

# California Sex Offender Management Board (CASOMB)

## MINUTES

APRIL 8, 2010

9:00 AM

1515 K STREET, SACRAMENTO, CA 95811

<b>TYPE OF MEETING</b>	Review of Draft Report
<b>FACILITATOR</b>	Jack Wallace
<b>NOTE TAKER</b>	Marjorie Cross, Anthony Subia
<b>ATTENDEES</b>	<b>Present:</b> Robert Ambroselli, Gerry Blasingame, Robert Coombs, Richard DaBell, Peter Espinoza, William Gailey, Michael Johnson, Pamela King, Nancy O'Malley, Janet Neeley, Jerry Powers, and Lee Seale <b>Absent:</b> Gary Lieberstein, Diane Webb, Angela Thompson, Tom Tobin, Greg Larson

### Agenda topics

SYNOPSIS OF JOHN GARDNER

JERRY POWERS

<b>DISCUSSION</b>	Jerry Powers requested that Robert Ambroselli provide a synopsis of what information is currently available regarding John Gardner and the current allegations raised against him.	
<b>CONCLUSIONS</b>	Information regarding John Gardner was compiled from public information requests as well as Gardner's redacted Central File (C-File). Gardner's redacted C-File is currently available on the Governor's website.	
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>
Jack Wallace will include a timeline detailing Gardner's history with the final report. Board members will be given the link to the redacted C-File on the Governor's webpage.	Jack Wallace	April 15, 2010

DRAFT - INTRODUCTION

JANET NEELEY

<b>DISCUSSION</b>	Jerry Powers stated that the focus of the report should be placed on Gardner as a sex offender rather than focusing on his alleged involvement in the Chelsea King case.	
	Gerry Blasingame noted that the inclusion of too many specific laws within the introduction could create confusion and should be kept to a minimum.	
<b>CONCLUSIONS</b>	The board was in agreement with the suggestions from both Jerry Powers and Gerry Blasingame.	
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>
Overly specific laws will be removed from the introduction.	Janet Neeley	April 15, 2010

<b>DISCUSSION</b>	The draft report states that the fact that John Gardner was living near a school should have resulted in a requirement that he move or face potential revocation at the Board of Parole Hearings (BPH)	
	Robert Ambroselli noted that, prior to 2006, there was no statutory definition for a high risk sex offender (HRSO) and that Gardner would not have been classified as such under the California Department of Corrections and Rehabilitation's (CDCR) internal policies. Gardner would not have been affected by the January 2006 law prohibiting HRSOs from living within one half-mile of a K-12 school nor would he have been classified as an HRSO as outlined in the statutory definition set forth in 2006.	
<b>CONCLUSIONS</b>	Jerry powers requested that a statutory definition for an HRSO be included in the report alongside a definition of what constitutes an HRSO according to CDCRs internal policies.	
	Pamela King suggested that the statistical evidence which shows no correlation between residing close to a school and where sexual re-offense occurs be moved to the beginning of Section A.	
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>
Add, and differentiate between, the statutory definition for an HRSO as well as what CDCR internal policy defines as an HRSO. Outline the statistical findings regarding residency and re-offense at the opening of Section A.	Janet Neeley	April 15, 2010

<b>DISCUSSION</b>	The draft states that because John Gardner was possession of an amount of marijuana that did not exceed one ounce, it was not mandatory for Parole to refer him for parole violation.	
	Gerry Blasingame noted that a parolee's disregard for the rules and conditions of their parole, while under supervision, has been shown to have a strong correlation with later re-offense. Gerry also pointed out that, while John Gardner did not qualify as an HRSO through static risk assessment, the possession of marijuana would have raised several flags within a dynamic risk assessment model that may have elevated Gardner's risk level.	
<b>CONCLUSIONS</b>	Jerry Powers suggested a parole requirement stating that a parolee must report all law enforcement contacts. He also suggested that Parole Agents should perform regular tracking of local law enforcement databases to search for contacts with law enforcement that have not been reported by the parolee.	
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>
Edit the section to focus on the correlation between lack of compliance with parole conditions while under supervision and risk of re-offense. Include a recommendation that parolees should report any contact with law enforcement	Janet Neeley	April 15, 2010

<b>DISCUSSION</b>	The draft report states that low battery alerts from GPS devices should not trigger parole revocations.	
	Jerry Powers stated that a low battery does not affect the functionality of the GPS device.	
	Robert Ambroselli said that a low battery alert is not a violation of parole and that the actual battery life of the GPS unit will vary depending on the difficulty it has in acquiring a signal.	
	Jack Wallace pointed out that, after having contacted the device manufacturer in regard to John Gardner's low battery alerts, he had been informed that the span of time between the alerts and when Gardner's GPS was recharged was only a matter of minutes.	
	Nancy O'Malley made note of the fact that there are no legal sanctions in place that punish sex offenders who refuse to remain on GPS after they have been released from parole.	

