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STATE OF WASHINGTON
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No. 942030

SUPREME COURT OF THE STATE OF WASHINGTON

JOHN DOE G, JOHN DOE I, and JOHN DOE H,
as individuals and on behalf of others similarly situated,

Respondents,

v.

DEPARTMENT OF CORRECTIONS, STATE OF WASHINGTON

Appellant,

v.

DONNA ZINK, a married woman,

Appellant.

AMENDED RESPONSE TO BRIEF OF AMICUS CURIAE

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Table of Contents

I. ARGUMENT	1
1. WHILE THE SSOSA SENTENCING PROGRAM MAY HAVE ROOTS IN THE SEXUAL PSYCHOPATH LAWS, IT DID NOT REPLACE THE SEXUAL PSYCHOPATHIC LAWS OF 1949	1
2. REVIEW OF SEX OFFENDER SENTENCING OPTIONS: VIEWS OF CHILD VICTIMS AND THEIR PARENTS, OLYMPIA: WASHINGTON STATE INSTITUTE FOR PUBLIC POLICY, DOCUMENT NO. 07-08-1201	4
3. RCW 9.94A.670 DOES NOT REQUIRE A SSOSA EVALUATION TO CONTAIN A MENTAL HEALTH DIAGNOSIS.....	6
4. HAD THE LEGISLATURE WANTED TO EXEMPT SSOSA EVALUATIONS FROM PUBLIC ACCESS THEY COULD AND WOULD HAVE DONE SO	9
II. CONCLUSION	15
III. CERTIFICATE OF MAILING.....	16
IV. Appendix A	
V. Appendix B	

TABLE OF AUTHORITIES

Washington State Supreme Court

<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wn.2d 398, 259 P.3d 190(2011)	1
<i>John Doe A v. Wash. State Patrol</i> , 185 Wn.2d 363, 374 P.3d 63 (2016).11, 12	
<i>Koenig v. Thurston County</i> , 175 Wn.2d 837, 287 P.3d 523 (2012)	9, 14
<i>Seattle Times Co. v. Serko</i> , 170 Wn.2d 581, 243 P.3d 919 (2010).....	1
<i>Soter v. Cowles Publ'g Co.</i> , 162 Wn.2d 716, 174 P.3d 60 (2007).....	1
<i>Yakima County v. Yakima Herald-Republic</i> , 170 Wn.2d 775, 246 P.3d 768 (2011).....	1, 14

Washington State Court of Appeals

<i>Benton County v. Zink</i> , 191 Wn. App. 269, 361 P.3d 801 (2015)(review denied, 185 Wn.2d 1021, 369 P.3d 501 (2016).....	10, 11
--	--------

Revised Code of Washington

RCW 4.24.550	11
RCW 9.94A.475	13
RCW 9.94A.480	13
RCW 9.94A.670	3, 6
RCW 9.94A.670(10).....	9
RCW 9.94A.670(11).....	9
RCW 9.94A.670(3)(b)	8
RCW 9.94A.670(3)(b)(i-v).....	8

RCW 9.94A.670(4).....	5
RCW 9.94A.670(5)(a-g).....	8
RCW 42.56.030	14
RCW 42.56.050	13
RCW 42.56.120(1).....	11
RCW 42.56.550	14

Washington Administrative Code

WAC 246-930-320(2)(f)(i)(iii).....	8
WAC 246-930-320(2)(f)(ii).....	7
WAC 246-930-320(2)(f)(iii).....	6
WAC 246-930-320(2)(f)(i-iv)	7

Other Washington State Authorities

Berliner, 2007, Sex Offender Sentencing Options: Views of Child Victims and Their Parents, Olympia: Washington State Institute for Public Policy, Document No. 07-08-1201	4, 5, 6
Laws of 1949, Chapter 198, §26.....	2
Laws of 1949, Chapter 198, §27.....	2
Laws of 1949, Chapter 198, §28.....	2
Laws of 1949, Chapter 198, §29.....	2
Laws of 1949, Chapter 198, §30.....	2
Laws of 1949, Chapter 198, §31.....	2
Laws of 1949, Chapter 198, §32.....	2
Laws of 2004, Chapter 176, §7.....	4
Senate Engrossed House Bill 1595	11

Sex Offender Policy Board, Review of the Special Sex Offender
Sentencing Alternative, December 2013, Office of Financial
Management1, 3

I. ARGUMENT

Much of Amici's background and argument is anecdotal and irrelevant to the questions of whether: 1) a specific exemption applies; 2) whether disclosure would not be in the public interest; and 3) whether release would substantially and irreparably damage a person *Soter v. Cowles Publ'g Co.*, 162 Wn.2d 716, ¶64, 174 P.3d 60 (2007); *Yakima County v. Yakima Herald-Republic*, 170 Wn.2d 775, ¶78, 246 P.3d 768 (2011); *Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.2d 398, ¶36, 259 P.3d 190(2011); *Seattle Times Co. v. Serko*, 170 Wn.2d 581, ¶18, 243 P.3d 919 (2010)). None the less Zink will respond to Amici's arguments.

1. While the SSOSA Sentencing Program May Have Roots In the Sexual Psychopath Laws, It Did Not Replace the Sexual Psychopathic Laws of 1949

Amici, relying on the Sex Offender Policy Board (SOPB) recommendation to our legislature,¹ claims that the SSOSA sentencing program was enacted to replace the sexual psychopathic laws of 1949 (Appendix A) and therefore constitutes protected health care information for the purposes of the Public Records Act (PRA).

In reading the Laws of 1949, it becomes clear that those committing sex crimes were not automatically considered to be a sexual psychopath.

¹ Review of the Special Sex Offender Sentencing Alternative, December 2013, Office of Financial Management.

If, when any person is charged with crime either before or after adjudication of the charge, it appears by affidavit to the satisfaction of Court that such person is a sexual psychopath within the meaning of this act, the Court may adjourn the proceedings or suspend the sentence, as the case may be, and thereupon proceed as provided by this act.

Laws of 1949, Chapter 198, §26. Determination of whether a person committing a sex crime was a sexual psychopath required an affidavit outlining the full facts upon which the allegation of sexual psychopath was being made (*Id.*) as well as the appointment by the court of no less than two but not more than three psychiatrists to make a personal examination to ascertain whether the person was a sexual psychopath (*Id.* §30) . The proceedings and examination of witnesses was done in open Court (*Id.* §29, 31, 32).

If the person was found not to be a sexual psychopath, the Court would proceed to trial and impose a sentence (*Id.* §27). Furthermore, once a person found to be a sexual psychopath recovered from being a sexual psychopath, that person would be returned to the court for further action on the criminal charges (*Id.* §28). Clearly, not all persons convicted of sex crimes were given a sexual psychopath diagnosis under the laws of 1949.

As noted by Amici, “[t]he original purpose of a SSOSA sentence was to support and encourage family member victims to engage in the criminal justice system, knowing there was opportunity for the offender to receive treatment rather than exclusively a prison term” (A3-4). While this finding

is not supported by the report put out by Berliner in 2007² ([T]he majority of child victims do not express an interest in offenders receiving community treatment sentences and avoiding lengthy prison terms)(*Id.* 5) and (The majority of parents (71 percent) did not believe that a community-based sentencing alternative should be available to sex offenders instead of prison)(*Id.* 11), it unequivocally shows that “SSOSA do not exist solely to provide mental health and psychological treatment for sex offenders.

Further, although the sexual psychopathic laws of 1949 were eliminated by the Sentencing Reform Act of 1981, (Review of the Special Sex Offender Sentencing Alternative, 10), under the 1990 Community Protection Act, sex offenders found to be too dangerous at trial and who meet certain criteria may be civilly committed after completion of their prison sentence (Berliner in 2007, 4)

Sexually violent predators may be civilly committed at completion of their prison sentence if they meet certain criteria and are found dangerous at a trial. Overall, there is a much harsher social climate and more severe consequences for a sexual offense conviction.

(*Id.*). Those deemed not to be a danger to the public at large may have their sentence suspended RCW 9.94A.670.

² Sex Offender Sentencing Options: Views of Child Victims and Their Parents, Olympia: Washington State Institute for Public Policy, Document No. 07-08-1201.

2. Review of Sex Offender Sentencing Options: Views of Child Victims and Their Parents, Olympia: Washington State Institute for Public Policy, Document No. 07-08-1201

Amici argues that pursuant to the report by Berliner, 2007, Sex Offender Sentencing Options: Views of Child Victims and Their Parents, Olympia: Washington State Institute for Public Policy, Document No. 07-08-1201 (Appendix B) “many citizens want to retain a treatment-oriented sentencing option for some first-time sex offenders.” (*Id.* 1). This is a misrepresentation of the report.

The report, mandated by the Laws of 2004, Chapter 176, §7, evaluated the findings of a study interviewing 49 child victims and families of convicted sex offenders eligible for SSOSA sentencing. Of those 49 convicted sex offenders only 9 (18.3%) received a SSOSA sentence. Those interviewed for the study included 32 child victims (aged 13 to 18)(*Id.* 1) and 49 parents (*Id.* 1, *fn.* 1).

The limitations on the study which may have skewed the results were identified as all participants being taken from a convenience sample from only 3 counties in Washington State (*Id.* 9). Each of the 3 counties identified and contacted the participants included in the study using victim advocates from the prosecutor office personnel. (*Id.* 6). Another limitation identified by the study is the fact that the child victims were older than average which may have accounted for the “slightly higher levels of participation in the criminal justice process (*Id.* 9) since they would be more likely to participate in the judicial process (discussions with prosecutors, write an impact statement, or attend the sentencing (*Id.* 10).

Finally, while this report made an observation that “many citizens wanted to retain “a treatment-oriented sentencing option for some first-time sex offenders,” this finding was based on inquiries to practitioners and victim advocates across the state and was not random or addressed to any of the many citizens of Washington State (*Id.* 2). This finding contradicts the findings in the study itself as reported. The study found that even though 82% of those convicted of sex offenses did not receive a SSOSA sentence: 1) most parents expressed satisfaction with the outcome of the case, agreed with the sentence, and thought it just; 2) most child victims and their parents expressed satisfaction with the case whether or not a SSOSA was granted; and 3) while 69% of child victims expressed support for sex offender treatment (*Id.* 9 - Exhibit 12),³ the majority of parents (71%) did not support sex offender treatment (*Id.* 1; 9 – Exhibit 11).⁴ Further, the study found that:

In one case, there was evidence that relatives and church members pressured the parents of a very young child victim to support SSOSA, so that, at the sentencing, it appeared all involved parties supported SSOSA for the offender.

(*Id.* 10). Furthermore, despite the fact that under RCW 9.94A.670(4) a trial court is required to 1) “give great weight to the victim's opinion” as to

³ This conclusion is also in conflict with the finding that “[t]he majority of child victims **do not express an interest** in offenders receiving community treatment sentences and avoiding lengthy prison terms.” (*Id.* 5)(emphasis added). This disparity may indicate that while child victims support treatment, they may support treatment in prison as opposed to treatment in the community.

⁴ The study indicates that 71% of parents were against the SSOSA treatment alternative. But these same parents were in favor of treatment at some point. (*Id.* 9, Exhibit 11).

whether a SSOSA sentence should be imposed; and 2) if contrary to the victim's opinion, "enter written findings stating its reasons for imposing the treatment disposition," the study found that:

In one case, the court imposed a SSOSA over the victim's objections (*Id.* 10). While the study did not elaborate as to whether the trial court did or did not enter findings stating the reason for imposing the treatment disposition over the objections of the child victim, this is a clear example of the fact that without access to the SSOSA evaluations by members of the public there can be no oversight of our justice system and whether our judicial system is adequately protecting and working for the people.

3. RCW 9.94A.670 Does Not Require a SSOSA Evaluation to Contain a Mental Health Diagnosis

Amici argues that pursuant to RCW 9.94A.670, a SSOSA evaluation must contain a mental health diagnosis. There is no language in either WAC 246-930-320(2)(f)(ii)(iii) or RCW 9.94A.670 which requires a mental health diagnosis to be given to a potential SSOSA recipient and Amici has not identified what mental health diagnosis must be given.

The requirements placed on an SSOSA evaluation as outlined in WAC 246-930-320(2)(f)(i-iv) are:

- (f) The conclusions and recommendations shall be supported by the data presented in the report and include:
 - (i) The evaluator's conclusions regarding the appropriateness of community treatment;
 - (ii) A summary of the evaluator's diagnostic impressions;
 - (iii) A specific assessment of relative risk factors, including the extent of the client's dangerousness in the community at large; and

(iv) The client's willingness for outpatient treatment and conditions of treatment necessary to maintain a safe treatment environment.

(*Id.*). Although WAC 246-930-320(2)(f)(ii) requires an evaluator's diagnostic impression, it does not require a clinical diagnosis of mental health disease.

Diagnostic impression is the initial impression of an evaluator upon first presentation. The phrase "diagnostic impression" is not exclusive to the medical community. For instance, in the auto repair industry a mechanic uses a diagnostic impression (reported signs and symptoms initially presented as well as diagnostic tools) to determine the repairs needed and to provide a reasoned quote for the cost of repairs.

In the case of a SSOSA, the diagnostic impression of the evaluator is used to create a report used by the sentencing judge. The report must include the evaluators diagnostic impression of the offenders: 1) appropriateness for community treatment; 2) risk factors and the dangerousness to the community at large; 3) willingness to participate outpatient treatment; and 4) conditions needed to keep the public at large from harm during treatment. WAC 246-930-320(2)(f)(i-iv). A mental health diagnosis is not mandated as a prerequisite for a SSOSA sentence.

RCW 9.94A.670(3)(a) mandates that the report provided to the sentencing judge must include:

- (i) The offender's version of the facts and the official version of the facts;
- (ii) The offender's offense history;
- (iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The offender's social and employment situation; and

(v) Other evaluation measures used.

A mental health diagnosis is not included in the mandatory requirements of the report provided to the sentencing judge for sentencing.

The proposed treatment plan mandated in RCW 9.94A.670(3)(b) mirrors the language in WAC 246-930-320(2)(f)(i)(iii).

(i) Frequency and type of contact between offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions and affirmative conditions, which must include, to the extent known, an identification of specific activities or behaviors that are precursors to the offender's offense cycle, including, but not limited to, activities or behaviors such as viewing or listening to pornography or use of alcohol or controlled substances.

RCW 9.94A.670(3)(b)(i-v). Although a “proposed” treatment plan must be provided to the sentencing judge for sentencing purposes, the plan is centered around community safety rather than treatment of a mental health disease (living arrangements, mandatory crime-related prohibitions and limitations as well as affirmative conditions).

