUVENILE SEX OFFENDER RISK LEVEL CHANGES OR IF JUVENILE CHANGES SCHOOLS

DESCRIPTION: Current statute requires notification to schools when a student is new to the school district. However, it is not explicit that notice should be made when a juvenile sex offender's risk level(s) are changed or a student moves from one school to another within the same district or the same jurisdiction.

RECOMMENDATION: *Ensure schools are notified by law enforcement of a change in a juvenile sex offenders' risk level, and when a student changes schools. (Through a change in address, matriculation, transfer, etc).*

Amend RCW 9A.44.130(1)(c) to law enforcement shall notify, via Offender Watch, the principal and school district when law enforcement changes the risk level classification. Law enforcement shall also notify principal and school district of any change in school enrollment.

There is no fiscal request associated with this recommendation, however, it will require a statute amendment to RCW 9A.44.130(1)(c)

Discussion:
Joanna Arlow asked that the recommendation specify that that law enforcement notify of a change in school when they receive notification that they have changed enrollment, to clarify that the offender must notify law enforcement of the change to trigger the notification via Offender Watch.

Vote: 11 Affirmative (as amended)

R-4 JUVENILE SEX OFFENDER NOTIFICATION TO REQUIRED PARTIES

DESCRIPTION: Current law does not require law enforcement notify juvenile probation, parole, or community corrections when a JRSO's risk level is changed. Because of the importance of risk level and the significant consequences that result in a change, the JRSO's probation, parole, or community corrections officer needs to be notified of this change. This expands the requirement of notice of risk level changes to include specified parties.

RECOMMENDATION: *Expand notice of a change in juvenile sex offenders' risk level by local Sheriff, to include juvenile probation, parole, and community corrections, while juvenile is under supervision.*

Amend statute with new section to include such language as, "Sheriff shall notify juvenile probation, parole, community corrections and probation of any juvenile who must register as a sex offender if local law enforcement changes that juvenile's risk level.

There is no fiscal request associated with this recommendation, however, it will require a statute amendment.

Discussion:
Joanna Arlow thought WASPC was implementing this through the WASPC Model Policy on notification. She is not comfortable changing statue but ok to use the model policy

Amend proposal to reflect that law enforcement will follow the model policy on notification. The recommendation will no longer include a statutory amendment to accomplish this

Vote: 11 Affirmative (as amended)

R-5 NOTIFICATION TO SCHOOLS REGARDING ASSESSED RISK LEVEL CHANGES

DESCRIPTION: When law enforcement notifies a JRSO school that a juvenile attending the school or about to enrolling the school must register as a sex offender, that notice shall include the JRSO risk level. If law enforcement changes a JRSO risk level, law enforcement must also notify the school of that change. Current law does not require law enforcement notify any of the above parties of the juvenile's level. The Committee determined that it is critical for schools to be notified of this information.

Also, the current statute requires law enforcement send fingerprints of juveniles adjudicated for a sex offense to schools. The Committee concludes this serves no purpose.

RECOMMENDATION: *Include in the notification to schools, the assigned risk level of juvenile sex offenders attending school, but eliminate the inclusion of fingerprints going to schools.*

Amend statute with new section to include such language as, "local law enforcement shall provide school via Offender Watch, notice of the risk level classification of a registered juvenile offender, in addition to the information already required in 9A.44.130, but shall no longer be required to provide fingerprints."

RCW 9A.44.130
(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) ~~fingerprints.~~

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Discussion:
Board requested that staff work with the suggested language for the statutory amendment to make it less awkward.

Vote: 11 Affirmative

R-6 DISTRIBUTION OF INFORMATION REGARDING JUVENILE SEX OFFENDERS AND SAFETY ISSUES

DESCRIPTION: Distribution of information regarding specific juveniles who have been adjudicated for a sex offense must be managed carefully for the safety and well being of all concerned. Parents and the public often want additional information and do not know where to go.

RECOMMENDATION:
Parents, the public and school staff should contact the appropriate law enforcement personnel if they need more information regarding a particular juvenile registered sex offender, including reasons for risk level

classification. This could be encouraged by adding this statement on the law enforcement's sex offender notification schools.

