

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DOES #1-4 and MARY DOE,

Plaintiffs,

v.

RICHARD SNYDER, Governor of the
State of Michigan, and COL. KRISTE
ETUE, Director of the Michigan State
Police, in their official capacities,

Defendants.

File No. 2:11-cv-

Hon.

Mag. Judge

INDEX OF EXHIBITS TO THE COMPLAINT

<u>Exhibit</u>	<u>Description</u>
1	Obligations, Disabilities, and Restraints Imposed by SORA 2011
2	Declaration of John Doe #1
3	Declaration of John Doe #2
4	Declaration of John Doe #3
5	Declaration of John Doe #4
6	Declaration of Mary Doe
7	Declaration of I.G.
8	Declaration of Dr. James J. Prescott, J.D., Ph.D., on SORA Effects; with Attachment A: Consequences Triggered by Michigan Sex Offender Registration, A National Sample; and Attachment B: Curriculum Vitae
9	Declaration of Dr. Jill Levenson, Ph.D., on SORA Studies and Effects; with Attachment A: Curriculum Vitae
10	Declaration of Dr. Janet Fay-Dumaine, Psy. D., on the Plaintiffs' Risk Level;

with Attachment A: Plaintiffs' Static 99R Scores, and Attachment B:
Curriculum Vitae

- 11 Declaration of Peter Wagner, J.D., on the Impact of Exclusion Zones;
with Attachment A: Curriculum Vitae
- 12 Declaration of Anne Yantus, J.D., on the Impact of Registration on Plea
Bargaining
- 13 Texas Association of Counties Report on Costs to Local Governments of
Implementing the Adam Walsh Act

EXHIBIT 1

OBLIGATIONS, DISABILITIES, AND RESTRAINTS IMPOSED BY SORA 2011

Obligations, Disabilities, and Restraints Imposed by Michigan's Sex Offender Registration Act¹

Table of Contents

1. Defined Terms	3
2. Requirement to Provide Personal Information	3
3. Public Disclosure of Personal Information and Labeling by Tier Status.....	5
4. Restrictions on Residency.....	7
5. Restrictions on Employment.....	7
6. Requirement to Create Biometric and Appearance Information	8
7. Restrictions on “Loitering”	8
8. Restrictions on Travel	8
9. Restrictions on School Attendance	9
10. Restrictions on Vehicle Use or Ownership	10
11. Restrictions on Internet Usage	10
12. Requirements for Supervision by Law Enforcement	10
13. Requirements for “Immediate” Reporting to Law Enforcement.....	11
14. Financial Obligations	12
15. Affirmative Obligations to the Secretary of State	12
16. Penalties for Failure to Comply.....	13

¹ This document lists only affirmative obligations, disabilities and restraints imposed directly by Michigan's Sex Offender Registration and Notification Act, M.C.L. § 28.721 *et.seq.* It does not include other affirmative obligations, disabilities and restraints that are triggered by an individual's status as a registrant, but that are contained in other Michigan laws and regulations, or in the laws and regulations of the federal government, other states, or local governments. Those restrictions are too extensive to be compiled here.

1. Defined Terms

The following terms are used throughout the statute and are defined once here so that they need not be re-stated repeatedly below.

- a. “Immediately Report” means report *in person* to the local registering authority *within three business days*.²
- b. “Student Safety Zone” means the area that lies 1,000 feet or less from any building, facility, structure, or real property owned, leased or otherwise controlled by a school (meaning a public, private, denominational, or parochial school, offering developmental kindergarten, kindergarten, or any grade from 1 through 12) that is used to impart educational instruction or is used by students not more than 19 years of age for sports or other recreational activities.³

2. Requirement to Provide Personal Information

Registrants Must Provide:

- a. Legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.⁴
- b. Social Security number and any Social Security numbers or alleged Social Security numbers previously used.⁵
- c. Date of birth and any alleged dates of birth previously used.⁶
- d. The address where the individual resides or will reside.⁷
- e. The name and address of any place of temporary lodging used or to be used for more than 7 days.⁸
- f. The name and address of each employer.⁹
- g. The name and address of any person who has agreed to hire or contract with the individual for his or her services.¹⁰
- h. The general areas where the individual works and the normal travel routes taken by the individual in the course of his or her employment if the individual lacks a fixed employment location.¹¹
- i. The name and address of any school being attended.¹²

² M.C.L. § 28.722(d)-(f).

³ M.C.L. § 28.733(f).

⁴ M.C.L. § 28.727(1)(a).

⁵ M.C.L. § 28.727(1)(b).

⁶ M.C.L. § 28.727(1)(c).

⁷ M.C.L. § 28.727(1)(d).

⁸ M.C.L. § 28.727(1)(e).

⁹ M.C.L. § 28.727(1)(f).

¹⁰ M.C.L. § 28.727(1)(f).

¹¹ M.C.L. § 28.727(1)(f).

¹² M.C.L. § 28.727(1)(g).

- j. The name and address of any school that has accepted the individual as a student that he or she plans to attend.¹³
- k. All telephone numbers registered to the individual.¹⁴
- l. All telephone numbers routinely used by the individual.¹⁵
- m. All electronic email addresses assigned to the individual.¹⁶
- n. All electronic email addresses routinely used by the individual.¹⁷
- o. All instant message addresses assigned to the individual.¹⁸
- p. All instant message addresses routinely used by the individual.¹⁹
- q. All login names used by the individual when using any electronic mail address or instant messaging system.²⁰
- r. Any other identifiers used by the individual when using any electronic mail address or instant messaging system.²¹
- s. The license plate number, registration number, and description of any motor vehicle owned by the individual.²²
- t. The license plate number, registration number, and description of any motor vehicle regularly used by the individual.²³
- u. The location at which any motor vehicle owned or regularly used by the individual is habitually stored or kept.²⁴
- v. The license plate number, registration number, and description of any aircraft owned by the individual.²⁵
- w. The license plate number, registration number, and description of any aircraft regularly used by the individual.²⁶
- x. The location at which any aircraft owned or regularly used by the individual is habitually stored or kept.²⁷
- y. The license plate number, registration number, and description of any vessel owned by the individual.²⁸
- z. The license plate number, registration number, and description of any vessel regularly used by the individual.²⁹

¹³ M.C.L. § 28.727(1)(g).

¹⁴ M.C.L. § 28.727(1)(h).

¹⁵ M.C.L. § 28.727(1)(h).

¹⁶ M.C.L. § 28.727(1)(i).

¹⁷ M.C.L. § 28.727(1)(i).

¹⁸ M.C.L. § 28.727(1)(i).

¹⁹ M.C.L. § 28.727(1)(i).

²⁰ M.C.L. § 28.727(1)(i).

²¹ M.C.L. § 28.727(1)(i).

²² M.C.L. § 28.727(1)(j).

²³ M.C.L. § 28.727(1)(j).

²⁴ M.C.L. § 28.727(1)(j).

²⁵ M.C.L. § 28.727(1)(j).

²⁶ M.C.L. § 28.727(1)(j).

²⁷ M.C.L. § 28.727(1)(j).

²⁸ M.C.L. § 28.727(1)(j).

²⁹ M.C.L. § 28.727(1)(j).