After receiving the “proposed” treatment plan, the sentencing court must impose specific terms on the offender given a suspended sentence (RCW 9.94A.670(5)(a-g)). Failure to abide by the court ordered conditions established by the “proposed” treatment plan results in mandatory sanctions by the Department of Corrections (DOC) pursuant to RCW

9.94A.633(1) or the revocation of the suspended sentence by the trial court (RCW 9.94A.670(10)(11)).

Clearly, in reading RCW 9.94A.670(3) there is no requirement that a convicted sex offender be given a mental health diagnosis.

4. Had the Legislature Wanted to Exempt SSOSA Evaluations From Public Access They Could and Would Have Done So

Amici argues that the dissent written five years ago by Justice Johnson in *Koenig v. Thurston County*, 175 Wn.2d 837, 287 P.3d 523 (2012) is prescient as he concluded that redacting SSOSA evaluations was essential to protecting privacy rights because SSOSA evaluations contain “private “health care information” in which the public has no legitimate interest” (*Id.* ¶68; J.M. Johnson, J., dissenting)(A5-6). While that exact question is once again before this Court, it should also be noted that a separate dissent written by Justice Chambers requested the Legislature to address the issue of release of SSOSA evaluations under the PRA.

This court has followed the legislative command to interpret the PRA liberally and its exceptions narrowly, and the result is that the few protections found in the PRA have been steadily eroded. We have now reached the point where it is not even possible to redact the name of a sex crime victim from material provided to the public. This dissent does not have the force of law. **Only the legislature can amend the act and establish appropriate protections. I urge the legislature to do so.**

Koenig v. Thurston County, 175 Wn.2d 837, ¶44, 287 P.3d 523 (2012)(T. Chambers, J., dissenting)(emphasis added). Our Legislature has not done so even though our Legislature knows the decisions of this Court and often acts in response to decisions that do not reflect its intent.

For instance, in a decision by Division III,⁵ that Court opined that scanning hard paper copies into an electronic format was creating a new document.

Under the PRA, “[a]n agency has no duty to create or produce a record that is nonexistent.” *Sperr v. City of Spokane*, 123 Wn. App. 132, 136-37, 96 P.3d 1012 (2004). “Whether a particular public records request asks an agency to produce or create a record will likely often turn on the specific facts of the case and thus may not always be resolved at summary judgment.” *Fisher Broad.-Seattle TV LLC v. City of Seattle*, 180 Wn.2d 515, 524, 326 P.3d 688 (2014).

In this situation, scanning a redacted paper copy of a record into electronic format on an agency's server creates a new public record. In *Mechling*, the court expressly rejected the argument that “as to properly redacted e-mails ... the City has an obligation to scan the e-mails to create portable document format (PDF) or tagged image file format (TIFF) files.” *Mechling*, 152 Wn. App. at 850. In the same vein, the court in *Mitchell* reasoned:

The requested records are stored in a computer database and ostensibly include information that must be redacted. Requiring [the agency] to disclose these records electronically would force the agency to print the records, redact them, and then scan them back into electronic format. ... [W]e hold that such duplication of effort is outside of the agency's obligation of “fullest assistance”[3] [to inquirers] under the PRA.

Mitchell, 164 Wn. App. at 607. Under both *Mechling* and *Mitchell*, an agency is not required to create new public records by scanning properly redacted paper copies of records into an agency's server.

⁵ *Benton County v. Zink*, 191 Wn. App. 269, 361 P.3d 801 (2015)(review denied, 185 Wn.2d 1021, 369 P.3d 501 (2016)).

Benton County v. Zink, 191 Wn. App. 269, ¶23-24 361 P.3d 801 (2015)(review denied, 185 Wn.2d 1021, 369 P.3d 501 (2016)). In response, our Legislature enacted Senate Engrossed House Bill (SEHB) 1595 amending the PRA to clearly identify that scanning of paper documents does not constitute creating a new record.

If any agency translates a record into an alternative electronic format at the request of a requestor, the copy created does not constitute a new public record for purposes of this chapter. **Scanning paper records to make electronic copies of such records is a method of copying paper records and does not amount to the creation of a new public record.**

RCW 42.56.120(1)(emphasis added).

Further, in 2013, Zink requested copies of sex offender registration records from the Washington Association of Sheriffs and Police Chiefs (WASPC). This issue went before this Court in *John Doe A v. Wash. State Patrol*, 185 Wn.2d 363, 374 P.3d 63 (2016). While that case was pending before this Court, our Legislature amended RCW 4.24.550 in response to Zink’s request. The first amendment concerned access to registration records but did not affect this Court’s decision.

After the records request was made, and prior to oral argument, the legislature amended RCW 4.24.550(3)(a) to add “and any individual who requests information regarding a specific offender.” Laws of 2015, ch. 261, § 1(3). Because this section was not made retroactive, we consider the statute as it existed at the time the request was made. However, the new language would not change our result.

Id. ¶12, fn. 2. This Court specifically noted that:

In the 2015 regular session, the legislature rejected an amendment that would have deleted subsection (9) in its entirety and replaced it with “[s]ex offender ... registration information is exempt from public disclosure under chapter 42.56 RCW.” Compare S.B. 5154, at 5, 64th Leg., Reg. Sess. (Wash. 2015), with Substitute S.B. 5154, at 6, 64th Leg., Reg. Sess. (Wash. 2015) (Laws of 2015, ch. 261, § 1). Although a failed amendment means little, it does show that the legislature knows how to exempt sex offender records under the “other statute” provision of RCW 42.56.070(1) if it wishes to do so. If there were any doubt as to whether or not RCW 4.24.550(3)(a) exempts sex offender registration records from PRA requests, subsection (9) resolves it. If not dispositive of this case on its own, subsection (9) at the very least confirms our conclusion that RCW 4.24.550(3)(a) is not an “other statute” exempting sex offender records.

Id. ¶28. The second amendment was applied retroactively and shielded WASPC from the PRA in responding to requests for sex offender registration records.

As discussed *infra* note 2, the 2015 amendments also modified subsection (5)(c), directing the WASPC to refer a request made under chapter 42.56 RCW to the appropriate law enforcement agency. Laws of 2015, ch. 261, § 1(5)(c)(i). While this amendment was made retroactive, its effect is to relieve the WASPC of production responsibilities under the PRA; it does not retroactively change the meaning of “public disclosure” and thus does not affect our analysis.

Id., ¶24, fn. 4.

Finally, as noted by this Court:

In *Rosier*, this court interpreted a portion of the PRA to imply a general personal privacy exemption. 105 Wn.2d at 611-14. **The legislature responded swiftly by explicitly overruling *Rosier* and amending what is now RCW 42.56.070 to include the “other**

statute” exemption. PAWS II, 125 Wn.2d at 258-59; Laws of 1987, ch. 403, §§ 1, 3.

Id. ¶10. Had our Legislature intended SSOSA evaluations to be exempt from public disclosure as health care records, they would have acted to clarify that these records were mental health records which are exempt from disclosure. The Legislature’s silence leaves little doubt that they agree with this Court’s decision that the SSOSA evaluations are sentencing documents. All sentencing documents must be maintained as public records in both Superior Court and the Prosecutor’s office (RCW 9.94A.475; 480).

Our Legislature has made their intent clear. SSOSA evaluations are sentencing documents used to sentence sex offenders and have no privacy issues.

A person's "right to privacy," "right of privacy," "privacy," or "personal privacy," as these terms are used in this chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. The provisions of this chapter dealing with the right to privacy in certain public records do not create any right of privacy beyond those rights that are specified in this chapter as express exemptions from the public's right to inspect, examine, or copy public records.

RCW 42.56.050. Although SSOSA evaluations concern sex offenses, the information is not any more offensive than reading media stories surrounding the prosecution of the crime. As sentencing documents used to sentence convicted sex offenders to either prison or community custody, the public has a legitimate concern in access to these records for

oversight into whether our judicial system is working for the benefit of the public.

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected. In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern.

RCW 42.56.030.

Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others.

RCW 42.56.550. While it is unknown whether any of the requested SSOSA evaluations are sealed in the trial court record or are available through that avenue, as noted by Amici, even if the SSOSA evaluations were sealed in the court record, they would remain available in their entirety to the public in the Prosecutor's office, or in this case at the DOC, under the PRA. *Yakima County v. Yakima Herald-Republic*, 170 Wn.2d 775, 809-10, 246 P.3d 768 (2011); *Koenig v. Thurston County*, 175 Wn.2d 837, 841, 287 P.3d 523 (2012)(A11-12).

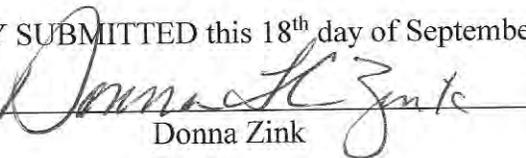
II. CONCLUSION

The primary purpose of a SSOSA evaluation is to determine whether the convicted sex offender is a danger to the public at large or can be safely returned to the community under supervision of the DOC. The issue of whether any given sex offender is a danger to the public at large is a paramount public concern and the public has the right to access records which show the workings of our judicial system concerning the SSOSA program.

Although not subject to the strict provision of the PRA, SSOSA evaluations are available to the public in the Courts unless sealed. As such, there can be no privacy issues attached. Further, SSOSA evaluations must be maintained as public records in the Prosecuting Attorney's office. As such, no privacy issues can be attached. Furthermore, SSOSA evaluations are no more offensive than reading media stories concerning the facts of a sex offender case. Finally, the embarrassment of the sex offender and others does not prevent release of these public records.

RESPECTFULLY SUBMITTED this 18th day of September 2017.

By



Donna Zink
Pro se

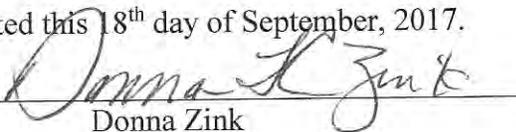
III. CERTIFICATE OF MAILING

I, Donna Zink, declare that on September 18, 2017, I did send a true and correct copy of Appellant Zink's "*Amended Response to Brief of Amicus Curiae*" to the following parties via e-mail to the following e-mail Service Addresses:

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Dated this 18th day of September, 2017.

By



Donna Zink
Pro Se

Appendix A

CHAPTER 198.

[S. S. B. 87.]

CARE AND TREATMENT OF MENTALLY ILL.

AN ACT relating to state government; providing for the commitment, custody, detention, treatment, parole and discharge of mentally ill, inebriated and dipsomaniac persons, sexual psychopaths and psychopathic delinquent persons; prescribing the powers and duties of certain officers, and defining crimes and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Act to be
liberally
construed.

SECTION 1. The provisions of this act shall be liberally construed so that persons who are in need of care and treatment shall receive humane care and treatment and be restored to a normal mental condition as rapidly as possible with an avoidance of loss of civil rights where not necessary and with as little formality as possible still preserving all rights and privileges of the person as guaranteed by the constitution.

Purpose
of act.

Penalty for
violation.

SEC. 2. Any person who knowingly contrives to have any person committed to any state institution unlawfully or without good faith shall be guilty of a gross misdemeanor.

Immunity
from pen-
alty if com-
mitted in
good faith.

SEC. 3. When any person, peace officer, physician attending the patient, or physician attached to a public hospital or institution in which the patient is held, or other public official in the course of his duties, makes or files an application for the commitment of any person under any provisions for commitment of persons to state institutions in good faith, neither the person making or filing such application, nor his superiors, nor the department, hospital or institution to which he is attached, nor any of the employees thereof, shall be rendered liable thereby either civilly or criminally.

SEC. 4. When any person becomes so mentally ill as to require immediate emergency apprehension, supervision, or restraint during the night time, a legal holiday, or at other such times as the Judge of the Superior Court is not available, the patient may be detained in the quarters provided in any regular licensed hospital, sanitarium, or other suitable place upon the application of any person under oath setting forth that said patient is mentally ill and is unsafe to be at large until such time as the application may be presented to the Court, not to exceed forty-eight hours, unless a legal holiday falls on a Saturday or Monday, and then not exceeding seventy-two hours.

Emergency cases.

SEC. 5. At the time of the service of the application, the officer making the service shall also deliver to each person served a copy of a notice which shall read substantially as follows:

The application which accompanies this notice has been filed in the superior court in and for the county of....., alleging that is mentally ill and in need of supervision, treatment and care, has the right to appear before the court to make a reply to the allegation, to bring in witnesses, and to be represented by an attorney and that should he be dissatisfied with any order of commitment he may have recourse to a jury trial, that he may call in his private physician at his own expense who may file a report of his physical and mental examination in the cause. If or a relative or friend, counsel or representative desires to be heard by the court, he must, within three (3) days after his apprehension, file a request for a hearing with the clerk of the superior court of the county wherein the application is on file, and unless such a request is filed the judge may proceed to determine the case on the basis of the doctor's examination without the necessity of a hearing.

Notice.

SEC. 6. Any officer apprehending any person on an application of mental illness, shall, unless the person's guardian or responsible relative has taken possession of his personal property, take all necessary precautions with respect to the personal property in the actual possession of or in the premises

Personal property of patient.

Report thereof.

Disposition thereof.

occupied by such mentally ill person to preserve and safeguard the same pending the determination of the proceedings. The officer shall then furnish to the Court a full and complete and itemized report of the patient's property so preserved and safeguarded and its disposition, in substantially the form set forth in this section. Thereupon the responsibility imposed herein upon the officer shall terminate. Pending the examination, such order may be made relative to the care, custody, confinement and the preservation and safeguarding of the property of the alleged mentally ill person as to the Judge seems for the best interest, welfare and health of the patient.

REPORT OF OFFICER

I hereby report to the above entitled court that the personal property of the person apprehended herein consisting of was preserved and safeguarded by (insert name of officer, relative or guardian). The property is now located at

Dated....., 19.....

signature of officer

Judge may determine mental status.

SEC. 7. If no demand is made for a hearing in behalf of the alleged mentally ill person within three (3) days of his apprehension as provided in this act, the Judge may proceed immediately to determine the mental status of the alleged mentally ill person. If the Judge is satisfied that the person is so mentally ill as to be in need of supervision, treatment, care and restraint, the Judge may immediately issue an order for the commitment of the person to an institution for the custody and treatment of persons who are mentally ill. No order for commitment shall issue unless two medical examiners have jointly made a physical and mental examination of the person alleged to be mentally ill and have filed with the Judge a report containing the facts and circumstances upon which the judgment of the examiners is based, and stating that the condition of the person

examined is such as to require care and treatment in an institution for the mentally ill. If no one has secured the services of two (2) medical examiners, the Court must designate two (2) such examiners. If it appears that the mentally ill person is harmless and his relatives or guardian are willing and able properly to care for him at some place other than a hospital or institution, upon their written consent, the Judge may order that the person be placed in the care and custody of his relatives or guardian. The Judge may require other proof in addition to the application and the report of the medical examiners. Such determination shall be made only from testimony under oath reported by a Court reporter and with findings of fact sufficient to support the determination made and filed by the Judge.

