



**Division of Criminal
Justice Services**

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Sex Offender Registry

2016 Annual Report

**Sex Offender Registry and Registry Telephone Number
2016 Annual Report**

This report is submitted as required by New York State Correction Law §168-p (4) and §168-s.

It includes an overview of the Registry's activities in 2016 and statistics detailing the number of calls to the Registry's toll-free telephone number and searches of the Registry conducted as a result of those calls, among other data.

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Sex Offender Registry Overview

The New York State Division of Criminal Justice Services is responsible for the administration of the state's Sex Offender Registry, which was created by the state's Sex Offender Registration Act (SORA). Registry staff have a variety of responsibilities, including but not limited to:

- Adding newly registered sex offenders to the Registry;
- Mailing annual verification letters to all registered offenders; those letters require offenders to verify all information they are required to report by law and notify the Registry of any changes;
- Updating existing Registry records when changes are submitted by offenders as required by law;
- Verifying all residence addresses reported by offenders with the U.S. Postal Service prior to updating the Registry;
- Notifying police departments and sheriffs' offices whenever registered offenders move to, or from, their area of jurisdiction;
- Supporting local, county, state and federal law enforcement and criminal justice agencies, which are responsible for ensuring that registered offenders comply with requirements under the law and for deciding to bring criminal charges against offenders who fail to comply; and
- Providing information about registered sex offenders to the public, employers and volunteer organizations.

The Sex Offender Registration Act

The Sex Offender Registration Act (SORA), also known as Megan's Law, took effect on Jan. 21, 1996. SORA is detailed in Correction Law Article 6-C and provides for the registration of sex offenders in New York State and notification to the public about certain sex offenders living in the community.

Modeled upon the provisions of the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Wetterling), the law recognizes concerns unique to New York State, detailing a multi-agency, multi-disciplinary registration and community notification process for sex offenders.

The law provides for three forms of sex offender information dissemination and community notification:

- Local police departments and sheriffs' offices with jurisdiction over the community in which an offender currently resides may, if they wish, release information on sex offenders residing in the community to entities with vulnerable populations, as defined under SORA.

- Under SORA, the exact address of Level 2 and 3 offenders can be provided by local law enforcement, while only the zip code can be provided for Level 1 offenders.
- Individuals can call 800-262-3257 to determine if a named individual is on the Registry. To obtain information, a caller must have the name of the offender and one of the following: an exact address, a complete date of birth, a driver's license number or a Social Security number. Information about Level 1, 2 and 3 offenders, and offenders whose risk level has not yet been set by the courts, is available through the toll-free number.
- Individuals can access information about Level 2 and 3 Sex Offenders online at: <http://www.criminaljustice.ny.gov/nsor>.
- Please note that a federal court injunction still prohibits the release of information by police agencies on sex offenders who committed their crime prior to Jan. 21, 1996, and who were assigned a risk level prior to Jan. 1, 2000 (see Page 6 for more information).

Among other obligations, sex offenders are required to:

- Annually verify his or her address by returning the address verification letter to DCJS within 10 days of receipt. The annual verification letter cannot be forwarded by the U.S. Postal Service to a new address;
- Provide DCJS with notification within 10 days of any change in address, change in Internet accounts, Internet identifiers, or change in status of enrollment, attendance, employment or residence at any institution of higher education; and
- Submit an updated photo annually if they are designated as Level 3 offenders, or every third year if designated as Level 1 or 2 offenders.
 - Offenders must report to their local police departments to have their photos taken. The Registry can accept both electronic and hard copy photos and multiple photos are included in the Registry whenever available.

In addition, Level 3 offenders or offenders of any risk level designated as sexual predators to personally verify their addresses every 90 days with the local law enforcement agency having jurisdiction over those residences.

The law also permits law enforcement to take a new photograph of the Level 3 offender or offender of any risk level designated as a sexual predator if it appears that the offender's appearance has changed since the most recent photograph was submitted to DCJS.

