

## 290 Tier Procedure

### 357.1 PURPOSE AND SCOPE

This procedure establishes guidelines for Senate Bill 384-Tiered Sex Offender Registry. Senate Bill 384, commencing January 1, 2021, established 3 tiers of registration based on specified criteria (for periods of at least 10 years, at least 20 years, and life, respectively, for a conviction of specified sex offenses; and 5 years and 10 years for tiers one and two, respectively, for an adjudication as a ward of the juvenile court). Senate Bill 384 allows the Department of Justice to place a person in a tier-to-be-determined category for a maximum period of 24 months if his or her appropriate tier designation cannot be immediately ascertained.

Senate Bill 384, commencing July 1, 2021, established procedures for termination from the sex offender registry for a registered sex offender who is a tier one or tier two offender and who completes his or her mandated minimum registration period under specified conditions. Senate Bill 384 requires the offender to file a petition at the expiration of his or her minimum registration period and would authorize the district attorney to request a hearing on the petition if the petitioner has not fulfilled the requirement of successful tier completion, as specified. Senate Bill 384 establishes procedures for a person required to register as a tier three offender based solely on his or her risk level to petition the court for termination from the registry after 20 years from release of custody if certain criteria are met.

This procedure outlines the tiered/ termination process which is described in Senate Bill 384. This procedure does not cover the Sex Registrant registration process.

### 357.2 TIERS DEFINED

- (a) Tier 1- 10 year registration requirement.
- (b) Tier 2- 20 year registration requirement.
- (c) Tier 3- Lifetime registration requirement.

### 357.3 TOLLING DEFINED

Registering Law Enforcement Agencies calculate the amount of time a petitioner has spent offense-free in the community since release from custody for the registerable offense. In the event a person is incarcerated during the required registration period, that time will not be counted as fulfilling the requirements. This time spent in-custody will therefore toll the termination date to a later date.

### 357.4 OVERVIEW OF TIERED SEX OFFENDER REGISTRATION PETITION FOR TERMINATION PROCESS

#### 1. REGISTRANT REQUEST

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The registrant will request a Tier Notification Letter and proof of current registration from the registering Law Enforcement Agency (LEA). The Tier Notification Letter and Proof of Registration Form is available on the California Sex and Arson Registry (CSAR) website.

- (a) Assigned Public Service Officers (PSO's) or Sex Crime Detectives will log on to CSAR. (<https://csar.ext.doj.ca.gov/>)
- (b) Click on "Registrant Information."
- (c) Search for the specific registrant.
- (d) Click on the registrant's photo.
- (e) Select the drop-down box and locate "Tier Notification Letter."
- (f) Print two copies of the "Tier Notification Letter."
  1. One copy goes to the original file.
  2. One copy goes to the registrant.
- (g) Go back to the registrant's profile.
- (h) Select the drop-down box and locate "Proof of Current Registration" or locate the most recent "8102S" form, which is in the registrant's original file.
- (i) Print or make two copies of the "Proof of Current Registration."
  1. One copy goes to the original file.
  2. One copy goes to the registrant.
- (j) After providing the "Tier Notification Letter" and the "Proof of Registration," the assigned personnel should obtain a new Union City PD case number and complete an ARS report.
  1. Assign the "Crime Type" to "SB 384."
  2. Go to the "Copies to" box under "Misc." in the "Incident" tab and write "Crime Analyst."
  3. This report should document the following:
    - (a) The "Person" tab should be completed.
    - (b) The "Narrative" tab should contain the following:
      1. The date and time the "Tier Notification" and "Proof of Registration" were provided to the registrant.
      2. The "Tier" assigned to the registrant.
      3. If the "Tier Notification" in CSAR showed a "TBD" tier, the report should note this.
      4. Leave report as "Active" pending the registrant returning with a copy of the petition from the courts.
- (k) Routing of the report.

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1. After the report is completed, the assigned personnel should "owner approve" the report.
2. A Sergeant assigned to the Investigations Unit will review the report. (Investigations Sergeants will send an email to the Patrol Lieutenants and Patrol Sergeants advising them not to approve these reports).
3. After the report is approved, the UCPD Records Unit will review the report.
4. The Records Unit will make a copy of the report and provide the copy to the UCPD Crime Analyst.
5. The Crime Analyst will place the report in the registrant's original file.

