

Community Notification Task Force Report Implementation of House Bill # 458 January 31, 2003

Task Force Creation and Mandate

The Community Notification Task Force was created through the passage of H.B. 381 in January 2002. The bill delayed the implementation of H.B. 247 w/H.A. 2 & S.A. 2, passed in June 2001 that mandated schools and districts to mail out sex offender community notifications to parents if they receive such notices from law enforcement agencies. H.B. 247 had an effective date for implementation of January 2, 2002. H.B. 381 was passed in January in response to concerns regarding the costs of mailed notifications and concern that schools were not the appropriate agency to provide effective community notification. The bill delayed implementation of H.B. 247 until April 15, 2002. The bill also created the Community Notification Task Force to take a closer look at the issue and develop recommendations to implement notification requirements. The Task Force submitted its recommendations and draft legislation to General Assembly and the Governor by March 31, 2002.

The original Task Force made recommendations regarding the role of the public school system in [the] notification regarding registered sex offenders; the content and design of community notifications; and access to information on registered sex offenders. The Task Force also recommended outreach to the community regarding the notification process, procedures to access information on registered sex offenders, and education regarding the prevention, identification, and reporting of child sexual abuse. The Task Force also endorsed attempts to standardize reporting and provide wider access to information regarding registered sex offenders.

H.B. 458 continued the Community Notification Task Force until January 2003, augmented by representatives from the Department of Public Safety, Delaware Justice Information System, the Department of Technology and Information, and the Government Information Center to advise and oversee implementation of the Task Force recommendations.

Overview of the Tier Assignment, Registration, and Notification Process

The sex offender community notification process is established in Title 11, Chapter 41 of the Delaware Code. A sex offender is placed on the registry in one of three tiers depending upon the type of offense committed and an assessment of the potential risk posed by the offender. The registry is maintained, routinely updated and audited by the Delaware State Police.

Tier I is the lowest level and requires that law enforcement officials are notified but does not require community notification. Police authorities are required to track offenders.

Tier II requires that searchable records are available to the public, including through the police agencies, public libraries, and Internet. Information must include last verified address, offenses and the dates of conviction of the offenses. Information may include other details designated for public access by the Superintendent of the Delaware State Police. Records must be searchable by

name of offender and by suitable geographic criteria and updated at least every three months. Community notification is at the discretion of local law enforcement for Tier II offenders. Generally police will notify every school within the immediate area as well as licensed daycare agencies for Tier II offenders, but do not generally conduct door-to-door notifications.

Tier III is the highest level of sex offender and requires the same searchable records as defined above as well as full community notification defined as “notice, which is provided by any method devised specifically to notify members of the public who are likely to encounter a sex offender”. Methods of notification may include door-to-door notice, mail, telephone, newspapers, or notices to schools and licensed day care facilities.

Community Notification

While the law establishes certain parameters depending on the tier of offenders, local law enforcement agencies have significant discretion to define both the nature and scope of community notification. Notifications are the responsibility of the chief law enforcement officer of the local jurisdiction, or the Delaware State Police where there is no local jurisdiction. The agency responsible is permitted to promulgate reasonable rules, regulations, policies and procedures to implement this statute.

The flexibility in the law in how a local law enforcement agency defines both “community” and “notification” also creates significant differences in how the law is currently implemented. For example, many police agencies simply photocopy the notification from the state website, others generate their own notifications that may or may not include a photograph and can vary widely in the specificity of the information included.

During the course of the original Task Force’s deliberations it became apparent that the current content and design of the notification itself does not provide sufficient information to allow community members to better prepare themselves and their families. For example, many notifications include Violation of Parole as the last offense. The criminal justice community is aware of these concerns and was already in the process of redesigning the current notification managed by the Delaware State Police. For example, the Delaware Judicial Information System (DELJIS) is in the process of removing Violation of Parole and listing the original underlying offense on the notification. This will provide much more relevant information to the public concerning the potential level of threat. DELJIS has welcomed the continued input of the Task Force in advising the redesign of the notification.

