

RESIDENCE RESTRICTIONS FOR SEXUAL OFFENDERS AND PREDATORS: DO THEY REALLY MAKE A DIFFERENCE?

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Abstract

Ordinances are being implemented throughout the country that restricts sexual offenders and predators from living within certain areas. While there is some variance in the details of these type ordinances from jurisdiction to jurisdiction, they all are enacted with one common goal in mind: to protect our children. Information gathered through surveys and interviews helps give an understanding of how these ordinances affect law enforcement and offenders. It also looks at the successes and failures with these ordinances as well as their constitutional issues.

Introduction

Both city and county law enforcement agencies across the nation are rapidly enacting ordinances commonly referred to as “Residency Restriction.” This trend has developed based on the pretense that these laws will protect our children from Sexual Offenders and Sexual Predators. Residency restrictions prohibit offenders/predators from living within certain distances of specific locations such as: schools, day cares, churches, playgrounds, bus stops and other areas that children may gather.

These newly acquired laws have raised controversy with offenders, predators, law enforcement agencies, prosecutors and civil rights groups. While attorneys battle the constitutional issues surrounding the legality of these laws and ordinances, law enforcement struggles to figure out how to implement and enforce them.

Besides the offenders themselves, law enforcement has been hampered the most by these new ordinances. Not only do we have to enforce them, we have to monitor, track and approve any changes of address by an offender or predator. This must be done prior to them establishing a residence. To complicate this matter, bus stops, day cares and churches constantly change locations making it more difficult to chart areas in which offenders can live.

This writer wants to determine the effectiveness of such laws and ordinances by determining their constitutional value. In other words, do these restrictions work or are they just another attempt to make society “feel good” about what they perceive these laws can do to protect them; more importantly, will they prevent future crimes against our children.

Literature Review

History

We as a society are constantly looking for the end all answer on how to keep our children safe. Children such as: Jacob Wetterling, Megan Kanta, Jimmy Ryce and Jessica Lunsford will forever be in our minds. The violent crimes against these children caused drastic changes in law enforcement and the implementation of new laws regarding sex offenders. In 1989, in Mountlake Terrace, Washington, police made the first known sexual offender notification after a sex offender who was going to be released from prison made threats to harm children upon his release. (cop.spcollege.edu, 2006)

Also in 1989, Jacob Wetterling was abducted from his home and has never been found. While he is presumed to be dead, this case put into practice minimum guidelines for states to create a sex offender registration program. What became law in 1994, had to be implemented by each state by no later than 1997 with amendments made which were caused by *Megan's Law, 1996*. Megan Kanka was a seven year old who was raped and killed by a twice convicted offender by the name of Jesse Timmendequas. After Megan's death, *Megan's Law* was passed which amended the *Wetterling Act*. This focused on two areas. First, it eliminated requirements that registration information be treated as private data. Second, it made release of relevant information to the public mandatory. States additionally had to make community notifications and develop a system to notify the public of an offender's release, *Megan's Law, 1996*. (cop.spcollege.edu, 2006)

January 1, 1999, Juan Carlos Chavez, kidnapped a young child in Florida, Jimmy Ryce, at gunpoint. This occurred after Jimmy had gotten off the school bus. After brutally raping Jimmy, Chavez killed him, dismembered his body and placed it into three pots filled with cement. This incident sparked the involuntary commitment of violent sexual predators. The controversial issue surrounding the *Jimmy Ryce Act* was that it only applies to individuals who have been convicted of sexually violent crimes. (cop.spcollege.edu, 2006)

After the disappearance of Jessica Lunsford in Florida, the Governor signed into place the *Jessica Lunsford Act, 2005*. This required re-registration of sexual offenders and predators twice a year. These re-registrations require that the offender/predator appear in person. It also made those who wanted to lose the designation as a sexual predator to wait thirty years rather than the original twenty years; furthermore, if an individual fails to register, they have committed a third degree felony. Updates to the *Jessica Lunsford Act* continue today.

