

LA MESA POLICE DEPARTMENT INSTRUCTION

INVESTIGATION: RELEASE OF INFORMATION ON CONVICTED 290 PC SEX OFFENDERS

No: 313

Adopted: Nov. 27, 1999

Page 1 of 10

Ray Sweeney, Chief of Police

I. PURPOSE

One of the goals of the La Mesa Police Department is to work in concert with its citizens in an effort to prevent crime. Assembly Bill 1562 was signed into law on September 26, 1996 and is better known as Megan's Law. This law was added to section 290 of the Penal Code, California's sex offender registration statute. Subdivisions (m) and (n) of section 290 provide law enforcement with the discretionary power to take a proactive role in providing notice to the public when there is potential danger or risk of an adverse encounter with a "serious" or "high risk" sex offender residing or working in the area.

II. FACTS

Law enforcement agencies and their employees have statutory immunity from liability for good faith conduct in providing notice and information per 290 P.C. Liability may arise:

1. Where no notice is given, unnecessarily resulting in members of the public unknowingly being placed at risk of being sexually assaulted; or,
2. Where notice is given in all cases without regard to the circumstances, unnecessarily exposing registered sex offenders to the possibility of public vigilantism where, under the circumstances, such sex offender constituted little or no actual danger to the public or to specific members of the public.

POLICY

It shall be the policy of the La Mesa Police Department to release only pertinent information to members of the community when a reasonable suspicion has been determined, based on confirmed information that a person(s) may be at risk of becoming a victim of a serious sex offender and the offender is likely to encounter that person(s).

In the case of a High Risk sex offender, there is no need to have a reasonable suspicion that any person(s) may be at risk of becoming a victim of a sex offense by such sex offender in order to disseminate information on a high risk offender.

It shall be the policy of the La Mesa Police Department to issue a press release and a Megan's Law poster on all sex offenders designated by D.O.J. as high risk offenders and who reside within the City of La Mesa. Further, it shall be the policy to issue a press release and a Megan's Law poster on any high risk sex offenders known to be employed within the City of La Mesa. Any such release of information is subject to the written authorization of the Chief of Police. Under no circumstances will this agency publish a disclosure of information on a registered sex offender who resides outside our jurisdiction without the permission and cooperation of the agency of jurisdiction.

III. DEFINITIONS

A. Categories of Registered Sex Offenders

The Department of Justice has categorized sex offenders as either serious, high risk, or "other" offenders. Megan's Law permits releases only on serious, and high risk offenders. This status may be obtained from the Department's CD-ROM, CLETS Violent Crime Information Network/Supervised Release File, or by contacting the D.O.J. directly at (916) 227-3288.

A Serious Sex Offender is an offender convicted of a felony sex offense (excluding those listed in the "other" category) or of misdemeanor child molestation (PC 290.4(a)(1)).

A High Risk Sex Offender is a serious sex offender who has been identified by D.O.J. as having a greater risk of re-offending and who may pose a greater danger to the public.

"Other" Registered Sex Offenders are misdemeanants (except misdemeanor child molestation per Penal Code sections 647.6 and 288(c)) and those felons convicted of repeated indecent exposure, pornography and related offenses, and spousal rape. Information on sex offenders classified as "Other" may not be released to the public.

B. Definitions Relating to Disclosure Criteria on Serious Sex Offenders in Exigent Circumstances - (290(m) PC)

"Reasonably suspect" - A suspicion based on information provided by law enforcement or a member of the public that a child or other person may be at risk of becoming the victim of a sex offense by a serious sex offender.

“Likely to encounter” - The entity or individual is in a location close to where the offender lives or is employed, or the offender visits, or is likely to visit on a regular basis, and contact with the offender is reasonably probable. 290(m)(6) P.C. “at risk” means a person is or may be exposed to a risk of becoming a victim of a sex offense committed by the offender.

“Exigent Circumstances” - Circumstances which reasonably indicate to a peace officer, drawing upon the facts and/or the officers training and experience, that a person is in imminent danger of becoming a victim of a sex offender if not immediately given notice of the presence of, or expected contact with, the sex offender, and that delaying notice pending supervisor approval will unnecessarily put the potential victim(s) at risk.

IV. Procedure

Investigations Unit - The Investigations Unit shall be responsible for the proactive release of information to the public on persons in the categories that allow for such release (high risk & serious offenders) in situations other than exigent circumstances. The Investigations Unit shall provide a Megan’s Law Report of Public Disclosure Form, along with the Megan’s Law poster and/or Press Release to the Chief of Police for approval. Prior to any such release, the offender’s registration status must be confirmed, and his/her place of residence verified.

