

AMHERST POLICE DEPARTMENT GENERAL ORDERS

SUBJECT: SEXUAL OFFENDER REGISTRY INFORMATION

NUMBER: S-321

EFFECTIVE DATE: 5/00

REVISION DATE: 8/05

CALEA REFERENCE:

Note: This written directive is for the internal governance of the Amherst Police Department, and as provided in RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

- I. **POLICY:** It is the policy of this department to comply with the provisions of New Hampshire RSA 651-B, frequently referred to as Megan's Law.
- II. **PURPOSE:** The purpose of this policy is to set forth procedures to provide members with direction concerning the registration of sexual offenders and guidance concerning the public release of sexual offender identification as specified under New Hampshire law.
- III. **DISCUSSION:** RSA 651-B provides guidelines and requirements for the registration of sexual offenders living in a given community, and requires public access to information regarding a particular class of offenders who are on a special list maintained by the Department of Safety and made available to the public.
- IV. **OFFICER PROCEDURES:** Offenders are required to *register* with the State Police as a consequence of NH State law, (RSA 651-B;2), which agency, in turn, maintains a registry of the information. Additionally, offenders are required to *report* certain information to local law enforcement agencies pursuant to RSA 651-B:4. The purpose of this section is to identify the expected actions of the Amherst police department in monitoring the State Registry website, receiving and maintaining information that is *reported*, and the manner and extent to which such information may be distributed in the community.
 - A. **Failure to Register &/or Report - Local Law Enforcement Investigation & Prosecution** Upon the receipt of any well founded information that indicates that any person required to register pursuant to RSA 651-B is residing within the Town, the officer with this information shall initiate an investigation including the following:
 - The State Police Registry List shall be consulted to determine if the individual is registered.
 - If the individual **is** *registered* but has not *reported* as required the officer shall determine if the individual resides in Town and shall determine whether the individual has failed to *report* in a timely manner, in which case the officer shall commence a prosecution under RSA 651-B.
 - If the individual is **not** registered the officer shall then investigate to determine if the individual is, indeed, required to *report* or *register* as

required under RSA 651-B. If it is determined that individual has failed to *report* or *register* in a timely manner, the officer shall commence a prosecution under RSA 651-B.

-If the officer determines that the individual has neither *registered* and/or *reported* the officer shall, forthwith, contact the individual, advise him of the statutory requirements regarding *registration* and *reporting*, and admonish to comply with the same promptly. Upon failure of the individual to comply within the statutory time limit a prosecution under RSA 651-B, shall be promptly commenced.

B. Voluntary Reporting - Local Law Enforcement Procedure

When an offender comes in to *report* the Detective Bureau shall:

-The Detective Bureau shall fill out the relevant and applicable Department of Safety/ Division of State Police forms and submit them to the State Police along with a copy of the subject's photograph within three business days. Forms provided by the Department of Safety for making such notification are available in the Detective Bureau. One copy of the form shall be acknowledged by the police employee receiving it and returned to the person, and the remaining copies shall be kept in the Detective Bureau, who shall send one copy to the State Police Intelligence Unit for inclusion in their database.

-Initiate an investigation to verify all the information given by the offender; and,

-Confirm and corroborate where the conviction occurred, the exact nature of the offense, the arresting agency, the age of the victim, and the court docket number.

-The person taking the registration information shall cause a photograph to be taken of the registrant, and shall obtain a Triple-I criminal record check and incorporate a copy into the file folder.

C. Annual Renewal and Review of Information

RSA 651-B contains a requirement of annual renewal of such *reporting* and the Supervisor of the Detective Bureau shall be responsible for maintaining records of the anniversary of all such offenders reported with the Department. Upon determining that an offender has failed to renew such *reporting* in a timely manner, and that such *reporting* was still required, a prosecution shall be commenced. Upon *renewal* the Detective Bureau shall obtain an updated photograph as well.

D. Receipt of Information of Failure to Advise of Changes

RSA 651-B:5 also requires that offenders *report* certain changes in status. Upon learning that there has been a failure to *report* under said section, a prosecution shall commence. The Detective Bureau shall provide information to any local enforcement and the State police of such failure to *report*.

E. Updated Conviction Information - The Detective Bureau shall also conduct a record check on every *reported and registered* offender within its jurisdiction on the anniversary of such *reporting* and *registration*.

- F. **Notification of State Police** - The Detective Bureau shall notify the State Police if it obtains any information regarding a change of status of the offender, including, without limitation, if it is learned an offender is returned to prison.
- G. **Time Frame for Notification** - All time constraints shall be as referenced in RSA 651-B. The following are intended as a guide but it is suggested that the following be confirmed by reference to the statute which may have changed:

- Local Law Enforcement **Reporting:**
 - 30 days from custody release, or*
 - 30 days of establishing a residence*
 - Annually* thereafter.

- Change of Address:
 - Within *10 days of such change.*

V. **Community Disclosure**

Information collected under these requirements is not public information under the Right-to-Know law (RSA 91-A:4). It may be disclosed only as necessary to perform a valid law enforcement function, or to the individual who is listed, upon their request, or in accordance the procedures listed below. The New Hampshire Department of Safety has created and maintains a public Internet site listing the name, identifying information, photograph (if available), address, and qualifying offense of all Registered Sexual Offenders against Children. This site and the information contained on it are available to any person.

- A. The Department shall provide a link to the New Hampshire Department of Safety website directly from the Department's own web site.
- B. The Department will, upon the request of a Town resident, provide, at no cost to the resident, a copy of the information contained on the New Hampshire Department of Safety web site concerning registered offenders living in Amherst.
- C. The Department will also provide public service postings in public locations within Town, calling attention to the State registry and providing instructions relative to the manner in which the list may be accessed. One such 'public location' shall include the disseminating of such information to the Town's 'List Serve' and the Town of Amherst's own web site.
- D. The Department will exercise reasonable efforts to notify the owner of record of all property which abuts the address of all Registered Sexual Offenders against Children when they register in Amherst. Notification should be performed in person by an officer within three (3) days, if notification does not occur; a certified letter should be sent by the Town of Amherst to the owner of record within seven (7) days of the local registration. The notification shall consist of a form letter directing the property owner to the New Hampshire Department of Safety web site to view the current list of offenders in the area. This notification will be repeated upon the re-registration of all Offenders. For the purposes of this section, property is deemed to 'abut' an address if it meets the definition of an 'abutter' as set forth in RSA 672:3:

'... 'Abutter' means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land owned or occupied by the offender. ... [I]n the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, ... [I]n the case of an abutting property being under a manufactured housing park form of ownership ... the term 'abutter' includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the [offender's address]. ...'.

It is the intent of this section to establish, for the purposes of guiding Officers of the Department, a level of conduct which they should aspire to in good faith, but it is understood that this section is NOT intended to establish a standard or duty of care requiring absolute compliance in all circumstances, since it is understood that individual circumstances may exist that prevented a particular notification from occurring.

In addition, the following specific individuals will also be notified:

1. Board of Selectmen
2. Town Administrator or designee
3. Superintendent of Schools or designee
4. Recreation Director or Designee
5. Any other place, organization, or person the Police Chief or his designee deems appropriate for a valid law enforcement function.

- E. Nothing in this policy is intended to prevent an Amherst Police Employee from disclosing the information contained on the Department of Safety web site to any person or organization in good faith performance of a valid law enforcement function. However, no Amherst Police Employee is allowed to disclose to any person, other than for legitimate law enforcement purposes, any criminal record or convictions of another person, beyond what is contained on the Department of Safety web site. In addition to Department sanctions, any such action is a violation of New Hampshire state law, and would be investigated as such.