- aa. The location at which any vessel owned or regularly used by the individual is habitually stored or kept.³⁰
- bb. Driver's license number or state personal identification card number.³¹
- cc. The individual's passport and other immigration documents.³²
- dd. Occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.³³
- ee. Written documentation of employment status, contractual relationship, volunteer status, or student status when individual enrolls or discontinues enrollment at an institution of higher education.³⁴
- ff. A summary of convictions for listed offenses recorded by the registering authority. That summary includes all listed offenses, regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.³⁵
- gg. A complete physical description of the individual recorded by the registering authority.³⁶

3. Public Disclosure of Personal Information and Labeling by Tier Status

- a. The public registry indicates for each individual to which tier the individual has been assigned.³⁷
- b. Information made available on a public internet website, searchable by name, village, city, township, county, zip code, and geographical area, includes:³⁸
 - i. Legal name.³⁹
 - ii. Aliases.⁴⁰
 - iii. Nicknames.⁴¹
 - iv. Ethnic or tribal names.⁴²
 - v. Other names by which the individual is or has been known.⁴³
 - vi. Date of birth.⁴⁴
 - vii. Address of residence.⁴⁵
 - viii. Address of employment.⁴⁶

³⁰ M.C.L. § 28.727(1)(j).

³¹ M.C.L. § 28.727(1)(k).

³² M.C.L. § 28.727(1)(l).

³³ M.C.L. § 28.727(1)(m).

³⁴ M.C.L. §§ 28.727(1)(r), 28.724a(5).

³⁵ M.C.L. § 28.727(1)(n).

³⁶ M.C.L. § 28.727(1)(o).

³⁷ M.C.L. § 28.728(2)(l).

³⁸ M.C.L. § 28.728(7).

³⁹ M.C.L. § 28.728(2)(a).

⁴⁰ M.C.L. § 28.728(2)(a).

⁴¹ M.C.L. § 28.728(2)(a).

⁴² M.C.L. § 28.728(2)(a).

⁴³ M.C.L. § 28.728(2)(a).

⁴⁴ M.C.L. § 28.728(2)(b).

⁴⁵ M.C.L. § 28.728(2)(c).

- ix. Address of school being attended.⁴⁷
 - x. Address of school that has accepted individual that he or she plans to attend.⁴⁸
 - xi. License plate number or registration number of any motor vehicle owned.⁴⁹
 - xii. License plate number or registration number of any motor vehicle regularly operated.⁵⁰
 - xiii. License plate number or registration number of any aircraft owned.⁵¹
 - xiv. License plate number or registration number of any aircraft regularly operated.⁵²
 - xv. License plate number or registration number of any vessel owned.⁵³
 - xvi. License plate number or registration number of any vessel regularly operated.⁵⁴
 - xvii. Brief summary of convictions for listed offenses.⁵⁵
 - xviii. Complete physical description of the individual.⁵⁶
 - xix. Photograph of the individual.⁵⁷
 - xx. The text of the provision of the law that defines the criminal offense for which the individual is registered.⁵⁸
 - xxi. Registration status.⁵⁹
- c. In addition to the public website, access to the above information is also available for inspection by any member of the public during regular business hours at a department post, local law enforcement agency, or sheriff's department.⁶⁰
 - d. Any member of the public may subscribe to electronic notifications for any initial registrations and changes in registration within a designated area or geographic radius designated by the subscribing member of the public.⁶¹

⁴⁶ M.C.L. § 28.728(2)(d).

⁴⁷ M.C.L. § 28.728(2)(e).

⁴⁸ M.C.L. § 28.728(2)(e).

⁴⁹ M.C.L. § 28.728(2)(f).

⁵⁰ M.C.L. § 28.728(2)(f).

⁵¹ M.C.L. § 28.728(2)(f).

⁵² M.C.L. § 28.728(2)(f).

⁵³ M.C.L. § 28.728(2)(f).

⁵⁴ M.C.L. § 28.728(2)(f).

⁵⁵ M.C.L. § 28.728(2)(g).

⁵⁶ M.C.L. § 28.728(2)(h).

⁵⁷ M.C.L. § 28.728(2)(i).

⁵⁸ M.C.L. § 28.728(2)(j).

⁵⁹ M.C.L. § 28.728(2)(k).

⁶⁰ M.C.L. § 28.730(2).

⁶¹ M.C.L. § 28.730(3).

4. Restrictions on Residency

Registrants Must:

- a. Not reside within a “student safety zone.”⁶² This restriction includes an affirmative obligation to determine, prior to changing residences, whether a proposed residence is located within an exclusion zone.
- b. Register the address where the individual resides or will reside.⁶³
- c. Immediately report when the individual changes or vacates his or her residence or domicile.⁶⁴
- d. Immediately report when the individual intends to temporarily reside at any place other than his or her residence for more than 7 days.⁶⁵
- e. Immediately report before the individual changes his or her domicile or residence to another state.⁶⁶ The new state and the new address, if known, must be provided at the time of reporting.⁶⁷ (The address where the individual resides is made available on the public internet website.)⁶⁸

5. Restrictions on Employment

Registrants Must:

- a. Not work within a “student safety zone.”⁶⁹ This restriction includes an affirmative obligation to determine, prior to accepting employment, whether a proposed employment opportunity is located within an exclusion zone.
- b. Register the name and address of each employer or any person who has agreed to hire or contract with the individual for his or her services.⁷⁰
- c. Register the general areas where the individual works and the normal travel routes taken by the individual in the course of his or her employment if the individual lacks a fixed employment location.⁷¹ (The address where the individual works is made available on the public internet website.)⁷²
- d. Immediately report in person to the local registering authority when the individual changes his or her place of employment.⁷³

⁶² M.C.L. §§ 28.735(1), 28.733, 28.722(p). *See* exceptions in M.C.L. §§ 28.735(3); 28.736.

⁶³ M.C.L. § 28.727(1)(d).

⁶⁴ M.C.L. § 28.725(1)(a).

⁶⁵ M.C.L. § 28.725(1)(e).

⁶⁶ M.C.L. § 28.725(6).

⁶⁷ M.C.L. § 28.725(6).

⁶⁸ M.C.L. § 28.728(2)(c).

⁶⁹ M.C.L. §§ 28.734(1)(a), 28.733. *See* exceptions in M.C.L. §§ 28.734(3); 28.736.

⁷⁰ M.C.L. § 28.727(1)(f).

⁷¹ M.C.L. § 28.727(1)(f).

⁷² M.C.L. § 28.728(2)(d).

⁷³ M.C.L. § 28.725(1)(b).

- e. Immediately report in person to the local registering authority when the individual discontinues employment.⁷⁴

6. Requirement to Create Biometric and Appearance Information

Registrants Must:

- a. Provide fingerprints to the registering authority.⁷⁵
- b. Provide palm prints to the registering authority.⁷⁶
- c. Have a photograph taken by the Secretary of State, which shall make the photograph available to the Michigan State Police.⁷⁷
- d. Have a new photograph taken whenever the license or identification card is renewed.⁷⁸
- e. Immediately have another photograph taken if the photograph on file does not match the individual's appearance sufficiently to properly identify him or her from the photograph.⁷⁹

7. Restrictions on "Loitering"

- a. Must not remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors within a "student safety zone."⁸⁰

8. Restrictions on Travel

Registrants Must:

- a. Organize any travel so that the individual is still able to comply with requirements for regular in-person reporting (*e.g.*, Tier III registrants must not travel over periods from January 1-15, April 1-15, July 1-15, and October 1-15).⁸¹
- b. Immediately report when the individual intends to temporarily reside at any place other than his or her residence for more than 7 days.⁸²
- c. Report in person to the local registering authority at least 21 days before he or she travels to another country for more than 7 days.⁸³

⁷⁴ M.C.L. § 28.725(1)(b).

