

AZSOMB October Board Meeting-20261026_203318UTC-Meeting Recording

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Good afternoon, everybody. It's October 26th at 1:33 p.m. and I'll go ahead and call this meeting to order this afternoon. Major Mitchell, will you do roll call?

Chairman Goulden is present, Miss Adkins.

Present,

Miss Balson.

JB

Jamie Balson 0:39

Present.

Jenna Mitchell 0:41

Mr. Barney.

BB

Blake Barney 0:44

Present.

Jenna Mitchell 0:45

Doctor Blades.

Present.

Miss Breed.

BS Breed, Shanda 0:49
Present.

Jenna Mitchell 0:51
Judge Cohen.

SC Suzanne Cohen (SUP) 0:52
Present, but only till 2:15.

Jenna Mitchell 0:55
Thank you, ma'am. Detective Cook.

Here.

Supervisor Fanning.

Currently, he's in the wrong link, so we're working to make contact with him to get him in the right meeting. Mr. Galarneau.

Present.

Major Griego,

here.

Mr. Hanratty.

JH Jim Hanratty (SUP) 1:17
Present.

Jenna Mitchell 1:18
Doctor Johnson.

Present,

Miss Kaczorowski.

Mister Kelroy is excused, Miss Krejci.



Kathryn Krejci (OPD) 1:39

Present.

Jenna Mitchell 1:42

Doctor Lokey is excused. Doctor Miller.

Present.

Miss Musick.

Present.

Mr. Naegele.

Present.

Mr. Neil.

Miss Opheim.

present.

Mr. Pawlowski is excused. Miss Panas.

Representative Powell.

Here.

Doctor Rivera.

Present.

And Judge Young.

YA Young, Anna 2:17

Present.

Jenna Mitchell 2:21

Madam Chair, you have a quorum.

Thank you. At this time, we will move into call to the public. This is the time for the public to comment. Members of the board may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to ARS 38-431, action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration. and decision at a later date. Major Mitchell.

First up today is Steven Johnson.

He is in court.

Steven Johnson.

So, we'll come back to Mister Johnson. Next up is Jackson Ford, followed by Gary Hardy, and then Patricia Borden.

JF Jackson Ford 3:35

Hello!

Jenna Mitchell 3:37

Mister Ford, we can hear you. Your timer of three minutes will start when you begin speaking.

JF Jackson Ford 3:43

Hello, my name is Jackson Ford, and I submitted public written comments to the board in August, September, and now October. My purpose for contacting the board is to inform and to advocate for the need for independent oversight regarding the conducting of PCSOT polygraph examinations. in the sex offender management process. For context, I took a pre-employment

polygraph examination in June 2022 by an individual named Dan Caputo, who also conducts and has conducted PCSOT exams for a number of probation entities across the state.

JF Jackson Ford 4:23

Over the course of my polygraph exam, Caputo asked me multiple times, have you ever fondled a girl while she's sleeping?

Did she touch your penis in a multitude of other strange and perverted questions?

He screamed in my ear, harassed and berated me, and then concluded the examination by throwing a temper tantrum and storming out of the room when I would not change my answers to his questions. As he was leaving the room,

JF Jackson Ford 4:52

He sarcastically said, don't forget your coffee. Sorry that it cooled.

When I attempted to raise concerns about his behavior to his immediate supervisor, I was told, quote,

Well, the guy has done 1000 of these tests. When I submitted A complaint with the American Polygraph Association, he was cleared of any wrongdoing by his business partner, who did so without even bothering to watch the recording of my examination. Since my polygraph exam, I have discovered that this individual has an extremely extensive history of both mistreating examinees over the course of polygraphs,

and failing an astronomically high amount of examinees. Due to the lack of oversight with the way that these exams are conducted, he's been able to get away with this for almost 2 decades. As can be seen in my written comments to the board, once his work was analyzed by a legitimately neutral professional, his work with juvenile examinees was found to have so many deficiencies that they constituted A 19-page report.

Allowing polygraph examiners to reg.

+16***17 5:58**

This call is being recorded.

JF Jackson Ford 6:01

Allowing polygraph examiners to regulate other polygraph examiners is the epitome

of the common phrases, allowing the fox to guard the hen house and the inmates to run the asylum.

 **+16*****17** 6:10

This call is no longer being recorded.

 **JF Jackson Ford** 6:14

The sex offender management process in Arizona would be much better served if the work of polygraph examiners were to be regulated by outside professionals who would prevent them from using the system as a personal cash cow and allow the goals of probation to be better met. Thank you.

Thank you.

Next is Gary Hardy, followed by Patricia Borden, and then Kim Drogaz.

Good afternoon, Madam Chair, members of the board. My name is Gary Debbie Hardy with the Collaborative Justice Institute.

Thank you for the work that you and the subcommittees are doing. I want to offer constructive requests as Arizona develops standards that will affect public safety, treatment, supervision, and families for years to come.

Today's agenda includes a presentation on Colorado's implementation of SORNA. Colorado's experience is worth hearing, but studying another state's practice is not the same as establishing that those state practices are best for this state.

We have also seen Colorado material used in developing Arizona's evaluation and management proposals. My question is simple. What systematic process is the board using to compare competing models and evaluate their evidence before recommending statewide standards?

I have submitted in your background material 2 short memorandum to support that question. The first asks for a public evidence review matrix. What research supports a proposal, what population it applies to, when alternatives are examined, when outcomes are expected, and why a particular approach was chosen.

This should include meaningful consideration of risk, need, responsivity, and individualized approaches, not only the present containment-oriented systems.

The second concerns assessment standards are professional interest safeguards. The

adult and juvenile subcommittees are considered psychosexual, are considering psychosexual evaluations, specific test instruments, polygraph practices, and treatment-related decisions. These are consequential choices. An instrument appropriate for one population may not be validated for another.

A test that measures sexual interest does not automatically measure future offending risk. We need to know when testing is necessary, when alternatives are appropriate, and how the results will be used. We also need transparent procedures for professional interest disclosures

An independent evidence review when providers help develop standards, effective services that they themselves deliver.

This is not an accusation against anybody. Professional expertise is in fact essential. But independent review protects that expertise and strengthens confidence.

I asked the board to direct staff to develop a comparative evidence review process and matter specific professional interest safeguards and to place this on a future agenda for public discussion.

Arizona has an opportunity to build a system that is not merely borrowed, but justified. It is individualized, measurable, transparent, and accountable for the results. Thank you.

Next is Patricia Borden.

Good afternoon, Chair and members of the board. Thank you for inviting me back. Many of you know me as Arizonan's Rational for sex offense laws director. I have always sent or kept my family out of that work.

Today I am setting that aside because I have written a book, *Condemned Without Cause, Autism, Injustice, and 75 Years Behind Bars*. It tells my 20-year fight against my son's wrongful conviction

Convicted and sentenced to seventy-five years, I share it because it shows.

The system can fail, and how it fails, and the board works to shape that system.

The book describes 4 pitfalls. First, laws passed without enough attention to the Constitution. Stephen was convicted under a statute unique to Arizona and Hawaii that unconstitutionally shifted the burden of proof to the defense.

In 2016, partly because of Steven's case, the legislature fixed it, but not retroactively. Steven still serves time under a law Arizona corrected. Second, disproportionate sentences. Steven had no prior record.

The alleged conduct was momentary touching over clothing in public. Mandatory consecutive sentencing turned that into a 75-year sentence. Flat time, longer than many people serve for taking a life. Yet jurors improperly discussed sentencing and were told he would get a year or two. Third, disability mistaken for guilt. Stephen was diagnosed with autism last year, nearly two decades after his trial. In court, his flat expression, limited eye contact, and literal answers were read as signs of guilt. No one in the courtroom understood what they were saying. Fourth, a system that cannot correct itself. A federal judge granted Stephen release in 2017. After 4 productive years home, he was sent back to prison on procedural grounds. One senior federal judge wrote that his case reflects poorly on our legal system. Another urged clemency. The clemency board denied him a meaningful hearing. As you advise,

On policy, remember Stephen, and ask for a question, is the law constitutional? Is the punishment proportionate? Have you screened for disabilities? And when we get it wrong, can we fix it? I would be glad to give anyone who would like a copy of my book a copy.

Thank you.

Thank you.

Next is Kim Drogosz followed by Darren Stanley and then Steven Johnson.

Good afternoon, Chair and members of the board. My name is Kim Drogas and I represent myself. I would appreciate an update on whether the board has discussed a formal process for sharing the recommendations with legislators during the 2027 legislative session. I asked the board to notify legislators within three business days of taking a position on a bill, including the bill number, recommendation, supporting reasons, and recorded vote. This would inform legislators at the board's positions before bills move forward in the legislative process. If no process is in place, I am asking a board member here today to request this item for the next agenda for discussion and action. Next, I ask the board to lead the way with person first language. Develop and adopt A person first and clinical accurate language policy for board standards, meetings, publications, training, materials, legislative testimony, and public communications.

Encourage Arizona agencies, treatment providers, probation departments, lawmakers, and other criminal justice stakeholders to discuss between legal status,

conduct, clinical diagnosis, and assessed risk. Review terminology throughout existing SOMB standards and replace with unnecessarily stigmatizing labels with accurate person first terminology where appropriate. Establish guidance regarding the appropriate use of terms such as pedophilia, pedophile, predator, sex offender, registrant, and person convicted of a sexual offense. Consider whether the board's own name should reflect these principles.

I would like to propose Arizona's Sexual Behavior Treatment and Public Safety Board. The purpose, excuse me, the proposed name focuses on behavior, treatment, and accountability, prevention, and public safety, rather than defining an entire person by a criminal offense. People deserve the opportunity to grow beyond their mistakes and be recognized for who they are today. We can acknowledge harm, support victims, uphold accountability, provide effective treatment and protect our communities while treating every person with dignity and compassion. The words we choose shape how we understand the people and the policies that they that their lives that are affected. Thank you.

Thank you,

Darren Stanley.

Good afternoon, Madam Chairwoman and members of the board. Darren Stanley, registered citizen of the state of Arizona. I will try to keep it short today, as I always do. First, I'd like to say I'm fine with the three-minute time limit. I can usually stay within that all the time. I don't believe I've ever even come close to going over. What I find issue with is members of this board being inconvenienced by having to listen to public statements.

If this is you, you may want to consider your position on this board and allowing someone else to fill your seat. Other concerning issues are incorrect information being perpetuated in board discussions. Many times I want to stand up and say that is not correct while observing the proceedings here. None of you have ever been to prison.

been on probation, or been forced to register as a sex offender. I have done all of these things. Hence the reason I have said many times here, there needs to be someone like me on this board who understands what it's like to live on the registry. With Halloween coming up, I will be told to stay in my house, turn off the porch

lights, and not answer the door.

Although you really only need to be told this one time because you will never forget it. I probably should have taken better notes at the last meeting. I know there were other topics that were offensive or incorrect. Lastly, I would like to say I know it's hard to fathom not being able to use the internet, but I'm over four years now. I put in a motion to the court and the court sent it back to probation when it was supposed to be a court decision. So now I've waited over four months for probation's decision. My crime didn't even involve the internet. I know some board members have said they don't want the specifics of my case. However, I can only share my life experiences and try not to make it too case related. As I so often say, I would be more than happy to serve on this board, speak to any subcommittee or individual. I will make the time to be there. Thank you for your service to this board and the community.

Thank you.

Okay, and we'll call Stephen Johnson again.

Not present, Madam Chairwoman, that ends the call to the public.

Thank you, Major Mitchell. The documents or the papers that were handed out, do you know who put those on the tables?

Kim Drogosz asked for those to be at your seats. It has information on the conference that she's previously given you flyers on.

Okay, thank you.

So that was not from board staff and it's not official AZSOMB.

QR code. Thank you.

We are going to table the discussion and potential adoption of the juvenile guiding principles. My understanding is that document is not quite ready yet. The future board meeting dates and frequency of meetings, please, that was in the background material. If you guys can take note and add those to your calendar. We did add dates as well for hour long legislative meetings. Those are subject to be canceled if there is nothing legislatively to discuss that day, but there would just be holds on your

calendars in case there are any bills that we are either requested to discuss or vote on whether or not we're supporting or opposing.
So please make sure you check your packets for those dates.

