

**WASHINGTON STATE
END OF SENTENCE REVIEW COMMITTEE
RULES OF ORDER**

Purpose

RCW 79.09.345 requires the End of Sentence Review Committee to review all sex and other registerable offenders prior to their release from state confinement. The End of Sentence Review Committee (ESRC) is comprised of representatives of Washington State Agencies who have the jurisdiction over the release of sex offenders or are significantly impacted by their release, to include the Department of Corrections (DOC), Indeterminate Sentence Review Board, (ISRB), Department of Social and Health Services (DSHS) including the Special Commitment Center (SCC), the Juvenile Rehabilitation Administration (JRA), and the Mental Health Division (MHD) Institutions consisting of Western State Hospital (WSH), Eastern State Hospital (ESH), and Child Study and Treatment Center (CSTC). Offenders who are reviewed include those that have been convicted or found not guilty by reason of insanity or found legally incompetent* to stand trial of a sex offense, a sexually motivated offense, or a kidnapping/unlawful imprisonment offense in accordance with RCW 72.09.345. In addition, the committee will review all offenders with crimes against children and offenders of special interest who are considered a high risk to commit a violent offense.

*Sex offenders who have been found legally incompetent per Chapter 10.77 Revised Code of Washington (RCW) are not required to register; however, a Law Enforcement Alert will be submitted and the case shall be assessed for possible civil commitment referral under Chapter 71.09 RCW.

The Washington State Sex Offender Risk Level Classification Revised 1999 Instrument is the principal assessment used to classify offenders into risk levels. However, the committee may depart from the classification if there are aggravating or mitigating circumstances. Due to the volume of cases requiring review, the End of Sentence Review process utilizes three subcommittees in addition to the primary committee.

Cases that score a preliminary score of Level I and those which may involve case management by Child Protective Services (CPS) or Adult Protective Services (APS) but do not require other committee action will be referred to the Level I/CPS Subcommittee. This subcommittee will refer cases back to the ESRC if additional action is needed, including recommendations made for aggravation to a Risk Level III or possible referral to the ESRC Subcommittee for consideration under RCW 71.09. Adjudicated youth under the jurisdiction of the Juvenile Rehabilitation Administration will be reviewed by the JRA Subcommittee for risk level classification for the purpose of community notification. The JRA Subcommittee will coordinate with the DSHS Children's Administration (CA) and the Division of Developmental Disabilities (DDD) as appropriate. With the exception of Recent Overt Act referrals, all cases submitted by state agencies with jurisdiction that appear to meet the criteria for civil commitment under RCW 71.09.020 will be reviewed by the ESRC Sexually Violent Predator Subcommittee.

END OF SENTENCE REVIEW COMMITTEE

Membership

The End of Sentence Review Committee includes the following voting members (excluding the Chair):

Department of Corrections (4)

- End of Sentence Review/Civil Commitment Program Manager
- Law Enforcement Notification Program Manager
- Office of Correctional Operations Community Corrections Supervisor
- Office of Correctional Operations Correctional Program Manager

Department of Social and Health Services (5)

- Juvenile Rehabilitation Administration Subcommittee Chair
- Mental Health Division representative
- Victim/Witness Notification Program Administrator
- Division of Developmental Disabilities Clinical Practices Manager
- Children's Administration representative

Law Enforcement (1-2)

- City and/or county representative

Indeterminate Sentence Review Board (1)

- Hearings Examiner

Victim Advocacy (1)

