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Research in Action

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Highlights

This Research in Action presents the findings of a 1996 telephone survey by the National Institute of Justice (NIJ) of 13 criminal justice system practitioners in eight States regarding practices related to implementing State legislation that mandates or authorizes informing local communities about the presence of a sexual offender.

Although at least 32 States have already enacted community notification statutes targeting sexual offenders, little is known about how States have gone about informing local residents that a sex offender is living in their midst. As a result, NIJ sponsored this survey to begin identifying the variety of notification approaches States are using, the problems they have experienced conducting notification, and the effects notification has had on communities and offenders. Key study findings are:

- Notification statutes have diverse provisions. Some statutes mandate proactive notification, others merely authorize it, while still others permit notification only in response to community requests. Statutes may assign responsibility for conducting notification to State or local criminal justice system agencies, including law enforcement agencies, prosecutor offices, or probation and parole agencies. At least one State requires sexual offenders to do the notification.

- Most practitioners recommend that legislation allow local jurisdictions to develop and apply their own criteria for deciding which offenders should be subject to notification and what

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Sex Offender Community Notification

by Peter Finn

A large and increasing number of prison inmates are sexual offenders. State prisons held 20,500 sex offenders in 1980, 63,600 in 1990, and 88,100 in 1994.[1] They grew not only in number but also as a percentage of a burgeoning State prison population: 6.9 percent of 295,819 inmates in 1980; 9.7 percent of 906,112 in 1994.[2] At least 20 percent of the adult prison population in ten States were sex offenders in 1991.[3] Although community inpatient and outpatient programs that specialize in treating sex offenders have proliferated,[4] few incarcerated sex offenders receive treatment.[5] Furthermore, there has been insufficient research to establish consistent estimates of recidivism[6] or identify which treatment is effective for what type of sex offender.[7]

At the same time that media attention and school programs may have increased public awareness of these findings,[8] a series of highly publicized violent sex offenses committed on unsuspecting victims by released sex offenders has heightened the public's determination to take action to prevent these individuals from committing new crimes. In response to this heightened public awareness, by August 1995, 43 States had enacted statutes that require offenders *to register* with a central registry agency or with the law enforcement agency in the community in which they will be living.[9] Sixteen States passed their laws in 1994 alone.[10] (See "Principal Features of Sex Offender Registration Laws.") Through a provision that would withhold funding from States that do not implement sex offender registration programs, the 1994 Violent Crime Control and Law Enforcement Act has hastened the enactment of registration statutes and may result in their passage in every State.[11]

Registration legislation is intended to deter offenders from committing new offenses and create a registry to assist law enforcement investigations.[12] A 15-year follow-up study of California's registration statute found that police investigators reported that the State's registration system was effective in helping them to apprehend suspected offenders.[13]

As of early 1996, at least 32 States had taken the additional step of enacting *notification* statutes that either make information about sex offenders available on request to individuals and organizations or that authorize or require probation and parole departments, law enforcement agencies, or prosecutor offices to disseminate information about released offenders to the community at large.[14] Community notification reflects the perception that registration alone is inadequate to protect the public against released sex offenders

Highlights

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type of notification to conduct (e.g., to neighbors, schools and other organizations, or the media). The agency that identifies offenders to be subject to notification and carries out that notification should be accountable for any adverse consequences that result.

● Making the public responsible for requesting information about offenders has distinct advantages but serious drawbacks. Making offenders do their own notification, most practitioners feel, is ill advised.

● Conducting notification requires a great deal of work related to identifying which offenders will be subject to notification; determining the geographic scope and recipients of notification; permitting hearings for offenders to contest their notification status; and actually doing the notification.

● Educating the community about the nature and purposes of notification is considered essential to preventing undue community alarm and vigilantism—and to preventing a false sense of security.

● There is little empirical evidence regarding notification's impact. The one empirical study found no evidence that notification reduces recidivism. However, several practitioners believe that the threat of notification is effective in motivating some offenders, not currently subject to notification, to behave appropriately. Practitioners also feel that notification improves law enforcement's ability to investigate sex offenses and serves an important function educating the community about sex offenses.

● Although there is largely only anecdotal evidence, most practitioners report that there has been relatively little harassment as a result of notification and that notification has not created widespread problems for released offenders trying to find a place to live or work.

● While there have been a number of constitutional challenges to notification statutes, the litigation, much of it still pending, has met with mixed results.

and that notification provides the public with a better means of protecting itself.

Notification proponents believe that, by informing the public about the presence of a sex offender in the community, neighbors will be able to take action to protect themselves from sex offenders by keeping themselves—and their children—out of harm's way. As a result, notification, according to one commentator, "could prevent some tragedies from happening again."[15] Notification is also thought to improve public safety because the public will be able to identify and report risky behaviors by sex offenders (e.g., conversing with children, buying sex-oriented magazines) that might escalate into criminal behavior if ignored.

This Research in Action summarizes what is known about a sample of notification statutes and implementation procedures and presents the views of selected practitioners and experts regarding effective legislative provisions and notification approaches. This limited review of statutes, procedures, and informed opinion may assist legislators, prosecutor offices, probation and parole agencies, and law enforcement agencies interested in designing, operating, or improving a notification system.

The information in this report is based on a literature search and telephone interviews

Principal Features of Sex Offender Registration Laws*

• The registry is usually maintained by a State agency.

• Generally, local law enforcement is responsible for collecting information and forwarding it to the administrating State agency.

• Typical information obtained includes an offender's name, address, fingerprints, photo, date of birth, social security number, criminal history, place of employment, and vehicle registration. Eight States also collect blood samples for DNA identification; Michigan includes a DNA profile in the registry if available.

• The time frame for initial registration varies from "prior to release" or "immediately" to one year; the most common time frame is 30 days or less.

• In most States, the duration of the registration requirement is over 10 years, with 16 States requiring lifetime registration in all or some instances. Most States requiring lifetime registration allow the offender to petition the courts for relief from this duty.

• Most registries are updated only when the offender notifies law enforcement that he has changed residences. Seven States have annual address verification; New Jersey requires verification every 90 days.

• Twenty States specify that registry information is available only to law enforcement and related investigative authorities. The other twenty States allow broader access, ranging from criminal background checks for agencies hiring individuals to work with children, to full public access and community notification.

• Two States (California and Washington) have published compliance rates.

* Staci Thomas and Roxanne Lieb. Sex Offender Registration: A Review of State Laws. Washington State Institute for Public Policy (Olympia, Washington, 1995), p. 1.

with 13 practitioners (probation officers, law enforcement officers, and prosecutors) in eight States and two experts (individuals familiar with notification statutes and procedures in several States).

Notification legislation

At least 32 States have enacted notification legislation. In some States, including Louisiana, New Jersey, and Washington State, the impetus to enact legislation has come after a highly publicized sex crime by a released offender. In New Jersey and Washington State, general public concern after the incidents motivated legislators to act, while in Louisiana a victims' rights group was formed that lobbied the legislature for a bill. In Alaska and Tennessee, key legislators introduced a notification bill on their own initiative because they felt the problem needed attention and knew that other States were enacting legislation. Legislation was introduced into the Oregon legislature by a representative after he learned that a sex offender was about to be released into his own neighborhood. In Connecticut, two legislators and a victims group combined forces to get legislation passed.