⁷⁵ M.C.L. § 28.727(1)(q).

⁷⁶ M.C.L. § 28.727(1)(q).

⁷⁷ M.C.L. §§ 28.725a(8), 28.727(1)(p).

⁷⁸ M.C.L. §§ 28.725a(8), 28.727(1)(p).

⁷⁹ M.C.L. § 28.725a(5).

⁸⁰ M.C.L. §§ 28.734(1)(b), 28.733.

⁸¹ M.C.L. § 28.725a(3).

⁸² M.C.L. § 28.725(1)(e).

⁸³ M.C.L. § 28.725(7).

- d. Report in person to the local registering authority at least 21 days before he or she changes his or her domicile to another country.⁸⁴
- e. The new country and, if known, the new address must be reported at the time of reporting.⁸⁵

9. Restrictions on School Attendance

- a. Michigan Resident Registrants Must:
 - i. Immediately report where his or her new residence or domicile is located if the individual enrolls as a student.⁸⁶
 - ii. Immediately report where his or her new residence or domicile is located if the individual discontinues enrollment as a student.⁸⁷
 - iii. Pay the \$50.00 registration fee upon reporting.⁸⁸
 - iv. Present to the local registering authority written documentation of employment status, contractual relationship, volunteer status, or student status. Documentation may include, a W-2 form, pay stub, written statement by an employer, a contract, or a student identification card or transcript.⁸⁹
- b. Michigan Non-Residents Registrants Must:
 - i. Immediately report in person to the campus registering authority if the individual enrolls as a student.⁹⁰
 - ii. Immediately report in person to the campus registering authority if the individual discontinues enrollment as a student.⁹¹
 - iii. Pay the \$50.00 registration fee upon reporting.⁹²
 - iv. Present to the local registering authority written documentation of employment status, contractual relationship, volunteer status, or student status. Documentation may include, a W-2 form, pay stub, written statement by an employer, a contract, or a student identification card or transcript.⁹³
- c. School information is made available to the public on the public internet website.⁹⁴

⁸⁴ M.C.L. § 28.725(7).

⁸⁵ M.C.L. § 28.725(7).

⁸⁶ M.C.L. §§ 28.724a(2), 28.725(1)(c), 28.724a(3)(b), 28.722(g).

⁸⁷ M.C.L. §§ 28.724a(2), 28.725(1)(c), 28.724a(3)(b), 28.722(g).

⁸⁸ M.C.L. § 28.724a(5).

⁸⁹ M.C.L. § 28.724a(5).

⁹⁰ M.C.L. §§ 28.724a(1)(a), 28.724a(3)(b), 28.722(g).

⁹¹ M.C.L. §§ 28.724a(1)(a), 28.724a(3)(b), 28.722(g).

⁹² M.C.L. § 28.724a(5).

⁹³ M.C.L. § 28.724a(5).

⁹⁴ M.C.L. § 28.728(2)(e).

10. Restrictions on Vehicle Use or Ownership

Registrant Must Immediately Report When:

- a. He or she purchases any vehicle.⁹⁵
- b. He or she discontinues ownership of any vehicle.
- c. He or she begins to regularly operate any vehicle.⁹⁶
- d. He or she discontinues regular operation of any vehicle.⁹⁷ (Vehicle information is made available to the public on the public internet website.)⁹⁸

11. Restrictions on Internet Usage

Registrants Must Immediately Report In Person When The Individual Establishes:

- a. Any electronic mail address.⁹⁹
- b. Any instant message address.¹⁰⁰
- c. Any other designations used in internet communications or postings.¹⁰¹

12. Requirements for Supervision by Law Enforcement

- a. Registrants must, in addition to other reporting requirements, report in person to the local registering authority:
 - i. Tier I: Once per year, between January 1 and January 15, for 15 years.¹⁰²
 - ii. Tier II: Twice per year, between January 1 and January 15 and again between July 1 and July 15, for 25 years.¹⁰³
 - iii. Tier III: Four times per year, between January 1 and January 15, April 1 and April 15, July 1 and July 15, and October 1 and October 15, for life.¹⁰⁴
- b. Registrants must, at the above regularly scheduled visits:
 - i. Verify domicile or residence.¹⁰⁵
 - ii. Verify all registration information.¹⁰⁶

⁹⁵ M.C.L. § 28.725(1)(g).

⁹⁶ M.C.L. § 28.725(1)(g).

⁹⁷ M.C.L. § 28.725(1)(g).

⁹⁸ M.C.L. § 28.728(2)(f).

⁹⁹ M.C.L. § 28.725(1)(f).

¹⁰⁰ M.C.L. § 28.725(1)(f).

¹⁰¹ M.C.L. § 28.725(1)(f).

¹⁰² M.C.L. §§ 28.725a(3)(a), 28.725(10).

¹⁰³ M.C.L. §§ 28.725a(3)(b), 28.725(11).

¹⁰⁴ M.C.L. §§ 28.725a(3)(c), 28.725(12).

¹⁰⁵ M.C.L. § 28.725a(3).

¹⁰⁶ M.C.L. § 28.725a(4).

- iii. Provide whatever documentation is required by the registering authority to prove residency or domicile, including, but not limited to driver's license, state personal identification card, voter registry card, utility bill, or other bill.¹⁰⁷
- iv. Provide whatever documentation is required by the registering authority to prove employment status, contractual relationship, volunteer status, or student status, including but not limited to a W-2 form, pay stub or written statement by an employer, a contract, or a student identification card or student transcript.¹⁰⁸
- v. Immediately have another photograph taken if the photograph on file does not match the individual's appearance sufficiently to properly identify him or her from the photograph.¹⁰⁹

13. Requirements for "Immediate" Reporting to Law Enforcement

Registrants Must Immediately Report In Person To The Local Registering Authority:

- a. When he or she changes or vacates his or her residence or domicile.¹¹⁰
- b. When he or she intends to temporarily reside at any place other than his or her residence for more than 7 days.¹¹¹
- c. Before the individual changes his or her domicile or residence to another state.¹¹² The new state and, if known, the new address must be reported at the time of reporting.¹¹³
- f. When the individual changes his or her name¹¹⁴ or place of employment.¹¹⁵
- g. When he or she discontinues employment.¹¹⁶
- h. When he or she purchases any vehicle.¹¹⁷
- i. When he or she discontinues ownership of any vehicle.
- j. When he or she begins to regularly operate any vehicle.¹¹⁸
- d. When he or she discontinues regular operation of any vehicle.¹¹⁹
- e. When he or she establishes any electronic mail address.¹²⁰
- f. When he or she establishes any instant message address.¹²¹
- g. When he or she establishes any other designations used in internet communications or postings.¹²²

¹⁰⁷ M.C.L. § 28.725a(7).

¹⁰⁸ M.C.L. § 28.724a(5).

¹⁰⁹ M.C.L. § 28.725a(5).

¹¹⁰ M.C.L. § 28.725(1)(a).

¹¹¹ M.C.L. § 28.725(1)(e).

¹¹² M.C.L. § 28.725(6).

¹¹³ M.C.L. § 28.725(6).

¹¹⁴ M.C.L. § 28.725(1)(d).

¹¹⁵ M.C.L. § 28.725(1)(b).

¹¹⁶ M.C.L. § 28.725(1)(b).

¹¹⁷ M.C.L. § 28.725(1)(g).

¹¹⁸ M.C.L. § 28.725(1)(g).

¹¹⁹ M.C.L. § 28.725(1)(g).

