

# **Community Notification in Washington State: Decision-Making and Costs**

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# Community Notification in Washington State: Decision-Making and Costs

## EXECUTIVE SUMMARY

Washington State's Community Protection Act includes a provision allowing public officials to warn communities about potentially dangerous sex offenders when they are released from incarceration.

The statute does not specify how dangerousness is to be assessed, nor does it establish methods for notification. Local jurisdictions, therefore, have implemented the law in a variety of ways.

This paper describes how local jurisdictions determine, with assistance from the state, which sex offenders are dangerous, and how they notify the public. A sample of jurisdictions were contacted to ascertain their decision-making procedures and costs.

The key findings are as follows:

- **Legal Parameters:** Washington State court decisions have provided a framework for the law's implementation.
- **Risk Assessment:** The state plays a significant role in assessing the dangerousness of sex offenders released from prison and other state facilities. This assessment increases the uniformity of local decision-making.
- **Costs:** Local costs associated with community notification have varied greatly. In some jurisdictions, sex offenses receive a higher priority than they received prior to the law and additional personnel have been allocated. Other jurisdictions have implemented the law within existing resources.

# Introduction

Washington State's 1990 Community Protection Act includes a provision allowing public officials to warn communities about potentially dangerous sex offenders when they are released from incarceration.

The law does not determine how "dangerousness" is to be assessed, nor does it dictate how notification should occur. Law enforcement and school officials across the state have implemented community notification in a variety of ways.

This paper reviews the legal parameters, implementation procedures, and costs involved in the community notification process for ten local governments.<sup>1</sup>

Section I discusses the legal parameters of notification in Washington State, outlining the statutory framework and case law. Section II explains how state and local officials determine the relative risk of sex offenders. Section III describes how officials distribute information to the community. Section IV discusses issues following a notification, including community response, and law enforcement monitoring and follow-up. Section V addresses cost issues. The Appendix includes tables summarizing notification procedures of local governments and examples of notification bulletins.

# I. Legal Parameters

Washington's community notification law was the first of its kind in the nation. The law specifically authorizes public officials to release an offender's name, photograph, and other identifying information. Officials are provided immunity from civil liability as long as the released information is "relevant and necessary" to protecting the community.

The Washington legislature justified this type of notification because "sex offenders pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is a paramount governmental interest." They also found that "the penal and mental health components of our justice system are largely hidden from public view and that lack of information from either may result in failure of both systems to meet this paramount concern of public safety." Therefore, the legislature concluded that the release of information about sexual predators to public agencies and, under limited circumstances, to the general public, would increase public safety.<sup>2</sup>

Since the law's passage, case law interpretations and legislative amendments have helped clarify the following questions:

## ***Who Should be the Subject of Notification?***

In March 1994, a Washington State Supreme Court opinion clarified that a disclosing agency or official:

*"must have some evidence of an offender's future dangerousness, likelihood of reoffense, or threat to the community, to justify disclosure to the public in a given case. This statutory limit ensures that disclosure occurs to prevent future harm, not to punish past offenses."*<sup>3</sup>

## ***What Should be Disclosed to the Community?***

Officials must exercise discretion when deciding to release sex offender information to the public. The legislature stated that:

*"Public agencies are authorized to release relevant and necessary information regarding sex offenders to the public when the release of the information is necessary for public protection."*<sup>4</sup>

In determining what information to disclose, the Supreme Court set the standard as “relevant and necessary.”

*“This standard imposes an obligation to release registrant information reasonably necessary to counteract the danger created by the particular offender . . . An agency must disclose only that information relevant to and necessary for counteracting the offender’s dangerousness.”<sup>5</sup>*

### **Who in the Community Should be Notified?**

The focus of notification must “rationally [relate] to the furtherance” of the goals of public safety and the effective operation of government.<sup>6</sup>

*“Accordingly, the geographic scope of dissemination must rationally relate to the threat posed by the registered offender. Depending on the particular methods of an offender, an agency might decide to limit disclosure only to the surrounding neighborhood, or to schools and day care centers, or, in cases of immediate or imminent risk of harm, the public at large. The scope of disclosure must relate to the scope of the danger.”<sup>7</sup>*

### **When Should Notification Occur?**

In the original legislation, no timeframe was specified for a notification. The 1994 Legislature addressed timing, directing law enforcement to release notification information at least 14 days prior to the offender’s release, whenever possible. This advance notice is intended to allow adequate time for the public to prepare.

