The Unintended Consequences of Sex Offender Registration and Community Notification:

Recommendations for Reassessment

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Accomplishing this thesis and the completion of my degree was a difficult journey for me. It was a very challenging and rewarding experience for me. Achieving my goal of completing the Master’s Degree program gives me a great sense of accomplishment.

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Abstract

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Under the Supervision of William LeSuer, PhD

Statement of the Problem

Sex offender registration laws originally were designed to protect the vulnerable of a community from what some consider the worst possible offenders, therefore, harsher sex offender laws surely must protect children more effectively as well as control sex offenders. Unfortunately, that philosophy isn’t always accurate. Most legislation designed to control and manage sex offenders in the community was named after the horrific victimization of a child, the worst possible scenario striking fear in the hearts of parents. As these laws were enacted and they morphed into a fear driven phenomena based on myths, not facts or evidence based policy. Some politicians cite recidivism rates for sex offenders that are as high as 80-90 percent, yet there does not appear to be any published studies to corroborate these numbers. According to Ellman (2015), the source of that 80 percent figure came from a brief signed by Solicitor General Ted Olson. The brief cited a Department of Justice manual, which in turn offered only one source for the 80 percent assertion which was a Psychology Today article published in 1986. Justice Anthony Kennedy, seemingly without fact-checking it, adopted the figure in a 2002 opinion that Justices William Rehnquist, Antonin Scalia and Clarence Thomas joined.
Method of Approach

The purpose of this paper was to identify any unintended negative consequences as well as positive outcomes of sex offender registration and community notification laws, and the policies based on those laws. My intent is to evaluate the research and theoretical approach to these laws and their consequences. In addition, I will review and identify evidence-based methods that have shown through empirical data analyses to be effective in reducing recidivism and increasing safety in the community. These laws whose noble intentions of community safety may be creating unintended consequences that are counterproductive in the form of higher recidivism, costs and lowering community safety.

The information for this paper was gathered from secondary sources such as literature and research from scholarly and peer-reviewed academic journals, governmental agency websites and professional organizations. This included information found in the Karrmann Electronic Library in the University of Platteville, governmental websites such as OJJDP, FBI, BJS, and NCJRS were also used in this research as well as other accredited medical, psychological and sociological journals whenever applicable.

Results of the Study

Laws that are intended to help enhance public safety have become fairly easy to enact with little to no research, and difficult to repeal based on numerous studies and empirical research contradicting their efficacy. States such as Minnesota, California and Virginia have revamped their sex offender laws to provide the best protocol for their intent of community safety, based on empirical research. The more than 20 years of legislative efforts directed at
those with sex offense histories, while well-intentioned, represent a misdirection of resources away from the high percentage of sexual abuse that is committed by offenders who have never been arrested for a sex crime. New information, studies, evaluation techniques, actuarial tools and an entirely new platform of scientific and psychological understanding of sex offenders, sex offense recidivism and sexual abuse should be the basis for policy concerning the management of sex offenders in the community. Reassessing which offenders should be on the public websites; removal from registries; community notification; residency restrictions and level of classification should be based risk assessments and empirical research. Resources used to track and monitor a wide spectrum of offenders should be directed at the highest risk offenders. Many registries have become so all-inclusive and massive that they do little to help law enforcement or the public differentiate between offenders who pose significant risks and those not likely to reoffend. In this paper I argue for the use of evidence-based criminal justice policies as opposed to moralistic ones. In this paper I argue for the use of evidence-based criminal justice policies as opposed to moralistic ones. Throughout this paper I will demonstrate the negative consequences of the moralistic approach with regard to sex offender legislation and compare it with evidence-based findings.

**Keywords:** Sex Offender Registration, Jacob Wetterling Act, SORN, Megan’s Law, Residency Restrictions, Community Notification
# Table of Contents

Acknowledgements ii

Abstract iii

Table of Contents v

1. Introduction 1

   History of Sex Offender Registration

   History of Community Notification

   Residency Restrictions

II. Literature Review 4

   Statistics of Sex Crimes and Offenders

   Unintended Negative Consequences

   Residency Restrictions and Transient/Homeless Offenders

III. Theoretical Framework 10

   Social Disorganization Theory

   Labeling Theory

   Rational Choice Theory

   Routine Activities Theory
IV. Case Studies/Evaluations

Colorado

Minnesota

California

Florida

Iowa

V. Recommendations, Summary and Conclusion

Registerable Offense Uniformity

Length of Registration Requirements

Limited Public Access Registries

Increase in Community Education Based on Evidence-based Risk
I. INTRODUCTION

Despite intuitive value of using science to guide decision making, laws and policies designed to combat sexual violence are often introduced without any empirical support. The surge of sex offender legislation in the United States mirrors the public’s fear and opinion toward sex offenders. The public tends to view strict sex offender laws as necessary to protect the most vulnerable people in the population, children. Moreover, individuals tend to see these laws as legitimate, because they perceive sex offenders as having high recidivism rates which there is little research that suggests this. According to the U.S. Office of Justice Programs, Bureau of Justice Statistics (2003), sex offenders have among the lowest recidivism rates when compared to all criminals. Additionally, some of the most dangerous sexual crimes, those involving rape and murder, account for less than three percent of known sexual offenses perpetrated in the United States. The perception that many sex crimes against children are the result of strangers prowling around playgrounds is also a misconception. In reality, ninety-three percent of sex offenders who perpetrate crimes against children know their victims ("NSOPW," 2015). Children are much more likely to be abused by someone they know and trust, than from an unknown individual holding out candy from a dark sedan. The perpetuated fear of “stranger danger” might actually be giving parents an unwarranted feeling of safety around the people with whom their children are most familiar according to the U.S. OJP, Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART).
HISTORY OF SEX OFFENDER REGISTRATION

