



NEW YORK  
CITY BAR

**COMMITTEE ON CRIMINAL  
JUSTICE OPERATIONS**

SARAH J. BERGER  
CHAIR  
[sarahberger315@gmail.com](mailto:sarahberger315@gmail.com)

**WORKING GROUP ON SEX  
OFFENDER REGISTRATION ACT**

ZACHARY MARGULIS-OHNUMA  
CHAIR  
[zach@zmolaw.com](mailto:zach@zmolaw.com)

April 3, 2020

The Honorable Andrew M. Cuomo  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12224

**Re: Call to Temporarily Suspend In-Person Reporting Requirements for Sex Offenders  
During the Duration of the COVID-19 Pandemic**

Dear Governor Cuomo:

The New York City Bar Association’s Criminal Justice Operations Committee and the Sex Offender Registration Act Working Group write this letter to urge the temporary suspension of in-person reporting requirements for people on the sex offender registry in the wake of the COVID-19 pandemic. By continuing to require in-person reporting for the 8,050 New York City residents on the registry,<sup>1</sup> all of whom have in-person reporting requirements at the same office in lower Manhattan, the health and safety of registrants, court personnel, police officers and the public are being put at risk unnecessarily.<sup>2</sup> Instead, the City Bar urges you to follow the precedent set by the Los Angeles Police Department<sup>3</sup>, the Las Vegas Metropolitan Police Department,<sup>4</sup> the states of

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<sup>1</sup> As of March 3, 2020, as tallied by the Division of Criminal Justice Services (“DCJS”). See DCJS Registered Sex Offenders by County as of March 3, 2020, [https://www.criminaljustice.ny.gov/nsor/stats\\_by\\_county.htm](https://www.criminaljustice.ny.gov/nsor/stats_by_county.htm). (All links in this letter were last checked on April 2, 2020).

<sup>2</sup> Moreover, nearly 2,000 of these registrants are Level 3 offenders who must report in-person every 90 days. [https://www.criminaljustice.ny.gov/nsor/stats\\_by\\_county.htm](https://www.criminaljustice.ny.gov/nsor/stats_by_county.htm).

<sup>3</sup> Notice from the LAPD on new telephonic registration procedures, “Sex Offender Registration During COVID-19 Geographic Area Front Desk Closures.”

<sup>4</sup> Las Vegas Metropolitan Police Department press release, <https://www.lvmpd.com/en-us/Press%20Releases/PO%20042%2003-18-20.pdf> (March 18, 2020).

Pennsylvania,<sup>5</sup> Oregon,<sup>6</sup> and Hawaii,<sup>7</sup> and numerous other counties across the country, and allow registrants to satisfy their registration and verification requirements by reporting to the Sex Offender Monitoring Unit (“SOMU”) by telephonic or electronic means.

Pursuant to Correction Law §§ 168-f(b-3) and (3), respectively, a registrant adjudicated a Level 1 or 2 risk must personally appear every three years to take a new photograph, and a Level 3 registrant must personally verify their address with law enforcement every 90 days. For New York City residents, the personal verification requirements are satisfied only by in-person reporting to SOMU’s office in New York County Criminal Court, located at 100 Centre Street. That is, regardless of the borough in which a registrant resides, they must appear in person at SOMU’s single office in downtown Manhattan. According to statistics made available by the Division of Criminal Justice Services (“DCJS”), there are currently approximately 8,050 individuals on the registry residing in the five boroughs, 2,000 of whom are designated as Level 3 registrants.<sup>8</sup>

New York State, and in particular New York City, has become the epicenter of the COVID-19 health crisis in the United States – and potentially the world. The number of individuals who have tested positive for the virus increases exponentially by the day; as of April 2, 2020, nearly 50,000 people living in New York City have been diagnosed with COVID-19, with more than 1,500 fatalities to date.<sup>9</sup> As a result, there are stay-at-home orders in place across the state and all non-essential businesses have closed, in an effort to prevent transmission of the virus. Even courthouses have been closed to the public, with only business deemed “essential” proceeding, and even then primarily by electronic, telephonic and video-conference means.<sup>10</sup>

However, to date, the in-person verifications required for New York City resident registrants remain in effect. That is, registrants due to satisfy their verification requirements remain obligated to travel to and appear in person at SOMU’s offices at the New York County Criminal Court in downtown Manhattan, regardless of which borough they live in. As the courthouse itself is closed, the registrant must contact SOMU by phone upon arrival so that an officer from the office can come outside and escort the registrant to the office. Once inside, registrants are in close quarters with SOMU employees and police officers, who must take photographs, exchange paperwork, and obtain fingerprints, actions that all require direct personal contact. These in-person verifications put not only the registrant but also law enforcement, SOMU officers, essential courthouse personnel, and the general public at risk.

