

SEX OFFENDER RE-ENTRY:  
A SUMMARY AND POLICY RECOMMENDATION ON THE CURRENT STATE OF THE LAW IN  
CALIFORNIA AND HOW TO “SAFELY” RE-INTRODUCE SEX OFFENDERS INTO OUR COMMUNITIES

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## I. INTRODUCTION

Along with the national media sensations surrounding a recent string of young girls—Polly Klaas, Samantha Runion, Jessica Lunsford, Sarah Michelle Lunde, Shasta Groening, Carlie Brucia, and, most famously, Megan Kanka—being sexually assaulted, raped and murdered by convicted sex offenders living in their own neighborhoods has come a corresponding wave of stricter legislation aimed at curtailing the freedom of convicted sex offenders in the hopes of preventing future offenses. These cases have spawned several new laws, including as the aptly named “Megan’s Law” and “Jessica Lunsford Law,” that require sex offender registration and provide for other safety measures such as the global positioning system tracking of and lifetime parole for convicted sex offenders.

While the intentions behind such laws are well-founded, the public outrage and panic that motivated them may have caused the new laws to be both overbroad in their application and poorly calibrated in targeting the most serious offenders whom such laws were expressly enacted to neutralize. These laws are clearly intended to prevent the very crimes that happened to the girls after whom they were named. However, in the rush to Congress and the state legislature, there is a risk that the laws were enacted in such a way that the most serious offenders—who might also be those most likely to avoid compliance with the mandatory registration laws and disappear from the system—may escape their focus while lesser offenders, some of whom arguably should not even be subject to such harsh scrutiny, are bearing the brunt of the penalties by being the ones who comply with these laws and remain within the watchful eye of the public and the law. Although the safety of children and their vulnerability to predators have always

been a primary focus in the minds of parents and law enforcement, never before in American history has the level of public awareness and outcry been raised to this height, nor has there been such a swift and strong reaction from Congress and state governments to enact compensatory legislation. Thus, it is crucial that these new laws not only act to appease the public sentiment, but that they also function correctly to protect children and prevent crimes. The concern is that many of these laws have failed to do just that. As a saying popular among New Jersey prosecutors—the state in which Megan Kanka lived and died—goes, “Megan’s Law would not have saved Megan.”<sup>1</sup>

Megan Kanka’s story, and the law that resulted, serves as a good example of this problem. The seven-year-old New Jersey girl disappeared one evening from her own neighborhood while riding her bike. Twenty-four hours later, after exhaustive police and community efforts to find Megan, it was the man living right across the street from her who confessed to her brutal rape and murder and led police to her body. This man, police later discovered, had two previous convictions for molesting young girls around Megan’s age and was, shockingly, living in the house opposite Megan’s with two other convicted sex offenders.

Megan’s Law, which resulted from the nationwide public outcry over this crime, mandates that offenders who have been convicted of certain specified sex crimes register their names with a local police department upon release from prison and be assessed as to their risk level. Different levels of registration and notification requirements exist depending on the severity of the offender’s crime. For those who had the lowest risk level, only the local authorities would be notified when they moved into the vicinity and no public notification would be given. However, for those with the highest risk of offending again, a public alarm and

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<sup>1</sup> Seamus McGraw, “All about Megan’s Law,” *at* [http://www.crimelibrary.com/serial\\_killers/predators/kanka/2.html](http://www.crimelibrary.com/serial_killers/predators/kanka/2.html), *last viewed* Jan. 10, 2006.

community-wide notification would be issued upon their release and their current addresses and other identifying information would be made publicly available. Registered offenders are required to update their information annually—with transients and sexually violent predators required to do so more frequently, every 30 and 90 days, respectively—and to notify law enforcement within 5 days of any change in address.<sup>2</sup> Currently there are over 63,000 sex offenders publicly registered in California, and including over 33,500 whose addresses are publicly listed. In addition, there are another 22,000 offenders not included in the public database, but who have been required to register non-publicly with law enforcement.<sup>3</sup> All states now have some form of Megan’s Law enacted.<sup>4</sup>

Ironically, the offenses of conviction of the man who killed Megan would not have placed him in the highest risk category according to this law and thus would not have warranted a community alarm when he moved to the neighborhood, only a lesser form of notification. The paradox of Megan’s Law is this: even had the law existed before Megan was abducted, because the her attacker’s previous sex crimes of conviction were not severe enough to raise the public alarm under Megan’s Law guidelines, Megan’s parents never would have been alerted that a sex offender had moved into their neighborhood and thus would still not have known to protect Megan from him.

Other critiques of Megan’s Law followed quickly on the heels of its adoption by Congress. A Los Angeles County study found that the personal information provided to sex offender registries by offenders was often wrong; the most serious sex offenders often lied about

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<sup>2</sup> Office of the Attorney General, State of California Department of Justice “Megan’s Law: Sex Offender Tracking,” at <http://www.meganslaw.ca.gov/sexreg.aspx>, last viewed Jan. 10, 2006.

<sup>3</sup> Office of the Attorney General, State of California Department of Justice, “Megan’s Law – Information on Registered Sex Offenders,” at <http://www.meganslaw.ca.gov/index.aspx?lang=ENGLISH>, last viewed Jan. 10, 2006.

<sup>4</sup> Office of the Attorney General, State of California Department of Justice “Megan’s Law: Sex Offender Tracking,” at <http://www.meganslaw.ca.gov/sexreg.aspx>, last viewed Jan. 10, 2006.

their address and then moved without notification.<sup>5</sup> In addition, many prosecutors noted that the nature of sex crimes was that they were often only solved once the offender confessed, and they feared that the penalty of lifetime registration would deter many offenders from confessing and prevent many crimes from being solved. Another potential loophole is that sex offenders often plead down to lesser offenses and thus would appear in the registry as having a lower risk potential than their real crimes should have triggered. This discrepancy could prevent community notification from being given in cases where, according to the offender's "real" crime and not the plead-down charge, it was intended to be. This is exactly what happened in the case of Megan's own killer. The main critique is that Megan's Law does not do what it intends to do: keep track of sex offenders and prevent them from sneaking unbeknownst into quiet communities and abducting children. No one is arguing against the principle that what happened to Megan could and should have been prevented—just that this law will not do it.<sup>6</sup>

Similar laws have followed that are aimed at cracking down on sex offenders. Following nine-year-old Jessica Lunsford's infamous assault and murder by convicted sex offender John Evander Couey and the discovery of her body buried only 100 feet from her own back yard, Governor Jeb Bush of Florida signed a law mandating a minimum of 25 years in prison for those who prey on children under 12 and lifetime tracking by global positioning satellite upon release from prison.<sup>7</sup> In addition, there are several bills pending in either the House or the Senate which aim to crack down further on sex offenders, such as the Children's Safety Act of 2005, which increases the penalties on offenders for failing to comply with registration requirements, requires in-person registration updates every six months, improves information sharing between states,

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<sup>5</sup> Seamus McGraw, "All about Megan's Law."

<sup>6</sup> *Id.*

<sup>7</sup> About.com, "Jessica Lunsford Law Signed," at <http://crime.about.com/b/a/166938.htm>.

and expands the types of offenders who must register for sex crimes to include juveniles.<sup>8</sup> Although many recently passed laws and initiatives have attempted to increase the prison time and offense level attached to certain sexual offenses, the main concern over these laws rests in their disposition of the offender post-release. We know that most sex offenders do not spend their lives in prison; hence, they will all come back home and into our communities and lives. Therefore, it is imperative that these laws address effective measures to safely release sex offenders back into the community and focus appropriately on discouraging the most serious behaviors while not wasting resources and unnecessarily disrupting lives by targeting every minor offender who does not pose a true danger to the community.

The statistics on sex-offender re-entry are just as worrisome. 97% of the 1.3 million inmates currently in prison will eventually be released and return to the community<sup>9</sup> and there are already over 550,000 released sex offenders registered in the United States.<sup>10</sup> Of these 1.3 million inmates nationwide, 164,034 are incarcerated in California prisons.<sup>11</sup> One study shows a conservative estimate of “lost” sex offenders—those who have evaded registration and vanished from the system—as over 100,000 nationwide.<sup>12</sup> Other quotes put this number at somewhere between 80,000-100,000.<sup>13</sup> Whatever the exact number, it is clear that current registration laws are falling far short of their aim of keeping a close eye on *all* registered sex offenders loose in our communities.

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<sup>8</sup> National Center for Missing and Exploited Children, “Press Release: National Center for Missing and Exploited Children Supports ‘The Children’s Safety Act of 2005,’” *at* [http://www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en\\_US&PageId=2046](http://www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en_US&PageId=2046), *last viewed* Jan. 10, 2006.

<sup>9</sup> National Institute of Corrections, “Transition from Prison,” *at* [http://www.nicic.org/WebPage\\_222.htm](http://www.nicic.org/WebPage_222.htm).

<sup>10</sup> National Center for Missing and Exploited Children, “Press Release: National Center for Missing and Exploited Children Supports ‘The Children’s Safety Act of 2005.’”

<sup>11</sup> California Dep’t of Corrections and Rehabilitation, “Prison Census Data as of June 30, 2005,” Sept. 2005.

<sup>12</sup> National Center for Missing and Exploited Children, “Sex Offender Laws,” *at* [http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en\\_US&PageId=1545](http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=1545).

<sup>13</sup> CBS News: The Early Show, “‘Jessica’s Law’ Eyes Sex Offenders,” (Mar. 31, 2005), *available at* <http://www.cbsnews.com/stories/2005/03/31/earlyshow/main684190.shtml>, *last viewed* Jan. 10, 2006.

One of the main concerns surrounding sex offenders as a group is that while sex offenders, contrary to popular belief, do not have one of the higher rates of known recidivism among the criminal population, several studies have shown that they do tend to “specialize” in their criminal field—*i.e.* sex crimes—and that, as a group, any given sex offender has a significantly higher likelihood than a non-sex offender of committing future sex crimes once released. The Bureau of Justice statistics found that, in a study tracking 9,691 male sex offenders released from prison in 1994, 5.4% of them were re-arrested for another sex crime within three years and, compared to non-sex offenders released from prison around that same time, sex-offenders were four times more likely to be re-arrested for a sex crime.<sup>14</sup> The statistics on sex offender recidivism rates used in the drafting of Megan’s Law estimated that between 10-15% of sex offenders “relapse” or re-offend within four to five years.<sup>15</sup> It is worth noting, however, that very low rates of reporting—a common problem with sex crimes—likely affects these documented recidivism rates and could cause significant under-estimation of true sex offender recidivism.

