

# SEX OFFENDER MANAGEMENT BOARD (SOMB) MINUTES

Friday, September 16, 2016

## SOMB Members

Alli Watt  
Allison Boyd  
Amy Fitch  
Angel Weant  
Brie Franklin  
Carl Blake  
Jeff Jenks  
Jeff Shay  
Jessica Curtis  
Jessica Meza  
John Odenheimer  
Kandy Moore  
Kim English  
Korey Elger  
Leonard Woodson III  
Marcelo Kopcow  
Mary Baydarian  
Merve Davies  
Missy Gursky  
Norma Aguilar-Dave  
Pam Bricker

## Visitors

Alicia LeRoy  
Alison Talley  
Bev Casey  
Bobbie Ponis  
Carolyn Kesterson  
Carolyn Turner  
Colton McNutt  
DeAnn Major  
Gary Reser  
Jeff Geist  
Jo Stack  
Laurie Rose Kepros  
Mabel Banks  
Millie Villfone  
Sherry Hoang  
Tom Casey  
Tom Nelson  
Valerie Estrada

**Absent SOMB Members:** Nancy Jackson and Richard Bednarski

### **Staff:**

Chris Lobanov-Rostovsky	Raechel Alderete	Michelle Geng
Kelli Reynolds	Marina Borysov	Jill Trowbridge

**SOMB Meeting Begins: 9:05 am**

### **Introductions:**

Introductions were made by all members and visitors present.

### **Future Agenda Items:**

None

### **Announcements:**

Michelle Geng announced that the Sex Offender Management Board (SOMB) did not receive any public comments for the Adult Standards Section 4, Section 9, Victim Centeredness, or the Administrative Policies revisions.

Chris Lobanov-Rostovsky mentioned that the Responsivity Presentation has been rescheduled for the October SOMB meeting.

Laurie Kepros suggested the SOMB prepare a summary of the research from the SOMB regarding registration for juveniles who commit sexual offenses. She also suggested a future agenda item regarding the SOMB mandated statutory directive regarding the committee comprised of 80% approved treatment providers to review Standards revisions.

Judge Kopcow requested adding the Sex Offender Surcharge to the agenda for this meeting.

**Approval of August Minutes:**

Angel Weant noted a voting error on her part to Question #7 of the August minutes. Chris Lobanov-Rostovsky suggested footnoting this on the August Minutes voting summary page.

Jo Stack asked if the previous month minutes could be available to the audience before approval at the SOMB meeting. Chris Lobanov-Rostovsky responded that they are not made "public" until approved by the SOMB.

**Motion to approve the August Minutes: ; 2<sup>nd</sup> Tom Leversee (Question #1)**

<b>20</b>	<b>Approve</b>	<b>0</b>	<b>Oppose</b>	<b>1</b>	<b>Abstain</b>	<b>Motion Passes</b>
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**Approval of Agenda:**

The agenda was approved by consensus.

**Adult Standards Section 1.000 (Decision Item) – Angel Weant -** (Handout provided)

Angel Weant asked for comments regarding the revised wording in Section 1.000.

**Board Discussion:**

John Odenheimer mentioned that this language is also addressed in the evaluation section of the Adult Standards.

**Audience Discussion:**

No comments

**Motion to approve Adult Standards Section 1.000 as revised: Rick May; Carl Blake 2<sup>nd</sup> (Question #2)**

<b>21</b>	<b>Approve</b>	<b>0</b>	<b>Oppose</b>	<b>0</b>	<b>Abstain</b>	<b>Motion Passes</b>
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**Sex Offender Surcharge:** (Handout provided)

Chris Lobanov-Rostovsky outlined the statutorily mandated purpose and expenditures of the Sex Offender Surcharge. He mentioned that this fee is assessed to offenders at the time of sentencing and that the Judicial Department manages the fund and meets with the Division of Criminal Justice, the Department of Corrections and the Department of Human Services to update the allocation yearly. The amounts on the handout indicated the amount requested for allocation for Fiscal Year 2017-2018. Chris Lobanov-Rostovsky asked the SOMB for approval of allocation of this fund for fiscal 2017-2018.

Judge Kopcow described the assessment criteria of the surcharge and that this fee may be waived by the courts. He also mentioned that there are surcharges assessed for all types of offenders.

