

# 2016 RSO Coordinator Conference – Homeless/Transient Offenders

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# History

February 28, 1990 - Our registration scheme first went into effect. At that time, only sex offenders who were in custody, on supervision or convicted of a crime that was committed on or after 2/28/90 were required to register.

- Just required anyone convicted of any sex offense to register with the county of the person's residence

Did not address homeless or transient offenders

# *State v. Pickett*

- May 3, 1999 – *State v. Pickett*, 9 Wash.App. 475
  - Lost his housing and began living on the streets in Snohomish County
  - Bench Trial - Judge found that “even a homeless person has an obligation to report his residence, even if that residence is on the streets or under a bridge.”
  - Court of Appeals 1 - reverses

# *State v. Pickett*

- “Residence” lives as either a temporary or permanent dwelling, a place to which one intends to return, as distinguished from a place of temporary sojourn or transient visit.
- He could not comply with the registration statute because he did not have a residence, he did not know where he would be returning

# *State v. Pray*

- May 24, 1999 – *State v. Pray*, 96 Wash.App.25
  - RSO abandoned his home in KC and lived in 3 temporary residences in Bellingham for approx. 10 days.
  - Appeals claiming he did not establish a residence in Whatcom County and therefore not required to register
  - COA 1 – Affirms his conviction
    - He knew the place he would sleep that night, even though that place changed
    - He intended to return to that place and did not plan to leave any definite date
    - He intended to stay in each place for an undetermined period, until he found a permanent residence.

# History Cont'd

- **9/7/1999.** It is the intent of this act to revise the law on registration of sex and kidnapping offenders in response to the case of *State v. Pickett*. The legislature intends that all sex and kidnapping offenders whose history requires them to register shall do so regardless of whether the person has a fixed residence. The lack of a residential address is not to be construed to preclude registration as a sex or kidnapping offender. The legislature intends that persons who lack a residential address shall have an affirmative duty to report to the appropriate county sheriff, based on the level of risk of offending.

# History Cont'd

July 2011 – FTR Statute finally defines  
“Fixed” and “Lacks a Fixed Address”

# *State v. Benjamin Batson*

- Summary of Facts:
  - 1984: Forcible rape/ kidnapping (UI for 24 hours) of 16 year old girl. Threatened her with guns- convicted of Sexual Contact with Minor. 1988: Sexual assault of a woman at knife point and D also threatened her daughters. Marana, AZ. D went to trial and was only convicted of assault, acquitted on all sex/ kidnap charges. 1999: Arrest for Sexual Assault and Kidnapping in Tucson, AZ, no complaint filed. September
  - Level 3
  - December 2011, registers with King County
  - Lists St. Martin De Porres Shelter as his residence
  - April 11, 2013 released from Pierce County for FTR
  - July 2013 – KC charges him with FTR
  - Arraigned and released by Court on August 21, 2013
  - September 9, 2013 – gets arrested in King County after a woman reports that he punched her several times in the stomach when she refused to have sex with him.
  - Charged with FTR from April 19-Sept 8, 2013 in King County

# *Batson*

- State specifically alleges he lacked a “Fixed Residence”
- Convicted by JURY
- Court of Appeals reverses – insufficient evidence that he lacked a “Fixed Address”

# *Batson*

- Testimony from the Director of St. Martin established that they do not assign living space.
- Assign mats to individuals on first come first serve availability
- That person can keep that mat if they return every night.
- When they skip a night, their mat may be reassigned
- Have storage spaces on various floors of their facility and individuals have access up to three times a night

# *Batson*

- Court looks at the definitions:
  - “Fixed” residence means a building that a person lawfully and habitually uses as living quarters a majority of the week. Uses as living quarters means to conduct activities consistent with the common understanding of residing, such as sleeping, eating, keeping personal belongings, receiving mail, paying utilities, rent, or storage
  - A shelter program may qualify as a residence provided it is a shelter program designed to provide temporary living accommodations for the homeless, provides an offender with a personally assigned living space, and the offender is permitted to store belongings in the living space.

# *Batson*

- Outcome could have been avoided - For some reason, the State decided to proceed with one theory of violation: the defendant failed to report weekly when he lacked a fixed address
- Evidence should have been presented as to whether or not Batson actually resided there during the charging period
- Evidence should have been presented as to what specific arrangement Batson had with the shelter.
  - Where was his “space” in comparison to where his belongings are kept?
  - Contact the shelter and ask for a sign-in sheet

- Questions? Comments?

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