

COSTS TO LOCAL GOVERNMENTS FROM IMPLEMENTING THE ADAM WALSH ACT

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Executive Summary

The Adam Walsh Child Protection and Safety Act of 2006 (AWA) was signed by President George Bush on July 27, 2006, 25 years to the day after 6-year-old Adam Walsh disappeared from a Florida mall. The AWA includes provisions for a national Sex Offender Registration and Notification Program (SORNA), to standardize registration and notification requirements across the country while also providing greater offender accountability and increased sanctions for non-compliance. States that fail to substantially implement the SORNA guidelines face a 10 percent reduction in their Byrne Justice Assistance Grant funds, used to support multi-jurisdiction drug task forces and to provide other support to local law enforcement agencies. It is unclear to what extent cities and counties will be impacted by this potential reduction.

In response to requests from State Sen. Florence Shapiro and State Sen. John Whitmire, the Texas Municipal League (TML) and the Texas Association of Counties (TAC) collected data on the costs associated with sex offender registration from 75 local law enforcement agencies.

Two main difficulties appear to have prevented other cities and counties from participating in the survey. First, many, if not most, local law enforcement agencies do not keep records with the level of detail required to answer some of the questions or their record systems are not designed for easy retrieval of the data needed. Second, the survey asked local officials to predict how their agencies would be impacted by state laws which have not been drafted, much less enacted. This required a certain amount of creative estimation on their part.

Based on the responses, TAC and TML estimate that implementing SORNA would cost those specific 75 cities and counties an additional \$1.3 million per year in nominal dollars (not adjusted for inflation). A simple extrapolation based on the number of sex offenders currently registered, indicates that, statewide, cities and counties would be hit with an additional \$14 million per year in costs for registering sex offenders.

Extrapolating from a similar study conducted by the Austin Police Department suggests that total costs would be around twice this amount. However, there is always difficulty in extrapolating from a small sample; particularly a sample size of one. It is encouraging therefore that the two extrapolations are so similar and lends confidence in the accuracy of the \$14 million statewide estimate despite the number of assumptions used in its calculation.

Background

The Adam Walsh Child Protection and Safety Act of 2006 (AWA) was signed by President George Bush on July 27, 2006, 25 years to the day after 6-year-old Adam Walsh disappeared from a Florida mall. According to Congress, the AWA seeks to establish a “comprehensive national system for the registration [of sex offenders and offenders against children].”

In addition to setting minimum national standards for state sex offender registries and notification laws, AWA has the potential to overhaul sex offender laws across the nation. The act, which is divided into seven titles, calls for a more detailed, uniform and nationalized system of sex offender registries; addresses issues of child pornography, Internet safety and civil commitment; creates grants for electronic monitoring; and revises the Immigration and Nationality Act to address immigrant offenders.

By creating the first federal involuntary civil commitment law targeting “sexually dangerous persons” and creating a national child abuse and neglect registry, the AWA substantially overhauled federal registration and community notification policy – and in the process expressly repealed the Jacob Wetterling Act, Megan’s Law and the Lychner Act.

The AWA includes provisions for a national Sex Offender Registration and Notification Program (SORNA), which seeks to standardize registration and notification requirements across the country while also providing greater offender accountability and increased sanctions for non-compliance. States that fail to substantially implement the SORNA guidelines will face a 10 percent reduction in their Byrne Justice Assistance Grant funds, which are used to support multi-jurisdiction drug task forces and to provide other support to local law enforcement agencies. It is unclear to what extent cities and counties will be impacted by this potential reduction.

Even with this penalty looming, few states have been certified AWA compliant; some states believe the cost of compliance outweighs the loss of funds. States are also concerned about the act’s juvenile registration and reporting requirements and certain new, retroactive registration requirements.¹

¹ SEARCH. “Survey finds no state in position to comply with July 2009 deadline for Walsh Act’s expanded sex offender monitoring.” Available from: www.search.org/about/news/2009/survey.asp. Accessed 18 August 2010.

