

Community Notification Task Force Final Report and Recommendations March 31, 2002

Background

The Community Notification Task Force was created through the passage of H.B. 381 in January of this year. The bill delayed the implementation of H.B. 247 w/H.A. 2 & S.A. 2, passed in June 2001, that mandated that schools and districts 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 also 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 come up with new recommendations to implement notification requirements. The Task Force must submit its recommendations and draft legislation to General Assembly and the Governor by March 31, 2002.

Task Force Membership

As required by H.B. 381, the thirteen-member Community Notification Task Force was co-chaired by the Department of Education and the Department of Services for Children, Youth and Their Families. The Attorney General's Office, the Delaware State Police, the Department of Correction, the Office of the Child Advocate, the Delaware Association of School Administrators and the Local Chiefs of Police were also represented on the Task Force. The Task Force also included five public members from the community appointed by the co-chairs.

Scope of Work

The Task Force's charge was to make recommendations regarding the sex offender community notification process, most specifically the role that schools should play in the process. However, during this discussion many other issues became significant to the Task Force's deliberations. Given the very tight timeline afforded our work and the complexity of many of these issues, the Task Force has chosen to highlight these and strongly recommends that they receive further study and analysis.

Summary of Recommendations

The recommendations included below are the unanimous recommendations of the Community Notification Task Force as a whole.

All children should be as safe as possible in our schools and communities. As a part of this, those responsible for caring for our children should have the tools necessary to keep our children safe from sexual abuse.

Community notification should primarily remain the responsibility of the law enforcement community.

Community notifications should be as uniform as possible across different police jurisdictions.

Community notifications should be as accessible as possible and include as much information as is necessary for the community to make informed decisions about personal safety.

An enhanced, user-friendly and interactive web-based community notification system must be the backbone of the system.

Schools must know when a juvenile sex offender enrolls in the school, both for the safety of the school community and for the safety of the juvenile sex offender.

Schools should not be responsible for mailing sex offender notifications.

Schools and licensed child care providers should have information on offenders easily accessible through a binder kept in the main office or, in the case of schools, through community access to the state's web site in the school building. Schools and licensed child care providers have a responsibility to ensure that all staff are aware of all registered sex offenders in their community.

Parents should be informed on a regular basis of the availability of this information and periodically of changes to the information.

The physical posting of community notifications in school buildings should be prohibited.

Schools should have a significant role in educating students about personal safety and awareness.

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

The Community Notification Task Force should oversee the development of a public awareness campaign that maximizes the use of existing state, federal or private sector resources.

Understanding the current community 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 tier levels depending upon the type of offense committed and an assessment of the potential risk posed by the offender. While the law establishes certain parameters depending on the tier level 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 registry is maintained, routinely updated and audited by the Delaware State Police.

Tier I is the lowest Tier 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 information 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 updates 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 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.

One of the problems with the current notification system is the on-going issue of determining the tier level of offenders, most specifically between Tier II and Tier III. This issue had 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 down” into Tier II as part of a plea agreement. Tier II has, therefore, become a very broad category that encompasses a wide range of offenders and a wide range of potential risk levels. As such, there is significant difficulty in determining the risk an offender posed based solely on their tier classification.

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 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. **The Task Force strongly believes that notification should be defined more clearly to include consistent information for all Delaware police agencies.**

The role of the public school system

The Task Force believes 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, as well as licensed child care providers, also have a responsibility to maintain readily available information on sex offenders who live in their community. **However, the Task Force does not believe that requiring schools to mail out sex offender notifications to parents is an appropriate or effective means of community notification.** There are several reasons for this:

Mailing to public school parents would not include the parents of private school, home school or pre-school age children, or other members of the community, such as the elderly, who may also be a vulnerable population.

Given district boundaries and the current public school options available to parents in terms of choice and charter there is no necessary relationship between where a parent lives and where their children attend school.

Schools do not have the expertise to answer inevitable questions related to the nature of particular offenses and the risk posed by particular offenders, nor is this an appropriate role for educators.

The cost, even with bulk mailing, to mail notifications to all public schools parents is very significant and may not, therefore, represent an efficient or effective means of notification.

Content and design of community notifications

During the course of the 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 Task Force strongly recommends 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, history of offenses, conditions of release and parole, physical description of offender (height, weight, hair and eye color). The Task Force has discussed, but not reached consensus, on mandating photographs for all registered sex offenders, including those juveniles adjudicated through Family Court. Given this, the Task Force recommends that the inclusion of photographs should remain at the discretion of local law enforcement.

Access and Outreach

The Task Force recommends that technology be used to provide a much more effective means of community notification. The state already has a sex offender website but it is not easy to navigate and currently provides very little interactivity. The Task Force envisions the website containing much more detailed information than is presently available and being more easily navigated, user-friendly and interactive. For example, the website could use GIS coding for easy sorting by distance from a particular location, could be designed to sort by many more categories, such as tier level, could provide easy links to much more information to explain categories of offenses, provide access to information on personal safety education and the prevention of sexual abuse for families and children and encourage the public to contact the law enforcement community to address questions and concerns.

A subscriber or members service could also be developed that would be able to provide automatic notification by e-mail or regular mail for sex offenders who meet certain profiles defined by the subscriber. As such, information could be tailored to the need of individual community members and provide for notification for those without easy access to a computer. In such a system, the subscriber would receive a generic notification informing them that their had been a change based on their criteria and to go and visit the website or contact local law enforcement to receive the information. The Task Force estimates that such a system could be developed for less than \$100,000. The Task Force also recognizes the current fiscal realities faced by the state and recommends that a pilot subscriber system be developed using existing resources available within the Government Information Center (GIC) and DELJIS.

The Task Force recognizes that simply improving the information included on notifications and greatly improving the web site, while critically important, will not be enough in itself. A significant promoting campaign to advertise the website, encourage citizens to register, and inform them how to enroll. The campaign must also raise awareness, educate people about sexual abuse, and provide prevention strategies. Again, given the current fiscal realities faced by the state, the Task Force recognizes that the public awareness campaign must maximize the use of free media and effectively utilize existing state, federal and private resources. Cost effective promotional strategies can incorporate existing highly effective programs such as those offered by organizations such as Prevent Child Abuse Delaware and the National Center for ????

Issues for further study and evaluation

The Task Force strongly recommends that several issues receive much fuller analysis than could be provided given the limited scope and timeline of the Task Force's mandate. These discussions should be led by the criminal justice community with significant public input from groups such as this Task Force. The issues include:

The Tier System, specifically with respect to the broadness of the Tier II category and the criteria used for tier classification to better reflect risk to the community.

The appropriate application of the registry and notification system to juvenile offenders.

Methods to ensure the inclusion of out of state offenders on the registry.

Methods to ensure notification for sex offenders not yet tiered.

Methods to ensure accurate and timely self reported information (change of address, work address etc.).

Much better data is required regarding the risk posed by various classifications of offenders.

Conclusions

The recommendations included in the report are the consensus recommendations of the entire Community Notification Task Force

Enclosures

Task Force Membership

Proposed Legislation

HB 381

HIB247w/HA 2 & SA 2

Meeting Notes

Guidelines for implementation of HB 247 w/HA 2 & SA 2

Del Code 11, Chapter 41

Task Force Membership

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Division of State Police
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