There is no fiscal or legislative request associated with this recommendation.

Discussion:
Board asked to change the language of the recommendation to replace "reasons for" with "explanation of" risk level classification.

Vote: 11 Affirmative (as amended)

R- 7 SCHOOL SAFETY PLANS FOR JUVENILES REQUIRED TO REGISTER

DESCRIPTION: OSPI developed and published a model policy for managing juveniles who have been adjudicated for sex offenses on their website, www.k12.wa.us. However, Washington is a local-control state, which means that school district policy is within the purview of the local publically-elected board. Thus, it is clear that implementation of the model policy (including safety plans) varies dramatically from district to district.

RECOMMENDATION: *Improve safety of all students and support juveniles who have been adjudicated of a sex offense and are entering or returning to school by requiring all schools to develop and implement policies and procedures regarding the juveniles who sexually offend and the provision of a safe learning environment for all students.*

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Discussion:
Hon. Middaugh proposed removing the fist part of the first line "Improve safety….to school by" and replacing it with "Requiring".

Vote: 11 Affirmative (as amended)

R-8 JUVENILES & THE END OF SENTENCE REVIEW COMMITTEE

DESCRIPTION: The End of Sentence Review Committee (ESRC) assesses and assigns risk levels for all juveniles adjudicated of a sex offense released from Juvenile Rehabilitation Administration (JRA). However, juveniles who receive a SSODA or local sanctions' sentence are leveled by local law enforcement. The Committee concluded that

ESRC should assign risk levels to both SSODA and local sanction juveniles due to the complexity of assessing the risk of youths who sexually offend. The difficulty in assessing these youth stems from the lack of a Washington State validated tool for juveniles; special expertise necessary to assess a juvenile; resources involved in training law enforcement across the state in how to apply adult and juvenile risk assessment tools; and the need to assess these youth quickly and early on. The juvenile risk level factors rapidly change due to their on-going cognitive and social development.

RECOMMENDATION: *The End of Sentence Review Committee will assess and assign the initial level for youths who sexually offend required to register who are released from JRA, receive a SSODA, and those youth sentenced to local sanctions. Local law enforcement retains the authority to review and mitigate or aggravate the initial level assessment, as well as any subsequent reviews or changes to level.*

Recommend amending RCW 72.09.345 to include such language as, "The End of Sentence Review Committee shall assign the initial risk level classification for all juveniles required to register as a sex offender.

This recommendation includes a request for funding as well as a statutory amendment to RCW 72.09.345.

*While this is a recommendation of the Sex Offender Policy Board (SOPB), it is made with the acknowledgement that current economic conditions in Washington may preclude funding of any recommendation. However, the SOPB asserts the recommendation is of such value and importance that we submit the recommendations, to be considered at such a time as budget factors make it possible.

Discussion
Joanna Arlow recommended that in addition to JRA kids and out-of-state juvenile sex offenders, the new recommendation limit the risk assessment process performed by the ESRC/JRA to SODDA kids, and eliminate local sanction kids. Hon. Middaugh suggested that the Board make this a two-part proposal:

A- SODDA only
B- Local Sanctions

Vote:
R-8A SODDA kids only - 11 Affirmative

R-8B SSODA kids and local sanctions kids- 10 Affirmative; 1 Neutral (Joanna Arlow)

R-9 STANDARD CHANGE FORM

DESCRIPTION: When local law enforcement changes the risk level of a juvenile adjudicated of a sex offense, the type of notification and those notified is not consistent. Current law speaks to the initial assessment and assignment of risk level regarding subsequent reviews or changes to a juvenile's risk level. However, it does not provide language as to who should be notified. This Committee found that it's important that parties involved in the youth's education and supervision know when a youth's level is under review and when law enforcement changes the level.

RECOMMENDATION: *Improve information flow between law enforcement, schools, and relevant parties, by clarifying current direction in the statute.*

By using a standard change form and entering and disbursing information through Offender Watch, all parties will be instantly notified of all changes as they occur.

