

CALIFORNIA

SEX OFFENDER MANAGEMENT BOARD

Decrease victimization

Increase community safety

Recommendations Report

January 2010



California Sex Offender Management Board

Recommendations

January 2010

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Tools such as GPS and parole supervision can fall tragically short when jurisdictions don't work together to develop comprehensive strategies to share information and communicate about supervision practices. This tragic case [Jaycee Dugard] highlights the need for systemic changes that will promote collaboration between agencies and the community at large.

Community safety depends on what we see, what we know and how we talk to each other.

USA Today
September 3, 2009

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California Sex Offender Management Board Members

Attorney General

Janet Neeley, Deputy Attorney General
Office of the Attorney General

California Department of Corrections and Rehabilitation (CDCR)

Scott Kernan, Undersecretary-Operations

California Department of Corrections and Rehabilitation (CDCR)

Robert Ambroselli, Acting Director

Division of Adult Parole Operations

California Department of Corrections and Rehabilitation (CDCR)

Judicial Council

The Honorable Peter Espinoza

Department of Mental Health

Temporary Representative: James Rostron

Sex Offender Commitment Program

California Department of Mental Health

Appointed by the Governor

Sophia McBeth-Childs, Detective

Sacramento County Sheriff (Investigative)

Diane Webb, Detective III

Los Angeles Police Department (Registration)

Jerry Powers, Chief Probation Officer

Stanislaus County

Michael D. Johnson, County Administrator

Solano County

Suzanne Brown-McBride, Executive Director

California Coalition Against Sexual Assault (CALCASA)

Catherine Duggan, Director
Crime Victims' Assistance Program - Ventura County District Attorney's
Office

Appointed by the Senate Committee on Rules

Nancy O'Malley, Chief Assistant District Attorney
Alameda County

Tom Tobin Ph D. (Psychologist)
California Coalition on Sexual Offending (CCOSO)

Gerry Blasingame, MA, Licensed Marriage and Family Therapist
California Coalition on Sexual Offending (CCOSO)

Appointed by the Speaker of Assembly

Angela Thompson, Probation Officer
Los Angeles County Probation

Pamela King, Public Defender
Criminal Defense Attorneys

City Manager (Appointment not yet made)

Key Recommendations

The California Sex Offender Management Board (CASOMB) was created to provide the Governor and the State Legislature as well as relevant state and local agencies with an assessment of current sex offender management practices and recommended areas of improvement.

The work of the CASOMB has been divided into several significant committee focus areas. Provided below are the key summary recommendations of each committee. More substantive discussion, data and additional recommendations are located in the body of the report itself.

Re-entry, Supervision and Housing

- In order to mitigate the potential public safety risk of increased offender transience, California should target the use of residence restrictions utilizing a hybrid model of restrictions similar to a 2009 Iowa law:
 - *Residence* restrictions should apply to the most serious offenders (SVP, repeat sex offenders, and offenders convicted of violent sex offenses) who have committed an offense against a child.
 - *Loitering* restrictions should apply to designated Penal Code Section 290 registrants in places where children congregate (child safe zones)
- California cities and counties should not pass sex offender residence restriction ordinances that are in conflict with or exceed state law.
- GPS monitoring should only be utilized in conjunction with some form of community supervision, with the understanding that some high-risk offenders may need to be subject to extended supervision (including lifetime supervision for exceptionally high-risk offenders).

Victim Services

- Funding for victim service programs should be sufficient and stable so as not to erode the protection of victim rights and access to services.
- Multidisciplinary teams should be institutionalized at the state policy level.

Investigation, Prosecution, Disposition

- Communities should employ *best practices* that consider the Victim/Survivor's health and well-being in addition to maximizing evidence gathering, successful prosecution and holding sex offenders legally accountable. These *best practices* include: Sexual Assault Response Teams (SART), Child Assault Centers (CAC), Multi-Discipline Interview Teams (MDIT) and Family Justice Centers.

- Law Enforcement and Prosecution should employ *best practices* designed to increase the effectiveness of responding to, investigating and prosecuting sexual assault cases. These *best practices* include: Specialized Sexual Assault Investigative Units and Specialized Sexual Assault Prosecution Units.

Treatment

- To ensure effective treatment, CASOMB should be provided resources to develop written policies and standards which should be implemented at the State level for programming for sexual offenders. Separate standards are needed for adult, developmentally disabled and juvenile sex offenders.
- Risk level-appropriate and evidence-based sex offender specific treatment should be routinely required for all adult and juvenile sex offenders under supervision in California.

Registration and Notification

- California should concentrate state resources on more closely monitoring high-and-moderate risk sex offenders. A sex offender's risk of re-offense should be one factor in determining the length of time the person must register as a sex offender and whether to post the offender on the Internet; other factors that should determine duration of registration and Internet posting include whether the sex offense was violent, was against a child, involved sexual or violent recidivism, and whether the person was civilly committed as a sexually violent predator.
- Law enforcement should allocate resources to enforce registration law, actively pursue violations, maximize resources and results by devoting more attention to higher-risk offenders.

Special Populations

- California should investigate methods of increasing available treatment hours and participation rates for Penal Code Section 290 registrants who are committed or detained as inpatients within the Department of Mental Health.
- California should identify a more efficient method of determining when a parole violation is related to reoffense risk and appropriately triggers a clinical re-evaluation versus parole violations not related to risk that should not require an additional evaluation for parolees who have been previously evaluated and rejected for the Sexually Violent Predator Program.

Introduction

Policymakers and public safety professionals bear an incredible weight of responsibility to promote the safety of California's communities. The decisions that they make related to either the management of specific offenders or through broader public safety policies can have sweeping implications that profoundly impact real lives.

Vision

The vision of the CASOMB is to decrease sexual victimization and increase community safety.

Mission

This vision will be accomplished by addressing issues, concerns, and problems related to community management of adult sexual offenders by identifying and developing recommendations to improve policies and practices.

In 2006, Governor Schwarzenegger signed AB 1015, which created the California Sex Offender Management Board (CASOMB). The board was created to provide the Governor, the State Legislature and relevant state and local agencies with an assessment of current sex offender management practices and recommended areas of improvement.

The board is comprised of individuals who serve across the public safety sector and who volunteer their time and expertise in the service of CASOMB's vision and mission. Appointed by

both the executive and legislative branch, or identified as representatives from designated agencies, board members bring a varied set of skills and professional experiences and hail from jurisdictions as diverse as the state of California itself.

The CASOMB takes seriously its role to provide informed advice to state and local leaders. Over the last three years, the CASOMB has

- held monthly public meetings;
- held a series of public hearings across California;
- provided consultation to legislators, state and local agencies and;
- developed a series of papers and reports on emerging issues in an earnest attempt to identify policies and strategies, based on the best available evidence and professional experience, that will aid in the safe and successful management of California's population of identified, adult sex offenders.

The board's mandate is ambitious and in 2008 during the CASOMB's initial assessment of California's sex offender management practices, the board observed:

California is an exceptional state. Its size, diversity, distribution of resources and variations in practices make any assessment of public safety strategies a complex and expansive challenge.

The complexity of this challenge has not diminished over time. In fact, due to California's economic crisis and significant changes in state law, the challenge of quantifying, assessing and recommending policy changes that would improve sex offender management practices statewide has become both more complex and more fundamentally important.

The information regarding any one of the programs, themes, gaps and recommendations identified in this report could be significantly expanded upon. In some cases, it was impossible to attain a level of detail that would completely describe dilemmas that public safety agencies face daily because the required supporting data is simply available or reliable. Also, the structural limitations of a volunteer board operating with limited dedicated staff forced the board to leave some areas for inquiry open to future discussion and examination.

The reality in California is, rather than a coherent and coordinated sex offender management system, the state has multiple sex offender management strategies created by various legislative, voter initiative and executive branch actions with varied "mandates" and very different funding requirements and funding assurances. California's system of sex offender management was created – for the most part – piece by piece through separate and uncoordinated legislative and administrative actions. Although various components of the system have learned to work together, the overall system could not be described as coherent, cohesive and coordinated.

In many ways the CASOMB's challenge to understand, map and improve a complex, ever-changing system within the limited confines of time and resources is emblematic of the challenge that local communities and state agencies which manage sex offenders face constantly. Everyday public safety professionals at every level of government, in every community in California, continue to struggle valiantly to address what is one of the most challenging issues in community safety in an environment that is polarized, fraught with complexities and starved for even the most basic resources.

"Managing convicted sex offenders in the community poses extremely difficult challenges for policymakers. No other category of criminal evokes more fear and public outrage, and few communities want convicted sex offenders living in their area.... Inaccurate perceptions have made it difficult for policymakers to enact research-based policies." (Managing Convicted Sex Offenders in the Community; National Governors Association - Center for Best Practices; 2007)

Sexual crimes rightly outrage communities. The legacy of sexual assault in the lives of victims is often profound and long-lasting. In the aftermath of an assault, communities often demand with great vehemence that policymakers and public safety professionals DO SOMETHING. The root of the desire to acknowledge the serious nature of the crime is difficult to disparage but, when combined with fear, misinformation and the heat of media inquiry, the flame of community outrage can create a political environment that rewards swift action over more methodical, effective approaches. On occasion, these

swift approaches may address short-term community outrage at the cost of directing resources and skilled personnel away from investments in strategies for long-term safety.

The CASOMB spent a significant portion of its time surveying at least some of the challenges that jurisdictions in California face when trying to effectively manage adult sex offenders, and the list is far from complete. Despite the myriad of public safety concerns associated with sex crimes, the CASOMB has concluded that the high, and still escalating, rate of homelessness among sex offenders in California is one of the most serious issues facing the field of sex offender management.

Where, and how, sex offenders should live has become the central crisis of sex offender management in California. No other emerging issue has demonstrated the same potential to fray community re-entry collaborations, complicate supervision, and undermine the offender's long-term stability. The CASOMB believes strongly that one of the most fundamental questions in public safety is not where sex offenders shouldn't live, but where should they live safely.

The question of housing is not simply the domain of civil libertarians or those driven by humane concern. Appropriate housing, homelessness and the instability created by transience are public safety concerns.

Despite the myriad of public safety concerns associated with sex crimes, the CASOMB has concluded that the significant increase in the rate of homelessness among sex offenders and lack of appropriate housing in California is the most serious issue facing the field of sex offender management.

Every child, woman and man in California deserves to be safe from sexual violence. Even though a known sex offender living near a park may seem like the most obvious threat, far more Californians will be sexually victimized in their own homes by acquaintances or family members. The lack of significant in-home intervention and prevention resources is symptomatic of an approach that fundamentally misunderstands the complete extent and nature of sexual violence. The CASOMB acknowledges this broader context of sexual victimization, and recognizes the limitations of our mandate that is focused on already identified offenders.

No two sex offenders pose the same level of risk, nor can they be managed or supervised in identical ways. Laws and policies that fail to take into account the real differences in risk that individual offenders might pose will misallocate valuable resources and misunderstand potential threats. The ultimate success of California's sex offender management system will depend on its ability to understand the myriad of ways that sexual offending occurs and then adjust to intervene and manage that risk.

Similarly, policymakers and the public should be suspicious of any one technology or strategy which promises to solve the problem of sex offenders. Sexual offending is a

complex problem that will require a thoughtful, multifaceted approach to effectively address and, ultimately, prevent.

Some of our most public and tragic sex offender management failures have demonstrated the importance of qualified, trained professionals working in concert with other disciplines to identify emergent risks. Tragedies are not averted because of a single data point or tool, they are averted because qualified professionals know how to interpret that data in context, communicate with each other and respond accordingly.

In a time of scarce resources, board members agree that approaches that can demonstrate success should take priority over those that are untested. Furthermore, policymakers should insist on ongoing evaluation of sex offender management strategies to ensure that quality is maintained and that new approaches are effective.

In light of the serious stakes, huge challenges and potentially dire consequences, it has been important to identify principles that can guide California's communities. The detailed recommendations contained in this report fall under several larger themes:

Victims and potential victims of sexual assault should inform and inspire all approaches to sex offender management. The chances of positively impacting public safety are improved when victims feel encouraged to report their experiences and are able to actively engage in the criminal legal process. The long-term health and healing of victims is aided by ensuring that victims can access supportive services and restitution.

There are still too many gaps in California's sex offender data collection. This state has one of the largest identified sex offender populations in the world yet little has been done to ensure that policymakers and public safety professionals have state-specific information that could guide their decision-making.

Three fundamental principles should inform sex offender management strategy: risk, need, responsivity.

The "risk" principle says that the greatest resources and efforts should be directed toward those individuals with the highest risk of reoffending. Changes in California's risk assessment practices have gone a long way to improving the quality and accuracy of offender assessment. Similarly, important statewide efforts such as the State Authorized Risk Assessment Tool for Sex Offenders (SARATSO) review committee continue to help California conform to evidence-based practices.

The “need” principle says that the focus of intervention should be on those characteristics of offenders that are shown to be associated with the propensity to reoffend and that have the potential to be changed through targeted interventions.

Finally, the “responsivity” principle states that interventions must be delivered in ways that best match the learning capacities of the offenders. These principles apply primarily to correctional programming but can also be used to guide various other community safety endeavors.

Therefore, in addition to “risk,” successful sex offender management approaches must include an assessment of offender “needs” and the identification of strategies that can maximize an offender’s “responsivity” to behavior change. Essential to this process is the use of sex offender treatment professionals. There is an extensive body of evidence and research that document the positive public safety impact of sex offender treatment, particularly when coupled with supervision and management strategies.

Coordinated responses will always be more effective than the work of a single agency or supervisor. Effectively understanding offender risk and implementing effective community management strategies require a host of skills and resources.

For the management of individual offenders, coordinated efforts such as the “Containment Model” and Sexual Assault Felony Enforcement (SAFE) teams emphasize the success of collaborative information sharing, enforcement, treatment, and supervision activities.

Local and statewide systems can benefit from coordinated teams such as sex offender management councils to promote interagency communication and policy improvement. Efforts like those in San Diego and San Francisco County have had lasting and important impacts on community response and could provide similar benefits if implemented elsewhere.

Management activities are only as good as the skills of those who are tasked with performing them. The complexity of both the nature of sexual offending and interventions require a specialized body of knowledge and skills. Investments in skilled personnel who perform investigation, adjudication, disposition, supervision, treatment and monitoring activities will enhance the overall capacity of the system to appropriately manage offenders.

Effective re-entry is an important first step. The period of time immediately after an offender’s release from prison or jail is an important indicator of that offender’s ultimate success in the community. Maximizing effective supervision and supportive resources (such as housing, treatment, and appropriate employment) during this time can maximize the potential for some offenders to refrain from reoffending.

We are all members of a community safety team. The public will also have to examine its relationship with and understanding of sex offender management practices.

Community education is key. Policies that reduce the risk of reoffending by managing sex offenders must have a goal that promotes the success of sex offenders. Successful re-entry includes a life without re-offending.

Public education efforts that dispel misunderstanding and promote information sharing can enhance the capacity of a community to manage identified offenders, as well as assist in a response to new incidents and ultimately prevent future victimization. Similarly, community-based efforts such as Circles of Support and Accountability (COSA) focus on ways that a community can support offenders to remain offense-free.

With these principles in mind, the CASOMB has organized its work into a number of areas of inquiry:

- Victim Services
- Investigation, Prosecution and Disposition
- Treatment
- Re-entry, Supervision and Housing
- Registration and Notification

The following sections of this report provide a more extensive examination of California's current status in each of these focus areas and offer important recommendations about future directions.

Research Gaps

As the CASOMB has begun to move forward in its attempts to bring coherence to and maximize the effectiveness of California's efforts to manage the state's sex offenders, it has become increasingly clear that important information tools to understand and improve the extremely complex system are lacking.

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

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

The CASOMB believes that one foundational task is to determine the effectiveness and cost effectiveness of any effort undertaken to manage sex offenders. The availability of key data is crucial to answering questions about the effectiveness – and, subsequently, the cost effectiveness - of various management approaches.

It is anticipated that the revision of the Department of Justice systems for maintaining the Megan's Law website – an effort now underway – will eventually be of help in making a wider array of important information about registered sex offenders available to researchers.

Following is an enumeration of some areas where the CASOMB believes that the availability of accurate information would support better policy decision making. This list is not intended to be exhaustive. The order and numbering in the following list are not intended to reflect order of importance.

1. California needs to make a determination of the number of convicted sex offenders being handled at the county level, particularly the number on county probation but also the number serving post-conviction time in county jails.
2. California should conduct an analysis of the true recidivism rate (arrest or conviction) for sex offenders released from custody after serving a sentence in a CDCR prison. Such an analysis could look at recidivism over three-year, five-year and ten-year periods. To be meaningful, it would need to account for actual time at risk in the community and not include time when the individual had been returned to custody and so was not actually at risk to re-offend – a method of analysis not readily accomplished with data currently available. The presence or absence of certain management practices should be noted as well, including supervision, Containment, treatment, GPS tracking and others.
3. A similar analysis is needed for the recidivism of sex offenders sentenced to county probation.
4. Since the state is expending substantial resources on GPS for sex offenders, a large scale outcome evaluation and cost effectiveness analysis of GPS should be conducted. Such a study should include both CDCR and county probation and should take into account the risk level of the sex offenders included in the study.
5. The assumption that residence restrictions actually contribute to public safety should be evaluated. It seems clear that residence restrictions are driving up the numbers of homeless sex offenders and so the recidivism of transient versus those who have stable housing should be compared. Research strategies should be developed to answer the challenging question of whether residence restrictions actually increase public safety.
6. California should develop an accurate analysis of the projected total costs for GPS tracking if lifetime supervision were implemented.
7. If California were to come into compliance with the federal Adam Walsh Act there would be substantial implementation costs. Although estimates have been generated with regard to some of the AWA requirements, an accurate forecast should be developed to clarify the actual anticipated costs for all aspects of the new AWA requirements.

8. Under changes required by Proposition 83, increasing numbers of individuals now must be screened and evaluated to determine whether they meet the criteria for civil commitment as a “sexually violent predator.” These evaluations are very costly. Some careful analysis is needed to determine whether the benefits of such an extensive use of full SVP evaluations are justified by their benefit to community safety or whether there are other, less costly ways to preliminarily screen and determine whether a particular candidate is likely to meet the criteria for commitment.

9. There is a need to determine the full costs for requiring lifetime registration and notification for all PC290 registrants. Elsewhere in this report it is recommended that California revise its requirements for lifetime registration. A better knowledge of the full cost to the state and to local jurisdictions for maintaining and enforcing the lifetime requirement for all sex offenders, no matter what their risk level or how long they have lived crime free would further clarify the best future direction for California registration requirements.

10. Proposition 83 empowered cities and counties to enact their own residence restrictions for sex offenders. Not only is there no provision for keeping track of the proliferation of these regulations, but their impact is unknown. Research is needed to determine the impact of local ordinances on the housing of sex offenders, their degree of transience and their movement across jurisdictional boundaries as a result of such restrictions.

11. California should gather data tracking of the flow of sex offender cases from initial police report to arrest to conviction to disposition (including length of stay in prison) to supervision period to the post-supervision period. Such data would give a much clearer picture of how the larger system works and what impact various changes, such as longer sentences, have had. It would, for example, help planners determine whether the 25-years-to-life sentences are going to stem the flow into the civil commitment program.

12. Information should be gathered regarding how many sex offenders enter treatment programs and how many never do and whether that makes a difference in recidivism - inasmuch as research seems to suggest it may be the only intervention that does. Such research should also include information about the nature, length and quality of treatment programs.

Acknowledgements

The CASOMB owes a debt of gratitude to the victim / survivors of sexual violence who shared their experiences and provided guidance to the board. We are also grateful to victim-serving organizations such as California Crime Victims Assistance Association, California Consortium of Multidisciplinary Centers and Teams and the California Coalition Against Sexual Assault for supporting the development of this report and recommendations.

The CASOMB is thankful for the ongoing support of the California Department of Corrections and Rehabilitation for our work. In particular, the support of Secretary Cate, the Division of Adult Parole Operations, and Victim Services.

This report was also informed by many community members who provided comment at public meetings and hearings as well as professionals who agreed to be expert consultants to the of various CASOMB subcommittees.

Several local and statewide public safety efforts over the last five years have helped inform and frame our work. These include the sex offender management teams in San Diego and San Francisco, Governor Schwarzenegger's 2006 High Risk Sex Offender Task Force, and the California Sex Offender Management Task Force facilitated by the Center for Sex Offender Management.

Victim Services

Effects of Sexual Assault and Victim Assistance

Sexual assaults are exceptionally threatening traumatic events outside the range of usual human experience. While some victims exhibit a greater ability to adapt and a higher resiliency, generally, victims of sexual offenses are markedly distressed. Whether the effects of sexual offenses are easily visible or not, the stress reaction is generally understood to be a shattered worldview, which leads to profound feelings of

VICTIM SERVICES RECOMMENDATIONS:

- **Funding for victim service programs should be sufficient and stable so as not to erode victim rights, services, and ability to participate in offender management systems.**
- **There should be a restitution specialist position that ensures direct victim restitution orders are obtained from the court in a determined amount.**
- **Multidisciplinary teams should be institutionalized at the state policy level.**
- **Agencies that work with and represent people with disabilities should be a part of and participate routinely in multidisciplinary teams. Policies and procedures should be in place to ensure the ability to respond sensitively and effectively to victims with disabilities.**

distrust. A sexual offense shatters the victim's assumptions about the world because the world is experienced—that is, after the offense—as unsafe and unjust, which causes a sense of isolation and estrangement from others. Victims may suffer psychological reactions including a disassociation and an intense fear for their lives. When the offense is perpetrated by an acquaintance, friend or lover, violation of trust can be a life-altering issue for the victim. A victim may lose his or her sense of community and belonging as a result of intense feelings of guilt and devaluation. The traumatic effects of sexual assaults involving child victims can have a lasting impact on the child's physical and mental health, overwhelming the child's coping and ego defense mechanisms and threatening the child's physical integrity. Beyond the immediate consequences of a sexual assault, the residual effects present problem behaviors in adolescence and adulthood. Childhood victimization is a significant predictor of adult arrests for alcohol and/or drug-related offenses.¹ Childhood victimization has been found to be a statistically significant predictor of having at least

¹ National Institute of Justice, U.S. Department of Justice, *Childhood Victimization and Risk for Alcohol and Drug Arrests*, November 1995.

one alcohol-or drug-related arrest in adulthood. The indirect path between childhood victimization and adult substance abuse arrest is well demonstrated. Child victims of sexual offenses are more likely to have an arrest as a juvenile, and those arrested as juveniles are at greater risk for arrests for alcohol or drug offenses as adults. Child victims of sexual assault—female victims, especially—are more likely to be arrested for property, alcohol, drug, and such misdemeanor offenses as disorderly conduct and curfew violations.² The significance of the offense profoundly harms the child’s parents as well. Once the offense is discovered, it is common for the child’s parents to experience a deep sense of guilt and failure—which provides but a single glimpse of the impact on wider society.

