

ALASKA LEGISLATURE

958

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

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Haire indicted on 10 sexual abuse charges

TEVE MILKINGTON
WRITER

A grand jury indicted a 36-year-old Anchorage man Tuesday on charges of sexual abuse, extortion and providing drugs to a minor in recent months.

Russell D. Haire, who was arrested earlier this month, remains in custody on \$20,000 bail and faces more than 20 additional charges of sexual abuse of a minor and tampering with a witness.

Prosecutors have said they have more charges related to molestation.

Prosecutors said the ages of the alleged victims range from 7 to 13.

Prosecutors said the ages of the alleged victims range from 7 to 13 and include boys and girls. Three children were listed as witnesses before the grand jury Tuesday.

The case began after police said a 10-year-old girl on Feb. 4 told the principal of North Star Elementary School that she witnessed Haire having sex with some of her friends. The charges

accuse Haire of criminal conduct between November 1991 and February 1992.

Haire is accused of taking nude photographs of some of the children, having sex with them, showing them pornographic movies in his Campbell Place home and distributing marijuana to a minor.

Haire told police when he was arrested two days later that he

had pictures of nude children in his possession, but he denied taking them, court records show.

Prosecutors said Haire eventually could face charges of criminal conduct with as many as 17 children.

A District Court judge on Feb. 11 refused to release Haire to his father's custody. The judge also refused a prosecutor's request to raise Haire's bail.

Haire is scheduled to be arraigned today on the 10-count indictment in Anchorage Superior Court before Judge Rene Gonzalez.



Russell D. Haire

Monroe, WA
(Snohomish Co.)
Monroe Monitor
(Cir. W. 3,500)

JUN 19 1991

Allen's P. C. B Est. 1888

Numerous sex ²⁰⁷¹ offenders reside in Sno. county

The Snohomish County Sheriff's Office recently reported that 350 sex offenders are registered in the county.

A bill was passed in February requiring sex offenders to notify local law enforcement agencies when they are released from custody and take up residence in a community. Offenders have been and will be arrested for failure to register in Snohomish County.

Of the 350 sex offenders registered in the county, 160 live in unincorporated areas and 190 live in various cities and towns. The vast majority of the sex offenders reside along the I-5 corridor, where the majority of the general population also resides.

The sex offender law accomplishes several things. It provides, through registration, a degree of sex offender monitoring after the offender is no longer in state custody or under some sort of state supervision. The law provides a forum through which the public can be reasonably informed about sex offenders and about specific offenders who may pose a continuing threat to the community.

The data bank of registered offenders also provides investigators with potential resource information if a registered offender should re-offend.

The sheriff's office said the public should not be lulled into a false sense of security by assuming that all sex offenders are either in custody or registered with a law enforcement agency. Sex offenders, known and unknown, remain at large and still pose a threat within their own family circles and within the community at large.

Examples of how this
community have
used the law -

Tacoma, WA
(Pierce Co.)
Tacoma News Tribune
(Cir. D. 108,436)
(Cir. S. 120,490)

JUN 30 1991

Allen's P. C. B Est. 1888

Kent-area group ²⁰⁹¹ strikes a deal with sex offender

By Gustin Suttis
The News Tribune

A Kent-area block-watch group has struck a deal with a convicted sex offender living in its neighborhood: find him a job, and he will obey the rules.

The 22-year-old man arrived at the Timberlane community this month after serving about 1½ years in a state penitentiary for raping a 16-year-old girl at knife point in 1988, said King County Lt. David Maehren.

The man's arrival alarmed community members, who formed the block-watch group primarily to figure out what to do about his presence, said Lori Herrboldt, one of 22 captains in the neighborhood group.

Block-watch members decided to help the man instead of shun him because "if he's chased out of the area, he's just going to go somewhere else," Herrboldt said.

"If we can turn him around, that will make him an asset to us rather than a threat," she added.

The man has agreed not to go near children for any reason, and he will accept counseling if a counselor can be found, Herrboldt said.

In return, community members will do their best to find him a job.

Herrboldt will accompany him on interviews next week to show potential employers he has community members' support, she said.

Although the agreement has a lot of support, some block-watch members "still want to shoot him," Herrboldt said.

But most residents agree it is in their best interest that the offender is working; that way, he is easier to keep track of, she said.

"We wanted to know he was behaving himself ... how he was spending his time," she said.

Maehren commended the block-watch group's response to the offender's presence. Many neighborhoods, he said, would attempt to drive the man out of town.

The Timberlane group's response is "much more constructive, and we're pleased with that," he said.

Maehren also said the group's display of optimism is necessary because "when you're dealing with difficult problems, you often have to be optimistic."

But Maehren cautioned that the community should not be so optimistic that it fails to guard against the offender's presence.

The group should "temper that (optimism) with some realism," he said.

2340 Judge upholds sex-offender registration

By Christopher Jarvis
Journal American Staff Writer

The state's sex-offender registration law applies to people convicted of sex crimes before the law went into effect, a King County Superior Court judge ruled Tuesday.

The decision by King County Superior Court Judge Arthur Piehler cleared the way for the trial of Kenneth James White, a 26-year-old man convicted of molesting a 6-year-old boy in 1987, two years before the requirement became law.

When White was released from the Washington State Penitentiary in November 1990, he told authorities he planned to move into a house in Bellevue.

He did not register with the King County police. Since his release, he has lived primarily on the streets or in shelters. He currently is in the King County Jail.

White now becomes the first person to go to trial in King County accused of a felony charge of failing to register as a sex offender.

Defense attorney Gary Nacht had argued that White shouldn't have to register because his crime occurred before the Community Protection Act of 1990 went into effect.

He said the law is unconstitutional if it applies to people convicted before the law was on the books, because it adds punishment to the 31-month prison sentence White served.

To register is an added burden that could draw public attention. That, Nacht argued, could bring about additional punishment in the form of harassment, as it has in other cases.

"These things have happened and you have to speculate they will happen again," he said. To apply it to people convicted before the law existed amounts to a "scarlet letter" being pinned unfairly on White, Nacht said.

Increasing punishment after the fact, he said, has been ruled unconstitutional in court decisions dating back to the 18th Century.

Upon White's release from prison, "he was to be a free man. He was to be able to put this incident behind him and get on with his life," Nacht said.

King County Deputy Prosecutor Kyle Aiken disputed Nacht's contention, saying the law is not punishment but merely allows police to know the whereabouts of former offenders.

In addition, it is no more punishment than the state Department of Licensing's regulation that people should report a change of address.

Among other things Nacht is expected to argue in the trial, which is being heard without a jury, is that White failed to receive adequate notice upon his release that he was required to register.

Bellevue, WA
(King Co.)
Journal American
(Cir. D. 30,000)

JAN 22 1992

Allen's P. C. B. Est. 1888

Hearing set for molester

BETHEL—A public hearing before a state professional board is set for convicted child molester John Hawkins, Ph.D, who seeking his license to practice as a psychologist, according to *The Tundra Drums*.

The Board of Psychologist and Psychological Associate Examiners will hear the re-licensing case in Bethel February 17. The hearing was originally scheduled for last November in Anchorage.

Hawkins, 72, had his psychologist's license revoked following a 1984 conviction of sexually abusing a 13-year old girl. He spent two years in prison and underwent several years of court-ordered sex offender treatment.

Prior to his conviction, Hawkins was a clinical psychologist for the Yukon-Kuskokwim Health Corporation and the Lower Kuskokwim School District.

This is Hawkins' second attempt to get his license back. He was denied it by the board in 1989.

Hawkins' public statements about child-molestation have been controversial.

February 4, 1992, All-Alaska Weekly

Editorial

Fair warning

12/84

A recent sentence by Superior Court Judge Thomas Schulz should be fair warning to child abusers. Like rape, people are now more inclined to report cases of sexual abuse of children, prosecutors are more likely to take the cases to court and judges aren't afraid to impose strict sentencing. A Ketchikan man was recently sentenced by Schulz to 19 years in jail for sexual abuse of a minor. That term will be added to a five-year sentence the man is already serving for the same charge.

Nineteen years sounds like a stiff penalty, but in some cases it doesn't approach justice. In this case, the man had a prior conviction from Washington state. Despite that, his wife obtained a state license for a child care facility in Ketchikan — where the man abused an 8-year-old boy. While awaiting sentencing on that charge, he sexually abused still another child.

One could argue that justice has been served. The mother of the 8-year-old sued the state and collected about \$1.5 million for her claims that the state was negligent in not warning child care clients of the man's tendencies and for not revoking the child care license. And the man has now been sentenced on both charges.

But the sad part of the story is that a convicted abuser was able to go as far as he did. There were just enough cracks in the system to let him through. And there are still more cracks available, depending on probation.

But people's perceptions of child abuse are changing. Just a few years ago, rape victims were the ones who felt guilty of a crime. Now people are beginning to acknowledge that it's the perpetrator, not the victim, who deserves the scrutiny. As that perception changed, women became more likely to report rapes and pursue convictions.

The same thing is happening with child abuse. People, including family members, are more willing to admit that it's the children, not the adult perpetrator, who are the victims. In some cases, treatment for the offender may help solve the problem. In other cases, stiff sentencing is the only answer.

Public reporting on child abuse cases is another factor that can help stem its growth. If abusers know they face criminal prosecution, they should also know that their name will appear in public.

But more important than shaming the criminal, public information about child abuse can help people understand and come to terms with it. As each child abuse case is reported, it serves as an example to someone else who might be living with it — and thinking they're alone with it.

Unfortunately, public scrutiny might embarrass the victim as well. We're confident that will change. The first step is under

Ketchikan Daily News 12/84

Ketchikan man charged with sexual abuse of minors

ASSOCIATED PRESS

KETCHIKAN — A grand jury has charged a Ketchikan man with 24 counts of second-degree sexual abuse of a minor and related charges.

Richard Dunker, 39, was charged with bringing six boys, aged 11 to 16, to his apartment, giving them alcohol, tobacco and money and trying to get them to have sex with him and pose for videotaping sessions.

The grand jury returned the

indictments on Friday.

Dunker was arrested March 19. He was jailed on \$100,000 bail. If convicted, he could receive more than 70 years in jail.

The charges included second-degree sexual abuse of a minor, attempted sexual abuse of a minor, indecent exposure, contributing to the delinquency of minors, unlawful exploitation of minors and attempted exploitation of minors.

Five minors testified to the grand jury, along with Ketchikan

Police Officer Dale Young and police Lt. Michael Hunter.

According to an affidavit filed in support of a search warrant, the investigating officer interviewed at least two of the boys. One said Dunker gave him wine coolers and paid him to lie on the floor naked with another teen-aged boy and sit in his underwear. The boy said Dunker would show pornographic videotapes to the boys in his apartment.

Dunker paid one boy \$30 to watch a video of men engaged in

sex acts and asked the boy if he would like to do those things with him.

It was not immediately known if any of the minors agreed to the sex acts.

"He told (the boy) that it wasn't so bad," Jacobson wrote. Dunker paid the boy to allow Dunker to videotape him with his clothes on, the boy said.

Dunker had the boy visit his apartment 50 times, the boy said, but also told him to come to his boat.

"Dunker wanted his relationship with the boys to be secret from his girlfriend with whom he shares an apartment," Jacobson wrote.

"(The boy) told me that Dunker masturbates while the boys are present and does this while watching the pornographic videos. He was naked in front of (the boy) on one occasion and on another occasion he flashed him showing his genitals," Jacobson wrote.

According to court records,

Dunker told two of the boys that if they knew any pretty young girls that wanted to be videotaped, to bring them to the apartment.

"He requested pretty young ones that were about 6- or 7-years-old," Jacobson wrote.

Another young boy told detective Young that he had been offered beer but did not drink it. He said he was offered \$25 to be videotaped nude on several occasions but did not agree to it.

Revamp of

Fairbanks Daily
News-Liner
Feb. 23rd



event Thursday, joined long-track speedskater as the only two American double-medal winners at the 1982 Winter Olympic Games.

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TCC, Back Page)

MEDALS

	G	S	B	T
Germany	10	10	8	28
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Finland	3	1	3	7
Japan	1	2	4	7
Canada	2	2	2	6
South Korea	2	1	1	4
The Netherlands	1	1	2	4
Sweden	1	0	3	4
Switzerland	1	0	2	3
China	0	3	0	3
Luxembourg	0	2	0	2
Czechoslovakia	0	0	2	2
New Zealand	0	1	0	1
North Korea	0	0	1	1
Spain	0	0	1	1

Olympics coverage, Page C-4

Time doesn't heal trauma

Victims of sex abuse hit time limit on prosecutions

By ANNA FARNESKI
Staff Writer

The numbers

Alaska's sex abuse rate is six times the national average, according to the state Division of Family and Youth Services.
Alaska: One of every 105 children is abused.
Nation: One of every 633 children is abused.

As the white-haired man sat at the defense table, leaning forward to hear the judge's comments, tears welled in the eyes of a 28-year-old woman sitting alone in the courtroom visitors' gallery.

The droplets rolled down her face, over the dark circles beneath her blue eyes. She wiped the tears on her skirt. Her gaze returned to the scholarly-looking man.

Attending George "Bill" McGlauffin's sentencing hearing in late January was as close as the young woman will ever get to justice. McGlauffin cannot be punished for what he did to her when she was 9 years old.

A boarder at her parents' home, McGlauffin befriended her, treated her like a daughter . . . and then like a mistress. He showered her with gifts and attention, but robbed her of her childhood.

McGlauffin, 64, was sentenced to eight years in jail Jan. 26 after a judge earlier found him guilty of raping and sexually abusing a 3-year-old girl—not the woman in court—between 1963 and 1982.

Based on evidence from the state and pornographic photos of young boys and girls shot by McGlauffin, the prosecutor estimated that the retired laborer sexually abused at least three other young children in the mid-1970s in Fairbanks. But McGlauffin, 64, could not be prosecuted for those alleged crimes because the statute of limitations on the crimes prevents the state from filing charges.

The young woman who wept silently was one of the girls in the photographs—McGlauffin admitted to the crime in court and in a letter to the judge.

"It's like we don't matter," the woman said in an interview later. "Why don't we matter?"

According to mental health experts, victims of childhood sexual abuse are often so traumatized by the abuse that they repress the memories for years. In the interim, they are often plagued with depression, anger, food disorders, drug and alcohol abuse and suicidal tendencies.

Often, their minds do not allow them to recall the events, or deal with them, until they are mature adults. By that time, the state cannot prosecute, so the perpetrator remains free.

Advocates for victims of sexual assault and sex abuse throughout the state want the statute of limitations for prosecution lengthened, and they have gone to the Legislature for help.

At his hearing in January, McGlauffin asked the judge for leniency. He has heart problems,

he said, and he hasn't touched a child since 1963. His niece, a speech writer for President George Bush, sent the judge a letter asking for a light sentence. She used White House letterhead.

McGlauffin's attorney said the man has rehabilitated himself.

Despite his conviction, McGlauffin adamantly denied any misconduct with children, with one exception. He admitted to sexual relations with the 28-year-old woman at the sentencing hearing, who is referred to as "R" in the court record.

With "R," McGlauffin said, he was able to "experiment to my heart's content. She was a very loving, responsive, imaginative young person."

But the grown woman doesn't associate such feelings with the experience. While growing up after that time, she always thought nobody liked her. Even now, intimacy with her husband is difficult. Despite help from a therapist, she has nightmares and often cannot sleep.

Sex abuse victims in Fairbanks, including McGlauffin's 28-year-old victim, have gathered more than 400 signatures from Fairbanks residents supporting a bill to change the statute of limitations.

Under current state law, a victim must report the crime before his or her 17th birthday and within 10 years of the offense, or the state cannot prosecute. Compared to other states, Alaska's statute of limitations on sex abuse is short, according to legislators and advocates for victims.

The topic is "hot one" in Juneau these days, legislators said. National attention focused on the issue last year after celebrities, such as comedian Roseanne Arnold announced they had been sexually abused as children.

"It's topical and there's a lot of interest and support," said Rep. Mark Boyer, D-Fairbanks. "My guess is we'll see a change in the statutes."

Boyer's HB 376 would remove any time limitation on reporting sexual abuse. It would also raise the age of consent from 16 to 18. Sen. Artim Sturgisewski, Virginia (See ABUSE, Back Page)

Prices Beat!



ABUSE

(Continued from Page A-1)
 Collins and Lyran Hoffman also introduced similar bills.
 Meyer said he and other legislators have been bombarded with mail on the issue.
 He began researching the statute of limitations after a victim here pointed out the problem to him. "At first I was skeptical because of all the national media attention given to people like Roseanne Barr, but once I looked at the issue and did the research, I thought, boy, this was serious."

What's fair?

However, not everyone is pleased at the thought of an increase in the statute of limitations on sex abuse crimes. Assistant Public Defender Paul Casarsky, who defended McGowan, said the change would be costly to the state and unfair to defendants.

Casarsky said defendants would have to rely on old evidence. He also predicted that the prosecutors would use already scarce funds to try old cases. Prosecutors would decline more current cases, he said.

"The thing about the statute of limitations, though, is that it also embodies a common sense approach," he added. "Unless it's something really, really serious like murder, the mistakes a person has made in the past should be left behind them."

Casarsky said he objects to special rules for a class of crimes. The statute of limitations for most crimes is five years. There is none for murder.

Law enforcement officials say they would welcome a change in the rules. They said the additional cases would not be too expensive or time-consuming.

Karla Taylor Welch, the assistant district attorney who prosecutes sex abuse cases here, said that in the past year there were 112 cases in which she could not prosecute individuals on alleged crimes because of the statute of limitations. Two of the men, including McGowan, were convicted on other sexual abuse charges, but two of the men remain free.

In McGowan's case, Welch said, it would have been easy to convict, because McGowan saved hundreds of photos that he took of the boys and girls he molested.

Alaska State Trooper Sgt. Jim McCann, who investigated the McGowan case, said he routinely learns of abuse cases in which the statute of limitations has expired. "That sort of thing happens all the time, we're getting more and more," he said.

"It hurts, and it's not very easy for us to look into the eyes of the victim that sits before us and say 'I'm sorry there's nothing for us to do.'"

McCann disagrees with a statute of limitations on any crime.

"What do we owe this perpetrator?" he asked. "Why is it not fair if we can prove 10 or 15 years later that he's a pedophile. If we can make the case, who cares?"

OLYMPICS

(Continued from Page A-1)
 disappointments in '84 and '88, the one-man ski squad from Luxembourg claimed two medals here, a gold and a silver.

Sex offender registration law is upheld by court

By Hal Spencer
Associated Press writer

OLYMPIA — A state law requiring that sex offenders register with the authorities has survived an important legal challenge.

