



## Internet Stings and Operation Net Nanny

*Revised September 25, 2023 for technical corrections*

In May 2021, the Washington Legislature directed the Washington State Institute for Public Policy (WSIPP) to conduct a study of Washington State Patrol’s (WSP) Operation Net Nanny.

Operation Net Nanny (“Net Nanny”) is an internet sting operation that has been active since August 2015. Net Nanny is designed to apprehend adults who use the internet to solicit sexual activity with minors (i.e., under age 16).<sup>1</sup>

The legislative assignment specified that WSIPP’s study must include a description of the current research on internet sting operations and a comparison of individuals convicted through Net Nanny with individuals convicted of child sex offenses through other avenues.

To address this assignment, we review academic research on internet sting operations and analyze data on individuals convicted of child sex crimes. We do not evaluate whether Net Nanny is effective at reducing crime or investigate the exact methods that WSP detectives use to make arrests.

### Summary

There is limited research on internet sting operations. It is unclear whether these operations are effective at deterring or reducing crime.

Using administrative data, WSIPP examined 299 Net Nanny arrests made between August 2015 and September 2022. Most arrests (96%) came from one of two sting scenarios.

Scenario #1 (57%): Undercover officers posed online as a minor posting personal ads on dating websites or internet forums.

Scenario #2 (39%): Undercover officers posed online as a parent seeking adults to engage in sexual activity with their children.

WSIPP compared two groups: 1) individuals with Net Nanny cases that resulted in conviction and 2) individuals with cases from the same time period that resulted in conviction for similar offenses (not Net Nanny).

Individuals in both groups exhibit similar demographic characteristics and criminal history. On average, across these specific measures individuals convicted through Net Nanny resemble people convicted of sexual crimes against minors who were arrested via traditional police tactics.

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<sup>1</sup> In Washington State, the age of consent for sexual activity is 16 years old. See [RCW 9A.44.079](#) and [9A.44.089](#).

This report is presented in four sections. [Section I](#) provides background information on internet sting operations and describes Net Nanny in depth. [Section II](#) describes previous academic research on internet sting operations. [Section III](#) presents our comparisons between individuals convicted through Net Nanny stings and those convicted of similar offenses by other means. [Section IV](#) summarizes the findings and limitations of our study.

### **Legislative Assignment**

The Washington State Institute for Public Policy must:

- a) Describe the current research on Net Nanny-type sting operations, including any evidence of their effectiveness in deterring or reducing crime, their costs, and the potential advantages or drawbacks of their use in crime prevention; and
- b) Compare the characteristics of individuals convicted under net nanny stings with individuals convicted of child sex offenses through other avenues.

*ESSB 5092, Chapter 334, Laws of 2021, Section 610*

## I. Background

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Operation Net Nanny falls into a category of police activity known as a “sting operation.” In this section, we provide background information on sting operations, describe laws related to these operations, and offer a detailed description of Operation Net Nanny.

### Police Sting Operations

Police sting operations are a type of undercover law enforcement activity. The defining characteristic of a sting operation is that police use deception to create opportunities for illegal behavior, secretly monitor the situation, and then arrest individuals who try to engage in the staged crime.<sup>2</sup>

Police have used sting operations in different ways to target various crimes. Depending on the sting operation, undercover police may pose as participants in a crime or as potential victims.

### Internet Sting Operations

This report focuses on *internet* sting operations. This report uses the term “internet sting operation” to refer to operations designed to target adults who use the internet to arrange face-to-face meetings with minors for sexual activity. There are three elements to these operations:

- 1) An initial phase where undercover police officers engage in online communication with adults who express interest in having sexual contact with minors.
- 2) A subsequent phase where the targeted adult travels to an agreed-upon location for the express purpose of engaging in sexual activity with a minor.
- 3) A final phase where the targeted adult is arrested on-site.

We have intentionally adopted a narrow definition of “internet sting operation” to limit our focus to police activity that directly corresponds to the core features of Operation Net Nanny. Although police use sting tactics to target a variety of internet crimes against children (e.g., child pornography, human trafficking), we exclude these from our discussion for the sake of clarity.

### Attempt Liability

When individuals are arrested through sting operations, they are typically charged with *attempted* offenses. The U.S. legal system has developed unique standards and practices for cases involving attempted offenses, resulting in a specialized area of criminal law known as “attempt liability.”

Before the 1800s, courts only punished individuals based on actual behaviors and the consequences of those behaviors. Legal experts eventually abandoned this approach because they were concerned it limited the state’s ability to prevent crime.<sup>3</sup>

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<sup>2</sup> Hay, B. (2005). Sting operations, undercover agents, and entrapment. *Missouri Law Review*, 70, 387.

<sup>3</sup> Rogers, A. (2004). New technology, old defenses: internet sting operations and attempt liability. *University of Richmond Law Review*, 38, 483.

In particular, this approach prevented the state from punishing actors who had clearly signaled their intent to cause harm, taken necessary steps toward causing harm, but were unable to successfully execute their plan due to factors outside of their control. These concerns led to the development of attempt liability, which was codified into common practice with the passage of the Model Penal Code in 1962.

[RCW 9A.28.020](#) outlines Washington State’s approach to attempt liability. The first section of this statute defines criminal attempt:

“A person is guilty of an attempt to commit a crime if, with intent to commit a specific crime, he or she does any act which is a substantial step toward the commission of that crime.”

Thus, two conditions must be satisfied to convict someone of an attempted offense: 1) there is evidence that the individual intended to commit a specific crime, and 2) there is evidence that the individual took a “substantial step” toward completing that crime.

### [Operation Net Nanny](#)

Operation Net Nanny (“Net Nanny”) is an internet sting operation administered by Washington State Patrol (WSP). Net Nanny has been active since August 2015. As of May 2023, WSP has conducted 20 sting operations<sup>4</sup> and made a total of 311 arrests.<sup>5</sup>

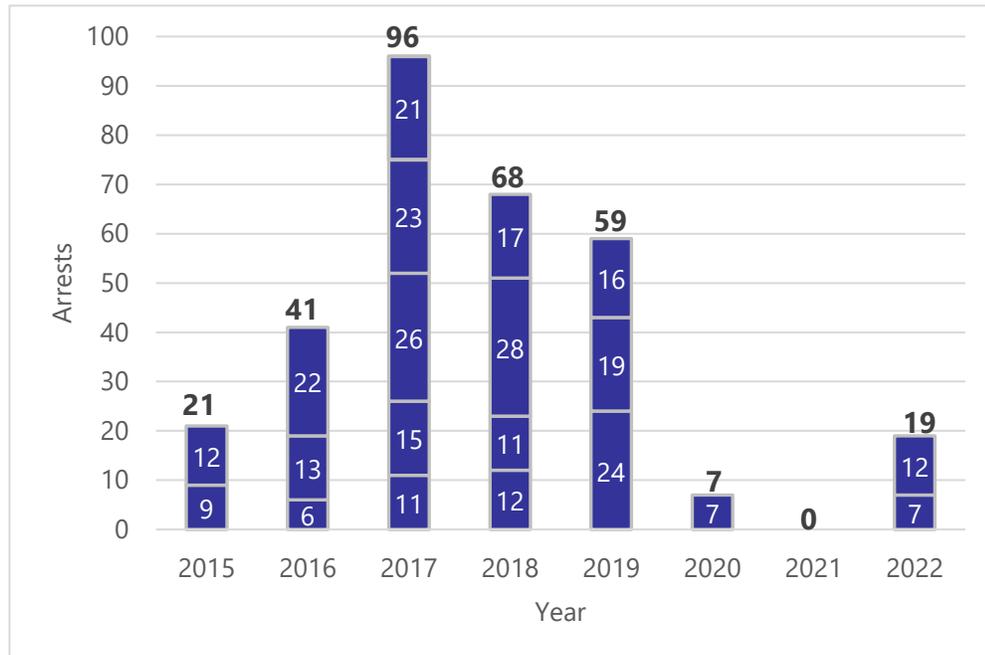
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<sup>4</sup> We use the term “operation” to refer to a multi-day event where undercover officers made consecutive arrests.

<sup>5</sup> The data we received from WSP categorized each arrest based on the specific operation that was active at the time the arrest was made. Because most arrests occurred within a few days of initial online contact (see [Appendix I](#)), the majority of Net Nanny cases were initiated and completed within the span of the same operation. However, WSP

officials explained that a small percentage of arrests were the result of “one-off” cases that were not associated with a specific operation. These “one-off” cases pose problems for determining what “counts” as a Net Nanny arrest. As a result, the total number of Net Nanny arrests we report here may not match the numbers reported in other sources, but the difference is small.

