



Perceptions of and support for sex offender policies: Testing Levenson, Brannon, Fortney, and Baker's findings

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ABSTRACT

Purpose: In one of the most impactful studies of perceptions of sex offender legislation, respondents claimed that they would support the laws, “even if there is no scientific evidence showing that they reduce sexual abuse” (Levenson, Brannon, Fortney, & Baker, 2007). The present research experimentally tested that assertion across two samples of Alabama residents.

Methods: In both samples, an experimental group was informed that, “There is no conclusive scientific evidence showing that sex offender registries or notification laws reduce sexual abuse.” All respondents were then asked about community notification statutes.

Results: Support was high among all respondents (regardless of the experimental prompt) and did not differ significantly based on demographic characteristics. Males were more likely than females to perceive some policies as effective. Parents reported that they would feel significantly more fear and anger if a sex offender moved into their neighborhood than did non-parents.

Conclusions: These findings suggest that: 1.) despite their limited instrumental impact, sex offender laws hold symbolic value to the public, 2.) more research is needed to further understand demographic differences in perceptions of sex offender policies, and 3.) perhaps public education must precede an effective attempt at implementing evidence-based sex offender legislation.

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Despite a growing literature on sex offending – and interest in evidence-based policy by many scholars – current sex offender legislation in the United States is not supported by empirical knowledge. This may not be surprising to criminologists who are familiar with other policies and programs that are not evidence-based (see for example, Petrosino, Turpin-Petrosino, & Buehler's, 2003 discussion of Scared Straight programs). However, citizens may choose to support the passage of a crime control policy on the assumption that the policy will have a measureable impact on some outcome of interest (i.e., to reduce the rate of offending). A law may still be valuable even if it does not reduce crime if it serves another purpose, such as promoting a sense of public safety or expressing a strongly held public sentiment. In his classic discussion of *Punishment and Modern Society*, Garland (1990/2012) argued that, “Values, conceptions, sensibilities, and social meanings – culture, in short – do not just exist in the form of a natural atmosphere which envelopes social action and makes it meaningful. Rather, they are actively created and recreated by our social practices and institutions” (p. 251). The social significance of criminal justice policy goes beyond the impact on offenders and sends a message about the society as a whole and the behaviors that are and are not deemed appropriate.

Sexual offenses are widely considered the most invasive types of crimes and typically evoke more serious social reactions than other violent crimes such as robbery or assault. When the victims of these offenses are minors – particularly young children – the social reactions are even more severe. The myriad negative outcomes experienced by victims/survivors of sexual assault even years after the assault exacerbates the negative view of sex offenders, who are often treated as social pariahs, thieves of innocence, and a threat to all children whom they encounter. As a result of these social conceptions, lawmakers in the United States have passed hundreds of laws intended to protect the public from sexual offenders (Meloy, Curtis, & Boatwright, 2013).

In the case of sex offender policies, the symbolic impact (i.e., to express a societal abhorrence of sex offenders and to show citizens that legislators are responsive to their needs) may be just as important as the instrumental goal of reducing sexual offending. In this way, even if sex offender notification laws do not achieve an instrumental purpose they may still have societal value (Sample, 2011). In a recent policy essay, Sample (2011) argued that, “perhaps academics' greatest contributions will be to help policy makers determine a tipping point for the costs and functions of policies and laws and help them decide when enough legislation is enough” (page 272). Given the increasing evidence which suggests that there are few, if any, instrumental effects of sex offender notification policies, public perception of and support for these laws becomes central. The research presented here contributes to the

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ongoing discussion of the value of sex offender community notification laws by asking respondents about their perceptions of the usefulness of sex offender initiatives as well as their support for these policies. However, this research also extends prior literature by including an experimental manipulation in which half of the survey respondents were informed that there is no evidence to suggest that sex offender laws serve an instrumental purpose. Comparing responses between the experimental and control groups sheds light on the importance of both instrumental and symbolic purposes. A review of the legislation governing sex offender registration and notification follows.

Introduction

Probably the best known legal initiative put in place to help reduce sexual offending has been the introduction of publicly available sex offender registries. Although registries may serve to make communities feel safer, empirical evidence suggests that these policies may not, in fact, be serving a protective function (Sandler, Freeman, & Socia, 2008; Tewksbury, Jennings, & Zgoba, 2012). Much sex offender legislation was motivated by public outrage following specific, particularly repulsive crimes, which served as galvanizing events to adopt new legislation (Meloy et al., 2013; Zgoba, 2004). Oftentimes, the laws that result from specific events are named for their victims and are known as memorial laws (Terry & Ackerman, 2009; Zilney & Zilney, 2009). Two of the best known victim memorial laws are the Jacob Wetterling Crimes Against Children and Sexually Violent Predators Act (1994) and Megan's Law (1996), both of which pertain to sex offenders. In 1994, Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Predators Act, which required states to create a centralized list of sexual offenders living in the state as a tool for law enforcement. Two years later, an amendment to the Act, known as Megan's Law, expanded the role of these databases and required states to notify community members when a sexual offender moved into the area. The form of notification (e.g., flyers in the neighborhood, police knocking on doors) varies both between and within states based on factors such as law enforcement availability, the size of the community, and the risk posed by the offender.