Examples of notification legislation

Twenty-one of the 32 notification statutes permit or require the proactive dissemination of information, while 11 permit the distribution of information only in response to community requests. Exhibit 1 summarizes the principal features of the legislation in seven States selected to illustrate the diversity of statutes enacted to date. A brief synopsis of each State's notification statute and procedures follows.

Alaska. Enacted in 1994, the Alaska notification statute requires the State Department of Public Safety to develop and maintain a central registry of all convicted sex offenders. The statute authorizes public disclosure of the offender's name, address, photograph, place of employment, date of birth, crime for which convicted, date, place, and court of conviction, and length of sentence. According to implementation regulations adopted by the Department of Public Safety, the information shall be provided for any purpose to any person who submits a written request on a form supplied by the Alaska State Troopers' Permits and Licensing Unit and who pays a $10 fee. The public may request information about a named individual or about all registrants in a geographical area.

Connecticut. Effective January 1, 1996, Connecticut's notification statute gives probation and parole officers explicit discretion to notify anyone they want with any information about released sex offenders. The heads of the departments of adult probation and parole, a statewide victims group, and the Center for Treatment of Problem Sexual Behavior developed a protocol that requires notification of police and victims for certain sex crimes and also notification of organizations and neighbors, as well, for offenders considered at especially high risk. Using a Federal grant, the probation department created an Intensive Sex Offender Unit in one region of the State to pilot test an intensive supervision and treatment program whose probation officers are each given a maximum caseload of 25 offenders so that they have adequate time to determine each offender's risk level, supervise the notification process, conduct home visits, and co-facilitate treatment groups with therapists.

Louisiana. A 1992 Louisiana statute, as revised by the legislature in 1995, requires individuals who commit or attempt to commit any of 18 types of offenses, as well as contribute to the delinquency of a minor for sexual immoral purposes, to themselves notify the community. If the victim was 18 or older at the time the crime was committed, the offender must place a two-day advertisement in the parish legal journal, notify the public school superintendent (who must notify pertinent principals), and send postcards to all residences within a three-block radius of his home in urban areas and within a one-mile radius in rural areas. If the victim was under 18, the offender must in addition notify park superintendents and provide photographs to all of the above groups and individuals. The notifications must include the offender's name, address, and offense and be verified by the probation or parole officer.

New Jersey. "Megan's Law," enacted in 1994 and effective immediately, requires local prosecutors to determine each released offender's risk status and then, in conjunction with the local law enforcement agency where the offender will be living, implement the associated notification plan. The statute requires that prosecutors place offenders in one of three tiers of risk based on criteria developed by an Attorney General's task force, with each tier triggering a different set of notification procedures.

Oregon. Effective November 1993, the Oregon notification statute requires notification for individuals on probation or parole who have committed specified sex crimes and are determined by parole or probation authorities to be predatory[16] offenders. Offenders remain under notification for as long as they are under supervision, and parole and probation officers have discretion in selecting the means of

Exhibit 1. ***Principal Features of Seven Notification Statutes***

State	Year Statute Went Into Effect	How Long Offenders Remain Subject to Notification	Notification Mandatory or Discretionary	Notification Proactive or Only in Response to Request	Sex Offenses Covered by Statute	Implementing Agency	Immunity Explicitly Provided to Implementers	Who May Be Notified	Retroactivity	Information That May Be Disseminated
Alaska	1994	*for life*: 2 or more convictions *15 years*: 1 conviction	mandatory by administrative regulation	upon request	all offenses	State Dept. of Public Safety	provided	anyone	retroactive	limited by statute
Connecticut	1996	10 years after end of probation or parole	discretionary	proactive	selected offenses	probation	not provided	anyone	not retroactive	unrestricted
Louisiana	1992	10 years after release	mandatory	proactive	all offenses	offenders—supervised by probation	provided	limited by statute	retroactive to June 1992	limited by statute
New Jersey	1994	indefinitely, but may petition for relief 15 years after release	mandatory	proactive	selected offenses	prosecutor and police	provided	people likely to encounter the offender	retroactive	not specified
Oregon	1993, 1995	for life; may petition for waiver after 10 years	varies[1]	proactive and upon request	selected offenses	probation and police	not provided	anyone	retroactive	unrestricted
Tennessee	1995	10 years minimum; then may petition for relief	discretionary	proactive	all offenses	Tennessee Bureau of Investigation	provided	not specified	retroactive	"relevant" information
Washington	1990	for life, 15 years, or 10 years depending on seriousness of offense	discretionary	proactive and upon request	all offenses	police	provided	not specified	retroactive	not specified

[1]Mandatory if under supervision; discretionary if not.

communication. Trained parole and probation officers use a Sex Offender Assessment Scale developed by a State-funded Sex Offender Supervision Network to determine whether an offender exhibits predatory characteristics. Supervising probation or parole officers develop their own notification plan based on the offender's criminal behavior and the make-up of the community. The Supervision Network provides technical assistance in applying the criteria and doing notification as well as arranging quarterly statewide meetings at which officers share methods and problems. A 1996 amendment to the statute permits law enforcement agencies to conduct lifetime notification for predatory sex offenders not under supervision.

Tennessee. Effective January 1, 1995, the Tennessee Bureau of Investigation or any local law enforcement agency may "release relevant information deemed necessary to protect the public" concerning released sex offenders. The statute does not provide guidelines for deciding which offenders will be subject to notification. Discretion to notify and the choice of notification methods rest with each agency.

Washington State. The first notification statute enacted in the country, a 1990 Washington State law makes any dangerous adult or juvenile convicted of any sex offense liable to notification. The legislation does not specify how dangerousness is to be assessed, nor does it establish methods of notification. An end-of-sentence review committee alerts the police chief and sheriff of the community where the offender will be living if the offender has a history of predatory behavior. Most local law enforcement agencies supplement this assessment with their own determination of the offender's

risk of reoffending using criteria developed by the Washington Association of Sheriffs and Police Chiefs. The local law enforcement agency then notifies the community according to guidelines also developed by the Washington Association of Sheriffs and Police Chiefs.

Statutory models

As the matrix and thumbnail sketches suggest, notification statutes vary considerably in their scope and level of detail. However, existing statutes generally fall into one of four models:

(1) An agency identified in the legislation or by the State (e.g., law enforcement, parole and probation, prosecutor) determines the level of risk an offender poses and then implements a notification plan that reflects the level of risk (e.g., Connecticut, New Jersey, Oregon, Tennessee, Washington). Frequently, the plan provides for three "tiers" depending on offender risk: the first tier may involve notification only to selected local organizations (e.g., schools), the second tier adds community residents, and the third includes the media.

(2) State statute stipulates which types of offenders are to be subject to notification and what notification methods to use; a designated agency carries out the notification but plays no role in determining which offenders will be subject to notification or how notification will be implemented (e.g., Louisiana).

(3) Offenders themselves are required to do the actual notification, although they may be supervised closely by a criminal justice agency (e.g., Louisiana).

(4) Community groups and individuals must take the initiative to request information about whether a sex offender is living in their community and to ask for information about the person (e.g., Alaska, California, Colorado, New York).

The study director of an evaluation of the Washington State notification statute conducted by the Washington State Institute for Public Policy reported that there is a trend for statutes to incorporate the three-tier system rather than to identify specific types of offenders who will be or may be subject to notification. In other words, statutes are increasingly intended to establish the need for notification based on a determination of the offender's potential for reoffending—low, medium, or high—rather than on the nature of his crime.