Chris Lobanov-Rostovsky noted that the surcharge is used to pay for indigent evaluations, professional training, research and development, and for the Department of Public Safety staff.

Jessica Meza asked what happens when an offender is unable to pay the surcharge. Judge Kopcow replied that the courts have the ability to waive or reduce the surcharge.

Angel Weant noted that the Judicial Department uses a lot of this money to help indigent offenders with treatment and polygraph testing.

**No Board or Audience comments**

**Motion to approve allocation of Sex Offender Surcharge: Pam Bricker, Kim English 2<sup>nd</sup> (Question #3)**

<b>22</b>	<b>Approve</b>	<b>0</b>	<b>Oppose</b>	<b>0</b>	<b>Abstain</b>	<b>Motion Passes</b>
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**Compassion Fatigue – follow-up on Presentation by Robert Emerick (Action item) – SOMB Executive Committee:**

Carl Blake gave a brief overview of the presentation given by Robert Emerick at the 2016 SOMB Conference on how individuals who work with sex offenders are impacted.

Chris Lobanov-Rostovsky mentioned that the Training Committee is collaborating with the DVOMB regarding training topics related to trauma such as how to help clients deal with trauma and also treatment provider trauma. He mentioned that Robert Emerick has been invited to come and speak, and noted that this will be used as a training tool for treatment providers and supervisors.

Angel Weant asked if this training will be opened up to other professionals working in the field, such as supervision officers, case workers, etc. Chris Lobanov-Rostovsky responded that yes this will be available to other professionals.

Amy Fitch, Koery Elger, Mary Baydarian, and Carl Blake mentioned that therapists are available statewide for individuals faced with compassion fatigue.

Raechel Alderete noted that Robert Emerick also suggested agencies that do not currently have a support resources policy to set one up to help case workers, treatment providers, and others reach out and address their personal trauma while treating offenders.

Mary Baydarian mentioned the need to encourage supervisors to train in this area.

Chris Lobanov-Rostovsky suggested the need to role model for new therapists in the field in addressing trauma issues and noted that it is helpful to address trauma issues directly.

Kandi Moore suggested including victim therapists as they also have a hard time processing trauma.

Rick May mentioned that the SOMB should set up some concrete steps and provide training using current research that is available to all stakeholders. Chris Lobanov-Rostovsky responded that after starting the training initiative, the SOMB will follow-up to see what the next steps should be.

Angel Weant noted the challenges statewide, specifically with probation where compassion fatigue is prevalent and how it affects staffing. Angel also mentioned she will add compassion fatigue training to the Judicial Advanced Sex Offender training.

Merve Davies stated that there has been training in the past where there is no follow-up. He suggested the need of a plan prior to the training so that it is not forgotten. Merve also suggested checking in with Robert Emerick before he comes to train regarding a plan.

Judge Kopcow encouraged anyone with plan ideas to email him and these ideas will be discussed further in Executive Session.

Carl Blake suggested adding training to the competency model as it relates to supervisor/supervisee competency sections.

Amy Fitch suggested setting up an Employee Assistance Program statewide for smaller agencies or single therapists that do not currently have the resources.

Jessica Meza asked if the SOMB can put some simple information about compassion fatigue on the website.

Rick May stated that Robert Emerick already consults with agencies around Arizona and California as to how to implement this process within agencies and that we should use his expertise.

Laurie Kepros suggested checking with DORA to see if they have any compassion fatigue resources available.

There was further discussion as to all the different professions/individuals deeply affected by compassion fatigue and about being more proactive about training before individuals start working in these fields.

## **Break: 10:08 – 10:26**

### **Sexually Violent Predator (SVP) Risk Assessment Instrument (Action Item) – Peg Flick, Kim English, and Chris Lobanov-Rostovsky:** (Handout Provided)

Chris Lobanov-Rostovsky gave a brief overview and history of the SVP Committee in regards to the SVP instrument and registration. He noted that the SVP Committee is looking for guidance from the SOMB regarding a new SVP model and the inclusion of Part 3A. Kim English explained the current SVP Risk Assessment Instrument.

Kim mentioned the three decisions needed as follows:

1. To use a larger model to include registration crimes or keep the current model using the five crimes as defined in Statute?
2. To use recidivism crime types as defined in Statute or broaden to include homicide, kidnapping, robbery, and other assaults?
3. To retain or omit 3A (Prior Sex Crime Conviction) portion of the risk assessment?