**Exhibit 1**  
Annual Net Nanny Arrests by Operation



Note:

Each rectangle represents a different sting operation. The numbers in each rectangle refer to the number of arrests from that operation. The bold numbers above each bar represent the total arrests for that year.

Exhibit 1 displays the number of arrests and calendar year for each sting operation.

On average, each sting operation resulted in about 16 arrests. Net Nanny generated relatively few arrests between 2020 and 2022. According to WSP officials, this was caused by complications arising from the outbreak of COVID-19.<sup>6</sup>

In October 2022, WSP provided WSIPP with data on 299 Net Nanny arrests from 19 sting operations.<sup>7</sup> We review this information in greater detail in [Appendix I](#).

<sup>6</sup> This information is consistent with prior WSIPP research showing that COVID-19 resulted in changes to how the criminal justice system operated in Washington State: Hirsch, M. (2021). *COVID-19 and adult criminal justice: A quantitative look at affected systems* (Doc. No. 21-07-1901). Olympia: Washington State Institute for Public Policy.

<sup>7</sup> WSP conducted an additional operation in November 2022 that resulted in 12 arrests, bringing the total Net Nanny

### Operational Costs

Net Nanny is an investigative model used by WSP’s Missing and Exploited Children’s Taskforce (MECTF). All Net Nanny operations are funded through the MECTF, which is primarily funded by the State General Fund.<sup>8</sup>

WSP does not have its budget specified down to the Net Nanny level and thus was unable to provide WSIPP with a specific cost estimate. WSP approximates that each operation costs between \$20,000 to \$40,000.<sup>9</sup>

arrests to 311. Since the current study focuses on *convictions*, we chose to exclude these 12 cases because there was not sufficient time for these cases to be processed by the courts.

<sup>8</sup> MECTF also accepts donations. WSP received donations from the non-profit organization Operation Underground Railroad between 2015 and 2020.

<sup>9</sup> Email correspondence with WSP Budget Manager.

In general, these funds are used to pay for travel, supplies, a rental house, and salaries/benefits (including overtime).<sup>10</sup> WSP conducted three Net Nanny stings in 2019, which was the last fully operational year before the pandemic. Assuming a cost of \$20,000 to \$40,000 per operation, this would have cost the agency between \$60,000 and \$120,000, or about 0.02% to 0.04% of WSP’s total expenditures in 2019.<sup>11</sup>

### Sting Scenarios

The Washington State Patrol also provided WSIPP with data on the fictitious scenario that undercover officers used to conduct each arrest (see Exhibit 2). Virtually all arrests involved undercover officers posing online as a fictitious juvenile (57%) or a fictitious parent with multiple children (39%). We describe these two scenarios below.<sup>12</sup>

### Sting Tactics for Scenario #1

According to WSP officials, undercover officers using this scenario are trained to begin the operation by posting personal ads online. For most operations involving scenario #1, undercover officers post ads on platforms for adults seeking romantic relationships or casual sex.<sup>13</sup> Because these platforms are intended for adults, the personal ads are designed to appear as though an adult posted them. Undercover officers then wait until they are contacted by someone in response to the personal ad, at which point they begin “chatting” with the other person.

<sup>10</sup> Ibid.

<sup>11</sup> Email correspondence with OFM and WSP.

<sup>12</sup> Because there were so few arrests for scenario #3, we elected not to include additional descriptive statistics for this category.

<sup>13</sup> For simplicity, we describe the tactics officers used for the majority of arrests involving sting #1, which involved ads posted on adults-only platforms. However, in about 28%

During the chatting stage, undercover officers are trained to follow a specific protocol. Soon after they start communicating with the other person, officers reveal that they are actually minors (i.e., under age 16). Officers are also trained to mimic the online communication habits of young adolescents.<sup>14</sup> In addition, officers are instructed not to initiate communication about sexual activity and are only permitted to discuss sexual activity *after* the other person brings it up.

### Exhibit 2

Arrests by Sting Scenario

Net Nanny sting scenarios		
Category	Frequency	Percent
#1. Single juvenile, no parent	169	56.5%
#2. Parent, multiple children	117	39.1%
#3. Other scenario	8	2.7%
Missing	5	1.7%

Note:  
N = 299.

If the other person expresses interest in having a sexual encounter, officers communicate a time window when their parent/guardian will be away from home, and the fictitious juvenile will be alone. Officers then provide the other person with a residential address. Once the individual arrives and knocks on the door, an undercover officer dressed as an adolescent answers and invites them inside,<sup>15</sup> where they are arrested.

arrests involving scenario #1, undercover officers were contacted through ads posted on dating platforms that had separate sections for adults and teenagers (i.e., age 13+).

<sup>14</sup> Examples include using limited vocabulary and displaying underdeveloped typing skills.

<sup>15</sup> WSP officials selected police officers with a youthful appearance to play this role.

The Washington State Patrol designed this scenario to meet the two requirements of attempt liability. Transcripts of the online communication provide evidence that the arrested individual intended to engage in sexual activity with a minor. When the individual travels to a residential address, this behavior serves as evidence for the “substantial step towards the commission of a crime” requirement.<sup>16</sup>

*Arrest Characteristics for Scenario #1*

Exhibit 3 provides information on the characteristics of 169 arrests involving scenario #1.<sup>17</sup>

In virtually all these arrests (98%), the officer posed as a 13-year-old youth. In most cases (75%), the fictitious victim was portrayed as female.

The majority of arrests (70%) took place after undercover police were contacted in response to personal ads posted on adults-only platforms (i.e., age 18+). About 28% of arrests took place after undercover officers were contacted through online platforms that had separate sections for adults and teenagers (i.e., age 13+).<sup>18</sup>

The bottom panel of Exhibit 3 describes how arrests involving scenario #1 were initially charged. We focus on the four crimes most commonly charged in association with Net Nanny.<sup>19</sup> For a comprehensive list of the crimes charged in relation to Net Nanny, see Appendix II.

<sup>16</sup> RCW 9A.28.020.

<sup>17</sup> The information reported in Exhibit 3 is not representative of all Net Nanny activity involving scenario #1, as it excludes instances where undercover officers used this scenario but were unable to make an arrest.

<sup>18</sup> At the time the sting operations were conducted, undercover officers posted personal ads on two platforms (Skout and MeetMe) that had separate sections for adults

**Exhibit 3**

Arrest Characteristics: Sting Scenario #1

Fictitious victim age			
Range	Median	Mean	Standard dev.
11 - 14	13	12.9	0.2
Fictitious victim sex			
Category	Frequency	Percent	
Female	126	74.6%	
Male	43	25.4%	
Platform used to initiate contact			
Category	Frequency	Percent	
18+ dating	119	70.4%	
13+ dating	47	27.8%	
Other	2	1.2%	
Missing	1	0.6%	
Initial charges			
Offense charged	Acronym	Percent	
Attempted rape of a child, first degree	AROC1	1.8%	
Attempted rape of a child, second degree	AROC2	96.5%	
Communicating with a minor for immoral purposes	CMIP	95.3%	
Commercial sexual abuse of a minor	CSAM	17.2%	

Note:  
N = 169.

Nearly everyone arrested as a result of scenario #1 was initially charged with attempted rape of a child, second degree (AROC2; 96%), and communicating with a minor for immoral purposes (CMIP; 95%).

and teenagers. The data we received from WSP did not indicate whether the personal ads were posted in the “teenager” or “adult” sections of these platforms.  
<sup>19</sup> In 297 out of 299 Net Nanny arrests, the defendant was initially charged with at least one of the offenses listed in Exhibit 3. In other words, these four offenses account for over 99% of the initial charges brought against Net Nanny defendants.

According to Washington law, adults who attempt sexual intercourse with someone between ages 12-13 have committed AROC2. Because most fictitious victims in scenario #1 were age 13, this explains the high percentage of charges for AROC2.

By law, adults have committed CMIP if they communicate with a minor (or someone they believe to be a minor) "for the predatory purpose of promoting the exposure of children to and involvement in sexual misconduct."<sup>20</sup> Because individuals arrested in scenario #1 communicated directly with the fictitious victim, this explains the high percentage of charges for CMIP.

### *Sting Tactics for Scenario #2*

Undercover officers using this scenario are trained to begin the operation by posting personal ads online. For most operations involving scenario #2, undercover officers post ads on platforms for adults seeking romantic relationships or casual sex.<sup>21</sup> These personal ads typically include text indicating the post is intended for adults interested in an unspecified type of sexual activity that is unconventional (i.e., "not for everyone"). Undercover officers then wait until they are contacted by individuals who read the personal ad, at which point they begin "chatting" with the other person.

