

# Sex Offender Registration in a Pandemic

Wayne A. Logan\*

## I. INTRODUCTION

It is often said that modern laws targeting convicted sex offenders, including registration and community notification (SORN), are the result of a “moral panic,” generated by widespread media accounts of child sexual abuse cases in the 1980s.<sup>1</sup> Although perhaps apt when SORN laws originated, the panic characterization no longer rings true. Thirty years later, the potent social and political forces driving SORN continue unabated, affecting the lives of hundreds of thousands of individuals on registries nationwide.<sup>2</sup>

Registration, the backbone of SORN, requires that targeted individuals provide government authorities personal background and identifying information, verify it at regular intervals, possibly four times a year, and provide updates in the event of any change (e.g., growing a beard or changing work or school location). Most often, verifications and updates must take place in-person at a designated place such as a police station, with failure to comply usually resulting in a felony conviction.<sup>3</sup> Governments provide the information to community members in the hope that they will take steps to protect themselves and their loved ones from possible sexual victimization by registrants.<sup>4</sup>

Registration—especially when done in person—involves considerable human-to-human contact, which can be problematic in a public health crisis involving a highly contagious virus like COVID-19. Since its initial public detection in the U.S.

---

\* Steven M. Goldstein Professor of Law, Florida State University College of Law. Thanks to Janice Bellucci, William Dobbs, Guy Hamilton, Andrew Harris, Genevieve Lemley (FSU Law class of 2021), and Carlton Morse for their help in obtaining relevant materials.

<sup>1</sup> See WAYNE A. LOGAN, *KNOWLEDGE AS POWER: CRIMINAL REGISTRATION AND COMMUNITY NOTIFICATION LAWS IN AMERICA* 85–90 (2009).

<sup>2</sup> Aggregated, state registries reputedly now contain information on over 900,000 individuals, which is likely an over-count due to policies requiring registration of individuals residing in prisons and out-of-state, and even deceased individuals. See Alissa R. Ackerman, *Registries and Registrants Research on the Composition of Registries*, at 35 in *SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION LAWS: AN EMPIRICAL EVALUATION* (Wayne A. Logan & J.J. Prescott eds., 2021) [hereinafter Logan & Prescott].

<sup>3</sup> See, e.g., ARIZ. REV. STAT. ANN. § 13-3824 (2010); KY. REV. STAT. ANN. § 17.510 (West 2018); N.M. STAT. ANN. § 29-11A-4 (West 2013).

<sup>4</sup> See, e.g., *E.B. v. Verniero*, 119 F.3d 1077, 1098 (3d Cir. 1997) (noting that goal is to “enable . . . those likely to encounter a sex offender to be aware of a potential danger and ‘to stay vigilant against possible re-abuse’”) (quoting *Artway v. Attorney Gen.*, 81 F.3d 1235, 1265 (3d Cir. 1996)).

in early 2020,<sup>5</sup> and its later acceleration into a pandemic in early March,<sup>6</sup> COVID-19 precipitated changes in virtually every sector of American life, including the criminal justice system. Concern over transmission by and among inmates and employees in prison and jails, for instance, prompted several governments to provide for early release of inmates.<sup>7</sup> Similarly, pretrial detainees were released,<sup>8</sup> and office and field visits by probation and parole officers were curtailed or suspended due to health concerns.<sup>9</sup>

In contrast to these responses, and testament to the exceptionalism marking sex offender policy more generally,<sup>10</sup> state and local governments in the first few months of 2020 largely continued to require in-person updates and verifications by registrants. Although some jurisdictions shifted to phone, mail, or electronic methods, or suspended registration requirements altogether for a time, the vast majority continued to require in-person registration. According to a survey of government agencies reported in April 2020, out of 182 responses “only a dozen []

---

<sup>5</sup> See Lindsay K. Cloud et al., *A Chronological Overview of the Federal, State, and Local Response to COVID-19*, in *ASSESSING LEGAL RESPONSES TO COVID-19*, 10, 10 (2020) (noting that the first U.S. case was confirmed by the Centers for Disease Control and Prevention on January 21, 2020).

<sup>6</sup> See *id.* (noting the World Health Organization decision of March 11, 2020).

<sup>7</sup> See *Responses to the COVID-19 Pandemic*, PRISON POL'Y INITIATIVE, <https://www.prisonpolicy.org/virus/virusresponse.html> (Feb. 5, 2021). See also Carlos Franco-Paredes et al., *Decarceration and Community Re-entry in the COVID-19 Era*, 21 *THE LANCET* e10 (2021). Although such releases at times included convicted sex offenders, which prompted controversy, they were often deemed ineligible. See, e.g., Ovetta Wiggins & Erin Cox, *Hogan Signs Order to Release Hundreds of Inmates to Reduce Spread of Coronavirus*, *WASH. POST* (Apr. 19, 2020, 5:06 PM), [https://www.washingtonpost.com/local/md-politics/hogan-signs-order-to-release-hundreds-of-inmate-s-to-reduce-spread-of-coronavirus/2020/04/19/5ac6c17c-8264-11ea-ae26-989cfc1c7c7\\_story.html](https://www.washingtonpost.com/local/md-politics/hogan-signs-order-to-release-hundreds-of-inmate-s-to-reduce-spread-of-coronavirus/2020/04/19/5ac6c17c-8264-11ea-ae26-989cfc1c7c7_story.html).

<sup>8</sup> Jenny E. Carroll, *Pretrial Detention in the Time of COVID-19*, 115 *NW. U. L. REV.* 59, 75–76 (2020).

<sup>9</sup> Beth Schwartzapfel, *Probation and Parole Officers Are Rethinking Their Rules as Coronavirus Spreads*, *THE MARSHALL PROJECT* (Apr. 3, 2020, 6:00 AM), <https://www.themarshallproject.org/2020/04/03/probation-and-parole-officers-are-rethinking-their-rules-as-coronavirus-spreads>; *Suspensions, Restrictions, & Cancellations in Response to COVID-19*, OFFICIAL WEBSITE OF N.Y. ST., <https://doccs.ny.gov/suspensions-restrictions-cancellations-response-covid-19#community-supervision-restrictions-for-office-visits> (last visited Dec. 30, 2020); see also Chelsia Rose Marcus, *Coronavirus Forces State Corrections Department to Suspend In-Person Parole Visits*, *DAILY NEWS* (Mar. 20, 2020, 5:45 PM), <https://www.nydailynews.com/coronavirus/ny-coronavirus-new-york-state-correction-department-parole-suspended-20200320-6mf2j3qyvvdhnts7hrbms3nvy-story.html>.

<sup>10</sup> See, e.g., Catherine L. Carpenter, *All Except for: Animus That Drives Exclusions in Criminal Justice Reform*, 50 *SW. L. REV.* 1, 7 (2020) (footnotes omitted) (observing with respect to recent reform efforts in general seeking to reduce the modern penchant for punitiveness, “[b]lanket provisions that exclude those who have committed sex offenses are commonplace in this era of reform, inserted into legislative reform regimes without much opposition or notoriety.”) See also, e.g., *Expedited Releases*, CAL. DEP'T OF CORRECTIONS AND REHABILITATION, <https://www.cdcr.ca.gov/covid19/expedited-releases/> (last visited Dec. 30, 2020) (concerning early release due to COVID-19 of inmates with 180 days or less remaining on their sentence to be released, “[i]n order to be eligible, inmates must meet the following criteria: . . . Have no current or prior sentences that require them to register as a sex offender under Penal Code 290.”).

suspended registration, and just 44 agencies are taking registry over the phone or Internet. The rest still require in-person registration.”<sup>11</sup> Registrants were thus required to travel to a site (perhaps by public transit), possibly in a building with poor air ventilation, sometimes for extended periods of time, where social distancing might not have been feasible.<sup>12</sup>

The in-person registration requirement remained in effect even though registrants often share many of the same high-risk health and age-related characteristics of incarcerated individuals,<sup>13</sup> which are often aggravated by sanitary problems associated with chronic homelessness (e.g., lack of access to soap for handwashing), that registrants often experience.<sup>14</sup> As a result, in-person registration presented risk of registrants transmitting and contracting the virus, affecting not only the registrants themselves, but friends, family, and employers, as well as the government authorities with whom they had to interact. As states and localities undertook aggressive measures to stem the spread of COVID-19, the persistence of in-person registration provided a stark reminder of the distinctiveness of SORN and the population it targets (convicted sex offenders).

This essay proceeds as follows. Part II provides a brief overview of SORN, with particular focus on registration. Part III surveys how jurisdictions responded to the COVID-19 public health crisis in their handling of registration in the early months of 2020. Although by no means an exhaustive account, the sources collected reflect a determination to maintain in-person registration. Part IV explores the reasons accounting for this distinctiveness. The conclusion provides some thoughts on how and why in-person registration, and SORN more generally, persisted in the early stages of the pandemic when so many other governmental operations were significantly curtailed.

---

<sup>11</sup> Derek W. Logue, *Sex Offender Registration During the Pandemic: ‘A Recipe for Disaster,’* THE CRIME REP. (Apr. 28, 2020), <https://thecrimereport.org/2020/04/28/sex-offender-registration-during-the-pandemic-a-recipe-for-disaster/>.

