Sex Offender Placement:

State Laws Are Not Always Clear, and No One Formally Assesses the Impact Sex Offender Placement Has on Local Communities

April 2008 Report 2007-115

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April 17, 2008 2007-115

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the State's process for placing sex offenders in residential facilities.

This report concludes that state laws, regulations, and departmental policies do not require licensing departments to consider the criminal background of potential clients, including registered sex offenders, that the licensed facilities plan to serve. State law does not generally allow sex offenders on parole to reside with other sex offenders in a single-family dwelling that is not a "residential facility." However, we found several instances of two or more sex offenders on parole residing in the same hotel room, which is not permitted according to the Department of Corrections and Rehabilitation's (Corrections) interpretation of the law. Additionally, although state law allows two or more sex offenders to reside at the same "residential facility," it does not clearly define whether residential facilities include those that do not require a license, such as sober living facilities. We identified several instances in which two or more adult sex offenders on parole were residing in the same sober living facilities. Furthermore, state law is also unclear as to whether the residency restriction applies to juvenile offenders. In fact, we found several instances in which Corrections had placed more than one juvenile sex offender parolee at the same location.

Moreover, local law enforcement agencies generally told us they have not performed formal assessments of the impact sex offenders have on their resources and communities. In addition, state laws generally do not require the departments or their contractors that place registered sex offenders to consider the impact on local communities when making placement decisions, and the departments generally do not have policies calling for assessments of the impact such placements have on local communities. Finally, although Corrections generally followed its policies when monitoring sex offender parolees, it did not always adhere to its policies for notifying local law enforcement agencies of the impending release of parolees into their jurisdictions and it did not always ensure that parolees registered with the appropriate law enforcement agency within five working days of being released from prison.

Respectfully submitted,

Elaine M. Howle

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State Auditor

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Summary

Results in Brief

The Sex Offender Registration Act requires that all persons found to have committed certain sexual offenses by any state, federal, or military court must, for the remainder of their lives, register with certain regional entities as sex offenders while residing in California. The individuals subject to this state law (sex offenders) are required to register with the local law enforcement agency that has jurisdiction over their place of residence within five working days of moving there and upon each anniversary of their birth. As of December 13, 2007, the database of this information maintained by the Department of Justice (Justice) contained more than 59,000 registered sex offenders living in California communities. Of these, 8,000 are supervised and monitored by the Department of Corrections and Rehabilitation (Corrections) until they complete their parole. The remaining 51,000 who are no longer on parole do not generally receive any formal supervision.

Three state departments—the Department of Developmental Services, the Department of Mental Health, and Corrections—provide treatment or support services to a very small number of registered sex offenders, about 1 percent, either on a voluntary basis or as required by law. These three departments may assist some registered sex offenders by placing them in various housing accommodations, including licensed residential facilities. As part of their responsibilities, they may also provide some oversight of the sex offenders they place.

The Department of Social Services (Social Services) and the Department of Alcohol and Drug Programs (Alcohol and Drug) are responsible for licensing residential facilities, including those that serve six or fewer individuals. However, state laws and regulations and departmental policies do not require that these licensing departments consider the criminal background of potential clients, including registered sex offenders, that the licensed facilities plan to serve. Our comparison of the databases from these two licensing departments with Justice's database of registered sex offenders showed that at least 352 licensed residential facilities housed sex offenders as of December 13, 2007. However, because of the variations of the same address included in these databases and the large size of the databases, we were unable to determine precisely how many sex offenders reside in each licensed facility.

We also found 49 instances in which the registered addresses in Justice's database for sex offenders were the same as the official addresses of facilities licensed by Social Services that serve children such as family day care homes. State law requires that before issuing a license to operate or manage certain facilities that serve

Audit Highlights . . .

Our review of the placement of sex offenders in communities found that:

- *The Department of Justice's (Justice) database contained more than 59,000 registered sex offenders living in California communities. Of these, 8,000 are supervised and monitored by the Department of Corrections and Rehabilitation (Corrections) until they complete their parole.*
- *State laws and regulations and departmental policies do not require that licensing departments consider the criminal background of potential clients, including registered sex offenders, that the licensed facilities plan to serve.*
- *State law does not generally allow sex offenders on parole to reside with other sex offenders in a single-family dwelling that is not what it terms a "residential facility"; however, in several instances two or more sex offenders on parole were residing in the same hotel room.*
- *The registered addresses in Justice's database for 49 sex offenders were the same as the official addresses of facilities licensed by the Department of Social Services that serve children.*
- *Although state law does not prohibit two or more sex offenders from residing at the same "residential facility," it does not clearly define whether residential facilities include those that do not require a license, such as sober living facilities.*

continued on next page . . .

- *State law is also unclear whether the residence restriction applies to juvenile sex offenders; we found several instances in which Corrections placed juvenile sex offender parolees at the same location.*
- *Local law enforcement agencies generally told us they have not performed formal assessments of the impact sex offenders have on their resources and communities.*
- *State laws generally do not require the departments or their contractors that place registered sex offenders to consider the impact on local communities when making placement decisions.*

children, Social Services must review the criminal history of all applicants seeking licenses, their employees, and all adults residing at these facilities.

State law does not generally allow sex offenders on parole to reside with other sex offenders in a single-family dwelling that is not what it terms a "residential facility." However, we found several instances of two or more sex offenders on parole living at the same hotel. Corrections believes the law does not prohibit such living arrangements because hotels are not single-family dwellings. But we also found several instances in which two or more sex offenders on parole were residing in the same hotel room. According to Corrections' interpretation of the law, a single room within a hotel is a single-family dwelling, and thus this arrangement would not be permitted. When we informed Corrections' staff of the apparent violations of its policies, they noted that they plan to review all parolee cases to identify such living arrangements and work to correct them. Nevertheless, we believe the law is not clear as to whether a single unit within a multifamily dwelling such as a hotel is considered a single-family dwelling.

Although state law does not prohibit two or more sex offenders from residing at the same "residential facility," it does not clearly define whether residential facilities include those that do not require a license, such as sober living facilities. We identified several instances in which two or more adult sex offenders on parole were residing in the same sober living facility. It is also unclear whether this restriction applies to juvenile sex offenders. In fact, we identified several instances in which Corrections had placed juvenile sex offender parolees at the same location, such as a group home that does not require a license, because it does not believe that the residence restriction imposed by this law applies to juveniles.

While we focused our review on identifying instances in which two or more sex offender parolees listed in Corrections' database were living at the same location, the law is even more restrictive and does not allow a sex offender on parole to live with other sex offenders regardless of their parole status. Thus, because we did not compare Corrections' database with the larger population of sex offenders that include those no longer on parole, there are likely more instances than we have identified of paroled sex offenders residing with other registered sex offenders.

Local law enforcement agencies generally told us they have not performed formal assessments of the impact sex offenders have on their resources and communities. Further, state laws generally do not require the departments or their contractors that place registered sex offenders to consider the impact on

local communities when making placement decisions, and the departments generally do not have policies calling for assessments of the impact such placements have on local communities. The California Sex Offender Management Board, created in September 2006, is in the process of assessing the current practices for managing adult sex offenders, with the goal of improving community safety. It released an initial report in February 2008, which concluded that most sex offenders in communities are not under formal supervision and that it is unclear who is responsible for monitoring them after they are discharged from parole.

Finally, although Corrections generally followed its policies when monitoring sex offender parolees, it did not always adhere to policies for notifying local law enforcement agencies of the impending release of parolees into their jurisdictions. While Corrections makes this information available to local law enforcement agencies through its Parole Law Enforcement Automated Data System—a free Internet-based service—not all local agencies have opted to use it. Corrections also did not always ensure that parolees registered with the appropriate law enforcement agency within five working days of being released from prison.

Recommendations

If the Legislature is interested in identifying all sex offenders living in licensed residential facilities, it will need to require Justice, Social Services, and Alcohol and Drug to coordinate with one another and develop an approach that will allow them to generate such information on an as-needed basis. For example, with the assistance of Social Services and Alcohol and Drug, Justice could assign a unique identifier to each registered address in its database, such as the license number issued by the respective licensing department, which would allow it to compute the number of sex offenders living together in licensed facilities.

To ensure that registered adult sex offenders are not residing in licensed facilities that serve children, Justice should provide Social Services with the appropriate identifying information to enable Social Services to investigate those instances in which the registered addresses of sex offenders were the same as child care or foster care facilities. If necessary, Justice and Social Services should seek statutory changes that would permit Justice to release identifying information to Social Services so that it may investigate any matches.

To ensure that state laws are appropriately applied to sex offenders, the Legislature should consider amending the law that places limits on the number of paroled sex offenders who may reside at the same single-family dwelling to clearly define what constitutes a single-family dwelling and a residential facility. Further, the Legislature should specify whether this statute applies to juvenile sex offenders.

To ensure that it complies with its policies and interpretation of state laws, Corrections should continue to monitor the addresses of paroled sex offenders to ensure that they are not residing with other sex offenders, including those not on parole, in the same unit of a multifamily dwelling.

To comply with legal requirements and its own policies, Corrections should do the following:

- Ensure that its parole regions provide prompt notification of the release of all parolees to the applicable law enforcement agencies.

- Ensure that its parole agents review all registration receipts to make certain that all parolees required to register as sex offenders do so within five working days of moving into a local jurisdiction.

Agency Comments

Corrections does not agree with the conclusions contained in this report; however, it noted that it will address the findings and recommendations through a corrective action plan. Although Justice does not address our recommendation made to the Legislature, Social Services and Alcohol and Drug generally agree with it. Finally, Social Services, the Department of Mental Health, and the Department of Developmental Services provided some additional clarification.

Introduction

Background

The Sex Offender Registration Act requires that all persons found to have committed certain sexual offenses by any state, federal, or military court must, for the remainder of their lives, register with certain regional entities as sex offenders while residing in California. Sexual offenses that require registration include rape, kidnapping with intent to commit rape, sexual battery, and lewd and lascivious acts with a minor. Individuals subject to this state law (sex offenders) are required to register with the local law enforcement agency that has jurisdiction over their place of residence within five working days of moving there and upon each anniversary of their birth. The act requires transient sex offenders to reregister every 30 days with an appropriate local law enforcement agency. The law enforcement agencies forward the registration information to the Department of Justice (Justice), which maintains a database of sex offenders in California. According to Justice's database, 59,000 sex offenders resided in California communities as of December 13, 2007.

State law generally requires the Department of Corrections and Rehabilitation (Corrections) to return paroled sex offenders to their county of last legal residence, unless circumstances call for a different placement. State law also establishes the Sexual Predator Punishment Control Act: Jessica's Law (Jessica's Law), which prohibits those sex offenders subject to its requirements from residing within 2,000 feet of any public or private school or park where children regularly gather. This law also requires certain sex offenders to be monitored by the Global Positioning System[1] for life upon release from prison. Further, the California Penal Code requires sex offenders to notify the chief of police of a campus if they are residing on a college campus or in any of its facilities. The California Penal Code further restricts a sex offender who is on parole from living with another sex offender in a single-family dwelling unless legally related by blood or marriage, though it does permit them to reside in what the code refers to as "residential facilities" that serve six or fewer individuals.

To address issues, concerns, and problems related to the community management of adult sex offenders, state law created the California Sex Offender Management Board (Management Board) in

[1] The Global Positioning System provides users with positioning, navigation, and timing services. Satellites broadcast signals from space that are picked up and identified by receiving devices. Each receiving device then provides three-dimensional location and the time. The Global Positioning System provides accurate location and time information in all weather, day and night, anywhere in the world.

September 2006. The Management Board is required to conduct a thorough assessment of current practices for managing adult sex offenders residing in California communities, primarily those under direct criminal justice or other supervision, and to develop recommendations to improve these practices, with the goal of improving community safety. The Management Board is also examining issues related to monitoring certain sex offenders through the use of the Global Positioning System. The Management Board's final report is due to the Legislature and the governor by January 1, 2010.

Various entities supervise sex offenders living in the community. Although most sex offenders are responsible for finding their own place of residence, state departments provide residential placement to 1 percent of all sex offenders, either on a voluntary basis or as required by the law. Corrections, the Department of Mental Health (Mental Health), and the Department of Developmental Services (Developmental Services) provide some oversight over the sex offenders they or their contractors may help to place. Based on their responses to the survey conducted for this audit, local law enforcement agencies provide varying levels of oversight over sex offenders living in their communities.

Justice's Role

State law requires Justice to maintain a registry to track certain information, including the addresses of all sex offenders required to register in California. However, it does not require Justice to monitor sex offenders for compliance with the registration requirements. Rather, state law holds the sex offender responsible for ensuring compliance with the registration requirements. Failure to register is punishable by up to one year in a county jail or up to three years in a state prison, depending on the severity of the sexual offense the individual was found to have committed. Only law enforcement officers have access to the sex offender registry that Justice maintains. However, California Penal Code, Section 290.46, also known as Megan's Law, requires Justice to make the name and current full address of some sex offenders and only the zip codes of others who are subject to this law available to the general public through its Web site. According to Justice's Web site, it provides this information for 75 percent of all registered sex offenders. Information on the remaining 25 percent is not required because the crimes these sex offenders were found to have committed do not meet the Megan's law criteria for disclosure.

Corrections' Role

State laws require that all individuals leaving a state prison be placed on parole for as many as 10 years after their release, unless waived by the Board of Parole Hearings. A state law further requires Corrections to release a parolee into the county of his or her last legal residence before incarceration unless circumstances require otherwise. According to Corrections' database, its Division of Adult Parole Operations (Adult Parole) was responsible for supervising the 8,000 sex offenders on parole as of November 5, 2007. The law requires Corrections to notify the appropriate local law enforcement agencies when releasing a sex offender parolee into their respective jurisdictions. According to Corrections' policy, it notifies local law enforcement agencies by fax, e-mail, or regular mail of the pending release of a sex offender. In addition to this notification, state law established the Parole Law Enforcement Automated Data System in 1997. Corrections noted that it updated the system in October 2006 to allow law enforcement agencies to have controlled and secure access to parolee information via the Internet and to query for selected parolees either within their jurisdictions or on a statewide basis. According to Corrections, this service is available to local law enforcement agencies free of charge.

Corrections also told us that while Adult Parole is not responsible for determining where paroled sex offenders reside, it may help facilitate placement into a facility under certain circumstances. For example, a parole agent may refer a parolee who has nowhere to live to facilities that may have available rooms. Parole agents are responsible for monitoring sex offenders' activities, including their registration status. These monitoring efforts generally include a number of face-to-face and in-home meetings, depending on the supervision level determined by Corrections. Further, parole agents ensure that parolees complete frequent drug tests and comply with the conditions of their parole.

On the other hand, Corrections' Division of Juvenile Justice (Juvenile Division) routinely places juvenile sex offenders in communities, in addition to monitoring and tracking them. According to its policies, the Juvenile Division is responsible for determining a suitable place of residence for juvenile parolees, supervising them, and ensuring compliance with the terms of their parole. The Juvenile Division is responsible for offenders committed to its custody until they reach the age of either 21 or 25, depending on the nature of the crime committed. Juvenile sex offenders are still subject to lifetime registration even after being released from the Juvenile Division's custody. According to its data, the Juvenile Division was responsible for 154 sex offenders on parole as of November 29, 2007.

