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Michigan Sex Offender Registry: Implications and Effects

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Abstract

This paper discusses the Michigan Sex Offender Registry Act (SORA) and the ways that it affects offenders, the public, and society. It also discusses the conveniences and the challenges in relation to the SORA including discussions about public safety, and offender rights. The impacts on offenders, victims, and the general public are also discussed. The research was done through the Grand Valley State University Library, the American Civil Liberties Union (ACLU) and Michigan Legislation. Sources were examined and combined to form an integrative research paper about the sex offender registry in Michigan.

Introduction to the Topic

On July 29, 1994, Jesse Timmendequas invited seven-year-old Megan Kanka into his home to meet his new puppy. He used this invitation to lure Megan into his home so that he could rape and kill her. Megan's parents were shocked because they were unaware that a convicted sex offender lived in their neighborhood. Megan's parents decided to help organize a movement to reform laws regarding sex offenders to protect families and children. They wanted to help other families by making convicted sex offender information available to the public through an online database. Megan's law was later enacted federally in 1996 and wrapped in to Michigan's SORA (Sex Offender Registration Act) by elected officials in response to Megan's parent's efforts to control sexual predators by requiring a sex offender registry system and a community notification system. This new law aimed to protect the community from sexual offenders by giving them knowledge of where sex offenders live, descriptions of them, and a copy of their booking photo from jail (Schapiro, R., 2014).

The Michigan Sex Offender Registry was established in 1994. Laws such as Megan's Law and Michigan's Act 295 have reformed the registry and have made it more available to the public and added numerous restrictions for registrants (Evans, 2011).

Purpose of this Paper

The purpose of this paper is to spread awareness of how the Michigan Sex Offender Registry and sex offender registries in general affect different people. In this paper, the positive and negative effects of the sex offender registry will be discussed. This will include the impact the sex offender registry has on both the general public and the sex offenders themselves. The morals and ethics, the social perspectives, and the criminal justice perspective will be examined. Finally, recommendations for reforming the sex offender registries to be more effective in protecting the community and protecting the rights of the offenders will be discussed.

Significance of this Paper

This paper discusses not only the legal side of the sex offender registries in the United States of America but also the personal side of it. It is important to recognize the legal challenges Michigan's sex offender registry and its subjects are facing today. The impacts these registries have on the offenders, the victims, the criminal justice system, and society are also important to discuss because many people are affected by them. The sex offender registry impacts three-quarters of a million people in the United States and according to the safehome.org team, there were over 750,000 people listed on the sex offender registry in the fall of 2019. Michigan, specifically, ranked 4th out of all the states in the United States with a total of 40,367 registered sex offenders in the fall of 2019 (Safehome, 2020).

The states with the highest number of registered sex offenders in comparison to their population in the United States include Oregon with 749 per 100,000 people, Montana with 646 per 100,000 people, and Alaska with 477 per 100,000 people. These numbers demonstrate how many people are impacted by the laws the registry requires them to follow and comply with. Even though different states have different requirements, they all have the same method of registering sex offenders and require them to follow certain guidelines or risk further charges against them. My hope is that the public will realize how significantly these laws are affecting the offender population and will strive to fight for their rights while still protecting the safety of the general public (Safehome, 2020).

History of SORA in Michigan

In 1994, Michigan created Act 295 in compliance with federal guidelines requiring individuals convicted of certain sex offenses to register as sex offenders. Act 295 states that Michigan “requires persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions. (Michigan Legislature., 2002). This act helped assist law enforcement in monitoring individuals on the sex offender list who were potentially dangerous. Their goal was to prevent future commissions of sexual crimes and this act assisted police officers in their methods of observing these individuals. (Michigan Legislature., 2002). In 1994 it began as a list accessible only by law enforcement and offenders were registered for 25 years with no reporting requirements. Over the next 20 years, multiple amendments were made to include quarterly in-person reporting, public internet access to the registrants’ photos and

personal information, home and work restrictions near schools, annual fees, and retroactive tiers extending registration to life (U.S. Department of Justice, 2007).

The registry currently requires all sex offenders to be entered into a large database that contains their names, addresses, social media accounts, employment, vehicles driven or owned by them, and the offenses they committed. The Sex Offender registry is kept by the Michigan State police and requires all sex offenders to update their information with their local police department in different month increments depending on what tier they are placed in or whenever they have a change in their personal information (U.S. Department of Justice, 2007).

