



End of Sentence Review Committee

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How did we get here?

HISTORICAL CONTEXT



Community Protection Act of 1990

LEGAL BASIS

Background

September 26, 1988 - 29 year-old Diane Ballasiotes was kidnapped shortly after leaving her Pioneer Square office by Gene Raymond Kane, a convicted sex offender. Kane had walked away from a nearby work release facility prior to kidnapping Ballasiotes who he subsequently raped, then murdered. Kane had previously been convicted of sexually assaulting two women. When considered for treatment at the Western State Hospital Sexual Psychopath Treatment Program, he was determined "too dangerous to handle."



Background

After the murder of her daughter, Ida Ballasiotes wrote to Governor Booth Gardner:

“No one can bring our daughter back. The light has gone from our hearts. But, be assured, we will work and mobilize forces to get change and reform.”

MISSING



DIANE BALLASIOTES
5'5"
110 LBS
29 Years Old
Hair: Auburn, curly, shoulder length
Eyes: Brown

Last seen wearing: Navy skirt, navy tennis sweater with white V-neck over white blouse, Pearl necklace, gold chain pendent watch, light grey raincoat, umbrella.

Drives: Light blue '82 Honda Civic hatchback. Maroon & white WSU sticker beside rear license plate. Car was parked at 3rd & Yesler U-Park garage.

License: KZP 630

Last seen: Mon. Sept. 26, 5:30 pm, leaving 1st & Yesler area of Pioneer Sq., heading toward 3rd & Yesler U-Park garage near Frye Apartments.

In Seattle: Call 911 - Refer
Out of Seattle: C

Reward for information leading to the

REWARD

Work-release escapee is arrested in slaying of downtown worker

By Michael A. Barber
PI Reporter

A 30-year-old felon who escaped from a Seattle work-release center last month was arrested as a suspect in the slaying of a woman who disappeared after leaving her Pioneer Square office last week.

Gene Raymond Kane Jr., sentenced to 20 years in prison in 1976 and 1977 in Kittitas and Yakima counties for assaulting two women at knife point, was arrested by a Sears, Roebuck and Co. security guard Wednesday in Union Gap, south of Yakima, Union Gap police said.

Kane was arrested about 2:30 p.m. in the Valley Mall parking lot. He was driving the car belonging to Diane Ballasiotes, 29, of Ballard, police said. Ballasiotes' body was found Monday dumped in thick underbrush near Jefferson Golf Course on Beacon Hill. She had been stabbed to death.

Kane was reported as an escapee Sept. 26 when he failed to return from a job to the Reynolds Work Release Center, located in the old Reynolds Hotel, 410 Fourth Ave. in Seattle.

On the same day, a few blocks away, Ballasiotes left her office building on First Avenue and Yesler Way about 5:30 p.m.

She headed to her car in a garage on Yesler Way between Second and

Third Avenues, down the street from the work-release center.

She was never seen alive again.

Kane, a native of El Paso, Texas, was identified as a possible suspect Tuesday, when police researched escapees and found his prior convictions bore similarities to the Ballasiotes case. Other police departments were alerted.

Court documents said Kane was living in Yakima and on probation for auto theft when he attacked two women in 1976 and 1977.

He was sentenced on Aug. 2, 1976, in Kittitas County Superior Court after pleading guilty to first-degree assault stemming from a July 13, 1976, attack.

Kane pulled a knife on the woman after tricking her into stopping her car, court records say. He forced her to drive a distance and attempted to rape her, but she escaped, records say.

After sentencing, Kane was treated in the sexual psychopath program at Western State Hospital for 90 days before going to prison, the documents said.

On Jan. 10, 1977, he was sentenced to a concurrent term in Yakima County Superior Court for second-degree assault for a similar attack on a woman in a parking lot in 1976, according to corrections department information.

Kane was transferred July 27 to the Reynolds Work Release Center, where



Diane Ballasiotes

he got a job as an automobile paint detailer, said corrections spokesman Veltry Johnson.

At the Reynolds center yesterday director Bernie Warner said the mood among staffers was somber.

"We feel sad for the victim. We are not desensitized to this type of incident. We take it seriously and ask 'What could we have done?'" said Warner, who acknowledged that there is always some risk with trying to return inmates to society.

The center houses 83 inmates making the transition from prison to the outside world, he said.

Kane was a quiet and generally well-behaved inmate and showed no sign of violence, Warner said.

He was disciplined once in the two months before his escape when a test of his urine picked up traces of marijuana, Warner said.

