



USING THE INTERNET TO PROVIDE PASSIVE COMMUNITY NOTIFICATION ABOUT REGISTERED SEX OFFENDERS

A RESOURCE PAPER PREPARED FOR
THE CALIFORNIA COALITION ON SEXUAL OFFENDING by:

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The **California Coalition on Sexual Offending** (CCOSO) is a statewide association of professionals involved in preventing sexual victimization through the assessment, treatment and management of sex offenders. More information about the organization is available at www.CCOSO.org. CCOSO's mission is increased community safety. To carry out this mission, CCOSO advocates sound public policy, working collaboratively with other organizations, including the Justice System, and providing information to policy makers, agencies, organizations and the public. This paper constitutes one such effort.

CONTENTS

EXECUTIVE SUMMARY	1
Introduction.....	4
History of Sex Offender Registration and Notification	7
The Socio-Cultural Context of Sex Offender Notification Laws	9
Current Practice in Other States and Jurisdictions	13
Current Practice in California and Impending Legislative Changes.....	13
The Debate About Widespread Passive Notification – Pros and Cons.	14
Arguments Favoring Widespread Notification	15
Arguments Against Widespread Notification	15
What Is Actually Known about the Effectiveness and Impact of Internet Notification?	18
Conclusions.....	19
Recommendations	20
Resources	22
References	22

EXECUTIVE SUMMARY

Introduction.

Federal law requires that by 2006, all States must provide public Internet access to information about registered sex offenders. States have discretion about what information to provide. Although numerous pieces of legislation have been advanced to create a system of Internet notification in California, none has – at the time of this writing – been accepted as law and policy makers continue to work on the issue. Sections “B” through “H” of this paper provide policy makers and the public with balanced and reliable information about this complicated issue. Sections H and I offer CCOSO’s conclusions and recommendations.

Legal History. The concept and the possibility of posting sex offender identities and information on the Internet in California is framed by laws and court decisions in California, other states and at the Federal level. New California policy will be created within the context established by these events. Relevant events began with California becoming the first State to register sex offenders, beginning in the 1940’s. The events currently culminate with recent Supreme Court decisions upholding the legality of widespread Internet dissemination of the registrants’ identities and whereabouts and Federal legislation requiring some form on Internet notification in every State.

Socio-cultural Context. Legal events relevant to Internet Notification have been driven by the larger socio-cultural context of the late 20th and early 21st centuries. The aspirations, hopes and dreams of those who won WW II, overall visibility of sexuality in society, increased awareness of the prevalence of sexual assault, the Civil Rights Movement, feminist perspectives and significant changes in public attitudes toward crime and the criminal justice system generally, have all contributed to this context. Certain highlights can be identified that relate to current popularity of widespread Internet notification systems.

Current Practices in Other States and Jurisdictions. Many states have already enacted policies about Internet notification. Awareness of these policies and of the arguments supporting them is an important context for determining the best direction to take in California.

Current Practices in California and Impending Changes. Multiple state and local systems converge around the management of sex offenders in the community. How well these systems currently work and how effectively they interact is an important question bearing on the issue of how best to maximize community safety. The larger framework of these existing systems will provide the additional context for whatever Internet community notification policy California ultimately adopts.

The Debate about Internet Notification – Pros and Cons. Arguments in favor of notification include assertions that readily available information allows parents to supervise children more effectively and allows them to warn children to stay away from certain individuals. Proponents also believe that people feel safer when they have more information and that high registrant visibility deters reoffenses. Some of the arguments opposing widespread notification include assertions that most sex offenders are not predatory and overwhelming the public with information about all sex offenders creates unnecessary anxiety. Opponents also argue that widespread notification requires officials to track so much information that some of it is bound to be inaccurate. Many experts believe that notification tends to isolate sex offenders from potential support systems and makes their lives more difficult in terms of housing and employment. The concern in this regard is that these difficulties drive some of the offenders into hiding and makes many more rather than less dangerous. Some argue that focusing on “stranger danger” will tend to obscure the fact that the greater danger is from friends and family, because sexual assault victims of all ages usually know their assailants well before they are assaulted. Finally, victim groups have complained that publicity about registrants often implicitly identifies victims, victims’ families, and innocent members of registrants’ families, causing untold distress to these innocent people.

What is Known about the Impact and Effectiveness of Internet Notification. Although passionately espoused arguments exist on all sides of the issue, very little academic or policy research has been conducted on the actual positive and negative effects of Internet notification.

Conclusions: Enhanced community safety is the only legitimate motive for publishing the identities and/or locations of registered sex offenders. Proponents and opponents of widespread Internet notification share that goal but disagree about ways to achieve it. Both sides present cogent arguments but neither side has empirical evidence supporting their position. As a result, State legislators are faced with the daunting task of implementing a Federal mandate in the midst of a heated debate and with little empirical guidance. What does seem clear is that any form of Internet notification will be far more effective if it is implemented in the context of a carefully crafted comprehensive plan for managing sex offenders who reside in the community. Unfortunately, California has historically taken a piecemeal approach to all criminal justice issues and presently lacks such a plan. Sexual offenders convicted under juvenile law are in some ways a distinct group warranting separate and careful consideration outside the scope of this paper.

