



STATE OF WASHINGTON
SEX OFFENDER POLICY BOARD
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MINUTES
Registration and Notification Committee
Tuesday, May 12, 2009
10:00 a.m. to 1:00 p.m.
Department of Corrections Building
7345 Linderson Way SW, Rm. 1028A
Tumwater, WA 98501

Members Present:

Brad Meryhew
Bev Emery
Sheriff Mark Brown
Kecia Rongen
Jeri Costa
Anmarie Aylward
Maureen Saylor

Staff Present:

Shoshana Kehoe
Andi May
Shannon Hinchcliffe
Jean Soliz-Conklin

Others present:

Joanna Arlow, Policy Director, Washington Association of Sheriff and Police Chiefs;
Dianne Ashlock, Department of Corrections; Lisa Johnson, King County Prosecutor
Office; Sara McCulloch, King County Prosecutor Office; Lindsay Palmer, King County
Sexual Assault Resource Center; Amy Pearson, Office of Crime Victim Advocacy;
Peggy Smith, ISRB; Shani Bauer, Senate and Human Services Committee; Nathan
Johnson, Senate Republican Caucus; Jamila Thomas-Roberts, House Democratic Caucus;
Lara Zarowsky, Counsel-PSEP; Patricia Layden, Private Citizen; Bob Conklin, Private
Citizen

I. Call to Order

Chair Kecia Rongen called the meeting to order at 10:10 a.m.

II. Introductions

III. Approval of Minutes

MOTION # 12: Approve March 10, 2009 Meeting Minutes

Moved: Brad Meryhew

Second: Maureen Saylor

Passed: Unanimously

IV. Workgroup Presentations/Updates

The three workgroups presented on their research progress and/or status of their research work plans. The workgroups have been diligently working to gather and compile research relevant to their area. This meeting is the first opportunity that the workgroups have had to present their research to the entire Committee. The Committee will then have the opportunity to provide each workgroup feedback to assist the workgroup in their next stage of research. In a few months the workgroups will begin making recommendations as to what needs to be changed in the Registration and Notification system based on the their research.

A. Juvenile Workgroup

1. Introduction

Kecia provided some history on Washington State's Juvenile Registration and Notification system and then reviewed the Juvenile Workgroup work plan with the Committee. Washington State is the strictest when it comes to juveniles. We were one of the first states to implement these laws and we have been slow to make changes. Kecia found in her research that most researchers recommend against applying registration and notification policies to juveniles.

When reviewing other states research, statutes and policies, this workgroup focused on four areas for possible change. These included:

- Limiting or eliminating registration requirements for juveniles under 14y.o.;
- Automatic termination for juveniles after a certain age or time frame;
- Restricting community notification for juveniles; and

- Judicial discretion for determining who needs to register.

During the next meeting, this workgroup will present its findings from literature that examines the differences between an adult sex offender and a juvenile sex offender, along with the unintended collateral consequences of the registration and notification system with respect to juvenile offenders. The Committee agreed that Dr. Terry Lee, from Echo Glen, should present his research on juvenile brain development before the full Board. This information will most likely provide the foundation for the juvenile registration and notification law and policy recommendations to the Legislature in November. Kecia will try to schedule it for the July full Board meeting.

2. Washington State's Law on Juvenile Registration and Notification

Shoshana Kehoe presented an overview of how Washington's Registration and Notification laws apply to juvenile sex offenders.

Shoshana explained that the Registration and Notification system do not have separate laws for juveniles. However, certain policies impact juveniles differently than adults. There is also a separate provision in the statute explaining how a juvenile sex offender can seek relief from registration.

Depending upon the age of the juvenile offender and seriousness of the sex offense, the juvenile may be declined from having his or her case adjudicated in juvenile court.

Juveniles must adhere to all the same requirements as adults for sex offender registration and community notification. There are specific registration and notification requirements for any student attending a public or private school or a higher educational facility.