Kane was subsequently ordered to participate in an in-house substance abuse program.

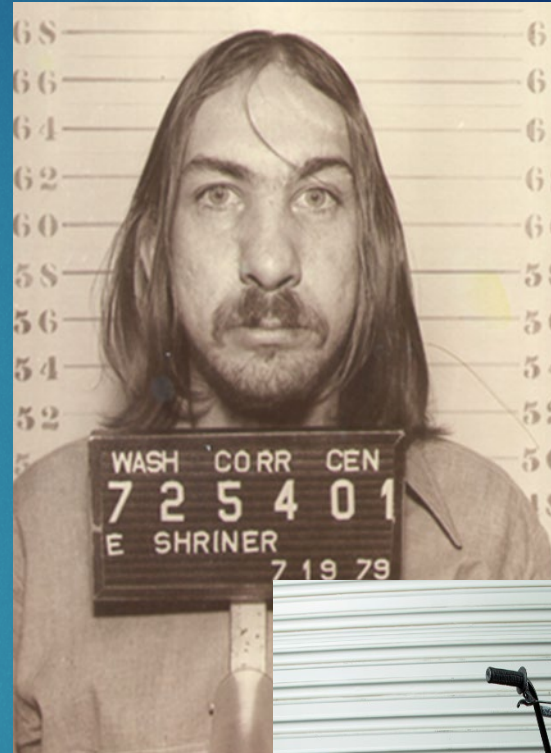
P.I. 10-7-88

Background

Earl Shriver released from prison in 1987 after serving ten years for kidnapping and torturing two teenage girls.

- ▶ While in prison he told a cellmate he wanted a van containing cages so he could pick up children, sexually abuse and kill them.
- ▶ A psychiatric evaluation stated Shriver “has unusual sexually sadistic fantasies and plans to carry them out.”

May 20, 1989 – Shriver raped and strangled a 7-year-old Ryan Hade , severed his penis and left him to die in a Tacoma park.



Background

September 1989 – Westley Allan Dodd lured two brothers, 11 and 10, to a secluded park, forced them to undress, tied them to a tree, and performed sex acts on them both. He stabbed them to death.

October 1989 - Dodd encountered a 4 year old in a park, took him to his apartment where he tied him to a bed and photographed his molestation. The next morning Dodd strangled him with a rope and hanged him in a closet.

November 1989 - Dodd snatched a 6 year old from the bathroom of a theater, the boy broke away, and Dodd was captured.

Dodd had been arrested multiple times and claimed to have over 50 victims under the age of 12.



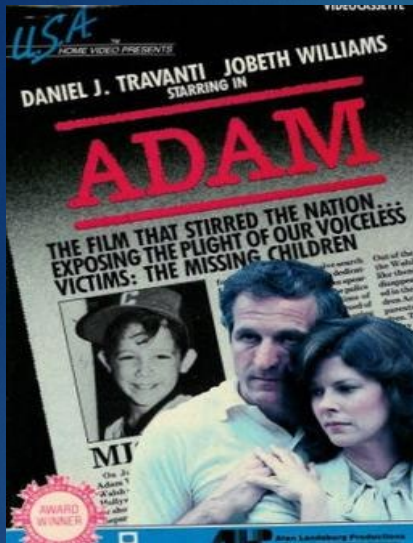
Background

July 1989 – Mountlake Terrace Police Chief John Turner notified the community that an 18 year old, recently released from juvenile custody, was living in the community and at risk to sexually offend based on a plan he had written to abduct and molest children.



Background-Nationwide

May 1979 - Etan Patz, a 6 year old male kidnapped and murdered in New York



July 1981- Adam Walsh, a 6 year old male kidnapped and murdered in Florida. The story was later turned into a 1983 television film that was watched by 38 million people and rebroadcast in 1984 and 1985. Congress passed the Missing Children's Assistance Act in 1984

1986 – Robert Longo wrote in *Psychology Today*: “Most untreated sex offenders released from prison go on to commit more offenses—indeed as many as 80% do.”



October 1989 – Jacob Wetterling, an 11 year old boy was abducted and murdered in Minnesota.

The Community Reacts

**Friends
of
Diane**

**Tennis
Shoe
Brigade**

**Talk
Radio
Hosts**



The Governor Responds



Community Protection Task Force

Chaired by
Norm Maleng

Members included:

Ida Ballasiotes, Helen Harlow, law enforcement, elected officials, victim groups, and professionals

Conducted
12 community meetings
statewide

The Community Protection Task Force

We held public hearings throughout the state and heard virtually the same concerns everywhere: longer sentences, better supervision, sex offender registration, and the idea of community notification.

