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The Legal See-Saw: The Rights of the Sex Offender v. The Perception of a Safe Community

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The question of how to safely deal with convicted sex offenders upon release from incarceration has been an ongoing hotly-debated topic within American society for decades, with one of the earliest approaches to dealing with these criminals dating back to the 1930s (Petrunik 486). Although it is universally acknowledged that sex crimes are deemed wrong from both the criminal and moral aspect, indecision exists with respect to the constitutionality and effectiveness of current legislation in place for the offenders to maintain rehabilitation and keep neighborhoods safe. Statutes, such as the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act of 1994, the Pam Lychner Sex Offender Tracking and Identification Act, Megan's Law and the Adam Walsh Child Protection and Safety Act, were enacted in an effort to prevent future sex crimes by released offenders and provide a sense of security for the public upon these individuals' reentries into society; however, unintended negative effects are extending from behind prison bars and passing through the white picket fences all over the nation. At the center of most legal and ethical debate regarding this issue is the mandatory sex offender registry – the registration of all sex offenders with local and state police that provides identifying information to the public throughout the country upon their release to prevent recidivism. Although this may sound like an effective statute on its face, there are many consequences that stem from the sex offender registry as well that often go unnoticed or are considered small in the bigger picture of a safer community. With the obligatory registration come community notification and living restrictions for offenders in order to make sex offenders known throughout the local neighborhood and to keep them away from areas densely populated with children. Despite how beneficial this legislation may seem, the law also possesses many flaws that negatively impact both the offender and citizens' lives, as will be demonstrated in this thesis. Among some of the severe problems of the sex offender registry is

the biased assumption sex offenders will reoffend, incorrect registry information, a false sense of security experienced by parents, community vigilantism, and a feeling of uneasiness felt by both the citizen and offender. Although these acts have been put in place by our government and our people to protect the innocence of our children and adult victims, the sex offender legislation has also been defectively impacting lives, rather than easing citizens' fear of potential sexual predators on the streets. In this thesis, I will take an in-depth look at and explain the damaging flaws and effects of sex offender legislation on both the offender and civilian, while using the state of Rhode Island as a microcosm of our nation's law and outcomes.

Because of the publicity of many sex crimes involving children, people often assume that when speaking about sex offenders, one is referencing a person who engages in acts of sexual activity with prepubescent children, or a pedophile ("Psychology Today's Diagnosis Dictionary: Pedophilia" 1). However, the term 'sex offender' is a generic reference for "all persons convicted of crimes involving sex, including rape, molestation, sexual harassment and pornography production or distribution" (Hill and Hill). It can be said that the policies that are currently in place focus on the extreme sex offender, or pedophile, which differs greatly than the sex offender (Robbers 2). For the purpose of this paper, I will be discussing both types of sex offenders.

Sex crimes have incessantly been a great issue of public concern in society, dating to the beginning of the twentieth century. According to Michael Petrunik, several different approaches have been used by the community in regards to sex offenders within the United States and Canada, with society making a slow and gradual move toward the current risk management-community protection approach that is in place today (Petrunik 485). The clinical approach toward offenders was used between the 1930s and 1950s (Petrunik 486). With this approach, researchers claimed the risk that was posed by sex offenders was caused by a mental or

personality disorder, such as psychopathology, and could be treated medically with ease by mental health experts (Petrunik 486). Researchers also claimed that sex offenders of this kind could be treated and rehabilitated, leaving no room for fear from the public in respect to their children's safety (Petrunik 486). However, Petrunik points out that this approach slowly began to lose momentum in between the late 1970s and 1980s due to the fact that many mental health experts misdiagnosed sex offenders or left offenders to identify their mental defect themselves, often creating a moral judgment about a mental disease rather than a scientific classification of a mental or personality disease (Petrunik 486-487). As the flaws within the clinical approach were discovered, society moved toward utilizing the justice approach toward released sex offenders, which expressed the idea that judges should punish a criminal based on his/her crime and prior record with limited consideration of mitigating factors, such as mental illness (Petrunik 488). With this theory came a definitive line that separated justice and the mind. The dominant theory behind the justice approach was that sex offenders who were labeled as being mentally disordered and dangerous by mental health experts in the clinical approach were actually not as ill or dangerous as they were diagnosed to be (Petrunik 488). Also, the justice approach emphasized the concern to justly avoid restricting the liberty and privacy of mentally disordered and disturbed people, while advocating determinate sentences for such offenders, meaning that once a criminal served his/her full sentence, the released offender was no longer under control of the government or state and could not be punished twice for the same offense (Petrunik 488). The justice approach in the 1980s was marked by the end of the misconception of sex offenders as psychopaths and replaced by legislation that provided fixed sentences for sex crimes and the need for consent for rehabilitation to take place (Petrunik 489). Nevertheless, during the 1980s, the justice approach, too, was slowly abandoned as social movements on behalf of the