In the Jessica Lunsford case, there were individuals who assisted her assailant, John Couey. Their refusal to cooperate with law enforcement prolonged the investigation into Jessica's disappearance and by providing Mr. Couey with a safe haven. This contributed and directly affected law enforcement's attempts of safely locating Jessica. For that, the *Jessica Lunsford Act* made it a third degree felony for anyone to assist, harbor, or conceal a sexual offender/predator that is eluding law enforcement. This includes anyone who provides false information to law enforcement which may delay an investigation.

There were several other changes as a result of the *Jessica Lundsford Act* such as: stiffer penalties, electronic monitoring and background checks. These changes still leave us to wonder if this would be enough to protect our children (cop.spcollege.edu, 2006)

Since that time, there have been several other requirements placed on law enforcement personnel with regards to tracking these individuals known as sexual offenders. With the offender's high potential to re-offend, it would appear that we as a society will never feel completely safe.

Our latest attempt to feel safe as a nation is the rapid increase of the implementation of the newly formed Residency Restriction Ordinances. According to the U.S. Justice Department there are approximately 60,000 to 70,000 arrests made on individuals for child related sex crimes. Of this, approximately 115 are stranger abductions. As of March 8, 2006, the National Center for Missing & Exploited Children reported that there are a total of 566,782 Sexual Offenders within the United States. California has 106,736 sexual offenders living within their state, Texas has a total of 44,789 and Florida is a close third with 37,217. With these numbers in mind, will a residency restriction make a difference? (California Research Bureau, California State Library)

The first residency restriction ordinance of Florida that I could find in my literature review was enacted by the Sheriff's Office in Jacksonville. This occurred in 2005 and was followed closely by the Miami Dade Police Department in 2006. Since then, Florida agencies have jumped on board and as of today most major cities and counties have developed their own version of the ordinance.

Residency Restriction

Twenty-two states and hundreds of municipalities across the Nation have enacted residency restriction laws in one way or another. Normally the distances of restriction range from 500 feet to 2500 feet. In California, they have gone as far as to restrict offenders/predators from living within a quarter to a half mile away from schools; this is based on the offender/predator's parole status and risk of re-offending. Some cities are even considering "banishment ordinances", which would prohibit offenders or predators from living within their city. (California Research Bureau, California State Library)

As the acceptance of residency restrictions grow, we as a culture should wonder how they will protect us; furthermore, how will they impact law enforcement agencies when it comes to tracking offenders? Another concern is how far we are willing to go before we push the offenders underground, making them impossible to locate. Is it better to know who they are and where they live or is it better to place unbearable restrictions on them forcing them underground? (California Research Bureau, California State Library)

In an article published in the *Cincinnati Enquirer* by Gregory Korte, 2007, they suggest that there is evidence indicating these ordinances as counterproductive citing that sex offenders are forced underground while parents are lured into a false sense of security. They give the example of the Hamilton

County Sheriff's Office having an excessive amount of arrest warrants (49) for individuals who have failed to register-but have dropped out of sight. (Korte, 2007) This may support the concern that if we push these individuals underground, how will we locate them during a possible abduction?

Constitutional Concerns

There is a definite divide among society when it comes to residency restrictions. Whether you are for or against these type laws; you have to know that they are popular with law makers and will be a constitutional concern for years to come. There have been numerous cases in Ohio, Iowa, California and Florida which have gone before the courts. Recently, the City of Deltona has been ordered to pay the attorney fees for two offenders who are fighting a residency restriction ordinance forcing them to move from the city. The judges in the case have separate rulings and stated that the city is subjecting such offenders "to potential loss of liberty, loss of property and relocation of their residence without making any provision for their legal representation which is guaranteed under the Sixth and Fourteenth Amendment to the Constitution of the United States." (Lelis, 2007) In other cases the courts have ruled that these restrictions are intended to protect our children; therefore, they outweigh the offenders right to choose where they live making these restrictions constitutional.