## 2. REGISTRANT ELIGIBILITY

Following the mandated minimum registration period, on or after their next birthday after July 1, 2021, the registrant files a petition for termination using forms made available by the courts.

- (a) Regardless of their registration period or their birthdate, assigned Union City PD personnel will provide registrants with their "Proof of Registration" and/or "Tier Notification Letter" upon request.
- (b) If this occurs, assigned personnel will follow the steps outlined under 1. REGISTRANT REQUEST.

## 3. LAW ENFORCEMENT AGENCY'S (LEA) RESPONSIBILITIES UPON RECEIVING FILED PETITIONS

The petition shall be served on the registering LEA and the DA in the county where the petition is filed and, on the LEA, and DA in the county of conviction, if different. The registering LEA shall report receipt of the filed petition to the DOJ in a manner prescribed by the DOJ.

- (a) Upon receiving the "Petition to Terminate Sex Offender Registration (Form CR-415)", assigned personnel will do the following (immediately):
  1. Assigned Public Service Officers (PSO's) or Sex Crime Detectives will log on to CSAR. (<https://csar.ext.doj.ca.gov/>)
  2. Click on "Registrant Information."
  3. Search for the specific registrant.
  4. Click on the registrant's photo.
  5. Select the "Petition Checklist" sub-tab.
    - (a) Complete the "Petition Checklist" (a draft of the checklist is attached to this procedure).
    - (b) Print the completed notification.
    - (c) Have a second Detective, Crime Analysts, or PSO review the notification to confirm the information for accuracy. If the information is correct the reviewing personnel should initial and date the copy of the notification.
    - (d) Place the completed notification in the registrant's original file.

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- (b) Complete the "Acknowledgment of Receipt" by Law Enforcement/District Attorney (Form CR-416), which will be provided by the registrant.
  - 1. Assigned personnel will have 10 days to complete the form and send the form back to the appropriate court.
  - 2. After completing the form, make two copies.
  - 3. The completed form will be routed as follows:
    - (a) Original to the court (via-QIC Code, USPS mail, walked over, etc.).
    - (b) Copy to the registrant.
    - (c) Copy to the registrant's original file.
- (c) Create a supplemental report.
  - 1. Use the original case number that was obtained when the registrant requested their "Tier Notification Letter" and their "Proof of Registration."
  - 2. This supplemental report should document the following:
    - (a) The "Narrative" should contain the following:
      - 1. The date and time we received the petition form from the registrant.
      - 2. The time the "Petition Checklist"/DOJ notification was completed.
      - 3. The time and date the CR-416 form was completed and sent back to the court.
      - 4. Leave supplemental report as "Active" pending the registrant's tolling process (**refer to Section [LEA]4B**).
- (d) Route the supplemental report.
  - 1. After the supplemental report is completed, the assigned personnel should "owner approve" it.
  - 2. A Sergeant assigned to the Investigations Unit will review the supplemental report.
  - 3. After the supplemental report is approved, the UCPD Records Unit will review it.
  - 4. The Records Unit will make a copy of the supplemental report and provide the copy to the UCPD Crime Analyst.
  - 5. The Crime Analyst will put this supplemental report in the registrant's original file.

#### 4. LEA (TOLLING)

- (a) The registering LEA reports to the DA and the court within **60 days** of receipt of the filed petition whether the petitioner has met the minimum eligibility requirements for termination.
  - 1. Tolling
    - (a) If a registrant has met their tier registration requirement(s), they may be eligible for termination of their registration.

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- (b) To determine if a registrant is eligible for termination, the assigned Union City PD Sex Crime Detective should evaluate the following:
1. Is the registrant currently active to probation, parole, PRCS, Federal probation, or any other form of supervised release?
  2. If a registrant is active to any type of supervision, they are not eligible for termination (Formal Supervision does not add additional time to the registration requirements, but will prevent termination if they are active to supervision at the time of review for termination).
  3. Has the registrant been arrested and convicted of any crimes during their registration period?
    - (a) If they have been arrested, how many days have they been incarcerated?
  4. The total amount of days spent in incarceration adds to the registration requirements.
    - (a) Example: If a registrant is a tier 1 registrant and has registered for 10 years from the original release date from incarceration, placement, or commitment, but has spent six months in a county jail, the six months does not count as registration time. Essentially the six months spent in county jail will be added to the end of the 10 year registration requirement.
  5. Does the registrant have any convictions for failing to register as a sex offender (290 PC)?
    - (a) A misdemeanor conviction for failing to register adds one additional year to the registration requirements.
    - (b) A felony conviction for failing to register adds three additional years for the registration requirements.
    - (c) The additional year or three years is in addition to incarceration time.
  6. Example of tolling:
    - (a) A registrant has been convicted of misdemeanor 314 and is Tier 1 (10 years). He has spent 2 years in custody during his 10 year period. He has a misdemeanor conviction for 290.011. His required time is tolled for 3 years: 2 years in custody without registering and 1 year for the misdemeanor conviction.
    - (b) If an offense which may require registration is identified by the registering LEA, which has not previously been assessed by the DOJ, the registering LEA shall refer that conviction to the DOJ for assessment. The LEA can communicate this information via the CSAR "Petition Checklist."
    - (c) Reporting/Documentation.

