

Waltham Police Department
SEX OFFENDER REGISTRATION AND
DISSEMINATION
CHAPTER 47

General Order Number: GO-03

Effective Date: 01/2009

POLICY:

It will be the policy of the Waltham Police Department to act in accordance with G.L. c. 6, s. 178C-178Q, which established a Sex Offender Registry for the Commonwealth of Massachusetts. Guidelines have been developed by the Sex Offender Registry Board ("SORB") at 803 CMR § 1 et seq. The Chief of Police shall designate a contact person, who shall be a member of the Investigation Division, to whom the SORB will report information regarding the Sex Offender Registry. This designee shall be familiar with the mandates and notify the appropriate persons of any changes or updates.

PROCEDURES:

1. OFFENSES COVERED UNDER THE LAW ARE THE FOLLOWING:

Pursuant to G.L. c. 6, § 178C a "sex offender" who may be required to register is defined as " a person who resides, works or attends an institution of higher learning in the commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the department of youth services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under section 14 of chapter 123A, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said chapter 123A, whichever last occurs, on or after August 1, 1981."

Section 178C defines "sex offense" as " an indecent assault and battery on a child under 14 under section 13B of chapter 265; indecent assault and battery on a mentally retarded person under section 13F of said chapter 265; indecent assault and battery on a person age 14 or over under section 13H of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; kidnapping of a child under section 26 of said chapter 265; enticing a child under the age of 16 for the purposes of committing a crime under section 26C of said chapter 265; enticing away a person for prostitution or sexual intercourse under

section 2 of chapter 272; drugging persons for sexual intercourse under section 3 of said chapter 272; inducing a minor into prostitution under section 4A of said chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter 272; second and subsequent adjudication or conviction for open and gross lewdness and lascivious behavior under section 16 of said chapter 272, but excluding a first or single adjudication as a delinquent juvenile before August 1, 1992; incestuous marriage or intercourse under section 17 of said chapter 272; disseminating to a minor matter harmful to a minor under section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said chapter 272; possession of child pornography under section 29C of said chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority."

2. REGISTRATION OF OFFENDER: For all sex offenders registered, the files will be maintained by the SORB. Each offender file will include the following:

- a. Name of the offender and aliases.
- b. Home address.
- c. Work addresses.
- d. Name and address of any institution of higher learning the offender is attending.
- e. The offense for which the offender was convicted or adjudicated and the date of the conviction or adjudication.
- f. The sex offender's age, sex, race, height, weight, eye and hair color.
- g. Photograph.
- h. Any other helpful identifying information.
- i. Whether the offender has been designated a sexually violent predator.
- j. Whether the offender is in compliance with the registration obligations of sections 178C to 178Q, inclusive.

3. NOTIFICATION OF OFFENDER: Offenders will be notified of their obligation to register as sex offenders from the following:

- a. The agency with custody of the offender at least thirty days prior to his release;
- b. The probation or parole agency supervising the offender within five days of assuming supervision or by October 1, 1996, whichever is last;
- c. From the court, which enters a conviction/adjudication, but does not impose an immediate committed sentence.

These agencies shall notify the offender in writing of his obligation to register with the local police department. The offender must then acknowledge that he has been notified and must register within two days of the operative event.