- Advocacy Services Coordinator

Process

1. The End of Sentence Review Committee reviews all adult sex offenders who appear to meet the criteria of a Level II or III based on their preliminary score on the Washington State Sex Offender Risk Level Classification who may be released from a Department of Corrections or Department of Social and Health Services institution or facility, and those offenders referred from the Level I/Child Protective Services and Juvenile Rehabilitation Administration Subcommittee.
2. The ESRC meets from 8:30 a.m. to 4:00 p.m. on the first consecutive Thursday and Friday of each month. The committee will reschedule when a holiday occurs on a regular meeting date or if the Chair makes other arrangements with members' concurrence.
3. The Secretary of the Department of Corrections (DOC) appoints the Chair of the ESRC.
4. A quorum consists of seven (7) voting members. **Voting members are responsible for ensuring adequate representation at each meeting.** Members may send an approved alternate from their agency if the person is familiar with the ESRC process, the risk level actuarial assessments used, and the mission of the committee. If a voting member is unable to attend or plans to send an alternate, they must notify the End of Sentence Review (ESR) Program Manager as soon as possible.
5. The agency with jurisdiction will review and prepare case files for committee review. The presentation will include a brief overview of the offender's criminal history, sexual deviancy, risk assessment, specific concerns, and any previous ESRC actions.
6. Following the case presentation, members will review the case documents. A facilitator or the ESR Program Manager will open the case for discussion and then call for a vote.

7. Recommendations to the ESRC Chair will be made by a majority vote. In the event of a tie, the Chair will make the final decision. The Chair has authority to override the ESRC recommendations.
8. Minutes will be taken at each meeting and distributed to all ESRC and ESR Subcommittee members, as well as the DSHS Fiscal/Budget Manager.
9. The committee will not review more than twenty-five (25) cases per day. When necessary a special ESRC meeting may be scheduled.
10. The ESRC Chair will provide twice yearly reports in January and July to all ESRC members. The reports will include statistics on all cases reviewed (e.g. number of Level I, II and III sex offenders); number of notification departures (including aggravations and mitigations); reclassifications at release by DOC and/or law enforcement, and RCW 71.09 civil commitment referral information (e.g. number referred to Subcommittee, number referred for Forensic Psychological Evaluation, number that did not meet SVP criteria, number filed by Prosecuting Attorney and the available results).
11. The ESRC welcomes appropriate guests who have prior approval of the ESRC Chair or ESR Program Manager and wish to observe the End of Sentence Review process. It is important that visitors do not interrupt the ESRC process in any manner while observing. Requests will be approved in consultation with the ESRC Chair. A signed confidentiality agreement may be required prior to attendance. Guests may not remove written information or computer discs from the ESRC meeting. This includes hand written notes and/ or packets on specific offenders, unless permitted by the ESRC Chair.

POTENTIAL END OF SENTENCE REVIEW DECISIONS AND CRITERIA

Sex Offender Classifications

The types of classifications issued when a sex offender is releasing to the community are summarized below. The committee's decision regarding notification is made in the best interest of community protection. All cases are considered on an individual basis. At times, modification from these guidelines may occur based on aggravating or mitigating circumstances.

Level I Notification (low risk of reoffense within the community at large)

- Must be convicted of a registerable sex offense; and
- Must have a Washington State Sex Offender Risk Level Classification score of 46 or less and no notification considerations.

Level II Notification (moderate risk of reoffense within the community at large)

- Must be convicted of a registerable sex offense; and
- Must have a Washington State Sex Offender Risk Level Classification score of 46 or less and one to two notification considerations.

Level III Notification (high risk of reoffense within the community at large)

- Must be convicted of a registrable sex offense; and
- Must have a Washington State Sex Offender Risk Level Classification score of 46 or less and three or more notification considerations, or a score of 47 or higher.

Agency Notifications & Services

The following are general guidelines regarding other types of notification that may be issued when a sex offender is releasing from a confined facility. All cases are considered on an individual basis and may depart from the guidelines noted below.

Sex Offenders Sentenced under RCW 9.94A.712

- ESRC reviews actuarial instrument scores and submits a recommendation to the Indeterminate Sentence Review Board regarding whether the offender appears more likely than not to sexually reoffend if released to the community; and
- ESRC may recommend conditions of supervision to reduce risk to the community if released.

