

Sex Offender Legislation in the United States

What Do We Know?

Michelle Cohen

Elizabeth L. Jeglic

John Jay College of Criminal Justice, New York, NY

In the United States there has been increased public pressure to create legislation to monitor and confine sex offenders. However, to date, there has been very little empirical evidence suggesting that these laws are effective in preventing future recidivism. This article reviews the current trends in sex offender legislation, including mandatory sentencing, civil commitment, community notification, monitoring, and supervision and the impact these policies may have on sex offender recidivism and treatment.

Keywords: *sex offenders; treatment; legislation; United States*

On any given day, there are approximately 234,000 people under the control of corrections agencies who have been convicted of a sexual offense, and almost 60% are under correctional supervision in communities in the United States (Langan, Schmitt, & Durose, 2003). There is a widespread belief that sex offenders inevitably will recidivate, thus generating very negative reactions from community members who fear the release of these offenders (Scheela, 2001). Although research has shown that recidivism rates can be as low as 17% for untreated offenders, the risk that any of the offenders will reoffend is enough to generate public apprehensiveness (Lussier, 2005). As a consequence of public pressure, communities and politicians are advocating for more severe methods of dealing with sex offenders. This has resulted in the advent of many legal policies and laws aimed at controlling sex offenders in an attempt to prevent the anticipated recidivism (Petrunik, 2002).

The current trend in dealing with sex offenders is toward incarceration (including longer sentences and civil commitment), as offenders cannot reoffend if they are removed from society. However, given that the majority of known sex offenders are currently living in the community under correctional supervision, there also has been a move toward monitoring them (Langan et al., 2003). After these new policies are

Authors' Note: Address correspondence concerning this article to Elizabeth L. Jeglic, PhD, John Jay College of Criminal Justice, Department of Psychology, 445 West 59th Street, New York, NY 10019; phone: 212-484-1195; fax: 212-237-8930; e-mail: ejeglic@jjay.cuny.edu

implemented it can be difficult to discern how effective they are in actually reducing recidivism. There is little available research on many of these methods, and the research that does exist is often less than promising. Despite this reality, there continues to be escalating pressure to implement tougher sentencing policies for handling sex offenders. This article will review the current trends in sex offender legislation and the impact these policies may have on sex offender recidivism and treatment.

Mandatory Sentencing Laws

Sentencing for sex offenders has changed in recent years, and multiple new laws have been enacted that allow for longer sentences (West, 2000). The laws are intended to provide what politicians and the public believe to be an adequate punishment; they are also intended to help prevent recidivism by confining the offenders. Multiple states also have introduced mandatory sentencing laws for sex offenders to ensure both the severity and uniformity of the sentences (Sorenson & Stemen, 2002; Wood, Grossman, & Fitchner, 2000). The well-known *three strikes* policy is one of these laws. This law permits courts to impose life sentences on criminals who have committed three serious crimes, but it can be applied to offenders who have committed at least one violent or sexual crime. However, these laws also are used to persuade more offenders to plea bargain down a charge while accepting a longer sentence in order to avoid a life sentence (Sorenson & Stemen, 2002). Therefore it is plausible that offenders who have committed sex crimes are not actually convicted of a sex crime (which, in some cases, may be more difficult to prosecute) and thus avoid being labeled as sex offenders.

Research on mandatory sentencing laws is notably scarce. One study by Sorenson and Stemen (2002) gathered demographic information and criminal histories (crimes, arrests, and sentencing) from the State Sentencing and Corrections archives. They were able to obtain data from all 50 states between the years of 1977 and 1999 and found that mandatory sentencing is applied differently in different jurisdictions (Sorenson & Stemen, 2002). In addition, Worrall (2004) used multiple variable models to analyze county-level data collected between 1989 and 2000 in California. The only crime type they found to be affected by this policy was larceny. Furthermore, when they controlled for trends occurring in each county, they found that mandatory sentencing laws did not actually have any deterrent value or effects on incarceration. Although these results are less than promising for mandatory sentencing laws in general, there has yet to be any investigation into how these laws specifically impact sex offenders.

Despite the current status of research on mandatory sentencing laws, more research needs to be conducted before conclusions can be reached as to their effectiveness. Although these laws are not only applicable to sex offenders, research on

the effects—and specifically on the recidivism rates of sex offenders—could be beneficial in establishing effectiveness. If it is discovered that these laws are simply not useful in reducing recidivism for any crimes, then legislative bodies may want to reform these laws so that they can be effective. Policies that create longer sentences for sex offenders are not likely to be abolished, because they do offer harsh punishment for crimes that are viewed as heinous by the public. However, steps can be taken so that these laws are more equally applied in all jurisdictions, which may perhaps make them more effective. It might also be advantageous to consider pairing longer sentences with other methods for dealing with sex offenders (i.e., treatment, discussed later).