4. OBLIGATION OF OFFENDER: Obligations of the registered offender are as follows:

- a. A classified Level 1 sex offender is only required to register by mail to SORB annually.
- b. The sex offender finally classified by the board as a Level 2 or Level 3 offender must come to the Waltham Police Department annually to verify his initial registration information. If such sex offender does not reside in the Commonwealth, he must register with the Waltham Police Department if he works or attends an institution of higher learning in Waltham to verify that the registration data on file remains true and accurate. At such time, the sex offender's photograph and fingerprints shall be updated. Such sex offender, who lists a homeless shelter as their residence in Waltham, shall appear in person at the Waltham Police Department every 90 days to verify that the registration data on file remains true and accurate. A homeless shelter receiving state funding shall cooperate in providing information in the possession of or known to such shelter, when a request for information is made to such shelter by the board or such local police department; provided, however, that such request for information shall be limited to that which is necessary to verify an offender's registration data or a sex offender's whereabouts. A shelter that violates the provisions of this paragraph shall be punished by a fine of \$100 a day for each day that such shelter continues to violate the provisions of this paragraph. In addition, in each subsequent year during the month of birth of any sex offender required to register, the board shall mail a non-forwardable verification form to the last reported address of such sex offender. If such sex offender is a juvenile at the time of such notification, notification shall also be mailed to such sex offender's legal guardian or the agency having custody of the juvenile in the absence of a legal guardian and his most recent attorney of record. Such sex offender shall, within five days of receipt, sign the verification form under the penalties of perjury and register in person at the Waltham Police, or if

such sex offender does not reside in the Commonwealth, but works or attends an institution of higher learning in Waltham. The board shall periodically, and at least annually, send written notice to a city or town police department regarding any sex offender required to register whose last known address was in such city or town or who gave notice of his intent to move to or is otherwise believed to live or work in such city or town, but who has failed to register or verify registration information as required.

- c. The offender must notify the Waltham Police Department of any changes in work addresses, home addresses, addresses of an institution of higher learning, etc. The offender must notify the Waltham Police Department 10 days before the change occurs or as soon as practicable.

Failure to Register or verify information may be grounds for revocation of probation or parole. Failure to register is also an independent criminal offense.

This obligation on the part of the offender shall continue for twenty years after his conviction or release from custody or supervision, whichever occurs last. If an offender has been convicted of a sexually violent offense, as defined by G.L. c. 6, § 178C, or two or more Wetterling Offenses, as defined in 803 CMR § 1.03, then the duty of the offender to register lasts for life.

5. ACCESS TO INFORMATION:

- a. **WHO MAY REQUEST:** Any citizen over the age of eighteen may request access to the SORB information through the following:
 - 1. Make the request in person at the police station to the Investigations Division.
 - 2. Provide identification.
 - 3. Complete a record of inquiry, which has been designed by the SORB. This includes verifying that he requests the information for his protection, or that of a child or other person in his care or custody.
 - 4. Those persons making inquiries must be advised that there are criminal penalties for improper use of the information. All records of inquiry must be kept confidential, unless relevant to assist in a criminal prosecution.
- b. **WHAT INFORMATION IS AVAILABLE:** When making an inquiry, a person may request the following information:

1. A specific named person.
2. Whether any sex offenders live, work or attend an institution of higher learning within Waltham.
3. Whether any sex offenders live, work or attend an institution of higher learning on a specific street within Waltham.

c. **WALTHAM POLICE DEPARTMENT REFERRAL TO SEX OFFENDER REGISTRY BOARD:** If the search of the registry is positive, the Waltham Police Department shall forward the request for information to the Sex Offender Registry Board. The following information should also be sent:

1. Offender's name.
2. Offender's home address.
3. Offender's work address.
4. Name and address of any institution of higher learning the offender is attending.
5. Any descriptive identifying information including a photograph, if available.
6. Date of conviction.
7. Charges of which offender was convicted.

6. **RISK ASSESSMENT/DISSEMINATION OF INFORMATION AND RESPONSIBILITIES, LEVEL 1 – LOW RISK OF RE-OFFENSE:** Where the board determines that the risk of re-offense is low and the degree of dangerousness posed to the public is not such that a public safety interest is served by public availability, it shall give a Level 1 designation to the sex offender. In such case, the board shall transmit the registration data and designation to the police departments in the municipalities where such sex offender lives and works and attends an institution of higher learning or, if in custody, intends to live and work and attend an institution of higher learning upon release and where the offense was committed and to the Federal Bureau of Investigation. The Waltham Police Department shall not disseminate information to the general public identifying the sex offender where the board has classified the individual as a Level 1-sex offender. The Waltham Police Department and the board may, however, release such information identifying such sex offender to the department of correction, any county correctional facility, the department of youth services, the department of

social services, the parole board, the department of probation and the department of mental health, all city and town police departments and the Federal Bureau of Investigation.