¹²⁰ M.C.L. § 28.725(1)(f).

¹²¹ M.C.L. § 28.725(1)(f).

- h. Where his or her new residence or domicile is located if the individual enrolls as a student.¹²³
- i. Where his or her new residence or domicile is located if the individual discontinues enrollment as a student.¹²⁴
- j. Where his or her new residence or domicile is located if, as part of his or her course of studies, the individual is present at any other location in Michigan or throughout the United States.¹²⁵
- k. Where his or her new residence or domicile is located if the individual discontinues his or her studies at any other location in Michigan or throughout the United States.¹²⁶
- l. If he or she enrolls as a student (to campus registering authority).¹²⁷
- m. If he or she discontinues enrollment as a student (to campus registering authority).¹²⁸
- n. If, as part of his or her course of studies, the individual is present at any other location in Michigan or throughout the United States (to campus registering authority).¹²⁹
- o. If the individual discontinues his or her studies at any other location in Michigan or throughout the United States (to campus registering authority).¹³⁰
- p. If the photograph on file does not match the appearance sufficiently to properly identify him or her from the photograph, so that a new photograph may be taken.¹³¹
- k. If upon release from incarceration his or her appearance has changed from the date of a photograph taken for a driver's license (in which case a new digitized photo must be taken).¹³²

14. Financial Obligations

- a. Must pay a one-time \$50.00 registration fee.¹³³

15. Affirmative Obligations to the Secretary of State

Registrants Must:

- a. Maintain a valid Michigan driver's license, or an official state issued personal identification card with the individual's current address.¹³⁴

¹²² M.C.L. § 28.725(1)(f).

¹²³ M.C.L. §§ 28.724a(2), 28.725(1)(c), 28.724a(3)(b), 28.722(g).

¹²⁴ M.C.L. §§ 28.724a(2), 28.725(1)(c), 28.724a(3)(b), 28.722(g).

¹²⁵ M.C.L. §§ 28.724a(2), 28.724a(3)(b), 28.722(g).

¹²⁶ M.C.L. §§ 28.724a(2), 28.724a(3)(b), 28.722(g).

¹²⁷ M.C.L. §§ 28.724a(1)(a), 28.724a(3)(b), 28.722(g).

¹²⁸ M.C.L. §§ 28.724a(1)(a), 28.724a(3)(b), 28.722(g).

¹²⁹ M.C.L. §§ 28.724a(1)(b), 28.724a(3)(b), 28.722(g).

¹³⁰ M.C.L. §§ 28.724a(1)(b), 28.724a(3)(b), 28.722(g).

¹³¹ M.C.L. § 28.725a(5).

¹³² M.C.L. § 28.725a(8).

¹³³ M.C.L. §§ 28.725a(6), 28.727(1).

¹³⁴ M.C.L. § 28.725a(7).

- b. Immediately report to the Secretary of State upon release from incarceration to have his or her digitized photograph taken if his or her appearance has changed from the date of a photograph taken for a driver's license.¹³⁵

16. Penalties for Failure to Comply

- a. Willful violation of the Act is a felony punishable by:¹³⁶
 - i. Up to 4 years imprisonment and/or a maximum fine of \$2,000.00 for the first conviction of a violation of the registration act.¹³⁷
 - ii. Up to 7 years imprisonment and/or a maximum fine of \$5,000.00 for the second conviction of a violation of the registration act.¹³⁸
 - iii. Up to 10 years imprisonment and/or a maximum fine of \$10,000.00 for the third or greater conviction of a violation of the registration act.¹³⁹
 - iv. Mandatory revocation of probation for any individual on probation.¹⁴⁰
 - v. Mandatory revocation of youthful trainee status for any individual assigned to youthful trainee status.¹⁴¹
 - vi. Mandatory rescission of parole for any individual released on parole.¹⁴²
- b. Failure to comply with any of the following is a misdemeanor punishable by imprisonment for up to 2 years and/or a maximum fine of \$2,000.00:¹⁴³
 - i. Maintain a valid Michigan driver's license, or an official state issued personal identification card with the individual's current address.¹⁴⁴
 - ii. Immediately report to the Secretary of State upon release from incarceration to have his or her digitized photograph taken if his or her appearance has changed from the date of a photograph taken for a driver's license.¹⁴⁵
 - iii. Tier I Individuals: Report once per year, between January 1 and January 15, for 15 years, and:¹⁴⁶
 - 1. Verify domicile or residence.¹⁴⁷
 - 2. Verify all registration information.¹⁴⁸
 - 3. Verify written documentation of employment status, contractual relationship, volunteer status, or student status.¹⁴⁹

¹³⁵ M.C.L. § 28.725a(8).

¹³⁶ M.C.L. § 28.729(1).

¹³⁷ M.C.L. § 28.729(1)(a).

¹³⁸ M.C.L. § 28.729(1)(b).

¹³⁹ M.C.L. § 28.729(1)(c).

¹⁴⁰ M.C.L. § 28.729(5).

¹⁴¹ M.C.L. § 28.729(6).

¹⁴² M.C.L. § 28.729(7).

¹⁴³ M.C.L. § 28.729(2).

¹⁴⁴ M.C.L. §§ 28.729(2), 28.725a(7).

¹⁴⁵ M.C.L. §§ 28.729(2), 28.725a(8).

¹⁴⁶ M.C.L. §§ 28.729(2), 28.725a(3)(a), 28.725(10).

¹⁴⁷ M.C.L. §§ 28.729(2), 28.725a(3).

¹⁴⁸ M.C.L. §§ 28.729(2), 28.725a(4).

4. Immediately have another photograph taken if the photograph on file does not match the appearance sufficiently to properly identify him or her from the photograph.¹⁵⁰
- iv. Tier II Individuals: Report twice per year, between January 1 and January 15 and again between July 1 and July 15, for 25 years, and:¹⁵¹
 1. Verify domicile or residence.¹⁵²
 2. Verify all registration information.¹⁵³
 3. Verify written documentation of employment status, contractual relationship, volunteer status, or student status.¹⁵⁴
 4. Immediately have another photograph taken if the photograph on file does not match the appearance sufficiently to properly identify him or her from the photograph.¹⁵⁵
- v. Tier III Individuals: Report four times per year, between January 1 and January 15, April 1 and April 15, July 1 and July 15, and October 1 and October 15, for life, and:¹⁵⁶
 1. Verify domicile or residence.¹⁵⁷
 2. Verify all registration information,¹⁵⁸
 3. Verify written documentation of employment status, contractual relationship, volunteer status, or student status,¹⁵⁹ and
 4. Immediately have another photograph taken if the photograph on file does not match the appearance sufficiently to properly identify him or her from the photograph.¹⁶⁰
- c. Willful failure to sign a registration and notice is a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$1,000.00.¹⁶¹
- d. Willful refusal or failure to pay the \$50.00 registration fee within 90 days is a misdemeanor punishable by imprisonment for up to 90 days.¹⁶²
- e. Working within a “student safety zone”¹⁶³ is a:

¹⁴⁹ M.C.L. §§ 28.729(2), 28.725a(5), 28.724a.

¹⁵⁰ M.C.L. §§ 28.729(2), 28.725a(5).

¹⁵¹ M.C.L. §§ 28.729(2), 28.725a(3)(b), 28.725(11).

¹⁵² M.C.L. §§ 28.729(2), 28.725a(3).

¹⁵³ M.C.L. §§ 28.729(2), 28.725a(4).

¹⁵⁴ M.C.L. §§ 28.729(2), 28.725a(5), 28.724a.

