

Policy and Practice



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Sex Offender Registries and Community Notification: States' Use of Technology for Public Safety

Introduction

The first sex offender registry was created in California in 1947. By 1996 all states had enacted laws that require sex offenders to register within their states of residence to help law enforcement agencies manage offenders who are released from secure confinement and track their whereabouts in the community.

To prevent recidivism and promote public and community safety, states also have passed sex offender community notification laws, which allow citizens to receive or actively seek information from sex offender registries maintained by their states. Washington passed the first sex offender notification law as a component of its Community Protection Act of 1990. Since then, 48 states have passed legislation that allows or mandates some form of notification when a sex offender is released into the community.

Since 1994 there has been a surge of activity in state legislatures and the U. S. Congress with regard to sex offender registration and notification. In 1994 and again in 1996, the Congress passed laws that would withhold 10 percent of a state's allocation under the Edward Byrne Memorial State and Local Law Enforcement Assistance grant program unless the state established "minimally sufficient" systems for registering and tracking convicted sex offenders, provided some method of public access to the information, and agreed to participate in a National Sex Offender Registry to be maintained by the U. S. Department of Justice, Federal Bureau of Investigation.

Many states are taking advantage of emerging technologies to create sex offender registration and community notification systems. This *NCJA Policy and Practice* describes states' experiences with the use of technology for sex offender community notification.

States have been innovative in their use of such technologies as 800 and 900 numbers, World Wide Web sites on the Internet, and CD-ROMs to provide information to the public about the presence of convicted sex offenders in their communities. States have chosen to integrate these technologies into their community notification systems primarily because

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Policy and Practice

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they create opportunities to reach more people while using fewer resources and provide faster responses to public inquiries. Practitioners in the field cite advantages and disadvantages associated with using each of these technologies (see chart on following page).

800 and 900 Telephone Lines

Currently, at least six states -- California, Florida, New York, Oregon, Tennessee, and Wisconsin -- have implemented or will implement 800 or 900 numbers as part of their notification systems. New York's and California's experiences are presented here.

New York

New York in July 1995 created a 900 telephone number for the public to obtain information about sex offenders in their communities. The legislative provisions that created the 900 line were included in a bill introduced in the New York Legislature after Megan Kanka's abduction and murder in the neighboring state of New Jersey, according to Brian O'Connor, press secretary for State Senator Dean Skelos, who authored the law. The telephone line is maintained by the New York Division of Criminal Justice Services (DCJS). Although the law became effective Jan. 21, 1996, and the 900 line became active in March 1998, there currently is an injunction prohibiting the state from releasing information about offenders whose crimes were committed prior to the law's effective date, according to Kenneth J. Connolly, deputy commissioner and counsel of the DCJS' Office of Legal Services.

The state charges callers a \$5 fee per inquiry. A caller must provide his name, the subject's name, and one or a combination of the following: the subject's exact street address, date of birth, Social Security number, or driver's license number. According to Connolly, requiring that callers have precise information has been troublesome from time to time. For instance, if a caller provides his name, the subject's name, and an incorrect street address for the subject -- 124 Main St. instead of 123 Main St. -- the caller will not be informed that the subject is registered as a sex offender even if an offender by that name is registered and residing at the latter address. Instead, the response to the caller may be, "[b]ased on the information you provided, the person you described does not appear to be registered. However, you may want to obtain more specific information such as a house or apartment number and call us back. More exact information may result in a different conclusion."

The state has informed communities of the 900 number through public service announcements and press releases and local media have covered information about the 900 number. The state distributed brochures about the 900 numbers to the public prior to the commencement of a federal lawsuit challenging the law. The state currently is developing updated brochures to comply with the federal court's ruling.

On a weekly basis the state tracks the number of "hits," or telephone inquiries, to the 900 number, according to Connolly. During the period between April 13 and May 8, 1998, there were 49 calls placed to the 900 line with 14 "affirmative responses," which Connolly defined as inquiries that identified an offender on the registry list.