7. RISK ASSESSMENT/DISSEMINATION OF INFORMATION AND RESPONSIBILITIES, LEVEL 2 – MODERATE RISK OF RE-OFFENSE:

Upon notification from SORB that an individual has been classified as a Level 2 offender and the offender has appeared in person at the Waltham Police Department and registered, the Waltham Police Department contact person shall go to the offender's residence. The contact person shall verify the offender's residential address. Once address verification has been completed, the contact person shall verify with the Sex Offender Registry Board that the offender has either had a classification hearing or bypassed his opportunity to have one. Upon completion of offender information verification, the Waltham Police Department may disseminate the following information upon a request made and reviewed in accordance with paragraph 5 of this policy:

- a. Name of the offender.
- b. Home address of the offender provided for by the requesting person, if so requested, or if the offender lives on a specific street identified by the requesting person.
- c. Work address of the offender, or if the offender works on a specific street identified by the requesting person.
- d. The name and address of the institution of higher learning where the sex offender is enrolled as a student.
- e. Offense for which the offender was convicted or adjudicated, and the dates of the conviction or adjudication.
- f. Offender's age, sex, race, height, weight, eye and hair color.
- g. Photograph of the offender, if available.

8. RISK ASSESSMENT/DISSEMINATION OF INFORMATION AND RESPONSIBILITIES, LEVEL 3 – HIGH RISK OF RE-OFFENSE:

The Waltham Police Department shall do the following:

- a. Follow procedures for Level 2 dissemination;
- b. Establish and maintain a database within our computer system, listing

organizations, which are likely to encounter the offenders. These organizations will include Community Organizations, such as the Waltham Boys and Girls Club and the Waltham YMCA, as well as all the various sports leagues and organizations within our community. Schools, public and private, as well as licensed day care centers, will also be included. This database will be updated as necessary, and added to as appropriate to do so.

- c. Notify organizations likely to encounter the offender such as the Waltham Boys and Girls Club and the Waltham YMCA, as well as all the various sports leagues and organizations within our community. Schools, public and private, as well as licensed day care centers, will also be notified.
- d. Establish a contact person for each organization and, when notified by the SORB about a Level 3 sex offender, notify all the organizations listed on our database via a mass mailing *within three business days* following the receipt of the information by our department.
- e. Notify individual members of the public who are likely to encounter the offender (this would likely include neighbors, etc.).
- f. Notification of individual members of the public, who are likely to encounter the offender, **shall** be done through the use of at least one of the following means of communication:
 - 1. Local cable television station.
 - 2. Local newspaper.
 - 3. Posting of information in a public area in the neighborhood where the offender resides or works (City Hall, Public Library or Post Office, etc.).
 - 4. The Sex Offender Registry recommends quarterly notifications for Level 3 offenders.

Level 3 notifications must be made within two business days of the Waltham Police Department being notified by SORB.

9. **INTERNET DISSEMINATION OF LEVEL 3 SEX OFFENDER DATA PURPOSE:**

The information contained in 803 CMR § 1.30(4)(a) - (g) for Level 3 Offenders who live, work, and/or attend institutions of higher learning in the City of Waltham shall be made accessible to the general public by being placed on the Waltham Police Department's ("WPD" or "Department") Internet Web Site. The WPD Web

Site shall comply with 803 CMR § 1.32(3)(b)-(d) to the same extent as the Sex Offender Registry Board's ("Board" or "SORB") Web Site and it shall be regularly updated with information from the Sex Offender Registry. Pursuant to 803 CMR § 1.33(2) this policy establishes protocols and procedures regarding the general public's access to Level 3 sex offender information through the WPD Internet Web site and to (1) validate the accuracy, integrity, and security of information contained in the WPD Level 3 Database; (2) ensure the prompt and complete removal of registration data for offenders whose duty to register has terminated or expired under G.L. c. 6, §§ 178K(2)(d), 178G, 178L, or 178M or any other law or order of any Court order, and (3) protect against the inaccurate, improper or inadvertent publication of registration data on the Internet.

