

**The Bill Blackwood
Law Enforcement Management Institute of Texas**

The Texas Sex Offender Registration Program

**A Leadership White Paper
Submitted in Partial Fulfillment
Required for Graduation from the
Leadership Command College**

**By
Richard Wille**

**Pasadena Police Department
Pasadena, Texas
February 2015**

ABSTRACT

The Texas Sex Offender Registration Program was designed to protect the public from sex offenders, according the Texas Department of Public Safety ("Texas Sex Offender," para. 1). The program, however, has become outdated and difficult to manage. In its current state, the program does not operate in a beneficial capacity and needs to be amended. While the rights and recovery of victims is of utmost importance, society must be involved in the rehabilitation and replacement of offenders into the general population.

The research in this paper will reveal some current issues of the program. The fact that all offenders, regardless of offense, must follow the same registration guidelines is at the forefront of the problems. The law does not allow input of offense details, nor offender criminal history to be taken into account. Opponents of change will say if offenders are not supervised in this capacity, they will re-offend. Research has shown; however, this is not the case.

Recommendations to amend the program have been provided. Factors such as levels of registration, taking into account offender's history, victim's age and type of offense should be established. The program should also provide analysis, treatment, and re-entry protocol for offenders to assimilate into society.

Members of the criminal justice system are compelled to address the failed issues with this program. A far more effective program for victims, offenders, citizens and law enforcement should be established. Relevant information is available to implement positive change and to create a more productive program.

TABLE OF CONTENTS

	Page
Abstract	
Introduction	1
Position	1
Counter Position	5
Recommendation	8
References	13

INTRODUCTION

Much debate has occurred over the rights of convicted sex offenders and their victims since the introduction of the Sex Offender Registration Program in the State of Texas. While the safety of sexual assault victims is paramount, those who offend must be dealt with in an equitable manner. Fair treatment for those adjudicated of a crime is a staple of society and a right guaranteed by the constitution on which this country was formed.

Legislation to regulate offenders, in effort to protect their victims, is ever changing (Stevens, n.d.a.). Advocates for each side demand protection and a fair application of the criminal justice system. The regulation of offenders, primarily residency restriction, has become a topic in which some wish to ignore and others see as an opportunity to standout before a watching world. Those who are part of the criminal justice system find themselves challenged by ever changing legislation which requires them to prosecute, defend, and enforce the law. The Texas Sex Offender Registration Program is an injustice to the victim, the offender, and the community, and should be amended to better serve society.

POSITION

According to the Texas Code of Criminal Procedure, in the State of Texas, sex offenders must follow the same basic registration requirements, regardless of the offense (2014). While registration time may vary, the rules there of do not. For comparison, two cases which occurred in the State of Texas are examined. The first offense is that of Aggravated Sexual Assault of a Child. The victim in this case is 10 years old and the offender is 58 years of age. The suspect, who is a step- grandparent

to the victim, repeatedly sexually assaulted the victim in her own bed during the night. Due to the abuse, the victim acted out sexually and has both physical and emotional issues. The offender is charged with two first degree felonies and sentenced to seven years' probation (Pasadena Police Department, 2009). After released, the offender will be required to register under the sex offender program for the remainder of his life.

In the second case, the victim is 13 years old and the offender is 17 years of age. The victim's mother learned the victim had a consensual sexual relationship with the suspect and reported it to the police. The suspect was charged and convicted of Aggravated Sexual Assault of a Child (Pasadena Police Department, 2006). This offender served seven years in the Texas Department of Corrections and will also be required to register for the remainder of his life.

Most people would find the first scenario as one of the most violent and detrimental offenses known to society, while some would question whether the second scenario is even a criminal act. While these two offenses differ drastically, both offenders received the same registration requirements and will be treated equally in the program. Regardless of opinion, the issues created with this scenario can be imagined.

