

# COMMUNITY NOTIFICATION

---

---

## OVERVIEW:

Minnesota Statutes now allow for the wider dissemination of information about certain sex offenders. In 1996, the Minnesota legislature passed a community notification act, which authorizes law enforcement agencies to notify members of the community where a sex offender intends to reside when he or she is released from confinement. The level of notification permitted depends on the risk level to which the offender is assigned by an end of confinement review committee. This section will provide a general introduction to community notification, as well as a specific delineation of the corrections agent's duties under this new statute.

## OBJECTIVES:

Participants in this training module will:

- ◆ Learn the history and background of the community notification act
- ◆ Receive information about the duties of the DOC and other agencies in regard to community notification and the progress of these agencies in meeting the deadlines imposed by statute
- ◆ Receive information about the specific duties of correction agents under community notification

## RECOMMENDED READINGS:

Poole, C. & Lieb, R. (1995). *Community Notification in Washington State: Decision-Making and Costs*. Monograph published by Washington State Institute for Public Policy, Olympia, WA.

Schram, D.D. & Milloy, C.D. (1995). *Community Notification: A Study of Offender Characteristics and Recidivism*. Monograph published by Washington State Institute for Public Policy, Olympia, WA.

## *History:*

In October of 1989 an eleven-year-old boy was abducted at gunpoint in the small rural community of St. Joseph, Minnesota. This boy, Jacob Wetterling, is still missing. As the result of his abduction and the enormous search effort that followed, the inability of law enforcement to quickly refer to a list of known offenders became a problem known to the Wetterling family and others in the community. There was no list, or database, of all sexual offenders in Minnesota, and only in existence in a few other states.

The Wetterling family started a not-for-profit foundation, and through this foundation and significant personal effort, lobbied the Minnesota Legislature to pass the "Predatory Offender Registration Act (Minnesota Statutes 243.166)" in 1991. This law required certain offenders to register their addresses with law enforcement, and allowed the list to be created that law enforcement had so desperately needed in the Wetterling case, and in other abduction and sex-crime cases. In 1994 the U.S. Congress passed the Jacob Wetterling Crimes Against Children Act, which required registration of these offenders in all 50 states.

Since July 1, 1991, sex offenders in Minnesota have been required to register their addresses with local law enforcement agencies. Those agencies forward the information to the Minnesota Bureau of Criminal Apprehension (BCA), the statewide investigative law enforcement agency. The BCA maintains this information in a database that can be accessed by law enforcement agencies. This information was intended for use by law enforcement when investigating a crime, and was not available to the public in any form prior to January 1, 1997.

The nature of the intended use allowed these data to include offenders who had been charged with a sex offense, convicted of another offense arising out of the same set of circumstances, but not convicted of the sex offense. Law enforcement continued to contribute to this database, and used the information for an investigative tool since 1991.

In 1994 Megan Kanka was abducted and murdered by a convicted sex offender who had been released from prison and resided across the street from Megan's Parents. The New Jersey Legislature quickly passed the original "Megan's Law," a community notification law directed at sex offenders released into the community. The New Jersey Supreme Court acted just as quickly and suspended the law until safeguards for the community and the offenders were put into place.

The Minnesota Legislature discussed passage of a version of the Kanka Law in 1995, but both houses could not agree on the language. What they did agree on was the formation of a Legislative Work Group on Community Notification.

This work group consisted of members of the legislature and representatives from the Minnesota Department of Corrections (DOC), the Minnesota Sheriffs Association, the Minnesota Association of Chief's of Police, the Office of the State Public Defender, a county prosecutor, the Minnesota Attorney General's Office, and the victim service community. The work group sought and heard testimony from the DOC, the Jacob Wetterling Foundation, and individuals from probation services, law enforcement, and the community at large. Lieutenant Robert Shilling of the Seattle, Washington, Police Department offered significant relative testimony. Community notification had been in effect in Washington in some form since 1990, and Lieutenant Shilling was instrumental in shaping both the law and police procedure.

Detective Shilling spoke of the need for a consistent statewide method of risk level determination, and the necessity of community education meetings to assist with the process of releasing information about the highest-risk sex offenders. The Legislative Work Group developed language that was enacted into law in 1996.

The "Community Notification Act (Minnesota Statutes 244.052)" included ideas gained from court cases challenging notification in other states, and reflected the testimony reviewed by the legislative work group. It directed the DOC to develop a risk scale to apply to offenders due to be released and structured a committee to review each case, and assign the offender to a risk level. The statute also directed law enforcement to develop a standard policy for notification processes statewide, and directed the law enforcement agency responsible for the jurisdiction where the offender resides to actually conduct the notification.