SEC. 8. If a request is made for a hearing on behalf of the alleged mentally ill person, the Judge shall, or he may upon his own motion, by order fix such time and place for the hearing and examination as will give reasonable opportunity for the production and examination of witnesses, as per chapter 72, Laws of 1947. Any person covered by the provisions of this act against whom an application for commitment has been filed shall be entitled to a trial by jury upon his or her demand or that of anyone in his or her behalf: *Provided*, That the provisions for jury trial shall not apply to alleged psychopathic delinquent minors. It shall be the duty of the Judge to inform the accused of his right to trial by jury and the appointment or selection of counsel therefor. If such demand be made the trial shall be by jury.

Request for hearing.

Right to jury trial except for minors.

SEC. 9. For the purpose of conducting hearings pursuant to commitment, the Court may be convened at any time and place within the county suitable to the mental and physical health of the person,

Where hearing may be held.

and such hearing shall be a regular open hearing as in any civil action, except that the time and place for the trial of civil actions if any party to the proceeding, prior to the hearing, objects to any different time or place, and provided that if the hearing is held at any place other than a regular court room of the Superior Court three (3) days' notice be given thereof to the patient and the petitioner, unless waived by the person or his representative, and appropriate minute order made thereof on the records of the Court.

Proviso.

Subpoenas.

SEC. 10. Subpoenas may be issued to compel the attendance of witnesses by the Superior Court Judge or in the same manner as in civil cases: *Provided*, That such subpoenas shall be effective within the boundaries of the county: *And provided further*, That the same shall be served by the Sheriff at the expense of the county. The Judge shall compel the attendance of at least two (2) medical examiners, who shall hear the testimony of all witnesses, make a personal examination of the alleged mentally ill person, and testify before the Court as to the result of the examination, and to any other pertinent facts within their knowledge. The Judge shall also cause to be examined before him as a witness any other person who he has reason to believe has any knowledge of the mental condition of the alleged mentally ill person or of his financial condition or that of the persons liable for his maintenance.

Two medical examiners required.

Fees of subpoenaed witnesses.

All witnesses attending a hearing upon subpoena issued under this section shall be entitled to the same fees and expenses as in criminal cases, to be paid upon the same conditions and in a like manner. An official Court Reporter shall be present who shall fully transcribe the proceedings.

SEC. 11. The alleged mentally ill person shall be present at any hearing, and if he has no attorney,

the Judge must appoint an attorney to represent him. Or, if a request is made for an attorney by the alleged mentally ill person or by anyone on his behalf, the Judge shall appoint an attorney to represent him, expenses to be paid by the county if the person is indigent.

Right to appear and counsel.
Indigent persons.

SEC. 12. The medical examiners, after making the examination and hearing testimony, shall fully make out and sign a certificate of physical and mental examination and recommendation on forms provided by the Department of Public Institutions.

Certificate of examination.

SEC. 13. All files in these cases shall be closed files subject to examination only by the person alleged therein to be mentally ill or his representative until such time as an order of mental illness and commitment is made, at which time those facts required for the Clerk's index as hereinafter set forth, shall become a public file. The County Clerk shall keep an index, alphabetically arranged, which shall show the name and age of each person examined and declared to be mentally ill, the date of the order of commitment or hospitalization and the name of the licensed hospital or sanitarium to which the person was ordered confined and cared for, or the name of the designated state hospital to which the person was committed. All medical reports and case histories shall be available as part of the record for the use of the hospital wherein the person is to be confined, but no such records shall be a part of the public records and their contents shall be deemed subject to the physician patient privilege.

Files closed to public until order of commitment.

Clerk's index a public file.

Records privileged.

SEC. 14. If no legal guardian has been appointed for such patient, all monies found on the person of the mentally ill person at the time of the apprehension shall be certified to by the Judge and sent with the mentally ill person to the hospital, there to be delivered to the Superintendent thereof.

Monies on person of mentally ill person.

Effect of act.

SEC. 15. Nothing in this act shall be held to change or interfere with the provisions of law in this state relating to insane persons charged with crime or to the criminally insane.

Legal status during proceedings.

SEC. 16. Any person complained against in any application or proceedings started by virtue of the provisions of this act shall not forfeit or suffer any legal disability by reason of the pendency of proceedings under the provisions of this act, or while a person is under the jurisdiction of the Court, until an order declaring the person to be mentally ill has been made.

Persons under 16 years not to be in adult ward.

SEC. 17. No person under the age of sixteen (16) years shall be regularly confined in any ward in any state hospital, which ward is designed and operated to care for the adult mentally ill. No person between the ages of sixteen (16) and eighteen (18) shall be placed in any such ward when, in the opinion of the Superintendent, such placement would be detrimental to the mental condition of such a minor person or would impede his recovery and treatment.

Persons 16 years to 18 years of age.

Facilities and personnel for minors.

SEC. 18. The Director of Public Institutions may designate one (1) or more wards at one (1) or more state hospitals as may be deemed necessary for the sole care and treatment of minor persons referred to in section 17. Nurses and attendants for such ward or wards shall be selected for their special aptitude and sympathy with such young people, and occupational therapy and recreation shall be provided as may be deemed necessary for their particular age requirements and mental improvement.

Voluntary patients.

SEC. 19. Pursuant to rules and regulations established by the Department of Public Institutions, the Superintendent or person in charge of any state hospital shall receive and detain in such hospital as a patient any person who is, in the opinion of the Superintendent of such hospital, a suitable person

for care and treatment in such state hospital upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

Application
for admis-
sion.

(a) In the case of an adult person, the application shall be voluntarily made by the person, at a time when he is in such a condition of mind as to render him aware of the significance of his act.

By adults.

(b) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, or other person entitled to his custody to any such mental hospital as may be designated by the Director of Public Institutions under section 18 hereof to admit minors. Any such person received and detained in a state hospital shall be deemed a voluntary patient, and shall not suffer a loss of civil rights by reason of his application and admission. Upon the admission of a voluntary patient to a state hospital the Superintendent or person in charge shall immediately forward to the office of the Department of Public Institutions the record of such voluntary patient, showing the name, address, sex, place of birth, occupation, date of admission, and name of nearest relative and such other information as the Department may from time to time require.

By minors.

Records of
voluntary
patients.

No adult person received into a state hospital under such voluntary application shall be detained therein for more than twelve (12) days after his having given notice in writing to the Superintendent or person in charge of such hospital of his desire to leave such hospital. No minor person received into a state hospital as a voluntary patient shall be detained therein for more than twelve (12) days after notice is given in writing to the Superintendent or other person in charge of the hospital by the parents, or the parent or guardian or other person entitled

Release of
voluntary
patients.

Adults.

Minors.

Voluntary
minors may
not be de-
tained after
majority.

Rules and
regulations.

Section to
be liberally
construed.

Maximum
period for
voluntary
patients.

Residence
requirement.

Penalty for
procuring
escape of
mental
patients.

Detention
of chronic
alcoholics.

to the custody of the minor, of their desire to remove him from the hospital but if the Superintendent believes that further care, treatment, or restraint is required he shall, within the twelve (12) day period, start proceedings for commitment of said persons under the provisions of this act. Such person received into a state hospital as a voluntary patient during his minority shall not be detained therein after he reaches the age of majority, but any such person, after attaining the age of majority, may apply for admission into the hospital for care and treatment in the manner prescribed in these sections for application by adult persons. The Department shall establish such rules and regulations as are necessary to properly carry out the provisions of this section and it shall be the policy of the Department to permit liberal use of this section for those cases that can be benefited by treatment and returned to normal life and mental condition, in the opinion of the Superintendent, within a six (6) months' period. No person shall be carried as a voluntary patient for a period of more than one (1) year. No person shall be admitted as a voluntary patient who has not been a resident of the State of Washington for a period of two (2) years.

SEC. 20. Any person who procures the escape of any inmate of any mental hospital, school for mental defectives, or institutions for psychopaths to which a person is committed under any of the provisions of this act, or who advises, connives at, aids, or assists in such escape or conceals any such escape, is guilty of a misdemeanor.

SEC. 21. Whenever it appears by affidavit to the satisfaction of a Judge of the Superior Court that any person is so far addicted to the intemperate use of alcoholic beverages so as to become a chronic alcoholic, he shall issue and deliver to some peace

officer, for service, a warrant directing that the person be apprehended and taken before a Judge of the Superior Court for hearing and examination. The officer shall thereupon apprehend and detain the person until a hearing and examination can be had.

SEC. 22. The form of the various applications and orders and the proceedings in the case of such a person shall be in substantially the same form as those set forth for the apprehension, detention, examination and adjudication of the mentally ill.

Form of applications and orders thereof.

SEC. 23. If the Judge, after such hearing and examination, believes the person is so far addicted to the intemperate use of alcoholic beverages and is a chronic alcoholic, and if there be in the county or under state auspices some special facility, not a state hospital, provided for the care of such persons, he shall make an order that the person be confined in a licensed hospital or sanitarium, or in the event that the county maintains a branch of the county jail at which inmates thereof are required to perform agricultural or other out-of-doors labor, he may make an order confining the person to such branch of the county jail.

Place of confinement for chronic alcoholics.

SEC. 24. If the Judge, after the hearing and examination, believes the person is addicted to the intemperate use of alcoholic beverages as to have lost the power of self-control and is a chronic alcoholic, but that the condition of the person is not such so as to require custodial care or treatment, the Judge may place such person on probation, subject to the supervision of the psychiatric probation officer, if there be one, or to the care of some other qualified person until further order of the Court.

May be placed on probation.

SEC. 25. As used in this act "sexual psychopaths" means any person who is affected in a form predisposing to the commission of sexual offenses, and in

"Sexual psychopaths" defined.

a degree constituting him a menace to the health or safety of others.

Affidavit that person charged with crime is a sexual psychopath.

Contents of affidavit.

Warrant.

Service of warrant and affidavit.

Hearings.

Findings.

Suspension of proceedings and commitment to a State Hospital.

SEC. 26. If, when any person is charged with crime either before or after adjudication of the charge, it appears by affidavit to the satisfaction of the Court that such person is a sexual psychopath within the meaning of this act, the Court may adjourn the proceedings or suspend the sentence, as the case may be, and thereupon proceed as provided by this act. The affidavit shall state fully the facts upon which the allegation is based. If the person is not then before the Court or in custody, the Court may order that the person be detained in a place of safety until the issue of and service of a warrant of apprehension. The Judge or Justice presiding in such Court shall issue and deliver to some peace officer, for service, a warrant directing that the person be apprehended and taken before a Judge of the Superior Court for a hearing and examination upon the allegation that the person is a sexual psychopath. The officer shall thereupon apprehend and detain the person until a hearing and examination can be had. At the time of the apprehension, a copy of the affidavits and warrant shall be personally delivered to the person.

SEC. 27. If, upon the hearings of the allegation of sexual psychopathy, the person before the Court upon trial, or under conviction, is found not to be a sexual psychopath, the Court, may proceed with trial or impose sentence, as the case may be. If, upon the hearing on the allegation of sexual psychopathy, the person is found to be a sexual psychopath the Court may suspend proceedings, and commitment to a state hospital shall proceed according to the provisions for the commitment of the mentally ill.

SEC. 28. Whenever a person committed to a state hospital as a sexual psychopath recovers from his

sexual psychopathy to such an extent that, in the opinion of the Superintendent of the state hospital, he is no longer a menace to the health and safety of others, the Superintendent may certify said opinion to the committing Court. Unless within thirty days after the receipt of the certification the Court shall order the return of the person to await the further action of the Court with reference to the criminal charge against him, the Superintendent of the hospital in which the person is confined may parole the person, under such terms and conditions as shall be specified by the Superintendent, for a period of not less than five years. If at the end of the five year period the person has not shown any tendency to revert to his sexual psychopathy, he may be discharged as recovered. Whenever, in the opinion of the Superintendent, the sexual psychopath will not benefit by further care and treatment in the hospital, the Superintendent may return him to the Court for further disposition of the case.

Certification
of opinion
of recovery.

Parole for
not less
than five
years.

SEC. 29. The person alleged to be a sexual psychopath shall be taken before a Judge of the Superior Court, to whom the affidavit and warrant of apprehension shall be delivered to be filed with the Clerk. The Judge shall then inform him that he is alleged to be a sexual psychopath, and inform him of his rights to make a reply to the allegation and to produce witnesses in relation thereto. The Judge shall by order fix such time and place for hearing and examination in open Court as will give reasonable opportunity for the production and examination of witnesses. If, however, the person is too ill to appear in Court, or if appearance in Court would be detrimental to the mental or physical health of the person, the Judge may hold the hearing at the bedside of the person. The order shall be entered at length in the minute book of the Court or shall be signed by the Judge and filed and a certified copy

Rights of
accused.

Order fixing
time and
place of
hearing.

Hearings
may be held
at bedside of
accused
person.

Service of order.

thereof served on the person. The Judge shall order that notice of apprehension of the person and of the hearing on the allegation of sexual psychopathy be served on such relatives of the person known to be residing in the county as the Judge deems necessary and proper.

Judge shall appoint psychiatrists to examine accused.

SEC. 30. The Judge shall appoint not less than two nor more than three psychiatrists, each of whom shall be the holder of a valid and unrevoked physician's and surgeon's certificate who has directed his professional practice primarily to the diagnosis and treatment of mental and nervous disorders for a period of not less than five years, and at least one of whom shall be from the medical staff of a state hospital or psychopathic ward of a County Hospital, to make a personal examination of the alleged sexual psychopath, directed toward ascertaining whether the person is a sexual psychopath.

Report of examination to be filed with Court.

SEC. 31. The psychiatrists so appointed shall file with the Court a written report of the result of their examination, together with their conclusions and recommendations. At the hearing they shall hear the testimony of all witnesses, and shall testify as to the result of their examination and to any other pertinent facts within their knowledge.

Testimony of results of examination.

Examination of psychiatrists as witnesses.

