Washington State
Sex Offender Policy Board

Annual Report to the Legislature

2010

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Authored by
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On behalf of the Sex Offender Policy Board

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- The legislative staff members who attended the many meetings providing helpful insight and advice, in particular Shani Bauer, non-partisan counsel for the Senate.

- The various stakeholders who participated and donated their time to assist in the Jose Reyes Case Review, specifically, Kathleen Sande and Martin Mueller from the Office of Superintendent and Public Instruction (OSPI); Gene DuPuis, Supervisor of the King County Juvenile Court Probation Special Assault Unit; Lisa Johnson, Senior Deputy Prosecutor and Supervisor of the King County Special Assault Unit; and Pegi McEvoy, Seattle School District.

- All of the state sex offender management or sex offender policy boards across the nation who provided very helpful information about how other states approach the sex offender management system.

- Each member of the Board and Committees who followed through on commitment to participate in a long-term (the Board is entering its third year), multi-disciplinary, collaborative process to critically assess and make proposals to improve the management of adult sex offenders and youth who sexually offend.

- We would like to acknowledge the extra time and effort of our Board and committee chair persons. Without their leadership and dedication this would not have been possible.

  Kecia Rongen (Chair of the SOPB starting in August 2010; Chair of the Reyes Committee; and Co-Chair of the Registration and Notification Committee); Russ Hauge (Past Chair of the SOPB from June 2008 to August 2010); Bev Emery (Vice-Chair of the SOPB starting August 2010, and Chair of the Benchmarks Committee); Andrea Piper (past Vice-Chair of the SOPB from June 2008 to August 2010); Lindsay Palmer (Chair of the Community Education Workgroup and Co-chair of the Registration and Notification Committee); Joanna Arlow (Chair of the Legislative Workgroup) ; and Amy Pearson for all of her contributions on the Reyes case, Registration workgroup and Benchmarks.

SEX OFFENDER POLICY BOARD MEMBERS

Kecia Rongen, M.A. - DSHS Juvenile Rehabilitation Administration.

Ms. Rongen has worked with juvenile sexual offenders for over 14 years within JRA in various positions. Since 2005 she has been the Program Administrator for the Sexual Offender population at JRA, and is the Chair of the JRA Sub-Committee of the Department of Corrections' (DOC) End of Sentence Review Committee. Ms. Rongen is a Board Member for the Washington Association for the Treatment of Sexual Abusers (WATSA) and currently serves as the Chair of the Sex Offender Policy Board.

Russ Hauge, Esq. – Washington State Association of Prosecuting Attorneys.

Mr. Russ Hauge was elected Kitsap County Prosecuting Attorney in 1994 and re-elected in 1998, 2002, 2006 and 2010. He is a graduate of the University of Washington and the University Of Oregon School Of Law. He began his legal career as a Kitsap County Deputy Prosecuting Attorney, and then entered private practice with the Shiers Law Firm in Port Orchard. Born in Bremerton, he and his wife Jil now live in Silverdale. They have two sons and two grandsons. Mr. Hauge served as the Chair for the Board from 2008 to 2010. Before that, he was appointed by Governor Gregoire as chair of the Zina Linnick Task Force, resulting in the creation of the SOPB.

Bev Emery, M.A. - Office of Crime Victims Advocacy.

Ms. Emery is the director of the Office of Crime Victims Advocacy (OCVA), since its inception as part of the Community Protection Act of 1990. Prior to that, she was the Executive Director of the Washington Coalition of Sexual Assault Programs for approximately eight years. Under her leadership at OCVA, universal service definitions and standards have been developed to ensure high quality services throughout Washington for victims of crime. Ms. Emery was part of the DOC sponsored Partnership for Community Safety, an instrumental multi-disciplinary effort towards sex offender management. Ms. Emery has been a leader in the convergence of interests between sexual assault victim interests, community safety, and sex offender management and serves as the Vice-Chair of the Sex Offender Policy Board.

Anmarie Aylward, M.A. – Department of Corrections.

Ms. Aylward has served as the Assistant Secretary of the Community Corrections Division for the Washington State Department of Corrections since September 2009. Prior to this appointment, she was responsible for the following programs within the Offender Treatment and Reentry Programs Division: End of Sentence Review/Civil

Commitment, Law Enforcement Notification, Education, Family Services, Re-entry, Chemical Dependency, and Religion. Anmarie continues to be the appointing authority for the Department's Sex Offender Treatment Program.

Ms. Aylward began her career in corrections with the Illinois Criminal Justice Information Authority in Chicago, Illinois. She holds a Master's Degree from North Illinois University in Sociology and Criminal Justice. Throughout her career and her 20 years of State Service, she has specialized in the field of sex offender treatment, working with both the sexual offenders and their families. She is the Chair of the State's End of Sentence Review Committee, which has the responsibility for determining a sex offender's risk level classification prior to his/her release to the community.

Ms. Aylward is a published author and speaker on sex offender management issues. She holds memberships with the Association for the Treatment of Sexual Abusers, Washington State Association for the Treatment of Sexual Abusers, Washington Coalition of Sexual Assault Programs, American Correctional Association and the Washington Correctional Association.

Maureen Saylor, R.N., M.A. - Washington Association for the Treatment of Sexual Abusers.

Ms. Saylor is a certified sex-offender-treatment provider and a psychiatric nurse. She has 35 years of experience evaluating and treating sex offenders. She has been in private practice since 1996 when she retired after twenty – five years of service at Western State Hospital where she also worked with sex offenders for most of her career there. She has worked with both adolescents and adults. She has been active in Washington Association for the Treatment of Sexual Abusers since its inception and has served as an officer and a board member.

Joanna Arlow, Esq. – Washington Association of Sheriffs and Police Chiefs.

Ms. Arlow has been the Policy Director for the Washington Association of Sheriffs and Police Chiefs since spring, 2008. Prior to that, she served as staff counsel for both the House of Representatives Democratic caucus (2002-2004) and Senate Democratic caucus (2004-08). Ms. Arlow is licensed to practice law in both Washington State and Wisconsin.

Mary Ellen Stone, M.S. – Sentencing Guidelines Commission.

Ms. Stone has served as Executive Director of King County Sexual Assault Resource Center (KCSARC), since 1979. She has played an active role in changing the nature of sexual assault prevention, education and victim response in Washington State. Through innovative programs that she helped plan and implement, she has changed the way citizens of Washington State view sexual violence.

Under her leadership, KCSARC has become one of the country's leading resources for sexual assault victims, their families, professionals and the community. KCSARC is widely recognized for innovation in the field of sexual assault direct services and prevention programming. Agency staff plays key roles in major state wide coalitions and commissions, and regularly provide consultation and technical assistance to a wide variety of professional and community members.

The agency has received numerous awards including Best Company to Work for (Washington CEO Magazine and Puget Sound Business Journal) and Outstanding Non-profit (Renton Chamber of Commerce).

Ms. Stone is a leader in the non-profit sector. Present board and commission membership includes Sex Offender Policy Board, Mental Illness Drug Dependency Oversight Committee, Seattle Archdiocese Review Board, South King Council of Human Services Board and the Sentencing Guidelines Commission.

Recent awards and recognition include: Women Leaders Award, ACT Theatre/YWCA 2007, Woman of Inspiration, Seattle Storm 2006, Moving Mountains Award, Office of Crime Victim's Advocacy 2004 and Founding Mother, Women's Funding Alliance 2003

Brad Meryhew, Esq. - Washington Association of Criminal Defense Lawyers.

Mr. Meryhew has been in private practice since 2003, focusing during the last several years on sex based offenses. He began his legal career as an attorney for Society of Counsel Representing Accused Persons handling misdemeanor and felony trials (1997-2003), prior to his legal career he worked in politics in Washington, D.C., and as a business manager. He practices in state and federal courts throughout Western Washington. He is a 1994 graduate of the University Of Puget Sound School Of Law and a 1980 graduate of the University of Utah. Brad has represented Washington Association of Criminal Defense Lawyers on the Sex Offender Policy Board since its inception in 2008.

Judge Laura Middaugh – King County Superior Court Judge.

Judge Middaugh received her BA in psychology at the University of California, Santa Cruz in 1971, followed by a Nursing Decree from De Anza College in 1974. She continued her medical training for Intensive Care Unit Nursing from 1974 to 1983. In 1983, Judge Middaugh received her JD, cum laude from University of Puget Sound, now Seattle University School of Law.

She began her law practice in a small firm, then as a general litigation sole practitioner with an emphasis on family law and mediation. She was a pro tem and a Family Law Commissioner with the King County Superior Court prior to her election as a King County Superior Court Judge in 2000.

Judge Middaugh has held elected positions as Trustee Superior Court Judge's Association, Chair Supreme Court Pattern Forms Committee, and the King County Superior Court Strategic Planning Committee. Volunteer committees and positions include Chair of the Board of Trustees Jon and Bobbe Bridge Child Care Center and member of various King County committees and SCJA committees.

Lynne DeLano, M.P.A - Indeterminate Sentence Review Board.

Ms. DeLano has a Bachelor of Science degree from the University of California at Davis and a Master's in Public Administration from the University of South Dakota.

Ms. DeLano was appointed by Governor Christine Gregoire as Chair of the Indeterminate Sentence Review Board in January 2010. She has over 30 years experience working in corrections, beginning as a correctional officer in South Dakota's women's prison and ultimately serving as that state's first Secretary of its new Department of Corrections from 1989 – 1995. Ms. DeLano worked in private corrections in Washington State, and subsequently served in several top administrative positions in the Washington Department of Corrections over an 8 year period.

Ms. DeLano and her husband lived overseas from 1997 to 1999, during which time she taught criminal justice classes. She and her husband also served in the Peace Corps in Romania from 2006-2008.

Brooke Burbank, Esq. -Office of the Attorney General.

Ms. Burbank is the Section Chief for the Sexually Violent Predator (SVP) Unit of the Attorney General's Office. Prior to joining the Attorney General's Office, she was a Senior Deputy Prosecuting Attorney at the King County Prosecuting Attorney's Office, primarily handling sexual assault and SVP cases.

Andrea Piper-Wentland, MA - Washington Coalition of Sexual Assault Programs.

Ms. Piper-Wentland is the Executive Director of the Washington Coalition of Sexual Assault Programs (WCSAP) and served as Vice-Chair of the Sex Offender Policy Board from 2008 to 2010. Ms. Piper-Wentland has an extensive background in sexual assault advocacy and victim service provision. Throughout her career she has focused her efforts on enhancing individual and system responses to victims and survivors. Ms. Piper-Wentland actively works on development of effective public policy and legislation related to sexual assault victimization, supervision and management of sex offenders, and community responses to sexual violence.

Holly Coryell, Ph.D – DSHS Special Commitment Center.

Dr. Coryell received her doctorate in Clinical Psychology from Gallaudet University with specialized training in the assessment and treatment of deaf individuals. After

she completed her pre-doctoral internship at Western State Hospital in 2001, she began working at the Special Commitment Center (SCC) where she conducted individual and group therapy for sex offenders and provided clinical consultation to a treatment team of forensic therapists.

She is considered an expert in the area of deafness in RCW 71.09 civil commitment proceedings and offers consultation services regarding deaf patients at WSH and CSTC. In 2004 she transferred from the clinical services unit of the SCC to the forensic services unit where she conducted post commitment evaluations of civilly committed sex offenders.

She holds a Clinical Faculty appointment in the Department of Psychiatry & Behavioral Sciences, University of Washington School of Medicine and has supervised SCC post-doctoral fellows. Dr. Coryell has conducted seminars for professional staff at SCC, and WSH on a variety of topics including the assessment of dynamic risk factors, deafness and mental health and sexual feelings in psychotherapy. She has presented on the topics of emerging issues between forensic and therapeutic roles and managing boundaries within SVP programs at AP-LS and ATSA. In September 2010, Dr. Coryell accepted the position of Acting Clinical Director at the Special Commitment Center.

Daniel Yanisch, Psy.D – DSHS Special Commitment Center.

Dr. Yanisch is a licensed psychologist in Washington State since 1999. He has worked at the Special Commitment Center since 1998, as a treating psychologist, the Forensic Services Manager, and now as an evaluator conducting annual reviews of residents who are civilly committed as sexually violent predators. He moved to Washington after completing a 2 year post-doctoral fellowship at the University of Minnesota Program in Human Sexuality. There he focused on assessing and treating people with compulsive sexual behavior, marital and sexual dysfunctions, and sex offending issues. He also has a private practice in Tacoma, treating Special Sex Offender Sentencing Alternative clients in the community.

Stacy Krantz, Esq. - Association of Washington Cities.

Ms. Krantz started her legal career in 2002, initially employed as a criminal deputy prosecuting attorney/deputy coroner for Klickitat County Prosecuting Attorneys Office in district court, office of support enforcement and juvenile court backup. She then served as a deputy prosecuting attorney for Clallam County in the criminal division, followed by a promotion to civil division representing the public works and road department.

In 2004, Ms. Krantz entered into private practice with a boutique firm in Seattle specializing in maritime law defense, WISHA violation defense and Worker's compensation defense representing self-insured employers and third party insurance

companies. As of 2008, Ms. Krantz has been employed by the City of Auburn as a criminal prosecuting attorney.

Lynda Ring-Erickson, Ed.D. – Mason County Commissioner.

Dr. Ring-Erickson is the immediate past president of the Washington Association of Counties and is serving her third term as County Commissioner in Mason County. She is a member of the Sentencing Guidelines Commission and the Washington State Forensic Investigation Council. Dr. Ring Erickson has served as a senior policy analyst, as a corrections program officer in state and local government, and was once a police officer in the King County Department of Public Safety. From 1993 to 1999 she was the Executive Director of the Suburban Cities Association of King County.

EXECUTIVE SUMMARY
AND
INTRODUCTION

As discussed in the 2009 SOPB Report to the Legislature, the recognition of the extent and seriousness of sexual victimization and of its impact on individuals and on society as a whole has expanded dramatically over the past two decades. While the problem persists; negatively impacting the lives of many in our society, the research, policies, and legislation implemented by the experts and stakeholders from around the nation and individuals states involved in sex offender management has substantially improved and continues to grow.

This burden that the community, victims, policy makers, treatment providers, schools, and law enforcement carry will always remain heavy when these groups are working to protect the public from the crime of sexual assault. The understanding that sexual assault is a "special " sort of crime that has a different impact on its victims and that, in many cases, is perpetrated by an individual whose psychology and motivation is different from that of other criminals has a number of consequences. One important consequence is that those who deal with such crimes at every stage of the intervention process need to have specialized knowledge.

Sexual offending is and continues to be a very emotionally charged topic, making clear thinking about how best to manage sex offenders a significant challenge. What must remain in focus is that sex offender management must be victim-centered and protect public safety as a whole.

To assist in this very important process and ensure that policies are rooted in evidence based research and practices, in March 2008, Governor Gregoire signed into law SSB 6596, creating the Washington State Sex Offender Policy Board. The Board was created to provide the Governor, the State Legislature and relevant state and local agencies with an assessment of current sex offender management practices and recommended areas of improvement.

Summary of testimony on this bill before the Senate Committee on Human Services and Corrections as well as the Senate Ways & Means committee clearly revealed that lawmakers and key stakeholders alike viewed the inception of the Board as critical to informing policymakers about various issues relating to sex offenders on an ongoing basis.

> There is a need for an ongoing group to keep up on continuing and cutting edge research, techniques, and management tools for sex offenders across the country and bring that information back to Washington. It is important that policymakers have an independent non-political body to turn to for information on sex offenders. The Board would not develop the research but would gather the

> research that exists, and might, within available funding, contract with an outside group for some research. It is important to have a group to look at the failure; similar to child fatality reviews, to what should be done in the case and what could be done differently in the future to prevent a reoccurrence. The board should be able to conduct an investigation at its own behest rather than waiting for a request from an outside entity.
>
> The Governor's task force on the Zina Linnick matter was hurriedly pulled together this summer and if this board had existed, it could have taken up the issue rather than scrambling to put together a task force. Many states have sex offender policy boards and this state can capitalize on what those boards have already done and learned and build on it. The board would be a continuing advisory board to the Legislature on sex offender matters. This board would serve the best interests of the victims in these issues.
> [Jennifer Strus, Senate Committee on Human Services & Corrections, Senate Bill Report SSB 6596, March 6, 2008][1]

Just as Washington State did in 1990 when it created cutting edge law and policy responding to the needs of sexual victims and managing sex offenders, Washington today recognizes the importance of improving and maintaining a multi-agency collaborative sex offender response system that relies upon evidence based research and practice.[2] Creating and using a state-level sex offender policy board to accomplish this demonstrates that Washington understands the enormous complexity of sex offender management and the special trauma and harms a victim of sexual assault experiences. It also represents Washington's commitment to furthering public safety, especially for some of its most vulnerable populations. Washington is now in line with one of the most promising mechanisms nationwide, establishing and using a sex offender policy board to assist law makers and agencies in adopting evidence-based systems to address complex issues across a wide range of public policy areas.[3] (*See Appendix B*)

In August 2010, after completing a comprehensive overview of state sex offender management policy groups, the Center for Sex Offender Management (CSOM) found that using this mechanism, sex offender management policy groups, has resulted in these groups better equipping public officials to deploy limited resources efficiently

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[1] See Appendix A.

[2] Washington State was the first state to enact a sex offender community notification law under the 1990 Community Protection Act. Washington's current system supports public safety by setting community notification standards using a risk-based analysis system.

[3] Dr. Kurt Bumby and Tom Talbot, Advancing Sex Offender Management Efforts Through State-Level Policy Groups. Center for Sex Offender Management (CSOM): A Project of the U.S. Department of Justice, Office of Justice Programs; p. 1 (August 2010).
Established in June 1997, CSOM's goal is to enhance public safety by preventing further victimization through improving the management of adult and juvenile sex offenders who are in the community. A collaborative effort of the U.S. Department of Justice, Office of Justice Programs, the National Institute of Corrections, the State Justice Institute, and the American Probation and Parole Association, CSOM is administered by the Center for Effective Policy.

and effectively.[4] Through the efforts of these policy teams, many states, including Washington are:

- Implementing multi-agency collaboration at the state, local, and case management levels;
- Crafting more informed, evidence-based laws and policies; and
- Translating these into research-supported high quality offender management practices.[5]

CSOM examined and classified state sex offender policy groups as either (1) policy teams with a broad focus, or (2) issue-specific teams with a narrower scope.[6] CSOM found that composition of the issue-specific, more narrowly focused policy groups tend to be less comprehensive and diverse than the membership of policy teams that have broader responsibilities.[7] CSOM listed Washington's board under the category of *broad diverse policy groups*. When examining other sex offender policy groups across the country, CSOM specifically mentioned Washington State out of six other states as having tangible accomplishments including, but not limited to:

> Washington State's Sex Offender Policy Board generated a research-supported report for the State Legislature on registration and community notification that included recommendations that were subsequently enacted by the legislature.[8]

As a result of the important collaborative work of these entities, external stakeholders – including victims, their families, and the broader public – can develop an enhanced understanding of, confidence in, and support for the system that are in place to prevent sexual victimization and enhance community safety.[9]

Washington State's Sex Offender Policy Board

Years 2008 ~ 2009

In 2008, the Governor and the Legislature created the SOPB. That same year, the Legislature passed HB 2714 directing the Board to review Washington State's sex offender registration and notification system. During the following 18 months, the Board reviewed current sex offender registration and notification laws and policies in Washington State, as well as the other 49 states. The Board spent countless hours engaging in policy discussions, delving into research assignments, drafting

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[4] *Bumby and Talbot (CSOM)* at p.13. (emphasis added.)
[5] *Id.*
[6] *Bumby and Talbot (CSOM)* at p.2.
[7] *Id.* at pgs. 2-3
[8] *Id.* at p.8
[9] *Id.*

memoranda, consulting with experts in both the adult and juvenile system, reviewing research, including meta-analyses completed by the Washington State Institute of Public Policy (WSIPP), and engaging in stakeholder forums around the state.

In December 2009, the Board submitted a comprehensive, research and evidence-based report to the Legislature. There were a number of findings regarding adult sex offenders and youth who sexually offend, including:

- Making well-informed decisions based on the best-available research is key to ensuring public safety.
- Ongoing coordinated and collaborative efforts are required in order to stay apprised of best practices and to ensure efficient and evidence – based approached to emerging issues within the sex offender management system.
- Empirically validated risk tools are one of the most effective ways to determine an offender's risk to re-offend. The use of standardized dynamic factors can also be helpful in risk level assignment.
- Youth who have sexually offended are different from adults who commit sex offenses in part, because of on-going 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.

The recommendations from the 2009 report rest on the principles underlying these findings and continue to guide the Board in their research and policy recommendations today.

Shortly after the Board published its report at the end of 2009, Senator Debbie Regala, Vice-Chair of the Committee on Senate Human Services and Corrections sponsored ESSB 6414 ~ Improving the administration and efficiency of sex and kidnapping offender registration. (*See Appendix C*)

This bill represented the consensus recommendations of the Board. The recommendations were rooted in evidence based best practices and support enhancements to Washington State's existing sex offender management systems. Further, the practices are victim centered and provide a good balance for public safety. The following is a summary of those recommendations:

- standardize all registration requirement deadlines within the registration statute to three business days with few exceptions;
- change the statue so that a juvenile sex offender's first failure to register offense will not bar them from petitioning for relief from registration;
- establish a statutory list of criteria that is illustrative to the judge of considerations that may be important in determining whether an adult offender should be relieved from registration;

- adopt a tiered approach to the class of felony for a failure to register as a sex offender– class C for the first two convictions and class B for the third and subsequent convictions;
- reduce community custody for the first failure to register for a sex offense conviction to 12 months; second and subsequent convictions would continue to require 36 months of supervision; and
- repeal the 90-day registration requirement for level II and III adult sex offenders and support codification of law enforcement's address verification program.

While these represent the Board's recommendations with unanimous consensus; there were many other recommendations, especially those related to youth who sexually offend, that received support from the majority of the Board. In 2010, the Board continued to work on these recommendations as well as draft new recommendations that address other areas of the sex offender management system.

Year 2010

Despite the reduction in the Board's budget in 2010, the members followed through on an ambitious work-plan that represents the Board's statutory duties.

The Board is statutorily mandated to conduct case reviews on sex offenses as needed to understand performance of sex offender prevention and response systems or which are requested by the governor, the legislature, or local criminal justice agencies. (See RCW 9.94A.8676(1)(b)) The reviews shall be conducted in a manner that protects the right to a fair trial.

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 and make recommendations for consideration during the 2011 legislative session. *(See Appendix D)*

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 improve 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. (*See pgs.36-45 for the entire Report on the Reyes Case Review.)*

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(1)(d)). 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 sectors in the sex offender management system to communicate and share information, as well as collaborate with each other.

Legislative Requests

This year, in addition to the Reyes case review request, legislators submitted other requests to the Board asking it to examine and research other current sex offender management issues, including registration fees; "sexting"; posting sex offender supervision conditions on the public website; and online identifiers. The Board completed these requests and testified this year before the House Committee on Public Safety and Emergency Preparedness on a few of these issues.

Benchmarks

The Board is required to develop and report on benchmarks that measure performance across the state's sex offender response system. (See RCW 9.94A.8676(1)(c)). The Board continued its work from 2009 in mapping the Washington State sex offender management system. The Board completed a map of the entire sex offender management system for both adults and juveniles. (*See Appendices E & F.*) It is now posted on the Sex Offender Policy Board website for both the public and practitioners' viewing. Measures have been determined regarding some aspects of the system and data is currently being collected. Measures will be posted on the SOPB website and updated. (*See Appendix G*.) The final task was the establishment of short-term dashboard measures to demonstrate the constant activity occurring across Washington State necessary to manage sex offenders. (*See Appendix H.*)

This will continue to be an ongoing responsibility of the Board requiring statewide agency collaboration in data gathering and analysis.

Community Education

Part of the Board's statutory duties is to provide community education and the distribution of information about all parts of the sex offender management system to interested parties. Last year the Board worked diligently to define community education separately from community notification. The 2009 Sex Offender Policy Board Report to the Legislature included research and findings from the Community Notification & Education sub-committee indicating the need to create a separate community education and component within the sex offender management system, distinct from already existing community notification meetings conducted by law enforcement in each county.

This year the Board continued to work on developing this system, including working with other stakeholders in developing a pilot project that will be launched in the near future.

Registration and Notification

The Board is required to review current laws and best practices as they emerge in the registration and notification system. Last year, the Board completed a comprehensive review of Washington State's sex offender registration and notification system as it relates to adults and juveniles. This year, the Board continued to review current registration and notification issues, as well as refine recommendations developed in 2009. The Board also provided assistance in recommending changes that simplified the statute and corrected inconsistencies.

The Adam Walsh Act

Pursuant to RCW 9.94A.8671, part of the legislative intent behind creating the Board was to foster a comprehensive response to issues that arise, such as integrating federal and state laws.

The federal government enacted the Adam Walsh Child Protection and Safety Act (AWA) of 2006. The AWA's Title 1 Sex Offender Registration and Notification Act (SORNA) evince the federal goal of establishing a comprehensive national system of sex offender registration and community notification.

As discussed in detail later in this report, 45 states including Washington, have yet to be found in substantial compliance after two one-year extensions. This past year the SOPB and the Governor's Office have been regularly communicating with the Office of Sex Offender Monitoring, Apprehending, Registration, and Tracking (SMART) to understand the similarities and differences between AWA's and Washington State's systems, and where, if at all, a resolution can be reached.

This year, the Board's staff conducted extensive analysis at the request of both the SMART Office and the Governor's Office illustrating the strengths of Washington's sex offender registration and notification system, including our leveling system as compared to SORNA's tiering system.

Best practices balanced with fiscal realities

The Board has a statutory duty to research and report to the Governor and Legislature on current research and best practices. It recognizes that some of its recommendations are not fiscally feasible at this time because of our current budget crisis. However, the Board has decided to make recommendations based on best practices rather than letting the fiscal impact inhibit sound policy recommendations.

ADMINISTRATIVE

In SSB 6596 (2008), the statute creating the Sex Offender Policy Board (SOPB), the Legislature assigned administrative responsibility for the SOPB to the Sentencing Guidelines Commission (SGC). RCW 9.94A.8671 states that the Legislature's intent is to promote a coordinated and integrated response to sex offender management and to create an entity to respond to issues that arise, such as integrating federal and state laws, in a way that enhances community safety.

Because of the state budget crisis, the SGC budget was reduced by 22% and staff was reduced by 30% for FY 2009-11. In FY 2011, the SGC budget was reduced an additional 11% for FY 2011. The annual SGC Budget is now $844,000 and administration of the Sex Offender Policy Board is included in this allotment.

The SOPB is now staffed by a full-time Program Director and assisted by the SGC Executive Director and Administrative Assistant.

Despite staff and budget cuts, the SOPB has accomplished a number of assignments, including legislative requests on distinct issues related to sex offenses, an intensive case review involving multiple systems, and fulfilling requests submitted by SOPB Board members. This was in addition to its ongoing work plan based on the Board's statutory duties.

YOUTH WHO SEXUALLY OFFEND

Introduction

In December 2009, the Board submitted a comprehensive, research based report to the Legislature. Within the report, there is a sizeable section on youth who sexually offend. The research contained within and across the nation clearly supports the recommendations related to youth who sexually offend. In the majority of cases, these juveniles are very different from their adult counterparts, requiring a rehabilitative approach. Youth who sexually offend are viewed as highly amenable to this type of approach. Their recidivism rate is also very low. Once a juvenile has demonstrated that he or she has satisfied the statutory requirements to be relieved from registration, this juvenile has the ability to petition for relief from registration and should be encouraged and assisted in the petitioning process. (*See Appendix I.*)

This will allow the juvenile to enter adulthood without the collateral consequences registration carries with it, including difficulty finding housing and employment. This will also improve the system by focusing its resources on the management of offenders that pose the most significant risk to society. Continued registration that no longer serves a public safety purpose misdirects the resources away from the most dangerous offenders.

In 2010 the legislature enacted legislation permitting juveniles with non-sex offenses to seal their records, including those with Class A offenses. (*See* RCW 13.50.050(12)(a)(i – v)). Since the passage of this bill, the Board has examined the relationship between the juvenile de-registration process and juvenile delinquent record sealing process and believe youths who sexually offend should be added to those who have the right to seal under the 2010 legislation. Currently, juveniles who have been adjudicated of a Class A serious violent offense can petition the Court seal their juvenile delinquent file. Juveniles adjudicated of sex offenses are statistically less likely to reoffend than their juvenile non-sex offense peers.

1. Petition for Relief from Registration

Juveniles who have been adjudicated of a sex offense have the ability to be relieved of the duty to register. The requirements for relief from registration are comprehensive and demanding. Those that are eligible should be provided greater access to petitioning for relief from registration. Juveniles often need guidance through the process of petitioning a court for relief from registration.

Recommendations: *Revise the statute to remove the difference of proof standards between juveniles over or under the age of 15 at the time of adjudication. (See RCW 9A.44.142/.145) The original purpose behind having two different standards is that the legislature had previously determined the need for two different standards because of the time lines being different based on the age of the petitioner. The change under 6414 in 2010 now extends the period of time for all juvenile petitioners, regardless of age. The requirements are: 2 years clean record, completed supervision requirements and treatment requirements.*

Provide assistance to juveniles adjudicated of a sex offense and/or families to petition Superior Court for relief from registration. In providing this assistance, the Board recommends that each juvenile court have a juvenile facilitator, much like the law facilitator, that counties are required to have to assist pro se family petitioners or respondents in family law proceedings. This facilitator does not need to be a newly created position, just an individual who can provide this assistance to the juvenile. By facilitating the petition for relief from registration process for juveniles adjudicated of a sex offense, this will potentially reduce costs to the community and state agencies by focusing limited resources on those with the highest risk to re-offend.

*Please note The Washington Association of Sheriffs and Police Chiefs (WASPC) and The Washington Association of Prosecuting Attorneys (WAPA) are neutral as to this recommendation. They recommend that if a court seals a juvenile registered sex offender's criminal record, including the sex offense adjudication, this should occur after the juvenile has successfully petitioned the Court to relieve the juvenile from registration. If feasible, the request to seal can immediately follow the petition for relief from registration.

2. Sealing Juvenile Sex Offender Records

Current statute allows juveniles adjudicated of a criminal offense to seal their records, including those with serious violent offenses (Class A). (See RCW 13.50.050(12)(a).) Juveniles adjudicated of a sex offense are excluded from this group. (See same RCW cite.) The consequences of an adjudication for a sex offense is just as significant for the juvenile, as an adjudication for a serious violent non-sex offense, if not more so due to the stigma of a sex offense. The proposed criterion for record sealing of sex offenses ensures public safety, like the statutory criterion for sealing of non-sex offenses.