Some of those concerns were partially addressed in supplemental guidelines published May 14, 2010.² Under the supplement, states would no longer need to register all offenders convicted prior to SORNA's implementation by the state. A state may be judged to have substantially implemented SORNA if that state registers all prior convicted persons who fall into one of the following four categories:

1. Offenders who are incarcerated;
2. Offenders who are on probation or parole;
3. Offenders who are presently registering; and
4. Offenders who are convicted of a new felony offense or of any type of sex offense.

The supplemental guidelines leave open the possibility that some states might choose to go beyond the minimum requirements and attempt to extend SORNA to more cases retroactively.

The Survey

The Texas Senate is currently studying the costs associated with the changes in state law required to be certified compliant with SORNA. TAC and the Texas Municipal League (TML) were asked to gather information on costs associated with that compliance since sex offenders are required to register with their local law enforcement office (city or county depending on their place of residence). Working with State Sen. Florence Shapiro, State Sen. John Whitmire and TML, TAC developed an online Adam Walsh Act Costs Survey to gather information directly from county sheriffs and municipal police chiefs.

TAC contacted the sheriffs in early August requesting their assistance with the survey. At about the same time, TML contacted the police chiefs for their assistance.

The online survey was closed on September 17. By that time 127 responses had been received. Due to problems with duplication of responses and missing data (responses that included contact information but no other data), only 75 responses were found to be usable for the analysis. The low response rate was not unexpected due to the complexity of the questions asked on the survey. In many cases, it appears partial and duplicative responses were created when respondents started the survey only to log off to research the data needed to complete the survey. In logging back on to the survey, a new survey response was initiated.

² "Supplemental Guidelines for Sex Offender Registration and Notification." Federal Register. 14 May 2010: 2010-11665. Available from: www.thefederalregister.com/d.p/2010-05-14-2010-11665. Accessed 18 August 2010.

Presumably, in some cases, the complexity of the questions was too great and local officials did not log back on to complete the survey after they saw how difficult it would be to answer those questions. For those who were able to respond, there were two main difficulties. First, many, if not most, local law enforcement agencies do not keep records with the level of detail required to answer some of the questions or their record systems are not designed for easy retrieval of the data needed.

Second, the survey asked local officials to predict how their agencies would be impacted by state laws which have not been drafted, much less enacted. This required a certain amount of creative estimation on their part. It is likely that some will have estimated too high while others will have estimated too low. Given the number of responses, however, it seems reasonable that the high and low estimates should balance out overall.

The remainder of this report will focus on the 75 usable responses only unless otherwise stated.

Survey Results

Survey responses were received from 42 cities and 23 counties. In addition, another 10 responses were received from agencies representing multiple jurisdictions. In some cases, one law enforcement agency, either a county or a municipality, may be responsible for registering sex offenders for areas outside of their normal jurisdiction. For example, in a rural area, the county sheriff may assume responsibility for registering sex offenders who reside in some of the small towns within the county. Alternately, a larger municipality may assume responsibility for registering sex offenders who reside in some of the surrounding towns or suburbs, or in the unincorporated areas of the county.

The following questions asked on the survey are shown with a summary of the responses by type of local government. Note that there is no overlap. If a county responded for itself, then the data does not include any incorporated areas of that county. Similarly, if a municipality responded for itself, then the data does not include the unincorporated areas of the county or counties in which that city is found. If a local government reported for multiple jurisdictions, then there was no report for the individual municipalities or counties that made up that group.

Numbers in parentheses indicate how many responses were received on the particular question from that type of local government.

1. What is the total number of sex offenders currently registered in your jurisdiction?

Cities (42)	Counties (22)	Multiple (9)
1,526	1,600	384

2. In calendar year 2009, how many sex offenders registered with your department?

Cities (39)	Counties (23)	Multiple (9)
974	1,789	319

The City of Port Arthur (population 56,694) noted that records are not kept that would enable them to provide the total number of registrations for the calendar year.