Given these statistics and the clear public indication that something must be done to protect the community against these predators, this briefing attempts to provide a comprehensive review of the current and pending sex offender legislation in California, examine their effectiveness or ineffectiveness and any possible loopholes, and conclude with a broad recommendation on where the state of California’s law and policies surrounding the safe release and supervision of sex offenders into the community should be heading. In doing so, the briefing will rely on current statistics on sex offenders in California, policy recommendations by various

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<sup>14</sup> U.S. Department of Justice—Bureau of Justice Statistics, “Recidivism of Sex Offenders Released from Prison in 1994,” at <http://www.ojp.usdoj.gov/bjs/abstract/rsorp94.htm>.

<sup>15</sup> Michelle Renee Matisons, “Three Strikes and Sex Offenses: Lessons from California’s Proposition 66 Campaign,” *Bad Subjects* 71, Dec. 2004, at <http://bad.eserver.org/issues/2004/71/mattisons.html>.

organizations on this topic, media profiles and case histories of recent real-life sex crimes, and actual data from the California online sex offender registry to discover the profile of the “real” sex offender in California. This briefing will also examine the roll of public outcry and moral panic in the implementation of these laws and the effect this may have had on their specific provisions and eventual effectiveness in order to provide a more comprehensive review of the impetus behind such regulations and hopefully to inform future legislation of the lessons of the past.

## II. LAWS AND STATISTICS: WHO ARE THE “REAL” SEX OFFENDERS AND WHAT ARE THE LAWS DOING TO STOP THEM?

There are three distinct manners in which the government can attempt to render convicted sex offenders less of a threat to society at large—through the laws they implement, treatment programs, and release or civil commitment programs. This briefing will focus on the current and pending laws in California that focus on sex offenders and whether they are an effective manner of reducing the risk of releasing sex offenders into the community. However, it should be strongly noted that legislating sex offender release may not be the only, or even the most, effective way to keep society “safe” from sex offenders. Indeed, it has been widely posited that certain sex offender treatment programs within prison can be very effective in reducing recidivism rates for those who successfully complete them, thus making these offenders “safer” once released back into society.

As previously noted, the vast majority of sex offenders will be released within a few years of initial incarceration—life or death sentences are very rare for sex offenders (absent the simultaneous commission of other crimes)—and one study in 2004 showed that for 2,543 first-

time convicted sex offenders, the average sentence was 45.1 months.<sup>16</sup> This means we cannot keep them in prison and off our streets indefinitely—they are coming back. And not only do they come back, but once released from prison, sex offenders have a 44% chance of returning to prison either for a new offense or for violating their parole within the first two years after their initial release.<sup>17</sup> While this data does not specify the offense for which felons originally convicted of sex offenses were returned to prison, we know that sex offenders in particular tend to “specialize” in sex offenses, and that it is therefore highly likely that a decent majority of recidivist sex offenders were returned to prison for a second sex offense or for violating the conditions of their original parole (which often include limitations on high-risk or predatory behaviors upon release). Although the average recidivism rate for sex offenders<sup>18</sup> was lower than the national average recidivism rate for all crimes combined<sup>19</sup> during the two-year period covered by this data, taking it all together, it still means that almost 50% of sex offenders either re-committed a felony offense—most likely another sex crime—or violated the conditions of their parole within two years of release.

It is worth noting that sex offenses are generally crimes which require a complainant or victim to come forward and report the crime; they are not ones for which the police can generally independently apprehend someone in the act (as is the case for most property or drug crimes).

While felons convicted of either property and drug crimes had a much higher recidivism rate

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<sup>16</sup> California Department of Corrections and Rehabilitation, *California Prisoners and Parolees 2004* (2004).

<sup>17</sup> California Dep’t of Corrections and Rehabilitation, CALIFORNIA PRISONERS AND PAROLEES 2004: SUMMARY STATISTICS ON ADULT FELON PRISONERS AND PAROLEES, CIVIL NARCOTIC ADDICTS AND OUTPATIENTS AND OTHER POPULATIONS, “Recidivism Rates Within One and Two Year Follow-up Periods for Felons Paroled to California Supervision: Released From Prison For First Time in 2002, By Principal Commitment Offense,” p. 84 (2005).

<sup>18</sup> The categories listed as “sex crimes” included rape, lewd act with a child, oral copulation, sodomy, sexual penetration with an object, and other sex. Their individual recidivism rates within two years were as follows: rape (39%), lewd act with a child (28%), oral copulation (43%), sodomy (47%), sexual penetration with an object (46%), other sex (61%). Please note that the percentage rate for sodomy was calculated by this author from the raw numbers presented in the data, and that the total number of felons convicted of sodomy and released in 2002 was 17. *Id.*

<sup>19</sup> The average recidivism rate within the two-year period for all felons released in 2002, pursuant to this data, was 53%. *Id.*

than sex offenders,<sup>20</sup> it must be assumed that many sex crimes go unreported and undetected by the police. For this reason, while a recidivism rate of 28% within two years for a crime such as lewd acts with a child versus that of 69% for vehicle theft may seem reassuring, it cannot be assumed that this is because felons convicted of child molestation are less likely to reoffend.<sup>21</sup> Particularly for a sex crime against a child, where children are especially hesitant and afraid to come forward, this rate could alternatively reflect the fact that many of these crimes go undetected, and that it is not that sex offenders released from prison are less likely to commit future crimes relative to other felon parolees, but that they are just not as frequently caught.

For these reasons, while laws that monitor and limit sex offender movement may be an effective part of the overall strategy to increase public safety, treatment programs in prison that target sex offenders must also form part of this equation. If we cannot keep them in prison, and we cannot fully monitor them or prevent them from committing new crimes once released, we should use their time in prison to perhaps meaningfully rehabilitate them so that, if they disappear from our system and the monitoring fails, once they are unhindered, unwatched, and unlimited, they themselves can be what prevents them from committing future crimes. However, according to Undersecretary of Corrections for California Jean Woodford, the number of sex offenders currently in prison in California who participate in sex offender treatment programs in prison is a resounding zero. Based upon her twenty-year experience in the California prison system, she believes that sex offender programs in prisons can work for both adult and juvenile sex offenders, and that if we get more sex offenders into treatment programs in prison, we wouldn't have to worry so much about registering, monitoring, and tracking their movements with global satellite positioning systems once they are released. However, Undersecretary

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<sup>20</sup> Felons initially convicted of property or drug crimes had among the highest recidivism rates of all crimes listed, routinely listed at between 50-70%. *Id.*

<sup>21</sup> *Id.*

Woodford also emphasizes that we cannot isolate released sex offenders from the community upon release, and as such, it is safer for the public to know where they are using registration and GPS-monitoring systems and for them to be placed near parole offices and police services to serve as both a source of control and support for sex offenders who are trying to go straight.<sup>22</sup>

But who are these “sex offenders” that we are all so scared of? Are they truly, as the majority of the American public now believes, all deviant, perverted monsters who live unassumingly in our neighborhoods and prey on little children? If you imagine how the typical American would view the typical sex offender in America today, it would perhaps look something like this: white male, mid-50s, previously convicted, unmarried, no children, lives alone, is a stranger to you and your family, and abducts children at random. Or perhaps some Americans have begun to think a little more realistically: white male, early 40s, has a family, has children in the same school system, knows your children through community connections. Or even more realistically: is your child’s soccer coach, piano teacher, guidance counselor, or priest. As it turns out, none of these profiles are very far off the mark. What is important to realize, however, is that when you say “sex offender” in America today, most people think of someone who is a) white, b) male, and c) is a child molester. This does not even begin to cover it.

The United States Sentencing Commission compiled statistics on all offenders in federal prison custody in the United States during fiscal year 2001. Among those convicted of “sexual abuse”—the category that most approximates sex offenses, for our purposes—26.7% were white, 5.2% were black, 4.8% were Hispanic, and 63.3% were labeled as “other” (which includes Asian, Pacific Islander, Native American, and multiracial ethnicities, among others). 95.3% were male and the peak age ranges for incarcerated sex offenders were 21-25 (17.0%) 31-35 (19.3%)

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<sup>22</sup> Interview with Jean Woodford, Undersecretary of Corrections for the State of California, Stanford, CA (Nov. 9, 2005).

and 41-50 (18.4%) years old. The mean and median age of sexual abusers was approximately 34 years old.<sup>23</sup> This data is interesting because it partially corroborates existing preconceptions about sex offenders, but not entirely.

There was a significantly higher number of white offenders than either black or Hispanic, as one might have presumed, but higher than all of these is the 63.3% of offenders convicted for sexual abuse that are none of these three. It would be helpful to break down this “other” category further in order to see exactly what ethnicities and in what proportions add up to such a large proportion of sex offenders. It would be worth knowing whether this category includes a multitude of other possible races and ethnicities, none of whose individual populations come close to matching the figures for white, black, and Hispanic offenders, or if there is perhaps one main racial group concealed within the “other” category that driving up such a high statistic. This second possibility is unlikely, as one would assume that if this were the case, this population would be singled out and identified as a high contributor to sex offender rates, but as of now we cannot be sure.

As assumed, the vast majority of sexual abusers were men, but notice that it was not 99% nor 100%. This means that almost 5% of sexual abusers were women, which is a phenomenon that is just now getting increased media attention in the form of female school teachers who begin illicit relationships with underage male students. It is important to recognize that this is not the only scenario under which women are the sexual aggressors, and that while media coverage may help draw attention to one aspect of a growing phenomenon, it often does not evenly and accurately represent the true scope or breadth of the issue.

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<sup>23</sup> United States Sentencing Commission, “Sourcebook of Federal Sentencing Statistics,” *available at* <http://www.ussc.gov/ANNRPT/2001/SBTOC01.htm>.

One statistic that needs much more fleshing out is the age category for sex offenders. The statistic given in this data represents the current age of the sex abuser in prison, *not the age at which he or she was convicted of that offense*. Thus, it cannot really tell us much about the average age of sex offenders *when they are committing these offenses*—ie. who to look out for. Since we do not know the prison terms of each of the offenders who are collectively represented in this data, we cannot know whether the highest proportion of sexual abusers in prison are between the ages of 31-35 because they commit their crimes within that age range and have quick prison turnover or because they all committed their crimes when they were in their twenties, but uniformly have over 10 year prison sentences. It is likely a mix of both, as the sentences can vary, but it would be helpful to get more exact data on the ages at which sex offenders are most criminally active.

