

Criminal Justice and Behavior

<http://cjb.sagepub.com/>

Introduction to Special Issue on Sex Offenses and Offenders: Toward Evidence-Based Public Policy

Andrew J. Harris and Arthur J. Lurigio
Criminal Justice and Behavior 2010 37: 477
DOI: 10.1177/0093854810363558

The online version of this article can be found at:
<http://cjb.sagepub.com/content/37/5/477>

Published by:



<http://www.sagepublications.com>

On behalf of:



[International Association for Correctional and Forensic Psychology](http://www.iacfp.org)

Additional services and information for *Criminal Justice and Behavior* can be found at:

Email Alerts: <http://cjb.sagepub.com/cgi/alerts>

Subscriptions: <http://cjb.sagepub.com/subscriptions>

Reprints: <http://www.sagepub.com/journalsReprints.nav>

Permissions: <http://www.sagepub.com/journalsPermissions.nav>

Citations: <http://cjb.sagepub.com/content/37/5/477.refs.html>

>> [Version of Record](#) - Apr 2, 2010

[What is This?](#)

INTRODUCTION TO SPECIAL ISSUE ON SEX OFFENSES AND OFFENDERS: TOWARD EVIDENCE-BASED PUBLIC POLICY

ANDREW J. HARRIS

University of Massachusetts Lowell

ARTHUR J. LURIGIO

Loyola University of Chicago

Since the early 1990s, state and federal lawmakers have enacted a range of laws and policies intended to mitigate the societal risk presented by sex offenders. In recent years, sex offender legislation has ranked near the top of state legislative agendas, and the U.S. Congress has asserted a role in shaping the nation's sex offender management practice at the state level. Although this legislative activity has been accompanied by research-generated knowledge that has improved professionals' ability to assess risk and to provide effective treatment and supervision, research on the specific effects of the policies is scanty. Hence, significant gaps are found between prevailing public policies and effective practices. This article introduces a special issue of *Criminal Justice and Behavior* focused on critically evaluating the efficacy of contemporary sex offender management policies in terms of enhancing public safety. The article describes the studies contained in the issue and places these studies into a broader policy framework. It concludes with a call for expanding the role of evidence in the development of our nation's sex offender laws.

Keywords: sex crime; sex offender policy; sexual victimization

During the past two decades, both federal and state governments have implemented various policies designed to reduce the risk posed by sex offenders. Along with unemployment, transportation, higher education, and health care coverage, the National Conference of State Legislatures has consistently listed sex offenders as one of the leading policy issues on state legislative agendas (National Conference of State Legislatures, 2007, 2009). In the years following the state of Washington's landmark Community Protection Act of 1990, all 50 states adopted sex offender registration and notification laws, and 21 have enacted involuntary civil commitment statutes to maintain custody of "sexual predators." Since Florida's passage of "Jessica's Law" in 2005, a majority of state legislatures have approved tougher criminal sanctions, surveillance measures, and restrictions aimed at the country's growing population of sexual offenders, adopting such measures as lifetime GPS monitoring, mandatory minimum sentences, and statewide residence restrictions (Center for Sex Offender Management, 2008; Vandervort-Clark, 2009).

The federal government has also asserted a significant role in crafting the nation's sex offender management policies. Although the federalization of sex offender policy may be traced to passage of the Jacob Wetterling Crimes Against Children Act in 1994 (Logan, 2008), the Adam Walsh Child Protection and Safety Act (AWA), passed in 2006, played an especially decisive role in the federal government's efforts to manage sex offenders. Perhaps most prominently, the AWA's Sex Offender Registration and Notification Act (SORNA) imposed federal standards to regulate the structure and operations of state sex offender registration and notification programs, leveraging congressional spending authority to compel

state compliance. Many state governments have raised concerns about this expanding federal role, citing concerns including the unwarranted preemption of state laws, the creation of unfunded mandates, and potentially adverse public safety consequences associated with federally mandated standards (California Sex Offender Management Board, 2009; Gramlich, 2008; Harris & Lobanov-Rostovsky, 2009; National Conference of State Legislatures, 2008). Other AWA provisions, including the designation of “failure to register as a sex offender” as a federal offense and the passage of a federal civil commitment law, have also attracted controversy concerning the reach of federal jurisdiction, prompting legal challenges that are currently under U.S. Supreme Court review (*Carr v. United States*, 2009; *United States v. Comstock*, 2009).