Offenders are assigned to one of three risk levels. The risk levels determine the scope and content of the notification to the community. Law enforcement agencies follow these

guidelines when notifying communities of offenders who are due to be released from prison, or who are moving to a different address after their initial release. Offenders are required to register address changes with law enforcement for ten years or for the entire term of probation or supervised release, whichever is longer (M.S. 243.166). These risk levels are as follows:

- **Risk Level 1:** Law enforcement can open a file on the offender, and share the information with other law enforcement agencies. Also, information can be given to victims, witnesses, and others designated by the prosecuting attorney.
- **Risk Level 2:** In addition to the procedures indicated for Level One, law enforcement may notify schools, day care centers, or other organizations where potential victims of the offender might be found, based on his pattern of offending behavior. This information is intended for use by these organizations to protect individuals on or near their premises, but not for redistribution. Law enforcement may also notify individuals whom they believe may be potential victims of the offender, again based on the pattern of behavior.
- **Risk Level 3:** In addition to the activities allowed for Risk Levels One and Two, law enforcement may share any information about the offender that has been used to assign his risk level. Law enforcement is required by policy to conduct a "Community Notification and Education Meeting" to release information about level three offenders.

The law included due process for the offender in two ways. First it allowed for challenges to the risk level assignment by the offender before any information is released to the public. Second, after three years in the community the offender can apply for the risk level to be reduced.

#### ***Minnesota Department of Corrections' Responsibilities:***

The Community Notification Law required the DOC to manage several activities to initiate the process of community notification. Those responsibilities are:

- Establish a scale for assigning offenders to risk levels.
- Establish and maintain standing committees at each adult institution to review information about the offender and actually assign the risk levels. These End Of Confinement Review Committees (ECRC) are actually responsible for creating the risk assignment document released to law enforcement, and are appointed by the Commissioner of Corrections for two years.
- Send information to law enforcement at several stages of the process, and continue to release information about the offender for the entire time notification applies, regardless of whether the offender continues to be supervised on probation or release conditions.

Community notification applies to sex offenders subject to registration. The law specifies three groups of sex offenders who need to be reviewed:

- Offenders incarcerated in Minnesota Correctional Facilities to whom registration applies.
- Offenders on supervision in Minnesota under the Interstate Compact conditions who were released from prison in other states; and,
- Individuals who have been committed as sexually dangerous persons or psychopathic personalities who are being released from confinement.

The ECRC is also responsible for considering reassessment requests made by law enforcement or the corrections agent and for dealing with requests from offenders for a reduction in risk level

two years after it was initially assigned.

An ECRC has been formed at each institution from which sex offenders are released. Each committee consists of five persons:

- The warden of the facility or designee (committee chair).
- A case-manager experienced in supervising sex offenders.
- A representative from the Minnesota Center for Crime Victim Services.
- A law enforcement official.
- A sex offender treatment professional (all of the assessments are conducted by licensed psychologists employed by the DOC).

Five months prior to release, the offender is scheduled for an ECRC meeting. The case manager for the ECRC coordinates this process, and supervises the accumulation of information on each offender. A file packet containing information relevant to the offender's risk level determination is sent to all committee members. The sex offender treatment professional reviews this information and produces a preliminary risk recommendation, which is also distributed to the other ECRC members, and to the offender.

The ECRC must meet and determine the risk level of the offender at least 90 days prior to his/her scheduled release date. The offender has a right to be present at the ECRC meeting; offenders likely to be assessed as Risk Level 2 or 3 are represented by the state public defender.

The community notification statute required that the DOC develop a Risk Assessment Scale in consultation with probation officers, county attorneys, sex offender treatment professionals, and law enforcement officials. The DOC had already developed an empirically validated inventory (the Minnesota Sex Offender Screening Tool-Revised, or MnSOST-R) to assist in making civil commitment referrals.

The community notification Risk Assessment Scale incorporates the MnSOST-R into the process of assigning risk levels:

- Risk Level 1: A sex offender whose score on the MnSOST-R indicates a lower risk of reoffense, and for whom there are no special concerns;
- Risk Level 2: A sex offender whose score on the MnSOST-R indicates a moderate risk of reoffense, and for whom there are no special concerns or whose MnSOST-R score indicates lower risk, but for whom the ECRC finds there to be special concerns;
- Risk Level 3: A sex offender whose score on the MnSOST-R indicates a higher risk of reoffense, or whose MnSOST-R score indicates moderate risk, but for whom the ECRC finds there to be special concerns. This category includes all offenders referred by the DOC for consideration of civil commitment.

Special concerns that lead to raising an offender's risk level must be spelled out in detail.

