Office of the Washington State Auditor
Pat McCarthy

Performance Audit

Evaluating School Responses to Notifications of Student Criminal Offenses

November 5, 2018

This is the second of two audits reviewing notifications to schools and districts of student criminal offenses. The first audit examined whether state agencies, courts and sheriffs notified K-12 schools and school districts of offenses committed by students as required by law. It was published in May 2018. The second audit evaluated what happens to notifications after principals and district officials receive them.

According to state law, principals must provide student criminal history information to every teacher of a student, as well as the student's next school. Few principals interviewed routinely shared criminal history information as extensively as required by state law, primarily because most did not understand their legal obligations. Without a clear understanding of requirements, principals used their judgment to decide what to share and with whom, frequently focusing on situations involving serious crimes. Further, few school districts had clear and complete policies to guide principals, in part because the state's model policies were unclear and incomplete.

Three organizations – the Office of Superintendent of Public Instruction, the Washington State School Directors' Association (WSSDA) and the Association of Washington School Principals – are well placed to ensure consistent guidance on sharing criminal history information is available in school districts across the state. WSSDA has already improved its model policies.

Report Number: 1022545

Table of Contents

The mission of the Washington State Auditor's Office

Provide citizens with independent and transparent examinations of how state and local governments use public funds, and develop strategies that make government more efficient and effective.

The results of our work are widely distributed through a variety of reports, which are available on our website and through our free, electronic **subscription service**.

We take our role as partners in accountability seriously. We provide training and technical assistance to governments and have an extensive quality assurance program.

For more information about the State Auditor's Office, visit **www.sao.wa.gov**.

Americans with Disabilities

In accordance with the Americans with Disabilities Act, this document will be made available in alternative formats. Please email Communications@sao.wa.gov for more information.

State Auditor's Office contacts

State Auditor Pat McCarthy
360-902-0360, Pat.McCarthy@sao.wa.gov

Scott Frank – Director of Performance Audit
360-902-0376, Scott.Frank@sao.wa.gov

Christopher Cortines, CPA – Principal Performance Auditor
360-725-5431, Christopher.Cortines@sao.wa.gov

Lori Reimann Garretson – Senior Performance Auditor
206-767-3199, Lori.Garretson@sao.wa.gov

Corey Crowley-Hall – Performance Auditor
360-725-5380, Corey.Crowley-Hall@sao.wa.gov

Jolene Stanislowski – Performance Auditor
360-725-5374, Jolene.Stanislowski@sao.wa.gov

Amanda Henderson – Confidential Secretary
360-725-5338, Amanda.Henderson@sao.wa.gov

Kathleen Cooper – Director of Communications
360-902-0470, Kathleen.Cooper@sao.wa.gov

To request public records

Public Records Officer
360-725-5617, PublicRecords@sao.wa.gov

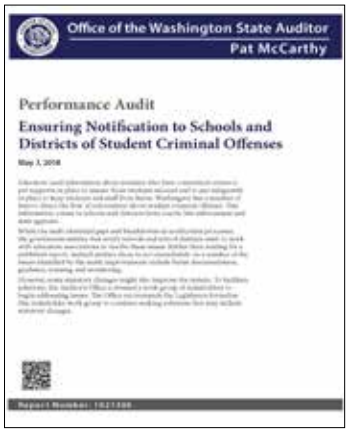
Executive Summary

Background

Principals and teachers need timely information about student criminal offenses to provide safety and support for all students. For example, knowing about past violent behavior helps educators proactively be in the right places at the right times. Knowing about court involvement for minor offenses like substance abuse helps them watch for warning signs.

This is the second of two audits reviewing notifications to schools and districts of student criminal offenses. The first audit, published in May 2018, examined whether state agencies, courts and sheriffs notified K-12 schools and school districts of offenses committed by students as required by law. That audit found gaps and breakdowns in those processes, and courts and agencies acted immediately to address many of the issues. The audit recommended the Legislature establish a work group to seek additional improvements.

This audit evaluated what happens to notifications after principals and district officials receive them. It also looked for ways principals and school district officials can better share criminal history information with teachers and students' subsequent schools.



Read the first audit in the series online at: https://bit.ly/2Olc7VF

How can principals and school district officials better share information about student criminal offenses, so that legal requirements are met and teachers and schools can more effectively manage risk?

According to state law, principals must provide student criminal history information to every teacher of a student, as well as the student's next school. Few principals interviewed routinely shared criminal history information as extensively as required by state law, primarily because most did not understand their legal obligations. Without a clear understanding of requirements, principals used their judgment to decide what to share and with whom, frequently focusing on situations involving serious crimes. Further, few school districts had clear and complete policies to guide principals, in part because the state's model policies were unclear and incomplete.

Three organizations – the Office of Superintendent of Public Instruction (OSPI), the Washington State School Directors' Association (WSSDA) and the Association of Washington School Principals – are well placed to ensure consistent guidance on sharing criminal history information is available in school districts across the state. WSSDA has already improved its model policies.

State Auditor's conclusions

The underlying issue with the notifications system is that it was not created holistically, but is a patchwork of legal requirements. Most of the requirements make sense when considered in isolation, but taken together they create the need for numerous notifications that ultimately risk creating confusion and increasing the likelihood that important information might be ignored. For example, as the May 2018 audit noted, state law lists more than 330 different criminal offenses that courts must communicate to schools. If the courts, state agencies and law enforcement fully complied with the requirements, this would result in about 11,000 notifications a year to schools, including notifications for students who are not going to return to school, as well as notifications to schools the students are not going to attend. The issue is compounded when one considers that all of those notifications are also supposed to be relayed to all of the students' teachers and the next schools they attend.

Our May 2018 audit included a recommendation that the Legislature convene a stakeholder work group to address the problems identified in that audit. The group has since been assembled and begun its work. To address the full range of issues in the notifications system, we encourage the work group also to consider the findings from this audit as it develops its recommendations.

Recommendations

We recommend the Legislature make statutory changes to address conflicting notification requirements. The Legislative work group formed in response to the first audit should also consider limiting some requirements for information sharing within and between schools. In addition, the work group should work with the notifying agencies to establish clear instructions for principals to be included with each notification.

We also recommend OSPI and WSSDA develop and disseminate comprehensive and consistent guidance. Finally, we recommend the specific school districts in the audit adopt policies and procedures for sharing student criminal information with teachers and subsequent schools, and develop district-wide systems to ensure principals share this information as required.

Next steps

Our performance audits of state programs and services are reviewed by the Joint Legislative Audit and Review Committee (JLARC) and/or by other legislative committees whose members wish to consider findings and recommendations on specific topics. Representatives of the Office of the State Auditor will review this audit with JLARC's Initiative 900 Subcommittee in Olympia. The public will have the opportunity to comment at this hearing. Please check the JLARC website for the exact date, time and location (**www.leg.wa.gov/JLARC**). The Office conducts periodic follow-up evaluations to assess the status of recommendations and may conduct follow-up audits at its discretion. See **Appendix A**, which addresses the I-900 areas covered in the audit. **Appendix B** contains information about our methodology.

Background

Principals and teachers need timely information about student criminal offenses to provide safety and support for all students

Students who have engaged in criminal behavior can pose risks to the safety and security of other students and school employees. Knowing about that past behavior can help educators manage those risks and maintain a safer learning environment. For example, knowing about past violent behavior helps an educator be in the right place at the right time to prevent trouble. Knowing about court involvement for minor offenses like substance abuse helps educators know which students need additional support, and alerts them to watch for warning signs.

Several high-profile incidents demonstrate how breakdowns in notifications of student criminal offenses can result in harm to students and costly legal damages for school districts. For example, in the case of N.L. vs. Bethel School District, the principal knew an older student was a registered Level 1 sex offender. Contrary to both state law and district policy, the principal did not notify any teachers or supervisory staff, and the student served in a coaching role for the middle school track team. The student encouraged N.L. to skip track practice, and then raped her in his home. This resulted in more than three years of litigation against the school district, in a case that reached the Washington Supreme Court.

