

# Ontario Sex Offender Registry

## Background

The Ministry of Community Safety and Correctional Services (Ministry) works to ensure the safety of Ontario's communities by providing secure, effective, efficient, and accountable law enforcement and correctional services. Ministry responsibilities include establishment of policing standards, provision of front-line policing services in accordance with those standards, and supervision of offenders in provincial correctional institutions and in the community. The Ministry is also responsible for the Ontario Sex Offender Registry (Registry).

According to Statistics Canada, 27,000 sexual offences were reported to the police across the country in 2002. Of these, 7,300 went to court, resulting in about 3,000 convictions. Some 61% of victims in the 27,000 cases were under the age of 18. Following a 1992 inquest into the brutal murder in 1988 of 11-year-old Christopher Stephenson by a convicted pedophile, a coroner's jury recommended the creation of a mechanism to register convicted and dangerous sex offenders with the local police.

The Ontario government accepted the recommendation and introduced a bill called Christopher's Law (Act) in April 2000. The Act, proclaimed the following year, established the Registry to

track the whereabouts of persons living in Ontario but convicted anywhere in Canada of one or more designated sexual offences under the Criminal Code of Canada. Examples of such offences are sexual assault, sexual interference, and possession of child pornography. The Act also applies to every offender still serving a sentence for these offences at the time the law came into force.

Ontario was the first Canadian jurisdiction to create a sex offender registry, although they have existed in the United States since the 1940s. Ontario's Registry is managed and maintained by the Ministry's Sex Offender Registry Unit (SOR Unit) within the Ontario Provincial Police (OPP). The more than 140 municipal police and local OPP services in the province are responsible for registering and monitoring offenders living in their jurisdictions. At the time of our audit, there were over 7,400 registered offenders.

A more recent development in the registration and monitoring of sex offenders is the National Sex Offender Registry (NSOR), created by federal legislation in 2004. A comparison of key legislative provisions of the two registries is provided in Figure 1. There have been efforts to co-ordinate the activities of the two registries and minimize unnecessary duplication.

**Figure 1: Comparison of Ontario and National Sex Offender Registries**

Prepared by the Office of the Auditor General of Ontario

	Ontario Sex Offender Registry	National Sex Offender Registry
legislation	<i>Christopher's Law</i>	<i>Sex Offender Information Registration Act</i>
starting date	April 23, 2001	December 15, 2004
who must register?	all Ontario residents convicted of a designated sexual offence anywhere in Canada	any Canadian resident convicted of a designated sexual offence and ordered by a court to register
access to the registry	directly accessible by all Ontario police services 24 hours a day, 7 days a week	local police contact a provincial NSOR centre and request information
# of registered offenders (as at January 2007)	7,400	9,400

## Audit Objective and Scope

The objective of our audit was to assess whether the Ministry of Community Safety and Correctional Services (Ministry) and the OPP have adequate systems, policies, and procedures in place to ensure that the Ontario Sex Offender Registry (Registry) satisfies the legislative requirements, and efficiently and effectively supports police investigations of sexual crimes.

We identified audit criteria for meeting our audit objective. These were reviewed and accepted by senior ministry and OPP management. Our audit included examination of documentation, analysis of information—including the use of a number of computer-assisted audit techniques for analyzing Registry data—interviews with ministry and OPP staff, and visits to five local police services. We also surveyed 100 local police services across the province, asking for their views on the Registry and how to improve it. We were pleased with the 76% response rate and the input from respondents.

We did not rely on the Ministry's internal auditors to reduce the extent of our procedures, as they had not conducted any recent work involving the Registry.

## Summary

A dedicated team of OPP officers and support personnel from the Ministry of Community Safety and Correctional Services (Ministry) has worked diligently and cost-effectively over the last six years to create a working registry that helps the police investigate sexual crimes and monitor sex offenders in their local communities. While considerable progress has been made, the registry system is not yet functioning adequately to serve its intended purpose.

In our audit, we identified a number of areas where the Ministry and the OPP need to strengthen procedures to ensure that all offenders who should be in the Registry are registered, and to make the Registry more useful for police investigations.

Among our most significant observations:

- The Act requires that police services register offenders when they have completed their custodial sentences. However, the Act does not refer to the many offenders living in the community, such as those on day parole or in intermittent sentence programs, those awaiting appeal decisions, and, in some cases, those found not criminally responsible because of mental illness.

