

Chapter 4

Section 4.11

Ministry of Community Safety and Correctional Services

Ontario Sex Offender Registry

Follow-up on VFM Section 3.11, *2007 Annual Report*

After the brutal 1988 murder of 11-year-old Christopher Stephenson by a convicted pedophile, the Legislature enacted *Christopher's Law, 2000 (Act)*. The Act established the Ontario Sex Offender Registry (Registry) in 2001 to track the whereabouts of individuals living in Ontario but convicted anywhere in Canada of one or more designated sexual offences. The Act also applied to every offender residing in Ontario still serving a sentence for such offences at the time the Act came into force. The Ministry of Community and Correctional Services (Ministry) and the Ontario Provincial Police (OPP) developed the Registry, and the Ministry's Sex Offender Registry Unit within the OPP continues to administer it. The OPP and more than 140 municipal and First Nations police services are responsible for registering and monitoring offenders. There were 7,400 registered offenders as of January 2007. At the time of our follow-up, there were 9,142 active registered sex offenders. The federal government also operates a similar registry.

In our *2007 Annual Report*, we concluded that while the Ministry and the OPP had worked diligently and cost-effectively to create the Registry to help police investigate sexual crimes and monitor sex offenders in their communities, the Registry was not yet functioning adequately to serve its intended purpose. Among our specific concerns, we noted the following:

- The Act establishing the Registry requires police services to register offenders only after they have completed jail or prison sentences. Thus, the many offenders who live in the community while serving their sentence, or those awaiting appeal decisions, are not required to register.
- The Registry was incomplete for a number of reasons. We identified 365 provincial offenders who should have been registered but were not. As well, there was no process for registering young offenders who received adult sentences.
- The Ministry never obtained a list of the more than 1,000 sex offenders in federal custody in Ontario at the time of the Registry's inception so that they could be registered on their release. In addition, there was no reliable reporting mechanism to ensure that all offenders living in Ontario were registered on release from federal correctional facilities. We identified 360 offenders released from federal custody who should have been registered but were not because of missing information about the timing of their release.
- There were no ministry guidelines for following up on non-compliant offenders—those who did not register, or who failed to re-register annually—and practices varied at

local police services. Warrants were not consistently issued for offenders in breach of the Act for extended periods. While the overall rate of compliance was high, the rate of non-compliance varied widely across the province.

- The search tools available in the registry application required improvement. Police investigators could not, for example, filter data by gender or age of victim, relationship (if any) between the victim and the offender, or the location of past crimes. In addition, other offender information, such as photographs, employment and educational addresses, or detailed case information was not always captured in the database, thus impairing the Registry's usefulness.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

We also acknowledge the work of the Legislature's Standing Committee on Public Accounts, which held a formal hearing on this audit and issued a report in February 2009.

Status of Recommendations

On the basis of information provided by the Ministry, we concluded that the Ministry and the OPP have made some progress on almost all of our recommendations, with significant progress being made on most of them. We noted that Ontario's Internal Audit Services also undertook an assessment of the actions taken to address our 2007 recommendations. In December 2008, Internal Audit Services concluded that the Ministry and the OPP had made significant progress in implementing our recommendations.

The status of action taken on each of our recommendations is as follows.

Recommendation 1

To help ensure that all convicted sex offenders are registered, the Ministry of Community Safety and Correctional Services should:

- *work with correctional and police services to ensure that the notice of duty to register is served to all convicted sex offenders at the appropriate times;*
- *consider revising existing legislative requirements to ensure that all offenders released from institutions and living in the community must register;*
- *work closely with provincial justice and correctional systems to obtain all offender records on an ongoing basis;*
- *work with the Correctional Service of Canada to obtain data on all offenders in federal custody in Ontario since the Registry's inception; and*
- *consider establishing procedures to identify offenders moving into Ontario, and confirming that those who report moving out of the province have actually done so.*

Status

In our *2007 Annual Report*, we noted that some 400 offenders who had completed their custodial sentences or who had been released on parole were never issued a notice of duty to register (NDR) as a sex offender. At that time, there was no legislative requirement for offenders to receive NDRs. Although most registered of their own accord anyway, 17% did not. On December 5, 2008, *Christopher's Law, 2000* (Act) was amended to, among other things, require that the NDRs be provided. The Ministry informed us that it has since worked with correctional and parole officers on this matter. Correctional institutions now serve NDRs to all applicable sentenced inmates, and probation and parole officers serve NDRs to applicable probationary or paroled offenders. As well, local police services are now required to notify a person charged with a sexual offence of his or her reporting obligations under the Act, and to forward a completed NDR to the Registry once an offender is convicted.

