

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

Friday, November 17, 2017

SOMB Members

Allison Boyd	Alison Talley	Marsha Brewer
Amy Fitch	Amanda Gall	Matt Smith
Angel Weant	Anne Schnacke	Nicole Leon
Brie Franklin	Art Navalta	Pat Harris
Carl Blake	Augustine Garcia	Patricia Billinger
Jeff Jenks	Charles Churman	Paul Montgomery
Jessica Curtis	Christine Rinke	Rick Ostring
Jessica Meza	Colton McNutt	Roger Kincade
John Odenheimer	Dale Jenkins	Susan Walker
Kandy Moore	David Nahum	Tami Floyd
Kim English	Deb Baty	Tyler Atkinson
Korey Elger	Greg Hisscock	
Leonard Woodson III	Jeff Carpenter	
Marcelo Kopcow	Jeff Geist	
Merve Davies	John Martinez	
Missy Gursky	Justyna Madenska	
Norma Aguilar-Dave	Karmen Carter	
Richard Bednarski	Laura Richards	
Rick May	Laurie Kepros	
Tom Lerversee	LeRoy Verneti	
	Lyz Hart	

Absent SOMB Members: Jeff Shay and Mary Baydarian

Staff: Raechel Alderete, Michelle Geng, Kelly Hume, and Jill Trowbridge

SOMB Meeting Begins: 9:05

INTRODUCTIONS:

Introductions were made by all in attendance.

FUTURE AGENDA ITEMS:

Jessica Meza asked Rick May to present on the treatment for wrongfully convicted sex offenders who are pending an appeal. Rick responded that he is willing to do this, and noted that it would be at a later date.

ANNOUNCEMENTS:

Judge Kopcow announced that Chris Lobanov-Rostovsky was not present due to a previous engagement.

Judge Kopcow also announced that the voting machines will not be used at this meeting, and noted that voting will be done by a show of hands.

Korey Elger noted that November is National Adoption Month, and mentioned that 887 adoptions were finalized during 2017 in Colorado.

Raechel Alderete mentioned that the December Sex Offender Management Board (SOMB) meeting will be held at the PPA Event Center, which will include the SOMB appreciation lunch. She also reminded all that the January meeting will be at the Wheat Ridge Recreation Center.

Raechel noted that the call for papers for the 2018 SOMB Conference will be sent out the week of November 20th. She encouraged all SOMB members and stakeholders to submit proposals, and indicated that the conference will be at Beaver Run from July 11th – July 13th, 2018.

Raechel Alderete also announced that there are two new representatives on the SOMB: Robin Singer representing the Department of Education (replacing Alli Watt), and Jesse Hansen representing the Department of Public Safety (replacing Kim English).

Judge Kopcow also noted that Jessica Curtis will be leaving the SOMB due to her new position as El Paso County Court Judge. He indicated that this will be her last meeting for the SOMB.

APPROVAL OF OCTOBER MINUTES:

Motion to approve the October Minutes: Tom Leverage; Carl Blake 2nd (**Question #1**)

11	Approve	0	Oppose	7	Abstain	Motion Passes
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APPROVE AGENDA:

Approved by consensus

PUBLIC COMMENT ON SECTIONS 5.055, 5.200, AND 5.600 (Decision Item/Final Ratification):
Angel Weant, Jeff Geist, and Michelle Geng (Handout provided)

Michelle Geng reviewed the public comment as follows:

Section: 5.055 – The public comment questioned the use of sanctions and incentives vs. positive and negative reinforcement. Public comment noted that Footnote 6 has not associated research or documents:

Comments:

- Michelle Geng noted that the SOMB voted on the use of the sanctions and incentives language previously.
- Michelle Geng indicated that Footnote 6 was inadvertently dropped and has been added back in.
- Dale Jenkins recommended to the SOMB to also include the associated research when public comment is made.

Section 5.200 – Responsibilities of the Treatment Provider within the Team – Public comment questioned the therapist as the ultimate authority in determining treatment needs:

Comments:

- Jessica Meza noted that this language is consistent with current case law.
- John Odenheimer mentioned that there is a distinction on the Community Supervision Team (CST) of who has the best knowledge and insight for a client’s individual needs, and indicated that decisions will still be made in a collaborative manner.
- Missy Gursky reiterated that this language is not meant to be offensive to any other CST members, and noted that each CST member has their own area(s) of expertise.