Civil Commitment

Another method of incapacitating sex offenders, which has gained popularity over recent years, is civilly committing them following termination of their criminal sentence (Levenson, 2003). Civil commitment originally was designed to treat individuals who were mentally ill and dangerous to themselves or others. However, civil commitment is currently being used to keep sex offenders out of the community after their maximum sentences have expired (Levenson, 2003). This policy is the direct result of offenders having expressed a desire to reoffend while incarcerated, followed by the commission of new crimes after release (Levenson, 2003). Therefore civil commitment is aimed at protecting the public from the sex offenders in the future, whereas prison sentences are intended to punish offenders for previous actions (Levenson, 2003). When the legality of this policy was challenged before the Supreme Court in *Kansas v. Hendricks* (The Oyez Project, 1997), the decision mirrored similar case rulings allowing the civil commitment of sexually violent predators (SVP). The *Kansas v. Hendricks* ruling also created four criteria for identifying sex offenders who were eligible for civil commitment. These included conviction for a sexual crime, a mental disorder or abnormality that would likely predispose them to reoffend, the likelihood of future crimes, and a clear connection between the first two criteria and the third. Following this Supreme Court decision, another 20 states followed the lead of Kansas and instituted civil commitment policies for sex offenders (Petrunik, 2002). The Supreme Court ruling also allowed states to bypass the requirement for mental illness when civilly committing sex offenders, because these offenders are perforce examined to find a mental abnormality that might lead them to commit new sexual crimes. In a subsequent court case, *Kansas v. Crane* (The Oyez Project, 2002), a previously convicted sexual offender, Michael T. Crane, who had been diagnosed with exhibitionism and antisocial personality disorder, was civilly committed as an SVP. This decision was reversed by the Kansas Supreme Court, which held that an offender must be unable to control his or her behavior to be committed. This ruling was later vacated by the United States Supreme Court, which ruled that it is only necessary to show that a sex offender has

serious difficulty controlling his or her behavior. Thus, a diagnosis leading to civil commitment may include antisocial personality disorder and sexual paraphilias, which are considered mental disorders according to the *Diagnostic and Statistical Manual of Mental Disorders* (4th ed., text rev.; American Psychiatric Association, 2000) but do not necessarily imply a complete lack of control in an offender's behavior (Levenson, 2003).

Prior to current SVP legislation, sexual psychopath laws existed in many states, some enacted as far back as the 1920s (Lieb, 1996). These laws had roots similar to the SVP laws, as they were both intended to allow for the civil commitment of offenders. However, one clear distinction between the two laws is that the sexual psychopath laws existed primarily to treat the offenders. In Illinois, for example, the court could choose to pursue a criminal trial for an offender or choose civil commitment proceedings as an alternative to convicting and punishing the offender (Lieb, 1996). In contrast, SVP laws are implemented after offenders complete their sentences and focus primarily on housing offenders who are believed to still be a threat to the community so that they cannot commit new crimes. In addition, these laws require recent evidence of dangerousness. Under the sexual psychopath laws, the offender would have recently committed a crime, followed by civil commitment after conviction. The SVP laws, in contrast, are invoked at the completion of a prison sentence. Therefore, unless the offender committed a new crime while incarcerated, there is not likely to be recent evidence of dangerousness.

Some also argue that the diagnosis for commitment can be liberally applied to commit the sex offenders indefinitely. Furthermore, although the initial intent of civil commitment was a desire to treat sex offenders so that they would not commit further offenses, the guidelines can be stretched to simply confine the offenders (Levenson, 2003). Treatment for offenders who have been diagnosed with a personality disorder or mental abnormality is often ambiguous, as there are currently few empirically supported treatments for these types of disorders. As a consequence, civil commitment does little more than house these offenders, thus removing them from society (Levenson, 2003). Furthermore, if the goal of civil commitment is treatment, then it is not clear why all sex offenders do not receive sex-offender-specific treatment during the course of their incarceration. Many sex offenders who have been civilly committed never received any sex-offender-specific treatment while in prison. For example, in California it is estimated that only 20% of SVP are participating in treatment (Doyle, 2004). There is also a serious absence of available data on how many civilly committed sex offenders have been civilly committed and released. All states have individual review processes for the release of civilly committed persons, but it would likely be difficult to petition for and win the release of a convicted sex offender with a disorder that makes the person likely to reoffend, especially if they have not received treatment.

