

The volunteers and staff of the John Howard Society of Alberta would like to wish you a happy holiday season!



## FEATURE ARTICLE

### Offender Registry

Offender registry is a form of notification about certain types of offenders, usually sex offenders, that may be either publicly accessible or accessible only by certain officials. Registration schemes require certain offenders to register their name and other identifying information with police, and either to renew their registration annually or when they move.

Offender registry is on a continuum of community notification schemes. It may be more extreme, depending on whether the public has access to the registry and what sort of information is required in the registration. Offender registry is often developed as a reaction to a particular violent crime, most often sexual in nature.

In Canada, offender registries have been established in some provinces for the registration of sex offenders. These types of registries are intended to assist police in their investigations.

Canadian offender registries apply only to sex offenders. Each is provincial in scope and only accessible by police. For several years, provincial justice ministers have pressed the federal government to create a national sex offender registry, particularly for child sex offenders. In 1993, the federal departments of the Solicitor General, Health and Justice established an interdepartmental working group to study high risk offenders and to propose options. Their work included a study of sex offender registry. The working group came to a number of conclusions, including that a separate registry would, at best, duplicate a part of what already is available through CPIC [the Canadian Police Information Centre], and that a separate system would be expensive and difficult to administer, particularly with regard to verifica-

tion of identity. This group also noted that public access to any form of registry raises serious privacy issues.

While continuing to put pressure on the federal government, several provinces have addressed the issue of sex offender registry at the provincial level. Ontario passed legislation in 2000 that provided for the establishment of a sex offender registry that is accessible by the police. British Columbia did the same in 2001. Saskatchewan has proposed similar legislation. In Alberta, the provincial cabinet approved a report outlining plans for the establishment of a provincial registry of high risk offenders residing in Alberta and may proceed with their own registry if not satisfied by the actions of the federal government.

#### ISSUES SURROUNDING OFFENDER REGISTRY

Offender registry gives rise to a wide variety of fact and policy based issues. Following is an examination of some of the more well studied issues that impact the John Howard Society of Alberta's position on offender registry.

##### Offender Registry in General

Most of the research on offender registry schemes deals with sex offender registry. As such, the following discussion is necessarily oriented toward sex offender registry. The issues are, however, applicable to all types of offender registry.

**Creating a False Sense of Security.** Offender registry has the potential to give the public a false sense of security. There may be the assumption that the registry denotes who the sexual or violent offenders in our communities are, when in fact the registry only lists those

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people who have been caught and convicted. Another assumption that may create a false sense of security is that the offender will actually register himself. The reliability of the registry depends on the degree to which individuals comply. In the United States in 1996, some states reported that 45% of all offenders had inaccurate or missing information on their registrations. The offender who does not care whether he faces a fine or imprisonment for failure to register may simply fail to register and commit a new offence while administrators are unaware that he is not properly registered. Offender registry also does not in any way prevent an offender from committing a new offence between the period of release and registration.

It is ironic that the very people who are seen as untreatable and unsafe in the community are relied upon for the timely and accurate registration of information about themselves in an offender registry. It is reasonable to anticipate that those individuals who will register themselves as required will most likely be those who are the most stable and, therefore, who the community fears the least. As a result, offender registry will do little to enhance community safety.

Put simply, citizens may rely too heavily on offender registries. A false sense of security may undermine support for effective measures of preventing reoffending. By believing that we have dealt with the problem of sexual or other violent offenders in our communities, we may turn our attention away from support for adequate treatment and community supervision of these offenders.

**Administrative Considerations.** The first administrative difficulty with offender registry is the requirement that the offender register himself. Even where registration is compulsory, compliance rates have been found to be low and information may be inaccurate or incomplete. Further, the costs of setting up the registry in the first place and then maintaining it in terms of completeness and accuracy will put further strain on police, court and other correctional personnel who are already overburdened.

Finally, the proposed penalties for not registering or for providing false information under these types of schemes are significant. Typically, a first time failure to comply with the statutory requirements for offender registry may result in a fine of up to \$25,000. For an individual who is just moving into the work force after a period of incarceration, this amount could be astronomical. A first time failure to comply may also result in a term of incarceration of up to one year. To the individual, the loss of liberty can mean loss of employment, loss of accommodation and

disruptions to family and personal life. The possibility exists that an offender who was sentenced to less than one year in jail for his original offence will have to serve a longer term of incarceration for failing to comply with registration requirements.

