

**Idaho Criminal Justice Commission**  
**Sexual Offenses Subcommittee**  
November 16, 2020

**Location:** WebEx/Idaho Association of Counties 3100 S Vista Ave #200, Boise, ID

**Time:** 2:00 p.m.–3:30 p.m.

**Members Present:**

Ashley Dowell, Chair, Idaho Comm. Pardon/Parole  
Jared Larsen, Office of the Governor  
Nancy Volle, Sex Offender Management Board  
Erik Lehitnen, Deputy State Appellate Pub. Defender  
John Dinger, Deputy Ada County Prosecutor  
Louis Hougaard, Office of the Governor  
Colleen Zahn, Criminal Chief, Office of the Attorney General  
Paul Jagosh, Fraternal Order of Police

Carol Redding, Idaho State Police  
Heidi Johnson, Deputy Ada County Public Defender

**Members Not Present:**

Scott Grow, Idaho State Senator  
Greg Chaney, Idaho State Representative  
Melissa Wintrow, Idaho State Representative

**Guests:**

Patrick Denton, DAG, Idaho State Police  
Kelli D Brassfield, Idaho Association of Counties

<b>Agenda</b>		<b>Due Date</b>
2:00 pm	Call to Order	
	<ul style="list-style-type: none"> <li>• Welcome and Roll Call</li> </ul>	The meeting was called to order at 2:01 pm.
	<ul style="list-style-type: none"> <li>• Approve October minutes <ul style="list-style-type: none"> <li>○ ACTION ITEM</li> </ul> </li> </ul>	There was a motion to approve the minutes from the October 2020 meeting by John Dinger and seconded by Nancy Volle. Motion carried.

	<ul style="list-style-type: none"> <li>• Legal overview of statutes and requirements – <ul style="list-style-type: none"> <li>○ Patrick Denton, DAG, Idaho State Police</li> </ul> </li> </ul>	<p>Continued presentation from previous meeting (see minutes from October):</p> <p><u>Prohibitions for offenders:</u>  There is an outright prohibition for offenders to work in day care, group care, home day care while children present; however, offenders can file for judicial relief pursuant <a href="#">28-8328</a>, Idaho Code.</p> <p>Offenders are prohibited from being at a school when children are present but there is a 30 minutes rule. Offenders can't loiter within 500 feet of the school or daycare. They also cannot reside within 500 feet of the school or daycare but there is a grandfather clause. Case law summary: Lingnaw v. Lumpkin, what constitutes a school? <a href="#">No. 47098</a>, 2020 WL 5948945.</p> <p>The penalty for non-compliance is a misdemeanor.</p> <p>There are a few exceptions to these prohibitions: the offender can go to the school if they are a student, if they are voting (can't take away a person's right to vote), if they are receiving mail at a post office, or if they have written permission from the school district (i.e. drop off/pick up child), temporary deliveries). The school district can adopt more stringent requirements.</p> <p>The additional requirements are not listed with SOR. The local sheriff's office may have those.</p> <p>Offenders are not allowed to live with each other. This is a misdemeanor. There are a couple of exceptions being if a constitutional right is being deprived (the court has to see if that right outweighs the public protection interest) and city/counties can authorize a</p>
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		<p>house for multiple offenders to live together. These facilities and process has to go through a formal rule making process so there is proper public comment.</p> <p>If the offender is on probation and/or parole, they have to get approved from IDOC to live with other offenders.</p> <p><u>How long do they have to be registered?</u> The default is a lifetime registration (no tiers) for offender that live, work, or go to school in Idaho.</p> <p>An offender can be removed from the registry if death occurs or the case is overturned. Pardons can also relieve an offender from registration, pursuant <a href="#">18-8305(2)</a>, Idaho Code or IDAPA <a href="#">11.10.03.012.06.b</a></p> <p>There is case law currently being reviewed for setting precedent: State v. Winkler, <a href="#">No. 47102</a>, 2020 WL 5849375</p> <p>This case was about a pardon for a DUI counting towards the next offense which leads to precedent with sex offenses. Can the previous pardon for a crime count toward the next offense in enhancement?</p> <p><u>18-8310 Relief</u> Offenders can file for civil petition for relief. They can't file for relief if the offender is a recidivist or a convicted of an aggravated offense (<a href="#">18-8303(1)</a>), Idaho Code.</p> <p>Offenders have to have completed probation, parole, or supervised release w/ no revocations. They also can't have any pending charges or known investigations going on. Offenders have to complete a treatment program and can't have any felony convictions and no new sex offenses. The court must find it highly</p>
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		<p>other sections of law. The jurisdiction is at the county level and SOR doesn't get involved.</p> <p>How often does it happen that a juvenile is transferred to the adult registry? It is reserved for most severe cases and the offender ages out of IDJC and hasn't made improvements from their treatment. The present risk is reviewed.</p> <p>How often are petitions for registry removal happens and is granted? It is rare that SOR doesn't object in regards to the offender's risk.</p>
	<ul style="list-style-type: none"> <li>Identify Topics for November Meeting</li> </ul>	<ul style="list-style-type: none"> <li>- Ask sheriffs about school requirements.</li> <li>- Juliana Grant – DOJ, compliance</li> <li>- DFM, overview of burn/jag grants</li> </ul>
	Adjourn- Next Scheduled Meeting, December 14 <sup>th</sup> at 2pm	There was a motion to adjourn by Colleen Zahn and was seconded by Heidi Johnson. Motion carried.