Janus (2000) conducted a review of current available information on civil commitment and its use with sex offenders. He noted that the financial cost for civilly

committing sex offenders for indefinite periods of time is exceptionally high (Janus, 2000). This study also reported that it costs approximately \$350 per day per sex offender, resulting in a cost of millions of dollars over the course of a year when staff and support costs are included as factors (Janus, 2000). This is significantly more than the cost of both incarceration and treatment.

To date, the only completed study on the effectiveness of civil commitment yielded less than promising results. Schram and Milloy (1998) followed a group of sex offenders who were not civilly committed following their release, against the better judgment of mental health professionals. They found that only 28% of the released offenders recidivated, indicating that as many as 70% of committed offenders would not have reoffended had they been released. These findings could have serious civil rights implications given their suggestion that the majority of sex offenders who are civilly committed are not likely to reoffend, subjecting them to indefinite civil commitment after the completion of their legal sentences. Thus, more research is needed to examine the effectiveness and appropriateness of civil commitment for sex offenders.

One purpose of civil commitment laws is to protect the public from offenders who are believed to be highly likely to recidivate. However, the primary intent of civil commitment is to treat the offenders, and this is currently the most ambiguous aspect of the policy. Further research is required to determine if the offenders are actually receiving treatment and, if they are being treated, the type of treatment they are receiving. Finally, researchers must determine if this treatment is effective in reducing the deviant desires and, most importantly, in reducing recidivism. A large problem in determining the actual recidivism rates of these offenders is that this policy allows for indefinite commitment, and offenders would need to be released in order to reoffend. Currently it is not clear whether this policy is being used merely to house offenders. Thus without more research, it is difficult to recommend reforms until we have a better understanding of the effectiveness of this policy (and even whether it is being implemented).

Community Notification

Once sex offenders have served their criminal sentences and are released into the community, a variety of laws have been instituted to monitor their whereabouts and actions. These policies are more generally termed *community notification laws*. Megan's Law (1996), which was named after Megan Kanka, a young girl who was sexually assaulted and murdered by a released sex offender, is the most well known of these laws. This law was first enacted at a state level in New Jersey and then later as a federal law (the Jacob Wetterling Act). According to Megan's Law, sex offenders are required to register their addresses, offenses, and other relevant information, such as their telephone number, social security number, employment information,

and fingerprints, to local authorities when they move into a new community (Levenson, 2003). Community notification is federally mandated and therefore it has been instituted in all 50 states and the District of Columbia (Zevitz & Farkas, 2000b). The federal version of Megan's Law requires that all states make relevant information on released sex offenders available to the general public. However, the federal legislation does not mandate that states must actively notify the public; consequently, notification methodology differs by jurisdiction and available resources. Community notification can include making flyers, phone calls, going door-to-door, neighborhood meetings, or using an Internet database (Levenson, 2003).

There generally are four different models used in notifying the public of a sex offender living nearby (Finn, 1997). The first is an active agency notification based on the agency's determination of dangerous. This notification method generally includes a three-tiered system by which the dangerousness of sex offenders is classified by the type of crime they committed (Russell, 2005). Tier 1 offenders have not demonstrated predatory behavior in their crimes, and most have successfully participated in a treatment program. Tier 1 offenders are considered the lowest risk to the community. Tier 2 offenders are believed to be more likely to reoffend and present a moderate risk to the community. Tier 3 offenders are believed to be inclined to reoffend, given the opportunity; these pose the highest risk to the community (Russell, 2005). The type of notification or monitoring the offenders receive is implemented based upon their placement in the tier system. For example, in New Jersey and Washington, Tier 1 offenders do not require active notification, whereas Tier 2 offenders require notification of specific groups (i.e., boy scouts, summer camp, day care centers), and Tier 3 offenders, in contrast, require notification of all relevant persons who may come in contact with the offender (i.e., placards, posters, press releases; Brooks, 1996; Schram & Milloy, 1995). The second method is active agency notification in which state-stipulated categories and notification methods are established and the designated agency carries them out with no role in determining which offenders will be monitored or how notification will be done (Finn, 1997). The third type is an agency-supervised, offender-conducted notification in which the offenders themselves are responsible for notifying the public of their presence. The fourth and final method is a passive notification system in which community groups or community members must request specific information on offenders.

