

**SEX OFFENDER MANAGEMENT BOARD (SOMB)
MINUTES**

Friday, September 15, 2017

SOMB Members

Guests

Alli Watt
Allison Boyd
Amy Fitch
Angel Weant
Brie Franklin
Carl Blake
Jeff Shay
Jessica Meza
John Odenheimer
Kandy Moore
Kim English
Korey Elger
Leonard Woodson III
Marcelo Kopcow
Mary Baydarian
Merve Davies
Missy Gursky
Norma Aguilar-Dave
Richard Bednarski
Rick May

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| Allyssa MacAllister | Margaret Olson |
| Barbara Olseen | Molly Carpenter |
| Gale Page | Mona Murch |
| Carrett Kohler | Nicole Leon |
| Cathy Reyes | Pat Martin |
| Cathy Rodriguez | Randy Davison |
| Chris Goddard | Rick Ostring |
| Christina Colombo | Robin Garrelts |
| Colton McNutt | Roger Berry |
| DeAnn Major | Roger Kincade |
| Deb Baty | Sara Mulholland |
| Dena McClung | Susan Walker |
| Ingrid Barrier | Tami Floyd |
| J.D. Guerrieri | Tom Nelson |
| Jeff Bailey | Valerie Estrada |
| Jeff Carpenter | Walter Vami |
| Jesse Hansen | |
| Laurie Kepros | |
| Leslie Garner | |
| Linn Taylor | |

Absent SOMB Members: Jeff Jenks, Jessica Curtis, and Tom Leversee

Staff: Chris Lobanov-Rostovsky, Raechel Alderete, Michelle Geng, Marina Borysov, Kelly Hume, Jill Trowbridge

SOMB Meeting Begins: 9:01

INTRODUCTIONS:

Introductions were made by all in attendance.

FUTURE AGENDA ITEMS:

Jessica Meza suggested having Attorney Gail Johnson, or her client Clarence Moses El, who was incarcerated for 28 years for a crime he did not commit, come and present his story to the Sex Offender Management Board (SOMB). She indicated that this is an amazing story, and noted a presentation would give the SOMB insight into the issues clients must face.

Allison Boyd noted that October is Domestic Violence Awareness month, and asked to have a "crossover" presentation at either the October or November SOMB meeting.

Angel Weant thanked all SOMB members, past and present, who collaborated with the Probation Sex Offender training presented by Judicial. She also suggested having Catherine St. Germaine, a sex assault survivor, come and present her story to the SOMB.

APPROVAL OF AUGUST MINUTES:

Motion to approve the August Minutes: Merve Davies; Jeff Shay 2nd (Question #1)

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| 15 | Approve | 0 | Oppose | 1 | Abstain | Motion Passes |
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ANNOUNCEMENTS:

Raechel Alderete noted the next SOMB Training Committee meeting will be on October 5th. She also highlighted the upcoming trainings that incorporate both the domestic violence and sex offender management:

- September 29th – Domestic Violence and the LGBTQ population
- October 2nd and 3rd - VASOR/SOTIPS in Colorado Springs
- October 4th – JSOAP in Colorado Springs
- October 16th – Michelle Geng and Raechel Alderete will present the Policy Update Booster training in Ft. Collins
- October 19th and 20th - Female Offenders with an emphasis on domestic violence

Kelly Hume asked for comments and suggestions for topics to be included in the Literature Review for the upcoming Legislative report for 2017.

Chris Lobanov-Rostovsky announced that during Marina Borysov’s absence, correspondence will be coming through Adrienne Nuanes and Jill Trowbridge.

APPROVE AGENDA:

Approved by consensus

SECTION 5.000-5.600 (EXCLUDING 5.200) PUBLIC COMMENT (DECISION ITEM/FINAL RATIFICATION): Michelle Geng, Angel Weant, and Jeff Geist

Michelle Geng reviewed the public comment received for Section 5.000 – 5.055. She noted that some comments received noted that the Committee made revisions first and then found research to back up the revisions, rather than studying the research and then making revisions. Michelle explained the research-gathering process, and noted that a foundation of research is done before revisions are made to the Standards. She went on to explain that research and suggested revisions are presented to the Adult Standards Revisions Committee and the Best Practices Committee for review before making any changes to the Standards

Angel Weant and Carl Blake responded to the public comment regarding the use of the word “shall” throughout Section 5.105, and noted that the “shall” is intended for the supervising officers (as statutorily mandated). They indicated this should not cause any liability issues for the treatment provider.

