



WISCONSIN LEGISLATIVE COUNCIL

PLACEMENT OF SEX OFFENDERS

Room 225 Northwest
Madison, Wisconsin

January 4, 2007
10:00 a.m. – 3:45 p.m.

[The following is a summary of the January 4, 2007 meeting of the Special Committee on Placement of Sex Offenders. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Co-Chair Bies called the meeting to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Garey Bies, Co-Chair; Rep. Scott Suder, Co-Chair; Sen. Lena Taylor; and Public Members Mel Flanagan, Sandy Maher-Johnson, Terry Marshall, and Marla Stephens.

COMMITTEE MEMBERS EXCUSED: Public Members Susan Eberhard, Kerry Kirn, Larry Rickard, and Audrey Skwierawski.

COUNCIL STAFF PRESENT: Anne Sappenfield and Don Salm, Senior Staff Attorneys.

APPEARANCES: Steve Watters, Director, and Deb McCulloch, Community Services Director, Sand Ridge Secure Treatment Center, Department of Health and Family Services (DHFS); Melissa Roberts, Director of Sex Offender Programs, Department of Corrections (DOC), and Tom Snyder, Captain of Investigative Services, Madison Police Department; Brian Bridges, Captain of Field Services, University of Wisconsin (UW) Police Department, UW-Madison; and Mary Anne Snyder, Executive Director, and Norma Sampson, Communications Director, Children's Trust Fund.

Approval of the Special Committee's November 30, 2006 Meeting Minutes

Co-Chair Suder moved, seconded by Ms. Stephens, that the minutes of the November 30, 2006 meeting be approved. The motion passed by unanimous consent.

Presentations by Invited Speakers

[Note: PowerPoint presentations and other documents referred to by the speakers are posted on the committee's Internet site.]

Steve Watters, Director, and Deb McCulloch, Community Services Director, Sand Ridge Secure Treatment Center, DHFS

Mr. Watters responded to the following issues raised by Special Committee members at its November 30, 2006 meeting:

1. What is DHFS' reaction to the possibility of requiring individuals committed as sexually violent persons (SVPs) under ch. 980 who have been granted supervised release (SR) to locate their own residence? Mr. Watters commented on the new law, 2005 Act 434 (effective August 1, 2006), that made substantial changes in the residence search and approval process, including more local input into the residence selection. He noted that this new law has not been used in any case to date and that DHFS considers it premature to initiate further changes in that process. He added that SVPs, as a general rule, have been isolated away from their home counties for a substantial period of time and have minimal contacts in their home communities, making it unlikely that the SVPs on SR would have any reasonable residential options available to them.
2. Are there any changes that could be made to the community supervision of SVPs on SR that could make the system more efficient or effective? Mr. Watters responded that because of the many changes in the ch. 980 program during the last legislative session, it is difficult for DHFS to assess what, if any, changes, would, at this time, make the system more efficient or effective. He indicated that DHFS would like the Special Committee to clarify DHFS authority to disclose information to law enforcement agencies on the whereabouts of persons committed under ch. 980. He noted that there is a provision in ch. 51 of the statutes (the Mental Health Act) that treats the disclosure of information related to ch. 980 patients differently than other high-risk mental health patients (i.e., those committed in part because of their commission of a crime). DHFS requests that this provision, s. 51.30 (4) (b) 16., Stats., be amended to include a reference to ch. 980, thus enabling DHFS to disclose to law enforcement, upon request, the location of SVPs on SR beyond the three circumstances currently set forth in the statutes (residence, employment and school).

With reference to the change requested in item 2, above, Co-Chair Suder indicated that this disclosure to law enforcement should be mandatory and not optional. Mr. Watters responded that SVPs may pass through many communities on the way to get to their location (e.g., from the Sand Ridge

Secure Treatment Center (SRCTC) to Mendota Mental Health Institute in Madison) and that each of these “pass-through” communities would not need to get notice. Co-Chair Suder responded that each of these communities has the right to know and that the balance should be in favor of safety of the communities. Based on a suggestion by Co-Chair Bies, Mr. Watters noted that DHFS could provide notice to all communities in a case in which an SVP is traveling on his or her own. Senator Taylor commented that providing this information on request is appropriate so that the communities do not get overwhelmed with too much information, too much clutter, so that they ignore truly significant information because it gets lost in the clutter. Sandy Maher-Johnson noted that since there are so few SVPs on SR, this type of notice could be done easily for situations where an SVP goes somewhere on a regular basis, for example, treatment visits every Tuesday, and should not include just movement on a highway that goes through a community on the way to a destination. Mr. Marshall noted that the state has to make sure it does not attach too many “non-ch. 51 type” requirements to SVPs because of the risk of having ch. 980 found to be unconstitutional for not being a true civil commitment process. Mr. Watters noted that, as to Co-Chair Suder’s concern, DHFS could, in every case, notify the “end place” (the point of destination) for the SVP’s trip.