**Diversion of Resources.** The above two issues highlight the potential for a further problem with offender registry: the unnecessary diversion of resources. Resources may not be applied to appropriate community treatment and supervision when communities are anaesthetized by a false sense of security. Further, resources may be wasted through administrative complexities when money is directed toward ineffective or logically unsound measures.

**Those Annoying Civil Rights.** All too often, public officials decry constitutional constraints on their ability to dispense "true" justice. The questionable constitutionality of offender registry is placed last in this series of issues surrounding offender registry in general because, until they affect us personally, civil rights are usually the last thing on our minds. What we must never forget, however, is that the Constitution exists to protect all Canadian citizens from injustice at the hands of the government.

Community notification and offender registry have drawn criticism from civil rights advocates. Objections are based, among other things, on the argument that public identification of released offenders constitutes additional and unfair punishment beyond the prison sentence already served.

To our credit in Canada, the correctional system has been steadily increasing attention to rehabilitation and community based corrections. Canada's international reputation as a just and peaceful society is reflected in the fact that criminal justice in Canada includes a genuine effort to correct antisocial behaviour. When people in this country "do the crime and then do the time," we must respect their right to once again participate equally in the community.

The above issues are "threshold" issues that apply to all types of offender registry. We now turn our attention to the issues related to specific types of offender registry. While some concerns related to the following issues could be addressed through certain changes or modifications to a proposed type of offender registry, concerns related to the "threshold" issues would remain.

### **Publicly Accessible Offender Registry**

**Reality Check.** Publicly accessible offender registry is hailed as

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a way for neighbourhoods to empower themselves through knowledge. By identifying individuals who have a history of sexual or other violent crime, communities may protect themselves from exposure to those individuals.

In order for a publicly accessible offender registry to actually provide the type of knowledge it is said to provide, communities must be especially diligent and intuitive. If the registry requires the user to make a specific search, people must be sure to make individual inquiries of the registry about their friends, their friends' spouses, their neighbours, their children's coaches, etcetera. These inquiries must be made without exception because sexual and violent offenders cover all sectors of society and, even if a person "seems" safe, one can never be sure. People must also know the full names and aliases (and possibly other information such as birth dates, addresses, telephone numbers or social insurance numbers) of all of the types of people listed above. They must repeat their inquiries on a regular basis to ensure that each person has not been convicted and/or released during the period since they last checked the registry.

It is clear from the above that publicly accessible offender registry will not provide full awareness unless community members are willing to suspect and keep tabs on each and every person who enters the neighbourhood. These horribly paranoid exercises are highly unlikely to take place in our communities.

**Citizen Vigilantism.** An offender registry that is accessible to the public may encourage citizen vigilantism. Both in the United States and Canada, there have been cases of threats and violence against registered individuals and even harassment against their family members. The United States has many examples of what happens when people are frightened and uninformed.

There is also a real possibility of other people being victimized due to misidentification. Without fingerprint identification, those operating a registry cannot be certain that a registered individual is the one about whom an inquiry is received. Oftentimes, a citizen wants to make a confidential inquiry about someone, providing a name and perhaps a birth date. Neither of these can be reliably confirmed without fingerprints. Some registries require information such as social insurance numbers before a search will be carried out. Even then, falsification of records, misspelled names, and duplicate names can lead to misidentification.

**Reaction of the Offender.** Publicly accessible registration may drive the offender underground to conceal himself and his whereabouts. The offender's effort at concealment is not only

dangerous in the short term, it also destroys efforts at rehabilitation. The fear of identification may encourage offenders to move out of the province and away from any community supports that they may have. The offender who must hide from the community because of fear and isolation loses the benefit of those factors that assist reintegration and reduce the likelihood of reoffending: stable accommodation, steady employment, contact with family and other community supports. Some experts also assert that some offenders will reoffend *because* of the pressure imposed by a hostile, rejecting community that has branded the offender an outcast.