If principals do not share criminal history information with subsequent schools, those principals cannot provide counseling or additional staff support when students arrive. Principals reported not receiving significant information about incoming students, including a previous emergency expulsion for bringing a loaded handgun to school. One resource officer mentioned a student who enrolled with only discipline and academic records. Later, the school learned the student was a known gang member who had been involved in shooting other gang members and a police officer. He assaulted two students during his first week on campus.

To improve school safety, the Legislature has passed numerous bills over two decades to ensure educators know when students commit criminal offenses

During the past two decades, the Legislature passed numerous bills requiring courts, state agencies and county sheriffs to notify schools and districts of student criminal offenses.

- ***Courts notify principals upon conviction, adjudication or diversion agreements*** - Since 1997, courts must notify school principals when minors enrolled in public schools are found guilty or enter into diversion agreements for a long list of crimes. Diversion agreements are voluntary contracts between students and courts, with specific requirements like community service and counseling that students must meet to have the charges dismissed.
- ***Department of Social and Health Services - Juvenile Rehabilitation and Department of Corrections notify school districts before releasing school-aged individuals from custody*** - Since 1995, the Department of Social and Health Services - Juvenile Rehabilitation Program must notify school

districts before releasing juveniles from custody or transferring them to community facilities. Beginning in 2011, state law required Department of Corrections to notify school districts before releasing or transitioning to partial confinement anyone younger than 22 who committed violent, sexual or stalking offenses.

- ***County sheriffs notify principals and districts when someone who has committed a sexual offense will attend school*** - Since 2006, state law has required anyone who must register as a sex offender to notify the county sheriff before enrolling in a public or private school. The county sheriff then must notify both the school district and the principal of the student's chosen school.

See **Appendix C** for more detailed text from relevant state laws.

Our May 2018 performance audit examined the school notification processes at courts, state agencies and law enforcement regarding student criminal history

The previous audit found gaps and breakdowns in notification processes. Courts and agencies acted immediately to remedy a number of identified issues, implementing potential recommendations prior to the report's publication. However, remaining barriers transcend multiple agencies, and statutory changes might improve the system. To facilitate solutions, the Auditor's Office convened a work group of stakeholders and recommended the Legislature formalize this group to seek further improvements.

See **Appendix D** for the full text of the previous audit's recommendations.

This audit evaluated school and district responses to the student criminal history information they received

While the May 2018 audit evaluated the processes by which courts and agencies notify schools about students' criminal histories, this audit focused on how principals disseminate that information within and between schools. Specifically, it answered the following audit question:

> How can principals and school district officials better share information about student criminal offenses, so that legal requirements are met and teachers and schools can more effectively manage risk?

Audit Results

How can principals and school district officials better share information about student criminal offenses, so that legal requirements are met and teachers and subsequent schools can more effectively manage risk?

Answer in brief

According to state law, principals must provide student criminal history information to every teacher of a student, as well as the student's next school. Few principals interviewed routinely shared criminal history information as extensively as required by state law, primarily because most did not understand their legal obligations. Without a clear understanding of requirements, principals used their judgment to decide what to share and with whom, frequently focusing on situations involving serious crimes. Further, few school districts had clear and complete policies to guide principals, in part because the state's model policies were unclear and incomplete.

Three organizations – the Office of Superintendent of Public Instruction (OSPI), Washington State School Directors' Association (WSSDA) and the Association of Washington School Principals (AWSP) – are well placed to ensure consistent guidance on sharing criminal history information is available in school districts across the state. WSSDA has already improved its model policies.

According to state law, principals must provide student criminal history information to every teacher of a student, as well as the student's next school

Principals receive notifications of student criminal offenses from courts, state agencies and county sheriffs, in a variety of formats. These include system-generated form letters, certified mail, hand-written slips of paper, in-person visits from a probation officer, and monthly system-generated lists of every student in the school on probation. For example, one court provides a template for staff, who write in the relevant details (see **Exhibit 1**).

Some students are returning to school after time in custody. Others stay enrolled at the same school throughout their court involvement.

Exhibit 1 – An illustration of one court's notification template

Superior Court for the ***State*** of ***Washington***
for the ***County*** of ***King***
Juvenile Probation Department

NOTIFICATION TO SCHOOL PRINCIPAL OR SCHOOL DISTRICT REGARDING ADJUDICATION OR SIGNING OF DIVERSION AGREEMENT IN KING COUNTY

_____ (DOB:) who attended your school or is enrolled in your school district has either been adjudicated or signed a diversion agreement for the offense(s) of:

PLEASE NOTE: **This information** is CONFIDENTIAL and is provided to you pursuant to Chapter 13.04 RCW. It may not be **further** disseminated except as provided in Chapter 13.04 RCW, RCW 28.A.225.330, other statutes or case law, and the Family and Educational Privacy Rights Act of 1994, 20 U.S.C. Sec. 1232(g) et seq.

c.c.:
Parent(s)/Guardian(s) of

Social File

Whatever the source, when principals receive notifications of student criminal offenses, they must provide this information to every teacher of the student and the student's next school

To every teacher of the student – When principals receive any notifications of student criminal offenses, state law (RCW 13.04.155(2)) requires them to provide this information to every teacher of the student. In addition, the law allows principals to tell other personnel whom the principal determines should be aware of the offense. Principals, teachers and other personnel cannot further share the information, except as provided in state law regarding the transfer of student records, other statutes or case law, and the federal Family Educational Rights and Privacy Act (FERPA).

To the student's next school – State law also requires principals to notify the next school about a student's history of criminal offenses listed in RCW 13.04.155: it is one of the essential records schools must transfer in all circumstances.

The Office of Superintendent of Public Instruction's Code of Professional Conduct requires all principals to establish, distribute and monitor adherence with written procedures to assure compliance with this law. All requirements in the Code of Professional Conduct are also in the Washington Administrative Code. Educators who violate the Code of Professional Conduct are subject to reprimand and their license to practice may be suspended or revoked.

Not notifying teachers of some offenses would violate many districts' collective bargaining agreements

Many school districts have collective bargaining agreements with their unions that require them to notify teachers and other staff when principals are aware of student behaviors that could present safety risks. For example, one such agreement reads:

> *Staff will be notified of any newly enrolled or already enrolled student having a record of violent behavior, criminal behavior or weapons possession.*

Not notifying teachers of student criminal offenses would violate this agreement. One school safety expert noted these clauses are increasingly common. Over half of a random sample of current district collective bargaining agreements had a similar requirement (16 out of 30 districts located in the 10 counties listed in Appendix B).

Few principals interviewed routinely shared criminal history information as extensively as required by state law, primarily because most did not understand their legal obligations

We interviewed 34 principals from two dozen school districts representing a range of sizes and locations. These principals served at elementary, middle and high schools. Court records indicated each should have received at least two notifications of student criminal offenses during the 2017–2018 school year.

Most principals shared student criminal information with teachers on a case-by-case basis, exercising discretion they do not legally have

Only two principals reported providing all criminal history information they received to every teacher of a student, as required by law. One high school principal received monthly lists from the juvenile court of all students on probation and the offenses they committed. He gave the list to his school resource officer with the instruction, "This only gets seen by the teachers of this student." The resource officer showed the information privately to each teacher. One elementary principal spoke directly with the students' homeroom teachers and other supervising teachers, such as the physical education and music teachers.

More than two-thirds of principals reported sharing at least some information with teachers on a case-by-case basis. Twenty-four of 34 principals said they shared student criminal history information with teachers on a case-by-case basis. Their decisions, and the reasoning behind them, varied widely. For example, one principal reported notifying teachers for about 90 percent of the notifications he received. At the other extreme, two said they notify teachers only about students on the sex offender registry, a very small portion of all notifications.