What this data can tell us is that there are not many sex offenders in adult prisons who are under the age of 21. However, whether this is reflective of the fact that there are no young sex offenders or the fact that most sex offenders under the age of 21 are sent to a juvenile facility, it is hard to say. We can also see that there are very few sex offenders in prison who are over the age of 50. This may indicate any of three things: 1) sex offenders tend to “retire” around age 50 and cease committing future sex crimes; 2) sex offenders after age 50 have just gotten better at not getting caught for their offenses; or 3) sex offenders over age 50 who do continue to offend and who do get caught are not receiving long, or any, prison time for their offenses. All we can know for sure is that, for some reason, there are not many sex offenders over 50 years old in prison at any one time. Basically, between the ages of 21-50, the percentage of sex offenders in any one age group does vary significantly, but not in any coherent pattern in which one might be able to isolate an overwhelming peak age of criminal activity. Also please keep in mind that

these are national statistics, not California specific, and that the crime of “sexual abuse” may exclude certain categories of “sex offenses,” as broadly defined.

In California, like many other states, sex offender registration was implemented under the rubric of Megan’s Law, created in memory of Megan Kanka. Megan’s Law designates three risk-level classifications that carry with them corresponding registration requirements: “high risk,” “serious,” and “other.” “Serious” sex offenders include those who have been convicted of assault with intent to commit rape, oral copulation, or sodomy; rape; lewd or lascivious conduct with a child or a dependent adult; continual sexual abuse of a child; child molestation; sexual penetration; kidnapping with intent to commit specified sex offenses; felony sexual battery; or felony enticement of a child for purpose of prostitution. “High risk” offenders are those who have met the criteria for a “serious” sex offender and have also been convicted of multiple violent crimes, at least one of which was a violent sex crime, and have been involved in such specified criminal activity within the past five years, excluding time in custody. The “other” classification is reserved for those offenders whose only sex crime of conviction involves pornography, exhibitionism, misdemeanor sexual battery, incest, or spousal rape. The offenders who fall within this classification must register with local law enforcement upon release from prison or probation, but their personal information is not disclosed to the public. Only “serious” and “high risk” offender information is disclosed on the public registration database website.

Based on this categorical structure, it is apparent that the law in this case does make some meaningful attempt to target only those more serious offenders for public monitoring and disclosure, excluding those whose only sex crime include likely low-risk or one-time offenses. Referring forward to this briefing’s study on a sample of real California registered sex offenders, which will be further explained in the following sections, it is clear that this standard does hold

true in practice—all registrants who were publicly disclosed were convicted of a “serious” or “high risk” crime; there were none who showed up as having registered for offenses such as pornography or indecent exposure alone. As of Dec. 2003, the California Department of Justice sex offender database contained records on 99,470 convicted and registered sex offenders; of those, 1,824 were “high risk,” 80,982 were “serious,” and 16,664 were categorized as “other.”<sup>24</sup>

Depending on the convicted offender’s risk level, there are four possible registration categories that he or she may be subject to: the Home Address category, the Conditional Home Address category, the Zip Code category, and the Undisclosed category. An offender convicted of certain specified sex offenses will have their home address, along with other identifying personal information—specifically, their name and known aliases, a photograph, a physical description including gender and race, date of birth, criminal history, the address at which the person resides, and any other information that the Department of Justice deems relevant—displayed to the public via the database. The conviction of certain other specified sex offenses, in conjunction with another conviction for a sex crime, will also have the conditional effect of requiring the home address and other identifying information to be posted. Those who commit other specified offenses will only be subject to having their zip code of residence and not their full home address posted, and those others who fall into the last category will have all residential location information undisclosed to the public.<sup>25</sup> Please refer to Appendix A of this briefing for a full explanation of the California law on sex offender registration and Appendix B for a list of corresponding California penal code offenses for registrable sex crimes.

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<sup>24</sup> Office of the Attorney General of the State of California, “Report to the Legislature on the California Sex Offender Information and Megan’s Law, July 2004,” *available at* <http://www.meganslaw.ca.gov/publications.htm>.

<sup>25</sup> Office of the Attorney General of the State of California, “Megan’s Law—Summary of California Law on Sex Offender,” *available at* <http://www.meganslaw.ca.gov/registration/law.htm>; *see* Appendix B for list of corresponding penal code offenses.

In this briefing's own independent study of the California sex offender online database, which will be further explained below, it was found that many of the registered offenders addresses are listed in the database, although a decent number did have their addresses listed as "undisclosed." Interestingly, it was not immediately apparent from the crime of conviction what the distinction between the disclosed and undisclosed offenders was. The other identifying information listed included a photograph (in most cases), name, date of birth, height, weight, hair color, eye color and race, along with crime of conviction, any identifying marks or tattoos, and any known aliases.

Because of the lack of detailed demographic statistics pertaining specifically to the sex offender population both in prison and on parole in California, this briefing has attempted to gather a randomized sample of sex offenders from the California sex offender registry database in order to shed some light on who the "typical" sex offender in California really is. This study is of limited scope and also of limited empirical value, as the sample size is not large enough to eliminate the risk of statistical bias nor is it randomized enough to limit the possible effects of geographic/racial bias. However, based on the limited resources available, this narrow study may help inform certain inferences or likelihoods about who our registered California sex offenders are and how well the database can truly function to keep track of their whereabouts. Please see Appendix C to this paper for the complete data table and summary results of this study.

Because the nature of the California registry database is directed at helping concerned citizens search in a focused manner for possible sex offenders in their area and not designed to allow general trolling of the website for voyeuristic purposes, it is impossible to search the database in a truly randomized fashion. In order to approximate true randomization as much as possible, the methodology used in this study was to search the database using the "county/city"

search function. Within the “city” search function is a list of all California counties. First, a county was selected at random by counting down the list, starting with the first county listed, until the fifteenth county listed was reached. Upon selecting the fifteenth county, a list of cities located in this county could be accessed. The first city listed within that county was then selected, and the offenders who were registered in that city and who were listed on the first page of the list containing all offenders registered in the city were entered as data points in this study. This method was then repeated for each fifteenth successive county, first city, and first page of registrants listed until the entire list of counties in California had been fully cycled through twice using this method—this equaled eight cities in eight separate counties, or eight cycles of fifteen in total. Because it is recognized that certain geographical areas or counties can bias heavily towards one racial group at the exclusion of others, this study attempted to get a wide range of counties and capped the maximum number of registrants in each city who could be used in this study at twenty (*i.e.* the first page). This was done in order to ensure that one county, selected at random, did not contribute a disproportionate number of data points of one race to the study that perhaps may not be indicative of the true proportion of that race in the entire database. Only two cities selected had over 20 registrants (*i.e.* exceeded the first page); all registrants in the other six cities selected were fully accounted for in the data. This briefing recognizes that this is an imperfect method of randomization that cannot be imputed to approximate the general population of all sex offenders in California, but hopes that some data gleaned from the study can help illuminate our idea of who these registrants really are.

Of a total sample size of 74 registrants, 50 were white, 20 were Hispanic, 3 were black, and 1 was Asian. This data differs significantly from the national statistics on “sex abusers” collected by the U.S. Sentencing Commission, which is not unexpected as the U.S. Sentencing

Commission focused on federal prisoners nationally, while this data is specific to California state inmates. However, there are a number of possible other sources for this discrepancy as well. The large proportion of Hispanic registrants included here might reflect a larger Hispanic population both in California and in the California prison system as compared with national data. It is also possible that the category of “sexual abuse” used by the U.S.S.C. does not overlap perfectly with the category of prisoners we are looking at now—namely, registered sex offenders. It must also be recognized that the U.S.S.C. data reflected persons in custody in prison nationally during FY 2001, while this data includes all sex offenders released from prison over the last several years who must register as such, and the national prison population during that one year might not approximate the demographics of the offenders released in California over the past several years. In addition, one other possible source of bias may be that one city selected was noticeably Hispanic-dominated, and this might have had the effect of unnaturally skewing the statistics in such a small sample size. Despite these discrepancies, however, there are a few inferences we may nevertheless be able to extract from this snapshot data.

Many registered sex offenders are in fact white. Although there is a heavy Hispanic representation in this data, it may be fair to infer that there are less Hispanic offenders than white, and even less who are black, Asian, or another ethnicity. Another striking finding from this study is that many registered sex offenders are, in fact, registered for sex crimes against children. Regardless of county, race, age, or any other distinctive demographic factor—including gender—the one constant that remained was that the majority of sex offenders registered offense was for lewd and lascivious acts with a child under age 14 or child molestation. Very few even were for forcible rape or sexual battery, much less for any so-called “less offensive” sex crimes. Two of the three females listed were registered for child molestation, and lewd and lascivious

acts with a child under 14 was the single, strikingly most frequent crime of registry across all offenders contained in this study. This statistic is not a result of the way California Penal Code registry laws are written—there is a laundry list of various sex offenses for which registry is required, and sex crimes against children is a mere one of them.<sup>26</sup> So however much anecdotal evidence criminologists might hear about how sex offender registry targets the wrong offenders and does not help protect children from child molesters, this data seems to emphasize that, in fact, it does target exactly those whom we wish to keep our children away from and may in fact help protect the public safety.

As far as whether the sex offender registry database actually keeps track of sex offenders, this is a more difficult question. The majority of offenders in the database are listed along with their last known address; this address is presumed to be current for all offenders who are in compliance with the registration requirements. However, there is a disclaimer on each registrant address that states that registrant may have moved from this address since it was last verified. Because offenders in compliance with registration laws are required to notify law enforcement of any change in their current address, we will assume for purposes of this study that the address listed for all registrants currently in compliance with registration laws is correct and that the address listed for all registrants who are in violation of registration laws is likely not correct. However, if this assumption proves false, the effectiveness of the sex offender registry database will be largely overstated in this briefing. Because of the uncertainty as to whether the “last known” address remains current for the majority of sex offenders in this database, it is impossible to determine exactly how many have absconded from the system. Please note that assuming the last known address to be current may indicate a much lower rate of non-

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<sup>26</sup> See Appendix B on Registrable Sex Offenses in California.

compliance and disappearance than may truly be the case—unfortunately, from this data alone, the true numbers of those absconded are impossible to determine.