Other amendments to the Act include the following:

- Sex offenders serving intermittent sentences (on weekends, for example), those released on bail pending an appeal for a sexual offence, and those who change their name must register within 15 days of being sentenced, of being released on bail, or of changing their name.
- Police services must notify the Sex Offender Registry Unit within the OPP immediately if they receive notification from a mental-health facility of the unsupervised release of a person found not criminally responsible for a sexual offence by reason of a mental disorder.
- Correctional facilities must notify the Registry 24 hours in advance of the release of any sex offender on an unescorted temporary absence pass.
- Youth custody facilities must provide notice of any unescorted leaves granted to young persons serving adult sentences for a sexual offence.

Regulations under the Act were also amended to require:

- all registered offenders to provide police with their driver's licence number, along with the licence plate number, model, year, description, and colour of any vehicle they own, lease, or regularly drive; and
- all those convicted of voyeurism under the Criminal Code to register.

The Ministry further informed us that it had updated its policing standards and guidelines to reflect these changes, and conducted province-wide training between October and December 2008.

The Ministry also advised us that the OPP has obtained from Correctional Service of Canada (CSC) data on all offenders in federal custody in Ontario since the Registry's inception.

With respect to our recommendation to consider establishing procedures to identify offenders moving into Ontario, and to confirm that those who say they are moving out of the province actually leave, the Ministry informed us that as part of its regula-

tory amendments, all registered offenders who report that they are moving out of Ontario now must provide detailed information about their new place of residence. There is still no procedure in place to help identify offenders from other jurisdictions who move into Ontario. We were informed, however, that informal business practices do exist whereby other provinces advise the Registry of offenders who are known to be moving to Ontario.

Recommendation 2

To ensure that all offender records are deleted only for legitimate reasons, the Ontario Provincial Police should:

- *work with the National Parole Board to obtain updates on pardon revocations and ensure that such offenders re-register on a timely basis; and*
- *track and maintain supporting documentation for all deletion requests.*

Status

The Ministry informed us that it now has an agreement with the National Parole Board for the Board to provide notice to the Registry of any Ontario sex offender who has either been granted a pardon or has had a pardon revoked. A further agreement with the CSC allows the OPP access to relevant data from federal databases maintained by the CSC, the National Parole Board, and the Department of National Defence.

With respect to registry deletions, the Ministry informed us that all offender record deletions are now reviewed by management. The appropriateness of the deletion is verified, and a documented procedure is in place to ensure that supporting documentation is maintained for all deletions.

Recommendation 3

To ensure that Registry records are maintained accurately, the Ministry of Community Safety and Correctional Services should:

- *consider eliminating the right of non-compliant offenders to opt out of the annual mail reminder; and*

- *establish procedures for police services to ensure that reminders returned as undeliverable are followed up on a timely basis.*

Status

The Ministry informed us that it has changed its registration process so that offenders may no longer opt out of receiving the annual registration reminder letter. To address some offender concerns about receiving these letters at their home address, the OPP directive to police services says the envelope should not include any information identifying the sender as police or indicate in any way that it relates to the Sex Offender Registry. Offenders can also register a separate mailing address for the annual reminder letter.

The Ministry further reported that it has established required procedures to deal with any reminder letters returned as undeliverable, which may indicate that the offender has moved without reporting to police. The procedures, which have been distributed to all local police services, require them to initiate a non-compliance investigation, and the Sex Offender Registry Unit offers them support, if required.

Recommendation 4

To ensure that non-compliant offenders are followed up on in a timely manner, the Ministry of Community Safety and Correctional Services should:

- *develop guidelines and procedures for police services regarding follow-ups on offenders in non-compliance, including policies on the issuing of warrants;*
- *work with those local police services having a high rate of offender registration non-compliance in their community; and*
- *consider expanding the inspection scope of the Public Safety Division to include registry-related activities.*

Status

The Ministry informed us that it now has a guideline in place for dealing with non-compliant offenders and the issuing of warrants. A training package

was developed and distributed in November 2008 to ensure that police services are fully aware of the guideline. In addition, the Sex Offender Registry Unit of the OPP requires that all police services provide a monthly report on actions taken with regard to non-compliant offenders. The Ministry's Quality Assurance Unit, which inspects local police services, also receives a quarterly compliance summary report. We were further informed that the OPP has worked with those police services that had the highest non-compliance rates and, as a result, the number of non-compliant offenders was reduced from 490 as of September 2007 to 303 as of September 2008. In our 2007 audit, we noted that the overall compliance rate stood at 95%; the Ministry reported that as of January 2009, the overall compliance rate was over 97%.

With respect to our recommendation to consider expanding the scope of the Public Safety Division's inspections to include registry-related activities, we were informed that the Division will do this in its next cycle of quality assessment inspections, set to begin in 2011.

Recommendation 5

To help improve the Registry's usefulness for quickly identifying potential suspects in an investigation, the Ontario Provincial Police should:

- *create the ability to search or filter data by victim gender, victim age, relationship (if any) to the offender, and the location of past offences;*
- *consider expanding the collection of other useful offender information, such as vehicle information and family-contact data;*
- *ensure that police verify offender information in a timely manner; and*
- *reinforce the requirement for all offenders to provide a residential street address when registering.*

Status

The Ministry informed us that it has upgraded the Registry's system software to enable police to filter data in several new ways to quicken the search process. These upgrades include the ability to filter data by sex of victim, age of victim, relationship (if any)

between victim and offender, offender age, hair colour, skin tone, and the location of past sex offences.