SEC. 32. Any psychiatrist so appointed by the Court may be called by either party or by the Court itself, and when so called shall be subject to all legal objections as to competency and bias and as to qualifications as an expert. When called by the Court, or by either party to the proceedings, the Court may examine the psychiatrists, as deemed necessary, but either party shall have the same right to object to the questions asked by the Court and the evidence adduced as though the psychiatrist were a witness for an adverse party. When the psychiatrist is called and examined by the Court the parties may

cross examine him in the order directed by the Court. When called by either party to the proceeding the adverse party may examine him the same as in the case of any other witness called by such party.

SEC. 33. The provisions of this act relating to psychiatrists appointed by the Court shall not be deemed or construed to prevent any party to a proceeding under this act from producing any other expert evidence as to mental condition of the alleged sexual psychopath.

Other expert evidence as to mental condition of accused.

SEC. 34. The Judge shall cause to be examined as a witness any other person who he believes to have knowledge of the mental condition of the alleged sexual psychopath. In any proceedings under sections 26 thru 39 of this act, subpoenas may be issued and the attendance of witnesses compelled within the boundaries of the county as in any criminal case.

Judge may call witnesses.

Subpoenas.

SEC. 35. All witnesses attending a hearing upon a subpoena issued by the Court shall be entitled to witness fees and expenses as in criminal cases, to be paid upon the same conditions and in the same manner.

Fees and expenses of witnesses.

SEC. 36. The alleged sexual psychopath shall be present at the hearing and, if he has no attorney, the Judge may appoint an attorney to represent him.

Right to appear and to attorney.

SEC. 37. If, after examination and hearing, the Judge believes the person is a sexual psychopath, he shall make and sign an order that the person be committed to Eastern State Hospital at Medical Lake for the care and treatment of the mentally ill.

Order of commitment to Eastern State Hospital.

SEC. 38. Persons found to be sexual psychopaths under this act shall have the same rights to jury trial for persons found to be mentally ill.

Right to jury trial.

SEC. 39. The Sheriff of any county wherein an order is made by any Court committing any person

Duties of
sheriff.

under this act or returning the person to the Court, or any other person designated by the Court, shall execute the writ of commitment or order of return and shall deliver certified copies of the affidavit, warrant of apprehension, order for hearing and examination, report of the psychiatrists and order of commitment or return to the Superintendent of the State Hospital or the Clerk of the Court to which the person is to be returned, as the case may be.

"Psycho-
pathic delin-
quent" de-
fined.

SEC. 40. As used in this act, "psychopathic delinquent" means any minor who is psychopathic, and who is an habitual delinquent, if his delinquency is such as to constitute him a menace to the health, person, or property of himself or others, and the minor is not a proper subject for commitment to a state correctional school, to a state school for the mentally deficient as a mentally deficient person, or to a state hospital as a mentally ill person. As used in this act "minor" means any person under twenty-one years of age.

Facilities
for care of
psychopathic
delinquents.

SEC. 41. The Director of Public Institutions may when legally authorized to do so, provide on the grounds of an existing state institution or institutions or on any other property owned or acquired by the state for such purpose, one or more wards or institutional units, to be used for the custodial care and treatment of psychopathic delinquents which shall be administered in the manner provided by law for the government of institutions in which such ward or institutional unit is established.

Petition for
commitment.

SEC. 42. A petition alleging that a person is a psychopathic delinquent and asking that the person be committed to a state institution for psychopathic delinquents may be filed in the county wherein such person resides by any of the following persons:

- (a) The parent, guardian, or other person charged with the support of the person alleged to be a psychopathic delinquent; Persons who may petition.
- (b) Any Prosecuting Attorney;
- (c) The Department of Youth Protection, when and if provided;
- (d) Any duly appointed representative of the school district in which the person, if a minor, resides;
- (e) Any official of a public welfare agency;
- (f) Any person designated for that purpose by the Court;
- (g) The Superintendent of a state institution for mentally defective persons.

The petition shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by the affidavit of the petitioner. Contents of petition.

SEC. 43. The Court shall fix the time and place for the hearing of the petition. The hearing, may, in the discretion of the Court, be held at any time and place which the Court deems proper, and which will give opportunity for the production and examination of witnesses. Hearing of the petition.

SEC. 44. In all cases the Court shall require due notice of the hearing of the petition to be given to the alleged psychopathic delinquent. Whenever a petition is filed by anyone except the parent or guardian, the Court shall require such notice of the hearing of the petition as it deems proper to be given to any parent, guardian, or other person charged with the support of the alleged psychopathic delinquent. Notice of hearing.

SEC. 45. Whenever the Court considers it necessary or advisable, it may cause a warrant to be issued for the apprehension and delivery to the Court of Warrant.

the alleged psychopathic delinquent, and may have the warrant issued by any peace officer.

Custody of accused pending hearing.

SEC. 46. Pending the hearing, the alleged psychopathic delinquent may be left in the charge of his parent, guardian, or other suitable person, or may be placed in the psychopathic ward of a County Hospital, or County Detention Home.

Subpoena of psychiatrists or psychologists required.

SEC. 47. The Court shall inquire into the mental condition, record, character, and personality of the alleged psychopathic delinquent. For this purpose it shall by subpoena require the attendance before it of at least two persons who have made a special study of mental deficiency, psychopathic personality, or delinquency, each of whom shall be a clinical psychologist or psychiatrist, to examine the person and testify concerning his mentality, character and personality. The Court may also by subpoena require the attendance of such other persons as it deems advisable, to give evidence.

Commitment for observation or diagnosis.

SEC. 48. If the Court, after hearing the evidence, is of the opinion that, or in doubt whether, the person is a psychopathic delinquent, the Court may commit the person to a state institution for psychopathic delinquents for observation and diagnosis for a period not to exceed ninety days, with the further provision in said order that the Superintendent of such institution shall within the ninety day period report to the Court his diagnosis and recommendations concerning such minor. The Court shall attach to the order of ninety day commitment its findings and conclusions, together with all the social and other data it has bearing upon the case, and the same shall be delivered to the institution with such order. The Superintendent or other person in charge of the state institution in which the minor has been placed for observation shall within ninety days examine the person and forward to the com-

Report of diagnosis and recommendations.

mitting Court a report, diagnosis and recommendation concerning the minor's future care, supervision and treatment. If the Superintendent or other person in charge of the state institution in which the minor has been placed for observation reports to the Court that the minor is a psychopathic delinquent, and recommends that the minor be so committed, the Court shall proceed with the case and make such orders for the return of the minor to the Court and for the time, place and notice of the further hearing as the Court may deem necessary and proper under all the circumstances. Upon such further hearing, the Court may make an order committing the person to the Department of Public Institutions for placement in a state institution for psychopathic delinquents for an indeterminate period. No person shall be committed for an indeterminate period as a psychopathic delinquent unless an observation commitment has been diagnosed, reported, and recommended upon as provided in this section. If the Department has designated a particular state institution to receive designated minors committed for observation or for an indeterminate period as psychopathic delinquents, all commitments shall be made to the Department for placement in the institution so designated. On the presentation of either order designated herein, the Superintendent of the institution to which the minor is committed may receive him therein if there is room in the unit designated herein under section 42 and if the fund available for its support is not exhausted. Before any such person is conveyed to the institution it shall be ascertained from the Superintendent thereof that such person has been accepted as herein set forth.

Further hearing.

Commitment.

Particular institutions for minors designated.

SEC. 49. A psychopathic person committed pursuant to this act shall remain under commitment until discharged, and the attainment of the age of

Length of term of commitment.

twenty-one years by the psychopathic person shall not terminate his commitment.

Parole.

SEC. 50. Any person committed under the provisions of this act may be paroled by the Superintendent of the institution wherein the person is confined whenever thereafter the Superintendent is of the opinion that the person has improved to such an extent that he is no longer a menace to the health and safety of others or that the person will receive benefit from such parole, and the Superintendent certifies such opinion to the committing Court. Unless within thirty days after the receipt of such certification the committing Court orders the return of the person to await the further action of the Court, the Superintendent may parole the person under such terms and conditions as may be specified by the Superintendent. Any such paroled inmate may, at any time during the parole period, be recalled to the institution. The period of parole shall in no case be less than five years. When any person has been paroled for five consecutive years, if in the opinion of the Superintendent and the Director of Public Institutions the person is no longer a menace to the health, person, or property of himself or of any other person, the Superintendent, subject to the approval of the Director, may discharge the person. When, in the opinion of the Superintendent, a person who is committed under this chapter has been sufficiently treated, or will not benefit by further care and treatment in the institution, or has improved to such an extent that he is no longer a menace to the health and safety of others, the Superintendent may return the person to the Court for further disposition of his case by the Court.

Recall.

Discharge.

Return to
the Court.

Minors
before
Juvenile
Court.

SEC. 51. If, when a minor is brought before a Juvenile Court or charged with crime in any Court, it appears to the Court, either before or after adjudi-

cation, that the minor is a psychopathic delinquent, the Court may adjourn or suspend the proceedings or suspend the sentence, as the case may be, and direct some suitable person to take proceedings under this act against the minor in the Superior Court, and the Court may order that, pending the preparation, filing and hearing of the petition, or upon a subsequent hearing under this act the minor is found not to be a psychopathic delinquent, the Superior Court shall return the person to the Court in which the case originated for such disposition as that Court may deem necessary and proper. If, upon the hearing of the petition, the Court is of the opinion that, or in doubt whether, the minor is a psychopathic delinquent, the Court shall proceed in accordance with the provisions of section 49 for the commitment of the minor or other disposition of the case.

Suspension of proceedings if minor is a psychopathic delinquent.

Procedure pending hearing.

Hearing.

SEC. 52. Any person not authorized by law so to do, who brings into any institution or within the grounds thereof, any opium, morphine, cocaine or other narcotic, or any intoxicating liquor of any kind whatever, except for medicinal or mechanical purposes, or any firearms, weapons, or explosives of any kind is guilty of a felony.

Penalty for bringing drugs and intoxicating liquor into institution.

SEC. 53. As used in sections 53 thru 68 of this act, "establishment" and "institution" include every hospital, sanitarium, home, or other place receiving or caring for any insane, alleged insane, mentally ill, or other incompetent person referred to in this division.

"Establishment" and "institution" defined.

SEC. 54. No person, association, or corporation, shall establish or keep, for compensation or hire, an establishment for the care, custody, or treatment of the insane, alleged insane, mentally ill, or other incompetent persons referred to in this act without first having obtained a license therefor from the Department of Public Health, and having paid the li-

Private institutions.

License required.

Penalty for violations.

cense fee provided in this act. Any person who carries on, conducts, or attempts to carry on or conduct an establishment for the care or treatment, or for the care and treatment of the insane or alleged insane, mentally ill, or incompetents without first having obtained a license from the Department of Public Health, as in this act provided, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. The managing and executive officers of any corporation violating the provisions of this act shall be liable under the provisions of this act in the same manner and to the same effect as a private individual violating the same.

Corporation officers liable.

Duties of prosecuting attorney.

SEC. 55. The Prosecuting Attorney of every county shall, upon application by the Department of Public Health or its authorized representatives, institute and conduct the prosecution of any action brought for the violation within his county of any of the provisions of this act.

Plan of premises required.

SEC. 56. Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the department requires. The application shall be accompanied by the proper license fee. The amount of the license fee for each fiscal year is fixed by the following schedule:

License fees.

(a) For establishments licensed to receive not more than six patients, the fee is five dollars;

(b) For establishments licensed to receive more than six but not more than twenty-five patients, the fee is twenty-five dollars;

(c) For establishments licensed to receive more than twenty-five but not more than fifty patients, the fee is fifty dollars;

(d) For establishments licensed to receive more than fifty patients, the fee is seventy-five dollars.

In the case of the issuance of a license on or after the first day of January next succeeding the beginning of the fiscal year, the license fee for the remainder of the fiscal year is one-half the sum fixed for the entire fiscal year. The Department shall require a license fee in situations where licensed establishments increase their number of patients during any fiscal year, based on a pro-rata charge under the schedule set forth herein. No additional fee will be required in the event of an application for transfer of a license to another person to operate the same establishment. No additional license fee shall be required for the transfer of the license issued in the name of one person to operate an establishment at a certain location where an application is received to transfer that license to the same person to operate an establishment at a different location.

SEC. 57. The Department of Public Health shall not grant any such license until it has made an examination of the premises proposed to be licensed and is satisfied that they are substantially as described, and are otherwise fit and suitable for the purposes for which they are designed to be used, and that such license should be granted.

Examination
of premises
prior to
licensing.

SEC. 58. The Department of Public Health may at any time examine and ascertain how far a licensed establishment is conducted in compliance with the license therefor. If the interests of the inmates of the establishment so demand, the Department may, for just and reasonable cause, suspend or revoke any such license after notice and hearing.

Examination
of premises
after licens-
ing.

Suspension
and revoca-
tion of
license.

SEC. 59. All licenses issued under the provisions of this act shall expire on the first day of July next

Expiration
of licenses.

Renewal
of licenses.

succeeding the date of issue. Application for renewal of the license, accompanied by the necessary fee, shall be filed with the Department of Public Health annually, not less than ten days prior to its expiration and if application is not so filed, the license shall be automatically cancelled.

Periodic
inspections.

SEC. 60. The Department may at any time cause any hospital, establishment or home caring for or treating insane, alleged insane, mentally ill or incompetent persons to be visited and examined.

May inspect
the entire
premises.

SEC. 61. Each such visit may include an inspection of every part of each establishment, and all the outhouses, places, buildings and grounds used in connection therewith. The representatives of the Department of Public Health may make an examination of all records, methods of administration, the general and special dietary, the stores and methods of supply, and may cause an examination and diagnosis to be made of any person confined therein. The representatives of the Department may examine to determine their fitness for their duties the officers, attendants, and other employees, and may talk with any of the patients apart from the officers and attendants.

May examine
records,
property,
inmates and
personnel.

Management
and im-
provement of
estab-
lish-
ments.

SEC. 62. The representatives of the Department of Public Health may, from time to time, at times and places designated by the Department, meet the managers or responsible authorities of such establishments in conference, and consider in detail all questions of management and improvement of the establishments, and may send to them, from time to time, written recommendations in regard thereto.

Duty to file
recommen-
dations of
the Depart-
ment.

SEC. 63. The authorities of each establishment for insane or mentally ill persons or other incompetents shall place on file in the office of the establishment the recommendations made by the Department of Public Health as a result of such visits,

for the purpose of consultation by such authorities, and for reference by the Department representatives upon their visits. Every private establishment or home for the care and treatment of insane, mentally ill or other incompetent persons referred to in this act shall keep records of every person admitted thereto as follows and shall furnish to the Department, when required, the following data: name, age, sex, marital status, date of admission, voluntary or other commitment, name of physician, diagnosis, and date of discharge.