The Special Committee directed staff to prepare a draft making the change requested in item 2, above.

Ms. McCulloch provided an overview of the SR program for SVPs under ch. 980, including a discussion of:

- The bifurcated review process for SR, the five criteria for SR the court must apply in making its decision on release, and the SR plan.
- The structure of the SR program, based on a containment model, but involving containment with continued treatment progress, and, if appropriate, preparation for discharge.
- The comprehensive services for SVP’s, including supervision, case management, residential placement, monitoring, transportation, and sex offender treatment.

Ms. McCulloch also described the sex offender registration and community notification laws applicable to SVPs; the data on SVPs released under the SR program since the inception of ch. 980 (1995), including SR placements, revocations, and discharges; and the use of alternatives to revocation and supervised release stipulations.

Responding to a question from Co-Chair Bies on what other states with SVP laws do differently, Mr. Watters noted that some states have transitional facilities outside of their main treatment facility (i.e., their counterpart to SRSTC) for SVPs on SR. He explained that programmatically such a facility would be helpful, but that DHFS would not be able to find a community in the state that will take such a facility. Instead of a transitional facility, DHFS offers SVPs at SRSTC some independent living skills that they can use when released into the community.

Responding to a question from Senator Taylor on placing SVPs on SR in close proximity to other offenders, such as in a Huber facility, Mr. Watters noted that research has indicated some positives (e.g., the persons monitor each other’s behavior and report on each other if there are violations) to aggregating two or three persons. He added, however, that consorting with criminal peers is, according

to studies, one of the greatest risks for furthering deviant behavior, thus smaller numbers together may be advantageous, but grouping with other criminals, even if they are not sex offenders, is a big risk.

Responding to a question from Co-Chair Suder as to whether active global positioning system (GPS) monitoring is helpful with SVPs on SR, Mr. Watters commented that it is a good tool. He explained that the most common problem with the use of GPS is the false report of an SR violation due to technical problems in the system and the question of how many times a law enforcement agency will respond to a GPS warning in light of many false positives. Ms. McCulloch noted that, because of the expense, there should be a cost-benefit analysis with the use of GPS because there are situations where SVPs on SR are personally supervised for months or even a year or more and GPS may not be that valuable a tool in those situations. Mr. Watters explained that those involved with SVPs consider the polygraph to be the best tool, even better than GPS.

Melissa Roberts, Director of Sex Offender Programs, DOC, and Tom Snyder, Captain of Investigative Services, Madison Police Department

Ms. Roberts and Captain Snyder provided an overview of the community notification process, including the community notification level determination (three levels of notification--police notification only, target notification, and community notification), the format of a community notification meeting, and survey results relating to public perception of and reaction to community notification meetings and sex offenders' perceptions of the effect of such meetings on them in the community.

Co-Chair Suder commented that there is a need for greater community notification for those sex offenders more likely to re-offend, noting that there is currently a gap involving communities that are not being notified until after the fact about sex offenders entering their communities.

Terry Marshall noted that one issue the Legislature could address is that not every county across the state has a core team. He said there should be an effort to encourage more counties to use Core Teams or to have multi-county joint core teams.

Brian Bridges, Captain of Field Services, UW Police Department, UW-Madison

Captain Bridges noted that college campuses and campus police have unique challenges because of federal laws requiring the campuses to keep track of crimes and crime rates on campus and make various comparisons with that data. He noted, for example, the federal Campus Sex Crimes Prevention Act, requiring a campus to get information on sex offenders and sex crimes from the state and provide that information to students. He said that UW-Madison places that information on the campus website and directs persons using the website to the DOC Sex Offender Registry website for additional information.

Based on Captain Bridges' explanation of how a student or employee on a campus (public institution) finds out information about sex offenders on campus (whether student, faculty, or employee of the campus), Co-Chair Suder noted that the person will not find out where the sex offender works, but only where the sex offender lives. He indicated that a student or campus employee has the right to know if a serious sex offender is attending or working at the campus, noting that these are, after all, public institutions.