According to the Jacob Wetterling Resource Center, in 1989, 11-year-old Jacob Wetterling was abducted in rural Minnesota while riding bicycles with his brother and a friend. A man with a gun stopped the boys on a dirt road about a half mile from Jacob’s house. The man told the boys to lie down in the ditch. He turned each boy over and asked them their age. He told Jacob’s brother and his friend to run to the woods and don’t look back or they’d be shot. When the two boys looked back they saw the man taking Jacob. Jacob was never seen alive again. In 2016, the man was arrested for child pornography charges and through a plea deal, confessed to Jacob’s murder and lead investigator’s to where he buried Jacob’s remains.

At the time of Jacob’s abduction, Minnesota did not have a sex offender registry. Several months prior to Jacob’s abduction, another boy had been kidnapped and sexually assaulted and the method and behavior of this abduction was very similar to Jacobs’s case (Patty Wetterling, personal communication, May 17, 2017). Jacob’s disappearance motivated his family to create the Jacob Wetterling Foundation in 1990. Their mission is to protect children from sexual exploitation and abduction, by promoting education, help for victims and their families, and to create laws aimed at sex offenders. (Bureau of Justice Assistance, 2009). In 1994, The Jacob Wetterling Act was passed requiring all states maintain a sex offender registry (SMART n.d.) The purpose of these registries was an investigative tool for law enforcement. It wasn’t until 1996 that sex offender registries were made public.

HISTORY OF COMMUNITY NOTIFICATION

In 1994, 7-year-old Megan Kanka was playing in her yard in front of her home in New Jersey when a neighbor lured Megan into his house with the promise of seeing a puppy
("Megan's Law," 2009). The man sexually assaulted and murdered Megan and dumped her body in a nearby park. The man was a registered sex offender who had been recently released. Law enforcement knew the man was living there but did not disclose that information to the community. In 1996, Congress amended the Jacob Wetterling Act to include “Megan’s Law,” which mandated the dissemination of registration information to the community through community notification statutes. On February 24, 2005, nine-year-old Jessica Lunsford was abducted from her home by a convicted sex offender ("Jessica Lunsford," 2009). During his statement to police, the offender admitted that he entered her residence in the early morning hours and instructed her to follow him to his nearby residence. He kept her in his bed that night where he sexually assaulted her that evening and the following morning. He then kept Jessica in his closet for three days before he tricked her into getting into a garbage bag before burying her alive. Mark Lunsford, Jessica’s father, advocated for new legislation to increase the monitoring of convicted sex offenders released from prison and soon the Jessica Lunsford Act was created.

Fundamentally, notification laws were passed to provide communities with appropriate and necessary information about sex offenders residing in their communities. When community notification was first introduced, it was tailored to noninformation from law enforcement agencies to the communities in a narrow and controlled manner. In upholding the constitutionality of the first generation of notification laws, courts emphasized two foundational aspects. In State v. Cook, the Ohio Supreme Court found that the information released on sex offenders was to be no greater than that discerned from the public record of a conviction, and that the amount of personal information disseminated was specifically tied to the risk level of the offender (Carpenter & Beverin, 2012).
RESIDENCY RESTRICTIONS

Many sex offenders are stereotyped as dangerous pedophiles. In reality, there are many sex offenders who have never victimized a child ("NSOPW," 2015). This general belief was the result of the several horrific crimes of child abduction, sexual assault and murder that dominated the media and created a wave of worry throughout the nation. As a result, the public wanted increased monitoring of sex offenders in order to protect their children. The most recent method of sex offender management is the implementation of residency restrictions laws or local ordinances. Sex offender residency restrictions prohibit convicted sex offenders from residing within a certain distance from a school, daycare, park or other areas where children congregate. The purpose of these restrictions is to limit the opportunities for offenders to victimize children.

II. LITERATURE REVIEW

Experts have identified the fear about child abduction and murder as a catalyst for the enactment of prominent sex offender laws currently in place in the United States. Sample (2006) stated that “despite the rarity of sex crimes involving murder, it is clear that most of the current sex offender policies we have today, and those being proposed for the future, are the result of sexually related homicides against children committed by previously convicted sex offenders.” These laws are not designed to address the bulk of sexual victimization. Only seven percent of sex crimes reported in the U.S. involve a stranger assault (Sample 2006). In examining the extent to which sex offenders murder their victims, only two percent of arrests that included a sex offense charge also included a homicide charge. Yet because these crimes are so horrific and resonate with parents everywhere, there is a desperate need to come up with safeguards to
prevent these crimes from happening again. Much of today’s fear about sex offenders appears disproportionate to one’s relative risk of sexual victimization.