Duty to maintain records for the Department.

SEC. 64. This act shall not prevent local authorities of any city, or city and county, within the reasonable exercise of the police power, from adopting rules and regulations, by ordinance or resolution, prescribing standards of sanitation, health and hygiene for private institutions for the care, custody or treatment of the insane, alleged insane or other incompetent persons, not in conflict with the provisions of this act, and requiring a certificate by the local health officer, that the local health, sanitation and hygiene laws have been complied with before maintaining or conducting any such institution within such city or city and county.

Act not to interfere with local regulations.

SEC. 65. The person in charge of any private institution, hospital, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill or deranged may receive and detain therein as a voluntary patient any person suffering from mental illness or derangement who is a suitable person for care and treatment in the institution, hospital, or sanitarium, who voluntarily makes a written application to the person in charge for admission into the institution, hospital or sanitarium, and who is at the time of making the application mentally competent to make the application. Upon the admission of a voluntary patient to a private institution, hospital,

Voluntary patients in private institutions.

Application.

Record to
Department.

or sanitarium, the person in charge shall immediately forward to the office of the Department of Public Health a record of the voluntary patient showing the name, residence, age, sex, place of birth, occupation, marital status, date of admission to the institution, hospital or sanitarium, and such other information as may be required by rule of the Department of Public Health. No voluntary patient in a private institution, hospital, or sanitarium shall be detained therein for more than ten days after having given notice, in writing, to the person in charge of the institution, hospital, or sanitarium of his desire to leave the institution, hospital, or sanitarium.

Written
communica-
tions of in-
mates of
private
institution.Duties of
institution.

SEC. 66. No person in a private institution, hospital, sanitarium, department, or ward for the care or treatment of any person provided for by this act shall be restrained from sending written communications of the fact of his detention in such institution to a friend, relative, or other person. The physician in charge of such person and the person in charge of such hospital shall send each such communication to the person to whom it is addressed. If, however, the person in charge finds it inadvisable to send any such communication because it contains other matter which would do harm to the reputation of, and would later cause mental anguish to the person detained, or if the physician finds it impossible to send any such communication within twenty-four hours, then both the physician in charge of the patient and the person in charge of the institution shall give notice of the detention of such patient to the Prosecuting Attorney of the county from which the patient came at the time of admission and the Prosecuting Attorney of the county in which the institution is located, and the person to whom such communication was addressed, and to the Department of Public Health, giving the name and address of the patient and the names and addresses of the person or persons who

arranged for his admission and stating the facts of the attempted communication and the reason for withholding it. Such Prosecuting Attorney or Prosecuting Attorneys shall investigate the detention of such patient and advise the patient concerning his legal rights and shall report in full concerning said patient to the Department of Public Health. The person in charge of the institution may detain a patient only when there has been compliance with the provisions of this section.

Duties of
Prosecuting
Attorney.

SEC. 67. No Court proceeding shall be had in relation to the mental condition of a patient in a private institution, hospital, sanitarium, department or ward for the care of or treatment of the mentally ill unless the patient is either present or represented by an attorney. The Judge of the Superior Court before whom the proceedings are to be heard shall appoint two licensed medical examiners who are not connected with any private psychopathic institution to make a personal examination of the patient and to testify before the Judge as to the results of such examinations. The provisions of this section shall not be applicable to proceedings for the appointment of a guardian under general law of this state.

Court pro-
ceedings.

Right to
appear and
to counsel.

Judge shall
appoint two
examiners.

SEC. 68. Failure to comply with any of the provisions of sections 64 through 67 shall constitute grounds for revocation of license: *Provided, however,* That nothing in this act or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any sanitarium, home, establishment, or institution as defined in this act conducted in accordance with the practice and principles of the body known as Church of Christ, Scientist.

Revocation
of a license.

Church of
Christ,
Scientist
exempt
from act.

SEC. 69. If any section, subsection, clause, sentence or phrase of this act is for any reason held to be

Partial
invalidity.

unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this act.

Passed the Senate March 10, 1949.

Passed the House March 10, 1949.

Approved by the Governor March 19, 1949.

CHAPTER 199.

[S. B. 349.]

APPROPRIATIONS—DEPARTMENT OF HIGHWAYS.

AN ACT relating to public highways; making appropriations therefor from the Motor Vehicle and Highway Equipment Funds; declaring an emergency and that this act shall take effect April 1, 1949.

Be it enacted by the Legislature of the State of Washington:

Appropriations to Department of Highways.

Salaries, wages and operations.

SECTION 1. There is hereby appropriated from the Motor Vehicle Fund to the Department of Highways, to be expended by the Director of Highways for the biennium ending March 31, 1951, for salaries, wages and operations of the office of the Director of Highways and/or district offices of the Department of Highways including that of the Traffic Engineer and Research and Planning Survey, the sum of two million, six hundred seventy-six thousand, three hundred sixty dollars (\$2,676,360) or so much thereof as shall be necessary.

State aid monies to incorporated cities and towns.

SEC. 2. There is hereby appropriated from the Motor Vehicle Fund to the Department of Highways, to be expended by the Director of Highways for the biennium ending March 31, 1951, for the purpose of supervising the work and expenditures of state aid monies allotted to incorporated cities and towns and to counties as provided by chapter 181, Laws of 1939, and amendments thereof, the sum of one hundred eighty-eight thousand, one hundred thirty dollars (\$188,130) or so much thereof as shall be necessary.

Appendix B

**SEX OFFENDER SENTENCING OPTIONS:
VIEWS OF CHILD VICTIMS AND THEIR PARENTS**

LUCY BERLINER

August 2007



*Washington State
Institute for
Public Policy*

**SEX OFFENDER SENTENCING OPTIONS:
VIEWS OF CHILD VICTIMS AND THEIR PARENTS**

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August 2007

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WASHINGTON STATE INSTITUTE FOR PUBLIC POLICY

Mission

The Washington Legislature created the Washington State Institute for Public Policy in 1983. A Board of Directors—representing the legislature, the governor, and public universities—governs the Institute, hires the director, and guides the development of all activities.

The Institute's mission is to carry out research, at legislative direction, on issues of importance to Washington State. The Institute conducts research activities using its own policy analysts, academic specialists from universities, and consultants. New activities grow out of requests from the Washington legislature and executive branch agencies, often directed through legislation. Institute staff work closely with legislators, as well as legislative, executive, and state agency staff to define and conduct research on appropriate state public policy topics.

Current assignments include projects in welfare reform, criminal justice, education, youth violence, and social services.

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CONTENTS

Summary.....	1
Purpose of the Study	1
SSOSA History and Rationale	2
Study Design and Procedures	6
Interview Results.....	6
Case Characteristics and Decision-Making	9
Discussion and Conclusions	12
Appendix A: SSOSA Parent Interview	15
Appendix B: SSOSA Victim Interview	21
Appendix C: Legislative Changes to SSOSA Laws	25

Lucy Berliner, Director of Harborview Center for Sexual Assault and Traumatic Stress, was the principal investigator and author of this paper.

David Fine, PhD, served as the statistical consultant for the study; Emily Alhadeff and Molly Roebuck were the research assistants and conducted the interviews.

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SEX OFFENDER SENTENCING OPTIONS: VIEWS OF CHILD VICTIMS AND THEIR PARENTS

Summary

This study solicited the views of child victims and their parents¹ in sex offense cases from three Washington State counties: Benton, King, and Snohomish. All offenses were eligible for the Special Sex Offender Sentencing Alternative (SSOSA). Interviews were conducted between November 11, 2004, and December 12, 2005, with 49 family members of victims and 32 victims aged 13 to 18. Of the 49 cases, 9 received a SSOSA sentence.

The findings include the following:

- Most parents of child victims expressed satisfaction with the outcome of the case, agreed with the sentence, and thought it was just.
- Most child victims and their parents expressed satisfaction with the case whether or not a SSOSA was granted.
- The child victims expressed strong support for a treatment-oriented sentence for sex offenders; in contrast, the majority of parents did not support this option.
- In most instances, the family was included in the prosecutor's decision-making about the case.

Purpose of the Study

The 2004 Legislature passed ESHB 2400, instructing the Washington State Institute for Public Policy (Institute) to...

...“conduct a comprehensive analysis and evaluation of the impact and effectiveness of current sex offender sentencing policies. ... As part of its study, the institute shall also investigate the views of victims whose cases resulted in a special sex offender sentencing alternative sentence. This study shall include victims whose cases have been prosecuted recently, as well as those whose cases were prosecuted in the past. The victims shall be asked whether they considered the special sex offender sentencing alternative sentence to be a just and appropriate sanction, whether it influenced their healing process, and, if so, whether the influence was negative or positive.”

Laws of 2004, Chapter 176, § 7

To conduct this study, the research team at Harborview Center for Sexual Assault and Traumatic Stress interviewed child victims and their parents. In each case, the offender had been convicted of sex offenses that were eligible for SSOSA, a special treatment option. Families and victims were asked their experiences with the criminal justice system: their attitudes and perceptions regarding the offender's sentence and sex offender sentencing policies in general.

¹ Parents included biological parent (43); stepparent (2), foster parent (1), grandparent/guardian (2), sister/guardian (1).

SSOSA History and Rationale

Washington State's sentencing laws for adult felons went into effect in 1984, moving from an indeterminate to a determinate system that emphasized punishment and proportionality in sentencing decisions. A statewide sentencing grid was established that ranked felonies by seriousness and, in combination with the offender's prior criminal convictions, produced a sentencing range. The reform eliminated the option of suspended and deferred sentences; suspended sentences had previously been used, for many sex offenders, to allow community-based treatment and supervision as an alternative sentence.

The 1983 Legislature directed the Sentencing Guidelines Commission to examine sex offenses in detail and recommend the most appropriate sentences. The Commission's inquiries to practitioners and victim advocates across the state revealed that many citizens wanted to retain a treatment-oriented sentencing option for some first-time sex offenders. Many individuals expressed the view that some sex offenders should be able to first attend treatment and, if the treatment failed or they did not cooperate, then have the sentence revoked and a jail or prison term imposed.

The Commission learned how sex crimes differ from other offenses and their impact on victims. Most sexual assault victims do not report the crimes because of the fear of consequences. In addition to concerns about whether they will be believed and supported, some victims have concerns about the consequences to offenders if the crimes are reported and prosecuted. While all child victims want the abuse to stop, some victims and their families have more complicated situations. When the offender is someone close to the victim or family, or a family member, the victim or family may want an option other than an extended prison term. The Commission worked to establish a sentencing alternative that would increase the victim's willingness to report the abuse and cooperate with the prosecution while, at the same time, punish the offender.

In 1984, the Commission proposed the Special Sex Offender Sentencing Alternative, a sentencing option that incorporates a jail sentence followed by outpatient treatment and supervision. Under this option, if the offender fails to make progress in treatment or does not cooperate, the SSOSA can be revoked and a prison term imposed. The Legislature adopted the proposal and SSOSA went into effect that same year.

SSOSA eligibility has always been restricted. Offenders convicted of first and second degree rape and certain other sex offenses are not eligible, nor are those with a prior conviction for a sex offense and those whose standard punishment range for the crimes of conviction exceeds 11 years. (This last provision was intended to exclude most offenders with multiple victims.) In the 23 years since SSOSA was enacted, additional restrictions have been imposed on eligibility requirements (see Appendix C). For example, there must now be an established relationship between the offender and the victim. In addition, offenders convicted of a violent crime within the previous five years are no longer eligible for consideration, nor are those who inflict substantial bodily harm to the victim. Offenders must admit to the crime if they plead guilty; Alford pleas are excluded.²

The SSOSA decision is made by the sentencing judge; the law directs the judge to consider a number of factors. Amenability to treatment is the initial consideration and is based on evaluations conducted by certified Sex Offender Treatment Providers (SOTPs). The judge is also instructed to take into account whether imposition of the sentence will benefit the offender and the community; the risk the offender poses to the victim, the community, or similar age and circumstance persons;

² In an Alford plea, the defendant does not admit the act and asserts innocence but admits that sufficient evidence exists with which the prosecution could likely convince a judge or jury to find the defendant guilty.

and the victim's opinions. In recent years, the weight given to victim preferences has been emphasized. Sentencing judges must make written findings if the victim does not support a SSOSA sentence and one is imposed.

Before the sentencing decision occurs, prosecutors and defense lawyers may agree that a SSOSA is appropriate and make a recommendation to the sentencing judge; or there may be differences of opinion. In terms of amenability to treatment, there may be a single evaluation that both the defense and prosecution agree to rely on. In other cases, there may be more than one report and, in some cases, the reports may differ in their recommendations. Similarly, other considerations that must be weighed may be agreed upon or disputed in recommendations to the sentencing judge.

In practice, there are a variety of considerations that prosecutors or judges may weigh in agreeing to a SSOSA recommendation when it is sought by a defendant. Most prosecutors do not agree to a SSOSA recommendation when the offender has gone to trial and, after conviction, decides to seek a SSOSA. Other factors in decision-making include the offender's level of expressed remorse, acknowledgement of harm to the victim, and cooperativeness. Additionally, the offender must be able and willing to pay for the costs of outpatient treatment. The degree to which the victim's preference drives the recommendation or decision varies. For example, in some cases, prosecutors use SSOSA as a plea bargaining tool to achieve a conviction even when the victim/victim's family are not strongly advocating for this option but are not actively opposing it.

Since SSOSA was enacted, significant changes in societal views toward victims and sex offenders have occurred. The social climate is now much more supportive of sexual assault victims. Most children are made aware of and educated about sexual assault, and services are widely available to victims. In Washington State, these changes are reflected in numerous social policy advances. There are state-supported sexual assault programs in every county that offer crisis response, legal advocacy, and counseling. Most prosecuting attorneys' offices and many law enforcement agencies have specialized units that handle sex offenses. State law requires that counties have protocols defining the coordinated response to child sexual assault victims.

A study of a representative sample of women in Washington State demonstrates how social changes have affected victims of sexual assault.³ Compared with the older women in the study, the younger women who were victimized were more willing to come forward, seek services, and report the crimes. These younger women were victimized within the past 25 years when the social climate toward sexual assault victims was changing.

The sentencing laws in Washington State have been amended numerous times to account for evolving public policy about the seriousness of sex crimes. Exhibit 1 summarizes the key changes in state law regarding sex offenders.

