

MINUTES
Sex Offense/Offender Task Force
Colorado Commission on Criminal and Juvenile Justice
March 30, 2011 1:30PM-4:30PM
150 East 10th Avenue

ATTENDEES:

CHAIR

David Kaplan, Private Defense Attorney

TASK FORCE MEMBERS

Michael Anderson, Parole Board

Norma Anderson, Former State Senator

Peggy Heil, Department of Corrections

Erin Jemison, Colorado Coalition Against Sexual Assault

Dianna Lawyer-Brook, Boulder Community Corrections, SOMB, and CURE

Chris Lobanov-Rostovsky, Division of Criminal Justice

Richard Schneider, Denver PD, SO Registration

Adrian Van Nice, Colorado District Attorneys' Council

PUBLIC PARTICIPANTS

Bonnie Barr, Colorado Department of Corrections

Allison Boyd, Victim Witness Assistance Unit, 1st Judicial District DA's Office (Jefferson Co.) and SOMB

Colleen Hackett, CU Boulder

Pat Harris, Advocates for Change

Steve Stryssar

Carolyn Turner, Advocates for Change

Hailey Wilmer, DA's Office, 2nd Judicial District

STAFF

Kevin Ford, Division of Criminal Justice

ABSENT MEMBERS

Maureen Cain, Criminal Defense Bar

Laurie Kepros, Colorado Criminal Defense Bar

Steve Siegel, Victim Advocacy, Victim organizations and 2nd Judicial District DA's Office (Denver)

Angel Weant, Probation Services, Colorado Judicial Branch

Issue/Topic:	Discussion:
<p>Welcome and Introductions David Kaplan</p>	<p>Following the cancellation of the March 2nd meeting, the Task Force resumed its meeting schedule on March 30. David Kaplan welcomed the group and provided re-orientation to task force members:</p> <ul style="list-style-type: none"> • Attendees introduced themselves. • There was a brief recap of Task Force activities. • There was a brief overview of the agenda. <p>David thanked the members of the public in attendance at the meeting and encouraged a participatory role for non-members attendees.</p>

Issue/Topic:	Discussion:
<p>Update: “Registration bill” (HB11-1278) Chris Lobanov-Rostovsky</p>	<p>David introduced Chris to provide an update on the “Registration bill” (HB11-1278 sponsored by Rep. Bob Gardner and Sen. John Morse). The bill was introduced in the House and assigned to the House Judiciary Committee. The bill was heard in committee on March 22.</p> <p>Chris described the issues that arose during the hearing: [Note that Task Force members Chris, Maureen Cain, and former Sen. Norma Anderson testified on behalf of the bill.]</p> <ul style="list-style-type: none"> • The amount of the registration fee was discussed, but no change was made. • The awkward definition of “residence” in the context of transience was discussed. The issue doesn’t seem resolved and may return when the bill is heard in the Senate. • The potential for a fiscal note by the Division of Youth Corrections (DYC) was discussed related to the court processing of juvenile submitting a petition for removal from the registry. The replacement of “shall” with “may” resolved the issue. • Regarding the affirmative defense for failure to register, DAs requested notice of the defense (similar to the notice provided in the use of an “alibi defense”). • The bill is heading to Appropriations. <p>There was a question regarding whether and how the CCJJ would approve amendments to the bill.</p> <ul style="list-style-type: none"> • David Kaplan explained the function of the CCJJ Legislative Subcommittee that is responsible for reviewing substantive changes to bills derived from CCJJ-approved recommendations. • He explained that it is difficult to decide, in advance, which changes would result in CCJJ (through the Leg. Subcommittee) withdrawing CCJJ support from a bill. Bills can undergo changes and “restorations” at multiple stages in the process. <p>There was a question about the requirement that courts “shall” notify parties of the petition to de-register. Are courts equipped to perform this function? Feedback from Judicial will be sought.</p>

Issue/Topic:	Discussion:
<p data-bbox="196 212 431 344">Update: “SOMB Sunset bill” (HB11-1138) Erin Jemison</p>	<p data-bbox="561 212 1511 489">David introduced Erin to provide an update on the “SOMB Sunset bill” (HB11-1138 sponsored by Rep. Bob Gardner and Sen. John Morse). This bill is not a Task Force or CCJJ bill, but is being monitored as per Governor request. The bill was introduced in the House, assigned to the House Judiciary Committee where it was heard and passed on February 22 and, subsequently, it passed on third reading in the House on March 9. It was introduced in the Senate on March 15 and assigned to the State, Veterans & Military Affairs Committee where it was heard and passed on March 23.</p> <p data-bbox="561 531 1308 562">Erin described the issues that arose in the committee hearings:</p> <ul data-bbox="573 569 1511 816" style="list-style-type: none"> <li data-bbox="573 569 1511 636">• The sunset date was adjusted to 2016 which represents a five-year sunset period, rather than the proposed 10 year period until sunset. <li data-bbox="573 642 1511 709">• There were some minor wording changes that were described as non-substantive. <li data-bbox="573 716 1511 816">• The element of the bill related to the gathering of provider data on program efficacy was modified to make these actions dependent on the availability of funds to support these activities.