Some principals shared part of the information. For example, if a student had been court-adjudicated for assault, one principal would say the student may have potential anger management problems. A different principal told teachers that a student had a diversion agreement or was on probation without sharing the reason, directing them to report common probationary terms such as attendance or educational progress. Another principal put the monthly lists of students on probation in a confidential folder on his secretary's desk where teachers could view it; for serious offenses, he told specific teachers to review the file.

However, in a legal review which included conversations with an assigned representative from the Attorney General's Office, we determined these practices did not meet statutory requirements. The law does not differentiate between different types of offenses. It is legally insufficient to share that a student may have anger management issues or that a diversion agreement exists. The information cannot simply be left in a folder teachers may choose to review or ignore. State law requires principals to provide teachers the information they receive about student criminal offenses.

Nearly one-quarter of principals reported not sharing any criminal history information with teachers. Eight of the 34 principals interviewed would not share any student criminal offenses with teachers. Some principals shared the information only within the administrative team. Three principals reported they would create student safety plans if necessary, and let teachers know their part in implementing a plan (see sidebar), but they would not share the student's offenses. Two had served in their current roles for less than a year. Such turnover can result in a lack of awareness of requirements.

What is a student safety plan?

A student safety plan (also known as a student support plan) details how a school will help a student succeed. Plans can include strategies to mitigate risks associated with a previous history of violence.

We spoke with teachers to hear their perspective on not receiving this information. One teacher's perspective follows in the panel below.

One teacher explained the value of criminal history information
(interview edited for clarity)

The fact that we have the information does not mean we will use it in a negative way – we will use it for the student's benefit. Teachers are the boots on the ground – day in day out. Having the information from the beginning gives me a keener eye. I can provide supports from the first day rather than waiting to discover the information on my own. Knowing about violent behavior gives us that intervention point, for example by being present at the locker, building relationships, monitoring and creating a positive interaction for the student. Without the information, we may let some behavior go as playful without realizing that it could escalate. However, I have never received this information except from students.

For example, one of my students brought a knife to school earlier this year. He is a neat kid, but when things get tough, he gets quiet and stonewalls. I learned about the knife from other students. With that information, I came back to him to say, "I'm glad to see you, school is not the same without you." Having the information allowed me to invest a little bit more. By the end of the year, we had a good rapport.

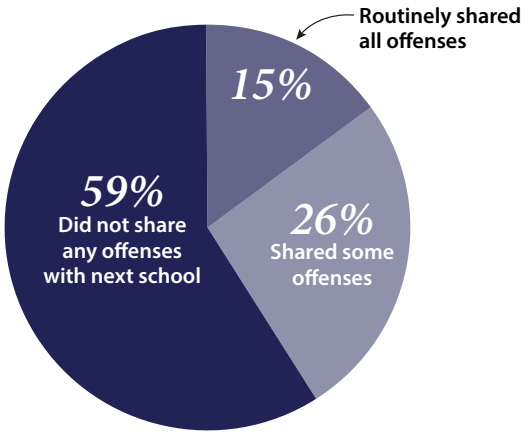
I have colleagues who have been assaulted by students. Students switch schools to get fresh starts but we do not know their stories. It is not okay. People in the profession are wondering if they should stay. To be losing people because of a lack of support is unacceptable.

More than 80 percent (29 out of 34) of principals reported not routinely sharing information with the next school

More than half of the principals (20 out of 34) did not share any criminal history information with subsequent schools (see **Exhibit 2**). Many were unaware of the requirement. Several thought it was the probation officer's responsibility. In addition, many incorrectly believed one legal consideration in sharing student criminal offenses with subsequent schools or teachers is whether the offense occurred on campus. For example, one principal said, "If the crime did not happen at school, then that does not have anything to do with us."

Consequently, when we followed a sample of students from the first audit, we found information rarely transfers to subsequent principals (see sidebar, below).

Exhibit 2 – Over half of the principals did not share any student criminal history with subsequent schools



Information rarely transferred from school to school

The first audit reviewed nearly 300 court notifications. We traced 36 of these notifications for the youngest students to determine if subsequent schools received appropriate notification. The vast majority of these students never transferred or had returned to the same school by the time of this audit.

Six of the students changed schools and remained enrolled in Washington. Only once did the student's current school report receiving the criminal history information. In that case, the school resource officers communicated with one another.

Several (nine out of 34) principals shared information in specific circumstances. Some principals reported they would sometimes reach out to the principal at the next school as a matter of professional courtesy. However, they did this out of concern for particular students, not because they were aware of statutory requirements. Moreover, informal outreach cannot consistently occur because principals have no reliable and systematic way of knowing where students transfer until the subsequent school makes a records request. Front office staff typically handle these requests, and they are – appropriately – not privy to all student criminal history information received by the principal.

The rest (five out of 34) routinely shared the information. They wanted to make sure it reached subsequent schools.

Principals created innovative solutions to share information routinely while protecting student privacy. Some principals told staff to place notifications in the students' permanent education records (commonly referred to as "cumulative files"), to ensure information went with students as they moved from school to school. This does not adequately protect student privacy because many people access students' education records.

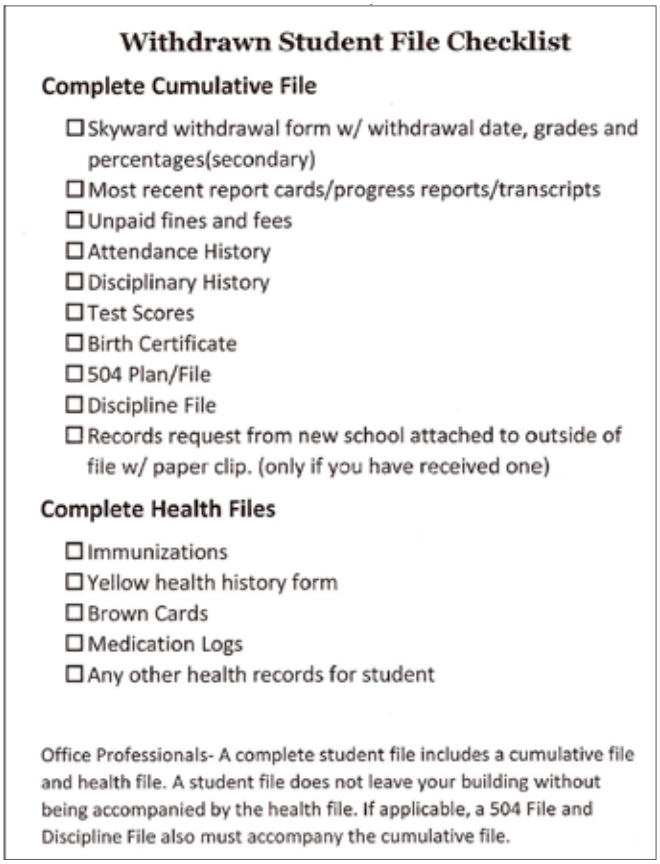
However, two principals had different practices that better protected student privacy. One put notifications in students' discipline files and routinely transferred the files to subsequent schools. A second began putting notifications in a confidential folder within the student's permanent education record after her team found protected information buried in student records. Adding this special section ensures the information is both protected and available to the next school's principal.

Another reliable way to share information while protecting student privacy would be to add an alert to the student's file. One principal at a large middle school flags specific student files in the district's electronic system so all staff know to alert her when another school requests the records for those students. The note simply reads, "If these records are requested, please have a conversation with the principal." This principal created her system so she could reliably reach out to future principals of students who had shown extreme behaviors.

Three-fourths of the principals (26 out of 34) lacked any written guidelines for the transfer of student records, which violates OSPI's Code of Professional Conduct. Eight principals provided checklists, forms or district procedures to guide staff through the records transfer process. **Exhibit 3** shows the checklist one school created to ensure appropriate transfer of student records.