- Angel Weant noted that the Adult Standards Revisions Committee tried to include a collaborative approach throughout the Standards. She stated that probation officers are trained to respect the treatment providers' expertise.
- Susan Walker noted that probation and/or parole in the past has taken a blind eye to those with developmental/emotional needs clients, and expressed her gratitude for this language

Section 5.600 – Use of Polygraph within the Team – Public comment questioned the overall use of polygraph as a treatment tool:

Comments:

- Judge Kopcow noted that there has been repeated SOMB discussion of this issue.
- Laura Richards mentioned that treatment providers should have access to any tools available, and noted that victims support the use of polygraph in the overall treatment.
- Augustine Garcia indicated that there are other tools that are scientifically reliable, while polygraph is not. He reiterated the negative affect the use of polygraph has on clients and their families.
- Dale Jenkins indicated there are a considerable number of offenders who are also are victims, and noted there is research that indicates there are impacts to the clients after polygraph use. She reiterated the use of the therapeutic alliance, and stressed that prevention is the highest priority.
- Carl Blake mentioned that the Standards are giving more discretion to the CSTs to make decisions regarding the use of polygraph, and noted they are not relying solely on polygraph results. He indicated that the Standards have been changed throughout to reflect a more flexible use of polygraph, and stated that the treatment providers are the ones who have advocated for the use of polygraph as a treatment tool.
- Tom Leverage reiterated the previous comments regarding the lengthy and comprehensive process revising this language that included the Best Practices Committee, the Adult Standards Revisions Committee, and the SOMB. He noted that the core correctional practices are consistent with the risk-needs-responsivity model. Tom indicated that the SOMB will continue to critically evaluate and make any appropriate revisions when needed.
- Jessica Meza indicated that not everyone on the SOMB agrees that the use of polygraph be mandated for use for both adults and juveniles. She expressed her concern of the use of polygraph, and noted there are other research based ways to assess and individualize treatment in a more nurturing way.
- Jeff Jenks noted that polygraph examiners do not repeat the same polygraph exams and questions over and over again. He stated that, in fact there is much research that does support the use of polygraph, and indicated it is reliable when used properly. Jeff mentioned in the beginning of the Polygraph Sections of the Standards that it states that polygraph is not be used in isolation, and noted that the Standards do not support the exclusive use of polygraph. He reiterated that examiners take a great deal of care in working with the clients to get them through successfully, and mentioned that the new Standards are dealing with the use of polygraph by using the Successive Hurdles approach.
- Justyna Madenska indicated that the cost of polygraph is a financial burden, and can cause extreme stress to the families of sex offenders which causes failures.
- Laura Richards responded to Justyna that victims and survivors are also under extreme stress, and must pay for their own treatment, which could be hundreds of dollars per week.
- Susan Walker indicated that there needs to be more dialogue between victims and offender families.

Section 5.651 – Public comment questioned this section regarding the release of specific polygraph questions and results, and why this impacts the validity of the test. Public comment also questioned if there is a way to release a simplified version of the polygraph results that would not include narratives and proprietary documents:

Comments:

- Jeff Jenks noted that it is acceptable to show some questions, but not those which may include control questions. He indicated that it is also acceptable to review the questions with which the client is having trouble.

- Merve Davies noted that according to the Health Insurance Portability and Accountability Act (HIPPA), a client can access polygraph results data through the legal process, and indicated that this data should be reviewed by someone who is an expert in this field. He mentioned that this is clearly reflected in the Standards.
- Susan Walker noted the requested change to “shall” cannot be used due to Probation and Parole requirements.

Section 5.652 – Public comment requested the change of should/can to “Shall” and the removal of the last sentence of this section. Public comment also indicated the need for a process to use when addressing discrepancies between offender self-report and disclosure statements in the polygraph exam report.

Comments: See general comments below.

Section 5.653 – Public comment requested the change of should to “Shall”. Public comment also questioned the identified quality control review reference, requested the full section be made available for public comment, and again asks for a process to use regarding discrepancies of results and the resolution.

Comments:

- Michelle Geng indicated that the quality control reference sections are correct, but that they have not been approved yet.
- Jessica Meza expressed confusion regarding the process for unresolved polygraphs. Michelle Geng responded that there is a quality control process, and explained that the current SOMB process is that the CST can request a 3rd party review. She also noted that this public comment is concerned about confidentiality and would prefer the review be done by the Application Review Committee (ARC) to ensure this confidentiality.
- Angel Weant indicated that for the overall document, she would discourage changing “should” to “shall”.
- Carl Blake responded that he advocates changing some of these to “shall” where absolutely necessary, or delineating out that the “supervising officer should” and the “treatment provider shall.”
- Carl Blake responded to the public comment regarding making an entire section available for public comment. He reminded all that the public asked the Legislature to mandate any changes be done by sub-section and not by the entire section.

There was general discussion regarding the use of “should” versus “shall” in Sections 5.651, 5.652, and 5.653 and if it should be delineated between the supervising officer and treatment provider.

The outcome of this discussion was to change the “should” in Section 5.651 to “shall.”

Carl Blake made a motion to change Section 5.651 from supervising officer “should” review to “shall” review, and to leave the remaining “should/can” in Section 5.652 and 5.653 as is. Missy Gursky 2nd motion.

Susan Walker asked to notate the use of shall versus should in these sections. Laurie Kepros indicated that the use of should versus shall is spelled out in the Section 6.000 introduction.