In a study conducted by J.J. Prescott of the University of Michigan and Johan Rockoff of Columbia University (2011), researchers found that requiring sex offenders to register with police may significantly reduce the chances that they will re-offend. However, the research also found that making that same registry information available to the broader public may backfire, leading to higher overall rates of sex crime. The researchers analyzed sex offender registration and notification laws separately, which is important because the laws are designed to work in very different ways. Prescott and Rockoff (2011) found that requiring an offender to register without public notification reduces reported sex crimes substantially, likely through better police monitoring and more effective apprehension of offenders who commit anew crime. For a state with a sex offender registry that is average per capita, a registration requirement reduces crime by approximately 13 percent from the sample mean. The reduction in sex crimes gets larger as registries grow larger, indicating that registry laws lower crime by deterring registered sex offenders from re-offending, as opposed to discouraging potential first-time offenders. Public notification laws, such as online public registries, may actually undo some or all of a registry's crime-reducing effect. While Prescott and Rockoff (2011), discovered that the threat of being subjected to notification deters some potential first-time sex offenders from committing crime, released offenders appear to become more likely to do so. In fact, adding public notification to a state's registration laws leads to slightly higher levels of total reported sex crimes. Taken as a whole, the research shows that while police registration discourages sex offender recidivism, public notification actually encourages it (Prescott & Rockoff, 2011).
Most sex offender laws such as Megan’s Law, the Jacob Wetterling Act, the Adam Walsh Act, and Jessica’s Law are memorial in nature and named after a murdered child. The intent of these laws does not match the reality of the crime. The abduction, rape, and murder of a child by a stranger who is a previously convicted sex offender is a rare event. According to a study done by the U.S. Dept. of Justice, of the roughly 69,000 kidnappings that occurred in 1999, fewer than 2 of every 1000 abducted children are abducted by strangers. Of the perpetrators of these abductions, approximately 30% were previously convicted sex offenders. The laws offer scant protection for children from the serious risk of sexual abuse that they face from family members or acquaintances. Indeed, people children know and trust are responsible for over 90 percent of sex crimes against them according to the National Center for Missing and Exploited Children (NCMEC 2016).

Harris and Hanson (2004) conducted a meta-analysis of 23 recidivism outcome studies. This meta-analysis produced an average sexual recidivism rate of 10.9 percent for treated offenders and 19.2 percent for untreated comparison offenders, based on an average follow-up period of 4.7 years. Sex offender registries and community notification have created an atmosphere of relying more on law enforcement and government agencies to keep children safe by attempting to control known offenders, and less on the role of the parents and caretakers by providing prevention education and strategies.

Large registration systems can be nearly impossible for law enforcement to effectively monitor. As the number of sex offenders on a registry increases, it becomes more difficult for both police and civilians to distinguish between dangerous sexual offenders and non-violent offenders. According to the U.S. Office of Justice Programs, Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART), many state laws show that a
relatively mild offense can cause an individual to become part of the sex offender registry. Approximately thirteen states have incorporated public urination into their list of sexual offenses; and twenty-nine states include consensual sex between teenagers (SMART, n.d.). Prescott and Rockoff (2011) determined that as the extent of offenders subjected to online notification increased, so does sex offender recidivism. Research has indicated that online notification was associated with even increased likelihood of plea bargains (relative to original registration and notification practices) and was uniquely associated with reduced likelihood of final guilty determinations for defendants charged with sex crimes (Prescott and Rockoff, 2011). Public notification may encourage sex offenders to re-offend because they have little else to lose. In particular, notification can make the threat of prison less effective. Research by Prescott and Rockoff (2011), suggests that convicted sex offenders become more likely to commit crimes when their information is made public because the associated psychological, social, or financial costs make a crime-free life relatively less desirable.

In a study conducted in 2011 by University of Chicago Ph.D. student Amanda Agan, she found no evidence was found that sex offender registries are at all effective in increasing public safety. Her study used three different types of analysis to test the effectiveness of sex offender laws. First, she compared arrest rates for sex crimes in each U.S. state before and after registry laws were implemented and found no appreciable changes in crime trends following the introduction of a registry. She concludes that sex offender registries do little to increase public safety, "either in practice or in potential” (Agan, 2011).

