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# Social Policies Designed to Prevent Sexual Violence

## The Emperor's New Clothes?

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Sex crimes provoke fear and anger among citizens, leading to the development of social policies designed to prevent sexual violence. The most common policies passed in recent years have included sex offender registration, community notification (Megan's Law), residence restrictions, civil commitment, and electronic monitoring. This article reviews the history of current sexual offender policies, their development, and their implementation. These policies do not appear to be evidence based in their development and implementation because they are founded largely on myths rather than on facts. Little empirical investigation has been conducted to evaluate sex offender policies, but extant research does not suggest that these policies achieve their goals of preventing sex crimes, protecting children, or increasing public safety. The authors make recommendations for more effective legislative solutions, including enlisting media in the promulgation of evidence-based information, creating policies that use risk assessment strategies to identify high risk offenders, and facilitating a more efficient distribution of resources that reserves the most intensive restrictions and interventions for the most dangerous offenders.

**Keywords:** *sex offender; registration; community notification; Megan's Law; residence restrictions; civil commitment; electronic monitoring; social policy*

"But he has nothing on!" cried a little child. And the Emperor, hearing what the child said, shivered, for he knew that the words were true. But it would never do to stop the procession; and so behind him, his officers held their heads higher than ever, and took even greater pains to pretend to carry the Emperor's train, which was not there at all.

—Hans Christian Anderson

In February of 2005, people around the United States watched in fear and then heartbreak as a 3-week search for Jessica Lunsford, 9 years of age, ended when her body was found buried near her Florida home. Jessica had been taken from her own

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bed by a convicted sex offender, who later confessed to her abduction and murder. In March that same year Jetseta Gage, 10 years of age and missing for several days, was found murdered. Police said she was abducted from her Cedar Rapids, Iowa, home by a registered sex offender. In April of 2005, still reeling from Jessica's death, Floridians watched in horror as Sarah Lunde, aged 13, went missing. Her body was discovered a week later, and her mother's ex-boyfriend, a convicted sex offender, was charged with her murder. Florida legislators reacted swiftly and zealously to tighten laws designed to protect children from predatory sexual abuse. Other states have followed, inspiring widespread discourse about sexual offenders and how to best protect the public from that danger.

Over the past three decades, there has been a progressive acknowledgment of sexual assault as a significant social problem that brings with it a wide range of personal and social consequences. Approximately 90,000 cases of child sexual abuse are confirmed in the United States each year (Administration on Children Youth and Families, 2004). Self-report victimization surveys have found that 23% of adults were sexually abused before the age of 18 (Finkelhor, Moore, Hamby, & Straus, 1997). Other researchers' reviews have estimated that 17%–22% of women and 2%–8% of men have been victims of sexual assault, and that over 100,000 children are sexually abused each year (Putnam, 2003; Satcher, 2001). The Incidence and Prevalence Survey indicated that 78 sexual assaults take place per hour in our country (Tjaden & Theonnes, 2000). Because many cases of sexual abuse go unreported due to victim fear, shame, or loyalty to the abuser, documented reports of sexual assault underestimate the extent of the problem (Salter, 1995). The majority of sex crimes may go undetected (Abel, Becker, Cunningham-Rathner, Mittleman, Murphy, & Rouleou, 1987; Bureau of Justice Statistics, 1997) and some sexual offenders admit to committing many more sexual assaults than those for which they have been caught (English, Jones, Pasini-Hill, Patrick, & Cooley-Towell, 2000; Heil, Ahlmeyer, & Simons, 2003).

There is no doubt that sexual assault is a serious social problem, and that our society continues to grapple with how to best address this concern. In this article, we will review legislative attempts to combat sexual violence, specifically those that seek to contain sex offenders through community awareness and offender restrictions. First, we will review the history of recent sexual offender policies, their development, and their implementation. Next, the question of whether these policies are evidence-based in their development and implementation will be explored, as will the research investigating their effectiveness. Finally, we will make recommendations for movement toward more effective legislative solutions for sexual violence.

## **Historical Context of Sexual Violence as a Social Problem**

The recognition of sexual violence against women and children is a relatively recent phenomenon. In the early 1900s, Sigmund Freud hypothesized that the

neurotic symptoms he observed in his female patients were caused by childhood sexual abuse (reviewed in Salter, 1995). The psychiatric community responded with skepticism, rejecting the notion that adults would engage in sexual behavior with children. Fearing alienation from his colleagues, Freud formulated the Electra complex theory, suggesting that girls fantasize about sexual activity with their fathers, and that unresolved conflicts about those fantasies lead to anxiety and depression later in life. In 1937, psychiatrists acknowledged that children may indeed engage in sexual behavior with adults, but emphasized the need for treatment to improve the child's impulse control, and the possibility of traumatic victimization was ignored (reviewed in Salter, 1995).

The problem of sexual violence remained virtually buried until the child advocacy and feminist movements of the 1960s and 1970s. Pediatrician Henry Kempe, a pioneer in the recognition of physical child abuse, first described the Battered Child Syndrome in the *Journal of the American Medical Association* (Kempe, Silverman, Steele, Droegemueller, & Silver, 1962). That work ultimately led to the passage of mandatory child abuse reporting requirements in 1974. In 1978, Kempe exposed sexual abuse as another hidden pediatric problem (1978). At last, child molestation was acknowledged by physicians, but sociologists and psychiatrists continued to believe that sexual abuse rarely occurred (Myers, 1997). In the early 1980s the frequency of sexual assault was established by both the popular media and through continuing research (Hechler, 1988). Public awareness of child sexual abuse intensified as media coverage increased, and talk shows featured victims stepping forward to share their stories (Hechler, 1988). The country witnessed notorious cases, such as the McMartin Preschool trial, in which multiple perpetrators in California were accused of sexually molesting scores of children in satanic rituals (Hechler, 1988).

Research has brought a new understanding of the harmfulness of sexual assault against women and children. Studies have found that depression, anxiety, and post traumatic stress disorder are more common among sexually abused individuals than in nonabused populations (Elliot & Briere, 1992; Murphy et al., 1988; Schetky, 1990). A history of child sexual abuse appears to be related to a wide range of subsequent problems, including depression, addiction, suicidal tendencies, self-mutilation, dissociative disorders, borderline personality disorder, eating disorders, interpersonal relationship difficulties, trust issues, and low self-esteem (Briere & Runtz, 1993; Elliot & Briere, 1992; Murphy et al., 1988; Putnam, 2003; Schetky, 1990). Understanding of sexual assault and its implications for victims and society has contributed to the reform of rape laws in many states and to social awareness and activism (Crowell & Burgess, 1996). As concerns about sex crimes have grown, so have attempts to contain perpetrators through legislative initiatives.

## Responses to the Problem of Sexual Violence

Some early social policy responses to sexual offenders evolved in the 1930s. Called "sexual psychopath laws," these policies were aimed at confining high risk sexual

offenders in secure facilities for the purpose of treatment (Janus, 2000), after which they could be safely released (Lieb & Matson, 1998). Law makers later abolished many of those laws because of skepticism concerning the effectiveness of rehabilitation, and in the 1960s and early 1970s, they placed emphasis on a criminal justice model of managing dangerous sex offenders (Janus & Walbeck, 2000; Lieb & Matson, 1998). In the late 80s and early 90s, we saw a new emergence of sex offender legislation, and it is those laws that are the focus of this article.

## **Registration and Community Notification**

In October 1989, while riding his bike with his brother and a friend in St. Joseph, Minnesota, Jacob Wetterling, 11 years of age, was abducted by an unknown male assailant. Few suspects were identified; to date, no arrest has been made in the case, and Jacob remains missing. During the investigation, it was discovered that a local halfway house sheltered sex offenders after their release from prison. Dismayed that this information was not revealed earlier, as the home's residents may have quickly yielded a potential pool of suspects, the Wetterlings became advocates for more effective laws to aid in the recovery of missing children. Jacob's mother, Patty, was appointed to a Governor's task force that recommended that sex offenders be required to register their addresses with police in Minnesota. In 1994, the U.S. Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, requiring all fifty states to create laws mandating that sex offenders register their addresses with local law enforcement agencies so that their whereabouts are known.