The significance and scope of sexual assault is an important criminal justice issue. The lasting impact of sexual assault and the rights of the victims should be a central concern to the management of adult sex offenders.

VICTIMS’ CONSTITUTIONAL AND STATUTORY RIGHTS

At the November 2008 General Election, the people of the state of California adopted by initiative Proposition 9, which became known as the Victims’ Bill of Rights Act of 2008: Marsy’s Law. The Act of 2008 amends Article 1, section 28 of the California Constitution.

While the rights enumerated in the Victims’ Bill of Rights Act of 2008 generally existed in California statute, the passage of Proposition 9 makes the rights part of the constitution.

There are special rights for victims of sexual assault in the California Penal Code, Evidence Code, and Health and Safety Code. For a list of constitutional and statutory rights, please see **Appendix A and Appendix B**.

VICTIM NOTIFICATION

The right to participate in the process of justice is important to victims of crime. However, victims cannot participate unless they are informed of their rights and of the time and place of the relevant proceeding that they may exercise those rights. Without notification, victims of sexual assault are also denied the ability to take precautions for their safety. Therefore, the most fundamental right of a victim is the right to be kept informed. Notifying victims in advance of a proceeding and informing them of their rights to participate in that process are prerequisites to the exercise of the victim’s rights. Keeping the victim informed should be an important part of the mission of local and state law enforcement agencies, prosecuting agencies and correctional agencies. It should be reflected in the agency’s internal policies and procedures, as well as in the attitudes of agency personnel.

² National Institute of Justice, *An Update on the “Cycle of Violence”*, February 2001.

VICTIM RESTITUTION

Restitution is an important part of an offender's sentence. It is effectively a rehabilitative penalty in that it increases accountability by holding the offender financially responsible for the crime and compensating the victim for the costs caused by the offender's actions. In every case where the sexual offender is convicted, the court imposes a restitution fine. The court may determine the amount of the fine as the product of \$200 multiplied by the number of years of imprisonment the offender is ordered to serve, multiplied by the number of felony counts of which the offender is convicted. Misdemeanor offenses are assessed at a minimum of \$100. The offender's inability to pay is not to be considered a compelling reason not to impose a restitution fine. Inability to pay is considered only in increasing the amount of the restitution fine in excess of the minimum fine.

Wherever the victim has suffered economic loss as a result of the offender's conduct, the court requires the offender make restitution to the victim in an amount established by court order, based on the amount of loss claimed by the victim. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order includes a provision that the amount shall be determined at the direction of the court.

Since a sexual offender's probation may not be revoked for failure to pay restitution unless the offender willfully failed to pay and had the ability to pay, many sexual offenders reach the end of their probation terms without making full restitution.

In March 2006, the California Department of Corrections and Rehabilitation, Office of Victim and Survivor Services published the results of a study relating to adult inmate restitution.³ The study included men and women at state prisons and camps, but did not include community correctional facilities or parolees. The most striking finding included was that only 11 percent of all offenders had direct restitution orders. Of those offenders with direct restitution orders only 19 percent of the victims had requested collection. The study concluded, . . . ***victims' constitutional right to receive restitution from their offenders continues not to be honored or enforced in California at this time.***

Since January 2007, the California State Department of Corrections and Rehabilitation automatically collects from offenders in all victim restitution cases whether or not the victim has ever contacted the department, and in preference to restitution fine collections. This has dramatically increased victim restitution collections, but has also challenged county authorities to provide victim recipients' contact information to the department. Two out of every three cases come to the department without sufficient information to disburse victims' restitution collections.

³ California Department of Corrections and Rehabilitation, Office of Victim and Survivor Services, *Prison Restitution Project, 2004 Survey*, March 2006.

In January 2009, the California Department of Corrections and Rehabilitation was given legislative authority to use the California Franchise Tax Board (FTB) to collect unpaid victim restitution from all offenders who have been under the department's jurisdiction.

It will be necessary to coordinate between agencies, including the Victims Compensation and Government Claims Board to improve restitution collection systems.

VICTIM COMPENSATION FOR ECONOMIC LOSSES

California's Victim Compensation Program is the largest in the nation. The program provides compensation for victims of crimes who are injured or threatened with injury. Eligible family members or other specified persons may also be eligible for compensation under the program. The program pays for services such as medical and dental care, mental health services, lost wages or support, funeral or burial expenses, and emergency relocation. Crime can leave victims and their families with bills for medical, mental health counseling, funeral services, lost wages and with the financial costs associated with a number of other consequences of the crime. The compensation program, which is a claims-based program, supports direct payments to victims and providers for crime-related expenses. However, the program exists to provide help to the victim and family members after all other reimbursement sources have been utilized. In other words, the program is the payer of last resort. Victims are reimbursed only after other available sources have been exhausted.

As part of its 2008 Budget Analysis, the Legislative Analyst's Office estimated the Victim Compensation Program will become insolvent in approximately 2012-13, when it would run a deficit of nearly \$35 million. The Office described the likelihood that expenditures will grow faster than the relatively stable revenues flowing into the fund. The increased expenditures are due to (1) increased awareness of the service provided by the program; (2) various changes in the program's compensation of service providers, and (3); the increased use of the fund in recent years to support other new state programs.

The California Bureau of State Audits presented its audit report concerning the Victim Compensation Program Dec. 9, 2008. The audit report was requested by the Joint Legislative Audit Committee. The report concludes that program compensation payments sustained a 50 percent decrease from fiscal years 2001-02 through 2004-05 as a result of attempts to maintain the fiscal viability of the Restitution Fund. Compensation payments have increased since fiscal year 2004-05, but not to the level they reached in fiscal year 2001-02. Despite the significant decline in payments, the costs incurred to support the program increased. These costs—ranging from 26 percent to 42 percent annually—account for a significant portion of Restitution Fund disbursements. The report went on to say the program has not established a comprehensive outreach plan to assist it in appropriately prioritizing its efforts and focusing on those in need of program services.

As a recipient of Violence Against Women Act funds, California is required to provide medical treatment for sexual assault crimes at no charge to the victim. Further,

California law prescribes that a sexual assault victim cannot be billed, either directly or indirectly, for any treatment as a result of a sexual assault crime. Although case law has determined that the Compensation Program is the payer of last resort, unique to sexual assault is the prohibition of billing a victim, either directly or indirectly, including that victim's insurance. Therefore, in compliance with both federal and state law, the victim of sexual assault shall never be financially responsible paying for treatment arising out of his or her sexual assault victimization.

JUSTICE-BASED AND NON-GOVERNMENTAL VICTIM SERVICES

Formal help sources for victims of sexual assault include justice-based and non-governmental victim service programs, as well as other helping agencies that serve victims as part of their larger mission (e.g., healthcare and mental healthcare facilities). The provision and funding of direct victim services is spread across several state departments and agencies that have little interaction. These include four Cabinet-level agencies, the Governor's office, two other constitutional offices and at least 11 state departments.⁴ The major sources of funding for victim services include the Victim Compensation and Government Claims Board⁵ and the California Emergency Management Agency (CalEMA)⁶. In addition to these entities, other departments play a role in the provision of victim services, including the Attorney General's Office, the Department of Corrections and Rehabilitation, the Department of Social Services and the Department of Mental Health. The lack of a single lead agency at the state level results in limited collaboration, duplication of services, ineffective partnerships and the absence of a statewide strategic approach to funding decisions. Without a statewide strategic approach to funding decisions, or a systematic method for communication and collaboration among the many public and private providers who serve crime victims, collaboration on crosscutting victims' issues is the exception. The collaboration that does take place is generally ad hoc, haphazard and depends on individual personalities and preferences.⁷

Primary among the professional service providers for sexual assault victims are the Victim/Witness Assistance Programs, Rape Crisis Centers and Child Advocacy Centers.

MULTIDISCIPLINARY TEAMS/CHILD ADVOCACY CENTERS

Child Advocacy Centers (CACs) play an increasingly significant role in the response to child sexual abuse and other child maltreatment in the United States. CACs are

⁴ California State and Consumer Services Agency, *Strengthening Victim Services in California, A Proposal for Consolidation, Coordination, and Victim-Centered Leadership*, November 2003.

⁵ information about this program can be found at <http://www.boc.ca.gov/>

⁶ Information about this program can be found at <http://www.oes.ca.gov/> under Law Enforcement and Victim Services Division

⁷ California State and Consumer Services Agency, 2003

designed to reduce the stress on child abuse victims and families created by traditional child abuse investigation and prosecution procedures and to improve the effectiveness of the response. Before the advent of CACs, child victims were subjected to multiple, redundant interviews about their abuse by different agencies, and were questioned by professionals who had no knowledge of children's developmental limitations or experience working with children. Child interviews took place in settings such as police stations that would further stress already frightened children. The multiple agencies involved did not coordinate their investigations, and children's need for services could be neglected.

CACs coordinate multidisciplinary investigation teams in a centralized, child-friendly setting; employ forensic interviewers specially trained to work with children; and assist child victims and families in accessing medical, therapeutic, and advocacy services.

Despite the widespread growth and importance of CACs, however, the model had not been rigorously evaluated until 2001 when the Office of Justice Programs funded a multi-site evaluation of CAC's. The study was conducted by the Crimes Against Children Research Center at the University of New Hampshire in conjunction with research teams at each of the CACs participating in the study. Researchers enrolled cases in the study between December 2001 and December 2002. Data collection continued through December 2004. Data from more than 1,000 cases of sexual abuse were collected from four CACs and from communities without CACs.⁸ What follows is an overview of the effects that CACs have had on child abuse investigations.

- 81 percent of investigations in CACs were joint police and child protective services investigations compared with 52 percent in communities without a CAC.
- 28 percent of CAC cases used team interviewing compared with 6 percent in non-CAC communities.
- 55 percent of CAC interviews involved police compared with 43 percent of non-CAC community interviews.
- 56 percent of CAC cases had multidisciplinary case review, compared with 7 percent in non-CAC communities.
- 83 percent of CACs held interviews in center facilities designed for interviewing children, while 75 percent of interviews in non-CAC communities were conducted in child protective agencies, schools, police stations or children's homes.
- 85 percent of cases in CACs and non-CAC communities involved only one child forensic interview.

⁸ Project Researchers: *University of New Hampshire*: Theodore P. Cross, Lisa M. Jones, Wendy A. Walsh, Monique Simone; *Lowcountry Children's Center*: Arthur Cryns, Polly Sosnowski; *Dallas Children's Advocacy Center*: Tonya Lippert-Luikart, Karen Davison; *National Children's Advocacy Center*: Amy Shadoin, Suzanne Magnuson; *Pittsburgh Children's Advocacy Center*: David Kolko, Joyce Szczepanski.

- Over 70 percent of children disclosed at forensic interviews in both CACs and non-CAC communities, with statistically significant difference between the two.
- 48 percent of children in CAC cases received a forensic medical exam, compared with 21 percent in non-CAC communities.

VICTIM SERVICE PROVIDERS AND SEX OFFENDER MANAGEMENT

Victim service providers work directly with crime victims and come into contact with them on a daily basis. Victim service providers are eminently qualified to assist in managing sex offenders from a victim-focused perspective, due to their history of working with and on behalf of sexual assault victims. Their knowledge of the needs of victims can enhance sex offender management policy development, professional training initiatives, day-to-day practices, and community notification and education efforts. In addition, victim service providers offer services to victims to respond to issues that may arise when their perpetrators are released on probation or parole. Involving victim service providers also assures that community and governmental bodies are responsive to victims' needs and establish policies that condemn and prevent sexual offenses. If offenders disclose crimes with new victims during supervision or treatment, victim service providers can work with supervision agencies and treatment providers to consider ways to offer assistance to these victims. Victim service providers can help victims achieve their personal goals with the criminal justice system, instead of goals defined by prosecutors, judges, probation and parole officers, and sex offender treatment providers.

Traditionally, the involvement of victim service providers has tapered off after sentencing. However, victim safety and well-being must continue to be a priority when convicted offenders are released on probation or parole. Although the concept of involving victim service providers in sex offender management is emerging, the Center for Sex Offender Management, a project of the Office of Justice Programs, U.S. Department of Justice, suggests that victim service providers can assist victims in the following ways once a sex offender is released on probation or parole:⁹

- Explaining the community supervision and treatment program to victims;
- making sure victims are informed of changes in offenders' status and conditions of supervision;
- helping victims develop a safety plan;
- facilitating victim input regarding supervision and treatment plans;
- ensuring that treatment providers view their responsibility to the victim as equal to their responsibility to the offender with who they are working and;
- participating in case review meetings and sharing information that promotes informed case decisions that promote victim protection.

⁹ For a detailed discussion of the victim-centered approach to sex offender management please see: a publication produced by the Center for Sex Offender Management entitled: *Engaging Advocates and Other Victims Service Providers in the Community Management of Sex Offenders* www.csom.org

Furthermore, the Center promotes a more comprehensive victim-centered approach including:

- Educating stakeholders about the benefits of a victim-centered approach;
- identifying promising practices;
- encouraging victim service providers to take a leadership role in advocating for the needs of victims of sex offenders supervised in the community and new victims identified in the process of sex offender management;
- encouraging multi-disciplinary training among supervision agencies, sex offender treatment programs and victim service providers;
- helping agencies build their capacity to collaborate and;
- supporting the establishment of sex offender supervision units that include a role for victim service providers.

Investigation, Prosecution and Disposition

Sexual assault crimes against children, teens and adults are considered some of the most heinous crimes with the potential for lifelong impact on the victims of sexual assault crimes. More than any physical injuries a victim sustains, the violation of trust that accompanies most sexual assault has been shown to dramatically increase the level of trauma the victim suffers. Emotional and psychological injuries cause harm that can last much longer than physical wounds.¹⁰ Without effective investigation, prosecution and disposition, no other elements of sex offender management would be possible.

INVESTIGATION, PROSECUTION AND DISPOSITION RECOMMENDATIONS:

- Communities should employ *best practices* that consider the victim/survivor's health and well-being in addition to maximizing evidence gathering, including utilization of Sexual Assault Response Teams (SART), Child Assault Centers (CAC), Multidisciplinary Interview Teams (MDIT) and Family Justice Centers.
- All law enforcement officers who are tasked with investigating sexual assault crimes should complete a state certified course for the training of specialists in the investigation of adult sexual assault cases, child sexual exploitation cases, and child sexual assault cases.¹¹
- Law enforcement should adopt guidelines and procedures for the investigation of sexual assault cases and cases involving the sexual exploitation or sexual abuse of children, including police response to and treatment of victims of these crimes.¹²
- Law enforcement should employ the *best practice* of specialized Sexual Assault Investigative units.¹³
- Prosecutor Offices should employ the *best practice* of Vertical Prosecution Units and Vertical Prosecutors utilizing true Vertical prosecution.
- The Center for Judicial Education and Research (CJER) should employ the *best practice* of Judicial Education and Training.

¹⁰ For a longer discussion of the effects of sexual violence, please see the January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 35-37 (available at casomb.org) also see the 2007 California Sex Offender Management Task Force Report (available at casomb.org)

¹¹ For suggested training content please see **APPENDIX D**

¹² For suggested guideline elements please see **APPENDIX E**

¹³ For a longer discussion see 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 88 (available at casomb.org)

- Prosecutor Offices should employ the *best practice* of adopting established guidelines that ensure consistency and integrity in filing decisions and, wherever possible, designate on experienced sexual assault prosecutor to make filing decisions.¹⁴
- Prosecutor Offices should employ the *best practice* of establishing case review and filing guidelines that ensure consistency in plea bargains and dispositions.¹⁵
- All Prosecutor Offices should adopt California District Attorneys Association (CDAA) Filing Standards, updated and published annually.
- All Prosecutors who are conducting sentencing negotiations and dispositions of sexual assault crimes should attend the CDAA Charging and Sentencing Training Seminar within six months of the assignment or as soon as practical.
- Prosecutor Offices should utilize the *best practice* of the Sexual Assault Mentor DA Program.¹⁶
- The Legislature may explore a promising practice of enacting statutes that allow sufficient judicial sentencing discretion in individual cases.
- Recognition should always be given to the reality that sex offenders are a heterogeneous population with different risk profiles and treatment needs.
- Allow sentences, where appropriate, to be commensurate with the level of risk posed by the offender as well as the severity of the offense.
- Ensure that Victim impact statements and restitution requirements be included in the sentencing process, as these statements provide insight regarding the impact of the crime on the individual victim and community at large.
- The Legislature and Courts should adopt the promising practice of sentencing practices which support sex offense-specific treatment and community supervision efforts (“Evidence based sentencing”). “Evidence based Sentencing” should include¹⁷:

Following incarceration, mandates for sex offense specific treatment, sufficient periods of community supervision following incarceration that allow for monitoring, relevant special conditions or restrictions court-leveraged consequences for non-compliance with supervision requirements.

¹⁴ For a longer discussion see 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 87-88 (available at casomb.org)

¹⁵ For a longer discussion see 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 96 (available at casomb.org)

¹⁶ For Mentor DA Program Criteria see **APPENDIX F**

¹⁷ See the 2007 California Sex Offender Management Task Force Report 33 (available at casomb.org)

Sexual assault investigation is a complex endeavor that requires both a collaborative approach and specialized knowledge among those involved in the investigative process. The effective management of sexual assault offenses begins with a thorough and accurate investigation. The need for implementation of *best practices* and the openness to explore *promising practices* in the investigation and prosecution of sexual assault cases are paramount.

There currently exist *best practices* upon which recommendations are based and “promising practices” upon which recommendations are considered. A *best practice* is a continuum of practices/programs ranging from promising to evidence-based. Working with “promising practices” is a type of quality movement promoting the concept of “doing our best.”

Sexual assault victims should always have the choice about when, with whom, and under what conditions they wish to discuss their experiences. It is clear that the victim's recovery will be enhanced if she or he feels believed, supported, protected, and if she or he receives counseling following the disclosure that she or he was assaulted. The criminal justice system exists to protect victims of crime and hold perpetrators accountable. Improvement in the effectiveness and success of the criminal justice system will enhance victims' confidence in those systems, which will result in more participation in the systems and better management of sex offenders. The manner in which the investigation is conducted, the success with which the cases are prosecuted and the respect, dignity and caring for the victim of sexual assault who participates in the criminal justice system can be key contributors to the healing and recovery of the victim. Holding sex offenders accountable for their crimes, including imposing appropriate punishment and eventual management of convicted sex offenders in our communities, will also be key in preventing future sexual assault crimes and sexual assault crime victims.

In previous reports the CASOMB has examined and detailed specific issues, gaps and recommendations related to the investigation and prosecution of sex crimes by adult offenders.¹⁸ This report builds on that information by examining issues related to the disposition of these cases.

Towards the Development of Promising Practices in Disposition

Over the last several years, the Legislature has enacted sentencing laws that have significantly reduced the discretion of the Court in imposing post-conviction sentences. With the enactment of the “one-strike sexual assault law” (PC Sect 667.61), more indeterminate sentences are handed down. Through the enactment of the “three strikes law” (PC Sect. 1170.12), convicted sex offenders are required to serve 85% of their sentences. However, a significant number of offenders who are convicted of child sexual assault crimes are being placed on probation with conditions. The lack of a centralized database that tracks the sentences of all sex offenders inhibits the

¹⁸ January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 85-98 (available at casomb.org)

opportunity to establish *best practices* in sentencing or to develop “evidence-based” sentencing.

“*Promising Practices*” are methods, modes of operation, actions or philosophies that *may* lead to the intended outcome but have yet to be adequately tested. Developing Promising Practices include measurable objectives. These practices are evolving and include constant improvement. Promising Practices generally reflect theories and beliefs, processes and strategies that utilize or reflect relevant evidence. A *Promising Practice* has an evaluation component/plan in place to move towards demonstration of effectiveness. However, it does not yet have evaluation data available to demonstrate positive outcomes. *Promising Practices* continually incorporate lessons learned, feedback, and analysis to lead toward improvement of identified positive outcomes. A *Promising Practice* must depend on the collection of validated data in order to move forward.

While much attention is placed on “evidence-based sentencing,” it remains a *Promising Practice* until the process of testing and identifying the intended outcomes can occur and be reported as successful. Therefore, it is important to create a validated data collection mode for evaluating crimes, convictions, sentencing and successful outcomes of lack of re-offending, protection of the community from future sexual assault crimes and protection of the victim from further victimization.

To begin the process of establishing and evaluating a “*Promising Practice*” the Legislature should create policy based on the recognition that sex offenders are a heterogeneous population with different risk profiles and treatment needs.¹⁹ The Courts, as part of the evaluation of a promising practice, should impose sentences - to the extent possible - that are commensurate with the level of risk posed by the offender, the severity of the offense, and the capacity of the criminal justice system to effectively manage each offender. As the evaluation of a “*promising practice*” often involves the review of the impact on the victim, sentencing should ensure that Victim Impact Statements and restitution requirements are considered in the sentencing process, as these statements provide insight regarding the impact of the crime on the individual victim and community at large.

The Legislature and Courts should explore the “*promising practice*” of adopting sentencing practices which support sex offense-specific treatment and community supervision efforts (“Evidence based sentencing”) following incarceration. “Evidence based sentencing” should include mandates for sex offense specific treatment, sufficient periods of community supervision that allow for monitoring, relevant special conditions or restrictions, and court-leveraged consequences for non-compliance with supervision requirements.

There is no question that effective sentencing, establishing and evaluating “promising practices” with the goal of identifying a *best practice* requires Judges who are engaged in the process. The Judicial Council, the Administrative Office of the Courts and the

¹⁹ 2007 California Sex Offender Management Task Force Report (available at casomb.org) 37

Courts should employ the *best practice* of strongly encouraging judicial education and training in the area of sexual assault. In order to engage an informed and supportive role, it is important that judges be educated on sentencing and the monitoring practices available that enhance positive practices of sex offender management. To date, some judicial educators with expertise related to sex offender management have created some resources and training materials in the area of sexual assault case management, victimology and victim dynamic, offender management and sentencing laws in California²⁰. Those materials should be broadly distributed and used by the Courts throughout California.

²⁰ These resources have been created by the California Judicial Council. More information can be found at: <http://www.courtinfo.ca.gov/jc/>

Treatment

Sex offender specific treatment is an important component of the Containment Model of sexual offender management. Collaboration between treatment providers, parole agents / probation officers, clinical polygraph examiners, and victim advocates is a key element necessary for the successful re-entry and effective supervision of sex offenders, whether they are on parole, probation or other forms of conditional release from a State Hospital or Developmental Center. Sex offender treatment has historically utilized different methods to train the individual to regulate and manage himself or herself, with victim safety and reduction of recidivism being primary treatment goals. Current research has identified that cognitive-behavioral therapy methodologies applied with consideration of the risk, needs and responsivity of participants are the most effective in reducing risk of re-offense.