Local law enforcement shall notify that juvenile's school and Juvenile Probation Counselor, (if the youth is on supervision), when the assigned risk level is under review.

There is no fiscal request associated with this recommendation; however, it will require a statutory amendment.

Discussion:
Bev Emery suggested that the Board remove R-9 and add it into R-3 developing a form. The Board agreed and will revisit merging R-3 and R-9 later in the meeting

R-10 ORDER OF 24/7 SUPERVISION FOR CERTAIN SSODA STUDENTS WHO ATTEND SCHOOL

DESCRIPTION: It is very unusual for 24/7 supervision to be ordered in conjunction with a SSODA. While this specific case provides perspective on the wisdom of that decision, it remains uncommon. Thus, the question before the Board is how to demonstrate responsiveness to public outcry, while advocating sound policy based on the norm.

RECOMMENDATION: *Ensure best outcome is achieved from both a safety perspective and a juvenile's opportunity for education and rehabilitation.*

When a juvenile court orders 24/7 supervision of a respondent as part of a SSODA condition, the Court shall include the basis of this condition in its findings.

There is no fiscal request associated with this recommendation; however, it will require a statutory amendment.

Discussion:
Hon. Middaugh recommended that the language of this language be amended to reflect that "If 24/7 is ordered, the sentencing judge shall enter findings regarding this condition."

Vote: 10 Affirmative; 1-Neutural (Stacy Krantz) (as amended)

Juvenile Recommendations

J-1 SEALING JUVENILE SEX OFFENDER RECORDS

DESCRIPTION: Current statute allows juveniles adjudicated of a criminal offense to seal their records, including those with serious violent offenses (Class A). Juveniles adjudicated of a sex offense are excluded from this group. The consequences of an adjudication for a sex offense is just as significant for the juvenile, as an adjudication for a serious violent non-sex offense, if not more so due to the stigma of a sex offense. The proposed criterion for record sealing of sex offenses ensures public safety, like the statutory criterion for sealing of non-sex offenses.

RECOMMENDATION: *Revise statute to allow for the sealing of records for those who have been adjudicated of a sex offense.*

RCW 13.50.050 (12)(a) The court shall not grant any motion to seal records for class A offenses made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless: (i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction; (ii) No proceeding is pending against the moving party seeking the conviction

of a juvenile offense or a criminal offense; (iii) No proceeding is pending seeking the formation of a diversion agreement with that person; ~~(iv) The person has not been convicted of a sex offense~~; and (v) Full restitution has been paid.

Discussion:
Joanna expressed concern on behalf of WASPC about the recommendation in general.

Vote: 10 Affirmative; 1 Neutral (Joanna Arlow)

J-2 PETITION FOR RELIEF FROM REGISTRATION

DESCRIPTION: Intent of recommendations is to reduce the negative life-altering and life-long impacts on juvenile sex offenders who have appropriately met treatment and rehabilitation requirements. Juveniles who have been adjudicated of a sex offense have the ability to be relieved of the duty to register. The requirements for relief from registration are comprehensive and demanding.

Revise the statute to remove the difference of proof standards between juveniles over or under the age of 15 at the time of adjudication. Provide assistance to juveniles adjudicated of a sex offense and/or families to petition Superior Court for relief from registration. By facilitating the relief to petition process for juveniles adjudicated of a sex offense, potentially reduce costs to community and state agencies by focusing limited resources on those with the highest risk to re-offend.

RECOMMENDATION:

- Revise RCW 9A.44.145/.142 to require juveniles (or adults adjudicated as a juvenile) petitioning the court for relief from registration to demonstrate, by a preponderance of the evidence, their rehabilitation.
- Expand Washington State Patrol Annual Letter to include the Administrative Office of the Courts website and links to petitioning for relief from registration and a manual for completing the necessary forms.
- Similar to RCW 26.12.260 – Family Court Facilitator, recommend each county create an initial point of contact within the Courts for juveniles filing petitions for relief from registration, to assist with navigating the system and the paperwork.
- Provide training to Judges in order for them to stay current with current research regarding registration, community notification, risk assessment, factors to consider if/when granting relief from

registration, and general information about juveniles who sexually offend.

