

UPDATE: 2011 TASK FORCE TOPICS AND TASKS

The following is a rough outline of the topics for continuing study by the Sex Offense/Offender Task Force and its two working groups. Resulting recommendations will be presented to CCJJ this fall (Oct.-Nov. 2011). The concepts for future work provided below do not imply policy positions, but, instead, are simply ideas for exploration and study.

Registration Working Group

1. Transient Offenders - Recommendation #6 (see p. 2 below) was reduced to a couple of points that were deemed acceptable by law enforcement. The WG will engage law enforcement and other stakeholders and work on the remaining points of the original recommendation (regarding check-ins by transient offenders).
2. Adam Walsh Compliance - Will explore and possibly augment previous work by the SOMB on a cost/benefit analysis of compliance with Adam Walsh. Does the cost of Adam Walsh implementation outweigh the penalty of non-compliance? If we move in the direction of greater compliance, how much would it cost? Which elements of Colorado AWA compliance identified as deficient (by the SMART Office review) would be chosen for implementation? If we will not achieve compliance, due to reasons of cost or by policy decision, are there disadvantageous elements of Adam Walsh we'd like to roll back (if we're going to be non-compliant anyway)?
3. Tracking Recommendation #16 (Risk assessment and Community notification) - Determine the scope of work by the SOMB: Community Notification Technical Assistance Team and the degree of observation and/or collaboration by the Reg. Working Group & SO Task Force. Topics of interest include improved sex offender risk assessment, examination of the function and effectiveness of SVP assessment, and examination of methods of community notification that are commensurate with and informative of risk.

Refinement Working Group

1. Lifetime sex offenders - Explore the state of Lifetime (indeterminate) sentencing. What is working? What is not working? What can be improved? This problem has two parts.
 - a. Data needs - study indeterminate vs. determinate sentencing...length of sentences, length of supervision, etc.
 - b. Improvements? - Depending on the conclusions from the study, what are the barriers and potential solutions?
2. Related to #1, determine whether the interest, will and consensus exists to pursue solutions, assuming problems are identified in indeterminate (Lifetime) sentencing.
3. Parole release for sex offenders - Study parole decisions for sex offenders.
 - a. Data needs - utilize sentence and supervision length data mentioned above; explore numbers of discretionary and mandatory releases of sex offenders with indeterminate and those with determinate sentences.
 - b. Procedures - Are SOMB release guidelines for offenders with indeterminate sentences utilized? What is the status of SOMB efforts to create release guidelines for offenders with determinate sentences?
 - c. Improvements? - Depending on the conclusions from the study, are there areas in need of attention?

FOR CONSIDERATION & VOTE: REVISED RECOMMENDATIONS**REVISED #6**

Because this recommendation was previously withdrawn without a vote at the December 2010 CCJJ meeting, it may be presented for discussion and vote using standard voting procedures.

FY11-SO #6. Define “transient” in statute and require registration of offenders who are homeless or have no permanent residence.

Changes since December 2010 CCJJ meeting: The elements of the recommendation requiring additional collaboration with stakeholders have been removed and will be addressed over the coming months in preparation for the 2012 Legislative Session. The Task Force will continue work with law enforcement to develop a self-verification procedure for homeless offenders that is not overly punitive to offenders or burdensome to law enforcement.

Reason: This is a state-wide issue raised by law enforcement. The current method to register and track transient offenders is inadequate.

Proposed fix: This recommendation includes the following statutory elements for drafting:

- Define “transient” in statute.
- Require law enforcement to register transient offenders.

ORIGINAL #6

FY11-SO #6. Define “transient” in statute and provide a method to register those offenders who are homeless or have no permanent residence.

Reason: This is a state-wide issue raised by law enforcement. The current method to register and track transient offenders is inadequate.