Potential Victim/ Witness Notification (regardless of enrollment status with agency programs)

- Offender is making or has made threats to individual(s);
- DOC/DSHS has new information regarding the offender's potential risk to individual(s); and
- Consideration should be given to the circumstances and time frames in which the threats were made.

CPS Notification (in state/out of state)

- Offender's behavior places a known minor at risk; and/or
- Offender is returning to a residential situation that places an identifiable minor(s) at risk.

DDD Services

- Offender has a Full Scale IQ of 69 or below on the WAIS or Stanford Binet;
- Offender is a past recipient of DDD services and is still eligible for services;
- Offender appears to have a developmental disability (e.g., mental retardation, cerebral palsy, epilepsy, autism, or other neurological conditions similar to mental retardation). Eligibility criteria for DDD services are defined in Chapter 71A RCW.

APS Notification (Aging and Adult Services)

- Offender has offended against a dependent or vulnerable adult;
- Offender's behavior places a known dependent or vulnerable adult at risk; and/or
- Offender is returning to a residential situation that places a dependent or vulnerable adult at risk.

Law Enforcement Alert

- Offense or behavior history that may be of special interest to law enforcement;
- Assault of a Child;
- Kidnapping offenses, including the crimes of Kidnapping in the First Degree, Kidnapping in the Second Degree, and Unlawful Imprisonment as defined in Chapter 9A.40 RCW, where the victim is a minor (age 17 and under) and the offender is not the minor's parent.
- Sex offenders who have been found incompetent to stand trial.

Chapter 71.05 Referral

Chapter 71.05 RCW referrals will be made to the appropriate mental health authority by designated DOC, ISRB or DSHS staff for an offender with a history of a mental illness and/or a mental disorder who meets one or more of the following criteria in each section:

1. As a result of a mental illness or mental disorder has a history of:
 - Violence towards self or others;
 - Has threatened the physical safety of another and has a history of one or more violent acts which can include the substantial loss or damage to the property of others;
 - Mental health evaluations, assessments and/or findings of incompetence or insanity;
 - Psychiatric civil commitments; **and**

2. As the result of an active mental illness, is:
 - Currently threatening a potential victim(s)/target;
 - Danger to self or others;
 - Gravely disabled.

Note: Persons who are developmentally disabled, impaired by chronic alcoholism or drug abuse, or suffering from dementia shall not be referred solely by reason of that condition, unless the condition causes a person to be gravely disabled or as a result of a mental disorder* such condition exists that constitutes a likelihood of serious harm.

***Mental disorder** means any organic, mental or emotional impairment, which has substantial adverse effects on an individual's cognitive or volitional functions.

Licensing

- The offender has previously held a license or certificate issued by a state agency which would provide access to potential victims (i.e., nursing assistant, chiropractor, teaching, etc.)

Other Notifications

- Notification to other state agencies or organizations of special interest is based on need to know necessary and relevant information.

LEVEL I/CPS SUBCOMMITTEE

Membership

The Level I/CPS Subcommittee includes the following voting members:

Department of Corrections (3+)

- Law Enforcement Notification Program Manager
- Office of Correctional Operations Community Corrections Supervisor
- Community Protection Unit Notification Specialists (one may vote)

Department of Social and Health Services (2)

- Children's Administration Program Manager or designee
- Juvenile Rehabilitation Administration Program Administrator or designee

Law Enforcement (1)

- City or county agency representative

Victim Advocacy (1)