community and victims began speaking out and lobbying for an approach that strongly emphasized the community safety issue first, while placing the offenders' rights and rehabilitation on the back burner (Petrunik 489). As an answer to such outcry, the current approach in place, the risk management-community protection approach, is one that has fully demanded the protection of society's most innocent citizens— children – and is supported by six major pieces of legislation – the first being the Washington State's Community Protection Act of 1990 (Petrunik 492). With this act came the introduction of special measures that have been taken for sex offenders, including sex offender registration, community notification and the exposure of civil commitment (Petrunik 492). As of 2008, twenty states are currently allowing civil commitment to prevent 'dangerous sexual deviants' from re-entering society upon completion of their criminal sentence ("Psychology Today's Diagnosis Dictionary: Pedophilia" 3). Civil commitment of a sexual offender occurs when a state successfully argues in civil court that the sex offender at hand who has completed his/her incarceration period possesses a mental disorder, increasing the chance of recidivism upon release into the community ("Psychology Today" 3). Even though states are currently using civil commitment as a means of regulating sex offenders, civil commitment's constitutionality is often questioned because of the concept of double jeopardy, or being punished for the same crime twice. It has been argued that the rationale behind civil commitment is to keep sex offenders that are considered dangerous locked up in mental institutions for the primary purpose of keeping them confined longer than their required criminal sentences had demanded, thus punishing the offender twice for the same crime (Alexander Jr. 375). However, the United States Supreme Court has ruled civil commitment and confinement to be different from criminal confinement in *Kansas v. Hendricks* because no criminal proceedings are established, allowing the involuntary civil commitment of an offender

upon completion of an individual's sentence to be considered non-punishment (Alexander Jr. 365-366). The second legislation supporting this approach is the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act of 1994 which requires state registries for offenders, using a ten-percent reduction in federal law enforcement funding as incentive to oblige ("Child Abuse and the Law"). Thirdly, New Jersey's Megan's Law of 1994 resulted when the victim's mother demanded the right of citizens to know if sex offenders are living within their community, thus, mandating community notification ("Child Abuse"). The fourth piece of legislation in support for the risk management-community protection approach is the federal Megan's Law passed by President Bill Clinton in 1996, which revised some aspects of the Jacob Wetterling Act by mandating all states to release relevant information of released sex offenders to the public with those states that did not set up community notifications experiencing a ten-percent reduction in law enforcement funding (Petrunik 493). A fifth supporting statute is the federal Pam Lychner Sexual Offender Tracking and Identification Act that requires "lifetime registration for offenders convicted of one or more sexual offenses involving penetration through the use of force or threat or penetration of victims younger than twelve," – an amendment of the Jacob Wetterling Act. The Pam Lychner Act also required the FBI to create and maintain a national sex offender registry ("Child Abuse"). The last legislation passed in aiding this approach is The Commerce, Justice and State, the Judiciary, and Related Agencies Appropriation Act which requires all states to identify which released offenders are considered to be sexually violent predators – those who are mentally abnormal or disturbed and who are likely to engage in predatory sexually violent offenses upon release. With this, such offenders are mandated to provide additional information upon registering, including rehabilitative treatment received, quarterly verification of address and federal registration and community notification throughout

their lifetime (Petrunik 494). In conjunction with the risk management – community protection approach that is currently in place come three approaches to offender treatment that are effectively allowing released sex offenders to become positive members of society, according to Lane Council of Governments, a council on behalf of the Public Safety Coordinating Council that was awarded a Sex Offender Management Planning Grant through the United States Department of Justice (Lane Council of Governments 1 and 26) These treatments include the cognitive-behavioral approach, the most widely used, which emphasizes to the offender his/her inconsistent thinking patterns that are related to the sexual offending, along with helping to change deviant patterns of arousal that lead to these offenses. The psycho-educational attempts to the increase in the offender's concern for the victim while recognizing and accepting responsibility for the offense. Lastly, the pharmacological approach uses medicated therapy in order to reduce the level of sexual arousal for sex offenders (Lane Council 26-27).

Although the risk management – community protection approach, which includes these several implemented treatment approaches, seems concrete and is strongly supported by many legislative acts, it is also pointed out by Petrunik that the price to maintain the risk management – community protection approach in the most effective way possible is considerably high due to costs of carrying out the new laws, litigation, psychiatric experts and maintaining facilities to treat and incarcerate sex offenders, with the state of Washington spending more than \$98,000 and California about \$107,000 per offender per year (Petrunik 494). However, the Lane Council of Governments brings to light the cost of the cognitive-behavioral approach compared to costs of incarceration by pointing out that the average fee of building a new prison cell is \$55,000 and operation for a year is \$22,000, while a year of supervised probation and treatment is between \$5,000 and \$15,000 per sex offender, clearly demonstrating a positive price difference in favor

of the approach currently in effect (Lane Council 31). However cheaper this type of approach may be, current legislatures are still not fully utilizing this type of rehabilitation. Despite some reports indicating that nearly 75 percent of sex offenders do not receive proper counseling treatment while incarcerated along with other studies suggesting such treatment lowers chances of recidivism upon completion of therapy, current laws and policies are still being created as a way regulating the offender post- release into the community, rather than correcting the offender and the problem while behind bars through counseling (Meloy 227)

