



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: COMMUNITY PROTECTION PROGRAM POLICY 15.01
IDENTIFICATION AND ELIGIBILITY

Authority: Chapter 71A RCW Developmental Disabilities
Chapter 388-101 WAC Certified Community Residential Services and
Supports
Chapter 388-825 WAC DD Services Rules
Chapter 388-850 WAC County Employment and Day Programs

PURPOSE

The Division of Developmental Disabilities (DDD) Community Protection Program is intended to provide a structured, therapeutic environment for persons with community protection issues in order for them to live safely and successfully in the community without re-offending while minimizing the risk to public safety. This policy establishes guidelines for DDD Field Services staff to follow when identifying and offering services to eligible persons with community protection issues.

SCOPE

This policy applies to DDD Field Services staff.

DEFINITIONS

Individual with Community Protection Issues means:

- (1) The person has been convicted of or charged with a crime of sexual violence as defined in Chapters [9A.44](#) and [71.09](#) RCW, including, but not limited to, rape, rape of a child, and child molestation, and constitutes a current risk to others as determined by a qualified professional (note: excluding charges or crimes that resulted in acquittal).
- (2) The person has been convicted of or charged with sexual acts directed toward strangers; individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or persons of casual acquaintance with whom no substantial

personal relationship exists, and constitutes a current risk to others as determined by a qualified professional (note: excluding charges or crimes that resulted in acquittal).

- (3) The person has not been convicted and/or charged of a crime, but has a history of stalking, sexually violent, predatory, and/or opportunistic behavior, which demonstrates a likelihood to commit a sexually violent and/or predatory act based on current behaviors, and constitutes a current risk to others as determined by a qualified professional; or
- (4) The person has committed one or more violent offenses, such as murder, attempted murder, arson, first degree assault, kidnapping, or use of a weapon to commit a crime ([RCW 9.94A.030\(45\)](#)).

Note: A person who exhibits sexually inappropriate behaviors, not necessarily predatory or violent in nature (e.g., exposing, inappropriate touching, public masturbation, stripping for sexual gratification in the presence of others) is considered to have community protection issues for information tracking purposes only. Such individuals are not eligible for Community Protection Program services.

Community Protection Program means services specifically designed to support persons who meet the definition of “individual with community protection issues” as described in this policy.

Constitutes a risk to others means a determination of a person’s risk to re-offend and/or dangerousness based upon a thorough assessment by a qualified professional (i.e., licensed psychologist or psychiatrist, certified sex offender treatment provider (SOTP), or affiliate SOTP working under the supervision of a certified SOTP). It is recommended that actuarial risk assessment instruments be used to supplement clinical judgment whenever appropriate.

Disclosure means providing copies of professional assessments, incident reports, legal documents, and other information pertaining to community protection issues to ensure the provider has all relevant information. Typically, polygraph and plethysmograph reports are excluded from disclosure.

Opportunistic behavior means an act committed on impulse, which is not premeditated. Consider what was the original motive or intent of the offense/crime. For example, if the offender in the commission of a burglary encounters a person and then takes advantage by committing a sexual act against that person, that is opportunistic: the sex offense was an afterthought to the original crime, or the environment enabled the sex offense to occur.

Predatory means acts directed toward strangers, individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or casual acquaintances with whom no substantial personal relationship exists. Predatory behavior may be characterized by planning and/or rehearsing the act; stalking; and/or grooming the victim.

Treatment Team means the program participant and the group of people responsible for the development, implementation, and monitoring of the person's individualized supports and services. This group may include, but is not limited to, the case resource manager, therapist, residential provider, employment/day program provider, and the person's legal representative and/or family.

Violent Offense means any felony so defined in [RCW 9.94A.030\(45\)](#).

POLICY

Case resource managers (CRM) must:

- A. Implement a process of evaluation any time there is reason to be concerned that a DDD client may have community protection issues as defined in this policy.
- B. Notify persons and their guardians identified as having community protection issues that they are being placed on the DDD Community Protection (CP) database.
- C. Provide the necessary information to enable persons identified as having community protection issues and their guardians to make informed choices about services that are (and are not) available to them as a result of their community protection issues.
- D. Treat community protection information as highly sensitive and confidential in nature.
- E. Follow the procedures set forth in this policy regarding the disclosure of information to others.