<b>CONCLUSIONS</b>	Jerry Powers said that the manner in which GPS tracking is portrayed to the public is inaccurate and that GPS tracking is not a solution to all sex offender situations. Instead GPS should be seen as an aid to community supervision.	
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>
Include a reference to the section addressing GPS tracking in the last CASOMB Annual Report.	Janet Neeley	April 15, 2010

DRAFT - PAROLE VIOLATIONS, SECTION D, PAROLE CONDITIONS

JANET NEELEY

<b>DISCUSSION</b>	The draft report states that Gardner's parole conditions should have been more narrowly drawn and related to the conviction offense or related to deterring future criminality; Parole needs to develop guidelines for checking on parolees banned from internet use.	
Janet Neeley questioned the ease and legality of creating parole conditions that prohibit parolees from using social networking sites.		
Robert Ambroselli and Robert Coombs stressed both the legal and logistical difficulty in preventing a sex offender from using social networking sites, noting that a sex offender can still use public access terminals or mobile devices to access the sites. Robert Ambroselli also added that there is a high probability of a ban from such sites being deemed a violation of the parolee's civil rights and subsequently overturned unless a direct link can be found between the sites and the manner in which the sex offender preys on their victims.		
Robert Coombs expressed concern that an excessive focus on monitoring a sex offender's electronic activities could lessen the time that parole agents are in the field and actively searching the residences of parolees.		
<b>CONCLUSIONS</b>	The board was in agreement that the policing of sex offenders' internet activity is exceedingly difficult and that parole agents should be provided with basic tools to assist in the searching of computers.	
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>
Removal of Gardner from the section heading as well as a broader focus on the computer usage of all sex offenders rather than Gardner specifically.	Janet Neeley	April 15, 2010

DRAFT - CONTAINMENT MODEL

JANET NEELEY

<b>DISCUSSION</b>	The draft report states that use of the Containment Model while sex offenders are on parole or probation can help prevent sexual re-offense.	
Pamela King said that she believes this section of the draft should be one of the first focal points of the draft report.		
Peter Espinoza said that many of the statistics stated in the opening paragraph of this section should be moved to the introduction as a means of outlining the enormity of the sex offender issue earlier in the report.		
Gerry Blasingame suggested referencing the section of the CASOMB January 2010 Recommendations Report which describes who should be administering evaluations to sex offenders and what should be the criteria.		
<b>CONCLUSIONS</b>	Law enforcement, supervision officers, treatment providers, polygraphists, and the victim community should cooperate to ensure a comprehensive sharing of information regarding sex offenders.	
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>DEADLINE</b>
Movement of statistics from the opening paragraph of this section to an earlier section of the report.	Janet Neeley	April 15, 2010

DRAFT - EXPANDED RISK ASSESSMENT

JANET NEELEY

<b>DISCUSSION</b>	The draft report states that an expanded risk assessment could have provided more information to local law enforcement agencies about Gardner's risk of sexual re-offense and dangerousness.	
Pamela King suggested use of different terminology when referencing the system of risk assessment in order to avoid the perception of risk assessment as a cure-all.		

Jerry Powers said that it is critical to note that the percentage chances of re-offending over a period of time are statistics to be applied to sex offenders with similar profile to Gardner and that the statistics do not apply solely to him.

Robert Coombs suggested the addition of language describing the difference between static and dynamic risk assessment as well as an explanation of what each type of assessment contributes to ascertaining the overall risk posed by the sex offender.

Robert Ambroselli asked that it be made clear that CDCR is mandated by state law to use a static risk assessment but that the Department is not opposed to use of new risk assessment tools as they become available.

Pamela King suggested additional footnotes which would specify the actual risk assessment tool being utilized.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Changes and additions to wording in order to clarify the statistics provided as well as the assessment tools referenced.	Janet Neeley	April 14, 2010

DRAFT - TIERING

JANET NEELEY

**DISCUSSION** The draft report states tiering sex offenders to target higher risk offenders, as well as more funding for law enforcement and Sexual Assault Felony Enforcement (SAFE) Teams, could have helped in this case.

Nancy O'Malley asked that it be added that local law enforcement has an obligation to enforce California Penal Code 290 regardless of budgetary concerns.