Sex offender registries are considered to be a societal response to help reduce the risk of future sex crimes by convicted offenders upon release. The idea itself is relatively simple and requires convicted sex offenders to register with local law enforcement agencies upon their release (Grubestic, Mack and Murray 145). Richard Tewksbury and Matthew Lees suggest that the rationale behind the development of sex offender registries is the belief that the information released on the electronic registry via Internet will effectively expose the offender publicly, minimizing the risk of reoffending (Tewksbury and Lees 381). As mentioned before, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act of 1994 played one of the most pivotal roles in the development of the sex offender registration by formalizing the practice of registering sex offenders throughout the country on a statewide basis (Tewksbury and Lees 382). With the Jacob Wetterling Act in place, Megan's Law expanded the registry by requiring the FBI to establish and maintain a national database and mandating lifetime registration for recidivists and offenders who have committed aggravated sex crimes (Tewksbury 382). The Pam Lychner Sexual Offender Tracking and Identification Act of 1996 also exposed the necessity for the FBI to acquire all offender fingerprints as part of sex offender registration upon release (Robbers 2). In Rhode Island, the registry has categorized sex offenders based on

their risk to reoffend as one of three levels. A level one sex offender is considered to be an offender with low risk” for recidivism, level two as “moderate risk”, and level three as “high risk” (“Sex Offender Fact Sheet”). The Rhode Island Sex Offender Registry requires registration from:

Any person, who, in this or any other jurisdiction (1) has been convicted of a criminal offense against a victim who is a minor, (2) has been convicted of a sexually violent offense, (3) has been determined to be a sexually violent predator, (4) has committed an aggravated offense, or (5) is a recidivist shall be required to register his or her current address with the local law enforcement agency having jurisdiction over the city or town in which the person having the duty to register resides for the time period specified. (R.I. Gen. Laws § 11-37.1-3)

Typically an offender registers with their local law enforcement in person within twenty-four hours upon release and continues to do so annually for a period of ten years, while verifying his or her address on a quarterly basis for the first two years of the period (R.I. Gen. Laws § 11-37.1-4). In Rhode Island, if considered to be a ‘sexually violent predator’, one also complies with the same requirements; however, the offender must do so for lifetime (R.I. Gen. Laws § 11-37.1-6). The information provided by the sex offender upon release and compliance with the mandatory registration includes the name of offender, any identifying factors, such as tattoos or birthmarks, the offender’s anticipated residence upon release, the offender’s juvenile and adult criminal history and documentation of any treatment received for mental abnormality or personality disorder throughout one’s lifetime (R.I. Gen. Laws § 11-37.1-3). In Rhode Island specifically, if an offender does not meet the required registration standards, he/she is punished accordingly. An offender who knowingly does not register or verify his/her address is considered to be guilty of a felony in violation of his/her terms of release, will face up to ten years in prison upon conviction and will be fined no more than \$10,000 (“Rhode Island Megan’s Law”).

As part of the mandated sex offender registration process, community notification has been put into place as well upon an offender's release. Community notification's intended use is to increase the public's ability to protect itself and to enhance community safety through education, along with collaboration between the law enforcement and local citizens (Levenson and Cotter 50). Although community notification laws have now been enacted for a little more than a decade, the laws were not accepted easily as the constitutionality of community notification statutes have been challenged, focusing on the lack of privacy, throughout recent years (Levenson 50). However, despite the constitutional challenges, it appears that community notification will remain in effect for years to come. Throughout the nation, state agencies notify the community of a released sex offender's presence differently by assessing the risk of reoffending they feel the offender possesses and carrying out an appropriate method of notification, allowing community groups and citizens to request information regarding the offender if desired, requiring the sex offender to carry out the notification process or implementing registration laws that make it mandatory for state agencies to carry out the notification (Grubestic 145). However, the most common methods of notification throughout the decade have been accomplished through press releases, flyers, phone calls, door-to-door contact, community meetings and Internet websites pertaining to registration information (Levenson 50). In a study of 183 registered sex offenders participating in outpatient sex offender therapy in Fort Lauderdale and Tampa, Florida, participants were asked to complete a survey during one of their group therapy sessions regarding their sex offender registry and community notification experiences (Levenson 54-55). Results showed that the most commonly used method for community notification was distribution of flyers and door-to-door warnings. The less common methods were community meetings, notices sent home with children and press releases