-Community Protection Task Force Member

Community Protection Act of 1990

The Community Protection Act was unanimously passed by the Legislature and signed into law on February 28, 1990

Groundbreaking Changes:

- ▶ Sex Offender Registration
- ▶ Community Notification
- ▶ Civil Commitment of Sexually Violent Predators



Other Significant Changes

Offender Control

- Longer Sentences
- Reduced Good Time
- Post Release Supervision
- Sexual Motivation sentence enhancements
- DOC and ISRB directed to give public safety the highest priority in discretionary decisions

Treatment

- Funding for prison based treatment
- Certification of treatment providers
- Polygraph and plethysmograph testing

Victim Services

- Office of Crime Victim Advocates
- Funding for enhanced victim services
- Funding to Victim's Compensation Fund

Other Significant Changes

Juvenile

- Eliminated “Washout”
- Funding for treatment
- Sexually Aggressive Youth Programs
- Requirement for 2 years supervision
- Victim Notification

Prevention

- Information Sharing
- Community Prevention Programs
- HITS expanded to include sex offenders



Legal Foundation and Requirements

AGENCY RESPONSIBILITIES ARE BASED IN STATE LAW

Community Protection Act

Section 116

The legislature finds that sex offenders pose a high risk of engaging in offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is a paramount governmental interest. The legislature further finds that the penal and mental health components of our justice system are largely hidden from public view and that lack of information from either may result in failure of both systems to meet this paramount concern of public safety. Overly restrictive confidentiality and liability laws governing the release of information about sexual predators have reduced willingness to release information that could be appropriately released under public disclosure laws, and have increased risks to public safety. Persons found to have committed a sex offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of information about sexual predators to public agencies and under limited circumstances, the general public, will further the governmental interests in public safety and public scrutiny of the criminal and mental health systems so long as the information release is rationally related to the furtherance of those goals.

Therefore, the state's policy of this act is to require the exchange of relevant information about sexual predators among public agencies and officials and to authorize the release of necessary and relevant information about sexual predators to members of the general public.



RCWs

THE COMMUNITY PROTECTION ACT WAS CODIFIED AND TRANSFERRED INTO STATE LAWS WHICH DEFINE THE REQUIREMENTS AND RESPONSIBILITIES OF GOVERNMENT RELATED TO THE MANAGEMENT OF INDIVIDUALS WITH HISTORIES OF SEXUAL OFFENDING.

RCW 72.09.345

SEX OFFENDERS—RELEASE OF INFORMATION TO PROTECT PUBLIC—END-OF-SENTENCE REVIEW COMMITTEE—ASSESSMENT—RECORDS ACCESS—REVIEW, CLASSIFICATION, REFERRAL OF OFFENDERS—ISSUANCE OF NARRATIVE NOTICES

RCW 4.24.550

SEX OFFENDERS AND KIDNAPPING OFFENDERS—RELEASE OF INFORMATION TO PUBLIC

RCW 71.09.030

SEXUALLY VIOLENT PREDATOR PETITION

RCW 72.09.345

Sex offenders—Release of information to protect public—End-of-sentence review committee—Assessment—Records access—Review, classification, referral of offenders—Issuance of narrative notices

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW **4.24.550**, to release relevant information that is necessary to protect the public concerning offenders convicted of sex offenses.

(2) In order for law enforcement agencies to have the information necessary to notify the public as authorized in RCW **4.24.550**, the secretary shall establish and administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders.

(3) The committee shall assess, on a case-by-case basis, the public risk posed by:

(a) Offenders preparing for release from confinement for a sex offense or sexually violent offense committed on or after July 1, 1984;

(b) Sex offenders accepted from another state under a reciprocal agreement under the interstate corrections compact authorized in chapter **72.74**

RCW;

(c) Juveniles preparing for release from confinement for a sex offense and releasing from the department of social and health services juvenile rehabilitation administration;

(d) Juveniles, following disposition, under the jurisdiction of a county juvenile court for a registerable sex offense; and

(e) Juveniles found to have committed a sex offense and accepted from another state under a reciprocal agreement under the interstate compact for juveniles authorized in chapter **13.24** RCW.

(4) Notwithstanding any other provision of law, the committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records. Records and information obtained under this subsection shall not be disclosed outside the committee unless otherwise authorized by law.

