

# **The Vilification of Sex Offenders: Do Laws Targeting Sex Offenders Increase Recidivism and Sexual Violence?<sup>1</sup>**

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## **ABSTRACT**

Sex offenders are universally hated and despised and seen as dangerous sexual predators unless locked up and kept under surveillance. Following a number of highly publicized violent crimes, all states passed registration and notification laws and many passed civil commitment laws. Although these laws were passed as a means to decrease recidivism and promote public safety, the resulting stigmatization of sex offenders is likely to result in disruption of their relationships, loss of or difficulties finding jobs, difficulties finding housing, and decreased psychological well-being, all factors that could increase their risk of recidivism. The civil commitment programs amount to expensive preventive detention and incapacitation rather than treatment; very few have been released. The high costs of the civil commitment programs divert resources from other programs with a better chance of being effective in reducing sexual violence.

## **Introduction**

Sex offenders are the most vilified group in society. People hate and despise them and think they should be locked up for life. Other criminals consider them too abominable to associate with. They are seen as dangerous sexual predators for whom treatment won't work and who are at a high risk to reoffend. These beliefs are widespread, unsupported by facts, and have resulted in harsh laws specifically targeting sex offenders (Quinn, Forsyth, & Mullen-Quinn, 2004). These laws are easily passed since it is politically dangerous to take any stance other than that of being tough on sex offenders. Such laws include central registries that exist in all 50 states, involuntary civil commitment laws in 16 states, and new laws in several states restricting where released sex offenders can live.

The focus is now on protecting society rather than individual rights. Janus (2004b) notes the paradigm of governmental social control has shifted from solving and punishing crimes to identifying "dangerous" people and depriving them of their liberty before they can do harm. I believe the net result of this may well be to increase rather than decrease recidivism of sex

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offenders and make society as a whole more dangerous rather than safer in terms of sexual violence.

### **Notification and Registration Laws**

In 1994, following the 1989 abduction of 11-year-old Jacob Wetterling in Minnesota, Congress passed a law mandating all 50 states to require sex offenders to register with law enforcement agencies so authorities could track them. After the New Jersey murder of Megan Kanka, Megan's Law was added to the Wetterling Act in 1996. These laws require states to have procedures to notify the public about sex offenders who live nearby. People support these laws because they believe the vast majority of sex offenders repeat their crimes (Levenson & Cotter, 2005a), despite the fact research indicates sexual offense recidivism is far lower than most people believe (e.g., Hanson & Bussière, 1998; Hanson & Morton-Bourgon, 2004).

There is no research, however, indicating central registries actually reduce recidivism. A study in Washington State during the first years of registration found no statistically significant differences between offenders who were subjected to notification (19% recidivated) and those who were not (22% recidivated) (Lieb, 1996). Levenson (2003) notes, "Driven by revulsion, anger, and fear that far exceed responses to other types of crimes in our society, sexually violent predator statutes may succeed in providing an illusion of public safety. The true efficacy of these laws, however, remains undetermined" (p. 19).

In addition, notification laws assume most sexual offenses are committed by strangers. But in reality, more than 75% are committed by family members and by people known to the victim (Winick, 1998). Family members are going to be well aware of the history of the sex offender.

Although registration and notification laws may not reduce recidivism, several commentators speculate there are ways in which such laws could actually increase reoffending (Berliner, 1996). Winick (1998) observes that registration may result in the sex offender being characterized as deviant and ostracized by the community in ways that may seem impossible to overcome. By denying them a variety of employment, social and educational opportunities, the sex offender label may prevent these individuals from starting a new life and making new acquaintances, with the result that it may be extremely difficult for them to discard their criminal patterns. Continued shaming and stigmatization may produce anger and further deviance. They may eventually feel their essential identity is as a sex offender. Like Leroy Hendricks, they may feel themselves unable to control their impulses to reoffend because it is related to an internal deficit instead of being changeable.

