IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re the Matter of the Application of JOHN WEBSTER,	)	Case No.
	)	SANTA CLARA COUNTY SUPERIOR
Petitioner,	)	COURT CASE NUMBER 139218
	)	
for the Writ of Habeas Corpus.	)	
	)	

MEMORANDUM IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

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INTRODUCTION

This case is about providing a remedy for Petitioner, who bargained for a disposition whereby he would not have to register as a sex offender. Two years after his ability to withdraw his plea had expired, petitioner has been ordered to register. The issue is whether or not the Petitioner can be constitutionally required to register as a sex offender under these circumstances. Petitioner contends that the requirement of sex offender registration as to him violates the terms of his plea bargain, is cruel and unusual punishment, and is an ex post facto punishment.

PROCEDURAL HISTORY

On July 20, 1990 an information (Case Number 139218) was filed in the Superior Court of Santa Clara County charging John Webster with 3 felony counts of Penal Code section 266(j), one felony count of Penal Code section 653f(c), and one felony count of Penal Code section 313.1.

On September 6, 1990, the District Attorney amended the charges to allege two felony counts of attempted child pandering (P.C. 664-266(j)). Mr. Webster entered a plea of no contest to the charges. This charge was selected because at the time it did not require Petitioner to register as a sex offender. (See Declaration of John Vaughn, attached.)

At the time of the plea, Mr. Webster was promised that he would not be sentenced to state prison and that he would not have to register with the authorities as a convicted sex offender.

On October 17, 1990, imposition of sentence was suspended. Mr. Webster was placed on probation for a period of 5 years and was sentenced to serve 1 year in the County Jail as a condition of probation.

On December 17, 1990, Mr. Webster filed an appeal with this court in pro per (Case No. H007924). This appeal was abandoned before briefing.

On December 19, 1991, Mr. Webster filed a motion to vacate the judgment in the trial court. On January 24, 1992, the trial court determined petitioner's motion "to be an action handled by Writ of Coram Nobis." On February 14, 1992, Petitioner filed a Petition for Writ of Error Coram Nobis. The trial court denied the Petition the same day.

On April 13, 1992, Petitioner filed a notice of appeal with this court (Case Number H009741) . On March 8, 1993, this court affirmed the judgment.

On October 17, 1995, Petitioner's probationary period terminated.

In April of 1997, the California State Department of Justice revised its policy on who must register under P.C. 290

to include individuals such as Petitioner Webster. (See attached memo dated May 29, 1997.)

On July 8, 1997, almost two years after his successful completion of probation, Mr. Webster was contacted by the Santa Clara Police Department and was informed that he now had to register with them as a convicted sex offender. (See attached letter from Santa Clara Police Department.)

On March 30, 1998, Petitioner filed a Writ of Habeas Corpus in the Superior Court of Santa Clara County. The Writ was denied on April 15, 1998.

In September of 1998, Mr. Webster was illegally threatened with public exposure as a registered sex offender by the Santa Cruz Police Department. (See Declarations of John Webster and Daniel Mayfield, attached to Petition for Writ of Habeas Corpus.)

Mr. Webster did indeed register as required and has remained registered. (See attached registration receipt.)

Mr. Webster has satisfied all conditions of probation, has had no new arrests and has no current or pending charges against him.

ARGUMENT

I

THE DEFENDANT SHOULD GET THE BENEFIT OF HIS PLEA BARGAIN

Certain facts are undisputed in this case. For example: No one can dispute that at the time of the "No Contest" plea in this case the crime of P.C. 266(j) was NOT a registerable sex offense. Likewise, no one can dispute that 226(j) is now a registerable sex offense.

Other facts are easily proved for purposes of this writ by declaration. For example: Both Mr. Webster, and his attorney at the time, agree that he would not have entered into a negotiated plea of "No contest" if one of the conditions was that he would have to register as a sex offender under P.C. 290. (See attached declarations of John Webster and John Vaughn.)

The analysis, then, at this point becomes quite simple: Should Mr. Webster get the benefit of his plea bargain?