The state Court of Appeals on Monday rejected the argument that the 1990 law is unconstitutional because it applies to people who committed their crimes before the law took effect. The law requires that all convicted sex offenders register with the sheriff in their home county.

The purpose of the law is to help authorities keep track of former offenders on the argument that a large percentage of them are repeat offenders. Similar registration laws exist in many states, officials have said.

The appeals court, acting on an appeal by convicted sex offender Michael Taylor, 39, of Seattle, said the constitutional principle barring "ex post facto" application of laws does not apply because the law is "regulatory" rather than "punitive" in nature.

One of the three judges dissented, saying the effect of the law is certainly punitive because it makes life harder for the offender in several ways.

Taylor contended that the law requiring him to register with the sheriff in his home county of King was unconstitutional because he had committed the crime in 1989, a year before the law took effect.

Taylor was convicted and sentenced to 180 days and community service for "attempted indecent liberties." Dan Donohoe, a spokesman for King County Prosecutor Norm Maleng, said Taylor was visiting a friend in Renton and during the evening, stripped naked and attempted to initiate sex with the friend's female roommate who was asleep in her bedroom. Donohoe said the initial charge was attempted rape but was reduced to attempted indecent liberties.

The appeals court majority disagreed with Taylor's argument against the registration law.

"We conclude that while registration is disadvantageous to a

registrant, the disadvantages are relatively minor and are not sufficient as to make the registration statute punitive in overall effect. We conclude it is a regulatory statute, which does not violate the prohibition against ex post facto laws," said the opinion, written by Judge Jack Scholfield.

Taylor's attorney, Fred Diamondstone, said Monday that he hadn't had a chance to speak to his client and did not know if he would appeal to the state Supreme Court. But he noted that an identical case — State vs. Ward — was to be heard by the high court in the fall.

Diamondstone agreed with the dissent filed by the third judge in the case, Susan Agid.

Agid wrote that the law is primarily punitive because "It can have the effect of restricting change of residence, can diminish changes of employment, will make the registrant a suspect in every reported sexual offense and will have an overall stigmatic effect greater than would otherwise exist."

Why I'm every mother's worst

April Redbook

FEELER

For more than 40 years, I was a loving friend to hundreds of little boys. I took them fishing, helped them with homework, and listened to their problems. Their parents never suspected I was also having sex with them.

BY ROSS M. NELSON *with Ruth Miller Fitzgibbons*



Did you think your son slept over at a friend's house that night? He did, but it wasn't the friend you thought. I know he told you he'd be at Billy's.

Your son was sleeping with me. I'm the man down the street who hired him to mow the grass, who helped him with his homework while you were at work, who went to school and scout functions when neither you nor his father had the time. I also taught him some things he didn't need to know—not yet, anyway.

You see, I am a child molester—a pedophile.

For more than 40 years, I had sex with boys. Most of them were between the ages of 12 and 15. Some I truly cared about; others were just passing sexual fancies. Many times I wanted to stop myself, to call and tell a boy's mother what I had done with her child. But I would convince myself that my time with the boy had a more positive influence than a negative one. And it was so easy to get away with it—until I finally got caught. I'm now 60 and in a Texas prison, where I'm serving a 20-year sentence.

Meeting boys was simpler than you might imagine. I never had to force or intimidate them, or offer them money or other bribes. Most of them came along with me willingly.

Take a typical Saturday afternoon. Mom is busy with the younger children, or maybe away at some social engagement. Dad is playing golf or working, or perhaps he doesn't even live with the family anymore. The boy feels lonely and unwanted at home. He comes to the mall to wander.

From where I'm sitting on a bench in the middle of

"MY EVERY MOVE was driven by a compulsive need to have sex with young boys. I was addicted."

the mall concourse, the boy can't help but see me when he leaves the video arcade. Earlier I was in there too, and we made eye contact, even spoke a few casual words. I chose him to talk to because he seemed quiet, and he was alone. Now he sees me again as he walks along looking in the store windows. Within ten or twenty paces, he glances back.

Now he's at the pet shop or perhaps the bookstore. I head over casually and make a friendly remark about the merchandise. He smiles shyly. He's always been taught not to talk to strangers. But I've smiled and chatted, and shown interest in him. I'm not really a stranger anymore.

I offer to buy him a hamburger or a slice of pizza. He may hesitate. But finally he smiles and agrees. From then on, he's mine.

There are far more child molesters who operate like me than there are those who forcefully kidnap children. What the abductors do makes the headlines. What I do is more common and less noticeable. Most child molesters are established in our communities, known to others as just another good neighbor. We may even be married with kids of our own.

My urge to have sex with boys was not the result of any emotional, physical, or sexual abuse, nor did it come upon me suddenly with adulthood. My first sexual encounter, though it was an innocent one, was in sixth grade. While a boy named Adam and I were putting on costumes for the school play, we engaged in a harmless game of "you show me yours and I'll show you mine." Later, when I was 12, my friend Danny wanted to play the game as well. Then it was Jerry, Danny's brother, then my younger cousin. I was always the instigator.

When I was 13, my mother, my brother, and I moved to a new town (my father had left home when I was a

year old). I was introverted, studious, hesitant to make new friends. No one in my family seemed to notice anything wrong. I had had a close relationship with my grandfather, but he died shortly before we moved. I didn't date much—hardly ever—since I was only interested in boys.

By gossiping with other boys, I learned who in town was homosexual—the manager of the pickle factory, the local tailor, even the vice principal of the high school. But the thought of having sex with any of these men turned me off. Some of the boys I knew did—and bragged about it. Perhaps it was then that I first realized that some boys would consent to sex with an adult in exchange for a favor or friendship.

I had been active in the military reserves in high school and at age 19 became a platoon sergeant in the infantry during the Korean War. There I learned to smoke, drink, and swear—all of which helped cover up my lack of self-confidence. My sexual curiosity was set aside except for cautious glances and a few minor episodes, and I left active duty as a master sergeant. Back home, I bought a house, and my mother moved in with me because my older brother had married while I was away.

This began a dark time in my life. There were periods when my every move was driven by a compulsive need to have sex with young boys. My mother continued to live with me on and off over the next 40 years, and I believe she was aware of my deviant sexual behavior, but we never spoke about it. Somehow I managed to get an education, learn a profession (I'm a horticulturist), and master the science of photofinishing. For years I worked nights in a large photofinishing lab, where I was surprised to discover the proliferation of pornography involving children. This helped convince me that my desires were not that abnormal.

Lust seemed to consume my free time. Looking back, I realize that I was searching for someone to love

who would love me back—unconditionally. For nearly a year, I had a relationship with a woman I had met through work, but it didn't last—I had an affair with a 14-year-old boy while we were seeing each other.

I went through dozens of these affairs. I especially liked blue-eyed blonds, preferably ones who were intelligent and polite, neat and nicely dressed. Many of these boys were members of large families—and they cut across all class levels. I've intimately known the sons of a senator, a general, a physician, an assistant city manager, and more. Boys who had an emotional—rather than economic—need for a friend like me were most easily controlled and more loyal. Some of my relationships lasted several years.

To keep a boy's friendship, I offered him very little beyond what he should have found at home: someone who'd listen and who'd cheer him on in school and sports. Occasionally, I took boys to the movies or on camping trips, or played cards with them for hours. I truly enjoyed spending time with them. And I knew what they offered me: the chance to feel whole, comfortable, needed.

I was careful about the boys I went after. I watched for two physical types: early maturers, who reach puberty at about 10 or 12 years old, and late bloomers, who don't hit puberty until 15 or so. Undergoing physical change, their peers have yet to begin, early maturers are often shunned by other boys their age. As a result, they're willing and eager to engage in activities with older boys or men whose physical size more closely matches theirs, simply to discover what is happening to them. Sometimes they seek these relationships just to reassure themselves that they aren't freaks. Boys who are late bloomers may also feel left out, since girls their age tend to prefer their more masculine friends. These boys are easily seduced by older adults;

that way they can gain the sexual experience their peers brag about.

It's difficult to say whether the boys enjoyed the sex with me or just tolerated it in exchange for the attention they craved. The vast majority, I believe, were not gay—they simply accommodated my wishes in order to remain close to me. The boys were generally passive sexual partners at first, although most would eventually agree to give oral and anal sex. Usually I didn't mind being kissed on the lips, but some would refuse open-mouthed kisses.

About ten years ago, I realized that I had slipped into addictive behavior. I wasn't getting any sexual gratification from my affairs; each one was simply another conquest. One August, I took time to count up all the boys

I'd been with since the beginning of that year, most of whom I'd had sex with only once or twice. There were 29 in all! Most I picked up while riding my motorcycle, cruising city parks, or just parking at a convenience store and waiting. Adolescent boys can't seem to resist a motorcycle.

I met 13-year-old Jimmy that way. Going into a store to buy cigarettes, I saw him and his friend playing a video game. Jimmy was slender, with brown hair and blue-green eyes and just a few freckles over his nose. Judging from his manners and his clothes, I guessed he came from an upper-middle-class family. He asked about my motorcycle and wanted me to give him a ride. An hour later, he was at my house phoning his mother to say that he was at a friend's and asking if he could spend

the night. He stayed that night and the whole next day. He said he'd had sex only once before, with a girl his age. His parents were separated.

John was another boy typical of so many I was with. At 15, he was the eldest child in a big family and was expected to take care of himself.

But John wanted more. He needed someone to tell him he was doing well, pat him on the back, play a game of tennis or catch. He wanted to be able to tell somebody when he was feeling low and to be comforted instead of being told to "take it like a man."

I never really feared that a boy would turn me in to the police. With one of the boys I loved most, I got proof of this.

I met him fishing at a lake near my home. I was *(Continued on page 116)*

Can Child Molesters Be Stopped?

One in three girls and one in seven boys will be sexually molested before the age of 18, according to the U.S. Department of Justice. The typical pedophile will sexually abuse 380 children in a lifetime. Most molesters are men, says Gerald Blanchard, M.A., a Wyoming therapist and author of *Sex Offender Treatment: A Psychoeducational Model*.

There are three types of child molesters.

Aggressive: The rarest. Violent and sadistic, sometimes mutilating victims after sex.

Repressed: The most common; often married and a parent. Sexual behavior is normal until extreme stress—such as loss of a job, a death, or divorce—triggers a few episodes of sex with a child.

Fixated: The classic type. Often a sex addict. May be ambivalent about his behavior; rationalizes that he's a loving friend to lonely, "neglected" children. Ross M. Nelson falls into this category.

Some pedophiles prefer sex with girls, others with boys.

Many people assume that the latter are homosexual, creating the misconception that gay men are likely to prey on young boys. But, says Blanchard, "Though some pedophiles are gay, many aren't. And it's not their homosexuality that causes them to molest kids—it's their overriding sexual preference for children."

Pedophiles are often genuinely empathetic with children—and thus able to easily manipulate them. "They knew what kids like, how to connect with them. Kids find them endearing and entertaining," says Blanchard. In contrast, pedophiles tend to have difficulty relating to adults. Often their emotional development was somehow interrupted during childhood, frequently as a result of sexual abuse.

They tend to appear aloof and arrogant but inside are very insecure. "Pursuing and conquering a child as a sexual partner gives them a sense of power that is lacking in their lives," explains Blanchard.

Most pedophiles are consumers of vast amounts of child pornography, according to a report from the U.S. Congress Permanent Subcommittee on Investigations on Child Pornography and Pedophilia. They often show the materials to their victims in an attempt to convince them that such sex acts are normal.

Experts say pedophiles are among the most difficult sex offenders to treat. Short-term, intensive rehabilitation can stop them for a while, but the majority molest again after three or four years. Blanchard blames the low success rate on the fact that most therapists have only recently begun to treat pedophilia as an addiction as well as a criminal offense.

"Controlling any addiction is a lifelong process. There's no such thing as a cure," he says. "With the right treatment, we have a better chance of managing the behavior over long periods of time." The most effective rehabilitation combines several methods, such as one-on-one counseling, drugs that inhibit sex drive, group therapy, and 12-step programs similar to those used to treat alcoholism and drug addiction.

Parents needn't become suspicious of every compassionate babysitter or attentive friend. Establishing open communication with your children about sexuality will help them confide in you if something confusing or scary happens to them. Finally, believe a child who reports a sexual overture or encounter, no matter how respectable or unlikely the accused person might seem. —R.M.P.

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January 4, 1993

Ms. Barbara Felver
Washington State Institute for Public Policy
The Evergreen State College
9162 Sominar Bldg, MS: TA-00
Olympia, WA 98506

Dear Barbara:

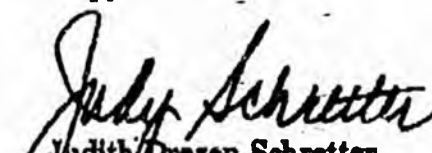
We recently obtained a copy of registration statute information compiled by the National Center for the Prosecution of Child Abuse which I have enclosed for your reference. They combined DNA testing statutes with sex offender registration statutes on their chart. We did identify from their material some states who had offender registration that were not on our chart.

I have already faxed the Colorado information to you. Tennessee has a statute (copy enclosed), but have not funded the program as yet. North Dakota also has two statutes depending on whether the victim is an adult or a child (copies enclosed). I spoke with the person in the Attorney General's office who handles the information if a child is the victim. She indicated they were going to seek modification of the legislation this year to correct problems they have encountered.

Virginia plans on drafting legislation this year to be introduced in 1994. This action comes out of recommendations made by task force headed by the Lt. Governor that recommended several changes with regard to sexual crimes against children.

Please let me know if you have heard whether Alaska will be reintroducing their legislation this year. Also, please provide me with the name of the gentleman from Michigan who contacted you for information.

Happy New Year,


Judith Drazen Schretter
General Counsel

Enclosures



SUMMARY OF SEX OFFENDER REGISTRY STATUTES BY STATE

Alabama

- Required to register within 30 days of release.
- Roster maintained by Sheriff and State Dept. of Public Safety.
- Registry information accessible to law enforcement only.
- Penalty for failure to register is imprisonment of not less than one year or more than five years and a in addition may be fined.

Ala. Code § 13A-11-200 to 13A-11-203

Arizona

- Required to register within 30 days of coming to county of residence.
- Required to notify regarding change of address.
- Registry information accessible to law enforcement only.
- Failure to comply is class 6 felony.

Ariz. Rev. Stat. Ann. § 13-3821 to 13-3824

Arkansas

- "Habitual Child Sex Offender Registration Act".
- Required to register with Chief of Police within 30 days of coming to county of residence.
- Notified regarding duty to register at time of discharge or parole.
- Local law enforcement relays information to State Police and pertinent local law enforcement of change of address.
- Written notification of change of address within 10 days.
- Required registration period of 10 years.
- Can apply to Circuit Court for relief of duty to register.
- Registry information accessible to law enforcement only.
- Failure to comply is class A misdemeanor.

Ark. Stat. Ann § 12-12-901 to 12-12-909

California

- Required to register with Chief of Police or Sheriff within 14 days of coming to county of residence.
- Must also register with Campus Police of University of California or California State University if living on campus of its facilities.
- Registration Information of Juveniles must be destroyed when person reaches age 25 or has records sealed.
- Notified regarding duty to register at time of discharge or parole.
- Written notification of change of address within 10 days.
- Local law enforcement of last registry relays information to State Department of Justice, which in turn notifies local law enforcement of new place of residence.
- Registry information accessible to law enforcement only.
- Failure to comply is a misdemeanor with a Minimum Mandatory sentence of 90 days and one year probation.
- Duty to register coupled with mandate to provide blood and saliva sample of DNA typing.
Cal. Penal Code § 290 and 290.2

Colorado

- Required to register with Chief of Police or Sheriff within 7 days of coming to city or county of residence.
- Required to notify of change of address.
- Failure to comply is a misdemeanor and a second or subsequent conviction for failure to comply with registration requirement is a felony.
- State central registry to be established. No central data collection point at this time.
- Registry information accessible to law enforcement only.
- Expiration of requirement to register varies depending on crime for which offender convicted.
Colo. Rev. Stat. § 18-3-412.5

Florida

- Applies to any felony conviction.
- Required to register with Sheriff within 48 hrs. of entering county of residence.
- Failure to comply is second degree misdemeanor.
Fla. Stat. Ann § 775.13

Illinois

- "Habitual Child Sex Offender Registration Act".
- Required to register with Chief of Police within 30 days of coming to county of residence.
- Informed of duty at time of release, discharge or parole.
- Written notification of change of address within 10 days.
- Required registration period of 10 years.
- Failure to comply is Class A Misdemeanor.
Ill. Rev. Stat. ch. 30, para. 221 to 230

Louisiana

- Required to register within 30 days of conviction or release, or 45 days of establishing residence.
- Written notification of change of address required within 10 days.
- Penalty for failure to register is a fine, one year imprisonment or both for first time offenders.
- Required registration period is 10 years.
- Registry information available to the public only when necessary for public protection.
La. Rev. Stat. § 15:540-549, and § 15:578(A)(7)

Maine

- Required to register within 15 days of probation or discharge.
- Required registration period is 15 years from sentencing or discharge.
- Required notification of change of address within 5 days of moving.
- Penalty for failure to register is a Class B crime.
Maine Rev. Stat. 34-A c. 11 § 11001 to 11004

Minnesota

- Informed of duty at time of release, discharge or parole.
- Registered by Commissioner of Corrections upon release, who relays information within 3 days to State Police.
- Required to register with Probation Officer within 14 days of supervised release from prison.
- Written notification of change of address within 10 days.
- Failure to register change of address may require registration for five additional years.
- Required registration period of 10 years.
Minn. Stat. § 243.166

Montana

- Required to register with law enforcement within 14 days of coming to county of residence.
- Informed at time of sentencing, release, of duty to register.
- Written notification of change of address within 10 days.
- Required registration period of 10 years.
- Failure to comply results in incarceration of not less than 90 days, and a fine or both.

Mont. Code Ann. § 46-18-254 and § 46-23-501 to 507

Nevada

- Required to register within 48 hrs. of coming to county of residence.
- Written notification of change of address within 10 days.
- Informed at time of release, probation, parole or discharge of duty to register.
- Can apply to District Court for relief of duty.
- Failure to comply a misdemeanor.
- Registry information accessible to law enforcement only.

Nev. Rev. Stat. § 207.151 to 207.157

New Hampshire

- Required to register annually within 30 day of the anniversary of release.
- Written notification required within 10 days of changing residence.
- Roster maintained by Sheriff and the Municipal Police.
- Required registration period is for life.
- Registry information available to law enforcement only.
- Penalty for noncompliance is a misdemeanor.