Recommendation: *Revise statute to allow for the sealing of records for those who have been adjudicated of a sex offense. After a juvenile has been found eligible for deregistration that juvenile may then petition to have his or her criminal record sealed.*

*Please note WASPC and WAPA are neutral as to this recommendation. They also recommend that if a court seals a juvenile registered sex offender's criminal record, including the sex offense adjudication, this should occur after the juvenile has

successfully petitioned the Court to relieve the juvenile from registration. If feasible, the request to seal can immediately follow the petition for relief from registration.

3. Validated Juvenile Risk Assessment Tool

To date, Washington State does not use a risk assessment tool specific for youth who sexually offend in Washington State. Because of the vast differences between adults and juveniles, including a juvenile's on-going development, amenability to treatment and intervention, and different type of risk factors, a separate risk assessment tool specifically designed for youth who sexually offend is necessary. Other states have reached this conclusion and while no state has a validated juvenile tool; many use a separate tool for youth who have sexually offended.

Recommendation: *The SOPB proposes developing a validated juvenile risk assessment tool specific to Washington State or implementation of an assessment tool designed for youth. In the meantime, the Board recommends statewide training on the assessment tool currently used on youths who sexually offend in Washington.*

REGISTRATION AND COMMUNITY NOTIFICATION

1. Defining "Fixed Residence"

Current law defines the registration requirement for those "lacking a fixed residence". (*See* RCW 9A.44.130(4)(vii – viii)). There is no definition for "fixed residence". Prosecutors report that it is problematic to charge a registered sex offender (RSO) with a Failure to Register (FTR) offense based on the RSO not registering as homeless/transient person when lacking a fixed residence without a definition for fixed residence. Law enforcement also reports difficulty in determining whether, in some circumstances, an offender's living arrangement qualifies as a fixed residence or not, e.g. homeless shelters and vehicles. The Board researched other state's failure to register laws and definitions of fixed residence, including the Adam Walsh Act definition. The Board spent several months discussing and drafting a potential appropriate definition. While the Board has not yet reached an agreement on a specific/finalized recommendation for proposed statutory language, it supports continuing this work during the upcoming year with the goal of having a definition of fixed residence included in the statute. This will assist offenders, law enforcement and prosecutors in having a common understanding of when an offender does or does not have to register as transient or homeless.

Recommendation: *Define "fixed residence" for purposes of prosecuting FTRs, clarifying for law enforcement whether an offender must register as transient and check in with the local sheriff's office each week, and clarify expectations for the sex offender.*

2. Statutory Clean-up of RCW 4.24.550 and SSB 6414

After SSB 6414 went into effect in June 2010, some inconsistencies and technical errors came to light. Because the Board already contemplated recommending changes to address technical errors contained in SSB 6414, it also decided to work with WASPC in clarifying and removing any redundant or contradictory provisions under RCW 4.24.550. The following are the proposed changes recommended by the Board.

- **14 Day Notification**

RCW 4.24.550(6)(c) requires law enforcement make a good faith effort to notify the public through community notification at least 14 days prior to an offender's release from custody from the Washington State Department of Corrections (DOC) or the Washington State Juvenile Rehabilitation Administration (JRA) . Law Enforcement doesn't always receive the necessary documents to assess a RSO risk level 14 days prior to release nor do they receive notice of the release. In addition sometimes an offender ends up released to a completely different jurisdiction.

Recommendation: *Amend RCW 4.24.550(6)(c) to remove 14 day requirement and instead include language such as, "within a reasonable period of time after the person registers."*

- **Disqualifying Offenses**

Under RCW 9A.44.142, a registered sex offender may petition for relief of registration if he or she isn't otherwise prohibited from petitioning AND that person; has spent 10 consecutive years in the community with no new disqualifying offenses; AND the person is required to register for a federal/out of state conviction and has spent 15 consecutive years in the community with no new disqualifying offenses.

Recommendation: *Correct technical statutory error, to replace the final "AND" with "OR" to reflect original intent. The Legislative intent could not have been the requirement that someone have both an in state conviction with 10 yrs crime free and an out of state conviction with 15 years crime free.*

- **Petition for Relief (out-of-state conviction) in County of Residence**

Currently an offender convicted out of state can only seek relief from registration via petition in Thurston County. (*See* RCW 9A.44.132.) This places an undue burden on Thurston County courts, as well as individuals from out of state seeking relief from registration.

Recommendation: *Registered sex offenders convicted of their registerable offense out-of-state, may petition for relief from registration in his or her Washington State county of residence. Registered sex offenders convicted of their registerable offense in Washington State will continue to be required to petition for relief in their county of conviction.*

- **Sheriff Publication of Level III's / 2 x Year**

RCW 4.24.550(4) requires the county sheriff to publish a "current list" of all Level III sex offenders twice a year. Because WASPC publishes this information on the Offender Watch website, this requirement is no longer necessary.

Recommendation: *Remove statutory requirement that county sheriff must publish a "current list" of all Level 3 sex offenders twice a year.*

- **Definition of "In the Community"**

There is no statutory definition of "in the community" for purposes of relief from registration. RCW 9A.44.142 references "in the community" as it relates to a petition for relief from registration.

Recommendation*: "In the community" is defined as residing outside of confinement or incarceration. Add definition of "in the community" to RCW 9A.44.128.*

- **Public Website Search by Conviction**

RCW 4.24.550(5)(1) provides the public ability to search WASPC's Offender Watch website for a RSO by" type of conviction." Offender Watch does not have the capability to search by type of criminal conviction.

Recommendation*: Technical clean-up of statute to remove a requirement that in practice has not been enacted. This changes the statute to reflect the practice and capacity of current technology and systems.*

- **FTR Felony Sex Offense Definition**

RCW 9A.44.132 refers FTR to duty to register under RCW 9A.44.130 for a "felony sex offense as defined in that section" but the definition was moved to a new part of RCW 9A.44.128(6).

Recommendation*: Amend the statute to reflect the above technical RCW change, by changing the cross reference in new RCW 9A.44.132 to 9A.44.128(6).*

- **Counting Out-of-State FTR's**

SB 6414 (2009) inadvertently omitted out-of-state felony FTR convictions to be considered a prior FTR offense when charging a current FTR offense in Washington State. For example, the first FTR is an unranked Class C felony offense. Second and subsequent FTR offenses' seriousness level increases.

Recommendation*: Amend statute requiring out-of-state felony FTR convictions to score as a prior FTR offense for purposes of increasing the penalty of the current FTR charged in Washington*.

3. Leveling and Risk Assessment Data Collection

a. Washington State Patrol / Offender Watch Data

RCW 43.43.540 requires WSP provide WASPC information on registered sex offenders including: photographs, and fingerprints, risk level classification and any notice of change of address within 5 working days. (*See also* RCW 9A.44.130). With the development and implementation of Offender Watch, this information is available directly from law enforcement agencies and accessible by law enforcement agencies upon entry by another agency, rendering the requirement for WSP to send the information to WASPC, redundant.

Recommendation: *Remove statutory provision (RCW 43.43.540) requiring WSP provide WASPC information on registered sex offenders including: photographs, fingerprints, risk level classification and any notice of change of address within 5 working days.*

b. Standard Risk Level Change Form

There has been much discussion amongst the SOPB, as well as in community meetings with stakeholders and practitioners regarding the myriad of issues in assessing and leveling sex offenders, as well as reporting changes to assigned levels. There has been anecdotal information shared with the SOPB regarding the actual practice by different counties and jurisdictions as to leveling, notification, and assessing risk. There are currently three entities that either assess risk and/or notify of changes to assigned risk levels. Those are the Department of Corrections (DOC), the WSP, and the local law enforcement agencies. [WASPC oversees the web based Offender Watch Program that is capable of assisting law enforcement in sending notifications and recording risk levels but WASPC doesn't do any assessing nor notification.]

Currently, WSP is statutorily required to send WASPC information on a RSO for purposes of posting on WASPC's public website. The practice has been that this information is downloaded from one system to the other once a week. The Offender Watch program has enhanced and expanded the capacity to share and distribute information, with other sex offender management providers as well as track data over time.

WASPC currently uses the Offender Watch program to assist in gathering data on departure notices submitted by law enforcement. Pursuant to RCW 4.24.550(10), whenever a local law enforcement agency or a local law enforcement agency official classifies an offender differently than the offender is classified by the end of sentence review committee or the department of social and health services at the time of the offender's release from confinement, the law enforcement agency or official shall notify the end of sentence review committee or the department of social and health services and submit its reasons supporting the change in classification. Upon implementation of subsection (5)(a) of this section, notification of the change shall also be sent to the WASPC.

Recommendation: *If funded, WASPC will create and implement the use of a uniform sex offender risk level Change Form to the Offender Watch system. All parties required by law to receive notification of a departure in risk level will receive an electronic copy of the form, upon entry in the Offender Watch program.*

The purpose behind this recommendation is to enhance the use of data to inform the Board and system practitioners. This is accomplished by eliminating redundancies while using and enhancing existing technology to ensure sex offender registration data is accurate and real-time, and available to the public and systems' personnel as appropriate.

c. Sex Offender Registration Data Audit

There are significant barriers to gathering, analyzing, and comparing data related to risk and leveling in order to develop evidence-based recommendations. The Board continues to work on gathering and analyzing Washington's data and systems. There are, however, some minor changes that can improve process, practice, and data collection at this time.

Recommendation: *If available at no cost, WASPC shall acquire appropriate software to enable more robust data review and query capacity within Offender Watch.*

The Board and WASPC will continue to work on data issues over time to further ongoing improvement of these systems.

COMMUNITY EDUCATION

The 2009 Sex Offender Policy Board Report to the Legislature included research and findings from the Community Notification & Education sub-committee indicating the need to create a separate community education and component within the sex offender management system, distinct from already existing community notification meetings conducted by law enforcement in each county.

In response to the need for a distinct and separate community education component within the sex offender management system, the existing Community Education Model Policy has been developed. The goal of the Community Education Model Policy is to provide guidance to service providers within the sex offender accountability and management fields about how best to conduct community education meetings, within existing community meetings and venues, about sexual violence education and general sex offender accountability information.

Research and best practice indicate that one of the best ways to increase community safety while holding offenders accountable in the re-entry process, is a collaborative community multi-disciplinary team which incorporates concepts of sexual violence education and community engagement as a means to increase public safety while holding offenders accountable.

As a result of SB 6414 (2010), many technical provisions related to sex offender registration and notification procedures and requirements changed, therefore, the Community Notification & Education sub-committee worked with WASPC to update WASPC's Sex Offender Registration & Community Notification Model Policy to reflect current law.

The Community Notification & Education sub-committee upcoming work plan contains such activities as:

- further development and refinement the of the Community Education model concept; and
- review of any changes during the 2011 legislative session related to community notification and education.

BENCHMARKS

Over the course of the year, the Benchmarks workgroup worked with Senator Hargrove's staff to refine and establish performance measures to begin the process of measuring the effectiveness of the Washington sex offender management system. While some specific measures were determined, it was also agreed that continued discussion as to the expected performance of components within the system and the capabilities of existing data to measure performance were necessary.

In the meantime, the Board accomplished some major tasks during 2010. It developed a map of the entire sex offender management system for both adults and juveniles. (*See Appendices E & F.*) The map is now available to the public on-line at www.sgc.wa.gov. The map is a work in progress as the Benchmarks committee continues to examine and describe Washington's complicated and intricate sex offender management system. The initial long-term benchmark measures intended to measure the performance and efficiency of Washington's system have been developed. There is still much discussion as to exactly what, why, and how these benchmarks will be measured. Initial dashboard and benchmark measures will be posted on the SOPB website. (*See Appendices H & G*.) The final task was the establishment of short-term dashboard measures to demonstrate the constant activity occurring across Washington State to manage sex offenders.

Future Work:

- Show progress in the work of measuring the effectiveness of the WA sex offender management system.
- Provide useful information to the public and system practitioners.
- These measures will be posted on the SOPB website, with the dashboard measures being updated quarterly.

REQUESTS TO THE BOARD FROM THE WASHINGTON STATE LEGISLATURE

Posting sex offender conditions on WASPC's public website, Offender Watch.

In a letter dated October 25, 2010, Senator Hargrove requested that:

> the Sex Offender Policy Board (SOPB) consider further additions to the information the Washington Association of Sheriffs and Police Chiefs (WASPC) posts on the public website, Offender Watch. A sex offender who is on supervision will often have conditions preventing him or her from contact with minors, loitering in certain locations, or engaging in specified behaviors. There are actions which the public could help identify if they were informed of these conditions. Please have the SOPB consider and make recommendations as to whether Offender Watch should list supervision conditions for a sex offender who is on supervision.[10]

After much discussion, the SOPB expressed some concerns about requiring the Department of Corrections (DOC), DSHS Juvenile Rehabilitation Administration, and/or local probation to post and update a Registered Sex Offender (RSO) website page with the offender's supervision requirements. There are often up to 30 supervision requirements for a RSO and they change periodically. These supervision agencies do not have the resources to update every offender's conditions of supervision on the public website. Further, there is a concern that the listing of these conditions will create a false sense of security and dilute the effectiveness of the website notification.

The SOPB recognizes the importance of community awareness of the activities and the people within a neighborhood, and strongly encourages community members to contact their local law enforcement with any questions or concerns regarding suspicious activity or for more information about a specific known offender.

Recommendation: *The SOPB recommends that rather than notifying the public of a RSO's conditions of supervision, the website should instead provide on the individual's RSO page, whether or not the RSO is on supervision. If a member of the public has questions or concerns about a particular offender and the RSO is on supervision, that individual can contact DOC or law enforcement for further information. The SOPB will continue to discuss the challenges and strategies to implementing such a concept with*

[10] See Appendix J.

specific attention paid to the collection, maintenance and publishing of correct data and information.

Sexting Offenses: What is it & How to educate the public?

The Washington State House Public Safety & Emergency Preparedness Committee held a work session/public hearing on September 9, 2010 where they heard from various stakeholders and agencies on issues related to sex offenders and sexually violent predators. This committee asked the Board to testify on the issue of "sexting".

"Sexting" is the sending of nude or sexually suggestive pictures by electronic means (i.e. cell phone or other electronic devices) to another person[11]. Sexual Exploitation of Children laws were designed to protect minors from the exploitation of adults and at the time, today's technological advances, such as cell phones, were not considered when drafting these laws. It has become a popular trend among teenagers to send this type of a picture to other teens. There are two different scenarios, one in which a minor knowingly takes a picture of themselves and sends it to another minor and the second in which a minor who receives the picture, disseminates the picture to other minors.

Earlier this year, a Washington State in Thurston County case brought the issue of "sexting" to the forefront of the SOPB's attention when three middle schools students were each charged with one felony, each for sending a nude picture of a peer to other peers within the school. These offenses were also classified as registerable sex offenses. The charges were later amended to telephone harassment charges.

It has been reported that approximately 20% of all teens have sent or posted nude or semi-nude pictures or video of themselves.[12] The SOPB recognizes that this behavior may require an intervention by professionals and may also warrant criminal charges, but does not consider registration as a sexual offender a necessary component to the intervention. Due to the increasing problem with "sexting" and minors, the SOPB makes the following recommendations:

- *Develop an educational campaign for parents and teens regarding the dangers of distributing sexually explicit images through electronic means.*

- *In review of our current sex offense statutes and the sexual exploitation laws, the SOPB does not recommend modification of these statutes to specifically address the issue of sexting.*

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[11] In some cases, it can qualify as Dealing in Depictions of Minors Engaged in Sexually Explicit Conduct, a Class C felony.

[12] *See* Colorado Sex Offender Management Board Educational Paper on "Sexting" by Youth: Balancing the Law, Teens, Technology and Bad Choices.

- *There are existing means in which to address this behavior if in fact it is determined to be related to sexual offending. If sexual motivation is an underlying component of the offense, it can be charged as such. Issues to consider when determining what qualifies as potentially offending behavior is: history of prior sexual offenses, whether charged or uncharged; use of force, threats, coercion, or illicit substances to obtain the photos; age and power differences between the parties involved.*[13]

- *If a particular "sexting" incident rises to the level of criminal harassment, utilization of the current Cyber stalking law may be an option since the intent of Cyber stalking laws appears to be in line with what the usual intent of peers disseminating pictures is: to harass, intimidate, torment or embarrass.*

The general consensus by stakeholders who testified was that this behavior may require an intervention by professionals, including the possibility of criminal charges, but did not consider registration as a sexual offender a necessary component to the intervention. There was strong support to educate youth about the consequences of this conduct. Nationwide, states address "sexting" in a variety of ways.[14] It is very rare that a first time "sexting" offense involving two juveniles will be charged as a sex offense.

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[13] *See* National Campaign to Prevent Teen and Unplanned Pregnancy and CosmoGirl.com (2009).

[14] *See* National Conference of State Legislatures, 2010 Sexting Legislation, http://www.ncsl.org/default.aspx?tabid=19696 (updated as of January 4, 2011); and National Conference of State Legislatures, 2009 Sexting Legislation, http://www.ncsl.org/default.aspx?tabid=17756 (Year end summary; revised September 1, 2010).

Registration Fees for Sex Offenders

During the 2010 legislative session, the House Public Safety and Emergency Preparedness (PSEP) Committee reviewed HB 2883, proposing that a sex or kidnapping offender who is required by law to register in Washington State pay a $65 fee, including those sex or kidnapping offenders who move to a new county. The county sheriff who collects the registration fee must use it for the purpose of implementing and enforcing sex and kidnapping offender registration laws.

This bill was heard for the first time by the House Public Safety and Emergency Preparedness (PSEP) Committee on January 29, 2010, where a several stakeholders expressed concern about the effect this legislation would have on sex offender registration compliance. The SOPB requested that the PSEP Committee permit the Board to research the issue and make a Recommendation.

On September 9, 2010, the House PSEP Committee reviewed this issue during a work session in preparation for the 2011 Legislative Session. The Committee requested the SOPB provide information regarding this issue.

- **Sex Offender Registration Fees in Other States**

The Board received responses from approximately half the states regarding whether they charge sex offenders fees to register. Half of this sample reportedly charge fees and the other half do not.

These states listed some of the problems and complications they have encountered with sex offender fee requirements. These include:

- deterring registration and contrary to community safety;
- offenders who cannot afford the registration fee are listed as non-compliant;
- failure to pay can result in technical violations and eventually a return to prison;
- cost of court probation hearings when RSO fails to pay the fee.

- **How Washington State Currently Finances Sex Offender and Kidnapping Registration Costs**

On July 30, 2007 Governor Gregoire assembled a Sex Offender Task Force. She appointed Kitsap County Prosecutor Russ Hauge to lead this committee made up of criminal justice professionals to review the criminal history of convicted murderer Terapon Adhahn. Terapon Adhahn was charged with and suspected of a number of sexual assaults; at least one was believed to have culminated in murder. In 1990, he was convicted of a sex offense and sentenced to an extensive period of treatment for sexual deviance.

The Committee's first job was to report on the way the justice system responded to his 1990 offense and compare that response to what we would expect had he committed that offense in 2007. The Governor asked the Committee to then make Recommendations about what changes may be needed to Washington's sex offender statutes and policies based upon that review and comparison. As part of its list of Recommendations, the 2007 Sex Offender Task Force recommended that State funding should be provided to assist local law enforcement in conducting in-person address verification of all registered sex offenders. [15]

Under ESHB 1244.SL, New Section 217, the Washington State Legislature, as part of its 2009-2011 biennial budget, appropriated $5,000,000 for fiscal year 2010 and $5,000,000 for fiscal year 2011 to the Washington Association of Sheriffs and Police Chiefs (WASPC) for distribution as grants to local law enforcement agencies by contract, solely to verify the address and residency of registered sex offenders and kidnapping offenders under RCW 9A.44.130.

Based on the task force recommendations and the budget, jurisdictions around Washington State are currently provided funding intended to make it possible for law enforcement to verify sex offender addresses for level I, II and III offenders as outlined in statute.

- **Should the legislature require sex offenders pay a fee when registering with their county?**

Recommendation: *The SOPB recommends that the legislature not enact legislation imposing a fee on sex offenders required to register. During the 2010 session, several Washington State stakeholders testified before the House PSEP Committee expressing concern about the consequences a registration fee will likely create, including the risk of raising litigation around the civil versus punitive nature of our registration statutes, an issue the Washington State Supreme Court and 9th Circuit have been vigorous in examining. (See State v. Ward and progeny.)*

Law enforcement and the Prosecutor's Offices around the state work diligently to ensure that sex offenders comply with their registration requirements. It is paramount to the safety of the community that these offenders can easily be located and monitored. Requiring a fee to register would likely result in a punitive and deterrent effect on an offender's compliance with registration. If an offender lacked the funding, it's likely the offender would fail to register. Once a person fails to register, that person faces criminal charges and probation consequences. Law enforcement may also have more difficulty locating and monitoring the offender

[15] See Governor Gregoire's 2007 Sex Offender Task Force Report, Part 1 and 2.
http://www.governor.wa.gov/news/2007-09-13_SO Committee Report.pdf
http://www.governor.wa.gov/news/20071017_Phase_II_Final_Report.pdf

because the offender will be out of compliance and less likely to make him or herself available to law enforcement. Because of the criminal sanctions, the offender will often lose employment and housing. Once this takes place, the offender is more likely to recidivate.

Online Identifiers

During the 2009 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 addressor other internet communication name or identity; and (2) review issues associated with implementing this requirement, including the appropriate sanction for failure to comply. (*See Appendix K*.)

The Board submitted three proposals in the 2009 Report to the Legislature due to time constraints. Since then, the Board reached a consensus on one proposal.

Sexual abuse, commissioned through the use of the internet, presents a special challenge; different from other types of crimes and violence. 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. It is estimated that *one in seven (1/7) youth (between the ages of 10-17) will receive an unwanted sexual solicitation over the Internet. Four percent (4%) of youth have experienced an "aggressive" solicitation, where someone attempted to contact the child offline.*[16]

On the other hand, based on current research, sex offenders, once detected, have a lower recidivism rate in general, and their crimes are much more likely to have been committed against known victims. The Department of Justice found that many more new sex crimes were committed by other types of criminals (87%) than by previously identified sex offenders (13%).

The fiscal implications to implementing the reporting, collection and monitoring of online identifiers of registered sex offenders would be considerable and would impact such entities as the Washington State Patrol, the Washington Association of Sheriffs and Police Chiefs, the Department of Corrections and local enforcement agencies, at a minimum.

However, while there is no known connection between the collection of online identifying information and an increase to public safety, recent evidence shows that education to both parents and children on internet safety, coupled with sexual violence information and prevention education can have a positive impact on public safety.

In conclusion, while there are sex and kidnapping offenses that are committed using the internet, there is no current research, evidence, or best practice that indicates the collection of online identifying information increases public safety and/or has a deterrent effect on offense or re-offense.

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[16] "Frequently Asked Questions" <csom.org>, n.d. Web, 24 Nov. 2009.

Recommendation: *the SOPB recommends providing internet safety and sexual violence prevention information to parents and children in lieu of collecting online identifying information from registered sex offenders. The SOPB 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 improve Washington's sex offender management system to increase public safety while holding offenders accountable.*

REYES CASE REVIEW

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, requested:

- 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 the *Reyes* Case review committee which gathered input from a number of 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. The SOPB Reyes Case review committee met multiple times to analyze the information, system processes, and statutes related to this case. After identifying the issues, the committee developed specific recommendations in response to these issues which were reviewed and adopted by the full Board.

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 to recognize that Washington State's constitution places a premium on providing all students access to public education, including students from special populations.[17]

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[17] 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 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." *See* 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

THE JOSE REYES CASE

In July 2007, Jose was originally charged with one count of attempted child molestation in the first degree and three separate counts of luring. Jose 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 Jose's case carefully deliberated about an appropriate outcome that would hold the juvenile accountable, protect the victim and assist in the rehabilitation of Jose 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.

The court granted Jose a Special Sex Offender Dispositional Alternative (SSODA) and both law enforcement and juvenile court, as statutorily required, notified the school's principal or institution's department of public safety. (*See* RCW 9A.44.130(1)(c).)After the notification, Jose 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, Jose notified the Kent Police Department of his change of address. At this point, there appeared to be some confusion as to whether Jose had ever been initially leveled 18 months earlier, after the Court ordered the SSODA; whether Kent PD had the appropriate tools and documentation to review Jose's risk level; and who was notified of Kent PD aggravated Jose's level from a level one to a level two.

In May 2010, Jose was charged with the alleged sexual assault of another student on school property. Shortly thereafter, at the senators' request, the SOPB reviewed 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 youth who sexually offend. The key finding in that report as it relates to juveniles is that:

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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)

> Youth 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.[18]

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 youth 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 the *Reyes* report describes the issues the Board identified in this case, the sex offender response system in general as it relates to youth 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 youth in the school system who have sexually offended.

[18] Shoshana Kehoe-Ehlers and Shannon Hinchcliffe, Washington State Sex Offender Policy Board Report to the Legislature (December 2009), p.23.

RECOMMENDATIONS RELATED TO SCHOOLS

In 2006, at the direction of the State Legislature, the Office of Superintendent of Public Instruction (OSPI) convened a workgroup to draft a model policy for school principles to follow when they receive notification from law enforcement that a registered sex/kidnapping offender is attending or is expecting to attend the school.[19] OSPI's 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 Appendix M* ~ 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. In addition to the development of the model policy based on their findings, the Workgroup identified key recommendations for the legislature. (*See Appendix M* ~ Executive Summary of 2006 OSPI Report.)

While the model policy was created in response to legislation, it was not mandated that school districts or individual schools adopt the model policy or develop their own policies and procedures regarding youth 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.

Recommendation #1: *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.*

There is concern from schools about what information they can distribute to staff, parents, and the public regarding specific juveniles who have been adjudicated or convicted of a registrable sex offense. Schools do not have a uniform understanding of levels, risk, or behaviors included in various sex offenses and should not be placed in a position to determine what information they can or should disclose. Law enforcement has the appropriate expertise to respond to questions from the public about registered sex offenders.

[19] 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.

Recommendation #2: *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.*

RECOMMENDATIONS RELATED TO SPECIAL SEX OFFENDER DISPOSITIONAL ALTERNATIVE (SSODA) AND THE ASSIGNMENT OF JUVENILE RISK LEVELS

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).

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 as to 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.

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. Jose 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 Jose during those 10 months. As a condition of Jose's SSODA, the Court followed the examiner's recommendation and ordered continued 24/7 supervision. The subsequent offense that led to this case review took place after Jose was no longer on 24/7 supervision.

Probation and school stakeholders reported that 24/7 supervision is not a standard post-disposition condition of release. Because 24/7 supervision requires the juvenile be within "line of sight" by an adult at all times who is aware of the juvenile's criminal charge(s)/adjudication, it is a significant challenge for schools to enforce the requirement. 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. The Board wants to ensure that all parties involved in a juvenile's case clearly understand the basis for the SSODA prompting them to expressly communicate with each other about an appropriate safety plan.

Recommendation #1: *When a juvenile court orders 24/7 as a condition of a SSODA, the Court shall enter findings regarding this condition.*

The Department of Corrections' 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. In addressing concerns about the confusion surrounding who assigned Jose's risk level, the committee discussed the difficulty of accurately assessing a juvenile's risk level. This difficulty stems from the lack of a validated assessment tool for juveniles; the special expertise necessary to assess a juvenile; the resources involved in training law enforcement across the state in how to administer a juvenile risk assessment tool; 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.

Recommendation #2: *The Department of Corrections End of Sentence Review Committee should 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

The Department of Corrections End of Sentence Review Committee should 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.

*WASPC and WAPA support the first part of this recommendation, but remain neutral on the alternative.

RECOMMENDATIONS RELATED TO LAW ENFORCEMENT

During the Reyes case review, the committee determined that notification practices vary and schools do not always understand information provided in the notification forms. It was established that while notification is done routinely, the information and method varies. Clear, concise and timely communication between law enforcement and the school system regarding youth who sexually offend is important. It was also noted that law enforcement is still statutorily obligated to provide the school with the fingerprints of the student adjudicated of or convicted of a sex or kidnapping offense, which does not serve a practical purpose.

Recommendation #1: *The Washington Association of Sheriffs and Police Chiefs (WASPC), when funded, should develop a standardized form to be used statewide by law enforcement agencies when notifying a school about a juvenile adjudicated or convicted of a registrable sex or kidnapping offense that has registered with law enforcement and will be enrolling in the school.*

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 youth required to register as a sex or kidnapping offender.

A juvenile adjudicated or convicted of a registrable sex or kidnapping offense must register their school enrollment information as follows:

Student enrolls in a new school. *When enrolling in a school, the juvenile must notify law enforcement in the jurisdiction of the juvenile's residence of the impending enrollment in the school, as required current law regarding registration. This should be done whether or not the juvenile will be attending a school in a school district not in the jurisdiction of residency. The student must register in the county in which they reside, that law enforcement agency will notify the school and the other jurisdiction.*

Student changes residency but remains in same school. *If the student moves to a new jurisdiction for his or her residence, but remains in the same school, the student must still register their new residence with the local enforcement in the jurisdiction of residency as required under current law. However, the student must ALSO inform this local law enforcement agency at the time of registration of his or her current enrollment in the specific school. This is the local law enforcement agency that will notify the school of the change of address/level/level change*

Finally, law enforcement should no longer be required to provide the school with the student's fingerprints.

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 and that the principal was in a better position to determine what other professionals in the school should be aware of this information.

In speaking with both the Seattle school district and OSPI, the committee found that there was compelling reasons to include the superintendent in notification. A change in principal can lead to a breakdown in the communication about the presence of a student adjudicated of a sex offense. Furthermore, school districts as well as the individual schools have policies on how to manage youth adjudicated of a sex or kidnapping offense and 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.

Recommendation #2: *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.*

RCW 9A.44.130(1)(c) 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. There is also no requirement that law enforcement notify a student's school district or school principal when a law enforcement agency changes the student's risk level.

Although Jose did not change schools, the committee determined that it was important to tighten up the notification requirements related to changes in schools and school districts in order for their own school safety plan or to 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 should be notified of this change as it 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 or three, as it was in Jose's case, the public notification consequences change, including the fact that the statute requires a level two or three juvenile offender to be posted on the public website. Working with the

school personnel, treatment provider, probation counselor and family to prepare the student for this shift is critical.

Recommendation #3:

(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.*

(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.*

When local law enforcement reviews the level of a juvenile adjudicated of a sex offense and changes it, as in Jose's case, it is unclear how notification was done and who was notified.

Because it is critical for juvenile probation, parole, or community corrections to have this information, law enforcement should have a uniform policy to apply when reviewing and possibly changing a juvenile's risk level. The committee hopes that this will 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.