Corrections' Division of Addiction and Recovery Services (Addiction Recovery) works with contractors to place some adult sex offenders with substance abuse problems in licensed and unlicensed residential facilities. It is responsible for reducing substance abuse risks of adult inmates and parolees and provides substance abuse treatment programs in correctional facilities that include transitional programs to prepare inmates for release on parole. According to Addiction Recovery, it also provides a community-based continuing care program for parolees who choose to participate in such a program after being released on parole. As part of this program, which offers services for up to 180 days, Addiction Recovery provides placement services through its contractors to some parolees. According to the data available from Addiction Recovery, 33 sex offenders were participating in this program as of September 30, 2007. Parole agents in Adult Parole are still responsible for monitoring parolees enrolled in Addiction Recovery's community-based program. According to Addiction Recovery, it ensures only that parolees are adhering to the program and its treatment requirements.

Mental Health's Role

Mental Health provides services to individuals residing within the State who have mental disorders. The sex offenders who receive services from Mental Health either are categorized as sexually violent predators (SVPs) through a screening process performed several months before their scheduled prison release dates or are considered sex offenders because they committed a sexual offense and were committed to Mental Health for other reasons, such as being found not guilty by reason of insanity or found to be a mentally disordered offender. According to Mental Health, these two types of sex offenders are committed to its custody for appropriate treatment and are, in most cases, initially confined in a secure facility—typically a state facility such as Coalinga State Hospital.

To determine whether an inmate who committed a sexually violent offense should be categorized as an SVP, Corrections and the Board of Parole Hearings screen the inmate at least six months before the individual's scheduled release from prison.[2] Inmates are selected for screening based on whether they have committed a sexually violent offense and on a review of their social, criminal, and institutional

[2] State law defines *sexually violent offenses* to include the following acts when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person: rape, lewd or lascivious acts with a child under the age of 14, and spousal rape.

history. State law requires that Corrections refer anyone whose screening indicates that the individual is likely to be an SVP to Mental Health for a full evaluation.

Mental Health designates two evaluators—psychiatrists or psychologists—who must concur that the inmate has a diagnosed mental disorder that makes him or her likely to engage in acts of sexual violence without appropriate treatment and custody. Based on the evaluation, Mental Health makes a recommendation to commit with the county where the inmate was convicted of the offense. If the county's designated counsel concurs with the recommendation, the county will petition the superior court for the individual's commitment. At these proceedings, the court or a jury will determine whether the inmate is an SVP. Currently, state law requires SVPs to be committed for an indeterminate term to the custody of Mental Health for appropriate treatment and confinement in a secure facility.

SVPs in Mental Health's custody can eventually be released into communities, first through Mental Health's Forensic Conditional Release Program (Conditional Release Program); later, they may be unconditionally released following court proceedings. Other sex offenders may also be placed in the Conditional Release Program before being unconditionally released. The Conditional Release Program is Mental Health's statewide system of community-based treatment, evaluation, and supervision services for specified patients and is administered through contractors. According to Mental Health's Web site, the Conditional Release Program was mandated as a state responsibility by the governor's Mental Health Initiative of 1984 and began operations on January 1, 1986. The goal of the program is to ensure greater public protection through an effective and standardized community outpatient treatment system. Mental Health's data show that its contractors were responsible for placing and monitoring six SVPs and 61 other sex offenders in the Conditional Release Program as of December 12, 2007. Its policies call for the contractors to monitor the living arrangements, employment status, and support systems of the patients, as well as their progress and participation in treatment.

Developmental Services' Role

The Lanterman Developmental Disabilities Services Act requires Developmental Services to establish an array of services and support for eligible persons with developmental disabilities (clients), including sex offenders, to meet their needs and choices, as well as to facilitate their integration into the mainstream life of the community. Developmental Services provides these services through its 21 contracted regional centers. These regional centers

assign service coordinators to work with eligible clients and, where appropriate, their parents, legal guardians, conservators, or authorized representatives to develop an individual program plan that considers each client's needs, strengths, capabilities, preferences, lifestyle, and cultural background. Eligibility is based on whether the person has mental retardation, cerebral palsy, epilepsy, autism, or other conditions requiring treatment similar to that for mental retardation.

Any eligible client, including a sex offender, can receive services as long as the disability originates before his or her 18th birthday, continues or can be expected to continue indefinitely, and constitutes a substantial disability. Based on the identified service and support needs, the regional centers coordinate the appropriate placement for the client, which, according to Developmental Services, can include residential facilities. The regional centers are responsible for monitoring the services and support clients are receiving as identified in their individual program plans. According to the databases from Developmental Services and Justice, as of November 1, 2007, Developmental Services had 395 clients who were also sex offenders that were living in a community setting.

The Role of Local Governments

Local governments have a limited role in the placement decisions for sex offenders. For example, when determining the appropriate placement for an SVP, the court holds a hearing and considers comments by certain community agencies related to the placement. State laws require Corrections to notify local law enforcement agencies of any pending release of a parolee, including a sex offender, into their jurisdictions. However, because parolees may reside anywhere in the county of their last legal residence as long as they comply with Jessica's Law if required to do so, local law enforcement agencies generally become certain that a sex offender is moving into their jurisdictions only when the sex offender contacts them to register. According to some local governments we contacted, their oversight of sex offenders can range from actively monitoring all known sex offenders' whereabouts and ensuring that they are in compliance with applicable laws to merely registering them as such. The level of oversight appears to be at the discretion of the local governments.

Licensing of Facilities That May House Sex Offenders

State laws do not prohibit sex offenders from residing in community-based residential facilities that provide specialized care. They do require that certain community care facilities have a valid license or special permit from an appropriate state department.

The Department of Social Services (Social Services) and the Department of Alcohol and Drug Programs (Alcohol and Drug) license various community care facilities, including residential facilities that house six or fewer individuals. As Table 1 shows, sex offenders have various housing options, including licensed and unlicensed residential facilities.

Table 1
Sex Offenders Can Reside in a Variety of Housing Options

HOUSING OPTIONS	DETAILS
Inpatient Facilities	
State hospital	Secure facility operated by the Department of Mental Health to provide inpatient treatment services for persons with serious mental illnesses.
State developmental center	Secure facility operated by the Department of Developmental Services to provide habilitation, training, and medical care to the developmentally disabled.
Health facility	Licensed by the Department of Public Health to provide a variety of medical treatments, such as those provided by general acute care hospitals or skilled nursing facilities.
Department of Social Services' Licensed Community Care Residential Facilities	
Adult residential facility	Provides 24-hour-a-day nonmedical care and supervision for adults ages 18 through 59 who are unable to provide for their daily needs. These adults may be physically handicapped, developmentally disabled, or mentally ill.
Residential care facility for the elderly	Where 75 percent of residents are 60 years of age or older, provides varying levels of care and supervision as agreed to at time of admission or as determined necessary at times of reappraisal. Any younger residents must have needs compatible with those of other residents.
Residential care facility for the chronically ill	Provides care and supervision to adults, emancipated minors, or families with adults or children or both, with a terminal illness, and/or with Acquired Immunodeficiency Syndrome or the Human Immunodeficiency Virus.
Social rehabilitation facility	Provides 24-hour-a-day nonmedical care and supervision in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling.
Community treatment facility	Provides mental health treatment services to children in a group setting that has the capacity to provide a secure environment.
Group home*	Provides 24-hour-a-day nonmedical care and supervision to children in a structured environment. It provides social, psychological, and behavioral programs for troubled youths.
Department of Alcohol and Drug Programs' Licensed Residential Facilities	
Residential alcohol and substance abuse treatment facility	Provides 24-hour-a-day residential nonmedical services to adults who are recovering from problems related to alcohol or drug (or both) misuse or abuse and who need treatment or detoxification services.
Residential Facilities That Do Not Require a License (Unlicensed Facilities)	
Sober living facility†	Supports treatment and recovery services by helping recovering persons maintain an alcohol- and drug-free lifestyle. By definition, they do not provide alcohol or drug recovery treatment services; thus, they are not required to be licensed.
Other	Includes, but not limited to, residences such as hotels, apartments, condominiums, and private homes.

Sources: Department of Mental Health's Web site; Department of Developmental Services' Web site; California Health and Safety Code; California Penal Code; California Code of Regulations; Department of Social Services' Web site; Department of Alcohol and Drug Programs' fact sheet.

* According to the Department of Corrections and Rehabilitation's Juvenile Justice Division, it places some of its juvenile sex offenders in facilities it terms *group homes* that do not require a license.

† Description for this facility is not based on state laws or regulations.

Scope and Methodology

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine the State's process for placing sex offenders in residential facilities. Specifically, the audit committee asked that the bureau determine residency options for sex offenders on parole, identify the departments responsible for licensing such facilities, and quantify the number of sex offenders in various facilities. It also requested that the bureau review the departments' policies and procedures for licensing facilities and for identifying, evaluating, placing, and tracking sex offenders in local communities.

We were further asked to determine how the entities responsible for placing sex offenders into communities assess whether local law enforcement is adequately equipped to protect those communities where such facilities are located. In addition, we were asked to contact a sample of local law enforcement agencies and determine whether they have assessed the need for more local control and oversight over facilities housing sex offenders, whether law enforcement efforts are diverted from other programs to fulfill the need for local control and oversight over such facilities, whether the State provides the local entities assistance to ensure effective reentry for sex offender parolees, and whether local entities or the facilities themselves have assessed whether a high concentration of parolees who are also sex offenders poses a higher risk to the surrounding neighborhood or to other occupants of the facilities shared by them.

To identify the processes departments use to license residential facilities that accept sex offenders, we reviewed laws and regulations related to facility licensure and interviewed personnel at Alcohol and Drug and Social Services. To identify departments that place sex offenders into residential facilities that house six or fewer individuals, we talked with personnel at Corrections, Mental Health, and Developmental Services. In addition, we reviewed laws and regulations related to sex offenders and policies and procedures at various departments for placing, tracking, and monitoring sex offenders within their purview. Further, we determined whether the departments consider the impact on local communities when placing sex offenders. In addition, to determine whether placement decisions and monitoring efforts were appropriate, we selected a sample of sex offenders within the purview of each of the three divisions within Corrections that place and monitor sex offenders in local communities to determine whether the divisions followed all applicable laws, regulations, and departmental policies and procedures. We did not analyze the placement decisions and monitoring efforts by Developmental Services or Mental Health because they generally do not have separate policies for placing and

monitoring individuals who are also sex offenders, and they told us they typically do not consider the impact on local communities when making such placement decisions.

To identify the number of sober living facilities, residential care facilities serving six or fewer individuals, and group homes that operate in the State, we obtained the databases of licensed facilities from Alcohol and Drug and Social Services. However, sober living facilities do not require a license and are not tracked by the departments. As a result, we could not identify the number of sober living facilities operating in the State. To determine the number of residential care facilities that house sex offenders and the number of sex offenders housed in each residential care facility, we attempted to compare the addresses for all sex offenders listed in Justice's sex offender registry with the addresses of licensed residential care facilities.

Definitions of Data Reliability

Sufficiently reliable data: Based on audit work, an auditor can conclude that using the data would not weaken the analysis nor lead to an incorrect or unintentional message.

Data of undetermined reliability: Based on audit work, an auditor can conclude that use of the data could lead to an incorrect or unintentional message and the data have significant or potentially significant limitations, given the research question and intended use of the data.

Not sufficiently reliable data: Based on audit work, an auditor can conclude that using the data would most likely lead to an incorrect or unintentional message and the data have significant or potentially significant limitations, given the research question and intended use of the data.

Source: *Assessing the Reliability of Computer-Processed Data* from the U.S. Government Accountability Office.

The U.S. Government Accountability Office, whose standards we follow, requires us to assess the reliability of computer-processed data. As shown in Table 2 on the following page, we found that the facility licensure data obtained from Alcohol and Drug were sufficiently reliable for our purposes. However, data obtained from Social Services were of undetermined reliability for our purposes because we were not able to verify their completeness. (See the text box for the definitions of data reliability.) Further, the data from Justice's sex offender registry were not sufficiently reliable for our purposes because 5 percent of the registrants that may be living in California communities have unknown addresses. Further, an additional 14 percent of the registrants identified as possibly living in California communities were in violation of requirements to update their registration information annually. Therefore, these records may be outdated and might not contain accurate address information.

In addition, we attempted to identify the number of sex offenders whom various departments placed in licensed and unlicensed facilities by obtaining data on individuals placed by Corrections, Mental Health, and Developmental Services, and comparing the addresses for these sex offenders to the addresses of facilities licensed by Social Services and Alcohol and Drug. We also identified the number of adult and juvenile sex offenders on parole residing at the same residence by identifying duplicate addresses in the databases obtained from Corrections' Adult Parole and the Juvenile Division. However, the data provided by Corrections'

Addiction Recovery and Adult Parole were not sufficiently reliable for our purposes because of errors we identified when tracing data back to a sample of source documents.

Table 2
Reliability of the Databases We Used for the Purposes of This Audit

AGENCY	RELIABILITY DETERMINATION FOR THE PURPOSES OF THIS AUDIT
Department of Alcohol and Drug Programs	Sufficiently reliable
Department of Corrections and Rehabilitation (Corrections), Division of Addiction and Recovery Services	Not sufficiently reliable
Corrections, Division of Adult Parole Operations	Not sufficiently reliable
Corrections, Division of Juvenile Justice	Not sufficiently reliable
Department of Developmental Services	Not sufficiently reliable
Department of Justice	Not sufficiently reliable
Department of Social Services	Undetermined

Sources: Bureau of State Audits' analyses of databases obtained from various state departments.

The databases for Developmental Services and the Juvenile Division do not identify whether the person is registered as a sex offender. Therefore, to identify the sex offenders who are either receiving services from Developmental Services or are parolees under the Juvenile Division's supervision, we attempted to use Social Security numbers to identify the sex offenders by comparing Developmental Services and the Juvenile Division's data to Justice's sex offender registry. However, Developmental Services listed no Social Security numbers for 16 percent of the individuals in its database, and the Juvenile Division listed no Social Security numbers for over 22 percent of the active parolees in its database, and therefore neither database was sufficiently reliable for our purposes. We attempted to conduct further analysis by comparing the criminal investigation and identification number in the Juvenile Division's database to Justice's sex offender registry, but 6 percent of the active parolees included in the Juvenile Division's database did not have a criminal investigation and identification number listed. Further, Justice's sex offender registry lacked a Social Security number for more than 4 percent of the registrants that may be living in California communities.

Lastly, we surveyed all 57 county sheriffs, the city police chief for the county and city of San Francisco, and a sample of 42 other city police chiefs to determine the impact of having sex offenders residing in their communities. We received responses from 52 county sheriffs and 40 city police chiefs. The sheriff's offices

for the counties of Glenn, Los Angeles, Mendocino, Merced, and San Joaquin and the police departments for the cities of Madera, Salinas, and Sunnyvale did not respond to our survey. We analyzed the 92 responses we received to determine whether the local entities have assessed the impact sex offenders have on their communities and resources and what help they receive from the State to aid in effective reentry of sex offenders while ensuring community safety.