<sup>12</sup> See, e.g., Amy Martyn, *Dallas Prisoner Advocate Josh Gravens Faces Prison Himself Over Technicality*, DALL. OBSERVER (May 14, 2015, 12:14 PM), <http://www.dallasobserver.com/news/dallas-prisoner-advocate-josh-gravens-faces-prison-himself-over-technicality-7212827> [<https://perma.cc/H8XN-7KZU>] (noting that in Dallas, Texas, registration is open for only a few hours three days a week and that registrants must often wait hours in long lines with no available restroom).

<sup>13</sup> See *id.* (noting that approximately twenty percent of registrants are over the age of 55). See also, e.g., Meryl Kornfield, *Florida’s Sex Offender Population is Aging. Where Can They Live Out Their Silver Years?*, MIA. HERALD (June 20, 2019, 10:17 AM), <https://www.miamiherald.com/news/state/florida/article231296693.html>.

<sup>14</sup> See, e.g., Douglas Hanks, *Tent Camp of Homeless Sex Offenders Near Hialeah ‘Has Got to Close,’ County Says*, MIA. HERALD (Aug. 23, 2017, 5:23 AM), <http://www.miamiherald.com/news/local/community/miami-dade/article168569977.html> [<https://perma.cc/R9JB-9GYK>]; see also Kelly Socia, *The Ancillary Consequences of SORN*, in Logan & Prescott, *supra* note 2, at 78.

## II. A BRIEF HISTORY OF SEX OFFENDER REGISTRATION

Societies have long sought to identify and monitor individuals thought to pose criminal risk. Early on, they did so by etching physical marks on individuals' bodies; later, more bureaucratic measures were employed, such as the use of photos in police "rogues galleries."<sup>15</sup> In the 1930s, local governments in the Los Angeles, California, area, concerned about "gangsters" migrating there undetected from the Midwest and elsewhere, adopted the nation's first criminal registration laws, requiring residents and newcomers convicted of a broad variety of crimes to register with local authorities.<sup>16</sup> Florida adopted a convicted felon registration law, applicable in certain counties, in 1937, and California in 1947 adopted the nation's first state-wide registration law, focusing exclusively on convicted sex offenders.<sup>17</sup> In ensuing decades, state and local governments continued to enact registration laws, often singling out for attention other subpopulations (e.g., persons convicted of drug offenses).<sup>18</sup> As a general matter, the laws targeted a relatively few number of offenses; were limited in their retroactive scope, if any; and collected a modest amount and range of registrant information, usually not much beyond home address, photo, and conviction history.<sup>19</sup> Failure to comply usually resulted in a misdemeanor.<sup>20</sup>

Early registration laws had two principal goals, which resemble those of their modern-day successors. First and foremost, it was hoped that information provided to police would facilitate the apprehension of a registrant in the wake of a newly reported offense. Second, by requiring that individuals provide identifying information and update it, registration might instill in individuals the sense that they were under the watchful eye of the government, in effect requiring them to be complicit in their own surveillance.<sup>21</sup>

Over time, state and local government registration laws fell into disuse.<sup>22</sup> In the early 1990s, however, they experienced a major resurgence, in significant part triggered by widespread reporting of several sexual victimizations of children committed by convicted sex offenders living in the community.<sup>23</sup> By the mid-1990s every state and the District of Columbia had a registration law, focusing on those

---

<sup>15</sup> See Wayne A. Logan, *Policing Identity*, 92 B.U. L. REV. 1561, 1565 (2012).

<sup>16</sup> See LOGAN, *supra* note 1, at 22–30.

<sup>17</sup> *Id.* at 30.

<sup>18</sup> *Id.* at 32–33.

<sup>19</sup> *Id.* at 26–33.

<sup>20</sup> *Id.* at 27.

<sup>21</sup> *Id.* at 33–37.

<sup>22</sup> *Id.* at 46–47.

<sup>23</sup> *Id.* at 49–66.

previously convicted of sex offenses (as well as child kidnapping).<sup>24</sup> Moreover, and critically important, modern-era registration laws were complemented by provisions that made the registry information public, first by modest means (such as by neighborhood meetings) and later by internet websites available to the world-at-large.<sup>25</sup>

Today, state registration provisions are rather uniform in the information that they require. As a rule, a registrant must provide home, work, and school address information (if any); vehicle and driver's license information; a current photo; a description of any bodily marks (e.g., a tattoo or birthmark); any internet identifiers and email address(es); a DNA sample; and fingerprints. Laws typically provide a brief period of time in which to register when initially entering a jurisdiction or being released from confinement (e.g., three days). States vary in the duration of required registration, with some states such as Alabama,<sup>26</sup> Florida,<sup>27</sup> and South Carolina<sup>28</sup> requiring lifetime compliance for all individuals, and others tying duration to individual risk assessment or criminal history.<sup>29</sup>

All states require that registrants update their registry information in the event it is outdated, such as might occur when a registrant changes residence or acquires a tattoo, with the time period allowed typically quite short (e.g., a mere three days in Arizona<sup>30</sup>). With verification of information, the intervals also usually depend on registrant status, for instance requiring those deemed "sexual predators" or highest risk being required to verify and provide a new photo every ninety days, and others once or twice a year.<sup>31</sup> Homeless registrants must re-register, usually every week, providing police with a general geographic description of where they sleep.<sup>32</sup>

---

<sup>24</sup> See Wayne A. Logan, *Criminal Justice Federalism and National Sex Offender Policy*, 6 OHIO ST. J. CRIM. L. 51 (2008).

<sup>25</sup> LOGAN, *supra* note 1, at 74–79.

<sup>26</sup> ALA. CODE § 15-20A-3(b) (2020).

<sup>27</sup> FLA. STAT. ANN. § 943.0435(11) (West 2018).

<sup>28</sup> S.C. STAT. § 23-3-460(A) (2013).

<sup>29</sup> See, e.g., N.H. REV. STAT. § 651-B:6(I)(II) (2016) (tier I registrants for 10 years, tiers II and III for lifetime); N.Y. CORRECT. LAW § 168-h (McKinney 2020) (20 years for level I risk registrants and those not risk-evaluated; lifetime for a sexual predator, a sexually violent offender, or a predicate sex offender, or registrant classified as a level two or level three risk); 11 R.I. GEN. LAWS ANN. § 11-37.1-4(a)–(c) (West 2020) (default period of registration ten years, lifetime registration for recidivists and sexually violent predators). Under specified limited circumstances, some registrants can secure early release from registration requirements. See Wayne A. Logan, *Database Infamia: Exit from the Sex Offender Registries*, 2015 WISC. L. REV. 219.

<sup>30</sup> ARIZ. REV. STAT. ANN. § 13-3822 (2012).

<sup>31</sup> In Alabama, all registrants must verify on a quarterly basis. ALA. CODE § 15-20A-10(f) (2013).

<sup>32</sup> See, e.g., *State v. Lafountain*, 451 P.3d 246, 249 (Or. Ct. App. 2019) (discussing failure to register case involving individual who registered his address as "1519 Adams Ave\Prkng lot behind," with the address indicated being that of a gas station).

Registrants must also apprise authorities of their intent to leave the state for any period of time<sup>33</sup> and pay an annual registration fee (e.g., \$100 in Utah<sup>34</sup>).

In most jurisdictions, initial registration, scheduled periodic verification, and updates must occur in person, at a government building designated by the state or local government.<sup>35</sup> In a few jurisdictions, while initial registration must be done in person, verification and updates can be done by other means such as mail.<sup>36</sup> Homeless registrants are often singled out for more frequent in-person verification and updates.<sup>37</sup> Registrants who reside in, work, and/or go to school in different jurisdictions might be subject to registration in several jurisdictions and therefore need to know and satisfy different schedules and manner of registration requirements.<sup>38</sup>

In-person registration is thought to have benefits for law enforcement and registrants alike. With respect to law enforcement, in-person registration

aim[s] to provide opportunities for face-to-face encounters between sex offenders and persons responsible for their registrations in the local areas in which they will be present. Such encounters may help law enforcement personnel to familiarize themselves with the sex offenders in their areas, thereby facilitating the effective discharge of their protective and investigative functions in relation to those sex offenders and helping to ensure that their responsibilities to track those offenders are taken seriously and carried out consistently.<sup>39</sup>

With respect to registrants, the rationale is that face-to-face encounters with officers may help to impress upon them that their identities, locations, and past criminal conduct are known to the authorities, and that they are being watched. As a consequence, it is hoped, registrants will be less likely to reoffend, and, if they do

---

<sup>33</sup> See, e.g., FLA. STAT. ANN. § 943.0435 (West 2018).

<sup>34</sup> UTAH CODE ANN. § 77-41-111(1)(a) (West 2012).