¹⁵⁵ M.C.L. §§ 28.729(2), 28.725a(5).

¹⁵⁶ M.C.L. §§ 28.729(2), 28.725a(3)(c), 28.725(12).

¹⁵⁷ M.C.L. §§ 28.729(2), 28.725a(3).

¹⁵⁸ M.C.L. §§ 28.729(2), 28.725a(4).

¹⁵⁹ M.C.L. §§ 28.729(2), 28.725a(5), 28.724a.

¹⁶⁰ M.C.L. §§ 28.729(2), 28.725a(5).

¹⁶¹ M.C.L. § 28.729(3).

¹⁶² M.C.L. § 28.729(4).

¹⁶³ M.C.L. §§ 28.734(1)(a), 28.733.

- i. Misdemeanor punishable by up to 1 year imprisonment and/or a maximum fine of \$1,000.00 for the first violation.¹⁶⁴
 - ii. Felony punishable by up to 2 years imprisonment and/or a maximum fine of \$2,000.00 for anything greater than one violation.¹⁶⁵
- d. Remaining for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors (i.e., “loitering”) within a “student safety zone”¹⁶⁶ is a:
 - i. Misdemeanor punishable by up to 1 year imprisonment and/or a maximum fine of \$1,000.00 for the first violation.¹⁶⁷
 - ii. Felony punishable by up to 2 years imprisonment and/or a maximum fine of \$2,000.00 for anything greater than one violation.¹⁶⁸
- e. Residing within a “student safety zone”¹⁶⁹ is a:
 - i. Misdemeanor punishable by up to 1 year imprisonment and/or a maximum fine of \$1,000.00 for the first violation.¹⁷⁰
 - ii. Felony punishable by up to 2 years imprisonment and/or a maximum fine of \$2,000.00 for anything greater than one violation.¹⁷¹

¹⁶⁴ M.C.L. § 28.734(2)(a).

¹⁶⁵ M.C.L. § 28.734(2)(b).

¹⁶⁶ M.C.L. §§ 28.734(1)(b), 28.733.

¹⁶⁷ M.C.L. § 28.734(2)(a).

¹⁶⁸ M.C.L. § 28.734(2)(b).

¹⁶⁹ M.C.L. §§ 28.735(1), 28.733, 28.722(p).

¹⁷⁰ M.C.L. § 28.735(2)(a).

¹⁷¹ M.C.L. § 28.735(2)(b).

EXHIBIT 2

DECLARATION OF JOHN DOE #1

DECLARATION OF JOHN DOE I

I, John Doe I, state as follows:

- I have reviewed the facts in the complaint that relate to me. I affirm that those facts are accurate to the best of my knowledge, information, and belief.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge, information and belief.

I am signing this declaration using the pseudonym assigned to me in this litigation. A declaration under my real name is on file with my attorneys.

Dated: 3/2/12

John Doe

EXHIBIT 3

DECLARATION OF JOHN DOE #2

DECLARATION OF JOHN DOE II

I, John Doe II, state as follows:

- I have reviewed the facts in the complaint that relate to me. I affirm that those facts are accurate to the best of my knowledge, information, and belief.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge, information and belief.

I am signing this declaration using the pseudonym assigned to me in this litigation. A declaration under my real name is on file with my attorneys.

Dated:

2/19/12

John Doe II

EXHIBIT 5

DECLARATION OF JOHN DOE #4

DECLARATION OF JOHN DOE IV

I, John Doe IV, state as follows:

- I have reviewed the facts in the complaint that relate to me. I affirm that those facts are accurate to the best of my knowledge, information, and belief.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge, information and belief.

I am signing this declaration using the pseudonym assigned to me in this litigation. A declaration under my real name is on file with my attorneys.

Dated: 2-6-12

John Doe IV

EXHIBIT 6

DECLARATION OF MARY DOE

DECLARATION OF MARY DOE

I, Mary Doe, state as follows:

- I have reviewed the facts in the complaint that relate to me. I affirm that those facts are accurate to the best of my knowledge, information, and belief.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge, information and belief.

I am signing this declaration using the pseudonym assigned to me in this litigation. A declaration under my real name is on file with my attorneys.

Dated: 2/7/12

Mary Doe

EXHIBIT 7

DECLARATION OF I.G.

DECLARATION OF I.G.

I, I.G., state as follows:

1. I met John Doe IV in 2005 at a night club in Grand Rapids, MI that is no longer open for business. At the time I was fifteen years old.
2. After I met him we had sexual relations. The whole time John Doe IV was unaware of my actual age. I used to hang out with people that were older than me so everyone assumed I was older than I actually was.
3. The sexual encounters were completely consensual.
4. From that I got pregnant. After I found out about my pregnancy my real age came to light. My parents kind of lost it and didn't know what to do, so they pressed charges. After a while, when I was finally able to talk to my parents about what actually happened, they agreed to drop the charges against John Doe IV but the State of Michigan went on with the case.
5. I do not feel that the case was fair or that he deserves what has happened to him.
6. Because of the whole situation my daughter has missed out on the opportunities of having her father around, and that is not fair to her. I just wish that the situation could be corrected and that one day my daughter will be able to have a normal relationship with her father. She is now a five year old and asks a lot of questions, and wonders why her father is absent from a lot of her everyday things.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge, information and belief.

Dated: 2/15/12

I.G.

EXHIBIT 8

DECLARATION OF DR. JAMES J. PRESCOTT, J.D., PH.D., ON SORA EFFECTS

John Doe #1, et al., v. Richard Snyder, et al.

EXPERT REPORT/DECLARATION OF JAMES J. PRESCOTT, J.D., PH.D.

I, James J. Prescott, J.D., Ph.D., state under penalty of perjury as follows:

1. Background, Education, and Qualifications

I am a professor of law at the University of Michigan Law School in Ann Arbor, Michigan. In 2006, I received my Ph.D. in Economics from the Massachusetts Institute of Technology. I earned my J.D. *magna cum laude* from Harvard Law School in 2002, and my B.A. in Public Policy and Economics with honors and distinction from Stanford University in 1996.

I teach and write in the areas of criminal law and criminal sentencing. Much of my recent work (which is primarily empirical) centers on the consequences of sex offender post-release laws. I focus on the effects that sex offender registration and community notification laws have on sex offense rates. The attached c.v. provides further details, including links to relevant papers and a list of institutions and conferences at which I have presented my research on measuring the effects of sex offender notification laws.

At present, I have two ongoing projects that attempt to further refine our collective understanding of the consequences of registration and community notification on the number and nature of sex offenses. (Note: I use the term “registration” to refer to laws that require the *private* registration of released sex offenders with the police or other local authorities, and the term “notification” to refer to laws that mandate that registration information be made public—i.e., *public* registries.) The first project examines whether registration and, particularly, notification laws (again, *public* registries) have any effect on the location of sex offenses (joint work with Amanda Agan, an economics graduate student at the University of Chicago). The second project studies the consequences of registration and notification laws using public health measures of sexual activity rather than reported crime levels (joint work with Jonathan Klick of the University of Pennsylvania Law School).

2. The Effects of Sex Offender Registration and Notification Laws

More than three years ago, I began a series of large-scale empirical projects designed to identify and measure the consequences of sex offender post-release laws, including sex offender registration and notification laws. Last year, I published an article with Jonah Rockoff of Columbia University that offers comprehensive evidence on the relationship between sex offender notification laws (i.e., *public* registries) and the frequency and nature of sex offenses.¹

¹ See J.J. Prescott & Jonah E. Rockoff, *Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?*, 54 J.L.&Econ. 161 (2011), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1100663.