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Chapter 1

STATE LAWS LACK SPECIFIC CRITERIA FOR LICENSING RESIDENTIAL FACILITIES THAT HOUSE SEX OFFENDERS

Chapter Summary

State laws related to licensing residential facilities do not contain specific rules or prohibitions for housing sex offenders, and statutes are not always clear as to whether a sex offender on parole may reside with another sex offender in certain types of facilities. When issuing licenses for residential facilities, neither state laws and regulations nor departmental policies require consideration of the criminal background of the clients the facilities plan to serve. Further, departments responsible for licensing facilities are not required to, nor do they, track whether individuals residing at these facilities are registered sex offenders. Additionally, while the database of the Department of Justice (Justice) contains the addresses of registered sex offenders, it is not currently required to, nor does it, indicate whether or not the address is a licensed facility. We attempted to determine the number of sex offenders residing at licensed facilities by comparing the databases from the two licensing departments containing the addresses of such facilities to the Justice database. Because of the variations of the same addresses included in these databases and their large size, we were unable to determine the precise number of licensed facilities that actually house registered sex offenders. Nevertheless, our comparison showed that at least 352 such facilities appeared to house sex offenders as of December 13, 2007. We also found 49 instances in which the registered addresses in Justice's database for sex offenders were the same as the official addresses of facilities licensed by the Department of Social Services (Social Services) that serve children such as family day care homes.

The California Penal Code generally does not allow sex offenders on parole to reside with other sex offenders in a single-family dwelling that is not a "residential facility." We found several instances in which two or more sex offenders on parole were residing in the same room at a hotel. Although the law is unclear as to whether a single room within a hotel is considered a single-family dwelling, the Department of Corrections and Rehabilitation (Corrections) has interpreted the law as such; therefore, its policies do not allow a sex offender on parole to reside with another sex offender in the same room within a hotel. When we informed Corrections' staff of this policy violation, they indicated that they plan to review all residences of paroled sex offenders to ensure compliance. Nevertheless, we believe the law is unclear on this matter.

This law also is not clear as to whether a sex offender on parole may reside with another sex offender at a residential facility that does not require a license, such as a sober living facility. We identified several instances in which two or more adult sex offenders on parole were residing at the same sober living facility. In addition, it is unclear whether this same restriction applies to juvenile offenders. We found several instances in which Corrections had placed more than one juvenile parolee at the same location, such as a group home, that does not require a license.

State Laws for Licensing Residential Facilities Contain No Specific Provisions for Housing Sex Offenders

Our review of the data available found that only a fraction of all sex offenders in the State reside at licensed residential facilities.

State laws that govern the licensure of residential facilities do not contain specific rules or prohibitions for housing sex offenders. Two state departments are typically responsible for licensing facilities that could house six or fewer persons, including sex offenders. Social Services licenses community care residential facilities, and the Department of Alcohol and Drug Programs (Alcohol and Drug) licenses residential alcohol and substance abuse treatment facilities. Neither state laws nor departmental policies require consideration of the criminal background of the clients the licensees plan to serve. However, our review of the data available found that only a fraction of all sex offenders in the State reside at licensed residential facilities. Of the 15,461 licensed facilities, 352 housed a total of 562 sex offenders as of December 13, 2007, or just over 1 percent of all registered sex offenders residing in California as of that date.

As discussed in the Introduction, Social Services and Alcohol and Drug license various types of residential facilities that provide specific kinds of nonmedical care and treatment in a community setting. The licensing requirements for these facilities are defined in the California Health and Safety Code. However, the Health and Safety Code neither specifically allows nor precludes sex offenders from living in licensed residential facilities. Further, state laws and regulations, as well as departmental policies and procedures for licensing residential facilities do not consider the criminal background of the clients these facilities plan to serve. According to Social Services, the focus of its licensing process is to promote the health, safety, and quality of life of its clients. Similarly, according to an Alcohol and Drug fact sheet, health and safety concerns are the primary focus of its licensing process.

Further, the two departments told us they have no role in the specific placement of individuals into facilities they license. State law does not require that the licensees meet special conditions in order to house sex offenders, nor does it limit the number of sex offenders living in a licensed facility. According to department

staff, Social Services and Alcohol and Drug are not responsible for determining the actual location of a proposed facility; however, according to Social Services' staff, it ensures that certain residential facilities are separated by a distance of 300 feet as required by state law. State law provides that a licensed residential facility that serves six or fewer persons must be considered a residential property and that the residents and operators of these facilities are considered a family for the purposes of any law or zoning ordinance. It also states that these facilities are not required to obtain conditional use permits, zoning variances, or other zoning clearances that are not required of other single-family residences located in the same zone. The capacity of the facility is determined by the appropriate state department based on fire clearances and permitted occupancy for the building. Social Services and Alcohol and Drug also license facilities that house more than six individuals, although these facilities could be subject to local zoning requirements.

When we attempted to determine the number of licensed residential facilities that house sex offenders, we encountered several problems. First, the licensing departments were unable to provide this information because they are not required to, nor do they, track in their databases the clients who live in their licensed residential facilities. Further, although Justice's database contains addresses of registered sex offenders, the database does not identify whether the addresses are a private residence or a licensed residential facility, again because there is no requirement to report this information. Because none of these databases provided us this information directly, we tried to estimate the number of sex offenders residing at licensed facilities by comparing the addresses of the licensed facilities in the databases from Social Services and Alcohol and Drug with those of the sex offenders registered in Justice's database.

Although Justice's database contains addresses of registered sex offenders, the database does not identify whether the addresses are a private residence or a licensed residential facility because such information is not required.

However, because of the variations of the same address included in these databases and their large size, we were unable to determine the precise number of facilities that housed sex offenders. For example, a registered address for a sex offender was captured as "809 E 5th St" in Justice's database. Although this address belongs to a residential facility licensed by Alcohol and Drug, its database showed the address as "809 East Fifth Street." Due to slight variations such as this in how the two databases captured street addresses, we were unable to match them solely by using electronic means. Further, as we describe in the Scope and Methodology, Justice's database is not sufficiently reliable for this purpose because it may contain outdated addresses, as sex offenders frequently fail to register or update their addresses as required. Therefore, although we attempted to identify sex offenders whose addresses

were the same as the addresses of licensed facilities, our efforts were significantly limited because of the problems inherent in comparing this information among these databases.

Social Services had 14,555 licensed residential facilities, and Alcohol and Drug had 906, for a total of 15,461 in the State, as Table 3 shows. Our comparison of Justice's database containing sex offenders' addresses and the databases from the two licensing departments indicates that at least 352 licensed residential facilities housed at least 562 sex offenders as of December 13, 2007, which represents just over 1 percent of all registered sex offenders in the State. Specifically, we confirmed that the addresses of 352 licensed residential care facilities matched the addresses of sex offenders registered in Justice's database. Additionally, we identified 1,933 licensed residential facilities that possibly housed sex offenders by comparing the numeric part of the facilities' addresses and cities to those of sex offenders registered in Justice's database. Lastly, Table 3 shows that almost 53,000 sex offenders lived in other residences, including private residences, hotels, facilities licensed by other departments—such as skilled nursing facilities—and sober living facilities, which do not require a license.

Table 3
Number of Licensed and Unlicensed Facilities That Housed Sex Offenders

COUNTY	NUMBER OF LICENSED FACILITIES*	NUMBER OF LICENSED FACILITIES HOUSING SEX OFFENDERS	NUMBER OF SEX OFFENDERS LIVING IN LICENSED FACILITIES	NUMBER OF SEX OFFENDERS LIVING IN OTHER RESIDENCES†	TOTAL NUMBER OF SEX OFFENDERS‡	PERCENT OF SEX OFFENDERS LIVING IN LICENSED FACILITIES
Alameda	679	18	27	2,170	2,197	1.2%
Alpine	1	0	0	1	1	0.0
Amador	8	0	0	62	62	0.0
Butte	103	1	1	626	627	0.2
Calaveras	12	0	0	81	81	0.0
Colusa	2	0	0	43	43	0.0
Contra Costa	706	9	12	1,175	1,187	1.0
Del Norte	5	1	1	142	143	0.7
El Dorado	71	0	0	314	314	0.0
Fresno	405	7	8	1,936	1,944	0.4
Glenn	6	0	0	63	63	0.0
Humboldt	62	0	0	389	389	0.0
Imperial	21	1	3	178	181	1.7
Inyo	3	0	0	46	46	0.0
Kern	277	8	35	1,889	1,924	1.8
Kings	25	2	2	312	314	0.6
Lake	20	0	0	251	251	0.0
Lassen	11	0	0	70	70	0.0
Los Angeles	3,274	101	217	12,287	12,504	1.7
Madera	45	0	0	328	328	0.0
Marin	130	1	1	139	140	0.7
Mariposa	4	0	0	54	54	0.0

COUNTY	NUMBER OF LICENSED FACILITIES*	NUMBER OF LICENSED FACILITIES HOUSING SEX OFFENDERS	NUMBER OF SEX OFFENDERS LIVING IN LICENSED FACILITIES	NUMBER OF SEX OFFENDERS LIVING IN OTHER RESIDENCES†	TOTAL NUMBER OF SEX OFFENDERS‡	PERCENT OF SEX OFFENDERS LIVING IN LICENSED FACILITIES
Mendocino	33	0	0	224	224	0.0%
Merced	58	2	3	606	609	0.5
Modoc	2	0	0	36	36	0.0
Mono	0	0	0	9	9	0.0
Monterey	119	2	2	532	534	0.4
Napa	72	3	3	166	169	1.8
Nevada	33	0	0	147	147	0.0
Orange	1,462	16	24	2,324	2,348	1.0
Placer	188	2	2	489	491	0.4
Plumas	2	0	0	40	40	0.0
Riverside	946	17	29	2,911	2,940	1.0
Sacramento	922	20	22	3,137	3,159	0.7
San Benito	14	0	0	93	93	0.0
San Bernardino	653	16	21	2,911	2,932	0.7
San Diego	1,275	28	33	3,200	3,233	1.0
San Francisco	265	11	11	797	808	1.4
San Joaquin	338	11	11	1,548	1,559	0.7
San Luis Obispo	132	3	3	370	373	0.8
San Mateo	459	3	4	638	642	0.6
Santa Barbara	198	7	8	596	604	1.3
Santa Clara	707	27	31	2,785	2,816	1.1
Santa Cruz	79	3	3	306	309	1.0
Shasta	155	6	12	669	681	1.8
Sierra	0	0	0	9	9	0.0
Siskiyou	15	0	0	167	167	0.0
Solano	313	5	6	733	739	0.8
Sonoma	309	2	2	681	683	0.3
Stanislaus	166	8	13	1,155	1,168	1.1
Sutter	24	2	3	197	200	1.5
Tehama	38	4	4	246	250	1.6
Trinity	1	0	0	63	63	0.0
Tulare	211	1	1	936	937	0.1
Tuolumne	17	0	0	149	149	0.0
Ventura	316	3	3	895	898	0.3
Yolo	44	1	1	358	359	0.3
Yuba	25	0	0	228	228	0.0
Totals	**15,461**	**352**	**562**	**52,907**	**53,469**	**1.1%**

Sources: Compiled by the Bureau of State Audits from databases maintained by the Department of Social Services (Social Services) dated November 28, 2007, the Department of Alcohol and Drug Programs (Alcohol and Drug) dated November 1, 2007, and the Department of Justice (Justice) dated December 13, 2007.

Note: As noted in the Scope and Methodology, the data we obtained from Justice were not sufficiently reliable and the data from Social Services were of undetermined reliability for the purposes of this audit. Additionally, due to the large sizes of the databases, we used electronic means to match addresses. However, although we attempted to correct for variations in how databases captured street address information, the electronic process we used may have excluded valid matches that were recorded differently in the various systems. However, because these were the only sources for this information, we present them here.

* These include adult residential facilities, residential facilities for the elderly, residential facilities for the chronically ill, social rehabilitation facilities, group homes, and residential alcohol and substance abuse treatment facilities as licensed by Social Services and Alcohol and Drug.

† These include private residences, hotels, facilities licensed by other departments, such as skilled nursing facilities and hospitals, or unlicensed facilities, such as sober living facilities.

‡ These figures do not include sex offenders registered in Justice's database as transients or whose addresses are unknown, thus when included increases the total number of registered sex offenders to more than 59,000.

The registered addresses in Justice's database for 49 sex offenders were the same as the official addresses of facilities licensed by Social Services that serve children.

In addition to the information we provided in Table 3, we also found 49 instances in which the registered addresses in Justice's database for 49 sex offenders were the same as the official addresses of facilities licensed by Social Services that serve children, such as family day care homes and foster family homes. State law requires that before issuing a license to operate or manage certain facilities that serve children, Social Services must review the criminal history of all applicants seeking licenses, their employees, and all adults residing at these facilities. State law allows Social Services to reject an application for a license or suspend or revoke an existing license if these individuals have ever been convicted of a crime other than a minor traffic violation. Due to the data limitations we described previously and the sensitive nature of the information, we requested that Justice further investigate these instances and report to us the results of its investigation.

State Law Is Unclear as to Whether More Than One Adult or Juvenile Sex Offender Parolee May Reside at Certain Types of Facilities

State law is not always clear as to whether a sex offender on parole may reside with another sex offender in certain types of facilities. Although most sex offenders may live with other sex offenders, the California Penal Code states that an individual released on parole after being imprisoned in state prison for a sexual offense generally may not reside with another sex offender in a single-family dwelling during the period of parole, except in a residential facility. We found several instances in which two or more sex offender parolees were listed as living in the same room of a hotel by reviewing addresses in a database of adult parolees maintained by Corrections. While Corrections considers hotels and apartment complexes to be multifamily dwellings, it considers a single unit within a multifamily dwelling, such as a room within a hotel, to be a single-family dwelling. State laws, however, do not clearly define a single-family dwelling. Further, the law does not clearly state whether a facility that does not require a license is considered a residential facility. We found more than 500 instances in which two or more sex offenders on parole were listed as residing at the same location, such as hotels and sober living facilities. It is also unclear whether this restriction applies to juvenile offenders. We found several instances in which Corrections placed more than one juvenile sex offender parolee at the same location, such as a group home that does not require a license, because it does not believe the residence restriction imposed by this statute applies to juveniles.

While we focused our review on identifying instances in which two or more sex offender parolees listed in Corrections' database were living at the same location, the law is even more restrictive

and does not allow a sex offender on parole to live with other sex offenders regardless of their parole status. Thus, because we did not compare Corrections' database with the larger population of sex offenders that include those no longer on parole, there are likely more instances than we have identified of paroled sex offenders residing with other registered sex offenders.

In Many Cases Two or More Sex Offender Parolees Were Listed in Corrections' Database as Living at the Same Location

State law prohibits a sex offender who is released on parole after completing a term in state prison from residing in a single-family dwelling with another sex offender, unless they are legally related by blood, marriage, or adoption. However, this prohibition does not apply to those who are not actively on parole or who are living in a "residential facility" that serves six or fewer persons. Furthermore, it does not specifically address those living in multifamily dwellings, such as hotels. According to Justice's database as of December 13, 2007, more than 59,000 sex offenders live in California. However, according to Corrections' database, only about 8,000 were on parole as of November 5, 2007, and were generally restricted from living with other sex offenders in single-family dwellings. The remaining 51,000 sex offenders, who were not on parole, were not subject to such restrictions.