3. How many verifications did your department perform in calendar year 2009?

Cities	Counties	Multiple	Required Frequency
1,239 (38)	1,163 (22)	328 (10)	Annual verifications?
276 (32)	350 (21)	82 (9)	90 day verifications?
10 (26)	20 (19)	0 (9)	30 day verifications?

4. How many additional in-person appearances did your department handle for change in address, change in employment, or exit registrations (leaving jurisdiction)? Do not include visits for registration or verification that were counted in the two previous questions on this page.

Cities (37)	Counties (21)	Multiple (10)
799.5	1,204	220

5. How many of the registered sex offenders that are currently residing in your jurisdiction have a post ten year registration?

Cities (39)	Counties (22)	Multiple (9)
269	232	36

6. How many of the registered sex offenders that are currently residing in your jurisdiction have a lifetime registration?

Cities (38)	Counties (22)	Multiple (9)
1,206	1,139	345

7. How many of the currently registered sex offenders in your jurisdiction have been convicted of what SORNA calls Tier 3 offenses?

Cities (37)	Counties (21)	Multiple (9)
347	762	187

The City of Granbury (population 8,872) noted that they have an offender convicted of online solicitation (one of the 13 offenders currently registered in the city). They were unable to determine into which Tier to place this individual. Granbury noted that they also have offenders that move back and forth from the city to the county. This may make it appear that there are more offenders by increasing the number of verifications reported for a calendar year since the offenders must register their new address with each move. However, each of these verifications occurs at a cost to the city.

Comal County noted that they did not attempt to categorize their registered sex offenders by the SORNA Tiers.

8. How many of the currently registered sex offenders in your jurisdiction have been convicted of what SORNA calls Tier 2 offenses? Do not include anyone counted in the previous question for conviction of a Tier 3 offense.

Cities (35)	Counties (20)	Multiple (10)
155	187	214

See the notes under question 7.

9. How many of the currently registered sex offenders in your jurisdiction have been convicted of what SORNA calls Tier 1 offenses? Do not include anyone counted in the two previous questions for conviction of a Tier 2 or a Tier 3 offense.

Cities (35)	Counties (21)	Multiple (10)
348	174	21

See the notes under question 7.

10. How many Full-Time Equivalents (FTEs) work on sex offender registrations and verifications in your department? Full-time equivalent (FTE) is a way to measure total employee involvement. An FTE of 1.0 means that the person is equivalent to a full-time worker. An FTE of 1.0 can also indicate that you have two half-time employees who together add up to one FTE or, alternately, that two full-time employees each spend half their time working on registrations and verifications. An FTE of 0.5 signals the equivalent of a single half-time employee assigned to these tasks.

Cities (39)	Counties (21)	Multiple (10)
36.9625	17.95	7.81

This question attempted to determine the total amount of manpower dedicated to sex offender registration and verifications for the responding law enforcement agencies. Although instructions were provided to explain the concept of an FTE, the instructions did not always prove adequate.

The City of Seagoville (population 12,319) reported 3 FTEs, but in a comment noted that they “have so few offenders this does not take very much time out of their normal duties as records clerks.”

Galveston County noted that they had changed from 0.5 FTE in 2009 to 1.0 FTE in 2010, although at a lower salary.

Grimes County entered “0” in response to this question, but noted that they use one investigator to maintain the sex offender case load and that approximately 20 percent of that individual’s workload is devoted to this effort.

11. What was the total Fiscal Year 2009 cost for registration and verification of sex offenders in your jurisdiction?

Cities	Counties	Multiple	Cost Category
\$842,950 (34)	\$585,568 (18)	\$223,205 (8)	Salaries and benefits
\$88,041 (29)	\$25,425 (16)	\$25,400 (6)	Other costs
\$930,991	\$610,993	\$248,605	Total

Respondents were not asked for the total. Total cost was calculated from their responses by adding the costs from each category.

One city, Paris, noted that they combined their total costs of \$42,300 which were reported as salaries and benefits rather than in separate categories.

