

SEX OFFENDER MANAGEMENT BOARD (SOMB) MINUTES

Friday, January 19, 2018

SOMB Members

Allison Boyd	Allison Daley	Nicole Leon
Brie Franklin	Cassi Sahazahn	Pat Harris
Carl Blake	Debra Baty	Rick Ostring
Jeff Jenks	Dena McClung	Roger Kincade
Jesse Hansen	Evelyn Sullivan	Susan Walker
John Odenheimer	Jacque Sumida	Tami Floyd
Kandy Moore	Laura Richards	Timothy Williams
Lenny Woodson	Laurie Kepros	Valerie Estrada
Marcelo Kopcow	Linn Taylor	
Missy Gursky	Marilyn Staehle	
Norma Aguilar-Dave	Melissa Kraber	
Rick May	Molgorzata Pastusiak	
Tom Lerversee	Mona Murch	

Absent SOMB Members: Amy Fitch, Angel Weant, Jeff Shay, Jessica Meza, Korey Elger, Mary Baydarian, Merve Davies, Richard Bednarski, and Robin Singer

Alan Chaney informally represented Jessica Meza.

Staff: Chris Lobanov-Rostovsky, Raechel Alderete, Michelle Geng, Marina Borysov, Kelly Hume, and Jill Trowbridge

SOMB Meeting Begins: 9:08

INTRODUCTIONS:

Introductions were made by all in attendance.

FUTURE AGENDA ITEMS:

No future agenda items

ANNOUNCEMENTS:

Missy Gursky noted in Section 3.000 of the Standards that the "preferred modality and other modality" language was added back in due to an editing issue.

Jesse Hansen mentioned that on January 16th, the Office of Domestic Violence and Sex Offender Management held a very successful training on the issue of strangulation with approximately 250 in attendance.

Laurie Kepros asked the Adult Standards Revisions committee to address the occurrence of putting high risk individuals in low risk treatment groups. Michelle Geng noted that the current language is research-based and client-centered, and allows for adjustments as determined by the treatment provider. Tom Lerversee also noted that research indicates that when low risk and high risk individuals are mixed in treatment groups, issues arise with low risk offenders. Missy Gursky suggested revising Section 3.000 with the modality language, and indicated that after the Best Practices Committee has had a chance to review the research, they will then make a recommendation regarding mixing low risk and high risk offenders in the same treatment group.

Laura Richards announced that the Women's March is Saturday, January 20th.

Raechel Alderete mentioned that the 2018 Sex Offender Management Board (SOMB) Conference "call for papers" deadline is January 31st, and encouraged all to submit proposals to Marina Borysov or Raechel Alderete by this date.

Chris Lobanov-Rostovsky recognized that Marina Borysov is back, and indicated that she is now the Program Coordinator for the Office of Domestic Violence and Sex Offender Management. He noted that she will be working more closely with the SOMB regarding future strategic action planning and communications. Chris mentioned that the new Sexually Violent Predator (SVP) instrument and handbook are now available on-line, and noted that training will be available. He indicated that this instrument could not be developed to satisfy the statutory requirement regarding the targeted recidivism classification. Chris also noted that the SOMB has been leaning toward a risk-based classification system (rather than the SVP classification), and mentioned the SOMB will encourage the Legislature to consider this view.

Chris Lobanov-Rostovsky announced that the 2018 Legislative Session has now begun and highlighted the following bills being presented:

- Senate Bill SB 026 – Various registry reforms to include incapacitated offenders, but noted this bill does not include juveniles;
- Senate Bill SB 017 – This is a repeat of last year's bill to adjust the indeterminate sentencing, and gives judicial discretion to sentence an indeterminate sentence or not.

Chris encouraged all to check out the legislative website for more information and status updates regarding these bills. He also noted that Jill Trowbridge will keep a summary of any pertinent bills, and indicated this will be available at next month's SOMB meeting.

Chris noted that Kelly Hume is completing the 2017 Legislative Report, and is seeking approval of the recommendations indicated in the report, and mentioned the requirement to go before the Joint Judiciary Committee, which has a tentative hearing set on January 30th at 7:30 am.

Chris Lobanov-Rostovsky proposed moving the October 19th SOMB meeting to the 4th Friday in October which would be 10/26/18. He indicated that this change is necessary due to the ATSA conference scheduled on October 17 – 20, 2018. The SOMB approved this change by consensus.

