

## PART ONE

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# WASHINGTON STATE'S ADAM WALSH ACT/SORNA IMPLEMENTATION PACKET

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# TABLE OF CONTENTS

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I. **PART ONE:**

**WASHINGTON STATE’S SUBSTANTIAL IMPLEMENTATION OF SORNA: NARRATIVE ON WHY WASHINGTON STATE SHOULD BE FOUND IN SUBSTANTIAL COMPLIANCE.**

**EXECUTIVE SUMMARY**

**Section 1:** WASHINGTON STATE’S LEVELING SYSTEM SUBSTANTIALLY COMPLIES WITH SORNA’S TIERING SYSTEM

**Section 2:** SYNOPSIS OF WASHINGTON STATE’S COMPLIANCE WITH SORNA

**Section 3:** HOW WASHINGTON STATE REACHED ITS CURRENT SEX OFFENDER SENTENCING MONITORING, REGISTRATION, NOTIFICATION AND TRACKING SYSTEM.

**Section 4:** COLLABORATION WITH FEDERALLY RECOGNIZED INDIAN TRIBES RESIDING IN WASHINGTON STATE’S JURISDICTION.

**Section 5:** ENHANCING WASHINGTON STATE’S SEX OFFENDER REGISTRATION AND NOTIFICATION SYSTEM: THE SEX OFFENDER POLICY BOARD RECOMMENDATIONS IN RESPONSE TO GOVERNOR AND LEGISLATIVE DIRECTIVES

**Section 6:** ENDNOTES

II. **PART TWO:**

SUBSTANTIAL IMPLEMENTATION OF SORNA CHECKLIST

III. **PART THREE:**

APPENDICES

## EXECUTIVE SUMMARY

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Washington State has a long-standing commitment to protecting the public from sex offenders. Washington State was the first state to implement sex offender registration and notification laws, under the Washington State Community Protection Act of 1990, and the first state to civilly commit sexually violent predators. Washington State has been a national leader in sex offender management and continues to implement new enhancements based on the best available research. Washington State meets or exceeds SORNA requirements in virtually every category.

The stated goals of the Adam Walsh Act (AWA) are essentially the same as those provided in the original Washington State Community Protection Act. The AWA strives to protect the public by supporting the national implementation of a comprehensive sex offender registration and notification system. SORNA aims to close potential gaps and loopholes that existed under prior law and generally strengthens the nationwide network of sex offender registration and notification programs. Washington State Community Protection Act makes the criminal justice system accountable to the public by providing a sentencing system which protects the public; ensures punishment is proportionate to the seriousness of the offense, and an offender's criminal history; and reduces the risk of reoffense.

Washington State uses a risk-based system to track and monitor sex offenders. Washington State has used this system for two decades. Experts and stakeholders involved in the tracking and monitoring system strongly support Washington State's system and believe it promotes public safety.

Under SORNA, sex offenders are divided into three tiers based entirely on the crime of conviction and sentence length. Within each tier, SORNA subjects an offender to the same minimum duration of registration, frequency of in-person verifications, and extent of website disclosure. Washington State's registration and notification system is similar in that the duration of registration is offense-based, but it extends further by evaluating each offender's risk level to determine the frequency of in-person address verification and the extent of their information disclosure on the "Offender Watch" website (Washington State's monitoring system exceeds SORNA requirements by dispatching a law enforcement officer to verify an offender's address in person.). [Washington State Public Sex Offender Website](#). An offender's risk level is determined by factoring the current offense, the offender's criminal history, and particular elements of their conduct. As such, Washington State's hybrid leveling system is in-line with research and best practice by going further in considering more than just an offender's current criminal

offense. Furthermore, key studies have shown a risk-based model is a superior predictor of recidivism than an offense based model.<sup>1</sup>

The Washington State Association of Sheriffs and Police Chiefs (WASPC), by statute, are responsible for hosting the publicly accessible website for registered sex offender information. In 2009, WASPC adopted a new program, which was codified by the legislature, now known as the Sex Offender Notification and Registration system (SONAR). In 2010, the legislature also codified the WASPC sex offender address verification program ensuring that addresses are verified by a law enforcement officer in person every 12 months for level I offenders, every six months for level II offenders, and every three months for level III offenders. Homeless or transient offenders are required to check-in weekly and provide a list of all the places he or she has stayed in the past seven days.

The following memorandum represents an extensive analysis of Washington State's sex offender registration and notification system identifying the areas of full compliance with SORNA, those areas in substantial compliance with SORNA, and those where Washington State has exceeded SORNA. The first section of this memo compares SORNA's offense-based tiering system with Washington State's risk-assessment leveling system and includes an analysis of Washington State's leveling system, the research underlying this system, and its similarities with the SORNA tiering system. The second section of this memo summarizes Washington State's compliance with the other key components of SORNA as listed in the "substantial implementation" checklist. The third section details the means Washington State used to successfully build a sex offender response system that has proven to effectively protect the public through the tracking and monitoring of all adult and juvenile registered sex offenders, while also reducing recidivism. The fourth section describes the collaboration between Washington State and its federally recognized Indian tribes used to develop a system that substantially complies with SORNA's requirements to ensure the tracking and monitoring of tribal and non-tribal sex offenders living on tribal lands. The fifth and final section, highlights the recent policy changes Washington State has implemented in furtherance of its goal to ensure that its sex offender management system mirrors current evidence based research and best practices.

The Governor's Office, legislators, law enforcement leaders, victims groups, tribal representatives, and members of the Washington State Sex Offender Policy Board have worked together to ensure that Washington State continues to modify and enhance its sex offender response system while ensuring AWA substantial compliance. The following memorandum, along with the "substantial implementation" checklist and

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<sup>1</sup> See Dr. Kurt Bumby and Tom Talbot of the Center for Sex Offender Management, Project of the Office of Justice Programs, U.S. Department of Justice; [The Importance of Assessment in Sex Offender Management: An Overview of Key Principles and Practices](#) (July 2007).

attachments, demonstrate that Washington State is in full or substantial compliance with the Adam Walsh Act.

## SECTION 1. WASHINGTON STATE'S LEVELING SYSTEM SUBSTANTIALLY COMPLIES WITH SORNA'S TIERING SYSTEM

Washington State uses a risk assessment system, for both juvenile and adult sex offenders, which is supported by state and nationally recognized evidence based research, including the Washington State Institute of Public Policy (WSIPP). When Washington State first implemented its sex offender and kidnapping registration laws over 20 years ago, it invested significant resources in developing a risk assessment process that furthered the public safety goals of these laws. Today, Washington State continues to enhance that system based on the latest research and best practices.

Within each tier, SORNA requires each offender to be subject to the same minimum duration of registration, frequency of in-person appearances for verification, and extent of website disclosure. Washington State's system is very similar. The frequency of in-person address verification and extent of website disclosure is based on level of risk to the community. Like SORNA, the higher the level of risk, the higher the frequency of in-person address verification and the greater detail of information disclosed on the website. Because an offender's entire criminal history and circumstances of the current offense provide the basis for the offender's risk level, Washington State's leveling system is similar to the tiering system. Washington State bases its registration duration strictly on the seriousness class level of the current offense, as does SORNA.

Like SORNA, Washington State focuses on the offense in determining an offender's risk level. Washington State's system then goes further in its comprehensive assessment process, factoring in the offender's past criminal history, to establish an offender's level of risk to recidivate to the community sexually.

In 2003, WSIPP analyzed the validity of the Washington State Department of Corrections (DOC) risk for re-offense instrument, the Level of Service Inventory-Revised (LSI-R). In the analysis of the LSI-R, WSIPP determined the LSI-R could be strengthened by including more static information about an offender's prior record of convictions. In 2006, the DOC requested WSIPP develop a new static risk instrument based on offender demographics and criminal history.<sup>2</sup>

Washington State bases duration of registration on the offense, as does SORNA. SORNA's system requires that the more serious the offense, the higher the tier, and the longer the registration duration. In Washington State, the more serious the offense class level, the longer the registration requirement. [See RCW 9A.44.140](#) Because Washington State uses criminal history in its assessment process, it clearly affects which level the

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<sup>2</sup> See Robert Barnowski and Elizabeth K. Drake (2007). [Washington State's Offender Accountability Act: Department of Corrections Static Instrument](#). *Offender Accountability Act: Department of Corrections Static Instrument*. Olympia: Washington State State Institute for Public Policy

offender will be placed. The list below demonstrates the correlation between offenses and duration of registration in Washington State:

- Lifetime Registration: Class A, or “aggravated offense”, or “more than one sexually violent offense or criminal offense against a victim who is a minor”, or more than one sex offense
- 15 years: Class B Sex offenses
- 10 years: Class C/gross misdemeanor

Washington State will continue to work with the SMART office; however, strictly adopting the SORNA tiering system at the expense of eliminating Washington State’s risk assessment leveling system will be very difficult from a public safety standpoint. Nor is it necessary. Washington State’s system embodies the core principles of SORNA. To date, no study has found crime of convictions to be related to likelihood of recidivism.<sup>3</sup> Also, the provisions outlined in SORNA do not discriminate between those sex offenders who can be rehabilitated and those who may continue to sexually offend.<sup>4</sup> Moving to a strictly offense based leveling system does not allow law enforcement to focus its limited resources on the most dangerous offenders.

There is a wealth of evidence based research that demonstrated many other risk factors supported by empirical research would be better predictors of future sexual offending than the mere offense based leveling. In recent years, much has been learned about risk factors related to sexual recidivism, and a growing number of actuarial risk assessment instruments have been developed to identify those high risk offenders who pose the greatest threat to public safety.<sup>5</sup> The two most well-known risk assessment instruments used for prediction are the Static-99 and the MNSOST-R, both used by Washington State.<sup>6</sup> Washington’s risk based leveling system is supported by law enforcement leaders, victims groups, the Sex Offender Policy Board, and other stakeholders. Washington State firmly believes its leveling system substantially complies with SORNA requirements and is an excellent system for protecting the public and providing citizens with accurate information.

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<sup>3</sup> See Naomi J. Freeman and Jeffrey C. Sandler, *The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative?* Criminal Justice Policy Review, 2010. **(See Appendix A – 2010 Criminal Justice Policy Review (CJPR) of the Adam Walsh Act.)**

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> See Id.

## SECTION 2. SYNOPSIS OF WASHINGTON STATE'S COMPLIANCE WITH SORNA

The following summarizes Washington State's compliance with remaining key components of SORNA as listed in the "substantial implementation" checklist. These include: immediate transfer of offender information across the state and nation; collaboration with Washington State's states Indian tribes; who is included in the registry; defining "fixed residency" to assist in tracking offenders who are homeless and/or transient; how on-line identifiers fits into Washington State's tracking system; keeping registration current through statewide systems such as address verification based on seriousness level of offense; notifying and educating the community about sex offenders; and finally, Washington State's failure to register offenses, including the various penalties and length of supervision. The details supporting Washington State's full or substantial compliance with each component follows this introduction.

### ❖ Immediate Transfer of Information

Washington State's registration deadlines, public requests for electronic notification, and community notification meetings comply with SORNA.<sup>i</sup> As of June 10, 2010, all sex offenders required to register in Washington State or any other state when entering Washington State must do so within 3 business days of:

- release;
- receiving notice of registration requirements;
- entering a new county;
- enrolling in a new school; and
- moving to, working in, or attending school in a new state.

Registration information is immediately sent to any required SORNA registration jurisdiction. Washington State has had a publicly accessible website run by Washington State Association of Sheriffs and Police Chiefs (WASPC) since 2002.

In 2009, the Legislature passed a law requiring WASPC to codify the Sex Offender Notification and Registration system (SONAR), a system already in place and run by WASPC. (See [RCW 4.24.550](#)) The SONAR system substantially complies with the Adam Walsh Act. All 39 Washington State counties are connected. This system allows for the "immediate" updating and sharing of sex offender information, including

- allowing counties and the Department of Corrections to directly input sex offender information into the database so that updated information is immediately available to counties across the state; and
- allowing counties to utilize the system on their own websites to provide public access to local sex offender information as authorized by statute; and provide

a notification system allowing citizens to request and receive notification regarding sex offenders who move within a given proximity.

During 2010, Washington State continued refining and simplifying the registration and notification laws. In 2011, the legislature enacted SSB 5203, placing Washington State in further compliance with SORNA's requirement to immediately transfer information to another jurisdiction. This bill provides a detailed list of all the types of sex offenders, such as: in-custody, out-of custody, out-of state, moving out-of-state, those who work out-of state, juveniles, homeless/transient, juvenile students, higher-education students; and employer notification. The bill then goes on to specify the requirements for each offender, such as timelines (immediate or 3 business days) and registration information that must be provided. (See [SSB 5203](#))

#### ❖ Offenses That Must Be Included in the Registry

- Juveniles

SORNA does not require registration for juveniles "adjudicated delinquent" unless the circumstances under §111(8) are met, the offender is 14 years old or older at the time of the offense, and offense is comparable to or more severe than aggravated sexual abuse (18 USC 2241) or was attempt or conspiracy.

Washington State requires more juvenile offenders to register than is required by SORNA. Washington State does not have a minimum age.<sup>ii</sup> Washington State also includes all juvenile convictions in its registration scheme. Finally, Washington State requires these juvenile offenders (as enumerated under SORNA) to be listed on the public registry.<sup>iii</sup>

- Adults

The 2011 Final Guidelines for Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), lists the sex offenses requiring registration. Similarly, [RCW 9.94A.030](#) and [RCW 9A.44.130 \(10\)](#) defines who is required to register as a sex and kidnapping offender in Washington State. Washington State law meets meets or exceeds SORNA registration requirements.

Washington State worked with the SMART office this past year to list all of the state's sex offenses by title and statutory citation where registration is required, including the class level of the offense and duration of registration. **(See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.)**

Pursuant to recommendations by the Sex Offender Policy Board (SOPB) in its 2010 Annual Report, the Legislature enacted SSB 5203 Improving the administration of kidnapping and sex offender registration and notification, which brings Washington State further into

SORNA compliance regarding the types of sex offenses requiring registration. It specifically addresses registration requirements for the following special category of sex offenses: any federal conviction classified as a sex offense under the federal Sex Offender Registration and Notification Act; any military conviction for a sex offense; and any conviction in a foreign country for a sex offense obtained with sufficient safeguards for due process.

A person with a federal or out-of-state conviction for a sex offense may request to be removed from the registry if the person was relieved of the duty to register in the person's state of conviction. The person must provide proof of relief from registration to the county sheriff. If the county sheriff determines the person should be removed from the registry, the sheriff will request the Washington State Patrol remove the person. The information a person must provide when registering is clarified. A person may be required to update any of his or her registration information in conjunction with any address verification conducted by the sheriff or as part of any notice the person is required to provide.<sup>iv</sup>

#### ❖ **Fixed Residency and Homelessness**

With the passage of SSB 6414 in 2010, a person who lacks a fixed residence must now report to the sheriff on a weekly basis and keep an accurate account of where he or she stays during the week.<sup>v</sup>

New definition of "fixed residency"<sup>vi</sup> brings Washington State into compliance with SORNA. "Fixed residence" means a building that the person lawfully and habitually uses as living quarters (i.e., sleeping, eating, storing belongings, receiving mail, paying utilities) a majority of the week. A nonpermanent structure may qualify as a residence if it is primarily kept at one location with a physical address and the person owns or rents the location or has the permission of the owner or renter. A shelter may qualify as a residence if it is designed to provide temporary accommodations, provide the person with a personally assigned living space, and the person may store belongings there. A person "lacks a fixed residence" if the person does not have a living situation that meets the definition of fixed residence, including a shelter program, an outdoor sleeping location, or locations where the person does not have permission to stay. (See SSB 5203)

#### ❖ **Online-identifiers and Sex Offender Registration**

During the 2009 legislative session, the legislature passed and the governor signed [ESHB 2035](#) directing the Sex Offender Policy Board to (1) recommend whether sex and kidnapping offender registration requirements should be modified to require offenders to submit to law enforcement their electronic mail address or other internet communication name or identity; and (2) review issues associated with implementing this requirement, including the appropriate sanction for failure to comply.

In 2010, stakeholders, including prosecutors, sheriffs, police chiefs, and victims groups, agreed that collecting on-line identifiers would not further public safety, but instead divert critical public safety funding. Law enforcement leaders were particularly concerned that collecting this information would create a public expectation that law enforcement would be checking and monitoring all on-line identifiers. Law enforcement resources do not allow monitoring of all on-line identifiers. Law enforcement leaders felt strongly that they would be doing a disservice to the public to create a false perception that on-line identifiers would be monitored. Law enforcement agencies do collect and monitor this information on a case-by-case basis.

These same stakeholders recognize sexual abuse, commissioned through the use of the internet, presents a special challenge. Both nationally and internationally, enormous strides have been made to understand the problem, educate the public, and mobilize resources in the prevention of sexual violence. Recent evidence shows that education to both parents and children on internet safety, coupled with sexual violence information and prevention education far more effective in protecting the community at large, especially children.

In conclusion, law enforcement leaders and victims groups all recommended this information not be collected for every registered offender. In 2011, the SOPB recommended focusing resources on providing internet safety and sexual violence prevention information to parents and children in lieu of collecting online identifying information from all registered sex offenders. Stakeholders will continue to monitor and track best practices, national trends, and information related to the collection of on-line identifying information, in an effort to continually enhance Washington State's sex offender management system to increase public safety while holding offenders accountable.

#### ❖ **Keeping Registration Current**

In April 2009, the Washington State Court of Appeals (Div. II) ruled on a portion of our registration and classification system which prompted the legislature to introduce SB-2535 (2009). This bill, enacted into law in 2009, codifies WASPC's in-person address registration system, as required by SORNA. (See [SHB 2534](#)) Since 2008, WASPC tracks the results of the statewide address verification system. (***See Appendix C – 2011 Address Verification Report by the Washington Association of Sheriffs and Police Chiefs.***)

The SOPB performed an extensive analysis of the *Washington State v. Ramos* decision resulting in the elimination of the requirement RSO must register in-person either once per year (Level 1), every six months (Level 2), or every 90 days (Level 3) and instead replacing it with the in-person address verification program.

The SOPB 2010 Report to the Legislature recommended codifying WASPC’s address verification program. Per HB 2534, Washington State Association of Sheriffs and Police Chiefs (WASPC) shall administer a grant program for sex offender address verification by local governments. WASPC must:

- enter into performance-based agreements with local governments so that offenders' addresses are verified every 12 months for level I and unclassified offenders,
- every six months for level II offenders,
- and every three months for level III offenders;
- collect performance data; and
- submit an annual report to the Governor and the Legislature.

The county sheriff, with whom a sex offender has registered, rather than the chief law enforcement officer of the jurisdiction, is responsible for the following offender address verification tasks:

- verifying the offender's address pursuant to the WASPC grant program;
- sending an annual address verification form to offenders in the county;
- sending an address verification form every 90 days to sexually violent predators in the county;
- receiving address verification forms by certified mail with return receipt requested; and forwarding information regarding offenders who are not at their last registered address to the Washington State Patrol.

The county sheriff may enter into an agreement with police chiefs or town marshals to fulfill these address verification obligations.

❖ **Failure to Register (FTR) as a Sex Offender: State Penalty and Supervision SSB 6414 and SSB 5203 both address FTR.**

▪ Penalties

Washington State has spent a great deal of time and resources enhancing its FTR laws. In 2009 the Legislature directed the Board to review Washington State’s FTR law and policies.<sup>vii</sup>

After a year of research, Board discussions, and input from stakeholders, the following observations were made, resulting in recommendations for significant statutory changes under the “Failure to Register” Statute.<sup>viii</sup> The Legislature adopted the following modifications in SSB 6414:

- Out of state felony FTR count as prior felony FTRs.
- First FTR is not classified as a “sex offense”
- Includes offenders convicted of Failure to Register in the group of offenders that must be supervised by the Department of Corrections.
- Increases the offense level for Failure to Register to a class B felony offense for the third conviction.
- Community custody is 12 months for an offender's first conviction of Failure to Register.

- **Community custody range for first FTR conviction.**

Prior to June 2010, Failure to Register as a Sex Offender was punishable by a community supervision period of 36 months. This supervision period stemmed from Failure to Register as a Sex Offender classification as a “sex offense.” The Board found FTR convictions have dramatically increased in recent years and have had an especially large impact on DOC supervision costs.<sup>ix</sup> The Board spent a year evaluating how other states respond to this offense; meta-analyses regarding the actual recidivism of offenders charged with FTR; and feedback from the stakeholders who work on a regular basis with offenders charged with these offenses. After carefully considering this information, the Board reached a consensus that a year of supervision may be adequate to get the person back in compliance and to insure they understand their obligations completely. Where offenders have multiple offenses, increased supervision is recommended.

A juvenile or adult conviction for failure to register carries a mandatory 12-month sentence of community custody for the first conviction and 36 months for the second and subsequent convictions. The first two adult convictions for failure to register are designated as class C felonies. An adult offender's third conviction for failure to register is designated as a class B felony.<sup>x</sup>

In 2010, Washington State adopted additional changes to the FTR statute. These changes are reflected in SSB 5203 (2011). The changes in this bill clarify that two or more prior felony convictions for failure to register will classify a new conviction for failure to register as a class B felony regardless if those convictions were in Washington State or in another state. Stakeholders agreed that counting prior FTR adjudications and convictions from other states for purposes of charging a more seriousness level of FTR will increase public safety.

- ❖ **Community Notification**

Washington State has led the nation in community notification laws and frequently updates these laws to ensure community safety. RCW 4.24.550 is the primary statute addressing community notification. In general, the level of notification to the community depends on the offender’s risk level to the community. SSB 5203 modifies and improves law enforcement notification to the community, especially as it relates

to juveniles and schools. (***See Appendix D – Washington State Model Policy for Law Enforcement Regarding Adult and Juvenile Registration and Community Notification.***) Washington State’s laws comply with SORNA.<sup>xi</sup>

Recently, Washington State modified its school notification statute increasing the number of school agencies and officials who receive notification when a student currently attending or enrolled must register as a sex offender. (See SSB 5203.) This bill further directs schools and school districts to direct members of the public inquiring about a student who has been adjudicated or convicted of a registrable sex offense to the district’s local enforcement.

### **SECTION 3. HOW WASHINGTON STATE REACHED ITS CURRENT SEX OFFENDER SENTENCING MONITORING, REGISTRATION, NOTIFICATION AND TRACKING SYSTEM.**

Washington State has demonstrated a strong commitment to protecting members of the public from sexual victimization. Beginning in the late 1980's, a series of highly publicized crimes put protection from sex offenders on the public agenda. Understanding of the devastating lifelong consequences of sexual victimization was growing and advocacy for victims and their families was also on the rise. Consequently, Washington State was one of the first states to implement laws protecting the community against sex offenses, with strict penalties for those who violated them. The following are highlights of Washington State's Sex Offender Law Changes since 1990:

**1990 The Community Protection Act was passed to:**

- increase prison sentences for most sex crimes,
- require that communities be notified when dangerous sex offenders are released from prison or juvenile institutions, and
- create the Special Commitment Center (SCC), a locked mental health facility, and gave courts the ability to civilly commit sex offenders to the SCC for mental health treatment, rather than releasing them to the community.

**1996 Increases in sentences included:**

- increased sentences for major sex offenses, and
- "two strikes" legislation that requires life sentences for a second conviction of a serious sex crime.

**1997 Registration and tightened requirements for treatment included:**

- creation of a statewide, mandatory system of sex registration and community notification, classifying offenders based on their risk to reoffend, and
- tightened requirements on sex offenders who received a suspended sentence on the condition that they undergo treatment under a 1980s law called the Special Sex Offender Sentencing Alternative (SSOSA).

**1998 The Offender Accountability Act passed:**

requiring that specific conditions imposed by the court may include polygraph tests, limitations on where sex offenders may live, and prohibitions on contact with juveniles.

**2001 A new sentencing system called "Determinate Plus" was created which:**

- replaced "determinate" sentences for many sex offenders (that is, sentences a fixed term) with "indeterminate" sentences that can be extended when there is a risk of repeat crime, and

- placed these offenders under the jurisdiction of the Indeterminate Sentence Review Board (ISRB), which carefully scrutinizes the offender's treatment and likelihood of committing more sex offenses as part of release decisions.

**2006** In response to the proposed **Jessica Lunsford Act** (H.R. 1505 of the 109<sup>th</sup> Congress) introduced by U.S. Republican Congresswoman Ginny Brown-Waite from Florida on April 6, 2005, Washington State enacted 18 bills related to more stringent monitoring and tracking of sex offenders and tougher penalties for certain sex offenses.<sup>xii</sup> The following are highlights from those bills:

- **Relating to electronic monitoring of sex offenders** ~ Upon recommendation by the State Department of Corrections, the Indeterminate Sentence Review Board may impose electronic monitoring as a condition of community custody for determinate-plus sex offenders. The Department may impose electronic monitoring for offenders serving a term of community custody pursuant to conviction for a sex offense not qualifying for determinate-plus sentencing (lifetime supervision).
- **Relating to predatory sex offenses** ~ When prosecuting certain sex-related felonies, prosecutors are required to file a special allegation if the offense was predatory in nature, or the victim was under 15 year of age, or the victim was developmentally disabled or a vulnerable adult. The sentence for these special allegations carries a minimum of 25 years confinement with a maximum of life. The prosecutor is not required to file a special allegation if he or she determines, after consultation with the victim, that filing a special allegation is likely to interfere with the ability to obtain a conviction.

Predatory offenders are those who are either stranger to the victim, establish or promote a relationship with the victim for purposes of victimization, or are in a position of authority or supervision over the victim (coaches, teacher, and pastors).

- **Relating to tolling the statute of limitations for felony sex offenses** ~ The statutes of limitations for all felony sex offenses runs either from the date of commission or from one year after the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.
- **Relating to establishing residence restrictions for sex offenders** ~ Legislation passed in 2005 prohibits an offender sentenced to a "two-strikes" offense against a minor victim from living within an area of 880 feet (two blocks) of a public or private school. The residential restriction set out in the 2005 law was to be effective for the duration of the

offender's term of community custody. The 2005 legislation, including the residential restriction, terminates on July 1, 2006. The sunset clause on SHB 1147, which established residential restrictions for certain convicted sex offenders, is repealed.

- **Relating to assault of a child in the second degree.** Assault of a child in the second degree with sexual motivation is added to the list of two-strike crimes and to the list of crimes subject to determinate-plus sentencing. Pursuant to Washington State's persistent offender statute, a person convicted of two of the crimes listed in the two-strikes law must be sentenced to life in prison without the possibility of release.
- **Relating to penalties for crimes committed with sexual motivation** ~ The legislation allows for adjustments to standard sentences for any felony when an offender is found to have committed their crime with sexual motivation. Prosecuting attorneys are required to file a special allegation of sexual motivation in every criminal case, felon, gross misdemeanor, or misdemeanor, when sufficient admissible evidence is available.

When applied, the enhancement for sexual motivation for a class A felony is two years, for a class B felony is 18 months, and for a class C felony is one year. If the offender has been sentenced with a sexual motivation enhancement for previous offenses, the enhancements are doubled for the second and subsequent enhancements.

The enhancements are required to be served in total confinements and run consecutively to all other sentencing provisions. If the enhancement causes a sentence to exceed the statutory maximum, the enhanced portion of the sentence cannot be reduced. Offenders must serve their enhancements prior to any earned early release time being calculated.

**2007 Collection of sex offenders' DNA:**

based on a recommendation of the 2007 Governor's Sex Offender Task Force. The state legislature enacted a law requiring all registered sex offenders to submit their DNA for future use by law enforcement.

**2008 Establishment of the Washington State Sex Offender Policy Board to:**

- promote a coordinated and integrated response to sex offender management, and
- create an entity to respond to sex offense related issues, as they arise, in a manner that enhances the state's interest in protecting the community.

- 2009 Prosecution of sex offenses against minor victims until victim's 28<sup>th</sup> birthday by:**  
extending the statute of limitations for certain sex offenses to the victim's 28<sup>th</sup> birthday to give the minor victim an opportunity to be independently situated and emotionally ready to report sexual abuse that may have been perpetrated by a family member or family friend.
- 2009 Codification of Washington State's address verification of sex offenders requiring WASPC to:**
- enter into performance-based agreements with local governments so that offenders' addresses are verified every 12 months for level I and unclassified offenders, every six months for level II offenders, every three months for level III offenders, and
  - collect performance data.
- 2010 Improving the administration and efficiency of sex and kidnapping offender registration by:**
- specifying the time frames within which persons convicted of sex and kidnapping offenses must register with law enforcement,
  - specifying the circumstances under which adults and juveniles may be relieved of the duty to register for a sex or kidnapping offense,
  - provides factors that the court may consider when a petition has been filed, and
  - designates the offense of Failure to Register as a Sex Offender as a sex offense where the offender has at least one prior conviction.
- 2011 Improving the administration and efficiency of sex and kidnapping offender registration by:**
- making numerous changes to the sex offender registration and notification laws,
  - defining the terms "fixed residence" and "lacks a fixed residence" for purposes of sex offender registration, and
  - requiring a sheriff to notify a school or institution of higher education when a student's risk level classification is changed or when the sheriff is notified of a change in the student's address.
- 2011 Concerning juveniles who have been adjudicated of a sex offense by:**
- providing offenders required to register for a sex offense or kidnapping offense who have committed a class A felony at the age of 15 or older the ability after five years after release from confinement, petition the court to be relieved of the duty to register;
  - provides that juveniles who committed class A sex or kidnapping offenses at age 14 years or younger and juveniles who have committed a non-class A

- sex or kidnapping offense may petition the court to be relieved from the duty to register two years after being released from confinement;
- creating a uniform burden of proof for individuals who petition the court for relief from the duty to register as a sex offender for offenses committed as a juvenile;
- allowing records for most juvenile sex offenses to be sealed where a person convicted of a juvenile sex offense has been relieved of the duty to register and the person has complied with all other statutory requirements; and
- requiring case-by-case risk assessments of sex offenders being released from confinement and those accepted for supervision from another state under the Interstate Corrections Compact.

In 2008, the Washington State Legislature passed [Senate Bill 6596](#) creating the SOPB. Governor Gregoire signed the bill on March 28, 2008. The enabling statute, [RCW 9.94A.8671](#), states the Legislature's intent is to promote a coordinated and integrated response to sex offender management and create an entity to respond to sex offense related issues, as they arise, in a manner that enhances the state's interest in protecting the community.

The SOPB was assigned a wide variety of duties that range from performing case reviews to setting performance measures for the entire state sex offender management system. **(See Appendix E – Washington State Sex Offender Policy Board Statutory Duties and Implementation List.)** In addition, the Board acts as a repository for research on best practices in sex offender management, response system, and prevention. Recognizing that the Legislature created the SOPB to respond to issues such as integrating federal and state law related to sex offenses, the Board has taken the lead in assessing and working towards Washington State's substantial compliance with SORNA.

Fortunately, the Legislature's directive to the SOPB, under [2SHB 2714](#) in 2008, to review the state's adult and juveniles sex offender registration and notification system, coincided with the passage of the Adam Walsh Act. It provided the SOPB an opportunity to review voluminous amounts of research, hear from experts in the sex offender management field, and understand the public's concerns when making its findings and crafting its recommendations to the Legislature, as they relate to both Washington State's registration and notification system and the SORNA guidelines from the Adam Walsh Act.

During the last two years, the SOPB has issued numerous recommendations rooted in evidence based research and best practices used in other states. The Board's 2009 Annual Report primarily addressed Washington State's registration and notification system, identifying gaps and areas for improvement. In response to this report, the Legislature passed [SSB 6414, Improving the administration and efficiency of](#)

kidnapping and sex offender registration and notification, bringing the State in line with best practices, including several SORNA requirements. (Refer to [SSB 6414 Session law](#) and [SSB 6414 Bill Report](#).)

In sum, the Board, the Legislature, and the Governor's Office have worked diligently during the last several years to improve the state registration and notification system by implementing legislation and policy changes grounded in research and best practices. This includes actively working with the SMART Office to substantially implement SORNA in a manner that enhances Washington State's system.

**SECTION 4. COLLABORATION WITH FEDERALLY RECOGNIZED INDIAN TRIBES RESIDING IN WASHINGTON STATE'S JURISDICTION.**

Washington State has a strong tradition of collaborative problem-solving with tribes, especially when the jurisdictions have similar public safety interests. Washington State's law enforcement system operates both locally and statewide. The local sheriffs and police chiefs oversee county and municipality law enforcement. The Washington State Patrol safeguards the public by patrolling the highways, processing DNA samples for criminal prosecution, and maintaining state criminal records and databases. All these agencies work with tribes in the tracking and monitoring of sex offenders.

Prior to SORNA, local law enforcement liaison representatives put a system in place to enhance the communication with tribes. This included developing uniform and consistent policy approaches to sex offender registration and notification. Several tribes and county law enforcement agencies currently have memorandums of understanding (MOU) regarding the tracking and monitoring of sex offender from tribes.

During the last few years with the assistance of new technology, Washington State has significantly increased its efforts, forging the necessary relationships between tribes and law enforcement to effectively track and monitor sex offenders in both jurisdictions. These efforts include participating in several forums, teleconferences, and informal discussions with tribes about how best to implement SORNA in light of the differences between Washington State's registration and notification system and the tribes' systems.<sup>xiii</sup>

To further this goal, SOPB has applied, with the endorsement of the tribes, for the SMART Office grant for States working towards implementing Adam Walsh with tribes in their jurisdiction. **(See Appendix F – March 2011 Letter from Washington State Tribes Relating to Washington State SORNA Grant Application.)**

## **SECTION 5. ENHANCING WASHINGTON STATE'S SEX OFFENDER REGISTRATION AND NOTIFICATION SYSTEM: THE SEX OFFENDER POLICY BOARD RECOMMENDATIONS IN RESPONSE TO GOVERNOR AND LEGISLATIVE DIRECTIVES**

In 2010, the Board continued its work on improving the State's registration and notification laws, with an emphasis on juveniles who sexually offend. Since Washington State passed the Community Protection Act in 1990, state law regarding registration and notification does not differentiate between juveniles and adults. The 2008 legislative mandate creating the SOPB required the Board to focus on juveniles who sexually offend, when researching best practices. Notably, the Board recognized most of its juvenile sex offender registration and notification laws were not in line with SORNA or other states laws. As part of its legislative mandate, the Board must conduct case reviews upon request by the Legislature or Governor's Office. An incident that took place at a local high school in May 2010 led the Board to recommend changes to both the registration and notification system for juveniles and policies regarding how schools monitor students adjudicated of a sex offense. (**See Appendix G – December 2010 Reyes Case Review Report.**)

On June 30, 2010, State Senator Jim Hargrove, chair of the Human Services and Corrections Committee, and State Senator Rosemary McAuliffe, chair of the Senate Early Learning & K-12 Education Committee, asked the SOPB to study existing laws regarding juveniles who sexually offend and school notification.

The written request was in response to the May 2010 incident at Seattle's Roosevelt High School. The senators specifically requested:

- a review of the case to understand the performance of Washington State's sex offender prevention and response system;
- a review of Washington State's policies related to juvenile sex offenders and school notification; and
- recommendations for consideration during the 2011 legislative session.

In response to this request, the Board established a Reyes Case review committee, inviting a number of representatives from involved agencies, such as King County probation, the Office of Superintendent and Public Instruction (OSPI), Seattle School District, and the King County Prosecutor's Office. This larger group met three times, sharing numerous documents and identifying a number of issues. Due to the level of public and media interest in this case, the Board decided to air two of these meetings on Washington State's public affairs television network, TVW.

After an intense collaborative process with other stakeholders, the Board completed its review of the Reyes case and submitted a report discussing its findings and providing recommendations on how to enhance communication and uniformity throughout certain

areas of the juvenile sex offender system. Committee members presented this report to the Senate Human Services and Corrections Committee on December 2, 2010.

As part of its duties, the SOPB must provide a forum for discussion of issues that requires interagency communication, coordination, and collaboration. See [RCW 9.94A.8676](#). The Reyes case review did exactly that, by bringing together agency stakeholders from across the juvenile sex offender and notification sector to review the Reyes case. The findings in this case review emphasized the importance for the various sectors in the sex offender management system to communicate and collaborate.

The recommendations by the Board and resulting 2011 legislation regarding juveniles, who sexually offend, furthered a core purpose of SORNA, consistency and uniformity. As part of the Board's statutory duties, it has mapped out both the adult and juvenile sex offender management system (SOM); to assist in bringing greater uniformity to the system; clarify expectations for providers, stakeholders, and offenders; and increase communication between the SOM sectors and across jurisdictions. Managing adult sex offenders and juveniles who sexually offend is remarkably complex.<sup>7</sup>

It requires that providers and stakeholders are well-trained in working with victims, victims' families, and sex offenders; that these stakeholders have the ability to quickly and effectively communicate with each other across jurisdictions; and the ability to monitor offenders crossing in and out of in-state and out-of state jurisdictions, all with public safety as the shared underlying purpose.

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<sup>7</sup> See *Appendix H – Washington State Adult Sex Offender Management (SOM) system map (Pre-conviction); Appendix I – Washington State Adult SOM system map (Post-conviction); and Appendix J – Washington State Juvenile SOM system map (Pre-adjudication and Post-adjudication)*.

## SECTION 6. ENDNOTES

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<sup>i</sup> In 2009, when the Washington State SOPB reviewed the registration and notification laws regarding sex and kidnapping offenders, one of its goals was to determine if there were ways to simplify or standardize the statutory language. The Board recognized the importance of clear expectations and easy-to-understand laws for better enforcement and compliance.

Upon review of the requirements in RCW 9A.44, the Board discovered there were several different time requirements for offenders to register. The deadlines varied between “immediately,” “24 hours,” “48 hours,” “three business days” and “10” or “14” days. In addition to the variable deadlines, it was discovered offenders were not always able to comply with the law. For example, it would be impossible for offenders to comply if ordered to register “immediately” or “within 24 hours” if the controlling jurisdiction’s office was only open during business hours and an offender was released late in the day on Friday.

During this review, law enforcement and attorneys expressed frustration over the difficulty of interpreting and enforcing these many deadlines. Consequently, after studying other states registration timelines and SORNA’s requirements, the Board proposed standardizing essentially all registration requirements deadlines under [RCW 9A.44.130](#) to “three business days”.

<sup>ii</sup> In 2009 and 2010, the SOPB with the assistance of the Washington State Sentencing Guidelines Commission, gathered extensive data comparing the age of the juvenile offense and type of sex offense committed. (**See Appendix K – SOPB/SGC Research Data on Washington State Juvenile sex offenses and offender age.**) After reviewing this data, the Board decided that there should not be a minimum age requirements at this time. The policy behind this is that young juveniles who commit serious sex offenses need to be monitored.

<sup>iii</sup> During the last 2 years, the Washington State legislature, based on the SOPB proposals and recommendations, has enacted legislation that approach juveniles in the registration and notification system differently than adults, in line with SORNA’s approach and guidelines. [SB 5204 \(2011\)](#) modifies Washington State State’s law regarding a juvenile’s ability to petition the court for relief from registration. This bill reflects the importance of clear expectations and for everyone involved in this process, including the juvenile offender, judges, law enforcement, schools, probation counselors, treatment providers, defense attorneys, and prosecutors. This legislation makes the process more accessible, but provides detailed guidance to the stakeholders involved in this process as to when and under what circumstances a juvenile should be relieved from registration, while ensuring the youth is no longer a risk to the community.

<sup>iv</sup> This policy recommendation grew out of the fact there is no statutory guidance on the analysis or “comparability,” of crimes, the guidance comes solely from the courts. The courts have held that a federal or out-of-state conviction must be legally or factually comparable to a Washington State sex offense in order to trigger registration requirements. (**See Appendix L – State v. Werneth, 147 Wn.App.549 (Div. III 2008).**) that in order to determine whether an out-of-state conviction triggers registration, the court must: 1) convert the out-of-state crime into a Washington State crime equivalent counterpart; 2) determine whether the Washington State counterpart was a felony sex offense on the date the current offense was committed; and 3) assign the same consequence (registration requirement), if any, to the out-of-state conviction.

Several other states have addressed this issue by incorporating a “full faith and credit” approach, which in plain terms means that offenders must register in Washington State if their out-of-state or federal conviction requires sex offense registration.

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The Board ultimately recommended requiring offenders to register in Washington State if they are required to register in their state of conviction or under federal law, and cease the comparability analysis all together. The concept is to make the time period for registration equivalent to what their court of conviction has imposed and to create a mechanism for offenders with out of state lifetime registration requirements to petition for relief from registration after 15 consecutive years in the community with no new disqualifying offenses, consistent with other proposals being made by the Committee. When drafting this recommendation, ultimately adopted by the legislature, the Board regarded the need to monitor and track sex offenders across state lines to ensure public safety, a primary goal behind the AWA.

<sup>v</sup> The Board has gathered and reviewed research; heard from stakeholders; and held numerous multi-hour discussions during the last two years as it relates to monitoring RSOs who reside in more than one place, are limited to shelters, and those that are homeless. This included reviewing a recent Washington State Court of Appeals case. (**See Appendix M – State v. Flowers, Case No. 38468-0-1 (Div. II 2010).**) This case addressed reporting requirements for homeless and transient sex offenders who must register.

Mr. Flowers, a homeless sex offender, was charged and convicted of Failure to Register for failing to provide a list of his locations during the previous week. [RCW 9A.44.130\(11\)\(a\)](#) makes it a crime for sex offenders to knowingly fail to comply with any of the requirements of “this section,” referring to RCW 9A.44.130(6)(b). authorizes, but does not require, the county sheriff to command that transient sex offenders list their locations during the previous week. Because the statute does not mandate that transient sex offenders list their locations, it is not a “requirement” for which noncompliance is a crime under RCW 9A.44.130(11)(a). Flowers simply failed to comply with the sheriff’s requirements.

