
The Sexual Assault Advisory Council Report and Recommendations to the 81st Legislature

Legislative Requirement of House Bill 1751

The 80th Legislature enacted HB 1751/ Cohen relating to the imposition and use of a fee on certain sexually oriented businesses and certain programs for the prevention of sexual assault as follows (see Appendix A):

- Allows for the imposition of a \$5 fee on patrons at certain sexually oriented businesses. Money from this fee, up to \$25 million, shall be deposited in the sexual assault program fund. (Note: This legislation directed up to \$25 million per biennium to the Sexual Assault Program Fund, however further legislative action will be needed during the 81st Legislative Session to fully implement this fund dedication. In March 2008, a state district judge ruled that the \$5 fee for patrons was unconstitutional. The state appealed the ruling.)
- Provides an appropriation for a third-party assessment of the sexually oriented business industry in Texas that provides recommendations on regulating the growth of the industry.
- Establishes a Sexual Assault Advisory Council to serve as an informal information clearinghouse, to report on the status of sexual assault in the state, and to make recommendations about sexual assault issues.
- Provides for grants for sexual assault related purposes under Texas Government Code, Chapter 420 (allows for grants to support prevention, education, intervention, rape crisis center technology, victim assistance coordinators, and other grants for sexual assault services)

Sexual Assault Advisory Council

HB 1751 establishes the Sexual Assault Advisory Council (Advisory Council) and details its mission. The Advisory Council is established to:

- Serve as an information clearinghouse and informal coordinator of existing and future sexual assault programming efforts at state and local levels;
- Report to the Governor and the 81st Legislature the results of actions taken by the 80th Legislature on any gaps with respect to research, prevention, response and other victims' services, adjudication, and incarceration at state and local levels;
- Develop recommendations for appropriate performance measures that enable the Governor and the Legislature to biennially assess and respond to the status of sexual assault in this state; and
- Report to the 81st Legislature on the effectiveness of appropriations made in this Act and other sexual assault legislation passed by the 80th Legislature.

Under this legislation, agencies receiving sexual assault-related appropriations are required to coordinate with the Advisory Council to provide answers for:

- How prevalent is sexual assault in Texas, and why;
- How to reduce the recidivism of known sex offenders;
- How to increase the reporting of sexual assault to law enforcement;
- How to increase conviction and prosecution rates of sexual assault;
- How to identify the geographic areas in this state with higher rates of sexual assault and how to coordinate delivering resources to these areas; and
- How to convey that assistance is available for all victims of sexual assault and how to ensure that residents of this state know how to obtain assistance if they have been sexually assaulted.

The Advisory Council is composed of representatives designated by the Attorney General from state agencies that receive sexual assault-related appropriations in the General Appropriations Act. Those agencies identified in the legislation as members of the Advisory Council include the:

- Comptroller of Public Accounts Judiciary Section, Special Prosecution Unit, Civil Commitment Division
- Texas Department of Public Safety
- Department of State Health Services
- Governor's Office, Criminal Justice Division
- Office of the Attorney General
- Texas Department of Criminal Justice
- Texas State University, The Texas School Safety Center
- Texas Supreme Court via the Texas Access to Justice Foundation
- Texas Youth Commission
- The University of Texas at Austin, Institute on Domestic Violence and Sexual Assault (IDVSA) School of Social Work

Executive Summary

Sexual violence is a violation of human rights and a serious public health problem. It has a profound impact on physical and mental health, both immediate and many years after the assault. To date, sexual violence has received insufficient attention from researchers, policy-makers and program designers, and it has been a long struggle to have it recognized as a legitimate public health issue (Sexual Violence Research Initiative, 2006).

In Texas, sexual assault is one of the leading offense categories of the Texas Department of Criminal Justice offender population, ranking third behind drug offenses and robbery. The impact of sexual assault in Texas is overwhelming. In Texas, it is estimated that approximately 1.9 million Texans will be sexually assaulted during their lifetime (*A Health Survey of Texans: A Focus on Sexual Assault*, 2003). Further estimates on child sexual assault indicate that a quarter of a million Texas children are sexually assaulted each year (National Crime Victims Research and Treatment, 2000). Recent reports estimate that one rape is committed each hour. The impact of this crime presents major public health and safety concerns, both in terms of the physical and emotional effects on the victim, and the economic burden to the victim and the agencies that provide services and resources.

Sexual assault is a crime that cannot be reduced without addressing the problem from every angle – research, prevention, response, sex offender management and treatment, and legislative oversight. As an effort to address sexual violence in Texas, the 80th Legislature passed HB 1751, an act relating to the imposition and use of a fee on certain sexually oriented businesses and certain programs for the prevention of sexual assault. The legislation established a Sexual Assault Advisory Council to examine five key areas as they relate to sexual assault: prevalence of sexual assault in Texas, reduction of recidivism of convicted sexual offenders, increased prosecution and conviction rates, resources for addressing the needs of sexual assault victims, and identifying the cost of sexual violence in Texas.