However, this checklist and the other written guidelines provided by principals did not refer to criminal history information, even though state law specifically instructs schools to include it when transferring student records.

Exhibit 3 – An illustration of one school's student transfer checklist



Withdrawn Student File Checklist

Complete Cumulative File

- ☐ Skyward withdrawal form w/ withdrawal date, grades and percentages(secondary)
- ☐ Most recent report cards/progress reports/transcripts
- ☐ Unpaid fines and fees
- ☐ Attendance History
- ☐ Disciplinary History
- ☐ Test Scores
- ☐ Birth Certificate
- ☐ 504 Plan/File
- ☐ Discipline File
- ☐ Records request from new school attached to outside of file w/ paper clip. (only if you have received one)

Complete Health Files

- ☐ Immunizations
- ☐ Yellow health history form
- ☐ Brown Cards
- ☐ Medication Logs
- ☐ Any other health records for student

Office Professionals- A complete student file includes a cumulative file and health file. A student file does not leave your building without being accompanied by the health file. If applicable, a 504 File and Discipline File also must accompany the cumulative file.

Few principals demonstrated an understanding of their legal obligations to share criminal history information with teachers and other schools

We asked principals what they typically do when they receive notifications, the questions they might ask and the guidance they turn to for answers. A few knew they must share the information with subsequent schools, and some knew they must share it with teachers. However, two-thirds (22 out of 34) of the principals did not know either requirement. For example, one veteran principal serving numerous students involved in the courts thought his personal judgment was the only criteria in deciding whether to notify teachers. He kept all notifications in a confidential folder in his office and never shared them with subsequent schools.

Without a clear understanding of requirements, principals used their judgment to decide what to share and with whom, frequently focusing on situations involving serious crimes

Many principals expressed concerns about protecting student confidentiality

Principals carefully guarded confidentiality out of concern for students. Some principals said they were concerned teachers might misunderstand the complicated reasons why students become involved in the juvenile justice system or treat them differently out of unconscious bias. Almost half said they wanted students to make a fresh start. Principals also said the practice of sharing less serious offenses with teachers seemed disproportionate and inconsistent with the practice of withholding other information. For example, by federal law (CFR 245), principals and other school administrators cannot tell teachers if students qualify for free or reduced-price lunch.

Principals also guarded student confidentiality because they wanted to comply with the federal Family Educational Rights and Privacy Act (FERPA), which protects the privacy of student education records. Some incorrectly thought sharing student criminal history information would violate the law. One said, "Because of confidentiality, I cannot share much. I do not want to lose my job." However, FERPA allows principals to share student criminal history information with teachers and subsequent schools.

In making their decisions, principals also considered relevance to teachers and concerns about classroom safety

Principals typically shared information with teachers on a case-by-case basis, assessing relevance to the successful instruction of a student and potential safety risks. One principal said he would share as much information as he thought teachers needed to help students succeed, while others said teachers only needed to know if a student had a safety plan or needed constant supervision. Many principals reported they notify teachers in situations like weapons offenses, violent or sexual offenses, and threats to particular teachers or the school.

> "If it was an assault, or the student used a weapon, then it poses a risk to people in building and I let all staff know. We all see the same kid, and want to make sure everyone is being safe."
>
> ~ School principal

Because of safety concerns, many principals reported sharing the most serious crimes with teachers and subsequent schools

Although few principals reported informing all of a student's teachers about all offenses, three-fourths said they would tell teachers if they thought the offense raised safety concerns.

Many districts had well-defined practices to help students who had committed serious offenses succeed, reducing the risk of harm to others. Some established teams to work with principals in creating student safety plans, which may include coping strategies for the student, information for staff on triggers to avoid, and check-ins with a trusted adult in the school. One district required the student's teachers to sign an attestation they had received a copy of the plan.

Forty percent of principals said they would reach out to the principal at the next school to discuss any student safety issues of particular concern. They typically made this decision based on what they personally would want to know. One principal's perspective follows in the panel below.

One principal describes how he shares student criminal history information
(interview edited for clarity)

When I receive notifications, I just go back to the school board policy and try to follow that. I stay in the black and white and do what the policy says, because if I don't, on either side, there is someone waiting to sue me.

We have one student who is a registered sex offender. If the student transfers, I would look at the laws and see what I can share. Right now, I don't know. Does the school share it or is it the courts? I would reach out to the superintendent and the court to know what I should and should not share. My impulse would be to reach out to the next principal. I would hope that someone would share that kind of information with me – and not make me wait two weeks to process the records request. I just do not see this information in their records.

Another school district once had a kid who engaged in some criminal behavior three times in public and they did not share it with us when the student transferred. We called the previous school after we started seeing the student do it here, but there was no plan in place.

What I would like is an alert or a secure area in Skyward [an electronic system of student records] with a password that the secretaries cannot see. The secretaries could point to it and say, 'there is something here but I cannot see it.' Then the principal could log on and see what the note is about.

Few school districts had clear and complete policies to guide principals, in part because the state's model policies were unclear and incomplete

Having policies and procedures helps ensure a common understanding of legal requirements. Washington is a local control state, so each school district determines its own policies (see sidebar). However, WSSDA offers districts model policies.

We reviewed policies and procedures for sharing student criminal history information with teachers in all 118 school districts located in 10 counties, including the 24 school districts selected for site visits. Policy 3143 addresses all offenses; 3144 addresses sexual and kidnapping offenses. We reviewed publicly available information, and followed up with school districts to confirm all policies and procedures were included in the analysis. Districts also had an option to supply any additional written guidance.

> The bottom line for us here is to help the students. We want to get them back into school and make them successful. We want to get them back in and learning.
>
> ~ District official

A statewide agency offers model policies to its members, but school boards make the final call

Each of Washington's 295 school districts are independent local governments with elected school board members and the authority to determine their own district policies, making Washington a local control state.

The Legislature created WSSDA to coordinate policymaking among the school districts. In turn, WSSDA offers model policies and procedures to subscribing districts to help ensure they meet state and federal laws. Ninety-five percent of school districts subscribe to receive these model policies and procedures.

Ultimately, however, school boards choose the policies for their districts.

Almost 60 percent of the districts reviewed had incomplete or no policies and procedures on sharing criminal history information with teachers

Fourteen percent of districts had no policies or procedures to guide principals in their responsibilities, even though all districts are likely to receive at least some notifications. These districts are not complying with laws requiring them to adopt policies for disclosing information provided to school administrators about a student's conduct, including but not limited to official juvenile court records (RCW 28A.320.128). They also cannot benefit from statutory provisions that grant immunity from liability if a district can demonstrate it has released information in accordance with adopted policies.

Another 43 percent of the school districts had incomplete policies. Many had adopted one of the two model policies but not the other. However, each contains different information – neither is sufficient on its own. A few districts adopted parts of the model policies, but left out substantial portions. For example, one district adopted one paragraph from the model policy but removed guidance for principals and the types of offenses requiring notification. Consequently, the district lacked consistent guidance. The district official responsible for supporting principals had never heard of notification requirements.

More than 40 percent of the districts adopted the state's model policies, but those policies could easily be misinterpreted and did not include all requirements

Forty-eight out of 118 districts adopted policies equal to WSSDA's model policies and procedures for notifying teachers. However, site visits showed the model policies could easily be – and often were – misunderstood.

The model policy for sharing criminal history information with teachers was frequently misinterpreted. At the time of the audit, WSSDA model policy 3143 (all offenses) read,

> "*The principal must inform any teacher of the student and any other personnel who should be aware of the information.*"

Although this accurately states that principals must inform every teacher of the student, several district officials and principals applied the phrase "who should be aware" to both teacher and other personnel. They incorrectly understood it to mean principals have discretion to decide whom to inform. The model policy also said the information "may not be further disseminated," which could be misunderstood to mean principals should not share the information with subsequent schools.

