

BERKELEY POLICE DEPARTMENT

DATE ISSUED: August 6, 2004

GENERAL ORDER M-6

SUBJECT: PUBLIC DISSEMINATION OF REGISTERED SEX OFFENDER
INFORMATION BY LAW ENFORCEMENT

PURPOSE

- 1 - The purpose of this Order is to establish Law Enforcement procedure for public dissemination of information regarding certain registered sex offenders. Disclosure of this information is regulated under Penal Code Sections 290 and 290.4, or Megan's Law.

POLICY

- 2 - Although not required by law, it is the policy of the Berkeley Police Department to proactively notify the community about "high risk sex offenders" after verification has been made of their residency and registration status. The Department may also proactively disseminate information about "serious sex offenders" to the citizens of Berkeley who are reasonably determined to be at risk as potential victims.

Only information pertaining to the particular sex crime(s) listed under 290.4 PC, shall be disclosed regarding individuals classified as "high risk sex offenders" or "serious sex offenders". Other violent crimes that the individual may have been convicted of or arrested for shall not be disclosed.

DEFINITION OF CATAGORIES

- 3 - The California Department of Justice (DOJ) has categorized each registered sex offender as either a "high risk sex offender", "serious sex offender" or "other sex offender".
- 4 - High Risk Sex Offenders:
 - a. "High risk offenders" are "serious sex offenders" who have been identified by the Department of Justice (DOJ) as having a higher risk of re-offending and who may pose a greater danger to the public. "High risk offenders" have been convicted of multiple violent offenses, at least one of which was a violent sex crime. Additionally, at the time of assessment, there must have been specified criminal activity within the last five years, not counting time spent in custody.
- 5 - Serious Sex Offenders:
 - a. "Serious sex offenders" are registrants who have been convicted of a felony sex offense (except those listed in the "other sex offender" category).

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- (1) "Serious sex offenders" have been convicted of at least one of the following charges: assault with intent to commit rape, rape, sodomy with a minor or sodomy by force, lewd or lascivious conduct with a child or dependant adult, oral copulation with a minor or by force, continuous sexual abuse of a child, child molestation, penetration with a foreign object, kidnapping with intent to commit specific sex offenses, felony sexual battery, felony enticement or abduction of a child for purposes of prostitution.
 - b. Also included in this category are misdemeanor convictions for child molestation. PC 647.6 and 288(c).
- 6 - Other Sex Offenders:
- a. "Other sex offenders" are misdemeanants, and those felons convicted of repeated indecent exposure, pornography, and related offenses of spousal rape.
 - (1) "Other sex offenders" have been convicted of at least one of the following charges: pornography, exhibitionism, misdemeanor sexual battery, incest, and spousal rape.
- 7 - Officers can determine the category of an offender by accessing:
- a. The Department of Justice (DOJ) Violent Crime Information Network/ Supervised Release File (VCIN) via CLETS.
 - b. Contacting the Sex Crimes Unit, or
 - c. Contacting the DOJ directly.

FIELD OFFICER DISSEMINATION OF "HIGH RISK SEX OFFENDER" AND "SERIOUS SEX OFFENDER" INFORMATION

- 8 - Field officers may release the below listed information on "high risk sex offenders" and "serious sex offenders" to a person or persons, school, day-care provider, or organization that primarily serves the likely victims(s) when first approved by a supervisor and:
- a. The officer reasonably suspects, based on information that has come to his/her attention, that a person or persons in one of the above schools, day-care providers or organizations may be at risk from a "high risk sex offender" or "serious sex offender", and the offender is likely to encounter the above listed people. PC 290.45(a)(1).

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- (1) "Reasonably suspects" means it is objectively reasonable for an officer, based on his or her training and the present circumstances of the case, to believe that a person would be at risk. PC 290.45(a)(7)
 - (2) "At risk" means a person is or may be exposed to the risk of becoming a victim of a sex offense by the offender. PC 290.45(a)(8)
 - (3) "Likely to encounter" means that the person is in a location or close proximity to a location where the offender lives, is employed, visits or is likely to visit on a regular basis; that contact with the offender is reasonably probable. PC 290.45(a)(6)
- 9 - When these conditions are met the field officer shall inform a supervisor of the circumstances and obtain approval prior to disseminating any information to the public.
- a. The action must be documented in the police report.
 - b. The sex offender's residence or business address shall not be disclosed under any circumstances without prior approval of the Sex Crimes Detail.
 - (1) If the Sex Crimes Detail authorizes disclosure an officer must first be sent to the offender's residence or business address to verify that the offender in fact lives or works there.

