

Pennsylvania State Police Testimony

Republican Policy Committee

August 17, 2010

Public Hearing on the Megan's Law Internet Registry

**Presented by:
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Good morning, I am Lieutenant Douglas Grimes, Commander of the Megan's Law Section, Bureau of Records and Identification of the Pennsylvania State Police. On behalf of Colonel Frank E. Pawlowski, Commissioner of the Pennsylvania State Police, I would like to thank you for this opportunity to provide testimony to this committee.

The Pennsylvania State Police takes very seriously our statutory responsibility of administering the official registry of sexual offenders for the Commonwealth of Pennsylvania. A large part of this task is to make information available on the internet for the general public. The State Police strives to fulfill these duties with excellence. We are dedicated to ensuring all information, including that information posted on the public website, is processed timely, accurately, and in strict accordance with all statutory mandates. The Megan's Law Section continually assesses our performance and is proactive in seeking ways to improve our business practices, to maximize Commonwealth resources, and to provide the best possible service to the citizens with respect to our public website.

More than a year ago, beginning in March 2009, the Pennsylvania State Police and the Office of Administration established the Megan's Law Modernization Committee. The purpose of this committee was to conduct a critical and comprehensive analysis of the existing sexual offender registration process, the Megan's Law public website, and the requirements of the federal Sex Offender Registration and Notification Act (SORNA). This analysis also included business and technical requirements, legislative issues and projected costs. Many changes and improvements were identified and steps have already been taken towards implementation of these. In fact, prior to

receiving a copy of the Auditor General's "special report," issued June 22, 2010, we had already planned to address most of his concerns.

The State Police seized an excellent opportunity offered by the federal Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) to participate in the design and development of a new web based software application for the collection of offender information in compliance with SORNA. This afforded the Megan's Law Section the ability to assist in the creation of a SORNA-compliant software application that also meets many of the business needs of the State Police. Additionally, the software is being provided essentially free of charge. This is especially important given the current fiscal conditions. The Commonwealth will have to pay for customizations unique to Pennsylvania's law and registration process, but that cost will be significantly mitigated through the acquisition of several grant opportunities in excess of two million dollars.

Development of the new software application was a crucial first step in moving forward with the proposed website changes. Most of the planned website changes we will be rolling out at the end of the year could not be implemented without first accomplishing the needed changes to the database.

The State Police shares the Auditor General's concerns that the website meets the needs of the public for accuracy, ease of navigation and content. Later in this testimony, I can address each of the Auditor General's specific recommendations for improving the website if you desire. But first let me tell you about the steps we have already taken to

improve our performance and enhance the access to sex offender information for law enforcement and the public.

The Megan's Law Section routinely does quality control checks. In an attempt to correct the potential for data entry errors, we implemented the US Postal Service software program to validate address information. Ironically, it is that very same address validation software that is causing some of the inconsistencies in city names identified by the Auditor General.

We are in the final stages of the roll out of updated photo equipment for all State Police locations. This will help ensure consistency in quality for all Megan's Law photos taken at State Police installations. However, it is important to note that photographs are received from numerous other agencies involved in the registration and verification process.

The Megan's Law Modernization Committee has been working diligently on website modifications. This new web application is planned for implementation in two phases with Phase 1 scheduled for completion in December 2010. Some of the improvements scheduled for release at this time include: listing a date the photo was submitted, emphasizing absconders and non-compliant offenders including having a "Most Wanted" absconder banner at the top of the Megan's Law Website homepage, enhanced searching to include searches with and without incarcerated offenders, searches with drop down lists, the use of "soundex" capabilities, mapping functionality, and email alerts.

We have also scrutinized legislative issues and the cost of upgrading our system. The State Police have been working cooperatively with the Governor's Office and House Judiciary Committee staff to draft needed legislative changes to address issues such as homeless offenders, prosecution of out-of-state offenders, and compliance with SORNA requirements. Much progress has been made but additional effort is needed, especially if the legislature wants our system of registering sex offenders to comply with the federal mandates of SORNA.

All of these changes come at a price. As previously stated, we have sought out and received federal grants to offset some of the expenses associated with enhancing the new system, and we will be using them to cover additional short term staff and technology upgrades. Additional funding will be needed to maintain long term staffing needs to handle the expected growth once the full provisions of SORNA are legislated.

Much of what the Auditor General has recommended is consistent with the requirements of SORNA, and Colonel Pawlowski discussed some of the very same concepts in an interview with PCN that aired on June 1, 2010, prior to release of the Auditor General's special report. Like the Auditor General, we believe the process of sex offender registration in Pennsylvania should be redesigned. With public safety in mind, numerous initiatives have already been undertaken to improve the Megan's Law sexual offender registration process and public website in Pennsylvania.

If you want, I am prepared to address specific findings in the Auditor General's report as well as the parallel findings and recommendations previously made by the Megan's Law Modernization Committee.

1. The Megan's Law website should post multiple photographs, including profile views, of each offender.

Like the Auditor General, the Megan's Law Modernization Committee has recommended displaying of multiple photographs of offenders such as historical photographs, photographs with and without facial hair or glasses, or other significant changes in appearance. Side profile photographs, as listed in this special report, have also been discussed; however, numerous factors, including the capability of existing equipment, requisite programming changes, and server storage space issues must all be considered in this discussion.