Research by Zgoba, Veysey & Dalessandro (2010) supports the findings of no significant reduction in general and sex re-offenses of registered sex offenders as a result of registration and notification laws. According to Zgoba, Veysey, & Dalessandro (2010), there were no significant
differences between the numbers of sex offenders who are re-arrested, reconvicted, and re-incarcerated for a general offense by year. In looking at the sample of offenders who were re-arrested for any crime, there were no significant differences found between those persons re-convicted for a non-sex offense compared to those re-convicted for a sex offense. The same effect was found between groups when looking at re-incarcerations. Prescott and Rockoff (2010) found evidence that registration reduces the frequency of sex offenses by providing law enforcement with information on local sex offenders. This decrease in crime is concentrated among “local” victims (e.g., friends, acquaintances, neighbors), while there is little evidence of a decrease in crimes against strangers. SORN was studied for its impact on the rates of sexual recidivism for registered sex offenders, with the majority of studies demonstrating no impact (Adkins, Huff, & Stageberg, 2000; Freeman, 2012; Letourneau, Levenson, Bandyopadhyay, Sinha, & Armstrong, 2010). The collateral and unintended negative consequences have made communities less safe by promoting myths and increasing fear.

Despite wide community support for these laws, there is little empirical evidence to date to support a claim that the laws are effective in reducing either new first-time sex offenses or sexual re-offenses (Zevitz & Farkas, 2000). Most studies that have evaluated sex offender registration and community notification laws have defined efficacy as the reduction in sexual offending, often by measuring arrest or conviction rates. Of the approximately one dozen more methodologically rigorous studies that have evaluated the efficacy of registration and community notification laws based on recidivism rates, few showed any significant decrease in sexual offending among ex-offenders as a result of the policies (Kernsmith, Comartin, Craun, & Kernsmith, 2009; Letourneau, Levenson, Bandyopadhyay, Armstrong, & Sinha, 2010). Several studies have evaluated arrest, conviction, and/or recidivism rates of offenders before and after
the implementation of registration and community notification laws in specific states. For example, in New Jersey where Megan’s Law was implemented in 1994, Zgoba, Witt, Dalessandro, and Veysey (2008) evaluated 550 sex offenders released from prison or a treatment center between 1990 and 2000. They found no significant differences in sexual recidivism between the groups, nor did they find any effect of the time to first re-arrest or type or number of offenses committed (Zgoba, Veysey, & Dalessandro, 2010).

Sex offender residence restrictions that limit where convicted sex offenders may legally live have become more popular across the country. The perception of safety is a considerable factor for many home buyers. Residency restrictions were imposed with the goal of protecting children and promoting public safety through the neutralization of sex offender risk. There is little research that has evaluated the extent to which residency restrictions accomplish these goals. According to Rydberg, Grommon, Huebner, & Bynum (2014), male sex offenders released under residency restrictions were significantly more likely to move than offenders paroled prior to implementation which reinforces concerns that residency restrictions can enhance challenges that are faced during the reentry process by increasing residential movement. From a management perspective, residential movement requires enhances supervision from parole staff who already contribute significant resources to the surveillance of current sex offender residences. Each move requires a new home plan which involves a site investigation and approval by parole officials. Frequent movement may increase workloads for parole officers with sex offender caseloads and could compromise surveillance efforts (Rydberg, Grommon, Huebner, & Bynum 2014). Most child sex abuse victims are well-known to their perpetrators, so a person’s residential proximity is irrelevant.
III. THEORETICAL FRAMEWORK

Theoretical logic that sex offender policies are based on are the main assumptions about sex offenders and sex crimes which are: law enforcement can effectively track sex offenders living in the community; the public will use information obtained from sex offender databases and take proactive measures to avoid victimization; sex offender registries were created with the intent of promoting public shaming; and the bulk of sex offending is committed by convicted sex offenders unknown to community members. There are several theories that could be applied to the attempt to control sex offenders through legislation. Routine activity, rational choice, social disorganization, and labeling theories have all been applied to sex offender management.

SOCIAL DISORGANIZATION THEORY

In a study conducted by Mancini (2009), Erickson’s Social Disorganization Theory as applied to the Salem witch hunts parallels modern community reactions to sex offenders. Salem witch trials were an attempt to resolve a social threat stemming from the rapidly changing Puritan colony. Sex offenders are also viewed as a social threat and reactive laws seem to appear in dramatic outbursts. Although there are several factors that could be classified as “social threats” to society in explaining the emergence of sex offender laws in the mid-90s, a few are especially consistent with the social disorganization theory. One of these factors includes the rise in crime rates in the 1980s and early 1990s, particularly violent crime, which likely spurred public fear about victimization, (Mancini, 2009).

LABELING THEORY

Typically, convicted sex offenders living in the community are required to register with the state police, departments of public safety, offices of the attorney general, or departments of
corrections. The public is then notified about sex offenders living in the community via a state website that lists sex offenders by name, posts their pictures, and in some cases, displays their addresses (Tewksbury & Jennings, 2010). Research by Schultz (1994), supports consequences that have since been identified as resulting from the labeling of sex offenders via the registry. These consequences include difficulty assimilating into the community, socially, economically, and psychologically. Labeling theory states that individuals who are given a label eventually subscribe to that label; in other words, it becomes a self-fulfilling prophecy. In the case of sex offenders, this can only mean more damage to society (Schultz, 2014).