³ L. Berliner. (2001). *Sexual assault experiences and perceptions of community response to sexual assault: A survey of Washington State women*. Seattle: Harborview Center for Sexual Assault and Traumatic Stress.

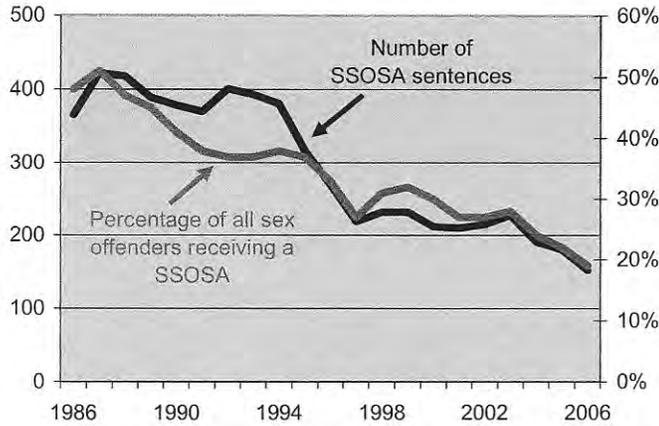
Exhibit 1
Sex Offender Policy
Changes Over Two Decades

1984	The Sentencing Reform Act (SRA) goes into effect, replacing indeterminate sentencing with determinate sentencing using statewide sentencing guidelines.
1984	Special Sex Offender Sentencing Alternative (SSOSA) is available as a sentencing option. SSOSA may be granted in lieu of a prison sentence under certain conditions and requires some jail time with outpatient treatment and supervision.
1990	The Community Protection Act passes. The Act is a comprehensive set of laws that increases prison terms for sex offenders, establishes registration and notification laws, authorizes funds for treatment of adult and juvenile sex offenders, and provides services for victims of sexual assault. Civil commitment of sexually violent predators is authorized.
1993	Voters pass a Three Strikes initiative providing for lifetime incarceration without parole for offenders who have committed three "most serious" felonies.
1996	Two Strikes legislation passes, providing for lifetime sentences without parole for persons convicted of two or more serious sex crimes.
1997	The Legislature directs a more consistent statewide approach to community notifications .
2001	Determinate Plus Sentencing is adopted for sex offenders convicted of certain sex offenses who are subject to a life sentence in prison with discretionary release by the Indeterminate Sentencing Review Board.
2005	SSOSA eligibility requirements change for crimes committed after July 1, 2005. Changes include: no prior adult violent convictions committed within five years of the current offense; offense did not result in substantial bodily harm to the victim; and offender had relationship to victim (not a stranger).
2006	Sentencing increases ; failure to register penalties increase; new crime for criminal trespass against children.

The Washington Legislature has defined new sex crimes in recent years, including Criminal Trespass Against Children, Sexual Misconduct with a Minor (1 and 2), Sexually Violating Human Remains, Voyeurism, and Criminal Sexual Misconduct (sex with an inmate). Registration and community notification have become part of the legal consequences of a sex offense conviction. Sexually violent predators may be civilly committed at completion of their prison sentence if they meet certain criteria and are found dangerous at a trial. Overall, there is a much harsher social climate and more severe consequences for a sexual offense conviction.

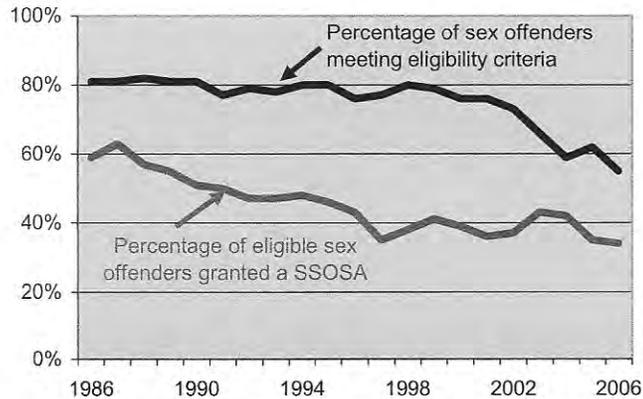
These changes likely account for the significant reduction in the proportion of eligible sex offenders being granted a SSOSA. In the late 1980s, about half of the eligible sex offenders received a SSOSA; that proportion has been reduced to approximately 20 percent (see Exhibits 2 and 3).

Exhibit 2
Trend in Number of SSOSA Sentences



Source: Institute analysis of Department of Corrections' records.

Exhibit 3
Trend in Percentage Meeting SSOSA Eligibility Criteria and Percentage of Eligible Granted a SSOSA⁴



Source: Institute analysis of Department of Corrections' records.

Little is known about the impact of sentencing decisions on victims of sex crimes, especially crimes against children. Anecdotally, the majority of child victims do not express an interest in offenders receiving community treatment sentences and avoiding lengthy prison terms. However, in a minority of cases, it has been noted by victim services, law enforcement, and prosecutors that victims express regret for reporting abuse because of the potential consequences of prosecution—they are distressed or refuse to cooperate with the criminal justice process or indicate a strong preference for a treatment alternative. Based on these experiences, professionals who routinely work with victims have generally supported the availability of SSOSA. On the other hand, some victims and their families, as well as many citizens and some legislators, have opposed SSOSA, not only in individual cases but as an option for any sex offender.

⁴ This chart relies on the pre-2004 eligibility criteria in order to accurately compare trends over time.

Study Design and Procedures

Parents of child victims and child victims of SSOSA-eligible offenders were recruited shortly after the offender's sentencing to participate in telephone interviews about their views toward sentencing in their case and sentencing of sex offenders in general. The study was approved by the University of Washington Humans Subjects Committee.

Parents of child victims were approached about the study by prosecutor office personnel, usually victim advocates, in Benton, King, and Snohomish Counties. The staff were instructed to ask all victims of SSOSA-eligible offenses if they were willing to be contacted by the study team. They asked either the victim or parent in person immediately after the sentencing, or contacted them later by phone. If the parent of the child victim agreed to be contacted (and the one adult victim who agreed to participate), the research team called them to secure consent to participate in the study. Parents of child victims 13 years old and older were asked if they would agree to their child's participation in the study. If parents provided their consent, the children were interviewed. The interviews were conducted by phone.

The parent interview included about 50 questions; the child victim interview included about 30 questions (see Appendices A and B for interview questions). The questions were organized into three sections; sample topics are presented.

- How was the individual's and/or family's experience with the criminal justice process?
 - ✓ Was the sentencing recommendation discussed with the family?
 - ✓ Was there a victim advocate?
 - ✓ Did the victim/family write an impact statement?
 - ✓ Did they attend the sentencing?
- How did they view the outcomes of the case?
 - ✓ Did they agree with the sentence?
 - ✓ Did they think justice was done?
- What were their views about sex offender sentencing in general?
 - ✓ Should there be a sex offender sentencing alternative for certain sex offenders?
 - ✓ Should sex offenders get treatment?

Information about the case characteristics and the impact of the crime was gathered from parents; children were asked about the sentencing process and options; and offender demographics and case outcomes were collected from the prosecutor's office.

Interview Results

Prosecutors' offices approached victims or parents of 122 SSOSA eligible cases during the study period about willingness to participate in the study. Of this group, 72 declined to participate, could not be reached, or initially said yes but changed their minds. One adult woman participated in the interviews, but was excluded from the study findings as she was involved in a crime as an adult. A total of 49 family caregivers were interviewed about their own perceptions/attitudes and those of their 49 children. Of the 49 children, 32 were of an appropriate age to interview (13 and older), and their parents consented to their participation.

Exhibit 4
Characteristics of Cases

Crime	Number	Percentage
Child Rape	22	45
Child Molestation	20	11
Other	7	14
Case Outcomes		
SSOSA not sought	27	55
SSOSA sought, not granted	13	27
SSOSA sought, granted	9	18

Exhibit 5
Child Victim and Offender Demographics

Child Victim Characteristics	Number	Percentage
Age	4 – 18 years	13.8 (average)
Gender-Female	45	92
Ethnicity		
African American	5	10
Caucasian	37	76
Latina/o	1	2
Native American	1	2
Other/Mixed	5	10
Offender Characteristics		
Age	18 – 66 years	37 (average)
Gender-Male	48	98
Ethnicity		
African American	4	8
Caucasian	36	73
Latino/a	5	10
Pacific Islander	3	6
Native American	1	2

Exhibit 6
Offender Relationship to Victim

Parent	Family	Acquaintance	None
7 (14%)	14 (29%)	25 (51%)	3 (6%)

Exhibit 7
Offender Relationship to Parent

Partner	Family	Acquaintance	None
6 (13%)	10 (21%)	12 (26%)	19 (40%)

**Exhibit 8
Crime Characteristics**

Length of Crime			
1 day	17	(35%)	
< 1 month	11	(22%)	
1 month to 1 year	13	(27%)	
More than 1 year	7	(14%)	
Unknown	1	(2%)	
Time to Report			
Same day	10	(20%)	
< 1 month	15	(31%)	
1 month to 1 year	20	(41%)	
More than 1 year	4	(8%)	
Number of Offenses			
1	17	(35%)	
2 to 5	22	(45%)	
6 or more	10	(20%)	
Offender Lived With Victim		Yes	No
Time of crime	12	(24%)	37 (76%)
Time of report	6	(12%)	43 (88%)

Parents' Views

The parents were asked about their child's reactions, attitudes toward the case, and sentencing policy. In addition, parents were asked their own views. This section reports the responses of the parents.

**Exhibit 9
Psychological Considerations: Parental Views**

Psychological Factors	None/Not at All	Somewhat	A Lot	No Answer
Child afraid during crime	17 (35%)	18 (37%)	12 (24%)	2 (4%)
Child worried for offender if told	13 (26%)	19 (39%)	15 (31%)	2 (4%)
Offender importance (closeness)				
To victim	17 (35%)	21 (43%)	11 (22%)	
To parent	23 (47%)	16 (33%)	10 (20%)	
Impact of sentence				
On victim	3 (6%)	36 (73%)	9 (18%)	1 (2%)
On parent	1 (2%)	32 (65%)	16 (33%)	--
Impact of crime on child	Less Than Severe 22 (45%)		Severe 27 (55%)	

**Exhibit 10
Parent Attitudes Toward Case Outcome**

Attitudes Toward Case	Somewhat/A Lot	Not at All
Agree with sentence		
Child's view reported by parent	39 (83%)	8 (17%)
Parent	34 (69%)	15 (31%)
Justice was done		
Child's view reported by parent	32 (67%)	16 (33%)
Parent	34 (69%)	15 (31%)

Exhibit 11
Parent Attitudes Toward Sex Offender Sentencing Policy

	Yes	No
Option for treatment alternative?	14 (29%)	35 (71%)
Treatment at some point	48 (98%)	1 (2%)

Child Victim Views

Of the 49 victims in the full sample, 32 who were between 13 and 18 years old participated in direct interviews about their experiences. For the full sample of 49, parents reported on their own and their children's perceptions and attitudes (see Exhibit 10). Asking the 32 victims directly about their own perceptions and attitudes provided information about what the children themselves thought and also allowed for comparison between their views and what their parents believed were their views (see Exhibits 11 and 12).

Exhibit 12
Child Attitudes Toward Case Outcomes and Sentencing Policy

Toward Case	Somewhat/A Lot	Not at All
Agree with sentence	27 (90%)	3 (10%)
Justice was done	27 (90%)	3 (10%)
Toward Sex Offender Sentencing	Yes	No
Option for treatment alternative?	22 (69%)	10 (31%)
Treatment at some point	32 (100%)	

Case Characteristics and Decision-Making

The generalizability of the study is limited by the fact that it is a convenience sample. It was not possible to approach all victims and parents across the state about participation in the study. The counties that were selected had substantial numbers of cases to allow a reasonable sample size. Additionally, these counties had staff in the prosecutors' offices with the capacity and willingness to contact victims and discuss the study.

In spite of the cases being drawn from only three counties, the overall profile is representative of Washington State sex crimes that result in convictions. In terms of ethnicity of victims and offenders, the proportion is similar to Washington State demographics, especially when classified as Caucasian or minority. Victims in the sample are older than average, with half between 14 and 18 years old, but this pattern may be influenced by the fact that cases with younger victims are not as often successfully prosecuted. The case characteristics in terms of offender relationship, length of victimization, and type of offense (rape versus molestation) is typical of reported child sexual abuse cases. Offender relationship was determined by asking the parent about the offender's relationship to the victim and to the parent. It is unclear the exact nature of the relationship in those cases where the parent reported that the offender had no relationship to their child; this characterization may include individuals the child had met on the day of the offense. In quite a few cases the parents described themselves as having no relationship with the offender.

The outcome of cases with a SSOSA sentence, 18 percent, is fairly close to the state proportion—23 percent in 2006. It is noteworthy that more than half of eligible offenders did not seek a SSOSA. The reasons for this are not known based on the information collected for this study.

A majority of parents reported that the prosecutor talked with them about the sentencing recommendation (69 percent), that they had an opportunity to give their opinion about the sentencing recommendation (75 percent), wrote an impact statement (67 percent of parents, 58 percent of child victims), and attended the sentencing (63 percent of parents, 44 percent of child victims). Of those who attended the sentencing, 60 percent spoke at the sentencing and 67 percent had an advocate present. The 32 child victims who were directly interviewed reported slightly higher levels of participation in the criminal justice process compared with all children in the study. This might be expected among older victims who would more likely be included in discussions with prosecutors, write an impact statement, or attend the sentencing.

SSOSA Cases

Because there were so few SSOSA cases (n=9), it was possible to examine each in greater detail; prosecutors' offices provided specific information. In several cases, the victim supported SSOSA but the parents did not. In one case, there was evidence that relatives and church members pressured the parents of a very young child victim to support SSOSA, so that, at the sentencing, it appeared all involved parties supported SSOSA for the offender. In several cases, the victim did not respond to repeated efforts to contact him or her, or the parents would not allow contact with the victim to provide a victim impact statement. In one of these cases, the victim was seriously emotionally disturbed and could not be engaged in the prosecution process. Although his guardian would have preferred incarceration, the prosecutors believed that without offering a SSOSA, the defendant would not have pled guilty and the case would have had to be dismissed. In another, the crime was committed when the offender was a juvenile but the case did not come to light until he was an adult. The parent wanted the offender incarcerated but did not want the victim involved. The victim did not respond to attempts to be contacted. A SSOSA appeared to be the appropriate outcome considering the facts of the case. In these instances, a SSOSA was supported despite the lack of victim involvement either to secure a conviction or because the SSOSA outcome seemed the most appropriate result. In one case, the court imposed a SSOSA over the victim's objections.