(5) The committee shall review each sex offender under its authority before the offender's release from confinement or start of the offender's term of community custody in order to: (a) Classify the offender into a risk level for the purposes of public notification under RCW **4.24.550**; (b) where available, review the offender's proposed release plan in accordance with the requirements of RCW **72.09.340**; and (c) make appropriate referrals.

(6) The committee shall classify as risk level I those sex offenders whose risk assessments indicate they are at a low risk to sexually reoffend within the community at large. The committee shall classify as risk level II those offenders whose risk assessments indicate they are at a moderate risk to sexually reoffend within the community at large. The committee shall classify as risk level III those offenders whose risk assessments indicate they are at a high risk to sexually reoffend within the community at large.

(7) The committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW **4.24.550**, narrative notices regarding the pending release of sex offenders from the department's facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification.

RCW 4.24.550

Sex offenders and kidnapping offenders—Release of information to public (1)

(1) In addition to the disclosure under subsection (5) of this section, public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW **9A.44.128** or a kidnapping offense as defined by RCW **9A.44.128**; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter **71.09** RCW or as a sexual psychopath under chapter **71.06** RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter **10.77** RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter **71.05** or **71.34** RCW.

RCW 71.09.030

Sexually violent predator petition

(1) A petition may be filed alleging that a person is a sexually violent predator and stating sufficient facts to support such allegation when it appears that: (a) A person who at any time previously has been convicted of a sexually violent offense is about to be released from total confinement; (b) a person found to have committed a sexually violent offense as a juvenile is about to be released from total confinement; (c) a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial is about to be released, or has been released, pursuant to *RCW **10.77.086**(4); (d) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released, or has been released, pursuant to RCW ** **10.77.020**(3), **10.77.110** (1) or (3), or **10.77.150**; or (e) a person who at any time previously has been convicted of a sexually violent offense and has since been released from total confinement and has committed a recent overt act.

(2) The petition may be filed by:

(a) The prosecuting attorney of a county in which:

(i) The person has been charged or convicted with a sexually violent offense;

(ii) A recent overt act occurred involving a person covered under subsection (1)(e) of this section; or

(iii) The person committed a recent overt act, or was charged or convicted of a criminal offense that would qualify as a recent overt act, if the only sexually violent offense charge or conviction occurred in a jurisdiction other than Washington; or

(b) The attorney general, if requested by the county prosecuting attorney identified in (a) of this subsection. If the county prosecuting attorney requests that the attorney general file and prosecute a case under this chapter, then the county shall charge the attorney general only the fees, including filing and jury fees, that would be charged and paid by the county prosecuting attorney, if the county prosecuting attorney retained the case.

Information Sharing

The Community Protection Act Section 116 identified the importance of information sharing between agencies to include the Department of Corrections, Department of Social and Health Services, and law enforcement.



Information Sharing

At the time of the passage of the Community Protection Act of 1990, DSHS and DOC were already meeting and sharing information on individuals

This committee assumed information sharing responsibilities as outlined in the Community Protection Act

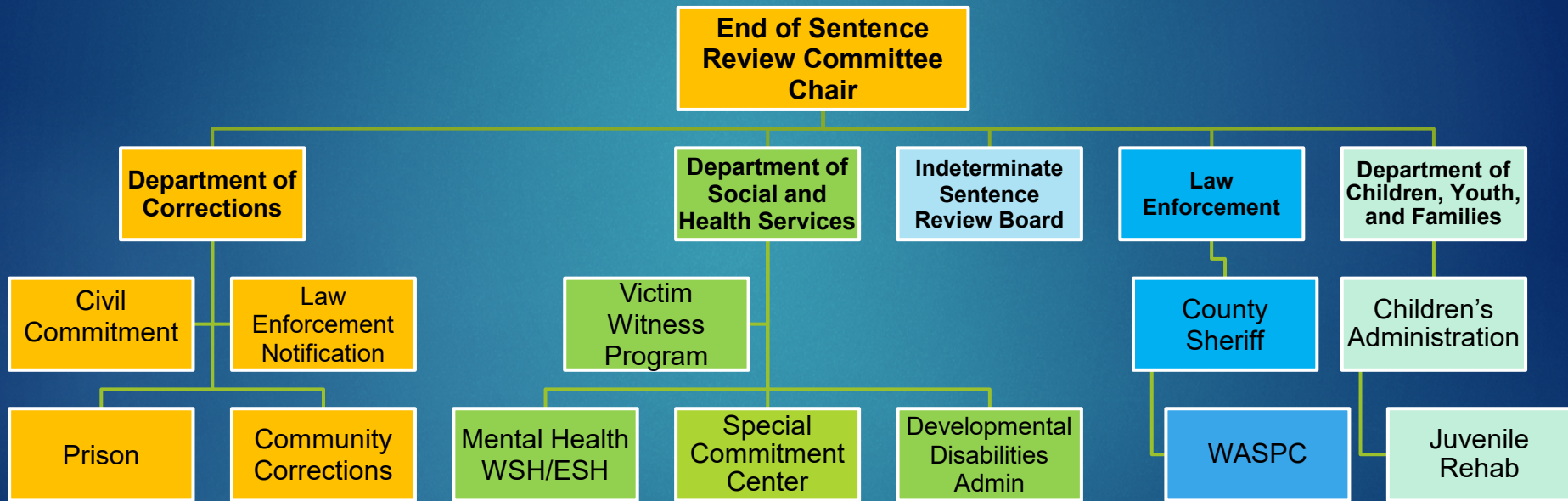
The committee would recommend one of three types of notifications:

- ▶ Teletypes for low risk offenders
- ▶ Law Enforcement Alerts for high risk offenders (sex and non-sex offenders)
- ▶ Special Bulletins for convicted sex offenders who had a history of predatory behavior

What are we doing now?

- ESRC AND ASSOCIATED FUNCTIONS
- PROVIDES SHARED DIRECTION AND PURPOSE
- THE ESRC REPRESENTS ALL RELEASING AND PARTICIPATING AGENCIES
- COMMITTEE OPERATIONS ARE FACILITATED BY THE DEPARTMENT OF CORRECTIONS

Committee Membership



End of Sentence Review Committee

- ▶ Meets three times per month
- ▶ Reviews approximately 25 to 30 cases per committee
- ▶ Reviews cases releasing from DOC, SCC and WSH/ESH
- ▶ Requires 5 voting members for a quorum

Role of the ESRC

- ▶ Reviews individuals releasing from state administered detention, commitment or confinement at Department of Corrections, Department of Social and Health Services (SCC/WSH/ESH), Department of Children and Youth Services to provide:
 - ▶ Recommended community notification risk levels
 - ▶ Assessments of proposed release plans
 - ▶ Additional service referrals (including civil commitment)

ESRC Process

Read draft bulletin and review file material.



Review Static 99R scoring and correct any errors.



Discuss additional concerns, areas of risk and protective factors.



Make a decision by majority vote. If there is a tie, the Chair votes.

ESRC Decisions

- ▶ ESRC makes community notification risk level recommendations
- ▶ The ESRC can recommend referrals to additional agencies impacted by the offender's release
- ▶ The ESRC could recommend a referral for a forensic psychological evaluation for individuals who appear to meet criteria for civil commitment under RCW 71.09 or 71.05

Notification Risk Levels

Baseline notification level is based on the STATIC-99R. Washington's community notification employs an evidence based, validated, tiered risk level system.

Total Score	Baseline Notification Level
-3 to 3	Level I —Low risk to sexually reoffend within the community at large
4 to 5	Level II —Moderate risk to sexually reoffend within the community at large
6+	Level III —High risk to sexually reoffend within the community at large

Mitigating and Aggravating Factors

Once the baseline level is established, the ESRC reviews the file for rationally related factors that may mitigate or aggravate the individual's risk to sexually reoffend within the community at large.

- ▶ The Static 99R does not measure the offender's general risk to the community at large
- ▶ The Static 99R does not measure every risk or protective factor associated with sexual recidivism
- ▶ The Static 99R only measures static risk factors, not dynamic risk factors or change

Mitigating Factors

- ▶ Familial or known sex offense victim(s)
- ▶ Current offense is not sexual in nature
- ▶ Previously released or classified as Risk Level I
- ▶ 24-hour supervised placement
- ▶ Disability or terminal illness that decreases ability to sexually re-offend
- ▶ Non-contact sex offense (e.g. possession of pornographic depictions)
- ▶ Sexual offending appears opportunistic in nature
- ▶ Documented information that may decrease risk for sexual re-offense

Mitigating Factors

Examples of Mitigations

- ▶ Currently incarcerated for Failure to Register. He has not committed a known sex offense in over 20 years
- ▶ Completed the institutional phase of sex offender treatment and will have lifetime supervision upon release
- ▶ A SCC resident was mitigated when he was terminally ill and the SCC was seeking placement in hospice. He died within a month of release
- ▶ 19 year old offender attends a party and engages in sexual activity with a 14 year old, who he met that night