FIELD OFFICER DISSEMINATION OF "OTHER SEX OFFENDER" INFORMATION

- 10 - Information regarding individuals classified as "other sex offenders" shall not be released to the public.

INFORMATION ON "HIGH RISK SEX OFFENDERS" AND "SERIOUS SEX OFFENDERS" THAT CAN BE RELEASED TO THE PUBLIC

- 11 - When authorized, the following information regarding "high risk" and "serious" sex offenders can be disclosed, PC 290.45(4).
- a. Offender's full name, including known aliases
 - b. Offender's race, sex, age and date of birth
 - c. Offender's physical description
 - d. Offender's photograph
 - e. Descriptions and license plate numbers of the offender's vehicle or vehicles the offender is known to drive.

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- f. Crimes resulting in registration and the date the offence occurred. NO OTHER CRIMINAL HISTORY SHALL BE RELEASED.
- g. Type of victim targeted by the offender
- h. Method of operation
- i. Relevant parole or probation conditions
- j. Dates of release from confinement
- k. The general area where the offender lives or works, street name or nearby cross street.
 - (1) The offender's exact address shall not be released without verification and the approval of the Sex Crimes Detail.

INFORMATION ON SEX OFFENDERS THAT SHALL NOT TO BE RELEASED TO THE PUBLIC

- 12 - The following sex offender information shall not be released:
 - a. Information regarding those classified as "other sex offenders" shall not be released.
 - b. Information that identifies any victim shall not be disclosed.
 - c. Information identifying an area where a "high risk" or "serious" sex offender lives or works shall not be disclosed without first verifying the offender's address and obtaining approval from the Sex Crimes Detail.
 - d. Legal advice shall not be given to the public or media regarding registered sex offenders.

NUMBERED REPORT REQUIRED

- 13 - Regardless of whether or not information is disseminated, the field officer who encounters individuals suspected of being a sex registrant shall document the circumstances in a numbered police report with copies directed to the Sex Crimes Detail. The report should include the following information.
 - a. The circumstances resulting in the sex offender coming to police attention.
 - (1) If these circumstances are already documented in a numbered police report, then a second report is NOT required.
 - b. Name and identifying information of the sex offender.

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- c. The sex offender's home and work address and whether the address was verified.
 - d. Description of vehicles owned or used by the sex offender.
 - e. Locations the offender is known to frequent.
- 14 - If information about a sex offender is disseminated:
- a. Explain why, and if, prior approval was obtained by a supervisor. Do not release information about crimes other than sex crimes that the state has authorized for disclosure under Megan's Law.
 - b. Include the names and addresses of the person(s) or organization notified about the sex offender.
 - c. Include in the report that the individuals notified were told that the information was being provided to protect the public.
 - d. Complete a "Megan's Law Disclosure Form" and attach to the report.
 - (1) See attached example.
 - e. Copies of the report shall be routed to the Youth Services Detail if the case involves a child molester.
- 15 - The Sex Crimes Detail will determine if further notifications are to be made.

UNIFORM NOTIFICATION

- 16 - The methods utilized to notify institutions, individuals, or other community members are intended to be uniformly applied.
- a. Information should be directed to those at risk. Examples of situations where notification may be appropriate:
 - (1) Persons living in close proximity to an offender
 - (2) A woman who resides on the same block as a rapist
 - (3) Parents of a child living near a park where an offender is known to frequent.
 - b. The notification may only be as broad as is necessary for the protection of the public.

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PUBLIC DISCLOSURE REQUIRED WARNINGS

- 17 - Each public disclosure by the Department, or field officer, must be accompanied by the following statement:
- a. The purpose of the release of this information is to allow members of the public to protect themselves and their children from sex offenders. PC 290.45(5).
 - b. The public shall be advised that use of this information for purposes other than to protect a person who may be at risk is unlawful.

SEX OFFENDER NOTIFICATION

- 18 - Prior to disclosing "high risk sex offender" or "serious sex offender" information to the public an attempt to notify the offender should be made regarding the public release of information.

SUPERVISED RELEASE FILE

- 19 - Field officers who contact "high risk sex offenders" or "serious sex offenders" should ensure that the contact is entered into the offender's Supervised Release File, via CLETS.
- a. This is accomplished by submitting a written request to the Communications Center who in turn generates the "contact message"
 - b. The message to the Communications Center should detail a brief account of your contact with the offender. What brought you into contact with him/her and the resulting action taken.

TELEPHONE INQUIRIES

- 20 - Department of Justice (DOJ) public phone number for sex offender information.
- a. The public can use the following number, (900) 448-3000, for a fee, to obtain registered sex offender information. This line is maintained and operated by the Department of Justice, DOJ.

Reference: Penal Code Sections 290, 290.45