Michelle Geng mentioned that Section 5.200 has not been approved by the SOMB, and continued to review the public comment for Section 5.300 – 5.650 with SOMB responses as follows:

- 5.405 H. – Victim Representation – Public comment indicated it would be helpful to add “Participate in CST meeting when available”. Allison Boyd responded that this is captured at the beginning of Section 5.400.
- 5.605 – Use of Polygraph within the Team – Public comment questioned the actual meaning of “polygraph results” and if it differs from the disclosures the offender may make during a polygraph review. Chris Lobanov-Rostovsky responded that the Polygraph Committee has discussed this issue, and indicated the Committee agreed that the use of the term “polygraph results” indicates deception, non-deception, or inconclusive. He noted that this language is consistent with Section 6.000, the Polygraph section. Chris

Lobanov-Rostovsky mentioned that this is the first time “polygraph results” is mentioned in the Standards, and suggested inserting a crosswalk to Section 6.000 for clarification.

- 5.640 – Basis of Adjustments to treatment/supervision – Public comment suggested adding “offender compliance to supervision terms and conditions and treatment contract” to this section. Angel Weant replied that she is in agreement with the public comment, and to add that language.
- 5.650 – Polygraph Outcomes and the response – Public comment asked for clarification of the use of the word “outcome” in this section. Angel Weant expressed concern with extending the language this far and recommended keeping the language as is.

Chris Lobanov-Rostovsky presented Section 5.000 – 5.600 to the SOMB with public comment to discuss possible amendments:

- Section 5.000 – Regarding missing footnotes throughout the entire section – The 5.000 Adult Standards Revisions Committee will insert as necessary.
- Section 5.005 – Regarding public comment to a., b., and c. – Angel Weant responded that there are no recommended changes. Jessica Meza suggested adding more restorative language. After SOMB discussion the following was added to Section 5.005: This model guides the CST members to work collaboratively with each other “to assist the client/offender in becoming a prosocial, productive member of society,” and in order to enhance community safety.

Motion to approve amended language to Section 5.005 : Jessica Meza; **(Question #2)**

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| 18 | Approve | 1 | Oppose | 0 | Abstain | Motion Passes |
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- Section 5.005 A. & B. – There were no changes made by the SOMB as suggested by public comment.
- Section 5.055 – There was SOMB discussion regarding positive vs. negative reinforcements. It was decided to add Victim Impact/Empathy to the list of the assessing need areas in this section.
- Section 5.100-5.175 – Responsibilities of the Supervising Officer Within the Team – There were no SOMB changes made to these sections.
- Section 5.400 – Responsibilities of the Victim Representative within the Team – There were no SOMB changes made to this section.
- Section 5.405 H. – Regarding public comment to change participate in CST meetings *when available* – Chris Lobanov-Rostovsky noted that this is included earlier in this section. There were no SOMB changes made to this section.
- Section 5.605 – Regarding polygraph results public comment – Chris Lobanov-Rostovsky suggested inserting a crosswalk (See 6.000) as discussed previously. Jessica Meza requesting inserting the crosswalk to the section that covers offender suitability to take a polygraph. Chris Lobanov-Rostovsky inserted the crosswalk as requested. Carl Blake indicated that the use of “shall” or “should” be consistent in this section. After continued discussion, the words “should” were changed to “shall”, the word collaboration to “conjunction”, and the word tools to “information” in the 2nd sentence. The crosswalk to Section 6.000 was also inserted in the 4th sentence.
- Section 5.640 – Regarding adjustments to treatment/supervision – After SOMB discussion, “offender compliance to supervision terms and conditions and treatment contract” was added to this section.

- Section 5.650 – Regarding outcomes – After SOMB discussion, the word outcomes was changed to “information learned”.