Issue/Topic:	Discussion:
<p data-bbox="147 966 483 1066">Update: Refinement Working Group Peggy Heil/Members</p>	<p data-bbox="561 966 1511 1033">There were several potential pending issues delineated at the last SO Task Force meeting on Feb. 2 that were assigned to the Refinement WG:</p> <ul data-bbox="573 1039 1528 1472" style="list-style-type: none"> <li data-bbox="573 1039 1528 1071">• Explore a Determinate sentence with lifetime supervision <li data-bbox="573 1077 1528 1144">• Explore Felony 4 sex offenses that can be shifted to Felony 5 to increase the determinate sentence options <li data-bbox="573 1150 1528 1182">• Explore improvements to the Lifetime (Indeterminate) Supervision Act. <li data-bbox="573 1188 1528 1220">• Explore parole decision-making around sex offender release <li data-bbox="573 1226 1528 1257">• Conditions of release and supervision for sex offenders <li data-bbox="573 1264 1528 1295">• Community Corrections Boards and acceptance of sex offenders <li data-bbox="573 1302 1528 1333">• Issues of communication and coordination with sex offense victims <li data-bbox="573 1339 1528 1407">• Local government issues regarding residency restrictions and zoning ordinances and the affect on SLAs and housing options <li data-bbox="573 1413 1528 1472">• Lack of sentencing and treatment options for individuals who perpetrated as a juvenile, but were not charged until they were over 18. <p data-bbox="561 1514 1528 1617">The Refinement WG met on March 15 and discussed which issues held the greatest potential for impact and how to devise a method to address the pending issues. The WG reported the following from their initial discussions:</p> <ul data-bbox="573 1623 1528 1866" style="list-style-type: none"> <li data-bbox="573 1623 1528 1654">• There are data voids that prohibit an adequate study of certain issues. <li data-bbox="573 1661 1528 1728">• With this in mind, the WG is stepping through the pending issues and areas of concern. <li data-bbox="573 1734 1528 1866">• The elements of the Lifetime statute were parsed to allow the study of each part. The WG will identify barriers and opportunities for each of these elements over several meetings and determine what solutions may be identified.