Madam Chairwoman.

Yes.

Jenna with DPS. Just noting, maybe you said that the time changes to 9 A.m. on Mondays. Did you say that?

Okay, yeah, so on those dates, please make note of that change since we've been meeting in the afternoon. So I want to make sure you're aware of that starting in 2027.

Madam Chair.

Yes, please.

Frank Griego. At the end of our agenda, it says the next meeting is on the 16th, but the background material says the 15th on the following page. Just want to make sure.

I know it is the 16th.

Okay.

So I want to clarify that.

Yes, it is the 16th, right?

It is the 16th, Major Mitchell.

Yes, where does it say the 15th?

It says the 15th on the background material on page 7. Oh, never mind. I was looking at next year's. Oh, thank you. Ignore me. Take it back. Thank you so much. Okay. I retracted everything I just said.

We have a special guest here today that Chris, who's sitting to Brecken's right, and I'm going to ask him if he could please introduce himself, and he's going to give us a presentation on SORNA and Colorado's implementation of that. Please, thank you.

Thank you so much for being here today, for flying in, and
Yeah, thank you for doing that.

Thank you, Madam Chair. I appreciate it. It's really great to be here. I appreciate the invitation to come out and to speak to you all today. I was asked to come down and to talk about the Sex Offender Registration and Notification Act, which is referred to as SORNA, as well as Colorado's implementation of SORNA. My background is that I am the Deputy Director for the Colorado Division of Criminal Justice. That's within the Department of Public Safety. So a similar housing situation to what this board is housed in. For 18 years up until two years ago, I was the program manager for the Colorado Sex Offender Management Board. And so that's the work that I have done for those 18 years was on implementing and the work of the board. Prior to that, I am a licensed clinical social worker, and so I was an approved provider in the state of Colorado to provide both treatment and evaluation services for both youth and adults who had committed sexual offenses. And so I was In Colorado, we approve, certify providers in that state. And so I was one of those approved providers prior to coming over to working in Colorado state government for the Sex Offender Management Board.

So I want to be clear that today I am here as myself. I am not here representing the Colorado board. I'm not here representing the Colorado Division of Criminal Justice. Any of the statements that I make or any of the positions that I share are my own and do not necessarily reflect the positions of either the division or the Colorado Sex Offender Management Board. And that

This presentation was put together by myself on my own time, so it is not a work product of the Colorado Sex Offender Management Board.

So what I'm going to cover today are five areas. And I wanted this really, truly to be a dialogue with you on the board here. I don't want to sit here and talk to you for this whole time. That would be really hard for you all to listen to. And so what I'm hoping is, is that we'll have time for either comments or questions as we go along. So please feel free to go ahead and

whatever process you use for making comments or asking questions, the chair can recognize you and then I'm happy to entertain and go whatever direction you want me to go. But my plan is to talk about a little bit about the history of sex offender registration and notification. I know some of you here are working as law enforcement or are aware of how registry works. So we have some registered citizens

here as well. So they are clearly aware of how this works, but some of you may not not be as aware of it. And so I think it's helpful to talk about that and kind of get a baseline knowledge. And then to talk about what that change was or what the current sort of federal law of the land is related to SORNA. And then I want to talk a little bit about the Colorado board and the work that it does, and then how Colorado approached the implementation of SORNA. So that is my plan. And I wanted to forewarn you that I'm going

going to talk about some specific cases that led to the creation of some of these registry laws. And these are hard to hear cases. I'm not going to go into all the details, but I think it's important to know a little bit about some of these laws and where they came from. So this is a timeline of the evolution of sex offender registration and notification.

You'll notice it goes back about 80 years or so. Several states implemented registry prior to the federal government first implementing registry with the Wetterling Act. Excuse me, sorry about that. Prior to the federal government first implementing registry law in 1994. California was the first state that had a sex offender registry, and as many of these laws are created, it was based on a very significant, very notorious and famous case, the Black Dahlia case that occurred in California. You may have seen the movie that depicted that. And so California has got the longest standing registry. Washington was, Washington State was the first state that implemented community notification.

along with its registry system in 1990, again, predating the federal law. In fact, most states had sex offender registration and notification systems in place prior to the federal government passing the Wetterling Act and subsequent laws. And then you'll see the three major federal pieces of legislation, which I'm going to get into just a minute. The Wetterling Act,

Megan's Law, and then the Adam Walsh Act, which is all to refer to as SORNA. So this just kind of goes through. At this point, all 50 states have sex offender registries. All of them are set up differently. I think that the Adam Walsh Act and SORNA tried to standardize that and make that more consistent.

I think that's a significant challenge. And, you know, it was not really feasible in some ways to make them completely uniform, just given different laws in different states and given different political environments and policies that are in different states. And so, but all states do have them. The US territories have them. And with SORNA, for the first time, certain tribal entities were also required to stand up

sex offender registration and notification, including here in Arizona, where the tribes here in this state were required to do that as part of SORNA. And so we have 135 tribes around the country that also have registries. So you can see we have a lot of different individual registries. So this is the first federal case that led to creation of a federal sex offender registration law. Many of you may be familiar with the very sad story of Jacob Wetterling. Jacob Wetterling was a little boy in St. Joseph, Minnesota, who was riding to a video store to kind of show the day and age that this happened with his brother and a friend. Jacob and the two boys were approached by a masked man with a gun who asked all of their ages and then selected Jacob and told the other two boys to walk away and to not turn back.

By the time they had gotten far enough away and were, you know, willing to look back, Jacob was gone. Jacob was missing for many, many years. They finally did find his remains and somebody led him to that remains. And so, but that person was never charged with Jacob's sexual assault and murder. He was charged with having child sexual exploitation materials commonly

commonly referred to as child pornography. When they were doing this investigation, there was a halfway house nearby where Jacob was abducted. And there were a number of those convicted of sexual offenses at that halfway house. However, law enforcement had no idea that those individuals were there and felt like had they known that, that could have been a potential avenue for investigation. As you all know, when a child is abducted,

Those first 24, 48, 72 hours are just critical in terms of investigation, but they did not know. And so they could not investigate. As it turns out, that particular person who committed that crime was not housed there and had not been convicted at that point in time. However, Jacob's parents felt like that was an important thing for law enforcement to know.

where are these offenders? Where do these registrants live? So that way, it was originally designed for criminal investigation purposes. That was the original intent of the sex offender registry. It wasn't the sex offender registration and notification system. It was just the sex offender registry at that point. And so the Wetterlings believed had law enforcement had that information and could have helped them with that investigation of Jacob's case. And so

As based on that, the federal government passed the Wetterling Act requiring all states to implement sex offender registration policies and laws, but it gave broad discretion to each state on how to do that. And you'll see that that's going to

become then a challenge later on in future legislation.

So then we have Megan's Law. And again, many of you may be familiar with the story of Megan Kanka, another very sad story. Megan was a little girl in New Jersey, and she was living next door to a twice convicted registered individual, unbeknownst to her or her parents. And so when she was abducted and sexually assaulted and murdered,

Her parents were very upset, and probably rightfully so, that law enforcement knew this individual posed a risk to the community and that they were not allowed to have that information. And so that's when community notification came into play, where the idea being that that information could be provided to members of the public and the public could then take safety or precautionary measures.

related to individuals. And so you referenced about Halloween, for example, you know, I mean, that's, you know, notification is just a way that the public has information, how they choose to deal with it is up to them. But the information was meant to be provided so that people could take those safety and precautionary measures. And Megan's parents believe that had they had that information, Megan would still be alive. And again,

again, hard to kind of argue with their rationale and their belief. And so what this did is it required each state to set up some type of a notification protocol. And I'll talk about Colorado's a little bit later, but there are different ways that notification can occur. Again, this is 1996, so we're not talking about heavy use of the internet and social media and those types of things. And so we're talking about mailings or flyers or meetings.

or different ways of disseminating that information. And so Megan's Law also required then for some changes in how registry was done, including things like updating information, because the original Wetterling Act didn't include that. So you'll see that each subsequent law increased some of those requirements or closed loopholes that were perceived.

So now we're up to Adam Walsh and Adam Walsh Act and SORNA. So Adam Walsh, a little boy in Florida, and he went with his mother to one of the box stores at that time. Mom was shopping and Adam, being a typical little boy, went to the video game section in the store and they were playing video games.

And he was there with some other little boys. And as little boys will do, they were making some commotion. And then the store manager like, oh, you boys can't do this and shoot them out of the store. And when mom went to look for Adam, he was

gone and nowhere to be found. Again, a victim of sexual assault, kidnapping, sexual assault, and murder. You may be familiar with John Walsh, John Walsh from America's Most Wanted.

is Adam's father, and John and Reve Walsh have been really significant advocates for increasing registry requirements and the strength and importance of the sex offender registry. And so the Adam Walsh Act and SORNA was designed to close some of those loopholes or perceived loopholes, if you will, from prior federal law. So as I indicated,

In the Wetterling Act, there was broad discretion on how jurisdictions could implement registry. With Adam Walsh, they tried to make that more consistent and uniform. And so I'll talk in the next slide here about how they decided to do that. Maybe 2 slides, actually, but I'll do this one first. So you hear Adam Walsh Act, you hear SORNA.

The Title One of the Adam Walsh Child Protection and Safety Act is SORNA, and it extends these registration jurisdictions as I indicated.

territories and certain participating federally recognized tribes. For those of you who are familiar with tribal law and the way in which tribal law works, in some states, they are called non-public law 280 tribal entities. That's what you have here in Arizona.

That's what we have in Colorado, which means that tribes have criminal justice jurisdiction over the reservation. In other public law, 280 states, such as California, they do not have original criminal justice jurisdiction over their own reservation. And therefore, the state is responsible for administering criminal justice and implementing a sex offender registration and notification. So this was the first law that recognized those federally recognized non-public law 280 tribes. And I was going to say allowed them. It actually required them. And this is not a training today on how tribal law and about how all that works. But there was a number of questions and controversies that came up around that. Happy to answer a question if anybody wants. And anybody can contact me after this presentation and talk to me about this as well. You have someone back here who's raising their hand. I don't know if they can.

Public allowed to ask questions to this presentation?

No. No?

No.

You can contact me after the presentation. I'd be glad to speak to you.

Thank you.

You're welcome. Okay, so here are some of the provisions of the Sex Offender Registration and Notification Act, SORNA. So you have to register in the jurisdiction in which you reside, work, and go to school, as was being discussed at the table prior to of the meeting, this can create some complications if people live in multiple jurisdictions or are living in one jurisdiction, working in another jurisdiction and going to a school in a third. And so it requires the jurisdictions to kind of coordinate that registration effort so that the registrant is lawfully registered in all of those specific places. It increased and standardized the specific information that is required to be collected for registration and requires periodic updates of that registration at quarterly, semi-annually, and annual requirements based on a leveling system that I'll talk about in just a minute. It requires all jurisdictions to make public certain information, not necessarily all of it, but certain information on the registry in terms of those who are at level 2 and level 3, for sure, as well as certain information from those registrants. And so you'll see some of that specific information that's outlined there on the slide. And then it requires an information sharing as registrants move between jurisdictions as well. One of the concerns that Congress was addressing through SORNA was the idea that registrants were going off the grid and under the radar by moving between registry jurisdictions. And so the idea was that by requiring information sharing and notification between jurisdictions, whether that's within state, or between states or between those jurisdictions.

Mr. Barney, can you hear us?

BB **Blake Barney** 38:07
Yes.

Jenna Mitchell 38:08
Thank you.

JF **John Fanning** 38:09
I can hear now, thank you.

JH **Jim Hanratty (SUP)** 38:11
Yes, I can hear now too. We have video back too.