Recommendation #4: *Amend the WASPC model policy to include such language as "law enforcement should notify juvenile probation, parole, or community corrections officers, if known to law enforcement, when the law enforcement agency changes the risk level of a juvenile adjudicated or convicted of a registrable sex or kidnapping offense, when the juvenile us under supervision."*

THE ADAM WALSH ACT

In 2006, the federal government enacted the Adam Walsh Child Protection and Safety Act (AWA), which includes a plan for standardizing the registration and community notification procedures of all 50 states. States are not obligated to comply, but states that are not found to be in "substantial compliance" with Title 1 of AWA, the Sex Offender Registration and Notification Act (SORNA), by the final deadline of July 27, 2011, will be penalized with a 10% reduction of their federal justice assistance funding under 42 U.S.C. 3750 *et seq* (Byrne Grants). To date, only four states have been found to be in compliance: South Dakota, Ohio, Delaware, and Florida.

While the stated goals of AWA are essentially the same as those provided in the original 1990 Washington Community Protection Act, Washington's laws differ in the implementation of these goals. Adopting many of the requirements of the AWA in Washington would have a profound effect on the current system. In particular, Washington's system for classifying sex offenders is risk-based while SORNA is strictly crime-based.

Under SORNA, sex offenders are divided into three tiers depending entirely on the crime of conviction and sentence length. Within each tier, SORNA requires that that the offender is subject to the same minimum duration of registration, frequency of in-person verifications, and extent of website disclosure. Washington's registration and notification system is similar in that the duration of registration is offense-based, but it also evaluates 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. 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's leveling system, though not strictly offense-based, is closely related. Furthermore, studies have shown that a risk-based model is a better predictor of recidivism than the SORNA offense based model. [20]

The Washington Association of Sheriffs and Police Chiefs (WASPC), by statute, have been 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

[20] *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)

verification program ensuring that addresses are verified 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. This tracks the verification requirements in SORNA in that the state levels correspond with the federal tiers in frequency of verification. This does not, however, address the underlying problem of level versus tier. There are also more extensive public disclosure requirements under SORNA, such as the requirement that all sex offenders be posted on the website, regardless of risk level, and the addition of employer address, school address, and vehicle license plate numbers and description, which Washington does not currently supply on Offender Watch.

Also of concern, SORNA mandates that its registration and notification requirements be applied retroactively to any offender who is currently in custody or under supervision or if an offender should reenter the justice system with a conviction for any crime. Earlier this year, the Supreme Court found two sections of Ohio's version of the Adam Walsh Act (AWA) to be unconstitutional. (2008-2502.State v. Bodyke, Slip Opinion No. 2010-Ohio-2424**)** These sections had authorized the state attorney general to reclassify sex offenders who had already been classified by judges under a previous version of the law. The Court held that the challenged provisions violate the separation of powers doctrine of the Ohio Constitution. In addition to separation of powers, Washington would face extensive legal challenges based on ex post facto (retroactivity), double jeopardy, due process, equal protection, right to contract violations, and cruel and unusual punishment violations.

In addition to the costs associated with these legal battles, the costs of implementation would be enormous. The Justice Policy Institute estimates that it would cost Washington State almost $10.5 million to be in compliance with AWA. This includes the expense of new personnel, software, additional jail and prison space, court and administrative costs, law enforcement costs, and the legislative expense to craft and adopt new legislation. The cost of not complying, a loss of 10% of state Byrne Grants, would have been $549,742 in 2010. In Washington, state Byrne grants are primarily used to fund local drug task forces. While a loss of 10% would be difficult to absorb, especially in the current economic conditions, the cost of implementation far outweigh this loss.

The SOPB has been involved in this analysis since the inception of the Board in 2008. In a January 2009 memo, it summarized the numerous issues involved in implementing AWA and the Board has revisited many of these issues in the past two years as it worked to integrate some elements of AWA in its Recommendations to the legislature and monitored the legal challenges in other states. SOPB staff continues to work with the federal Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), which assists states with implementation of AWA, to identify the barriers to substantial compliance and determine if a compromise is possible. (*See Appendix N*.)

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Sentencing Guidelines Committee Data

Registerable Sex and Kidnapping Offenses for Juveniles By Age FY02-FY08.

Special Sex Offender Dispositional Alternative (SSODA) Sentences FY02-FY09.

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APPENDIX A:

Senate Bill Report SSB 6596

SENATE BILL REPORT
SSB 6596

As Amended by House, March 6, 2008

Title: An act relating to the creation of a sex offender policy board.

Brief Description: Providing for the creation of a sex offender policy board.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Carrell, Regala, Stevens, Marr, Shin, McAuliffe, Brandland and Kilmer).

Brief History:
Committee Activity: Human Services & Corrections: 1/25/08, 2/05/08 [DPS-WM].
Ways & Means: 2/11/08, 2/12/08 [DPS(HSC)].
Passed Senate: 2/15/08, 48-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6596 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Jennifer Strus (786-7316)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6596 as recommended by Committee on Human Services & Corrections be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Richard Ramsey (786-7412)

Background: The Washington State Institute for Public Policy has published many papers over the years on sex offender issues at the behest of the Legislature. The Department of Corrections has been asked by the Legislature to perform various tasks related to sex offenders. This summer the Governor convened an ad hoc task force to address the sex offender issues raised in the Zina Linnick homicide. Although various organizations and institutions have dealt with issues related to sex offenders, there has been no single established

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This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

group to address emerging issues. Other states have instituted sex offender policy boards whose responsibility it is to stay apprised of the best practices, research, and risk management of sex offenders. These boards have been instrumental in those states informing policy makers about various issues relating to sex offenders.

Summary of Substitute Bill: The Sentencing Guidelines Commission (SGC) must establish, staff, and maintain a sex offender policy board (board). The board consists of 13 voting members and three non-voting members. The voting members are as follows:

- a representative of the Washington Association of Sheriffs and Police Chiefs;
- a representative of the Washington Association of Prosecuting Attorneys;
- a representative of the Washington Association of Criminal Defense Lawyers;
- the Chair of the Indeterminate Sentencing Review Board or the Chair's designee;
- a representative of the Washington Association for the Treatment of Sex Offenders;
- the Secretary of the Department of Corrections or the Secretary's designee;
- a representative of the Washington State Superior Court Judge's Association;
- the Assistant Secretary of the Juvenile Rehabilitation Administration or the Assistant Secretary's designee;
- a representative of the Office of Crime Victims Advocacy;
- a representative of the Association of Washington Cities;
- a representative of the Washington State Association of Counties;
- a representative of the Washington Coalition of Sexual Assault Programs; and
- the Director of the Special Commitment Center or the Director's designee.

The non-voting members consist of two members of the SGC chosen by the SGC chair and a representative of the Criminal Justice Division in the Attorney General's Office. The Washington State Institute for Public Policy will act as advisor to the board.

The board must choose its chair by majority vote from among its voting membership. The chair's term is two years. The SGC chair will convene the first meeting of the board.

The members of the board selected by statewide organizations are appointed for three year terms and serve until their successor is appointed by the organization they represent. The terms of the initial members are to be staggered so that their terms expire after one, two, and three years.

The board has the following duties:

- to stay apprised of research and best practices related to risk assessment, treatment, and supervision of sex offenders, community education regarding sex offenses and offenders, prevention of sex offenses, and sex offender management in general;
- to conduct case reviews on sex offenses as needed to understand the performance of sex offender prevention to response systems or are requested by the Governor, the Legislature, or law enforcement;
- to develop and report on benchmarks that measure performance across the state's sex offender response system;
- to assess and communicate best practices or upcoming trends in other jurisdictions to assess their applicability in Washington; and
- to provide a forum for discussion of issues that requires interagency communication, coordination, and collaboration.

The board is to develop an initial work plan detailing how it will achieve its duties and submit it to the Governor and the Legislature no later than December 1, 2008. The board must annually update the work plan and include reasonable performance measures which indicate whether it is meeting its responsibilities.

The Joint Legislative Audit & Review Committee (JLARC) is to conduct a sunset review in 2013.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Human Services & Corrections): PRO: There is a need for an ongoing group to keep up on continuing and cutting edge research, techniques, and management tools for sex offenders across the country and bring that information back to Washington. It is important that policymakers have an independent, non-political body to turn to for information on sex offenders. The board would not develop the research but would gather the research that exists and might, within available funding, contract with an outside group for some research. It is importation to have a group to look at the failures, similar to child fatality reviews, to see what should have been done in the case and what could be done differently in the future to prevent a reoccurrence. The board should be able to conduct an investigation at its own behest rather than waiting for a request from an outside entity.

The Governor's task force on the Zina Linnick matter was hurriedly pulled together this summer and if this board had existed, it could have taken up the issue rather than scrambling to put together a task force. Many states have sex offender policy boards and this state can capitalize on what those boards have already done and learned and build on it. The board would be a continuing advisory board to the Legislature on sex offender matters. This board would serve the best interests of the victims in these issues.

Persons Testifying (Human Services & Corrections): PRO: Jeri Costa, Indeterminate Sentencing Review Board; Evelyn Larsen, Washington Coalition of Sexual Assault Programs; David Boerner, SGC; Russ Hauge, Washington Association of Prosecuting Attorneys; Don Pierce, Washington Association of Sheriffs and Police Chiefs.

Staff Summary of Public Testimony (Ways & Means): None.

Persons Testifying (Ways & Means): No one.

House Amendment(s): Directs the sex offender policy board to report annually to the Governor and the Legislature regarding the board's activities.

APPENDIX B:

Center for Sex Offender Management, Advancing Sex Offenders Management Efforts State-Level Policy Groups (August 2010)

Center for Sex Offender Management
A Project of the U.S. Department of Justice, Office of Justice Programs

Advancing Sex Offender Management Efforts Through State-Level Policy Groups

August 2010

Introduction

Just as stakeholders nationwide are striving to adopt evidence-based systems to address complex issues across a wide range of public policy areas, there is an ongoing movement to promote an evidence-based, systemic approach to managing sex offenders. One very promising mechanism through which states have sought to advance and support this important goal is the establishment of state-level sex offender management policy groups.

This document provides an overview of these policy groups, and the ways in which their efforts support the core principles and research-supported practices that can reduce sexual victimization and enhance community safety. The common features, varied roles and responsibilities, key accomplishments, and factors that influence the effectiveness of these groups are highlighted[1]. This resource is developed for:

- Policymakers who are seeking information about the potential roles of these entities within a broader system of sex offender management, or who have decided to create one in their own state;
- Members of existing policy groups who would like to enhance their understanding of the work of their counterparts in other states, or to augment their current efforts; and
- Individuals who are currently – or who will be in the future – providing staff support to one of these groups.

What Matters Is What Works: Toward Evidence-Based Decisionmaking

Policymakers and practitioners working on a host of issues – including healthcare, education, the environment, homeland security, and defense – have long appreciated the value of evidence-based decisionmaking (defined as the systematic use of quality research and other objective data to inform policies and practices) for maximizing outcomes and resources. Evidence-based decisionmaking involves multiple steps:[2]

- Defining the problem clearly;
- Determining what the research and local data say about the problem and potential solutions;
- Exploring options to address the problem;
- Understanding the costs, benefits, and likely outcomes of those options; and
- Making an informed decision about how best to proceed.

The criminal justice system is increasingly moving toward adopting an evidence-based approach, and frameworks are emerging to support evidence-based decisionmaking throughout the system.[3] The need for an evidence-based approach specifically in the realm of sex offender management is clear – but made particularly challenging – by a number of factors, including:[4]

- The nature, dynamics, and impact of these crimes;
- Intense scrutiny regarding decisions made by lawmakers, agency leaders and public officials, and the professionals responsible for day-to-day offender management;
- Heightened public concerns that are often exacerbated by a lack of accurate information and media attention surrounding extreme – and rare – cases;
- Inconsistencies regarding sex offender management approaches within and across

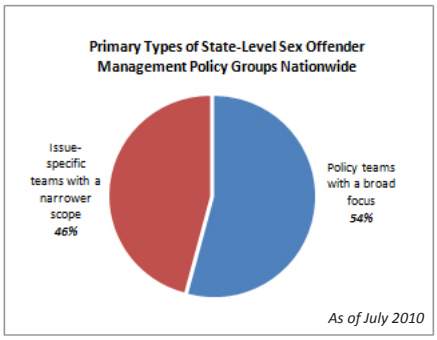
Established in June 1997, CSOM's goal is to enhance public safety by preventing further victimization through improving the management of adult and juvenile sex offenders who are in the community. A collaborative effort of the U.S. Department of Justice, Office of Justice Programs, the National Institute of Corrections, the State Justice Institute, and the American Probation and Parole Association, CSOM is administered by the Center for Effective Public Policy.

- jurisdictions in terms of guiding policies, interventions, and fidelity of implementation;
- Growing workload demands in the face of competition for limited – and often shrinking – resources; and
- A proliferation of well-intended sex offender-specific laws for which there are growing questions about impact and effectiveness.

To help navigate these complexities, many states have established state-level policy groups as vehicles for advancing well-informed and effective sex offender management systems.[5]

State-Level Sex Offender Management Policy Groups: An Emerging Trend

Currently, sex offender management policy groups exist in various forms and structures in nearly half the states. For the purpose of parsimony in this document, the groups are categorized as follows, based on the scope and focus of their efforts:



- **Policy teams with a broad focus.** The groups in this category are primarily established or otherwise supported through legislation or governing provisions that are fairly broad and all-encompassing. For example, in 2006, California Assembly Bill 1015 created a Sex Offender Management Board to "address any issues, concerns, and problems related to the community management of adult sex offenders." Similarly, in Illinois, the Sex Offender Management Board Act of 1997 requires the board to develop standardized procedures for the "evaluation, identification, behavior management, monitoring, and treatment" of juvenile and adult sex offenders. Other policy groups in this category – such as those in Hawai'i, Massachusetts, and Rhode Island – began as "grass root" efforts, in which independent groups of stakeholders interested in the issue of sex offender management began communicating regularly, and subsequently developed coalitions to enhance sex offender management on a statewide level.
- **Issue-specific teams with a narrower scope.** The various groups comprising this category – commonly established through Executive Orders, agency requests or directives, or legislative mandates – tend to be charged with addressing more discrete issues or roles related to sex offender management. For example, the primary function of Ohio's Juvenile Sex Offender Treatment Program Certification Advisory Board is to "inspect and certify" juvenile sex offender treatment programs. Idaho's Sexual Offender Classification Board is responsible for establishing standards for psychosexual evaluations for the courts, certifying evaluators (initially and on an ongoing basis thereafter) who conduct these court-ordered assessments, and establishing the process for designating certain offenders as Violent Sexual Predators.

Funding Sources

Funding sources for state-level policy groups that receive fiscal support include the following:

- Legislative appropriations;
- Staffing and administrative support from state agencies;
- Grants from the local, state, and federal levels;
- Treatment provider/evaluator licensing or certification fees; and
- Sex offender surcharge or registration fees.

Composition and Working Structure

Because sex offender management crosses multiple agencies, disciplines, and system processes, the professionals representing these entities are critically important to the success of these groups. Typically, members include representatives from law enforcement, victim advocacy, social services/child protective services, prosecution, defense bar, judiciary, clinical evaluation, treatment, corrections, paroling authority, probation/parole, and, if juvenile sex offenders are a focus of the group's efforts, juvenile justice and education.

The composition of the issue-specific, more narrowly-focused policy groups tends to be less

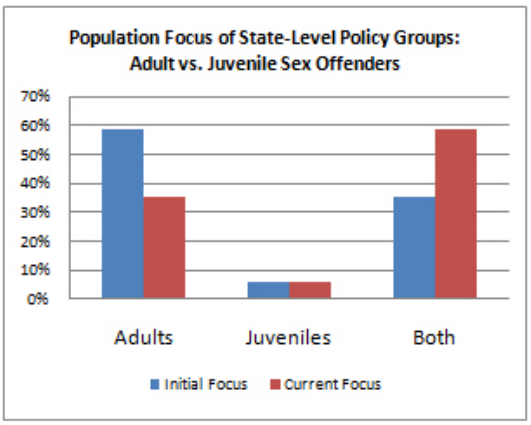
comprehensive and diverse than the membership of policy teams that have broader responsibilities.

Members of most state-level policy groups are appointed by the legislature, governor, or governor's designee for a specified number of years, and serve without compensation. Approximately two-thirds of these entities do, however, have one or more salaried staff members (either full- or part-time) who guide and support the work of the group.

Composition of State-Level Sex Offender Management Policy Groups Nationwide		
Agency or Discipline	Broad Policy Teams	Issue-Specific Teams
Clinical evaluation	100%	63%
Corrections	100%	75%
Defense bar	89%	25%
Judiciary	89%	13%
Juvenile justice	89%	38%
Law enforcement	100%	75%
Paroling authority	100%	25%
Probation/Parole	100%	75%
Prosecution	100%	25%
Social, child protective services	78%	25%
Treatment	100%	75%
Victim advocacy	100%	75%

In many instances, the composition of these groups has evolved and expanded to include additional stakeholders than had been originally specified. This often occurs when it becomes apparent – through a stakeholder analysis (see below for an explanation) or other means – that the efforts of the policy group can be better informed and further advanced by the knowledge, resources, perspectives, and skills of a previously unrepresented entity. Examples include:

- Polygraph examiners;
- School administrators;
- Housing officials;
- Researchers;
- Public health professionals;
- Sentencing commission members;
- Federal probation officers or marshals;
- Local government officials;
- Citizens; and
- Offender representatives.



Adjustments in composition are also made in response to modified or newly established priorities, such as the target offender population. For example, many state-level policy groups were originally charged with addressing adult sex offenders, though a recent trend across the groups has been to expand efforts to also include juveniles who have committed sex offenses.

Most state-level policy groups convene monthly, with meetings that are open to the public. Others meet on a quarterly or bi-monthly basis. To address more specific issues, many groups have active subcommittees which typically meet more often than the larger groups. Examples of these subcommittees include:

- Reentry and housing;
- Registration and notification;
- Special populations (MR/DD, females);
- Legislation;
- Standards development;
- Evaluation and data collection; and
- Public education.

State-Level Sex Offender Management Policy Groups Nationwide		
State and Name of Group	Year Established	Type
Alaska: Sex Offender Oversight Working Group	2005	Issue-specific
Arkansas: Sex Offender Assessment Committee	1997	Issue-specific
California: Sex Offender Management Board	2006	Broad policy
Colorado: Sex Offender Management Board	1992	Broad policy
Delaware: Sex Offender Management Board	2007	Broad policy
Georgia: Sexual Offender Registration Review Board	2006	Issue-specific
Hawai'i: Sex Offender Management Team	1992	Broad policy
Idaho: Sexual Offender Classification Board	1998	Issue-specific
Illinois: Sex Offender Management Board	1997	Broad policy
Iowa: Sex Offender Research Council	2005	Broad policy
Kansas: Sex Offender Policy Board	2006	Broad policy
Maine: Commission to Improve Community Safety and Sex Offender Accountability	2003	Issue-specific
Maryland: Sexual Offender Advisory Board	2006	Broad policy
Massachusetts: Coalition for Sex Offender Management	1997	Broad policy
Minnesota: Governor's Commission on Sex Offender Policy	2004	Broad policy
Nebraska: Working Group on Sex Offender Treatment and Management Services	2006	Issue-specific
New Mexico: Sex Offender Management Board	2004	Broad policy
Ohio: Juvenile Sex Offender Treatment Program Certification Advisory Board	2008	Issue-specific
Oregon: Sex Offender Treatment Board	2007	Issue-specific
Pennsylvania: Sexual Offenders Assessment Board	1995	Issue-specific
Rhode Island: Sex Offender Management Task Force	2003	Broad policy
Tennessee: Sex Offender Treatment Board	1995	Issue-specific
Texas: Council on Sex Offender Treatment	1983	Issue-specific
Washington: Sex Offender Policy Board	2008	Broad policy

Key Benefits: State-Level Policy Groups Are Successful in Advancing Effective Sex Offender Management Strategies

While the governing provisions, membership, and structure of sex offender management policy groups vary, their activities generally fall into one or more of the following three areas. These areas are long recognized as core tenets of an effective system of sex offender management:[6]

- Modeling and supporting the establishment of multi-agency collaborative partnerships to ensure the integration of the various system components that play key roles in sex offender management;
- Advancing well-informed, research-supported state laws and agency policies to shape practices; and
- Providing practitioners system-wide with specialized knowledge, proper training, and skills to implement laws and policies effectively, with ongoing quality assurance mechanisms.

Modeling and Supporting Multi-Agency Collaboration

Having all of the key stakeholders "at the table" is necessary, but not sufficient, for advancing sex offender management effectively. Meaningful partnerships at all levels (i.e., state policy, local policy, and case management) that reflect true collaboration are essential for achieving an effective justice system that achieves the common vision of fewer victims and safer communities. Indeed, recognizing the importance of multi-agency collaboration in sex offender management, the Bureau of Justice Assistance (BJA) and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) in the Office of Justice Programs of the U.S. Department of Justice have supported the

Common Functions of State-Level Sex Offender Management Policy Groups Nationwide

Roles and Responsibilities	Broad policy teams	Issue-specific teams
Determine alignment of state's approaches with research and promising practices	89%	50%
Propose/develop policies	89%	75%
Coordinate, support specialized training	78%	63%
Develop standards/guidelines	78%	88%
Serve as a resource/technical advisor to practitioners	78%	13%
Conduct research on impact/effectiveness of state's approaches	67%	38%
Develop resources (e.g., written handbooks and guides)	67%	25%
Make legislative recommendations	67%	88%
Serve as a resource/technical advisor to legislators	67%	50%
Certify treatment providers	56%	25%
Public education	56%	38%
Serve as a resource/technical advisor to agency leadership	56%	25%
Certify evaluators	44%	38%
Serve as a liaison to the media	22%	13%

efforts of more than 160 collaborative policy teams at the state and local (e.g., county, city, judicial district or circuit) levels – and in Tribal Country – through the Comprehensive Approaches to Sex Offender Management (CASOM) Grant Program during the last decade.[1]

Collaboration at these different levels extends beyond activities such as networking or communicating with other agencies, exchanging information routinely, situational or episodic problem-solving efforts, or contributing resources or working alongside others to assist a particular individual or agency. Instead, it is the process of actively engaging with others for *mutual* benefit to achieve a *common* goal that cannot be accomplished alone.

State-level sex offender management policy groups can promote collaboration by:

- Adopting a collaborative sex offender management model; creating formal interagency agreements or memoranda of understanding among the state agencies that share responsibility for sex offender management (e.g., law enforcement, corrections, paroling authorities, community corrections, victim advocacy, etc.) that establish clear expectations for – and support the efforts of – the policy group at the state-level, as well as teams at the local level;
- Collectively pursuing grants – such as those associated with the SMART Office's CASOM Program – and other funding sources to support multi-agency planning and implementation efforts at the state and local levels;
- Pooling resources to support cross-training and multi-disciplinary professional development activities that reinforce the complementary nature of multiple agencies and disciplines; and
- Using media contacts and other public education opportunities to demonstrate the importance of – and commitment to – a shared, multi-disciplinary approach to sex offender management and prevention efforts at the state and local levels.

Advancing Well-Informed, Research-Supported State Laws and Agency Policies

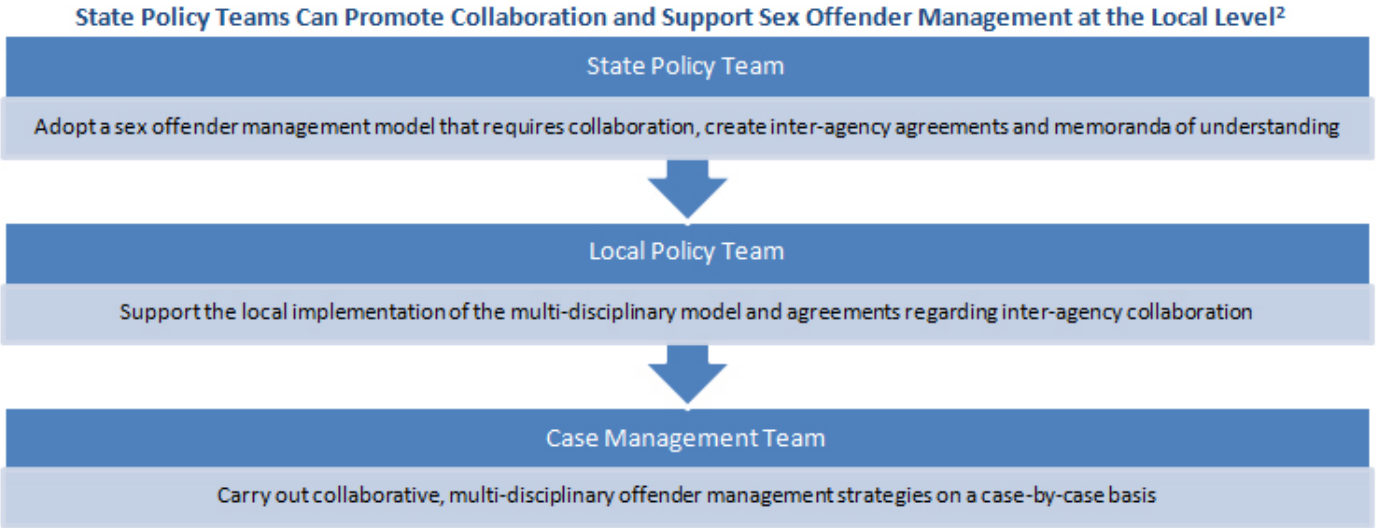
Crafting evidence-based laws and policies can be a time-consuming and complicated endeavor.[7] The promising efforts underway in jurisdictions across the nation reveal that it is also a dynamic and interactive process that is dependent upon a number of factors, including: [8]

- A willingness among public officials and practitioners alike to question the status quo and critically assess current laws and policies;
- A collaborative climate in which mutual respect and trust exists among policymakers, practitioners, and researchers, and in which high standards for ethics and quality prevail;
- The identification of shared and clear goals or outcomes (e.g., reduced recidivism, decreased harm to victims and communities, increased successful outcomes for offenders, minimized collateral consequences) to be achieved by the new/revised laws and policies;
- Dedication to enacting laws and policies demonstrated to have the greatest potential to achieve the identified goals or outcomes; and
- Commitment to measuring over time whether the goals or outcomes are being accomplished, and to making modifications accordingly.

Lawmakers and other policymakers are best positioned to craft evidence-based laws and policies, and to allocate resources most effectively to address sex offender management when they – and the constituents they represent – have access to comprehensive data and information regarding:

- Adults and juveniles who have committed sex offenses in their jurisdiction, including the diversity of these populations (e.g., their recidivism risk, intervention needs);
- Individuals who are directly and indirectly affected by sexual abuse, and the varied impact on – and needs and interests of – these persons;
- What is known – and unknown – about the effectiveness and impact of interventions on increasing victim protection and public safety,

1 For more information about the work of the CASOM grantees, visit http://www.csom.org/about/OJPSites.html



as well as any potential unintended collateral consequences;

- Constituents' awareness, knowledge, concerns, and interests regarding these issues; and
- The range of factors that contribute to or support sexually abusive behavior, and the strategies at the individual, community, and societal levels that can prevent it.

State-level policy groups in many states serve as a very valuable mechanism for taking on these important issues by:

- Critically evaluating laws and agency policies to explore alignment with research;
- Commissioning cost-benefit analyses;
- Conducting literature reviews or research on various sex offender-specific policies and practices;
- Serving as technical advisors or resources to lawmakers;
- Facilitating educational briefings for public officials;
- Designing complementary, research-based agency policies; and
- Engaging the public and promoting public education efforts to encourage informed policymaking.

Providing Practitioners across the System with the Tools Necessary to Implement Informed Laws and Policies

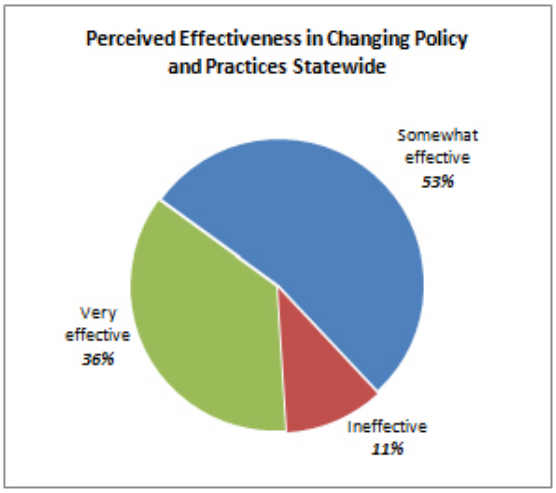
In addition to having well-informed, data-driven laws and policies, research-supported strategies must be operating – and operating *consistently* – at the day-to-day case management level. Nationwide, countless practitioners representing all aspects of sex offender management are firmly committed and dedicated to promoting safe communities and other positive outcomes. However, their practices are not always aligned with or informed by the current literature about individuals who commit sex offenses, victim-centeredness, evidence-based principles, and research-supported interventions in this field. Furthermore, some professionals may not be equipped with the specialized knowledge and requisite skills needed to be maximally effective.

This can result in case management strategies that vary widely in terms approach, technique, quality, and outcomes. For example, practice patterns in sex offender treatment programs nationwide reveal a number of common approaches that do not comport with contemporary research.[9] Because the sex offender management field is evolving, and with new

2 It is important to recognize that information exchange and other supportive functions are bi-directional, in that state-level policy teams also benefit considerably from the insights, perspectives, and feedback from the local policy and case management teams.

advances in the scientific research, professionals need ways to remain abreast of the current models and approaches that can increase the effectiveness of their work.

National organizations have taken leadership roles by integrating research and promising strategies into standards and guidelines for assessing, treating, and managing adult and juvenile sex offenders.[10] In turn, many state-level policy teams have built upon these frameworks to create informed and consistent standards and guidelines in their respective states that guide and inform offender case management practices. However, the presence of standards and guidelines – in and of itself – does not necessarily translate into intended and consistent practices. Many policy teams have recognized that quality assurance mechanisms are an essential supporting element.



These teams are also working to support well-grounded, consistent, and high-quality interventions and management practices – delivered by appropriately trained and skilled, qualified practitioners – in a number of other important ways, including:

- Credentialing and certifying evaluators and treatment providers;
- Facilitating specialized training opportunities to enhance knowledge and skills;
- Disseminating/increasing professionals' access to contemporary research and practice literature; and
- Commissioning internal and external reviews of policies, programs, and services that include both process and outcome evaluations.

Many Positive and Tangible Outcomes Result from the Efforts of Policy Groups

The majority of state-level policy groups report that they have been either very or somewhat effective in influencing informed sex offender management policies and practices in their states (only 11% believe their efforts to date have been ineffective). Indeed, as a whole, the members and staff of these entities indicate that their teams have been particularly effective in:

- Developing standards and guidelines;
- Coordinating and supporting specialized training;
- Serving as a resource or technical advisor to agency leadership and practitioners;
- Conducting research on the impact and effectiveness of their state's approaches; and
- Developing written resources such as handbooks and guides.