The previous Task Force strongly recommended that the content included in the notification be defined more clearly to mandate the inclusion of the date of birth of the offender, the age of victim (within ranges to prevent victim identification), the underlying offense(s), history of sex crime convictions subject to registration, conditions of release and parole, physical description of offender (height, weight, hair and eye color). The current Task Force does not consider the inclusion of conditions of release and parole feasible. The previous Task Force discussed, but did not reach consensus on, mandating photographs for all registered sex offenders, including those juveniles adjudicated through Family Court. The current Task Force recommends inclusion of the most recent available photograph available in the database.

Community Notification Implementation:

- A uniform protocol for law enforcement agencies has been developed for dissemination throughout the Delaware criminal justice community in order to institute a uniform Community Notification procedure.
- This procedure will be updated or modified as necessary with the Delaware Police Chiefs Council subject to the approval of the Attorney General's office.

These steps are consistent with Sections 4 and 5 of H.B. 458.

The Role of Schools and Daycare Providers

The original Task Force believed that the public school system has an appropriate role to play in improving community awareness of the potential threat posed by sex offenders. This includes a responsibility to educate their students about personal safety and a responsibility to know when an offender is a student enrolled in a public school. Schools, and licensed childcare providers, also have a responsibility to maintain readily available information on sex offenders who live in their community. However, the Task Force did not believe that requiring schools to mail out sex offender notifications to parents is an appropriate or effective means of community notification.

As a result of the passage of H.B. 458, school districts are no longer required to mail out sex offender notifications to the homes of all students. Following a review of the law by the Community Notification Task Force, the General Assembly determined that the task of community notification should remain primarily under law enforcement. However, to help keep children safe, the following are required of schools:

- Schools shall have information on sex offenders easily accessible through a binder kept in the main office available to view upon request by adults and by juveniles with adult supervision. No notification shall be removed from the binder unless the school is notified of an address change informing them that the offender has moved from the community.
- The chief administrator in each building will designate an individual who will maintain the binder.
- Schools shall allow community members to have access to the State's Community Notification web site in the school building.
- It is the schools' responsibility to ensure that all staff is aware of registered sex offenders in the community.
- Schools should regularly inform parents through existing communication methods such as newsletters of the availability of notifications and when there are changes to the information enclosed in the binders.
- Schools are prohibited from the physical posting of sex offender notifications.
- Schools should have a significant role in educating students about personal safety and awareness, consistent with the Delaware Health Education Curriculum Framework.

1. National guidelines for post secondary schools are detailed in the Federal Register (10/25/02 "Guidelines for the Campus Sex Crimes Prevention Act..."). These guidelines

took effect 10/28/02. Implementation steps and recommendations in this report were designed to comply with these guidelines.

School and Daycare Implementation

- All public and private schools through grade 12 and all facilities regulated by DSCYF Child Care Licensing will be informed of their duties according to H.B. 458.
- The school binder material and additional public education information is available on the DOE website and will be available on the DSP website.
- The Delaware Health Education Curriculum Framework has been modified to include additional material regarding personal safety and awareness.
- These steps are consistent with Sections 1, 8, 9, and 10 of H.B. 458.
- DELJIS will develop a program so that when residence, employment, or place of study fields change, a notification will be triggered to the school and law enforcement.

Access and Outreach

Implementation Related to the Sex Offender Registration Process:

Delaware's Criminal Justice Information System (CJIS) is perhaps the most integrated statewide criminal justice system in the nation. The Delaware Criminal Justice Information System (DELJIS) Board of Directors continues to lead in the development and management of shared information systems in the State. The Board consists of members from all sectors of the criminal justice community assuring equal representation for making decisions that impact criminal justice information system. DELJIS has a proven track record of effectively utilizing federal funds provided through the BJS National Criminal History Improvement Program (NCHIP) and National Sex Offender Registry Grant, to name a few.