Attitudes Toward Case Outcome

In terms of attitudes about the sentencing outcome, a substantial majority of both parents and children were satisfied with the outcome. According to the parents, they agreed with the sentence (parents=69 percent; children=83 percent) and believed justice was done (parents=69 percent; children=67 percent). Parents were less likely to agree with the sentence compared with what they believed were their children's views; however, in terms of the perception of justice being done, the parent's views and what they believed their children thought were comparable.

Contrast Between Parents and Children

The 32 children who were directly interviewed reported even higher levels of satisfaction with the outcome than what their parents believed was the children’s level of satisfaction. The child victims agreed with the sentence in the case and thought justice was done in 90 percent of cases. The differences between the children’s own views and their parents’ views of satisfaction can be seen when the children and parents views are compared (see Exhibit 13).

**Exhibit 13
Attitudes Toward Case Outcomes and Sentencing Policy**

	Child Victims’ Views	Parents Views of Child Victims*	Parents Own Views
Attitudes Toward Case			
Agree with sentence (yes)	90%	78%	69%
Justice done (yes)	90%	62%	69%
Attitudes Toward Policy			
Option for treatment alternative (yes)	69%	n/a	28%
Treatment at some point (yes)	100%	n/a	97%

*Percentages based on the views of parents of the 32 interviewed children.

Impact of SSOSA on Satisfaction With Case Outcome

There were no differences in satisfaction with the case outcomes based on whether or not a SSOSA was granted. Parents were just as likely to agree with the sentence and believed justice was done whether or not the offender was granted a SSOSA. The same was true for the children based on the parent’s report of their children’s satisfaction with the case outcome and on the children’s own views.

Sentencing Policy for Sex Offenders

The majority of parents (71 percent) did not believe that a community-based sentencing alternative should be available to sex offenders instead of prison, while the majority of child victims who were directly interviewed did believe that a community-based treatment alternative should be available (69 percent). The interview specifically asked whether the respondent would continue to hold this view even if it meant that some children would not participate in the criminal justice process because they wanted the offender to have treatment. All of the parents, and the interviewed children who held the view that it should not be available, maintained the position even if it meant that victims would not come forward. When the gender of the parent or caregiver completing the interview was examined, the results showed that none of the fathers (n=10) believed there should be a sentencing alternative for sex offenders, whereas mothers and female caregivers (e.g., the grandmothers, older sister/guardian) had more mixed views.

The parents, with one exception, believed it was important for sex offenders to have treatment either in prison or after release; all but one parent believed it was very important versus somewhat important. All of the child victims who were interviewed believed it was very important for offenders to have treatment at some point.

There were very few significant relationships between case characteristics and attitudes toward the specific case outcome or sex offender policy in general. The only statistically significant relationship was that when the offender was living with the victim at the time of the crime or at the time of the report, the parents reported that their children were more likely to believe that justice was *not* done.

Discussion and Conclusions

Overall, most parents of child victims and the child victims expressed satisfaction with the outcome of the case. They agreed with the sentence and believed justice was done. When child victims were directly asked, as opposed to their views being learned from their parents, they agreed even more strongly with the sentence and believed justice was done.

There were no differences in satisfaction based on the case outcome—whether the offender did or did not receive a SSOSA. This result suggests that granting a SSOSA serves the purpose intended of providing an alternative that meets the needs of a small subset of victims. It is possible that the victims and families would have been just as satisfied with the case outcome if a SSOSA had not been granted. On the other hand, if granting a SSOSA was generally associated with less victim and family satisfaction with case outcome, it would have shown in the results.

Surprisingly, while the sentence outcome did not make a difference in satisfaction, no other case characteristic was associated with case outcome. None of the variables that might be expected to be influential, such as relationship to the offender, seriousness of the case, or impact on the victim, showed a relationship to the sentencing decision. One possible explanation is that victims and families do not place the level of weight on the case outcome that is generally thought. They may care more about a process perceived as fair, or that there is a conviction, and less about the specific case result.

The majority of parents opposed the availability of a treatment alternative for sex offenders even if it meant some victims would not cooperate with the criminal justice process. On the other hand, child victims did not share these views; the large majority supported the availability of a sentencing alternative.

Finally, all parents and victims in this study believed that sex offenders should have treatment. In addition, they were unanimous in support of extensive restrictions on convicted sex offenders. The strong support for sex offender treatment is striking. It means that sex offenders are perceived as individuals suffering from treatable psychological conditions. Punishment alone is not seen as sufficient to reduce recidivism.

These results illuminate the unusual nature of victim, family, and societal attitudes toward sex offenders. Despite the belief among parents in this study that sex offenders should receive severe punishment, there is an equivalently strong belief that they should receive treatment, albeit not as a substitute for punishment. At the individual case level, even though most parents opposed the availability of a sentencing alternative for sex offenders, the fact that the sex offender in their case received a treatment sentencing alternative did not diminish their or their children's satisfaction with the outcome of the case, compared with parents and child victims in cases where the offender did not receive the alternative.

The contrast between child victims' views and those of their parents has significant implications. That parents believed their children were less satisfied with the case outcome than the children reported suggests that parents may have unwittingly assumed that their children shared their perspectives. The parents did seem to recognize to some extent that their children may have had different views, but perhaps they did not always appreciate the magnitude of the difference. It is not surprising that parents would have different and less positive views of case outcomes than their children. Overall, the parents in many cases knew the offenders less well and the offenders were less important to them than to the children. Parents might, therefore, have had fewer mixed feelings than their children toward the offenders. In addition, it is a central part of parents' role to protect their child from harm and try to provide a childhood free of victimization.

It is understandable that, from a parent's perspective, no legal consequence could seem truly just. It should be noted that this study only included children living with protective parents or family members, rather than those in foster care, for example.

The inconsistency between the parents' and children's views is most relevant to the general policy question: Should a treatment sentencing alternative be available for sex offenders? On this matter, parents and children had opposite views. It is not known from this study whether parents were aware of this discrepancy or whether the parents' views might have been altered had they known their children's position.

The evidence that child victims strongly supported having such an alternative lends weight to the underlying policy basis for SSOSA of reflecting the interests and needs of child victims. On the other hand, it is unclear how to develop or promote a public policy that adults, even the parents of victims, may not support. For example, children could not be expected to publicly promote legislative approaches that their parents oppose.

General attitudes toward sex offenders do not always coincide with attitudes toward sex offenders in a specific case. As prosecutors and judges can attest, not only victims and their families, but friends, colleagues, and community members who know someone found to be a sex offender will routinely plead for leniency or treatment alternatives at sentencing. If asked, these individuals are highly likely to reflect the generally harsh views toward sex offender sentencing as a matter of general social policy. In other words, sex offenders in the abstract are despicable and undeserving of any special considerations, whereas sex offenders who are known, especially those who are not generally antisocial, are often perceived to deserve a modified consequence.

This contrast between general and specific views toward sex offenders presents a challenge for public policymakers. Victims, families, and citizens who support SSOSA are unlikely to become actively involved in the political process. In part, this is because their position is specific to their own circumstance but, given the current social climate, they might also reasonably fear being publicly labeled as defenders of sex offenders.

APPENDIX A: SSOSA PARENT INTERVIEW

Hello, is this _____?

This is _____. I am the research assistant from the Harborview Center for Sexual Assault and Traumatic Stress at the University of Washington.

I am calling about the study on sex offender sentencing that I explained to you. At that time you agreed to be in the study. Are you still willing?

Did you get the Information Statement? I want to just review what is in it. The purpose of the study is to find out about reactions to the sentencing of the offender in your cases and sentencing of sex offenders in general. It involves a telephone interview that takes about 30 minutes. I will be asking questions about the sentencing process, your opinion about the sentence in your case and sentencing of sex offenders in general. You are free not to answer any questions you do not wish to answer or to stop the interview at any time. Your name will not appear on any form connected with this interview. It is completely confidential. After the interview is over we will throw away your name no later than October 2005. After the interview I will send you \$20.00.

At the end of the interview I will ask you if you would be willing to be contacted in the future.

Is this still a good time for you to talk? Do you have enough privacy right now or would you like me to call back another time?

I know that talking about the sentencing of the offender may be upsetting. I want to make sure that you are feeling OK when you are answering questions. Please let me know at any time if it is hard. And I will be checking in to see how you are doing. Remember you can stop any time and you don't have to answer any questions you don't want to.

Are there any further questions I can answer for you before we get started?

We are interested in learning your opinions about the sentence that the judge gave the offender. The sentence can be jail or prison time, treatment, or some combination of the two. The sentence can also include paying restitution, and restrictions on what the offender can do.

First, we have a few questions about what happened before the sentencing.

Q1. Did the offender plead guilty or did the case go to a trial, that means it went to court and people testified?

- Trial conviction
 Guilty plea

Q2. If you recall what crime(s) was the offender was convicted of?

Q3. Did the prosecutor talk to you about the offender pleading guilty?

- Yes
 No

Q4. Did the prosecutor talk to your child about the offender pleading guilty?

- Yes
 No

Q5. How much of a chance did you have to give your opinion about the offender pleading guilty? Would you say none, somewhat or a lot?

- None
 Somewhat
 A lot

Q6. How much of a chance did your child have to give an opinion about the offender pleading guilty? Would you say none, somewhat or a lot?

- None
 Somewhat
 A lot

Q7. Sometimes the main reason for letting an offender plead guilty is so that the victim doesn't have to testify in court. In this case, how much would you say this was the reason for the guilty plea? Would you say not at all, somewhat or a lot?

- Not at all
- Somewhat
- A lot

Q8. Another reason for letting an offender plead guilty is to make sure that the offender gets convicted of a crime and isn't found not guilty or acquitted in a trial. In this case, how much do you think this was the reason for the guilty plea? Would you say not at all, somewhat or a lot?

- Not at all
- Somewhat
- A lot

Q9. Did you write a letter or a victim impact statement for the sentencing?

- Yes
- No—SKIP TO Q11

Q10. Did you do the letter yourself or did you get help? If so, who helped?

- Did it myself
- Family/friends
- Victim advocate/victim witness
- Counselor
- Other _____

Q11. Did your child write a letter or a victim impact statement for the sentencing?

- Yes
- No—SKIP TO Q13

Q12. Did your child do the letter his/her self or did he/she get help? If so, who helped?

- Did it myself
- Family/friends
- Victim advocate/victim witness
- Counselor
- Other _____

Q13. Did you attend the sentencing?

- Yes
- No—GO TO Q18

Q14. Did you talk to the judge at the sentencing?

- Yes
- No

Q15. Was an advocate or counselor with you at the sentencing?

- Yes
- No

Q16. In your opinion, at sentencing did the offender show remorse or act sorry for s/he did? Would you say not at all, somewhat or a lot?

- Not at all
- Somewhat
- A lot

Q17. How about your child, did s/he attend the sentencing?

- Yes
- No

Q18. Did s/he talk to the judge?

- Yes
- No

Checking in to see how you are doing. Are you feeling OK? Ready to go to the next questions?

Now I have a few questions about the actual sentence.

Q19. How much did you agree with the sentence? Would you say not at all, somewhat or a lot?

- Not at all
 Somewhat
 A lot

Q20. How about your child, how much did s/he agree with the sentence? Would you say not at all, somewhat or a lot?

- Not at all
 Somewhat
 A lot

Q21. Of course nothing can totally make up for what happened. But considering everything, do you think that justice was done? Would you say not at all, somewhat or a lot?

- Not at all
 Somewhat
 A lot

Q22. How about your child, does s/he think justice was done? Would you say not at all, somewhat or a lot?

- Not at all
 Somewhat
 A lot

Q23. [Ask if SSOSA or community based counseling instead of jail/prison only is mentioned, otherwise SKIP TO Q25] You say that the offender got SSOSA/a sentence that included treatment in the community. In your opinion, how much say did you have in the offender getting that sentence? Would you say none at all, somewhat or a lot?

- None at all
 Somewhat
 A lot

Q24. How about your child? How much say did s/he have? Would you say not at all, somewhat or a lot?

- None at all
 Some
 A lot

Q25. Often offenders get restrictions such as not being alone with kids, not drinking, or something else. As far as you know, what were the restrictions in your case?

Q26. How much did you agree with the restrictions? Would you say not at all, somewhat or a lot?

- Not at all
 Somewhat
 A lot

Q27. Are there any other restrictions you think should have been placed on the offender?

Are you doing OK? Ready to go on?

Now I want to ask your opinion about sentences for sex offenders in general, not just in your case.

Q28. How important is it for sex offenders to be ordered by the court to have treatment either in the community, in prison, or after they get out of prison? Would you say not very important, somewhat important, very important?

- Not very important
 Somewhat important
 Very important

Q29. Some victims, especially children or when the offender is a close relative or someone they care about, want the offender to have treatment in the community instead of going to prison. If an offender is safe to be in the community and a specialist in sex offender treatment says s/he can be treated, should there be an option for some sex offenders to get treatment in the community?

- Yes
 No

Q30. [If no] Just to be clear, does this mean that you believe that there should never be an option for community treatment?

- Yes
 No

Q31. What if some victims would not come forward or would refuse to cooperate with prosecuting the offender? Should community treatment be an option in those cases?

- Yes
 No

[If yes, continue; If no, GO TO Q36]

Besides being safe to be in the community, I would like to know what other factors you think are important in order for the offender to be allowed to stay in the community and get treatment.

Q32. How important is the offender admitting the crime(s) as a condition to staying in the community and receiving treatment? Would you say not at all important, somewhat important, or very important?

- Not at all important
 Somewhat important
 Very important

Q33. How important is the offender taking total responsibility for the crime(s)? Would you say not at all important, somewhat important, or very important?

- Not at all important
 Somewhat important
 Very important

Q34. How important is the offender being sorry/remorseful? Would you say not at all important, somewhat important, or very important?

- Not at all important
 Somewhat important
 Very important

Q35. How important is the victim's opinion? Would you say not at all important, somewhat important, or very important?

- Not at all important
 Somewhat important
 Very important

Q36. Thank you for answering these sentencing questions. Is there anything else you would like to say about how your case turned out or about sentencing of sex offenders in general?

We are almost finished. How are you doing?

Now I have a few final questions about the victim, you, the crime and the relationship to the offender.

Q37. How old is the victim?

Years old/age

Q38. How would you describe his/her ethnicity?

- African American
 Asian American
 Caucasian
 Latino/Hispanic
 Native American
 Pacific Islander
 Mixed

Q39. What is your relationship to the victim?

