



## Washington State Sex Offender Policy Board History, Projects and Recommendations

The Sex Offender Policy Board (SOPB) duties are as follows:

- Undertake projects to assist policymakers in making informed judgments about issues related to sex offender policy, in response to specific requests from a legislative committee of jurisdiction of the Governor.
- Conduct case reviews on sex offenses as needed to understand performance of the sex offender prevention and response system, or as requested by the governor or the legislative committee of jurisdiction. Reviews shall be conducted in a manner which protects the right to a fair trial.

This document is a brief overview of previous SOPB recommendations, projects, and reports. While every effort is made to keep this document up to date, specific questions or concerns about its contents should be sent to the Board directly.

### 2007

Following the death of Zina Linnik, Gov. Chris Gregoire appointed a task force to review Washington's approach to sex offender management. The task force included seven recommendations in its [final report](#), including a recommendation that the Sentencing Guidelines Commission (SGC) continue their discussion around the most appropriate framework for the sentencing and community supervision of sex offenders. This task force also recommended the creation of the Sex Offender Policy Board.

**Outcomes:** SSB 6596 was later passed, which created the Sex Offender Policy Board and originally housed the Board within the SGC.

### 2008

In 2008 Gov. Gregoire signed [SSB 6596](#), which created the [Washington State Sex Offender Policy Board \(SOPB\)](#) and assigned administrative responsibility to the SGC. The intent of the Board was to promote a coordinated and integrated response to sex offender management and create an entity to respond to issues that may arise.

An area of interest was the pending implementation of Title I of the Adam Walsh Act, the Sex Offender Registration and Notification Act. Implementation of this act would require the integration of federal and state laws, further reinforcing the need to move forward in a way that enhances the state's interest in protecting the community, with an emphasis on public safety.

Later in 2008, the SOPB delivered its [Annual Report](#) which discussed its work plan and the deliberations of its [Benchmarks, Sex Offenders in the Community, and Registration and Notification committees](#).

Following the release of the annual report, the legislature passed [2SHB 2714](#) which directed the SOPB to review Washington state's sex and kidnapping offender registration and notification system. The SOPB directed the Registration and Notification Committee to review research surrounding this topic, and the SOPB created three additional workgroups to manage the various bill components: Community Notification, Failure to Register/Registration/Risk Assessment, and a Juvenile workgroup.

## 2009

In 2009 [ESHB 2035](#) directed the SOPB to review whether registered sex and kidnapping offenders should be required to submit information on any email addresses, as well as websites, they create or operate.

- In response to ESHB 2035, the SOPB created several proposals that represented strong support, though not unanimity, within the group:
  - The Board recommended that no legislative action is needed for the collection of online identifier information;
  - Education and prevention efforts should be focused on vulnerable populations who are subject to grooming and exploitation through the Internet; and
  - The state should continue to look at the requirement for sex offenders to report online identifiers (email address, chat room information, etc.) where there is a direct link between Internet usage and the commission of a sexual offense.

In 2009 the SOPB hosted the first Sex Offender Management System Forum to discuss issues related to sex offender management and learn about the S.T.A.R. (Successful Transition & Reentry) program. The SOPB also facilitated a forum for interagency discussion and collaboration in Everett, Washington.

At the end of 2009, the SOPB delivered its [Annual Report](#) which articulated findings in response to assignments enumerated in 2SHB 2714. Key findings are summarized below:

- The SOPB argued that the key to ensuring public safety is to make well-informed decisions based on the best available research.

- The SOPB identified practical obstacles to implementation of registration and notification laws through stakeholder input, recent court cases, and an in-depth review of the Sex Offender Management System.
- Ongoing coordinated and collaborative efforts are necessary in order to remain appraised of best practices and ensure an efficient and evidence-based system for sex offender management.
- Washington was the first state to enact a sex offender community notification law, the 1990 Community Protection Act. Washington's current system supports public safety by setting community notification standards through the use of a risk-based analysis instead of an offense-based method.
- Finally, the Board noted that empirically validated risk tools (such as the STATIC-99R) 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.