Examples of special concerns include the following:

- Multiple treatment failures, with a history of reoffense after treatment.
- History of prison disciplinary reports of significant frequency to cause concern, or reports that indicate physical assaults or sexual behavior.
- Pattern of predatory offense behavior, including breaking into a house, stalking a victim, abducting or attempting to abduct a victim, etc.

The role of the public defender is to make sure that the offender understands the process, and to correct factual errors (e.g., miscalculations of the screening tool, corrections to the offender's record). The public defender also advises the offender as to whether he/she should seek administrative review of the decision, and represents the offender in the administrative review process.

At least 60 days prior to release, the DOC sends information about the offender to the law enforcement agency that investigated the crime that led to the incarceration of the offender. This agency is most likely to have additional information that might not have been available to the ECRC. The statute allows law enforcement a 30-day time period to appeal an offender's risk level, but specifies that in a request for reassessment "the law enforcement agency or (corrections) agent shall list the facts and circumstances arising after the initial assignment (of risk)".

The DOC is responsible for providing education to inmates who are subject to community notification. This education includes information about the process of risk assignment, as well as information about notification in the community. Information is provided to case-managers throughout the DOC so that they can educate individual inmates. Presentations are made at each sex offender program at least twice a year by sex offender treatment personnel and the public defender. Additionally, inmates receive further information at the ECRC meeting, and can ask questions of the panel related to the risk assignment, or other notification processes.

The DOC is responsible for sending information to local law enforcement. This includes all public information upon which the end of confinement review committee made its decision. A fact sheet is sent to the law enforcement agency containing the offender's picture, general address, and other public information about the offender. This allows a law enforcement agency to simply reproduce this document for distribution to the public. Finally, the DOC serves as a repository of records so that law enforcement can be notified upon the relocation of the offender.

#### **DUTIES OF OTHER AGENCIES:**

The local law enforcement agency where the offender resides is responsible for conducting the actual notification. The Minnesota Peace Officer Standards and Training Board (POST Board) developed a model policy for law enforcement agencies to follow in regard to community notification. Law enforcement must make a good faith effort to develop a community notification plan for each offender within 14 days of the receipt of the ECRC risk level determination. The model policy specifies information release procedures for each separate risk level. As previously mentioned, law enforcement must conduct a community education meeting for each offender released to, or relocating to, their specific community.

**PRELIMINARY DATA:**

Risk levels were assigned, and information was released on 1,310 offenders the first three years of operation of community notification procedures. The risk levels were assigned as follows:

	Number	Percent of Total
Level 1	831	63.4%
Level 2	297	22.7%
Level 3	182	13.9%
Totals	1,310	100%

In addition to the notification events regarding the initial release of an offender from confinement, there have been more than 3,000 notification events related to offender relocations following release. It is expected that the number of relocations will continue to increase, as offenders are subject to community notification for a period of ten years.

Among the 479 offenders assigned Risk Level 2 or 3, there were 80 requests for administrative review by offenders seeking a reduction in risk level. The risk level assigned by the ECRC was reduced in only 9 of these cases (approximately 2% of all Level 2 & 3 assignments).

Of the 182 offenders assigned Risk Level 3, 95 (59%) were referred to the county of last conviction for consideration of civil commitment as a sexually dangerous person or sexual psychopathic personality. Historically, approximately 50% of offenders referred for civil commitment by the DOC are ultimately committed to the Department of Human Services for sex offender treatment over a long term. In 40% of the cases, the county decides not to pursue commitment, and in 10% of the cases, the offender is found not to meet commitment criteria in a commitment hearing.

In the first three years of community notification, approximately 150 community education meetings have been held regarding the release or relocation of Level 3 offenders. It is estimated that over 50,000 citizens have attended these meetings, which have been facilitated by law enforcement agencies throughout the state. These meetings have provided law enforcement with the opportunity to inform the public not only about the specific Level 3 offender, but also about the response of the entire criminal justice system to the problem of sexual assault. Often, these community education meetings include a panel of professionals, including law enforcement, a representative from the DOC, the offender's probation officer (if the offender is under supervision), a victim services provider from the community, and a representative of the local school district. A representative from the DOC, Will Alexander, has participated in all but six of the community notification meetings, and has assisted law enforcement in establishing a consistent process for delivering information about level three offenders across Minnesota.

