The difficulties and collateral consequences confronting family members, and especially romantic partners, of registered sexual offenders are well documented. In this important work, Zilney delves below the surface into what it really means to face the world as a woman who chooses to remain or to be in an intimate relationship with a man convicted of a sexual crime. Often shunned by family, friends, and society, these women live with the same restrictions and ostracism as the men with whom they have chosen to love and offer support. This examination of why and how they do what they do is a must-read for students of America’s sexual offense laws and what they mean for our society.

NARSOL – National Association for Rational Sexual Offense Laws

A sex offense conviction affects many facets of life. Sex crime scholarship thus far has prioritized the registrant experience, examining for instance, the adaptation to the label of “sex offender.” In her new book, Impacts of Sex Crime Laws on the Female Partners of Convicted Offenders: Never Free of Collateral Consequences, Zilney digs much deeper, studying a largely omitted population, the families of registrants, and their experience dealing and coping with arguably the most unwanted and feared label affecting a loved one. As the population of registered individuals continues to climb in the U.S., there comes a crucial need to identify the collateral consequences of registry and notification laws from a much broader framework. Zilney makes it her mission to fill this glaring gap by conducting in-depth and intensely revealing interviews to investigate her research questions concerning collateral consequences experienced by loved ones. Importantly, she is careful to situate findings into the current literature and policy landscape. Who needs to read this book? Everyone. As we reach the 1 million registered sex offender mark, the odds are most people—practitioners, academics, students, and those in the general population—will, in some way, be affected by the registry. Having a knowledge base by which to assess any
potential effects of registry systems is critical for all of us, whether directly or indirectly affected.

Christina Mancini, Ph.D., Virginia Commonwealth University

This book is a valuable resource for both students studying the complex issues of the criminal justice system and those touched by the far-reaching consequences of sexual offense registration and notification policies. Interviews with the female partners of convicted sexual offenders shed light on the often overlooked challenges experienced by those who maintain relationships with the men required to register. Their raw feedback will allow readers of all opinions and backgrounds to consider opposing perspectives.

Kristen M. Zgoba, Ph.D., Florida International University

Often lost in the simplistic outrage that sexual crimes elicits, is an understanding of the complexity of an offenders’ future and those they call family. Offenders are also brothers, children, wives, fathers and significant others. When these offenders return to the community after their criminal sentence, they will begin to restructure their lives to try and become productive citizens. Their families and support systems also face a set of challenges. Dr. Zilney’s thoughtful and well-organized work documents the many unintended consequences of our prolonged, entrenched sex offender laws and its impact on not only the offenders, but their support systems. Humanizing and contextualizing people who have committed real harm is an important social goal. Dr. Zilney’s research not only accomplishes this but equally importantly requires us to rethink how we help support these people and their families in developing healthy and safe relationships.

Richard G. Wright, Ph.D., Bridgewater State University

So rarely does a book on sex crime laws delve into the substantial effect that such laws have on family members and intimate partners. By combining academic analysis with transcribed interviews, Zilney offers a unique look at life behind the legislation, portrayed from the perspective of the women who are inadvertently caught up in the collateral consequences of a partner’s sex crime conviction.

Heather Ellis Cucolo, J.D., New York Law School

Zilney’s book, *Impacts of Sex Crime Laws on the Female Partners of Convicted Offenders*, offers much needed insight into the complex emotional and social challenges faced by those in relationships with sex offenders. It uniquely focuses on the varied dynamics between couples, reinforcing the importance of family on reintegration. Policies that stigmatize offenders stigmatize those who love them, and this in-depth study provides a much-needed analysis of the nuances of intimacy and support that are understood to be key to successful reintegration.

Diana Rickard, PhD, Borough of Manhattan Community College, CUNY
This work is an exploratory examination of the experiences, motivations, and coping mechanisms of women who are involved in intimate relationships with registered sexual offenders. The study focuses both on women who were involved with an offender prior to the commission of his offense and who stayed with him post-conviction, and on women who became involved with a registered offender after his sex offense conviction. Like the offender himself, these women face a variety of challenges in responding to treatment of them by friends, family, the community, and the criminal justice system.

Utilizing the results of intensive interviews, this work provides a unique look at the women who are one of the few sources of support for registered sexual offenders and assesses the effectiveness and wide-ranging implications of community notification and registration laws on public safety, policy, and practice. This work offers alternative approaches based on evidence and case studies and considers the significance of familial contact in buffering sexual recidivism. These women are the heretofore unstudied victims of sexual offending legislation.

This book is essential reading for those in sociology, criminology, psychology, and social work. For undergraduate or graduate students, practitioners, researchers, or policymakers, this thought-provoking book will shed light on how to optimize the reintegration of sex offenders. It assesses the effectiveness and wide-ranging implications of sex offender legislation on public safety, policy, and practice and considers alternative approaches to reduce sexual violence.

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interests are in the area of sexual offending legislation and its collateral impacts on the partners and families of sexual offenders. She has published widely in journals and has authored or co-authored four previous books. She is a member of the Academy of Criminal Justice Sciences (ACJS), the National Organisation for the Treatment of Sexual Abusers (NOTA), and the American Society of Criminology (ASC).
IMPACTS OF SEX CRIME LAWS ON THE FEMALE PARTNERS OF CONVICTED OFFENDERS

Never Free of Collateral Consequences

Lisa Anne Zilney
Who is wise in love, love most, say least.
~ Alfred Lord Tennyson

To my dearest husband, Jimmy,
You have shown me the meaning of true love.
I see it every time you look at me,
Feel it every time your hand touches mine.
I love you for always;
More than yesterday,
Less than tomorrow!
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PREFACE

Purpose of the Work

In today’s society, sex offenders are perhaps the most hated and feared of all offenders. We describe sex offenders as “sick,” “monsters,” “perverts,” and care little about the circumstances that led to their offending or the factors that may reduce future offending. Each law that is suggested to further control sex offenders is passed, with little regard for the impact on the offender, or whether said law will actually improve public safety. Each successive law increases public safety and boosts the ratings of get-tough-on-crime politicians. As a result, there are residency restrictions, community notification laws, a sex offense registry, laws that restrict social media access, laws that restrict associating with fellow sex offenders, laws that restrict access to minors (even one’s own children), and GPS monitoring, to name a few. There are thousands of laws targeting and labeling sex offenders for the American public in the name of safety.

The labeling extends far beyond the offender, to his family members and significant partner. Loved ones are subject to the shame and embarrassment of being tied to a “monster” and may need to comply with the restrictions placed on sex offenders as part of legal community management. A sex offender’s partner is implicated in the criminal justice system response should they choose to remain with the offender, abiding by restrictions implemented by a fear-based public designed to pacify the appearance of vengeance, rather than the creation of sound legislation designed to reduce sexual violence. The wives and girlfriends of sex offenders have not, up to this point, been the participants of serious criminological study.

The sociological/criminological theory of social reaction, commonly known as labeling theory, asserts that some behaviors, and therefore the individuals that
engage in these behaviors, are labeled negatively by society and by the criminal justice system. This act of labeling results in stigmatization of the individual by conventional society, resulting in a negative societal response. In the case of sexual offenses, labeling theory is useful in exploring the ramifications of an individual being labeled publicly as a sexual offender and the impact of labeling on the ability of an individual and his partner to (re)integrate successfully into a community. Because an overwhelming percentage of those labeled as sexual offenders by the system are male, this study focuses strictly on male offenders and their female significant partners. According to social reaction theorists, once an offense has been widely revealed and is labeled by others as deviant or criminal, the individual may continue the deviant behavior because they have internalized the personality characteristics that other people expect. Following this logic then, the likelihood of subsequent sexual offenses may be decreased if society, and the criminal justice system, did not publicly label individuals through the myriad of sexual offender legislation. This is not to suggest that sexual offenders should not be punished, but that overt community notification and registration policies may do more harm than good in reintegrating a sexual offender into a community and may additionally serve to target the offender’s family.

What is of greatest interest for this work is the labeling that extends beyond the sexual offender, to the offender’s significant partner. These family members are the unstudied victims of sexual offending legislation. This book explores the legislation that currently exists to label sexual offenders and their families. There are a litany of sex offender laws and almost all of them were created as knee-jerk responses to a very high-profile case. As such, these laws served to abate the public’s fear, but in the long run have done very little to protect the public from sexual offenses or to reduce recidivism. The law commonly used to label sex offenders and their family members is community notification and registration. These laws exist nationwide and require sex offenders to register with the police at various time intervals depending upon their tier level and in many states require law enforcement officials to notify communities when an offender moves into the neighborhood. The notification of community members and the notion of who has the right to be notified is the most controversial aspect of this law and is the aspect of the law that most negatively impacts family members of offenders. There are no national standards, so depending on the state, and on the offender’s tier status, varying degrees of information about the offender are available to the public. In order to notify the community, letters may be delivered by police to various community organizations or to neighbors, website notification may be involved, or billboard notification is possible.

Research remains speculative about the positive impacts of community notification laws in terms of decreased recidivism. Research shows that these policies increase feelings of public safety, but what are the effects of these laws on the lives of the offenders and their family members? Such laws decrease the possibility of community reintegration, making it difficult to secure housing, employment, and
other opportunities, as well as undermining rehabilitative efforts. Years of criminological literature reveals that the factors that encourage continued desistance from offending include integration or reintegration into the community, management of individual stress, and establishment of a stable lifestyle. This means the offender must find a community with supportive friends and/or family, a stable place of employment and residence, and develop appropriate social relationships. Obviously broad-based community notification policies can hinder all aspects of reintegration. Offenders and their families may also experience harassment by community members who may not know all the facts. Though the U.S. Supreme Court in Doe v. Poritz suggested this would not be a problem and that the public would act responsibly with the information obtained from such laws, a smattering of vigilante cases have occurred across the country.

In addition to community notification and registration laws, sex offenders and their families are also impacted by the continually expanded and refined laws that restrict where they may live, work, or visit. Distance requirements can be as severe as 3,000-feet from facilities where children congregate, to the least restrictive laws which involve a 500-foot distance requirement (Levenson & Cotter, 2005). These laws were passed in great numbers in many states despite no empirical research to demonstrate that residency restrictions lower recidivism or make communities safer. In many jurisdictions all tiers of sex offenders are subject to residency restrictions, and these laws may have no time limit and therefore theoretically extend past the time an offender is required to register as a sexual offender.

As they exist, residency restrictions have the unintended consequence of overwhelming a select group of communities with sexual offenders and their families because there are so few areas in which offenders are permitted to reside. Such laws may force sexual offenders to live under bridges or in the woods. These laws, combined with the unwillingness of landlords to rent to sex offenders, makes locating housing difficult and increases the likelihood of homelessness, which is extremely problematic as sex offenders are required by law to register an address with law enforcement or face imprisonment. Residency restrictions have a significant impact on the family of the offender – many areas where offenders are permitted to live would not be areas where his family would want to relocate. This has the potential to interfere with community reintegration and may prevent an offender from living with supportive family members.