In commenting upon the newly passed notification laws, Prentky (1996) observes that notification of persons not within the criminal justice system, such as police, raises at least three major problems. There is nothing to keep an offender from going into an adjacent community and abusing a child there. There is no evidence supporting the assumption that, when neighbors know the identify of a recently discharged sex offender, they will act responsibly. They may take matters into their own hands and the result will be further violence. Additionally, registration and notification laws may result in some people reoffending:

"We cannot dismiss the possibility that some percentage of offenders will reoffend because of the stress and pressure imposed by a hostile, rejectionist community that has branded the offender as a pariah. Thus we may be unwittingly increasing the likelihood that some sex offenders reoffend. There is ample clinical evidence to suggest that maintenance in the community is the most difficult part of reducing reoffense risk. Most sex offenders, even those that are released from treatment

programs, are returned to the community with few, if any, support systems and expected "to swim." Satisfactory reintegration and adjustment often poses the greatest challenge, even for the most well-intentioned ex-offender "(p. 296).

Released sex offenders have been asked directly about how the registration and notification requirements affected them. Levenson and Cotter (2005a) surveyed 183 from Florida. One-third reported dire events such as the loss of a job or home, threats or harassment, or property damage. The majority identified negative events such as stress, isolation, loss of relationships, fear, shame, embarrassment, and hopelessness. Less than one-third thought communities would be safer as a result of public notification. Less than one-fifth believed internet registry was effective to protect the public. Of the two-thirds of the offenders who viewed their internet registry information, almost half reported some information was incorrect.

Zevitz and Farkas (2000) interviewed 30 offenders in Wisconsin who were subjects of community notification meetings. Although only a few felt the meeting with the police were major impediments in their lives, all but one said the community notification process adversely affected their transition from prison to the outside world. They frequently mentioned loss of employment and exclusion of residence as consequences of notification and the ensuing detrimental publicity. Some weren't hired, others fired. Community members picketed against their landlords. Some were evicted. One was relocated seven times in five months. Some had to live in minimum security correctional centers because there was no housing for them in the community.

Twenty-three out of 30 described being humiliated regularly, being ostracized by neighbors and lifetime acquaintances, and being harassed or threatened by nearby residents or strangers. All were concerned for their safety. Twenty spoke of how community notification unfavorably affected lives of family members, such as their parents. Although none of the 30 had been revoked for a new sexual offense, some thought the pressure might put them in the cycle to recommit an offense; that eventually something could snap. Some saw it as an insurmountable obstacle preventing their chance to ever succeed in society.

Farkas and Zevitz (2000) also observed hostility and anger in community members who attended notification meetings. Large numbers expressed anger and resentment toward the sex offender and voiced outrage for a criminal justice system that would release such a person from prison. Very few seemed willing to give the offender a chance, or sounded as if they'd accept him in the neighborhood.

Tewksbury (2005) found similar results in a study of 121 registered sex offenders in Kentucky. A significant minority experienced social stigmatization, loss of relationships, employment, and housing, and both verbal and physical assaults. Many reported they were treated rudely in public, asked to leave a business, fired from jobs, and received harassing telephone calls and letters. Tewksbury notes that this research, along with the Zevitz and Farkas (2000) survey discussed above, suggests when community members learn a sex offender lives in their neighborhood, they may harass, victimize or discriminate against registered offenders. As result, offenders may become increasingly isolated and frustrated, which could in turn lead to reoffending.

Tewksbury (2005) notes that being listed on sex offender registry is stigmatizing, for both the offender and for the offender's family. If the offender feels his case is hopeless and he will always be seen in a negative light, he may come to believe that reoffending would make little difference to him. When this happens, the chances for recidivism would be greater. Public

censure may encourage him to retreat into denial and defensiveness. The use of sex offender registries may lead to social withdrawal and greater anxiety and stress for sex offenders. This process, for some sex offenders, can be a precursor to reoffending. Tewksbury concludes:

“[I]t is clear that the collateral consequences of sex offender registration as a criminal sanction may be quite serious and harmful, for individual offenders, for their families and loved ones, and for communities in general. Registered sex offenders are punished through their sentences, through the shaming process of registration, and through the reactions and responses of community members who are aware of registrants’ status as sex offenders. Families and loved ones may be harmed through application of courtesy stigmas—the simple ideas of guilt by association. And, communities and innocent, vulnerable targets of sex offenders may be harmed by victimization if and when registrants reoffend in response to the stigmatization, isolation, and loss of support they may experience as a result of registration. In the end the value and utility of sex offender registration needs to be questioned and reevaluated with achievement of the stated goals balanced against unintended costs and consequences “(p. 79).