Good to continue, Madam Chair. Thank you. And so the federal government is not able to mandate to states what they do. They are, this is guidance that comes from the federal government. However, if states do not implement SORNA, then they're subject to a 10% penalty of your burn JAG grant funds, and you're also not eligible for Adam Walsh implementation dollars that are put out on an annual basis. And so at this point, 18 of the 50 states have implemented SORNA around the country. And so about 1/3 have implemented at this point in time. And so, but these, so these requirements are really a floor, not a ceiling in terms of what you're doing. If you have more stringent requirements, but you still meet the minimum, that is sufficient for SORNA. There's no limitation on increasing these requirements, but you can't go underneath or beneath these requirements. So in terms of information sharing, if you could flip to the next slide there.

So as I said, there's a requirement that we need to share information across jurisdictions. One of the things that was created with SORNA was something called the SORNA Exchange Portal. The SORNA Exchange Portal is a way in which law enforcement can communicate with each other, or state jurisdictions can communicate with each other.

regarding offenders who are moving between jurisdictions. And so that was a mechanism that was set up to increase and improve that information sharing. And you can also attach records and things like that for purposes of then tiering or leveling registrants when they move into a new jurisdiction. And then it's also, there's also requirements on a law enforcement side for uploading this information. to NCIC and NSOR, the National Sex Offender Registry, which is a sub file in NCIC. And so states are responsible for uploading this information into the federal database and then maintaining a state database and then providing some of that information on a public website.

As well, too.

Are we still stuck? OK.

Yes. Okay, can you move me forward then, too?

Sorry, I don't have control of these.

I'm going to keep going. So hopefully we can catch up. International travel is another requirement that came out as a result of SORNA. And so as part of the SORNA supplemental guidelines, there was a requirement that registrants notify law enforcement 21 days in advance of any sort of international travel, and that that

information is then provided by the U.S.

marshal service to whatever the incoming jurisdiction is, if they have a mechanism to receive that information. And then that was amended through an international Megan's Law. So when SORNA came into place, it repealed the Wetterling Act and Megan's Law. So those are not currently the law of the land right now.

SORNA is. But in carrying the name forward, they called it International Megan Law, was this further provision related to international travel. And so when registrants travel to other countries, some countries will receive that information and some countries as a result will not accept registrants to come into their country as part of this. That is not the United States' decision.

That is the foreign country's decision in terms of whether they want to allow a registrant to come into their country or not.

If you could, you're back up to where you're supposed to be. You can go to the next one.

So I mentioned about tribal jurisdictions a moment ago. I won't go too far into the weeds with this, but I know that you have a number of tribes here in Arizona who have sex offender registration systems, and the tribes had to build those from scratch. States have been working on those for, you know, 30 to 40 years.

With SORNA passing in 2006, tribes were expected to stand those up almost immediately. And the challenge for tribes was, A, not having the resources and infrastructure to be able to do that. And beyond that, if they did not stand up their own registries, then the registry requirements would be taken away from them and defaulted and deferred to the state, which tribes felt like was a significant challenge of their sovereignty.

Also, the challenge in enforcing laws, again, not to go into a whole tribal law discussion here, but challenges in terms of enforcing laws within tribal boundaries. Some tribes cannot charge non-tribal members with anything, you know, a significant criminal offense. Sometimes it has to be the federal government that steps in and makes those charges. And so

registry violation issues are a real challenge in tribal communities. They don't have typically other resources, such as treatment, such as other types of things, typically within their jurisdictions. And so now we're dealing with registrants without the resources to go along with it. And then even figuring out exactly the land within a reservation, whether that's part of a reservation or whether it's a checkerboard and non-tribal area, and figuring out who, you know, which jurisdiction has jurisdiction

over the registrant. All of these are huge challenges for tribal jurisdictions. And so I would really encourage you all, as you're continuing to work on sex offender registrations, to not forget your tribal partners and to think about how they might fit into all of this.

This is a guide that the SMART Office put out related to tribal registries. And so that's available on the SMART Office website. If you want to go and download it or take a look at it, or if you're working with tribal jurisdictions, you can refer them to it as well. And I'm sorry, the number on this one is different than on the other one. The tribal, the implementation is constantly moving target.

Next slide, please.

And so in working in tribal communities, tribal government is really important to make sure that you're working with tribal council, elders, recognizing challenges for these tribal communities and being able to talk about these issues. It's a huge issue. For many, many years, I've done consultation work going to tribal communities and helping them with implementing sex offender registration and notification as it's a very challenging thing within tribal communities, and then developing community notification systems. These are very small, close-knit communities, typically.

Everybody knows everybody. It's kind of like rural Arizona in registries there. I'm guessing most people will know the people that are on the registry, whereas in Phoenix, you probably don't know most of the people. And so realizing that and thinking about ways that that information can be disseminated without causing any kind of challenge challenges between families or community members or things like that. And also figuring out things like how can members of communities attend tribal events, tribal ceremonies, and things like that when you have both the person who was victimized and the person who was offended in the same community. And so those are all challenges that tribal law enforcement has to figure out in terms of dealing with registrants in their area.

Next slide, please. This is from the National Center for Missing and Exploited Children. NCMC is a great resource for information related to registry and for prevention information. So if you're conducting any types of community notification, you can get some really good materials from NCMC.

They used to do these maps every few years. They don't do them anymore because they felt like the information that they were accessing wasn't completely accurate, so they've stopped doing them. This is a little bit dated, and I only show this to show you how many registrants we had, at least at the time, and to break the breakdown

by states. And so this is really small detail. I apologize for that. Hopefully, if you get, you're going to get the PDF of this.

and you can make it bigger and take a look at it to see what it says. But it shows the breakdown of registry per 100,000 of the population. So some states like Wyoming have a very small number of registrants in their state. Their population is very small. But if you look at the number per 100,000, it could be greater than some of the larger states.

This is not a product of more or less offending occurring in any jurisdiction over another, although you could maybe make jokes about that or whatever, not that abuse is a joking matter, but that it's based more on the laws, like how long has a jurisdiction had a law? How long are people required to stay on the registry? What types of crimes are included? For example, there are some of states that include solicitation offenses of an adult as a registerable offense. And so that might expand the number of people on their registry, for example. So this is really a product of the laws, the policies, and the way in which a jurisdiction is implemented. So as promised, this is the classification system that I referred to before. So this is where it gets into

to something that may, not just may, I know it does, from what I've had discussions about, this differentiates the federal law from your state law. The way in which classification occurs with SORNA is based on the offense of conviction, not based on a risk assessment. And so if a jurisdiction is using a risk assessment to level or to tier registrants for the purposes of frequency of registry, notification levels, et cetera, that puts them out of compliance with SORNA. Congress went with the offense of conviction, believing that was a more consistent, more objective way of determining leveling that would be consistent across jurisdictions. Again, under this notion that people, registrants might be jurisdiction shopping. I don't think that was the case necessarily, but that was the belief at the time. And so they went with offense of conviction. However, every jurisdiction has different classifications for the way in which they classify crimes. And it's really hard to translate that from 1 jurisdiction to another. So you may have somebody coming in from Colorado moving to Arizona, and we, you know, our classification might be unlawful sexual contact. And you're like, well, what does that mean in Arizona law? So you have to research Colorado's statute to find out what the terms of the offense are so that then you can level. And there may not be a precise, exact, similar statute in Arizona. And so the goal was to make this very consistent and uniform.

In practice, it probably comes up not quite to that point. But many jurisdictions that have not substantially implemented SORNA have done that based on the fact that they want to stick with a risk assessment system rather than with the offense of conviction. You know, there are pluses and minuses to both of those, and I'm happy to have a discussion with you about that if you want to get into that.

You know, risk assessment is more subjective from Congress's perspective, from the smart office's perspective, whereas crime of conviction is more objective. And so, but there are pluses and minuses in both ways. And so what that means then, though, we also know that offense charging is really important because if somebody is charged not precisely for what they did or there's a plea bargain and the case is plea down, that they are not represented in terms of the offense of conviction risk that is being perceived because of the way in which our criminal justice system works as well. And so to know that information and the importance of charging is really important for an offense of conviction tiering system.

To work and to have that information available for other jurisdictions as well.

So these are the tiering requirements. You want to go? Yeah. So there are three tiers, tier one, tier 2, tier 3 within SORNA based on these conviction elements. And again, that's not based on a risk assessment, although SORNA would say that that is indicative of risk. And these categories are used then to define how long someone has to register, as I indicated before, how often, and whether they are required to be publicly notified on or not.

So here's the breakdown. So tier one annual registration for 15 years, tier 2 every six months for 25, tier 3 every three months for life, with some exceptions. There are a few exceptions to be able to have that told or stayed at some point in time. But this was a significant increase in the registry requirements. Again, keep in mind in Wetterling, they did not specify any of this.

SORNA, they wanted this to be uniform and they did that deliberately in terms of wanting it to be the same in every jurisdiction.

So tier one, some of these are, you know, through federal law. Again, as you're struggling here in Arizona, to my understanding in defining terms, the federal government struggled with that as well in terms of what do these things mean. And so tier one is not a tier 2 or a tier 3. That's really helpful.

So we're talking about what are typically lower level sex crimes, misdemeanor sex offenses, and what they're calling simple possession of child sexual exploitation materials.

And as I said a little bit ago, tier 1 offenders can be exempt from public website disclosure if the jurisdiction so chooses. But if the jurisdiction goes ahead and puts them on the registry, that is not in violation of SORNA because that is an enhancement, not underneath the requirements of SORNA. Tier 2 are what you would typically consider to be felony. So

For those who aren't familiar with criminal law, felonies are typically punishable by more than one year in incarceration, and misdemeanors are typically punishable by less than one year. So misdemeanors would be tier one, felony tier 2. Again, you see that it's the offense of conviction that is driving the tiering that is being done here.

And so we're talking about crimes against minors, that aren't directly child sexual assault cases, although you could argue that some of these obviously are sexual assault cases with children involved as well. So again, we're talking about children that are not under the age of 12, so older children. So they're making some distinctions in terms of tiering based on the age of the victim, which may or may not be indicative of risk, but I think certainly is from a public notoriety perspective. And so they made those decisions. And so we're talking about images, we're talking about solicitation offenses, those types of things. And then if somebody was a tier one previously, so if you, let's say you had somebody who was engaged in indecent exposure, a misdemeanor charge, and then they recidivated, they would then become a tier 2 persona.

In recidivism, does this include probation violations? Say your name, sorry. Oh, sorry, Amanda Adkins.

For recidivism, does this include only new charges or what are we looking at for recidivism?

I'm looking at you. I'm so used to the legislative process. Anyway, Madam Chair, can I talk? No, we're talking about sexual offense recidivism. So we're not talking about failure to register. We're not talking about a probation violation.

Thank you.

Yeah.

So tier 3 are sexual assault cases involving younger children under the age of 13, forced sexual assaults, again, forced being open to definition. One could say all sex assault is forced, but anyway, and then sexual assault involving acts regardless of victim's age. So I think they leave it wide open in terms of how they define that. And then non-parental kidnapping of minors is also included in that under the theory that many times people are charged with

their most serious offense, which would be the kidnapping offense, but that also involved the abduction of a child for sexual assault purposes, or that recidivism again for a tier 2 offense then boosts someone up to a tier 3.

So I think I've covered this already in terms of that it's a floor, not a ceiling, and then you can enhance. And you can enhance that based on risk as our risk assessment as well. So I'm going to go to the next slide and then I'm going to stop after that and we can maybe have some discussion from there. So

You know what, Jim, Hanratty, Jim, do you have your hand up?

JH **Jim Hanratty (SUP)** 55:15

Yes, Jim Hanratty, polygraph examiner. I just had a question.

Do you, if you know, do you know what the rationale was for having exceptions for tier one and tier 3, but not tier 2?

The rationale for what in tier one and tier 3?

JH **Jim Hanratty (SUP)** 55:33

to have exceptions to the rule for the registration in the tiers.