During the chatting stage, undercover officers are trained to communicate that they are a parent interested in arranging a sexual encounter between their children and another adult.<sup>22</sup>

If the other individual expresses interest, undercover officers coordinate a time for the sexual encounter and provide a residential address. After arriving at this address and entering the premises, the individual is arrested.

### *Arrest Characteristics for Scenario #2*

Exhibit 4 provides information on the characteristics of 117 arrests from scenario #2.

Because this scenario involved multiple fictitious victims, we display information on the age of the *youngest* fictitious victim. On average, the youngest fictitious victim was about eight years old. In 50% of arrests, the youngest fictitious victim was six. Arrests typically involved fictitious victims of both sexes (52%).

The majority of arrests (90%) took place after police were contacted in response to personal ads posted on adults-only platforms (i.e., age 18+). About 9% of arrests took place after police were contacted through online platforms that had separate sections for adults and teenagers (i.e., age 13+).<sup>23</sup>

Most arrests from scenario #2 resulted in charges for attempted rape of a child, first degree (AROC1; 89%). By law, adults who attempt sexual intercourse with someone younger than age 12 have committed AROC1. Because most arrests from scenario #2 involved a fictitious victim younger than age 12, this explains the high percentage of charges for AROC1.

<sup>20</sup> *Washington v. McNallie* (1993).

<sup>21</sup> Again, we focus on describing the most common tactics that officers use in relation to scenario #2, which involve posting personal ads on platforms intended for adults.

<sup>22</sup> According to WSP officials, the motivation for scenario #2 came from WSP officers' experiences with real criminal cases involving parents who facilitated sexual abuse against their own children.

<sup>23</sup> See footnote 18.

Although most arrests from scenario #1 involved charges for CMIP, only about 14% of arrests from scenario #2 were charged with CMIP. This is because scenario #2 typically involved adults communicating with a fictitious parent instead of a fictitious minor.

Finally, about 38% of arrests from scenario #2 resulted in charges for commercial sexual abuse of a minor (CSAM). During discussions with WSP officials, we learned that it was relatively common for people arrested as a result of scenario #2 to arrive on-site with gifts intended for their fictitious victims, such as toys designed for young children. This behavior demonstrates that the arrested person was attempting to provide minors with material rewards for sexual activity, leading to the initial charges for CSAM.

**Exhibit 4**

Arrest Characteristics: Sting Scenario #2

<b>Fictitious victim age, youngest</b>			
<i>Range</i>	<i>Median</i>	<i>Mean</i>	<i>Standard Dev.</i>
3 - 13	6	7.7	2.3
<b>Fictitious victim sex</b>			
<i>Category</i>	<i>Frequency</i>	<i>Percent</i>	
Both sexes	61	52.1%	
Females only	52	44.4%	
Males only	4	3.4%	
<b>Platform used to initiate contact</b>			
<i>Category</i>	<i>Frequency</i>	<i>Percent</i>	
18+ dating	105	89.8%	
13+ dating	10	8.6%	
Other	1	0.8%	
Missing	1	0.8%	
<b>Initial charges</b>			
<i>Offense charged</i>	<i>Acronym</i>	<i>Percent</i>	
Attempted rape of a child, first degree	AROC1	89.7%	
Attempted rape of a child, second degree	AROC2	52.9%	
Communicating with a minor for immoral purposes	CMIP	13.7%	
Commercial sexual abuse of a minor	CSAM	37.6%	

Note:  
N = 117.

## II. Research on Internet Sting Operations

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In this section, we describe the current state of knowledge on internet sting operations.

### Effectiveness in Reducing Crime

To date, no outcome evaluations have investigated the effectiveness of internet sting operations in reducing crime. As a result, it is ultimately unclear whether internet sting operations have any effect on crime.

However, criminologists have identified two distinct ways that sting operations could reduce crime. We describe these below.

#### Incapacitation

Internet sting operations could reduce crime through *incapacitation*. Incapacitation occurs when a person cannot commit a crime because they have been removed from the community, typically through incarceration.

If individuals arrested in internet sting operations are motivated and willing to commit sexual crimes against minors, then incarcerating these individuals will prevent them from committing additional crimes while in confinement. However, it is impossible to measure the number of crimes prevented this way.

For example, if someone is arrested in an internet sting operation and incarcerated for five years, then that person cannot commit sexual crimes against minors while in prison. However, it is impossible to determine how many, if any, potential crimes were prevented during these five years. This issue makes it difficult to study the impact of internet sting operations on crime.

#### Deterrence

Internet sting operations could also reduce crime through *deterrence*. Deterrence occurs when people avoid committing crimes because they fear punishment.

It is common for police to announce the results of a successful sting operation and publicly identify individuals who were arrested. This alerts the public to the existence of the sting operation and serves as a warning. People aware that the sting operation exists may conclude that engaging in the targeted offense is too risky, resulting in less crime.

However, it is difficult to measure the deterrent effect of a specific law enforcement intervention.<sup>24</sup> Because many forces influence the crime rate, it is often impossible to isolate the impact of a single factor (such as a sting operation) on crime. In addition, minors who experience sexual abuse do not always report the crime to the police,<sup>25</sup> which complicates attempts at measuring whether rates of sexual abuse have changed over time. These issues also make it difficult to study the impact of internet sting operations on crime.

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<sup>24</sup> Kleck, G., Sever, B., Li, S., & Gertz, M. (2005). The missing link in general deterrence research. *Criminology*, 43(3), 623-660.

<sup>25</sup> Scurich, N. (2020). Introduction to this special issue: Underreporting of sexual abuse. *Behavioral Sciences & the Law*, 38(6), 537-656.

## Costs

After conducting a literature review, we did not find any information on how much internet sting operations (in general) typically cost. However, we received estimates from WSP and OFM on the costs specifically associated with Net Nanny. We review this information in [Section I](#).

## Potential Advantages

Proponents of internet sting operations highlight the fact that these operations allow police to take a proactive approach to law enforcement. Under normal circumstances, police must take a reactive approach where they only become involved in a case after a crime has taken place. In contrast, internet sting operations are intended to prevent crime by allowing police to intervene *before* the offense can be completed. In theory, this means that internet sting operations can be used to punish adults who are intent on sexually abusing minors without needing to wait for a real-life victim to be harmed.

An additional benefit of internet sting operations is that they may lead police to uncover evidence of sexual abuse that was previously undetected. For example, adults arrested in sting operations may confess to the police that they have committed sexual abuse in the past.

Proponents have also argued that internet sting operations represent a necessary innovation in police tactics to protect minors in the internet era.<sup>26</sup> According to this perspective, as long as there are adults who will use the internet to sexually abuse children, police must be allowed to use internet sting operations to disrupt these efforts.

Research confirms that the internet creates opportunities for youth to be sexually exploited by adults. For example, a recent meta-analysis found that about 11.5% of youth aged 12-16 had experienced unwanted sexual solicitation while using the internet.<sup>27</sup> Although it is unclear whether internet sting operations are effective at reducing sexual crimes against minors, proponents argue that these operations are a necessary tool to combat internet crimes against children.

## Potential Drawbacks

Research identifies three potential drawbacks to using internet sting operations. First, even when they are well-executed, internet sting operations tend to be regarded as controversial. Second, when these operations are *not* conducted properly, there is a risk that irresponsible police conduct could result in entrapment. Third, critics of internet sting operations have argued that under certain circumstances, these operations pose a risk of criminalizing protected speech.

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<sup>26</sup> Rogers (2004).

<sup>27</sup> Madigan, S., Villani, V., Azzopardi, C., Laut, D., Smith, T., Temple, J.R., Browne, D., & Dimitropoulos, G. (2018). The

prevalence of unwanted online sexual exposure and solicitation among youth: A meta-analysis. *Journal of Adolescent Health*, 63(2), 133-141.

## Controversy

Perhaps the main criticism of internet sting operations is that they are controversial. A fundamental feature of these operations is that they involve police using surveillance and deception against citizens, which may raise concerns about government overreach.<sup>28</sup> Similarly, since the victims are fictitious and no sexual abuse took place, members of the public may conclude that individuals arrested in internet stings did not actually commit a crime and are being treated unfairly.<sup>29</sup> Due to these concerns, internet sting operations may attract controversy even if they are conducted in a professional and legally responsible manner.

In addition, police often reveal the identities of individuals caught in internet sting operations soon after being arrested. Since it is possible that the courts will later determine that an arrested individual is not guilty of a crime, there is a risk that this practice may cause significant reputational harm to innocent people.