In July 1994, a 7-year-old New Jersey child named Megan Kanka was lured into the home of a convicted sex offender, sexually assaulted, and strangled. Megan's parents asserted that if they had known that a sex offender was living nearby, perhaps her death could have been prevented. They organized 100,000 New Jersey residents and petitioned the state legislature to create a law requiring that residents be told of the presence of a convicted sex offender in the neighborhood. Only 3 months after Megan's murder, Governor Whitman signed the nation's first community notification bill in New Jersey, known as Megan's Law (Lotke, 1997).

President Clinton signed the federal version of Megan's Law in 1996. That amendment to the Wetterling Act allowed states to disseminate information to the public about registered sex offenders who live in close proximity. The government offered financial incentives to states that comply with federal guidelines. About half of the states assign sex offenders to risk levels and notify the public differentially according to the offender's threat to public safety. Other states employ broad community notification, publicizing the location of all sex offenders without regard to their risk. The goal of community notification is to increase the public's ability to protect itself by warning potential victims if a convicted sex offender lives in the vicinity.

In 1996, law makers passed the Pam Lyncher Act to require the establishment of a national sex offender registry. Pam Lyncher, a Houston real estate agent, was brutally raped while showing a home to a prospective buyer who was a twice-convicted felon.

Law makers named the law in her honor after her death in a plane crash. In May 2005, after a series of child abductions by convicted sex offenders, the national registry was fast-tracked and went online in summer 2005 to begin to link state registries and allow citizens to search beyond their state borders. The Adam Walsh Child Protection and Safety Act enhanced registration requirements for sex offenders and provided further guidelines for the implementation of a national sex offender registry (2006).

The constitutionality of community notification statutes has been challenged. In 2003, the U.S. Supreme Court upheld the constitutionality of a Connecticut statute allowing sex offenders to be placed on an Internet registry without first holding a hearing to determine their danger to the community (*Connecticut Department of Public Safety v. Doe*, 2003). In an Alaska case, the U.S. Supreme Court ruled that registration and notification of sex offenders sentenced before the passage of the law could not be characterized as *ex post facto* punishment (*Smith v. Doe*, 2003). Those decisions reflected the national movement toward broadly inclusive sex offender policies, and, shortly after those rulings in 2003, the PROTECT amendment again modified the Wetterling Act to mandate the development of Internet registries by all fifty states (*Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act*, 2003). The Adam Walsh Act passed in July 2006 increases disclosure of sex offender information on public registries and creates more stringent registration requirements.

Sex offender registration and community notification originally emerged as distinct policies with different goals. Law makers designed registration as a tool to assist law enforcement agents to track sexual criminals and apprehend potential suspects. They initiated notification to increase public awareness and arm communities with information that may help them to avoid contact with sex offenders and thus prevent victimization. Over the past decade, however, as state and federal initiatives have moved inevitably toward Internet-based registries, registration and notification have become intertwined and even interchangeable.

## **Residence Restrictions**

By 2004, 14 states (Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Ohio, Oklahoma, Oregon, and Tennessee) had created exclusionary zones in which sex offenders were prohibited from residing within close proximity to schools, parks, playgrounds, day care centers, bus stops, or other places in which children congregate. The least restrictive distance requirement was in Illinois (500 ft), but most common are 1,000–2,000 ft boundaries. More difficult to track are the hundreds of jurisdictions nationwide that have passed similar local ordinances since the highly publicized murders in spring 2005 of several young children by convicted sex offenders across the country. In fact, the recent national trend has been for cities and towns to expand restrictions to 2,500 ft (about a half-mile), essentially banning sex offenders from metropolitan areas. Law makers passed the first such ordinance in Miami Beach, and fashioned it after legislation restricting adult entertainment establishments from operating within 2,500 feet of schools. Many of

those regulations have allowed a grandfather clause for sex offenders who established residency prior to the passage of the law, and some waive restrictions for juvenile offenders. Some real estate developers and private communities are now requiring background checks that will further restrict convicted sex offenders from building homes or buying property in certain neighborhoods. In Florida, sex offenders are banned from homeless shelters and hurricane shelters. Some ordinances have created criminal penalties for landlords who knowingly rent to sex offenders within buffer zones, making it all the more difficult for sex offenders to secure rental properties.

Those obstacles leave many offenders no choice but to reside with family members, but when family members are located within restricted zones, sex offenders are left with literally nowhere to go (Iowa County Attorneys Association, 2006). The contagious effect of the "not in my backyard" trend has led neighboring towns to pass progressively more severe measures to keep exiled sex offenders from migrating to their communities. For instance, some rural municipalities in Iowa with widely dispersed schools have passed ordinances prohibiting sex offenders from living near libraries or other places in which children congregate in an effort to keep sex offenders from moving into the area (Rood, 2006).

Residence restrictions have been argued in Iowa courts. A district court declared Iowa's restrictions unconstitutional in 2004, resulting in an injunction preventing the enforcement of Iowa's 2,000 ft buffer zone (*Doe v. Miller and White*, 2004). In July of 2005, the Iowa Supreme Court overturned the lower court's ruling, opining that the infringement on sex offenders' freedom of residency was superseded by the state's compelling interest in protecting its citizens (*State v. Seering*, 2005). In a separate but related Iowa case, the Eighth Circuit Court of Appeals also upheld the constitutionality of the law in a class action suit against the state by sex offenders (*Doe v. Miller*, 2005). The U.S. Supreme Court declined to hear the case. At present, a judge in Georgia issued an injunction against the enforcement of a new law prohibiting sex offenders from living or working within 1,000 ft of a school, park, church, or bus stop. Bus stops are so plentiful that the law would force nearly 11,000 sex offenders to relocate. Hearings are pending regarding the constitutionality of Georgia's residence restriction law.

## Civil Commitment

In 1990 Washington State enacted the nation's first civil commitment statute in response to the crimes of a released sex offender with a long history of sexual violence. In 1989, this predator forced a 7-year-old boy off his bike in the woods near Tacoma, Washington, sodomized him, stabbed him, and mutilated his penis (LaFond, 2005). Washington's Community Protection Act of 1990 created increased criminal penalties, stricter postrelease supervision, and civil confinement following incarceration for convicted sex offenders who were found to be sexually dangerous (Lieb & Matson, 2000). Currently, 18 states have passed sex offender civil commitment laws: Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota,

Missouri, Nebraska, New Jersey, North Dakota, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin.

In contrast to earlier sexual psychopath laws, which allowed for inpatient treatment of sex offenders as an alternative to prison, new civil confinement laws allow sexually dangerous persons to be detained following their incarceration. Traditional psychiatric civil commitment is a process by which mentally ill individuals who are considered dangerous to themselves or others can be involuntarily hospitalized for mental health treatment (King, 1999; LaFond, 2005). Civil commitment goals include treatment and incapacitation for those who are dangerous as a result of the existence of a psychiatric disorder (King, 1999). Civilly confined persons receive periodic evaluation of their treatment progress and are released as soon as they have recovered sufficiently, so that they are no longer an immediate threat to themselves or others. Criminal interventions are intended to punish past unlawful behavior and protect the community from dangerous individuals; civil interventions emphasize prospective danger and seek to prevent future harm through incapacitation and rehabilitation (Janus, 2000). Though critics have argued that civil commitment statutes are merely disguised attempts to increase states' ability to detain sexual offenders (Winick, 1998), the constitutionality of sex offender civil commitment statutes has twice been upheld by the U.S. Supreme Court (*Kansas v. Crane*, 2002; *Kansas v. Hendricks*, 1997).