In 2006, the Adam Walsh Act replaced these two pieces of legislation with its Sexual Offender Registration and Notification Act (SORNA) which set forth a more comprehensive set of standards to increase cross-state consistency in sex offender management. Important features of this law include the establishment of a minimum length of registration requirement (15-years, 25-years, or life, depending on the conviction offense), the addition of a 10-year prison sentence for failure to register as a sex offender, and the extension of registry requirements to juveniles who were 14 or older at the time of the crime. Proponents of SORNA argue that the public cannot protect itself unless this information is made available to them and that the safety of the general public outweighs the rights of the individual sex offender being forced to register (see the Supreme Court ruling in *Smith v. Doe*, 2003, for a discussion of these concerns). However, there are also important criticisms of community notification policies which must be considered (for a discussion of the legal challenges to Megan's Law see Avrahamian, 1998).

Critics of registration and public notification argue that it distracts the public from the real threats to their children – acquaintances, family members, and other known assailants (only 7% of sex offenses committed against juveniles are perpetrated by strangers; see Snyder, 2000). By creating a false sense of security, these laws may cause parents to become complacent and miss the sexual abuse taking place in their children's homes, communities, and schools (Avrahamian, 1998). Recent research indicates that sex offenders who prey upon young children, particularly their own relatives, go undetected significantly longer than those who offend against strangers (Mathesius & Lussier, 2014). It follows that these offenders, by going undetected, will not appear on sex offender registries. Thus, those who pose the greatest risk of

offending against children may not even be represented on sex offender registries.

There are also practical reasons why some individuals oppose registration and community notification, namely the additional burden that is placed on the criminal justice system to supervise the registered population (Zevitz & Farkas, 2000). Furthermore, there is a question of how often and to what extent sex offender registries are even accessed by the public. According to research focused on Nebraska residents, although most people do know that a registry exists, they rarely if ever access this information (Anderson & Sample, 2008; Sample, Evans, & Anderson, 2011). And even if they do, some research suggests that the information may not be accurate. In a study of registry entries in Kentucky, more than 25% of the addresses listed as residences of registered sex offenders were not real street addresses (Tewksbury & Lees, 2007). Additionally, more than 50% of registered sex offenders in a Florida sample indicated that their registry listing information contained errors, although the nature of these errors was not reported (Levenson & Cotter, 2005).

The task of developing, implementing, and maintaining a public registry would be worthwhile if it reduced the risk of sexual victimization. However, research remains inconclusive as to whether public registries have helped to decrease sexual recidivism (see, for example, Duwe & Donnay, 2008; Petrosino & Petrosino, 1999; Sandler et al., 2008; Tewksbury et al., 2012; Vásquez, Maddan, & Walker, 2008). In fact, there is theoretical reason to believe that SORNA may increase the risk of offending by alienating sex offenders (Levenson & Cotter, 2005); increasing their likelihood of experiencing harassment (Levenson, D'Amora, & Hern, 2007; Tewksbury & Mustaine, 2009); and decreasing their ability to find housing or employment (Levenson, D'Amora, & Hern, 2007; Tewksbury & Lees, 2006). These negative impacts of community notification policies are especially significant in light of new findings which suggest that exposure to more negative social influences increases the risk of recidivism (Lussier & Gress, 2014) and that employment decreases the risk of reoffending among juvenile sex offenders (Van den Berg, Bijleveld, Hendriks, & Mooi-Reci, 2014).

A final, and possibly the most important, criticism of SORNA is that it is not based on empirical evidence (Terry & Ackerman, 2009). The majority of sexual assaults are committed by known acquaintances, not strangers who one would need to find on the registry (Planty, Langton, Krebs, Berzofsky, & Smiley-McDonald, 2013; Snyder, 2000). Furthermore, many community notification laws treat sexual offenders as a homogenous group, when in fact they differ in important ways, including their individual levels of recidivism risk (Lussier & Gress, 2014; Sample & Bray, 2006). Finally, requiring sex offenders to register with the state for long periods (or a lifetime) implies that they are stable in their offending over time and cannot be rehabilitated, though empirical evidence does not support these assumptions (Hargreaves & Francis, 2014; Lussier & Blokland, 2014). Rather, as a group, sex offenders recidivate relatively less than other criminals (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2005; Langan, Smith, & Durose, 2003), and are not likely to specialize in sexual offending (Jennings, Zgoba, Donner, Henderson, & Tewksbury, 2014).

Public perceptions of sex offenders and sex offender legislation

Atypical and particularly egregious crimes tend to receive a disproportionate amount of media coverage and can fuel the inaccurate perceptions of sex offender behavior (Terry, 2011; Tonry, 2009). The substance (Mancini & Shields, 2014) and amount of media coverage can affect how respondents view an issue (see Kahneman, 2011, for a discussion of how knowledge is formed and processed). Perhaps as a result of the media's focus on select cases, most citizens hold inaccurate beliefs about the frequency of sexual reoffending and develop strong support for laws intended to control sex offender behavior (Levenson, Brannon, Fortney, & Baker, 2007). A study of the general public and of sex offenders showed that both groups hold inaccurate beliefs regarding

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