## Entrapment

Another potential drawback of internet sting operations is that when they are poorly designed and conducted improperly, these operations could lead to entrapment. Entrapment occurs when police put excessive pressure on someone to commit a crime that they were otherwise unmotivated to commit. For internet sting operations, this could happen if undercover officers make online contact with someone who repeatedly expresses reluctance to pursue a sexual relationship with an underage partner but eventually relents after prolonged efforts by police to entice the individual into participating in a sexual encounter.<sup>30</sup>

Although entrapment is certainly a possibility, research indicates that defendants in internet sting operations are rarely successful when they attempt to argue that police entrapped them.<sup>31</sup> Washington State law notes that “the defense of entrapment is not established by a showing only that law enforcement officials merely afforded the actor an opportunity to commit a crime.”<sup>32</sup> Thus, if the police create an opportunity for someone to break the law, that fact alone is not sufficient for establishing entrapment.

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<sup>28</sup> Hay (2005).

<sup>29</sup> The tacit assumption here is that people should only be punished if their behavior actually results in harm. However, the U.S. legal system long ago rejected this perspective and developed attempt liability as means of punishing individuals who try (but fail) to cause harm. See Rogers (2004).

<sup>30</sup> Legal scholars have written extensively about the topic of entrapment, internet sting operations, and attempt liability: Boggess, B.M. (2007). Attempted enticement of a minor: No place for pedophiles to hide under 18 U.S.C. 2422

(b). *Missouri Law Review*, 72(3), 909; Gregg, J. (1996). Caught in the web: entrapment in cyberspace. *Hastings Communications and Entertainment Law Journal*, 19, 157; and Moore, R., Lee, T., & Hunt, R. (2007). Entrapped on the web? Applying the entrapment defense to cases involving online sting operations. *American Journal of Criminal Justice*, 32, 87-98.

<sup>31</sup> Stevenson, D. (2005). Entrapment by numbers. *University of Florida Journal of Law & Public Policy*, 16(1).

<sup>32</sup> [RCW 9A.16.070](#).

### Criminalizing Protected Speech

Critics of internet sting operations have also argued that these operations carry a risk of punishing innocent people by criminalizing protected speech.

In the interest of explaining this perspective, consider the following: It is not illegal for two consenting adults to engage in role-playing where one sexual partner pretends to be underage. It is also not illegal for adults in this situation to communicate with each other over the internet as part of their fantasy/role-playing experience. Under these circumstances, the online communication is protected speech. By extension, it is theoretically possible that law-abiding adults who have a preference for this type of role-playing could become ensnared in an internet sting operation.<sup>33</sup>

To avoid the risk of criminalizing innocent internet conduct, police should approach online communication in such a way that it is clear to the other person that they are interacting with a minor.<sup>34</sup> For example, such tactics might involve undercover officers imitating the online communication style of adolescents and repeatedly stating that they are underage.

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<sup>33</sup> Legal scholars have observed that it is common for defendants in internet sting cases to claim they never believed they were communicating with a minor and that they thought the other person was an adult pretending to be

a minor as part of a fantasy or role-playing experience. When these cases go to court, this “fantasy” defense is typically not successful. See Rogers (2004).

<sup>34</sup> Rogers (2004).

### III. Comparative Analyses

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In this section, we present the results of analyses that compare the characteristics of individuals convicted under Net Nanny stings with individuals convicted of child sex offenses through other avenues.

#### Data

##### Net Nanny Group

WSP provided WSIPP with data on 299 Net Nanny arrests that were made between August 2015 and September 2022. To get additional information about each arrested individual's criminal history and demographic characteristics, we linked these arrests to WSIPP's Criminal History Database (CHD) records. The CHD combines information from multiple criminal justice agencies across Washington State.<sup>35</sup> After successfully matching 294 Net Nanny arrests to CHD records,<sup>36</sup> we identified 235 criminal cases that resulted in convictions.

##### Comparison Group

Before creating the comparison group, we developed selection criteria to identify criminal cases that occurred during the same period as Net Nanny and resulted in convictions for similar offenses.

As an initial step, we identified all criminal charges for the 235 Net Nanny cases that resulted in a conviction. We found that individuals convicted via Net Nanny were charged with at least one of the following crimes:

- Rape of a child (1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree),
- Child molestation (1<sup>st</sup> or 2<sup>nd</sup> degree),
- Communicating with a minor for immoral purposes,
- Commercial sexual abuse of a minor,
- Dealing in depictions of a minor engaged in sexually explicit conduct, and
- Possession of depictions of a minor engaged in sexually explicit conduct.

To create the comparison group, we extracted CHD records for cases that met the following criteria:

- Individuals in the case were charged with at least one of the offenses listed above;
- The case was filed between August 2015 and September 2022;
- The case was not associated with Operation Net Nanny;
- The defendant in the case was an adult; and
- The case resulted in a conviction.

We identified 3,534 criminal cases that met these selection criteria.

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<sup>35</sup> WSIPP's Criminal History Database (CHD) is a synthesis of criminal charge information for individuals using data from the Administrative Office of the Courts' (AOC), the Department of Corrections' (DOC), and the Department of Children, Youth, and Families' Juvenile Rehabilitation (JR).

<sup>36</sup> We were unable to match five arrests in the WSP data to records in the CHD. These five arrests failed to match for one of the following reasons: the arrested individual was not a resident of Washington State; the arrested individual had their Net Nanny case processed by a military court; or the arrested individual died shortly after their arrest.

## Exhibit 5

### Charges for Completed Offenses

Criminal charges	Acronym	Percent	
		Net Nanny	Comparison
Rape of a child, first degree	ROC1	0.0%	10.8% **
Rape of a child, second degree	ROC2	1.3%	6.8% **
Rape of a child, third degree	ROC3	0.4%	13.1% **
Child molestation, first degree	CMOL1	0.4%	18.9% **
Child molestation, second degree	CMOL2	16.2%	16.2%
Communicating with a minor for immoral purposes	CMIP	47.2%	25.9% **
Commercial sexual abuse of a minor	CSAM	16.6%	0.7% **
Dealing in depictions of a minor engaged in SEC	DDMESEC	1.3%	4.3%
Possession of depictions of a minor engaged in SEC	PDMESSEC	1.7%	16.6% **

**Notes:**

SEC = sexually explicit conduct.

Net Nanny (N = 235) and comparison group (N = 3,534).

\*\* Significant at the 0.001 level.

## Analyses and Results

### Charges for Completed/Attempted Crimes

The selection criteria for creating the comparison group only included cases where individuals were convicted of similar crimes as the Net Nanny group. However, there may be differences in how often cases in each group involved charges for completed versus attempted crimes.

Since individuals in the comparison group were arrested through traditional police tactics (i.e., after a crime took place), we expect it will be more common for these cases to be charged with *completed* offenses. Similarly, because Net Nanny is a sting operation, we expect it will be more common for individuals in these cases to be charged with *attempted* offenses.

For the first analysis, we test these expectations using Net Nanny cases (N = 235) and comparison group cases (N = 3,534) that resulted in convictions. We examine the percentage of cases in each group involving charges for completed and attempted offenses.

*Completed Offenses.* Among cases resulting in conviction, Net Nanny cases were less likely than comparison group cases to involve charges for completed offenses (Exhibit 5).

These results are consistent with our expectations. However, there are two exceptions to this general pattern.

First, it was more common for Net Nanny cases to be charged with communicating with a minor for immoral purposes (CMIP) and commercial sexual abuse of a minor (CSAM). Although CMIP and CSAM are technically completed crimes, the definition of these offenses applies to situations involving fictitious minors.<sup>37</sup>

<sup>37</sup> See Appendix II for definitions of CMIP and CSAM.

Second, 16.2% of cases in both groups were charged with child molestation, second degree (CMOL2). Despite this charge, individuals arrested through Net Nanny did *not* literally engage in child molestation. After contacting prosecutors involved in these cases, we learned that the CMOL2 charges were the result of plea bargains.<sup>38</sup> These individuals were initially charged with attempted offenses categorized as class A felonies, and they later pleaded guilty to CMOL2, a class B felony.<sup>39</sup>

We found that the vast majority of instances where individuals in Net Nanny cases plead guilty to CMOL2 occurred in Kitsap County and Pierce County. These patterns reflect notable differences in prosecutorial discretion across Washington counties.

*Attempted Offenses.* Among cases resulting in conviction, Net Nanny cases were more likely than comparison group cases to have charges for attempted offenses (Exhibit 6). Indeed, it was rare for cases in the comparison group to have charges for attempted offenses.

Overall, these patterns are consistent with expectations. Net Nanny cases typically involved charges for attempted child sex crimes, while comparison group cases typically involved charges for completed child sex crimes.

### Demographic Characteristics

For the second analysis, we compare individuals in both groups across measures of sex, race/ethnicity, and age. To measure age, we focus on age at the time the individual's *index case* was filed.