Recommendations: Given heated arguments on all sides of the issue, a Federal mandate to act now, very limited accurate knowledge about likely effects of various approaches, and the well established fact that most sexual assaults are carried out by people the victim is already familiar with, California’s wisest

course will be creation of a limited notification system that allows citizens to search a database for specific names of the most dangerous offenders, but does not allow them to scour neighborhoods for potentially inaccurate information about strangers. For a variety of reasons, the names of offenders convicted under Juvenile Law should not be included in the Internet database at this time.

The approach recommended above would offer California opportunities to experiment with wider notification in limited areas within carefully crafted research designs. Given victim concerns, it is also advisable for authorities to notify victims before a registrant's identity is publicized and allow victims to register potential objections.

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Introduction

Posting pictures, addresses, crime descriptions and other identifying information about individuals convicted of certain sex offenses on a website accessible to the public via the Internet is a community safety strategy that has gained increasing acceptance in recent years. Following the path already taken by many other states¹, California is moving toward making information about convicted sex offenders available to the public through such Internet posting.

Proponents of this new system believe that ease of access to such information will make California communities safer, while opponents cite the absence of any research to support such a belief along with the potential for a number of negative consequences, even suggesting that it might actually diminish public safety. Many persuasive arguments are put forward by each side.

For some the debate clearly pits the rights of potential future victims against possible hardships for registrants. For others, the question is better framed as one about whether Internet notification actually increases or decreases community safety, or perhaps has no perceptible effect except to create the impression that something is, indeed, being done.

To date, California's effort to comply with federal "Megan's Law" legislation has produced a system whereby certain information about registered sex offenders could be accessed through an in-person visit to local law enforcement agencies or by means of a "900" number toll phone call.² The fact that this system was due to "sunset" at the end of 2003 was among the factors leading to increased

¹ Reportedly over thirty states now have some form of Internet notification. Examples websites of states taking such an approach include

Illinois (<http://www.isp.state.il.us/sor/frames.htm>),

Wisconsin (<http://offender.doc.state.wi.us/public/>),

Kansas (<https://www.accesskansas.org/registered-offender/index.html>)

Wyoming (http://attorneygeneral.state.wy.us/dci/so/so_registration.html)

West Virginia (<http://www.wvstatepolice.com/sexoff/>)

² In addition, "active" community notification for specific high-risk cases is currently managed in a variety of ways by local law enforcement agencies.

activity to change to an Internet-based system.³ Another contributing factor is a pair of 2003 Opinions from the United States Supreme Court that notification procedures used in Connecticut and Alaska are constitutionally permissible⁴. Finally, recent federal legislation [1] requires States to make available, via the Internet, information about sex offenders considered necessary for public safety under the Jacob Wetterling Act [2].

The **California Coalition on Sexual Offending** (CCOSO) has followed the development of this legislation and the discussion surrounding it with great interest. CCOSO is the only statewide association of professionals involved in the treatment, supervision and management of sex offenders living in California. Coalition members believe the organization can play a useful role in the current debate by providing objective information and a link to relevant resources for all interested parties. We developed this paper towards that end and compiled an accompanying collection of additional materials. Some of those materials are available at www.ccoso.org/internetnotice. More will be added as copyright owners give CCOSO permission to reproduce their work.

The path toward implementing Internet notification in California has been anything but direct. Many arguments have been advanced, both for and against Internet publication of sex offenders' identities. Most of those arguments are summarized in this paper. Much debate has occurred in the legislature and other public forums.

According to California Department of Justice statistics, as of May 2003⁵ there were 100,501 registered sex offenders in California.⁶ Of that total number, 1,836 have been classified as "high risk" and 82,190 as "serious." It is those two groups that are subject to the current notification system. A third group of Registered Sex Offenders, called "other," have been convicted of crimes not currently subject to public notification. Of the first two groups, a combined total of 55,902 are living in the community, 14,556 have returned to jail or prison, 10,800 have left the state, and 2,768 have been deported. Altogether, 70,458 current California residents – almost all of them adult males – are subject to notification under the present system and would be subject to Internet

³ An extension to the sunset deadline was enacted by the Legislature so that the state would not lose federal monies due to non-compliance with Federal Megan's Law requirements.

⁴ The Connecticut case focused on whether an individualized risk assessment was required before sex offenders were listed on the state's website. The Supreme Court ruled that posting the information without such an assessment is not unconstitutional. In the Alaska case, the Court ruled that Internet Posting of registered sex offenders convicted prior to the passage of enabling legislation was an administrative decision rather than ex-post-facto legislation.

⁵ See the California Attorney General's website: <http://caag.state.ca.us/megan/stats.htm>

⁶ Thus approximately 1 of every 123 adult males in California is a Registered Sex Offender. Some of these, it is acknowledged, have left the state or have failed to re-register as required.

notification if California addresses federal requirements by simply transferring the present system to the Internet.

