

216 Sex Offender Registration and Community Notification

PURPOSE:

The purpose of this policy is to ensure that the Breckenridge Police Department (BPD) and its members comply with the requirements of Minnesota Statutes 243.166, 244.052, and 244.053 to provide for the registration of sexual offenders and other predatory offenders, to provide community notification relative to the release of certain of those offenders, while maintaining the legally required privacy and other rights of those offenders.

POLICY:

The State of Minnesota has found that as a matter of policy "If members of the public are provided adequate notice and information about a sex offender who has been or is about to be released from custody and who lives or will live in or near their neighborhood, the community can develop constructive plans to prepare themselves and their children for the offender's release."

It is the policy of the BPD to facilitate the registration of sexual and other predatory offenders. It is further the policy of the BPD to provide community notification relative to the release of those offenders as designated by statute, while preserving the legal rights of those offenders.

It is the policy of the BPD to provide the maximum information authorized by law, consistent with the requirements of public safety and the legal rights of the offender.

STATUTORY AUTHORITY:

Minnesota State Statute 243.166 - Sex Offender Registration
Minnesota State Statute 244.052 - Community Notification (Prison)
Minnesota State Statute 244.053 - Community Notification (Non Prison)
Minnesota State Statute Chapter 13 - Minnesota Government Data Practices Act

DEFINITIONS:

- A. Accepted for Supervision - Accepted from another state under a reciprocal agreement under the interstate compact authorized by Minnesota Statute 243.16.
- B. Confinement - Confinement in a state correctional facility or a state treatment facility.
- C. Law Enforcement Agency:
 - 1. For the purpose of community notification, a law enforcement agency is defined as the agency having primary jurisdiction over the location where the offender expects to reside upon release, and/or where the offender is likely to be encountered.

2. For all other purposes under this policy, the definition of law enforcement agency includes all agencies which carry on a law enforcement or prosecutorial function including, but not limited to local, state, and federal agencies; and parole, probation and court services agencies.
- D. Sex Offender or Offender:
1. For the purposes of sex offender registration, a sex offender is an adult or juvenile required to register under Minnesota Statute 243.166, subdivision 1.
 2. For the purposes of community notification, a sex offender is an adult or certified juvenile who has been convicted of an offense for which registration under section 243.166 is required, or a person who has been committed pursuant to court commitment order under section 253.166 is required, or a person who has been committed pursuant to court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, regardless of whether the person was convicted of an offense.
- E. Likely to Encounter - 1) the organizations or community members are in a location or in close proximity to a location where an offender lives or is employed, or which an offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program; and 2) the types of interaction which ordinarily occur at the location and other circumstances indicate that contact with an offender is reasonably certain.
- F. Residential Treatment Facility - A residential facility that is licensed as a residential program, as defined in Minnesota Statute 245A.02, subdivision 14 by the Commissioner of Human Services under Minnesota Statute Chapter 254A, or the Commissioner of Corrections under MN Statute 241.021; and the facility and its staff are trained in the supervision of sex offenders.
- G. Day Care Establishments - An establishment licensed by the State of Minnesota, or its agents, to provide day care services for children.
- H. Public and Private Educational Institutions - An elementary, secondary, and post secondary educational institution authorized or licensed by the State of Minnesota.
- I. Registration Period - That period of time that is defined by Minnesota Statute 243.166, subdivision 6. That statute provides a person required to register as a sex offender or predatory offender shall continue to comply with registration requirements until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs

later. For a person required to register who is committed under Minnesota Statute 253B.185, the ten-year registration period does not include the period of commitment.

J. Risk Level Assessment - That level of danger to the community established by the End of Confinement Review Committee of the Minnesota Department of Corrections. There are three risk levels:

1. Level I - Risk Level I is an offender whose risk assessment score indicates a low risk of re-offense.
2. Level II - Risk Level II is an offender whose risk assessment score indicates a moderate risk of re-offense.
3. Level III - Risk Level III is an offender whose risk assessment score indicates a high risk of re-offense.