*“The legislature . . . finds that if the public is provided adequate notice and information, the community can develop constructive plans to prepare themselves and their children for an offender’s release. A sufficient time period allows communities to meet with law enforcement to discuss and prepare for the release, to establish block watches, to obtain information about the rights and responsibilities of the community and the offender, and to provide education and counseling to their children.”<sup>8</sup>*

## II. Risk Assessment

The first step in community notification is determining *which* released sex offenders pose a significant risk to the community. In Washington, this assessment is initially made by state officials.

### ***End of Sentence Review Committee***

The 1990 bill authorizing community notification was an omnibus package, also covering civil commitment for a small group of extremely dangerous sex offenders. In order to assist prosecutors in identifying sex offenders who met the definition of a sexually violent predator, the law directed the Department of Corrections to review the files of sex offenders who were sentenced during a specific time period, and were soon to be released, and determine whether any met the statutory definition of a sexually violent predator.<sup>9</sup> If so, the Department was to contact the prosecutor's office where the conviction occurred, and recommend that a petition for civil commitment be filed.

As Department officials implemented this review, a structure was created that ultimately served as the state's risk-assessment vehicle for community notification. The End of Sentence Review Committee was established for this purpose; it is an interagency committee, chaired and staffed by the Department of Corrections, which meets once each month to review all sex offenders (and other violent offenders) due to be released from prison, juvenile facilities, and the state mental hospital (those found guilty by reason of insanity).<sup>10</sup> The Committee assesses the offender's future dangerousness, likelihood of reoffending, and threat to the community. Offenders are tagged for review upon admission to the state institution. The review is conducted eight months prior to release.

An End of Sentence Review Packet is prepared for all adult prisoners who have been convicted of a sex offense, a sexually-motivated offense, and/or are considered a high risk to commit a violent offense based upon present threats or known potential victims. The packet includes: criminal history summary, psychological evaluation, presentence investigation(s), and other relevant information.<sup>11</sup>

The Committee may choose to take the following actions:

- Refer the offender to the prosecuting attorney for possible court action under the sexually violent predator law.<sup>12</sup>
- Alert local law enforcement about offenders who may be of special interest to them due to the nature of their crime and/or current behavior.
- Alert Child Protective Services about offenders who will be living with children.
- Notify individuals who have been the subject of threats by the offender.
- For offenders with developmental disabilities and/or mental health issues, explore programs operated by the Department of Social and Health Services and community mental health care providers.

### ***Law Enforcement Notification***

This section will describe the Committee's alerts to law enforcement in some detail, since they often trigger the first consideration of a public notification.

Three types of notifications are sent to law enforcement:

- ***Teletype notifications*** provide the name, release date, description, residence, and conditions of release for each offender being released to a jurisdiction. This information helps local law enforcement determine which offenders require immediate attention.
- ***Special Bulletins*** are used to alert law enforcement of *convicted* sex offenders whose behavior/history is *predatory*.<sup>13</sup> These offenders are considered to be a high risk for reoffense.
- ***Law Enforcement Notification Bulletins*** are used to alert law enforcement of the release of *high-risk offenders who may or may not be convicted sex offenders*. This category may include: offenders who were originally arrested for a predatory sex offense which was plea-bargained to a non-sex offense, dangerous mentally-ill offenders, and/or offenders who present a threat to law enforcement or to the community based on past or current criminal behavior.

The Department of Corrections *does not* issue these bulletins to the public, and they are not to be issued by law enforcement for direct public dissemination. The bulletins are written for law enforcement and often contain graphic information and facts that may be inappropriate for the general public. Law enforcement agencies use the bulletins as a basis for their community notifications. A variety of formats are used by law enforcement for their notification flyers. (See Appendix II for examples.)



