

**MINUTES**  
**Sex Offense/Offender Task Force**  
**Colorado Commission on Criminal and Juvenile Justice**  
**November 2, 2011 1:30PM-4:30PM**  
**710 Kipling, Lakewood, CO**

**ATTENDEES:**

**CHAIR**

David Kaplan, Private Defense Attorney

**TASK FORCE MEMBERS**

Michael Anderson, Parole Board

Norma Anderson, Former State Senator

Maureen Cain, Criminal Defense Bar

Peggy Heil, Department of Corrections

Erin Jemison, Colorado Coalition Against Sexual Assault

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

Lucy Martin, State Public Defender's Office (*by phone*) (*for Laurie Kepros, Colorado Criminal Defense Bar*)

Adrian Van Nice, Colorado District Attorneys' Council (*by phone*)

Richard Schneider, Denver PD, SO Registration

**PUBLIC PARTICIPANTS**

Bonnie Barr, Analyst, Colorado Department of Corrections

Keith Booten, Aurora Police Department (*by phone*)

Maggie Conboy, Deputy DA, 2<sup>nd</sup> Judicial District DA's Office (Denver) (*by phone*)

Pat Harris, Advocates for Change

Roberta Robinette, COVA lobbyist

Cathy Rodriguez, DCJ/SOMB

Jacob Ruby-Wessley, Colorado Coalition for the Homeless (*by phone*)

Glenn Tapia, DCJ: Community Corrections

Carolyn Turner, Advocates for Change

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

**STAFF**

Kevin Ford, Division of Criminal Justice

**ABSENT MEMBERS**

Laurie Kepros, Colorado Criminal Defense Bar (*sent Lucy Martin as substitute*)

Chris Lobanov-Rostovsky, Division of Criminal Justice

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

Angel Weant, Probation Services, Colorado Judicial Branch

<p style="text-align: center;"><b>Issue/Topic:</b></p> <p style="text-align: center;"><b>Welcome and Introductions</b> David Kaplan</p>	<p style="text-align: center;"><b>Discussion:</b></p> <p>David Kaplan welcomed the attendees and:</p> <ul style="list-style-type: none"> <li>• Attendees introduced themselves,</li> <li>• There was a brief recap of Task Force activities with a general update on the Task Force recommendations presented at the monthly CCJJ meeting on October 14<sup>th</sup>, and</li> <li>• There was a brief overview of the agenda.</li> </ul>
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<p style="text-align: center;"><b>Issue/Topic:</b></p> <p style="text-align: center;"><b>Update:</b> <b>Registration Working Group</b> <b>Recommendation:</b> <b>“Lacks a fixed residence”</b> Maureen Cain</p>	<p style="text-align: center;"><b>Discussion:</b></p> <p>Maureen presented an update on the “Lacks a fixed residence” recommendation from the Registration Working Group. It was decided just prior to the October 14<sup>th</sup> CCJJ meeting that wording issues found in this recommendation would necessitate a delay. The recommendation was not presented to the CCJJ and a request was granted to present the recommendation to the Commission at the November 18 meeting.</p> <p>Maureen Cain reported additional conversations with and feedback from law enforcement representatives from Aurora, Colorado Springs and Greenwood Village. Maureen shared new revisions of the recommendation and requested comments from Task Force members. Task Force members voted on the updates to the recommendation. The recommendation with modifications is shown below.</p> <p><b><u>REVISIONS</u></b></p> <p>Maureen offered the following (Vote results are indicated):</p> <ul style="list-style-type: none"> <li>- Changes to (a): a new definition of “lacks a fixed residence” for consideration. For comparison, the old definition may be found just below the old definition.</li> <li>- Changes to (e): insertion of I and II and a strikethrough.</li> <li>- Changes to (g): law enforcement requested “at least” be added in i. and ii.</li> </ul> <p><b>VOTE: 9 approve, 0 disapprove</b></p> <ul style="list-style-type: none"> <li>- Changes to 16-22-103 (“Sex offender registration - required - applicability - exception”) may be required to conform to the changes being made. Maureen asked for permission to include these conforming updates as is necessary to make the recommendation consistent.</li> </ul> <p><b>VOTE: 8 approve, 1 disapprove</b></p> <p><b><u>REVISED RECOMMENDATION TEXT</u></b></p> <p><b>Registration of Sex Offenders who Lack a Fixed Residence</b></p> <p>Offenders who find themselves without a traditional, stable living situation will not be referenced as “transient” or as “homeless,” but as offenders who “lack a fixed residence.”</p> <p><b>FY12-SO1. Clarify and create in statute the registration requirement for and self-verification by sex offenders who “Lack a Fixed Residence.”</b></p> <p>Offenders who find themselves without a traditional, stable living situation will not be referenced as “transient” or as “homeless,” but as offenders who “lack a fixed residence.” The following 9 items comprise this single recommendation.</p>
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**Issue/Topic:**