TREATMENT RECOMMENDATIONS:

- Risk level-appropriate and evidence-based sex offender specific treatment should be routinely required for all adult and juvenile sex offenders under supervision in California.
 - i. The Containment Model should be a mandatory policy and public safety strategy implemented by California policy makers at the State and County levels.
 - ii. Funding should be allocated to implement the prison-based sex offender treatment programming that was previously approved (but left unfunded).
 - iii. The current implementation of the Sexually Violent Predator (SVP) statute should be reviewed and improved.
- To ensure effective treatment, written policies should be developed that describe standards and regulations which should be implemented at the State level for treatment programming for sexual offenders. Separate standards are needed for adult sex offenders, individuals with developmental disabilities and juvenile sex offenders.
 - iv. A database should be maintained to track and monitor approved treatment programs, treatment outcomes including rates of program completion and treatment drop outs, reasons for probation or parole revocations, rates of sexual and other criminal recidivism.
 - v. The California Department of Mental Health should likewise collect data for Mentally Disordered Sex Offender (MDSO) and Sexually Violent Predator (SVP) programs to ensure efficacy of intervention and cost efficiency.

- To ensure effective treatment, written policies and standards should be developed which can be implemented at the State level defining minimum qualifications of education, experience and competence for sex offender specific evaluators, and treatment providers.
 - i. Such credentialing should lead to listing as an approved provider to whom Courts, Probation Departments, Parole Agents, and other case managers will refer sex offenders for therapeutic services.
 - ii. As some rural counties or regions do not have sufficient resources or numbers of offenders to receive community based treatment, provider credentialing exceptions should be implemented with ongoing consultation with appropriately credentialed and approved providers.

To date, there have been significant discussion and extensive recommendations regarding evidence-based *best practices* in the field of sex offender treatment and management in California.²¹ Little has changed since the January, 2008, CASOMB report regarding the status of sex offender treatment in California.

CASOMB recognizes that treatment for sex offenders involves a number of general clinical competencies as well as specialized strategies that are not typically employed in traditional therapy. One example of how sex offender treatment is quite different from traditional therapies is that sex offenders are often mandated to participate and they face more limits on confidentiality. Specifically, within the Containment Model,²² there are a number of additional parties who must know what is occurring in sex offenders' treatment processes, such as probation officers or parole agents. These specialists have mandates from Courts or Parole Boards to ensure that certain offenders are participating in treatment and are following probation or parole conditions. Another unique aspect of sex offender specific treatment within the Containment Model is the frequent use of specialized post-conviction polygraph examinations to verify the veracity of self-report information provided by the offender in treatment and in his communication with his probation officer or parole agent. The distinctive nature of sex offender therapy is also illustrated by the fact that sex offender clients do not

²¹ January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 137-156 (available at casomb.org) and also see the 2007 California Sex Offender Management Task Force Report 49-60 (available at casomb.org) and the 2006 California High Risk Sex Offender Task Force 11 (available at casomb.org)

²² For a discussion of the Containment Model please see the January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 102-104 (available at casomb.org) and 2006 California High Risk Sex Offender Task Force 15-18 (available at casomb.org)

independently determine the course and nature of their own treatment, as do clients in more traditional therapies.

Sex offender specific assessment and treatment require significant clinical skill and experience on the part of a competent therapist and require that the therapist have additional knowledge and techniques that are based in empirical evidence for their use with sex offender clientele. The ultimate goal of treatment is to motivate and enable the offender to develop the ability to self regulate his or her behavior and, by doing so, increase safety for children and other potential victims in the community.

It is difficult to provide information on the quality or quantity of the sex offender treatment that does exist within California.²³ Given that there are not yet statewide criteria or qualifications for psychotherapists who provide treatment services to sex offenders, there is not yet a standard by which to compare providers, services, or outcomes. It is not currently even possible to determine how many providers or programs exist and how many offenders are in treatment at any time.

Other than adult and juvenile prisons, developmental centers, and state hospital facilities, there are currently no locked residential placements for higher risk offenders nor are there residential facilities for sexual offenders with mental health needs (e.g., housing, moderate to intensive treatment, and physical/mental health services). Treatment approaches vary between these facilities. CDCR has recently moved forward with a design for an in-prison treatment program but at the present time funding has not materialized. Such a program, while it would be a significant step forward for California, would address only a small proportion of the approximately 22,500 sex offender inmates in CDCR prisons.

Previous CASOMB reports have noted that a few California counties have developed their own protocols and practices for Probation Department approval of those who seek to provide specialized treatment services to sex offenders; San Diego, Orange, San Luis Obispo, and San Francisco Counties developed their protocols in collaboration with and utilizing funding from the Center for Sex Offender Management (CSOM). Shasta County previously developed its Containment Model system without such funding. While these five counties may have similar expectations for treatment providers, there remain several differences in protocols between them. In short, California has 58 counties whose Probation Departments each have different protocols and practices.²⁴

The Department of Mental Health has a highly-developed cognitive behavioral treatment program for men who are civilly committed as Sexually Violent Predators under WIC 6604 or are detained pending commitment proceedings under WIC 6602. The individuals committed pursuant to the SVP statute are detained at Coalinga State

²³ Additional discussion of this issue can be found in the California Sex Offender Management Task Force Report 56-58 (available at casomb.org)

²⁴ January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 152 (available at casomb.org)

Hospital and are encouraged (though they cannot be forced) to participate in the treatment program. Approximately 25-30% of those admitted under these circumstances are actually participating in treatment in the Sex Offender Commitment Program (SOCP). The SOCP program is based on cognitive and cognitive-behavioral theories as well as the findings of the Sexual Offender Treatment and Evaluation Project (SOTEP) program and other widely accepted research literature. The treatment program includes comprehensive assessments (including penile plethysmography, polygraph examinations, cognitive and psychological assessments), individualized treatment planning and a formal progress review system. The SOCP program also provides a tutorial track for cognitively impaired individuals. The SOCP program has five phases of treatment, of which four phases occur in the institution and the fifth phase occurs as an essential component of the transition back to the community. At this time, very few persons have completed the four institutional phases in order to be released into the community; more have been discharged from the program via court appeal processes. At this point there have been approximately 15 persons conditionally released after completion of the five phase program and approximately 130 persons who did not complete treatment but have been released without any conditions (unconditionally) through the judicial process.²⁵

Due to concerns about the SVP statute expressed by the community and professionals working with sex offenders in CA, the California Coalition on Sexual Offending recently conducted a thorough analysis of the SVP situation, resulting in the publication: *The California SVP Statute: History, Description, and Areas of Improvement*.²⁶ The CCOSO report concluded that several key areas of the implementation of the statute need to be improved. Improving the implementation of the SVP statute must be a high priority for the state of California given that the program is allocated more of the state's resources than any other sex offender services.

RECOMMENDATIONS

The following recommendations are an attempt to address the concerns and shortcomings noted above. Some of the points explain and expand upon the recommendations already stated.

A. Statewide Implementation of the Containment Model

The CASOMB strongly recommends that the sex offender management strategies collectively known as the Containment Model be implemented statewide.²⁷ The Containment Model has been identified by the CASOMB as the *best practice* for community supervision of sex offenders. While the Governor's High-Risk Sex Offender

²⁵ For additional discussion of this issue please see the Special Populations section of this report

²⁶ This publication can be found at the <http://www.ccoso.org>

²⁷ For a discussion of the Containment Model please see the January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 102-104 (available at casomb.org) and 2006 California High Risk Sex Offender Task Force 15-18 (available at casomb.org)

Task Force and the CASOMB have endorsed implementation of the Containment Model ,it has not been implemented in any uniform or continuous manner. A few counties have their own version of the Containment Model; most counties do not, nor does CDCR use this model.

The Containment Model calls for a collaborative effort of sex offender specific treatment providers, law enforcement supervising agents such as probation officers or parole agents, polygraphists providing specialized testing as both a treatment and monitoring tool and victim advocacy participants whenever possible. The offender is supervised and overseen within this context. If these aspects of containment are not in place, efficacy is reduced. CDCR does not use the Containment Model; there is no treatment being funded and no polygraph testing being conducted. While CDCR has a significant amount of funds and energies invested in GPS and supervision, this approach is not the full Containment Model²⁸. Supervision alone is not as effective as the full Containment Model. Public safety would be increased if the Containment Model were required throughout the State for all sex offenders, whether on parole or probation.

B. Credentialing and Training Requirements for Treatment Providers

The CASOMB Treatment Committee strongly recommends that the State enact legislation to codify regulations requiring specified training for mental health professionals who provide therapy and treatment services to manage sex offenders in effort to increase public safety while most effectively managing identified sex offenders in the State of California.

Establishing authority & regulating referrals: Those who evaluate and treat sex offenders should meet the following minimum criteria for education, training, and experience. Maintaining and demonstrating evidence of one's scope of practice and scope of competence in working with adult and/or adolescent sex offenders, such as described below, is a legal and ethical responsibility of each licensed psychotherapist in California serving these populations. Bi-annual documentation of these qualifications should be maintained by a statewide body, which places the evaluator's or treatment provider's name on the approved provider listing. Approved provider status should be established separately for those purporting to be competent with evaluation, and treatment of juveniles who have offended, treatment of offenders who have developmental disabilities, and treatment of adult sexual offenders. Courts, Probation Departments, and CDCR Parole should refer only to providers who are listed as approved providers.

With appropriate funding for infrastructure, the CASOMB could potentially serve in this role.

²⁸ CDCR has estimated that implementing containment (specifically treatment and polygraph) for all sex offender parolees would cost approximately \$45M. Using a similar basis for calculation, the implementing containment for HRSO populations only would be approximately \$15M.

Education & Licensure: Licensed psychotherapists, psychologists, or psychiatrists who provide evaluation and assessment services to sexual offenders should have the minimum academic degree in psychology, clinical social work, marriage and family therapy, or psychiatry as well as a California license to practice independently.

Registered interns or psychological assistants may provide sex offender specific evaluation or treatment services when functioning under the supervision of a licensed practitioner who meets the established criteria. Such interns or psychological assistants may apply to the regulatory body for approval and listing.

A one-year provisional approval status level should be offered to those licensed therapists who are pursuing sufficient education, training, and experience and provide a sufficient plan to correct any deficiencies. A provider with provisional approval should not be permitted to supervise interns or psychological assistants in the area of sex offender treatment until becoming qualified as an approved provider. No licensed clinical supervisor should supervise more than four unlicensed interns or licensed therapists with only provisional approval.

Evaluator sex offender specific training: Licensed psychotherapists, psychologists, or psychiatrists who provide evaluation services, including but not limited to pre-sentencing evaluations for the Courts or evaluations for individuals involved in civil commitment processes should provide their credentials and training as evidence of an appropriate scope of practice and competence, including but not limited to training with evidence based assessment procedures such as the STATIC-99, STATIC-2002, MNSOST-R, the Stable 2007, the Acute 2007, Hare Psychopathy Checklist-Revised, penile plethysmography, sexual interest viewing time measures, or others recommended by the California SORATSO committee or such organizations as the Association for the Treatment of Sexual Abusers (ATSA) or the California Coalition on Sexual Offending (CCOSO). Those who evaluate adolescents or persons with intellectual disabilities should document similar training in these specialized areas of evaluation, as defined by the SORATSO Committee or as recommended by ATSA or the CCOSO. Evaluators with less than two years experience should provide the names of persons with whom they will consult when ethically appropriate or required under licensing regulations. Thirty (30) hours of training in these assessment topics bi-annually is considered the minimum amount of training to demonstrate a scope of practice in this area.

Treatment provider sex offender specific training: Psychotherapists who provide therapy or treatment services with adult or adolescent sexual offenders should demonstrate their education and training as evidence of an appropriate scope of practice in each of these areas. Thirty hours of training bi-annually is considered the minimum amount of training to demonstrate a scope of practice in this area.²⁹

Treatment provider sex offender specific experience: Psychotherapists who provide treatment services to adult or adolescent sexual offenders should have a minimum of

²⁹ For specific training content recommendations please see **APPENDIX G**

seven hundred and fifty hours of direct client service experience, inclusive of therapy and case management activity, annually to evidence their scope of practice. Those treating both adolescents and adults should provide documentation of experience with both populations. Registered interns or psychological assistants may accumulate hours of experience under the supervision of a licensed psychotherapist who meets these criteria. Interns or psychological assistants should co-facilitate one hundred hours of direct services with an approved licensee before being eligible for approved provider status. Treatment providers who do not meet the hours of service requirement may apply to be listed as approved providers if there are reasonable limitations on experience hours such as working in rural counties with fewer referrals.

Required Programming Structure and Content

Approved providers should submit program documentation that evidences utilization of evidence based practices.³⁰

C. Mandatory Treatment and Funding

Despite state budgetary fluctuations from year to year, public safety can be increased through implementation of mandatory treatment of sexual offenders under supervision.

Emerging Issue:

CDCR was compelled by the 2008-2009 budget crises to terminate or suspend their contracts for outpatient sex offender treatment services to High Risk Sex Offender parolees. While parolee sex offenders are ordered to have visits to the Parole Outpatient Clinic in their county or region, such services are in no way equivalent to the comprehensive treatment that is

Sex offender specific treatment has been found to reduce re-offenses by up to forty percent.³¹ Since convicted and/or adjudicated sex offenders are a known and accessible risk group, treatment for these individuals should be mandated for all probation and paroled sexual offenders.

Sex offenders who are on probation are ordinarily on a self-pay basis with limited, if any, financial support from county probation departments. There are approximately 10,000 sex offenders on probation at any given time; it is unknown how many of these are current participants in treatment in the community. It is

unknown how many sex crimes are pled to with a stipulation that the offender does not have mandated treatment. CDCR does not currently fund outpatient treatment for the

³⁰ For recommendations related to specific documentation of training content and structure please see **APPENDIX H**

³¹ January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 137-156 (available at casomb.org)

approximately 6,788 sex offenders on parole, nor is there a formal treatment program implemented in any State prison in California.³²

CDCR solicited a prison based treatment program design which has been approved but not funded.³³ Currently, there is no formal sex offender treatment programming implemented in the adult prison system in California yet the State employs post sentence civil commitment on a class of high risk mentally ill sex offenders (CA SVP Act). The CASOMB strongly recommends funding be allocated to implement the prison based program as well as post-institutional treatment within structured re-entry processes throughout the State. Public safety can be enhanced through treatment and use of the Containment Model with the thousands of sex offenders released from California prisons each year.

Programs that respond to victims of sexual assault and programs that assist victims in dealing with the harm and pain of the sexual assault should be fully funded. To protect against further victimization, funding for mandatory treatment, with credentialed and approved treatment providers, should be authorized by state government to assist sex offenders in their participation in treatment. Sex offenders should participate in paying for their own treatment to the greatest extent possible based on ability to pay.

³² It should be noted that 2009 CDCR held a planning summit to examine implementation issues related to establishing an institutional sex offender treatment program.

³³ 2007 California Sex Offender Management Task Force Report (available at casomb.org)

Re-entry, Supervision and Housing

The release of individuals from prisons to communities is a practice that has long been fraught with systemic challenges and one which evokes considerable public concern. It is even more problematic when the issue involves sex offenders returning to communities. Myths surrounding inflated recidivism rates, ineffective treatment, and the publicity surrounding highly publicized cases involving predatory offenders fuel negative public sentiment and exacerbate concerns by policymakers. For the purposes of this report, re-entry is defined as the period of time during which the offender is placed under community supervision. For most sex offenders in California, this is commonly 3-5

RE-ENTRY RECOMMENDATIONS:

- The most important consideration when evaluating the success of a correctional program is whether the community is safer once the offender is released from supervision than it was prior to incarceration and community supervision. Therefore, it is recommended that all correctional programs utilize recidivism reduction as the primary method of measuring performance.
- High risk offenders pose the greatest risk to the community. It is recommended, that the limited resources that are available in this fiscally difficult time be primarily used to monitor and treat the highest risk offenders.
- The risk of re-offense for any type of offender, and especially sex offenders is greatest immediately after release from incarceration. Resources should be front loaded to provide extra monitoring and supervision during this time.
- The only model of supervision that has consistently shown to provide increased public safety is the Containment Model. It is recommended that California follow evidence-based practices and implement a consistent Containment Model at both the state and county level.
- The most recent research into treatment program options for sex offenders, has shown that treating all criminogenic risk and needs factors, and not just concentrating on sex offense risk factors, has had the greatest impact on lowering recidivism rates. It is recommended that all sex offender treatment programs assess and treat criminogenic factors.
- Too often in California, we are spending most of our time and resources increasing surveillance and supervision while neglecting treatment. Research is consistently showing that the lowest recidivism is occurring when both treatment and surveillance are more evenly balanced in an individually developed case plan.

years for both probation and parole.

There is a growing body of correctional research and emerging models for improving reentry outcomes that have recently been developed.³⁴ The National Institute of

³⁴ 2007 California Sex Offender Management Task Force Report 61- 72 (available at casomb.org)

Corrections and the Center for Sex Offender Management under the U.S. Department of Justice are examples of organizations which have published national models for supervision of sex offenders in the community.

Community supervision agencies have utilized several different models when evaluating the effectiveness of their sex offender supervision. The most common method is called a process evaluation. This method entails counting the level of services (drug and alcohol programs, anger management treatment, sex offender treatment) and the numbers of contacts. Outcome evaluations that measure increases in reduction of recidivism and sexual re-offense have been conducted far less frequently. And while all sex offenders need close levels of supervision, limited resources can best be utilized by evaluating which elements and levels of supervision produce the greatest reduction in recidivism.

The risk of sexual re-offense as well as any other type of serious offense is greatest in the first year following release from custody. This is true in national recidivism studies as well as those conducted in California. CDCR data for sex offender recidivism showed that more new offenses occurred in the first year following release than in the next two years combined.³⁵ Therefore, increasing the intensity of supervision and treatment during the first year seem to provide the greatest opportunity for recidivism reduction.

Utilization of a “Containment Approach”³⁶ to community supervision is recognized as a *best practice* approach. This model relies on effective communication between local law enforcement, treatment providers, polygraph examiners, interested citizens and community supervision officers to provide a web of protection for the community.

To date, there has never been a complete estimate about what implementing the Containment Approach in California would cost. The California Department of Corrections and Rehabilitation has estimated that implementing the treatment and polygraph elements of the approach

“Tools such as GPS and parole supervision can fall tragically short when jurisdictions don’t work together to develop comprehensive strategies to share information and communicate about supervision practices. This tragic case [Jaycee Dugard] highlights the need for systemic changes that will promote collaboration between agencies and the community at large.

Community safety depends on what we see, what we know and how we talk to each other.”

USA Today Editorial
September 3, 2009

³⁵ January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California (available at casomb.org) 74

³⁶ For a discussion of the Containment Model please see the January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 102-104 (available at casomb.org) and 2006 California High Risk Sex Offender Task Force 15-18 (available at casomb.org)

(omitting the community coordination and law enforcement costs) for the parole population would cost approximately \$15,000,000.

Studies about the California sex offender population shows us that it is more likely that a sex offender will re-offend with some other type of criminal offense than with a new sex offense. Community safety can best be served if supervision officers are able to assess criminogenic risk and develop program goals that include all criminal violations and not just sex offenses.

Community Supervision of Sex Offenders

It is estimated that in the United States, 265,000 adult sex offenders are under some form of supervision in the community. (Greenfield 1997) These offenders represent a very heterogeneous population, and the risks that these offenders pose to the community vary tremendously. While many sex offenders are entering prisons each year, large numbers are also being released. Nationally, between 10,000 and 20,000 are estimated to be returning to communities each year. (Center for Sex Offender Management, 2008)

There are approximately 66,000 registered sex offenders in California. Of that number, approximately 6,700 are on parole and about 10,000 are supervised by county probation. Most offenders who are convicted of one of more sex crimes will be supervised in the community at some point either immediately following sentencing or after a period of incarceration in jail or prison³⁷. These offenders present unique challenges to the probation and parole departments that are primarily responsible for supervising them. Because of the potential volatile community responses to sex offenders and the severe harm that re-offenses would cause potential new victims,

³⁷ For a longer discussion about the distribution of sex offenders in California see the January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 51-66 (available at casomb.org)



Registered Sex Offenders
in California

community supervision of sex offenders is of critical importance to criminal justice agencies and the public. (Managing Sex Offenders in the Community: A National Overview, 2001)

The primary goal of managing sex offenders in the community is the prevention of future victimization. In order to accomplish the primary goal, there are several key elements within sex offender management that need to be accomplished.

Collaboration: Collaboration among those agencies initiating and implementing effective supervision and treatment practices, as well as other law enforcement and community organizations is an essential piece to providing increased community safety. Due to the secrecy, manipulation and deception that often accompany sex offending behaviors, it is essential that as many eyes as possible be involved in supporting the goals of effective community supervision and reintegration.

Victim-Centered Approach: Since a primary goal of supervision is the protection of victims and the prevention of future victimization, supervision agencies should work closely with victim advocacy organizations to ensure that their policies

do not re-traumatize victims of sexual assault, or inadvertently jeopardize the safety of others.

Sex Offender Specific Treatment: Mandated specialized treatment as part of probation or parole conditions is an integral and essential component of effective community supervision. The offense specific treatment that research has shown to be most effective holds offenders accountable, is victim-centered, and is limited in its confidentiality. It is based on the notion that when an offender is effectively taught to manage successfully his propensity to sexually abuse, he becomes less of a risk to past and potential future victims.

Clear and Consistent Policies: Clear and consistent policies at all levels (state, local, and agency) are crucial components of community supervision. Clear policy defines how cases will be investigated, prosecuted, and adjudicated. It also defines the method of community supervision, the roles various agencies play in the supervision process, and the response to indications of risk of relapse.

The experiences of probation and parole agencies across the nation indicate that sole reliance on commonly used supervision practices (e.g., scheduled office visits, periodic phone contact, and community service requirements) does not adequately address the unique challenges and risks that sex offenders pose to the community. In order to address these challenges, it is imperative that convicted sex offenders receive, in addition to incarcerative sanctions where appropriate, a period of community

supervision. During this period of supervision, the supervising agency is able to assess an offenders place of residence and employment, restrict contact with minors or other potential victims, select appropriate treatment for the offender, and establish, if necessary, other restrictions that diminish the likelihood of re-offense.