PROCEDURES

I. REQUIRED REGISTRATION

An offender must register under Minnesota Statute 243.166, if the offender was charged with, or petitioned for, a felony violation of or attempt to violate any of the following crimes; and convicted of, or adjudicated delinquent for that offense or of another offense arising out of the same circumstances:

The offense the offender was charged with or convicted of is:

1. **First Degree Murder** - MN Statute 609.185, subd.2;
2. **Kidnaping, Involving a Minor** - MN Statute 609.25;
3. **First Degree Criminal Sexual Conduct** - MN Statute 609.342;
4. **Second Degree Criminal Sexual Conduct** - MN Statute 609.343;
5. **Third Degree Criminal Sexual Conduct** - MN Statute 609.344;
6. **Fourth Degree Criminal Sexual Conduct** - MN Statute 609.345;
7. **Predatory Crime** under the **Patterned Sex Offender** Statute AND offender sentenced as a patterned sex offender, MN Statute 609.1352;
8. **Predatory Crime** under the **Patterned Sex Offender** Statute AND the court has found the crime to be a part of a predatory pattern of behavior that had criminal sexual conduct as its goal;
9. **Using a Minor in a Sexual Performance**, MN Statute 617.246;
10. **Possession of Pictorial Representations of Minors**, MN Statute 17.247;
11. **Committed as a Sexual Psychopath or Sexually Dangerous Person**, under MN Statute 253B.185 or 526.10, whether convicted or a crime or not;
12. **Comparable Federal Offense**;
13. **Comparable Offense in another state** within the last ten years.

A. Registration Process

Minnesota Statute 243.166 requires an offender to register. The central repository for registration records is the Minnesota Bureau of Criminal Apprehension.

1. Sex Offenders that are on State or Federal probation, parole, or supervised release are required to register with a corrections agent as soon as one is assigned. Copies of the registration form are forwarded to the following:
 - a. Bureau of Criminal Apprehension (original and one copy). The Bureau of Criminal Apprehension will forward this information to the law enforcement agency with primary jurisdiction over the location where the offender expects to reside.
 - b. Corrections Agent, and
 - c. Department of Corrections - Sex Offender/Chemical Dependency Services Unit if appropriate, and
 - d. Offender.

2. If an offender does not currently have a Minnesota or Federal Corrections Agent because the offender is no longer under supervision, they shall register with the law enforcement agency with primary jurisdiction over the location in which they reside. Copies of the registration form as provided by the Bureau of Criminal Apprehension shall be provided within two working days as follows:
 - a. Bureau of Criminal Apprehension (original and one copy), along with a completed finger bring card (as provided by the Bureau of Criminal Apprehension), and a photograph, and
 - b. Agency files, and
 - c. Offender

A. Change of Address Requirements

Minnesota State Statute 243.166 requires, if an offender moves, the offender must register their new address not less than five (5) days prior to moving. A change of address is defined as remaining at an address for longer than three days and evidencing an intent to take up residence there.

1. Sex Offenders that are on State or Federal probation, parole, or supervised corrections shall forward the Change of Address Form as provided by the Minnesota Bureau of Criminal Apprehension to the Bureau of Criminal

Apprehension within two working days. Copies of the registration form are forwarded to the following:

- a. Bureau of Criminal Apprehension, original and one copy and , (The Bureau of Criminal Apprehension shall forward this information to the law enforcement agency with primary jurisdiction over the location where the offender expects to reside.), and
- b. Corrections Agent, and
- c. Department of Corrections - Sex Offender/Chemical Dependency Services Unit, if appropriate, and
- d. Offender

2. If an offender does not currently have a Minnesota or Federal corrections agent because the offender is no longer under supervision, they shall register their address change with the law enforcement agency with primary jurisdiction over the location in which they reside. Copies of the Change of Address Form as provided by the Bureau of Criminal Apprehension shall be provided within two working days as follows:

- a. Minnesota Bureau of Criminal Apprehension (original and a copy), and
- b. Law Enforcement Agency with primary jurisdiction over the location in which the offender intends to reside, and
- c. Agency file, and
- d. Offender

C. Offenders from Other States

1. When the state accepts an offender from another state under a reciprocal agreement under the interstate compact authorized by Minnesota Statute 243.16, or under any authorized interstate agreement, the acceptance is conditional on the offender agreeing to maintain a current registration under this section while the offender lives in Minnesota.
2. Offenders who have been convicted or adjudicated, or released from confinement in another state of a comparable offense requiring registration within the last ten years, even if they are no longer under supervision, are required to register if they have moved to Minnesota after July 1, 1995 and remain longer than thirty (30)

days. They are to register with the law enforcement agency with primary jurisdiction over the location in which they live. The original and one copy of the Registration Form, along with a completed finger print card (as provided by the Bureau of Criminal Apprehension) and a photograph, is to be forwarded to the Bureau of Criminal Apprehension.

