



Sex Offender Registration Research and Best Practices:  
*A Survey of the Literature*

Testimony Before the Assembly Committee on Public Safety

**January 25, 2011**

**Brian R. Sala, Ph.D., Assistant Director**  
*California Research Bureau*

The California Research Bureau is a division of the California State Library. CRB provides nonpartisan research and reference services to the California Legislature, Governor, cabinet officials, and other constitutional officers.

This brief was prepared in response to a request from the Assembly Committee on Public Safety for information on sex offender registration practices to guide the committee's analysis and assessment of policy options.

For additional copies of this brief, visit our website at [www.library.ca.gov/crb](http://www.library.ca.gov/crb).

For additional information or questions, please contact Brian R. Sala at [bsala@library.ca.gov](mailto:bsala@library.ca.gov).

January 24, 2011

Good morning, Mr. Chairman, Vice-chairman, and Members. My name is Brian Sala. I am the Assistant Director of the California Research Bureau. Accompanying me today is Senior Research Librarian Maeve Roche.

Thank you for the opportunity to testify before you today.

The California Research Bureau is a division of the California State Library. Created in 1992, CRB was designed to provide high-quality, nonpartisan research and reference services to the Legislature, the Governor, the Cabinet, and other constitutional officers.

The Committee asked CRB to survey the current policy and scholarly literatures on sex offender registration practices, including the incidence and effects of different registration requirements employed in other states, such as tiered registration requirements and varying durations of required registration. We also were asked to identify best practices and discuss the overall cost-effectiveness of sex offender registration.

We provided staff with a written brief in December, 2010 detailing our findings from the literature. Our testimony today summarizes and contextualizes the findings from that brief. Detailed references to materials discussed herein can be found in that brief.

In 2006, the federal government passed into law the Adam Walsh Act, which sets national standards for sex offender registration. Only a handful of states to date have passed conforming state laws. California has so far declined to pass conforming legislation, but the Adam Walsh Act nonetheless offers a convenient set of standards for comparison of state registration laws.

The Adam Walsh Act defines three tiers of sex offenses, with different registration cycles and durations of required registration for each. The lowest, Tier I, would require registrants to update their registry information annually for at least 15 years after release from incarceration, although they could petition for

removal after ten. Tier II registrants would be required to update their information every six months for 25 years. Tier III registrants would be required to update every three months for life.

All 50 states plus the District of Columbia currently have some form of sex offender registration requirement on the books. As of 2007, California was one of 17 states requiring lifetime registration for *all* registrants. California requires annual updates for most registrants. Transients are required to update every 30 days. Individuals designated as sexually violent predators – less than one percent of registered sex offenders released from prison since the passage of the Sexually Violent Predator Act in 1996 – are required to update every 90 days.

In our more detailed review of sex offender registration practices in other states, we selected states bordering California (Arizona, Nevada, and Oregon) as well as states with large populations and/or similar demographic characteristics to California: Florida, New Jersey, New York, Pennsylvania and Texas. Of the states we reviewed, only one, Florida, requires lifetime registration for all sex offenders. The others have tiers for registration – meaning that the offenders register for ten, 15 or 20 years for first-time offenses, and face lifetime registration for more violent or repeat offenses.

Some of the states do allow registrants to petition for removal from the list, generally after a period of not having committing any registrable offenses. In contrast, California requires lifetime registration for all offenses, and only allows people convicted of certain misdemeanor sex offenses to apply for relief via a certificate of rehabilitation with a trial court.

All 50 states plus D.C. currently provide some public, online access to registry information, consistent with the federal Megan's Law, passed in 1996. As of 2007, California was one of 19 states that excluded from full public disclosure information on registrants deemed low- or moderate-risk to the public. About 25 percent of California's registered sex offenders are excluded from public

disclosure in the online database, according to the California Department of Justice.

California was one of 22 states whose online registries did not, in the opinion of a 2007 *Human Rights Watch* report, provide any “discernable indication of the offender’s level of dangerousness.” This opinion should be read in light of California’s exclusion of “low-“ and “moderate-“ risk registrants from public disclosure, however.

California’s Megan’s Law website provides a photograph of the registrant, a physical description, address information, and a listing of the offense code for which the registrant was convicted, with a brief, technical description of the class of offense. It does not provide any detailed information about the offense, such as the offender’s age at the time of the offense or a basic, plain English description of the facts of the conviction. At least three other states specify the registrant’s age at the time of the offense; at least five states provide plain-language capsule descriptions of the crime(s) for which the registrant was convicted.