This peer-reviewed study, which analyzed data from 15 states (including Michigan) over approximately ten years, provides compelling evidence that rather than reducing recidivism, notification laws may well have *increased* (and almost certainly have *not* reduced) the frequency of sex crimes committed by convicted sex offenders.

I describe this research in three parts. First, I report the empirical results of my research with Rockoff and explain their implications for evaluating Michigan's sex offender registration and notification laws. Second, I describe our study's data and empirical methodology. Third, I explain how and why public registries, although intended to make people safer, may actually put people at greater risk.

A. The Recidivism Consequences of Notification (i.e., *Public Registration*)

Registration and notification laws have the potential to influence sex-offending behavior in two primary ways. First, potential first-time sex offenders (or non-registered offenders more generally) could become less likely to commit offenses because they fear having registration and notification laws applied to them in the future if they are caught and convicted. We refer to this behavioral response as "deterrence." Second, convicted sex offenders who are presently subject to registration and notification could become less likely to commit offenses because these laws make doing so more difficult—by increasing the difficulty of finding a victim or the chance of detection, or by mitigating the risk factors that cause individuals to return to crime. We term this behavioral response "recidivism reduction."

While both deterrence and recidivism reduction can influence the overall frequency of sex crimes, proponents of sex offender registration and notification laws have always (and have almost exclusively) justified them on the grounds that they can reduce recidivism. This makes sense: the goal of enabling potential victims to protect themselves by learning the identities and criminal histories of potential recidivists requires, by assumption and design, the collection and sharing of such information. By contrast, generally deterring potential offenders may be achieved in many potential ways (like increasing prison sentences).

With respect to reducing the recidivism of convicted sex offenders, the results of our empirical research do not support the use of notification (i.e., public registries). But our results do provide some support (with the caveats detailed below) for the use of private registries to help the police and other authorities monitor convicted offenders.

Private Registration: To begin with, we find no discernible deterrent effect of private registries. This is not surprising—in the 1990s, private registries allowed only the police or other state officials to learn of a conviction. As a result, there was little public shame (so long as the records remained confidential), and the burdens of complying with registry requirements were very low by comparison with today's time-consuming, difficult, and expensive obligations. We do, however, find evidence that these private registries reduced recidivism, at least with respect to sex offenses committed against family members, friends, acquaintances, and neighbors (but not

against strangers), suggesting that closer monitoring by the police provides some protection for easily identifiable targets.

Public Registration: With respect to notification, however, we observe quite the opposite pattern. The threat of becoming subjected to a notification regime—and the shame and collateral consequences that accompany being publicly identified as a sex criminal—had a measurable deterrent effect (i.e., reducing offenses by non-registrants). But, once we take into account the number of individuals subjected to public notification, we find that the more people a state subjects to notification, the higher the relative frequency of sex offenses in that state. These results are highly statistically significant: our estimates indicate that it is very unlikely that these laws are reducing recidivism by registrants, and that it is likely that these laws are actually increasing recidivism (that is, that the laws are causing positive harm).

Specifically, we find a 0.86% increase in the number of sex offenses per year for every additional registrant per 10,000 people in a notification state. Using the average registry size across our sample of states, this economically and statistically significant increase in recidivism by registrants more than offsets the estimated gains from the deterrence of crimes by potential or non-registered offenders. On balance, for states with average-sized registries, we calculate that notification laws lead to an additional 0.144 sex offenses per 10,000 people (relative to the number of offenses that would have occurred with only a private registration law in place). If Michigan were a “typical” jurisdiction in terms of the per capita number of offenders it chose to subject to notification, these findings would translate to between 100 and 200 additional sex offenses per year in the state.

Michigan, however, has one of the largest public sex offender registries in the country.² At registry sizes like Michigan’s circa 2005 (well more than 30 registrants per 10,000 individuals in the state by any measure), notification-generated increases in recidivism dwarf deterrence gains, leading to sex offense rates that could be more than 10% higher than they would otherwise be. In fact, this estimate of the increase in the number of sex offenses resulting from notification is very conservative given the results of our study. (This is a conservative estimate because Michigan’s per capita registry size is such an outlier that extrapolation is risky.) Nevertheless, our study provides evidence that can be used to show, strikingly, that Michigan’s notification regime is very unlikely to be *reducing* recidivism; to the contrary, our research suggests it accounts for hundreds of additional sex offenses each year.

² Estimates of the number of publicly registered offenders can vary. Two reputable sources, Family Watchdog (<http://www.familywatchdog.us/OffenderCountByState.asp>, visited on March 1, 2012) and the National Center for Missing & Exploited Children (http://www.missingkids.com/en_US/documents/sex-offender-map.pdf, visited on March 1, 2012) both report that Michigan has a per-capita registration rate far above the national average, somewhere between 35 and 50 registered offenders per 10,000 individuals in the state.

We base these empirical conclusions on comparisons of sex offense frequencies over time and across states, carefully controlling for inherent geographic, economic, and social differences and trends over time. Changes in national mood would not generate these results; the study's findings also cannot be accounted for by arguing that states with large registries are just *different* from other states. For one, we control for county-level demographics and income over time and for other crime rates (e.g., the frequency of non-sex crime generally as well as the frequency of assaults). Therefore, when public registries grow, we find that even *relative to other kinds of crime*, the number of sex offenses rises under notification. For another, even within a state, if the number of publicly registered offenders grows faster than average (relative to other states), the frequency of sex offenses also grows relatively faster than average.

In the final published paper, we also address and reject a number of other explanations for our empirical findings. We consider, among others, changes in victim reporting behavior, strain on police resources, and public fatigue.

We also find evidence in our study that notification does *not*, in fact, make it much more difficult for registered offenders to commit new crimes. This result is at odds with the underlying theory that publicly identifying past offenders will alert potential victims to the presence of “nearby” offenders and allow these potential victims to protect themselves (see part C below). Specifically, we find that notification laws generate similar increases in the frequencies of sex offenses against each type of victim—i.e., against family members, neighbors, acquaintances, *and strangers*. Therefore, even in a relative sense, it does not appear that neighbors and acquaintances have benefited from the enactment of notification laws.

Finally, although our research indicates that *private* registration laws appeared to reduce recidivism in the 1990s, care is necessary in extrapolating those results to the effects of present regimes re-imagined as private registries. Leaving aside the fact that registration information is now public in Michigan (and in all states for at least high-risk offenders), the procedures and requirements of registration in the 1990s were *significantly* less burdensome in time and money, and in terms of the difficulty of compliance, than they would be if a “private version” of the average public registry were used today.

B. Empirical Methodology for Identifying the Effects of Notification

Because the effects of these laws depend a great deal on how they are structured (see part C below), and because the states and the federal government passed these laws with no in-depth investigation of their likely consequences, my research with Rockoff on notification employed well-known federal crime data covering many states over many years to generate reliable evidence on both how these laws influence recidivism levels and, even if crime frequency remains unaffected, how these laws alter sex offender behavior more generally.

Our approach builds on the fact that notification laws are designed to reduce recidivism by making individuals who are located “near” potential recidivists (like neighbors, acquaintances,

etc.) safer by providing any potential victim with supposedly useful identifying information about released offenders who might pose a threat. Therefore, if notification works as its proponents suggest, we would expect to see relatively fewer attacks against neighbors and acquaintances under a notification regime. To test this hypothesis, Rockoff and I made use of the federal government's National Incident-Based Reporting System (NIBRS) data, the only high-quality, multi-state crime data with details about offender-victim relationships. (We discuss the NIBRS data in detail in Section 4 and the Appendix of our article, including many advantages and disadvantages of the NIBRS program and the steps we took to ensure the reliability of the data we used in our analysis.)