Motion to approve the Section 5.651 as amended: Carl Blake; Missy Gursky 2nd (**Question #2**)

19	Approve	0	Oppose	0	Abstain	Motion Passes
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After the vote on the Section 5.651 amendment, there was continued discussion as to any further changes to these sections.

Sections 5.055, 5.200, 5.310, 5.600, 5.651, 5.652, 5.653 were ratified by consensus.

BREAK: 10:35 – 10:54

Raechel Alderete and Judge Kopcow thanked Judge Curtis and Kim English for their dedication and service to the SOMB. There were many words of congratulation and encouragement to Judge Curtis and Kim English from the SOMB members.

GUARDIAN AD LITEM LANGUAGE FOR JUVENILE STANDARDS AND GUIDELINES (Action Item) – Judge Jessica Curtis (Handout provided)

Carl Blake explained that this language proposal is due to a change in statute, and noted that the Juvenile Standards Committee is not planning on reconvening to discuss this.

Judge Curtis reviewed the background of this change, and reviewed the suggested changes to Section 5.920

Jessica Meza made a motion to approve Section 5.920 as proposed. Tom Leversee 2nd the motion.

Jessica Meza suggested bringing more opinions to the SOMB from the Office of the Child’s Representative regarding the Guardian Ad Litem sections. Judge Curtis noted that this document (including Section 5.920 and 5.921) was given to Linda Weinerman for her feedback, who approved this language change. Carl Blake noted that there is representation on the Juvenile Standards Revisions Committee, and noted that it is good to have other folks review.

Board Comments:

Allison Boyd suggested adding “the victim” to the last sentence of Section 5.920.

Audience Comments:

No comments

Motion to approve the Section 5.920 as proposed: Jessica Meza; Tom Leversee 2nd (Question #3)

18	Approve	0	Oppose	0	Abstain	Motion Passes
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SOMB LEGISLATIVE REPORT (Action Item) – Kelly Hume

Kelly Hume highlighted the SOMB Legislative Report topics that she is currently working on as follows:

- Literature Review – Kelly noted she is looking at domestic violence and sex offending cross-over and co-occurrence, marital rape and intimate partner violence and how they differ, risk for offending and victimization, and juvenile intimate partner violence.
- Child Sexual Abuse Images and Hands-On Offense Crossover – She indicated she is looking at the comparison of those who commit on-line and contact offenses, and the risk for recidivism.
- Campus Sexual Offense Against Students – Kelly mentioned she is looking at prevalence, the under-reporting of rape, and alcohol use and other risk factors.
- Offense Supportive Attitudes and Cognitive Distortions Among Offenders – She noted she is looking at how those impact treatment progress, and various types of cognitive distortions, and offense supported attitudes.

Kelly asked the SOMB for feedback on the following policy topics before next month’s meeting:

- Juvenile Registry and the recently published white paper on this subject;
- Juvenile Sexting Bill and how it impacts juvenile adjudications and school safety policy;
- Sex Offender Registration and Notification Act (SORNA) - readdressing the Sexually Violent Predator (SVP) status, and risk assessment based designations

LEGISLATIVE UPDATE (Presentation) – Gabby Reed, CDPS Legislative Liaison

Gabby reviewed the legislative updates that directly or indirectly affect the SOMB. These are as follows:

- Determinate Sentences for Indeterminate Sex Offenses which give the judge discretion to give determinate or indeterminate sentences for indeterminate sex offenses. Gabby noted that this was voted on in the interim Legislative session to move forward, and indicated the bill will be introduced in the 2018 Legislative session. She noted that this is a replica of Senate Bill 87 from the 2017 Legislative session.
- Bill to reform some of the Sex Offender Registry requirements – She indicated that this bill did not move forward through the interim Legislative session. The components of this bill were:
 1. Under certain circumstances if someone petitions to be removed from the registry in the state of conviction, to also be able to petition to be removed from the Colorado Sex Offender Registry;
 2. Local law enforcement would have the ability to issue a waiver to developmentally/intellectually disabled sex offenders so they would not have to register in person annually;
 3. Created a presumption made by an offender to petition off the registry after completing their sentence, with no subsequent offenses, and the identified waiting period has passed; and
 4. Permitted a registrant to discontinue registration if they became incapacitated.

Gabby indicated that the Sex Offender Registry bill has not been drafted yet, but anticipates a bill to be drafted in some form during the 2018 Legislative session.

- Gabby also noted that the Treatment of Persons with Mental Health Disorders in the Criminal Justice System interim committee has taken into consideration the recommendations the SOMB made regarding reforms to the juvenile registry requirements. She indicated that the Legislature has not drafted a bill as of yet, but anticipates one being drafted in the 2018 Legislative session.

Audience Comments:

Susan Walker expressed her hope that the Legislature will approve the registry bill.

Missy Gursky expressed appreciation for her colleagues, clients, and all who work in the mental health field for their support of her and RSA during this difficult time.

SOMB Meeting Adjourned: 11:31