

C A L I F O R N I A

HIGH RISK SEX OFFENDER AND SEXUALLY VIOLENT PREDATOR TASK FORCE



Arnold Schwarzenegger
Governor

Rudy Bermúdez, Co-chair
Assembly Member

Todd Spitzer, Co-chair
Assembly Member



Kimberly Belshé
Secretary, California Health and
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Secretary, California Department
of Corrections and Rehabilitation

December 1, 2006

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Governor Arnold Schwarzenegger
State Capital Building
Sacramento, CA 95814

Dear Governor Schwarzenegger:

On behalf of the High Risk Sex Offender and Sexually Violent Predator Task Force, we are pleased to present you with this report. In accordance with your Executive Order S-15-06, issued on August 15, 2006, the Task Force held ten days of meetings and three public sessions throughout the State to discuss issues of placement, notification, and supervision and monitoring of sexually violent predators. In addition, the Task Force continued the discussion of housing of high risk sex offenders in local communities that we began in preparing our August 15, 2006 report.

Admittedly, the housing, placement, and community support or opposition to a sex offender's residency is California's leading obstacle in this public policy area. While the Task Force could have recommended housing options, such as state-sponsored transitional housing for sex offenders, after discussion with your top administration staff, we are recommending a statewide summit be held no later than February 2007, with local government groups to collaborate specifically on all housing issues. After the Task Force met several times with the League of California Cities to discuss housing and placement issues, its Board of Directors passed action items relating to working with the State on housing and co-sponsoring the statewide summit. The Task Force believes that no long-term solution will occur without the input of the League and the California State Association of Counties on issues of sex offender housing and management of sex offenders, including their placement in unlicensed group living facilities.

The Task Force has 26 recommendations for your and the Legislature's consideration for policy and administrative improvements in all of these areas. Based on our discussions and recommendations, it has become even more apparent of the critical need for the Sex Offender Management Board (SOMB). The SOMB will not only fulfill the recommendation of the High Risk Sex Offender Task Force's August 15, 2006 report by reviewing the practices of the California Department of Corrections and Rehabilitation regarding high risk sex offenders, but the SOMB will play an essential role in ensuring that victims have a voice in the notification, placement, and monitoring and supervision of high risk sex offenders and sexually violent predators. You and the Legislature took the first step in establishing the SOMB with the enactment of Assembly Bill 1015 (Chu and Spitzer) (Chapter 338, Statutes of 2006). We must continue by ensuring that the SOMB has adequate staff and resources to successfully fulfill its important roles.

It has been our pleasure to serve as co-chairs of both the High Risk Sex Offender and High Risk Sex Offender and Sexually Violent Predator Task Forces. We look forward to working together to implement all of these recommendations.

Sincerely,

Rudy Bermudez, Co-chair
Assembly Member

Todd Spitzer, Co-chair
Assembly Member

California High Risk Sex Offender and Sexually Violent Predator Task Force

Presented to Governor Arnold Schwarzenegger

Assembly Member Rudy Bermúdez, Co-chair

Assembly Member Todd Spitzer, Co-chair

**Kimberly Belshé, Secretary
California Health and Human Services Agency**

**James Tilton, Secretary
California Department of Corrections and Rehabilitation**

December 1, 2006

California High Risk Sex Offender and Sexually Violent Predator Task Force

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Table of Contents:

Executive Summary _____	v
Introduction _____	1
Overview of Sexually Violent Predator Commitment and Treatment _____	2
Determining if an Individual is a Sexually Violent Predator _____	2
Treatment of Sexually Violent Predators _____	4
Sexually Violent Predators on Conditional Release _____	5
Recent Changes to the Statutes Governing Sexually Violent Predators _____	8
Issues and Recommendations: Notification _____	11
Victim Notification and Input _____	11
Community Notification _____	11
Recommendations: Notification of Release of Sexually Violent Predators _____	12
Issues and Recommendations: Placement and Housing _____	14
State/Local Jurisdiction Interaction _____	14
Conflicts Between Counties _____	14
Impact on Neighborhoods _____	14
Recommendations: Placement and Housing of Sexually Violent Predators _____	16
Issues and Recommendations: Supervision and Monitoring _____	19
Treatment Linkages _____	19
Formally Adopt the Containment Model as Policy _____	19
Departmental Inter-dependencies _____	19
County Coordination and Engagement _____	20
Concern Regarding Understanding of Sexually Violent Predator Laws _____	20
Coordination of Treatment Approaches _____	20
Clear Definition Needed _____	20
Jessica’s Law Superseded Needed Language in SB 1128 _____	21
Recommendations: Supervision and Monitoring of Sexually Violent Predators in the Community _____	21
Appendix _____	A-1



The mission of the California High Risk Sex Offender and Sexually Violent Predator Task Force is to develop recommendations for a statewide system to improve state and local policies related to notification, placement, monitoring and supervision of sexually violent predators.

Executive Summary

The Sexually Violent Predator Act, enacted in 1996, established a new category of civil commitment for sex offenders who are found to pose extreme danger to society upon their release from prison. This small group of sex offender inmates has diagnosable mental disorders, which are identified while the inmate is incarcerated. Once deemed a sexually violent predator (hereinafter SVP) in a civil proceeding by a Superior Court, the sex offender is confined to a state mental hospital operated by the Department of Mental Health (DMH) for treatment after his prison term expires. Although SVPs remain confined after their prison terms end, the purpose of that confinement is not punitive, but for treatment of their disorders until the threat they pose to the health and safety of others is diminished. The treatment program for SVPs has five phases; four are in-patient while the SVP is confined to the state mental hospital. The fifth phase is an out-patient phase of conditional release, where the SVP is placed back in the community and supervised by the designated Conditional Release Program under strict terms and conditions. The four in-patient phases have taken existing SVPs a minimum of four years to complete; the conditional release phase is one year with annual renewals determined by the Superior Court.

Since the Sexually Violent Predator Act took effect, there have been 552 individuals committed to the state mental hospitals as SVPs and another 180 have commitment trials pending. This represents less than one percent of the 80,000 registered sex offenders who have been released from California prisons over the term of the Sexually Violent Predator Act. To date, seven SVPs have been conditionally released from the state mental hospitals and four more have been ordered released and are pending placement. A total of 135 SVPs have also been unconditionally released from the state mental hospitals by a Superior Court because they have been found no longer to meet the statutory SVP criteria. Most of these former SVPs have not participated in any

in-patient treatment and do not have parole time remaining. Although DMH works with local law enforcement and officials when SVPs are conditionally or unconditionally released, there are challenges with ensuring adequate notification, finding appropriate placement, and maintaining the highest standards of monitoring and supervision.

Several recently enacted pieces of legislation and the recently passed Proposition 83 (“Jessica’s Law”) ballot initiative will increase the number of sex offender inmates who are found to be SVPs and will strengthen the oversight of those SVPs once they are determined by the Superior Court to no longer be SVPs. There is a need, particularly in light of these new laws, for DMH to continue to work closely with the California Department of Corrections and Rehabilitation (CDCR), District Attorneys, state and local law enforcement, and other local officials to minimize the risks posed to public safety as SVPs are treated, placed and supervised in the community.

On August 15, 2006, the High Risk Sex Offender Task Force, created by Governor Arnold Schwarzenegger through Executive Order S-08-06, submitted its report of ten recommendations to the Secretary of CDCR, the Governor, and the Legislature to improve CDCR policies related to the placement of high risk sex offenders (hereinafter HRSOs) in local communities. Based on the Task Force’s recommendations and recognizing the need for ongoing discussions to continue to find policy and administrative improvements regarding HRSOs and SVPs, the Governor issued Executive Order S-15-06 on August 15, 2006, directing the Secretary of the Health and Human Services Agency and the Secretary of CDCR to continue as the expanded High Risk Sex Offender and Sexually Violent Predator Task Force. The expanded Task Force is charged with providing new recommendations on improvements in the notification, placement, and monitoring of SVPs and reviewing the implementation of the Task Force’s first recommendations. The report is due by December 1, 2006.

Following comprehensive discussion of SVP issues, the Task Force makes 26 recommendations. They are summarized as follows:

1. There should be a single point of contact for victims regarding information about SVPs and HRSOs to ensure comprehensive, consistent, and timely information is provided to the victims. The Sex Offender Management Board (SOMB), in its role within CDCR, should provide recommendations on best practices and the most effective method for providing a single point of contact for victims, including how best to keep victims apprised at critical steps of a SVP's or HRSO's hearings, trials, placement and release. The SOMB should evaluate ways to increase victim participation in the notification process.
2. The Department of Mental Health should establish a victim advocate position within the department to provide a single point of contact for victims, District Attorneys, law enforcement, and other state departments regarding SVP victims' concerns.
3. To maintain the confidentiality of victim information and protect the privacy and safety of victims, legislation should be enacted to ensure victims' information is not subject to disclosure through the Public Records Act or other public disclosure.
4. To provide as much planning time as possible, sufficient and timely notification of conditional and unconditional release hearings should be provided. The law should provide for at least 60 days notice before such a hearing is held, rather than the current law, which only requires the Superior Court to give 15 days notice to the District Attorney, defense attorney, and DMH before the hearing date on a SVP's petition for conditional release and subsequent unconditional release. (Welfare and Institutions Code section 6608(b).)
5. Sufficient time to locate proper placement in the community for a conditionally released SVP and to properly notify and receive input from victims, law enforcement and the community regarding appropriate placement options requires a minimum of 60 days from the date of the order for conditional release. Current law provides an insufficient period of only 21 days, which can be extended on a finding of good cause. (Welfare and Institutions Code section 6608(f).)
6. Sufficient and timely notification to law enforcement, victims, and the receiving community of the DMH recommended community placement of a SVP who is ordered conditionally released should be provided. The law should provide for at least 45 days for law enforcement, victims, and the receiving community to provide the Superior Court with public comment on a recommended placement, rather than the current law which only allows 15 days to gather public comment. (Welfare and Institutions Code section 6609.3.)
7. To ensure a transition to parole that maintains public safety, the notification to law enforcement and the receiving communities of the release of a previously adjudicated SVP who is subject to parole should follow the procedure outlined in Recommendation #4 of the High Risk Sex Offender Task Force's August 15, 2006 report, or be as timely as practicable. (Jessica's law provides for the tolling of parole, so more SVPs will fall in this category.)
8. To provide as much notice and planning time as possible, the notification to law enforcement and the receiving communities of the release of a previously adjudicated SVP who is not subject to parole should follow a consistent process.
9. The Governor, the League of Cities, and the California State Association of Counties should sponsor a statewide summit on the subject of placement and housing of sex offenders, including HRSOs and SVPs. The invitation list should include other material stakeholders on this subject, including, but not limited to, representatives of the State, sheriffs, chiefs of police, probation and parole

- officers, and park districts. The California Department of Corrections and Rehabilitation and DMH should collaborate to develop for presentation at the proposed summit, potential transitional housing models that can assist HRSOs and SVPs to successfully re-integrate into the community.
10. Legislation should be introduced to require that the victims identified in the CDCR adjudication process and/or by District Attorneys in SVP trials have the right and opportunity to challenge the placement of the SVPs who victimized them, similar to what is done by CDCR in the placement of parolees pursuant to subdivision (f) of section 3003 of the Penal Code (i.e., all victims of SVPs would have the right to insist that SVPs who victimized them be placed more than 35 miles away from the actual residence of the victim or victims). When invocation of this right results in the relocation of a SVP to a county other than the county of domicile, the State would be permitted to place another SVP in the sending county after community input and notification, consistent with what is done by CDCR in the placement of parolees.
 11. Legislation should be introduced to amend subdivision (f) of Penal Code section 3003, the provision that provides specified victims the right to insist that parolees not be placed within 35 miles of the actual residence of the victim. All victims of child molestation should have the right to insist that their victimizer not reside within 35 miles of the victim's actual residence.
 12. Legislation should be introduced to place jurisdiction over a SVP's petition for conditional release and subsequent unconditional release with the Superior Court of the county of domicile.
 13. The uniform definition for HRSO outlined in Recommendation #1 of the High Risk Sex Offender Task Force's August 15, 2006 report should include SVPs and persons who were previously adjudicated as SVPs.
 14. The Department of Mental Health should adopt a formal policy that commits to the "Containment Model," which recognizes the risk that sex offenders pose to the community and provides a focus on containing offenders in a tight supervision and treatment network with active monitoring and enforcement of rules. The model should contain these components: supervision, treatment, polygraph, and victim advocacy.
 15. For any SVP subject to CDCR parole authority when unconditionally released from DMH out-patient treatment and supervision, a manager from the local CDCR parole office should be a member of the community safety team established when that SVP is released to facilitate the transition of the SVP to parole.
 16. There should be a continued link between the treatment provided while a SVP is in the state mental hospital and once the SVP is released into the community and placed in the Conditional Release Program, including ongoing communication between the in-hospital therapists and the community treatment providers for the SVP.
 17. The out-patient phase of treatment for SVPs should have delineated phases indicating the SVPs progress, as appropriate, toward suitability for unconditional release. For any SVP subject to CDCR parole authority when unconditionally released from DMH out-patient treatment and supervision, DMH and CDCR should coordinate the transition of SVPs from the Conditional Release Program to parole to ensure the continuity and appropriate level of supervision and oversight is maintained.
 18. The Department of Mental Health should institute a pre-release planning process by engaging with other state and local stakeholders by anticipating in advance the conditional release of SVPs in Phases III and IV of treatment to facilitate re-entry through planning and collaboration.