The Board also made several recommendations regarding juvenile sex offenders. 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.

The recommendations were:

- Create separate juvenile and adult registry and community notifications statutes.
- Fund the creation of a validated juvenile risk assessment tool and the corresponding training.
- Repeal 90-day registration check-in for juveniles.
- Change statute so juvenile sex offenders' first failure to register offense will not bar them from petitioning for relief from registration.
- Enact relief from registration and automatic termination for adjudicated juveniles.
- Community notification of juvenile offenders should be based on risk level.

Recommendations regarding adult sex and kidnapping offenders were as follows:

- The use of an empirically validated tool for risk assessment and risk level assignment should continue into the future.
- Statutory criteria for relief from registration for registered sex and kidnapping offenders should be considered and created.
- Repeal 90-day in person reporting requirement and continue with the law enforcement address verification program for adults.

- Tier the class of felony for Failure to Register as a Sex Offender.
- The state should enact a community custody range for first failure to register conviction.
- Finally, the state should provide incentives to offenders by allowing all to petition for relief from registration.

**Outcomes:** [SSB 6414](#) was introduced during the 2010 legislative session and focused on improving the administration and efficiency of sex and kidnapping offender registration. Recommendations from the 2009 SOPB report were used for this bill. Additionally, [SSB 5204](#) was passed in 2011. This bill focused on juveniles who have been adjudicated of a sex offense. Additionally, SSB 5204 asserts that all juveniles should be assigned a risk level by a multi-disciplinary body of experts.

## 2010

The 2010 legislative session introduced and enacted a bill representing the 2009 consensus recommendations of the SOPB — [ESSB 6414](#) – Aiming to improve the administration and efficiency of sex and kidnapping offender registration.

Sen. Jim Hargrove, chair of the Senate Human Services and Corrections Committee, and Sen. Rosemary McAuliffe, chair of the Senate Early Learning & K-12 Education Committee, requested that the SOPB study laws on juvenile sex offenders and school notification, and make recommendations for consideration during the 2011 legislative session. The results of this study, including relevant recommendations, are included in [the Reyes Case Review](#) and are noted below:

- When a juvenile court orders 24/7 supervision as a condition of a Special Sex Offender Disposition Alternative, the court should enter findings about this condition.
- When funding is received, the Washington Association of Sheriffs & Police Chiefs (WASPC) should create a standard form to be used by law enforcement for notification purposes.
- School districts and principals should be notified by law enforcement of a student who is a juvenile offender.
- Law enforcement should provide notice to the school when a student who is a juvenile offender moves or transfers to a new school within the district; when a student changes schools but maintains the same residence; and when law enforcement changes the risk level.
- Parents, the public, and school staff should contact their local law enforcement agency for information related to a particular juvenile adjudicated of a registrable sex offense.

- All schools should be statutorily required to have policies and procedures in place for students who have been adjudicated or convicted of a registrable sex offense and the provision of a safe learning environment for all students.

Legislators also requested that the SOPB research issues including “sexting”; posting sex offender supervision conditions on the public registry website; registration fees for sex offenders and the collection of online identifiers. On these issues, the SOPB recommended the following:

### **Sexting**

- The state should develop an educational campaign for parents and teens on the dangers of distributing sexually explicit images through electronic means. The SOPB does not recommend any modification to statutes to specifically address sexting.
- The state should utilize current means, such as sexual motivation enhancement, to address sexting behavior if it is determined to be related to sexual offending. Issues to consider when determining what qualifies as potential offending behavior are a history of sexual offenses, whether charged or uncharged; use of force, threats, coercion or illicit substances to obtain photos; age and power differences between the parties involved.

### **Posting sex offender conditions online**

- The SOPB recommended including on the public registry website whether the registered sex offender is on supervision.

### **Registration fees for sex offenders**

- The SOPB asked that the state not enact legislation that imposes a fee on sex offenders required to register.

