

# **Sexual Offense Bench Guide for Judges**

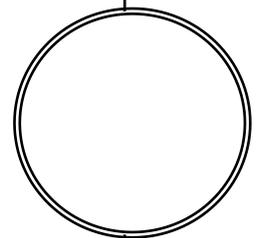
Washington State

First Edition

April 2013 & July 2013

Produced by the Washington State Supreme Court  
Gender and Justice Commission

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Office on Violence Against Women, U.S. Department of Justice.*



# The Sexual Assault Bench Guide for Judges

The bench guide was funded by the Washington State Gender & Justice Commission (GJCOM) and developed in collaboration with judicial officers, the King County Sexual Assault Resource Center (KCSARC), the Washington State Coalition of Sexual Assault Programs (WCSAP), and law students.

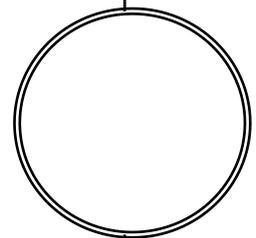
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The Gender and Justice Commission presented two educational sessions at the Superior Court Judge's 2013 Spring Conference.

As part of the sessions, judicial officers were given a printed version of the First Edition of the Sexual Offense Bench Guide.

One of the attendees, upon return to their room, found this note on their table.



Judge,  
Thank you for  
all your work  
involving sexual  
based crimes

~A Forever grateful  
Survivor



WASHINGTON  
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# Washington State Supreme Court Gender and Justice Commission

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I am pleased to present you with the first edition of the Washington State *Sexual Offense Bench Guide* for judicial officers.

This bench guide is the result of collaboration between the Washington State Supreme Court Gender and Justice Commission, judicial officers, the King County Sexual Assault Resource Center, the Washington State Coalition of Sexual Assault Programs, and students from the University of Washington Law School. We are grateful for the time and expertise of the many dedicated individuals and groups that contributed to its development.

In keeping with the Gender and Justice Commission's mission of examining court practices to ensure against gender bias in decision making, this bench guide supports judicial officers in providing a consistent and unbiased response to complaints of sexual violence.

Furthermore, this much anticipated bench guide will serve as a valuable resource by providing a broad overview of sexual violence, as well as incorporating Washington specific statistics, statutes, and case law. This bench guide addresses the many facets of court proceedings in sexual violence cases and provides a framework to address the serious impact of sexual violence on victims and the rehabilitative value of holding offenders accountable for their actions.

This bench guide was made possible with support and funding through a grant awarded by the Office on Violence Against Women, United States Department of Justice and administered by the Washington State Supreme Court Gender and Justice Commission.

I sincerely thank the contributors to this project. I believe it will provide insight and assistance in processing and deciding sexual assault cases.

Sincerely,

Chief Justice Barbara A. Madsen



## Gender and Justice Commission (GJCOM)

# Sexual Offense Bench Guide

## Scope and Purpose

This is the first edition of the *Sexual Offense Bench Guide*. It is designed to serve as a resource for new and experienced judicial officers.

While the bench guide was as current as possible at the time it was released, laws related to sexual violence change so be certain to verify references and/or citations.

## Chapter Overview

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|------------------|--|
| <b>Chapter 1</b> | <b>Understanding Sexual Violence</b><br>Provides a broad overview of the dynamics of sexual violence for the purpose of promoting a consistent and unbiased response to alleged victims of sexual violence in Washington's courts.         |
| <b>Chapter 2</b> | <b>Sexual Offenses</b><br>Provides a list and chart of offenses identified as sexual offenses. The chart includes the crime, the RCW, a definition, and the statute of limitations.  |
| <b>Chapter 3</b> | <b>Defenses to Sexual Offenses</b><br>Covers the application of defenses to sexual offenses in Washington State including rules when instructing juries, certain defenses, impermissible defenses, and applicable statutes of limitations. |
| <b>Chapter 4</b> | <b>Pre-Trial Release and Discovery</b><br>Presents information on the statutory provisions, case law, docket management practices, and pre-trial release procedures and discovery issues.  |
| <b>Chapter 5</b> | <b>Preliminary Hearings and Trials</b><br>Provides a general overview of the conduct of preliminary hearings and trials of sex offenders and provides guidance for affording appropriate protections to both the victims and perpetrators. |
| <b>Chapter 6</b> | <b>General Evidence</b><br>Addresses general evidentiary issues that arise during criminal cases involving allegations of sexual offenses.   |

- Chapter 7      Scientific Evidence**  
Discusses scientific evidentiary issues that are common in sex offense cases including expert testimony, hypnosis, DNA testing, drug facilitators, polygraphs and SANEs. Washington law governing the admissibility of such evidence is also cited herein.
- Chapter 8      Post-Conviction and Sentencing**  
Focuses on special considerations that should be taken into account when sentencing persons convicted of sex offenses.
- Chapter 9      Civil Protection Orders**  
Provides courts assistance in crafting effective orders and in developing effective and efficient procedures for handling cases of sexual violence in order to uphold the rights of all parties involved.
- Appendix A    Civil Orders for Sexual Offense Victims Chart**
- Appendix B    Sexual Assault Protection Order (SAPO) Hearing Bench Card**
- Chapter 10     LGBTQ Minorities and Sexual Offenses**  
Explains how judges may contribute to a more balanced and sensitive legal process in all sexual offense cases by examining commonly held stereotypes about sexual offenses.
- Appendix A    LGBTQ Sexual Assault Community Resources**
- Appendix B    References**
- Addendum     “Judges Tell: What I Wish I Had Known Before I Presided in an Adult Victim Sexual Assault Case”**

*This project was supported by Grant No. 2011-WF-AX-0056 awarded by the Office on Violence Against Women, U.S. Department of Justice. Points of view in this document are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice. Grant funds are administered by the Washington State Supreme Court Gender and Justice Commission and the Office of Crime Victims Advocacy, Washington State Department of Commerce, Community Services and Housing Division.*

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## **Addendum: Judges Tell: What I Wish I Had Known Before I Presided in an Adult Victim Sexual Assault Case**