There are several similar situations that have arisen quite frequently in California law that quite clearly hold that a defendant is entitled to the benefit of his original plea bargain. If the plea bargain cannot be maintained then the defendant is entitled to withdraw his plea of "No Contest" or "Guilty" and to be returned to his or her pre-plea posture.

The court has broad discretion to withdraw its approval of a negotiated plea governed by Penal Code Section 1192.5, but only if the defendant is informed of his or her right to withdraw the plea. The relevant section reads:

> "If the plea is not accepted by the prosecuting attorney and approved by the court, the pleas shall be deemed withdrawn and the defendant may enter the plea or pleas as would otherwise have been available."

It is interesting to note at this juncture that 1192.5, in its 1994 version, specifically names several sex offenses where the court may not uphold a plea-bargain regardless of the agreement between the People and the Defendant. Importantly, P.C. 266(j) is not on the list. As to all other crimes, including 266(j), the court, DA., and defense may agree on all aspects of the plea bargain including conditions of probation, length of sentence, and rights under P.C. Section 17.

The leading cases of People v. Johnson (1974) 10 Cal.3d 869; 112 Cal.Rptr. 556 and People v. Orin (1975) 13 Cal.3d 937; 120 Cal.Rptr. 65, have been followed as recently as 1994 in People v. Thomas 25 Cal.App.4th 921; 31 Cal.Rptr.2d 170, and People v. Olea, 59 Cal.App.4th 1289, 69 Cal.Rptr.2d 722 in 1997. The First District Court of Appeal put it this way in People v. Olea, supra:

"Appellant contends the requirement that he register as a sex offender exceeded the terms of his plea bargain and therefore must be stricken. He points out the complaint did not notify him that conviction on the burglary charges would subject him to the registration requirement, nor was he so notified at the plea hearing. Appellant relies on People v. Walker (1991) 54 Cal.3d 1013, 1 Cal.Rptr.2d 902, 819 P.2d 861, in which our Supreme Court stated: 'When a guilty plea is entered in exchange for specified benefits such as the dismissal of other counts or an agreed maximum punishment, both parties, including the state, must abide by the terms of the agreement. The punishment may not significantly exceed that which the parties agreed upon.' (Id. at p. 1024, 1 Cal.Rptr.2d 902, 819 P.2d 861.)

Furthermore, 'violation of a plea bargain is not subject to harmless error analysis. A court may not impose punishment significantly greater than that bargained for by finding the defendant would have agreed to the greater punishment had it been made a part of the plea offer. "Because a court can only speculate why a defendant would negotiate for a particular term of a bargain, implementation should not be contingent on others" assessment of the value of the term to defendant. Moreover, the concept of harmless error only addresses whether the defendant is prejudiced by the error. However, in the context of a broken plea agreement, there is more at stake than the liberty of the defendant or the length of his term. "At stake is the honor of the government[,] public confidence in the fair administration of justice, and the efficient administration of justice...." ' " (Id. at p. 1026, 1 Cal.Rptr.2d 902, 819 P.2d 861, quoting People V. Mancheno (1982) 32 Cal.3d 855, 865-866, 187 Cal.Rptr. 441, 654 P.2d 211, and United States v. Carter (4th Cir.1972) 454 F.2d 426, 428 (in bank); accord, In re Moser (1993) 6 Cal.4th 342, 353-354, 24 Cal.Rptr.2d 723, 862 P.2d 723.) 59 Cal.App.4th at p. 1295.

Petitioner Webster's case is actually stronger than defendant Olea's in that we know by way of the declarations "why" and "how" petitioner Webster entered into his plea-bargain. For example, while the court could only speculate why Mr. Olea entered into his specific plea bargain, we know that Mr. Webster would not have agreed to any plea bargain that included registration as a sex criminal under P.C. 290.

In addition to the rights given to defendants under 1192.5, defendants are granted similar rights under P.C. 1203.2 and 1203.3 to withdraw pleas of guilty or "No Contest" when the probation department or the defendant is unable (as opposed to unwilling) to comply with a bargained for condition of probation.

