

An Overview of Sex Offender Community Notification Practices: Policy Implications and Promising Approaches

November 1997

Introduction

In 1996, Federal legislation mandated that states establish a community notification program or lose ten percent of their federal law enforcement funding under the Byrne Memorial State and Local Law Enforcement Assistance Funding program. As of October 1997, forty-seven states had passed "community notification" laws that require criminal justice agencies to inform local communities that convicted sex offenders are residing in their neighborhoods or allow the public access to this information.

Why have these laws emerged so quickly? What do they promise the American public? How are they being implemented? What have they achieved so far? What else must be done to assure that these laws help improve the reality -- as well as the perception -- of public safety? Can community notification be used as a tool to manage sex offenders in the community? What are the limits to community notification as a tool to manage sex offenders in the community? What civil rights questions are raised by these laws? What resources are available to learn more about community notification? What resources are required to implement community notification?

In this policy and practice brief, the Center for Sex Offender Management offers, in summary form, up-to-date information intended to inform citizens, state and local leaders, and criminal justice professionals about community notification, and to describe community notification procedures that promote sound public policy and practice.

Definition

Community notification laws allow or mandate that law enforcement, criminal justice, or corrections agencies give citizens access to relevant information about certain convicted sex offenders living in their communities. These laws are distinct from *sex offender registration laws*, which require convicted sex offenders who are living in the community to notify police officials of where they are living, and from *victim notification*

laws, which mandate that crime victims who wish to receive information about the criminal justice processing or release status of the person(s) who victimized them are provided with it. Police registration and victim notification laws are operating in fifty states; community notification is currently in place in forty-seven states.¹ Provisions of community notification laws vary from state to state. States differ in their methods of informing the public of a sex offender's presence in the community and the extent of the information they provide. Some states proactively inform the community of the presence of sex offenders. Other states do not proactively inform the community, but rather, make information available to citizens upon request. The information that is provided or is made available to citizens also varies widely. At one extreme, some states make available information about certain categories of high-risk offenders. California, at the other extreme, recently released a CD-ROM containing information about thousands of sex offenders of many types. These differences reflect the fact that there are no national standards to guide the practice of community notification. Rather, these practices are being developed on a state-by-state and sometimes community-by-community basis.

Origins

Community notification has its roots in various anti-crime campaigns.

In the 1960s and the 1970s, women's groups increased public awareness of rape, sexual assault against women, and battering. Rape crisis centers and domestic violence shelters demanded a criminal justice response to previously hidden behaviors. In the 1970s, the prevalence of physical and sexual abuse against children came out from behind closed doors.

Throughout the 1980s, the crime victim movement further expanded public concern over the unaddressed needs of all those who are victims of criminal violence.

¹ The three states that do not have community notification legislation are: Kentucky, Nebraska and New Mexico.

In 1990, the State of Washington passed the first community notification law in the country in response to a particularly heinous crime. Louisiana and Oregon also passed laws in 1992 and 1993 in response to such crimes. Other states soon followed.

Four years later, in July 1994, seven-year old Megan Kanka was sexually assaulted and murdered by a neighbor, a sex offender who had been recently released from prison after completing his sentence. Megan Kanka's family, aided by victim advocates and supported by political leaders, encouraged a New Jersey (and later a national) campaign to enact a "Megan's Law" to inform community residents about the presence of convicted sex offenders in their neighborhoods.

Also in 1994, Congress passed and the President signed legislation, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. It requires states to establish sex offender registration for convicted offenders, and a system to track them, within three years of its passage or lose up to ten percent of their Byrne Memorial State and Local Law Enforcement Assistance funding. In 1996, the Jacob Wetterling Act was amended to include the implementation of Megan's Law, the Federal community notification statute, by September 1997. Neither the original law, nor its amendment, include new funds for implementation.

Purpose

The original goals of community notification, as expressed in the state of Washington's legislation, were to prevent crime (letting community residents know that sex offenders lived in their neighborhoods) and to improve law enforcement (providing police with additional information to investigate sex offense cases).

