

**MINUTES**  
**Sex Offense/Offender Task Force**  
**Colorado Commission on Criminal and Juvenile Justice**  
**January 4, 2012, 1:30PM-4:30PM**  
**710 Kipling, 3<sup>rd</sup> floor, Lakewood**

**ATTENDEES:**

**CHAIR**

Adrian Van Nice, Colorado District Attorneys' Council (*for David Kaplan, Private Defense Attorney*)

**TASK FORCE MEMBERS**

Michael Anderson, Parole Board

Norma Anderson, Former State Senator

Peggy Heil, Department of Corrections (*by phone*)

Erin Jemison, Colorado Coalition Against Sexual Assault

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

Laurie Kepros, Colorado Criminal Defense Bar

Richard Schneider, Denver PD, SO Registration

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

**PUBLIC PARTICIPANTS**

Ted Anderson, Aurora Police Department

Keith Booten, Aurora Police Department

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

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

Pat Harris, Advocates for Change

Cathy Rodriguez, DCJ/SOMB

Carolyn Turner, Advocates for Change

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

**STAFF**

Kevin Ford, Division of Criminal Justice

Ken Plotz, DCJ

**ABSENT MEMBERS**

Maureen Cain, Criminal Defense Bar

David Kaplan, Chair, Private Defense Attorney

Chris Lobanov-Rostovsky, Division of Criminal Justice

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><br/>Adrian Van Nice</p> | <p style="text-align: center;"><b>Discussion:</b></p> <p>Adrian Van Nice, serving as Chair for David Kaplan in his absence, welcomed the attendees and:</p> <ul style="list-style-type: none"> <li>• Attendees introduced themselves, and</li> <li>• There was a brief overview of the agenda.</li> </ul> |
|--|---|

|  |   |
|--|---|
| <p style="text-align: center;"><b>Issue/Topic:</b></p> <p style="text-align: center;"><b>Updates:</b><br/><b>Registration Working Group</b><br/>Adrian Van Nice/Kevin Ford</p> | <p style="text-align: center;"><b>Discussion:</b></p> <p>In Maureen Cain’s absence, Adrian and Kevin offered brief updates on these Registration Working Group issues: Recommendation FY12-SO #16 (quarterly registrants re-registration period), Recommendation FY12-SO #1 (“Lacks a fixed residence” registration), and issues with cancellation of registration.</p> <p><b>Recommendation FY12-SO #16</b></p> <p>At the last Task Force meeting, members authorized Maureen to draft a recommendation to allow quarterly registrants a +/- 5-day grace period to re-register. The recommendation was presented and discussed at the December 9 meeting of the CCJJ. Commission members passed the recommendation (100% support/live with, 0% do not support). The final, approved wording was shared with the Task Force and is inserted here for reference purposes:</p> <p><b>FY12-SO #16. Modify CRS 16-22-108 (1) (d) (I) to allow quarterly re-registration to occur within 5 business days before or after the offender’s required re-registration date.</b></p> <p><b>Reason:</b> For <i>quarterly</i> sex offender registrants, statute currently requires re-registration to occur exactly on a required date or on the first business day following a weekend or holiday. This change will allow an offender who registers quarterly to re-register within 5 business days before or after their required re-registration date. For <i>annual</i> registrants, this “5-day” modification was already enacted by HB11-1278. This recommendation will allow consistency across re-registration procedures for all sex offenders and for law enforcement.</p> <p><b>Proposed modification:</b><br/><b>[The language will be refined by the drafter.]</b></p> <p><b>16-22-108. Registration - procedure - frequency - place - change of address - fee.</b><br/>(d) (I) Any person who is a sexually violent predator and any person who is convicted as an adult of any of the offenses specified in subparagraph (II) of this paragraph (d) has a duty to register for the remainder of his or her natural life; except that, if the person receives a deferred judgment and sentence for one of the offenses specified in subparagraph (II) of this paragraph (d), the person may petition the court for discontinuation of the duty to register as provided in section 16-22-113 (1) (d). In addition to registering as required in paragraph (a) of this subsection (1), such person shall reregister <b>IN</b> ninety days <b>WITH A GRACE PERIOD OF FIVE BUSINESS DAYS BEFORE OR</b> after the date he or she was released from incarceration for commission of the offense requiring registration, or <b>IN</b> ninety days <b>WITH A GRACE PERIOD OF FIVE BUSINESS DAYS BEFORE OR</b> after the date he or she received notice of the duty to register, if the person was not incarcerated, and <b>EVERY NINETY DAYS WITH A GRACE PERIOD OF FIVE BUSINESS DAYS BEFORE OR AFTER THE NINETIETH DAY</b> thereafter until such person's birthday. Such person shall reregister <b>WITHIN FIVE BUSINESS DAYS BEFORE OR AFTER THE PERSON'S BIRTHDATE</b> <del>on his or her birthday</del> and shall reregister every ninety days <b>WITH A GRACE PERIOD OF FIVE BUSINESS DAYS BEFORE OR AFTER THE PERSON'S BIRTHDATE NINETIETH DAY</b> thereafter. <del>If a person's birthday or other</del></p> |
|--|---|

**Issue/Topic:**

**Update: (cont'd)**  
**Registration Working Group**  
Adrian Van Nice/Kevin Ford

reregistration day falls on a Saturday, Sunday, or holiday, the person shall reregister on the first business day following his or her birthday or other reregistration day. Such person shall reregister pursuant to this paragraph (d) with the local law enforcement agency of each jurisdiction in which the person resides **WITHIN FIVE BUSINESS DAYS BEFORE OR AFTER** ~~on~~ the reregistration date, in the manner provided in paragraph (a) of this subsection (1).