This book is an exploratory examination of the experiences, perceptions, motivations, and coping mechanisms of the women who are involved in intimate relationships with registered sexual offenders (RSOs). Like the offender himself, these women face a variety of challenges in responding to how the criminal justice system and society treats the sexual offender and those who associate closely with him post-conviction. The study focuses on both women who were involved with the offender prior to the commission of his offense and who remain involved with him after criminal justice sanctioning, and on
women who became involved with men who have been sanctioned by the criminal justice system for sexual offenses. These women are unique in that they provide one of the few sources of support for sexual offender reintegration into the community, but they are also subject to much of the same labeling, and if they reside with the offender are subject to criminal justice sanctions (such as residency restrictions) as well. Familial contact, as has been well established by sociological and criminological research, is a significant buffer against recidivism, yet this notion has not been explored regarding the sex offender population – a population perhaps in greatest need of a support system to prevent further sexual recidivism.

Methodological Outline

This work examined the motivating factors for a woman to remain in, or start, a relationship with a registered sex offender (RSO). It also examined the coping strategies by women who were in a relationship with an RSO to deal with the negative consequences of these laws and other labeling impacts. This study used 94 in-depth, qualitative interviews with women who were dating or married to RSOs across the United States (regardless of tier level) to explore the following research questions:

- What were the motivating factors for a woman to remain in, or start, a relationship with a registered sexual offender?
- How were the women impacted by community notification and registration laws?
- How were the women impacted by residency restriction laws?
- What were the coping strategies implemented to deal with the negative consequences of community notification and registration laws, residency restrictions, and other labeling impacts?

Participants were recruited via an email announcement looking for adult women who were “dating or married to a registered sex offender.” Participation was sought through all state RSOL (Reform Sex Offender Laws) groups, the dailystrength.org support group, National Association for Rational Sex Offense Laws (NARSOL), Women Against Registry (WAR), Sex Abuse Treatment Alliance, and the Association for the Treatment of Sexual Abusers. The National Association for Rational Sex Offense Laws and 27 state RSOL groups replied indicating they would distribute my call for participants to the members of their groups. Individuals willing to participate contacted the principal investigator to set up a mutually agreeable time for a phone interview. All adult women dating or married to a registered sex offender who were willing to participate were welcome in the study. Partners of registered sex offenders of all tier levels were included to cover a range of experiences. Women were welcome in the study
irrespective of whether their partner claimed he had been falsely accused of the sexual offense, as long as he was still subject to the registry.

Consenting participants were interviewed by myself (the primary investigator), over a two-year period via telephone. The interview inquired as to the initial reaction to, and perception of, the sexual offense, the participant’s responses and experiences with the offender’s conviction (for women who were with the offender prior to the offense – and incarceration, if applicable), the motivations for her intimate involvement with a registered sexual offender, the societal reactions to the participant for her involvement with the offender, and obstacles she has faced on a structural and personal level as a result, as well as the mechanisms she used to cope with these obstacles.

Interviews with the partners of sex offenders were conducted, transcribed, and analyzed using the techniques elaborated by Atkinson’s life story interview (2001) and Braun and Clarke’s (2006) thematic analysis approach. Each transcript was read in its entirety twice prior to coding. Transcripts were read a third time in sections and words, sentences, and phrases were highlighted that were relevant to each of the research questions. Data analyses focused on exploring the motivations of participants to remain with a sex offender, the impacts on the participants of sex offender legislation, and the descriptions of their experiences. When several interviews included overlapping experiences and/or feelings, themes were identified and patterns coded. Additionally, I was open to the formation of themes unrecognized in the research questions, as this study was charting new theoretical ground. Accordingly, the study utilized both inductive and deductive analysis. Themes were coded and organized into significant groups for analysis. Drawing on grounded theory, social reaction theory and techniques of neutralization, emergent themes that participants expressed were identified and categorized over repeated readings using color-coding to permit categorization of concepts and data organization. Throughout the book, quotes are selected that best encapsulate themes the participants discussed.

All interviews were transcribed verbatim in order to preserve actual speech of the participants. So, for example, “y’know” was left in the transcribed interview instead of changing to “you know.” As principal investigator and transcriber, I checked each interview against the original recording for accuracy a minimum of twice. Because of the average age of participants, when anonymizing names for this publication, I used the Social Security Administration’s Top Names of the 1970s (n.d.) and assigned names based on the participant’s numerical code in the study. This random assignment was used to protect the participant’s confidentiality.

**Organization of the Work**

This is the first study of its kind to explore women’s involvement with registered sexual offenders and how they are impacted collaterally by the criminal
justice system. Part I of the book examines Legislation and Sexual Offenders. Chapter 1: Politics, the Media, and Laws explores the moral panic created in the media around sexual offenders which has resulted in various sex offender laws. The discussion begins in the 1930s and examines how as social, moral, and political aspects of society change, so do the definitions of a sexual offense. The chapter explores how high-profile, atypical sex offenses led to the passage of the most serious sex offense laws the United States has currently. This legislation includes the Jacob Wetterling Act, Megan’s Law, the Adam Walsh Child Protection and Safety Act, social media regulations, residency restrictions, GPS monitoring, and civil commitment. The public’s view on sex offenders is discussed, as are the views of the 94 women involved with sex offenders who participated in this study. Chapter 2: Time for a Reality Check examines the statistics with regard to sexual offenders and offenses. The public has a misperception regarding how many sex offenders there are in society and this chapter provides the facts using Uniform Crime Report (UCR) and National Crime Victimization Survey (NCVS) data. The chapter examines the prevalence of sexual offending in the areas of child sexual abuse, adult sexual abuse, college victimization, and internet sexual offenses. It also provides offender profiles for juvenile offenders, female offenders, as well as data on incarceration and recidivism.

Part II explores Life With a Sex Offender. Chapter 3: Relationship and Revelation explores the motivations for a relationship with a registered sexual offender. The chapter examines the motivations for starting a relationship with someone who has committed a sex offense prior to dating or marriage, and the motivations for staying in a relationship or marriage with someone who commits an offense during the partnership. It also explores the hesitations that women experience in starting such a relationship and the changes women experience when an offense occurs within the context of a relationship. This chapter examines the circumstances surrounding the discovery of the offense, whether their partners kept the offense hidden or was voluntarily forthcoming with offense-related information and explores the women’s reactions to learning about the offense. Chapter 4: Understanding and Consequences explores how the offense is understood by the female partners and how life changes when family and friends find out about the woman’s involvement with a registered sex offender. Understanding the offense involves an examination of the theoretical principals of techniques of neutralization, including the four types of techniques of neutralization used by women to justify their partner’s behavior. Also, the chapter explores responses to the female partner by family members and friends when it is discovered that she is associated with a registered sexual offender.

Part III is a discussion of Collateral Consequences for Partners of Registered Sex Offenders. Chapter 5: Registration and Community Notification discusses a brief legal history of registration and community notification laws. Attitudes of the public, law enforcement, and treatment professionals toward SORN (Sex Offender Registration Notification) laws are examined, as are
effects on recidivism and community integration of the offender. The chapter delves into the collateral consequences of SORN policies on the partners of sex offenders. These collateral consequences include reclassification of tiers which results in a longer time on the registry; stigma from the community; as well as fear and harassment in the community from neighbors and law enforcement. Also, the chapter elaborates on potential improvements to current SORN laws.

Chapter 6: Employment, Housing, and Parenting Challenges explores challenges for sex offenders and their families in the areas of employment, housing, and at home. Employment challenges for the offender’s family are examined, as are the consequences of underemployment and unemployment. A brief legal history of Sex Offender Residency Restrictions (SORRs) are provided, and legal challenges to these policies are discussed. This chapter includes a discussion of whether SORRs prevent sex offenses or sexual recidivism, and the collateral consequences of these policies on the partners of registered sex offenders. On the home front, this chapter details the prohibition from contact with minors faced by most sex offenders, and the negative impacts of this restriction on parenting, traveling, and church attendance.

Part IV explores women Moving Forward. Chapter 7: Coping Strategies and (Re)Integration details the emotional impacts that the formal and informal social controls on sex offenders have on their partners. The chapter also delves into the negative coping mechanisms and positive coping strategies used by women to deal with these emotional impacts. Positive coping strategies include self-help groups, counseling, physical fitness, spirituality, or involvement in groups that advocate change. This chapter elaborates on the integration or reintegration of offenders and their families into communities and provides suggestions from partners of sex offenders on how to more successfully reintegrate offenders. The chapter ends with policy suggestions for sex offense legislation moving forward.

This work suggests that community management of sexual offenders needs to be about striking the delicate balance between protecting community safety from the high-risk offenders and permitting low-risk offenders to successfully reintegrate back into society and into a social and family life. The labeling of a sexual offender in American society extends far beyond that one individual to his family members. These individuals are subject to the shame and embarrassment of being tied to a “monster,” and if they want to help their family member reintegrate into society successfully, they may need to comply with the many restrictions placed on sexual offenders as part of community management. This work clearly demonstrates that a partner experiences similar isolation and guilt as the offender. In our fear-based need to control sex offenders, a sex offender’s partner has been implicated in the criminal justice system response, should they choose to remain with the offender after his conviction; having to abide by restrictions implemented by knee-jerk legislation designed to pacify the public. These women are collateral, hidden victims of the criminal justice system. We need to work
toward sound legislation that works to diminish the likelihood of sexual violence in society, and the promotion of reintegration.

References


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I am extremely thankful to the 94 women who courageously shared their stories with me! Daily they are negotiating lives burdened by over-zealous laws and stereotypes regarding the men they love. Their lives and relationships are complicated in ways that most people do not experience, and they were brave enough to share their stories. I hope they feel this research has shed some light on their struggle for more reasonable laws and done justice to their stories. Thank you to the organizers of all state RSOL (Reform Sex Offender Laws) groups, the daily-strength.org support group, National Association for Rational Sex Offense Laws (NARSOL), Women Against Registry (WAR), Sex Abuse Treatment Alliance, the Association for the Treatment of Sexual Abusers, and other groups I may not be aware of, who shared my call for participation in this project. Thanks to all the individuals advocating and working tirelessly in these groups and other activist groups who lobby policymakers and fight to change legislation so that it is both reasonable for offenders and their families and aims to prevent sexual violence!

I am enormously grateful to my mother, Mary Zilney for reading, editing, and providing critical evaluation on every single chapter of this work. Her feedback was extraordinarily elucidating! Her routine “check-ins” kept me on track, and her positive comments were inspiring. Not many academics are fortunate enough to have a parent who is both interested and who can positively contribute to their work. This project definitely brought us closer, and for that I am very blessed!

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like his, I cannot fathom! Without his SPSS genius, this work would not have been the same!

A project such as this one carries with it an emotional toll for the author. This project took longer than I wanted to reach its destination. I struggled with the stories I was handed and the responsibility to share them in a way that was meaningful, and in a way that could potentially shape policy. My emotional toll was lifted daily in my Pennsylvania retreat: thank you to my safe-haven husband and my two furry friends, Annie and Tennessen, who provided multiple daily reminders to break for sanity!

Despite all outside input, any errors in interpretation remain my own.
PART I

Legislation and Sexual Offenders
The Sex Offender Moral Panic in the Media

Laws are the narratives that represent the values of a society. “As law is enforced through an elaborate system of rules and regulations, expectations and exhortations, what emerges is a moral universe, a system of checks and balances that maintains clear gradations between what constitutes acceptable versus antisocial behavior” (Schultz, 2011: 168). We define crimes, we label criminals, and throughout history the level of outrage associated with various types of criminals has changed, yet the moral disgust directed at sex offenses and sex offenders has remained relatively constant. The public is fearful of those portrayed in the media as “beasts,” “devils,” “perverts,” “fiends,” or “evil” (Kitzinger, 2004). “Sex offenders are construed as predators, in much the same way as the monsters that populated the medieval imagination were construed as a combination of human and animal in some manner associated with sinful sexual conduct” (Douard, 2007: 43). The media applies the term “sexual predator” indiscriminately to crimes ranging from minor sexual offenses such as voyeurism, to violent sexual assaults, to homicides with sexual components (Schultz, 2011). We pass laws dealing with sexual offenders based on the most high-profile and most serious cases, yet most offenders do not fit these categories. How did we get to this place?