Oh, you mean like, yeah, so you mean like where they could have a relief from registry for one and three, but not two? I don't know the rationale for that. I'm sorry. I think the idea originally with tier 3 is it was a juvenile exception. And so I think the idea being that for juveniles, maybe there should be some relief for registry versus being on the registry for life as a juvenile. And then

JH **Jim Hanratty (SUP)** 55:50

I see.

tier one, I think it was because those were viewed as being sort of lower level offenses. And so maybe some pathway to exit the registry for those people, perhaps under the theory that those individuals are more rehabilitatable than a tier 3 offender. But I'm speculating on that. And that's not my opinion. I'm just saying that that might be the attitude. Again, you have to keep in mind that this was drafted by legislators who probably didn't have a high level of knowledge. You know, for example, you may have seen some articles that talked about some of the testimony

that was done during SORNA, and the belief was that all registrants re-event, you know, or at least most of them do. And so that was the information that they were operating with at the time. They didn't necessarily have the recidivism data and other kinds of things that we have. And so they were making decisions based on the information that they had. And so they made a registry that was pretty stringent as a result of that. Yes. And so as I've said, and I'll talk more about this when I talk about our system,

JH **Jim Hanratty (SUP)** 56:59

Thank you.

We, through the Wetterling Act, implemented a risk assessment system, but we also had an offense conviction baseline system for our registry. So we had both. And so what it allows you to do is there would be a way that you could have an offense conviction system and then put a risk assessment system on top of that.

SORNA does not prohibit that. And again, providing that you only use risk assessment to aggravate registry requirements, not mitigate, you can't lower them. So if someone comes out as a tier 3 based on offense conviction, you can't lower them to a tier one based on a risk assessment.

But you can go the other way. If you had a tier 1 registrant and you did a risk assessment, they came out high risk on that risk assessment and you wanted to aggravate to a tier 3, SORNA would allow that. And so that was how we were able to implement and to layer our two systems together. And I'll talk more about that when I talk about our implementation.

But I just wanted to let you know that you can do kind of this blended system between risk assessment and offense-based tiering, but you can only do it in that one way. So I will stop there. I gave you a really quick, long overview of sex offender registration notification systems.

the federal laws, how that's been impacting the states. And I'm certainly open to any questions or any comments or discussion from the board that you have.

Representative Powell.

Hi, I'm Representative Powell. Thank you for your time and your effort in putting this together. We appreciate that. I know it takes a lot of work. So one thing I just wanted

to make a comment on. I know that these acts come from extreme cases and extreme violations.

which none of us would ever want to suffer. I just want to make sure that people understand that generally when things happen, it's because of extreme cases rather than the normal cases. I don't know if there is a difference. It's kind of hard to measure, I'm sure. And then likewise, do you have any empirical data that actually tracks

the success of SORNA. So as a board, if we're considering perhaps introducing or asking the state legislature to adopt SORNA, which I know we don't have already in Arizona, is there some data that we can show that would justify that?

I looked at her again. Thank you for the question. I appreciate it. Thank you for your comments. So I think that there is a lot of research out there on sex offender registration and notification. The SMART office has published kind of a summary of the research on its website.

By way of full disclosure, I worked on that. I was one of the contractors who worked on that for the SMART office and wrote the research summary on SORNA and SORN. It was actually more on SORN than SORNA, and I'll qualify that here in just a quick second. So there is a good summary of the registry research. Many of you may have heard that people cite statistics to say that registry does not decrease recidivism likelihood, that it doesn't lead to, it doesn't have a deterrent effect, it doesn't change registrants' behavior. And there's also research, there are contradicting research studies that say it does, but for the most part, many people would say that it doesn't lead to a reduction in recidivism.

Similarly, when they've studied implementation of registry and looked at it pre and post, it didn't seem to decrease the number of sex crimes that were occurring in a jurisdiction. And so therefore, they said it didn't seem to have a deterrent effect in stopping people from offending the first time as well. And then many of you are probably also familiar with research that says that there are unintended consequences

of registries such as loss of housing, loss of employment, those types of things. And so that research speaks really to the registry system as a whole, not specifically to SORNA.

My, well, again, I don't want to go too far down this rabbit hole, but, you know, think back to what I described was the purpose of SORNA and registry. The purpose of registry was as a tool for law enforcement, as a criminal investigation tool. And there

is qualitative research that I've done and others have done that show that law enforcement feels like that having that information is beneficial. for their criminal investigations. And there's actually research to show that in stranger perpetrated sex crimes, that cases are closed more quickly as a result of using the registry. So it's not preventing a sex crime from occurring, but it is a helpful tool in criminal investigation. There is also research to suggest that community notification that the public by and large is extremely supportive of having that information. And so the research, the qualitative research, surveys and such that have been done say that there's support for community notification. What we looked at, I did a research study looking at after implementation of SORNA, and what we found was greater system sharing of information, better monitoring and tracking of registrants across jurisdictions. So there's a number of enhancements and improvements that have come from SORNA. That does not speak specifically to registrant outcomes. And so I don't know of anybody, there has been people that have looked specifically at SORNA, again, that said those that are subject to SORNA don't recidivate.

at any lower levels than those who are not subject to SORNA. But if you look at the other things that registry is supposed to do and what SORNA was designed for and what registry was designed for, then I think you could say that there is effectiveness in some of those areas. I hope that helps give you some information. And again, I would refer you to the documents to look at it more carefully.

Thank you. May I have a follow-up question, Chairwoman?

Thank you.

It just comes to my mind. This is a yes or no question, and then I have a second question to follow up. Has there or has there not been an increase in sexual minor activity since the introduction of social media?

I don't know the answer to that. The rates of sex crimes actually have been, for a number of years, were going down over like from 2000 to 2020. The rates are fluctuating fairly significantly right now, but they have not gone up significantly, I would say, in the last 25 years.

Okay, so has there been an increase?

and minor sexual activity or crimes because of child pornography.

So the way in which child sexual exploitation material, dissemination, distribution, production has significantly changed based on use of the internet. I mean, that used to be a postal crime where people would have images and would be mailing them. And now they're disseminating that information on the dark web. And so the internet has allowed for much greater dissemination of that information. And if you look at federal sex crimes, the rates of child sexual exploitation image charges has increased significantly. Those are the bulk of the federal cases.

that are going on in terms of prosecution are those child, quote unquote, child pornography cases.

So one last question. I'm sorry to dominate this, but as a legislature, I have, as a legislator, I have focused on this for two years. And it's my personal belief that we seem to shy away from restricting child pornography or the causes of the harm that is generated through pornography. People seem to be hesitant to doing anything to block it because they say it's unconstitutional. Do you know of any effort in anywhere in the United States that anybody is making any effort whatsoever to reduce the impact of pornography, to reduce pornography at all, to block the effects of the forthcoming effects of AI that may increase the risk. Because we're putting our children, in my opinion, we're putting our children at risk all the time because we ignore the blatant cause of most of the child crime. which is the visual effects of pornography.

I'm guessing there's people around this table that could speak to this issue probably better than I. So I would encourage you to talk to those here in Arizona who are experts in this. But I think that there are efforts to try to control the technology. The National Center for Missing and Exploited Children has a hotline where you can report this information and they will investigate that and look at it. I think that the federal government, the FBI, they're doing a lot of investigative work in this area. Certainly there are constitutional challenges that are going on with things like deep fakes and things like that. Is that really a child sexual exploitation image or not if it's not a quote unquote real person?

or it's not that real person, a head on somebody else's body, or all of these types of things. I mean, we've entered a brave new world in terms of which, and I don't say that in a good way necessarily, but we've entered this kind of brave new world in which technology proliferation is maybe getting ahead of where we can monitor some of this. And I think that legislators,

policy makers, practitioners, we're all trying to figure out how to deal with this. And I think certainly many people who engage in the use of those materials would argue, well, I'm not harming anyone. I'm just looking at this picture. It's not a big deal. Well, it was a big deal because somebody's picture was taken in the 1st place and that is exploitive of them. And talk to people who have had their images splashed all over the internet and ask them how they feel about that and you will see how traumatizing it is. So I would hope that we all would agree that it's important and that we take it seriously and that we do everything we can to try to regulate it, control it, stop it to the extent we can. but that's my opinion, obviously. So thank you for your questions.

So when, and feel free, Detective Cook, to chime in here too, when you did your, one of the things this board is tasked with is looking at the current community notification assessment that Ben did a presentation on. I don't expect everyone to have that memorized.

But that is, of course, where Arizona gets our level one, two, and three. I don't know if we can go back just for a minute to the tier slide. Just because I want, as you know, we have either like the subcommittee looking at this or the board deciding what, I just want to dive into this just for a second.

to compare, I think it was the offense-based versus risk-based. And because Arizona is not really, we're not familiar with SORNA, that's one of the reasons I asked Chris to come just to talk to us about it as we decide.

what or how we want to move forward with this. I think it's important that, did you want to talk a little bit about the differences that you would just to compare? So it's like a fence, or no, you don't, you know.

I'll answer any questions or talk however you want me to.

Or does anybody have any further questions? Because as we're talking about like conviction, versus

Madam Chair.

Yes, please.

This is Sheridan Miller. Just to clarify, and I had to Google it, I know the presentation was on the community notification tiering, which is separate from the sex offender

registry in Arizona. So I think.

As we've talked about SORNA, separating those out, clarifying what's what might be helpful, at least for me, to keep track of the conversation.

And I know I did pull up also as we were talking here when the DOJ did an assessment of Arizona's registry. I can go through briefly some of those if that's helpful, where they did not find us. We're not SORNA complainant at all, and I can kind of talk about just, and this is just informational purposes, because my opinion, there's good and bad, I don't want to say bad, with both, I guess. So it's really just, I think,

Educating ourselves, and then kind of working as a group through these issues, but so the the...

Registrable offenses, the DOJ's finding about Arizona certain sex trafficking, prostitution related, and other offenses were not consistently covered. So that's a registration issue. So that would be 13-38-21. The compliance area out of state, federal, military, and foreign convictions.

The equivalency rules and sheriff discretion could include federally registerable offenses. So Arizona does not have, or the recommendation was to establish uniform statewide registration determination criteria.

Initial registration, DOJ's finding about Arizona was Arizona allowed some non-incarcerated offenders 10 days after conviction rather than the federal three business day standard.

registration information. There was gaps that included palm prints versus fingerprints, passports, immigration documents, professional licenses, temporary lodging, and certain vehicle registration. The recommendation there was to amend collection requirements and update the DPS registration forms and systems.

Employment and school changes Arizona did not consistently require immediate updates between annual appearances.

International travel I know is a big one. So Arizona lacks A mandatory statewide 20 one date notice requirement and consistent US Marshals service notification. I know this, it has required when I was with probation a lot of times, you know, people probation are like, where do I register if I'm going to go out of the country or what do I do? And so the US Marshals will turn them away. They don't, we don't have any They don't have the ability to that here. So in person verification, Arizona generally required annual verification rather than sort of a tiered based frequency.

and then registration duration, certain offenses carried registration period shorter than federal minimums. I think that's a big one here for the majority of everyone in Arizona. If you have to register, there's small, there's a small

Small group of people that can potentially get off the registry. For the most part, it is lifetime here in Arizona.

And that was the one example I think I talked about the one time where an 18 year old and a 14 year old, if they have sex in the state of Arizona, like they do, they will register for life. And that's like the senior and freshman in high school that this person's never getting off a registry and is treated the same way as someone that may have a, you know, 100, you know, prepubescent victims. So the public registry, I'm almost done too. Delays, risk-based exclusions, and missing categories of public information prevented full compliance. And then lastly, community notification. Arizona's risk-based approach did not cover all federally required categories.

So that's kind of an overview. And it does say to, this was done in a 2001 DOJ assessment at Arizona. So I'm not sure how often they do those or if there's a new one, but we can check. But it looks like this is, I don't know if our laws have changed that much since.

We have fixed a few of those.

Okay, good. Tell us.

Some of those things have been fixed. Ben Cook.

Please, share. Yeah, go ahead.

We fixed a few, so we do do the 21-day notification for interstate. We do now, so level twos and level threes have community notification, and where we meet the SORNA is that in the level one, if it's a dangerous crime against children, which is what SORNA requires the child involvement that does require the community notification on in person, on paper and on the website. I'm trying to remember all the things that they were saying, but those are the big ones that changed.