### **Online identifiers**

- The Board recommended that the state provide internet safety and sexual violence prevention information to parents and children in lieu of collecting online identifying information from registered sex offenders.

In 2010 the SOPB also developed [maps of the adult and juvenile sex offender management system](#), both pre- and post-conviction, in an effort to provide a visual aid for those researching the process.

## 2011

In 2011 the SOPB established the [Sex Offender Policy Board Case Review Procedure](#). This procedure was put in place to ensure a fair and effective case review process for the future. Additionally, [ESSB 5891](#) was enacted and moved the SGC and the SOPB to the Office of Financial Management.

## 2012

In 2012 the SOPB amended its [Bylaws and Policies](#) to reflect changes in duties as well as articulate updated policies and procedures.

It was later requested that the SOPB conduct a [case review of Jeremiah Thompson](#), a registered sex offender in Clark County. That case review included the following recommendations:

1. Risk to the community and the need for services, not just the crime of conviction, should be taken into consideration for determining when parole should be imposed.
2. Under best practices and the Office of Superintendent of Public Instruction (OSPI) model policy on release of information concerning student sexual and kidnapping offenders, the principal maintains responsibility for the management of sex offenders and the safety of all students in attendance. It is appropriate for the principal to share information with applicable parties when necessary to ensure safety.
3. With the state's ongoing efforts to establish and maintain consistent practice, training for school personnel on juvenile sex offenders, including the sex offender management system, risk and offender levels, should be developed and offered.
4. School districts should be required to adopt a sex offender management policy based on the OSPI model policy and then post the policy on the OSPI website by a specific date.
5. Further research should be conducted on the effectiveness of sex offender notification and registration for juveniles who have committed sex offenses.

In 2012 the SOPB was also asked to [review Washington's policy on sex offense statute of limitations in the context of best practice and effectiveness](#). Several questions were presented, with responses from the Board. While some of the questions were left unanswered due to the lack of available literature, the SOPB did determine that Washington was using many of the best practices identified by the Center for Sex Offender Management. Furthermore, the Board was unable to find information regarding the request for

information on the state's statute of limitations in child sex offense cases (as related to successful civil action by victims). In all, the Board offered the following recommendations:

- The SOPB recommended that all statutes of limitations for victims of sexual assault, who are under 18 years of age (or age of majority), are 10 years plus the age of majority or up until the 28<sup>th</sup> birthday, whichever is longer.
- The SOPB also called for a revision to the civil statute of limitations for sexual assault crimes, based on policy alone, rather than in combination of clear and convincing research.

## 2013

In October 2012, the Senate Human Services & Corrections Committee asked the SOPB to review the Special Sex Offender Sentencing Alternative (SSOSA). The request looked at four core areas, including:

- Victim's input and the granting of a SSOSA despite a victim's objections
- What consistencies or inconsistencies exist between jurisdictions as they determine an offender's 'amenability to treatment'
- Results of (or how effective is) a SSOSA disposition
- Any recommendations for improvements to the SSOSA process

To answer these questions, professionals from different parts of the SSOSA system (defense attorneys, prosecutors, judges, certified treatment providers) were surveyed about their experiences with the SSOSA disposition process. A variety of governmental bodies (Department of Corrections, Victim /Witness) provided financial information related to the costs and effectiveness of the SSOSA program. The SOPB observed that in the 20+ years since SSOSA was created, the science of risk assessment and treatment provision had grown significantly. "Sex offenders granted a SSOSA continue to have very low recidivism rates and have demonstrated to be at the lowest risk for re-offense among sex offenders. The SOPB urges the legislature to consider the advances made over the past twenty years and to adopt a risk management approach in considering SSOSA for offenders."

In addition, the SOPB compared the costs of incarceration to the costs of SSOSA. The review took into account the 15% of SSOSA offenders who revoke (the vast majority are revoked for offenses other than sex crimes). The financial savings for community treatment versus years of incarceration and then treatment were significant.