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<sup>5</sup> State of Pennsylvania Megan’s Law website, “Information Regarding Registrations During the COVID-19 Emergency,” <https://www.pameganslaw.state.pa.us/TermsandCondition/TermsAccepted>.

<sup>6</sup> Oregon State Police Sex Offender Registration Section notice, “Sex Offender Registration COVID-10 Outbreak Emergency Protocol,” [https://www.oregon.gov/osp/Docs/SOR\\_Web\\_Announcement.pdf](https://www.oregon.gov/osp/Docs/SOR_Web_Announcement.pdf).

<sup>7</sup> State of Hawaii Criminal Justice Data Center notice, “Sex Offender and Other Covered Offender Info,” <https://ag.hawaii.gov/hcjdc/sex-offender-and-other-covered-offender-info/> (March 23, 2020).

<sup>8</sup> “Registered Sex Offenders by County,” [https://www.criminaljustice.ny.gov/nsor/stats\\_by\\_county.htm](https://www.criminaljustice.ny.gov/nsor/stats_by_county.htm).

<sup>9</sup> NYC Department of Health COVID-19 Daily Data Summary, <https://www1.nyc.gov/assets/doh/downloads/pdf/imm/covid-19-daily-data-summary.pdf>.

<sup>10</sup> Press Release, Virtual Court Operations to Commence in NYC Mid-week), [https://www.nycourts.gov/LegacyPDFS/press/PDFs/PR20\\_07.pdf](https://www.nycourts.gov/LegacyPDFS/press/PDFs/PR20_07.pdf) (March 22, 2020).

Requiring in-person verification for Level 3 registrants poses a heightened public health risk. Level 3 registrants, who are subject to residency restrictions while on parole, probation or post-release supervisions, are overrepresented in the shelter system because they are often unable to return to live with family or at their prior residences because of the restrictions. And even those able to find non-shelter housing often live in overcrowded conditions due to the limited availability of compliant housing in NYC.<sup>11</sup> These conditions place Level 3 registrants at a particularly high risk of contracting COVID-19. Indeed, as of March 31, 2020, news reports indicate that at least 120 people living across more than 60 of NYC's homeless shelter locations have tested positive, at least 27 of whom required hospitalization.<sup>12</sup>

Recognizing this risk, jurisdictions outside of New York State, those already beset with hundreds of COVID-19 cases (or more) and those just beginning to identify cases, have temporarily suspended in-person registration requirements required in those states, including even first time registration. The City of Los Angeles, with a population of over 4 million people and nearly 4,000 registrants, has suspended all in-person verification and registration requirements, including for homeless or transient registrants, who normally are required to appear in person at their local law enforcement office every 30 days. Instead, the Los Angeles Police Department has instructed its officers to handle registration by phone, completing verification telephonically without gathering thumbprints, signatures, or initials. If the registration process was followed as usual, it would require close person-to-person contact, behavior that is currently prohibited in California. Thus, the LAPD made the prudent decision to transition temporarily to telephonic registration, and once the COVID-19 health crisis has subsided, intends to gather fingerprints and signatures in person again.

In the same vein, every county in the state of Oregon has halted in-person registration until further notice, recognizing that any in-person contact jeopardizes the health and safety of both registrants and public safety officers. Oregon is now allowing all registrants to verify by phone instead. The state of Pennsylvania has foregone registration requirements altogether, save for updates to previously reported information such as a change in address, which are being processed through the mail. And in Hawaii, as soon as the Governor mandated social distancing practices, the sex offender registry suspended all in-person requirements, including fingerprinting. Across the country, other states are also halting or providing reasonable alternatives to in-person registration for health and safety reasons, recognizing the threat that COVID-19 poses to all members of society.<sup>13</sup>