Subsequently, as the concept of notification has gained acceptance, its usefulness for other purposes has been identified, including community education. These education efforts have focused on informing the public about sexual offending, the varying types of sexual offenders, and the role

(and limits) of the criminal justice agencies that monitor and supervise sex offenders.

Intended Benefits

Community notification laws have been enacted in response to public demand. There is, as yet, little empirical evidence of their impact. Accordingly, most benefits of community notification are more accurately described as expectations. Future research is needed to identify the actual benefits of community notification.

Proponents of community notification suggest the following benefits:

- ▷ **The Right to Know.** Community residents, and

parents in particular, have the right to know if a potentially dangerous person is living in their neighborhood.

- ▷ **Public Safety.** With knowledge that a person with a history of sexually abusive behavior lives nearby, citizens can better protect themselves, their children, and their neighbors' children.

The goals of Washington State's community notification legislation are crime prevention and law enforcement. In pursuit of these goals, practitioners in Washington and elsewhere use notification as an opportunity to educate the community, to secure the support of communities in the supervision process, and to reduce the likelihood of acts of vigilantism.

- ▷ **Increased Surveillance and Supervision.** Community notification alerts convicted offenders that the larger community, not just law enforcement, is monitoring them.

- ▷ **A Treatment Tool.** Overcoming denial is an important element of intervention with sex offenders. Community notification, some argue, encourages therapeutic intervention by serving as an external control that limits the offender's ability to live in secrecy and by threatening public exposure, which encourages compliance with treatment conditions. Research is lacking on the relationship between public exposure and self-referral to treatment programs. Anecdotal evidence, however, raises some concerns: The Stop It Now Pilot Program in Vermont operates a toll-free information hotline. In addition to other forms of assistance, the hotline provides callers with a number to call for referrals to confidential psychosexual assessments. At the height of media publicity about community notification laws, program operators reported that hotline calls dropped significantly, suggesting that the likelihood of public exposure deterred offenders from seeking treatment.

- ▷ **Communication Among Community Groups.** Community notification offers the opportunity for more than simply sending letters to community residents or posting signs at community intersections. Rather, the implementation of notification laws can increase collaborative efforts among community members to promote public safety through the sharing of information and education.

How Community Notification Works

Many state notification laws, as well as the federal law, permit discretion in fashioning notification processes. Some states centralize the establishment of guidelines

and reporting functions at the state level. In these states, boards have been established to assess and classify sex offenders. The method and extent of notification in an individual case is determined by these classifications. Other states provide the local jurisdictions within their state the discretion to assess offenders and determine the method and extent of notification.

How and When Are Communities Notified?

Communities receive notification that sex offenders are in the neighborhood in a variety of ways, including public meetings, letters, posters, radio or television advertisements, and press conferences. Depending upon the state in which they live, citizens can also obtain information about specific persons from notifying agencies through published information, by contacting local law enforcement agencies, by telephone, by logging onto World Wide Web sites, or obtaining CD-ROMs. Different states, and even different jurisdictions within a state, have varying procedures for conducting community notification. In some instances, notification is made not only when an offender is released from prison, but also, for example, when an offender absconds from supervision, moves to a different community, or when the offender's perceived risk to the community changes.

Which Offenders are Communities Notified About?

Communities do not necessarily receive notification about all sex offenders living in their neighborhoods. Notification is often reserved for high-risk offenders² or offenders who have committed crimes against children, while intra-familial sex offenders are less frequently the subject of notification. More often, communities receive notification about sex offenders who were strangers to their victims.

Many jurisdictions have established three-tier systems to identify (through the use of risk classification instruments, for example) the most predatory, dangerous offenders. In some places, only the highest risk offenders are subject to community notification. In other locations, no distinctions are made among the varying types of sex offenders and all are subject to notification.

Jurisdictions establish their own geographic limits for community notification practices. For example, in urban areas of Louisiana, when a sex offender moves into a neighborhood, only residents within a three-block radius are notified. However, when a sex offender moves into a rural area of New Jersey, residents within a two-mile area receive notification.

Who Gets Notified? Those states using community notification have essentially established four notification categories:

- ▷ Broad community notification (18 states) releases information about sex offenders to any person or

organization who requests it.