<sup>35</sup> See Elizabeth Esser-Stuart, Note, “*The Irons Are Always in the Background*”: *The Unconstitutionality of Sex Offender Post-Release Laws as Applied to the Homeless*, 96 TEX. L. REV. 811, 833–35, 856–72 (2018). Often, the in-person requirement was added as the result of pressure from the federal government, which in the Adam Walsh Act (2006) made adoption of the requirement a condition of being eligible for receipt of federal funding under the Byrne Justice Assistance Act. 34 U.S.C. § 20918 (West 2017); see also *In Person Verification*, SMART OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING, <https://smart.ojp.gov/sorna/current-law/implementation-documents/person-verification> (last visited Jan. 3, 2021) (discussing federal in-person requirement).

<sup>36</sup> Alaska, for instance, uses this approach. See *Sex Offender/Child Kidnapper Registry*, STATE OF ALASKA DEP’T OF PUBLIC SAFETY, <https://sor.dps.alaska.gov/> (last visited Jan. 3, 2021).

<sup>37</sup> See, e.g., HAW. REV. STAT. ANN. § 846E-5(b) (West 2013).

<sup>38</sup> See Registration Requirements Under the Sex Offender Registration and Notification Act, 85 Fed. Reg. 49332 (proposed Aug. 13, 2020) (to be codified at 28 CFR Part 72).

<sup>39</sup> *Id.*

reoffend, that they will be more concerned about being apprehended by law enforcement.<sup>40</sup>

### III. STATE AND LOCAL GOVERNMENT RESPONSES TO COVID-19

Because registration is most often done in person, the emergence of COVID-19 presented governments with a dilemma. Should they maintain the registration status quo and risk spread of the virus, or limit this potential by shifting to remote registration methods, such as phone, mail, or the internet? This part provides a survey of the approaches taken, providing a snapshot of the landscape in the first several months of 2020, a time of acute anxiety and concern among governments and citizens alike over the widening spread of COVID-19.

A few states—Pennsylvania,<sup>41</sup> Oregon,<sup>42</sup> and Hawaii<sup>43</sup>—temporarily suspended in-person registration, using instead registration by telephonic or electronic means. Virginia suspended in-person registration and allowed for use of the internet.<sup>44</sup>

Registration, however, like the criminal justice system more generally,<sup>45</sup> can be highly localized. Although state law prescribes basic parameters such as when initial registration, periodic verifications, and any updates must occur, localities within states varied considerably in their response to COVID-19. Florida, where registrants must appear at their county sheriff's office in person to verify information either two or four times a year,<sup>46</sup> or face a felony conviction,<sup>47</sup> is illustrative. In-person registration continued in Orange<sup>48</sup> and Alachua County,<sup>49</sup> as it did in Hernando

---

<sup>40</sup> *Id.*

<sup>41</sup> *COVID-19 Information for Offenders*, PA. ST. POLICE, <https://www.pameganslaw.state.pa.us/offenderchanges> (last visited Jan. 23, 2021).

<sup>42</sup> *Sex Offender Registration COVID-19 Outbreak Emergency Protocol*, OREGON.GOV, [https://www.oregon.gov/osp/Docs/SOR\\_Web\\_Announcement.pdf](https://www.oregon.gov/osp/Docs/SOR_Web_Announcement.pdf) (last visited Jan. 3, 2021).

<sup>43</sup> Gov. David Inge, Exec. Order No. 20-02, subpart (q) (March 29, 2020), <https://dod.hawaii.gov/hiema/executive-order-no-20-02/>.

<sup>44</sup> Memorandum from the Sex Offender and Crimes Against Minors Registry to All Registered Sex Offenders (Mar. 24, 2020) (on file with author); *Sex Offender and Crimes Against Minors Registry Guidelines*, VA. ST. POLICE <http://vspimages.vsp.virginia.gov/pages/sorpublic/SOR%20pamphlet%20.pdf>.

<sup>45</sup> See John F. Pfaff, *Waylaid by a Metaphor: A Deeply Problematic Account of Prison Growth*, 111 MICH. L. REV. 1087, 1089 (2013) (“The criminal justice ‘system’ in the United States . . . is not a ‘system’ at all, but rather a chaotic swirl of local, county, state, and (less frequently) federal actors, all with different constituencies and incentives.”).

<sup>46</sup> *Sexual Offenders and Predators Search*, FLA. DEP'T OF L. ENFORCEMENT, <https://offender.fdle.state.fl.us/offender/sops/important.jsf> (last visited Jan. 3, 2021).

<sup>47</sup> *Id.*

<sup>48</sup> *Coronavirus (COVID-19) Information*, ORANGE CNTY. SHERIFF'S OFF., <https://www.ocso.com/coronavirus> (last visited Jan. 3, 2021).

<sup>49</sup> Media Advisory 2020-020: Media Advisory — COVID-19, ALACHUA COUNTY SHERIFF'S OFF., <https://acso.us/2020/03/17/media-advisory-2020-020-media-advisory-covid-19/>,

County (by appointment only),<sup>50</sup> but was temporarily suspended in Jackson County.<sup>51</sup> Other examples of varied protocols included:

- Illinois: in Warren County, in-person registration continued,<sup>52</sup> while in Effingham the process shifted to a phone method,<sup>53</sup> and Round Lake implemented an “expedited” method that “will occur in our lobby where officers will be protected by a glass barrier during the registration process.”<sup>54</sup>
- Iowa: some counties continued in-person<sup>55</sup> and others resorted to use of the telephone or internet,<sup>56</sup> complemented by random residence visits by authorities to help ensure compliance.<sup>57</sup> In Dubuque, the county sheriff urged citizens “to avoid coming to the lobby of the Dubuque Law Enforcement Center, except for sex offenders checking in on a monthly basis.”<sup>58</sup>
- Alabama: a state where in-person is the norm and is to occur every three months, in Marshall County, the sheriff, citing high relative

---

(last visited Jan. 23, 2021).

<sup>50</sup> *Public Fingerprinting & Criminal/Sex Offender Registration Guidelines*, HERNANDO CNTY. SHERIFF’S OFF., <https://www.hernadosheriff.org/registrationguidelines.aspx> (last visited Jan. 3, 2021).

<sup>51</sup> *Jackson County Sheriff Office Changes Operations due to COVID-19*, WJHG (Mar. 20, 2020, 8:58 AM), <https://www.wjhg.com/content/news/Jackson-County-Sheriff-Office-changes-operations-due-to-COVID-19-568958691.html>.

<sup>52</sup> Warren County Sheriff’s Office, *PRESS RELEASE: WARREN COUNTY OFFICES WILL REDUCE OPERATIONS*, FACEBOOK (Mar. 18, 2020), <https://www.facebook.com/warrencountyilsheriff/posts/2917200498506493>.

<sup>53</sup> Effingham Police Department, FACEBOOK (Mar. 19, 2020), <https://www.facebook.com/Effinghampolice/posts/2731677676867869>.

<sup>54</sup> *Modified Sex Offender Registration System*, ROUND LAKE PARK POLICE DEP’T, <https://rlppd.us/modified-sex-offender-registration-system/> (last visited Jan. 3, 2021). In Chicago, however, it appears that from March 13, 2020, when the Chicago Public Safety Headquarters closed to the public, through June 18, 2020, registrants were provided a “grace period” to update any address changes, causing considerable public unease. Megan Hickey, *Sex Offenders in Chicago Given Grace Period to Update Registration Due to COVID-19, Victims Not Pleased*, CBS CHICAGO (June 18, 2020, 5:10 PM), [Chicago.cbslocal.com/2020/06/18/sex-offenders-in-chicago-given-grace-period-to-update-registration-due-to-covid-19-victims-not-pleased/](https://www.cbslocal.com/2020/06/18/sex-offenders-in-chicago-given-grace-period-to-update-registration-due-to-covid-19-victims-not-pleased/).

<sup>55</sup> *County Office Protocol in Place*, CLINTON HERALD (Mar. 25, 2020), [https://www.clintonherald.com/news/coronavirus/county-office-protocol-in-place/article\\_fc664e2c-6ec2-11ea-8429-77fd62d7a82c.html](https://www.clintonherald.com/news/coronavirus/county-office-protocol-in-place/article_fc664e2c-6ec2-11ea-8429-77fd62d7a82c.html); *Dubuque County Sheriff’s Department Changes Protocol Amid Virus*, TELEGRAPH HERALD (Mar. 17, 2020), [https://www.telegraphherald.com/coronavirus/article\\_b2f4afb3-b25b-5575-8a09-993be15e0c21.html](https://www.telegraphherald.com/coronavirus/article_b2f4afb3-b25b-5575-8a09-993be15e0c21.html).

<sup>56</sup> Tim Jamison, *Public Access Halted at Black Hawk County Courthouse*, THE COURIER (Mar. 18, 2020), [https://wfcourier.com/news/local/govt-and-politics/public-access-halted-at-black-hawk-county-courthouse/article\\_3e5dc3d9-79ba-5101-a934-c37e2572ef9d.html](https://wfcourier.com/news/local/govt-and-politics/public-access-halted-at-black-hawk-county-courthouse/article_3e5dc3d9-79ba-5101-a934-c37e2572ef9d.html).