- We identified 365 offenders who should have been registered or recorded in the Registry but were not, either because data files received from the Ministry's Offender Tracking Information System were incomplete (175) or because offender records from another system maintained by the provincial courts had not been included (190). In addition, there was no process for ensuring that young offenders who receive adult sentences were registered.
- The Ministry has never obtained a list of the estimated 1,060 sex offenders in federal custody at the time of the Registry's inception. In addition, there has been no automatic data update or other reliable reporting mechanism established with the Correctional Service of Canada to inform the OPP or local police services when these offenders, who have usually been convicted of the most serious crimes, are released. As a result, the Ministry has little assurance that all offenders in the federal corrections system who live in Ontario are being systematically included in the Registry.
- Federal offenders temporarily detained in provincial institutions before being transferred to a federal facility are recorded in the Registry with what is known as a "footprint" record, but these records were incomplete. Our review identified 360 offenders who appeared to have been subsequently released into Ontario communities from federal custody but were not registered in the Ontario Registry—a complete "footprint" record might have helped to prevent this.
- The process for deleting offender records from the Registry needed improvement. Over 730 deletions had not been properly logged, and we were unable to determine if all were legitimate. In addition, the Ministry had no procedures for ensuring that it was notified if a pardon was revoked so that the offender could be re-registered.
- Local police follow-up procedures on the 384 non-compliant offenders—those who did not register or do not re-register annually—varied widely, and there was no ministry guidance on what those procedures should be. While we noted that the overall registered offender compliance rate was quite high at 95%, this rate varied widely across local police services. In addition, almost 70 (18%) of the unregistered offenders had been in breach of the Act for more than two years. We tested a sample of these offenders and noted that, at two of five police services tested, arrest warrants had been issued for only about half of the offenders.
- Although the Ministry's Public Safety Division conducts frequent inspections of local police services to ensure that they comply with government regulations, activities relating to the Registry were not within the scope of these inspections at the time of our audit.
- While research indicates that time is of the essence when investigating possible sexual crimes such as child abduction, there are a number of limitations in the Registry tools available to investigators that inhibit efficient searches through the list of 7,400 registered offenders in the database. For example, there is no method of quickly searching the data on the basis of the sex and age of an offender's victim, the relationship (if any) between the victim and the offender, or the location of the crime. Being able to filter Registry data based on these attributes would help investigators more quickly identify and locate offenders of interest during investigations.
- Registry records did not always capture all offender information required under the Act that would be useful to investigators. For example, there were no photographs on file for 140 offenders. Moreover, only 560 records contained the addresses of the

offender's workplace or educational institution and more than 1,200 offender records had no detailed case information. The police had also never verified the residential addresses of nearly 650 offenders, thereby inhibiting their ability to find offenders quickly in an investigation.

- There is little evidence demonstrating the effectiveness of registries in reducing sexual crimes or helping investigators to solve them, and the Ministry has yet to establish performance measures for its Registry.
- Since its inception, nearly \$9 million in funding approved for registry operations was spent instead on other OPP operational areas. At the same time, we noted that the Sex Offender Registry Unit (SOR Unit) lacked the resources to complete a number of planned system corrections and enhancements. We were informed that the \$9 million approved for registry operations was reallocated to ease a number of operational pressures and financial constraints faced by the OPP.

We sent this report to the Ministry and invited it to provide responses. We reproduce its overall response below. The Ministry also provided separate responses to individual recommendations or a combined response to two or more recommendations. Those responses follow the recommendations in Detailed Audit Observations.

### OVERALL MINISTRY RESPONSE

The Ministry is proud of its commitment to enhance public safety by providing law enforcement agencies with a reliable and effective electronic tool and support services to track sexual offenders in our communities and improve the investigation of crimes of a sexual nature. The Ministry thanks the Auditor General for the constructive observations and recommendations put forth in this report and for his recognition

of the dedication and diligent efforts of the ministry personnel who worked cost-effectively to create the Ontario Sex Offender Registry (Registry) over the last six years. We also thank the Auditor General for highlighting the Ministry's implementation of the policy to personally notify offenders of their duty to register with the police jurisdiction in which they reside to improve compliance. The relationship developed from the implementation of the Registry between the Ministry, provincial correctional services, and police services has helped maintain a strong provincial compliance rate for this ministry program of approximately 95%.

As the Auditor General indicates, the Registry provides front-line police personnel with a useful investigative tool, with search features such as the geographical mapping of offenders' addresses and other search and sorting features, which help the ministry and police-services initiatives to improve overall public safety.

## Detailed Audit Observations

The Ontario Sex Offender Registry is a relatively new law enforcement tool available to Ontario police. The Ministry has reason to be proud of its work to date on this initiative, for over the last six years it has transformed the Registry from a working concept to a database that now contains useful information to assist police in monitoring sex offenders in their local communities and investigating sex crimes. The Registry has also been developed at moderate cost, with an annual budget of approximately \$4 million, of which \$1 million is dedicated to system development and maintenance. However, further work is needed to ensure that the Registry effectively supports police efforts to investigate and mitigate the risk of sexual crimes.

Our audit observations address six major themes: gaps in registration and registry completeness; offender monitoring and compliance; support for investigations; registry training and support; registry availability and security; and on the Registry's effectiveness.

## COMPLETENESS OF THE REGISTRY

The more complete the Registry, the more useful it is to police who investigate sexual crimes. To be complete, the Registry must include the names of all sex offenders who should be registered, along with comprehensive and up-to-date information about them.

### Notice of Duty to Register

The Act requires all offenders who have completed a custodial sentence or are released on parole to register in person with local police within 15 days of release. Offenders not sentenced to a jail term but placed instead on probation or given a conditional sentence must also register within 15 days of conviction. Once registered, all offenders must re-register annually for a minimum of 10 years. Repeat offenders and offenders sentenced for a period of more than 10 years must register for life.