Moreover, model policy 3144 (sex offenses) said principals have discretion on sharing with teachers if the student was a Level I sex offender (those least likely to reoffend). This guidance was based on RCW 9A.44.138, which says principals should provide the information on a need-to-know basis. However, RCW 9A.44.138 appears to conflict with RCW 13.04.155 and RCW 28A.225.330(6), which both require principals to provide any student criminal history information they receive to every teacher of the student.

> There are well meaning people making arbitrary decisions – and that is something that can get the district into trouble.
>
> ~ School security and risk mitigation expert

The model procedure for 3144 had two additional issues: (1) it referenced an OSPI Principal's Notification Checklist that was not readily available on WSSDA's or OSPI's websites, and (2) it only directed principals to transfer the information to other schools within the district, but not to other subsequent schools.

Model policies did not include references to sharing criminal history information with subsequent schools. Neither model policy for sharing student criminal history information included requirements for sharing the information with subsequent schools. WSSDA has a separate model policy and procedure on the transfer of student records, but both lacked requirements for criminal history information. Consequently, when we reviewed district policies and procedures for the transfer of student records, only one of the 24 districts visited included the requirement to provide student criminal history to subsequent schools.

A few districts did clarify and improve on WSSDA's model policies. A few districts addressed these ambiguities in their policies. Some rewrote 3143 to clearly direct principals to "inform every teacher of the student." One included the same requirement in 3144. Another consolidated both policies into a single policy for clarity. Yet another district removed the phrase "The information may not be further disseminated" in its policy 3143 and replaced it with "The information will be placed in a confidential file." This rewording offered guidance on where to store notifications and did not imply principals should not transfer the information to another school.

Few districts communicated expectations and monitored implementation, which makes policies and procedures ineffective

Although district leadership is responsible for communicating expectations and monitoring whether principals meet them, few districts did so for student criminal history information. This occurred partly because some thought principals with years of experience did not need further assistance.

However, one of the few principals who knew he must inform teachers about all student criminal offenses had a district official who ensured compliance by:

- Regularly communicating expectations that principals notify every teacher of the student, including a just-in-time reminder with each notification
- Requiring principals to annually confirm in writing that they had reviewed selected district policies, which included a better-than-model policy on notifying teachers

Furthermore, three-fourths of the principals (25 out of 34) reported that district officials had never followed up with them regarding notifications. Of the districts that did, officials were only concerned about the most serious offenses.

Moreover, few district officials and records specialists understood the requirements, which meant they could not provide proper guidance to principals

During site visits, districts identified the officials they want principals to go to for guidance. Those district officials reported what they expect principals to do when they receive notifications of student criminal offenses. Of the 24 school districts visited:

- Two expected principals to share all criminal history information with every teacher of the student
- Three expected principals to share all criminal history information with subsequent schools

Twenty-two districts did not direct principals to share all criminal history information with every teacher of the student. Officials at most districts thought principals should share student criminal offenses on a case-by-case basis, giving principals discretion they do not legally have. One district official said, "If it is a violent or a sexual offense, the teachers need to know, and I would expect the principals to share more. For drug and alcohol offenses, I would expect them to share less – maybe a little with the counselors." One district official thought principals should share no criminal history information with teachers.

Twenty-one districts did not direct principals to share all criminal history information with subsequent schools. About half of the districts thought schools should only transfer the information on a case-by-case basis. For example, one district official said, "If the student has been doing fine, I would not expect [the principal] to reach out to the next school. Whether they are adjudicated or not, if we have had serious issues with a student, we would give the next school a heads-up so that an incident does not have to happen." Another 30 percent of district officials thought principals should share the information rarely or not at all.

Many district officials thought as their principals did, that probation officers were responsible for notifying subsequent schools. District officials also noted student criminal history information should not go in students' permanent records as part of the normal transfer process. However, they did not know of any other straightforward, consistent method schools could use to transfer this information. (As mentioned on page 11, some principals have developed innovative solutions.)

Most district records specialists did not know student criminal history must transfer to subsequent schools

Because notifications of criminal offenses are student records, we interviewed each of the 24 district's student records specialist to learn what guidance he or she might have provided. Some larger districts had a dedicated employee in this role. In smaller districts, it was often an additional duty for the superintendent or another district official.

Two-thirds of records specialists did not know that student criminal history information should transfer to subsequent schools. A few thought it depended on the severity of the crime committed. Records specialists confirmed staff who transfer records rarely see criminal history information because principals typically keep it in their offices.

Records specialists noted it was hard to find good guidance on what information should transfer to subsequent schools. Many reported they rely on the state's record retention schedules as a source of guidance, but these schedules do not mention student criminal history information.

Principals reported district officials did not provide them student criminal history information

Some districts did not share court notifications. By state law, courts must notify principals when students are convicted, adjudicated or sign diversion agreements. However, some courts mistakenly notified district offices. Principals at three of the 24 school districts visited reported they had not received court notifications from their district officials. In one district, no one in the district office knew who might be receiving the court notifications. At another, the district official thought the principal had received copies.

Some Juvenile Rehabilitation notifications did not reach school principals. To test how well district offices notify school principals, we requested notifications for recent releases from DSHS - Juvenile Rehabilitation, which notifies district offices. We did not confirm district offices received these notifications. Only six of 56 juveniles released in March 2018 subsequently enrolled in the same district that Juvenile Rehabilitation notified. Four of the six principals confirmed their district offices had appropriately notified them. For the remaining 50 notifications, some juveniles did not re-enroll, while many others remained in custody.

OSPI, WSSDA and the AWSP are well placed to ensure consistent guidance on sharing criminal history information is available in school districts across the state. WSSDA has already improved its model policies.

No state agency or statewide organization has provided comprehensive guidance or training on sharing criminal history information

We found no comprehensive guidance or training on what principals should do with the notifications they receive. When asked where they turn for guidance, no principal or district official reported attending trainings on this topic, and no one recalled any organization ever offering such training. Additionally, no one at OSPI, WSSDA or AWSP knew of any such guidance.

This lack of comprehensive guidance created potential to misunderstand the limited information that was available. For example, one principal said a notification she received said "Confidential - Not for Release," so she did not share the information further. However, this statement is a reminder not to share the information beyond the teachers and subsequent schools that principals must inform. In addition, the available guidance on OSPI's School Safety Center was limited to sharing information about students who have sexually offended – a very small portion of all notifications. Using only this guidance, principals could logically – but incorrectly – assume there were no requirements related to the many other types of offenses.

Interest in readily available information was widespread: 20 of the 34 principals interviewed said they want clear, easily accessible guidance, such as a list of Frequently Asked Questions, or someone who can reliably answer their questions. Many principals recognized the personal liability they faced if they shared too much or too little information. One principal said, "It would be nice to have more guidelines … it will be our fault – and we were never told what to do. It will come back to bite us."

In past years, the Legislature directed OSPI to help districts establish policies to meet some notification requirements

In 2002, as part of a larger effort related to disclosing information about threats of violence to students or school employees, the Legislature directed OSPI to adopt a model policy for disclosing information to classroom teachers, school staff and school security. The model policy needed to include – but was not limited to – any history of violence and official juvenile court records. The intent for the model policy was to help districts meet their statutory obligations to adopt similar policies. OSPI has not fully implemented these requirements.

Additionally, in 2006, the Legislature directed OSPI to convene a work group to develop a model policy for school principals when they receive notifications for students who have sexually offended. OSPI convened the work group, and the model policy and procedure are available on OSPI's School Safety Center website with other related resources and guidance.

WSSDA acted immediately to improve its model policies

When WSSDA learned principals and district officials misread model policies for notifying teachers, it immediately revised and reissued both policies in August 2018. WSSDA clarified principals must provide any student criminal history information received to every teacher of the student. WSSDA also clarified the information can only be further disseminated as allowed by other statutes. In addition, WSSDA linked the model procedure for sharing information for students on the sex offender registry to OSPI's Principal's Notification Checklist.