### **Board Comments:**

Tom Lerversee asked to what degree the statutory requirements create obstacles to empirically validate this instrument. Kim responded that being limited to the five crimes mandated by State Statute, will not necessarily predict true recidivism or risk.

Angel Weant mentioned that the crime of conviction may not be a true representation of an offenders' behavior or risk. She indicated that the true nature of the offender is not apparent until they have been evaluated and are working with a treatment provider, and that this assessment is done before the PSI or before going before the judge.

Merve Davies asked if this instrument is still in use. Chris Lobanov-Rostovsky responded that yes it is in use but that while the SVP instrument is not federally mandated anymore, it is still in the Colorado Statutes and the SOMB must comply. Judge Kopcow reiterated the fact the SOMB does not have purview over the SVP designation, only the accuracy of the assessment instrument within the parameters of the statute.

Merve Davies expressed his frustration with the fact that once an offender is labeled a SVP, and there is no legal recourse for reconsideration.

Chris Lobanov-Rostovsky encouraged the group to stay focused on the study model questions that Kim English brought forth.

Amy Fitch stated that going broader may make a validated instrument with more accurate data.

John Odenheimer asked if we remove 3A, then only 3B would be used to assess the risk.

Tom Lerversee asked if keeping 3A will make a more empirically validated instrument. Kim responded no and that people who have two or more adult sex crime convictions would be eligible for the SVP determination by the court.

Gary Reser discussed his frustration with the lifetime SVP designation and suggested making the assessment needs in such a way to narrow down to only the highest risk individuals with a high cut off point.

Allison Boyd supported keeping 3A.

Missy Gursky agreed to broaden the study group, and broaden recidivism crimes, but was not sure about removing 3A. She asked if there is more research regarding prior sex crime conviction recidivisms.

Carl Blake suggested going before the legislature to inform them of the dilemma faced in trying to revise the SVP assessment instrument within the parameters set forth by Statute. Judge Kopcow replied that it is the Somb's responsibility to comply with statutory obligations whether the SOMB agrees with them or not.

Amy Fitch asked if 3A (Prior Sex Crime Convictions) is a valid indicator of risk and indicated that this discussion be taken back to the stakeholders.

Tom Lerversee mentioned the SOMB needs more time to review and understand these issues before making an informed decision or vote.

Pam Bricker asked for the presentation to be emailed to the SOMB for further review.

**Audience Comments:**

Jo Stack noted that there was a proposed amendment to the Sunset Review by Representative Kagan regarding the validity of the current SVP Risk Assessment Instrument. She mentioned that at the end of the legislative season, it was not addressed and asked for the SOMB's help in getting the legislation necessary to remove this instrument from Colorado law.

Carolyn Turner asked Missy Gursky if a "yes" in Part 3A will automatically assess an offender as an SVP. Missy replied yes, and that if you answer yes to any of the three parts of section 3, then the offender will be recommended for designation as an SVP.

Laurie Kepros stated it is the SOMB's responsibility to craft a SVP assessment that will predict the "likelihood" of recidivism and noted that with the criteria available, this will never be a good assessment. She also agreed that this should be taken to the legislature and noted that this assessment cannot be created as mandated by Statute.

Dale Jenkins reiterated the SOMB's responsibility to educate the legislators regarding the SVP designation and the inability of the assessment instrument to accurately predict recidivism.

DeeAnn Major stated concern over the discriminatory questions within the 3C section (Developmentally Disabled) of this instrument.

Judge Kopcow suggested adding to next month's agenda as a decision item. In the meantime, it is each board member's responsibility to become educated on this instrument to make an informed decision.

**Lunch: 12:10 – 1:06**

**Adult Standards Revisions Regarding Burns Case (Action Item) – Michelle Geng:** (Handout provided)

Michelle gave a brief outline of the current variance process. Jeff Geist read the Parole revised language to the Sex Offender Supervision Directive.

Michelle highlighted the proposed revisions to the Adult Standards Section 5.000 that are affected by the Burns Case ruling for the SOMB to review and take back to their stakeholders.

**Board Comments:**

Judge Kopcow (5.620) suggested changing "prohibited" to "prohibited/restricted".