- Advocacy Services Coordinator

Process

1. The Level I/CPS Subcommittee reviews all DOC sex offenders who score as Level I on the Washington State Sex Offender Risk Level Classification, offenders who have committed a non-sexual crime against a child, imminent threat cases involving a domestic partner, and other cases as appropriate.
2. The subcommittee meets from 8:30 a.m. to 4:00 p.m. the Tuesday prior to ESRC meetings, unless other arrangements are made.
3. A quorum consists of four (4) voting members. **Voting members are responsible for ensuring adequate representation at each meeting.** Members may send an approved alternate from their agency if the person is familiar with the ESRC process, the risk level actuarial assessments used, and the mission of the committee. If a voting member is unable to attend or plans to send an alternate, they must notify the Law Enforcement Notification Program Manager as soon as possible.
4. Recommendations will be made by simple majority. In the event of a tie, the Chair will make the decision. Cases may be referred to the ESRC at the discretion of the Chair.
5. The subcommittee will refer all cases that meet Level III notification requirements to the ESRC.
6. Minutes of each meeting are retained by the subcommittee Chair and distributed to ESRC members.

JUVENILE REHABILITATION ADMINISTRATION (JRA) SUBCOMMITTEE

Membership

The JRA Subcommittee consists of the following voting members (excluding the Chair):

DSHS Juvenile Rehabilitation Administration (8)

- Regional Sex Offender Treatment Coordinators (5)
- Institutional Sex Offender Treatment Coordinators (3)

Other DSHS Representatives (4)

- Children's Administration (CA) Program Manager
- CA Regional Sexually Aggressive Youth (SAY) Coordinator
- Division of Developmental Disabilities Clinical Practices Manager
- Victim/Witness Notification Program Manager

Department of Corrections (1)

- Community Protection Unit Notification Specialist

Law Enforcement (1-2)

- City and/or county agency representative

Victim Advocacy (1)

- Advocacy Services Coordinator

Academia (1)

- Education representative

Additionally, the JRA Subcommittee has the following non-voting members:

- The JRA Chair, who votes only in the case of a tie
- One (1) Institutional Sex Offender Treatment Coordinator (presenting the case)
- One (1) Regional Sex Offender Treatment Coordinator (receiving the case)

Process

1. The JRA Subcommittee reviews all juvenile sex offenders committed to the Juvenile Rehabilitation Administration who may be released from the Department of Social and Health Services institutions or facilities.
2. The subcommittee meets from 9:00 a.m. to 4:30 p.m. on the fourth Thursday of each month. The committee will reschedule when a holiday occurs on a regular meeting date or if the Chair makes other arrangements with members' concurrence.
3. The JRA Sex Offender Program Administrator assumes Chair responsibilities for the JRA Subcommittee, and represents JRA as a voting member of the ESRC.
4. A quorum consists of seven (7) voting members. **Voting members are responsible for ensuring adequate representation at each meeting.** Members may send an approved alternate from their agency if the person is familiar with the JRA Subcommittee process, the risk level actuarial assessment used, and the mission of the committee. If a voting member is unable to attend or plans to send an alternate, they must notify the Chair as soon as possible.
5. The facility with jurisdiction will review, prepare and present case files for committee review. The presentation will include a brief overview of the offender's criminal history, sexual deviancy, risk assessment, specific concerns, and any previous JRA Subcommittee actions.
6. Following the case presentation, members will review the case documents. The Chair will open the case for discussion and then call for a vote. Decisions will be made by a simple majority. Cases may be referred to the ESRC by the Subcommittee or at the discretion of the Chair.
7. In the event of a tie, the Subcommittee Chair will make the final decision. The Chair has authority to override the JRA Subcommittee recommendations.
8. Minutes will be taken at each meeting, retained by the Subcommittee Chair and distributed to all JRA Subcommittee members, as well as to the JRA Division of Community and Institutions appointing authorities.
9. The subcommittee will not review more than twenty-five (25) cases per day. When necessary a special JRA Subcommittee meeting may be scheduled.

10. The JRA Subcommittee welcomes appropriate guests who have prior approval of the JRA Subcommittee Chair and wish to observe the JRA Subcommittee process. It is important that visiting staff do not interrupt the JRA Subcommittee process in any manner while observing. Requests will be approved in consultation with the JRA Subcommittee. A signed confidentiality agreement may be required prior to attendance. Guests may not remove written information from the JRA Subcommittee meeting. This includes hand written notes and/or packets on specific offenders, unless permitted by the JRA Subcommittee Chair.