Legal regulation of sexual behavior can be traced to the earliest civilizations. However, as social, moral, and political aspects of society change, so do the definitions of a sexual offense, a sexual offender, and the perceived socially appropriate responses to such offenders. The historical roots of American sex offender laws can be traced to the 1900s United Kingdom’s dangerous offender legislation. In the American 1930s, the focus was on “perverts” with sexual urges and
increasingly violent behavior. Due in part to the merging of the medical and legal fields, the result was the medicalization of sexual offenses. The solution to sexual offenses was indefinite confinement in a psychiatric facility as it was believed mental or personality disorders predisposed one to commit sexual violence (Lucken & Latina, 2002).

Morality statutes prohibited offenses such as sodomy, adultery, bestiality, and homosexuality. Sodomy was a catch-all legal term that encompassed many consensual behaviors, most often between homosexuals. By way of example: in New York, consensual sodomy was punishable by a maximum of one-year imprisonment in the 1940s; however, in Georgia, the sentence was potentially life imprisonment. It was in this environment that sexual psychopath legislation was created. While official statistics demonstrate a rise in sex crimes beginning in the 1930s, most arrests during this period were for adult consensual encounters. As such, statistics reflected the morality of the time, rather than an increase in sex crimes (Lucken & Latina, 2002). So, this raises the question: how did the public become concerned about a perceived link between violence and sexual crimes? The answer has much to do with the media, which has a strong influence on how people perceive the world that surrounds them. Many scholars suggest that the American media has a preoccupation with crime, filling the news with the most gruesome and violent tales, despite that those are rare crime events (Moriearty, 2010).

In the early to mid-1930s, the media started highlighting articles on the murder and sexual assault of children. Beginning with the case of Albert Fish in New York state, there were a series of violent and sexually-involved offenses in a reasonably short timeframe that provoked public outrage and gave rise to new legislation (Lucken & Latina, 2002). Albert Fish was alleged to have violated hundreds of children and killed as many as 15 youths before he was apprehended in 1934 for the sexual assault, murder, and cannibalization of a 12-year-old boy. His case garnered much public fascination until his execution in 1936. During this same period, there was a serial rapist in Illinois. Gerald Thompson allegedly had a diary that listed more than 80 names of women he sought to violate. In 1935 he was found guilty and executed for rape and murder. Just a few years later, in Washington, DC, taxi driver Theodore Roosevelt Catoe admitted to raping and choking ten women. He was executed in 1943. These sexually related crimes, in addition to other high-profile crimes, struck fear into the public.¹

Due primarily to the media’s intense coverage of these cases, the public believed there was an epidemic of sexual offending and linked sexual offenses to serious violence. Parents feared predators like Albert Fish were lurking in the streets, and “sex offender” for many became synonymous with “child sex predator” (Lucken & Latina, 2002). It should come as no surprise that this fueled a conservative approach to crime reduction. In the 1930s social scientists had no conception of a “moral panic,” however, in hindsight we can understand these events through this concept. Sociologist Stanley Cohen used the idea of a
moral panic to refer to “a condition, episode, person or group of persons [that] emerges to become defined as a threat to societal values and interests” (Cohen, 1972: 9). The claim of the threat is disproportionate to the actual risk, and the issue becomes sensationalized through the media, to the point where hostility is engendered toward a targeted group, and a consensus toward action is formed. The consensus is often reactionary and punitive toward the targeted group, resulting in the criminalization of their behavior and resulting social injustices (Cohen, 1972). Using moral panic language to conceptualize legislative and societal responses to sexual offenses does not minimize the consequences of those victimized by sexual crimes. Instead, it is meant to highlight the exaggerated nature of fear over sexual crimes and the reactionary policies that do not serve to effectively prevent or reduce sexual violence.

Citizens cannot understand a sex attack on a child, and this incomprehensibility fuels reactions of fear.… The attack and investigation become front-page news … describing the failure of the justice system to protect vulnerable persons, which fuels a strong public reaction.… Government officials then feel compelled to act. (Lieb, Quinsey, & Berliner, 1998: 11)

In a time of exaggerated fear, the public can see budding Albert Fish’s in the most minor of sexual crime offenders. In this environment, police often crack down on petty offenses that normally would not have resulted in arrest or prosecution. For example: homosexuality-related offenses, exhibitionism, or prostitution. Minor crime arrests drive up the rate of official sex crime statistics. The local media is likely to report and contextualize local sex crimes (even minor ones) in the nationwide perspective of sexual offending, leading the public to the perception that on the local and national levels such offenses are increasing and potentially epidemic. The result is not an actual increase in the rate of serious sex crimes, but an increase in the public’s fear due to increased media coverage. A natural reaction is a concern for the safety of children and personal safety, which is demanded by the public in get-tough legislation. In the 1930s, FBI leader J. Edgar Hoover declared a “war on sex crimes” to satiate the public’s fear (Lucken & Latina, 2002). By the late 1930s “public indignation had reached almost a mass hysteria which had affected not only the public but also official authorities.… A sheriff in New York recommended shooting every child attacker on the spot” (Wertham, 1938: 847). What was lost in this panic, by both the public and lawmakers, was the reality that serious sexual violence and sexual homicides were rare incidents.

The panic over sexual offenders drew to a close with the end of the Lover’s Lane murders in 1942. Though there were spikes in both media coverage and public fear again between 1947 to 1950 and 1953 to 1954 (Jenkins, 1998). Time magazine published a very short article in 1950 attempting to debunk stereotypes
Sex crimes, flamboyantly headlined in the press, are currently troubling both public and police. After seven months of poring over statistics and case histories, New Jersey’s Commission on the Habitual Sex Offender last week issued a report. One of its main conclusions: the average citizen knows little about the scope and nature of sex crimes, but he is oversupplied with misinformation on the subject. Some of the popular convictions which the commissioners would like to correct: (1) That the sex offender progresses to more serious sex crimes. Statistics clearly show that “progression from minor to major sex crimes is exceptional.” (2) That dangerous sex criminals are usually repeaters. Actually, of all serious crime categories, only homicide shows a lower record of repeaters. (3) That sex offenders are oversexed. Most of those treated have turned out to be physically undersexed. (4) That there are “tens of thousands” of homicidal sex fiends abroad in the land. Only an estimated 5% of convicted sex offenders have committed crimes of violence. The commission’s cool, if not too reassuring, report: “Danger of murder by relative or other intimate associate is very much greater than the danger of murder by an unknown sex fiend.”

(“The Unknown Sex Fiend,” 1950)

These findings were a minuscule part of a report by the New Jersey Commission on the Habitual Sex Offender, and while it was noteworthy to have appeared at all in the national mainstream media, both the title and the note that the report was “not too reassuring” were undermining of the Commission’s significant research endeavor.

The media is an important tool for informing public perception, especially as related to issues of crime. The media is one factor that can fuel social and legislative changes and is a mode of dissemination of information that may otherwise remain unavailable to the everyday citizen (Ducat, Thomas, & Blood, 2009). However, this relationship is not causal. While some states chose to respond to the public’s fear and pressure for social changes with legislation that was tough on sexual offenders, at least 15 states responded with the establishment of a commission to study the social problem of sexual violence (Galliher & Tyree, 1985). In fact, the two major outcomes during this time period were either research from Commissions or academic communities, or the legislative passage of sexual psychopath laws. The public was fearful of sexual offenders, but the 1950s were a historical period wherein women and children held a different role than today. Physical collaboration of sexual assault was required by the courts, child sexual abuse was not deemed a social problem, and rape charges were frequently dismissed or resulted in plea bargains. The criminal justice system did not view
sexual offenses seriously unless it was a stereotypical stranger offense that involved serious physical harm to the victim.

In the 1960s and 1970s, profound societal changes occurred as part of social movements for the rights of women, minorities, victims, and offenders. The legal landscape began to change and there were concerns regarding overcriminalization and the due process rights of criminals. There were relaxed restrictions on morality offenses, on the acceptance of pornography, and on consensual sexual behavior. As well, the public began to question if rehabilitation was possible within the prison setting. Women’s groups challenged stereotypes regarding rapists as the “strangers lurking in the bushes” and suggested that sexual violence should be viewed as a broader structural problem. Women’s groups also worked to strengthen rape laws and wanted society and the criminal justice system to understand that rape did not necessarily conform to existing rape myths that pervaded society (Corrigan, 2006). Victim’s groups worked with law enforcement to increase knowledge regarding sexual violence, sought protection for the privacy of victims, encouraged reporting of victimizations, and created rape crisis centers (Bevacqua, 2000).

The laissez-faire moralism of the 1960s changed to a moral conservatism in the 1970s and 1980s. This period also brought increased concerns to issues surrounding child abuse by women’s groups and social welfare groups. A major piece of legislation was passed in 1974, the Child Abuse Prevention and Treatment Act. This Act mandated reporting and subsequent investigation of all allegations of abuse, provided federal funds for child abuse investigation, established the Office on Child Abuse and Neglect for data collection, and created the National Center on Child Abuse and Neglect. This Act has been amended multiple times since 1974, most recently in 2016 as the Comprehensive Addiction and Recovery Act. In an increasingly conservative moral society, the media’s investigations into the “epidemic of sexual violence” began anew. There were publications on “recovery literature,” rape, incest, child sexual abuse, ritualized abuse, and the general message was that sexual violence was rampant.

One of the new fears covered in the media in the 1980s was child pornography and its presumable link to pedophilia. According to one researcher:

The phenomenon of pornography rings became linked in the public mind with the idea of the pedophile as an organized career criminal, a violent predator who was potentially capable of abduction and serial homicide and who usually hunted in packs. The scandals of the early 1980s led law-enforcement agencies and the media to suggest that child pornography was often the work of organized pedophiles and that pedophiles, individually and in rings, molested large numbers of children, sometimes abducting their victims. Although a new departure in the stereotype of the molester, the sex ring idea developed immense
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force and retained a grasp on the public imagination long after the most extreme charges concerning these operations were discredited.

(Jenkins, 1998: 146)

Once the public saw the link between pornography and sex crimes in the media “it [became] part of the public’s image of the problem and may [have helped] justify new public policies” (Best, 1990: 46). Women's and victim's rights groups sought to extend this line of thinking to adult pornography and sought to pass legislation outlawing pornography in many jurisdictions. In the case of adult sexually explicit material, however, the courts have been clear that such printed and electronic matter is protected by the Constitution. That said, many moralists and feminists consider it offensive and obscene.

