

CALIFORNIA LAW ENFORCEMENT AND CORRECTIONAL AGENCIES

With Increased Efforts, They Could Improve the Accuracy and Completeness of Public Information on Sex Offenders

Audit Highlights . . .

Our review of the Department of Justice's (Justice) database of serious and high-risk sex offenders, known as the Megan's Law database, disclosed the following:

- The Megan's Law database contains thousands of errors, inconsistencies, and out-of-date information.*
- Because it excludes records for some serious and high-risk sex offenders and erroneously lists others as incarcerated, the Megan's Law database does not inform the public about these offenders.*
- Conversely, because it includes hundreds of duplicate records and erroneously indicates that 1,142 incarcerated sex offenders are free, it may unnecessarily alarm the public.*
- The address information for roughly 23,000 records in the Megan's Law database has not been updated for at least a year largely because sex offenders have not registered.*

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Department of Justice's response as of December 2003

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits (bureau) to evaluate the accuracy of the State's database of registered sex offenders. Further, the audit committee asked us to determine if state and local law enforcement agencies are implementing Megan's Law in a manner that maximizes the registration data's accuracy. Lastly, we were asked to identify deficiencies in the current state Megan's Law that hinder the accuracy of the sex offender data and to provide legislative recommendations to address identified deficiencies.

Finding #1: The Megan's Law database omits some records of juvenile sex offenders tried in adult courts, and inappropriately includes others.

The law provides that only juveniles with juvenile court adjudications for their sex offenses are protected from public disclosure under Megan's Law. However, we found omitted from the Megan's Law public information a total of 51 Department of the Youth Authority (Youth Authority) records of juvenile sex offenders tried in adult courts. In 20 cases, Department of Justice (Justice) staff did not mark the records as coming from adult courts; in 31 other cases, Youth Authority or Department of Corrections (Corrections) did not prepare pre-registration or notification forms or Justice did not receive or process them. Without information about serious and high-risk juvenile sex offenders tried in adult courts and released into communities, California residents have no way of knowing that they are living near these convicted offenders.

In addition to problems with the overall accuracy of the Megan's Law database, we found that Justice does not always prevent the public disclosure of juvenile sex offenders' records. Specifically, Justice erroneously disclosed to the public 42 records for sex

☑ *Although Justice maintains that its primary responsibility is to compile the sex offender data it receives from law enforcement agencies and confinement facilities, it has taken steps to improve the accuracy of the information in the Megan's Law database.*

offenders convicted in juvenile courts, thwarting the additional protection and confidentiality that the Legislature has afforded to juveniles.

To ensure that the records of juvenile sex offenders are properly classified and disclosed to the public, we recommended that Justice do the following:

- Coordinate with the Youth Authority and periodically reconcile its sex offender registry with Youth Authority information.
- Provide training to its staff regarding the proper classification of records, such as flagging juvenile records appropriately for public disclosure.
- Revise its pre-registration process with Youth Authority to include a request for court information, which can be used to properly classify juvenile records.
- Request the Judicial Council to amend its juvenile commitment form to require that Youth Authority send a copy of the form to Justice.

Justice Action: Partial corrective action taken.

Justice reports that it worked with Youth Authority to develop an automated process for updating juvenile sex offender status in the Violent Crime Information Network (VCIN) with Youth Authority data. Justice has implemented this process and plans to use it to update the VCIN monthly. It is working on other modifications that will improve data synchronization between Justice and Youth Authority, and plans to complete them by the end of January 2004. Justice also implemented new procedures and trained its staff to ensure that all juvenile sex offender records are properly classified for purposes of public disclosure. Additionally, the Judicial Council is evaluating legal issues associated with Justice's request for Youth Authority to provide more detailed court disposition information with sex offender registration documents to help facilitate the classification process.

Finding #2: The Megan's Law database omits some records with inaccurate offense codes.

Of approximately 18,000 records in the VCIN that are classified as "other" and not shown to the public, Justice identified 1,900 records that have offense code 290 rather than the more specific

offense codes for which the sex offenders were convicted. Local law enforcement agencies and Justice staff sometimes enter the 290 offense code in reference to the section of the California Penal Code that mandates registration for sex offenders when they are uncertain of the appropriate code, and the VCIN automatically classifies records with this offense code as “other.” Records classified as other are not included in the Megan’s Law database and thus not disclosed to the public. Justice ultimately determines the proper offense code by researching conviction information, but stated that until recently it has not had the necessary staffing resources to do the work. Justice subsequently updated the offense code for 497 of the 1,900, raising the classification to serious for 351 of them. For most of the remaining 1,403 records, Justice is waiting for responses from other states.

We recommended that Justice continue reviewing records for which it has only the 290 offense code and update the offense codes as appropriate.

Justice Action: Corrective action taken.

Justice continues to review criminal history information to verify that registered sex offenders are properly classified for purpose of public disclosure in the Megan’s Law database. As of December 9, 2003, Justice has reviewed approximately 15,500 of the approximate 18,000 sex offenders classified as “other,” resulting in the reclassification of 1,390 of these sex offenders to “serious.” Justice is in the process of researching the remaining 2,500 records, most of which have offense code 290, and has requested conviction information from courts.