19. All SVPs should agree to be continually monitored using global positioning satellite technology as a condition of their conditional release into the community. When requested by the local law enforcement/SAFE team having jurisdiction over the community of placement, the global position satellite system should be made accessible to them. The terms and conditions of conditional release should include a waiver and acceptance of such condition by the SVP.
20. Legislation adding the following criteria for conditional release to Welfare and Institutions Code section 6608 should be enacted stating that: "The court may not authorize conditional release unless, based on all of the reports and evidence presented, the court finds that both of the following criteria are met: the person has successfully completed all phases of DMH in-patient treatment through active participation and progress in the treatment program."
21. Legislative and policy changes should be instituted to encourage SVPs to demonstrate participation and progress in all of the DMH phases of sex offender treatment. The terms "active participation" and "progress in treatment" should be clearly defined in statute.
22. Officers of the court (i.e., prosecutors, defenders, and judges) should receive appropriate training developed and provided by the their respective training agencies regarding SVP treatment processes and procedures.
23. It should be the goal of the CDCR to ensure that parole agents receive appropriate and on-going training to provide them with the skills and abilities to manage the previously adjudicated SVP population.
24. The California Department of Corrections and Rehabilitation should align its appropriate specialized sex offender treatment program as outlined in Recommendation #3 of the High Risk Sex Offender Task Force's August 15, 2006 report with DMH's sex offender treatment program.
25. The California Department of Corrections and Rehabilitation and DMH should align the utilization of STATIC-99 as the validated risk assessment tool (Recommendation #2 of the High Risk Sex Offender Task Force's August 15, 2006 report) and the screening for HRSO and SVP categories towards maximizing efficiency and accuracy.
26. The Task Force recommends the Legislature re-enact three provisions of SB 1128 that were inadvertently chaptered out by Jessica's Law.

Each recommendation is discussed in detail in the body of the report. For expediency and efficiency, approved Task Force recommendations should be enacted administratively where possible and legislatively as necessary.

Introduction

On August 15, 2006, the High Risk Sex Offender Task Force, created by Governor Arnold Schwarzenegger through Executive Order S-08-06, submitted ten recommendations to the Secretary of CDCR, the Governor and the Legislature to improve departmental policies related to the placement of HRSOs in local communities, thereby ensuring that public safety is not compromised. On that same day, the Governor issued Executive Order S-15-06, directing the CDCR to implement all of the Task Force recommendations and directing that the task force be expanded.

The Executive Order directs the Secretary of CDCR and the Secretary of the Health and Human Services Agency to continue with the work of the High Risk Sex Offender Task Force as the expanded High Risk Sex Offender and Sexually Violent Predator Task Force. This expanded task force was charged with providing new recommendations on placement, notification,

and monitoring and supervision of SVPs, and with reviewing the implementation of the recommendations of the High Risk Sex Offender Task Force by December 1, 2006. As of the final meeting on November 27, 2006, the Task Force was not in receipt of an implementation report from CDCR and therefore, was unable to perform a review in time to meet the December 1 deadline.

The High Risk Sex Offender and Sexually Violent Predator Task Force convened meetings on September 26 and 27, October 6, 10, 11, 25 and 26, and November 16, 20 and 27, 2006. The Task Force also convened public sessions on November 6, 8 and 9, 2006 in Sacramento, Fresno and Santa Ana to allow public input on the issues presented to the Task Force.

To review the Governor's Executive Order in its entirety and the previous recommendations of the High Risk Sex Offender Task Force, please refer to the Appendix.

Overview of Sexually Violent Predator Commitment and Treatment

As a result of concerns regarding the risk to public safety that occurs when sexual offenders are released from prison, the Sexually Violent Predator Act (Welfare and Institutions Code section 6600, et seq.) went into effect on January 1, 1996. This statute established a new category of civil commitment for persons classified as SVPs.

In establishing the SVP Act, the California Legislature declared that there is a small group of extremely dangerous sexual offenders categorized as SVPs, who have diagnosable mental disorders and can be readily identified while incarcerated. It further declared that these individuals are not safe to reside at-large in the community and represent a danger to the health and safety of others if they are released. It was the intent of the Legislature that individuals classified as SVPs be confined and treated until they no longer present a threat to society. Sexually violent predators are subject to civil commitments to state mental hospitals. The aim of this law, therefore, is to treat and confine these individuals as long as their disorders render them dangerous to the health and safety of others, and not for punitive purposes. The Legislature determined that these “persons shall be treated, not as criminals, but as sick persons.”

Approximately 105,000 persons are required to register as sexual offenders in California. About 22,500 registered sexual offenders are in state prisons, with approximately 730 leaving prison each month. Since January 1996, more than 80,000 registered sexual offenders in state prisons have been released. The vast majority of these individuals have not been classified as SVPs.

The Sexually Violent Predator Act establishes three major criteria defining who is classified as a SVP:

1. The person has been convicted of a sexually violent offense (specific Penal Code offenses or “substantial sexual conduct” with a child under 14 years of age qualify and are listed in

statute; offenses usually include either child molestation or rape).

2. The person has had two or more victims as a result of these sexually violent offense convictions. (Jessica’s Law, effective November 8, 2006, changed this requirement to one victim.)
3. The person has a diagnosed mental disorder that makes him likely to engage in future sexually violent predatory behavior (“predatory” is defined as a crime against a stranger, a person of casual acquaintance, or a person with whom a relationship is promoted for the purpose of victimization). Although major mental illnesses such as schizophrenia, bipolar disorder, or organic brain syndrome qualify as mental disorders, most SVPs primarily suffer from some type of paraphilia. Paraphilic disorders are diagnosable conditions characterized by deviant sexual urges, fantasies or behaviors involving humiliation of others, sexual activity with children and/or sexual activity with other non-consenting persons, and they occur over a period of at least six months. These deviant sexual urges, fantasies, or behaviors are sufficiently intense to cause significant distress or impairment in important areas of functioning.

Determining if an Individual is a Sexually Violent Predator

Senate Bill (hereinafter SB) 1128 (Alquist) (Chapter 337, Statutes of 2006) (effective September 20, 2006) and Jessica’s Law have changed some aspects of the treatment and release of SVPs that have been in place. These laws will impact treatment, but more importantly release, when fully implemented. For ease of understanding, the treatment program that existed prior to SB 1128 and Jessica’s Law is described here.

Individuals are identified for potential SVP commitment while they are incarcerated in CDCR. Usually this process begins six months prior to the inmate’s scheduled release from prison. After

an initial screening by CDCR, cases are referred to the DMH Sex Offender Commitment Program Evaluation Unit, where they are re-screened to ensure they meet the legal criteria established in statute. At this stage, the entire criminal record and background data are gathered. This information is used by clinical evaluators in making risk assessments of sexual offenders, as well as by District Attorneys if the case is referred for civil commitment.

Once the review of records determines that an inmate may meet the SVP criteria, the DMH Sex Offender Commitment Program Evaluation Unit assigns two clinicians to perform independent, in-depth, psychological evaluations. These clinicians are either licensed clinical psychologists or psychiatrists with experience in the diagnosis and treatment of mental disorders. They evaluate the individual to determine if he has a diagnosable mental disorder and, if as a result of this disorder, he presents a likelihood of committing new sexually violent predatory acts when released.

The Department of Mental Health evaluators use an adjusted actuarial approach consisting of static factors empirically linked to recidivism (primarily using an actuarial risk assessment tool such as the STATIC-99), and consideration of other static or dynamic risk factors associated with sexual offending. If the two evaluators agree that the inmate does not meet the requisite criteria, the SVP commitment process terminates and the person is released from prison, usually to parole. If both evaluators agree the inmate does meet the SVP criteria, the case is referred to the District Attorney for SVP commitment proceedings. If there is disagreement between the two initial evaluators, the case is referred to two additional independent evaluators who must agree the inmate meets all criteria before the case can be referred to the District Attorney for filing a civil commitment petition.

SVP commitment proceedings are held in the Superior Court of the county from which the inmate was last sent to prison (county of commitment). A probable cause hearing is held before a judge to determine if the facts of the case warrant a full commitment trial. The individual has a

right to a trial by jury, although the trial may be heard before a judge if the District Attorney and the subject of the petition agree. If the Superior Court or a unanimous jury determines beyond a reasonable doubt that the person is a SVP, he is committed to DMH for a period of two years for appropriate treatment in a secure facility. At present, males are placed in either Atascadero State Hospital or Coalinga State Hospital. Female SVPs are treated at Patton State Hospital.

Annual examinations of the committed SVP's mental condition are submitted to the court. At the time of the annual examination, the individual has a right to petition the Superior Court for conditional release. Also, if at any point during the period of commitment, DMH determines the individual no longer meets the SVP criteria, it must seek review by the committing superior court. In either case, if the Superior Court determines the person would not present a danger to others while under supervision and treatment in the community, the Superior Court will order his placement in an appropriate state-operated forensic Conditional Release Program.

If the individual does not waive his right to petition the Superior Court for conditional release at the time of the annual examination, the Superior Court has a "show cause" hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed that he would not be a danger to the health and safety of others if discharged. If probable cause for the above is indicated at the show cause hearing, a hearing is held wherein the state must prove beyond a reasonable doubt that the individual's diagnosed mental disorder remains such that he is a danger to the health and safety of others and is likely to engage in sexually violent criminal behavior if discharged. If the Superior Court or jury rules for the committed person, he is unconditionally discharged. If, however, the Superior Court rules against the committed person, the term of commitment continues to run. Prior to the passage of SB 1128 and Jessica's Law, the law provided for a two-year term of commitment, but it now provides for an indeterminate commitment.

As of August 2006, 6,626 offenders have been referred to DMH for evaluation as a SVP (there is some duplication in this figure due to persons being re-incarcerated and re-referred). Of these referrals, 3,074 cases were found not to meet criteria upon record review, and another 2,143 were found not to meet criteria upon clinical evaluation. Seventy-nine percent of the cases referred to DMH were rejected during the record review or by clinical evaluation. County District Attorneys have rejected 185 cases, and probable cause was not found in 160 additional cases. Of the 868 cases in which probable cause was found, 137 cases were not committed at trial and 180 have trial pending. Consequently, the 552 individuals committed (as of August 1, 2006) represent less than one percent of all registered sexual offenders leaving prison since the Sexually Violent Predator Act has been in effect. SB 1128 and Jessica's Law expand the qualifying offenses for consideration. In addition, Jessica's Law decreases from two to one the minimum number of victims needed for consideration. As a result, DMH has already seen a dramatic rise in the number of referrals for evaluation. At present, this rise is expected to continue.

As of November 15, 2006, 135 previously adjudicated SVPs have been unconditionally released into the community and have not completed their course of treatment. They were found by a court or jury to no longer meet the legal criteria of the SVP classification.