**Update: (cont'd)**  
**Registration Working Group**  
**Recommendation:**  
**“Lacks a fixed residence”**  
Maureen Cain

a) **NEW “Lacks a Fixed Residence.”** Add definition: 16-22-102 (7.6) – “lacks a fixed residence” means that a person does not have a living situation that meets the definition of residence pursuant to 16 -22-102(7.5). This includes, but is not limited to, outdoor sleeping locations or any public or private locations not designed as traditional living ~~regular sleeping~~ accommodations. “Lacks a fixed residence” also includes public or private housing or temporary shelter facilities, residential treatment facilities, or any other residential program or facility if the person remains at the location for less than 30 days. **Also**, Move 16-22-102 (5.7) to 16-22-102 (7.5).

**[PLEASE NOTE: This definition will conflict with language in 16-22-105(3) which says, “Notwithstanding the existence of any other evidence of intent, occupying or inhabiting a dwelling for more than 14 days in a thirty day period shall constitute the establishment of a residence.” The 105(3) language is currently in dispute in the case of People vs. Griffin (08CA2694). Recommend that the SO TF pass “as is” and CDAC/Maureen will prepare corrections for the Nov. 18 CCJJ meeting.]**

**OLD “Lacks a Fixed Residence.”** Add definition: 16-22-102 (7.6) – “lacks a fixed residence” means the person does not have a living situation that meets the definition of residence pursuant to 16 -22-102(5.7). This includes, but is not limited to, outdoor sleeping locations or any public or private locations not designed as regular sleeping accommodations. “Lacks a fixed residence” also includes public or private housing or temporary shelters, a residential treatment facility or any other residential institutional facility if owner or facility providing the housing consents to the person utilizing the location as his or her temporary address for purposes of registration as a person without a fixed residence pursuant to 16-22- (fill in section number) and if the person remains at the shelter for less than 30 days. **Also**, Move 16-22-102 (5.7) to 16-22-102 (7.5).

b) **Shelters as a residence.** Amend definition in 16-22-102(5.7) of “residence” to clarify that it only applies to occupancy in a shelter for a time period longer than 30 days.

c) **Requirement to register and to accept registrations.** Change 16-22 -108 -- each person who is required to register pursuant to 16-22-103 shall register with local law enforcement in each jurisdiction in which the person resides “or is located without a fixed residence pursuant to 16-22-102 (7.6).” Law enforcement is required to accept the registration of offenders who “lack a fixed residence.”

If the location at which a person attempts to register would be in violation of a local ordinance, law enforcement shall so advise the offender. The offender shall then be required to secure alternate residence and remain in compliance with all other provisions of this article. Law enforcement officials are not required to accept a person’s registration to an unlawful location or residence.

d) **“Geo-locations.”** Change 16-22-109(1) – If a person lacks a fixed residence as defined in 16-22-102 (7.6), the person shall be required to provide to local law enforcement the public or private location where the offender habitually sleeps. This can include, but is not limited to cross streets, intersections, direction and identifiable landmarks of that location.

