

MINUTES
Sex Offense/Offender Task Force
Colorado Commission on Criminal and Juvenile Justice
June 1, 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

Laurie Kepros, Colorado Criminal Defense Bar

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

Chris Lobanov-Rostovsky, Division of Criminal Justice

Richard Schneider, Denver PD, SO Registration

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

Angel Weant, Probation Services, Colorado Judicial Branch

PUBLIC PARTICIPANTS

Bonnie Barr, Colorado Department of Corrections

Jeff Geist, Department of Corrections / Sex Offender Management Board (SOMB)

Colleen Hackett, CU Boulder

Jasmine Masse, citizen

Yvonne Parietti, Advocates for Change

Carolyn Turner, Advocates for Change

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

STAFF

Peg Flick, Division of Criminal Justice

Kevin Ford, Division of Criminal Justice

ABSENT MEMBERS

Maureen Cain, Criminal Defense Bar

Adrian Van Nice, Colorado District Attorneys' Council

<p>“SOMB Sunset bill” (HB11-1138) Chris Lobanov-Rostovsky / Erin Jemison</p>	<ul style="list-style-type: none"> • The element of the bill related to the gathering of provider data on treatment efficacy was modified to make these actions dependent on the availability of funds to support these activities. <p>Statements of appreciation were offered to Erin Jemison and the Colorado Coalition Against Sexual Assault for the months of work gathering stakeholder input and for shepherding the bill. The SO Task Force and the CCJJ were also thanked for its input on drafts of the bill.</p> <p>David Kaplan offered a general assessment of the Legislative session and the process by which the “Registration bill” wound its way through the legislature:</p> <ul style="list-style-type: none"> • The previous years of CCJJ legislation dealt mainly with “easier issues” with solutions that were relatively non-controversial. As the Commission and its Task Forces have continued to delve into criminal justice problems and concerns, areas of more complication and less consensus are being addressed. This naturally results in a very different political process at the legislature. • Instances requiring compromise and re-assessment trigger reviews by the CCJJ Legislative Subcommittee to determine whether changes to bills maintain the original intent of the CCJJ-derived bills. • It is predicted that future recommendations with legislative intent from Task Forces will result in more robust conversations and scrutiny at the Commission. <p>Given the observations by David, it is expected that presentations of legislative recommendations will be presented earlier to the Commission. Based on the activities and task trajectories across all the Task Forces of CCJJ, it is likely that the Sex Offense/Offender Task Force may present fairly early in the fall review of recommendations at the Commission. The Task Force should be prepared to present initial recommendation concepts by as early as September.</p>
---	--

Issue/Topic:	Discussion:
<p>Update: Adam Walsh Act Compliance Chris Lobanov-Rostovsky</p>	<p>Chris offered an update on the status of the Adam Walsh Act (AWA) compliance submission to the SMART Office (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registration and Tracking; www.ojp.usdoj.gov/smart/index.htm). Following the reception of the SMART Office response, the SOMB/DCJ AWA policy group met to review the elements of the Colorado compliance plan that the SMART Office indicated were not in substantial compliance. The policy group evaluated whether the non-compliance with the elements were favorable, neutral, or detrimental to public safety. In concert with public safety considerations, the group also evaluated the cost of substantial compliance on each of the elements.</p> <p>Chris provided an outline of the issues in the following categories, Areas identified as not meeting SORNA requirements,:</p> <ul style="list-style-type: none"> • which Colorado believes are met, • that Colorado has addressed, and • that Colorado is addressing. <p>Several points were raised in the discussion of the update:</p> <ul style="list-style-type: none"> • Is it cost effective to comply with all the areas identified as not in substantial

<p>Issue/Topic:</p> <p>Update: Adam Walsh Act Compliance Chris Lobanov-Rostovsky</p>	<p>compliance? In other words, could less money be spent on other or existing aspects of offender monitoring that would enhance public safety more effectively than spending the money on the non-compliant elements?</p> <ul style="list-style-type: none"> • Will there be a more critical process of evaluating compliance, including a specific study of the relative costs of compliance choices? • What changes in registration and notification will be proposed that might impact compliance? • Will there be changes to the internet display of offenders who are registered? <p>Chris took note of the issues raised and will bring these to the policy group for discussion. The SOMB: Community Notification Technical Assistance Team is addressing registration, risk assessment and community notification.</p> <p>Chris noted that some of the non-compliance issues surrounding juveniles will not be altered. It is felt that, in Colorado, some of the SMART Office registration and other requirements are not in the best interests of juveniles. There are very concerning issues with the difficulty of expunging juvenile records when there is extensive proliferation of sex offender registry lists to private organizations and internet entities.</p> <p>There are some non-compliance elements that would require additional funding for implementation. Additional JAG funds would have to be requested to implement such requirements, without which, there will be no implementation. Non-compliance would affect Colorado starting with the FY2012 JAG funding period.</p> <p>The SOMB/DCJ policy group plans to submit a new response to the SMART Office addressing elements of non-compliance.</p>
---	--

<p>Issue/Topic:</p> <p>Update: Registration Working Group Chris Lobanov-Rostovsky</p>	<p>Discussion:</p> <p>Following a “legislative hiatus” starting in February, the Registration Working Group (WG) met on May 16 to discuss their strategy to address their pending issues:</p> <ul style="list-style-type: none"> • Registration of transient sex offenders • SVP designation and community notification • Adam Walsh Act compliance <p>Chris offered an update on the topics discussed at this WG meeting:</p> <ul style="list-style-type: none"> • The WG will return to the issue of transient sex offender registration. With the assistance of subject matter experts, the WG will: <ul style="list-style-type: none"> ○ attempt to construct a viable and robust definition of transience, ○ explore a requirement that all jurisdictions register sex offenders who have no residence, and ○ address a public safety concern that some sex offenders could choose to register as transient to avoid disclosing an address. • The WG will track the efforts of the SOMB: Community Notification Technical Assistance Team that is statutorily authorized to address sex offender risk assessment and community notification. This group is exploring: <ul style="list-style-type: none"> ○ risk labeling that identifies all levels of risk and predicts sex re-offense risk,
--	--