New Hamp. Rev. Stat. § 632-A:11 to § 633-A:19 (effective January 1, 1993)

North Dakota

- Two statutes, one concerning child victims, and one concerning only adult victims.
- Child Victims:
 - Required to register with Sheriff within 30 days of entering county of residence.
 - Written notification required within 10 days of changing residence.
 - Registration requirement must be stated in court records at time of sentencing.
 - Registration period is for 5 or 10 years depending on offense.
 - Failure to comply is a misdemeanor.

N.D. Cent. Code §12.1-32-15

Ohio

- "Habitual Sex Offender Registration".
- Required to register with Chief of Police within 30 days of coming to county of residence.
- Informed prior to discharge, release, parole or probation of duty to register.
- Written notification of change of address within 10 days.
- Required period of registration is 10 years.
- Registry information accessible to law enforcement only.

Ohio Rev. Code Ann. § 2950.01 to 2950.08

Oklahoma

- Required to register with Dept. of Corrections, within 10 business days of conviction/suspended sentence.
- Register with Sheriff, District Attorney upon release.
- Required period of registration is 10 years (reduced to two if successfully complete treatment program).
- Written notification of change of address within 10 days.
- Registry information accessible to law enforcement only. Some law enforcement records specified as open to the public.
- Failure to comply is misdemeanor.

Okla. Stat. Ch. 8B § 561 to 587

Oregon

- Registration upon release.
- Notification of change of address within 30 days, or once a year if no change has taken place.
- May apply to Circuit Court for relief of duty to register after 10 years.

Oregon Stat. § 181.518 to 519

Rhode Island

- Required to register with chief of police within 30 days of coming to city/town of residence.
- Notification of duty to register prior to time of discharge/parole.
- Juvenile offenders duty to register expires at age 25 at which time records shall be destroyed.
- Written notification of change of address within 10 days.
- Registry information accessible by law enforcement only.
- Failure to comply is a misdemeanor.
- Relief from duty to register upon granting of petition for expungement of records.

R.I. Gen. Laws § 11-37-16

**SEX OFFENDER REGISTRATION:
A REVIEW OF STATE LAWS**

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SEX OFFENDER REGISTRATION: A REVIEW OF STATE LAWS

INTRODUCTION

In recent years, state legislatures across the country have examined their sexual assault laws to find ways to increase community protection. Many have attempted to strengthen existing laws by requiring released sex offenders to register with law enforcement or state agencies. Currently, one-third of the states have such a requirement, and a law is now before Congress to establish a national index of registered sex offenders.

Do registration laws actually increase community protection? This paper describes the policy debates surrounding registration laws, summarizes the features of legislation in sixteen states, discusses the origins of four states' laws, and reviews efforts to evaluate registration laws.¹

LEGISLATIVE INTENT

Supporters of sex offender registration argue that it contributes to public safety by: 1) creating a registry to assist law enforcement in investigation, 2) establishing legal grounds to hold offenders found in suspicious circumstances, 3) deterring sex offenders from committing new offenses, and 4) offering citizens information so they can protect themselves.

The typical legislative goals are summarized well in Alaska's proposed law:

The legislature finds that: (1) sex offenders pose a high risk of reoffending after release from custody, (2) protecting the public from sex offenders is a primary governmental interest, (3) the privacy interests of persons convicted of sex offenses are less important than the government's interest in public safety, and (4) release of information about sex offenders to public agencies and the general public will assist in protecting the public safety.²

¹Information was collected between March 3 and April 14 by telephone to 16 states known to have sex offender registration laws, and to four states with laws proposed during their 1992 legislative sessions: Alaska, Kentucky, Louisiana, and New Hampshire. Persons supplying information were administrators, legislative research staff, legal counsel, or law enforcement officials, as appropriate. In all, 29 people supplied information. Accompanying tables give the information in detail.

²Alaska State House of Representatives, Seventeenth Legislature (1992), Second Session, House Bill Number 440, Section 1.

Law Enforcement Investigation

A sex offender registration law requires offenders to supply their address to state or local law enforcement. Typically the offender must register following release from confinement and/or during supervision in the community. Laws in most states apply to convicted sex offenders; some state's laws also apply to individuals found by a judge to have committed the offense (for instance, under a finding of not guilty by reason of insanity).

Information maintained on the registry varies by state, but at a minimum includes the name, address, and a law enforcement identification number. A few states collect very detailed information which may include blood samples, employment information, residence history, and vehicle registration numbers. In all cases, the offender is responsible for supplying accurate information, and is penalized for noncompliance.

Once created, the registry becomes a tool that law enforcement uses to solve—or, ideally, prevent—crimes. If a sex offense is committed and no suspect is located, the registry can be used to identify potential suspects who live in the area, or who have a pattern of similar crimes. States vary in their decision on which offenders to include in the registry: some register child molesters only (Arkansas and Illinois); some register only the most serious categories of sex offenders (Florida and Illinois); and some register all sex offenders, regardless of the type of crime. California and Montana register arsonists in addition to sex offenders; California also registers narcotics offenders.

Legal Grounds to Intervene

Registration laws also create legal grounds to hold sex offenders who do not comply with registration and are later found in suspicious circumstances. For example, if a convicted sex offender is observed lurking around a playground, and when stopped by the police is found not to have registered, that person can be charged and prosecuted for failure to register. Law enforcement representatives often argue that registration laws thus prevent crimes because the police can intervene before a potential victim is harmed. Thus, some states pass registration laws without expecting high rates of voluntary compliance but while still anticipating a law enforcement benefit.

Deterrence

Registration also is intended to psychologically affect the offender. Once registered, offenders know they are being monitored. Many lawmakers hope that this knowledge will discourage sex offenders from committing further crimes. Also, some lawmakers hope to deter potential sex offenders: a long-term registration requirement in addition to other penalties may discourage individuals from committing sexual assault.

Citizen Self-Protection

In many states, access to registries is restricted to law enforcement, but in some states citizens can obtain the list of registered offenders in their community. These states

justify citizen access to the registry as a means for citizens to protect the public, particularly young children, from sex offenders. If a parent knows that someone in the neighborhood is a convicted sex offender, chances are higher that the children will be warned to avoid contact with that person and therefore will be less vulnerable.

CONTROVERSIES

Several arguments against sex offender registration often surface during legislative deliberations. These arguments can be summarized as follows:

Civil Liberties

Registration programs are inconsistent with a society committed to protecting individual liberties. Sex offenders who leave prison have paid their debt to society and should not receive additional punishment. Registration is viewed as another step toward a "Big Brother" society.

Offender Motivation

By forcing sex offenders to register, society sends a message to these individuals that they are not to be trusted, that they are bad and dangerous people. Opponents believe these messages work against offender rehabilitation efforts and inadvertently encourage anti-social behaviors. The offender can use the law to rationalize further crimes, for example: "If society thinks I'm a permanent threat, I guess I am and there's nothing I can do to stop myself."

Registration laws encourage sex offenders to try to evade the attention of law enforcement. Some sex offenders will choose not to comply with the law and will attempt to conceal their whereabouts. Law enforcement will therefore have a more difficult time investigating sexual assault crimes.

Public Safety

Registration creates a false sense of security. Citizens who learn that someone is a registered sex offender will likely stay away from that person. However, the majority of sex offenders never appear on registration lists. The reasons are many: only a small proportion of sex crimes are reported, and an even smaller number result in convictions; many offenders plea-bargain down to non-sexual offenses; sex offender registration laws can apply to limited categories of offenders; and many offenders were convicted prior to passage of the law. In addition, not all offenders register. For all these reasons, only a small percentage of sex offenders actually appear on any list. Thus, for a citizen to limit contact with registered offenders may slightly reduce the risk of a sex offense, but it does not guarantee safety.

Registration of sex offenders implies that these offenders are the most dangerous, whereas other types of offenders present similar or greater risks. How helpful is it for someone to know that a convicted sex offender lives next door, as compared to knowing that a neighbor is a convicted murderer, drug dealer, or armed robber?

Registration will encourage citizen vigilantism. For states where the registration list is public information, citizens may threaten and take action against offenders. The harassment also may be extended to family members of offenders.

Victim Consequences

If made public, a list of registered sex offenders could invade the privacy of victims. In cases of intra-familial sex offenses, a list of offenders also identifies likely victims. Thus, victim trauma may be increased.

Efficiency

Rather than expending public funds on registration, resources should instead be directed toward other criminal justice activities. A list of names and addresses of all convicted sex offenders is expensive to create and maintain. Funds could be more effectively used in areas such as treatment of incarcerated sex offenders, or intensive supervision of a small group of sex offenders.

OVERVIEW OF REGISTRATION LAWS

Sixteen states now have sex offender registration laws: Alabama, Arizona, Arkansas, California, Florida, Illinois, Maine, Minnesota, Montana, Nevada, Ohio, Oklahoma, Oregon, Texas, Utah, and Washington. Of these states, 11 have laws that were passed after 1985. States with the oldest laws are California, 1944, and Florida, 1957. Four additional states proposed sex offender registration laws in their 1992 legislative sessions: Alaska, Kentucky, Louisiana, and New Hampshire. A proposal now before Congress would establish a national index containing identifying information on persons convicted of child abuse crimes, including sexual abuse crimes.¹

Administration

Administration of the registry is generally overseen by a state agency such as the Department of Corrections, Institutions, or Probation and Parole. Local law enforcement often has a central role in collecting information and forwarding it to the administering state agency. Exceptions are Ohio, where all information is maintained at the local level, and Utah and Oregon, where the state is responsible for both the collection and administration of information.

¹U.S. House of Representatives, Conference Report 102-405, "Violent Crime Control and Law Enforcement Act of 1991," 102d Congress, 1st Session, November 27, 1991.

Information Collected and Time Periods

Generally, states obtain an offender's name, address, fingerprints, photo, date of birth, identification numbers, and criminal history information at the time of registration. In some states, fingerprints and photographs are already on file with the administering department, so other information is simply updated. Oklahoma collects more extensive information because their Department of Corrections was authorized to request any information necessary to track an offender upon release. Thus, they can record the offender's employment history, vehicle information (make, model, tag number), residence history, and intended length of stay at a particular residence. Two states collect DNA information; California collects blood and saliva samples, and Illinois is beginning to collect blood samples upon registration.

The amount of time an offender is given to register, upon sentencing or release, ranges from "immediately" to a maximum of 30 days. Five states grant a full 30 days, and the remainder require the offender to register within 14 days or less.

The duration of registration requirements varies from 10 years to life. In Texas, the requirement ends when released from parole. In Utah, the requirement extends five years beyond parole or discharge from supervision. In Minnesota, the requirement begins 14 days after release from supervision, then extends 10 years beyond the effective date. Eight states have a lifetime provision. In some states, the requirement varies depending on the severity of the crime.

Access to Registries

Most states make lists of registered offenders available only to local law enforcement, investigating agencies, and other specific agencies or school districts. In Washington State, law enforcement is given authority to release "relevant information" about sex offenders, and the list of registered offenders is considered public information; some newspapers print the names of offenders registered in their counties. In Ohio, the information is also public; however, the records are kept at the local level by county officials. Oregon allows limited release of information to victims who certify their status with the state, and information is released only about their specific assailant. In Montana, where the law does not specifically prohibit the release of information, the public has not-to date-requested access to the registry from state or county officials.

Notification Programs and Criminal Background Checks

Concurrent with registration laws, legislators have passed other measures designed to protect communities from convicted offenders. These include notification programs and criminal history background checks. Notification programs can be directed at three different audiences: 1) victims and witnesses connected to specific offenders, 2) law enforcement, and 3) citizens in a particular neighborhood or community. Some states allow victims and witnesses to enroll in a program which lets the individual know where the offender is located during confinement, and where and when the release occurs. Other states instruct the department of prisons or parole to inform local law enforcement

when an offender believed to be dangerous is released from prison and intends to reside in a specific community.

In Washington State, notification programs are expanded beyond these groups. Washington's law, known as "community notification," authorizes law enforcement to release "relevant" information about convicted sex offenders to the public.⁴ The notification activities have included front-page news articles, flyers and posters, and canvassing of neighborhoods.

In many states, criminal history background checks are required when individuals apply for jobs or volunteer positions that involve interaction with children. In some states, these background checks are linked with sex offender registries (California and Washington). Other states do not have this capacity either because the systems are administered independently, or because state confidentiality laws prohibit dissemination of registration information.

Juvenile Registration

Most states with registration laws require registration of juveniles only if they are convicted under adult statutes. States that routinely seal or destroy juvenile records are generally unable to impose a registration requirement upon juveniles because of confidentiality laws. In Ohio, for example, registration of juveniles is not considered viable for this reason. Even the fingerprinting of juveniles is prohibited unless a judge's signature appears on the back of the fingerprint card. Thus, the administrative complexities of collecting identification information are considered prohibitive.

Only three states, California, Montana, and Washington, have imposed a registration requirement on juvenile sex offenders. Washington registers juveniles and keeps records indefinitely, requiring both adult and juvenile Class A felony sex offenders to register for life, Class B sex felons for 15 years following release, and Class C sex felons for 10 years. California registers serious juvenile sex offenders, but drops the requirement when the offender reaches 25 years of age. Montana required juvenile sex offenders to register with the passage of 1989 legislation, but because juvenile records are confidential in Montana, application of the law to juveniles has not been enforced.

Legal Challenges

Sex offender registration laws have been subject to legal challenges in at least four states (Arizona, California, Illinois, and Washington).⁵ In the majority of cases, the courts have found that registration is not a form of punishment and, therefore, is not subject to the Eighth Amendment prohibition against cruel and unusual punishment. Where registration has been examined as a form of punishment, the courts have found it not to be cruel

⁴Revised Code of Washington, 4.24.550(1).

⁵National Center for Missing & Exploited Children, "The Constitutionality of Statutes Requiring Convicted Sex Offenders to Register with Law Enforcement," January 1992.

and unusual. Challenges on the basis of due process and equal protection also have failed. Registration has not been found to unreasonably infringe on the defendant's rights to travel or privacy.

Costs

Some states were at an advantage when implementing their laws because existing electronic systems were easily adapted to accommodate registration information. Other states created entirely new information systems. The costs of implementation in states with existing systems was nominal (Oklahoma and Oregon). In Washington State, where a new system was created in 1990, the state initially paid \$39,000 for special equipment. Annual costs in Washington now approach \$100,000 per year for registration, most of which is paid to local sheriff's departments to offset administrative costs.

Noncompliance: Penalties Vary

Penalties for noncompliance range from misdemeanors to lesser felonies. Utah imposes a mandatory confinement of 90 days and one-year probation for noncompliance. Other states impose confinement of one to five years, or a fine of up to \$1,000. California increases the severity of the penalty each time the person fails to register--the first failure is a misdemeanor and the third a felony.

Updating Addresses

Addresses must be updated in order for the registry to maintain its usefulness to law enforcement and the public. Most states rely upon offenders to notify authorities of all new addresses; the offender generally has 10 days to notify of any change in address. Oregon adds a requirement that offenders affirmatively update their addresses once a year. The Federal Violent Crime Control and Law Enforcement Act of 1991, now before Congress, also carries a provision for annual verification.⁶

ORIGINS OF FOUR STATES' LAWS

Sex offender registration laws are frequently passed in states after a particularly brutal sex offense occurs. Examples in four states follow.

⁶U.S. House of Representatives, Conference Report 102-406, "Violent Crime Control and Law Enforcement Act of 1991," Subtitle C--"The Jacob Wetterling Crimes Against Children Registration Act." On each anniversary of a person's initial registration date, the offender is mailed a non-forwardable verification form to the last address on file. The offender is required to sign and return the form within 10 days of receipt verifying they still reside at that address. If the person fails to return the form, they are in violation of the law unless they can prove they still reside at the same address.

Washington:

In June 1989, a seven-year-old Tacoma boy was brutally assaulted, stabbed, and had his penis severed by a man with a long record of violent assaults on children. In the previous year, a woman was brutally raped and murdered in downtown Seattle by a twice-convicted sex offender on work release from prison. Both incidents sparked widespread outrage that the criminal justice and mental health systems did not adequately protect citizens from sex offenders.⁷ The governor responded by appointing a Task Force on Community Protection which recommended a comprehensive law passed by the Washington State Legislature in 1990. The law carried many new provisions, one of which was sex offender registration.

Montana:

In 1988, a sex offender was released from a Montana state prison where he served approximately three and one-half years of a five-year sentence for molesting a 13-year-old boy in the town of Libby. During his incarceration, the offender reported fantasies of raping a small, blond-headed boy when released, saying he wanted to "get even with the town of Libby."⁸ Less than 10 weeks after his release, the offender left the body of a small, eight-year-old blond boy, sexually molested, beaten, and choked in the underbrush near the Libby cemetery.⁹ Spurred by the brutal murder, the Montana legislature passed a sex offender registration law in 1989. In a letter to Senator Eleanor Vaughn dated January 15, 1989, supporters of the bill stated, "We feel that if the provisions in this bill had been law, perhaps this terrible tragedy would have been avoided."¹⁰

New Hampshire:

In 1991, a 75-year-old New Hampshire widow was raped twice and bound up naked with a telephone cord by a convicted sex offender. Upset that her perpetrator's crime was plea-bargained to a reduced charge, the woman went national with the story. She appeared on the Oprah Winfrey show, and caused sufficient concern that the governor appointed an ad-hoc committee to address the issue of sexual assault.¹¹ Three of the committee's recommendations are now before the New Hampshire Legislature. If passed, the laws will lengthen sentences of convicted sex offenders, integrate training into police and judicial system programs, and require sex offender registration.

⁷Jon R. Conte et al., "An Evaluation of State Services to Victims of Sexual Assault," Washington State Institute for Public Policy, June 1991.

⁸"Lawsuit: State Failed to Treat Sex Offender," *The Missoulian*, March 17, 1989.

⁹Moira Andrews, "Child Killer Gets 200 Years," *The Missoulian*, March 8, 1988, pp. 1-2.

¹⁰Jane L. Bain, Doris M. Davis, Velva Shaver, Earl F. Balne, Linda J. Meyer, Exhibit Number 3 to the Senate Judiciary Committee, January 30, 1989.

¹¹Representative Alice Ziegler, telephone conversation with Barbara Felver, March 18, 1992.

Maine:

The town of Gorham, Maine, enjoys one of the lowest per capita crime rates in Cumberland County, even though it lies within the largest metropolitan area of the state. But since 1989, the small town of 11,900 citizens has experienced six incidents involving convicted sexual offenders who sexually assaulted children. In a letter addressed to the House of Representatives in March 1992, Gorham Chief of Police Edward J. Tolan stated, "While the state of Maine does an excellent job in identifying persons convicted of Operating Under the Influence of Intoxicating Liquor, we have no law in place to track convicted sexual offenders."¹² The Maine Legislature passed a sex offender registration law in April 1992.