The situation at bar is no different. Here, Mr. Webster bargained for and received a conviction for P.C. 664-266(j). He was told specifically, at the time of the negotiations, that P.C. 266(j) would not require that he register as a sex offender under P.C. 290. Thus, Mr. Webster pled "No Contest" to P.C. 664-266(j) on September 6, 1990 and was sentenced on October 17, 1990. His five-year period of probation ran on October 17, 1995.

In making this analysis, it is important to remember that the court could have, even in the absence of the specific legal mandate, required registration under 290. (See 290(2) (e)) and

People v. Olea, supra) Of course, if the court had decided to require such registration then the defendant would have been allowed to withdraw his plea. (See discussion above.)

Penal Code section 266(j) did not require registration until P.C. 290 was amended by the Child Protective Act of 1994 which was not effective until January 1, 1995. Importantly, Mr. Webster was not contacted about his alleged duty to register until July 8, 1997, almost two years after his grant of probation ended. If the "order" to register had been given before October 17, 1995, Mr. Webster would have been able to withdraw his plea under the provisions of 1203.2 and 1203.3 as noted above.

Since the order to register comes after the period of probation has run, his only remedy is a writ of Habeas Corpus. The only other possible "remedy" would be to refuse to register and suffer the consequences of a criminal prosecution and then challenge the registration requirement as part of a new criminal case for failure to register. Mr. Webster has chosen to register under protest and to use the power of the "Great Writ" to challenge the order to register.

II

THE ADDITION OF THE REGISTRATION REQUIREMENT IN THIS CASE IS CRUEL AND UNUSUAL PUNISHMENT

Petitioner Webster contends that the imposition of the duty to register under Penal Code Section 290 constitutes cruel and unusual punishment in this case.

The Legislative Branch of government is given the authority to define crimes and determine penalties for crimes subject to court review and the constitutional prohibition against cruel and unusual punishment. (See People v. Tanner (1979) 24 Cal.3d 514, 519, fn. 3; 156 Cal.Rptr. 450)

If the punishment proscribed by the Legislature runs afoul of the constitutional prohibition against cruel and unusual punishment, a court has authority to prevent the imposition of unconstitutional punishment. (See People **V.** Mora (1995) 39 Cal.App.4th 607, 615; 46 Cal.Rptr.2d 99.)

Under the cruel or unusual punishment clause of the California Constitution, a penalty may not be imposed which is grossly disproportionate to the defendant's " 'personal responsibility and moral guilt.' " (People v. Marshall (1990) 50 Cal.3d 907, 938, 269 Cal.Rptr. 269) A penalty offends the proscription against cruel and unusual punishment when " 'it is so disproportionate to the crime for which it is inflicted that it shocks the conscience and offends fundamental notions of

human dignity.' [Citation.]" (People v. Almodovar (1987) 190 Cal.App.3d 732, 739-740, 235 Cal.Rptr. 616.) Even if the statutorily authorized punishment for a criminal offense is not unconstitutional when viewed in the abstract, the sentence imposed on a defendant convicted of that offense may nonetheless be cruel or unusual. (People V. Dillon (1983) 34 Cal.3d 441, 479, 194 Cal.Rptr. 390)

> "Whether a particular punishment is disproportionate to the offense is, of course, a question of degree. The choice of fitting and proper penalties is not an exact science, but a legislative skill involving an appraisal of the evils to be corrected, the weighing of practical alternatives, consideration of relevant policy factors, and responsiveness to the public will; in appropriate cases, some leeway for experimentation may also be permissible. The judiciary, accordingly, should not interfere in this process unless a statute prescribes a penalty 'out of all proportion to the offense' [citations], i.e., so severe in relation to the crime as to violate the prohibition against cruel or unusual punishment." (In re Lynch (1972) 8 Cal.3d 410, 423-424, 105 Cal.Rptr. 217)

The Supreme Court in Lynch, developed a three-pronged test to aid in determining whether a punishment is so disproportionate to the crime as to constitute cruel or unusual punishment; "the test is not determinative, but is a tool to aid in the court's inquiry. [Citations.]" (People v. Almodovar, supra, 190 Cal.App.3d 732, 739, 235 Cal.Rptr. 616.)

