

MINUTES
Sex Offense/Offender Task Force
Colorado Commission on Criminal and Juvenile Justice
August 3, 2011 1:30PM-4:30PM
150 East 10th Avenue

ATTENDEES:

CHAIR

David Kaplan, Private Defense Attorney

TASK FORCE MEMBERS

Norma Anderson, Former State Senator

Maureen Cain, Criminal Defense Bar

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

Adrian Van Nice, Colorado District Attorneys' Council

PUBLIC PARTICIPANTS

Bonnie Barr, Colorado Department of Corrections

Allison Boyd, Director-Victim Witness Assistance Unit, 1st Judicial District DA's Office (Jeff Co.)

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

Jon Luper, Denver's Road Home (Denver Dept. of Human Services)

Colleen Hackett, CU Boulder

Jan Hunsaker, Advocates for Change

Peggy Martin, Advocates for Change

Roberta Robinette, Victim Advocacy (CO Organization for Victim Assistance)

Cathy Rodriguez, DCJ/SOMB

Jacob Ruby-Wessley, Colorado Coalition Against Homelessness

Carolyn Turner, Advocates for Change

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

STAFF

Kevin Ford, Division of Criminal Justice

ABSENT MEMBERS

Michael Anderson, Colorado State Board of Parole

Issue/Topic:	Discussion:
<p data-bbox="142 212 483 275">Welcome and Introductions David Kaplan</p>	<p data-bbox="558 212 1520 384">The last meeting of the Task force was on June 1, 2011. Following the cancellation of the June 29 meeting (for the July 4th holiday and to allow working groups time to draft recommendations), the Task Force resumed its meeting schedule on August 3. The Registration Working Group met once and the Refinement WG each met twice between June 1 and August 3.</p> <p data-bbox="558 426 1463 489">David Kaplan welcomed the group and provided re-orientation to task force members:</p> <ul data-bbox="570 499 1154 604" 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 data-bbox="558 642 1414 672">David thanked the members of the public in attendance at the meeting.</p>

Issue/Topic:	Discussion:
<p data-bbox="142 823 483 961">Update: Registration Working Group Maureen Cain / Chris Lobanov-Rostovsky</p>	<p data-bbox="558 823 1511 961">Maureen provided an update on progress to address the pending issues in the working group: transient registration, risk assessment/community notification, and Adam Walsh Act compliance. (A key to abbreviations is available at the end of this section)</p> <p data-bbox="558 1003 824 1033">Transient Registration</p> <p data-bbox="558 1041 935 1071">The working group is exploring:</p> <ul data-bbox="570 1079 1528 1604" style="list-style-type: none"> • a better definition of transient • a practicable frequency and process of registration for annual and quarterly registrants who are transient <ul data-bbox="597 1184 1511 1499" style="list-style-type: none"> ○ annual registrants would check in every 90 days (in addition to their annual re-registration) ○ quarterly registrants would check in every 30 days (in addition to their quarterly re-registrations) ○ self-verification - to avoid burdening law enforcement the onus for the additional contacts would rest on the transient registrant. Law enforcement would have the option of “field verification” of the location reported at check-ins (but would continue with the regular “field verifications” following the unchanged registration events) • a data gathering mechanism - the process should generate data that is gathered to determine the number of transient offenders the rate of compliance. <p data-bbox="558 1646 1520 1785">The working group explored what other states are doing to identify the elements of the transient registration process. Meetings have been held with representatives of CDAC, CCASA, COVA, and Chiefs of Police for advice on designing the transient registration elements.</p> <p data-bbox="558 1827 1511 1990">Based on feedback from representatives (from the CCAH and Denver’s Road Home) who work with individuals who are transient or homeless, the use of the terms “transient” and “homeless” should probably be avoided. These particular terms have specific meaning in federal law and regulations regarding service provision. The working group is attempting to identify a workable substitute,</p>

**Issue/Topic:
Continued**

**Update:
Registration Working Group**
Maureen Cain /
Chris Lobanov-Rostovsky

currently, “person without a fixed residence.”

Risk assessment/Community notification

Chris Lobanov-Rostovsky reported that the Community Notification Technical Assistance Team is still drafting recommendations that first will be shared at the August 17 meeting of the Registration Working Group.

Adam Walsh Act (AWA) compliance

Chris Lobanov-Rostovsky indicated there was not much to report on the status of Adam Walsh compliance (from the SMART Office). There are roughly 24 of 250 total jurisdictions across the country that have been found “in substantial compliance.”

