

10/09/03

COMMISSION TO IMPROVE COMMUNITY SAFETY & SEX OFFENDER ACCOUNTABILITY

SUMMARY OF MEETING #1 MONDAY, SEPTEMBER 22, 2003

Members present: Sen. Pam Hatch (co-chair), Rep. Sean Faircloth (co-chair), Rep. Chris Greeley, Brian Rines, Elizabeth Ward Saxl, Charlie Leadbetter, Joe Fitzpatrick, Evert Fowle (for Alan Kelley), Kay Landry, Donna Strickler, Jennifer Parsons, Joan Sturmthal, John Paul DeGrinney, Jackie Theriault, Butch Asselin, Mark Dion

SUMMARY OF PRESENTATIONS AND DISCUSSION

Sen. Hatch opened the first meeting of the Commission to Improve Community Safety and Sex offender Accountability and asked each member to introduce herself or himself. Following introductions, the commission moved directly into presentations.

Dr. Sue Righthand: "People Who Commit Sex Offenses"

Dr. Righthand's presentation included summaries and data regarding how to define different types of sexual abuse, who offends, how we classify or type offenders, what factors contribute to sexual offending, what factors contribute to recidivism, risk assessment tools and treatment modalities. (See hard copy of presentation handout in commission binder.)

Questions asked by commission members included the following

- What are the costs of sex offender treatment and who pays?

Commission member Kay Landry shared her professional observations and estimated that the cost of one year of treatment is about \$2,500 and is usually paid by the offender seeking the treatment.

- Is there a behavior matrix or similar tool with which one can assess or determine risk? (distinguishing between varied types of sex offenders and sex offenses)

Dr. Righthand indicated that the most important piece of any case is a having a good evaluation up front. The evaluation should include a review of the specific factors for each individual. Actuarial and assessment tools must be used, but practitioners must recognize the weaknesses of these tools. There must be a comprehensive and

collaborative approach between those who identify persons who are high risk and those who are treatment providers and contacts/supports for offenders in the community.

- Should those providers who work in the forensic arena have a standardized questionnaire or method that can be used and referred back to throughout the process?

Dr. Righthand noted that an assessment protocol was developed for the Forensic Service in 1990, but she did not know if the protocol was used now. She suggested that Dr. LeBlanc, Director of the State Forensic Service, may be able to provide information to the commission about the agency's assessment practice.

- Because 70-75% of Maine's sex offender population is classified as low-low/moderate risk, what can we expect from treatment (since studies have shown that high risk sex offenders are more successful with treatment)?

This is one question that will have to be answered over time.

- Is committing sex offenses early in life as a juvenile a factor in recidivism?

Dr. Righthand noted that there are people who start offending as juveniles, but most of them do not then offend as adults.

Dr. Joe Fitzpatrick: Department of Corrections' Initiatives and Challenges

Following Dr. Righthand, Dr. Fitzpatrick addressed the commission. Dr. Fitzpatrick explained that DOC is working on its treatment program for its incarcerated population. However, Dr. Fitzpatrick noted that treating offenders from 1-3 years inside prison is not going to be very effective, if once released, offenders have no treatment and support transitioning back into the community. The department continues to deal with the challenges of community notification and education but is hoping that its new protocol, "Community Notification of Sex Offenders Protocol for Town Meetings," which was drafted by the Commission on Domestic and Sexual Abuse, will provide a more proactive approach for transitioning offenders.

In addition to the community notification and education piece, Dr. Fitzpatrick emphasized that there needs to be a network of community providers who are willing to provide services and who are willing to work collaboratively, using up-to-date treatment methods and best practices. When transitioning offenders, it is important to ensure that they are getting what they need. Not only is the treatment component crucial, but also is housing. Currently, the DOC initiative that is in place is not complete – it does not include resources for housing and treatment as part of transitioning. Dr. Fitzpatrick stressed the importance of putting resources into transitioning; if transition services are not in place, it will make little difference what treatment is provided in prison.

Commission member Donna Strickler reminded other members of the current system of sexual assault response teams throughout the State. These teams include law enforcement officers, who could take part in the proactive community notification/education approach that the "Community Notification of Sex Offenders

Protocol for Town Meetings” is putting forward. She noted that not all communities successfully use their teams the same way. A certain “buy-in” is required, but the mechanism is in place for communities to use.