**RATIONAL CHOICE THEORY**

Rational choice assumes that crime is a personal choice, the result of individual decision-making processes. This means that individuals are responsible for their choices and thus individual offenders are subject to blame for their criminality. In terms of offending, rational choice contends that offenders weigh the potential benefits and consequences associated with committing an offence and then make a rational choice on the basis of this evaluation ("Review of the roots of youth violence," 2016). Therefore, before committing a crime, the offender weighs the chances of getting caught, the severity of the expected penalty and the value to be gained by committing the act. This means that if offenders perceive the costs to be too high, the act to be too risky, or the payoff to be too small, they will choose to not engage in the act. This involves considering both personal factors, which may include a need for money, revenge, or entertainment, and situational factors such as the target or victim’s vulnerability and the presence of witnesses, guardians, or the police. Rational choice focuses on the opportunity to commit crime and on how criminal choices are structured by the social environment and situational variables. With respect to violence, it has also been found that perpetrators are selective in their choice of target; they select people who
appear vulnerable, without the means to protect themselves (children.gov.on.ca, 2016). Sex offenders who molest children will often have many victims spanning a lengthy period of time. Having the ability to recognize a situation that the offender can capitalize on certainly would fit into the rational choice theory.

**ROUTINE ACTIVITIES THEORY**

Routine activities theory is a subsidiary of rational choice theory. Developed by Cohen and Felson (1979), routine activities theory requires three elements be present for a crime to occur: a motivated offender with criminal intentions and the ability to act on these inclinations, a suitable victim or target, and the absence of a capable guardian who can prevent the crime from happening. These three elements must converge in time and space for a crime to occur ("Review of the roots of youth violence," 2016).

Routine activities theory provides a perspective on crime that predicts how changes in social and economic conditions influence the overall crime and victimization rate. Felson and Cohen (1980) propose that criminal activities are a “structurally significant phenomenon,” meaning that violations are neither random nor trivial events. In consequence, it is the routine of activities over the course of a person’s daily lives that makes some individuals more susceptible to being viewed as suitable targets by a rationally calculating offender (children.gov.on.ca, 2016). Routine activities theory relates the pattern of offending to the everyday patterns of social interaction. If there is an unprotected target and there are sufficient rewards, a motivated offender will commit a crime. The more suitable and accessible the target, the more likely that a crime will occur. The presence of capable guardians is also held to deter individuals from offending. Guardianship can be the physical presence of a person who is able to act in a protective manner or in the form of more passive mechanical devices such as video surveillance or security.
systems. These physical security measures help limit an offender’s access to suitable targets. The essential aspect of routine activities theory is the interaction of motivation, opportunity and targets. In this way, the presence of guardians will deter most offenders, rendering even attractive targets off limits (children.gov.on.ca, 2016). Therefore, the presence of opportunity coupled with a lack of guardianship increases criminal motivations and the likelihood an offense will occur.

IV. CASE STUDIES

COLORADO

In 2004, the Colorado Division of Criminal Justice researched the relationship between the location of a sex offender residence and the commission of a sexual crime. The study consisted of a random sample of 130 released sex offenders on probation supervision in the Denver area. Information was gathered from Department records after the offender sample completed 15 months on community supervision. This study concluded that restrictions on where sex offenders who are under correctional supervision are not effective methods to control sex offender recidivism because it may not deter them from re-offending (Laney, 2008, Colorado Division of Criminal Justice, 2004). According to the Colorado Division of Criminal Justice (2004), sex offenders who reoffended in this study did not live any closer to schools or daycares than offenders who did not recidivate.

MINNESOTA

In 2002, The Minnesota Department of Corrections (2007) conducted a study of the sexual re-offense recidivism patterns of 224 convicted male sex offenders on supervision
between 1990 and 2002. The purpose of this study was to determine if residency restrictions would have had any impact in the 224 recidivism cases. Minnesota (2007) considered four specific criteria for this study. Since the purposes of residency restriction are to avert access to potential victims, all sex offenders must have established direct contact with the victim. Contact established through a third-party source such as friends, family acquaintances, or other sources were not considered. Contact with the victim must have occurred within a one-mile radius of the sex offender's residence and had to have taken place at a prohibited location or a location where children tend to congregate (i.e. day care centers, parks, schools). Lastly, the victim must have been under the age of 18 when the offense occurred.

The results of this study provided the Minnesota Department of Corrections with important information about the relationship of sex offenses and residential proximity. Out of 224 cases, 79 (35%) offenders had established direct contact with their victims and the remaining 65% were biologically related to the victim or met the victim through a collateral contact. In the 79 offenders, 28 had contact within a one-mile radius of their own residence, 21 within 1.5 miles, and 16 within 0.2 miles. In all 224 cases, three offenders established contact with their victim in an area that would be excluded by residency restrictions. In two of the three cases, the offender resided further than 10 miles from where the sexual assault occurred; in the third case the victim was an adult. Out of all 224 cases, 85% of the sexual assaults occurred in a residence and 15% took place in a public location not including locations where children tend to congregate. Based on the results of this study, the Minnesota Department of Corrections determined that, "Not one of the 224 sex offenses would likely have been deterred by a residency restriction law" (Minnesota Department of Corrections, 2007, pg. 2).
The Minnesota Department of Corrections submitted a report to Legislation in 2002 regarding residency restrictions on 329 of their level three sex offenders. Level three sex offenders are considered the most dangerous due to the severity and nature of their sexual offense. Thirteen of the level three sex offenders were re-arrested for committing new sexual based crimes. Minnesota found that none of them resided within 2,500 feet of any park or school at the time of their arrest. Two level three sex offenders who reoffended near a park or school drove to a location several miles away from their residence to commit their offense (Minnesota Department of Corrections, 2003). Due to the residency restrictions in Minnesota, many level three sex offenders are forced into rural areas because of the high concentration of schools in the Minneapolis and St. Paul area. Minnesota (2003) states that this would have an impact on the level three sex offenders by removing them from their social support networks and placing them in areas where they are not close to employment opportunities, treatment options, educational sources, and would make them less accessible to agents who supervise them.