Angel Weant made a motion to approve the document as amended.

Motion to amend language to Section 5.000-5.650 : Angel Weant ; Missy Gursky (Qustion #3)

19 Approve 0 Oppose 0 Abstain Motion Passes

BREAK: 10:31 – 10:47

SECTION 6.000 PUBLIC COMMENT (DECISION ITEM) – Chris Lobanov-Rostovsky and Jeff Jenks

Chris Lobanov-Rostovsky thanked Michelle Geng for her work on inserting the public comments in this section, and then reviewed the latest revisions based on these comments. He indicated that there were no suggested changes from the public comment.

Judge Kopcow asked if there are any other items that need to be considered before ratification of this section.

Audience/Board Comments:

Jeff Bailey questioned whether the treatment providers or probation are required to inform the client of their right to not self-incriminate when the polygraph is given. Chris Lobanov-Rostovsky noted that the SOMB has left the decision to inform the client of this up to each individual treatment provider, but gives guidance to not terminate on that decision alone.

There was continued SOMB discussion regarding the ethical requirements of treatment providers to tell an offender they have the right to not answer self-incriminating polygraph questions or to take the polygraph altogether.

Laurie Kepros indicated that there is case law regarding compulsion to take the polygraph, but noted that clinical ethics are varied for treatment providers, and did not see a conflict with the current language.

Rick May indicated that his office tells the client to seek legal advice.

Susan Walker noted that the vagueness of this language puts the client in a difficult situation regarding self-incrimination.

Judge Kopcow asked the SOMB if there is any amended language to consider before ratification of Section 6.000.

Section Ratified by SOMB consensus

SECTION 3.000 ADULT TREATMENT STANDARDS REVISIONS (DECISION ITEM) – Missy Gursky and Michelle Geng (Handout Provided)

Michelle Geng reviewed the changes made to Section 3.000.

Board Comments:

The following suggestions and revisions were made after SOMB discussion:

Section 3.160 B 2:

- Per Gary Reser, take the last sentence of subsection 3.160 B 2. and create subsection B 3. which would read: *"The following core treatment concepts shall also be a mandatory part of each client's sex offense-specific treatment."*
- Jessica Meza suggested language change to Section 3.160 B 3.a. to read *"Facilitate the development of client responsibility and accountability for their behavior"*.
- Allison Boyd suggested language change to Section 3.160 B 3.a. to read *"Acceptance of responsibility for offending and abusive behavior"*, rather than Jessica Meza's language.

Amy Fitch made a motion to use the "acceptance of responsibility for offending and abusive behavior" language.

Audience Comments:

Susan Walker expressed her appreciation of Missy Gursky's leadership on the 3.000 Adult Standards Revisions committee.

Motion to approve Section 3.000 with amendments: Amy Fitch; Allison Boyd 2nd (Question #4)

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Chris Lobanov-Rostovsky announced that Alli Watt will be leaving the SOMB, and indicated that this is her last SOMB meeting. There were numerous comments of praise for her work on the SOMB, and with her work with victims. She was presented with a thank you gift.

Alli Watt said a few words of thanks to the SOMB

LUNCH: 11:24 – 12:14

SOMB SVP ASSESSMENT INSTRUMENT (DECISION ITEM) – Kim English and Peg Flick

Kim English and Peg Flick reviewed the changes to the Sexually Violent Predator (SVP) instrument, and described the new Risk Assessment Scale.

Kim reviewed the data and research that was used to create this instrument, and noted that a score of 22 or above on the SOMB Sex Offender Risk Scale (SORS) indicates a 50-60% likelihood of a new sex or violent court filing within 8 years. She went on to discuss the formula used to calculate the SORS. Kim mentioned that less than 5% of the individuals assessed using this instrument were designated as an SVP.

Peg Flick reviewed the scoring and calculation process of this form. She also explained that the form has built-in formulas and calculations, so that anyone using it can have instantaneous results.

Kim English also indicated that the previous Mental Abnormality Section (3C) has been revised to Psychopathy or Personality Disorder, and noted that supporting documentation should be attached when a client falls within the intellectual developmental disorder parameters.