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1. The assigned Sex Crime Detectives will log on to CSAR. (<https://csar.ext.doj.ca.gov/>)
  2. Click on "Registrant Information."
  3. Search for the specific registrant.
  4. Click on the registrant's photo.
  5. Select the "Petition Checklist" sub-tab.
  6. Complete the "Petition Checklist."
  7. The following portions of the "Petition Checklist" should be completed:
    - (a) "Administrative Requirements"
    - (b) "Registerable Offense Assessment"
    - (c) "Tolling Assessment"
    - (d) "Eligibility Determination"
    - (e) After completion, the assigned Detective should have an Investigations Unit Sergeant review the "Petition Checklist" for accuracy.
    - (f) Create a supplemental report.
    - (g) Use the original case number that was obtained when the registrant requested their "Tier Notification Letter" and their "Proof of Registration."
  8. This supplemental report "Narrative" should document the following:
    - (a) The date and time we received the petition form from the registrant.
    - (b) The tolling findings.
    - (c) The disposition of the overall review.
    - (d) Mark this supplemental report as "Closed."
- (d) Routing
- (a) After all reports and supplemental reports are approved, they should be forwarded to the District Attorney's Office for review. This should be similar to a standard court packet except for a Probable Cause Declaration.
  - (b) The additional supplemental report should also be forwarded to the Union City PD Crime Analyst so it can be added to the registrant's original file.

## 5. DOJ RESPONSIBILITIES

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If a newly discovered offense changes the tier for that person, the DOJ shall change the tier within three months\* of the request by the registering LEA and notify the registering LEA. (Refer to step 4 regarding notifying DOJ)

\* If more time is required to obtain the documents needed to make the assessment, the DOJ shall notify the registering LEA of the reason that an extension of the time is necessary to complete the tier designation. The DOJ will notify the LEA via the CSAR application.

#### **6. LEA REPORTING TO D.A.**

- (a) The registering LEA shall report to the DA and the court that the DOJ has requested an extension of time to determine the person's tier based on the newly discovered offense, the reason for the request, and the estimated time needed to complete the tier designation.
  1. In the event this occurs, the assigned UCPD Sex Crime Detective will author an additional supplemental report documenting the extension and the reason for the extension.
  2. After the supplemental report is approved, the UCPD Records Unit will forward it to the District Attorney's Office.

#### **7. DA RESPONSIBILITIES**

- (a) The DA in the county where the petition is filed may, within 60 days of receipt of the report from the registering LEA, request a hearing on the petition if the petitioner has not fulfilled the requirements or if community safety would be significantly enhanced by continued registration. If the DA requests a hearing, he or she shall be entitled to present evidence on whether community safety would be significantly enhanced by requiring continued registration.
  1. Court (Hearing)
    - (a) If the petition for termination from registration is denied following a hearing, the court shall set the period after which the petitioner may re-petition (at least one year but no more than five years from the date of denial).
  2. Court (No Hearing)
    - (a) If no hearing is requested, the petition for termination shall be granted if the court finds that the petitioner provided the required proof of registration and that the registering LEA reported that the petitioner met the minimum eligibility requirements.

#### **8. COURT**

The court shall notify the DOJ when a petition for termination is granted, denied, or summarily denied (denied without a hearing), in a manner prescribed by the DOJ. If the petition is denied, the court shall also notify the DOJ of the period after which the person can file a new petition.

#### **357.5 REVISIONS**

Adopted Procedure: August 4, 2021

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Revised: December 12, 2022