Jessica Meza questioned the variance process as it pertains to Burns cases and the definition of "own child". Carl Blake responded by clarifying the responsibility of the Application Review Committee (ARC) regarding Burns variances and the court determined parental association.

Mary Baydarian mentioned the need for a revision to the standards to include "allocated parental role" responsibilities. Chris Lobanov-Rostovsky responded with a reference to the "own child" definition which states "included but not limited to" and gives some parental role discretion by the courts.

Judge Kopcow indicated that the revisions made by Michelle Geng capture the majority of the Burns request.

Missy Gursky noted that as a therapist, she feels that the new revisions require treatment providers to offer treatment when they feel it is unethical. Michelle Geng suggested adding a discussion point clarifying that a treatment provider still has the right to deny or terminate treatment under these circumstances.

Jeff Geist indicated that the Parole Sex Offender Supervision Directive includes language that states, "this condition may be modified based upon risk behavior and treatment compliance".

John Odenheimer suggested making this discussion point as a separate stand-alone standard.

Allison Boyd suggested language in Section 5.700 that would capture the negative impact to the victim's siblings when contact is not allowed. She also would like language that would include input from a non-offending parent.

**Audience Comments:** None

Judge Kopcow stated that Michelle Geng will make the indicated revisions for SOMB approval at the next meeting.

**Polygraph Standards Related to Recent Court Cases (Action Item) – SOMB Executive Committee:** (Handout provided)

Chris Lobanov-Rostovsky mentioned that suggestions were requested from the SOMB or their Stakeholders in regard to the latest revisions related to polygraphs and Fifth Amendment privilege. Michelle Geng and Raechel Alderete noted that no feedback was received for either the Adult or Juvenile Standards revisions.

Chris Lobanov-Rostovsky indicated that discussion points were requested and that Allison Boyd drafted language for review at this meeting. Allison also indicated that she has information submitted by various prosecutors and will be happy to share this with anyone at a later date.

Carl Blake suggested striking the third sentence in the third paragraph and to strike the entire last paragraph. He also suggested adding language that clarifies the treatment providers' right to terminate treatment but that it would not be an unsuccessful termination.

Kim English stated the need to keep the last sentence in the final paragraph.

Jeff Jenks agreed to strike the final paragraph but to keep the last sentence. He also agreed with Carl Blake to include the treatment providers' right to terminate treatment.

Laurie Kepros indicated the entire final paragraph be stricken including the last sentence as this determination is made by the courts.

Amy Fitch agreed to strike the third sentence in the third paragraph. She also feels that the last sentence in the final paragraph should include language that would clarify that non-incriminating questions need to be answered, and if the client refuses, then there is the ability to go back to the courts for direction.

Allison Boyd responded that wordsmithing of the last sentence is necessary. She also suggested to insert language that offenders should not invoke a "blanket" privilege and to incorporate the benefits of answering questions.

Jessica Meza questioned the validity of this entire discussion point language.

Carl Blake stated that this discussion point is helpful when there are difficult situations. He also clarified the term "legal privilege" as it is used in the therapeutic field and possibly using different wording that would be understood by all.

Chris Lobanov-Rostovsky responded to remove legal guidance from this discussion point and noted that the other points stated are helpful for treatment providers.

There was continued discussion between SOMB members regarding the different points of view as to whether this language is helpful.

Gary Reser stated that he was looking for guidance from the SOMB as to how to handle these Fifth Amendment cases. He mentioned that treatment providers are hiding the fact that the offender does not have to answer incriminating questions. Gary noted that there may be a day when the offenders realize the treatment providers have known that the client does not have to answer incriminating questions which will directly affect the client/treatment provider relationship and trust. Judge Kopcow reiterated the fact that the treatment providers do not have to notify the client of their Fifth Amendment rights.

Jeff Jenks stated that polygraph examiners have always known that offenders can invoke their Fifth Amendment right and subsequently they proceed to the next question. He also indicated that for the most part, the offenders know that they do not have to answer and know that the polygraph is used as a treatment tool and not a prosecution tool.

Judge Kopcow suggested bringing back any new language from stakeholders and explained that it will be a decision item at the next SOMB meeting.

**Adult Standards Section 2.000 (Decision Item) – Missy Gursky:** (Handout provided)

Missy Gursky mentioned this is a decision item and that this needs to be voted on. She also mentioned that there will be corrections to the typing errors in the handout.