EVALUATING REGISTRATION LAWS

To date, evaluations of registration laws have been limited. Except for a few states (California, Florida, Nevada, and Ohio), most of the laws were recently enacted and have not been evaluated. Only California and Washington have produced written evaluations. A 1988 study by the California Department of Justice found that adult sex offenders released from prison in 1973 and 1981 had compliance rates of 54 and 72 percent, respectively.¹³ In 1991, the compliance rate for adult sex offenders in Washington State was calculated at 76 percent.¹⁴ In these two states, three out of every four sex offenders required to register actually did register. This compliance rate is much higher than is usually predicted by critics of registration laws.

Significantly, high rates of voluntary compliance are not essential for a registration law to have law enforcement benefits. If a complete list of released sex offenders who *should* have registered is routinely produced by the state prison system, then law enforcement can affirmatively pursue those not in compliance, or wait to pursue charges if individuals come to the attention of law enforcement. In several Washington State counties, local authorities are conducting thorough background checks on all released offenders and using the information--regardless of compliance--as an investigative tool.

In addition to measuring compliance, California has studied the recidivism rates of sex offenders, and has examined the extent to which registration actually assists in the investigation of sex crimes. A 15-year follow-up study was conducted of sex offenders first arrested in 1973. Nearly half (49 percent) of this group were rearrested for some type of offense between 1973 and 1988, and 20 percent were rearrested for a subsequent sex offense. Those whose first offense was rape by force or threat had the highest recidivism rate--64 percent for any offense and 25 percent for a subsequent sex offense.

¹²Edward J. Tolan, Chief of Police, Town of Gorham, letter to Representative Anne Larriver, House of Representatives, March 4, 1992.

¹³California Department of Justice, "Effectiveness of Statutory Requirements for the Registration of Sex Offenders," 1988.

¹⁴Washington State Institute for Public Policy, "Sex Offender Registration in Washington State: Compliance, 1991," January 1992.

Based on the responses of 420 criminal justice agencies, the California study found that a large proportion of criminal justice investigators believe the current registration system is effective in locating sex offenders and apprehending suspected offenders. For this reason, the vast majority of those surveyed believed the registration requirement should be continued. About one-half of the respondents believed that registration deterred offenders from committing new sex crimes.

SUMMARY

Sex offender registration has been adopted by one-third of the states as a means of increasing community protection from sex offenders living in the community. These laws are justified on the grounds that they assist in law enforcement investigation, deter new crimes, and allow citizens to protect themselves from known offenders. Many people argue that registration is ineffective, a waste of resources, and inconsistent with a society dedicated to protecting individual liberties. Although no research has yet quantitatively measured the broad issue of effectiveness, relatively high rates of voluntary compliance have been found in California and Washington. Legal challenges to registration laws in four states have resulted in decisions that have up-held their constitutionality.

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THE CONSTITUTIONALITY OF STATUTES REQUIRING CONVICTED SEX OFFENDERS TO REGISTER WITH LAW ENFORCEMENT

As of December 1992, twenty-two states had passed legislation requiring persons convicted of certain crimes and/or certain enumerated sex offenses to register with the local and state police. The person required to register must usually provide his name and address within one week of arriving in the jurisdiction.¹ With the exception of three cases, one involving no children and a misdemeanor charge, another involving a prior statutory rape charge which invoked registration, and one involving a legislative oversight in drafting the statute, all challenges to these state laws have been upheld. For example:

Recently in Arizona v. Lammie, 793 P.2d 134 (Arizona 1990) the state Court of Appeals upheld the state statute requiring convicted sex offenders to register despite the fact that the defendant's conviction was for an attempted sexual assault, an offense not specifically mentioned in the registration statute. In Lammie the defendant confessed to sexually assaulting a mother and her 17 year old daughter after having gained access to their home at knife point. However, the defendant was convicted of the lesser included offense of attempted sexual assault due to a plea bargain. In upholding the statute the Court found that lifetime registration was not unduly harsh punishment and was not "cruel and unusual punishment" prohibited by the Eighth Amendment. "Registration for lifetime places a defendant on notice that when subsequent sexual crimes are committed in the area where he lives, he may well be subject to investigation. This may well have a prophylactic effect, deterring him from future sexual crimes. Furthermore it is a proper tool to be given to police officers for use in investigating criminal offenses." Id., at 139-140.

One year later the Arizona Court again addressed a constitutional challenge to registration. In State v. McCuin, 808 P.2d 332 (Ariz.App.1991) the court upheld the statute even though it was applied retroactively to a defendant who pled guilty to two felony counts of engaging in sexual conduct with his minor daughter. He was sentenced to a term of imprisonment on one count and placed on probation for the second. A condition of the probation was that he register as a sex offender. The registration statute had been enacted after his illegal conduct. The court

¹ Ala. Code § 13A-11-200 to 13A-11-203; Ariz. Rev. Stat. Ann. § 13-3821 to 13-3824; Ark. Stat. Ann. § 12-12-901 to 12-12-909; Cal. Penal Code § 290 and 290.2; Col. Rev. Stat. § 18-3-412.5; Fla. Stat. Ann. § 775.13; La. Rev. Stat. Ann. Tit. 15 § 540; Ill. Rev. Stat. ch. 38, para. 221 to 230; Me. Rev. Stat. Ann. Title 34A § 11001; Minn. Stat. § 243.166; Mont. Code Ann. § 46-18-254 and § 45-23-501 to 507; Nev. Rev. Stat. § 207.151 to 207.157; N.H. Rev. Stat. Ann. § 213:1; N.D. Cent. Code § 12.1-21-18 et seq. (adult victim), & § 12.1-32-15 (child victim); Okla. Stat. Code Ann. § 2950.01 to 2950.08; Okla. Stat. ch. 8B § 581 to 587; Ore. Stat. § 181.518 to 181.519; R.I. Gen. Laws § 11-37-15; Tenn. Code Ann. § 38-6-110; Tex. Penal Code Ann. Title 110A Art. 6253-13c.1; Utah Code Ann. § 27-21.5; Wash. Rev. Code, §§ 9A.44.130 & 9A.44.140.



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~~sexual conduct with his minor daughter. He was sentenced to a term of imprisonment on one count and placed on probation for the second. A condition of the probation was that he register as a sex offender. The registration statute had been enacted after his illegal conduct. The court ruled that the statute was regulatory in nature not penal and served a legitimate government purpose by providing assistance to law enforcement officials in investigating sexual offenses. In addition, the court concluded the statute did not affirmatively prohibit or restrain an offender's movement or activities and therefore was not punitive.~~

In Illinois v. Taylor, 561 NE 2d 393 (Ill. App.4 Dist. 1990) an Illinois Appellate Court upheld a lower court's certification of a defendant as a habitual child sex offender several months after sentencing. The defendant had challenged the law arguing that (1) the trial court lost jurisdiction 30 days after sentencing and (2) he was not advised of the certification provision prior to pleading guilty. In upholding this defendant's certification as a habitual child sex offender, the Appellate Court held that such certification was an administrative court function over which the court does not lose jurisdiction. The certification is not punishment and therefore is not part of the sentencing procedure. The Act requiring registration is for the protection of the general public from those prone to sex offenses against children. Id.

In another Illinois case, Illinois v. Adams, 555 NE 2d 761 (Ill. App.2 Dist. 1990) the defendant appealed the order of the Circuit Court finding him to be a habitual child sex offender and subject to the registration requirement. The Court held that (1) registration was not punishment for Eighth Amendment purposes, (2) that even if it were considered punishment, it was not "cruel and unusual" punishment and (3) the registration requirement for sex offenders under the act did not violate due process or equal protection. If the statute under consideration affects a fundamental right or discriminates against a suspect class, legislation will be subjected to a strict scrutiny analysis; however where neither is involved, the proper standard for judging the statute's validity is a rational basis test. Here the registration requirement did not affect any fundamental right, nor did it implicate any right of privacy since it mandated confidentiality. The Court also stated it failed to see how the registration requirement affected the defendant's right to travel or any other fundamental right. Id., at 768.

The Court also found no equal protection problems. The legislative purpose of enacting this Act in Illinois was to protect children from sex offenders and aid law enforcement. The registration of habitual child sex offenders is rationally related to the legitimate purpose of protecting children and in so doing keep local police authorities abreast of potential threats to children of a particular community which might be posed by the presence of a child sex offender.

These two cases are distinguishable from Illinois v. Rogers, 555 NE 2d 53 (Ill. App.2 Dist. 1990) where the Circuit Court, after certifying the defendant as a habitual child sex offender, was overruled by the Appellate Court which held that defendant did not fall within the registration act. The defendant's prior act which would have brought him under the statute was a charge of contributing to the delinquency of a child which was based on an allegation that he had sexual intercourse with a 15-year old girl when he was 17 years old. The Appellate Court held that the earlier conviction under the 1984 statute which was no longer the law and which

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was a misdemeanor did not qualify defendant to be included as a Habitual Child Sex Offender.

Several decisions have been rendered in California which have also upheld the validity of its sex offender registration statute. In People v. Mills, 146 Cal.Rptr. 411 (1978) the Court upheld the statute requiring registration of enumerated sex offenders. The Court found that the statute was not unconstitutional as cruel and unusual punishment, that it did not violate the equal protection clause and that neither the defendant's right to privacy nor his right to travel were impeded. Mills held that the requirement to register was not disproportionate to the offense committed. "Registration - viewed apart from the crime committed by Mills - is not by any stretch of reason or common experience to be placed in a category of severity with the imposition of the death penalty, or a prison term for petty theft or for acts subsequently declared noncriminal by the Legislature." Mills, at 415. Contrary to other cases that have found no interference with the defendant's right to travel or his right to privacy upon registration, the Mills Court did find a deprivation of these rights. However the Court found the deprivations reasonable and the defendant's arguments without merit. "Any person ... who physically molests, in a sexual sense, a seven year old child, has waived any privacy right and may absolutely forfeit for a considerable time ... his right to travel." Mills, at 417. The Court here also found a rational basis for the collection of sex offender registration information. The retention of such information and its public availability to some extent may invade a defendant's right to privacy, yet was held to be a proper exercise of the state's fundamental right to enact laws which promote public health, welfare and safety.

The California Supreme Court held in In re Reed, 663 P.2d 216 (Cal.1983) that the mandatory registration of sex offenders convicted of misdemeanor disorderly conduct violates the cruel and unusual provision of the state constitution. The defendant was convicted of a misdemeanor for soliciting "lewd and dissolute conduct" from an undercover vice officer in a public restroom. The rationale of the Court for not applying the registration requirement was that the Court did not feel that this defendant posed a serious danger to society for which registration was a proper sanction. The consensual nature of the behavior without any coercion or violence and the fact that no children were involved seemed to play an important role in the Court's decision.

More recently however, a California Court of Appeals held that a defendant who was convicted of masturbating in front of two young boys had to register even though the conviction was a misdemeanor. In In re DeBeque, 260 Cal.Rptr. 441 (Cal.App.4 Dist. 1989) the court recognized that the object of the misdemeanor registry statute "is to protect children from sex offenders and to permit apprehension and segregation of such offenders." The legislation as applied to this misdemeanant was proper because children are a class of victims who require paramount protection and the purpose of the law is to make certain that persons convicted of such a crime as molestation of children shall be readily available for police surveillance.

Four years before DeBeque, a California Appellate Court in People v. Tate, 210 Cal.Rptr.117 (Cal.App.5 Dist. 1985) disagreed with a trial court order that the defendant did not have to register. The defendant there had been charged with lewd and lascivious acts upon a child

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under the age of 14 years, enhanced by the fact that the child was under the age of 11 years and that the defendant occupied a position of special trust. Defendant was convicted of annoying or molesting a child under the age of 18 years in a *nolo contendere* plea. The appellate court held that the registration requirement for annoying or molesting a child under age 18 years is valid and the trial court erred in ordering that the defendant not register.

Also in People v. Monroe, 215 Cal.Rptr. 51 (Cal.App.5 Dist. 1985) the Court noted that great deference is paid to legislation designed to protect children who all too frequently are helpless victims of sexual offenses. Here the defendant who had been convicted of child annoyance and molestation filed a petition seeking to strike the requirement that he register as a sex offender. The registration requirement was upheld. However, in People v. Saunders, 284 Cal. Rptr. 212 (Cal.App.5 Dist. 1991) the court overturned the registration requirement because of what appeared to be a legislative oversight. The statute listed some of the specific offenses which triggered the registration requirement, but omitted the particular offense to which the defendant had pled guilty. Although the court pointed out several inconsistencies in the offenses requiring registration that indicated the omission of the defendant's offense was an oversight, they stated the language of the statute was unambiguous and struck down the registration requirement for Saunders. The California Legislature amended the language immediately after the court's decision to correct the problem.

Conclusion

The consensus of the cases examined above upholding mandatory registration of sex offenders is that registration is not a form of punishment and therefore is not subject to the Eighth Amendment prohibition against cruel and unusual punishment. Where courts have examined registration as a form of punishment and subject to the Eighth Amendment, it has not been found to be cruel and unusual punishment. Due process and equal protection challenges have also failed with findings that neither a defendant's right to privacy nor his right to travel have been unreasonably infringed by the requirement to register.

The cases point out, though, a need to include attempted sexual assaults and convictions for crimes such as criminal child enticement. In some cases the courts have had to look at the legislative intent of the registration statutes to determine whether a particular defendant had to register even though the actual crime he was convicted of was not enumerated in the registry statute. Consideration should probably be given to whether attempts and enticement ought to be included within the purview of a registration statute.

EFFECTIVENESS OF STATUTORY REQUIREMENTS FOR THE REGISTRATION OF SEX OFFENDERS

A Report to the
California State Legislature



A Study by
Roy Lewis, Research Program Specialist

CALIFORNIA DEPARTMENT OF JUSTICE
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Executive Summary

Senate Bill 888 (Seymour), which passed in 1985, mandates that the Department of Justice study the effectiveness of statutory requirements for the registration of sex offenders. In order to measure the effectiveness of sex registration in California, the Department designed a study to determine: (1) the level of compliance in California with sex registration requirements, (2) the recidivism patterns of sex offenders, and (3) the extent to which sex registration assists in the investigation of sex crime cases.

Compliance

Compliance among a group of convicted sex offenders in 1973 and another group of convicted sex offenders in 1981 was examined by using complementary data sources. Compliance was found to range from a low of 54 percent among the 1973 group to a high of 72 percent among the group from 1981. While the compliance rate has improved, it still falls short of acceptable levels.

Another level of analysis measured compliance of those released from prison in 1981. Among this group, compliance was higher at nearly 89 percent. Since the 1973 and 1981 groups included offenders receiving local dispositions (e.g., probation, jail, jail and probation, etc.), it is concluded that compliance of those released from jails is considerably lower.

Recidivism

To evaluate the recidivism patterns of sex offenders, the Department conducted a 15-year followup of sex offenders first arrested in 1973. An analysis of subsequent arrests over the 15-year period (1973-1988) found that nearly half (49.4 percent) were rearrested for some type of offense and almost twenty percent (19.7) for a subsequent sex offense. Sex offenders whose first arrest was for rape by force or threat had the highest recidivism rate, 27.8 percent for any offense and 25.2 percent for a subsequent sex offense.

Investigative Assistance

To measure the extent to which sex registration assists in the investigation of sex crime cases a survey of all law enforcement agencies and a sample of other criminal justice agencies was conducted. Six-hundred-and-eighty-two (682) questionnaires were sent to police and sheriff's departments, county probation departments, county district attorneys, and state parole offices. Four-hundred-and-twenty (420) questionnaires were returned to DOJ, thus giving a sample return of 61.6 percent. This is an excellent response rate and reflects confidence in the findings of this survey.

The two major findings of the survey were that nearly 97 percent of law enforcement respondents believe that sex offenders should be registered in California and 83 percent believe that the sex registration process aids in the apprehension of suspected sex crime offenders. The responses given by other criminal justice agencies were quite similar.

Despite the strong support for registration and the value the registration process has to investigation the survey results indicated that a number of problems exist with the current system. Similar problems were identified across every type of criminal justice agency.

Seven major problems were identified, including (1) lack of time and manpower at the local agency level to devote to enforcement of sex registration requirements, (2) lack of a statewide automated sex registration system and up-to-date information, (3) lack of a statewide M.O. (modus operandi) information system on sex registrants, (4) lack of knowledge or cooperation on the part of the offender to register and/or provide law enforcement with address changes, (5) lack of training and familiarity with the sex registration system, (6) lack of punishment for sex registration violators, and (7) lack of information sharing among criminal justice agencies in general.

Conclusions

Based on the findings of this study, three major conclusions were reached:

1. Approximately three out of every four sex offenders in recent years required to register in fact become registered.
2. Sex offenders as a group are highly recidivistic, particularly among those who commit rape.
3. Although there is widespread support for registering sex offenders, there is a need for improving the system.

Problems/Recommendations

Based on the seven major problem areas identified in the survey, the following are recommendations for improving the sex registration system in California:

1. Lack of time and manpower at the local agency level to devote to enforcement of registration requirements.

The Department can assist local agencies with awareness programs on the sex registration process, and the services available through the Sex Registration Unit. The Department will continue to do this through information bulletins and training programs.

2. Lack of a statewide automated sex registration system and up-to-date information.

Efforts directed towards development of statewide automated capabilities are under way in two areas. If SB 2282 (Presley) passes, it will require the Attorney General to establish and maintain a Violent Crime Information Center to assist in the identification and apprehension of persons responsible for specific violent crimes. The Center includes an Investigative Support Unit and a statewide automated Violent Crime M.O. system to facilitate the identification and apprehension of persons responsible for violent felonies. Sex offenses are to be included in the system.

A second area is creation of the Serious Habitual Offender Project (SHOP). This project is proposed as legislation in SB 2334 (Lockyer). If approved, this bill will require the Department of Justice to conduct a five-year pilot project in ten bay area counties. It will create a file of serious habitual sex offenders and require the Department to distribute information in a timely fashion to law enforcement agencies, correctional institutions, probation/parole departments, prosecutors, and courts so they can aggressively and effectively identify, arrest, and convict sex crime offenders.

3. Lack of a statewide M.O. (Modus Operandi) information system on sex registrants.

SB 2282 (Presley) will require the Attorney General to establish and maintain a Violent Crime Information Center as reported in number 2 above. The Center will establish an Investigative Support Unit and an automated violent crime M.O. system.