<sup>57</sup> Jasper County Sheriff’s Office, Iowa, FACEBOOK (Apr. 16, 2020), <https://www.facebook.com/jaspercountysos/posts/3266731480012583>.

<sup>58</sup> *Dubuque County Sheriff’s Department Changes Protocol Amid Virus*, *supra* note 55.

virus counts, shifted to phone,<sup>59</sup> causing a public uproar.<sup>60</sup> In Colbert County, registration remained in-person,<sup>61</sup> but in Walker County registration was “done at the home of the individual. Someone from the Sheriff’s Office will come to visit and bring the required forms.”<sup>62</sup>

- Louisiana: Shreveport, Louisiana (Caddo Parish), required in-person subject to medial screening (temperature check and health-related questions),<sup>63</sup> while Alexandria (Rapides Parish) shifted to telephone.<sup>64</sup>
- Missouri: some jurisdictions, such as Pettis County, continued in-person,<sup>65</sup> but others shifted to phone or email.<sup>66</sup>
- Nevada: Las Vegas temporarily suspended in-person registration<sup>67</sup> and three weeks later required online registration stating that “[c]hanges will be stored in the database until the sex offender can visit the Records and Fingerprint Bureau and fill out the necessary

<sup>59</sup> Donna Thornton, *Marshall County Sex Offenders to Report by Phone in June*, GADSDEN TIMES (May 12, 2020, 5:54 PM), <https://www.gadsdentimes.com/news/20200512/marshall-county-sex-offenders-to-report-by-phone-in-june>.

<sup>60</sup> Garrett Shots, *Tracking Sex Offenders Amid the Pandemic*, WAAY 31 ABC (June 17, 2020, 6:42 PM), <https://www.waaytv.com/content/video/571330792.html>.

<sup>61</sup> *Covid-19 Precautions*, COLBERT CNTY. SHERIFF’S OFF. (Mar. 18, 2020), [http://colbertsheriff.net/press\\_view.php?id=59](http://colbertsheriff.net/press_view.php?id=59).

<sup>62</sup> Walker County Sheriff’s Office, FACEBOOK (Mar. 27, 2020), <https://www.facebook.com/walkercountysheriff/posts/1057326631305810>.

<sup>63</sup> Emily Enfinger, *Caddo Sheriff: Jail Visitations Suspended to Prevent Coronavirus from Entering Facility*, SHREVEPORT TIMES (Mar. 11, 2020, 5:48 PM), <https://www.shreveporttimes.com/story/news/local/2020/03/11/caddo-jail-visitations-suspended-prevent-coronavirus/5026026002/>; Chandler Watkins, *Shreveport Police Change Day-to-Day Operations Due to Coronavirus*, KSLA NEWS 12 (Mar. 19, 2020, 9:39 PM), <https://www.ksla.com/2020/03/19/shreveport-police-change-day-to-day-operations-due-coronavirus/>.

<sup>64</sup> Melissa Gregory, *Sheriff’s Office: No Visitation at Any Rapides Detention Center*, TOWN TALK (Mar. 16, 2020), <https://www.thetowntalk.com/story/news/2020/03/16/sheriffs-office-no-visitation-any-rapides-detention-center/5063473002/>.

<sup>65</sup> *Pettis County COVID-19 Task Force Meets on Monday, April 13*, KMMO (Apr. 14, 2020), <https://www.kmmo.com/2020/04/14/pettis-county-covid-19-task-force-meets-on-monday-april-13/>; Stoddard County Sheriff’s Office, FACEBOOK (Mar. 18, 2020), [https://www.facebook.com/permalink.php?story\\_fbid=2631389467186910&id=1520203968305471](https://www.facebook.com/permalink.php?story_fbid=2631389467186910&id=1520203968305471).

<sup>66</sup> *See, e.g.*, St. Charles County Police Department, FACEBOOK (Apr. 3, 2020), <https://www.facebook.com/StCharlesCountyPD/photos/a.998185063528269/3341623779184374/?type=1&theater>; Mark Marberry, *Sheriffs Respond to Stay-at-Home Order*, DAILY J. ONLINE (Apr. 6, 2020), [https://dailyjournalonline.com/news/local/govt-and-politics/sheriffs-respond-to-stay-at-home-order/article\\_ee65b6de-3644-5e6b-b6e8-54a7aef91df2.html](https://dailyjournalonline.com/news/local/govt-and-politics/sheriffs-respond-to-stay-at-home-order/article_ee65b6de-3644-5e6b-b6e8-54a7aef91df2.html); Cass County Sheriff’s Office, FACEBOOK (Mar. 17, 2020), <https://www.facebook.com/cassmosheriff/posts/2813190055432589>.

<sup>67</sup> Press Release, Las Vegas Metropolitan Police Department, LVMPD Records and Fingerprint Bureau, Evidence Vault and All Area Commands Closed to the Public (March 18, 2020), <https://www.lvmpd.com/en-us/Press%20Releases/PO%20042%2003-18-20.pdf>.

paperwork.”<sup>68</sup> In Pahrum County, registrants were asked to obtain a registration packet in the lobby of the sheriff’s office, and submit the completed packet by sliding it under the public services window, and, like in Las Vegas, have their fingerprints taken later.<sup>69</sup>

- North Dakota: the Office of the Attorney General, on March 18, authorized registration by phone, prompting local agencies to respond in a variety of ways.<sup>70</sup> Fargo allowed registration by phone,<sup>71</sup> yet West Fargo maintained in-person registration (with the exception of fingerprinting),<sup>72</sup> and Jamestown continued with in-person (by appointment).<sup>73</sup>
- Texas: no state-wide policy was imposed,<sup>74</sup> resulting in many jurisdictions continuing in-person new registrations and verifications/updates (by appointment),<sup>75</sup> and at least one jurisdiction (Travis County) allowing satisfaction of all registration requirements by email or telephone.<sup>76</sup>

---

<sup>68</sup> Caroline Bleakley, *Nevada Sex Offenders Must Report Online to Remain Compliant*, 8 NEWS NOW LAS VEGAS (Apr. 7, 2020, 9:43 AM), <https://www.8newsnow.com/news/local-news/nevada-sex-offenders-must-report-online-to-remain-compliant/>.

<sup>69</sup> Selwyn Harris, *Nye County Sheriff’s Office Closed to the Public*, PAHRUMP VALLEY TIMES (Mar. 19, 2020, 3:26 PM), <https://pvtimes.com/news/nye-county-sheriffs-office-closed-to-the-public-82569/>.

<sup>70</sup> April Baumgarten, *Yet Another Way COVID-19 Has Changed Life: Fargo Sex Offenders Can Now Register Remotely*, INFORUM (Mar. 29, 2020, 5:00 AM), <https://www.inforum.com/news/crime-and-courts/5010664-Yet-another-way-COVID-19-has-changed-life-Fargo-sex-offenders-can-now-register-remotely>.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> Warren Abrahamson, *Jamestown Police Close LEC Lobby, Suspend Some Services*, NEWS DAKOTA.COM (Mar. 20, 2020, 11:01 AM), <https://www.newsdakota.com/2020/03/20/jamestown-police-close-lec-lobby-suspend-some-services/>.

<sup>74</sup> Dawn R. Wolfe, *Sex Offender Registry Requirements Leave Some Facing Stark Choices as Coronavirus Risks Grow*, THE APPEAL (Apr. 3., 2020), <https://theappeal.org/sex-offender-registry-requirements-leave-some-facing-stark-choices-as-coronavirus-risks-grow/> (quoting executive director of Texas Voices for Reason and Justice, Mary Sue Molnar).

<sup>75</sup> See, e.g., Ashley Rose, *Joshua PD Changes Operations Due to COVID-19*, CLEBURNE TIMES-REV. (Mar. 20, 2020), [https://www.cleburnetimesreview.com/covid-19/joshua-pd-changes-operations-due-to-covid/article\\_c7d36aba-6ac0-11ea-97e9-bbbc0747057a.html](https://www.cleburnetimesreview.com/covid-19/joshua-pd-changes-operations-due-to-covid/article_c7d36aba-6ac0-11ea-97e9-bbbc0747057a.html); Kleberg County Sheriff’s Office, Alert, (March 28, 2020), [https://www.klebergcoso.org/special\\_alerts\\_view.php?alert\\_type\\_id=3&alert\\_id=1471](https://www.klebergcoso.org/special_alerts_view.php?alert_type_id=3&alert_id=1471).

<sup>76</sup> Archive of *Sex Offender Registration*, TRAVIS CNTY. SHERIFF’S OFF. (Dec. 22, 2020), <https://web.archive.org/web/20201222164721/https://www.tcsheriff.org/departments/law-enforcement/central/sex-offender-registration>.