We were further informed that other system enhancements were made to facilitate the new requirements for:

- information about offender driver licences and vehicles, including licence plate numbers;
- police services to input address verification particulars and to identify and track unverified addresses; and
- expanded case narrative information on what the offender did, including a list of designated sex acts, to assist investigative specialists in identifying more quickly persons of interest.

Police services are now responsible for making reasonable efforts to verify a sex offender's address at least once a year. Offenders may no longer provide a post office box instead of a residential address, although they may continue to use a post office box as a mailing address.

The Ministry also informed us that the interface between its Offender Tracking Information System (OTIS) and the Registry has been improved to allow for more data to be transferred automatically between the two systems. As well, the OTIS system itself can now house more information and communicate more readily with correctional facilities and parole offices to identify more quickly offenders being released into the community. The OPP and the Ministry's technology unit continue to work on creating an interface between the Ontario and national sex offender registries to enable the electronic transfer of data between the two.

Recommendation 6

To help improve the usefulness and accountability of the Registry, the Ontario Provincial Police should:

- ensure that sufficient training and support are provided to local police services;
- prioritize outstanding system-change requests and devote sufficient resources to address them in a timely manner;
- correct all known system-report errors to ensure that police have access to accurate information

when accessing the registry database for investigative purposes; and

- ensure that all funds approved for registry purposes are actually spent on registry activities.

Status

The Ministry informed us that province-wide training for all police services regarding the legislative and other revisions to the Registry was completed in December 2008. Further training was provided in October 2009. In addition, the OPP was developing an e-learning program for remote training of police services. In addition, we were informed that, in February 2009, the Ontario Association of Chiefs of Police sponsored a workshop on the recent changes to the Registry, with over 50 representatives from various police services attending. A second workshop was planned for the 2009/10 fiscal year.

The Ministry informed us that the OPP and the Ministry's Technology Services Group worked together to prioritize the outstanding system-change requests, and the highest priority requests were implemented between September and December 2008. A second group of priorities was implemented in October 2009.

With respect to the system-report errors, the Ministry informed us that these have been corrected, except for two being addressed as part of a wider justice technology upgrade scheduled for completion during the 2009/10 fiscal year.

The Ministry further reported that the OPP is now allocating to the Registry all ministry funding earmarked for the Registry. The Sex Offender Registry Unit's increased expenditures for each of the last two fiscal years reflect these budget allocations, and the Ministry reported that the additional funding has helped address the gaps in training and the system errors we noted in our *2007 Annual Report*.

Recommendation 7

To ensure that the Registry is always available to the police, the Ministry of Community Safety and Correctional Services should complete the Registry's

disaster recovery plan and test its effectiveness as soon as possible.

Status

The Ministry informed us that the OPP has completed a disaster recovery plan and successfully tested its effectiveness in March 2008 and again in March 2009.

Recommendation 8

To help ensure that confidential information in the Registry is adequately protected from unauthorized access and modification, the Ministry of Community Safety and Correctional Services should:

- *ensure that the Ontario Provincial Police's security reviews are performed regularly in accordance with policy and that recommendations arising from these reviews are implemented on a timely basis; and*
- *regularly review system-access rights to ensure that information in the Registry is available to users strictly on a need-to-know basis and that authorization to make database changes is strictly controlled.*

Status

The Ministry informed us that in October 2008, the OPP hired an external firm to conduct a compliance review of its Public Key Infrastructure (PKI) security system, designed to ensure that all information transmitted to and from the Registry is encrypted to prevent unauthorized access. The firm concluded that the OPP was in compliance with the requirements for PKI certification and all other applicable policies and procedures.

With respect to system-access rights, the OPP further reported that it had developed a process

whereby the registry supervisor in each police service is now responsible for monitoring and updating local user access rights. The new process was first tested at one local police service in October 2008, and an associated policy document was completed the following month and communicated to all police services during training sessions provided in the final months of 2008. The new process is scheduled for province-wide implementation in 2009/10 on completion of related system enhancements, which will provide local supervisors with on-line access to a listing of users and their roles at their local police service. Further guidance on the revised process will be provided to all police services at the time of the province-wide implementation.

Recommendation 9

To demonstrate the effectiveness of resources dedicated to the Registry, the Ministry of Community Safety and Correctional Services' Public Safety Division should work to develop appropriate performance measures for the Registry, including evidence that it is proving helpful to police in the resolution of sexual-crime investigations.

Status

The OPP informed us that it has worked with the Ministry's Policy and Strategic Planning Division to develop a set of comprehensive performance measures for the Registry, and a draft of the proposed measures was provided to us. These measures were awaiting ministry approval. In addition, we were provided with a number of case-history summaries where the Registry data was instrumental in resolving police investigations.