The registry was amended to include a tier system was created to determine how long the offenders would be required to register which could include 15 years, 25 years, or even life. The tier system categorizes individuals based on the severity of the sexual crime they committed. Sex offenders can be penalized if they fail to update their information, sign their registration forms, live within a school zone, fail to pay their yearly fees, and so on. Local and state law enforcement agencies can issue warrants for offenders who do not comply with these requirements and new charges can be brought against them such as failure to comply or failure to register (U.S. Department of Justice, 2007).

The American Civil Liberties Union (ACLU) has been fighting for changes to help both sex offenders' rights and the public safety of communities. For example, during the COVID-19 pandemic, an order was established on April 6, 2020, so that sex offenders did not have to register from February 14, 2020, until the end of the COVID-19 pandemic. Because of the stay at home orders, it was considered impossible for sex offenders to continue to register without violating certain quarantine and isolation requirements. This allows offenders to follow the

government orders for the pandemic while still being considered compliant with the Sex Offender Registry (ACLU Michigan (n.d.).

On the other hand, the state legislature has made changes to the sex offender registry that have had negative effects on the individuals who are required to register. The State of Michigan now has the fourth-largest sex offender registry in the United States with about 43,000 registrants as of May 2017. According to the ACLU, about 2,000 more individuals are added to the Michigan registry each year. With this growing number, more and more offenders are facing the challenges the registry comes with (ACLU Michigan, 2017).

Current Challenges

Sex offenders are faced with many challenges due to their convictions and the requirements to be compliant with the state's registry. Some challenges these individuals face include trouble finding housing, places for education or schooling, places of employment, and also harassment and embarrassment by the general public. These obstacles make it difficult for previous offenders to move forward in their lives and become progressive members of society upon reintegration.

Sex offenders are limited to certain geographic areas that they can live in which prohibits them from living near school districts. In some cases, they are forced to move from their previous home address upon their release from jail or prison because of this. Sex offenders can also be forced to move from their homes if the victim(s) lives in their previous home, if they live in a school zone, or if they are not welcome back into the household by their family or roommates. The relocation of offenders can also impact offenders negatively if their parents, friends, spouses, or siblings act as their support systems. If they are unable to live with them or

near, they potentially lose their only support system. This can also cause a financial burden on offenders and could push them to recidivate due to high amounts of stress (Rydberg, Grommon, Huebner, & Pleggenkuhle, 2017).

Harassment and embarrassment are two issues that sex offenders face due to the publicity of their sex offense records. Their names, addresses, photos, and charges are publicly displayed on the internet allowing people to judge them based on their criminal history. Individuals who are displayed as sex offenders are likely to lose their employment, get evicted, and even get death threats. According to the ACLU, “some have had their homes burned down or been beaten in acts of vigilantism” (Jacobs, n.d., paragraph 6). With this kind of treatment from the public, sex offenders are more likely to recidivate because they need support to become better citizens and to reintegrate with society successfully after prison (Jacobs, n.d.).

Another major challenge that is important to discuss is the registering of juveniles in the state of Michigan. There are several advocates for the removal of juveniles from the sex offender registry including the American Civil Liberties Union (ACLU), judges, treatment specialists, and more. These advocates are hoping for House Bill 5679 to be passed by the Senate in the near future. The objective of this bill is to change laws regarding juvenile sex offenders to correct Michigan’s sex offender registry to not exceed federal law for juvenile offenders. Juveniles are currently forced to register on the sex offender registry and will potentially have trouble finding employment and housing in the future without changes to these laws (Marsh, L., personal communication, December 3, 2020).

In contrast, citizens have the right to know if there is a sex offender living in their neighborhood. Society has appreciated the ability to use online resources such as the National

Sex Offender Registry, Familywatchdog.us, and various state-specific registry websites. The online registries can help communities be aware of the sex offenders that live near them so that they can take precautions if they feel the need to do so. Parents will often take caution and use this registry when sending their children to play with their friends, go trick or treating on Halloween, or when they let their children spend the night at a friend's home in a different neighborhood. Many people believe that the rights of the childrens' safety is more important than the privacy of the offender's past criminal engagement, so the privacy of the offenders is jeopardized due to this (Children's Bureau Express, 2000).