Shortly after this decision, the Board’s recommendations to the legislature as they relate to the monitoring and tracking of the transient/homeless sex offenders required to register were in part adopted by SSB 6414.

<sup>vi</sup> In 2011, at the request of the Legislature, the Board drafted a detailed definition of “fixed residency”. It was subsequently adopted by the Legislature in SSB 5203. This definition reflects the work of law enforcement, defense attorneys and prosecuting attorneys working together to enact policy that provide stakeholders clear guidance on how to enforce the monitoring of sex offenders who do not have one permanent resident; increase compliance by the offender, which in turn will result in greater community protections and lower recidivism.

<sup>vii</sup> Prior to June 2010, for both adult and juvenile offenders, a failure to register was a class C felony if the underlying sex offense was a felony, carrying a maximum sentence of 60 months. A person may not be sentenced to confinement time and community custody in excess of the statutory maximum. When an offender had been convicted of a failure to register several times or had a significant criminal history, the statutory range for a failure to register was 43 to 57 months and carried a mandatory term of community custody of 36 months. If the offender were sentenced to 57 months confinement, an offender could only be sentenced to a three-month term of community custody. For this reason, the Legislature passed 2SHB 2714 in 2008 changing an adult failure to register to a class B felony (statutory maximum of 120 months). This law was intended to take effect after the 2010 Legislative Session unless otherwise amended by the Legislature. The Board was created at the same time when 2SHB 2714 passed. The Legislature directed the Board to review its new FTR proposal as part of its recommendations to the legislature due November 1, 2009.

<sup>viii</sup> WSIPP reports that almost one-fifth of sex offenders required to register are convicted of Failure to Register and that it is not possible to accurately predict the characteristics of those likely to fail to register by examining demographic characteristics and criminal history. The report also examined the relationship

between failure to register and subsequent recidivism. It found that in general, sex offenders convicted of failure to register have higher recidivism rates. However, recidivism rates for felony sex convictions remain relatively low between the two groups. The group of sex offenders with a Failure to register offense is 4.3 percent versus 2.8 percent for the group that do not have a Failure to register offense.

Under the current law, there is relatively little time left to supervise an offender with significant criminal history who gets the maximum sentence range of 43 – 57 months. Since an offenders custody and community supervision combined cannot exceed the statutory maximum for the offense (60 months for Class C), an offender serving 43 months would have only 17 months of supervision available upon release, and an offender serving 57 months would have only 3 months of supervision available.

Many states employ a tiered or progressive sentencing scheme for Failure to register crimes, with some first offenses treated as misdemeanors or low class felonies, but subsequent convictions are raised in Class and/or penalty. Washington State’s designation of a first Failure to register offense as an “unranked” offense is based upon a similar principle of increased punishment for repeated behavior. However, the Washington State Legislature during the 2008 legislative session moved the first Failure to register offense from a Class C to a Class B, set to go into effect June 9, 2010.

<sup>ix</sup> The rationale for this period of supervision is the correlation between FTR and criminal re-offense in general found by WSIPP in the 2006 study. According to the study by WSIPP, there is a correlation between those who fail to register and the commission of other crimes. The study also found that those who had only one Failure to Register had a significantly lower rate of recidivism than offenders with two or more convictions for Failure to Register. The demands placed on the system by supervising first offense Failure to register cases are quite significant.

<sup>x</sup> A table of the impacts of the various convictions for a failure to register is below. The changes made by this bill are noted with an asterisk.

	<b>GROSS MISDEMEANOR</b>	<b>1ST FELONY CONVICTION</b>	<b>2ND FELONY CONVICTION</b>	<b>3RD+ CONVICTION</b>
<b>CLASS OF OFFENSE</b>	If underlying sex offense not a felony, FTR always a gross misdemeanor	Class C felony	Class C Felony	*Class B felony*
<b>SEX OFFENSE?</b>	No	*No*	Yes	Yes
<b>SUPERVISION</b>	Court-ordered probation	*1 year community custody*	3 years community custody	3 years community custody
<b>TIME FOR RELIEF - ADULT OFFENSE</b>	Resets adult expiration clock (10 years)	Resets adult expiration clock (10 yr – class C/ 15 yr class B)	Resets clock and carries own 10-yr req. to register	Resets clock and carries own 10-yr req. to register
<b>TIME FOR RELIEF- JUVENILE OFFENSE</b>	*Must wait 2 years from first FTR to petition*	*Must wait 2 years from FTR to petition*	Resets clock (2yrs.) and carries own 10yr requirement to register.	Resets clock (2yrs.) and carries own 10yr requirement to register.

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<sup>xi</sup> While community notification is critical, the SOPB has placed a premium on prevention through community education. Community members often times have little to no knowledge on how to judge their risk of victimization. While at the same time the demand for community notification laws have become more insistent and detailed by the public over the years as a result of being told in notification meetings that citizens are integral to holding sex offenders' accountable and vulnerable people safe.

*Community notification laws have been in effect for... years. Surprisingly, little research has been conducted on the impact of these laws. Perhaps this dearth of research is due to the tremendous variation among the states, and even within states, in how these statutes have been implemented. Regardless of what research does (or does not) tell us, notification has tremendous support from the public... (Center for Sex Offender Management, Community Notification and Education, April 2001).*

Community notification, as required by statute and guided by the WASPC model policy, is a function and duty of law enforcement. The intent of community notification is to inform a community, a neighborhood, about the presence of a known sex offender living among them. These community notification meetings include information about a specific offender and the role of law enforcement and correctional staff in the monitoring of the offender. Stakeholders attempt to create a community education atmosphere when conducting community notification meetings. These meetings may include a sexual offender treatment provider, a sexual assault victim advocate, and other relevant service providers.

For the community to retain information, the message must be consistent, repetitive, and developmentally appropriate for the audience. Based on a survey conducted by the Washington State Institute for Public Policy entitled, *Community Notification as Viewed by Washington State's Citizens: A 10-Year Follow-Up*, seventy-eight percent of respondents indicated they felt safer knowing about convicted sex offenders living in their communities because of community notification. The goal of the Community Notification committee is to enhance this knowledge of known sex offenders and expand their knowledge to prevent future sexual assaults from occurring.

To address the need for more community education, the Community Notification committee is developing a best practice model that synthesizes all we know about sexual assault, public health prevention strategies, adult and child learning styles, as well as community partnership models to engage the public in their safety and the prevention of sexual violence.

<sup>xii</sup> The following is a list of the 18 bills related to sex offenses and sex offenders enacted by the 59<sup>th</sup> Washington State Legislature during the regular 2006 session:

- ❖ [SHB 2407](#) – Relating to electronic monitoring of sex offenders.
- ❖ [HB 2409](#) – Relating to regulating the conduct of registered sex offenders and kidnapping offenders.
- ❖ [SHB 2576](#) – Relating to protection of sexual assault victims.
- ❖ [SHB 2654](#) – Relating to sex offender treatment programs.
- ❖ [HB 3252](#) - Relating to prohibiting offenders who enter Alford pleas from receiving a special sex offender sentencing alternative.
- ❖ [HB 3277](#) – Relating to sex offenses.
- ❖ [SSB 5042](#) – Relating to tolling the statute of limitations for felony sex offenses.
- ❖ [SSB 6144](#) – Relating to registration requirements on sex offenders coming from outside the state who establish or reestablish Washington residency.
- ❖ [2SSB 6172](#) – Relating to increasing penalties for the crimes of possession of depictions of a minor engaged in sexually explicit conduct.
- ❖ [2SSB 6319](#) – Relating to failure to register as a sex offender.

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- ❖ [SSB 6320](#) – Relating to a model policy for disclosure of sex offender information.
  - ❖ [SSB 6325](#) – Relating to establishing residence restrictions for sex offenders.
  - ❖ [SSB 6406](#) – Relating to assault of a child in the second degree.
  - ❖ [2SSB 6460](#) – Relating to penalties for crimes committed with sexual motivation.
  - ❖ [SSB 6519](#) – Relating to county sheriffs monitoring registered sex offenders.
  - ❖ [SB 6576](#) – Relating to forwarding of sex offender information.
  - ❖ [ESSB 6580](#) – Relating to sex offender and kidnapping offender notification and information sharing in schools.
  - ❖ [SSB 6775](#) – Relating to criminal trespass against children by sex offenders.

<sup>xiii</sup> Recently, the SOPB and WASPC have been contacted by several other tribes within Washington State regarding the AWA substantial implementation packet that the SMART Office requires all tribes to submit by the July 2011 deadline. While each state and tribal jurisdiction must work directly with the SMART Office towards AWA compliance, SORNA does require states and tribes to transfer information regarding registered sex offenders between jurisdictions. Dawn Larsen from WASPC has been working with tribes to help link tribal sex offender registration with the state registration system and with the national registry. SOPB staff has assisted tribes in the development of their implementation packets and requested funding from the SMART Office to facilitate more in-depth support. At this time, it appears that if a tribe can demonstrate they are working towards “substantial implementation”, the SMART Office will give that tribe additional time to accomplish this without compromising the tribe’s sovereignty. The SMART Office is using the next two months to consult in-person and/or by teleconference with any interested tribe about the above process.

## PART TWO

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## SEX OFFENDER REGISTRATION AND NOTIFICATION ACT: SUBSTANTIAL IMPLEMENTATION CHECKLIST

This checklist is designed as a tool to assist registration jurisdictions as they seek to substantially implement Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA). It is not a definitive guide to SORNA's full implementation requirements. Jurisdictions are advised to consult with the SMART Office throughout their implementation process to ensure that their laws, policies, procedures, and practices conform to with the entirety of what SORNA requires.

This checklist includes SORNA's basic requirements, along with space for users to fill in their jurisdictions' statutes, policies, and procedures. Please be advised that this version continues to update an earlier version of the checklist with the following:

1. Sex Trafficking of Children by Force, Fraud, or Coercion (18 U.S.C. 1591) was INCORRECTLY listed as a Tier I Offense; it is a Tier II Offense.
2. The Kids Act of 2008 (42 U.S.C. § 16915a & b) amended the SORNA provisions of the Adam Walsh Act by adding Internet identifiers as items that are NOT permitted to be displayed on public sex offender registry websites.

Additionally, this latest version of the checklist makes substantive changes to the previous version with changes authorized by the Supplemental Guidelines, including:

1. Jurisdictions are required to have sex offenders report international travel 21 days in advance of such travel and to submit information concerning such travel to the appropriate Federal agencies and databases.
2. Jurisdictions are required to utilize the SORNA Exchange Portal to ensure consistent interjurisdictional information sharing and tracking of sex offenders.
3. Jurisdictions must now include the forms signed by sex offenders acknowledging that they were advised as required registration information.
4. Relating to recapture of sex offenders, jurisdictions are now to require registration for individuals who reenter the jurisdiction's criminal justice system because of a conviction for some other **felony** crime (whether or not it is a sex offense).

The SORNA Checklist is organized into 14 sections, covering the major requirements of the Act. Each section contains a table listing the SORNA requirement with space to answer whether the jurisdiction meets that requirement (yes/no), the relevant statute citation and/or the relevant administrative policy or procedure page number, and a "notes" space to further elaborate or explain the jurisdiction's approach to the corresponding requirement. When submitting a completed checklist, please attach all relevant statutes, codes, and administrative policy or procedures, along with documentation of database/data sharing systems and the jurisdiction's public sex offender website.



Pursuant to §127 of the Adam Walsh Act, designated federally recognized Indian tribes were entitled to elect to become SORNA registration and notification jurisdictions or to delegate the responsibility to the state in which they are located. As of December 2010, 192 federally recognized Indian tribes have elected to be SORNA registration and notification jurisdictions. If a state has a tribe or tribes located within its boundaries that have elected to implement SORNA, the SMART Office also requests that these states submit the following information:

- An explanation of working relationship with SORNA tribes
- The name and contact information of the tribal point of contact for the State
- Any information sharing arrangements, including DNA, Fingerprints, NCIC, Criminal History, and Corrections Information
- Any Memoranda of Understanding (MOU) or Cooperative Agreements

For those federally recognized Indian tribes have elected to be SORNA registration and notification jurisdictions, the SMART Office also requests that these tribes submit the following information:

- An explanation of working relationship with State(s) in which the tribe is located
- The name and contact information of the State point of contact for the tribe
- Any information sharing arrangements, including DNA, Fingerprints, NCIC, Criminal History, and Corrections Information
- Any Memoranda of Understanding (MOU) or Cooperative Agreements

**Please be advised that additional information is required for tribes when submitting a Substantial Implementation Package for review by the SMART Office.** Information for tribes about these additional materials and how to submit materials to the SMART Office is available on the SMART Office Website:

[www.ojp.usdoj.gov/smart](http://www.ojp.usdoj.gov/smart)

For further information, all jurisdictions should contact the assigned policy advisor:

[http://www.ojp.usdoj.gov/smart/pdfs/jurisdiction\\_assignments.pdf](http://www.ojp.usdoj.gov/smart/pdfs/jurisdiction_assignments.pdf)

## I. IMMEDIATE TRANSFER OF INFORMATION

Whenever a sex offender initially registers or updates their registration information with a jurisdiction, that jurisdiction is required to immediately notify any other jurisdiction where the sex offender resides, is an employee, or is a student and each jurisdiction from or to which a change of residence, employment, or student status occurs. This includes notification to any relevant SORNA-registration jurisdiction, including states, territories, tribes, and the District of Columbia.

The jurisdiction is also required to immediately update the National Sex Offender Registry (NSOR) and its own public sex offender registry website.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
'Immediate' and 'immediately' are defined as 'within 3 business days'	Y	<a href="#">SSB 6414</a>	SSB 6414 brought us into compliance
Any initial registration and/or updated information is immediately sent to any required SORNA-registration jurisdiction, including:	Y	<a href="#">SSB 6414</a> Also, the Washington State Patrol (WSP) sends registration information to the national registry.	Offender Watch complies with the deadline for sending it to other WA state jurisdictions and the federal database.
<ul style="list-style-type: none"> <li>States</li> </ul>	Y		
<ul style="list-style-type: none"> <li>D.C.</li> </ul>	Y		
<ul style="list-style-type: none"> <li>The five principal U.S. Territories (Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the U.S. Virgin Islands)</li> </ul>	Y		Offender Watch complies with the deadline for sending it to other WA state jurisdictions and the federal database.
<ul style="list-style-type: none"> <li>Any tribe operating as a SORNA registration jurisdiction</li> </ul>	Y		Working with tribes to ensure registration information immediately sent between jurisdictions.
<ul style="list-style-type: none"> <li>NCIC/NSOR</li> </ul>	Y		RSOs are entered into the NCIC when they are arrested and again at registration through WSP. After prints are taken, they are sent to the NCIC.
<ul style="list-style-type: none"> <li>The jurisdiction's public sex offender registry website</li> </ul>	Y	<a href="#">SSB 5261 (2009)</a>	In 2009, SSB 5261 codified Washington Association of Sheriffs and Police Chiefs (WASPC), Sex Offender Notification and Registration system (SONAR) for implementation in

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
			Washington. RSO information is provided to the national registry.

## II. OFFENSES THAT MUST BE INCLUDED IN THE REGISTRY

A jurisdiction must include certain sex offenders in their registration schemes. As defined by SORNA, sex offenders are individuals convicted of sex offenses.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
An adult sex offender is <b>convicted</b> for SORNA purposes if her or she has been subject to penal consequences based on the conviction, however it may be styled.	Y	<a href="#">RCW 9.94A.030</a> <a href="#">RCW 9.94A.507</a>	Defines “conviction” and the “penal/sentencing” consequences based on the type of sex offense conviction.
The following two classes of convictions are also included in the SORNA definition of convicted, and must be included in the jurisdiction’s registry: <sup>1</sup>	Y		
<ul style="list-style-type: none"> <li>Convictions of juveniles who are prosecuted as adults.</li> </ul>	Y	<a href="#">RCW 9.94A.030 (33)</a>	Juveniles adjudicated as adults and convicted of sex offenses are included in the registry. Washington exceeds the SORNA requirement. We do not have a minimum age for registration purposes.
<ul style="list-style-type: none"> <li>Persons adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in 18 U.S.C. § 2241(a) or (b)), or was an attempt or conspiracy to commit such an offense.</li> </ul>	Y	<a href="#">RCW 13.40.215</a> <a href="#">RCW 4.24.550</a>	Juveniles adjudicated as a juvenile for a sex offense(s) regardless of age at the time of the sex offense(s) are included in the registry requirement. Washington goes further than SORNA by not requiring a minimum age for registration.

SORNA specifies the sex offenses which, if they already exist in a jurisdiction, must be included in any jurisdiction’s registration scheme, as well as those convictions from other jurisdictions (including the federal government and foreign countries) which must be included. Jurisdictions are not required to enact any new substantive sex offense crimes in order to substantially implement SORNA.

<sup>1</sup> See SMART’s Juvenile Fact Sheet for additional information.  
[http://www.ojp.usdoj.gov/smart/pdfs/factsheet\\_sorna\\_juvenile.pdf](http://www.ojp.usdoj.gov/smart/pdfs/factsheet_sorna_juvenile.pdf)

Jurisdictions must register any sex offender convicted of any of the following offenses:

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Any attempt or conspiracy to commit any sex offense	Y	<a href="#">RCW 9A.28.020</a> & <a href="#">.040</a>	
Convictions under the following federal statutes (including any offenses prosecuted under the Assimilative Crimes Act (18 U.S.C. §1152 or §1153)):	Y	<a href="#">RCW 9A.44.130</a> . (State/Fed registration)	Wash. State requires an offender to registers if that offender must register for a federal conviction as required under RCW 9A.44.130.
<ul style="list-style-type: none"> <li>18 U.S.C. §1591 (Sex Trafficking of Children)</li> </ul>		<b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b>	
<ul style="list-style-type: none"> <li>18 U.S.C. §1801 (Video Voyeurism of a Minor)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2241 (Aggravated Sexual Abuse)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2242 (Sexual Abuse)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2243 (Sexual Abuse of a Minor or Ward)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2244 (Abusive Sexual Contact)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2245 (Offenses Resulting in Death)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2251 (Sexual Exploitation of Children)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2251A (Selling or Buying of Children)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2252 (Material Involving the Sexual Exploitation of Minors)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2252A (Material Containing Child Pornography)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2252B (Misleading Domain Names on the Internet)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2252C (Misleading Words or Digital Images on the Internet)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2260 (Production of Sexually Explicit Depictions of a Minor for Import in to the United States)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2421 (Transportation of a</li> </ul>		Same as above	

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Minor for Illegal Sexual Activity)			
<ul style="list-style-type: none"> <li>18 U.S.C. §2422 (Coercion and Enticement of a Minor for Illegal Sexual Activity)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2423 (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2424 (Failure to File Factual Statement about an Alien Individual)</li> </ul>		Same as above	
<ul style="list-style-type: none"> <li>18 U.S.C. §2425 (Transmitting Information about a Minor to further Criminal Sexual Conduct)</li> </ul>		Same as above	
Jurisdictions must also register certain sex offenders convicted of foreign sex offenses when such offenders are convicted either:	Y	<a href="#">SSB 5203</a> (2011) brought us into compliance.	
<ul style="list-style-type: none"> <li>Under the laws of Canada, United Kingdom, Australia, and New Zealand</li> </ul>	Y	SSB 5203 (2011) brought us into compliance.	
<ul style="list-style-type: none"> <li>In any foreign country where the U.S. State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary generally (or vigorously) enforced the right to a fair trial in that country during the year in which the conviction occurred.<sup>2</sup></li> </ul>	Y	SSB 5203 (2011) brought us into compliance.	SSB 5203 specifically states that any conviction in a foreign country requires registration in Washington State, as long as the conviction was obtained with sufficient safeguards for fundamental fairness and due process from the accused under guidelines or regulations established in 42. USC § 16912 see page 7 lines 24-27.
Jurisdictions must register anyone convicted of a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note). Jurisdictions are encouraged to review Department of	Y	SSB 5203 (2011) brought us into compliance.	

<sup>2</sup> These annual reports can be found at <http://www.state.gov/g/drl/rls/hrrpt/>

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Defense Instruction (DoDI) 1325.7 and the current 10 U.S.C. §920 et. seq. to determine which UCMJ convictions will be appropriate for inclusion. <sup>3</sup>			
Jurisdictions are required to register any person who has been convicted of a criminal offense in any state, tribe, territory, or the District of Columbia, and any foreign country (subject to the limitations described above) that involves:	Y	<p>In regards to registering any person convicted of the following offenses in any tribe, please refer to attached letter from group of tribes regarding this. <b>(See Appendix F – March 2011 Letter from Washington State Tribes Relating to SORNA Grant.)</b></p> <p>As to whether Washington State requires registration of persons from any state, territory, D.C., and any foreign country, that involves the below listed types of sex offenses, please refer to the comparable RCW hyperlinks listed in the next 11 columns.</p> <p>Also, SSB 5203 brought Wash. State into compliance by requiring those offenders moving into Washington to register if convicted out-of-state of a sex offense comparable to any Washington State sex offenses.</p>	<p>In the process of achieving compliance with tribes. Several tribes have been in contact with Washington State as they prepare to submit their “substantial implementation” compliance packets.</p> <p>Some tribes already have Memorandums of Understanding (MOUs) with their local sheriff’s office. WASPC is working with tribes to collect the required RSO registration data and linking the tribes to Washington State’s Sex Offender Notification and Registration system (SONAR). Also, Washington State has been actively working with a number of the 29 federally recognized tribes in Wash. State. to assist them in the tracking and monitoring of sex offenders in both jurisdictions.</p>
<ul style="list-style-type: none"> <li>Any conduct that by its nature is a sex offense against a minor</li> </ul> <p>Any conduct that by its nature is a sex offense against a minor (cont’d from pg. 5)</p>	Y	<ul style="list-style-type: none"> <li><a href="#">RCW 9.68A.070</a></li> <li>RCW 9.68A.070</li> <li><a href="#">RCW 9.68A.075</a></li> <li>RCW 9.68A.075</li> <li><a href="#">RCW 9.68A.090</a></li> </ul>	

<sup>3</sup> The current version of DoDI 1325.7 can be found here:  
<http://www.dtic.mil/whs/directives/corres/pdf/132507p.pdf>

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
		<ul style="list-style-type: none"> <li>• <a href="#">RCW 9A.44.060</a></li> <li>• <a href="#">RCW 9A.44.096</a></li> <li>• <a href="#">RCW 9A.44.115</a></li> <li>• <a href="#">RCW 9A.44.160</a></li> <li>• <a href="#">RCW 9A.64.020</a></li>   <li>• <a href="#">RCW 9.68A.050</a></li> <li>• <a href="#">RCW 9.68A.050</a></li> <li>• <a href="#">RCW 9.68A.060</a></li> <li>• <a href="#">RCW 9.68A.090</a></li> <li>• <a href="#">RCW 9.68A.100</a></li> <li>• <a href="#">RCW 9.68A.101</a></li> <li>• <a href="#">RCW 9.68A.102</a></li> <li>• <a href="#">RCW 9A.44.086</a></li> <li>• <a href="#">RCW 9A.44.089</a></li> <li>• <a href="#">RCW 9A.44.093</a></li> <li>• <a href="#">RCW 9A.88.070</a></li>   <li>• <a href="#">RCW 9A.40.030</a></li> <li>• <a href="#">RCW 9A.44.040</a> and <a href="#">045</a></li> <li>• <a href="#">RCW 9A.44.050</a> Rape 2</li> <li>• <a href="#">RCW 9A.44.060</a> Rape 3</li> <li>• <a href="#">RCW 9A.44.073</a></li> <li>• <a href="#">RCW 9A.44.076</a></li> <li>• <a href="#">RCW 9A.44.093</a></li>   <li>• <a href="#">RCW 9A.44.100</a></li> <li>• <a href="#">RCW 9A.64.020</a></li> <li>• <a href="#">RCW 9A.44.196</a></li> <li>• <a href="#">RCW 9A.36.021</a></li> <li>• <a href="#">RCW 9A.36.130</a></li> </ul>	
<ul style="list-style-type: none"> <li>• Any type or degree of genital, oral, or anal penetration</li> </ul>	Y	<ul style="list-style-type: none"> <li>• <a href="#">RCW 9A.44.060</a> Rape 3  Note: this offense would fall under SORNA Tier II if the victim was age 16 - 17</li> <li>• <a href="#">RCW 9A.44.086</a> Child Molestation 2</li> <li>• <a href="#">RCW 9A.44.089</a> Child Molestation 3</li> <li>• <a href="#">RCW 9A.44.093</a> Sexual</li> </ul>	

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
		Misconduct with a Minor 1 <ul style="list-style-type: none"> <li>• <a href="#">RCW 9A.64.020</a> Incest 1</li> <li>• <a href="#">RCW 9A.64.020</a> Incest 2</li> <li>• <a href="#">RCW 9A.44.040</a> and <a href="#">045</a> Rape 1</li> <li>• <a href="#">RCW 9A.44.050</a> Rape 2</li> <li>• <a href="#">RCW 9A.44.060</a> Rape 3</li> <li>• <a href="#">RCW 9A.44.073</a> Rape of a Child 1</li> <li>• <a href="#">RCW 9A.44.076</a> Rape of a Child 2</li> <li>• <a href="#">RCW 9A.44.079</a> Rape of a Child 3</li> <li>• <a href="#">RCW 9A.44.100</a> Indecent Liberties (with Forcible Compulsion)</li> </ul>	
<ul style="list-style-type: none"> <li>• Any sexual touching of or contact with a person’s body, either directly or through the clothing</li> </ul>	Y	<ul style="list-style-type: none"> <li>• <a href="#">RCW 9A.44.086</a> Child Molestation 2</li> <li>• <a href="#">RCW 9A.44.089</a> Child Molestation 3</li> <li>• <a href="#">RCW 9A.44.093</a> Sexual Misconduct with a Minor 1</li> <li>• <a href="#">RCW 9A.36.021</a> Assault 2 with Sexual Motivation</li> <li>• <a href="#">RCW 9A.36.130</a> Assault of a Child 2 with Sexual Motivation</li> </ul>	
<ul style="list-style-type: none"> <li>• Criminal sexual conduct involving a minor (where the elements of the offense involve physical contact with the victim), or the use of the internet to facilitate or attempt such conduct</li> </ul>	Y	<ul style="list-style-type: none"> <li>• <a href="#">RCW 9.68A.090</a> (1) and (2) Communication with a Minor for Immoral Purposes (Second or Subsequent Offense or Prior Sex Offense)</li> </ul>	
<ul style="list-style-type: none"> <li>• Including offenses whose elements involve using other persons in prostitution -- such as provisions defining crimes of “pandering,” “procuring,” or “pimping” in cases</li> </ul>	Y	<ul style="list-style-type: none"> <li>• <a href="#">RCW 9.68A.101</a> Promoting Sexual Abuse of a Minor</li> </ul>	

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
where the victim was below 18 at the time of the offense			
• False imprisonment of a minor	Y		
• Kidnapping of a minor	Y		
• Possession, production, or distribution of child pornography	Y	<ul style="list-style-type: none"> <li>• <a href="#">RCW 9.68A.050</a> Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 1</li> <li>• <a href="#">RCW 9.68A.050</a> Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2</li> <li>• <a href="#">RCW 9.68A.060</a> Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct</li> <li>• <a href="#">RCW 9.68A.100</a> Commercial Sexual Abuse of a Minor</li> <li>• <a href="#">RCW 9.68A.101</a> Promoting Sexual Abuse of a Minor</li> <li>• <a href="#">RCW 9.68A.102</a> Promoting Travel for Commercial Sexual Abuse of a Minor</li> </ul>	
• Solicitation of a minor to practice prostitution	Y	<ul style="list-style-type: none"> <li>• <a href="#">RCW 9.68A.101</a> Promoting Sexual Abuse of a Minor</li> </ul>	
• Solicitation to engage a minor in sexual conduct (this should be understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct)	Y	<ul style="list-style-type: none"> <li>• <a href="#">RCW 9.68A.101</a> Promoting Sexual Abuse of a Minor</li> </ul>	
• Use of a minor in a sexual performance	Y	<ul style="list-style-type: none"> <li>• <a href="#">RCW 9.68A.101</a> Promoting Sexual Abuse of a Minor</li> <li>• <a href="#">RCW 9.68A.100</a> Commercial Sexual Abuse of a Minor</li> </ul>	

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Jurisdictions are required to register any person who has been convicted of conduct similar to that prohibited by the following Federal Offenses:		<a href="#">RCW 9A.44.140 (4): Registration of sex offenders and kidnapping offenders — Duty to register</a>	For a person required to register for a federal or out-of-state conviction, the duty to register shall continue indefinitely.
<ul style="list-style-type: none"> <li>• 18 U.S.C. §1591 (Sex Trafficking by Force, Fraud, or Coercion)</li> </ul>	Y		
<ul style="list-style-type: none"> <li>• 18 U.S.C. §1801 (Video Voyeurism of a Minor)</li> </ul>	Y		
<ul style="list-style-type: none"> <li>• 18 U.S.C. §2241 (Aggravated Sexual Abuse)</li> </ul>	Y		
<ul style="list-style-type: none"> <li>• 18 U.S.C. §2242 (Sexual Abuse)</li> </ul>	Y		
<ul style="list-style-type: none"> <li>• 18 U.S.C. §2244 (Abusive Sexual Contact)</li> </ul>	Y		
<ul style="list-style-type: none"> <li>• 18 U.S.C. §2422(b) (Coercing a Minor to Engage in Prostitution)</li> </ul>	Y		
<ul style="list-style-type: none"> <li>• 18 U.S.C. §2423(a) (Transporting a Minor to Engage in Illicit Conduct)</li> </ul>	Y		

### III. TIERING OF OFFENSES

Once a jurisdiction determines which sex offenses will require registration, it will have to decide what ‘level’ of registration those convicted of each particular offense must register. SORNA establishes a baseline or minimum standard by way of a 3-tier classification system.

For the purposes of tiering sex offenses:

- Minor is defined as an individual under the age of 18
- Sexual contact means offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing
- Sexual act means offenses involving:
  - Any direct touching of the genitals of a person under 16; or
  - Oral, anal, or vaginal penetration of any kind which occurs:
    - when the victim is under 13
    - by force
    - by way of threat or intimidation
    - when the victim has been rendered unconscious
    - when the victim is incapable of appraising the nature of their conduct;
    - when the victim is physically incapable of communicating non-consent;
    - when a drug or intoxicant has been administered which substantially impairs the ability of the other person to appraise or control their conduct

The following table will assist jurisdictions in tiering federal offenses. We recommend using the State Tiering table (starting on page 9) to tier state/territory/tribal offenses. Additionally, please indicate how your jurisdiction tiers out-of-state offenses.

SORNA Requirement	Y/N	Statute Citation	Notes
<p><b>Tier I Offenses</b> — Convictions that have an element involving a sexual act or sexual contact with another, that are not included in either Tier II or Tier III, including:</p>	Y	<p><b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b></p> <p>The statutory citations for a particular offense are listed next to the offense, along with which SORNA tier the offense would fall under.</p>	<p>The SMART memorandum organizes all of Washington State’s sex offenses by the three SORNA tiers.</p> <p>Washington State uses a <i>risk/offense based hybrid system</i> for both adults and juveniles. Level 1 - low risk to the community at large and low risk to reoffend; Level 2 moderate risk to community at large and moderate risk to reoffend; Level 3 high risk to community at large and high risk to reoffend.</p> <p>While Washington State uses the risk level to reoffend to determine level of registration, monitoring and community</p>

SORNA Requirement	Y/N	Statute Citation	Notes
			notification, the level determination is based on the nature of the offense and the offender's criminal history. <b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b>
• False Imprisonment of a Minor			
• Video Voyeurism of a Minor			
• Possession or Receipt of Child Pornography			
• The following Federal Offenses:			
• 18 U.S.C. §1801 (Video Voyeurism of a Minor)			
• 18 U.S.C. §2252 (Receipt or Possession of Child Pornography)			
• 18 U.S.C. §2252A (Receipt or Possession of Child Pornography)			
• 18 U.S.C. §2252B (Misleading Domain Name)			
• 18 U.S.C. §2252C (Misleading Words or Digital Images)			
• 18 U.S.C. §2422(a) (Coercion to Engage in Prostitution)			
• 18 U.S.C. §2423(b) (Travel with the Intent to Engage in Illicit Conduct)			
• 18 U.S.C. §2423(c) (Engaging in Illicit Conduct in Foreign Places)			
• 18 U.S.C. §2424 (Filing Factual Statement about Alien Individual)			
• 18 U.S.C. §2425 (Transmitting Information about a Minor to further Criminal Sexual Conduct)			
• Any comparable military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note)			

<b>Tier II Offenses</b> — Convictions that involve:	<b>Y</b>	<b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b>  The statutory citations	The SMART memorandum organizes all of Washington State's sex offenses by the three SORNA tiers.  Washington State uses a <i>risk/offense based hybrid system</i>
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SORNA Requirement	Y/N	Statute Citation	Notes
		for a particular offense are listed next to the offense, along with which SORNA tier the offense would fall under.	for both adults and juveniles. Level 1 - low risk to the community at large and low risk to reoffend; Level 2 moderate risk to community at large and moderate risk to reoffend; Level 3 high risk to community at large and high risk to reoffend.  While Washington State uses the risk level to reoffend to determine level of registration, monitoring and community notification, the level determination is based on the nature of the offense and the offender's criminal history. <b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b>
<ul style="list-style-type: none"> <li>• A person previously convicted of a tier I offense whose current sex offense conviction is punishable by more than one year imprisonment</li> </ul>			
<ul style="list-style-type: none"> <li>• The use of minors in prostitution (to include solicitations)</li> </ul>			
<ul style="list-style-type: none"> <li>• Enticing a minor to engage in criminal sexual activity</li> </ul>			
<ul style="list-style-type: none"> <li>• A non-forcible Sexual Act with a minor 16 or 17 years old</li> </ul>			
<ul style="list-style-type: none"> <li>• Sexual contact with a minor 13 or older</li> </ul>			
<ul style="list-style-type: none"> <li>• The use of a minor in a sexual performance</li> </ul>			
<ul style="list-style-type: none"> <li>• The production or distribution of child pornography</li> </ul>			
The following Federal Offenses:			
<ul style="list-style-type: none"> <li>• 18 U.S.C. §1591 (Sex Trafficking by Force, Fraud, or Coercion)</li> </ul>			
<ul style="list-style-type: none"> <li>• 18 U.S.C. §2243 (Sexual Abuse of a Minor)</li> </ul>			
<ul style="list-style-type: none"> <li>• 18 U.S.C. §2244 (Abusive Sexual Contact, Victim 13 or Older)</li> </ul>			
<ul style="list-style-type: none"> <li>• 18 U.S.C. §2251 (Sexual Exploitation of Children)</li> </ul>			
<ul style="list-style-type: none"> <li>• 18 U.S.C. §2251A (Selling or Buying</li> </ul>			

SORNA Requirement	Y/N	Statute Citation	Notes
of Children)			
• 18 U.S.C. §2252 (Sale or Distribution of Child Pornography)			
• 18 U.S.C. §2252A (Sale or Distribution of Child Pornography)			
• 18 U.S.C. §2260 (Producing Child Pornography for Import)			
• 18 U.S.C. §2421 (Transportation for Prostitution)			
• 18 U.S.C. §2422(b) (Coercing a Minor to Engage in Prostitution)			
• 18 U.S.C. §2423(a) (Transporting a Minor to Engage in Illicit Conduct)			
Any comparable military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note)			

<b>Tier III Offenses</b> — Convictions that involve:	<b>Y</b>	<p><b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b></p> <p>The statutory citations for a particular offense are listed next to the offense, along with which SORNA tier the offense would fall under.</p>	<p>The SMART memorandum organizes all of Washington State’s sex offenses by the three SORNA tiers.</p> <p>Washington State uses a <i>risk/offense based hybrid system</i> for both adults and juveniles. Level 1 - low risk to the community at large and low risk to reoffend; Level 2 moderate risk to community at large and moderate risk to reoffend; Level 3 high risk to community at large and high risk to reoffend.</p> <p>While Washington State uses the risk level to reoffend to determine level of registration, monitoring and community notification, the level determination is based on the nature of the offense and the offender’s criminal history. <b>(See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b></p>
• A person previously convicted of a tier II offense whose current sex			

SORNA Requirement	Y/N	Statute Citation	Notes
offense conviction is punishable by more than one year imprisonment			
• Non-parental kidnapping of a minor			
• Any Sexual Act with another			
• Sexual contact with a minor under 13			
The following Federal Offenses:			
• 18 U.S.C. §2241 (Aggravated Sexual Abuse)			
• 18 U.S.C. §2242 (Sexual Abuse)			
• 18 U.S.C. §2244 (Abusive Sexual Contact, victim under 13)			
Any comparable military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note)			

## State Offense Tiering

Please list state/territory/tribal offenses, along with statute citation, and any notes necessary for interpretation (corresponding SORNA Tier to be determined by SMART staff). If your jurisdiction does not use a tiering structure, please indicate registration duration (i.e., 15 years, 25 years, lifetime) and frequency of reporting required (i.e., annually, twice-yearly, quarterly) for each offense.

State Tier	Statute Citation	Notes	SORNA Tier
Tier I Offenses		<p><b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b></p> <p>The statutory citations for a particular offense are listed next to the offense and what SORNA tier the offense would fall under.</p>	
Tier II Offenses		<p><b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b></p> <p>The statutory citations for a particular offense are listed next to the offense and what SORNA tier the offense would fall under.</p>	
Tier III Offenses		<p><b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b></p> <p>The statutory citations for a particular offense are listed next to the offense and what SORNA tier the offense would fall under.</p>	

#### IV. REQUIRED REGISTRATION INFORMATION

Once a jurisdiction determines which sex offense convictions will require what level of registration, the question turns to the types of information they are required to collect for their sex offender registry. These requirements are different from the more limited list of items that are required to be displayed via a jurisdiction’s public sex offender registry website.

All information is to be available in digitized format. Jurisdictions will need to maintain all required registration information in a digitized form that will enable it to be immediately accessed by or transmitted to various entities. The jurisdiction’s registry must be an electronic database, and descriptions of the required types of information should consistently be understood as referring to digitizable information rather than hard copies or physical objects.

However, when items and/or data might be stored in separate databases (such as DNA profiles in CODIS, fingerprints in IAFIS, or professional licensing information with a separate board or committee), it is sufficient if a jurisdiction provides an identification number or some other indicator of precisely where such registration information might be found, and in which database.

SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
<b>Criminal History information, including:</b>				
• Date of all arrests	x	Y		
• Date of all convictions	x	Y		
• Status of parole, probation, or supervised release	x	Y		
• Registration status	x	Y		Washington State Patrol (WSP) maintains this.
• Outstanding arrest warrants	x	Y		WSP maintains this.
<b>Date of Birth, including:</b>				
• Actual date of birth	x	Y		WASPC is required to collect all aliases. The “aliases/false DOB’s used” are included.
• Purported date of birth	x	Y		
<b>DNA, including:</b>				
• A DNA sample must be taken, or must have been taken, from the sex offender for purposes of analysis and entry of the resulting DNA profile into the Combined	x	Y	Address verification program <a href="#">RCW 36.28A</a> .	This is part of the address verification program under RCW 36.28A. Also, DNA samples are

SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
DNA Index System (CODIS)				submitted just like any other DNA sample taken.
<ul style="list-style-type: none"> <li>• Samples are analyzed and submitted for entry to CODIS</li> </ul>	x	Y		
<b>Driver's License or ID Card:</b>				
<ul style="list-style-type: none"> <li>• A photocopy of a valid driver's license or identification card (to include a tribal identification card) issued to the sex offender by a jurisdiction</li> </ul>	<input type="checkbox"/>	Y		Actively working on connecting tribal registration information with state registration systems.
<b>Employment Information, including:</b>				
<ul style="list-style-type: none"> <li>• Employer Name (Business Name)</li> </ul>	x	Y		This information can be accessed on the website by users with "permission".
<ul style="list-style-type: none"> <li>• Employer Address</li> </ul>	x	Y		This information can be accessed on the website by users with "permission".
<ul style="list-style-type: none"> <li>• Transient/day labor employment information</li> </ul>	x	Y		This information can be accessed on the website by users with "permission".
<b>Fingerprints:</b> taken and submitted to IAFIS	x	Y		
<b>Internet Identifiers, including:</b>				Washington State Legislature directed SOPB to review this issue. SOPB recommended against this based on comments from Sheriffs, Police Chiefs, and Prosecutors.
<ul style="list-style-type: none"> <li>• Email addresses</li> </ul>	x		Implementing a pilot project to address this.	However, WASPC just received funding for the US Marshals to do a pilot project in 4 counties. The project will allow for RSO's to make

SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
				changes on-line, the secondary benefit being we can collect IP addresses.
<ul style="list-style-type: none"> <li>Instant Message addresses/identifiers</li> </ul>	x		Implementing a pilot project to address this.	
<ul style="list-style-type: none"> <li>Any other designations or monikers used for self-identification in Internet communications or postings</li> </ul>	x		Implementing a pilot project to address this	
<ul style="list-style-type: none"> <li>All designations used by sex offenders for purposes of routing or self-identification in Internet communications or postings</li> </ul>	<input type="checkbox"/>		Same as above	
<b>Name, including:</b>				
<ul style="list-style-type: none"> <li>Primary, given name</li> </ul>	<input type="checkbox"/>	Y		
<ul style="list-style-type: none"> <li>Nicknames, aliases, pseudonyms generally, regardless of context in which it is used</li> </ul>	<input type="checkbox"/>	Y		
<ul style="list-style-type: none"> <li>Ethnic or Tribal names by which they are commonly known</li> </ul>	<input type="checkbox"/>	Y		
<b>Palm Prints:</b>				
<ul style="list-style-type: none"> <li>Palm Prints taken and submitted to the FBI Central Database (Next Generation Identification Program)</li> </ul>	<input type="checkbox"/>	N		Washington doesn't take palm prints as a matter of course. However, fingerprints and DNA samples are collected and submitted.
<b>Passports and Immigration Documents, including:</b>				
<ul style="list-style-type: none"> <li>Digitized copies of passports</li> </ul>	x	Y		
<ul style="list-style-type: none"> <li>Digitized copies of immigration documents</li> </ul>	x	Y		
<b>Phone Numbers, including:</b>				
<ul style="list-style-type: none"> <li>Telephone numbers and any other designations used by sex offenders for purposes of routing or self-identification in telephonic communications</li> </ul>	x	Y		
<ul style="list-style-type: none"> <li>Land line telephone numbers</li> </ul>	x	Y		

SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
<ul style="list-style-type: none"> <li>Cell phone telephone numbers</li> </ul>	x	Y		
<ul style="list-style-type: none"> <li>Photograph collected unless appearance has not changed significantly, on the following schedule: <ul style="list-style-type: none"> <li>Tier I Offender: Once every Year</li> <li>Tier II Offender: Once every 6 Months</li> <li>Tier III Offender: Once every 90 Days</li> </ul> </li> </ul>	x	Y		Full compliance. Washington State difference is Level 1=1 yr.; Level 2=6 mos.; and Level 3=90 days.
<ul style="list-style-type: none"> <li>Tier I Offender: Once every Year</li> </ul>	<input type="checkbox"/>			
<ul style="list-style-type: none"> <li>Tier II Offender: Once every 6 Months</li> </ul>	<input type="checkbox"/>			
<ul style="list-style-type: none"> <li>Tier III Offender: Once every 90 Days</li> </ul>	<input type="checkbox"/>			
<b>Physical Description, including:</b>				
<ul style="list-style-type: none"> <li>Physical description of the sex offender</li> </ul>	x	Y		
<ul style="list-style-type: none"> <li>General description of physical appearance or characteristics</li> </ul>	x	Y		
<ul style="list-style-type: none"> <li>Any identifying marks, such as scars or tattoos, etc.</li> </ul>	x	Y		
<b>Professional Licensing Information:</b>				
<ul style="list-style-type: none"> <li>Concerning all licensing of the registrant that authorizes the registrant to engage in an occupation or carry out a trade or business</li> </ul>	x	Y		Washington State requires registration in jurisdiction of employment. If RSO lives in another state but works in Wash. State or attends school here, then that person must register with local law enforcement. All employment licensing information regarding a particular employee is available through the licensing agency, such as DSHS, DOL, DOH, etc. Employer agencies also have access to the RSO public website, where they can check a potential

SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
				employee's RSO status.
<b>Registration Forms:</b> forms signed by sex offenders acknowledging that they were advised of their registration obligations	x	Y		
<b>Resident Address, including:</b>				
<ul style="list-style-type: none"> <li>Address of each residence at which the sex offender resides or will reside</li> </ul>	x	Y		
<ul style="list-style-type: none"> <li>If no permanent residence, location or description that identifies where the sex offender "habitually lives"</li> </ul>	x	Y	SSB 5203 (2011) brought us into compliance with this requirement.	Washington's "fixed residency" definition is more detailed than SORNA's definition.
<b>School Name and Address</b>	x	Y		
<b>Social Security Number</b>				
<ul style="list-style-type: none"> <li>Valid social security number</li> </ul>	x	Y	<a href="#">RCW 9A.44.130: Registration of sex offenders and kidnapping offenders - Required information to be provided by offender</a>	Law enforcement collects SSN as required by law.
<ul style="list-style-type: none"> <li>Purported social security number(s)</li> </ul>	x	Y	RCW 9A.44.130	
<b>Temporary lodging information, including:</b>				
<ul style="list-style-type: none"> <li>Identifying information (location) of temporary location(s)</li> </ul>	x	Y	SSB 5203 (2011) brought us into compliance with this requirement.	
<ul style="list-style-type: none"> <li>Dates of travel</li> </ul>	x	Y	SSB 5203 (2011) brought us into compliance with this requirement.	
<b>Text of Registration Offense:</b> The text of the provision of law defining the offense for which the sex offender is registered	x	Y		
<b>Vehicle Information of all vehicles owned or operated by the offender, whether for work of personal use, including:</b>				
<ul style="list-style-type: none"> <li>License plate number</li> </ul>	x	Y		
<ul style="list-style-type: none"> <li>Registration number or identifier</li> </ul>	x	Y		

SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
• Land Vehicles	x	Y		
• Aircraft	x	Y		
• Watercraft	x	Y		
• Description of all vehicles identified above	<input type="checkbox"/>	Y	<a href="#">SSB 5203</a>	See SSB 5203 Section 2 (5) regarding vehicles.

**V. WHERE REGISTRATION IS REQUIRED**

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
All sex offenders <b>convicted</b> in the jurisdiction are required to initially register.	Y	<a href="#">SSB 6414</a> (2010) and <a href="#">SSB 5203</a> (2011) brought us into compliance with this requirement.	
All sex offenders who complete their sentence of <b>incarceration</b> in the jurisdiction are required to initially register.	Y	See 6414/5203	
All sex offenders who <b>reside</b> in the jurisdiction are required to register.	Y		
All sex offenders who are <b>employees</b> in the jurisdiction are required to register. "Employee" includes an individual who is self-employed or works for any other entity, whether compensated or not.	Y	<a href="#">RCW 9A.44.130 (1)(b): Registration of sex offenders and kidnapping offenders.</a>  <a href="#">Also see RCW 9A.44.128: Definitions applicable to sex offender registration statutes</a>	SOPB has reviewed the issue of dual residence/employment location. WASPC's SONAR system already has a permissive place for law enforcement (LE ) to add a "secondary" residence. If someone is employed in another state, that person is required to inform LE. By statute, WA. must collect the place of employment from all RSOs.
All sex offenders who are <b>students</b> in the jurisdiction are required to register. "Student" is an individual who enrolls in or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.	Y	SSB 6414 (2010) brought WA into compliance with this. SSB 5203 (2011) further satisfies this requirement.	

**VI. INITIAL REGISTRATION: TIMING AND NOTICE**

A sex offender is required to register at particular times, depending on whether he or she is incarcerated within the jurisdiction, sentenced within the jurisdiction, or arriving from another jurisdiction.

<b>SORNA Requirement</b>	<b>Y/N</b>	<b>Statute Citation or Regulation Page #</b>	<b>Notes</b>
When a sex offender is incarcerated within the jurisdiction, registration must occur before release from “imprisonment” for the registration offense. Imprisonment refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence.	Y	SSB 6414 brings WA into compliance with this.	SSB 6414 requires offenders released from custody to register with in three business days of release of where ever they plan to reside; generally the county of conviction.
When a sex offender is sentenced within the jurisdiction, but not incarcerated, registration must occur within three business days of sentencing for the registration offense.	Y	SSB 6414 and SSB 5203 bring WA into compliance with this.	SSB 6414 requires offenders released from custody to register with in three business days of release of where ever they plan to reside; generally the county of conviction.
When an offender is convicted and/or sentenced in another state, territory, tribe, or country, or in a federal or military court, and chooses to reside, work, or attend school in a jurisdiction. Registration must occur within three business days of the sex offender establishing residence, employment, or school attendance within the jurisdiction.	Y/Y	SSB 6414 and SSB 5203 bring WA into compliance with this.	SSB 6414 requires offenders released from custody to register with in three business days of release of where ever they plan to reside; generally the county of conviction.
Duties of a Jurisdiction When an Offender Initially Registers:			
<ul style="list-style-type: none"> <li>• Inform the sex offender of his or her duties under SORNA</li> </ul>	Y		
<ul style="list-style-type: none"> <li>• Explain the SORNA duties to sex offender</li> </ul>	Y		
<ul style="list-style-type: none"> <li>• Require the sex offender to read and sign a form stating that the duty to register has been explained and that the sex offender understands the registration requirement</li> </ul>	Y		
<ul style="list-style-type: none"> <li>• Ensure that the sex offender is registered</li> </ul>	Y		

**VII. INITIAL REGISTRATION: RETROACTIVE CLASSES OF OFFENDERS**

SORNA, by its terms, applies to all sex offenders, regardless of when they were convicted. Jurisdictions are required to recapture (i.e., appropriately classify and register) certain offenders, including those who previously may have not been required to register, but who would be required to register under the jurisdiction’s new SORNA-implementing legislation.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Procedure in place to recapture three categories of sex offenders:	Y		
<ul style="list-style-type: none"> <li>Currently incarcerated or under supervision, either for the predicate sex offense or for some other crime</li> </ul>		<p>When an RSO is on supervision for a sex offense and commits a subsequent offense, regardless if it is a sex or non-sex offense, the duration of registration for the initial sex offense starts over.</p> <p>When an RSO is no longer on supervision for the underlying sex offense, but is required to still register, for that underlying offense, the duration of registration for the initial sex offense generally starts over.</p> <p>Refer to <a href="#">RCW 9A.44.140: Registration of sex offenders and kidnapping offenders — Duty to register — Expiration of subsection.</a></p>	<p>Yes, anyone convicted of a registerable sex offense must register for a duration based on the seriousness of the offense. If a sex offender, who is no longer required to register is then convicted of a new Wash. non-sex offense is not required to re-register again based on the older sex offense because of a subsequent conviction. If the new conviction is a registrable sex offense, that offender will have to register as a RSO as required by State and/or Federal law. Any RSO required to register for life must continue to register regardless of any subsequent offense. It’s possible that a subsequent offense will increase the RSO’s risk level and hence require heightened monitoring and</p>

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
			increased community notification.
<ul style="list-style-type: none"> <li>Already registered or subject to a pre-existing sex offender registration requirement under the jurisdiction's law.</li> </ul>		<p>When an RSO is on supervision for a sex offense and commits a subsequent offense, regardless if it is a sex or non-sex offense, the duration of registration for the initial sex offense starts over.</p> <p>When an RSO is no longer on supervision for the underlying sex offense, but is required to still register, for that underlying offense, the duration of registration for the initial sex offense generally starts over.</p> <p>Refer to <a href="#">RCW 9A.44.140: Registration of sex offenders and kidnapping offenders — Duty to register — Expiration of subsection.</a></p>	<p>Yes, anyone convicted of a registerable sex offense must register for a duration based on the seriousness of the offense. If a sex offender, who is no longer required to register is then convicted of a new Wash. non-sex offense is not required to re-register again based on the older sex offense because of a subsequent conviction. If the new conviction is a registerable sex offense, that offender will have to register as a RSO as required by State and/or Federal law. Any RSO required to register for life must continue to register regardless of any subsequent offense. It's possible that a subsequent offense will increase the RSO's risk level and hence require heightened monitoring and increased community notification.</p>
<ul style="list-style-type: none"> <li>Reenter the jurisdiction's criminal justice system because of a conviction for some other felony crime (whether or not it is a sex offense)</li> </ul>		<p>When an RSO is on supervision for a sex offense and commits a subsequent offense, regardless if it is a sex or</p>	<p>Yes, anyone convicted of a registerable sex offense must register for a duration based on the seriousness of</p>

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
		<p>non-sex offense, the duration of registration for the initial sex offense starts over.</p> <p>When an RSO is no longer on supervision for the underlying sex offense, but is required to still register, for that underlying offense, the duration of registration for the initial sex offense generally starts over.</p> <p>Refer to <a href="#">RCW 9A.44.140: Registration of sex offenders and kidnapping offenders — Duty to register — Expiration of subsection.</a></p>	<p>the offense. If a sex offender, who is no longer required to register is then convicted of a new Wash. non-sex offense is not required to re-register again based on the older sex offense because of a subsequent conviction. If the new conviction is a registrable sex offense, that offender will have to register as a RSO as required by State and/or Federal law. Any RSO required to register for life must continue to register regardless of any subsequent offense. It's possible that a subsequent offense will increase the RSO's risk level and hence require heightened monitoring and increased community notification.</p>
<p>The initial registration of these recaptured offenders must take place within a certain amount of time (from date of implementation of SORNA in the jurisdiction), depending on the tier classification of the sex offender:</p>	<p>N</p>		
<ul style="list-style-type: none"> <li>• Tier I Offenders: Within One Year</li> </ul>			
<ul style="list-style-type: none"> <li>• Tier II Offenders: Within 6 Months</li> </ul>			
<ul style="list-style-type: none"> <li>• Tier III Offenders: Within 3 Months</li> </ul>			

### VIII. KEEPING THE REGISTRATION CURRENT

The duties of a sex offender to a registration jurisdiction will depend on whether the jurisdiction is the:

- Residence Jurisdiction (the jurisdiction in which the offender resides), the
- Employment Jurisdiction (the jurisdiction in which the offender is an employee), or the
- School Jurisdiction (the jurisdiction in which the offender is a student)

This section addresses the duties of a sex offender to each of the preceding types of jurisdictions regarding the sex offender’s duty to keep their registration current.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
<b>Residence Jurisdiction</b> — Immediately appear in-person to update any of the following information:	Y	<a href="#">SSB 6414</a> and <a href="#">SSB 5203</a> brings us into compliance  Also See <a href="#">RCW 9A.44.130: Registration of sex offenders and kidnapping offenders — Procedures — Definition — Penalties.</a>	Both bills and statute address all residency jurisdictions and related registration requirements, including defining “fixed” residency and “lack of fixed residence”, and the registration requirements depending a RSO living situation.
• Name	Y		
• Residence	Y		
• Employment	Y		
• School Attendance	Y		
• Termination of residence			
Immediately update any changes to the following information (an in-person appearance is not required):	Y		
• Email addresses	Y	WASPC just received funding for the US Marshals to do a pilot project in 4 counties. The project will allow for RSO’s to make changes on-line, the secondary benefit being WASPC can collect IP addresses.	
• Instant Message addresses	Y	Same as above	
• Any other designations used in internet communications, postings, or telephone communications	Y	Same as above	

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
<ul style="list-style-type: none"> <li>Vehicle Information</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Temporary Lodging Information</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Upon receipt of this information, the jurisdiction must immediately notify the jurisdiction in which the offender will be temporarily staying</li> </ul>	Y		
Duties of the Residence Jurisdiction When An Offender Intends to Relocate to Another Country:			
<ul style="list-style-type: none"> <li>Immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information</li> </ul>	Y	SSB 5203 brings Washington State into compliance with this.	
<ul style="list-style-type: none"> <li>Immediately notify the U.S. Marshals Service</li> </ul>	Y		Working with WASPC/SONAR to ensure they send auto-alert to U.S. Marshal's Office
<ul style="list-style-type: none"> <li>Immediately update NCIC/NSOR Information</li> </ul>	Y		WSP completes this after receiving notice from WASPC/SONAR.
<b>Employer Jurisdiction</b> — When an offender is employed in a jurisdiction, but neither resides nor attends school there, that offender must immediately appear in-person to update any of the following information:	Y		
<ul style="list-style-type: none"> <li>Employment-related information in that jurisdiction</li> </ul>	Y	<a href="#">See SSB 5203, Sec.3</a>	SSB 5203 requires an adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, who has been found guilty of a sex offense, shall register with the county sheriff for the county of the person's residence, <b>or if the person is not a resident</b> , the county of the person's school, or place of employment or

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
			vocation.
<ul style="list-style-type: none"> <li>Termination of employment in that jurisdiction</li> </ul>	Y	See <a href="#">RCW 9A.44.130(1)(b)(iv): Registration of sex offenders and kidnapping offenders</a>	An RSO whose employment at a public or private institution of private education is terminated, that RSO must notify LE within 3 days. There is no specific Washington State requirement about an offender reporting back on termination of employment if they are properly registered and don't otherwise change residence address.
<b>School Jurisdiction</b> — When an offender attends school in a jurisdiction, but neither resides nor works there, that offender must Immediately appear in-person to update any of the following information:	Y	<a href="#">RCW 9A.44.130(1)(b)(iv): Registration of sex offenders and kidnapping offenders</a>	
<ul style="list-style-type: none"> <li>School-related information in that jurisdiction</li> </ul>	Y	<a href="#">RCW 9A.44.130(1)(b): Registration of sex offenders and kidnapping offenders</a>  Also refer to SSB 5203 for registration requirements of students in all school levels.	
<ul style="list-style-type: none"> <li>Termination of school in that jurisdiction</li> </ul>	Y	Current law and SSB 5203 require notice upon termination.	Current law and 5203 both require notice upon termination.

**Special Issue: International Travel**

Sex offenders must inform their residence jurisdictions 21 days in advance if they intend to travel outside of the United States, and that jurisdictions that are so informed must notify the U.S. Marshals Service and update the sex offender's registration information in the national databases.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Duties of the Residence Jurisdiction When An Offender Intends to Travel to Another Country:			
<ul style="list-style-type: none"> <li>Offender must report intent 21 days in advance of travel.</li> </ul>	Y	See SSB 6414 and SSB 5203	
<ul style="list-style-type: none"> <li>Immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information</li> </ul>	Y	<a href="#">See SSB 5203, Sec. 3(2)(c)(ix)</a>	
<ul style="list-style-type: none"> <li>Immediately notify the U.S. Marshals Service</li> </ul>	Y and N		Washington state requires immediate notification when changing residence etc. WASPC/SONAR can work to implement immediate and specific notification to U.S. Marshal's Office.
<ul style="list-style-type: none"> <li>Immediately update NCIC/NSOR Information</li> </ul>	Y		Washington State Patrol satisfies this requirement

**IX. VERIFICATION/APPEARANCE REQUIREMENTS**

Sex offenders must register for a duration of time, and make in-person appearances at an interval that is driven by the tier of their sex offense.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
<b>Tier I Offenders</b> must register:	Y and N	<b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b>  The statutory citations for a particular offense are listed next to the offense and what SORNA tier the offense would fall under, as well as duration of registration or a particular offense.	Washington’s registration duration requirements are offense based.
• Once a year		Same as above	
• For 15 years		Same as above	
<b>Tier II Offenders</b> must register:	Y and N	<b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b>  The statutory citations for a particular offense are listed next to the offense and what SORNA tier the offense would fall under, as well as duration of registration or a particular offense.	Washington’s registration duration requirements are offense based.
• Every 6 Months		Same as above	
• For 25 years		Same as above	
<b>Tier III Offenders</b> must register:	Y and N	<b>See Appendix B – Comparison of Washington State Sex Offenses with SORNA Sex Offenses.</b>  The statutory citations for a particular offense are listed next to the offense and what SORNA tier the offense would	Washington’s registration duration requirements are offense based.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
		fall under, as well as duration of registration or a particular offense.	
• Every 3 Months		Same as above	
• For life		Same as above	
At the sex offender's regularly-scheduled in-person appearance, the following must occur:	Y	<a href="#">HB 2534</a> brings WA. into compliance with this.	
• A current photograph must be allowed to be taken	Y		
• The sex offender must review the existing registration information for accuracy	Y		

### Reduction of Registration Periods

There are only two classes of sex offenders that SORNA permits to have a reduced registration period, provided certain requirements are met. The first is any Tier I offender, and the second is any Tier III offender who is required to register because of a juvenile adjudication.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
<b>Tier I Offender</b> — An offender's registration and notification requirement may be terminated if the following conditions are met:	Yes and No.	See <a href="#">SSB 6414</a> and <a href="#">SSB 5204</a>	Class C offenses registration ends after 10 yrs, unless some of below occurs before 10 yrs. has lapsed; then registration duration clock restarts.
• The sex offender has had ten years with a "clean record":	Y		Same as above
• Not being convicted of any offense for which imprisonment for more than 1 year may be imposed;			Wash. is stricter regarding this.
• Not being convicted of any sex offense;	Y		
• Successful (without revocation) completion of any periods of supervised release, probation, and parole;	Y		
• Successful completion of an appropriate sex offender treatment		This is a strong factor , among others, that the	

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
program certified by a jurisdiction or by the Attorney General. (42 USC §16915(b)(1))		Court considers in deciding whether to relieve the juvenile from registration	
<b>Tier III Offender</b> — An offender’s registration and notification requirement may be terminated if the following conditions are met:	Y	See SSB 6414 and SSB 5204	
<ul style="list-style-type: none"> <li>The sex offender is required to register based on a juvenile delinquency adjudication for an offense which required Tier III registration</li> </ul>		See SSB 5204	Wash. has much longer registration duration for juveniles.
<ul style="list-style-type: none"> <li>The sex offender has had twenty-five years with a “clean record”</li> </ul>		See SSB 6414 and SSB 5204.	6414 and 5204 both address relief from registration for an individual adjudicated as a juvenile. Criterion for relief from registration is more detailed and rigorous than SORNA.
<ul style="list-style-type: none"> <li>Not being convicted of any offense for which imprisonment for more than 1 year may be imposed;</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Not being convicted of any sex offense;</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Successful (without revocation) completion of any of supervised release, probation, and parole;</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Successful completion of an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General. (42 USC §16915(b)(1))</li> </ul>		See SSB 5204. This is a strong factor , among, the Court considers in deciding whether to relieve the juvenile from registration	

**X. REGISTRY WEBSITE REQUIREMENTS**

Every jurisdiction will need to maintain a public sex offender registry website, as specified below. This website must contain the information detailed below on each sex offender in the registry. Information about a tier I sex offender convicted of an offense other than a “specified offense against a minor” as defined in 42 U.S.C. §16911(7) may be excluded from a jurisdiction’s public sex offender registry website.

<b>SORNA Requirement</b>	<b>Y/N</b>	<b>Statute Citation or Regulation Page #</b>	<b>Notes</b>
The jurisdiction must participate fully in the National Sex Offender Public Website, including taking the necessary steps to enable all field search capabilities required by NSOPW, including but not limited to:	Y		WSP collects below information and feeds into national sex offender public website.
• Name;	Y		
• County, City or Town;	Y		
• Zip Code	Y		
• Geographic Radius	Y		
Links to sex offender safety and education resources	Y		
Instructions on how to seek correction of information that an individual contends is erroneous.	Y	Contact info for sheriff’s offices is provided. This specific info could be added.	
A warning that information on the site “should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported address...and that any such action could result in civil or criminal penalties.”	Y		
Website Search-field capability:			
• Name	Y		
• County, City and/or Town	Y		
• Zip Code	Y		
• Geographic Radius	Y		
<b>Items that must be displayed on public registry website:</b>			
• Absconder: when the offender is in violation or cannot be located, the website must note this fact	Y		
• Criminal History: any other sex offense for which the sex offender has	Y		

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
been convicted			
• Current Offense: the sex offense for which the offender is registered	Y		
• Employer address	Y	Not public, but accessible for permissive users.	
• Name, including all aliases	Y		
• Photograph (current)	Y		
• Physical description	Y		
• Resident Address, including any information about where the offender "habitually lives"	Y	Within a hundred block	
• School address		<a href="#">SSB 5203 New Section 4, Subsections 1 - 4: School Notification of Juvenile Sex Offenders attending school</a>	The responsibility of law enforcement and a school in response to notification that a sex offender will attend the school is set out in SSB 5203. Law enforcement must provide notice to the school principal and the school district. Information about the student that must be provided is specified to include the risk level classification. The Principal has authority to determine what other school personnel shall be notified about an individual juvenile offender.
• Vehicle(s) information, including: • license plate number(s); and • vehicle description(s)	Y	Not public, but accessible to users.	
<b>Information That Is NOT Permitted to be Displayed on Public Websites:</b>			
• Victim Identity	Y		

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
• Criminal History: any arrests not resulting in conviction	Y		
• Social Security Number	Y		
• Travel and Immigration Document Numbers	Y		
• Internet Identifiers	Y		

**Special Issue: Witness Protection**

Jurisdictions are permitted and encouraged to make provision in their laws and procedures to accommodate consideration of the security of such individuals and to honor requests from the United States Marshals Service and other agencies responsible for witness protection in order to ensure that their original identities are not compromised.

**XI. COMMUNITY NOTIFICATION**

Community Notification is a distinct requirement of SORNA, apart from the maintenance of a sex offender registry and a public sex offender registry website. In certain cases, jurisdictions will be required to disseminate information about sex offenders to agencies and individuals in the community, as indicated below.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
<p><b>Law Enforcement Notification</b> — Whenever a sex offender initially registers in a jurisdiction, or updates their registration information in a jurisdiction, the jurisdiction must immediately notify the specific agencies and monitor the SORNA Exchange Portal for inter-jurisdictional changes.</p>	Y		
<ul style="list-style-type: none"> <li>Monitor or utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.</li> </ul>	Y	Done by WASPC/SONAR (using the Offender Watch software) to NSOPW	
<ul style="list-style-type: none"> <li>Notify each jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs.</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Update NCIC/NSOR</li> </ul>	Y	Through WSP	
<ul style="list-style-type: none"> <li>Notify Police Departments</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Notify Sheriffs’ Offices</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Notify Prosecutor’s Offices</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Notify Probation Agencies</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Notify any other agencies with criminal investigation, prosecution, or sex offender supervision functions</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Notify any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a)</li> </ul>	Y	Through WSP	
<p><b>General Community Notification</b> — Whenever a sex offender initially registers in a jurisdiction, or updates their registration information in a jurisdiction, and a jurisdiction follows the procedures outlined below, it will be sufficient to</p>	Y	<a href="#">RCW 4.24.550</a> and WASPC model policy	

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
comply with the general community notification portion of SORNA:			
<ul style="list-style-type: none"> <li>An automated notification system<sup>4</sup> is adopted by the jurisdiction that incorporates the following features:</li> </ul>	Y	RCW 4.24.550 and WASPC model policy	
<ul style="list-style-type: none"> <li>Any initial registration, and any changes in a sex offender's registration information, are posted to the jurisdiction's public registry website within three business days</li> </ul>	Y	RCW 4.24.550 and WASPC model policy	
<ul style="list-style-type: none"> <li>An email notification (including a sex offender's identity) is made available to the general public whenever a sex offender commences:</li> </ul>	Y	Except level 1 RSO, unless that offender is out of compliance.	
<ul style="list-style-type: none"> <li>Residence</li> </ul>	Y		
<ul style="list-style-type: none"> <li>Employment</li> </ul>	Y		
<ul style="list-style-type: none"> <li>School attendance</li> </ul>	Y	Except level 1 RSO, unless that offender is out of compliance.	
<ul style="list-style-type: none"> <li>Within a certain zip code or geographic radius</li> </ul>	Y	Except level 1 RSO, unless that offender is out of compliance.	

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<sup>4</sup> Jurisdictions are not required to adopt an automated notification system in order to implement this general community notification portion of SORNA. If a jurisdiction chooses not to do so, however, it will still be held to SORNA's baseline requirements. Please contact the SMART office for assistance in determining which alternate procedures would substantially implement this portion of SORNA.

**XII. FAILURE TO REGISTER AS A SEX OFFENDER: STATE PENALTY**

<b>SORNA Requirement</b>	<b>Y/N</b>	<b>Statute Citation or Regulation Page #</b>	<b>Notes</b>
Each jurisdiction, other than a Federally recognized Indian tribe, shall provide a criminal penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a sex offender to comply with the requirements of their registration and notification requirements in a jurisdiction.	Y	See SSB 6414 and SSB 5203 for detailed penalties and supervision requirements.	

**XIII. WHEN SEX OFFENDER FAILS TO APPEAR FOR REGISTRATION**

When a jurisdiction is notified that a sex offender intends to reside, be employed, or attend school in their jurisdiction, and that offender fails to appear for registration as required, the jurisdiction receiving that notice must take the following actions.

<b>SORNA Requirement</b>	<b>Y/N</b>	<b>Statute Citation or Regulation Page #</b>	<b>Notes</b>
Inform the jurisdiction that provided the notification (that the offender was to commence employment, residence, and/or school in the new jurisdiction) that the sex offender failed to appear for registration.	Y	<a href="#">RCW 4.24.550</a> ; and WASPC model policy; and <a href="#">SSB 6414</a>	

**XIV. WHEN A JURISDICTION HAS INFORMATION THAT A SEX OFFENDER MAY HAVE ABSCONDED**

When a jurisdiction has information that a sex offender may have absconded, certain actions must be taken.

<b>SORNA Requirement</b>	<b>Y/N</b>	<b>Statute Citation or Regulation Page #</b>	<b>Notes</b>
An effort must be made to determine whether the sex offender has actually absconded	Y		
If no determination can be made, then a law enforcement agency with jurisdiction to investigate the matter must be notified	Y		
If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the authorities that provided the notification must be informed that the sex offender has failed to appear and register	Y		
If an absconded sex offender cannot be located, then the jurisdiction must take the following steps:	Y		
The information in the registry must be revised to reflect that the sex offender is an absconder or unlocatable	Y		
A warrant must be sought for the sex offender’s arrest, if the legal requirements for doing so are satisfied	Y		
The United States Marshals Service, which is the lead federal agency for investigating sex offender registration violations, must be notified	Y		
The jurisdiction must update NCIC/NSOR to reflect the sex offender’s status as an absconder or unlocatable	Y	WSP	
The jurisdiction must enter the sex offender into the National Crime Information Center Wanted Person File (assuming issuance of a warrant meeting the requirement for entry into that file)	Y		WSP enters this information. WSP and WASPC change the public SONAR site to reflect when an offender is out of compliance/ or wanted.

## PART THREE

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## APPENDICES LIST

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**Appendix A** – 2010 Criminal Justice Policy Review (CJPR) of the Adam Walsh Act.

**Appendix B** – Comparison of Washington State Sex Offenses with SORNA Sex Offenses

**Appendix C** – 2011 Address Verification Report by the Washington Association of Sheriffs and Police Chiefs (WASPC)

**Appendix D** – Washington State Model Policy for Law Enforcement Regarding Adult and Juvenile Registration and Community Notification

**Appendix E** – Washington State Sex Offender Policy Board Statutory Duties and Implementation List

**Appendix F** – March 2011 Letter from Washington State Tribes Relating to Washington State SORNA Grant Application

**Appendix G** – December 2010 Reyes Case Review Report

**Appendix H** – Washington State Adult Sex Offender Management (SOM) system map (*Pre-conviction*)

**Appendix I** – Washington State Adult SOM system map – (*Post-conviction*)

**Appendix J** – Washington State Juvenile SOM system map (*Pre-adjudication and Post-adjudication*)

**Appendix K** – SOPB/SGC Research Data on Washington State Juvenile sex offenses and offender age.

**Appendix L** – *State v. Werneth*, 147 Wn.App. 549 (Div. III 2008).

**Appendix M** – *State v. Flowers*, Case No. 38468-0-I (Div. II 2010).

## Appendix A

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## **The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative?**

Naomi J. Freeman and Jeffrey C. Sandler

*Criminal Justice Policy Review* 2010; 21; 31 originally published online Jun 25, 2009;

DOI: 10.1177/0887403409338565

The online version of this article can be found at:  
<http://cjp.sagepub.com/cgi/content/abstract/21/1/31>

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# The Adam Walsh Act

## A False Sense of Security or an Effective Public Policy Initiative?

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With the enactment of the Adam Walsh Child Protection and Safety Act (AWA), states are required to standardize their registration and community notification practices by categorizing sex offenders into three-tier levels in the interest of increasing public safety. No empirical research, however, has investigated whether implementation of the AWA is likely to increase public safety. Using a sample of registered sex offenders in New York State, the current study examined the effectiveness of the Adam Walsh-tier system to classify offenders by likelihood of recidivism. Results indicated that the AWA falls short of increasing public safety. In fact, registered sex offenders classified by AWA as Tier 1 (lowest risk) were rearrested for both nonsexual and sexual offenses more than sex offenders in Tier 2 (moderate risk) or Tier 3 (highest risk).

**Keywords:** *Adam Walsh Act; SORNA; sexual recidivism; sex offenders; risk factors*

Prior to the 1970s, and the rise of the feminist movement, sexual assault remained a hidden phenomenon. In the 1980s, media attention to sexual victimizations, especially those involving children, led to an increased awareness of sexual violence and its impact on victims (see Levenson & D'Amora, 2007). Out of these movements, and as a result of a few heinous sexual crimes in the 1990s, sex offender policies were created that had the collateral effect of destigmatizing sexual victimization, increasing reporting rates, and assisting in the identification of sexual assaults.

The two most influential federal legislative attempts to date were the development of sex offender registries under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Wetterling Act; 1994) and the addition of community notification, which has become known as Megan's Law (1996). Although today all states have registration and notification laws, there is no

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**Authors' Note:** Data for this project were furnished to the researchers by the New York State Division of Criminal Justice Services (DCJS). However, DCJS was not responsible for the methods of statistical analysis or the conclusions reached. Any opinions and suggestions within the article are those of the authors alone and not representative of the views of DCJS or the New York State Office of Mental Health. Correspondence concerning this article should be addressed to Naomi J. Freeman: [naomijfreeman@yahoo.com](mailto:naomijfreeman@yahoo.com).

standardization of these systems and, thus, states vary in how registration and community notification is employed. Recently, in an effort to further increase public safety, the federal government passed the Adam Walsh Child Protection and Safety Act (AWA; 2006). One of the key provisions of this Act is the Sex Offender Registration and Notification Act (SORNA), which standardizes registration and community notification practices by dividing sex offenders into three tiers based solely on the crime of conviction (AWA, 2006; Department of Justice, 2008).

Although the goal of this legislative initiative is to increase public safety, no empirical examinations have been conducted to determine whether the nationwide enactment of SORNA is likely to reduce sexual victimizations. Given the emotional public response to sexual crimes, it is essential to ensure the effectiveness of sex offender management approaches, such as the implementation of SORNA. Recently, a number of empirical studies have indicted that registration and community notification laws are limited in their ability to reduce sexual victimization (Freeman, in press; Sandler, Freeman, & Socia, 2008; Walker, Maddan, Vásquez, VanHouten, & Ervin-McCarthy, 2005; Zgoba, Witt, Dalessandro, & Veysey, 2008). The results of these studies have indicated that, although well intended, such laws have done little (if anything) to increase public safety and may in fact be lowering it. With these findings in mind, the current study sought to empirically assess whether the SORNA provisions outlined in the AWA would more effectively increase public safety than current registration and community notification practices. Specifically, the current study used a sample of convicted (registered) sex offenders in New York State to determine whether the tier system proposed under SORNA predicts sex offender sexual and nonsexual rearrests.

## AWA

The AWA was signed into legislation by President Bush on July 27, 2006. It was named after the 1981 abduction and murder victim Adam Walsh (a 6-year-old Florida boy). The law was passed as an effort to further protect the public from sex offenders and amends previously enacted sex offender laws such as the Wetterling Act (1994) and Megan's Law (1996). States were required to enact all portions of the AWA by 2009 or risk losing 10% of their Omnibus Crime federal funding (AWA, 2006).<sup>1</sup>

Title 1 of the AWA is SORNA, which standardizes the registration and community notification procedures of all 50 states. Specifically, under SORNA, sex offenders are divided into three tiers depending entirely on the crime of conviction and sentence length. Tier 1 consists of sex offenders convicted of misdemeanor offenses (e.g., forcible touching, receipt of child pornography), which result in less than 1 year of imprisonment. Both Tiers 2 and 3 require offenses to result in more than 1 year imprisonment, with the main difference between these tiers being the

nature of the sexual offense. Tier 2 includes offenders convicted of less severe sexual felony offenses (e.g., use of a minor in a sexual performance, criminal sexual act, production or distribution of child pornography), whereas Tier 3 encompasses severe sexual felony offenses (e.g., persistent sexual abuse, predatory sexual assault, aggravated sexual abuse; see Department of Justice, 2008). The tier assigned to each offender determines not only the length of registration, but also the extent of community notification to which the offender is subject. Tier 1 offenders are required to register annually for 15 years, Tier 2 offenders must register annually for 25 years, and Tier 3 offenders are required to register annually for the remainder of their lives (AWA, 2006; Department of Justice, 2008). The purpose of the tier classification system is to (on a national level) identify those sex offenders most at risk of sexual recidivism and, through community notification (i.e., national public registry), protect the public from these individuals by allowing the public to know the offenders' whereabouts.

In addition to the implementation of a tier system, SORNA expands the in-person verification requirements of offenders and enhances public access to relevant information by increasing the amount of information that is made public and by establishing a nationwide Internet registry (AWA, 2006; Department of Justice, 2008). It should be noted that SORNA is only one component of the AWA. Because this article is only interested in the effectiveness of the three-tier system to classify sex offenders, however, other aspects of the law are not discussed.

## **Risk Factors and Recidivism**

Recidivism rates and risk factors related to sex offender recidivism have been extensively reviewed in the literature. This research has indicated that not all sex offenders pose the same risk to communities, as some types of offenders are more likely to reoffend than others. In one well known study, Harris and Hanson (2004) followed 4,724 sex offenders from both Canada and the United Kingdom for 15 years. Although 73% of the offenders had not been charged or convicted of a new sexual offense during the 15-year follow-up period, results did indicate that those who had male victims, were younger in age, and had a prior history of sexual offenses were at increased risk to sexually reoffend. These results were similar to the findings of Hanson and colleagues (Hanson & Bussière, 1998; Hanson, Scott, & Steffy, 1995; Hanson, Steffy, & Gauthier, 1993) who found that extrafamilial child molesters who preferred male victims were at a significantly higher risk to reoffend than incest offenders (regardless of victim gender preference) and those who preferred female victims.

Research has also suggested that male offenders who sexually reoffend are likely to be single, strangers to their victims, physically harm their victims, and to have past supervision violations (Dempster & Hart, 2002; Freeman, in press; Hanson &

Bussière, 1998; Harris & Hanson, 2004). Additional research has found that deviant sexual interest, antisocial personality traits, general self-regulation problems, prior sexual crimes (and engagement in a diversity of crimes), sexual preoccupation, numerous victims in one incident, and sexually offending at an early age are related to an increased risk of sexual recidivism for male sex offenders (Berliner, Schram, Miller, & Milloy, 1995; Hanson & Bussière, 1998; Hanson, Harris, Scott, & Helmus, 2007; Hanson & Morton-Bourgon, 2004; Långström, 2002; Långström, Sjöstedt, & Grann, 2004; Motiuk & Brown, 1996). No study, however, has found crime of conviction to be related to likelihood of recidivism.

## **Current Registration and Notification Practices**

Many states have used the research on risk factors related to sexual recidivism to develop risk assessment instruments to classify sex offenders and determine the level and extent of registration and community notification. For example, New York State uses a standardized risk assessment instrument (which was created specifically for this purpose) that examines an offender's prior criminal history, level of violence, and victim preference. Based on this assessment, sex offenders are classified into three risk levels. Similarly, Nebraska uses a standardized risk assessment (developed by the University of Nebraska Law/Psychology Department) to place sex offenders into risk categories. This instrument considers factors such as offender age, prior conviction history, mental health diagnoses, disciplinary misconduct during incarceration, and victim information such as age, gender, and relationship to the offender (Nebraska State Patrol, 2009).

According to Levenson and D'Amora (2007), approximately half of the states use some form of risk assessment measure to classify sex offenders for registration and notification. Under SORNA, however, all states would be required to classify sex offenders based on the crime of conviction. Thus, using the SORNA three-tier system may impair the ability of states to accurately identify high-risk sex offenders because, as stated above, there is no empirical research to date that suggests crime of conviction is related to risk of sexual recidivism.

## **Purpose**

Although much research exists that examines risk factors related to sexual recidivism, the three-tier system proposed under SORNA mandates the use of crime of conviction as the sole means to classify offenders. As there is currently no empirical research that suggests crime of conviction is related to risk of sexual recidivism, the goal of the current study was to empirically examine the ability of the SORNA three-tiered system to predict sexual recidivism. The study also sought to investigate

whether other well-established and easily obtainable risk factors (whether alone or in combination) might increase the predictive ability of SORNA.

## Method

To test the predictive ability of the tier system under SORNA, a sample of registered New York State sex offenders both under community supervision (i.e., on probation or parole) and not under supervision was used.

### Participants

As of June 2004, there were 18,602 sex offenders registered in New York State. Given the research that suggests female sex offenders are distinctly different from male sex offenders (see Center for Sex Offender Management, 2007; Cortoni & Hanson, 2005; Freeman & Sandler, 2008), all female sex offenders and offenders whose sex was unknown were dropped from the study ( $n = 343$ ; 1.8%).<sup>2</sup> As such, the final sample consisted of only male registered sex offenders in New York State ( $n = 17,165$ ; 92.2%). The data were retrieved from two sources. First, information was obtained from the New York State sex offender registry, which contains information on all registered sex offenders in New York State including offender demographics, offense characteristics, and victim information. Second, official criminal history information was extracted for all registered sex offenders from the New York State computerized criminal history database. Criminal history files contain information regarding characteristics related to arrest, conviction, disposition, and sentencing events. As only New York State criminal history information was obtained, crimes that may have occurred in other states were not included in this study.<sup>3</sup>

The majority of the sex offenders were White ( $n = 10,911$ ; 63.6%), whereas 30.6% ( $n = 5,246$ ) were Black, and 1.4% ( $n = 241$ ) were categorized as Indian or Asian.<sup>4</sup> The average registered sex offender was 32.88 years old ( $SD = 11.77$ ) at the time he was arrested for his registerable sexual offense, with a range from 14 to 91 years of age. Most sex offenders were registered for sexual intercourse ( $n = 7,451$ ; 43.4%) or sexual contact ( $n = 5,182$ ; 30.2%), with the remaining offenders having been registered for committing deviant sexual intercourse ( $n = 2,857$ ; 16.6%), promoting or possessing sexual performance by a child ( $n = 304$ ; 1.8%), disseminating indecent materials to a minor ( $n = 37$ ; 0.2%), kidnapping or unlawful imprisonment ( $n = 64$ ; 0.4%), or patronizing/promoting prostitution ( $n = 11$ ; 0.1%).<sup>5</sup> Additional offender characteristics are presented in Table 1.