(Levenson 56). Another analysis of registered sex offenders in Arkansas was conducted, focusing on two groups of offenders – those that were subject to community notification upon release and registration and those who were not due to the statute not being in place at the time of release (Vasquez, Maddan and Walker 181). It was discovered that the group of sex offenders subject to community notification recidivated in sexually-based crimes at 9.5 percent, while those who were not recidivated at 10.9 percent, demonstrating a very small, almost insignificant percent rate of recidivism decrease due to community notification (Vasquez 181). In Rhode Island, prior to release from incarceration, an offender's risk level is assessed by the Sex Offender Board of Review – six experts in the field of behavior and treatment of sexual offenders appointed by the governor. This board of review will determine the level of risk an offender possesses toward the community upon release and assists the court in classifying an offender as sexually violent or not. Six months prior to an offender's release from incarceration and mandatory registration, the offender is referred to the board of review for risk assessment. Within thirty days of referral, the board is required by law to conduct an evaluation and assign a level of recidivism risk to the sex offender (R.I. Gen. Laws § 11-37.1-6). If an offender's risk level is deemed moderate or high, the sex offender community notification unit of the parole board is compelled to notify the offender in writing of the methods of notification that will take place upon the offender's release (R.I. Gen. Laws § 11-37.1-13{a}). Within ten business days of this letter's deliverance, the community notification process begins (R.I. Gen. Laws § 11-37.1-13{b}). Based on the considered level of re-offense, community notification is applied accordingly on a local basis. If the risk level of an offender is determined to be low, local law enforcement agencies are notified. If the risk level is moderate, local law enforcement and local community organizations, such as schools and youth programs, that are likely to interact with or

encounter the offender are notified. If the risk level of re-offense is considered high, the community as a whole is notified, including local and state law-enforcement, local community organizations and members of the public neighborhood likely to interact with or encounter the offender (“Rhode Island Megan’s Law”).

Although the sex offender registry and community notification appear as an effective tool in managing sex offenders throughout the country on a national and statewide level, the fact of the matter is that the registry possesses many flaws and negative effects that are damaging to the offender’s rehabilitation and misleading to the public. One of the greatest misconceptions is the idea that the sex offender registry reduces the risk of crimes committed by sex offenders upon release from incarceration by allowing the public to access released offenders’ information in order to protect themselves. Because of this, the establishment of the registry is based on the very large public misconception that sex offenders will continue to commit sex crimes in their community after serving the required sentence for their crime. Rates of sexual offense recidivism are often difficult to determine, though, because sex crimes are typically underreported and consist of different details in each case; however, the rates in many cases are almost always surprisingly lower than society anticipates (Meloy 212). The current legislature has passed acts such as Megan’s Law, the Jacob Wetterling Act and the Pam Lychner Act while complying with arguments by society that such policies will help to promote community safety and prevention of reoffending, despite numerous studies exposing the suggestion that sex offenders have lower recidivism rates compared with other criminals’, demonstrating less than fifteen-percent reoffending rates upon release in some cases (Robbers 2 and 5). Although not one concrete recidivism rate can be determined for sexually-based crimes due to mitigating factors, such as underreporting and differences in types of sex crimes as mentioned before,

research suggests that sex offenders do not reoffend as severely as assumed to. Certain research has proposed that heterosexual adult rapists reoffend at a rate of 40 percent compared to heterosexual familial child molesters at 3 percent; however, the criminal justice system punishes and deals with these types of offenders in the same manner upon release despite the staggering recidivism differences (Meloy 212). Terance Miethe, Jodi Olson and Ojmarrh Mitchell conducted a comparative analysis of sex offenders and persistence in their arrest histories and point out that the prevalent misconception of sex offenders by the public is that they possess uncontrollable sexual urges, specialize in sexual offenses and are career criminals (205). One of the most evidential points displaying this postulation is the treatment practices and policies that are currently in place for sexual offenders. Miethe, Olson and Mitchell argue that the major assumption underlying sexual offender programs and policies is that they will continue to offend unless control is brought upon them by greater public surveillance or chemical means (206). Unlike Europe, North America has strayed from allowing surgical castration to be used because of its permanence. However, chemical castration has been used for some time on voluntary sex offenders as treatment, typically combined with mental health therapy (Petrunik 495). In these authors' analysis, it appears that, when compared to other types of serious criminal behavior, sex offenders typically demonstrate lower recidivism rates and have less serious criminal histories, which was concluded by studying 10,000 released sex offenders and evaluating their arrest patterns compared to other offenders (Miethe, Olson and Mitchell 207 and 204). Of the 10,000 offenders studied that were released in 1994, this research shows that less than half were rearrested for any crime within three years of their release date, whereas two-thirds of other criminals, consisting of burglars, drug offenders and larcenists, were rearrested within three years upon their release (Miethe 207). Miethe, Olson and Mitchell also indicated that within

their sample, the sex offenders were more likely to be Caucasian males with seven separate arrests in their criminal careers, compared to an average of ten arrests among general offenders (Miethe 207). Another international sample of eighty-seven research projects in 1998 representing 28,972 sex offenders proposed that the average recidivism rate for sex crimes was only 13.4 percent, while the average recidivism rate for any other crime was 36.3 percent (Walker et al. 1). Among these findings was also the characteristics of sex offenders that recidivate exposing that only age and marital status could be used to predict rates of reoffending and could only be accurate if the offender had “prior sexual offenses, victimized strangers, had an extra-familial victim, began offending at an early age, had a male victim or had engaged in diverse sexual crimes” (Walker 1). Another sample of 917 sex offender probationers revealed that only 107 out of the 917 offenders, or 11.7 percent, were rearrested for a non-sexual crime, while only 4 offenders, or 4.5 percent, were rearrested for a sex crime while on probation (Meloy 227). Other studies show that of 19,000 sex offenders, the average rate for recidivism is 13.7 percent, while it is 74 percent for convicted burglars, 70 percent for convicted robbers and 75 percent for convicted thieves (Robbers 5). As stated before, despite numerous studies, recidivism rates for sex crimes are difficult to conclude due to inconsistencies and lack of access to certain details and information. Nonetheless, evidence does appear to demonstrate the idea that sex offenders may not actually be reoffending as much as believed to be and that it is possible that the sex offender registry is not only based off of this misconception, but fueling it as well. Although there is an assumption that a difference in arrest rates will be experienced upon registration of an offender and community notification, it has been demonstrated that the only difference seen between those released offenders who are registered and those who are not is that those who are registered are more likely to be arrested again in their jurisdiction quicker