3. The offender will be advised of the requirements of Minnesota Statute 609.3461, subd. 3, which requires offenders under supervision from another state to make arrangements with their supervising agent to provide a biological sample for purposes of DNA testing. The cost for obtaining the biological specimen is the responsibility of the supervising agency.

D. Registration Period

1. An offender must comply with the registration requirement until ten years have elapsed since the person was initially registered for the offense, or until the probation, supervised release, or conditional release period expires, **whichever occurs later.**

E. Criminal Penalty

1. If an offender is required to register under this section, and the offender violates any of its provisions; or intentionally provides false information to a corrections agent or law enforcement officer, the offender is guilty of a gross misdemeanor. Any violation of this section may be prosecuted where the offender resides or where the person was last assigned to a Minnesota corrections agent.
2. An offender who fails to provide change of address information may also be subject to an additional five year period of registration.
3. Subsequent convictions for failure to register are a felony.

F. Data Practices

1. All Sex Offender Registration Data is **PRIVATE DATA** to be used for law enforcement purposes.

G. Reports

1. An incident report must be completed on all sex offenders reported to the BPD. This report is to contain all data with respect to their past criminal record

- including MO's, if known.
2. The BPD will assist an offender in completing a Sex Offender Notification and Registration Form and/or Sex Offender Change of Address Notice for any offender registering with our agency.
 3. These completed forms must be promptly mailed to the Minnesota Bureau or Criminal Apprehension, Attn: SOR Unit, 1246 University Avenue, St. Paul, Minnesota 55104. A copy will be retained for agency records.

II. COMMUNITY NOTIFICATION-RELEASE FROM PRISON OR TREATMENT FACILITY

A. Receipt of End of Confinement Review Report and Records

1. Pursuant to the Minnesota Statute 244.052, subdivision 3 (f), not less than sixty (60) days before an offender is released from confinement by the Commissioner of Corrections or Commissioner of Human Services, the State End of Confinement Review Committee is required to provide to the local law enforcement agency the risk of assessment and report, and all relevant information underlying the committee's risk assessment.
2. Community Notification Plan
 - a. For each offender who falls within the scope of this policy, a community notification plan will be established. A good faith effort shall be made to complete the plan at least fourteen (14) days before the offender is released from confinement or accepted for supervision.
 - b. The notification plan will be consistent with the risk level assessment established by the Department of Corrections, and include the preparation of an Offender Fact Sheet.
 - c. Offender Fact Sheet-An offender fact sheet shall, at minimum, include:
 1. The date the fact sheet was issued.
 2. The Minnesota state identification number.
 3. The agency responsible for the fact sheet.
 4. Legal authority under which the fact sheet was prepared.
 5. A method of contacting the Law Enforcement Agency for further information.

6. A Statement of the Offender's Rights.
7. The name, date of birth and physical description of the offender.
8. A recent photograph, if available.
9. A Statement of the Offense for which the offender was convicted, or other legal basis for the offender's confinement.
10. A description should be written in a manner which protects the victim and witnesses to the offense to the extent it is reasonably possible to do so. The description of the offense should be written in a manner so as to not unreasonably arouse the anger of those who review it, or jeopardize the safety of the offender. The agency may use the offense summary information provided by the End of Confinement Review Committee for the offense summary.
11. The Department of Corrections assigned Risk Level.
12. The address at which the offender Intends to reside. In most circumstances, this should not include the specific street number of the residence.
13. The cope of the Community Notification Law.

Note: To meet the above provisions, the agency may use a fact sheet similar to Addendum 1 of this policy.

- d. Level I - For a Risk Level I Offender, a fact sheet may be distributed as follows:

3. Mandatory Disclosure

a. Victims

The fact sheet shall be given to the victims of the offense committed by the offender, who have requested disclosure if that request has been made known to the agency, and if the agency is provided an address for the victim with which to communicate the information.

b. Offender

The fact sheet shall be mailed to the offender.