Patrol Unit - The release of information in exigent circumstances may be done by any officer with good cause. Prior to any such release, the offender’s registration status must be confirmed, and his/her place of residence verified, if said address is to be provided. Circumstances permitting, the officer shall receive the approval of the Watch Commander prior to the release of such information. This information may only be released to those persons that may be at immediate risk. After such a release of information, the officer shall complete a Field Interview Report and a Megan’s Law Report of Public Disclosure Form which will capture the name(s) of person(s) / group / area to whom information was released and the reason for such release. These forms are available in the report room. Copies of these two documents are to be forwarded to the Investigations Unit for filing purposes. The officer is also to request Dispatch send a contact message through the Supervised Release File to inform the agency of record of the circumstances of the contact.

Information Verification. The confirmation of an offender’s 290 PC status, classification (serious, high risk, “other”), date of offense, and specific violations are critical in making a determination to proactively disclose in exigent

circumstances. Generally, an officer will become aware of a person's 290 PC status while running a records check in CLETS (Query Wants and Warrants, QW). Complete registration status may be obtained through the Violent Crimes Information Network (VCIN). (Procedure: First, query QVCN using the offender's name ONLY. Second, obtain the file control number, FCN #, which is located on the last line of the record. And, third, query QVCN again using ONLY the offender's FCN#.

Anyone releasing information on an offender must make the following statement: "This information is to allow members of the public to protect themselves and their children from registered sex offenders." If deemed necessary, any of the following information may be released to the public by an officer in emergency situations:

1. The offender's full name and known aliases
2. The offender's gender.
3. The offender's race.
4. The offender's physical description.
5. The offender's photograph.
6. The offender's date of birth.
7. The crimes committed that resulted in 290 PC registration.
8. The offender's address. (Prior to disclosure, an officer must be sent to the offender's residence or business address to verify the offender does actually live or work there.)
9. The description and license numbers of the offender's vehicle(s).
10. The type of victim(s) targeted by the offender.
11. Relevant parole or probation conditions, i.e. prohibiting contact with children.
12. The dates of crimes resulting in classification under 290(a) PC.
13. The date of the offender's release from confinement.

Absent exigent circumstances, the residence address, business address, and vehicle license number of a Serious or High Risk Sex Offender shall not be released.

The release of any offender information, including the means and dates of dissemination, shall be documented on the Megan's Law Record of Public Disclosure form and filed with the Megan's Law Administrator, i.e., the Investigations Unit Police Assistant. This information shall be maintained for a minimum period of five years.

V. PUBLIC VIEWING OF MEGAN'S LAW CD-ROM AND SEX OFFENDER IDENTIFICATION LINE TELEPHONE DISCLOSURE

CD-ROM. The La Mesa Police Department has the capability of providing this service to members of the community. All inquiries should be directed to the Investigations Unit Police Assistant, (619) 667-1434, who will arrange an appointment for viewing of the CD-ROM. San Diego County's mandated providers for public viewing are the San Diego Police Department, at (619) 531-2325 option #5, and the San Diego Sheriff's Department, at (619) 974-2020.

To view the CD-ROM, the individual must:

- be 18 years of age or older;
- provide a California driver's license or identification card;
- sign a statement that they are not a registered sex offender; that they understand the purpose of the release of information is for the public to protect themselves and their children from sex offenders; and that they understand that it is illegal to use the information to harass, discriminate or commit a crime against any registrant;
- state a distinct purpose for viewing the CD-ROM.

Sex Offender Identification Line. Persons may also contact the Department of Justice at 1-900-463-0400, the Sex Offender Identification Line. The Sex Offender Identification Line is a telephone service for use by the public and organizations to identify Serious and High Risk Sex Offenders. The cost for calling the 900 number is a flat rate fee of \$10.00 for information on up to two individuals.

To use the 900 Line, an individual must be at least 18 years of age and must know the following information about the person they are checking:

- name of the person, AND one of the following:
 - an exact address, or
 - exact date of birth, or
 - California driver's license, identification number or social security number.