Allison Boyd requested the removal of "if any" from the first sentence and her reason for this deletion.

There was further discussion regarding the use of "if any".

Merve Davies suggested to change "visual time" to "viewing time" instruments on page 9 and where needed. Missy Gursky indicated that those changes will be made.

Tom Leverage asked for clarification of the bullet points on page 5 (required and optional). Missy Gursky mentioned to send to the 2.000 Revisions Committee any evaluation tools that are not currently on the list.

Jessica Meza discussed the emails from Laurie Kepros regarding feedback of the instrument list.

Allison Boyd made a motion to approve striking "if any" and changing "visual time" to "viewing time" as stated.

There was continued discussion whether to strike or include "if any" in the language.

Judge Kopcow reiterated that the vote is to remove "if any" and amend to "viewing time" language.

**Motion to approve Adult Standards Section 2.000 as revised:** Allison Boyd; 2<sup>nd</sup> **(Question #4)**

**14 Approve**

**6 Oppose**

**0**

**Abstain**

**Motion Passes**

Judge Kopcow announced that this revision will now be open for public comment for 20 days.

Carl Blake mentioned a procedural question regarding the SVP instrument. He would like to send out information to the SOMB via email that is not meant for comment until the next board meeting.

Judge Kopcow noted that legal council could send out a reminder of the Sunshine laws regarding private/public conversations on email.

**Meeting Adjourned: 2:40 pm**

**Session Name**

New Session 9-16-2016 12-12 PM

**Date Created**

9/16/2016 8:40:22 AM

**Active Participants**

22

**Total Participants**

24

**Average Score**

0.00%

**Questions**

4

**Results by Question****1. Motion to Approve the August Minutes (Multiple Choice)**

	Responses	
	Percent	Count
Yes	95.24%	20
No	0.00%	0
Abstain	4.76%	1
<b>Totals</b>	<b>100%</b>	<b>21</b>

**2. Motion to Approve Adult Standards Section 1.000 (Multiple Choice)**

	Responses	
	Percent	Count
Yes	100.00%	21
No	0.00%	0
Abstain	0.00%	0
<b>Totals</b>	<b>100%</b>	<b>21</b>

**3. Motion to approve sex offender surcharge allocation (Multiple Choice)**

	Responses	
	Percent	Count
Yes	100.00%	22
No	0.00%	0
Abstain	0.00%	0
<b>Totals</b>	<b>100%</b>	<b>22</b>

**4. Motion to approve Adult Standards section 2.000 as modified (Multiple Choice)**

	Responses	
	Percent	Count
Yes	70.00%	14
No	30.00%	6
Abstain	0.00%	0
<b>Totals</b>	<b>100%</b>	<b>20</b>

**Session Name**

New Session 9-16-2016 12-12 PM

**Date Created**

9/16/2016 8:40:22 AM

**Active Participants**

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24

**Average Score**

0.00%

**Questions**

4

**Results Detail**

Last Name	First Name	Q1	Q2	Q3	Q4	Total Points
<b>Answer Key</b>		-	-	-	-	0.00
Aguilar-Dave	Norma	1	1	1	1	0.00
Akins	Brie	1	1	1	1	0.00
Baydarian	Mary	1	1	1	2	0.00
Blake	Carl	1	1	1	1	0.00
Boyd	Allison	1	1	1	1	0.00
Bricker	Pam	1	1	1	1	0.00
Curtis	Jessica	1	1	1	2	0.00
Davies	Merve	1	1	1	1	0.00
Elger	Korey	1	1	1	1	0.00
English	Kim	1	1	1	1	0.00
Fitch	Amy	1	1	1	1	0.00
Gursky	Missy	3	1	1	1	0.00
Jenks	Jeff	1	1	1	-	0.00
Leversee	Tom	1	-	1	2	0.00
May	Rick	1	1	1	2	0.00
Meza	Jessica	-	1	1	2	0.00
Moore	Kandy	1	1	1	1	0.00
Odenheimer	John	1	1	1	1	0.00
Shay	Jeff	1	1	1	2	0.00
Watt	Alli	1	1	1	-	0.00
Weant	Angel	1	1	1	1	0.00
Woodson III	Lenny	1	1	1	1	0.00
<b>Participant List Averages</b>		-	-	-	-	0.00