## Exhibit 6

### Charges for Attempted Offenses

Criminal charges	Acronym	Percent	
		Net Nanny	Comparison
Attempted rape of a child, first degree	AROC1	14.9%	0.4% **
Attempted rape of a child, second degree	AROC2	37.4%	0.9% **
Attempted rape of a child, third degree	AROC3	1.3%	0.3%
Attempted child molestation, first degree	ACMOL1	0.9%	0.8%
Attempted child molestation, second degree	ACMOL2	10.2%	0.7% **
Attempted communication with a minor for IP	ACMIP	0.4%	0.3%
Attempted commercial sexual abuse of a minor	ACSAM	8.9%	0.4% **

Notes:

IP = immoral purposes.

Net Nanny (N = 235) and comparison group (N = 3,534).

\*\* Significant at the 0.001 level.

<sup>38</sup> The term "plea bargain" describes a legal arrangement where prosecutors agree to reduce the severity of criminal charges against a defendant in exchange for a guilty plea.

<sup>39</sup> Because CMOL2 was the most common completed child sex offense among individuals convicted via Net Nanny, we engaged in targeted outreach with practitioners involved in

these specific cases and verified that this pattern was the result of plea bargains. Although we emphasize the importance of plea bargains in association with CMOL2, it is likely that plea bargains also played a role in other Net Nanny cases where individuals were convicted of completed child sex offenses (e.g., ROC2, ROC3, CMOL1).

For individuals in the Net Nanny group, the index case refers to the criminal case associated with their Net Nanny arrest. For individuals in the comparison group, the index case refers to the first child sex offense case filed during the study period.

Exhibit 7 shows that people convicted through Net Nanny share many of the same demographic characteristics as people in the comparison group. Men account for about 98% of individuals in both groups, and the average age is around 38.<sup>40</sup> These patterns are consistent with past research on people convicted of sexual felonies in Washington State, who are overwhelmingly male and tend to be older than the average individual convicted of a non-sexual felony.<sup>41</sup>

The only noteworthy difference is that the Net Nanny group has a lower percentage of Hispanic individuals than the comparison group (8.9% vs. 16.1%) and a higher percentage of non-Hispanic White individuals (79.1% vs. 70.5%). Washington State Patrol officials noted that the first 18 Net Nanny operations were administered by officers who were only fluent in English. Later operations included Spanish-speaking officers.

**Exhibit 7**  
Demographic Characteristics

Sex	Percent	
	Net Nanny	Comparison
Male	98.7	97.8
Female	1.3	2.2
Race/ethnicity	Percent	
	Net Nanny	Comparison
White	79.1	70.5 *
Hispanic	8.9	16.1 *
Black	8.1	6.7
Asian	3.4	4.1
Native Am.	0.4	1.6
Age	Average	
	Net Nanny	Comparison
	37.9	37.6

Notes:

The category "Hispanic" includes all Hispanic individuals regardless of race. Other race categories exclude Hispanic individuals (e.g., non-Hispanic White, non-Hispanic Black). Net Nanny Group (N = 234) and Comparison Group (N = 3,448).

\* Significant at the 0.01 level.

<sup>40</sup> In results not shown, we found that the standard deviation for age was about 14 years for both groups. In addition, both groups had a median age of 35.

<sup>41</sup> Barnoski, R. 2005. *Sex offender sentencing in Washington State: How sex offenders differ from other felony offenders* (Doc. No. 05-09-1201). Olympia: Washington State Institute for Public Policy.

## Exhibit 8 Criminal History

Conviction prior to index case	Percent	
	Net Nanny	Comparison
Any infraction, misdemeanor, or felony	60.7%	63.4%
Any misdemeanor or felony	35.0%	39.9%
Any misdemeanor	28.2%	33.0%
Misdemeanor - weapon offense	0.0%	0.0%
Misdemeanor - assault	8.5%	15.4% *
Misdemeanor - alcohol or drug offense	15.4%	17.8%
Misdemeanor - property offense	12.4%	14.6%
Misdemeanor - sexual offense	0.8%	0.6%
Any felony	18.4%	23.1%
Felony - weapon offense	1.3%	1.7%
Felony - violent offense (non-sexual)	5.6%	8.8%
Felony - alcohol or drug offense	4.3%	5.3%
Felony - property offense	10.3%	10.5%
Felony - sexual offense (adult victim)	2.9%	2.9%
Felony - sexual offense (child victim)	2.9%	6.3%

**Notes:**

Net Nanny (N = 234) and Comparison Group (N = 3,448)

\* Significant at the 0.01 level.

### Criminal History

Next, we compare the criminal history of individuals in both groups. We measure criminal history by examining the percentage of individuals in each group who were convicted of various crimes before the filing date of their index case.

Exhibit 8 shows that individuals in the Net Nanny group have a similar pattern of past convictions as individuals in the comparison group. Individuals in the Net Nanny group resembled individuals in the comparison group across 14 out of 15 measures of criminal history. Although individuals in the comparison group have a slightly higher percentage of prior convictions for nearly every measure, most of these differences are small in magnitude (i.e., less than 5%) and are not statistically significant.

The only exception to this pattern relates to prior convictions for misdemeanor assault. While 8.5% of individuals in the Net Nanny group had previously been convicted of a misdemeanor assault charge, the percentage of people in the comparison group with a prior misdemeanor assault conviction was about twice as high (15.4%).

More generally, about 30% of individuals in both groups had previously been convicted of a misdemeanor and about 20% had previously been convicted of a felony. These patterns are broadly consistent with past research on people convicted of sexual felony offenses in Washington State, who tend to have less extensive criminal records than people convicted of non-sexual felony offenses.<sup>42</sup>

<sup>42</sup> See Barnoski (2005).

## Sentencing Outcomes

Finally, we examine between-group differences in sentencing outcomes associated with index case convictions.<sup>43</sup>

*Impact of SSOSA.* Individuals convicted of sexual offenses in Washington State may be eligible for a sentencing alternative known as the Special Sex Offender Sentencing Alternative (SSOSA; see [Appendix III](#)).

One of the eligibility requirements for SSOSA is that the defendant must have “an established relationship” with the victim. However, because individuals convicted via Net Nanny have fictitious victims, they cannot meet this requirement and are automatically denied access to SSOSA.

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<sup>43</sup> WSIPP receives sentencing data on an annual basis. At the time we extracted data for this study, sentencing outcomes were unavailable for 25 (out of 235) Net Nanny cases and 1,138 (out of 3,534) comparison group cases. Thus, the initial

sample for our sentencing analysis consists of 210 Net Nanny cases that resulted in conviction and 2,396 comparison group cases that resulted in conviction.

## Exhibit 9

### Sentencing Outcomes (in months) for Net Nanny and Comparison Group Cases

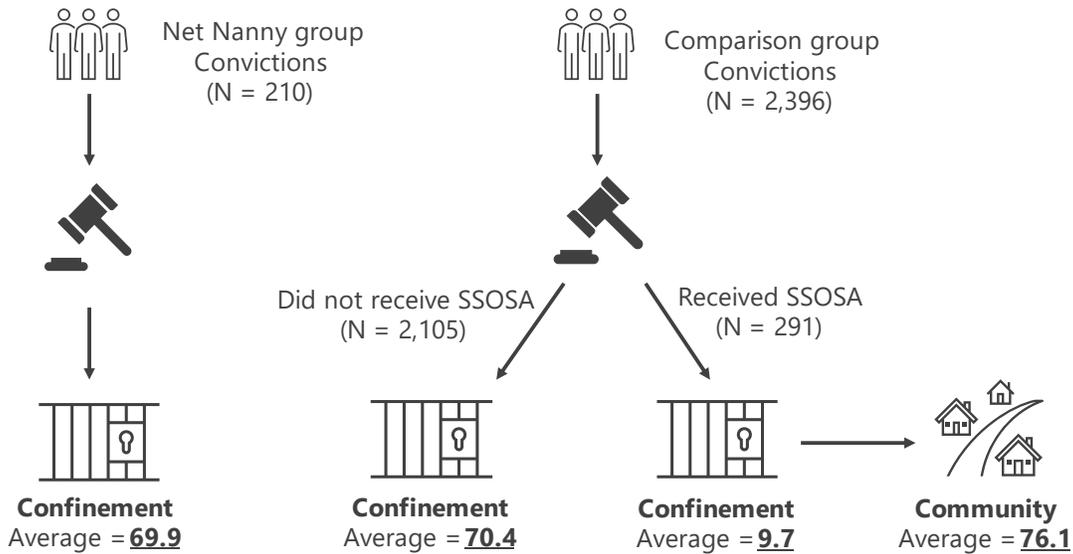


Exhibit 9 provides information on how cases in each group were sentenced.<sup>44</sup> On average, cases in the Net Nanny group (N = 210) were sentenced to about 70 months in confinement (i.e., 5.8 years). About 88% of cases in the comparison group did not receive SSOSA (N = 2,105). On average, these cases were also sentenced to about 70 months in confinement.