The specific, tangible accomplishments of individual policy groups are numerous, and cannot be fully summarized in this document. The following are but a few diverse illustrations:

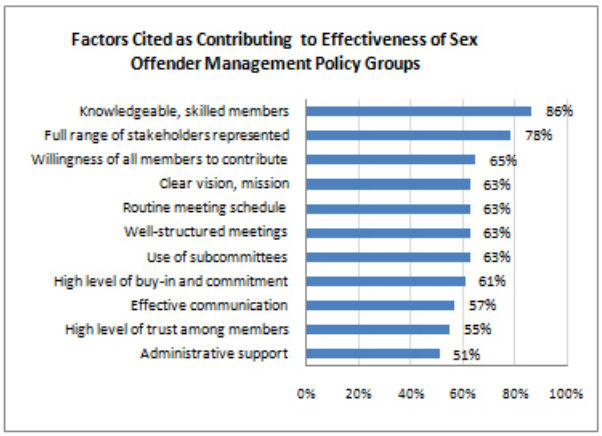
- Arkansas's Sex Offender Assessment Committee and Idaho's Sexual Offender Classification Board have implemented research-based, statewide sex offender assessment protocols and psychosexual evaluation standards, respectively.
- Colorado's Sex Offender Management Board – in addition to revising the management standards and guidelines for adult sex offenders – recently developed all-inclusive, research-supported management standards for juveniles who commit sex offenses.
- Hawai'i's Sex Offender Management Team has developed an innovative infrastructure to support professional development by establishing the nation's first academy devoted to providing specialized training to key agency stakeholders system-wide who share responsibility for sex offender management.
- Maine's Commission to Improve Community Safety and Offender Accountability instituted a collaborative approach to community notification across the state that includes

multiple stakeholders, and that provides community members with information about the problem of sex offending, the work being done by the justice system to manage these offenders, and steps that can be taken to prevent victimization.

- Texas's Council on Sex Offender Treatment continues to apprise state legislators about the contemporary research on sex offenders and the implications for evidence-based public policy.
- Washington State's Sex Offender Policy Board generated a research-supported report for the State Legislature on registration and community notification that included recommendations that were subsequently enacted by the legislature.

Issues that State-Level Policy Groups Find Challenging

Overall, the staff and members of these entities report that they experience the most significant challenges with respect to public education and serving as a liaison with the media. They indicate that the extensive media coverage of individual sex crimes is a very influential factor in shaping the public's often negative perceptions about sex offenders in their states. They emphasize the importance of proactive efforts to educate communities about sex offenders and their management, and to use the media as one vehicle to do this.



Establishment of Policy Teams at the Local Level: A Promising Trend in Sex Offender Management

Just as there are numerous examples of successful state-level policy teams across the country, many local policy teams nationwide have implemented collaborative approaches to sex offender management that include well-informed, research-supported policies and practices, as well as dedicated efforts to equip practitioners with specialized knowledge, training, and skills. The following are three illustrative examples.

Maricopa County, Arizona – The multi-disciplinary policy team in Maricopa County has been in place for more than 10 years. One team member indicates that "we are all on the same page working towards the larger goal of community safety." Noteworthy accomplishments of this team include:

- Creating a protocol that guides a collaborative approach to managing sex offense cases across the county's criminal justice system;
- Providing specialized, cross-agency training to practitioners;
- Working across the bounds of agency and discipline to identify solutions to the significant challenge of sex offender housing at the local level; and
- Implementing individualized and collaborative management strategies for juvenile sex offenders who have been transferred to the adult system.

Tarrant County, Texas – In the early 1980s, representatives from a group of agencies responding to issues related to sexual violence in Tarrant County determined that the capacity of agencies to respond effectively to cases of sexual abuse would be enhanced with ongoing training and oversight by a collaborative advisory committee. As a result, the Sexual Abuse Advisory Council was established in 1981. In recent years, the council has collaboratively:

- Influenced the creation of sex offender units in several criminal justice agencies, and the establishment of children's advocacy programs;
- Developed treatment guidelines for sex offenders and victims to guide the efforts of local providers;
- Surveyed professionals across the state on the impact of registration and notification laws; and
- Pooled resources to provide specialized training to stakeholders who would not have otherwise received it.

San Diego, California – The San Diego Sex Offender Management Council (SOMC) was established in 1999 with the overarching goal of "improving public safety by looking critically at the manner in which sex offenders are identified, assessed, and managed in the community." Members of SOMC include policymakers and practitioners from local and state agencies. In addition to formal monthly meetings, SOMC members indicate that collaboration among them is a "daily occurrence." One member notes that "the SOMC collaboration is a testament to the vision and energy of professionals who recognized that managing sex offenders required a sophisticated toolbox of strategies, and a commitment on the part of everyone to share in the public safety challenge this population presents." A unique feature of the group is that it is staffed by a dedicated coordinator, who is charged with supporting and chronicling the work of the team.

Factors Contributing to the Effectiveness of these Groups

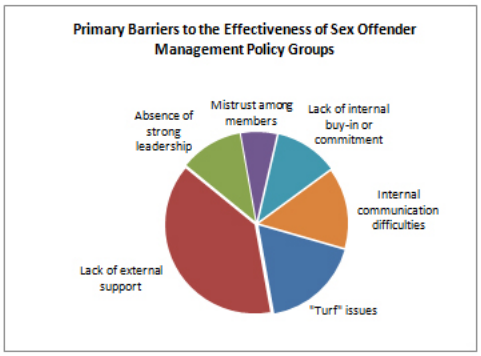
Members of these state-level teams attribute a wide range of characteristics that influenced the success of their initiatives, many of which are consistent with research on the characteristics of effective teams. When members cited the one factor that *most* contributed to their effectiveness, the following primary elements emerged:

- Representation from the full range of key stakeholder groups;
- Knowledgeable, skilled members;
- Clear and elevating vision, mission, or purpose; and
- High level of buy-in and commitment from members.

Barriers to Effectiveness

Not surprisingly, the absence of the aforementioned "effectiveness" elements tends to hamper the efforts of sex offender management policy teams. [11] A number of additional variables are cited by team representatives as impacting effectiveness. The various influences can be largely categorized as:

- ***Internal factors***, or those directly related to the processes and functioning of the groups themselves, such as inconsistent buy-in and commitment from members, "turf" issues, communication challenges, lack of success in fostering and maintaining external support, mistrust among members, and the absence of strong leadership; and
- ***External factors***, which include environmental and contextual issues such as negative media attention, limited or lack of funding, public perceptions and opinions, highly publicized sex offense cases, proliferation of sex offender-specific laws, and political exigencies.



Guidance for Building or Strengthening Sex Offender Management Policy Teams

As public officials and other stakeholders explore the issue of establishing or enhancing collaborative policy teams – at both the state and local levels – as a means of advancing an effective sex offender management system, the following practical recommendations are offered for consideration:[12]

Identify an effective leader. [13] Strong and inspiring leadership is essential in the work of all teams, especially those that are focused on a highly visible, complicated problem like sex offender management. Effective leaders:

- Earn the respect of – and possess credibility among – team members;
- Have specialized skills and knowledge;
- Can address the "process related" needs of their team (e.g., creating meeting goals and agendas, facilitating meetings, monitoring the dynamics of the group);
- Engender confidence in those who are working on behalf of the team;
- Build morale and promote the establishment of positive working relationships among all involved; and
- Ensure that the activities of the team are integrated and coordinated.

"Get smart" about sex offenders and their management. [14] A critical initial step for a newly formed collaborative policy team is to ensure that its members are well versed regarding the contemporary literature on sex offender management. While most or all team members are likely to possess working knowledge of sex offenders, and to be experts on at least one of the specific components related to their management (i.e., investigation, prosecution, and disposition; assessment; supervision; treatment; reentry; or registration and community notification), it is important for all members to possess a shared understanding of the literature that underlies each of these components. This collective understanding promotes an appreciation for the inter-relatedness of the various components, and is essential to inform

the team's efforts to examine current policies and practices critically, and identify ways to enhance them. Because the research on sex offenders and their management is ever-evolving, all teams should make dedicated efforts to "stay smart" over time (e.g., via ongoing training on the contemporary literature and promising practices).

Mission Statement: Massachusetts Coalition for Sex Offender Management

To promote public safety and health by improving the effectiveness of sex offender management and increasing the public's understanding of sexual abuse and exploitation.

Conduct a stakeholder analysis.[15] Because efforts to enhance public safety require the involvement of a wide range of disciplines and agencies, [16] it is essential that groups conduct a deliberate and structured exercise – often referred to as a stakeholder analysis – to ensure that the "right" people are at the table as the group is formed, and continuously assess the need to include new perspectives over time. In addition to having representation from multiple disciplines and agencies, it is essential that group members possess substantive knowledge and skills (i.e., technical competencies), and a willingness to work together, and share and debate ideas and divergent points of view (i.e., personal competencies).

Rhode Island's Sex Offender Management Task Force

Vision Statement: Our vision is a coordinated system designed to enhance public safety through the effective management of sex offenders.

Mission Statement: Our mission is to develop a statewide system for sex offender management that promotes community safety through victim advocacy and services, and includes integrated criminal justice interventions, offender treatment and monitoring, as well as system and offender accountability.

Develop a shared vision, mission, or purpose. [17] The various stakeholders who share responsibility for sex offender management bring many different points of view to the work of these groups. It is critically important that members work to understand and appreciate each others' perspectives, and agree on a common purpose. It is not uncommon for members of teams to conclude that although they approach the issue of sex offender management from different angles, they have all come to the table to work together for the same purpose – to enhance community safety and reduce victimization. One current representative of a state-level policy team states that "the most impressive aspect of this project has been to see, despite the frustrations at times, the ongoing dedication to the overall goal devised at the outset."

Clarify roles, responsibilities, and expectations. [18] It is not uncommon for groups to move forward in their work without devoting sufficient time to discussing the expectations that members have of one another regarding their roles and responsibilities on the team. A lack of clarity regarding roles, responsibilities, and expectations can create confusion among members about who is supposed to do what, and reduce the overall effectiveness of groups because the strengths that members possess may go unrecognized and unused. One strategy that groups have found to be helpful in enhancing clarity is to regularly dedicate a small amount of time to spotlight each member of the team – and the expectations that the other members have of that person. In addition, the person being spotlighted often shares with the other members his or her ideas about the skills, abilities, and interests that they bring to the team. Such an approach has a number of benefits, including the realization on the part of individual members that others on the team expect more from them than they recognized, and the identification of strengths among individual members that had been unknown to others previously, but that might significantly enhance the work of the group.

Obtain a data-driven understanding of the system, offenders, and policies and practices. [19] Regardless of the purpose or scope of a policy group, it is essential that members attain a shared, data-driven understanding of the ways in which sex offenders are processed through the justice system, the characteristics of the sex offenders that are the focus of the team's efforts, the resources that support the sex offender management process, and the current offender management policies and practices. An understanding of these four dimensions (system, offender, resource, and policy and practice) provides an important baseline for teams, and assists them to identify needs and challenges that must be addressed in order to strengthen sex offender management efforts.

Create a results-driven structure. [20] It is important for team members to organize themselves in ways that will maximize their chances of achieving the results they seek (e.g., reduced recidivism, enhanced public safety). Key elements of a structure that supports successful outcomes include:

- Operating norms which describe how members will work together;
- A decisionmaking process that ensures the perspectives of all members are considered and that promotes efficiency;
- Performance measures that, if achieved, will move the group in the direction of its vision;
- A structured set of benchmarks that are measurable and demonstrate progress towards the identified performance measures;
- Routinely scheduled, well-structured, and facilitated meetings;
- Use of subcommittees to carry out special tasks; and
- Administrative support.

Practical Tips from State-Level Policy Group Representatives on Enhancing Team Effectiveness

"Make sure that the voices of new members are heard and respected."

"If interest or commitment on the part of members is waning, talk about it openly and work together to solve the problem."

"Make a concerted effort over time to openly identify conflicts or turf issues among members. For example, there have been many times when members have clearly and realistically pointed out why some agency and department heads might have problems with particular areas of the group's work."

Foster relationships with external constituents. The likelihood that sex offender management policy groups will be successful in achieving their visions, missions, and purposes is enhanced significantly if members take proactive steps to establish and maintain positive relationships with external entities that are positioned to support their work. Representatives of state-level policy groups identify state legislatures and the larger community as two important allies and, therefore, targets for proactive relationship-building efforts. The advice they offer is as follows:

- "Proactively seek direct contact with representatives from the state legislature regarding the efforts of the group. Work to foster mutually-supportive relationships with them."
- "Involve victim advocacy organizations and seek their assistance in fostering and maintaining the support of the state legislature and other important external entities."
- "Explore whether there are opportunities to use the media as a tool to educate the larger community proactively about the work that the group is doing."

The Sex Offender Management Coalition

The Sex Offender Management Coalition is a multi-disciplinary group composed of sex offender management professionals (including the staff and members of many sex offender management policy groups) from across the country who are interested in furthering informed, evidence-based sex offender management policies and practices. The coalition is designed to promote information sharing among stakeholders from different jurisdictions, agencies, and disciplines. It operates a listserv and convenes periodic conference calls to discuss issues that are of interest to members.

For more information, contact Chris Lobanov-Rostovsky, steering committee member, at Chris.Lobanov-Rostovsky@cdps.state.co.us.

Appreciate that affecting change can be challenging and time-consuming. It is not uncommon for policy groups to find that making quick and significant changes in their jurisdictions' approaches to sex offender management can be extremely challenging, and that implementing even incremental adjustments can be a lengthy process. In times of scarce resources, it may be particularly difficult for groups to make any progress, especially if the policy and practice changes they are advocating require additional costs. Unfortunately, this can impact members' morale and level of commitment to the efforts of the team. It is, therefore, important for groups to be realistic and strategic when defining how they will move forward. One state-level policy group representative offers the following advice: "Once we created our strategic plan,

we had no resources to implement the findings. If I could change one thing in the past work of my policy group, I would have carved out some things we could have done that did not cost money and could have been accomplished fairly easily – I think that would have kept people a bit more motivated and enhanced our productivity."

Use the experiences and work in other jurisdictions to inform current efforts. Approximately 20 years have passed since states across the nation first began forming policy groups as a method to enhance sex offender management strategies. Because it is not possible to summarize in this paper all of the important lessons and learnings that have emerged from the efforts of these groups, readers are encouraged to seek more information directly from them. Most have established websites that include contact information for their staff and members, as well as useful information regarding their past and current initiatives.[21]

Forming or Enhancing Sex Offender Management Policy Groups: Review of Key Steps

- Identify an effective leader
- "Get smart" about sex offenders and their management
- Conduct a stakeholder analysis
- Develop a shared vision, mission, or purpose
- Clarify roles, responsibilities, and expectations
- Obtain a data-driven understanding of the system, offenders, and policies and practices
- Create a results-driven structure
- Foster relationships with external constituents
- Appreciate that affecting change can be challenging and time-consuming
- Use the experiences and work in other jurisdictions to inform current efforts

Conclusion

Through the efforts of sex offender management policy teams, many states are:

- Implementing multi-agency collaboration at the state, local, and case management levels;
- Crafting more informed, evidence-based laws and policies; and
- Translating these into research-supported, high quality offender management practices.

The efforts of these state-level collaborative entities can better equip public officials to deploy limited resources efficiently and effectively, and can help to clarify the individual and collective sex offender management roles of professionals across the justice system. Moreover, as a result of the important collaborative work of these entities, external stakeholders – including victims, their families, and the broader public – can develop an enhanced understanding of, confidence in, and support for the systems that are in place to prevent sexual victimization and enhance community safety.

Acknowledgements

Dr. Kurt Bumby and Tom Talbot of the Center for Sex Offender Management (CSOM) authored this resource document, with Madeline Carter and Leilah Gilligan of CSOM providing additional contributions. CSOM extends special thanks and recognition to Chris Lobanov-Rostovsky, Program Manager of the Sex Offender Management Board of the Colorado Division of Criminal Justice, for his exceptional guidance and insightful reviews during the preparation of this publication.

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Endnotes

1 In preparing this document, the Center for Sex Offender Management (CSOM) relied on the perspectives of the members and staff of state-level sex offender management policy groups that are currently operating, those that existed previously and whose work is now finished, and those that are in the process of forming. In addition to reviewing the written materials and websites of these groups, CSOM administered an on-line survey and received 57 responses from individuals representing policy groups in 16 states. A listserv that includes the staff and members of many of these policy groups was also queried to help to ensure that no past or current groups were inadvertently excluded from the survey or this paper.

2 Dunworth, T., Hannaway, J., Holahan, J., & Turner, M. A. (2008). *Beyond ideology, policy, and guesswork: The case for evidence-based policy (revised 2008)*. Washington, DC: The Urban Institute.

3 See, e.g., Center for Effective Public Policy (CEPP), Pretrial Justice Institute, Justice Management Institute, & The Carey Group (2010). *A framework for evidence-based decision making in local criminal justice systems: A work in progress, third edition*. Silver Spring, MD: Author.

4 Key reviews of sex offender-specific legislative trends include the following: Council of State Governments (2010). *Legislating sex offender management: Trends in state legislation 2007 and 2008.* Lexington, KY: Author; Levenson, J., & D'Amora, D. (2007). Social policies designed to prevent sexual violence: The emperor's new clothes. *Criminal Justice Policy Review, 18*, 168-199; and Velázquez, T. (2008). *The pursuit of safety: Sex offender policy in the United States*. New York, NY: The Vera Institute of Justice.

5 CSOM (2008a). *Legislative trends in sex offender management*. Silver Spring, MD: Author; CSOM (2008b). *Twenty strategies for advancing sex offender management in your jurisdiction*. Silver Spring, MD: Author; and Lobanov-Rostovsky, C. (2007). Sex offender treatment/management policy groups. *Association for the Treatment of Sexual Abuse (ATSA) Forum, 19,* 3-19.

6 See, e.g., ATSA (2005). *Practice standards and guidelines for members of the Association for the Treatment of Sexual Abusers*. Beaverton, OR: Author; CSOM (2008c). *The comprehensive approach to sex offender management*. Silver Spring, MD: Author; and English, K., Pullen, S., & Jones, L. (Eds.). (1996). *Managing adult sex offenders: A Containment Approach.* Lexington, KY: American Probation and Parole Association.

7 Brownstein, H. H. (2007). From an editorial board member: How criminologists as researchers can contribute to social policy and practice. *Criminal Justice Policy Review, 18*, 119-131.

8 See, e.g., Brownstein (2007); and CEPP et al. (2010).

9 McGrath, R. J., Cumming, G. F., Burchard, B. L., Zeoli, S., & Ellerby, L. (2010). *Current trends and emerging practices in sexual abuser management*. Brandon, VT: Safer Society Press.

10 See, e.g., ATSA (2005); National Adolescent Perpetrator Network (1993). The revised report from the National Task Force on Juvenile Sexual Offending. *Juvenile and Family Court Journal, 44,* 1-120.

11 Research shows that the following are among the characteristics of high performing teams: shared vision, mission, or purpose; results-driven structure; representation of full range of stakeholders; skilled, knowledgeable team members; clarity regarding roles, responsibilities, and expectations; unified commitment; collaborative climate; principled leadership; and external support. See, e.g., Chrislip, D., & Larson, C. E. (1994). *Collaborative leadership: How citizens and civic leaders can make a difference*. San Francisco, CA: Jossey-Bass; and Larson, C. E., & LaFasto, F. M. J. (1989). *TeamWork: What must go right, what can go wrong*. Newbury Park, CA: Sage.

12 These steps and recommendations are grounded in research on effective teams, in the technical assistance that has been provided to multidisciplinary sex offender management teams nationwide at both policy and practice levels, and in the practical experiences of representatives of sex offender management policy teams. For specific guidance regarding these steps, see, e.g., CEPP (2005). *Collaboration: A training curriculum to enhance the effectiveness of criminal justice teams.* Silver Spring, MD: Author; CEPP (2007). *Increasing public safety through successful offender reentry: Evidence-based and emerging practices in corrections.* Silver Spring, MD: Author; CSOM (2007a). *Enhancing the management of adult and juvenile sex offenders: A handbook for policymakers and practitioners.* Silver Spring, MD: Author; and CSOM (2007b). *The comprehensive assessment protocol: A systemwide review of adult and juvenile sex offender management strategies*. Silver Spring, MD: Author.

13 See CEPP (2007), pp. 23-28 for more information regarding effective leadership in the justice system.

14 See CSOM (2007A), pp. 5-14 for a brief overview of sex offenders and their management. The narrative sections throughout CSOM (2007b) include more comprehensive descriptions of promising sex offender management strategies.

15 See CSOM (2007a), p. 18 for a teamwork exercise on conducting a stakeholder analysis.

16 See ATSA (2005); CSOM (2008b); and English et al. (1996).

17 See CSOM (2007a), pp. 26-27 for teamwork exercises on developing vision and mission statements.

18 See CEPP (2005), pp. 259-262 for a teamwork exercise on member roles and responsibilities.

19 See CSOM (2007a), pp. 29-43 for more information and teamwork exercises on collecting information regarding the system, offender, resource, and policy and practice dimensions. See CSOM (2007b) for questions that are designed to assist jurisdictions to examine their current sex offender management policies and practices.

20 See CSOM (2007a), pp. 44-56 for more information and teamwork exercises on developing a monitoring plan to assess progress made in achieving performance measures.

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APPENDIX C:

Senate Bill Report SSB 6414

SENATE BILL REPORT
SSB 6414

As Passed Senate, February 13, 2010

Title: An act relating to improving the administration and efficiency of sex and kidnapping offender registration.

Brief Description: Improving the administration and efficiency of sex and kidnapping offender registration.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senator Regala).

Brief History:
Committee Activity: Human Services & Corrections: 1/19/10, 2/02/10 [DPS].
Passed Senate: 2/13/10, 46-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6414 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: In 2008 the Legislature created the Sex Offender Policy Board (Board) to promote a coordinated and integrated response to sex offender management. One of the first tasks assigned to the Board, through 2SHB 2714 (2008), was to review Washington's sex offender registration and notification laws. The Board submitted a report to the Legislature in November 2009, which contained several consensus recommendations including:

- standardize all registration requirement deadlines within the registration statute to three business days with few exceptions;
- change the statue so that a juvenile sex offender's first failure to register offense will not bar them from petitioning for relief from registration;
- establish a statutory list of criteria that is illustrative to the judge of considerations that may be important in determining whether an adult offender should be relieved from registration;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- adopt a tiered approach to the class of felony for a failure to register as a sex offender – class C for the first two convictions and class B for the third and subsequent convictions;
- reduce community custody for the first failure to register for a sex offense conviction to 12 months; second and subsequent convictions would continue to require 36 months of supervision;
- repeal the 90-day registration requirement for level II and III adult sex offenders and support codification of law enforcement's address verification program.

Washington's registration law requires a sex or kidnapping offender to keep the county sheriff informed of his or her residence and any school the offender plans to attend or is attending. The statute sets out the timeframes for the offender to provide this notice. In many cases, the timeframes are not consistent. For example, an offender must notify the sheriff: at the time of release from custody; within 72 hours of changing his or her residence address in the same county; within ten days of moving to a new county; and within 48 hours of ceasing to have a fixed residence.

A person who has a duty to register for a sex offense committed when the person was a juvenile may petition the court to be relieved of that duty:

- if the petitioner was 15 years or older at the time of the offense, the petitioner must show by clear and convincing evidence that continued registration will not meet the purposes of the statute;
- if the petitioner was under the age of 15 at the time of the offense, the petitioner must show by a preponderance of the evidence that the juvenile has not committed a new sex or kidnapping offense in the 24 months following adjudication and continued registration will not meet the purposes of the statute.

The failure to register is considered a sex offense and will preclude the petitioner from being relieved of the duty to register.

Adult offenders convicted of class B or class C sex offenses may be relieved of the duty to register after ten years for a class C offense or 15 years for a class B offense. In order for the court to relieve a person from registration, the petitioner must not commit any new offense in the stated time period and show by clear and convincing evidence that future registration will not meet the purposes of the statute.

For both adult and juvenile offenders, a failure to register is 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 has been convicted of a failure to register several times or has a significant criminal history, the statutory range for a failure to register is 43 to 57 months and carries 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 takes effect after the 2010 Legislative Session unless otherwise amended by the Legislature.

Summary of Substitute Bill: Business day and disqualifying offense are defined. An offender may not be relieved from registration if that offender has committed a disqualifying offense within the applicable time period. The timeframes for a sex or kidnapping offender to report to the county sheriff are changed to three business days with the exception of a few isolated circumstances. A person who is moving in-state must provide notice by certified mail or in person with the county sheriff.

An offender who is required to register in his or her state of conviction must register in Washington unless the person has specifically been relieved of registration by the state of conviction. A person's duty to register for an out of state offense continues indefinitely, but the person may petition after 15 years in the community with no disqualifying offense.

Separate sections address the duration of registration, relief from registration and relief from registration for offenses committed as a juvenile. When the person's duty to register ends by operation of law, the person may request the county sheriff to review his or her records. If the sheriff finds that the person has been in the community the requisite period of time with no disqualifying offense, the sheriff will request that the Washington State Patrol (WSP) remove the person from the sex or kidnapping offender registry. Law enforcement and the WSP are immune from liability for the removal or failure to remove a person from the registry.

When determining whether to relieve an adult or juvenile from registration, a list of criteria is provided as guidance for the court to consider, including the nature of the offense, any subsequent criminal history, the offender's stability in the community, and any other factors the court considers relevant.

A person who is required to register for an offense committed when the person was a juvenile may be relieved of registration if the person has not committed a new sex or kidnapping offense since adjudication. The person will not be prevented from being relieved of registration if the person was convicted of only one failure to register. However, the person may not have been adjudicated or convicted of a failure to register in the 24 months prior to filing.

A juvenile or adult conviction for failure to register carries a maximum 12-month sentence of community custody for the first conviction and 36 months for the second and subsequent convictions. The Department of Corrections is directed to apply these changes retroactively to offenders currently incarcerated or on community custody. 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.

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 a *.

FAILURE TO REGISTER

	Gross Misdemeanor	1st Felony Conviction	2nd Felony Conviction	3rd+ Conviction
Class of offense	If underlying offense not felony, always gross misdemeanor	Class C felony	Class C felony	*Class B felony*
Sex offense?	No	*No*	Yes	Yes
Super-vision	Court ordered probation	*1 year community custody*	3 years community custody	3 years community custody
Time for relief - adult offense	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
Time for relief - juv. offense	*Must wait 2 years from FTR to petition*	*Must wait 2 years from FTR to petition*	Resets clock (2 yr) and carries own 10-yr req. to register	Resets clock (2 yr) and carries own 10-yr req. to register

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The Sex Offender Policy Board put a lot of time and effort into these recommendations, meeting a total of 38 times over the past couple of years. This was a collaborative process and reflects consensus recommendations of a variety of stakeholders. The recommendations are rooted in evidence based practices and support enhancements to our existing systems. Further, the practices are victim centered and provide a good balance for public safety. This is how we make well reasoned sex offender policy in the state of Washington.

This bill is a work in progress and the Board continues to work on various pieces. The Board anticipates recommending changes or additions to address the comparability of out-of-state sex offenses, the interplay of certain dates with regard to the Jacob Wetterling Act, and what crimes should disqualify an individual from petitioning for relief from registration. For out-of-state offenders, the offender should be required to register in Washington if he or she is

required to register in their state of conviction. This is an important fix for law enforcement because they spend a good deal of time analyzing the out-of-state offense to determine its comparability.

The list of criteria for courts to consider in relieving an offender from registration will have an enormous impact on a person's ability to petition. Judges currently do not have much guidance. Each one of the criteria has background in research as to the offender's risk. The change to allow an offender convicted as a juvenile to have one failure to register and still be able to seek relief from registration is a good fix. Often this is not indicative of the person's risk of reoffense, but indicative of a failure to understand the rules.

The current sex offender registration law is fraught with traps for persons trying to comply with the law. This bill is a vast improvement.

Persons Testifying: PRO: Andrea Piper, Russ Hauge, Sex Offender Policy Board; Joanna Arlow, Washington Association of Sheriffs and Policy Chiefs; Amy Muth, Washington Association of Criminal Defense Lawyers and Washington Defenders' Association; Kathleen Swan, private citizen.

APPENDIX D:

Senator James Hargrove and Senator Rosemary McAuliffe Letter

Washington State Senate

Democratic Caucus

350 John A. Cherberg Building
PO Box 40464
Olympia, WA 98504-0464

Phone: (360) 786-7350
FAX: (360) 786-7020

July 1, 2010

Jean Soliz-Conklin, Executive Director
Sentencing Guidelines Commission
PO Box 40927
Olympia, WA 98504-0927

Dear Ms. Soliz-Conklin,

As part of its continuing commitment to improving public safety, the Washington State Senate hereby requests that the Sex Offender Policy Board:

1. Review the case of Jose Reyes to understand the performance of Washington's sex offender prevention and response system;
2. Review Washington's policies related to juvenile sex offenders and school notification; and
3. Make recommendations for consideration during the 2011 legislative session.

In keeping with the statutory mission of the Sex Offender Policy Board, the requested review and recommendations should reflect current research, best practices, and trends in other jurisdictions that may be applicable to Washington State. The Board should confer with the Office of the Superintendent of Public Instruction with respect to educational matters, and in addition, the Board should review the current status of federal privacy provisions and ensure that its recommendations comply.

This review is part of Washington State's ongoing commitment to comprehensive policy on sex offender prevention and response system.

- **Community Protection.**
  Beginning with the **Community Protection Act of 1990**, Washington has required sex offenders to register with police. The state has built a state-of-the-art information sharing system.

  Washington was **first in the nation to require community notification**. Through experience we have learned a great deal about how to protect public safety, updating many practices with SSB 6414 in 2010.

- **Sex Offender Management.**
  Washington uses research-based tools to assess all offenders upon release, and in addition, **utilizes specialized risk assessment tools to rank sex offenders** at Levels I, II and III, based on the risk they pose to the community.

  Washington led the way in **mandating civil commitment for violent sex predators** to keep dangerous sex offenders off the street after serving their prison sentences.

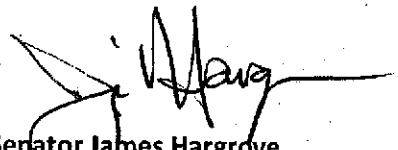
- **Treatment and Prevention.**
  Since the passage of the **Youth Violence Reduction Act of 1994**, Washington State has invested in research-proven strategies to treat youth offenders and prevent recidivism.