Offenders were followed starting from the date of their first release into the community after the instant offense. The follow-up period was ceased prior to the end of the study if the offender was arrested for a new criminal offense prior to June 4, 2004.

**Table 1**  
**Offender Characteristics by SORNA Tier Level**

	Tier 1		Tier 2		Tier 3	
	<i>n</i> (%)	<i>M</i> ( <i>SD</i> )	<i>n</i> (%)	<i>M</i> ( <i>SD</i> )	<i>n</i> (%)	<i>M</i> ( <i>SD</i> )
Offender demographics						
Offender race						
White	1,690 (73.2)		3,475 (70.0)		5,028 (56.8)	
Non-White	531 (23.0)		1,328 (26.7)		3,349 (37.8)	
Offender age at release		36.7 (13.3)		34.5 (11.3)		37.9 (11.6)
Supervising agency						
Probation	1,536 (66.5)		2,727 (54.9)		2,754 (31.1)	
Parole	65 (2.8)		1,335 (26.9)		4,795 (54.1)	
No supervision	708 (30.7)		904 (18.2)		1,309 (14.8)	
County of supervision						
Rural	147 (6.4)		266 (5.4)		351 (4.0)	
Midsize	1,050 (45.5)		2,444 (49.2)		3,504 (39.6)	
Urban	1,001 (43.4)		1,968 (39.6)		4,264 (48.1)	
Prior criminal history						
Number of prior drug offense arrests		0.5 (1.6)		0.5 (1.4)		0.5 (1.4)
Number of prior violent felony offense arrests		1.0 (1.4)		0.8 (1.3)		1.9 (1.7)
Number of prior sexual offense arrests		1.1 (0.7)		1.1 (0.7)		1.2 (0.8)
Number of variety of offenses in criminal history		2.6 (2.2)		3.5 (2.2)		3.8 (2.4)
Prior incarceration terms served		1.7 (4.0)		1.5 (2.6)		2.2 (3.1)
Prior supervision violations		0.3 (1.5)		0.3 (1.4)		0.5 (1.5)
Victim information						
Victim gender						
Female	1,940 (84.0)		4,033 (81.2)		7,482 (84.5)	
Male	193 (8.4)		596 (12.0)		867 (9.8)	
Mixed	14 (0.6)		48 (1.0)		153 (1.7)	
Victim age						
12 or younger	907 (39.3)		873 (17.6)		4,342 (49.0)	
13 to 17	904 (39.2)		3,276 (66.0)		1,218 (13.8)	
18 or older	250 (10.8)		211 (4.2)		1,873 (21.1)	
Both child and adult victims	55 (2.4)		128 (2.6)		283 (3.2)	
Number of victims		1.1 (0.3)		1.1 (0.4)		1.2 (0.5)
Outcome measures						
Sexual offense rearrest						
Yes	187 (8.1)		301 (6.1)		665 (7.5)	
No	2,122 (91.9)		4,665 (93.9)		8,193 (92.5)	
Nonsexual offense rearrest						
Yes	986 (42.7)		2,231 (44.9)		4,027 (45.5)	
No	1,323 (57.3)		2,735 (55.1)		4,831 (54.5)	

Note: SORNA = Sex Offender Registration and Notification Act. Percentages that do not add to 100% are due to missing information.

## Dependent Variables

Research has shown that although sex offenders are a specialized group of offenders, they are likely to engage in both sexual and nonsexual offenses (Langan, Schmitt, & Durose, 2003). Thus, policies and interventions aimed at increasing public safety “should also be concerned with the likelihood of any form of serious recidivism, not just sexual recidivism” (Hanson & Morton-Bourgon, 2004, p. 4). As such, and to evaluate the public safety impact of the SORNA three-tier system, it is important to examine rearrest rates for both sexual and nonsexual offenses. Therefore, two measures of recidivism were used in the present study: (a) rearrest for a registerable sexual offense and (b) rearrest for any nonsexual offense. For the purposes of the current study, a registerable sexual offense was defined as any sexual crime that resulted in mandated registration with the New York State sex offender registry as stipulated in Correction Law Article 6c and, therefore, would result in mandated registration under SORNA. Each rearrest measure was a dichotomous indication of whether the offender was rearrested for the specific offense.

## SORNA Tier System

Offenders' tier level was a categorical variable with three levels: Tier 1 (low risk), Tier 2 (moderate risk), and Tier 3 (high risk). As stipulated by SORNA, tier classification was based solely on the crime of conviction. Specifically, tier classification was based on comparing New York State penal codes with descriptions for tier levels provided in the federal government's SORNA guidelines (Department of Justice, 2008). Moreover, tier assignment was completed based on consultation with the New York State counsel that was working on implementation of the AWA. A complete listing of penal law descriptions and tier classification is presented in the appendix.

## Established Risk Predictors

Given the risk factors reported by prior research (Hanson & Bussière, 1998; Hanson & Morton-Bourgon, 2004; Harris & Hanson, 2004; Motiuk & Brown, 1996), this study included several factors that have been shown to impact the recidivism rates of sex offenders, including offender demographics, offender prior criminal history, and victim information. These factors were included to determine whether any of them alone or in conjunction may improve the predictive accuracy of the SORNA tier system. These variables were also selected as they are all easily obtainable from basic criminal history files and are routinely made available to probation, parole, and other criminal justice agencies. Table 2 displays the correlation matrix for the risk predictors.<sup>6</sup>

*Offender demographics.* Given that the sample included probationers, parolees, and those not under supervision, a variable indicating the supervision type was included to control for any differences in supervision that may have affected the

**Table 2**  
**Correlation Matrix for the Predictor Variables**

	1	2	3	4	5	6	7	8	9	10	11	12	13
1. Supervision type	—												
2. County of residence	-.27	—											
3. Tier level	.12*	.08*	—										
4. Prior VFO offense arrests	.20*	.13*	.26*	—									
5. Prior drug offense arrests	.12*	.12*	.01	.30*	—								
6. Prior registerable sex offense arrests	.07*	.01	.45*	.38*	.03*	—							
7. Variety of offenses	.23*	.10*	.16*	.57*	.39*	.20*	—						
8. Prior supervision violations	.13*	-.01	.05*	.27*	.16*	.08*	.29*	—					
9. Prior incarceration terms	.30*	.02	.08*	.51*	.48*	.17*	.57*	.32*	—				
10. Number of victims	.05*	-.03*	.21*	.00	-.04*	.05*	-.03*	-.02	-.02	—			
11. Victim age	.06*	.00	.08	.11*	.06*	.04*	.14*	.06*	.09*	.16*	—		
12. Victim gender	-.01	-.02	.02	-.05*	-.05*	.04*	-.12*	-.03*	-.05*	.27*	-.05*	—	
13. Offender race	-.12*	-.29*	-.14*	-.35*	-.24*	-.07*	-.37*	-.12*	-.27*	.06*	-.13*	.10*	—
14. Offender age	.02	.04*	.08*	.04*	-.02	.05*	-.14*	-.03*	-.05*	.11*	-.05*	.09*	.10*

Note: VFO = violent felony offense.

\* $p < .0006$  (two-tailed).

likelihood of detection and/or reoffense. Race of the offender was dummy coded as 1 (*White*) and 0 (*non-White*). In addition, offenders' age at the time of their first release into the community after their registerable sexual-offense conviction was included in the model. Finally, the model included a categorical variable representing offenders' county of residence to control for potential regional impacts across counties and disparities in supervision levels that may have affected the probability of detection (see Kruttschnitt, Uggen, & Shelton, 2000). The county variable was coded into rural (less than 50,000 people), midsize (between 50,000 and 499,999), and urban (500,000 or more).

*Prior criminal history.* Several prior criminal history variables were included in the analysis given the research that suggests an offender's prior criminal history is the most robust predictor of future criminal behavior (Hanson & Morton-Bourgon, 2004; Harris & Hanson, 2004; Romeo & Williams, 1985). These variables included (a) number of prior violent felony offense arrests, (b) number of prior registerable sexual offense arrests, (c) number of prior drug offense arrests, (d) number of different types of crime an offender had engaged in during his criminal career (variety of offenses), (e) number of prior incarceration terms served (both jail and prison), and (f) number of past supervision violations (both parole and probation).

*Victim information.* Several victim variables were included in the analysis given past research that suggests an offender's choice of victim is related to offender recidivism (Barbaree & Marshall, 1988; Hanson & Bussière, 1998). Victim information was based on the instant offense that resulted in the offender's mandated registration on the state sex offender registry. Victim gender was entered as three categorical variables: (a) male victim (1 = *male*, 0 = *other*), (b) female victim (1 = *female*, 0 = *other*), and (c) mixed victim gender (1 = *both male and female victims*, 0 = *other*). In addition, a categorical variable representing the age of the victim was included given the research which suggests that the age of victims favored by a sex offender is strongly related to that offender's criminality, with offenders who select younger victims being more likely to reoffend than those who select older victims (Hanson & Bussière, 1998). This variable was coded to correspond to the conventional categorization found in the extant research (under 12, 13-17, 18 or older). Finally, number of victims in the instant offense was also included, as it has been found to be related to offender recidivism (Motiuk & Brown, 1996).

## Results

The SORNA provisions of the AWA mandate the classification of sex offenders into three tiers based solely on the crime of conviction. As such, the first part of this analysis examined the univariate relationship between tier level and sexual

**Table 3**  
**Correlation Between Predictor Variables**  
**and Nonsexual and Sexual Rearrest**

	Nonsexual Rearrest	Sexual Rearrest
SORNA tier level	.02	.00
Supervision type	.13*	.07*
County of residence	-.01	-.05*
Prior VFO offense arrests	.20*	.10*
Prior drug offense arrests	.17*	.03*
Prior registerable sex offense arrests	.05*	.10*
Variety of offenses	.42*	.16*
Prior supervision violations	.17*	.05*
Prior incarceration terms	.33*	.13*
Number of victims	-.06*	.00
Victim age	.07*	.02
Victim gender	-.08*	-.01
Offender race	-.20*	-.06*
Offender age at release	-.28*	-.07*

Note: SORNA = Sex Offender Registration and Notification Act; VFO = violent felony offense.

\**p* < .0006 (two-tailed).

and nonsexual rearrest. These univariate relationships are a direct test of SORNA, as tier level (and consequently crime of conviction) is the only factor used for registration and notification practices. As is illustrated in Table 3, which presents correlations between the predictor variables and sexual and nonsexual rearrests, tier level was not significantly correlated with either sexual or nonsexual rearrest. As such, it is unlikely that the three-tier system outlined in SORNA (which is based solely on crime of conviction) will accurately predict which sex offenders will reoffend and which ones will not. Moreover, the results in Table 3 indicate that several different variables, all of which are readily available in criminal history files, would be good predictors of recidivism. Many of these variables are well established to be related to the recidivism of male sex offenders, including offender age (Hanson, 2002), variety of past criminal history (Freeman, in press), prior sexual offenses (Hanson & Bussière, 1998), and prior incarceration terms (Hanson & Morton-Bourgon, 2004). In addition, many of these factors are found on commonly used actuarial instruments, such as the Static-99 (Hanson & Thornton, 1999) and the Minnesota Sex Offender Risk Screening Tool–Revised (MnSOST-R; Epperson et al., 1998).

To test whether any well-established risk factors add to the predictive ability of SORNA, Cox regressions were estimated to control for other risk factors that have been found to be related to sexual recidivism as well as to control for the fact that not all sex offenders were in the community for the same length of time. Although

some offenders may have been rearrested immediately after release/registration with the state, others may have been rearrested several years later, and still others may not have been rearrested at all. Once a sexual or nonsexual rearrest occurred, an individual was no longer at risk and, thus, was no longer observed. To gain an accurate estimate of the time each offender was in the community during the follow-up period, time spent in prison after that initial release date (e.g., for parole technical violations) was deducted from the total at-risk time period (i.e., time spent in the community). As the majority of sex offenders who were rearrested for both sexual and nonsexual offenses were arrested by the end of the 8th year in the community, the follow-up period was ceased after 3,000 days in the community. Sex offenders, on average, were in the community for 4.6 years ( $SD = 3.0$ ) for the sexual offense rearrest model and 3.6 years ( $SD = 2.9$ ) for the nonsexual offense rearrest model. Table 4 summarizes the Cox regression results.

### Sexual Offense Rearrest

For the sexual offense model, all variables were entered in one step, which yielded a significant overall model,  $\chi^2(20, N = 14,903) = 601.02, p < .001$ . Significant differences in the rate of rearrest for a sexual offense emerged between the three tier levels. Specifically, sex offenders categorized as Tier 1 (lowest risk) were rearrested for a sexual offense more quickly than both Tier 2 (moderate risk) and Tier 3 (highest risk) offenders (104% and 90%, respectively).

Nine variables emerged as significant predictors of sexual offense rearrest: (a) number of prior incarceration terms, (b) number of prior supervision violations, (c) number of prior violent felony offense arrests, (d) number of prior registerable sexual offense arrests, (e) variety of offending history, (f) number of victims in the instant offense, (g) offender age, (h) county of residence, and (i) supervision type. Specifically, each additional prior incarceration term served increased the rate of sexual offense rearrest by 2.6% and each prior registerable sexual offense arrest increased the rate of rearrest by 34.1%, whereas each additional different type of prior criminal offense arrest increased the rate of rearrest by 27.8%. Moreover, the rate of rearrest for a sexual offense decreased by 5.7% for each prior violent felony offense arrest and by 10.2% for each prior supervision violation. Number of victims in the instant offense and age at the time of the instant offense arrest also affected the rate of sexual offense rearrest. Each additional victim in the instant offense increased the rate of rearrest for a sexual offense by 27.7%, whereas each 1-year increase in age resulted in a small (2.5%) decrease in the rate of rearrest for a sexual offense. Finally, county of residence and supervision type had a significant effect on sexual offense rearrests. The hazard ratios for county of residence (1.91 for rural counties and 1.34 for midsize counties) indicated that sex offenders residing in rural and midsize counties were rearrested at a faster rate than those residing in urban counties. Sex offenders under probation supervision, however,

**Table 4**  
**Cox Regression for the Two Outcome Measures**

	Sexual Offense Rearrest			Nonsexual Offense Rearrest		
	<i>B</i>	<i>SE</i>	Exp( <i>B</i> )	<i>B</i>	<i>SE</i>	Exp( <i>B</i> )
Tier 2 compared to Tier 1	-0.71*	0.12	0.49	-0.29*	0.46	0.75
Tier 3 compared to Tier 1	-0.65*	0.11	0.53	-0.29*	0.46	0.75
Probation supervision (compared to no supervision)	-0.41*	0.10	0.66	-0.27*	0.04	0.77
Parole supervision (compared to no supervision)	-0.04	0.10	0.96	-0.27*	0.04	0.76
Rural county (compared to urban)	0.65*	0.14	1.91	0.18*	0.06	1.19
Midsized county (compared to urban)	0.30*	0.08	1.34	0.10*	0.03	1.11
Offender race <sup>a</sup>	-0.07	0.09	0.93	-0.18*	0.03	0.84
Offender age at release	-0.03*	0.00	0.98	-0.04*	0.00	0.96
Number of prior violent felony offense arrests	-0.06*	0.03	0.94	-0.03*	0.01	0.97
Number of prior drug offense arrests	-0.06	0.03	0.95	-0.02	0.01	0.98
Number of prior registerable sexual offense arrests	0.29*	0.04	1.34	-0.03	0.02	0.97
Variety of offenses	0.25*	0.02	1.28	0.22*	0.01	1.24
Number prior incarceration terms served	0.03*	0.01	1.03	0.07*	0.00	1.07
Number of prior supervision violations	-0.11*	0.04	0.90	0.04*	0.01	1.04
Number of victims in instant offense	0.24*	0.09	1.28	-0.02	0.05	0.98
Victim age 12 or younger (compared to both child and adult)	0.29	0.23	1.34	-0.08	0.10	0.92
Victim age 13-17 (compared to both child and adult)	0.24	0.23	1.28	0.02	0.10	1.02
Victim age 18 and older (compared to both child and adult)	0.54	0.24	1.72	0.06	0.10	1.06
All male victims (compared to mixed)	0.50	0.40	1.64	0.19	0.14	1.21
All female victims (compared to mixed)	0.59	0.41	1.81	0.15	0.15	1.16
-2 log likelihood		13,416.50			88,452.18	
Chi-square		601.02*			4,055.76*	

a. Coded 1 (*White*), 0 (*non-White*).

\**p* < .01.

tended to be rearrested for a sexual offense 33.7% less quickly than those under no criminal justice supervision.

## Nonsexual Offense Rearrest

All variables were entered into the model in one step, and the overall model yielded significant results,  $\chi^2(20, N = 15,646) = 4,055.76, p < .001$ . Consistent with the analysis for sexual offense rearrest, sex offenders categorized as Tier 1 were rearrested for a nonsexual offense faster than other offenders. Specifically, Tier 1 offenders were rearrested for a nonsexual offense 34% faster than Tier 2 offenders and 33% faster than Tier 3 offenders.

Only three criminal history variables increased the rate of rearrest for a nonsexual offense, including each prior incarceration term served (by 7.0%), each prior supervision violation (by 3.9%), and each additional type of crime in an offender's history (by 24.0%). Each prior violent felony offense arrest, however, decreased the rate of arrest for a subsequent nonsexual offense. That is, each additional prior violent felony offense decreased the rate of rearrest for a nonsexual offense by 2.7%. As for non-criminal history variables, sex offenders residing in rural counties were rearrested for a nonsexual offense approximately 19.7% more quickly than those in urban counties, whereas those residing in midsize counties were rearrested 10.5% more quickly than sex offenders in urban counties. Significant differences also emerged for supervision type. Specifically, being under probation supervision reduced the rate of rearrest by 23.5%, whereas being under parole supervision reduced the rate by 23.8%. Finally, each 1-year increase in age reduced the rate of rearrest by 4.2%; whereas, being White reduced the rate of rearrest by 16.5%. Victim age, victim gender, number of victims in the instant offense, prior number of drug offense arrests, and prior number of registerable sexual offense arrests did not significantly impact the rate of rearrest for a nonsexual offense.

## Discussion

The current study tested the ability of the tier system, as stipulated in SORNA, to predict sexual recidivism among a group of registered sex offenders in New York State. The results cast doubts on the ability of the SORNA provisions of the AWA to increase public safety. More specifically, results showed that those offenders classified as Tier 1 (lowest risk) were rearrested for both sexual and nonsexual offenses more quickly than both Tier 2 (moderate risk) and Tier 3 (highest risk) offenders and were rearrested for sexual offenses at a higher rate than Tiers 2 and 3 offenders. Moreover, as shown in Table 3, the results indicated that many other risk factors supported by empirical research would be better predictors of future sexual offending than the SORNA tier level. Given the results of the current study, the enactment of SORNA may give community members a false sense of security. That is, community members may believe they are safe if no Tier 3 offenders are residing in their neighborhood when, in fact, Tier 3 offenders are not at increased risk to reoffend. As such, SORNA appears unable to accurately identify high-risk offenders and, therefore, increase public safety.

This lack of any observed association between crime of conviction and sexual recidivism may be due to the fact that crime of conviction may not be an accurate indication of the type of offense that was committed. Because convictions in sexual offenses are often elusive—whether as a result of lack of evidence, victim’s hesitation to testify, credibility of the victim, or characteristics of the defendant—prosecutors may be more likely to offer a plea bargain in sexual offense cases to secure a conviction. As such, it is possible that crime of conviction does not accurately reflect the offense that was committed and, therefore, may be a poor predictor of future risk of reoffending. Thus, it is unsurprising that, as the current study found, other easily obtainable risk factors would be better predictors of recidivism and offer a more accurate risk criterion for the classification of sex offenders.

States had until July 2009 to fully implement the regulations outlined in the AWA.<sup>7</sup> Yet, a recent analysis conducted by the Justice Policy Institute (2008) noted that, in all 50 states, the costs of implementing SORNA far outweigh the costs of losing 10% of Byrne funding. In fact, the Justice Policy Institute estimates that in 2009 alone, New York State would spend US\$31,300,125 for the implementation of SORNA, whereas forfeiting 10% of its Byrne funding would only result in a loss of US\$1,127,984.

Given the large fiscal implications of implementing SORNA, as well as results of the current study which indicate that the tier system does little to accurately predict which offenders will reoffend and which will not, perhaps states should reconsider the implementation of SORNA. Rather, if states are wedded to registration and community notification practices despite the empirical research that indicates the ineffectiveness of such laws to impact rates of sexual offending (e.g., Petrosino & Petrosino, 1999; Sandler et al., 2008; Walker et al., 2005; Zevitz, 2006; Zgoba et al., 2008), then perhaps the public would be better served if the scarce resources surrounding sex offender management were limited to the offenders who pose the greatest risk to the public’s safety (Harris & Hanson, 2004). Given the results of the current study, which indicate the lack of ability for the tiered system under SORNA to accurately identify offenders at high risk of sexual recidivism, the AWA would, in fact, target the strongest sanctions against those least likely to recidivate, while giving lesser sanctions to those most likely to recidivate (i.e., Tier 1 offenders).

Currently, the provisions outlined in SORNA do not discriminate between those sex offenders who can be rehabilitated and those who may continue to sexually offend. Yet, in recent years much has been learned about risk factors related to sexual recidivism, and a growing number of actuarial risk assessment instruments have been developed to identify those high risk sex offenders who pose the greatest threat to public safety. The two most well-known risk assessment instruments used for the prediction of sexual recidivism among male sex offenders are the Static-99 (Hanson & Thornton, 1999) and the MnSOST-R (Epperson et al., 1998), both of which have been shown to have moderate predictive accuracy in numerous international samples of sex offenders (Knight & Thornton, 2007). Although these risk assessment instruments do not

account for all factors that could be associated with recidivism, they provide a moderate prediction of recidivism and allow for a means to distinguish sex offenders based on risk (usually into categories of low, medium, and high risk).

In fact, results of the current study suggest that individual items found on these instruments are significantly associated with recidivism for a group of sex offenders in New York State. Specifically, the presence of prior sexual offenses, the number of previous sentencing dates, having male victims, and being younger (all items on the Static-99) were all related to an increase in the likelihood of sexual recidivism. Although some sex offenders are extremely dangerous and pose a threat to public safety, others present a low risk and can be effectively managed in the community with appropriate levels of supervision and treatment. Thus, the registration and community notification provisions of the AWA may be more effective if actuarial risk assessment instruments that measure both static and dynamic factors are used as a way to identify those most at risk to reoffend (see Levenson & D'Amora, 2007) instead of the currently proposed three-tier system based solely on crime of conviction. Not only would this approach prevent low-risk offenders from receiving the same sanctions as high-risk offenders, it would also conserve resources and allow registration and community notification practices to be directed at those most at risk to reoffend. Targeting intervention programs and legislative initiatives to specific types of sex offenders will more effectively reduce the likelihood of recidivism, ultimately increasing public safety, and will conserve the limited resources aimed at sex offender management strategies.

## Conclusion

The idea behind the enactment of the AWA, to standardize registration and notification procedures nationwide, appeared to address limitations of the current system. In reality, however, the three-tiered system, as outlined in SORNA, fails to increase the effectiveness of current registration and community notification practices. In fact, as indicated by the results of the current study, the system proposed in SORNA actually decreases the ability of states to predict which sex offenders will sexually reoffend and which ones will not. More specifically, the use of almost any empirically based risk factor would yield more accurate predictions than the SORNA tier level, which is based solely on crime of conviction. Although no risk prediction system can accurately predict sexual recidivism 100% of the time, the results of the current study indicate that SORNA is almost completely ineffective at categorizing sex offenders based on risk of sexual recidivism. As such, it appears enactment of the AWA (and, therefore, SORNA) would not only cost states more money than they would lose if they were not to enact it, but also that such enactment would unlikely increase public safety.

There is, however, a broader question surrounding the ability of any sex offender registration and notification law to increase public safety. Specifically, several recent

studies (e.g., Petrosino & Petrosino, 1999; Sandler et al., 2008; Walker et al., 2005; Zevitz, 2006; Zgoba et al., 2008) have found registration and notification laws to be ineffective methods of reducing sexual victimizations. Furthermore, there is some evidence to suggest that these types of laws are increasing recidivism, as the unintended consequences of these laws may aggravate stressors known to be associated with sexual reoffending (Freeman, in press). Winick (1998) argued that

by denying them [sex offenders] a variety of employment, social, and educational opportunities, the sex offender label may prevent these individuals from starting a new life and making new acquaintances, with the result that it may be extremely difficult for them to discard their criminal patterns. (p. 556)

Given that the SORNA provisions increase the reporting requirements as well as the public distribution of housing and employment information, it is possible that the enactment of the tier system, as outlined in SORNA, may actually increase reoffending rates of convicted sex offenders. As such, perhaps it is time to replace these well-intended, yet ineffective, public policy initiatives (e.g., registration, community notification) with ones that are scientifically supported.

### Appendix

#### New York State Penal Laws Matched to SORNA Tier Level

Level	Penal Law	Description	Offense Type
Tier 1	130.20	Sexual misconduct	A Misdemeanor
	130.52	Forcible touching	A Misdemeanor
	130.55	Sexual abuse third degree	B Misdemeanor
	130.60	Sexual abuse second degree	A Misdemeanor
	135.05	Unlawful imprisonment second degree	A Misdemeanor
	230.04	Patronizing a prostitute third degree	A Misdemeanor
Tier 2	130.25	Rape third degree	E Felony
	130.30	Rape second degree	D Felony
	130.40	Criminal sexual act third degree	E Felony
	130.45	Criminal sexual act second degree	D Felony
	135.10	Unlawful imprisonment first degree	E Felony
	135.20	Kidnapping second degree	B Felony
	135.25	Kidnapping first degree	A-1 Felony
	230.05	Patronizing a prostitute second degree	E Felony
	230.30	Promoting prostitution second degree	C Felony
	230.32	Promoting Prostitution first degree	B Felony
	230.33	Compelling prostitution	B Felony
	235.22	Disseminating indecent material to a minor first degree	D Felony
	250.45	Unlawful surveillance first degree	D Felony
	255.25	Incest second degree	D Felony
255.27	Incest first degree	B Felony	

*(continued)*

## Appendix (continued)

Level	Penal Law	Description	Offense Type
	263.05	Use of a child in a sexual performance	C Felony
	263.10	Promoting an obscene sexual performance by a child	D Felony
	263.11	Possessing an obscene sexual performance by a child	E Felony
	263.15	Promoting a sexual performance by a child	D Felony
	263.16	Possessing a sexual performance by a child	E Felony
Tier 3	130.35	Rape first degree	B Felony
	130.50	Criminal sexual act first degree	B Felony
	130.53	Persistent sexual abuse	E Felony
	130.65	Sexual abuse first degree	D Felony
	130.65(a)	Aggravated sexual abuse fourth degree	E Felony
	130.66	Aggravated sexual abuse third degree	D Felony
	130.67	Aggravated sexual abuse second degree	C Felony
	130.70	Aggravated sexual Abuse first degree	B Felony
	130.75	Course of sexual conduct against a child first degree	B Felony
	130.80	Course of sexual conduct against a child second degree	D Felony
	130.90	Facilitating a sex offense with a controlled substance	D Felony
	130.95	Predatory sexual assault	A-II Felony
	130.96	Predatory sexual assault against a child	A-II Felony

## Notes

1. A recent extension by the federal government allows states and tribal territories until July 27, 2010 to enact all portions of the AWA.

2. Registered sex offenders who were supervised by another state ( $n = 1$ ; 0.0%) were also dropped from the study, as were those offenders who died ( $n = 298$ ; 1.6%) or were deported ( $n = 7,999$ ; 4.3%).

3. Of the 272,111 offenders released from prison in 1994, only 5% of the 67.5% who were rearrested within 3 years were rearrested out of the state in which they were released (Langan & Levin, 2002). As noted in an article on sex offender recidivism in Minnesota (Minnesota Department of Corrections, 2007), the number of sexual offense rearrests that occur out of state should be even less than the percentage of general crimes reported by Langan and Levin (2002).

4. The remaining 4.5% ( $n = 738$ ) of offenders were of unknown race.

5. The type of offense was missing for the remaining 7.3% ( $n = 1,259$ ).

6. The degree of multicollinearity among the risk predictors was assessed by estimating auxiliary regression equations (i.e., additional analyses with each independent variable serving as the dependent variable). When this method is used, a  $R^2$  value  $\geq .75$  indicates dangerous levels of multicollinearity. Results of the analyses in the current study revealed no signs of multicollinearity among the variables.

7. A recent extension by the federal government allows states and tribal territories until July 27, 2010 to enact all portions of the AWA.

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## Appendix B

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## Washington State: SORNA Offense Tiering Review

The U.S. Department of Justice, Office of Justice Program's SMART Office has completed a preliminary review of Washington State's statutes submission pertaining to classification of registration tier levels for sex offenders within the state. This submission was made in order to determine where existing statutes align with the tiering structure created in Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA).

In reviewing the Revised Code of Washington, the SMART Office understands that Washington has essentially three categories of registrants, in which duration of registration is based on offense class:

1. Lifetime/Indefinitely if:
  - Class A felony, or
  - Offense listed in RCW 9A.44.142(5) , or
  - One or more prior convictions for a sex or kidnapping offense.
2. 15 years if:
  - Class B Felony Sex Offense
3. 10 years:
  - Class C Felony sex offense and some gross misdemeanors sex offenses.

Frequency of verification is determined through a risk assessment process, conducted by the End of Sentence Review Committee if the offender is released from the Department of Corrections or Department Social and Health Services. Otherwise, law enforcement completes the risk assessment tool. Once completed, the offender is assigned to one of three levels of risk and corresponding verification:

- Level I: Law Enforcement is required to conduct face-to-face address verifications once a year.
- Level II: Law Enforcement is required to conduct face-to-face address verifications twice a year.
- Level III: Law Enforcement is required to conduct face-to-face address verifications quarterly.

The following sections describe how Washington State's sex offenses fit within SORNA's offense-based tiering structure.

## **SORNA TIER I**

The following Washington State offenses fall under SORNA Tier I, thereby requiring registration for a minimum of 15 years with yearly in-person verification:

- RCW 9.68A.070 Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct
- RCW 9.68A.070 Possession of Depictions of a Minor Second Degree
- RCW 9.68A.075 Viewing Depictions of a Minor 1
- RCW 9.68A.075 Viewing Depictions of a Minor 2
- RCW 9.68A.090 Communication with a Minor for Immoral Purposes (first offense)
- RCW 9A.44.060 Rape 3
  - Note: this offense would fall under SORNA Tier I if the victim was over the age of 17
- RCW 9A.44.096 Sexual Misconduct with a Minor 2
- RCW 9A.44.115 Voyeurism
- RCW 9A.44.160 Custodial Sexual Misconduct 1
  - Note: this offense would fall under SORNA Tier I if it was non-forcible
- RCW 9A.64.020 Incest 1
  - Note: this offense would fall under SORNA Tier I if the victim was over the age of 17 and it was non-forcible
- RCW 9A.64.020 Incest 2
  - Note: this offense would fall under SORNA Tier I if the victim was over the age of 17

## **SORNA TIER II**

The following Washington State offenses fall under SORNA Tier II, thereby requiring registration for a minimum of 25 years with in-person verification required every 6 months:

- RCW 9.68A.050 Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 1
- RCW 9.68A.050 Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2
- RCW 9.68A.060 Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct
- RCW 9.68A.090 (1) and (2) Communication with a Minor for Immoral Purposes (Second or Subsequent Offense or Prior Sex Offense)
- RCW 9.68A.100 Commercial Sexual Abuse of a Minor
- RCW 9.68A.101 Promoting Sexual Abuse of a Minor
- RCW 9.68A.102 Promoting Travel for Commercial Sexual Abuse of a Minor
- RCW 9A.44.060 Rape 3
  - Note: this offense would fall under SORNA Tier II if the victim was age 16 - 17
- RCW 9A.44.086 Child Molestation 2
- RCW 9A.44.089 Child Molestation 3
- RCW 9A.44.093 Sexual Misconduct with a Minor 1
- RCW 9A.64.020 Incest 1

- Note: this offense would fall under SORNA Tier II if the victim was age 16 - 17
- RCW 9A.64.020 Incest 2
  - Note: this offense would fall under SORNA Tier II if the victim was age 13 - 17
- RCW 9A.88.070 Promoting Prostitution 1
  - Note: this offense would fall under SORNA Tier II if the victim was under the age of 18

### **SORNA TIER III**

The following Washington State offenses fall under SORNA Tier III, thereby requiring registration for life with in-person verification required every 3 months:

- RCW 9A.40.030 Kidnapping 2 with Sexual Motivation
- RCW 9A.44.040 and 045 Rape 1
- RCW 9A.44.050 Rape 2
- RCW 9A.44.060 Rape 3
  - Note: this offense would fall under SORNA Tier III if the victim was under the age of 16
- RCW 9A.44.073 Rape of a Child 1
- RCW 9A.44.076 Rape of a Child 2
- RCW 9A.44.079 Rape of a Child 3
- RCW 9A.44.083 Child Molestation 1
- RCW 9A.44.093 Sexual Misconduct with a Minor 1
  - Note: this offense would fall under SORNA Tier III only if the victim was under the age of 16
- RCW 9A.44.100 Indecent Liberties (with Forcible Compulsion)
- RCW 9A.64.020 Incest 1
  - Note: this offense would fall under SORNA Tier III only if the victim was under the age of 16
- RCW 9A.64.020 Incest 2
  - Note: this offense would fall under SORNA Tier III only if the victim was under the age of 13

The following offenses fall outside the scope of registration under SORNA:

- RCW 9A.44.132 Failure to Register as a Sex Offender (First two convictions)
- RCW 9A.44.132 Failure to Register as a Sex offender (two or more prior FTR convictions)
- RCW 9A.44.196 Criminal Trespass Against Children
- RCW 9A.88.010 Indecent Exposure
- RCW 9A.44.105 Sexually Violating Human Remains

For the following offenses involving sexual motivation, it is important to note that attempts or conspiracies mirror the commission of an offense under SORNA. Inchoate or preparatory offenses that are directed to the commission of sexual contact offenses against minors are considered Tier II under SORNA.

- RCW 9A.36.021 Assault 2 with Sexual Motivation
- RCW 9A.36.130 Assault of a Child 2 with Sexual Motivation

### **Further Review and Clarification**

The SMART office has not further reviewed Washington's Code for additional statutes which might also require registration and are not currently included in Washington's sex offender registry scheme. Broadly speaking, Washington is encouraged to find any and all of the following categories of violations of the criminal law as contained in Washington criminal code so as to determine the propriety of requiring registration (to the extent that they are not already included). The following offenses will require registration under SORNA:

1. Any criminal offense that has an element involving a sexual act or sexual contact with another, regardless of the age of the victim;
2. Any offense involving the non-parental kidnapping of a minor;
3. Any offense involving the non-parental false imprisonment of a minor;
4. Any offense involving solicitation to engage a minor in sexual conduct;
5. Any offense involving use of a minor in a sexual performance;
6. Any offense involving solicitation of a minor to practice prostitution;
7. Any offense involving video voyeurism of a minor;
8. Any offense involving possession, production, or distribution of child pornography;
9. Any offense involving criminal sexual conduct involving a minor; or
10. Any offense involving the use of the internet to engage a minor in criminal sexual conduct.

Washington is in a better position than the SMART office to review its criminal laws for any additional offenses which might warrant inclusion. The SMART office is happy to review any proposed additional tiering decisions.

The following chart provides a comparison of Washington State's current registration duration to SORNA's three tier registration scheme, whereby:

- Tier I = 15 years and yearly in-person verification
- Tier II = 25 years and twice yearly in-person verification
- Tier III = Lifetime and quarterly in-person verification

<b>Sex Offense</b>	<b>Offense Class</b>	<b>Duration</b>	<b>SORNA Tier</b>
Child Molestation 3	C RCW 9A.44.089	10 years	Tier II
Communication with a Minor for Immoral Purposes (Second or Subsequent Offense or Prior Sex Offense)	C RCW 9.68A.090 (1) and (2)	10 years	Tier II
Communication with a Minor for Immoral Purposes (first offense)	Gross Misdemeanor RCW 9.68A.090 (1) and (2)	10 years	Tier I
Criminal Trespass Against Children	C RCW 9A.44.196	10 years	Registration not required under SORNA
Custodial Sexual Misconduct 1	C RCW 9A.44.160	10 years	Non-forcible = Tier I
Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2	C RCW 9.68A.050	10 years	Tier II
Failure to Register as a Sex Offender (First two convictions)	C RCW 9A.44.132	10 years	Exceeds SORNA requirements
Incest 2	C RCW 9A.64.020	10 years	If victim <13 = Tier III If victim 13-17 = Tier II If victim >17 = Tier I
Indecent Exposure	Misd; Gross Misd; and Class C RCW 9A.88.010	10 years	Registration not required under SORNA
Possession of Depictions of a Minor Second Degree	C RCW 9.68A.070	10 years	Tier I
Promoting Travel for Commercial Sexual Abuse of a Minor	C RCW 9.68A.102	10 years	Tier II
Rape 3	C RCW 9A.44.060	10 years	Victim >17 = Tier I
Rape of a Child 3	C RCW 9A.44.079	10 years	Tier III
Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct	C RCW 9.68A.060	10 years	Tier II
Sexual Misconduct with a Minor 1	C RCW 9A.44.093	10 years	Victim <16 = Tier III Victim 16-17 = Tier II Victim >17 = Tier I
Sexual Misconduct with a Minor 2	Gross Misdemeanor RCW 9A.44.096	10 years	Tier I
Sexually Violating Human Remains	C RCW 9A.44.105	10 years	Registration not required under SORNA
Assault of a Child 2 with Sexual Motivation*	B RCW 9A.36.130	15 years	Attempt or conspiracy mirrors the commission of an offense under SORNA. Inchoate or preparatory offenses that are directed to the commission of sexual contact offenses against minors are considered Tier II under SORNA.