Technology Pros and Cons		
Technology	PROS	CONS
<i>800/900 Lines</i>	<p>accessible from any telephone</p> <p>easy to use</p> <p>precise subject information needed from caller to prevent false identification</p>	<p>may require the public to pay a fee to use the service</p> <p>does not provide photos or a "wildcard" search option -- a search of the database using incomplete search terms or missing data</p> <p>need for precise subject information from caller may prevent him from learning about an offender in the community</p>
<i>World Wide Web/ Internet Pages</i>	<p>broad information dissemination</p>	<p>access available beyond affected community; concern regarding hackers contaminating the data</p>
<i>CD-ROMs</i>	<p>control over who views the information</p> <p>updating records is relatively inexpensive</p>	<p>citizen must go to a local law enforcement agency to view information</p> <p>may be unable to update information as frequently as other media</p>

California

California's Sex Offender Identification Line (SOIL) has been operational since July 1995. The SOIL, formerly known as the Child Molester Identification Line, is a fee-based telephone service accessible to the general public. The state charges callers \$10 to obtain information from the SOIL on up to two subjects. To complete a record check the caller must be 18 or older, provide the name of the subject to be checked and one of the following: the subject's exact address, exact date of birth, or California driver's license, identification, or Social Security number. If only the subject's name is known, the caller may still conduct a record check if he provides a complete description of the subject.

The California Department of Justice, Bureau of Criminal Information and Analysis (BCIA) maintains the SOIL. According to Randy Rossi, assistant chief of the BCIA, although California officials are pleased with the effectiveness of and the public's response to the SOIL, a telephone call does not allow the public to view photographs of offenders and does not permit a "wildcard" search -- a search of the database using incomplete search terms or missing data, for example allowing a search for a last name of "Smit*" to result

in identifying offenders named Smith or Smits, etc.

As of April 1998 the SOIL had received a total of 13,319 telephoned inquiries since it became operational in July 1995. There has been "virtually no vigilante activity," according to Rossi, with fewer than 10 acts of vigilantism out of approximately 60,000 fax, mail, and telephone disclosures since 1995.

In addition to tracking the number of "hits" the line receives, the BCIA analyzes the relationships of the callers to the serious offenders about whom they seek information. Data compiled by the BCIA's Investigative Services Program (ISP) indicate that during the line's second year of operation individuals seeking information on the 900 line had the following relationships to the serious sex offenders about whom they were requesting information: 25 percent were neighbors, tenants, or landlords; 22 percent were friends or acquaintances; 20 percent were employers or employees; 19 percent were family members; 9 percent were victims or victims' family members; and 5 percent were affiliated with faith institutions or had miscellaneous relationships that did not fall into the above categories.

According to the ISP, the revenue from the operation of the SOIL during fiscal year 1996 -- July 1, 1996, through June 30, 1997 -- was approximately



\$20,000, while expenditures during that period were \$120,000. Included in the costs of maintaining the program are staff salaries and benefits, supplies, printing, and other administrative services. The estimated revenue is based on fees associated with mailed requests and calls to the 900 line. During fiscal year 1996, there were 4,900 calls to the line but only 3,619 were billable because callers are not billed until after a 90-second grace period. Often callers hang up before completion of the introductory message or discover that they do not have enough information to complete a search and hang up prior to the commencement of billing.

Faxed and mailed requests for SOIL information also are available for \$5 per inquiry. According to Rossi, the service has been very well received and now the demand for mailed requests far exceeds that for telephone inquiries. For example, in April 1998 there was a total of approximately 2,400 inquiries -- 454 by telephone and more than 1,900 by mail.

Searchable Web Sites

At least six states -- Alaska, Florida, Georgia, Indiana, Kansas, and North Carolina -- have posted information from their sex offender registries on the World Wide Web. The Virginia legislature in the spring of 1998 enacted legislation that will allow the state's registry information to be posted on the Internet by the end of 1998. Officials in Utah said the state will be posting registry information, pursuant to a recent change in state law, by the middle of July 1998.

Legislators in Tennessee in May 1997 enacted legislation authorizing the Tennessee Bureau of Investigation (TBI) to post sex offender registry information in a similar manner, but the implementation of community notification has been struck down by the Federal District Court for the Middle District of Tennessee. *Cutshall v. Sundquist*, which the court decided Sept. 25, 1997, precludes the TBI from disseminating registry information to the public without providing offenders a hearing to contest its release. The TBI currently is appealing this decision.