The majority of offenders in this study had current addresses listed (54%) and were in compliance with the registration laws (76%). Of those that did not have a current address listed, the majority were registrants whose address was non-disclosable to the public (31%), as opposed to those who were in violation of the laws and had absconded without notification (24%). The number of offenders who have ducked the registration requirements and “disappeared” from the system were a relatively large proportion of total registrants (24%), especially keeping in mind that this is the lowest possible estimate of absconders and that the true number may well be higher. This data suggests that the sex offender database is, in fact, fairly good at keeping track of current sex offender whereabouts, having presumptively current addresses listed for 69% of registered offenders whose addresses are required to be disclosed, especially with the original purpose of allowing parents to verify whether any child molesters live in their neighborhoods in mind.<sup>27</sup> Interestingly, the majority of registrants who were in violation of registration requirements came from one particular county in which the city polled was heavily Hispanic (Arvin, Kern County).<sup>28</sup> These findings are not sufficiently robust that any strong conclusions can be drawn from them, but are worth noting in passing. If anything, it might indicate that offenders from certain communities are more inclined or socially influenced to abscond from registration requirements, but this briefing does not feel comfortable drawing any racial inferences from this one finding, and no other racial relation between race and registry violations appear.

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<sup>27</sup> See Appendix C for data table.

<sup>28</sup> See Appendix C for data table.

Additionally, there is no indication from this data for believing that the crime of conviction influences whether a registrant will abscond; the majority of offenders in violation of the registry requirements also happened to have been convicted of a sex crime against a child, but this is most likely a function of the fact that the vast majority of registrants in this study were convicted of sex crimes against a child, and the mere statistical likelihood that any absconder at random in this study will have been convicted of a sex crime against a child is high. However, because this study is limited and the sample size relatively small, this briefing is not willing to posit that there is no connection between crime of conviction and likelihood of absconding. Further study would have to be done on this question and would probably be worthwhile in evaluating the effectiveness of sex offender registration, but the natural inference that the more severe the crime of conviction and the more restrictive the registration requirements, the higher the likelihood of violation, does sound persuasive and could prove correct.

Again, the average age of sex offenders is a glaring omission from the registry database. Although the offender's date of birth is given, his or her age at the time of conviction is not. This would be a very helpful addition to the database, both for research and for safety purposes. In terms of assisting a parent or concerned citizen in evaluating the likely risk of danger they face from an ex-convict neighbor, it would be helpful for them to know whether they are facing someone who was convicted of a sex crime last year versus thirty years ago. Since registration is a lifetime requirement, one-time offenders who committed a sex crime as a young adult and are now well into their 60s-70s may still be registered in the database, although they pose a very low risk of danger to the public, which might also skew the public perception of the typical "sex offender" as much older than the current offenders truly are .

So are the laws appropriately formulated to target real sex offenders? Before asking that question, it is important to realize what the legal term “sex offender” means and exactly who it includes. This briefing has attempted to clarify a picture of who the “typical” California registered sex offender generally is, but legally, the term “sex offender” can include anything from child abuse and forceable rape—those whom we generally think of as serious “sex offenders” and who are, in reality, the most frequently registered—to statutory rape, spousal rape, soliciting a prostitute, public exposure and, in some cases, consensual gay sex. Would it surprise you to know that, under California Penal Code 314.1, someone convicted of indecent exposure for urinating in public while drunk and not thinking anyone was around must register as a sex offender for the rest of his life? Is this the dangerous monster that we want to use public resources to track and target?

That said, the California Penal Code section defining registrable sex offenses does, for the most part, target offenses that constitute either serious sex offenses against persons (rape, sexual battery) or lesser sex-related crimes that might serve as helpful indicia of a likelihood to engage in higher-risk sexual behavior in the future (possession of pornographic material depicting a minor)—*i.e.* all offenders that a reasonable parent would want to know whether their child was playing in his back yard.<sup>29</sup> It is important to recognize, however, that when a law targets “sex offenders,” it is targeting all categories of them, not just the ones we think of as the “worst.” There are not many instances in the Penal Code of offenses that do not truly deserve to be accompanied by lifetime registration, but there are a few instances where it is conceivable that a truly low-risk individual might get swept up in the frenzy and subject to strict lifetime regulation undeservedly.

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<sup>29</sup> See Appendix B for a list of registrable sex crimes.

In addition to the sex offender database online, California also has a 900-number that citizens without access to the internet can call or mail into to inquire whether someone they know or suspect of being a sex offender in fact is. In order to inquire, the caller must be over 18 years old and not be a registered sex offender. The call costs 10-cents per call, for the inquiry of up to two individuals. If the individual is found in the database, the DOJ specialist will inform the caller of the offender's physical description, community of residence, and crime of conviction that caused him or her to register, but *not* the offender's specific address. If the individual is not found in the database, or is listed in the "other" category that does not allow public disclosure, the specialist will inform the caller that the individual was not listed as a "high risk" or "serious" sex offender in the database, but will not further inform the caller as to whether the individual was completely unlisted or listed as an "other." During 2003, the 900-line received 13,366 inquiries by phone and 2,263 by mail, generating a total of 148,707 searches of the sex offender database, of which there were 239 instances where the subject was found to be a registered sex offender. This marked an 125% increase in usage from 2002. For 2003, the revenues generated by this line totaled approximately \$420,000, while the expenditures associated with the program totaled approximately \$62,000.<sup>30</sup>

On the heels of this, the federal "Campus Sex Crimes Prevention Act" was adopted by California and signed into law by Governor Davis, becoming effective in 2002. This law requires convicted sex offenders who are already required to register in a state to provide notice to campus police when they enroll in or become employed on the campus of a college or university.<sup>31</sup> Prior to this law, because a college may not be in the same jurisdiction as the offender's legal residence and because offenders are only legally required to register in the

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<sup>30</sup> "Report to the Legislature on the California Sex Offender Information and Megan's Law, July 2004."

<sup>31</sup> Security on Campus, Inc., "Campus Sex Crimes Prevention Act," *at* <http://www.securityoncampus.org/congress/cscpa/>, *last viewed* Jan. 11, 2006.

jurisdiction of their legal residence, many college campuses would not have been able to determine whether there were any registered sex offenders living in their midst. This law ameliorates this discrepancy by requiring convicted sex offenders to register on all college or university campuses once they become affiliated with them, recognizing that sex crimes on college campuses is an area of particular concern and exposes a particularly vulnerable population, in public opinion.

However, mandatory registration is but one law among the state's pending docket that aims at targeting sex offenders. Governor Schwarzenegger has signed, among others, laws dealing with the electronic (GPS) monitoring of, home detention of, custody and visitation rights for sex offenders, as well as laws denying registered sex offenders access to erectile-dysfunction drugs, extending the statute of limitations for criminally prosecuting childhood sexual abuses cases, and restricting the distance from which sex offenders can reside from schools.<sup>32</sup> Of thirty one newly-signed pieces of legislation on the Governor's website, twelve of them are laws specifically targeted at sex offenders and twenty one of them deal in some way with crime or crime prevention. In addition, two of three other bills recently considered and eventually vetoed dealt specifically with sex offenders. The mere fact that a high proportion of the pending bills prominently displayed on the Governor's website had to do with sex offenders and crime prevention strongly demonstrates, if nothing else, the legislature's perception of the high public demand to crack down on sex offenders and crime and the overwhelming political reaction to this demand. In fact, the website specifically touts that "this year the Governor proposed the toughest sex offender laws in the history of California when he asked the Legislature to support the Sexual Predator Punishment and Control Act," and that "Governor Schwarzenegger has

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<sup>32</sup> "Governor Schwarzenegger Acts on Legislation to Strengthen Public Safety and Protect Crime Victims," Oct. 10, 2005, at <http://www.schwarzenegger.com/news.asp?id=2103>; see Appendix D for the list of pending legislation.

signed legislation to strengthen Megan's law and toughen sex offender laws.”<sup>33</sup> The high visibility of the Governor’s self-professed crusade against sex offenders and crime in California serves as strong evidence of a political perception that is catering to the demands of the public constituency in targeting this subject for ever-stricter legislation and enforcement.

The power of public opinion can be immense in terms of effecting legal and political change, and the role of the media in driving public opinion is great. One can easily see this progression on the issue of sex offenders in the past few years. While communities have always harbored a secret fear of strange men, the targeted outrage at sex offenders has only reached such a high-profile level within the past several years, coinciding with the national media portrayals of a succession of young girls brutally raped, molested, or killed by convicted sex offenders living in their communities or neighborhoods. This type of crime did not begin to exist with the abduction of Polly Klaas, nor did the frequency with which it occurred increase at that time. The reason that it suddenly became a hot-button issue and that the public suddenly began to sit up and take notice of the many crimes against children that take place in our midst and under our noses is that, once the news media realized how big a national sensation stories—like Polly Klaas’s—about the sexual abduction and murder of a young girl proved to be, they began focusing their attention, and consequently our attention, on this phenomenon. The evolution of stricter sex offender laws can be approximated by the sweeping grassroots movement following the death of Polly Klaas herself that directly resulted in the infamous Three Strikes Law—again, a law that was implemented with good intentions and a strong theoretical basis for stopping repeat offenders, but that in practice has overwhelmingly and unwittingly targeted those who were never intended to be affected by this law.

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<sup>33</sup> *Id.*

Much like anything that exists in the world around us, once you start looking for it, you will find it everywhere. This is what has happened with sex offenders: with the sensational media coverage of several high-profile missing and abducted children one after the other has come a corresponding public moral panic over the safety of our children and the monsters living among us who wish to harm them. This moral panic has increased with each successive story, and has now begun to put pressure on the government and the legislature—who, as elected officials, are beholden to the public opinion—to do something about it. Hence a wave of new, tougher legislation aimed at monitoring and incapacitating sex offenders from re-offending. This increased focus on sex offenders, however, is not a bad thing. While the problem is not a new one, it most likely did not receive the attention it deserved nor was the public ever as knowledgeably informed over how to protect themselves until this point. It is important, however, to recognize the underlying basis for the new sex offender laws if we are to determine whether they are merely ineffective stop-gap solutions hastily put in place by opportunistic legislators responding to the public panic, or if they are truly formulated in a manner that will effectively target the most dangerous sex offenders and keep our communities more secure. Not all legislation that originally seems well-formulated will turn out in practice to have the intended effect, and many, while not unsalvageable, may need tweaking and modification before they can become truly effective in practice. This is what we—as a public, as researchers, as politicians, legislators, and law enforcement—need to keep a critical eye on in order to ensure that the laws we enact not only make the public feel safer, but actually help them be safer.