Although there is no requirement under the Act for offenders to be notified that they must register, the Ministry and local police services have a policy of issuing offenders a notice of duty to register. While our analysis indicated that most offenders were served with these notices, some 400 offenders had never been issued theirs by the local police services. Of these, nearly 17% had failed to register, a rate more than three times higher than the overall non-compliance rate of 5%. This difference underscores the value of notices in maintaining high compliance levels.

## Limitations on Registration Requirements

The Act requires every offender living in Ontario to register with the local police "within 15 days after he or she is released from custody after serving the custodial portion of a sentence in respect of a sexual offence." This legislative provision has proved problematic for the OPP in administering the Registry because the demarcation point between being "in custody" and being "released" is not always clear-cut. For example, many offenders get day parole, giving them freedom in their local community during the day but requiring them to return to a correctional facility or halfway house at night. Others serve their custodial time through an intermittent sentence, which allows them, for example, to work in the community during the week and return to jail on weekends. Offenders in these situations do not have to register because they are not deemed to have completed a custodial sentence as cited in the Act.

There has also been confusion regarding the registration obligations of offenders who appeal their convictions. Prior to September 2005, offenders not serving time in a correctional facility who launched appeals were not required to register while their cases went through the appeal process. If the courts subsequently upheld the conviction, the offender would then have to register. However, we found during our audit that only one of the police services we visited followed up on these appeal cases to determine if the convictions were upheld. We found no other mechanism in place to ensure that such offenders register. In September 2005, the OPP began requiring appellants to register while awaiting the outcome of their appeals, but we noted that this policy was reversed toward the end of our audit on the advice of the Ministry's legal counsel.

Another issue relates to offenders found not criminally responsible because of mental illness. The Ontario Review Board (ORB) of the Ministry of Health and Long-Term Care monitors all such

offenders and reassesses their cases annually. The disposition of such cases may include a decision to keep the individual in custody or issue a conditional or absolute discharge. The Act requires all such offenders who receive an absolute or conditional discharge to register, and our tests of ORB records found that such individuals were indeed in the Registry. However, many of these offenders who had not yet been discharged were exercising what is known as “community privilege,” meaning they could choose to live in the community before their actual discharge date. These individuals are not required to register until they are formally discharged.

### Offenders in Provincial Custody

An offender incarcerated in a provincial correctional institution is tracked in a ministry system known as the Offender Tracking Information System (OTIS), and a “footprint” record of the offender is created in the Registry. This footprint record is activated once the offender is released from the institution, and the offender must register with police in the community where he or she takes up residence within 15 days of release. Offenders on probation and those serving conditional sentences, are also tracked in OTIS.

When the Registry was established in 2001, it was initially set up using information extracted from all sex offender records maintained in OTIS. The SOR Unit continues to rely on OTIS as a prime source of information for daily updates of registry data, including any revisions to existing offender records, such as sentence or release-date adjustments. During our audit, we reviewed the completeness of this transfer process by comparing data in the Registry with an extract from OTIS of all sex offenders who should have been registered or recorded. We identified 175 offenders with records in OTIS who either had never had a footprint record created in the Registry or had never been registered on completion of their sentence.

While OTIS is a good data source for the Registry, it does not track all convicted offenders. We therefore obtained a separate complete listing from the provincial court system of all sex offenders who, according to the records in this list, should have either been registered or had a footprint record created in the Registry. We compared these data with the registry database and identified another 190 offenders not in the Registry. It is important to remember that offenders not in the Registry are not monitored by local police or identified when police search the Registry in connection with an investigation.

Another completeness issue relates to young offenders convicted of sexual crimes. Any such offender convicted and given an adult sentence is required to register. However, the majority of these young offenders serve their custodial sentence in one of the eight youth detention centres in the province rather than in adult institutions. Records for these offenders are not stored in OTIS, and there were no procedures for ensuring that these offenders were registered in the Registry upon their release from the institution.

### Offenders in Federal Custody

Offenders getting a custodial sentence of two or more years are jailed in federal correctional institutions. In early 2001, the Correctional Service of Canada (CSC) estimated there were approximately 700 sex offenders in its federal prisons in Ontario and another 360 in the province under community supervision, including parole or statutory release.

Although the Ministry had several discussions with its federal counterparts about obtaining a data feed from the federal system to ensure that these offenders were “footprinted” in the provincial Registry so their release date could be monitored, no data feed was ever established. Thus, there is no assurance that the Registry contains information on all offenders in federal custody since 2001, or in federal community-supervision programs.

We are concerned that the absence of a data feed from federal authorities or other reliable methods of obtaining footprint information means that offenders who complete their custodial sentences and are released from a federal institution may not get registered. In this regard, we noted that there was no formal process for CSC to inform the Ministry that it is releasing a sex offender. The Ministry currently relies on a more informal process of communication between federal correctional institutions, federal parole offices, and local police services. While local police do register released offenders when they are made aware of them, the police services we visited had little confidence that the current process ensures that they are made aware of all of them. Although high-risk offenders usually have a release plan and local police services are notified, we found that this practice varied across the province, and local sexual crime units, which actually enter the data into the Registry, were not always informed of such cases.