The U.S. Supreme Court set criteria for sex offender civil commitment statutes (*Kansas v. Hendricks*, 1997). Such laws must be applied only to convicted sex offenders with a current mental abnormality or personality disorder that makes them likely to commit future sexual crimes. Professionals generally identify the requisite mental abnormality as a mental disorder (usually a paraphilia or antisocial personality disorder) included in the fourth edition of the *Diagnostic and Statistical Manual (DSM-IV)*; American Psychiatric Association, 1994, 2000). Professionals usually determine the likelihood of reoffense by using actuarial risk assessment instruments derived from characteristics that have demonstrated empirical correlations with sex offense recidivism (Doren, 2002). In addition, professionals assess the presence of psychopathy, a personality syndrome associated with increased recidivism, by using the Hare Psychopathy Checklist (PCL-R; Hare, 1991).

## Global Positioning System (GPS) Monitoring

Electronic monitoring of sex offenders with GPS technology is rapidly emerging as a common tool to enhance surveillance of offenders living in the community. GPS was introduced in New Mexico in 1984, and by 1990 an estimated 60,000 offenders were being electronically monitored in nearly three dozen states (Rondinelli, 1997). By wearing a transmitter, usually attached as an ankle bracelet, the movements and whereabouts of an offender can be continuously tracked by a computer monitoring system. Passive GPS sends a report to a supervising officer at predetermined reporting intervals, whereas active GPS provides continuous real-time surveillance and alerts the officer as soon as an offender travels into a forbidden zone.



GPS monitoring is considered to be a management tool with many benefits for offenders and communities. It provides offender accountability and community protection at a relatively low cost (often paid for by the offender). GPS allows offenders to remain in the community, maintain employment, and support their families, thereby reducing prison populations and the associated costs of incarceration. Offenders on GPS, knowing they are being closely tracked, may be motivated to inhibit impulsive behavior, deterring criminal activities. Knowing the whereabouts of multiple individuals at any given time assists supervising officers in their supervision and monitoring without face-to-face contact (American Probation and Parole Association, 2002). GPS is not a device that will prevent sexual crimes from occurring, however, but is rather a promising new technology whose goal is sex offender supervision, management, and control (Delson, 2006).

Some have questioned the constitutionality of GPS with regard to search and seizure, self-incrimination, and due process rights (American Probation and Parole Association [APPA], 2002). The reliability of GPS and the problem of false alarms are also issues that have been raised, as have concerns about the fiscal impact of monitoring for offenders who often pay fees themselves. The APPA suggested that states should proceed cautiously when implementing GPS requirements, with clear goals and objectives as well as sanctions for violation. It is interesting to note that APPA (2002) recommended electronic monitoring primarily for lower risk offenders, commonly drug or property offenders. They cautioned against the use of electronic monitoring for violent or sexual offenders, and recommended that all offenders under electronic surveillance receive treatment while in the community.

In summary, the most popular policy responses to sexual violence included sex offender registration, community notification, residence restrictions, civil commitment, and electronic surveillance. Community protection policies attempt to manage the behavior of sex offenders released into the community by increasing public awareness and law enforcement scrutiny while restricting mobility. Civil commitment serves to identify and deter the most dangerous predators by preventing their release and treating them in a secure facility following an incarceration. So, do these policies work?

Public safety and child protection are the key goals of sex offender policies. In order to be most effective, however, social policies should ideally be evidence based in both their development and their implementation. Ongoing research should continuously evaluate the efficacy of policies, identify unanticipated consequences to stakeholders, and ultimately assess the costs and benefits to society.

## **Are These Policies Evidence Based in Their Development and Implementation?**

Sex offender policies are typically predicated on the perception that the vast majority of sex offenders will repeat their crimes. It is presumed that sex offenders are repeatedly arrested in alarmingly high numbers, despite research indicating that

**Table 1**  
**Sex Offense Recidivism**

Source	Recidivism Rate (%)	Definition of Recidivism	Follow-Up Period	Sample size
Hanson & Bussierre (1998)		Charges or convictions	4–5 years	29,450
All sex offenders	14			
Child molesters	13			
Rapists	20			
Hanson & Morton-Bourgon (2005)		Charges or convictions	5–6 years	19,267
All sex offenders	14			
Harris & Hanson (2004)		Charges or convictions	15 years	4,724
All sex offenders	24			
Incestuous molesters	13			
Child molesters—girl victims	16			
Child molesters—boy victims	35			
Rapists	24			
Bureau of Justice Statistics (2003)		Arrests	3 years	9,691
All sex offenders	5.3			

their recidivism rates are much lower than commonly believed (Bureau of Justice Statistics, 2003; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004, 2005; Sample & Bray, 2006). In reality, sex offenders comprise a wide range of offense patterns and reoffense risk. The Bureau of Justice Statistics found that of 9,691 sex offenders released from prison in 1994, 5.3% were rearrested for a new sex crime within the 3-year follow-up period. Canadian government research found, in a study of nearly 30,000 sex offenders, that 14% of all sex offenders, 13% of child molesters, and 20% of rapists were rearrested for a new sex crime within 4–6 years (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004, 2005). Although official recidivism rates are likely to underestimate true offense rates, they are a far cry from the common mantra, “all sex offenders reoffend” (see Table 1). Harris and Hanson (2004), who reported the highest recidivism rates over a 15-year follow up, concluded that

Most sexual offenders do not re-offend sexually over time. This may be the most important finding of this study as this finding is contrary to some strongly held beliefs. After 15 years, 73% of sexual offenders had not been charged with, or convicted of, another sexual offence. The sample was sufficiently large that very strong contradictory evidence is necessary to substantially change these recidivism estimates. (p. 17)

There are certainly some sex offenders who are highly dangerous. Long follow-up studies have found that pedophiles who molest boys, and rapists of adult women, were most likely to recidivate (Harris & Hanson, 2004; Prentky, Lee, Knight, & Cerce, 1997). Sex offenders with past arrests are more likely to reoffend than first-time offenders (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004, 2005; Harris & Hanson, 2004; Prentky et al., 1997; Quinsey, Lalumiere, Rice, & Harris, 1995). Those who comply with probation and treatment have lower reoffense rates than those who violate the conditions of their release (Hanson & Harris, 1998; Hanson & Morton-Bourgon, 2004). Sex offenders who target strangers are more dangerous than those with victims inside their own family (Doren, 1998; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004; Harris & Hanson, 2004). Some sex offenders have victimized many more individuals than those for whom they have been arrested (Abel et al., 1987; Ahlmeyer, Heil, McKee, & English, 2000; English, Jones, Patrick, & Pasini-Hill, 2003; Heil et al., 2003; Hindman, 1988). On the other hand, most child molesters are not predatory pedophiles with an exclusive attraction to children, and incestuous offenders have consistently lower rates of recidivism (Doren, 1998; Harris & Hanson, 2004). Sex offense recidivism appears to decline with age (Hanson, 2002), and the longer that offenders remain offense free in the community, the less likely they are to reoffend sexually (Harris & Hanson, 2004).