**THE EFFECT OF COMMUNITY NOTIFICATION:**

Community notification has been a controversial issue throughout the country. Supporters of community notification legislation have promoted it as a way to protect potential victims and to reduce recidivism among offenders by creating an informed community. Opponents have raised arguments suggesting that it will lead to vigilante action and perhaps even increase recidivism

among offenders who are unable to reintegrate into the community. Minnesota's experience so far has been that community notification has been handled responsibly by law enforcement and has not resulted in the wide-scale disruption feared by opponents. For example:

- Law enforcement has made a concerted effort to stress in community education meetings that harassment of the offender will not be tolerated. So far no offender in Minnesota has been subject to an overt act of harassment because of information released during community notification meetings.
- Opponents have suggested that providing information about one offender will lead the public to believe that the offender in focus is the only offender they need to worry about. To address this, community education meetings include basic information about sex offenders. This includes informing the public about the number of registered sex offenders in the state and in their community, letting them know that most sexual assaults are perpetrated by offenders who are acquainted or related to the victim, and that perhaps the most dangerous offender is the one who has never been caught.
- Minnesota's statute prohibits release of information that would identify a victim. Under all levels of community notification, victims have the right to be informed about the release of the offender and to be kept informed about subsequent relocations.
- One of the major adverse effects of community notification upon released sex offenders has been an increasing inability of these offenders to find suitable housing. One offender reported being turned down by more than 80 landlords in his attempt to find housing. Offender's difficulty obtaining housing remains the most prominent problem associated with community notification in Minnesota.
- Community notification has resulted in increased costs to law enforcement throughout the state. This has been especially acute in metropolitan areas. Legislature recently funded additional positions for both the DOC and the BCA to conduct notification and registration activities, but funding for local law enforcement is still quite limited.
- Community notification has increased collaboration among probation, law enforcement, victim services, and corrections. It has provided law enforcement with an opportunity to educate the community about sex offenders and to encourage community oriented police activities such as block clubs and citizen involvement.
- At this point, it is too early to tell if community notification has had either a positive or negative effect on recidivism of released sex offenders. A full study will be conducted during 2000 to compare the recidivism of offenders released after community notification, with a group released prior to the effective date of the statute.

At this time, it appears that community notification in Minnesota has been managed successfully by the agencies involved, and by the communities informed. It is a process that changes each legislative session, and substantial changes in the scope and number of offenders subject to notification will result from the changes instituted by the legislature in 2000. The work continues by individuals dedicated to a fair process that actually enhances community safety, rather than simply the perception of safety. By these measures alone, notification has been a success for Minnesota.

## RECENT CHANGES

Each year since the registration requirements were enacted the legislature in Minnesota has added offenses requiring registration or otherwise modified the law. Each year since the

Notification Law was passed changes have also been made to this statute. The most significant changes to date in both the Predatory Offender Registration Act and the Community Notification Law occurred during the 2000 legislative session.

The murder of Cally Jo Larson in Waseca in April and the abduction of Katie Poirier in June of 1999 focused attention on predatory offenders, and the number of offenders that appeared to be out of compliance with existing Minnesota registration laws. The Katie Poirier abduction task force was established in July of 1999 to develop remedies and enhancements to the existing laws, and recommend new statutes, if necessary, to ensure better compliance by offenders. In addition, the Poirier Task Force considered statutory language that would expand the scope of registration to additional offenses, as well as extending the time certain offenders would be required to register.

The "Katie Poirier Act" was passed by the legislature and signed into law by Governor Ventura. This law increases the time certain offenders are required to register to their entire life, and for other offenders it extends the registration period, if they are convicted for any new offenses, until they have ten full years of incarceration free behavior recorded.

Beginning on August 1, 2000 the new laws require offenders, who are required to register, to supply law enforcement with all of their addresses, including vacation addresses and cabins, all vehicles they regularly drive, and other pertinent information. The new law also applies community notification to all offenders required to register who are released from a Minnesota prison.

This law provided funding for the entire state to move forward with an integrated criminal justice information system, provided funding for probation officers who will only supervise sex offenders (and with a smaller case load), and provided funding to expand the Intensive Supervised Release program that is responsible for many offenders when they are first released from prison. Some money was provided to continue the community notification efforts.

**As part of the new law, the Commissioner of Corrections was required to start and maintain an internet site for information about level three offenders. This project began August 1, 2000, as well and will continue to be updated and maintained by Minnesota Department of Corrections staff, based on the information law enforcement officials have released to their communities.**

The statutes continue to change as the state puts resources and energy into managing this difficult population of criminals. The goal is to provide enhanced public safety and security for Minnesota's citizens.

**For further information about community notification, please contact the following individuals:**

**Stephen J. Huot, Director, Sex Offender/Chemical Dependency Services Unit  
Minnesota Department of Corrections  
(Risk Assessment and End of Confinement Committee Information)  
(651) 642-0279**

[shuot@co.doc.state.mn.us](mailto:shuot@co.doc.state.mn.us)

**Will Alexander, Community Notification Coordinator  
Minnesota Department of Corrections  
(Community Notification Meetings, Law Enforcement Interaction, Community Supervision)  
(651) 643-3467**

[willalex@co.doc.state.mn.us](mailto:willalex@co.doc.state.mn.us)

ion