If I can just add, I think you can do another review at any time that you want it. And so you could submit, you could work with, you have a senior policy analyst, Yaya Fuz, who is assigned to Arizona. You could work with him, you could submit the changes that you have made, and you could see where you're divergent. I mean, clearly risk assessment is going to be one place that you're going to diverge. And so you can see how close are you.

so to speak, and then what has to happen for, and that's a policy decision. I mean, it sounds like some of the things that were described in there are more administrative or procedural. Doesn't seem like that those would have a policy implication. Others have policy implications. And so then this body, the legislature, the state of Arizona needs to decide. And I'm not here to convince you that you should do SORNA or not do SORNA. I'm just telling you what it is.

And, you know, when we went through our process, initially, as I referred a little bit ago, with juveniles, the requirements for juvenile registry were the same as they were for adults. And that was a non-starter for Colorado. We were not okay, particularly with putting juveniles on our public website. And so we wrote a letter saying they asked for feedback on their guidelines. And we said, this is horrible, don't do that. Well, they've changed it since then. And so now you don't have to put juveniles on the public website anymore. And in fact, if you have a system that allows for the most serious juveniles to be waved over to adult court and registry required, then you don't have to have necessarily a juvenile registry anymore at all. And so it may be that through some of the changes

in the federal guidelines and in some of the administrative things that you've implemented, you know, you may be closer than that. And then you could look at, are these things legislatively or whatever that you would want to do? Is it worth doing, say, for the 10% penalty that you're currently suffering as a result from your JAG Burn grant funds? Is it worth being able to access the Adam Walsh implementation grant funds, which are like \$400,000 a year that each state is eligible to apply for and receive to support the work that you're doing. But it has to be toward the service of implementing SORNA if you were to do it. And so you could work with your senior policy advisor to find out where are those discrepancies. And then those are really policy decisions about do you want to do that or not? And I know that's not necessarily your decision. I mean, you and the collective Arizona, you, you know. So, but when we looked at it after the juvenile policy changed, we really were not that far away. And, you know, we did have to implement things like reciprocity for federal, tribal, military convictions. We had to put something in our statute.

That was not a very controversial thing to do, you know. And so some of those things were easier than others to do. The international Megan's law, we implemented by policy. So we didn't even necessarily put it in statute. We just said as part of registry, you know, you're required to do this as part of your registry and put it on the registry

form. So.

A question?

Yes.

With respect to the juvenile, no, Scott Naegele, sorry. With respect to the juvenile side of this and the registry requirements.

So you're not having judicial review on a case-by-case basis to determine which juveniles, quote unquote, should register and which one shouldn't. That's not happening at this point.

We do do that in Colorado. So we do, we had a juvenile registry before, and I know I'm kind of now talking the other direction than what I just said, but

We did have a juvenile registry prior to SORNA, and, but we didn't have them on the, there was no community notification, and there was a way for them to be relieved and released from registry. There was also a clause that said they could be, the registry could be waived if the judge made a finding to waive it. So we are now, allowing judges to, per statute, to waive the registry requirement. But if they do register, then they are released after seven years or age 25, whichever comes first, and they're not publicly notified on it. So that's how we're doing a juvenile registry right now.

So no notification. But registration on a case-by-case basis?

Correct. That's how we do it.

And we've worked really hard to kind of shield that information just because if that information goes to the schools or things like that, the kids could very easily be run out of that school. And so we just felt like, you know, we wanted to have the youth to have that opportunity to maybe not have to be homeschooled and things like that.

So anyway.

Melony Opheim.

Go ahead. Kind of along the same lines regarding the juveniles. So maybe I missed it. So the SORNA does not apply to juveniles necessarily or distinguish between adults and juveniles. It's just registry. Depending on what you do in your state.

Yes, it formally did not distinguish between adults and juveniles. It now does not require juvenile formal juvenile registry. It is the way in which you're substantially implemented is the totality of what you do in your state. So if you have certain procedures, say a waiver process over to adult court that may satisfy the requirements for SORNA, you don't necessarily have to have a juvenile registry to be substantially implemented of SORNA as of today.

Okay. Thanks.

Frank Griego, earlier talking about the study that you're a part of that you did on the effectiveness of the SORNA, it sounds like it wasn't really effective on recidivism. Did your study include comparing other studies or getting to other studies on the effectiveness of more risk-based assessments, because that seems to be when just at a preliminary look preparing for this role here, it seems like the risk-based ones have a huge, huge advantage over the conviction-based ones of predicting and helping reduce recidivism. Did your studies get into that at all that you were participating in?

Yeah, so let me be clear. I'm talking about two different things. So I'm talking about a summary of the literature that has been done on registry research.

That is on the Smart Office website. That includes studies that looked at whether it reduces recidivism or not. And so that was not my study. That was just a summary of studies. And then the more recent research project that I was a part of was looking at what has changed since SORNA has been implemented systemically.

and how have jurisdictions been able to respond to SORNA and what changes have taken place and do those appear to be for the better or not? So it is not a formal study of recidivism. It was not a study of risk-based versus offense-based, although there is some research out there that suggests that risk-based is better than offense-based in terms of its effectiveness in classifying risk. Now, that might be because offensive conviction is not precise, as I was saying before. It could be based on plea bargaining. It could be based on a variety of things that happen. So there's a lot of factors. And what is it that makes that less effective? is unknown, but there have been scholars that have done some of those studies to say risk assessment is a better indicator than offensive conviction, which is why a number of states around the country has stuck with their risk assessment systems rather than moving to an offensive conviction system.

Awesome. Thanks for clarifying that. I appreciate it.

Yep. Thank you. And again, all of those things are in the public domain. I can get you the the resources for anybody who needs to help sleeping at night. You know, I can get you a 100 page research study and you can read that over and you'll make it through about 30 pages and then you'll be fast asleep. So anyway.

Should I keep going?

Yes, please.

Okay. So let's go back to Colorado.

And for the gentleman who left, who's encouraged you to not just do what Colorado did, I would also agree with that. I think you need to do what's best for Arizona. I'm just here to share what we've done. And we've made plenty of mistakes. And maybe what you can do is learn from some of the mistakes that we've made and how we've done our process. And so I applaud Arizona. I was working with Brecken and with Beth as you all were putting this together.

together. It was fairly easier to just use the Colorado statute as a place to start. There were good parts and not so good parts about that, but it is what it is. And so you can always modify your statute as you go along to make it more appropriate for Arizona as well. So one of the things that's important is you have two staff that work for this board. We have a larger staff. And so we have on our staff,

We have standards implementers who do our adult standards and our juvenile standards. We have an application process and we approve our providers. And so we have a staff member that is responsible for the approval of the providers. We have a statistical analyst on staff. And so we do the research on what we're doing. We collect data.

on all of the cases that our providers are seeing. And we have all of that data. And so we can give recidivism outcomes, we can give technical violation outcomes. We know what's working and what's not working within our system. And so we are accountable to the legislature in terms of making sure that what we're doing has evidence support.

behind it. And so you are at the beginning of your process and hopefully there will be additional staff resources that will come along to help support you in the work that you do. I can tell you that boards around the country without staff become pretty inert. And so you really need to have a paid professional staff that can support the work of this board. And so hopefully as this board grows and develops greater responsibilities, you can add staff that could be responsible for those responsibilities as you move along.

Quick question.

Yes.

Can you provide the names of the people who hold those different roles to someone here so that we could have access? Scott Naegele again.

Absolutely. Absolutely happy to do that. So yeah, if you want to talk to our adult standards coordinator or our coordinator or whoever it is,

happy to share those names with you and you can reach out to them. So you can see here, the Sex Offender Management Board Colorado was passed in 1992. So we're 34 years old, if I did that math in my head correctly. And originally, the board was the Sex Offender Treatment Board, and they changed it to Management Board to more accurately reflect the broad scope of the work of the boards. And then that part of that was the charge to do the standards and guidelines. And so because we approved providers in the state, they have to follow the standards. Guidelines were for those who were not mandated under the board requirements. However, now supervision officers now are now also mandated in our state to follow the standards. And there is a complaint process.

for both providers as well as for supervision officers if they don't follow the standards.

So here, I know your board is pretty big. We've grown over the years. Here are the 15 original members of the board before we had a juvenile mandate. So you can see it's a fairly multidisciplinary group of people across all professions. And then if you'd move forward.

We had the adult standards that were first published in 1996 and there had been ongoing revisions since that time. Evidence is a big thing. Again, from the public comment, we are always responding to evidence that comes up, making sure that we are in keeping with the current research and literature. And so the standards have evolved a lot in Colorado from where they first started in 96 to where they are now. And then we are doing the specialty research reports as well on the effectiveness of the standards. There's one from 2003, but we're doing them every year over the last number of years. If you go to the Colorado Board's website, there's annual reports from each year. Again, great nighttime reading for you. So you can check out, there's summaries in there of the outcome data that we have.

Based on the work that we've been doing.

Sorry.

Did that get your attention in a hurry? It's very difficult to turn off. Yeah. Then they added juvenile requirements to the board in 2000. I believe you have both adult and juvenile requirements. We started out as strictly an adult board and then were added to juvenile requirements in 2000. That's all right. Nobody heard that. So you're fine. That was very discreet.

And so then we had the juvenile standards and both sets of standards are published on our website as well too. You can certainly refer to that. I would encourage you not

to just cut and paste, but take a look at them in terms of things that might be helpful for here in Arizona. And then we increased to 21 members to add those juvenile stakeholders when we were doing the juvenile standards. So you see additional providers there or different additional board members that were added.

And then we published juvenile standards similarly in 2002 and have continued to update those as well since that time. We also have a school education guide because schools were expelling a lot of the kids when they first were charged. We have a mandatory notice requirement where the DA has to notify schools when someone's charged with a sex crime.

And so we put together a guide to help schools to know how to handle kids without just necessarily having to expel them. So you can check that out on our website as well too.

And then we, because we're very popular as a board, other people want to be on the board too. So then four more people got themselves added to the board. And so we're up to 25 at this point, including county commissioners. Those are the two elected officials on our board as we have two county commissioners, a rural and an urban county commissioner, based on the allocation of funds, particularly for juvenile services.

for those positions and a county director of social services and private criminal defense attorney. So, you know, because the counties, we're a home rule state and the counties were a little upset that the state was coming in and telling the locals what to do. And so they wanted to have a voice on the board. And so those positions were added.

Some of the responsibilities of our board, we have a sex offender surcharge. It might be something that you could look at as a way of help funding some of the services that you provide. I know that individuals who commit sex crimes and are on the registry are already subject to a lot of fees and charges and things like that.

But we did allocate a sex offender surcharge that those who are convicted of certain levels of crime, offensive conviction based, have to pay into as part of the fees that they pay. And that money is used in part to support our sex offender management board, as well as for things like indigent evaluations for clients who can't afford to pay and for corrections and human services for training as well. That fund is generating upwards of probably three quarters of \$1,000,000 a year at this point for us. It started out slow, it'll take you a while to get there, but it is something that you could look at as a way of maybe supporting some of the services and staff of the

board.

Next. So I indicated a little while ago that when Megan's law was passed, we passed a sexually violent predator act. Those were terms, I know there was a public comment about using person first language. This language was sort of legacy language. that was passed 30 or so years ago in response to Megan's law. And it requires that each person who is convicted of a sex crime is assessed on this risk assessment instrument. It was developed specifically in the state of Colorado on Colorado individuals who committed sex crimes. And it identifies those as being at highest risk for recidivism. Those were the ones that have been labeled over the years then as being sexually violent predators. And so that is our aggravating risk assessment process where even if you were a tier one offender based on offensive conviction, if you're determined to be a sexually violent predator, you automatically go to the tier 3 with the more frequent registry requirements, lifetime registration, and what used to be more active community notification. Initially, that included doing things like town hall style meetings where we would invite the community in and do a meeting and let them know that the sexually violent predator was moving into the neighborhood. You can imagine how those meetings went for the public. They were problematic.