<p>Issue/Topic:</p> <p>Update: (cont'd) Refinement Working Group Members</p>	<p>Following the brief update, members posed questions about the study strategies of the Working Group:</p> <p>Does the WG feel it can address the issues regarding the Parole Board or should a different WG be seated to explore these topics?</p> <ul style="list-style-type: none"> • At the moment, the WG feels it can identify concerns and will then determine whether a group should split off to work on these concerns. <p>How will the WG approach the long list of potential issues?</p> <ul style="list-style-type: none"> • The WG plans to complete an initial review by May 4 (the next scheduled SO Task Force meeting), but will not have ready a narrowed list of prioritized issues or potential solutions for study by then. • The Task Force members would like the WG to present all of its considerations without filtering when it presents prioritized issues. <p>To allow the WG adequate time to study the assigned issues, its update will be presented at the June 4 SO Task Force meeting. The next meeting of the Refinement Working Group is Tue., April 12, 1:30-5:00pm at 150 East 10th Avenue, Denver.</p>
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<p>Issue/Topic:</p> <p>Update: Registration Working Group Chris Lobanov-Rostovsky</p>	<p>Discussion:</p> <p>There were several potential pending issues delineated at the last SO Task Force meeting on Feb. 2 that were assigned to the Registration WG:</p> <ul style="list-style-type: none"> • Continue work on transient offenders • SVP designation and community notification • Adam Walsh Act compliance <p>The Registration WG has not met recently. Members of this group are very active working on HB11-1278 and are postponing additional work until the bill has moved further through the legislative process. There were a couple of updates provided by Chris:</p> <ul style="list-style-type: none"> • Regarding Adam Walsh compliance, Colorado, if determined not to be in substantial compliance, would not incur a JAG grant penalty until 2012. • A grant to support the state-wide implementation of the SOTAR system (Sex Offender Tracking and Registration) out of the Douglas County Sheriff's Office is being pursued. <p>If Colorado will not achieve substantial compliance on Adam Walsh, are there opportunities to improve the registration and notification strategy? Although premature at the moment, this would be a fruitful discussion.</p> <p>The WG will delay scheduling a meeting until the legislative session has concluded.</p>
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Issue/Topic:	Discussion:
<p data-bbox="126 212 423 310">Update: SOMB: CNTAT Chris Lobanov-Rostovsky</p>	<p data-bbox="477 212 1539 384">Chris provided an update on FY11-SO#16 (* the text of the recommendation is below). This recommendation was forwarded by the Sex Offense/Offender Task Force to the CCJJ last year. The Commission endorsed the continuing work on this recommendation. This work, statutorily, falls within the purview of the Sex Offender Management Board where it was assigned to its Community Notification Technical Assistance Team (CNTAT).</p> <p data-bbox="477 426 1528 701">Given the changing federal mandate following the repeal of the Wetterling Act from the Adam Walsh Act (AWA) and the current research on the effectiveness of sex offender registration and notification, the CNTAT of SOMB recommends moving from the current Sexually Violent Predator (SVP) and community notification protocol system to a risk classification system. This modification will provide enhanced risk information to law enforcement agencies to facilitate the monitoring of registered offenders, and provide more accurate risk and safety information than currently exists to members of the public.</p> <p data-bbox="477 743 1511 810">The CNTAT has spent an initial period in self-education and brain-storming. Early ideas being considered include:</p> <ul data-bbox="488 821 1523 1062" style="list-style-type: none"> • Intent to use the current employed Sex Offender Risk Scale (SORS) that is an element of the Sexually Violent Predator Assessment. Using three tiers of risk with commensurate notification. • The need to re-assess all offenders using the new assessment system. The group is discussing how this could be accomplished. • The need to implement an improved notification system addressing the issues with the current process of community meetings. <p data-bbox="477 1104 1539 1241">Task Force members asked about community notification meetings, whether dynamic factors will be included in the risk measure, and the need to re-validate the existing SORS assessment. Chris indicated that these were all topics under discussion. The next meeting of the CNTAT is Thursday, April 28, 11am-1:00pm.</p> <p data-bbox="477 1283 1495 1373">*FY11-SO #16. Create an improved risk assessment classification of registered sex offenders and a public notification system that is more functional to law enforcement and more informative to the community.</p> <p data-bbox="488 1415 1528 1604">Reason: The current registry does not provide gradation of risk beyond those categorized as SVP and everyone else. An improved risk designation would be helpful to law enforcement and would inform the public which offenders may be a public risk. The degree of risk would determine the method by which public notification could occur. Not all registrations necessarily warrant a public meeting, which could be reserved for those offenders who may present the greatest risk to the public.</p> <p data-bbox="488 1646 1528 1921">Proposed fix: As per 16-11.7-103 (4) (c.5), the Sex Offender Management Board (SOMB) working in collaboration with representatives of the Division of Criminal Justice, Judicial and the Probation Division, the Division of Parole, the Department of Corrections, and law enforcement should revise the risk assessment screening system to assign sex offenders to categories based on risk and devise a set of notification options commensurate with the level of risk. This initial screening based on static risk factors should not preclude subsequent assessments of risk during the monitoring and treatment of sex offenders in justice agencies such as the department of corrections, probation, parole, or community corrections. This work has been assigned by the SOMB to one of its subcommittees, the Community Notification Technical Assistance Team.</p>

Issue/Topic:	Discussion:
<p data-bbox="235 243 383 275">Next Steps</p> <p data-bbox="235 279 391 310">David Kaplan</p>	<p data-bbox="560 243 1520 275">David summarized plans for the next Sex Offense / Offender Task Force meeting:</p> <ul data-bbox="594 279 1422 386" style="list-style-type: none"> <li data-bbox="594 279 1422 344">• The next Task Force meeting, scheduled for Wednesday, May 2 was cancelled to allow Working Groups time to meet and deliberate. <li data-bbox="594 348 1422 386">• The next meeting of the Task Force will be Wednesday, June 1. <p data-bbox="560 422 1292 453">The link to the CCJJ: Sex Offense/Offender Task Force page is:</p> <p data-bbox="560 457 1292 489">http://cdpsweb.state.co.us/ccjj/Sex_offender_task_force.htm</p>

Sex Offense/Offender Task Force Meeting Dates:

Date	Location	Time
Wednesday, February 2, 2011	150 E. 10 th Avenue, Denver	1:30-4:30PM
Wednesday, March 2, 2011	Cancelled	
Wednesday, March 30, 2011	150 E. 10 th Avenue, Denver	1:30-4:30PM
Wednesday, May 4, 2011	Cancelled	
Wednesday, June 1, 2011	150 E. 10 th Avenue, Denver	1:30-4:30PM