Because California has been requiring certain sex offenders to register since the mid 1940's, far longer than any other state, California's cumulative total of registered sex offenders is much larger, both in absolute numbers and proportionately, than the total for any other state. Consequently, California provides a template that may eventually apply to every Jurisdiction. In California's case this template means that approximately one out of every 180 adult males in the state⁷ could be posted on the Internet as a sex offender. The number of additional individuals – parents, children, siblings, other relatives, employers, landlords, associates - who could also be impacted by posting each sex offender's identity can only be guessed at.

The task of accurately tracking all of these registrants is enormous, errors are inevitable and agreement on an acceptable standard of accuracy has been elusive. The Department of Justice has been criticized for failing to keep good records and for allegedly "losing" many of its registered sex offenders [3].

The political context within which discussion about Internet posting occurs is one that challenges all participants. It is risky, in today's political climate, to take a position and cast a vote that could later be construed by potential political opponents as "soft on crime." The enactment of term limits for elected officials reduces the number of securely entrenched politicians who can vote without weighing heavily the potential political vulnerability and/or support that taking a particular position may entail. Thus, as the legislature weighs the matter, considerations beyond the intrinsic merits of any position in this debate may eventually determine the outcome. Nevertheless, it seems important to present those merits and provide information that allows interested parties to carefully consider this issue. It is against this background that the information offered in the following sections of this paper is provided.

Putting this paper forward at this time entails the risk of further intensifying political focus on this particular issue while eclipsing themes that should provide a larger context for considering the overall usefulness of Internet notification. There are numerous other strategies for making the community safer with respect to sexual assault but few of them have been implemented in California. Other approaches within the criminal justice framework include implementing more careful individual risk assessments, increasing the length and intensity of supervision for high risk cases (including possible lifetime supervision), requiring quality treatment for those amenable, using the "Containment Model" for more effective management of sex offenders in the community and creating

⁷ Based on a 2000 census total of 12,713,618 adult males in the state.

transitional housing to reduce the numbers of homeless and rootless sex offenders who are often lost to the registration system⁸. Community notification and education meetings can help citizens understand that in reality the greater danger of sexual abuse and sexual assault is posed by individuals already known to the victim, not by lurking strangers. Several states have created Sex Offender Management Boards in order to coordinate multi-agency efforts and promote best practices for managing sex offenders in the community.⁹

The true reduction of future sexual victimization and the selection and support of methods to advance that goal require a broad range of strategies to be put in place, many of them outside the boundaries of a strictly criminal justice system approach. More public policy energy should be directed into reframing the problem of sexual assault as a public health issue. Supporting the introduction of such grass roots approaches as "Circles of Support and Accountability"¹⁰ and innovative primary prevention services like "Stop It Now!"¹¹ can be useful components of a larger strategy.

Unfortunately, California's focus at this time is primarily on the notification question. Therefore, CCOSO presents this paper as a service to all who wish to look more carefully at this one, very limited aspect of the larger issue of enhanced community safety from sexual abuse.

History of Sex Offender Registration and Notification

In 1947, California became the first State to require convicted sex offenders to register with local law enforcement agencies. However, it wasn't until the mid-1990's, with acceptance of sexual abuse as a community problem and some highly publicized sexual assaults against children, that federal laws were enacted requiring States to track sex offenders and make certain information available to the public. At that time, Congress began passing a series of statutes that collectively require states to strengthen their procedures for keeping track of sex offenders:

1. Under The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (1994) [2] States must:
 - a. Require certain offenders to register.
 - b. Maintain accurate registries.

⁸ Each of these methods has been implemented elsewhere in the country, or in other countries, with documented success.

⁹ A bill recently introduced by Assemblywoman Judy Chu (AB 2022) would create such a Sex Offender Management Board in California.

¹⁰ See <http://www.bestpractices.org/cgi-bin/bp98.cgi?cmd=detail&id=20011>

¹¹ See <http://www.stopitnow.com>

- c. Maintain and distribute registry information to law enforcement agencies.
 - d. Require law enforcement to disclose information to the public when necessary for public safety.
2. The Federal version of "Megan's Law" (1996) [4] amended the Wetterling Act to require a certain degree of community notification rather than leaving it to the discretion of local law enforcement agencies.
 - a. California requires law enforcement agencies to offer public access to information on every sex offender classified as serious or high risk, including the offender's name, physical description, and the county and zip code where the offender last registered.
 - b. Notification is by way of a listing available at designated locations and updated four times a year, with approximately 3000 registrants added annually.
 - c. Police are responsible for actively notifying potentially at-risk individuals and the community at large when a registered offender lives, works or attends school nearby.
 3. The Pam Lyncher Sexual Offender Tracking and Identification Act (1996 – compliance deadline 1999) [5]:
 - a. Requires the creation of a national computer database to track sex offenders.
 - b. Requires the FBI to handle registration in states that lack "minimally sufficient programs".
 - c. Amends the Wetterling Act to make registration requirements more stringent.
 4. The "Campus Sex Crimes Prevention Act" [6]:
 - a. Amends the Wetterling Act (October 2002) to require sex offenders already required to register in a State to provide notice, as required under State law, to each institution of higher education in the State where the registrant is employed, practices a vocation, or is a student.
 - b. Requires that state procedures ensure that this registration information is promptly made available to law enforcement agencies within the jurisdiction of the institutions of higher education and is entered into appropriate State records or data systems.
 - c. These requirements are tied to state eligibility for certain types of federal grant funding and must be implemented through state law.
 - d. Amends the [Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act](#) [7] to require institutions of higher education to issue a statement, in addition to other disclosures required under that Act, advising the campus community where law enforcement agency information provided by a state concerning

registered sex offenders may be obtained. These changes took effect October 28, 2002 and this notice will be a requirement beginning with the annual security report due October 1, 2003.