WSSDA reports it will revise model policies and procedures for the transfer of student records to include student criminal history information.

The AWSP is ideally situated to provide training to principals and is taking action

The AWSP provides training and support to principals. In response to the audit, AWSP plans to partner with legal counsel, OSPI, WSSDA, the Washington Association of School Administrators, and the educational service districts to provide on-line training modules for principals on notification requirements. As some principals mistakenly thought they knew the requirements, AWSP wants to make sure all principals – new and veteran – understand their obligations.

OSPI, education associations and law enforcement must work together to ensure guidance is consistent

Principals and other district officials turn to many sources for guidance. Principals and district officials reported they would seek guidance on responding to notifications of student criminal offenses from multiple sources, including:

- OSPI, which monitors districts' compliance with some state and federal requirements and provides supplementary guidance
- Educational service districts, which work closely with OSPI and area school districts to provide guidance and training
- Statewide education associations, which are public and non-profit member organizations that support educators
- Law enforcement agencies, including the county sheriff, juvenile court administrators and probation officers

Most principals said if they had questions about notifications, they would seek help from their district office, or a law enforcement agency, such as the student's probation officer. Since most notifications come from the courts and probation officers know students' obligations to the court, this is logical. However, probation officers are not in a position to advise principals on a school's statutory responsibilities.

Because they wanted the best advice possible, many district officials reported they would seek legal advice from the school district's attorney or their insurance company. Larger districts may have an attorney on staff, but some smaller districts pay for every consultation. If state education agencies provided correct, easily accessible guidance developed in consultation with the best available legal resources, principals could use it and save school district resources.

Consistent guidance and training will improve notifications. Given that principals and district officials reach out to multiple sources of guidance, it is critical that all of these sources provide consistent, complete and accurate guidance for handling notifications of student criminal offenses. To achieve this goal, OSPI, the education associations and juvenile courts will all need to work together.

As principals face never-ending demands on their time, this guidance must be readily available when principals need it. It must meet the needs of both principals who only see a handful of notifications during their career and principals who could easily have twenty students on probation or diversion each month. Guidance and training must also take into account the high turnover rates among principals and superintendents.

One simple solution could be to include a basic overview of the requirements on each notification, and refer to where more guidance is available. However, this would require OSPI and the education associations to work together with the courts and agencies that notify schools and districts.

> "It would be good, because there are so many changes, to have a very clear communication at the beginning of the school year on what is expected at every level within the school and district. It would be nice if once a year, we all got the same message on what the expectations are. It would be the best gift ever."
>
> ~ District official

State Auditor's Conclusions

While not all students who have committed crimes will reoffend, students with a criminal history pose an increased risk to the safety and security of their fellow students and school employees. Knowing about a student's criminal history can help educators manage those risks and maintain a safer learning environment. To that end, the Legislature has passed numerous measures to ensure educators are aware of their students' criminal histories.

The system for ensuring educators are made aware of important criminal history information has two parts. The first part is to ensure the judicial system, state agencies, and law enforcement notify schools about offenses committed by students. This was the subject of our May 2018 audit. The second part is to ensure principals properly disseminate that information within the school system – specifically to the students' teachers and the next schools they attend. That is the subject of this audit. The audits found significant problems with both parts of the system.

The underlying issue with the notifications system is that it was not created holistically, but is a patchwork of legal requirements. Most of the requirements make sense when considered in isolation, but taken together they create the need for numerous notifications that ultimately risk creating confusion and increasing the likelihood that important information might be ignored. For example, as the May 2018 audit noted, state law lists more than 330 different criminal offenses that courts must communicate to schools. If the courts, state agencies and law enforcement fully complied with the requirements, this would result in about 11,000 notifications a year to schools, including notifications for students who are not going to return to school, as well as notifications to schools the students are not going to attend. The issue is compounded when one considers that all of those notifications are also supposed to be relayed to all of the students' teachers and the next schools they attend.

Our May 2018 audit included a recommendation that the Legislature convene a stakeholder work group to address the problems identified in that audit. The group has since been assembled and begun its work. To address the full range of issues in the notifications system, we encourage the work group also to consider the findings from this audit as it develops its recommendations.

Recommendations

The first notifications audit recommended the Legislature formalize a work group of stakeholders to identify additional improvements. The first audit recommended the work group develop a proposal to potentially automate notifications, which would also address the need to routinely and confidentially transfer criminal history information to subsequent schools, as described on page 11.

WSSDA has already implemented other improvements that would have been audit recommendations. Further, some audited school districts report they have already improved their policies and provided principals additional training on notification requirements.

We recommend the Legislature:

1. Address the apparent conflict between RCW 9A.44.138, RCW 13.04.155 and RCW 28A.225.330(6) regarding notification for Level I sex offenders (see page 14) by amending one or more of the statutes.
   In addition, revise RCW 28A.320.128 as needed to align with the other statutes.
2. Direct the work group to address the following issues:
   a) Establish clear instructions that courts, state agencies and sheriffs must include with each notification, to inform principals of their statutory requirements to provide information to teachers and subsequent schools. This addresses the needs of new principals and principals who rarely receive notifications for consistent guidance (see page 19).
   b) Determine the best way to include information about student criminal offenses received from courts or law enforcement agencies in the state's record retention schedules. This addresses the need for consistent guidance for records specialists (see pages 16 and 17).
   c) Consider limiting the transfer of information between schools to active diversion agreements, adjudications and convictions, to limit the number of notifications that must be communicated to teachers and subsequent schools (see page 20, Conclusions). Once a student has completed the terms of a diversion agreement, principals would not need to notify subsequent schools.
   d) Establish mechanisms to inform principals when students have successfully completed diversion agreements.
   e) Consider limiting required notification to all of a student's teachers to only those offenses the work group determines are relevant to teachers' ability to maintain a safe and supportive learning environment, to limit the number of notifications that must be communicated to teachers (see page 20, Conclusions).

We recommend the Washington State School Directors' Association:

3. Include requirements to share criminal history information with subsequent schools in the model policy and procedure for student records. This addresses the need for a model policy for transferring student criminal history information to subsequent schools (see page 15).

We recommend the Office of Superintendent of Public Instruction:

4. Adopt clear, easily accessible policy guidance for school principals and district officials that addresses information-sharing with teachers and subsequent schools, and an overview of legal requirements, consequences teachers and staff face if they do not maintain confidentiality, and a list of Frequently Asked Questions.
5. Make this policy guidance available on OSPI and education association websites.

These recommendations address the need for comprehensive and consistent guidance on notification requirements (see pages 17 and 19).

We recommend the school districts in the audit:

6. Adopt policies and procedures for sharing of student criminal information with teachers and subsequent schools. This addresses the need for comprehensive and consistent guidance on notification requirements (see page 14).
7. Develop a system to confirm notifications are handled correctly, including:
   a) Ensuring principals and other appropriate personnel have reviewed and understand accurate guidance
   b) Monitoring principals' compliance with notification requirements
   c) Retaining written support that principals provided student criminal history information to every teacher of the student

   These recommendations address the need to ensure policies and procedures are effective (see page 15).

Agency Response

Auditor's note: We provided copies of the final report to OSPI and WSSDA for their review. Neither agency elected to provide a formal written response, but both told us they generally agreed with the report's findings and conclusions, and both indicated they would take steps to address them.

We also gave the school districts included in our sample the option of providing a written response to the audit, but none chose to do so.

Appendix A: Initiative 900

Initiative 900, approved by Washington voters in 2005 and enacted into state law in 2006, authorized the State Auditor's Office to conduct independent, comprehensive performance audits of state and local governments.

