

# Breaking Down Megan's Law from a Constitutional and Effectiveness Standpoint

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## Part 1

Politics are an interesting phenomenon. A topic that has never been an issue before can all of the sudden be brought into the spotlight that is our political system. Megan's Law was such an issue. In the mid 1990's, a girl was abducted and raped by a convicted sex offender that had moved into the neighborhood. People were horrified, how could a sex offender move into the community without anyone knowing about it? The families lobbied their state to get a law passed that would make it mandatory for sex offenders to register with local police, and then when they moved into a community, the citizens would be notified. This law was given the title "Megan's Law" named after the girl who was abducted. The issue has since gone to a national level, and now the federal government is requiring all fifty states to enact some type of legislation that deals with Megan's law (Menedez, 251). But is registration constitutional? The Supreme Court isn't so sure, and other courts have yet to agree on the subject. In today's paper, we will examine the laws of registration and notification of sex offenders, and their constitutional ity. It is the contention of this paper that having sex offender's register and then having communities notified of their presence is an additional punishment that only convicted sex offenders must face, and that the law should be struck down.

## Part 2

Privacy is an interesting concept. All of us have a different idea of how much privacy we should have. However, no one can quite agree on an overall concept of what is private and what is not. Convicted criminals have a serious problem when it comes to their private lives. When applying for a job, there is always a question of whether or not they have committed a felony. Their private lives are no longer applied to our society, because they have broken the law. But how far should we go when dealing with former criminals? In the Victorian Era, those people who were found guilty of committing adultery were forced to wear a large red A across their chest, as a symbol that they have committed a horrible crime. We consider this kind of punishment to be cruel and unusual today, however in that time, it was felt by most that what they did was so horrible, that everyone should know about it. This is how many people feel about sex offenders. The people who helped push Megan's Law into effect believe that what that person did was so horrible that they should be punished, and that everyone who lives around them should know about it. Is this the same as the scarlet letter? I believe so.

When someone commits a crime, they are punished for it (hopefully). The saying of "you do the crime, you do the time" come to mind. However, for most criminals, once they have served their sentence, they are essentially free. There are exceptions of course. Some people convicted of certain crimes can't buy a gun, legally. Others have lost their right to vote in America. However, these restrictions are pretty standard for all criminals who have committed a certain level of a crime. Megan's Law goes a step further. Megan's Law singles out one single group, and adds on an additional punishment to them.

Before we get in too deep about whether or not Megan's Law is constitutional, we first need to look at the reasoning behind the establishment of such a law. Being a parent, I can understand why parents and parental groups would try to enact such a law. There are enough concerns out there for parents without having to worry about who your neighbors are. Parents want to know if the school that their kids go to is safe, that their communities are safe for them to play in, and that they can let their kids run around their yards. This is a genuine concern. Once news of something like an abduction takes place, people get worried, and want something done about it. Many people believe that Megan's Law is the answer to a lot of problems. The idea is that it will notify a parent, or a community when someone who has committed a sex crime moves into the neighborhood. This

was believed to take care of the problems, and alleviate the worries of the parents and the community. But has it worked?

### Part 3

The American Civil Liberties Union (ACLU) has shown that notification laws are actually counter-productive. This goes against what the law originally intended. The ACLU states "Notification laws will not prevent sex offenders from committing crimes" (ACLU, On-line). They state that the publication of this information will only make ex-offenders more likely to re-offend. What is happening instead is that the sex offenders are actually being victimized. They even cite a couple of examples of this happening. In January of 1997, a California ex-offender's car was firebombed, and in New Jersey, community members beat a man that they believed was a paroled sex offender! People have even been fired at because their names were published (ACLU, On-Line). So instead of reducing crime, which was the intent of the bill, it has actually increased crime, not only the sex offenders, but also crimes against the sex offenders!

While the ACLU is obviously against this law, which may make them a biased source, others have also shown that only negative things are happening because of this law. According to Marshall Vogts (On-Line), the posting of sex offenders names can also lead to "Witch Hunts." According to the article, with the advent of the Internet, individuals' names will be available for all to see, not just those in the community where the sex offender moves. The intent of the law is to only let those people who are living close to the sex offender know about his movement into the community. However, people have started posting this information on the Internet. In some states, there is even a state supported site that has the published information of registered sex offenders. Therefore, anyone who wants this information can get access to it. This can lead to a witch-hunt of a sex offender by upset parents, younger students, etc (Vogts, On-Line). This again shows how the law has backfired against itself.

