

# **California Law Enforcement and Correctional Agencies**

*Megan's Law Database*

Presentation by  
**California State Auditor**

**Joint Legislative Audit Committee  
Informational Hearing**

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This presentation document is only intended to outline selected portions of Report 2003–105, *California Law Enforcement and Correctional Agencies: With Increased Efforts, They Could Improve the Accuracy and Completeness of Public Information on Sex Offenders* (August 2003). For a more complete explanation of the points outlined in this document, refer to the report.

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# AUDIT HIGHLIGHTS

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- The Megan's Law database contains thousands of errors, inconsistencies, and outdated information. As of July 3, 2003, the database contained 80,746 records of convicted sex offenders registered in California.
- Because it excludes records of some serious sex offenders and erroneously lists others as incarcerated, the Megan's Law database does not inform the public about these offenders.
- Conversely, because it includes hundreds of duplicate records and erroneously indicates that 1,142 incarcerated sex offenders are free, it may unnecessarily alarm the public.
- Address information for roughly 23,000 records in the Megan's Law database has not been updated for at least a year largely because sex offenders have not registered.
- The accuracy of the information in the database depends on sex offenders providing their correct addresses and other information when they register. In addition, officials at confinement facilities (custodians) are responsible for pre-registering first-time sex offenders who come into their systems. Custodians include probation officers; officials at local jails, schools and road camps; state prisons, youth facilities, and hospitals; and any other institutions where offenders are confined.
- Although the Department of Justice (Justice) maintains that its primary responsibility is to compile the data it receives from local law enforcement agencies and confinement facilities, it has taken steps to improve the accuracy of the information in the Megan's Law database.

# ***The Megan’s Law Database Contains Some Inaccurate and Incomplete Information About Convicted Sex Offenders***

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## **The Megan’s Law Database Omits Some Records of Juvenile Sex Offenders Tried in Adult Courts**

We found 51 records of juvenile sex offenders whose crimes were serious enough to warrant trial in adult court (and therefore subject to public disclosure) that were not included in the Megan’s Law database.

For 20 cases, Justice’s staff incorrectly entered the records into the Violent Crime Information Network (VCIN).

After we alerted Justice about this issue, it developed procedures for staff to identify and properly enter juvenile sex offender records into the VCIN.

For the remaining 31 cases, the Departments of the Youth Authority (Youth Authority) and Corrections (Corrections) did not prepare pre-registration and/or notification forms or Justice did not receive or process them.

## **The Megan’s Law Database Also Omits Some Records With Inaccurate Offense Codes**

During the audit, Justice identified 1,900 records in the VCIN that are not shown to the public because they have offense code 290 rather than the more specific offense codes for which the sex offenders were convicted.

Justice and local law enforcement agencies enter a 290 offense code into the VCIN when they are unsure about the actual offense code or an offender’s case is under review.

For example, Justice may enter a 290 offense code if an offender was convicted in another state or if the conviction information is not provided on the pre-registration form. Justice ultimately determines the proper offense code; however, it can be time-consuming and Justice asserted that until recently it did not have the staffing resources to do the work.

We sampled 12 records with the 290 offense code and determined for 10 that were ultimately upgraded from “other” to “serious” it took an average of 13 months before the records were correctly classified.

## **Some Sex Offender Records Continue to Indicate the Incarcerated Status After Offenders Are Discharged From Prison or Paroled**

For 582 records in the VCIN that indicate the offenders are in prison, there were no matching Criminal Information and Identification numbers on Corrections' list of inmates. A sample of 59 of these revealed that 48 of the offenders were no longer in prison.

The status of the 48 individuals were:

- Seventeen were transferred to custody of the U.S. Immigration and Naturalization Service (INS).
- Twelve were discharged from Corrections.
- Seven are deceased.
- Six were released on parole, three of whom were at large.
- Three were in custody of another law enforcement agency.
- One was released from another law enforcement agency.
- One was out-of-state.
- One should not have been shown as incarcerated and Justice subsequently corrected this record.

Justice's system automatically notifies local law enforcement agencies of offenders who are possibly in violation of their registration requirements but it does not trigger registration violations for offenders who are shown as incarcerated. Therefore, for records that erroneously indicate that the sex offenders are incarcerated, law enforcement agencies are not automatically notified of sex offenders in their jurisdictions who may not be in compliance with their registration requirements.

## **Local Custodians Are Not Required to Track or Report All Sex Offenders Confined At Their Facilities**

Before releasing a sex offender confined for committing a registrable offense, an official at the confinement facility or from the court is required by law to notify the offender of his or her duty to register. In addition, after the offender signs the notification form, the custodian must forward it to Justice and local law enforcement before releasing the individual.