Unfortunately, there are some issues with the sex offender registry systems across the United States. These include records that are incomplete, out of date, or inaccurate. This also includes the potential for offenders to "network" and allows private information about offenders to be publicized (Children's Bureau Express, 2000). This is a concern for the community because they are often given inaccurate information about offenders and are unable to protect themselves to the degree that they would feel the need to. This usually depends on the aspects of the crime such as the degree, the victim, the age of the offender when the offense was committed, and so on.

There are also unconstitutional regulations because the Michigan Sex Offender Registry does not verify that each individual is a threat to the community or even examine how dangerous each individual is. According to the ACLU, Michigan registers sex offenders who are not considered a threat to the community and forces them to register, sometimes even for life, without ever evaluating by a case by case basis for the sex offenders. The offenders' types of sex crimes, current age, and time since the crime occurred are not taken into consideration for their registration requirements (ACLU, 2017). This is not fair to those who have committed very

minor sex crimes in the past. For example, a twenty-year-old man who was found exposing himself while drunk could be forced to register and follow all registry requirements for many, many years. This does not seem to be a fair punishment for the crime he committed.

According to the ACLU, there are several other issues with the registry. These include issues such as individuals being listed on the registry without ever committing a sexual offense, listing offenders as young as 14 years of age, individuals who have never been convicted of a crime, individuals being forced to register for life even if they have been rehabilitated or if the crime happened decades ago, and retroactive punishment (ACLU Michigan, 2017). These details are not taken into consideration and people are stuck on this registry even if they have not committed a crime since and if they are no longer a risk to the community.

Retroactive punishment is unconstitutional because it forces sex offenders to comply with new rules and regulations that were not put in place when they began registering. New laws and bills are constantly being passed and sex offenders who committed crimes years before are required to follow these new laws. House Bill 5679 was introduced to the House in March of 2020 to revise sex offender registry laws in regards to retroactive punishment. This was in response to “a court ruling that banned enforcing new registrations, restrictions and requirements on individual registrants if these were not in force when the individual was required to register” (Michigan Votes, 2020).

Recommendations

New laws will benefit those who are impacted negatively by the requirements of the Michigan Sex Offender Registry. With changes to certain parts of Michigan’s SORA, current issues can be fixed. The issues with the sex offender registry include vagueness of wording in the

bills, liability issues such as inaccurate information, and violations of First Amendment rights of sex offenders who have already served their time (Grabel & Associates, 2020).

A United States District Court Judge, Robert Cleland, issued a lawsuit that some portions of the Michigan SORA were unconstitutional. He stated that “for several years, registrants have been forced to comply with unconstitutional provisions of SORA. The parties, and this court, expected that the Sixth Circuit’s ruling would spur legislative action, and for some time, it appeared that the legislature was poised to pass a new and comprehensive statute, obviating the need for this opinion” (NARSOL, 2020, paragraph 4). Currently, some portions of Michigan’s SORA are not enforceable due to the lack of a new ruling.

The COVID-19 pandemic has put a halt to the revision of the Michigan Sex Offender Registry because the state government has been unable to convene. This widespread closure has also made it nearly impossible for offenders to register and comply with the SORA, so the requirements it entails are not enforceable until further notice. Offenders are being turned away at police stations where those who are registered were previously required by law to report. Once the pandemic ceases, there should be revisions made to the Michigan SORA that will be constitutional and will not violate the rights of any sex offenders (Grabel & Associates, 2020).

Conclusion

The Michigan Sex Offender registry at its inception was intended to comply with federal law. It has undergone past revisions as advocates for and against the registry have pressured for change to ensure a registry that both protects the public and protects the rights of offenders. The passing of new bills is needed to reform the unconstitutional requirements of Michigan’s Sex Offender Registry. This includes assessing the risk of the individual offenders instead of using a

one size fits all approach. Tiers and different requirements for the registry should be decided based upon their history such as the crime(s) they committed, the age they were when they committed the crime, how much of a risk they are to society, and so on. Lifetime registration should be removed, and instead, the length of the registry should be determined based on the individual's risk assessment. Unconstitutional amendments, such as the retroactive amendments should be removed because they inflict retroactive punishment on offenders in violation of the Constitution and its ex-post facto laws (Adler, 2016).

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