DELJIS has received an NCHIP V Grant to enhance the existing sex offender registration system and provide automated support for verification and re-verification of registrants' addresses. The following objectives make up the scope.

- Allow user response to notifications and recording these responses in a registry database
- Provide for the update of risk assessment factors
- Incorporate an on-line risk assessment factor analysis
- A browser based registration process to replace the existing mainframe process
- Incorporate the Public Task force recommendations

In order to remedy the limitations of the current sex offender registration process, the entire Sex Offender Registration is being analyzed and being rewritten to provide a more user-friendly presentation by utilizing the Internet/Intranet platforms for development. The benefits of this approach are wide reaching. It provides for:

- ease of use,
- more timely and accurate registration,
- server based platform provides expanded presentation capabilities including photographs,
- systematic approach provides a more robust data environment which remains flexible to future growth and enhancement,
- a means for the State of Delaware to participate in the Federal Sex Offender Registration Program,
- a means to capture those data elements as specified in House Bill 458, Place of Study, Employer and incorporate as part of the NCHIP V grant described above,
- addition of treatment as a field, and
- modification of Address Verification and Notification to reflect and include the additional data elements and incorporate as part of the NCHIP V grant described above.

These steps are consistent with Sections 2, and 3 of H.B. 458.

Implementation related to the Public Sex Offender Web Site

Recognizing the overlap and direct relationship between the Sex Offender Registration process and the Public Sex Offender Web site these two projects were married into one project in a collaborative effort with the Task Force and other private and state agencies.

School Binders

- Every daycare and public school will maintain a binder. The chief administrator in each building will designate an individual who will maintain the binder. The daycare or public school will place all notifications received from local law enforcement in the school binder. A web site with a subscriber system and a binder system has been created.
- The Department of Education (DOE) will generate a table including the zip code of each school building and all the adjacent zip codes sharing a boundary with the zip code of the school building(s).
- DELJIS will establish a subscriber system on the web page that will include the option to receive automatic notification for Tier II and III offenders. All day care providers, private schools, and post secondary schools may enroll in the subscriber system and request notification for individuals who list place of study, residence, or employment with the same zip code as the school building. Public schools will automatically be listed as subscribers for this purpose.
- DELJIS will also establish a binder option on the web page. All daycare providers, private schools, and post-secondary schools may sign up for the binders by zip code(s) of school buildings and all zip codes adjacent to the school building. Public schools will automatically have a binder established. The DELJIS generated binder will allow schools to print current material to update the school binder.
- When automatic notices are received by the school from the website subscriber system or law enforcement, they will be compared to notifications in the school binder. When a

corresponding notification is found in the binder, the updated notification will replace the old notification.

- Schools will update the binder at least annually at the start of each school year by replacing existing notifications with current binder material generated by DELJIS.

Public Education and Information available on the Web Site:

The Public Sex Offender Site shall become a portal to sex offender information. The Public Awareness/Education Subcommittee under the Child Protection Accountability Commission will work with DELJIS to develop the information and links desired and deemed beneficial to the public. The Information provided on the site may include:

- Public Awareness Information (provided and updated as necessary by the Public Awareness/Education Subcommittee)
- Commonly Asked Questions
- How are Risk Levels Determined?
- What is Megan's Law?
- Why is there a Megan's law?
- Prevention Tips
- How do I get help?
- A link to Delaware's Searchable Sex Offender Database (described below)
- Links to other State's Web Pages
- Links or postings of information related to sex offender legislation, including relevant citations in the Federal Register.

Searchable Public Web Site

The public website will be searchable by the fields noted below.

- Name of Offender
- Registered City of Offender (Home and Employer)
- Registered Zip code of Offender (Home and Employer)
- Registered County (Home and Employer) (These four points address H.B. 458 Section 7.)
- Victim's Age Range (This addresses H.B. 458 Section 6.)