As Table 4 on the following page shows, our review of Corrections' data found more than 500 instances in which two or more sex offenders on parole were listed as residing at the same location. Because Corrections is not required to capture such data, we were unable to identify the type of residence for some of the addresses. However, we were able to identify that at least 332 addresses appear to belong to hotels or apartment complexes, and 2,038 sex offenders were listed as residing at those addresses. For example, we found that a hotel in Stockton was the legal residence for 90 sex offenders on parole as of November 5, 2007. According to Corrections' policy, the law restricting sex offenders on parole from living in the same single-family dwelling does not apply to facilities designed and built for occupancy by more than one family, such as multiunit residential facilities or hotels.

Corrections' policy also states that multiple sex offender parolees may not be placed in a single unit of a multiunit facility. Through our review of Corrections' database, we identified several instances in which two or more sex offenders on parole were residing in the same room at a hotel. For example, of the 90 sex offender parolees residing at a hotel in Stockton, at least two and as many as four were listed as living together in one room in 28 different instances (for a total of 61 sex offenders). In another example, of the 13 sex offender

We identified several instances in which two or more sex offenders on parole were residing in the same room at a hotel.

Table 4
Number of Facilities at Which Two or More Sex Offenders on Parole Appeared to Reside

	COUNTY*	NUMBER OF FACILITIES AT WHICH TWO OR MORE SEX OFFENDERS ON PAROLE ARE LISTED AS RESIDING	NUMBER OF SEX OFFENDERS ON PAROLE LISTED AS RESIDING TOGETHER IN A FACILITY	NUMBER OF FACILITIES THAT APPEAR TO BE HOTELS OR APARTMENT COMPLEXES	NUMBER OF SEX OFFENDERS ON PAROLE LISTED AS RESIDING TOGETHER IN WHAT APPEAR TO BE HOTELS AND APARTMENT COMPLEXES
1	Alameda	15	100	8	71
2	Butte	7	23	5	15
3	Contra Costa	9	45	7	35
4	El Dorado	2	16	1	14
5	Fresno	19	161	12	95
6	Humboldt	9	24	6	14
7	Kern	23	187	14	98
8	Kings	4	19	1	5
9	Lake	2	6	2	6
10	Lassen	1	2	1	2
11	Los Angeles	144	927	78	620
12	Madera	1	19	1	19
13	Merced	6	14	3	8
14	Monterey	4	47	4	47
15	Orange	22	91	18	82
16	Placer	7	35	2	4
17	Riverside	33	134	8	17
18	Sacramento	37	217	27	140
19	San Bernardino	48	204	21	108
20	San Diego	30	170	26	151
21	San Francisco	3	10	3	10
22	San Joaquin	11†	138†	9	132
23	San Luis Obispo	2	8	1	2
24	San Mateo	7	18	7	18
25	Santa Barbara	4	13	2	7
26	Santa Clara	33	156	27	117
27	Santa Cruz	1	2	1	2
28	Shasta	7	60	7	60
29	Siskiyou	1	2	1	2
30	Solano	8	33	7	25
31	Sonoma	4	10	2	6
32	Stanislaus	11	42	5	25
33	Sutter	1	3	1	3
34	Tehama	4	18	3	15
35	Tulare	4	27	3	21
36	Tuolumne	1	2	1	2
37	Ventura	7	28	3	17
38	Yolo	3	21	3	21
39	Yuba	5	12	1	2
	Totals	**540‡**	**3,044‡**	**332**	**2,038**

Source: Compiled by the Bureau of State Audits from the CalParole database obtained from the Department of Corrections and Rehabilitation (Corrections) dated November 5, 2007.

Note: As noted in the Scope and Methodology, the data we obtained from Corrections were not sufficiently reliable for the purposes of this audit. However, because they were the only source for this information, we present them here.

* We excluded from the table those counties that did not have two or more sex offenders on parole listed as residing at the same facility.

† Included in these numbers is one parole office with four sex offenders listed as living in this facility.

‡ Included in these numbers are 178 sex offenders listed as living in 19 sober living facilities that we were able to identify, and 18 sex offenders listed as living in four licensed residential facilities. Additionally, these numbers include four sex offenders listed as living in two veterans hospitals.

parolees residing at a hotel in Placerville, at least two and as many as three were listed as residing in the same room in four different instances (for a total of 10 sex offenders). Corrections has interpreted the law to consider each unit within a multifamily dwelling, such as a room within a hotel, as a single-family dwelling, and its policies do not allow a sex offender on parole to reside with another sex offender in a single room. After we brought this issue to Corrections' attention, it told us that it moved some sex offenders out of the Stockton hotel to ensure compliance with its policy. It indicated that it plans to review all parolee cases to identify such living arrangements and work to correct them. It further indicated that it plans to perform ongoing reviews of all parolee cases on a monthly basis to ensure continued compliance with all residential restrictions. Nevertheless, according to our legal counsel, state laws do not clearly define a single-family dwelling, and it is not clear whether a single unit within a multifamily dwelling is considered a single-family dwelling subject to this statute.

State Laws Do Not Clearly Define Residential Facilities

Although state law generally restricts sex offenders on parole from living with other sex offenders in a single-family dwelling, it allows them to live with other sex offenders in "residential facilities" that serve six or fewer persons. However, it is unclear whether the definition of residential facilities includes facilities that do not require a license, such as sober living facilities. According to an Alcohol and Drug fact sheet, sober living facilities are alcohol-and drug-free houses that do not provide treatment but support recovering persons in maintaining an alcohol- and drug-free lifestyle. Residents themselves reinforce their recovery through moral support. These types of facilities do not require a license from either the State or a local government because they do not provide treatment. Social Services and Alcohol and Drug do not have a list of these facilities because they do not track them as part of their databases of licensed facilities, nor were we able to find a listing of these facilities from other sources. Corrections' Division of Addiction Recovery Services provided us a list of several sober living facilities that parolees who participate in its community-based substance abuse treatment program use, and we also identified others through our own research. Our review of the addresses of the adult sex offenders on parole that are included in Table 4 found that in 19 separate instances, two and as many as 44 sex offenders were listed as living in the same sober living facility. For example, according to Corrections, a hotel in Fresno converted to a sober living facility in June 2007. Corrections' database shows that this facility housed as many as 44 sex offenders, some of whom lived in the same room, as of November 5, 2007.

Corrections' staff explained that they do not have a policy that prohibits one sex offender on parole from living in an unlicensed sober living facility that houses other sex offenders.

Corrections' staff explained that they do not have a policy that prohibits one sex offender on parole from living in an unlicensed sober living facility that houses other sex offenders. In 2006 Corrections sought an opinion from the Office of the Attorney General (attorney general) regarding whether it could place two or more sex offender parolees in a residential facility that serves six or fewer persons. The attorney general concluded that Corrections may place two or more sex offender parolees in a residential facility serving six or fewer persons that is regulated under the California Community Care Facilities Act (Act). The Act establishes a coordinated and comprehensive system of community care for mentally ill and developmentally and physically disabled children and adults who require certain care. However, this opinion did not clarify whether a sober living facility is considered a residential facility. Further, according to our legal counsel, although the law does not expressly state that unlicensed facilities serving six or fewer persons are considered residential facilities, it appears that the Legislature intended to include them. However, because there is some ambiguity in the statute, only a court of law can clarify whether a sex offender on parole can legally reside with another sex offender at the same unlicensed residential facility, such as a sober living facility.

State Law Is Also Unclear on Allowing Paroled Juvenile Sex Offenders to Live With Other Sex Offenders

The state law that restricts a sex offender on parole from living with another sex offender is also unclear regarding whether it applies to juvenile sex offenders. Juvenile offenders are not convicted of a crime unless tried as adults. Rather, under the California Welfare and Institutions Code, they are deemed wards of the court. They do not serve time in a state prison for their crimes; instead, they may be sent to one of the institutions or camps operated by Corrections' Division of Juvenile Justice (Juvenile Division). The Juvenile Division is responsible for supervising the juvenile offenders, and its policies require that it place them in appropriate residences or residential facilities when released on parole.

We found that Corrections sometimes placed more than one juvenile sex offender parolee in the same unlicensed facility, which in some cases were multiunit dwellings and, according to Corrections, in others were unlicensed group homes. Corrections staff noted that the legal restriction on residing with other sex offenders applies only to parolees convicted of a sexual offense who have served time in state prison. Because juvenile offenders are not convicted, nor do they serve time in state prison, Corrections staff pointed out that they are not subject to the law that restricts residency with other sex offenders. Nevertheless, according to our

legal counsel, because the law does not clearly state whether such restrictions apply to juvenile sex offenders, it is not clear whether Corrections must restrict the number of juvenile sex offender parolees that may reside in an unlicensed facility.

Recommendations

If the Legislature is interested in identifying all sex offenders living in licensed residential facilities, it should require Justice, Social Services, and Alcohol and Drug to coordinate with one another and develop an approach that would allow them to generate such information on an as-needed basis. For example, with the assistance of Social Services and Alcohol and Drug, Justice could assign a unique identifier to each registered address in its database, such as the license number issued by the respective licensing department, which would allow it to compute the number of sex offenders living together in licensed facilities.

To ensure that registered adult sex offenders are not residing in licensed facilities that serve children, Justice should provide Social Services with the appropriate identifying information to enable Social Services to investigate those instances in which the registered addresses of sex offenders were the same as child care or foster care facilities. If necessary, Justice and Social Services should seek statutory changes that would permit Justice to release identifying information to Social Services so that it may investigate any matches.

To ensure that state laws are appropriately applied to sex offenders, the Legislature should consider amending the law that places limits on the number of paroled sex offenders who may reside at the same single-family dwelling to clearly define a single-family dwelling and a residential facility. Further, the Legislature should specify whether this statute applies to juvenile sex offenders.

To ensure that it complies with its policies and interpretation of state laws, Corrections should continue to monitor the addresses of paroled sex offenders to ensure that they are not residing with other sex offenders, including those not on parole, in the same unit of a multifamily dwelling.

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Chapter 2

EFFORTS TO ASSESS THE IMPACT SEX OFFENDERS HAVE ON LAW ENFORCEMENT AND COMMUNITIES ARE UNDERWAY

Chapter Summary

Local law enforcement agencies told us that generally they have not formally assessed the impact sex offenders have on their resources and communities. Further, state departments and their contractors typically do not consider the impact on local communities when placing sex offenders in a residence. The Department of Corrections and Rehabilitation (Corrections), the Department of Developmental Services (Developmental Services), and the Department of Mental Health (Mental Health) helped to place some of the 649 sex offenders under their supervision as of late 2007. In most instances, state laws do not require these departments to consider the impact on local communities when making placement decisions, and the departments generally do not have any policies regarding assessing the impact on local communities. Nevertheless, the California Sex Offender Management Board (Management Board), created in September 2006, is in the process of assessing the current practices for managing adult sex offenders, with the goal of improving community safety. It released an initial report in February 2008, which concluded that most sex offenders living in communities are under no formal supervision and it is unclear who is responsible for monitoring them using the global positioning system after they are discharged from parole, as required by the Sexual Predator Punishment Control Act: Jessica's Law (Jessica's Law).

Further, Corrections generally followed its policies when monitoring its sex offender parolees. However, it did not always notify local law enforcement agencies of the impending release of parolees into their jurisdictions, as its policies require. Corrections also did not always ensure that parolees registered within five working days of being released from prison as required. In addition, it did not always monitor juvenile parolees as required by its policies.

Most Local Law Enforcement Agencies Have Not Formally Assessed the Impact of Sex Offenders Residing in Their Communities

Local law enforcement agencies indicated that for the most part they have not performed any formal assessment of the impact sex offenders have on their resources and the community at large. Further, most local agencies that responded to our survey noted

that they have specific resources dedicated to monitoring sex offenders. In addition, 33 of the 92 local law enforcement agencies (36 percent) that responded to our survey noted that they have experienced an increased number of complaints in a neighborhood following placement of a registered sex offender. Moreover, almost half of them noted that the presence of sex offenders in their jurisdictions and the efforts to monitor them have diverted resources and efforts away from other programs. However, most of the responding agencies said they have not formally assessed whether higher concentrations of registered sex offenders pose higher risks to their communities. Although many local law enforcement agencies have not assessed the need to have greater oversight over sex offenders in their jurisdictions, some noted that their governments have adopted local ordinances to provide additional protection.

Local law enforcement agencies reported varying levels of staff time and resources specifically dedicated to monitoring sex offenders.

While most local agencies indicated they have no role in placing sex offenders in a residence, they conduct law enforcement activities related to these offenders once they are placed in their communities. Of the 92 local law enforcement agencies responding to our survey, 83 said they have units or personnel specifically dedicated to monitoring sex offenders, as shown in Table 5. However, they reported varying levels of staff time and resources directed toward such monitoring. For example, some law enforcement agencies mentioned that they participate in the Sexual Assault Felony Enforcement (SAFE) Team Program. One agency noted that a grant from the State pays overtime for officers to visit registered sex offenders and complete compliance checks. The SAFE Team Program grant is provided to counties by the governor's Office of Emergency Services to reduce violent sexual assault offenses through proactive surveillance and arrest of habitual sex offenders who violate the terms of their probation or parole and strict enforcement of registration requirements. Other agencies indicated that personnel are assigned to specific sexual crime units that monitor and register sex offenders. Still others noted that civilian staff rather than police officers register sex offenders.

Of the 92 local law enforcement agencies responding to our survey, 33 noted that they have had to respond to an increased number of complaints following the placement of a sex offender in their community. However, they noted that these complaints did not necessarily stem from a crime, but were initiated by citizens who became aware that a sex offender was living in their neighborhood or had questions related to Jessica's Law. For example, the Woodland Police Department noted that since the enactment of Jessica's Law, several residents have called to complain about sex offenders living in their neighborhoods, under the assumption that these individuals were in violation of Jessica's Law. However, the Woodland Police Department believes that the majority of those

sex offenders were not covered by this law. In a different example, both the San Diego Police Department and the San Diego County Sheriff's Department told us that due to complaints from citizens, they have had several meetings with the public to discuss issues related to housing sex offenders.

Table 5
Survey Responses From 92 Local Law Enforcement Agencies

SURVEY QUESTION	NUMBER RESPONDING "YES"	NUMBER RESPONDING "NO"
Does your agency have personnel, a unit, or a program specifically dedicated to monitoring sex offenders within your jurisdiction?	83	9
Has your agency had to respond to an increased number of citizen complaints or crime reports in a neighborhood within your jurisdiction following the placement of a sex offender in the neighborhood?*	33	50
Have the presence of sex offenders within your jurisdiction and monitoring them diverted resources and efforts away from other programs?	43	49
Has your agency (or other agencies within your local government that you are aware of) formally assessed whether high concentrations of sex offenders pose a higher risk to the surrounding neighborhoods or to other occupants of the facilities shared by them?	8	84
Has your agency (or other agencies within your local government that you are aware of) formally assessed whether more local control and oversight over sex offenders is necessary to ensure greater community safety?	14	78
Has your city or county adopted any ordinances that provide additional protection to the communities that house sex offenders?	11	81

Source: Bureau of State Audits.