Treatment of Sexually Violent Predators

The Sex Offender Commitment Program sex offense specific treatment designed for SVPs is organized into five phases. The first four phases are designed to be implemented while the individual is an in-patient. The fifth phase is designed to be implemented when the individual is under supervised conditional release and is currently administered by Liberty Healthcare Corporation. Individuals progress from one phase to the next based on their completion and understanding of specific tasks, rather than based on length of time. Because of a variety of factors, such as fluctuations in motivation and relapse

to abusive tendencies, it takes each individual a different length of time to complete each phase of treatment.

The Wellness and Recovery Team treating clinicians, and the individual SVP are responsible for assessing when the individual is appropriate to be reviewed for advancement to the next phase of treatment. A staffing panel made up of trained clinicians, who are not the current phase provider or on the SVP's Wellness and Recovery Team, assess whether or not the individual demonstrates the necessary competence in the established criteria during staffing reviews that occur prior to all advancements in phase.

- Phase I – Treatment Contemplation. Treatment contemplation prepares the individual to make an informed consent whether to begin the work of learning cognitive-behavioral methods for preventing re-offense. Individuals are not required to acknowledge or discuss their crimes in any specific way. The individuals receive an overview of the Sex Offender Commitment Program and the five phases. Some additional topics include: The law (Welfare and Institutions Code section 6600 et seq.), prison vs. hospital attitudes, interpersonal skills, anger management, mental disorders, victim awareness, cognitive distortions, relapse prevention, and supervised release planning.
- Phase II – Skills Acquisition. This phase marks the shift from education and contemplation for change to preparation for change through personal therapy. In this phase, individuals acquire new fundamental skills for preventing re-offense. They learn the language of relapse prevention and apply it to their unique history.
- Phase III – Skills Application. In this phase, offenders rigorously apply and integrate the skills they learned during Phase II into their daily lives. Their skills in relapse prevention, coping with high risk factors and cognitive distortions, and developing victim awareness, intimacy, and concern for others

are deepened and broadened. Their daily behaviors are examined and subjected to cognitive-behavior interventions through the use of journals and logs.

- Phase IV – Skills Transition.
During this phase, a detailed Community Safety Plan is developed in conjunction with the individual's assigned out-patient supervision and treatment provider. It provides the individual with the opportunity to prepare for his discharge to a supervised setting in the community via the Conditional Release Program. The individual continues to develop his skills in relapse prevention, managing cognitive distortions and risk factors, enhancing victim empathy intimacy and concern for others, and using daily journals. Particular attention is paid to how these skills will generalize into the community.
- Phase V – Supervised Community Out-patient Treatment (Conditional Release).
The out-patient phase of treatment is intended to provide individuals with ongoing relapse prevention treatment as well as supervision and monitoring. This phase is currently administered by Liberty Healthcare Corporation and requires approval of the committing Superior Court.

As of November 15, 2006, the SVP population was distributed as follows:

Phase	Number of Patients¹
Phase I	489
Phase II	132
Phase III	21
Phase IV	16
Phase V	5 ²

¹ 135 previously adjudicated SVPs have been unconditionally released.

² Four additional patients have been ordered into out-patient treatment and are pending placement.

Sexually Violent Predators on Conditional Release

The placement of SVPs in the community for out-patient treatment is a process requiring careful, thorough supervised release planning. Welfare and Institutions Code section 6608(f) requires the SVP to be placed in the community within 21 days of the Superior Court's outpatient placement order unless good cause for not doing so is presented to the Superior Court. Without exception, placement of each SVP court-ordered into the community has caused negative reactions and opposition from community leaders and residents. While many citizens may understand the need to obey the Superior Court's placement order, the "Not In My Backyard" syndrome prevails, resulting in universal opposition to the proposed placement location. Due to the inherent difficulties placing an SVP into the community, most SVP placements are not accomplished within the required 21-day period.

Generally, SVP placements take months to accomplish. Liberty Healthcare Corporation begins a housing search immediately upon notification from the Superior Court of its order to place a SVP in the community by contacting local housing programs, board and care operators, and local parole and probation offices to identify existing sex offender housing resources. They also begin contacting private landlords to determine if a local party would be willing to rent to a person with a history of sex offending. This initial process usually results in finding some landlords willing to rent to a SVP, until they become aware of the public notification process and the resulting media attention. At this point, most decline to proceed. The very few who are not deterred ultimately withdraw their offer once DMH makes the location public through the required community notification process.

In one instance, Liberty Healthcare Corporation contacted over 250 potential landlords over the course of one year in seeking to find a placement location. Despite Liberty Healthcare Corporation's documented efforts and over the objections of the local District Attorney's office and DMH, the Superior Court ordered the SVP's immediate release from the hospital and into the community. Because the SVP had no place to live, this was in essence a "homeless" release. Homeless releases cause an unacceptable and unnecessary risk to the public because the individual cannot be properly supervised and many of the terms and conditions of release cannot be enforced (such as global positioning satellite monitoring, curfews, and associations with other felons). The Task Force believes that the release of any SVP without a home into the community creates an unacceptably high risk to the public and the SVP, and is making specific recommendations in this report to improve the SVP placement process.

When a suitable placement location is found, the Welfare and Institutions Code contains specific provisions regarding notification when the SVP is being placed in a community. Specifically, the law dictates that the State provides a housing recommendation to the Superior Court and directs counties to assist with that housing determination. Once a tentative placement option has been identified, it is presented to the Superior Court, which makes the final placement decision. In each of the seven instances where DMH has found an individual ready for conditional release, the notification process has provided an opportunity to educate community law enforcement and others about the safety precautions that are in place for these individuals.

Welfare and Institutions Code section 6608.5 requires DMH to seek housing for conditionally released SVPs in the county of their domicile. The county of domicile is considered the permanent legal residence where the SVP lived prior to incarceration and commitment.

Pursuant to Welfare and Institutions Code section 6609.1, DMH is responsible for notifying officials

in the jurisdiction of the intent to place the SVP 15 days prior to submission of a request for conditional release to the Superior Court. Such officials include the sheriff, chief of police, District Attorney, and the county's designated counsel. Prior to the Superior Court hearing being noticed, agencies may provide written comments to DMH and the Superior Court regarding release, placement, location, and conditions of release. In determining appropriate location, DMH may take into consideration victim concerns and proximity when recommending conditional release placement. In addition, a designated county entity may recommend alternative placement locations within the community. The Department of Mental Health is responsible for responding to all written comments within ten days of receipt, or, in lieu of responding to written comments, DMH may issue a public statement to the Superior Court. After comments are considered, the Superior Court can accept, reject or modify the placement recommendation.

Liberty Healthcare Corporation was contracted by DMH in February 2003, to provide specialized supervision of SVPs released to the Conditional Release Program. Given the risk to public safety that results when sex offenders are released directly from prison, the Conditional Release Program allows for continued close supervision and support for a more extended period of time until the individual has demonstrated capacity to safely control and manage his sexually aggressive behavior.

Liberty Healthcare Corporation's program is based upon the "Containment Model" of community-based monitoring and management of sex offenders, which seeks to hold patients accountable through the combined use of offense-specific treatment, polygraph assessments, and intensive specialized surveillance. It is a victim-centered approach that focuses on the safety of the community as its primary goal. It emphasizes close collaboration and communication by all parties participating in the individual's treatment and supervision in the community.

The goals of the Community Safety Plan include but are not limited to: public protection; patient accountability; relapse prevention through use of the most current treatment techniques and supervision; community support through education, awareness, and mobilization of a community support network; maximum rehabilitation; and cost containment. These goals can only be achieved through collaboration between the patient, his family, neighbors, community, and public agencies under the coordination of Liberty Healthcare Corporation. Liberty Healthcare Corporation staff monitors compliance of the Community Safety Plan and recommend, whenever appropriate, revocation of out-patient status if the patient fails to comply with the plan or engages in high-risk behavior. Liberty Healthcare Corporation staff also enforces the court-ordered terms and conditions of each SVP's out-patient treatment.

Supervision is enhanced by the use of specialists who have experience, training and skills specific to the supervision of sex offenders in the community. In addition, Liberty Healthcare Corporation strives to enlist assistance from local law enforcement agencies or develop private alternative resources to provide mandated court-ordered out-patient supervision for these patients. Local law enforcement participation in this is very limited, due to the overarching treatment emphasis.

Supervision may consist of:

- Regularly scheduled office visits focusing on changing circumstances of the patient that effect his level of risk.
- Scheduled and unannounced home visits to assess the patient's level of function in his home environment, and searches of the patient's home, vehicle, and property to look for unauthorized materials.
- Collateral contacts with members of the patient's community support network (family, friends, work associates, neighbors, patient church associates, etc.) to whom he has made or will make a "full disclosure" of his terms and conditions of release and high risk factors.

- Drug and alcohol screening, both scheduled and unannounced.
- Surveillance geared toward maximum accountability (the patient is where he says he is, consistently takes approved routes to/from work, and avoids high risk situations or people).
- Physiological measures (including maintenance and monitoring polygraphs) to monitor the continued effectiveness of the patient's out-patient treatment program.
- Electronic or continuous positioning monitoring (including bracelets, global positioning satellite monitoring, as ordered by the Superior Court) to ensure adherence to curfews and restrictions on travel.
- Confirmation that the patient complied with Penal Code section 290 registration requirements in the community that they are placed.

These services are provided on a 24-hour, seven-days-a-week basis.

Liberty Healthcare Corporation employs professionals who have both a strong background in probation, parole, or law enforcement and specific experience with sex offenders. The Regional Coordinators continually conduct scheduled and unannounced home visits, perform home searches, conduct substance abuse screens, monitor global positioning satellite data on a daily basis, communicate with providers about adherence to treatment, and are able to respond to any emergency or crisis on a 24/7 basis. In addition, the Regional Coordinators closely monitor the telephonic activity, social interactions, employment, and income and expenditures of each SVP conditionally released.

Since the 1996 implementation of the Sexually Violent Predator Act, seven individuals have been discharged to the Conditional Release Program. Six of these seven completed the in-patient portions of treatment and were recommended for Phase V (out-patient). The seventh was court-ordered to out-patient prior to completing the in-patient phases of treatment. Of the seven, one

individual was ordered by the Superior Court to be released unconditionally, one individual was revoked and returned to the state mental hospital, one individual is in process of revocation back to the state mental hospital and four individuals are still in out-patient treatment. In addition, four more SVPs have been ordered released and are pending placement.

Because of the length of time individuals remain in treatment, all SVPs who have been released to date and the majority of those who are currently in treatment have no parole time remaining. When they are released from DMH control, there is no additional monitoring of them. This circumstance changes with the implementation of SB 1128 and Jessica's Law (see below).

Recent Changes to the Statutes Governing Sexually Violent Predators

The Legislature has amended the Sexually Violent Predator Act numerous times since enactment, modifying some aspects of the law's implementation. United States Supreme Court decisions, and over 60 state appellate and state supreme court decisions, have generally supported implementation of the Sexually Violent Predator Act. In one of the more notable decisions, the U.S. Supreme Court upheld the civil commitment of SVPs in the landmark case of *Kansas v. Hendricks*³. Similarly, the California Supreme Court issued an opinion on January 21, 1999 that the California Sexually Violent Predator Act met all necessary constitutional standards⁴. In January 2001, the U.S. Supreme Court issued an opinion in a Washington SVP case⁵ whereby it ruled that challenges to the Sexually Violent Predator Act under the double jeopardy and ex post facto clauses are inappropriate and that conditions of confinement is an issue for states to determine. It ruled that issues arising from conditions of confinement

did not place the commitment in opposition to the U.S. Constitution as the act is civil in nature. Finally, the California Supreme Court issued opinions in April 2001⁶ and April 2002⁷ that clarified key elements of the Sexually Violent Predator Act. The Torres case clarified that that a suspected SVP's prior offenses need not have been predatory; however the likely future sexual offenses must be predatory. The *People v. Superior Court (Ghilotti)* case clarified the legal definition of an inmate's "likelihood" to commit future sexual offenses. The Superior Court defined likelihood to mean a substantial danger that is a serious and well-founded risk. This is typically interpreted as greater than chance but less than 50 percent.

