

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF PUBLIC SAFETY  
MAINE STATE POLICE

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COMMISSIONER

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CHIEF

LT. COL. RAYMOND A. BESSETTE  
DEPUTY CHIEF

2 December 2014

To:

Honorable Members of the Joint Standing Committee on Criminal Justice & Public Safety  
Maine State House, Rm. 436

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**REPORT OF THE TASK FORCE CREATED BY RESOLVES 2013, c. 97**

Resolves 2013, c. 97, *To Ensure Notification to the Public of the Location in Maine of Persons Convicted in Foreign Countries of Certain Crimes* (“Resolve”) requires the following:

**That the Commissioner of Public Safety shall convene a task force to develop a procedure for notifying affected members of the public of the location in this State of a person who was convicted in a foreign country of a crime that, if committed in this State, would subject a person to inclusion on this State's sex offender registry. The task force must be composed of 3 members of the Maine Sheriffs' Association or their designees, 3 members of the Maine Chiefs of Police Association or their designees, the Attorney General or a designee and the commissioner or a designee. The commissioner shall submit a report of the task force's findings to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by December 3, 2014.**

A meeting of the Task Force created by Resolves 2013, c. 97 (“Task Force”) was held on Tuesday, 28 October 2014 at the Department of Public Safety in Augusta. In attendance

were two representatives of the Maine Sheriffs Association<sup>1</sup>; three representatives of the Maine Chiefs of Police Association<sup>2</sup>; Assistant Attorney General Paul Rucha; Matthew Ruel, Director of the State Bureau of Identification; and Christopher Parr, Counsel for the Maine State Police.

As an initial matter, in its work the Task Force presumed that “affected members of the public” are the individuals who live in a municipality in which resides, works, or studies a person who is alleged to have been convicted in a foreign country of a crime that would subject the person to inclusion on the State’s sex offender registry. With that presumption in mind, the Task Force concluded that the existing sex offender notification procedures used by the law enforcement agency having jurisdiction over that municipality could be the basis to draft a new community notification procedure about such a person. The existing procedures are set out in the Maine Chiefs of Police Association “Sex Offender Community Notification” model policy, as well as in the mandatory sex offender community notification policies that each law enforcement agency is required to have pursuant to 25 M.R.S.A. § 2803-B(J).

Before such community notifications are made, however, the Task Force concluded that legislation would be needed to ensure that law enforcement officers and agencies that make such community notifications are immune from liability for doing. This is because the immunity provisions of the Sex Offender Registration and Notification Act (SORNA) of 1999 and the SORNA of 2013 would not have application with respect to the types of notifications contemplated in the Resolve.

In providing such immunity statutorily, the Task Force decided that the proposed immunity provision should not be located in either the SORNA of 1999 or the SORNA of 2013. Rather, the Task Force thought the immunity provision should perhaps be placed in Title 25, and should cover community notifications made by law enforcement agencies not only with regard to persons convicted of sex offenses, but also with regard to persons convicted of *any* criminal offense.

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<sup>1</sup> Sheriff Joel Merry, Sagadahoc County Sheriff’s Office, and Chief Deputy Sheriff Ryan Reardon, Kennebec County Sheriff’s Office, were in attendance. A third representative of the association, Sheriff Wayne Gallant of the Oxford County Sheriff’s Office, could not attend due to a last minute conflict.

<sup>2</sup> Chief Michael Morrill, Yarmouth Police Department, Chief Stephen Peasley, North Berwick Police Department, and Captain Mark Waltz, Brunswick Police Department, were in attendance.

Additionally, the Task Force determined that, as with the existing community notification process under the SORNA of 1999 and the SORNA of 2013, the determination of whether community notifications are to be made in any instance should be at the discretion of the chief law enforcement officer of the law enforcement agency having jurisdiction in each given municipality.

Finally, the Task Force discussed some of the issues that the Resolve does not address and did not ask or require the Task Force to consider. These issues included, but were not limited to, the following:

- How law enforcement agencies are to learn or be notified of the presence of a person in the community who is alleged to have been convicted in another country of a crime in that country that would subject the person to inclusion on Maine's official sex offender registry;
- How determinations were to be made regarding whether a crime for which a person was convicted in another country is one that would subject a person to inclusion on Maine's official sex offender registry;
- What resources would be required and available in order for law enforcement officials to be able to obtain and read court documentation that is written in the many, varied languages of the world, as well as allow officials to speak with officials who are in other countries and who do not speak English;
- Who (i.e., what official(s) and/or agency(-ies)) is to make such determinations, and what personnel and fiscal resources would be available to that official(s) or agency(-ies);
- What due process would be afforded in Maine to a person convicted in another country who is determined to have committed a crime in that country that would subject the person to inclusion on Maine's official sex offender registry. In relation to this issue, consideration of what due process was provided to that person at the time of his or her conviction also would need to be given;
- What information would be made available to Maine law enforcement agencies by other countries. Discussion of this issue touched upon the fact that only three countries are known to maintain public sex offender registries: Canada (only two

provinces do so, and only for high risk offenders)<sup>3</sup>, South Korea, and the State of Western Australia.

The Task Force concluded that, for effective and just community notifications to occur, issues such as those exemplified above would need to be addressed and resolved.

Respectfully,

A handwritten signature in black ink, appearing to read 'C. Parr', with a stylized flourish at the end.

CHRISTOPHER PARR  
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<sup>3</sup> While Canada has a national sex offender registry, the country only provides sex offender information to law enforcement agencies if the information is requested to prevent or investigate a crime of a sexual nature.