

Idaho Criminal Justice Commission
Sexual Offenses Subcommittee
 July 26, 2021

Location: Idaho Assoc. of Counties, 3100 S. Vista Ave. Ste. 200, Boise, ID 83705

Time: 2:00 p.m.–3:30 p.m.

Members Present:

Ashley Dowell, Chair, Idaho Comm. Pardon/Parole
 Nancy Volle, Sex Offender Management Board
 Mark Kubinski, Criminal Chief, Office of the Attorney General
 Erik Lehitnen, Deputy State Appellate Pub. Defender
 Carol Redding, Idaho State Police
 Greg Chaney, Idaho State Representative

John Dinger, Deputy Ada County Prosecutor
 Melissa Wintrow, Idaho State Senator

Members Not Present:

Jared Larsen, Office of the Governor
 Scott Grow, Idaho State Senator
 Louis Hougaard, Office of the Governor
 Heidi Johnson, Deputy Ada County Public Defender
 Paul Jagosh, Fraternal Order of Police

Others Present:

Kelli D Brassfield, IAC

Agenda		Due Date
2:00 pm	Call to Order	
	<ul style="list-style-type: none"> • Welcome and Roll Call 	Meeting called to order at 2:06 pm.
	<ul style="list-style-type: none"> • Approve May 2021 minutes <ul style="list-style-type: none"> ○ ACTION ITEM 	There was a motion to approve the minutes from May 2021 by Nancy Volle and seconded by Carol Reading. Motion carried.

- Introduction of Mark Kubinski, new Chief of the Criminal Division
- Overview of Sex Offender Management Board (SOMB), Nancy Volle

Colleen Zahn is now with the Supreme Court and we welcome Mark Kubinski to fill her seat on this committee.

SOMB Functions and Roles:

The SOMB was formed in 2011 to development and oversee sexual offender management policies and procedures. It is an 11-member board. The public member seat is currently vacant.

Goals:

Certifying qualified community providers, develop a risk based tiered registry, pursue QA measures for providers.

Tiered registry:

The SOMB is anticipating that there will be 3 or 4 tiers. The assessments to be used will be:

Static 99R and stable 2007 for adult males, LSI-R for females, RM2000 for adult males (can be used for child porn cases) and JSOAP-II for juveniles.

California: SB 384

Went into effect in January 2021. California is closely aligned to what Idaho is considering. The SOMB will be following the progress in California. They are using the risk-based system. In July 2021 a number of sex offenders became eligible to petition to be removed from the CA registry.

CA DOJ has designated 3 tiers, they are moving from a lifetime registration system to a 3 tiers system with mandatory minimum registration periods that include: tier one to be 10 years, tier two to be 20 years, and tier three to be lifetime registration. The courts shall determine tier designation for individuals ordered to register.

Training:

The SOMB uses annual static/stable and acute training.

		<p>The SOMB is working to bring in IDOC to implement the master trainer to Idaho. Idaho only has one person that has this level of training.</p> <p>Are you close to having a bill? What is the status? It is still in early stages. The SOMB still trying to determine the number of tiers needed and is reviewing the types of risk-based assessments to use.</p> <p>How do you see that impacting the registry? Some areas of California have had some trouble implementing the new tiers. The SOMB will have to travel around the state to see how individuals will be impacted. CA is requiring the DOJ to gather information for all those that were registered whether they are active or not. Has the SOMB reviewed this? This will require those that didn't have to register before will now have too.</p> <p>How are the tiers determined? It is based off the data from the assessment tools. There are reasons behind the determined tier rates. They are based off the static and sable assessments.</p> <p>The committee is unsure how this would require those that aren't registered to registered. Is the SOMB looking at the crime committed as well as the risk-based assessment? Yes, the crime will be considered as well as the assessments. The five-year tiered proposal with the crimes became difficult to process and that is why it failed.</p> <p>In regards to the SORNAs tiers how will the risk-based system connect to what SORNA is requiring; the crime of conviction could be high but the risk assessment could be low? It will be mainly based on risk. The crime isn't always accurate for the individual. Idaho already isn't in compliance with SORNA and this seems to further keep Idaho from being compliant. How will we meet those requirements? ICJC was more interested in a risk-based system than a conviction-based system.</p>
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	<ul style="list-style-type: none"> • Spousal Rape Discussion, Senator Wintrow 	<p>Does CA use a violence component? Yes, they do. If CA is moving to a risk-based system, have they just have forgone the SORNA requirements? They have felt that it would cost more to implement the SORNA requirements and forgo the funding than implementing what they have done. Are other states doing this? Other states have tiered systems but CA has implemented a system that the SOMB is interested in.</p> <p>It is a risk-based assessment but do the court orders what tier an individual will go into? Yes, there will be recommendations from the assessment providers but the court will make the decision. Is that appealable? Can there be binding plea agreement? It could be appealed like any other order but doesn't mean that it can be overturned. Would it be the evaluation score alone or the opinion of the evaluator also? It would have to include the professional opinion.</p> <p>How do you handle offenders with out of state convictions? The SOMB has been discussing this and will possibly need a new assessment or use current documentation if they have it.</p> <p>In regards to the current people on the registry, how will they be delt with? Some are being assessed annually to determine what level they will need to be in. Those that aren't being supervised, there will need to be a process to follow these people to determine their tier.</p> <p>Will watch California and determine next steps this winter or next spring.</p> <p><u>Purpose and Intent:</u> To repeal code to allow exceptions for spousal rape. Idaho needs to coordinate this repeal with the laws about age and marriage. The Governor's office has some other ideas about spousal rape. They would like to see some clarification around what actually constitutes lawful marriages. The committee needs to review marriages that may include coercion, forced, etc. The constitution includes the full faith and credit for other state laws.</p>
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	<ul style="list-style-type: none"> • Identify Topics for August Meeting • Meet in person 	<p>RM2000 clarification Purpose of SOMB and connection to SORNA requirements</p> <p>Possible draft legislation to help spousal rape discussion.</p> <p>Outdated law language</p> <p>9th circuit litigation – overview of the case and then review issues.</p>
	<p>Adjourn- Next Scheduled Meeting, August 23, 2021 at 2pm</p>	<p>There was a motion to adjourn by Senator Wintrow, Nancy Volle seconded. Motion carried.</p>