This "one size fits all" treatment has skewed the public's perception of offenders. The general public's view of sex offenders is that of a "child predator" as in the first example. Most people can recall newscasts and reality television shows where reporters are standing in a city park explaining to parents the dangers of a possible offender hiding behind every bush. The picture of the priest or Boy Scout leader, while true in some cases, does not describe most of today's offenders. This perception continues to occur, even though one Ohio report listed only 2.2% of offenders as a

stranger in offenses where the victim was under 13 years of age (Summary of Sex Offender Characteristics, 1992).

The fear and stigma felt by society is mostly due to media misinformation and is frankly, untrue. All pedophiles are sex offenders; however, not all sex offenders are pedophiles. Treatment of all offenders in the same manner has created a sex offender program nightmare. The unnecessary publication of misinformation and the combination of all offenders into a single group has confused the public. The response to this confusion has been “legislation...based largely on public outrage and fear” (Bratina, 2013, p. 200). In reality, the public may not be equipped with enough correct and unbiased information to make a proper decision when concerned about the safety of themselves and their children.

Chris Dornin (2012), founder of Citizens for Criminal Justice Reform, wrote “sex offender laws are based on rage and fear” (p. 1). One can only believe this “rage and fear” Dornin (2012, p. 1) wrote about can partially be blamed on the media. Horrible stories about a child victim or a sexual predator on the loose would certainly captivate the attention of any viewer or reader, while segments about researched statistics and educational materials to help viewers make informed choices, do not. Viewers have been convinced and believe this program is a productive way to guard against offenders. Thus, the media has influenced the public and lawmakers, who in turn, have written law to govern a program which treats all offenders the same.

Those employed by the criminal justice system to deal with management and enforcement of the sex offender statutes are placed in a difficult position. The State of Texas currently has addressed some offenders who live within certain locations where

children commonly gather, defined as a Child Safety Zone (Texas Government Code, 2014). To combat public fear, municipal police agencies have taken this a step further and created local ordinances. These ordinances further restrict where offenders may live within city limits.

Many agencies have dramatically increased the distance covered by the zone while others have redefined the zone entirely. Some agencies have added language to cover other areas, such as entire neighborhoods (City of Pasadena, 2007). One major issue with such ordinances is allowance of municipal police agencies to do what has been done for years, which is to push crime out of one city into the next, without having addressed the problem.

This legislation has forced offenders to take drastic measures to comply. Offenders may have registered in accordance with the law, but are not registered where they actually live. Additionally, this may cause offenders to lie about where they reside and resulted in the number of fail to register charges to increase regarding those who are caught. This, in turn, caused police agencies to spend additional time and money to determine where offenders really live. Police department personnel would obviously have an easier time with the supervision of offenders, if they actually knew where they live.

Ordinances have created other issues for many police departments. Rental property owners are prevented by many ordinances from renting houses in neighborhoods to offenders (City of Pasadena, 2007). This mandated a need for research and possible prosecution of property owners who are to be charged with a violation of the law. Ordinances also make it unlawful for offenders to purchase housing

in certain areas. This is sometimes not discovered until an offender has deposited money for the acquisition of the property. Also, apartment and mobile home complexes are required to refuse to rent to offenders, giving way to more unoccupied space, which may become dilapidated during times of vacancy.

No one wants to live next door to a criminal, offender or otherwise; however, offenders must live somewhere. With compliance of these restrictions, offenders are forced to reside in groups with other offenders or other types of criminals. Being placed in an environment of co-existence with other criminals, would certainly lead to a higher probability for offenders to continue to commit crime. In the long term, this would affect their ability to become productive members of a community.

COUNTER POSITION

Individuals with limited knowledge of offenders and the offender program will be quick to oppose any change in legislation, which appears to be more lenient or removes restrictions on offenders. It will be said, if offenders are not tracked and strict rules are not administered, they will continue to reoffend. Research has shown, however, this is not necessarily the case. The Iowa Department of Corrections (2006) study found a group of offenders released under registration law had a 3% recidivism rate, compared to a 3.5% rate for a group released before the law took effect. Therefore, by comparison, those who offended prior to registration laws have statically the same recidivism rate.

