

MEETING MINUTES

Organization: Advisory Committee to Study Laws Concerning
Sex Offender Registration

Date: December 13, 2013

Meeting Location: Legislative Counsel Bureau
401 S. Carson Street
Carson City, Nevada 89701
Conference Room # 3137

Video Teleconferenced: Legislative Counsel Bureau
555 E. Washington Avenue
Las Vegas, Nevada 89101
Conference Room # 4401

Committee Attendees:

Keith Munro, Senator Tick Segerblom, Susan Roske, Donna Coleman, Curtiss Kull, Scott Shick, Elizabeth Neighbors, Tod Story, Committee Legal Counsel Lori Story, and Secretary Janice Riherd.

Members of the Public Who Signed In As Present:

Regan Comis and Maggie McLetchie.

Agenda Item #1:

Call to Order and Roll Call:

The meeting was called to order by Keith Munro, Assistant Attorney General and Committee Chair at 10:03 am. Mr. Munro asked for roll call, the above members of the committee were present.

Agenda Item #2:

Public Comment:

Mr. Munro called for public comment. The following members of the public came forward and spoke:

Public Comment in Carson City: None

Public Comment in Las Vegas: None

Agenda Item #3:

Approve October 18, 2013 Meeting Minutes:

The minutes of the November 14, 2012 meeting were reviewed; Tod Story stated he was in attendance at the last meeting, but was having trouble with his microphone and asked that he be added to the attendance listing. Donna Coleman made a motion to approve the minutes with the change, Scott Shick seconded the motion. Keith Munro called for any additional suggested additions or corrections, none were voiced. All committee members present were in favor

of the motion. The motion was carried and the minutes of the December 13, 2013 meeting were approved.

Agenda Item #4

Recommendations to the Advisory Committee to Amend Statute in Respect to Juvenile Sex Offender Notification and Registration Requirements –

Scott Shick Presenter:

Mr. Shick stated that since 2007 work has been done and compliance has been achieved to SORNA with respect to the Adam Walsh Act. The Supreme Court litigation regarding AB 579 has been resolved and the State is now subject to the full implications of AB579. In representing the Juvenile Justice Administrators, Mr. Shick requested some simple amendments to AB579 that would make the regulations better suited to juveniles. These recommendations have been vetted with all jurisdictions and individuals involved with the Sex Offender Task Force. Mr. Shick presented the recommendations in written form to the committee and also read the recommendation listing to the committee. (See Attachment One (1) for Change Recommendations.)

Mr. Shick clarified the concept of “notification” as not being open to the public. Schools would be notified, victims at schools would be notified, and this information would stay within the framework of the school, the probation department, and the law enforcement agencies assigned to monitoring juveniles convicted of sex offenses in their particular jurisdictions.

Mr. Shick, along with the Juvenile Justice Administrators, trusts the Judges to make the appropriate decisions regarding each individual juvenile sex offender and their necessity to register publicly. As previously stated before this committee juvenile sex offenders respond well to treatment, and recommends to continue the three year treatment guideline for juveniles which has been used for years which is successful .

Mr. Shick suggested committee review of other State’s registration requirements for juveniles. For example, Maryland has a concept where they are registering juveniles on the open public federal website for five years at a time, with consideration for continuance after the expiration of the five year time period. Mr. Schick stated that SORNA is in support of particular modifications with respect to juveniles.

In the 2011 legislative session AB326 was presented, and in 2013 AB197 was presented. Mr. Shick felt that these two bills did not gain much ground because of the ongoing litigation regarding AB579 at that time. Now that litigation has concluded, he would like to come up with a bill that would take these Bill recommendations into consideration.

Mr. Shick reiterated that we trust our Judges, work with the District Attorneys, and trust the Probation Departments to implement the requirements. If the juveniles violate the requirements, then they are brought back into the Courtroom for further review and requirements. Blanketing all juveniles with an offense based registration requirements does not make sense.

Question by Keith Munro:

Mr. Munro asked that Mr. Shick state for the record his background in dealing with juveniles.