However, courts and local custodians are not required to follow this process when sex offenders are confined for reasons other than registrable sex offenses. Further, the law does not require

local custodians to determine whether individuals are registered sex offenders or to inform Justice when they take offenders into custody.

Before July 2002, Justice granted many custodians access rights to VCIN so they could update records to indicate that sex offenders they took into custody were incarcerated. However, because this process created a large volume of temporary address changes and because local custodians did not consistently update the records, Justice revoked custodians' access rights.

Since revoking the access rights, Justice has not enlisted the help of responsible custodians to correct the older records, leaving many records incorrectly showing that offenders are being held by local custodians.

We found 446 sex offenders whose records indicated that local custodians had incarcerated them for more than a year; but because most jail terms are limited to one year, we believe, and Justice agrees, that most of these records in the Megan's Law database do not accurately reflect the offenders' status.

### **The Megan's Law Database Includes Hundreds of Duplicate Records**

We identified 437 records in the Megan's Law database that were obvious duplicates of other records. Consequently, the public cannot rely on the sex offender information shown in a zip code search to identify the number of sex offenders in a specific community.

Although Justice identifies and corrects records with duplicate Criminal Identification and Information numbers each week, it does not identify and eliminate other obvious duplicates.

### **Lacking Adequate Training, Some Personnel Who Update Sex Offender Records Create Duplicate Records**

Justice has not provided sufficient training to its personnel and to all local law enforcement agencies that update sex offender records. Furthermore, neither the agencies nor Justice have reviewed and corrected duplicated records.

According to Justice, before fiscal year 2002–03, it had a team of six field representatives who provided technical training for local law enforcement agencies on entering data into VCIN and other Justice databases. However, Justice could not provide information about when and how the training was conducted.

Staffing problems within local law enforcement agencies further limit the adequacy of VCIN training. Because of high turnover among local staff those currently responsible may not be fully trained. In addition, because of the State's recent budget reductions and the hiring freeze, Justice eliminated two of the field representative positions in fiscal year 2002–03 and another two in fiscal year 2003–04.

## **Some Records Show Incarcerated Sex Offenders as Residing in Local Neighborhoods**

In July 2002, Justice implemented a software program using Corrections' list of inmates to compare against VCIN and update records to show the incarcerated status for incarcerated sex offenders. However, because of errors and inconsistencies in Justice's and Corrections' data, this new process does not update all sex offenders' records in the VCIN.

We found 1,142 records in the Megan's Law database that did not show the incarcerated status even though Corrections' list of inmates indicated that these offenders were in prison.

Justice is working with Corrections to improve its process for updating records of incarcerated sex offenders, including possibly developing exception reports to identify records that are not properly updated.

## **The Megan's Law Database Does Not Show When Sex Offenders' Records Were Updated, Limiting the Information's Usefulness to the Public**

Because the Megan's Law database does not include the dates of offenders' registrations, the public has no way of distinguishing the records recently updated from those updated long ago, thereby limiting the usefulness of the information.

We found that approximately 23,000 records were last updated before April 2002, and about 14,000 of those were last updated before April 1998—five years before our review.

Often, registrants do not comply with annual registration requirements, and many offenders with outdated information are not required to register in California because they may have moved outside the State, been deported or incarcerated, or are deceased.

If the dates the offenders last registered were shown, not only would the public be able to recognize the most current records, it would also better understand the usefulness and reliability of all registrant information.

## **The Public Would Be Well Served by Justice Attaching Disclaimers to the Megan's Law Database**

Modifying the existing disclaimers and adding others about potential inaccuracies and errors could help the public better understand and use the data to protect themselves and their families.

The following disclaimers about the Megan's Law database could assist people who view it:

- A statement that Justice compiles, but does not independently confirm the accuracy of the information gathered from various sources.

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

At the time we issued our report Justice was in the process of finalizing additional disclaimers that incorporate our suggestions and plans to make them available for those who view its Megan's Law database.

### **Justice Has Inappropriately Disclosed the Records of Some Juvenile Sex Offenders**

Justice erroneously disclosed to the public 42 records for sex offenders convicted in juvenile courts.

The errors occurred because not all personnel in its Sex Offender Tracking Program are sufficiently trained to evaluate the conviction information they receive to identify cases decided in juvenile courts rather than in adult courts.

Also, Justice may not receive adequate information from courts to determine whether the conviction was in adult or juvenile court.