In contrast, about 12% of cases in the comparison group sample (N = 291) received SSOSA. On average, these cases were sentenced to 9.7 months in confinement, followed by about 76 months of community custody. This means that (on average) individuals who received SSOSA

were sentenced to about 15 additional months in custody than individuals who did not receive SSOSA. However, individuals who received SSOSA were allowed to serve roughly 87% of their sentence in the community instead of in prison.

Past research suggests that SSOSA is associated with lower punishment costs and lower recidivism among individuals convicted of child sex offenses.<sup>45</sup> The Sex Offender Policy Board (SOPB) has recommended that a sentencing alternative similar to SSOSA be enacted for individuals convicted through internet sting operations.<sup>46</sup>

<sup>44</sup> The values we report in Exhibit 9 represent the length of time individuals were ordered to serve, which may be different than actual time served. In addition, Washington State law requires that individuals convicted of sex offenses who have a prior conviction for a "two-strike" offense (see RCW 9.94A.031) receive an indeterminate sentence, also known as "determinate plus." For these "determinate plus" individuals, we report the minimum term of confinement.

Washington State Caseload Forecast Council. (2022). *Statistical summary of adult felony sentencing: Fiscal year 2022*, 68.

<sup>45</sup> Barnoski, R. (2005).

<sup>46</sup> Hunt, W. (2022). *Recommendations for SSOSA reforms; treatment alternatives for certain sex offenses; lifetime supervision; failure to register; washouts; and system improvements*. Sex Offender Policy Board, 9.

*Judicial Discretion.* We also examine differences in how judges sentence individuals convicted of sexual crimes involving minors. In particular, we investigate whether judges treat Net Nanny cases differently (e.g., with more leniency/harshness) than comparison group cases.

In Washington State, courts use determinate sentencing guidelines that are intended to standardize punishment practices.<sup>47</sup> The sentencing guideline grid relies on the defendant's criminal history and the severity of the defendant's offense. The guidelines specify a standard sentencing range with an established minimum and maximum length of incarceration. Judges have the discretion to select a term of confinement that falls within this standard range.<sup>48</sup>

The use of presumptive sentencing guidelines provides an opportunity to study judicial discretion by using a technique known as "Where in the Range?" (WIR).<sup>49</sup> This technique operates by calculating a statistic for individuals who were sentenced within the standard range.<sup>50</sup>

The WIR statistic ranges from 0 to 100, where 0 corresponds to a sentence at the minimum of the range, 50 corresponds to the mid-point of the range, and 100 corresponds to a sentence at the maximum of the range.

The logic of sentencing guidelines assumes that judges will treat the mid-point of the range as the default punishment. This means judges should (on average) issue sentences at the mid-point of the range (i.e., WIR statistic = 50). However, judges may determine that the details of a case call for harsher or more lenient punishment. To enact harsher punishment, judges may issue longer sentences closer to the maximum of the range (i.e., WIR > 50). To enact more lenient punishment, judges may issue shorter sentences that are closer to the minimum of the range (i.e., WIR < 50).

We use the WIR statistic to compare sentencing outcomes between the Net Nanny and the comparison groups. As an initial step, we excluded cases that were not sentenced within the standard range.<sup>51</sup> The sample for our WIR analysis consists of Net Nanny cases (N = 182) and comparison group cases (N = 1,830) that were sentenced within the standard range.

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<sup>47</sup> Knoth, L. (2021). *Examining Washington State's sentencing guidelines: A report for the Criminal Sentencing Task Force* (Doc. No. 21-05-1901). Olympia: Washington State Institute for Public Policy; see also Washington State Caseload Forecast Council. (2021). *2021 Washington State Adult Sentencing Guidelines Manual*.

<sup>48</sup> There are special circumstances that allow judges to issue sentences that fall below or above the standard range. However, most felony sentences are within the standard range. Caseload Forecast Council (2022), pg. 7.

<sup>49</sup> Caseload Forecast Council (2022), pg. 49.

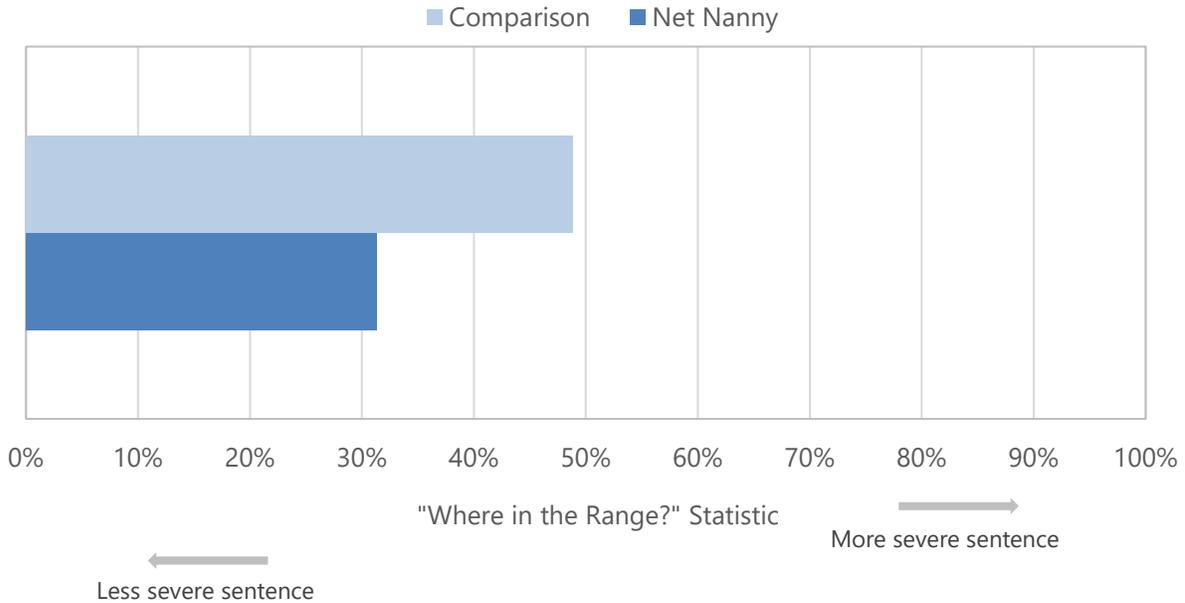
<sup>50</sup> The WIR statistic examines how individuals are sentenced *relative to the standard range*. Because the standard range adjusts for differences in criminal history and offense

severity, the WIR statistic can be used to make valid comparisons in sentencing outcomes between individuals who have different criminal histories or who were convicted of different crimes.

<sup>51</sup> Our initial sample for this analysis consisted of Net Nanny cases (N = 210) and comparison group cases (N = 2,396) that resulted in conviction. To prepare the data for the WIR analysis, we dropped cases that were sentenced above the standard range due to aggravating factors, which applied to 7% of cases in both groups. We also dropped cases that were sentenced below the standard range due to mitigating factors, which applied to 3% of cases in both groups. In addition, we dropped 12% of comparison group cases that received SSOSA.

### Exhibit 10

#### Differences in Average Punishment Severity



**Note:**

The values for the "Where in the Range?" statistic range from 0 to 100. A value of 0 corresponds to the minimum of the standard sentence range. A value of 50 corresponds to the mid-point of the standard range. A value of 100 corresponds to the maximum of the standard range.

Net Nanny (N = 182) comparison group (N = 1,830).

Among cases that received standard sentences, the average case in the comparison group was sentenced to 49% of the maximum term of confinement (Exhibit 10). This pattern is consistent with the idea that judges are using the mid-point of the standard range as the default punishment.

In contrast, the average Net Nanny case was sentenced to 31% of the maximum term of confinement.<sup>52</sup> Thus, the WIR statistic is about 18% lower for the Net Nanny group than the comparison group.<sup>53</sup>

This indicates that judges tend to issue more lenient sentences for Net Nanny cases than comparison group cases.

*Sensitivity Analyses.* Earlier, we reported that the average term of confinement was similar (i.e., 70 months) for Net Nanny cases and comparison group cases that did not receive SSOSA. The results of the WIR analysis indicate that Net Nanny cases receive more lenient punishment than comparison group cases. To explain this apparent discrepancy, we reviewed the seriousness level of offenses for Net Nanny (N = 182) and comparison group cases (N = 1,830).