- e. Amends the [Family Educational Rights and Privacy Act of 1974](#) [8] to clarify that
 - Nothing in that Act may be construed to prohibit an educational institution from disclosing information provided to the institution concerning registered sex offenders.
 - Requires the Secretary of Education to take appropriate steps to notify educational institutions that disclosure of this information is permitted.
5. The federal PROTECT Act of 2003 (PL-108-21, section 604) requires each state to make information about registered sex offenders available via Internet no later than 2006. States apparently have considerable discretion as to exactly what information must be posted. The U.S. Justice Department is expected to issue guidelines.

In addition to congressional action that legislates state tracking of sex offenders, the United States Government recently began tracking sex offenders internationally. [Operation Predator](#) [9] is a new initiative developed by the Department of Homeland Security's Bureau of Immigration and Customs Enforcement (ICE) to protect young people from "*child pornographers, alien smugglers, human traffickers, and other predatory criminals*" world-wide. In partnership with the National Center for Missing and Exploited Children, this initiative seeks to Identify Child Predators through a single web portal leading to all publicly available Megan's Law databases.

(http://www.ice.gov/graphics/enforce/ops/predator_sexoff.htm)

The Socio-Cultural Context of Sex Offender Notification Laws

Dramatic socio-cultural and political shifts during the last half-century created the zeitgeist for registering sexual offenders. The United States emerged from World War II victorious, feeling powerful, hopeful and looking positively to the future. Believing ourselves powerful enough to create a near-Utopia, we set about perfecting technology to shape, mirror and propagate our culture. An important aspect of this was that news was no longer relegated to print media. As news expanded into homes and automobiles via television and radio, entertainment and mass marketing became increasingly fused and woven into the fabric of ordinary existence. News was no longer just something we read at will; it began "texturing" daily life.

It was against this backdrop that Kinsey published his studies about American sexual behavior, Hugh Hefner exploited the information with *Playboy* and Larry

Flynt's *Hustler* took *Playboy* to extremes Hefner never intended. Each, in their own way, exposed aspects of American humanity that many Americans loathed to embrace but could not fully avoid. In almost bizarre contrast, the Civil Rights Movement, Haight-Ashbury, and the Viet Nam war accompanied Kinsey, Hefner and Flynt in their daily assaults on American consciousness, while crime rates climbed and political and moral leaders were repeatedly assassinated before our eyes in what was no longer the privacy of our homes. Bombarded by these images, Utopia seemed increasingly beyond reach of WW II's victors, who were now constantly confronted with infotainment accusingly telling them that their fine intentions were but shallow pretensions. To make things worse, it was often their disillusioned children doing the reminding. This deepening and now multi-generational national identity crisis, this constant tension between our ideals and our darker side, has yet to be resolved and is now reflected in, among other things:

1. Changing Sexual Mores
 - a. Dramatic increases in sexual content in the legitimate media.
 - b. Increasing tension between undeniably popular media exploitation of sexualized children on the one hand and outrage at those who perpetrate against children on the other.
 - c. Easy access to child pornography: Never before has such a large volume and such a wide range of pornographic images been so readily available to minors [10]. On January 16, 2004 Reuters reported the results of an Italian Children's Rights study which demonstrated a 70% increase in pedophilia web-sites between 2002 and 2003 [11].
2. The Feminist Movement
 - a. Building on the sweeping changes of the Civil Rights Movement, the Feminist Movement focused attention on gender inequality, positing the patriarchal social structure as the root cause of violence against women and children. Feminist ideology helped transform rape laws by changing legal definitions of consent and force. [12]
 - b. Women and women's issues became more visible. Birth control became readily available, and abortion became legal. Women took control of their sexual and reproductive lives.
 - c. The efforts of the women's movement and the child protection lobby brought child sexual abuse to public attention [13]. By the end of the 1970s, child abuse reporting laws addressed not only physically abused and neglected children, but also children who had sexual contact with adults. Reports of sexually abused children rose 83% between 1986 and 1993 [14].
 - d. Media attention to child sexual abuse grew with sensationalized media coverage of the high-visibility trials of the 1980's and 90's (e.g. McMartin, Kelly Michaels, Little Rascals), and the disclosure of sexual abuse by Hollywood celebrities like Roseanne Barr, Oprah Winfrey, and

Anne Heche brought child sexual abuse into the nation's living rooms and family conversations.

- e. Parental advocacy groups used high-profile child sexual abuse cases to focus attention on convicted sex offenders living in communities. This led to federal laws mandating more stringent control of these individuals.