Kim English reviewed the new Evaluator Agreement section found on page 8 of the document.

Board Comments:

Merve Davies noted that the Millon Clinical Multi-Axial Inventory-III is no longer being used, and that there is a new version (MCMI-IV). He also questioned the duplicity of the new instrument. Chris Lobanov-Rostovsky responded that this is a fail-safe, and noted it will help ensure that the evaluator understands and agrees with the findings of this assessment.

Lenny Woodson questioned the Parole Board language. Kim English responded that if there is a different Department of Corrections (DOC) procedure, then the form needs to be updated to include these changes.

Chris Lobanov-Rostovsky explained that there will be a transition period before this form is fully implemented. He asked if a full-implementation effective date of January 1, 2018 would be appropriate, and indicated there would be a period of training before the January 1st implementation date. Chris noted the need to approve an implementation plan.

Judge Kopcow indicated that the vote today would be to start the implementation plan as soon as possible, with a full implementation date of January 1, 2018.

Merve questioned if the document revisions timing and training period can meet the January deadline. Kim English responded that this can be done in that timeframe.

Audience Comments:

Susan Walker expressed her hope that the SVP designation and the assessment tools used are accurate in capturing only these individuals.

Laurie Kepros suggested the SOMB get rid of Section 3A. (Stranger Criterion), and encouraged the SOMB to recommend to the Legislature that an SVP instrument cannot be devised to completely comply with statute. She indicated her concern that judges do not seem to remember that they are to make the decision based on the relationship criteria. Laurie suggested that "only if the answer is yes" language be included in the appropriate sections to make the instrument clearer.

Judge Kopcow clarified that the motion is to implement the SVP Assessment Instrument by January 1, 2018 with the option to submit a time extension if necessary.

Motion to approve the SVP Assessment Instrument Implementation by 1/1/18: Amy Fitch; Carl Blake
2nd (Question #5)

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| 17 | Approve | 0 | Oppose | 1 | Abstain | Motion Passes |
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MANAGEMENT OF CHILD SEX OFFENDERS AND PERSONS ON EXTENDED SUPERVISION ORDERS (PRESENTATION) – Detective Chief Inspector Chris Goddard, Manager, Child Protection Register and Extended Supervision Order Investigation Team. New South Wales Police Force (Australia)

Chris Lobanov-Rostovsky introduced Chris Goddard, the Detective Chief Inspector of the Child Protection Register and Extended Supervision Order Investigation Team. Chris Goddard gave a presentation giving background and process information of the New South Wales Child Protection Register and Extended Supervision Order Investigation Team.

Some of the highlights he discussed were:

- A brief description and parameters of the Child Protection Register
- The process of how the Child Protection Registry operates
- The reporting obligations of the offender
- The management regime which includes risk assessment, monitoring frequency, home visits, phone calls, system checks, and so forth
- The management regime is in conjunction with parole or community corrections
- Every registrant has to report annually
- Every registrant has a marker for international travel
- Extended Supervision Orders - 5 step process for an extended supervision order

- Future Development Opportunities
- Increased training and development
- Enhanced search powers
- Impending passport revocation
- Enhanced Risk Assessment

Board Comments:

Jeff Shay asked how long the registry has been in effect. Chris Goddard responded that it has been in effect for 16 years.

Amy Fitch mentioned that Colorado's sex offender registry is open to the public which leads to a lot of problems. She asked Chris Goddard if he has an opinion regarding this. He responded that he has no opinion at this time due to the fact that all he knows is a closed registry.

Jessica Meza asked how juveniles are handled. Chris Goddard responded that they are on the registry for a 4-year period or 7-1/2-year period. He noted that if compliant, a juvenile will automatically come off the registry when sentence complete.

There was continued discussion regarding how long and when juveniles are removed from the registry.

Chris Goddard noted that there are less than 50 juveniles on the registry which is 1% of all offenders.

Audience Comments:

Susan Walker asked if recidivism rates are kept. Chris Goddard responded that they are, and noted that the compliance rate is currently at 85%. He also mentioned that his team is working on capturing more sex offense recidivism data.