FLORIDA

According to the Florida Department of Corrections, sex offender residency restrictions made it difficult for sex offenders to find appropriate housing (Zarella &., 2007). In April 2007, five sex offenders were residing underneath the Miami’s Julia Tuttle Causeway. In February 2008, 19 sex offenders were calling the Julia's Tuttle Causeway home and the number increased to over 60 sex offenders in May 2009. The residents made their homes which included furniture and a generator to run their television sets. The city of Miami enforces a curfew for the sex offenders requiring them to be in their makeshift homes between the hours of 10 p.m. and 6 a.m. Corrections and law enforcement officials allow sex offenders to continue to reside there out of
fear that if they make them move, many of them will go underground and will not be supervised (Sex Offender Management Policy National Legislative Briefing, 2008).

In Orange County, Florida, researchers used geographical information systems (GIS) mapping technology to determine how much housing would be available to sex offenders and how restrictions further affect sex offenders. Researchers found that out of 137,944 zoned residential properties, 23% were located within 1,000 feet of a school and 64% were within 2,500 feet. This reduced the amount of available housing options to approximately 106,888 and 50,108. Schools, parks, daycares and bus stops further reduced the amount of housing to 4,233 within 1,000 feet buffer zones and 37 within 2,500 feet buffer zones. Bus stops were the most restrictive as 93% of the residences fell within 1,000 feet and 99.6% within 2,500 feet of a bus stop. In addition, the total amount of housing represents all properties indicating that only a small amount is available for rent or purchase (Zandbergen & Hart, 2006, Levenson, 2008).

CALIFORNIA

California’s Department of Corrections and Rehabilitation (CDCR) frequently experienced difficulty with sex offenders being released on parole supervision due to the residency restrictions. California’s legislation prohibits sex offenders from residing a quarter mile from a K-12 school and a half mile from any other school, daycare, or place where children tend to congregate. California corrections officials have allowed several paroled sex offenders to reside in their field office because they have been unable to locate them an approved residence. As a last resort, the CDCR had to place 12 sex offenders in a trailer on San Quentin Prison property to prevent them from becoming homeless and unable to be located and supervised. (Neito & Young, 2006 as cited by Martin & Fimrite, 2006). The homelessness rate of sex offenders in California has dramatically increased due to sex offender residency restrictions.
According to Kester (2009), the number of registered sex offenders reporting themselves as being homeless increased from 2,050 in 2006 to 3,267 in August 2008. Furthermore, their transient registration of parolees increased approximately 800% from 88 in November 2006 to 1,056 in June 2008 (Kester, 2009). Research has shown that available housing significantly declines when residency restrictions are implemented.

According to an American Bar Association Journal article (Laird, 2015) in 2006, California voters passed "Jessica's Law," a ballot initiative that prohibited registered sex offenders from living within 2,000 feet of a school or park. This law was challenged in a case brought by four San Diego County parolees. All four planned to live with family or friends after leaving prison, but they couldn’t because the homes were not compliant with Jessica’s Law. Instead, they ended up living in the alley behind the parole office, in the bed of the San Diego River, in vehicles or in noncompliant homes. That’s part of why the California Supreme Court struck down the blanket application of Jessica’s Law. The justices noted that parole officers may impose residency restrictions on a case-by-case basis. But they unanimously agreed that universal application of the law violates offenders’ constitutional rights—and doesn’t keep children safe (Laird, 2015).

IOWA

Iowa became the first state to implement the most stringent sex offender residency restrictions in 2002, prohibiting convicted sex offenders from residing within 2,000 feet of schools, parks, and daycares. As a result, Iowa has experienced many unintended consequences due to residency restrictions. When Iowa implemented this law, the state had approximately 80-90 registered sex offenders whose whereabouts were unknown. In 2008, Iowa was unable to locate the whereabouts of approximately 300-400 sex offenders required to comply with the
state’s registry (Sex Offender Management Policy National Legislative Briefing, 2008). The American Civil Liberties Union challenged Iowa’s residency restrictions in a class action suit and granted a temporary injunction by the U.S. District Court. In 2005, the Eighth Circuit Court of Appeals upheld Iowa’s legislation declaring sex offender residency restrictions as a form of civil regulation, rather than punishment (Nieto & Jung, 2006).