**Mary Anne Snyder, Executive Director, and Norma Sampson, Communications Director,
Children's Trust Fund**

Ms. Snyder and Ms. Sampson described the structure, current functions and future plans and initiatives of the Wisconsin Child Abuse and Neglect Prevention Board, better known as "The Children's Trust Fund." Included in the plans are two child sex abuse pilot projects (in Milwaukee and Wausau) in cooperation with the National Stop It Now! organization, working with schools to develop a sex abuse prevention program that goes beyond the "stranger danger" focus of the past, the promotion of Family Resource Centers across the state to work with families on "healthy sexuality education" of their children, and a large educational website on child sexual abuse for parents and treatment providers.

Description of Materials Distributed

Staff described the materials distributed to the Special Committee.

Discussion of Committee Assignment

The Special Committee reviewed Memo No. 4 to the Special Committee, *Options for Legislation*, dated December 20, 2006 (revised December 26, 2006).

Create a Definition of "High-Risk Sex Offender" for Purposes Such as Placement and Supervision

Anne Sappenfield described a definition of "high-risk sex offender" the Special Committee may wish to consider from the report of the California High Risk Sex Offender Task Force, dated August 15, 2006. She indicated that the issues for the committee are whether this definition is useful, contains the appropriate language or needs modifications, and what this definition would be used for.

Based on a suggestion by Senator Taylor, Ms. Sappenfield indicated that the Staff will get comments from Dr. Anna Salter, DOC, on this proposed definition and what this definition might be used for in Wisconsin laws relating to sex offenders.

Co-Chair Suder indicated that he liked this California definition except that the provisions setting forth an age of 14 years should be changed to 12 years (i.e., change to "with a child less than 12 years" and "of a victim 12 years of age or older").

Ms. Roberts noted that this definition mirrors what is already in s. 301.46, Stats., and may be unnecessary. Staff was directed to research this issue.

Allow Placement of ch. 980 SVPs on Supervised Release in Huber Facilities; Allow the Use of Shared Living Arrangements for These SVPs and for Sex Offenders Released to Probation, Parole, or Supervision

After describing the current Huber Law, Don Salm noted that the Memo sets forth a number of legal and practical concerns that may arise if Huber facilities are used to house ch. 980 SVPs who have been released on SR, including: (a) s. 980.09 (6m), Stats., which requires DHFS to arrange for control, care, and treatment of the person "in the least restrictive manner consistent with the requirements of the person and in accordance with the plan for supervised release approved by the court"; (b) the need for

the SVP to have access to necessary treatment and services, and the need for DHFS and DOC to accomplish the necessary high degree of monitoring and supervision; and (c) concerns about density of, and proximity of, SVPs in a single area.

Co-Chair Suder requested that staff contact the Wisconsin Counties Association about the use of Huber facilities for this purpose. He also expressed concern that he did not want DHFS/DOC to use this alternative to pass an SVP through his or her county of residence into a county that has available Huber facility space.

Ms. Maher-Johnson said that the committee should keep in mind that in rural areas Huber facilities are the county jails so problems could arise if this concept were required statewide. Judge Flanagan noted that the idea is to give counties the option to use Huber facilities and not to require it.

Mr. Marshall pointed out that there are upsides and downsides to shared living arrangements, referring, in part, to Mr. Watters' testimony on studies indicating that two or three offenders living in a single residence can have positive effects, but that living with one's criminal peers, whether sex offenders or not, has its risks. He explained that the significant supervision of these offenders helps to protect against the downsides of shared living arrangements.

The Special Committee directed the staff to draft both the Huber facility option and the shared living arrangements option for the next meeting.

Placement of Certain SVPs Released to SR in SVP's City, Village, or Town of Residence

After reviewing the current law, Mr. Salm noted that this option relates to the inadvertent repeal of language in 2005 Wisconsin Act 431 by 2005 Wisconsin Act 434, explaining that Act 431 would have required DHFS to make its best effort to arrange for placement in a residential facility or dwelling that is in the person's city, village, or town of residence if the person's county of residence contained a first class city (currently, only Milwaukee County). A person could have been placed in another city, village, or town if DHFS approved placement of the person with the person's spouse, parent, or adult sibling. He noted that this option would recreate that repealed language in Act 431.