Much progress has been made in the science of risk assessment, which estimates the likelihood that a sex offender will commit a new sex crime in the future. Researchers' meta-analytic studies have identified risk factors associated with violent and sexual recidivism (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004; Quinsey et al., 1995). Researchers have used those factors to develop actuarial risk assessment instruments that estimate the probability of sexual reoffense on the basis of actual recidivism rates of other convicted sex offenders with similar characteristics (Epperson, Kaul, Huot, Hesselton, Alexander, & Goldman, 1999b; Hanson, 1997; Hanson & Thornton, 1999; Quinsey, Harris, Rice, & Cormier, 1998). Though they cannot predict that an individual offender will act in a specific way, risk assessment instruments estimate, with moderate accuracy, the likelihood of reoffending, and are therefore useful for screening offenders into relative risk categories (Barbaree, Seto, Langton, & Peacock, 2001; Epperson, Kaul, Huot, Hesselton, Alexander, & Goldman, 1999a; Hanson, 1997; Hanson & Thornton, 1999, 2000; Harris, Rice, Quinsey, Lalumiere, Boer, & Lang, 2003; Quinsey et al., 1998). Those procedures are similar to the ways in which insurance companies assess risk and assign premiums, and doctors evaluate a patient's risk for developing a medical illness. Risk assessment allows us to identify the most dangerous sex offenders, and to apply the most intensive interventions to those who need the greatest level of supervision, treatment, and restriction. It is unfortunate that most policy initiatives have not incorporated risk assessment strategies into their implementation.

Another assumption at the basis of these laws is that sex offenders are more likely to reoffend than are other types of criminals. In fact, sex offenders are less likely than are nonsex offenders to be rearrested for ongoing criminal behavior (Hanson, Scott, & Steffy, 1995; Sample & Bray, 2003, 2006; see Table 2). The U.S. Department of

**Table 2**  
**Sex Offense Recidivism Compared to That of Other Criminals**

Source	Recidivism Rate (%)	Definition of Recidivism	Follow-Up Period	Sample Size
Bureau of Justice Statistics (2002)		Rearrest	3 years	272,111
Rapists rearrested for new rape	2.5			
Rapists rearrested for new violent offense	19			
Property offenders rearrested for new property offense	46			
Drug offenders rearrested for new drug offense	41			
Sample & Bray (2003)		Rearrest for same offense	5 years	161,296
Sex offense	6.5			
Homicide	6			
Robbery	18			
Non-sexual assault	37			
Burglary	23			
Property damage	38			

Justice found much higher rates of recidivism for crimes such as burglary (74%), larceny (75%), auto theft (70%), and drunk driving (51%; Bureau of Justice Statistics, 2002b). In other studies, researchers found sex offenders to be rearrested at lower rates for their crime of choice than were other types of criminals (Sample & Bray, 2003). In other words, individuals who commit robbery are more likely to be rearrested for robbery, individuals who commit burglary are more likely to repeat crimes of burglary, and individuals who commit nonsexual assault are more likely to do so again (Sample & Bray, 2003). Although sex offenders are more likely than are other types of offenders to “specialize” (Bureau of Justice Statistics, 2002b), repeat sex offenders are responsible for only 13% of the total number of new sex crimes committed by convicted felons after being released from prison (Bureau of Justice Statistics, 2003).

Sexual offender policies are also based on the myth of “stranger danger,” despite that most sexual perpetrators are well-known to their victims. The Department of Justice found that sexual perpetrators victimized strangers in less than 30% of rapes and 15% of sexual assaults (Bureau of Justice Statistics, 1997). Police reports reveal that child sexual abuse victims identified their abusers as family members in 34% of cases, and as acquaintances in 59% of cases (Bureau of Justice Statistics, 2000). Only 7% of the perpetrators of child victims were strangers (Berliner, Schram, Miller, & Milloy, 1995; Bureau of Justice Statistics, 2002a). About 40% of sexual assaults take place in the victim’s own home, and 20% take place in the home of a friend, neighbor, or relative (Bureau of Justice Statistics, 1997).

Along those same lines, because tragic cases of child abduction and sexually motivated murder receive extraordinary media attention, the publicity of such events creates a sense of alarm and urgency among citizens (Sample & Kadleck, 2006). In reality, such cases are extremely rare; researchers estimate that about 100 such incidents occur in the United States each year (National Center for Missing and Exploited Children, 2005). By comparison, drunk drivers killed over 500 children under age of 15 in 2003 (National Highway Traffic Safety Administration, 2004), and 1,121 children died in 2002 as a result of physical abuse or neglect perpetrated by their own parents or caretakers (Child Welfare League of America, 2003). Less than 1% of all murders involve sexual assault, and in fact, the prevalence of sexual murders declined by about half between the late 1970s and the mid 1990s (Bureau of Justice Statistics, 1997). Although cases involving children receive the most intense media coverage, only 25% of sexual murder victims are under the age of 18 (Bureau of Justice Statistics, 1997).

Vast media attention has clearly made it appear that sex crime rates are on the rise (Sample & Kadleck, 2006). That perception has provided an impetus for public policies designed to curtail sexual offenders. In actuality, sex crime rates, like other serious, nonsexual crimes (e.g., assault and robbery), have declined substantially over the past decade, according to both official crime reports and victim reports (Tonry, 2004). Rape arrest rates peaked in 1990 and have decreased steadily since 1991. The 2001 rate for forcible rape was 9.6% per 100,000 people, the lowest rate recorded since national record-keeping practices were implemented (Maguire & Pastore, 2003). Child sexual abuse rates also appear to be on the decline (Finkelhor & Jones, 2004; Jones & Finkelhor, 2003).

Sex offender policies are driven in part by ambiguity about the effectiveness of sex offender treatment. In early studies, researchers were unable to detect differences in recidivism rates between sex offenders who had undergone treatment and those who had not (Furby, Weinrott, & Blackshaw, 1989). Widely publicized, that finding led to pessimism about the benefits of treatment and has been cited as justification for punitive public policies. Recent controlled experimental designs have also failed to detect differences in recidivism rates between treated and untreated offenders (Hanson, Broom, & Stephenson, 2004; Marques, Miederanders, Day, Nelson, & van Ommeren, 2005). In some meta-analyses, however, researchers have found that contemporary cognitive-behavioral treatment can reduce rates of sexual reoffending by nearly 40% (Hanson et al., 2002; Losel & Schmucker, 2005). Of note, Marques et al. (2005), who found no overall differences between treated and untreated groups, did report that sex offenders who successfully completed the treatment program reoffended less frequently than did those who did not demonstrate that they "got it" (p. 97). Of course, treatment does not work equally well for all offenders (like any psychological or mental health treatment, or medical interventions, for that matter). Intensity and duration are also important factors in the effectiveness of treatment (Lowden, Hetz, Patrick, Pasini-Hill, & English, 2003). Although the research is not unequivocal, there is evidence to believe that treatment can be helpful for many sex offenders.

In summary, sex offender policies are often created on the basis of the myths that all sex offenders reoffend, that treatment does not work, and that children are most at risk from strangers who lurk in playgrounds. Those common misconceptions are promulgated and reinforced by the media, creating strongly held, but largely inaccurate, public perceptions (Levenson, Brannon, Fortney, & Baker, 2007; Sample, 2001). Those beliefs, in turn, provoke the development of policies created on the basis of “common knowledge” that lack empirical support. After interviewing 35 legislators from Illinois, a researcher found that the overwhelming majority were unconvinced that sex offender laws were effective, but nearly all of them agreed “that current sex offender legislation . . . successfully addressed the public’s demand for action” (Sample, 2001, p. 96).

Sexual offender policies that broadly include all individuals with a sex crime conviction fail to incorporate research evidence into their development and implementation. Research demonstrates clearly that all sex offenders are not the same, and that they comprise a wide range of risk for recidivism. Some sex offenders are highly dangerous and will be less amenable to treatment. Most, however, will not go on to be rearrested for new sex crimes, and many will benefit from therapeutic intervention. Most child molestation victims are abused by someone they know and trust. Legislative initiatives should encourage risk assessment and apply the most aggressive strategies and the most intensive interventions to those who require the greatest level of supervision, treatment, and restriction. In this way, community safety can be balanced with the need to assist offenders to successfully reintegrate.