Judge Kopcow noted that he will miss the April and October SOMB meeting(s) due to a judges' training that he is scheduled to attend. He indicated he will present a program on how to read, interpret, and understand sex offender evaluations, and how to sentence using evidence-based measures.

Missy Gursky indicated that during this past year, RSA has successfully discharged 66 clients from offense-specific treatment.

APPROVE AGENDA:

Approved by consensus

SECTION 6.000 POLYGRAPH STANDARDS REVISIONS (Decision Item) – Chris Lobanov-Rostovsky and Jeff Jenks (Handout Provided)

Chris Lobanov-Rostovsky indicated that this was an action item in October, and noted that there was a delay in November and December due either Chris' or Jeff Jenks' absence. Chris mentioned that this is now a decision item after receiving solicited feedback, and indicated it will be voted on today. He acknowledged Jeff Jenks and the Polygraph Committee for their hard work on this section, and Tom Laversee and the Best Practices Committee for their work and recommendations.

Chris Lobanov-Rostovsky reviewed the following items in this section from the summary sheet provided:

- Item #1 – Frequency of or duration between polygraph exams – Section 6.000-6.130 have been previously approved.
- Item #2 – Prescribed requirements for progress and outcomes/sanctions based specifically on polygraph – Section 6.130 – Chris reviewed the proposed changes in this section.
- Item #3 – Assumptions of risk – Chris indicated that this has been previously addressed.
- Item #4 – Responding to specific polygraph results – Section 6.033 – Chris noted the change to empower the individual and the expert to work through discrepancies.
- Item #5 – Role of the polygraph examiner on the MDT/CST –
 - Section 6.033 Discussion Point – Chris highlighted the role clarification of the polygraph provider, and noted that it is not their role to recommend treatment or supervision interventions;
 - Section 6.120 – Chris noted the heading was changed to “Time Allotted for Exam”;
 - Section 6.143 – Chris mentioned that the pre-test interview language was changed to remove the investigation language;
 - Section 6.151 – Chris noted the clarified language regarding test scoring results, the empirically-supported scoring technique, and test-result manipulation;
 - Section 6.160 – Chris highlighted that exam reports will be forwarded to the treatment provider and supervising officer (rather than the CST), and discussed the new discussion point that advises examiners to contact treatment providers and supervising officers as soon as possible if there is a risk;
 - Section 6.163 – Chris indicated that this section discussion point includes a statement of proprietorship;
 - Section 6.170 – 6.172 – Chris noted that these sections clarify the peer review process (informal), the quality assurance review process (more formal review), and the quality control review (more detailed review), and noted the quality control review can be initiated by the treatment provider, supervising officer, or the client.
- Item #6 – References the American Polygraph Association (APA) Client Suitability Criteria, and all areas of suitability, and ongoing review of suitability;

Board Discussion:

Allison Boyd made a motion to approve the revisions as amended; Norma Aguilar-Dave 2nd the motion.

Audience Discussion:

Laurie Kepros discussion:

- Section 6.140 – Laurie suggested removing the word “voluntary” consent as this test is mandated. Jeff Jenks responded that this section is for polygraph examiners and the information included in the release form. He indicated the release form does not indicate this is a voluntary examination in regard to what the treatment provider or supervising officer has required, but indicates that the polygraph “examination office” is not required to give this test. Laurie suggested changing the verbiage to make this clearer. There was continued discussion between Laurie and Jeff regarding this issue.
- Section 6.151 A. & B. – Laurie Kepros questioned the use of indicative of non-deception and indicative of deception language based on statistical results. Jeff Jenks responded that when there is no statistical information to give a result of non-deceptive or deceptive, then a no opinion/inconclusive decision would be rendered. He also noted this is consistent with Ray Nelson’s language, and therefore the change is unnecessary and already in practice. Jeff further clarified the scoring and results process.
- Section 6.163 Discussion Point – Laurie Kepros expressed concern regarding giving legal advice via the discussion point footnote, and suggested striking this footnote. Tom Leverage asked if this should be examined by the SOMB legal counsel. Jeff Jenks responded that this language came from the Attorney

General's office. After continued discussion, it was decided to strike the footnote associated with this discussion point.