In recent years, there have been several new laws that impact all sex offenders, including SVPs. These include:

- Assembly Bill (hereinafter AB) 488 (Parra and Spitzer) (Chapter 745, Statutes of 2004) placed information about approximately 63,000 sex offenders on the Internet. The home address information of approximately 33,000 offenders is displayed. This statute is generally referred to as "Megan's Law."
- AB 1015 (Chu and Spitzer) (Chapter 338, Statutes of 2006) created a seventeen member Sex Offender Management Board with specified duties relating to policies related to the management of sex offenders.
- AB 1849 (Leslie) (Chapter 886, Statutes of 2006), requires the California Department of Justice to add specified information to the Megan's Law database for certain sex offenders that is available to the Public on the Internet.
- SB 1178 (Speier) (Chapter 336, Statutes of 2006), requires every adult male who is convicted of specified sex offenses to be assessed for the

³ *Kansas v. Hendricks* (1997) 521 U.S. 346.

⁴ *Hubbart v. Superior Court* (1999) 19 Cal.4th 1138.

⁵ *Selig v. Young* (2001) 531 U.S. 250.

⁶ *People v. Torres* (2001) 25 Cal.4th 680.

⁷ *People v. Superior Court (Ghilotti)* (2002) 27 Cal.4th 888.

risk of re-offending and those deemed to be high risk to be electronically monitored on a continuous basis while on parole.

- SB 1128 (Alquist) (Chapter 337, Statutes of 2006), created the Sex Offender Punishment, Control, and Containment Act of 2006. This bill made changes to current law, as well as established new laws, related to the punishment, control, and monitoring of sex offenders. The bill includes harsher sentencing and longer parole periods for sex offenders and provides funding for counties for child abuse prevention and to establish sexual assault felony enforcement teams.

In an effort to standardize sex offender risk assessment, SB 1128 establishes a committee comprised of representatives from CDCR, in consultation with DMH and the Office of the Attorney General, to decide on a State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). SB 1128 requires that every eligible Penal Code section 290 registrant be subject to assessment using the SARATSO. The SARATSO committee will designate, by unanimous decision, the most appropriate sex offender risk assessment tools to be used for adult males, females, and juvenile offenders. The committee is further responsible for establishing a training program for probation officers, parole officers and other persons authorized by SB 1128 to complete sex offender risk assessments. SB 1128 requires that individuals identified as high risk by the SARATSO have enhanced parole supervision, and participate in control and containment programming while incarcerated and on parole.

In addition, SB 1128 directly impacts the Sexually Violent Predator Act. SB 1128 expands the qualifying offenses from the previously existing Sexually Violent Predator Act, tolls parole during the SVP process, and requires notification of commitment and release of SVPs to the Department of Justice's Sex Offender Tracking Program. Further, it changes the SVP commitment to an indeterminate term and requires the Superior Court to consider

treatment participation when making discharge decisions. This will have a significant impact on the recommitment process described above.

Finally, SB 1128 allows CDCR, in consultation with DMH, to implement a sex offender treatment pilot program for inmates presently incarcerated in prison.

- Jessica's Law: "The Sexual Predator Punishment and Control Act", passed the November 7, 2006, General Election Ballot as Proposition 83. This initiative is designed to enhance public safety by strengthening current laws for the commitment, control and supervision of sex offenders. As related to DMH's implementation of the Sexually Violent Predator Act, Jessica's Law expands the definition of a "sexually violent offense" to include new qualifying offenses and subcategories of currently existing sex offenses and lowers the current requisite two victim criterion to only one victim, making a much larger pool of CDCR inmates eligible for SVP evaluation and potential commitment. This initiative also requires statutory amendments to sex offender sentencing and parole periods, fines, enhancements, violent felony criteria, sex offender parole eligibility, regulations, sex offender residential requirements, and monitoring.

Jessica's Law lengthens sentencing periods for sex offenders who will eventually be referred for SVP screening and evaluation and makes many of the SVP qualifying offenses punishable by sentences of up to 15 years to life.

Jessica's Law tolls parole for individuals who are civilly committed as SVPs during their time in the state mental hospitals and until they are no longer considered a SVP and are discharged from that status by the Superior Court. In addition, in specified instances, the initiative increases the period of parole from five years to ten years and requires lifetime global positioning satellite monitoring for persons required to register as sex offenders under the provisions of Penal Code section 290.

Jessica's Law adds a new provision that would prohibit any individual, released on parole, who is required to register as a sex offender pursuant to Penal Code section 290, from residing within 2,000 feet of any public or private school, or park where children regularly gather. Local governments, DMH, and CDCR are in the process of evaluating how to

implement appropriately these restrictions. The Department of Mental Health and CDCR should report to the Sex Offender Management Board their progress at regular intervals. The question of the constitutionality of the residency restriction is currently pending in various federal courts.

Issues and Recommendations: Notification

The notification to victims, law enforcement and the receiving community of the pending release of any SVP or HRSO into the community is a significant public safety issue. A primary concern is for the victims of these sex offenders who are in the communities where these offenders are returning. The High Risk Sex Offender Task Force in its August 15, 2006 recommendations identified a process by which victims, communities, and law enforcement agencies should be notified about the release of a HRSO. This Task Force recognizes the important and urgent need to ensure, whenever practicable, advance notification to the victims that is timely and sufficient regarding the release of a SVP from a state mental hospital similar to that for a HRSO pending release from a CDCR institution. A consistent and timely notification system is also needed for law enforcement and the receiving community to adequately prepare in order to enhance public safety.

Victim Notification and Input

Within CDCR, the Office of Victim and Survivor Services' mission is to proactively enforce and promote the rights of victims and survivors. Through this office, victims can request to be notified of changes in custody, pending release or other circumstances of an inmate. Additionally, victims can exercise their right to have input into the inmate's conditions of parole, including requesting that the inmate live in another county or city, or if the inmate was convicted of specific violent felony, request parole placement 35 miles from the victim's actual residence.

While CDCR does a good job of conducting victim notification for those who are enrolled with the Office of Victim and Survivor Services, a majority of victims are not enrolled. As a result, they are not notified of an offender's change in incarceration status or conditions of supervision. Furthermore, current statutes do not address the rights of victims and survivors once the inmate is under DMH's jurisdiction as a result of the SVP civil commitment process and after his parole period has ended. Victim information is held in confidence by the collecting local entities and

CDCR and, therefore, DMH does not have access to that data. The California Department of Corrections and Rehabilitation also has authority to hold victim contact information confidential and DMH does not. Due primarily to the lack of specific protections for victim information from legal proceedings taken by a SVP, DMH does not have a system to contact victims over time to alert them about important changes in the status of offenders identified as SVPs.

The Task Force recognizes that the SVP treatment program is founded on an acknowledgement by the SVP patient of his illness and the impact that has had on his victims. Nevertheless, the Task Force believes that victims must have a defined means for seeking information or assistance regarding a SVP under DMH's jurisdiction.

Community Notification

The Task Force spent considerable time in preparing its first report discussing the need for sufficient advanced notification regarding the pending placement of a HRSO into the community. From these discussions, the Task Force made specific recommendations directing CDCR to provide a minimum 60-day notice of the release and recommended placement of HRSOs, that local law enforcement should be required to provide timely notice to communities of the residential placement of HRSOs and that victims be notified 90 days prior to the anticipated release and have a minimum of 21 days to challenge the recommended placement (see Appendix for the August 15, 2006 report to read the Task Force's complete recommendations regarding HRSO notification).

As the SVP classification results from a civil commitment process, an adjudicated SVP is afforded an opportunity to petition the Superior Court for release anytime after one year of commitment. Welfare and Institutions Code section 6608(b) requires the Superior Court to give at least 15 days notice to the District Attorney, defense attorney, and DMH before the hearing date on a SVP's petition for conditional release. In many cases, 15 days is not adequate time for the parties

receiving the notice to prepare for the hearing adequately. Moreover, in the future, SVPs who are unconditionally released will be under the jurisdiction of CDCR parole authority. The lack of time between notification of a Superior Court hearing and release does not provide CDCR adequate time to prepare a parole supervision plan for the SVP moving into the community as a HRSO. This Task Force believes that the potential for a break in supervision creates an unacceptable situation that jeopardizes public safety.

Currently, Welfare and Institutions Code section 6608.5 requires DMH to place conditionally released SVPs in the county of domicile (unless the Superior Court determines differently) and to work with designated county officials to the extent possible to locate a placement location that affords community safety and is conducive to supervision and treatment. When such a place is found, DMH is required to notify local officials within the jurisdiction of placement at least 15 days prior to submission of that location to the Superior Court, including the sheriff, chief of police, District Attorney, and the county's designated counsel. Prior to the Superior Court hearing to make a final placement decision, noticed agencies may provide written comments to DMH and the Superior Court regarding release, placement, location, and conditions of release. Additionally a designated county agency may recommend alternative placement locations within the community. Although not required by statute, county representatives conduct community outreach to solicit public input regarding the proposed placement and submit public comments to DMH and the Superior Court. The Department of Mental Health is required to either respond to all written comments within ten days of receipt, or in lieu of responding to written comments, may issue a public statement to the Superior Court. After considering all comments, the Superior Court can accept, reject, or modify the placement recommendation. When the Superior Court accepts the placement location, statute does not specify a timeframe within which the SVP must be placed in the community; consequently, the Superior Court specifies the actual placement date.

Recommendations: Notification of Release of Sexually Violent Predators

1. There should be a single point of contact for victims regarding information about SVPs and HRSOs to ensure comprehensive, consistent, and timely information is provided to the victims. The SOMB, in its role within CDCR, should provide recommendations on best practices and the most effective method for providing a single point of contact for victims, including how best to keep victims apprised at critical steps of a SVP's or HRSO's hearings, trials, placement and release. The SOMB should evaluate ways to increase victim participation in the notification process.
2. The Department of Mental Health should establish a victim advocate position within the department to provide a single point of contact for victims, District Attorneys, law enforcement, and other state departments regarding SVP victims' concerns.
3. To maintain the confidentiality of victim information and protect the privacy and safety of victims, legislation should be enacted to ensure victims' information is not subject to disclosure through the Public Records Act or other public disclosure.
4. To provide as much planning time as possible, sufficient and timely notification of conditional and unconditional release hearings should be provided. The law should provide for at least 60 days notice before such a hearing is held, rather than the current law which only requires the Superior Court to give 15 days notice to the District Attorney, defense attorney, and DMH before the hearing date on a SVP's petition for conditional release and subsequent unconditional release. (Welfare and Institutions Code section 6608(b).)
5. Sufficient time to locate proper placement in the community for a conditionally released SVP and to properly notify and receive input from victims, law enforcement and the community regarding appropriate placement options requires a minimum of 60 days from

the date of the order for conditional release. Current law provides an insufficient period of only 21 days, which can be extended on a finding of good cause. (Welfare and Institutions Code section 6608(f).)

6. Sufficient and timely notification to law enforcement, victims, and the receiving community of the DMH recommended community placement of a SVP who is ordered conditionally released should be provided. The law should provide for at least 45 days for law enforcement, victims, and the receiving community to provide the Superior Court with public comment on a recommended placement, rather than the current law which only allows 15 days to gather public comment. (Welfare and Institutions Code section 6609.3.)
7. To ensure a transition to parole that maintains public safety, the notification to law enforcement and the receiving communities of the release of a previously adjudicated SVP who is subject to parole should follow the procedure outlined in Recommendation #4 of

the High Risk Sex Offender Task Force's August 15, 2006 report, or be as timely as practicable. (Jessica's law provides for the tolling of parole, so more SVPs will fall in this category.)

8. To provide as much notice and planning time as possible, the notification to law enforcement and the receiving communities of the release of a previously adjudicated SVP who is not subject to parole should follow a consistent process:
 - DMH/state mental hospital should notify the District Attorney's office of the county of commitment and the county of anticipated release.
 - The District Attorney's office should notify local law enforcement/sexual assault felony enforcement teams and local law enforcement/sexual assault felony enforcement teams should provide receiving communities with HRSO notification as soon as practicable and monitors the SVP's Penal Code section 290 registration.

Issues and Recommendations: Placement and Housing

The High Risk Sex Offender Task Force previously recommended that CDCR continue working with local law enforcement and communities to find housing solutions for placement of HRSOs and that this Task Force continues to address these issues (see Recommendation #10 of the High Risk Sex Offender Task Force's August 15, 2006 report). The discussion and recommendations in this section further the original recommendation on these challenging issues.