Discussion:
Joanna Arlow would like the sub recommendations to be voted on separately, to which the Board agreed.

Vote:
J-2a 10 Affirmative 1 Neutral (Joanna Arlow)
J-2b 11 Affirmative
J-2c 11 Affirmative
J-2d 11 Affirmative

J-3 VALIDATED JUVENILE RISK ASSESSMENT TOOL

DESCRIPTION: To date there is no validated risk assessment tool for youths who sexually offend in Washington State. Because of the vast differences between adults and juveniles, including a juvenile's on-going development and amenability to treatment/intervention development and risk factors, a separate risk assessment tool specifically designed for youths who sexually offend is necessary. Other states have reached this conclusion as and use a separate tool for youths who have sexually offended.

RECOMMENDATION: The SOPB proposes a twofold modification. First, request the legislature funding for the training on a current and accepted juvenile risk assessment tool. Second, request the legislature authorize funding for creation and/or validation of a risk assessment tool.

Vote: 11 Affirmative

Leveling & Risk Assessment Recommendations

LRA – 1 WASHINGTON STATE PATROL / OFFENDER WATCH DATA

DESCRIPTION: Current statute requires the Washington State Patrol (WSP) provide Washington Association of Sheriffs and Police Chiefs (WASPC) information on registered sex offenders including: photographs, and fingerprints, risk level classification and any notice of change of address within 5 working days. With the development and implementation of Offender Watch, this information is available quickly, rendering the requirement to send to WASPC, redundant.

RECOMMENDATION: *Remove statutory provision (RCW 43.43.550) requiring Washington State Patrol (WSP) provide Washington Association of Sheriffs and Police Chiefs (WASPC) information on registered sex offenders including: photographs, and fingerprints, risk level classification and any notice of change of address within 5 working days.*

RCW 43.43.550 The county sheriff shall (1) forward the information, photographs, and ~~fingerprints~~ obtained pursuant to RCW 9A.44.130, including the sex offender's risk level classification and any notice of change of address, to the Washington state patrol within five working days; and (2) upon implementation of RCW 4.24.550(5)(a), ~~the Washington state patrol will forward the information necessary to operate the registered sex offender web site described in RCW 4.24.550(5)(a) to the Washington association of sheriffs and police chiefs within five working days of receiving the information, including any notice of change of address or change in risk level notification.~~ The state patrol shall maintain a central registry of sex offenders and kidnapping offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the offender registration, including taking the fingerprints and the photographs.
There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Vote: 11 Affirmative

LRA – 2 STANDARD RISK LEVEL CHANGE FORM

DESCRIPTION: There has been much discussion amongst the SOPB, as well as in community meetings with stakeholders and practitioners regarding the myriad of issues in assessing and leveling sex offenders, as well as reporting changes to assigned levels. There has been anecdotal information shared with the SOPB regarding the actual practice by different counties and jurisdictions as to leveling, notification, and assessing risk. There are currently three entities that either assess risk and/or notify of changes in the assigned risk levels. Those are the Department of Corrections, the Washington State Patrol, and the WA Association of Sheriffs and Police Chiefs. Currently, the

RCW requires WSP must WASPC information on RSO for purposes of posting on WASPC's public website. send information to WASPC for inclusion on the public website. The practice has been that this information is downloaded from one system to the other once a week. The Offender Watch program has enhanced and expanded the capacity to share and distribute information, with other sex offender management providers as well as to track data over time.

RECOMMENDATION: *If funded, WASPC will add a uniform sex offender risk level Change Form to the Offender Watch system. All parties will receive an electronic copy of the form, upon entry.*

Enhance use of data to inform the Board and system practitioners. This is accomplished by eliminating redundancies while using and enhancing existing technology to ensure sex offender registration data is accurate and real-time, and available to the public and systems personnel as appropriate.