There was continued discussion as to who the privilege holder is, and if this footnote is giving legal advice.

Allison Boyd amended her motion to include the removal of footnote 22. Norma Aguilar-Dave 2nd the motion.

- Section 6.172 2nd Discussion Point (page 24) – Laurie noted a typographical error and suggested SOMB “listed” full operating level.
- Section 6.172 Discussion Point (page 25) – Laurie indicated the missing footnote 24. A footnote will be added.
- Section 6.173 – Laurie suggested removing the last two sentences from the introductory paragraph from this section as this language is unclear. Carl Blake responded that he supports this language, but noted that it needs to be modified. Tom Lerversee suggested a more positive spin on the idea of this language. Allison Boyd mentioned that this language is clear, and an important process. Chris Lobonov-Rostovsky indicated that this language has been in place for years and is working well. Alan Chaney mentioned that it needs to be more explicit. Jeff Jenks agreed that the discussion point and footnote should be reviewed and footnoted with the applicable research. Carl Blake suggested changing the last sentence to *"If the original results are not endorsed by the reviewer, a specific empirical flaw must be identified."*
- Allison Boyd amended her motion to approve the above sentence revision. Norma Aguilar-Dave 2nd the motion.

Dale Jenkins noted that the waiver release statement appears to be pro-polygrapher, and indicted that the SOMB needs to review those release statements for accuracy. Jeff Jenks responded that the quality assurance forms conform with the APA standards. Dale also mentioned that the empirical flaw language is very limited.

Alan Chaney asked how often a quality control review is done under these circumstances. Jeff Jenks responded these are done in approximately 25-30% of the cases. There was discussion as to how to indicate the findings. Jeff Jenks suggested adding an area to list the reasons for limitations or precautions to the quality assurance forms.

Laura Richards indicated that there is a Polygraph Board to assist with best practices regarding ethics, liability, and confidentiality issues.

Rick Ostring indicated that voluntary consent is not voluntary from the client perspective as this is normally a condition of supervision, and asked for clarification of when a client can refuse to take the sex history polygraph without facing any sanctions. Chris responded that the sex history polygraph exam is mandated, but a client can refuse to take the exam without fear of being terminated from treatment. He noted that the treatment providers would then have to use other tools to gain the information learned from the sex history polygraph.

Rick Ostring then asked about his 5th Amendment rights, and Chris Lobonov-Rostovsky agreed to talk to Rick offline regarding his concerns. Judge Kopcow indicated he will email the Von Behren and Roberson findings to Rick and to the SOMB.

Carl Blake reiterated that the voluntary mandate exists between the client and the court, and indicated that professionals cannot force a client to be treated. He noted that sanctions will be issued through the court.

Motion to approve standards revisions as amended: Allison Boyd; Norma Aguilar-Dave 2nd (Question #1)

12 Approve 0 Oppose 0 Abstain Motion Passes

BREAK: 10:44 – 10:55

VARIANCE REQUEST BY SHAE BOE (Decision Item) – Application Review Committee (Handout Provided)

Carl Blake discussed the background to this variance, and indicated the Application Review Committee (ARC) is in support of approving this variance. He indicated that the client is appealing his case, and noted this variance is to keep the client in treatment without compromising his 5th amendment rights regarding discussion of his index offense.

Board Discussion:

Allison Boyd expressed concern with the letter from the Victim Advocate in that it appears there is no victim input, and she is concerned that various aspects of this case were not included in the variance request (i.e. victim impact statement), that this client is in denial and is not taking responsibility for his offense, and with the level of treatment this client will receive as a result of this variance. She strongly urged the SOMB to not approve this variance.

Tom Leverage also asked what type of sex offense specific treatment would be offered to this client. Carl Blake responded that the treatment is outlined in question 5. of the variance request.

Allison Boyd also indicated that the “not applicable” on the granting of use immunity in question 11. is incorrect, and noted that this is absolutely applicable.

There was discussion regarding what exactly this variance is for, the length of time the variance will be in effect, the ability of the SOMB to monitor and change the variance, and the SOMB’s ability to terminate the variance, if necessary.

Judge Kopcow asked how the treatment provider and the ARC knows when the status of a case has changed. Carl Blake responded that the treatment provider is required to update the ARC periodically if and when the case dictates a change.