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<sup>11</sup> New York City Bar Association, The Impact and Legality of Sex Offender Residency Restrictions Created By New York's Sexual Assault Reform Act, at 6 (Oct. 2016) ("Here in New York City, sex offenders who cannot find housing due to residency restrictions have clustered in dangerously overcrowded homes, illegally converted rooming reoffending."), [https://s3.amazonaws.com/documents.nycbar.org/files/20073107-SARAResidencyRestrictions\\_CrimCourt.CrimLaw.CJO.Corrections\\_Report\\_FINAL\\_10.24.16.pdf](https://s3.amazonaws.com/documents.nycbar.org/files/20073107-SARAResidencyRestrictions_CrimCourt.CrimLaw.CJO.Corrections_Report_FINAL_10.24.16.pdf), (internal citation omitted).

<sup>12</sup> Greg B. Smith and Claudia Irizarry Aponte, "Too Close For Comfort Inside NYC's Biggest Homeless Shelter," [thecity.com](https://thecity.nyc/2020/03/little-social-distancing-in-nycs-biggest-homeless-shelter.html) (March 31, 2020), <https://thecity.nyc/2020/03/little-social-distancing-in-nycs-biggest-homeless-shelter.html>; Nolan Hicks, "Coronavirus tolls on NYC's homeless population surpasses 100 cases," [NYPPost.com](https://nypost.com/2020/03/30/coronavirus-toll-on-nycs-homeless-population-surpasses-100-cases/) (March 30, 2020), <https://nypost.com/2020/03/30/coronavirus-toll-on-nycs-homeless-population-surpasses-100-cases/>.

<sup>13</sup> Snohomish County, Washington (<https://www.heraldnet.com/news/snohomish-county-homeless-sex-offender-check-ins-on-hold-until-early-april/>), Bingham County, Idaho

COVID-19 has created an unprecedented health crisis in our city, causing you and Mayor de Blasio to order residents of New York City to stay at home. Residents of New York City are doing everything they possibly can to halt or slow the spread of COVID-19 by following these instructions. However, the safety of New Yorkers is compromised by anyone who continues, for non-essential purposes, to ride public transportation and interact closely with others. By continuing to require in-person registration for the 8,000 New York City resident registrants, the government essentially forces registrants to choose between the well-being of themselves, their families, and the general public, and compliance with sex offender registration laws, as their failure to do so subjects them to charges punishable as a class E felony. This Catch-22 must be eliminated to instead allow for the reasonable, temporary alternative of telephonic or electronic registration, an alternative that numerous other counties and states have shown is feasible and necessary to protect the public health.

Therefore, the City Bar urges you to issue an Executive Order authorizing registrants to satisfy their statutory reporting obligations via telephonic, electronic, or video-conferencing means, or, at a minimum, a joint statement by NYPD Commissioner Shea and the District Attorneys' Offices across the City promising no adverse action will be taken against a registrant who satisfies their reporting requirement via telephonic, electronic, or video-conferencing means.

Respectfully,  
Sarah J. Berger  
Chair, Criminal Justice Operations Committee

Zachary Margulis-Ohnuma  
Chair, SORA Working Group

Cc: Mayor Bill de Blasio  
Commissioner Dermot Shea, New York City Police Department  
Hon. Darcel Clark, Bronx District Attorney  
Hon. Cyrus Vance, New York District Attorney  
Hon. Eric Gonzalez, Brooklyn District Attorney  
Hon. Melinda Katz, Queens District Attorney  
Hon. Michael McMahon, Staten Island District Attorney

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([https://www.postregister.com/coronavirus/announcement-from-bingham-county-sheriff-craig-t-rowland/article\\_75870396-7d23-5209-b825-f4d689138f75.html](https://www.postregister.com/coronavirus/announcement-from-bingham-county-sheriff-craig-t-rowland/article_75870396-7d23-5209-b825-f4d689138f75.html)), Fargo, North Dakota (<https://www.inforum.com/news/crime-and-courts/5010664-Yet-another-way-COVID-19-has-changed-life-Fargo-sex-offenders-can-now-register-remotely>), Shreveport, Louisiana (<https://www.ksla.com/2020/03/19/shreveport-police-change-day-to-day-operations-due-coronavirus/>), and Jackson County, Florida (<https://www.wjhg.com/content/news/Jackson-County-Sheriff-Office-changes-operations-due-to-COVID-19-568958691.html>), among other jurisdictions, have all temporarily suspended in-person registration.