Additionally, all states require some form of direct community notification by local law enforcement for certain registrants.

The literature on sex offender registries identifies four lenses or key perspectives from which to evaluate sex offender registry laws and practice.

- 1. Registry as an aid to law enforcement.** When new sexual assaults are reported to law enforcement officials, those officials must formulate a strategy for investigating the alleged crime, including identifying suspects. Sex offender registries have been promoted as a tool to help law enforcement officials more quickly resolve new sexual assault cases.

The utility of registries in helping law enforcement officials investigate and resolve new sexual assault cases rests on two key assumptions.

First, it depends on an assumption that convicted sex offenders are

significantly more likely to commit a new sex offense than are other members of the general public. This assumption is reasonably well met, although the rates of new sex offenses are quite low as compared to rates of recidivism for all crimes. According to a 2003 Bureau of Justice Statistics report, 5.3 percent of a cohort of convicted sex offenders in 15 states, including California, released in 1994 were *re-arrested* within three years for sexual assault. In comparison, 1.3 percent of all other releasees in the study were arrested for sexual assault within three years of release. This implies that convicted sex offenders in this sample were about four times more likely to be arrested on a new sexual assault allegation than were general releasees to be arrested on a sexual assault allegation.

Three-year recidivism for all California inmates and all offenses is nearly 70 percent, including both parole technical violations and convictions for new crimes. Sex offenders, in contrast, have much lower overall recidivism rates. About 40 percent return to prison within three years for any offense, according to data from the California Department of Corrections and Rehabilitation.

Second, the efficacy of sex offender registries as a tool for law enforcement to investigate new crimes depends on the assumption that the registry itself has little or no specific deterrent effect. That is, the more effective sex offender registries are at deterring released sex offenders from committing new sex crimes, the less utility they will have to law enforcement for investigating new sex crimes. For obvious reasons, the legislature may prefer effective deterrence to effective aid to law enforcement. Our point is only that there logically must be a tradeoff between the two effects.

2. **Registry as punishment.** Criminal sentences generally may serve four distinct social purposes: (a) direct improvement of public safety, by incapacitating individuals judged to be a threat to the community; (b)

rehabilitation of an individual who has committed an offense; (c) restitution of the losses suffered by the community or members of the community by the actions of the offender; or (d) punishment of individuals who have committed an offense against the community.

Sex offender registries may be seen as fulfilling a punishment function, although a 2003 federal court case, *Smith v. Doe* (538 U.S. 84, 2003) argues that their intent is “non-punitive.” Anecdotally, sex offender registries have been associated with a wide array of negative consequences for listed individuals, ranging from public shame and humiliation, to loss of employment, harassment, assault, battery and even death at the hands of members of the public who allegedly were aware of the individuals’ listed status.

The legislature may wish to investigate explicitly the degree to which sex offender registration has become a de facto means of extending the punishment of convicted sex offenders. Anecdotal evidence is widespread, but reliable data on the frequency with which registered sex offenders are victims of crimes is not available. Nor do we know how often these offenders lose their jobs due to their registration status, nor how often they move in response to community pressure.

Hence there is as yet no clear, empirical evidence that would allow us to quantify the punishment effects that are associated with public access to sex offender registries. One small 2005 study surveyed registered sex offenders in Kentucky who had been out of prison for more than six months. Of the 121 respondents, more than 40 percent reported having lost a job due to their status as a registered sex offender; 45 percent reported having lost or been denied a place of residence due to their status, 47 percent reported having been harassed in person, 28 percent having received harassing or threatening phone calls, 25 percent harassing or

threatening mail, and 16 percent reported having been assaulted, all attributed to their status as a registered sex offender. These findings are limited by both the low response rate and by the lack of a control or comparison set. Nonetheless, they are suggestive that post-release punishment effects directed toward registered sex offenders may be widespread.

Some portion of these events create fiscal costs to the community. Each time a registrant moves, he or she is required to notify local law enforcement, which creates an administrative cost. Each time a registrant files a complaint with law enforcement about being harassed or otherwise harmed, that too creates an administrative cost.

We also lack clear, empirical evidence that providing more complete information about the nature and circumstances of an individual's sexual offense would change registrants patterns of post-release experiences. We do not know whether limiting the available information about registrants tends to increase or to decrease the frequency or intensity of harm inflicted upon sex offender registrants by members of the community.