Recently, one of Justice's deputy attorney generals met with Youth Authority's legal counsel and agreed on a proposed solution to identifying and validating whether a juvenile sex offender was adjudicated in a juvenile court or convicted in adult court.



# ***Although It Has Begun a Process to Improve the Information In the Megan's Law Database, the Department of Justice Still Does Not Adequately Review Sex Offender Data***

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## **Ensuring the Accuracy of the Data Is Not One of Justice's Primary Responsibilities**

According to Justice, because it is only a repository, not the originating source, of the Megan's Law information, it is beyond its purview to ensure that the information provided by courts and registering agencies is accurate.

Rather than analyze sex offender information, Justice has used its resources to ensure that it complies with the multiple changes to the sex offender registration laws over the last several years. These changes have required Justice to make software changes and improvements to the VCIN, the information system it uses to compile and report sex offender registration information.

In addition to requiring programming changes to the VCIN, changes in the law resulted in more registration forms for Justice and local law enforcement agencies to process because sex offenders were required to register more frequently. According to Justice, between 1997 and 2001, its staff worked overtime to keep up with the volume of paper registration forms submitted by local law enforcement agencies and custodians.

However, in 1999 when the law was amended to require law enforcement agencies to electronically submit sex offender registration information directly into the VCIN, Justice's workload level dropped by 38 percent. The workload decreased again by 55 percent in 2002 as more local law enforcement agencies began using the California Law Enforcement Telecommunication System (CLETS) to enter registration information directly into the VCIN.

## **JUSTICE HAS RECENTLY TAKEN SOME STEPS TO IMPROVE THE ACCURACY AND COMPLETENESS OF INFORMATION ON REGISTERED SEX OFFENDERS**

### **Justice is Reviewing Sex Offender's Classifications on a Case-by-Case Basis**

In January 2003, Justice formed an assessment unit within the Sex Offender Tracking Program to review the classification of sex offenders in the VCIN.

As of July 2003, there were approximately 18,000 records in the VCIN for registered sex offenders classified as other. Records classified as other are not included in the Megan's Law database and thus not disclosed to the public.

Of the 18,000 records, Justice's assessment unit has identified 1,900 records with a 290 offense code and updated the offense code for 497 of these, 351 of which were raised to serious, requiring public disclosure. For most of the remaining 1,403 records, Justice is waiting for responses from agencies in other states.

According to Justice, after the assessment unit completes its review of sex offenders classified as other, it will do a similar review of all sex offenders classified as serious to ensure that offenders who should be classified as high-risk are identified and properly classified.

### **Justice is Using Various Sources to Obtain Additional Information on the Whereabouts of Sex Offenders**

Justice used the services of a private research firm and the assistance of other state agencies to gather information about the whereabouts of 32,633 registered sex offenders. However, Justice determined that the company's findings were not sufficiently authoritative for Justice to use in updating the VCIN records.

Based on information it received, Justice confirmed that 2,833 sex offenders are living outside the State and 1,360 are deceased. However, Justice received either outdated, incomplete, or no information on the remaining 28,440 sex offenders who did not register.

Justice plans to obtain the death information from Health Services annually in the future and is currently purchasing information from the Social Security Administration to use for identifying sex offenders who died in other states.

### **Justice Has Begun Working With Corrections to Update the Records of Sex Offenders Whose Status of Pending Release From Prison Is Incorrect**

Justice has requested Corrections' assistance to determine the current status of 2,575 sex offenders whose records in the VCIN indicated the offenders were pending release from prison.

Corrections determined that as of May 2003:

- 921 were discharged
- 866 were paroled (146 were at large and many others were turned over to the INS and probably deported)
- 207 were either in custody or deceased
- 581 could not be identified

Justice has agreed to work with Corrections to establish procedures to identify those sex offenders who are transferred to the INS. In addition, Justice informed us that it plans to verify the information it received from Corrections and the INS and update its records when appropriate.

# RECOMMENDATIONS

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To correctly identify and disclose information about all sex offenders, Justice should do the following:

- Continue reviewing records for which it has only the 290 offense code and update the offense codes as appropriate.
- Regularly compare its records showing the incarcerated status with information provided by Corrections to determine which sex offenders are confined and those who are no longer in confinement. Produce exception reports to resolve those records in question and then update the records appropriately.
- Periodically analyze its data to identify and eliminate obvious duplicates.
- Design and implement an appropriate training program for its staff and local law enforcement.
- Include the date each sex offender's information was last provided.
- Finalize its disclaimer information and direct law enforcement agencies to provide the disclaimers to the public members who view the Megan's Law database.