A primary reason to post sex offender registry data on the Internet is to provide wide access to the information at a low cost. For example, in both Kansas and North Carolina, officials said their reason for choosing the Internet to share information about sex offenders was to reach a large number of citizens at a low cost. They cited computer terminals at

public libraries as a way for people who do not have access to computers or the Internet to view sex offender registry sites. The desire to provide wide access to registry information also was an impetus for creating the sex offender registry Web site in Georgia. Eden Freeman of the Georgia Bureau of Investigation's (GBI) Crime Information Center said her agency had received a number of requests from the public for information on sex offenders released to community supervision. The GBI had been referring citizens to local sheriffs' offices and police departments, many of which had developed Web sites on their own. According to Freeman, the state's desire to make all Georgia sex offender registry information available to the state's citizens, coupled with the availability of assistance from the Georgianet Authority, a state agency that helps other state agencies create Web sites, encouraged the GBI to post the state's registry information. The state's Web site went online in March 1998.

Another important reason some state policymakers opt for posting registry information on the Internet is to control the "unofficial" dissemination of registry information and to deter citizens from distributing the information on their own. In Alaska, prior to creating a searchable Web site, registry information maintained by the Alaska Department of Public Safety (ADPS) was available for the public to view at local branches of the Alaska State Troopers Office. As noted in the NCJA Policy Report *Sex Offender Community Notification*, some citizens had lawfully purchased the registry information and used it to create and post unofficial flyers about offenders in the community. State officials' growing recognition that they could not control how the registry information was used once it was purchased lawfully by a citizen, along with their awareness of the increasing number of requests for registry information from public libraries and parent-teacher organizations, led the ADPS to make the registry available to the public on the World Wide Web. Alaska's site went online in June 1997.

Implementation Experiences

In states that use the Internet for community notification, officials have been pleased with the technology and reported they have received positive feedback from citizens regarding the sites and that the sites have been heavily trafficked.

In Kansas, Mary Ann Howerton of the Kansas Attorney General's Office, Bureau of Investigation's

(KBI) Crime Data Information Center said she and other state officials are pleased with the KBI registry Web site, which was posted in April 1997. To date, the site has received more than 30,000 visitors.

Howerton said one of the KBI's top priorities is to ensure that the site provides only the most accurate offender information. When the site first came online, it contained one incorrect address about an offender who had moved from that residence approximately one and a half years earlier. The family who lived there at the time the registry information was posted on the Internet reported experiencing incidents of harassment, such as people throwing stones at their house.

Since that incident, the KBI has created safeguards to prevent inaccurate information from being posted on the site. It adopted a policy to send a "Dear Occupant" letter verifying the address information provided by newly registered offenders, and includes a self-addressed stamped envelope to return the information to the KBI. After the incident with the incorrect address, the KBI sent the "Dear Occupant" letter to all the addresses registered offenders had provided. Also, Kansas law requires that sex offenders verify their address with KBI officials every 90 days.

Howerton said there is general concern with the possibility that hackers will access the site and corrupt the data. Although the KBI has not faced an incident of corruption, it has created firewalls, or barriers to protect the integrity of the data and its

server, and other technological protections to help ensure that corruption does not occur in the future.

The GBI's Freeman said she and other officials have received only positive feedback about the Web site, which continues to receive a large number of visits. She said the sex offender registry information draws people to the GBI site, and noted that between March 13 and 31, 1998, the registry site received more than 6,000 "hits."

The GBI hopes to develop its capability to include photographs of offenders on the Web site soon. During the initial site development, GBI officials did not have photographs for all offenders and currently do not have access to the technology to allow for the digital transmission of photographs from a county probation or parole department, for example, to the GBI for inclusion in the site's database. Freeman estimated that it will take approximately two years before photographs of all registered sex offenders will be displayed with their registry information on the site.

