

## **POLICY 3.51 REVIEWING YOUTH FOR CIVIL COMMITMENT**

### **Policy Committee Chair**

Lori Kesl  
Regional Administrator, Regions 1 & 2  
Juvenile Rehabilitation

### **Approved**



Marybeth Queral, Assistant Secretary  
Juvenile Rehabilitation  
8/30/2019

### **Authorizing Sources**

**RCW 9.94A.030**  
**RCW 9A.44.130**  
**RCW 71.09**

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**9/1/2019**

### **Sunset Review Date**

**9/1/2023**

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## **I. PURPOSE AND SCOPE**

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This document establishes policy and practice for reviewing youth and young adults (referred to as “youth”) who sexually offended (YSO) for civil commitment as sexually violent predators.

All staff, contractors, volunteers, and interns working in or for Juvenile Rehabilitation (JR) are responsible for reviewing and complying with JR policies.

## **II. POLICY<sup>2</sup>**

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- 1. At intake, the receiving facility’s Youth who Sexually Offend (YSO) Treatment Coordinator must conduct an initial review of youth adjudicated for a current or prior sexually violent offense to determine if the youth may meet the legal definition of a sexually violent predator.**
  - 1.1. Review decisions must be documented in the Automated Client Tracking (ACT) system, consistent with case management requirements. Decisions are documented in a Record of Official Action (ROA) or designated module in ACT.
- 2. Reviews must include but are not limited to:**
  - 2.1. Documentation of sexually violent and/or predatory behavior;
  - 2.2. Documentation of psychosocial history;
  - 2.3. Documentation of criminal history, including a review of Washington;
  - 2.4. State Patrol criminal history record [WATCH REPORT<sup>3</sup>](#);
  - 2.5. All readily available and relevant testing data;

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<sup>1</sup> 7/21/2023 Technical Edit: Updated JR policy after passage of HB 1394.

<sup>2</sup> 4/7/2023 Technical Edit: Updated links to JR policies due to SharePoint migration.

<sup>3</sup> 4/7/2023 Technical Edit: Updated broken hyperlink to WATCH site.

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- 2.6. All available treatment records addressing psychosexual, violent, and/or predatory behavior;
- 2.7. All available and previous psychiatric diagnoses, including any psychoactive medications prescribed and the course of treatment; and
- 2.8. Current mental, emotional, and behavioral characteristics.

**3. Reviews must be completed:**

- 3.1. Initially within 30 days of admission to Juvenile Rehabilitation (JR);
- 3.2. Prior to transferring to a less secure facility;
- 3.3. Prior to release from residential obligation;
- 3.4. If a recent overt act has been committed;
- 3.5. During commitment or parole as deemed necessary by staff because of youth behavior or receipt of additional information relevant to this type of civil commitment.

**NOTIFICATION AND NON-CONFIDENTIALITY**

- 4. Youth who meet the criteria for a civil commitment review will be oriented to the civil commitment process and updated about each step of the process. When applicable, parents or legal guardians will also be provided updates about the process. Updates will be documented in ACT.**
- 5. Information disclosed during assessment or treatment is not confidential and may be used as evidence in future criminal or civil proceedings, including a sexually violent predator proceeding.**
- 6. Youth undergoing evaluation for referral for civil commitment as a sexually violent predator will be notified in writing of their lack of confidentiality.**
  - 6.1. Youth who may be considered for civil commitment as a sexually violent predator must be notified of the lack of confidentiality using the Notification and Legal Requirements form (DCYF Form 20-236) during the diagnostic process.
  - 6.2. Youth adjudicated for a sexually violent offense undergoing psychiatric or psychological evaluation must be advised in writing by JR of their lack of confidentiality in the interview/assessment process using the Sexually Violent Offender Assessment, Notification of Lack of Confidentiality (DCYF Form 20-226).
    - 6.2.1. JR must ensure the youth signs the form and staff must witness the signature. If the youth refuses to sign, staff must indicate this on the form and then sign the form
  - 6.3. For youth under the age of 13, a parent or legal guardian must also be advised of the lack of confidentiality prior to the evaluation.**

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## **CIVIL COMMITMENT REVIEW**

### **7. Youth who meet the criteria for a civil commitment review:**

- 7.1. Must be referred to the YSO Program Administrator immediately.
- 7.2. Are required to be reviewed by the End of Sentence Review Committee (ESRC) for a civil commitment referral.