Research has shown as well, recidivism rates are low among offenders in general. In a study conducted by the U.S. Department of Justice Office of Justice Programs, recidivism rates of offenders were 5.3% (Langan, Schmitt, & Durose, 2003).

Ironically, the study also reported non-sex offender's recidivism rates to be 68%. To make an assumption that offenders will not further commit sex offenses because of required registration is contrary to publicized statistics. Currently, offenders can live only in permitted areas, and for most offenders, are instructed to visit a local police department once a year to complete registration paperwork (Texas Code of Criminal Procedure, 2014). This could hardly be seen as proactive work to stop recidivism.

The staggering number of offenders assigned to some municipalities makes the idea of supervision difficult. The Houston, Texas, Police Department reported to have approximately 5,400 sex offenders with a full time staff of only four investigators (personal communication, February, 2014). The problems are un-imaginable for an agency to attempt supervision of this many offenders when faced with limited resources.

Agencies must follow registration laws as mandated to do so by government legislation. A more comprehensive program, however, which includes risk assessment, along with officer education and training, would be more beneficial than use of personnel time to complete forms and measure distance to ensure compliance.

Additionally, most of the general public has an attitude of "who cares" when it comes to sex offenders. This type of crime is often seen as one of the most horrific in society and most people feel offenders get their deserved punishment, whatever that may be. Even other criminals find sex offenders offensive and deal with those in prison in a different manner (DePrang, 2012). Many others conclude though, too many resources are being utilized to track offenders. However, the costs associated with registration requirements are substantially lower than imprisonment ("Myths and facts," 2000).

Society should face the fact it will not stop this crime from occurring. It is reported a sexual assault occurs every two minutes somewhere in the county, or about 237,000 assaults a year ("How often does," 2009). Therefore, decisions must be made to properly deal with would be offenders. To look upon offenders as "they get what they deserve" does little to help victims, or society as a whole. While they do deserve a swift, harsh punishment, offenders must be dealt with after their sentence. Once released from prison, completed probation or registration requirements, offenders must assimilate into society. Offenders forced to comply with the current reactive prohibitive rules may find they have no choice but to continue a life of negative behavior.

Movements have begun to question the legality of some registration requirements (www.nationalrsol.org). What appeared to have started out as a minimal residency requirement, has become an adoption of stringent laws which may prohibit offenders from living in a city altogether. Generally, if a city legal department has written and recommended this type of ordinance, council members and mayors are likely to adopt it out of fear of facing constituents. None of these position holders, who are voted into office, wish to be seen as soft on crime or in defense of a sex offender. If offenders are denied registration in certain cities, it does not mean they will not live there. Recently, courts have begun to find the laws excessive (Stanton, 2014). Society should prepare and deal with the issue now, not later.

RECOMMENDATION

The innocence lost when a person becomes victim to a sexual offense can be overwhelming. The psychological damage can be enough to destroy not only a victim's life, but the many lives touched by the victim. Persons who have experienced property

crimes, such as vehicle or residential burglaries, often describe themselves as feeling victimized or invaded. These types of crimes, however, cannot be compared to the demeaning and personal invasion of a sex crime. It violates the very nature which humans strive to recognize as good. Thus, the safety and care offered to these victims must be of the utmost importance.

Offenders find themselves in the midst of a system riddled with misconceptions and ever stringent laws geared towards them. Even offenders who wish to comply find it difficult (DePrang, 2012). The basis behind the system is simple. Society has been told offenders cannot be rehabilitated and will always remain a threat if not supervised ("Myths and facts," 2000). Therefore, even if they have been punished for their crime, offenders are proscribed a life sentence to deal with the registration program. Even though guilty of this heinous crime, offenders must re-enter society. How this is accomplished is obviously a difficult predicament. After the protection of victims and taking steps to stop recidivism, offenders must be dealt with. To find the balance between protection of some and enabling of others has proven to be a challenge.