<b>Sex Offense</b>	<b>Offense Class</b>	<b>Duration</b>	<b>SORNA Tier</b>
Viewing Depictions of a Minor 2	C RCW 9.68A.075	10 years	Tier I
Voyeurism	C RCW 9A.44.115	10 years	Tier I
Child Molestation 2	B RCW 9A.44.086	15 years	Tier II
Commercial Sexual Abuse of a Minor	B RCW.9.68A.100	15 years	Tier II
Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 1	B RCW 9.68A.050	15 years	Tier II
Failure to Register as a Sex offender (two or more prior FTR convictions)	B RCW 9A.44.132	15 years	Exceeds SORNA requirements
Incest 1	B RCW 9A.64.020	15 years	If victim <16 = Tier III If victim 16-17 = Tier II If victim >17 = Tier I (if non-forcible)
Indecent Liberties (without Forcible Compulsion)	B RCW 9A.44.100	15 years	Tier III
Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct	B RCW 9.68A.070	15 years	Tier I
Promoting Prostitution 1	B RCW 9A.88.070	15 years	If victim <18 = Tier II
Sexual Exploitation of a Minor	B RCW 9.68A.040	15 years	Tier II
Viewing Depictions of a Minor 1	B RCW 9.68A.075	15 years	Tier I
Assault 2 with Sexual Motivation*	A RCW 9A.36.021	Lifetime	Attempt or conspiracy mirrors the commission of an offense under SORNA.
Child Molestation 1	A RCW 9A.44.083	Lifetime	Tier III
Indecent Liberties (with Forcible Compulsion)	A RCW 9A.44.100	Lifetime	Tier III
Kidnapping 2 with Sexual Motivation*	A RCW 9A.40.030	Lifetime	Tier III
Promoting Sexual Abuse of a Minor	A RCW 9.68A.101	Lifetime	Tier II
Rape 1	A RCW 9A.44.040 and 045	Lifetime	Tier III
Rape 2	A RCW 9A.44.050	Lifetime	Tier III
Rape of a Child 1	A RCW 9A .44.073	Lifetime	Tier III
Rape of a Child 2	A RCW 9A .44.076	Lifetime	Tier III

## Appendix C

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Registered Sex Offenders  
Address Verification Grant Reports Summary  
January-February-March 2011

	Level 1	Level 2	Level 3	Unknown	Kidnap	Current #'s
<b>Number of registered sex offenders at the beginning of the quarter of 2011</b>	12,730	2,935	1,233	728	0	<b>17,626</b>
<b>Number of fact-to-face address verifications made year-to-date*</b>	4,981	2,274	1,339	226	0	<b>8,820</b>
<b>Average number of attempts before verification is made</b>	1.8	1.7	1.5	1.4	X	<b>1.6</b>
<b>Number of sex offenders registering as homeless</b>	233	389	304	15	X	<b>941</b>
<b>Number of false homeless reporting's</b>	6	85	35	0	X	<b>126</b>
<b>Number registered sex offenders not at reported address</b>	176	52	24	17	X	<b>269</b>
<b>Number of resulting arrests for failure to register</b>	93	44	12	9	X	<b>158</b>
<b>Number of resulting prosecutions for failure to register</b>	99	33	18	20	X	<b>170</b>
<b>Number of arrests on unrelated warrants</b>	377	140	73	12	X	<b>602</b>
<b>Number of arrests on new sex offense charge</b>	18	3	1	0	X	<b>22</b>
<b>Number of DNA samples taken</b>	96	13	5	61	X	<b>175</b>

*\* This number reflects duplicative contacts as required. Level 3's quarterly; Level 2's semi-annually; and Level 1's annually.*

**Registered Sex Offenders  
Address Verification 4th Quarter Grant Reports  
Jan-Feb-Mar 2011**

Number of registered sex offenders reported for the January-February-March 2011 Quarter

	Reported #	Level I	Level II	Level III	Unknown	Kidnap
Adams	48	38	6	4	0	0
Asotin	81	65	12	4	0	0
Benton	478	389	41	31	17	0
Chelan	252	204	32	16	0	0
Clallam	212	145	43	15	9	0
Clark	1,238	879	301	50	8	0
Columbia	21	18	0	3	0	0
*Cowlitz	594	454	99	41	0	0
Douglas	73	51	15	7	0	0
Ferry	35	23	10	2	0	0
Franklin	196	162	19	15	0	0
Garfield County	4	3	1	0	0	0
Grant	282	254	21	7	0	0
Grays Harbor	277	169	67	39	2	0
Island	108	94	9	5	0	0
Jefferson	64	52	10	2	0	0
King	3,574	2461	526	285	302	0
Kitsap	781	593	147	41	0	0
Kittitas	91	75	12	4	0	0
Klickitat	83	51	23	9	0	0
Lewis	450	375	54	21	0	0
Lincoln	21	20	1	0	0	0

Mason	211	138	56	17	0	0
Okanogan	166	104	48	14	0	0
Pacific	85	68	10	7	0	0
Pend Orielle	26	17	8	1	0	0
Pierce	2,443	1776	356	164	147	0
San Juan	32	26	6	0	0	0
Skagit	278	183	71	23	1	0
Skamania	39	24	14	1	0	0
Snohomish	1,553	1083	216	124	130	0
Spokane	1,422	1128	163	131	0	0
Stevens	181	148	27	6	0	0
Thurston	689	336	295	58	0	0
Wahkiakum	10	9	1	0	0	0
Walla Walla	130	95	26	9	0	0
Whatcom	477	299	57	30	91	0
Whitman County	56	46	9	1	0	0
Yakima County	865	675	123	46	21	0
	<b>17,626</b>	<b>12,730</b>	<b>2,935</b>	<b>1,233</b>	<b>728</b>	<b>0</b>

## Appendix D

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**GUIDELINES FOR WASHINGTON STATE LAW ENFORCEMENT**

**ADULT AND JUVENILE SEX OFFENDER REGISTRATION AND  
COMMUNITY NOTIFICATION**



WASHINGTON ASSOCIATION OF  
SHERIFFS AND POLICE CHIEFS

Created: October, 2007

Modified: July 2010

**TABLE OF CONTENTS**

**INTRODUCTION** .....4

**I. LEGISLATIVE INTENT**.....6

**II. SEX OFFENDER REGISTRATION REQUIREMENTS (RCW 9A.44.130)** .....8

- A. Who must register.....8
- B. What must be provided.....8
- C. Sex offenders in custody.....8
- D. Sex offenders in federal custody.....8
- E. Sex offenders on conditional discharge from supervision under the jurisdiction of the Indeterminate Sentence Review Board (ISRB).....8
- F. Sex offenders who are convicted but not confined.....8
- G. Sex offenders found not guilty by reason of insanity .....9
- H. Offenders who are new residents or returning Washington State Residents ...9
- I. Offenders who are moving to a new address.....9
- J. Offenders attending schools below college level.....9
- K. Sex and kidnapping/unlawful imprisonment offenders who enroll in an Institution of Higher Learning .....10
- L. Sex and kidnapping/unlawful imprisonment offenders who gain or terminate employment at a public or private institution of higher education .....10
- M. Sex and kidnapping/unlawful imprisonment offenders who reside outside the state of Washington and work or attend school in the State of Washington .10
- N. Sex and kidnapping/unlawful imprisonment offenders who reside, work or attend school outside the State of Washington .....10
- O. Sex and kidnapping/unlawful imprisonment offenders who lack a fixed residence .....10
- P. Offenders who apply to change their name under RCW 4.24.130 .....10
- Q. On-going registration requirements .....11
- R. Penalties for failure to register.....11
- S. Length of registration.....11
- T. Relieved of the duty to report or register .....12
- U. Juvenile offenders who wish to be relieved of the duty to register.....12
- V. Obligation to comply with registration requirements .....13

**Note:** Children in the care or custody of a registered sex offender .....13

**III. COMMUNITY NOTIFICATION PROCESS** .....14

- A. Best Practices .....14
- B. Notification Procedures .....14
  - **Step I:** Assessing Risk and Notification Level .....14
  - **Step II:** Determining the Scope of Notification.....14
  - **Step III:** Creating Level II and Level III Community Notification Bulletins .....14
  - **Step IV:** Distribution of Community Notification Bulletins.....17
  - **Step V:** Sex Offender Community Notification/Education Forums 21
  - **Step VI:** Follow-up Notification Policies .....25

**IV. RISK ASSESSMENT DETERMINATION AND DEPARTURE NOTIFICATIONS** ..... ..

**V. SEX OFFENDER MONITORING** .....28

**APPENDECIES**

**APPENDIX I. WASHINGTON STATE/NATIONAL RESOURCES** .....30

**APPENDIX II. SAMPLE NOTIFICATION BULLETINS**.....32

**APPENDIX III. SAMPLE COMMUNITY MEETING** .....36

**The purpose of Guidelines for Washington State Law Enforcement Adult and Juvenile Sex Offender Registration and Community Notification is to provide guidance to law enforcement agencies regarding sex offender community notification and education. Recommendations in this document are made by the Washington Association of Sheriffs and Police Chiefs and are intended to assist local agencies in the development of their own operating policies and procedures.**

**These guidelines have been reviewed by a task force comprised of practitioners in the field from a variety of disciplines. They have not been reviewed by any legal authority. Any legal questions an agency may have should be reviewed by a legal advisor.**

## **INTRODUCTION**

In 1990, the Washington State Legislature passed the Community Protection Act, primarily in response to two cases, one involving the kidnapping and murder of a woman by a sex offender on work release and the other involving the sexual assault and mutilation of a young boy. This comprehensive act included the requirement for sex offenders to register a home address with law enforcement, and authorized the release of information to the public through community notification. The Act also allowed for civil commitment of sexually violent predators. The term “sexually violent predator” only applies to a small percentage of sex offenders who meet specific criteria as determined by a court following a period of incarceration. (RCW 71.09)”. Sex offender is the current nomenclature to include all individuals convicted of a sex offense and is the terminology used in this document.

Since its creation the Community Protection Act has been legislatively modified numerous times. The following reflect some of the major modifications:

**1994**—The recommended length of time to notify the public time and geographic area of notification were specified. Registration and notification were upheld by the State Supreme Court.

**1995** – Registration for offenders under federal jurisdiction and for offenders found not guilty by reason of insanity added.

**1997**—A risk level assessment tool was adopted. Registration for Kidnapping and Unlawful Imprisonment added.

**2002**—The Washington Association of Sheriffs and Police Chiefs was tasked with providing a publicly available registered sex offender website.

**2005**—The legislature required notification to school principals of juvenile sex offenders attending their schools, created limited “community protection zones” within 880 feet of a school for certain sex offenders, and established a taskforce to review the efficacy of state policies regarding sex offenders.

**2006**—Registration requirements were expanded to include in-person registration every 90 days for level II and level III offenders (reference RCW 9A.44). Requirements were also expanded to include registration of sex offenders for any prior sex offense conviction coming from outside the state who establish or reestablish Washington residency. Registration for

Possession of Depictions of Minors Engaged in Sexually Explicit Conduct and increased penalties for Failure to Register were added. Criminal Trespass Against Children was created.

**2007**—Various crimes related to patronizing a juvenile prostitute were renamed commercial sexual abuse of a minor and some additional sentencing enhancements enacted.

**2008**—Sex offenders required to register on or after July 2008 must have a biological sample collected for inclusion in the DNA identification system. The crime of failure to register was increased from a class C felony to a class B felony.

**2010**- Changes in various provisions of registration statutes including changes to timeframes for a sex or kidnapping offender to report/register; criteria for determining relief of registration; failure to register penalties; definition of “disqualifying offense”; addressing *Werenth* and out of state convictions; and outlining sheriff duties and ending registration by operation of law.

## I. LEGISLATIVE INTENT

**This section provides historical background for the Community Protection Act and subsequent revisions.**

“The legislature finds that sex offenders often pose a high risk of re-offense, and that law enforcement’s efforts to protect their communities, conduct investigations, and quickly apprehend offenders who commit sex offenses, are impaired by the lack of information available to the law enforcement agency’s jurisdiction. Therefore, this state’s policy is to assist local law enforcement agencies’ efforts to protect their communities by regulating sex offenders by requiring sex offenders to register with local law enforcement agencies as provided in RCW 9A.44.130.” [1990 Wash. Laws c 3 § 401.]

"The legislature finds that sex offenders pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is a paramount governmental interest. The legislature further finds that the penal and mental health components of our justice system are largely hidden from public view and that lack of information from either may result in failure of both systems to meet this paramount concern of public safety. Overly restrictive confidentiality and liability laws governing the release of information about sexual predators have reduced willingness to release information that could be appropriately released under the public disclosure laws, and have increased risks to public safety. Persons found to have committed a sex offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of information about sexual predators to public agencies and under limited circumstances, the general public, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals. Therefore, this state's policy as expressed in RCW 4.24.550 is to require the exchange of relevant information about sexual predators among public agencies and officials and to authorize the release of necessary and relevant information about sexual predators to members of the general public." [1990 Wash. Laws 3 § 116.]

“The legislature finds that members of the public may be alarmed when law enforcement officers notify them that a sex offender who is about to be released from custody will live in or near their

neighborhood. The legislature also finds that if the public is provided adequate notice and information, the community can develop constructive plans to prepare themselves and their children for the offender's release. A sufficient time period allows communities to meet with law enforcement to discuss and prepare for the release, to establish block watches, to obtain information about the rights and responsibilities of the community and the offender, and to provide education and counseling to their children. Therefore, the legislature intends that when law enforcement officials decide to notify the public about a sex offender's pending release that notice be given at least fourteen days before the offender's release whenever possible." [1994 Wash. Laws c 129 §1]

"The legislature finds that offenders who commit kidnapping offenses against minor children pose a substantial threat to the well-being of our communities. Child victims are especially vulnerable and unable to protect themselves. The legislature further finds that requiring sex offenders to register has assisted law enforcement agencies in protecting their communities. Similar registration requirements for offenders who have kidnapped or unlawfully imprisoned a child would also assist law enforcement agencies in protecting the children in their communities from further victimization." [1997 Wash. Laws c 113 § 1]

"It is the intent of this act to revise the law on registration of sex and kidnapping offenders in response to the case of State v. Pickett, Docket number 41562-0-1. The legislature intends that all sex and kidnapping offenders whose history requires them to register shall do so regardless of whether the person has a fixed residence. The lack of a residential address is not to be construed to preclude registration as a sex or kidnapping offender. The legislature intends that persons who lack a residential address shall have an affirmative duty to report to the appropriate county sheriff, based on the level of risk of offending." [1999 Wash. Laws sp.s.c. 6 § 1]

## II. SEX OFFENDER REGISTRATION REQUIREMENTS (RCW 9A.44.130)

Since the inception of registration requirements in Washington State, many revisions have been made to strengthen the law. Future revisions can be expected. **VERIFY ALL INFORMATION IN THIS SECTION BY GOING DIRECTLY TO THE RCW AT <http://apps.leg.wa.gov/rcw> or [www.access.wa.gov](http://www.access.wa.gov).**

- A. Who must register:** Any adult or juvenile residing, attending school, working or otherwise specified in RCW 9A.44.130 in the State of Washington, whether or not they have a fixed address, who has been found to have committed or been convicted of, or found not guilty by reason of insanity under chapter 10.77 RCW of, any sex offense or kidnapping offense.
- B. What must be provided:** Offenders required to register must appear in person at the sheriff's office in their county of residence and provide: name, complete residential address or where she or she plans to stay, date and place of birth, place of employment, crime for which convicted, date and place of conviction, aliases, and social security number. Offenders who lack a fixed residence must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The county sheriff will photograph and fingerprint all registered sex offenders. All identifying information is forwarded to the Washington State Patrol for inclusion in a central registry.

For each of the following "business day" is defined as Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

- C. Sex offenders in custody:** Offenders who committed a sex offense on, before or after February 28, 1990, and are in custody on or after July 28, 1991 for that offense must register at the time of their release with an official designated by the incarcerating agency and within three (3) business days from the time of release with the county sheriff in the county of their residence or if the person is not a resident of Washington, the county of that person's school or place of employment.

**Sex offenders not in custody but under state or local jurisdiction:** Offenders who under the jurisdiction of the indeterminate sentence review board or under active supervision by the Department of Corrections, the Department of Social and Health Services or a local division of youth services must register within ten days of July 28, 1991. A change in supervision status of a sex offender in this subsection shall not relieve the offender of the duty to register or to reregister following a change in residence.

- D. Sex offenders under federal jurisdiction:** Offenders who were in federal custody on or after July 23, 1995, on a sex offense committed before, on, or after February 28, 1990 must register within three (3) business days from the time of release with the county sheriff in the county of their residence, or if not a resident of Washington, the county of the person's school or place of employment.
- E. Sex offenders who are convicted but not confined:** Offenders who were convicted of a sex offense committed on or after February 28, 1990, but who were not sentenced to serve a term of confinement immediately following sentencing, must report to the county sheriff to register within three (3) business days of being sentenced.
- F. Offenders who are new residents or returning Washington State residents:** Sex offenders or kidnapping offenders who move to Washington State from another state or a foreign country, must register within 3 business days of establishing residence or re-

establishing residence if a former Washington State resident. The duty to register under this requirement applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington State law for offenses committed before, on or after February 28, 1990. These out-of-state offenders are defined as sex offenders and it includes any federal or out-of-state conviction for an offense for which the person would be required to register as a sex offender while residing in the state of conviction; or if not required to register in the state of conviction, an offense that under the laws of Washington would be classified as a sex offense requiring registration. However, if a court in the person's state of conviction has made an individualized determination that the person should not be required to register that person is not required to register in Washington. (*Werenth fix*).

- G. Sex offenders found not guilty by Reason of Insanity:** Offenders who were found not guilty of a sex offense by reason of insanity and were still in the custody of the Washington State Department of Social and Health Services on or after July 23, 1995, as a result of that finding, must register within three (3) days from the time of release or receiving notice of registration requirements with the county sheriff in the county of their residence.
- H. Offenders who lack a fixed residence:** Offenders who meet the qualifications for registration and lack a fixed residence, must register where they plan to stay with the sheriff in the county of their occupancy within three (3) business days of release or moving to a new county or within three (3) business days after ceasing to have a fixed residence. If offenders enter a different county and stay there for more than 24 hours, they must register in that county. They must also report in person to the sheriff of the county where they are registered on a weekly basis. The weekly report will be on a day specified by the county sheriff's office, and shall occur during normal business hours. The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The lack of a fixed address is a factor that may be considered in determining the sex offender risk level. The lack of a fixed address also makes an offender subject to disclosure to the public at large.
- I. Offenders who are moving to a new address:** Sex offenders who move to a new address within the same county, must provide, by certified mail with return receipt requested or provide in person a signed written notice of the change of address to the county sheriff within three (3) business days of moving. If they move to a new county, must register with that county sheriff within three (3) business days of moving. Registered offenders must also provide by certified mail with return receipt requested, or in person, written notice within three (3) days of the change of address in the new county to the county sheriff with whom they last registered. If they move out of Washington State, they must also send written notice within three (3) days of moving to the new state or foreign country to the county sheriff with whom they last registered.
- J. Offenders attending schools below college level:** Offenders who must register and are attending or planning to attend public or private schools regulated under title 28A RCW or Chapter 72.40 RCW must register within three (3) days prior to arriving at the school to attend classes, with the county sheriff. Any offender required to register who was enrolled on September 1, 2006, must notify the county sheriff immediately. The sheriff must promptly notify the school principal of any registered sex offenders attending the school.
- K. Offenders who enroll in an Institution of Higher Learning:** Offenders who must register and are admitted to a public or private institution of higher education, must notify the

sheriff in the county of their residence of their intent to attend the institution, within three (3) days prior to arriving to attend classes. Any offender required to register who was enrolled on September 1, 2006, must notify the county sheriff immediately.

- L. Offenders who gain or terminate employment at a public or private Institution of Higher Education:** Offenders who must register and are employed or gain employment at a public or private institution of higher education, shall notify the sheriff in the county of their residence immediately if currently employed, or within three (3) days prior to accepting employment. If an offender does not reside in Washington, then he/she is to notify the sheriff of the county where the institution is located. When no longer employed by a public or private institution of higher education, the offender shall within three (3) working days of termination, notify the sheriff of the county of residence or the sheriff of the county where the institution is located of his/her termination at that institution.
- M. Offenders who reside outside the State of Washington and work or attend school in the State of Washington:** Offenders who meet the qualifications for registration and either work or attend school in Washington State, must register with the county sheriff in the county in which they work or attend school regardless of the state of residence.
- N. Offenders who reside, work or attend school outside the State of Washington:** Offenders who must comply with the registration requirements of the state or jurisdiction in which they reside, work or attend school. If their residence, employment and/or school are in different states or jurisdictions, they must register with all states or jurisdictions.
- O. Offenders who apply to change their name under RCW 4.24.130:** Offenders who must meet the requirements of registration and who apply to change their name under RCW 4.24.130 or any other law, must submit a copy of the application to the sheriff's office, of the county of their residence, and to the Washington State Patrol no fewer than five (5) days before the entry of the order granting the name change. If they receive an order changing their name, they must submit a copy of the order to the county sheriff of the county of their residence and to the Washington State Patrol within three (3) days of the entry of the order.
- P. Penalties for failure to register:** If offenders who must register knowingly fail to register, if they move without notifying the county sheriff, or if they change their name without notifying the county sheriff and the Washington State Patrol, they are guilty of a Class C felony if the crime for which they were convicted was a felony; or a federal, military, foreign country, or out-of-state conviction for an offense that would be a felony in Washington State. A third conviction for FTR is a Class B felony. Additionally, a first conviction for FTR receives 12 months community custody while a second and subsequent get 36 months. (Note: because of a drafting error in 2010 legislation, out of state convictions for FTR do not count when determining increased penalties for FTR). If the crime was other than a felony, etc., failure to register or to notify the county sheriff of a move or name change is a gross misdemeanor. Additionally, gross misdemeanor FTR and first felony conviction of FTR are NOT a sex offenses requiring independent registration requirement.
- Q. Length of registration:** How long registered offenders must continue to register depends upon the offense for which they were convicted and is detailed in RCW 9A.44.140. Below is a summary of that RCW. VERIFY all information in the full document.

- (a) If an offender has been determined to be a **sexually violent predator** as defined in RCW 71.09.020, or have been convicted of a sex offense or kidnapping offense that is a Class A felony, which was committed with forcible compulsion on or after 6/8/00, they may not be relieved of the duty to register.

After March 2002 additional categories were added to the list of those sex and kidnapping offenses that must register for life. RCW 9A.44.140

- (b) If the offense was a **Class A felony**, (or an offense listed in RCW 9A.44.140, Subsection 5), or if the offender was convicted of any sex offense or kidnapping offense and have one or more prior convictions for a sex offense or kidnapping offense, offenders may only be relieved of the duty to register if they have spent ten consecutive years in the community without being convicted of disqualifying offense and if the petitioner shows by clear and convincing evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders To be relieved of the duty to register, offenders must petition the superior court of the county in which they were convicted (or, in the case of foreign, federal, military, or out-of-state convictions, Thurston County Superior Court).
- (c) If the offense was a **Class B felony**, (and the current offense is not listed in RCW 9A.44.140, Subsection 5), and the offender does not have one or more prior convictions for a sex offense or kidnapping offense, they may only be relieved of the duty to register fifteen years after the date of release from confinement, if they have spent fifteen consecutive years in the community without being convicted of A disqualifying offense. This action may be initiated by offender request or by the sheriff's office.
- (d) If the offense was a **Class C felony**, (and the current offense is not listed in RCW 9A.11.140, Subsection 5), a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a Class C felony, and the offender does have one or more prior convictions for a sex offense or kidnapping offense, they may be relieved of the duty to register ten years after their last release from confinement if they have spent ten consecutive years in the community without being convicted of a disqualifying offense. This action may be initiated by offender request or by the sheriff's office.
- (e) For **foreign country, federal, military, or out-of-state offenses** For a person required to register for a federal or out-of-state conviction, the duty to register shall continue indefinitely. An offender may petition the court to be relieved of registration if they have been in the community for 15 consecutive years without being convicted of a disqualifying offense.

Relief of registration: The criteria for a judge to use in making this determination are included in the statute.

Disqualifying offenses are: a conviction for: Any offense that is a felony; a sex offense as defined in this section; a crime against children or persons as defined in RCW 43.43.830(5) and 9.94A.411(2)(a); an offense with a domestic violence designation as provided in RCW 10.99.020; permitting the commercial sexual abuse of a minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88 RCW.

**Relief of registration by operation of law as determined by law enforcement:**

Upon request of a registered sex offender or kidnapping offender the county sheriff shall investigate whether the person duty to register has ended by operation of law pursuant to RCW 9A.44.140. The sheriff shall use available records to verify the offender has spent the requisite time in the community and has not been convicted of a disqualifying offense. IF the sheriff determines the person duty to register has ended they shall request the WSP to remove the name from the registry. A sheriff may also conduct such an investigation upon her or his own initiative. Immunity is provided for requesting removal or failure to remove or request removal.

**R. Juvenile offenders who wish to be relieved of the duty to register:** Juvenile offenders may petition the superior court to be relieved of that duty. .

In order to be relieved, the court must find the following:

1. at least twenty-four (24) months have passed since the adjudication for a sex/kidnapping offense;
2. the petitioner has not been adjudicated of any additional sex offenses or kidnapping offenses and there are no convictions for failure to register during the twenty-four months prior to filing the petition and;
3. If the offense was committed when the petitioner was 15 years of age or older, the petitioner must show clear and convincing evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

If the offense was committed when the petitioner was under 15 years of age the petitioner must show by a preponderance of the evidence the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders

“Sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders” is determined by listed factors provided in statute as guidance to assist the court in making the termination, “to the extent the factors are applicable considering the age and circumstances of the petitioner.” These include general criminal history, number of victims, input from CCOs, law enforcement or treatment providers; participation in sex offender treatment and others.

This does not apply to juveniles convicted as adults of a sex or kidnapping offense.

**S. Obligation to comply with registration requirements:** Clarification or amendment of RCW 9A.44.130 does not relieve sex offenders of the obligation to comply with the registration requirements as the statute existed before July 28, 1991. It is a criminal offense to fail to register or fail to notify the sheriff of a change of address unless relieved of the registration requirement.

**Note: Children in the care or custody of a registered sex offender:** Under RCW 9A.42.110, it is a misdemeanor offense to knowingly leave a child who is under the age of 18 in the care or custody of a person who must register as a sex offender due to committing a sex offense against a child, unless there exists written documents from a court of law, allowing the offender to have unsupervised contact with children, and/or a family reunification plan approved by the court, the Department of Corrections, or the Department of Social and Health Services.

### III. COMMUNITY NOTIFICATION PROCESS

**As directed by Washington State law, RCW 4.24.550 and 9A.44.130, and in accordance with federal law, Washington State registers convicted sex offenders and provides notification to communities.**

#### **A. Best Practices:**

While there are many methods of community notification there is little empirical data as to what methods are most effective in increasing community safety and reducing recidivism. The four most common methods, also used in Washington State, are: (1) media releases; (2) community education/notification forums; (3) offender specific flyers using either door-to-door distribution or defined area mailings; and (4) public website/registration lists/internet access.

Each method has benefits and drawbacks and meets different community needs. Notification methods that connect directly with a community seem to be more effective. It is recommended that more than one method be used for each offender.

**Whatever methods are used, care needs to be taken to ensure the accuracy of the factual information being presented in order to reduce the threat of harassment of offenders and to protect the confidentiality of victims.**

Law Enforcement must “make a good-faith effort to notify the public and residents at least fourteen days before the offender is released from confinement or when an offender moves from another jurisdiction as soon as possible after the agency learns of the offender’s move.” RCW 4.24.550(6)

For **level I offenders** law enforcement agencies shall share information with other appropriate law enforcement agencies. If the level I offender is a juvenile, the information shall be shared with the principal of the public or private school he or she will be attending. Upon request, the agency may disclose relevant, necessary and accurate information to any victim or witness and to any community member who lives near the residence where the offender resides, expects to reside, or is regularly found. RCW 4.24.550(3). Effective July 1, 2008, Level I registered sex offenders will be added to the State Sex Offender Website during the time they are transient or out of compliance with registration requirements under RCW 9A.44.130.

For **level II offenders**, in addition to what is stated for level I offenders, law enforcement agencies may distribute information to those schools, child care and adult care facilities, libraries, and businesses and organizations serving children, women and vulnerable adults in the area where the registered offender resides, is expected to reside or is regularly found. (RCW 4.24.550(3). The most common method for notification of level II offenders is through notification flyers.

For **level III offenders**, in addition to what is stated for level II offenders, law enforcement agencies may disclose information to the public at large. RCW 4.24.550(3) The county sheriff is to publish by legal notice, advertising, or news release a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501 in at least one legal newspaper with a general circulation in the area of the sex offender’s registered address or location. Law enforcement agencies are expected to distribute offender notification flyers to the general public and are encouraged to host, minimally, periodic community forums for expanded sex offender management information and public safety education. **The county sheriff shall also cause to be**

published twice yearly a current list of level III registered sex offenders. This list shall be maintained by the county sheriff on a publicly accessible web site and updated at least once a month, unless the information is posted on the Washington Association of Sheriffs and Police Chiefs website. RCW 4.24.550(4)

## B. Notification Procedures

### STEP 1—Assessing risk and notification level

- 1) Review the risk level assessment documents on an individual sex offender received from the Department of Corrections or the Department of Social and Health Services on behalf of the End of Sentence Review Committee.
- 2) Assign the risk level provided by the End of Sentence Review Committee. If a different level is assigned, complete the required law enforcement Departure Notice.
- 3) For sex offenders not released from the Department of Corrections or the Department of Social and Health Service, law enforcement must complete the risk assessment tool. This might include SSOSA, out of state offenders, and offenders sentence to jail time. (see risk assessment tool, Appendix IV)

### STEP 2 - Determining the scope of notification

- 1) Determine the “scope of the danger” this offender poses to your community. This determination is based on the offender level, age of victim, primary areas where the offender might be found, and other potential risk factors.
- 2) Determine the geographic “scope of dissemination”. This is a local determination of the primary area to receive notification. The review should identify schools, child care centers, vulnerable adult care centers, libraries, and other places that attract or cater to children that are in the neighborhood of the offender’s residence, the area around the employment site and other sites the offender might be found.

### STEP 3—Creating Level II and Level III Community Notification Bulletins

State bulletins and/or correspondence issued to law enforcement by the Department of Corrections, Juvenile Rehabilitation Authority, or the Department of Social and Health Services is for law enforcement use only and **are not to be posted in the community or distributed to the public**. Some of the information may be used in drafting your own sex offender information bulletin. **They may not be used in place of your own local bulletin.**

An offender notification flyers and postcards generally contains offender specific information including the offender’s photo and approximate residence address. It may also contain general information, past crimes, modus operandi, conditions, and restrictions. The flyer should contain community resource information and contact phone numbers. It may be distributed as the only source of notification or may be distributed at community meetings. It is not appropriate to release this type of flyer to school districts for student distribution to parents.

Sex offender community notification bulletins including flyers and postcards should be created using the same format for every bulletin. This helps the public distinguish between “sex offender information bulletins” and the “wanted” bulletins your department may release. It is recommended that agencies use Offender Watch to create these bulletins to ensure consistency. (see example Appendix II)

Flyers should contain the following information in the title section:

- Your department logo
- “Sex Offender Notification Bulletin”
- Risk classification level
- Your unit name
- The author’s rank and name
- The date

The caveat section is required and should include the following items:

1. Authority for releasing the information
2. The assigned risk level reflects a potential to re-offend
3. The subject of the bulletin is not wanted by the police
4. Your agency has no authority to direct where an offender may live
5. A phone number to call with questions

The main body of your bulletin should contain the registration photograph, or the most recent available photo, and the offender’s identifying information including: scars, marks, tattoos, and whether or not they wear corrective lenses.

Write a fair, accurate, non-inflammatory narrative addressing “What is relevant and necessary information for the protection of the public?” Items to include:

6. Name, can add aliases
7. All sex offense convictions; may include other convictions
8. Date of birth
9. Identifying information, such as height, hair color, race, gender
10. Age range of target victim(s)
11. Whether the victim was related or a stranger (DO NOT IDENTIFY THE VICTIM)
12. Modus operandi (summary information is sufficient, descriptive detail should be limited)
13. Whether they participated in sex offender treatment and the results (give credit for accomplishments as well as negative)
14. Conditions of release
15. The hundred block of the residence

**Note:** It is important to avoid further harm to victims that may result from the inadvertent identification of the victim in the community notification process. Since victims are often members of the offender’s family, it is advisable, when describing the offender’s criminal behavior in any level II or III community notification document, to refrain from stating the specific relationship between the offender and the victim. Instead a more general descriptor, such as “relative,” together with relevant victim gender and age range information should be used.

#### **STEP 4—Distribution of Community Notification Bulletins**

The focus of community notification must rationally relate to the goals of enhanced public safety and the effective operation of government. Evaluating what is relevant and necessary information for community notification should include the level of risk of the offender; the location where the offender resides, expects to reside, or is regularly found; and the needs of affected community members to enhance their individual and collective safety. RCW 4.24.550(2).

“Accordingly, the geographic scope of dissemination must rationally relate to the threat posed by the registered offender. Depending on the particular methods of an offender, an agency might decide to limit disclosure only to the surrounding neighborhood, or to schools and day care

centers, or, in cases of immediate or imminent risk or harm, the public at large. **The scope of disclosure must relate to the scope of the danger.**” State v. Ward 123 Wn2d at 503-504 (Washington State Supreme Court – 1994)

**(a) Persons to be notified within a geographical area**

1. **Level I sex offender:** Agencies must notify school principals if the offender is, or will be, attending their school; they are required to share information with other appropriate law enforcement agencies; they may disclose information upon request to any victim or witness to the offense and any individual community member who lives near the offender’s residence or where the offender expects to reside or is regularly found. RCW 9A. 44.130, RCW 4.24.550(3)
2. **Level II sex offender:** follow level I guidelines PLUS the agency is authorized to release relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, libraries, businesses and organizations that serve primarily children, women or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside or is regularly found. RCW 4.24.550(3)
3. **Level III sex offender:** follow level II notification guidelines PLUS the agency is authorized to release relevant, necessary, and accurate information to the public at large including publishing in at least one legal newspaper with general circulation in the area of the sex offender’s registered address or location; publishing a current list twice a year; and posting on the statewide website or a local website updated monthly. RCW 4.24.550(4)
4. **Homeless and transient offenders:** because more localized notification is not feasible and homeless and transient offenders may present unique risks to the community, the agency may also disclose relevant, necessary, and accurate information to the public at large for offenders registered as homeless or transient. RCW 4.24.550(4)

**(b) Public and Private Schools**

- **Sex offenders residing in school district boundaries:** Law enforcement and school principals should develop working relationships to deal with notifications and sex offenders. They should establish written protocols to ensure school and community safety. These protocols should include:
  - Understanding that community notification is the responsibility of law enforcement.
  - Distribution of community notification bulletins within their respective schools when a registered level II or level III sex offender moves into an area near a school. The policy should avoid sending community notification bulletins on adult and juvenile registered sex offenders to parents through their elementary school age children.
  - Distribution of community notification to the community when the registered sex offender is a student at a school that ensures school and community safety while respecting the privacy and educational rights of juvenile offenders.

- Procedures to provide information to organizations that may use school space after school hours.
  - Protocols that discourage secondary dissemination of notifications, i.e. teachers sharing the information in classrooms.
  - Information directing parents requesting copies of community notification bulletins to contact local law enforcement and/or check the Washington Sex Offender website.
- **Juvenile sex offender attending school: Law enforcement is required to promptly** notify school principals when a student required to register as a level I, II or III sex offender is enrolling in or is attending their school. The information given to principals must include: name, complete residence address, date and place of birth, place of employment, crime for which convicted, date and place of conviction, aliases used, social security number, photograph and fingerprints. If the person does not have a fixed residence, the information must include where the offender plans to stay. RCW 9A.44.130  
The principal will then disclose the information received from the sheriff under the guidelines established by the Superintendent of Public Instruction.

Students who are registered sex offenders are required by law to notify law enforcement within three (3) business days prior to arriving at the school to attend classes. Students who meet the registration requirements who are already attending school must notify law enforcement immediately. Juvenile sex offenders may **NOT** attend a public or private school attended by the victim or the victim's siblings. RCW 13.40.160

- (c) **Childcare centers, family child or adult day care providers:** Mail, e-mail, fax or hand deliver bulletins to child care centers and family day care providers that fall within the geographical scope of dissemination. Using the Offender Watch special recipient list to send an e-mail will simplify this requirement. To obtain contact information for licensed child care facilities, contact your local member agency of the Washington State Child Care Resource and Referral Network at 1-800-446-1114 or [www.childcarenet.org](http://www.childcarenet.org). The local R & R program can provide a list of licensed child care facilities based on a specified distance from a given address. The list will include the facility's business name, a contact name, the facility's physical address, a mailing address (if different) and a telephone number.

DSHS licensed adult facilities can be searched by zip code at the following links:

Adult Family Homes – [www.aasa.dshs.wa.gov/lookup/AFHRequestv2.asp](http://www.aasa.dshs.wa.gov/lookup/AFHRequestv2.asp)  
Boarding Homes – [www.aasa.dshs.wa.gov/lookup/BHRequestv2.asp](http://www.aasa.dshs.wa.gov/lookup/BHRequestv2.asp)  
Nursing Homes – [www.aasa.dshs.wa.gov/Professional/NFDir/directory.asp](http://www.aasa.dshs.wa.gov/Professional/NFDir/directory.asp)

Child care and adult care providers are charged with the safety of the children and clients in their care so need to be made aware of potential safety concerns. In addition, they can provide a community notification bulletin to parents or guardians when they arrive to pick up their family member.

- (d) **Public Libraries and businesses and organizations that serve primarily children, women, or vulnerable adults:** Consider the following when determining your geographical scope of dissemination:

- Libraries (for public information, for employees, and for the security of library patrons, including children)
- Churches (for church leaders and decision makers)
- Transit systems (for employees and security)
- Colleges and Universities (for students, staff and security/police)
- Community Sexual Assault Programs (for staff)
- Arcades and amusement parks (for employees and security)
- Shopping malls (for employees and mall security)
- Parks and Recreation (for employees and security)
- Community and neighborhood centers/clubs (for employees and security)
- Fraternal and/or charitable organizations such as Boys and Girls Clubs; scouting groups; children's sport leagues; Special Olympics; YMCA; YWCA
- Homeless shelters; nursing homes; adult family homes
- Any other place where children, women and vulnerable adults might receive services.

When possible, use Offender Watch special recipient lists, e-mail lists and/or broadcast FAX for notifications to care centers, libraries, businesses and organizations for greater efficiency and speed.

- (e) **Neighbors and community groups near the residence where the offender resides, expects to reside or is regularly found:** Community notification forums and/or distribution of notification flyers are the two primary means of notifying community residents. An active block watch or volunteer program through a department will assist in this task. Community notification bulletins and safety literature can be sent directly to block watch captains or police department volunteers to distribute to residents in the identified area. Don't overlook apartment or homeowner associations, especially if there are large apartment complexes or developments in the jurisdiction. In rural jurisdictions, the local Grange may assist in getting the bulletins distributed.
- (f) **Other law enforcement agencies:** Anytime a notification is created automatically send a copy of the bulletin to other law enforcement agencies in the jurisdiction, as well as all law enforcement agencies in neighboring jurisdictions. This can be done through Offender Watch. When the offender moves the sheriff's office of the county of residency enters the information into Offender Watch which then notifies the new county agency.
- (f) **Public at large: In 2001, the legislature directed county sheriffs to publish in a legal newspaper a community notification for each registered offender in the county who is classified as a risk level III offender. The notice must be published as a legal notice, advertisement or news release in a least one legal newspaper with general circulation in the area of the sex offender's registered address or location. RCW 4.24.550(4). The notice must conform to the guidelines established in RCW 4.24.5501.**

Unless the information is posted on the Offender Watch website maintained by the Washington Association of Sheriffs and Police Chiefs, the county sheriff must maintain the list of **level III offenders** on a publicly accessible website. The legislature has expressly authorized the dissemination of sex offender information, via the internet, in the following situations:

1. The county sheriff shall post the list of level III offenders on a publicly accessible website. The list must be updated monthly. This requirement can be met by entering all data into Offender Watch RCW 4.24.550(4).
2. The Washington Association of Sheriffs and Police Chiefs shall create and maintain a registered sex offenders website available to the public. The website shall post all level II and level III and out-of-compliance level I registered sex offenders in the state of Washington. The website shall contain, but not be limited to, the registered sex offender's name, relevant criminal convictions, address by hundred block, physical description, and photograph. The website shall provide mapping capabilities that display the sex offender's address by hundred block on a map. The website shall allow citizens to search for registered sex offenders within the state of Washington by county, city, zip code, last name, type of conviction, and address by hundred block. RCW 4.24.550(5).

### **STEP 5—Sex Offender Community Notification and Education Forums**

One of the most important benefits of community notification is that it provides a vehicle for educating the community regarding sex offenders in general. Through community notification and education meetings, citizens leave knowing that sex offenders come from all walks of life and from all socioeconomic groups. They can be male or female, rich or poor, employed or unemployed, religious or non-religious, or from any race. Protecting children and adults in the community is a much larger task than just knowing the location of registered sex offenders. Community notification/education meetings provide an opportunity for law enforcement and community stakeholders to partner with private citizens to address public safety.

Few would question the need for sex offenders to be held accountable for their actions. Yet while holding them accountable, we must insure that sex offender registration and community notification is not used as additional punishment. It is, and is meant to be, regulatory. Fair, responsible, and non-inflammatory community notification is a reasonable consequence to the acts of the offender. Furthermore, it allows citizens to take prudent and rational steps to protect themselves, their children, and their community from the sex offenders they know about as well as those they do not.

The key component of effective community notification is community education regarding sex offenders. Best practice has been identified as a community notification meeting which meet state and federal community protection laws and focuses on community safety issues and universal precautions AND provides offender specific information. Recognizing that it may not be possible to conduct a meeting every time an offender is released or relocates, law enforcement is strongly encouraged to host meetings on a scheduled basis. If a community notification meeting is not conducted with every offender release or relocation, then copies of offender information flyers identifying those currently residing or frequenting that geographical area should be available at any meetings held.

Community education meetings, which may be separate, provide a forum for law enforcement to: educate the community regarding sex offenders in general; separate fact from myth; emphasize the community's vested interest in the offender's success; create partnerships between law enforcement, Department of Corrections, Department of Social and Health Services, Juvenile Rehabilitation, County Probation, residents, victim advocates, treatment providers, and other stakeholders; make sure the community understands that vigilantism will not be tolerated in any

way, shape, or form; and to help the community understand that sex offenders always have, and always will, live in our neighborhoods.

### **Community Notification Team**

**Community notification of an offender's release or relocation should be based on primary principles: offender containment, community education, empowerment, and involvement.**

The driving assumption of the best practice for community forums is community collaboration. Common stakeholders include law enforcement, the Department of Corrections, Department of Social and Health Services, victim service providers, advocacy groups, and school district personnel. Sex offenders rely on secrecy and manipulative behavior patterns in order to identify and target their victims. By adding other community agencies and organizations a collaborative approach for sex offender management can be developed which contains the offender, reduces secrecy, and protects past and future victims.

The first task in preparing for community notification and education forums should be to develop a working collaborative arrangement with other identified stakeholders who will participate in the community forums. It is recommended that once a Community Notification Team is established the same individuals participate each time allowing the members to develop some experience and comfort in conducting meetings. Prior to any meeting, agreement needs to be made as to roles and responsibilities of all participants. The roles of the various participants might be:

1. County Sheriff and or local law enforcement: Convene or arrange with a designee to convene the meeting. Provide information about the history and social responsibility of sex offender registration and supervision. Provide local contact information for prevention education, victim services, and questions and concerns. Provide information regarding how the offender, or offenders in general, will be managed.
2. Victim Service Providers: Provide safety, prevention, and community empowerment information. Provide referral and resources for more information and support.
3. DOC/DSHS/JRA: Provide specific supervision information regarding the offender(s) who have been released and general information on the role of DOC/DSHS/JRA in supervising offenders in the community, if applicable to the meeting.
4. School Personnel: School personnel may provide specific information regarding the school's response if the offender is or will be attending school.
5. Others: Based on the risks the offender presents you may also want to consider including representatives to provide general information about sex offender treatment, mental health issues, domestic violence, or faith community involvement.

### **Planning a Community Notification Forum**

1. Determine the day and time of the event. It is best to schedule the meeting for a weekday evening avoiding conflicts with community or school events that might draw a large crowd.
2. Arrange for an accessible meeting location and any necessary equipment. . School auditoriums, churches, and community halls work well, as do grange halls in the rural areas.
  - . Offender Watch generated postcards or agency created flyers may be used to inform the public of an upcoming sex offender information meeting. This announcement should not include offender specific information. and should be suitable for distribution to students to take home to parents. The announcement should state that the meeting content is not suitable for children and parents are requested to make child care arrangements
3. Meeting notifications can be done by a targeted mailing, mass geographical mailing, in person neighborhood canvassing, or sent home from school via a parent newsletter get the word out. Send meeting notices to the radio, television and print media in your community.
4. On the day of the meeting arrive early at the facility to check seating and audio visual equipment and set up a resource table. Handouts enable citizens to reference the information you are presenting. They also find the handouts useful when covering key points of information with their children. Whenever possible include information in languages representing the community population.
5. Start and end the meeting on time.