4. Lack of knowledge or cooperation on the part of the offender to register and/or provide law enforcement with address changes.

The Department of Justice is committed to exploring other avenues for a more effective system to get sex offenders registered in California. Such an exploration will include studying the possibilities of accomplishing registration at other stages in the criminal justice process, such as by the courts upon sentencing of an offender or later by probation departments. If the current system of registration remains unchanged, the Department will explore ways to better communicate sex registration requirements, especially to local jails where the greatest problems of registration exist.

5. "Lack of Training" and familiarity with the sex registration process.

The Department will continue to emphasize the use of bulletins, and training programs. DOJ is presently preparing a detailed users guide which will prove very useful to local sex crime investigators.

6. Lack of appropriate punishment for sex registration violators.

During the last session of the Legislature, several bills were introduced to improve sex registration and/or assist in investigating sex crimes in California (i.e., SB 2282 - Presley, AB 1975 - Ferguson, AB 2037, La Follette, AB 2396, Stirling, SB 761, Deddeh, and SB 1283, Royce).

SB 2282 (Presley) as mentioned, requires the Attorney General to establish and maintain a Violent Crime Information Center. SB 761 (Deddeh) would reduce the period within which a person must register when entering a new jurisdiction. SB 1283 (Royce) would provide for enhanced fines for failure to register, would require probation and parole officers to ensure that their clients properly register and would provide for increased periods of probation and parole for specified sex offenses. AB 1875 (Ferguson) would require a study analyzing the use of computerized state income tax returns and drivers' license data as a means of verifying and updating the addresses of sex offenders. AB 2037 (La Follette) would raise the penalty for failure to register to provide for a potential felony punishment and would authorize the employment of private contractors to verify sex offender registration records. Finally, AB 2396 (Stirling) would make additional sex offenses registrable and would authorize limited registration for persons convicted of misdemeanor indecent exposure.

Only SB 2282 and AB 2037 are currently pending before the Legislature.

7. Lack of information sharing among criminal justice agencies in general.

It is recommended that local agencies on a county or regional basis develop a local task force on sex crimes to coordinate information sharing and investigative activities. Should the Serious Habitual Offender Program be implemented, it could serve as a model program. Through its outreach activities, the Department Sex Registration Unit will continue to encourage formation of these types of programs at the local level.

SECTION I: INTRODUCTION

A. Background

Since July 1, 1947, individuals convicted in California of a registrable sex offense have been required to register for life under Section 290 of the Penal Code. A person must register if, since July 1, 1944, that person has been convicted of sex registrable offenses such as rape, sodomy, molestation, incest, etc. A person determined to be a mentally disordered sex offender or convicted in any other state of offenses is also required to register. Registration with a local law enforcement agency must occur within 14 days after moving into any city and/or county in which the offender resides or is temporarily domiciled. If an individual subsequently changes his/her address, he/she is required under the law to keep the local law enforcement agency aware of the change of residence. In turn, the police department or sheriff's office which has jurisdiction over the subject's place of residence must submit all updated information to the Department of Justice (DOJ) Sex Registration Unit.

Upon receipt of completed registration forms, the DOJ Sex Registration Unit places the information (registrant's physical description, photograph, convicted offenses, etc.) into its off-line computer system. This system is utilized by the Registration Unit to provide listings of suspects to agencies and assist in the investigation and prosecution of sex offenders.

B. The Case for Sex Registration

Sex registration is a process that is controversial. Opponents consider the process an unwarranted violation of an individual's rights. Others argue that sex registration is necessary for protecting society. Aside from the controversy, sex registration has assisted in the investigation of thousands of cases. Two recent cases of great importance have included cracking two major Orange County murder cases. One included William Bonin, the "Freeway Killer," who was identified as a suspect because of his registered sex offender status. Bonin is currently on death row for the murders of 14 victims. Another Orange County case in which the sex registration process aided in the solution involved Robert Jackson Thompson, convicted of the 1981 murder of a 12-year old boy.

C. Study Objectives

Senate Bill 888 (Seymour) was passed by the Legislature on October 2, 1985 and became law January 1, 1986. The bill requires the DOJ to:

- Study the effectiveness of statutory requirements for the registration of sex offenders.
- Evaluate the registration of juveniles under 647a for the two years between 1-1-86 and 1-1-88.

A copy of the bill can be found in Appendix A.

D. Overview of Study Methodology

In order to evaluate the objectives listed above, the DOJ Bureau of Criminal Statistics and Special Services (BCS/SS) focused on three measures of effectiveness. These measures included: (1) compliance or the extent to which those required to register in fact do register as sex offenders, (2) recidivism in order to describe patterns of offending among sex offenders, and (3) information utilization by local law enforcement investigations.

The methods used to measure effectiveness included:

Compliance. Three different data files were used, including a file of offenders released from prison in 1981, and two DOJ OBTS files for the years 1973 and 1981. Each of these three files

was compared to the Department of Justice Sex Registration file to estimate the degree of compliance with sex registration.

Recidivism. A study was conducted of recidivism patterns of sex offenders over a 15-year period and compared to other types of offenders.

Information Utilization. A survey was conducted of criminal justice agencies in California to assess how information about sex offenders is used, the value of the sex registration process, problems with the system, and suggestions for improvement.

SECTION II: FINDINGS ON SEX REGISTRATION COMPLIANCE

A. Background

This section deals with compliance or the extent to which individuals required to register as sex offenders are entered on the California DOJ Sex Registration File and the degree to which address information is kept up-to-date.

Under the law, confining institutions (prisons, jails, mental institutions) are required to inform a sex offender of his responsibility to register. Upon release the sex offender is required to report within 14 days to the local law enforcement agency having jurisdiction over the offender's place of residence. Once the offender is registered, a copy of the registration, two photographs and two fingerprint cards are required to be forwarded to the DOJ. Once the documents are received, the Department of Justice Criminal History System and Sex Registration File are updated.

B. Findings

In order to estimate the degree of registration compliance, data on the Sex Registration File were compared with two years (1973, 1981) of the Offender-Based Transaction Statistics (OBTS) File on individuals who had been convicted of sex registrable offenses. Only 54.3 percent of those with the longest follow-up period (i.e., 1973 cohort) were found on the Department's Sex Registration File. However, among those convicted in 1981 the data showed compliance at 72.2 percent. Over this eight year period compliance increased nearly 20 percentage points. While 72 percent shows improvement, full compliance is not an unreasonable goal.

Using another source of data from the Department of Corrections, compliance among those released from prison in 1981 was examined. Data showed that those released from prison had the highest rate of compliance, i.e., 85 percent. These data suggest that jails have the greatest need and opportunity to improve notifying sex offenders of their responsibility to register.

Another aspect of compliance is the degree to which address information on sex offenders is kept up-to-date. Based upon the criminal justice agency survey results, criminal justice agencies felt that the current system of sex registration in California is effective in following the whereabouts (residence address) of sex registrants. However, in the problem identification section of the survey, lack of up-to-date address information was considered a major problem of the system. Although findings are contradictory, the survey and other indicators suggest that address compliance is probably quite poor. Sex offenders, like other types of offenders are a mobile group and, given the inconsistent approach to offender registration, it is unlikely that offenders more likely to offend are those keeping their residence address information up-to-date with law enforcement.

SECTION III: RECIDIVISM OF SEX OFFENDERS

A. Background

One of the most critical questions surrounding sex registration is the recidivism of sex offenders. Presumably the more recidivistic a group the greater the need for monitoring their activities.

Recidivism thus addresses the issue of appropriateness for registration. Basically, this analysis focused on how specific types of sex offenders differ with respect to recidivism. Recidivism for purposes of this study refers to the number of subsequent arrests and charges that occurred in a group of individuals first arrested in 1973 for a sex registrable offense. To look at this pattern, offenders whose first arrest for a sex registrable offense occurred in 1973 were selected and their subsequent offense history was followed for 15 years (i.e., 1973-1988).

B. Findings

Sex Offender Recidivism Patterns

A total of 1,362 sex offenders whose first arrest occurred in 1973 were analyzed. The data in Table 1 shows that nearly half or 49.4 percent did recidivate over the 15-year followup period. The data also show that 19.7 percent of this group went on to recidivate with a subsequent sex registrable offense. Among those whose first arrest was for rape, 25.2 percent subsequently went on to commit a sex registrable offense.

TABLE 1
RECIDIVISM PATTERN BY TYPE OF SEX OFFENSE

Type of initial offense	Recidivism pattern		
	Did not recidivate	Any criminal offense	Did recidivate With subsequent sex offense
Total = 1,362	50.6	49.4	19.7
Rape (attempted) (N=129)	43.4	56.6	23.3
Rape (by force or threat) (N=318)	36.2	63.8	25.2
Incest, sodomy, oral copulation, lewd and lascivious behavior (N=462)	58.4	41.6	17.7
Indecent exposure, annoying or molesting, loitering in or about toilet, etc. (N=453)	54.7	45.3	16.8

Comparison with Other Offenders

In Table 2, patterns of recidivism are compared between sex offenders (described in Table 1 above) and other offenders whose first arrest was for some other type of offense (e.g., violent, property, drugs, other). The data show that the recidivism rate of sex offenders is quite similar to those whose first arrest was for property or drug offenses, all at the 49th percentile.

However, it can be observed in Table 2 below that approximately one out of every five sex offenders (19.7 percent) in the study recidivated with a subsequent sex offense. By comparison, for those offenders whose first arrest was for a drug offense, only 1.6 percent recidivated with a sex offense. Of those whose first arrest was for a property offense, approximately 2.7 percent recidivated with a sex offense. For violent offenders approximately 3.7 percent recidivated with a sex offense and for all other offenders combined, approximately 3.0 percent recidivated with a sex offense.

Sex offenders who recidivated were approximately 5 to 12 times more likely to recidivate with a subsequent sex offense than were other types of offenders.

TABLE 2
RECIDIVISM PATTERNS BY OFFENSE GROUPINGS

Type of initial offense	Did recidivate		
	Did not recidivate	Any criminal offense	With subsequent sex offense
Total = 68,981			
Sex offenses (1,362)	50.6	49.4	19.7
Violent (9,394)	41.2	58.8	3.7
Property (22,417)	51.0	49.0	2.7
Drugs (11,324)	50.6	49.4	1.6
All other (24,484)	34.0	66.0	3.0

In conclusion, sex offenders do not differ significantly in terms of overall recidivism from most other types of offenders. However, among sex offenders in the study, there was a significant proclivity toward recommitting sex offenses. In fact, the analysis revealed a particular amount of specialization in the offender groupings.

SECTION IV: RESULTS OF CRIMINAL JUSTICE AGENCY SURVEY

A. Introduction

A survey of criminal justice agencies was used to measure perceptions of the effectiveness of the sex registration process. Six hundred eighty-two (682) questionnaires were sent to police and sheriff's departments, county probation departments, county district attorneys, and state parole offices. Four hundred and twenty questionnaires were returned to the DOJ thus giving us a sample return of 61.6 percent (420 out of 682 questionnaires). The obtained sample size of 61.6 percent is considered to be representative of criminal justice agencies in California.

The survey results were organized into two areas: Assessment Evaluation Information and Problem Identification.

Emphasis in the survey focused on questions of how effective the system is viewed by all criminal justice agencies and the problems which various criminal justice agencies found with the sex registration process. The findings are presented in the following two sections (B and C).

B. Assessment Evaluation Information

The following addresses four questions common to all agencies and their responses.

Do you believe that the current system of sex registration in California is effective in preventing sex offenders from committing sex or other crimes?

Agency Type	Yes	No	No Opinion/Don't Know
Law Enforcement	23.2	51.5	25.3
Probation	18.6	48.8	32.6
State Parole	27.3	52.3	20.4
County DA's	25.0	53.1	21.9

In general, criminal justice agencies do not view sex registration as effective in preventing sex or other type of crimes.

Do you believe that the current system of sex registration in California is effective in following the whereabouts (residence address) of sex registrants?

Agency Type	Yes	No	No Opinion/Don't Know
Law Enforcement	62.9	28.8	8.3
Probation	59.5	31.0	9.5
State Parole	75.5	15.6	8.9
County DA's	68.7	18.8	12.5

The majority of criminal justice agencies believe the current system is effective in following the whereabouts of sex registrants.

Do you believe that the current system of sex registration in California is effective in following the whereabouts of sex offenders?

Agency Type	Yes	No	No Opinion/Don't Know
Law Enforcement	82.7	8.7	10.6
Probation	76.2	7.1	16.7
State Parole	86.7	8.9	4.4
County DA's	71.9	9.3	18.8

A large majority of criminal justice agencies believe that the current registration system is effective in aiding the apprehension of suspected sex crime offenders.

Do you believe sex offenders should be registered in California?

Agency Type	Yes	No	No Opinion/Don't Know
Law Enforcement	96.7	1.0	2.3
Probation	100.0	-	-
State Parole	95.6	2.2	2.2
County DA's	83.9	12.9	3.2

The vast majority of respondents to the survey believe that sex offenders should be registered in California.

Conclusion

The data suggest very strongly that the majority of respondents in criminal justice agencies believe that we should have sex registration in California, a large proportion believe the current system aids in the apprehension of suspected sex crime offenders, and is effective in following the whereabouts of sex registrants. However, approximately half of the respondents do not believe that the sex registration system is effective in preventing sex offenders from committing sex offenses or other crimes.

C. Problem Identification

Open ended questions were used to identify problems various criminal justice agencies raised about the sex registration process.

Seven major problem areas were identified by respondents to the survey. These problem areas included:

- Lack of time and manpower at the local agency level to devote to enforcement of sex registration requirements.
- Lack of a statewide automated sex registration system and up-to-date information.
- Lack of a statewide M.O. (Modus Operandi) information on sex registrants.
- Lack of knowledge or cooperation on the part of the offender to register and/or provide law enforcement with address changes.
- Lack of local agency training and familiarity with the sex registration system.
- Lack of appropriate punishment for sex registration violators.
- Lack of information sharing among criminal justice agencies in general.

Collectively, these identified problems were reported time and time again by the vast majority of respondents to the survey. Recommendations for addressing these problems are reported in the Executive Summary.

SECTION V: REGISTRATION OF JUVENILES UNDER 647a

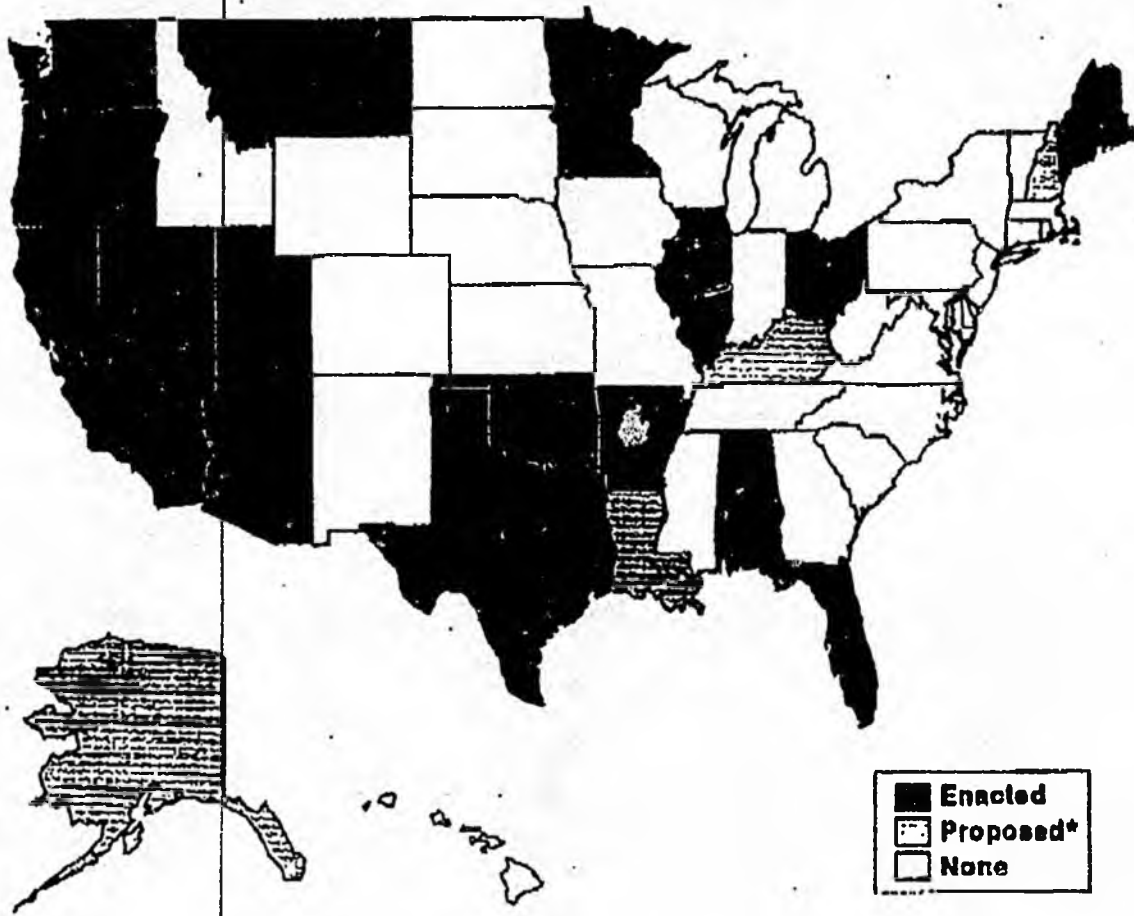
A. Background

SB 888 (Seymour, 1985) required the Department of Justice to conduct a study of sex registration law 647a as applied to juveniles committed to the California Youth Authority from the juvenile court. The registration law applied to those juveniles convicted of annoying or molesting a child under 18. The law stipulated that this registration requirement would sunset on January 1, 1988.

B. Findings

No assessment of the effectiveness of this registration law is warranted. Data from the California Youth Authority showed that only two juveniles were affected by the law, both of whom were still incarcerated in the CYA on January 1, 1988.