In Indiana, officials with the Indiana Criminal Justice Institute (ICJI), the state agency that maintains the sex offender registry database and Web site, said they have found the Web site complements existing community notification activities provided under Indiana law. John Ransburg, a program supervisor at the ICJI who oversees the registry, said the ICJI relies primarily on "hard copy" dissemination of sex offender registry information, by providing a paper

Sex Offender Registry Web Site Elements

The sex offender community notification Web sites in all six states share similar elements. Typically, the sites open to information regarding the types of offenders about whom registry information is posted, the agency's authority to post the information, and/or warnings regarding the accuracy of the information and penalties associated with committing acts of vigilantism against offenders.

Other similarities include allowing viewers to search by a number of fields, including the offender's name, city, and zip code. For example, in North Carolina, a visitor to the site can access information by providing an offender's first name, last name, age, city, county, zip code, or registration status. Also, with the exception of Indiana's, the states' Web sites list the address the offender gave upon his registration. Indiana's site limits information to the city, county, and state of the offender's residence. All states list the crime(s) of which the offender was convicted.

The sites differ in other offender information they provide. Although all the sites provide an offender's date of birth, sites maintained by Alaska, Georgia, Indiana, and North Carolina provide information regarding the offender's date of conviction. Florida, Georgia, Kansas, and North Carolina provide the date of registration. Georgia and Indiana are the only sites of the six that do not provide a photograph of the offender when it is available, and Alaska is the only state that includes an offender's employer address information.



Legal Challenges and the Potential for Vigilantism

The enactment of state and federal sex offender registration and community notification laws has raised constitutional issues and a number of court challenges, including *ex post facto* when registry and notification laws apply retroactively to offenders convicted prior to the enactment of legislation; questions of whether an offender's due process rights are violated as a result of the manner in which his level of risk to the community is determined (if at all) and his lack of an opportunity to appeal the classification; double jeopardy concerns; and the geographic scope that should drive the dissemination of information regarding an offender's release into the community.

Such issues as vigilantism and offender harassment resulting from sex offender registration and community notification have yet to be raised in courts of law, although they have been concerns since these laws were first passed. States have created penalties to sanction individuals who commit illegal acts against convicted sex offenders and at least three states -- New Jersey, Oregon, and Washington -- have tracked incidents of harassment. There have been very few documented reports to law enforcement officials of harassment in these three states, however.

The potential for vigilante activity exists. Soon after California released its CD-ROM, an ex-offender whose car was firebombed alleged the incident was an act of vigilantism, according to the American Civil Liberties Union (ACLU). Elizabeth Schroeder, associate director of the ACLU of Southern California, said the firebombing was an "inevitable and predictable result of release of the new California CD-ROM," and ". . . the use of a data-base to alert the public about the identity and whereabouts of paroled sex offenders will not keep our children safe. In fact, a [local] child could have been passing by when the bomb destroyed the car."

However, Mike VanWinkle, with the California Department of Justice (DOJ) said the department has not received any formal complaints from registrants about vigilante behavior, despite publicized allegations such as those brought by the ACLU, and said people in California who are convicted of such acts of violence may face a five-year enhanced penalty if it can be shown that the act of violence was a result of using registry information inappropriately.

Sources: Washington State Institute for Public Policy and the American Civil Liberties Union

copy of the database to schools, registered child-care facilities, and state licensing agencies, pursuant to Indiana law.

In some states that allow or require law enforcement officials to disclose information to the public regarding the presence of sex offenders in the community, local law enforcement agencies have posted information about sex offenders within their jurisdiction on the Web. In addition to the county sites developed in Georgia, local officials in Arizona, Michigan, Oregon, and Washington have developed Web pages to post information on sex offenders within their jurisdictions.

CD-ROMs

The use of CD-ROMs, or optical disks that contain data that are interchangeable between different types of computers, is another technology states are using to provide public access to sex offender registry information. Currently, California distrib-

utes CD-ROMs to state and local law enforcement agencies to allow interested citizens to view information about sex offenders living in their communities.

Tennessee's legislation will require the TBI to create a similar system, but the state must await the decision of a federal appeals court before it can implement community notification (see p. 4, "Searchable Web Sites").