than those who are not due to their information being readily available to law enforcement (Levenson 52). As mentioned before, current policies for sex offenders have been enacted in efforts to correct and control the offender post-release in hopes of decreasing reoffense rates rather than attempting to correct the offender with much needed psychological treatment while behind bars. Peter Loss, Clinical Director of the Sex Offender Treatment Program (SOTP) for the adult prison in Rhode Island, the Adult Correctional Institution (ACI), indicates that mental health treatment for these types of offenders while incarcerated does make a difference in recidivism rates, even though there is a strong public conception that these offenders will never change (Loss). Loss has treated 166 sex offenders at the ACI since 1989 that have been released from the Sex Offender Treatment Program, with 99 released due to a positive SOTP recommendation and the other 67 offenders being released due to their incarceration period expiring and not with a positive SOTP recommendation (Loss). Of the 99 offenders with positive recommendation releases, 4 were rearrested for a sex crime, or 4.0 percent, while 5 of the 67 non-positive recommendation releases were rearrested for a sex crime, or 7.5 percent (Loss). Although the percentages may not be drastically different, the statistics do suggest that correct treatment of sex offenders while incarcerated may make a difference for the offender post-release and that these offenders may actually have the ability to change when given the chance, despite the shared notion they do not. Even though a 3 percent difference may seem miniscule, it is more than significant to those who could have been potential victims of the offenders that did not recidivate.

Another flaw directly linked to the sex offender registry and community notification is the fact that the information provided to the public can be incorrect or completely misleading. Studies regarding the effectiveness of the sex offender registration laws and community

notification legislation that are in place have uncovered that most states admit that there is no way of actually knowing what percentage of their state's sex offenders are registered and whether or not the information provided by the offenders was correct (Petrunik 499). Numerous errors within the sex offender registries, including misinformation, inaccurate data or "lost" registrants have been identified throughout the nation (Tewksbury 384). In order to demonstrate this fact, Sarah Welchans studied the sex offender registry of Kentucky, noting that of the 537 entries in the registry system within the fourteen counties of Kentucky, less than 75 percent potentially had correct addresses listed as residences for registered sex offenders with the remaining percent being false addresses, empty lots or local businesses (Welchans 133). Welchans also reveals that California's Attorney General Bill Lockyear estimated that to ensure that all registry information was correct and to sufficiently monitor the state's registrants would cost taxpayers anywhere from \$15 to \$20 million annually (Welchans 137). Levenson and Cotter furthered the realization of incorrect information in their study of 183 registered sex offenders in Fort Lauderdale and Tampa, Florida by revealing that less than half of the registered offenders agreed that their registry information listed was correct (Levenson 57). Another 22 registrants in Jefferson County, Kentucky were interviewed regarding their thoughts on the sex offender registry, revealing an understanding for the public's outcry for the necessity of the registration, but thoughts of unrealistic goals as well (Tewksbury 392 and 389). The registrants explain that registries may not actually contribute to public awareness because of their massive size and the impractical ability to locate one individual among the many state and national registrants (Tewksbury 392). It is also pointed out that the registry often does not categorize the sex offenders or truly differentiate to the public between the offenders who are a real threat and those who are not based on levels of risk and the crimes that were committed prior to

incarceration for the sex crime, leading the public to assume the worst about an offender's risk level or sex crime (Tewksbury 394). This is furthered by the explanation of the necessity for the registry system to determine the difference between a pedophile and a sex offender to the people viewing the registry information due to the assumption that the two are similar when in reality they are not (Tewksbury 396). Tewksbury and Lees indicate that registrants express concern that having a registry only for sex offenders, rather than all violent and dangerous criminals, stigmatizes and stereotypes them more than necessary and may even prevent rehabilitation (Tewksbury 397). With sex offenders already experiencing difficulties reintegrating and beginning a new life upon registration as sex offender status, the availability of misinformation to the public of these sex offenders online is aiding in creating barriers to this reintegration as offenders are losing jobs, being forced to move from their homes due to public outcry and experiencing their loved ones as victims of harassment and threats because of living with a sex offender as a result of being listed on the registry (Robbers 5-6).