## Policy Evaluation

Sex offender statutes, initiated to tackle the ostensibly growing problem of sexual predation, have enjoyed widespread support by citizens and politicians. The perception that sex crimes are on the rise is, however, erroneous; sex crimes, like other violent crimes, have decreased over the past decade. One may argue that the drop in crime rates is a direct result of increasingly aggressive crime policies, but sociological and criminological scholars assert that such trends are more likely a result of society’s changing population, values, and social norms (Tonry, 2004). In the case of sex offender policies, indeed, little evidence is available to support their effectiveness.

## Community Notification

There is little empirical confirmation that community notification reduces sex offense recidivism or enhances public safety (Lees & Tewksbury, 2006; Welchans, 2005). Few studies have evaluated the effect of Megan’s Law on recidivism, and limited data are available for review. Schram and Milloy (1998) compared the recidivism rates of 90 Washington sex offenders designated as high risk and subject to aggressive notification with a sample of 90 similar offenders released prior to the enactment of

notification policies. They found no statistically significant differences between the two groups. Over a 4.5-year follow-up period, authorities arrested 19% of the community notification group and 22% of the comparison group for new sexual offenses. Thus, notification did not appear to have an effect on recidivism rates. However, authorities arrested offenders subjected to community notification more quickly than offenders in the comparison group.

A more recent examination of recidivism rates of offenders subjected to registration and notification in Washington found some support for the effectiveness of these policies (Washington State Institute for Public Policy, 2005). After controlling for decreasing crime trends, felony sex offense recidivism rates decreased following implementation of notification policies when compared with the prenotification rate. This rate reduction from 5% to less than 1% was equivalent to a 70% drop in recidivism (Washington State Institute for Public Policy, 2005). The authors acknowledged that they were unable to control for other possible explanations for this reduction (e.g., more severe sentencing guidelines that removed high risk offenders from the sampling frame, or other policies implemented in the past several years). Nevertheless, the results suggested that registration and notification policies may have contributed to reductions in sexual recidivism. Of note, Washington uses risk assessment procedures and reserves its most aggressive community notification for its highest risk offenders. Therefore, generalization of those results may be limited to those states that employ similarly crafted policies.

In Wisconsin, 47 high-risk sex offenders exposed to aggressive community notification had higher (though not statistically significant) rates of recidivism (19%) than did 166 high-risk sex offenders who were not subject to notification (12%; Zevitz, 2006). Zevitz concluded that "extensive amounts of public exposure for sex offender . . . had little effect on their recidivism" (p. 204). An Iowa study tracked 223 sex offenders listed on the sex offender registry for a follow-up period of about 4 years. The researchers found that 3% of registered sex offenders were rearrested for a new sex crime, compared with 3.5% of sex offenders who were not required to register because they were convicted before the law went into effect; that difference was not statistically significant (Adkins, Huff, & Stageberg, 2000).

In an interrupted time-series analysis, researchers investigated the impact of registration and notification laws on sexual assault rates in 10 states (Walker, Maddan, Vasquez, VanHouten, & Ervin-McLarty, 2005). In six states, sexual assault rates showed no significant differences over the 3-year post-policy time frame, and only three states (Hawaii, Idaho, and Ohio) demonstrated a significant decline. One state, California, experienced a statistically significant increase in rapes. The authors concluded that registration and notification policies did not appear to systematically influence a reduction in sex crime rates after their implementation.

The accuracy of Internet registries is another crucial component of the integrity of notification policies and their ability to protect the public. In 2003, the *Boston Herald* reported that the whereabouts of 49% of registered sex offenders in

Massachusetts were unknown (Mullvihill, Wisniewski, Meyers, & Wells, 2003). One researcher's investigation of the accuracy of Kentucky's Internet registry revealed that as many as 25% of the registered addresses may be incorrect (Tewksbury, 2002). A Florida newspaper reported that nearly half of the sex offenders on Florida's Internet registry were incarcerated, dead, or missing (Payne, 2005). Over 50% of sex offenders surveyed in Florida reported that information listed about them on the registry was incorrect. It is unclear which pieces of information were thought to be invalid, or how significant the inaccuracies were (Levenson & Cotter, 2005a).

Some empirical investigations focused on community notification's impact on diverse groups of stakeholders. Public opinion surveys suggested that 80% of citizens were familiar with Megan's Law, and thought that the law was very important (Phillips, 1998). It is curious, however, that other research has indicated that citizens report increased anxiety following notification because of the lack of strategies offered for protecting themselves from sex offenders (Caputo, 2001; Caputo & Brodsky, 2004; Zevitz, Crim, & Farkas, 2000a). When researchers surveyed law enforcement officers and probation agents about the impact of community notification on their job duties, most officers reported concerns about increased labor and expenditures (Matson & Lieb, 1996; Zevitz & Farkas, 2000). In a survey of mental health professionals, researchers revealed that 80% believed that registries would not be successful in preventing child sexual abuse, and 70% cautioned that registries would create a false sense of security for parents (Malesky & Keim, 2001).

A substantial proportion of sex offenders report adverse consequences as a result of registration and notification (Levenson & Cotter, 2005a; Tewksbury, 2005; Zevitz, Crim, & Farkas, 2000b). About one-third to one-half of sex offenders subjected to community notification in Florida and Kentucky experienced dire events such as the loss of a job or home, threats or harassment, or property damage (Levenson & Cotter, 2005a; Tewksbury, 2005). Five percent to 16% of sex offenders experienced physical assault and about 19% reported that negative consequences affected other members of their households (Levenson & Cotter, 2005a; Tewksbury, 2005). A majority of Wisconsin sex offenders experienced housing problems (83%), isolation or harassment (77%), employment instability (57%), and harm to family members (67%; Zevitz et al., 2000b).

## Residence Restrictions

Advocates of residence restrictions believe that such laws will diminish the likelihood that sex offenders will come in contact with children who they may potentially victimize. There is little research investigating the relationship between housing and sex offending, but preliminary results indicate that such beliefs, though intuitively sensible, are misguided. In Colorado, researchers found that molesters who reoffended were randomly scattered throughout the geographical area, and did not seem to live closer than nonrecidivists to schools or day care centers (Colorado Department of



Public Safety, 2004). In Minnesota, sex offenders' proximity to schools or parks did not appear to be associated with recidivism (Minnesota Department of Corrections, 2003). In fact, repeat offenders were more likely to have traveled to another neighborhood in which they committed new sex crimes with less chance of being recognized. In Arkansas, researchers found that 48% of child molesters lived in close proximity to schools, day care centers, or parks, compared with 26% of perpetrators convicted of sex crimes against adult victims (Walker, Golden, & VanHouten, 2001). The authors speculated that individuals who molested children and were motivated to reoffend might be likely to purposely place themselves in close access to potential child victims, but no conclusions could be drawn about the association between housing and recidivism. Researchers in Colorado cautioned that "Placing restrictions on the location of . . . supervised sex offender residences may not deter the sex offender from re-offending and should not be considered as a method to control sexual offending recidivism" (Colorado Department of Public Safety, 2004, p. 5).

Although legislators and citizens are unlikely to be concerned about the effects of such laws on sex offenders, exclusionary housing zones may be counterproductive. For instance, residence restrictions can exacerbate the shortage of housing options for sex offenders and force them to move to rural areas in which they are increasingly isolated, with few employment opportunities, and with limited access to social services and mental health treatment (Levenson, 2006; Minnesota Department of Corrections, 2003). The dispersal of parks and schools in urban areas may lead to overlapping restriction zones, making it essentially impossible for sex offenders in some cities to find suitable housing (Doe v. Miller and White, 2004). In fact, housing restrictions were not implemented in Minnesota because of the speculation that negative consequences, such as limited housing availability and subsequent transience, would outweigh any potential benefit to community safety. In many cases, offenders are prohibited from living with supportive family members (Levenson & Cotter, 2005b). In other cases, the offender's family members may be forced to relocate. Such restrictions can lead to homelessness and transience, which interfere with effective tracking, monitoring, and close probationary supervision (Iowa County Attorneys Association, 2006). A survey of sex offenders in Florida indicated that housing restrictions increased isolation, created financial and emotional stress, and led to decreased stability (Levenson & Cotter, 2005b). Such stressors are similar to the types of dynamic risk factors that have been associated with increased recidivism (Hanson & Harris, 1998; Hanson & Morton-Bourgon, 2004).