**Conducting a Sex Offender Community Notification Forum Outline**

(a guideline from Center for Sex Offender Management)

- Welcome the attendees, introduce the Community Notification Team members and their roles, and the review the purpose of meeting.
- Inform the audience about Washington State’s sex offender registration and state and federal community notification and protection laws.
- Provide information about the sex offender or offenders who are the subject of this particular community forum. This will usually include the information published in the notification flyer.
- 
- 
- 
- Present information about local supervision and treatment efforts to safely manage registered sex offenders in the area. Consider including statistics and percentages of level II and level III offenders.
- 
- Provide a brief description of specific efforts to safely manage a particular offender emphasizing supervision and special conditions.
- Explain the restriction for juvenile offenders to attend a school where the victim or victim’s siblings are attending, if applicable.
- Explain that stability is a key ingredient to prevent reoffending. Include the consequences of abuse of the law by intimidating, harassing or threatening an offender.

- Acknowledge the audience’s interest in their own safety, the safety of their children, and the safety of their neighborhoods.
- Provide contact information including the local sexual assault program for personal safety and child safety education, , local law enforcement, and the Offender Watch website.

**Example community forum educational materials are found in the WASPC Sex Offender Information and Notification Resource Center Website.**

**Protecting Victim Identification**—It is important to avoid further injury to victims that may result from the inadvertent identification of the victim in the community notification process. Since victims are often members of the offender’s family it is advisable, when describing the offender’s criminal behavior in any level II or III community notification document or forum, to refrain from stating the specific relationship between the offender and the victim. A more general descriptor such as “relative,” together with relevant victim gender and age range information, should be used. Graphic details of the crime should be avoided.

**STEP 6—Follow-up notification policies**

The sheriff must also publish twice yearly a current list of level III offenders. The notice must be published as a legal notice, advertisement or news release in a least one legal newspaper with general circulation in the area of the sex offender’s registered address or location. RCW 4.24.550(4). The notice must conform to the guidelines established in RCW 4.24.5501.

Unless the information is posted on a website maintained by the Washington Association of Sheriffs and Police Chiefs pursuant to RCW 4.24.550(5), the county sheriff must maintain the list of level III offenders on a publicly accessible website. If the list is maintained on a local publicly accessible web site, it must be updated monthly. Updates to the Offender Watch public website are made as information is entered into the data base.

**Additional notifications**—Local law enforcement should take risk factors into consideration when determining if additional notifications beyond the legislated mandate should be made. These might include a registered sex offender becoming transient, a radical change in appearance, a change in the offender’s name, or a change in conditions.

**Real Estate Agent requirements**—Buyer agents are “to advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent’s expertise” RCW 18.86.050.

This has been further clarified in the seller disclosure statement as “Agents are not experts on the locations of sex offenders. Buyer’s Agents are to instruct their client that information regarding sex offenders may be obtained from local law enforcement agencies.”

**NOTE: MAKE SWITCH SECTION 3 AND 4**

#### **IV. RISK ASSESSMENT DETERMINATION AND DEPARTURE NOTIFICATIONS**

To aid law enforcement agencies in making community notification decisions, the statutes require that the End of Sentence Review Committee review sex offenders being released from the Department of Corrections and the Department of Social and Health Services, or those offenders accepted for supervision in Washington State through the Interstate Compact in order to assign a community notification level. RCW 9.95.140; RCW 13.40.217; RCW 72.09.345. The offender is classified as either a level 1 offender at low risk to reoffend within the community at large, a level 2 offender at moderate risk to reoffend within the community at large, or a level 3 offender at high risk to reoffend within the community at large. After reviewing the initial risk level classification, the law enforcement agency may assign its own risk level classification to the offender. RCW 4.24.550(6). The agency then discloses information appropriate to the circumstances of the particular offender. RCW 4.24.550(2)-(6).

**If the agency assigns a different risk level classification than the one from the End of Sentence Review Committee, the agency must complete the Notice of Departure form and send to the Department of Corrections, or the Department of Social and Health Services and submit its reasons supporting the change in classification. Notification of the change must also be sent to the Washington State Patrol and the Washington Association of Sheriffs and Police Chiefs.** The forms may be found in Offender Watch **RCW 43.43.540 and 4.24.550(10).**

Reasons for departure from the End of Sentence Review Committee's risk assessment level may include, but are not limited to:

1. A determination that the assessment tool was not scored correctly.
2. Law enforcement has new information that is not part of the ESRC decision.
3. Circumstances are such that the risk assessment tool cutoff scores do not correspond with community safety issues.

**Subsequent changes in classification**—For any subsequent changes in classification after the initial assessment by the End of Sentence Review Committee, the change of status form should be completed and sent to the Washington State Patrol for inclusion in the sex offender registry.

**Monitoring Departures**—Upon receipt of “departure notification” the Department of Corrections or the Department of Social and Health Services will review the document. If there are any concerns that the departure is arbitrary or capricious, or if there is a pattern in a county of excessive changes in the level classification of offenders over time, the information will be forwarded to the Washington Association of Sheriffs and Police Chiefs (WASPC) for further review. Upon receipt of the information, WASPC will conduct a secondary review of the documentation of supporting reasons. WASPC will then report its findings to the Department of Corrections or the Department of Social and Health Services and the local law enforcement agency.

**Risk Assessment**—Risks assessment tools are determined by the Department of Corrections End of Sentence Review Committee and Department of Social and Health Services. Law Enforcement shall use these same risk assessment tools for those offenders who are not releasing from the Department of Corrections or the Department of Social and Health Services.

**NOTE:** Currently the STATIC 99 is the primary risk assessment tool to be used by law enforcement.. The scoring page and scoring tool are available on the WASPC webpage.

Additional information (coding rules, new coding rule applications, frequently asked questions and risk factors outside of the STATIC 99) is also available on the internet ([www.static99.org](http://www.static99.org)). Similar to the current tool (Washington State Sex Offender Risk Level Classification, revised in 1999), the STATIC 99 may be used for females and juvenile offenders but has not been validated for either population. Law Enforcement should use the Washington State Level Classification tool for juvenile offenders and female offenders until new tools are identified. It is also available on the WASPC webpage.

When a registered sex offender is released into a community by the Department of Corrections, Department of Social and Health Services or when a sex offender moves into your catchments area, law enforcement will:

1. Review the risk level using whichever tool was used by the End of Sentence Review Committee (ESRC) unless the offender was convicted out of state
2. If the STATIC 99 was not used by the ESRC, still use it as an additional assessment of the offender.
3. Review, as desired, offender's risk level for notification based on dynamic factors in addition to the risk assessment instruments. The STATIC 99 only measures static risk factors and local jurisdictions may possess other information on dynamic factors that may appropriately impact a sex offender's risk level. See examples of aggravating and mitigating factors below.
4. Complete a "Departure Notice" and submit it to ESRC via DOC if there is a change in the recommended ESRC risk level.
5. For out of state offenders, their registration requirements will be whatever is required in their state of conviction.

As per notification received from DOC, as of July 1, 2009, the ESRC has made an adjustment of the cut off scores for the STATIC 99 for the use of determining risk level classification. The cut off scores are as follows:

- 0-3 Level 1**
- 4-5 Level 2**
- 6+ Level 3**

The STATIC 99 is an objective risk instrument that is developed from a number of factors related to re-offending; however the instrument is not designed to inform about the offender's risk to the community at large. Therefore, in addition to scoring the STATIC 99, law enforcement officials may elect to consider unique circumstances or unusual characteristic of the offender for the purposes of community notification. The following are examples of aggravating and mitigating factors not otherwise captured in the actuarial risk instrument, which may increase or decrease the risk the offender poses to the community at large:

**Aggravating Factors:**

- Statements of intent/threat to sexually re-offend
- Past interventions and/or treatment have not deterred sexually deviant behavior
- Pattern of behavior that increases risk for sexual re-offense, such as: inability to control impulses; repeated pattern of placing self in high risk situations and/or locations in order to gain access to individuals of similar age/circumstances as prior sex offense victims; deviant sexual preoccupation/acting out during incarceration
- Documented information that increases risk for sexual re-offense
- Relationship with sex offense victim(s) was established or promoted for the primary purpose of victimization
- Offender used a position on community trust (e.g. coach, teacher, group leader, clergy or police officer) to gain access to sex offense victim(s)

Mitigating Factors:

- Familial or know sex offense victim(s)
- Current offense is not sexual in nature
- Previously released or classified as Risk Level I
- 24-hour supervised placement
- Disability or terminal illness that decreases ability to sexually re-offend
- Non-contact sex offense (e.g. possession of pornographic depictions)
- Sexual offending appears opportunistic in nature

In addition, law enforcement agencies may use the WASPC guidelines for sexual offender classification to assist. The guidelines are:

- **Level I**—Low risk to the community
  - Offense is committed in a family setting
  - Overall the offender is a low risk to the general public
  
- **Level II**—Moderate risk to the community
  - Crime occurred outside the family
  - Victim was not a blood relative
  - Offender may or may not have successfully completed a treatment program
  - Commission of multiple offenses
  - Offender poses a risk to the general community who resides in the immediate proximity to the offender
  - Offender has predatory tendencies exhibited by involving themselves into families or communities providing opportunity to groom victims.
  
- **Level III**—High risk to the community
  - Offender exhibits predatory tendencies as defined in RCW 71.09.020
  - Criminal history of repeated sexual offenses/acts may or may not have included violence
  - Offender has not completed a treatment program
  - Criminal acts directed towards strangers and the general public
  - Offender expresses intentions and/or desires to continue committing offenses
  - **Assessed to meet violent sexual predator criteria**
  - Criminal acts directed towards individuals with whom a relationship has been established or promoted for the primary purpose of victimization

## V. SEX OFFENDER MONITORING

County sheriffs refer to the Washington State Patrol's Sex/Kidnapping Offender Registration Guideline Manual. The guideline is available in hard copy from the Washington State Patrol, Identification and Criminal History Section, PO Box 42633, Olympia, WA 98504-2633, (360)-705-5100 or on line through WATCHCJ.

### Reporting Requirements

Law Enforcement shall make reasonable attempts to verify that an offender is living at the registered address including verifying an offender's address through the address verification program grant requirements. If the sheriff or police chief or town marshal does not participate in the grant program, reasonable attempts require a yearly mailing by certified mail with return receipt requested, a nonforwardable verification form to the offender at the offender's last registered address sent by the chief law enforcement officer of the jurisdiction where the offender is registered to live. For offenders who are designated as sexually violent predators, the mailing must be sent every 90 days. (RCW 9A.44.130) Sheriffs and chiefs may enter into agreements to delegate the authority and obligation to fulfill the minimum address verification requirements.

- **Level I offenders with fixed residences.**

Law Enforcement is required by the address verification grant program to conduct a face-to-face address verification once a year for level I registered sex and kidnapping offenders.

**Level II and III offenders with fixed residences:** Law Enforcement is required to conduct face-to-face address verifications for level II offenders twice a year. Law Enforcement is required to conduct face-to-face address verifications for Level III offenders quarterly.

- **Homeless offenders.**
  - All homeless sex offenders, regardless of level, must report in person to the sheriff of the county where he or she is registered. The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request.
  - Must report during business hours on a day set by the sheriff's office
  - Lack of a fixed residence may be a factor considered in determining an offender's risk level and subject to community notification procedures
- **Photos**
  - Photos may be taken at any time to update an offender's file especially when there is a change in address if there has been a substantial change in appearance.

<b>NOTIFICATION CHECKLIST</b>				
<b>Daily as Needed:</b>				
<input type="checkbox"/>	Receive state bulletin from DOC, DSHS, or JRA			
<input type="checkbox"/>	Review offender risk level or complete risk level assessment for those not releasing from DOC or DSHS.			
<input type="checkbox"/>	Assign offender risk level provided or reassign level and complete the required Departure Notice then forward as required			
<input type="checkbox"/>	Determine Scope of Danger (Level I, II, or III)			
<input type="checkbox"/>	Determine scope of dissemination and provide required dissemination:			
<b>Dissemination Required</b>		<b>Level I</b>	<b>Level II</b>	<b>Level III</b>
Other Law Enforcement Agencies		X	X	X
Principals (if there is a juvenile offender in their school)		X	X	X
Sexual and Kidnapping Offender notebook located in agency and available for public review upon request		X	X	X
Victims and witnesses upon request		X	X	X
Individual Community members living near an offenders residence, where the offender expects to reside or is regularly found, upon request		X	X	X
Schools			X	X
Child care centers and family day care providers			X	X
Libraries			X	X
Businesses and organizations serving primarily children, women and/or vulnerable adults			X	X
Neighbors and community groups near the residence where the offender resides expects to reside or is regularly found			X	X
Public at Large				X
<b>Monthly:</b>				
<input type="checkbox"/>	Update Publicly accessible website of level III offenders, if separate from WASPC website			
<b>Every 90-Days:</b>				
<input type="checkbox"/>	Level II and III offenders must check in on-site			
<input type="checkbox"/>	Consider these items in determining the need to distribute another notification bulletin: (a) offender becomes transient; (b) change in address; (c) radical change in offender's appearance; (d) change offender's name; and (e) change in conditions of registration.			
<b>Every 6 Months:</b>				
<input type="checkbox"/>	Sheriff must publish current list of level III offenders			
<b>Yearly:</b>				
<input type="checkbox"/>	Contact, in person or by registered mail, each level I, II, and III offender and offenders not previously designated sexually violent predators under RCW 71.09			

## Appendix I - Washington State Resources

### Offender Information

- Washington Association of Sheriffs and Police Chiefs (WASPC)—Washington State Sex Offender Information Center: [www.waspc.org](http://www.waspc.org) or 360.486.2380
- Washington State Patrol (WSP), Identification and Criminal History Section Sex/Kidnapping Offender Registry: 360-705-5100
- Local Sheriff's Office:
- Links to Washington State Laws regarding registration/notification: [www.access.wa.gov](http://www.access.wa.gov) or <http://apps.leg.wa.gov/rcw/>
  - Public Notifications—RCW 4.24.550
  - Registration of sex offenders and kidnapping offenders—RCW 9A.44.130
  - End of Duty to Register—RCW 9A.44.140
  - Address Verification—RCW 9A.44.135
  - Notice to persons convicted of sex offenses and kidnapping offenses—RCW 72.09.330
  - Registration requirement changes—RCW 9A.44.145
  - Central Registry—Sex offenders and kidnapping offenders—RCW 43.43.540
  - Sex offenders, release of information to protect public, End of Sentence Review Committee, Assessment, Records access, Review, classification, referral of offenders, Issuance of narrative notices—RCW 72.09.345
  - Homeless registered offenders—RCW 9A.44.130
  - Juvenile offender school restrictions—RCW 13.40.160

### State Departments

- Department of Corrections (DOC) [www.doc.wa.gov](http://www.doc.wa.gov)
- Indeterminate Sentencing Review Board (ISRB): [www.srb.wa.gov](http://www.srb.wa.gov)
- Department of Social and Health Services (DSHS): [www.dshs.wa.gov](http://www.dshs.wa.gov)
  - Juvenile Rehabilitation Administration (JRA)
  - Mental Health Division (MHD)—Western and Eastern State Hospitals
  - Special Commitment Center (SCC) for sexual predators
- Dept of Labor and Industries—Crime Victim Compensation Program: [www.crimevictims.LNI.wa.gov](http://www.crimevictims.LNI.wa.gov) or (800) 762-3716
- Office of Superintendent of Public Instruction – Sex Offender Management in Schools: [www.k12.wa.us/safetycenter](http://www.k12.wa.us/safetycenter)

### Victim Services

- Office of Crime Victims Advocacy: [www.cted.wa.gov](http://www.cted.wa.gov) or (800) 822-1067
- Department of Corrections—Victims Services Program: [www.doc.wa.gov/victims](http://www.doc.wa.gov/victims) or (800) 322-2201
- Department of Social and Health Services, Victim/Witness Notification: (800) 422-1536
- Washington Coalition of Sexual Assault Programs: [www.wcsap.org](http://www.wcsap.org)
- Statewide Automated Victim Information and Notification (SAVIN): [www.vinelink.com](http://www.vinelink.com) or (877) 846-3492

### National Resources

- National Sex Offender Public Registry: [www.nsopr.gov](http://www.nsopr.gov)

- National Institute of Justice, Office of Justice Programs: [www.ojp.usdoj.gov/nij](http://www.ojp.usdoj.gov/nij)
- Center for Sex Offender Management: [www.csom.org](http://www.csom.org)
- National Sexual Violence Resource Center: [www.nsvrc.org](http://www.nsvrc.org)
- National Center for Missing and Exploited Children: [www.missingkids.com](http://www.missingkids.com)
- The Jacob Wetterling Foundation: [www.jwf.org](http://www.jwf.org)
- National Center for Victims of Crime: [www.ncvc.org](http://www.ncvc.org)
- National Organization for Victim Assistance: [www.trynova.org](http://www.trynova.org)
- National Center for State Courts: [www.ncsconline.org](http://www.ncsconline.org)
- National Sheriffs' Association: [www.sheriffs.org/home.shtml](http://www.sheriffs.org/home.shtml)
- The Association for the Treatment of Sexual Abusers: [www.atsa.com](http://www.atsa.com)
- National Council of State Legislatures: [www.ncsl.org](http://www.ncsl.org)
- National District Attorneys Association: [www.ndaa.org](http://www.ndaa.org)
- Office for Victims of Crime: [www.ojp.usdog.gov/ovc](http://www.ojp.usdog.gov/ovc)
- Office on Violence Against Women: [www.usdoj.gov/ovw](http://www.usdoj.gov/ovw)
- Mothers Against Drunk Driving (MADD): [www.madd.org](http://www.madd.org)
- International Association of Chiefs of Police, Victim Services Committee: [www.theiacp.org/div\\_sec\\_com/committees/Victim\\_Services.htm](http://www.theiacp.org/div_sec_com/committees/Victim_Services.htm)
- Megan's Law: [www.megans-law.net](http://www.megans-law.net)

Appendix II



**SEX OR KIDNAPPING OFFENDER NOTIFICATION BULLETIN**  
**NOTIFICATION OF RELEASE**

LEVEL 3

**SPECIAL ASSAULT UNIT**  
**SEX AND KIDNAPPING OFFENDER REGISTRATION DETAIL**

**Bulletin # : 02-88**

Census distribution: 76-79, 88	PREPARED BY DET. ROBERT A. SHILLING	DATE:
4/13/2002		

The Seattle Police Department is releasing the following information pursuant to RCW 4.24.550 and the Washington State Supreme Court decision in State v. Ward, which authorizes law enforcement agencies to inform the public of a sex or kidnapping offenders release when; in the discretion of the agency, the release of information will enhance public safety and protection. The individual who appears on this notification has been convicted of a sex or kidnapping offense that requires registration with the sheriff's office in the county of their residence. Further, their previous criminal history places them in a classification level which reflects the potential to re-offend.

This sex or kidnapping offender has served the sentence imposed on him by the courts and has advised the King County Department of Public Safety that he will be living in the location below. **HE IS NOT WANTED BY THE POLICE AT THIS TIME. THIS NOTIFICATION IS NOT INTENDED TO INCREASE FEAR; RATHER, IT IS OUR BELIEF THAT AN INFORMED PUBLIC IS A SAFER PUBLIC.**

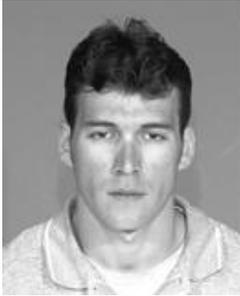
The Seattle Police Department has no legal authority to direct where a sex or kidnapping offender may or may not live. Unless court ordered restrictions exist, this offender is constitutionally free to live wherever he chooses.

Sex and kidnapping offenders have always lived in our communities; but it wasn't until passage of the Community Protection Act of 1990 (which mandates sex and kidnapping offender registration) that law enforcement even knew where they were living. In many cases, law enforcement is now able to share that information with you. Citizen abuse of this information to threaten, intimidate or harass registered sex or kidnapping offenders will not be tolerated. Further, such abuse could potentially end law enforcement's ability to do community notifications. We believe the only person who wins if community notification ends is the sex or kidnapping offender, since they derive their power through secrecy.

*The Seattle Police Department Crime Prevention Division is available to help you set up block watches and to provide you with useful information on personal safety. Crime Prevention may be reached at 684-7555. If you have information regarding current criminal activity of this or any other offender, please call 9-1-1.*

Jerry Ytuarte was released from prison after completing his sentence for Attempted Child Molestation in Yakima County. He attempted to molest a 7-year-old male who was a relative of his fiancé. Ytuarte offered the child candy not to tell anyone. At the time of his conviction, Ytuarte was under investigation for Failure to Register as a Sex Offender. Ytuarte was convicted as a juvenile of three counts of Rape Of A Child 2<sup>nd</sup> Degree, and Child Molestation. He also has convictions for Burglary 2<sup>nd</sup> Degree, Assault Of A Child 3<sup>rd</sup> Degree, and Failure to Register as Sex Offender. Ytuarte grooms his victims by establishing a relationship in which he acts as a big brother, role model, or caregiver. Ytuarte participated in sex offender treatment while in juvenile facilities. He completed the Sex Offender Treatment Program at Twin Rivers Correctional Center while incarcerated.

Ytuarte is no longer under the supervision of the Department of Corrections. He has registered as a sex offender as required by law and is living in the 100 block of 24 Ave. E.



**Ytuarte, Jerry Rodriguez**

**date of birth: 5-30-73**

**Age: 28**

**5' 10", 170 pounds, brown hair, brown eyes**

**5 inch scar on stomach, 2 inch scar left upper arm**

**SEX OFFENDER NOTIFICATION BULLETIN**  
**LEVEL 3 NOTIFICATION**

**DATE: June 17, 2007**

The Snohomish County Sheriff's Office is releasing the following information pursuant to RCW 4.24.550 and the Washington State Supreme Court Decision in **State v. Ward**, which authorizes law enforcement agencies to inform the public of a sex offenders release. When, in the discretion of the agency, the release of information will enhance public safety and protection.

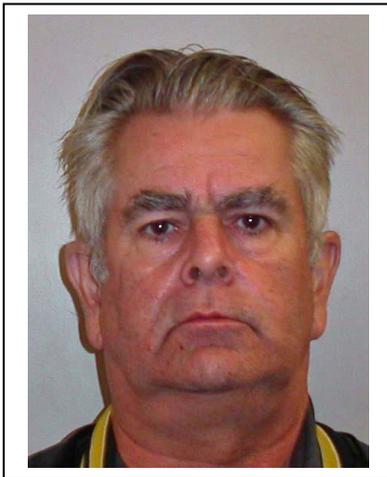
The individual who appears on this notification has been convicted of a sex offense that requires registration with the sheriff's office in the county of their residence. Further, their previous criminal history places them in a classification level, which reflects the potential to reoffend.

The sex offender has served the sentence imposed on him by the courts and has advised the Snohomish County Sheriff's Office that he/she will be living in the below listed location. **HE/SHE IS NOT WANTED BY THE POLICE AT THIS TIME. THIS NOTIFICATION IS NOT INTENDED TO INCREASE FEAR; RATHER, IT IS OUR BELIEF THAT AN INFORMED PUBLIC IS A SAFER PUBLIC.**

The Snohomish County Sheriff's Office has no legal authority to direct where a sex offender may or may not live. Unless court ordered restrictions exist, this offender is constitutionally free to live wherever he/she chooses.

Sex offenders have always lived in our communities; but it was not until passage of the Community Protection Act of 1990 (which mandates sex offender registration) that law enforcement even knew where they were living. In many cases, law enforcement is not able to share that information with you. **Citizen abuse of this information to threaten, intimidate or harass registered sex offenders will not be tolerated.** Further, such abuse could potentially end law enforcement's ability to do community notifications. We believe the only person who wins if community notification ends is the sex offender, since sex offenders derive their power through secrecy.

The Snohomish County Sheriff's Office, Crime Prevention Officers who are located at each precinct are available to help you set up block watches and to provide you with useful information on personal safety.



Last Name: **Barnett**      First Name: **Ronald**    MI:**L**

Sex: **Male**                      Race: **White**

DOB: **02/23/1947**      Ht: **5'7"**              Wt.: **165**

Eye Color:**Brown**                      Hair Color: **Grey**

Hundred Block: **Homeless**

City: **Snohomish County , WA**

According to official documents, Barnett was sentenced on October 7, 1981, to 25 years for the crime of Statutory Rape in the First degree. Barnett sexually assaulted a non-familial 5 year-old female on numerous occasions. The victim in this crime was the daughter of a family that Barnett was temporarily staying with. The sexual assaults took place during the summer of 1980. Barnett resided in this home for approximately two weeks before he started to assault the victim. The sexual offenses involved fondling, digital penetration, and exposing his penis to the victim. While Barnett was in prison, his cell was searched on March 23, 1987, and he was found to have a photo album that contained cut-outs of nude babies and young children. Barnett was paroled to the community on March 11, 1993. He violated his

parole by having continual and on-going contact with minors and by failing to report. He was returned to prison on March 30, 1995, and ordered to complete a new term of 5 years, which would keep him in prison for the maximum of his term. Barnett entered into Sex Offender Treatment in August of 1997 and completed the treatment program in September of 1998.

Mr. Barnett's areas of risk are the following:

- Living with friends or relatives with minor children
- Being alone with children
- Living or visiting with his siblings and having contact with their grandchildren
- Being in locations where children are present
- Being any place where alcohol is served
- Being unemployed
- Being secretive about his activities, behaviors, thoughts and feelings

While in prison besides attending the sex offender treatment program, he obtained his GED. He completed crime related treatment in 1999 and Anger/Stress Management in 1986. Barnett also was a full time student while at Twin Rivers and took Math, History and English. Barnett does not have any conditions and is not under the control or custody of the Department of Corrections. Mr. Barnett is required to register as a sex offender for life.

**Appendix III**

**COMMUNITY MEETING  
HILL TOP ELEMENTARY SCHOOL  
20425 DAMSON ROAD  
LYNNWOOD, WA · GYM**

**MAY 30, 2007**

**7:00 P.M.-8:30 P.M.**

The Snohomish County Sheriff's Office will hold a Community meeting to discuss issues concerning a registered sex offender WHO WILL RESIDE IN THE 700 BLOCK OF LOGAN ROAD, LYNNWOOD, WA.

The goal of law enforcement authorities is to keep the public informed of this issue and answer any questions and concerns, which may be raised. Please share this information with anyone who may be interested in attending this meeting. Parents and all interested citizens who are concerned about this issue and desire more information are encouraged to attend.

The following web sites are listed to provide you with educational materials about sex offenders, how they commit their crimes and ways to keep your family safe:

Snohomish County Sheriff's Office: [www.co.snohomish.wa.us/Departments/Sheriff/Services/Sex\\_Offender](http://www.co.snohomish.wa.us/Departments/Sheriff/Services/Sex_Offender)

National Center for missing & exploited Children: [www.missingkids.org](http://www.missingkids.org)

Washington Collation of Sexual Assault Centers: [www.wcsap.org](http://www.wcsap.org)

Providence Everett Sexual Assault Center: 425-252-4800

Washington State Department of Corrections: [www.doc.wa.gov](http://www.doc.wa.gov)

Juvenile Rehabilitation Administration: [www.dshs.wa.gov/jra](http://www.dshs.wa.gov/jra)

**You may also obtain information on level 2 & 3 offenders at the following locations:**

- North Precinct: 15100 40<sup>th</sup> Ave NE, Marysville, WA
- South Precinct: 15928 Mill Creek Blvd, Mill Creek, WA
- East Precinct: 14000 179<sup>th</sup> Ave SE, Monroe, WA
- Stanwood Police Department, 8727 271<sup>st</sup> St NW Stanwood, WA
- Sheriff's Office, Courthouse: 3000 Rockefeller Ave, 4<sup>th</sup> Floor, Everett, WA

**J.M.BEARD  
DETECTIVE, SCSO  
425-388-3324**

[Joe.Beard@co.snohomish.wa.us](mailto:Joe.Beard@co.snohomish.wa.us)

**D.L. COLEMAN  
DETECTIVE, SCSO  
425-388-3324**

[David.Coleman@co.snohomish.wa.us](mailto:David.Coleman@co.snohomish.wa.us)

**ADA NOTICE:** Snohomish County facilities, programs, and services are accessible to everyone. The county strives to provide access and services to all members of the public. Notification of an ADA accommodation request must be made as soon as possible prior to the event date. Please contact the department ADA at (425) 388-3354(V). TTY users please call the Washington Relay Service at 1-800-833-6388 Bottom of Form.

## Appendix E

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STATE OF WASHINGTON  
**SEX OFFENDER POLICY BOARD**  
PO Box 40927 • Olympia, Washington 98504-0927  
(360) 407-1050 • FAX (360) 407-1043

**SEX OFFENDER POLICY BOARD STATUTORY DUTIES AND DIRECTIVES**  
AS CODIFIED IN RCW 9.94A.8676

**TASKS ACCOMPLISHED AS OF MAY 2011**

The Sex Offender Policy Board's duties are as follows:

1. (a) To Stay Apprised of Research and Best Practice related to:
  - Risk assessment
    - 50 State Survey on Leveling/Risk Assessment; workgroup and Board discussion
  - Treatment
    - 2009 WSU Sex Offender Treatment Provider Survey
  - Supervision
    - Benchmarks Committee: 2009 CSOM Research on Supervision and Reentry
    - Defined "fixed residency" and "lacking a fixed residence". Adopted in SSB 5203 (2011).
  - Community education
    - Developed a section on community education for WASPC Policy (2010)
    - Community Education Workgroup ~ See 2009 and 2010 SOPB Annual Reports
  - Prevention
    - 2010 Reyes Report Recommendations on School Policies and Safety Plans
  - SO Management, generally
    - Research and best practices throughout SOPB reports; benchmarks, etc.
- (b) Conduct Case Reviews
  - Reyes Case Review 2010-11 (numerous recommendations emerged, many reflected in 2011's Substitute Senate Bill 5204)
- (c) Develop and report on benchmarks of SO response system
  - Map of juvenile and adult sex offender management system
  - Dashboard
  - Performance Measures
- (d) Assess and communicate best practices, trends in jurisdictions
  - 2008 Directive (2SHB 2714) for SOPB to review and make recommendations regarding kidnapping offender registration and public notification.
    - Registration and Notification Subcommittee
    - 50 State Survey on Juvenile Registration and Notification laws and policies
    - 50 State Survey on Homelessness
    - 50 State Survey on Leveling of Registered Sex Offenders

- 50 State Survey on Failure to Register Offenses
- 2009 WSIPP Report to SOPB on Registration and Notification Laws and Recidivism.
- Extensive research (see bibliography on above issues)
- 2009 Report to the Legislature
- SSB 6414 (2010 legislation)
- SSB 5203 (2011 legislation)
- SSB 5204 (2011 legislation)

**Governor's Directive on Housing Sex Offenders in the Community**

- Sex Offender in the Community Subcommittee
- 2009 WSU Report on Housing Sex Offenders in the Community: Results of a Literature Search Conducted for the Washington State SOPB
- Everett SOPB Forum: Housing Sex Offenders in the Community
- Yakima SOPB Forum: Stakeholder panel on housing sex offenders in the community

**Senators Hargrove Requests:**

- Analysis and recommendations related to State v. Ramos.
- Reyes Case Review (examine juvenile registration and notification statutes; including school notification; and make recommendations for 2011 session)
- Listing Offender Watch RSO Supervision Requirements
- Homelessness Fix (related to State v. Flowers)

**Other Legislative Requests:**

- On-line Identifiers
- Sexting
- RSO registration fees
- Leveling and risk assessment process in Washington State

(e) Provide a forum for discussion on issues requiring interagency communication, coordination, and collaboration, including:

- i. Community education and information distribution about SO mgt system
  - Stakeholder and Public forums conducted in 2009 (Yakima, Everett, Lakewood)
  - 2009 & 2010 Recommendations on Sheriff Publications of Levels, Public Website Search by Conviction, 14 Day Notification, Defined "in the community".
- ii. Existing community-based prevention
- iii. Registration and monitoring
  - SOPB Annual Report Updates and Recommendations
  - Public forums, Subcommittee meetings open to the public
  - Legislative Request: Reyes Report Findings and Recommendations
  - 2009 Recommendations and 2010 Recommendations on Petition for Relief
  - Sheriff Publication of Levels, Public Website Search by Conviction, 14 Day Notification, Definition of In the Community, Defining Fixed Residence, LE Notification to Schools, Counting Out of State FTR, Offender Watch Data

2. Develop initial work plan/annual performance measures for SOPB

- Initial work plan submitted in 2008, updated in 2009, 2010, & 2011
- Workplans developed for subcommittees

3. Report annually on current research and best practices related to:
  - a. Risk assessment
    - 50 State Survey on Risk Assessment and Leveling
    - WSIPP and other research
    - Reyes recommendations
  - b. Treatment
    - 2009 WSU SOTP Survey
    - Yakima Forum SH Input
    - Reyes committee and recommendations
  - c. Supervision
    - Recommendations in 2009 on Address Verification
    - Recommendations in 2010 on Fixed Address, SSODA and 24/7 Supervision, SO Registration fees
  - d. Community education
    - Foundation writing in 2009 Report
    - Separation of Notification/Education in 2010 Report
    - Updates to WASPC Model Policy
  - e. Prevention
    - Workplan for 2011 includes discussion of prevention through public education to result in recommendations for the 2012 Legislative Session
  - f. SO Management, generally
    - 2010 Recommendations on Juvenile Petition for Relief, Sealing Juvenile Records, On-Line Identifiers, & Sexting
    - 2009 & 2010 Federal Adam Walsh Act Extension Requests
    - 2011 Federal Adam Walsh Act Substantial Compliance Packet
    - Federal SMART Office Adam Walsh Act Compliance Grant Application for Assistance with Gaps between State and Tribal Sex Offender Registration and Notification

## Appendix F

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# JAMESTOWN S'KLALLAM TRIBE

1033 Old Blyn Highway, Sequim, WA 98382

360/683-1109

FAX 360/681-4643

March 31, 2011

Sandy Mullins, Executive Director  
WA State Sentencing Guidelines Commission  
P.O. Box 40927  
Olympia, WA 98504-0927

Re: Grant Funding Request to US DOJ SMART Office for Adam Walsh Act Implementation

Dear Sandy:

The Jamestown S'Klallam Tribe ("Tribe") would like to take this opportunity to indicate our support for the above referenced grant application. The Tribe is very interested in seeing that the State of Washington comes into compliance with the SORNA provisions of the Adam Walsh Act. As you know, the Tribe has accepted jurisdiction under the Act and would prefer to meet its implementation requirements by working with the State and our local Clallam County Sheriff's Office ("CCSO") through an interlocal agreement, which the Act authorizes.

However, we cannot achieve that goal until the State, and by extension, the CCSO, is in compliance. The funds you are requesting in this application will not only benefit the State in its effort to come into compliance but will also benefit those tribes in the State that choose to do as we plan to do and meet the SORNA implementation requirements through a contract with the State.

We wish you every success with your application. If you need any further information from us, feel free to contact me.

Sincerely,

W. Ron Allen  
Tribal Chair/CEO

## Appendix G

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STATE OF WASHINGTON  
**SEX OFFENDER POLICY BOARD**  
*PO BOX 40927, OLYMPIA, WA 98504-0927*  
*(360) 407-1050*

# **JOSE REYES CASE REVIEW**

## **Senate Human Services & Corrections Request**

**SEX OFFENDER POLICY BOARD**  
December 2010



**EXECUTIVE SUMMARY  
AND  
INTRODUCTION**

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On June 30, 2010, Senator Jim Hargrove, chair of the Senate Human Services and Corrections Committee, and Senator Rosemary McAuliffe, chair of the Senate Early Learning & K-12 Education Committee, asked the Sex Offender Policy Board to study existing laws regarding juvenile sex offenders and school notification.

The written request is in response to a May 2010 incident at Seattle's Roosevelt High School in which, according to law enforcement, a girl was sexually assaulted by a classmate who is a registered juvenile sex offender. Sen. Hargrove, D-Hoquiam, and Sen. McAuliffe, D-Bothell, are requesting:

- a review of the case to understand the performance of Washington's sex offender prevention and response system;
- a review of Washington's policies related to juvenile sex offenders and school notification; and
- recommendations for consideration during the 2011 legislative session.

In response to this request, the Board established a Reyes Case review committee, inviting a number of representatives from involved agencies, such as King County probation, the Office of Superintendent and Public Instruction (OSPI), Seattle School District and the King County Prosecutor's Office. This larger group met three times, sharing numerous documents and identifying a number of issues. Due to the level of public and media interest in this case, the Board decided to air two of these meetings on TVW.

Following the meetings of the larger group, the SOPB Reyes Case review committee met two additional times to consider all the information presented, analyze system processes and relevant statutes, and consider all the issues raised and observations made to develop specific recommendations. The Full Board then met twice to review and finalize the Committee's recommendations. The following report reflects this process and provides the background and basis for the recommendations. While this report focuses on the specific law enforcement and school notification requirements as it relates to students adjudicated or convicted of a sex offense, it is important recognize that Washington State's constitution places a premium on providing all students access to public education, including students from special populations.<sup>1</sup>

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<sup>1</sup> Pursuant to RCW 28A.150.200, also referred to as the Basic Education Act, Washington State must provide children access to public schools without distinction or preference based on their status. The requirements of the Basic Education Act are deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that "It is the paramount duty of the state to make ample provision for the

## **2006 Legislative Action Re: Juveniles Convicted of Sex Offenses Who Attend School in the Community**

In 2006, the State Legislature addressed the importance of balancing the successful reintegration of juvenile sex/kidnapping offenders back to public schools with the safety of all students and staff in the schools. In furtherance of this, it enacted ESSB 6580 requiring the OSPI to convene a workgroup to draft a model policy for school principals to follow when they receive notification from law enforcement that a registered sex/kidnapping offender is attending or is expecting to attend the school<sup>2</sup>.

OSPI's 6580 Workgroup was comprised of a multidisciplinary group of experts and stakeholders from education practitioners, law enforcement, corrections, juvenile justice, sex offender specialists, and both child and victim advocacy groups. (See 2006 OSPI Report to the Legislature on ESSB 6580.)

The Workgroup outlined their findings regarding juveniles who commit sex offenses and the related safety concerns. In particular, they found a critical need for training and guidance for administrators, teachers, and school staff to help them manage the unique requirements of these youth while ensuring the safety of other students. (See Executive Summary of 2006 OSPI Report) In addition to the development of the model policy, the Workgroup identified key recommendations for the legislature. (See 2006 Executive Summary of OSPI Report.)

While the model policy was created in response to a legislative requirement, it was not mandated that school districts or individual schools adopt the model policy or develop their own policies and procedures regarding youths who sexually offend, nor were they required to create and implement safety plans for these students. Further complicating matters, Washington State's school system operates on a local level; with school districts and to some degree, individual schools, operating autonomously. Consequently, while some schools and school districts have developed policies and safety plans, there is no uniform system ensuring that all schools have some type of operating policy and procedures regarding students who have sexually offended.

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education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex," and are adopted pursuant to Article IX, section 2 of the state Constitution, which states that "The legislature shall provide for a general and uniform system of public schools." RCW 28A.150.200. It is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than twenty-one years residing in that school district. See RCW 28A.225.160. Juveniles convicted of a sex offense cannot be denied enrollment to a public school within their district based on conviction status alone. However, a convicted juvenile sex offender is prohibited from attending a public or private school of a victim or sibling of a victim of the sex offender. See RCW 13.40.215(5)

<sup>2</sup> See RCW 9A.44.130 for additional information on the duty of law enforcement to notify school principals when a student is attending or expected to attend a particular school.

### **SSODA and School Notification: Jose Reyes Case**

The intent behind SSODAs, like other alternative dispositions available to juvenile offenders, is that the juvenile system responds to the needs of youthful offenders and their victims. It is the further intent of the legislature that youth, in turn, be held accountable for their offenses and that communities, families, and the juvenile court carry out their functions consistent with this intent. See RCW 13.40.010(2).

In July 2007, Mr. Reyes was originally charged with one count of attempted child molestation in the first degree and three separate counts of luring. Mr. Reyes complied with all pre-disposition release conditions. His pre-release status lasted 10 months. He had no prior criminal history and a very strong family support system.

During these 10 months, the parties involved in this juvenile's case carefully deliberated about an appropriate outcome that would hold the juvenile accountable, protect the victim and assist in the rehabilitation of the juvenile offender with the support of his family, community, court and probation. It was clear to the Reyes Review Committee that the King County Prosecuting Attorney's Office took this case with the utmost seriousness. This is a highly-skilled office with a juvenile special sexual assault division that specializes in these cases.

Once Mr. Reyes was granted a SSODA, law enforcement was statutorily required to notify the school's principal or institution's department of public safety. See RCW 9A.44.130(1)(c). The school principal received notification of Mr. Reyes and his charge. After this notification was completed, Mr. Reyes continued attending Roosevelt High school, complying with his probationary requirements, including participating in sex offender deviancy treatment and his other court-mandated SSODA conditions.

In November 2009, Jose moved from Seattle to Kent. As required, Mr. Reyes notified Kent Police Department of his change of address. At this point, there appeared to be some confusion as to whether Mr. Reyes had ever been initially leveled 18 months earlier, whether Kent PD had the appropriate tools and documentation to review Mr. Reyes risk level, and who was notified of Kent PD aggravating Mr. Reyes level to a two.

In May 2010, the alleged assault of another student at Roosevelt High school was reported. Shortly after Jose Reyes was charged with the alleged sexual assault of another student on school property, the senators asked that the SOPB to review Washington's past and current laws and policies related to youth who have sexually offended, including school notification, in the context of this case. As part of fulfilling this request, the Board reviewed documentation from parties involved in this case and stakeholders from the sex offender management system; analyzed

system processes and relevant statutes, and considered all the issues raised and observations made by the parties and stakeholders.