In reviewing the community notification laws, Levenson (2003) observes they are clear political winners that give the illusion of public safety. But there is no empirical evidence that they are effective in preventing sexual abuse. She observes the negative effects on families, the scorn and taunts toward offenders’ children, and the potential for vigilantism, and states, “[N]otification may undermine pro-social and rehabilitative efforts by offenders, inadvertently reducing the effectiveness of interventions more likely to protect the community” (p. 24). She concludes this may exacerbate the stressors (e.g. isolation, disempowerment, shame, depression, anxiety, lack of social supports) that often triggers sexual offenders to relapse.

Levenson (2003) also observes that community notification increases anxiety in parents and creates high workloads and costs for law enforcement. She concludes there is very little evidence to support the assumption that notification enhances community safety from sex crimes (p. 29).

In many states juveniles are also on central registries. Their names and photographs may appear on the internet, even though most juvenile records are closed under state law. I know of no research as to the ultimate effect of this on a 12- or 13-year-old child who may have engaged in sexual experimentation with a younger child. In terms of what we know about labeling and self-fulfilling prophecies it can’t be good.

### **Residency Restrictions**

New laws are being passed restricting where sex offenders can live. A federal appeals court upheld a 2002 Iowa state law that bars sex offenders from living within 2000 feet of a school or day care center. Iowa cities and town began drawing their own buffer zones around parks, playgrounds, trails, swimming pools, libraries, and school bus stops. This put entire small towns off limits. Several sex offenders have been forced to move. One 30-year-old sex offender was forced to move out of the home he shared with his wife and three children because he had been convicted at age 17 of assault with intent to commit sexual abuse. The Senate Democratic leader’s comment was, “If the result is sex offenders leaving Iowa, we think that’s good news.” In Florida, Miami Beach created a 2500 buffer zone round schools, day care centers, and parks, making nearly the entire city off limits (Dvorak, 2005). There are now such laws in 18 states (Davey, 2006).

In Cedar Rapids, Iowa, 26 registered sex offenders live in a rural motel in the middle of the country because of the 2000 feet rule. Some of Iowa’s largest cities have become virtually off limits to sex offenders who are forced to live in groups away from their families. Others sleep in

their cars or in the cabs of their trucks. Some have simply vanished, with nearly three times as many considered missing since before the law took effect six months earlier (Davey, 2006).

The Iowa Civil Liberties Union (press release dated 9/29/05) appealed to the U.S. Supreme Court with a petition for writ of certiorari. It noted the law covers cases where a 19-year-old had sex with a 15-year-old as well as persons who pled guilty to exposing themselves at a party. And the law has no time limit. But the petition was not granted.

Levenson and Cotter (2005b) surveyed 135 sex offenders in Florida as to their perceptions of the residence restriction laws. Most responders said housing restrictions increased isolation, created financial and emotional stress, and led to decreased stability. They also indicated they didn't see residence restrictions as helpful in risk management and, in fact, reported that such restrictions may inadvertently increase triggers for reoffense.

If it is hard for an "ordinary" sex offender to find a place to live, it may be next to impossible for a civilly committed sexual predator, assuming he is ever discharged. In California, Brian DeVries, the first graduate of the state treatment program for violent sexual predators, ended up in a trailer at the Correctional Training Facility on a judge's order after more than 100 Santa Clara County landlords refused to rent to him (Janus, 2004a).