Finding #3: Some sex offender records continue to indicate the incarcerated status after offenders are discharged from prison or paroled, while others show incarcerated sex offenders as residing in local neighborhoods.

We found that for 582 records in VCIN that indicate the offenders are in prison, there were no records with matching Criminal Information and Identification (CII) numbers on Corrections’ list of inmates. A sample of 59 of these revealed that 48 of the offenders were no longer in prison. Another 1,142 records incorrectly indicate the sex offenders are free when, in fact, they are incarcerated. Additionally, of 2,575 records Justice identified as pending release from prison for more than a year, 1,787 of these offenders had already been released. Because Justice does not review Corrections’ monthly list of prison inmates to identify sex offenders who

appear on the list one month but not the next, it does not know if Corrections should have completed a form notifying Justice and local law enforcement that it will soon be releasing a sex offender or that one has died, and Justice does not know which offenders require follow-up to determine their true status. Unless Justice corrects these records or these offenders register, their records in the Megan's Law database will continue to incorrectly indicate that they are incarcerated.

We recommended that Justice regularly compare its records showing the incarcerated status with information provided by Corrections to determine which sex offenders are confined and those who are no longer in confinement, continue to work with Corrections to improve this process, and produce exception reports to resolve those records in question. Justice can then update these records appropriately.

Justice Action: Pending.

Justice is in the process of modifying the program it uses to update the VCIN using Corrections' list of incarcerated sex offenders, so that an offender's incarceration status will be removed from the Megan's Law database when it no longer appears on Corrections' list. The offender's status will automatically change to "released" and a violation notice will be activated if the offender does not register with local law enforcement as required. Justice is also modifying the VCIN to generate violation notices based on the date of release, rather than on the date of notification, as reported in the pre-release notification documents. Justice anticipates it will complete these changes by the end of January 2004. According to Justice, these changes will significantly reduce future discrepancies between Justice's and Corrections' data.

To the extent possible, Justice and Corrections will pursue other methods for ensuring complete synchronization of sex offender data. However, Justice believes that it would not be practical to generate monthly exception reports as a means of identifying any sex offender records that cannot be properly matched to Corrections' data. It says that the use of such reports would be extremely time-consuming, since it would potentially require the manual research of thousands of possible matches each month.

Finding #4: The Megan’s Law database includes hundreds of duplicate records primarily created by personnel who lack adequate training.

We identified 437 records in the Megan’s Law database that were obvious duplicates of other database records. Consequently, the public cannot rely on the sex offender information shown in a zip code search to identify the number of offenders in a specific community. The public also cannot rely on the information retrieved from the Megan’s Law database in response to a search for a specific sex offender by name, because more than one record can appear for an offender and, without dates on the records, the public cannot determine which record is the most current.

Personnel who update sex offender records create duplicate records because they do not always search for existing records before creating new ones. According to Justice’s policies and procedures, when a sex offender registers, personnel updating sex offender records are required to search the database to determine if the offender matches existing records. However, Justice has not provided sufficient training to its personnel and to all local law enforcement agencies that update sex offender records. For example, we found that personnel at one city’s police department entered 89 of the 437 duplicate records.

We recommended that Justice periodically analyze its data to identify and eliminate obvious duplicates. As a first step, Justice should review the bureau’s analysis identifying obvious duplicate records and eliminate these duplicate records. Additionally, to ensure that local law enforcement and its own staff update sex offender information appropriately, we recommended that Justice design and implement an appropriate training program.

Justice Action: Partial corrective action taken.

Justice has implemented an improved system for identifying duplicate records in the VCIN through a specially designed data-string search and manual verification process. As a result of the initial search conducted in August 2003, Justice identified and eliminated 512 duplicate records from the database. In late October 2003, Justice began these searches on a weekly basis and as of December 9, 2003, identified 273 additional duplicate records, which it has merged and deleted. These weekly searches will augment the existing process of identifying duplicate records based on a cross match of CII numbers.

In addition, by mid-2004 Justice plans to complete the programming necessary to implement Live Scan, an electronic fingerprinting technology, allowing local law enforcement agencies to electronically transmit to Justice the offenders' fingerprints with each registration transaction. The fingerprints will be automatically verified for immediate and reliable identity confirmation, which according to Justice, will eliminate duplicate entries.

Also, Justice has been working with local law enforcement agencies to research and identify options for providing a statewide training program designed to improve the accuracy of sex offender data from both data entry and field enforcement standpoints. To determine how best to deploy its limited training staff, Justice has been soliciting local agency input regarding their need for training and other assistance through field contact, surveys, and a regional law enforcement meeting. Based on this input, Justice will modify its existing technical training program to focus on problem areas, incorporate enforcement strategies in the curriculum, and achieve greater efficiency through regional training it facilitates. Justice has trained its staff who process registration information in order to minimize technical errors that may contribute to data inaccuracy and plans to conduct this internal training on an ongoing basis.

Finding #5: The Megan's Law database does not show when sex offenders' records were updated, limiting the information's usefulness to the public.