Q40. What is the offender's relationship to the victim?

Q41. What is your relationship to the offender?

Q42. Was the offender living in the same household as the victim at the time crime happened?

- Yes
 No

Q43. Was the offender living in the same household as the victim at the time the crime was reported/found out?

- Yes
- No

Q44. How important (close?) would you say the offender is to (the victim/name)? Would you say not at all important, somewhat important, or very important?

- Not important
- Somewhat important
- Very important

Q45. How important would you say the offender is to you? Would you say not at all important, somewhat important, or very important?

- Not important
- Somewhat important
- Very important

Q46. About how many times did the crimes happen?

- Once
- A few times (2-5)
- Many times (6 or more)

Q47. Approximately how long did the crimes go on?

- One day
- < 2 weeks
- 2 weeks- 1 month
- 1-6 months
- 6 months-1 year
- 1-5 years

Q48. How long after the last time the crime happened was it until your child reported or someone found out about it?

- same day
- < 2 weeks
- 2 weeks- 1 month
- 1-6 months
- 6 months-1 year
- 1-5 years

Q49. Was your child afraid of being killed, hurt, or of someone else being killed or hurt? Would you say not at all, somewhat or a lot?

- Not at all
- Somewhat
- A lot

Q50. Was your child afraid of/worried about what would happen to the offender if s/he told? Would you say not at all, somewhat or a lot?

- Not at all
- Somewhat
- A lot

Q51. Using a scale of 1 to 5 with 1 being a small impact, 3 being a moderate impact and 5 being a severe impact, how would you rate the impact of the crime(s) on your child?

Q52. How about the impact on you using the same scale, with 1 a small impact, 3 a moderate impact, and 5 a severe impact?

Q53. In your opinion, separate from the crime(s) itself, how much effect did the offender's sentence have on your child? Would you say none at all, some, or a lot?

- None at all
- Some
- A lot

Q54. In your opinion, separate from the crime(s) itself, how much effect did the offender's sentence have on you? Would you say none at all, some or a lot?

- None at all
- Some
- A lot

Thank you again for answering these questions. We know that thinking about the crime can be upsetting in some cases. How are you feeling right now? Would you like to talk to one of our counselors on the phone or would you like us to help you find a counselor in your community? If you feel upset later or want to talk to someone you can call Lucy Berliner at 206 521 1800.

[When applicable, e.g., parent has agreed to allow a 12- to 17-year-old child to be interviewed.]

You have agreed to let your child participate in the interview. Before talking to your child, I just want to check to make sure you think your child will be able to answer the questions. They are basically the same ones that I have asked you. Do you think your child will be able to understand the questions? Is there anything you think I should know before interviewing your child?

I mentioned earlier that we are interested in learning about the longer-term reactions to sentencing of sex offenders as well. Would you be willing to be contacted up to 3 years from now?

- No
- Yes

[If yes]

Just so you understand, we will keep your name separate from your answers. Only a study identifier, a number, will connect them. We will keep your name and contact information in a locked file. We will throw away your name and contact information no later than October 2007. At any time if you decide you do not want to be contacted you can just call and tell us and we will throw it away.

Contact information:

If you have any questions at all you can call Lucy Berliner at (206) 521-1800.

APPENDIX B: SSOSA VICTIM INTERVIEW

Hello, is this _____?

My name is _____. I am the research assistant from the Harborview Center for Sexual Assault and Traumatic Stress at the University of Washington.

I am calling about the study on sex offender sentencing. The purpose of the study is to learn about victim reactions to sex offender sentencing. I know your parent has agreed to let you be in the study if you want to be in it. You don't have to be in the study if you don't want to.

The study involves a telephone interview. I will ask you some questions about what happened in your case, how much you were involved in deciding what should happen to the sex offender, your opinion about how the case turned out and what you think should happen to convicted sex offenders in other people's cases. You don't have to answer any questions you do not want to answer. You can stop the interview any time.

The interview will take about 20 minutes. After the interview is over we will send you \$20.00.

It might be upsetting to talk about or remember the case. You could feel nervous or scared or mad. If you feel upset you can tell me or you can stop the interview. Remember you don't have to answer any questions you don't want to. You also might be worried about privacy when you are answering the questions. You can stop the interview whenever you want.

Your answers will be kept private. No one will know what you said. We won't give your answers to anyone.

Do you agree to be in the study?

Is this a good time to talk? Do you have enough privacy right now? I can call back if you like.

I want to make sure that you are feeling OK when you are answering questions. Please let me know at any time if it is hard. And I will be checking in to see how you are doing. Remember you can stop any time and you don't have to answer any questions you don't want to.

Are there any further questions I can answer for you before we get started?

We are interested in learning your opinions about the sentence that the judge gave the offender. The sentence can be jail or prison time, treatment, or some combination of the two. The sentence can also include paying restitution, and restrictions on what the offender can do.

First, I have a few questions about what happened before the sentencing.

Q1. If you know, did the offender plead guilty or did the case go to trial, that means it went to court and people testified?
____ Trial Conviction
____ Guilty Plea

Q2. If you remember what crime(s) was the offender was convicted of?

Q3. Did the prosecutor talk to you about the offender pleading guilty?
____ Yes
____ No

Q4. How much of a chance did you have to give your opinion about the offender pleading guilty? Would you say none, somewhat or a lot?
____ None
____ Somewhat
____ A lot

Q5. Sometimes the main reason for letting the offender plead guilty is so that the victim doesn't have to testify in court. In this case, how much would you say this was the reason for the guilty plea? Would you say not at all, somewhat or a lot?
____ Not at all
____ Somewhat
____ A lot

Q6. Another reason for letting an offender plead guilty is to make sure that the offender gets convicted of a crime and isn't found not guilty in a trial. In this case, how much do you think this was the reason for the guilty plea? Would you say not at all, somewhat or a lot?

- Not at all
- Somewhat
- A lot

Q7. Did you write a letter or a victim impact statement for the sentencing?

- Yes
- No

Q8. [If yes] Did you do it yourself or did you get help? If so, who helped?

- Did it myself
- Family/friends
- Victim advocate
- Counselor
- Other _____

Q9. Did you attend the sentencing?

- Yes
- No- GO TO 18

Q10. [If yes] Did you talk to the judge at the sentencing?

- Yes
- No

Q11. Was an advocate or counselor with you at the sentencing?

- Yes
- No

Q12. In your opinion, at sentencing, did the offender show remorse or act sorry for s/he did? Would you say none at all, somewhat or a lot?

- Not at all
- Somewhat
- A lot

Checking in to see how you are doing. Are you feeling OK? Ready to go to the next questions?

Now I want to ask you some questions about the sentence.

Q13. How much do you agree with the sentence? Would you say not at all, somewhat or a lot?

- Not at all
- Somewhat
- A lot

Q14. Of course nothing can totally make up for what happened. But considering everything, do you think that justice was done? Would you say not at all, somewhat or a lot?

- Not at all
- Somewhat
- A lot

Q15. [Ask if SSOSA or community based counseling instead of jail/prison only is mentioned otherwise SKIP TO Q17]

Q16. You say that the offender got SSOSA/a sentence that included treatment in the community. In your opinion, how much say did you have in the offender getting that sentence? Would you say none at all, somewhat or a lot?

- None at all
- Some
- A lot

Q17. Often offenders get restrictions such as not being alone with kids, not drinking or something else. As far as you know, what were the restrictions in your case?

Q18. How much do you agree with the restrictions? Would you say not at all, somewhat or a lot?

- Not at all
 Somewhat
 A lot

Q19. Are there any other restrictions you think should have been put on the offender?

Are you doing OK? Ready to go on?

Now I want to ask your opinion about sentences for sex offenders in general, not just in your case.

Q20. How important is it for sex offenders to be ordered by the court to have treatment either in the community, in prison or after they get out of prison? Would you say not very important, somewhat important, or very important?

- Not very important
 Somewhat important
 Very important

Q21. Some victims, especially kids when the offender is a close relative or someone they care about, want the offender to have treatment in the community instead of just going to prison. If an offender is safe to be in the community and a specialist in sex offender treatment says s/he can be treated, should there be an option for some sex offenders to get treatment in the community?

- No
 Yes

Q22. [If no] Just to be clear, does this mean that you believe that there should never be an option for community treatment?

- No
 Yes

Q23. What if some victims would not come forward or would refuse to cooperate with prosecuting offender? Should the community treatment be an option in those cases?

- No
 Yes

Q24. Besides being safe to be in the community, I would like to know what other things you think are important in order the offender to be allowed to stay in the community and get treatment.

Q25. How important is the offender admitting the crime(s) before getting to stay in the community and receiving treatment? Would you say not at all important, somewhat important or very important?

- Not at all important
 Somewhat important
 Very important

Q26. How important is the offender taking total responsibility for the crime(s)? Would you say not at all important, somewhat important or very important?

- Not at all important
 Somewhat important
 Very important

Q27. How important is the offender being sorry/remorseful? Would you say not at all important, somewhat important or very important?

- Not at all important
 Somewhat important
 Very important

Q28. How important is the victim's opinion? Would you say not at all important, somewhat important or very important?

- Not at all important
 Somewhat important
 Very important

Thank you for answering these questions. Is there anything else you would like to say about how your case turned out or about sentencing of sex offenders in general?

Now I have one last question.

Q29. In your opinion, separate from the crime(s) itself how much effect did the offender's sentence have on you? Would you say...?

- None at all
- Some
- A lot

Thank you again for answering these questions. We know that thinking about the crime can be upsetting in some cases. How are you feeling right now? Would you like to talk to one of our counselors on the phone or would you like us to help you find a counselor in your community? If you feel upset later talk to your parent or a counselor. Or you can call Lucy Berliner here at (206) 521-1800.

APPENDIX C: LEGISLATIVE CHANGES TO SSOSA LAWS

Year	Chapter	Bill	Title	Effective	Session	Description	Note
1990	Chap. 3	2SSB 6259	Community Protection Act	6/7/1990	1990 Regular Session	Increases length of supervision to 3 years or length of suspended sentence, whichever is longer. Increases length of treatment up to 3 years. Increases accountability of the treatment provider, changes maximum sentence allowed from six to eight years, directs that after July 1991 sex offender treatment providers be certified.	Governor partially vetoed in 1990
1992	Chap. 45	ESHB 2262	Sex offenders – Community Protection Act amendments	3/26/1992	1992 Regular Session	Modifies SSOSA Sex Offender Therapist certification requirements.	Governor signed in 1992
1996	Chap. 215	SHB 2545	Sex offenders – notification, release requirements	6/6/1996	1996 Regular Session	Authorized DOC to impose additional conditions for community custody.	Governor signed in 1996
1996	Chap. 275	SSB 6274	Sex offenders – supervision	6/6/1996	1996 Regular Session	Converts status of SSOSA to community custody, authorizes DOC administrative sanctions, extends the period and conditions of community custody.	Governor signed in 1996
1997	Chap. 69	SB 5140	Offender community placement	7/27/1997	1997 Regular Session	Offenders participating in the Special Sex Offender Sentencing Alternative are prohibited from accruing any earned early release time while serving their suspended SSOSA sentences.	Governor signed in 1997
1997	Chap. 144	SB 5519	Sentencing compliance	7/27/1997	1997 Regular Session	The department is authorized to require an offender to perform affirmative acts, such as drug or polygraph tests, necessary to monitor compliance with crime-related prohibitions and other sentence conditions.	Governor signed in 1997
1997	Chap. 338	E3SHB 3900	Juvenile Code revisions J.S.	7/1/1997*	1997 Regular Session	The state must pay the costs of the initial examination and treatment of an offender under adult court jurisdiction who is less than 18 and who is given an SSOSA sentence.	Governor signed in 1997
1997	Chap. 340	HB 1924	Sex offense sentencing	7/27/1997	1997 Regular Session	Authorizes the court to sentence a sex offender to a SOSSA program if the offender has received a sentence of less than 11 years of confinement instead of eight years of confinement.	Governor signed in 1997
1999	Chap. 196	E2SSB 5421	Offender supervision	7/25/1999*	1999 Regular Session	Provides for enhanced supervision of offenders in the community.	Governor signed in 1999
2001	Chap. 12	3ESSB 6151	High-risk sex offenders	6/26/2001*	2001 2nd Special Session	Relating to the management of sex offenders in the civil commitment and criminal justice systems. Determinate Plus.	Governor signed in 2001
2002	Chap. 175	SB 6627	Community service	7/1/2002	2002 Regular Session	Relating to community service.	Governor partially vetoed in 2002

2004	Chap. 38	SHB 2849	Sex offender treatment	7/1/2004	2004 Regular Session	Eliminates credentialing barriers for sex offender treatment providers.	Governor signed in 2004
2004	Chap. 176	ESHB 2400	Sex crimes against minors	6/10/2004 (7/1/2005)*	2004 Regular Session	<p>Modifies eligibility criteria for a SSOSA. Makes ineligible for a SSOSA:</p> <ul style="list-style-type: none"> • persons with adult convictions for violent offenses committed within five years of the current offense; • persons who caused substantial bodily harm to the victim; and • persons who had no connection with the victim other than the offense itself. <p>The proposed treatment plan must contain an identification of behaviors or activities that are precursors to the offender's offense cycle to the extent that they are known. The court must consider the following factors when deciding whether to grant a SSOSA sentence:</p> <ul style="list-style-type: none"> • whether the offender had multiple victims; • whether the offender is amenable to treatment. An admission to the offense, by itself, does not constitute amenability to treatment; • the risk the offender poses to the community, the victim, or persons similarly situated to the victim; and • whether the alternative is too lenient in light of the extent and circumstances of the offense. <p>The court must give great weight to the victim's opinion. If the court orders a sentence that is contrary to the victim's opinion, the court must state its reasons in writing.</p> <p>Requires that the offender must, as part of his or her plea of guilty, voluntarily and affirmatively admit all of the elements of the crime to which the offender is pleading guilty. This alternative is not available to offenders who plead guilty to the offense charged under North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L.Ed.2d 162 (1970).</p>	Governor partially vetoed in 2004
2006	Chap. 133	HB 3252	Sex offenders	6/7/2006	2006 Regular Session	Requires that the offender must, as part of his or her plea of guilty, voluntarily and affirmatively admit all of the elements of the crime to which the offender is pleading guilty. This alternative is not available to offenders who plead guilty to the offense charged under North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970)	Governor signed in 2006

* Relevant dates for the SSOSA changes are listed; effective dates may vary by section of the session law.

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