Disclaimers should include the following:

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

To ensure that the records of juvenile sex offenders are properly classified and disclosed to the public, Justice should:

- Coordinate with the Youth Authority and periodically reconcile its sex offender registry with Youth Authority information.

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

To ensure that it updates records of sex offenders who are deceased, or deported, Justice should continue to work with the Department of Health Services, the INS, and other public agencies to obtain this information and update sex offenders' records.

To fully satisfy the intent of the Legislature that it continually reviews the Megan's Law information for accuracy, Justice should design and implement a program to regularly check the data as a whole for inconsistencies and periodically reconcile the data with other reliable information.

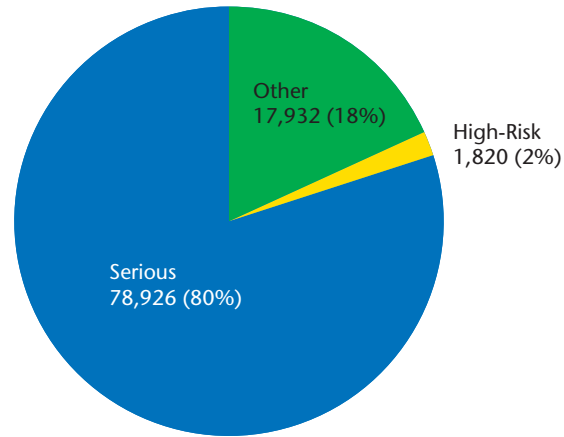
# **APPENDIX A—Figures**

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The following figures appear in the order of the discussion presented in the presentation.

**FIGURE 1**

**Classifications of Sex Offenders Registered in California  
as of July 3, 2003**



Total registered sex offenders: 98,678

Note: *Other* sex offenders, not subject to public disclosure, are individuals who have committed these offenses:

- Pornography
- Incest
- Indecent exposure
- Misdemeanor sexual battery
- Spousal rape

Juvenile sex offenders adjudicated in juvenile court are also included in the *other* classification and therefore not subject to public disclosure.

*Serious* sex offenders, subject to public disclosure, are individuals who have committed these offenses:

- Assault with intent to commit specified sex offenses
- Rape
- Sodomy with a minor or by force
- Lewd and lascivious contact with a child or dependent adult
- Oral copulation with a minor or by force
- Continuous sexual abuse of a child
- Foreign object penetration
- Child molestation
- Kidnapping with intent to commit specified sex offenses
- Felony sexual battery
- Felony enticement of a child for purposes of prostitution
- Abduction of a child for purposes of prostitution

*High-risk* sex offenders are subject to public disclosure because they have been convicted of an offense classified as serious and a combination of other offenses, including at least one violent sex offense and at least two other violent, but non-sex-related, offenses. The following is an example of one such combination of convictions:

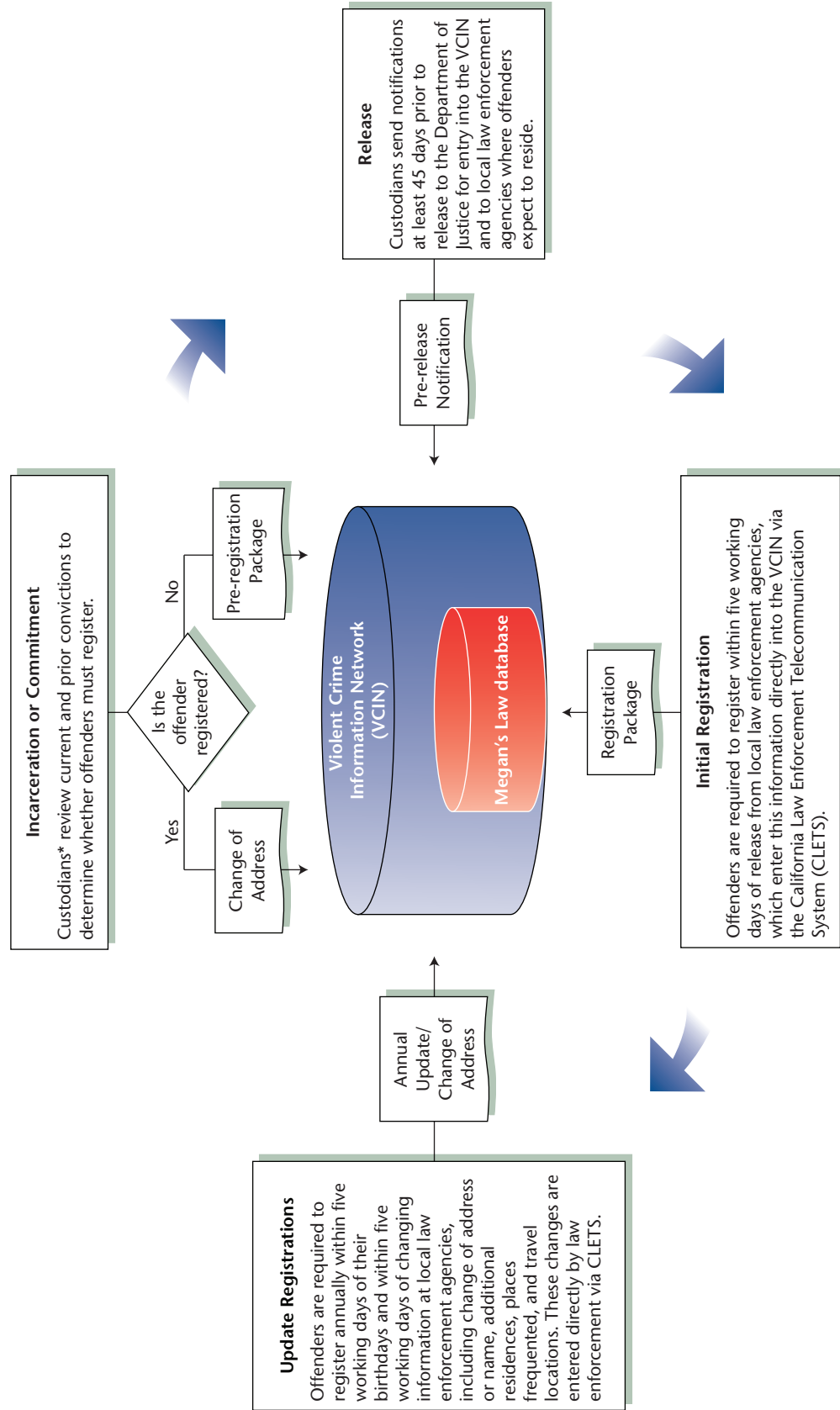
- One "serious" offense
- Two violent sex offenses
- One or more violent non-sex-related offenses
- At least two of the above were brought and tried separately

Violent offenses include, among others, murder; mayhem; torture; kidnapping; and those that are accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person. Approximately 82 percent of all registered sex offenders comprise *serious* and *high-risk* sex offenders.

Source: Department of Justice Web site and California Penal Code, Section 290(n).

**FIGURE 2**

**Registration Process for Sex Offenders Incarcerated or Committed to State Confinement Facilities**



Source: Department of Justice and California Penal Code, Section 290.

\* State custodians include officials at state prisons, youth facilities, and hospitals.

# APPENDIX B

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## ***Survey of Local Law Enforcement***

**W**e surveyed 12 local law enforcement agencies (agencies) and received responses from 10 about their use of the Megan's Law database and their use of the CLETS to make entries into the VCIN. Following are the questions we asked each agency and a summary of their answers.

1. Does your department use CLETS to update sex offender information for all address changes and registration information updates into the VCIN?

YES: 10                      NO: 0

2. Does your department update CLETS data in-house, or does your department rely on another agency to update this information?

In-house: 8                      Another agency: 2

3. What term best describes how often your agency checks the VCIN for sex registration violations when a person is arrested, even for a non-sex-related offense?

All: 5

Most: 3

Some: 2

None: 0

4. When a record check or search in the VCIN reveals an error or out-of-date registration information for a sex offender, do you routinely update and correct the information?

YES: 8                      NO: 2

5. Do you routinely investigate sex offenders to identify and update the records of those who are deceased?

YES: 6                      NO: 4



The agencies' responses allowed us to better understand the varying degrees to which they use the Megan's Law database and enforce Megan's Law violations. All the agencies we spoke to indicated that they use CLETS to update sex offender registration information in the VCIN. Also, eight agencies indicated that they check the VCIN all or most of the time when they arrest a suspect, even for a non-sex-related offense.

We asked the law enforcement agencies about seeking warrants and prosecutions for sex registration violations, and generally they told us that after exhausting other leads to locate an offender who has not registered, they will seek a warrant for the offender's arrest, except in certain circumstances, such as when they believe an offender has moved out of their jurisdictions. Further, some agencies told us that the final decision on whether to seek a warrant and prosecute an offender for a registration violation rests with the local district attorney. In addition, several agencies explained that they do not have adequate staff assigned to register and track offenders. Despite some differences in their processes for tracking and registering of sex offenders, the agencies generally are attempting to register convicted sex offenders residing within their jurisdictions and improve the accuracy of the data in the Megan's Law database.