Offenders who fail to comply with any obligations under the law can be charged with a felony. A first conviction is punishable as a Class E felony; a second or subsequent conviction is punishable as a Class D felony.

The law also requires the Registry and/or DCJS to:

- *Provide Notification to Law Enforcement Agencies:* The Registry notifies police departments and sheriffs' offices whenever an offender moves into – or out of – their jurisdiction. In addition, police departments, sheriffs' offices, district attorneys' offices, county probation departments, local parole offices, and family and criminal courts, have access to the complete sex Offender Registry through a secure, online portal.
- The complete Registry contains additional information not available to the public, including but not limited to: an offender's complete address history, including last reported address; a history of the offender's compliance with annual verification requirements and current status information, for example, if an offender is incarcerated or has been deported.
- This complete access is designed to ensure that all agencies monitoring and supervising sex offenders have the most up-to-date information available. Family courts are required to conduct a check of the Registry whenever orders of custody or visitation are issued or modified.
- *Maintain a Subdirectory of Level 2 and 3 Sex Offenders on the Internet:* Only information about Level 2 and Level 3 sex offenders can be posted online. The online directory of these registered sex offenders is available on the DCJS website: www.criminaljustice.ny.gov/nsor.
- Sex offenders can be searched by using one of three following criteria: last name, county or zip code. Information on the website includes the name, address, and a photograph(s) of the offender along with the offender's age, distinctive markings, crime of conviction, modus of operation, type of victim targeted and special conditions, if available.
- *Operate a toll-free telephone number:* As noted earlier, SORA requires DCJS operate a toll-free telephone number that the public can call to inquire whether a named individual is listed on the Registry.
- The law requires callers to provide their name, address and telephone number. To inquire about an individual, callers must provide the first and last name of the person to be searched and one of the following identifiers: an exact address, date of birth, Social Security number or driver's license number.
- If an offender is listed, the Registry will tell the caller that it appears that the individual identified is on the Registry, and will release information as appropriate, as determined by the offender's risk level:
 - *Pending Risk Level:* For offenders whose risk level has not yet been set by the courts, the caller can only be advised that the offender is registered. By law, no additional information can be released.

- *Levels 1, 2 and 3 offenders:* The caller will receive information including the offender's crime of conviction, mode of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides, and the description of special conditions imposed on the offender by the court or parole or probation authorities. Residence address information is limited to zip code for Level 1 offenders, while complete addresses are available for Level 2 and 3 offenders. In addition, callers inquiring about
- Level 2 or Level 3 offenders also will be directed to the online directory available through the DCJS website for more information.
- *Enhance Public Awareness about the Registry:* Information about SORA, frequently asked questions about the law and access to information about Level 2 and Level 3 offenders is available 24 hours a day on the DCJS website: www.criminaljustice.ny.gov/nsor.
- The public may also access the public Sex Offender Registry via Facebook at www.facebook.com/NYSPublicSafety.

2016 Activities, Trainings and Enhancements

At the end of 2016, a total of 39,496 sex offenders were registered in New York State. The law provides for a risk level – 1, 2 or 3 – to be assigned to each offender; risk level is set by a judge after a court hearing.

Of the 39,496 registered sex offenders at the end of 2016:

- 14,631 were Level 1: low risk of re-offense;
- 14,311 were Level 2: medium risk of re-offense;
- 9,798 were Level 3: high risk of re-offense; and
- 756 offenders had not yet had their risk levels set by a judge.

Risk level determines how information about an offender is made available to the public. Information about all registered sex offenders is available through a toll-free number while information about Level 2 and 3 offenders also is available on the DCJS website.

Activities

Registry staff processed 24,949 annual address verifications from registered offenders last year and processed another 42,991 changes to Registry information. The Sex Offender Registration Act details the information that offenders are required to provide to the Registry, including residence address, photographs and vehicle information.