Sex offenders must be monitored intensively during community supervision in order to evaluate their level of commitment to and compliance with all imposed special conditions.³⁸

RE-ENTRY AND SUPERVISION RECOMMENDATIONS:

- Local communities (cities or counties) should be required to identify appropriate, affordable, and compliant housing for sex offenders prior to implementation of, or if they presently have, local restrictions for sex offenders.

Sex Offender Housing

Finding appropriate and affordable housing has always been difficult for sex offenders under community supervision.³⁹ No one is anxious to have sex offenders living in close proximity or anywhere in their neighborhoods. Landlords have also expressed concern about renting apartments or hotel rooms to sex offenders since their addresses now show up on public web sites.⁴⁰

As a result of community safety concerns, many states and communities have recently passed residence restriction laws that limit where sex offenders may live.⁴¹ Most laws and ordinances restrict sex offenders from living in proximity to schools, parks, and other places children congregate. Presently, 32 states, including California, have passed laws and ordinances of this type. As a result, sex offenders now find it much more difficult to find a place to live, and many are now homeless and/or are evading community supervision.

The hypothesis that sex offenders who live in close proximity to schools, parks and other places children congregate have an increased likelihood of sexually reoffending

³⁸ For examples of special conditions of supervision please see **APPENDIX I**

³⁹ See (2008) Homelessness among Registered Sex Offenders in California: The Numbers, The Risks and The Response (casomb.org)

⁴⁰ See the proceedings of the California Summit for Safe Communities available at casomb.org

⁴¹ For more information about the implementation of residence restrictions in California see January 2008 CASOMB Assessment of Current Management Practices of Adult Sex Offenders in California 121-133 (available at casomb.org)

remains unsupported by research.⁴² On the contrary, the studies that have been completed show there is almost no correlation between sex offenders living near restricted areas and where they commit their offenses. Additionally, there is growing evidence that supports that sex offenders who lack a stable living situation are at increased risk of re-offense.

Across the nation, different states have conducted research that brings into focus specific consequences that are the result of residence restrictions. First and foremost, all studies have reported diminished housing options for sex offenders, especially in major metropolitan areas. In Orange County Florida, 95% of all residential properties were located within 1000 ft. of schools, parks, child care centers or school bus stops. (Zandbergen & Hart, 2006) In Colorado, researchers found that in heavily populated areas, residences farther than 1,000 ft. were virtually non-existent. (Colorado Department of Public Safety, 2004) In Newark, New Jersey, 93% of the city's territory is located within 2,500 ft. of a school and would therefore be unavailable to sex offenders. Geographic Information System (GIS) mapping in San Francisco, California has determined that nearly all possible residential locations in the city and county are within 2,000 ft. of a park or school, and therefore unavailable to paroled sex offenders.

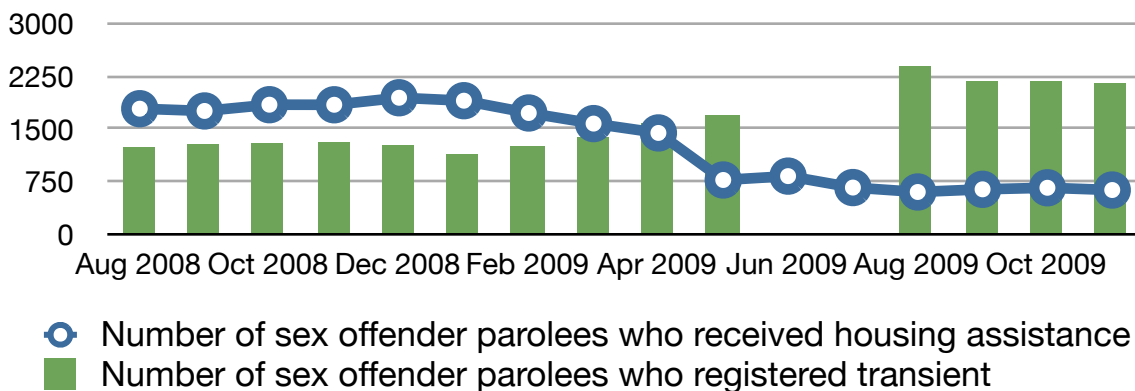
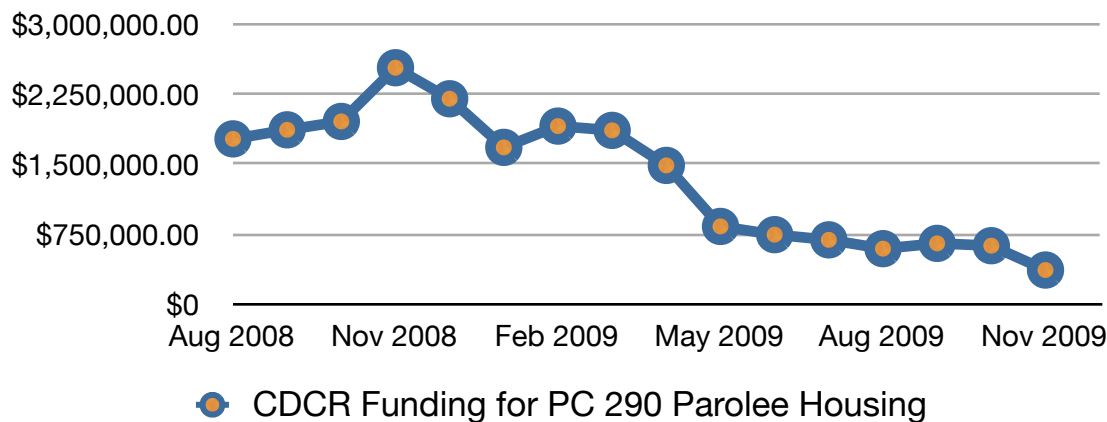
An issue that has been particularly troubling to California cities is the clustering of sex offenders. When residency restrictions were enforced, a large percentage of residential properties became off limits to sex offenders. The percentage of off-limits housing in urban areas was usually estimated as somewhere between 50 - 99%. This resulted in many sex offenders scrambling to find a living situation that was both affordable and compliant with the law. Many times, due to the limited availability of options, sex offenders could only find a small number of available apartment houses, motels, or other living arrangements that were available to them. This caused several apartment complexes or motels to have increased occupancy of sex offenders. When citizens discover that a particular location in their neighborhood has a high density of sex offenders they can become very concerned. Such a situation often results in complaints being filed with police and local media being contacted, in an effort to resolve these concerns.

In the past, in recognition of the importance of stable housing for both community safety and offender stability, CDCR provided some limited subsidies for sex offender parolee housing. Due to the California budget crisis and significant reductions in agency resources the Department issued Policy Number 09-01 in February, 2009, which limited the duration and amount of support available for sex offender housing.

The following graphic representations show the relationship between funding for housing assistance and the increase in transient status (homelessness) among sex

⁴² A Minnesota Department of Corrections study of 329 high risk sex offenders revealed that recidivism occurred in only 13 cases, while none of the offenses occurred in school grounds, two of those occurred in parks. In both of these cases, however, the perpetrators lived miles from the crime scene and drove a vehicle to commit the offense. (Minnesota Department of Corrections, 2003)

offenders on parole. The significant change occurring at the time the new policy went into effect (February 2009) can be noted.



The loss of CDCR housing assistance, when combined with ever-increasing areas of the state that are off-limits for housing seems to have had an adverse impact on offender transience.⁴³ It will be important to examine this trend over time.

Most citizens either do not connect the increased density of sex offenders - “clustering” - with limited housing option, or they just don’t care about the reason. They want to feel safe. Often, the citizens of the neighborhood place pressure on the owner of the motel or apartment complex or on CDCR to solve this problem. The solution usually results in sex offender parolees being required to find another place to live. Since the alternatives are so limited, many of these sex offenders required to move, end up becoming homeless and transient.

⁴³ parolee transient data for June 2009 and July 2009 was unavailable

Sex Offender Transience, Homelessness and Parolees at Large.

As housing options across California became less available after the residence restrictions of Proposition 83 began to be implemented, homelessness of sex offenders increased. In 2007, 88 parolees were homeless.⁴⁴ Now, less than two years later, that number has risen to 2,088 parolees who are registered as transient/homeless, the total number of sex offenders who are officially registered as “transient” (including parolees) has surpassed 5,000.

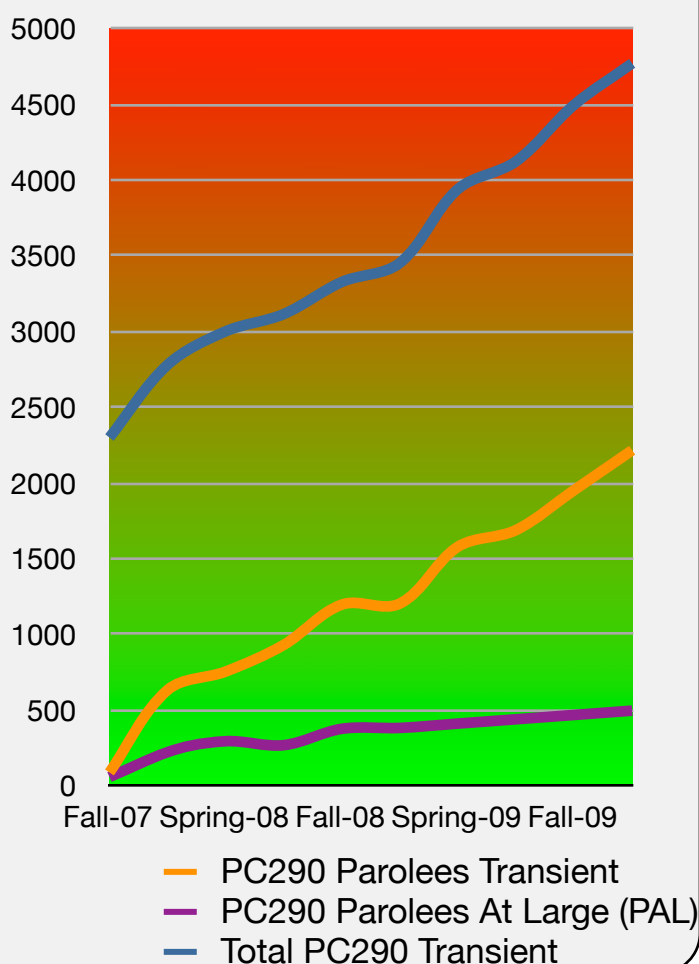
*Homelessness, unemployment, and lack of social support may end up being factors facing many sex offenders, both those who are re-entering California communities and those who are continuing registered sex offenders. These factors increase dynamic risk and therefore may increase re-offending behaviors.*⁴⁵

Transience poses significant challenges for supervision. Even with GPS monitoring, without a stable residence it is difficult to ensure that offenders are complying with their terms of supervision.

Even though transience among sex offenders in California has increased significantly, the number of Parolees At Large (PAL) has not increased at the same rate. (Note: A parolee at large is one who has failed to report his parole agent and has “disappeared.”) It would seem that despite an escalating rate of homelessness among California parolees, many are still managing to remain in compliance with their parole supervision requirements.

At this time there is no definitive understanding about why PAL numbers in California have not increased at the same

Transience and PAL on the Rise



⁴⁴ 2007 was the first year that CDCR began active enforcement of Proposition 83 residence restrictions

⁴⁵ See (2008) Homelessness among Registered Sex Offenders in California: The Numbers, The Risks and The Response (casomb.org)

rate.⁴⁶ Some speculation points to the somewhat unique nature of California's law that allows offenders to legally register in a transient status. Others point to the state's GPS requirement.

City and County Residence Ordinances

HOUSING RECOMMENDATIONS:

- Cities and counties should not pass sex offender residency ordinances that are in conflict with or exceed state law
- Cities and counties should determine a process for notifying CDCR and/or probation when they have passed a sex offender restriction ordinance
 - In order to mitigate the potential public safety risk of increased offender transience, California should target the use of residence restrictions utilizing a 'hybrid' model of restrictions similar to a 2009 Iowa law:
 - *Residence* restrictions (2000 ft.) apply to the most serious offenders (SVP, repeat sex offenders, and offenders convicted of violent sex offenses) who have committed an offense against a child.
 - *Loitering* restrictions apply to designated Pen. Code, § 290 registrants in places where children congregate (child safe zones)

At least ten states have enacted local residence and/or loitering restrictions for sex offenders. In a few states there are local ordinances but no state laws in this area, while other states, like California, have both. In several states there are over one hundred local ordinances, while others have just a few. What seems to be a common characteristic of these ordinances is that once a community passes a residency/loitering ordinance, surrounding communities feel compelled to pass one also. Policymakers and the public are often fearful that if they do not follow suite, all of the sex offenders will relocate into their community.

In 2008, the National Governors Association noted:

These restrictions are forcing offenders out of urban and suburban centers into isolated rural areas where providing close supervision is much more difficult. A survey of 135 sex offenders in Florida found housing restrictions increased isolation and decreased stability, making it more likely that they would reoffend. The study, published in the International Journal of Offender Therapy and Comparative Criminology, also found that sex offenders reported these restrictions actually increased "triggers for re-offense." These restrictions also may contribute to sex offenders becoming indigent and homeless, making it nearly impossible to monitor them and supervise their behavior.

⁴⁶ In Iowa, one of the first states in the United States to widely implement residence restrictions, within six months of implementation the number of sex offenders who were in violation of that state's registration statute had doubled -Des Moines Register (2006)

Very recently, (May 2009) the New Jersey Supreme Court struck down sex offender residence restrictions in over 100 communities. This was the first time that an appeal of residence restrictions had reached the state Supreme Court level. The Court held that sex offender monitoring fell under the purview of Megan's Law and did not fall to the level of the local communities.

In California, PC 3003.5 (c) allows municipal jurisdictions to enact local ordinances that may further restrict the residence of any person required to register as a sex offender. This Penal Code section was enacted as part of the Jessica's Law statute in 2006. Since that time, approximately 50 California cities and 6 counties have enacted local ordinances. All of them have either expanded the distance of the residence restriction (up to 3000 ft.) or have added additional restricted locations, such as child care centers, libraries, arcades, school bus stops, and other places children might congregate. Some have done both. In addition, several of the ordinances have created what have been called "child safe zones". These are locations where sex offenders may not enter or loiter about within a specified distance, usually about 300 ft. Several of the ordinances have limited the density of sex offender residences. They have prevented more than one sex offender from living in any motel, hotel, mobile home park, or apartment complex. One of the most notable ordinances prohibited a sex offender from residing within 1000 ft. of another sex offender. Most often, failure to adhere to local ordinances is deemed to be a misdemeanor. Even with the rapid expansion of local residence ordinances, very few if any jurisdictions in California are actually enforcing these laws, leaving community members unclear about the scope and ultimate utility of these approaches.

The California Sex Offender Management Board recommends that the California State Legislature, Governor, and local governments **reconsider residency restrictions** to create an offender housing and supervision solution that balances three essential concerns:

Public safety – Community sex offender management strategies should promote proven public safety strategies. Residency restrictions that preclude or eliminate appropriate offender housing can threaten public safety instead of enhancing it.

Fair Share - Offender populations should, as dictated by statute, return to their county of conviction. No jurisdiction, county or city, should be forced to accommodate a significantly disproportionate number of offenders due to the residency restrictions in adjoining jurisdictions.

Local Control - Local governments, in collaboration with state agencies, should collaboratively identify not only areas where offenders should not reside or loiter but also a sufficient number of areas that are suitable and appropriate for offenders to live.

(CASOMB 2009 Progress Report)

Presently, there has been no protocol for local municipalities to notify CDCR when a local sex offender ordinance has been enacted. Therefore, it has not been possible for CDCR parole agents to proactively support these ordinances once they are passed. Parole agents generally become aware of ordinances when a parolee is in violation of an ordinance and it comes to the attention of local law enforcement or elected officials. Parole agents do warn parolees that there is a chance that a local community has a residence ordinance and that it is each parolee's duty to know the terms of and abide by any local ordinance.

In November 2009, the California Supreme Court heard arguments in the cases of four parolees who claimed the residence restriction enacted in Jessica's Law did not apply to them. The argument was that the law was intended to be prospective only and, since the petitioners were released on parole after Jessica's Law was enacted, it did not apply to them. At the time of this writing, an opinion had not been issued.

Global Position Satellite Tracking and Monitoring

Law enforcement officials, especially probation officers and parole agents, are increasingly utilizing electronic monitoring through the use of Global Positioning Satellites (GPS). This technology is now being utilized in at least 42 states. Many states require certain offenders to be monitored for the length of their probation or parole, while other states designate certain high risk and/or child victim offenders to register for specified amounts of time up to and including lifetime. California is one of only two states that mandates that all registered sex offenders be monitored for life - a requirement created by Jessica's Law.

GPS MONITORING RECOMMENDATIONS:

- Utilize GPS monitoring only in conjunction with some form of community supervision, with the understanding that some high-risk offenders may need to be subject to extended supervision (including lifetime supervision for exceptionally high-risk offenders)
- Prioritize the use of GPS monitoring primarily for serious and high risk sex offenders
- Allow GPS monitoring to be minimized or eliminated after a defined period of time if there have been no new offenses and there has been satisfactory compliance with all terms of registration and parole conditions, to be determined by the supervising

In June, 2005, CDCR Division of Adult Parole Operations (DAPO) launched a pilot GPS program by placing electronic ankle bracelets on 80 high risk sex offenders in San Diego County. Soon after, GPS monitoring programs were begun in Orange County, San Bernardino County, Fresno County and Kern County. All of the funded GPS units were scheduled to be in use by July 1, 2006.

On November 7, 2006 California passed Proposition 83, known as Jessica's Law. This proposition required, among other things, that all registered sex offenders released on parole be monitored for life, by using Global Positioning Satellite (GPS) technology in the form of a satellite-tracked ankle bracelet. The law was passed with little information about how it would be implemented or evidence of whether GPS technology would protect Californians from sex offenders. According to a survey conducted by the Interstate Commission on Adult Supervision in April of 2007, California was already among the most extensive users of GPS for the monitoring of sex offender parolees prior to the passage of Proposition 83. Only Florida and Texas had programs of comparable size. (Turner & Jannetta 2008)

The passage of Proposition 83 has led to over 6,788 sex offender parolees being placed on GPS monitoring. This is by far the largest use of GPS monitoring anywhere in the world. It is conservatively estimated that the use of GPS in the state of California is presently costing approximately \$65,000,000.00 per year.⁴⁷ The effectiveness and cost effectiveness of widespread use of GPS with sex offenders in California has not been evaluated.

To date, it remains unclear what state or local jurisdiction will be responsible for the lifetime post-supervision GPS monitoring described in Proposition 83. In fact, many of the challenges that localities identified in 2007-when the CASOMB examined this issue-exist today. A number of significant questions and concerns have been raised about California's use of GPS with sex offenders. They include the following:

Current supervising authorities (such as CDCR or local probation) maintain that they have neither the jurisdiction nor authority to supervise (or monitor) individuals beyond their term of supervision.

- Local law enforcement agencies have also been identified as potential monitoring authorities for the post-supervision GPS portion of Proposition 83. While many these agencies have experience and training related to peacekeeping activities, generally few local law enforcement agencies have resources or the infrastructure for GPS monitoring.*
- Locally based agencies would also face implementation challenges with GPS monitoring post-supervision because of the transitory nature of most post supervision sex offenders. County probation, sheriff's and police chiefs have a proscribed jurisdiction in which they conduct their activities and lack the capacity to monitor offenders if they move between cities, counties and states.*
- Even if post-supervision GPS monitoring were to be fully funded, local agencies would still face fundamental challenges with managing multi-jurisdictional monitoring and information sharing. Local governments and law enforcement agencies have repeatedly stressed the importance of issues such as: equipment interoperability, compatible mapping platforms for crime scene correlation, and a common understanding of what data will be collected via GPS technology.*
- It is possible to imagine that a state law enforcement agency might also be tasked with post-supervision GPS. While a state-level law enforcement agency would avoid the multi-jurisdictional challenges that local law enforcement agencies would face with post-supervision GPS, role confusion and a lack of monitoring tools would remain.*
- All agencies examined (both state and local) have indicated that they lack the financial resources to implement this new program. Agencies at the local level, in particular, stressed the potentially severe economic consequences of adding post-supervision GPS monitoring duties to already stressed workloads (CASOMB Letter to Secretary, 2007).*

⁴⁷ CDCR 2009 testimony to the California Legislature. Additionally, according to CDCR active GPS monitoring costs approximately \$26 per day / per offender (\$9,490 per year). Passive GPS monitoring costs \$17 per day per offender (\$6,025)

Although many states are now reporting the use of GPS technology to monitor sex offenders, there are still very few evaluations of their usefulness in providing public safety and lowering of recidivism rates. There seems to be some anecdotal sentiment that is supportive of the usage of GPS monitoring, but very little statistical data to support its effectiveness in preventing re-offense.

Individual state evaluations have shown mixed results In terms of the ultimate efficacy of GPS on recidivism and criminal behavior.⁴⁸ The consensus of the GPS evaluations seem to be that this tool is most effective when utilized as part of an overall “containment model” of supervision and when used with high risk offenders.⁴⁹

⁴⁸ For a summary of several state GPS evaluation studies see **APPENDIX J**

⁴⁹ For an extended analysis of the efficacy of GPS in the context of supervision see CASOMB GPS letter to Secretary Tilton (casomb.org)

Registration and Notification

California presently has the largest number of registered sex offenders of any state in the United States. The state have about 90, 000 registered sex offenders, about 68,000 of whom are in the community. The rest are currently incarcerated. This large number is due to the large overall population of the state, the length of time California have been registering sex offenders (since 1947, retroactive to 1944), the length of time that registration (lifetime) is required for all registrants, and the large number of offenses that require mandatory sex offender registration.

California is one of the few states that has lifetime registration for all sex offenders. On the positive side, this allows the public to be aware of the majority of sex offenders living in their neighborhoods. On the negative side, the public and local law enforcement agencies have no way of differentiating between higher and lower risk sex offenders. In this one-size-fits-all system of registration, law enforcement cannot concentrate its scarce resources on close supervision of the more dangerous offenders or on those who are at higher risk of committing another sex crime.