- **Commitment to Proven Practices.**
  Two years ago, **Washington established the Sex Offender Policy Board**, a subdivision of the Sentencing Guidelines Commission, to review the state's policies and make recommendations that reflect research, trends, changes in standards established by the courts, new technologies, and other factors that will allow us to best secure the public safety. The board is also tasked to review cases to assess the function of the state's sex offender prevention and response system. SSB 6414, incorporating the SOPB's first recommended policy changes, was signed into law in 2010.

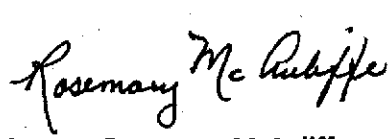
Currently, all juvenile sex offenders are, like adult sex offenders, required to register with local law enforcement. The law enforcement agency informs the principal of the school the juvenile will attend and in addition, notifies the community at large. As specified by law, the principal shares information with school personnel only, based on the offender's designated level. The Office of the Superintendent of Public Instruction has developed a model policy for Washington's schools to follow with respect to notification of and attendance by juvenile sex offenders.

We look forward to the Board's recommendations as we work to further public safety and provide for the education of all of children and youth.

Sincerely,



Senator James Hargrove
Chair, Senate Human Services & Corrections Committee

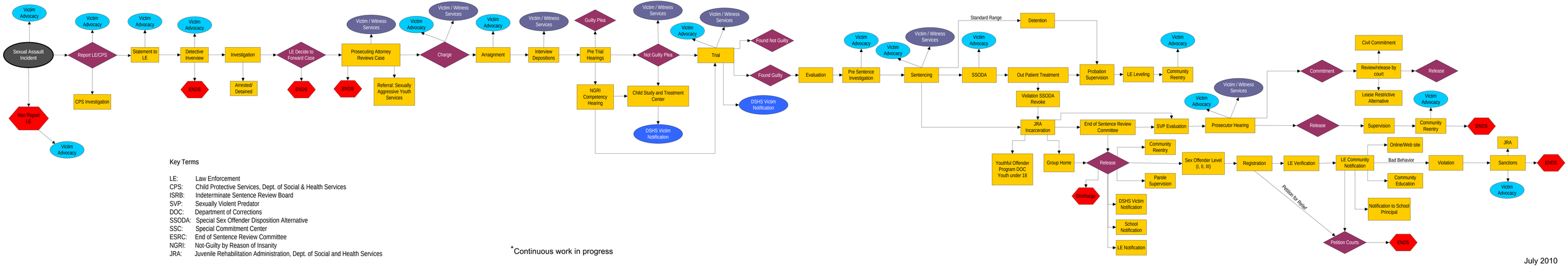


Senator Rosemary McAuliffe
Senate Human Services & Corrections Committee

APPENDIX E:

Juvenile Offender Management System

Washington State Juvenile 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
SSODA:	Special Sex Offender Disposition Alternative
SSC:	Special Commitment Center
ESRC:	End of Sentence Review Committee
NGRI:	Not-Guilty by Reason of Insanity
JRA:	Juvenile Rehabilitation Administration, Dept. of Social and Health Services

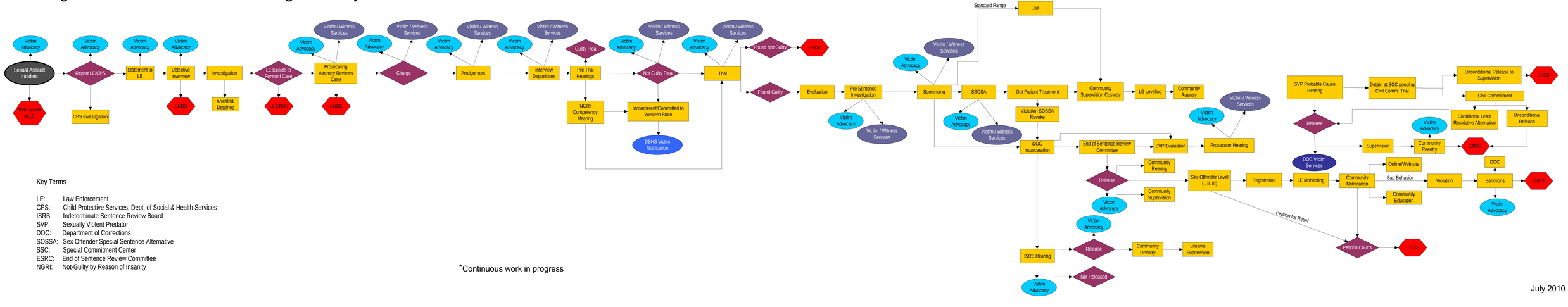
*Continuous work in progress

July 2010

APPENDIX F:

Adult Offender Management System

Washington State Adult 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
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SOSSA: Sex Offender Special Sentence Alternative
SSC: Special Commitment Center
ESRC: End of Sentence Review Committee
NGRI: Not-Guilty by Reason of Insanity

*Continuous work in progress

July 2010

APPENDIX G:

Benchmarks

Washington Sex Offender Policy Board

Benchmarks

Benchmark	Responsible Agency/Person	Date
▪ Registration Compliance # of Sex Offenders Required to Register and their Compliance	WASPC WSP	
▪ Prison Treatment Beds # of Treatment Beds Available in Prisons and Jails	DOC	
▪ Recidivism Measure of specific offenders in 3-5 year period after sexual offense	DOC WASPC WSP	
▪ Reduction in the % of Sex Offenders Registering as Homeless/Transient % released when initially eligible because housing in place therefore maximizing supervision time	DOC WASPC	
▪ Over Time Increase in % of Juveniles who Successfully Petition Total # of Juveniles Applying for Petition, Total # Juveniles who Successfully Petition	WSP AOC AOC?	
▪ Compliance with Restitution Total # of Sex Offenders Compliant with Restitution	AOC / County Clerk?	

Appendix G

APPENDIX H:

Dashboard Measures

Washington Sex Offender Policy Board

Dashboard

Dashboard	Responsible Agency/Person	Dashboard Date
▪ Number of sexual assault victims who received services through state programs		
▪ Number of victims who were related to or known to the offender		
▪ Number of sex offenders convicted		
▪ Number required to register and/or be monitored in the community		
▪ Number of juveniles adjudicated for sex offense(s)		
▪ Number of juveniles required to register and/or be monitored in the community		

APPENDIX I:

50 State Survey Of Juvenile Registration And Notification Laws

Table 1 – State Survey on Juvenile Registration and Notification

State	Citation	Juvenile Registration	Juvenile Notification	Termination of Registration	Comments
Alabama	Ala. Code § 15-20, 15-20-28, 15-20-22, 15-20-23 (2008).	Yes.	Not unless ordered by the sentencing court. A risk assessment is performed with statutory criteria. If the risk assessment is low, information is shared with schools, medium the juvenile has residency restrictions, if risk of re-offense is high, they are subject to notification like an adult. Juvenile classification has an appeal process. 15-20-28.	No. When a juvenile criminal sex offender becomes the age of majority the juvenile criminal sex offender shall instead be subject to Section 15-20-22 or Section 15-20-23 as though he or she were an adult criminal sex offender. Community notification, however, shall not be allowed, unless so ordered by the sentencing court.	Separate juvenile registry. Legislative findings specifically discuss juveniles.[1]
Alaska	Alaska Stat. § 12.63.100(3), 18.65.087, 12.63.100 (2008).	No, only if convicted as an adult.	No, only if convicted as an adult.	No, only if convicted as an adult, same as adults.	
Arizona	Ariz. Rev. Stat. § 13-3821(D) and (F), 13-923 (2008).	Yes.	No unless ordered by the court. The Community Notification Guidelines Committee is charged with setting out guidelines for types of notification depending on risk level.	Yes. • The court shall conduct a probation hearing at least once a year for a person under 22 who was convicted for an offense that was committed when they were under 18. Parties are notified and the court	Automatic termination. Specific Juvenile Hearing Process for Relief.

[1] Juvenile sex offenders, like their adult counterparts, pose a danger to the public. Research has shown, however, that there are significant differences between adult and juvenile criminal sexual offenders. Juveniles are much more likely to respond favorably to sexual offender treatment. Juvenile offenders have a shorter history of committing sexual offenses. They are less likely to have deviant sexual arousal patterns and are not as practiced in avoiding responsibility for their abusive behavior. Juveniles are dependent upon adults for food and shelter, as well as the emotional and practical support vital to treatment efforts. Earlier intervention increases the opportunity for success in teaching juveniles how to reduce their risk of sexually re-offending. The Legislature finds that juvenile criminal sex offenders should be subject to the Community Notification Act, but that certain precautions should be taken to target the juveniles that pose the more serious threats to the public. Ala. Code 15-20-20.1 (2008).

				determines whether registration and/or notification should be terminated, deferred, suspended. 13-923. • The court may order the termination of any duty to register under this section on successful completion of probation if the person was under 18 when the crime was committed. • Any duty to register for a juvenile adjudication terminates when the person reaches 25.	
Arkansas	Ark. Code Ann. § 9-27-356 & 12-12-913 (2008).	No, unless the court orders it. In some circumstances, the court may require the juvenile to register if the Sex Offender Assessment Committee recommends it after a hearing upon motion from a prosecutor to have the juvenile register.	Yes, if the court orders them to register, they are considered a more than moderate risk, and some other factors.	The juvenile may petition for relief of registration while under the court's jurisdiction or when the juvenile turns 21 whichever is later. The court must find by a preponderance of the evidence that the juvenile does not pose a threat to others to have the name removed. If the court does not order the juvenile's name removed from the sex offender register, the juvenile shall remain on the sex offender register for ten (10) years from the last date on which the juvenile was adjudicated a delinquent or found guilty as an adult for a sex offense or until the juvenile turns 21, whichever is longer.	The court shall order sex offender screening and risk assessment for certain offenses; the court may order it for offenders convicted of any offense with an underlying sexual motivation. The prosecutor must file a motion for a registration hearing. At the hearing, the juvenile has a right to counsel and the court will consider: 1) seriousness of the offense; 2) the protection of society, 3) level of planning and participation in the offense, 4) the previous sex offender history of the juvenile, 5) whether there are facilities or programs that are likely to rehabilitate the juvenile prior to the expiration of the court's jurisdiction, 6) any other factors deemed relevant to the court. The court must find that the juvenile should or should not be required to register by clear and convincing evidence.

California	Cal. Penal Code §§ 290 (2008).	Yes, for certain offenses upon release from the California Youth Authority.	No. Not if they are adjudicated in juvenile court.	Yes, may get a certificate of rehabilitation 7-10 years after release of probation/parole (some offenses are not eligible) otherwise have to get the Governor's pardon.	Juveniles on probation are not required. This means 95 percent are not required to register.[2]
Colorado	Colo. Rev. Stat. §16-22-103(5), 16-22-111, 16-22-113(e) (2008).	Yes, except for certain circumstances. Unless the juvenile or court makes a motion for exemption (see comments.)	Yes, if they fit the criteria for posting (e.g. sexually violent predator, felony of unlawful sexual behavior, etc.) No specific exemptions for juveniles.	Yes. May petition for relief from registration and/or notification if the person was younger than 18 at the time of disposition or adjudication, after the successful completion of and discharge from the sentence, if the person has not been subsequently convicted of unlawful sexual behavior or of any other offense, the underlying factual basis of which involved unlawful sexual behavior. The court shall consider whether the person is likely to commit a subsequent offense of or involving unlawful sexual behavior. The court shall base its determination on recommendations from the person's probation or community parole officer, the person's treatment provider, and the prosecuting attorney for the jurisdiction in which the person was tried and on the recommendations included in the person's presentence investigation report. In addition, the court shall consider testimony submitted by the victim of the offense.	The court can consider the totality of the circumstances and determine that the registration requirement would be unfairly punitive and exemption from registration would not pose a significant risk to the community if the juvenile: 1) was under 18 at the time of the offense, 2) the person has not been previously charged with unlawful sexual behavior, 3) the offense is a first offense of misdemeanor unlawful sexual contact or indecent exposure, 4) the person has received a standardized sex offender evaluation from an evaluator that meets the standards of the sex offender management board, and the evaluator recommends exemption, and the court make written findings of fact for the exemption.

[2] Amanda Petteriti and Nastassia Walsh, *Registering Harm, How Sex Offense Registries Fail Youth Communities*, Justice Policy Institute, p. 41, November 21, 2008.

Connecticut	Conn. Gen. Stat. § Ch. 969, 54-250 – 54-261 (2008).	Yes. Same as adults, no juvenile provision or exemption. Those required to register: 1) committed a criminal against a victim who is a minor or a nonviolent sexual offense, 2) committed sexually violent offense, 3) sexual offense in another jurisdiction, 4) felony for a sexual purpose.	Yes. However, the court can order that dissemination be restricted if it is not required for public safety, and that it would likely reveal the identity of the victim within the community. Prior to the order, the court shall consider any information from the victim.	No.	
Delaware	Del. Code Ann. Tit. 11§ 4120 (2008).	Yes unless the sentencing court determines by a preponderance of the evidence that they are not likely to pose a threat to public safety if released from registration and notification. Any person seeking relief from designation as a sex offender under this paragraph shall file a petition with the sentencing court prior to sentencing requesting such relief. The petition shall be granted or denied by the sentencing court after it weighs all relevant evidence which bears upon the particular facts and circumstances of the offense,	Yes, if they are tier II or III.	Offender can petition for redesignation of classification.	Legislative intent refers specifically to risk assessment, monitoring, classification and treatment of sex offenders.[3]

[3] The General Assembly hereby declares that the comprehensive evaluation, identification, classification, treatment, and continued monitoring of sex offenders who are subject to the supervision of the criminal justice system is necessary in order to work toward the reduction of recidivism by such offenders. Therefore, the General Assembly hereby creates a Board which shall develop and standardize the evaluation, identification, classification, treatment, and continued monitoring of sex offenders at each stage of the criminal justice system so that such offenders will curtail recidivistic behavior and the protection of victims and potential victims will be enhanced. The General Assembly hereby recognizes that some sex offenders cannot or will not respond to treatment and that, in creating the Board described in this section, the General Assembly does not intend to imply that all sex offenders can be successful in treatment. Further, the General Assembly mandates that each member agency as outlined below must act in accordance with the standards established by the Board.

		and the character and propensities of the offender.			
Florida	Fla. Stat. Ann § 943.04354, and 943.0435(11)(b) (2008).	Yes but is eligible for removal if 1) adjudicated of specific offenses; 2) the adjudication is withheld (like a deferral), 3) the offense is the sole basis for registration, 4) the offender is not more than 4 years older than the victim who was 14 or older but not 17 at time of offense. The juvenile is not eligible if they are a SVP or some other criteria. The motion is made and decision is made at sentencing or disposition.	Yes, if registration requirement is not removed at sentencing or disposition.	Yes, if 18 and under at the time of the offense and victim was 12 or older, 10 years have elapsed since being put on probation, no new arrests may petition for removal. Must demonstrate that removal complies with the federal provisions of the Wetterling Act, and any other federal standards for removal (where the state gets funds, such as AWA) and is no threat to safety.	Refers to standards of Federal law such as the Jacob Wetterling Act and Adam Walsh Act.
Georgia	Ga. Code Ann. § 42-1-12 (2008).	No. If adjudicated as a juvenile, yes if convicted as an adult.	No. (unless convicted as an adult)	No. (same as adult)	Therefore, only if the minor is convicted as an adult do the registration and notification laws apply.
Hawaii	Haw. Rev. Stat. §846E-1 (2008).	No. Definitions: Conviction" means a judgment on the verdict, or a finding of guilt after a plea of guilty or nolo contendere, excluding the adjudication of a minor. A “covered offender” has to be convicted.	No.	No. (same as adult)	Therefore, only if the minor is convicted as an adult do the registration and notification laws apply.
Idaho	Idaho Code §18, Chapter 83 (2008).	Yes, offenders between 14 and 18.	Yes.	Automatic termination from registration at 21. At that time the prosecutor may petition the court to transfer the offender to the adult registry.	
Illinois	730 Ill. Comp. Stat. 150/3-5 & 730 ILCS 152/121 (2008).	Yes.	No generally, except: The Department of State Police and any law enforcement agency having jurisdiction may, in the Department's or agency's discretion, may	Yes. For those who are adjudicated of an offense which, if charged as an adult, would be a felony, no less than 5 years after registration ordered, may petition for termination.	At a termination hearing, the court shall consider the following factors to determine if the registrant poses no threat to the community: 1) a risk assessment performed by an evaluator approved by the Sex Offender Management Board, 2) the sex

			provide limited information with respect to an adjudicated juvenile delinquent, to any person when that person's safety may be compromised for some reason related to the juvenile sex offender. If the juvenile is enrolled in school, the principal and the offender's guidance counselor are the only ones who get a copy of the registration form.	Those adjudicated of an offense, which if charged as an adult, would be a misdemeanor, no less than two years after registration was ordered, may petition for termination. (see comments.)	offender history of the juvenile, 3) evidence of rehabilitation, 4) the age at the time of the offense, 5) information related to juvenile's mental, physical, emotional, and social history, 6) victim impact statements, 7) any other factors deemed relevant. Juveniles shall be represented by counsel.
Indiana	Ind. Code § 11-8-8-4.5(b) (2008).	Yes if the juvenile is: 1) at least fourteen (14) years of age; (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and 3) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.	Yes.	No.	In determining whether the juvenile is likely to repeat an act, the court must consider expert testimony.
Iowa	Iowa Code §692A.2(6) & 692A.13(1)(b) (2008).	Yes, unless the juvenile court finds that the person should not be required to register.	Yes – Exception: Information is not provided to the general public through the website about offenders who were under 20 at the	No. (same as adults)	

			time of the offense and is convicted of an sexual abuse in the third degree (victim is 14 or 15 and offender is 4 years older but not older than 20.)		
Kansas	Kan. Crim. Proc. Code Ann. 22-4904(a)(7), 22-4906(h)(1) (2008).	Yes, unless the juvenile court exempts. A juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid may, by the court: 1) Be required to register or 2) not be required to register if the judge, on the record, finds substantial and compelling reasons therefor; or 3) be required to register with the sheriff but such registration information shall not be open to inspection by the public or posted on any internet website. If juvenile violates conditions, they may be required to register.	Depends on the court's findings.	Yes. An adjudicated juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid shall be required to register until such person reaches 18 years of age, at the expiration of five years from the date of adjudication or from release of confinement.	Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act then all provisions of that act shall apply, except that the term of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.
Kentucky	Ky. Rev. Stat. Ann. 17.500, 17.580, 17.520 (2009).	Yes, "youthful offenders" which are those, regardless of age, who are transferred to Circuit court and are subsequently convicted in circuit court.	Unclear. KRS 17.580 title is "Duty of Department of Kentucky State Police to maintain and update Web site containing information about adults who have committed sex crimes or crimes against minors…." But does not specifically exempt juveniles.	No early termination for juveniles or youthful offenders.	

Louisiana	La. Rev. Stat. 15:542, 15:542.1, 15:544 (2008).	Yes. Juveniles who have pled guilty or convicted of a sex offense, kidnapping 2nd, with the exception of simple rape and juveniles who were at least 14 and committed: agg. rape, forcible rape, 2nd sexual battery, agg. kidnapping of a child under 13, 2nd kidnapping of a child under 13, agg. incest, agg crime against nature. The court may waive the requirements in one circumstance (see comments).	No. Juveniles required to register are exempted from notification except if they provide recreational instruction to those under age 17, then notice must be posted within the building where the instruction is given.	No. Juveniles get a break on the duration of registration if it is normally a lifetime offense, they get 25 years instead. There are no relief provisions specifically for juveniles.	Upon joint motion by the district attorney and the petitioner, the court of conviction may waive sex offender registration and notification requirements imposed by the provisions of this Chapter for a person convicted of felony carnal knowledge of a juvenile (R.S. 14:80) on, before, or after January 1, 2008, when the victim is at least thirteen years of age and the offender was not more than four years older than the victim at the time of the commission of the offense. Relief shall not be granted unless the motion is accompanied by supporting documentary proof of the age of the victim and the age of the perpetrator at the time of commission of the offense.
Maine	Maine Rev. Stat. Ann. Tit §34-A sub. 1 11203 (2008).	No. Unless the juvenile is convicted as an adult. (Sex offenders are referred to as "registrants" in the definition and only registrants that are juveniles convicted as adults.	No. (treated as adult)	No. (treated as adult)	
Maryland	Md. Code Ann., Crim. Proc., 11-707, 11-717 (2008).	Yes. (Child sex offenders)	Yes.	No.	
Massachusetts	Mass. Gen. Laws Ch.6, 178C, 178G, 178L (2008).	Yes.	Yes. (levels II and III). There is an extensive classification process with right of appeal and right to counsel for all juveniles (see comments.)	No. (same as adults can petition the board after 10 years if no additional offenses, unless they are a lifetime registrant.)	There is a Sex Offender Board which gives a recommendation on risk level. If it is a juvenile, a board member who is a licensed psychologist or psychiatrist with special expertise in juvenile assessment must sign off on it.
Michigan	Mich. Stat. Ann. § 28.721, 28.728, 28.728c (2008).	Yes. Youthful trainees.	Some. Some juvenile dispositions are not eligible for notification until after they are 18.	Yes. Certain juveniles (it looks like most) may petition 3 yrs after discharge from court or completed probation (see comments)	The petition shall include offender information, and include notice to the prosecutor and victim. The court shall consider: 1) the individual's age and level of maturity at the time of offense, 2) victim's age and level of maturity at the time of offense, 3)

					nature of the offense, 4) severity of offense, 5) juvenile's criminal history, 6) likelihood of re-offense, 7) any victim impact statement, 8) any other relevant information. Offender must show by clear and convincing evidence that they are not likely to commit listed offenses.
Minnesota	Minn. Stat. §243.166(1a), 243.166(7a) (2008).	Yes.	No except for 16 and older and out of compliance for 30 days or more.	No.	
Missouri	Mo. Rev. Stat. §589.400(5) & (6), 589.402 (2008).	Yes. Any juvenile: 1) transferred to adult court or 2) 14 and older adjudicated of an offense which is equal or more severe than aggravated sexual abuse.	Yes (no exemptions for juveniles.)	Yes if the offender was 19 or younger at the time of the offense and the victim was 13 or older and there was no physical force or threat of physical force in the commission of offense (see comments.)	May petition to remove name from the registry after two years from the conviction. The court may grant if the offender can prove they have complied with provisions and are not a threat to public safety. Must notify prosecutor and make reasonable efforts to notify victim. If the petition is denied, they must wait 12 months to petition again.
Montana	Mont. Code Ann. § 46-23-504, 41-5-1513(d) (2008).	Yes, unless they are relieved of the duty.	Yes unless exempted.	No. (same as adults.)	At the juvenile's disposition hearing, the court can exempt the juvenile from registration requirements if: 1) the youth has not previously been found to have committed or been adjudicated for a sexual offense, and 2) registration is not necessary for protection of the public and that relief from registration is in the public's best interest.
Nebraska	Neb. Rev. Stat. §29-4001 through 29-4013 (2008).	No. Only those convicted as adults as there is no references to juveniles or adjudications throughout the chapter.	Not unless convicted as an adult. Notification of Level II goes to "qualified entities" (law enforcement, daycares, schools,etc.) Level III Public is notified through news releases.	No. Same as adults.	

Nevada	Nev. Rev. Stat. 62F. (2007).	Yes. 14 and older.	Yes. Exception – if it was consensual sexual conduct, the victim was at least 13 and offender was not more than 4 years older at the time of the offense.	No. Duration of registration is by risk assessment. Juveniles get a break from lifetime registration to 25 years if they are a Level III offender. Can get relief from school restrictions (see comments).	The assigned probation officer can request a termination of the applicability of school notification/restrictions from the court if they meet certain conditions.[4]
New Hampshire	N.H. Rev. Stat. § 169-B:19, 651-B:1, 651-B:6(IV) (2008).	No, unless the dispositional court finds that the juvenile should be required to register.	Yes. (if registration is ordered.)	Registration as a juvenile automatically terminates at 17 unless the court retains jurisdiction over the case, then it ends at the end of the case.	The court can order the juvenile to register if it finds the minor a risk to public safety.
New Jersey	N.J. Stat. Ann. § 2C:7-2, 2C: 7-12, 2C:7-8 (2008).	Yes.	No, except Tier III juvenile offenders.	Yes. They may petition if they were under the age of 14 at the time of the offense and are over 18 at the time of the petition.	
New Mexico	N.M. Stat. Ann. §29-11A-3, 29-11A-5.1(E), 32A-2-20 (2008).	No. Must be 18[5]	No. Unless the court, at the time of sentencing, made a finding that the youth is not amenable to treatment and is a danger to the community, it is then invoking an "adult" sentence.	No. Same as adults.	
New York	N.Y. Crim. Proc. Law Chapter	Adjudicated juveniles no, convicted juveniles, yes.	No, unless convicted (like an adult.) Then no exemptions for juveniles.	No. Same as adults, may petition for reclassification (which determines duration of registration.)	

[4] (a) At the time the child committed the sexual offense or the sexually motivated act for which the child was adjudicated delinquent, the child and the victim of the sexual offense or sexually motivated act were members of the same family or household; (b) The child has complied with the terms and conditions of his probation or parole, including, but not limited to, the completion of any counseling in which the child was ordered to participate; (c) The child's counselor recommends, in writing, that the juvenile court terminate provisions of registration to allow the reunification of the family or household; and (d) The victim and the parent or guardian of the victim consent, in writing, to the termination of the applicability of the provisions with respect to the child to allow the reunification of the family or household.

[5] New Mexico Department of Public Safety website, *FAQ's*, www. Nmsexoffender.dps.state.nm.us (last visited March 25, 2009).

North Carolina	N.C. Gen. Stat. §§14-208.5-208.45 (2008).	Adjudicated juveniles yes, if juvenile is 11 years old, commits a certain offense[6] and the court finds them a danger to the community. Yes, if juveniles transferred to, and convicted as adults (these are juveniles convicted of a sexually violent offense or an offense against a minor.)	Juvenile registration information is not available for public inspection, only to law enforcement agencies and the local board of education.	Automatically terminates at age 18 or when the case ends (the juvenile jurisdiction ends.)	
North Dakota	N.D. Cent. Code §12.1-32-15,	A juvenile offender may be required to register if the offender has been convicted of, or plead guilty or 'nolo contendere' to, an offense under N.D.C.C. §12.1-32-15 if the court chooses not to deviate based on circumstances.	A juvenile offender's information is listed on the offender registry only if the offender is high risk, delinquent, or has a lifetime requirement to register, or information is necessary to protect the public.	No. Same as adults. Registration is 15 years for low risk, 25 years for moderate, Lifetime for high risk or repeat felony offender or offender against children, and some other offenses.	Failure to Register is a mandatory minimum of 90 days in jail and probation one year, although juveniles may be relieved.
Ohio	Ohio Rev. Code Ann. §2950.01(M) & (N), 2152.86 (2008).	Yes, at least 14, committed listed offenses, and classifies the person as a "public-registry qualified juvenile offender registrant."	Yes, if they are a "public registry qualified juvenile offender registrant."	The juvenile has a right to a hearing for appeal of a judges order to be a "public registry qualified juvenile offender registrant." The court may terminate registration if they found a clear and convincing error to qualify them as a public registry juvenile. They may also petition for a reclassification hearing.	
Oklahoma	Okla. Stat. Tit. § 10-7308-1.2. through §10-7308-1.9. (2008).	At least 14, the district attorney must make an application to include them on the registry (see comments).	The court may order to make the juvenile's information available to the public at large through notification or just available to the public.	Yes. When the juvenile reaches 21 or is otherwise released from the Office of Juvenile Affairs, the district attorney may petition for a transfer to the adult registry. If no petition is filed within 90 days of the juveniles 21st birthday or release from custody, the juvenile's name and	On the petition of a district attorney, the court shall appoint two persons who are qualified treatment professionals to evaluate the juvenile and report on their prognosis and their likelihood that the juvenile offender represents an ongoing serious or aggressive threat to the public or children under 16. One appointee

[6] First degree rape, second degree rape, first degree sexual offense, second degree sexual offense, attempted rape/sexual offense. NCGS §§14-208.26 (2008).

				information is deleted from the registry.	shall be a physician or psychologist with at least 200 hours clinical experience in juvenile sex offender treatment (other criteria are also listed.)
Oregon	Or. Rev. Stat. § § 181.594, 181.823, (2008).	Yes. (Not all sex offenses are registrable offenses.)	Yes, although more limited notification than adults.	Yes. Youth adjudicated of a sex crime can apply for relief two years after their supervision end date.[7]	If a person commits an act that could be charged as a particular sex crime and the person is 15, 16 or 17 years of age at the time the act is committed,

[7] (1)(a) No sooner than two years, but no later than five years, after the termination of juvenile court jurisdiction the person may file a petition for relief from the duty to report.
(2) When a person files a petition under this section and the petition was filed:
(a) No later than three years after the termination of juvenile court jurisdiction the state has the burden of proving by clear and convincing evidence that the person is not rehabilitated and continues to pose a threat to the safety of the public.
(b) More than three years, but no later than five years, after the termination of juvenile court jurisdiction the person has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public.
(3) In determining whether the state or the person has met the burden of proof established in subsection (2) of this section, the juvenile court may consider but need not be limited to considering: (a) The extent and impact of any physical or emotional injury to the victim; (b) The nature of the act that subjected the person to the duty of reporting as a sex offender; (c) Whether the person used or threatened to use force in committing the act; (d) Whether the act was premeditated; (e) Whether the person took advantage of a position of authority or trust in committing the act; (f) The age of any victim at the time of the act, the age difference between any victim and the person and the number of victims; (g) The vulnerability of the victim; (h) Other acts committed by the person that would be crimes if committed by an adult and criminal activities engaged in by the person before and after the adjudication; (i) Statements, documents and recommendations by or on behalf of the victim or the parents of the victim;(j) The person's willingness to accept personal responsibility for the act and personal accountability for the consequences of the act; (k) The person's ability and efforts to pay the victim's expenses for counseling and other trauma-related expenses or other efforts to mitigate the effects of the act;
(L) Whether the person has participated in and satisfactorily completed a sex offender treatment program or any other intervention, and if so the juvenile court may also consider:
(A) The availability, duration and extent of the treatment activities;
(B) Reports and recommendations from the providers of the treatment;
(C) The person's compliance with court, board or supervision requirements regarding treatment; and
(D) The quality and thoroughness of the treatment program;
(m) The person's academic and employment history;
(n) The person's use of drugs or alcohol before and after the adjudication;
(o) The person's history of public or private indecency;
(p) The person's compliance with and success in completing the terms of supervision;
(q) The results of psychological examinations of the person;
(r) The protection afforded the public by the continued existence of the records; and
(s) Any other relevant factors.
(5) When a petition is filed under this section, the state has the right to have a psychosexual evaluation of the person conducted. The state shall file notice with the juvenile court of its intention to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile court for good cause shown may direct the state to select a different evaluator.

					the state and the person may stipulate that the person may not petition for relief as part of an agreement that the person be subject to the jurisdiction of the juvenile court rather than being prosecuted as an adult under ORS 137.707.
Pennsylvania	42 Pa.C.S.A. 9791.1, 9795.1 (2007).	No, unless they are convicted as an adult.	No, unless they are convicted as an adult, then listed on a website but no active notification (same as adults.)	No. Same as adults.	
Rhode Island	R.I. Gen. Laws §11-37.1-4, §11-31.1-12 (2007).	No unless 1) they are a sexually violent predator, 2) recidivist, 3) aggravated crime offenders, or 4) the court shall assess the totality of the circumstances and if the court makes a finding that the conduct of the parties is criminal only because of the age of the victim, the court may have discretion to order the juvenile to register as a sex offender as long as the court deems it appropriate to protect the community and to rehabilitate the juvenile offender.	No identifying information of a juvenile is listed on the website.	No, they have a different time period (15 years) for certain offenses.	
South Carolina	23-3-430(5), 23-3-490 (2008).	Yes, with the exception of a specific finding on the record that this offense resulted from consensual sexual conduct, provided the offender is	Available to the public if: commits certain crimes.[8] Made available to schools, daycares, vulnerable adult centers,	None found.	