PROTOCOLS:

1. In order to ensure that the WPD Internet Web site provides the general public with the most up-to-date and accurate data regarding Level 3 sex offenders of concern to the Waltham community, the Department shall create, maintain, and update the WPD Level 3 Sex Offender Database (WPD Level 3 Database) which shall contain the Level 3 sex offender information the public may query, access, and examine through the WPD Web Site. The Department shall create the WPD Level 3 Database from data obtained from the Sex Offender Registry ("SOR"), but the WPD Level 3 Database shall exist as a physically separate database from the SOR. The SOR contains all information about all sex offenders required to register pursuant to the Sex Offender Registry Law ("SORL", G.L. c. 6, §§ 178C-178Q) and is maintained updated in "real time" by the SORB and the police departments, which update offender's statuses via the SX screens on the Criminal Justice Information System. Therefore, the SOR contains the most up-to-date data on all sex offenders required to register. In addition, the WPD IT Manager shall physically verify all data by comparison to the data obtained by the Waltham Police Department from those finally classified Level 3 sex offenders that live, work, and/or attend institutions of higher learning in the community, prior to making the information available on the WPD Internet Web site.
2. The WPD Level 3 Database shall only contain information from the SOR relating to those sex offenders finally classified as Level 3 offenders that live, work, and or attend institutions of higher learning in the city of Waltham. In order to ensure that the general public will not be able to obtain any information regarding unclassified, Level 1, and Level 2 sex offenders, the WPD Level 3 Database shall not contain any information relating to unclassified sex offenders or sex offenders classified as Level 1 or Level 2.
3. The WPD Level 3 Database shall not contain any victim information. Similarly, the WPD Level 3 database shall not contain any information relating to any public requests for registration data under sections G.L. c. 6, §§ 178I- 178J and 803 CMR 1.29-1.30 & 1.32(1).

4. The WPD Level 3 Database site shall not contain any information from the SOR relating to a Level 3 sex offender if a Court has ordered the Board and/or the Waltham Police Department not to disseminate the sex offender's information to the public.
5. The WPD Level 3 Database shall include the following information relating to a Level 3 sex offender:
 - a. The name of the sex offender.
 - b. The offender's home address.
 - c. The offender's work address.
 - d. The address of the institution of higher learning in the community attended by the sex offender.
 - e. The offense(s) for which the offender was convicted or adjudicated and the date of the conviction(s) or adjudication(s).
 - f. The sex offender's age, sex, race, height, weight, eye and hair color.
 - g. Digital or digitized photograph of the sex offender, if available.
 - h. Whether the sex offender has been designated a sexually violent predator.
 - i. Whether the offender is in compliance with the registration obligations of G.L. c. 6, §§ 178C to 178Q, inclusive.
6. The general public may search and inspect the WPD Level 3 Database through the WPD's Internet Web site at any time without charge or subscription. Data and information contained in the WPD Level 3 Database shall not be contained on or imbedded in any of the WPD's other Web site pages. The WPD's Web site shall include a page that allows the public to search the WPD Level 3 Database by offender name. The Web site shall also allow the general public to search the WPD Level 3 Database for Level 3 sex offenders who are not in compliance with their registration obligations. If a Level 3 offender's information matches an inquiry, the Web site shall open a separate page that displays the Level 3 sex offender information from the WPD Level 3 Database.
7. When displaying any Level 3 sex offender on the WPD Internet Web site, the Web site shall display the following information relating to all Level 3 sex offenders from the WPD Level 3 Database:
 - a. The name of the sex offender.