Recommendations

- Not all California sex offenders need to register for life in order to safeguard the public and so a risk-based system of differentiated registration requirements should be created
- Focusing resources on registering and monitoring moderate to high risk sex offenders makes a community safer than trying to monitor all offenders for life
- A sex offender's risk of re-offense should be one factor in determining the length of time the person must register as a sex offender and whether to post the offender on the Internet. Other factors which should determine duration of registration and Internet posting include:
 - Whether the sex offense was violent
 - Whether the sex offense was against a child
 - Whether the offender was convicted of a new sex offense or violent offense after the first sex offense conviction
 - Whether the person was civilly committed as a sexually violent predator
- Monitoring of registered sex offenders once they are no longer under any form of formal community supervision is critical to public safety. Therefore, the following recommendations are made regarding local law enforcement.
 - There should be continued and additional funding for Sexual Assault Felony Enforcement (SAFE) teams in California
 - There should be mandated and designated resources which would enable law enforcement to verify the information supplied by the registrant at the time of registration
 - Law enforcement should allocate resources to enforce registration law and actively pursue violations
 - Training should be made available to district attorneys, judges and law enforcement on registration and community notification laws
 - Registering agencies should participate in multi-disciplinary teams and the containment model when monitoring registrants on formal supervision
 - Law enforcement should maximize resources and results by devoting more attention to higher risk offenders

Sex Offender Registration

Risk Assessment

Since it is being recommended that a revised system of registration be developed based largely on risk of reoffending, a review of key information about the history and methods of risk assessment is in order.

A. Risk Assessment in Other States

There are twenty states which were using some form of risk assessment by the end of 2008. (Velasquez, *The Pursuit of Safety: Sex Offender Policy in the United States*, Vera Institute of Justice, Sept. 2008, at Appendix.) Some, but not all, use empirically based risk assessment instruments to determine level of risk. Others use committees to determine risk factors without basing the factors on empirical research to verify that the factors correlate to risk of reoffense. Recent research shows that pure actuarial analysis using empirically based risk assessment instruments is more predictive of re-offense than a combination of unstructured clinical judgment and use of an empirical instrument. (Hanson, K., et al., *The Accuracy of Recidivism Risk Assessments for Sex Offenders: A Meta-Analysis*, p. 10 (2007).

B. Risk Assessment in California

California currently uses a pure actuarial approach to risk assessment for purposes of sentencing, placement on supervision, treatment, and use of GPS monitoring devices. (Pen. Code, § 290.03-08; 1202.8; 1203.) The risk assessment instrument being used both pre-sentencing and prior to release on parole for adult sex offenders is the Static-99. The instrument chosen to assess juvenile sex offenders is the JSORRAT-II. Both instruments were chosen by the California risk assessment committee (SARATSO Committee - see Pen. Code, § 290.03-04).⁵⁰ As of December 2009, the SARATSO Committee had not yet chosen a dynamic risk assessment instrument for California.

However, the assessed risk of re-offense today plays no role under California law in determining the need to register, the duration of registration, or the extent of community notification. California adult offenders must register for life for most sex offenses. (Pen. Code, §§ 290, 290.5.) Nor does risk assessment determine which juvenile sex offenders are required to register. However, it is not within the statutory mandate of this Board to recommend changes to laws pertaining to juvenile sex offenders.

Some sex offenders are eligible to petition the court for a certificate of rehabilitation, usually 10 years after release from custody. Whether a certificate of rehabilitation is

⁵⁰ the SARATSO web site is found at http://www.dmh.ca.gov/Services_and_Programs/Forensic_Services/Sex_Offender_Commitment_Program/SARATSO.asp [<http://www.dmh.ca.gov/>] The web site for the SARATSO Committee is moving to www.cdcr.ca.gov in 2010.

granted is a discretionary decision by a trial court. (Pen. Code, §§ 4852.01, et seq.) Until 1996, registered sex offenders who obtained a certificate of rehabilitation were no longer required to register. In 1996, Penal Code section 290.5 was amended to prohibit most sex offenders, including offenders whose offense was consensual sexual activity with teens age 14-17, from obtaining relief from registration even when a court grants a certificate of rehabilitation. Some sex offenders are barred from applying for certificates of rehabilitation, even if the offense was a consensual one with a peer. (Pen. Code, § 4852.01.) For example, a boy age 18 who has consensual sex with a girl age 13 and who is convicted of lewd and lascivious acts with a child under 14 (Pen. Code, section 288), can never obtain a certificate of rehabilitation, nor can he ever be released from the duty to register as a sex offender (absent a governor's pardon).

The purposes of sex offender registration are to assist law enforcement with investigating new sex crimes and keeping track of the whereabouts of convicted sex offenders as well as to deter individuals from committing new sex offenses. (U.S. DOJ, CSOM, Legislative Trends in Sex Offender Management, Nov. 2008, at p. 4.) Trial courts are given no discretion in most decisions about sex offender registration in California. While courts may, in their discretion, order registration for offenses that are sexually motivated after making specified findings at sentencing (Pen. Code, § 290.006), the same courts may not terminate the duty to register of a sex offender who presents credible proof of rehabilitation 10, 15, or even 25 years later. This is true whether or not the offender is at low risk to re-offend, as determined by empirically based risk assessment.

The fact that there is no less-stringent alternative to the California requirement for lifetime registration may actually decrease court orders for sex offender registration, in cases where registration is discretionary, because there are no options for a lesser duration, which a court may deem fairer to a particular defendant. Lifetime registration may also distort the plea bargaining process. Charges are modified and offenders plead to inappropriate offenses to avoid the consequence of lifetime registration. Distortion of the plea process results in pleas to offenses which do not require sex offender registration, despite the need for at least some period of registration and monitoring. Lack of less-than-lifetime options sometimes also leads to illegal orders shortening the period of registration.

Although the cost of registering and monitoring registered sex offenders statewide has not been quantified, there is a fiscal burden associated with these functions at both the state and local levels. Focusing on lifetime registration for offenders who are higher risk, more violent, or who are repeat offenders allows cost savings while at the same time permitting more intensive monitoring of those offenders most likely to re-offend.

Duration of Registration and Community Notification

A. Duration of Registration in Other States

Other states use varying combinations of years required for registration, often

depending on risk level or offense:

- Half of the states require 10 years for the majority of registrants, and life for the rest, using either risk assessment or offense-based classifications to determine who registers for life.
- Some states allow registrants to petition the courts for termination of registration, often after 10 years of registration.
- Five states require registration for 15 years, 25 years, or life, depending on the offense or tier level.
- Other states use a combination of 15/life; 20/life; 25/life; 5/10/20/life, 10/25/life; 10/15/25/life; or 10/15/20/life, depending on risk or offense classifications.
- Four states (California, Alabama, Florida, and South Carolina) require lifetime registration for all registrants, and one state requires 15 years for all registrants.

Usually, lifetime registration is predicated either on the offense itself being classified as aggravated, the offender being classified as high risk (determined either by empirical risk assessment or offense-based classifications), or a statutorily defined sexual predator, or being classified as a sexual recidivist. In most states, the duration of the registration period is shorter for juveniles and nonviolent sex offenders. (Velasquez, *The Pursuit of Safety: Sex Offender Policy in the United States*, Vera Institute of Justice, Sept. 2008.)

B. Application to California

The majority of sex offenders released on parole in California after 2005 have risk assessment scores under 4 on the Static-99. In December 2009, the California Department of Justice determined that the Static-99 score distribution for the 28,612 registered sex offenders in the DOJ database, whose risk assessments were done prior to release from prison or at pre-sentencing, was as follows:

Percentage of Assessed Offenders in Each Static-99 Score Category:

0	=	12.45%
1	=	18.92%
2	=	19.84%
3	=	17.74%
4	=	13.21%
5	=	7.89%
6+	=	9.96%

The California score distribution is consistent with the percentages of sex offenders found in each score category in the risk assessment study which was the basis for the Static-99 risk assessment tool. (Hanson, Morton, & Harris, "Sexual Offender Recidivism Risk: What We Know and What We Need to Know," Ann. N.Y. Acc. Sci. 989:154–166 (2003).)

The CASOMB recommends a three-tier system of registration, which will assign a tier level to each sex offender depending, in part, on individual risk assessment, history of violent convictions, and sexual offense recidivism. It is also recommended, based on the tier determination, that sex offenders in tiers 2 and 3 be posted on the public Megan's Law Internet web site (www.meganslaw.ca.gov).

C. Community Notification

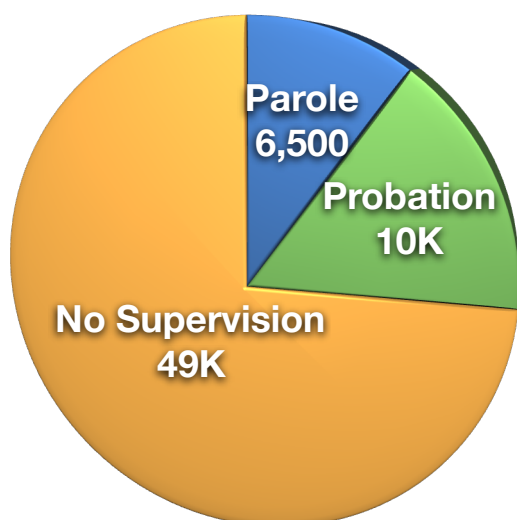
Community notification (Megan's laws) were enacted in the 1990's to raise public awareness of sex offenders in the community. California has two forms of community notification. Notification at the local level is risk-based, although not necessarily informed by empirically based risk assessment. If law enforcement determines that a registered sex offender poses a risk to the public, notification can be made as broadly as necessary to control the risk posed. (Pen. Code, § 290.45, subd. (a).)

However, notification via the state's Megan's Law Internet web site is currently "offense-based," rather than risk-based. Sex offenders with designated offenses are displayed on the site with disclosure of either full home address or only ZIP code, depending on offense. Others are not displayed on the public web site, as the Legislature did not deem their offenses serious enough to merit Internet disclosure. (Pen. Code, § 290.46.) Offense-based classification systems may not target the most dangerous sex offenders or those at highest risk of re-offending.

Of the states that do not post all registered sex offenders on their public web site, fourteen (14) use risk assessments and restrict public Internet access to information about only those offenders determined to pose a risk of re-offending. (Norman-Eady, Sex Offender Registry, Sept. 2008, Doc. 2008-R-0500.) Other states post all offenders without regard to risk. Still others post offenders with designated offenses, much like California's current statute. Posting all offenders except those in the CASOMB's recommended⁵¹ Tier 1 would ensure that posting on the Internet relates to risk of re-offense and dangerousness of the offender. The majority of registered sex offenders in California will fall into Tiers 2 and 3, including all offenders convicted of child molestation, so that for the duration of registration (20 years or more for child molesters), they will be posted with full address on the state's Internet web site, as they are under current law.

⁵¹ See Appendix I

Supervised and Unsupervised Sex Offenders



It is a common misconception that all registered sex offenders are under some form of rigorous, formal supervision through either a state level, or local correctional agency. It is also commonly believed that such supervision continues for their entire lifetime term of registration. This is quite untrue and highlights the need for local law enforcement and specialized multi-agency teams (such as the state funded Sexual Assault Felony Enforcement (SAFE) teams) to continue to track and monitor registrants once their term of formal supervision concludes.

Statewide, at any given time, 70-75% of registrants are not under formal supervision. All types of formal supervision last for only a

specified length of time, and then it is up to local jurisdictions to verify registration and pursue registration violation charges when the registrant fails to comply with the law.

Enforcement of sex offender registration laws by California law enforcement agencies varies and is often affected by personnel and resource limitations. Multi-agency teams such as SAFE teams are few, and recently what little funding has been available in the past has been cut. Local law enforcement agencies—which must directly answer to their residents' concerns about community safety—do not receive any type of additional funding to monitor sex offender registrants or enforce registration laws.

Survey of Law Enforcement Agencies

In February, 2009 CASOMB sent a survey regarding sex offender registration and enforcement to 428 law enforcement agencies in California. Included were agencies of all sizes, including campus police departments. The number of registrants within each jurisdiction ranged from none to over 5,200. Statistics requested included the number of registrants in each area, number of those under formal supervision, if the agency had investigators assigned to sex offender tracking and monitoring and if the agency participated in a multi-agency approach to monitoring registrants. Ninety-five agencies (22%) responded to the survey. The responses accounted for 26,014 total registrants. Agencies responding represented a geographic cross section of jurisdictions, including:

- Five large Sheriff's Departments and Police Departments (responsible for 2,000-5,200 registrants each)
- Thirteen agencies with mid-sized registrant populations (250-1400 registrants each)

- Seventy-seven agencies with small registrant populations (under 250 registrants), including seven college campuses

While all local jurisdictions (and college campuses that have a police department) are required to conduct sex offender registration, enforcement of registration law is not mandatory. Of the responding agencies:

- 67% of the agencies had investigators assigned to sex offender registrant tracking and monitoring; most included sworn officers as well as civilian personnel
- 63% of the agencies had filed criminal cases for failure to register in 2007
- 13% received funding allowing them to participate in a Sexual Assault Felony Enforcement (SAFE) task force
- 34% reported utilizing a multi-disciplinary team approach (local law enforcement, parole, probation, treatment providers, victim advocates) to monitoring sex offenders

Regarding address verifications of the whereabouts of registrants:

- 84% of responding agencies went to the registrants' residence locations in order to verify that the registrant actually lived there
- Of the agencies which do the in-person checks, 41% conducted those checks accompanied by parole agents or probation officers when applicable

Regarding public notifications on the presence of registered sex offenders in the community, 39% of responding agencies conducted proactive notifications and supplied information to the community above and beyond what already appears on the public website, www.meganslaw.ca.gov. Six of the agencies which conducted notifications held public meetings in 2007. Other agencies had conducted notifications by distributing flyers at schools or door-to-door, or at community events such as a Halloween event booth. One agency reported using a combination of notification to the media, flyers, and e-mails and notifications to subscribers via their own agency information web site.

Public notifications are often discussed among law enforcement officers who are tasked with registration and registration enforcement. Often cited, especially in areas that have a large number of registrants is "Where to start, and when to stop?" As the majority of offenders have not been administered a risk assessment, law enforcement must evaluate the offender's present risk of re-offending. In addition, the preparation that goes into a notification (including gathering documentation on a registrant's crimes, residence and employment areas, who the registrant is likely to encounter) takes a significant amount of investigative time by law enforcement officers who are already tasked with other duties. In many jurisdictions, law enforcement resources are pushed to the limit in keeping up with registration updates alone. Often, after a public

notification, the offender is likely to move, creating a new question of notification in a new location.

Allocation of Resources

Even though local law enforcement monitoring of sex registrants requires carving a program from existing resources, the necessity remains. In September, 2007, the International Association of Chiefs of Police identified desired objectives for sex offender monitoring which included:

- Registration
- Verify compliance
- Pursue cases of noncompliance
- Public notification and education

Captain Terry, who heads the Sheriff's Department's investigative division, said Contra Costa County has about 1,700 registered sex offenders. His station is responsible for about 350, "349 more than the number of detectives I have dedicated to monitoring these people."

Los Angeles Times
(August 31, 2009)

Departments that have allocated resources to sex offender registration, monitoring and tracking have included the Los Angeles Police Department, which currently fields seven investigative teams to monitor the city's 5,200 registrants. In addition to managing registration and enforcing registration laws, the agency handles enforcement of DNA collection from all sex offender registrants. This effort recently resulted in the identification of a registrant linked to a series of sexual assaults and homicides.

Without local law enforcement's active pursuit of registration compliance and verification of information supplied by registrants, the information that the public sees on the Megan's Law web site is inaccurate. Yet, given the huge number of California registrants and limited resources available, the task is overwhelming. At any given time, thousands of registrants are in violation of registration laws⁵².

⁵² For a county by county list of registration violations see **APPENDIX**

Special Populations

Of the various special population subgroups among California's sex offenders, this report focused its attention on those involved in the state's civil commitment program - sometimes called the sexual violent predator (SVP) program. Less than two percent of the sex offender registrants in California are either presently subject to civil commitment,

SPECIAL POPULATIONS RECOMMENDATIONS

- California should investigate methods of increasing available treatment hours and participation rates for those sex offenders who are committed or detained as inpatients within the Department of Mental Health.
- California should identify a more efficient screening process for determining when parole violations are related to reoffense risk and should be clinically re-evaluated versus parole violations *not* related to risk that should not require an additional costly evaluation for parolees who have been previously evaluated for the Sexually Violent Predator Program.

or have civil commitment proceedings pending against them. However, significant portions of the limited resources devoted to the management of sex offenders in California. Registrants are allocated to civil commitment proceedings and the treatment of civil committees in this "special population."

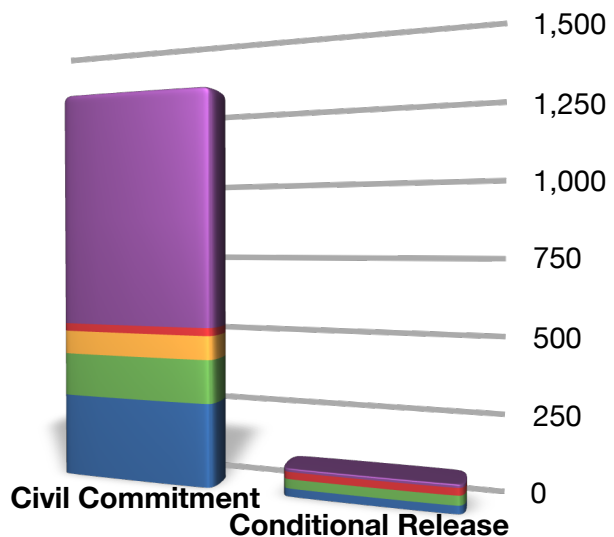
Approximately, 1,300 sex offender registrants are committed or detained as inpatients within the Department of Mental Health,⁵³ and 85 are on conditional release in the community under supervision.⁵⁴ Over 60% of the inpatient population is at Coalinga State Hospital pursuant to the Sexually Violent Predator commitment program at a cost of approximately \$170,000 per year per patient. The remaining 40% are subject to commitment at Atascadero, Metropolitan, Napa and Patton State Hospitals at a cost of approximately \$130,000 per year per patient; 21% are committed as Mentally Disordered Offenders (MDO), 11% are committed as Not Guilty by Reason of Insanity (NGI), 6% are committed as Incompetent to Stand Trial and 2% are committed as Mentally Disordered Sex Offenders (MDSO). Of the sex offender registrants within

⁵³ As of 9/2009

⁵⁴ As of July 25, 2009

conditional release programs, 35% are committed as NGI, 30% MDO, 27% MDSO and 13% SVP.

The most significant policy change in recent years affecting the management of this special population was Jessica's Law (Proposition 83), enacted in November of 2006. Proposition 83 significantly expanded the registrant population potentially subject to civil commitment under the SVP Act. It increased the number of penal code violations that can qualify a registrant for possible SVP civil commitment, decreased the minimum number of victims from two to one, and perpetuated the indeterminate term of commitment, enacted by SB 1128 on September 20, 2006.⁵⁵



With the enactment of Proposition 83, the number of registrants referred by CDCR to DMH for processing for possible SVP commitment increased 1254%, from 48 on average per month, to 650 per month.⁵⁶ Prior to Jessica's Law, 48% of the cases referred by CDCR monthly required clinical evaluations to be conducted by DMH (23 per month). After the passage of Proposition 83, only 24% of the cases referred by CDCR required clinical evaluations, but because of the drastic increase in the overall total number of cases referred, there was a 465% increase in the number of cases for which clinical evaluations needed to be conducted (from 23 per month on average, to 156 per month).

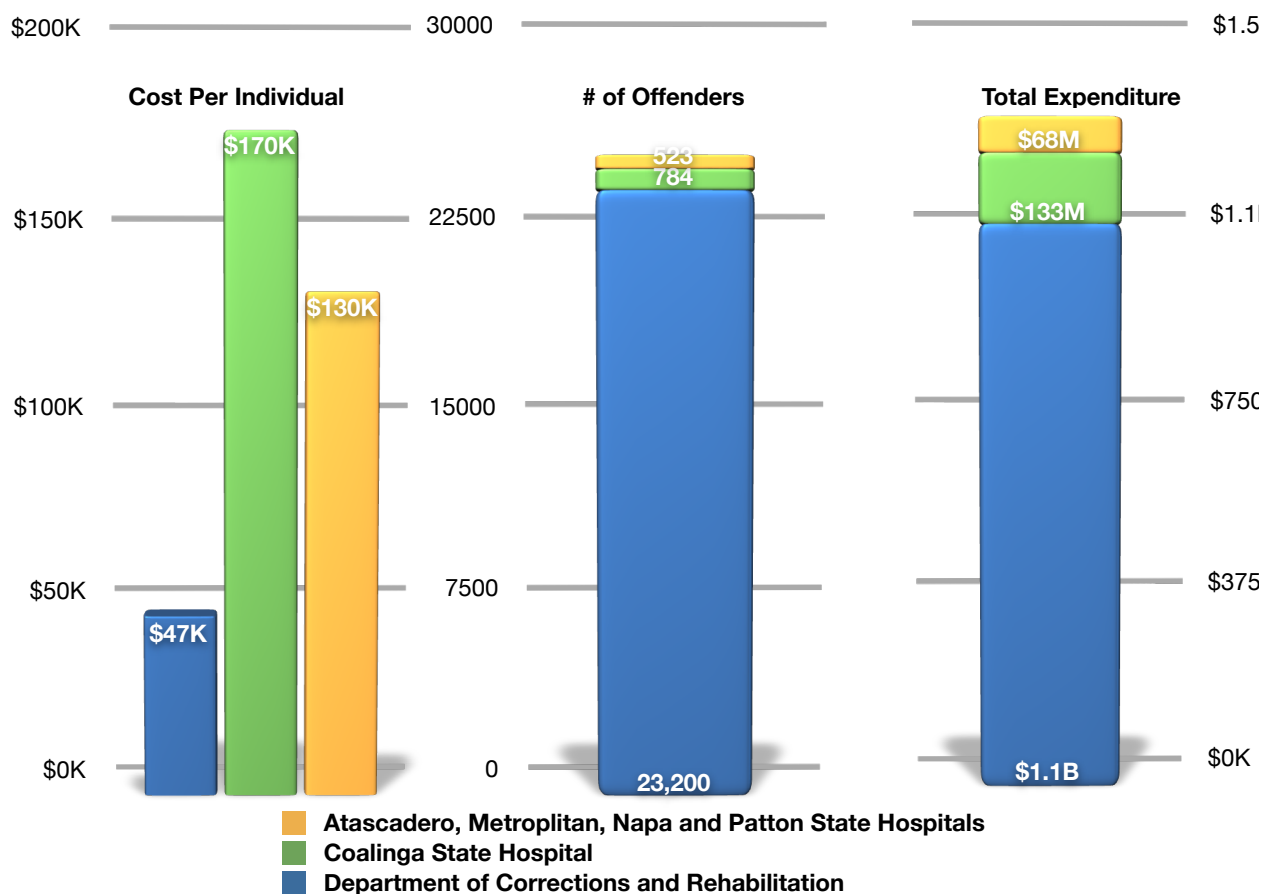
Each person clinically evaluated by DMH costs a minimum of \$7,000, plus travel expenses for the evaluators, and up to \$14,000, plus expenses.⁵⁷ With the number of Pen. Code, § 290 registrants being clinically evaluated for possible SVP commitment by DMH increasing from 23 per month on average to 153 per month, the average cost of clinical evaluations alone increased from \$161,000 to at least \$1,071,000 monthly.