Concurrent with these legislative activities, a robust research enterprise has been undertaken to inform sex offender management practices. For example, the evidence regarding a priori and dynamic risk factors for sex offender recidivism has converged to foster the development of more comprehensive and effective tools for assessing sex offender risk (Hanson, Harris, Scott, & Helmus, 2007; Hanson & Morton-Bourgon, 2004). In addition, studies have illuminated the developmental nature of juvenile sexual offending and its relationship to adult offending (Reitzel & Carbonell, 2006) as well as the effectiveness of targeted sex offender treatment, particularly when calibrated to levels of risk and coordinated with effective supervision (Hanson, Bourgon, Helmus, & Hodgson, 2009; Losel & Schmucker, 2005).

These investigations have laid the foundation for evidence-based practices that can guide professionals who are engaged in sex offender assessment, treatment, and management in criminal justice, legal, forensic, and mental health settings. However, most studies have been driven by the demands of practitioners rather than policy makers. Consequently, sex offender policies are often inconsistent with empirical evidence about sex offender risks, recidivism, reintegration, and supervision. For example, legislators cite the news media and the views of their constituents—not research evidence—as their primary sources of information about sex offenses and offenders (Sample & Kadleck, 2008). Media accounts that focus on extreme cases, rather than more common types of sexual assaults, have fed the cycle of “panic-driven” sex-offender legislation (Jenkins, 1998; Sutherland, 1950), and despite the fact that voters have strongly supported the imposition of rigid social controls on sex offenders, evidence suggests that public perceptions about the nature of sex offenders and sex offending are based on myths rather than research findings (Levenson, Brannon, Fortney, & Baker, 2007).

Viewed from this perspective, and as suggested by many of the articles in this special issue, a significant and widening gap exists between the effective practices that are employed by criminal justice and clinical practitioners and the policies that have been created by state and federal legislators. Hence, although research has encouraged the implementation of more evidence-based *practices*, studies have rarely been translated into evidence-based *policies*.

In the sex offender arena, the corpus of practice-relevant criminal justice research has grown significantly, whereas empirical investigations of the specific impacts of public policies are relatively scarce. Only during the past 2 years have studies begun to test the long-term effects of sex offender registration and notification (SORN) policies—the most widespread of the current sex offender management strategies—on sexual offending and victimization patterns (Letourneau, Levenson, Bandyopadhyay, Sinha, & Armstrong, 2010 [this issue];

Sandler, Freeman, & Socia, 2008; Vasquez, Maddan, & Walker, 2008; Veysey, Zgoba, & Dalessandro, 2009). Similarly, although research on the effects of other recently adopted policies, such as residence restrictions and expanded surveillance via GPS monitoring, has begun to emerge, the field remains in a comparatively nascent state.

In this context, the articles in the current issue of *Criminal Justice and Behavior* critically evaluate contemporary sex offender management policies. The articles illuminate the implicit assumptions underlying these policies and address diverse topics in the sex offender literature. Furthermore, each contributes to the slim body of policy-focused sex offender research. Collectively, the articles in this issue consider one fundamental question: Do our public policies concerning sex offenders enhance the safety of our children and communities?

In the first article, Zandbergen, Levenson, and Hart challenge the assumptions underlying residence restrictions by specifically assessing the importance of residential proximity in understanding sexual reoffending patterns. Comparing matched samples of recidivists with nonrecidivists, the study finds no significant differences between the groups' residential proximity to schools and day care centers, suggesting that such proximity contributes little to sexual recidivism.

Zandbergen et al. are followed by two articles related to SORN policies, which have been cited by the National Conference of State Legislatures as one of the top 10 issues of 2010 (National Conference of State Legislatures, 2009). First, Harris, Lobanov-Rostovsky, and Levenson investigate the effects of implementing the offense-based classification system established by the 2006 Adam Walsh Act, focusing their analysis on the experiences of Ohio and Oklahoma, two of the first states to adopt classification systems based on the federal standards. The study's findings suggest that state compliance with the federal laws will likely subject the majority of the nation's registered sex offenders to lifetime registration and highly stringent reporting and notification requirements. In their discussion, the authors note the significant incongruence between the effects of these laws and the empirically derived estimates of risk among sex offender populations, raising important operational, fiscal, and public safety questions for state and federal policy makers.