Community notification legislation was originally intended to protect children from predatory sex offenders (Levenson, 2003). However, as the legislation is currently being implemented, sex offenders are required to register regardless of the specific circumstances of their crime(s) or whether they received treatment. This is interesting because, as it is currently designed, the purpose of this legislation is to protect children against assaults by strangers. However, the majority of assaults (approximately 7 out of every 10) are committed by acquaintances or people known to the victims, and such legislation does little to protect them (Catalano, 2005). Despite the original intent, all offenders must register, and community members may

be indiscriminate in their reactions to sex offenders, given that they are often listed only by the legal title of their crime and not the description of the actual events that took place. Subsequently, a person who was dating someone close to them in age, but was under the legal age of consent, could invoke the same reaction as an older man who frequently assaulted young children. It is also important to note that despite popular belief, registered sex offenders are generally not supervised or monitored unless the offender has an additional stipulation for parole (Russell, 2005).

There is little available research on the effectiveness of community notification legislation (Zevitz & Farkas, 2000b). To date, only one study compared the recidivism rates of registered offenders to those of nonregistered offenders, Washington State's Community Protection Act of 1990. The names of registered offenders were collected from local law enforcement agencies and compared to a group of 90 unregistered offenders who were released prior to the implementation of this law. The registered offenders were all Tier 3 offenders, and the unregistered offenders had all been convicted of felony sexual offenses. The offenders' arrest records were reviewed to determine if there were any new offenses committed from their date of release to July 1994 (4.5 years later). No statistical difference was found in recidivism rates between registered and unregistered offenders. Furthermore, sex offenders who were registered recidivated more quickly than those who were not (Schram & Milloy, 1995). The authors note that this result is difficult to interpret without also accounting for changes in community and law enforcement behavior since the implementation of the monitoring law. However, overall, these findings suggest that this policy actually has little, if any, effectiveness in preventing offenders from committing new crimes.

Several studies have examined the impact of community notification laws on local law enforcement agencies, which ultimately are responsible for implementing and enforcing these policies. A survey of police and probation officers in Wisconsin found that the majority of the officers were having trouble properly implementing this policy since they were receiving no additional funding to do so (Zevitz & Farkas, 2000a). Corrections officers now must spend considerable time creating supervision networks, obtaining housing, arranging transportation, working on electric monitoring systems, and finding employment for these offenders (Petrunik, 2002; Zevitz & Farkas, 2000a).

Beyond just having problems implementing this policy, it is difficult to keep track of whether the offenders are actually registering. The rules for which offenders are required to register, how they need to register, the type of information they need to provide, and who has access to this information varies from state to state. In addition, in many cases, the responsibility to register lies with the offenders themselves. A survey of 25 states found that 15 of them had no way of knowing if offenders were registered, and the remaining states offered registration statistics ranging from 51% to 100% (Petrunik, 2002). Furthermore, problems arise when offenders move out of the county or state without notifying the proper authorities. Unless

offenders willingly register, there is no way for authorities to locate them. Compliance rates in many states are questionable. The Iowa Department of Public Safety, Division of Criminal Investigations, for example, estimates that 40% of sex offenders are not registered (Scholle, 2000). In California, an investigation by the Associated Press ("California Loses Track of 33,000 Sex Offenders: Overworked Police Unable to Enforce Megan's Law," 2003) revealed that the state had lost track of 33,296 sex offenders who had been registered at one time. That equates to a staggering 44% of all the registered sex offenders in that state. The offenders had all registered at least once and then disappeared, most likely moving away and not registering their new addresses with the proper authorities. This issue also was exemplified following hurricane Katrina when an estimated 2,000 registered sex offenders were forced to flee their homes. Authorities all over the country are now charged with trying to locate them ("Feds: 2,000 Registered Sex Offenders Among Katrina Evacuees," 2005). Although this is an isolated and catastrophic event, it highlights the fact that released offenders are realistically free to move about and can leave their required jurisdictions at will because many of these notification systems are not automatically shared between states.

Community notification laws also can have a negative impact on the sex offenders themselves. Identified sex offenders frequently are denied housing and employment. Instances of offenders being attacked or harassed by angry community members also are not uncommon (Zevitz & Farkas, 2000b). Community members may believe that such treatment is justifiable because the victims are sex offenders; however, these reactions may be detrimental to the effectiveness of this policy. Offenders actually may be less likely to register out of fear of retribution, and the most pressing issue still remains that simply knowing where a sex offender is will not necessarily make that offender any more or less dangerous. Zevitz and Farkas (2000b) conducted face-to-face interviews with 30 convicted sex offenders in Wisconsin. They found that many of the offenders reported that having to register in their communities would not decrease their likelihood to reoffend.

Stress has been identified as well as a possible antecedent of relapse. Thus, angry responses by the public to sex offenders indirectly may contribute to reoffending by heightening their stress levels (Zevitz & Farkas, 2000b). Chronic torment can contribute to feelings of anxiety and resentment, which in some situations may erode restraint. Some researchers also have suggested that notification can even be detrimental to treatment because it takes the responsibility of rehabilitation and recidivism prevention off the offender and places it onto the community (Levenson, 2003). It has been proposed that community notification should be used to supplement other more proactive forms of prevention (Freeman-Longo, 1996).