Norma Aguilar-Dave asked what happens when the client terminates treatment. Carl Blake responded that the ARC monitors any changes and brings the appropriate variance changes to the SOMB. He noted that variances are typically issued in one-year increments.

Allison Boyd asked if the victim and the court is informed of these variances.

Allison Boyd made a motion to defer this variance to the next SOMB meeting to obtain more input and background information. Jeff Jenks 2nd the motion.

Judge Kopcow indicated that he presumed that the law was followed, and that the victim chose not to opt-in for victim notification, or did opt-in and has been receiving updates from probation as to the status of this case, including the variance. Allison Boyd responded that it is not clear that the defense attorney, prosecuting attorney, and if probation has notified the victim of all aspects of this case.

Alan Chaney noted that the judge would absolutely know the status of this case and if a variance was in place. He indicated that there are some things that the treatment provider and probation can do while a case is on appeal to ensure community safety.

Tom Leversee expressed favor on granting the variance.

After SOMB discussion, it was determined that this case is a juvenile issue, and deferred approval of this variance until next month's SOMB meeting.

Motion to defer variance until next month: Allison Boyd; Jeff Jenks 2nd **(Question #2)**

12 Approve 0 Oppose 0 Abstain Motion Passes

Michelle Geng agreed to follow-up with the questions raised by Allison Boyd.

VARIANCE REQUEST BY CHRISTINE RASCON (Decision Item) – Application Review Committee (Handout Provided)

Carl Blake presented background for this variance, and indicated that the client is Developmentally Disabled/Intellectually Disabled (DD/ID) and Spanish speaking. He noted that this variance is requesting a Spanish speaking treatment provider, and to use outside consultation for the DD/ID aspect.

Missy Gursky discussed that the language skills may be more important, and noted that the ability to speak to the client outweighs the use of an interpreter.

Rick May indicated that this client previously had a Spanish speaking provider who has since left the field, and noted that Probation requested this variance.

Jesse Hansen asked if the Spanish speaking provider was planning on training in the DD/ID field to better help these types of clients. Carl Blake responded that it would be up to the provider to consider any additional training.

Board Discussion:

Tom Leversee made a motion to approve this variance; Norma Aguilar-Dave 2nd the motion.

Motion to approve variance: ; 2nd **(Question #3)**

11 Approve 1 Oppose 0 Abstain Motion Passes

2018 SOMB LEGISLATIVE REPORT RECOMMENDATIONS (Decision Item) – Kelly Hume

Kelly Hume reviewed the Legislative Report policy recommendations.

Some of the policies Kelly reviewed are as follows:

- **Juvenile Sexting**, which includes cross collaboration with the School Safety Resource Center, establishing criteria for risk levels, and implementing appropriate interventions, and providing education and training for school officials, school resource officers, judicial officers, students and their families on normal sexual behaviors of teenagers;
- **Juvenile Registration**, which includes making a non-public juvenile registry law enforcement-only tool, a hearing for discontinuation from the registry for eligible juvenile cases, changing the threshold for release from registration, improving sentencing procedures, removing the ineligibility for release after additional adjudication for non-sex offense, removing requirements for out-of-state juveniles, and considering allowing access to court-appoint counsel for relief from registration;
- **SORNA**, which includes the recommendation to move to a three-tier risk level system, the ability to change tier levels based on risk, and providing provisions for the removal of incapacitated offenders from the registry.

Kelly went on to discuss the Strategic Plan update, and indicated what action items have been completed and those in progress. She also noted the status of the action items that are in progress and the anticipated completion dates.

Board Discussion:

Jeff Jenks expressed concern regarding the wording of de-emphasizing the role of polygraph, and indicated that it should be de-emphasizing sanctions based solely on polygraph results.

Allison Boyd noted her concern with the Juvenile Registration Item 1. and noted that victims expect juveniles to be on the registry, and Item 2. that victims want to see that the behaviors of client are changed even after being released from supervision. Tom Lerversee responded to Allison Boyd that research shows that public notification of the registry hinders the ability to integrate into the community, and also noted regarding Item 2. that youth who are indigent or are lacking support do not put in the initiative to petition to be removed from the registry.