⁵⁵ Prior to SB 1128, an SVP commitment was for two years.

⁵⁶ January 1999 to October 2006, as opposed to November 2006 to June of 2009.

⁵⁷ Welfare & Institutions Code Section 6601(e), if first two evaluators split, two additional evaluations must be conducted.

Prior to Proposition 83, 35% (8 per month) of the cases for which clinical evaluations were conducted resulted in a positive finding by DMH.⁵⁸ By expanding the potential reach of the SVP commitment process, rather than clinically evaluating 15 persons per month, DMH was required to clinically evaluate 142 persons per month. However, after the implementation of Proposition 83, only 7% (11) of the cases for which clinical evaluations were conducted resulted in a “positive finding” by DMH. Between January, 1999, and October, 2006, 7 petitions for commitment under the SVP Act were filed monthly; between November 2006 and June of 2009, 10 petitions for SVP commitment were filed on average per month. Two years and eight months into the implementation of Proposition 83, the number of persons committed on average dropped from approximately 4 per month, to 3 per month.⁵⁹



Essentially by increasing the qualifying convictions for SVP commitment and decreasing the minimum number of victims from two to one, Proposition 83 shifted the winnowing process from the record review stage to the much more costly, clinical evaluation stage. The record review burden upon CDCR and DMH increased drastically following

⁵⁸ A “positive finding” means that DMH may refer to a District Attorney for possible filing of a SVP commitment petition.

⁵⁹ May reflect two year term of commitment being changed to an indeterminate term, to some degree.

Proposition 83,⁶⁰ but far more significant was the increase in the number of persons clinically evaluated, with very little increase in potential committees. The number of people clinically evaluated per month that resulted in negative findings, went from 15 per month to 142 per month on average.

In addition to the significant increase in the number of *initial* SVP screenings there has also been a significant increase in the number of individuals who, after being initially assessed and determined to *not* meet the criteria for SVP, are 're-screened' due to a subsequent parole violation - *whether or not there is any reasons to believe hat the new violation actually contributes to that offender's risk to re-offend*. In order to reduce repetitive, unnecessary re-evaluations and focus resources on evaluating violation behavior related to risk, the Department of Mental Health, the Department of Corrections and Board of Parole Hearings (through the "Three Agency Meeting process) should identify a screening criteria that prioritizes risk-related violations.

It can fairly be inferred that the two victim requirement prior to Proposition 83 correlated with the duration of behavior over at least 6 months, required for purposes of substantiating the requisite paraphillic diagnosis under the SVP Act.

The Sexually Violent Predator Act dictates that DMH has an affirmative obligation to treat the SVP population and to try to obtain the cooperation of the patients in the treatment program.⁶¹ The Sex Offender Commitment Program (SOCP) is a five Phase treatment program. The first four phases are conducted on an inpatient basis at Coalinga State Hospital. Phase 5 is a conditional release program in the community.

In January of 2009, approximately 24% of the patients were participating in the SOCP. As of August 2009, of the 791 patients either committed⁶² or detained pending commitment,⁶³ 211 patients were in Phase II, 30 in Phase III and 4 in Phase IV. Eleven patients were under conditional release supervision,⁶⁴ and five were awaiting placement in conditional release. Since its inception in 1996, only 18 patients have completed Phase IV, and only 2 of those have completed Phase V.

On August 31, 2009, an anonymous, voluntary survey of CSH patients was conducted. Two hundred and six patients participated, of whom 40% were presently in treatment, 10% had previously been in treatment and 50% had never been in treatment. The thrust of the survey was an inquiry as to what it would take to get more patients to participate in treatment and how the treatment program could be improved. The most common response recommended that the program incorporate a definitive time frame so as to establish a viable exit strategy. Another common recommendation was to

⁶⁰ CDCR monthly referrals to DMH went from 48 to 650 per month.

⁶¹ Welfare & Institutions Code Section 6606.

⁶² Welfare & Institutions Code Section 6604.

⁶³ Welfare & Institutions Code Section 6602.

⁶⁴ As of August 2009.

increase the hours of treatment per week, from the present 3 hours. Respondents indicated that such an increase would give them increased hope of being able to complete the program and thus increase their motivation to participate.

Summary Gaps from Previous CASOMB Publications

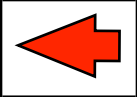
Key:



Item has remained essentially unchanged



there have been improvements in practice, capacity or statute













there have been reductions in capacity or funding

Item	What Report	Status
Investigation, Prosecution Disposition		
A large number of the counties fail to keep the adequate data to allow the evaluation of prosecution practices, particularly in the case of juvenile offenses.	CASOM 2007	🍀
Prosecutors handling sexual assault cases do not routinely receive specialized training	CASOM 2007 CASOMB 2008	🍀
In the prosecution of both adult and juvenile offenders there is a failure to consult with victims prior to finalizing plea agreements, and a failure to seek and obtain protective orders regarding sensitive materials.	CASOM 2007	🍀

Summary Gaps from Previous CASOMB Publications

The failure to have guidelines in place that assist in determining the appropriate plea may lead to inconsistent treatment and sentencing of offenders.	CASOM 2007	♣
Sex offense specific psychological evaluations that can be used to identify relevant risk factors are not generally used to assist in sentencing decisions.	CASOM 2007	♣
Training programs designed to educate judges on how to enhance sex offender management are not widely available.	CASOM 2007	♣
Sex offense specific psychological assessment tools are not generally used in sentencing decisions.	CASOM 2007	♣
Specialized Units are not available in all counties	CASOMB 2008	➡
Only a small number of communities that have developed collaborative teams, such as SARTs, MDICs, FJCs and SAFE Task Forces.	CASOMB 2008	♣
Lack of Funding for Vertical Prosecution and Specialized Units.	CASOMB 2008 CASOMB 2009	➡
ASSESSMENT		
There is no protocol for institutional staff at either the state or county level to conduct a risk assessment during intake, or prior to release to the community.	CASOM 2007	➡
Institutional staff at the state level have not been trained to conduct sex offender risk assessments.	CASOM 2007	➡

Summary Gaps from Previous CASOMB Publications

70% of surveyed counties responded that they did not use empirically validated actuarial tools to conduct risk assessments.	CASOM 2007	
There is no validated risk assessment instrument for use with female offenders.	CASOM 2007	
Very few counties have training and/or experience requirements in place to conduct risk assessments.	CASOM 2007	
There are very few protocols in place at either the state or county level for conducting risk assessments for juvenile sex offenders prior to their release into the community.	CASOM 2007	
Almost no counties are conducting risk assessments with juvenile offenders. Outpatient providers are more likely to use a risk assessment as part of their assessment protocol, but there is no identified standard risk assessment tool.	CASOM 2007	
In most of the counties surveyed, policies or standards do not require the incorporation of a sex offender-specific or psychosexual evaluation that is incorporated into the PSI report.	CASOM 2007	
In most of the counties surveyed, disposition recommendations in PSI reports do not address family reunification issues.	CASOM 2007	
Formal risk assessments are conducted less than 50% of the time during the PSI Report, during classification, and during re-entry.	CASOM 2007	
PSI reports are infrequently shared with or provided to victim advocates in cases where victims are actively involved in the sex offender management process.	CASOM 2007	
In only 50% of the counties surveyed do community supervision officers assess the dynamic risk factors and ongoing criminogenic factors.	CASOM 2007	

Summary Gaps from Previous CASOMB Publications

Adult and juvenile re-entry plans are not currently in place for sex offenders at the county level.	CASOM 2007	✿
Adult sex offenders in the CDCR do not receive a sex offender specific clinical assessment during intake/classification.	CASOM 2007	✿
Most adult sex offenders do not receive a sex offender specific clinical assessment/evaluation during their period of incarceration.	CASOM 2007	✿
The CDCR does not utilize any psychophysiological instruments in their adult institutions.	CASOM 2007	✿
Most adult offenders do not receive a sex offender-specific evaluation prior to their placement in community-based sex offender treatment programs.	CASOM 2007	✿
Most of the surveyed counties do not utilize any tool to assess for the presence of (and changes in) offender risk or criminogenic factors.	CASOM 2007	✿
Although some counties assess for changes in risk, this information is rarely shared with other representatives of the supervision system.	CASOM 2007	✿
TREATMENT		
Assessment components are not uniformly defined across programs.	CASOM 2007	✿
Not all programs use the same assessment or data collection procedures. Programs are also not evaluated.	CASOM 2007 CASOMB 2008	✿

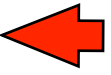
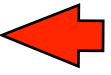

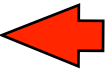
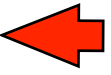


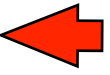
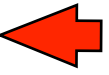
Summary Gaps from Previous CASOMB Publications

Few programs use polygraphy in the course of treatment and supervision, indicating a weakened application of the containment model.	CASOM 2007 CASOMB 2008	✿
Program completion rates vary widely from program to program.	CASOM 2007	✿
Most counties do not have sex offender treatment programming available for sex offenders who are in custody, i.e. juvenile hall.	CASOM 2007	✿
Documentation practices are inconsistent from program to program and may not meet federal HIPAA requirements.	CASOM 2007	✿
Not all programs have structures in place to ensure that collaboration occurs between treatment providers and probation officers.	CASOM 2007	✿
Victim advocates are conspicuously absent from the list of collaborators in sex offender management teams.	CASOM 2007	✿
Community stakeholders, including law enforcement and victim advocacy organizations are not sufficiently informed about the nature, quality and existence of sex offender treatment resources in the community.	CASOM 2007	✿
California does not have a sex offender treatment provider or program certification process.	CASOM 2007 CASOMB 2008	✿
Many counties either do not have known treatment providers who are members of the professional associations that focus on sex offender treatment and management, or do not have enough treatment providers to treat those who are on probation.	CASOMB 2008	✿


Summary Gaps from Previous CASOMB Publications

No sex offender treatment is available for the over 23,000 sex offenders incarcerated in CDCR institutions. California is one of few states that does not provide any sex offender treatment in prison.	CASOMB 2008	✿
REENTRY / SUPERVISION		
Sex offender specific treatment is not being provided to adult sex offenders held at either the state or county level.	CASOM 2007	➔
Discretionary release is not an available option for adult sex offenders held by the state.	CASOM 2007	✿
Pre-release plans are not prepared for adult sex offenders by either the state or the county.	CASOM 2007 HRSO 2006	▶
Supervision officers are rarely involved in release planning for adult sex offenders at both the state and county level.	CASOM 2007 HRSO 2006	▶
Half of counties surveyed do not review sex offender registration and community notification requirements with adult sex offenders prior to release.	CASOM 2007	✿
On both the state and local level there are no policies and practices for identifying suitable housing for adult sex offenders.	CASOM 2007	➔
Transitional housing services are not available upon release from state or local institutions.	CASOM 2007 CASOMB 2008	➔


Summary Gaps from Previous CASOMB Publications

No funds are appropriated for adult sex offender housing on the state level.	CASOM 2007	
Most counties do not have supervision officers maintain contact with the employers of adult sex offenders.	CASOM 2007	
Most of the counties releasing adult sex offenders do not have a process in place to provide them with identification prior to release.	CASOM 2007	
On the local level there is almost no funding, with the exception of one county, to meet the housing needs of indigent adult offenders.	CASOM 2007	
Specialized supervision strategies such as the polygraph are seldom used in the supervision of sex offenders.	CASOM 2007 CASOMB 2008	
The use of multidisciplinary sex offender management teams is not common practice for the supervision of either adult or juvenile sex offenders.	CASOM 2007	
There is an absence of specialized case loads for supervision of both adult and juvenile sex offenders at the county level.	CASOM 2007, CASOMB 2008	
On both the state and local levels there is a dearth of policies and practices that involve community support networks in the adult sex offender reentry process.	CASOM 2007	
Training in utilization of GPS and enforcement of residency restrictions has replaced specialized sex offender management training.	CASOMB 2008	

Summary Gaps from Previous CASOMB Publications

Each county probation department appears to have different resources and methods for supervising sex offenders. One uniform model throughout the state would be the most evidence-based method of ensuring that the containment model was practiced in a consistent manner	CASOMB 2008	♣
Offenders registering as “transient” may have other options then being homeless. The offender may stay sporadically in an exclusion zone while on transient status, performing functions normally associated with a residence. The law limits “where they live”, not “where they go.”	CASOMB 2008	♣
The number of affected sex offenders statewide, and parolees in particular who declared themselves as transient since the implementation of Jessica’s Law has increased dramatically	CASOMB 2008	
The effect of residency restrictions on probationers is unknown, due to lack of implementation and no central data collection process.	CASOMB 2008	♣
Jessica’s Law does not identify who is responsible for enforcing residency restrictions after the sex offender is released from probation or parole, and provides no funding for it.	CASOMB 2008	♣
Proposition 83 does not impose a penalty for violators of residency restrictions who have been released from probation or parole.	CASOMB 2008	♣
VICTIMS		
A significant number counties do not inform victims of either adult and juvenile sex offenders as to when the offender is released from county institutions.	CASOM 2007	♣
Most counties do not provide referrals for services to family members and victims if the offense occurred within the home.	CASOM 2007	♣
Lack of a statewide strategic plan for victim assistance resulting in inadequate planning for victim services and fragmented funding.	CASOMB 2008	♣

Summary Gaps from Previous CASOMB Publications

Lack of funding for a victim advocate as part of Vertical Prosecution team.	CASOMB 2008	♣
Lack of coordination among government agencies resulting in conflicting and duplicative policies.	CASOMB 2008	♣
Lack of communication with and among service providers on significant policy issues	CASOMB 2008	♣
Uncertainty in funding from year-to-year.	CASOMB 2008	
COMMUNITY EDUCATION		
Currently there is no public education and outreach work going on to prepare communities for the return of sex offenders after their period of incarceration.	CASOM 2007	♣
The Megan's Law web site is available to educate the public about sex offender recidivism, including statistics on age/gender, but is underutilized for this purpose. The web site should be utilized as an educational tool and the educational materials should be required reading for the public before allowing them to enter the search screens.	CASOM 2007	♣
The registration law is not easily understood by the public or translated into common language.	CASOM 2007	♣
REGISTRATION / NOTIFICATION		
Length of registration period is not currently linked to individual risk assessment, only to the type of offense (Under current California law, length of registration is life for all offenses without regard to an offender's assessed risk. About 20% of registrants are eligible, based on their convicted sex offense, to apply for a certificate of rehabilitation).	CASOM 2007	♣

Summary Gaps from Previous CASOMB Publications

Registration for consensual sex offenses where there is less than a 10-year age difference between offender and victim is currently not tied to whether or not the court finds that the offender poses a risk of re-offending or is sexually dangerous. Courts need discretion to impose less-than-lifetime registration terms in these cases.	CASOM 2007	✿
Although the Adam Walsh Act requires registration for kidnapping of children (non-parental) without required findings of sexual intent, this is not required by current California law.	CASOM 2007	✿
The risk assessment which determines whether the registrant poses a risk of recidivism is not used to determine the duration of the duty to register.	CASOM 2007	✿
The statute does not provide a court hearing regarding whether registration should continue after 10-20 years for offenders with low risk assessment scores.	CASOM 2007	✿
Driver's licenses suspension and other relevant restrictions are not currently implemented in response to noncompliant registrants.	CASOM 2007	✿
Current California law requires the prosecution to prove a willful violation of the registration laws, which entails proving the offender had actual knowledge of the provision of the registration law he violated. The statute should be changed to provide that an offender who is notified of his registration duty and fails to comply is held accountable.	CASOM 2007	✿
The goal of investigations of registrants who fail to register should be to arrest violators.	CASOM 2007	✿
Extending the registration period (by lengthening the waiting period for a certificate of rehabilitation) by 3-5 years is not currently required for each conviction for violation of the registration laws.	CASOM 2007	✿

Summary Gaps from Previous CASOMB Publications

There is no state mandate for establishing regional sex offender management teams that work closely together on the management of specific cases under community supervision. (Current California law provides limiting funding, on a grant basis, for SAFE teams, but such teams are not mandatory. Ongoing funding is necessary for such teams to function effectively.)	CASOM 2007	✿
There is no mandated training for law enforcement, District Attorneys or judges on registration and community notification laws; such training should be mandatory and the law should require Peace Officers Standards Training (POST) reimbursement for such training.	CASOM 2007	✿
Currently there is no required time line for entry of registration data by local law enforcement into sex offender registration database (e.g., 3 days).	CASOM 2007	✿
Current California law requires the courts, DOJ, and district attorneys to retain files on registered sex offenders, but does not require law enforcement, probation or parole to maintain sex offender registration records, leading to problems in obtaining documents vital to proving knowledge of the duty to register (and obtaining convictions for violations of the registration laws).	CASOM 2007	✿
There is no law requiring law enforcement agencies to verify the offender's registered address, utilizing field compliance and mail-in verifications on an ongoing basis.	CASOM 2007	✿
Courts which reverse, vacate or dismiss a sex offense conviction are not required to notify the DOJ Sex Offender Tracking Program in writing. The only notification goes to DOJ's Automated Criminal History System (these two software systems have no interface, so reversals may not be communicated to the sex offender registration database).	CASOM 2007	✿
There is no system which enables local law enforcement to coordinate monitoring registrants with parole/probation.	CASOM 2007	▲
There is no law requiring or encouraging vertical prosecution or the use of Penal Code section 290 prosecution teams in District Attorney's offices for prosecution of misdemeanor or felony 290 cases.	CASOM 2007	✿

Summary Gaps from Previous CASOMB Publications

The law authorizing active and passive notification does not require consideration of the offender's assessed risk level to determine the appropriateness and scope of notification.	CASOM 2007 CASOMB 2008	✿
No state law provides for a court hearing, upon registrant request, to determine whether the risk posed to public safety by the registrant should continue to require Internet posting after 10-25 years. Current California law permitting exclusion from the Megan's Law Internet web site is very limited; it permits exclusion from the Internet for persons convicted of felony sexual battery, misdemeanor child molestation, and certain incest offenses against a child which did not involve penetration/oral copulation, without regard to length of time since release or the assessed sex offender's risk of recidivism (Pen. Code, § 290.46, subd. (e)). Additionally, 20% of California registered sex offenders are not posted on the Internet web site, because the Legislature deemed the offenses not serious enough to be so disclosed—without regard to the assessed risk of the individual offender.	CASOM 2007	✿
Current California law does not require notification of a victim [who could be authorized by statute to elect such notification] before a local registering law enforcement agency actively discloses information about a sex offender to the community.	CASOM 2007	✿
Although it is mandated that an individual risk assessment be completed by parole, probation and possibly local law enforcement agencies (the law is unclear on who will assess registrants no longer on supervision), no direct oversight for quality review of the agencies performing the risk assessments has been established.	CASOM 2007	✿
No law authorizes offenders to request re-assessment of risk after specified time periods (e.g., once every 5-10 years).	CASOM 2007	✿
There is no current requirement for counties to establish collaborative teams and allocate funding for actively monitoring registrants and reviewing community notification decisions. Laws should require including law enforcement, parole, probation, DA's offices, DOJ SPAT teams, treatment providers, and victim advocates on such teams.	CASOM 2007	✿
There is no established state curriculum for community meetings which could be used in conjunction with active notification about registered sex offenders.	CASOM 2007	✿


Summary Gaps from Previous CASOMB Publications

There is no required time line for entry of registration data by local law enforcement into the state's sex offender registration database.	CASOMB 2008	✿
There is no law requiring law enforcement agencies to verify the offender's registered address, either by utilizing field compliance and/or mail-in verifications on an ongoing basis. Law enforcement agencies that currently have registration verification and enforcement teams are generally unfunded and are pulled together from existing, limited resources.	CASOMB 2008	✿
NUMBERS		
No entity in California – whether state agency, academic institution or other – has assumed or been appointed to provide leadership responsibility for conducting key research on topics related to the management of the state's sex offenders. California has consistently been a “consumer” of policy research and other research materials produced elsewhere, frequently by much smaller states, agencies, and/or foreign countries.		✿
CDCR does not have a system of electronic record keeping (case files) for those under its authority and so is unable to provide much flexibility in assembling new sets of data or retrieving information from older records.		▲
Data collection regarding sex offenders on county probation varies considerably from county to county. Consistency is needed to allow the information to be gathered and analyzed at a statewide level. Some counties have been unable to provide data needed even for the basic overview provided in this section of the Report.		✿

Summary Gaps from Previous CASOMB Publications

The “metrics” used to classify sex offenders, sex offenses, recidivism and similar important dimensions are not consistent across systems, making it hard to reach and state clear conclusions.		✿
RECIDIVISM		
There is no broadly researched and replicated body of data about the recidivism of California sex offenders that would provide baseline measures to guide policy and evaluate the success of any new efforts to reduce recidivism		✿
No information is available at this time regarding sexual recidivism for sex offenders on probation in California.		✿
Policy makers have insufficient resources for obtaining reliable information about recidivism nor do they have ready access to expert assistance in interpreting the complex recidivism data available from multiple sources.		✿
The operational definition of “sex offender recidivism” used in any future California recidivism studies needs to be standardized to improve the accuracy and comparability of the data.		✿
Little is known about the extent to which recidivism rates climb after the period of formal supervision and control under the authority of the criminal justice system (parole and probation) ends and sex offenders are simply living in the community as “free” citizens. Research about postsupervision recidivism should be undertaken.		✿
SPECIAL POPULATIONS		

Summary Gaps from Previous CASOMB Publications

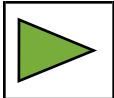
<p>The state hospitals provide the Sex Offender Commitment Program to all sex offenders but only 20-30% participate in this treatment program. Many more offenders participate in general treatment groups and vocational offerings.</p>		
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Summary Recommendations from Previous CASOMB Reports

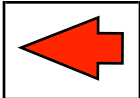
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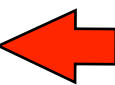



there have been improvements in practice, capacity or statute




there have been reductions in capacity or funding

Recommendation	Report	Status
The State of California should have a uniform definition for an HRSO as follows: An HRSO is a convicted sex offender who has been deemed by the CDCR to pose a higher risk to commit a new sex offense in the community. A PC 290 parolee will be designated as an HRSO for purposes of adult parole based on the score from a validated risk assessment tool(s), and/or the known criminal history, and/or other relevant criteria established by the CDCR.	HRSO I	
All California adult PC 290 sex offender registrants under the jurisdiction of the CDCR must be assessed to determine whether based on validated risk assessment tool(s) and/or known criminal history, and/or other relevant criteria, they should be designated as HRSOs. The assessment shall take place as soon as practical, but no later than 120 days prior to release on parole with continued assessments while on parole.	HRSO I CASOM 2007	
All California inmates required to register as sex offenders that are designated as HRSOs should be required to receive appropriate specialized sex offender treatment as warranted while incarcerated.	HRSO I	