3. Paradigm and Policy Shifts in the Criminal Justice system.

Attitudes toward and policies concerning sex offenders are, in part, reflective of society's overall stance toward crime and criminals of every sort. Over the past thirty years a number of noteworthy profound changes in the societal response to crime have taken shape. Because these shifts have been so gradual and are so pervasive, it is difficult to think of them today as anything but obvious and unquestioned truths that simply express "the way things are." Many of these shifts in public opinions about crime in general strongly color societal attitudes toward sex offenders. Among these changes, the following stand out as relevant to the topic of this paper

- a. There have been huge increases in crime, in the size of the imprisoned population and in the visibility of crime in the public eye. Public fear of crime has become an increasingly important political theme and has, some argue, been manipulated by some for political gain. Policies about sex offenders claim high visibility and can reflect this politicization.
- b. There is a growing belief that high crime rates are not substantially related to social policies and adverse life circumstances so much as being the function of a criminally inclined underclass making rational but immoral choices that cannot be changed by social policies and programs. Thus criminals are seen as freely choosing a life of crime and as fully deserving any bad consequences that result.
- c. A dramatic shift has occurred away from the rehabilitative model of criminal justice to a "just desserts" model that emphasizes punitive sanctions and "expressive justice" over reform. This shift has been called "the decline of the rehabilitative ideal" and one of its effects has been disbelief in and curtailment of correctional treatment.
- d. Emphasis has shifted away from trust in rehabilitation and other previously supported strategies for effective crime prevention toward the identification, reduction and management of "risk" which has come to be seen as an inevitable reality of daily life for decent Americans. Sex offender notification systems focus on identifying and protecting against risk.
- e. There has emerged a broad and intense public emotional investment in crime that includes fascination, fear, anger, imitation, resentment and other dimensions and is readily identified as pervasive in the popular culture. This cultural fascination with crime, like the

- cultural fascination with sex, is reflected in and driven by popular media that rely on it to sell airtime and countless products. At the convergence of these two streams of intense interest stands the population of identified sex offenders, frequently represented in the public eye by the most notorious and newsworthy perpetrators.
- f. Pervasive public and political skepticism has become widespread with regard to the effectiveness of the overall criminal justice system in safeguarding the public. Associated with this mistrust is the widespread disbelief that criminals can be reformed through effective correctional and social programs, despite considerable research findings to the contrary. The latter has been called the "Nothing Works" philosophy. Lifetime registration and notification reflect the sentiment that "once a sex offender, always a sex offender."
 - g. There is also a widespread withdrawal of trust in the expertise of criminal justice professionals and corresponding acceptance of the need for citizens to protect themselves from crime in the absence of effective state protection. Strategies include gated communities, private security services, mace and handguns, self-defense training and the like. The suggestion that citizens should become responsible for identifying and protecting themselves from sex offenders is consistent with this trend. Along with this withdrawal of trust has appeared a powerful tendency to replace correctional professionalism with simplistic criminal justice policies based on escalating political demands arising from a frightened, confused and frustrated public.
 - h. Increasing emphasis is being given to the concerns of crime victims and potential victims. While such attention is long overdue and as yet insufficient, it seems to have been matched (although it need not necessarily be) by a proportional decrease in the perceived human value of individual offenders. It is probably not coincidental that most recent laws related to sex offender registration and notification were quickly enacted in response to high-profile crimes and carry victims' names. Few voices speak up for the humanity, needs and rights of criminals; even fewer speak up for sex offenders.
 - i. This changed criminal justice climate as well as the public mood foster the implicit dehumanization of criminals, who are increasingly seen as "not like us" and as "other" and therefore undeserving of understanding or assistance.

Each of these themes is presented in an extremely compressed form. Taken together and sufficiently understood, they portray a set of societal values that make the nationwide move toward community notification regarding sex offenders appear a perfect expression of prevailing attitudes. To understand this larger context is to bring increased breadth of perspective to the question of Internet notification.

Current Practice in Other States and Jurisdictions

Each year, approximately 140,400 sex offenders are released from correctional facilities into their communities to live and work [15]. In granting the individual states' discretionary disclosure, Megan's Law created some disparity in the various states' notification practices. Given latitude, some states, like Illinois, simply offer complete disclosure via photographs, names, addresses, dates of birth, height, weight, hair and eye color, crime and/or adjudication of sex offenders in post offices, police precincts, as well as free access on-line. This system is known as "passive notification." Other states, such as Louisiana, feel a greater duty to inform pro-actively and do so by directly contacting residents within a specified radius of a registrant's home. Louisiana mails postcards notifying all residents, schools, parks and recreation centers, churches, etc., of a paroled sex offender's address, name, date of birth, physical traits, and crime. Louisiana also places an ad in the local newspaper warning communities of a sex offender's release, and requires sex offenders to display bumper stickers on their vehicles and post signs in their yards. This system is known as "active notification."

As of April 2004:

- Residents of thirty-eight states can search on-line for a person they suspect of being a registrant or screen specific geographic areas (streets, blocks, zip codes) for identifying information about registered offenders living within those areas. Residents of six states (WA, OR, SD, MO, PA, and NH) have limited or local access only.
- Residents of six states (CA, NV, VT, MA, RI, and HI) have no Internet access to information about released sex offenders.