4. Discretionary Disclosure - The fact sheet may be given to:

- a. Any witnesses to the offense committed by the offender, who have requested disclosure if that request has been made known to the agency, and if the agency is provided an address for the witness(es) with which to communicate the information.
 - b. Any other law enforcement agency where the offender is likely to be encountered,
5. Offender criminal history records may be disclosed to the extent such a record is classified as public data and as authorized under Section V. of this policy.
- e. Level II - For a Risk Level II Offender who is placed in a Residential Facility, disclosure shall be as follows:
 - 1. Mandatory Disclosure
 - a. Disclosure shall be made to all persons and entities to which Level I disclosure would be made.
 - 2. Discretionary Disclosure
 - a. Additional Level II disclosure may not be made until the head of the facility notifies the agency that the offender's placement or residence in the facility is scheduled to end. Upon receipt of this notification, the agency may make disclosures as authorized in paragraph (f) below.
 - f. Level II - For a Risk Level II Offender Not Placed in a Treatment Facility, a Fact Sheet may be distributed as follows:
 - 1. Mandatory Disclosure
 - a. Disclosure shall be made to all persons and entities to which Level I disclosure would be made.
 - 2. Discretionary Disclosure
 - a. Additional disclosure may be made to the following groups and agencies the offender is likely to encounter:
 - 1. Public and Private Educational Institutions
 - 2. Day Care Establishments

3. Establishments and Organizations that primarily serve individuals likely to be victimized by the offender.

In determining the establishments and organizations who will be given the fact sheet under this provision, the agency may consider the offender's prior history, offense characteristics, employment, recreational, social, and religious interests; and the characteristics of likely victims. The agency should consult with any other law enforcement agencies with primary jurisdiction over which the offender is likely to be encountered.

- g. Level III - For a Risk Level III Offender who is placed in a Residential Facility, disclosure shall be as follows:
 1. Mandatory Disclosure
 - a. Disclosure shall be made to all persons and entities to which Level I disclosure would be made.
 2. Discretionary Disclosure
 - a. Additional Level III disclosure may not be made until the head of the facility notifies the agency that the offender's placement or residence in the facility is scheduled to end. Upon receipt of this notification, the agency may make disclosures as authorized in paragraph (h) below.
- h. Level III - For a Risk Level III Offender not placed in a treatment facility, a Fact Sheet may be distributed as follows:
 1. Mandatory Disclosure
 - a. Disclosure shall be made to all persons and entities to which Level I and Level II disclosure would be made.
 1. Discretionary Disclosure
 - a. Additional disclosure of the fact sheet may be made to any other members of the community the offender is likely to encounter.

1. In determining the establishments and organizations who will be given the fact sheet under this provision, the agency may consider the offender's prior history, offense characteristics, employment, recreational, social, and religious interests; and the characteristics of likely victims.
2. The agency should consult with any other law enforcement agencies with primary jurisdiction over which the offender is likely to be encountered. The agency shall meet with community members including a public meeting, as defined by Minnesota Statute 471.705, in the area where the sex offender will reside or is likely to be found. If a public meeting is determined not to be appropriate in a specific case, the reason the meeting was not held will be documented in the agency's case files.

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3. The agency shall make reasonable efforts to notify members of the community through appropriate use of public information resources, including the news media.
4. In conducting a community notification meeting, the agency will give due regard to, and address the essential components of, the community notification fact sheet created under this policy. The agency will consider and use as appropriate a variety of informational approaches, which may include:
 - a. Description of the Community Notification Law and Sex Offender Registration Law.
 - b. Relevant information concerning the offender who is subject to the notification.
 - c. Information which will promote public safety and protection from other offenders who may not be subject to notification.

- d. An explanation of the rights of the offenders to be free of illegal harassment.
- e. Assistance of community leaders, other officials and relevant professional disciplines.
- f. Information relevant to the scope of notification for the offender who is subject to notification.
- g. Information about what to do or who to call if the offender is encountered, or concerning the offender's activities.
- h. General personal safety and crime prevention tips, fact sheets or related materials.
- i. Information concerning general sex offender and predatory offender characteristics.

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- 3. Exchange of information between law enforcement agencies.

The agency may provide any data in its possession obtained under the Community Notification or Sex Offender Registration statutes to another law enforcement agency which is initiating or conducting an investigation, or to assist that law enforcement agency in conducting community notification or sex offender registration.

iii. Re-notification

- 1. When an offender notifies an agency of the intent to move from the jurisdiction, or within the jurisdiction, the agency shall:
 - a. Assist the offender in completing the Sex Offender Change of Address Notice. Once completed, a copy of the form shall be sent to the Chief Law Enforcement Officer of the jurisdiction to which the offender intends to move, and to the Minnesota Bureau of Apprehension. A copy will be retained for the agency's files.