### Sex Offender Registry

**Recidivism Rates.** A common belief, and one that heavily influences the development of sex offender registries and other notification systems, is that all sex offenders reoffend sexually. Research does not support this conclusion. A recent follow up study of sex offenders released from federal penitentiaries in Canada found that less than 1 in 10 were convicted of a new sexual offence during the follow up period, which averaged 3.5 years. Despite the widely held view that "nothing works," there is growing evidence that treatment can reduce the rate of sexual reoffending.

### EFFECTIVENESS OF OFFENDER REGISTRY

Even in light of the above difficulties, advocates of offender registry may still argue that the monitoring of certain types of offenders in the community is necessary because it can lead to a reduction in reoffending. It is questionable whether crime prevention is really a goal of offender registry. We know from research and experience that community notification (particularly publicly accessible sex offender registry and other forms of sex offender notification) most often has the effect of driving the offender out of the community and into a new community where he can hide more easily. The community that bids the offender goodbye is relieved and pleased that it has addressed the problem of having a known offender in its midst. It is hardly concerned for the new community, which is now faced with housing a known offender who is living in fear and without community support. If offender registry were really about crime prevention, people would not be so comfortable when the offender flees the area to become someone else's problem.

### ALTERNATIVES TO OFFENDER REGISTRY

The John Howard Society of Alberta recognizes the importance of reducing sexual and other violent offending in the community. Far from trivializing the seriousness of sexual and other violent offending to both victims and the general public, our po-

sition emphasizes the importance of this issue. It is not one to be dealt with lightly or rashly and then forgotten about until the media decides to take it up again. Sexual and other violent offending in the community deserves a rational, thoughtful, long term examination of the measures that will serve the community most effectively.

The John Howard Society of Alberta believes that the community needs to develop a strategy that is based on solid research about what effectively reduces sexual and other violent reoffending. The elements of such a strategy are:

1. Specialized, professionally operated and adequately funded treatment services in correctional facilities. Such services should not only treat the offender while in prison but also assist in the development of a plan for relapse prevention and provide the link for release into community based services to facilitate the maintenance of the plan.
2. A system that makes gradual release part of every sentence.
3. The focussing of community supervision and treatment resources on those with the greatest need and who pose the greatest risk.
4. An end to policies and practices that undermine the gradual release process such as the practice of detention under federal legislation and reducing the granting of provincial parole and temporary absences.
5. Available community based treatment and residential services that are specialized, professionally operated and

adequately funded. Such services should be accessible to all offenders before, during and after their sentences.

Several of the elements of the above outlined strategy have already been incorporated into correctional services in Canada, along with a number of other initiatives. Correctional Service of Canada focusses on identifying the nature and pattern of the offender's behaviour and providing the offender with the coping strategies that will reduce the risk of recidivism. Over the past few years, Canada has changed both law and practice in dealing with sexual and other violent offenders.

A number of these measures are relatively new and we need to give them time to work. Together, they make a fairly comprehensive set of protections for the community. Some of them can be used more effectively, and we can continue to build on what we know about treating sex offenders and dealing with violent offenders in general. The success of offenders in the community can be improved through appropriate treatment while in custody, intense relapse prevention programs during conditional release supervision and long term follow up and support for offenders. We urge policy makers to reject offender registry. Our best promise for reducing sexual and other violent offending exists in expanding and improving treatment opportunities for offenders and providing community based support and supervision.

*References available upon request.*

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## CONTACT US

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*The John Howard Society of Alberta [Reporter](#) is distributed free of charge to a wide audience of citizens, educators, agencies and criminal justice system staff. Our goal is to provide information and commentary on timely criminal justice issues. We welcome and encourage your feedback on [The Reporter](#).*

*The John Howard Society of Alberta is an agency composed of citizens in Alberta who are interested in criminal justice reform and preventing crime in our communities. We recognize that dealing with crime is as much the responsibility of the community as it is of government.*

*We gratefully accept donations to help offset the costs of our efforts in criminal justice reform and crime prevention. Donations are income tax deductible.*

*To provide feedback, obtain information or make a donation, please contact us at:*

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