- b. The offense for which the offender was convicted or adjudicated and the date of the conviction or adjudication.
 - c. The sex offender's age, sex, race, height, weight, eye and hair color.
 - d. A digital or digitized photograph of the sex offender, if available.
 - e. Whether the sex offender has been designated a sexually violent predator.
8. When displaying any Level 3 sex offender on the WPD Internet Web site, the Web site shall display the following warnings:
- a. "Pursuant to G.L. c. 6, §§ 178C - 178Q, the individual who appears on this notification has been designated a Level 3 sex offender by the sex offender Registry Board. The Board has determined that this individual is a high risk to re-offend and that the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active community notification."
 - b. "Information shall not be used to commit a crime or to engage in illegal discrimination or harassments of an offender. Any person who uses information disclosed pursuant to G.L. c. 6 §§ 178C - 178Q for such purposes shall be punished by not more than two and one half (2 ½) years in a house of correction or by a fine of not more than one thousand dollars (\$1000.00) or both (G.L. c. 6, § 178N). In addition, any person who uses Registry information to threaten to commit a crime may be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment for not more than six (6) months (G.L. c. 275, § 4)."

In order to emphasize the proper use of Level 3 sex offender information, the WPD Internet Web site shall display the following warning before allowing users to query the WPD Level 3 Database:

By proceeding you are agreeing that you are a person who is 18 years of age or older, that you have read and understand the statements above, that you acknowledge that you are requesting this information for your own protection or for the protection of a child or another person for whom you have responsibility, care, custody, and that you believe you are likely to encounter an offender who may be posted on this website. If you do not agree, please select, **I do not agree**. If the user selects, **I Agree** the Web site shall direct the user to a Web page that allows the user to query the Internet Database. If the user selects, **I Do Not Agree** the Web site shall direct the user to the WPD's home page.

- c. “The Waltham Police Department updates this information regularly to try to assure that it is complete and accurate. However, this information can change quickly. You are cautioned that information provided on this site may not reflect the current residence, status, or other information regarding a Level 3 sex offender. If you believe that any of the information found in these records is in error, please contact the Waltham Police Department Detective Division at 781.314.3550.”
- 9. When displaying a Level 3 sex offender on the WPD’s Web site who, according to the SOR and WPD Level 3 Database, is in compliance with his or her registration obligations, the Web site shall display the following additional information regarding the offender:
 - a. The offender’s home address.
 - b. The offender’s work address.
 - c. The address of the institution of higher learning in the community attended by the sex offender.
- 10. When displaying a Level 3 sex offender on the WPD’s Web site who, according to the SOR and WPD Level 3 Database, is not in compliance with his or her registration obligations, the Web site shall not display the offender’s home, work and/or institute of higher learning address but may display the city or town the offender was last known to live, work or attend an institute of higher learning in. If a sex offender is not in compliance with his or her registration obligations, the Web site shall display **“THIS OFFENDER IS IN VIOLATION”** in the address field of the Web site.
- 11. The WPD’s Web site shall also inform the public the following with regard to Level 3 sex offenders who are not in compliance with their registration obligations: **“If a Level 3 sex offender is not in compliance with his or her registration requirements, the Department will not provide that offender’s home or work address because the offender has failed to verify or provide a correct address as the law requires. AN OFFENDER WHO IS IN VIOLATION MAY BE SUBJECT TO ARREST AND PROSECUTION PURSUANT TO G.L. c. 6, §§ 178H & 178P. IF YOU HAVE ANY INFORMATION REGARDING THE WHEREABOUTS OF A LEVEL 3 SEX OFFENDER WHO IS IN VIOLATION, PLEASE CONTACT THE WALTHAM POLICE DEPARTMENT AT 781 314 3600 OR THE SEX OFFENDER REGISTRY BOARD BY PHONE AT 978.740.6400.”**
- 12. **HARDWARE AND SOFTWARE CONFIGURATIONS:**
 - a. In order to ensure that the general public will have no access to the SOR or any of the data contained on the SOR and to ensure the integrity, and

security of information contained in the Internet Database, the Internet Database shall reside on a dedicated computer server that is physically separate and apart from the SOR computer server system. The Internet Database server system shall be of sufficient speed, memory, and bandwidth to accommodate the Internet Database itself and also accommodate the volume of queries to the database from the general public accessing the database through the Internet.