END OF SENTENCE REVIEW SEXUALLY VIOLENT PREDATOR REFERRAL SUBCOMMITTEE

Membership

In addition to the regular ESRC voting members, the ESR Sexually Violent Predator Subcommittee includes at least one (1) attorney from the King County Prosecutor's Office Sexually Violent Predator Unit and/or one (1) attorney from the Washington State Attorney General's Office Sexually Violent Predator Unit.

Chapter 71.09 RCW Referrals

Chapter 71.09 RCW referrals will be made to the Washington State Attorney General's Office or King County Prosecutor's Office when it appears that an individual meets all of the following three criteria:

1. Has been convicted of or charged with a crime of sexual violence per RCW 71.09;
2. Suffers from a mental abnormality* or personality disorder;
3. As a result of a mental abnormality or personality disorder is more likely than not to engage in predatory* acts of sexual violence if not confined to a secure facility.

*RCW 71.09.020 defines mental abnormality as "a congenital or acquired condition affecting the emotional or volitional capacity which predisposes a person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others." The DSM-IV-TR identifies a personality disorder as, "An enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual culture. A) This pattern is manifested in two (or more) of the following areas: 1) Cognition (i.e., ways of perceiving and interpreting self, other people, and events); 2) Affectivity (i.e., the range, intensity, lability, and appropriateness of emotional response); 3) Interpersonal Functioning; 4) Impulse Control. B) The enduring pattern is inflexible and pervasive across a broad range of personal and social situations. C) The enduring pattern leads to clinically significant distress or impairment in social, occupational, or other important areas of functioning. D) The pattern is stable and of long duration, and its onset can be traced back at least to adolescence or early adulthood." In addition to the above, the diagnosis of a personality disorder entails that the enduring pattern is not better accounted for as a manifestation of another mental disorder.

*Predatory means acts directed towards: (a) Strangers; (b) Individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or (c) Persons of casual acquaintance with whom no substantial personal relationship exists.

*Secure facility refers to a residential facility for persons civilly confined under the provisions of chapter 71.09 that include security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.

Sex offenders who have previously committed one or more sexually violent offenses, have since been released from confinement for the offense(s), and appear to have committed a Recent Overt Act* may be referred for civil commitment under RCW 71.09.020 by any agency with jurisdiction over, or knowledge of, the offender. In the interest of time, Recent Overt Act referrals do not require ESRC Subcommittee review, but they will be processed via the Joint Forensic Unit*.

*Recent Overt Act means any act or threat that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act.

*The Joint Forensic Unit (JFU) is comprised of a pre-selected group of nationwide expert forensic psychologists/psychiatrists who are uniquely qualified to conduct sexually violent predator and/or sex offense risk evaluations. In addition, several JFU evaluators exclusively conduct evaluations for sex offenders who are sentenced under RCW 9.94A.712, in order to assess whether the offender is more likely than not going to sexually reoffend if released to the community. *These evaluations are not recommended by the End of Sentence Review Committee or prosecuting attorneys.* The remaining JFU experts specialize in and chiefly conduct Sexually Violent Predator evaluations, which includes their expert opinion as to whether or not the offender meets criteria for civil commitment as outlined in RCW 71.09.020.

The JFU primarily enables centralization of records processing and a fair method of assigning forensic psychological evaluations on the behalf of the various agencies, including DOC; JRA; ISRB; and Eastern/Western State Hospitals, that refer sex offenders for consideration of civil commitment under RCW 71.09. It should be noted that the process is slightly different for those sex offenders sentenced under RCW 9.94A.712, known as Community Custody Board (CCB) cases. These cases may be identified for a forensic psychological evaluation, which is reviewed by the End of Sentence Review Committee and incorporated into a report that is forwarded to the ISRB. Because ISRB hearings do not involve court proceedings, the records are typically far less extensive than a case being considered for civil commitment under RCW 71.09, and the file material obtained can be scanned, converted to a compact disc, and sent directly to the assigned evaluator with no further processing.