This policy also may affect people who live in communities with registered sex offenders. First, although community members may wish to be notified of sex offenders living nearby, it may only offer a false sense of security given that the little available research that exists has shown that registered sex offenders are no less

likely to reoffend than unregistered sex offenders (Zevitz & Farkas, 2000b). It is also possible that in a community that receives multiple sex offender warnings, community members may feel overwhelmed or even fatigued by the notifications because they cannot maintain their everyday lives while simultaneously trying to protect themselves and their families.

A series of studies have examined community members' reactions to community notification. A study by V. S. Beck, Clingermyer, and Ramsey (2004) collected information from a mail survey conducted in Hamilton County, Ohio. The sample included 97 people who were notified by mail about sex offenders living in the neighborhood and 139 people who were not notified because it was not required by law. The study found that simply knowing the location of an offender did not actually make the community feel safer (V. S. Beck et al., 2004; Zevitz & Farkas, 2000b). In fact, community members notified of a sex offender's nearby residence perceived a greater risk of victimization not only for themselves, but also for family members, and these fears can fuel powerful resistance to the presence of offenders in the community (V. S. Beck et al., 2004). In addition, V. S. Beck and Travis (2004) examined the levels of fear induced by sex offender notification. They found that people who had received notification of a sex offender living nearby were significantly more likely to fear personal victimization than were people who had not been notified, suggesting that notification induces fear.

The implementation of community notification laws is a logical preventative measure, given that the majority of sex offenders return to the community. This policy could be made more effective by utilizing actuarial risk-assessment measures to ascertain which sex offenders were at the highest risk to reoffend. Therefore, only offenders who would be most likely to recidivate would have to register. Such a modification would eliminate the tier system. Currently, the lack of resources within the individual jurisdictions is one of the greatest impediments to properly implementing this policy. This modification also would provide law enforcement officers with the ability to focus their resources on the most likely threats to the community. However, before making additional changes to the legislation, more research is needed. To date, the available research appears to skirt the most basic issue: "Is the legislation effective in reducing recidivism?" A wide-scale study of all released sex offenders on either a state or federal level should be undertaken. A study of this nature could determine whether sex offenders are properly registering, and most importantly whether the registration of offenders is effective in reducing recidivism.

Monitoring

A more recent legislative innovation in dealing with sex offenders is the use of monitoring systems to ensure the location and proper behavior of released sex offenders. This may be implemented as a substitute or in addition to the community

notification laws. However, unlike community notification laws, monitoring gives law enforcement officers the ability to physically monitor the location of offenders (Russell, 2005). Florida recently passed legislation requiring certain child molesters to wear a Global Positioning System (GPS)–based electronic monitor for the rest of their lives. This law is termed the Jessica Lunsford Act after the rape and murder of a 9-year-old girl by a registered sex offender who had moved without notifying the proper authorities about his change in address (Russell, 2005). Other states have followed Florida’s example, with a half dozen considering similar legislation. This GPS tracking system costs approximately \$3,650 per year, exclusive of wages for state employees who are charged with monitoring and preparing the GPS reports (Russell, 2005). Although it is possible for offenders to remove the devices themselves, constant monitoring ensures that authorities can be notified within minutes if the devices have been subject to tampering.

A study by J. L. Beck and Klein-Saffran (1990) examined the effectiveness of monitoring systems as applied by the Community Control Project. The Community Control Project monitors a wide range of offenders (e.g., robbery, assault, drug distribution) and is intended to supervise offenders during their transition back into the community. Researchers found that they were able to successfully ensure the proper location of offenders through electronic monitoring equipment. In addition, they were able to detect when the offenders left their prescribed areas. Although there were some inevitable malfunctions in the monitoring equipment itself, these malfunctions were minimal and did not compromise the integrity of the system. Of the offenders included in the study, only 46 of the original 357 (13%) returned to prison because of parole violation or attempts to flee supervision, which is more than three times lower than offenders who are released through the general parole system (Vollum & Hale, 2002). However, J. L. Beck and Klein-Saffran noted that monitoring devices need to be coupled with the supervision of a probation officer or other authority to ensure that offenders adhere to behaviors beyond merely being in the proper location (e.g., maintaining employment, sustaining a proper living situation, abstaining from substance abuse). The need for continued personal monitoring in addition to the electronic monitoring is a reasonable addition. Furthermore, the research to date examining the effectiveness of monitoring systems in reducing recidivism is promising.