- Colorado: Greeley<sup>77</sup> and Northglenn<sup>78</sup> in mid-March required in-person registration, and Evans required in-person by appointment,<sup>79</sup> yet Grand County allowed for internet registration.<sup>80</sup> On April 6, 2020, Governor Jared Polis signed an executive order (effective through April 30, 2020), in part suspending registration, stating: “I temporarily suspend the requirement in C.R.S. § 16-22-108(6) that any person required to register as a sex offender shall sit for a current photograph or image and shall supply a set of fingerprints to verify the person’s identity to local law enforcement, to provide local law enforcement agencies with discretion to determine the manner of registration in light of social distancing requirements in place during the COVID-19 pandemic. The mandate to register remains unchanged.”<sup>81</sup> Thereafter, Washington County, while otherwise closing its government buildings to the public, elected to not take the Governor up on his offer and continued to require in-person registration.<sup>82</sup>
- Washington: Pierce County continued in-person,<sup>83</sup> but Rainier County utilized phone,<sup>84</sup> and Yakima County suspended fingerprinting except for registrants.<sup>85</sup> In Snohomish County, the required weekly in-person registration by homeless registrants was suspended for several weeks; when in-person registration resumed,

---

<sup>77</sup> Trevor Reid, *Greeley, Evans Police Limiting Contact to Prevent Virus Spread*, GREELEY TRIB. (May 28, 2020, 7:17 AM), <https://www.greeleytribune.com/2020/03/17/evans-police-limiting-contact-to-prevent-virus-spread/>.

<sup>78</sup> Memorandum from James S. May, Jr., Chief of Police, Northglenn Police Department, to Northglenn Registrants (on file with author).

<sup>79</sup> Reid, *supra* note 77.

<sup>80</sup> Grand County Sheriff’s Office- Colorado, FACEBOOK (Mar. 17, 2020), <https://www.facebook.com/GrandCountySheriff/posts/2524276367815435>.

<sup>81</sup> Colo. Exec. Order No. D 2020 029, subpart (L) (Apr. 6, 2020), <https://all4consolaws.org/wp-content/uploads/2020/04/Governors-Order-Colo-April-2020.pdf> [<https://perma.cc/LJ3X-Y8WE>].

<sup>82</sup> *About Us*, WASHINGTON CNTY. SHERIFF’S OFF., <http://washcountyjustice.com/about/> (last visited Jan. 3, 2021). *See also, e.g.*, Canon City Police Department, FACEBOOK (Apr. 24, 2020), [https://www.facebook.com/permalink.php?story\\_fbid=2498356150475779&id=1485393221772082](https://www.facebook.com/permalink.php?story_fbid=2498356150475779&id=1485393221772082).

<sup>83</sup> Geoff Dempsey, *Pierce County Sheriff’s Letter to the Community*, PATCH (Mar. 19, 2020, 12:37 PM), <https://patch.com/washington/puyallup/pierce-county-sheriffs-letter-community>.

<sup>84</sup> Alex Bruell, *COVID-19 Monday Updates: Campground Closures, Car Accidents Down*, DAILY NEWS (Mar. 23, 2020), [https://tdn.com/news/local/covid--monday-updates-campground-closures-car-accidents-down/article\\_2adc3ead-9b24-5cf7-82dd-b05b82b6c73c.html](https://tdn.com/news/local/covid--monday-updates-campground-closures-car-accidents-down/article_2adc3ead-9b24-5cf7-82dd-b05b82b6c73c.html).

<sup>85</sup> Phil Ferolito, *Law Enforcement, Courts Modify Services to Fight Spread of COVID-19*, YAKIMAHerald.COM (Apr. 23, 2020), [https://www.yakimaherald.com/special\\_projects/coronavirus/law-enforcement-courts-modify-services-to-fight-spread-of-covid/article\\_e61f8365-ca09-51bd-bcbc-00114f1e8a01.html](https://www.yakimaherald.com/special_projects/coronavirus/law-enforcement-courts-modify-services-to-fight-spread-of-covid/article_e61f8365-ca09-51bd-bcbc-00114f1e8a01.html).

registrants were required to disclose where they stayed for the preceding weeks.<sup>86</sup>

- Ohio: it appeared that with the exception of one jurisdiction (Washington County),<sup>87</sup> local authorities continued to require in-person registration.<sup>88</sup>
- Delaware: where in-person registration must occur at either of two State Police locations,<sup>89</sup> a website stated that general purpose visits by the public would be by appointment only, but emphasized that the change did “NOT APPLY TO SEX OFFENDER REGISTRATION. YOU ARE ADVISED TO CONTINUE TO REPORT AS REQUIRED.”<sup>90</sup>
- Connecticut: the state police closed to the public its eleven locations except for emergencies, yet kept its headquarters open “for limited services—fingerprinting for long-term care providers and for sex

---

<sup>86</sup> Rachel Riley, *Snohomish County Homeless Sex Offender Check-Ins on Hold Until Early April*, HERALDNET (Mar. 22, 2020, 1:30 AM), <https://www.heraldnet.com/news/snohomish-county-homeless-sex-offender-check-ins-on-hold-until-early-april/>. A spokesperson for the sheriff’s office told a local media outlet that “[t]he community should know that the Sheriff’s Office takes public safety seriously. [] Deputies and detectives are still doing RSO (registered sex offender) address verifications in Snohomish County, still filing failure to register for those who have been non-compliant, and still actively searching for RSOs with warrants for failure to register.” *Id.*

<sup>87</sup> Michele Newbanks, *Commissioners Share Plan for Each County Department*, MARIETTA TIMES (Mar. 24, 2020), <https://www.mariettatimes.com/news/local-news/2020/03/commissioners-share-plan-for-each-county-department/>. A sheriff in Washington County stated that “[t]he offenders have cooperated very well . . . [T]his month, I have had no one out of compliance, everyone called me . . . Sometimes you got to let the human side come through . . . Be the officer, you always have to be the officer, but you still have to be human too. These folks have problems, but they get sick just like everybody else.” Paige Pflieger, *Coronavirus in Ohio: People with Sex Offenses Risk Health for In-Person Registration*, WOSU PUB. MEDIA (May 7, 2020), <https://radio.wosu.org/post/coronavirus-ohio-people-sex-offenses-risk-health-person-registration#stream/0>.

<sup>88</sup> See, e.g., *Sheriff’s Office Issue Statement*, DISCOVER VERMILION, <https://www.discoververmilion.org/vermilion-ohio-news/sheriff-s-office-issues-statement> (last visited Jan. 3, 2021); Kevin Grasha, *Coronavirus in Ohio: New Restrictions on Public Access to Hamilton County Courthouse*, CINCINNATI ENQUIRER (Mar. 24, 2020, 3:51 PM), <https://www.cincinnati.com/story/news/2020/03/23/new-restrictions-public-access-hamilton-county-courthouse/2903059001/>; *Coronavirus: Here’s What is Closed, Canceled in Mansfield Area*, MANSFIELD NEWS J. (Mar. 18, 2020, 4:00 PM), <https://www.mansfieldnewsjournal.com/story/news/2020/03/12/coronavirus-ohio-whats-cancelled-postponed-richland-county/5035515002/>; *COVID-19 Concerns Growing*, THE TIMES LEADER (Mar. 13, 2020), <https://www.timesleaderonline.com/news/local-news/2020/03/covid-19-concerns-growing/>; Andrew Cass, *CCW Registrations, Jail Visits, Sheriff’s Sales Suspended, Lake County Sheriff Says*, THE NEWS HERALD (Mar. 17, 2020), [https://www.news-herald.com/news/ccw-registrations-jail-visits-sheriff-s-sales-suspended-lake-county/article\\_3679a376-684b-11ea-908d-cf24da0ef3b3.html](https://www.news-herald.com/news/ccw-registrations-jail-visits-sheriff-s-sales-suspended-lake-county/article_3679a376-684b-11ea-908d-cf24da0ef3b3.html).

<sup>89</sup> *State Bureau of Identification Dover Office Temporarily Changes Operating Procedures*, DELAWARE STATE POLICE (Mar. 20, 2020), <https://dsp.delaware.gov/2020/03/20/state-bureau-of-identification-dover-office-temporarily-changes-operating-procedures/>.

<sup>90</sup> *Id.*

offenders and deadly weapon offenders who are required to register with the state."<sup>91</sup>

California, with the nation's largest registry, is worthy of special note. Although in-person visits by registrants are required by statute only in particular situations (a residence change, name change, or move out of state), in practice it seems that all updates and required periodic verifications occur in person.<sup>92</sup> The state was one of the earliest jurisdictions to take aggressive action in imposing public health measures to curtail the spread of the virus, with Governor Gavin Newsom issuing a "stay-at-home" order on March 19, 2020.<sup>93</sup> A few days thereafter, the City of Los Angeles, acting on its own initiative, suspended in-person registration.<sup>94</sup> Later in March, an advocacy group, Alliance for Constitutional Sex Offense Laws (ACSOL), sought to file court petitions to enjoin in-person registration in five California jurisdictions, yet was allowed to do so in only one, where relief was denied.<sup>95</sup>

On May 8, 2020, Governor Gavin Newsom issued an executive order that "encouraged," but did not mandate, suspension of in-person registration. The order provided in pertinent part:

15) Law enforcement agencies are encouraged to adopt telephonic, remote, or other procedures for registration and reporting under the Sex Offender Registration Act that are consistent with State and local public health guidance regarding physical distancing, and to post or publicize such procedures through means calculated to reach any person subject to the Act.

a) To the extent that a law enforcement agency institutes telephonic, remote, or other procedures to enable physical distancing, all provisions of the Sex Offender Registration Act (Penal Code sections 290 to 290.024, inclusive) and implementing procedures that require persons subject to the Act to appear in person, and all provisions of the Act and implementing procedures that require such persons to provide a signature, fingerprints, and photographs, are suspended for 60 days.