- ▷ Organizational notification (14 states) informs organizations, such as day care centers and schools, that are especially vulnerable to particular offenders.
- ▷ Individual notification (13 states) informs victims and classes of victims of the presence of specific offenders in the community.
- ▷ Police notification (14 states) allows persons or organizations to obtain sex offender registry information from local law enforcement agencies.

What Information Do Communities Receive?

Typically, individuals and organizations get offenders' names, photos, crime descriptions, and the age(s) of their victims. Information is often provided on how offenders target their victims as well as their modus operandi. Some notifying agencies may also provide community members with information about the nature of sexual offending, the characteristics of sex offenders, methods of self- or community-protection, and information about what can be done when one learns that a sex offender is living in their neighborhood.

Who Notifies Communities? Different agencies in different jurisdictions are responsible for notifying the public. Corrections departments, probation and parole offices, and law enforcement agencies have varying levels of responsibility across the country. In Louisiana, for example, the law mandates that sex offenders themselves must notify the communities they live in of their presence. They must do this by sending a card to community members within a three block (in urban areas) to one mile (in rural areas) radius, and by placing advertisements in two local newspapers that inform the community of their presence. Probation and parole agencies supervise this activity to verify its completion. Two-thirds of notification states, including California and Illinois, have guidelines and procedures written into state law. Some states, such as Arizona and New Jersey, require Community Notification Guideline Committees to establish appropriate procedures. One-third of the states, including Connecticut and Tennessee, give public officials broad discretion to develop their own procedures.

Community notification offers criminal justice officials an opportunity for ongoing communication with members of their community. In Oregon, for example, notification is not a single isolated event, but a series of steps that provide a setting for ongoing dialogue between community members and supervising officials. This allows the community to understand how best to protect themselves without resorting to inappropriate or unlawful attacks against sex offenders.

² Jurisdictions differ in their classification of high risk offenders.

Who Monitors Those Offenders in the Community?

Sex offenders who are under community supervision are monitored by criminal justice agencies, such as probation and parole, *if* they are under the supervision of the court. Sex offenders who have satisfied the terms of their sentences are not supervised in the community. State sex offender registration laws may require that sex offenders contact the police if they should relocate, and notification practices may result in a new series of notification events. However, notification in and of itself does not provide for further supervision of sex offenders in the community beyond the terms established by the sentencing court.

Promising Practices

Community notification is relatively new, and states are still refining how best to put it into practice. However, those jurisdictions that build community involvement into their notification practices appear to offer the greatest promise. Some of these emerging practices include:

Balancing Competing Interests. “The offender has to live somewhere,” a probation officer said in a local newspaper report, “and the community has a right to safety.” How can these interests be addressed in a balanced way? In Connecticut, a team of individuals, including community corrections officials, victim advocates and sex offender treatment providers, have developed a multi-dimensional approach to this issue: The team conducts community notification, works with victims, and has secured a grant to lower the adult probation sex offender caseload size to ensure careful supervision and monitoring of those sex offenders under community supervision. Connecticut’s balanced approach directs services to the *entire* community.

Informing the Community. The public often has little understanding of sex offenders, sexual offending, and treatment interventions for these offenders. Some of the most proactive communities have used notification as an opportunity to *educate* their communities:

- ▷ **Public Meetings.** Some police departments in the state of Washington conduct public meetings to give community members concrete information that addresses their concerns and fears, including an overview of community notification laws and practices. In this forum, police counter misinformation, quell fears, discourage vigilantism and offer actions that citizens can take to enhance their safety.
- ▷ **Personal Visits to Community Members.** In Oregon, probation officers go door-to-door in notified areas to meet with citizens and provide notification information.

In each of these examples other benefits accrue:

criminal justice personnel get out into the community to provide assurance and reduce fear, and a problem-solving relationship develops between criminal justice professionals and local residents.