## II. POLICY RECOMMENDATIONS: WHAT DO WE DO FROM HERE?

Sex offender databases have gotten a high amount of praise and a fair amount of criticism, but based on available data it seems that public databases do help monitor and track the majority of registered sex offenders' movements and allow the public a reasonably reliable method of ascertaining whether someone convicted of a serious sex crime is now residing in their community. In effect, it is better than what we had before, which was nothing. The paradox of Megan's Law not being sufficient to have saved Megan may perhaps not prove to be true if the public knowledge surrounding the existence of these online sex offender databases is such that parents will search them independent of a public notification that an offender has moved into the community. It also appears that the regulations surrounding who must register as a sex offender and which crimes of conviction trigger certain levels of public disclosure of personal information is well-formulated to keeping the public well notified of the most serious offenders while protecting the privacy of those who may not truly deserve public monitoring and social pariah status for the remainder of their lives.

However, certain problems with the database may remain, but the extent of these problems were impossible for this study to measure and deserve further examination. The accuracy of addresses given by registrants and whether they actually live where they are listed is presumed, but not assured. This is something that can only be measured in a concerted study involving law enforcement tracking down these addresses and knocking on doors to discover whether they remain the offenders' current residences. If it turns out that the majority of these addresses are not in fact correct, this would severely decrease the efficacy of these databases as public monitoring systems and constitute a huge waste of taxpayer resources and false sense of

public safety. Another significant problem that must be corrected is that of the “true” crime versus the crime of conviction in plea deals. If many offenders do in fact plead to lesser crimes than they were arrested for, and these are the offenses that are listed in the database and determine their risk status, this may cause a significant bias in the database that skews the overall risk level and offenses listed to less serious than they actually are. Again, this would take further study, and perhaps some reform of the database listings such that it would indicate either whether the conviction was the result of a plea or what the original crime of arrest was in addition to the crime of conviction.

One modification I would strongly urge is that the age of sex offenders at the time of conviction be made available on the registry database. This would be a very informative piece of information that is currently a glaring omission in terms of accurate public disclosure. Depending on how the registry database develops over the next few years, it may also be advisable to institute a system under which one-time, low-risk offenders are expunged from the database after twenty years, if during the intervening time they have remained in compliance with their parole and registration requirements and have not been *arrested* (note that this does not mean *convicted*) of a second sex crime. This would prevent those offenders who were perhaps convicted of sexual battery or non-forcible rape in one instance, and who do not pose a more general threat to the public, to escape the stigma of being publicly labeled a “sex offender” and get a chance to start their lives over, if they so desire, once there is a fairly high probability that they no longer pose a danger to the public. However, certain crimes such as forcible rape or child molestation, regardless of no subsequent arrest, and any pattern of one or more additional arrests for sex-related crimes, should render the offender ineligible for this provision.

It is also crucial in going forward in the next few years with sex offender legislation that law-makers and policy advisors keep in mind the delicate balance between public monitoring of potentially dangerous sex offenders and facilitating a pathway for meaningful rehabilitation and integration of the sex offender into the community. We must keep in mind that these offenders are “our” sex offenders—they come from our communities and will return to them, affecting all our lives in the process. It is not sufficient that they be restricted, monitored, and shunned for the rest of their lives. One of the surest methods of guaranteeing the public safety is in developing a path through which sex offenders can rehabilitate themselves and decide to become productive members of society. This will only happen if they feel that they have this option. By making convicted offenders feel excluded from normal society, and ensuring that they have no method of returning to it, we will only encourage them to fall back on their deviant behavior by not giving them another, better alternative. Those who can safely reintegrate should be allowed and encouraged to—not blindly, but in careful, measured steps—so that they have the incentive and necessary support to rehabilitate themselves when they are able. As holds true for the released ex-convict population in general, those who maintain more family or personal connections while in prison and those who are given more community support when released are those who tend to be more successful at reintegration and less likely to re-offend. Getting sex offenders in connection with their families and other personal relationships, and giving them a meaningful community or parole support system once released, may well go a long way towards preventing the occurrence of future sex crimes. It is not clear just how this careful balance should be achieved in practice or what might be the first step toward its implementation, but is something we should be mindful of as we continue to develop a growing body of laws and policies surrounding sex offenders and their safe release into the community.

On that note, although this briefing does not focus on the different treatment options for sex offender rehabilitation, it is a clear oversight and waste of precious resources that this option is not more heavily focused on and encouraged within our prison system. Now that the focus of the California Department of Corrections and Rehabilitation has returned to a more rehabilitation-oriented program, sex offenders should be one of the first populations to receive this attention. Several preliminary studies and anecdotal or observational findings have shown that some types of sex offender treatment programs do work well for some offenders. There is no one program that will work for everybody all the time—but this should not discourage us from investing resources and developing those programs that *do work* for some offenders some of the time. As Undersecretary Woodford said, with a great amount of practical insight, if we can rehabilitate sex offenders before they are ever released onto the streets and turn their own personal motivations to work for us in preventing them from re-offending, that would be one less offender we would have to worry about potentially slipping out of our sights and running amok without our ability to monitor him. This is not an either-or solution: monitoring helps and treatment helps, and the most effective solution would be to target both.

The bottom line question is: how can we prevent convicted sex offenders from re-offending? This is a very complex problem with no clear solution. We have seen that some of the things we are doing, like offender registration, are working and that some of the newer initiatives—such as GPS monitoring, restricted access to sexual-enhancement drugs, and restricted living near school zones—must be carefully monitored to ensure that they are working to the best of their abilities. But these solutions deal with the entire range of possible sex offenders—again, we must return to the current public sentiment that is right in demanding: what

can we do about the worst, the most dangerous, the serial child molesters and rapists that now live on my block?

First, it is important to determine just how many of these serial offenders there are among the total population of released and registered sex offenders. The dearth of research and information surrounding the issue of sex offenders in the penal system is probably the most significant hurdle currently faced by policy-makers in this area. In order to formulate and tailor appropriate policies to the actual real-life body of sex offenders we have in our prisons and on our streets, we need much more in-depth information as to who these offenders are, where they are, what they are doing, and how many of them are truly dangerous. It will be impossible to effectuate meaningful and effective laws and policies without much more research and understanding on these questions. The already existing online database of sex offender registrants would be an excellent resource for research, if it could be made available to certain authorized researchers with a search engine interface that allowed unhindered trolling and manipulation of the data for research purposes.

Second, we need to compile data on what are the actual lengths of sentences served by sex offenders for different crimes of conviction in order to determine how likely are they to get out of prison and live among us. It is very likely possible that many sex offenders are in reality serving much shorter sentences than the general public would believe or desire. However, again, distinguishing among types of “sex offenders” is of tantamount importance. To help keep our streets safe from the most dangerous sexual predators, we need to first identify exactly who those are and what proportion of the total sex offender population they compose. One potential policy for keeping predators off the streets is to literally keep them off the streets—*i.e.* to increase prison sentences for the most dangerous sexual offenders. However, this cannot be done

without isolating them from the general population of sex offenders first and determining exactly what each categories' current prison sentences are. It would be an egregious waste of government effort and resources, not to mention a huge injustice, to just lock up all sex offenders and throw away the key. In all likelihood, it is only a small percentage of the sex offender population who indeed merits this treatment—but for them, and only them, it should unequivocally be implemented.

In this pursuit, it might be advisable to implement a new sentencing scheme for sex offenders, based both on the severity of their crime and on their prior record, to ensure that the habitual, violent offenders are not given any more chances to harm innocent citizens, while at the same time safeguarding the rights of those offenders who do not pose a true risk of danger to the public. Perhaps the scheme could be formulated as follows: offenders against whom there are three or more complaining victims (*i.e.* serial rapists or abusers) get mandatory 25 to life sentences; two or more convictions for forcible rape or child molestation would mandate life in prison. These sentences may seem severe, but we need to be more aggressive in keeping the most egregious and high-risk offenders—those who have a low likelihood of rehabilitation and high likelihood to re-offend—off the streets, period.

The trick, however, is carefully formulating the law in such a way that it does not unnecessarily and accidentally sweep those offenders who are not in reality the dangerous serial offenders that these policies target under the rug with the rest of them. This briefing cannot emphasize enough the importance of a carefully designed law with ample room for review and revision if it becomes apparent that the law is not acting in the way it was intended or is exerting unmerited effects on those who do not deserve such severe punishment. Lessons must be learned from the frankly disastrous effects of laws such as Three Strikes and those formulated in the War

Against Drugs that—although very well-intentioned in theory—ended up affecting thousands of people that arguably did not deserve such punishment and wasting huge amounts of money and resources on incarcerating a large proportion of the population for whom we will likely see no benefit from doing so. It is largely as a result of laws such as these—along with determinate sentencing schemes that remove judicial discretion—that the prison system in California is in such a dire state as we have currently found it, with faint hopes of easy remedy.

In formulating new sex offender laws, we must be careful to avoid the pitfalls of the past and ensure we do not add to a burgeoning problem of lack of resources and rampant injustice in our pursuit of making things better. Perhaps a law similar to the recent Florida law mandating 25-year sentences for sex crimes against children under 12 and lifetime satellite monitoring would be appropriate, if fashioned in a carefully specified manner. But we must also recognize that this is likely a very small proportion of offenders that this law would target and ensure that we do not sweep up some lesser offenders in a mad rush to lock them all in jail and throw away the key. There must be very exacting specifications for exactly which offenses committed under which circumstances would trigger such an extreme punishment—and there must always be a back-door escape provision to account for potential errors in this formula.

Public information is key. The public needs to be informed about the real profile of a typical sex offender and the fact that, in many cases, there is no one average profile. Parents are the first line of defense in keeping their children away from these offenders and teaching them proper procedures and responses to any unwelcome overtures, and each citizen has the greatest ability to adopt safe and informed strategies to recognize and avoid potentially hazardous situations. Despite the wide availability of sex offender information to the public, it is unlikely that a majority of Americans have ever looked through one of these databases or realize what the

actual statistics on sex offenders in America are. It would be almost impossible, in fact, for the public to be well-informed on this topic since even law- and policy-makers have found themselves with a dearth of meaningful information here. While most citizens are likely aware of the national obsession with sex offenders, the majority would probably be shocked to find out that one, much less dozens, of sex offenders actually live in their communities. And they do. Not all are dangerous, and this briefing does not advocate that citizens compulsively familiarize themselves with and avoid each offender within a five-mile radius of where they live. However, it does advocate that the public make themselves aware that there are sex offenders living among us, that “sex offender” can mean a wide variety of things, not all of which are dangerous, and that it *is* dangerous to assume that they will recognize one when they meet him, because there is *not* a “typical,” fail-safe profile of what a sex offender is.