PROCEDURES

- A. Identification of Persons with Community Protection Issues
 - 1. Case resource managers (CRM) will use the criteria established on [DSHS Form 10-258, Individual With Community Protection Issues](#), and as defined in this policy, to identify children and adults who should be evaluated for having community protection issues.
 - 2. When a CRM becomes aware of any of the above conditions, complete [DSHS Form 10-258](#) within five (5) working days and forward it, together with copies of supporting documentation, to the designated regional CPP coordinator or committee for consideration.
 - 3. In consultation with the CRM, the regional CPP coordinator/committee will:

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- a. Identify and obtain any additional information needed, including a current professional assessment if indicated (see section B, Professional Assessments, below); and
 - b. Determine whether the person meets the criteria for “individual with community protection issues” as defined in this policy. If so, place the person on the DDD CP database.
 - c. If the person does not meet the criteria but does exhibit sexually inappropriate behaviors, place the person on the DDD CP database for information tracking only.
2. When it has been determined that a person has community protection issues, after verification of conviction(s) and/or confirmation by the professional assessment, and will be placed on the database, the CRM or other designated staff will:
 - a. Revise the person’s [DSHS Form 10-258](#) to reflect additional information obtained in the review process;
 - b. Add the person’s name and essential information to the DDD CP database;
 - c. Label the person’s case record in accordance with local procedures;
 - d. Notify current service providers of community protection status;
 - e. Modify the Individual Service Plan (ISP); and
 - f. Notify the person and his/her legal representative as described in Procedures, Section C, of this policy.
 3. When the decision is made not to place a person on the DDD CP database, the regional CPP coordinator/committee must forward a copy of the form and accompanying documentation to the Field Services Administrator (FSA) for final resolution. File the [Individual with Community Protection Issues](#) form with a written notation that the person does not meet criteria in a separate file from the client record.

B. Professional Assessments

1. The process of identifying a person as having community protection issues must include assessment of risk and/or dangerousness by a certified and/or licensed professional (i.e., psychologist, psychiatrist). If the person has a history of sexual deviancy, there must be an evaluation by a certified Sex Offender Treatment

Provider (SOTP) or an affiliate SOTP working under the supervision of a certified SOTP. These professionals must have prior experience working with individuals with developmental disabilities.

2. Prior to referring the person for a professional assessment, the CRM shall meet with the person and his/her legal representative or family and explain the purpose of the assessment, the possible consequences based on the outcome of the assessment, the person's right to choose the treatment professional, and the right to have someone accompany the person to the assessment if the person is unable to understand the questions being asked.

The CRM will use [DSHS 10-348, CP Program Information Checklist](#), to document the presentation of this information and include the signatures of all persons present.

3. CRMS must:
 - a. Request approval to authorize a professional assessment if none exists.
 - b. Request approval to authorize an update if an assessment exists is less than two (2) years old, but there is reason to be concerned that circumstances have changed significantly.
 - c. Consult with their supervisor about whether an updated assessment must be obtained if an assessment is more than two (2) years old.
 - d. Consult with their supervisor on whether an additional assessment should be obtained if the person being evaluated or the person's legal representative disagrees with the conclusions of an assessment.
 - e. Request more specific clarification in writing from the evaluator if information provided in a professional assessment is not clear enough to allow a determination as to whether a person should be identified as having community protection issues.

Note: If the person has not been convicted of an offense, the professional assessment must determine that the person presents a risk and poses a danger to the community in order for the person to be identified as having community protection issues.

4. Refer to *Guidelines for Risk Assessments and Psychosexual Evaluations* (Attachment A) for more information on professional assessments.

5. If the person refuses to participate in the professional assessment, he/she will not be eligible for any DDD services except case management, and if eligible, Medicaid Personal Care (MPC). Individuals refusing to participate in a professional assessment will be placed on the DDD CP database. The CRM must inform the person and his/her legal representative what services will not be available (refer to DDD Policy 5.02, *Community Protection Program Services*).

C. Notification to Persons Identified as Having Community Protection Issues

CRMs must notify the person and his/her legal representative in writing when the identification process results in a decision to place the person on the DDD CP database.

1. The notice must be sent via certified mail/return receipt requested and:
 - a. State whether the person meets the criteria for the CPP or is on the database for information tracking purposes only (see Attachment B for sample notification letters); and
 - b. Offer an opportunity for the person and/or legal representative to get information about the Community Protection Program (see section D, Informed Consent, below).
2. In the case of minor children, provide written notification to the parent or legal representative. Careful consideration will be given whether to advise a minor child. This decision should be discussed with the parents/legal representative and, if possible, with the professional who assessed the child. Any notice to the child of his or her community protection status should be done in person with the parent or legal representative present.