Response by Mr. Shick:

Mr. Shick has a BA and Master's degree in Education and Psychology. Mr. Shick became a Chief Juvenile Probation Officer in Douglas County in 2002. He has been involved in juvenile justice for twenty-nine years. He has worked with at risk juveniles, worked with Head Start, and has always had a passion for working with juveniles. He has a strong physical education background which involved coaching and working with juveniles. He helped start the Right of Passage Program and worked on that program for many years. Mr. Shick has received training and worked with the Judges Association out of the University of Nevada. Mr. Shick has periodically been President of the Juvenile Justice Administrators over the last ten years. He has served on the Governor's Juvenile Justice Commission, and has served on the Supreme Court Commission on Juvenile Justice Reform. He has also been a liaison for many committees and commissions involving making decisions regarding juveniles.

Question by Keith Munro:

Mr. Munro asked that Mr. Shick to clarify and confirm that the proposed recommendations and changes in the community notification would better serve juveniles and the public as a whole.

Response by Mr. Shick:

Mr. Shick stated that AB579 calls for offenders of particular sex offenses to be on the public website. Many aspects of life are impacted by public notification. Some offenders need to be on the public website, however with juveniles, community notification surround many offenses that occurred in the home, and it is not necessary for the public to be made aware of the offences, of adjudication, or of treatment. Community Notification labels juveniles and impacts them in the future. Both law enforcement and schools track where the juvenile is living and can investigate further occurrences, if any, and deal with that particular individual, including Public Website Notification if necessary. This method preserves the concept of juvenile justice that has worked for years.

Question by Keith Munro:

Mr. Munro stated that Mr. Shick used the term judicial discretion several times. In layman's terms his interpretation of judicial discretion is giving Judges more tools in dealing with juvenile offenders to better serve both the community and

the juvenile offender. Mr. Munro asked for example of what tools the Judges would be given in dealing with juvenile offenders besides community notification.

Response by Mr. Shick:

Juvenile sex offenders would be required to receive a full State approved sex offender evaluation, including ongoing contact with the Court by the treatment specialist to report on the juvenile's progress. Juvenile offenders would be monitored on a risk level by the probation department as determined in the Court sentencing and adjudication portion of the juvenile's case. The Court would determine the type of monitoring including for example, an ankle monitor, house arrest, or placement in facility for juvenile treatment of sex offenders. These are the tools currently being used by the Judges enabling them to issue an Order protecting the community, and benefits the juvenile based on the nature of the offense.

Question by Mr. Munro:

Mr. Munro inquired as to some of the other types of notification that could be beneficial other than Community Website Notification.

Response by Mr. Shick:

The juvenile's school would be notified, local and state law enforcement would be notified, and any persons with a need to know.

Question by Mr. Munro:

Mr. Munro asked for confirmation regarding the adjudication process; in that Judges, Public Defenders and District Attorneys can try and make a determination for the juvenile based on the State approved sex offender evaluation.

Response by Mr. Shick:

Mr. Shick confirmed Mr. Munro's statement and also stated the inclusion the concerns of the victim in the matter may be taken into consideration.

Question by Mr. Munro:

As President of the Juvenile Justice Administrators, had Mr. Shick ever surveyed the approximate fifteen to twenty members of that group regarding the efficacy of these recommendations.

Response by Mr. Shick:

Mr. Shick reported that the Juvenile Justice Administrators have been approached with these recommendations and stand in support of these recommendations. If necessary, he could submit documentation to the committee for the record.

Statement by Mr. Munro:

Mr. Munro stated that this is an advisory committee which provides a report to the Legislature. It is this committee's obligation to gather as much information as possible, and by statute have legislative policy makers on this study committee. Therefore, in support of Mr. Shick's recommendation it would be beneficial to procure a formal or anonymous survey or some type of empirical data which would support notification for juvenile offenders to their school officials, local and state law enforcement, and any persons with a need to know. Also, those who would be in the scope of making a determination of persons who need to know. Additionally, what would be a good parameter to guide judicial discretion.

Response by Mr. Shick:

Mr. Shick informed the committee there was a meeting of the Juvenile Justice Administrators in approximately one month and he would request that this recommendation survey be placed on the agenda, and present the findings to this committee.

Question by Mr. Munro:

As to the "nuts and bolts" of juvenile community notification, Mr. Munro asked what would be the default standard for a Judge. Would it be a clean slate, would it be website notification, and where would the Judge start his consideration of the appropriate level of community notification.

Response by Mr. Shick:

Based on the charges, the nature of the offense, the hearing, the juvenile's background, the sex offender evaluation, and the specialist's report in the Courtroom, the Probation Department would come back with a recommendation regarding the risk factors of the juvenile before the Court.