Risk Assessment. Classification instruments can be valuable tools to identify high risk sex offenders. However, these instruments must be used with caution because to date there are no risk assessment scales that have been developed or validated for all sex offenders. These assessments serve three distinct purposes:

- ▷ First, they aid law enforcement and others in identifying those offenders with histories that include behaviors indicative of risk.
- ▷ Second, they aid jurisdictions in targeting scarce resources. For example, departments are able to better identify which offenders are most in need of intensive supervision and treatment.
- ▷ Finally, they are used to determine the level and nature of community notification. Many states, such as Massachusetts, Minnesota, and Rhode Island, use a three-tier classification of sex offenders. The defining characteristics of each of these tiers may vary from state to state, but they are generally ordered along an axis of dangerousness. The typical three-tier system covers offenders who are low risk to reoffend (notification information is shared just with police agencies); moderate risk to reoffend (where notification also includes schools, neighborhoods and other organizations); and high risk to reoffend (which may also result in press releases). Some states only use two tiers (dangerous and non-dangerous). Still other states require mandatory notification only for high-risk offenders.

Police Investigation Tool. In Illinois, police are using community notification, in conjunction with a sex offender registry, as a crime prevention and investigatory tool. For example, when a police officer conducts a routine traffic stop, along with a criminal history check, the officer receives information on known sex offenders and their release conditions. Thus, if a known sex offender is stopped while near a playground, the officer is immediately aware of the offender’s history and the risk the circumstance presents.

Collaboration. Community notification processes appear to be most effective when they involve the close cooperation of numerous entities. Those agencies who conduct risk assessments, those who notify the public, those who monitor and treat the offender, and victim advocates in the community would do well to establish a good working relationship to ensure the effective implementation of community notification practices.

Research Results

Community notification laws are constructed on the assumption that letting neighbors know about sex offenders living near to them will help prevent further

sexual assault. It may not be possible to learn the number of crimes prevented by these laws. Nonetheless, information can and should be gathered about the influence of community notification on community behaviors, perceptions and criminal justice practices.

Offender Recidivism. Only one study has been completed on the impact of community notification on offender recidivism to date. In the state of Washington, researchers found that in a matched sample of ninety offenders subject to community notification and ninety offenders not subject to community notification (comparable in all other aspects), results demonstrated that recidivists in the community notification group were rearrested sooner than recidivists in the non-notification group. However, the level of reoffending for members of each group after 4.5 years was the same. There was no statistically significant difference in reoffending between the two groups. Research also indicates that -- contrary to what is widely believed -- most new arrests for adult sex offenders are for non-sexually motivated crimes.

Cost. The level of expense associated with community notification depends upon the population density and geographic size of the area and the decisions made by policy makers. Smaller communities can often rely on word-of-mouth communications. Larger communities require postage, equipment costs, and a greater commitment of staff resources. Other practices that may be costly include background investigations of offenders about to leave prison and the identification of the individuals in the community who are most likely to be affected by the release of particular sex offenders. Legal challenges to aspects or the entirety of community notification procedures can also add significantly to at least the initial costs of establishing notification practices. To date, only the State of Washington has measured the cost implications of these new policies.

Implementation Challenges

Community notification has swept across the nation with strong political and popular support. Notification legislation is a beginning, but it raises many questions still unanswered about how to achieve community safety most effectively.

What are Effective Community Roles? Community notification laws clearly affirm the desire for protection from assaultive and predatory behavior. However, they do not suggest what communities should do once they are notified that sex offenders live in their neighborhoods. Effective implementation will include education on how community members can protect themselves and their families and the potential negative impacts of vigilante behavior.

Community Reintegration. How can communities ensure that notification practices do not impede the

equally desirable goal of moving offenders into law abiding lifestyles in the community? Effective notification will aid communities in understanding the barriers confronted by released sex offenders and how addressing these barriers responsibly can reduce further victimization.

Resources for Implementation. Community notification laws, to date, have come with few or no resources for implementation. Thus, criminal justice agencies, from police to probation or parole, often have no additional resources with which to administer notification processes. The time devoted to notification may replace other public safety functions. Effective notification practices will include an examination of overall workload issues and adequate resource deployment that ensures community protection.