[8](a) criminal sexual conduct in the first degree, (b) criminal sexual conduct in the second degree (c) criminal sexual conduct with minors, first degree (d) criminal sexual conduct with minors, second degree, (e) engaging a child for sexual performance, (f) producing, directing, or promoting sexual performance by a child or (g) kidnapping.

		eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article.	etc if adjudicated of certain crimes:[9] With the exceptions: First time offenders under 12 shall not have name or information made public, those under 12 with priors will have info made public		
South Dakota	S.D. Codified Laws 22-24B-2, 22-24B-21, 22-24B-19(1) (2008).	15 and older for certain crimes. (Rape, Promoting Prostitution, and Sexual Contact with a Person Incapable of Consenting.)[10]	Yes.	Yes, if the juvenile is not a recidivist and the victim was not under 13 then they may apply 10 years after they had to first register. (All registration is lifetime otherwise in South Dakota.)	
Tennessee	Tenn. Code Ann. § Title 37 (Juveniles), Title 40, Chapter 39 (Sex Offender Reg., Verification and Tracking Act of 2004.) (2008).	Not unless convicted as an adult (based on no mention of adjudications or juveniles within the chapter.)	Not unless convicted as an adult.	Not unless convicted as an adult. No specific exemptions mentioned in notification statute.	
Texas	Texas Art. 62.001(5), 62.301, 62.351, 62.353 (2008).	Yes, adjudication of certain "reportable" offenses, 62.001(5), unless exempted. (See comments for Young Adult Sex offenders and Certain juveniles.)	Yes, based on risk level however, the court may exempt, defer, or restrict the information available on the public website.	Yes, may seek an order for exemption from registration or to make the information non-public.	Young Adult Sex Offenders - A juvenile may petition for exemption from registration, if they have only one offense, some other criteria, and if the court finds that by preponderance of the evidence: as presented by a registered sex offender treatment provider that the exemption does not threaten public safety, and the person's conduct did not occur without the victim's consent.

[9] (a) criminal sexual conduct in the third degree; (b) criminal sexual conduct: assaults with intent to commit; (c) criminal sexual conduct with a minor: assaults with intent to commit; (d) committing or attempting lewd act upon child under sixteen; (e) peeping; (f) incest; (g) buggery; (h) violations of Article 3, Chapter 15 of Title 16 involving a minor, which violations are felonies; or (i) indecent exposure.

[10] Sexual contact with person incapable of consenting--Felony. Any person, fifteen years of age or older, who knowingly engages in sexual contact with another person, other than his or her spouse if the other person is sixteen years of age or older and the other person is incapable, because of physical or mental incapacity, of consenting to sexual contact, is guilty of a Class 4 felony.

					Exemption for certain Juveniles – This hearing can be held during or after disposition. The respondent must show by a preponderance of the evidence that they have met certain criteria (protection of the public, etc) by presenting exhibits, testimony, a history prepared by juvenile probation which includes results by an examiner.
Utah	Utah Code Ann. §77-27-21.5(n)(iv), §77-27-21.5(25) (2008).	Yes. Sex Offender definition: (vi) who is adjudicated delinquent based on one or more offenses listed in Subsection (1)(n)(i) and who has been committed to the division for secure confinement and remains in the division's custody 30 days prior to the person's 21st birthday.	Yes.	Same as adults, may petition after a period of time (as long as they are not classified as a lifetime registrant.)	
Vermont	Vt. Stat. Ann. Tit. 13 Ch. 167, 5401 (10)(b), §5411 (2008).	No. Unless convicted as an adult but age of consent crimes are exempted from the registry (where offender younger than 18 victim 12 or older.)	If convicted as an adult, yes, no exemption. There is "Normal notification" where the public gets certain information if they articulate a public safety concern and "Heightened Notification" where the public gets information and does not need a public safety concern.	Same as adults.	A sex offender who is deferred shall have no duty to register after successful completion of the terms of the agreement.
Virginia	Va. Code Ann. §9.1-902(G), § §9.1-909 (2008).	Not required to register unless they are over 13, Those adjudicated delinquent are included in the registry if the court determines that the circumstances of the offense require offender registration and ordered the juvenile to register (see comments).	Yes. No exemptions for juveniles.	Same as adults, no special relief for juveniles.	In determining registration, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the

					ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case.
Washington	RCW 9A.44.140 (2008).	Yes.	Yes.	Yes. Offense committed while 15 or older only if: the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve statutory purposes. Offense committed while under 15 if: 1) offender has not been adjudicated of any additional sex offenses or kidnapping offenses during the twenty-four months following the adjudication for the offense giving rise to the duty to register, and 2) proves by a preponderance of the evidence that future registration will not serve statutory purposes.	The court may consider: 1) the nature of the registrable offense, 2) relevant criminal and noncriminal behavior before and after adjudication, 3) and may consider other factors. *The hearing process does not apply to juveniles convicted as adults.
Washington D.C.	D.C. Code Ann. §22-4001(9) (2008).	Yes. (Any person convicted of a registrable offense.) Age of consent crimes are exempted from registration.	Yes. (No exemption of juveniles.)	No. Same as adults.	
West Virginia	W. Va. Code §15-12-1 (2008).	Yes. (Any person convicted of a registrable offense.)	Yes to law enforcement. There is a reference to adjudication in the notification statute.	No. Same as adults.	
Wisconsin	Wis. Stat. §301.45(1g), §301.45(1m) (2008).	Yes except for: some age of consent crimes and if it is not necessary for public protection (see comments).	Not released to the general public. Information may be released to an organization, including schools, day care providers, and some government agencies, an	No relief from the duration of registration besides petition for exemption in box 1, see comments.	A person may file a motion to be exempted from the reporting requirements and a hearing is held with notice to parties and the victim. An examination may be ordered, and he or she has to prove by clear and convincing evidence that they satisfy the enumerated criteria.

			individual, or the general public if the police chief or sheriff determines that doing so is necessary to protect the public.		
Wyoming	Wyo. Stat. 7-19-304 (2008).	Yes. (Any person convicted of specific criminal offenses.)	Yes. (All sex offenders living in the State of Wyoming.)	No. Same as adults.	

APPENDIX J:

Email from Senator Hargrove

From: O'Neill, Shawn [mailto:O'Neill.Shawn@leg.wa.gov]
Sent: Monday, October 25, 2010 10:33 AM
To: Shoshana Kehoe-Ehlers
Subject: email from Senator Hargrove

Dear Ms. Kehoe:

It is my understanding that the Sex Offender Policy Board continues to discuss and recommend improvements to the registration and notification statutes for the state of Washington. As one of the legislators instrumental in creating the Board, I am appreciative of all of the Board's efforts in improving Washington's sex offender response system and providing a forum for issues to be fully discussed from all angles before coming to consensus recommendations.

In response to a recent constituent inquiry, I would like the Board to consider further additions to the information that WASPC posts on Offender Watch for the public. A sex offender who is on supervision will often have conditions preventing him or her from contact with minors, loitering in certain locations, or engaging in specified behaviors. These are actions which the public could help identify if they were informed of these conditions.

Please have the Board consider and make recommendations as to whether Offender Watch should list supervision conditions for a sex offender who is on supervision. If at all possible, please provide recommendations prior to January 1, 2011 so that any needed legislative changes may be incorporated in the 2011 legislative session.

Sincerely,
Senator Jim Hargrove

APPENDIX K:

House Bill Report ESHB 2035

HOUSE BILL REPORT
ESHB 2035

As Passed Legislature

Title: An act relating to requiring registered sex and kidnapping offenders to submit information regarding any e-mail addresses and any web sites they create or operate.

Brief Description: Requiring registered sex and kidnapping offenders to submit information regarding any e-mail addresses and any web sites they create or operate.

Sponsors: House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Klippert, O'Brien, Shea, Haler, Roach, Armstrong, Pearson, McCune, Condotta, Orwall, Ross, Hurst, Smith, Kristiansen, Kretz, Orcutt, Kelley, Warnick and Angel).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/18/09 [DPS].

Floor Activity:

Passed House: 3/3/09, 97-0.
Senate Amended.
Passed Senate: 4/16/09, 47-0.
House Concurred.
Passed House: 4/21/09, 98-0.
Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Directs the Sex Offender Policy Board (SOPB) to 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.
- Directs the SOPB to review issues associated with implementing this requirement, including the appropriate sanction for failure to comply.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking

---

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Member; Klippert, Assistant Ranking Minority Member; Goodman, Kirby and Ross.

Minority Report: Do not pass. Signed by 1 member: Representative Appleton.

Staff: Lara Zarowsky (786-7123)

Background:

A sex or kidnapping offender must register with the county sheriff of the county in which he or she resides. The offender must also notify the county sheriff if he or she enrolls in a public or private school or an institution of higher education. Law enforcement officials use the information in the registry to notify the public, subject to certain guidelines, of a sex offender's presence in the community.

An offender who serves a term of confinement pursuant to a conviction for a sex or kidnapping offense must register at the time of release with the agency that has jurisdiction over the offender. The agency must then transmit the information within three days to the county sheriff. The offender must also register with the county sheriff within 24 hours of release.

An offender who changes his or her address or becomes homeless must provide written notice to the county sheriff of his or her change in status. Homeless offenders must report weekly to the county sheriff. Level II and III sex offenders who have a fixed residence must report to the county sheriff every 90 days.

An offender must provide the following information to comply with registration requirements:

- name;
- complete residential 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.

In 2008 the Legislature directed the Sentencing Guidelines Commission to establish the Sex Offender Policy Board (SOPB) to research, review, and discuss issues relating to the assessment, treatment, and supervision of sex offenders.

Summary of Engrossed Substitute Bill:

The SOPB is directed to include, in its November 2009 report to the Legislature, a review and recommendation as to whether sex and kidnapping offender registration requirements should be modified to require offenders to submit to law enforcement (1) their electronic

mail address or other internet communication name or identity, including but not limited to instant message, chat, or social networking names or identities, and (2) the uniform resource locator of any personal web site created or operated by the offender.

The SOPB is further directed to include in its November report any other issues associated with establishing and implementing such a registration requirement, and the appropriate sanctions for an offender's failure to provide such information in a timely and accurate manner.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void if not funded in the budget.

Staff Summary of Public Testimony:

(In support) On the Internet, an offender can be dishonest and lure a potential victim. This bill isn't an attempt to limit the offender's rights to use social networking sites, it's just an attempt to do everything possible to prevent kidnapping and sex offenders from re-offending. It is important for law enforcement to have offender's identifying information to prevent grooming and to make sure they aren't trying to hurt potential victims. This is not a denial of access to the Internet, it is an effort to monitor behavior.

(With concerns) Under Washington law there are no differences in registration requirements between adults and juveniles, though there are substantial developmental differences between the two populations. This kind of additional registration requirement might increase the number of juveniles who receive a failure to register for unintentionally failing to report an e-mail address or a website URL. The intent of the bill seems to be to reach offenders who target their victims through the Internet. The victims of juvenile offenders are generally related or acquaintances of the juvenile, and are not accessed through the Internet. An unintended consequence of this change may be to limit juveniles and families from accessing services available to them if, for example, they are discouraged from having an e-mail address. Youth are often using MySpace and Facebook for pro-social networking opportunities. This bill might over-complicate registration requirements for juveniles.

(Opposed) None.

Persons Testifying: (In support) Representative Klippert, prime sponsor.

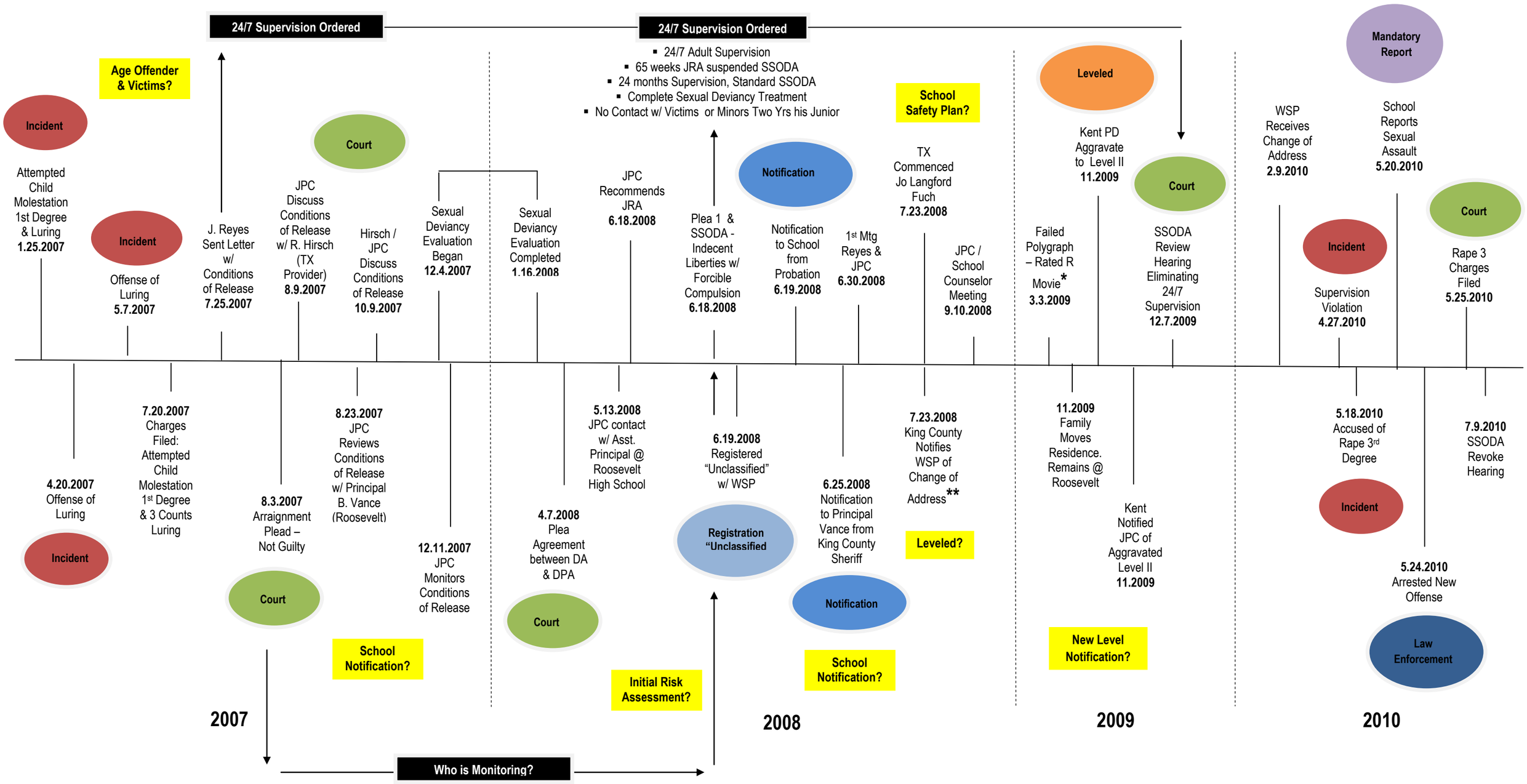
(With concerns) Kecia Ronger, Department of Social and Health Services, Juvenile Rehabilitation Administration.

Persons Signed In To Testify But Not Testifying: None.

APPENDIX L:

Reyes Timelines of Events

J. Reyes Case Review
Timeline



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

APPENDIX M:

OSPI Report January 2006

Notification to Schools of Registered Juvenile Sex or Kidnapping Offenders

Legislative Report – Engrossed Substitute Senate Bill 6580

Dr. Terry Bergeson
State Superintendent of
Public Instruction

December 2006

Notification to Schools of Registered Juvenile Sex or Kidnapping Offenders Legislative Report Engrossed Substitute Senate Bill 6580

Dr. Terry Bergeson
Superintendent of Public Instruction

Catherine Davidson, ED.D.
Chief of Staff

Martin T. Mueller
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December 2006

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We would like to thank the following participants representing their organizations, who thoughtfully addressed the complex issues of sex offender notifications and created a model policy and procedures to assist principals in maintaining safe schools:

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EXECUTIVE SUMMARY: ESSB 6580

The enactment of Engrossed Substitute Senate Bill 6580 by the 2006 Legislature required the Office of Superintendent of Public Instruction (OSPI) to convene a workgroup to develop a model policy for school principals to follow when they receive notifications from law enforcement (pursuant to RCW 9A.44.130) that a registered sex/kidnapping offender is attending or is expecting to attend the school.

The workgroup, consisting of a mix of representatives from education practitioners, law enforcement, corrections, juvenile justice, sex offender specialists, and both child and victim advocacy groups met monthly from July through November 2006. They discovered:

- Juvenile sex/kidnapping offenders are regularly enrolled in K–12 public schools throughout the state of Washington.
- Principals need more of a roadmap to follow when they receive notifications from local law enforcement than a policy can provide.
- In order to provide safer school communities, it isn't enough that school principals alone receive notifications from law enforcement; school district superintendents need to be notified as well.
- Standardization of law enforcement notification forms and their creation of guidelines will assist principals working with juvenile sex/kidnapping offender students.
- Since students move between schools, each school district needs to adopt similar policies and procedures regarding notifications of juvenile sex/kidnapping offenders in schools.
- Principals and school staff need to develop working relationships with law enforcement and others who can share their technical expertise on sex/kidnapping offenders.

The workgroup identified the following recommendations for the legislature:

1. In addition to notifying principals, notification to school district superintendents is required when juveniles who have committed sex/kidnapping offenses will be enrolling in the schools within their district. The leadership role will remain with the principals. This change will require a technical correction to RCW 9A.44.130 to include notifications to appropriate school district superintendents as well as principals.

2. All school boards in the state be required to adopt and implement a written sex/kidnapping notification board policy (with procedures) based upon the framework created by this 6580 Workgroup by December 31, 2007.

3. The educational materials being created by the Washington Coalition of Sexual Assault Programs (WCSAP) workgroup (per the ESSB 6580 legislation) be made available via the OSPI Web site to school principals and school staff for training purposes as well as the general public.

4. Local law enforcement develop working relationships with their local school districts and principals to:
   - assist local school districts by providing consultation and training for school administrators and principals.
   - address identified behavioral needs regarding juveniles who have committed sex/kidnapping offenses.
   - work together in support of school and community safety, while respecting the educational rights of the offenders.

INTRODUCTION

The enactment of Engrossed Substitute Senate Bill 6580 by the 2006 Legislature required the Office of Superintendent of Public Instruction (OSPI) to convene a workgroup to develop a model policy for school principals to follow when they receive notification from law enforcement (pursuant to RCW 9A.44.130) that a registered sex/kidnapping offender is attending or is expecting to attend the school. This workgroup, known as the 6580 Workgroup, completed one of the recommendations of the 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. House Bill 2101 was an act relating to registration of juvenile sex/kidnapping offenders in schools, notification to schools, and dissemination of information within the schools. Engrossed Substitute Senate Bill 6580 can be found in Appendix B. The House Bill 2101 Task Force Report Executive Summary, published in January 2006, can be found in Appendix A.

Juveniles who have committed sex/kidnapping offenses and under the supervision of county juvenile probation departments or the Department of Social and Health Services' Juvenile Rehabilitation Administration's (DSHS/JRA) parole services are regularly enrolled in K–12 public schools throughout the state of Washington. During fiscal year 2006, there were 478 registered sex offenders under the age of 21 years under community supervision (on parole) in the state of Washington (per Department of Social and Health Services/Juvenile Rehabilitation Administration DSHS/JRA data). Of this number, 311 (65 percent) were classified level I, 115 (25 percent) were classified level II, 50 (10 percent) were classified level III, and 2 were not classified. These numbers include juveniles who have committed sex/kidnapping offenses who attend school but are no longer under supervision since these offenders are combined with the adult offender counts.

In Washington State, there are currently 296 school districts with between 1 and 110 school buildings each (with principals) within their boundaries. Prior to the implementation of House Bill 2101 requiring school principals to be notified when a juvenile sex/kidnapping offender is attending or expecting to attend the school, school district superintendents, not principals, were being directly notified by law enforcement. Because there were concerns that individual school principals were not receiving notifications when juvenile sex/kidnapping offenders were attending their schools, House Bill 2101 was introduced to change the process whereby direct notifications began to school principals on September 1, 2006.

Membership

OSPI was given the leadership role of the 6580 Workgroup by the legislature. Some members from the House Bill 2101 Task Force agreed to participate in the new 6580 Workgroup, thereby continuing the collaborative efforts began the year earlier. The remainder of the membership was comprised of a mix of representatives from education practitioners, law enforcement, corrections, juvenile justice, sex offender specialists, and both child and victim advocacy groups.

With their focus on the successful reintegration of juvenile sex/kidnapping offenders back to public schools and the safety of all students and staff in the schools, the 6580 Workgroup worked diligently to create a model policy as a roadmap for principals. The result was a model policy with applicable procedures and a checklist to guide school principals as they receive notifications from law enforcement. The model policy, procedures, and checklist can be found in Appendices C–E of this report.

Methodology

The workgroup met one full day each month from July through October. The meeting agendas (Appendices F–J) began with a focus on the basic understanding of the law, defining the requirements of the workgroup, and ended with the detail work of providing principals throughout the state with consistent guidelines and procedures to follow when they receive notification of a juvenile sex/kidnapping offender attending or planning to attend the school. The members were diligent in their attendance and worked through a variety of difficult issues in order to come to consensus in creating a model policy which would provide all principals with necessary guidance, whether they are in small or large schools, within metropolitan or rural areas. The discussions that ensued emphasized the barriers and concerns around sex offender notifications, information sharing, and the need for collaboration and communication between law enforcement and schools in communities throughout the state.

Following this series of meetings, all the notes were reviewed, data gathered, and a draft policy and draft procedures were prepared. These drafts were sent out to all stakeholders for a review period, comments were gathered, and changes were made to the drafts. A report with recommendations was written and reviewed before being finalized for distribution to the legislature.

Discoveries

The workgroup meetings and discussions resulted in a number of discoveries regarding juveniles who have committed sex/kidnapping offenses.

Prior to the change made by House Bill 2101 directing law enforcement to notify school principals, school district superintendents were the recipients of sex/kidnapping offender notifications. Beginning in September 2006, school principals have become more aware of the presence of sex/kidnapping offenders in their schools and they are beginning to work more closely with local law enforcement to provide safe and secure school environments. However, as a direct result of this same legislation, the school district superintendents are now out of the communication link regarding these students. The workgroup agreed that school district superintendents need to be included in the notification by law enforcement along with the principals in their districts, in order to provide them with adequate support. The principals, however, will remain in the leadership role as defined in the HB 2101 legislation.

The House Bill 2101 Task Force also discovered that there were no standard notification procedures or standard content for sex/kidnapping offender notifications to schools from law enforcement. In the 2006 Legislature, Substitute Senate Bill 6320 designated the Washington Association of Sheriffs and Police Chiefs (WASPC) to form a model policy workgroup to gather statewide information and develop a model policy and consistent format for law enforcement and other criminal justice personnel, which can be used when they are notifying schools. This model policy from law enforcement will provide guidelines on sex offender registration, community notification, and strategies for sex offender management. Once the notifications are standardized, school principals will be able to benefit from the guidelines and strategies developed to work with the juveniles who have committed sex/kidnapping offenses.

Since students move from school to school and from district to district within the state throughout their school years, it is necessary for each of the 296 school districts to adopt policies and procedures regarding notifications of sex/kidnapping offenders in schools. The policies and

procedures need to be in place in order to provide clear guidance to principals, teachers, and staff who will be working directly with these students.

Washington school principals and other school personnel currently do not receive any formal training regarding juvenile sex/kidnapping offenders in the schools. Therefore, the Washington Coalition of Sexual Assault Programs (WCSAP) was named as part of the ESSB 6580 legislation to develop educational materials to provide information for parents and other interested community members. The information they develop will be extremely beneficial to school principals, teachers, and other staff members. Additionally, school staff will greatly benefit from consultation and collaboration with law enforcement personnel that have been trained to work with juveniles who have committed sex/kidnapping offenses. The result is that these working relationships can assist schools and communities in supporting community safety.

RECOMMENDATIONS

The workgroup identified the following recommendations for the legislature:

1. In order to support communication regarding juvenile sex/kidnapping offenders in schools within each district boundary, it is recommended that in addition to notifying principals, notification to school district superintendents be required when juveniles who have committed sex/kidnapping offenses will be enrolling in the schools within their district. The leadership role will remain with the principals. This change will require a technical correction to RCW 9A.44.130 to include notifications to appropriate school district superintendents as well as principals.

2. It is recommended that all school boards in the state be required to adopt and implement a written sex/kidnapping notification board policy (with procedures) based upon the framework created by this 6580 Workgroup by December 31, 2007.

3. It is recommended that the educational materials being created by the Washington Coalition of Sexual Assault Programs (WCSAP) workgroup (per the ESSB 6580 legislation) be made available via the OSPI Web site to school principals and school staff for training purposes as well as the general public.

4. It is highly recommended that local law enforcement develop working relationships with their local school districts and principals to:
   - assist local school districts by providing consultation and training for school administrators and principals.
   - address identified behavioral needs regarding juveniles who have committed sex/kidnapping offenses.
   - work together in support of school and community safety, while respecting the educational rights of the offenders.

CONCLUSION

Collaboration among the workgroup membership of juvenile sex offender service providers, law enforcement, juvenile courts, advocate groups, DSHS/JRA, and educators to create model policy

and procedures for receipt of sex offender notifications by schools, will assist principals and school staff in providing safer environments for all staff and students in Washington schools.

Workgroup members learned a great deal about their collective agencies' involvement with juvenile sex offenders and all agreed they are working toward the same goal—success for students and safer communities for all. The workgroup discussed current sex offender notification processes: what works, what doesn't work, and the opportunities and barriers created by sex offender notifications to schools. They spent hours discussing information sharing issues and determining what processes will best assist juveniles to transition from an institution school to a public school and what could be potentially harmful. Policy and procedure components were outlined and discussed in detail, reviewed by a variety of school principals, school counselors, teachers, administrators, law enforcement and juvenile advocates to determine which elements would provide the greatest direction for school principals.

Members agreed that although there are significant risks involved in providing information on sex offenders to teachers and school staff, providing them with model policies and procedures as guidance will begin to diminish misperceptions and create a safer school environment for all. When school staff and their local law enforcement personnel are working more closely together on juvenile sex/kidnapping offender issues, the partnership strengthens communities and assists in making schools safer places for all students and staff.

APPENDICES

Training for School Staff on Juvenile Sex and Kidnapping Offenders Legislative Report – House Bill 2101 Executive Summary

January 2006

HB 2101 TASK FORCE
EXECUTIVE SUMMARY

The 2005 Legislature required the Safety Center of the Office of Superintendent of Public Instruction (OSPI) to review the types and amounts of training that will be necessary for principals, teachers, supervisors, and school staff to implement House Bill 2101 (Appendix A), an act relating to registration of sex offenders and kidnapping offenders attending public schools, notification to the school and dissemination of information within the schools. This bill required a report with recommendations for training requirements no later than January 1, 2006. This report includes the process, discussion, discoveries, and recommendations of a task force of experts who came together for this purpose.

Juvenile sex offenders and kidnapping offenders on and off probation or parole attend public schools throughout the state of Washington. This results in a critical need for information and training as support for administrators, teachers, and school staff so they can provide a safe school environment for all. Training is the key element. Arming staff with a well-defined training curriculum will help reduce concerns, dispel myths, clarify needs, and give staff additional tools to manage the offenders and provide all students and staff with a safer school environment. Such training should include topics such as the notification processes and content, liabilities of sharing information, and other topics regarding sex and kidnapping offenders. This knowledge can also help raise the awareness of activities in and around the school which could otherwise result in further criminal activity.

The focus of the Task Force was on the training necessary for all school staff, but particularly school administrators. The Task Force agreed that training for school staff on how to effectively assist the sex and kidnapping offender students to be successful in school cannot be properly addressed without first addressing the notification and information sharing issues. The notification requirements are the basis for the training content. Appendix C of this report lists the suggested training components.

Discoveries

The Task Force meetings and discussions resulted in a number of discoveries regarding sex and kidnapping offenders. One of the key issues is that training for school staff cannot be properly addressed without first addressing sex and kidnapping offender notification and information sharing issues since much of what is contained in the training will be based on the content of the notification, the process of the notification, and how information is shared with schools. The Task Force discussions can be found in Appendix B of this report.

The remaining discoveries included the following: There are currently no standardized procedures or content for statewide notification of sex and kidnapping offenders to schools from law enforcement. There is currently no standardized statewide school policy or process to facilitate notifications once they are received from law enforcement. Each district has developed separate guidelines. Behavioral information necessary to assist school staff in making informed decisions is not typically included in records received by public schools. Information shared between juvenile justice schools and public schools is limited to academic courses, grades, and credit hours. This information does not provide keys to what behavioral strategies would work successfully for the juveniles, nor does it supply public schools with tools necessary to provide a safe environment for the juvenile offenders, other students, or the school staff.

Washington school principals and other school personnel currently do not receive formal training on serving juvenile sex or kidnapping offenders in the schools. Since no curriculum for training school staff on reintegration of juvenile sex offenders or kidnapping offenders into public schools could be found, the Task Force suggested content for the staff training. Appendix C lists the suggested components. The school administrators, as the direct recipients of sex offender notifications, will need the most intense training in all content areas, but teachers and other school staff who work directly with the students, need to be trained as well.

There will be costs to develop curriculum and deliver training for the school staff. A fiscal note will be required for training and implementation.