Supervision

Approximately 13 states also have introduced lifetime supervision policies. However, these policies do not require an electronic locator device. Illinois recently passed a law mandating that offenders convicted of predatory criminal sexual assault of a child, aggravated criminal sexual assault, or criminal sexual assault receive from a minimum of 3 years parole to a maximum of lifetime parole (“Governor Signs Law

Requiring Lifetime Supervision for Most Dangerous Offenders,” 2005). The lifetime supervision requires that these offenders be monitored by parole officers who are specially trained for work with this population. Each offender also receives a progress report every 180 days regarding compliance with the conditions of their parole and any participation and progress in a sex offender treatment program. These reports are submitted to the prisoner review board, the chief of police, and sheriff in the county where the offender resides (“Governor Signs Law Requiring Lifetime Supervision for Most Dangerous Offenders,” 2005).

Many of these supervision laws prohibit offenders from living, working, or being within a few thousand feet of a site where children are present, such as schools, parks, or school bus stops (Worth, 2005). In some cases, this translates into offenders not being allowed to live or work in a town at all. In small towns, the radius around forbidden areas may restrict sex offenders from being allowed anywhere in the town. Some have raised the issue that many offenders did not live or work near their victims and that this measure may not prevent future assaults (Worth, 2005). In addition, as with community notification laws, it is impossible to track an offender who has moved out of the particular county or state because authorities simply do not know where to look for them.

There is a dearth of research examining the compliance and effectiveness of these supervision policies. To establish the effectiveness of these policies, the recidivism rates of the offenders being monitored under this program could be compared with the recidivism rates of offenders who are not being monitored (but have committed similar crimes in different states). It would also be valuable to ascertain whether the supervision is being implemented to the degree required by the legislation (i.e., are the offenders actually being monitored as often as required?). In addition, given that this legislation is so limited in scope, it would be interesting to compare the recidivism rates of the sexual offenders who meet the criteria for lifetime supervision to other types of sexual offenders.

The Application of Situational Prevention Model to Sexual Offending

A recent development in the sexual offender literature is the application of the situational crime prevention model to sexual offending. According to this model, sexually based crimes can be prevented not by controlling offenders, but rather by controlling the environment in which the crimes occur (Wortley & Smallbone, 2006). Wortley and Smallbone described several environmental factors that were related to sexual offending, including the late onset of sexual offending behavior, the low incidence of chronic sexual offending, the high incidence of previous nonsexual offenses, and the high incidence of abuse by people known to the victim (see Wortley & Smallbone, 2006, for a more detailed discussion of the environmental factors related

to sexual offending behavior). Based on this criminological theory, four main strategies are proposed for decreasing sexual offending behavior against children. These are increasing effort (the effort required for a sex offender to access a victim), increasing risk (making it more likely the perpetrator will be detected), controlling prompts (minimizing tempting situations), and reducing permissibility (holding offenders accountable for their behavior; Wortley & Smallbone, 2006). Although this model has yet to be tested empirically, it is a novel application of existing knowledge and methodology to the prevention of sexual offending.

Treatment of Sex Offenders: The Next Frontier?

Overall, the current legal methodologies for controlling sex offenders are unproven and very much underresearched. The notable lack of supporting research makes it difficult to discern the actual effectiveness of these methods, and it is clear that a great deal more research is necessary. The public is relying upon sex-offender-related legislation to protect them from sex offenders, but the research on these methods has not been promising thus far. Incarcerating offenders appears on the surface to be useful in preventing recidivism, but it can only be effective while the offender is contained. A vital issue that affects incarceration-based methods is simply that it is not possible to incarcerate all sex offenders forever. Eventually, the vast majority of these offenders will be released. The community notification laws were developed so that community members would know where offenders are situated, but this method only seems to work when the offenders are willing to cooperate and readily identify themselves as sex offenders. Although there is no empirical evidence of its effectiveness, electronic monitoring appears more useful than community notification, because the authorities are aware of their presence and, within a community, know where the offender is at all times. It is also considerably more difficult to simply relocate without notifying authorities. Overall, however, the current methods for dealing with sex offenders appear to be less than successful for various reasons. It may be beneficial for new avenues to be explored so that other, more proactive methods can be developed or expanded (i.e., treatment).

Although many of the legal-based methods for dealing with sex offenders lack research on effectiveness or have produced less than promising results, it is still likely that the public will continue to favor incarceration or incapacitation of sex offenders over treatment. This attitude is fueled by Martinson's review of the literature in which he concluded that nothing works in terms of offender treatment. Furthermore, Furby, Weinroth, and Blackshaw (1989) reviewed 42 sex offender studies and concluded that there is no evidence that sex offender treatment works. According to Levenson (2003), this study is widely cited but often misrepresented; it is subsequently used to dismiss the effectiveness of treatment. The Furby et al. study was conducted prior to the advent of many new treatment techniques that were

therefore not included in this review. Levenson also noted that the authors of this study found that the reviewed studies contained methodological flaws that invalidated their findings. Although this study did not actually conclude that treating sex offenders is ineffective, research such as this trickles down into the public mentality.