Current Practice in California and Impending Legislative Changes.

California currently has no direct Internet availability of identifying information about registered sex offenders. Aspects of both Passive and Active Notification are used. The Justice Department classifies registrants into three groups: "high risk," "serious," and "other."

1. **Active Notification:** Local authorities in jurisdictions with "high risk" and "serious" registrants actively inform parties who they believe have a need for specific information in order to ensure their own safety or their dependents' safety. Current law is based on legislative belief that local authorities are in the best position to know what level and method of notification is appropriate in their communities [16].

2. **Passive Notification** is achieved via the Megan's Law Web Application located in "Web Kiosks" available to the public during business hours in police stations and other supervised locations.
 - a. California residents who wish to obtain information from the Megan's Law Web Application must be at least 18 years of age or be accompanied by a parent or legal guardian.
 - b. They must complete a form stating that they are not themselves registered sex offenders and must provide identification in the form of a California driver's license or identification card.
 - c. Eligible adults can determine if an individual they are concerned about is a "high risk" or "serious" sex offender by calling the California Sex Offender Information Telephone Service.
 - d. Eligible individuals can search the database for identifying information within a specified radius of their residence.
 - e. Some local law enforcement agencies have also engaged in Passive Notification by putting "sex offender maps" on Internet sites. These block-by-block maps highlight registrants' residential blocks, without their exact addresses.¹² Some of these maps also juxtapose locations of schools and childcare facilities. At least one agency lists the names, legal histories and street locations of "high risk" registrants within its jurisdiction.

To conform to the 2003 "PROTECT Act" requirement by 2006 (see History Section, Point 5, herein) California has the option of dramatically expanding information access much as, for example, Illinois has done. Or, California could limit available information by creating additional registrant classifications and placing only some classes into the publicly available database. As California is not necessarily required to make the Internet information searchable by blocks, zip codes, etc., theoretically, the federal requirement could be met by simply allowing citizens to search for the names of specific individuals they are concerned about. Apparently, the only new federal requirement is that all information the state and/or local authorities deem necessary for the public to protect itself from registered sex offenders must be available via the Internet by 2006 instead of or in addition to present means of disseminating that information.

The Debate About Widespread Passive Notification – Pro's and Con's.

¹² These maps have been criticized on grounds that they provide enough information to alarm people without giving them information to effectively protect themselves or their children. At this writing, these include at least Dublin, Fairfield, Fremont, Fresno, Los Angeles, Palo Alto, Redding, San Diego and San Jose (San Jose includes pictures.)

Advocates of widespread, passive notification via the Internet are well organized and vocal, and the system has gained a great deal of public support. Nonetheless, many people retain reservations and still others are actively opposed to this way of dealing with sex offenders. The debate is likely to continue for years to come.

Arguments Favoring Widespread Notification

1. Notification alerts members of the public and local communities that they are living in the presence of dangerous sex offenders.
2. If parents can identify people who are sexually dangerous to their children, they can supervise more appropriately and inform their children whom to avoid.
3. It takes away the offender's anonymity, making it less likely that he will get into high-risk situations, such as frequenting places where children congregate.
4. People feel safer when they and others have access to this knowledge and are thereby able to look out for one another.
5. Notification can be combined with other forms of community education and therefore facilitates disseminating information about how families and community organizations can best educate and protect children from sexual abuse.
6. Notification can create an informed group of supportive adults around each offender – adults who can support the offender and thereby help prevent reoffending.

Arguments Against Widespread Notification

1. Some offenders are at very high risk for reoffense; others present no more risk than non-registered citizens. Most registered offenders present some degree of risk for specific groups of potential victims, and virtually no risk to others. Indiscriminate notification unnecessarily alarms everyone and makes it difficult to know which victims to protect from which offenders. (As opposed to "active notification" where local authorities notify specific victim groups at high risk from specific offenders.)
2. One registered sex offender may be an individual who indiscriminately accosted and raped dozens of strangers. Another may be a 35-year-old married father of four who had intercourse with a willing 15-year-old when he was twenty. It is confusing to the community and patently unfair to subject these two men to the same degree of notification.
3. External stressors are positively correlated to re-offending. Widespread notification makes it very difficult for registrants to find employment, find housing, or enter into new relationships. At best, widespread notification is stressful for registrants. At worst, it drives

them underground, even motivates them to assume false identities. In these cases it may cause them to lose touch with loved ones, support groups, supervisors and treatment programs. In this way, significant stress from fear of public exposure will lead to increased stress from anonymity and isolation. This is a "recipe for reoffense," that makes these men more rather than less dangerous.