Advantages and drawbacks of legislation

Respondents identified advantages and disadvantages to the principal provisions of existing notification legislation:

● *Allowing local jurisdictions to establish and apply their own criteria* for deciding which offenders will be subject to notification and what type of notification will be conducted can provide probation officers, law enforcement officers, and prosecutors with a sense of ownership in the program. This discretion also makes them accountable for what may happen later on, such as community fear or harassment. Discretion enables agencies to individualize the notification process—for example, to refrain from doing notification with offenders for whom the procedure might put them over the edge and incite reoffending, or not subjecting an offender to notification because leaving him homeless as a result of being evicted could increase his risk of reoffending. Permitting discretion, however, can result in inequitable or inconsistent notification procedures because of the use of different criteria and their application in a subjective manner by different local agencies. Discretion also creates extra work for staff who must implement notification.

● *Mandating the type of notification required for specified types of offenders* presents the reverse scenario: it eliminates arbitrariness and subjectivity but may result in a reduced sense of responsibility for program implementation among notifying agencies. According to the Washington State Institute for Public Policy study director, explicit and strict statutorily established eligibility criteria may also increase the State's exposure to lawsuits because they allow each offender to argue that pertinent considerations were not included in the decision to subject the person to notification. As a result, criteria and procedures that were included in the original legislation in Washington State were eliminated in the final version.

● *The agency that identifies offenders who will be subject to notification and does the notification should be made accountable for what follows*—that is, it should have to handle the repercussions, such as objections from offenders and any resulting community fear, anger, or complacency. Agency staff who must handle the response are likely to be careful to subject to notification only those offenders for whom the evidence suggests a high risk of reoffending and to provide the community education needed to prevent negative community reactions to notification.

● *Requiring offenders to do their own notification* is open to a number of criticisms. It can frighten the community because the information comes directly from the offender. Some offenders try to make their names or other information on the notification

cards illegible or incomplete, creating work for whoever supervises the notification process. According to a coauthor of a multistate study of sex offender notification funded by the National Institute of Justice and published by the American Probation and Parole Association, "Notification by offenders doesn't allow for educating neighbors about the reasons offenders are released and the need for these parolees to live somewhere." However, two probation officers in Louisiana warned that if *they* had to do the notification, it would impose an even greater burden on their already heavy caseloads. Furthermore, they believe that making offenders handle their own notification teaches responsibility.

● By limiting the number of people with access to information about the offender and by keeping a list of the individuals who have asked for the information, *making the public responsible for requesting information about sex offenders* enables law enforcement agencies to more easily identify which community member may be harassing an offender than when an entire neighborhood has the information. The disadvantage of this approach is that many people may not take the initiative to request the information, and many community members may not even know the information is available. Residents in California may be further discouraged from using their State's hotline by the $10 fee for each inquiry and the requirement to provide the name of the suspected person and other identifying information, such as a Social Security number or date of birth. While the system received 3,270 queries in its first two years of operation,[17] an unknown number of the requests may have come from the same individuals or organizations.

Implementation issues

Implementation of notification statutes involves a number of discrete steps.

Establishing criteria

Unless the statute mandates that all offenders, or all offenders who have committed certain crimes, will be subject to notification, someone must determine whether to make each released sex offender subject to notification. Different States have relied on different methods of developing notification criteria and, as a result, have come up with different criteria:

● Ninety-three percent of law enforcement agencies surveyed by the Washington State Institute for Public Policy reported using criteria developed by the State's Association of Sheriffs and Police Chiefs to develop criteria for assessing just how high the risk is. The criteria assign a Level I status (low risk to the community) to offenders whose crime was nonviolent and occurred in a family setting; a Level II status (intermediate risk) if the crime occurred outside the family setting, the offender committed multiple offenses at different times, or he committed a violent offense (whether inside or outside the family); and a Level III status (high risk) if the offender has a history of predatory sex crimes or multiple violent offenses, expresses a desire to reoffend, or is diagnosed as a sexual predator.

● In Oregon, the Sex Offender Supervision Network's criteria and scoring system make any offender who fits three of nine criteria susceptible to notification (although notification can be justified for an offender who fits only one criterion). Criteria include history of convictions, stranger-to-stranger crime, multiple victims, prior nonsexual offense criminal history, use of a weapon, and men who molest boys. Probation officers also consider the views of the offender's therapist.

● In New Jersey, the Attorney General set up a committee that included members of the treatment community, prosecutors, and the department of corrections to develop guidelines for determining whether offenders fall into one of three tiers of danger (low, moderate, high) by applying a set of criteria that includes seriousness of the offense, offense history, characteristics of the offender, and community support. Local prosecutors apply the criteria. Determination of the offender's tier dictates the type of notification that will be applied.

● Tennessee's statute stipulates only one criterion for identifying offenders for notification: "significant danger to the community." As a result, local agencies have complete discretion to decide who will be subject to notification.

● The Connecticut statute stipulates that offenders who have committed certain stipulated crimes be *registered*. However, the Department of Adult Probation established a policy that extends the statute along two dimensions. First, probation officers are required to conduct *community notification* on these offenders as well. Second, officers may ask a treatment provider to evaluate the recidivism risk of offenders who have committed crimes *not* included in the statute; if the treatment provider considers that the risk is high, the officer consults with the therapist regarding the type of community notification that should be conducted. Thus, for these offenders, therapists, not probation officers, determine whether and what kind of notification will be implemented.

Applying the criteria

Application of the criteria typically requires access to a range of information about the offender, including the person's progress in therapy, extent of family support, and criminal history. Obtaining this information can sometimes be impossible or possible only with considerable effort or delay. Respondents reported they sometimes had particular difficulty determining whether the offender had family support, was in treatment, or was making progress in treatment.

Washington State illustrates how local jurisdictions, given discretion, may establish offender risk levels differently. The two sheriff's deputies in Thurston County who do notification apply the State's Association of Sheriffs and Police Chiefs criteria and assess whether each offender is a Level I, II, or III risk. A lieutenant and a captain review their Level I and II assessments, but the chief of operations reviews their Level III assessments. By contrast, the police officer responsible for notification in Seattle does an initial screen for notification level, but then an oversight committee of 14 law enforcement personnel and legal advisors reviews every one of his assessments. A probation office in Oregon follows yet another procedure: each probation officer brings ambiguous and all Level III cases for review by a weekly staffing group consisting of five other probation officers responsible for sex offender notification, their supervisor, and a sex offender therapist. The group discusses each case and reaches consensus on what the risk level should be for each offender presented.

Determining who will be notified

Geographic area. In some States, the notification statute specifies the geographic area within which notification must be conducted. The Louisiana statute requires postcard notification within a three-block radius if the offender lives in an urban area (which totals to 36 blocks) and within a one-mile radius in rural areas. The probation officer duplicates a map of the region and circles the area within which the offender must notify residents, organizations, and the press. In most States, however, determining the geographic reach of notification is left to the responsible notification agencies. For example, the Washington State statute limits notification to the area of threat by the offender, while the New Jersey statute stipulates areas that include members of the public likely to encounter the offender; the Connecticut statute is silent on the matter.