The 1980s saw an increase in the number of child sexual abuse cases prosecuted by the courts: cases of child pornography, child sex rings, and child sex abuse were recounted in courts and in the media. This time period saw widespread media discussion of sex trials and this served to reflect on and reinforce sexual norms, as well as challenge the shame and stigma attached to victims and translate those meanings into survivor stories (Serisier, 2017). As the 1990s began, there were high-profile cases involving children that were dramatic. Most notably the disappearance of Jacob Wetterling, the sexual assault and murder of Megan Kanka, the abduction and murder of Amber Hagerman, and the kidnapping and murder of Polly Klaas. These cases were presumed to involve children brutally harmed or murdered by previously convicted sexual offenders, and they launched a new wave of stranger-danger panic and a new call for get-tough legislation. The U.S. was at the forefront of the passage of innovative laws that were passed quickly in response to these high-profile cases that occurred in fairly rapid succession. These laws remain in effect today, despite having minimal, if any, impact on sex offender recidivism or community safety.

While stranger offenses are not the most common type of offenses, these themes remain the most popular in the mainstream media:

 Stranger-danger stories have great appeal to journalists. The random and public nature of such attacks makes every reader or viewer potentially at risk from the “pervert on the loose.” Such cases often combine sex and murder. They also have ongoing narrative momentum (the appeal by parents for the missing child, the eventual tragic discovery) and they come with their own available images (the little girl in her school uniform, the security video footage of her last journey, the police searching wasteland).

(Kitzinger, 2004: 128)

The problem with this media narrative is that it significantly skews the policies and laws that are supported by the public (Benedict, 1992; Carringella-MacDonald,
The discourse around sexual offenders has become integral to how people conceptualize sexual violence, and how we reflect on and expand legislation that targets sex offenders in the United States. “There is increasingly myopic focus on the ‘predator’ as personifying the danger to [communities] … the predator template [has become] more and more central to how we think and talk about sexual violence” (Janus, 2006: 131). News media emphasizes sensationalized sexual offenses and this translates into a legislative and political “panic” (Greer, 2012; Kitzinger, 2004; Krinsky, 2016; Lancaster, 2011; Leon, 2011). In a content analysis of 323 Los Angeles Times articles spanning 25 years (1990 to 2015), research continued to find misrepresentations of sexual offenders. Mainstream media coverage of sexual offenders most likely focused on repeat offenders, multiple victims, crimes against children under the age of 12, and stranger kidnappings and murders (DiBennardo, 2018). While the media focuses on violent sex crimes, our laws continue to expand and encompass crimes as minor as sexting and public urination. As the laws expand, so too does society’s definition of a sexual offender. Samantha had some insight into one of the survey questions that accompanied our interview:

One of the questions on there was something like, “Do you feel that your spouse fits into society’s definition of a sex offender?” And I thought about that a lot. I really think that society’s definition, if you just pulled somebody off the street, I really think that society’s definition of a sex offender is whoever the government tells me is a sex offender, that’s a sex offender. It doesn’t matter if you took a 13-year-old kid sexting on his phone or a 32-year-old guy who is a child molester; they are both looked at as a sex offender. Whatever they’ve been told, that is a sex offender. So, I had to say yes to the question. I mean, by society’s definition, my husband is a sex offender because someone decided that he is. So, that’s been kind of one of those things that’s hard to think through, because how do you combat that? I mean, once you’ve been given that label by the government, people are going to believe it.

Before Samantha married her husband, he pled guilty to what he said was a false allegation of sexual contact with a minor. He was sentenced to 15 years on probation and later served five years on a drug violation. The female family member later recanted, acknowledging that she lied. This media environment continues today; a continuation of a hostile public toward sex offenders, and a criminal justice system that trends toward more punitive legislative measures and increased sentences (Thakker & Durrant, 2006; Zgoba, 2004).

What has changed is greater empowerment of victims, at least as represented in the media. The #MeToo Movement was launched in 2006 as a non-profit, dedicated to providing a space for survivors of sexual assault, a space for healing. It went viral in 2017 in the midst of the Harvey Weinstein scandal.
This was the great unleashing that turned the #MeToo hashtag into a rallying cry. The phrase was first used more than a decade ago by social activist Tarana Burke as part of her work building solidarity among young survivors of harassment and assault. A friend of the actor Alyssa Milano sent her a screenshot of the phrase, and Milano, almost on a whim, tweeted it out on Oct. 15. “If you’ve been sexually harassed or assaulted write ‘me too’ as a reply to this tweet,” she wrote, and then went to sleep. She woke up the next day to find that more than 30,000 people had used #MeToo. Milano burst into tears.


Initially, responders were in the entertainment industry, but the hashtag very quickly went viral and global. Within a month, there were #MeToo protests in the streets. In fact, the *Time* Person of the Year for 2017 was “The Silence Breakers.” These were 61 women and men who reported sexual assault and harassment. Could this represent the cusp of change in American society in challenging sexual abuse? It may, but it also represents even greater media focus on sexual offenses, as men and women use social media to speak out about their experiences of sexual assault. What will this mean for new sex offender legislation? As of now, new legislation has not been passed directly on the heels of the MeToo movement. The consequences have been scores of accused individuals stepping down from their employment positions; even individuals associated with accused individuals have stepped down from prominent positions. How can we balance the safety and protection of victims with the reasonableness of legislation? How can we maintain a community in which one is innocent until proven guilty while safeguarding the protection of women and children? Only time will be able to address these concerns as consciousness-raising is balanced with legal constraints (Gash & Harding, 2018).

**A Brief Guide to Sex Offender Laws**

The public’s fear of sex offenders and the responsiveness of the government in legislation has resulted in increasingly punitive sex offender regulation in the United States over the past 30 years. This has included the Jacob Wetterling Act, Megan’s Law, the Adam Walsh Child Protection and Safety Act, chemical castration laws, residency restrictions, augmented mandatory minimum sentencing, expanded requirements of probation, GPS monitoring, social media regulations, civil commitment legislation, and mandatory public registration in all 50 states for convicted adult sex offenders and in 37 states for juvenile sex offenders. The laws “exhibit[s] the classic signs of panic legislation, namely, poor conception and drafting, overly broad scope, and inadequate consideration of the likely side effects” (Jenkins, 1998: 6). Many of these pieces of legislation were designed in a state of panic, almost immediately following a high-profile crime. The laws are
conciliatory and provide the public with a sense of security but are largely mis-directed and underdeveloped (Zgoba, 2004).

**Jacob Wetterling Act**

Minnesota 1989: 11-year-old Jacob Wetterling, his brother and a friend, were riding their bicycles when confronted by a masked man with a gun. Jacob was abducted and the other two boys were told to run. Because a halfway house was located nearby, it was suspected that a previously convicted sex offender abducted Jacob, but no suspects were readily found. In 1993 the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act came into effect. Twenty-seven years later, Danny Heinrich led law enforcement to Jacob’s remains and admitted to his sexual assault and murder in 2016. The confession was part of a plea on a federal child pornography charge, for which Heinrich was sentenced to 20 years. The Wetterling Act was amended in 1996 and evolved into a community notification law which mandated that all states have registration protocols for sex offenders or risk losing federal funds for crime measures. Every state has a mandatory registration law requiring sex offenders to register their home address with law enforcement every 90 days for Sexually Violent Predators and annually for other offenders. This registration is to last for life for Sexually Violent Predators and for a period of ten years for other offenders. Who has access to this information varies by state and by the offender’s tier assessment. In most states, this information is publicly accessible via a website. A main purpose of the Wetterling Act was to establish the class of offenders deemed Sexually Violent Predators (SVPs).

**Megan’s Law**

By the mid-1990s, though many states had implemented community notification guidelines, as outlined in the Wetterling Act, in 1996 Congress proceeded to pass Megan’s Law. The federal law mandated public disclosure of sex offender registry information whenever deemed necessary for public safety. The impetus for Megan’s Law was the 1994 rape and murder of a young, middle-class girl in New Jersey named Megan Kanka. The perpetrator was a paroled sex offender who lived in the neighborhood with two other paroled sex offenders. Jesse Timmendequas had two prior sex offense convictions and had plea-bargained on the most recent charge to a term of ten years (Pallone, 2003). He lured Megan to his house under the pretense of seeing his puppy. He sexually assaulted and murdered Megan, disposing of her body in a nearby park. The case brought intense media attention and outrage to the community. Megan’s mother reportedly said: “We knew nothing about him. If we had been aware of his record, my daughter would be alive today” (Human Rights Watch, 2007: 47).
Within a month of the murder, Megan’s Law was passed in New Jersey. This law became the standard for other states, with 16 states following New Jersey’s lead within one year of Megan’s murder. The stated goal was to increase public safety.

Megan’s Law requires sex offenders to register with law enforcement at varied time intervals, depending on their tier level. For the most part, the type of crime an offender commits determines tier assignment. General guidelines for tier assignment exist, though there is variation by state. A Tier 1 offender is deemed to be the lowest risk to the public and has committed a non-violent offense against a victim who is an adult. Examples of Tier 1 offenses include possession of child pornography; voyeurism offenses; public indecency offenses; or non-penetrative sexual contact offenses without consent with an adult victim. A Tier 2 offender is deemed to be a higher risk to the public and is an individual who commits a second Tier 1 offense or a non-violent sexual offense against a minor. Examples of Tier 2 offenses include sexual contact with a minor aged 12 to 15; a sexual crime against an individual in the offender’s custody (e.g., foster child); distribution or production of child pornography; sex trafficking of a minor; transporting a minor with the intent of sexual activity; or sexual coercion of a minor. A Tier 3 sexual offender is deemed to be at highest risk to the public and is an individual who is a repeat Tier 2 offender or an individual who commits a sexually penetrative act (as opposed to a crime involving sexual contact) or a sexual crime involving violence. Examples of Tier 3 offenses include sexual acts that involve threats, force, drugs, or intoxication, or the victim’s mental or physical inability to consent; sexual acts or contact with a victim under the age of 12; and kidnapping or false imprisonment of a minor.

In many states, the most controversial aspect of Megan’s Law is the requirement that authorities notify community members when a sex offender moves into the neighborhood. National standards do not exist regarding community notification guidelines, so it varies by state, depends on the offender’s tier status, and there are varying amounts of information available to the public. A notification may be a letter to community organizations or neighbors, website notification, or it may mean a billboard with the sex offender’s identifying information. Identification may also be placed on an offender’s driver’s license.

The rationale for community notification and registration laws was public safety, as echoed in President Bill Clinton’s Presidential Radio Address:

Nothing is more threatening to our families and communities and more destructive of our basic values than sex offenders who victimize children and families. Study after study tells us that they often repeat the same crimes. That’s why we have to stop sex offenders before they commit their next crime, to make our children safe and give their parents peace of mind.

(Human Rights Watch, 2007: 47)
It did not matter that claims of high recidivism were false, and it did not matter that a registry does not protect children from familial adults that were the most likely to harm them. Such legislation provides some sense of community empowerment, especially immediately after a high-profile offense.

**Adam Walsh Child Protection and Safety Act**

Florida 1982: Adam Walsh was a six-year-old boy who was abducted from a department store. Sixteen days later, fishermen found his severed head floating in a nearby canal. In 2006, on the 25th anniversary of Adam’s abduction, the Adam Walsh Child Protection and Safety Act was signed into law. This Act completely rewrote the federal standards for registration and notification into SORNA (Sex Offender Registration and Notification Act), a national and comprehensive streamlined system wherein all states would have identical information posted about sex offenders online. Additionally, the legislation organizes offenders into tiers and requires Tier 1 offenders to register annually with law enforcement for 15 years, Tier 2 offenders to register semi-annually for 25 years, and Tier 3 offenders to register every three months for life. Failure to register with law enforcement or update personal information is a felony and can result in a fine of up to $250,000 and/or imprisonment of a maximum of ten years. Under SORNA, offenders as young as 14 years of age are required to register. The number of sexual offenses that require registration was expanded, and foreign convictions were included. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) was created within the Department of Justice. Additionally, the Department of Justice established the Dru Sjodin National Sex Offender Public Website in order to maintain one access point for all sex offender registries. Though the constitutionality of the registration requirement has been legally challenged, it was upheld by the court in July 2008.