First, the courts examine the nature of the offense and/or the offender, including the danger each poses to society. The

courts look first to the nature of the offense and the offender as compared to the penalty, including the degree of danger presented to society. Under this first prong, the court may also consider "the amount of gain involved, the violence or nonviolence of the crime, and whether anyone was injured in its commission" as well as "the penological purposes of the prescribed punishment. [Citation.]" (People v. Almodovar, supra, 190 Cal.App.3d 732, 740, 235 Cal.Rptr. 616.) "[T]he characteristics of the offender appear to weigh more heavily in determining whether a punishment is unconstitutional as applied, rather than on its face. [Citation.]" (Ibid.)

Second, the courts compare the punishment with punishments prescribed for other, more serious, offenses in the state. When the challenged punishment is the denial of probation rather than the length of a sentence, the courts look to other provisions granting or denying probation to other offenders, bearing in mind that probation is a privilege and not a right. (People v. Almodovar, supra, 190 Cal.App.3d 732, 742, 235 Cal.Rptr. 616.)

Third, the courts compare the punishment with punishments for the same offense in different jurisdictions. (In re Lynch, supra, 8 Cal.3d 410, 425-427, 105 Cal.Rptr. 217, 503 P.2d 921; People **v.** Weddle (1991) 1 Cal.App.4th 1190, 1196-1198, 2 Cal.Rptr.2d 714; People v. Almodovar, supra, 190 Cal.App.3d 732, 740, 235 Cal.Rptr. 616.) This prong is based on an

assumption “the vast majority of [other] jurisdictions will have prescribed punishments for this offense that are within the constitutional limit of severity; and if the challenged penalty is found to exceed the punishments decreed for the offense in a significant number of those jurisdictions, the disparity is a further measure of its excessiveness." (In re Lynch, supra, 8 Cal.3d 410, 427, 105 Cal.Rptr. 217)

Importantly, and specifically relating to the case of Mr. Webster, these factors should not be mechanically applied; (People V. Wingo (1975) 14 Cal.3d 169, 180, 121 Cal.Rptr. 97; People V. Gayther (1980) 110 Cal.App.3d 79, 90, 167 Cal.Rptr. 700.) That is to say, that the court should find that today, in a similar case, the registration under P.C. 290 would be mandated, but in the case of Mr. Webster (given his specific facts and history) that the registration requirement is cruel and unusual punishment.

Given his circumstances, it is clear that Mr. Webster is the victim of cruel and unusual punishment. As to the first prong of the test, he was involved in a police "sting" resulting in the filing of criminal charges against him. He did not hurt anyone and never actually carried out an act (hence, the charge of attempted pandering). As to the second prong, he pled guilty to the charges on the understanding that he would **never be** subject to sex offender registration. This was the prescribed

punishment at the time of the plea. Now, the additional requirement of life long registration has been added, seven years after the time of the plea, and after probation has been terminated. This requirement has subjected petitioner to harassment by the police.

Finally, in no other jurisdiction is it the case that a defendant expressly bargains for a punishment that does not include registration, and then the requirement is imposed upon him or her long after any ability to challenge it has expired.

Thus, the imposition of life long registration upon Mr. Webster is cruel and unusual punishment.