But now with kind of social media and things like that, I think most of that notification is going out through law enforcement, you know, Facebook page or Instagram accounts or things like that. So community notification meetings are not happening as much.

Chris, we had a question from Jim, Jim Hanratty.

JH **Jim Hanratty (SUP)** 1:31:35

Yes, it's Jim Hanratty. Regarding the SVP risk assessment, is that based on the index offense, history, both?

It is the triggering mechanism to receive the assessment is the index offense. History of a prior sex crime is one of the factors that is considered in that. And in fact, by policy, we passed a requirement that anybody who was convicted a second time as an adult automatically qualifies as being a sexually violent predator. There was just a feeling on the board that somebody who had a chance to rehabilitate themselves, went through supervision, and then re-offended, that that person was at higher risk. And so that is a requirement in the state of Colorado. But this is being triggered by

index of offense. So there are certain sex crimes that trigger it in statute. And then the assessment is administered by the evaluators and the supervision officers at the time of sentencing. And the judge makes that determination as part of the sentencing. So they can override the assessment or they can go ahead and go along with the assessment if they want to. And we have tried.

JH **Jim Hanratty (SUP)** 1:32:46

Awesome. Thank you for the information.

Sorry.

JH **Jim Hanratty (SUP)** 1:32:49

I said thank you for the information. That's you're chock full of that. That's good. I appreciate it. Thank you.

Yeah, you're welcome. And we have tried actually to change the language in this because we find that sexually violent predator elicits an image in the mind that isn't maybe always accurate. And so we've tried to go to a leveling system. So in response to your comment about person first language, we tried to do that and got a ton of pushback from legislators, from the public, from victims groups. And so it was a real challenge. And so we, even though this is legacy language from Megan's Law, that is not required anymore, because as I said, Megan's Law has been, you know, is no longer in force because of SORNA.

We cannot get this language changed, so...

And then community notification. So we had an active community notification. We've been doing this for a long time. As I said, we've done town hall style meetings. We've done other types of electronic notification as well. We've got specific criteria for what that is. And as you commented, representative, you know, these cases, the most extreme cases aren't always the cases of the norm. And so we want to educate the community as part of this.

that it's not just this person, you know, the prototypical image of somebody who commits a sex offense, but that it could be anybody. It could be people in your social system. In fact, we know that 90% of victims know the person who offends against them prior to the offense. So the idea that the greatest risk is from stranger danger, you know, is not accurate. And so we want to use this is an opportunity to educate

the community around other risks beyond just stranger danger.

And then we have lifetime supervision in our state as well. I think you guys do as well.

And the board is responsible, along with some of these other partner agencies, with developing criteria for what constitutes progress in treatment. And so the board creates those standards. And so once individuals go through treatment within the Department of Corrections and meet certain thresholds and they're eligible for parole,

and the board is responsible for those.

And then we also did research on residence restrictions and shared living arrangements as well. I know that those are issues that have been looked at here in Arizona about whether more than one registrant can live in a household or not. We have what are called shared living arrangements in Colorado where multiple registrants are living together actually as a tool for treatment and supervision. And what we found is that the outcomes were better when those individuals were living together than when they were living alone or living with family members. They were much more likely to hold themselves and each other accountable in a group living situation than with family or others who maybe were more reluctant to hold them accountable. So if you're interested in looking at that, those legislative initiatives that are going on, you can look at our research.

Related to that, we also do not have a statewide residence restriction. As a result of that, we found that residence restrictions were not effective. And so therefore, some of our municipalities have them, but we do not. And so you'll see the interplay, I think, between policymakers, legislators, and the board, where rather than just passing a law,

They say, you know, will you study this? Will you get us the research? Bring it to us, make a recommendation. So that's what the board is typically done in Colorado.

And so this is the Lifetime Supervision Act that I was just referring to. So I don't think I need to go over that again. And I'm almost out of slides and I'll stop again because I know I don't want to overstay my welcome. So this is how, and I think I've already alluded to this, so I may not have to talk about this too much. But so when Colorado first

When SORNA first came out, with the juvenile requirements, Colorado deferred, and we did not work to implement SORNA. When the juvenile requirements were relaxed to be more consistent with our requirements, and then we had ongoing conversations with our policy advisor at the SMART office and found out that maybe

many of the things that we had done would be fairly close, if not being at substantial implementation level, we then began to actively work with them about what would it take for us to be able to substantially implement. And we had back and forth with our policy advisor related to that. And we worked with our legislature to pass some of the laws like the reciprocity law, you know, where people coming in, because we didn't have anything about, say, tribal convictions, for example.

So we wanted to make sure that was added in. You know, but you don't have to, like you said about the 10 days versus the three days. I think ours is 5 days. And so it's like, again, if you're close in most things, you know, you may be able to substantially implement without having to go complete letter of the law.

on everything. And I'm not speaking for the Smart Office or anybody else. I'm just telling you with us, you know, we're not dead on right there with SORNA on everything. You know, we're a little above in some places and maybe a little below in other places, but in totality, the Smart Office felt like we were close enough. You know, they have 3 categories when they're looking at whether you implement or not, implemented, not implemented, or does not substantially deserve. So if you have a provision that doesn't really change anything, then they may classify that as does not substantially deserve, and that may be something that you wouldn't have to deal with.

But I can tell you, I think the risk assessment probably that would be the biggest thing. The other thing that's a real challenge is retroactive application. I don't know if that's been going on in Arizona. It's been going on in Colorado. It's been going on in Michigan, Pennsylvania, where when registry laws get changed, then they're retroactively applied to the registrants.

and many registrants have been filing suit in those situations. And there's been injunctions to say you can't retroactively apply a change in registry to me that constitutes kind of like double jeopardy in some ways. And so, you know, but if you do something and there's an injunction, then the smart office doesn't push it from there. So if there's an, if you're enjoined from doing certain things, then that's not a requirement because the court said you can't do that. And so, you know, so thinking about how you might do this retroactively, poor Michigan has like 6 versions of their registry right now. And it's when you came on the registry as to which version you're following, it gets very confusing.

but that's the world that we live in right now. And so, but we, you know, we did not do complete retroactive application because our registry had been around long enough that they felt like most people were already in the current system. So depending on how long Arizona's had its registry, maybe that covers you, maybe it doesn't, I don't know.

But anyway, so, you know, we looked at as a policy decision, the things that we could do. We talked with a smart office. I mean, they couldn't guarantee what was going to happen. But well, if we do this, will that get us closer? You know, what do we need to do? And it was kind of that back and forth. And we finally got to the point where we submitted our packet and they determined that we were substantially implemented. And we've been substantially implemented since 2013.

And we have to reauthorize that every year to show that we've not done something to kind of like undo the system that we have. But that has allowed us to recoup the 10% penalties that we were getting. And we've had Adam Walsh implementation grants probably every other year for the last 10 years. So that's brought in.

you know, an additional probably \$2 million into the state budget that we've typically used for registry enhancements. We'd use it. You all do offender watch here. So you could certainly use that towards enhancements with offender watch. We do a sex offender registration module that we've purchased or rent. I don't know exactly how it works anymore.

from another company. And so we use that money to help enhance with that and to make sure that our system is compliant. We also use that money to train on registry. So we go around the state and do training, particularly for new registrars about how to do registry and what the requirements are. So we do a lot of that as well.

And then we've used that some for overtime for some of the registry staff to help, like go back and digitize some of the files, because there's still some legacy files that are paper files. So we've been able to use it for a reason we'd live scan machines as well, because moving to that palm print thing, many of the jurisdictions didn't have that. And so we actually wrote a grant bought the machines and then awarded them out to some of the local jurisdictions so that they could have the machines. So there's a variety of things you can do with those implementation funds if you're either implemented or working towards implementation. Again, I'm not trying to suggest you should or shouldn't do it. I'm just saying that that's the reality of it. So with that, I'll stop and open it up.

for questions again or comments.

I think I burned them all out. Any questions or comments? Anybody online? No? Who? Oh, Blake.

BB **Blake Barney** 1:42:18

Yeah, Blake, Barney, I have a few questions specific to treatment providers and how things were implemented with them, how you were able to, the board, I mean, get people certified by the board, how that worked with them. And then if there's like a consistency for treatment providers across the whole state, and specifically in the smaller counties, how those things are implemented, having less resources.

Great questions. So as a former provider, I was practicing before the board made those requirements. And so was it a bit of a hassle as a provider to become apply and to become an approved provider? Yes. And I'm a licensed clinician in my state. So now I am dually certified in my state. And so that there, you know, to get the clinicians to see the importance to get them to be willing to spend the application money to do it. There was some resistance, including probably from myself in doing that. However, what I will say is I think it has increased the consistency of the treatment and the evaluations that have occurred across our state.

We had people that were holding themselves out as being often specific treatment providers that were doing things that were not in keeping with the research. Now that we have the board, now that the providers are approved, and as part of that, they attest to their willingness to follow the standards. As a result, I would say it is definitely increased the consistency and the quality of the treatment and evaluation services that occurred in our state. We, the requirements for my licensure are much less than what they were to become an approved provider in terms of the training that was required, the supervision that was required. You know, it was a much more extensive process to do that.

And we have tried as best we can to work with our providers to make that as painless as possible. We used to do paper applications. Now it's an online application process that we have. It's a lot easier to navigate. We're trying everything we can to not discourage people from being providers in this field. We really need providers. You're right that there's a huge gap in terms of rural providers. We also have a gap within our prison systems because many of our prisons are located in very rural areas and

people don't want to live there and then become a therapist that works within corrections. And so we've had to work really hard to try to bolster those efforts. We have a number of providers that actually will travel and do groups in other areas. I don't know if any of you have providers do that.

that. But some of our providers will go once a week and do a group in, you know, Gunnison, Colorado or something like that. And so we've tried to encourage and support populating providers in different areas, making supervision available and accessible so people can get themselves approved and fully function in those rural areas. But it is definitely a challenge.

We've also tried to work with existing providers and other professions, say somebody who is working in domestic violence, I think to make that transition into sex offense specific treatment is not that difficult. And sometimes even people maybe who are practicing in the substance abuse field, there are commonalities there. So we've tried to approach like the local mental health centers and to say, hey, would you be willing to consider doing something like this? So anyway, those have been major efforts. You know, certainly the approval process probably led to some animosity on the part of providers initially. I think at this point, people are, you know, they accept it, they understand it. And I think that we are working hard to try to fill those gaps, but I would say there definitely are gaps. So thank you for that question.

BB **Blake Barney** 1:46:14

Thank you for those responses. I have one more follow up question if possible. Can you expand on the application fee for providers and if that goes directly towards the sex offender management board?

Great question. So we, as part of our statute, we had a cash fund set up. And so that cash fund, we can collect the monies from providers. It's maybe a couple \$100, something like that every few years. I think they have to be renewed every three years.

And that money goes directly to the board and the board staff. It used to go for an external evaluation or an investigation of the providers. We require all of our providers to have background checks. And so we would do criminal histories on them. And then we would do some background checking to make sure that they actually had the credentials and other things that they said they had.

We now, through technology, can do a lot of that ourselves. So that money is now going to support the staff member who is the one that is doing all the application review work. And so if you had a provider approval process, perhaps through those provider application fees, you could use that to support or subsidize the staff position that would be responsible for making sure those applications get processed. And we set up a committee of the board to do that. So we have a number of subcommittees on our board, including an application review committee. And so that is made-up of both board and non-board members, about 6 individuals who review all those applications. It's staffed by the staff of the board. They review all the applications in the committee meetings.

They also hear complaints. And so as I said before, if somebody's not following the standards, there is a provision to file a complaint against a provider and they will investigate and they can determine if somebody has violated the standards and can do things up and through delisting the provider as an approved provider if they are not following the standards.

Typically it involves things more like training, additional training, or, you know, ethics classes or things like that that we often see with licensure as well. So we have a committee of the board that does that, staffed by a staff member of the board that is responsible for ensuring that all those applications are processed and the complaints are heard and held. And then if there's an appeal, the appeal comes to the full board. So you would be the appellate body. If somebody got delisted, for example, for a complaint and they appealed it, it would come to the board and the board then would make the final decision.