Recommendations

The Task Force identified recommendations in the areas of sex offender notification, information sharing, and staff training for schools (administrators, teachers, and other school staff). It is recommended that law enforcement work in conjunction with their local school districts to assist in providing this training for school staff formally and informally on juvenile sex and kidnapping offenders. Note that training, collaboration, and standard procedures are principal themes throughout these best practice approaches.

Recommendations Regarding Sex and Kidnapping Offender Notifications

1. Washington Association of Sheriffs and Police Chiefs (WASPC) develop a model process and content for juvenile sex offender notifications to schools for law enforcement agencies and other criminal justice personnel with accompanied policies.
2. The Washington State School Directors Association (WSSDA) and OSPI, in consultation with the School Safety Center Advisory Committee, create a statewide model school policy outlining a model process to follow when notification is received from law enforcement on juvenile sex and kidnapping offenders.

Recommendations on Information Sharing Between Institutions and Schools

1. Encourage law enforcement, Department of Social and Health Services Juvenile Rehabilitation Administration (DSHS/JRA), and Juvenile Court Administrators (JCA) to work with representatives from the institution and public schools to:
   - Supply additional details to school principals either in the notification form or added to the school record and
   - Assist in providing the same information to the new school when sex and kidnapping offenders move from one public school to another.
2. Include the following additions in the school record: the offender's risk level and risk factors, conditions of release, victim age-range, and the local law enforcement contact name and contact information.
3. Principals designate one additional person besides themselves as a point of contact for at-risk youth at their school in order to better assist appropriately addressing admission and supervision issues.

Recommendations on School Staff Training

1. OSPI, in association with the School Safety Advisory Committee, convene an oversight group of juvenile sex offender, school safety experts and curriculum experts to:
   - outline school staff training on juvenile sex offenders in public schools
   - identify training components
   - build a curriculum package with support material
   - develop an appropriate delivery plan
   - implement the training plan
   - follow-up to determine implementation of the training
   - develop update training online

2. OSPI provide training via a train-the-trainer model to all school administrators in the state by either contracting with Educational Service Districts (ESD) or another contract provider.
3. Initial trainings be repeated once per year for new staff and that annual update training on relevant Internet Web sites be added as policies and procedures change.

Conclusions

Juvenile sex and kidnapping offenders are enrolled in public schools today. This results in a critical need for information and 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 some additional tools to manage the offenders and build a resource base of tools to provide all students and staff with a safer school environment.

By collaborating on content and processes of notification, information sharing and staff training, sex offender service providers, law enforcement, juvenile courts, advocate groups, DSHS/JRA, and educators in the state of Washington can better assist juvenile sex and kidnapping offenders to be more successful in their transition to public schools, more effectively provide for the safety of all students and staff, and assist administrators and school staff to better identify inappropriate and potentially dangerous behaviors in the schools.

The training does not come without cost, but the benefit for students, staff, families, and communities are significant. One benefit noted by the Task Force is the valuable collaborative efforts between stakeholders in the world of sex offender management, law enforcement, and education which have already begun due to this legislation.

With the consideration that there are 296 school districts in Washington and approximately 4,500 administrative staff, this statewide training project may take up to two years to complete. There is a cost associated with the provision of the staff training and it will require a fiscal note to support such training.

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 6580

Chapter 135, Laws of 2006

59th Legislature
2006 Regular Session

SEX OFFENDER NOTIFICATION--SCHOOLS

EFFECTIVE DATE: 6/7/06

Passed by the Senate February 9, 2006
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House February 28, 2006
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6580** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved March 20, 2006.

FILED

March 20, 2006 - 11:37 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE SENATE BILL 6580

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators McAuliffe, Schmidt, Weinstein, Carrell, Berkey, Rasmussen, Oke and Shin)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to sex offender and kidnapping offender
2 notification and information sharing in schools; creating new sections;
3 and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The office of the superintendent of
6 public instruction shall convene a work group to develop a model policy
7 for schools to follow when they receive notification pursuant to RCW
8 9A.44.130. The model policy must address, among other issues:
9 (a) The designation of appropriate school personnel to receive
10 notification of information received pursuant to RCW 9A.44.130;
11 (b) Identification of school personnel who are in a position to
12 recognize high-risk situations or factors that may indicate the
13 offender is encountering difficulty in controlling his or her behavior;
14 (c) Whether some portion of the records received from the juvenile
15 rehabilitation administration or court personnel is confidential or
16 otherwise protected;
17 (d) To whom some portion of the information received must or should
18 be disclosed;

(e) How to assist juvenile offenders in making a safe and successful transition from institutional schools to public schools;

(f) How to work with juvenile probation and juvenile parole professionals in implementing a safety plan;

(g) What actions school authorities may take when they identify high-risk situations, both for the short-term and long-term safety of other students; and

(h) Variations in approaches depending on the offender level of the enrolled offender.

(2) In carrying out its duties under this section, the office of the superintendent of public instruction shall consult, as appropriate, with representatives from other agencies and professional organizations, including:

(a) The Washington state school directors association;

(b) The department of corrections;

(c) County sheriffs' offices;

(d) Prosecuting attorneys;

(e) Juvenile probation counselors;

(f) Juvenile court administrators;

(g) The juvenile rehabilitation administration of the department of social and health services;

(h) Elementary and secondary school districts;

(i) Educational service districts;

(j) The Washington association of school administrators;

(k) The Washington state parent-teacher association;

(l) Parents and guardians of school-age children;

(m) Washington coalition of sexual assault programs; and

(n) Other individuals with related experience as deemed appropriate.

(3) The office of the superintendent of public instruction shall submit to appropriate committees of the legislature a final report and recommendations by November 15, 2006.

(4) This section expires July 1, 2007.

NEW SECTION. **Sec. 2.** The Washington coalition of sexual assault programs, in consultation with the Washington association of sheriffs and police chiefs, the Washington association of prosecuting attorneys,

and the office of the superintendent of public instruction, shall develop educational materials to be made available throughout the state to inform parents and other interested community members about:

(1) The laws related to sex offenses, including registration, community notification and the classification of sex offenders based on an assessment of the risk of reoffending;

(2) How to recognize behaviors characteristic of sex offenses and sex offenders;

(3) How to prevent victimization, particularly that of young children;

(4) How to take advantage of community resources for victims of sexual assault; and

(5) Other information as deemed appropriate.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of section 2 of this act, referencing section 2 of this act by bill or chapter number and section number is not provided by June 30, 2006, in the omnibus appropriations act, section 2 of this act is null and void.

Passed by the Senate February 9, 2006.
Passed by the House February 28, 2006.
Approved by the Governor March 20, 2006.
Filed in Office of Secretary of State March 20, 2006.

Release of Information Concerning Sexual and Kidnapping Offenders POLICY

The district recognizes its responsibility for the health and safety of all staff and students, including students required to register as sex or kidnapping offenders enrolled within the district. Therefore, the Board is desirous of taking appropriate precautionary measures in situations where the school principal has been advised by law enforcement officials that a student required to register as a sex or kidnapping offender is enrolling in or is attending a school within the district.

Principal Responsibilities
Principals are required to respond to notification by local law enforcement and to disseminate information about students required to register as sex or kidnapping offenders to appropriate staff within the school, based on the following offender levels:

A. Level I
   Sex offenders are classified as level I when their risk assessments indicate a low risk of reoffense within the community at large.
B. Level II
   Sex offenders are classified as level II when their risk assessments indicate a moderate risk of reoffense within the community at large.
C. Level III
   Sex offenders are classified as level III when their risk assessments indicate a high risk of reoffense within the community at large.

Principals receiving notice must disclose the information received from law enforcement as follows:

A. If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received from law enforcement to every teacher of that student and to any other school personnel who, in their judgment, supervises the student, or for security purposes should be aware of the student's record.
B. If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received from law enforcement to school personnel who, in their judgment, for security purposes, should be aware of that student's record. However, as standard practice, principals may choose to notify every teacher of all level I students.
C. Students required to register as kidnapping offenders are not subject to leveling and, therefore, should be managed on a case by case basis.

The principal shall select additional school personnel to notify (following consultation with probation/parole or the student's family if not on court supervision) for assistance in identifying or recognizing high-risk situations. The following staff should be considered: district superintendent or designee, adjacent building principals, appropriate administrative and teaching staff, security personnel, school resource officers, volunteers or paraprofessionals working in the student's classrooms, counselors, coaches, advisors, nurses, bus drivers, custodians, district daycare providers, and playground supervisors, or others that may have contact with the student.

Collaboration
The principal or designee shall consult and collaborate with law enforcement, Department of Corrections, juvenile justice staff, treatment providers, victim support groups, and families, as applicable, when working with students required to register as sex or kidnapping offenders. The

principal shall work with local law enforcement to coordinate the receipt of notifications regarding students registered as sex and kidnapping offenders.

Confidentiality
The principal and school staff will maintain confidentiality regarding these students, the same as all students in the school. Any written information or records received by a principal as a result of a notification are confidential and may not be further disseminated except as provided in state or federal law.

Immunity from Liability
Any school district or employee who releases this information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

Inquiries by the Public
Community notification remains the responsibility of local law enforcement. Inquiries to schools by the public at large (including parents and students), regarding students required to register as sex or kidnapping offenders are to be referred directly to local law enforcement. Law enforcement agencies receive relevant information about the release of sexual and kidnapping offenders into communities, and decide when such information needs to be released to the public.

Student Rights and Responsibilities
All students, including those students required to register as sex or kidnapping offenders, have a constitutional right to a public education. Students required to register as sex or kidnapping offenders are required by law to notify law enforcement of their intent to enroll in school.

Written Procedures
The superintendent or his designee shall adopt written procedures for school principals describing how they will disseminate information received from law enforcement with appropriate school personnel and how confidentiality will be maintained.

Cross Reference:	Board Policy 3143	District Notification of Juvenile Offenders
Legal Reference:	RCW 4.24.550	Sex offenders — and kidnapping offenders — Release of information to public — When authorized — Immunity
	RCW 28A.225.330 [4]	Enrolling students from other districts — Requests for information and permanent records — Withheld transcripts — Immunity from liability — Notification to teachers and security personnel — Rules

RCW 13.40.215	Juveniles found to have committed violent or sex offense or stalking — Notification of discharge, parole, leave, release, transfer, or escape — To whom given — School attendance — Definitions
RCW 72.09.345	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 9A.44.130(1)(e)(i)	Registration of sex offenders and kidnapping offenders — Procedures — Definition — Penalties
RCW 13.04.155	Notification to school principal of conviction, adjudication, or diversion agreement — Provision of information to teachers and other personnel — Confidentiality

Family and Educational and Privacy Rights Act of 1994 (20 U.S. Code Section 1232g et.seq)

Art. IX, Section 1, Washington State Constitution

Management Resources:

Policy News, August 1998	State encourages modification of weapons policy

Release of Information Concerning Sexual and Kidnapping Offenders PROCEDURES

Principals are required by law to respond to notification by local law enforcement and to disseminate information. Policy 4315 and Procedure 4315P are provided to assist principals in disseminating information in a proper and timely manner. Principals may also rely on the "Principal's Notification Checklist" on the Office of Superintendent of Public Instruction's (OSPI) Web site for additional assistance.

Principal Responsibilities

Principals have responsibilities to develop a:

A. Relationship with local law enforcement agencies (i.e., local sheriff's office or police department) dealing with students required to register as sex or kidnapping offenders.

B. Procedure for acceptance of notifications from law enforcement (i.e., local sheriff's office or police department).

C. Procedure for notification of every teacher of level II or level III students required to register as sex or kidnapping offenders attending the school/class, as well as appropriate staff.

D. Procedure for notifying teachers of selected level I students required to register as sex or kidnapping offenders, as well as appropriate staff.

E. Procedure to notify all teachers and staff of their roles and responsibilities with respect to these students, including confidentiality, harassment, intimidation, and bullying issues.

F. Protocol for responses to public inquiries about those students required to register as sex or kidnapping offenders, stressing confidentiality and FERPA rules; determine how district staff will be notified; and designate staff in charge of monitoring these students.

G. Procedure and protocol for safety planning, to include student meetings, designing and monitoring student safety plans, implementing safeguards when students change schools or change sex offender levels, or status with parole or probation.

H. Protocol for best practice of contacting district superintendent with list of juvenile sex/kidnapping offenders when notification is received from law enforcement, until such time that legislative changes are made to RCW 9A.44.130.

School Staff

It is required that school staff shall notify the principal or other appropriate school personnel when they observe any nonstudent sex offender on or near school grounds. Staff shall inform the principal or other appropriate school personnel of any suspected behavior or actions of any students which may compromise the health, safety, or well-being of students or staff. Staff shall be prepared to respond appropriately and effectively regarding reporting harassment, intimidation, and bullying by either students or staff. It is the responsibility of staff to help all students be successful in school.

Students

It is the responsibility of students required to register as sex or kidnapping offenders to follow all rules and regulations of the school as outlined by the district in the student handbook, conduct themselves as defined in the student handbook, and follow all stipulations as outlined in their

individual Student Safety Plans. It is the responsibility of all students to follow school policies regarding harassment, intimidation, and bullying.

Notifications

Notifications from local law enforcement that a student required to register as a sex or kidnapping offender is enrolled or attending school can come to the principal in a variety of methods including: email, U.S. mail, or hand-delivery. The following items may be found on most sex offender notifications:

> Offender's name, abbreviated address, sex, height, weight, hair and eye color, date of birth, ethnicity, crime, sex offender level (when applicable), neighborhood, proximity to schools, and level descriptors.

Notification Lists

Upon receipt of notification from law enforcement, the principal or a designee shall review the list of registered offenders. The list shall be reviewed to determine which students are currently enrolled, currently attending school, or are new to the school and not yet enrolled.

Staff Notification

The following are the risk level classifications for sex offenders.

A. Level I
   Sex offenders are classified as level I when their risk assessments indicate a low risk of reoffense within the community at large.

B. Level II
   Sex offenders are classified as level II when their risk assessments indicate a moderate risk of reoffense within the community at large.

C. Level III
   Sex offenders are classified as level III when their risk assessments indicate a high risk of reoffense within the community at large.

Principals receiving notice must disclose the information received as follows:

A. If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received from law enforcement to every teacher of that student and to any other school personnel who, in the judgment of the principal, supervises the student, or for security purposes should be aware of the student's record.

B. If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received from law enforcement to school personnel who, in the judgment of the principal, for security purposes, should be aware of that student's record. However, as standard practice, principals may choose to notify every teacher of all level I students.

C. Students required to register as kidnapping offenders are not subject to leveling and, therefore, should be managed on a case by case basis.

Notifying Additional School Personnel for All Offender Levels

The principal shall designate additional school personnel to be notified following consultation with probation/parole (or the student's family if not on court supervision) in order to identify or recognize high-risk situations. These should include: district superintendent or designee, appropriate administrative and teaching staff, school resource officers, adjacent building principals, security

personnel, staff working directly in the student's classrooms, school counselors, school psychologists, coaches, advisors, school social workers, nurses, bus drivers, custodians, district daycare providers, and playground supervisors, or others that may have contact with the student.

Safety Planning

Safety planning for students required to register as sex or kidnapping offenders should be incorporated into the school's overall safety plans as identified in RCW 28A.320.125 and the school's threat notification policy per RCW 28A.320.128.

The principal shall complete safety planning with school staff, local law enforcement, probation and parole, treatment providers, parents/guardians, care providers and child advocates, as appropriate, in order to provide a safe and secure environment for all students and staff. For safety planning to be effective, the district registrar shall finalize formal enrollments for students required to register as sex or kidnapping offenders within two to three (2–3) days of their enrollment request.

Student Meetings

Within ten (10) working days of the student's enrollment, or earlier if possible, the principal or designee, working together with probation and parole professionals, shall meet with the student to create and implement a Student Safety Plan. The principal or designee shall determine other appropriate school personnel to be included in the meeting to assist in defining school expectations. The student's parent/guardian or care provider may also be invited. The purpose for the meeting is to create a safety plan to assist the student to be successful in their transition back to school and to provide a safe school environment for all.

Student Safety Plan

The principal or designee (and other school staff as applicable), in consultation with the parole counselor or probation officer (if under court supervision), shall design a student safety plan for each registered sex or kidnapping offender. The plan will stipulate the responsibilities of the student and other stakeholders to promote those elements deemed essential in safely managing the student's behavior. (A template example can be found at: http://www.salkeiz.k12.or.us/district/risk/forms/planprotect.pdf. This "Plan to Protect Targeted Students," created by the Salem Keizer School District in Oregon, has been modified by principals for use as a student safety plan.)

A. The Safety Plan shall outline conditions and/or limitations on each student required to register as a sex or kidnapping offender concerning their interactions on the school campus.

B. For students not under court supervision, the Student Safety Plan should be developed in conjunction with school staff in consultation with the student's parent/guardian or care provider.

C. The plan shall be based on the student's needs and include guidelines for expected interventions, actions for high-risk behaviors, and reinforce positive behaviors.

D. Each plan shall be reviewed semi-annually by staff designated by the principal.

E. Plans shall be reviewed at least quarterly if high-risk behaviors have been identified.

Monitoring the Safety Plan

The Student Safety Plan shall be monitored and changes made as needed by school administration.

A. School authorities should be prepared to take appropriate actions, especially if they notice an increase or escalation of a student's high-risk behaviors, both for the short- and long-term safety of the student required to register as a sex or kidnapping offender and all other students.

B. School staff shall report to the principal or designee and to law enforcement or other involved agencies (treatment providers, parole/probation), if they determine the student has not followed the plan.

C. Implementation of the Student Safety Plan shall be consistent with existing disciplinary policies and procedures, student conduct policies, and mandatory reporting policies.

D. Schools may develop school threat assessment teams and make referrals to those teams when students engage in inappropriate behaviors as defined in the Student Safety Plan. Effective threat assessment must be conducted by a team of trained professionals as part of a comprehensive school safety program and with the support of all members of the school community (students, staff, parents, public safety, and law enforcement).

When Students Move or Change Status

When a student changes schools within the same district, the current principal will notify the new principal and share the student records and safety plans with the new school. If the student's sex offender status or probation or parole status changes (such as when the student's obligation to register ends), the principal shall notify the school staff as part of the school's safety planning.

CONFIDENTIALITY

The principal and school staff will maintain confidentiality regarding these students the same as all students in the school. Any information received by the principal or any school personnel as a result of a notification is confidential and may not be further disseminated except as provided in state or federal law. The Student Safety Plan shall only be shared with appropriate school personnel who shall report violations of plan expectations to the principal as they occur.

The Juvenile Rehabilitation Administration of the Department of Social and Health Services shares its records on sex and kidnapping offenders with schools as authorized in RCW 13.50.010 as relevant and necessary to ensure the effective ongoing provision of services to the client. Any re-release or disclosure of these records should be strictly limited in scope and content to school personnel who have a need to know as a part of their involvement in providing services to that client.

Community notification remains the responsibility of local law enforcement. Inquiries to schools by the public at large (including parents and students) regarding students required to register as sex or kidnapping offenders are to be referred directly to local law enforcement. Law enforcement agencies receive relevant information about the release of sexual and kidnapping offenders into communities and decide when such information needs to be released to the public.

Immunity from Liability

Any school district employee who releases information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

Principal's Notification Checklist

1. When notifications are received from law enforcement:

   - ☐ Determine what local law enforcement agency makes sex offender notifications.
   - ☐ Select person responsible to accept notifications.
   - ☐ Select secure location to keep notification documents.
   - ☐ Determine how confidentiality will be maintained.
   - ☐ Determine who will have access to the notification documents.
   - ☐ Determine if signatures will be required for tracking anyone asking to see the list of notifications.
   - ☐ Determine process for keeping notification information current.

2. Reviewing notification lists received from law enforcement:

   - ☐ Select person responsible to review names on notification lists to determine those currently enrolled, attending, or new to the school.
   - ☐ Determine how often the lists will be reviewed.
   - ☐ Determine how district superintendent will be notified of students on the list and what information they will receive.
   - ☐ Determine who will provide teacher names to the principal for level I, II, and III sex offenders.
   - ☐ Determine what other school staff members will be notified and what information they will receive.
   - ☐ Determine how law enforcement will be notified when students on the list do not show up at the school.

3. When notifying school staff:

- ☐ Determine a method to select and to notify appropriate teachers and staff for each level offender.
- ☐ Determine what information will be provided to appropriate teachers and staff.
- ☐ Determine how confidentiality will be maintained.
- ☐ Determine how teachers and staff will be notified when changes occur in each student's status.

4. When meeting with the student:

- ☐ Determine when the student meeting will take place and who will be included.
- ☐ Determine who will gather information from the facility school the student previously attended regarding behavior and progress.
- ☐ Determine the expected outcomes of the student meeting.

5. Regarding the Student Safety Plan:

- ☐ Determine the format for the Student Safety Plan.
- ☐ Determine at what point the student is interviewed.
- ☐ Determine the student's responsibilities in developing the plan.
- ☐ Determine who will review the final plan.
- ☐ Determine who needs a copy of the Student Safety Plan when completed.
- ☐ Determine what actions will be taken if the plan is not followed.
- ☐ Determine how confidentiality is maintained.

ESSB 6580 WORKGROUP

Meeting Schedule
2006

July 12, 2006
1:00 – 5:00pm
ESD113, Pacific Room
601 McPhee Road
Olympia, WA

August 16, 2006

September 13, 2006

October 2006

November 2006

Outcomes
A model policy for ESDs and School Districts Statewide
A final report and recommendations to the legislature

Deadline

November 15, 2006

Task
Convene a workgroup to develop a model policy for schools to follow when they receive notification that a sex or kidnapping offender is or will be attending the community school.

Agenda
July 12, 2006

Sign-in

Background Information
House Bill 2101
2101 Task Force
Recommendations
6580 Workgroup Objectives
The "notification chain"

Introductions
Your organization's responsibility
In each link of the "notification chain"

Break

Discussion
Content & Process of Notification
Notification happens-
What information will you share?
How will you share it?
How will you know you've followed the law?
How do you do this while promoting a safe climate?
Report-outs

Timelines – Planning

Next Meeting Dates, Times, Locations

Homework: Bring Constituent feedback

Adjourn

More information will be provided prior to each meeting.
Details subject to change.

Questions/comments:
Kathleen Sande, Institutional Education
OSPI, Olympia, WA
(360) 725-6046
ksande@ospi.wednet.edu

ESSB 6580 WORKGROUP

Meeting Schedule
2006

July 12, 2006
1:00 – 5:00pm
ESD113, Pacific Room
601 McPhee Road
Olympia, WA

August 16, 2006
9:00am – 3:00pm
Professional Devel Center
6501 N 23rd Street
Tacoma, WA

September 13, 2006
Or September 22, 2006

October 2006

November 2006

Outcomes
A model policy for ESDs and School Districts Statewide
A final report and recommendations to the legislature

Deadline

November 15, 2006

Task
Convene a workgroup to develop a model policy for schools to follow when they receive notification that a sex or kidnapping offender is or will be attending the community school.

Agenda
August 16, 2006

9:00am
Sign-in
Introductions
Review Agenda

Homework Feedback
Additional stakeholders
Added issues for discussion
Suggestions on developing requirements

10:30am
Review 6580 Objectives
OSPI Memo 015-06
Discussion/Brainstorm
What to include in the broad policy?

Activities:
Divide into groups
Utilize brainstorm & samples
1. Develop broad policy draft
Combine all ideas

12-1 Lunch

2. Develop draft procedures
Combine all ideas

Next Meeting Dates, Times, Locations

Adjourn

More information will be provided prior to each meeting.
Details subject to change.

Questions/comments:
Kathleen Sande, Institutional Education
OSPI, Olympia, WA
(360) 725-6046
ksande@ospi.wednet.edu

ESSB 6580 WORKGROUP

Meeting Schedule
2006

July 12, 2006
1:00 – 5:00pm
ESD113, Pacific Room
601 McPhee Road
Olympia, WA

August 16, 2006
9:00am – 3:00pm
Professional Devel Center
6501 N 23rd Street
Tacoma, WA

September 13, 2006
9:00am – 3:00pm
Washington School's Risk Management Pool
Training Room, 320 Andover Parkway E
Tukwila, WA

October 4 or 11, 2006

November 2006

Outcomes

Model policy for ESDs and School Districts Statewide
Final report and recommendations to the legislature

Deadline

November 15, 2006

Task
Convene a workgroup to develop a model policy for schools to follow when they receive notification that a sex or kidnapping offender is or will be attending the community school.

Agenda
September 13, 2006

9:00am
Sign-in
Introductions
Review Agenda
Review the Legislation
Additional stakeholders

Small Group Met 9/6/06
Activities:
Review Draft Policy
Discussion

Large Group Activity:
1. Outline Procedures Step by Step
Match with Draft Procedures
Utilize brainstorm & samples
2. Develop 2nd draft

12-1 Lunch

Continue Activity
3. Review Additions & Comment

4. Discussion on Recommendations
5. Create recommendations list
Next Steps

Next Meeting Dates, Times, Locations

Adjourn

More information will be provided prior to each meeting.
Details subject to change.

Questions/comments:
Kathleen Sande, Institutional Education
OSPI, Olympia, WA
(360) 725-6046
ksande@ospi.wednet.ed

ESSB 6580 WORKGROUP

Meeting Schedule
2006

July 12, 2006
1:00 – 5:00pm
ESD113, Pacific Room
601 McPhee Road
Olympia, WA

August 16, 2006
9:00am – 3:00pm
Professional Devel Center
6501 N 23rd Street
Tacoma, WA

September 13, 2006
9:00am – 3:00pm
Washington School's Risk Management Pool
Training Room, 320 Andover Parkway E
Tukwila, WA

October 4 , 2006
9:00am – 3:00pm
Washington School's Risk Management Pool
Training Room, 320 Andover Parkway E
Tukwila, WA

November 2006
9:00am – 1:00pm
Professional Devel Center
6501 N 23rd Street
Tacoma, WA

Outcomes

Model policy for ESDs and School Districts Statewide
Final report and recommendations to the legislature

Deadline
November 15, 2006

Task
Convene a workgroup to develop a model policy for schools to follow when they receive notification that a sex or kidnapping offender is or will be attending the community school.

Agenda
October 4, 2006

9:00am
Sign-in
Introductions
Review Agenda

Review Legislative Direction

Review Draft Policy

Large Group Discussion
Notification Process

Break into 4 Groups

12-1 Lunch

Continue Activity
Feedback from 4 Groups

Discussion on Recommendations
Create recommendations list
Next Steps

Next Meeting Dates, Times, Locations

Adjourn

More information will be provided prior to each meeting.
Details subject to change.

Questions/comments:
Kathleen Sande, Institutional Education
OSPI, Olympia, WA
(360) 725-6046
ksande@ospi.wednet.edu

ESSB 6580 WORKGROUP

Meeting Schedule
2006

July 12, 2006
1:00 – 5:00pm
ESD113, Pacific Room
601 McPhee Road
Olympia, WA

August 16, 2006
9:00am – 3:00pm
Professional Devel Center
6501 N 23rd Street
Tacoma, WA

September 13, 2006
9:00am – 3:00pm
Washington School's Risk Management Pool
Training Room, 320 Andover Parkway E
Tukwila, WA

October 4, 2006
9:00am – 3:00pm
Washington School's Risk Management Pool
Training Room, 320 Andover Parkway E
Tukwila, WA

November 8, 2006
9:00am – 1:00pm
Professional Devel Center
6501 N 23rd Street
Tacoma, WA

Outcomes

Model policy for ESDs and School Districts Statewide
Final report and recommendations to the legislature

Deadline
November 15, 2006

Task
Convene a workgroup to develop a model policy for schools to follow when they receive notification that a sex or kidnapping offender is or will be attending the community school.

Agenda
November 8, 2006
9AM – 1PM

9:00am
Sign-in
Introductions
Review Agenda

Review Legislative Requirements
Does Policy respond?
Review Recommendations

Procedures
Large Group Discussion
Do Procedures respond?
Additions/deletions

12-1 Lunch

Next Steps

Adjourn

More information will be provided prior to each meeting.
Details subject to change.

Questions/comments:
Kathleen Sande, Institutional Education
OSPI, Olympia, WA
(360) 725-6046
ksande@ospi.wednet.edu

APPENDIX N:

Adam Walsh Materials

STATE OF WASHINGTON

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

DATE:	October 28, 2010
TO:	Scott Matson, SMART Senior Policy Advisor
FROM:	Shoshana Kehoe-Ehlers, SOPB Program Director
SUBJECT:	Washington State Offense Based Registration System

The information provided below expands on the general list of sex offenses and their mandatory registration duration requirements attached to this memo's email. There are several offenses that change from a non-sex offense to a sex offense because of a special finding permitted by statute. Consequently, that offense will require registration for a particular duration and longer or lifetime supervision. As part of this special allegation or finding that either changes a non-sex offense to a sex offense or aggravates the class level of the offense, the registration duration generally increases.

Washington State's sex offender registration system is offense based. The registration duration comports with the offense class. Please see below.

- Felony Offense Class System ~ Maximum sentences for crimes committed after July 1, 1984.

  1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

  (a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

  (b) For a class B felony, by confinement in a state correctional institution for a term of

ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

4) This section applies to only those crimes committed on or after July 1, 1984.

[See RCW 9A.20.021]

This next section defines attempt, solicitation, and conspiracy. For certain sex offenses, if the offender is convicted of an attempt, solicitation or conspiracy, the offense class does not decrease. See below.

❖ **The following are also defined as sex offenses:**

(a) any felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135 (*Specifically references as a sex offense because when committed with sexual motivation, changes from a Class B offense to a Class A offense. This raises the registration duration requirement from 15 years to lifetime.); or any federal offense or out-of state conviction for an offense that under the laws of this state would be a felony classified as a sex offense.

(b) any criminal attempt, criminal solicitation, or criminal conspiracy to commit one of the above;

1. attempt ~ an attempt to commit a crime is a:

➢ Class A felony when the crime attempted is murder in the first degree, murder in the second degree, arson the first

degree, child molestation in the first degree, indecent liberties by forcible compulsion, rape in the first degree, rape in the second degree, rape of a child in the first degree, or rape of a child in the second degree;

- Class B felony when the crime attempted is a class A felony other than the offenses listed in the above Class A felony subsection;
- Class C felony when the crime is a class B felony;
- Misdemeanor when the crime attempted is a gross misdemeanor or misdemeanor.

[See RCW 9A.28.020]

2. solicitation: criminal solicitation shall be punished in the same manner as criminal attempt under RCW 9A.28.020.

[See RCW 9A.28.020]

3. conspiracy: criminal conspiracy is a :
   - Class A felony when the object of the conspiratorial agreement is murder in the first degree;
   - Class B felony when an object of the conspiratorial agreement is a class A felony other that murder in the first degree;
   - Gross Misdemeanor when object of the conspiratorial agreement is a class C felony;
   - Misdemeanor when an object of the conspiratorial agreement is a gross misdemeanor.