When federal offenders are temporarily detained in provincial institutions before transfer to a federal institution, a footprint record is created in the Registry. The SOR Unit informed us that it reviews these footprint records, notifying these offenders before their release from the federal institution of their obligation to register and activating these records once offenders are actually released. Often, however, we found that the Ministry had no information about the release date for such offenders to ensure that this process had been followed. Our analysis identified 360 offenders with records indicating that they had been released from a federal institution but never subsequently registered.

More serious sexual offences are usually heard before the Superior Court of Justice, and convicted offenders in such cases may be sent directly to federal institutions. In these cases, there is no temporary placement in a provincial institution, so the Ministry has no footprint records in the Registry for such individuals. Data from the Ministry of the

Attorney General indicate that there have been over 3,400 offence referrals of this type since 2001. The Ministry does not receive information on these cases and has no mechanism to ensure that these individuals register when they are released.

### Offenders from Other Canadian Provinces

The Ministry of Finance estimates that about 64,000 people move into Ontario every year from other provinces. Under the Act, convicted sex offenders from anywhere in Canada must register with the local police within 15 days of moving to Ontario. However, there is no mechanism to ensure that they actually do register. Specifically, there are no internal procedures to help identify offenders moving into Ontario, and no process whereby other jurisdictions inform the Ministry of such movements when they are aware of them. The federal NSOR is of limited use in this regard because, under the federal legislation, registration is not mandatory for all convicted offenders. In addition, access to NSOR records is restricted, making it difficult to conduct general searches of its contents. The Ministry essentially relies on the offenders themselves to come forward. There are no estimates available of how many offenders convicted in other jurisdictions are now living unregistered in Ontario.

### Offenders Moving Out of Ontario

Offenders who cease to live in Ontario must inform local police prior to moving away, and they are subsequently no longer required to re-register annually. We noted from our analysis that some 400 offenders had reported moving out of the province since the Registry's inception. However, there was no policy or guideline requiring police to confirm that these moves actually took place. We noted that in only 30 of these 400 cases did police actually verify that the offender had indeed left the province.

## 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.

## MINISTRY RESPONSE

The Ministry provided a combined response to recommendations 1, 5, and 9. We reproduce it following Recommendation 9.

### Deletion of Offender Records

A sex offender who receives a pardon from the National Parole Board can apply to have his or her record removed from the Registry. Upon receiving satisfactory proof of a pardon, and after management review and approval, the SOR Unit permanently deletes the offender record. However, pardons are revocable if an offender violates any

conditions of the pardon or has conduct or behavioural problems. When a pardon is revoked, the offender must re-register with the Ministry. At the time of our audit, the Ministry was not being notified of pardon revocations and had no compensating procedures to ensure that such offenders were re-registered.

Since all deletions permanently remove records from the Registry, proper audit trails should be maintained to ensure that these deletions are legitimate. At the time of our audit, the Ministry had deleted almost 1,300 records from the Registry since its inception. However, it only began tracking and documenting these deletions in November 2002, recording 532 of them in a logbook. As illustrated in Figure 2, there was no support or tracking for more than 730 other deletions.

During our review, we also found that records were at times mistakenly created for conditional discharge cases and subsequently deleted, and documentation of these deletions was not always properly maintained. Staff, on occasion, also identified duplicate records in the Registry and deleted them without proper documentation. We further noted that the Ministry deleted some 100 fictitious offender records created in the Registry for training purposes rather than using the existing training database.

**Figure 2: Number of Records Deleted from the Registry, April 2001–February 2007**

Source of data: Ministry of Community Safety and Correctional Services

	# of Deletions per Registry Records	# of Deletions per Logbook	# of Unsupported Deletions
April 2001– Nov. 2002	541	0	541
Nov. 2002– Feb. 2007	723	532	191
<b>Total</b>	<b>1,264</b>	<b>532</b>	<b>732</b>



**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.

**MINISTRY RESPONSE**

The Ministry provided a combined response to recommendations 2, 7, and 8. We reproduce it following Recommendation 8.

**Offender Annual Re-registration**

All registered offenders are required to re-register annually with local police. Although the Ministry sends out annual reminder notices to offenders in the month before their re-registration date, offenders can opt out of receiving the mailing. Our data analysis indicates that more than 6.3% of the 1,700 offenders who exercised this option became non-compliant—approximately 50% more than the 4.4% rate for those who received the reminder.

When a notice is returned as undeliverable, the Ministry flags the offender record, and local police services are supposed to follow up to ensure that the offender can be located. However, there was no ministry policy regarding this follow-up process, and we found that practices varied widely across the province. Our data analysis indicated that police followed up on only about half of these undeliverable reminders.

**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.

**MINISTRY RESPONSE**

The Ministry will examine the impact of removing the ability of offenders to opt out of receiving annual reminder notifications and will formulate recommendations that police services standardize their procedures for managing a letter that is returned to the Ministry. The Registry application alerts police services immediately of any returned correspondence to an offender that may indicate that the offender is not residing at the registered address.