While organizations like the American Civil Liberties Union (ACLU) will argue that these restrictions are a violation of an individuals basic rights and an absolute constitutional violation, society as a whole appears to embrace these restrictions.

Method

The purpose of this research was to determine the issues surrounding residency restriction ordinances regarding Sexual Offenders and Predators. The information was gathered by collecting surveys from law enforcement agencies within the State of Florida. This included both sheriff's offices and police departments. The survey allowed for agencies to provide their opinion on the advantages and disadvantages of these type ordinances. It also included distances, locations and individuals affected by these ordinances in order to establish a common theme. A portion of the survey asked questions regarding policies and procedures when dealing with violators in hopes of determining the effectiveness of these ordinances. These questions could also assist with determining constitutional issues surrounding residency restrictions. Information regarding the number of offenders monitored by the jurisdiction itself was included. Additionally, information gathered from the surveys surrounds funding concerns with regards to personnel and money obtained to enforce these ordinances. A copy of the survey is attached to the end of this document as Appendix A. With sixty-seven Sheriff's Offices and hundreds of Police Departments located within the state of Florida, I decided to survey those agencies represented by my class members of the Senior Leadership Program,

Class 12. I felt this would give me representation from around the state; furthermore, I included those agencies which are members of the Central Florida Sexual Offender Task Force which should provide a trend of what is occurring with agencies within my geographical area. A total of forty agencies were surveyed during this process which began August 1st, 2007 and ended November 10, 2007.

Results

Of the forty agencies surveyed, I received responses back from twenty. This gave me a return rate of 50% with regards to the survey. Seven of those agencies that responded to the survey did not have any such ordinance which mandated residency restrictions for Sex Offenders. Thirteen agencies have active ordinances which apply to residency restrictions and it appears that these ordinances are becoming more and more popular with 46% of the agencies surveyed reporting that they enacted their ordinance in 2006.

The Santa Rosa County Sheriff's Office was the first agency of those surveyed to have enacted a "Residency Restriction Ordinance." It was passed in 1996 and made it a criminal offense, punishable by arrest, to those who violate their ordinance. While this was not found during my literature review, the survey results made this the earliest such ordinance passed. The Santa Rosa County Sheriff's Office could not provide any specific data regarding the number of individuals who have been charged or arrested for violating their ordinance, but estimated that as of the present time; approximately twenty-five people have been successfully prosecuted as a result of violating this ordinance.

Respondents reported similar restrictions and distances with regards to where an offender can reside. The majority of respondents reported the distance of 2500 feet had been set for their ordinance and 92% replied that it was made a criminal offense rather than civil infraction to violate their ordinance. None of the agencies report receiving any additional personnel and/or funds to assist with the enforcement of these ordinances. While 75% of the agencies report that they arrest violators of the ordinance, only three agencies could provide an exact number of arrests made by their agency. Those three agencies combined have only arrested eight individuals since the adoption of their specific ordinance.

Many respondents expressed their concerns over these ordinances. Constitutional issues have agencies concerned with civil actions regarding potential violation of an individual's rights. Funding and additional personnel to enforce these ordinances have caused a burden to agencies that have been tasked with these functions and 93% of the respondents reported that they did not receive any additional money or personnel upon implementation of their ordinance. Prosecution has become an issue for attorneys, who must convince judges and juries that violators should serve time in jail for such violations, while battling the issue of overcrowded jails. Furthermore, these ordinances make it difficult for offenders to comply and many become homeless or simply vanish. With my survey, I found that agencies are not tracking the results surrounding these ordinances. While many agencies want you to believe they are at the front

line of enforcing these ordinances they cannot provide specific numbers when it comes to individuals charged or arrested, what the punishments are, nor the costs to prosecute a violator.

Discussion

In my opinion, we as a society have a “not in my backyard” mentality towards offenders. Meaning, we only worry about the offender who lives in our neighborhood. We don’t think of the one who lives in the neighborhood or city next to us. That’s someone else’s problem, not mine.