### **8. Youth assessed as eligible for referral for civil commitment must be referred to the JR YSO Oversight Committee by the YSO Program Administrator within 30 days of receiving the initial referral.**

- 8.1. The committee must review no later than 7 months before the youth's planned release.
- 8.2. If the committee determines the youth will be referred to the ESRC, they will consider transition planning issues for the youth based on the potential decisions of the ESRC. This review will include discussions regarding the youth's security and risk level classifications, release date, treatment, safety, and placement needs.
- 8.3. Review decisions must be documented in ACT consistent with case management requirements. Decisions and meeting participants are documented in a Record of Official Action (ROA) or designated module in the Automated Client Tracking (ACT) system.

### **9. The JR YSO Oversight Committee will follow the standards for conducting the JR civil commitment review process and for necessary documentation in accordance with the Department of Corrections ESRC "Rules of Order".**

### **10. Youth assessed as eligible for referral for civil commitment by the JR YSO Oversight Committee must be referred to the ESRC.**

### **11. Prior to presentation at the ESRC:**

- 11.1. The YSO Program Administrator or designee to the ESRC must review and prepare material on youth who are being referred to the ESRC.
  - 11.1.1. The Superintendent, Regional Administrator or designee will review the referral prior to presentation to the ESRC.
  - 11.1.2. The Assistant Secretary or designee must review and approve the referral to the ESRC for youth 16 years of age or younger.
- 11.2. The YSO Program Administrator or designee will present the case to the ESRC within 6 months of the youth's planned release.
- 11.3. The YSO Program Administrator or designee will assist the ESRC in coordinating forensic evaluations when required as part of the assessment to determine eligibility.

### **12. The ESRC reviews all referred sex offender cases to determine if they meet the criteria for referral for a civil commitment as a sexually violent predator (RCW Chapter 71.09).**

### **13. Following the ESRC review, the YSO Program Administrator or designee will inform the JR Assistant Secretary or designee of the ESRC recommendations.**

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#### **REFERRAL PROCESS**

- 14. The Secretary or designee shall refer all cases determined to meet the criteria under RCW Chapter 71.09 by the ESRC to the prosecuting attorney of the county of conviction or charge or to the Office of the Attorney General (AGO), as appropriate.**
- 15. In emergency situations, if it appears that a client may be a sexually violent predator and there is insufficient time to wait for an ESRC review, the Assistant Secretary or designee, in consultation with the Office of the Attorney General, may refer directly to the appropriate prosecuting attorney.**

#### **SECURITY LEVEL**

- 16. Youth in JR residential custody who are being reviewed and evaluated to determine eligibility for referral for civil commitment must reside in a maximum-security facility and not release until a determination is made or they reach their maximum sentence release date<sup>4</sup>.**
  - 16.1. If it is later determined the youth will not be referred for civil commitment, the youth may be placed in a less secure setting, if appropriate, and their release date may be changed if they meet requirements of *Policy 3.52, Establishing Risk Level for Youth who Sexually Offended*, *Policy 5.20, Assigning Security Classification Levels for Youth*, *Policy 6.50, Setting Juvenile Release Dates*, or other applicable JR requirements.

#### **REGISTRATION<sup>5</sup>**

- 17. Staff will refer to Attachment A: *Offenses which Require Registration* to help determine which youth must register with the county sheriff under RCW 9A.44.130.**
- 18. For youth required to register under RCW 9A.44.130(1)(b), the duty to register will end three years after release from a JR facility, which includes full-time residential treatment or entry of disposition if the youth is required to register for a Class A offense committed at age 15, 16, or 17.**
  - 18.1. If the youth who is required to register does not meet the description provided in paragraph 18 of this policy, the duty to register will end two years after release from a JR facility, including full-time residential treatment or entry of disposition.

#### **PAROLE<sup>6</sup>**

- 19. Any youth who will be releasing from a JR facility due to a current sex offense under RCW 9.94A.030 will receive 24 to 36 months of sex offender parole (SOP).**
- 20. When a youth on parole with a criminal history that includes a sexually violent offense is alleged to have committed a recent overt act, JR must initiate parole revocation proceedings.**

#### **EXCHANGE OF INFORMATION**

- 21. JR shall provide and exchange all necessary and relevant information requested by other agencies engaged in a civil commitment investigation under RCW Chapter 71.09. The**

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<sup>4</sup> 5/20/2021 Technical Edit: Replaced “receive their maximum” with “not release until a determination is made or they reach their maximum” per the interim directive.