The Act eliminated the statute of limitations for prosecution of felony child sexual offense cases and child abduction cases, established a federal DNA database, and funds electronic monitoring (GPS) of offenders. The Act also created mandatory minimum sentences for some offenses: 30 years for rape of a child, and 10 years for child sex trafficking or coerced child prostitution. Additionally, the minimum terms of imprisonment were lengthened for offenders traveling between states with minors. As well, the Act allowed victims of child abuse to civilly sue the offender for damages. All states were required to comply with the provisions of the Adam Walsh Child Protection and Safety Act and SORNA by July 2009 or risk a reduction in federal funds. The Adam Walsh Act is yet another example of how the government responds to fear-mongering instead of objective facts. This Act is a sweeping piece of federal legislation not based on any research regarding how to decrease sexual crimes.
**KIDS Act and Social Media Regulations**

As the internet became more widespread, it became an increasing concern that offenders would use social media to prey on minors. In 2008 the KIDS Act (Keeping the Internet Devoid of Predators) was passed, which added to SORNA the requirement that jurisdictions collect internet identifiers of sex offenders when they register. These identifiers were not, however, permitted to be posted on the public sex offender website. This same year, MySpace and Facebook increased safeguards to protect minors.

Legal restrictions on social media use and registration of internet identifiers are debated, however, as First Amendment issues. In a significant case in June 2017, a North Carolina law was struck down by the Supreme Court which barred sex offenders from utilizing social media sites such as Facebook, Twitter, Snapchat, LinkedIn, and YouTube. This case revolved around Lester Packingham whose initial sex offense occurred in 2002, and for which he was sentenced to 2 years of supervised probation. Fast forward 8 years to his arrest for a celebratory post on Facebook in response to a dismissal of a parking ticket (Wolf, 2017). The law Packingham violated stated that:

> It is unlawful for a sex offender who is registered … to access a commercial social networking site where the sex offender knows that the site permits minor children to become members or to create or maintain personal Web pages on the commercial social networking site.

*(devogue & Diaz, 2017: online)*

The court ruled unanimously that prohibitions such as these infringe on lawful speech and are therefore in violation of the First Amendment. In the decision, Justice Anthony Kennedy wrote:

> To foreclose access to social media altogether is to prevent the user from engaging in the legitimate exercise of First Amendment rights…. Even convicted criminals – and in some instances, especially convicted criminals – might receive legitimate benefits from these means for access to the world of ideas, in particular if they seek to reform and to pursue lawful and rewarding lives.

*(Wolf, 2017: online)*

This ruling recognizes that much of community life today is structured through and/or around social media and sex offenders should have this right to free speech. There are some that disagree with the court’s ruling. North Carolina’s Senior Deputy Attorney General, Robert Montgomery claims that offenders use social media to gain information about minors for the purpose of sexual offending in more than 80 percent of cases. Thirteen states shared the Deputy
Attorney General’s view and defended the North Carolina law (Wolf, 2017). In 2019, the Illinois Supreme Court further clarified that whether during or after supervision, a blanket ban on the use of social media is a violation of the First Amendment (The People of The State of Illinois v. Conrad Allen Moger 2019).

Even today, Facebook continues to have a section in their Help Center that permits users to “Report a Convicted Sex Offender” by providing the name of the offender, the URL of their registry profile, and the state in which they were convicted. Sometimes sexual offenders cannot use social media due to parole or probation restrictions, sometimes it is due to restrictions placed by the social media outlet itself (as in the case of Facebook and Instagram), and sometimes there are legal impediments to using social media. In 2018, an appeals court dismissed an indictment of a Tier 3 sex offender who failed to register his Facebook account with New York state. The law requires offenders to register their “internet identifiers,” but the Justices suggested that:

> an internet identifier is not the social networking website or application itself.… Rather, it is how someone identifies himself or herself when accessing a social networking account, whether it be with an electronic mail address or some other name or title, such as a screen name or user name … [the] defendant’s failure to disclose his use of Facebook is not a crime, rendering the indictment jurisdictionally defective.

(Russell, 2018: online)

Additionally, legislation addressing sex offenders and social media currently makes no requirement that an offender disclose which social media they make use of in their life.

Other laws are more specific in targeting offenders who have a history of internet use as a part of their offense. For example, a 2007 New Jersey law prohibited offenders who used the internet in the commission of their crime from using the internet for personal use, allowing exceptions for employment purposes and to search for employment (“No Internet For Some Sex Offenders in New Jersey,” 2007). In 2017, however, the New Jersey Supreme Court found this near-total internet ban to be an arbitrary infringement on an individual’s rights (Sullivan, 2017). The Justices did not deem internet bans unconstitutional but did suggest that a formal hearing of the parole board was required to determine that a public safety reason necessitated an internet ban (Sullivan, 2017). There has been some ease of restriction on sex offenders’ denial of social media in the past couple of years due to state Supreme Court cases that have questioned the due process and First Amendment concerns behind total internet bans for released offenders on the registry. While the future will likely see an increase in such legislative challenges, it may also see more creative law-writing to limit access of offenders to various social media platforms.
Residency Restrictions

Sex offender residency restrictions (SORR) are laws that restrict where an offender may live, work, or visit. These laws are part of the panic surrounding sex crimes, the rationale being that sex offenders should be banished from places where minors are to increase the safety of children. The first SORR was passed in 1996 in Alabama and prohibited any offender convicted of a child sexual offense from residing within 1,000 feet of a school. Several other states followed this lead, as did some local governments which enacted their own residency restrictions. These laws were passed despite no empirical research that they lower recidivism or increase community safety. What these laws do is make the community feel safer. Roger Werholtz, secretary of the Kansas Department of Corrections and a member of the Kansas Sex Offender Policy Board was quoted in a hearing on the state’s moratorium on SORRs as saying: “Yes, I hear all the data. Yes, I know what the research is saying. But you know what, this makes me feel safer” (“Kansas Rejects Buffer Zones,” 2007: online). In some jurisdictions all tiers of sex offenders are subject to residency restrictions; in other jurisdictions only Tier 3 offenders are subject; and in other jurisdictions only child offenders are subject. There is significant variability in the laws. Additionally, the laws may last indefinitely, and therefore theoretically extend beyond an offender’s length of required registration.

As created, SORRs have the unintended consequence of overwhelming select communities with sexual offenders and their families as there are few areas in which offenders are permitted to live. Some states have SORRs of 2,500 feet which severely limit options in housing for offenders, especially in a small town or a densely populated area (Wagner, 2009). When a town enacts a SORR, particularly with a strict restriction, neighboring towns fear offenders who are desperate for housing will encroach on their community.

When Iowa restricted sex offenders from living within two thousand feet of schools, parks, and playgrounds, a border town in Nebraska had twenty-eight offenders move in from Iowa. Whether or not this migration of offenders is typical, the fear of such migration is a motivating factor for many politicians when considering the law. Legislatures feel they must move quickly to prevent this migration of sex offenders into their towns.

(Wagner, 2009: 189)

Thus, lawmakers rush legislation in fear of migration from sex offenders from neighboring communities. Such legislation, in combination with the hesitation of landlords to rent to sex offenders, makes it a challenge for offenders and their families to find housing. A homeless sex offender is in a dilemma, as registration of an address with law enforcement is mandatory or imprisonment may result.
The neighborhoods that permit sex offenders are often not ideal, may be far from employment opportunities or high in crime, therefore potentially interfering with community reintegration, or preventing an offender from living with supportive family members. Currently, 27 states have SORRs, and a handful of states have banned SORRs as unconstitutional.

**GPS Monitoring**

Florida 2005: nine-year-old Jessica Lunsford was abducted from her home. Widespread media coverage followed and three weeks later a neighbor and registered sex offender admitted to her murder and sexual assault. John Couey had a borderline-retarded IQ, had failed to register his address with law enforcement, and skipped court-ordered counseling sessions. He was charged with first-degree murder, kidnapping, burglary, and sexual battery. Despite the prohibition on executing the mentally challenged, and Couey’s very borderline intelligence, he was sentenced to be executed. Just a few weeks after Jessica Lunsford’s murder, while the citizenry was still reeling, elsewhere in Florida, 13-year-old Sarah Lunde was abducted from her home. The public was incensed; the media was frenzied! A week later, Sarah’s body was found in a nearby lake. A confession of sexual assault and murder came from a convicted rapist who had previously dated the girl’s mother. Though David Onstott’s confession was thrown out as he was denied access to an attorney, and there was no physical or forensic evidence in the case, Onstott was found guilty of second-degree murder and battery, and sentenced to life in prison.

The legislative change after these cases was the quick and unanimous passage of the Jessica Lunsford Act which allowed for a 25-year mandatory minimum sentence for an offender convicted of sexual assault of a person under the age of 12, and the Act requires lifetime electronic surveillance upon release. More than 30 states passed similar provisions for mandatory minimum sentences shortly thereafter, and approximately half of the states provide for GPS monitoring for offenders after imprisonment. Of note regarding GPS laws, is that they are often applied retroactively: the law can legally be applied to offenders who were convicted prior to the passage of the electronic monitoring law (Reyes, 2017). Additionally, in *Grady v. North Carolina* (2015), the U.S. Supreme Court ruled that while GPS monitoring is considered a “search” under the Fourth Amendment, the search is not necessarily unreasonable or unconstitutional, but that the circumstances must be considered in evaluating the reasonableness of privacy expectations on a case-by-case basis.

Monitoring of an offender may include more than an electronic ankle brace-let. It may also include polygraphs, random calling and voice verification by law enforcement, remote alcohol monitoring, and motion detection analysis (International Association of Chiefs of Police, 2008). These programs are costly to administer, and effectiveness remains questionable. For example, as of January 2018,
Wisconsin had 1,258 sex offenders under electronic monitoring and the cost was $9.7 million annually (Vetterkind, 2018). In many states the cost of monitoring is borne by the offender, ranging from $10–$15 per day. While some courts permit a sliding scale for offenders who have a compromised ability to pay, other states jail offenders for inability to pay (Karsten & West, 2017). Technological difficulties with GPS monitoring abound, including loss of signal; loss of power; equipment malfunction; inadequate broadband capacity (especially in rural areas); and battery failure (Vetterkind, 2018). Any of these problems can put an offender in jail or result in other serious consequences, such as loss of employment. The result is an increased workload for law enforcement and a false sense of security for the public. Advocates suggest that the benefits outweigh the drawbacks and the number of offenders electronically monitored continues to increase aggressively.

**Civil Commitment**

The historical view of sex offenders was that they were mentally ill persons that should therefore be given treatment and be preventively detained in a mental health facility versus confined in a prison. The sexual psychopath laws that started to be passed in the late 1930s allowed for the involuntary and indefinite commitment of an individual to a psychiatric facility once he was deemed a “sexual psychopath.” He was to remain confined until his uncontrollable impulses were “cured.” The “ever-flexible concept of the molester, the abuser, or the predator provides an invaluable gauge for the state of current social ideologies” (Jenkins, 1998: 13) as the language of the legislation reflected the moral views of the day.