Question by Mr. Munro:

Mr. Munro asked Mr. Shick if he was recommending a Pre-Adjudication Assessment and Report would be presented to the Court for the Judge to consider what the appropriate level of community notification should be on juveniles.

Response by Mr. Shick:

Mr. Shick confirmed that would be the recommendation.

Question by Mr. Munro:

Mr. Munro asked if Mr. Shick thought these recommendations would be an additional financial burden to the Juvenile Services on the local level and if this would require some type of fiscal note included in the legislative process.

Response by Mr. Shick:

Mr. Shick stated that the Sex Offender Task Force has a block of funds available for juvenile sex offender evaluations. Recommendations could be made by the legislature to increase that block of funds.

Question by Mr. Munro:

Mr. Munro questioned how many juvenile sex offenders on a state-wide basis would need evaluations yearly.

Response by Mr. Shick:

Solicitation of that information from the Juvenile Justice Administrators state-wide would need to be done and brought back to this committee.

Statement by Mr. Munro:

Mr. Munro stated that it would be beneficial to procure an approximate yearly number of juvenile sex offender needing evaluation, the cost of the evaluation, and if this expense can be subsumed in the existing budgets.

Response by Mr. Shick:

Mr. Shick stated he would request that budget and cost subject also be placed on the agenda of the meeting of the Juvenile Justice Administrators, and present the findings to this committee.

Question by Mr. Munro:

Mr. Munro noted a line in the written recommendations regarding the District Attorney requesting a hearing for the juvenile, and would this be something the District Attorney and Juvenile Justice Administrators working through the District Attorney could petition the Court for a change.

Response by Mr. Shick:

Mr. Shick responded affirmatively and further stated at the time of adjudication the Juvenile Justice Administrators need to be working with the District Attorneys and Public Defenders, to make sure that the community is protected.

Question by Keith Munro:

Mr. Munro asked Mr. Shick's opinion that in any proposed legislation a juvenile would have a right to a particular type of community notification or what would the standard for a Court to change any particular prior adjudication as to community notification.

Response by Mr. Shick:

Mr. Shick stated that the District Attorneys, the Public Defenders and the Juvenile Justice directors and chiefs need to be involved in determining that standard and that information will need to be brought back to this committee. He also stated that pursuant to juvenile justice philosophy and juvenile law that each juvenile case is taken on an individual basis, Based on the circumstances, the

physiological and behavioral disposition, and the response to the Court after the individual becomes involved in the Juvenile Justice System then that standard comes into play.

Statement by Keith Munro:

Mr. Munro stated that there could also be a flip side to this standard in that a juvenile, based on improvements, could petition the Court to have his stronger notification requirements reduced.

Response by Mr. Shick:

Again, Mr. Shick stated that the District Attorneys, the Public Defenders and the Juvenile Justice directors and chiefs need to be involved in determining that standard and that information will need to be brought back to this committee.

Question by Susan Roske:

Ms. Roske stated that she and Mr. Shick had worked together regarding information presented to the Legislature and changes to AB 579. Pursuant to these written recommendations it seems that Mr. Shick is wishing to expand the number of youths required to be subject to registration and community notification to include those in 62F 100. At present only those in 62F 200 are subject to registration and community notification.

Response by Scott Shick:

Mr. Shick stated that he did not have 62F 200 in front of him presently and was unable to answer her question.

Statement by Susan Roske:

Ms. Roske suggested tabling this discussion so that all could be adequately prepared to address this issue. Ms. Roske stated she had large concerns regarding the expansion of juveniles being subject to registration and community notification.

Statement of Keith Munro:

Mr. Munro stated he did not understand Mr. Shick's presentation to be an increase in the juvenile registration requirements.

Response by Scott Shick:

Mr. Shick stated he did not have 62F100 and 62F200 in front of him, however this is not a recommendation to expand anything. This is a recommendation to continue current juvenile sex offender guidelines from the old statute.

Question by Susan Roske:

Ms. Roske asked if Mr. Shick would be supportive of recommending that the Legislature revisit AB197, which would re-enact those laws that were repealed by AB579 and focus on a very narrow number of juveniles to be subject to registration and community notification.