<p>Issue/Topic:</p> <p>Update: Registration Working Group Chris Lobanov-Rostovsky</p>	<ul style="list-style-type: none"> ○ risk categories that will be useful for law enforcement, ○ whether risk category should adjust registration frequency, ○ the efficacy of the SVP label (in light the Wetterling Act repeal), ○ how to re-classify all offenders and determine if there are due process issues (if a new risk category system is created), and ○ alternative methods to conduct public notification. <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. The AWA was discussed earlier in the meeting. <p>Some of the above topics may impact determinations of substantial compliance with the Adam Walsh Act. The SORNA registration requirements are offense-based rather than risk based. If one of the states using a risk based system is determined (by the SMART Office) to be in substantial compliance, then the door would be opened to other states to develop risk based registration systems as well.</p> <p>Another issue was mentioned regarding risk assessment. The typical measures are static in nature, rather than dynamic. Static measures do not reflect changing (either for better or worse) the offense propensity of the offender. For this reason, static measures may suffer from issues of accuracy and, consequently, are less informative for law enforcement and the public. These measures may also reduce incentives and motivation of offenders to participate in treatment (assuming improvement will not be reflected in reductions of the risk score).</p> <p>A comment was made pointing out there is some research that shows that registration is not a practice that reduces the probability of recidivism. Registration may offer law enforcement advantages in investigations, but there appears to be little benefit to public safety. The money poured into registration efforts may be better spent on other containment strategies and treatment. In response, it was stated that, although such research findings exist, this does not address the fact that the public now expects access to registration information and the value to law enforcement may outweigh the apparent lack of recidivism benefit and the issues of cost.</p> <p>The National Conference of State Legislatures may take up registration (SORNA) issues (See http://www.ncsl.org/default.aspx?tabid=23753).</p> <p>The Registration Working Group will meet on June 20, 2011 at 10:am at the present location (150 E. 10th Avenue, Denver).</p>
--	---

<p>Issue/Topic:</p> <p>Update: Refinement Working Group Peggy Heil/Members</p>	<p>Discussion:</p> <p>Peggy Heil offered an update on the work of the Refinement Working Group (WG). Since the last Task Force meeting, the WG met on April 12, May 5, and May 23. Over these three meetings the WG has explored the elements of the Lifetime Supervision Act and related agency processes for aspects and practices that are in need of improvement. Additionally, the WG, using the suggested CCJJ Feasibility/Impact Matrix prioritized 19 different major areas for attention (each of the major areas listed from 1 - 17 different specific issues for attention). The major areas on the list included such topics as:</p>
---	---

<p>Issue/Topic:</p> <p>Update: Refinement Working Group Peggy Heil/Members</p>	<ul style="list-style-type: none"> • Parole and parole board issues (release hearings and decisions, SOMTP treatment criteria and release conditions, SO Intensive Supervision [SO ISP], parole periods, parole discharge • Sex offender treatment, • Court processes, • Community corrections options for sex offenders, • Indeterminate / determinate sentence options under the Lifetime Supervision Act, • Sex offender probation (sentencing options, supervision options, SO ISP, probation discharge <p>WG members asked for feedback regarding the areas upon which the WG should focus most and how recommendation statements should be devised to best address the identified problems. Task Force members and TF Chair David Kaplan described that recommendations may be legislative in nature, can be written to address agency policy or practices, and can request further study of problems or issues. The WG has encountered some difficulty in exploring some problems due to the lack of data on certain practices and processes.</p> <p>The WG was complimented on the work it has done so far and Task Force members and guests are encouraged to forward related concerns and suggestions for recommendations to the WG.</p> <p>The next scheduled meeting of the Working Group is June 15 from 9-11am and 2-5pm at 150 East 10th Avenue, Denver.</p>
---	---

<p>Issue/Topic:</p> <p>Next Steps David Kaplan</p>	<p style="text-align: center;">Discussion:</p> <p>David summarized plans for the next Sex Offense / Offender Task Force meeting:</p> <ul style="list-style-type: none"> • The next Task Force meeting, scheduled for Wednesday, June 29 was canceled to allow Working Groups to prepare draft recommendations. • Working Groups should be prepared to present draft recommendations at the next meeting of the Task Force on Wednesday, August 3. <p>The link to the CCJJ: Sex Offense/Offender Task Force page is: http://cdpsweb.state.co.us/ccjj/Sex_offender_task_force.htm</p> <p>The link to the CCJJ Master Meeting Calendar is: http://cdpsweb.state.co.us/ccjj/CCJJCalendar.html</p>
---	--

Sex Offense/Offender Task Force Meeting Dates:

Date	Location	Time
Wednesday, May 4, 2011	Cancelled	
Wednesday, June 1, 2011	150 E. 10 th Avenue, Denver	1:30-4:30PM
Wednesday, June 29, 2011	Cancelled	
Wednesday, August 3, 2011	150 E. 10 th Avenue, Denver	1:30-4:30PM
Wednesday, August 31, 2011	150 E. 10 th Avenue, Denver	1:30-4:30PM