**OFFENDER MONITORING AND COMPLIANCE**

When offenders are released from custody, they must register at their local police service within 15 days. Offenders who fail to register or to re-register annually are flagged in the Registry as non-compliant and can be charged with an offence leading to fine or imprisonment. Ministry policy requires police services to take reasonable steps to follow up on offenders who fail to report as required. One option available to police is to obtain and issue a warrant for the offender's arrest. The final sanction available to police is to lay charges.

As the Ministry has not defined what reasonable steps it expects police to follow when dealing with non-compliant offenders, we found that follow-up

procedures, including the practice of issuing warrants, varied widely among police jurisdictions. The Ministry also has no tracking mechanism to record what actions were taken in such cases. Our analysis indicated that of the 384 non-compliant offenders at the time of our audit, almost 70 had been non-compliant for more than two years while some had been non-compliant since the Registry's inception. For the offenders who had been non-compliant for more than two years, we found that two of the five police services we visited issued warrants for only half of them. (Two others issued warrants for all offenders in non-compliance for more than two years, while the fifth had no offenders in non-compliance for more than two years.) We also noted that while most police services had high compliance rates for their registered offenders, and the overall provincial compliance rate was 95%, there was a wide range of compliance rates among local police services, ranging from zero to 100%.

We further noted that the SOR Unit had little, if any, authority to compel local police to deal with Registry issues, including follow-ups on non-compliant offenders. While SOR Unit staff do visit and counsel local police, these activities are primarily for training purposes and to provide assistance on particular aspects of Registry use. The Ministry's Public Safety Division conducts frequent inspections at local police services for compliance with ministry regulations and guidelines, but at the time of our audit, these inspections had not included any review of the procedures for following up on non-compliant sex offenders.

#### 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.

#### MINISTRY RESPONSE

In consultation with police stakeholders, the Registry, and the Public Safety Division (PSD), the Ministry will review and evaluate current guidelines and procedures for all police services regarding non-compliant offenders, including steps for initiating investigations and apprehension of non-compliant offenders. The review will include evaluating current guidelines contained in the *Policing Standards Manual* and the PSD inspection process.

### SUPPORTING INVESTIGATIONS

#### Searching the Registry

A primary purpose of the Registry is to assist police when they investigate a possible sexual offence, such as the abduction of a child. Research data indicate that in cases where a child is abducted for sexual purposes and then murdered, rapid response is critical because 44% of victims are killed within an hour of being abducted, and 91% within 24 hours. In order to facilitate a rapid and effective response, investigators need to be able to search quickly through the Registry and identify and track down the most likely suspects in a particular case.

The Registry is relatively new, and the Ministry's efforts to date have been directed primarily at ensuring that all known offenders are registered and their basic data captured. However, one very useful feature is a linkage of offender addresses to

a geographical mapping application that enables investigators to quickly generate and print maps highlighting the addresses of all offenders living within a specified radius of a crime scene. This feature was developed because research indicates that there are unique patterns of distance in child-abduction cases, with 80% of such abductions occurring within a quarter-mile of the victim's last known location, usually by offenders who live or work in the area or had some other legitimate reason to be there.

While there are a number of other tools available to investigators for screening the 7,400 offender records in the Registry, its usefulness could be greatly enhanced by providing additional search tools and improving the functionality of existing ones. For example:

- Some offenders have previously assaulted only females, others only males. Likewise, some offenders have assaulted only children, others only adults. At the time of our audit, there was no method for quickly filtering registry data on the basis of these attributes. Our discussions with local police services and our survey respondents indicated that investigators would find it useful to identify potential suspects based on the gender or age of their past victims without having to scan all records in the database or all records from a particular geographic area.
- Similarly, in a case involving an assault by a stranger, investigators should be able to screen out immediately those offenders who have assaulted only members of their immediate families or other relatives.
- When investigating an assault at a particular location, in addition to generating lists of offenders who live closest to that location, investigators would find it useful to create a list of offenders whose past offences have occurred close to that location.

Databases can typically be searched, or filtered, in the manner suggested above by any attribute set

up in what is known as a data field. To make the above searches possible, the Ministry would have to create and fill four additional searchable fields: the gender of the victim, the age of the victim, whether the victim was related to the offender, and the location of the crime. Some of this information is already in the Registry, but not in a searchable format. In the longer term, it could be useful to add several new fields, including victim characteristics such as hair colour or skin tone. The more detailed and searchable the data, the more effective the Registry will be for investigators.

## Offender Records

When registering, offenders must provide police with personal information, including their name, date of birth, home or any secondary residence address, and telephone number as well as a photograph. If applicable, employment or educational institution addresses must also be provided. Our review of registry records and the results of our survey indicated that incomplete information was being obtained from offenders. For example, there was no photograph for about 140 offenders in the Registry, and only 560 offenders had an employment or an educational institution address included in their record. Since many offenders could be either working or attending an educational institution that is not in the same vicinity as their residence, this information could be useful for quickly locating offenders during an investigation. The Act's regulations list many more types of information that police may include in offender records, including physical features such as scars or tattoos, but we found that this information was not always being collected and recorded. Responses to our survey and our review of registries in other jurisdictions also suggest that other offender information, such as vehicle information and contact information for other family members, could be useful. Figure 3 provides a comparison of Ontario's