The Seattle police officer conducts notification within the Federal census tract and abutting tract, usually representing a one- to one-and-one-half-mile radius. The Thurston County detectives in Washington State go to the offender's neighborhood a few days before notification will be put into effect both to verify the person's residence and also to "eyeball" a geographic area for notification. Prosecutors in New Jersey sit down with local law enforcement officers and, using maps, usually determine a radius of approximately 1,000 feet in urban areas and up to two miles in rural areas. According to one prosecutor, "We look at how far the offender has to travel to buy cigarettes." If an offender lives in one community, works in another, and goes to school in a third, the prosecutor and police may have to extend the area.

Groups and individuals to be notified. Typically, States distinguish among three groups that must or may be notified: organizations, residents of the community in which the offender is or will be living, and the media. In States that have tiered notification systems, the groups that are notified are keyed to the level of risk into which each offender falls.

- In New Jersey, for Tier 1 offenders (low risk), law enforcement agencies likely to encounter the offender must be notified; for Tier 2 risk offenders, the statute requires prosecutors to notify community organizations as well; and for Tier 3 offenders, police officers must also notify residents in the community.

- In Washington State, with a low risk of reoffense (Level I), information is disseminated to other appropriate law enforcement agencies; with a moderate risk of reoffense (Level II), schools and neighborhood groups may also be notified; and with a high risk of reoffense (Level III), the public may be notified through door-to-door contact and press releases.

With regard to organizations, every agency notifies schools, but others also notify housing departments, public libraries, block watches, churches, or any organizations that oversee women or children, such as day care centers and Boy and Girl Scout troops. Except for Louisiana, where the State statute requires offenders to notify local newspapers, local agencies in the other States contacted for this review have discretion over which media to contact. Media that are notified typically include community newspapers but occasionally also involve television and radio.

Determining what information will be released

Statutes in some States (e.g., Alaska and Louisiana) specify the information about the offender that must or may be

divulged. Other statutes expressly leave the decision to the notifying agency ("Nothing in this section prohibits probation officers from disclosing any information to anyone"—Connecticut), limit the information to "relevant and necessary information" (Louisiana, New Jersey, Washington State), or are silent on the matter (Tennessee). As shown in exhibit 2, when the statute is silent or affords local discretion, different jurisdictions within the same State may provide very different information.

Determining who will do the notification

Statutes typically assign responsibility for notification to one of four groups: law enforcement agencies (e.g., Washington State); the probation and parole department (Connecticut, Oregon); local prosecutor offices (New Jersey); or offenders themselves (Louisiana). Tennessee permits any local law enforcement agency to do community notification. The New Jersey statute authorizes law enforcement agencies to conduct the notification once the prosecutor has determined the offender's tier. However, the Attorney General's guidelines indicate that the prosecutor, in consultation with local law enforcement, determines appropriate notification methods, which may involve participation of the prosecutor, State police, or local law enforcement agencies.

Doing notification

As allowed by statute, different States, and different jurisdictions within some States, conduct notification very differently. The appendix identifies the range of different activities jurisdictions in Washington State use in conducting notification to organizations, residents, and the media. The discussion below summarizes selected approaches that jurisdictions across the country have also used.

Notifying organizations. Typically, agencies mail organizations the offender's photograph and selected information about the person, usually in the form of a flier (see exhibit 3) used in Thurston County in Washington State. However, because the Attorney General's guidelines for implementing the New Jersey statute require prosecutors to train and educate community organizations, at least one New Jersey prosecutor meets with organizations in person, bringing copies of the flier if this is the first notification in order to explain the law and the need for confidentiality. The second time around, the prosecutor just telephones them and mails the flier.

Jurisdictions vary considerably in how they notify schools.

- When meeting with principals on Tier 3 offenders, the New Jersey prosecutor explains the need to get the information to parents and works with them on how to disseminate it. In elementary schools, the methods principals use include sending the flier home with other school materials with the children and mailing it to parents by certified mail; at the secondary level, principals typically give the fliers to teachers to give to students. (By contrast, the Seattle police officer tells schools not to send the flier home to parents with the children—to avoid frightening the students—but instead to mail it to parents.)

- The day before notification is sent to the press and given to neighbors, the Thurston County detective in Washington State takes several fliers to the school district in which the offender will be living, and, on the day of notification, the district school administrator gives relevant schools a copy. The individual schools may then reproduce the flier and send it home with each child, post it in the hallways or teachers' lounges, or give it to bus drivers.

- In Louisiana, the offender leaves the flier with the local school superintendent. By law, the superintendent must decide how to distribute the information to schools within the school district.

Notifying neighbors. Typically, probation or law enforcement officers distribute fliers door to door. If someone is home, they explain the notification; if no one is around, they leave the flier under the door or doormat. In Oregon, probation officers do not leave a flier unless they can talk in person with someone in the home in order to address immediately any concerns the flier may stimulate and to avoid alarming any children who might find the flier before their parents return. If no one is home, officers can either leave their business cards inviting the residents to call for the flier or leave a flier with a neighbor to bring over when the residents return. In Louisiana, every offender fills out, addresses, and pays for the postage of as many as 700 postcards reporting his name, crime for which he was convicted, and address. A probation officer reviews and monitors mailing of the cards. While some offenders claim they cannot afford the postage (which could run over $100), they are required—and always manage—to find the money.

Notifying the media. Agencies usually mail a flier to the media. However, probation officers in Oregon send fliers to the media only after they have talked to neighbors, in part because not everyone in the community reads the local newspaper and, more importantly, because the officers want to be able to anticipate and allay any fears before neighbors read—and become

alarmed by—the information in the local press. A sheriff in Washington State provides the local print media with a flier and photograph that the newspapers print with an accompanying article based on additional information the officer provides. Offenders in Louisiana place—and pay for—a notification in the local press. A court ruling in New Jersey prohibits notification of the press.

Educating the community

Many agencies work directly with the community to promote understanding both of their State's notification statute and the characteristics of sex offenders, typically to prevent a false sense of security, excessive community fear, and vigilantism. (See "How to Educate the Community.") Agencies may conduct community meetings either to discuss a sex offender who has just been or is about to be released or in response to a request for speakers. After a New Jersey prosecutor talked with a PTA for three hours, she received calls from three other PTAs to speak.

Using specialists

The agencies surveyed for this review concentrate sex offender notification work only among selected staff. Many agencies also assign this responsibility to their most experienced staff—for example, to probation officer specialists or to police officers or prosecutors from the sexual assault unit. Most respondents felt that specialization was important because:

- Extensive supervisory experience is required to deal with sex offenders, who are said to be very manipulative.

- Sex offenders need extra surveillance from a trained eye to look out for objects and activities that they may be using to entice children, such as children's toys in their homes or clothing catalogs showing young girls clad in underwear, or demonstrations of friendliness toward mothers of young children.

- Working effectively with sex offenders requires an understanding of the dynamics of sexual offending and knowledge of the latest treatment trends.

- Seasoned staff are best equipped to defuse public and media concern over potentially volatile issues such as sexual offending.

Exhibit 2. ***Percentage of 42 Law Enforcement Agencies in Washington State That Release Different Kinds of Information to the Public***

Level I	Information is retained for use by law enforcement only.
Level II	● Address: 74% Approximate Address: 53% Exact Address: 21% ● Physical Description: 63% ● Photograph and Criminal History: 49% ● Method of Approaching Victims: 49% ● Vehicle Model: 14% ● Place of Employment: 12%
Level III	● Address: 88% Approximate Address: 35% Exact Address: 53% ● Photograph and Physical Description: 86% ● Criminal History: 74% ● Method of Approaching Victims: 67% ● Place of Employment: 47% ● Vehicle Model: 24%

Sheila Donnelly and Roxanne Lieb. Washington's Community Notification Law: A Survey of Law Enforcement. Washington State Institute for Public Policy (Olympia, Washington, 1993), p. 5.