The State of Texas must realize the current sex offender registration system does not work. While the state may track some offenders, it forces many into a position where they feel it necessary to break the law, rather than deal with the program. Most sex offenders want to comply with the registration requirements, but are forced to deal with stringent and confusing laws.

The current statutes are too general in scope and applied too broadly. Alternatives, such as levels of registration, should be examined and implemented. Offenders should be evaluated upon conviction of their offense to determine their level

of threat. The true pedophiles, and those with the highest probability of recidivism, should be monitored at an increased level. Society need also remember, if an offender wants to re-offend or commit some other crime, they will find a way. Monitoring will not be a deterrent to this type of person, but a mere obstacle.

An offender's criminal history should also factor into the decision of monitoring and risk level. While not always true, it is often said, past behavior is a predictor of future behavior. A person with multiple convictions over a span of several decades must not be regarded in the same manner as a person who committed one offense in his or her teen years, but has not offended in decades since.

Public education is a must, for the system to improve. Public perception of offenders and what may happen if they are not tracked has been exacerbated. Production of quality, informative material concerning recidivism rates, the different types of offenders, and victim safety is paramount for the program. As noted in the International Association of Chiefs of Police Model Policy on Registering and Tracking Sex Offenders (2007), "Education is vital in keeping the public informed . . . mitigating unnecessary fear and anxiety regarding RSOs [Registered Sex Offenders]" (p. 2-3).

Numerous cities have passed statutes concerning offenders (Lynn, 2007). Misinformation and uninformed citizens have been led to believe this type of program is necessary and will deter offenders. Some cities even require offenders to place signs in their yards, stating they are offenders (Saldana, n. d.).

The "stranger danger" scenario which has been taught to the public for generations has been disproven, and some studies sight the percentage as low as 2.2% of offenders who could be defined as a stranger to the victim (Dornin, 2010). Even with

this information, children continue to be educated the same. However, they are not informed of the dangers of family members, friends, and other acquaintances who have been shown to be the actual suspects in most sex offenses (Bratina, 2013).

The use of the internet for public education is an invaluable resource. With websites, blogs and social networks, new and updated information could be distributed and taught quickly. Stevens (n.d.b.) wrote parents should be “realistic” in discussing the topic with their children. She continued, “most abusers are known by their victims” and not to “put off discussions” with children (para. 2). This type of publication would provide educational information to adults and children, which could prevent them from being victimized.

The above cited education would be a necessity for the media as well. Sex offenders’ stories are publicized in papers, web articles, and news casts on a frequent basis. As with the general public, the media either does not know, or does not recognize, any difference in sex offender offenses. The lack of reported details regarding these cases has, in part, led to the hypersensitivity of the public. While the public does need to know, it should be properly informed.

The element of treatment must also be reviewed. As with other behaviors, treatment must continue to be examined to determine what works and what does not, regarding treatment of offenders. To say, once a person is a sex offender they will always be a sex offender, does nothing to mitigate the stigma society has placed upon these individuals. In addition, the notion that there are no viable treatments for offenders could not be substantiated or proven. The Center for Sex Offender Management (2008) reported “the overarching goal of sex offender treatment is to

prevent . . . further sexual victimization” (p. 16). Studies have shown offenders who receive treatment have a lower recidivism rate (Aos, Miller, & Drake, 2006).

If treatment prevents even one assault of another victim, it should count as some level of success. Therapists and physicians could not possibly understand all facets of the minds of sexual offenders. However, studies must continue in hopes of some sort of rehabilitation, as is done with other criminals and addictions.

It is time to shift to a proactive approach to remove potential victims from dangerous situations. The current reactive approach with suspects and victims is narrow-minded. A paradigm shift to forward thinking solutions is overdue. There is a vast amount of data about sex offenses, victims and suspects available for study. With this knowledge, potential victims can be recognized and warned. Potential suspects can be identified. Parents, children, and teachers can be informed for avoidance of dangerous situations.