Process

1. The End of Sentence Review Committee or JRA Sex Offender Oversight Committee identifies those cases that appear to meet the civil commitment criteria outlined above and refers those cases to the ESRC Subcommittee for review.
 - The JRA Sex Offender Oversight Committee consists of ten Sex Offender Treatment Coordinators and is chaired by the JRA Sex Offender Program Administrator. The JRA Sex Offender Oversight Committee members are active voting members of the JRA Subcommittee.
 - The Sex Offender Treatment Coordinator provides an initial 71.09 screening for youth adjudicated for a sexually violent offense to determine if the youth appears to meet the criteria of a sexually violent predator within 30 days of admission to JRA, or no later than 180 days before the youth's planned release date from their residential obligation.
 - Reviews may occur at any other time during commitment or parole as deemed necessary.

- JRA internal screening is necessary to meet JRA security classification, sentencing obligations and to facilitate timely referral to the ESRC Subcommittee.
2. All relevant records are requested by the DOC End of Sentence Review Program Manager or the JRA Subcommittee chair for presentation to the ESRC Subcommittee. These records include full copies of each DOC file, JRA file, juvenile records, ISRB file, Eastern/Western State Hospital files, files and documents from other states, court and prosecutor files, police reports, treatment records, federal records, and military records.
 3. The ESRC Subcommittee reviews available documents and determines if the case appears to meet criteria for civil commitment under RCW 71.09.020. If the answer is no, the committee will not vote to obtain an expert forensic psychological evaluation. If yes, the committee will vote to obtain an expert forensic psychological evaluation to assess to a reasonable degree of psychological certainty that the offender meets criteria as a Sexually Violent Predator per RCW 71.09.
 4. When a forensic psychological evaluation is recommended by the End of Sentence Review Committee or prosecuting authority (either the King County Prosecutor's Office or Washington State Attorney General's Office), all pertinent records and files are requested by the DOC End of Sentence Review/Civil Commitment/Joint Forensic Unit* Program Manager. This list of records includes all DOC files, JRA files, ISRB files, juvenile records, state hospital records, treatment records, military records, police reports, court files, prosecutor files, and out of state records.
 5. Once the available records and documents are received, they are scanned and converted to a compact disc of information that is forwarded to the proper prosecuting agency (either the King County Prosecutor's Office or the Washington State Attorney General's Office) for processing, which includes organizing, removing all duplicates, indexing, and bates stamping (a legal numbering system for future court proceedings).
 6. Once the file has been organized, the prosecuting agency contacts the JFU Manager to assign the case to the next available Joint Forensic Unit expert. The materials are immediately sent to the assigned expert for the forensic psychological evaluation. **
 7. Once the evaluator has completed the forensic psychological evaluation report, the JFU Manager reviews it and distributes it accordingly. The evaluator also submits their billing statements for reimbursement, which are forwarded for payment to the Department of Social Health Services (for civil commitment evaluations) or the Department of Corrections (for CCB evaluations).
 8. If the offender is determined to meet civil commitment criteria under RCW 71.09.020 via forensic expert opinion, the agency with jurisdiction will refer the case to the proper prosecuting authority for civil commitment consideration.
 9. If the offender does not meet civil commitment criteria under RCW 71.09.020 via forensic expert opinion, the completed forensic psychological evaluation report will be presented for review by the End of Sentence Review Subcommittee and the case will not be referred for civil commitment consideration at that time.
 10. In cases where the offender is assessed by a JFU expert who is unable to reach an opinion regarding whether or not the offender meets civil commitment criteria under RCW

71.09.020, the case may be assigned to a second forensic psychologist within the Joint Forensic Unit for assessment.