The Board also considered the evidence based research it gathered and reported in its 2009 Report to the Legislature about youths who sexually offend. The key finding in that report as it relates to juveniles is that:

Youths who have sexually offended are different from adults who commit sex offenses in part, because of ongoing brain and neurological development. Therefore, sex and kidnapping offender laws regarding juveniles and public policy should reflect their unique amenability to treatment and vulnerability to collateral consequences due to their ongoing development.<sup>3</sup>

The Board found that while Washington's juvenile registration and community notification system mirrors the adult system, parts of the school notification and educational system as it relates to youths who sexually offend is rooted in the rehabilitation of these youth and reflects the key differences between them and their adult counterparts. The tension between the right to education and the right to public safety make it so there are not always clear cut answers in this area.

The remainder of this report describes the issues the Board identified in this case, the sex offender response system in general as it relates to youths who sexually offend, and recommendations as to how to improve this system with a goal towards maximizing public safety, especially as it relates to students in the school system. While the Board identified improvements that can be made to this system, it cautions against viewing the Reyes case as representative of youths in the school system who have sexually offended.

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<sup>3</sup> Shoshana Kehoe-Ehlers and Shannon Hinchliffe, Washington State Sex Offender Policy Board Report to the Legislature (December 2009), p.23.

**Issue #1:**

Whether the Court should make a special finding when it orders 24/7 supervision as a condition of a respondent's SSODA conditions.

**Recommendation:**

When a juvenile court orders 24/7 as a condition of a SSODA, the Court shall enter findings regarding this condition.

**Fiscal Impact:**

There is no fiscal request associated with this recommendation. However it will require a statutory amendment.

**Current Law:**

Pursuant to RCW 13.40.030(5), if a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose a SSODA. When a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment. This applies to juveniles subject to a commitment of 15 to 65 weeks of confinement.

The psychosexual examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum: Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others.

**Considerations:**

It is standard practice for the juvenile court to order 24/7 supervision as a pre-disposition condition of release for respondents charged with a sex offense. When the initial charges in this case were filed, Jose's parents consented to the 24/7 supervision requirements. Mr. Reyes was on this level of supervision for 10 months before he pled guilty and received a SSODA sentence. The school, nor probation, reported any problems with Mr. Reyes during those 10 months.

As a condition of Mr. Reyes Special Sex Offender Dispositional Alternative (SSODA) sentence, the Court followed the examiner's recommendation and ordered 24/7 supervision.

Probation and school stakeholders reported that 24/7 supervision is not a standard condition of release post-disposition. Because 24/7 supervision requires the juvenile be within "line of sight" by an adult aware of the juvenile's criminal charge(s)/adjudication it is a significant challenge for schools to enforce it. Concern was also expressed that if a juvenile requires this level of supervision in the community while on a SSODA, this juvenile may be a higher risk to the community than most SSODA candidates. Therefore the Board wants to ensure that all parties involved in the juvenile's case clearly understand the basis for the SSODA prompting them to expressly communicate with each other about an appropriate safety plan.

**Issue # 2:**

Whether WASPC should create a standardized form to be used statewide by law enforcement agencies when notifying a school about the imminent enrollment, transfer, or presence of a current student adjudicated or convicted of a registrable sex or kidnapping offense. Also, whether law enforcement should include a juvenile's fingerprints in its list of required information to provide to the school.

**Recommendation:**

When funded, Washington Association of Sheriffs and Police Chiefs (WASPC) should develop a standardized form to be used statewide by law enforcement agencies when notifying a school about the imminent enrollment, transfer, or presence of a current student adjudicated or convicted of a registrable sex or kidnapping offense.

The form should define what risk level I, II and III mean, i.e. low/moderate/high risk to reoffend against the community at large, etc. This only applies to youths required to register as a sex or kidnapping offender.

When a youth adjudicated or convicted of a registrable sex or kidnapping offense, either (1) enrolls or transfers to a school within or outside their school district, that juvenile must register with local enforcement where in the county where the school is located. If the student moves to a new location, but remains in the same school, the student must still register their new residence with the local enforcement.

Law enforcement is no longer required to provide the school with the student's fingerprints.

**Fiscal Impact:**

While the SOPB acknowledges that current economic conditions in Washington State may make the implementation of some recommendations cost-prohibitive, it believes it is necessary to present such recommendations to the legislature because of the value added to the sex offender management system created by these policies. These recommendations have been developed to reflect current research and best practices.

**Considerations:**

During the Reyes case review, it became clear that notification practices vary and schools do not always understand information provided in the notification forms. In a survey of law enforcement, it was established that while notification is routinely done, the information and method varies.

This recommendation is to ensure accurate, complete, and timely notification by law enforcement to schools regarding those students adjudicated or convicted of a registrable sex or kidnapping offenses that have just enrolled, transferred, or are currently attending a school in Washington State.

Providing the school fingerprints of the student adjudicated of or convicted of a sex or kidnapping offense is unnecessary and only creates confusion for the schools.

**Issue # 3:**

Whether the legislature should add school district superintendents back into the statute as those school personnel, law enforcement shall notify of the imminent enrollment, transfer, or presence of a current student adjudicated or convicted of a registrable sex or kidnapping offense?

**Recommendation:**

School districts as well as principals shall be provided notice from law enforcement about the imminent enrollment, transfer, or presence of a current student adjudicated or convicted of a registrable sex or kidnapping offense.

**Fiscal Impact:**

While the SOPB acknowledges that current economic conditions in Washington State may make the implementation of some recommendations cost-prohibitive, it believes it is necessary to present such recommendations to the legislature because of the value added to the sex offender management system created by these policies. These recommendations have been developed to reflect current research and best practices.

**Considerations:**

Prior to 2006, when notifying schools, the statute required law enforcement only notify superintendents when a student adjudicated of a registrable sex or kidnapping offense enrolled, transferred from another school, or currently attended school.

After 2006, the Legislature replaced notification to superintendents to notification of school principal(s). The purpose of this was to ensure that the head of the school closest to the youth would have the information regarding his or her adjudication of a sex or kidnapping offense. The principal was in a better position to determine what or other professionals in the school should be aware of this information.

In speaking with both the Seattle school district and OSPI, it is clear that it is important and necessary that law enforcement notify both the superintendent of the school district and the individual school's principal. A change in principle can lead to a breakdown in the communication about the presence of a student adjudicated of a sex offense. Further, the Board found that because school districts as well as the individual schools have policies on how to manage youths adjudicated of a sex or kidnapping offense, both parties need to know about the student's current status. While individual schools may operate separately from their district in certain

situations, some school districts prefer to implement consistent district wide public safety policies and procedures.

**Issue #4:**

- (a) When a student adjudicated of a registrable sex or kidnapping offense moves or transfers to a new school district or a new school within his or her current school district, should law enforcement notify the new school district's superintendent and the school's principal, and if the student just transfers to a new school within the same school district, should law enforcement notify that school's principal?
- (b) When law enforcement changes the risk level classification of a student adjudicated or convicted of a sex or kidnapping offense, shall law enforcement notify the superintendent of that student's school district as well as the principal of the student's individual school?

**Recommendation:**

4(a) When a student adjudicated or convicted of a registrable sex or kidnapping offense moves or transfers to a new school district or a new school within his or her current school district, the student must notify law enforcement of this change. Law enforcement shall then notify the new school district's superintendent and the school's principal, or if the student just transfers to a new school within the same school district, law enforcement shall notify that school's principal, that a student adjudicated or convicted of a registrable sex or kidnapping offense currently attends the new school.

4(b) When law enforcement changes the risk level classification of a student adjudicated or convicted of a sex or kidnapping offense, law enforcement shall notify the superintendent of that student's school district as well as the principal of the student's individual school of the risk level change.

**Fiscal Impact:**

There is no fiscal request associated with this recommendation. However, it will require a statutory amendment.

**Current Law:**

Current statute requires law enforcement notify the school principal when a student adjudicated of a registrable sex or kidnapping offense enrolls in a new school in a new district. However, the statute is silent as to whether law enforcement should notify a school when the student enrolls or transfers to a new school within the same school district.

Also, there is no requirement that law enforcement notify a student's school district or principal when a law enforcement agency changes the student's risk level.

**Considerations:**

Because students periodically change schools and school districts, these new schools and school districts must receive notice that if the new student has been adjudicated of a registrable sex or kidnapping offense. This is absolutely necessary so schools can develop a safety plan for that student as soon as possible or continue the previous school's safety plan.

Further, if a law enforcement agency aggravates or mitigates a juvenile's risk level, the current school and school district must be notified of this change. The change in level will likely require the school to update the student's safety plan. Also, when a student's level is increased from a level one to a level two, the public notification consequences are much more significant. Working with the school personnel, treatment provider, probation counselor and family to prepare the student for this shift is critical.

**Issue # 5:**

Whether the model policy shall be amended requiring law enforcement notify juvenile probation, parole, or community corrections when the law enforcement agency changes the risk level of a juvenile adjudicated or convicted of a registrable sex or kidnapping offense.

**Recommendation:**

Amend model policy to include such language as law enforcement should notify juvenile probation, parole, or community corrections when the law enforcement agency changes the risk level of a juvenile adjudicated or convicted of a registrable sex or kidnapping offense, when juvenile is under supervision.

**Fiscal Impact:**

There is no fiscal request associated with this recommendation. However, if law enforcement uses the standardized notification form recommended earlier by the Board, WASPC must be funded to do so.

**Considerations:**

When local law enforcement reviews the level of a juvenile adjudicated of a sex offense and may change it, it is unclear how or if notification is always done, as it is a change post the initial assessment.

Because it is critical for juvenile probation, parole, or community corrections to have this information, law enforcement should create a uniform policy when reviewing and possible changing a juvenile's risk level.

Further, this may encourage the law enforcement agency to seek input from the parties about the juvenile's background and current progress when determining whether the risk level should be changed.

**Issue # 6:**

Whether certain information regarding juveniles who have been adjudicated or convicted of a sex or kidnapping offense and safety issues shall be distributed to parents, the public and school staff.

**Recommendation:**

Parents, the public and school staff should contact the appropriate law enforcement personnel if they have any questions regarding a particular juvenile adjudicated or convicted of a registrable sex offense, including a general explanation of risk level classification (not the specific reasons underlying a particular student's risk level). Law enforcement is encouraged to include the above recommended statement in their written notification to schools.

**Fiscal Impact:**

The only fiscal impact is modifying the school notification forms provided by law enforcement.

**Considerations:**

Distribution of information regarding specific juveniles who have been adjudicated or convicted of a registrable sex offense must be managed carefully for the safety and well being of all concerned. Schools and the public do not uniformly understand levels, risk, or behaviors included in various sex offenses.

Further, schools should not be placed in a position to determine what information they can disclose to parents, and the public about a particular student adjudicated or convicted of a registrable sex offense. Law enforcement has the appropriate expertise to respond to questions from the public about registered sex offenders.

**Issue # 7:**

Whether schools should be required to adopt a safety policy, related to students adjudicated or convicted of a registrable sex offense that are entering or returning to school.

**Recommendation:**

All schools shall be statutorily required to have policy and procedures in place requiring them to develop and implement policies and procedures regarding students who have been adjudicated or convicted of a registrable sex offense and the provision of a safe learning environment for all students.

**Fiscal Impact:**

There is no fiscal request associated with this recommendation. However, it will require a statutory amendment.

**Current Law/Considerations:**

In 2007, at the direction of the State Legislature, OSPI drafted a model school policy on sex offender notifications and a clear process to follow when notifications from local law enforcement are received by principals.<sup>4</sup> OSPI assembled a workgroup to develop this model policy with the goal of clarifying to schools how best to address juvenile sex offender notifications so that the offender, fellow students and the surrounding community is safe. This workgroup, known as the 6580 Workgroup, completed one of the recommendations of House Bill 2101 Task Force in the 2005 Legislative Session, with the need to create a statewide model school policy on sex offender notifications and a clear process to follow when notifications from local law enforcement are received by principals. HB 2101 was an act relating to registration of juvenile sex/kidnapping offenders in schools, notification to schools, and the dissemination of information within the schools.

The 6580 task force was comprised of a multidisciplinary group of experts and stakeholders from education practitioners, law enforcement, corrections, juvenile justice, sex offender specialists, and both child and victim advocacy groups. (See 2006 OSPI Report to the Legislature on ESSB 6580.) They discovered a number of findings regarding juveniles who commit sex offenses and how to further the safety of fellow students, teachers, school staff, and the surrounding community. (See

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<sup>4</sup> See RCW 9A.44.130 for additional information on the duty of law enforcement to notify school principals when a student is attending or expected to attend a particular school.

Executive Summary of 2006 OSPI Report) They then identified key recommendations for the legislature. (See 2006 Executive Summary of OSPI Report.)

What they found was juvenile sex offenders and kidnapping offenders both on and off probation attend public schools throughout the state of Washington. This results in a critical need for information training as support for administrators, teachers, and school staff so they can provide a safe school environment for all. Arming staff with a well-defined training curriculum will help reduce concerns, dispel myths, clarify needs, and give staff additional tools to manage offenders and provide all students and staff with a safer school environment.

The above findings and research is still relevant today.

**Issue # 8:**

ESRC currently assesses and assigns risk levels to youth adjudicated of a registrable sex offense who go through JRA. The current issue is whether ESRC should also assign the initial risk level to those offenders who wither receive a SSODA or a local sanctions' sentence; or just those who receive a SSODA.

**Recommendation #1:**

The Department of Corrections End of Sentence Review Committee will assign the initial risk level classification for all juveniles required to register as a sex offender who go through JRA and those who receive a SSODA; or

**Recommendation #2:**

The Department of Corrections End of Sentence Review Committee will assign the initial risk level classification for all juveniles required to register as a sex offender who go through JRA, receive local sanctions or a SSODA.

**Fiscal Impact:**

While the SOPB acknowledges that current economic conditions in Washington State may make the implementation of some recommendations cost-prohibitive, it believes it is necessary to present such recommendations to the legislature because of the value added to the sex offender management system created by these policies. These recommendations have been developed to reflect current research and best practices.

**Considerations:**

The End of Sentence Review Committee (ESRC) assesses and assigns risk levels for all juvenile adjudicated of a sex offense released from Juvenile Rehabilitation Administration (JRA). However, juveniles who receive a SSODA or a local sanctions' sentence are leveled by local law enforcement. Because of the complexity of assessing the risk of youths who sexually offend, the concluded that ESRC should assign the initial risk level these juveniles.

The difficulty in assessing these youth stems from the lack of a Washington State validated tool for juveniles; special expertise necessary to assess a juvenile; resources involved in training law enforcement across the state in how to apply adult and juvenile risk assessment tools; and the need to assess these youth quickly and early

on. The juvenile risk level factors rapidly change due to their on-going cognitive and social development.

Implementation of this recommendation would require a statutory amendment to RCW 72.09.345.

# **Appendix A**

## **Brief Summary and Timeline of Events in the Jose Reyes Case**

- **7/20/07** – King County Prosecutor’s Office Juvenile Division files charges against Jose Raphael Reyes. The following are the alleged offenses and their incident dates:
  - 1.25.07 Child Molestation in the First Degree (Count 1) and Luring (Count 2)
  - 4.20.07 Luring (Count 3)
  - 5.07.07 Luring (Count 4)
- **8/03/07** – Reyes is arraigned and enters pleas of not guilty on all four counts. As part of his conditions of release Reyes must be supervised 24 hours a day/7 days a week. 24/7 supervision requires that Reyes be in the line of sight of an adult who is aware of his charges and conditions of release at all times. This is a standard pre-disposition condition of release for juveniles charged with a sex offense.
- **8/09/07** – The pre-disposition assigned Juvenile Probation Counselor (JPC) discussed the conditions of release with Reyes sexual deviancy treatment provider, Mr. Robert Hirsch. Reyes parents hired Mr. Hirsch to treat Jose sometime between the alleged offense incident dates and his arraignment. Neither the court, nor probation required Reyes to undergo treatment prior to his disposition. Further Mr. Hirsch is not a provider approved by probation or the State.
- **8/23/07** – The JPC reviews Reyes conditions of release with Roosevelt High School Vice-Principal B. Vance.
- **12/04/07** – Reyes undergoes a psychosexual evaluation performed by Mr. Knoepfler, a state certified sexual deviancy treatment provider. The purpose of this is to see if he is a good candidate for a SSODA.
- **1/16/08** – Psychosexual examination completed.
- **4/07/08** – King County Prosecuting Attorney’s Office and Reyes defense attorney reach a plea agreement. In exchange for a plea to an amended charge of one count of Indecent Liberties with Forcible Compulsion and agreement to a suspended manifest injustice upwards sentence of 65 weeks at a Juvenile Rehabilitation facility, the State agreed to recommend that the Court order a Special Sex Offender Dispositional Alternative (SSODA) sentence. It is important to note that this plea agreement was developed based on a number of factors. They are as follows:
  1. Reyes had no prior criminal history.
  2. Reyes had strong family support.
  3. Reyes was amenable to treatment.
  4. There were possible evidentiary issues. Sex offense cases are very complicated, especially those involving minor alleged victims.

5. Indecent Liberties with Forcible Compulsion is the same felony class level as Attempted Child Molestation in the First Degree. Both are sex offenses.
6. Luring is not a sex offense; it only carries local sanction time (0-30 days) per count to be served in a local juvenile detention facility.
7. Indecent Liberties with Forcible Compulsion carries two to three years of JRA parole supervision; Attempted CM 1 and Luring do not carry JRA parole.
8. Like Att. CM 1, Indecent Liberties with Forcible Compulsion triples in score for any future sex offense conviction.
9. If Reyes pled guilty as originally charged, his range would have been 15-48 weeks to be served in a JRA facility. Pleading guilty to the amended charge of an agreed manifest injustice sentence upwards 65 weeks was 17 weeks longer than the high end of the original charge, and because it was agreed by both parties, it was more likely to be ordered by the Court.
10. 65 weeks provided a strong incentive for Reyes to comply with the SSODA.

- **5/13/08** - JPC met with Asst. Principal at Roosevelt HS. JPC updated the Asst. Principal on status of Reyes case
- **6/18/08** – Plea & Disposition Hearing at King County Juvenile Court. Court ordered a SSODA with a 65 week MI upwards sentence suspended on condition Reyes comply with the SSODA conditions. Mr. Knoepfler indicated in his assessment of Reyes that there was a case for both sending Reyes to JRA, as well as providing him treatment and supervision in the community. In the event that the Court ordered a SSODA, Mr. Knoepfler recommended that the Court require continued 24/7 supervision. The JPC recommended the standard range of 15-36 weeks to be served at JRA.
- **6/18/08** – JPC transfers case to post-disposition supervision probation department, where a JPC is assigned.
- **6/19/08** – King County Sheriff’s Office KCSO sends information on Reyes to Washington State Patrol. KCSO forms do not indicate what level of risk Reyes has been assigned. WSP registers him as “Unclassified”. When a registered sex offender (RSO) is “Unclassified”, the assigned level defaults to a level one.
- **6/19/08** – JPC sends notice to Roosevelt High School regarding Reyes RSO status.
- **6/19/08** – KCSO sends notice to Asst. Principal Vance explaining Reyes requirement to register as sex offender, including underlying criminal charge.
- **6/30/08** – New JPC and Reyes meet for the first time.
- **7/08 – 5/09** – JPC Contacts with Reyes, Family and Treatment Provider:

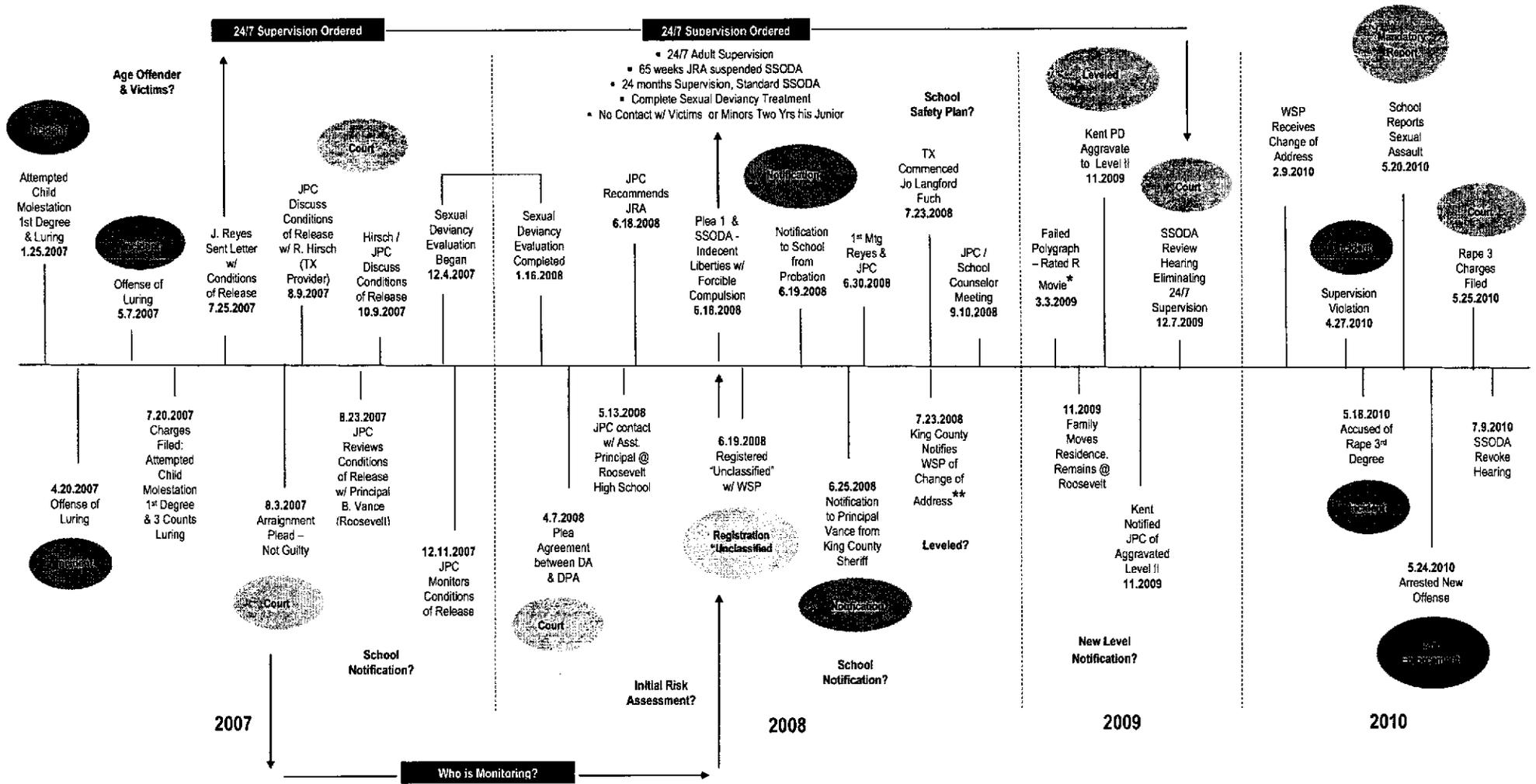
- two face-to-face contacts with Jose per month;
  - four telephone contacts with Jose per month;
  - one telephone or face – to - face contact with Jose’s treatment provider per month;
  - two telephone contact with parent(s) per month
- **7/23/08** – Reyes begins court-ordered treatment.
  - **9/10/08** – School begins 2008/09 school year. JPC meets with school counselor about Reyes.
  - **11/08 through 11/09** – JPC meets with school secretary in the school counseling office approximately once per month. School secretary reports no behavior issues or attendance issues during this period of time.
  - **3/03/09** – After completing polygraph (as part of treatment), Jose admits to viewing an “R” rated movie. This is a violation of his supervision. Consequently, JPC and treatment provider review conditions of release with Jose, and discuss and clarify the condition barring him from watching “R” rated films.
  - **11/09** – Reyes and family move from Seattle to City of Kent. Reyes remains at Roosevelt HS.
  - **11/09** – When Reyes moves, he notifies Kent Police Department in-person of address change.
  - **11/09** – Kent aggravates Reyes risk assessment level from a one to a two. Because of level increase from a level one to a level two, Kent PD sends out public notification bulletin; this includes a photo of Reyes. The level increase now requires KCSO to post him on the sex offender website. Kent PD increases his level based on the following:
    - When Reyes notifies Kent PD of his address change, Kent PD checks the KCSO daily RSO roster for Jose’s level. He is listed as a Level One.
    - Kent then checks with WSP who has him listed as “unclassified/level one”. Kent PD requests Reyes file from KCSO.
    - Kent PD fills out the MN-SOSTR (sex offender risk assessment tool) scoring form. It appears materials used to complete the scoring form included Reyes psychosexual evaluation from January 2008 and other materials pre-dating July 2008 disposition. Scoring form places Reyes in the Level 2 range.
  - **11/09** – Kent emails JPC about Reyes new level.
  - **12/07/09** – Court hearing of to review Reyes’ progress on his SSODA. Reyes deemed in compliance. Court and JPC begin step-down process. Court eliminates 24/7 supervision requirement. (18 months after disposition)
  - **2/09/10** – WSP receives 11/09 change of address form from ....
  - **4/27/10** – Jose accused of stealing a zip-drive from a girl at school and downloading adult pornography onto the zip-drive at school. On May 3, 2010,

JPC sets a Modification Hearing at Juvenile Court for 5/24/10 to address new violation.

- **5/18/10** – Sexual assault incident against student at Roosevelt HS allegedly takes place.
- **5/20/10** – School reports alleged incident.
- **5/24/10** – KCPA Office files one count of Rape in the Third Degree against Reyes in adult court. (Reyes is over 18 y.o. old at this point.)
- **7/09/10** – Juvenile Court revokes Reyes SSODA.

## Appendix B

## J. Reyes Case Review Timeline

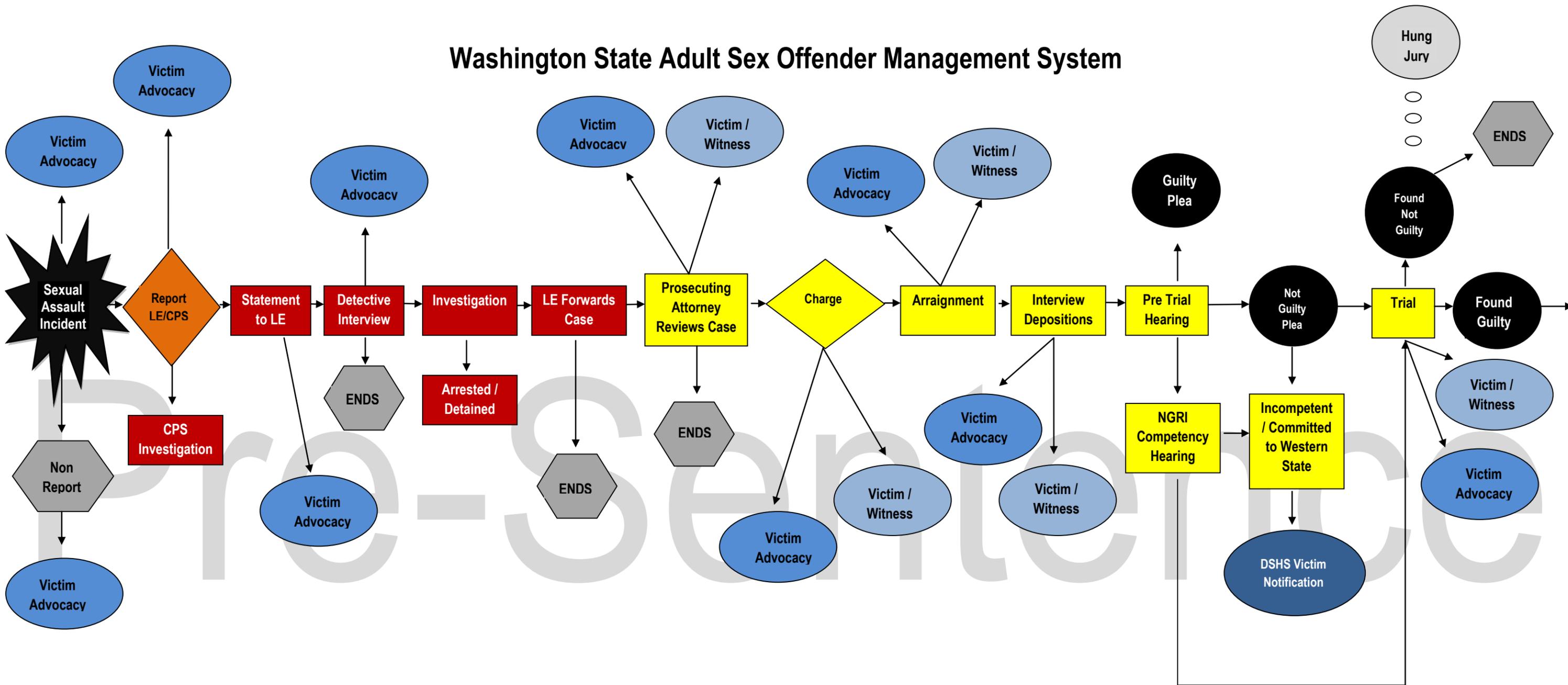


\*J. Reyes found to be deceptive, then revealed he watched R-rated movie.  
\*\*Clerical Address Change

## Appendix H

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# Washington State Adult Sex Offender Management System



## Key Terms

- LE: Law Enforcement
- CPS: Child Protective Services, Dept. of Social & Health Services
- ISRB: Indeterminate Sentence Review Board
- SVP: Sexually Violent Predator
- DOC: Department of Corrections
- SSC: Special Commitment Center
- ESRC: End of Sentence Review Committee
- NGRI: Not-Guilty by Reason of Insanity
- SSOSA: Special Sex Offender Sentencing Alternative

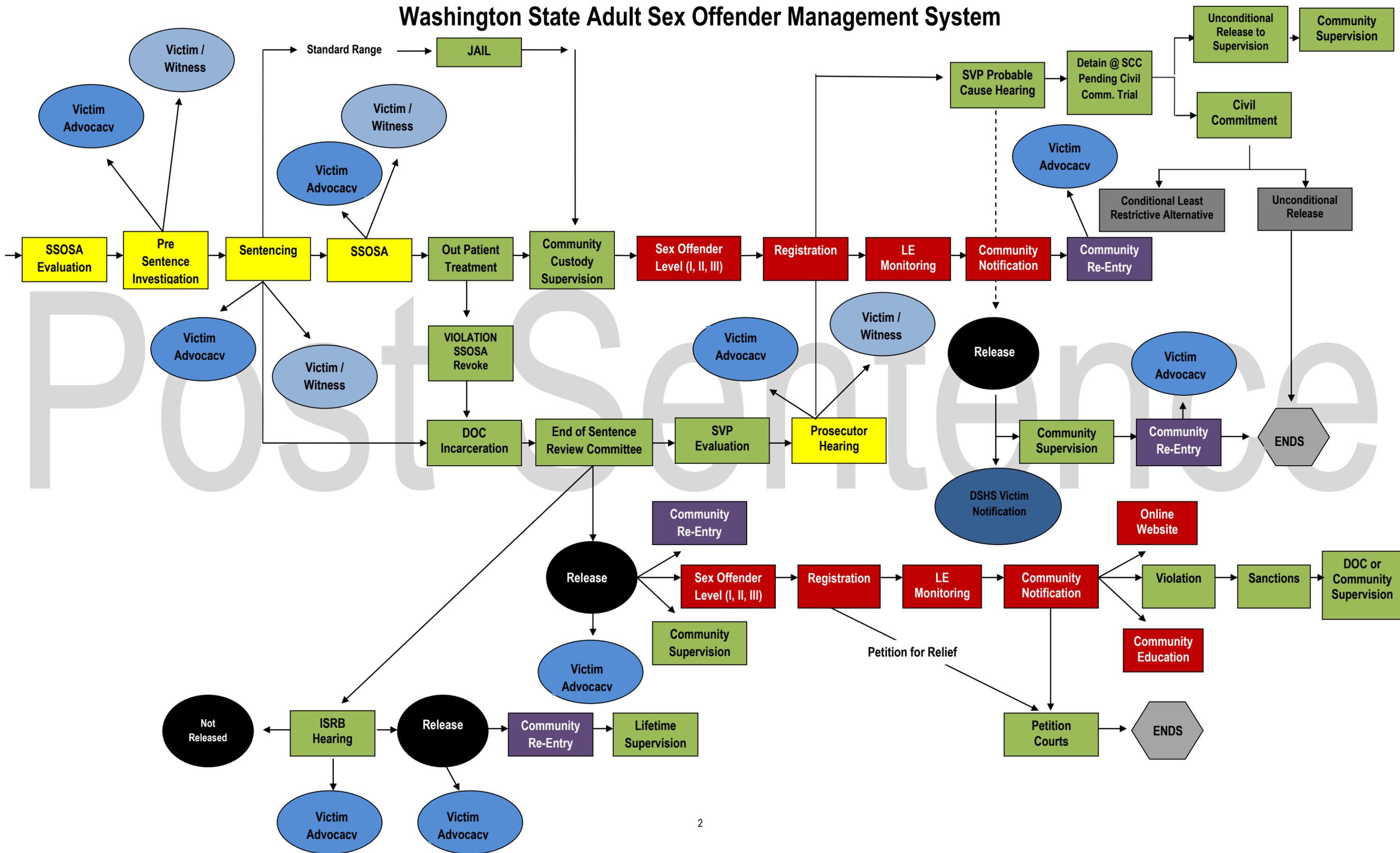
## Key Colors

- Victim Services
- Law Enforcement
- Criminal Justice
- Incarceration
- Community Re-Entry
- Release/Conviction/Ends

## Appendix I

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# Washington State Adult Sex Offender Management System



## Appendix J

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## Appendix K

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## Registerable Sex And Kidnapping Offenses For Juveniles By Age FY02-FY09 \*

Fiscal Year	Offenses	Offense Age								Total **
		10 & under	11	12	13	14	15	16	17	
2002	Child Molestation 1/Attempt		11	21	37	30	25	11	9	146
	Child Molestation 2	-	-				3			10
	Communicate w/ Minor for Immoral Purposes	-	-		-	-	-	-	-	2
	Incest 1/Attempt			4			4			15
	Incest 2		-	5				-	-	12
	Indecent Liberties/Attempt/Violent	-		5	7	5	3			24
	Rape 1	-	-	-	-			-	-	2
	Rape 2	-	-	-					3	9
	Rape 3	-	-	-			4		4	13
	Rape of Child 1/Attempt	8		23	26	16	19	8	4	105
	Rape of Child 2	-	-		-	-	6	5	6	18
	Other non-sex offenses with Sexual Motivation	-	4	16	16	9	15	14	5	79
	Kidnapping 2	-	-	-	-	-	-	-	-	1
	Unlawful Imprisonment	-	-		4	4		3	5	19
<b>Grand Total</b>	<b>12</b>	<b>19</b>	<b>78</b>	<b>98</b>	<b>72</b>	<b>87</b>	<b>49</b>	<b>40</b>	<b>455</b>	
Failure To Register As Sex Offender	-	-	-	-	-	-		4	6	
2003	Child Molestation 1/Attempt	5	7	23	36	43	19	23	3	159
	Child Molestation 2	-	-	-				4	8	18
	Communicate w/Minor for Immoral Purposes	-	-			-	-	-	-	3
	Incest 1	-		-	-		11			15
	Incest 2	-				-		-	-	7
	Indecent Liberties/Attempt/Violent	-		6	5	4	7	4	5	32
	Rape 2/Attempt	-	-	-	-			4	-	6
	Rape 3	-	-	-	-		8	4		15
	Rape of Child 1/Attempt	3		12	26	34	12	3	-	92
	Rape of Child 2/Attempt	-	-	-	-	-		13	6	21
	Rape of Child 3	-	-	-	-	-	-	-		1
	Voyeurism	-	-	-	-		-	-	-	3
	Other non-sex offenses with Sexual Motivation		5	16	22	24	17	9	16	111
	Kidnapping 2	-	-	-	-		-	-	-	1
Unlawful Imprisonment	-	-		3	4	-	4	5	17	
<b>Grand Total</b>	<b>10</b>	<b>18</b>	<b>61</b>	<b>98</b>	<b>116</b>	<b>81</b>	<b>71</b>	<b>46</b>	<b>501</b>	
Failure To Register As Sex Offender	-	-	-	-		3		3	9	
2004	Child Molestation 1/Attempt		8	42	47	46	25	12	6	187
	Child Molestation 2/Attempt	-	-		-	4	3	9	6	23
	Communicate w/ Minor for Immoral Purposes	-	-	-	-	-		-	-	1
	Incest 1	-	-	3	3		3			12
	Incest 2	-	-	3	-		-	-	-	4
	Indecent Liberties/Attempt/Violent	-		12	7	11	18	6		58
	Rape 1/ Attempt	-	-	-	-	-		-	-	1
	Rape 2/Attempt	-	-			4	6		3	17
	Rape 3	-	-	-			3	-	5	10
	Rape of Child 1/Attempt		5	25	49	38	15	4	6	144
	Rape of Child 2/Attempt	-	-	-	-	-		6	-	8
	Rape of Child 3	-	-	-	-	-	-	-	3	3
	Voyeurism	-	-			-	-	-		4
	Other non-sex offenses with Sexual Motivation	-		11	19	16	12	7	13	80
	Kidnapping 1	-	-	-	-	-		-	-	2
	Kidnapping 2	-	-	-	-	-		-		3
	Unlawful Imprisonment	-	-	3	3				5	14
<b>Grand Total</b>	<b>3</b>	<b>18</b>	<b>103</b>	<b>131</b>	<b>123</b>	<b>93</b>	<b>47</b>	<b>53</b>	<b>571</b>	
Failure To Register As Sex Offender	-	-	-	-				5	10	

\*Individual juvenile offenders may be responsible for more than one of the offenses shown.

\*\*Cells with a number less than 3 are suppressed to avoid identification of the offenders. The total cells include numbers in suppressed cells.

## Registerable Sex And Kidnapping Offenses For Juveniles By Age FY02-FY09 \*

Fiscal Year	Offenses	Offense Age								Total **
		10 & under	11	12	13	14	15	16	17	
2005	Child Molestation 1/Attempt	-	7	20	30	32	23	13	6	131
	Child Molestation 2/Attempt	-	-	-	-	-	-	6	4	11
	Communicate w/ Minor for Immoral Purposes	-	-	-	3	-	-	-	-	14
	Incest 1	-	-	-	5	3	3	-	-	12
	Incest 2	-	-	-	-	-	-	-	-	8
	Indecent Liberties/Attempt/Violent	-	-	4	9	6	6	4	-	31
	Rape 1/ Attempt	-	-	-	-	-	-	-	-	2
	Rape 2/Attempt	-	-	-	-	4	-	4	5	16
	Rape 3	-	-	-	-	-	-	-	-	8
	Rape of Child 1/Attempt	-	4	16	32	26	21	-	-	99
	Rape of Child 2/Attempt	-	-	-	-	-	4	5	-	11
	Rape of Child 3	-	-	-	-	-	-	-	-	1
	Sexual Exploitation of a Minor	-	-	-	-	-	-	-	-	3
	Voyeurism	-	-	-	-	-	-	-	-	6
	Other non-sex offenses with Sexual Motivation	-	-	10	24	18	19	14	7	93
	Unlawful Imprisonment	-	-	-	-	4	-	4	3	13
	<b>Grand Total</b>	-	15	57	107	99	90	57	34	459
Failure To Register As Sex Offender	-	-	-	-	-	-	7	4	14	
2006	Child Molestation 1/Attempt	-	5	29	22	29	25	16	7	133
	Child Molestation 2/Attempt	-	-	-	-	-	4	-	-	8
	Communicate w/ Minor for Immoral Purposes	-	-	-	4	-	3	3	-	12
	Incest 1	-	-	-	-	-	5	-	-	11
	Incest 2	-	-	3	-	-	-	-	-	8
	Indecent Liberties/Attempt/Violent	-	-	6	4	6	9	9	4	40
	Rape 1/ Attempt	-	-	-	-	-	-	-	-	2
	Rape 2/Attempt	-	-	-	-	-	-	3	-	11
	Rape 3	-	-	-	-	-	-	-	-	9
	Rape of Child 1/Attempt	-	-	12	21	17	14	-	-	65
	Rape of Child 2/Attempt	-	-	-	-	-	-	3	-	6
	Rape of Child 3	-	-	-	-	-	-	-	-	1
	Sexual Exploitation of a Minor	-	-	-	-	-	-	-	-	1
	Voyeurism	-	-	-	-	-	-	-	-	2
	Other non-sex offenses with Sexual Motivation	-	-	9	11	12	6	10	7	57
	Kidnapping 2	-	-	-	-	-	-	-	-	2
	Unlawful Imprisonment	-	-	-	-	3	-	5	5	17
<b>Grand Total</b>	2	8	71	68	78	72	55	31	385	
Failure To Register As Sex Offender	-	-	-	-	-	-	9	3	16	
2007	Child Molestation 1/Attempt	3	-	29	23	20	17	18	5	117
	Child Molestation 2/Attempt	-	-	-	-	-	4	-	-	8
	Communicate w/ Minor for Immoral Purposes	-	-	4	-	4	-	-	-	14
	Incest 1	-	-	-	-	-	-	-	-	3
	Incest 2	-	-	-	-	-	-	-	-	7
	Indecent Liberties/Attempt/Violent	-	3	11	7	10	7	-	-	41
	Rape 1/ Attempt	-	-	-	-	-	-	-	-	1
	Rape 2/Attempt	-	-	-	3	-	-	-	-	7
	Rape 3	-	-	-	-	-	-	-	3	8
	Rape of Child 1/Attempt	-	-	21	26	9	5	-	-	66
	Rape of Child 2/Attempt	-	-	-	-	-	-	5	4	10
	Rape of Child 3	-	-	-	-	-	-	-	-	2
	Voyeurism	-	-	-	-	-	-	-	-	2
	Other non-sex offenses with Sexual Motivation	-	3	12	14	16	21	15	-	83
	Kidnapping 2	-	-	-	-	-	-	-	-	1
	Unlawful Imprisonment	-	-	-	-	-	3	-	-	11
	<b>Grand Total</b>	6	11	83	80	68	65	48	20	381
Failure To Register As Sex Offender	-	-	-	-	-	4	6	8	20	

\*Individual juvenile offenders may be responsible for more than one of the offenses shown.