Proposed fix: This recommendation includes the following statutory elements for drafting:

- Require law enforcement to register transient offenders.
- Require law enforcement to issue a transient card to these offenders that can be “stamped” or otherwise validated to show compliance.
- Require transient offender to check in with law enforcement every 30 days to verify location and status; this “check-in” would not be considered a re-registration event.
- Does not create a new failure-to-register crime just for offenders who are transient. Rather, the failure to check in would be considered “disobedience of a lawful order” that is punishable by up to 10 days in jail. This offense alone would not subject the offender to the requirements of evaluation and identification required in CRS 16-11.7-104 or the treatment required by CRS 16-11.7-105.
- Monitor the effectiveness of the system to determine whether warrants and additional sanctions should be considered for missing the 30-day check-in.
- Determine whether “card-stamping authority” could be extended to officers on the street, parole officers and probation officers to increase the options for the 30-day check-in.
- Accommodate, in the definition of “transient,” elements necessary to describe those offenders who live in an automobile (The current statute already includes offenders who live in motor homes or trailers, 16-22-108 (3) (a.5), CRS).

REVISED #13

Because this recommendation previously failed at the December 2010 CCJJ meeting, it must:

- a. be moved and seconded for reconsideration by CCJJ members who previously voted against the recommendation (Rhonda Fields, Pete Hautzinger, Regina Huerter, Don Quick, Steven Siegel), and
- b. pass at 51% on a reconsideration vote.

FY11-SO #13. Add language to CRS 16-13-902 (and relevant sections in Title 18) on SVP equivalency criteria in a manner that ensures the assessment procedure is constitutional.

Changes since December 2010 CCJJ meeting: A revision was made to address the problem expressed at the December 2010 vote. The original word, "LEVEL," was changed to "LEVELS" to address where there may be a state-to-state mismatch in the sex offense severity categories (specifically, where the highest Colorado category - Sexually Violent Predator - may "equate" to multiple high categories in another state). The fix should also ensure there is equal protection for incoming out-of-state offenders.

Reason: Currently missing from statute is the language to establish the process and who is responsible to evaluate sex offenders entering from other states who may meet the definition of sexually violent predator. This has led to inconsistencies across jurisdictions when dealing with offenders from particular states.

Proposed fix:

a) The procedure to classify out-of state offenders moving to and registering in Colorado should not place a different assessment standard on these offenders than is used for in-state offenders. (The procedure is currently under review and, if necessary, modifications will be made to the suggested statutory fix that ensures constitutionality.)

b) Amend CRS 16-13-902 (5) as follows:

"Sexually violent predator" means a sex offender who is identified as a sexually violent predator pursuant to section 18-3-414.5, C.R.S., or who is found to be a sexually violent predator or its equivalent in any other state or jurisdiction, including but not limited to a military or federal jurisdiction. FOR PURPOSES OF THIS SUBSECTION (5), "EQUIVALENT", WITH RESPECT TO AN OFFENDER FOUND TO BE A SEXUALLY VIOLENT PREDATOR OR ITS EQUIVALENT, MEANS A SEX OFFENDER CONVICTED IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT LIMITED TO A MILITARY, TRIBAL, TERRITORIAL, OR FEDERAL JURISDICTION, WHO HAS BEEN ASSESSED OR LABELED AT THE HIGHEST REGISTRATION AND NOTIFICATION ****LEVELS**** IN THE JURISDICTION WHERE THE CONVICTION WAS ENTERED AND WHO SATISFIES THE AGE, DATE OF OFFENSE, AND CONVICTION REQUIREMENTS FOR SEXUALLY VIOLENT PREDATOR STATUS PURSUANT TO COLORADO LAW. A SEX OFFENDER CONVICTED IN ANOTHER JURISDICTION WHO IS DESIGNATED AS A SEXUALLY VIOLENT PREDATOR BY THE DEPARTMENT OF PUBLIC SAFETY FOR PURPOSES OF COLORADO LAW SHALL BE NOTIFIED OF HIS OR HER DESIGNATION AND SHALL HAVE THE RIGHT TO APPEAL THE DESIGNATION IN DISTRICT COURT.

ORIGINAL #13

FY11-SO #13. Add language to CRS 16-13-902 (and relevant sections in Title 18) on SVP equivalency criteria.

Reason: Currently missing from statute is the language to establish the process and who is responsible to evaluate sex offenders entering from other states who may meet the definition of sexually violent predator. This has led to inconsistencies across jurisdictions when dealing with offenders from particular states.

Proposed fix: The language for this statutory fix was included in the vetoed HB 10-1364, Concerning the SOMB. Amend CRS 16-13-902 (5) as follows:

[Statutory language appeared exactly as above with the exception of "LEVEL" instead of "LEVELS."]