There has been a steady increase in popularity with these ordinances which mandate residency restrictions for Sex Offenders. Politicians are implementing these ordinances and promoting them as a way to keep our kids safe. What is not being taken into consideration is the likelihood of an offender to be forced underground, due to these ordinances. This would create havoc for law enforcement agencies that are required by law to verify offender’s addresses. Furthermore, it could generate problems for probation officers who must monitor these offenders.

Instead of keeping our children safe, are we creating an atmosphere for the offender to become transit or homeless? Offenders are beginning to change residences without notifying authorities, registering false addresses or just simply disappearing. With this, an offender could travel from place to place committing their crimes and it would take law enforcement months or even years to link their crimes or locate the offender.

I would only pose this question when thinking of enacting a residency restriction ordinance in your area. Is it better to know who they are and where they live (even if it means next door) or to place such restrictions on these individuals that we force them underground?

Recommendation

Eventually, society will determine the norm for what will be tolerated when dealing with sexual offender restrictions, while the sex offenders themselves will have to challenge law makers with regards to their constitutional value. For now though, it appears that a majority of the public as well as the Justice System supports such restrictions. These ordinances give us as a culture the perception that we are protecting our most valuable resource, our children. Only time will tell as to whether these ordinances can make a difference, but one thing is for sure, they give us a sense of comfort. Until agencies accurately track their successes and failures surrounding the multiple issues of these ordinances, I cannot determine their value. Which poses my final question; who determines the value? If these ordinances prevent just one child from suffering a tragic death at the hands of an offender, no matter the cost to the Justice System or the inconvenience of many offenders, would that then give value to these ordinances?

Lieutenant Jamie Rudd has worked for the Polk County Sheriff's Office for over 20 years. He has worked in several areas to include Patrol, Investigations and Community Policing. Jamie is currently designated to the Special Victims Section where he supervises Child Abuse and Sex Offender Units. He has an A.A. degree from St. Leo University and is pursuing his Bachelor's Degree in Criminal Justice from St. Leo University.

References

- Korte, G. (2007, July 29). Sex offender limits: Too far? *Cincinnati Enquirer*. Retrieved August 6, 2007, from <http://news.enquirer.com/apps/pbcs.dll/article?AID>
- St Petersburg Regional Community Police Institute (copspcollege.org, 2006) Sexual Predator and Offender Awareness [PowerPoint] Unknown: Author
- California Research Bureau (2006, August) *The Impact of Residency Restrictions on Sex Offenders and Correctional Management Practices: A Literature Review*. Retrieved August 19, 2007 from California Research Bureau, California State Library www.lcrb/06/08/06-008.pdf
- National Center for Missing & Exploited Children (2006, March) Registered Sex Offenders in the United States [Chart]
- Lelis, L. (2007, September 18) Sex offenders put Deltona buffer zones to the legal test. *Orlando Sentinel* [Electronic version]. Retrieved September 18, 2007 from <http://www.orlandosentinel.com/community/news/deltona/orl-offender>

APPENDIX A

September 21, 2007

Subject: Residency Restriction Survey

Dear Fellow Law Enforcement Member,

My name is Jamie Rudd and I am a Lieutenant at the Polk County Sheriff's Office. I am currently assigned to our Special Victim's Section. Part of my responsibilities include: supervising a unit which monitors Sexual Offenders and Sexual Predators throughout the county. This includes the registration and verification process as well as enforcing a newly adopted County Ordinance that deals with residency restrictions related to these individuals.

I am currently enrolled in the Senior Leadership Program hosted by the Florida Department of Law Enforcement (FDLE) and the Florida Criminal Justice Executive Institute in Tallahassee, Florida. A large portion of this class revolves around a research paper on a topic of our choice. After choosing our topic, we are required to collect original data.

