



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

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SEX OFFENDER POLICY BOARD

October 15, 2015 1:00pm – 4:00pm

Washington Association of Sheriffs and Police Chiefs
3060 Willamette Dr NE
Lacey, WA 98516

Members Present:

Kecia Rongen
Andrea Piper-Wentland
Brad Meryhew
Jeff Patnode
Dan Yanisch
Hon. James E Rogers
Keri Waterland
Julie Door
James McMahan
Richard Torrance

Members Absent:

Holly Coryell
Jonathan Meyer
Michael O'Connell

Staff:

Keri-Anne Jetzer

Guests: Shannon Hinchliffe, SOPB Contractor; Candice Bock, AWC; Jamie Yoder, WASPC;
Rep. Klippert.

I. CALL TO ORDER

Kecia Rongen called the meeting to order and asked everyone to introduce themselves.

II. APPROVAL OF MINUTES

The minutes from the prior meeting had not been completed therefore no approval was sought.

III. LIST OF BEST PRACTICES IN OTHER STATES REGARDING PUBLIC DISCLOSURE OF INFORMATION OF SEX OFFENDER AND KIDNAPPING OFFENDER REGISTRIES

Shannon Hinchcliffe presented her findings. She noted this is not a comprehensive review of the sex offender registration system within the state, which would require a very extensive review. She also noted that while she was tasked with providing best practices from each state, those would depend on whether it was being viewed from a public disclosure perspective or from a sex offender registration notification perspective. For example, she stated that the best practice for law enforcement may not be the best practice for a treatment provider. She tried to provide as many practices as possible in the report.

She reported that states' practices run the gamut; some collect a large list of information and make it all open to public disclosure, while others take a more protective view of the information and make it confidential but disclosable only under certain requirements.

Items Shannon thought would be of interest:

- Clear language. Most states clearly denote which pieces of information are confidential or are open to public disclosure.
- Criminal penalties. Many states have criminal penalties for using the information in the commission of a crime. Some states however, have civil causes of action for misusing the registration information, unique crimes related to misusing information and warnings and disclaimers. These are unique ways to limit additional dissemination of information.
- Defining the information. How the information that you are releasing or not releasing is characterized. For example, is it public-facing information, is it searchable information?
- One entity responsible for providing guidelines. States that have guidelines related to releasing of information tend to have one body that provides the guidelines for releasing of the information. As an example, Nebraska requires the state patrol to adopt rules and regulations about release of information.

She spoke about the data, where they reside and how states may separate them as "law enforcement purposes only" data and that which is disclosable. She noted that most states limit their data in some way whether that is actively, passively or conditionally.

Jeff Patnode commented that it looks like there are a small number of states that treat juvenile records differently than adult records. Shannon agreed and noted that she did not do a special juvenile review because SORNA laws are quite extensive. She went on to say that juveniles are treated differently when it comes to sex offender registration.

Brad suggested the group think about additional fields that law enforcements wants, or existing fields, that should or shouldn't be made public and possibly include that information in the report.

Members complimented Shannon on her report.

IV. LIST OF INFORMATION IN REGISTRIES CURRENTLY HELD BY PUBLIC AGENCIES

Shannon Hinchcliffe presented on the list of information in registries. She said it is not possible to identify the universe of documents without making public disclosure requests to all the agencies, including law enforcement. Therefore, she has compiled an example of forms, many are related to classification, bulletins, etc. that she was able to see were available. They may not be commonly requested, but because there is not clear language protecting them, they could potentially be subject to disclosure.

She added that there are many other documents created during the process such as notes and minutes. She noted it was important to think about these processes because when law enforcement has the discretion to re-level an offender, it potentially opens that all up to a different agency. For example, if law enforcement wants to re-level an offender, they may request documents related to the prior leveling process from another agency. The law enforcement agency may not have the same type of protection rules as the agency providing the documentation. Under the Public Records Act, an agency is likely to disclose anything they consider to be a public document.

Members discussed how to move forward with a recommendation. There was talk about the Sunshine Committee located at the AG's Office. Chair Rongen wondered if the members needed to hear Shannon's comparison of Chapter 42.56 RCW and RCW 4.24.550. Shannon mentioned that she was in the final drafting of that report and thus offered to provide an overview of her analysis today if there is time. Members agreed they would like to hear the preview of her analysis.

Shannon presented highlights on her analysis of Chapter 42.56 RCW and RCW 4.24.550. She noted that she is not giving legal advice and she is not drawing any conclusions, just providing information. She said that she sees no relationship between the two outside of the pending legal case.

Chair Rongen asked members to discuss whether they believe this information should be disclosable. James read sample language he drafted related to Chapter 42.56 RCW and RCW 4.24.550. After discussing a few aspects of the language, members requested that the language be emailed to everyone for review. Brad reflected that the sample could be considered a recommendation but they still need findings that articulate the rationale behind it. Chair Rongen noted that one finding might be that release of all the information would take away from the risk-based system that the state considers a best practice. Andrea agrees and believes that should be one of the key points. She also believes that the creation of additional penalties for people who

misuse this information because other states consider this so serious should be included in the report. Judge Rogers added that he believes the strongest point is that this scheme is what people thought always existed. Brad suggested citing the court's decision that exposure of information based on risk was not considered on-going punishment.

V. DISCUSS ASSIGNED RISK LEVEL AND RELIEF OF REGISTRATION

Chair Rongen reminded members that this topic was tabled from last meeting. She asked Brad to present his information summary.

Brad presented his report. Some highlights include:

- Recidivism rates go down with increased time in the community with no new offenses.
- Offender aging reduces risk.
- Research supports that intimate relationships reduce risk.
- Failure to Register offenses do not increase risk.
- Stable employment and housing reduces risk.

Chair Rongen asked members if they were ready to make a recommendation on whether there should be a uniform state-wide system. It was clarified that the recommendation would be about the *petition* for re-classification and not the re-classification itself.

James noted that WASPC would be actively opposed to anything that changes the language enacted in SSB 5154 which states that a sheriff *may* establish a process. He said they would like more time to see how that works. WASPC would oppose a *shall* and would oppose anything that would recommend a state-wide standard. James went on to say that they would be happy to forward on pieces of information, such as found in Brad's report, on what items are recommended to consider or not consider in the process. Julie Door agreed with James about not taking away the discretion of the local law enforcement. Judge Rogers noted that WASPC's model policy already dictates certain things that local law enforcement must complete, such as when law enforcement *will* use the Static-99.

VI. ASSIGN WRITERS OF THE REPORT

Sub(a):

- James – draft recommendations
- Brad – draft findings

Sub(b):

- Brad – draft findings

Sub(c):

- Jeff – “supporting a state-wide policy” draft findings and recommendations
- James – “against a state-wide policy” draft findings and recommendations

Sub(d):

- James – draft recommendations

VII. OTHER BUSINESS

Keri-Anne reminded members of a question posed a few meetings back about whether there would be money available to make hard copies of the fact sheets. She informed members that there would be money available for hard copies.

Keri-Anne informed members the final meeting will be held on November 19 at WASPC HQ from 9am – noon. If there are enough items that are unresolved after the November 6 draft report meeting, this meeting may be re-scheduled.

VIII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SEX OFFENDER POLICY BOARD

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Chair Kecia Rongen

Date