Indeed, stability and support are identified in the criminological literature as factors that increase the likelihood of successful community re-entry for offenders, and therefore, public policies that threaten their stability may jeopardize public safety (Petersilia, 2003). In Colorado, researchers found that sex offenders who had a positive support system in their lives had significantly lower recidivism and less rule violations than did those who had negative or no support (Colorado Department of Public Safety, 2004). Sex offenders without jobs or significant others had higher rates of

recidivism than did those who maintained social bonds to their communities through stable employment and family relationships (Kruttschnitt, Uggen, & Shelton, 2000). Kruttschnitt et al. concluded that sex offenders “can do quite well in the community within the confines of supervision, treatment, and stable employment” (p. 83).

It is interesting that in a study in Pennsylvania, researchers found that although urban counties had higher numbers of child sexual abuse reports, the rate of sexual abuse was higher in rural counties (Menard & Ruback, 2003). The authors hypothesized that in rural areas, because of social dispersion, most social interactions occur among acquaintances. Because children are more likely to be sexually abused by family, friends, or acquaintances than strangers, social dispersion may increase the likelihood of potential abuse in rural areas. In addition, rural social norms of privacy and resistance to government intervention may create a veil of secrecy that protects offenders from detection by authorities (Menard & Ruback, 2003). It may be, therefore, that residence restrictions that exile sex offenders from urban areas may create an even higher risk of abuse for those children living in more secluded communities.

In Iowa, the unanticipated consequences of residence restrictions became exceedingly apparent shortly after authorities enforced the state’s 2,000-ft law. Within 6 months, the number of sex offenders whose whereabouts were unknown had nearly tripled across the state (Davey, 2006; Rood, 2006). The law displaced approximately 6,000 sex offenders and their families, and many reported becoming homeless (Rood, 2006). As a result, Iowa prosecutors released a powerful statement that called for the repeal of the 2,000-ft residence restriction because they have come to believe that it may increase the risk to potential victims because of the escalating number of homeless and transient offenders with little supervision over their day-to-day activities (Iowa County Attorneys Association, 2006). The report stated that the “damage to the reliability of the sex offender registry does not serve the interest of public safety,” that “there is no demonstrated protective effect . . . that justifies the drainage of . . . resources,” and that “the categories of crimes included are too broad, imposing the restrictions on many offenders who pose no known risk to children in the covered locations” (p. 2). They added that the lifetime consequences of residence restrictions resulted in a decreased number of confessions and plea agreements, burdening the criminal justice system and increasing the likelihood that some of those cases will fail to be adjudicated. In the end, they called for a modification in which sex offenders’ risk could be assessed and restrictions applied only to those who pose a threat to unknown children in public places.

## Civil Commitment

No studies have been conducted that evaluate whether civil commitment has decreased the rate of sexual offense recidivism in general or, more specifically, the rate of the most seriously injurious sexual crimes. At the Washington State Institute for Public Policy, Schram and Milloy (1998) tracked 61 sexual offenders who were referred for possible commitment but were released because they did not meet legal

criteria. Schram and Milloy (1998) found that authorities arrested 28% of the released offenders for a new sex offense within the 6-year follow-up period. The authors neither compared the sample with a control group, nor were they able to draw conclusions regarding the impact of civil commitment on recidivism. In Florida, about 18,000 sex offenders were screened for civil commitment since the law's inception in 1999. The law detained about 825 men, and released nearly 17,000 because they did not meet statutory criteria; of those, authorities rearrested about 600 for new sex crimes (Florida Office of Program Policy Analysis and Government Accountability, 2004), a recidivism rate of approximately 3.5%. That recidivism rate is quite a bit lower than the average 14% recidivism rate found in the literature (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2005), and lower than the 28% Schram and Milloy found. Although it is impossible to draw causal inferences without a comparison recidivism rate prior to the passage of the civil commitment law, it is conceivable that as authorities identified and detained the highest risk offenders in Florida, the reoffense rate did indeed decline.

Ascertaining the effect of civil commitment has been problematic because of the extremely low number of individuals released from commitment programs and the long follow-up periods necessary to efficiently evaluate recidivism rates. Confounding factors, such as maturation, the concurrent implementation of other legislative initiatives, the decreasing trend in violent crime rates, low base rates, under-reporting of sex crimes, and the need for long follow-up periods, make it difficult to establish the independent effects of civil commitment on recidivism. Although scholars continue to seek methodological solutions to the study of civil commitment policies, at this time "we can only assume that identifying and detaining the highest risk offenders will reduce the overall reoffense rate" (Janice Marques, personal communication, January 17, 2001).

Civil commitment statutes may be the most evidence-based sex offender policies in existence. They clearly intend to target the most dangerous sex offenders for the most restrictive and intense treatment available in a confined setting, and require the use of empirically derived risk assessment procedures to identify such individuals. Civil commitment criteria require that to be considered, convicted sex offenders must suffer from a *DSM* diagnosis that predisposes them to sexually violent behavior and that they are likely to reoffend on the basis of actuarial risk assessment. Researchers found that civil commitment evaluators use evidence-based practices to make their determinations (Levenson, 2003; Levenson & Morin, 2006), that offenders selected for civil commitment were significantly more dangerous than were those who are not (Levenson, 2004b), and that civil commitment selection had a high degree of inter-rater reliability (Packard & Levenson, 2006).

## Electronic Monitoring

Although several studies examined the impact of home confinement or electronic monitoring on recidivism, many of them suffered from poor research designs and an

exclusive use of low-risk adult offenders (Sherman et al., 1998). Those using experimental designs found no significant difference in recidivism rates between offenders under electronic monitoring and those under close supervision (Bonta, Wallace-Capretta, & Rooney, 2000). In anecdotes, it has been suggested that electronic monitoring may assist in the apprehension of suspects. For instance, Jessica Lunsford may have been alive in the home of her attacker's sister while police inquired at that residence about the missing Florida girl. If electronic monitoring had alerted police that convicted sex offender John Couey was on the premises, they may have searched the home and discovered Jessica, saving her life. On the other hand, most sex offenders, rather than being predatory, victimize in places in which they are approved to be (Delson, 2006; Kaufman, 2006).

In general, however, there is little evidence to show that electronic monitoring alone is more effective at reducing recidivism than are less restrictive sanctions or conditions. Analysis of the impact of GPS, when used only as a punitive sanction and not in conjunction with rehabilitative interventions, has shown that it does not lower recidivism and may actually have a negative impact on outcomes (Aos, Phipps, Barnoski, & Lieb, 2001; Gendreau, Goggin, Cullen, & Andrews, 2000). When offenders received both surveillance and treatment, recidivism declined by 20%–30% (Petersilia, 1997).

In fact, the key to reducing recidivism appears to be appropriate treatment and programming, regardless of whether it is combined with incarceration, electronic monitoring, or an unmonitored community sanction. Therefore, while electronic monitoring does not appear to be less effective than incarceration, it also does not appear to be more effective than existing community based sanctions (John Howard Society of Alberta, 2001, p. 2).