"Failure to Register as a Sex Offender" for Juveniles is a Class C offense. The legislature increased an adult FTR from a Class C to a Class B felony offense. The legislature did not change the class level of a juvenile FTR.

If an offender has a duty to register for a sex offense committed when the offender was a juvenile, that offender may petition the superior court to be relieved of that duty. The requirements for relief from registration for juvenile sex offenders that committed the offense when they were under 15 years of age are different than for those who committed the offense when they were 15 years of age or older.

Website notification for juvenile sex offenders is the same for adult sex offenders. The school principals are also notified of any juvenile sex

offender in his or her school. If a juvenile sex offender is classified as Level 1, less school personnel are notified of the juvenile's status.

In April 2009, the Governor signed a bill that requires WSP annually notify registerable sex offenders, who was convicted of the offense when they were a juvenile, of their ability to request relief from registration.

After completing the presentation, the Committee provided some feedback regarding their opinion about what needs to be clarified, expanded or revised within the statute when applying it juveniles. The feedback included:

- Need some guidance about relief from registration (more than just community safety)
- Need to simplify and clarify the statute so that subsequent adult Failure to Register offenses do not preclude youth from obtaining relief from registration.
- There was some concern expressed about implementing across the board automatic termination at a certain age. The termination statute needs to take into account that some juvenile sex offenders continue to be a high risk to reoffend after they enter adulthood. It was mentioned that the legislature proposed caveats to accompany some sex offender laws this past legislative session. This could be something used by the Board when making recommendations.
- There was a recommendation that the Juvenile sex offender statute make it easier for the offender to know when he or she can petition the court for relief from registration and how to go about it.
- There was quite a bit of discussion about relief from registration. Need to clean up statute and make it easier to follow for kids and providers and judges.

3. Juvenile Registration and Notification Options for Change

Shannon Hinchcliffe presented on her state survey titled, Juvenile Sex Offender Registration and Notification in Washington State: A 50 State Survey and Comparative Analysis.

Shannon noted at the beginning of her presentation that the primary difference between Washington sex offender registration and notification law to the other 49 states is that most states treat registration different from notification. Washington does not. We were the first state to enact juvenile registration and notification sex offenses in 1990. We follow the strictest laws and with the most blanket application. We make it very difficult to get out of the system.

Many states use a hybrid of statutory requirements and discretion. The following is a list of Juvenile Registration Methods Used Amongst the 50 States:

- Same as adults (Washington)
- Must register unless exempted (Delaware, Iowa, Kansas)
- Must not register unless a finding is made (Arkansas, New Hampshire, Rhode Island)
- Must register but offenses are narrowed or limited (Montana, South Dakota, Vermont, Washington, D.C., Louisiana)
- Must register but have a minimum age or limited age range (Idaho)
- Must register if they fulfill several criteria (e.g. minimum age, certain offenses and/or finding - North Carolina, Ohio, Oklahoma)
- District Attorney must apply to include the juvenile (Oklahoma)

The following is a list of Juvenile Notification Methods Among the 50 states:

- Treated same as adults (Washington)
- Ordered to notification if ordered to registration (Arkansas, New Hampshire)
- Not unless ordered by the Court (Alabama, New Mexico)
- Yes, unless exempted (Montana)
- Staggered notification based on risk level or court finding (Conn.)
- Yes, but for an exception (Iowa, Nev.)
- No, but for an exception

There are 4 different methods used across the country for juvenile termination of registration: same as adults; automatic termination; automatic hearings; and offender petition for relief vs. prosecutor petition for continuation.

6 states have automatic termination. In Arizona, automatic termination is combined with an early petition process.

There are 8 restrictive methods for juvenile notification: same as adults; juveniles not subject to notification unless ordered to; courts restrict dissemination of information if its not necessary for public safety; limited to schools; not unless they are out of compliance; only for limited offenses; limited to law enforcement; and available only upon request, can only be requested by certain entities.