The state's Electronic Security and Targeting of Online Predators Act (eSTOP) also requires offenders to report Internet information, such as Internet service providers, email addresses and social media accounts, to the Registry. Upon request, the Registry provides that information to social media companies that have members under the age of 18. Any change in Internet accounts, email addresses or screen names must be reported to DCJS no later than 10 days after such change.

In 2016, the Registry provided Internet information reported by registered sex offenders to 38 social media companies, which may use the information to prescreen or remove sex offenders from their services and/or advise law enforcement of potential threats to public safety and/or violations of law.

To comply with SORA, 1,357 individuals were removed from the registry during 2016 upon completion of their 20-year registration requirement under the law. Upon each removal, the Registry notified the following agencies that the offender was no longer required to register: the original arresting agency, the district attorney's office that handled the case, and the agency with jurisdiction where the offender was living when he or she was removed.

In addition, offenders who die are removed from the Registry after staff receive proper documentation, such as a death certificate, police report, funeral home-affiliated obituary or Social Security death index). The Registry removed 321 offenders in 2016 after receiving proper notification of their deaths.

Trainings

Trainings provide information to law enforcement and correctional professionals who monitor, supervise or work with sex offenders within the criminal justice system. A total of 35 offender release coordinators/administrators from the state Department of Corrections and Community Supervision (DOCCS) received training on registering sex offenders who are being released from state prison. The in-person training was recorded and DVDs were distributed to all DOCCS facilities. In addition, approximately 40 law enforcement professionals attended trainings focused on sex offender management and legislative changes affecting sex offenders.

Enhancements

Registry staff also work with the state's Office of Information Technology Services to improve the Registry's functionality. In 2016, the Registry was upgraded to allow for automatic updates to offender addresses when offenders are incarcerated DOCCS.

This improved information sharing followed other enhancements made within the past two years, including the addition of multiple offenses requiring registration; multiple residence and work addresses, if reported by offenders; inclusion of multiple photos of offenders, when available, since a person's appearance can change over time; and noting when an offender's reported address cannot be verified with the U.S. Postal Service and has been referred to law enforcement for further investigation.

Operation of the Toll-Free Number

In addition to posting information about Level 2 and Level 3 offenders online, SORA requires the Registry to provide information about registered offenders through a toll-free telephone number: 800-262-3257.

Registry staff estimate that approximately 70 percent of the calls received on the toll-free line are from businesses, such as potential employers and volunteer groups who are screening applicants. The remaining 30 percent of the calls are from private citizens. In 2016, individuals, representatives from non-profit and other organizations and employers placed 38,767 calls to the toll-free number, inquiring whether a specific person or list of persons is on the Registry. Those inquiries required staff to conduct a manual search of the Registry database.

The New York City Department of Homeless Services requests a daily search of its census against the Registry. In April 2016, this process transitioned from a manual one to an automated search that is done without Registry staff intervention.

The Registry also operates a dedicated phone line to assist law enforcement agencies and a main office line also receives calls from the public and offenders who have questions about the Registry or registration obligations.

Children's camps are required by law to conduct searches on all prospective employees and volunteers. The Registry accepts electronic files when there are many names to be searched. While this process improves efficiency, it also has contributed to a significant increase in the number of searches conducted. In 2016, the Registry processed 2,127 electronic submissions, which required staff to search nearly 2.2 million names against the Registry: that compares to a search of 884,879 names resulting from 2,078 electronic submissions in 2015.

Total calls to the Sex Offender Registry	45,015
Toll-free telephone number	38,767
Law enforcement telephone number	1,593
Main telephone number	4,655

Toll-free (800) Telephone Number Report <i>(as required by Correction Law §168-p (4))</i>	
800 Number Searches Requested by Phone Call	38,767
800 Number Searches Submitted Electronically	2,127
800 Searches Completed Electronically	2,188,366
800 Number Searches Completed (total of calls and electronic submissions)	2,682,140
Phone Affirmative Responses/Matches to Registered Offenders	624
Phone Negative Responses/No Match to a Registered Offender	493,150
Average length of call	2.47
Total number of minutes	95,754.49
Cost per minute	.045
Total cost	\$4,308.95
Total Number of Offenders on the Registry at the end of 2015	39,496

National Sex Offender Registry Participation

Information on all sex offenders registered in New York State is transmitted to the National Sex Offender Registry (NSOR), which is administered by the FBI. The federal Registry includes detailed registration information and a photograph and fingerprint image of all sex offenders registered throughout the nation. The information from the federal Registry is available to law enforcement agencies nationwide and assists them in tracking sex offenders who are registered in other states or traveling throughout the nation.