12. SORNA requires all offenders to register, and maintain their registration as required, in the jurisdictions where they live, work, and/or attend school. This may require some offenders to register in multiple jurisdictions. In addition, some offenders who are not currently required to register will have to under SORNA. This includes individuals who are no longer required to register under current Texas law as well as those who may be convicted under new laws required to implement SORNA. Please provide an estimate, if you are able, of the number of additional registrations you anticipate per year under SORNA.

Cities (21)	Counties (14)	Multiple (6)
183	2,322	68

The City of West Orange (population 3,716) noted, "Our community has many transient employees, we have numerous chemical and industrial plants as well as a large commercial base (Super Wal-Mart, etc.). There is no way to estimate the hundreds of possible registrants out of this SORNA requirement."

Hays County explained their estimate of 230 additional registrations by stating that most of the sex offenders will have to register two times per year instead of once. This adds 180 registrations; come back adds 0-15, new registrations 20-25, and not currently registered 8-10. They further noted that there "will be a huge movement of SOR when this takes place and keep in mind none of this includes the mandatory compliance checks."

The Harris County group, one of the previously mentioned "multiple jurisdictions" which includes the City of El Lago and the City of Taylor Lake Village, noted difficulty in providing an estimate since "the sample group size [is] insufficient to predict future trends."

In addition to the previously noted comments, Taylor County (population 127,683) noted, "So much attention is placed on Sex Offender compliance, however, little to none is placed on monitoring and or home visits. I believe a 'Proactive' measure of compliance monitoring would be so much more effective. There needs to be a National standard for offenders to follow and for Law Enforcement too."

The Childress County Sheriff, who responded for both the county and the City of Childress, noted that he is the only person who registers sex offenders in those jurisdictions.

Calculations

Estimating the Number of Additional Verifications

Estimating additional verifications under SORNA is a bit more complicated. Questions 7, 8 and 9 asked for an estimate of how many currently registered offenders would fall into the three tiers or categories under SORNA. Responses accounted for 2,395 of the 3,510 sex offenders currently registered in the responding jurisdictions (see question 1). That leaves 1,115 sex offenders not counted in the responses to these three questions.

In responding to question 3, local officials noted that 2,730 currently registered offenders required annual verifications in 2009. Another 708 require 90 day verifications (four per year) and only 30 require verifications every 30 days (12 per year). That indicates a total of 5,922 verifications per year by the respondents based on the following calculation.

$$\begin{array}{rcl} 2,730 \times 1 & = & 2,730 \text{ verifications per year} \\ 708 \times 4 & = & 2,832 \text{ verifications per year} \\ 30 \times 12 & = & \underline{360 \text{ verifications per year}} \\ & & 5,922 \text{ verifications per year} \end{array}$$

Based on the responses to questions 7, 8 and 9, those same offenders would have required 7,079 registrations for Tier 1, 2 and 3 offenders if SORNA had been in effect during 2009 per the following calculation.

$$\begin{array}{rcl} 543 \times 1 & = & 543 \text{ verifications per year} \\ 556 \times 2 & = & 1,112 \text{ verifications per year} \\ 1,266 \times 4 & = & 5,064 \text{ verifications per year} \\ 30 \times 12 & = & \underline{360 \text{ verifications per year}} \\ & & 7,079 \text{ verifications per year} \end{array}$$

The above calculation assumes that requirements would not be reduced under SORNA. For example, offenders that had to have verifications every 30 days would continue to have the same requirement. It also assumes that there would be no need for any of the registered sex offenders to register in additional jurisdictions (if one lived in one jurisdiction but worked or went to school in another, for example). The calculations also fail to account for the 1,115 registered sex offenders whom the respondents were unable to classify in any of the three tiers.

These two calculations indicate 1,157 additional verifications (7,079 – 5,922) would have been required under SORNA for those offenders the respondents were able to classify, a 19.5 percent increase. This number (1,157) is significantly less than the number of additional verifications the respondents estimated would be required under SORNA (2,573). However, the calculated

number (1,157) does not include any additional offenders. Under SORNA certain offences will require offenders, who are not currently required to register as a sex offender, to register under SORNA.