The use of CD-ROMs -- depending on how a state's enabling legislation is structured -- may provide state and local law enforcement agencies more control over registry information by creating safeguards to discourage its illegal or inappropriate dissemination. For example, laws in both California and Tennessee include measures that restrict who may access information and ensure it is used appropriately, such as:

- requiring the state to provide quarterly updates of the CD-ROM to designated state and local law enforcement agencies;
- encouraging law enforcement agencies to limit the disclosure of CD-ROM information

to those individuals who can express a purpose or need for the information, are in possession of a state driver's license or identification card, are at least 18 years of age, and are willing to sign a statement indicating they understand that the purpose of releasing the registry information is to enhance public safety and it is unlawful to use the information to engage in illegal discrimination or harassment of registered offenders;

- maintaining confidentiality of information about the victim; and
- restricting to law enforcement agencies the records of citizens requesting to view the CD-ROM.

The California Department of Justice (DOJ) July 1, 1997, released *California's Registered Sex Offenders: Megan's Law* CD-ROM, which provides the following information on registered sex offenders in California:

- registrant's name and aliases, if any;
- photograph, if available;
- gender;
- physical description;
- registered sex offenses; and
- county of residence and zip code.

The latest version of the CD-ROM, released in April 1998, contains information about approximately 65,700 registered sex offenders in the state.

The CD-ROM is one of three media California officials use to disseminate information to the community about offenders convicted of felony sex crimes and misdemeanor child molestation offenses. In addition to its CD-ROM and 900 number, the state provides law enforcement discretion to notify citizens about the presence of sex offenders in the community.

According to Mike VanWinkle, public information officer with the DOJ, many factors led to California's choice of CD-ROM technology for providing community access to the state's sex offender registry. Most importantly, the use of the CD-ROM allows the state some control over the information that is disseminated. According to California Attorney General Dan Lungren's office, this medium, which allows the state to disseminate data only to the local residents, meets the intent of the law by providing information to citizens who could be at risk. The broader availability of this information on the Internet, according to the attorney general's office, may increase the possibility of the information's misuse by making it available to users worldwide.

In addition, VanWinkle said California policymakers were concerned that more public media for disseminating sex offender registry information may be breached and altered by computer hackers. With this concern in mind, a CD-ROM appeared to state decisionmakers to be an appropriate and easy way of allowing public access to registry information.

Cost was another factor in translating registry information to the CD-ROM technology. Prior to the creation of the CD-ROM, the DOJ disseminated a binder containing criminal history information on approximately 900 convicted child molesters to local law enforcement agencies. The production and dissemination of each binder, according to VanWinkle, cost the state approximately \$120, while the production and distribution of CD-ROMs, which include information about tens of thousands more offenders, cost the state approximately \$10 per disc.

In the year the CD-ROM has been a component of California's community notification program, VanWinkle said the DOJ and other agencies have worked closely with local law enforcement agencies to provide assistance in using it. For example, although California law requires the DOJ to update the CD-ROM quarterly, as of April 1998 it had been updated six times since its initial release. The modifications reflect updates, new offender information, and corrections made to the registry database. Further, the California Commission on Peace Officer Standards and Training has provided training documents and a videocassette to local law enforcement agencies to guide their use of the CD-ROM and implementation of the Megan's Law provisions.

Initially, opponents of the technology were concerned about the accuracy of the information contained on the CD-ROM. Because California created its sex offender registry in 1947, there was concern that data regarding individuals convicted of crimes such as consensual sodomy that do not warrant registration today under California law would be included on the disc.

VanWinkle said the DOJ has taken a number of steps to ensure that only the most accurate and appropriate data are included on the CD-ROM. Four years ago, agency officials reviewed the sex offender registry information and deleted the files of deceased individuals and those convicted of crimes that no longer warrant registration.

He also said the state has not received specific complaints from citizens regarding the inclusion of incorrect information on the CD-ROM. The most significant concern raised was brought by a citizen



who has a common name that happened to be the same as that of an offender whose information was included on the CD-ROM. Fortunately, the file contained the offender's picture and other identifying information, from which it could be determined that the concerned citizen and the offender were two different people.