- b. In order to prevent the general public from altering the information contained in the Internet Database, the Internet Database server shall be protected from the Internet on a dedicated firewall port that employs a hardware firewall solution, specifically dual Cisco PIX 520s operating in Failover mode. The firewall should permit only Web (http) traffic to be directed at the Internet Database server from the general public and, consequently, shall not permit the general public any other access to the Internet Database. The Internet Database server shall operate on a platform using Microsoft Windows 2000 operating system and the Information Technologies (“IT”) Manager shall take steps to ensure that the Internet Database server operating system is kept up-to-date with all available security patches and that the firewall and database are running the most current software versions.
- c. The Web server shall be managed via File Transfer Protocol (“FTP”) to administer and update all Internet Database files. The FTP that shall be password protected and its access further restricted by source IP address at the firewall level. Only the IT Manager or his or her designee shall have access to the password and the IT Manager shall change the password on a regular basis. The Waltham Police Department shall use Microsoft IIS Web server software that uses a lockdown tool to prevent any unauthorized access to the IIS server software and which shall perform three functions: (1) disable uncommonly used components of the Web server software in order to reduce its attack surface; (2) through the use of NTFS file permissions, secure critical parts of the operating system from ASP related errors; and (3) act as an extra layer of protection in between the Web server and the public requesting pages by examining all requests and filtering out any requests which do not appear to be valid as well as protecting the Web server software from many different types of attacks and worms, both known and unknown.

13. INTERNET DATABASE UPDATE PROCEDURES:

- a. Because the SOR contains the most up-to-date data and information on all registered sex offenders, at least on a daily basis the IT Manager, or his designee, shall duplicate from the SOR the records of all Level 3 sex offenders who live, work, and/or attend an institution of higher learning in

Waltham, and whose registration obligations have not expired or terminated. The IT Manager, or his designee, shall not duplicate a Level 3 offender's SOR information if a Court ordered the Board to refrain from publicly disseminating the Level 3 sex offender's information. The IT Manager shall compare data obtained by the WPD with data on the SX screen to further ensure the accuracy of the SX screen and the WPD Level 3 database.

- b. The IT Manager, or his designee, shall obtain the most up-to-date digital or digitized photograph of the offender from the police department that last registered the Level 3 sex offender and shall add it to the WPD Level 3 Database. If the Level 3 offender fails to register or fails to update his sex offender information, the IT Manager, or his designee, shall use the most recent digital or digitized photograph of the offender available to the Department to add to the WPD Level 3 Database. The IT Manager shall take steps to ensure that the Level 3 Offender's photograph matches the proper Level 3 offender on the WPD Level 3 Database.
- c. After duplicating the active and proper Level 3 information from the SOR, the IT Manager, or his designee, shall update the WPD Level 3 Database by deleting all the data contained in the WPD Level 3 Database, except the offender's digital or digitized photograph, and inserting the duplicated Level 3 information obtained from the SOR into the WPD Level 3 Database.
- d. If circumstances require that a Level 3 sex offender's Internet Database information be updated or deleted sooner than twenty-four hours (e.g., a Court order mandated immediate termination of active dissemination), the IT Manager, or his designee, shall ensure that the WPD Level 3 Database is updated as soon as possible.

14. NOTIFICATIONS:

When notified by an offender of a change in address, employment, etc., the Waltham Police Department will notify other jurisdictions in accordance with G.L. c. 6, §§ 178C-178Q.