Implementation problems

Respondents identified few problems with doing notification. Although a few respondents said they found it difficult to apply the criteria for assigning offenders to various risk levels, most reported that the process was "easy." "Unclear risk classification guidelines" were mentioned by a few police agencies in Washington State as a problem, but at least 24 of 29 agencies canvassed in a survey conducted by the Washington State Institute for Public Policy made no mention of this difficulty. Furthermore, the institute found little disparity among police agencies across the State in terms of the types of offenders who have been subjected to notification.[18] The liaison for Oregon's Sex Offender Supervision Network reported that probation officers in her State have had "no problem applying the criteria because they've been trained in how to apply them and had discussions at quarterly network meetings." However, an experienced probation officer who is a member of the network reported that he had experienced "lots of difficulty deciding who should be in the notification program because you can't predict who will

*Exhibit 3. **Example of a Notification***

SEX OFFENDER NOTIFICATION

The Thurston County Sheriff's Office is releasing the following information pursuant to RCW 4.24.550 which authorizes law enforcement agencies to inform the public when the release of information will enhance public safety and protection.

The individual who appears on this notification has been convicted of a sex offense that requires registration with the Sheriff's Office. Further, his previous criminal history places him in a classification level which reflects the potential to reoffend.

This individual has served the sentence imposed on him by the courts and has advised this office that he will be living in the location below. This notification is not intended to increase fear; rather, it is our belief that an informed public is a safer public.

NAME:
AGE:
RACE: White
SEX: Male
HEIGHT: 5-07
WEIGHT: 160
HAIR: Brown
EYES:

RESIDENCE:

VEHICLES:

SYNOPSIS: In 1981 pled guilty in Clark County Superior Court to Indecent Liberties. This resulted from his sexual contact with an 8-year-old girl who was known to him. In 1988 again pled guilty to Indecent Liberties for multiple sexual contacts with a different 8-year-old girl, also known to him. In 1995 he pled guilty to Luring a Child for inviting another 8-year-old girl into his apartment. This girl was a stranger to him. After his release from custody, moved to Thurston County. He is under the supervision of the Washington State Department of Corrections and is not allowed unsupervised contact with juveniles.

For additional information, call Detective Jack Furey at 786-5 r Detective Roland Weiss at 786-5

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reoffend or what the impact of notification will be on the offender and the community." A couple of other respondents stated that lack of information (e.g., progress in therapy, nature of family support) could make applying the criteria difficult. Despite these reported difficulties, respondents were consistent in recommending that local agencies continue to be given discretion to decide which offenders should be subject to notification.

Almost every respondent reported that doing notification is very time consuming and burdensome. The Thurston County detective in Washington State said, "At the beginning, no one realized the staffing impact of this legislation; it's a monster." Furthermore, probation officers in some States are not given reduced caseloads to compensate for labor-intensive supervision of sex offenders.[19] Respondents in several jurisdictions noted that the work is especially burdensome because if an offender moves—sometimes a frequent occurrence—they have to implement the notification process all over again.

A prosecutor in New Jersey reported that the notification process takes so much time that her office has been able to arrange for notification of only 70 of the backlog of 184 offenders who were already in the community after the law was passed. Her office gives priority to processing new probationers and parolees because by statute notification has to be completed within 90 days after a prosecutor's office is notified of their impending release. Only when she is caught up with these new cases can she try to work down the backlog of offenders already in the community. Furthermore, if an offender moves, she has to apply the criteria all over again because the person's living situation will be different (residential support is one of New Jersey's criteria for determining notification level). Every Tier 2 and 3 offender is also afforded the option of a judicial hearing to contest his or her notification level, and many offenders have exercised this option. Community meetings require still more time.

Linking Notification to Treatment

In some jurisdictions, there is a close relationship between notification and treatment. Some agencies use the offender's progress in counseling as a criterion for deciding whether he will be subject to notification, while other agencies involve therapists actively in the notification decision. In Connecticut, where an experimental Intensive Sex Offender Supervision Unit evaluates offenders for risk level and then provides treatment, the probation officer and therapist sometimes make home visits together and co-facilitate treatment. Notification is used in some jurisdictions as a management tool to motivate offenders who are currently not subject to notification to enter, remain in, or improve in treatment or face notification.

According to the liaison of the Oregon Sex Offender Supervision Network, the time required to do notification has diminished over time in her State because less and less community outreach is required as neighborhoods become familiar with the statute and its implementation. An Oregon probation officer confirmed this view: "The process is streamlined now; everything goes quickly: I make a phone call to each group and spend a few minutes giving a short explanation (in the past, every explanation took 15 minutes), and I spend less time giving explanations when I go door to door now because people are already familiar with the law."

Only two jurisdictions were identified that have provided additional funding for doing notification: some law enforcement agencies in Washington State and some prosecutors in New Jersey have secured appropriations from county commissioners. "If notification is unfunded," an expert concluded, "something else will get less attention." A probation officer complained, "We lose time [doing notification] that we should be spending on managing the offender," while a police officer said, "Other work gets shortchanged."

Impact issues

Notification statutes can be evaluated in terms of whether they achieve the goals they are intended to accomplish and in terms of whether they are having unintended beneficial—or harmful—results. Most statutes were enacted with the ostensible goals of protecting public safety, particularly to enable parents to protect their children, and improving law enforcement's ability to investigate sex offenses. The discussion below considers several issues involved in determining whether the statutes have achieved these two goals—and whether the statutes have resulted in unintended benefits or drawbacks.

Does notification have benefits?

Protecting the public. Only one study was found that has examined empirically whether notification protects the public by reducing recidivism.[20] A report prepared for the Washington State Institute for Public Policy compared the number of arrests for new sex offenses among 90 offenders subject to notification with arrests for sex offenses among 90 offenders not subject to notification.[21] The comparison group of offenders consisted of individuals who had been released from incarceration before the statute had been implemented and who were matched with the community notification group on the basis of two variables believed to be related to sex offense recidivism: multiple sex offenses (based on conviction records) and victim type—whether the individuals were classified as child molesters or victimized adults. The two groups were also comparable in terms of age and race. Because offenders in both groups had been living in the community from 7 to 54 months, survival analysis was used to estimate the recidivism rates for each group.

At the end of 54 months (four-and-one-half years "at risk"), there was no statistically significant difference in the arrest rates for sex offenses between the two groups (19 percent versus 22 percent). However, the study did find that notification had an effect on the time of the next arrest for any type of offense: offenders subject to notification were arrested for new crimes much more quickly than were offenders not subject to notification. Although the timing of reoffending was different between the two groups, the overall levels of recidivism at the end of 4.5 years at risk were similar.