There are 4 methods used for determination of inclusion or exemption from juvenile registration and/or notification: judge's discretion; statutory

factors; referral to a committee or board; and a combination of some or all of the above.

Shannon featured 4 states that use a combination of methods listed above in their juvenile registration and notification law and policies. These states include: Arizona, Arkansas, Massachusetts and North Carolina.

Shannon provided a comprehensive 50 state survey accompanied with a detailed memorandum explaining the survey. Finally, the power point presentation of her survey and memo is available in a hard copy for future review.

4. Washington State Juvenile Sex Offenses and Disposition Data

Jean Soliz-Conklin presented the Sentencing Guidelines Commission staff research which matches the age of a juvenile sex offender with the type of adjudicated sex offense. This survey included all types of juvenile sex offenses, including Misdemeanor Communicating with a Minor for Immoral Purposes and Assault 4 with Sexual Motivation. The age range was 10 y.o. & under to 17 y.o. The data covered from 2002 to 2008.

It was noted that the survey did not include those juvenile offenders who had been declined and were adjudicated in the adult system. Jean will make sure that the research team includes that information in the next draft.

It is clear from the survey, that the number of juveniles adjudicated of the most serious sex offenses were highest between ages 12 to 14. This raised concern for Committee members about recommending a minimum age requirement for those juveniles who must register as a sex offender.

There was a suggestion made to change “no prior” offenses to “no prior” convictions, when referring to “no priors”. The change in language takes into account that the offender may have done this behavior in the past, but it is not reflective in the numbers. This spurred quite a bit of discussion. It was recommended that this be included in the SGC research data.

5. Collateral Consequences of Juvenile Registration and Notification

Amy Pierson and Lindsay Palmer will present on this at the next meeting.

6. Why Treatment Helps Reduce Recidivism

Kecia Rongen will present on this at the next meeting.

7. Feedback and Suggestions to Juvenile Workgroup:

- The consensus is not to focus on these juvenile offenders who have been declined from the juvenile system. Decline process takes into account seriousness level, past history, sophistication level. It's built into that process. This committee wants to address new juvenile offenders. However, the Committee will explain in its recommendations why it chose not to address juveniles declined from juvenile court
- The Legislature will probably be receptive to letting some of these kids off the registry. This will give law enforcement the time and resources to focus their efforts on more serious juvenile offenders. There is a sense that the Legislature will consider changing to risk based registration and notification, as opposed to offense based, if backed by sound research.
- It was recommended that the juvenile workgroup generate pros and cons of judicial discretion at the outset and the termination phase, as well as figure out if the judges will be given full authority to make all decisions.
- Petition for relief: Recommend 2 years after adjudication; but should look at automatic or a better system for kids to access the relief process. If an automatic court hearing at a certain point, that will increase the use of the relief system. If juveniles do not show up; put in automatic 25 year old termination requirement.

B. Community Notification

Sheriff Marc Brown presented an overview of the model policy on community notification as well as the intended and unintended impacts of this policy. (See Handouts) Some of intended included: public or community benefits from having this knowledge or order to protect themselves from being victims and; holds offenders accountable. Some of the unintended included: affects the offender's ability to integrate into the community and gain employment; contribute to homelessness; and inconsistency in structure of community meetings and information disseminated at those meetings.

Public appears to have difficulty distinguishing between community notification and registration. Lindsay Palmer presented on the trends found in community notification policy and the salient points discovered by the workgroup members. (See Handouts)

Amy Pearson examined 5 states laws and policies on community notification. (See Handouts)

Workgroup members found that some of the research focused on unintended consequences and recidivism; but nothing that measures the risk of the offender's behavior. The big problem with notification is what takes place after the notification process; the community will often feel at greater risk, despite the fact that they are not. Most victims are somehow related to the offender. Workgroup felt that a one time education presentation to a community about the risks is not effective. There was also a suggestion that the committee may want to better identify the registration criteria to make notification more effective.

