

SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 96.5

MEGAN'S LAW

ISSUED APRIL 2006

96.5.1 Policy

The purpose of this policy is to establish a procedure for dissemination of information regarding registered sex offenders under California's Megan's Law (Pen. Code, §§ 290 and 290.4).

96.5.2 Overview

The State of California enacted Megan's Law in September of 1996. The purpose of this law is to allow law enforcement agencies to give notice to members of the public who are at risk of becoming victims of convicted sex offenders. The mechanisms for notice include public dissemination and the ability to view a computer database of sex offenders. The information contained in the database is provided by the California Department of Justice and is updated regularly.

96.5.3 Definitions

The following categories for sex offenders will be used in reference to the Megan's Law Internet Web Site: 'Full Address', 'ZIP Code Only', 'No Post' or 'Excluded'. A 'No Post' offender would not be disclosed to the public, based on current law. An 'Excluded' offender is a person who would be disclosed to the public, except current law allows certain persons to apply for and be granted an exclusion from disclosure. The offender would be 'Excluded' from disclosure to the public; however, the exclusion would be terminated if the offender subsequently violates probation or is convicted of an offense that results in public disclosure.

Disclosure under Megan's Law is allowed about any sex offender when it is necessary to ensure public safety, based on our assessment of the offender's risk to the community. This includes any offender now categorized as 'No Post' or 'Excluded', provided that we believe the offender poses a risk to the community.

96.5.4 Access by the public to the Megan's Law Database

Members of the public who wish to view the database should be encouraged to access the Megan's Law Internet Website at www.meganslaw.ca.gov.

96.5.5 Access to the Database by department members

Members of the Santa Clara Police Department will have access to the database.

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96.5.6 Records Responsibilities – Records checks by Officers

Unless otherwise specified, all subjects being checked for records, wants or warrants will be checked through the Supervised Release File (CLETS). If the record indicates that the subject is a 290PC registrant, Records will:

- Confirm that the officer is 10-36.
- Advise the officer that the subject is a 290 registrant, and advise the offender's classification (i.e.: "Subject 290 Full Address", "Subject 290 ZIP Code Only", "Subject 290 Excluded – not subject to disclosure", etc.)
- Have the officer advise:
 - the reason for the contact
 - the disposition of the contact.
- Send the appropriate Supervised Release "Contact" message via CLETS.

96.5.7 Dissemination of information to the public about Sex Offenders

Field Officer - Exigent Circumstances

A field officer may disseminate information on a Sex Offender when an officer receives confirmation from the Violent Crimes Information Network/Supervised Release File that the subject is a Registered Sex Offender and that the following criteria is met:

The officer reasonably suspects that it is necessary to ensure public safety, based on our assessment of the offender's risk to the community. This includes any offender now categorized as 'No Post' or 'Excluded', provided that we believe the offender poses a risk to the community.

When the above criteria is met, the officer will:

- Obtain approval from the field supervisor to disseminate information to the potential victim(s).
- Release only information contained in the Supervised Release File. The officer will not disclose the home or work address of Sex Offenders without approval of the Chief of Police.
- Tell potential victims that the information is being provided to protect the public.
- Note the disclosure by contacting Records and having them enter the notification into the comment field on the offender's Supervised Release File.
- Complete the Field Contact/Disclosure form and forward it through the chain of command to the Investigations Division.
- Complete and turn in a Field Interview Card, noting contact with a 290 PC Registrant.

An example of an exigent circumstance would be when an officer stops a Sex Offender who has been convicted of 288PC (child molestation), and the offender is with a child who may be at risk.

Field Officer - non-exigent

In some cases, an officer may become aware of the presence of a Registered Sex Offender, but the circumstances may not meet the requirements of an exigent situation. Examples could include a report by a citizen of a sex offender living in a neighborhood or when the officer makes contact with a Sex Offender but there is no indication that anyone is at risk.

In these cases, the officer should complete the Field Contact/Disclosure form and forward it to the Investigations Division via the chain of command, and complete and turn in a Field Interview Card, noting contact with a 290 PC Registrant. The assigned investigator will determine if a notification to members of the community should be made.

96.5.8 Departmental Notification of Sex Offenders

Agencies or entities that can be notified include, but are not limited to:

Public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender may be notified by the department that a Sex Offender lives, works, or otherwise frequents the area. The areas of notification will be determined by Investigations, and will be based on the offender's method of operation, access and mobility. Notification will only be made to persons and/or entities deemed at risk.

Information to be disclosed on Sex Offenders

The Santa Clara Police Department may, in its discretion, disclose any or all of the information permitted by §290, subdivision (m)(2), which includes:

- full name
- known aliases
- gender
- race
- physical description
- photograph
- date of birth
- crimes resulting in registration under this section
- the offender's address, which must be verified prior to publication
- description and license number of offender's vehicle or vehicles the offender is known to drive
- type of victim targeted by the offender
- relevant parole or probation conditions, such as on prohibiting contact with children
- dates of crimes resulting in classification under this section
- dates of release from confinement
- the offender's enrollment, employment, or vocational status with any university, college, community college, or other institution of higher learning

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A record of all departmental disclosures of Sex Offenders shall be maintained by Investigations for a minimum of five (5) years.

The Santa Clara Police Department will not disclose the address (business or residence) of the sex offender without approval of the Chief of Police (or his/her express designee).

Release of general information such as street name, block number or cross street will be sufficient.

Prior to the disclosure of any address information about a Sex Offender, the department must send an officer, or otherwise verify, the offender's residence or business address to confirm that the offender lives or works there.

Information identifying offender's victims may not be released.

Each public disclosure by the Santa Clara Police Department of a Sex Offender must be accompanied by a statement that the purpose of the release of the information is to allow members of the public to protect themselves and their children from Sex Offenders.

A uniform method will be utilized to notify institutions, entities or community members at risk. For example, if a flier with the photograph of a child molester is disseminated to one childcare institution, such a flier should be used in all similar situations. The information disclosed must be directed at and limited to the institutions, entities or community members at risk.

96.5.9 Departmental notification of Sex Offenders

The Santa Clara Police Department may use virtually any means to notify the public. The Chief's office will determine the method and scope of public notification. Notification may be accomplished through TV spots, radio announcements, newspapers, flyers, or personal contacts.

When the Santa Clara Police Department disseminates information on a Sex Offender, it must maintain a record of the means and dates of dissemination for a minimum of five (5) years using the Field Contact/Disclosure form. The Supervised Release File shall be utilized to supplement this record.