---

<sup>91</sup> Alex Putterman & Christopher Keating, *First Connecticut Resident Dies of COVID-19 as State Investigates Potential Spread of Coronavirus in Homes for Senior Citizens*, HARTFORD COURANT (Mar. 18, 2020), <https://www.courant.com/coronavirus/hc-news-coronavirus-updates-0318-20200318-kna3blejebg4rh6z24rsfapymq-story.html>.

<sup>92</sup> Janice M. Bellucci & Carlton Morse, *Advocating for 290 Registrants in the Era of Coronavirus and Court Closures*, 50 Sw. U. L. Rev. 70, 83–84 (2020).

<sup>93</sup> Cal. Executive Order N-33-20, at 1, (Mar. 19, 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf> [<https://perma.cc/37S9-ZSXP>].

<sup>94</sup> Chief of Detectives, SEX OFFENDER REGISTRATION DURING COVID-19 GEOGRAPHIC AREA FRONT DESK CLOSURES (Mar. 20, 2020) (on file with author).

<sup>95</sup> Bellucci & Morse, *supra* note 92.

b) To ensure that lack of technology does not prevent any individual from complying with registration and reporting requirements, law enforcement agencies are encouraged to provide alternative means of registration and reporting, including permitting the physical presence of registrants consistent with State and local public health guidance regarding physical distancing.<sup>96</sup>

A few days later, on May 12, 2020, the California Department of Justice issued Information Bulletin No. 20-07-CJIS advising local registering agencies of the executive order and providing specific instructions regarding how registration could be accomplished remotely.<sup>97</sup> Localities, however, continued to require in-person registration, including the Hollister Police Department, which provided the following description of its in-person protocol:

The Hollister Police Department is aware of the seriousness and the need to monitor convicted sex offenders in our community. The department has a barrier in place at our front lobby that protects our staff. Our personnel are also trained to use masks, gloves and hand sanitizer when contacting the public or in the process of registering sex offenders . . . Therefore, despite the order, our department can and will continue to register sex offenders as before with no modification of our current process.<sup>98</sup>

In New York State, another large registry jurisdiction, on March 22, 2020 registration was designated an “essential proceeding,”<sup>99</sup> leaving the in-person registration requirement for many registrants intact (despite the State Department of Corrections and Community Supervision suspending (until April 17) all in-person reports by individuals under community supervision).<sup>100</sup> In early April, when New York City was a pandemic epicenter, and a state-wide stay-at-home order was in effect, the City Bar’s Committee on Criminal Justice Operation and the Sex Offender Registration Act Working Group requested that Governor Andrew Cuomo mandate

---

<sup>96</sup> Cal. Exec. Order No. N-63-20 (May 7, 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/05/5.7.20-EO-N-63-20-text.pdf> [<https://perma.cc/L855-Z4FX>].

<sup>97</sup> California Justice Information Services Division, Information Bulletin No. 20-07-CJIS (May 12, 2020), [https://oag.ca.gov/sites/all/files/agweb/pdfs/info\\_bulletins/20-07-cjis.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/info_bulletins/20-07-cjis.pdf) [<https://perma.cc/HH4R-ZLXV>].

<sup>98</sup> *Hollister PD to Continue Registering Sex Offenders in Person*, SAN BENITO (May 19, 2020), <https://sanbenito.com/hollister-pd-to-continue-registering-sex-offenders-in-person/>.

<sup>99</sup> N.Y. Admin. Order AO/78/20 (Mar. 22, 2020), <https://www.nycourts.gov/whatsnew/pdf/AO-78-2020.pdf> [<https://perma.cc/7XFR-LEWF>].

<sup>100</sup> *Community Supervision Precautions In Response To Novel Coronavirus (Covid-19)*, NY.GOV (Mar. 20, 2020), <https://doccs.ny.gov/community-supervision-restrictions-office-visits> [<https://perma.cc/T75X-FPNS>].

use of telephonic and electronic reporting during the pandemic.<sup>101</sup> In the City, 8,050 registrants were required to verify in person, with nearly 2,000 Level III registrants required to report in person every ninety days.<sup>102</sup> Noting that registrants must travel (often by public transport) to and report at the same office in lower Manhattan, regardless of the borough in which they resided, the letter stated:

As the courthouse itself is closed, the registrant must contact [the reporting unit] by phone upon arrival so that an officer from the office can come outside and escort the registrant to the office. Once inside, registrants are in close quarters with SOMU employees and police officers, who must take photographs, exchange paperwork, and obtain fingerprints, actions that all require direct personal contact. These in-person verifications put not only the registrant but also law enforcement, [reporting unit] officers, essential courthouse personnel, and the general public at risk.<sup>103</sup>

The letter emphasized that many registrants live in homeless shelters or overcrowded residential situations due to limited housing opportunities, exacerbating the risk of virus spread.<sup>104</sup> Concluding, the letter stated that by continuing to require in-person registration:

the government essentially forces registrants to choose between the well-being of themselves, their families, and the general public, and compliance with sex offender registration laws, as their failure to do so subjects them to charges punishable as a Class E felony. This Catch-22 must be eliminated to instead allow for the reasonable, temporary alternative of telephonic or electronic registration, an alternative that numerous other counties and states have shown is feasible and necessary to protect the public health.<sup>105</sup>

The letter received no formal response.

In Michigan, yet another large registry jurisdiction, operation of SORN as a whole has been complicated by the Sixth Circuit Court of Appeals decision in August 2016 invalidating on federal ex post facto law grounds the state's SORN law (complemented by residence restrictions).<sup>106</sup> As of spring 2020, however, the state

---

<sup>101</sup> *Committee Report: Call to Temporarily Suspend In-Person Reporting Requirements for Sex Offenders During COVID-19: Report*, N.Y.C. BAR (Apr. 3, 2020), <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/call-to-temporarily-suspend-in-person-reporting-requirements-for-sex-offenders-during-covid-19-report> [<https://perma.cc/V6YK-4SS6>].

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Does #1-5 v. Snyder*, 834 F.3d 696, 705–06 (6<sup>th</sup> Cir. 2016), *cert. denied*, 138 S. Ct. 55 (2017).

legislature had not yet amended the law, and the governor imposed a general stay-at-home order on March 23, 2020.<sup>107</sup> Several registrants filed suit to enjoin registration and on April 6, 2020, U.S. District Judge Robert Cleland, of the Eastern District of Michigan, granted a temporary injunction stating that “[t]he widespread closure of police stations to the public in response to the COVID-19 pandemic makes in-person compliance with [the registration requirement] effectively impossible for registrants, and would in any event be inconsistent with current physical isolation directives.”<sup>108</sup> The order stated that the injunction would remain in effect until the “current crisis has ended,” specifying how this would be determined.<sup>109</sup> Before the injunction, jurisdictions varied in their policies, with some continuing to require in-person<sup>110</sup> and others temporarily suspending<sup>111</sup> or resorting to telephonic or internet registration.<sup>112</sup>

During the study period, it was also not unusual for jurisdictions to continue but modify in-person registration protocols. The website for the sheriff’s office in Sedgewick County, Kansas, for instance, stated: “The Offender Registration Unit is open and back to normal hours for Registration and Fingerprinting. When you go into the office you will be required to wear a mask. You will be expected to practice social distancing.”<sup>113</sup> Other instances of in-person protocol modifications included:

---

<sup>107</sup> Mich. Exec. Order No. 2020-42 (Mar. 23, 2020), [https://www.michigan.gov/whitmer/0,9309,7-387-90499\\_90705-525182--,00.html](https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-525182--,00.html) [<https://perma.cc/49Z4-CVGT>].

<sup>108</sup> Doe v. Snyder, No. 16-13137, slip op. at 3 (E.D. Mich. Apr. 6, 2020).

<sup>109</sup> *Id.* at 3–4.

<sup>110</sup> Meakalia Previch-Liu, *Northeast Michigan Continues to Reel from Coronavirus Fears*, ALPENA NEWS (Mar. 14, 2020), <https://www.thealpenanews.com/news/local-news/2020/03/exposure-possible-at-alcona-school/> [<https://perma.cc/39VQ-NQ52>]; Clinton County Sheriff’s Office, FACEBOOK (Mar. 18, 2020), <https://www.facebook.com/ClintonCountyMISheriff/posts/2854169624665815> [<https://perma.cc/2XPY-3QZ5>].

<sup>111</sup> Associated Press, *UPDATE: 54th Case of Coronavirus Reported*, FOX 47 NEWS: LANSING & JACKSON (Mar. 17, 2020, 6:04 AM), <https://www.fox47news.com/news/local-news/update-54th-case-of-coronavirus-reported>; *Coronavirus Updates: West Michigan’s Response to the Pandemic*, FOX 17 (Mar. 13, 2020, 3:32 PM), <https://www.fox17online.com/news/national-news/coronavirus/live-coronavirus-updates-west-michigans-response-to-the-pandemic>.