* Nine local agencies noted that they do not track this information.

Despite the reported increase in complaints and attention from surrounding neighborhoods, few local law enforcement agencies reported having formally assessed the impact of sex offender placements. Almost half of the agencies noted that they have had to divert some of their resources and efforts away from other programs to provide more sex offender oversight in their jurisdictions. Some agencies mentioned that monitoring compliance with registration requirements took time away from patrol duties or investigating sexual crimes or other crimes assigned to the detectives or staff members. However, such impacts were anecdotal, and these agencies did not quantify any diversion in resources.

Most of the responding agencies indicated that they have not formally assessed whether high concentrations of registered sex offenders pose a higher risk to the surrounding neighborhoods or to the other occupants of the facilities shared by them. Although eight responded that they have performed formal assessments, our review of their responses indicated that the assessments were either limited or informal. For example, the Los Angeles Police Department told us that their assessments extend only as far as examining crime reports around facilities housing sex offenders to determine if any increase in crime has occurred. The Los Angeles Police Department indicated that at this time it has not found any instances in which the concentration caused more crime. However, it also noted that in some neighborhoods, a high level of crime exists for several reasons, and the direct effect of sex offenders residing in the area could not be separately determined.

Additionally, most local law enforcement agencies indicated that they have not formally assessed whether there is a need for more control and oversight over registered sex offenders, nor have their cities or counties adopted any ordinances that provide additional protection to the communities housing registered sex offenders. However, a few of the agencies surveyed did state that their city or county has adopted ordinances to further restrict sex offenders' proximity to schools and parks, as well as their residency options. For example, a few have adopted proximity ordinances that prohibit registered sex offenders from loitering within 300 feet of schools and other places where children gather. Further, San Bernardino County adopted an ordinance that makes violating Jessica's Law a misdemeanor offense. The city of Riverside has adopted a parolee-home ordinance that includes limiting the number of parolees who may live together in hotels. These local ordinances may also provide agencies a greater enforcement authority by carrying penalties for violations.

Departments Focus on Treatment and Service and Support Needs of Sex Offenders Rather Than Local Concerns

State departments and their contractors who are responsible for placing sex offenders into communities typically do not consider the impact on local communities when making placement decisions. While the vast majority of sex offenders are not placed by and do not receive services from state agencies, Corrections, Developmental Services, and Mental Health or their contractors placed some of the 649 sex offenders who were actively under their supervision, as shown in Table 6. Generally, state laws and department policies do not require consideration of the impact on local communities when making placement decisions.

Table 6
Sex Offenders Residing in the Community and Served by State Departments

STATE DEPARTMENT	LIVING IN LICENSED FACILITY*	LIVING IN UNLICENSED FACILITY/PRIVATE HOME†	TRANSIENT	UNKNOWN	TOTALS
Department of Corrections and Rehabilitation (Corrections), Division of Addiction and Recovery Services	2	29	1	1	33
Corrections, Division of Juvenile Justice	4	147	1	2	154
Department of Developmental Services (Developmental Services)	96	295	1	3	395
Department of Mental Health (Mental Health)	14	51	2	0	67
Totals	**116**	**522**	**5**	**6**	**649**

Sources: Compiled by the Bureau of State Audits using information from Mental Health dated December 12, 2007, and databases from Corrections, Developmental Services, the Department of Social Services (Social Services), Alcohol and Drug Programs (Alcohol and Drug), and the Department of Justice (Justice).

Note: As described in the Scope and Methodology, the databases from Social Services were of undetermined reliability. Further, the data from Corrections' Division of Addiction and Recovery Services, Developmental Services, Justice, and Corrections' Division of Juvenile Justice were not sufficiently reliable for our purposes. However, because these were the only sources for this information, we present them here.

Note: Data files for:

Corrections' Division of Addiction and Recovery Services as of September 30, 2007
Alcohol and Drug and Developmental Services as of November 1, 2007
Social Services as of November 28, 2007
Corrections' Division of Juvenile Justice as of November 29, 2007
Justice as of December 13, 2007

* These are facilities licensed by Social Services or Alcohol and Drug as described in Table 1 on page 11.

† These include unlicensed residential facilities such as sober living facilities, as well as private residences. Because of limitations in the data available from state departments, we could not distinguish in all cases unlicensed residential facilities from private residences. Further, the number of sex offenders these state departments or their contractors placed was not always readily apparent.

Corrections' Policies for Placing Sex Offenders Do Not Include Assessing Impact on Local Communities

Corrections' Division of Addiction and Recovery Services (Addiction Recovery), through its contractors, and the Division of Juvenile Justice (Juvenile Division) place some sex offenders into communities. Addiction Recovery works with private contractors to place some sex offenders in licensed residential facilities and unlicensed sober living facilities while they participate in its treatment program. According to Corrections, it established Addiction Recovery to reduce substance abuse and the risk factors for criminal behavior of inmates and parolees. Addiction Recovery contracts with professional treatment providers that provide substance abuse treatment programs in correctional facilities to prepare inmates for release on parole, as well as a community-based continuing care program for parolees. According to Addiction Recovery, the registered sex offenders on parole are in the program voluntarily. Parolees participating in the program can receive 180 days of continuing care following release. However, according to Addiction Recovery, the average length of time that parolees receive continuing care in the community-based program is 75 days.

Addiction Recovery indicated that based on the identified addiction recovery needs of the sex offender, its contractors attempt to find a suitable residential facility, or they might provide only outpatient treatment for sex offenders living in private residences. Although Addiction Recovery requires its contractors to ensure compliance with applicable laws, it told us that it generally does not require them to consider the impact on local communities. As Table 6 shows, Addiction Recovery had 33 sex offenders participating in its program as of September 30, 2007. Its contractors helped place two of them into licensed residential facilities and another 14 into unlicensed residential facilities. Of the remaining 17 sex offenders, 15 found their own place of residence, one was a transient, and the address for another was not known.

Similarly, Corrections' Juvenile Division places juvenile sex offender parolees with relatives and in foster homes, group homes, and licensed and unlicensed residential facilities, among others. The Juvenile Division told us that 30 to 90 days prior to a juvenile's release, the institution and the assigned parole agent jointly assess the needs of the parolee based on a report of progress in treatment, a relapse prevention plan, a report of history prior to arrest, and a report of the individual's behavioral progress within the institution. The assessment assists the field parole agent in determining the potential risk and the placement needs of the juvenile. According to the Juvenile Division, based on this assessment, the institution and the assigned parole agent provide a written recommendation to the Juvenile Parole Board, which will either approve or disapprove the placement. Although the Juvenile Division indicated that it informs appropriate local law enforcement agencies of the placement of juvenile sex offender parolees within a community, it is not required to notify the community or neighborhood where the juvenile is actually placed. According to the Juvenile Division's database as of November 29, 2007, it had an estimated total of 2,559 juvenile offenders on active parole. Of these juvenile offenders, at least 154 were sex offenders. Table 6 shows that most of these sex offenders were placed in unlicensed facilities or private homes.

Although the Juvenile Division indicated that it informs appropriate local law enforcement agencies of the placement of juvenile sex offender parolees within a community, it is not required to notify the community or neighborhood where the juvenile is actually placed.

However, as we indicated in the Scope and Methodology, when we developed the information included in Table 6, we found that the Juvenile Division database was incomplete. Specifically, the database was missing the Social Security numbers and criminal investigation and identification numbers for 22 percent and over 6 percent of the 2,559 juvenile offenders on active parole, respectively. As a result, we may not have identified all juvenile offenders who were also sex offenders by matching their Social Security numbers or criminal investigation and identification numbers with those in the database from Justice. The Juvenile Division's policies state that Social Security numbers are required for identification and

to assist juvenile offenders in obtaining employment and benefits. Moreover, a director in the Juvenile Division told us that the criminal investigation and identification numbers are required in order to conduct warrant and historical checks on a timely basis. According to the director, the division is currently working to ensure that the missing information is entered into its database for all juvenile offenders.

Developmental Services and Mental Health Generally Do Not Have Specific Policies for Placing Sex Offenders Into Communities

Contractors for Developmental Services and Mental Health may provide placement services to developmentally disabled individuals (clients) and mentally ill patients (patients) who might also be sex offenders. State laws govern how the two departments provide these services. For example, the Lanterman Developmental Disabilities Act charges Developmental Services with establishing a service delivery system for eligible persons with developmental disabilities to meet their needs and choices, as well as to facilitate their integration into the mainstream life of the community. These laws and regulations do not mandate a consideration of community impact or special placement consideration for a sex offender.

Additionally, according to Developmental Services, its clients are not required to accept all services it provides, nor are they required to identify themselves as sex offenders to its contractors. The focus of Developmental Services' contractors is on the service and support needs of the clients as identified in their individual program plans. Therefore, contractors' monitoring efforts are related only to ensuring that clients receive adequate care, services, and support. Further, Developmental Services told us that it does not have access to the entire sex offender registry maintained by Justice. It is aware only of sex offenders subject to public disclosure under Megan's Law as published on Justice's Web site and of those who voluntarily inform its contractors of their criminal history.

Developmental Services told us that it is only aware of sex offenders subject to public disclosure under Megan's Law as published on Justice's Web site and those who voluntarily inform its contractors of their criminal history.

Based on our comparison of Developmental Services' and Justice's databases, we identified 395 clients actively served by Developmental Services in a community-based environment who were also sex offenders. This represents less than 1 percent of the estimated 191,787 clients Developmental Services reported as active as of November 1, 2007. Further, its contractors do not necessarily place all the clients Developmental Services serves. As Table 6 shows, the majority of the 395 sex offenders living in community-based settings were not living in licensed residential facilities but rather in unlicensed facilities or private homes. Although according to Developmental Services, its contractors likely played a role in placing the 96 clients living in licensed

facilities, they may not have had a role in placing the 295 registered sex offenders in unlicensed facilities or private homes. Further, as shown in Table 6, one client was listed as a transient and addresses for three clients were unknown.

In contrast to the voluntary nature of the services provided by Developmental Services, Mental Health oversees sex offenders and patients committed to its care by the courts or by the Board of Parole Hearings. As we mentioned in the Introduction, Mental Health's patients include those found to be not guilty by reason of insanity and those found to be mentally disordered offenders, as well as those found to be sexually violent predators (SVPs) who were convicted of their crimes and served a term of imprisonment. According to Mental Health, in most cases, the sex offenders committed to its care are initially placed in a state hospital—a secure facility—for inpatient treatment. After completing this treatment, they may become eligible for its Forensic Conditional Release Program (Conditional Release Program). Mental Health contracts with local providers that provide outpatient services and, according to Mental Health, are involved in the placement of these sex offenders.

Mental Health indicated that its contractors may place patients in facilities licensed by other departments, in unlicensed facilities, in single-occupancy rooms, or with their families in private homes. These decisions are based on the patients' clinical needs, their community outpatient treatment level, and sometimes directly by the court. According to Mental Health, patients who require assistance with medications and more direct supervision and care are typically placed in a facility licensed by the Department of Social Services. Those who live in a licensed facility can move to an unlicensed residence once they demonstrate that they can manage their own medications and upon the approval of the community program director. According to Table 6, Mental Health's contractors were involved in placing 14 sex offenders in licensed facilities and 51 patients in unlicensed facilities or private homes; two are listed as transients.

Mental Health's policies do not include specific requirements for placing sex offenders that are different from those related to its other patients under the Conditional Release Program, except for those classified as sexually violent predators.

Mental Health's policies do not include specific requirements for placing sex offenders that are different from those related to its other patients under the Conditional Release Program, except for those classified as SVPs. Mental Health indicated that its contractors try to place patients so that they can get to their outpatient services, either by walking or by public transportation. Its policies also do not require contractors to inform the surrounding community when they make a residential placement; however, Mental Health noted that its contractors ensure that patients who are sex offenders are registered. As of December 12, 2007, Mental Health identified 67 sex offenders

in its Conditional Release Program, 61 of whom were not SVPs. According to Mental Health, these 61 sex offenders represent less than 10 percent of the approximately 723 total individuals in its Conditional Release Program as of December 12, 2007.

SVPs are committed to Mental Health following the completion of their sentences at Corrections for their crimes. These are offenders who suffer from a mental disorder and are likely to reoffend because of the disorder. SVPs have been convicted of a sexually violent offense against one or more victims they do not know. State law outlines the process that must be followed before an SVP is determined eligible for conditional release from a state hospital, including notifying the sheriff, the chief of police, and the district attorney or the county's designated counsel in the community that will house the offender of the residential placement it is recommending. These entities can provide written comments to Mental Health and the court. The court will consider the comments before it decides whether the SVP can be placed on conditional release to receive community outpatient treatment.

Mental Health told us that it contracts with a nonprofit organization to help identify appropriate housing for SVPs. According to Mental Health and its contractor, six SVPs were in the Conditional Release Program as of December 2007. Four of these patients were living in private or unlicensed residences, while the other two were transients. The courts responsible for releasing the two transients were aware that Mental Health's contractor could not find a placement for these individuals when they ordered their release. According to Mental Health, 682 SVPs were committed to state mental hospitals as of December 12, 2007.

The State Recently Took Steps to Assess the Impact Sex Offenders Have on Local Communities

The Management Board, created in 2006, is in the process of assessing the current practices for managing adult sex offenders, primarily those under direct criminal justice or other supervision. It released an initial report in February 2008. State law requires the Management Board to develop recommendations, based on the findings in the assessment, to improve sex offender management, with the goal of improving community safety. The Management Board's scope includes supervision, treatment, housing, transition to the community, and interagency coordination. Board members are representatives from local law enforcement agencies; officials from several state agencies, including Corrections; and individuals experienced in the field of sexual assault. The Management Board has been meeting monthly since June 2007 and is required to release a final report to the Legislature and the governor by January 1, 2010.

State law requires the California Sex Offender Management Board to develop recommendations to improve sex offender management, with the goal of improving community safety.

In addition to the statutory requirements imposed on the Management Board, the secretary of Corrections requested that the board examine issues related to the implementation and clarification of Jessica's Law, which requires that certain sex offenders released on parole from a state prison be monitored by a global positioning system for life. The secretary's request included clarification of the residency restriction and appropriate offender housing, as well as maintaining supervision of sex offenders subject to Jessica's Law after they complete their parole term and are no longer under Corrections' jurisdiction.

In February 2008 the Management Board released a report indicating that between 70 percent and 80 percent of all adult sex offenders are living in the community under no formal supervision.

In February 2008 the Management Board approved and released a report on current practices for managing sex offenders in California. This report indicates that between 70 percent and 80 percent of all adult sex offenders are living in the community under no formal supervision. It further states that most of the sex offenders who are on parole and are subject to Jessica's Law have found housing compliant with the law's requirements. However, it notes that the number of sex offenders declaring themselves transients has quadrupled since the implementation of Jessica's Law. The report points out that Jessica's Law does not identify who is responsible for enforcing residency restrictions after the sex offender is discharged from parole and does not impose a penalty for violators of residency restrictions who have been discharged from parole. Additionally, the report indicates that no state agency or any other entity is charged with leadership responsibility for conducting key research on topics related to the management of the State's sex offenders and that data collection regarding sex offenders varies from county to county.