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III

THE APPLICATION OF PENAL CODE SECTION 290 TO MR. WEBSTER IS AN EX-POST FACTO PUNISHMENT

In People v. Fioretti (1997) 54 Cal.App.4th 1209, 63 Cal.Rptr.2d 367, this court held that continued imposition of a registration requirement was not an ex post facto punishment as applied to Mr. Fioretti. The court left open just such situations as Mr. Webster's. The court said in the opening sections of the opinion:

> [1] A law which makes more burdensome the punishment for a crime after its commission violates ex post facto provisions of the United States and California Constitutions. (Tapia v. Superior Court (1991) 53 Cal.3d 282, 288, 279 Cal.Rptr. 592, 807 P.2d 434; People **v.** McVickers (1992) 4 Cal.4th 81, 84, 13 Cal.Rptr.2d 850, 840 P.2d 955; Collins v. Youngblood (1990) 497 U.S. 37, 110 S.Ct. 2715, 111 L.Ed.2d 30; U.S. Const., art. I, S 9, cl. 3; Cal. Const., art. I, 5 9.) Simply stated, the rule is that "[l]egislatures may not retroactively ... increase the punishment for criminal acts." (Collins v. Youngblood, supra, at p. 43, 110 S.Ct. at 2719.)
>
> Here, at the time section 290.1 was enacted, appellant was serving his term of probation and was subject to all registration requirements, including the requirement under subdivision (f) to inform authorities of a change of residence. Although he was entitled to petition the court to obtain a record clearance if he successfully completed probation, he had not yet done so. At the time he initiated the proceeding to have his record cleared, section 290.1 was the law, and had been the law for over a year. It provided that "[n]otwithstanding Section 1203.4 ... a person convicted of a felony sex offense shall

> not be relieved from the duty to register under Section 290." Thus in 1983, when appellant petitioned the court under section 1203.4, the court was without power under prevailing law to relieve him from the continuing registration requirements of section 290.
> [2]Section 290.1 did not impose any additional requirements on appellant, since he was at all times subject to the provisions of section 290. He argues that section 290.1 deprived him of the opportunity to be relieved entirely of the requirements of section 290 and that this constituted increased punishment for purposes of the ex post facto clause. We disagree. In Collins v. Youngblood, supra, the Supreme Court clarified the punitive aspect of the ex post facto analysis. Prior to Collins, a line of cases had included a "disadvantage" to a defendant as a component of the ex post facto analysis. (See, e.g., Weaver v. Graham (1981) 450 U.s. 24, 28- 29, 101 S.Ct. 960, 963-65, 67 L.Ed.2d 17; Kring **v.** Missouri (1893) 107 U.S. 221, 228-229, 2 S.Ct. 443, 449-50, 27 L.Ed. 506; Thompson v. Utah (1898) 170 U.S. 343, 352-353, 18 S.Ct. 620, 623-24, 42 L.Ed. 1061.) Collins refocussed the analysis on defendant's punishment. "Under Collins, ... the ex post facto clause prohibits not just a burden but a more burdensome punishment." (People v. Mcvickers, supra, 4 Cal.4th at p. 84, 13 Cal. Rptr.2d 950, 840 P.2d 955.) The proper inquiry post-Collins is not whether the law results in a disadvantage to the person affected by it but rather whether it increases the penalty by which a crime is punished. (ibid.) From page 1213.

Here, of course Mr. Webster IS subject to additional punishment. He was never ordered to register by the court, and never fell into the class of persons who might have been able to use the former power of 1203.4 to relieve him from registration.

The point is that the decision in Fioretti concerns a person who was ALWAYS ordered to register under 290 and who attempted to argue that he was not now subject to registration because he might have been able to expunge his conviction under 1203.4 if he had acted years ago. The cases are not similar on the facts, but are similar in the analysis of ex post facto precedents. Again, clearly, Mr. Webster has now been ordered to register for the rest of his life, he has now been threatened by the police with public exposure, his ability to visit other communities has been controlled, and he is subject to "increased punishment" in the words of this very court.

Mr. Webster complied with all conditions of probation for five years. Only after he completed all terms and conditions of his sentence was he told he must register as a sex offender. This order is apparently because of a change in the application of P.C. 290 by the California Department of Justice and the California Attorney General. (See exhibits)

Had Mr. Webster been informed or his alleged duty to register earlier, Mr. Webster could have withdrawn his plea and gone to trial. (See discussion in Part I.) He no longer has that remedy. Instead, this motion is sole remedy.