The task force determined that it would not be advantageous to include School as a searchable field.

E-mail Notification Requested by the Public

In conjunction with Diamond Technologies, the web site will offer a subscription-based service to the public for Email notification of changes and additions based on criteria selected by the subscriber.

Libraries

The Delaware Division of Libraries will inform librarians of the provisions of H.B. 458 and information regarding the website. (This addresses H.B. 458 Section 7.)

Outreach

The original Task Force sought to increase awareness of the issue of child sexual abuse by educating the citizens of Delaware about the prevention, identification, and reporting of child sexual abuse and to increase awareness of the resources available to all those involved, including the victims and their families and the perpetrators and their families. In order to accomplish these goals, the committee recognizes the need to partner with many individuals and groups across Delaware, including law enforcement, schools, the Attorney General's office and concerned community members. This work will continue as a part of the Child Protection Accountability Commission and will be accomplished by:

- working with the Children's Trust Fund to finalize the components of a comprehensive, multi-faceted media campaign and determine the costs involved,
- establishing a method to determine the effectiveness of the campaign, perhaps using survey data to measure increases in awareness and learning,
- creating a proposal for funding,
- establishing a calendar to plan and launch the campaign, and
- working with professionals and members of the general public to launch a Sexual Abuse Prevention Initiative that will include national models for school and community based programs.

Conclusions

The recommendations included in the original Task Force report were the consensus recommendations of the entire Community Notification Task Force. The Task Force believes that the steps outlined above will effectively implement the mandates of H.B. 458. These steps will provide more useful information to help Delawareans protect themselves and their families and provide much easier access to that information. Provisions have been made for continuing improvement through coordination with the Delaware Police Chiefs' Council and the Child Protection Accountability Commission.

Recommendations

It is recommended that another Task Force be convened to pursue concerns related to registration. The Task Force might best be chaired by representatives of the criminal justice community, with representation from Family Court, Superior Court, the Attorney General's Office, Public Defender's Office, Department of Corrections, and the Department of Services for Children Youth and their Families. Some of the issues that might be addressed by this group are noted in the attached addendum.

Enclosures

Task Force Membership
Addendum Regarding Registration Issues

Task Force Membership

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Addendum Regarding Registration

In the process of the work on Notification it became apparent that there are numerous concerns regarding the registration law, process, and reporting requirements.

Registration requirements are sometimes problematic for individuals who have committed crimes in another state. First, because a crime in the other state may not be appropriately translated to an equivalent crime in Delaware, (for example in PA, "Corruption of a minor" is actually equivalent to Rape 4 in Delaware), the crime may not result in equivalent registration requirements. Timeliness for determining the appropriate tier for out of state offenses was a concern for some Task Force members. Second, individuals wishing to escape registration where they live may move to Delaware from a state that requires registration no matter when the crime was committed because registration is not required for crime committed before a certain date unless the offender violates probation.

The registration of juveniles is a concern. One possible solution to consider would be to limit registration requirements to juveniles convicted in Superior Court of Tier II and III offenses.

There are concerns that offenders may not report changes and that consequently, much of the data in the registration database may be inaccurate. There may be ways to improve reporting compliance and ways to use other state data to check registration data and improve the accuracy of the database.

There is concern that the Tier assignment does not represent the degree of risk the offender poses to the community, especially in the distinction between Tiers II and III. This issue has been addressed on a number of occasions by the criminal justice community and reflects the difficulty of assessing the potential future risk posed by a particular offender. For example, not every offender, especially in Tier II, is a pedophile or a dangerous predator. On the other hand, some dangerous offenders may plea to a lower Tier offense. Tier II has, therefore, become a very broad category that encompasses a wide range of offenders and a wide range of potential risk levels.

The Criminal Justice Council should continue to monitor changes in federal compliance guidelines and recommend legislation necessary to avoid the loss of federal grant funds due to noncompliance.

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