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Discussion:
There was discussion regarding potential costs and agreement to add language acknowledging this challenge. Anmarie Aylward noted that the Board was designed to make recommendations based on best practices and should not let the fiscal barriers dictate. There was general agreement that this was the proper role of the Board with the caveat that the recommendations should include notes regarding the potential fiscal impacts, for the benefit of the Legislature and others utilizing the report.

Vote: 11 Affirmative

LRA – 3 Sex Offender Registration Data Audit

DESCRIPTION: There are significant barriers to gathering, analyzing, and comparing data related to risk and leveling in order to develop evidence-based recommendations.

The SOPB continues to work on gathering and analyzing Washington's data and systems. There are, however, some minor changes that can improve process, practice, and data collection at this time.

RECOMMENDATION: *WASPC shall acquire appropriate software to enable more robust data review and query capacity within Offender Watch.*

To ensure current practice reflects policies and procedures accordingly. To affirm use of appropriate tools and laws, requesting ability to audit data within Offender Watch system.

The SOPB and WASPC will continue to work on data issues over time to achieve continuous improvement.
There is no fiscal or legislative request associated with this recommendation.

Discussion:
Joanna Arlow stated concerns about the cost.

Vote: 11 Affirmative (as amended)

Registration and Notification Recommendations

R&N 1 – 24 HOUR SEX OFFENDER REGISTRATION DEADLINES

DESCRIPTION: SB 6414 (2009) intended to standardize all statutory registration deadlines to 3 business days. Current statute provides that a sex offender who spends over 24 hours in a county must register with that county law enforcement within three business days.

RECOMMENDATION: *Standardize all sex offender registration timelines to within three (3) day business days.*

RCW 9A.44.130(4)(a)(vii) –
(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for ~~**twenty-four hours?**~~ is required to register with the county sheriff not more than three business days after entering the county and provide the information required in subsection (3)(b) of this section.

Discussion:
After much discussion as to whether it made sense to modify this provision in the statute as SSB 6414 already standardized all deadlines to three business days, it was decided to withdraw this recommendation.

R&N 2- 14 DAY NOTIFICATION

DESCRIPTION: Statute requires law enforcement make a good faith effort to notify the public at least 14 days prior to an offender's release from custody. Law Enforcement doesn't always receive the necessary documents to assess a RSO risk level 14 days prior to release.

RECOMMENDATION: *Recommend amending RCW 4.24.550(6)(c) to remove 14 day requirement and instead include language such as, "within a reasonable period of time after the person registers."*

RCW 4.24.550(6)(c) Local law enforcement agencies that disseminate information pursuant to this section shall: (a) Review available risk level classifications made by the department of corrections, the department of social and health services, and the indeterminate sentence review board; (b) assign risk level classifications to all offenders about whom information will be disseminated; and (c) ~~make a good faith effort to notify the public and residents at least fourteen days before the offender is released from confinement~~ or,

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Vote: 11 Affirmative

R&N 3- DISQUALIFYING OFFENSES

DESCRIPTION: Statute states if a person was a juvenile offender; ten years in the community no new disqualifying offenses; AND if out of state/federal has spent 15 years in the community.

RECOMMENDATION: *Correct technical statutory error, to replace "AND" "OR" to reflect original intent.*

RCW 9A.44.142 (1) 1) A person who is required to register under RCW 9A.44.130 may petition the superior court to be relieved of the duty to register: (b) If the person is required to register for a conviction in this state and is not prohibited from petitioning for relief from registration under subsection (2) of this section, when the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period; ~~and~~ or (c) If the person is required to register for a federal or out-of-state conviction, when the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Vote: 11 Affirmative

R&N 4- MILITARY CRIMES & FOREIGN COUNTRY

DESCRIPTION: Statute needs clarification that a military offense or crime of foreign country counts as a registerable offense. RCW 9A.44.130 assumed as much given its reference to "military or foreign" crimes but SB 6414 obfuscated the intent. AWA requires registration of these offenders. May want to add definition that out of state includes all foreign, military, and federal convictions.

RECOMMENDATION:

RCW 9A.44.130(4)(a)(v) Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. ***The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes*** for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997.