Other courts over the years have engaged in an extensive analysis of ex post facto laws. Many courts have relied on the words of Judge Learned Hand in 1928 in Falter v. United States

(2d cir 1928) 23 F.2d 420. In Falter, the defendants were charged with defrauding the United States. The crime was committed at a time when the statute of limitations was three years. Before that period expired, the statute of limitations was extended to six years. The defendants argued that the amendment was ex post facto legislation. The court rejected their claim, for reasons explained by Judge Learned Hand:

> "'Certainly it is one thing to revive a prosecution already dead, and another to give it a longer lease on life. The question turns upon how much violence is done to our instinctive feelings of justice and fair play. For the state to assure a man that he has become safe from its pursuit, and thereafter to withdraw its assurance, seems to most of us unfair and dishonest. But, while the chase is on, it does not shock us to have it extended beyond the time first set, or, if it does, the sta[t]e forgives it.'"(23 F.2d at pp. 425-426.)

Here, the dual application of the changes in Penal Code Section 290 (including 266(j) as a registerable sex offense after 1994) and the re-interpretation of the registration effect of such a conviction by the Department of Justice in 1997, have caused Mr. Webster to be subject to the "lifelong threat of prosecution" for a crime that was "already dead." The question as Judge Learned Hand put it is "how much violence is done to our instinctive feeling of justice and fair play?"

It is clear that Mr. Webster pled for, and was granted probation on, a crime that was NOT registerable as a sex offense. To force him to register now, after his ability to withdraw his plea has ended, offends that instinctive feeling of justice and fair play. It is quite simply a new punishment attached to an old, dead, conviction.

Hence the application of P.C. 290 to Mr. Webster is an ex post facto law.

IV

HABEAS CORPUS IS THE CORRECT REMEDY

A writ of habeas corpus is an extraordinary remedy, the purpose of which is to inquire into unlawful imprisonment or restraint. Matters considered in these proceedings are those otherwise not subject to review or issues that are so important as to justify extraordinary relief. (See In re Barnes (1945) 26 Cal.2d 824, 827.) It may be used to obtain declaratory relief. (In re Davis (1979) 25 Cal.3d 384, 387, 158 Cal.Rptr. 384; In re Brindle (1979) 91 Cal.App. 3d 660, 669-670, 154 Cal.Rptr. 563.)

In the case of In re Reed (1983) 33 Cal.3d 914, 191 Cal.Rptr. 658, petitioner Reed challenged the registration requirement for sex offenses under Penal Code section 290 by way of a petition for habeas corpus claiming that it was cruel and unusual punishment. The Supreme Court found that registration

was punishment (33 Cal.3d at p. 922) and declared part of Penal Code section 290 void as unconstitutional.

Here, petitioner Webster is the subject of unlawful restraint, in that he has been informed by the Santa Clara Police that he must register with them as a convicted sex offender under Penal Code Section 290 as it currently exists even though he was not required to register at the time of his conviction and indeed was not required to register during the time that he was on probation.

Further, Petitioner Webster is the subject of unlawful restraint in that he has been told NOT to visit Santa Cruz County and has illegally been threatened with public exposure as a dangerous sex offender in his own neighborhood.

Petitioner Webster contends that this registration requirement is illegal, as it deprives him of the benefit of his bargain, and is an ex post facto punishment. Petitioner seeks declaratory relief that he need not register, or in the alternative that he be allowed to withdraw his plea.

As in Reed, petitioner Webster should be allowed to challenge the registration requirement by means of a writ of habeas corpus.

V

CONCLUSION

For the foregoing reasons, the court should declare that Petitioner Webster does not have to register with any police agency as a convicted sex offender. To deny him such relief would deny him the benefit of his bargain made at the time of his plea. In addition, the later imposed registration requirement is unconstitutional in that it is an ex post facto punishment.

In the alternative, if the court denies declaratory relief, the court should allow Petitioner Webster to withdraw his plea of no contest to the charges and allow him to proceed to trial.