The more informed the public is of accurate information, not sensationalist assumptions and unfounded fears, the more armed they will be to protect themselves if the need arises and the safer they will feel interacting with those that live around them. Accurate research and information will not only give citizens the tools with which to stand on the front lines and protect themselves against possible threats, but also the understanding of exactly what “sex offender” means and that society will also be strengthened and protected by giving those sex offenders who are not habitual predators a chance at rehabilitation and reintegration into our society without relentless public scrutiny and scorn.

In sum, increased information—both for research purposes and public dissemination—is the most critical step we can make in combating the public hysteria over sex offenders in our communities and in actually making these communities safer. In addition, increased public awareness and education, better laws and sentencing schemes, and meaningful and diversified

sex offender treatment programs in prison are important to making a meaningful difference in the way we approach sex offenders and the prevention of crime. The increased awareness and outrage at sex offender crimes that we are currently experiencing does not signify that sex offenses themselves are suddenly becoming more common. This briefing would confidently posit that similarly outrageous sex offenses have been committed throughout our nation's history. It is just the recent coincidence of several terrible, high-profile events and the corresponding media coverage that has garnered such widespread attention—and that is a good thing, but only as long as we use the increased awareness to carefully and rationally attack the problem at hand, keeping in mind the mistakes of the past, and with the viewpoint that we *can* make a difference.

## Appendix A: Summary of California Law on Sex Offenders

\*Please cross-reference California Penal Code section numbers with Appendix B for registrable sex offenses.

### I. Who Is Disclosed on the Internet Web Site

Effective September 24, 2004, Penal Code section 290.46 required the Department of Justice to create this Web site on or before July 1, 2005. There are four categories of registered sex offenders for purposes of disclosure on the Megan's Law Internet web site.

**HOME ADDRESS CATEGORY** The conviction of certain sex offenses requires that the home address of the offender be posted, along with other information about the registrant. California Penal Code § 290.46, subd. (b):

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision or the statutory predecessors of any of these offenses, or any offense which, if committed or attempted to be committed in this state, would have been punishable as one or more of the offenses listed in this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her names and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses:

- (A) Subdivision (b) of Section 207.
- (B) Subdivision (b) of Section 209, except kidnapping to commit robbery.
- (C) Paragraph (2) or (6) of subdivision (a) of Section 261.
- (D) Section 264.1.
- (E) Section 269.
- (F) Subdivision (c) or (d) of Section 286.
- (G) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.
- (H) Subdivision (c) or (d) of Section 288a.
- (I) Section 288.5.
- (J) Subdivision (a) or (j) of Section 289.

(3) This subdivision shall also apply to any person who has ever been adjudicated a sexually violent predator as defined in Section 6600 of the Welfare and Institutions Code.

**CONDITIONAL HOME ADDRESS CATEGORY** The conviction of other designated sex offenses, along with the conviction of any other registrable sex offense, requires that the home address be posted, along with other information about the registrant. California Penal Code § 290.46, subd. (c):

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2) or the statutory predecessors of any of these offenses, or any offense which, if committed or attempted to be committed in this state, would have been punishable as one or more of the offenses listed in this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her names and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides, and any other

information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). However, the address at which the person resides shall not be disclosed until a determination is made that the person is, by virtue of his or her additional prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290, subject to this subdivision. On or before July 1, 2006, the Department of Justice shall determine whether any person convicted of an offense listed in paragraph (2) also has one or more prior or subsequent convictions of an offense listed in paragraph (2) of subdivision (a) of Section 290, and, for those persons, the Department of Justice shall make available to the public via the Internet Web site the address at which the person resides.

(2) This subdivision shall apply to the following offenses, provided that the person has one or more prior or subsequent convictions of an offense listed in paragraph (2) of subdivision (a) of Section 290:

- (A) Section 220, except assault to commit mayhem.
- (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.
- (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286.
- (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a.
- (E) Subdivision (b), (d), (e), or (i) of Section 289.

**ZIP CODE CATEGORY** Commission of certain other sex offenses requires that information about the offender, including his or her ZIP Code and other information, but not including the home address, be posted on the web site. California Penal Code § 290.46, subd. (d):

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision or the statutory predecessors of any of these offenses, or of any offense which, if committed or attempted to be committed in this state, would have been punishable as one or more of the offenses listed in this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her names and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses:

- (A) Section 220, except assault to commit mayhem, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.
- (B) Subdivision (a) of Section 243.4, provided that the offense is a felony.
- (C) Paragraph (1), (3), or (4) of subdivision (a) of Section 261, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.
- (D) Section 266, provided that the offense is a felony.
- (E) Section 266c, provided that the offense is a felony.
- (F) Section 266j.
- (G) Section 267.
- (H) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.
- (I) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.
- (J) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.
- (K) Subdivision (b), (d), (e), or (i) of Section 289, with no prior or subsequent conviction of an offense listed in paragraph (2) of subdivision (a) of Section 290.
- (L) Section 647.6.

**UNDISCLOSED CATEGORY** Finally, there is a category of registered sex offenders that may not be displayed on the Internet web site. These are registrants who have been convicted of sex offenses not listed in the above three categories. Offenders in the undisclosed category must still register as sex offenders with local law enforcement agencies, and are known to law enforcement.

## II. Disclosure About Registrants by Local Law Enforcement Agencies

Local law enforcement agencies, under statutes defining the type and extent of notice allowed, may also notify their communities about the presence of designated registered sex offenders in their area. This is usually done only when an offender is suspected of posing a risk to the public. Penal Code section 290.45.

## III. Sex Offender Registration

**Initial Registration.** Penal Code section 290 requires mandatory registration as a sex offender for persons convicted of the sex offenses listed in that section. §290(a)(2)(A)-(E). Even if the offense is not listed in section 290, the person may be ordered by a court to register as a sex offender if the criminal offense committed was sexually motivated. Section 290 applies automatically to the enumerated offenses, and imposes on each person convicted a lifelong obligation to register.

The registrant must appear in person to register with the police department of the city in which he or she resides, or with the sheriff's department if he or she resides in an unincorporated area or city which has no police department. The person has five working days to register after release from custody or on probation, or after coming into, or changing his or her residence within, any city or county.

**Transient Registration.** If the person has no residence address (is homeless), he or she must register within five working days after release from custody or on probation and, beginning January 1, 2005, no less than every 30 days thereafter, as a transient. Registration is with the law enforcement agency in whose jurisdiction the transient is physically present. Penal Code section 290, subd. (a)(1)(C).

**Campus Registration.** A person who resides, or is living as a transient upon, or is enrolled at or employed by, a campus of the University of California, California State University, community college or other institution of higher learning must register with the campus police department, in addition to registering with the police or sheriff's department having jurisdiction over his or her residence. Penal Code section 290.01.

**Registration of Sex Offenders Who Come to School or Work in California.** Students and employees who reside out of state but go to school or work in California must register as sex offenders here if they are required to register in their state of residence. Penal Code 290, subd. (a)(1)(G). An employee is defined as a person who is employed in California on a full or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year. A student is defined as a person who is registered in an educational institution, as defined in Education Code section 22129, on a full or part-time basis. The student/employee must register in the jurisdiction where he or she attends school or is employed.

**Moves.** Registrants with residence addresses must notify the last registering agency in writing within five working days of moving, and must re-register in person if the move is to a new jurisdiction. (Penal Code section 290, subs.(a), (f).) If a move makes a person homeless, he or she must register as a transient within 5 working days of leaving the residence address. Transients, who re-register no less than every 30 days, need not re-register upon changing their location unless to a destination outside the state, in which case the transient must give written

notification of his move to the law enforcement agency in whose jurisdiction he or she was physically present before leaving the state, within five working days of leaving. Transients who move into a residence must register at that address within 5 working days of moving there. If the registrant does not know his or her new address out-of-state, the person must still give notice of the move within 5 working days of leaving, and must mail written notice later of the new address or location (if transient) within 5 working days of moving into the new residence. Penal Code section 290, subs. (a)(1)(C), (f).

**Updates.** All registrants must update their registration annually, within five working days of their birthday. Penal Code section 290, subd. (a)(1)(D). Transient registrants must also update their registration no less than every 30 days, and sexually violent predator registrants must update no less than every 90 days. Penal Code section 290 subs. (a)(1)(C), (E).

**Out of State Sex Offenses.** If a sex offender was convicted in another state, he or she is very likely to be required to register in California, and should register in accordance with the sex offender registration law. If the offender is not required to register in California, the Department of Justice will notify him or her of that assessment and terminate the registration.

**Registration At More Than One Residence.** Registrants who regularly reside at more than one residence address must register at each address, regardless of the number of days or nights spent there. If the addresses are in different jurisdictions, the registrant must go to the law enforcement agency having jurisdiction over each address. Penal Code § 290, subd. (a)(1)(B).

**Juvenile Sex Offender Registration.** Juveniles convicted of certain offenses are required to register as sex offenders upon release from the California Youth Authority. Penal Code §290, subd. (d)(1)-(3). However, registrants whose offenses were adjudicated in juvenile court cannot be publicly disclosed, either on the Internet web site or by public notification by a law enforcement agency.

**Name Changes.** A registrant must inform the law enforcement agency with which he or she is currently registered of a name change within 5 working days. Penal Code § 290, subd. (f)(3).

**Penalties for Violation of Registration Law.** There are various criminal penalties that apply to persons who fail to comply with the sex offender registration requirements. In general, a person convicted of a registrable felony sex offense who willfully violates the registration law is guilty of a felony. A person convicted of a registrable misdemeanor sex offense who violates the registration law is guilty of a misdemeanor on the first violation, and subsequent convictions for violating the registration law are felonies. Penal Code § 290, subd. (g).

**Dismissal of Offense after Completion of Probation.** Sex offenders who successfully complete probation may apply to have the offense dismissed under Penal Code section 1203.4, but dismissal does not relieve the person from the duty to register as a sex offender. Penal Code § 290.1.