D. Informed Consent

1. For all persons on the CP database who request information about the program, the CRM will provide the opportunity to receive the following basic information, regardless of the immediate availability of resources:
 - a. Limitations regarding the services that will be available due to the person's community protection issues;
 - b. Disclosure requirements as a condition of receiving services other than case management;
 - c. The requirement to engage in therapeutic treatment may be a condition of receiving certain services;

- d. Review [DSHS 03-387, *Notice of Privacy Practices for Client Confidential Information*](#), with the individual and/or legal representative and ensure that a signed acknowledgment form is in the client's file;
 - e. Anticipated restrictions that might be provided (e.g., intensive supervision, limited access to reading material, television viewing, videos, etc.);
 - f. Identification of all parties who will participate in any treatment team that will monitor the person's services;
 - g. The right to accept or decline services;
 - h. The anticipated consequences of declining services (i.e., loss of existing services, removal from waiver services);
 - i. The right to an administrative fair hearing in accordance with department and division policy; and
 - j. The requirement to sign a pre-placement agreement as a condition of receiving Community Protection Intensive Supported Living Services (CP-ISLS).
2. The CRM will use [DSHS 10-348, *CP Program Information Checklist*](#), to document the presentation of this information and include the signatures of all persons present, including the client. The purpose of the [Checklist](#) is to make sure the CRM conveys all of the information to the individual and/or legal representative so they can make an informed decision.
 3. If the person refuses to participate in an information-sharing process, or fails to attend a meeting scheduled for that purpose, the CRM will document this in the person's case record.

E. Offering Services to Persons Who Have Community Protection Issues

When resources are available to offer services to a person who has community protection issues and who has received the information described in Section D above, the CRM will have the person and/or legal representative document the person's acceptance or refusal of services on [DSHS Form 10-268, *Pre-Placement Agreement*](#).

1. When a person declines the offer of services, the CRM will make every effort to ensure that the person fully understands the possible consequences of his/her refusal. The CRM will clearly advise the person about the possible inability to

receive other services, possible lack of resources at a later date, and/or anticipated loss of existing services;

2. The CRM will engage a witness to the process of providing the above information. If the person has a legal representative, the legal representative may serve as a witness. If there is no legal representative, the witness should be an individual who is in a position to represent and/or advocate for the person (e.g., parent, relative, friend or advocate); and
3. If the professional assessment states that the person cannot be managed successfully in the community with reasonably available safeguards, the CRM will refer the person to the Regional Support Network (RSN) and request an evaluation by a Designated Mental Health Professional (DMHP).

F. Confidentiality and Disclosure

1. Persons who are identified as having community protection issues continue to have a right to privacy. DDD staff and service providers must treat information regarding a person's community protection issues as highly sensitive and confidential in nature.
2. Due to the safety interests of the community as well as the individual, DDD must be able to disclose community protection information to all parties to whom it refers CP program participants, or to providers who are currently providing services.
3. Particular care must be paid to respecting the confidentiality of victims. The CRM and service providers are responsible to protect the identity of victims whenever possible.
4. The CRM will inform the person who has community protection issues and his/her legal representative of the need to disclose community protection information to both current and prospective service providers.
5. If a person or his/her legal representative refuses to authorize the disclosure of community protection information, the CRM will advise them that DDD will not authorize any services without disclosure.

EXCEPTIONS

Any exceptions to this policy must have the prior written approval of the Division Director.

TITLE:

COMMUNITY PROTECTION PROGRAM
IDENTIFICATION AND ELIGIBILITY

POLICY 15.01

SUPERSESSION

DDD Policy 15.01
Issued November 1, 2003

DDD Policy 15.01
Issued July 1, 2001

Approved: /s/ Linda Rolfe
Director, Division of Developmental Disabilities

Date: September 1, 2005

Attachment A - *Guidelines for Risk Assessments/Psychosexual Evaluations*
Attachment B - *Sample notification letters*

DIVISION OF DEVELOPMENTAL DISABILITIES GUIDELINES FOR RISK ASSESSMENTS AND PSYCHOSEXUAL EVALUATIONS

DDD contracts with certified and/or licensed treatment professionals to assist in determining whether clients require additional supports to live safely in the community. These guidelines are intended to describe elements of written reports and recommendations that are useful to the division in addressing treatment and planning issues for clients.

Basic Information

- Name of treatment professional(s) participating in evaluation
- Date of evaluation
- Name of person requesting assessment and the concern which prompted the request
- General description of the client, including gender, age, and nature of developmental disability

Information Sources

- Interview(s) with client, including dates, length and setting
- Interviews with others, including dates, names and relationship to client, length and settings of interviews
- Client records/files reviewed, including previous assessments, medical, school, police, and court records, and incident reports
 - Source/author of records
 - Date of records
 - Type of records
- Description of information source(s) not available at the time of assessment and possible relevancy to the evaluation process