The Florida Office of Program Policy Analysis and Government Accountability (OPPAGA; 2005) prepared a report to the Florida Legislature in April 2005 that evaluated the use of electronic monitoring with Florida probationers. The report concluded that electronic monitoring improved surveillance of offenders under supervision, and electronically monitored offenders violated the conditions of their probation less frequently than did other offenders (for both new felonies and technical breaches). However, the report concluded that the effect on recidivism was unknown, because a comparison between different technologies was not conducted. In addition, it was noted that the study did not evaluate the effectiveness of GPS for more dangerous groups of habitual or sexual offenders. The report recommended that electronic monitoring should be reserved for those who pose the "greatest risk to the public" (p. 5), and that the Department of Corrections should conduct a risk assessment to identify the most dangerous offenders and prioritize the use of GPS equipment. Nonetheless, within weeks of the publication of this report, Florida's legislature passed the Lunsford Act, requiring all sex offenders with victims under 12 years of age to be subject to lifetime GPS monitoring.

GPS surveillance can be a useful tool for monitoring some offenders, but it has inherent limitations. Though it can detect when offenders stray from approved locations, it can

not discover deviant activities when they occur in acceptable locations. In other words, it knows where the sex offenders are, but not what they are doing. GPS technology should not be expected to prevent sexual crimes from occurring, but rather to potentially enhance the supervision of sex offenders who are living in the community (Delson, 2006).

In summary, research on the effectiveness of sex offender management policies is limited and, overall, not overwhelmingly supportive of the expectation that such policies protect children, reduce recidivism, or enhance community safety. Research is sorely lacking, however, and funding for large-scale, systematic investigations and policy analyses should be prioritized. The scientific data that can inform legislative initiatives appear not to be systematically incorporated into policy development or implementation. Also, a public health model could inform the development of proactive and effective strategies for creating safer communities (Kaufman, 2006; McMahan, 2000).

## Discussion

We do not intend to imply that sexual violence is not a serious problem, or that the aforementioned sex crime policies should never be used. The purpose of this article is not to elicit sympathy or to advocate for sex offenders. We neither question the noble intentions of policy makers to create safer communities, nor wish to diminish the suffering of victims and their families. It is clear that sexual assault is an egregious and traumatizing crime that should not go unpunished. We simply suggest that social policies designed to prevent sexual violence will be most effective when they are informed by scientific data about sex offense patterns, recidivism, risk assessment, therapeutic interventions, and community management strategies.

Sexual abuse is highly disturbing and it elicits strong emotional responses in most of us. It is natural that following horrific and random acts of violence, particularly those against children, an outraged and frightened public demands solutions, and elected officials act quickly to serve their constituency. However, hasty responses often result in laws that are not evidence based in their development or their implementation, and the collateral consequences of such laws are poorly anticipated. The risks sex offenders pose to the public must be recognized as complex and not easily eliminated by blanket policies. It is imperative that social policy be developed with an eye toward long-term potential benefit to the community and the genuine enhancement of public safety.

## Recommendations for Evidence-Based Policies

Some sexual perpetrators present a severe threat to public safety, and it is those most dangerous offenders that social policies should strive to control. Broad, overly inclusive policies, however, consume public resources while unnecessarily disrupting the

stability of low risk, nonviolent, and statutory sex offenders in ways that may diminish their likelihood of successful reintegration and even increase their risk (Petersilia, 2003). In numerous studies, researchers have concluded that social support and stability, including steady employment, are essential factors that decrease the risk of criminal recidivism (Hanson & Morton-Bourgon, 2005; Kruttschnitt et al., 2000; Petersilia, 2003; Uggen, 2002). Some recent policies target child abusers and exclude rapists, who, as a group, have higher recidivism rates, and are more likely than child molesters to target strangers and to cause severe physical injury to their victims (Bureau of Justice Statistics, 2002a; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2005; Harris & Hanson, 2004; Prentky et al., 1997). It is unfortunate that one-size-fits-all policies are not cost-efficient, and unlikely to afford the utmost protection to the public. Grove and Meehl (1996) warned that failing to apply scientific evidence to decision making may have grave consequences for individuals and communities. They advocated the use of empirical methods to inform the development of social policy and intervention services, and argued that to do otherwise is not only inefficient, but unethical (1996).

Some sex offenders are highly dangerous and require restrictive and intensive interventions. Offense-based classification schemes, such as those described in recently passed federal legislation (Adam Walsh Child Protection and Safety Act of 2006, 2006), are unlikely to be as effective as classification systems that use empirically derived risk assessment mechanisms. States should develop procedures for assessing risk using factors empirically associated with recidivism and instruments that have demonstrated predictive validity and reliability (e.g., Static-99). Differential management strategies should be concordant with the level of threat that an offender poses to a community, and the most restrictive interventions should be reserved for those who are at highest risk to reoffend. It is crucial for policy makers to recognize that all sex offenders are not the same. A repeat molester of young children poses a much more serious threat than does the young adult who had a teenage girlfriend. On the other hand, there is considerable evidence that some sex offenders have committed many and varied undetected offenses, so a thorough assessment, including polygraph examinations, can be valuable in assessing offense patterns and risk factors when making decisions about restrictions, interventions, and supervision (Ahlmeyer et al., 2000; English et al., 2000; Heil et al., 2003).

Sexually motivated abduction and murder of children by strangers are atypical events and are not ideal cases on which to base broad social policies. It is well established that most sexual abuse victims are molested not by strangers but by someone they know and trust (Bureau of Justice Statistics, 1997, 2000, 2004). Yet, tragic but isolated cases are the ones most likely to provoke legislation that is then broadly applied to all sexual offenders. Such policies are unlikely to deter the majority of sex crimes that are perpetrated by familiar assailants against victims who are often family members or close acquaintances.

Broad strategies that fail to categorize offenders because of risk may dilute the public's ability to identify those who pose the greatest danger to communities. Risk-based classification systems, on the other hand, allow resources to be used more efficiently to intensely monitor, treat, and restrict dangerous offenders while not disrupting the stability of lower risk offenders and their families. Policies should require and support the use of evidence-based management and treatment practices. Such methods include actuarial risk assessment (Hanson, 1997; Hanson & Thornton, 1999), containment models (English, Pullen, & Jones, 1996), and cognitive behavioral treatment interventions (Hanson et al., 2002; Losel & Schmucker, 2005). Community notification, as it currently exists, "cannot be said to be living up to its promise of ensuring greater community protection as measured by reducing the likelihood of recidivism" (Zevitz, 2006, p. 206).

States should also provide a mechanism for some sex offenders to be removed from registries, or at least to be exempt from community notification. Lifetime registration may not be necessary for all sex offenders and may in fact decrease low-risk offenders' potential for successful reintegration because of limited employment and educational opportunities, housing restrictions, and decreased social support (LaFond, 2005; Levenson & Cotter, 2005a; Petersilia, 2003; Tewksbury, 2005; Zevitz et al., 2000b). Research has found that treatment can reduce recidivism (Hanson et al., 2002; Losel & Schmucker, 2005), and that treatment failure is associated with increased risk (Hanson & Bussiere, 1998). It also appears that as the length of time living in the community offense free increases, recidivism decreases, and as offenders get older, they tend to recidivate at lower rates (Hanson, 2002; Harris & Hanson, 2004). So, we propose that some sex offenders should be enabled to petition for release from registration and notification if they meet certain criteria: they are assessed to pose a low risk to the community, they have successfully completed a sex offender treatment program, and they have been living in the community offense free for at least 5 years. Such a policy would incorporate research evidence into the provision of incentives for law-abiding behavior, and would enhance the opportunity for positive community adjustment.

In the absence of evidence linking recidivism with proximity to schools, residence restrictions are not viable strategies for preventing sex crimes. Those laws preclude offenders from living in metropolitan areas in which they can readily access family and social support, affordable and safe housing, employment, treatment, and social services. They create instability and transience, making offenders more difficult to track and supervise. It is clear that those circumstances are not likely to be in the best interest of public safety. "It's not where they live, but how they live" (Kim English, personal communication, October 14, 2005).