<sup>112</sup> *County Continues to Take Steps to Slow Spread of Virus*, CHEBOYGAN DAILY TRIB. (Mar. 20, 2020, 9:00 AM), <https://www.cheboygannews.com/news/20200320/county-continues-to-take-steps-to-slow-spread-of-virus> [<https://perma.cc/5ZA3-JCV9>].

<sup>113</sup> *Offender Registration Unit—ORU*, SEDGWICK CNTY. <https://www.sedgewickcounty.org/sheriff/law-enforcement-bureau/investigations/offender-registration-unit-oru/> [<https://perma.cc/DUZ3-GAXN>] (last visited Jan. 4, 2021).

- Dona Ana County, New Mexico continued in-person, limited to five registrants at a time,<sup>114</sup> and San Juan County shifted all services to phone or internet with the exception of registration.<sup>115</sup>
- Charleston County, South Carolina continued in-person, with the sheriff's office stating that "Deputies will continue to strictly enforce laws regarding the sex offender registry. For the duration of this event, registrations will be conducted through a glass partition."<sup>116</sup> In Orangeburg, South Carolina, registration was conducted at the residences of registrants.<sup>117</sup>
- In Indiana, Grant County homeless registrants were told: "Go to the jail side of the complex and call 2112 or 2120 on the black phone on the brown pole."<sup>118</sup> In Vanderburgh County, the sheriff's office related what it saw as a propitious development in the crisis: "As many residents are forced to stay home due to travel, school and work restrictions, the Vanderburgh County Sheriff's Office continues to patrol and protect our neighborhoods. The Sheriff's Office is continuing to make unannounced visits to the 360 plus homes of registered sex or violent offenders in Vanderburgh County. This is to ensure they are abiding by the terms of their registration and the restrictions incurred as a result of the current pandemic. Deputies checking on registrants are careful to maintain social distance and avoid any close contact in order to reduce the risk of exposure. Sheriff Dave Wedding explained, "We are taking the threat of COVID-19 very seriously and have taken drastic steps to protect all of our residents, personnel, and the inmates at the jail. The Sheriff's Office will continue to enforce any violations of the Sex or Violent Offender Registry found during any of these home verifications. From an

---

<sup>114</sup> Lucas Peerman & Damien Willis, *Coronavirus in Southern New Mexico: What You Need to Know About the COVID-19 Outbreak*, LAS CRUCES SUN-NEWS (Apr. 12, 2020, 4:59 PM), <https://www.lcsun-news.com/story/news/local/2020/03/17/coronavirus-takes-toll-las-cruces-all-you-need-know/5069222002/> [<https://perma.cc/HW2A-AQKP>].

<sup>115</sup> *A List of Closures, Cancellations and Notices Across La Plata County*, DURANGO HERALD (Apr. 3, 2020, 7:05 PM), <https://durangoherald.com/articles/318462> [<https://perma.cc/W3Q2-BRKT>].

<sup>116</sup> Sydney Pendrick, *Charleston County Sheriff's Office Following New Protocols to Continue Operations*, LIVE5 NEWS (Mar. 21, 2020, 1:35 PM), <https://www.live5news.com/2020/03/21/charleston-county-sheriffs-office-following-new-protocols-continue-operations/>.

<sup>117</sup> Martha Rose Brown, *Law Enforcement, Jail Step Up Protection Due to COVID-19*, TIMES AND DEMOCRAT (Mar. 20, 2020), [https://thetandd.com/news/local/crime-and-courts/law-enforcement-jail-step-up-protection-due-to-covid/article\\_dbb77eb8-c008-5588-87aa-451deef2b2c3.html](https://thetandd.com/news/local/crime-and-courts/law-enforcement-jail-step-up-protection-due-to-covid/article_dbb77eb8-c008-5588-87aa-451deef2b2c3.html) [<https://perma.cc/2F7Y-8VK9>].

<sup>118</sup> *Grant County Health Department Reports Five Local COVID-19 Cases*, CHRON. TRIB. (Mar. 26, 2020), [https://www.chronicle-tribune.com/news/local/grant-county-health-department-reports-five-local-covid--cases/article\\_655a9933-7e8c-50cf-8edd-01921ba6c790.html](https://www.chronicle-tribune.com/news/local/grant-county-health-department-reports-five-local-covid--cases/article_655a9933-7e8c-50cf-8edd-01921ba6c790.html) [<https://perma.cc/Y5PG-2MRA>].

enforcement perspective, the benefit of more people being home may not seem readily apparent. One of the major violations a sex offender can commit is to fail to inform the Sheriff's Office of a change of address. When a deputy attempts to check on a residence on file for a sex offender and no one at the residence (or neighbors' residences) answers the door, the deputy is not necessarily able to make a determination regarding whether the sex offender actually lives there. With more residents staying home, more doors get answered. This results in more opportunities to detect deception on the part of the offender."<sup>119</sup>

Although states, or jurisdictions within them, at times suspended in-person contacts for other government services such as handgun permits, jail visits, and fingerprinting for employment background checks, they continued to require in-person registration.<sup>120</sup> The policies adopted in several jurisdictions in Nebraska are illustrative.<sup>121</sup> Likewise, in Florida, which requires that persons convicted of felonies also register, sex offender registrants were singled out for distinct treatment: in Palm Beach County: felon registrations were conducted by phone whereas sex offender registrations were to be done in-person.<sup>122</sup> Similarly, Hernando County, Florida suspended all fingerprinting except for sex offender registration.<sup>123</sup>

---

<sup>119</sup> *Sheriff's Office Adapts Sex Offender Verification Process Under COVID-19*, VANDERBURGH CNTY. SHERIFF'S OFF. (Apr. 7, 2020), <https://www.vanderburghsheriff.com/2020-nr-019.aspx?fbclid=IwAR1xGqKhrWrJIt0t2XWZCx4l8CSH937UuHJtOyEmDhBoJuEov7VCWisW90> [https://perma.cc/9MHS-MXLM].

<sup>120</sup> See, e.g., Brian Bennett, *Visitation Suspended at Guilford County Jails Amid Coronavirus*, WFMY NEWS 2 (Mar. 12, 2020, 8:46 PM), <https://www.wfmynews2.com/article/news/local/guilford-county-jails/83-a62ef8f8-b3d4-4500-8ada-36103aa856a4> [https://perma.cc/4XVN-JY6V]; Delaware: *State Bureau of Identification Dover Office Temporarily Changes Operating Procedures*, DEL. ST. POLICE (Mar. 20, 2020), <https://dsp.delaware.gov/2020/03/20/state-bureau-of-identification-dover-office-temporarily-changes-operating-procedures/> [https://perma.cc/8JP6-RLFM]; Savannah Haugdahl, *Police Departments Change In-Person Services Because of Coronavirus*, 13 NEWS NOW (Mar. 18, 2020, 8:52 PM), <https://www.13newsnow.com/article/news/health/coronavirus/va-beach-police-change-in-person-services-because-of-coronavirus/291-68db5e6b-3d11-4555-9ee0-f09c2e6b5a35>.

<sup>121</sup> Tim Rohwer, *Cass County Sheriff Issues Message About New Law Enforcement Procedures*, PLATTSMOUTH J. (Mar. 24, 2020), [https://fremonttribune.com/community/cass-news/news/cass-county-sheriff-issues-message-about-new-law-enforcement-procedures/article\\_7c17875b-9d9a-5f42-8b67-e0d805d2f165.html](https://fremonttribune.com/community/cass-news/news/cass-county-sheriff-issues-message-about-new-law-enforcement-procedures/article_7c17875b-9d9a-5f42-8b67-e0d805d2f165.html); Brian Neben, *Dawson County Courthouse to be Open by Appointment Only, Visitors Will be Screened*, LEXINGTON CLIPPER-HERALD (Mar. 20, 2020), [https://lexch.com/news/local/dawson-county-courthouse-to-be-open-by-appointment-only-visitors/article\\_738eaa2e-6ac9-11ea-a205-c3d78171492f.html](https://lexch.com/news/local/dawson-county-courthouse-to-be-open-by-appointment-only-visitors/article_738eaa2e-6ac9-11ea-a205-c3d78171492f.html); Fillmore County Sheriff's Office Geneva Nebraska, FACEBOOK (Mar. 23, 2020), <https://www.facebook.com/fcso911/photos/pb.546173238865271.-2207520000../1580507768765141/?type=3&theater>; <http://www.sclec-ne.org/about-us/>.

<sup>122</sup> *Sexual Predator / Offender Tracking Unit*, PALM BEACH CNTY. SHERIFF'S OFF., <https://www.pbso.org/spot-unit/> (last visited Jan. 4, 2021).

<sup>123</sup> Logue, *supra* note 11.

