

WASHINGTON ASSOCIATION OF SHERIFFS & POLICE CHIEFS

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Serving the Law Enforcement Community and the Citizens of Washington



Sex Offense Case Files to be Submitted to WASPC Pursuant to RCW 40.14.070(2)

The following information is provided to assist agencies in determining which case files are to be submitted to the Washington Association of Sheriffs and Police Chiefs (WASPC) for permanent retention pursuant to RCW 40.14.070(2) and the Washington State Archives Law Enforcement Records Retention Schedule.

Chapter 40.14 RCW requirements:

- Records of investigative reports (“Records”) prepared by any state, county, municipal, or other law enforcement agency (“Agencies”) pertaining to sex offenses defined in chapter 9A.44 RCW or sexually violent offenses defined in RCW 71.09.020, that are not required in the current operation of the law enforcement agency or for pending judicial proceedings, shall be transferred to WASPC for permanent electronic retention upon expiration of the Agencies’ records retention schedule. After WASPC captures a record electronically, any paper copy of the document is destroyed.
- Sealed Records transferred to WASPC for permanent electronic retention, including Records sealed after transfer, shall be retained in such a way that the Records are clearly marked as sealed.
- WASPC may destroy the paper and electronic Records of any offender verified as deceased.
- Records transferred to WASPC shall no longer constitute public records pursuant to chapter 42.56 RCW and shall be exempt from public disclosure. Said Records shall be disseminated only to criminal justice agencies for the purpose of determining if a sex offender met the criteria of a sexually violent predator and the End-Of-Sentence Review Committee for the purpose of fulfilling its duties.
- Records marked as sealed shall only be accessible by criminal justice agencies that would otherwise have access to the sealed paper copy of the document, the End-Of-Sentence Review Committee for the purpose of fulfilling its duties, and the system administrator for the purposes of system administration and maintenance.

The following list indicates which sex offense case files under chapter 9A.44 RCW are to be submitted to the WASPC permanent archive:

- 9A.44.040 Rape in the first degree
- 9A.44.050 Rape in the second degree
- 9A.44.060 Rape in the third degree
- 9A.44.073 Rape of a child in the first degree
- 9A.44.076 Rape of a child in the second degree
- 9A.44.079 Rape of a child in the third degree
- 9A.44.083 Child molestation in the first degree
- 9A.44.086 Child molestation in the second degree
- 9A.44.089 Child molestation in the third degree
- 9A.44.093 Sexual misconduct with a minor in the first degree
- 9A.44.096 Sexual misconduct with a minor in the second degree
- 9A.44.100 Indecent liberties
- 9A.44.105 Sexually violating human remains
- 9A.44.115 Voyeurism
- 9A.44.160 Custodial sexual misconduct in the first degree
- 9A.44.170 Custodial sexual misconduct in the second degree
- 9A.44.196 Criminal trespass against children

The following list indicates which sexually violent offense case files* defined under RCW 71.09.020(18) are to be submitted to the WASPC permanent archive:

- Rape in the first degree
- Rape in the second degree by forcible compulsion
- Rape of a child in the first degree
- Rape of a child in the second degree
- Statutory rape in the first degree
- Statutory rape in the second degree
- Indecent liberties by forcible compulsion
- Indecent liberties against a child under age fourteen
- Incest against a child under age fourteen
- Child molestation in the first degree
- Child molestation in the second degree

An act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies.

*Some of these offenses are the same as those listed above under chapter 9A.44 RCW.

The following list includes offenses defined in RCW 71.09.020 for which case files are to be submitted to WASPC for permanent archive when, either at the time of sentencing for the

offense or during subsequent civil commitment proceedings, it has been determined beyond a reasonable doubt that the accused committed the crime with a sexual motivation:

- 9A.32.030 Murder in the first degree
- 9A.32.050 Murder in the second degree
- 9A.32.055 Homicide by Abuse
- 9A.36.011 Assault in the first degree
- 9A.36.021 Assault in the second degree
- 9A.36.120 Assault of a child in the first degree
- 9A.36.130 Assault of a child in the second degree
- 9A.40.020 Kidnapping in the first degree
- 9A.40.030 Kidnapping in the second degree
- 9A.40.040 Unlawful imprisonment
- 9A.40.090 Luring
- 9A.46.110 Stalking
- 9A.52.020 Burglary in the first degree
- 9A.52.025 Residential burglary

Note: Pursuant to RCW 9.94A.533, sexual motivation enhancements apply to all felony crimes.

RCW References

RCW 9.94A.030: Definition of Sexual Motivation

RCW 9A.44.010: Sex Offense Definitions

RCW 10.97.030: Definitions of a Criminal Justice Agency and the Administration of Criminal Justice

RCW 40.14.070: Destruction, disposition, donation of local government records — Preservation for historical interest — Local records committee, duties — Record retention schedules — Sealed records

RCW 42.56.010: Definition of a Public Record

RCW 71.09.020: Definition of Sexually Violent Predator