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Discussion:
Members were unclear as to why this recommendation was needed and chose to withdraw this recommendation.

R&N 5- FIXED RESIDENCY

DESCRIPTION: Statute defines registration requirement for those "lacking a fixed residence". There is no definition for "fixed residence"

Prosecutors report charging a RSO with a FTR offense based on the RSO not registering as homeless/transient person when lacking a fixed residence problematic without a definition for "fixed residence"

RECOMMENDATION: *Define "fixed residence" for purposes of prosecuting FTRs.*

New Section 4.24.550? A residence is a building that an offender uses as living quarters for (four or more days or nights) (majority) of the week. Using a building as living quarters means to conduct activities consistent with the common understanding of residing, such as: sleeping, eating, keeping personal belongings, receiving mail, paying rent or mortgage, paying utilities and/or engaging in leisure activities. A non-permanent structure including but not limited to a motor homes, travel trailer, camper or boat may qualify as a residence provided it is: used as living quarters for (four or more days or nights) (majority) of the week; primarily kept at one location with a physical street address; and the location the vehicle is kept at is either owned, rented or used by the offender with permission of the owner or renter. If an offender does not have any living situation that meets this definition of residence, then he shall register as lacking a fixed residence.

An offender shall register as "lacking a fixed residence" when the offender's residence is: A shelter program designed to provide temporary living accommodations for the homeless; an outdoor sleeping location (e.g. a tent, shed, park, bridge, campground), locations where the offender does not have permission to be (e.g. abandoned buildings, lots, squatting) and/or a car.

See WASPC language alternative. There is no fiscal request associated with this recommendation; however, it will require a statutory amendment.

Discussion:
The Board was still at an impasse regarding the definition of fixed residency. They agreed that while it was important to have a definition, there would not be a resolution as to exactly what that definition should be before the 2011 session. The Board decided to vote to recommend that there should be a definition but drop the suggested language for a new section from the recommendation.

Vote: 10 Affirmative 1 Neutral (Brad Meryhew) (as amended)

R&N 6- PETITION FOR RELIEF (OUT-OF-STATE CONVICTION) IN COUNTY OF RESIDENCE

DESCRIPTION: Currently an offender convicted out of state can only seek relief from registration via petition in Thurston County. This places an undo burden on Thurston County courts, as well as individuals from out of state seeking relief from registration.

RECOMMENDATION: *Registered sex offenders convicted of their registrable offense out-of-state, may petition for relief from registrationi n his or her Washington State county of residence. Registered sex offenders convicted of their registrable offense in Washington State will continue to be required to petition for relief in the county of conviction.*

RCW 9A.44.142(3)
(3) A petition for relief from registration or exemption from notification under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in ~~Thurston county~~.

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Vote: 11 Affirmative

R&N 7- SHERIFF PUBLICATION OF LEVEL III / 2 X YEARS

DESCRIPTION: Statute requires county sheriff to publish a "current list" of all Level IIIs sex offenders twice a year. Because Offender Watch publishes this information on their website, this requirement is no longer necessary.

RECOMMENDATION: *Remove statutory requirement that county sheriff must publish a "current list" of all Level 3 sex offenders twice a year.*

RCW 4.24.550(4) The county sheriff with whom an offender classified as risk level III is registered shall cause to be published by legal notice, advertising, or news release a sex offender community notification that conforms to the guidelines established under RCW 4.24.550 in at least one legal newspaper with general circulation in the area of the sex offender's registered address or location~~. The county sheriff shall also cause to be published consistent with this subsection a current list of level III registered sex offenders, twice yearly.~~

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Vote: 11 Affirmative

R&N 8- "IN THE COMMUNITY"

DESCRIPTION: Statute doesn't define whether "in the community" for purposes of relief from registration.

RECOMMENDATION: *"In the community" is defined as residing outside of confinement or incarceration.*

Add definition of "in the community" to RCW 9A.44.128. RCW 9A.44.142 references "in the community" as it relates to a petition for relief from registration.