**Relief from the Lifetime Duty to Register.** Persons whose registrable sex offenses are nondisclosable to the public may obtain relief from the duty to register upon obtaining a certificate of rehabilitation. Penal Code §§ 290.5 and 290.4, subd. (a)(1). All others must obtain a governor's pardon to obtain relief from the duty to register as a sex offender. A person is eligible to apply for a certificate of rehabilitation seven to ten years (depending on the registrable sex offense) after release from custody or on parole or probation, whichever is sooner. Certain registrable sex offenders are not eligible to obtain a certificate of rehabilitation. Penal Code §§ 4852.01 & 4852.03.

## Appendix B: California Registrable Sex Offenses

### ADULT SEX OFFENSES

All section references below are to the California Penal Code unless otherwise indicated.

207	Kidnapping committed with intent to violate sections 261, 286, 288, 288a, or 289.
207(b)	Kidnapping, victim under <u>14</u> with the intent to violate any 288 sections.
208(d)	(Prior Code): Kidnapping victim under <u>14</u> with the intent to violate sections 261, 286, 288, 288a, or 289..
209	Kidnapping for ransom committed with intent to violate sections 261, 286, 288, 288a, or 289.
209(b)(1)	Kidnapping for ransom committed with intent to violate sections 261, 286, 288, 288a, or 289.
220	Assault to commit rape, sodomy, or oral copulation or to violate sections 264.1, 288 or 289.
220/261	Assault to commit rape.
220/261(2)	Assault to commit rape by force or fear.
220/664.1	Assault to rape in concert with force/violence.
243.4	Sexual battery.
243.4(a)	Sexual battery.
243.4(b)	Sexual battery on medically institutionalized person.
243.4(c)	(Prior Code) Sexual battery involving restrained person.
243.4(c)	Sexual battery victim unaware-fraudulent misrepresentation.
243.4(d)	Sexual battery involving restrained person.
243.4(d)(1)	(Prior Code) Touch person intimately against will for sexual arousal/etc.
243.4(e)(1)	Touch person intimately against will for sexual arousal/etc.
261	Rape: not specified.
261(1)	Rape: victim incapable of consent.
261(2)	(Prior Code) Rape by force or fear.
261(2)/264.1	Rape in concert by force.
261(3)	Rape of drugged victim.
261(4)	Rape: victim unconscious of the nature of the act.
261(6)	Rape by threat of retaliation.
261(a)(1)	Rape: Victim incapable of giving consent.
261(a)(2)	Rape by force/fear etc.
261(a)(3)	Rape of drugged victim.

261(a)(4)	(Prior Code) Rape: Victim unconscious of the nature of the act.
261(a)(4)(A)	Rape: Victim was unconscious or asleep.
261(a)(4)(B)	Rape: Victim was unconscious and not aware of the act.
261(a)(4)(C)	Rape: Victim not aware due to perpetrators fraud.
261(a)(4)(D)	Rape: Victim not aware - fraudulent misrepresentation.
261(a)(6)	Rape by threat of retaliation.
261.2	(Prior Code) Rape by force or fear.-
261.2/261.3	(Prior Code) Rape by force or threat.
261.3	(Prior Code) Rape by force or victim intoxicated.
261.4	(Prior Code) Rape by threat or rape of drugged victim.
262(a)(1)	Rape Spouse by force or fear.
264.1	Rape/etc. in concert with force/violence.
266	Entice minor female for prostitution/etc.
266c	Induce intercourse/sex acts by false representation with intent to create fear.
266h(b)	Pimping: Prostitute under 16 years of age.
266i(b)	Pandering: Pandering Prostitute under <u>16</u> years of age.
266j	Procurement of person under <u>16</u> for lewd and lascivious acts.
267	Abduct minor for prostitution.
269	Aggravated sexual assault/child under <u>14</u> or <u>10</u> years.
269(a)	Aggravated sexual assault child under <u>14</u> and <u>10</u> years younger.
269(a)(1)	Aggravated sexual assault child under <u>14</u> to violate 261(a)(2).
269(a)(2)	Aggravated sexual assault child under <u>14</u> to violate 264.1.
269(a)(3)	Aggravated sexual assault child under <u>14</u> to violate 286 by force or fear.
269(a)(4)	Aggravated sexual assault child under <u>14</u> to violate 288a by force or fear.
269(a)(5)	Aggravated sexual assault child under <u>14</u> to violate 289(a) by force or fear.
272	Contribute to the delinquency of a minor (lewd or lascivious).
285	Incest.
286	Sodomy.
286(a)	Sodomy; General Category.
286(b)(1)	Sodomy with person under <u>18</u> years.
286(b)(2)	Sodomy with person under <u>16</u> years.
286(c)	(Prior Code) Sodomy with person under <u>14</u> years or with force.
286(c)(1)	Sodomy with person under <u>14</u> years.
286(c)(2)	Sodomy with force or violence.
286(c)(3)	Sodomy with threat of retaliation.
286(d)	Sodomy in concert with force.

286(e)	Sodomy while confined in prison or jail.
286(f)	Sodomy: victim unconscious of the nature of the act.
286(g)	Sodomy: victim incapable of giving consent.
286(h)	Sodomy: Without consent victim and defendant in mental facility.
286(i)	Sodomy without consent: Victim intoxicated.
286(j)	Sodomy without consent: believe person is spouse.
286(k)	Sodomy by threat of authority to arrest/deport.
288	Crimes against children; lewd or lascivious.
288(a)	Lewd or lascivious acts with child under <u>14</u> years.
288(b)	(Prior Code) Lewd or lascivious acts with a child under <u>14</u> years with force.
288(b)(1)	Lewd or lascivious acts with child under <u>14</u> years with force.
288(b)(2)	Caretaker commits sexual act on dependent adult with force.
288(c)	(Prior Code) Lewd or lascivious acts with child 14 or 15 years old.
288(c)(1)	Lewd or lascivious acts with child <u>14</u> or <u>15</u> years old.
288(c)(2)	Caretaker commits lewd or lascivious acts on dependent adult.
288a	Oral copulation.
288a(a)	Oral copulation.
288a(b)(1)	Oral copulation with person under <u>18</u> years.
288a(b)(2)	Oral copulation with person under <u>16</u> years.
288a(c)	(Prior Code) Oral copulation with person under 14 or by force.
288a(c)(1)	Oral copulation with person under <u>14</u> .
288a(c)(2)	Oral copulation with force or violence.
288a(c)(3)	Oral copulation threat of retaliation.
288a(d)	Oral copulation in concert with force or fear.
288a(d)(1)	(Prior Code) Oral copulation in concert with force or fear.
288a(d)(2)	(Prior Code) Oral copulation in concert by threat of retaliation.
288a(d)(3)	(Prior Code) Oral copulation in concert: victim incapable of consent.
288a(e)	Oral copulation while confined in prison or jail.
288a(f)	Oral copulation: Victim unconscious of the nature of the act.
288a(f)(1)	Oral copulation: Victim was unconscious or asleep.
288a(f)(2)	Oral copulation: Victim was unconscious and not aware of act.
288a(f)(3)	Oral copulation: Victim not aware due to perpetrator's fraud.
288a(f)(4)	Oral copulation: Victim not aware - fraudulent misrepresentation.
288a(g)	Oral copulation: Victim incapable of giving consent.
288a(h)	Oral copulation: Victim and defendant in state hospital.
288a(i)	Oral copulation: Victim intoxicated.

288a(j)	Oral copulation: Believe person is a spouse.
288a(k)	Oral copulation by threat of authority to arrest or deport.
288b	(Prior Code): Oral copulation in concert with force.
288.2	Harmful matter - special circumstance ( <i>felony only</i> ).
288.2(a)	Harmful Matter: Seduction of minor via phone
288.2(b)	Harmful Matter: Seduction of minor via mail/internet.
288.5	(Prior Code) Continuous sexual abuse of a child.
288.5(a)	Continuous sexual abuse of child.
289	(Prior Code): Sexual penetration with foreign object.
289(a)	(Prior Code) Sexual penetration by foreign object.
289(a)(1)	Sexual penetration by foreign object with force.
289(a)(2)	Sexual penetration by foreign object with threat of retaliation.
289(b)	Sexual penetration with foreign object. Victim incapable of consent.
289(c)	Sexual penetration with foreign object. No consent: Victim and defendant in state hospital.
289(d)	Sexual penetration: Foreign object. Victim unaware of nature of act.
289(d)(1)	Sexual penetration: Foreign object. Victim unconscious or asleep.
289(d)(2)	Sexual penetration: Foreign object. Victim unaware.
289(d)(3)	Sexual penetration: Foreign object. Victim unaware of perpetrator's fraud.
289(d)(4)	Sexual penetration: Victim not aware - fraudulent misrepresentation.
289(e)	Sexual penetration with foreign object. Victim drugged.
289(f)	Sexual penetration with foreign object. Victim believes it is spouse.
289(g)	Sexual penetration with foreign object: Authority threat arrest.
289(h)	Sexual penetration with foreign object: Victim under <u>18</u> .
289(i)	Sexual penetration with foreign object: Victim under <u>16</u> .
289(j)	Sexual penetration with foreign object: Victim under <u>14</u> .
290	Sex offender Registration Statute.
311.1	(Prior Code) Indecent exposure.
311.1(a)	Send/sell etc. obscene matter depicting minor.
311.10	(Prior Code) Advertise obscene matter depicting minor.
311.10(a)	Advertise obscene matter depicting minor.
311.11	(Prior Code) Possess obscene matter, child under <u>14</u> years.
311.11(a)	Possess obscene matter of minor in sexual act.
311.11(b)	Possess obscene matter of minor in sexual act with a prior conviction.
311.2(b)	Distribute obscene material depicting minor for commercial consideration.
311.2(c)	Distribute obscene material depicting minor (misdemeanor).
311.2(d)	Distribute obscene matter of minor to minor.