Next, Duwe and Donnay studied offenders who were incarcerated for failure to register (FTR) and released from the Minnesota Department of Correction. This investigation makes a vital contribution to the SORN-related literature. As many states move to enhance their efforts at prosecuting and punishing such offenders, the Duwe and Donnay study provides much-needed data related to the characteristics of FTR offenders and the link between FTR and other forms of criminal recidivism. The authors found that the presence of an FTR offense predicted neither general nor sexual recidivism. Moreover, the study identified several significant covariates of FTR, including prior FTR offenses, lower educational levels, ethnic minority status, and urban residence—findings that shed light on the dynamics of FTR offenses and have implications for system responses to such crimes.

In the fourth and fifth contributions to the volume, Letourneau and her colleagues describe investigations of the deterrent effects of sex offender notification laws for both juvenile and adult offenders. The first study found that sex offender registration laws exert a general deterrent effect on first-time adult sex offenders, but community notification laws had no effect on recidivism. The second study reported that sex offender notification laws had no deterrent effect on juveniles, adding to the uneasiness and uncertainty about whether

juvenile sex offenders should be subjected to the same registration requirements as adult sex offenders.

The next two articles advance the literature on the relationship between sex offender recidivism and registration and notification policies. In the first, Tewksbury and Jennings present a study of Iowa's experience, analyzing 5-year recidivism data for a pair of cohorts before and after the implementation of the state's SORN law. Building on prior research, the study found that Iowa's registration and notification policy had no significant effect on recidivism. In the second, Veysey and Zgoba delve further into the recidivism question by examining whether New Jersey's Megan's Law was associated with a shift in the characteristics of sexual recidivists. Their study illuminates the significant differences between pre- and post-Megan's Law sex offenders on several variables, including behavioral health, employment, and social stability. These findings suggest a shift in the nature of the sex offender population, which might be attributable to registration and notification policies.

The issue's eighth article examines a question that has received minimal attention in the research literature. Harris, Fisher, Veysey, Ragusa, and Lurigio analyze the relationship between sexual offending and serious mental illness (SMI) and its implications for the treatment of sex offenders in the criminal justice and public mental health systems. Noting the overly broad definition of a "mental disorder" that has dominated much of the research in this area and has been fostered by sex offender policies such as civil commitment, the authors review the current state of research and practice related to sexual offending among people with SMI. Tracing the parallel trajectories of contemporary sex offender policies and those that attempt to address the growing number of justice-involved people with SMI, the article identifies critical gaps in our knowledge and calls for expanded research in this area.

In the issue's final article, Stalans, Hacker, and Talbot present a study that explored domestic violence as a risk factor for sex offender recidivism. Comparing populations of sex offenders with and without histories of domestic abuse, the study found that domestic batterers are at a higher risk of recidivism than nondomestic batterers. Their findings draw attention to the role of a generalized nonsexual propensity for violence in the risk of sexual offending and the need to account for such violence in the risk assessment and supervision process.

Reducing sexual victimization remains a vital public policy goal that has rightfully garnered significant legislative attention. Yet in a political environment that often calls for simple, "quick-fix" solutions, the clinical and research communities must continue to critically investigate the promise and the limitations of current approaches for treating and managing sex offenders. The articles in this issue present a timely series of studies that can help inform this debate as federal and state policy makers contemplate further changes in our nation's laws that are intended to reduce rates of sexual offending.

We extend our sincere gratitude to all who contributed to this issue, including the authors, our reviewers, and those who went that extra mile to perform "double duty" in both of these roles. Particularly special thanks are due to Dr. Jill Levenson, whose ideas, encouragement, and always insightful perspective helped to move this issue from idea to reality. We also owe a special debt of thanks to the journal's editor in chief, Dr. Curt Bartol, and managing editor, Dr. Anne Bartol, for their support and untiring assistance throughout the development of this issue and to editorial assistant extraordinaire Gina Cook, whose meticulous attention to detail has kept us honest and helped to make the issue as good as it can be. Heartfelt thanks to all.