**STATUTE SHOULD MAKE CLEAR...**

Regardless of the actual date of registration during the period 5 days before or 5 days after the required registration date, the 90-day period for re-registration is always measured:

- A. From the offender's OFFICIAL date of re-registration, or
- B. Upon applicability, from the offender's BIRTHDATE (following the transition to the offender's birthdate as the OFFICIAL re-registration date).

In other words, re-registering on any day, 5 days before or after the "required date" or birthdate, is the equivalent of registering on the "required date" or birthdate. An earlier or later actual date of re-registration (by no more than plus or minus 5 days, of course) does not shift the required future date of re-registration.

**Recommendation FY12-SO #16: "Lacks a fixed residence"**

**(The complete recommendation is available in the November 2, 2011 SO Task Force Minutes)**

There are still concerns regarding the 14-day threshold currently in statute to establish residency and the 30-day threshold to differentiate those who have and those who do not have a fixed residence. According to the advocates for the homeless who participated in the Registration Working Group, the 30-day threshold is the most practical threshold when establishing the fixed vs. non-fixed residency differentiation. Maureen continues to discuss this matter with Tom Raynes (Exe. Dir, Colorado District Attorney's Council; CDAC).

**Issues with cancellation of registration.**

As described more fully in the Minutes of the November 30 Task Force meeting, there are continuing concerns from law enforcement and CDAC with the function of the cancellation of registration process.

Comments:

- Why do law enforcement agencies report difficulty in complying with the cancellation of registration process?
  - It was suggested that maybe a lack of funds could be a potential source of the problem.
  - Training issues may be contributing to the problem.
  - The lack of an automated system to accomplish the cancellation notification was also mentioned.
  - Even if all the issues were resolved, there is still a reported difficulty in establishing a confirmable timeline to allow effective prosecution of offenders for a failure to register.
- Representatives of the Denver District Attorney's office report that Robin Whitely of that office has drafted modifications to the registration statute (Article 22 of Title 16) in an attempt to address cancellation of registration, the intent-to-reside concerns raised by the Griffin case, and the definition of "lacks a fixed residence." [The specific elements of this "Whitely draft" were not shared with the Task Force.]

| Issue/Topic:   | Discussion:  |
|--|--|
| <p data-bbox="142 210 483 346"><b>Update:</b><br/><b>Refinement Working Group</b><br/><b>Tabled Recommendations</b><br/>Peggy Heil/Members</p> | <p data-bbox="560 210 1518 310">Peggy Heil presented an update on Recommendations FY12-SO #5, #6, #9, and #11, which were tabled by the Commission at the October 14 CCJJ meeting. The WG did not have materials ready for presentation to the Task Force.</p> <p data-bbox="560 352 1526 562">Peggy described that the Refinement Working Group met on December 12 and have a few documents in the drafting process. A data request was submitted by David Kaplan around December 16 to the Office of Planning and Analysis (OPA) at the Department of Corrections for data to support the recommendations. The request is still pending; there is no update from OPA regarding the expected date the data request will be fulfilled.</p> <p data-bbox="560 604 1502 667">The Refinement Working Group will next meet on January 24 to continue work on the materials and assumes it will data from OPA by that time.</p> |

| Issue/Topic:  | Discussion:  |
|---|--|
| <p data-bbox="154 852 474 953"><b>Task Force Continuation?</b><br/><b>Pending Issues?</b><br/>Adrian Van Nice/Members</p> | <p data-bbox="560 852 1518 1062">At the November 30 meeting, David Kaplan introduced whether there were pending issues that would warrant the continuation of the Task Force. The original intent for the Task Force was to produce recommendations for two “recommendation cycles” (legislative sessions) and that period has been met. Members were asked to consider these issues in the interim and to discuss them at this January meeting.</p> <p data-bbox="560 1104 1421 1167">Particular topics were mentioned by David and members at the previous meeting, but discussion was not limited to those topics:</p> <ul data-bbox="568 1178 1526 1241" style="list-style-type: none"> <li>• The creation of release guidelines for the Parole Board to use when evaluating the release of sex offenders.</li> </ul> <p data-bbox="560 1251 1526 1493">Comments: The Sex Offender Management Board (SOMB) has developed a set of treatment criteria for use by the Sex Offender Treatment and Monitoring Program at DOC to evaluate sex offenders with an indeterminate sentence. The extent to which offenders have met these criteria is presented to the Parole Board at the release application hearing. The Board uses these criteria in conjunction with other statutory factors [17-22.5-404 (4), C.R.S.] in deciding whether offenders will be granted a discretionary release.</p> <p data-bbox="560 1503 1494 1671">Additionally, the SOMB developed a set of criteria for use when considering the application for release by sex offenders with a determinate sentence. The SOMB approved these criteria on September 16, 2011. The Parole Board received and approved the criteria on September 29<sup>th</sup> and uses them in conjunction with the statutory factors mentioned above.</p> <p data-bbox="560 1682 1421 1745">Consequently, it was determined that release guidelines by which sex offenders are evaluated for discretionary release already exist.</p> <ul data-bbox="568 1776 1526 1881" style="list-style-type: none"> <li>• Originally, there was no traction to solve issues regarding a perceived lack of determinate F4 offenses proposed in the first months of the Task Force by Ted Tow. What is the current feeling?</li> </ul> <p data-bbox="560 1892 1510 1986">Comments: The inability to reach a consensus on additional F4 sex offenses was due to several reasons that are still unresolved. There remains a lack of data to assess the need for these F4 offenses and it is safe to assume that, as was the</p> |