V. RECOMMENDATIONS, SUMMARY AND CONCLUSION

The creation of sex offender management policies is based on three universal public misconceptions about sex offenders- they have high recidivism rates, they are not amendable to treatment, and “stranger danger” (Levenson, Brannon, Fortney, Baker, 2007). The most common perception about sex offenders is that they all pose a high risk to reoffend sexually. Research shows that sex offense recidivism rates are lower than commonly believed (Bureau of Justice Statistics, 2003). Sex offenders are often viewed as all having similar offenses based on the assumption that all registered and non-registered sex offenders have child victims. Sex offenders are a heterogeneous group of offenders with different risk factors, motivations, characteristics, victims, and recidivism rates (NGA, 2007). Sex offenders can include adult rapists, exhibitionists, voyeurs, pornography viewers, and individuals who have had a sexual relationship with younger underage partner. In some states individuals are required to register as a sex offender for convictions that include non-parental false imprisonment, solicitation for prostitution, and voyeurism. (Office of Justice Programs, 2011).
REGISTERABLE OFFENSE AND LENGTH OF REQUIREMENTS

Large registration systems can be very difficult for law enforcement and corrections officials to effectively monitor. As the number of sex offenders on a registry increases, it becomes more difficult for both police and civilians to distinguish between dangerous sexual offenders and non-violent offenders. According to the U.S. Office of Justice Programs, Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART), many state laws show that a relatively mild offense can cause an individual to become part of the sex offender registry. Approximately thirteen states have incorporated public urination into their list of sexual offenses; and twenty-nine states include consensual sex between teenagers (SMART, n.d.).

Prescott and Rockoff (2011) determined that as the extent of offenders subjected to online notification increased, so does sex offender recidivism. Research has indicated that online notification was associated with the increased likelihood of plea bargains and was uniquely associated with reduced likelihood of final guilty determinations for defendants charged with sex crimes (Prescott and Rockoff, 2011). According to a report by Human Rights Watch (2007), former offenders who have committed minor, non-violent offenses, such as; non-lascivious indecency offenses, such as streaking and public urination; and consensual sexual activity with a minor who is within five years of age of the offender (statutory rape) should not be required to register. It was also recommended that juveniles not be required to register. If states do require juvenile offenders to register, then they should do so only after a panel of qualified experts determines that the child poses a high risk of sexual re-offense, and that public safety cannot be adequately protected through any means other than the child being subject to registration. A determination that registration is necessary should be reviewed at least on an annual basis for as
long as the registration requirement lasts (Human Rights Watch, 2007). Many states have mechanisms in place by which offenders are removed from registries if they are exonerated; their convictions have been overturned, set aside, or otherwise vacated; or if their conduct is no longer considered criminal. Registration should be limited to former offenders who pose a high or medium risk of committing a serious crime in the future, either of sexually abusing children or committing a violent sex crime against adults. The risk should be assessed on a case-by-case basis for each convicted sex offender, using tools that have predictive validity and take into consideration a variety of factors found by research to be associated with recidivism, including the nature of the crime, prior offending history, the age of the offender at the time of the crime, treatment or therapy history, and the length of time an individual has remained offense-free. Former offenders considered low-risk for reoffending, on the basis of individual assessment, should not be required to register. The period of inclusion on the registry for former offenders assessed as medium- and high-risk should be initially determined by his or her individual risk assessment and then be subject to periodic review with a view to extension or termination.

The difficulty of committing a crime is only one factor, among many, that affects an offender’s likelihood of recidivating. Publicly identifying an individual as a sex offender, as well as imposing other significant constraints such as residency restrictions, frequent reporting requirements, etc., also influences many other factors of criminal behavior by dramatically changing sex offender’s daily life, future prospects, and psychological and financial burdens. A law that restrains a released offender has the potential to reduce recidivism if that law makes the commission of crime more difficult, or if it mitigates various risk factors. But such a law also has the potential to increase recidivism if it worsens those circumstances (e.g., unemployment, unstable housing) known to contribute to reoffending. Public Notification policies appear much
more likely to increase the probability that released sex offenders return to crime, all else equal, than to reduce it. These laws and their implementation exacerbate host of recidivism risk factors. Publicly identifying sex offenders makes it more difficult for them to find employment and housing, residency restrictions make everything more expensive and life less stable, and both make it harder for registered offenders to be with or build their own families. Life as a registered sex offender, by all accounts, is simply much more difficult than the life of the typical former felon. Publicly identifying released sex offenders is an attempt to create a barrier between them and the public or potential victims. The more difficult, lonely, and unstable our laws make a registered sex offender’s life, the more likely he is to return to crime, and the less he has to lose by committing new crimes. If community notification laws make it more difficult for a registered sex offender to find victims, while at the same time not aggravating the risk factors known to lead to recidivism and not reducing a registered offender’s desire to avoid prison, then recidivism rates should drop.