Respectfully submitted,

DATED: 9/24/96

_____{signature}_____
DANIEL M. MAYFIELD, Attorney for
Petitioner JOHN WEBSTER

Daniel E. Lungren, Attorney General

California Department of Justice DIVISION OF CRIMINAL JUSTICE INFORMATION SERVICES Nick L. Dedier, Director	**INFORMATION BULLETIN**	
Subject: Penal Code Section 290 Policy Changes	*No.:* 97-16-BCIA *Date:* 5/29/97	*For further information contact:* Marty Langley (916) 227-3520 Registration Program (916) 227-3288

TO: ALL LAW ENFORCEMENT AND CRIMINAL JUSTICE AGENCIES

California Penal Code section 290 states that all individuals convicted of specific sex offenses since July 1, 1944, are required to register for life. Prior to April, 1997, the Department of Justice (DOJ) searched the date of conviction. If the person was convicted of an offense before the offense section was added to section 290 by the Legislature, the person was considered to not be required to register.

In April, 1997, DOJ revised its policy to more strictly interpret Penal Code section 290 as written. As a result, all individuals who have been convicted since 1944, of any of the offenses listed under section 290(a)(2)(A), are required to register and comply with all requirements under this section.

Some sex offenders who committed crimes that became registrable after their convictions have not been given notice of their duty to register as sex offenders. Therefore, law enforcement should not arrest such offenders for a violation of section 290 (failure to register). When such offenders come to the attention of law enforcement, whether by voluntarily registering, inquiring whether to register, or during an investigation; they should be registered and provided notice of their requirement to register either in the form of a "Notice of Registration Requirement" (form SS 8047), or by a "Registration Change of Address/Annual Update" (form SS 8102).

If the individual is registering for the first time, a registration ten-print fingerprint card and a photograph are required to be forwarded to the Registration Program for validation of the individual's record and entry of the photograph into the Violent Crime Information Network (VCIN).

Questions regarding this change may be directed to Marty Langley, Supervisor, Sex and Arson Registration Program at (916) 227-3520, or to the Registration Program at (916) 227-3288.

Sincerely,

DANIEL E. LUNGREN
Attorney General

Doug Smith

DOUG SMITH, Chief
Bureau of Criminal Information and Analysis

THE CITY OF SANTA CLARA
CALIFORNIA

CHARLES R. AROLLA
CHIEF OF POLICE

1541 CIVIC CENTER DRIVE
SANTA CLARA, CA 95050
FAX (408) 248-0276

July 8, 1997

Mr. John H. Webster
1556 Halford Ave., Apt. #132
Santa Clara, CA 95051

Dear Mr. Webster:

This letter is to inform you that you may be in violation of Penal Code Section 290. "...Duty to register as a sex offender. . ."

Department of Justice records indicate that you have been convicted of 2 counts of violating Penal Code Section 266J; dated 9/6/1990, Superior Court, County of Santa Clara.

Penal Code Section 290 states in part: ". . . (a)(1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the Chief of Police of the city in which he or she is domiciled . . ."

Paragraph (2) states in part: ". . . any person who, since July 1, 1944, has been or is hereafter convicted in any court in this State . . . ." of Penal Code Section(s) . . . 266J (for which you have been convicted) **MUST** register as a sex offender.

The intent of this letter is to notify you of your duty to register as a sex offender within 5 days of receiving this notice. Your failure to comply (register) is punishable as a felony and will be prosecuted by the District Attorney's Office.

Please make immediate arrangements to comply with the above laws.

If you have any questions, please call Sergeant Phil Zaragoza, 261-5414, between 8 a.m. and 4 p.m.

Sincerely,

SANTA CLARA POLICE DEPARTMENT

CHARLES R. AROLLA
CHIEF OF POLICE

CRA:PZ:gl

PHIL ZARAGOZA
DETECTIVE SERGEANT

(408) 261-5414
AFTER HOURS
(408) 261-5300

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