In December 2013, the SOPB released a [full report](#) which concluded, in part:

Sex offenders who complete SSOSA have the lowest recidivism rate of sex offenders across sex offense categories (felony and misdemeanor). Additionally, offenders who complete a SSOSA have lower recidivism rates than otherwise SSOSA eligible incarcerated offenders. This reduced recidivism rate is demonstrated across felony, felony sex, violent felony and felony sex crime charges. The efficacy of the SSOSA program is demonstrated in reduced recidivism rates, low revocation frequency, and significant cost savings to the state.

Revocation rates of SSOSA at an average of 16 percent. A revocation of SSOSA does not indicate that an offender sexually recidivated. Rather, a SSOSA can be revoked for any violation of rules imposed, such as substance use or failure to register. In fact, data show that only 3.8 percent revoke for felony sex crime recidivism.

The report offered the following recommendations:

1. The state should reinstate Department of Corrections (DOC) supervision to the length of the suspended sentence (pre 2001), thus eliminating lifetime supervision for non-revoked participants.
2. The state should reinstate and fund the Sex Offender Treatment Advisory Committee.
3. Clarify the SSOSA statute language and/or emphasize adherence to the statutory language on known offenders.

The SOPB also provided two other concepts for consideration and possible future study: creation of a sentencing alternative similar to the Drug Offender Sentencing Alternative (DOSA), and the possibility of including users of child sexual abuse images under SSOSA.

## 2014

In 2014 the SOPB convened a work group to review policies related to the release and housing of sex offenders in the community. The SOPB filed a [final report](#) on the matter, which included the following recommendations:

1. The Board recommended that there be no expansion of residency restrictions for sex offenders in Washington. The SOPB's review of literature found no evidence to support the effectiveness of residency restrictions.
2. The Board also stated that stakeholders should continue to expand public awareness of and access to information on registered sex offenders in the community. It is important that education and awareness efforts are clear and factual regarding sexual victimization and sex offenders.
3. The state should continue development and standardization of notification procedures for law enforcement to ensure information is shared with city, county and municipal

officials. Clear, transparent and timely communication between DOC and law enforcement is key.

4. DOC should be responsible for educating communities through the sharing of information on processes, practices and laws related to the release and transition of sex offenders from prison to communities. Information should include the housing voucher program and release planning. Updated legislation on the release of offenders must be shared with multiple stakeholders.

2015

[Chapter 261, Laws of 2015 Section 16 \(ESSB 5154\)](#) directed the SOPB to make recommendations on the following items:

- Related to the disclosure of information which has been compiled and submitted to sex and kidnapping offender registries, to the public;
- The relationship between chapters 42.56 and 4.24.550 RCW;
- Best practices adopted or under consideration by other jurisdictions on disclosure of sex offender registry information;
- Ability for sex and kidnapping offenders to petition for review of their risk level classification whether that petition should be conducted according to a statewide uniform standard; and
- Whether and how public access to the guidelines can be improved.

The following recommendations were made by the SOPB in their final report:

- Washington's comprehensive statutory scheme controlling the release of information to the public on sex and kidnapping offenders contained in RCW 4.24.550 has worked well since its inception.
- RCW 4.24.550 should be considered an "other statute" under RCW 42.56.070. Washington's Public Records Act requires agencies to produce public records upon request "unless the record falls within the specific exemptions of this chapter, or any other statute which exempts or prohibits disclosure of specific information or records." See RCW 42.56.070.
- Release of Level I sex and kidnapping offender information is the equivalent to broad-based community notification, which is generally reserved for higher risk sex and kidnapping offenders. This would functionally eliminate Washington's tiered risk-level approach to community notification which the Legislature and many other stakeholders have worked diligently for 20 years to develop, implement and improve.