States With Sex Offender Registration Laws



**WASHINGTON STATE
INSTITUTE FOR
PUBLIC POLICY**

Community Protection Research Project
During 1992 state legislative sessions.* **April 1992

TABLE 1
States with Sex Offender Registration Laws*

STATE (Year Enacted)	TYPES OF OFFENDERS	INFORMATION COLLECTED	ADMINISTRATING AGENCY
<i>Alabama</i> (1987)	Adult sex offenders	Name and address only	State Department of Public Safety; local law enforcement
<i>Arizona</i> (1986)	Adult sex offenders	Fingerprints, photo, address, and other necessary identifying info	State Department of Public Safety; local law enforcement
<i>Arkansas</i> (1987)	Adult sex offenders convicted a second or subsequent time after 1987, whose victim is under 18	Fingerprints, photo, address, and other necessary identifying info	State Police; local law enforcement
<i>California</i> (1984)	Adult and juvenile sex offenders (juvenile info destroyed at age 25)	Fingerprints, address, photo, criminal history info, other necessary identifying info including blood and saliva samples	State Department of Justice; local law enforcement
<i>Florida</i> (1987)	All adult felony convictions for sex and non-sex crimes	Fingerprints, photo, address, and other necessary identifying info	State Department of Law Enforcement
<i>Illinois</i> (1986)	Adult felony offenders convicted of a second sex offense, whose victim is under 18	Address (fingerprints and other info is on file); will be collecting DNA soon	State Department of Police; local law enforcement
<i>Maine</i> (1992)	Adults convicted of gross sexual assault (Class A, B, or C felony)	Will be adopted with administrative rules	State Department of Public Safety
<i>Minnesota</i> (1991)	Adult sex offenders released from prison after August 1991 who have completed supervision	Fingerprints, photo, address, and other necessary identifying info	State Department of Corrections
<i>Montana</i> (1989)	Adult sex offenders	Address, date of birth, and description of offense (photo and fingerprints on file)	State Department of Institutions; local law enforcement
<i>Nevada</i> (1981)	Adult sex offenders	Fingerprints, photo, address, and other necessary identifying info	State Department of Probation and Parole; local law enforcement
<i>Ohio</i> (1993)	Adult sex offenders, after second conviction	Address, photo, and type of crime (fingerprints on file)	Local law enforcement only (state notifies)
<i>Oklahoma</i> (1989)	Adult sex offenders	Fingerprints, photo, physical description, date of birth, criminal history, employment, vehicle, length of residence and intended residence	State Department of Corrections; local law enforcement
<i>Oregon</i> (1989)	Adult sex offenders	Address, and description of offense (other info on file)	State Police
<i>Texas</i> (1991)	Adult sex offenders (except innocent exposure)	Address, name, type and date of conviction, vehicle license number, blood type	State Department of Public Safety; local law enforcement
<i>Utah</i> (1988)	Adult sex offenders	Address, name, vehicle, criminal history, date of birth, other necessary identifying info	State Department of Corrections
<i>Washington</i> (1990)	Adult and juvenile sex offenders	Fingerprints, photo, crime, date of conviction, social security number, date of birth, place of employment	State Patrol; local law enforcement

*Alaska, Kentucky, Louisiana and New Hampshire legislatures proposed sex offender registration laws in their 1992 sessions.

Louisiana -

New Hampshire -

TABLE 2
States with Sex Offender Registration Laws*

STATE	TIME FRAME FOR REGISTRATION	DURATION OF REQUIREMENT	PENALTIES FOR NON-COMPLIANCE
Alabama	Within 30 days of release; 30 days of changing address	Life	Felony; 1 to 5 years imprisonment and may be fined up to \$1,000
Arizona	Within 30 days of conviction or entering state; "promptly" upon changing address	Life	Class 6 felony (lowest level felony, can also be classified as a Class 1 misdemeanor)
Arkansas	Within 30 days of release; 10 days of changing address	10 years	Class A misdemeanor; up to 1 year in jail and may be fined up to \$1,000
California	Within 14 days of release; 10 days of changing address	Life (juvenile records destroyed when at age 25)	First and second failure a misdemeanor; third failure a felony--can be arraigned and must serve 90 days.
Florida	Within 48 hours; not required to notify of change of address	Life	Second degree misdemeanor
Illinois	Within 30 days of release; 10 days of changing address	10 years	Class A misdemeanor
Maine	Within 15 days of release; 5 days of changing address	10 years	Class E crime (misdemeanor)
Minnesota	Within 14 days after supervision ends	10 years	Misdemeanor, and adds 5 years to the registration requirement
Montana	Within 14 days of release; 10 days of changing address	10 years	Minimum 90 days incarceration, or up to \$250 fine, or both
Nevada	Within 48 hours of release; 10 days of changing address	Life	Gross misdemeanor; 1-year maximum in county jail
Ohio	Within 30 days of release; 10 days of changing address	10 years after release or discharge	First failure a first degree misdemeanor; second failure a fourth degree felony
Oklahoma	Registers within 10 days of conviction with the Department of Corrections, then immediately upon release with sheriff; 10 days of changing address	Life	Misdemeanor
Oregon	Registration is automatic upon release or discharge (supervising officer files papers); 30 days to notify of change of address, information updated annually	Life; may petition for waiver after 10 years (law enacted in 1987)	Class C felony if felony offense; otherwise a Class A misdemeanor
Texas	Within 7 days of receiving notification	Duration of parole; however, file maintained indefinitely	First failure a Class A misdemeanor; second failure a third degree felony
Utah	Immediately following conviction or entering prison, facility, or program; 10 days of changing address	5 years after parole or discharge	Mandatory 90 days confinement and 1 year probation
Washington	Within 24 hours of release; immediately if not confined; 30 days of becoming new state resident; 10 days of change of address	Life if Class A felony; 15 years if Class B felony; 10 years if Class C felony	Class C felony if Class A felony offense; otherwise gross misdemeanor

*Alaska, Kentucky, Louisiana, and New Hampshire legislatures proposed sex offender registration laws in their 1992 sessions.

Louisiana -

10 years

19

New Hampshire

Life

Total (8)

TABLE 3
States with Sex Offender Registration Laws*

STATE	ACCESS TO INFORMATION	NUMBER REGISTERED	PERCENT COMPLIANCE
Alabama	Available to law enforcement and investigative authorities only	Not known	Not known
Arizona	Available to law enforcement and investigative authorities only	8,108	Not known
Arkansas	Available to law enforcement and investigative authorities only	Starting work on a central registry, may have numbers in 1993	
California	State information is confidential, but some local information may be released with disclosure	87,000	78% for those released in 1981; 54% for those released in 1979 (1988 study)
Florida	Available to law enforcement, investigative authorities, and specified agencies	Not known	Not known
Illinois	Available to law enforcement and investigative authorities only	68	Not known, believed to be very low
Maine	Name, address, and conviction available to public	New law	New law
Minnesota	Available to law enforcement and investigative authorities only	5	Not known
Montana	Some information constitutionally protected; public could theoretically access the list (but has not attempted)	Not known	Not known, believed to be high
Nevada	Available to law enforcement and investigative authorities only	Starting work on a central registry, may have numbers in 1993-94	
Ohio	Criminal history information confidential, but public can read listing	Not known, all records kept at the county level	
Oklahoma	Available to law enforcement and investigative authorities only	200 to date, waiting for release of those convicted after November 1989	
Oregon	Limited information available to specific victims, remainder available to law enforcement and investigative authorities only	Data collection began October 1991; number and compliance will be available at the end of 1993	
Texas	Available to law enforcement and investigative authorities only	350	Not known, believed to be approximately 25%
Utah	Available to law enforcement, investigative authorities, and Department of Education	2,478	Not known
Washington	Available to the general public and press	Over 4,000	Adults 78%, Juveniles 67% (1991 data)

*Alaska, Kentucky, Louisiana, and New Hampshire legislatures proposed sex offender registration laws in their 1992 sessions.

Louisiana - Available to public only when necessary for pub. protection 14

New Hampshire - Law enforcement only

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*Washington State
Institute for Public Policy*



**COMMUNITY
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PROJECT**

**ADULT SEX OFFENDER REGISTRATION
IN WASHINGTON STATE:
INITIAL COMPLIANCE, 1990**

**BARBARA E.M. FELVER
with
ROXANNE LIEB**

January 1991

***ADULT SEX OFFENDER REGISTRATION
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with
Roxanne Lieb**

**Community Protection Research Project
Washington State Institute for Public Policy
The Evergreen State College
Seminar 3162, MS: TA-00
Olympia, WA 98505**

(206) 866-6000, ext. 6380

January 1991

**ADULT SEX OFFENDER REGISTRATION
IN WASHINGTON STATE:
INITIAL COMPLIANCE, 1990**

SUMMARY

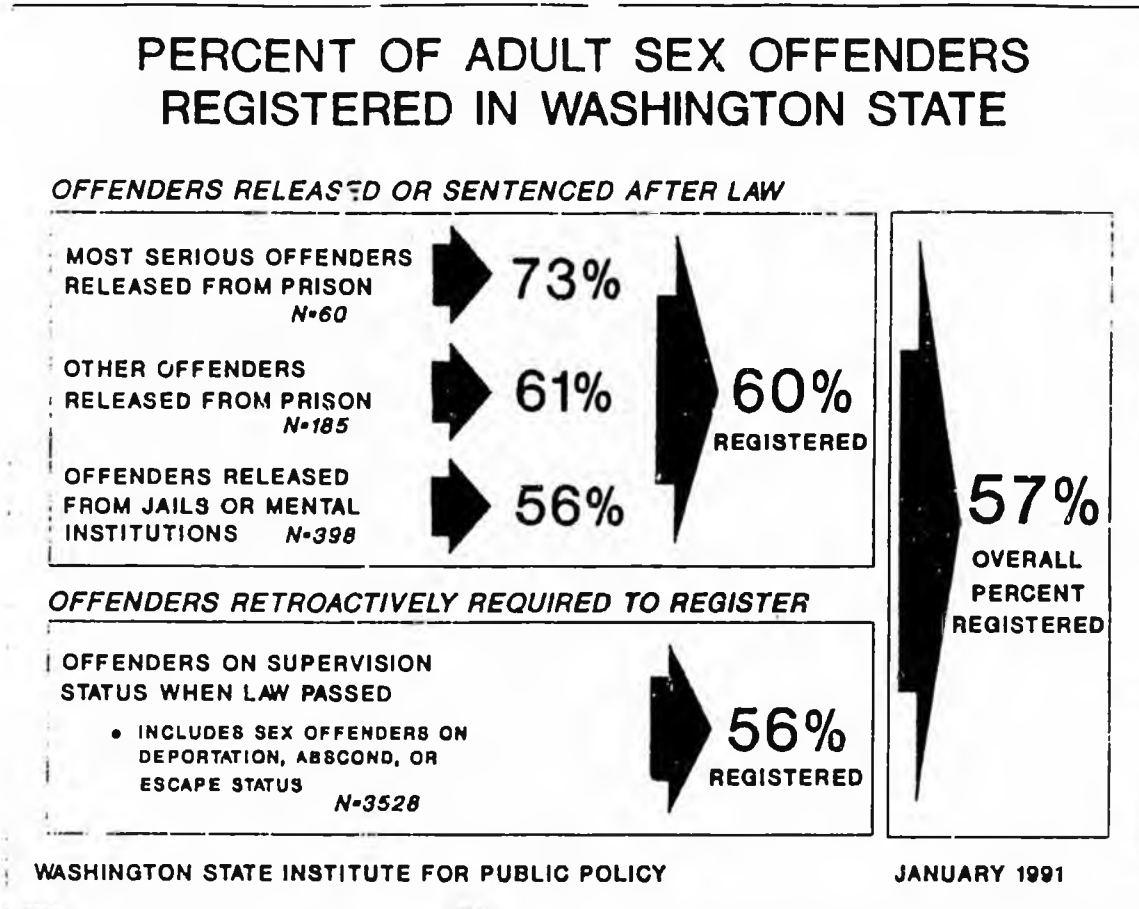
This report examines early compliance of adult sex offenders with a new registration requirement enacted as part of the Community Protection Act of 1990 (Chapter 3, Laws of 1990). The analysis compares Washington State Patrol records of registered adult sex offenders as of November 9, 1990, with records of sex offenders released from correctional or mental health institutions, or sentenced to supervision, on or after the effective date of the law. Juvenile offender registration is not included in this analysis.

Findings indicate that:

- In the first eight months of sex offender registration under the Community Protection Act, the most serious adult offenders released from prison registered at a higher percentage (73 percent) than adult sex offenders released from jail or mental institutions (56 percent). The overall rate of registration for all adult sex offenders was 57 percent; a total of 2,383 adult sex offenders were registered at the time of this study. Percentages are shown in Figure 1 (see page 2).
- Sex offenders notified both verbally and in writing had a higher rate of compliance. The manner in which sex offenders are notified of the requirement to register, whether in person or by mail, may explain the difference in registration rates.
- The effectiveness of the registration law has been enhanced by cooperation between the Washington State Patrol and the Department of Corrections. The names of sex offenders released by the Department of Corrections are supplied to the State Patrol and placed on the law enforcement computer database, thus allowing local law enforcement officers to identify both offenders who have and have not complied with the registration law. Local law enforcement can use this information when identifying potential suspects for a sex offense, as well to pursue actions against offenders not in compliance.
- The state of California has required sex offender registration since 1947. Compliance for Washington in 1990 was lower than California's compliance rate for 1981 convictions, but higher than California's rate for 1973 convictions.
- The constitutionality of sex offender registration is under review. Recent court cases regarding this topic are identified in this report.

Findings contained in this report should be considered preliminary. Publicity regarding penalties imposed on offenders who fail to register could change registration rates, as could reports of negative citizen reaction when identified sex offenders move into neighborhoods. Also, because of the relatively small size of groups available for analysis, especially the most serious offenders, the percentages reported are susceptible to change.

Figure 1



DEFINITION OF GROUPS

Registration percentages of four groups of adult sex offenders were analyzed. Definitions of these groups follow.

- **Most Serious Sex Offenders Released From Prison:** Adult sex offenders released from prison after the Community Protection Act was passed (February 28, 1990), whose criminal history or institutional behavior indicates they present a significant risk to the community. For these offenders, Notifications of Release ("special bulletins") were issued by the Department of Corrections, under the direction of the End of Sentence Review Committee. *Total Number=60, Registered=44*
- **Other Sex Offenders Released from Prison:** Adult sex offenders released from Department of Corrections facilities after February 28, 1990, without special bulletins. *Total Number=185, Registered=112*
- **Sex Offenders Released from Jail or Mental Institutions:** Adult sex offenders on community supervision status with the Department of Corrections following release from jail, or who received a court order for supervision, or were released from state mental institutions, on or after February 28, 1990. *Total Number=398, Registered=221*

- **Sex Offenders Retroactively Required to Register:** Adult sex offenders who, as of February 28, 1990, were on active supervision by the Department of Corrections, as well as those on deportation, abscond, or escape status from Washington State prisons or jails. [See discussion below for clarification of supervision definition.] *Total Number=3528, Registered=2006*

THE REQUIREMENT TO REGISTER

The Law: Applies to Convicted Sex Offenders Residing in Washington State

With passage of the Community Protection Act of 1990, sex offenders residing in Washington were required to register with the sheriff in their county of residence. The law applies to adults and juveniles who "have been found to have committed or have been convicted of any sex offense" (Chapter 3, Laws of 1990). Sex offenders have 30 days to register following their release from confinement, and 45 days to register after moving to Washington State. When relocating, offenders are required to update their registration within 10 days of a move.

The requirement to register was applied prospectively to all sex offenders released from custody or prison on or after the law was passed (February 28, 1990). In addition, it was applied retroactively to all persons who committed sex offenses prior to February 28 who were "under the custody or active supervision" of either the Department of Corrections or the Department of Social and Health Services on or after the law's effective date.

The term "active supervision" was not defined in the Community Protection act and has been subject to interpretation. Originally, the Department of Corrections interpreted the term to include offenders placed on Conditional Discharge From Supervision (CDFS), primarily offenders discharged from parole. The department has since redefined the term to exclude these offenders. The department also interpreted the term as including offenders on supervision strictly to monitor compliance with financial obligations. This interpretation has recently been found invalid by a Kitsap County court ruling. Because the legal definition of active supervision is not clear, this analysis did not distinguish among offenders based on their supervision status. Whether such distinctions would alter the findings is not clear.

Failure to register is, by law, a Class C felony for persons convicted of a Class A felony sex offense; otherwise, the failure is a gross misdemeanor. Registration is for life if convicted of a Class A felony sex offense, 15 years if convicted of a Class B felony sex offense, and 10 years if convicted of a Class C felony sex offense, unless a court waiver can be obtained by the offender.

THE MOST SERIOUS SEX OFFENDERS

Notification of Release: Applies to the Most Serious Sex Offenders

For those sex offenders believed to pose a significant threat to the community, the Department of Corrections issues a document entitled Notification of Release ("special bulletin") to inform authorities that potentially dangerous individuals may be moving to their communities. Adult sex offenders with special bulletins had the highest rate of registration of the groups in this analysis, with most of these offenders registering within 30 days of their release. [See Figure 2, page 4.] Since the number of offenders in this category is relatively small (60), these findings are considered subject to change.

Figure 2

MOST SERIOUS OFFENDERS RELEASED FROM PRISON: REGISTRATION UPDATE

73% HAVE REGISTERED

Of Those That Have Registered:

- 80% Registered in The County They Said They Would Live
- 66% Registered Within 30 Days After Their Release
- The Average Time It Took To Register Was 36 Days

Most serious offenders are those released from prison with special notification of release to local law enforcement.

N=60

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The decision to issue special bulletins is made by the End of Sentence Review Committee based upon offenders' criminal history, institutional behavior, and other relevant information. The committee consists of:

- One member appointed by the Director of the Division of Prisons, Department of Corrections.
- One member appointed by the Director of Community Corrections, Department of Corrections.
- One member appointed by the Indeterminate Sentence Review Board Chair.
- Three members appointed by the Assistant Secretary of the Department of Social and Health Services representing Mental Health, Developmental Disabilities, and Child Protective Services.

The Director of the Division of Offender Programs appoints the chairperson for the committee. The End of Sentence Review Committee chairperson is responsible for staffing the committee and initiating the committee recommendations, including issuing special bulletins to law enforcement and developing recommendations to the prosecutor in regard to the filing of civil commitment petitions (Policy 350.500, End of Sentence Reviews, Department of Corrections, May 15, 1990).

Special bulletins are forwarded to: 1) the chief of police and county sheriff in the jurisdiction that the sex offender intends to reside, 2) the prosecuting attorney of the county where the offender was convicted, 3) the Washington State Patrol, and 4) the Homicide Information Tracking System. The bulletins include a recent photograph and describe the offender's prison behavior and prior criminal conduct. Local chiefs of police and county sheriffs then have the discretion to circulate information about the offender to other agencies, groups, or persons in the community. The Washington Association of Police Chiefs and Sheriffs developed recommended policies for law enforcement agencies. Three levels of dissemination are recommended depending upon the offender's determined level of risk.