Sex offender treatment has been found in some studies to reduce recidivism (Looman, Dickie, & Abracen, 2005; Nagayama Hall, 1995). The study by Looman et al. (2005) concluded from recent meta-analyses of available sex-offender-treatment research that treatment, in fact, is effective in reducing both sexual and general recidivism. Although they did highlight some factors that require further research, the overall results suggested that treatment is applicable and effective for use with sex offenders. Treatment also would remove some of the burden for preventing recidivism from corrections authorities and communities. Unlike all of the other methods, treatment prevents recidivism by making the offenders responsible for their own actions, providing them the tools to restrain themselves from committing further crime (J. L. Beck & Klein-Saffran, 1990; Levenson, 2003).

In moving away from the current legal methods, however, there must be a concrete understanding of the effectiveness of the various methods and theories for implementing sex offender treatment. This can be accomplished by continuing current avenues of research and also initiating new research on any other aspect of this topic that may be pertinent. There are numerous reasons suggesting the importance of this research. First, it is important to solidify the research on treatment and to create a strong foundation for future treatment programs so that they can be designed to be as effective as possible and so that all programs can produce an equivalent level of effectiveness. Second, research is necessary to establish the effectiveness of treatment, thus leading to greater acceptance and implementation of treatment programs for sex offenders. Third, and closely related to the second reason, is to reduce both professional and public doubt, which will hopefully lead to support for the use of treatment programs with sex offenders. Finally, more research will help to determine which methods of treatment are the most effective in reducing recidivism and will further aid in creating the most effective treatment programs.

Given the issues with the current methods for dealing with sex offenders, it is only reasonable that other methodologies should be explored to replace or accompany those already in use. More research is undoubtedly needed on all of the current methods, since none of them yet has complete empirical support in research. Furthermore, from the limited available research, current methods appear to be only weakly accomplishing their most basic goals. Treatment is definitely an option and a good avenue for future research because it accepts the premise that sex offenders will be released and that they are not necessarily easy to track once that occurs. Although it certainly cannot and should not replace all other methods, it could prove beneficial as accompaniment both during and following incarceration. Incarceration and monitoring are beneficial in preventing recidivism, but neither can be considered

an absolute solution. Treatment is especially advantageous when coupled with any other method because it actually helps eliminate the desire to reoffend, which no other method can claim to do.

References

- American Psychiatric Association. (2000). *Diagnostic and statistical manual of mental disorders* (4th ed., text rev.). Washington, DC: Author.
- Beck, J. L., & Klein-Saffran, J. (1990). Home confinement and the use of electronic monitoring with federal parolees. *Federal Probation, 54*, 23-24.
- Beck, V. S., Clingmayer, J., & Ramsey, R. J. (2004). Community response to sex offenders. *Journal of Psychiatry & Law, 32*, 141-168.
- Beck, V. S., & Travis, L. F. (2004). Sex offender notification and fear of victimization. *Journal of Criminal Justice, 32*(5), 455-463.
- Brooks, A. D. (1996). Megan's Law: Constitutionality and policy. *Criminal Justice Ethics, 15*, 56.
- California loses track of 33,000 sex offenders: Overworked police unable to enforce Megan's Law. (2003, January 8). Associated Press. Retrieved August 11, 2006, from Lexis-Nexis academic database.
- Catalano, S. M. (2005). *Criminal victimization, 2004* (NCJ 210674). Washington, DC: U.S. Department of Justice.
- Doyle, J. (2004, July 11). *Treatment for rapists, molesters under fire Cost, legality and effectiveness at issue in extended program*. Retrieved August 16, 2006, from <http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2004/07/11/MNGB57ILU41.DTL>
- Feds: 2,000 registered sex offenders among Katrina evacuees. (2005, December 30). Associated Press. Retrieved March 2, 2006, from Lexis-Nexis academic database.
- Finn, P. (1997). *Sex offender community notification* (NCJ 162364). Washington, DC: U.S. Department of Justice.
- Freeman-Longo, R. E. (1996). Prevention or problem? *Sexual Abuse: A Journal of Research and Treatment, 8*, 91-100.
- Furby, L., Weinroth, M., & Blackshaw, L. (1989). Sex offender recidivism: A review. *Psychological Bulletin, 105*, 3-30.
- Governor signs law requiring lifetime supervision for most dangerous offenders. (2005, July 10). Retrieved August 19, 2005, from <http://www.idph.state.il.us/public/press05/7.10.05.htm>
- Janus, E. S. (2000). Sexual predator commitment: Lessons for law and the behavioral sciences. *Behavioral Sciences & the Law, 18*, 5-21.
- Langan, P. A., Schmitt, E. L., & Durose, M. R. (2003). *Recidivism of sex offenders released from prison in 1994* (NCJ 198281). Washington, DC: U.S. Department of Justice.
- Levenson, J. S. (2003). Policy interventions designed to combat sexual violence: Community notification and civil commitment. *Journal of Child Sexual Abuse, 12*, 17-52.
- Lieb, R. (1996). *Washington's sexually violent predator law: Legislative history and comparisons with other states* (92-12-1101). Olympia: Washington State Institute for Public Policy.
- Looman, J., Dickie, I., & Abracen, J. (2005). Responsibility issues in the treatment of sexual offenders. *Trauma, Violence, & Abuse, 6*(4), 330-353.
- Lussier, P. (2005). The criminal activity of sexual offenders in adulthood: Revisiting the specialization debate. *Sexual Abuse: A Journal of Research and Treatment, 17*(3), 269-293.
- Nagayama Hall, G. C. (1995). Sexual offender recidivism revisited: A meta-analysis of recent treatment studies. *Journal of Consulting and Clinical Psychology, 63*(5), 802-809.
- The Oyez Project. (1997). *Oyez: Kansas v. Hendricks*, 521 U.S. 346. Retrieved August 12, 2006, from <http://www.oyez.org/oyez/resource/case/831/>