Summary Recommendations from Previous CASOMB Reports

Notification of Release of HRSOs • The Task Force recommends that CDCR be required to notify victims 90 days prior to the anticipated release of an HRSO in relation to PC 3003(c). Victims should have a minimum of 21 days to challenge the HRSO residential placement in accordance with established CDCR procedures. • The CDCR should be required to provide notice of the release and recommended placement of HRSOs at least 60 days before release using mail service as required by law and an additional reliable method such as email, fax, or telephone to a list of designated law enforcement recipients. • Local law enforcement should be required to provide timely and sufficient notice to the receiving communities of the residential placement of HRSOs.	HRSO I	
The parole supervision of HRSOs should follow the "Containment Model," which recognizes the risk that sex offenders pose to the community, and thus provides a focus on "containing" offenders in a tight supervision and treatment network with active monitoring and enforcement of rules. This 'Containment Model' is formed by four components: The supervision components led by the specialized parole agent and his team; the treatment component directed by a qualified therapist who uses an evidence-based approach in conformity with recognized guidelines and standards; the polygraph component to be performed by qualified postconviction polygrapher(s); and the victim advocacy component focused on what is best for the victim. In addition, all HRSOs should be placed on GPS monitoring (the Task Force recognized the value of more intensive supervision and GPS monitoring for all paroled sex offenders, but acknowledge that it is beyond the scope of the Executive Order).	HRSO I Progress Report 2009 CASOMB 2008	
The CDCR and local law enforcement should partner to create a viable program for community education and communication specific to HRSO issues.	HRSO I	
The Task Force recommends legislative changes to the Megan's Law Website to specifically identify HRSOs who are on parole and those that are being monitored by GPS.	HRSO I	
The CDCR should be required to assess the fiscal and programmatic impact of the Task Force recommendations within 90 days and work with the Administration and the Legislature to secure funding and/or legislative changes in order to implement recommendations. In the event the CDCR cannot meet the timeframe on any recommendation, a public letter should be sent to the Governor explaining the reasons why the Department cannot comply with the recommendations.	HRSO I	

Summary Recommendations from Previous CASOMB Reports

The CDCR should be required to establish a permanent Sex Offender Management Board that will review practices of the CDCR regarding the stated goals of the California High Risk Sex Offender Task-Force. Stakeholders such as sheriffs and police chiefs, district attorneys, county probation chiefs and line parole officers should have permanent positions on this Board.	HRSO I	
The CDCR should be required to continue working with local law enforcement and local government to find appropriate and equitable housing solutions for placement of HRSOs. The Task Force recommends that a committee of appropriate stakeholders, such as this Task Force, continue to convene to address these critical issues.	HRSO I	✿
INVESTIGATION PROSECUTION DISPOSITION		
Specialized training should be provided to all individuals responsible for the investigation, prosecution and disposition of sexual offenses with a particular focus on cultural differences, and differences between adult and juveniles, both as victims and as offenders.	CASOM 2007 Progress Report 2009	✿
All sexual assault cases, adult and juvenile, should be handled by specially trained prosecutors assigned to a vertical prosecution unit.	CASOM 2007 Progress Report 2009	✿
Every jurisdiction should have a Multidisciplinary Team (MDT) to facilitate the investigation and prosecution of sexual offenses.	CASOM 2007 Progress Report 2009	✿
Statewide protocols should be developed for the investigation of sexual offenses, including protocols for the collection, packaging and preservation of evidence.	CASOM 2007	✿
California should establish filing guidelines that ensure consistency and integrity in filing decisions and, wherever possible, designate one experienced prosecutor to make filing decisions.	CASOM 2007	✿
California should establish guidelines to ensure consistency in plea bargains and dispositions.	CASOM 2007	✿

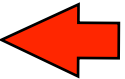
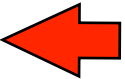
Summary Recommendations from Previous CASOMB Reports

Judicial officers need access to training on sentencing alternatives that enhance sex offender management to ensure that they understand the dynamics of sexual offenses, the heterogeneity of the sexual offender population, research on recidivism and the impact of offenses on victims. The training should be multi-disciplinary and involve a collaboration between the Center for Judicial Education and Research and the National Center for Sex Offender Management.	CASOM 2007	✿
Investigation and prosecution of sexual offenses should consider the needs of victims including such issues as fair access to the judicial process, early notification regarding victim rights, assignment of a victim advocate, protection of sensitive information, and communication with victims at all stages regarding the progress of the investigation, prosecution and disposition	CASOM 2007	✿
District attorney offices, in collaboration with law enforcement, should prepare and distribute a brochure to inform the sexual assault victim of his/her rights, and compile a checklist of the steps that can be taken to protect those rights. These brochures should also be distributed by victim advocate organizations and medical providers.	CASOM 2007	➡
TREATMENT / ASSESSMENT		
Written policies should be developed for the assessment of sex offenders including specific guidelines regarding the components of the assessment as well as policies regarding the frequency and timing of such assessments during investigation, incarceration and the period of community supervision.	CASOM 2007	✿
Appropriate and evidence based treatment should be routinely offered to all adult and juvenile sex offenders in California. There should be a continuum of care that guarantees availability of appropriate treatment at all stages of the criminal justice process through arrest, incarceration, community supervision, and beyond.	CASOM 2007	➡
Written policies should be developed for the treatment of sex offenders including specific guidelines regarding appropriate treatment protocols that follow evidence-based standards of care and implementation of the containment model.	CASOM 2007	✿

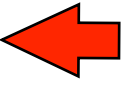




Summary Recommendations from Previous CASOMB Reports

Written policies should be developed regarding the minimum qualifications, experience and certification of professionals authorized to conduct the treatment of sex offenders in California.	CASOM 2007	✿
Further research is needed to ascertain the availability of qualified offender-specific treatment providers in California. This is necessary to ensure development of sufficient numbers of qualified treatment providers and programs throughout California.	CASOM 2007	✿
In regions where there are currently inadequate or limited resources for the treatment of sex offenders, available treatment should be targeted towards the highest risk sex offenders.	CASOM 2007	✿
California should maintain a data base to monitor treatment outcomes and rates of sexual and general recidivism of sex offenders who complete treatment programs.	CASOM 2007	✿
There should be adequate funding to ensure that all sex offenders in California have the option of receiving appropriate sex offender treatment	CASOM 2007	➡
Policies should be developed regarding in-custody segregation and therapeutic communities. Treatment should be provided in environments that assure physical and emotional safety, whether in institutional or community based settings.	CASOM 2007	✿
REENTRY		
Case management plans based on a comprehensive needs assessment should be developed early in the confinement period focusing on treatment, with the specific objective of preparing the offender for release and addressing those issues that research has demonstrated to be associated with future criminal behavior.	CASOM 2007	✿
Policies should be developed regarding the need for a written re-entry plan that is based on clinical assessment, response to treatment and institutional services, and includes input from the community supervision officer. This collaboratively developed plan should be finalized at least 6 months prior to release and should explicitly address housing and other community stabilization needs, as well as victim issues, including procedures that enable victims to exercise their rights around placement	CASOM 2007	➡

Summary Recommendations from Previous CASOMB Reports

The written re-entry plan should follow the sex offender through the different phases of the period of confinement and at the time of release into the community so as to facilitate continuity of care and enhanced public safety.	CASOM 2007	✿
Every community has an obligation to identify permanent, stable housing for sex offenders, to facilitate reintegration and reduce the likelihood of recidivism.	CASOM 2007	
<p>The California Sex Offender Management Board recommends that the California State Legislature, Governor, and local governments reconsider residency restrictions to create an offender housing and supervision solution that balances three essential concerns:</p> <p>Public safety – Community sex offender management strategies should promote proven public safety strategies. Residency restrictions that preclude or eliminate appropriate offender housing can threaten public safety instead of enhancing it.</p> <p>Fair Share - Offender populations should, as dictated by statute, return to their county of conviction. No jurisdiction, county or city, should be forced to accommodate a significantly disproportionate number of offenders due to the residency restrictions in adjoining jurisdictions.</p> <p>Local Control - local governments, in collaboration with state agencies, should collaboratively identify not only areas where offenders should not reside or loiter but also a sufficient number of areas that are suitable and appropriate for offenders to live.</p>		
PUBLIC EDUCATION		
public education and outreach campaign should be implemented to educate and prepare communities for the return of sex offenders following incarceration.	CASOM 2007	✿
SUPERVISION		
Effective, written evidence-based practice parameters should be developed to guide the community supervision of sex offenders in California.	CASOM 2007	✿

Summary Recommendations from Previous CASOMB Reports

Community supervision policies should adopt a containment model that also incorporates a collaborative team-based approach.	CASOM 2007	
Case loads for community supervision should be specialized and adopt recognized guidelines regarding the maximum number of cases that can be effectively supervised by one individual.	CASOM 2007	
Intensity of community supervision and allocation of resources should be guided by the sex offender risk assessment and specific needs of the individual offender.	CASOM 2007	
REGISTRATION / COMMUNITY NOTIFICATION		
Low to moderate risk sex offenders should be provided with the opportunity to petition for a hearing, after 10 years of compliance with the registration law, for termination of the duty to register. At the hearing, the sex offender should be required to show by a preponderance of evidence that he or she is not likely to pose a threat to public safety and has not been convicted of a new sex offense. Courts should be given discretion to reduce lifetime registration requirements in certain cases based on the lower assessed risk of individual sex offenders.	CASOM 2007	
California should mandate ongoing state funding for multidisciplinary regional sex offender management teams, including for enforcement and compliance work by those teams, and provide ongoing state funding to establish mandated training for such multidisciplinary sex offender management team members. California should also require Peace Officer Standards and Training (POST) reimbursement for such training.	CASOM 2007	

Summary Recommendations from Previous CASOMB Reports

Law enforcement agencies should be required to consider, as one factor, the sex offender's risk assessment score or scores to determine the appropriateness and scope of notification.	CASOM 2007	
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Appendices

APPENDIX A—ADDITIONAL RIGHTS FOR SEXUAL ASSAULT VICTIMS

- Evidence Code section 352.1—Exclusion of rape victim’s address and telephone number.
- Evidence Code section 782—Procedure to determine relevance of sexual conduct evidence proposed to attack credibility of complaining witness.
- Health & Safety Code section 1491—Examinations without charge, testing for venereal disease and pregnancy.
- Health & Safety Code section 1492—Indemnification of Victims; Information; Victim Compensation Claim Forms
- Penal Code section 264.2—Right to have a Crisis Center notified before medical examination.
- Penal Code section 293—Notice to sex offense victim that victim’s name will become public record unless victim requests otherwise; disclosure of victim’s address prohibited.
- Penal Code section 293.5—Identity of sex offense victim; court may grant anonymity.
- Penal Code section 679.04—Right to have an advocate present at examination or interview; “advocate” defined.
- Penal Code section 1127d—Jury instructions regarding rape victim’s previous consensual intercourse with defendant.
- Penal Code section 1203.1g—Restitution for medical or psychological treatment of minor sexual assault victim.
- Penal Code section 1347—Use of closed-circuit television to communicate testimony if victim of certain sexual offenses is age 13 or less.
- Penal Code section 13823.95—Costs incurred by emergency medical facilities for examination of sexual assault victims.
- Penal Code section 637.4—Prohibition on use of polygraph examination as prerequisite to accusatory pleading.
- Penal Code section 1112—No psychiatric examination necessary for sexual assault victim.
- Penal Code section 680—Sexual assault victims’ DNA Bill of Rights.
- Penal Code section 667.6(f)—Provides that the court may impose a fine not to exceed twenty thousand dollars (\$20,000) for anyone sentenced for the following offenses:

Rape

Spousal rape

Rape, spousal rape, or sexual penetration, in concert

Sodomy

Lewd or lascivious act

Continuous sexual abuse of a child

Oral copulation

Sexual penetration

APPENDIX B – VICTIMS' BILL OF RIGHTS ACT OF 2008

- To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
- To be reasonably protected from the defendant and persons acting on behalf of the defendant.
- To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.
- To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
- To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
- To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of an informed before any pretrial disposition of the case.
- To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

- To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue to a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.
- To provide information to probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.
- To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.
- To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.
- To restitution.

A. It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.

B. Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.

C. All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.

- To the prompt return of property when no longer needed as evidence.
- To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.
- To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made

APPENDIX C

- Training should include modern investigative procedures, proper methods for interviewing victims, witnesses, and suspects;
- Training should include:
 - The impact of sexual assault crimes on victims;
 - Meeting the mental health needs of sexual assault victims in the criminal justice system;
 - The effective role of multi-discipline centers, especially for interviewing victims of suspected sexual assault crimes;
 - The effective role of Sexual Assault Response Teams (SART);
 - The effective, comprehensive and collaborative Family Justice Centers created in communities throughout the state as a *best practice* in the response, investigation, prosecution and prevention of sexual assault;
 - The development of forensic, scientific tools, most significantly in DNA, the evolution of criminal justice databases, particularly CODIS and the Department of Justice (DOJ) DNA database ~ cold hit program;
 - Changes in the law that require those arrested for felony crimes to submit biological samples~DNA profiles to DOJ;
 - Recent developments and updates in the law and *best practices*.

APPENDIX D - Suggested Guidelines Criteria

- The responsibility of the law enforcement personnel receiving the initial report of an offense.
- The responsibility of the responding officer.
- Evidence documentation and collection procedures, particularly for DNA and/or drug facilitated analysis.
- Sexual Assault Response Teams (SARTs) and other “team” response structures.
- Crime scene preservation.
- Victim notification regarding investigative procedures
- Confidential Communication protections.

- Victim interviewing.
- Suspect interview / interrogation.
- Mandatory notifications.
- Follow-up investigative procedures.
- Case management.
- Officer wellness;

APPENDIX E - Mentor DA program criteria

- Identify Expert Sexual Assault Prosecutors;
- Commit to 1 year (at a minimum) as a Mentor;
- Identify area(s) of expertise;
- Identify methods of mentoring;
- General Mentor available for consultation and technical assistance;
- Provide individualized & directed training to an office or group of prosecutors;
- Provide one-on-one Mentoring during a trial.

APPENDIX F - Suggested treatment provider training content

Documentation of training obtained should include, but not be limited to, the following topics of training.

- Assessment and treatment of deviant sexual arousal, interest, or behavior
- Overcoming denial or minimization by offenders
- Identifying and correcting cognitive distortions used by sexual offenders
- Effects of abuse on victims and enhancing victim empathy
- Understanding how to address the effects of the offenders' own childhood victimization experiences as a research based method to enhance offender empathy for their victims
- Identifying antecedent patterns or offense cycles

- Developing self monitoring and relapse prevention skills
- Accountability strategies including use of polygraphy, global positioning satellite systems, monitoring community involvement, offender registration requirements, alcohol and other drug testing within the context of sex offender treatment
- Enhancing pro-social skills i.e. assertiveness training, relationship skills, anger management, affect regulation skills, pro-social goal attainment strategies
- Treatment of mental illness and/or substance abuse within the context of sex offender treatment
- Evidence based practices applied to sex offender treatment, such as the risk, needs, and treatment responsivity strategies and cognitive behavioral therapies
- Age, gender, or developmental level appropriate interventions, e.g. for adolescents, learning disabled, female, or persons with intellectual disabilities
- Neurodevelopmental aspects of human development and sexuality
- Use of psychotropic medications in treatment of sexual deviance or dysfunction
- Collaboration with other Containment Model professionals including probation or parole, victim advocates, polygraph examiners, and circle of support and accountability members
- Interaction with the criminal justice system
- Mandatory reporting of suspected child or dependent/elder abuse
- Other topics related to sex offender treatment and management

APPENDIX G - Suggested Treatment documentation and structure

Such documentation should include, but are not limited to, the following:

- A statement of the programs' philosophy of change, potential risks & benefits from participation in sex offender specific treatment, and what strategies will be used in support of the change process,
- Discussion of assessment tools and evaluative processes to be implemented including defining how re-offense risk level, criminogenic

needs, and treatment responsivity will be considered in designing treatment, case management, and completion plans for individual participants,

- A description of the cognitive-behavioral rationale and methodologies to be utilized including but not limited to accepting responsibility for the criminal acts, cognitive restructuring, relapse prevention training, self regulation and affect regulation training, and life skills that may improve the offenders likelihood of successful living with no more victims,
- Model informed consent forms for treatment, testing, release of information, and treatment contract that defines the limitations of confidentiality, the nature of the treatment providers' relationship with Probation or Parole, i.e. the Containment Model, the rules and expectations of the program, and how records will be secured,
- Discuss methods of offender accountability including, but not limited to, use of polygraphy, self-report methods, drug testing, and community supervision by Probation Officers and/or Parole agents,
- How violations of treatment program, Probation, or Parole rules and conditions will be handled as well as how client data is protected, used in research, or secured,
- Discuss how decisions will be made regarding modalities of treatment, i.e. individual therapy, group therapy, a combination of therapies, and use of adjunct services such as twelve step programs or use of psychotropic medications, and
- Discussion of the Program Director's training, education, and experience, status of CASOMB approval, and that of staff therapists who may work with the offender.

APPENDIX G- Special Conditions of Supervision

This supervision typically should include:

- Ensuring that the offender is actively engaged in and consistently attending an approved community-based treatment program;
- Verifying the suitability of the offender's residence and place of employment;
- Monitoring the offender's activities by conducting frequent, unannounced field visits at the offender's home, at his place of employment, and during his leisure time (e.g., is he engaging in inappropriate, high risk behavior such as collecting items that depict or are attractive to children?); and
- Helping the offender to develop a community support system-including friends, family members, and employers who are aware of the offenders

criminal history, are supportive of the community supervision plan, and can recognize the sex offenders risk factors.

APPENDIX H - Summary of GPS Studies

Listed below are the states who have conducted some level of evaluation of their GPS programs:

California

The University of California, Irvine, Center for Evidence-Based Corrections completed an evaluation of CDCR sex offender parolees. This evaluation covered the time period of June – November, 2005. In this study, 94 parolees comprised the experimental group and 91 parolees were in the control group. The results and/or recommendations were as follows:

Parole Agents found the GPS program very time consuming. Reviewing the GPS tracks as well as responding to false alarms took up a great deal of time.

Sharing of data with police departments in order to solve sex offense crimes proved to be more difficult than expected.

GPS parole agents had significantly higher individual parolee contacts than HRSO parole agents without GPS.

GPS monitoring had little effect on parolee recidivism. The only significant difference between the experimental and control groups was on rates of absconding. GPS parolees were less likely to be found guilty of a parole violation for this behavior.

Just over 50 % of both the experimental and control groups had a parole violation during the evaluation period. Most were for technical violations.

Tennessee

In July, 2004, Tennessee enacted the Serious and Violent Sex Offender Monitoring Pilot Project Act. This authorized the Tennessee Board of Probation and Parole (BOPP) to monitor sex offenders using Global positioning systems technology on a pilot basis. The statute specifically enabled BOPP to use GPS as a mandatory condition of release for certain offenders, as deemed appropriate by BOPP.

Middle Tennessee State University (MTSU) evaluated the results of the pilot program (based on an experimental group of 493 sex offenders) and came to the following conclusions:

When the treatment and control groups were statistically compared by their first year of supervision and by the same year of supervision, no statistically significant differences were found in the number of violations, new charges, or in the number of days before the first violation.

Although the empirical analysis did not yield definitive support for satellite-based monitoring, BOPP's pilot project indicates that GPS provides officers with a unique supervision tool and has potential in aiding officers.

New Jersey

New Jersey's Sex Offender Monitoring Pilot Project Act became law in 2005 and authorized the New Jersey State Parole Board to subject up to 250 of the State's most dangerous sex offenders to round-the-clock Global Positioning System (GPS) monitoring.

The project was evaluated by the State Parole Board with the following conclusions:

The use of GPS technology was an essential tool when being utilized as a component of the "containment model" being utilized in New Jersey. The use of intensive supervision, law enforcement information sharing, and sex offender specific treatment are targeted to most effectively use external law enforcement controls and internal psychological controls, to prevent further sexual victimization.

The State Parole Boards GPS monitoring has contributed (when used with the rest of the containment model) to a significantly lower recidivism rate than nationwide data indicates for high-risk sex offenders. The monitoring also provides an invaluable resource for investigations, by providing data that can be compared with the times and place of new sex crimes.

North Carolina

North Carolina completed a short term evaluation of the sex offenders being monitored by GPS. This evaluation covered a 6 month period of time and included 83 offenders who were being monitored at some point during the evaluation period.

The evaluation reported lower than normal violations and revocations.

They also had no new criminal offenses reported during the reporting period.

Maryland

The Maryland Task Force to Study Criminal Offender Monitoring by Global Positioning Systems completed an evaluation of the efficacy of using GPS

monitoring in Maryland and made recommendations to the Governor. Among those recommendations were:

Authority for the usage of GPS for monitoring offenders would be given to the Division of Probation and Parole. Extensions of probation and parole should be given to appropriate offenders.

GPS monitoring should be utilized on high risk offenders when location is a primary concern.

GPS monitoring should be part of comprehensive case planning, which may include treatment, intensive supervision, polygraph exams and other elements.

GPS monitoring should be part of a supervision modality using standardized risk assessment instruments. GPS, like other supervision tools, should not be applied en masse to all offenders or categories of offenders.

Appendix I

Recommended Changes to California Law On Sex Offender Registration and Internet Notification

It's recommended that California amend its law on duration of registration, which should depend on individual risk assessment, history of violent convictions, and sex offense recidivism

The proposed changes to California law take into consideration the seriousness of the offender's criminal history, the empirically assessed risk level of the offender, and whether the offender is a recidivist or has violated California's sex offender registration law. Duration of registration would range from ten (10) years to lifetime (10/20/life). For purposes of the tiering scheme, Penal Code section 667.5 lists violent offenses, including violent sexual offenses. (Appendix B).

Tier 1: Register for 10 years

Low to moderate risk score on the Static-99 (score 0-3); sex offense was not a violent offense or a violation of Penal Code section 647.6; no new sex offense or any violent offense was committed within 10 years of release from custody or after release on probation on the registrable sex offense; no conviction for violation of the Sex Offender Registration Act ("SORA" - Pen. Code, §§ 290-290.023).

Tier 2: Register for 20 years

Moderate to high risk (score 4-5), or person who committed a violent sex offense or violation of Penal Code section 647.6, and has been released from custody or released on probation for 20 years; no new violent sex offense was committed within 20 years of release from custody or release on probation on the registrable offense; no conviction for violation of the Sex Offender Registration Act ("SORA" - Pen. Code, §§ 290-290.023).