- The widespread dissemination of Level I offender information would have a deleterious effect on victims who are often known or related to offenders or otherwise connected with offenders.
- This release would particularly impact the Level I offenders who have not been subject to community notification or the widespread dissemination of their sex and kidnapping offender registration information.
- The social science research reviewed by the SOPB indicates that widespread dissemination of information collected for all sexual offenders often has the unintended consequence of creating obstacles to community reentry that may actually undermine, rather than enhance, public safety.
- The widespread dissemination of Level I offender information would have even greater collateral consequences for low-risk juvenile offenders and their families. Juvenile sex offenders already have many challenges reintegrating in society and this would be another obstacle. The release of their information would likely negatively impact a variety of known risk factors, which may ultimately increase their risk for participating in criminal behavior.
- Widespread dissemination of sex and kidnapping offender registration information would undermine the legal rationale for upholding the constitutionality of sex and kidnapping offender registration and notification adopted by the Washington Supreme Court.
- The SOPB recognizes that adults and juveniles are different in countless ways. Many states acknowledge these differences in their statutes on sex offender registration and community notification and treat juveniles differently. The SOPB believes this issue warrants additional consideration by Washington policymakers.

In regards to the ability for offenders to petition for review of risk-level classification and whether the process should follow a statewide uniform standard, the SOPB recommended the following:

- The availability of a sex offender risk-level review process assists in maintaining a consistent approach to sex offender management.
- Criteria for risk-level determinations should be based on research and linked to risk in the community.
- The SOPB supports the concept of each county having an established process to review the risk-level classification level when requested by an offender registered in its jurisdiction.
- The SOPB requests that it be authorized to develop best practices for a process and criteria on a sex or kidnapping offender's request for assigned risk-level classification review.

- Each law enforcement agency should have an established process to accept and review a petition for risk level classification and use criteria to change the level which is supported by current research. In addition, the SOPB asks that WASPC amend its model policy to recommend that each law enforcement agency adopt a process; that WASPC assess which agencies have a process, what the process is, and share the results with SOPB by December 1, 2016.

Finally, the SOPB made the following recommendations as to whether or not and how public access to guidelines can be improved:

- The guidelines established under RCW 4.24.5501 are available to the public via the following online locations
  - <http://www.waspc.org/sex-offender-information>,
  - <http://www.waspc.org/model-policies>,
  - [http://sheriffalerts.com/cap\\_safety\\_1.php?office=54528](http://sheriffalerts.com/cap_safety_1.php?office=54528)
  - This item is informational, and the SOPB does not request any additional action by the legislature.

**Outcomes:** The SOPB is still working on completing tasks assigned in reference to SSB 5154.

## 2016

In late 2015 the Board received a letter from the Governor tasking the Board with several items:

1. Provide summaries of Washington State's current sex offender registration and notification statutes and practices to assist policymakers in evaluating proposed legislative changes;
2. Evaluate Washington State's sex offender registration and notification statutes and the Sex Offender Registration and Notification Act (SORNA) established under Title 1 of the Adam Walsh Child Protection and Safety Act of 2006 to determine which requirements the state has yet to adopt;
3. Survey other states to determine how they have aligned their systems to meet the requirements of SORNA;
4. Offer recommendations as to how the state should proceed in moving further into compliance with SORNA or, if the SOPB determines that it is not in the best interest of the state to adopt a requirement of SORNA, offer an analysis as to why;
5. Offer recommendations as to other changes in sex offender registration and notification statutes that further advance the safety of the public; and
6. Offer recommendations as to other issues related to sexual offending that the SOPB determines could advance the safety of the public through further study.

The Board began much of the work on these items beginning in 2016, and this work continues as of this writing. In regards to item #1, the Board completed a survey of RSO Coordinators in the summer of 2016. This survey asked participants to respond to questions regarding the processes in

place for leveling offenders and using risk assessments within the community. A report with this survey's findings is available upon request.

For item #2, the Board created a working chart which details the 14 indicators set forth by SORNA, and Washington's current compliance level with those. As this chart evolved, the Board added recommendations to it, and then created a report which addressed item #2, as well as item #4. Though the Board made attempts to research processes in other states (item #3) this was difficult as the SMART Office was unable to provide documentation of other states' practices.

Finally, items #5 and #6 are currently being addressed by the Board. Discussions are ongoing, and the Board hopes to have a full report with general recommendations available to the Governor by early fall 2016.