Michigan was the first to pass a sexual psychopath law in 1937, though it was later deemed unconstitutional because it did not afford the protections provided by a jury trial and it violated the principle of double jeopardy. The law was revised and approved in 1939. Other states learned from Illinois’ sexual psychopath law which permitted commitment without a criminal conviction, thus relying more on the procedural elements of an insanity hearing. For many states, conviction of a sexual offense was not required for commitment under sexual psychopath legislation! An individual merely needed to be at risk of sexual compulsivity! By the close of the 1950s, 26 states and the District of Columbia had sexual psychopath legislation.

Though there was some state-to-state variation, many sexual psychopath laws shared key language. The common elements in the statutes were:

- committing a crime of a sexual nature;
- a focus on the compulsive nature of the individual’s pathology;
- an assumption that the offense, or a similar offense, would be committed again;
• an assumption that offenses would escalate;
• the potential risk to community safety; and
• the belief that treatment was possible.

If several of these elements were present in an offender, he was at risk of commitment under a standard sexual psychopath law (Group for the Advancement of Psychiatry, 1977). By way of specific example, the 1955 California Sexual Psychopath Act read:

[S]exual psychopath means any person who is affected, in a form predisposing to the commission of sexual offenses, and in a degree constituting him a menace to the health or safety of others, with any of the following conditions:

(a) Mental disease or disorder.
(b) Psychopathic personality.
(c) Marked departures from normal mentality.

(California Welfare and Institute Code of 1955 §5501)

While these statutes were presumably created to prevent the community from repeat and dangerous sexual offenders, they were also used to examine individuals for sexual psychopathy who had committed minor and/or non-violent offenses. Not everyone who was examined for psychopathy was committed, but there was a substantial number of individuals who were committed for non-violent, morally offensive behaviors. For example, more than 50 percent of those committed in the state of Illinois under the sexual psychopath law were for passive offenses, such as exhibitionism (Burick, 1968). In New Jersey, commitment “was reserved for petty sex offenders who seemed likely to escalate their crimes…. Serious sex offenders were almost invariably returned to the criminal justice system for punishment” (Cole, 2000: 299). Although it may have been used improperly, sexual psychopath legislation was not used nearly to the extent that control strategies are used today for sex offenders. Most states during this time committed less than 20 persons on average per year (Jenkins, 1998).

The assumptions behind sexual psychopath legislation were that sex crime rates were increasing, and the criminal justice system could not effectively manage sex crime recidivism as continuous treatment was needed. The legislation was also based on the notion that sex offenders persist in their sexual crimes throughout life; that they always give warning that they are dangerous by first committing minor offenses; that any psychiatrist can diagnose them with a high degree of precision at an early age, before they have committed serious sex crimes; and that sexual psychopaths who are diagnosed and identified should be confined as
irresponsible persons until they are pronounced by psychiatrists to be completely and permanently cured of their malady.

(Sutherland, 1950: 142)

Sexual psychopath legislation, according to the Criminal Justice Mental Health Standards, rests on six assumptions:

(1) there is a specific mental disability called sexual psychopathy …
(2) persons suffering from such a disability are more likely to commit serious crimes, especially dangerous sex offenses, than normal criminals;
(3) such persons are easily identifiable by mental health professionals;
(4) the dangerousness of these offenders can be predicted by mental health professionals; (5) treatment is available for the condition; and
(6) large number of persons afflicted with the designated disabilities can be cured.

(LaFond, 2000: 157)

But what if these assumptions were incorrect? What if these questions could not be answered? The bend toward treatment came to a halt when the public realized that individuals were being confined under these laws but not actually receiving any treatment at all. The U.S. Court of Appeals ruled that was not permissible: an individual could not be held in confinement under a sexual psychopath law without being provided treatment. Oregon responded in 1963 by constructing the first facility designed specifically for treating sexually dangerous offenders in the United States. Other states were suspected of providing no treatment, poor treatment, or abusive treatment (such as electroconvulsive therapy). And research revealed that less than one-quarter of offenders were ever deemed “cured” by treatment programs (LaFond, 2000).

Concerns began to increase about this legislation and the subjective determination of who was and who was not a sexual psychopath, both for the purposes of admittance and for the purposes of release. Psychiatrists became less comfortable with their close relationship with law enforcement and the speed at which they were expected to “diagnose” sexual psychopathy. The mental health community also began to question the confinement of those committing “minor” offenses under the auspices that they would escalate to “serious” sex offenders. Court decisions of the early 1970s made confinement of sexual offenders under sexual psychopath statutes very difficult unless the offender was an imminent risk to himself or others. Eventually these laws were repealed, resulting in the transfer of those held under these statutes to prisons.

This is not where the story of indefinite confinement of sexual offenders ends, however. Earl Shriner was the impetus for Special Commitment laws or Sexually Violent Predator (SVP) laws. In the 1960s he allegedly murdered a classmate and served a term of confinement in a mental facility. Following his
release, there were multiple charges of molestation (1977, 1987, 1988). While imprisoned, Shriner expressed a desire to sexually assault minors, and there were failed attempts to involuntarily commit him to a mental health facility. After serving his full sentence Earl Shriner was released. In 1989, Shriner abducted, brutally sexually assaulted, and left a seven-year-old boy to die in Washington state. Following public outcry and a massive media campaign, within six months Washington state passed Sexually Violent Predator legislation. Many states followed Washington's lead, using almost verbatim language.

SVP laws confine offenders to a secure mental facility if they were deemed by “experts” to be “mentally abnormal and dangerous sex offenders” (Zonana, Bonnie, & Hoge, 2003: 132). Persons eligible for commitment under Washington state’s SVP law included both adult and juvenile sexual violent offenders whose sentence was to end, and offenders charged with a sexually violent crime but who were found either incompetent to stand trial or not guilty at trial by reason of insanity.

SVP laws should resound with familiarity from the sexual psychopath legislation of the past, though they have important differences. SVP laws do not require the sexually offensive behavior to be recent and in many states a treatment program is not a requirement. Perhaps most different is that current SVP legislation requires an offender serve their prison sentence in its entirety prior to the state seeking civil commitment. This raises civil liberty arguments: “the primary goal of predator statutes is to provide a mechanism for continued confinement of sex offenders considered at risk of reoffending who can no longer be confined under the criminal justice system” (La Fond, 2000: 159). While this may sound like a clear-cut case of double jeopardy, the courts have ruled SVP statutes constitutional!

SVP laws were ruled constitutional in the 1997 landmark Supreme Court decision Kansas v. Hendricks. Leroy Hendricks had a long history of sexual offenses, including indecent exposure, and varied acts of sexual assault against children. He served numerous prison terms but was repeatedly released. In 1984 on two counts of child molestation, Hendricks was sentenced to a term of 5 to 20 years. During the 10th year of his sentence, the state sought to have Hendricks declared a SVP and committed indefinitely. His hearing determined he was “mentally abnormal” and a pedophile, and therefore a candidate for commitment. Hendricks challenged the ruling to the Supreme Court, asserting that his commitment was ex post facto punishment and a violation of double jeopardy. The court ruled:

a state statute providing for the involuntary civil commitment of sexually violent predators...does not violate the double jeopardy clause of the Federal Constitution's Fifth Amendment where, because the state did not enact the statute with punitive intent, the statute does not establish criminal proceedings, and involuntary commitment pursuant to the statute is not punitive; thus, for purposes of analysis under the double jeopardy clause, (1) initiation of commitment proceedings under the statute
against a person upon his imminent release from prison after serving a sentence for the offenses which led to his being declared a violent sexual predator does not constitute a second prosecution, and (2) a person’s involuntary detention under the statute does not violate the double jeopardy clause, even though that confinement follows a prison term.

\textit{(Kansas v. Hendricks, 521 U.S. 346, 1997)}

The court established that the justification for commitment was the protection of society from a dangerous individual with a mental disorder. The court also determined that the commitment itself does not provide a constitutional right to treatment for the offender. As such, \textit{Kansas v. Hendricks} (1997) clearly established the power of the state to protect the community over individual liberties. The court in this case also permitted statutes which provide for an offense that may have occurred 10 to 20 years prior to be continued justification for indefinite confinement. Some scholars and ethicists still believe this constitutes \textit{ex post facto} punishment, under the guise of treatment (Cornwell, 2003).

\textit{Kansas v. Hendricks} (1997) has been upheld since 1997, and the rationale is that these statutes are civil proceedings, rather than an additional criminal punishment (\textit{Kansas v. Crane} 2002). As of 2019, the District of Columbia, the federal government, and 20 states have SVP statutes.\textsuperscript{6} There is considerable language variation by state, and standards for commitment vary by state, but all involve a history of sexual offending, “serious difficulty controlling behavior,” a “serious mental disorder,” and some level of “dangerousness.” For example, in Minnesota in order to be a candidate for commitment an individual must be “highly likely to reoffend,” but in Wisconsin an offender must only be “most likely to reoffend” in order to be a candidate for commitment. By way of example, the procedure in New Jersey is outlined in the 1998 New Jersey Sexually Violent Predator Act:

\textbf{Effective August 1999, The New Jersey Sexually Violent Predator Act (SVPA) establishes an involuntary civil commitment procedure for a sexually violent predator, whom the bill defines as a person who: (1) has been convicted, adjudicated delinquent or found not guilty by reason of insanity for commission of a sexually violent offense, or has been charged with a sexually violent offense but found to be incompetent to stand trial; and (2) suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for control, care and treatment. The Attorney General may initiate a court proceeding for involuntary commitment under this bill by submitting to the court a clinical certificate for a sexually violent predator, completed by a psychiatrist on the person’s treatment team. … Upon receipt of these documents, the court shall immediately review them to determine whether there is probable cause to believe that the person is a sexually violent predator in need}
of involuntary commitment. If so, the court shall issue an order for a
final hearing and temporarily authorize commitment to a secure facil-
ity designated for the custody, care and treatment of sexually violent
predators…. The person’s psychiatrist on the treatment team, who has
examined the person no more than five calendar days prior to the court
hearing, must testify to the clinical basis for the need for involuntary
commitment as a sexually violent predator. Other treatment team mem-
bers, relevant witnesses or next-of-kin are also permitted to testify…. At
this hearing, and any subsequent review court hearing, the person has
the following rights: The right to be represented by counsel or, if indi-
gent, by appointed counsel; The right to be present at the court hearing
unless the court determines that because of the person’s conduct at the
court hearing the proceeding cannot reasonably continue while the per-
son is present; The right to present evidence; The right to cross-examine
witnesses; and The right to a hearing in camera. The bill provides that
if the court finds by clear and convincing evidence that the person is
in need of involuntary commitment, it shall issue an order authorizing
the involuntary commitment of the person to a facility designated for
custody, care and treatment of sexually violent predators. Also, the court
may order that the person be conditionally discharged in accordance
with a plan to facilitate the person’s adjustment and reintegration into
the community, if the court finds that the person will not be likely to
engage in acts of sexual violence because the person is amenable to and
highly likely to comply with the plan. Additionally, the bill provides
for annual court review hearings of the need for involuntary commit-
ment as a sexually violent predator. The first hearing shall be conducted
12 months from the date of the first hearing, and subsequent hearings
annually thereafter. In addition, at any time during involuntary com-
mitment, if the person’s treatment team determines that the person’s
mental condition has so changed that the person is not likely to engage
in acts of sexual violence if released, the treatment team shall recom-
 mend that the Department of Human Services authorize the person to
petition the court for discharge. Also, a person may petition the court for
discharge without authorization from the department. In this case, the
court shall review the petition to determine whether it is based on facts
upon which a court could find that the person’s condition had changed,
or whether the petition is supported by a professional expert evaluation
or report. If the petition fails to satisfy either of these requirements, the
court shall deny the petition without a hearing.