The legislature may wish to consider requiring from the California Sex Offender Management Board or another appropriate body periodic reports that specifically address and measure sex offenders' post-release experiences in the community.

- 3. Registry as a specific deterrent to sexual offense recidivism.** One of the major arguments posed in favor of public disclosure of the names and residential addresses of convicted sex offenders is that it provides members of the community with information that they can use to protect themselves and their loved ones from the threat of harm by individuals with a history of sexual offenses.

As we noted previously, one federal Bureau of Justice Statistics study found that convicted sex offenders were four times more likely, on average, to be arrested for a new sexual offense, than was the typical release in the sample. Public registries of sex offenders may deter new crimes by those individuals by increasing public awareness of their presence and public attention to their activities in the community.

The empirical literature on this question is limited, and results are not encouraging. A 2009 meta-analysis of seven empirical studies of the effects of sex offender registration/notification requirements on sex offender recidivism found no statistically significant effects of registration or notification requirements on the rates of re-offending.

These findings are limited by several factors. Federal passage of the 1994 Jacob Wetterling Act requiring states to implement registries, and the 1996 Megan's Law amendments requiring community notification under certain conditions induced a cluster of states to adopt laws in a short time period. This fact implies that it is difficult to identify appropriate comparison cases against which to measure the impact of a registration or notification law. Tests therefore tend to compare recidivism outcomes before and after implementation in a state, which makes it difficult to separate effects of the laws per se from broader social trends that may affect rates of sex crimes, such as changes in the age distribution of the population, or the effects of the underlying social movements that led to the legal changes in the first place. Variations in how states have implemented their acts also complicates inference from the single multi-state study completed to date.

Perhaps the most important caveat about the literature to date is that five of the seven high-quality studies of specific deterrence identified in the

2009 meta-analysis focused on *convictions* for new offenses (either sex offenses, general offenses, or both), rather than on arrests. One study that did focus on arrests found evidence that public notification requirements *increased* arrest rates, which may indicate that registration/notification requirements increase the scrutiny placed on releasees.

- 4. Registry as a general deterrent to sexual offenses.** Sex offender registry and notification may tend to deter potential first-time offenders, either through the demonstration effects of the community disapprobation served upon registrants, or by raising general awareness of sexual assault in the community. We identified two empirical studies of general deterrence, both of which draw data from multiple states. A 2006 study found a small but statistically significant deterrent effect of registration laws on rapes reported to the police associated with registration laws.

A 2008 study of data from 15 states distinguished between registration laws and notification laws, finding opposite effects. Namely, this study found evidence that broadly applicable registration requirements were associated with significant declines in sex offense rates, but that notification requirements were associated with significant *increases* in new sex offenses specifically by registered sex offenders. The authors interpret their results to suggest that broadly applicable sex offender notification laws reduce releasees' incentives to stay out of prison even as broadly applicable registration laws deter first-time offenses.

The final issue we wish to address this morning is the cost-effectiveness of sex offender registration requirements. As we have noted, the empirical literature is somewhat pessimistic about the effectiveness of sex offender registration and public notification requirements in deterring sex crimes, whether specifically,

through effects on released sex offenders, or generally, through effects on potential first-time offenders.

As of December 31, 2008, California's public sex offender registry, maintained by the Department of Justice, contained 66,000 names, including roughly 30,000 for whom full addresses were required. Most sex offenders are required to update their information annually, as well as within five days of any change in address. Transient sex offenders are required to update their information every 30 days, while offenders designated "sexually violent predators" are required to update their information every 90 days.

Maintaining these data puts considerable demands on local law enforcement and the Department of Justice. We do not have an accurate measure of those costs. More fundamentally, however, the state lacks the data needed to adequately evaluate the cost effectiveness of its current sex offender registration policies.

According to a January 2010 report of the California Sex Offender Management Board,

*One of CASOMB's grounding principles is that sex offender management strategies should be based on reliable information and on the findings of solid research regarding the effectiveness of various approaches. Such an evidence-based perspective cannot make the desired progress if the evidence that is sought is too difficult to obtain or is simply not available.*

*The CASOMB invested considerable effort into developing a "Dashboard" to track and report key data on California sex offender management topics. It has proved very difficult to obtain and maintain the data needed to keep this reporting system updated.*

Our review of the literature generally conforms to the Board's concerns about a lack of data with which to drive evidence-based policy in this area of significant public concern. Thank you. I would be happy to take your questions.