**Figure 3: Comparison of Sex Offender Registries among Selected Jurisdictions<sup>1</sup>**

Prepared by the Office of the Auditor General of Ontario

	ON	CAN	CAL	FL	MA	MI	NJ	NY	TX	UK
registration starting year	2001	2004	1944	1993	1996	1994	1994	1995	1991	1997
public access			✓	✓	✓ <sup>2</sup>		✓ <sup>3</sup>	✓ <sup>2</sup>	✓	
first registration (days after release)	15	15	5	2	2	0 <sup>4</sup>	0 <sup>4</sup>	10	7	3
minimum reporting period (years)	10	10	life	life	20	25	15	10	10	5
annual registration	✓	✓	✓					✓		
physical features	optional	✓	✓	✓	✓	✓	✓	✓		
victim information	optional	✓							✓	
vehicle information			✓						✓	
educational/employment address	✓	✓	✓	✓	✓	✓	✓		✓	

1. ON—Ontario; CAN—Canada; CAL—California; FL—Florida; MA—Massachusetts; MI—Michigan; NJ—New Jersey; NY—New York; TX—Texas; UK—United Kingdom

2. moderate- and high-risk offenders only

3. high-risk offenders only

4. immediate

registry with those of other jurisdictions, including the range of information these registries contain.

We noted that some police services entered considerable detail about the offence, the offender, and the victim in what is known as the “case narrative” box. While this information can be useful, it cannot be searched or filtered by investigators in the same manner as a data field. We also noted that there was no case narrative data for almost 1,200 offenders.

Ministry policy also requires police to obtain and verify proof of identity and address during the initial registration of an offender, and again at each re-registration and when updating information in the Registry. Our analysis of registry records indicated, however, that only home addresses were verified, and there was no evidence that verification had been completed for about 650 offenders. We also noted that police sometimes accepted and entered post office boxes as an offender’s residence instead of requiring a street address. Without reliable address information, police are less likely to find offenders quickly during an investigation.

## 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.

## MINISTRY RESPONSE

The Ministry provided a combined response to recommendations 1, 5, and 9. We reproduce it following Recommendation 9.

## REGISTRY TRAINING AND SUPPORT

The Ministry’s approved budget for centrally operating and maintaining the Registry is approximately \$4 million annually. This excludes related expenditures incurred by local police services. Almost \$1 million of that is used for the development and maintenance of the registry application system itself. A technology services unit that supports several ministries with justice-related responsibilities provides these services. Our review of the other \$3 million indicated that the OPP was not using these funds entirely for registry purposes. We were informed that the OPP has faced several operational pressures and financial constraints over the last decade, and the impact of these pressures and constraints has been felt by several programs. Accordingly, while \$16.1 million of the total \$24.8 million in registry funding provided between April 1, 2000, and March 31, 2006, was used directly on registry operations, the remaining \$8.7 million was used in other areas. Some of these funds were used to offset the cost of positions within the Behavioural Sciences Unit, whose work in part supports the Registry. The remaining funds were used for national security and other public safety priorities. Figure 4 summarizes these expenditures and reallocations.

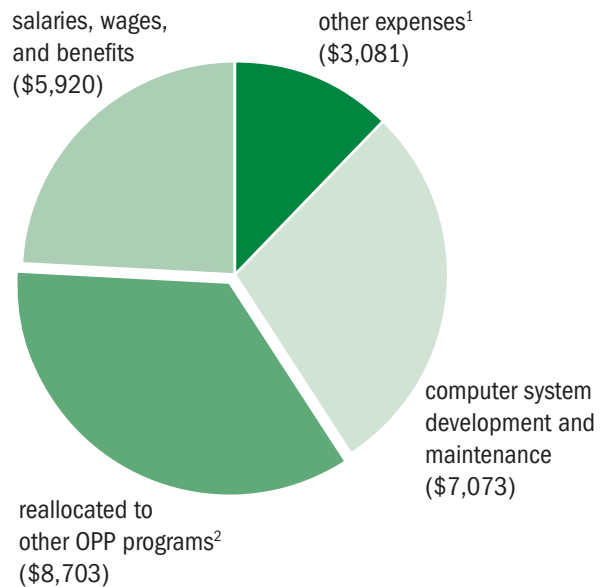
With a significant portion of its approved budget re-allocated to other areas, the SOR Unit has been unable to complete a number of its planned activities. For example, one of the prime purposes of SOR Unit site visits is to provide local training and support. However, it was unable to meet its target of conducting at least one site visit to each of the 140 local police services annually, as illustrated in Figure 5.

Not surprisingly, training has become a concern as site visits have dropped. The police services we interviewed and surveyed both raised this issue, with one in four survey respondents indicating that more registry training was needed. We further noted that less than 25% of the approved training

budget had been used each year. Finally, although a 2004 training and information exchange conference with police service representatives from across the province received positive feedback from attendees, the exercise was never repeated.