HOW OFFENDERS ARE NOTIFIED ABOUT THE REGISTRATION LAW

Notification of registration requirements varies depending on the offender's status. The manner in which an offender is informed may influence registration compliance; groups notified both verbally and in writing had the highest rate of compliance in this study.

Sex offenders released from prison, jail, or mental institutions are notified of registration requirements in person, both verbally and in writing, prior to their release. Offenders are served with a "Registration Notification" form and are informed by Community Corrections or mental health staff about requirements of the law.

Sex offenders under supervision in the community are notified both verbally and in writing when they report to their Community Corrections Officer, but only if they are required to report on a regularly scheduled basis. If they are not required to report on a regularly scheduled basis, sex offenders are mailed a certified letter (containing a return-addressed envelope) which contains information about registration requirements.

Sex offenders whose whereabouts may be unknown are also sent certified letters to their last known address. These are generally returned undeliverable. Offenders who cannot be located are considered "un-notified" and may not be aware of their requirement to register.

Sex offenders who move to Washington State are notified about the registration law only if they read signs posted at Department of Licensing driver's examination offices.

IDENTIFICATION OF SEX OFFENDERS NOT IN COMPLIANCE

Because of cooperative arrangements between the Washington State Patrol, Department of Corrections, and Department of Social and Health Services, local law enforcement can identify both sex offenders who have registered as well as those not in compliance.

Information on all sex offenders released from the Department of Corrections and the Department of Social and Health Services is included as part of ACCESS, the law enforcement information system. Through ACCESS, local police officers who want to check an individual's criminal history can obtain information from the offender locator file. All released sex offenders are flagged in the system; counties where offenders stated they would live upon their release are also indicated. Based upon this information, officers can pursue legal action in cooperation with the prosecutors' office if they identify a released sex offender who has not registered. The Appendix to this paper illustrates how information about sex offenders is transferred among state agencies.

LEGAL ISSUES

Both civil and criminal cases related to the registration law are in progress. In Kitsap County, a judge recently dismissed a case against a sex offender charged with failure to register because, in the court's view, the offender was not on "active supervision," and instead was being supervised only for financial obligations.

Three civil law suits have been filed related to registration. One in Kitsap county was recently dismissed by the plaintiffs. The two remaining cases were filed in King County and will probably receive hearings later this spring.

SEX OFFENDER REGISTRATION IN CALIFORNIA: A COMPARISON

The state of California has required sex offender registration since 1947 (the law was applied retroactively to persons convicted of registrable sex offenses since 1944; California Penal Code, Section 290). Registration is for life, unless the sex offender can obtain a Certificate of Rehabilitation and waiver from the requirement.

A report to the California State Legislature on sex offender registration ("Effectiveness of Statutory Requirements for the Registration of Sex Offenders," California Department of Justice, 1988) compared registration rates of adult sex offenders released from prison in 1973 and 1981 with the overall percentage of registration by all sex offenders convicted in those years.

FINDING 1. In California the highest rate of registration was among sex offenders released from prison. This finding is true for Washington as well.

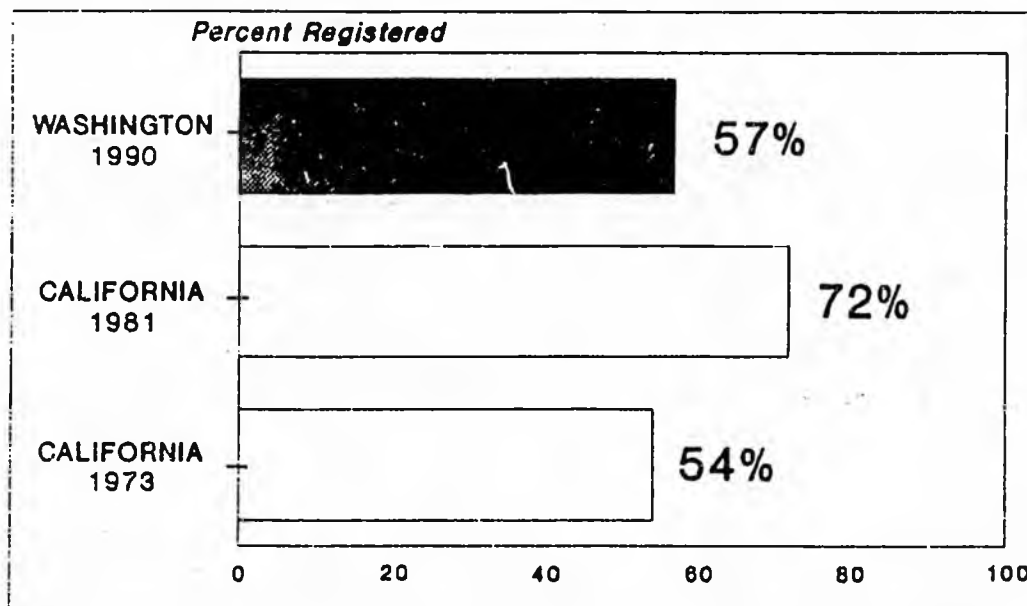
- **California.** Registration by adult sex offenders sentenced to prison in 1981 was 89 percent. Overall, the compliance rate for all sex offenders (both prison and non-prison releases) was 72 percent. (For 1973, prison rates were not calculated independently.)
- **Washington.** Like California, the highest registration rates were for adult sex offenders released from prison. In 1990, the most serious offenders in Washington registered at a rate of 73 percent. Other offenders released from prison registered at a rate of 61 percent. Offenders released from jails and mental institutions had the lowest compliance of 56 percent.

FINDING 2. Compliance for Washington in 1990 was lower than in California for 1981, but higher than California for 1973. These percentages are shown in Figure 3 (see page 7). Note that data for California are for individuals convicted of registrable sex offenses during 1973 and 1981. Only these two years were examined in the published report. Washington data represents offenders required to register in 1990 and convicted in previous years:

- **California.** 72 percent of adult sex offenders convicted in 1981 were registered at the time of the study. 54 percent of adult sex offenders released in 1973 were registered.
- **Washington.** Overall, 57 percent of all adult sex offenders required to registered had complied by November 1990.

Figure 3

SEX OFFENDER REGISTRATION: A WASHINGTON/CALIFORNIA COMPARISON



Washington data represent offenders required to register in 1990 and convicted in previous years. California data represent individuals convicted in either 1973 or 1981.

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FINDING 3. Based on a survey of 420 criminal justice agencies in California, the California study concluded:

- A large proportion of California criminal justice agencies surveyed believe that the current system is effective in locating sex offenders and apprehending suspected sex crime offenders.
- The vast majority of law enforcement agencies believe the registration requirement should be continued.
- But, about half of the agencies did not believe that the system was effective in deterring offenders from committing future sex offense crimes.

A survey of law enforcement agencies on this topic has not yet been done in Washington. After further experience with the registration law, a similar survey in this state may be beneficial.

RESEARCH METHODS

Data Sources

By law, the Washington State Patrol is required to maintain a central registry of all registered sex offenders. To identify sex offenders who have not complied with registration requirements, the State Patrol obtains names of all sex offenders released from the Department of Corrections.

Data for this analysis was obtained from the Washington State Patrol, Department of Corrections, and the Department of Social and Health Services. State Patrol data consisted of a printout dated November 9, 1990, which listed the names of juvenile and adult sex offenders who: a) had been released, but had not registered; and b) had registered. There were 4,309 names originally contained on this report which identified 1,899 individuals as not registered, and 2,481 as registered.

The Department of Corrections supplied listings of: a) the most serious offenders released from prison, b) other sex offenders released from prison, and c) sex offenders starting supervision. Statistics on 23 sex offenders released from mental institutions were provided by the Department of Social and Health Services. The registration status of each group was then verified by manually matching names against the State Patrol printout. Juveniles were dropped from this analysis (115 individuals) and will be the subject of a later report.

In the case of the most serious offenders, a more detailed analysis was performed by examining individual records on the Department of Corrections Offender Based Tracking System (OBTS) file to obtain the counties in which offenders said they intended to reside and dates of release. The information was compared with the county of registration found on the State Patrol central registry and the number of days it took offenders to register. Note that Notifications of Release are also issued by the Department of Corrections on persons deemed dangerous to the community, but who were not convicted of a sex offense. Because these persons are not required to register, they were not included in the group of most serious sex offenders.

Data Editing

Before the data was reviewed, names on the State Patrol printout were verified for obvious duplications. Seventy-one duplications were found and removed from the list. Most resulted from discrepancies in name spellings, or because middle initials were included when released, then subsequently excluded upon registration, or visa versa. It is possible that more duplications exist than were found on the printout through manual screening. Duplications result in the over-reporting of the number of released sex offenders who did not register, because offenders show up in each group when they should be included only in the registered group.

By law, sex offenders are granted 30 days to register with the sheriff in their county of residence. Offenders are consequently given this time period to comply before being considered non-registered. Therefore, 47 individuals whose release date was within 30 days of the State Patrol printout were dropped from this analysis, regardless of whether they had registered.

Because of the manner in which registration information is maintained on the Washington State Patrol central registry, distinctions between sex offenders required to register retroactively, and those who have been released or sentenced since February 28, 1990, cannot be made. In addition, identifying individual groups of offenders is arduous and time consuming because of the manual examination required. The Washington State Patrol and Department of Corrections are improving their computer systems to facilitate future analysis of registration rates.

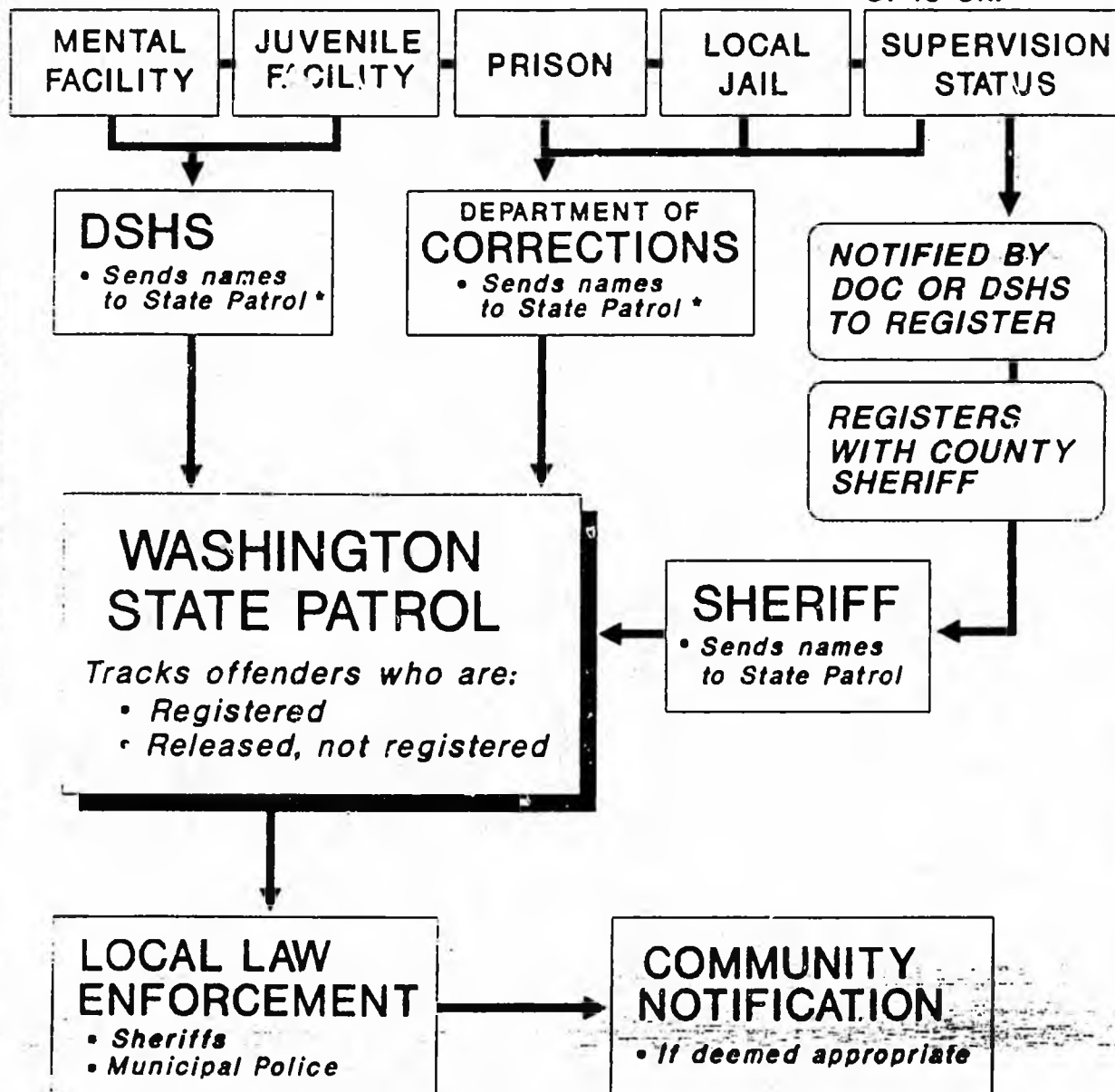
We extend acknowledgements to the Washington State Patrol, Department of Corrections, and the Department of Social and Health Services for their assistance in compiling data for this report.

APPENDIX

SEX OFFENDER REGISTRATION: *Tracking the Offender*

Offender is released from:

Or is on:



*Except juveniles on detention and adult jail releases without DOC supervision.

HB

73

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

CC ✓
FN ✓

DATE: 2/11/94

FURTHER:

DATE TURNED INTO OFFICE: 5-4-94

The Finance Committee considered **HOUSE BILL NO. 73**

"An Act relating to state and local taxation and other state regulation as affected by the Alaska Native Claims Settlement Act, as amended, and related federal statutes; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DOR	1/3/94	0	

Appropriation No Fiscal Note

DO PASS:

George A. A. / 30

OTHER RECOMMENDATIONS:

Steve Rein No Recommendation
Ben Murphy No Rec

1. *Steve* *do pass*
 Co-Chair: Signature/Recommendation

2. *Steve Rein*
 Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 1
Bill Version: HB 73
(H) Publish Date: 1/29/93

Revision Date: _____ Dept. Affected: Revenue
Title: ANCSA State Tax Exemptions BRU: Revenue Operations
Component: Income and Excise Audit
Sponsor: Representative MacLean
Requestor: Representative MacLean COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

	FY94	FY95	FY96	FY97	FY98	FY99
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE FUND SOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)

This bill has no effect on the State since there is no state property tax.

Prepared by: Larry E. Meyers, Director *Larry E. Meyers* Phone: 465-2320
Division: Income and Excise Audit Division Date: 1/21/93
Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel* Date: 1/21/93
Agency: Department of Revenue

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 1
Bill Version: HB 73
(H) Publish Date: 1/29/93

Revision Date: _____ Dept. Affected: Revenue
Title: ANCSA State Tax Exemptions BRU: Revenue Operations
Sponsor: Representative MacLean Component: Income and Excise Audit
Requestor: Representative MacLean COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE FUND SOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)

This bill has no effect on the State since there is no state property tax.

Prepared by: Larry E. Meyers, Director Phone: 465-2320
 Division: Income and Excise Audit Division Date: 1/21/93
 Approved by Commissioner: Darrel J. Rexwinkel Date: 1/21/93
 Agency: Department of Revenue

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Back-up

SPONSOR STATEMENT

HB 73

Representative Eileen P. MacLean

HB 73 was introduced in order to bring state law into compliance with recent changes to federal law. The Alaska Native Claims Settlement Act (ANCSA) was amended several years ago to continue an exemption from federal, state or local property taxation on ANCSA lands until development occurs. This bill reflects those changes in state law to avoid confusion in the application of the state's tax laws.

In the drafting process, the attorney noted other sections in state law which need to be updated relative to the federal law. These are merely technical or stylistic changes.

This bill does not expand or reduce any benefits already mandated by federal law. It merely cleans up state law, and ensures that obsolete state statutes do not lead to misinterpretation by state assessors and others who work with Alaska's tax law.

HB 73 was approved unanimously in the House. An identical bill passed through both chambers in the 17th Legislature and was in Senate Rules at the time of adjournment.

HB 73 has a zero fiscal note from the Department of Revenue.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

No. 2
Bill Version: HB 73
(S) Publish Date: 2-11-94

Revision Date: January 3, 1994 Dept. Affected: Revenue
Title: State and local taxation as affected by ANCSA BRU: Revenue Operations
Component: Income & Excise Audit
Sponsor: Representative MacLean
Requestor: Senate Judiciary COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY00
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

This bill has no effect on the state since there is no state property tax.

Prepared by: Larry E. Meyers, Director Phone: 465-2320
Division: Income and Excise Audit Division Date: January 3, 1994
Approved by Commissioner: Darrel J. Rexwinkel Date: January 3, 1994
Agency: Department of Revenue

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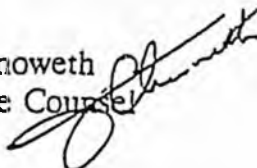
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 20, 1993

SUBJECT: House Bill 73, relating to state and local taxation and other state regulation under the Alaska Native Claims Settlement Act, as amended; and providing for an effective date — sectional analysis (Work Order No. 8-LS0402A)

TO: Representative Eileen MacLean

FROM: Jack Chenoweth
Legislative Counsel 

This measure, a reintroduction of last session's CSHB 451 (Res), amends various provisions of state law that exempt from certain forms of state and local taxation the property that is exempted from taxation by the Alaska Native Claims Settlement Act. The amendments set out in this bill generally reflect the inclusion of changes made by federal law since passage of the original Alaska Native Claims Settlement Act in December, 1971, and the adoption of the first state law exemptions shortly thereafter.

A principal change in the federal Act was the addition of 43 U.S.C. 1636(d) by the Alaska National Interest Lands Conservation Act of 1980. Sec. 1636(d) broadened the various protections for lands conveyed under the 1971 Act, but did not necessarily replace the federal tax exemption provided in the original Act. Since 43 U.S.C. 1636(d) did not supersede the exemptions and protections provided by the earlier-enacted 43 U.S.C. 1620, I have recommended that, where reference appears in state law only to sec. 1620 that it be followed by a second reference to sec. 1636(d) as well.

Throughout the measure, the words "as amended" are added. The intent is to conform the state tax exemptions to any further changes to the federal Act in the event the federal Act undergoes further revision in this subject matter area.

Bill section 1, an amendment to AS 29.45.030(a), a provision setting out mandatory municipal property tax exemptions, incorporates a reference to 43 U.S.C. 1636(d), as amended, following the existing reference 43 U.S.C. 1620(d) for the reasons noted two paragraphs above.