\*\*Cells with a number less than 3 are suppressed to avoid identification of the offenders. The total cells include numbers in suppressed cells.

## Registerable Sex And Kidnapping Offenses For Juveniles By Age FY02-FY09 \*

Fiscal Year	Offenses	Offense Age								Total **	
		10 & under	11	12	13	14	15	16	17		
2008	Child Molestation 1/Attempt		5	23	31	20	15	5	4	105	
	Child Molestation 2/Attempt	-	-			5	-			11	
	Communicate w/ Minor for Immoral Purposes	-	-	4			-	3	-	10	
	Incest 1	-	-	7		5	-	-		15	
	Incest 2	-	-	5	3				-	12	
	Indecent Liberties/Attempt/Violent	-	-	8	10	8		4		32	
	Rape 1/ Attempt	-	-		-	-		-	-	2	
	Rape 2	-						3		10	
	Rape 3	-	-		-	4	5		-	11	
	Rape of Child 1/Attempt			17	19	9	21			70	
	Rape of Child 2 Attempt	-	-	-	-	-		4	4	10	
	Rape of Child 3	-	-	-	-	-	3	-		4	
	Sexual Exploitation of a Minor	-	-	-	-	-	-	-		4	
	Voyeurism	-	-	-	-	-	-	-	-	1	
	Other non-sex offenses with Sexual Motivation			18	11	12	14	15	13	85	
	Kidnapping 2	-	-	-	-	-		-	-	1	
	Unlawful Imprisonment	-	-					-		9	
	<b>Grand Total</b>		4	8	87	83	71	69	38	32	392
	Failure To Register As Sex Offender	-	-	-	-		5	7	14		27
2009	Child Molestation 1/Attempt		7	21	16	22	14	16		99	
	Child Molestation 2/Attempt	-		4			-			11	
	Communicate w/ Minor for Immoral Purposes	-	-			-	-	-	-	3	
	Incest 1	-				-		-		6	
	Incest 2	-		-	-			-		4	
	Indecent Liberties/Attempt/Violent			15	8	6	9		4	46	
	Rape 1/ Attempt	-	-	-	-	-	-	-	-	0	
	Rape 2	-	-		-	3	3		5	13	
	Rape 3	-	-	-					-	8	
	Rape of Child 1/Attempt		7	8	14	12	5	-	-	48	
	Rape of Child 2 Attempt	-	-	-	-	-	-	-	-	0	
	Rape of Child 2	-	-					6	8	16	
	Rape of Child 3	-	-	-	-	-	-	-		2	
	Sexual Exploitation of a Minor	-	-				-	-	-	3	
	Voyeurism	-	-	-	-		-	-	-	1	
	Other non-sex offenses with Sexual Motivation	-	4	10	20	23	18	16	16	107	
	Kidnapping 1	-	-	-	-	-		-	-	2	
	Kidnapping 2	-	-	-	-	-		-	-	1	
	Unlawful Imprisonment	-	-		4		3		8	16	
<b>Grand Total</b>		4	22	65	67	75	59	45	49	386	
Failure To Register As Sex Offender	-	-	-			3	4	6		16	

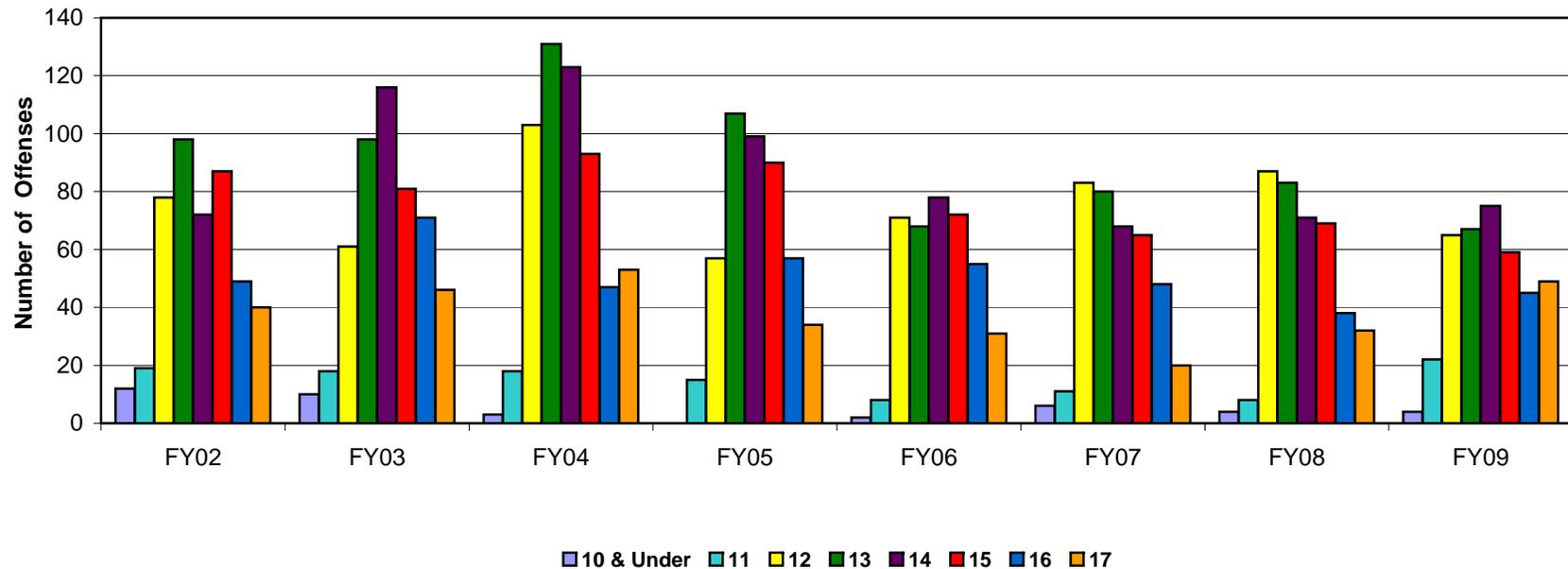
\*Individual juvenile offenders may be responsible for more than one of the offenses shown.

\*\*Cells with a number less than 3 are suppressed to avoid identification of the offenders. The total cells include numbers in suppressed cells.

### Registerable Sex And Kidnapping Offenses For Juveniles By Age FY02-FY09

Fiscal Year	Age Range (*)								Total
	10 & Under	11	12	13	14	15	16	17	
FY02	12	19	78	98	72	87	49	40	455
FY03	10	18	61	98	116	81	71	46	501
FY04	3	18	103	131	123	93	47	53	571
FY05	0	15	57	107	99	90	57	34	459
FY06	2	8	71	68	78	72	55	31	385
FY07	6	11	83	80	68	65	48	20	381
FY08	4	8	87	83	71	69	38	32	392
FY09	4	22	65	67	75	59	45	49	386
<b>Grand Total</b>	<b>41</b>	<b>97</b>	<b>540</b>	<b>665</b>	<b>627</b>	<b>557</b>	<b>365</b>	<b>256</b>	<b>3,530</b>

### Registerable Sex And Kidnapping Offenses For Juveniles By Age FY02-FY09

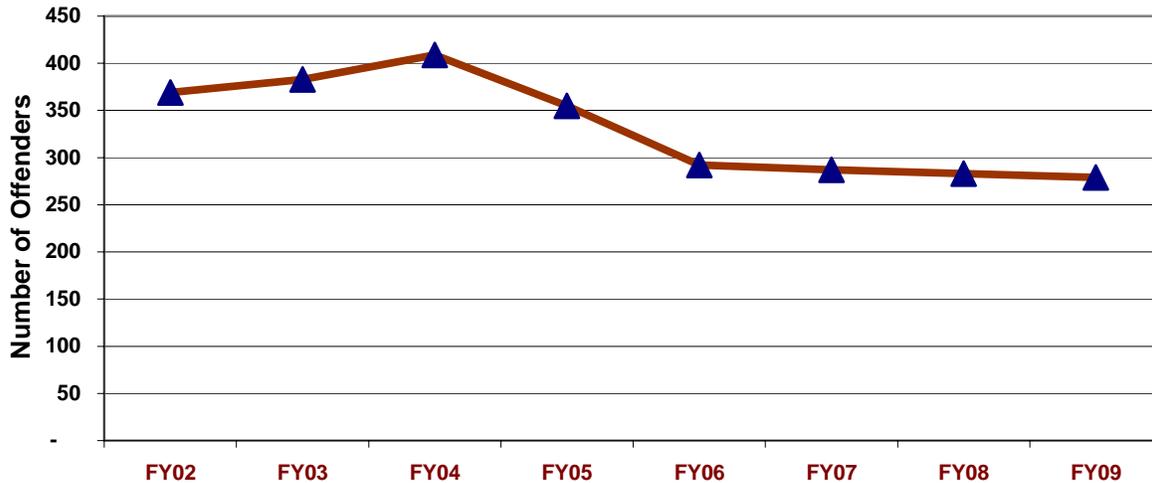


(\*)The age displayed represents the age at the earliest adjudications.

## Adjudicated Guilty Of Registerable Sex And Kidnapping Offenses By Age And By Offender

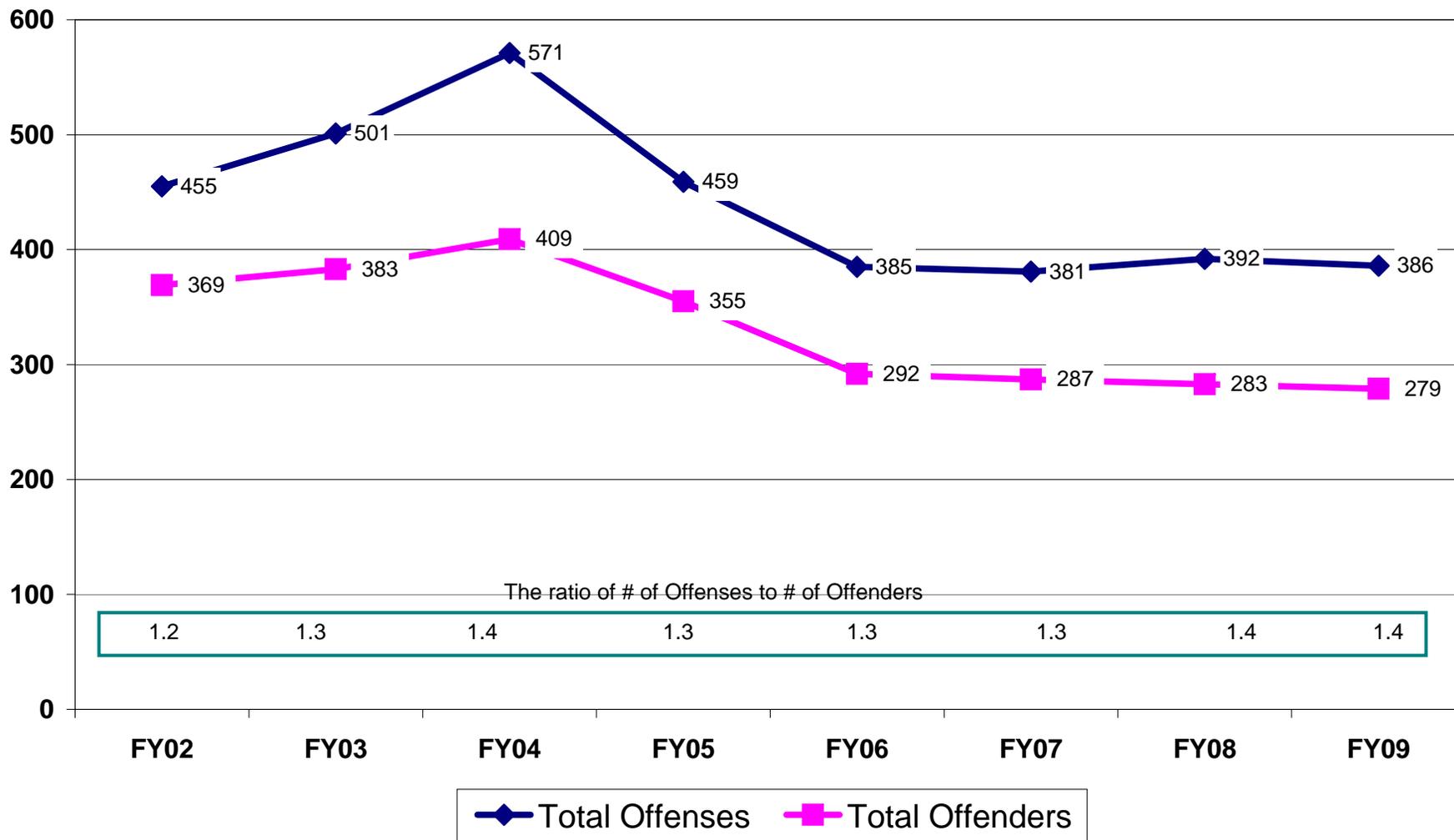
Age(*)	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	Total
10 & under	9	8	2	-	2	5	4	3	33
11	17	17	11	14	7	9	6	11	92
12	60	47	84	48	54	62	55	46	456
13	78	72	91	80	54	60	61	52	548
14	63	92	81	75	60	54	49	53	527
15	66	58	67	67	48	48	51	51	456
16	42	55	34	43	44	32	30	27	307
17	34	34	39	28	23	17	27	36	238
<b>Grand Total</b>	<b>369</b>	<b>383</b>	<b>409</b>	<b>355</b>	<b>292</b>	<b>287</b>	<b>283</b>	<b>279</b>	<b>2,657</b>

**Adjudicated Guilty Of Registerable Sex And Kidnapping Offenses By Fiscal Year And By Offender**



(\*)The age displayed represents the age at the earliest adjudications.

### Juvenile Registerable Sex & Kidnapping Offenses and Number of Offenders



## Registerable Sex And Kidnapping Sentences For Juveniles (in Adult Courts) by Age FY02-FY09

Fiscal Year	Offense	Offense Age (*)								Total
		10 & under	11	12	13	14	15	16	17	
2002	Child Molestation 1	-	-	2	-	3	2	2	2	11
	Child Molestation 2	-	-	-	-	-	1	-	2	3
	Incest 1	1	-	-	-	-	-	-	-	1
	Indecent Liberties (with Forcible Compulsion)	-	-	-	-	-	-	-	1	1
	Indecent Liberties (without Forcible Compulsion)	-	-	-	-	-	1	-	1	2
	Rape 2	-	-	-	-	-	-	1	2	3
	Rape 3	-	-	-	-	-	-	-	2	2
	Rape of a Child 1	-	-	-	1	-	1	9	2	13
	Rape of a Child 2	-	-	-	-	-	1	1	1	3
	Rape of a Child 3	-	-	-	-	-	-	-	1	1
	Voyeurism	-	-	-	-	-	-	1	-	1
	Other non-sex offenses with Sexual Motivation	-	-	-	-	-	-	2	2	4
	Kidnapping 1	-	-	-	-	-	-	1	3	4
	Unlawful Imprisonment	-	-	-	-	-	-	-	1	1
	<b>Grand Total</b>	<b>1</b>	<b>-</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>6</b>	<b>17</b>	<b>20</b>	<b>50</b>
Failure to Register As Sex Offender	-	-	-	-	-	-	-	4	4	
2003	Child Molestation 1	-	-	-	2	1	-	-	1	4
	Child Molestation 2	-	-	-	-	-	-	1	3	4
	Communication with Minor for Immoral Purposes	-	-	-	-	-	-	-	1	1
	Incest 1	1	-	-	-	-	-	-	-	1
	Rape 3	-	-	-	-	-	-	2	1	3
	Rape of a Child 1	-	3	-	-	1	4	5	5	18
	Rape of a Child 2	-	-	-	-	-	-	-	2	2
	Rape of a Child 3	-	-	-	-	1	-	-	-	1
	Other non-sex offenses with Sexual Motivation	-	-	1	-	-	-	-	3	4
	Kidnapping 2	-	-	-	-	-	-	-	1	1
	Unlawful Imprisonment	-	-	-	-	-	-	-	1	1
<b>Grand Total</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>8</b>	<b>18</b>	<b>40</b>	
2004	Child Molestation 1	1	-	2	-	3	4	3	5	18
	Child Molestation 2	-	1	-	-	-	-	-	1	2
	Child Molestation 3	-	-	-	-	-	-	-	1	1
	Indecent Liberties (with Forcible Compulsion)	-	-	-	-	-	-	1	1	2
	Indecent Liberties (without Forcible Compulsion)	-	-	-	-	1	-	-	-	1
	Rape 1	-	-	-	-	1	1	1	1	4
	Rape 2	-	-	-	-	-	1	2	-	3
	Rape 3	-	-	-	1	-	2	1	2	6
	Rape of a Child 1	-	-	1	4	1	2	3	6	17
	Rape of a Child 2	-	-	-	-	-	-	-	2	2
	Rape of a Child 3	-	-	-	-	-	-	-	5	5
	Other non-sex offenses with Sexual Motivation	-	-	-	-	1	-	1	2	4
	Kidnapping 2	-	-	-	-	-	-	1	-	1
	Unlawful Imprisonment	-	-	-	-	-	-	1	-	1
	<b>Grand Total</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>5</b>	<b>7</b>	<b>10</b>	<b>14</b>	<b>26</b>	<b>67</b>
Failure to Register As Sex Offender	-	-	-	-	-	1	1	4	6	

(\*) Sentencing some of these offenders might occur after age of 18.

## Registerable Sex And Kidnapping Sentences For Juveniles (in Adult Courts) by Age FY02-FY09

Fiscal Year	Offense	Offense Age (*)								Total
		10 & under	11	12	13	14	15	16	17	
2005	Child Molestation 1	2	1	1	-	2	1	2	2	11
	Child Molestation 2	-	-	-	1	-	-	1	-	2
	Incest 1	-	-	1	-	1	-	-	-	2
	Incest 2	1	-	1	-	-	-	-	1	3
	Indecent Liberties (without Forcible Compulsion)	-	-	-	-	1	-	-	-	1
	Rape 1	-	-	-	-	-	-	-	1	1
	Rape 2	-	-	-	-	-	-	-	1	1
	Rape 3	-	-	-	-	-	-	-	3	3
	Rape of a Child 1	-	1	1	3	2	2	5	5	19
	Rape of a Child 3	-	-	-	-	-	-	-	2	2
	Sexual Exploitation	-	-	-	-	-	-	-	1	1
	Other non-sex offenses with Sexual Motivation	-	-	-	-	-	-	2	2	4
	Kidnapping 1	-	-	-	-	-	-	1	2	3
	<b>Grand Total</b>	<b>3</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>6</b>	<b>3</b>	<b>11</b>	<b>20</b>	<b>53</b>
Failure to Register As Sex Offender	-	-	1	-	-	-	1	2	4	
2006	Child Molestation 1	-	1	1	1	2	1	1	3	10
	Child Molestation 2	-	-	-	-	-	-	-	1	1
	Child Molestation 3	-	-	-	-	-	-	-	2	2
	Communication with Minor for Immoral Purposes	-	-	-	-	-	-	1	-	1
	Incest 1	-	-	1	-	-	-	-	1	2
	Indecent Liberties (with Forcible Compulsion)	-	-	-	-	-	-	-	1	1
	Indecent Liberties (without Forcible Compulsion)	-	-	-	-	-	1	-	1	2
	Rape 2	-	-	-	-	-	-	-	2	2
	Rape 3	-	-	-	-	-	2	-	-	2
	Rape of a Child 1	-	-	-	1	5	5	6	3	20
	Rape of a Child 2	-	-	-	-	-	-	3	4	7
	Voyeurism	-	-	-	-	-	1	-	1	2
	Other non-sex offenses with Sexual Motivation	-	-	-	-	-	2	-	-	2
	Kidnapping 1	-	-	-	-	-	-	-	1	1
<b>Grand Total</b>	<b>-</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>7</b>	<b>12</b>	<b>11</b>	<b>20</b>	<b>55</b>	
Failure to Register As Sex Offender	-	-	-	-	-	-	1	4	5	
2007	Child Molestation 1	-	-	-	-	-	-	1	5	6
	Child Molestation 2	-	-	1	-	1	1	-	-	3
	Child Molestation 3	-	-	-	-	-	-	1	-	1
	Incest 1	-	-	2	1	-	1	1	-	5
	Incest 2	-	1	-	-	-	1	-	-	2
	Indecent Liberties (with Forcible Compulsion)	-	-	-	-	-	-	-	1	1
	Indecent Liberties (without Forcible Compulsion)	-	-	-	-	-	-	-	1	1
	Rape of a Child 1	-	1	1	1	6	-	3	3	15
	Rape of a Child 2	-	1	-	-	-	-	2	2	5
	Other non-sex offenses with Sexual Motivation	-	-	-	-	-	1	-	1	2
	Kidnapping 1	-	-	-	-	-	-	1	1	2
	Kidnapping 2	-	-	-	-	-	-	-	1	1
	<b>Grand Total</b>	<b>-</b>	<b>3</b>	<b>4</b>	<b>2</b>	<b>7</b>	<b>4</b>	<b>9</b>	<b>15</b>	<b>44</b>
	Failure to Register As Sex Offender	-	-	-	-	2	-	1	1	4

(\*) Sentencing some of these offenders might occur after age of 18.

## Registerable Sex And Kidnapping Sentences For Juveniles (in Adult Courts) by Age FY02-FY09

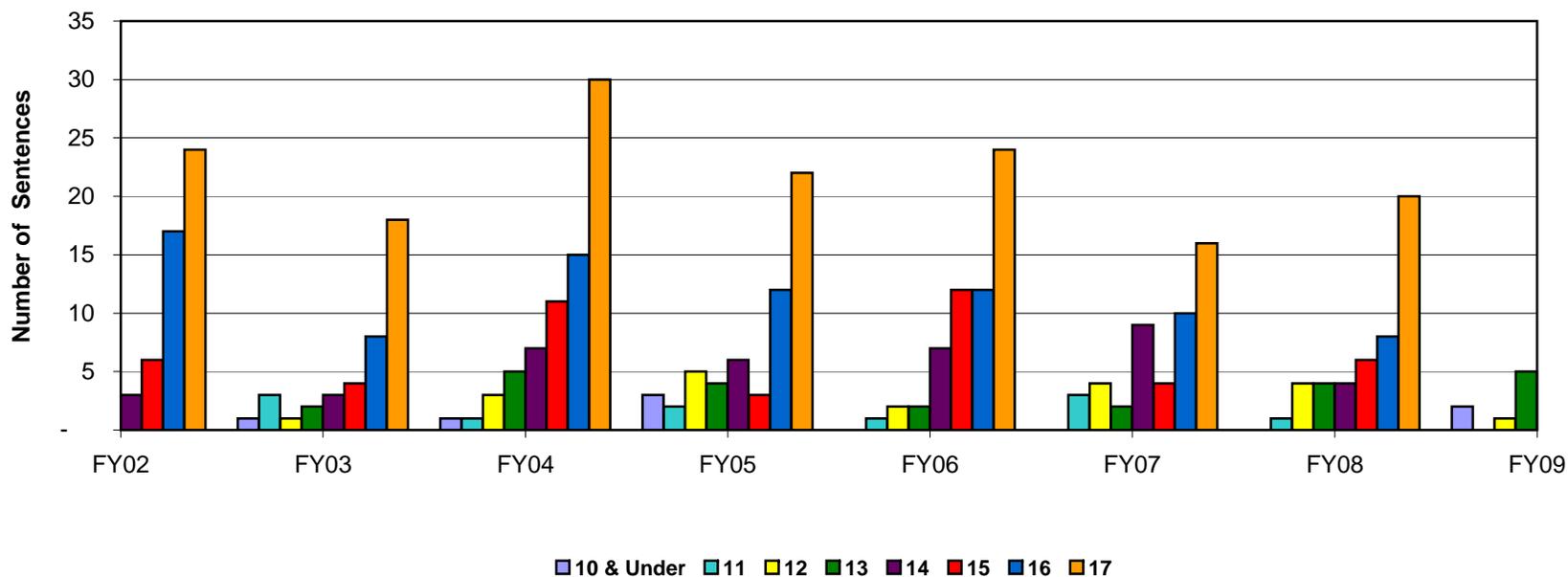
Fiscal Year	Offense	Offense Age (*)								Total
		10 & under	11	12	13	14	15	16	17	
2008	Child Molestation 1	-	-	-	1	1	1	3	2	8
	Child Molestation 2	-	-	1	2	-	-	2	-	5
	Child Molestation 3	-	-	-	-	-	-	-	1	1
	Incest 1	-	-	-	-	-	-	1	-	1
	Incest 2	-	-	1	-	-	-	-	-	1
	Indecent Liberties (without Forcible Compulsion)	-	-	-	1	-	-	-	-	1
	Rape 3	-	-	-	-	-	-	-	1	1
	Rape of a Child 1	-	1	2	-	2	5	-	2	12
	Rape of a Child 2	-	-	-	-	-	-	-	4	4
	Rape of a Child 3	-	-	-	-	1	-	-	2	3
	Other non-sex offenses with Sexual Motivation	-	-	-	-	-	-	1	1	2
	Kidnapping 1	-	-	-	-	-	-	1	-	1
	Kidnapping 2	-	-	-	-	-	-	-	1	1
	<b>Grand Total</b>	-	1	4	4	4	6	8	14	41
	Failure to Register As Sex Offender								6	6
2009	Child Molestation 1	1	-	-	2	3	-	1	3	10
	Child Molestation 1 (.712) for a fee (post 07/22/2007)	-	-	-	-	-	-	-	1	1
	Child Molestation 2	-	-	-	-	-	5	1	6	12
	Child Molestation 3	-	-	-	-	1	-	-	-	1
	Incest 1	-	-	-	-	-	1	1	-	2
	Incest 2	-	-	-	1	-	-	-	-	1
	Indecent Liberties (without Forcible Compulsion)	-	-	-	1	-	-	1	1	3
	Rape 1	-	-	-	-	-	-	-	1	1
	Rape 2	-	-	-	-	-	1	-	1	2
	Rape 3	-	-	-	-	-	-	1	1	2
	Rape of a Child 1	-	-	1	1	2	1	5	1	11
	Rape of a Child 2	1	-	-	-	-	-	1	1	3
	Rape of a Child 3	-	-	-	-	-	-	-	3	3
	Other non-sex offenses with Sexual Motivation	-	-	-	-	-	-	1	1	2
	Kidnapping 1	-	-	-	-	-	-	-	-	-
	Kidnapping 2	-	-	-	-	-	-	1	2	3
	<b>Grand Total</b>	2	-	1	5	6	8	13	22	57
Failure to Register As Sex Offender							1	2	3	

(\*) Sentencing some of these offenders might occur after age of 18.

Registerable Sex And Kidnapping Sentences For Juveniles (in Adult Courts) by Age FY02-FY09 6/9/2010

Fiscal Year	Age Range								Total
	10 & Under	11	12	13	14	15	16	17	
FY02	1	-	2	1	3	6	17	24	54
FY03	1	3	1	2	3	4	8	18	40
FY04	1	1	3	5	7	11	15	30	73
FY05	3	2	5	4	6	3	12	22	57
FY06	-	1	2	2	7	12	12	24	60
FY07	-	3	4	2	9	4	10	16	48
FY08	-	1	4	4	4	6	8	20	47
FY09	2	-	1	5	6	8	13	22	57
<b>Grand Total</b>	<b>8</b>	<b>11</b>	<b>22</b>	<b>25</b>	<b>45</b>	<b>54</b>	<b>95</b>	<b>176</b>	<b>436</b>

Registerable Sex And Kidnapping Sentences For Juveniles (in Adult Courts) By Age FY02-FY09



## Appendix L

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**147 Wn. App. 549, STATE V. WERNETH**

[No. 26208-1-III. Division Three. November 25, 2008.]

THE STATE OF WASHINGTON, *Respondent* v. CHARLES JOHN WERNETH,  
*Appellant*.

Susan M. Gasch (of Gasch Law Office), for appellant.

Steven J. Tucker, Prosecuting Attorney, and Mark E. Lindsey, Deputy, for respondent.

Author: DENNIS J. SWEENEY.

Concurring: TERESA C. KULIK & STEPHEN M. BROWN.

¶1 SWEENEY, J. -- A convicted sex offender is required to register an address with the sheriff. And out-of-state convictions for qualifying sex offenses trigger this obligation. But the out-of-state convictions must be legally "comparable" to Washington sex offenses and, if not legally, then factually. Here, the defendant entered an *Alford* plea «1» to child molestation in Georgia. We conclude that the conviction that resulted from that plea is not comparable to the Washington crime of attempted second degree child molestation. We, therefore, reverse the defendant's conviction for failure to register as a sex offender.

«1» *North Carolina v. Alford*, 400 U.S. 25, 37, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970) (*Alford* plea allows defendant to enter guilty plea to settle a particular criminal proceeding while denying guilt).»

## FACTS

¶2 The state of Georgia charged Charles John Werneth with child molestation and attempted aggravated child molestation in 1992. He entered an *Alford* plea to the child molestation charge, and Georgia did not prosecute the charge for attempted aggravated child molestation.

¶3 Mr. Werneth moved to Spokane County in 1994. He registered his address in August 1998 as 902 Bowman Road, Spokane, Washington. But he lived at 1420 E. Decatur in Spokane from April 2003 to April 2006. He did not register his Decatur address with the sheriff. The State then charged Mr. Werneth with failure to register as a sex offender after "having been previously convicted of a sex offense as defined in RCW 9.94A.030, to-wit: Child Molestation." Clerk's Papers (CP) at 1.

¶4 The State offered a certified copy of Mr. Werneth's Georgia conviction record to prove that he had been convicted of an out-of-state offense that required him to register as a sex offender in Washington. The State rested. Mr. Werneth moved to dismiss on the ground that his Georgia offense was not comparable to a Washington sex offense, and that he, therefore, was not required to register as a sex offender. The court

concluded that the Georgia child molestation offense was comparable to Washington's offense of attempted second degree child molestation, and it denied Mr. Werneth's motion. The court convicted Mr. Werneth of failing to register.

#### DISCUSSION

¶5 Mr. Werneth argues that the State failed to prove that his Georgia conviction for child molestation is comparable to a Washington "felony sex offense"--a requisite of the failure to register conviction here.

[1, 2] ¶6 We review a challenge to the sufficiency of the evidence by determining whether any rational trier of fact could have found the elements of the crime beyond a reasonable doubt. *State v. Hosier*, 157 Wn.2d 1, 8, 133 P.3d 936 (2006). The test is whether the State has produced substantial evidence to support each element of the crime charged (a burden of production). *State v. Huff*, 64 Wn. App. 641, 655, 826 P.2d 698 (1992). There are no factual disputes here, however. The only question before us is whether the Georgia conviction is comparable to the Washington crime of attempted second degree child molestation. That is a question of law and so our review is de novo. *State v. Beals*, 100 Wn. App. 189, 196, 997 P.2d 941 (2000).

[3] ¶7 The trial court here convicted Mr. Werneth of failure to register as a sex offender under former RCW 9A.44.130 (2006). The statute required the State to prove, among other elements, that Mr. Werneth's Georgia conviction for child molestation would be a felony sex offense in Washington:

A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a[n] . . . out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (10)(a) of this section.

Former RCW 9A.44.130(11)(a) (2006) (emphasis added).

¶8 Mr. Werneth urges us to apply the three-step analysis for determining the Washington sentencing consequences of an out-of-state conviction set out in *State v. Russell*, 104 Wn. App. 422, 440, 16 P.3d 664 (2001). And *Russell* seems to provide an appropriate analytical approach.

[4, 5] ¶9 To determine whether Georgia's crime of child molestation is a "felony sex offense" under former RCW 9A.44.130(11)(a), we must (1) convert the out-of-state crime into its Washington counterpart; (2) determine whether the Washington counterpart was a "felony sex offense" on the date the current offense was committed; and (3) assign the same consequence (registration requirement), if any, to the out-of-state conviction. *See Russell*, 104 Wn. App. at 440. The purpose of this analysis is to "ensure that the out-of-state court found each element of the Washington counterpart crime, just as a Washington court would have if the defendant had been prosecuted here." *Id.* at 442-43.

¶10 Mr. Werneth entered an *Alford* plea to the Georgia crime of child molestation in 1992. Georgia's child molestation statute provided:

A person commits the offense of child molestation when he does any immoral or indecent act to or in the presence of or with any child under the age of 14 years with the intent to arouse or satisfy the sexual desires of either the child or the person.

Former GA. CODE ANN. § 16-6-4(a) (1992).

¶11 In 1992, Washington's second degree child molestation statute required a showing of

sexual contact with another who is at least twelve years old but less than fourteen years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

Former RCW 9A.44.086(1) (1988). "Sexual contact" meant "any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party." RCW 9A.44.010(2). And a person was guilty of criminal attempt in 1992 if "with intent to commit a specific crime, he does any act which is a substantial step toward the commission of that crime." Former RCW 9A.28.020(1) (1981).

¶12 The Georgia statute criminalizing child molestation did not include two essential elements required by the Washington crime of attempted second degree child molestation: (1) the victim is "not married to the perpetrator," and (2) "the perpetrator is at least thirty-six months older than the victim." *Compare* former RCW 9A.44.086 (1) *with* GA. CODE ANN. § 16-6-4(a).

¶13 Therefore, "the out-of-state court did not necessarily find each fact essential to liability for the proposed Washington counterpart." *Russell*, 104 Wn. App. at 441-42. Mr. Werneth's Georgia crime cannot count as Washington's crime of attempted second degree child molestation "without more." *Id.* at 442. "More" means proof that the Georgia court entered findings of fact which support the additional elements of the Washington offense. *See id.*

¶14 The State argues that it produced the additional evidence needed to establish that the Georgia crime is comparable to the proposed Washington crime. It maintains that, at trial, it offered Spokane County court documents that showed Mr. Werneth's birth date. But the State did not offer any findings of fact made by the Georgia court that might have shown proof of these necessary elements. And the State's evidence does not show that the Georgia court was aware of Mr. Werneth's relationship to his victim (i.e., whether or not he was married to the victim).

¶15 Mr. Werneth's Georgia conviction is not comparable to the proposed Washington counterpart. Said another way, the Georgia court could not have, based on the facts before it, found Mr. Werneth guilty of Washington's crime of attempted second degree child molestation in 1992. Mr. Werneth's birth date was not presented to the Georgia trial court in 1992. And this record does not suggest that the Georgia court found Mr. Werneth was not married to his Georgia victim. We cannot assume the existence of

facts that are not in the record. *State v. Blight*, 89 Wn.2d 38, 46, 569 P.2d 1129 (1977). The Georgia court, therefore, did not find Mr. Werneth's age or his relationship to his victim beyond a reasonable doubt. And we conclude that the Georgia court did not find Mr. Werneth guilty of the Washington offense of attempted second degree child molestation in 1992. *Russell*, 104 Wn. App. at 442.

¶16 We need not address steps two and three of the comparability analysis because step one has not been satisfied. Mr. Werneth's Georgia conviction cannot be converted to Washington's crime of attempted second degree child molestation.

#### CONCLUSION

¶17 To convict Mr. Werneth of failing to register as a sex offender, the State had to produce sufficient evidence that Mr. Werneth was convicted of an out-of-state offense that would be a "felony sex offense" as defined in former RCW 9A.44.130(10)(a) (2006). The State failed to show that Mr. Werneth's Georgia conviction for child molestation is comparable to Washington's crime of attempted second degree child molestation. The State, therefore, failed to establish an essential element of the crime of failure to register as a sex offender. We reverse Mr. Werneth's conviction.

KULIK, A.C.J., and BROWN, J., concur.

## Appendix M

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**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

STATE OF WASHINGTON,

Appellant,

v.

PHILLIP WHITE FLOWERS,

Respondent.

No. 38468-0-II

PUBLISHED OPINION

Houghton, J. — The State challenges the trial court’s grant of Phillip Flowers’s motion to dismiss based on its ruling that he did not commit the crime of failing to register as a sex offender under RCW 9A.44.130(6)(b) and its ruling that the statute violates our constitution. We agree that Flowers did not commit a crime under the statute and affirm.

**FACTS**

Flowers is a convicted sex offender, classified as a level II offender. Because of his convictions, the State requires him to register as a sex offender under RCW 9A.44.130. At the time relevant to this matter, he registered in Cowlitz County as an offender who lacked a fixed residence.

Under RCW 9A.44.130(6)(b),<sup>1</sup> sex offenders who lack a fixed residence (transient sex

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<sup>1</sup> RCW 9A.44.130(6)(b) provides:

A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff’s office, and shall occur during normal business hours. The county sheriff’s office may require the person to list the locations where

offenders) must report weekly to the sheriff of their county of residence. The statute also permits the county sheriff to require transient sex offenders to list the locations where they stayed each day during the previous week. Before July 15, 2008, the Cowlitz County Sheriff adopted a policy requiring all transient sex offenders to list their locations during the previous week. As of August 20, 2008, some county sheriffs followed this same policy. Other county sheriffs did not require any transient sex offenders to list their locations over the previous week. The King County Sheriff occasionally required some transient sex offenders to report their locations if there was some reason to suspect that they had been engaging in suspicious activity.

On July 15, 2008, Flowers reported to the Cowlitz County Sheriff's Office and indicated that he had stayed at a certain address on July 12 and July 13. Apparently, he had not stayed at that address on those dates.

On July 18, the State charged Flowers with failure to register as a sex offender under RCW 9A.44.130(11)(a).<sup>2</sup> Specifically, the State alleged that Flowers, a convicted transient sex offender residing in Cowlitz County required to register as a sex offender with the Cowlitz County Sheriff, knowingly failed to "accurately report to the Cowlitz County Sheriff the locations

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the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

<sup>2</sup> RCW 9A.44.130(11)(a) provides:

A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (10)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (10)(a) of this section.

he stayed at during the preceding week.” Clerk’s Papers at 4-5.

Flowers filed a *Knapstad*<sup>3</sup> motion to dismiss the charge. The trial court granted his motion on several bases, ruling that (1) RCW 9A.44.130(6)(b) itself does not require transient sex offenders to list their daily locations, (2) the statute violates the separation of powers doctrine under the state constitution, (3) the statute violates his equal protection rights, and (4) the statute violates his due process rights under the state and federal constitutions.<sup>4</sup> The State appeals.

## ANALYSIS

### Statutory Reporting Requirements

The State argues that RCW 9A.44.130(6)(b) requires transient sex offenders to accurately report their locations during the previous week. Flowers responds that, because the statute only authorizes the county sheriff to require such reporting, the reporting is not a statutory requirement. Therefore, he asserts that a transient sex offender’s failure to report locations over the previous week is not a crime under RCW 9A.44.130(11)(a).

We review questions of statutory interpretation de novo. *State v. Jacobs*, 154 Wn.2d 596, 600, 115 P.3d 281 (2005). When interpreting a statute, we seek to ascertain the legislature’s intent. *Jacobs*, 154 Wn.2d at 600. Where plain on its face, we give effect to that meaning as expressing the legislature’s intent. *Jacobs*, 154 Wn.2d at 600. We determine the plain meaning of a statutory provision from the ordinary meaning of its language, as well as the general context

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<sup>3</sup> *State v. Knapstad*, 107 Wn.2d 346, 729 P.2d 48 (1986) (upholding a motion to dismiss for lack of material facts sufficient to prove guilt).

<sup>4</sup> Because we affirm the trial court on its first basis, we do not address the State’s arguments that the trial court erred in its decision based on equal protection, due process, and separation of powers arguments grounds.

of the statute, related provisions, and the statutory scheme as a whole. *Jacobs*, 154 Wn.2d at 600. Whenever possible, we must read statutes in harmony and give each effect. *State v. Bays*, 90 Wn. App. 731, 735, 954 P.2d 301 (1998). We interpret statutes to give effect to all language in the statute and to render no portion meaningless or superfluous. *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003). We avoid a reading that produces absurd results because we will not presume that the legislature intended an absurd result. *J.P.*, 149 Wn.2d at 450

RCW 9A.44.130(11)(a) makes it a crime for sex offenders to knowingly fail to comply with any of the requirements of “this section,” referring to RCW 9A.44.130. RCW 9A.44.130(6)(b) authorizes, but does not require, the county sheriff to command that transient sex offenders list their locations during the previous week. Because the statute does not mandate that transient sex offenders list their locations, it is not a “requirement” for which noncompliance is a crime under RCW 9A.44.130(11)(a). Flowers simply failed to comply with the sheriff’s requirements.

Moreover, this interpretation does not lead to an absurd result because the State could have charged Flowers with another crime. The State could have charged him with making a

No. 38468-0-II

false or misleading statement to a public servant, a violation of RCW 9A.76.175.<sup>5</sup>

Affirmed.

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Houghton, J.

We concur:

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Van Deren, C.J.

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Penoyar, J.

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<sup>5</sup> Under RCW 9A.76.175, “A person who knowingly makes a false or misleading material statement to a public servant is guilty of a gross misdemeanor. ‘Material statement’ means a written or oral statement reasonably likely to be relied on by a public servant in the discharge of his or her official powers or duties.”

But, given his acquittal, the mandatory joinder rule, CrR 4.3.1(b)(3), likely bars the State from later charging Smith for this crime under these facts. *See State v. Gamble*, No. 80131-2, 2010 WL 315024, at \*2-4 (Wash. January 28, 2010) (mandatory joinder rule is intended to prevent retrying the defendant for the same conduct after an acquittal).