**Figure 4: Ministry Sex Offender Registry Expenditures and Reallocations for the Six-year Period Ending March 31, 2006 (\$ thousand)**

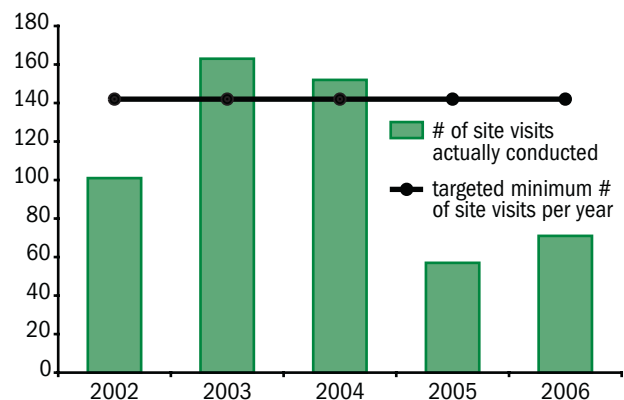
Source of data: Ministry of Community Safety and Correctional Services



1. Including training, site visit expenses, and office supplies.
2. Including the Behavioural Sciences Unit, national security, and other public-safety priorities.

**Figure 5: Targeted Number of SOR Unit Site Visits to Police Services, 2002–2006**

Source of data: Ministry of Community Safety and Correctional Services



The SOR Unit's workload also increased significantly in late 2006 when an electronic link to the National Sex Offender Registry was severed, with staff subsequently having to enter federal offender records into the NSOR manually.

Resource issues have also hindered efforts to enhance the Registry's functionality, even though users have identified many potential improvements. For example, we noted almost 50 outstanding requests for system changes or corrections, some dating back to 2003. One involves a police request to make it possible to search the Registry for offenders' past residential addresses in addition to their current one, as investigators have at times needed this information.

A number of system reports are also available in the Registry to assist police services in monitoring offenders in their jurisdiction. Such reports may include listings of non-compliant offenders, expected offender releases from provincial or federal institutions by date, or the distribution of the offenders in their community. We generated many of these reports as part of our review and found a number of errors made by the registry application that generates them. Users also identified some of these errors and requested they be corrected, but as indicated above, many such requests have been outstanding since 2003.

## 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.

## MINISTRY RESPONSE

The Ministry is in the process of reviewing the registry program. Once the review is completed, the Ministry will assess registry funding needs in context with other public-safety priorities within the ministry funding envelope.

The Ministry agrees that sufficient training and support to police services is important. The Ministry will review training options to ensure that continued support is available to meet its stakeholders' requirements. The Ministry will continue to enhance the training materials that are available for police services to ensure that offender registrations are undertaken in an appropriate manner. The Ministry will work with its information-technology service provider to examine funding requirements for enhanced service delivery.

## AVAILABILITY OF THE REGISTRY

During an investigation of a sexual crime, police response time is critical. Accordingly, registry data should be accessible and available to all police services at any time.

Although the majority of our survey respondents were happy with the system response time and did not have any problems in accessing the Registry when needed, we noted that the Ministry has yet to finalize a disaster recovery plan to ensure that registry data can be fully recovered if a major disaster or hardware failure occurs. In addition, though the Registry is backed up every day, the Ministry had never tested the backup tapes to ensure that all application and data files could be fully restored when needed.

## 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.

## MINISTRY RESPONSE

The Ministry provided a combined response to recommendations 2, 7, and 8. We reproduce it following Recommendation 8.

## SECURE ACCESS TO THE REGISTRY

While some other North American sex offender registries can be accessed by the public, access to Ontario's offender records is, under the Act, restricted to law-enforcement officials. Accordingly, the Registry needs strong access controls.

Registry data are physically well protected since all terminals that can access the Registry are either at secure ministry sites or at local police service detachments. Registry data are also protected through a system of user accounts and access rights. Because of their extremely sensitive nature, another layer of protection for these data is the use of Public Key Infrastructure (PKI) technology to ensure that all information transmitted to and from the Registry is encrypted to prevent unauthorized access or data modification. OPP policy recommends an annual review of PKI infrastructures. The last review was in 2005, and the action plan developed to address system vulnerabilities identified in that assessment had yet to be fully implemented.

During our audit, we reviewed the Registry's user accounts and the system access levels assigned to the police services we visited, and noted some areas requiring improvement. About 11% of user accounts we reviewed should have been removed or had their system access revised to a lower category

with fewer access privileges. We also noted that the Ministry did not regularly review access rights assigned to users; nor did it properly maintain all documentation related to access requests. We were thus unable to determine if all existing access rights were appropriate given the users' job responsibilities or whether all access rights had been properly approved.

We also noted one group of application-development and -support personnel that had full access to the Registry, allowing them to create, edit, or even delete offender records without the creation of any audit trail. This inappropriate level of access to the Registry is contrary to industry best practices and raises data-integrity risks.

## 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.

## MINISTRY RESPONSE

The Ministry provided a combined response to recommendations 2, 7, and 8 as follows.