[See RCW 9A.28.040]

❖ **Duration of Registration Based on Offense Class**

1. **Lifetime/Indefinitely if:**
   - Class A felony, or
   - Offense listed in RCW 9A.44.142(5)[1], or
   - One or more prior convictions for a sex or kidnapping offense.

[1] A person who has been convicted of an aggravated offense, or has been convicted of one or more prior sexually violent offenses or criminal offenses against a victim who is a minor, as defined in (b) of this subsection: may not be relieved of the duty to register.

2. **15 years if:**
   - Class B Felony Sex Offense
3. **10 years:**
   - Class C Felony sex offense and some gross misdemeanors sex offenses.

❖ **Persistent Offenders**

Pursuant to RCW 9.94A.030 (36), in Washington State, persistent offenders fall into two categories: "three strikes" or "two strikes". RCW 9.94A.030(36)(b)(i) refers an to offender who has been convicted of at least one prior sex offense as defined in this section and the offender's current charge is also a sex offense as defined in this section. The Court must sentence the offender to life imprisonment.

A persistent offender is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, **been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses** and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (36)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of

this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

- **"Sexual Motivation" – Special Allegation - Sentencing**

Pursuant to RCW 9.94A.030(46) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

- **"Predatory" is defined as:**

RCW 9.94A.030 (37)

(a) The perpetrator of the crime was a stranger to the victim, as defined in this section;
(b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or
(c) the perpetrator was:

(i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010;
(ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision;
(iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or
(iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection:
(A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and
(B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

- **"Predatory" – Special Allegation-Procedure**

RCW9.94A.836

(1) In a prosecution for rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, the prosecuting attorney shall file a special allegation that the offense was predatory whenever sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding by a reasonable and objective fact finder that the offense was predatory, unless the prosecuting attorney determines, after consulting with a victim, that filing a special allegation under this section is likely to interfere with the ability to obtain a conviction.

(2) Once a special allegation has been made under this section, the state has the burden to prove beyond a reasonable doubt that the offense was predatory. If a jury is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether the offense was predatory. If no jury is had, the court shall make a finding of fact as to whether the offense was predatory.

(3) The prosecuting attorney shall not withdraw a special allegation filed under this section without the approval of the court through an order of dismissal of the allegation. The court may not dismiss the special allegation unless it finds that the order is necessary to correct an error in the initial charging decision or that there are evidentiary problems that make proving the special allegation doubtful.

- **"Predatory" – Special Allegation - Sentencing**

RCW 9.94A.507

> (3)(a) Upon a finding that the offender is subject to sentencing under this section, the court shall impose a sentence to a maximum term and a minimum term.
>
> (b) The maximum term shall consist of the statutory maximum sentence for the offense.
>
> (c)(i) Except as provided in (c)(ii) of this subsection, the minimum term shall be either within the standard sentence range for the offense, or outside the standard sentence range pursuant to RCW 9.94A.535, if the offender is otherwise eligible for such a sentence.
>
> (ii) If the offense that caused the offender to be sentenced under this section was rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, and there has been a finding that the

offense was predatory under RCW 9.94A.836, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section was rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding that the victim was under the age of fifteen at the time of the offense under RCW 9.94A.837, **the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater.** If the offense that caused the offender to be sentenced under this section is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding under RCW 9.94A.838 that the victim was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult, the minimum sentence shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater.

***An offender convicted of a predatory offense shall serve no less than 25 years in prison and will remain on lifetime supervision.**

- RCW 9A.44.142 defines "sexually violent predator; "aggravated offense"; and sexually violent offense" The statute goes on to explain the registration durations and what factors exclude individuals convicted of these offenses from petitioning to be relieved from registration.

SEX OFFENSE	OFFENSE CLASS	REGISTRATION DURATION
Assault 2 with Sexual Motivation*	A RCW 9A.36.021	Lifetime
Assault of a Child 2 with Sexual Motivation*	B RCW 9A.36.130	15 years
Child Molestation 1	A RCW 9A.44.083	Lifetime
Child Molestation 2	B RCW 9A.44.086	15 years
Child Molestation 3	C RCW 9A.44.089	10 years
Commercial Sexual Abuse of a Minor	B RCW.9.68A.100	15 years
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
Communication with a Minor for Immoral Purposes (first offense)	Gross Misdemeanor RCW 9.68A.090 (1) and (2)	10 years
Criminal Trespass Against Children	C RCW 9A.44.106	10 years
Custodial Sexual Misconduct 1	C RCW 9A.44.160	10 years
Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 1	B RCW 9.68A.050	15 years
Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2	C RCW 9.68A.050	10 years

Prepared by SOPB Program Director S. Kehoe-Ehlers on 10/28/10.

SEX OFFENSE	OFFENSE CLASS	REGISTRATION DURATION
Failure to Register as a Sex Offender (First two convictions)	C RCW 9A.44.132	10 years
Failure to Register as a Sex offender (two or more prior FTR convictions)	B RCW 9A.44.132	15 years
Incest 1	B RCW 9A.64.020	15 years
Incest 2	C RCW 9A.64.020	10 years
Indecent Exposure	Misd; Gross Misd.; and Class C RCW 9A.88.010	10 years
Indecent Liberties (with Forcible Compulsion)	A RCW 9A.44.100	Lifetime
Indecent Liberties (without Forcible Compulsion)	B RCW 9A.44.100	15 years
Kidnapping 2 with Sexual Motivation*	A RCW 9A.40.030	Lifetime
Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct	B RCW 9.68A.070	15 years
Possession of Depictions of a Minor Second Degree	C RCW 9.68A.070	10 years
Promoting Sexual Abuse of a Minor	A RCW 9.68A.101	Lifetime
Promoting Travel for Commercial Sexual Abuse of a Minor	C RCW 9.68A.102	10 years
Promoting Prostitution 1	B RCW 9A.88.070	15 years
Rape 1	A RCW 9A.44.040 and 045	Lifetime

SEX OFFENSE	OFFENSE CLASS	REGISTRATION DURATION
Rape 2	A RCW 9A.44.050	Lifetime
Rape 3	C RCW 9A.44.060	10 years
Rape of a Child 1	A RCW 9A .44.073	Lifetime
Rape of a Child 2	A RCW 9A .44.076	Lifetime
Rape of a Child 3	C RCW 9A.44.079	10 years
Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct	C RCW 9A.44.060	10 years
Sexual Exploitation of a Minor	B RCW 9.68A.040	15 years
Sexual Misconduct with a Minor 1	C RCW 9A.44.160	10 years
Sexual Misconduct with a Minor 2	Gross Misdemeanor RCW 9A.44.160	10 years
Sexually Violating Human Remains	C RCW 9A.44.105	10 years
Viewing Depictions of a Minor 1	B RCW 9.68A.075	15 years
Viewing Depictions of a Minor 2	C RCW 9.68A.075	10 years
Voyeurism	C RCW 9A.44.115	10 years

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

To: John Lane, Governor's Office Policy Advisor
From: Shoshana Kehoe Ehlers, SOPB Program Director
Date: July 16, 2010
Re: SORNA 2010 Extension Request Supplement

I. INTRODUCTION

Washington's registration and notification system operates in some ways like SORNA, but goes even further as to who must register. SORNA focuses on the crime the offender committed. Washington also does this, but goes even further in its risk assessment process and looks at the offender's entire criminal history.

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

The following memorandum shows the key areas in the system where SORNA and Washington are similar and some where Washington has gone beyond SORNA's requirements. It then goes on to demonstrate how the critical components of Washington's leveling system are like those within SORNA's tier system

II. SORNA VS. WASHINGTON STATE

- **Sex Offender Website**

Washington State has had an on-line publicly accessible website run by Washington Association of Sheriffs and Police Chiefs (WASPC) for several years.

In 2009, the Legislature passed a law codifying this system, requiring WASPC to establish and maintain the Sex Offender Notification and Registration system (SONAR). The SONAR system is compliant with the Adam Walsh SORNA technology. All 39 Washington State counties are connected.

- **Juveniles**

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

- **Types of offenses requiring registration**

Washington law appears to meet the minimum standards and slightly exceed SORNA concerning who is required to register. We will examine this further during the next extension period.

- **Disclosure of information: registration deadlines and public notification**

Washington's registration deadlines, public request for electronic notification, and community notification meetings comply with SORNA. 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.

- **Address Verification**

Washington now goes above and beyond the SORNA offender registration verification requirement. Washington requires in-person address verification for every sex offender required to register. Law enforcement verifies address and registration information. Frequency is based on level.

  - Level 3: in-person address verification by law enforcement every three months.
  - Level 2: in-person address verification by law enforcement every six months.
  - Level 1: in-person address verification by law enforcement every twelve months.
  - Homeless/Transient: report in-person to the sheriff of the county where he or she is registered, weekly. The offender is required to maintain a list of the locations where he or she has stayed during the last seven days.

III. TIERING VS. LEVELING

Like SORNA, Washington pays attention to the offense in determining an offender's level. Washington's system goes even a step further and uses a comprehensive assessment process where the type of current sex offense and the offender's past criminal history and conduct play a paramount role in establishing an offender's level.

In 2006, the Washington State Department of Corrections (DOC) specifically requested the Washington State Institute for Public Policy (WSIPP) develop a new static risk instrument based on offender demographics and criminal history.[1] DOC made this decision at the recommendation of WSIPP. This recommendation was based on a 2003 study by WSIPP. In 2003, WSIPP analyzed the validity of DOC's risk for re-offense instrument., the Level of Service Inventory-Revised (LSI-R). In the analysis of the LSI-R, WSIPP determined that the LSI-R could be strengthened by including more static information about an offender's prior record of convictions.

In addition to its assessment tool, Washington also uses an offense based system to determine the length of registration. Like SORNA, the *duration* of registration in Washington is offense based. Under SORNA, the more serious the offense, the higher the tier, and the longer the registration duration. In Washington, the more serious the offense class level, the longer the registration requirement. Because Washington uses criminal history in its assessment process, it clearly affects which level the offender will be placed. The below list demonstrates the correlation between offenses and duration of registration in Washington.

- 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

IV. CONCLUSION

During the upcoming extension period, the Washington Sex Offender Policy Board will continue to review the registration and notification system as directed by the state legislature under House Bill 2714 enacted in 2008. Washington is committed to improving its system in furtherance of public safety. In doing so, Washington understands the importance of using an offender's criminal history and examining their current offense when determining their level of risk to the community.

---

[1] See Robert Barnowski and Elizabeth K. Drake (2007). *Washington's Offender Accountability Act: Department of Corrections Static Instrument.* Olympia: Washington State Institute for Public Policy. http://www.wsipp.wa.gov/rptfiles/07-03-1201R.pdf

Adam Walsh Act 2010 SORNA Extension Request

Name of State, Territory or DC: **Washington State**

Date of Request: **June 30, 2010**

AWA/SORNA Point of Contact for your jurisdiction:

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1. **Please describe any proposed or planned legislative activity in your jurisdiction that will assist your jurisdiction to implement SORNA.**

   A. **2010 Legislation**

   Since the SMART Office granted Washington State's first one year extension in June 2009, the Governor of Washington has signed into law legislation to improve public safety against the victimization of sexual assault, by imposing longer sentences and supervision for sex offenders, assisting law enforcement in monitoring and apprehending sex offenders, and disclosing necessary information to the public to assist them in protecting themselves. While each bill addresses different components of the sex offender response system, they share the important goal of preventing future victimization. Washington State was one of the first to implement sweeping changes to sex offender registration and notification laws twenty years ago and will continue to implement necessary law and policy to ensure the public's safety.

   The following pieces of legislation that passed during the 2010 legislative session include: improving the administration and efficiency of sex and kidnapping offender registration and notification; establishing a program to verify the address of registered sex offenders and kidnapping offenders; protecting children from sexual exploitation and abuse by increasing the penalties for offenses related to depictions of a minor engaged in sexually explicit conduct; and increasing penalties for those who commit the following offenses: patronizing a prostitute, promoting prostitution in the 1st and 2nd degree, promoting travel for prostitution, commercial sexual abuse of a minor, or promoting sexual abuse of a minor.

Adam Walsh Act 2010 SORNA Extension Request

- SSB 6414 **Improving the administration and efficiency of sex and kidnapping offender registration and notification**

  - Adopt a tiered approach to the class of felony for a failure to register as a sex offender class C for the first two convictions and class B for the third and subsequent convictions;
  - second and subsequent failure to register convictions will require 36 months of supervision;
  - support codification of law enforcement's in-person address verification program of all sex offenders required to register.
  - standardize all registration requirement deadlines within the registration statute to three business days with few exceptions;
  - change the statute so that a juvenile sex offender's first failure to register offense will not bar them from petitioning for relief from registration; and
  - establish a statutory list of criteria that is illustrative to the judge of considerations that may be important in determining whether an adult sex offender's petition for relief from registration should be granted or denied.

Summary: Business day and disqualifying offense are defined. An offender may not be relieved from registration if that offender has committed a disqualifying offense within the applicable time period. The timeframes for a sex or kidnapping offender to report to the county sheriff are changed to three business days with the exception of a few isolated circumstances. A person who is moving in-state must provide notice by certified mail or in person with the county sheriff.

An offender who is required to register in his or her state of conviction must register in Washington unless the person has specifically been relieved of registration by the state of conviction. A person's duty to register for an out-of-state offense continues indefinitely, but the person may petition after 15 years in the community with no disqualifying offense.

Separate sections address the duration of registration, relief from registration and relief from registration for offenses committed as a juvenile. When the person's duty to register ends by operation of law, the person may request the county sheriff to review his or her records. If the sheriff finds that the person has been in the community the requisite period of time with no disqualifying offense, the sheriff will request that the Washington State Patrol (WSP) remove the person from the sex or kidnapping offender registry.

When determining whether to relieve an adult or juvenile from registration, a list of criteria is provided as guidance for the court to consider, including the nature of the offense, any subsequent criminal history, the offender's stability in the community, and any other factors the court considers relevant.

Adam Walsh Act 2010 SORNA Extension Request

A person who is required to register for an offense committed when the person was a juvenile may be relieved of registration if the person has not committed a new sex or kidnapping offense since adjudication. The person will not be prevented from being relieved of registration if the person was convicted of only one failure to register. However, the person may not have been adjudicated or convicted of a failure to register in the 24 months prior to filing.

- **SHB 2534 Verification of a Registered Sex or Kidnapping Offender's Address.**

Summary: In 2008, the Washington Association of Sheriffs and Police Chiefs (WASPC) implemented a statewide sex offender address verification program. In 2010, the legislature codified this program. The program requires that WASPC:

- 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.

An offender who lacks a fixed residence must keep an accurate accounting of where he or she stayed during the week and provide it to the sheriff upon request.

This program has proven to be very effective in tracking and monitoring offenders. **Between July 1, 2008 through June 30, 2009, WASPC reported that there were 18,636 total registered sex and kidnapping offenders in Washington State. During this time period law enforcement, made 28,031 face-to-face address verifications.** This number reflects duplicative contacts as required; level 3's quarterly; level 2's semi-annually; and level 1's annually. (See Attachment A for further information.)

- **ESHB 2424 Viewing Depictions of a Minor Engaged in Sexually Explicit Conduct.**

Summary: A person is guilty of the offense of Viewing Depictions of a Minor Engaged in Sexually Explicit Conduct if the person intentionally views over the Internet visual or printed matter depicting a minor engaged in sexually explicit conduct. To determine whether a person intentionally viewed such depictions, the trier of fact must consider the following: the title, text, and content of the matter; Internet history; search terms; thumbnail images; downloading activity; expert computer forensic testimony; the number of depictions; the defendant's access to and control

over the electronic device upon which the depictions were found; and the contents of the electronic device upon which the depictions were found.

This legislation clarifies the definition of "unit of prosecution" and reclassifies the seriousness level of a first and second degree offense based on the type of act.

- ***Classifications of the crimes are established as follows:***

  Dealing and Sending or Bringing into the State:

  - First degree – class B felony, seriousness level of VII
  - Second degree – class C felony, seriousness level of V

  Possession:

  - First degree – class B felony, seriousness level of VI
  - Second degree – class C felony, seriousness level of IV

  Viewing:

  - First degree – class B felony, seriousness level of IV
  - Second degree – unranked class C felony

  For the offense of "Viewing", paying to view over the Internet depictions of a minor engaged in sexually explicit conduct is an aggravating factor that supports a sentence above the standard sentencing range.

- ***Unit of Prosecution:***

  In *State v. Sutherby*, 165 Wn.2d 870 (2009), the defendant was charged with 10 counts of possession of depictions of a minor engaged in sexually explicit conduct. At sentencing, the defendant argued that he should be sentenced for only one count of possession.

  The Washington State Supreme Court agreed, holding that the proper unit of prosecution is per possession, rather than per image or per minor depicted. The Court held that the Legislature had proscribed the conduct of possessing child pornography. It noted that "visual or printed matter" is defined as "*any* photograph or other material" and interpreted "any" to include "every" and "all" based on the dictionary definition and previous court cases.

  This new legislation now defines unit of prosecution for Dealing, Sending or Bringing into the State, and Possession is per image for the first degree offenses and per incident for the second degree offenses. The unit of prosecution for

"viewing" is per Internet session, which is defined as a period of time during which an Internet user, using a specific Internet protocol address, visits or is logged into an Internet site for an uninterrupted period of time.

The policy behind this bill is to end the demand of the depictions by penalizing the consumers. Because there are individual victims depicted in each photograph, the legislature decided that there must be a penalty for each image possessed.

- **ESSB 6476 Revising provisions relating to sex crimes involving minors.**

A juvenile charged with prostitution who is also the victim in a commercial sexual abuse of a minor, promoting sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor charge is nevertheless considered a victim of a criminal act.

If a juvenile is alleged to have committed the offense of prostitution or prostitution loitering and this is the juvenile's first offense, the prosecutor must divert the case. For subsequent allegations that the same minor has committed the above offenses, the prosecutor may either file an information in juvenile court or divert the case depending on the type of crime alleged and the level of crime.

Further, starting July 1, 2011, if a juvenile is a sexually exploited child, a petition may be filed alleging the juvenile is a child in need of supervision. A sexually exploited child is defined as any person under the age of 18 who is a victim of the crime of commercial sexual abuse of a minor, and promoting sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor.

Finally, designated receipts from the fines levied on those convicted of commercial sexual abuse of a minor, promoting sexual abuse of a minor, and promoting travel for commercial sexual abuse of a minor that are deposited into the Prostitution Prevention and Intervention Account must be spent as follows: half for secure and semi-secure crisis residence centers to provide for staff trained to work with sexually exploited children and half for funding the grant program to enhance prostitution and intervention services.

B. Current and Future Work

Since the end of the 2010 legislative session, the Board has been working on a number of issues in preparation for the 2011 session. These include:

- Improving the registration and notification laws as they relate to homeless and transient sex offenders.

- Improving the registration and notification laws as they relate to juveniles who commit sex offenses, specifically school notification.

- Improving the leveling (tiering) system of sex offenders required to register.

- Continue mapping Washington State' sex offender management system, along with developing and reporting on benchmarks that measure the performance across the state's sex offender response system.

- Educating stakeholders about the proposals recommended by the Board in the 2009 Report to the Legislature on how to improve the operation of the sex offender management system, including the registration and notification laws.

2. **Please describe any enhancements you will be making to your jurisdiction's public sex offender website or notification programs to address SORNA requirements.**

A. Washington State Public Sex Offender Website

The Washington Association of Sheriffs and Police Chiefs (WASPC) developed the Sex Offender Notification and Registration system (SONAR) for implementation in Washington. The SONAR is designed to be a statewide data system that will:

- allow 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

- allow 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.

Washington State has had an on-line publicly accessible website run by WASPC for several years. The new SONAR system builds on this and is compliant with the new Adam Walsh SORNA technology. All 39 Washington State counties are on the system. Each county inputs data directly into the system. This system allows the public to confidentially register for electronic notifications of when an offender moves into a particular area. SONAR is updated instantaneously throughout the day as offender addresses and other information is provided to WASPC. SONAR can also be easily updated with new law changes. The Department of Corrections and the DSHS Juvenile Rehabilitation Administration are in process of entering pre-release data. This system provides police departments with read access of specialized

information, something that community corrections officers may have in the near future as well.

This system's paramount goal is to increase communication and better track sex offenders moving between counties and states. This is all done in an effort to assist law enforcement agencies in the monitoring of sex offenders and their investigations of non-compliant/absconded sex offenders, and provide the public with the necessary information to ensure their safety. OffenderWatch along with the address verification program has enabled Washington State law enforcement to protect its communities, hold sex offenders accountable, and most importantly prevent future incidents of sexual assault.

B. SOPB 2010 Community Education and Notification Proposals to the Legislature

Over the past 20 years, Washington has revised and adapted the 1990 Community Protection Act as well as modified and enhanced our sex offender management system. Given the intent of the original 1990 Act, and what we know now about sex offenders and community notification, the Sex Offender Policy Board has been tasked with examining the effectiveness of Washington's community notification laws and to make future recommendations to further the intent of enhancing public safety and offender accountability.

Since the last extension request, the Board examined a breadth of research including community notification studies, other states' community notification laws, an exhaustive literature review, as well as statewide community forums in which the following framework emerged as an essential concept when considering the role, efficacy and enhancements to community notification:

- a clear delineation between sex offender registration and community notification must be made; and
- the addition of a separate and distinct community education and prevention component, different from the community notification process.

While the intent of sex offender registration and community notification are similar - increased public safety and offender accountability - these two aspects of the sex offender management system serve very different functions and must therefore be looked at separately.

For the purposes of the Sex Offender Policy Board, sex offender registration includes the risk level assessment and assignment of a Level I, II, or III and the subsequent registration with law enforcement based on the designated level. Community Notification, on the other hand, includes information available to law enforcement,

specific organizations or entities, and the public at large. Community Notification includes the online sex offender registry which details information about the offender, the crime convicted, and the known address where the offender resides. Community Notification also includes legal announcements in local newspapers as well as community meetings in which community members are invited by local law enforcement to learn more about a specific offender located in their neighborhood as well as educational materials to help in the prevention of future sexual violence.

The Board recognizes that community education and prevention is a critical component of the sex offender management system. 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.

It is also very important to draw the distinction between community notification and community education and prevention. 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. Typically 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. Many jurisdictions 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. It is important to recognize this method of communication serves the purpose of informing the public about a specific offender, which is essential, but is not necessarily a means to conduct a public education and prevention campaign.

To address the need for 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.

Since the creation of the Board in 2008, it has been working to analyze the role of community notification within the sex offender management system, and to develop recommendations and best practices to increase the effectiveness of notifying and informing the community about sex offenders in their neighborhood. WASPC's, *Guidelines for Washington State Law Enforcement, Adult and Juvenile Sex Offender Registration and Community Notification,* serves as a model policy for law enforcement in the application of community notification. The Board plans to build

on this as well as create a consistent multi-disciplinary approach to support law enforcement that many areas of the State already use when conducting these meetings.

With the importance of community notification meetings realized, the Board, over the coming months, will continue to seek out and refine best practice models as another engagement method to ensuring public safety while holding sex offenders accountable. The Board recognizes that there is a need for more general education about sex offenders in the community and public safety. The Board has learned that merely informing the public about known offenders in their neighborhoods is only one aspect to preventing future sexual victimization. Advocate involvement in the notification process creates the opportunity to educate citizens about sexual assault and offer help to victims.

As a state we now have almost 20 years of practical information available to analyze and determine the effectiveness of the Community Protection Act and specifically, community notification. We have a wealth of data provided by the Sentencing Guidelines Commission including the number and type of sex offenses by year, geography and age of offender. We also have access to numerous studies conducted by the Washington State Institute for Public Policy (WSIPP) regarding recidivism rates of both adult and juvenile sex offenders. The Board has already relied upon SGC data and WSIPP meta-analyses in developing many of its recommendations.

We now know that most sexual offenders are known to the victim, and not strangers, and that sex offenders have some of the lowest recidivism rates among all offenders. The Board is balancing this new information with current practice, and developing recommendations to further the intent of community notification laws and increase public awareness with community education and prevention strategies. As the Board recommendations emerge and solidify, it will incorporate these changes with identified best practices and research to further refine community notification laws and practice.

3. **Please list any administrative, policy and/or procedural updates your jurisdiction has implemented or is planning to implement to expand information sharing regarding registered sex offenders to other relevant agencies inside and outside of your jurisdiction.**

A. Benchmarks Committee work

The primary purpose of the Board is to make recommendations to the legislature as to how to develop a more coordinated and integrated response to sex offender management to decrease sexual victimization and increase community safety. In furtherance of this and in accordance with statutory direction, the Board created the

Benchmarks Committee to develop and report on benchmarks that measure the performance across the state's sex offender response system.

One of the first tasks of this effort was to begin a process of mapping the sex offender management system in Washington with input from stakeholders. The purpose of this is to demonstrate the myriad of events and activities that can occur from the moment an incident of sexual assault occurs through offender re-entry to the community and the victim's road to recovery. The Board is very close to completing the map. (Please see Attachments B & C ~ Maps of Adult Sex Offender System and Juveniles Sex Offender System.) This map will be posted on the SOPB website where both the public and stakeholders can click on each box to view more detailed information, research and statistics about that particular step and/or component of the system.

Another initial step was to make some general inquiries with major systems players across the State such as victim services, corrections, juvenile rehabilitation and law enforcement to review what data and what evaluative work has been done to date on specific aspects of the sex offender management system in Washington. This process included reviewing data, research (both existing and newly commissioned), surveys, interviews of stakeholders, professional experience, and community input.

Once the map is complete, the Board will continue to review current data, establish a baseline measurement for each component and sub-components of the system and develop measures by which to gauge the success, impact and result of each component. The Benchmarks Committee drafted an example of what this measurement process will look like using the newly adopted registration laws passed by the Washington State Legislature earlier this year. (Please refer to Attachment D.) The Board expects to make proposals regarding performance measures within the next couple years.

B. Registration and Community Notification

The Board directed the Registration and Notification Committee to review research regarding sex and kidnapping offender registration and notification and gather information about the current system in accordance with SHB 2714. In an effort to accomplish this task, the Committee formed three workgroups: Community Notification, Failure to Register/Registration, Leveling, Legislative and Juvenile.

Since the beginning of 2009, these workgroups have met on average met once a month, in addition to the Committee and Full Board meetings. Members of the Board and Committees also traveled to other jurisdictions around the state, including hearing from stakeholders within the sex offender management system in an effort to identify best practices used by these jurisdictions and to gather critical information as to what works in the current sex offender system and what improvements can be

made. In addition to traveling to different areas, the Board and Committees have also been diligent about advertising their meetings on the SOPB website and to interested others, including legislative staff, sex offender housing providers, victim witness coordinators, local law enforcement, sex offender treatment providers, juvenile offender attorneys and advocates, juvenile probation counselors, and mental health providers.

Since the last extension request, the Board and Committee Members spent countless hours engaging in policy discussions, delving into research assignments, drafting memoranda, reviewing research, and engaging in stakeholder forums around the state. Specifically, the Board and Committee members have attended and participated in numerous multi-hour in-person meetings, dozens of teleconferences, and countless email exchanges.

Stakeholder input was particularly valuable to the review and improvement of registration and notification laws. In addition to the monthly meetings of the Registration and Notification Committee and the Sex Offender Policy Board the members facilitated a highly organized day long forum in Central Washington. The dual purposes of this forum was to both listen to stakeholder concerns, as well as share with the stakeholders the purpose of the Board and how they could use the Board as a resource. The Board and the stakeholders also heard from speakers involved in specialized sex offender units of law enforcement and supervision, treatment providers, community organizations that work to provide housing for sex offenders, and victim service providers.

It was clear that there is an on-going need for forums such as this for other counties, as well as a strong communication system for counties to collaborate with each other. The Board will continue to meet with stakeholders, including traveling to other counties within Washington State.

C. SOPB Website

The SOPB website officially went up in the spring of 2009. It is used to notify the public and stakeholders about meetings, forums and victims resources. It also provides a database of written reports and research conducted by the SOPB. The Board plans to continue to use this website as tool to educate the public and provide critical information to the Legislature and Governor's Office.

4. Please describe any collaboration with Indian tribes that may reside in your jurisdiction that will lead to increased compliance with SORNA.

The SOPB participated in the 2010 conference that took place in La Push, Washington where several tribal representatives met to discuss how to comply with SORNA in light

of the differences between Washington State's registration and notification system and the tribes' systems. This is a particularly challenging and unique task for Washington State because there are 29 State recognized tribes and 22 federally recognized tribes in Washington State, many with separate systems. These include several large groups of tribes, including the Confederated Tribes of the Yakama Nation, Colville Confederated Tribes, Chehalis Confederated Tribes, Quinault Nation, and Lummi Nation.

Forty representative groups attended this conference. During the conference a designated tribal attorney reviewed what the tribes must satisfy to comply with SORNA and how this impacts their sovereignty.

There was quite a bit of discussion about the mechanics of coordinating the State and Tribal sex offender registration and notification systems, including where the duty to register will arise for tribal sex offenders and who in the State government will head this. The State and tribes will continue to work on this during the next year.

Washington State is fortunate to already have law enforcement liaison representatives with the tribes as organized by WASPC. This will assist the tribes and the State in improving their communication and developing uniform and consistent policy approaches to sex offender registration and notification.

Finally, the Governor's Office of Indian Affairs can serve as another resource for the State and tribes to discuss how to develop a cohesive and effective sex offender management system. The Governor's Office of Indian Affairs, recognizing the importance of sovereignty, affirms the government-to-government relationship and principles identified in the Centennial Accord to promote and enhance tribal self-sufficiency and serves to assist the state in developing policies consistent with those principles. It helps serves as a liaison between state and tribal governments in an advisory, resource, consultation, and educational capacity.

Conclusion

Despite the time and energy that the Governor's office and Legislature spent making very difficult decisions in proposing bills to resolve a deficit amounting to billions of dollars this past session, both branches were committed to furthering public safety through a variety of legislation. The earlier listed bills were grounded in strong evidenced based research. They were thoughtfully crafted, debated and garnered bipartisan support. The Sex Offender Policy Board, Governor's Office, Legislature and other agencies, involved in the sex offender response system and protection of the community, will continue to work diligently this next year furthering the best interests of public safety by improving and strengthening the sex offender registration and community notification statutes.

Adam Walsh Act 2010 SORNA Extension Request

On behalf of the above-referenced jurisdiction, I hereby request a one-year extension of time to comply with the requirements of Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act, from July 26, 2010 to July 27, 2011.

_____
Signature

Shoshana Kehoe-Ehlers
Print Name

Sex Offender Policy Board Program Director
Title

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

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- 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

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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

Sex Offense	Offense Class	Duration	SORNA Tier
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.

Sex Offense	Offense Class	Duration	SORNA Tier
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