So far, we have only looked at what the law's intent was, and what its effect has been, but what has this law have anything to do with Mass Communication Law? When looking at mass comm. law, one of the areas is that of privacy. Newspapers, television stations, and others have been sued because they breached someone's privacy. If an Internet site, or a newspaper publishes a sex offender's name, they are destroying that person's right to privacy. That is the area that we are going to look at next, the violations not only against the individual, but also of the constitution itself.

### Part 4

Megan's law not only tramples on individuals right to privacy, but it also tramples on the Constitution (ACLU, On-Line). The ACLU makes a very good point when we deal with this topic. When we look at privacy, all of us have some expectation of privacy. All of us feel that we shouldn't be subjected to what we believe is a violation of our privacy. Unfortunately, people convicted of sex crimes do not get to appreciate that same level of privacy. We have stripped away a right that has been upheld by the Supreme Court. What is interesting about this topic, and the reason as to why I feel so strongly about this issue is that no other criminal is subjected to such double-punishment. When talking about this subject with one of my students, they were surprised that I was against this law. They asked "Don't you want to know if a sex offender is living next to you?" Of course I said "Yes, but I would also like to know if there is a killer living next to me as well." That is my point; we don't make any other criminal go through anything remotely close to this law. If someone has been convicted of murder, and is paroled, or even let out of prison, they are not required by law to register with police, or notify a community when they move in. They have served their sentence, and should be able to move on with their lives. I would like to know if they moved in next door to me, so I could protect myself. The problem is, is that it should not happen. However, this is what we do with sex offenders. They have served their sentence, many of them have been rehabilitated (hopefully all of them), and they should be able to go on with their lives. Unfortunately,

registration and notification won't let them do that either.

According to Mark Vosburgh (On-Line), notification laws also prevent sex offenders from going back into the community, and circulating with society. They are less likely to get jobs, and their home lives are ruined, or at the least, made extremely difficult. The reason is that they are stigmatized by the community for what they did. Even if it was only once, they are rehabilitated, and they are shown to never do any crime again. So once again, the registration and notification laws have been shown to have a negative effect.

So far, we have looked at the effect of notification laws; that they create a stigmatized individual, that it creates more crime than it prevents, and that it tramples on the constitution and the right of privacy. So what can we do? Finally, we will look at what could and should happen if we eliminate the notification laws.

By eliminating the notification laws, we can reduce crime, and allow convicted sex offenders to assimilate into our society at a much quicker rate (NAC, 6. While there are a good number of parental groups that would be worried if we eliminated the notification laws, it is something that needs to be done in order to protect the right of privacy for all of us. This is a slippery-slope argument that is used by numerous groups including the National Rifle Association, the ACLU and others. Once we start to take away some of the rights guaranteed to us by the constitution, it can lead to even more rights being taken away. So we need to take a close look at this law, and see that it does need to be repealed.

## Part 5

By eliminating this law, we can also decrease the number of sex crimes committed by these individuals. It has been shown that once the notification laws are repealed, sex offenders are much less likely to commit another crime, than if they had to register with police, and their names were notified to the community (Winton, On-Line). The reason for this is simple, what can we do if we know that the person living next door to us is a sex offender? Are we going to lock our kids inside the house and never let them leave? Are we going to move? What if that new area has a registered sex offender as well, are we going to keep moving until there are no registered sex offenders around? If someone is going to commit a sex crime again, is the notification going to stop him or her? The answer to this is no. If someone is going to commit a crime, they will do it no matter what. They are already committing a crime, so what if the community has been notified. And like we have already shown, notification actually leads to an increase in recidivism rates.

So when we look at Mass Communication Law, privacy is beginning to become a bigger and bigger issue in America today. We need to protect that privacy as much as we can. We don't want to live in a society in which we have no privacy. This is the first step. We have begun to trample on the constitution, and our own rights by passing a law that doesn't make sense, and that fails to do what it was intended to do. If we take this step now, we can avoid that slippery slope that leads to a nation with no privacy.

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