<sup>52</sup> For most crimes, Washington courts adjust the punishment for an attempted offense by taking the standard sentence for the completed offense and applying a 75% modifier (see RCW 9.94A.595). This practice could bias our analyses of sentencing outcomes since Net Nanny cases primarily involve charges for attempted offenses. However, before

running our analyses, we reviewed the data and verified that these adjustments were made prior to calculating the WIR statistic. Thus, the results of our WIR analysis are not affected by the courts' downward adjustment for attempted offenses.<sup>53</sup> Using an independent samples t-test, we found that this difference is statistically significant at the 0.001 level.

We found that the Net Nanny group primarily consisted of high-severity offenses, while the comparison group had a greater percentage of cases with low-severity offenses.<sup>54</sup> This explains how both groups can have the same average sentence (i.e., 70 months), but the relative intensity of this punishment is still lower-than-expected for the Net Nanny group.

In results not shown, we re-ran our WIR analysis after restricting the sample only to include cases with high-severity offenses (i.e., seriousness level 10 or higher). Among cases with high-severity offenses, the average Net Nanny case was sentenced to about one-fourth of the range, and the average comparison group case was sentenced to about one-half the range. These results reinforce our original findings, which indicate that judges tend to issue more lenient sentences for Net Nanny cases.

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<sup>54</sup> Washington courts categorize offenses using a seriousness level score that ranges (low to high) from 1 to 16 (see [RCW 9.94A.510](#)). The median seriousness score for Net Nanny

cases (N = 182) was 11, while the median score for comparison group cases (N = 1,830) was 7.

## IV. Summary and Limitations

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The current study addressed two research objectives. First, we reviewed the available research on internet sting operations similar to Net Nanny. Second, we compared individuals convicted via Net Nanny with individuals convicted of similar crimes through other avenues.

In the text below, we review our key findings and describe the limitations of the current study.

### Research on Internet Sting Operations

We did not find any studies that evaluated whether internet sting operations are effective at reducing crime. The subject is difficult to study, as the main ways that internet sting operations might reduce crime (e.g., incapacitation and deterrence) cannot be directly measured.

We also did not find any studies that examined the costs of administering internet sting operations. Although we obtained basic information on the costs associated with Net Nanny, it is unclear how they compare to internet sting operations conducted by other law enforcement agencies.

Finally, we reviewed multiple articles by legal experts discussing the potential advantages and drawbacks of internet sting operations. Proponents argue that these operations are beneficial because they have the potential to prevent crime.

In contrast, critics argue that these operations involve controversial police tactics and—when conducted improperly—carry the risk of punishing innocent people.

### Comparative Analyses

We compared two groups: individuals convicted via Net Nanny and individuals convicted of similar crimes during the same period who were not associated with Net Nanny.

#### Background Characteristics

We found that individuals in both groups were similar in sex, race/ethnicity, and age. We also found that individuals in both groups were similar across extensive measures of criminal history. Overall, these results suggest that Net Nanny is arresting people with similar demographic characteristics and criminal records as individuals convicted of completed child sex crimes.

It is also noteworthy that both groups in our study had an average age of about 38 and overwhelmingly consisted of males (≈99%). In addition, only about 20% of individuals in both groups had previously been convicted of a felony. These patterns are consistent with research showing that adults convicted of sex crimes in Washington State tend to be older, disproportionately male, and have less extensive criminal histories than adults convicted of non-sexual crimes.<sup>55</sup>

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<sup>55</sup> See Barnoski (2005).

## Sentencing Outcomes

We also compared sentencing outcomes for individuals in our sample. This comparison produced two noteworthy findings.

The first finding concerned the impact of the Special Sex Offender Sentencing Alternative (SSOSA). About 12% of individuals in the comparison group received SSOSA and were ordered to serve the vast majority of their sentence in community custody instead of prison. In contrast, none of the individuals convicted via Net Nanny received SSOSA.

The second finding concerned differences in how judges sentenced cases that received standard sentences. On average, judges used the halfway point of the sentencing range to punish comparison group cases. However, judges punished the average Net Nanny case at about one-third of the range. In other words, judges were more lenient when sentencing Net Nanny cases than comparison group cases.

These two findings reveal a possible discrepancy in the policies and practices related to how Washington courts punish individuals convicted through internet sting operations. Presumably, judges tend to be more lenient in punishing Net Nanny cases because these cases involve sexual crimes against fictitious victims rather than real-life children. However, for this very reason, Net Nanny cases are ineligible for SSOSA.

## Limitations

Although the current study provides an extensive description of Operation Net Nanny, there are limits to this research.

First, our analyses used measures of age, sex, race/ethnicity, and criminal history. Although we found that individuals in the Net Nanny and comparison groups were similar across these measures, there may be unobserved differences that we could not detect because the measures were not available in our data. For example, past research suggests that individuals convicted of attempted child sex crimes have different levels of education, income, and exposure to child pornography than individuals convicted of completed child sex crimes.<sup>56</sup> However, the data for the current study did not include such measures.

Second, Net Nanny is not the only internet sting operation in Washington State. Because our data do not indicate whether an individual was arrested via an internet sting operation or through traditional police tactics, it is likely that at least some of the individuals in our comparison group were apprehended as a result of internet sting operations other than Net Nanny.

However, our research indicates other police organizations in Washington State arrest relatively few people each year using Net Nanny-style sting operations. For this report, we met with a King County prosecutor who works closely with the Seattle Police Department and the Washington Internet Crimes Against Children Task Force.

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<sup>56</sup> Mitchell, K.J., Wolak, J., & Finkelhor, D. (2005). Police posing as juveniles online to catch sex offenders: Is it working? *Sexual Abuse: A Journal of Research and Treatment*, 17, 241-267 and Seto, M.C., Wood, J.M., Babchishin, K.M., &

Flynn, S. (2012). Online solicitation offenders are different from child pornography offenders and lower risk contact sexual offenders. *Law and Human Behavior*, 36(4), 320.

We learned that between 2015 and 2022, major law enforcement operations in the state made fewer than 30 arrests via internet sting operations that resemble Net Nanny.<sup>57</sup> In contrast, the comparison group for the current study contains data on over 3,500 criminal cases from the same period. Thus, we are confident that the vast majority (i.e., over 95%) of cases in our comparison group are people who were arrested via traditional police tactics.

In closing, it is worth noting what the evidence from the current study does *not* tell us. For example, the current study does not tell us whether Net Nanny is effective at reducing crime. More generally, the ways Net Nanny might reduce crime cannot be directly measured. As a result, it is not possible to generate the evidence necessary to evaluate the impact of Net Nanny on crime.

In addition, the current study does not tell us exactly how WSP detectives made each arrest. We spoke with WSP officials to learn about the general tactics that they used for the two primary sting scenarios. However, we did not conduct an independent investigation of these tactics, such as by reviewing transcripts of online communication between undercover officers and individuals who were later arrested. Such an investigation is beyond the scope of the legislative assignment.

Finally, the current study also does not tell us whether it is likely that people convicted via Net Nanny would have committed child sex crimes in other circumstances. To address this question, we would need reliable measures of each convicted individual's propensity (i.e., motivation/willingness) to commit child sexual abuse. The current study cannot address this question because we do not have access to such measures.

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<sup>57</sup> Personal correspondence with King County prosecutor.

# Appendices

Internet Stings and Operation Net Nanny

## Appendices

I.	Additional Descriptive Statistics .....	27
II.	Definitions of Child Sex Crimes.....	29
III.	Washington’s Special Sex Offender Sentencing Alternative (SSOSA) .....	30

## I. Additional Descriptive Statistics

**Exhibit A1** provides information on the legal status of 294 Net Nanny cases.<sup>58</sup> As of Fall 2022, 42 cases had not yet been processed by the courts. Of the remaining 252 cases, 236 resulted in a conviction, which translates to a conviction rate of about 94%.<sup>59</sup>

**Exhibit A1**  
Legal Status of Net Nanny Cases (N = 294)

Status as of fall 2022		
Category	Frequency	Percent
Not yet adjudicated	42	14.2%
Conviction	236	80.3%
Dismissed	14	4.8%
Not guilty	2	0.7%

**Exhibit A2** provides information on additional characteristics of 299 Net Nanny arrest events. Most Net Nanny arrests occurred soon after undercover officers made online contact. Nearly half of the arrests (45%) occurred within 24 hours of initial online contact, and two-thirds (66%) occurred within 48 hours.

In slightly more than half of all Net Nanny arrests (52%), the arrested person brought sexual paraphernalia (e.g., condoms, lubricant) to the sting location. In contrast, it was relatively uncommon for people to bring alcohol, drugs, or weapons to the sting location.