- b. Upon the request of the agency in the jurisdiction to which the offender intends to move, the agency shall provide the agency with all information pertaining to the offender in its possession which is requested.
1. An agency shall periodically review all community notification files to determine if re-notification of the community is appropriate. In making that determination, the agency should consider the nature and characteristics of the community, including the extent of changes in its population and membership.
2. Upon receipt from the Department of Corrections of a reclassification of an offender risk level, the agency shall proceed with the development and distribution of a Community Notification Plan as set forth in paragraphs II (A) (2) above.

III. COMMUNITY NOTIFICATION - SENTENCING GUIDELINES DISPOSITIONAL DEPARTURES

- A. Pursuant to Minnesota Statute 244.10, subdivision 2a, in any case in which a person is convicted of an offense which requires registration under Minnesota Statute 243.166, and the presumptive sentence under the sentencing guidelines is commitment to the custody of the Commissioner of the Corrections, if the court grants a dispositional departure, the probation or court services officer assigned to supervise the offender is on probation and the terms and conditions of probation.
- B. Upon receipt of notice from a court services or probation officer under this provision, a file in the offender's name will be opened. The data contained in this file is classified as public data.
- C. Community Notification Plan
 1. For each offender who falls within the scope of this policy, a community notification plan will be established. A good faith effort shall be made to prepare the notification of the plan as soon as reasonably possible.
 2. The notification plan may be developed in consultation with the court services or probation officer and prosecuting authority, and shall include the preparation of an Offender Fact Sheet.
 3. Offender Fact Sheet - An offender fact sheet shall consist of public data unless otherwise authorized by court order or consent of the offender, and at minimum shall include:

- a. The date the offender fact sheet was issued.
- b. The Minnesota State Identification Number.
- c. The agency responsible for the fact sheet.
- d. The legal authority under which the fact sheet was prepared.
- e. A method of contacting the Law Enforcement Agency for further information.
- f. A statement of the offender's rights.
- g. The name, date of birth and age of the offender.
- h. A recent photograph, if available.
- i. A statement of the offense of which the offender was convicted.
- j. A brief description should be taken from court records and written in a manner which protects the identity of the victim and witnesses to the offense to the extent it is reasonably possible to do so. The description of the offense should be written in a manner so as to not unreasonably arouse the anger of those who review it, or jeopardize the safety of the offender.
- k. The scope of the Community Notification Law.
- l. To meet the above provisions, the agency may use a fact sheet similar to Addendum 2 of this policy.

D. Distribution of the Offender Fact Sheet

- 1. A copy of the fact sheet shall be mailed to the offender.
- 2. Disclosure may be made to the following groups and agencies the offender is likely to encounter:
 - a. Public and Private Educational Institutions
 - b. Day Care Establishments
 - c. Establishments and Organizations that primarily serve individuals likely to be victimized by the offender.

In determining the establishments and organizations who will be given the fact

sheet under this provision, the agency may consider the offender's prior history, offense characteristics, employment, recreational, social, and religious interests; and the characteristics of likely victims.

IV. COMMUNITY NOTIFICATION - ALL OTHER REGISTERED OFFENDERS

- A. This policy recognizes that under Minnesota Statutes not all persons who are required to register under Minnesota Statute 243.166, fall within the scope of the Community Notification Act.
- B. Any data in the possession of the agency concerning an individual who is required to register, but is not subject to the Community Notification Act, shall be administered, collected, maintained and disseminated consistent with Minnesota Statute Section 13.82 or any other relevant provisions of law.

V. CRIMINAL HISTORY CONVICTION DATA

- A. Minnesota Statute 13.87 classifies certain conviction data for adult and certified juvenile offenders as public data and requires the Bureau of Criminal Apprehension to allow a member of the public to inspect that data at its offices at no charge.
- B. Data which is not conviction data is classified as private data and may not be disclosed except as authorized by the Minnesota Government Data Practices Act.
- C. Conviction data is classified as public only until fifteen years has elapsed since the offender was discharged from the sentence imposed for the conviction. Following that time, conviction data is classified as private data.
- D. The following data obtained from Bureau of Criminal Apprehension records for conviction offenders for which less than fifteen years have passed since expiration of sentence may be disclosed as public data:
 - 1. Offender name and date of birth
 - 2. Charged offense and conviction offense and level of offense (felony or misdemeanor)
 - 3. Arresting agency and case number
 - 4. Court of conviction and court file number
 - 5. Sentence which was imposed
 - 6. Institution of confinement, if any

7. Minnesota State Criminal History (SID) Number