Finally, it is worth noting that jurisdictions that suspended in-person registration initially later resumed the practice. For instance, in Hawaii in October 2020 the sex offender registration website related that in-person would be resumed, subject to new protocols:

Due to COVID-19, access into HCJDC is limited to no more than two (2) individuals at a time to ensure proper social distancing. All individuals entering HCJDC must be wearing a face mask. For any services requiring person to person contact, a COVID-19 questionnaire must be completed, and your temperature must be taken before entry into HCJDC. To ensure safe and timely service, please call the Sex Offender Registration Section at 808-587-3350 to schedule an appointment or to answer questions you may have before physically coming to HCJDC.<sup>124</sup>

Pennsylvania, after initially suspending in-person in March, by October shifted to a system in which online or mail was allowed for jurisdictions where COVID-19 remained a particular concern and the most rigorous virus-related restrictions remained in place (“red zone”), yet required in-person registration for those in less restrictive “yellow” or “green zones.”<sup>125</sup>

#### IV. ACCOUNTING FOR THE DISTINCTIVENESS

As the foregoing highlights, in-person registration, despite the personal and public health risks it presents, exhibited considerable durability as the pandemic unfolded during the first months of 2020. As officials imposed stay-at-home orders and otherwise sharply limited the ability of individuals to venture outside, interact, and engage with government services, many jurisdictions continued to insist upon in-person registration. They often did so despite gubernatorial recommendations or grants of permission to utilize non-contact methods (such as phone, mail, or internet), and the decisions of other localities within their same state suspending in-person registration. Anecdotal reports of in-person registration contained some troubling scenarios. In an early April 2020 expose in *The Appeal*, a reporter wrote:

This week, a California man had to decide between putting his and his 65-year-old parents’ health at risk or potentially going to prison. Another is already in violation of his state’s law because he spent more than three days in the hospital with his pregnant spouse without first appearing at his local police department to report that he would be away from home. If he had left the hospital to try to report, he wouldn’t have been allowed to

---

<sup>124</sup> *Sex Offender and Other Covered Info*, HAW. CRIM. JUST. DATA CTR. <https://ag.hawaii.gov/hcjd/sex-offender-and-other-covered-offender-info/> (last visited Jan. 4, 2021).

<sup>125</sup> *COVID-19 Information for Offenders*, PA. ST. POLICE, <https://www.pameganslaw.state.pa.us/OffenderChanges> (last visited Jan. 4, 2021).

return because of the risk of spreading coronavirus. In Rochester, New York, a man on a registry called his local police department to tell them he had symptoms of COVID-19. He was told to report in person anyway.<sup>126</sup>

The continued resort to in-person registration is not surprising given what we know of the staying power and popularity of SORN laws. Research consistently shows high rates of support for SORN among members of the public<sup>127</sup> and law enforcement.<sup>128</sup> SORN is also popular among political leaders,<sup>129</sup> who in no shape or form, or to any extent, relish the prospect of being painted as “soft” on convicted sex offenders, perhaps society’s most feared and disdained criminal subpopulation.<sup>130</sup> A telling example is seen in the negative reaction experienced by the Marshall County, Alabama sheriff, who felt compelled to speak on local television to reassure the public that even though registration shifted to use of the telephone his deputies were remaining vigilant by conducting residence checks,<sup>131</sup> which of course posed health risks of their own.

The continued popularity of SORN is curious given the growing body of evidence calling into question its public safety efficacy.<sup>132</sup> Research has long shown, for instance, that registries can be rife with errors,<sup>133</sup> which is understandable when one realizes that registration has always been a trust-based system: individuals who have been convicted of crimes are told to ensure the accuracy of their registry information, even though doing so imposes considerable hardships (including vigilantism). Without accurate and up-to-date information from registrants,

---

<sup>126</sup> Dawn R. Wolfe, *Sex Offender Registry Requirements Leave Some Facing Stark Choices as Coronavirus Risks Grow*, THE APPEAL (Apr. 3., 2020), <https://theappeal.org/sex-offender-registry-requirements-leave-some-facing-stark-choices-as-coronavirus-risks-grow/>.

<sup>127</sup> See, e.g., Jill S. Levenson et al., *Public Perceptions About Sex Offenders and Community Protection Policies*, 7 ANALYSES SOC. ISSUES & PUB. POLICIES 137 (2007); Stacey Katz Schiavone & Elizabeth L. Jeglic, *Public Perception of Sex Offender Social Policies and the Impact on Sex Offenders*, 53 INT’L J. OFFENDER THERAPY & COMPAR. CRIMINOLOGY 679 (2009).

<sup>128</sup> See generally Kristen Zgoba & Richard Tewksbury, *Law Enforcement and SORN*, in Logan & Prescott, *supra* note 2.

<sup>129</sup> See Wayne A. Logan, Symposium, *Megan’s Laws: A Case Study in Political Stasis*, 61 SYRACUSE L. REV. 371 (2011) (discussing the many reasons accounting for the political popularity and staying power of SORN laws); Lisa L. Sample & Colleen Kadleck, *Sex Offender Laws: Legislators’ Accounts for the Need for Policy*, 19 CRIM. JUST. POL’Y REV. 40, 54 (2008) (noting that in a survey of thirty-five Illinois legislators only four were confident that SORN promoted public safety yet almost all agreed that SORN satisfied a public demand for action).

<sup>130</sup> See generally James F. Quinn et al., *Societal Reaction to Sex Offenders: A Review of the Origins and Results of the Myths Surrounding Their Crimes and Treatment Amenability*, 25 DEVIANT BEHAV. 215 (2004).

<sup>131</sup> See *supra* note 60 and accompanying text.

<sup>132</sup> For a comprehensive survey of the public safety impact of SORN see Amanda Agan & J.J. Prescott, *Offenders and SORN Laws*, in Logan & Prescott, *supra* note 2, at 102.

<sup>133</sup> See LOGAN, *supra* note 1, at 110–14.

however, the very rationale and purpose of SORN is undercut: neither police nor community members have the information thought needed to secure SORN's public safety goals. Indeed, even with accurate and up-to-date information, there exists doubt regarding the utility of SORN. The tragic kidnapping and sexual assault of Jaycee Dugard provides a dramatic example: her assailant was compliant with California registration requirements while he kept Ms. Dugard captive in a compound in the backyard of his home for almost two decades.<sup>134</sup>

Moreover, reason exists to think that only those most determined to live law-abiding lives will comply, and those less so inclined will not. The recognition is nothing new, dating back to the origin of registration. As the City of London's chief of police said of England's late nineteenth-century convict registration law, "only those who chose to report themselves did so, and...they were the men who wanted to live honestly, but that those who would not report themselves disappeared."<sup>135</sup> Perversely, as a consequence, in a pandemic, it is those individuals who wish to remain law-abiding who are exposed to the risk of contagion by appearing in person, as required, not the individuals who defy appearing (and thereby do not run the health risk).

Finally, requiring in-person registration in a pandemic presupposes that the failure to register is positively associated with an increased risk of sexual offense recidivism. Research, however, has shown no such connection.<sup>136</sup>

## V. CONCLUSION

As of this writing, the tragic toll of COVID-19 on the nation's human and economic life continues to grow. This essay has focused on a particular time in this evolving crisis, the initial months of 2020 when jurisdictions first sought to stem the spread of the virus, often by imposing lockdowns and ceasing many in-person businesses and governmental services. While so many aspects of daily life were upended, sex offender registration very often continued as before, requiring that registrants travel to and appear in person at public buildings, risking contraction and transmission of the virus.

The insistence upon in-person registration, as other government services were limited or discontinued altogether, and prison and jail populations were thinned out due to public health concerns, provides a telling reminder of the exceptionalism of

---

<sup>134</sup> Marisol Bello, *Questions Arise on Monitoring of Sex Offenders*, ABC NEWS (Sept. 2, 2009, 8:25 AM), <https://abcnews.go.com/US/story?id=8470353>.

<sup>135</sup> LEON RADZINOWICZ & ROGER HOOD, A HISTORY OF ENGLISH CRIMINAL LAW AND ITS ADMINISTRATION FROM 1750, vol. 5, at 1347 (quoting 1896 newspaper report of quote attributed to Chief of Police Sir James Frazier). See also LOGAN, *supra* note 1, at 24 (noting expression of same concern by California official and Los Angeles County sheriff in the early 1930s, with respect to early local criminal registration law); Editorial, *Criminal Registration Law*, 16 PRISON J. 233, 247 (1936) (expressing same concern in general over early era criminal registration laws).

<sup>136</sup> See Jill S. Levenson et al., *Catch Me If You Can: An Analysis of Fugitive Sex Offenders*, 26 SEXUAL ABUSE: J. OF RES. AND TREATMENT 129, 132–33 (2014) (citing and discussing study results).

sex offender policy. Indeed, although other criminal justice system accommodations to the pandemic might provide an opportunity to question and reform harsh policies,<sup>137</sup> the case study provided here suggests that in-person registration faces no risk of being scaled back anytime soon.

---

<sup>137</sup> See, e.g., Benjamin Levin, *Criminal Law in Crisis*, COLO. L. REV. F. 1, 16 (2020) (“The current pandemic provides a much-needed opportunity to . . . consider the ways in which the institutions of criminal law are not just responsive to crisis; they also create crisis.”).