Aggravating Factors

- ▶ Statements of intent/threat to sexually re-offend
- ▶ Past interventions and/or treatment have not deterred sexually deviant behavior
- ▶ Pattern of behavior that increase risk for sexual re-offense
 - ▶ Inability to control impulses
 - ▶ Repeated pattern of placing self in high risk situations and/or locations in order to gain access to individuals of similar age/circumstance as prior sex offense victims
 - ▶ Deviant sexual preoccupation/acting out during incarceration
- ▶ Documented information that increases risk for sexual re-offense
- ▶ Used a position of community trust (e.g. coach, teacher, group leader, clergy, or police officer) to gain access to sex offense victim(s)
- ▶ Relationship with sex offense victim(s) was established or promoted for the primary purpose of victimization
- ▶ Sex offense victim(s) were of causal acquaintance with whom no substantial personal relationship exists

Aggravating Factors

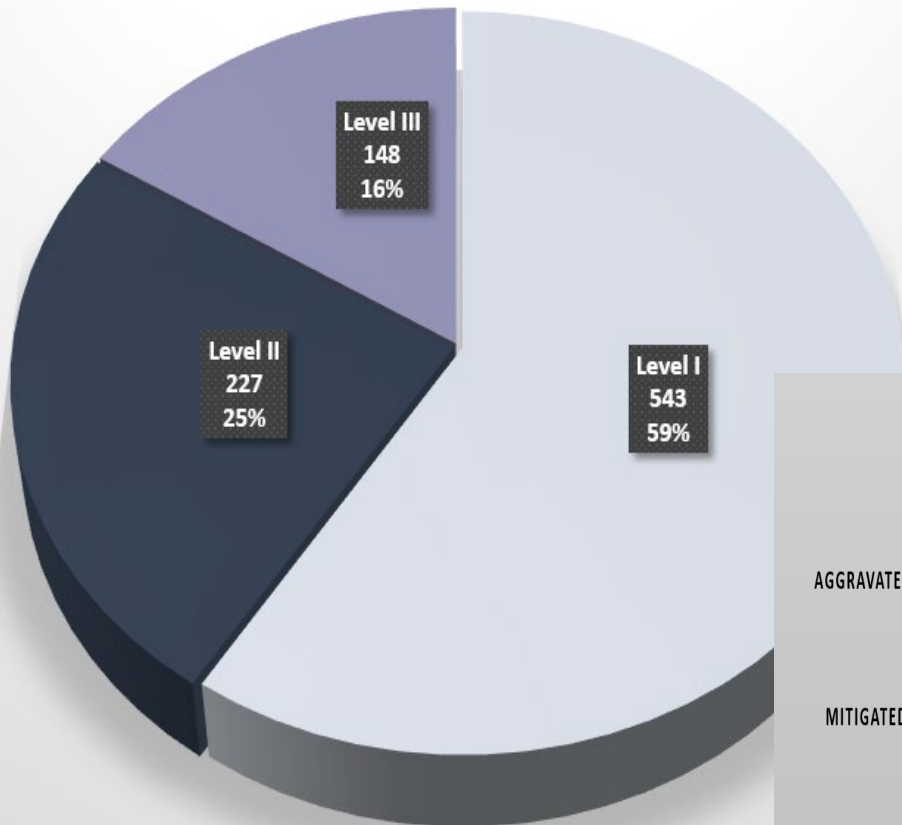
Examples of Aggravations

- ▶ Released from prison for a sexual assault against an adult female victim. Within a month of his release, he attempted to volunteer for a crisis clinic for sexual assault victims. Was returned to prison
- ▶ History of sexual assaults against adult females. We received information while in prison he purchased videos depicting sexual sadism and had them sent to his release address
- ▶ Reported marrying his wife because she had a 6 year old daughter. The offender was not sexually aroused to his wife and repeatedly sexually assaulted his step-daughter
- ▶ History of sexually assaulting children sent his CCO a letter stating that they would re-offend upon release.