We are considering this recommendation and exploring the most efficient and cost-effective method of performing such a function. Obviously, public safety is of the utmost importance, but during these difficult economic times, we must balance the potential benefit of a suggested change and the most fiscally-responsible application of limited resources.

Moving forward, we will have to maintain historical photographs if the General Assembly wants to comply with SORNA's requirements rather than lose federal funding. The seemingly simple act of taking an additional profile photograph of the offender carries the implication of doubling the size required for storage of the electronic photo file. The issue is compounded, exponentially, when you look closely at the impact of

meeting the federal requirements of verifying all Tier 3 offenders four times per year. A close analysis of the current registry reveals that 78% of the existing registry will be classified as Tier 3 offenders. In 2009, the Megan's Law Section processed 22,000 offender registrations, verifications, and changes. Compliance with SORNA would probably increase the number of transactions to well over 80,000 per year.

Neither SORNA nor Pennsylvania Megan's Law require profile photographs. As a result, the cost and benefit of adding profile photos within each offender file needs to be closely scrutinized.

2. The Megan's Law website should contain only photographs that are clear and in color; no photos should be posted that are blurred, grainy, black and white, poorly lighted, or that show offenders with eyes closed or with any accessory (e.g., hat) that compromises public recognition.

As I said in my opening remarks, the State Police has provided field installations with upgraded photographic capabilities to address poor quality photos from State Police locations. However, the Commonwealth's Megan's Law Registration process is performed by a variety of agencies including the PSP, Local Law Enforcement, State Probation and Parole, County Probation, State Department of Corrections, and County Corrections. As a result, the PSP Megan's Law Section receives photographs from various agencies in a variety of formats, which include Polaroid prints, digital photographs printed on paper, and electronic JPEG files. Although the PSP Megan's Law Section requests high quality photographs for all offenders, what is received can vary dramatically. In those instances when a poor quality photo is received, every effort

is made to obtain a better photograph; however, in many cases this is not immediately possible. As a result, the poor quality photograph is uploaded to the public website, with the intent to replace as better quality photos are obtained. Replacement of the poor quality photo does in fact occur in many instances, as indicated in the special report of the Auditor General.

Unfortunately, there are some instances, in which, for different reasons, we have been unsuccessful at obtaining better quality photographs. Consequently, multiple options are employed in the event a poor quality photograph is received for an offender.

One potential option involves re-using the previous, but clear and accurate photograph. Another option requires the Megan's Law staff to contact the registering authority to "request" the registering official re-contact the offender and ask the offender to return to the registration site to be photographed a second time. Unfortunately, there is no statutory requirement for the offender to comply with such a request. A more successful approach to the issue of poor photography has been to offer hands on training and stress the importance of obtaining a high quality photograph of the offender every time the offender appears; however, this is complicated by the size of the Commonwealth and the training resources available to perform this function.

3.The Megan’s Law website should clearly post the date that each offender’s photograph was taken.

As stated earlier, this recommendation had been included in the Megan’s Law Modernization Committee discussions and is included in the System Requirements Document for implementation slated for the implementation during the Phase 1 in December 2010. The committee recognized the need to make changes to the front end data collection system, database, and public website required to achieve this functionality. This committee recommendation will be achieved as part of the larger objective to create and implement a new electronic registration process, which is compliant with the SORNA requirements.

4.The Megan’s Law website should include a listing of all sex offenses for which each offender was convicted; the State Police should not withhold that information from the public.

This recommendation has been discussed in the Megan’s Law Modernization Committee discussions and is being included in the System Requirements Document for the development of the new electronic registration software. The Auditor General’s desire to list “**all sex offenses for which each offender was convicted**” is incorporated in the larger objective of SORNA compliance.

In fact, if Pennsylvania wants to comply with SORNA, we will have to take this requirement one step further and register all persons currently incarcerated, on probation,

parole, or serving a term of intermediate punishment when a historical registerable sex offense is identified in the analysis. Doing so would necessitate conducting an analysis of approximately 100,000 subjects currently incarcerated, on probation or parole, or in some form of intermediate punishment.

This would not be an easy task given the limited scope of our current registry. We would have to analyze the criminal histories and convictions of all 10,000+ active registrants to determine which offenses are required to be placed on the public website. This analysis includes the scrutiny of approximately 3,000 out-of-state offenders currently on the registry. The analysis of out-of-state criminal history records tends to be extremely tedious and time-consuming.

Unfortunately, we could not analyze the records of offenders *currently* on the registry without hiring additional legal assistants. This does not account for the impact to outlying years. In many cases, the length of time that has passed since conviction and sentencing will complicate the matter by requiring an exhaustive analysis of court documents and police reports. We would also have to change existing data collection efforts at the street level, database, and public website, all of which are slated to be replaced with the new web application.