Special Bulletins summarize the individual's offense record, behavior while institutionalized, treatment history, and relative risk of reoffense. A current photo, physical description, and date of birth are included, as well as a copy of the Order of Release and the Presentence Investigation (see Appendix II for sample bulletins). Bulletins are targeted for publication 30 days prior to the offender's release. The bulletin may be delayed in some cases—for example, if the offender is not mandated by law to have release supervision and fails or refuses to provide an address.

Special Bulletins and Law Enforcement Notifications are issued to: the prosecuting attorney of the county of conviction, the police chief and sheriff where the offender will reside, the community corrections officer, and the Homicide Information Tracking System.<sup>14</sup>

From 1990 through May 1995, the Committee reviewed 2,941 offenders. They issued 571 Special Bulletins and 137 Law Enforcement Notification Bulletins during this time period.<sup>15</sup>

### ***Risk Assessment by Local Law Enforcement***

An alert from the Committee often triggers local law enforcement to consider whether a notification is appropriate.

Jurisdictions vary in their approach to this task. Many jurisdictions rely primarily on the state's assessment. Others supplement the state's assessment with additional investigatory work. Thurston and Snohomish counties, for example, have full-time detective(s) devoted to independently assessing each registered sex offender.

An interagency committee is used in some jurisdictions to conduct risk assessment. In Yakima County, agency representatives from the city and schools meet with county law enforcement to determine the offender's risk level. Clark County also has an interagency committee, with members from the city, state, and county.

Some jurisdictions have developed their own rating scales for assessing dangerousness. These evaluations are based on factors such as: the offender's criminal history, treatment history, psychological profile, and victim profile. (Appendix III shows examples of these assessment tools.)

The next section describes the procedures for notification following risk assessment.

### III. Notification Procedures

The law does not specify a notification system, but most jurisdictions rely on the recommended approach from the Washington Association of Sheriffs and Police Chiefs.<sup>16</sup> This “recommended policy on notification” involves choosing a level of notification based on an offender’s predicted risk of reoffense: low risk (Level I), moderate risk (Level II), or high risk (Level III).<sup>17</sup>

- **Level I:** Information is maintained within the local law enforcement agency, and disseminated to other appropriate law enforcement.
- **Level II:** Includes actions taken for Level I, and may include notifying community groups and schools.
- **Level III:** Includes actions taken for Levels I and II, and may include notifying the general public.

These notification levels are *general guidelines*; in practice, jurisdictions vary in their notification systems depending upon their needs and resources. For example, many jurisdictions notify neighbors as well as community organizations in a Level II notification.

The two most common methods for Level III notifications are:

- **Flyers and press releases:** Officials in large, heavily-populated jurisdictions tend to rely on press releases or flyers that can be mailed to neighbors, community agencies, schools, media, and/or other law enforcement agencies.

Most flyers and press releases describe the offender’s history and pattern of obtaining access to victims. This information is intended to help the public assess the offender’s risk with more precision than is possible when someone is identified simply as a “sex offender.”

The production and distribution of flyers and press releases are frequently handled by staff other than the detectives. In Bellingham, for example, the police department’s Crime Analysis Section makes the flyers, while Seattle produces and mails bulletins through the police department’s Crime Prevention Office. In the City of Yakima, staff from the public schools design and distribute flyers via school children to their parents.

**Door-to-door visits:** Detectives in several counties and cities make personal visits to neighbors and community agencies within the offender's prospective neighborhood.

Other jurisdictions augment these two methods with **community meetings**. These meetings are intended to provide information about the offender, discuss methods for protecting the community, and in some cases, to meet the individual.

In Snohomish county, Level III notifications always include the announcement of a scheduled public meeting. These meetings are facilitated by the Public Information Officer from the Snohomish county sheriff's department, one detective, and one representative from the Department of Corrections. The offender is also invited to attend. The meeting is held in a public facility, usually a school, and is generally attended by 200 to 300 people (attendance has reached 400). To date, the county has held approximately ten such meetings.

Several jurisdictions tailor notifications to individual circumstances, attempting to notify people most likely to be at risk from the individual's presence. For example, for one individual with a history of aggression against prostitutes, King County officers posted flyers in high-prostitution districts.