**RESIDENCY RESTRICTIONS**

Sex offender management policies are significantly based on the public's misconception of sex offenders and the relationship to their victims. The universal premise is that children are abducted and sexual abused by strangers (Levenson, 2007). This belief is commonly referred to as "stranger danger." “Stranger danger” leads to a false sense of security among parents, leading them to believe that strangers pose the most significant risk to their children (Levenson et al, 2007). Highly publicized cases of children being abducted by strangers have created a sense of fear that this type of crime occurs more often that it truly does. Residency restrictions are a proactive response to sexual assaults by strangers, despite the fact that most sexual assaults are perpetrated by individuals known to their victims (Bureau of Justice Statistics, 2002). Child
victims of sexual abuse are classically victimized by people familiar to them. This includes family members, friends of their parents, coaches, teachers, family acquaintances and caregivers. Adults are normally assaulted by significant others or acquaintances. So, a person’s residential proximity is irrelevant. Residency restrictions do not provide the safety factor they were intended for. Community members can get a false sense of security in believing that there are no sex offenders residing in the vicinity.

ACCESS TO SEX OFFENDER REGISTRIES

When determining who in the community should be notified, law enforcement officials should weigh factors such as the size of the community, the nature of the offense, the level of reoffense risk at which the registrant has been assessed, and the likelihood that access to the information will enhance the recipient's personal safety or that of their children. Law enforcement officials should eliminate the use of posters, flyers, and other easily replicable materials to alert communities of the presence of a registered sex offender in their neighborhood. They should inform community members individually, using accurate and responsible language to describe the potential threat posed by the registrant (HRW, 2007). Local officials should work with local agencies or organizations to conduct community meetings aimed at safe reintegration of registrants when they move into a neighborhood. Community meetings should be designed as an opportunity for education about where the risk for sexual victimization lies and how to prevent sexual abuse before it occurs. Organizations to include in the development and implementation of these community meetings should be victim advocacy groups, sexual violence prevention and response professionals, and sex offender treatment and management agencies.
COMMUNITY EDUCATION

An increase in community education of real risks vs myths, and awareness campaigns should highlight the likelihood that sexual offense victims are much more likely to be abused by someone they know and trust, rather than by a stranger lurking in the dark. Parents should be made aware of the signs and symptoms of child sexual abuse, and the common types of grooming patterns used by adult perpetrators who gain access to victims via their positions of trust or authority. Funding for these activities might be freed up by making reasonable reductions to the duration and number of offenders subjected to registration and notification requirements.

CONCLUSION

The popularity of sex offender legislation seems to parallel the fear of sex offenders whether real or perceived. The public tends to view strict sex offender laws as necessary to protect the most vulnerable people in the population, children. The community tends to support these laws as effective because they perceive sex offenders as having high recidivism rates. These perceptions often fall far from reality. The concerns of sex offenders are not likely to resonate with the general public or even the legal community. However, “sex offenders” are not universally the scary stranger lying in wait to kidnap and sexually assault children; many have committed relatively minor offenses, such as public exposure.

There are over 500,000 sex offenders in the United States and that number will continue to grow (SMART, 2016). Many offenders subject to SORNA’s requirements have not been arrested for crimes in decades. These persons are already subject to limitations on their liberties. The heavy penalties and restrictions of SORNA have added to that already substantial mix. While the cause of stopping sexual violence is a good one, it is a mistake to make constitutional
exceptions to target the population of convicted sex offenders. Laws passed that on the surface have noble intent of keeping children safe, in reality are creating the opposite effect by driving sex offenders underground and creating an environment where there is little discrepancy based on risk and offense.

Community protection policies are likely to be most effective when used in a discriminating and targeted manner rather than when broadly and equally applied. By targeting nearly all sex offenders with the same intervention, implies that all sex offenders pose a severe and equal threat to communities. The result of policies that in theory were to protect the most vulnerable from the most unthinkable. The intent of these laws was to assist law enforcement with investigations, inform the community of the highest risk offenders based on evidence based risk assessments, and to hold sex offenders accountable while they are residing in the community. The laws are applied to a population that is not new in society. Sex offenders have always lived among us. It hasn’t been until the development of registries and public websites that the majority of the community became aware of how many there are. The shock and fear of having too much information has led to the passage of policies that are flawed and not based on any actual risk factors such as residency restrictions.

Sex offender laws are important and should be maintained to honor the victims they are a memorial to. To refocus the intent of the sex offender registration and community notifications laws, there are several considerations that could achieve this. The length of registration should be based on risk assessment. The Adam Walsh Act (AWA) requires states to assign is 15 years (Tier 1), 25 years (Tier 2), or life (Tier 3) depending upon the specific conviction offense.

Community Notification could be limited to online notification of high risk offenders. An increase in community education of real risks vs myths, and awareness campaigns should
highlight the likelihood that sexual offense victims are much more likely to be abused by someone they know and trust than by a stranger lurking in the dark. Parents should be made aware of the signs and symptoms of child sexual abuse, and the common types of grooming patterns used by adult perpetrators who gain access to victims via their positions of trust or authority. Funding for these activities might be freed up by making reasonable reductions to the duration and number of offenders subjected to registration and notification requirements.

By refocusing the intent of sex offender registration and community notifications laws, the goal of creating a safer and more aware community can be achieved.
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