### **Labeling, Desistance from Crime and Good Lives**

The view that registration and notification laws are likely to have the inadvertent effect of increasing the risk of recidivism is consistent with research on desistance from crime and the "good lives" model of sex offender treatment. Desistance from crime is the process by which stigmatized, former offenders are able to "make good" and create new lives for themselves (Maruna, 2001). Maruna, Mitchell, and Naples (2004) observe that if society is unwilling to take a chance on an individual trying to make an effort toward desistance, these obstacles might lead to further recidivism. This is a premise of labeling theory. It is the self-fulfilling prophecy. Former prisoners who perceive opportunities are blocked may develop a sense of hopelessness.

The person who is sanctioned and not allowed to reenter society (because he is stigmatized) is more likely to engage in further deviant activity than the person who is reintegrated into conventional society. When society's reaction to deviants is to stigmatize, segregate, and exclude, such persons are left with limited opportunity for achieving self-respect and affiliation in the mainstream. They join subcultural groups of similarly stigmatized outcasts. Hence, the vicious circle of persistent offending (Kaplan & Damphouse, 1997, Maruna et al., 2004).

A sex offender attempting to desist from offending needs to maintain a reformed identity. Prosocial labeling is an important part of this process. Without some concrete recognition of their reform, many ex-offenders might not be able to maintain their desistance from crime. If the sex offender is ostracized, stigmatized, and isolated, rather than reintegrated into the community, it becomes more difficult for him to resist reoffending.

In the good lives model (e.g. Ward & Stewart, 2003), the therapeutic focus is on implementing offenders' good lives plans rather than on simply managing risk. This model is concerned with the enhancement of offenders' capabilities in order to improve the quality of their lives, and by doing so, reduce their chances of committing further crimes against the community when released. The primary goal is to help offenders live better kinds of lives, and thereby reduce their likelihood of committing further crimes. This is consistent with Marshal and Moulden's (2001) hope theory. Sex offenders who try to maintain positive changes in their lives will be more

successful at resisting reoffending than will those whose lives are based on avoiding a series of negative events.

### **SVP Civil Commitments**

There are sexually violent predator (SVP) statutes in 17 states, targeting high-risk sex offenders who have served their sentences and are about to be released from prison (Lieb, 2006). Janus (2004a) notes that these civil commitment laws offer a “dangerous but seductive promise” (p. 1233). In exchange for perfect protection against a few of the most dangerous and reviled sex offenders, all we have to do is remove from these persons the protection of our most fundamental constitutional limitations on government power.

The SVP laws were passed with the promise of rehabilitation as a major goal. Confinement would be limited because treatment would be provided and the “patients” would be released as soon as they were no longer dangerous or mentally disordered (Janus, 2004a). But in reality, committed sex offenders are rarely discharged. The primary purpose of these laws is incapacitation -- to prevent future sexual violence by direct physical constraint. Treatment is only an additional purpose (Janus, 2004b). In reality, punishment, isolation, and incapacitation are the dominant purposes (Winick, 1998). LaFond (2000) observes that in some states, there was no bona fide treatment program in place when the individuals were committed.

Several years ago, shortly after Iowa’s SVP laws were passed, I testified in one of Iowa’s civil commitment cases. During a break I talked to one of the attorneys from the state. She maintained that treatment was the primary purpose: “We are going to treat them for a year or two and then send them on their way,” she insisted. That was over five years ago. To date, not one of the men in Iowa’s civil commitment unit has been released. In fact, in most of the states, very few individuals have been released (Lieb, 2006). Arizona seems to be the exception.

It seems obvious that sex offenders should participate in treatment rather than wait for release and possible civil commitment. But, as Winick (1998) observes, while in prison, sex offenders may hesitate to participate in prison-based treatment programs because they are fully aware if they make frank disclosures of prior offenses, these can be used in subsequent civil commitment hearing. Winick (1998) also notes that after commitment, one is labeled a violent sexual predator and told he has a mental abnormality and can’t control his behavior. This may undermine the potential of any treatment he is offered. I have also seen treatment records from persons who are civilly committed used by the state in release hearings to argue against release. In effect, the treatment providers are put in the role of double agents.