NIBRS is a relatively new data collection effort, with only a few states participating at the outset in the early 1990s. As registration and notification laws were enacted primarily in the 1990s, we selected the 15 states that were participating in NIBRS as of 1998: Colorado, Connecticut, Idaho, Iowa, Kentucky, Massachusetts, Michigan, Nebraska, North Dakota, Ohio, South Carolina, Texas, Utah, Vermont, and Virginia. This is a fairly representative group of states, both geographically and in terms of the evolution of their sex offender legislation. To enhance the reliability of our work, we limited our analysis to states that were part of NIBRS by 1998 to be sure that we had data for a significant period of time both before and after the states enacted their notification laws. We conducted our analysis using NIBRS data through 2005, giving us more than 10 years of data for some states and at least 7 years for all states.

Next, we characterized the content and timing of the registration and notification laws in each of these 15 states. We conducted painstaking legal analysis for more than a year to identify the precise times that statutes were enacted and when each became effective and operational. (Because NIBRS crime data is collected by month, we are able to make use of these precise legal details in our work.)

In coding these laws, we were careful to distinguish between private registries and notification (public registries) because they are meant to function in very different ways. We were also careful in how we described each notification law, as the content of these laws varies across states and over time. For example, early notification laws allowed the public merely to access paper registries; eventually, all notification laws required that sex offender data be posted to publicly accessible internet web-registries. Some states also enacted "active" notification laws in which government actors took affirmative steps to make sure individuals deemed to be at-risk by legislators (e.g., neighbors) were informed of relevant released offenders, for example, by written notice or a personal visit by a police officer.

Our research also took into account whether these laws had discretionary or mandatory features as they evolved over time. Finally, with respect to internet registries, we conducted a separate investigation to determine not only when each web registry law became effective, but when each site became operational *in fact* and largely complete in its coverage.

With data on individual sex offense incidents by county for 15 states over many years, we were in a position to conduct a fairly straightforward “program evaluation” had we wished to go that route. In effect, using multiple regression analysis, we could have proceeded by examining how the frequency of sex offenses (and the types of sex offenses—in particular, the frequency of sex offenses between neighbors or acquaintances) changed in response to the implementation of registration and notification laws. With 15 states and a long stretch of years, we were able to control for national trends or a trend over time in a single state (one that might affect the number of sex offenses at just around the time a state passed a sex offender law) to ensure that neither was confounding our results. Our data allow us, for example, to account for state-specific trends in the number of sex offenses as well as trends in other crime levels.

If we were interested purely in whether registration and notification laws reduced crime *on the whole*, this would have been the appropriate strategy. But these laws have been defended as attempts to reduce sex offender *recidivism*, not merely as additional deterrents to “potential” or non-registered sex offenders. As described above, public registration laws could theoretically reduce new sex offenses in one of two ways: (1) by deterring non-registered offenders (who wish to avoid, for example, the burdens and shame of public notification should they be caught and convicted); and (2) by reducing the recidivism of registered offenders by providing information to and facilitating monitoring by the public. Our research design was constructed to assess each of these possibilities separately.

Separately identifying and measuring these two hypothetical consequences of notification laws is essential, but difficult to do persuasively with comprehensive federal crime data because these data do not indicate whether a crime was committed by a registered sex offender or a new, non-registered offender.

Our research solved this problem in an intuitive way. Although we, too, were unable to observe whether a crime in our data was committed by a registered sex offender or by a non-registered or potential offender, we made use of the following simple fact: registration and notification laws cannot reduce (or increase) the frequency of sex offenses through changes in recidivism levels (by, for example, improving police and public monitoring or by informing potential victims of nearby threats) when nobody or only a few convicted sex offenders are subject to these laws—i.e., when registries are close to “empty.” On the other hand, both registration and notification laws *can*, in theory, reduce the frequency of sex offenses even when registries are “empty” by deterring potential sex offenders who fear becoming subject to these laws in the future if they are convicted of committing a sex crime.

We extend this logic in our research to take advantage of the significant variation in retroactive coverage of registration and notification laws across states. This coverage variation resulted in dramatic differences in the numbers of covered individuals as these laws became effective: some states applied their laws only prospectively; others made them retroactive, applying them to individuals convicted and/or released over a range of different time frames.

Accordingly, as states began to enforce their registration and notification laws, some states had large registries while others had empty or nearly empty registries.

To operationalize this idea, we collected registry size data for each state at different points in time, and used county-level registry sizes in August 2007 to estimate the size of the registry in each county for each month. In effect, we studied how county patterns in the number and type of sex offenses vary with registry size over time. If these laws worked to reduce recidivism, we would have expected to see that counties with larger registry sizes had greater relative reductions in the number sex offenses, all else equal (i.e. after controlling statistically for other differences across counties, states, and time—crime rates and how they change, demographics and how they change, national trends and shocks, etc.). This pattern is not what we found, however.

C. Explaining Why Notification Laws, though Intended to Keep People Safe, Actually Increase Recidivism

The conclusion of our research that notification appears to *increase* recidivism (see part A) may seem counterintuitive at first blush. After all, notification (i.e., the active identification of sex offenders through public registries) is designed to alert potential victims to the threat a nearby released sex offender may pose. But, for this approach to reduce the recidivism levels of released sex offenders, two separate conditions must be met.

First, for notification laws to reduce recidivism, the public identification of sex offenders must make it more difficult, on average, for an offender to commit a sex crime.

This condition, in turn, requires 1) that individuals who are likely to be victimized must be *newly* informed of an offender's status as a result of the operation of the notification law, 2) that potential victims are *newly* capable of acting in ways that reduce their exposure to victimization by registered offenders, and 3) that a released offender who becomes at risk for committing a new crime will not discover an alternative victim nearby who is either unaware of the offender's status or is unable to act on the basis of that information to reduce (or reduce by a lot) the risk of becoming a victim.

But, as ample research demonstrates, offenders are rarely strangers to their victims. Friends and family members will often already be aware of a sex offender's criminal history. When the potential victim of an offender is a stranger, it may be hard for the victim to determine the offender's status or to reduce her exposure. Even if the victim is able to reduce her exposure, a released offender who becomes at risk for reoffending may find himself surrounded by other potential victims, many or some of whom *are* unaware, in all or almost all cases. Neighbors seem most likely to benefit from notification so long as they receive the information and are able to behave in ways that reduce their risks. Neighbors, however, make up much less than 5% of all sex offense victims (Prescott & Rockoff (2011), at p.176).

Second, for notification to reduce recidivism, these laws must avoid aggravating the risk factors that significantly increase an offender's chance of reoffending.

Even if notification were to succeed at making it more difficult for sex offenders to reoffend, recidivism might still increase under notification regimes: after all, the difficulty of committing a crime is only one factor, among many, affecting an offender's likelihood of recidivating. Publicly identifying an individual as a sex offender (as well as imposing other significant burdens—residency restrictions, frequent reporting requirements, etc.), on the other hand, influences *many* of these factors by dramatically changing a sex offender's daily life, future prospects, and psychological and financial burdens. While a law that imposes restraints and/or burdens on a released offender does have the potential to reduce recidivism if that law makes the commission of crime more difficult or if it mitigates risk factors, such a law also has the potential to *increase* recidivism if it exacerbates risk factors (e.g., unemployment, unstable housing) that are known to contribute to reoffending.