<sup>5</sup> 7/21/2023 Technical Edit: Added Registration paragraph/details per passage of HB 1394.

<sup>6</sup> 7/21/2023 Technical Edit: Clarified/updated parole requirements after passage of HB 1394 and removed outdated language.

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**administrations/divisions must notify the prosecutor or attorney general of additional relevant documents from non-department sources and provide them upon request.**

**22. JR shall exchange information with the DSHS Special Commitment Center regarding any client evaluated or committed as a sexually violent predator.**

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### III. DEFINITIONS

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**Civil Commitment<sup>7</sup>:** A legal process defined by RCW 71.09 to confine and provide treatment to an individual identified as a sexually violent predator.

**End of Sentence Review Committee (ESRC):** The ESRC consists of representatives of state and local agencies who release sex offenders. The ESRC reviews all sex offenders and registerable kidnapping offenders releasing from state prisons, mental hospitals or juvenile rehabilitation facilities. The committee also reviews offenders who have committed crimes against children and offenders of special interest who are considered a high risk to commit violent offenses.

**Forensic Evaluations:** A psychological evaluation conducted by a forensic psychologist qualified to conduct sexually violent predator evaluations and provide an expert opinion regarding whether an individual meets the criteria for a civil commitment according to RCW 71.09.020.

**Recent Overt Act:** Any act, threat, or combination which caused harm of a sexually violent nature or creates a reasonable concern of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act or behaviors (RCW 71.09.020).

**Sexually Violent Offense:** An offense as defined by RCW 71.09.020.

**Sexually Violent Predator:** Any person convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility. (RCW 71.09.020).

**Youth who Sexually Offended (YSO)<sup>8</sup>:** Youth committed to JR whose current term of incarceration includes a sex offense defined under RCW 9.94A.030 or who has a criminal history of a prior sex offense.

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### IV. REFERENCES

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DOC End of Sentence Review Committee, Rules of Order

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### V. RELATED JR POLICIES<sup>9</sup>

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Policy 3.52 - Establishing Risk Level for Youth who Sexually Offended

Policy 6.50 - Establishing Release from Commitment Date

Policy 5.20 - Assigning Security Classification Levels for Youth

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<sup>7</sup> 1/21/2021 Technical Edit: Updated definition to align definitions here and in policy 4.50.

<sup>8</sup> 1/21/2021 Technical Edit: Updated definition to align across JR policies.

<sup>9</sup> 4/7/2023 Technical Edit: Updated links to JR policies due to SharePoint migration.

## VI. FORMS AND DOCUMENTS

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<b>Document Title</b>	<b>In ACT?</b>	<b>Link to Form</b>
Notification and Legal Requirements		DCYF 20-236
Notification of Lack of Confidentiality		DCYF 20-226

**Policy 3.51 – Offenses which Require Registration Attachment A<sup>1</sup>**

**Under RCW 9A.44.130, a youth must register with the applicable county sheriff if they have:**

1. Committed a class A or class B sex offense when the person was age 16 or 17 and did not receive a special sex offender disposition alternative under RCW 13.40.162;
2. Committed rape in the first-degree when the person was age 14 or 15;
3. Committed rape in the second-degree when the person was age 14 or 15 and the person did not receive a special sex offender disposition alternative under RCW 13.40.162;
4. Committed a sex offense and, on the offense date, the youth had a prior conviction for a sex offense as defined in RCW 9A.44.128 or had a deferred disposition for a sex offense pursuant to RCW 13.40.127;
5. A revocation of a special sex offender disposition alternative under RCW 13.40.162 for:
  - a. A class A or class B sex offense that was committed when the person was age 16 or 17; or,
  - b. A rape in the second-degree offense that was committed when the person was age 14 or 15;
6. Has an out-of-state, tribal, or federal conviction for a sex offense;
7. Committed a kidnapping offense; or
8. Is found by the court based on clear, cogent, and convincing evidence to:
  - a. Be age 14 through 17 on the offense date;
  - b. Not have received a special sex offender disposition alternative under RCW 13.40.162 for the offense triggering possible registration or have had a special sex offender disposition alternative under RCW 13.40.162 revoked for that offense;
  - c. Have been adjudicated of multiple sex offenses involving two or more distinct victims in separate counts or separate causes;
  - d. Present a serious threat to public safety after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition; and
  - e. Require registration in order to lessen the serious threat to public safety.

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<sup>1</sup> 7/21/2023 Technical Edit: Added Attachment A to JR Policy 3.51 after passage of HB 1394.