ESRC Leveling Recommendations

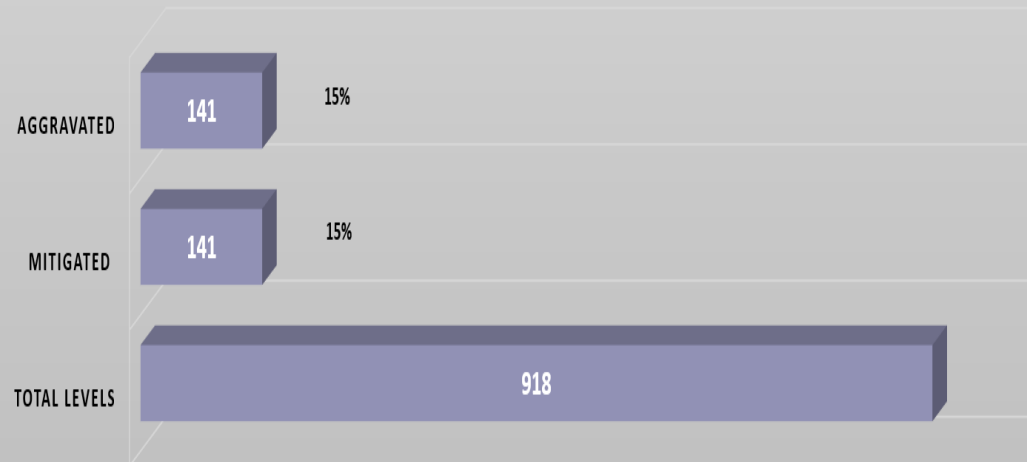
Leveling Decisions in 2018

Total=918



ESRC Levels are a recommendation to law enforcement

AGGRAVATIONS AND MITIGATIONS IN 2018



Sexually Violent Predator Subcommittee

Subjects are referred to the SVP Subcommittee if they appear to meet criteria as a sexually violent predator as defined in RCW 71.09.020:

- ▶ Have been convicted of or charged with a crime of sexual violence
- ▶ Suffers from a mental abnormality or personality disorder
- ▶ That mental abnormality or personality disorder makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility

2.4%

Since 2013, 141 (2.4%) of the 5876 individuals reviewed by ESRC have been referred to the SVP Subcommittee

Sexually Violent Predator Subcommittee

Prior to the SVP subcommittee, any additional records required are collected and are securely transferred to the prosecutorial agency, to include the full patient files from state hospitals. Included are the following records:

DOC	Additional State Agencies	Other Agencies
Medical File	ISRB File	Police Reports
Field File	JRA File	Federal Records
Central File	WSH/ESH Records	Out of State Records
SOTAP File		Clerk Files
I & I File		Prosecutor Files
SARU File		Military Records
OMNI		

Sexually Violent Predator Subcommittee

- ▶ The SVP Subcommittee includes representatives from the Attorney General's Office and King County Prosecutor's Office
- ▶ If the SVP Subcommittee determines the offender appears to meet criteria as a sexually violent predator, a referral for a Forensic Psychological Examination is made

83%

Of the 145 cases reviewed by the Sexual Violent Predator Subcommittee since 2013, 83% were referred for a forensic psychological evaluation.