C. Failure to Register/Registration/Risk Assessment

Brad Meryhew, Chair of this workgroup, updated the Committee as to the status of this workgroup's research. This group recently met by teleconference to hone in on a list of options that are worth researching to see if possible change or modification of the options would make the provisions more effective.

Shannon Hinchcliffe has been doing quite a bit of research for this workgroup; including drafting a Failure to Register Penalties Survey; Shannon will present her state survey to this workgroup following the full Committee meeting. She is also in process of researching and compiling a national survey on leveling. Abe Ritter, a Seattle University Law school student, will provide some research assistance for Shannon on this leveling survey. During the next couple months Shannon will also be drafting a nationwide survey on sex offender homelessness laws and relief from registration laws.

Brad raised the concern that this workgroup has an enormous task ahead of itself; and that it may be helpful to pull in other members to assist with the research and drafting recommendations.

Committee members suggested a few areas to review for possible change. These include:

- Simplification of statute, especially with dates.
- Not require Class A sex offenders to register for lifetime. Bev will assist in obtaining information as to whether reducing Class A Sex Offenders to non-lifetime registration will expose Washington State to federal funding cuts.

The FTR conversation then briefly touched on leveling. Joanna Arlow, from WASPC, explained that WASPC is trying to get law enforcement to be more objective and less arbitrary in their leveling decisions. WASPC will be meeting to discuss this, may develop a committee within WASPC to specifically address this.

It was mentioned by a few committee members that because of the diversity of the counties, developing across the board standards as well as taking leveling out of the hands of law enforcement, may be problematic. There was a recommendation that the leveling process be codified so it is consistent and has a clear direction.

Per request by a few committee members, Brad will ask Carolyn Sanchez to get the committee the numbers of sex offender levels in each county spanning over a period of time. This could assist in illustrating if there is a rogue county. This could also assist in figuring out whether there are reasons why a concentration of a particular level of sex offenders exists in a county. Finally, it would be helpful to obtain information that shows what factors play into the same offender being leveled differently as her or she moves county to county, despite being the same person and at the same risk level.

V. Planning for Next Committee Meeting

Deferred to next meeting.

VI. Revisiting SORNA

The SMART Office recently contacted the Sex Offender Policy Board inquiring about the status of Washington's request for an extension to comply with SORNA. The deadline to submit the request is July 27, 2009. However, the SMART office needs to know now if Washington plans to submit a request. Shoshana Kehoe has been in contact with the SMART office and the California Sex Offender Management Board. At this point, Washington State is the only state that has not submitted an extension request. It appears because of the administration change, the SMART Office is quickly approving 1 to 2 page extension requests.

This Committee will agree to submit an extension request. However, the Committee does not want to commit that they agree with the SORNA requirements. The Committee discussed who should be making the request. There was a consensus that the executive branch should handle this. Shoshana Kehoe informed the Committee that she contacted the Governor's Office about the SORNA extension request, but have not heard back. Legislative staff recommended Jean Soliz-Conklin contact the Governors Office to get things moving.

VII. ESHB 2035 – New Task for Registration and Notification Committee

Kecia briefed the Committee on the purpose of this bill and where the Sex Offender Policy Board fits in. The Legislature passed ESHB 2035 this past legislative session. The Act relates to registered sex and kidnapping offenders to submit information regarding any e-mail addresses and any websites they create or operate.

The Bill directs the SOPB to recommend whether sex and kidnapping offender registration requirements should be modified to require offenders to submit to law enforcement their electronic email address or other internet communication name or identity. The bill also directs the SOPB to review issues associated with implementing this requirement, including appropriate sanction for failure to comply.

The SOPB recommendations on this bill will be included in the Nov. 1st Leg. Report.

VIII. Public Comments

There were no public comments.

IX. Adjournment

Meeting was adjourned at 1:05p.m.

APPROVED AND ADOPTED BY THE REGISTRATION AND COMMUNITY NOTIFICATION COMMITTEE.

Kecia Rongen, Chair

Date

Shoshana Kehoe

Date