Specifically, the law directs the Auditor's Office to "review and analyze the economy, efficiency, and effectiveness of the policies, management, fiscal affairs, and operations of state and local governments, agencies, programs, and accounts." Performance audits are to be conducted according to U.S. Government Accountability Office government auditing standards.

In addition, the law identifies nine elements that are to be considered within the scope of each performance audit. The State Auditor's Office evaluates the relevance of all nine elements to each audit. The table below indicates which elements are addressed in the audit. Specific issues are discussed in the Results and Recommendations section of this report.

I-900 element	Addressed in the audit
1. Identify cost savings	**No.** The audit did not identify specific cost savings. However, gaps in notification processes have led to costly lawsuits. It is far less costly to have notification processes in place than to face lawsuits for not taking legally required steps.
2. Identify services that can be reduced or eliminated	**Yes.** The audit recommends limiting the required notification to all a student's teachers to only those offenses the work group determines are relevant to teachers' ability to maintain a safe and supportive learning environment.
3. Identify programs or services that can be transferred to the private sector	**No.** There is no potential for privatization of these processes.
4. Analyze gaps or overlaps in programs or services and provide recommendations to correct them	**Yes.** The audit identified gaps in guidance and processes for notifying teachers and subsequent schools about student criminal offenses.
5. Assess feasibility of pooling information technology systems within the department	**No.** However, the first audit recommended evaluating the use of information systems at the Office of Superintendent of Public Instruction to improve notification processes.
6. Analyze departmental roles and functions, and provide recommendations to change or eliminate them	**Yes.** The audit recommends OSPI, WSSDA and AWSP partner to improve guidance for principals and district officials.
7. Provide recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions	**Yes.** The audit recommends the work group established in response to the first audit consider several additional statutory changes identified in the second audit.
8. Analyze departmental performance data, performance measures and self-assessment systems	**Yes.** The audit evaluated performance within and between schools.
9. Identify relevant best practices	**Yes.** The audit highlighted several practices principals developed to notify schools consistently while protecting student privacy.

Compliance with generally accepted government auditing standards

We conducted this performance audit under the authority of state law (RCW 43.09.470), approved as Initiative 900 by Washington voters in 2005, and in accordance with generally accepted government auditing standards as published in Government Auditing Standards (December 2011 revision) issued by the U.S. Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B: Scope, Objectives and Methodology

Scope

Selection of counties

To focus the work needed to address the audit question, we selected 10 counties representing different areas of Washington:

- Clark
- Cowlitz
- Grays Harbor
- King
- Kittitas
- Lewis
- Pierce
- Snohomish
- Thurston
- Yakima

For the 10 counties, we asked each juvenile court to identify which schools received the last 50 notifications, during September 1, 2017 – March 31, 2018. This allowed for better comparisons between large and small courts. Eight of the 10 courts responded to our requests for information. We identified all school districts that had received at least two notifications from the eight courts that responded to our information request. Finally, we selected 24 school districts based on several factors, including:

- Small, medium and large districts
- Urban and rural locations
- Eastern and western Washington

School districts selected for site visits			
Centralia	Kent	North Thurston	Tacoma
East Valley (Yakima)	Kittitas	Northshore	Taholah
Eatonville	Montesano	Ocosta	West Valley (Yakima)
Edmonds	Morton	Olympia	White Pass
Ellensburg	Napavine	Puyallup	Wishkah Valley
Everett	North Beach	Rochester	Yakima

We also reviewed policies and procedures for sharing student criminal history information with teachers adopted as of May 31, 2018, for all 118 school districts located in the 10 counties, including the 24 school districts selected for site visits.

Objectives

The audit evaluated how schools and districts handled notifications of student criminal offenses received from courts and state agencies. The audit answered the following question:

> *How can principals and school district officials better share information about student criminal offenses, so that legal requirements are met and teachers and subsequent schools can more effectively manage risk?*

Methodology

Legal review

To determine how schools and districts carry out their responsibilities, we reviewed the laws that require principals to notify teachers and subsequent schools of student criminal offenses. Periodically during the audit, we sought feedback from our assigned representative from the Attorney General's Office to clarify language in statute, our understanding of the responsibilities assigned to principals and school district officials, and issues that arose during interviews.

Policy review

We used the Office of Superintendent of Public Instruction's Washington State Report Card to identify all school districts in the 10 counties. For each school district in the 10 counties, we identified any publically available policies and procedures for notifying teachers and support staff of student criminal offenses. We asked school districts to confirm we had all policies, procedures and written guidance.

We compared each school district's policies, procedures and written guidance with the model policies and procedures made available to school officials by the Washington State School Directors' Association (WSSDA). We looked at the policies to see if they had three things:

1. Guidance to principals
2. Context for legal requirements
3. All offenses that require notification

Finally, we compared WSSDA policies to statutory notification requirements.

Site visits

From the 24 school districts, we selected 33 schools (served by 34 principals) that court records indicated should have received at least two notifications: Some received many notifications, some only a few. They included elementary, middle and high schools.

Using structured interviews, we spoke with the schools' principals to learn what they typically do with the notifications, what questions they might ask, and what sources of guidance they turn to when they need answers. We also asked principals what they did in response to specific court notifications, and conducted limited testing to confirm these reported practices.

In addition, we asked the 24 districts to identify the district official responsible for providing guidance to principals. We interviewed these district officials to learn what they expect principals to do when they receive notifications and the sources of guidance they use. We also interviewed the districts' records specialists to learn what they would expect principals to do with this type of student information and the places they typically turn to for guidance.

Stakeholder interviews

We interviewed multiple stakeholders to evaluate the risks if principals do not notify teachers and subsequent schools about the wide range of offenses that require notification. Interviews included principals, district officials, risk managers for school district insurance pools, experts in school safety, teachers, school resource officers and representatives of OSPI and the education associations.

Tracing samples of students

We called principals and asked if they received the relevant notifications for two different samples:

- Thirty-six of the youngest students from the first audit, to determine if subsequent schools received appropriate notification of their adjudications
- Fifty-six juveniles who were released from DSHS – Juvenile Rehabilitation in March 2018, to determine if the school districts shared the information with the principals at the students' schools (Juvenile Rehabilitation notifies school districts, not individual principals.)

For both samples, we used enrollment data provided by the Office of Superintendent of Public Instruction, to learn where the students enrolled. Some, but not all, of these students transferred between schools located in the 24 districts selected for site visits.

Appendix C: RCWs and WACs for Relevant Requirements

State law requires courts to notify schools when students are found guilty or enter into diversion agreements for specific offenses, and requires Department of Social and Health Services – Juvenile Rehabilitation and Department of Corrections to notify school districts before they release students from custody. Local law enforcement must notify schools and school districts when students must register as sex offenders. When principals receive notifications, they must notify teachers and subsequent schools. This appendix contains excerpts of relevant statutes and administrative code.

Courts notify principals upon conviction, adjudication or diversion agreements

Summary: Courts must notify school principals for certain offenses.

RCW 13.04.155(1) Whenever a minor enrolled in any common school is convicted in adult criminal court, or adjudicated or entered into a diversion agreement with the juvenile court on any of the following offenses, the court must notify the principal of the student's school of the disposition of the case, after first notifying the parent or legal guardian that such notification will be made:

(a) A violent offense as defined in RCW 9.94A.030;
(b) A sex offense as defined in RCW 9.94A.030;
(c) Inhaling toxic fumes under RCW chapter 9.47A;
(d) A controlled substances violation under RCW chapter 69.50;
(e) A liquor violation under RCW 66.44.270; and
(f) Any crime under RCW chapters 9.41, 9A.36, 9A.40, 9A.46, and 9A.48.

Note: Chapter 9.41 refers to firearms; Chapter 9A.36 refers to assault; Chapter 9A.40 refers to kidnapping; Chapter 9A.46 refers to harassment; Chapter 9A.48 refers to arson, reckless burning, and malicious mischief

DSHS – Juvenile Rehabilitation and Department of Corrections notify school districts before releasing school-aged individuals from custody

Summary: Department of Corrections must notify school districts before releasing anyone younger than 22 who has committed a violent, sexual or stalking offense.