State/Local Jurisdiction Interaction

Provision of effective, cost efficient out-patient treatment of patients committed as SVPs is critical to public safety. This is best accomplished in collaboration with the courts, local law enforcement agencies, state contract providers, and local providers of treatment, supervision, surveillance, and evaluation services. The Task Force recognizes the enormity of the challenge facing a local jurisdiction when it becomes apparent that a SVP will be released into that area. Very few landlords, and even fewer neighbors, are going to willingly accept such placements. At the same time, the Task Force acknowledges that at some point, certain sex offenders will return to their communities (after they have successfully completed treatment) and that public safety depends on cooperation and joint responsibility in finding adequate and appropriate housing. Current law does not require that counties and cities actively participate in the search for housing for SVPs. The additional layer of possible conflict between a county and the cities within the county only heightens the natural tensions that exist around these discussions.

Conflicts Between Counties

When the Superior Court approves a petition for conditional release, the law requires the SVP to be placed in the county of domicile, which is the county where the SVP's permanent home and principle residence were before incarceration with CDCR. Conditional release petitions, however, are filed with the Superior Court of the county of commitment, which is county that tried, convicted, and had the person committed to

DMH as a SVP. In most cases, the county of domicile and county of commitment are the same. There are cases where they are not.

When the counties of commitment and domicile are not the same, a Superior Court approving a petition for conditional release has no choice but to order the SVP conditionally released into the community of another county. For example, recently a SVP filed a petition for conditional release with the Superior Court in Fresno County, his county of commitment. During the hearing however, the Fresno County Superior Court ruled that the SVP's county of domicile was Imperial County. Current notification and placement laws mean that Imperial County officials could participate in locating and recommending to the Fresno County Superior Court a placement location for this SVP if conditionally released, but they had no role during the conditional release hearing and had no input regarding the SVP's terms and conditions for conditional release while in their community. Ultimately, placement proceedings were not necessary because the Fresno County Superior Court denied the conditional release petition; but nevertheless, the conflicting jurisdiction issues remain unresolved.

If local officials and communities are to actively participate in the community placement of SVPs released into their communities, then the Superior Court for the county of domicile should have jurisdiction over any petition filed for conditional release and subsequent unconditional discharged from commitment. This would allow the District Attorney representing the community in which the SVP is seeking release to argue the merits of the committed person's suitability for conditional release, terms and conditions of release while in the community, and if necessary, participate in any revocation hearings to return the individual to a state mental hospital.

Impact on Neighborhoods

The transition of sex offenders on parole, probation, and conditional release back into society as constructive contributors is critical. Housing

is a significant issue for all communities across the State as well as for CDCR and DMH. There are many, often conflicting, needs and demands relative to finding and maintaining appropriate housing. The Department of Mental Health has a statutorily defined responsibility regarding housing of SVPs while they are on conditional release. This statutory responsibility includes ensuring that the housing aligns to the treatment needs of the SVP. The California Department of Corrections and Rehabilitation has responsibility to oversee parolees, but is not statutorily charged with housing them, although it may contribute monetarily to their housing. Local probation programs are in a situation similar to CDCR, but do not provide financial support. The State licenses different types of congregate living facilities that might house sex offenders. In addition, there are property owners who do not have programs requiring licensure by the State who rent to these individuals; essentially these are boardinghouses. Testimony received by the Task Force shows that the local jurisdictions are concerned about the licensed and non-licensed facilities and associated impact on neighborhoods. However, local governments have had an easier time resolving problems with licensed facilities as they have methods of interaction that they do not have with unlicensed facilities. It is important to note that these facilities are private enterprises, whether they are providing treatment programs or merely renting rooms, not state-run facilities. In addition, zoning decisions are governed by a complex system of state and local statutes and regulations and are integrated into city and county long-term plans and tied to a myriad of funding streams.

This variety in housing complicates the situation at the local level and contributes to the frustration of local officials and residents seeking

resolution. In certain cases, the supervision of sex offender parolees involves finding an appropriate temporary residence as limited by the conditions specified in Penal Code section 3003.5.⁸ The Division of Adult Parole Operations in CDCR has enacted policies, such as those relating to the implementation of AB 113 (Cohn) (Chapter 463, Statutes of 2005), that also restrict residency options for specified parolees. Although the Division of Adult Parole Operations strives for equitable placement of sex offender parolees in California communities, local and state prohibitions, as well as public outcry, have resulted in sex offenders being congregated in certain areas. They are often placed in a variety of settings such as hotels, apartments, and housing such as single family dwellings that may or may not be licensed facilities and may be outside the control of the State and the local jurisdictions.

The State has been viewed as being uncommunicative and uncooperative with local governments in addressing housing issues. There is a perception that the State has ignored the needs of local jurisdictions, employing a “top down” model whereby the State imposes on locals without opportunity for input and dialogue. One consequence of this tension is that communities are passing local ordinances that constructively prohibit the placement of sex offenders within their boundaries. As one community passes such ordinances, neighboring areas take similar actions. Nonetheless, all parties acknowledge that these offenders must be housed somewhere.

The Task Force met several times with the League of California Cities to discuss housing and placement issues. Following those meetings, on November 18, 2006, the League of California Cities Board of Directors passed action items relating to working with the State on housing

⁸ This section provides, “Notwithstanding any other provision of law, when a person is released on parole after having served a term of imprisonment in state prison for any offense for which registration is required pursuant to Section 290, that person may not, during the period of parole, reside in any single family dwelling with any other person also required to register pursuant to Section 290, unless those persons are legally related by blood, marriage, or adoption. For purposes of this section, ‘single family dwelling’ shall not include a residential facility which serves six or fewer persons.”

issues⁹ and a resolution supporting the effective management of sex offenders in California's communities through collaboration among the public, cities, counties, law enforcement, probation and parole agencies, the court system, victims advocates, and state agencies. The Task Force believes that no long-term solution to sex offender housing and management issues will occur without the input of the League of California Cities and the California State Association of Counties.

The Task Force recognizes the risk sex offenders pose to the community and believes that a focus on containing offenders in a tight supervision and treatment network with active monitoring and enforcement can reduce victimization and recidivism. As recommended by the High Risk Sex Offender Task Force in its August, 15, 2006 report, the Task Force endorses a containment model for parolee supervision of HRSOs and now further wishes to explore a "Transitional Housing Model" for HRSOs and SVPs where they can be supervised appropriately (e.g., by parole agents and their teams, conditional release program staff, and local law enforcement) and receive treatment directed by qualified therapists that will help promote prosocial behaviors.

Recommendations: Placement and Housing of Sexually Violent Predators

9. The Governor, the League of Cities, and the California State Association of Counties should sponsor a statewide summit on the subject of placement and housing of sex offenders, including HRSOs and SVPs. The invitation list should include other material stakeholders on this subject, including, but not limited to, representatives of the State,

sheriffs, chiefs of police, probation and parole officers, and park districts. The California Department of Corrections and Rehabilitation and DMH should collaborate to develop for presentation at the proposed summit, potential transitional housing models that can assist HRSOs and SVPs to successfully re-integrate into the community.

The goals of the Summit should be to:

- Establish a commitment to shared responsibility and joint decision-making that empowers local governments;
- Define lasting solutions that enhance public safety by engaging local governments in the housing and placement of sex offenders in the community;
- Identify specific improvements at the state and local levels that will assure that local governments are best positioned for the placement and control of sex offenders and for compliance with Penal Code sections 3003 and 3003.5 and Welfare and Institutions Code section 6608.5 requirements; and
- Determine which improvements require legislative support and which can be moved administratively.

Issues to be addressed at the Summit should include:

- A clear statement from the Governor that local government is a critical partner in the housing and supervision of sex offenders, that public safety is the State's number one concern and that sufficient law enforcement resources to oversee sex offenders is an integral element of public safety;

⁹ The League of California Cities Board of Directors passed the following actions on November 18, 2006:

1. The League should commit to working with the Governor and the Legislature on efforts to address housing and siting of sex offenders;
2. The League should adopt a resolution to encourage cities to partner with local, state, and non-governmental agencies in the effective management of sex offenders; and
3. The League should participate in, and possibly co-sponsor, a one-day educational and discussion-oriented symposium on sex offender management, placement, and housing in California, with the Governor and the Legislature. The League suggests holding the symposium twice, one day each in the northern and southern halves of the State.

- Protocols and standard operating procedures for sex offender housing and placement to address issues such as clustering, saturation, and straining demand for services;
 - The need for legislation that allows local governments to have some land use and zoning control over the placement of sex offenders to remove the disincentives on cooperation in placement;
 - Reforms in rental housing law, congregate living saturation and siting, and evidence and arguments in favor of and against these policies.
 - The need for agreement on the definitions of terms in Jessica's Law, such as the term "park where children regularly gather," which is contained in the prohibition against sex offenders in Penal Code section 3003.5(b) required to register pursuant to Penal Code section 290 living within 2,000 feet of a public or private school or within 2,000 feet of such parks.
10. Legislation should be introduced to require that the victims identified in the CDCR adjudication process and/or by District Attorneys in SVP trials have the right and opportunity to challenge the placement of the SVPs who victimized them, similar to what is done by CDCR in the placement of parolees pursuant to subdivision (f) of section 3003 of the Penal Code (i.e., all victims of SVPs would have the right to insist that SVPs who victimized them be placed more than 35 miles away from the actual residence of the victim or victims). When invocation of this right results in the relocation of a SVP to a county other than the county of domicile, the State would be permitted to place another SVP in the sending county after community input and notification, consistent with what is done by CDCR in the placement of parolees.
 11. Legislation should be introduced to amend subdivision (f) of Penal Code section 3003, the provision that provides specified victims the right to insist that parolees not be placed within 35 miles of the actual residence of the victim. That provision applies to any victim of a violent felony specified in paragraphs (1) to (7) of subdivision (c) of section 667.5 of the Penal Code and to any victim of a felony in which the defendant inflicted great bodily injury upon a person other than an accomplice. The crime of continuous sexual abuse of a child, contained in Penal Code section 288.5, is not referenced in these provisions. It is referenced in paragraph (16) of subdivision (c) of Penal Code section 667.5. Therefore, so long as great bodily injury is not inflicted, a victim of lewd and lascivious acts on a child, Penal Code section 288, which is referenced in paragraph (6) of subdivision (c) of Penal Code section 667.5, has the right to insist that the offender not be placed within 35 miles of the victim's home, but a victim of continuous sexual abuse of a child does not have this right. This is an oversight which should be corrected by legislation. All victims of child molestation should have the right to insist that their victimizer not reside within 35 miles of the victim's actual residence. It should not make any difference whether the offender was charged under Penal Code section 288 or section 288.5.
 12. Legislation should be introduced to place jurisdiction over a SVP's petition for conditional release and subsequent unconditional release (petition) with the Superior Court of the county of domicile. Accordingly, specific legislation should be enacted to do the following:
 - The Superior Court of the SVP's county of commitment should make a determination as to the SVP's county of domicile at the conclusion of the initial commitment hearing/trial as a SVP or at the earliest proceeding practicable in accordance with Welfare and Institutions Code section 6608.5.
 - If a SVP's county of domicile is different than the county of commitment and the county of domicile has already been determined by a court, then the petition shall be filed directly with the Superior Court of the

county of domicile and served on the District Attorney in the county of domicile, and notice of the petition should be given to the Superior Court of the county of commitment and the District Attorney in the county of commitment.

- If a petition is filed within the county of commitment and the county of domicile has not been determined, the Superior Court of the county of commitment should make a ruling regarding the county of domicile before proceeding further with a hearing. If the Superior Court finds that the county of domicile and the county of commitment are not the same, the Superior Court should stop proceedings on the petition and order that the jurisdiction over

the petition reside with the Superior Court of the county of domicile.

- If the Superior Court of the county of domicile approves the petition and orders the SVP placed with an appropriate forensic conditional release program, that court shall retain jurisdiction of the SVP throughout the course of the conditional release program. If the Superior Court of the county of domicile denies the petition, jurisdiction over the SVP rests with the Superior Court of the county of commitment. Notice of the denial of the conditional release petition and the return of jurisdiction to the county of commitment must be given to the commitment court, the District Attorney, and DMH.