**Issue/Topic:**

**Update: (cont'd)**  
**Registration Working Group**  
**Recommendation:**  
**“Lacks a fixed residence”**  
Maureen Cain

**e) Self-verification.** Change 16-22-109 (3.5) to add:

**(I)** If a person lacks a fixed residence, verification of the location reported by the registrant shall be accomplished by self-verification reporting as described in section 16-22- .... (INSERT THE NEW SECTION REFERENCE HERE THAT DEFINES THE ENHANCED REPORTING REQUIREMENTS/VERIFICATION EVENT AS SEEN BELOW IN “**1g**”).

**Also,** add language that says:

**(II)** “Law enforcement shall not be required to verify the physical address of an offender who is required to comply with section 16-22-... ~~because verification for offenders who lack a fixed residence shall be accomplished through the self-verification enhanced reporting process.”~~

**f) Residence/non-fixed residence changes.** Add new section regarding changing to and from “lacks a fixed residence”:

- i.** a person with a residence as defined in 16-22-102 (7.5) who vacates the residence and, subsequently, has no fixed residence shall report that change in status within 5 days after ceasing to have a fixed residence and shall comply with the requirements of 16-22 – (INSERT THE NEW SECTION REFERENCE AS SEEN IN “**1g**”) and 16-22-109 for the time period during which the person has no fixed residence.
- ii.** A person who lacks a fixed residence as defined in 16-22-102 (7.6) who obtains fixed residence as defined in 16-22-102 (7.5) shall report the change in status within 5 days after establishing the residence.
- iii.** Make clear that failure to comply with this section is a failure to report a change of address and punishable as provided under current law as a failure to register.

**g) Reporting requirements and Penalties.** Add a new section regarding the self-verification process describing the enhanced reporting requirements and penalties:

- i.** In addition to any other requirements pursuant to this section, a person who is subject to annual registration and without a fixed residence shall, at least every 90 days, report to local law enforcement in whose jurisdiction or jurisdictions the person is registered for self-verification of the location of the offender. This self-verification process shall be accomplished consistent with any time schedule established by the local jurisdiction. The person shall verify his or her location and provide any information required to be reported pursuant 16-22-109.
- ii.** In addition to any other requirements pursuant to this section, a person who is subject to quarterly registration pursuant to this section and who is without a fixed residence shall, at least every 30 days, report to local law enforcement in whose jurisdiction or jurisdictions the person is registered for self-verification of the location of the offender. This self-verification reporting shall be accomplished consistent with any time schedule established by the local jurisdiction. The person shall verify his or her location and provide any information required to be reported pursuant 16-22-109.