Laurie Kepros asked what the adult offender removal process from the registry is. Chris Goddard replied that it is the same process as for juveniles, that when their time is complete and after a check, they are automatically removed. She also asked if sharing information of an offender on the registry is prohibited. Chris replied that this information is not generally shared, but noted there are certain circumstances in which this information is shared, but not made public. Laurie asked what registry information is available to victims. Chris replied that sex offender registry information is not directly given to victims, but may be implied (he gave an example). Laurie also asked if there are rules that deny a foreigner entry into Australia if they are a convicted sex offender. Chris responded that they can be denied entry, and also noted that if a sex offender leaves Australia, he or she may also be denied entry into the destination country.

Chris Goddard presented Chris Lobanov-Rostovsky and the SOMB unit with a plaque showing his appreciation for the collaboration with Colorado.

U.S. SUPREME COURT DECISION ON PACKINGHAM V. NORTH CAROLINA (ACTION ITEM) – Judge Marcelo Kopcow Packingham

Judge Kopcow reviewed the case of Packingham v. North Carolina and indicated this involved a 21-year old college student in North Carolina who was a convicted sex offender. He noted that this student was cited for a traffic infraction, the ticket was dismissed, and then bragged about it on Facebook. As a result, the student was arrested for violating North Carolina's Sex Offender Registry law, and indicated that the Supreme Court became involved due to social media law. Judge Kopcow gave statistics regarding the use of social media, and indicated that this is the first case that the Supreme Court took on regarding the relationship of the 1st Amendment and the internet. He noted that the Supreme Court realized that the North Carolina social media law was very broad,

and that it prohibited the student from access to be able to speak, listen, and respond, which is his Constitutional Right.

Judge Kopcow cited another case in which the Supreme Court stated that *"It is well established that as a general rule, the government may not suppress lawful speech as a means to suppress unlawful speech."*

Judge Kopcow reviewed some of the current Colorado supervision terms and conditions, and indicated that Weld County has specific restrictions for the use of the internet.

Ingrid Barrier indicated that North Carolina's law is so broad that it prohibits an offender from being able to apply for jobs, buy clothes, keep up with current events, etc. She indicated that in Colorado, the terms and conditions are tailored to what an offender needs, and mentioned that it is up to the Judge to make the internet restrictions fit with the crime.

Judge Kopcow also cited another case, the United States v. Ullman, which indicated that when conditions are posed, they must match up to the needs of the offender and community safety.

Board Comments:

Amy Fitch noted that it is legal in Colorado to limit the use of the internet for those individuals that are still subject to supervisions terms and conditions.

Chris Lobanov-Rostovsky mentioned that this ruling does not preclude private companies, such as Facebook, of restricting these populations, and noted that many sites already have these restrictions in place.

Raechel Alderete mentioned that there have been many questions related to this case for juveniles. She noted that the Juvenile Standards have terms and conditions of supervision in a separate section and also in the appendix, and indicated they limit internet use unless approved by the supervising officer and the Multi-Disciplinary Teams. Raechel mentioned that Angel Weant is working on this issue, and is waiting for information from Judicial's legal team.

Alli Watt indicated that the use of social media such as Facebook is just one platform to express the right of free speech, but is not the only way to express free speech.

Amy Fitch asked if internet usage or sanctions is under the purview of the SOMB. Chris Lobanov-Rostovsky responded that Angel Weant and Judicial are continuing to work on this issue, and indicated that when decisions are made, then the SOMB will have to respond.

Jessica Meza mentioned that this is something the SOMB needs to address now in order to give guidance to supervision and the treatment providers. Carl Blake responded that the Division of Youth Services and the SOMB follows best practice. He also noted that juveniles are restricted in the use of electronics, and they are monitored at all times. Carl suggested it is worthwhile to have a discussion regarding internet usage, but is unsure if the SOMB has purview over some of these areas.

Judge Kopcow suggested that it would be good to have further discussion of this issue.

Audience Comments:

Laurie Kepros indicated that the decision on Packingham case focuses on the 1st Amendment Right to Free Speech, and makes no distinction if the individual is under supervision or not. She also mentioned that this language is not required in SOMB Standards, and that no action needs to be done. Laurie also stated that Colorado statute dictates that the terms and conditions must match the offender's crime.