Dr. Rines mentioned an article he reviewed regarding a home for released offenders in Washington. It appears that living together in a close community that supports them, in addition to having outside treatment, is working for released offenders there. He will let members know how to access the article.

Marion Hylan Barr: Current Law, Recently Proposed Legislation and, Background Materials

Staff then briefly summarized a number of materials provided to commission members for purposes of providing background and context for their discussions and deliberations. Materials included: a list of priorities identified by a number of commission members; “Survey of Convicted Sex Offenders in Maine” (a project completed in April 2003 by the Research Department of the Justice Resource Institute in Boston); the Sex Offender Registration and Notification Act of 1999 (Title 34-A MRSA, chapter 15); excerpts from 17 and 17-A MRSA regarding sexual assaults and sentencing; related legislation proposed during the 1st Regular Session of the 121st Legislature; an excerpt from NCSL Legislative Report: State Crime Legislation in 2002; Current Prisoners, Offenses, and Sentences as of 2001-09-21 (ME Department of Corrections); Sentencing Statistics for all Crimes Charged in Fiscal Year 1997 in all Superior Courts in the State of Maine (produced by Bureau of Justice Assistance, Maine Association of Criminal Defense Lawyers, Maine District Attorneys Offices, Professor Donald Anspach, Andrew Ferguson and the Muskie Institute); the final report of the Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators (October 15, 1998); and several articles from the Center for Sex Offender Management (CSOM).

The commission discussion then turned to the current categorization of “sex offenders” and “sexually violent predators” under the Sex Offender Registration and Notification Act of 1999. Many members expressed concerns that the current system of registration warrants a second look, especially in terms of how we identify the most serious offenders in comparison to those who are determined to be a lower risk. Commission member Jennifer Parsons agreed that the commission needed to review the procedures in the registration and notification statutes but reminded everyone that identifying ways to prevent sexual assaults – to be proactive instead of reactive – is also an important task of the commission.

Rep. Faircloth stated that community safety is the major issue on which to focus. Agreeing with Dr. Righthand’s statement that registration probably will not keep communities safer, Rep. Faircloth reiterated his belief that reviewing and considering changes to sentencing is the most important piece to ensure public safety.

The commission discussion then returned to notification. Chief Asselin asked whether law enforcement has authority to notify members of the public regarding an offender who was charged with a sex offense but was convicted of another crime for which the offender would not have to register. Assistant Attorney General Charlie Leadbetter noted

that such notification was probably constitutional, as it was not intended as punishment per se but as public notification for community safety. That notion would be further supported if the court found the conduct as a factor in sentencing. Joan Sturmthal, John Paul DeGrinney and other commission members expressed concern about law enforcement giving notice for offenses charged but for which the person was not convicted. The commission agreed that further discussion of notification practices should be scheduled.

Summary of Issues to be Discussed at Next Meeting

The next meeting will begin with a public hearing. Two hours will be allotted to this purpose. Following the public hearing there will be three 15-30 minute presentations on the following topics.

- Post-conviction sex offender polygraphs (polygraph examiner)
- Management of sex offenders (Department of Corrections Probation Officer who is “sex offender specialist”)
- Maintenance of Sex Offender Registry by State Bureau of Identification (Lt. Jackie Theriault regarding how the registry works and what the soon-to-be on-line system will provide for public access to information)

Other anticipated topics of discussion include a review of pre-sentencing risk assessment protocols or practices by the State Forensic Service (written statement from Dr. Ann Leblanc, Director, State Forensic Service) and a brief overview of legislation regarding registration and notification issues and sentencing proposals for sex offenses that were introduced during the 1st Regular Session of the 121st Legislature (staff). Staff will also provide some comparisons of other states’ procedures for public notification of the release of sex offenders and give an update on the status of sentencing data being collected by the courts.

The commission will continue to discuss and define its duties and identify what additional information members need to do complete their duties.

Next meeting: Monday, October 27, 2003

3rd meeting: Monday, November 10, 2003

4th meeting: Monday, December 1, 2003

All meetings begin at 9:30 a.m. and will be held in room 126 of the State House.