GPS monitoring is a useful tool for some sex offenders, but, despite its increasing popularity, it is not necessary or cost-effective for all sex offenders. Such technology should be reserved for those offenders who have a history of predatory offense patterns or probation violations. Policy makers are cautioned to remember that while GPS can reliably track the whereabouts of sex offenders, the technology

is inherently limited in its ability to detect or prevent offending behavior. It is certainly possible for abusive acts to occur within acceptable zones of travel.

Treatment should be an integral component of any strategy designed to fight sexual violence. The need for an interdisciplinary response to crime is reflected in the four basic purposes of the criminal justice system: (1) retribution (punishment for wrongdoing), (2) deterrence (to discourage others from committing crimes), (3) rehabilitation (to help criminals change their behavior and become responsible citizens), and (4) incapacitation (to protect society from dangerous, lawbreaking persons). The justice system enlists mental health professionals to assist with the goal of rehabilitation. Programs such as drug courts and mental health courts are examples of successful interdisciplinary criminal justice responses applied across the nation. Although treatment does not guarantee success in every case, several researchers' studies have shown that treatment can diminish sex offense recidivism (Hanson et al., 2002; Losel & Schmucker, 2005) and that sex offenders who successfully complete treatment programs are rearrested less often than are those who do not (Marques et al., 2005). However, treatment provisions are seldom included in sex offender legislative initiatives. Collaborative approaches to sex offender management, supervision, and rehabilitation, such as containment approaches, have been shown to be successful in reducing sex offense recidivism (English et al., 1996; English, Pullen, & Jones, 1998). No one strategy should be considered a panacea or a fail-safe.

Educational efforts should be directed at the prevention of sexual abuse. Communities are entitled to accurate and research-based information about sexual violence, sexual perpetrators, and victimization. Public education should focus on providing factual information to citizens about recidivism rates, the heterogeneity of sex offenders, the signs and symptoms of sexual abuse, and the common types of grooming patterns used by perpetrators who gain access to victims by using their positions of trust or authority. The media play a crucial role in public education and should be enlisted as a partner in the dissemination of accurate information. Sensationalistic journalism perpetuates the myths that drive short-sighted legislative responses that are ultimately less likely to accomplish their goals of protecting communities (Proctor, Badzinski, & Johnson, 2002; Sample, 2001; Sample & Kadleck, 2006; Wright, 2003).

The development of re-entry plans should begin well in advance of an offender's release from prison. Successful reintegration is more likely when offenders have access to stability, social support, and employment opportunities (Kruttschnitt et al., 2000; Petersilia, 2003; Uggen, 2002). Programming in institutions should be linked to future community supervision, management, and treatment plans. When offenders are living in the community, it is in society's best interest to furnish an infrastructure that supports, rather than inhibits, their adjustment.

The terminology *sexual predator* is used indiscriminately by both the media and politicians, but should be reserved for the most dangerous sex offenders. An evidence-based definition would accurately reflect the clinical construct to which it refers,



describing individuals who have longstanding patterns of habitual sexually deviant behaviors and who target or prey on vulnerable strangers. Although the limitations of the *DSM* in diagnosing paraphilias have been well documented (Campbell, 1999, 2004; Doren, 2002; Levenson, 2004a; Marshall, 1997; Marshall, Kennedy, & Yates, 2002; Marshall, Kennedy, Yates, & Serran, 2002; O'Donohue, Regev, & Hagstrom, 2000), sex offenders with predatory patterns of behavior will generally meet criteria for paraphilic disorders (e.g., pedophilia; Levenson, 2004b). Some states describe predatory acts as those directed toward strangers or acquaintances with which relationships have been established for the purpose of victimization. In some states, the definition includes the use of violence, weapons, or causing injury during the commission of a sex crime. Repeat offenders, those with multiple victims, and those who have abducted children or adults for sexual purposes should be considered predators. Such definitions are consistent with the term *sexually violent predator* as defined in civil commitment proceedings, which require a convicted sex offender to have a mental abnormality (usually a paraphilia or antisocial personality disorder) predisposing him to a likelihood of committing future sexually violent crimes.

## A Research Agenda

Empirical inquiry is needed to investigate the impact and effectiveness of public policies designed to prevent sexual violence. Funding for both state and federal policy analysis should be a priority. Existing policies that demonstrate a lack of effectiveness in reaching identified goals should be reconsidered and modified. Evaluation of sex offender policies is fraught with methodological complexities. Low base rates, under-reporting of sex crimes, the confounding influence of multiple policies, and the need for long follow-up periods make those types of study difficult at best. Such research, however, is crucial to ensure that public policies will successfully accomplish their intended goals.

The effectiveness of sex offender registration and community notification should be evaluated through longitudinal designs investigating their impact on sex crime rates in general and sex offense recidivism specifically. Interrupted time series analysis can examine whether an intervention has had an impact on trends and whether change can be detected over time (Cook & Campbell, 1979). The incorporation of a nonequivalent control group that is unaffected by the implementation of the legislation (e.g., nonsex crime felonies) allows for the ability to test for the influence of historical events, seasonality, and random error on the observations. Time series analysis offers the advantage of assessing trends prior to the intervention, minimizing the possibility of alternative explanations and increasing the ability to infer causal relationships (Cook & Campbell, 1979). In addition, quasi-experimental designs that compare the recidivism rates of sex offenders subjected to sex offender policies (e.g., notification, residence restrictions, and electronic monitoring) with those who are not can examine the effects of such policies. The recent proliferation of sex offender zoning laws, despite the virtual absence of evaluations of their effectiveness, highlights the urgent need for

research in this area. Of highest priority on the research agenda should be investigation of the relationship between recidivism and residential proximity to places in which children congregate, as well as the impact of such laws on reducing recidivism. Empirical attention should also be paid to the potential of those laws to increase risk and recidivism as a result of their isolative and destabilizing effects.

Inquiry into the effect of civil commitment has been especially problematic because of the extremely low number of individuals released from commitment programs and the long follow-up periods necessary to efficiently evaluate recidivism rates. Confounding that issue is determining whether any observed reduction in recidivism is because of treatment effect, maturation, the concurrent implementation of other legislative initiatives, the decreasing trend in violent crime rates, or other factors. However, recidivism is not the only meaningful outcome measure, and continued inquiry into treatment progress and the process of risk assessment when identifying high risk offenders for civil commitment are also worthy endeavors.

Ongoing research is needed to explore the unintended consequences of community protection policies on offenders, victims, and society. Prior research and anecdotal observation have identified collateral consequences of sex offender policies, such as obstacles to community reintegration for sex offenders, increased incidence of failure to register, decreased numbers of plea agreements that result in offenders going unpunished and without rehabilitation, and a false sense of security for parents and potential victims.

## Summary and Conclusions

In conclusion, broad policies targeting all sex offenders and that disregard research on risk, recidivism, and responsivity are akin to the Emperor's new clothes. People see what they want to see, despite evidence to the contrary. The shared illusion becomes a perceived reality and even those who may question what they see become afraid to articulate observations that are politically and socially undesirable. The media play a critical role in the shaping of public opinion about sex offenders. It is unfortunate that a great deal of inaccurate information is promulgated by the media, which serve as a primary source of information for citizens and, often, for politicians. Enormous coverage of heartbreaking but rare cases involving child abduction and murder by previously convicted sex offenders leads to the public's inability to distinguish between the severity of some sexual reoffenses and the likelihood of reoffending. Misinformation leads to poorly developed social policies that are unlikely to enhance public safety, and the passage of ineffective laws results in a truly inefficient use of resources. Reshaping public opinion through the widespread dissemination of factual information is a first step in advocating evidence-based social policies that will be more successful in protecting children. Current strategies are unlikely to achieve their goal of facilitating community safety.

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