Because the Megan's Law database does not include the dates of offenders' registrations, the public has no way of distinguishing the records recently updated from those updated long ago, thereby limiting the usefulness of the information. We found that approximately 23,000 records were last updated before April 2002, and about 14,000 of those were last updated before April 1998. Often, registrants do not comply with annual registration requirements, and many offenders with outdated information are not required to register in California because they may have moved outside the State, been deported or incarcerated, or are deceased. Without information in the Megan's Law database to tell them whether the last update was a week or five years ago, or a specific disclaimer explaining the possibility of outdated data, people viewing the database cannot evaluate the usefulness of the information they read.

We recommended that Justice modify the Megan’s Law database to include the date that the registration information was last provided.

Justice Action: Corrective action taken.

Justice has modified the Megan’s Law database to include a message indicating if and for how long an offender has been in violation of registration requirements. According to Justice, the message reads: “Note: This sex offender has been in violation of registration requirements since <date>.” Justice states that vendors are developing foreign language translations of this message and anticipates adding them to the Megan’s Law database by February 2004.

Finding #6: The public would be well served by Justice attaching disclaimers to the Megan’s Law database.

Even if state and local agencies accurately reported all the information they receive, the Megan’s Law database would continue to be incomplete and inaccurate as a result of sex offenders not registering as required or providing inaccurate information when they do register. Currently, Justice includes some disclaimers in the information it provides the public. However, we believe that modifying the existing disclaimers and adding others about potential inaccuracies and errors could help the public better understand and use the data to protect themselves and their families. As of the end of our audit, Justice was in the process of finalizing additional disclaimers that incorporate our suggestions.

We recommended that Justice finalize its disclaimer information and direct law enforcement agencies to provide the disclaimers to the public members who view the Megan’s Law database. The disclaimer information should include the following:

- A statement that Justice compiles but does not independently confirm the accuracy of the information it gathers from several sources, including sex offenders who register at law enforcement agencies and custodians who report to Justice when sex offenders are released from confinement facilities. This statement should advise the viewer that the information can change quickly and that it would not be feasible for California’s law enforcement agencies to verify the whereabouts of every sex offender at any given time.

- A statement that the information is intended not to indicate the offenders' risk to the public but to help people form their own assessments of risk.
- A statement that the location information is based on the "last reported location," which may have changed.
- A statement to remind viewers that a fingerprint comparison is necessary to positively identify a sex offender.

Justice Action: Corrective action taken.

Justice developed a comprehensive disclaimer containing the specific elements we recommended and has added the English version of this disclaimer to the Megan's Law database. Justice anticipates that translations of the disclaimer in 12 other languages will be added to the Megan's Law database by mid-January 2004.

Finding #7: Justice's review of the Megan's Law data has not been adequate.

State law declares the Legislature's intent that Justice continuously reviews the sex offender information in the Megan's Law database. However, Justice has interpreted this intent language to direct it only to continually review the accuracy of its entry of information, not of the information itself. Our legal counsel agrees with Justice that the intent language is not binding and states that because Justice is responsible for administering the Megan's Law database, it has flexibility in determining how it will fulfill the Legislature's intent that it continually review sex offender data. However, we believe Justice's review has not been adequate because the Megan's Law database is intended for the public's use in safeguarding itself from dangerous sex offenders. According to Justice, because it is only a repository, not the originating source, of much of the Megan's Law information, it is beyond the purview of Justice to ensure that information provided by courts and registering agencies is accurate.

The Associated Press reported in January 2003, based on information provided by Justice, that Justice did not know the whereabouts of 33,296 registered sex offenders because they had not registered annually as required. Subsequently, Justice determined that 663 of the 33,296 sex offenders had, in fact, registered within the past year. In addition, Justice confirmed that 2,833 sex offenders are living outside the State and

1,360 are deceased. However, Justice received either outdated, incomplete, or no information on the remaining 28,440 sex offenders who did not register.

Justice obtained information on deaths from the Department of Health Services (Health Services), deportations from the Immigration and Naturalization Service (INS), and sex offenders living in other states from the National Law Enforcement Telecommunication Services. However, until 2003, Justice had not requested death information to use for updating sex offenders' records. According to Justice, previously it did not obtain the information from Health Services or the INS because it has no underlying statutory responsibility for seeking out information from these agencies.

We recommended that Justice design and implement a program to check the data as a whole for inconsistencies and periodically reconcile the data with other reliable information. Additionally, we recommended that Justice continue to work with Health Services, the INS, and other public agencies to obtain valuable information and update the sex offenders' records.

Justice Action: Corrective action taken.

Justice has contracted with Health Services and the Social Security Administration to regularly obtain updated death certificate information. It will use this information on a quarterly basis to update sex offender information in the VCIN. Also, Justice recently compared records in the VCIN with deportation records maintained by the INS and updated the VCIN to reflect offenders identified as deported. In November 2003, Justice obtained on-line access to INS' deportation files, which will enable it to identify on an ongoing basis sex offenders who have been deported. In addition, Justice has begun ongoing analysis of its sex offender database to identify and correct record errors, which includes a series of special searches for key words and unique transaction sequences that may indicate possible data entry errors.