<p><b>Issue/Topic:</b></p> <p><b>Update: (cont'd)</b>  <b>Registration Working Group</b>  <b>Recommendation:</b>  <b>“Lacks a fixed residence”</b>  Maureen Cain</p>	<p><b>iii.</b> An offender without a fixed residence who fails to comply with the provision of this section shall be subject to prosecution for the crime of failure to verify location. Failure to verify location by an offender without a fixed residence shall constitute a criminal misdemeanor offense punishable by a sentence to the county jail of up to 30 days. A third or subsequent offense shall constitute a misdemeanor offense punishable by a sentence of up to one year in the county jail. Failure to verify location shall not be labeled a sex offense per 16-11.7-102(2)(a)(II) which would subject the offender to the requirements of evaluation and identification required in CRS 16-11.7-104 and the treatment required by CRS 16-11.7-105.</p> <p><b>iv.</b> Determine whether the drafter thinks this offense should be in Title 18.</p> <p><b>h) Offender notification.</b> Amend section 16-22- 106 and 107 to require a notification to any offender required to register, pursuant to this section, of the duty to report the change of address to “lacks a fixed residence” status and the requirement to comply with the statutory provisions regarding self-verification.</p> <p><b>i) Data reporting.</b> Add language that requires local law enforcement and CBI to report to CDPS information regarding the number of offenders who lack a fixed residence and any other information requested by the Department to follow up with this legislation to assess its effectiveness and/or need for modification.</p>
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<p><b>Issue/Topic:</b></p> <p><b>Update:</b>  <b>Refinement Working Group</b>  <b>Recommendations</b>  Peggy Heil/Members</p>	<p><b>Discussion:</b></p> <p>Peggy Heil presented an update on the presentation of the recommendations from the Refinement Working Group to the CCJJ at its Oct. 14 meeting. It was decided prior to the October 14<sup>th</sup> meeting of the CCJJ that the final presentation of Recommendation #15 (On residency restrictions and zoning ordinances regarding sex offenders) would be delayed until the November 18 meeting of the Commission. The Commission agreed to this request.</p> <p>Peggy provided an update on the recommendations that passed and those that did not pass at the Oct. 14 CCJJ meeting. Peggy also described a set of recommendations that the CCJJ tabled for additional information. The recommendations, by title, are provided below with the CCJJ vote conclusion and any comments offered by Peggy and Task Force attendees. Note that the threshold required to “PASS” at CCJJ is 75%.</p> <p><b>2) Develop collaborative training programs.</b>  CCJJ PASS: 100% support, 0% do not support</p> <p><b>3) Improve that collection and consistency of data to evaluate the impact of the lifetime supervision act.</b>  CCJJ PASS: 100% support, 0% do not support</p>
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**Issue/Topic:**

**Update: (cont'd)**  
**Refinement Working Group**  
**Recommendations**  
Peggy Heil/Members

**4) Identify a group to study sex offender specialty courts and determine their viability in Colorado.**

CCJJ FAIL: 61% support, 39% do not support

Comments: The disapproval appeared to focus on a lack of funds to support such courts and judges "burning out" if only dealing with sex offender cases. Given these issues, the study of these courts was perceived as moot.

**5) Support funding an enhanced per diem differential (\$33.02) that applies to Diversion, Transition, Condition of Probation and Condition of Parole community corrections programs for sex offenders.**

CCJJ - TABLED

Comments: These comments apply to tabled recommendations #5, #6, and #9.

- Commission members wanted additional information on the tabled recommendations regarding the potential for cost savings or cost neutrality and data that would support the conclusions.
- Given the budget cycle, these recommendations would apply to the next fiscal year, allowing additional time to study these recommendations.
- Glenn Tapia of DCJ: Office of Community Corrections offered background information on direct and indirect costs of treatment for sex offenders. He also offered assistance in the preparation of supporting data and documents.
- Shouldn't these recommendations address more broadly the entirety of sex offender re-entry? This broader concern goes well beyond the intent of this recommendation, but there may be an opportunity for this to be addressed by the proposed CCJJ: Re-entry Task Force.
- The intent is to prepare the supporting information for the tabled recommendations by the January or February meetings of the Task Force.

**6) Change the DCJ: OCC rule to remove the 30-day funding limit for treatment of sex offenders in community corrections.**

CCJJ - TABLED

Comments: See comments on recommendation #5.

**7) FY12-SO7. Charge the Refinement Working Group of the Sex Offense/Offender Task Force or a succeeding group as designated by the CCJJ to work in collaboration with, but not limited to, the Division of Criminal Justice, the Department of Corrections, and Probation, to study the potential, long-term cost savings related to the placement of sex offenders in community corrections (with enhanced per diem) relative to the costs of the retention of sex offenders in or revocation of sex offenders to DOC. This work must be completed by January 1, 2012.**

CCJJ PASS: 94% support, 6% do not support

**8) The Office of Community Corrections in the Division of Criminal Justice in collaboration with the SOMB shall work with the CACCB\* and the GCCAC^ on training for community corrections board members regarding the Lifetime Supervision Act and sex offender supervision.**

CCJJ PASS: 100% support, 0% do not support

Comments: Relatedly, there will be a training session offered to CACCB on Nov. 17 to encourage the acceptance of sex offenders into community corrections programs.