case previously, DAs will be split on whether or not there is a problem. This was not seen as a potential area for further work under the current conditions.

- Should the Task Force address juvenile issues?

Comments: Ken Plotz, consultant to the CCJJ Juvenile Justice Task Force, stated that the JJ Task Force will likely address such issues in the future and would be more than happy to accept any pending juvenile issues from the SO Task Force. It was felt that there are issues, but they would be better addressed by those on the JJ Task Force representing juvenile stakeholders. Any volunteers from the SO Task Force would be welcome to participate in efforts by the JJ Task Force once work in this area is initiated. Some potential areas for study could include:

- Sexting (there is a S.B. 133 group addressing sexting).
- “Cross-over” issues of juvenile sex offenders involved in criminal justice and human services systems.
- Sentencing options for individuals who commit offenses as a juvenile, but for whom charges are filed after they have reached the age of majority.
- State-wide pre-trial programs for juvenile sex offenders.
- There is a need to address the complexities of juvenile sex offense victims who are placed in a position to attend school with juvenile perpetrators.

- Will there be follow-up of the Issues surrounding sex offender housing and shared living arrangements?

Comments: Because Recommendation FY12-SO #15 passed at the Commission, the staff of the Division of Criminal Justice will follow the progress on this recommendation as is done for all recommendations passed by the Commission.

- Address the sex offender treatment sequence and discontinuities. Maybe complete Phase I in DOC and Phase II in the community?
  - Can sex offenders who are revoked from probation be returned from DOC to probation rather than being released to parole? There are treatment discontinuities between probation and parole.
  - Discontinuities also exist between treatment at DOC and treatment in the community for parolees.

Comments: This area could potentially be addressed in the context of broad treatment continuity issues by the proposed CCJJ: Re-entry Task Force.

- Data sharing, collection, and analysis issues across criminal justice.

Comments: The Task Force repeatedly faced a dearth of information when attempting to study various issues and problem. In the summer of 2010, the CCJJ explored the creation of a task force to study data issues. The creation of this task force was set aside for consideration in the future.

- Members unanimously supported a motion that, CCJJ should create a Data Task Force or some other data exploration structure to address the problems with the quality and availability of criminal justice data.

### **Conclusion**

There was an informal consensus that the remaining issues are being or will be addressed by other entities and groups. Members will finalize their thoughts and feedback to the Commission in a final report to be presented at the March 9 meeting of the Commission.

| Issue/Topic:                                 | Discussion:   |
|--|---|
| <p><b>Next Steps</b><br/>Adrian Van Nice</p> | <p>Adrian summarized plans for the next months:</p> <ul style="list-style-type: none"> <li>• The Task Force agrees to <u>cancel the February 1 meeting</u> to allow members time to prepare feedback to the Commission and time for the Refinement Working Group to complete its work.</li> <li>• The Refinement Working Group will continue its work on the tabled recommendations, presenting its final documents to the Task Force at the February 29<sup>th</sup> meeting.</li> <li>• Task Force members should collect their thoughts and feedback for a proposed final meeting of the Task Force on February 29, 2012. This feedback may be submitted in advance to Kevin Ford.</li> <li>• The next Task Force meeting is scheduled for Wednesday, February 29, 2012 at 710 Kipling, 3<sup>rd</sup> floor conference room, Lakewood, Denver</li> </ul> <p>Meeting adjourned at 3:30pm</p> <p>The link to the CCJJ: Sex Offense/Offender Task Force page is:<br/><a href="http://cdpsweb.state.co.us/ccjj/Sex_offender_task_force.htm">http://cdpsweb.state.co.us/ccjj/Sex_offender_task_force.htm</a></p> |

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

| Date                         | Location                      | Time        |
|------------------------------|-------------------------------|-------------|
| Wednesday, February 1, 2012  | CANCELED                      |             |
| Wednesday, February 29, 2012 | 710 Kipling, Lakewood, Denver | 1:30-4:30PM |

February 29 is proposed as the final meeting of the Task Force