Table 3 in Appendix 1 details the notification procedures for the example counties.

### ***Juvenile Sex Offenders***

The Department of Social and Health Services must notify several agencies when a juvenile sex offender who was committed to the state is released from a correctional or mental health facility. These agencies include:

- **Law enforcement,**
- **School district board of directors** of the district in which the offender will reside, and
- **Victims/witnesses** of the particular case, if notice was requested.<sup>18</sup>

Because most juveniles are still of school age, community notification regarding these individuals is often directed toward school personnel, students, and parents. Several school districts have adopted specific policies regarding notification.<sup>19</sup>

## **IV. Monitoring in the Community**

### ***Community Response to Notifications***

Once law enforcement has informed the community about a released sex offender, their involvement does not cease. Frequently, time is spent responding to citizen inquiries. A recent notification in King County resulted in approximately 500 phone calls from concerned citizens; in addition to the two clerks who answered those calls, over 70 hours of officers' time was needed to respond to concerns. In some cases, speaking engagements are arranged with citizen groups to discuss safety measures and explore ways that citizens can assist law enforcement by monitoring identified individuals and not harassing them.

### ***Monitoring and Follow-up***

In some jurisdictions, officers maintain regular contact with all registered sex offenders, including the subjects of notification. Thurston County detectives attempt to visit all registered offenders at least once each year—more frequently for Level II and III offenders. Clark County also makes regular home visits to Level II and III offenders, as often as monthly for Level III offenders.

The city of Bellingham has asked individual patrol officers to “adopt” one or two registered sex offenders and maintain periodic contact with them. Reserve officers make home visits to verify offenders' addresses in Yakima and Spokane counties.

Other jurisdictions do not maintain regular contact with registered offenders. Garfield county, for example, has a small population and a small offender caseload; word-of-mouth takes the place of formal notification procedures and monitoring. An offender would be visited by an officer only if an issue were to arise. In contrast, the largest county, King County has over 1,900 registered sex offenders. Each law enforcement agency in King County handles their contacts with sex offenders differently, from phone calls, to certified mail, to face-to-face contact.

### ***Violations of Sentence Conditions***

When offenders are released in Washington State, they typically are subject to one to three years parole. Parole conditions include “crime-related prohibitions,” which for sex offenders typically include: no unsupervised contact with children, no possession or perusal of pornography, and no contact with prior victims. Those who are the subject of community notification are typically monitored more closely than the majority of released offenders; thus, violations of sentence conditions are more likely to be observed.

## V. Costs

Representatives from other states frequently ask about the costs of Washington's community notification law. This section addresses both state and local costs.

### STATE COSTS

The state's costs for community notification are primarily those related to the End of Sentence Review Committee. The Committee staff consists of 3.5 FTEs.<sup>20</sup> Of those positions, 1.5 are dedicated to law enforcement notifications including 1 full-time correctional program manager, and 1 half-time secretary.

### LOCAL COSTS

Table 1 of Appendix 1 summarizes the local costs for the eight jurisdictions surveyed, *not* including personnel costs. Table 2 shows the personnel assigned to notification, the number of registered sex offenders, and the number of notifications.

### NOTIFICATION COST SCENARIOS

Several factors influence the cost of implementing community notification, particularly the *population* of the area and the *policy decisions* of local law enforcement. Scenarios for modest- and higher-cost community notification procedures are outlined below.

#### ***Modest-cost scenarios***

- 1 Low cost due to small population.** The community is small, news travels quickly by word of mouth, and the number of sex offenders required to register is very small. The county sheriff keeps the registration information on file, to release to any citizen who asks to see it, but notification is handled informally. **Costs: *virtually none.***
- 2 Low cost due to policy decision.** The law enforcement agency serves as an information repository. The classification decision is simplified by relying on information supplied by the State Patrol, the Department of Corrections, and other agencies, and by reviewing for classification only those offenders who come to the agency's attention through a Special Bulletin or other reason for concern. Any releases deemed necessary are done in a standard manner, such as through schools or press releases, with minimal postage costs and officers' time.