Civil commitment is not cost effective. LaFond (1998) calculated the probable expense for several states for costs connected with implementing these statutes and concluded these laws will be extremely expensive, will generate at least three generations of litigation, and may not be a wise expenditure of scarce public resources. Prentky and Burgess (2001) note that the housing and treatment average from eight states is \$91,000 a year per offender. This doesn’t include legal expenses. A commitment trial can cost \$100,000. They observed that Illinois is predicted to eventually cost \$1,007,719,300 over ten years. None of these cost estimates include the new housing which will be necessary. In addition, there are regular hearings in which the committed person is reexamined with new psychological evaluations to see if he should remain committed.

More recently, Lieb (2006) attempted to determine costs of the SVP programs. She concluded the cost of operating secure facilities for committed SVPs in the United States (for the

17 states that had a total of 3,493 persons held under SVP laws as of December 2004) is at least \$224 million annually.

There are no published studies evaluating whether civil commitment reduces the rate of sexual offense recidivism or, more specifically, the rate of the most seriously injurious crimes (Levenson 2003). Therefore, large amounts of money are being spent to lock up a small group of sex offenders to prevent unspecified sex offenses that they might or might not commit at some unspecified time in the future.

Janus (2004a) notes that the promises of the SVP laws were “empty window dressing” because we have little ability to predict dangerousness, because the mental disorder limitation is so vague that it excludes almost no one, and because hardly anyone is let out once committed. He observes that the net result will be more victims and greater violence because of the drain on the limited state resources:

“Ultimately it will be both society at large and future victims of sexual violence who suffer, because the expense of SVP programs is wildly out of proportion to their benefit. As more and more resources pour into SVP programs, the distortion in policy and resource allocation will become more and more severe. Society will suffer because of the resource drain, and victims will suffer because these SVP programs will draw more and more resources away from programs that address the great bulk of sexual violence in the community” (p. 1237).

The situation is becoming worse, not better. In Minnesota, the population grows as new commitments continue but no patients are released. The political situation became worse with a high publicity case when a level three sex offender was released rather than civilly committed and presumably raped and murdered a college student. The governor even proposed reinstating the death penalty for sex offenders (Janus, 2004a).

In Wisconsin, in 2000, officials liberalized criteria for release to include individuals who could be managed safely in the community. By 2003, 30 men had been released, either conditionally or absolutely. Although several were returned because of rule violations, none committed new sexual offenses. But the press discovered the releases and shortly thereafter the legislature changed the standards for commitment from “substantially probable” to “probable” to reoffend, thereby changing the standard for supervised release and discharge as well. The proposal also required “progress in treatment” as a condition for supervised release. Supervised release will now be much more difficult to achieve in Wisconsin (Janus, 2004a).

### **Conclusions**

Sex offenders are hated and reviled. Vilification of sex offenders has resulted in the passage of laws and sanctions that have broad public support, are politically advantageous to support, and give the illusion of increasing society’s safety from sexual violence. But there is no evidence they fulfill this promise. The registries, notification requirements, and housing restrictions make it far harder for sex offenders to turn around their lives and succeed in society. In such cases they may become more, rather than less likely to reoffend.

Additionally, as Janus (2004a) points out, every dollar spent on these programs “is a dollar that could be spent on the much more ubiquitous, but relatively invisible, forms of violence against women and children” (p. 1250). But as long as sex offenders remain the most despised and vilified members of society, it is unlikely that any politician will have the courage to take a different stance.