4. Widespread notification is making it increasingly difficult for registrants to find housing. This tends to drive them into poorer neighborhoods, where more dysfunctional families tend to live. Children from these families are more easily victimized than children in more affluent, better organized neighborhoods.¹³ Thus, widespread notification tends to drive offenders towards rather than away from potential victims.
5. Incest offenders are unlikely to target strangers, while widespread notification causes their victims embarrassment at best and at worst, causes them to be actively harassed in their schools and neighborhoods [17]. Widespread notification re-victimizes these children. This problem, while most obvious in incest cases, is not always limited to incest cases. It can occur in any circumstances where publicly identified offenders can be linked to their victims. There have been reports of victims recanting or refusing to report for fear of consequences to themselves and their families [18]. This could lead to reduced reporting and consequent decreases in public safety.
6. Families who want to support registrants in order to reduce reoffense probability are identified, stigmatized and victimized. At best, this is patently unfair to these people. At worst, it motivates them to distance themselves from registrants, causing the registrants to be more socially isolated and therefore more dangerous.
7. We cannot really expect widespread notification to offer much protection. Children can only memorize the names and/or faces of a few registrants. They may remember to stay away from the registrant on their own block, but what of the registrant who goes to a park a half-mile from his home?
8. There are numerous documented instances of widespread notification leading to violence against registrants. In some cases, registrants were incorrectly identified and non-registrants were harassed and even subjected to violence. With more than 100,000 potential registrants and the documented inaccuracy of our registration system [3], the

¹³ e.g. The Third National Incidence Study of Child Abuse and Neglect showed that children living below the poverty line are eighteen times as likely to be sexually abused than children living at or above median income¹⁴. *National Incidence Study on Child Abuse and Neglect*. 1996, Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families. National Center on Child Abuse and Neglect.

potential for embarrassment, harassment and violence based on mistaken identities is enormous.

9. When registrants are harassed in one neighborhood they naturally move to new neighborhoods hoping to find safety while other registrants fleeing from similar persecution elsewhere move in. This can lead to a counter-productive pattern of authorities trying to track frequent moves and frightened citizens trying to stay up to date on which offenders currently live near them.
10. Resources are limited. Notification will discourage men, many of them in relatively low-risk groups, from registering. Then, in order to avoid losing track of these men, we will expend resources searching for them, prosecuting them, and punishing them. These resources would make a greater contribution to public safety if applied to active supervision and treatment of only the highest risk registrants.
11. Already, it appears that only about three-fourths of the individuals required to register actually do so [3]. These are generally the more compliant offenders and probably not the most deviant and dangerous ones. Those who are most alienated from society tend to be the ones with the least to lose and tend to be the most dangerous. Widespread notification will make compliance with registration laws more onerous and could thereby exacerbate this problem. Thus, widespread notification will provide a false sense of security that we know where the bulk of the danger lies, thereby increasing rather than decreasing real risk by driving many of the truly dangerous men into hiding.
12. Widespread notification is intended to help law-abiding citizens feel safer. But, in reality many, if not most, sex offenders pose little risk to neighbors and strangers. By lumping large numbers of sex offenders into one group, widespread notification will exaggerate the apparent danger and actually make people feel more vulnerable rather than safer.
13. The great majority of child victims, probably well over 90% [19], are molested by relatives and family friends. Widespread notification shifts educational efforts to protect children away from this primary source of danger and towards the more insignificant problem of "stranger danger." [20]
14. Child molesters are often sent to prisons, where they are at considerable risk of being assaulted by other inmates. Therefore, the nature of their conviction offense is usually guarded with considerable care by prison administrators. Widespread Internet access could increase the risk to these individuals, make prison administration more difficult, and increase liability for prison administrators and corrections officers.
15. Posting information about tens of thousands of offenders could serve to desensitize the system and the public, resulting in reduced focus on

the comparatively few offenders who pose the most imminent and serious risks.

16. Some individuals have expressed concerns about the effect of Internet posting on real estate values in neighborhoods where offenders are found. Others have expressed concerns over liability if sellers (or even real estate agents) fail to search the database for names of registered offenders living nearby and notify buyers of their presence.
17. The resources used in providing and maintaining an Internet notification system could be put to better uses in order to achieve improved community safety.

What Is Actually Known about the Effectiveness and Impact of Internet Notification?

Arguments supporting and opposing widespread notification are largely based on isolated anecdotes, theories, personal beliefs and values. In point of fact, there have been few attempts to methodically collect information about the actual impact of widespread notification.

To date, the Washington State Institute for Public Policy conducted the only study attempting to ascertain the impact of notification on recidivism [21]. After following 125 adult and 14 juvenile high-risk registrants subject to direct, active community notification and 90 comparison registrants for periods ranging from four to 54 months:

1. The study found no significant differences in recidivism between similar groups of offenders who were and were not subject to notification.
2. The study found that those offenders who did recidivate were apprehended more quickly when they were subject to Internet notification. The mechanism through which this occurred was not specified.

Wisconsin methodically surveyed citizens, registered offenders subject to notification, and community supervision officers responsible for these registrants. These surveys found that:

1. Thirty-eight percent of citizens reported increased anxiety after notification meetings, and attributed this to lack of alternatives for dealing with sex offenders living in their communities [22].
2. Sixty-six percent of Law Enforcement and Probation Agents reported concerns about increased labor and expenditures, questioning whether these resources might not be put to more effective uses. Other concerns included difficulties finding housing for registrants, dealing with media

- attention, and pressure from superiors in cases of high-risk, high-profile registrants [22].
3. Offenders reported significantly increased difficulties maintaining stable housing and employment. The majority also reported ostracism, harassment, and emotional harm to family members. Psychological impact included hopelessness and despair – *"no one believes I can change so why even try?"*[23]

Levenson and Cotter conducted a similar study of registrants in Florida. It produced similar findings [24]. Levenson also reviewed the literature and reported several other studies supporting Wisconsin's findings.