(P.L. 1998, c.71 (S895 SCS))

In a commitment hearing, the standard of proof is “beyond a reasonable doubt,” the same standard as in a criminal trial. Should an offender be deemed a Sexually
Violent Predator, he is then committed for an indeterminate period in order to treat the mental disorder believed to underlie his sexual violence. Some statutes provide for mandated re-evaluation at set intervals; other states do not. In order to be released into the community, the offender must be ruled no longer a risk of sexual violence (Lacoursiere, 2003; Washington State Institute for Public Policy (WSIPP), 2007). Deeming an offender no longer a risk of sexual violence, however, happens very, very infrequently.

Regarding the Kansas SVP program: “In the program’s nearly 20-year history, it’s been more likely that a resident will leave in a hearse than walk out to rejoin society. So far, only three have earned their freedom. Twenty-two have died” (Cooper & Rizzo, 2013: online). Research reveals that there are more than 5,000 offenders committed under SVP statutes across the country, at a cost of more than $500 million per year. In *Kansas v. Hendricks*, Justice Anthony Kennedy wrote, “If the civil system is used simply to impose punishment after the state makes an improvident plea bargain on the criminal side, then it is not performing its proper function.” With states releasing so few offenders civilly committed, it raises constitutional questions, not to mention fiscal questions given the enormity of the costs of SVP programs.

### The Public’s View of Sex Offenders

New laws are suggested regularly to pacify the public’s fear of sex offenders. For example, a 2018 bill is being considered in Oklahoma that would add it to a list of seven other states that have laws permitting courts to order chemical castration for sexual offenders. This is probably the most invasive strategy that has been used by the law to control sexual offenders. Involuntary sterilization, of both habitual offenders and sex offenders, was allowed in the early 1900s in many states. That changed in 1942 with U.S. Supreme Court case *Skinner v. Oklahoma*. Since then, the use of hormones to reduce testosterone and sexual libido has been used sporadically as a form of treatment. Until 1996, when California passed the first chemical castration law in many years. While these laws are rarely enforced, they do raise serious Eighth Amendment concerns.

Many states have Halloween-specific laws that target sexual offenders: either offenders that are on the registry, or offenders who are on parole or on conditional release. This is based on the belief that children are less safe on Halloween than at other times of the year.

In some New York counties, for example, sex offenders on probation are required to attend a 4-hour education program on Halloween night. In New Jersey, New York, Virginia, Wisconsin, California, South Carolina, and North Carolina, curfew policies prohibit registered sex offenders from going out or opening their doors on Halloween. New Jersey sex offenders caught giving out candy are considered in violation of
probation and face up to 3 years in jail. In Tennessee, sex offenders on probation are banned from Halloween costume parties and cannot put up decorations, and in Ohio, Illinois, Virginia, and North Carolina, offenders are ordered to attend meetings with law enforcement or probation officials during the evening hours of Halloween. In Idaho, Maryland, Florida, and Texas, sex offenders on probation are warned not to decorate their homes and are told to keep their houses dark on Halloween night. In Kentucky, sex offenders receive a letter from police telling them not to give out candy or have unauthorized contact with children. Michigan police told a Lansing television station that there are no laws in the state prohibiting a sex offender from handing out candy but recommended that parents check the sex offender registry before trick-or-treating.

(Chaffin, Levenson, Letourneau, & Stern, 2009: 364)

Curfews, and nighttime checks, and no costumes or candy laws … are these necessary? Do the numbers show greater harm to children from sex offenders on Halloween? In a study examining data from 1997 through 2005, researchers found that the answer was a resounding no (Chaffin et al., 2009). Yet, year after year, states continue to increase law enforcement attention to sex offenders on Halloween … the imaginary problem of increased risk to children on this night of fear.

Most of the laws discussed in this chapter were passed quickly and not in response to empirical evidence regarding sexual offenses and offenders. Instead, the laws were passed to pacify the public’s fear and moral outrage surrounding sex offenders. It should come as no surprise then, that overwhelmingly, these laws have failed to serve the protective functions they were auspiciously designed for. Not surprisingly, the public has been found to have overwhelmingly negative attitudes toward sex offenders. Many studies examining views on sex offenders use the Attitudes to Sexual Offenders (ATS) scale, which is what this study implemented. It is a 36-item self-report measure that uses broad attitudinal statements to gauge an individual’s level of agreement or disagreement (Hogue, 1993). Since 1993, the ATS-21 has been developed which loads items from the scale into the categories of Trust (affect-based judgments), Intent (cognitive or stereotype-based evaluations), and Social Distance (behavior-related views) (Hogue & Harper, 2019).

What do we know about attitudes toward sex offenders? Demographically, there were no consistent findings in the research: attitudes were not varied consistently based on any demographic variables. Offense-specific information influenced the public’s attitude: an older offender was viewed more negatively, as was a male sex offender (Gakhal & Brown, 2011; Harper, 2012). Experience with sex offenders also influenced one’s attitude: police officers had highly punitive attitudes toward offenders, followed by prison officials not involved
in treatment of sex offenders, then prison officials involved in treatment of sex offenders, then probation officers and prison psychologists (Hogue, 1993). Other research supported the notion that working with sex offenders in a treatment environment increased positive attitudes (Blagden, Winder, & Hames, 2016; Gakhal & Brown, 2011; Hogue & Peebles, 1997). Research demonstrated that sex offenders were viewed as deserving of punishment instead of treatment; much of the public was not accepting of treatment in lieu of incarceration for this population of offenders (Van Kesteren, 2009). Remorse and shame by an offender may influence judgments about whether he could be rehabilitated but this did not change the public’s view that punishment was necessary, though perhaps for a lesser amount of time (Hogue & Peebles, 1997; Proeve & Howells, 2006). In studies of teachers and students compared to the general public, community members tended to express the most negative attitudes (Higgins & Ireland, 2009).

While community member’s negative attitudes toward sex offenders could be explained by fear (either real or imagined) for their safety or that of their children, research revealed that exposure to sex offenders in non-punitive environments increased positive attitudes. Participants in this study demonstrated highly positive attitudes on the ATS-21, likely explained by their unique, intimate relationship with the offender as husband/partner and/or father of their children. There was an 89 percent overall positive response on the Trust questions with a couple of notable exceptions. Twenty-two percent of participants agreed it was not wise to trust sex offenders generally; 11 percent felt it was necessary to be constantly on guard; and 14 percent believed sex offenders were immoral. The participants reported 97 percent positive responses on an aggregate of the sex offender Intent variables which asked questions dealing with the offender’s cognitive state of mind. Examples of Intent questions included: could sex offenders be rehabilitated, if sex offenders took advantage of others, or if offenders were selfish. The Social Distance variables revealed an overall 86 percent positive response. Seventy-nine participants were of the belief that sex offenders were victims of circumstances and deserving of assistance. The other Social Distance questions dealt with sex offenders having feelings, needing praise, giving and getting respect, and being no better or worse than others. These responses ranged from 88 percent to 94 percent positive. For the entirety of the ATS-21, there was a 91 percent positive response toward sex offenders from the 94 female participants in this study.

The United States fits securely within a crime control model when dealing with sexual offenders. Numerous laws have been passed, and continue to be passed, many of which infringe on the due process rights of sex offenders. As of July 2019, Illinois became the eighth state to lift the statute of limitations on various sexual crimes. Legislators continue to focus on stereotypical cases that strike fear into the public. This diverts our attention from the structural elements in society that continue to victimize women and children.
The politics of sexual violence forces the majority of the risks of sexual violence underground, making them invisible in the political discourse. Risks that fall outside the predator template simply cannot figure into the public discourse. Because the risks must remain invisible, we are deflected from a sensible and effective fight against sexual violence.

(Janus, 2006: 144)

Community safety and the protection of the rights of women, children, and former offenders can only come from balanced policies not based on political rhetoric and pandering.

Notes
1. Other high-profile cases during the time period were not sexually related but contributed to mounting public fear. These cases included: the kidnapping and murder of the Lindbergh baby which resulted in the execution of Bruno Hauptmann in 1936; the serial Torso Killer in Cleveland who was active between 1935 and 1938, and was never caught; a 1930s serial killer called the Alligator Man of about 20 women in Texas who killed himself before he could be arrested; and between 1938 and 1942 on the border of Pennsylvania and New Jersey, six people were killed in the Lover’s Lane murders by Cleveland Hill who served less than 20 years before being paroled.
2. Time’s Up is an organization that promotes workplaces free of sexual harassment and is born of the MeToo movement. Three months after accepting the CEO position, Lisa Borders resigned as her 36-year-old son was accused of sexual assault.
3. www.NSOPW.gov
4. While registration requirements vary by state, it is important to note that familial offenders are not always included on the registry. The rationale behind this omission is that identification of a sexual offender, his/her photo and address, and his/her crime on a sex offense registry could also theoretically identify the victim. Victim’s rights groups want to avoid the potential harm this could cause to the victim. In New Jersey, for example, the exclusion of familial offenders from the registry was advocated for by the New Jersey Coalition Against Sexual Assault. In this instance, a father described when his daughter’s friends found a registry notification at school identifying her as a victim of familial sexual assault:

   My daughters went to school and had a situation where there was a newspaper that was on the table and some of the kids came back up to my oldest daughter and basically started teasing her, saying, “You know, I heard that your daddy played sex with you.” The impact of that goes beyond measure.

   (Zevitz & Farkas, 2000: 384)

While identification of the victim in such a manner is certainly harmful, to exclude familial offenders from the registry ultimately renders the registry virtually useless as familial and acquaintance offenders constitute the majority of sexual offenders. The message becomes that stranger-danger is the most devastating form of offending in terms of consequences.
5. Court decisions have not stopped some states from suggesting further legislation regarding social media. On December 22, 2019, New York’s Governor Cuomo
proposed the 2020 State of the State which included legislation to prevent SOs from using dating apps, video games, and social media. The Governor said:

Protecting New York’s children is our top priority and we cannot let technological advances become entryways that allow dangerous online predators to identify and prey on new victims. Our laws must keep pace with the world around us and with this measure we will help safeguard those using these web sites and apps, and stop those who seek to harm and exploit our children once and for all.

(“Governor Cuomo Unveils 11th Proposal of 2020 State of the State: Legislation to Prevent Sexual Predators from Using Social Media, Dating Apps and Video Games to Exploit Children” 2019: online)

Currently, SOs are required to provide email addresses upon registration. The proposed legislation would require sex offenders to disclose screen names for all social media accounts and dating or gaming apps. This information would be sent to providers for review and potentially released publicly, depending on the provider’s policy. It will also be a criminal offense for an SO to misrepresent himself online.