Bill section 2, also an amendment to the law applicable to municipalities, makes technical corrections. In context, the terms that are being defined appear in 43 U.S.C. 1636(d), not in 43 U.S.C. 1620. The terms defined in the current statute are revised to reflect the language actually used in the federal provision expressed in a manner that is consistent with Alaska's legislative drafting style.

Bill section 3 revises AS 43.80.015, the principal provision of state law extending an exemption from state taxes to certain property. Specifically:

- the caption change at page 3, lines 19 and 20, substitutes the full proper name of the federal Act for the Public Law reference;

- deletion of reference to "the original issue" of shares in lines 20 and 21 is a substantive change; all share transactions--not just the original issues--are made non-taxable events;

- in lines 21 and 22, "state" substitutes for "Alaska" and the exact cite for the federal Act is inserted for the older reference; these are technical changes to conform to the state's drafting style;

- the changes made at lines 22 - 24 and 28 - 31 of page 3 replace existing references with the exact federal Act cites;

- the change made by substitution of the phrase on page 4, lines 2 - 4 of the bill conforms state law to the requirement of the federal Act as to how the basis of land received for purposes of equalization (in the event of land trades) is to be computed; it will be computed as the federal Act directs;

- the changes made on page 4, lines 5 - 10 are in the nature of substitutions of accurate cites and references;

- the long addition on lines 12 and 13 and the deletion of the December, 1991, date reflect substantive changes made by 43 U.S.C. 1636(d), a provision that expands and extends the protection from taxation given Native land under the amended federal Act; and

- the changes made to the balance of bill section 3 on page 4 of the bill either substitute accurate federal law cites or make minor stylistic changes.

Bill section 4, adding a new subsection (e) to AS 43.80.015, enumerates the specific federal legislation that have modified the original Alaska Native Claims Settlement Act, and further allows for changes affecting the tax treatment of property that may be made future federal amendments.

Representative Eileen MacLean

January 20, 1993

Page 3

The bill is given an immediate effective date by bill section 6. As with last session's measure, out of an abundance of caution, bill section 5 makes these changes retroactive to December 18, 1991, the 20-year anniversary date of the Alaska Native Claims Settlement Act's taking effect. In the original Act, on that date a number of safeguards initially enacted would have expired. All the safeguards that are of concern for purposes of this legislation have been expanded and extended in the two later federal Acts, especially the addition made by 43 U.S.C. 1636(d).

JC:pl

93-031.plm

COOK INLET REGION, INC.

February 7, 1994

Senator Robin Taylor
Chairman, Senate Judiciary Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Taylor:

It is my understanding that House Bill 73 (HB 73) will soon be scheduled for a hearing in the Senate Judiciary Committee. By way of this letter, I am conveying Cook Inlet Region, Inc.'s support for HB 73 and requesting that you bring it before your committee at the earliest opportunity.

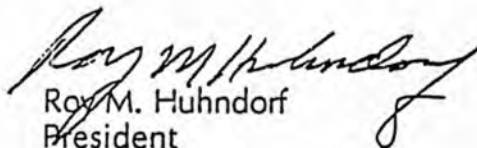
HB 73 was drafted and introduced by Representative Eileen MacLean in order to bring state law into compliance with federal law where certain property tax exemptions apply. While, in fact, federal law prevails in this issue, the bill proposes to avoid confusion and misinterpretation by removing inconsistencies between federal and state law.

It is my understanding that HB 73 does not expand the provisions of federal law, thus ANCSA corporations are not granted additional exemptions on undeveloped property by passage of this bill.

Your assistance on this matter is appreciated.

Sincerely,

COOK INLET REGION, INC.


Roy M. Huhndorf
President

2/4011

cc: Senator Rick Halford, Co-Chairman, Senate Judiciary Committee
Representative Eileen P. MacLean, Alaska Legislature



BERING STRAITS NATIVE CORPORATION

David

Hon. Eileen P. MacLean
Representative
State Capitol, Room 507
Juneau, AK 99801-1182

RE: HB 73


Dear Representative MacLean:

Please inform the Senate Judiciary Committee and all members of committees at subsequent hearings that Bering Straits Native Corporation fully supports HB 73.

This bill is very important to the extent that it affords our shareholders the same protection as guaranteed by the Alaska Native Claims Settlement Act, as amended. We agree that passage of this bill will avoid misinterpretation and confusion of Alaska statutes.

Thank you for your continued assistance on these matters.

Sincerely,


Jack Carpenter, President & CEO

KONIAG, INC.

4300 B Street, Suite 407, Anchorage, AK 99503

(907) 561-2668 • FAX (907) 562-5258 •

February 1, 1994

Eileen P. MacLean
Alaska State Representative
State Capitol
Room 507
Juneau, AK 99801-1182

Dear Representative MacLean:

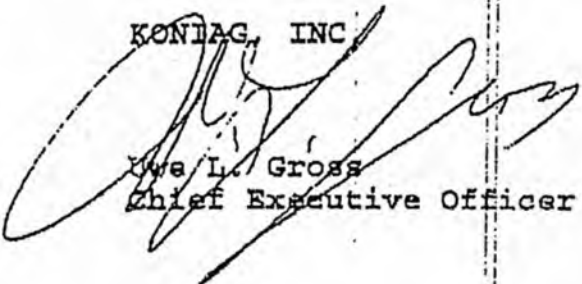
VIA FAX

I am in receipt of your letter of 28 January, 1994 regarding H.B. 73.

Koniag, Inc. was fully supportive of this legislation in 1993 and we continue to offer that support. We believe that it is crucial to bring the state tax code in line with that called for in the 1991 amendments as it affects Native land.

Sincerely,

KONIAG, INC.



Uwe L. Gross
Chief Executive Officer

Post-It™ brand fax transmittal memo 7671		of pages >	
To	Eileen Maclean	From	Uwe Gross
Co.		Co.	
Dept.		Phone #	561-2668
Fax #	463-3241	Fax #	562-5258



Alaska Federation of Natives, Inc.

January 27, 1993

Representative Eileen MacLean
Alaska State Legislature
Capitol Office Building
Juneau, Alaska 99811

Dear Representative MacLean:

The Alaska Federation of Natives has reviewed House Bill 73 as introduced on January 18, 1993. This letter is intended to convey the Federation's support for the bill as introduced.

With the exception of two language changes, HB 73 is identical to CSHB (Resources) introduced in the Second Session of the 17th Alaska Legislature.

Amendments to AS 43.90.015, as HB 73 proposes, will prevent inconsistencies with AS 29.45.030 (m) and bring AS 43.90.015 into conformity with the Alaska Native Claims Settlement Act (ANCSA), as amended.

ANCSA provisions are controlling in this matter and thus amending Alaska statutes via HB 73 will serve to limit the potential for future conflict and litigation expenses.

I view HB 73 simply as an effort to conform state law with federal law.

Thank you for your interest in this matter.

Sincerely,

Julie E. Kitka
President

FEB 10 1994

ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
P.O. Box 830
Barrow, Alaska 99723
(907) 852-7111



WHILE IN JUNEAU
State Capitol, Room 507
Juneau, Alaska 99801-1182
465-4833
465-4525
463-3241 FAX

HOUSE OF REPRESENTATIVES

MEMORANDUM

District 37

North Slope
Borough

Anaktuvuk Pass
Atkasuk
Barrow
Kaktovik
Nulqsut
Point Hope
Point Lay
Wainwright

Northwest Arctic
Borough

Ambler
Buckland
Deering
Kiana
Kivalina
Kobuk
Kolzebue
Noatak
Noorvik
Selawik
Shungnak

Seward Peninsula

Brevig Mission
Diomedes
Shishmaref
Teller
Wales

TO: ✓ Senator Steve Frank, Co-Chairman
Senator Drue Pearce, Co-Chairman
Senate Finance Committee

FROM: Representative Eileen P. MacLean *EM*

DATE: February 9, 1994

SUBJ: Scheduling HB 73 in the Senate Finance Committee

This is to request a hearing for HB 73 in the Senate Finance Committee.

HB 73 will bring state law into compliance with federal amendments made to the Alaska Native Claims Settlement Act (ANCSA) several years ago regarding the exemption of ANCSA property from taxation. References are made throughout the bill to sections of 43 U.S.C. 1601-1642, the ANCSA law. The federal amendments continue an exemption of ANCSA property from taxation until development occurs. Although this change has been made at the federal level, state law has not been brought into conformity with the federal act.

In the bill drafting process, the drafter noted other sections of state law which need to be updated relative to the ANCSA amendments of 1991.

To my knowledge, there are no substantive concerns with this legislation. It is primarily housekeeping in nature and only brings state statutes into compliance with federal law.

HB 73 passed the House unanimously, and an identical bill passed both houses in the 17th Legislature and was in Senate Rules at the time of adjournment.

If you have any questions, please contact David Harding of my staff at 465-6871.

HB 73

ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
P.O. Box 830
Barrow, Alaska 99723
(907) 852-7111



WHILE IN JUNEAU
State Capitol, Room 507
Juneau, Alaska 99801-1182
465-4833
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HOUSE OF REPRESENTATIVES

District 37

North Slope
Borough

Anaktuvuk Pass
Atkasuk
Barrow
Kaktovik
Nulqsut
Point Hope
Point Lay
Wainwright

Northwest Arctic
Borough

Ambler
Buckland
Deering
Kiana
Kivalina
Kobuk
Kotzebue
Noatak
Noorvik
Selawik
Shungnak

Seward Peninsula

Brevig Mission
Diomedes
Shishmaref
Teller
Wales

MEMORANDUM

TO: Senator Drue Pearce, Co-Chair
Senate Finance Committee

FROM: Rep. Eileen P. MacLean *[Signature]*

DATE: February 25, 1994

RE: HB 73

When HB 73 (ANCSA Property Tax Exemptions) was heard in Senate Finance on Wednesday, several members had a question about the drafter's sectional analysis reference to provisions in the bill that accomodate any future changes in the federal law.

The attached memo from Jack Chenoweth addresses this question. If you need any further information on this, please contact David Harding of my staff (-6871).

Thanks for your consideration of this legislation.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

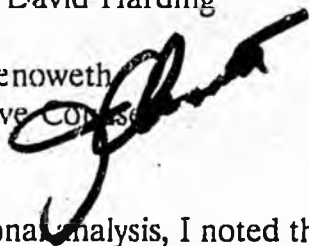
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 24, 1994

SUBJECT: House Bill 73 (Work Order No. 8-LS0402\A)

TO: Representative Eileen MacLean
ATTN: David Harding

FROM: Jack Chenoweth
Legislative Counsel 

In my January 20, 1993, sectional analysis, I noted that, throughout this measure, the words "as amended" are added following reference to particular provisions of the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq. The intent, I noted, was

. . . to conform the state tax exemptions to any further changes in the federal Act in the event the federal Act undergoes further revision in this subject matter area.

Under the "supremacy clause," article VI of the United States Constitution, state action will be required to give way to federal legislation when a law of a state is in actual conflict with a valid Act of the United States Congress. Under another provision by which the United States Constitution reserves to the Congress the power to regulate commerce with Indian tribes, federal law will apply to determine whether and to what extent a state law levying and collecting a tax may have force. So, if, for instance, Congress should broaden or narrow the tax exemptions set out in one or more of the various provisions identified in this measure--should expand or contract an existing tax exemption or add one not now provided--state law would necessarily be required to conform, irrespective of whether the body of state law recognized the change or was silent. By inserting "as amended" behind the various United States Code references, the intent is only one of keeping the body of state law in conformity to the changes made in federal law, if any, on the state and local government taxation of land subject to the ever-changing provisions of the Alaska Native Claims Settlement Act. ✓

In the body of the Alaska Statutes, incorporation of the words "as amended" following reference to a federal Act is not uncommon. It happens with some regularity, as you might expect, with references to the Internal Revenue Code and the Alaska

Representative Eileen MacLean

February 24, 1994

Page 2

Statehood Act, but also involves a fair number of other enactments that appear in the body of the Alaska Statutes under their popular name or by their United States Code (U.S.C.) reference. I assume it is done, depending upon the context in which it appears, to assure that the body of state law that depends on federal law antecedents is kept current, or out of recognition that, in the many areas in which federal activity intrudes, administrators of state laws will execute or implement the laws and programs for which they are responsible cognizant of the changes that the Congress would impose on the state and its political subdivisions by application of the federal supremacy clause.

JBC:pl

94-159.plm

BILL: HB 73

SHORT TITLE: ANCSA STATE TAX EXEMPTIONS

BILL VERSION:

SPONSOR(S): REPRESENTATIVE(S) MACLEAN

CURRENT STATUS: (S) FIN

STATUS DATE: 02/11/94

HEARING: (S) FIN FEB. 23 09:00 AM SENATE FINANCE 518

TITLE: "An Act relating to state and local taxation and other state regulation as affected by the Alaska Native Claims Settlement Act, as amended, and related federal statutes; and providing for an effective date."

HB 73

Bill/Resolution Floor Action

Page 2 of 3

Current Status: (S) FIN

Jrn-Date	Jrn-Page	Action
1 01/18/93	102	(H) READ THE FIRST TIME - REFERRAL(S)
2 01/18/93	102	(H) CRA, JUDICIARY, FINANCE
3 01/29/93	174	(H) CRA RPT 5DP 2NR
4 01/29/93	174	(H) DP: SANDERS, BUNDE, WILLIAMS, TOOHEY,
5 01/29/93	174	(H) DP: OLBERG NR: DAVIES, WILLIS
6 01/29/93	174	(H) -ZERO FISCAL NOTE (REV) 1/29/93
7 02/10/93	287	(H) JUD RPT 6DP
8 02/10/93	287	(H) DP: PORTER, PHILLIPS, NORDLUND, JAMES
9 02/10/93	287	(H) DP: KOTT, GREEN
10 02/10/93	287	(H) -PREVIOUS ZERO FN (REV) 1/29/93
11 02/17/93	370	(H) FIN REFERRAL WAIVED
12 02/24/93	435	(H) RULES TO CALENDAR 2/24/93
13 02/24/93	436	(H) READ THE SECOND TIME
14 02/24/93	436	(H) ADVANCED TO THIRD READING UNAN CONSENT
15 02/24/93	436	(H) READ THE THIRD TIME HB 73
16 02/24/93	436	(H) PASSED Y39 N- E1
17 02/24/93	436	(H) EFFECTIVE DATES VOTE SAME AS PASSAGE
18 02/24/93	446	(H) TRANSMITTED TO (S)

HB 73

Bill/Resolution Floor Action

Page 3 of 3

Current Status: (S) FIN

Jrn-Date	Jrn-Page	Action
1 02/25/93	480	(S) READ THE FIRST TIME - REFERRAL(S)
2 02/25/93	480	(S) CRA, JUD, FIN
3 03/10/93	709	(S) CRA RPT 2DP 2NR
4 03/10/93	709	(S) PREVIOUS H ZERO FISCAL NOTE (REV)
5 02/11/94	2785	(S) JUD RPT 2DP 2NR
6 02/11/94	2785	(S) ZERO FISCAL NOTE PUBLISHED (REV)
7 02/11/94	2785	(S) REFERRED TO FINANCE

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	SUBJ	EXIT	MENU	TEXT	PRINT	BWD	FWD	CMT/JRNL	FIRST	LAST	QUIT

Land Protection

The land protections described in this section are probably the most significant gains for Alaska Natives contained in the "1991" law.

The "1991" law provides that all "undeveloped" land owned by village, urban and regional corporations automatically have the following protections:

1. The land cannot be taxed.
2. The land cannot be taken by trespassers who otherwise might acquire rights to the land through adverse possession (also known as trespassers or squatters' rights).
3. The land cannot be taken by creditors to pay a debt owed by the corporation.
4. The land cannot be lost if the corporation files bankruptcy.
5. The land cannot be lost even if the corporation is involuntarily dissolved.

Because these land protections are so important, they are now automatic. The corporation's board of directors does not need to take action, unless an activity creating "development" has already occurred. Shareholders do not need to vote in order to protect the corporation's undeveloped land.

LAND AUTOMATICALLY PROTECTED FROM...



Taxes on undeveloped land



Bad debts



Adverse possession

Loss of Land Protections

Members of a Native corporation board of directors must understand that actions they take could result in the loss of these land protections. Land protections can be lost in three ways:

1. Leased: If the board of directors leases the land, the protections are lost. Even though the leased land is not "developed," it can be taxed, taken by adverse possession or sold by creditors or a bankruptcy judge to pay the corporation's debts.

Exception: If the purpose of the lease is to allow oil, gas or mineral exploration, then the land protections continue to apply.

2. Pledged: Protections can be lost if the board of directors mortgages or pledges the land as security in a commercial transaction, such as a bank loan. If the land is

pledged, it can be taxed and it can be sold by creditors or a bankruptcy judge to pay the corporation's debts.

3. Developed: If the board of directors develops the land, it loses the automatic protections. The land can be taxed, taken by adverse possession, or, if the corporation gets into trouble, the land can be seized and sold by creditors or a bankruptcy judge to pay the corporation's debts.

WAYS TO LOSE LAND PROTECTIONS



Leased



Pledged



Developed

Native corporations should be very cautious about pledging their undeveloped land to a bank or anyone else.

Definition of "Developed" Land

The "1991" law defines "developed" as *"a purposeful modification of land from its original state that effectuates a condition of gainful and productive present use without further substantial modification."*

Because this definition is complicated, it is important that a board of directors be very cautious when it makes decisions about using the corporation's land. If there is any question that a board action or decision might result in losing land protections, the board should seek advice from an attorney before a final decision is made.

Some things can be done on the land without losing the protections. In some circumstances, land can be surveyed, and roads, electricity lines and sewers can be built. Whether such actions are "safe" can only be determined on a case by case basis.

Finally, land is automatically considered to be "developed" if it is subdivided, even if no changes are made to the land. For that reason, the corporation should never subdivide any of its land without careful study of the impacts on the status of its land.

To protect important subsistence uses, the law says that hunting and fishing on village and regional corporation land do not make the land "developed." For that reason, fish camps, trapping cabins and other structures may be built and used on the land if they are needed for subsistence hunting, fishing or gathering. The corporation may also charge a fee to hunters, fishermen and guides without losing the protections of "undeveloped" land.

Regaining Land Protections

Even if land is mortgaged, leased or "developed," the protections automatically resume when the mortgage or lease expires or the development ends. For example, if a village corporation leases some of its land for five years, during the years it is leased, the land can be taxed or sold to pay the corporation's debts. However, when the five years are over and the lease expires, the land is again automatically protected from taxation and creditors.