REFERENCES

- California Sex Offender Management Board. (2009). *Adam Walsh Act: Statement of position*. Adam Walsh position paper. Retrieved November 19, 2009, from <http://www.casomb.org/docs/Adam%20Walsh%20Position%20Paper.pdf>
- Carr v. United States, U.S. LEXIS, p. 5151 (2009).
- Center for Sex Offender Management. (2008). *Legislative trends in sex offender management*. Silver Spring, MD: Center for Effective Public Policy.
- Gramlich, J. (2008, January 23). Will states say "no" to Adam Walsh Act? Stateline.org. Retrieved December 23, 2009, from <http://www.stateline.org/live/details/story?contentId=273887>
- Hanson, R., Harris, A., Scott, T., & Helmus, L. (2007). *Assessing the risk of sexual offenders on community supervision: The Dynamic Supervision Project*. Ottawa, ON: Public Safety Canada.
- Hanson, R., & Morton-Bourgon, K. (2004). *Predictors of sexual recidivism: An updated meta-analysis*. Ottawa, ON: Public Safety and Emergency Preparedness Canada.
- Hanson, R. K., Bourgon, G., Helmus, L., & Hodgson, S. (2009). The principles of effective correctional treatment also apply to sexual offenders: A meta-analysis. *Criminal Justice and Behavior*, 36(9), 865-891. doi:10.1177/0093854809338545
- Harris, A., & Lobanov-Rostovsky, C. (2009). Implementing the Adam Walsh Act's Sex Offender Registration and Notification provisions: A survey of the states. *Criminal Justice Policy Review*. Advance online publication. doi:10.1177/0887403409346118
- Jenkins, P. (1998). *Moral panic: Changing concepts of the child molester in modern America*. New Haven, CT: Yale University Press.
- Letourneau, E., Levenson, J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. (2010). Effects of South Carolina's sex offender registration and notification policy on deterrence of adult sex crimes. *Criminal Justice and Behavior*, 37(5), 537-552.
- Levenson, J., Brannon, Y., Fortney, T., & Baker, J. (2007). Public perceptions about sex offenders and community protection policies. *Analyses of Social Issues and Public Policy*, 7(1), 1-25.
- Logan, W. A. (2008). Criminal justice federalism and national sex offender policy. *Ohio State Journal of Criminal Law*, 6, 51-122.
- Losel, F., & Schmucker, M. (2005). The effectiveness of treatment for sexual offenders: A comprehensive meta-analysis. *Journal of Experimental Criminology*, 1, 117-146.
- National Conference of State Legislatures. (2007). *Top 10 policy issue forecast: Heat is on state legislatures* [Press release]. Retrieved December 21, 2009, from <http://www.ncsl.org/default.aspx?tabid=17029>
- National Conference of State Legislatures. (2008). *Adam Walsh policy*. Retrieved December 23, 2009, from <http://www.ncsl.org/StateFederalCommittees/LawCriminalJustice/20082009PolicesLawandCriminalJusticeComm/tabid/16191/Default.aspx>
- National Conference of State Legislatures. (2009). NCSL's top 10 issues of 2010. Retrieved December 21, 2009, from <http://www.ncsl.org/default.aspx?tabid=19397>
- Reitzel, L. R., & Carbonell, J. L. (2006). The effectiveness of sex offender treatment for juveniles as measured by recidivism: A meta-analysis. *Sexual Abuse: A Journal of Research and Treatment*, 18, 401-421.
- Sample, L., & Kadleck, C. (2008). Sex offender laws: Legislators' accounts of the need for policy. *Criminal Justice Policy Review*, 19, 40-62.
- Sandler, J., Freeman, N., & Socia, K. (2008). Does a watched pot boil? A time-series analysis of New York State's sex offender registration and notification law. *Psychology, Public Policy and Law*, 14, 284-302.
- Sutherland, E. H. (1950). The diffusion of sexual psychopath laws. *American Journal of Sociology*, 56, 142-148.
- United States v. Comstock, U.S. LEXIS, p. 8591 (2009).
- Vandervort-Clark, A. (2009). Legislating sex offender management: Trends in state legislation 2007-2008. In *28th Annual ATSA Research and Treatment Conference*, September 2009, Dallas, TX.
- Vasquez, B., Maddan, S., & Walker, J. (2008). The influence of sex offender registration and notification laws in the United States. *Crime & Delinquency*, 54(2), 175-192.
- Veysey, B., Zgoba, K., & Dalessandro, M. (2008). A preliminary step towards evaluating the impact of Megan's Law: A trend analysis of sexual offenses in New Jersey from 1985 to 2005. *Justice Research and Policy*, 10, 1-18.