Corrections Adequately Supervised Its Sex Offender Parolees but Did Not Always Follow Its Policies

Our review of 20 adult and 20 juvenile sex offender parolees found that Corrections' parole agents generally supervised them in accordance with department policies. However, in 15 of the 20 adult cases and one juvenile case, Corrections could not provide evidence that it informed local law enforcement agencies of the impending release of the parolee into their jurisdiction as required by its policies, was late in informing them, or did not inform them of a change in parole release date. Further, in two of the 20 adult cases and one juvenile case, Corrections did not ensure that the parolee registered with local law enforcement within five working days as required. Finally, Corrections did not always monitor juvenile parolees as required by its policies.

Corrections Does Not Consistently Notify Local Law Enforcement About Paroled Sex Offenders

Our review of 20 adult sex offenders found that Corrections generally followed its policies regarding the monitoring of these parolees. However, it did not always notify local law enforcement of the impending release of an adult sex offender parolee. Corrections' Division of Adult Parole Operations (Adult Parole) is responsible for establishing parole conditions and for supervising adult parolees. The level of supervision required is based on the parolee's classification. State law requires that from four to 10 months prior to release, male sex offenders be assessed using the Static-99 Risk Assessment tool. This tool is designed to estimate the probability of sexual and violent recidivism among adult males who have been convicted of at least one sexual offense against a child or nonconsenting adult. This assessment tool consists of 10 factors, each scored as 0 or 1. According to Adult Parole policy, a score of 4 or above will result in a designation as a high-risk sex offender. Minimum supervision requirements for a parolee considered to be high risk include an initial face-to-face contact with a parole agent on the first working day following release from custody. In addition, the parole agent is required to conduct a home visit within six working days of release on parole and to have at least two face-to-face contacts each month.

State law requires Corrections to release a parolee into the county of last legal residence, unless the circumstances call for a different placement. The law also requires Corrections to notify appropriate local law enforcement agencies that the parolee will be released into their jurisdiction, and Adult Parole's policy requires notice to the local agencies prior to the date of release. Corrections has four parole regions that, according to its policies, are responsible for notifying county sheriff departments, city police departments, and the affected district attorney's offices regarding the pending parole date of an adult sex offender. Its policies require each region to maintain a notification log to document all contacts with local agencies.

Our review found that for the period of May 2005 through October 2007, Corrections could not provide any evidence that it had informed the applicable local agencies regarding the pending release dates for 11 of the 20 adult sex offender parolees in our sample. In one other case, the parole date for a sex offender was postponed by almost two months. Although Corrections notified local law enforcement of the initial release date, it failed to notify these agencies of the changed release date. Further, in three instances, the notice to local law enforcement occurred after the parolee was already released into the jurisdiction. In one case out of 20, we also noted that the Juvenile Division could not provide

For the period of May 2005 through October 2007, Corrections could not provide any evidence that it had informed the applicable local agencies regarding the pending release dates for 11 of the 20 adult sex offender parolees in our sample.

evidence that it had notified the local law enforcement agency regarding the release date of a juvenile sex offender parolee. The Juvenile Division's policy requires that it notify applicable local agencies of a parolee's change of residence within 10 working days.

As part of our survey, 20 of the 92 local law enforcement agencies responding indicated they do not receive adequate information from Corrections about registered sex offenders being released into their jurisdictions.

As part of our survey, 20 of the 92 local law enforcement agencies responding indicated that they do not receive adequate information from Corrections about registered sex offenders being released into their jurisdictions. For example, a representative of the San Jose Police Department indicated that notices from Corrections are not always useful because they sometimes do not include the release date of the parolee. Similarly, a representative of the Daly City Police Department noted that his department receives inadequate information from Corrections about parolees subject to sex offender registration prior to their release from prison and that this causes his department to remain unaware of the total number of sex offenders living within its jurisdiction.

Although Corrections could not completely explain the reasons it had failed to notify local law enforcement agencies of the pending release date of some sex offenders, it noted that confusion at one of its four parole regions might have contributed to this problem for the parolees released in that region. Specifically, it indicated that one of its regional parole units believed the notification process would be replaced by the use of the Parole Law Enforcement Automated Data System (Parole LEADS), which provides law enforcement agencies with photos and information about parolees supervised by Adult Parole. Nevertheless, Adult Parole told us that despite the existence of an automated system, its policy was never amended to change the manual process of notification.

Parole LEADS was established by state law in 1997. Although not required to do so by state law, Corrections indicated that it updated the system in October 2006 to include more information about sex offenders to allow law enforcement agencies to access parolee information via the Internet and query for selected parolees either within their jurisdictions or on a statewide basis. According to Corrections, it has taken the initiative to make 521 law enforcement agencies aware of Parole LEADS, and the system now provides notification of pending releases of sex offenders into the agencies' respective jurisdictions. It noted that of these 521 law enforcement agencies, 145 agencies it contacted have not yet responded with a decision to enroll, 69 others indicated an interest in enrolling, and Corrections is still in the process of contacting 59 others.

Corrections Did Not Always Ensure Timely Registration by Parolees

State law requires all sex offenders who must register under the Sex Offender Registration Act to register with the law enforcement agency having jurisdiction over their residence within five working days of moving into the jurisdiction. State law also requires offenders on parole to provide a proof of registration to their parole officer within six working days of their release. Corrections' policy requires its parole agents to ensure that adult sex offenders on parole comply with this requirement. However, in two of the 20 adult sex offender parolee cases we reviewed, Corrections failed to ensure this. The earliest registration receipts available in the parolee files indicate that one parolee registered with local law enforcement seven days after moving there; the other parolee registered after 11 days. Similarly, the Juvenile Division requires that its parole agents ensure that a juvenile parolee registers as a sex offender with the local law enforcement agency within five working days. However, of 20 juvenile sex offender parolees we reviewed, in one instance a juvenile sex offender did not register within the required five working days.

Corrections Did Not Always Monitor Juvenile Parolees as Required by Its Policies

The Juvenile Division's policies require that when a juvenile offender is released on parole, the assigned parole agent must meet with the parolee face to face at least once each week for the first 30 days. The first face-to-face contact must occur within the first two working days after the juvenile offender is released on parole. Although our review of the cases of 20 juvenile sex offender parolees found that the assigned parole agents met with the parolees within the first two working days, they did not always conduct subsequent face-to-face meetings as required. Specifically, in one case the Juvenile Division did not hold one of the four meetings required during the first 30 days, in a second case it did not hold two of the four required meetings, and it could not provide any evidence that such meetings occurred after the initial face-to-face contact for a third parolee.

Recommendations

To ensure that it maintains all necessary data to carry out its functions, Corrections' Juvenile Division should update its database to include the Social Security numbers and criminal investigation and identification numbers for all juvenile offenders under its jurisdiction.

To comply with legal requirements and its own policies, Corrections should do the following:

- Ensure that its parole regions provide timely notification of the release of all parolees to the applicable law enforcement agencies.
- Ensure that its parole agents review all registration receipts to make certain that all parolees required to register as sex offenders do so within five working days of moving into a local jurisdiction.
- Ensure that the Juvenile Division's parole agents monitor juvenile parolees as required and maintain all documents to support its monitoring efforts.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of the report.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

Date: April 17, 2008

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For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at (916) 445-0255.

(Agency response provided as text only.)

Department of Corrections and Rehabilitation

Memorandum

Date: April 7, 2008

To: Elaine M. Howle, State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Subject: RESPONSE TO THE BUREAU OF STATE AUDIT'S DRAFT REPORT ENTITLED *SEX OFFENDER PLACEMENT: STATE LAWS ARE NOT ALWAYS CLEAR, AND NO ONE FORMALLY ASSESSES THE IMPACT SEX OFFENDER PLACMENT HAS ON LOCAL COMMUNITIES*

The California Department of Corrections and Rehabilitation's (CDCR) is providing a clarification response as an attachment to this memorandum to the Bureau of State Audits' (BSA) draft report entitled *Sex Offender Placement: State Laws Are Not Always Clear, and No One Formally Assesses the Impact Sex Offender Placement Has on Local Communities.* The report assesses three divisions within CDCR: Division of Adult Paroles, Division of Addiction and Recovery Services, and Division of Juvenile Justice relative to the placement and registration of sex offenders following release as parolees.

The identification of deficiencies by BSA is of great value; however, CDCR does not agree with the conclusions contained within this report. Specific findings and recommendations will be addressed in a corrective action plan which will be submitted to BSA within 60 days. (1)

Should you have any questions or concerns, or wish to meet to discuss this response, please contact me at (916) 323-6001.

(Signed by: James E. Tilton)

JAMES E. TILTON
Secretary
California Department of Corrections and Rehabilitation

Attachment

* California State Auditor's comments begin on page 49.

CALIFORNIA STATE AUDITOR
BUREAU OF STATE AUDITS
April 7, 2008

Analysis of Draft Report # 2007-115

SEX OFFENDER PLACEMENT: STATE LAWS ARE NOT ALWAYS CLEAR, AND NO ONE FORMALLY ASSESSES THE IMPACT SEX OFFENDER PLACEMENT HAS ON LOCAL COMMUNITIES

The Bureau of State Audits (BSA) conducted an audit of the California Department of Corrections and Rehabilitation (CDCR) relative to residential restrictions for parolees who are required to register as
(2) sex offenders pursuant to Penal Code (PC) Section 290. It appears the BSA relied predominately upon automated sources as the primary basis for their conclusions. Because parolee field and central files are the repository of legal documents for individual parolees and contains a host of vital information, some of the findings contained in the audit was based on incomplete information, as described below.

Division of Adult Parole

Multiple Sex Offenders in 39 Counties

Response:

Within 39 counties, the BSA report identified 551 separate residences housing a total of 3,080 sex offenders on parole, inferring there was a possibility multiple sex offenders may be housed together, in violation of current statutes and Division of Adult Parole (DAPO) policy. However, a subsequent analysis by the
(3) Department of the 3,080 sex offenders revealed 99.98 percent were in full compliance of statutes/policy, and only 63 parolees or .02 percent were out of compliance with statutes/policy as of the date of the compilation of the data (November 5, 2007). Those parolees out of compliance with statutes/policy have since been brought into full compliance.

(4) A review of a compact disk of supporting documentation provided by the BSA indicates in eight separate counties, (Alameda, Contra Costa, Monterey, Sacramento, San Joaquin, Santa Clara, Shasta and Los Angeles) there were multiple sex offenders residing at a single residence. The BSA indicated these addresses were "unknown." The Department subsequently conducted a compliance check on these parolees. The review revealed many of the facilities on the database are not single family dwellings. An Internet Google search, in fact, determined some of the facilities were county jails, detention facilities, hospitals, and other large residential facilities.

The report states that in four counties, (Fresno, San Diego, San Francisco and Los Angeles) there were multiple sex offenders residing at a single residence. The report indicates these addresses were "assumed hotel/apartments." An Internet Google search revealed the addresses in question were actually two county jails and two veterans hospitals. This information was also verified through CalParole.

Notification to Law Enforcement

Response:

Page 33, paragraph 2 states: *"Our review found that for the period of May 2005 through October 2007, Corrections could not provide any evidence that it had informed the applicable local agencies regarding the pending release dates for 11 of the 20 adult sex offender parolees in our sample."*

The BSA's audit review of notification to local law enforcement of the impending release of a sex offender to the county of last legal residence covered the period of May 2005 through October 2007. This is important because prior to June 2006 all sex offender notification to local law enforcement was handled by records staff within CDCR institutions as required by law. As a result of recommendations from the Governor's High Risk Sex Offender Task Force, DAPO, in addition to required notification by CDCR institutions, also began performing additional notification to local law enforcement. In addition, CDCR has incorporated information on parolee location in its Parole Law Enforcement Automated Data System (LEADS), which is available to all local law enforcement and is now the primary electronic method for notification. During the period covered by the BSA audit, however, there was no identified central repository for physical proof of notification. Each parole region was allowed to determine its own method for tracking compliance. Since the completion of this audit, CDCR will have standardized both notification methods as well as storing the proof of notification. (5)

Registration

Response:

The BSA report reviewed 20 parolee field files of the 8,000 sex offenders on parole to ascertain compliance with PC Section 290 registration requirements. The report cited two cases in which compliance with the five-working day registration requirement and the six working days to provide a copy of the registration receipt to the parole agent, appeared to be in question. Neither of the two cases cited revealed specific information with regard to the circumstances, so it is difficult to determine if the cases were in compliance. There are many factors that impact the five-day registration requirement. (6)

Some law enforcement agencies only register offenders on specified days of the week. In such a circumstance, the offender may have reported to local law enforcement on the fifth working day, which could have been the date the "sex offender registration unit" for that particular law enforcement agency was closed. In such a circumstance, the offender would have registered beyond the fifth working day, but not as a result of any overt or intended action to fail to comply within the applicable time frames. CDCR remind parole agents of the requirements that parolees comply with all registration requirements, and ensure agents inform parolees what days law enforcement agencies register sex offenders to prevent parolees from not registering within five days.

Division of Juvenile Justice

"Where 2 or more sex offenders reside in one residence" (pg. 4, 24)

Response:

(7) Current law prohibits sex offenders from living together in a single family residence (PC Section 3003.5) However, CDCR legal staff have opined that this provision does not apply to sex offenders committed to Division of Juvenile Justice (DJJ), as juvenile offenders do not "serve a term of imprisonment in a state prison." This section was meant to address adult offenders released from prison.

"we found several instances...more than one juvenile sex offender parolee at the same location...that do not require a license...(pg 20).

Response:

Under current law, there is no requirement that DJJ youth be placed in a licensed establishment. State law and DJJ policy allows for placement in an unlicensed group home as long as the home adheres to our DJJ group home standards, which are monitored by the local DJJ parole office. Placement of a youth in a group home is typically for the benefit of providing counseling and 24-hour supervision.

(7) In addition, current law prohibits sex offenders from living together in a single family residence
(8) (PC Section 3003.5). However, CDCR legal staff have opined this provision does not apply to sex offenders committed to DJJ, as juvenile offenders do not "serve a term of imprisonment in a state prison." This section was meant to address adult offenders released from prison.

"although DJJ ...it is not required to notify the community or neighborhood where the juvenile is actually placed" (pg 29 , 31, 33).

Response:

Although there is no statutory requirement for DJJ to notify local law enforcement when a sex offender is due to be released, DJJ mail Law Enforcement Notification (LEN) letters to law enforcement where the parolee is scheduled to reside and the field agent also personally contacts the local law enforcement agency. Additionally, a LEN letter is mailed to law enforcement each time the parolee moves into an area from a different city or county.

"...one juvenile case, Corrections did not ensure that the parolee registered with local law enforcement within five working days" (pg.31).