## References

- Berliner, L. (1996). Community notification of sex offenders: A new tool or a false promise? *Journal of Interpersonal Violence, 11*(2), 294-300.
- Davey, M. (2006, March 15). Iowa's residency rules drive sex offenders underground. *The New York Times* (nytimes.com)
- Dvorak, T. (2005, November 11). Iowa Cities, Town, Barring Child Molesters. *Associated Press*.
- Farkas, M. A., & Zevitz, R. G. (2000). Sex offender community notification: Examining the importance of neighborhood meetings. *Behavioral Sciences and the Law, 18*(2-3), 393-408.
- Hanson, R. K., & Bussière, M. T. (1998). Predicting relapse: A meta-analysis of sexual offender recidivism studies. *Journal of Consulting and Clinical Psychology, 66*(2), 348-362.
- Hanson, R. K., & Morton-Bourgon, K. (2004). Predictors of sexual offender recidivism: An updated meta-analysis. Public Works and Government Services Canada, Cat. No. PS3-1/2004-2E.
- Iowa Civil Liberties Union Press Release dated 9/29/05
- Janus, E. S. (2004a). Closing Pandora's box: Sexual predators and the politics of sexual violence. *Seton Hall Law Review, 34*(4), 1233-1253.
- Janus, E. S. (2004b). The preventive state, terrorists, and sexual predators: Countering the threat of a new outsider jurisprudence. *Criminal Law Bulletin, 40*(6), 596-598.
- Kaplan, H. B., & Damphouse, K. R. (1997). Negative social sanctions, self-derogation, and deviant behavior: Main and interactive effects in longitudinal perspective. *Deviant Behavior: An International Journal, 18*(1), 1-26.
- LaFond, J. Q. (2000). The future of involuntary civil commitment in the U.S.A. after *Kansas v. Hendricks*. *Behavioral Sciences and the Law, 18*(2-3), 153-167.
- LaFond, J. Q. (1998). The costs of enacting a sexual predator law. *Psychology, Public Policy, and Law, 4*(1/2), 468-504.
- Levenson, J. S. (2003). Policy interventions designed to combat sexual violence: Community notification and civil commitment. *Journal of Child Sexual Abuse, 12*(3/4), 17-52.
- Levenson, J. S., & Cotter, L. P. (2005a). The effect of Megan's Law on sex offender reintegration. *Journal of Contemporary Criminal Justice, 21*, 49-66.
- Levenson, J. S., & Cotter, L. P. (2005b). The impact of sex offender residence restrictions: 1000 feet from danger or one step from absurd?" *International Journal of Offender Therapy and Comparative Criminology, 49*(2), 168-78.
- Lieb, R. (2006). Comparison of state laws on involuntary commitment of sexually violent predators. *Sex Offender Law Report, 7*(2), 17, 26-32.
- Lieb, R. (1996). Community notification laws: "A step toward more effective solutions." *Journal of Interpersonal Violence, 11*(2), 298-300.
- Maruna, S. (2001). *Making good: How ex-convicts reform and rebuild their lives*. Washington, DC: American Psychological Association.

- Maruna, S. T., Mitchell, N., & Naples, M. (2004). Pygmalion in the reintegration process: Desistance from crime through the looking glass. *Psychology, Crime, & Law, 10*(3), 271-281.
- Marshall, W. L., & Moulden, H. (2001). Hostility toward women and victim empathy in rapists. *Sexual Abuse: A Journal of Research and Treatment, 13*(4), 249-255.
- Prentky, R., & Burgess, A. W. (2001). Commentary on "The economics of child sex-offender rehabilitation programs." *American Journal of Orthopsychiatry, 71*(1), 140-141.
- Prentky, R. A. (1996). Community notification and constructive risk reduction. *Journal of Interpersonal Violence, 11*(2), 295-298.
- Quinn, J. F., Forsyth, C. J., & Mullen-Quinn, C. (2004). Societal reaction to sex offenders: A review of the myths surrounding their crimes and treatment amenability. *Deviant Behavior, 25*(3), 215-232.
- Tewksbury, R. (2005). Collateral consequences of sex offender registration. *Journal of Contemporary Criminal Justice, 21*(1), 67-81.
- Ward, T. & Stewart, C. A. (2003). The treatment of sex offenders: Risk management and good lives. *Professional Psychology, Research and Practice, 34*(4), 353-360.
- Winick, B. J. (1998). Sex offender law in the 1990s: A therapeutic jurisprudence analysis. *Psychology, Public Policy, and Law, 4*(1/2), 505-570.)
- Zevitz, R. G., & Farkas, M. A. (2000). Sex offender community notification: Managing high risk criminals or exacting further vengeance? *Behavioral Sciences and the Law, 18*(2-3), 375-391.

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