Another problem with the sex offender registry and community notification is the belief that these mandated policies create nothing more than a false sense of security for families with children, along with a sense of vigilantism throughout the country. Although the registry and community notification appeal to the public, some critics suggest that they cause more negative than positive effects in the long run. Some argue that the registry and community notification create a false sense of safety for the community because the public is led to believe that sexual offenses are typically committed by strangers, rather than the people who truly commit these crimes - family members and acquaintances (Levenson 51). One report released by the Justice Department of the United States found that three-fourths of rapes and sexual assaults involved an assailant known to the victim and an even higher number for victims younger than 12 years of

age with 90 percent of the attackers being known to the victim (Welchans 124). It has been shown that many communities actually feel heightened anxiety due to the sex offender registry because of a lack of strategies offered to help citizens protect themselves (Levenson 52). Another revelation in Levenson and Cotter's study of 183 registrants in Fort Lauderdale and Tampa, Florida exposed that many of the participants' victims were family members or acquaintances and that the offenders studied encouraged the need for education to help families understand and become more aware of the dangers of trusted and known people (58). Another study of 136 recidivistic incarcerated sex offenders revealed that only 27 percent had arrests for other sexually-based crimes and that, of these crimes, only one-third were committed against a stranger. Of those that were committed against a stranger, only six of these offenses could have possibly been prevented (Welchans 135). Because of this wide misconception throughout the country, community notification may actually cause resistance for victims of sex crimes and ongoing abuse by family members or acquaintances to come forward because of fear of embarrassment for the family and for their safety (Levenson 51).

Another negative effect created by the legislation in place in respect to sex offenders are the residential restriction zones that have been created by these laws, specifically Megan's Law. The most widely adopted statute for creating a residential restriction zone recently is the five-hundred foot rule or one-thousand foot rule. With this rule in place, some sex offender registrants in certain states are prohibited from residing within five-hundred feet or one-thousand feet of schools, parks, daycares or any other place where children are typically congregating (Burchfield and Mingus 359). The purpose of these restriction zones is to eliminate both the temptation and opportunity for convicted sex offenders to commit another crime by not allowing the offender to live near a place where children may be located (Grubestic 146). As of 2005,

more than 14 states had begun accepting and mandating residential restriction zones for released sex offenders with Illinois having the least restrictive distance as five-hundred feet and California as the most with a radius of 0.25 miles of an elementary school and thirty-five miles of a victim or witness to the sex crime (Grubestic 144). As of 2006, the number of states enacting these zones jumped drastically from 14 to 29 (Mulford, Wilson and Parmley 3). Despite this rule being in place, it has been suggested that these residential buffer zones actually do nothing to prevent sex offenders from residing in these areas (Grubestic 146). A study of all registered sex offenders in Hamilton County, Ohio discovered that between 31 percent and 45 percent of the offenders were living in a restricted area mandated by Megan's Law, which is within 1,000 feet of a school in this specific community (Grubestic 153). However, regardless of some offenders choosing to intentionally reside in areas that are restricted by law due to sex offender registration, some cannot find housing anywhere else. With some states enacting increasingly stricter residential restrictions of up to 2,500 feet in some areas, sex offenders are often running out of places to relocate to. One study determined that residential restrictions of 2,500 feet would require "100 percent of sex offenders in rural areas, 91 percent in the suburban area and 98 percent in the urban area to move out of the community" all together (Mulford 9). Although this sort of buffer zone would leave 54 percent and 37 percent of rural and suburban areas still available for housing opportunities, only 7 percent of any urban area would be open as a sex offender residence making it nearly impossible to live in or near a city (Mulford 9). It has also been suggested that such living restrictions do not influence the amount of sex offenders that recidivate in any way, regardless of the societal belief that they do. Researchers in Minnesota examined all sex offenses committed by released sex offenders between 1990 and 2002 leading to the conclusion that none of the 224 sex crimes would have been affected or prevented by

residential restrictions on the offender (Mulford 3). Another theory of residential restrictions suggests that sex offenders may actually benefit from living in largely populated areas congregated with children because of one crucial facet – guardians. Where there are children, typically formal and informal guardians, such as teachers, caretakers, and parents, are closely following behind that can prevent a kidnapping or sex crime from occurring. With this in mind, sex offenders are actually likely to be deterred from committing sex crimes out of fear of being recognized by the guardians of the potential victims in a community highly populated (Mulford 5). Also within populated communities comes social capital, the exchanging of information and resources through social ties, such as a neighbor telling another member of the community about a job opportunity or parents discussing one another's children (Burchfield 357). Communities that are rich in social capital typically have happier people, supervised children and safer streets, while, on the other hand, those neighborhoods that are not blessed with social capital are typically diseased with poverty, joblessness and are broken down. When social capital is absent within a community, typically families have fled the area, the concept of role models has disintegrated completely and the residents that do remain become poisoned with a lack of pride and responsibility for their local neighborhood (Burchfield 357). When a sex offender is released into society in hopes of a successful reintegration, positive feedback and stability provided by social capital are necessities for an offender as he/she begins to turn over a new leaf within society; however, residential restrictions are limiting access to such places for offenders upon release. Also, despite many assumptions that released sex offenders live in restricted areas for the simple fact that children congregate in or near them, a more analytic reason has been suggested – it's the only housing available to the offenders economically (Grubestic 154). Data proposes that approximately 50 percent of available housing is located outside of the restricted

areas and approximately 92 percent of those have an average contract rent less than \$750 per month (Grubestic 154). It is further demonstrated that within the 163,005 housing units available in this area, 58.4 percent are located within restricted areas and have a contract rent of less than \$500 per month, suggesting that it is typically cheaper for a resident, sex offender or not, to live within the zones that are considered restricted by Megan's Law (Grubestic 154). The negative impact of the residential restrictions is not only felt by the offender, though. These restrictions have also had a damaging effect on the housing market because of the difficulty sex offenders have settling into a neighborhood following registration and community notification and disclaimers that urge potential renters and buyers to contact local law enforcement about possible sex offenders living in a neighborhood prior to signing any contracts (Petrunik 500).