Risk Assessment

By law, every registered sex offender must be assigned a risk level. The Sex Offender Registration Act created the Board of Examiners of Sex Offenders, consisting of five members appointed by the Governor, and requires the board to develop guidelines and procedures to assess the risk of a repeat offense by sex offenders and the threat they pose to public safety.

The guidelines were developed with the assistance of a consultant with expertise in the field of sex offender research and risk assessment and with assistance from a group of experts with diverse experience in dealing with sex offenders. Guidelines were established that bring academic knowledge and practical acumen to the difficult task of predicting whether a person convicted of a sex crime is likely to reoffend.

Applying the guidelines, the board is responsible for making risk assessment recommendations to the sentencing court for offenders who were sentenced to state incarceration or definite local jail terms. The board also makes registration determinations and risk assessment recommendations for individuals who were convicted in other jurisdictions and either live in, or move, to New York State. Other jurisdictions include other states or countries and federal and military courts. Additionally, the board provides sentencing courts with updated reports whenever sex offenders exercise their rights under the law to file petitions for relief from registration or risk level modifications.

Risk level is only assigned by a judge, after a hearing in court.

Federal Court Injunction

The Sex Offender Registration Act took effect on Jan. 21, 1996, and was applied to all individuals who were convicted of qualifying offenses and who had not completed serving their sentence on the effective date. Because of that retroactive application, New York State has been subject to litigation.

Shortly after the law went into effect, it was challenged on the basis that it violated the Ex Post Facto Clause of the U.S. Constitution, since it applied to offenders who had committed their crime prior to the law's effective date and, on due process and statutory grounds, about the method by which offenders received a risk level determination.

The U.S. District Court for the Southern District of New York held that the notification provisions of the law violated the Ex Post Facto Clause and enjoined community notification for any offenders who had committed their crime prior to the Jan. 21, 1996, effective date {Doe v. Pataki, 940 F.Supp. 603 (S.D.N.Y. 1996)}. The Second Circuit reversed the District Court decision regarding notification and held that since SORA did not constitute punishment, it did not violate the Ex Post Facto Clause {Doe v. Pataki, 120 F.3d 1263 (2d Cir. 1997)}.

On remand, the District Court granted plaintiffs' motion to add an additional class of plaintiffs and held that the method by which offenders were assigned a risk level violated due process (Doe v. Pataki, 3 F.Supp.2d 456 (S.D.N.Y. 1998)).

The District Court granted a permanent injunction prohibiting community notification for offenders who were on parole or probation on Jan. 21, 1996, and who received a risk level determination from the Division of Parole (now Department of Corrections and Community Supervision) or the Division of Probation and Correctional Alternatives (now the DCJS Office of Probation and Correctional Alternatives).

In addition, the District Court also granted a preliminary injunction prohibiting community notification for offenders who committed their crime prior to Jan. 21, 1996, and who had their risk level determination made by the sentencing court. Since that time, SORA has been amended, effective Jan. 1, 2000, to provide for the requisite due process hearing.

Because of these legal challenges, the community cannot be notified about offenders who committed their crime prior to Jan. 21, 1996, and were risk-leveled prior to Jan. 1, 2000, including those offenders who were assigned a risk level by Parole or the Division of Probation and Correctional Alternatives, until a risk level hearing has been held and risk level set by a judge. There are approximately 60 offenders awaiting court hearings to determine their risk level.