Of course, community notification will be less able to improve public safety to

How to Educate the Community

All respondents agree that notification should be accompanied with community discussions of the nature of sex offending that address the following points:

- Putting the offender in context—for example, explaining that the person is only one of 10,000 sex offenders in the State.
- Describing both the typical pattern of offending each particular offender follows and how offenders operate in general (e.g., this offender lures children into his home with his puppy; offenders in general often frequent amusement parks); this information may promote two kinds of risk management—the community knows what to look out for with each offender and knows how to protect itself from offenders in general.
- Discussing the implications of the evidence that most sex offenses occur between family members or between people who know each other.
- Explaining that not every registered sex offender is predatory (e.g., statutory rapists).
- Explaining that sex offenders do not usually commit their crimes impulsively out of the blue; there is usually careful planning and preliminary steps that, if nipped in the bud, can be prevented from escalating into an actual crime.

the extent that offenders move to another jurisdiction within the same State without registering again or move to another State that does not have a notification statute. In fact, several commentators[22] and two experts have asserted that notification, because of the stigma it creates, has had or may have a displacement effect. For example, in Tennessee, 28 percent of offenders move without registering again, thereby precluding notification in their new community of residence. However, while respondents reported that many offenders do move a great deal, most respondents maintained that offenders do not usually move because of the notification statute and that offenders generally notify authorities of their new addresses.

Several respondents in States that vest discretion for subjecting offenders to notification with local agencies reported that agency staff have used *the risk* of notification to motivate offenders to enter or work harder in treatment, adhere to probation or parole conditions, or find a job and remain employed. This use of notification represents an indirect attempt to employ notification legislation to protect public safety, because, used in this manner, it is the threat of being subject to notification, not notification itself, that may help reduce recidivism.

According to a process study of sex offender notification in Oregon, "Sex offenders do not particularly want community notification to occur, and even those who were previously resistant to treatment are acknowledging their deviant behavior and attending and working harder in treatment."[23] After notification was enacted in her State, the liaison of Oregon's Sex Offender Supervision Network saw "a huge scramble among offenders to admit to their crime" in order to demonstrate that they did not need to be subject to notification (because acceptance of responsibility is a sign of rehabilitation). Based on site visits conducted in thirteen jurisdictions in six States, a coauthor of the multistate community notification study published by the American Probation and Parole Association concluded that

> The *threat* of community disclosure is the greatest contribution of notification as a tool for managing sex offenders in the community. That is, an immense value of the law is that the *threat* of notification can act as a catalyst for sex offenders to participate actively in treatment, remain employed, and comply with special conditions of their community placement. Notification becomes one more tool, along with curfews, the polygraph, and special restrictions, to manage sex offenders in community settings.

To be sure, offenders who engage in unallowed or risky behavior should not be arbitrarily and punitively raised to a higher notification level. However, their misdeeds can be legitimately included as one criterion in deciding whether notification, or more stringent notification, is warranted.

Improving law enforcement's ability to investigate sex offenses. In addition to furthering the goal of crime prevention, some statutes, such as the laws in Louisiana and Washington State, were also enacted to "enhance the ability of law enforcement agencies to investigate crime by providing them with information regarding convicted offenders residing in their jurisdiction." As noted above, the Washington State study of recidivism found that offenders subject to notification were indeed arrested for any type of crime sooner than were other offenders. Several respondents felt that notification statutes achieve this goal by encouraging and educating neighbors, employers, and organizations to report suspicious behavior. The implementation study of Oregon's statute found that "Not only have offenders who have absconded been found, but Corrections has received valuable information on offender activities from community members."[24]

Educating the public about sex offenses. Nearly all respondents reported that notification is a useful tool for educating the public about the nature of sex offenses. The coauthor of the multistate study of community notification believes that "It's a great tool for general education, including opening up families to have a dialogue on how to protect their children" if the education is conducted by people who really understand the problem. The sheriff's detective in Thurston County, Washington, receives as many as five calls each day from parents seeking information about how to protect their children. On a day when fliers are distributed, the crime prevention message on the back of the fliers may generate as many as 25 calls. The police officer in Seattle maintained that notification has "absolutely been effective in terms of educating the public." To substantiate his claim, the officer recounted two anecdotes:

- As a result of a handout he distributed at a community meeting, a woman called and said a man had appeared at her house, showed a photograph of himself standing next to a local high school teacher (whom the woman recognized, without realizing the photograph was several years old), and said he was a tutor going door to door solic-

iting students. The woman hired him to tutor her two daughters in math. After the tutoring began, the mother noticed that the tutor was showing excessive interest in one daughter, so she called the police officer just to confirm the man was all right. In fact, the tutor turned out to be a registered Level II sex offender who had moved into the woman's neighborhood before she did. The woman cried on hearing the news and fired the tutor. The officer established new restrictions on the tutor and distributed another copy of the flier on the man to the entire neighborhood.

● After giving a different audience his standard presentation that included information about how some offenders date women just to gain access to their children, another woman called the officer to say that a colleague at work wanted to date her, but she had a daughter and remembered the officer's warning. The officer found that the man was a Level I sex offender. The officer talked to the offender but did not raise him to a Level II because the person had voluntarily informed his probation officer that he was considering dating someone at work. (The probation officer had neglected to do anything about the information, such as notifying the woman.) The woman refused to date the man.

Increasing criminal justice system collaboration. In Connecticut, probation officers give police officers information on offenders, and law enforcement reciprocates by helping to supervise them. A deputy attorney general in New Jersey said that notification had brought a huge number of agencies together in a very good experience, including probation and parole, law enforcement, and prosecutors. The Thurston County sheriff's detective has had increased positive contacts with probation and parole as he uses their presentence reports to help classify offenders and takes advantage of their home visits to avoid having to verify the residences of some offenders himself. An Oregon probation officer reported having closer contacts with police.

Improving the criminal justice system's involvement in the community. A report on Oregon's notification implementation procedures concludes that:

> Community notification has brought parole/probation officers out into the community as never before . . . . This has increased the public awareness of community supervision to many citizens who would not otherwise personally encounter anyone associated with corrections. This public contact has increased the community's understanding of the functions of Community Corrections and created an environment where parole/probation officers are working as part of the community.[25]

Repeating this theme, the head of adult probation in Connecticut remarked that "public agencies in the State and probably elsewhere operate in a stick-your-head-in-the-sand mode: they don't publicize their work or solicit clients. However, implementing the notification statute gives them visibility and positive press."

Does notification do harm?

Notification can have negative effects on the criminal justice system, the community, and offenders. The principal damage notification can create for the criminal justice system has already been discussed above: overwork and a resulting reduction in attention paid to other agency responsibilities. The potential for damage to the community and offenders, including means of minimizing the harm, are discussed below.

Harming the community. Respondents and commentators suggested that community notification may incite excessive community fear or anger. Paradoxically, several respondents and some commentators believe that notification can also create a false sense of security in communities by leading residents to conclude that now that they know about the sex offenders in their midst, they no longer have to worry about the problem.[26] Many practitioners reported that they are largely able to prevent communities from becoming either frightened or complacent by using community meetings, door-to-door discussions, and the media to educate the public to the dynamics of sex offending. For example, a probation officer who was told by a woman that she would have to move now that she had been told there was a sex offender in the neighborhood was able to reassure her that the offender was of no danger to her because he was interested only in children. To prevent complacency, the police officer in Seattle makes clear at least three times during every community meeting that residents are more likely to be abused by an unregistered relative than by a stranger.

Harming offenders. Commentators have expressed concern that *harassment* of offenders has occurred as a result of community notification.[27] By contrast, most practitioners contacted for this review reported that notification has led to little or no harassment in their jurisdictions.

● According to the Washington State

Institute for Public Policy evaluation study director, harassment in Washington State has not been nearly as severe or as frequent as expected. The institute recorded 14 cases in the State over a three-year period.[28] The police officer in Seattle was aware of only two cases of harassment in six years. The Thurston County detective had heard of only minor harassment, such as when a teenager called a young offender a pervert.