Conclusion

Elected officials and criminal justice practitioners at the federal, state, and local levels have devoted a significant amount of time and effort to craft legislation and policies to guide oversight of sex offenders under community supervision and comply with federal law. Many states and units of local government have chosen to integrate emerging technologies into their sex offender registration and community notification systems in efforts to reach as many citizens as possible. However, states have been and will continue to be challenged to find the balance between communities' rights to access public information with the protections provided to convicted offenders. States can learn from each others' experiences about these important issues. More information about states' experiences with sex offender registration and community notification systems and their use of technology for these and other public safety purposes is needed to continue and expand such dialogue. Information sharing about sex offender registration and community notification efforts and states' experiences in developing and implementing them is a critical first step in this learning process.

Resources

Organizations

The American Civil Liberties Union (ACLU), 125 Broad St., New York, NY 10004-2400; tel.: (212) 549-2585; <<http://www.aclu.org/index.html>>

The Center for Effective Public Policy, Center for Sex Offender Management (CSOM), 8403 Colesville Rd., Suite 720, Silver Spring, MD 20910; tel.: (301) 589-3505; <<http://www.csg.org/appa/csom.html>>

The National Criminal Justice Association, 444 N. Capitol St., NW, Suite 618, Washington, DC 20001; tel.: (202) 624-1440; <<http://www.sso.org/ncja>> Contacts: Liz Pearson, staff associate and Scott Cooper, staff attorney.

The Washington State Institute for Public Policy, The Evergreen State College, Mail Stop TA-00, Seminar 3162, Olympia, WA 98505; tel.: (360) 866-6000, ext. 6380; <<http://www.wa.gov/wsipp>>

Publications

WASHINGTON STATE INSTITUTE FOR PUBLIC POLICY, *MEGAN'S LAW: A REVIEW OF STATE AND FEDERAL LEGISLATION* (Oct. 1997).

NATIONAL CRIMINAL JUSTICE ASS'N, *SEX OFFENDER COMMUNITY NOTIFICATION*, (Oct. 1997).

World Wide Web Addresses

Searchable State Sites

Alaska Department of Public Safety, *Sex Offender Registration Central Registry* (last updated May 22, 1998) <<http://www.dps.state.ak.us/Sorcr>>.

Florida Department of Law Enforcement, *Sexual Predators and Sex Offenders* (visited May 26, 1998) <http://www.fdle.state.fl.us/index.asp?Sexual_predators/index.asp>.

Georgia Bureau of Investigation, *GBI Sex Offender Search Page* (last updated May 6, 1998) <<http://www.ganet.org/gbi/disclaim.html>>.

Indiana Criminal Justice Institute, *Sex Offender Registry -- State of Indiana* (visited May 26, 1998) <<http://www.ai.org/cji/html/sexoffender.html>>.

Kansas Bureau of Investigation, *Registered Sex Offenders* (last updated Mar. 25, 1998) <<http://www.ink.org/public/kbi/kbisexpage.html>>.

North Carolina State Bureau of Investigation, *Sex Offender and Public Protection Registry* (visited May 26, 1998) <<http://sbi.jus.state.nc.us/sor>>.

Tennessee Internet Crime Information Center, *Sexual Offender Registry* (visited May 26, 1998) <<http://www.ticic.state.tn.us/sexoffender.htm>>.

Searchable County and Local Sites

Marion County Oregon's Corrections Office, *Sex Offender Community Notification* (last modified May 6, 1998) <<http://www.open.org/mcorrect/sexnotif.htm>>.

Bellingham (Wash.) Police Department, *Sex Offender Registry* (last updated Mar. 1998) <<http://www.city-govt.ci.bellingham.wa.us/cobweb/police/sexoffr.htm>>.

Tucson (Ariz.) Police Department, *Sex Offender Notification Level 3*, (visited May 26, 1998) <<http://www.ci.tucson.az.us/police>>.

Benton County (Ore.) Sheriff's Office Community Corrections, *Sex Offender Community Notification*, (last modified Sept. 23, 1997) <<http://www.peak.org/benton-county/sheriff/corrections/sonote.htm>>.

Michigan State Senator Dave Jaye, *Public Sex Offenders Registry for Macomb County*, (last updated between Mar. 10, 1998 and April 13, 1998) <<http://www.jaye.org/MACPSOR.html>>.