Another devastating effect of the sex offender registration is the labeling that takes place within society of offenders upon release once his/her information is available on the Internet and community notification has taken place. As discussed, communities with social capital can often be positive for offenders; however, some communities with social capital are turning to informal social control, which does not promote a positive or easy reentry for the offender. Local residents often engage in informal social control upon receiving the news that a convicted sex offender is nearing the community, creating barriers to the social capital in the neighborhood. By doing this, the offender is banned from networking within the new community and cannot find a sense of belonging near his/her residence (Burchfield 358). With such informal social control occurring, the chances of vigilantism increase severely against the local sex offenders, even though states have banned such type of behavior, making it even more difficult to truly feel at ease within a community (Levenson 51-52). When vigilantism takes over the community, local residents take responsibility for the quality of their neighborhood and deal with the

reintegration of offenders personally by engaging in social capital by distributing flyers, informing other residents, discussing in town meetings, or even attempting to get the offender to move (Burchfield 359). Along with informal social control also comes disintegrative shaming, shaming that occurs when an offender is no longer being punished (incarcerated) and is still not welcomed back into society while being shunned and stigmatized (Robbers 3). As opposed to disintegrative shaming, reintegrative shaming occurs while the offender is being punished but stops once the offender has completed the necessary sentence and is welcomed back into society, which is what a sex offender should and must experience in order to better themselves and positively reintegrate (Robbers 3). Because of such experiences upon release and a strong absence of acceptance from the community, registered sex offenders may isolate and withdraw themselves due to disempowerment, shame, embarrassment and loneliness, which may trigger a relapse of sex offense in the future (Levenson 51-52). A study of 40 participating sex offenders revealed that 67 percent claimed that the registry severely and negatively impacted their lives, especially relationships with others (Welchans 130). In a study of effects associated with the registry of 153 registered sex offenders in Virginia randomly selected as every third person, 93 percent of offenders commented on the effects of being labeled a sex offender, claiming that their arrests and trials becoming public news had a negative impact on their family and friends with families' disowning respondents and respondents not being allowed to travel due to probation/parole which furthered conflict with family ties during emergencies (Robbers 11). Half of the sex offender respondents also indicated that they had experienced a job loss because of their label as a sex offender, had to lie to their employer in order to not lose the job or had to quit because of harassment by coworkers upon information gathering from the registration (Robbers 11). Another 87 percent of participants considered their sex offender status an illness

from which they were trying to recover from with 29 percent admitting to severe suicidal thoughts (Robbers 13). Another 20 percent indicated that they were living in a community anonymously and were not trying to draw attention to themselves by participating in community programs (Robbers 16). Lastly, another 66 percent were mandated to attend group therapy sessions on a regular basis upon release which are not necessarily held in the evening and are an expense that must be paid out-of-pocket by the offender (Robbers 18). Although this may sound as if it is beneficial for the offender, the registrants lose a fair amount of money by leaving work early in order to attend therapy and already have difficulty enough finding well-paying jobs with sex offender status. By allowing informal social control and disintegrative shaming, society is strengthening the message to sex offenders upon release that offenders “are never going to be rehabilitated and should not be allowed to contribute anything worthwhile to communities” (Robbers 11).

Sex offenders released back into the community upon completion of criminal sentences will remain a constant issue of concern within our society and local communities. As our state and federal legislatures struggle to find a way of reintegrating these offenders back into society, statutes that are effective in regards to preventing future crimes and rehabilitating the sex offender, yet ensuring enough for the public to be comfortable and safe, must begin to be implemented. As explored and discussed in the Pell Honors Program at Salve Regina University, a continual effort in society to promote peace and justice to all must be made, while focusing on and respecting individual rights through relevant public policies put into place by our governments. Although our nation’s efforts in both aiding and controlling the reintegration of sex offenders upon release is one that is not perfect and is most definitely flawed, current statutes and legislatures are moving toward the right direction by becoming more successful with