Response by Scott Shick:

Mr. Shick stated that the Juvenile Justice Administrators supported some of those pieces. Parts of AB326 in 2011 and parts of AB 197 in 2013 were too far reaching in some cases. Community notification guidelines for juvenile sex offenders in the offenses they were directly related to were appropriate. That anything larger such as website notification should be at the discretion of the Court based on the offense and recommendation by the District Attorneys.

Question by Susan Roske:

Presently, now that the Logan case decision has been issued, juveniles who are adjudicated for offences under 62F 200 must register. Ms. Roske asked for confirmation that Mr. Shick was recommending juveniles be subject to community notification as required prior to the enactment of AB 579.

Response by Scott Shick:

Mr. Shick stated he was confused by Ms. Roske's question.

Statement by Susan Roske:

Ms. Roske again recommended that this discussion be tabled for a future meeting.

Question by Tod Story:

Mr. Story wanted to know how many juveniles were "on the list", and what would be the cost be to the State in complying with the Adam Walsh Act or SORNA in order to adopt the implementation of the recommendations being presented today.

Statement by Keith Munro:

Mr. Munro stated he was seeking that information as well. While not speaking for Mr. Shick, it was his understanding that Mr. Shick was going to procure that information and bring it back to the committee.

Question by Tod Story:

It was his understanding that many States had not adopted the SORNA requirements, and it is being proposed that Nevada adopt a more stringent requirements. He inquired if there a comparison from previous meetings that could be supplied to the committee as to what those States who have adopted those requirements, and those that have not, and are they more or less stringent than SORNA requirements?

Question by Mr. Munro:

Mr. Munro inquired if Mr. Story would like to bring this information back to this committee and present his findings. The Committee would be happy to include this on a future agenda and receive his presentation.

Statement by Tod Story:

Mr. Story agreed to make a presentation to this committee regarding that comparison subject.

Question by Senator Tick Segerblom:

Senator Segerblom inquired as to the status of local jurisdictions implementation of Adam Walsh requirements.

Response by Scott Shick:

Mr. Shick stated the local jurisdictions are awaiting notification from the Attorney General's Office that will open the door for full compliance of AB579 and public website notification with respect to juveniles. It was his understanding that one Clark County Court was still reviewing the Supreme Court decision.

Question to Keith Munro by Senator Tick Segerblom:

Has the Attorney General taken any position, or is it possible to defer this implementation until the 2015 Legislative session, and also how will we address past juvenile offenders prior to implementation.

Response by Keith Munro:

Mr. Munro stated there is still a case pending, so AB 579 has not been implemented yet, but implementation is drawing closer. Mr. Munro could not address the delay of implementation until 2015. Mr. Shick came to present potential recommendations of how to alleviate, if the Legislature determines it is necessary, the juvenile community notification piece.

Question to Scott Shick by Senator Tick Segerblom:

Senator Segerblom inquired as to what would happen retroactively to the past sex offenders.

Response by Scott Shick:

Mr. Shick does not believe that the retroactive requirement will be required. That he believes there is one case still in Clark County pending prior to implementation, but is not sure of status.

Statement by Susan Roske:

Ms. Roske is not sure to what case Mr. Shick refers. In a previous meeting she mentioned to the committee that she may be pursuing a Writ of Certiorari with the U.S. Supreme Court, however, the case was resolved in the Juvenile Court to her client's favor and no longer subject to registration and community notification. Ms. Roske stated she has no other active cases in the Nevada Supreme Court to appeal.

Question by Lori Story:

Pursuant to the Chairman's previous question regarding the positive impact on eliminating community notification of juveniles, Ms. Story questioned if the stigma and impact on the juvenile's family has been considered.

Response by Scott Shick:

Mr. Shick stated that based on the nature of the assessment, the child's ability to respond to juvenile sex offender treatment, the terms of the Court Order, and a full consideration for the victim, with favorable response to the Court Order and probation; notification to law enforcement, school officials, and the need to know parties would be sufficient for public safety and avoid the impact of the stigma on the juvenile and their family.

Question by Lori Story:

Pursuant to the Chairman's previous question regarding petitioning for a review by the Court, Ms. Story questioned if this is similar to an adult probation revocation hearing. Also, would the due process afforded at a juvenile hearing be similar to a hearing under the District Attorney's request.

Response by Scott Shick:

Mr. Shick stated that at any time a juvenile probation officer can bring a juvenile back into the Courtroom based on a violation recommending further sanctions or accountability. Additionally, the Public Defender or counsel is always present, and consulted prior to, going into the Courtroom.