7. California, Florida, Louisiana, Georgia, Montana, Oregon and Wisconsin.

References


California Welfare and Institute Code of 1955, §5501


P.L. 1998, c. 71 (S895 SCS)


Politics, the Media, and Laws


The People of the State of Illinois v. Conrad Allen Moger, IL 123643 (2019)


The Unknown Sex Fiend. (February 13, 1950). *Time*. http://content.time.com/time/magazine/0,9263,7601500213,00.html


that focused on relapse prevention treatment, behavioral treatment, as well as hormonal medication, were the most successful in the reduction of sexual recidivism. Other researchers have found that in populations of high-risk sex offenders, those who completed intensive residential treatment were significantly less likely to recidivate (more than two times less likely) than high-risk offenders who did not complete intensive treatment (Lovins, Lowekamp, & Latessa, 2009). In a surprising finding, such intensive treatment increased the likelihood of recidivism for low-risk offenders compared to low-risk offenders who were not provided intensive treatment at the rate of a 21 percent increase (Lovins et al. 2009).

While recidivism rates vary in the research, and are influenced by a myriad of factors, what is clear is that the longer an individual remains in the community offense-free, the less likely they are going to recidivate (Langan et al., 2003). Additionally, factors such as community-based treatment, intensive supervision programs, and broad-based community notification for the highest risk offenders, and the reduction of transience can reduce the likelihood of sexual recidivism (Duwe & Donnay, 2008). Releasing sexual offenders into the community after incarceration without proper reintegration skills sets them up to reoffend and subjects society to a cycle of revictimization.

Because public fear increases alongside increasingly strict legislation targeting sexual offenders, it is important to have a clear statistical understanding of sexual offenses and offenders. Using UCR and NCVS data, this chapter has provided a review of studies on sexual offending and offenses to give a more accurate picture of the “typical” sexual offender and victim. While there are many factors that contribute to under-reporting, this research viewed in combination can provide a critical overview of the dynamics of sexual offenses and sexual offenders and a solid foundation on which to analyze this social issue.

Notes
1. Arizona, California, Connecticut, Georgia, Idaho, Kentucky, Massachusetts, Michigan, New Hampshire, Oklahoma, South Carolina, Utah, and Vermont
2. As of 2013, the UCR definition of rape is:
penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. Attempts or assaults to commit rape are also included.

Excluded from this definition are statutory rape and incest.

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knowing we couldn’t have any more foster children, which was something I just loved. It felt like my children had died. It was intense grief.

Brandi said, “I was righteously pissed. I was angry at my husband. I was angry at a lot of things. I felt deceived.” And Maria discussed the lasting impact on trust: “Trust was completely blown out of the water. I was devastated, I was in a fog for about 2 years, pretty much.” The range of emotions women experienced was extensive and changed day-to-day as they dealt with the reality of their situation. Donna explained:

Yeah, I was just kind of dumbfounded and upset and like, okay, well, you know, I guess we’ll just get through this one step at a time. I guess at that point I didn’t think it would turn out as it did, I guess. I didn’t realize how much it would involve at that point.

Donna’s husband of over a decade accepted a plea to molestation of a minor, after the minor told Donna about the incident and she confronted her husband with the details. He was sentenced to five years and served one year, and will spend his life on the registry. At the time of the interview, the family was still coming to terms with the ramifications of the registry and its collateral consequences.

Motives for beginning a relationship with an RSO or staying in a marriage with an RSO are varied and complex, and women in these relationships experience hesitations for moving forward with such relationships. Whether the partner kept the offense hidden or was voluntarily honest about the offense is very important to the success of the partnership and has ramifications for the women’s reaction to the overall situation. Relationships bring many challenges and the stigma of a relationship with an individual reintegrating into society post-incarceration brings greater challenges. A relationship with an individual on the sex offense registry, stigmatized by society brings yet further challenges. Ninety-seven percent of the women in this study felt the relationship was worth the attempts to navigate these additional challenges.

Notes

1. Twenty-three men in the study (24 percent) had received probationary or community supervision sentences as a result of their conviction or plea, and one man had not yet been sentenced at the time of the interview with his partner.

2. I elected to use a two-week dating timeline as the cutoff point between what was considered an “honest partner” and what was considered a “hidden offense.” After much discussion with colleagues, I determined that several conversations/dates would have occurred by the two-week point. Additionally, many adults would have determined whether they were pursuing the relationship, and something of this magnitude should have been revealed to a potential partner by that point. The partners of the women in this study apparently agreed as there was a dramatic discrepancy in when they revealed their history. Most RSOs elected to tell potential partners very soon (often on the first
date and very often within the first two weeks), or they elected to wait a very long time (one year or more; and in several cases after the couple had been married), or did not tell their partner at all and she found out another way.

3. Because of the age difference involved in this offense, it was not considered statutory. There was well over a decade separating the RSO and the female in question.

References


both close family and friends. Unfortunately, they provided few examples of support networks. While some women had marginal support from family members, overwhelmingly the women were left to fend emotionally for themselves. For many relationships, this abandonment by family and friends brought the couple closer. Nicole said: “It’s made [our relationship] stronger because it’s me and him against the world.”

Notes

1. In the theoretical literature, techniques of neutralization have been integrated into theories such as rational choice theory, subculture theory, control theory, reintegrative shaming theory, psychological theories, strain theory, and learning theory (Bohm, 2001; Braithwaite, 1989; Cornish & Clarke, 1986; Hirschi, 1969; Lanier & Henry, 1998; Maruna & Copes, 2005; Williams & McShane, 2004; Winfree & Abadinsky, 2003).

2. In Kansas v. Hendricks (1997) the Supreme Court allowed the original offense (even if it was a decade or more prior) to be a justification for continued confinement. This law is constitutional as it is considered a civil proceeding and not a second punishment. It allows the state to indefinitely confine a sexual offender that is believed to have “serious difficulty controlling [their] behavior” if their behavior is “dangerous,” they have a history of sexual offending, and a “serious mental disorder” as recognized by the psychiatric community (Kansas v. Crane, 2002). That said, standards vary widely as to commitments in each state. As of 2019, there were 20 states with such statutes: Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin.

References


is policymakers and a public that just react, instead of evaluating existing best practices evidence.

Notes

1. In Indiana in 1994, for example, there were eight crimes that required sex offender registration: Indiana’s current registration law (Zachary’s Law) lists 40 offenses that require registration. Other states indicate a similar upward trajectory.
2. Other changes of SORNA included: elimination of the statute of limitations for prosecution of felony child sexual offense cases and child abduction, establishment of a federal DNA database, funding for electronic monitoring (GPS) of offenders, the requirement that offenders as young as 14 years of age register, lengthening of minimum prison terms for offenders crossing state lines with minors, and permitting victims of child abuse to civilly sue the offender for damages. SORNA also created mandatory minimum sentences for select offenses: 30 years for child rape and 10 years for child sex trafficking or coerced child prostitution.
3. The 18 states in substantial compliance as of June 2019 were: Alabama, Colorado, Delaware, Florida, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, and Wyoming.
4. For example, it was estimated that SORNA compliance in Texas would cost approximately $38.7 million for the first year; however, the reduction in federal funds for failure to comply was only $1.4 million (Wang, 2014/2015).
5. Certain juvenile sex offenders provide the exception to Florida’s registration requirement. If a juvenile offender is not more than four years older than the victim who was at least 13 (but still a minor), the juvenile may petition for registration relief immediately.
6. This is an example of the over-counting of sex offenders on the registry that was mentioned in Chapter 2 as a drawback of the National Center for Missing and Exploited Children data (NCMEC, 2018). Prior to his removal from the registry in Tennessee, Jackie’s husband would have been “counted” on the registry in both Tennessee and Florida. Currently, though residing in Tennessee permanently, he is still listed on the sex offense registry in Florida and will for life.
7. Commonwealth v. Moore (2019) found that the provisions of SORNA which required internet dissemination of SO registration, when applied retroactively, violated the ex post facto clause of the Constitution and were punitive in nature. The Court ruled:

The adverse impact to a sex offender’s reputation, imposed purposefully as a consequence of conduct deemed criminal, is widespread. It is not limited to those individuals who would benefit from this information because they might reside or work in close proximity to the offender. Rather, the effect of this affirmative restraint extends to any person who has access to the Internet and who may obtain the registration information solely for gratuitous purposes. Thus, such harm is not merely collateral or incidental, but rather consequential and far-reaching.

References


*Doe v. Harris, 302 P.3d 598 (Cal. 2013)*

*Doe v. Snyder, 834 F.3d 696* (6th Cir. 2016)


State v. Trosclair, 89 So. 3d 340 (La. 2012)


overall, he’s a good person. He is a good person. He made one mistake, he made a mistake and unfortunately because of public hype and public perception, it’s politically correct right now to hate him. If he’d gone out drunk and hit somebody, and killed them, the stigma isn’t the same. Sure, he’d be talked about and whispered about, but in 8 years, who cares. Would they think about it? Probably not. But this will be with him for who knows how long until they change the laws or they put everybody on a list. Before you know it, everyone will be on a list for something.

At the time of the interview, Sarah’s husband was serving a five-year sentence on a plea deal for one count of possession of child pornography. The difference between sex offender laws and other laws is that they are subject to change and change retroactively. So, for Carrie and other wives of RSOs: “Every time the assembly gathers we just cringe, worried about what other parts of our lives are going to change.” Families of RSOs never know what tomorrow may bring.

Notes

1. Predatory offenses are those such as juvenile pimping, exploitation of a minor, child pornography, criminal sexual assault, kidnapping, child abduction, certification as a sexually dangerous person, conviction of a second sexual offense, sexual misconduct against a person with a disability, and aggravated criminal sexual assault.
2. Rhode Island suggests RSOs contact the SORN office prior to visiting to determine if registration is required; New York, Oregon, and Pennsylvania do not require registration but the SORN office recommends visiting RSOs make contact upon visiting the state (Rolfe, 2019).

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Mann *v.* Georgia Department of Corrections, 653 S.E.2d 740 (2007)


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Yoder, Steven. (June 28, 2019). New law forces dozens on Tennessee’s sex offender registry from their homes. *The Appeal*. https://theappeal.org


Notes

1. The Samaritans is based in New York City and has both professional staff and more than 100 volunteers to work confidentially with callers 24 hours a day, seven days a week. Their primary mission is to provide immediate support to prevent suicide; however, they also respond “to every kind of personal, emotional or health-related problem imaginable, from a bad day or a broken heart to mood disorders and mental illness to a chronic or life-threatening disease, trauma or loss” (https://samaritansnyc.org/).

2. As with the application of other laws in the United States, a discrepancy exists regarding who is required to comply with sex offender legislation. Take the high-profile case of Jeffrey Epstein, for example. Billionaire Epstein pled guilty to solicitation of a minor prostitute in 2008, making him a Tier 3 sex offender in his home state of New York. Yet Epstein reportedly skipped court-mandated check-ins on a regular basis prior to his sex-trafficking arrest in 2019. Between 2010 and 2018, cops in New York state made at least 7,061 arrests for similar violations of the state’s complicated sex offender registration law … Several of those arrests include people who committed minor violations, like submitting paperwork days late, or who struggled to keep up with reporting requirements because they were living in homeless shelters or on the street.

(Schulberg, 2019: np)

These numbers do not include serious crimes, but only technical violations. This is a clear example of selective criminal justice enforcement, and Epstein surely does not represent an isolated incident.

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