Issues and Recommendations: Supervision and Monitoring

The Task Force defined a HRSO in its first report as a convicted sex offender who has been deemed by CDCR to pose a higher risk to commit a new sex offense in the community. A parolee required to register as a sex offender pursuant to Penal Code section 290 will be designated as a HRSO for purposes of adult parole based on the score from a validated risk assessment tool(s), and/or the known criminal history, and/or other relevant criteria established by CDCR. With the tolling of parole offered under SB 1128 and passage of Jessica's law, once a SVP is no longer under DMH supervision and treatment in the Conditional Release Program (i.e., once the SVP is unconditionally released), the previously adjudicated SVP will have parole time left and will be under CDCR's Division of Adult Parole Operations supervision.

The supervision and oversight of SVPs is prescribed by statute and DMH protocols. The Department of Mental Health has generally positive relationships with local law enforcement entities for the currently released SVPs. It is important to note that this universe is extremely small. With the changes presented by Jessica's Law and SB 1128, it is not possible to predict how soon any of the SVPs in treatment now might be released. This uncertainty is caused principally by the revision to the circumstances and frequency of petitions for release.

Treatment Linkages

Continuity of care requires continued linkages between the in-hospital and out-patient portions of treatment. At present, DMH has an informal linkage between these two portions of treatment in that a member of the patient's in-hospital treatment team is contacted by the patient's out-patient treatment team on as needed basis for consultation, rather than participating with the out-patient treatment team on a routine basis. This situation could create a void of first-hand knowledge and insight to the patient's treatment history which, if known, may prevent the patient from suffering a set-back and, in turn, increase the risk of re-offense.

Formally Adopt the Containment Model as Policy

When DMH integrated SVPs into its Conditional Release Program, it incorporated the principles of the "Containment Model" as developed by the Center for Sex Offender Management. A containment approach is a method of case management and treatment that recognizes the risk that sex offenders pose to the community and focuses on containing them in a tight supervision and treatment network with active monitoring and enforcement of rules. The Containment Model is comprised of the following four components: supervision led by the specialized designated conditional release program agent and his team; treatment led by a qualified therapist who comports with the relapse prevention methods; polygraph to be performed by qualified post-conviction polygrapher(s); and victim advocacy focused on what is best for the victim(s). The Task Force supports this model, and notes that it aligns with its recommendation made in its first report that CDCR parole supervision of HRSOs follows the Containment Model (Recommendation #6 of the High Risk Sex Offender Task Force's August 15, 2006 report). Although DMH has successfully implemented the Containment Model for SVPs for several years, it has not yet formally adopted the Containment Model as the appropriate model for SVP treatment and supervision in the community as policy. The Task Force is concerned that if DMH does not do so, future Conditional Release Program services contracted for SVPs could change the model's underlying principles without input from the State.

Departmental Inter-dependencies

The implementation of SB 1128 and Jessica's Law require heretofore unprecedented cooperation and coordination between DMH and CDCR. While many of the current SVPs will not have any parole time remaining when they complete conditional release, in the future, all SVPs will move from conditional release to parole. The treatment model does not currently reflect this expectation, but instead builds toward independence and self-sufficiency without continued state supervision. This disconnect has the potential to increase the

likelihood of relapse when SVPs transition to parole from conditional release.

County Coordination and Engagement

The Task Force is concerned that DMH is not engaged actively in discussions and planning with counties of domicile for patients in Phases III and IV of in-patient treatment. Local jurisdictions need better and longer planning horizons to facilitate the transition of these individuals back to a non-institutional lifestyle.

Concern Regarding Understanding of Sexually Violent Predator Laws

As noted above, the overall instance of SVP placement in the community is extremely small. Many officers of the court (i.e., prosecutors, defenders, and judges) confronted with a SVP case may not be familiar with the underlying statute, the treatment-based program, and the elements that are critical to ensuring that individuals complete treatment successfully. Of the SVPs ordered placed into the community on conditional release, two did not complete all phases of treatment while in the hospital before the Superior Court ordered DMH to place them in the community, and one did not participate in any treatment phases while in the hospital before DMH obeyed a court order to place the individual in the community. As shown earlier in this report, patients enter a five-phase treatment program, each new phase adding new skills and behaviors on top of skills and behaviors learned in a previous phase. It is critical from a community safety standpoint that a SVP complete all in-patient treatment phases before community placement, especially Phase IV. It is during this final in-patient treatment phase that the SVP's detailed Community Safety Plan is developed, including the specific terms and conditions of out-patient treatment and supervision with which the SVP must agree. Phase IV not only prepares him to be discharged from the hospital into a supervised setting in the community, the SVP continues to develop skills in relapse prevention, managing cognitive distortions and risk factors, and enhancing victim empathy and concern for others. Sexually violent predators who

do not complete all in-patient treatment phases compromise Liberty Healthcare Corporation's ability to fully apply the principles of the Containment Model, thereby increasing the risk to the public that the SVP will re-offend.

The Task Force believes that officers of the court need to be better informed about the necessity for a SVP to complete all in-patient phases of the Sex Offender Commitment Program before placed in the community on an out-patient basis and to be better informed about the differences between SVPs and other sex offenders to best protect public safety.

Coordination of Treatment Approaches

The Task Force in its first report recommended that all inmates designated as HRSOs should be required to receive appropriate specialized sex offender treatment as warranted while incarcerated. Although CDCR's recommendation for implementation of this recommendation was not available in time for the Task Force's consideration for this report, the Task Force believes that both assessment and treatment of HRSOs and SVPs should be aligned to maximize efficiency, accuracy, and continuity.

Clear Definitions Needed

The determination of a SVP's readiness for conditional or unconditional release or whether they continue to meet the statutory definition of SVP is determined by a judge or jury. Because only seven SVPs to date have qualified for conditional release, few judges and even fewer potential jurors have an understanding of the complexities associated with determining appropriate progress. Some fundamental terms do not have statutory definitions, thus allowing for varying interpretations, resulting in varying levels of public safety.

One symptom of this problem is that Superior Courts have ordered SVPs to conditional release who have not completed the treatment program. The five-phase SVP treatment program is a continuum of processes designed to create skills the individual will need during community re-entry

and to mitigate the risk of harm to the community. Each subsequent phase builds on the skills the individual has learned in the preceding phase. At the core of the program is basic identification of risk factors and coping responses in Phase II, application and elaboration of coping responses in Phase III, and the development of a detailed community safety plan in Phase IV. The Community Safety Plan for Phase V, the out-patient phase, is derived from the individual's active participation and sustained progress in the previous phases. Treatment in the community is a continuation of the in-patient treatment program that requires the initial skills learned during the in-patient phase. Ordering a SVP to Phase V, without benefit of successful completion of the preceding phases, places the individual at risk for failure and the public safety of the community at risk. Better definition of these terms, with changes in legislation and policy, should reduce the number of SVPs that are unconditionally released, or conditionally released before completing all of the phases of treatment.

In addition, clear definitions are important for the SVP. The SVP must have the same understanding regarding progression through the treatment phases to inform his decisions and actions in participating and succeeding in the program. It is important for continuity of care for the SVP that all parties be well-informed about the implications of their actions.

Jessica's Law Superseded Needed Language in SB 1128

The timing between SB 1128 and the initiative process for Jessica's Law resulted in some elements of Jessica's Law superseding elements of SB 1128 that provided additional public safety. There are three areas where the Task Force is particularly concerned:

- While both SB 1128 and Jessica's Law toll parole, SB 1128 included the tolling of parole while the individual was being evaluated as a SVP. This dynamic is important because it can take months, and in some cases years, to complete the court process. The Task Force

believes that this loophole will encourage potential SVPs to fail to cooperate with the evaluation process specifically to reduce their remaining parole time.

- SB 1128 established participation in treatment as a condition of release. Jessica's Law did not contain this requirement.
- Jessica's Law extends parole supervision for some crimes, but for a smaller universe than defined in SB 1128. The Task Force believes the parole supervision periods articulated in SB 1128 are more appropriate.

Recommendations: Supervision and Monitoring of Sexually Violent Predators in the Community

13. The uniform definition for HRSO outlined in Recommendation #1 of the High Risk Sex Offender Task Force's August 15, 2006 report should include SVPs and persons who were previously adjudicated as SVPs.
14. The Department of Mental Health should adopt a formal policy that commits to the "Containment Model," which recognizes the risk that sex offenders pose to the community and provides a focus on containing offenders in a tight supervision and treatment network with active monitoring and enforcement of rules. The model should contain these components: supervision, treatment, polygraph, and victim advocacy.
15. For any SVP subject to CDCR parole authority when unconditionally released from DMH out-patient treatment and supervision, a manager from the local CDCR parole office should be a member of the community safety team established when that SVP is released to facilitate the transition of the SVP to parole.
16. There should be a continued link between the treatment provided while a SVP is in the state mental hospital and once the SVP is released into the community and placed in the Conditional Release Program, including ongoing communication between the in-hospital therapists and the community treatment providers for the SVP.

17. The out-patient phase of treatment for SVPs should have delineated phases indicating the SVPs progress, as appropriate, toward suitability for unconditional release. For any SVP subject to CDCR parole authority when unconditionally released from DMH out-patient treatment and supervision, DMH and CDCR should coordinate the transition of SVPs from the Conditional Release Program to parole to ensure the continuity and appropriate level of supervision and oversight is maintained.
18. The Department of Mental Health should institute a pre-release planning process by engaging with other state and local stakeholders by anticipating in advance the conditional release of SVPs in Phases III and IV of treatment to facilitate re-entry through planning and collaboration.
19. All SVPs should agree to be continually monitored using global positioning satellite technology as a condition of their conditional release into the community. When requested by the local law enforcement/SAFE team having jurisdiction over the community of placement, the global position satellite system should be made accessible to them.¹⁰ The terms and conditions of conditional release should include a waiver and acceptance of such condition by the SVP.
20. Legislation adding the following criteria for conditional release to Welfare and Institutions Code section 6608 should be enacted

stating that: “The court may not authorize conditional release unless, based on all of the reports, and evidence presented, the court finds that both of the following criteria are met: the person has successfully completed all phases of DMH in-patient treatment through active participation and progress in the treatment program.”

21. Legislative and policy changes should be instituted to encourage SVPs to demonstrate participation and progress in all of the DMH phases of sex offender treatment. The terms “active participation” and “progress in treatment” should be clearly defined in statute.

The following definition of participation and progress in treatment should be added to Welfare and Institutions Code section 6600 to read:

“‘Active Participation’ means:

1. The person has been committed under Welfare and Institutions Code section 6600;
2. The person attends all scheduled treatment activities assigned by his Treatment Team and included in his or her Wellness and Recovery Plan. Absences due to medical reasons or unavailability may be excused by treatment staff and noted on Treatment Activities attendance records filed in the persons Medical Record; and
3. The person is compliant with state and federal laws and DMH policies and procedures.

¹⁰ According to DMH, in order to achieve cost savings and programmatic efficiencies, a vendor under contract with Liberty Healthcare Corporation, not DMH, provides global positioning satellite services for conditionally released SVPs in California. The software used by this vendor, however, does not allow a firewall to be constructed blocking a user from having access to the global positioning satellite data for all SVPs being monitored. Because of the unknown legal consequences for allowing unrestricted access, Liberty Healthcare Corporation has not made its global positioning satellite system available to local law enforcement. This information sharing is unique to DMH and is not the practice of CDCR where access to global positioning satellite tracking of HRSOs is shared with other law enforcement agencies. DMH will continue to work with Liberty Healthcare Corporation to grant local law enforcement access to the global positioning satellite system. However, if the legal issues cannot be resolved, the Task Force recommends that the Governor suggest alternatives, such as direct contracting with a global positioning satellite vendor, that allows direct local law enforcement to obtain access in order to ensure additional monitoring resources to law enforcement.

