

## **INSUFFICIENT COMMUNITY PROTECTION FROM SEXUALLY VIOLENT PREDATORS**

A registered sex offender as defined in RCW 9A.44.128 and 9.94A.030 is an individual who has committed a sex offense. The individual is classified as a level III offender if their risk assessment and other factors indicate a high risk to sexually reoffend within the community at large.<sup>1</sup> Prior to a level III sex offender's release from prison, they undergo a review to determine whether or not they should be referred for possible civil commitment.<sup>2</sup> If civil commitment is recommended, a case is filed to determine whether or not the offender meets the criteria to be classified as a sexually violent predator (SVP).

Washington State law (RCW 71.09.020) defines a sexually violent predator as someone who has been convicted of a sexually violent crime and has a mental abnormality or personality disorder which makes the person more likely to engage in predatory acts of sexual violence if not confined in a secure facility. If the court finds the offender meets the criteria of an SVP, they are held indefinitely at the Special Commitment Center (SCC) on McNeil Island until their mental condition improves such that they may be released into society.<sup>2</sup>

Civil commitment in Washington State is a treatment program. The U.S. Supreme Court upheld the constitutionality of civil commitment (1997 and 2002) and the Federal District Court for Western Washington ordered the SCC to provide residents with constitutionally adequate mental health treatment (1994). From 1995 – 1999, the court held regular hearings on the progress made by the State of Washington in meeting the court's requirements.

The court found the civil commitment program lacked opportunities for SVPs to demonstrate their reduced risk through less restrictive alternative (**LRA**) placements. Washington State responded with the establishment of secure community transition facilities (**SCTFs**) to provide **LRA** placements for SVPs. By 2006, Washington State had two **SCTFs**, one with a twenty-four-bed capacity on McNeil Island, and one in King County with a six-bed capacity. No further **SCTFs** were funded or built until the expansion of the King County **SCTF** by six beds was funded in 2017. The DSHS Capital Plan Budget for 2019-2029 includes plans for three additional **SCTFs** in Clark (8-24 bed capacity), Snohomish (24 bed capacity), and Spokane Counties (12-24 bed capacity).

There are currently 69 SVPs conditionally released from the SCC to **LRAs**. In addition to **SCTFs** as **LRAs**, the law allows any other court-ordered **LRA** placement for SVPs as described below.

**1. Secure Community Transition Facility:** A residential facility used for the conditional release of civilly committed SVPs to an **LRA** placement. An **SCTF** has supervision and security, and either provides or ensures the provision of sex offender treatment services (RCW 71.09.020).

**2. Any other court-ordered placement:** Used for the conditional release of civilly committed SVPs to an **LRA** placement; includes apartments, private homes, group homes, transitional houses, halfway houses, and adult family homes. These placements may be contracted by DSHS to both for-profit and non-profit companies (RCW 71.09.092, RCW 71.09.345).

<sup>1</sup> *Registered Sex Offenders Information Sheet 2018*, Washington Association of Sheriffs and Police Chiefs website

<sup>2</sup> Sexually Violent Predators, Washington State Office of the Attorney General website

## SAFEGUARDS COMPARISON

### ANY OTHER COURT-ORDERED PLACEMENT

- Conditions *can* be imposed that would adequately protect the community

**NO**

**OTHER**

**LAWS**

### SCTF

- Average response time and proximity of emergency services
- Not across the street from schools, bus stops, churches, parks etc.
- Not within line of site of schools, bus stops, churches, etc.
- Limited visibility between facility and adjacent properties
- Facility must be fenced
- Electronic monitoring required which allows SVP location to be determined with specificity
- Commercial grade security panel with tamper-proof switches and key-lock
- Emergency electrical system with backup battery and generator
- Personal panic devices for all staff
- Security system monitoring by landline telephone, cellular telephone AND private radio network
- Staff required to wear photo ID badges at all times
- Direct care staff ratio requirements
- Staff training requirements: sex offender issues, SELF DEFENSE, crisis de-escalation skills, etc.
- Staff background check required; no sex offender or felony convictions allowed
- Escort required when SVP leaves facility
- Public notification of siting with hearings
- Local government involvement with siting
- Establish and engage with a community advisory board for recommendations and modifications of operations
- Proximity to qualified treatment provider; treatment provider has agreed to assume responsibility for treatment

The above chart illustrates how Washington State laws **ABSOLUTELY FAIL** to provide adequate community protection when civilly committed SVPs are conditionally released outside of an **SCTF** to other court-ordered **LRA** placements within our communities.

**WSPS OPPOSES THE PLACEMENT OF SVPS TO ANY PLACE OTHER THAN AN SCTF. LEGISLATION IS NEEDED TO ENSURE THAT THERE ARE NO OTHER PLACEMENT OPTIONS FOR SVPS.**