These are all things we learned through the School of Hard Knocks.

Missy Musick. So just for clarification, I believe I'm understanding it. Each individual provider needs to be certified or can a full agency?

Each individual provider. And so the providers are the ones that usually are hiring the new staff and working to help get them approved and getting their certification themselves as part of that introductory phase of working at the agency, which is probably not dissimilar to how you deal with new hires right now anyway. So

Amanda Adkins, did I hear you say that the officers are also specifically trained and certified? for working in this population?

We have specific training requirements that are put forward by our state judicial department. In Colorado, we have probation under the courts and we have parole. I know you guys don't have parole, but we have parole under corrections. And so they are trained by their specific agencies. They are not certified.

by the board. The legislature a few years ago was receiving a lot of complaints about supervision officers not following the standards, and the board didn't have purview over those supervision officers. So the legislature decided that the supervision officers should follow the standards as well and be subject to complaints in the same way. If the board receives a complaint,

complaint. We are turning that over, though, to the supervising officers agency to hear that. So the board is not itself hearing those complaints because it felt like inappropriately crossing the governmental boundary of an executive branch agency overseeing the judicial branch officer. So there is a requirement that they follow the standards. They can receive complaints.

but that is handled through their administrative process, not ours.

Okay, any other questions or discussions?

BS Breed, Shanda 1:51:17

Madam Chair, I have one.

Yes.

BS Breed, Shanda 1:51:20

Hi, this is Shanda Breed. Thank you for this presentation. I did have a question. You know, we do have a lot of sex offenders who are not on some type of supervision or parole or probation. Tell us a little bit about what you all did to help keep those folks accountable to the... community risk and registering every year. That seems to be a big issue that we have on, you know, how to keep those folks connected to the registry and who's actually keeping accountable, you know, where they're living and that sort of thing. Tell us more about what you guys did.

Okay, so as you are obviously aware, many registrants are not currently under any

kind of court supervision and are not in treatment. I think the public tends to believe that registry is akin to supervision. They see it as being that you all, as law enforcement officers, are out there monitoring and, you know, checking in weekly with them and all of these kinds of things.

So part of it is obviously educating the public around what registry is and is not. I think for our registry officers and officials in the state, you know, they are meeting regularly with the registrants to do their updates. I think many of them develop of those personal relationships as a result with the individuals. And what I think many of them have shared with me anyway is that they are sort of like the only one that they can talk to about this stuff. It's like they become sort of a surrogate support system in some ways in kind of an odd kind of a way. I'm not saying every registrant loves the registrar. I'm just saying that many of them though will come in and will talk about what's going on.

And so what I've encouraged officers to do is to maybe have ready-made resources available to share with somebody. So if somebody comes in and says, you know, I'm really having trouble finding a place to live. Well, hey, I know these properties are likely to rent to someone who's a registrant. You know, here's a resource.

I'm really struggling, you know, with substance abuse right now. Well, you know, here's a mental health center, here's a 12-step program. You know, I'm really struggling with intrusive thoughts about sexual offending again. Maybe call back to your treatment provider and go back in again. So I think the registry people can become sort of a resource hub in some ways and sharing that information. I know that's not traditional law enforcement work,

in some ways. But, you know, I think it helps keep that connection and to see the person who's registering them as being someone who is on their side or trying to help them in some ways. And, you know, I mean, the bottom line is we want people to lawfully register. We don't want people to abscond. We don't want people to go off the grid. We don't want to have to arrest them and charge them. We'd rather them stay on the registry. I think it's also about educating people about what the registry requirements are. People don't always understand, you know, people maybe have cognitive limitations or don't understand what they're being told or they misunderstand the law. I can't tell you how many juveniles who have registered when they turned 18 thought they didn't have to register anymore because like their case is over when they turn 18, right? So it's about continuing to keep reminding about what those responsibilities and requirements are,

helping them to know what they're supposed to do, double checking to make sure that you're really getting understanding rather than them just saying, aha, aha, when they don't really understand what you're talking about. So anything you can do, I think, to show compassion, support, empathy for them in that situation, I think is well received.

Now, there's times when people are violating deliberately, and you're going to have to be the tough law enforcement officer and go out and investigate and arrest or do those things too. You know, but I think there are things that can be done to show that the registry, you know, and I think it's also most of the clients that I've worked with anyway, I think they understood the purpose of the registry. They didn't like it. but I think they understood it. And so it's like helping them to understand why this is important and why it's important for them and why it's important for law enforcement or the public, you know, that it's important. And so I think anything we can do to try to help people to understand and to get, I mean, we know that to force change upon someone doesn't lead to change. Whereas if they can develop internal motivation and have, you know, motivation for change, they're more likely to do the things that we're wanting to do.

them to do. So anyway, I don't know if that helps you or not, but that was just me off the top the cuff.

BS Breed, Shanda 1:56:01

Thank you.

Thank you so much. And Chris, thank you very much for this presentation and for joining us today. You've been just very, very helpful to me, I know, along the way, and thank you for your presentation and guidance to us today as well.

And I'm always available to anybody. I'll get you those names, and we're happy to help. Myself and the people that work directly in the Sex Offender Management Program right now are happy to help.

Thank you so much. Thank you.

Thank you.

Okay, I'm going to put forward a motion that we move into executive session for legal advice.

Do I have a second?

Amanda Adkins second. Can I also request a restroom break?

We are, so they need, sorry, so my yes, so the so we're going to move into, we're going to take a ten-minute break, and when we come back, we're going to be in executive session.

Oh, okay. I thought it was the other way around, right?

Oh, no, did you want to do that? Let's have everybody take a break. Okay, yeah, that's okay.

And for our board members that are participating online, please log into the executive link that you were sent, the executive session link.

So we'll take a 10-minute break right now.

What else?

YA **Young, Anna** 1:57:36

Madam Chair, this is Judge Young. Before we do that, we have to vote to go into executive session. Are we going to do that after the break?

Jenna Mitchell 1:57:42

I heard you, Judge. I heard you, Judge Young. I'll address that with the Chairwoman, Jenna.

YA **Young, Anna** 1:57:50

Perfect. Thank you, Jenna.

● **Jenna Mitchell** stopped transcription

OK, so we, I'm entertain, a motion to go into exec session.

Okay, Brecken Blades, I will, I'm gonna put forward the motion that we go into exec session.

Do I have a second?

Melony Opheim I second,

OK, and then.

All those in favor?

Aye. Aye.

BS Breed, Shanda

Aye.

YA Young, Anna

Aye.

BS Breed, Shanda

Miss Mitchell, can you share the executive link with me? This is Shanda.

Any opposed?

No.

Any abstaining?

We are.

It's 3:51 and we will be going into exec session at this time.

● **Ashlesha Naik** stopped transcription

● **Ashlesha Naik** started transcription

It is 4:04 we are back in open session. I am going to skip around move to letter E. So clarifying the procedure for board member request. Any board member can request to put something on the agenda either at the end of each meeting when I do a call for future agenda items or on each agenda staff put the deadline to submit items for

considerations. For next month it's November 10 but that is the procedure I wanted to clarify. They can also be submitted if not requested at the time I do at the end of the meeting via email.

Correct. Any questions on that?

Okay.

Representative Powell. Is it the time to say something.

I will do a, oh, did you want to discuss that procedure

Okay then call. Okay then I will do that at the end and then please, yes at the end.

Thank you. I also want to at this time subcommittee report out. Scott if you want to give us a update on Juvenile Subcommittee.

I will do the best I can. Last month we were actively working on multiple things at the same time among them I think we got this piece done. It has to put on next month's agenda that is the Juvenile Guiding Principles that part we are complete with and running it pass the larger board. Probably will be taking a vote again at that time. We are in the process of finalizing the definitions of various things among them, multidisciplinary team, what that is, what that consists of. And with Melanie's help, the terms that we're using in terms of referring to our youth as clients. Can you clarify that for me?

Are you referring to the JSAB and SMB?

Yes, ma'am.

We just have, I know I personally am a provider here and so if you're working with a court appointed youth, it is juvenile sexually abusive behavior terminology. If you're working with any DCS kid, they still use the sexually maladaptive behaviors. We just want to throw in all the different acronyms.

including with the teams, high needs case manager versus DCS case manager, just a lot of different pots from different places where our kids come from so that the teams can get quite large and extensive, but we want to make sure everybody knew all of the terminology, especially the acronyms that go along with it.

So we're seeking to define not only the team, who the constituents are of the team, but also an operating definition of what the issues are and who they all apply to. That

I think we will probably be able to finalize at our next meeting as well. We are a stone's throw away, though I've said that before, from outlining the structure and different pieces of what psychosexual evaluations are. It should consist of hoping to bring some standardization to that throughout the state, the various counties and the parties that are using that. We are going to be asking the folks from the AOC to come talk to us a bit more about that.

from their standpoint at our next juvenile subcommittee meeting. And I think after that, we'll be pretty close, if not ready, to propose a definition to this group and take a vote on whether or not people support that as the structure for psychosexual evaluations as it relates to juveniles.

That's where we're at.

Thank you, Scott.

Um, Brecken for the Adult Subcommittee.

Yes. Okay, so at our last meeting, we had a presentation on polygraphs by Jim Hanratty, especially in the context of inclusion in the psychosexual evaluations that we've been discussing. We made the updates to the termination consideration and template documents that were discussed at the last board meeting and as requested, recommended by the board meeting and ahead and made those changes. We had some discussion around a definition of a sex offender and then we are continuing to work on the guidelines document for psychosexual evaluations.

Thank you.

I will turn it over right now to Victoria, who's going to give us a refresher training on Open Meeting Law.

Ashlesha, you ready?

This is kind of a dry subject, but it's really important, and...

I did. Believe it or not, this sport's been...

Think it's been a year this month.

And.

Time flies. I need to give the training once a year. That's the... the gold standard.

So...

I would like you to interrupt me if you have a question. Don't wait till the end. Just try and get my attention. I don't mind being interrupted. So open meeting law in Arizona mandates that all meetings of public bodies must be conducted openly.

We want to protect the public, no, from secret decision making, and we need to promote accountability of public bodies. And as far as you're all concerned, following open meeting law shields you from liability and...

My intention is to give you a clear framework for complying. Everyone is encouraged. We want knowledgeable public participation, and that is why the laws are strict on notice agenda and minutes and recording availability.

So, Open Meeting Law, also known as OML, applies to all public bodies, boards, commissions, and other multi-member governing bodies. The Arizona Legislature, except Puente, is a recent Supreme Court case that limits the application of OML to the legislature.

So it's not exactly.

They pretty much are allowed to do their own thing. But quasi-governmental corporations, quasi-judicial bodies, advisory committees, and any special committees and subcommittees of any of those groups, and that is statutory.

So meeting means a gathering in person, and strangely enough, also through technological devices, which means text messages and emails, of a quorum of members of a public body, which they discuss, propose, or take legal action, including deliberating on anything. A meeting needs a quorum.

There should be discussion, proposal, deliberation, or legal action, and...

This does apply to in-person phone, e-mail, or virtual contact.

Legal action means a collective decision, commitment, or promise made by a majority of the members of a public body.

pursuant to their constitution charter bylaws or specified scope of appointment and authority.

And in your mind, legal action, the most serious things you all can do include voting on motions, resolutions, or policies, even informally agreeing to do something at a later time, promising to act or do something, and any deliberations that lead to a decision.

What's not included? Attending a social event where no board related discussion occurs, casual conversation between fewer members than a quorum, and individual opinion sharing outside meetings, as long as there's no coordination about that.

Notice requirements, this is mostly for staff.

But you all should recognize that at least 24 hours notice is required for you all to be here and also for the general public.

We do post conspicuously on the DPS website, and because we do use the website, we've never filed a disclosure statement with the Secretary of State, but that's another way to stay in compliance. I think smaller jurisdictions might utilize that.

Notices and agendas.

I can skip it. Notices and agendas must contain information reasonably necessary to inform the public of matters to be discussed or decided. Vagueness is not a good idea. So we like to be as specific as we can in the agenda. Go ahead. Thanks.