The Ministry supports these recommendations. During the registry audit, an immediate enhancement to the standardized quality-assurance process of capturing legitimate record deletions was made. The Registry immediately

requested lists from the RCMP records section and the National Parole Board of Canada of any offenders who might receive a pardon revocation. The Ministry is currently making enhancements to its technological-disaster recovery plan. The Ministry acknowledges the continued need to secure and protect its information against unauthorized access or data tampering. The Ontario Provincial Police are currently conducting a PKI security review that will ensure that any system vulnerabilities are identified and promptly addressed. Regular PKI security reviews will continue according to OPP policy.

## EFFECTIVENESS OF THE REGISTRY

While the Ontario Registry was the first in Canada, Figure 3 illustrates that sex offender registries are not new. They exist throughout the world, with the first North American registry having been established by the state of California in 1944. Three more states implemented programs in the 1960s and another seven in the 1980s. Most U.S. jurisdictions now have sex offender registration laws, and registries generally receive considerable public support.

Even though sex offender registries have existed for many years and can consume significant public resources, we found surprisingly little evidence that demonstrates their effectiveness in actually reducing sexual crimes or helping investigators solve them, and few attempts to demonstrate such effectiveness. This has not gone unnoticed by critics of sex offender registries, some of whom argue that public funds would be better spent on offender treatment and support programs where there has been some documented proof of effectiveness in reducing recidivism (that is, the committing of another crime by an offender after being released).

For example, the John Howard Society argued in its July 2001 Fact Sheet, *Sex Offender Registries: A Costly Illusion*, that public acceptance of registries

appears to be based largely on a number of myths, including the belief that the rate of sexual offences is on the rise, that such offences are committed by predatory strangers, and that most sex offenders will re-offend. The Society makes the following points:

- Since 1993, the Canadian per capita rate of reported sexual offences has decreased by 35%, and Ontario's rate is lower than the national average. (A Statistics Canada update of the data in 2005 indicates that the national rate has since fallen another 5%.)
- The more serious categories of sexual offences, involving weapons, threats, or serious injury, constitute a relatively small proportion (3%) of all sexual offences, and these have also been declining in the last decade. (Statistics Canada data from 2005 indicate that this rate is now 2%.)
- In 77% of sexual crimes, the victim and the offender know each other. This rate rises to 84% for incidents involving children or youths. More than two-thirds of sexual assaults occur in homes, and many involve family members.
- A review of 61 studies from 1943 to 1995 dealing with sex offender recidivism found the overall re-offend rate was 13% over a five-year follow-up period, and one California follow-up study on offenders from 1973 through 1988 found that 20% of offenders had been rearrested for a sexual offence over the 15 years of the study. Thus, the majority of offenders do not commit a second sexual crime.
- A 1991 Canadian survey of sex offenders in federal penitentiaries found that only one-quarter had been convicted of a sexual offence in the past, suggesting that a high proportion of those who commit sexual offences would not appear in any registry.

More recently, a 2004 research paper issued by Public Safety and Emergency Preparedness Canada



based on a review and analysis of 95 different recidivism studies between 1943 and 2003 found that the sex offenders most likely to re-offend had deviant sexual interests and anti-social orientations, such as a history of rule violation, lifestyle instability, and anti-social personalities. It concluded that, given the identifiable differences in sex offenders' recidivism risk, the application of policies equally to all sex offenders would waste resources on low-risk offenders while failing to direct sufficient attention to high-risk offenders.

We recognize that Ontario's Registry is still relatively new and, accordingly, the Ministry has yet to establish performance measures for it. However, we believe it would be useful to start collecting data on the degree to which the Registry has proven useful in helping the police solve sexual crimes or reduce the risk of such crimes.

### 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.

### MINISTRY RESPONSE

The Ministry provided a combined response to recommendations 1, 5, and 9 as follows.

The Ministry agrees with the Auditor General's recommendations with respect to application enhancements to ensure that front-line police personnel have an effective law-enforcement investigative tool. The Ministry will expedite its planned phases of implementation by ensuring that the lines of communication with the technology service providers are operating openly and effectively. The Ministry agrees with

the Auditor General's acknowledgement that technological difficulties with the National Sex Offender Registry electronic linkage have had a significant impact on the Registry's workload and contributed to the delayed implementation of its information system's enhancements. The Ministry is working with the RCMP, Correctional Services Canada, and the National Parole Board of Canada to explore areas for facilitating greater co-operation and information sharing for offender record accuracy and monitoring offender movement across provincial and territorial borders. Better utilization of other data sources—such as Correctional Services Canada for federal offenders, the Ministry of Health and Long-Term Care for offenders who are not criminally responsible, and the provincial court system and Ministry of Transportation licensing programs—will be considered, in conjunction with the ministry research efforts already being made to ensure quality control. Christopher's Law, section 4, specifies that police services are to submit the information on a registration record to the Ministry if they are satisfied that the information is correct, and, in accordance with section 5(1), the Ministry shall record the information. The Ministry will examine steps that may lead to improved data integrity. The Ministry will continue to work to enhance the registry application and develop performance measures that will optimize data integrity and measure user volume and program effectiveness.

The Ministry will review the merits and implications of the Auditor General's suggestion to seek legislative amendments. While the recommended changes may be a benefit to the registry program, legal counsel will need to assess the legal viability of any suggested amendments. Ultimately, the decision to approve any legislative changes to Christopher's Law rests with the Legislature.