After the offender registers and any notification is done, law enforcement has minimal to no regular contact with the offender, unless prompted by community concern or reoffense.

**Costs: variable.**

### ***Higher-cost scenarios***

- 1. Higher cost due to large population and other uncontrollable factors.** Factors beyond the agency's control can increase costs, regardless of policy choices. The size of the community and the number of registered sex offenders residing there are major factors. A large caseload of offenders, many concerned citizens, and complex networks of community agencies can all translate into greater demands on law enforcement officials' time.
- 2. Higher cost due to policy decision.** Public officials can elect to make community notification a high priority. Officers can be assigned to this responsibility, and actively monitor the county's population of convicted sex offenders. The county may devote staff resources to investigation into the background of offenders due for release, allowing a risk assessment that can be combined with the state's review. Officials may use mapping software and query database systems to track offenders' whereabouts and behavior.

Officials may spend time tracking offenders after notification, investigating leads on the offender's behavior and/or harassment by community members. Or, they may take time to tailor each release to reach the citizens most likely to be at risk from a particular offender. The agency may invest in equipment and/or software. Notifications may be made in person by one or more officials, with flyers and/or press releases as additional means to be used as necessary. **Costs: 1+ FTEs; startup costs for hardware and software.**

# FOOTNOTES

<sup>1</sup> Benton, Clark, Garfield, King, Snohomish, Spokane, Thurston, and Yakima counties, and the cities of Seattle and Bellingham were surveyed. These jurisdictions were selected to reflect population diversity as well as eastern and western, urban and rural variety in this state.

<sup>2</sup> RCW 4.24.550 note, "Finding - Policy - 1990 c 3 s 117."

<sup>3</sup> State v. Ward, 123 Wn.2d 488, 503 (1994); see also State v. Taylor, 67 Wn. App. 350 (1992) and In re Estavillo, 69 Wn. App. 401, review denied, 122 Wn.2d 1003 (1993).

<sup>4</sup> RCW 4.24.550.

<sup>5</sup> Ward, 123 Wn.2d at 503.

<sup>6</sup> Laws of 1990, Chap. 3, Sec. 116.

<sup>7</sup> Ward, 123 Wn.2d at 503-04.

<sup>8</sup> SHB 2540 Sec. 1 (1994).

<sup>9</sup> Offenders sentenced between 1984 and 1988 had no parole supervision term following release. For that time period, the legislature's policy was to view adult felony sentences as completed when incarceration was over.

<sup>10</sup> The End of Sentence Review Committee also includes members from the Department of Social and Health Services and the Indeterminate Sentence Review Board. The Committee is assisted by the Criminal Division of the Attorney General's Office.

<sup>11</sup> Source: Department of Corrections' Policy Number 350.500.

<sup>12</sup> RCW 71.09.

<sup>13</sup> The Committee derives its definition of predatory from the state's sexually violent predator statute: sexual "acts directed toward strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization." (RCW 71.09.020)

<sup>14</sup> Source: Department of Corrections, Division of Offender Programs memorandum, "Provisions for Notification of Release," September 16, 1993. The Homicide Information Tracking System (HITS), a computerized tracking system operated by the Attorney General's office since 1987, is used to collect and analyze detailed information regarding homicides, predatory sex offenses, and other violent crimes.

<sup>15</sup> Source: Maureen Ashley, Washington State Department of Corrections, Division of Offender Programs, June 5, 1995.

<sup>16</sup> Source: *Community Notification: A Survey of Law Enforcement*, Washington State Institute for Public Policy, December 1993.

<sup>17</sup> Source: Memorandum to all Washington State law enforcement agencies, from Sheriff Larry Erickson, Washington Association of Sheriffs and Police Chiefs' Past President, regarding "Recommended Policy on Community Notification Sexual Predator Statute," May 21, 1990.

<sup>18</sup> RCW 13.40.215

<sup>19</sup> Sheila Donnelly and Roxanne Lieb, *Community Notification: A Survey of Law Enforcement*, December 1993, Washington State Institute for Public Policy.

<sup>20</sup> Full-Time Equivalents.

***\* Please Contact the Institute for Public Policy for a complete publication with appendices.***