Referred for a Forensic Psychological Evaluation

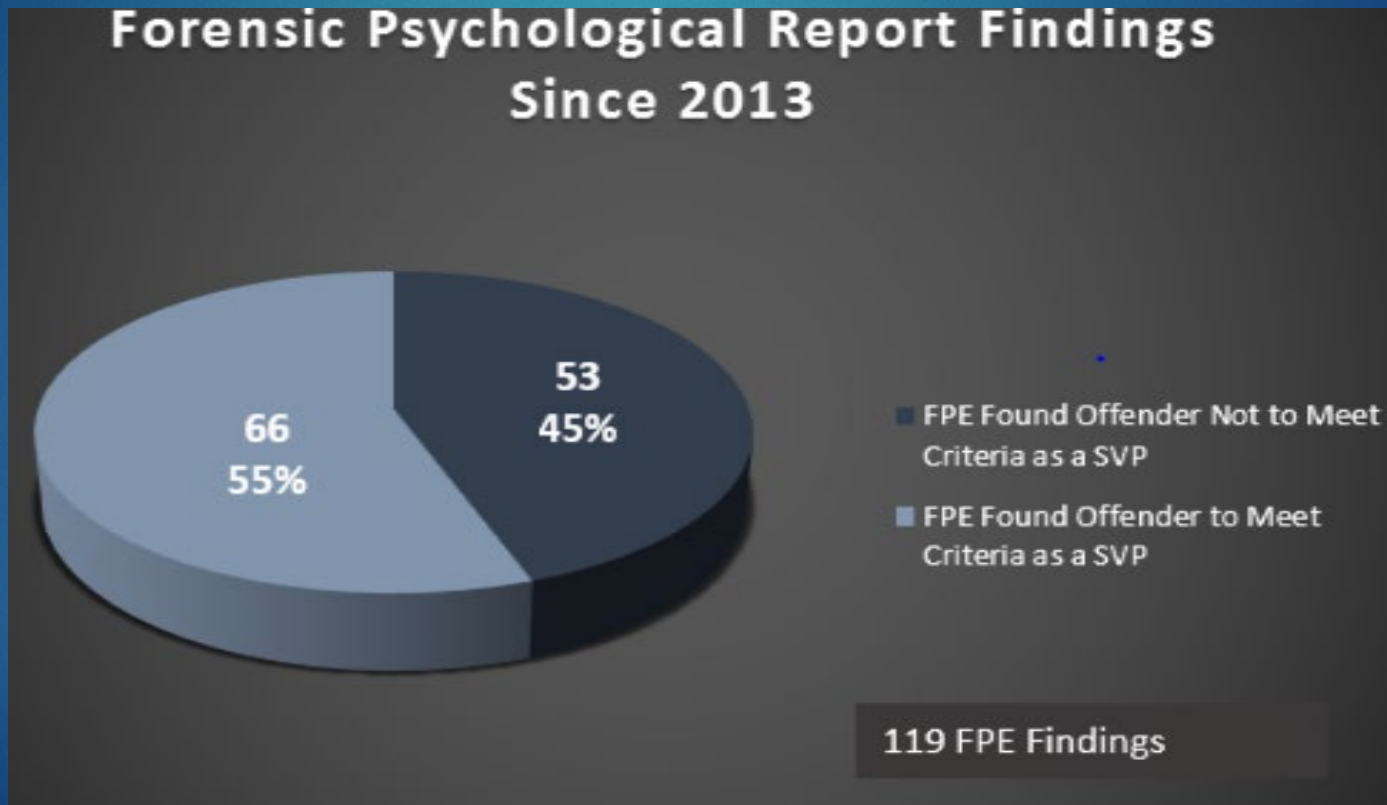


The LEN/ESR Unit will work with the prosecutorial agency on scheduling an FPE interview.



Referred for a Forensic Psychological Evaluation

The evaluator will determine if the client meets criteria as a SVP



Notification

- ▶ 35 days prior to release date, assigned staff complete the following:
 - ▶ Review case for new file material
 - ▶ Review release plans for changes
 - ▶ Update Static 99R
 - ▶ If needed, bring case back to ESRC
 - ▶ Finalize bulletin
 - ▶ Complete referral letter(s) if requested by ESRC

Notification

30 days prior to their release date agencies complete the following:

- ▶ Email bulletin and departure notice to stakeholders (see guide to determine what agencies should be notified):
 - ▶ Prosecutor's office
 - ▶ Sheriff's Office
 - ▶ Tribal Law Enforcement
 - ▶ Local Police Department
 - ▶ DOC Field Office
 - ▶ HITS Unit
 - ▶ Department of Homeland Security
- ▶ Upload file material, finalized bulletin, ESRC Decisions Form, and Static 99R Coding Form into Offender Watch if the individual is a **registered sex offender**



Departures

- ▶ RCW 4.24.550 (10): When a law enforcement agency or official classifies an offender differently than the offender is classified by the ESRC at the time of the offender's release from confinement, the law enforcement agency or official shall notify the ESRC and the Washington State Patrol and submit its reasons supporting the change in classification.
- ▶ WASPC Model Policy (pg. 20): Given lack of clarity in law, the law enforcement community unanimously agreed to submit departure forms when the risk level assigned differs from the ESRC recommendation within 90 days of the offender's release.

Departures



Reason for departures include, but are not limited to:

- ▶ Risk assessment updated/corrected
- ▶ Mitigating Factors
- ▶ Aggravating Factors
- ▶ Law enforcement discretion
- ▶ Used raw score with corresponding risk level (rejected ESRC mitigation/aggravation)

If we receive a departure, the releasing agency is notified.

Thank You

- ▶ Washington Association of Sheriffs and Police Chiefs:
Sex Offender Model Policy
 - ▶ [https://www.waspc.org/assets/SexOffenders/SO%20Community%20Notification%20Model%20Policy%20\(2018%20Final\).pdf](https://www.waspc.org/assets/SexOffenders/SO%20Community%20Notification%20Model%20Policy%20(2018%20Final).pdf)
- ▶ Washington State Sex Offender Policy Board
 - ▶ <http://www.ofm.wa.gov/SCG/sopb/default.asp>
- ▶ Static 99R
 - ▶ <http://www.static99.org/>
- ▶ LEN/ESRC Program
 - ▶ doceosr@doc1.wa.gov
- ▶ Recent Overt Acts - WA ATG Sexually Violent Predator Unit