For a program which once compiled data on offender's shoe size, there has been some improvement (“Sex Offender Registration form,” 1995). However, the sex offender program still functions poorly and is in need of major changes. With the knowledge, data, and desires of this generation, a comprehensive and informative proactive approach would better serve society. Not only might it prevent victimization, but it may rehabilitate an offender, or deter someone from becoming an offender. With correct and current information, a better product can be built to help protect society, which should be the ultimate goal for the program.

REFERENCES

- Aos, S., Miller, M., & Drake, E. (2006). Evidence-based adult corrections programs: What works and what does not. Olympia, WA: Washington State Institute for Public Policy. Retrieved from www.wsipp.wa.gov/ReportFile/924
- Bratina, M. (2013). Sex offender residency requirements: An effective crime prevention strategy or a false sense of security? *International Journal of Police Science & Management: Autumn*, 15(3), 200-218.
- Center for Sex Offender Management. (2008, December). Twenty strategies for advancing sex offender management in your jurisdiction. Retrieved from www.csom.org/pubs/twenty_strategies.pdf
- City of Pasadena, Texas Municipal Ordinance 2007-172. (2007). Regulation of sex offender residency. Pasadena, TX: Author
- DePrang, E. (2012). Life on the list. Retrieved from <http://www.texasobserver.org/life-on-the-list>
- Dornin, C. (2010). Facts and fiction about sex offenders. Retrieved from <http://www.corrections.com/news/article/24500-facts-and-fiction-about-sex-offenders>
- Dornin, C. (2012). Sex offender laws are based on rage and fear. Retrieved from <http://www.corrections.com/news/article/30085>
- How often does sexual assault occur? (2009). Retrieved from <https://www.rainn.org/get-information/statistics/frequency-of-sexual-assault>
- Iowa Department of Corrections. (2006). Sex offenders. Retrieved from <http://publications.iowa.gov/13045/>

International Association of Chiefs of Police. (2007). Registering and tracking sex offenders model policy. Retrieved from

<http://www.theiacp.org/ViewResult?SearchID=893>

Langan, P., Schmitt, E., & Durose, M. (2003). Recidivism of sex offenders released from prison in 1994. Retrieved from: www.bjs.gov/content/pub/pdf/rsorp94.pdf

Lynn, M. (2007). Texas sends message to sex offenders, can't live here. Retrieved from <http://voices.yahoo.com/texas-sends-message-sex-offenders-cant-live-here-336207.html>

Myths and Facts about Sex Offenders. (2000, August). Retrieved from <http://www.csom.org/pubs/mythsfacts.html>

Pasadena Police Department Offense Report 2006-12147. (2006). Pasadena, TX: Author.

Pasadena Police Department Offense Report 2009-20359. (2009). Pasadena, TX: Author.

Saldana, V. (n.d.). Local regulation of sex offenders. Retrieved from <https://www.tml.org/search?q=saldana+local+regulations+of+sex+offenders>

Sex Offender Registration form INT10. (1995, October). Austin, TX: Texas Department of Public Safety.

Stanton, S. (2014). California courts strike down local sex-offender ordinances. Retrieved from <http://www.sacbee.com/2014/04/24/6352316/california-courts-strike-down.html>

Stevens, P. (n.d.a.). History of the sex offender registry. Retrieved from <http://sex-offender-registry-review.toptenreviews.com/history-of-the-sex-offender-registry.html>

Stevens, P. (n.d.b.). Protecting teens from sexual abuse. Retrieved from <http://sex-offender-registry-review.toptenreviews.com/protecting-teens-from-sexual-abuse.html>

Summary of Sex Offender Characteristics 1992 Intake Sample Population. (1992)
Retrieved from www.drc.ohio.gov/web/Reports/sexoffnd.pdf

Texas Code of Criminal Procedure. (2014). Austin, TX: Texas Department of Public Safety.

Texas Government Code, Section 508.187. (2014). Austin, TX: Texas Department of Public Safety.

Texas Sex Offender Registration Program. (2014). Retrieved from www.txdps.state.tx.us/administration/crime_records/pages/sexoffender.htm