It is important to note that not every sex-based offense requires registration. A person convicted of a sex-based offense that does not specifically require registration cannot be registered or placed on the public website. Similarly, under present law, the State Police is statutorily prohibited from posting conviction information for sex offenses that do not require registration. Therefore, the State Police is statutorily required to

withhold conviction information on certain sex offense convictions. Consequently, if the legislature decides to implement SORNA in Pennsylvania, legislative changes will be necessary to loosen the current restriction on posting other sex offenses.

5. The Megan's Law website should include a method of emphasizing the verification dates of offenders who are not in compliance with the law.

Our Megan's Law Modernization Committee already reached a similar conclusion and we have incorporated in the System Requirements Document for development of the new electronic registration software. This issue is recognized as an important upgrade for the public website to ensure clarity in regards to the offender compliance and encourage public interaction in holding offenders accountable to their registration requirements.

6. The Megan's Law website should contain clear and consistent terminology and should include definitions where appropriate.

This recommendation is an excellent idea, and the Megan's Law Modernization Committee will discuss its inclusion in the new design slated for implementation in December 2010.

7.The Megan’s Law website should clearly distinguish offenders who have absconded or are otherwise missing/non-compliant.

Once again, we have already incorporated this concept in the System Requirements Document for the development of the new electronic registration software. The modernization committee explored several options to achieve this functionality by placing the label “Absconded,” “Non-Compliant” on the website. We have also discussed including a “Most Wanted Sex Offenders” banner to solicit greater public assistance in apprehending “Absconded” and “Non-compliant” offenders. These upgrades are slated for implementation in December 2010.

8.The Megan’s Law website should allow more types of searches including but not limited to these:

- a. Offenders who reside within user-specified distances***
- b. Offenders in prison or under other supervision***

This is another function already included in the System Requirements Document for development of the new electronic registration software and redesigned public website. This feature is expected to be released in December 2010 with the new public website. To that end, the public will have the ability to establish a radius around an address utilizing a mapping feature to display all offenders, who reside, work or attend school within that radius with supporting legislation. In regard to offenders who are in prison, the public website will clearly identify those offenders who are incarcerated. All search functions will have the ability to include or exclude incarcerated offenders.

9. *The Megan's Law website should have an extended search function that recognizes and compensates for variations in spelling and punctuation.*

The solution to this problem is not as simple as it may seem; however, we are devoted to finding one. In December 2010, we plan to include drop-down menu choices for searchable fields, Soundex, and/or implied wild card searches on the new public website.

10. *The State Police should implement routine procedures to identify and correct website data entry errors and inconsistencies.*

We have already implemented routine procedures to identify and correct website data-entry errors and inconsistencies. In fact, over time, the State Police independently discovered and corrected many of the inconsistencies mentioned in the Auditor General's report. It is important to note that the inconsistency errors noted in regards to the cities of Wilkes-Barre, McKees Rocks, and Dubois are the result of utilizing the United States Post Office Address verification software within the Megan's Law Database. Our Megan's Law staff works diligently at entering data and ensuring consistent practices; however, we are all human, and no amount of training will account for every error. For that reason, many of the identified solutions are IT-based, programmatic solutions. Our goal is, and will always be, to correctly enter every record and to ensure the most accurate, current information is made available to the public.

Our team is performing a data-cleansing assessment prior to converting data to the new system to correct old data that is still remaining from previous versions of the system. To that end, the Megan's Law Modernization Committee will continue to seek both programmatic and training solutions that will improve the accuracy and ensure the public has the best and most accurate information available.

Included in these routine procedures are numerous initiatives to improve upon the accuracy as well as offender compliance initiatives. As a result, the non-compliance rate in the Commonwealth has dropped from almost 14% three years ago to 2.7% today. This is far better than the national non-compliance average, which is nearly 8%. We have achieved such a low non-compliance rate through a close working relationship with all agencies involved in the registration process. PSP Megan's Law Staff have provided training to a number of key agencies as a means to ensure a better understanding of both the legal obligations and the intent of Megan's Law. In many cases, this resulted in a significant improvement of the proper completion and timely submission of registration, verification, and change forms.

11. The Megan's Law website should include a sex offender mapping tool to allow the public (and public officials) to see at a glance all offenders in a specified area.

We recognize the usefulness of a mapping tool, and one was included in the System Requirements Document for the development of the new electronic registration

software and new public website. The inclusion of this mapping feature is expected to be released in December 2010 as stated in response to recommendation # 8.

12. The Megan's Law website should include an e-mail notification option for the public to receive e-mails when registered offenders move into designated areas.

An e-mail notification option has already been included in our System Requirements Document, and should be ready in December 2010. This functionality will use Alert PA to provide the public the opportunity to sign-up for and receive notifications via email or cellular phone when an offender changes his residence, school, or employment to an area within a specified radius or zip code of up to five addresses identified by the user. Unfortunately, we cannot turn on this particular feature without a statutory amendment to Megan's Law.

13. The Megan's Law website should offer more information on crime prevention and family safety, and should also provide clearly labeled links to such information.

This is an excellent recommendation, and the Megan's Law Modernization Committee will discuss the possibility of including it in the new website design.

In conclusion, on behalf of Colonel Pawlowski and the entire Pennsylvania State Police, I again thank you for the opportunity to address your Committee. I will be happy to answer your questions at this time.