<p><b>Issue/Topic:</b></p> <p><b>Update: (cont'd)</b>  <b>Refinement Working Group</b>  <b>Recommendations</b>  Peggy Heil/Members</p>	<p><b>9) Support funding for the Division of Parole (DOC) to negotiate an increase in the number of beds in Community Corrections agencies and programs to house COPa (condition of parole) sex offenders for residential sex offender treatment.</b>  CCJ - TABLED  Comments: See comments on recommendation #5.</p> <p><b>10) Increase treatment resources at DOC.</b>  CCJ PASS: 95% support, 5% do not support</p> <p><b>11) Support continued funding of the Sex Offender Victim Specialist (SOVS) FTE to work in coordination with the sex offender treatment program to continue the current DOC grant-funded SOVS services.</b>  CCJ - TABLED  Comments: The Commission requested that, if possible, there be data to support the argument to continue funding of this Specialist position.</p> <p><b>12) Conduct regular and ongoing training on Lifetime Supervision and sex offender management as a part of the required Parole Board member training.</b>  CCJ PASS: 100% support, 0% do not support</p> <p><b>13) The State Board of Parole and treatment staff of the DOC Sex Offender Treatment and Monitoring Program should develop a regular system of feedback when sex offenders who meet SOMB criteria are denied parole.</b>  CCJ PASS: 95% support, 5% do not support</p> <p><b>14) Recommend there be multiple member review of all parole release applications to the State Board of Parole (full board or 3-person review) when a sex offender meets all SOMB treatment criteria.</b>  CCJ FAIL: 20% support, 80% do not support</p> <p><b>15) Pass a State statute that prohibits sex offender specific residency and zoning restrictions, but <u>does not prevent</u> the establishment of child safety zones.</b>  CCJ - DELAY until November 18, 2012  Comments: Although the Commission appears supportive philosophically, there are political issues and issues of local control to address. The Refinement Working Group will explore variations in the goal and focus of the recommendation.  - It may be necessary to revise the recommendation with an initial focus on stakeholder education.  - One strategy to support the recommendation would be to pursue a grant to support efforts by the SOMB to educate stakeholders on the negative consequences of residency restrictions and zoning ordinances.  - The Ref. WG should identify the stakeholder groups for educational intervention.  - Another important issue is how and whether to address the state intervening in local ordinances and restrictions.  - It may be advantageous to seek an opinion from the Attorney General's office.</p>
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Issue/Topic:	Discussion:
<p data-bbox="164 247 467 453"> <b>Update:</b>  <b>SOMB: CNTAT</b>  <b>Recommendation:</b>  <b>Risk Assessment /</b>  <b>Community Notification</b>            David Kaplan / Kevin Ford         </p>	<p data-bbox="561 247 1520 453">           In Chris Lobanov-Rostovsky’s absence, David and Kevin introduced a request by Chris to consider revisions to two of the elements of the Community Notification Technical Assistance Team (CNTAT) recommendation that received an unfavorable vote at the previous Task Force meeting on October 5. Please see the minutes of the previous meeting for information on this recommendation. The recommendation remains in the purview of the CNTAT.         </p> <p data-bbox="561 495 1422 558">           The Task Force requested time to consider these revisions. These will be considered at the subsequent Task Force meeting on November 30.         </p> <p data-bbox="561 600 1365 632"> <b>NOT IN FAVOR on Oct. 5 - <u>RECONSIDERATION REQUESTED, NOV. 2</u></b> </p> <p data-bbox="561 674 1276 705"> <b><u>REVISION OF ELEMENT FOR RECONSIDERATION on Nov. 30</u></b> </p> <p data-bbox="561 709 1520 741"> <b>4A. Assign current SVPs to Level 3 (High risk) on approved classification system.</b> </p> <p data-bbox="561 783 805 814"> <b><u>ORIGINAL ELEMENT</u></b> </p> <p data-bbox="561 819 1503 989"> <b>4) Apply the risk classification system to all sexual offenders who are required to register. This will require retroactive scoring for all sex offenders who are currently registered and who were previously scored on the SVP assessment instrument. Registered sex offenders designated as SVP would be automatically classified as high risk in the new risk classification system.</b> </p> <p data-bbox="561 993 1520 1203"> <i>Rationale: Law enforcement and the public will need an updated risk designation for all registered sexual offenders, both those registering after the system implementation and those registering prior to the implementation. There are currently more than 13,000 registered adult sexual offenders in the state of Colorado, and each must have an updated risk designation that is consistent for all offenders and interpretable by law enforcement and the public.</i> </p> <p data-bbox="561 1276 1365 1308"> <b>NOT IN FAVOR on Oct. 5 - <u>RECONSIDERATION REQUESTED, NOV. 2</u></b> </p> <p data-bbox="561 1350 1276 1381"> <b><u>REVISION OF ELEMENT FOR RECONSIDERATION on Nov. 30</u></b> </p> <p data-bbox="561 1386 1455 1449"> <b>5A. Report the risk level on the website only for those classified as Level 3 (High risk).</b> </p> <p data-bbox="561 1491 805 1522"> <b><u>ORIGINAL ELEMENT</u></b> </p> <p data-bbox="561 1526 1520 1631"> <b>5) Place all adult sexual offenders, including those with misdemeanor offenses who are not currently on the website, on the state public registry website with their risk level noted.</b> </p> <p data-bbox="561 1635 1503 1772"> <i>Rationale: In the interest of public safety, all risk classification information must be available to the public. Placing those with misdemeanor sex offenses on the state public registry website will effectively disseminate this information to the public.</i> </p>