● According to a survey of 45 probation and parole sex offender specialists from 35 counties in Oregon who were supervising 2,160 sex offenders, less than ten percent of offenders experienced some form of harassment, such as name calling, graffiti, picketing, and minor property vandalism. Two extreme cases of retaliation were reported: one sex offender had a gun pointed at him and another was threatened with having his house burned down.[29] An experienced probation officer in Oregon recalled only one example of harassment, when someone had written angry words on an offender's automobile windows. Respondents in Oregon and Washington State reported that whatever harassment has occurred has declined over time.

● During her site visits, the coauthor of the community notification study published by the American Probation and Parole Association heard about actual examples of harassment infrequently in the six States she visited.

Agencies actively try to prevent harassment. Two respondents reported that they regularly tell residents that the notification law might eventually be repealed if they engage in harassment, and then they would have no way of knowing when a predatory offender was living in their community. Staff from several agencies said they also tell neighbors that any acts of harassment will be prosecuted vigorously.

Several commentators assert that notification makes it difficult for offenders *to find a place to live*.[30] The coauthor of the study published by the American Probation and Parole Association and the study director at the Washington State Institute agree that offenders have been evicted in some jurisdictions. A probation official in Louisiana reported that, largely because of media attention, notification had made it more difficult for offenders to find a residence. By contrast, a probation officer in Oregon said that he had expected that offenders would be evicted frequently after enactment of the State's notification statute but that, after an initial spate of evictions, they are now rare. Several respondents reported that their notification statute had been implemented too recently to have created this problem.

Commentators report that notification impairs the ability of some offenders *to find and hold jobs*.[31] The implementation study of the Oregon statute found that some parole and probation officers also reported that notification "has effected [sic] employment opportunities for sex offenders."[32] However, a coauthor observed that notification statutes should have little effect on employment because probation officers in most States have always required sex offenders to inform employers about their criminal history. Other respondents were unable to assess the effect of notification on employment.

Some commentators contend that notification makes it difficult for offenders *to reintegrate into society*.[33] Some clinicians maintain that the added stress of notification may even increase the risk of reoffending.[34] According to the National Center for Missing and Exploited Children, "Constant harassment and ostracism . . . may cause serious psychological damage, possibly even causing [a sex offender to] . . . return to his previous, dangerous lifestyle."[35] Respondents said they had no way of confirming or denying these assertions.

Legal issues

States may encounter two types of legal problems related to sex offender notification: civil suits against agencies and individuals involved in implementing notification statutes, and legal challenges to the statutes themselves. While offenders in some States have also sued to reduce their notification level without challenging the constitutionality of the notification statute, the courts have generally upheld the notification level originally established.

Agency employee liability

No respondent was aware of any civil suits brought against any agency employees either by individuals who had been victimized by sex offenders subject to notification or by offenders challenging their notification status. In part, the absence of suits may reflect the immunity from civil liability that several statutes afford agency employees engaged in notification, including legislation in Louisiana, New Jersey, Tennessee, and Washington State.

Despite the lack of suits, several probation officers reported they were concerned about the possibility of being sued. The director of Connecticut's adult probation department said that "probation officers are always nervous about liability," while a probation officer in Louisiana said that an unrelated lawsuit brought against a

probation officer before notification went into effect instilled fear in other officers about their potential liability under the new statute. A probation officer in Oregon explained that his agency uses staff meetings to decide how to handle selected notification cases in part to reduce the officers' liability by demonstrating that there is a process in place for assessing offender risk and by spreading the risk among several officers.

Constitutional challenges

There have been constitutional challenges to notification statutes and their implementation in all seven States examined in this review.

Retroactivity. In a review of existing case law, the National Center for Missing and Exploited Children concluded that "Given adequate due process protections, community notification laws are generally safe from all challenges except those based on retroactivity."[36] Indeed, the most frequent ground for suits has been the claim that the *ex post facto* nature of most statutes—that is, their retroactive application to offenders who had already been sentenced at the time the statute went into effect—constitutes double jeopardy in that notification, because of the purported stigma attached to it, punishes offenders who have already served their time. The *ex post facto* analysis turns on whether the law is punitive or regulatory in nature. However, courts, legislators, and commentators differ on this critical characterization. For example, in upholding the Washington State notification legislation, the State Supreme Court in *State v. Ward* (869 P.2d 1062 [Wash. 1994]) expressly found that the statute had a clear regulatory purpose. Courts in New Jersey have gone back and forth on the issue of retroactivity. The U.S. District Court for the District of New Jersey in *Artway v. Attorney General* (872 F. Supp. 66 [D.N.J. 1995]) held that the retroactive application of Megan's Law in Tier 2 and 3 notifications was unconstitutional (but upheld the registration of sex offenders and the constitutionality of retroactive Tier 1 notification). However, on appeal, the Third Circuit Court in 81F 3rd 1235 on April 12, 1996, vacated the District Court's enjoining the retroactive application of Tier 2 and 3 notification (and affirmed the *Artway* court's decision upholding registration and retroactive notification for Tier 1 offenders). On July 1, 1996, the U.S. District Court for the District of New Jersey in *WP et al. v. Poritz* also upheld the retroactive application of Tier 2 and 3 notifications as constitutional. Then, on July 9, 1996, the Third Circuit entered a stay of *Poritz* and enjoined prosecutors from proceeding on Tier 2 and 3 notifications on retroactive cases. The case was still on appeal with the Third Circuit as of July 1996. While a Louisiana State Appellate Court in *State v. Babin* (637 So 2d 814 [La. App. 1st Cir. 1994]) pronounced portions of the State's statute unconstitutional based on retroactivity, other courts in Louisiana have upheld the statute. As a result, the probation department keeps a list of how each judicial district has ruled on the issue so that local probation offices know whether they can apply the law retroactively. Connecticut's and Oregon's statutes have also been challenged on grounds of their retroactivity, but the litigation is still pending.

Due process. The second most common basis for challenging notification statutes is on due process grounds. Due process challenges have also met with mixed success in the courts. While two State courts in New Jersey ruled that allowing local prosecutors to determine levels of notification violated due process because they are biased parties, the State Supreme Court in *Doe v. Poritz* (662 A.2d 367 [N.J. 1995]) ruled that the State only had to provide a hearing in order to prevent capriciousness. Most other States have made provision either for offenders to petition for relief from notification or for the initial determination of notification to be reviewed by other officials. For example, the Louisiana statute (as amended) allows offenders to petition for a hearing to be relieved of notification, while Pennsylvania's legislation requires a nonjudicial review board to identify dangerous offenders.[37] If successful, a due process challenge to the Oregon statute may require that State's probation offices to implement a hearing process.

Other constitutional challenges. Several unsuccessful challenges have claimed that notification violates the Eighth Amendment's prohibition against cruel and unusual punishment because of the public stigma alleged to attach to notification. Only one court appears to have explicitly found a privacy right necessarily implicated in the community notification context. An offender in Alaska obtained a temporary restraining order against the notification portion of the State's new registration statute by arguing that notification would violate his privacy, a right expressly guaranteed in the Alaska constitution. However, according to the case law review by the National Center for Missing and Exploited Children, "Based on current legal precedent as well as the U.S. Supreme Court's historical bias against new privacy rights, it is unlikely plaintiffs will find much success on these claims." The U.S. Supreme Court has specifically held that "States may not

impose sanctions for the publication of truthful information contained in official court records open to the public" (*Cox Broadcasting v. Cohn*, 420 U.S. 469, 470 [1975]). Because of this position, two Federal courts in Alaska rejected the claim of a privacy right put forth by the offender cited above before he obtained temporary relief in State court. In *State v. Ward*, the Washington Supreme Court also rejected the privacy argument, ruling that criminal records constitute public information in which no one has a privacy right.