Tier 3: Register for Life

High risk score on the Static-99 (6 and above), or a person who is a recidivist, defined as a person who has two or more convictions, brought and tried separately, for violent sex offenses; or a person who was ever committed as a sexually violent predator pursuant to Welfare and Institutions Code section 6600, et seq.

Petition for Tier 1 Status for Romeo and Juliet Offenders

Low to moderate risk offenders (Static-99 scores 0-3) convicted of registrable sex offenses against no more than one minor victim age 13-17, who were no more than seven (7) years older than the minor at the time of the offenses, can petition the court for tier 1 status. The offender must show that the offense was consensual in order to be granted tier 1 status.

NOTE: S.B. 325, pending in the 2009 legislative session, would allow registered sex offenders to request a Static-99 score by submitting a request to the registering agency. The score must either be determined by Probation, or by qualified law enforcement personnel who have received training from a SARATSO trainer.

Risk assessment research on sex offenders tells us that successful completion of a specific sex offender treatment program indicates the offender is at lower risk to re-offend; and cooperation on supervision is a dynamic risk assessment factor indicating less risk of re-offense. However, today there is no sex offender treatment being offered in California prisons, and there are differing opportunities for treatment for offenders on probation and parole. Fiscal problems have ended a number of treatment options at the time of this report. Further, at this time California has no statute requiring credentialing of sex offender treatment providers, meaning that when treatment is offered the state has no way of verifying that the treatment methods used are appropriate and the treatment provider is competent and well-trained.

At some future date, when California offers sex offender treatment to all sex offenders, and when sex offender treatment providers are required to be credentialed by the state, policy makers may want to consider making successful completion of treatment a factor in determining duration of registration. Similarly, if information on supervision cooperation is incorporated in the state sex offender registry at some future date, policy makers may want to consider whether

successful completion of probation or parole should also factor into the duration of registration requirements.

The committee recommends that changes to California law on registration apply prospectively. Probation did not begin to score all sex offenders pre-sentencing until July 1, 2008. Parole began to score all sex offenders prior to release from prison in 2006. For purposes of tier determinations, the pre-sentencing Static-99 score must be used—re-scoring will not be available. However, registrants who do not have Static-99 score which was computed pre-sentencing on or after July 1, 2008, may use a Static-99 score which was done by Parole prior to release from prison on or after January 1, 2006. Other registered sex offenders, who do not have a pre-sentencing score or a score done prior to release on Parole after 2005, may request to be scored through their registering law enforcement agency for purposes of determining tier level. Those offenders who were not scored pre-sentencing or on release from prison in 2006 or afterward, and who do not request a score, will remain in the lifetime registration tier. Since no SARATSO instrument is currently available for scoring female sex offenders, tier level will be determined by utilizing the other factors in each tier, without regard to risk assessment scores.

We also recommend posting all offenders in Tiers 2 and 3 on the public Megan's Law Internet web site, and that California eliminate its current law permitting designated sex offenders to apply for exclusion from the Internet web site (Pen. Code, § 290.46, subd. (e).)

Appendix J

Violent Offenses

The following are the offenses which are deemed violent for purposes of this proposed legislation, as defined in Penal Code section 667.5:

- (1) Murder or voluntary manslaughter
- (2) Mayhem
- (3) Rape (Pen. Code, section 261(a)(2), (6); 262(a)(1), (4))
- (4) Sodomy (Pen. Code section 286(c), (d))
- (5) Oral copulation (Pen. Code, section 288a(c), (d))
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288
- (7) Any felony punishable by death or imprisonment in the state prison for life
- (8) Any felony in which the defendant inflicts great bodily injury, as defined

- (9) Robbery
- (10) Arson (Pen. Code, section 451(a), (b))
- (11) Foreign object penetration (Pen. Code, section 289(a), (j))
- (12) Attempted murder
- (13) Explosion to commit murder, mayhem, or great bodily injury (Pen. Code, §12308, 12309, 12310)
- (14) Kidnapping
- (15) Assault with intent to commit a felony (Pen. Code, section 220)
- (16) Continuous sexual abuse of a child (Pen. Code, section 288.5)
- (17) Carjacking (Pen. Code, section 215(a))
- (18) Rape, spousal rape, or sexual penetration, in concert, (Pen. Code, section 264.1)
- (19) Extortion (Pen. Code, section 518)
- (20) Threats to victims or witnesses (Pen. Code, section 136.1)
- (21) First degree burglary where it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary (Pen. Code, section 460(a))
- (22) Use of a firearm in the commission of specified serious felonies (Pen. Code, section 12022.53)
- (23) Sending or possession of weapons of mass destruction (Pen. Code, section 11418)

Appendix K

Summary of Laws in Risk Assessment States

Arizona

Levels 1-3, as determined by the Department of Public Safety. A risk assessment screening profile is completed for each sex offender. This instrument evaluates 19 criteria that are considered to be significant factors contributing to sex offender recidivism. Each criterion is given a score, which is then totaled to arrive at the recommended risk level. All criminal justice agencies must use the standardized Arizona Risk Assessment; however, occasionally law enforcement discovers

information which can affect an offender's risk level. As such, law enforcement is given the discretion to either accept the recommended risk level or complete another risk assessment.

Notification: Based on level of risk. Mandatory local notification and Internet notification on levels 2-3.

Review: Offender can request court review of risk level; courts have discretion to terminate registration in some circumstances. Unclear if circs. are statutorily defined.

Duration: 1st offense, 10 years; 2d offense, life.

Comments: Unclear if 19-factor assessment instrument is empirically based.

Arkansas

Levels 1-3, determined by Sex Offender Assessment Committee. Guidelines in statutes and Committee's policies and procedures. Level 1, no prior history; level 2, history of offending and notification inside home is insufficient; level 3, violent, predatory, antisocial offenders. All offenders are required to submit to a risk assessment to be completed by the Department of Correction Sex Offender Screening and Risk Assessment Program (SOSRA). The offender is notified by certified mail of the location, date and time of the assessment. It is a Class C Felony to fail to appear for assessment or to not fully submit to the assessment process. The offender is assessed as a default Level 3 should this occur.

Community Notification Assessments may include, but are not limited to, the following:

- A review of the sex offender's criminal history, with particular attention given to any offense that was sexual or violent in nature.
- An interview of the sex offender completed by SOSRA staff.
- A polygraph examination or a Voice Stress Analysis in cases in which SOSRA staff do not believe that they have adequate information to accurately assess the offender.
- A thorough review of any mental health records available to SOSRA staff at the time of assessment that may be relevant to the offender's risk to the community.
- Psychological testing when deemed necessary by SOSRA psychologists.
- Other information that is relevant to the offender's offense history and/or pattern.

- Completion of appropriate actuarial instruments designed to assess individuals convicted of sexual offenses.

At the SOSRA assessment, state law protects any admissions made by the offender during the assessment interview from use in a criminal proceeding. In this way, the individual's Fifth Amendment rights are protected. Therefore, the offender may not avoid answering questions by claiming protection under the 5th Amendment right to avoid self-incrimination. The interviewer completes the actuarial instruments deemed appropriate by SOSRA psychologists. The actuarial instruments are only one component of the assessment (see above).

(See Arkansas Sex Offender Assessment Committee Guidelines and Procedures 2007, <http://www.acic.org/Registration/SOAC%20GL%202007.pdf>.)

Notification: Guidelines in statute and policies and procedures govern community notification assessments to determine appropriate level of notification. Internet: Determined by level of risk assessed and if offender was over 18, and victim was age 14 or less.

Juveniles: registration is based on adjudication for certain more serious offenses.

Duration: Sexually violent predator, aggravated, recidivist: Lifetime. Others: 15 years, after which application for termination from registry can be made.

Notification: Based on risk level.

Registration: Offense based: courts must designate whether an offense qualifies as an "aggravated sex offense," depending on defined circumstances; triggers lifetime registration.

Review: Yes, appealable to the SOAC, on grounds that procedures of SOSRA were not properly followed; or documents or information was not available at the time of the assessment that are relevant to risk; or assessment is not supported by substantial evidence. Reviewing member of SOAC decides whether to submit to full committee to modify the notification level; majority vote of SOAC required to change level. Offender may appeal administrative decision denying modification of notification level.

Overrides to empirical risk assessment:

Increased notification level:

Prior juvenile or adult sex offenses; multiple victims or offenses, even if not resulting in conviction. Can use known or self-admitted molestations, offenses that were reported and investigated, even if not prosecuted, and offenses primarily sexual in nature but pled down to non-sexual offenses.

Historical data or offender statements suggesting psychological abnormalities predisposing offender to sexual offending; addiction or other issues reducing ability to control sexual impulses, or increases potential for sexual violence; other data suggesting higher risk than the actuarial model predicts.

If offense involved great bodily injury or death, no less than a level 3 may be assigned.

If the offender has provided information on the record or in the interview that he is likely to commit subsequent sex offenses, no less than level 3 may be assigned; and may want to consider for level 4 evaluation (SVP).

Offender's offense history, behavior or victim characteristics (e.g., very young victim, stranger victim, extra-familial victim) suggests higher notification level than actuarial risk level would support.

Decreased notification level:

Offender demonstrates, after treatment, significantly enhanced impulse control ability and decreased predisposition to reoffend. (not applied to level 4's)

If evidence offense was temporary aberration or unlikely to recur, may lower community notification level from risk level set by actuarial instrument.

Victim recantations may permit adjustment of risk level used for notification. (Editorial comment: this is not a good idea unless a court found the recantation credible).

Statutory sex offenses not involving violence, deviance, or coercion, as long as there is no pattern of such offenses, may justify a lower level of community notification than suggested by the actuarial instruments.

Colorado

The Colorado Sex Offender Management Board does risk assessment to determine sentencing and treatment; risk level does not affect registration or notification obligations. Unclear what risk assessment instrument(s) are used.

Probation does a pre-sentencing risk assessment on sex offenders. Probation officers assessing sex offenders during the pre-sentence investigation must have successfully completed required training. A pre-sentence investigation must address the following:

- Criminal history

- Education/employment

- Financial status

Residence

Leisure/recreation

Companions

Alcohol/drug problems

Victim impact

Emotional/personal problems

Attitude/orientation

Family, marital and relationship issues

Offense patterns and victim grooming behaviors

Sex offense-specific evaluation report

Risk factors, risk level, and amenability to treatment

The potential impact of the sentencing recommendation on the victim

Sexually Violent Predator (SVP) assessment

When referring an offender for a sex offense-specific evaluation, pre-sentence investigators should send to the evaluator, as part of the referral packet:

Police reports

The victim impact statement

Child protection reports

A criminal history

Any available risk assessment materials

Prior evaluations and treatment reports

Prior supervision records, if available

Any other information requested by the evaluator

Duration: Depends on offense, 20 years for some, 10 years for less serious; 5 years for misdemeanors, life for specified offenses. All offenders can petition court for termination after a minimum period for their offense, except those required for life.

Notification: Offense-based, not risk-based.

Connecticut

Risk Assessment Board determines risk levels, but these do not affect registration or notification requirements.

Duration: 10 years; persons under 19 at time of offense or who committed a nonviolent offense can apply for exemption, following victim notification and comment, and a determination that registration is not required for public safety.

Delaware

Sex Offender Management Board determines risk tier levels I-III. These apply to registration and community notification. By Jan. 2009 the Board was to approve a risk assessment instrument to assist any sentencing authority in determining risk of recidivism. Board was to consider risk assessment research in carrying out this duty. This was changing the system from an offense-based to a risk-based system. Current tiers are offense-based though.

Duration: Life for Tier III and other tiers if recidivists. Tier II- 25 years. Tier I - 15 years.

Notification: Depends on tier level.

Georgia

Sexual Offender Registration Review Board determines likelihood offender will re-offend against a child or with a sexually dangerous offense.

Levels 1-3: unclear if risk based or offense based.

Duration: Life

Notification: All.

Idaho

Sex Offender Classification Bd. determines who is a high risk offender or sexual predatory; criteria unclear.

Duration: 10 years, after which offenders who qualify for this registration period can apply for termination; recidivist, violent or aggravated offenders register for life. Aggravated offenses are offense-based classification.

Iowa

Risk assessment determines whether there is community notification; Iowa uses low-high risk levels, but it is unclear if the levels are offense or risk-based. Internet displays moderate and high risk offenders; at neighborhood meetings, law enforcement can disclose on high risk offenders.

Massachusetts

Sex Offender Registry Board assesses levels 1-3. Criteria are unclear.

Notification on request on levels 2 & 3; based on whether a citizen is likely to encounter the offender, disclosure is permitted as to level 3's only; Internet site displays level 3's only.

Minnesota

Dept. of Corrections assesses Levels I-III. The Department of Corrections was required to consult with others to develop a risk assessment scale. The state developed and uses the MnSOST-R, a risk assessment tool normed on a Minnesota sex offender-*/ population. Duration of registration depends on whether the offender is deemed recidivist, murdered the victim, or is a sexual psychopath or sexually dangerous person. Registration is for 10 years, or life if recidivist, etc.

Notification: Internet, tier III only; for groups deemed likely to be victimized, notification on tiers II or III are permitted to groups or individuals; for a person likely to encounter - can disclose on tier III only.

Montana

Dept. of Corrections assigns risk levels, which apply to registration and notification provisions. Dept. or evaluator provides court with sexual offender evaluation report recommending a tier level.

Notification: Internet, level 3 only; other types of notification depends on offense and tier level.

Nebraska

Psych. Dept. of Univ. of Neb. developed risk assessment tool, used by Nebraska State Patrol to classify sex offenders.

Notification: Level 2's in certain circumstances; Level 3 on Internet.

New Jersey

Attorney General (AG) classifies risk level in consultation with Notification Advisory Council. Tiers I-III. AG guidelines for factors relevant to reoffense. Notification based on AG procedures and degree of risk of reoffense.

Notification is tier II for organizations/people likely to encounter the SO, and Tier III for Internet posting.

New York

Board of Examiners of Sex Offenders and Sentencing Court assesses level 1-3; Board develops guidelines and procedures to assess risk and makes recommendation to sentencing court as to whether the offender is a sexual predator, sexually violent offender, or predicate sex offender, and on what risk level to assign.

Notification: Internet, levels 2-3 only. Discretionary community notification on level 1, can't post or disseminate exact address.

North Dakota

Risk assessment by AG's office, in conjunction with Corrections, LEAs, victims' services, juvenile services, and other professionals. Review criminal history, evaluations, and other pertinent documents. High, moderate and low risk, scored on actuarial tools.

Notification: Internet: all offenders; mandatory community notification, on moderate and high risk offenders to agencies serving children and vulnerable populations.

Oklahoma

Committee selects an existing sex offender screening tool, which must use an objective point system under which a person is assigned a designated number of points for each of the various factors and the offense for which the person is convicted. Low -high (1-3).

Notification: Internet- all. Local: anyone deemed appropriate can be notified about habitual or aggravated offenders.

Rhode Island

Risk Assessment Board of Review selects instruments for determining risk, and assigns low, moderate or high risk level. Only those found SVPs, i.e., likely to reoffend by looking at offense, risk assessment tool, and psych. eval. are subject to notification. Internet: levels II, III, and notification to schools, day care on these levels; others discretionary if necessary for public safety.

Texas

Risk Assessment Review Committee, w/n Dept. of Crim. Justice, selects risk assessment tool or develops own. No appeal of risk level. Levels 1-3.

Texas uses the Static-99, the Stable/Acute 2007, the Level of Service Inventory - R (LSI-R), and the Hare Psychopathy Checklist Revised (PCL-R) to complete a risk needs assessment on sex offenders sent to prison. There is a records review and interview by a licensed sex offender treatment provider within the Department of Corrections, which is done prior to release from prison. The risk levels assigned depend on the combination of scores the offender has on the Static-99, LSI-R, and PCL-R. Then a release plan is formulated by the treatment provider for community supervision and treatment. The provider identifies the inmate's risk level; specifies the community treatment corresponding to the risk level; specifies which dynamic needs are to receive priority in supervision; and specifies a level of polygraph services that corresponds to the risk level. Low risk offenders report to parole or probation once a month; medium risk, to a more frequent schedule for sex offenders; and high risk, to an intensive schedule that includes GPS monitoring.

Additionally, probation officers participated in a 5-year pilot project to assess offenders who had 5-10 years probation terms. Probation officers were trained to conduct the PCL-R, Static, and LSI-R. Treatment providers conduct the PPGs and VRT and polygraph examiners provide the sexual history polygraph. The offender must pay for all risk assessment on probation, unless indigent. The goal in Texas is to eventually do risk assessment pre-sentencing on all sex offenders, to save costs to the state. By identifying high risk sex offenders by risk assessment, it saves the state money (i.e. \$2.17/day for probation vs. \$47/day in prison in Texas).

Notification: Internet: All. Discretionary: level 3.

Vermont

Combines use of risk assessment tools and clinical assessments.

Internet: High risk sex offenders, recidivists, those w/ offenses for aggravated sexual assault, those in violation; no one under 18. Community notification if necessary for public safety, on any.

Washington

End of Sentence Review Committee assigns risk levels, Tiers I-III, reviews release plans.

Notification depends on tier levels. Internet: Tiers II-III, and Tier I if out of compliance.

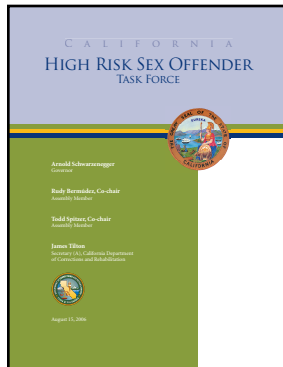
APPENDIX J - Registration Violations

California's Sex Offender Registrants: In Violation, by County, as of November 2009

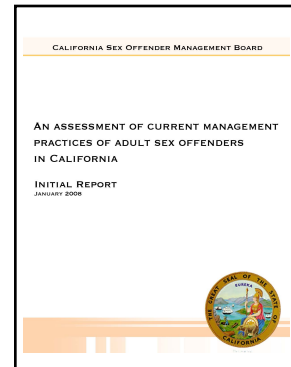
COUNTY	TOTAL IN THE COMMUNITY	TOTAL IN VIOLATION	PERCENT IN VIOLATION
ALAMEDA	2373	640	27.0%
ALPINE	2	1	50.0%
AMADOR	62	4	6.5%
BUTTE	719	57	7.9%
CALAVERAS	100	10	10.0%
COLUSA	45	14	31.1%
CONTRA COSTA	1357	197	14.5%
DEL NORTE	143	22	15.4%
EL DORADO	343	33	9.6%
FRESNO	2367	314	13.3%
GLENN	74	4	5.4%
HUMBOLDT	481	42	8.7%
IMPERIAL	222	74	33.3%
INYO	53	10	18.9%
KERN	2148	376	17.5%
KINGS	350	60	17.1%
LAKE	267	9	3.4%
LASSEN	81	13	16.0%
LOS ANGELES	15461	4263	27.6%
MADERA	376	46	12.2%
MARIN	157	14	8.9%
MARIPOSA	65	3	4.6%
MENDOCINO	262	17	6.5%
MERCED	727	135	18.6%
MODOC	47	3	6.4%
MONO	14	3	21.4%
MONTEREY	692	137	19.8%
NAPA	202	19	9.4%
NEVADA	181	11	6.1%
ORANGE	2987	512	17.1%
PLACER	543	43	7.9%
PLUMAS	42	8	19.0%
RIVERSIDE	3367	237	7.0%
SACRAMENTO	5176	1649	31.9%
SAN BENITO	112	10	8.9%
SAN BERNARDINO	3816	304	8.0%
SAN DIEGO	3887	201	5.2%
SAN FRANCISCO	1092	170	15.6%

SAN JOAQUIN	1790	251	14.0%
SAN LUIS OBISPO	438	27	6.2%
SAN MATEO	805	131	16.3%
SANTA BARBARA	636	89	14.0%
SANTA CLARA	3517	594	16.9%
SANTA CRUZ	425	46	10.8%
SHASTA	771	35	4.5%
SIERRA	10	0	0.0%
SISKIYOU	194	21	10.8%
SOLANO	843	89	10.6%
SONOMA	810	68	8.4%
STANISLAUS	1307	177	13.5%
SUTTER	245	28	11.4%
TEHAMA	271	11	4.1%
TRINITY	62	4	6.5%
TULARE	1071	185	17.3%
TUOLUMNE	156	12	7.7%
VENTURA	1126	193	17.1%
YOLO	411	53	12.9%
YUBA	289	42	14.5%
TOTAL	65570	11721	17.9%

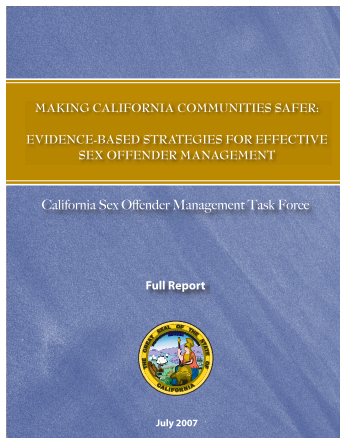
Publications Available at www.casomb.org



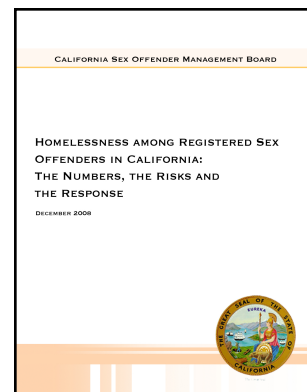
High Risk Sex Offender Task Force
2006



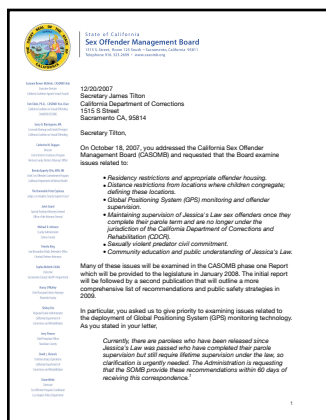
CASOMB Assessment
2008



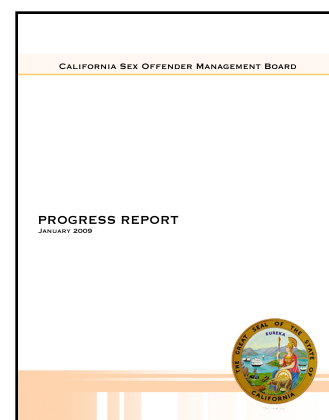
California Sex Offender Management Task Force
2007



CASOMB Housing Paper
2009



GPS Letter to Secretary Tilton
2008



CAOMB Progress Report
2009