Jeff Carpenter noted that it is impossible to not use the internet in today's culture, and mentioned that denying internet usage completely is limiting some protective factors. He also indicated officers have been working with internet restrictions, and that they monitor computer use when necessary. Jeff asked the SOMB for a white paper to clarify this subject.

Susan Walker indicated that the National Association for Rational Sexual Offense Laws has written to Mark Zuckerberg asking to remove the sex offender restrictions.

Jeff Carpenter suggested to pre-emptively create language that states that a government cannot limit lawful speech or lawful use of the internet.

Korey Elger and the SOMB presented Marina Borysov with a beautiful baby card and thanked her for all her hard work on the SOMB.

SOMB Meeting Adjourned: 2:09

Session Name: New Session 9-15-2017 10-30 AM

Date Created: 9/15/2017 8:38:30 AM Active Participants: 19 of 24

Average Score: 0.00%

Questions: 5

Results Detail

| Name | Q1 | Q2 | Q3 | Q4 | Q5 | Total Points | Score |
|----------------------------------|----|----|----|----|----|--------------|-------|
| Answer Key | - | - | - | - | - | 0.00 | - |
| Aguilar-Dave, Norma | 1 | 1 | 1 | - | 1 | 0.00 | - |
| Franklin, Brie | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| Baydarian, Mary | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| Bednarski, Rick | - | 1 | 1 | 1 | 1 | 0.00 | - |
| Blake, Carl | 3 | 1 | 1 | 1 | 1 | 0.00 | - |
| Boyd, Allison | 1 | 2 | 1 | 1 | 1 | 0.00 | - |
| Davies, Merve | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| Elger, Korey | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| English, Kim | 1 | 1 | 1 | 1 | 3 | 0.00 | - |
| Fitch, Amy | - | 1 | 1 | 1 | 1 | 0.00 | - |
| Gursky, Missy | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| May, Rick | - | 1 | 1 | 1 | 1 | 0.00 | - |
| Meza, Jessica | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| Moore, Kandy | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| Odenheimer, John | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| Shay, Jeff | 1 | 1 | 1 | - | 1 | 0.00 | - |
| Watt, Alli | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| Weant, Angel | 1 | 1 | 1 | 1 | - | 0.00 | - |
| Woodson III, Lenny | 1 | 1 | 1 | 1 | 1 | 0.00 | - |
| Participant List Averages | - | - | - | - | - | 0.00 | - |

Session Name: New Session 9-15-2017 10-30 AM

Date Created: 9/15/2017 8:38:30 AM **Active Participants:** 19 of 24

Average Score: 0.00%

Questions: 5

Results By Question

1.) Motion to approve August minutes (Multiple Choice)

| Responses | | |
|---------------|-------------|-----------|
| | Percent | Count |
| Yes | 94% | 15 |
| No | 0% | 0 |
| Abstain | 6% | 1 |
| Totals | 100% | 16 |

2.) Motion to amend 5.005 (Multiple Choice)

| Responses | | |
|---------------|-------------|-----------|
| | Percent | Count |
| Yes | 95% | 18 |
| No | 5% | 1 |
| Abstain | 0% | 0 |
| Totals | 100% | 19 |

3.) Motion to amend 5.0-5.6 (Multiple Choice)

| Responses | | |
|------------------|----------------|--------------|
| | Percent | Count |
| Yes | 100% | 19 |
| No | 0% | 0 |
| Abstain | 0% | 0 |
| Totals | 100% | 19 |

4.) Motion to approve 3.00 as amended (Multiple Choice)

| Responses | | |
|------------------|----------------|--------------|
| | Percent | Count |
| Yes | 100% | 17 |
| No | 0% | 0 |
| Abstain | 0% | 0 |
| Totals | 100% | 17 |

5.) Motion to implement the new SVP assessment process on 1/1/18 (Multiple Choice)

| Responses | | |
|------------------|----------------|--------------|
| | Percent | Count |
| Yes | 94% | 17 |
| No | 0% | 0 |
| Abstain | 6% | 1 |
| Totals | 100% | 18 |