311.3	(Prior Code) Sexual exploitation of a child.
311.3(a)	Depict sexual conduct of minor.
311.3(b)	Sexual exploitation depicting minor in sex act.
311.3(b)(1)	Sexual exploitation: sexual intercourse.
311.3(b)(2)	Sexual exploitation: penetration by foreign object.
311.3(b)(3)	Sexual exploitation: masturbation.
311.3(b)(4)	Sexual exploitation: sadomasochistic abuse.
311.3(b)(5)	Sexual exploitation: exhibition of genitals.
311.3(b)(6)	Sexual exploitation: defecation/urination for viewer stimulation.
311.3(d)	Prior conviction: punishment.
311.4	(Prior Code) Employment or use of minor to perform prohibited acts.
311.4(a)	Employment or use of minor to perform prohibited acts.
311.4(b)	Employment or use of minor to perform prohibited acts for commercial purposes.
311.4(c)	Employment or use of minor for obscene matter.
314.1	Indecent exposure.
314.2	Assist act of indecent exposure.
314.10	Indecent exposure.
646.9	Stalking (felony) pursuant to 290 (a)(2)(E) only.
647a	(Prior Code) Annoy or molest children.
647a(1)	(Prior Code) Annoy or Molest Children.
647.6	Annoy or molest child under <u>18</u> .
647.6(a)	Annoy or molest Children
647.6(b)	Annoy or molest children/illegal entry
647.6(c)(1)	Annoy or molest children with prior
647.6(c)(2)	Annoy or molest children specific prior conviction
653f(c)	Soliciting commission of 264.1, 288, or 289 by force or violence.
702 WIC	(Prior Code) Contribute to the delinquency of minor. (Lewd or lascivious finding)
5512 WIC	(Prior Code) Mentally disordered sex offender (MDSO) commitment to 90 days.
6316 WIC	Commitment (90 days) as an MDSO (prior to 1982).

\*Available at <http://www.meganslaw.ca.gov/registration/offenses.htm>.

## JUVINILE SEX OFFENSES

All section references below are to the California Penal Code unless otherwise indicated.

207	Kidnapping committed with intent to violate sections 261, 286, 288, 288a, or 289.
207(b)	Kidnapping, victim under 14 with the intent to violate any 288 sections.
208(d)	(Prior Code): Kidnapping victim under <u>14</u> with the intent to violate sections 261, 286, 288, 288a, or 289.
209	Kidnapping for ransom committed with intent to violate sections 261, 286, 288, 288a, or 289.
209(b)(1)	Kidnapping for ransom committed with intent to violate sections 261, 286, 288, 288a, or 289.
220	Assault to commit rape, sodomy, or oral copulation or to violate sections 264.1, 288 or 289.
220/261	Assault to commit rape.
220/261(2)	Assault to commit rape by force or fear.
220/664.1	Assault to rape in concert with force/violence.
261	Rape: Not specified
261.1	(Prior Code) Rape: Victim incapable of giving consent
261(a)(1)	Rape: Victim incapable of giving consent.
261(a)(2)	Rape by force/fear/etc.
261(a)(3)	Rape of drugged victim.
261(a)(4)	(Prior Code) Rape: Victim unconscious of the nature of the act.
261(a)(4)(A)	Rape: Victim was unconscious or asleep.
261(a)(4)(B)	Rape: Victim was unconscious and not aware of the act.
261(a)(4)(C)	Rape: Victim not aware due to perpetrators fraud.
261(a)(4)(D)	Rape: Victim not aware - fraudulent misrepresentation.
261(a)(6)	Rape by threat of retaliation.
261(a)(6)	Rape by threat of retaliation.
261.2	(Prior Code) Rape by force or fear.
261.2/261.3	(Prior Code) Rape by force or threat.
261.3	(Prior Code) Rape by force or victim intoxication.
261.4	(Prior Code) Rape by threat or rape of drugged victim.
264.1	Rape/etc. in concert with force/violence.
266c	Induce intercourse/sex acts by false representation with intent to create fear.
267	Abduct minor for prostitution.
286(b)(1)	Sodomy with person under <u>18</u> years.
286(c)	(Prior Code) Sodomy with person under <u>14</u> years or with force.
286(c)(1)	Sodomy with person under <u>14</u> years.

286(c)(2)	Sodomy with force or violence.
286(c)(3)	Sodomy with threat of retaliation.
286(d)	Sodomy in concert with force.
288	Crimes against children; lewd or lascivious.
288(a)	Lewd or lascivious acts with child under <u>14</u> years.
288(b)	(Prior Code) Lewd or lascivious acts with a child under <u>14</u> years with force.
288(b)(1)	Lewd or lascivious acts with a child under 14 years with force.
288(b)(2)	Caretaker commits sexual act on dependant adult with force.
288(c)	(Prior Code) Lewd or lascivious acts with child <u>14</u> or <u>15</u> years old.
288(c)(1)	Lewd or lascivious acts with child <u>14</u> or <u>15</u> years old.
288(c)(2)	Caretaker commits lewd or lascivious acts on dependent adult.
288a(b)(1)	Oral copulation with person under <u>18</u> years.
288a(c)	(Prior Code) Oral copulation with person under <u>14</u> or by force.
288a(c)(1)	Oral copulation with person under <u>14</u> .
288a(c)(2)	Oral copulation with force or violence.
288a(c)(3)	Oral copulation in concern with force/etc.
288a(d)	Oral copulation in concert with force or fear.
288a(d)(1)	(Prior Code) Oral copulation in concert with force or fear.
288a(d)(2)	(Prior Code) Oral copulation in concert by threat of retaliation.
288a(d)(3)	(Prior Code) Oral copulation in concert: victim incapable of consent.
288.5	(Prior Code) Continuous sexual abuse of a child.
288.5(a)	Continuous sexual abuse of child.
289(a)	(Prior Code) Sexual penetration by foreign object.
289(a)(1)	Sexual penetration by foreign object with force.
289(a)(2)	Sexual penetration by foreign object with threat of retaliation.
647a	(Prior Code) Annoy or molest children.
647.6	Annoy or molest children under <u>18</u> .
647.6(a)	Annoy or molest children under <u>18</u> .
647.6(e)(1)	Annoy or molest children under <u>18</u> .
647.6(c)(2)	Annoy or molest children under <u>18</u> .

\* Available at <http://www.meganslaw.ca.gov/registration/juvenile.htm>.

## Appendix C: data tables

**Appendix D:**  
**Pending Legislation Recently Signed by Gov. Schwarzenegger, as of Oct. 10, 2005**

**Preventing Crime**

SB 453 by Senator Charles Poochigian (R- Fresno) - to ensure the continuation of the work of the Central Valley Rural Crime Prevention Program.

SB 619 by Senator Jackie Speier (D-Hillsborough) - Electronic monitoring of offenders.

SB 963 by Senator Roy Ashburn (R-Bakersfield) - Home detention: electronic monitoring.

**Protecting Children from Sex Offenders and Child Abuse**

SB 33 by Senator Jim Battin (R-La Quinta) - Child sexual abuse.

SB 111 by Senator Elaine Alquist (D-Santa Clara) - Statute of limitations: sex crimes.

SB 594 by Senator Tom Torlakson (D-Antioch) - Custody and visitation: sex offenders.

SB 723 by Senator Jeff Denham (R-Salinas) - Sexually violent predators: conditional release program.

AB 33 by Assemblymember Sharon Runner (R-Lancaster) - Contact with minor.

AB 113 by Assemblymember Rebecca Cohn (D-Saratoga) - Parole placement.

AB 114 by Assemblymember Rebecca Cohn (D-Saratoga) - Child abuse.

AB 118 by Assemblymember Rebecca Cohn (D-Saratoga) - Protective orders: minor children.

AB 217 by Assemblymember Juan Vargas (D-San Diego) - Sex offenders: nursing facilities.

AB 522 by Assemblymember George Plescia (R-San Diego) - Automated drug delivery system: Medi-Cal coverage: drugs or other therapies: registered sex offenders.

**Support and Funding for Local Law Enforcement**

The Governor provided more than \$31 million for local law enforcement to fight crime and strengthen the Missing Persons DNA Database by signing:

SB 255 by Senator Tom Torlakson (D-Antioch) - Vessel registration: fees.

AB 857 by Assemblymember Karen Bass (D-Baldwin).

AB 940 by Assemblymember Judy Chu (D-Monterey Park) - Missing persons DNA database.

**Victims' Rights**

AB 100 by Assemblymember Rebecca Cohn (D-Saratoga) - Battered women's shelters: grant program.

SB 138 by Senator Abel Maldonado (R-Santa Maria) - Criminal procedure: closed-circuit testimony.

AB 429 by Assemblymember Judy Chu (D-Monterey Park) - Temporary restraining orders and protective orders.

AB 978 by Assemblymember Sharon Runner (R-Lancaster) - Restraining orders: stalking.

### **Keeping California's Streets and Highways Safe**

SB 719 by Senator Gloria Romero (D-Los Angeles) - Police pursuits.

AB 1325 by Assemblymember Juan Vargas (D-San Diego) - Motor vehicle speed contest.

### **Protecting Homeland Security**

SB 104 by Senator Deborah V. Ortiz (D-Sacramento) - Public health orders: enforcement.

AB 1495 by Assemblymember Joe Canciamilla (D-Pittsburg) - Public records: infrastructure security.

### **Protect public safety**

SB 159 by George C. Runner (R-Antelope Valley) - Inmates: health care services.

SB 444 by Senator Dick Ackerman (R-Irvine) - Crime.

SB 734 by Senator Tom Torlakson (D-Antioch) - Controlled substances.

SB 1088 by Senator Debra Bowen (D-Marina del Rey) - Family law: motions and orders.

AB 465 by Assemblymember Dave Cogdill (R-Modesto) - Controlled substances: iodine.

AB 65 by Assemblymember Joe Canciamilla (D-Pittsburg) - Ammonium nitrate.

AB 1150 by Assemblymember Jay La Suer (R-La Mesa) - Civil warrants.

Governor Schwarzenegger also vetoed the following three bills:

AB 240 by Assemblymember Rudy Bermudez (D-Norwalk) - Sex offenders. [Click here for veto message.](#)

AB 632 by Assemblymember Judy Chu (D-Monterey Park) - Sex Offender Management Board. [Click here for veto message.](#)

AB 1542 by Assemblymember Nicole Parra (D-Hanford) - Crimes by veterans: sentencing. [Click here for veto message.](#)

This year the Governor proposed the toughest sex offender laws in the history of California when he asked the Legislature to support the Sexual Predator Punishment and Control Act. The Governor hopes the Legislature will join with him in the coming year to pass this critical legislation to protect California's children.

In addition, Governor Schwarzenegger has signed legislation to strengthen Megan's law and toughen sex offender laws; worked to pass Proposition 69 to expand the state's DNA database; protected the integrity of California's Three Strike's Law by defeating Proposition 66; increased the ability of crime victims to participate in parole hearings; improved victim restitution laws; and appointed victim advocates to statewide commissions and offices.