Response:

(9) As mentioned previously, some local law enforcement agencies do not register sex offenders every business day. In the case in question, the parolee was asked by law enforcement to return on the day the office was open for sex offender registration. This schedule impeded the parolee from registering within the 5-day registration requirement.

Division of Addiction and Recovery Services

Table 5: Sex Offenders Residing in the Community and Served by the State Departments*

Response:

In reference to Table 5, the title of the third column should be amended to read, "Living in Facilities that do not require State Licensure/Private Home" instead of the current language which reads "Living in Unlicensed Facility/Private Home."

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF CORRECTIONS AND REHABILITATION

To provide clarity and perspective, we are commenting on the response to our audit report from the Department of Corrections and Rehabilitation (Corrections). The numbers below correspond with the numbers we placed in the margins of Corrections' response.

Corrections' comments are confusing. If Corrections has concerns with our conclusions, it is difficult to understand why it would be willing to address our findings and recommendations. (1)

Corrections is incorrect when it states that we relied predominately upon automated sources as the primary basis for our conclusions and that some of our findings were based on incomplete information. Our major findings and recommendations were based on the problems we encountered when comparing the various databases in our attempt to provide the Legislature with meaningful information related to the residential placement of sex offenders, as it requested. In addition, several of the recommendations specifically directed towards Corrections were based on our review of the parolee field files of a sample of sex offender parolees. Although Corrections did not directly address our recommendations in its response, it does not appear to take issue with them and, in fact, states that the specific findings and recommendations will be addressed in a corrective action plan, which it plans to submit within 60 days. (2)

Further, it is unfortunate that Corrections' response appears to take issue with the information we are providing the Legislature, which we believe highlights opportunities for Corrections as well as other agencies discussed in the report to use these databases to identify potential problems. For example, as we describe in the report on page 23, by reviewing the addresses in Corrections' database of sex offenders on parole, we found instances of more than one sex offender listed as residing at the same address, including one instance where 90 paroled sex offenders were all registered as living at the same hotel as of November 5, 2007. After we brought this to Corrections' attention, it agreed that this should not be occurring and asserted that it corrected the situation. This is just one example highlighting how the databases could assist Corrections and other agencies in identifying whether sex offender parolees' living arrangements are conforming with state laws. In fact, as Corrections indicates in the subsequent paragraph of its

response, it apparently used the detailed information we provided to perform additional research and bring certain parolees back to compliance with state laws.

③ Corrections' characterization of its analysis of the 3,080 sex offenders and the definitive conclusion it presents is misleading. More specifically, after we requested support for the figures included in its response, Corrections admitted that it had conducted only a cursory review of the 3,080 sex offenders. In fact, Corrections could not provide support for the 63 parolees or the .02 percent that it asserts were out of compliance because, according to Corrections, these figures are based on the results of its analysis of only a sample of the 3,080 sex offenders that it then used to project to the entire population. We believe that it would be prudent for Corrections to spend the time reviewing the addresses of all sex offender parolees, not just a sample, to identify all those who are in violation of statutes and its policies.

④ It was never our intent to analyze every record in Corrections' voluminous parolee database, but rather to highlight for the Legislature risk areas related to compliance with residency requirements. We believe that further analyzing these risks and ensuring compliance is Corrections' responsibility. However, based on the information Corrections has provided in this paragraph, we performed additional research and made some minor revisions to Table 4 on page 24. Specifically, as a result of this additional work, we eliminated eight facilities that we determined are jails or detention centers as well as the 21 sex offender parolees listed as residing in them. Further, we eliminated one state hospital and the four sex offender parolees listed as residing in them. However, it is unclear to us what Corrections is referring to as "other large residential facilities." Also, our additional research related to the hotels and apartment complexes prompted us to remove two facilities and provide additional clarification for two others. Specifically, we removed two facilities identified as a county jail and hall of justice and the 11 sex offender parolees listed as residing in them. We also found two veterans facilities housing four sex offenders, which we left in Table 4 but noted in a footnote to the table. Also included in Table 4 and noted in the footnote were four sex offender parolees whose registered address was the same as a parole office. In summary, as a result of our additional analysis, of the 551 facilities in our draft version of Table 4 that we shared with Corrections, we removed only 11. In addition, of the 3,080 sex offenders on parole who were identified in Table 4 as residing together in a facility, we removed only 36. Therefore, contrary to Corrections' assertion, it appears that there are more than 3,000 sex offenders on parole who as of November 5, 2007, may be residing with other sex offenders on parole in violation of state law.

Although we acknowledge that Corrections views the Parole Law Enforcement Automated Data System (Parole LEADS) as the primary electronic method for notification, as we indicated on page 40 of our report, many agencies do not currently use Parole LEADS for this purpose. (5)

During the course of our audit, we provided Corrections' staff with the details related to these two cases to allow them the opportunity to research whether other factors may have affected the registration requirement. However, after providing the details regarding these two cases, Corrections' staff acknowledged that these two sex offender parolees had registered late and subsequently issued a report of violation for each one. (6)

Corrections is not entirely accurate when paraphrasing California Penal Code, Section 3003.5. A more precise statement would reference a parolee's status as it relates to this section of the law as follows: Current law prohibits sex offenders *on parole* from living *with other sex offenders* in a single family residence. (7)

We are not taking issue with Corrections' interpretation that juvenile sex offenders are not subject to the state law that restricts sex offender parolees from living with other sex offenders in a single-family dwelling. Rather, as we clearly state on page 26, we believe that the law is not clear as to whether this requirement applies to juveniles and we are recommending that the Legislature clarify the law. (8)

While we recognize that conditions may exist in which a juvenile sex offender may not register within the required time frame, state law and Corrections' own policies clearly require that juvenile sex offender parolees register with the appropriate local law enforcement agency within five working days. Further, Corrections' comments about this particular case fail to disclose that the parolee in question actually had two prior opportunities to register before being asked to return to the office on the day the office was open for registration. (9)

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(Agency response provided as text only.)

Department of Justice
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P.O. Box 944255
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April 7, 2008

Elaine M. Howle, State Auditor*
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: Audit of Section 290 Sex Offender Registrants

Dear Ms. Howle:

This letter responds to the report of the Bureau of State Audits (BSA) regarding Penal Code section 290 Registrants (290 Registrants) and facilities licensed by the Department of Social Services (DSS). Although our response is necessarily constrained because we lacked access to all of the information examined by the BSA, we comment as follows.

To begin with, we believe that the report inaccurately references the time when the BSA accessed the DOJ's non-public database of 290 Registrants as "November 2007." (For example, the report states that "[a]s of November 2007, the database . . . contained 59,000 registered sex offenders living in California communities.") In fact, the DOJ provided the BSA with access to the database on December 13, 2007. Thus, the report's references to database information as of November 2007 are not only inaccurate, but they may also leave the reader with the false impression that the database is updated monthly, when in fact it is updated daily. (1)

In addition, we comment on the following matters addressed in sequence by page number: (2)

1. **BSA Report, Page 2**. The DOJ lacks information to agree or disagree with the preliminary report's claim that "at least 357 licensed residential facilities housed sex offenders as of November 2007." The report is heavily redacted and fails to identify the information the BSA used to compare with DOJ's database to arrive at its conclusions. (3)

2. **BSA Report, Page 6**. The report states that "[g]enerally, only law enforcement officers have access to the sex offender registry that Justice maintains." This statement minimizes the restrictions that California law on accessing the database for 290 Registrants. The relevant statutes provide that the database is inaccessible except to the extent specifically authorized by state law. (Cal. Penal Code, §§ 11075 et seq., 290.021; *Fredenburg v. City of Fremont* (2004) 119 Cal.App.4th 408, 413 [noting that California law only provides for "limited disclosure of information regarding sex offenders"].) California law authorizes only, not generally, law enforcement agencies to fully access registered sex offender data. (Cal. Penal Code, §§ 290.021 and 290.022, subd. (4).) California law generally defines a law enforcement agency to be an agency, including the DOJ, "authorized by statute to investigate (4)

* California State Auditor's comments begin on page 59.

or prosecute law violators." (See Cal. Penal Code § 290.45, subd. (f); see also § 13101, subd. (a-b) [defining "criminal justice agencies" as agencies that perform as their principal function "the apprehension, prosecution, adjudication, incarceration, or correction of criminal offenders" or "the collection, storage, dissemination or usage of criminal offender record information"].) Additionally, California law only permits disclosure of sex offender information to non-law-enforcement entities for purposes of protecting members of the public and their children. (Cal. Penal Code, §§ 290.03, subds. (a)(4)-(7) and (b); 290.4, subd. (d)(1); 290.45, subd. (a)(2); and 290.46, subd. (l)(1); 82 Ops.Cal. Atty.Gen. 20, 21-22 (1999).)

The report also states that "California Penal Code 290.46, also known as Megan's Law, requires Justice to make the name and current full address of some sex offenders and only the zip codes of others, who are subject to this law, available to the general public through its Web site." This statement is partially accurate. While it is correct that the law requires only the zip code of some 290 Registrants to be posted, much more than just a name and current full address is required for those convicted of specified sex offenses. For 290 Registrants convicted of these offenses, the law requires "the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant . . . ." (Cal. Penal Code, § 290.46, subd. (b)(1).) The DOJ complies with this statutory duty.

(5) 3. **BSA Report, Page 8**. In Table 1, the BSA declares that "for purposes of this audit" the DOJ's database is "not sufficiently reliable." The report states that the BSA is purportedly using "U.S. Government Accountability Office, whose standards we follow" to assess the reliability of the database. But the database is maintained and operated to satisfy the California Legislature's purpose as expressed in Megan's Law and not for the purpose of necessarily satisfying U.S. Government Accountability Office standards. From the DOJ's perspective, the database is reliable because it accomplishes the purposes for which it was created by California law.

4. **BSA Report, Page 10**. The report states that the BSA "tried to estimate the number of sex offenders residing at licensed facilities by comparing the addresses of the licensed facilities in the databases [REDACTED] with those of sex offenders registered in Justice's database." In the first sentence of the next paragraph, BSA concludes, "we were unable to determine the precise number of facilities that (6) housed sex offenders." Thus, we believe that the report could be improved with a more detailed description of how the BSA's estimates were determined.

(7) 5. **BSA Report, Pages 10 and 11**. The statement in the BSA Report that, "Justice's database is not reliable [for BSA's purpose] because it contains outdated addresses, as sex offenders frequently fail to register or update their addresses as required" requires clarification. It is true that some 290 Registrants fail to comply with the registration and address update requirements of the law, which is in itself a crime. (Cal. Penal Code, §§ 290.013,290.018.) But there is no information in the DOJ's database regarding 290 Registrants that the DOJ knows to be outdated. As stated previously, the database is updated daily and any known outdated information is promptly removed.

(8) 6. **BSA Report, Page 11**. The report states that "[w]e also identified instances in which the registered addresses in Justice's database for 45 sex offenders were the same as the official addresses of child care facilities licensed by Social Services." Before, the report states, "we confirmed that the addresses

of 357 licensed residential care facilities matched the addresses of sex offenders registered in Justice's database." It is unclear whether "child care facilities" is a sub-set of "licensed residential care facilities" or is in a completely separate category.

Regardless, the DOJ has examined its records and confirmed that of the 45 "matches" identified by the BSA, the DOJ has no record that 43 were ever the subject of a DSS pre-licensing inquiry for state or national level criminal history search. Under California law, a criminal history search is required as a condition "to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency." (Health & Safety Code, § 1522.) The DOJ promptly performs this search when requested, but the DOJ has no record that these 43 individuals were the subject of such a request. As to the remaining two (of the 45), the DOJ has examined their specific circumstances and concluded it provided the necessary information to the DSS as required by law. (9)

Thank you for the opportunity to respond to the preliminary report. We accept the offer in your April 1, 2008 letter to have our comments included in the final report. If you have any questions, please contact me, Bureau Chief Julie Basco at (916) 227-3854 or Deputy Attorney General Jeffrey Bedell at (916) 322-6103.

Sincerely,

(Signed by: Robert Alderette)

ROBERT ALDERETTE, Director
Office of Program Review and Audits

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April 15, 2008

Elaine M. Howle, State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: Audit of Section 290 Sex Offender Registrants

Dear Ms. Howle:

This letter responds to the supplemental draft report and recommendation of the Bureau of State Audits (BSA) regarding Penal Code section 290 Registrants (290 Registrants) and facilities licensed by the Department of Social Services (DSS). The statements and disclaimers contained in the Department of Justice's (DOJ) April 7, 2008 letter responding to the draft of the preliminary report apply with equal force to this supplemental draft report. We comment as follows, although – as before - our response is necessarily constrained because we lack access to all of the information examined by the BSA:

The supplemental report states that the BSA has "found instances in which the registered addresses in Justice's database for 49 sex offenders were the same as the official addresses of facilities licensed by
(8) Social Services that serve children, such as family day care homes and foster family homes." The initial report states 45 such instances were identified, but the BSA has represented that four additional cases were overlooked in the initial review because of human error. The BSA has stated that the 49 cases represent its final conclusion.

(9) The DOJ has examined its records and confirmed that of the 49 "matches" identified by the BSA, the DOJ has no record that 46 were ever the subject of a DSS pre-licensing inquiry for state or national level criminal history search. Under California law, a criminal history search is required as a condition "to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency." (Health & Safety Code, § 1522.) The DOJ promptly performs this search when requested, but the DOJ has no record that a request was ever made for these 46 cases. As to the remaining three (of the 49), the DOJ has examined each case's specific circumstances and concluded it provided the necessary information to the DSS in a timely manner as required by law.

The DOJ has actively worked with the DSS to satisfy the report's recommendation that "Justice should consult with Social Services to investigate those instances in which the registered addresses of sex offenders were the same as these facilities." The DOJ and DSS continue to cooperate with each other to find a solution to the issue to protect the public and ensure the safety of every person at risk.

Elaine M. Howle
April 15, 2008
Page 2

Thank you again for the opportunity to respond to the supplemental draft report and recommendation. As with the preliminary report, please include these comments in the final report. If you have any questions, please feel free to contact me, Bureau Chief Julie Basco at (916) 227-3854 or Deputy Attorney General Jeffrey Bedell at (916) 322-6103.

Sincerely,

(Signed by: Robert Alderette)

ROBERT ALDERETTE, Director
Office of Program Review and Audits

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF JUSTICE

To provide clarity and perspective, we are commenting on the response to our audit report from the Department of Justice (Justice). The numbers below correspond with the numbers we placed in the margins of Justice's response.