The Sexual Assault Advisory Council's report provides an initial overview of the state of sexual assault in Texas. As the 81st Legislative Session considers how to address sexual violence in Texas, this report provides information on the scope of the challenge, the resources and limitations, and offers recommendations to provide more resources to reduce sexual violence through a multi-disciplinary, multi-agency, collaborative approach. The state of sexual assault in Texas and the impact associated with sexual violence can be estimated based on the following overview information.

Prevalence

According to Uniform Crime Reporting Data compiled by the Texas Department of Public Safety (2007):¹

- One rape is committed each hour
- There were 8,430 reported incidents of rape in Texas
- The rape rate was 35.3 rapes for every 100,000 persons
- 11% of forcible rapes involved persons under age 18

Study of sexual assault in Texas (2003):²

- Approximately 1.9 million adult Texans, 20% of women and 5% of men, have been sexually assaulted at some point in their lives
- Most assaults are perpetrated by someone already known to the victim, such as a family member or date. Only 19 percent of assaults are perpetrated by a stranger
- All racial and socio-economic groups are at risk of sexual assault
- Assaults during the teen years (ages 14-17) are more likely to take place in cars than assaults at earlier or later ages
- Women and men with mental or physical disabilities are more likely to have been assaulted than those without a disability
- Less than 10 percent of Texans who experienced sexual assault received medical care for their assault
- Nearly half of victims report that their perpetrator was under the influence of drugs or alcohol at the time of the assault
- Less than 20% of victims reported their sexual assault to law enforcement
- Just under 10% of 9th-12th graders reported having been physically forced to have sexual intercourse in their lifetime³
- Approximately 6.5% of adults have experienced unwanted sex by a current or former intimate partner in their lifetime⁴
- Approximately 8% of adults in the last year have experienced physical or sexual violence from an intimate partner⁴

¹ Rape against females under the age of consent and males are excluded

² *A Health Survey of Texans: A Focus on Sexual Assault*

³ Youth Risk Behavior Survey, 2007

⁴ Behavioral Risk Factor Surveillance System (2007)

Recidivism

According to the Council on Sex Offender Treatment, regarding those in the Civil Commitment Program:

- To date, there have been no sexual re-offenses committed by a sexually violent predator (SVP), which represents a 0% sexual recidivism rate. *The 0% sexual recidivism rate is one of the most compelling performance measures supporting the outpatient sexually violent predator treatment program in Texas.*
- Of the 102 SVPs in the fiscal year 2008 program, 35 (34%) have committed a *non-sexual* offense and been returned to prison; 7 SVPs have returned to prison twice
- Of the 35 SVPs returned to prison for non-sexual offenses, 32 have technical violations, 3 have been charged with a new criminal offense (one failure to register; one aggravated assault on a peace officer; and one failure to register, failed to identify and assault)
- About 200 non-SVP sex offenders are released into Texas communities monthly⁵
- Of those, approximately 60-80% of non-SVP convicted sex offenders are released as 'flat discharges' with no required oversight (parole) after completing 100% of their sentences.⁵

The Texas Youth Commission reports that from 2002-2008:

- The rate of juvenile sex offenders rearrested or revoked within two years for a felony sex offense ranges between 3.23 and 1.38%
- The rate of juvenile felony sex offense re-arrest or revocation increases yearly across time (2002 re-arrest/revocation rate >4.5% at 7 years)

⁵ TDCJ Statistical Report for FY 2008

Prosecution⁶

- The total number of convictions in Texas criminal district courts for cases of 'Sexual Assault of an Adult' in fiscal year 2008 was 506 (as compared to 566 in fiscal year 2004)
- The total number of cases pending in Texas criminal district courts for cases of 'Sexual Assault of an Adult' in fiscal year 2008 was 2,698 (as compared to 2,564 in 2004)
- The total number of convictions in Texas criminal district courts for cases of 'Indecency with or Sexual Assault of a Child' in fiscal year 2008 was 2,508 (as compared to 2,506 in fiscal year 2004)
- The total number of cases pending in Texas criminal district courts for cases of 'Indecency with or Sexual Assault of a Child' in fiscal year 2008 was 12,340 (as compared with 10,258 in fiscal year 2004)

6 The Office of Court Administration, Annual Reports 2004, 2008

Cost of Sexual Violence in Texas

- Annual Cost: \$27 million
- Lifetime Costs
 - \$127 million, not including reduced quality of life
 - \$2.2 billion, including reduced quality of life

Collecting and reporting data related to sexual assault is an ongoing challenge that is voiced by many of the state entities that have a role in addressing prevention and/or intervention in these crimes.