- The Oyez Project. (2002). Oyez: *Kansas v. Crane*, 534 U.S. 407. Retrieved August 12, 2006, from <http://www.oyez.org/oyez/resource/case/1321/>
- Petrunik, M. G. (2002). Managing unacceptable risk: Sex offenders, community response, and social policy in the United States and Canada. *International Journal of Offender Therapy and Comparative Criminology*, 46, 483-511.
- Russell, B. Z. (2005, July 24). Idaho leaves most violent sexual predators unsupervised. *Spokesman Review*, p. 1.
- Scheela, R. A. (2001). Sex offender treatment: Therapists' experiences and perceptions. *Issues in Mental Health Nursing*, 22, 749-767.
- Schram, D., & Milloy, C. D. (1995). *Community notification: A study of offender characteristics and recidivism*. Olympia: Washington State Institute for Public Policy.
- Schram, D., & Milloy, C. D. (1998). *A study of the characteristics and recidivism rates of sex offenders considered for civil commitment but for whom proceedings were declined*. Olympia: Washington State Institute for Public Policy.
- Scholle, A. D. (2000). Sex offender registration. *FBI Law Enforcement Bulletin*, 69(7), 18-24.
- Soothill, K. L., Jack, A., & Gibbens, T. (1976). Rape: 22-year cohort study. *Medicine, Science & the Law*, 16, 62-69.
- Sorenson, J., & Stemen, D. (2002). The effect of state sentencing policies on incarceration rates. *Crime & Delinquency*, 48, 456-475.
- Vollum, S., & Hale, C. (2002). Electronic monitoring: A research review. *Corrections Compendium*, 27(7), 1-26.
- West, D. (2000). Paedophilia: Plague or panic? *Journal of Forensic Psychiatry*, 11, 511-531.
- Wood, R. M., Grossman, L. S., & Fichtner, C. G. (2000). Psychological assessment, treatment, and outcome with sex offenders. *Behavioral Sciences & the Law*, 18, 23-41.
- Worrall, J. L. (2004). The effect of three-strikes legislation on serious crime in California. *Journal of Criminal Justice*, 32, 283-296.
- Worth, R. F. (2005, October 3). Questions about legality and effectiveness. *The New York Times*, p. 1.
- Wortley, R., & Smallbone, S. (2006). Applying situational principles to sexual offences against children. In R. Wortley & S. Smallbone (Eds.), *Situational prevention of child sexual abuse. Crime prevention* (Vol. 19, pp. 7-35). Monsey, NY: Criminal Justice Press.
- Zevitz, R. G., & Farkas, M. A. (2000a). The impact of sex-offender community notification on probation/parole in Wisconsin. *International Journal of Offender Therapy and Comparative Criminology*, 44, 8-21.
- Zevitz, R. G., & Farkas, M. A. (2000b). Sex offender community notification: Managing high risk criminals or exacting further vengeance? *Behavioral Sciences & the Law*, 10, 375-391.