Following the brief updates, members discussed elements of each of the items presented:

- AWA - There are still competing philosophies regarding the value of AWA compliance. Some feel that compliance and avoiding the JAG funds penalty is worth compliance. Others feel that scrapping some of the more expensive elements of AWA compliance would more than cover any funds lost.
- Transient reg. - CDAC feels there are aspects of the plan that still need tweaking. Robin Whitley of the Denver DAs Office is reviewing the proposed elements will provide opinions in writing.
- Registration - There are concerns that the process of registration/cancellation of registration required by HB10-1278 is not working well and needs attention.
- STAR - The registration system (that may address the concerns mentioned in the previous bullet) will be presented at the August 12 meeting of the Commission.
- Transient reg. - Will there be a penalty if one fails to comply with the check-in? Yes, “Failure to disobey a lawful order.” RESPONSE: This would include a jail stay, but the working group is still deliberating the specifics. The penalty would not be a failure to register, which is a felony sex crime which would require resources to conduct a new (and unnecessary) sex offender assessment.
- Risk assess./Comm. notification - Will the registration and notification requirements be risk-based rather than offense-based? RESPONSE: These will still be predominantly offense-based pursuant to the AWA.
- AWA - Should the working group and task force study and draft a report on the advantages and disadvantages of AWA compliance and report this to CCJJ? The report could address whether it is worth it to move to substantial compliance. RESPONSE: It would be best to wait until the response is received from the SMART Office.
- AWA - Is there a plan in place to determine the value of compliance if SMART says Colorado is not in compliance? Has there been a cost analysis of the elements most likely to be problematic? RESPONSE: This is difficult to do on speculation. The costs of additional FTRs, verification/registration, and IT expenditures could be estimated. REPLY: Although there are elements of AWA that are beneficial, there are more effective and efficient ways of monitoring and containing sex offenders.
- AWA - Is the registration process in Colorado (and required by the AWA) evidence based? RESPONSE: All elements of AWA registration are not evidence-based, but researching all the elements would be costly.

<p>Issue/Topic: Continued</p> <p>Update: Registration Working Group Maureen Cain / Chris Lobanov-Rostovsky</p>	<ul style="list-style-type: none"> ● AWA - It is felt that the remaining elements necessary to be in AWA compliance will not be that costly to implement. Costs would mostly be associated with the state-wide roll-out of the STAR system and any additional registration requirements (the need to add data fields). ● AWA - What about reform? The focus on compliance prevents innovation. RESPONSE: It's best to see what how SMART responds, then we can decide among the options. <p>Other thoughts - The number of jurisdictions either not in compliance or choosing to ignore AWA compliance could alter the landscape of AWA compliance. Funding of the SMART Office could also alter "the landscape." Another factor is the legal realm where registration cases are working through the courts (e.g., a case out of Ohio at the Supreme Court). We [Colorado] should be prepared for the contingencies.</p> <p>The Registration WG is scheduled to meet again on August 17.</p> <p>Acronyms: CDAC - Colorado District Attorney's Council CCASA - Colorado Coalition Against Sexual Assault COVA - Colorado Organization for Victim Assistance CCAH - Colorado Coalition Against Homelessness SMART - Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking STAR (also, SOTAR)- Sex Offender Tracking and Registration (web-based system originally developed by the Douglas Co. Sheriff's Office)</p>
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<p>Issue/Topic:</p> <p>Update: Refinement Working Group Peggy Heil/Members</p> <p>Issue/Topic:</p>	<p>Discussion:</p> <p>Peggy presented a rough draft of recommendations from the Refinement Working Group developed from the prioritized list of 19 major areas regarding lifetime supervision presented at the previous Task force meeting. The following is a list of the tentative topics that were still under study and review.</p> <p>General prioritized-issue recommendations:</p> <ol style="list-style-type: none"> 1) Collaborative training programs. 2) Improved databases to evaluate the impact of the lifetime supervision act. 3) Sex offender residency restrictions. 4) Sex offender specialty courts. <p>COMMENTS:</p> <ul style="list-style-type: none"> ● #3 - Should also mention zoning ordinances. <ul style="list-style-type: none"> - Lawsuits also can affect or limit restrictions. - Legislation can alter these by allowing specific exceptions. - There are restrictions that limit juveniles as well. ● #4 - Judicial would not support legislation requiring sex offender specialty courts. This would limit judicial ability to manage courts and to modify practices. The jurisdiction over sex offenders is complicated; maybe such courts would only apply to "revocation offenders." [The topic only addresses the study of such courts and does not suggest legislation.]
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Continued