We revised the date to reflect the December 13, 2007 date. However, we are disappointed that Justice did not take the opportunity to bring this matter to our attention either during our exit conference when we shared the related text with its officials or during the five-day agency review period. (1)

While preparing our draft report for publication, page numbers shifted. Therefore, the page numbers that Justice cites in its response do not correspond to the page numbers in our final report. (2)

Our report discusses matters related to six separate state agencies. As we informed Justice during the exit conference prior to its agency review period, state law requires that we maintain the confidentiality of the information related to the other agencies that are subjects of the audit until the report is made public. Therefore, we redacted the report to only reflect those areas that concerned Justice in order to comply with the law. (3)

We revised the sentence to remove the word *generally*. (4)

We disagree with Justice's characterization of our conclusion related to its database. We do not merely purport to, but do follow the standards established by the U.S. Government Accountability Office, which requires us to assess the reliability of computer-processed data. Also, as we state on page 13 of the report, the data from Justice's sex offender registry were not sufficiently reliable *for our purposes* because 5 percent of the registrants that may be living in California communities have unknown addresses and an additional 14 percent of the registrants were in violation of requirements to annually update their registration information. We did not analyze Justice's database to determine, nor do we opine anywhere in the report, whether it is reliable for all the purposes for which it was created. Also, in completing our quality control process, we renumbered Table 1, which Justice refers to in its response as Table 2. (5)

⑥ We are puzzled as to why Justice believes that we need to provide a more detailed description of how we developed our estimates. We clearly describe our methodology on page 19 of our report and provide an example of the problems we encountered when attempting to compare the addresses. Thus, we believe this clearly describes why we were unable to determine the precise number of facilities that housed sex offenders.

⑦ We made a slight revision to the sentence on page 19. It now states, "Justice's database is not sufficiently reliable for this purpose because it *may contain* outdated addresses, as sex offenders frequently fail to register or update their addresses as required." This is another instance when Justice did not take the opportunity to bring this matter to our attention either during our exit conference when we shared the related text with its officials or during the agency review period.

⑧ In completing our quality control process, we identified four additional sex offenders whose addresses in Justice's database were the same as the official addresses of facilities licensed to serve children. Accordingly, we notified Justice and increased the number from 45 to 49 in our report. We also added language to page 22 of the report to clarify that the licensed facilities that serve children are in addition to, and not a subset of the 352 residential facilities.

⑨ We appreciate that Justice has performed some research on those sex offenders we identified as having the same address as a child care facility. However, Justice did not address our comment that it further investigate these instances and report to us the results of its investigation. Accordingly, we have added a recommendation on page 27 of the report advising Social Services and Justice to investigate those instances we identified in which the registered addresses of sex offenders were the same as the addresses of facilities that serve children.

(Agency response provided as text only.)

Department of Social Services
744 P Street
Sacramento, CA 95814

April 7, 2008

Ms. Elaine M. Howle*
California State Auditor
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Ms. Howle:

The Department of Social Services (CDSS) is pleased to respond to the draft audit report, entitled "Sex Offender Placement: State Laws Are Not Always Clear, and No One Formally Assesses the Impact Sex Offended Placement Has on Local Communities".

The Community Care Licensing Division (CCLD) of CDSS is responsible for monitoring residential out-of-home care facilities in which children and vulnerable adults who require care and supervision reside. Residents in these facilities normally require assistance with activities of daily living skills, such as bathing, grooming, dressing, meal preparation, assistance with medications and protective supervision. These resident populations are generally aged, mentally disordered, or physically handicapped.

An individual who is a sex offender may be placed in one of these facilities if he or she requires that level of care. The placement decision is not made by CDSS. It is either made by some other state or local entity or is self-selected by the individual seeking services. The CCLD maintains data systems which track such things as facility address, contact information, capacity, and background check information for staff. Our systems do not track information related to specific residents in placement, including whether or not they are a sex offender.

The CDSS does have comments on the language on page eleven which indicates: "In addition, although state law requires Social Services to ensure that certain residential facilities are separated by a distance of 300 feet, according to department staff, neither Social Services nor ___ generally determine the actual location of a facility." We understand that sentence to indicate that CCLD is not involved in approving the actual location of the facility within the local community. (1)

As a clarification, the CCLD does enforce standards related to the 300 or more feet of separation for certain residential facilities. When the 300 foot rule applies, the CCLD measures the distance between an existing licensed facility and a proposed facility site to determine their proximity. The CCLD then notifies the local planning authority of its findings and seeks approval from the local planning authority prior to issuing a license. The 300 or more feet of separation between certain residential facilities is required by law regardless of the types of clients served. In addition, local planning authorities have the authority to grant an exemption to allow these facilities to be located closer than 300 feet of separation based upon local needs and conditions.

* California State Auditor's comments appear on page 65.

(2) To better clarify this section of the audit report the CDSS recommends that the Bureau of State Audits replace this section of the report with the following language:

> "In addition, state law requires Social Services to ensure that certain residential facilities are separated by a distance of 300 feet. The 300 or more feet separation between certain residential facilities is required by law regardless of the types of clients served. When the 300 foot rule applies, the CCLD measures the distance between an existing licensed facility and a proposed facility site to determine their proximity. The CCLD then notifies the local planning authority of their findings and seeks approval from the local planning authority before issuing a license. Local planning authorities also have the authority to grant an exemption to allow facilities to be located closer than 300 feet of separation based upon local needs and conditions."

The State Auditor recommends that CDSS work with other agencies to develop data base modifications that will provide better methods for tracking individuals with sex offenses in residential facilities. We are willing to explore ways that licensing information might be helpful in identifying sex offenders who reside in facilities licensed by CCLD. However, it should be noted that implementing the auditor's specific recommendation may require additional resources depending on the data base enhancements necessary.

If you have any questions, I can be reached at (916) 657-2598 or your staff may contact Jo Frederick, Deputy Director of the CCLD, at (916) 657-2346.

Sincerely,

(Signed by: John A. Wagner)

JOHN A. WAGNER
Director

Department of Social Services
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April 16, 2008

Ms. Elaine M. Howle, State Auditor
Bureau of State Audits
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Dear Ms. Howle:

The Department of Social Services (CDSS) appreciates the opportunity to respond to information provided in the draft audit report entitled, "Sex Offender Placement: State Laws Are Not Always Clear and No One Formally Assesses the Impact Sex Offender Placement Has on Local Communities."

As to our substantive concerns about the audit, a large portion of the audit comments on the fact that state law lacks specific criteria for placing or housing registered adult sex offenders in the community. Although the law may not be clear on rules or prohibitions for housing sex offenders in community settings, the law is clear that an individual who is not a client of a CDSS licensed facility shall be required to obtain either a criminal record clearance or a criminal record exemption from CDSS before his or her initial presence in a licensed facility.

The Department of Justice (DOJ) is responsible for notifying CDSS of the complete criminal record history information, based on fingerprints submitted for adults working or residing in a facility seeking a license. If CDSS finds that the license applicant or any individual who works or resides in a licensed facility (other than the residential facility clients themselves) has been convicted of any crime, other than a minor traffic violation, the license application shall be denied, unless the director grants an exemption. Subsequent criminal conviction information may also result in a revocation of the license or exclusion of an individual from the licensed facility. In addition, upon enrollment of their children in a licensed child day care facility, all parents are notified by CDSS in the parents' rights notification form of the sex offender registry website and the parents may check the registry if they are further concerned with the neighborhood they have selected for their child care.

The draft audit indicates that in reviewing the addresses of licensed facilities for children, the BSA discovered 46 resident address matches in a DOJ database for 49 registered sex offenders. Pursuant to the definition provided in the audit draft, this would mean that 46 of the approximately 70,000 licensed facilities serving children could be compromised. This type of information is always of significant concern to the CDSS and requires us to take immediate action. (3)

In this instance we were first informed by BSA of the match results on April 9, 2008 during an exit conference. During the exit conference we requested the names and address that resulted from the match in order to initiate immediate investigations. We followed this verbal request with a letter dated April 10, 2008. BSA indicated that they could not release the information to CDSS without the approval of the DOJ. As soon as the Department was supplied with complete names and addresses by the DOJ of the 49 sex offenders on the morning of April 14th, we immediately identified each facility in question and began assessing the accuracy of the information provided. (4)

Ms Elaine M. Howle
Page Two

We visited every facility to determine if in fact the sex offender did reside at the facility location, or if there was another reason for the address match. If a person convicted of serious sex offenses is determined to be working or residing in a licensed facility where care is provided to a child, immediate action is being taken to exclude this individual and potentially revoke the license of the caregiver.

The inability for this Department to immediately have access to critical information such as this is of great concern to CDSS, as I'm sure it is to BSA and DOJ. When anyone determines that there is a high likelihood that a convicted sex offender is in a position to have access to children in a licensed family day care home, or other licensed child care facility, every effort should be made to immediately communicate this information to the CDSS Community Care Licensing Division for investigation. I would like to work with your office and
(5) DOJ to ensure that information of this nature and sensitivity be shared with CDSS immediately in order that we may undertake the required investigations to ensure child health and safety. To the extent that the law is vague I suggest we jointly pursue clarifications to ensure that both the BSA and DOJ can provide CDSS apporopriate and sufficient access to information to undertake investigations.

We also suggest the following changes be made to the audit recommendation:

> To ensure that registered adult sex offenders who have been convicted of non-exemptible crimes are not residing in licensed facilities that serve children, Justice should provide ~~consult with~~ Social Services with the appropriate identifying information to enable the Department to investigate those instances in which the registered addresses of sex offenders were the same as child care or foster care ~~these~~ facilities. If necessary, Justice and Social Services should seek statutory changes that would permit Justice to release identifying information to Social Services so that the Department may investigate any matches.

If you have any questions about our comments, please contact me at (916) 657-2598 or your staff may contact Jo Frederick, Deputy Director, Community Care Licensing Division, at (916) 657-2346.

Sincerely,

(Signed by: John A. Wagner)

JOHN A.WAGNER
Director

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF SOCIAL SERVICES

To provide clarity and perspective, we are commenting on the response to our audit report from the Department of Social Services (Social Services). The numbers below correspond with the numbers we placed in the margins of Social Services' response.

While preparing our draft report for publication, page numbers shifted. Therefore, the page number that Social Services cites in its response does not correspond to the page number in our final report. (1)

We appreciate Social Services' additional comments and suggestions. However, we have not altered the related text on page 19 because we believe that the existing text is clear and this additional language is not necessary to illustrate our point. (2)

Social Services is inaccurate when it states "…the BSA discovered 46 resident address matches in a DOJ database for 49 registered sex offenders." In both the draft we shared with Social Services and on page 22 of the final report, we state, "…the registered addresses in Justice's database for 49 sex offenders were the same as the official addresses of facilities licensed by Social Services that serve children." We have no knowledge of the number "46" that Social Services cites in its response. (3)

As of the public issuance date of the report, we have received no written request from Social Services dated April 10, 2008. Further, on the advice of our legal counsel, we did not release the details of the data matches to Social Services because Justice raised significant concerns about the confidentiality of information in its database. Instead, because Justice had not given us authority to release information from its database to Social Services, we referred the request to Justice. (4)

We recognize and support the need for Social Services to undertake required investigations to ensure child health and safety. However, if Social Services and the Department of Justice (Justice) believe it is necessary to clarify the law to allow Social Services access to the information in Justice's database at certain times, they should do so. However, we believe it is the responsibility of these two departments to determine whether the law needs clarification and, if so, to obtain that clarification. Finally, we revised our recommendation to include certain changes Social Services suggested. (5)

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(Agency response provided as text only.)

Department of Alcohol and Drug Programs
1700 K Street
Sacramento, CA 95811-4037

April 7, 2008

Ms. Elaine M. Howle, State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: Your Report #2007-115 – Sex Offender Placement

Dear Ms. Howle:

This responds to your draft report, as provided to us through Secretary Belshé's office.

The Department of Alcohol and Drug Programs (ADP) does not find any material inaccuracies and has no material disagreements with the substance of your report. The draft we were provided was significantly redacted. We understand your obligation to do that and trust that the redacted matter does not directly concern ADP.

ADP is willing to cooperate with other agencies to enhance the compatibility of our data systems, but would need to assess potential resource needs related to system changes.

ADP would like to thank you for the courteous and professional performance of your staff on this audit, and for the opportunity to comment on your draft report.

Very truly yours,

(Signed by: Morgan L. Staines)

Morgan L. Staines
Chief Counsel

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(Agency response provided as text only.)

Department of Developmental Services
1600 Ninth Street, Room 240, MS 2-13
Sacramento, CA 95814

April 7, 2008

Ms. Elaine M. Howle
State Auditor
California State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

Response to April 1, 2008, Draft Bureau of State Audits' Report
Regarding Sex Offender Placement

Thank you for providing the Department of Developmental Services (Department) with an opportunity to participate in the above-mentioned audit. The placement of sex offenders in the community is a very important issue to the Department.

The Department contracts with regional centers which provide services to and collect information from persons with developmental disabilities (consumers) on a voluntary basis. The regional centers are contractually obligated to: 1) determine whether each newly eligible consumer over the age of 16 years is listed on the Megan's Law Web Site as a sex offender and appropriately reflect that information in the consumer's record; and 2) comply with the law as it relates to the placement of sex offenders.

In order to ensure that the Department has the most accurate information that it can legally obtain about the consumers served by the regional centers, the Department contracted in May 2005 and January 2008 with the Department of Justice (DOJ) to perform data matches between the Megan's Law public database and the Department's database of active consumers over the age of 16 years. The list of names generated from the data matches were then verified by the regional centers to ensure accuracy. By confirming such information, the Department acquired the most relevant information in order to most appropriately serve the State's interests.

Thank you for the opportunity to provide our comments. Should you have any questions or need additional information on this subject matter, please contact Rita Walker, Deputy Director, Community Operations Division, at (916) 654-1958.

Sincerely,

(Signed by: Mark Hutchinson for)

TERRI DELGADILLO
Director

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(Agency response provided as text only.)

Department of Mental Health
1600 9th Street
Sacramento, CA 95814

April 7, 2008

Elaine M. Howle, State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

Thank you for the opportunity to review and comment in response to your confidential draft report entitled, "Sex Offender Placement: State Laws Are Not Always Clear, and No One Formally Assesses the Impact Sex Offender Placement Has On Local Communities."

We have reviewed the report, and offer the following suggested edit which will clarify the role that Department of Mental Health evaluators have in community placement.

On page 6 of 16 (last paragraph), your report currently reads, "Based on the evaluation, Mental Health makes a recommendation to commit with the county where the inmate was convicted of the offense." (1)

To be accurate, the report should read, "The DMH evaluators are responsible for determining if the person meets the legal criterion of a Sexually Violent Predator under the law. The evaluations and determinations are then submitted to the local District Attorney for determination of pursing a commitment." (2)

If you have any questions regarding this language, please contact Ms. Cynthia Radavsky, Deputy Director for Long Term Care Services at (916) 654-2413.

Sincerely,

(Signed by: Sean Tracy)

SEAN TRACY
Special Projects Manager II
Director's Office

* California State Auditor's comments appear on page 73.

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF MENTAL HEALTH

To provide clarity and perspective, we are commenting on the response to our audit report from the Department of Mental Health (Mental Health). The numbers below correspond with the numbers we placed in the margins of Mental Health's response.

While preparing our draft report for publication, page numbers shifted. Therefore, the page numbers that Mental Health cites in its response do not correspond to the page numbers in our final report. (1)

We do not agree with Mental Health's suggested text change. Specifically, the California Welfare and Institutions Code, Section 6601(h), states that Mental Health's director shall forward a request for a petition to be filed for commitment to the designated county. Further, Section 6601(i) states that if the county's designated counsel concurs with the *recommendation*, a petition for commitment shall be filed in the superior court of the county. Therefore, we have not altered the text in our report. (2)

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press