A Sense of Safety. The existence of community notification laws may create an unwarranted sense of security. Notification laws may provide useful information to community members but the challenge is to use that information wisely and to advise the public about what they can expect from notification, which does not in and of itself guarantee community safety. *The way criminal justice officials carry out public education around these laws and their implementation is likely to contribute significantly to their success or failure.*

Constitutionality. Community notification has been challenged in the courts on a variety of issues, including ex post facto application, violation of plea bargaining agreements, privacy, unwarranted search and seizure, excessive punishment, and inappropriate conditions of parole. Notification has been partially blocked in several states where some provisions are drawn more restrictively than elsewhere. While notification laws have passed legal tests in some courts, resolution may ultimately come through a U.S. Supreme Court decision. The primary debate in this area is whether notification is viewed as punitive (and therefore subjects the offender to punishment beyond the original sentence) or regulatory (which is generally considered to be a permissible action of the state).

Retroactivity is another aspect of notification laws that has raised questions of constitutionality. Many sex offenders were sentenced prior to the enactment of notification laws. Some states, such as Alaska, allow the retroactive application of notification to these offenders. This practice faces legal challenge and has halted notifications in some cases. Other states allow notification only for cases that have come to court after the passage of notification laws.

Preventing Vigilantism. Opponents of community notification are concerned that individuals (and communities) will react aggressively towards sex offenders. Although such incidents have been limited, some areas of the country have reported that vehicles have been vandalized, offenders and their families have been beaten and verbally assaulted, and a single incident of a house burning has been documented.

Some communities have worked to prevent this, but individual acts of violence are always possible. Further, anecdotal evidence suggests that there have been cases in which citizens have attacked or invaded the homes of persons that were believed to be sex offenders, only to discover a mistake in identification. States have generally made it clear that such action by citizens will not be tolerated. In New York, for example, a telephone notification line gives out scant information, but firmly states that "taking things into your own hands" is illegal. Careful implementation of notification laws, along with comprehensive public education, may guard against such dangers. Community education and support are perhaps the only ways to prevent such acts.

Unintended Consequences. Although there has been no empirical research conducted, anecdotal evidence suggests that community notification practices have had some unintended consequences. These include an increase in plea bargaining,³ a lack of offender compliance with registration requirements, a decrease in the reporting of incest cases, and the fact that some child protective agencies are not charging juveniles with sexual abuse to avoid subjecting children and adolescents to the scrutiny of public notification laws.

Recommendations for Policy Teams. In an effort to enhance public safety and the effectiveness of community notification laws, policymakers should ensure that notification is not perceived as the sole responsibility of a single agency. Rather, community notification should be viewed as a system wide -- indeed a community wide -- responsibility. Where system wide policy teams are in place, they are encouraged to explore the advantages of community notification and safeguard against unintended consequences.

Building a Body of Research. Because little research has been conducted on community notification issues, limited empirical evidence is available to support or contradict the presumed benefits or risks of community notification. Communities and states developing notification guidelines should work with researchers at local colleges and universities, in government agencies, and with non-profit organizations to conduct meaningful research to assess the effectiveness of their own practices.

Conclusion

Community notification laws and practices are new, and states are still grappling with their effective implementation. Case law is still developing in this area. As community notification laws come into practice in all states and territories, qualitative as well as quantitative research is needed to understand the impact of notification laws and their usefulness. Such research

³ Offenders may plead to lesser charges (such as battery) that do not require community notification, or mandate treatment, for example.

can improve public understanding of how these laws affect public safety, the cost and operation of criminal justice agencies, and the involvement of local communities in the development and implementation of effective criminal justice policy.

A Note to Readers

The Center for Sex Offender Management is interested in learning more about the implications and effective implementation of community notification in jurisdictions around the country. We would be pleased to hear from your community.

Acknowledgments

The Center for Sex Offender Management would like to acknowledge the significant contributions of Russ Immarigeon in conducting research and drafting text for this article. We also would like to thank the following individuals for their contributions: Faye Fagel, Roxanne Lieb, Sam Olsen, Donna Schram, Gretchen Stevens, Mike Welter, and Carl Wicklund.

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