Update:
Refinement Working Group
Peggy Heil/Members

Prioritized-issue recommendations:

Issue 3: SOs in residential community corrections

- 1) Community corrections placement options and bed capacity.
- 2) Funding for enhanced per diem (\$33.02) for specialized sex offender programs in Community Corrections.
- 3) Study relative costs of retention/revocation to DOC or community corrections placement.
- 4) Work with CACCB* on collaborative training for community corrections board members. (*Colorado Association of Community Corrections Boards)
- 5) Funding for COPr (condition of probation) sex offenders in residential sex offender treatment (in community corrections).
- 6) Funding for COPa (condition of parole) sex offenders in residential sex offender treatment (in community corrections).

COMMENTS:

- #1 - The funding for several beds will expire at the end of FY2012.
 - Additional sentencing options, other than DOC, would be appropriate for some offenders.
- #2 - Community corrections programs would have to be qualified to treat sex offenders before they could accept such offenders and receive the enhanced per diem.
 - Keeping specialized staff is difficult due to turnover.

Issue 5: Sex offender treatment

- 1) Increase treatment resources at DOC.
- 2) Map the gaps in treatment availability.

COMMENTS:

- #2 - SOMB has addressed the existence and location of treatment gaps in the context of the Rural Initiative.

Issue 13: Parole Board

- 1) Training for the Parole Board on Lifetime Supervision and sex offender management.
- 2) Communication between Parole Board and SOTMP staff.
- 3) Review the process of sex offenders meeting SOMB treatment criteria.
- 4) Evaluation of DOC grant-funded victim specialist position.

COMMENTS:

- #2 - The communication would not involve benchmarks, but simply be feedback. The feedback would be confidential.

Peggy asked if Task Force members had additional comments or suggestions. The following were offered:

- Can there be additional focus on Parole Board release practices? The Post Incarceration Supervision Task Force of the Commission developed an Administrative Release Guidelines Instrument to assist the parole board in release decisions (for non-sex offenders). Could such an instrument be developed for sex offenders?
- More work could be done to prepare offenders for parole hearings.

Issue/Topic:

<p style="text-align: center;">Continued</p> <p style="text-align: center;">Update: Refinement Working Group Peggy Heil/Members</p>	<ul style="list-style-type: none"> • Criteria already exist for the release consideration of sex offenders with an indeterminate sentence [SOMB developed these criteria.] • There still seems to be too many offenders being released at MRD. • The “MRD offenders” offenders are those serving a determinate sentence. • As per HB10-1374, a set of criteria for use by the parole board to apply to those serving a determinate sentence will be presented to the SOMB in August with voting in September. • Adding additional decision criteria above and beyond these sets of criteria might result in fewer releases. Or, additional evidence-based criteria could be added and not result in fewer releases if they were integrated into the SOMB criteria. • Education of the parole board is critical regarding the management, treatment, and monitoring of sex offenders who are on parole. • Could there be additional Felony 4 offenses shifted from indeterminate to determinate sentences? Could there be determinate sentences for sex offenders followed by indeterminate supervision? • These matters (previous two bullets) were addressed by the Refinement WG last year but no consensus was achieved. They were again prioritized this year, but fell at the 5th or 6th priority on the list of 19 items. There is a dearth of data to track sex offenders from court through DOC to parole. • Cost savings should be identified to justify some of the recommendations. <p>The Refinement Working Group will next meet on August 18 at 1:00pm. Details on location will be forthcoming.</p>
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<p>Issue/Topic:</p> <p style="text-align: center;">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 is scheduled for Wednesday, August 31. • Members were reminded of the “recommendation timeline” of CCJJ. The Task Force must introduce its recommendations in one Commission meeting and voting on the recommendations occurs at the subsequent Commission meeting. • The Task Force should be prepared for an initial presentation at the September 9 Commission meeting. <p>The link to the CCJJ: Sex Offense/Offender Task Force page is: http://cdpsweb.state.co.us/cccj/Sex_offender_task_force.htm</p>
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Sex Offense/Offender Task Force Meeting Dates:

Date	Location	Time
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
Wednesday, October 5, 2011	150 E. 10 th Avenue, Denver	1:30-4:30PM
Wednesday, November 2, 2011	710 Kipling, Lakewood, Denver	1:30-4:30PM
Wednesday, November 30, 2011	150 E. 10 th Avenue, Denver	1:30-4:30PM