VI. OUTSIDE AGENCY NOTIFICATION

The Investigations Unit shall, when under the circumstances it is feasible, practical and necessary, notify outside agencies of the presence and/or activities of a "serious" or "high risk" sex offender when:

- A. Information comes to the attention of the Investigations Unit regarding any possible violation or misconduct by a registrant within the jurisdiction of another agency.
- B. When proactive disclosure is made by the La Mesa Police Department and this disclosure could appropriately extend into other jurisdictions due to the registrant's place of residence, place of employment, area(s) frequented, etc.

(Under no circumstances will this agency publish a disclosure of information on a registered sex offender who resides outside our jurisdiction without the permission and cooperation of the agency of jurisdiction.)

ADDITIONAL ATTACHMENTS ON FOLLOWING PAGES

La Mesa Police Department
Megan's Law Record of Public Disclosure

CASE OR INCIDENT NUMBER _____ OFFICER _____

SEX REGISTRATION INFORMATION DISCLOSED REGARDING, (Registrant's name):

Name: _____ DOB: _____
Last First Middle

Address: _____
Number and Street name City State Zip Code

Telephone #: _____ Vehicle Description & License #: _____
Area Code Number

DOJ Classification: Serious High Risk

How Address Verified: _____ Date of Verification: _____

How DOJ Classification Verified: _____ Date of Verification: _____

Individual(s) / Group / Area to whom information disclosed:

Name: _____
Last First Middle

Address: _____
Number and Street City State Zip Code

Telephone #: _____ Date of Birth: _____
Area Code Phone #

(LIST ADDITIONAL NAMES / INFORMATION, ON BACK OF FORM)

THE PURPOSE OF THE RELEASE OF THE FOLLOWING INFORMATION IS TO ALLOW MEMBERS OF THE PUBLIC TO PROTECT THEMSELVES AND THEIR CHILDREN FROM SEX OFFENDERS.

A MEMBER OF THE PUBLIC MAY NOT USE INFORMATION OBTAINED BY ANY MEANS IN ACCORDANCE WITH MEGAN'S LAW TO COMMIT ANY CRIME. CRIMINAL MISUSE OF THE INFORMATION SUBJECTS THE PERSON WHO MISUSES IT TO A SENTENCE ENHANCEMENT IN ADDITION TO THE PUNISHMENT MANDATED FOR THE CRIME.

Reason for disclosure: _____

Method of disclosure: _____ VERBAL _____ WRITTEN _____ POSTER _____ OTHER

I acknowledge disclosure of the following information: _____
Officer's Signature ID# Date

Reviewed by Lt: _____ Date: _____

SERIOUS OFFENDER

<p>DESCRIPTION: SEX: MALE RACE: HISPANIC EYES: BROWN HAIR: GRAY HEIGHT: 5' 06" WEIGHT: 160 DOB: 11/29/1931</p>	<p>August 18, 1999 CURRENT PHYSICAL DESCRIPTION MUSTACHE, GLASSES, ETC. MAY INCLUDE VEHICLE INFO IF APPLICABLE, RESIDE 8000 BLOCK OF STREET NAME. FREQUENTS CORNER OF 4TH & U</p>
<p>ALIAS (ES): , DAVID</p> <p>REGISTERED CRIMES: 288 (A) lewd or lascivious acts with child under 14 years</p> <p>SCARS, MARKS, TATTOOS, ODDITIES: NO KNOWN S/M/T's</p> <p>GENERAL COMMENTS: IT IS BELIEVED THAT MR. SO&SO BEFRIENDS MALE JUVENILES AND BRINGS THEM TO HIS APARTMENT (WITHOUT THE KNOWLEDGE OF THEIR PARENTS) WHERE HE PROVIDED THEM WITH PORNOGRAPHIC VIDEO TAPES AND OTHER PORNOGRAPHIC MATERIALS. MALE VICTIMS ARE GENERALLY ... BETWEEN THE AGES OF ANY PARENT, OR OTHER PARTY, THAT SUSPECTS THAT THEIR CHILD OR ANOTHER JUVENILE MAY HAVE BEEN VICTIMIZED BY THIS SUBJECT, IS ASKED TO CONTACT THE LMPD.</p> <p style="text-align: center;">LT. M. NICHOLASS CITY OF LA MESA POLICE DEPARTMENT (619) 667-7512</p> <p>This information is being released pursuant to Penal Code section 290. The purpose of the release of this information is to allow members of the public to protect themselves and their children from sex offenders.</p>	

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**LT. M. NICHOLASS
CITY OF LA MESA POLICE DEPARTMENT
(619) 667-7512**

Date of Disclosure: _____ Means: _____

Approved By: _____