As a part of my original data, I have developed a survey which focuses on County and City Ordinances that restrict Sexual Offenders/Predators from living within certain areas. These restrictions include: bus stops, day cares, churches, schools and any other location that children may gather. With the survey, I hope to determine the effectiveness and the constitutional issues surrounding these type ordinances; furthermore, I hope to show the advantages and disadvantages they create for law enforcement.

I am asking for you to take a few minutes to complete the survey and return it to me. Your assistance is greatly appreciated and I would like to thank you in advance for your help.

Sincerely,

GRADY JUDD
SHERIFF, POLK COUNTY

Jamie L Rudd Jr., Lieutenant
Bureau of Criminal Investigations

APPENDIX B

Sexual Offender Ordinances

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1. Does your agency have or deal with an ordinance that restricts Sexual Offenders/Predators from living within certain distances of schools, day cares, churches, playgrounds, or other locations that children gather?

Yes

No

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2. If yes to question one, what year did it take effect?

Pick a year

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3. If no to question one, is your agency/community considering or in the process of adopting such an ordinance?

Yes

No

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4. Are there any agencies within your jurisdiction which have such an ordinance?

Yes

No

If yes, what is the name of the agency

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5. What area(s) does your ordinance prohibit offenders/predators from living?

Schools

Daycares

Churches

Libraries

Bus Stops

Parks

Playgrounds

Other (please specify)

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6. What distance does your ordinance prohibit offenders from living within these areas?

Under 500ft

1001-1500ft

501-1000ft

1501-2500ft

Other (please specify)

[Add Question Here](#)[Split Page Here](#)

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7. What distance does your ordinance prohibit predators from living within these areas?

Under 500ft

1001-1500ft

510-1000ft

1501-2500ft

Other (please specify)

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8. What is the penalty for violation of your ordinance?

Civil

Criminal

Other (please specify)

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9. How does your agency handle those who violate the ordinance?

Civil Fines

Notice to Appear or Probable Cause Affidavit

Arrest

Other (please specify)

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10. How many individuals have been charged (not physically arrested) for violating your ordinance?

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11. How many individuals have been physically arrested for violating your ordinance?

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12. How often does your agency make personal contact with or personally check the address of individuals for potential violations of your ordinance?

Daily

Weekly

Monthly

Quarterly

Annually

Other (please specify)

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13. Have you successfully prosecuted any violators of your ordinance?

Yes

No

If yes, how many?

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14. Did your agency get additional personnel to enforce your ordinance?

Yes

No

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15. Did your agency mpleme additional funding to mplement or maintain the new ordinance?

Yes

No

If yes, what type of funding?

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16. How has your ordinance impacted the number of offenders/predators who have failed to register?

Decreased the number

Increased the number

Not effected the number

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17. Please describe any advantages/disadvantages you see with these type ordinances?

APPENDIX C

The following agencies were recipients of the survey:

Altamonte Police Department	Ocala Police Department
Apopka Police Department	Ocoee Police Department
Citrus County Sheriff's Office	Okaloosa County Sheriff's Office
Charlotte County Sheriff's Office	Orange County Sheriff's Office
Collier County Sheriff's Office	Orlando Police Department
Eatonville Police Department	Osceola County Sheriff's Office
Eustis Police Department	Plantation Police Department
Florida Department of Corrections	Palm Bay police Department
Florida Department of Law Enforcement	Panama City Police Department
Fort Pierce Police Department	Pinellas County Sheriff's Office
Hillsborough County Sheriff's Office	Polk County Sheriff's Office
Highlands County Sheriff's Office	Santa Rosa County Sheriff's Office
Jacksonville Sheriff's Office	Seminole County Sheriff's Office
Lake County Sheriff's Office	St. Lucie County Sheriff's Office
Lake Wales Police Department	Sumter County Sheriff's Office
Lakeland Police Department	United States Marshal Service
Lee County Sheriff's Office	Volusia County Sheriff's Office
Maitland Police Department	Winter Garden Police Department
Marion County Sheriff's Office	Winter Park Police Department
Melbourne Police Department	
Oakland Police Department	