<b>Issue/Topic:</b>	<b>Discussion:</b>
<p data-bbox="233 212 383 239"><b>Next Steps</b></p> <p data-bbox="233 247 391 275">David Kaplan</p>	<p data-bbox="561 212 1089 239">David summarized plans for the next month:</p> <ul data-bbox="597 247 1484 495" style="list-style-type: none"> <li data-bbox="597 247 1484 348">• The delayed recommendations #1 “Lacks a fixed residence” and #15 Residency restrictions/zoning ordinances will be presented at the next Commission meeting on November 18.</li> <li data-bbox="597 357 1386 422">• The Refinement Working Group will begin its work on the tabled recommendations.</li> <li data-bbox="597 430 1484 495">• The next Task Force meeting is scheduled for Wednesday, November 30, 2011 at 150 E. 10<sup>th</sup> Ave., Denver.</li> </ul> <p data-bbox="561 537 1292 564">The link to the CCJJ: Sex Offense/Offender Task Force page is:</p> <p data-bbox="561 573 1287 600"><a href="http://cdpsweb.state.co.us/cccj/Sex_offender_task_force.htm">http://cdpsweb.state.co.us/cccj/Sex_offender_task_force.htm</a></p>

**Sex Offense/Offender Task Force Meeting Dates:**

<b>Date</b>	<b>Location</b>	<b>Time</b>
Wednesday, November 30, 2011	150 E. 10 <sup>th</sup> Avenue, Denver	1:30-4:30PM
Wednesday, January 4, 2012	710 Kipling, Lakewood, Denver	1:30-4:30PM
Wednesday, February 1, 2012	710 Kipling, Lakewood, Denver	1:30-4:30PM
Wednesday, February 29, 2012	710 Kipling, Lakewood, Denver	1:30-4:30PM