'Progress in treatment' means:

1. Active participation in the treatment program specifically designed to reduce his or her risk of re-offending;
 2. Demonstrating through overt behavior a motivation to identify and a willingness to address risk factors associated with sexual re-offending;
 3. Demonstrating an understanding of risk factors associated with sexual offending and an ability to identify personal risk factors;
 4. Identifying personal risk factors and actively participating in the development and use of coping strategies to mitigate risk of re-offending; and
 5. Demonstrating sufficient sustained change in thoughts, attitudes, behaviors, emotions and management of sexual arousal to enable a reasonable person to assume that with continued treatment, the change can be maintained in out-patient phases of the program on conditional release to the community."
22. Officers of the court (i.e., prosecutors, defenders, and judges) should receive appropriate training developed and provided by the their respective training agencies regarding SVP treatment processes and procedures.
23. It should be the goal of CDCR to ensure that parole agents receive appropriate and on-going training to provide them with the skills and abilities to manage the previously adjudicated SVP population.
24. The California Department of Corrections and Rehabilitation should align its appropriate specialized sex offender treatment program as outlined in Recommendation #3 of the High Risk Sex Offender Task Force's August 15, 2006 report with DMH's sex offender treatment program.
25. The California Department of Corrections and Rehabilitation and DMH should align the utilization of STATIC-99 as the validated risk assessment tool (Recommendation #2 of the

High Risk Sex Offender Task Force's August 15, 2006 report) and the screening for HRSO and SVP categories towards maximizing efficiency and accuracy.

26. The Task Force recommends the Legislature re-enact three provisions of SB 1128 that were inadvertently chaptered out by Jessica's Law.

Specifically:

- a) SB 1128 and Jessica's Law both provided that the period of parole supervision would be tolled for a person while a person is in civil commitment status as a SVP. However, SB 1128 contained broader language. SB 1128 provided, in paragraph (4) of subdivision (a) of section 3003 of the Penal Code, that parole would be tolled for a person "being evaluated" as a SVP. It provided "The period during which parole is tolled shall include the filing of a petition for commitment, hearing on probable cause, trial proceedings, actual commitment, and any time spent on conditional release under court monitoring. Parole shall be tolled through any subsequent evaluation and commitment proceedings, actual commitment, and any time spent on conditional release under court monitoring. Time spent on conditional release under the supervision of the court shall be subtracted from the person's period of parole." In contrast, Jessica's Law provided that "any person found to be a SVP" would have the parole period tolled while in civil commitment. This is an important distinction. Many persons being considered for civil commitment as SVPs have opted to delay their trials for long periods of time, sometimes for many years. Without the tolling of parole while the person is awaiting trial for a determination that the person is a SVP, the person's parole time can expire while the person is being held by DMH. This defeats the goal of SB 1128 and Jessica's Law that parole supervision occur when the SVP is

in the community. Similarly, SB 1128 added a sentence to subdivision (k) of Section 6601 of the Welfare and Institutions Code which stated, "The tolling of parole shall occur in accordance with paragraph (4) of subdivision (a) of Section 3000 of the Penal Code." Jessica's Law also amended Welfare and Institutions Code section 6601, but did not include this language. Legislation should be introduced to reenact it.

- b) SB 1128 added a provision to subdivision (d) of section 6605 of the Welfare and Institutions Code which stated that "The committed person's failure to engage in treatment shall be considered evidence that his or her condition has not changed, for purposes of any court proceeding held pursuant to this section, and a jury shall be so instructed. Completion of treatment programs shall be a condition of release." Jessica's Law also amended Welfare and

Institutions Code section 6605, but did not include this language and, therefore, superseded it. Legislation should be introduced to restore the SB 1128 language.

- c) SB 1128 expanded the length of the parole supervision period for specified violent felonies and certain other enumerated sex crimes from five to ten years in paragraphs (2) and (3) of subdivision (b) of section 3000 of the Penal Code. Jessica's Law made this change only for persons convicted under the One Strike and habitual sexual offender statutes. (Penal Code sections 667.61 and 667.71.) Legislation should be introduced to restore the broader extension of parole supervision contained in SB 1128. Sex offenders pose a continuing danger to the public and a ten-year parole supervision period is more appropriate than the current five-year supervision period for these offenders.

Appendix

The High Risk Sex Offender Task Force issued the following recommendations in its August 15, 2006 report:

1. The State of California should have a uniform definition for an HRSO as follows: An HRSO is a convicted sex offender who has been deemed by the CDCR to pose a higher risk to commit a new sex offense in the community. A PC 290 parolee will be designated as an HRSO for purposes of adult parole based on the score from a validated risk assessment tool(s), and/or the known criminal history, and/or other relevant criteria established by CDCR.
2. All California adult Penal Code Section 290 (hereinafter PC 290) sex offender registrants under the jurisdiction of the CDCR, including those serving revocation time in local facilities, must be assessed to determine whether based on validated risk assessment tool(s) and/or known criminal history and/or other relevant criteria they should be designated as HRSOs. The assessment shall take place as soon as practical, but no later than 120 days prior to release on parole with continued assessments while on parole.
3. All California inmates required to register as sex offenders that are designated as HRSOs should be required to receive appropriate specialized sex offender treatment as warranted while incarcerated.
4. Notification of Release of HRSOs
 - The Task Force recommends that the CDCR be required to notify victims 90 days prior to the anticipated release of an HRSO in relation to PC 3003(c). Victims should have a minimum of 21 days to challenge the HRSO residential placement in accordance with established the CDCR procedures.
 - The CDCR should be required to provide notice of the release and recommended placement of HRSOs at least 60 days before release utilizing mail service as required by law and an additional reliable method such as email, fax, or telephone to a list of designated law enforcement recipients.
5. The parole supervision of HRSOs should follow the "Containment Model," which recognizes the risk that sex offenders pose to the community, and thus provides a focus on "containing" offenders in a tight supervision and treatment network with active monitoring and enforcement of rules. This "Containment Model" is formed by four components: The supervision components led by the specialized parole agent and his team, the treatment component directed by a qualified therapist who utilizes an evidence-based approach in conformity with recognized guidelines and standards, the polygraph component to be performed by qualified post-conviction polygrapher(s), and the victim advocacy component focused on what is best for the victim. In addition, all HRSOs should be placed on GPS monitoring (the Task Force recognized the value of more intensive supervision and GPS monitoring for all paroled sex offenders, but acknowledge that it is beyond the scope of Executive Order).
6. CDCR and local law enforcement should partner to create a viable program for community education and communication specific to HRSO issues
7. The Task Force recommends legislative changes to the Megan's Law Website to specifically identify HRSOs that are on parole and those that are being monitored by GPS.
8. CDCR should be required to assess the fiscal and programmatic impact of the Task Force recommendations within 90 days and work with the Administration and the Legislature to secure funding and/or legislative changes in order to implement recommendations. In

the event CDCR cannot meet the timeframe on any recommendation, a public letter must be sent to the Governor explaining the reasons for non-compliance.

9. CDCR should be required to establish a permanent Sex Offender Management Board, which will review practices of CDCR regarding the stated goals of the California High Risk Sex Offender Task Force. Stakeholders such as sheriffs and police chiefs, district attorneys, county probation

chiefs and line parole officers should have permanent positions on this Board.

10. CDCR should be required to continue working with local law enforcement and communities to find appropriate and equitable housing solutions for placement of HRSOs. The Task Force recommends that a committee of appropriate stakeholders such as this Task Force continue to convene to address these critical issues.



**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER S-15-06

by the

Governor of the State of California

WHEREAS on May 15, 2006, the Governor established the High Risk Sex Offender (HRSO) Task Force by Executive Order S-08-06; and

WHEREAS on August 15, 2006, the High Risk Sex Offender Task Force provided the Secretary of the Department of Corrections and Rehabilitation, as well as the Governor and Legislature, with recommendations to improve departmental policies related to the placement of high risk sex offenders; and

WHEREAS pursuant to the terms of Executive Order S-08-06, the High Risk Sex Offender Task Force was disbanded upon the release of these recommendations; and

WHEREAS the High Risk Sex Offender Task Force recommendations include:

1. The State of California should have a uniform definition for a high risk sex offender.
2. All California adult Penal Code section 290 sex offender registrants incarcerated in State facilities or serving revocation time in local facilities must be assessed as soon as practical, but no later than 120 days prior to release on parole with continued assessments while on parole.
3. All California inmates required to register as sex offenders that are designated as HRSOs should be required to receive appropriate specialized sex offender treatment as warranted while incarcerated.
4. The California Department of Corrections and Rehabilitation (CDCR) should be required to provide notice of the release and recommended placement of HRSOs to victims at least 90 days before release and to law enforcement a minimum of 60 days prior to release. Local law enforcement should also be required to provide timely and sufficient notice to the receiving communities of the residential placement of HRSOs.
5. The parole supervision of sex offenders designated as high risk should follow the "Containment Model." In addition, all HRSOs should be placed on GPS monitoring.
6. CDCR and local law enforcement should partner to create a viable program for community education and communication specific to HRSO issues.
7. Legislative changes to the Megan's Law Website should be made to specifically identify HRSOs that are on parole and those that are being monitored by GPS.
8. CDCR should be required to assess the fiscal and programmatic impact of the HRSO Task Force recommendations and work with the Administration and the Legislature to secure funding and/or legislative changes in order to implement the recommendations.
9. CDCR should be required to establish a permanent Sex Offender Management Board.
10. CDCR and local law enforcement/government should continue to work together to insure appropriate and equitable placement of HRSOs.

WHEREAS it is imperative that these recommendations are implemented as soon as possible to ensure public safety; and

WHEREAS the placement, notification and monitoring of sexually violent predators in the local communities is a joint state and local responsibility and the inability to locate suitable housing will result in the possible unconditional release of sexually violent predators; and

WHEREAS in some instances, the current civil commitment process for sexually violent predators has resulted in compromise to public safety; and

WHEREAS a comprehensive and consistent placement and supervision policy should be developed with input among all entities responsible for public safety within each community, including but not limited to police chiefs, sheriffs, district attorneys, parole agents, probation officers, and local and state officials.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California do hereby issue this Order to become effective immediately:

1. The Secretary of the California Department of Corrections and Rehabilitations and the Secretary of the Health and Human Services shall create a High Risk Sex Offender and Sexually Violent Predator Task Force to review: (a) the implementation of the recommendations of the HRSO Task Force; and (b) the current statutory requirements and state and local policies on placement, notification and monitoring of sexually violent predators.
2. The High Risk Sex Offender and Sexually Violent Predator Task Force membership shall include:
 - Two representatives from the California State Legislature, who will serve as co-chairs
 - California District Attorneys Association, president or his/her designee
 - California State Sheriffs Association, president or his/her designee
 - California Police Chiefs Association, president or his/her designee
 - Chief Probation Officers of California, president or his/her designee
 - League of California Cities, president or his/her designee
 - California State Association of Counties, president or his/her designee
 - Secretary of the California Department of Corrections and Rehabilitation, or his/her designee
 - Secretary of the Health and Human Services Agency, or his/her designee
 - Director of the Division of Adult Parole Operations, Department of Corrections and Rehabilitation, or his/her designee
 - Director of the Department of Mental Health, or his/her designee
 - Representative of victims of violent crimes
 - Other representatives to be determined by the Secretary of the Department of Corrections and Rehabilitation and the Secretary of Health and Human Services
3. The High Risk Sex Offender and Sexually Violent Predator Task Force shall provide the Secretary of the Department of Corrections and Rehabilitation and the Secretary of Health and Human Services, as well as the Governor and Legislature, with recommendations to improve state and local polices related to the placement of sexually violent predators in local communities thereby ensuring public safety is not compromised. The recommendations shall address the following three areas:
 - Notification to local law enforcement and officials prior to release from a state institution
 - Placement planning for sexually violent predators that is compliant with state law, and consistent with public safety
 - Monitoring and supervision of sexually violent predators
4. The High Risk Sex Offender and Sexually Violent Predator Task Force shall issue its recommendations no later than December 1, 2006.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 15th day of August 2006.

Arnold Schwarzenegger



Governor of California

Assembly Member Rudy Bermúdez

Biography

For more than 20 years, Assembly Member Rudy Bermúdez has served the people of California by promoting public safety, improving education, and championing the rights of working men and women.



A law enforcement officer by profession, Bermúdez was first elected to represent the 56th district in the California State Assembly in November 2002. Located in the heart of southern California, the 56th district includes portions of Los Angeles and Orange Counties, as well as the cities and communities of Artesia, Buena Park, Cerritos, Hawaiian Gardens, Lakewood, Los Nietos, Norwalk, Santa Fe Springs, South Whittier, Whittier and West Whittier. The district includes the popular destination points of **Knott's Berry Farm** in the city of Buena Park and **Little India** in the city of Artesia.