Question by Lori Story:

Ms. Story questioned who would have the burden of proof in a juvenile hearing.

Response by Scott Shick:

Mr. Shick stated the District Attorney and the Juvenile Probation Department both work together on the burden of proof.

Question by Lori Story:

Ms. Story questioned if the cost of the sex offender evaluation could be assessed against the offender.

Response by Scott Shick:

Mr. Shick stated that is a consideration in all Nevada jurisdictions based on their ability to pay.

Question by Lori Story:

Pursuant to the Chairman's previous question regarding the offender's petition to reduce requirements, how beneficial is it to the offender to remove public website notification after their name has been made public.

Response by Scott Shick:

Mr. Shick stated that the victim and their families have a right to know where the offender is located, therefore with the school and law enforcement notification he does not feel that removal from public website notification effects those requirements.

Question by Susan Roske:

In number one (1) of Mr. Shick's recommendations, those juveniles adjudicated for a sexual offense as defined in NRS 62F 200, under present law now in AB 579 they are subject to community notification as in NRS 179D as adults are subject to community registration. Ms. Roske asked for Mr. Shick to clarify and confirm he is recommending juveniles be subject as to notification in Chapter 62.

Response by Scott Shick:

Mr. Shick confirmed that he is recommending juveniles be subject as to notification in Chapter 62.

Question by Susan Roske:

In number two (2) of Mr. Shick's recommendations, it states that the District Attorney may request hearing with the juvenile court after adjudication for a sexual offense as defined in 62F100. Ms. Roske asked if that was a typo and he meant 62F200.

Response by Scott Shick:

Mr. Shick apologized and stated he was not an attorney and that is a terrible typo. Mr. Shick reiterated that AB579 requires public registration and notification. That the nature of number two in his recommendations that public registration and notification be brought to the Court by the District Attorney on an individual case by case basis.

Question by Susan Roske:

Ms. Roske stated that with the determination of the typographical error, his recommendation makes more sense. Ms. Roske asked for confirmation that juveniles adjudicated under 62F200 not be subject to adult registration and notification, but instead be subject to the past juvenile notification requirements. Then, if the District Attorney wants the juvenile to be subject to notification pursuant to NRS 179D, they have to request a hearing.

Response by Scott Shick:

Mr. Shick confirmed and stated Ms. Roske was absolutely correct.

Chairman Munro called for any other questions regarding Mr. Shick's presentation, none were voiced.

Agenda item #5:
Public Comment:

Mr. Munro called for public comment from Las Vegas, the following member of the public came forward and spoke:

Maggie McLetchie:

Ms. McLetchie stated she is an attorney who has worked on sex offender issues. She said that some of the ideas that Mr. Shick presented today would make sense when looking at the law, and how to change them in 2015. Ms. McLetchie stated that she agreed with Senator Segerblom and believes it is a very good idea to stay enforcement, given the confusion of what to do, and whether or not the State can afford to implement AB579. Ms. McLetchie is also concerned that it is her understanding that under current law AB 579 is limited to juveniles under fourteen years of age. In looking at Mr. Shick's recommendations, it looks as though these requirements are expanding to all juveniles. It is also Ms. McLetchie understanding that there is a case pending in District Court which may be appealed to the Nevada Supreme Court; as well as additional litigation coming from herself and her partner on behalf of other sex offenders, and also other individuals who are going into Court to argue that this law violates the terms of their original convictions. In Ohio thousands of cases were filed, Nevada has not seen this because of injunctive relief before AB 579 was enforced. Ms. McLetchie believes some of that litigation can be avoided if the Legislature can be given time in 2015 to look at the questions and policy issues that are suggested by the Nevada Supreme Court Decision, and by others such as Mr. Shick's recommendations. Ms. McLetchie also pointed out that Mr. Shick's proposal does not address the retroactive application, it does not retroactively respect judicial determinations, because people who have been previously in the past adjudicated delinquent under the current terms of AB 579 would be required to register even if they were adjudicated delinquent as far back as 1956.

Mr. Munro called for public comment from Carson City, none was given.

Mr. Munro called for additional public comment, none was given. The meeting was adjourned by Keith Munro at 11:10 am.

Minutes respectfully submitted by Jan Riherd.