tracking offenders, keeping updated records, initiating counseling programs and researching sex offender statistics for more knowledge of these types of offenders. Despite these accomplishments, these laws still have milestones to reach before they can become truly effective and just in execution. In order to accurately manage released sex offenders effectively and justly within the local communities, further research of sex offenders must be conducted in order for current legislatures to become as efficient as possible. With the use of this new research, legislatures can begin to move away from what society wants to believe sex offenders are capable of and will do upon release and begin to enact laws based on studies and reports of sex offenders that may yield results differing from today's societal assumptions. With the revelation of new studies, research and statistics of sex offenders that may provide suggestions of different approaches to the reintegration process becoming increasingly available, local, state and federal governments can begin to enact legislation that is increasingly effectual for the civilian on a societal level and the offender as he/she reenters our society and attempts to begin a productive and meaningful life upon rehabilitation. As clearly demonstrated, many of our current statutes in place are enacted in order to control the extreme sex offender, or pedophile, and prevent any further sex crimes upon release. Although pedophiles do exist within the community, pedophiles are far more extreme than the typical sex offender found on the registry, a person that may have been convicted of any sex crime ranging from sexual harassment to statutory rape (Hill). Because of this conception and the risk management-community protection approach currently in effect, tremendous efforts by the government are being made against released sex offenders to both control and prevent recidivism as an attempt to answer the outcry of the public that is fearful of the pedophile next door; however, the sex offender attempting to reintegrate back into the local community may not necessarily be as dangerous and sexually

perverted as perceived. With this in mind and the fact that released sex offenders are often cause of fear to many citizens, our society needs to collectively make an effort to better understand the sex offender statistics and information that are available upon research, rather than enacting laws based on assumptions, and truly begin to shine light upon the effects of current sex offender laws on both the offender and citizen. Our legislatures need to keep in mind when mandating sex offender statutes that these laws may not necessarily solve the issue at hand as sex crimes are often much more deep-rooted than other crimes due to the nature of the crime, the costs to enact laws and punishment and the measures that are taken against the offender upon release based on incorrect or misconstrued information. For example, the costs to carry out punitive sentences of incarceration for sex offenders are far more expensive compared to costs to strictly monitor and counsel these offenders with probation and therapy with the average cost to operate one prison cell being \$22,000, while supervised treatment and probation ranges from \$5,000 to \$15,000 (Lane Council 31). In-depth looks at the sex offender registry and community notification processes need to be conducted by governmental agencies as well in order to enact productive statutes as evidence is beginning to emerge demonstrating a difference between our statutes' intentions and actual outcomes and consequences. For instance, many people within local communities believe that the policies currently in place are helping to promote community safety and are necessary for future crime prevention upon release. Because of societal uproar regarding reintegrating sex offenders, governments throughout the nation have implemented laws that support such goals; however, it has been suggested that recidivism rates for sex offenders are significantly lower than those of any other criminal, demonstrating a difference of 22.9 percent in certain reports (Walker 1). Reconsideration of the accuracy and accountability of the sex offender registry needs to be analyzed; too, in order to enact more effective laws and programs

as research has provided in some cases that less than 75 percent of the information, consisting of the offenders' identifying features upon release, is incorrect and/or outdated (Welchans 133). Furthermore, in order to efficiently maintain such a database accurately and successfully could cost taxpayers up to 20 million dollars yearly (Welchans 137). Also, citizens that have been outraged by the presence of a released sex offender within their local community need to recognize the evidence that points out that most sex crimes are committed by family members and acquaintances of the victim and not strangers, despite current statutes conveying the opposite message (Levenson 51). As mentioned, one study pointed out that only one-third of the sex crimes analyzed were committed against a stranger and only six of these could have been prevented (Welchans 135). Restriction zones mandated by many states in conjunction with the sex offender registry also need reassessment if society hopes to move toward more effective ways of dealing with offenders as availability for living is severely limited, almost impossible in certain areas, and may actually hinder successful rehabilitation. With restriction zones banning sex offenders from certain areas of a community, the sex offender is actually being pulled away from an environment that is more conducive for a positive reintegration and pushed into neighborhoods lacking social capital that deprive the offender of necessary interaction with local residents, job opportunities, stability, affordable housing and deterrence to commit crimes again due to the desire of approval from society. Lastly, as part of moving toward enacting policies that are effectual in process and respectful of all individuals, the concept of labeling as an effect of the sex offender registry being publicly available and community notification must be addressed. With local residents of neighborhoods creating barriers for sex offenders to reintegrate back into his/her community positively; offenders are receiving the strong message that society does not welcome their return or have faith in their rehabilitation either. Although

citizens may be doing this type of informal social control to protect themselves and their loved ones from being future victims of sex crimes by isolating the offender, studies have shown that such withdrawal, segregation and disintegrative shaming for the offender may actually trigger a relapse – the reverse effect of what society wants (Levenson 51-52). With the exposure of new sex offender information and current policies' detrimental effects on both the reintegrating offender and citizen, the government can begin to enact laws that promote peace and justice within the community, while respecting each individual's rights, and begin to develop statutes with the understanding that society's current attempts at dealing with released sex offenders may not necessarily be the most competent, effectual or ethical way. In order to create and enact policies in the future that will allow sex offenders to obtain both a positive and productive reintegration upon release while maintaining both safety and a level of comfort throughout society, further research as to what does and doesn't work regarding sex offenders post-release must be assessed and utilized. Although there is not one clear-cut way of handling sex offenders as it differs from state to state across the nation, one thing is universal throughout the country: there is always room for improvement.

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