Fears of overt and widespread violence against registrants do not seem to be materializing on a widespread basis, although numerous incidents have been documented [25]. For example, in Texas a State Certified Sex Offender Treatment provider wrote: *"I have had patients beaten up in front of their apartment complex while being called pervert and child molester and then they (the patients) get kicked out of the apartment complex."* [26]

Finally, we know that victim groups have complained that making registrant names public via the Internet can cause considerable distress to victims and their families [17, 27, 28] .

Conclusions

1. The only legitimate purpose for sex offender notification laws is enhanced community safety. The degree to which this purpose can be achieved by sex offender notification laws must be weighed against potential social harm such laws may generate.
2. Proponents of sex offender notification present compelling arguments about potential benefits of notification laws and illustrate their arguments with anecdotes. To date, only one study has methodically collected information about actual benefits achieved by notification laws. It found that these laws have no effect on recidivism but may contribute to faster apprehension of recidivists. However, it studied only direct, active notification applied to the highest risk category, not widespread, passive notification via the Internet. Many more studies are needed before fair-minded people can draw conclusions about potential benefits.
3. Opponents of notification laws present compelling arguments about the potential harm these laws can cause and often illustrate their arguments with isolated anecdotes. Formal and informal surveys seem to indicate that notification laws result in registrants experiencing increased difficulty

- obtaining and maintaining employment and housing and varying degrees of increased anxiety. Some incidents of unwarranted violence have been documented. Experts argue that these difficulties likely contribute to increased rather than decreased recidivism and in this way, detract from rather than enhance community safety. However, there is presently insufficient data to conclude that social harm from broad Internet notification outweighs benefits.
4. Given the above situation, no conclusions can reasonably be drawn about the nature and degree to which various forms of sex offender notification enhance community safety and at what price these enhancements are achieved. Therefore, rational legislation based on reliable and dispassionate information does not seem possible at this time. Given the public's passionate interest in minimizing sexual victimization, the legislature is, however, in urgent need of such information.
 5. Potential inclusion in an Internet Registry of sex offenders adjudicated as juveniles is an issue outside the scope of this paper. However, it should be noted that a growing body of literature suggests that juvenile sex offending is relatively common, is often a misguided manifestation of attempts to master normal developmental tasks, and does not lead to repeated offending during adulthood [29-33]. Therefore, it seems essential to consider juveniles carefully and separately from adult offenders and not rush to include them in internet databases.
 6. Any system of Internet notification will be most effective when it is part of a carefully designed, internally consistent strategy for managing sexual offenders who reside in the community. California lacks such an overall strategy. However, a bill presently under consideration, AB 2022, would establish a Statewide Sex Offender Management Board (SOMB) responsible for designing and implementing an overall strategy. The CCOSO supports AB 2022 and would like to see Internet notification become an SOMB responsibility.

Recommendations

1. To date, California, the most populous and one of geographically largest States, has given citizens relatively limited access to its Sex Offender registrant database. With changes in the offing, California has an opportunity inform the nation about positive and negative effects of varying degrees of Internet access. For example, California's statewide system could be relatively limited while the impact of wider access is studied in some regions, using carefully crafted research designs.

2. California's present system provides public access to sex offender registration information by allowing citizens to search for specific individuals. It does not permit citizens to "browse" the database. Given numbers 1-4 in the conclusions above, this approach seems a reasonable compromise between proponents' wishes for unrestricted public information about all sex offenders and opponents' wishes to restrict registration information to those officials who reasonably need it in order to carry out their duties.
3. Since the majority of sexual crimes are unreported or not prosecuted, many sex offenders live among us without ever coming to public attention yet remain a risk for creating future victims. Such unreported but nonetheless dangerous offenders would never be listed on the Internet. Community access to sex offender information may therefore leave some with a mistaken belief about community safety by focusing on the stranger-- the identified and registered sex offender, rather than persons known to the victim. Internet access should therefore include a broad educational component to increase knowledge about sexual offenders.
4. Prior to a registrant's name being posted on the Internet, known victims should be notified and given an opportunity to object, based on possible negative impact to them. Although community safety should be the primary concern, victim objections should be carefully weighed against community risk by the agency responsible for Internet posting, with every reasonable effort being made to protect victims' privacy and safety and to respect victims' wishes whenever it is reasonably possible to do so.
5. Under no circumstances should sexual offenders convicted under Juvenile Law be included on Internet registries without a carefully developed, empirically sound method for determining the likelihood that a juvenile registrant is highly likely to continue offending as an adult.

Resources

A significant number of resource materials on the issues addressed in this paper have been consulted in the course of its preparation. Many of these are in the public domain or have been generously made available by the copyright owners. The CCOSO has collected these materials and has made them available to the public on its web site at www.ccoso.org/internetnotice

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