Nor do the calculations address the additional verifications that would be required for the 1,115 offenders the respondents were unable to classify. It is difficult to estimate how many more verifications would be required for this group given that we don't know how many verifications were required in 2009. Thus, while we can estimate that at least 1,157 additional verifications would be required, it is not possible to estimate the total number of additional verifications that would be required under SORNA. This is not, however, a show stopper since costs can be estimated.

Estimating Additional Salary and Benefits

Manpower assigned to handle the registration and verifications of sex offenders turned out to be lower than anticipated for FY 2009. For the 3,510 sex offenders registered in the jurisdictions of the 75 respondents (see question 1), there were reportedly only 62.7225 full-time equivalents assigned (see question 10) earning \$1,651,722 in salaries and benefits (see question 11). That indicates that, on average, one FTE is required for each 55.96 sex offenders at a cost to local law enforcement of \$26,333.81 per year in salaries and benefits.

A simple method to estimate statewide costs to local governments for registering sex offenders under current law would be to assume that the number of sex offenders per FTE from the survey respondents, and the cost in salaries and benefits for that FTE, is consistent with the non-responding local governments. Then, the total number of sex offenders currently registered in Texas (40,219 as of September 22, 2010) could be divided by 55.96 to determine a total of 718.7 FTEs needed statewide. Multiplying that number by the average cost per FTE of \$26,333.81 results in estimated statewide salaries and benefits of \$18,926,109 for FY 2009.

Estimating Total Additional Costs

Total costs of \$1,790,588 were reported by all respondents for registration and verification of sex offenders in FY2009 (see question 11). In that period the respondents performed 3,468 verifications (see question 3). That is \$516.32 per verification on average.

On question 12, the respondents estimated SORNA could add an additional 2,573 verifications, a 74.2% increase. At \$516.32 per verification, additional costs to local governments that responded to the survey would be \$1,328,484 annually for the respondents (not adjusting for inflation and other cost drivers).

An estimated 74.2% increase statewide would require the addition of 533.3 FTEs (718.7 FTEs X 0.742). Those additional FTEs would require salaries and benefits of \$14,043,821 in FY 2009

dollars (not adjusted for inflation). Note that this estimate of \$14 million per year is for additional salaries and benefits only. Total additional costs would be even higher.

Some law enforcement agencies would be able to achieve economies of scale which would tend to lower this rough estimate. However, the estimate does not allow for other factors which might increase the cost such as inflation. Additional record keeping and other requirements mandated by the as yet unwritten bills could also increase the amount of local resources needed to meet the standards set by SORNA.

Conclusion

The Texas Municipal League and the Texas Association of Counties were able to collect sex offender registration data from a variety of local cities and counties. Based on the 75 responses, TAC and TML estimate that implementing SORNA would cost those specific cities and counties an additional \$1.3 million per year in nominal dollars (not adjusted for inflation). A simple extrapolation based on the number of sex offenders currently registered, indicates that, statewide, cities and counties would be hit with an additional \$14 million per year in costs for registering sex offenders.

Alternatively, the Austin Police Department (APD) prepared a cost of compliance report which estimates 137 percent cost increase for staffing due to SORNA. Based on the costs collected in question 11 of the TAC/TML survey, a 137 percent increase would cost the responding counties a little over \$2.6 million in additional staffing only. An estimate of the additional statewide staffing cost can be made by multiplying the additional cost by the number of registered sex offenders statewide and then dividing by the number of sex offenders registered in the jurisdictions that responded to our survey. That calculation results in a statewide estimate of \$25.9 million for additional staffing in cities and counties.

This second estimate is significantly higher than the first estimate of \$14 million for total additional costs. The difference points to the complexity of attempting to determine future costs due to implementation of bills which have yet to be drafted and to extrapolate statewide costs from a very small sample – the APD study is based on only one city after all. It is actually quite encouraging that the two estimates are not further apart and lends confidence in the accuracy of the \$14 million statewide estimate despite the number of assumptions used in its calculation.