Assembly Member Bermúdez, in his second term in office as a legislator, has the unique honor of serving as chair of Budget Sub-Committee #4 on State Administration. He also serves on the Assembly committees on Aging, Governmental Organization, and Water, Parks, and Wildlife.

Legislative Achievements

Assembly Member Bermúdez has made an immediate impact in the legislature by tackling tough issues and standing up for not only our community, but all Californians. Bermúdez has received many leadership and legislator of the year awards for his work on a whole range of issues affecting California.

A Commitment to Public Safety

As a father and former law enforcement officer, public safety is an issue of monumental importance to the Assembly member.

In his first term in office, Assembly member Bermúdez authored and secured passage of legislation (AB 236) that ensured the most egregious sexual predators would never be able to practice

medicine in California, keeping residents of the Golden State safe from harm and enabling them to put faith and trust in their doctors. Bermúdez has also fought hard to increase the distances from which sexual predators are allowed to live from schools.

In the aftermath of the terrorist attacks on September 11, 2001, Bermúdez authored and secured passage of legislation (AB 1153) that outlawed the use of counterfeit firefighter badges and employee identification. This ensures that these items will not fall into the wrong hands and can never be used to gain unauthorized access to sensitive sites and facilities.

Bermúdez has been awarded many honors for his commitment to public safety and for his support and appreciation of the brave men and women who keep our communities safe. In 2003, his first year in the Assembly, Bermúdez was named Legislator of the Year by the California Police Activities League and was honored with the prestigious "Street Sweeper" award by the California Correctional Peace Officers Association (CCPOA). In 2004, Bermúdez was honored with the California State Fire Fighters Association legislator of the year award. Most recently Bermúdez was honored with the 2005 LA County Probation Officers Union Legislative Leadership Award, the 2005 Crime Victims United of California Legislator of the Year Award, and the 2006 State Coalition of Probation Organizations Legislator of the Year Award.

A Commitment to Education

Mr. Bermúdez is the proud author of AB 2407 which has allowed school districts to begin implementation of full-day kindergarten, so that every child in California can receive the education he/she deserves. He has also been a strong supporter of universal preschool and of lowering college tuition fees.

Recognizing his strong commitment to public education and his successes in the legislature, the California State University System and the Faculty Association of the California Community Colleges

both named Assembly Member Bermúdez as their 2003 Legislator of the Year.

A Commitment to Jobs and Economic Growth

Assemblymember Bermúdez recognizes the need for a strong and economically prosperous California that generates an abundance of high paying jobs. The American Electronics Association named Bermúdez their 2004 High Tech Legislator of the Year for his efforts to bring high tech jobs and technology to California . The Assemblymember has also championed and defended the rights of California 's small business owners. For example, in 2003, Bermúdez authored AB 282 to protect the practice of "hair threading" and prevent small cosmetology salons from being unfairly fined for performing this ancient practice.

For his commitment to upgrading our transportation infrastructure to create jobs and ensure the safe, fast, and continual flow of people and goods Bermúdez received the 2003 Legislator of the Year award from the Professional Engineers in California Government. Most recently, the Assemblymember was named the 2005 Legislator of the Year by the California Attractions and Parks Association for helping to maintain California 's vibrant tourism industry.

A Commitment to our Community

Assemblymember Bermúdez has also been very active in issues critical to his district. He continues to fight for increased funding for home-to-school transportation, led efforts to increase business and commerce in the city of Artesia , and fought for the City of Whittier 's right to the property formerly occupied by the Nelles School for Boys.

For his hard work on behalf of our community, Bermúdez received the 2004 Federation of Indo-American Associations of Southern California Man of the Year Award.

Dedicated to Public Service

Mr. Bermúdez first entered public service in 1991 when he was elected as a board member on the Norwalk-La Mirada Board of Education.

As a board member, Bermúdez fought for additional funding and systemic changes to improve student achievement. He worked to cut wasteful spending and promote fiscal accountability. Because of his efforts, the school district maintained one of the healthiest budgets in Los Angeles County , with a fiscal reserve of over 10%, more than three times the state's required reserve. He and his colleagues achieved this goal while opening three new schools, reducing class sizes, introducing new educational programs, strengthening classroom student achievement, improving security on school campuses, and providing salary increases and benefit enhancements of over 28% to district employees.

The issue of ethics has been the Assembly Member's hallmark as an elected official. He championed a strict anti-nepotism policy, a code of ethics for school board members, and procedures to discipline members who breached the code of ethics.

In 1999 Mr. Bermúdez was elected to the city council of Norwalk , the fifteenth largest city in Los Angeles County . In his election to the city council, he received the most votes of any candidate, including incumbents. As a City Council Member, he worked to attract new businesses and retain existing ones, promote strong fiscal policies, eliminate the utility user tax and encourage development to strengthen the city's economy. He strengthened law enforcement by enacting community-based policing and helped to enhance senior and youth community services. In 2001, the Norwalk City Employees Association, International Association of Machinists and Aerospace Workers, IAM District 777 honored Assembly Member Bermúdez with their inaugural "Excellence in Organizing" Award. Later that year, the Los Angeles County Democratic Party named him as their "Franklin D. Roosevelt Democratic Man of the Year."

Personal

Assembly Member Bermúdez graduated from the University of California at Los Angeles (UCLA) in 1983, with a bachelor's degree in sociology.

He received a master's degree in public administration from California State University at Long Beach, where he also received a graduate certificate in employee/employer relations, human services and personnel.

Assembly Member Bermúdez and his wife, Nancy, are homeowners in Norwalk and have two sons, Rudy and Nicolas. Prior to being elected to the Assembly, he was a parole agent with more than 20 years of experience with the Department of Corrections and California Youth Authority. He is a member of the California Correctional Peace Officers Association (CCPOA) and is also a member of the Norwalk Knights of Columbus, and the Parent Teacher Association.

Legislative Awards and Honors

- 1) 2003 Faculty Association of the California Community Colleges Legislator of the Year
- 2) 2003 Professional Engineers in California Government Legislator of the Year
- 3) 2003 California Police Activities League Legislator of the Year
- 4) 2003 "Street Sweeper" award by the California Correctional Peace Officers Association (CCPOA)
- 5) 2004 Certificate of Appreciation from Automotive Services Councils of California
- 6) 2004 California Chiropractic Association Legislator of the Year
- 7) 2004 California State University Legislator of the Year
- 8) 2004 Federation of Indo-American Associations of Southern California Man of the Year
- 9) 2004 American Electronics Association High Tech Legislator of the Year
- 10) 2004 California Chiropractors Association Legislator of the Year
- 11) 2004 California State Firefighters Association Co-legislator of the Year
- 12) 2005 Boy Scouts of America You Make A Difference Award
- 13) 2005 LA County Probation Officers Union Legislative Leadership Award
- 14) 2005 Crime Victims United of California Legislator of the Year
- 15) 2005 Indian American Heritage Foundation India Heritage Leadership Award
- 16) 2005 California Attractions and Parks Association Legislator of the Year
- 17) 2005 Professional Engineers in California Government, Los Angeles Section Recognition of Public Service
- 18) 2005 Golden State Gaming Association, Assembly Member of the Year
- 19) 2006 State Coalition of Probation Organizations, Legislature of the Year

Assembly Member Todd Spitzer

Biography

Assembly Member Todd Spitzer was elected to the State Legislature in 2002 to represent the 71st Assembly District. He currently serves as a member of the committees on Public Safety and Human Services and on the leadership team of Assembly Republican Leader Kevin McCarthy.



As part of his commitment to public safety, Assembly Member Spitzer was a leading force behind Proposition 69, the DNA Fingerprint Initiative, and the defeat of Proposition 66, which would have significantly weakened California's 3 Strikes Law. For his efforts, Assembly Member Spitzer was named the 2005 "Legislator of the Year" by Crime Victims United. In September 2004, Governor Schwarzenegger signed Assembly Member Spitzer's landmark legislation putting Megan's Law on the Internet. For his work on this measure, the California Sexual Assault Investigators named Spitzer their Legislator of the Year. Additionally, Assembly Member Spitzer serves as an Honorary Board Member to the Doris Tate Crime Victims Bureau.

In 2003, Assembly Member Spitzer was the recipient of the Orange County Council of the Boy Scouts of America's Visionary Award, which

honors a person who exemplifies the attributes of the Scout Oath, the Law and has demonstrated leadership and philanthropy in the Hispanic and Latino communities of Orange County.

Prior to his election to the State Assembly, Assembly Member Spitzer served on the Orange County Board of Supervisors beginning with his election in November of 1996 and was re-elected in March of 2000. Prior to joining the Board of Supervisors, Assembly Member Spitzer was an elected Trustee of the Brea-Olinda Unified School District from 1992-1996. From 1990-1996, he served as a Deputy District Attorney in the Orange County District Attorney's Office, receiving the Outstanding Prosecutor Award in 1992. Before serving as a Deputy District Attorney, Assembly Member Spitzer taught English at Roosevelt High School in East Los Angeles.

Assembly Member Spitzer served, for a decade, as a Reserve Police Officer for the Los Angeles Police Department's Hollenbeck Division. In 1999, he was named the Reserve Officer of the Year by both the Division and the Central Bureau.

Assembly Member Spitzer earned his Bachelor's Degree from the University of California at Los Angeles, a Master's in Public Policy from Cal Berkeley, and a Juris Doctorate from UC Hastings. He, his wife Jamie, son Justin, and daughter Lauren make their home in Orange County.

CHHS Secretary Kimberly Belshé

Biography

Kimberly Belshé was appointed secretary of the California Health and Human Services Agency by Governor Arnold Schwarzenegger in November 2003. Ms. Belshé is a member of the governor's Cabinet and serves as his chief advisor on health, social services and rehabilitative policies.



Ms. Belshé manages an agency that has almost 33,000 employees, with a total state budget of more than \$74 billion. The agency oversees 11 state departments and one board that are responsible for providing Californians with health, developmental, mental, rehabilitative, social and other critical services. As secretary, Ms. Belshé is responsible for providing leadership and oversight of the agency's departments in their individual and collective efforts to promote the health and well-being of the people of California, particularly those most in need and at risk.

Ms. Belshé served in a number of leadership positions in state government under the administration of Governor Pete Wilson, including deputy secretary of the then-Health and Welfare

Agency and director of the Department of Health Services. As State Health Director, Ms. Belshé provided leadership in the state's efforts to expand health insurance coverage for low-income children and pregnant women, reverse teenage and unintended pregnancies, combat tobacco use and advance a broad prevention agenda. As one of the founding commissioners of the California Children and Families Commission, Ms. Belshé served as vice chairperson and contributed to efforts to improve the oral health of young children.

After a decade of public service in federal and state government, Ms. Belshé served as the program director for The James Irvine Foundation, a multipurpose foundation dedicated to expanding opportunities for the people of California. Throughout her career, Ms. Belshé has also served in a number of civic and public capacities. She is a board member of the Great Valley Center, which is dedicated to promoting the sustainability of California's Central Valley region, and the Crocker Art Museum.

Ms. Belshé received her MA degree in public and international affairs from Princeton University and her BA degree in government from Harvard. She is a resident of Sacramento.

CDCR Secretary (A) James Tilton

Biography

James E. Tilton was named Secretary (A) of the California Department of Corrections and Rehabilitation (CDCR) on April 20, 2006. He previously had served as a program budget manager for the Department of Finance (DOF) since 2003, responsible for the CDCR, State and Consumer Services Agency, Criminal Justice, Labor and General Government.



Tilton began his career in public service in 1976 as a budget analyst for DOF. From 1980 until 1985, he served as Director of Expenditure Forecasting for the Commission on State Finance. He joined the California Department of Corrections

(CDC) in 1985, serving as its Deputy Director for Administrative Services until 1998, where he was responsible for peace officer selection, personnel, training, budget, offender information, and environmental health and safety. While at CDC, he served as chair of the Correctional Peace Officer Standards and Training Commission (CPOST).

In 1998, Tilton was named Assistant Program Budget Manager for the Capital Outlay Unit and Executive Secretary to the State Public Works Board for the Finance Department, a position he held until 2003. He was promoted in 2003 to Program Budget Manager for that department, a position he held until being named CDCR Acting Secretary.

Tilton earned a Bachelor of Science degree from Sacramento State University.