Carl Blake also indicated that in Item 2. that a statute already addresses this, and noted that some of this language is in the proposed juvenile registry bill. He indicated that in Item 3. That there is language waiving the in-person requirement for incapacitated juveniles in the proposed bill, and questioned if the recommendation needs to be changed taking this information into account. Carl mentioned that these are good recommendations, and suggested making modifications that would be more agreeable to the Legislature without changing the ideas presented.

Audience Discussion:

Laura Richards noted that from the victim perspective, seeing an offender on the street causes stress, and mentioned that the registry is for the victims (not the offenders). She indicated that the "opt in" to be notified option is many times not comprehended by the victims.

Susan Walker disagreed with the victim perspective of this issue, and expressed the need to solve both the victimization problem and the offender problem with the registry. She indicated that there needs to be healing on both sides, and went on to express her views of the registry.

A member of the audience expressed frustration with the current registry system which causes hardships for offenders to find jobs, housing, etc.

Laurie Kepros asked if CBI will be evaluating a process or reviewing the current registry system, and if it affects the current legislative recommendations. Chris Lobanov-Rostovsky responded that the CBI is currently evaluating the registry process and system, but he indicated that it will not affect the current recommendations to the legislature.

There was discussion between Carl Blake, Jesse Hansen, Kelly Hume, and Tom Lerversee regarding the language in Item 4. of the recommendations and the research to support those recommendations. Kelly indicated that the research was included in the report. It was also noted that the recommendation language was from the White Paper, and it was suggested to attach the White Paper as an appendix.

Motion to approve the recommendations to the Legislative Report and to attach the White Paper as an appendix: Tom Lerversee; Jesse Hansen 2nd (Question #4)

11 Approve 1 Oppose 0 Abstain Motion Passes

APPROVAL OF DECEMBER MINUTES:

Motion to approve the December Minutes: ; Norma Aguilar-Date 2nd (Question #5)

11 Approve 0 Oppose 1 Abstain Motion Passes

SOMB Meeting Adjourned: 12:10

Session Name: New Session 1-19-2018 11-03 AM

Date Created: 1/19/2018 8:38:17 AM **Active Participants:** 12 of 24

Average Score: 0.00%

Questions: 5

1.) Motion to approve standards revisions as amended (Multiple Choice)

Responses		
	Percent	Count
Yes	100%	12
No	0%	0
Abstain	0%	0
Totals	100%	12

2.) Motion to defer (Multiple Choice)

Responses		
	Percent	Count
Yes	100%	12
No	0%	0
Abstain	0%	0
Totals	100%	12

3.) Motion to approve variance (Multiple Choice)

Responses		
	Percent	Count
Yes	92%	11
No	0%	0
Abstain	8%	1
Totals	100%	12

4.) Motion to approve recommendations and add white paper as appendix (Multiple Choice)

Responses		
	Percent	Count
Yes	92%	11
No	8%	1
Abstain	0%	0
Totals	100%	12

5.) Motion to approve December minutes (Multiple Choice)

Responses		
	Percent	Count
Yes	92%	11
No	0%	0
Abstain	8%	1
Totals	100%	12

Session Name: New Session 1-19-2018 11-03 AM

Date Created: 1/19/2018 8:38:17 AM Active Participants: 12 of 24

Average Score: 0.00%

Questions: 5

Results Detail

Name	Q1	Q2	Q3	Q4	Q5	Total Points	Score
Answer Key	-	-	-	-	-	0.00	-
Aguilar-Dave, Norma	1	1	1	1	1	0.00	-
Akins, Brie	1	1	1	1	1	0.00	-
Blake, Carl	1	1	1	1	1	0.00	-
Boyd, Allison	1	1	1	2	1	0.00	-
Gursky, Missy	1	1	1	1	1	0.00	-
Hansen, Jesse	1	1	1	1	1	0.00	-
Jenks, Jeff	1	1	1	1	3	0.00	-
Leversee, Tom	1	1	1	1	1	0.00	-
May, Rick	1	1	3	1	1	0.00	-
Moore, Kandy	1	1	1	1	1	0.00	-
Odenheimer, John	1	1	1	1	1	0.00	-
Woodson III, Lenny	1	1	1	1	1	0.00	-
Participant List Averages	-	-	-	-	-	0.00	-