

Internet Infamy: Criminal Registries And White Collar Crime

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Implementing what the [New York Times](#) has dubbed “a scarlet letter of sorts on the state’s financial felons,” Utah has now finalized and published its online White Collar Crime Offender Registry. Authorized by HB 378 of the Utah Legislature’s 2015 General Session, the Registry is publicly available online and includes offender photographs, physical descriptions and any known aliases. The Registry encompasses all persons convicted of a second-degree felony since Dec. 31, 2005, for the following offenses: securities fraud, theft by deception, unlawful dealing of property by fiduciary, fraudulent insurance, mortgage fraud, communications fraud and money laundering. A first-time offense secures an offender a place on the Registry for 10 years. A second offense earns another 10 years and a third offense places an offender in the Registry for life. The Registry represents a growing trend among jurisdictions to make offender information publicly available and easily accessible. Although some states limit access to criminal registries solely to law enforcement agencies or fire officials, others are available online and thus can be viewed by any curious person anywhere in the world. Beyond the 50 states that publicly track sex offenders, five states—including [California](#)—require registration of arson offenders. Minnesota, Illinois and six others maintain lists of methamphetamine producers. In Indiana, [a public website](#) known as Clan Lab Addresses allows visitors to use Google Maps to find homes that have served as meth labs. Tennessee requires registration for animal abuse violators. According to Attorney General Sean Reyes, the Registry “will further equip citizens to protect themselves from financial fraud by making information much more accessible in this digital age. A simple search could curtail a fraudulent investment and save an entire nest egg.” The Registry appears to be a response to Utah’s disproportionately high incidence of white collar crime, given that the state’s large percentage of religiously active citizens [lends itself particularly well to affinity fraud](#). As the [SEC notes](#), affinity fraud involves financial exploitation of groups with strong social ties, including religious and ethnic communities. For those listed on the Registry, the law affords a mechanism to petition the court for removal, but only if each of the following requirements are met:

- five years must have passed since the completion of the offender’s sentence
- the offender must complete all treatment ordered by the court or the board of pardons and parole office relating to the conviction
- the offender must not be convicted of any other crime
- the offender must pay all restitution ordered by the court, notice having been delivered to the victims and the office that prosecuted the offender
- the offender must not have been found to be civilly liable in any case in which fraud, misrepresentation, deceit, breach of fiduciary duty, or

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the misuse or misappropriation of funds is an element

The proliferation of criminal registries—which now extends into the area of white collar crime—raises serious questions regarding their efficacy. First, the information reflected within Utah's Registry may not always be correct. Before viewing the Registry, visitors must acknowledge a disclaimer which notes that "the attorney general does not guarantee the website's accuracy or completeness." Second, information in the Registry is derived from public records, meaning that anyone—including investors—could find it independent of the Registry's existence. While publication to a single, self-contained, and searchable online platform may make the information more accessible, it certainly isn't a panacea and its immediate deterrent effects are suspect at best. Finally, tying removal and exclusion from the Registry to an individual's ability to repay restitution may burden those individuals with limited financial means. For the time being, Utah remains the only state in the U.S. operating a white collar criminal registry. But the Registry isn't the only criminal punishment unique to the Beehive State—Utah is also the only state in the country that [authorizes execution by firing squad](#).