Robert Coombs suggested that it should be made clear that the usage of the term "monitoring" within the draft report is not meant to be synonymous with the public idea of traditional supervision.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Addition of a paragraph detailing the obligation of local law enforcement to uphold California Penal Code 290.	Janet Neeley	April 15, 2010

DRAFT – CHILD SAFE ZONES

JANET NEELEY

**DISCUSSION** The draft report states that child safe zones should be combined with residency restrictions that target child predators; such a law would have prohibited John Gardner being in a park.

Pamela King requested that the term "child sexual predator" be replaced with a term less likely to be misconstrued as a sexually violent predator (SVP).

**CONCLUSIONS** Janet Neeley stated that it would be necessary to clearly define what a child sexual predator is if a statute was to be produced.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Replace "child sexual predators" with "designated registered sex offenders". Removal of the reference to residency restrictions within the section heading.	Janet Neeley	April 14, 2010

DRAFT – MENTALLY DISORDERED OFFENDER (MDO) COMMITMENT LAW

JANET NEELEY

**DISCUSSION** The draft report states that changes to the MDO commitment law might have permitted Gardner to be committed to a mental hospital and prevented further crimes.

Gerry Blasingame noted that verbiage which supposes John Gardner's guilt in the Chelsea King case must be edited since Gardner has not been convicted.

Pamela King stated that she felt the MDO section should be excluded from reports by CASOMB until a clearer understanding of the processes involved, as well as the range of its affect on sex offenders, could be obtained.

Janet Neeley said that she believed the recommendations made by CASOMB within the MDO section of the report are important as they recommend a change to the manner in which MDOs are handled that would favor community safety over the release of the MDOs into the community.

Lee Seale and Gerry Blasingame recommended the retention of the MDO section albeit with necessary caveats that explain the fact that much of the information serving as a basis for the recommendations was obtained through news reports and should be considered hypothetical until stated otherwise.

**CONCLUSIONS** The MDO section will be retained and notation will be made within the section that clearly states the hypothetical nature of the information regarding John Gardner that serves as part of the basis for the recommendations made within the section.

Jerry Powers asked that if additional details regarding the case information or MDO processes can be found that they be brought up at the next CASOMB meeting.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Addition of caveats that state the hypothetical nature of the case information which spawned the MDO discussion.	Janet Neeley	April 15, 2010

**DRAFT – SVP COMMITMENT LAWS** JANET NEELEY

**DISCUSSION** The draft report states that SVP commitment laws target only the highest risk sex offenders and could not have made a difference in this case.

Jerry Powers noted that, based on the information currently available, CASOMB cannot rule out the occurrence of clear predatory acts.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Adjustments to the footnotes and statements regarding referral for SVP trials.	Janet Neeley	April 14, 2010

**DRAFT – GPS TRACKING** JANET NEELEY

**DISCUSSION** The draft report states that GPS tracking would probably not have prevented this crime; GPS tracking should be used only in conjunction with extended parole supervision periods for HRSOs.

Gerry Blasingame said that the section title should be altered to reflect the fact that Gardner has not been convicted in the Chelsea King trial.

Jerry Powers asked that this section be framed in concept of limited resources and the usage of those resources in the most effective manner that promotes public safety.

Robert Coombs added that the section should be sure to state that GPS should not be used at the exclusion of other tools.

Gerry Blasingame requested a final reiteration of treatment be made at the end of this section.

Robert Ambroselli asked that content be added to the end of this section explaining the necessary growth of CDCRs budget in response to increased public demand for programs, training, and technology designed for supervision and monitoring of sex offenders.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Addition of several new subjects including: budgetary concerns, importance of treatment, and victim services. Removal of verbiage which suggests the guilt of John Gardner in the Chelsea King murder.	Janet Neeley	April 15, 2010

**DRAFT – FUTURE SOLUTIONS** JANET NEELEY

**DISCUSSION** Gerry Blasingame suggested the alteration of the section title to “Recommendations” and the inclusion of the statistical rarity of the type of crime that John Gardner is alleged to have committed in the case of Chelsea King.

Robert Coombs suggested the addition of language describing the difference between static and dynamic risk assessment as well as an explanation of what each type contributes to ascertaining the overall risk posed by the sex offender.

Robert Ambroselli asked that it be made clear that CDCR is mandated by state law to use a static risk assessment but that that the Department is not opposed to use of new risk assessment tools as the become available.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Addition and correction of language to achieve cohesion between this section and recommendations made throughout the entirety of the draft report.	Janet Neeley	April 14, 2010