That's what I just said. Let's list specific matters to be discussed, considered, or decided. Again, reasonably necessary to inform the public because we have to do that by law. The agenda defines the scope of the meeting's business. Do not discuss matters that are not on the agenda.

Strict limitation on call to the public matters raised during an open call to the public cannot be discussed or acted upon unless they're put on the agenda for next time.

Spontaneous discussions or decisions on un-agendized items are prohibited.

Public participation allows individuals to address the public body on issues within its jurisdiction, which is pretty broad for this board. Public bodies can impose reasonable time, which we do, place and manner restrictions. For example, again, putting a time limit on speakers, and if

There comes a time that we have a large group of people who want to talk about one thing. We can ask the public to pick one spokesperson for similar few points. That hasn't come up yet, though. Dealing with unnoticed items, this is the list of three. Thank the speaker for his or her comment. The board can direct the staff to review the matter that was brought up.

And the board can also request that the matter be placed on a future agenda for formal consideration. This.

These are nitpicky rules, but it prevents using public call as a loophole to circumvent notice requirements, and that can happen a lot, and we want to avoid that.

Executive session, I think you will have a pretty good understanding of executive session. Public's excluded and it has to be a reason. There are, I believe the list is 6 or 7 long, but most of them don't apply to this board. Strict limitations on exec session, public's not allowed to attend or listen.

and you're prohibited from taking final action, voting, or conducting any kind of poll.

It is a it is a specific confidential time for discussion and not really a time for board members to cross-talk.

Going into executive session requires a majority vote of a quorum, and you've all figured out you're supposed to say why. And for you all, it's usually because you want legal advice on something on the agenda.

And this is already written in the agenda.

Minutes of discussion held in executive session plus must be kept confidential, and that actually applies to the recording as well. The only people who may be present are individuals who's present is reasonably necessary in order for the board to carry out responsibilities, meaning all the board members, staff can stay.

subject of personnel decision if applicable, which doesn't apply to you. The auditor general, which hopefully that will never happen. Auditor general cannot be asked to leave if the auditor general is conducting an audit on the board and obviously legal counsel for the board.

No roving discussions in exec session, no straw polls, no voting, and...

It's really, for this board particularly, again, like I said, the main times we go into exec session are for legal advice. And so that's basically a discussion with me. And again, you know, if I'm not here, you can't go into exec session for legal advice.

This, okay, these are the enumerated reasons to go in. And this statute applies to all the public bodies in the state of Arizona, which most of, obviously you're not talking about real property negotiations, but there are more reasons than just legal advice to go into executive session, but they don't apply here. So.

Let's go to the next one.

Minutes, we did try to do minutes in the beginning and that was really, really difficult. So instead of minutes, we provide a recording, a verbatim recording of all the meetings. Let's go to the next one.

And that recording is made available for public inspection no later than three working days by statute. And in the bigger population, cities, towns.

They're posted on, they must be posted online. And again, the nice thing about a recording, as long as the recording is good, is that...

there's no chance of leaving something out of the minutes that probably should have been there. Minutes can get, especially with a board this large and how long these meetings are, they can get just completely unwieldy. So we've chosen to make recordings available to the public. And we also do, in case anyone is wondering, Is it Teams that spits out the AI transcript? Okay. The transcripts leave a little to be

desired because it's AI generated, but we also post a transcript along with the audio. Open meaning law complaints are investigated by the AG and or the appropriate county attorney. And they tend to they tend to begin from a written complaint that's sent in by a member of the public.

I don't have any personal experience with initiating an investigation.

But the statute says either office can do that.

The ombudsman is actually a really good.

resource for the public. They have a great website. I think it's very clear. And when people come to me about Open Meeting Law, I usually send them to that because I think it's written for people who need..

Good, clear information quickly. It's not hard to get through. So that's a great website. If anybody has somebody ask them about, well, what are the rules that your board has to follow? Send them to the ombudsman's website. Again, during an investigation, they can administer oath, either the assigned AG or the county attorney.

And.

That's different than my role here. I'm here to make sure that everybody complies with open meeting law. And I do give you legal advice quite often. And it's basically my responsibility to make sure you comply with statutes and rules. Again, I represent the board as a whole, not each of you individually.

Next.

Okay, just some like housekeeping related. Each person should announce or be recognized by the chairperson before speaking.

You have this lovely sign that we hold up to please announce. It's really important for clarity of the recording and the transcript. I have read so many transcripts where it's very difficult to tell who's actually speaking.

It doesn't seem like a big deal at the moment, but it's really a good idea.

just to make things clear. And I know we're all guilty of this, but we all need to really try to avoid side conversations and whispering during the meeting. One person speaks at a time into the mic. And we know the public has the right to attend. They actually can photograph an audio record, but can't be disruptive about it.

And as far as disruptive people attending, they need to be given verbal warnings.

And if it gets really out of hand, we've talked about this before, people will be asked to leave.

So, follow the agenda.

If you want to add something to the next agenda for the following month, request it. You can do it during the meeting or through e-mail.

If you think of something later, that actually comes up quite often.

When it comes to motions, and I've seen this happen, I know I was really confused at one time.

try to keep your motions simple and clear and focus on one decision at a time. It can get a little bit messy, especially when people want to go back and change what they moved and it was seconded. And so just one decision at a time.

This is big. Board members should communicate with a quorum about board business at open public meetings. Please don't e-mail one another. And Jim, is your hand up?

Mr. Hanratty.

JH Jim Hanratty (SUP)

Yes.

Hi.

JH Jim Hanratty (SUP)

Hi, who determines what's disruptive?

Were you, you were present when I had the discussion about disorderly conduct, correct?

JH Jim Hanratty (SUP)

I don't believe so.

Okay, maybe that's why.

It's got to be pretty bad.

Disorderly conduct is, I don't know if you're familiar with the statute. It has some definite categories of bad behavior, and one of them is disrupting a public meeting.

I think the law enforcement in this room.

probably understands and recognizes disorderly conduct when they see it. This isn't about disagreeing with what people say, but it's about being disruptive. So.

Um...

What else, Jim? Is that enough of a...

JH Jim Hanratty (SUP)

So that would be like shouting, name calling.
threats.

Well, threats, yeah, threats are a different category of bad behavior. I think people get really passionate about this subject, and I don't think raising your voice is a problem. You know, people are allowed to be upset and they're allowed to be emotional, but they're not allowed to throw things.

JH Jim Hanratty (SUP)

Etcetera.

Yeah.

Huh?

They're not allowed to scream obscenities. It has to be pretty bad. We haven't seen it yet, Jim, if that's what you're asking me.

JH Jim Hanratty (SUP)

Yeah, that's fine. I was just kind of curious about, I guess maybe we already had this discussion before, but the public's pretty much at their own whim to discuss what they want to in public because it's an open meeting. But how do we keep it, how do we keep it relevant?

Not really.

Right. I don't agree with what you just said. It actually needs to be, the comments need to be within the purview of the public body's jurisdiction. And like I mentioned, I think last time, the subject matter here is very broad.

JH Jim Hanratty (SUP)

Mhm.

very broad. And so as long as it's about a sex offender, they're allowed to talk about it.

JH Jim Hanratty (SUP)

What if it isn't?

You know, the interrupting a member of the public basically falls to the chair. And I do.

I do think.

If someone comes in here and starts talking about...

buying a used car from someone that ripped them off, then we, they need to be shut down. It has to be, it has to be relevant to the board's business.

JH Jim Hanratty (SUP)

So let me give you an example, please. So if somebody wants to badmouth somebody in the public, and it has nothing to do with the sex offender, it has nothing to do with somebody on probation, somebody who's not been convicted of a sex crime, and it isn't even relevant to any kind of

Sure.

JH Jim Hanratty (SUP)

treatment or assessment of sex offending, but they're allowed to spew slanderous comments about somebody in the public.

who may or may not be part of this board. Is that really relevant and germane to what we do? Or do we just let them go ahead and spew?

Well, again, I think people...

need to be cut off, but I can't do that.

That's a that's a function of the chair.

JH Jim Hanratty (SUP)

Okay.

So, the chairwoman.

But based on your scenario, no, I think that person should be cut off, but that's not my role here.



Jim Hanratty (SUP)

Yeah.

Fair enough.

Thank you.

You're welcome.

Madam Chair.

Jim, I heard what you were saying, so thank you for that. This is Beth.

Okay, I think we're on the last one, conclusion. Be prepared, be fair, and you cannot help but do good work. I like that quote. I think it's...

And I'm not really big about quotes, but somebody gave that to me and I thought, you know what, that makes a lot of sense. The end. Anybody? Anybody have any concerns, questions?

All right.

Thank you.

You're welcome.

Appreciate that.

Let's see. Lastly, call for future agenda items.

Representative Powell.

Thank you. So I did want to invite the board to actually discuss procedures and protocol for capturing public comment. And I have some suggestions I can just submit it to you via e-mail, which is fine. It doesn't have to be discussed today. I know we've had a long meeting, but I would like to have time dedicated and set aside on future agendas to actually accomplish this because I don't think we can complete the work we've been asked to do as a board if we don't.

And then...

Can I ask a question about that? Could you repeat what you said?

Just not the whole thing, but the part about what you want us to discuss specifically, capturing what the public comment is. Is that correct?

Yes, I want the board to be able to define and put in place specific protocol to capture public comment and

Not just capture it, but also discuss it.

develop it if it's necessary, determine whether it's appropriate, determine whether we have jurisdiction as a board. I mean, actually do something about the comment. If it has merit, let's actually work on it. Let's produce some results for the general public, because I know we've been doing this for a year now, and I think that clearly we have people that are addressing the board saying the same things, but yet we haven't given them, I think,

concrete feedback, or we haven't presented what I would call a desktop or a public dashboard or something like that, where they can actually go and look at the comment, look at what we've done. So that's what.

Okay, so why don't we, we use submit that and we can add that as, so we don't want to discuss it right now, obviously. So why don't we add that?

Will you e-mail that over to staff to add? Yeah, be happy to do that. And then, may I just announce something?

Please do.

Representative Powell, again, I want to be on record. There is a marvelous symposium coming up and you have it in front of you, November the 9th. So I believe that one of the things that this board would benefit from is being clearly mindful of neurodivergent individuals who have suffered a great deal of loss and perhaps even some abuse from Arizona criminal law that we're trying to address as a body. And I think that we, if we can, if you'd like to come and participate, I think that you would come away learning so much about how this part of our society is being injured. And so I'm just inviting you, take a look at this, take a quick picture of it, consider it, and please come if you can. It'll be right here in this room. And then one last thing. You heard Patricia Borden.

Mention her book.

Book is about her son, who is neural divergent.

If you want to read a book that will enlighten you and educate you about the harm that's being done to neurodivergent individuals, today in the state of Arizona, you will be appalled at some of the incompetence and abuses that this particular individual has suffered.

And as a board, if we could, this might seem far-fetched, but if we could rescue individuals like that, wouldn't that be awesome? I mean, we would be actually doing so much good for perhaps a small group of minority group of people that are being impacted that are suffering. So anyway, I would invite you to read that book.

And she's offered to give it to anybody that would like a copy. And we're going to have those books at the symposium. Thank you, Chairwoman.

Thank you. Are there any other at this time future agenda items? Yes, please.

Hi, Amanda Adkins. During our subcommittee meeting for the adults, we talked a little bit about some of the research from Carl Hansen. And I wanted to throw out the ideas to the board of having him come to speak because we're in such kind of a young phase, some of the guiding principles that might help us as we grow.

Thank you.

Anyone else? OK. We get online.

May I entertain a motion to adjourn?

Amanda Adkins' motion to adjourn.

Do I have a second?

JH **Jim Hanratty (SUP)** 43:33

Jim Hanratty second.

All those in favor? Any opposed?

KK **Kathryn Krejci (OPD)**

Aye.

YA **Young, Anna**
Aye.

JH **Jim Hanratty (SUP)**
Aye

Any opposed?

No. We are adjourned at 4:33. Thank you, everyone.

● stopped transcription