Summary of Relevant Findings From Information Sources

- Medical, neurological, and developmental conditions
- Historical, familial, environmental and other contextual conditions, including a chronology of significant events in the person's life
- Psychiatric history and diagnosis, if applicable
- Offense History
 - Criminal charges and other offenses or behaviors of concern, listed chronologically with dates
 - Gender and age of victims
 - Use of weapons
 - Nature and extent of any injuries to victim(s) or property destruction
 - Victim empathy
- Chronology of sexual development and all known sexually deviant and/or predatory behavior
 - Self-reports of sexual interests, fantasies and any sexual abuse
 - Assessment of the person's understanding of appropriate and legal sexual behavior
 - Results of plethysmograph and/or polygraph tests
- Description of corroborated information which appears dependable and accurate
- Description of discrepancies; include an assessment of the veracity of conflicting information sources

Assessment of Possible Risk the Person Poses to Self, Property, and Others

- Potential target populations, triggers, and grooming patterns
- Whether behavior is opportunistic or predatory, acts are planned or spontaneous, and if primary threat is to persons or property
- Hypotheses about function or purpose of behavior(s) and whether there are multiple risk issues (e.g., sexual deviance, assault, arson).
- Mental health issue(s) contributing to the performance of risk behaviors, including mental states that increase the likelihood of re-offense
- Likelihood the person will engage in risk behaviors, with and without supervision
- Supporting rationale for the assessment
 - Identify risk assessment tools used and results (e.g., Mn SOST-R, Static 99; RRASOR; VRAG; PCL-R; Low/Moderate/High)
 - If a prior risk/SOTP assessment is available, discuss any recommendations that may be in conflict with the recommendations you are making
- Amenity to treatment
- Amenity to supervision

Recommendations

- Description of services currently in place which serve to reduce the potential risks
- Additional supports recommended that are likely to substantially reduce the potential risks. For each recommendation be as detailed as possible.
 - Are restrictions on activities, social relationships, and/or possession of certain material items indicated (e.g., alcohol, children's clothing, TV/video)?
 - Is the involvement of a psychiatrist, SOTP or other therapist, mental health agency or neurologist indicated?
 - Is an increase in supervision indicated?
 - Is an increase in access to constructive activities, such as work or recreation, indicated?
 - Are changes in the residential setting indicated?
 - Are changes in the workplace indicated?
 - Are additional supports to family, residential providers or others indicated?
 - Are there any victim considerations?
- Goals for individual, group, or family therapy, if recommended

We request that evaluations avoid suggesting a particular agency to provide recommended services. Though a recommendation may reasonably suggest that the person requires 24-hour supervision, please refrain from using the term "community protection" to describe both the person and configuration of recommended services. Whenever possible, DDD seeks to avoid implementing services that restrict a person's capacity to make choices and to engage in a wide range of social relationships, community activities, and vocational and recreational activities. The decision to offer services that incorporate restrictions on activities and possessions must be thoroughly grounded in a comprehensive assessment, which concludes that such restrictions are necessary to protect the person, property, and the community.

SAMPLE NOTIFICATION LETTER
Meets CPP Criteria

Date

Name
Address

RE: Community Protection Database

Dear _____:

After a thorough review of your records, the Division of Developmental Disabilities has identified you as a person who may present a risk of committing an offense against a person. This decision was based on a review of assessments, incident reports, court records, or other available information that provides documentation of your potentially harmful behaviors.

Your name is now on a database called the Community Protection Database. The information is used by the division for identification and planning, and is not made available to the public.

This could affect the services you are receiving or may receive in the future. If you would like to meet with your case manager to discuss the database and the Community Protection Program, please call _____ (DDD Case Resource Manager) at _____ (phone). You may also contact the Washington Protection and Advocacy System (WPAS) at 1-800-562-2702 if you wish.

Sincerely,

DDD Case Resource Manager
Division of Developmental Disabilities
(Address)

c: Client Record
Field Services Administrator

SAMPLE NOTIFICATION LETTER
Information Tracking Only

Date

Name
Address

RE: Community Protection Database

Dear _____:

After a thorough review of your records, the Division of Developmental Disabilities has identified you as a person who exhibits sexually inappropriate behaviors. This decision was based on a review of assessments, incident reports, court records, or other available information that provides documentation of your potentially harmful behaviors.

Your name is now on a database called the Community Protection Database for information tracking purposes only. The information is used by the division for identification and planning, and is not made available to the public.

This could affect the services you are receiving or may receive in the future. If you would like to meet with your case manager to discuss the database and the Community Protection Program, please call _____ (DDD Case Resource Manager) at _____ (phone). You may also contact the Washington Protection and Advocacy System (WPAS) at 1-800-562-2702 if you wish.

Sincerely,

DDD Case Resource Manager
Division of Developmental Disabilities
(Address)

c: Client Record
Field Services Administrator