RCW 9A.44.142 (1) A person who is required to register under RCW 9A.44.130 may petition the superior court to be relieved of the duty to register: (2) of this section, when the person has spent ten consecutive years *in the community* without being convicted of a disqualifying offense during that time period.

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Discussion:
There was a clarification that the Board is not voting on the actual definition yet, just concept.

Vote: 11 Affirmative

R&N 9- PUBLIC WEBSITE SEARCH BY CONVICTION

DESCRIPTION: Current law provides the public the ability to search WASPC's Registered Sex Offender website for a RSO by "type of conviction." WASPC's software cannot search by typw of criminal conviction.

RECOMMENDATION: *Technical clean-up of statute to remove requirement that in practice has not been enacted. Brings the statute to be reflective of practice and capacity of current technology and systems.*

RCW 4.24.550(5)(i) For level III offenders, the web site shall contain, but is not limited to, the registered sex offender's name, relevant criminal convictions, address by hundred block, physical description, and photograph. The web site shall provide mapping capabilities that display the sex offender's address by hundred block on a map. The web site shall allow citizens to search for registered sex offenders within the state of Washington by county, city, zip code, last name, ~~type of conviction~~, and address by hundred block.

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Discussion:
There was some discussion of pulling this proposal from consideration after Joanna Arlow suggested that there may still be IT issues that need clarification, but members ultimately decided to move ahead with the vote.

Vote: 11 Affirmative

R&N 10 - FTR FELONY SEX OFFENSE DEFINITION

DESCRIPTION: RCW 9A.44.132 refers FTR to duty to register under RCW 9A.44.130 for a "felony sex offense as defined in that section" but the definition was moved to a new part of RCW 9A.44.128(6).

RECOMMENDATION: *Technical clean-up to statute to ensure accurate and well-written statutory language to alleviate confusing or incorrect legislative requirement.*

Change cross reference in new RCW 9A.44.132 to 9A.44.128(6).

RCW 9A.44.132 (1) A person commits the crime of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a felony sex offense as defined in that section and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

Move to RCW 9A.44.128(6)

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Discussion :

This proposal would fix an unintended problem resulting from 2010's SSB 6414.

Vote: 11 Affirmative

R&N 11- COUNT OUT-OF-STATE FTR'S

DESCRIPTION: SB 6414 (2009) inadvertently omitted out-of-state FTR convictions to be considered a prior FTR offense when charging a current FTR offense. For example, first FTR is unranked C. Second and subsequent FTR offenses' seriousness level completed increases.

RECOMMENDATION: *Reverse unintended consequence with the passage of SB 6414. Out-of-state FTR convictions will count against FTR penalty here in Washington.*

RCW 9A.44.142

There is no fiscal request associated with this recommendation; however, it will require a statute amendment.

Discussion:
Brad remarked that the out of state FTR would be a felony for purposes of scoring.

Vote: 11 Affirmative

8. New Business

Bev Emery and Anmarie Aylward discussed a request they received from Mary Ellen Stone that the Board consider adding a seat for a sex assault prevention specialist. Brad Meryhew commented that the Board currently has a very effective and respectful working dynamic with two seats dedicated to victim advocates and that adding a prevention member would create unbalance. He also noted that the Board was lacking the offender's perspective and that if they were going to consider adding additional seats he would like to have a broader discussion on this topic. Andrea Piper-Wentland noted that in her capacity as the WASAP representative, she also represents the prevention perspective. The Board decided to discuss this further in 2011.

9. Public Comment

Sandy Mullins stated that Senator Roach, who had to leave the meeting before the public comment, had asked her to pass on her concerns regarding the recommendation on record sealing for juvenile sex offenders. Senator Roach also requested that the Board move the public comment agenda item to the top of the agenda, before any votes would occur. Board members commented that these recommendations were the results of numerous meetings that had included opportunities for public comment.

10. Adjournment

The Vice Chair, Bev Emery adjourned the meeting at 3:30 p.m.

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

_____ _____

Vice Chair Bev Emery Date

_____ _____

Shoshana Kehoe-Ehlers Date
Program Director