The review of existing case law by the National Center For Missing and Exploited Children concludes that:

> No court [as of September 1995] has found community notification unconstitutional in principle. Therefore, even if States must concede the possible punitive nature of these laws, the defect may be cured through a simple amendment repealing retroactive application if necessary. States needn't abandon community notification but should instead carefully attempt to meet the constitutional parameters established by the courts.[38]

Conclusion

There is tremendous diversity among existing State community notification statutes. Furthermore, different agencies responsible for carrying out notification within the same State may use very different approaches. There is no empirical evidence that notification is achieving its stated objectives of increasing public safety and assisting law enforcement with sex offender investigations. The one available empirical study found no impact on recidivism. Most practitioners, however, believe that the threat of notification is a useful management tool for supervising sex offenders and that notification laws can provide a springboard to educating communities about sex offending. Doing notification is a serious burden on the time of most agencies with the result that other work gets short shrift. Although there have been documented cases of harassment and evictions, the extent to which notification is harmful or unfair to sex offenders, and whether these problems decline over time as some respondents suggested, is unknown.

The effectiveness of notification probably depends to a considerable degree on the provisions of the State statute, the resources that States and localities are able and willing to provide for implementing the statute, and the dedication and expertise of the probation officers, police officers, and prosecutors responsible for carrying out notification. Respondents agreed that notification is most likely to be effective if it is accompanied by extensive community education and is carried out by specialists.

The Washington State Institute for Public Policy evaluation study director cautions that neither a single model statute nor a model set of implementation procedures should be developed and recommended because the type of notification a given State needs will depend on the related legislation it already has in place and the resources it can or will dedicate to carrying out notification. Furthermore, several respondents stressed that notification should be seen as *only one component of a package* designed to address recidivism among sex offenders. The package should include close supervision, treatment, polygraph testing, and working to educate the community to react constructively to suspicious offender behavior. Finally, the inherent limitations of notification need to be recognized. In particular, notification is unlikely to have much, if any, deterrent effect with offenders who have not yet been arrested or who victimize within homes where other members of the family collude in the behavior.

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11. Bedarf, A.R. Examining sex offender community notification laws. *California Law Review*, 1995, 83(3): 885–939.

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14. Matson, S., with Lieb, R. Sex Offender Community Notification: A Review of Laws in 32 States. Washington State Institute for Public Policy. Olympia, Washington, 1996.

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31. Montana, Note: An ineffective weapon.

32. Sex Offender Supervision Network, Sex Offender Community Notification in Oregon.

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38. National Center for Missing and Exploited Children, The Legal Validity.

This research was conducted by Peter Finn of Abt Associates Inc.

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The National Institute of Justice is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, Bureau of Justice Statistics, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

NCJ 162364

Clarification: The quotation should not be interpreted as the position of the National Center for Missing and Exploited Children on community notification. The National Center advocates community education in conjunction with State notification programs to diffuse the fear and hostility that create vigilantism

JURISDICTION	POPULATION (1993)	RISK ASSESSMENT & CLASSIFICATION	INFORMATION DISTRIBUTION	NOTES
Benton County	122,800	County law enforcement assesses and classifies only offenders residing in Benton City and in unincorporated areas.	Sheriff does notifications for offenders residing in Benton City and unincorporated areas. Level II notifications are done by flyer; Level III by door-to-door visits with neighbors, and by media release.	Registered sex offenders entered in a sub-database of existing interagency Bicounty Information (BIPIN) system.
Clark County	269,500	County law enforcement assesses and makes Level II classifications for all offenders residing within the county, including city residents. An interagency committee makes Level III classifications.	County sheriff's office notifies for offenders residing in the unincorporated county only. Level II notifications include door-to-door contact with neighbors and community agencies. Level III notifications also include press release.	County acts as information manager and coordinator for all jurisdictions - ID clerk is lead person. An interagency committee representing: county and city law enforcement, state DOC and juvenile justice officials, county prosecutor, and others meets once every 2-3 months to make Level III classification decisions.
Garfield County	2,300	No classification has been necessary.	Notification is done informally, by conversation with school and other concerned parties. Sheriff keeps registration information, and shares with public on request.	The Sheriff anticipates a more formal notification process if offenders move into the county in large numbers.
King County	1,587,700	County law enforcement assesses and classifies for county residents and contract cities.	Notifications are done through flyers and the mail. Each release is handled differently, to reach citizens most likely to be at risk.	County treats all notifications as Level II releases, since the local media cover all notifications, regardless of whether the sheriff's office wants a Level III media release.
Snohomish County	507,900	Detective assesses registered sex offenders in unincorporated county.	Level II notifications include door-to-door contact, and notification of school districts; schools produce flyer to send home with students. Level III notification include press release with announcement of public meeting; may also include door-to-door contact.	Public meetings are held following all Level III notifications, and are usually attended by 200 - 300 people; attendance has reached 400.

Staci Thomas and Roxanne Lieb. Sex Offender Registration: A Review of State Laws. Washington State Institute for Public Policy (Olympia, Washington, 1995), pp. 15–16.

JURISDICTION	POPULATION (1993)	RISK ASSESSMENT & CLASSIFICATION	INFORMATION DISTRIBUTION	NOTES
Spokane County	383,600	County law enforcement assesses and classifies only residents of unincorporated county and contract cities.	For Level II releases, the county sheriff's office produces a flyer to distribute to schools, and notifies neighbors in person. Level III releases are the same, plus media release.	
Thurston County	180,500	County detectives assess and classify all offenders residing within the county, including city residents. Information gathered on city residents is made available to city law enforcement for follow-up.	County detectives do notifications for unincorporated county residents only. Cities may request county detectives' assistance with notifications. Neighbors are notified in person, and a flyer is distributed to neighbors, other law enforcement, and schools for Level II and III releases.	Detectives employ an intensive case-management style, doing extensive research on offenders' backgrounds and keeping regular contact with many offenders.
Yakima County	197,000	County sheriff's office assesses offenders of concern residing within the county. A committee of state corrections, county and city law enforcement, and schools makes classification decisions.	The local school district produces a flyer to send home with children. Media releases are done for all notifications. The sheriff's office keeps a notebook of flyers, which members of the public may view on request.	
City of Bellingham	55,480	City police department assesses and classifies resident sex offenders.	City police Crime Analysis Section produces flyers for all Level II and III notifications that are distributed to neighbors, schools, and community agencies. Level III notifications also include media release.	Community meetings are held prior to Level III notifications. School districts are given advance notice for all Level II and III notifications.
City of Seattle	527,700	Detective assesses offenders residing in Seattle. Sex Offender Oversight Committee (all SPD personnel) meets once per month to classify city residents.	Crime Prevention Office of city police department mails bulletins for Levels II and III notifications to neighbors, community agencies, and others as appropriate.	Detective speaks to community groups about their concerns and teaches a mandatory class at Twin Rivers Correctional Center for sex offenders due to be released from incarceration.

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