Recurring themes were identified for potential future sexual assault research initiatives:

- Provide consistency in operationalizing research terms – use standardized definitions for sexual assault and related issues research
- Conduct case specific research on reporting, investigating, and prosecuting sexual assault – look at sexual assault cases that are unreported, undetected, and/or non-prosecuted to identify the scope of the problem, contributors to non-reporting, barriers to intervention, investigation, and prosecution
- Conduct case specific research on issues in healthcare settings - identify sexual assault victims that present in a healthcare setting but choose to leave prior to examination/treatment, victims that receive medical (non-forensic) treatment only, and those that receive medical/forensic treatment but choose not to report to law enforcement
- Identify perpetrator risk factors – study reasons men offend and life factors/circumstances that may lead to offending and avoiding detection
- Identify ways to increase reporting of sexual assault
- Improve data management, collection, storage, dissemination, and analysis

Significant findings and/or recommendations identified by each workgroup are included later in this report after each section and address some of the following key issues:

Prevalence. While many states have to rely on Uniform Crime Report statistics or the National Violence Against Women Study, Texas has state-specific data on sexual assault prevalence. A benchmark study of research on prevalence of sexual assault in Texas was conducted in 2003 (*A Health Survey of Texans: A Focus on Sexual Assault*). With funding from the Office of the Attorney General and the Texas Association Against Sexual Assault, the University of Texas at Austin's Institute on Domestic Violence and Sexual Assault conducted the state's first study on sexual assault prevalence. For the prevalence study, 1,200 Texans were interviewed and a solid picture drawn of the experience of sexual assault victims in Texas. Although Texas is ahead in having relatively recent prevalence data on sexual assault victims, there are other challenges that may take precedence in immediate future study, particularly on those that commit these offenses, which may include factors that put people at risk for perpetration by these offenders.

Prevalence Recommendations

- Plan a ten-year follow-up study to the 2003 *Health Survey of Texans* prevalence study for 2013
- Fund research projects currently underway that need support to continue and expand (e.g. Behavioral Risk Factor Surveillance System survey) and for large-scale studies to accurately estimate the annual prevalence of sexual assault
- Provide education and training on the crime and dynamics of sexual assault, especially of children, and how to respond to victims so that more are willing to report and participate in the criminal justice system
- Conduct a yearly or bi-yearly update on the 'state of sexual assault in Texas'

Recidivism. Inconsistent reporting methods and incomplete data are prime challenges for identifying needs of those charged and convicted of this crime. Multiple state agencies oversee programs focused on offenders (youth intervention, probation, parole, civil commitment) and all collect and report data. Programs that address recidivism are hampered by lack of funding and the challenge of evaluating their effectiveness.

Recidivism Recommendations

- Improve database tracking of adult and juvenile sex offenders through monitoring programs
- Continue funding of Dynamic Risk Assessment (DRA) Research under Occupations Code §110.501 on the development, implementation, and deploying DRA tools, recidivism research, and the effectiveness of treatment intervention programs for sex offenders
- Provide prevention programs for offenders (juvenile and adult)

Improving Reporting and Prosecution. The need for intelligence sharing and collaboration among investigators, prosecutors, medical personnel and the judiciary as well as resources for training and education are statewide challenges.

Reporting and Prosecution Recommendations

- Dedicate funding for training law enforcement and district attorneys on sexual assault related statutes and issues
- Improve the current statewide comprehensive database for tracking prosecutions and convictions
- Study and fund model programs: sexual assault investigation, prosecution units and/or sex offender courts

Services and Resources. A review of the statewide resources available to sexual assault victims (direct services) and those assisting or researching sexual assault issues and sexual violence prevention indicates reduction in funding, an increase in demand for services, and a lack of coordinated communication between entities working on behalf of sexual assault victims as problematic issues. Primary prevention efforts are incomplete and in the initial stages of implementation.

Services and Resources Recommendations

- Replicate the SANE/SART program model whenever possible
- Include model communities as replication examples in education, awareness and prevention plans
- Provide adequate direct services for survivors
- Encourage collaboration among agencies serving victims of sexual assault and sharing limited resources to provide adequate direct services for survivors
- Provide training and awareness of sexual assault needs and services statewide

Cost of Sexual Violence. Differences in definition of ‘costs’ and the timeframe used, population studied and areas of impact all have varying outcomes on the actual ‘cost’ of sexual violence. Most studies exclude child victims and serve as a snapshot or annual report, not reflective of ongoing trauma or expenses.

Cost Recommendations
<ul style="list-style-type: none">▪ Determine consistent definition of sexual assault▪ Fund research in all realms of ‘costs’ – economic, social, relational