<sup>58</sup> We were unable to match five arrests to records in the Criminal History Database (CHD).

<sup>59</sup> In results not shown, we calculated the conviction rate for cases with similar charges that were filed during the same time period but not associated with Net Nanny. The conviction rate for these cases came to 77.9% (i.e., 5,629 convictions out of 7,224 cases), which is about 16% lower than the conviction rate for Net Nanny. This pattern is consistent with past research, which indicates that internet

sting operations have relatively high conviction rates. See Mitchell, K.J., Wolak, J., & Finkelhor, D. (2005). Police posing as juveniles online to catch sex offenders: Is it working? *Sexual Abuse: A Journal of Research and Treatment*, 17, 241-267 and Newman, G.R., & Socia, K. (2007). *Sting operations*. US Department of Justice, Office of Community Oriented Policing Services.

## Exhibit A2

Characteristics of Net Nanny Arrests (N = 299)

<b>Time elapsed from initial online contact to arrest</b>		
<i>Category</i>	<i>Frequency</i>	<i>Percent</i>
0-24 hours	136	45.5
24-48 hours	63	21.1
2-3 days	32	10.7
3-7 days	26	8.7
1-4 weeks	9	3.0
Over 1 month	20	6.7
Missing	13	4.4

<b>Distance traveled from home address to sting location</b>		
<i>Miles</i>	<i>Frequency</i>	<i>Percent</i>
0-12	120	40.1
13-24	60	20.1
25-50	58	19.4
51-100	40	13.4
100+	14	4.7
Missing	7	2.3

<b>Person brought sexual paraphernalia to sting location</b>		
<i>Category</i>	<i>Frequency</i>	<i>Percent</i>
Yes	157	52.5
No	114	38.1
Missing	28	9.4

<b>Person brought weapon to sting location</b>		
<i>Category</i>	<i>Frequency</i>	<i>Percent</i>
Yes	19	6.4
No	246	82.3
Missing	34	11.4

<b>Person brought drugs/alcohol to sting location</b>		
<i>Category</i>	<i>Frequency</i>	<i>Percent</i>
Yes	29	9.7
No	236	78.9
Missing	34	11.4

## II. Definitions of Child Sex Crimes

### Exhibit A3

#### Washington State Statute Definitions of Child Sex Crimes

Statute	Offense name	Acronym	Severity
9A.44.073	Rape of a child, first degree	ROC1	Class A felony
A person is guilty of rape of a child in the first degree when the person has sexual intercourse with another who is less than twelve years old and the perpetrator is at least twenty-four months older than the victim.			
9A.44.076	Rape of a child, second degree	ROC2	Class A felony
A person is guilty of rape of a child in the second degree when the person has sexual intercourse with another who is at least twelve years old but less than fourteen years old and the perpetrator is at least thirty-six months older than the victim.			
9A.44.079	Rape of a child, third degree	ROC3	Class C felony
A person is guilty of rape of a child in the third degree when the person has sexual intercourse with another who is at least fourteen years old but less than sixteen years old and the perpetrator is at least forty-eight months older than the victim.			
9A.44.083	Child molestation, first degree	CMOL1	Class A felony
A person is guilty of child molestation in the first degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is less than twelve years old and the perpetrator is at least thirty-six months older than the victim.			
9A.44.083	Child molestation, second degree	CMOL2	Class B felony
A person is guilty of child molestation in the second degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least twelve years old but less than fourteen years old and the perpetrator is at least thirty-six months older than the victim.			
9.68A.090	Communicating with a minor for immoral purposes <sup>#</sup>	CMIP	Gross misdemeanor <sup>^</sup>
A person who communicates with a minor for immoral purposes, or a person who communicates with someone the person believes to be a minor for immoral purposes, is guilty of a gross misdemeanor.			
9.68A.100	Commercial sexual abuse of a minor	CSAM	Class B felony
A person is guilty of commercial sexual abuse of a minor if (a) he or she provides anything of value to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her; (b) he or she provides or agrees to provide anything of value to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or (c) he or she solicits, offers, or requests to engage in sexual conduct with a minor in return for anything of value.			
9.68A.050	Dealing in depictions of a minor engaged in sexually explicit conduct	DDMESEC	Class B felony
A person eighteen years of age or older commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct when he or she knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).			
9.68A.070	Possession of depictions of a minor engaged in sexually explicit conduct	PDMSESEC	Class B felony
A person commits the crime of possession of depictions of a minor engaged in sexually explicit conduct when he or she knowingly possesses a visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).			

#### Notes:

<sup>#</sup> In *Washington v. McNallie* (Feb. 1993), Washington courts ruled that "immoral purposes" means "for the predatory purpose of promoting the exposure of children to and involvement in sexual misconduct."

<sup>^</sup> If the perpetrator has previously been convicted of a felony sexual offense and communicated electronically, the crime of communicating with a minor for immoral purposes is a class C felony.

### III. Washington’s Special Sex Offender Sentencing Alternative (SSOSA)

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Individuals convicted of sexual offenses in Washington State may be eligible for a sentencing alternative known as the Special Sex Offender Sentencing Alternative (SSOSA). SSOSA was created after Washington State changed from an indeterminate to a determinate sentencing system during the 1980s. This change substantially increased the severity of punishment and reduced community-based treatment options for people convicted of sexual offenses.<sup>60</sup>

After Washington shifted to a determinate sentencing structure, advocacy groups raised concerns about how this would impact victims of child sexual abuse. Advocates noted that most victims of sexual abuse are children who were abused by family members. Because determinate sentencing greatly increased the severity of punishment for sex offenses, advocacy groups argued that child victims would be discouraged from reporting the abuse to the police, as this might result in sending a family member to prison. In response to these concerns, the legislature created SSOSA.

In practical terms, an SSOSA sentence “consists of a suspended sentence, incarceration up to 12 months, treatment for up to 5 years, and a term of community custody.”<sup>61</sup> The rationale behind SSOSA is to provide a less-punitive alternative for individuals who are amenable to treatment while ensuring that they will still be held accountable for their crimes.

During the last three decades, WSIPP has conducted multiple studies of SSOSA. WSIPP found the following:

- The vast majority of individuals who receive SSOSA sentences have never previously been incarcerated.<sup>62</sup>
- Most individuals who receive SSOSA sentences were convicted of sexual crimes involving children.<sup>63</sup>
- State expenses associated with punishment are substantially lower for individuals who receive SSOSA sentences than for individuals convicted of similar offenses who did not receive an SSOSA sentence.<sup>64</sup>
- Receipt of SSOSA is associated with significantly lower recidivism rates.<sup>65</sup>

Individuals convicted as a result of internet sting operations are *not* eligible for SSOSA, which requires defendants to have “an established relationship with the victim” (see [Exhibit A4](#)). SSOSA was originally developed during the 1980s, long before internet sting operations existed.

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<sup>60</sup> Sex Offender Policy Board. (2013). *Review of the Special Sex Offender Sentencing Alternative (SSOSA)*.

<sup>61</sup> Hunt, W. (2022). *Recommendations for SSOSA reforms; treatment alternatives for certain sex offenses; lifetime supervision; failure to register; washouts; and system improvements*. Sex Offender Policy Board. Report submitted to the House Public Safety Committee, 20.

<sup>62</sup> Barnoski, R. (2005). *Sex offender sentencing in Washington State: Initial sentencing decision* (Doc. No. 05-09-1202). Olympia: Washington State Institute for Public Policy.

<sup>63</sup> Barnoski, R. (2005). *Sex offender sentencing in Washington State: Recidivism rates* (Doc. No. 05-08-1203). Olympia: Washington State Institute for Public Policy.

<sup>64</sup> Lieb, R., H. Scogin, & G. Weeks. (1993). *Washington State sex offenders: Costs of sentencing options* (Doc. No. 93-02-1101). Olympia: Washington State Institute for Public Policy.

<sup>65</sup> Barnoski (2005) and Song, L., & R. Lieb (1995). *Washington State sex offenders: Overview of recidivism studies* (Doc. No. 95-02-1101). Olympia: Washington State Institute for Public Policy.

## Exhibit A4

### SSOSA Eligibility Requirements

- Individual had an **established relationship** with the victim;
- Individual is found to be amenable to treatment;
- Individual is willing and able to pay for the diagnostic and treatment costs;
- Individual has no prior convictions for sexual offenses;
- Individual has not been convicted of a violent offense within the last 5 years;
- The crime did not result in substantial bodily harm to the victim;
- The crime is not classified as both a sex offense and a serious violent offense; and
- The standard range for the offense includes the possibility of confinement of less than 11 years.

Note:

[RCW 9.94A.670.](#)

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