RCW 72.09.730(1) At the earliest possible date and in no event later than thirty days before an offender is released from confinement, the department shall provide notice to the school district board of directors of the district in which the offender last attended school if the offender:

(a) Is twenty-one years of age or younger at the time of release;
(b) Has been convicted of a violent offense, a sex offense, or stalking; and
(c) Last attended school in this state.

(2) This section applies whenever an offender is being released from total confinement, regardless if the release is to parole, community custody, work release placement, or furlough.

Summary: Department of Corrections must notify local law enforcement when releasing someone on the sex offender registry.

RCW 72.09.345(7) The [End of Sentence Review] committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW 4.24.550, narrative notices regarding the pending release of sex offenders from the department's facilities.

Summary: Department of Social and Health Services – Juvenile Rehabilitation must notify school districts and local law enforcement before releasing juveniles who have committed a violent, sexual or stalking offense.

RCW 13.40.215(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside;

(ii) The sheriff of the county in which the juvenile will reside; and

(iii) The approved private schools and the common school district board of directors of the district in which the juvenile intends to reside or the approved private school or public school district in which the juvenile last attended school, whichever is appropriate.

(b) After July 25, 1999, the department shall send a written notice to approved private and public schools under the same conditions identified in subsection (1)(a)(iii) of this section when a juvenile adjudicated of any offense is transferred to a community residential facility, discharged, paroled, released, or granted a leave.

County sheriffs notify principals and districts when someone on the sex offender registry will attend school

Summary: County sheriffs must notify schools and districts when someone on the sex offender registry will attend a school.

RCW 9A.44.138(1) Upon receiving notice from a registered person pursuant to RCW 9A.44.130 that the person will be attending a school or institution of higher education or will be employed with an institution of higher education, the sheriff must promptly notify the school district and the school principal or institution's department of public safety.

When principals receive criminal history information, they must notify teachers

Summary: Principals must provide criminal history information they receive to every teacher of the student while maintaining confidentiality.

RCW 13.04.155(2) The principal must provide the information received under subsection (1) of this section to every teacher of any student who qualifies under subsection (1) of this section and any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record. The principal must provide the information to teachers and other personnel based on any written records that the principal maintains or receives from a juvenile court administrator or a law enforcement agency regarding the student.

(3) Any information received by a principal or school personnel under this section is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

Summary: Schools must provide any history of criminal or violent behavior received through the transfer of student records to teachers and security personnel.

RCW 28A.225.330(6) When a school receives information under this section or RCW 13.40.215 that a student has a history of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students, the school shall provide this information to the student's teachers and security personnel.

Note: This section of the RCW details requirements for the transfer of student records; RCW 13.40.215 requires Juvenile Rehabilitation to notify schools.

Summary: The statute directs principals to notify for students on the sex offender registry based on risk level; however, all statutory requirements must be interpreted together

RCW 9A.44.138(2) A principal or department receiving notice under this subsection must disclose the information received from the sheriff as follows:

(a) If the student is classified as a risk level II or III, the principal shall provide the information received to every teacher of the student and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(b) If the student is classified as a risk level I, the principal or department shall provide the information received only to personnel who, in the judgment of the principal or department, for security purposes should be aware of the student's record.

Note: RCW 13.04.155(2) and RCW 28A.225.330(6) both require principals to provide all criminal history information received to every teacher of the student. As these requirements include all sexual offenses, principals must also notify every teacher of the student for level I sex offenders.

Summary: School districts must have procedures for disclosing information about a student's conduct, including but not limited to official juvenile court records.

RCW 28A.320.128(1) By September 1, 2003, each school district board of directors shall adopt a policy that addresses the following issues:

(a) Procedures for providing notice of threats of violence or harm to the student or school employee who is the subject of the threat. The policy shall define "threats of violence or harm";

(b) Procedures for disclosing information that is provided to the school administrators about a student's conduct, including but not limited to the student's prior disciplinary records, official juvenile court records, and history of violence, to classroom teachers, school staff, and school security who, in the judgment of the principal, should be notified; and

(c) Procedures for determining whether or not any threats or conduct established in the policy may be grounds for suspension or expulsion of the student.

(2) The superintendent of public instruction, in consultation with educators and representatives of law enforcement, classified staff, and organizations with expertise in violence prevention and intervention, shall adopt a model policy that includes the issues listed in subsection (1) of this section by January 1, 2003. The model policy shall be posted on the superintendent of public instruction's web site. The school districts, in drafting their own policies, shall review the model policy.

(3) School districts, school district boards of directors, school officials, and school employees providing notice in good faith as required and consistent with the board's policies adopted under this section are immune from any liability arising out of such notification.

(4) A person who intentionally and in bad faith or maliciously, knowingly makes a false notification of a threat under this section is guilty of a misdemeanor punishable under RCW 9A.20.021.

When principals receive criminal history information, they must notify the next school

Summary: Schools must send any history of violent behavior or behavior listed in RCW 13.04.155 as part of the transfer of records

RCW 28A.225.330(2) The school enrolling the student shall request the school the student previously attended to send the student's permanent record including records of disciplinary action, history of violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance. If the student has not paid a fine or fee under RCW 28A.635.060, or tuition, fees, or fines at approved private schools the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, immunization records, records of disciplinary action, and history of violent behavior or behavior listed in RCW 13.04.155.

(4) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible… Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The professional educator standards board shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

Summary: Principals must establish, distribute and monitor compliance with written procedures for the transfer of student records

WAC 181-87-093 The failure of a principal or other certificated chief administrator of a public school building to make a good faith effort to assure compliance with RCW 28A.225.330 by establishing, distributing, and monitoring compliance with written procedures that are reasonably designed to implement the statute shall constitute an act of unprofessional conduct.

Appendix D: Recommendation from the Previous Audit

The first audit, *Ensuring Notification to Schools and Districts of Student Criminal Offenses*, was published in May 2018. It focused on the courts and agencies that notify schools and districts. The audit found a number of ways these processes can break down and opportunities for improving the flow of information about students who have committed criminal offenses.

During the first audit, courts and agencies that notify schools and districts took several steps to close the gaps identified through the audit work. To provide stakeholders time to resolve the remaining issues identified in the audit – which transcend any one entity – and come to agreement on proposed statutory changes, the Washington State Auditor recommended the Legislature formalize the work group of stakeholders that began meeting during the first audit.

Agencies recommended for participation in the work group

The Office of the Governor
Administrative Office of the Courts
Association of Washington School Principals
Association of Washington Superior Court Administrators
Columbia Legal Services
Department of Corrections
Department of Social & Health Services – Juvenile Rehabilitation
Office of Superintendent of Public Instruction
Washington Association of Juvenile Court Administrators
Washington Association of School Administrators
Washington Association of Sheriffs & Police Chiefs
Washington Federation of Independent Schools
Washington State Association of Prosecuting Attorneys
Washington State Legislature staff
Washington State School Directors' Association

The first audit recommended the work group address the following issues:

- Establish a process to ensure courts, Corrections, Juvenile Rehabilitation and sheriffs have access to accurate district, school and enrollment information as necessary
- Assign a single point of contact at each school district to receive all notifications, along with back-ups in case the primary contact is absent
- Assemble a proposal and a budget to develop and maintain an automated notification system
- Continue to improve guidance, training and monitoring
- Consider potential statutory changes to:
  - Limit notification requirements upon conviction, adjudication or diversion agreements to offenses that pose a public safety risk or might impact services provided to students
  - Require courts to notify designated contacts at districts, rather than school principals
  - Eliminate notifications for individuals that have received high school diplomas or the equivalent and individuals in partial confinement, as well as notifications to private schools when it is known the juvenile will not be attending that school