The Dangerous and Unintended Consequences of Jessica’s Law

Jessica’s Law is the informal name of a Florida law designed to punish child sexual predators harshly and reduce their ability to re-offend. The law is named for Jessica Lunsford, a nine-year-old girl who was abducted, sexually assaulted, and murdered by a registered sex offender living in her neighborhood. Several states and Congress have introduced Jessica’s Law legislation since it passed in Florida in 2005. While Jessica’s Law varies from state to state, several core components of the law remain the same. These include:

- Twenty-five year mandatory minimum sentences for any offender that rapes a child under a certain age (typically 11-14)
- Electronically monitor sex offenders for life through Global Positioning Systems (GPS)
- Create 2,000 foot Predator Free Zones surrounding all parks and schools

Initially, these proposals may seem to carry merit, but after closer examination all three have flaws so serious that their implementation may result in communities that are less safe.

Mandatory minimum sentencing may backfire and result in fewer convictions of sex offenders.

Long mandatory minimum sentences can have a number of negative consequences that serve to decrease, rather than increase, public safety. For example, lengthy mandatory minimum sentences sometimes result in prosecutors not filing charges or filing charges for a lesser crime than a sex offense, as well as increased plea bargains down to a lesser crime. Similarly, judges or juries may be less inclined to convict a defendant on a sex offense because of the mandatory minimum sentence. Long mandatory minimum sentences can also keep victims who were assaulted by someone they know from reporting the crime. In addition to the above objections, a mandatory 25-year minimum will force defendants to request jury trials more frequently. Trials will last longer and extreme pressure will be placed on child victims. This is not child-friendly or victim-centered thinking. In the end there will be less reporting, fewer prosecutions and far fewer convictions, the very opposite of the intended result of creating safer communities.

Global Position Satellite (GPS) tracking of sexual offenders may make us feel good, but will not make us safer.

A careful examination of salient facts indicates that universal GPS monitoring of all registered sex offenders would be ill advised. First, most sex offenders victimize in places where we expect them to be (i.e., their own homes and the homes of people they know well.) The sad fact is, providing extra measures to keep sex offenders from restricted areas (schools, parks) does not protect the overwhelming majority of child victims of sexual abuse who are molested in their own homes or the home of the abuser. Second, GPS uses relatively new technology with known flaws and limitations. For example, like cell phones signals, GPS signals are frequently lost in forested and mountainous areas; they don't work in urban canyons, underground rail lines, buildings and sometimes even automobiles. Third, GPS is expensive ($6 to $10 per day per offender). California estimated that the net fiscal impact for GPS tracking of sex offenders in that state is likely to be “several tens of millions of dollars annually for the first few years, probably reaching at least $100 million in about ten years, and increasing significantly thereafter.” Finally, GPS monitoring is not designed to be a stand-alone sex offender management tool. When used in conjunction with other management tools (e.g., specialized sex offender supervision caseloads, home contacts, employment verifications, alcohol and drug testing, treatment, case reviews, risk assessment instruments, collateral contacts, polygraph testing), GPS does hold promise. However, there is little scientific research regarding its effectiveness for management of even predatory sexual offenders. Under no circumstances should GPS of registered sex offenders be considered a ‘silver bullet.’

Residency restrictions will make communities less safe.

Jessica’s Law will bar any registered sex offender from living within 2,000 feet (about four-tenths of a mile) of any school or park and local governments may add further restrictions. But research clearly proves that where an offender lives is
unrelated to where he finds or assaults victims. This restriction will not deter the predatory offender who can easily drive, walk, ride a bike or take a bus more than 2000 feet. Furthermore this restriction does not address the fact that the overwhelming majority of child victims are assaulted in their own homes or in the home of the offender - not school yards, parks, playgrounds etc. This type of residency restriction may give parents a false sense of safety.

This measure will almost certainly result in the same chaotic situations and unintended consequences as are being seen in Iowa, where initial proponents of such a measure have now, after experiencing the impact of its implementation, courageously changed their minds about its usefulness. Last year, after Iowa barred sex offenders from living within 2,000 feet of schools or day care centers, sex offenders were unable to find housing, became homeless, failed to register and just disappeared. Alternatively, they moved to rural areas where they had little success in finding housing and overwhelmed small law enforcement departments. If offenders are unable to find housing, they are unlikely to remain "manageable," and if they have unstable living situations, they are more likely to re-offend. We are all safer, (though more uncomfortable) when we know where registered sex offenders live.

The following issues must be considered when creating or amending policies related to sex offenders:

- In 80-90 percent of sexual crimes, the offender knows the victim.
- Offenders are not a homogeneous group.
- The vast majority of sex offenders are never detected or prosecuted.
- Services for victims of sexual violence continue to be under-funded in Texas.
- Efforts surrounding preventing sexual violence before it even occurs must be fully supported if we ever hope to put an end to this critical issue.

The Texas Association Against Sexual Assault vigorously supports community safety and is committed to stopping all forms of sexual violence. TAASA and rape crisis centers statewide are ready to lend time and expertise to the discussion on how to achieve this aim. Addressing the issue of child sexual abuse is a complex and difficult task. TAASA urges the governor and legislators to come together and provide well-informed leadership in crafting (and be the first state to craft) non-politicized, evidence-based legislation to make the people of Texas truly safer from sexual assault. We must deliberate and develop well-thought out legislation, for if we do not, it is the safety of our children that we are risking.

Portions of this article taken with permission from the California Coalition On Sex Offending's Opposition for Proposition 83.

1 National Alliance to End Sexual Violence policy statement pertaining to lengthy mandatory minimum sentences.
4 Iowa County Attorneys Association (January 2006. Statement on Sex Offender Registry Requirement in Iowa.