Co-Chair Suder noted that the repealed provision was directed at not making rural counties the "dumping ground" for SVPs. Senator Taylor responded that she was concerned about the possible negative effects on the City of Milwaukee with no comparable sacrifice in the rest of the state. Judge Flanagan stated that perhaps it should be statewide, but with a "good cause" exception that would not require a city, village, or town of residence to be the placement for the SVP if the placement would be detrimental to the victim. Mr. Watters noted that if this is done statewide, there will be no one in these small communities who will rent to DHFS to house the SVPs and that this would be a problem no matter what the good cause exceptions would be.

Co-Chair Bies requested staff to draft the "statewide" version of this option, adding an exception indicating that the SVP could not be placed too near the victim.

Require Exclusion or Child Safety Zones for Sex Offenders

After describing the current law, effective July 1, 2007, relating to GPS tracking of certain child sex offenders and the requirement that DOC create individualized exclusion and inclusion zones for these offenders if necessary to protect public safety, Ms. Sappenfield noted that under this option, legislation could be drafted to require either the sentencing court or DOC to establish exclusion zones or child safety zones for specified sex offenders, whether they are subject to GPS tracking or not, while they are under the supervision of DOC.

The Special Committee directed staff to draft this option for the next meeting and to allow both the court and DOC to establish exclusion or child safety zones.

Expand the Information Available on DOC Website Relating to Registered Sex Offenders

Mr. Salm noted that DOC is required to provide access to information concerning registered sex offenders through a DOC Internet site and that the site must contain certain statutorily specified information. After discussion, the Special Committee decided that staff should prepare a draft requiring the following additional information on that website:

1. Specific information relating to the registered sex offender's risk assessment status, displayed in a manner that is understandable to the average user, if a risk assessment is applicable and available, Ms. Roberts explained that some offenders will not have a risk assessment so that this will not be an item that will be posted for every offender.
2. If the person is an SVP or other serious sex offender specific information relating to the registered sex offender's current employment and schooling and, with reference to such an offender who is currently under DOC or DHFS control, his or her complete employment and school history since being released to probation, parole, or extended supervision, or being released under SR under ch. 980.
3. Full body photo of the sex offender or SVP on SR.
4. **Multiple** current color photographs of the registered sex offender, updated at least annually.
5. A specific description of any distinguishing marks on the body of the offender.

Senator Taylor asked about requiring a registered sex offender to provide the e-mail address or addresses he or she is currently using and any Internet site he or she currently has, whether he or she owns the site or is using the site as his or her own under an agreement with the owner. She said that she will provide staff with a bill draft that accomplishes this.

Provide the Public With Educational Materials Relating to Sex Offenders and Prevention of Sexual Assault

Co-Chair Suder directed staff to put the available information relating to these topics in a list that can be distributed to fellow legislators.

With reference to this option, the Special Committee requested the following:

1. A draft: (a) requiring a single site that, to the extent possible, catalogs all of the significant available information relating to sex offenders and prevention of sexual assault; and (b) requiring DOC, DOJ, and DHFS to link to that site on any appropriate site that they maintain relating to these topics.
2. A draft letter to the Children's Trust Fund directing the Fund to list all of the links referred to in item a., including links to DOC, DOJ, and DHFS sites.

Require In-Person Registration of Sex Offender Every Six Months and Require Photography at That Time

After describing current law, Ms. Sappenfield noted that this option would require: (a) in-person registration every six months; and (b) that the person's photograph be taken at the time of the in-person registration. The committee directed staff to draft this option for the next meeting. Ms. Stephens noted that once current federal law is fully implemented, the time periods for photographs will be three, six, and nine months, but that it is not clear when that law will be implemented.

Ms. Sappenfield noted that Public Member Larry Rickard has suggested that campus police be given (1) access to sex offender registry information that is currently available only to sworn police officers; and (2) GPS monitoring access. Senator Taylor said that because these campus officers are not sworn officers, they should not have access to GPS monitoring of sex offenders. Ms. Roberts said she was unsure as to whether DOC could provide non-sworn officers with information on juvenile offenders. Judge Flanagan questioned whether there are students who work at the campus police offices or with the campus police in some capacity who would have access to the information Mr. Rickard requests. Senator Taylor said that the information should be provided only to the lead supervisor in such a circumstance. Co-chair Suder directed staff to get more information from Mr. Rickard on this and develop a draft for the next meeting.

Other Business

There was no other business brought before the committee.

Plans for Future Meetings

The next meeting of the Special Committee will be *Thursday, February 15, 2007, at 10:00 a.m., in the Legislative Council Conference Room, One East Main Street, Suite 401, Madison, WI.*

Adjournment

The meeting was adjourned at 3:45 p.m.