Notification regimes, with their attendant registration burdens, appear much more likely to *increase* the likelihood that affected individuals return to crime, all else equal. These laws and their application exacerbate recidivism risk factors. Many compelling studies have established that publicly identifying sex offenders makes it more difficult for them to find employment and housing, residency restrictions make everything more expensive and life less stable, and both make it harder for registered offenders to be with family. Life as a registered sex offender, by all accounts, is simply much more difficult than it otherwise would be—in no small part because of the operation of sex offender post-release laws.

Notification schemes are intended to reproduce an upside of incarceration, essentially by “incapacitating” potential recidivists. Public registration attempts to create a barrier between released sex offenders and potential victims. Unfortunately, the analogy of post-release laws to prison is too apt: the public identification of individuals as “sex offenders” reproduces many of the deprivations and burdens of prison in addition to the incapacitation effect. Plus, by making the world outside of prison more like being in prison, the threat of sending someone to prison should he commit another sex crime is much reduced. Put another way, the more difficult, lonely, and unstable a registered sex offender's life is, the more likely he is to return to crime—and the less he has to lose by committing new crimes.

It is easy to see, therefore, that the effect on recidivism of public registration laws (and of most sex offender post-release laws generally) is an empirical question: the effectiveness of these laws will depend on how they are structured and applied.

If notification and its associated burdens make it more difficult for a registered sex offender to find victims, while at the same time not aggravating the risk factors known to lead to recidivism and not reducing a registered offender's desire to avoid prison, then crime rates should drop. But if these laws impose significant burdens on a large share of former offenders, and if

only a limited number of victims benefit from knowing who and where sex offenders are, then we should not be surprised to observe more recidivism under notification, with recidivism rates rising as notification expands.

3. Evidence from a Compendium of Sex Offender Post-Release Laws

A. The Purposes and Process of Compilation

To carry out my empirical research into the consequences of sex offender post-release laws, and to create a resource for other researchers, I have compiled a comprehensive history (compendium) of such laws for each of the 50 states.

In order to understand the consequences of these laws on health, crime, life prospects, etc., it is necessary to carefully distill the substantive provisions of these laws into categories that can be useful for analysis. Because my work is empirical and requires comparisons across states, I designed the compendium from the outset not only to include all substantive post-release laws that are applied specifically to sex offenders, but also to ensure consistent notation and organization across states. The compendium thus records and describes the establishment and subsequent evolution of all forms of laws targeted exclusively at controlling and supervising sex offenders—including sex offender registration, community notification, residency restrictions, employment restrictions, and civil commitment, among others.

The record begins for most states in the late 1980s or 1990s—Michigan’s story begins in 1994, when its legislature enacted its first registration law—but in the intervening years, dozens of laws have been passed in every state, creating a complicated, constantly changing picture for released offenders subject to registration and notification. The compendium is regularly updated, and is current through the end of 2009 (which is sufficient for its primary purpose—facilitating empirical research—as any study of a post-release law’s consequences requires a significant post-period for measurement.) The compendium contains over 1000 pages of concise descriptions of every state’s sex offender post-release laws.

In the 2000s, states began developing and deploying a number of new post-registration restrictions (and imposing new duties) on released sex offenders. Most of these more recent post-release restrictions have been built “on top” of the basic registration framework laid down in the early 1990s. In Michigan (as in many other states), examples include residency restrictions, employment restrictions, and loitering restrictions, first adopted in 2005 and effective on the first day of 2006.

A limitation of the compendium is that it focuses on “substantive” restrictions on behavior, not the many burdensome “procedural” requirements that must be satisfied for a released sex offender to remain free (such as registering changed residency information within a specified number of days, paying for updating registration information, etc.). Although the compendium does contain some of this information, and it is often easy to see how many new procedural

obligations have been added to Michigan's and other states' sex offender post-release laws, the compendium is underinclusive in that it omits many of the complicated day-to-day requirements and fees that covered offenders are under pain of penalty to satisfy.

B. Evidence from the Compendium

Analysis of the evolution of the sex offender laws of the 50 states shows that the number of post-release obligations, restrictions, constraints, and disabilities placed on sex offenders has exploded over the last twenty years and especially during the last decade.

With very few exceptions, sex offender post-release laws across the states have been caught for years in a one-way ratchet of imposing increasingly severe and burdensome restraints and disabilities on released sex offenders. In many states, these laws have become progressively more wide-reaching on an almost yearly basis, requiring more and more of an individual's time (and money) to remain in compliance. The regular changes and growing complexity of these laws make compliance more difficult and innocent errors more common. Furthermore, legislatures regularly broaden the scope of laws that had been previously on the books, adding new individuals to the class of "registered sex offenders," even though the crimes newly covered may have been committed many years in the past.

The structures undergirding the vast array of state sex offender laws are the basic sex offender registration statutes. Historically, a state identified those individuals it wished to register for the sake of monitoring (often by their crimes of conviction), and defined that category as "sex offenders" or some similar term. Registration statutes sometimes created two or more groups of offenders, differentiating one from the other and from non-sex offenders on the basis of the perceived seriousness of the crime of conviction and the perceived need, in particular, to register the groups in question.

Although these groups were demarcated for a particular purpose (i.e., for registration and police monitoring) at a particular point in time, subsequent sex offender post-release laws have in effect piggybacked on the existing structure and definitions. Yet it has never been made clear whether the individuals who the legislature originally determined ought to be publicly registered as sex offenders *also* ought to be subject to residency restrictions, employment restrictions, etc. Nor is it clear that those who are subject to residency restrictions ought to be subject also to employment restrictions, and vice versa.

In other words, the panoply of obligations and restrictions now knotted up with "sex offender" registration are premised on an individual's underlying status as a registrant regardless of whether those particular obligations and restrictions are appropriate for the wide range of individuals who are now classified as sex offenders. Consequently, registration requirements have become indistinguishable in many states from the package of myriad restrictions and obligations that legislatures have enacted in recent years.

Registration laws and the post-release laws that derive from them share, as a general matter, a number of other characteristics, as well.

First, failure to comply with the increasingly complex and confusing restraints and disabilities will not uncommonly return a registered individual to incarceration, and these failures are often considered strict liability offenses (see, e.g., MCL § 28.735, MCL § 28.734; MCL § 28.729(2)). Considerable vagueness plagues many of the definitions of these constraints and obligations. There is often little discretion on the part of judges or others to loosen these restrictions, and the penalties for violations can be severe.

Second, while the basic categories of sex offender restrictions built on top of the early registration statutes seem straightforward enough in the abstract (e.g., residency restrictions), the vast web of sex offender post-release laws across the states are numerous, unpredictable, unexpected, burdensome, complicated, and often vague. In the attached exhibit, I list and describe several examples taken from the compendium (relying on state laws through 2009) and other research conducted for this report. Note the sheer volume of constraints and obligations the laws impose, and the constant vigilance required of offenders to stay in compliance.

One serious set of difficulties for registered sex offenders arises from the fact that they face additional obligations in other states should they travel. Post-release laws allow only very small windows within which to comply, and because there is incredible variety in the procedures and substantive obligations across the states, confusion is certain, in addition to the time and effort the satisfaction of these obligations requires.

For example, consider an offender who must register in Michigan because he maintains a residency in the state (see M.C.L. 28.723, which requires offenders “who are domiciled or temporarily reside in this state or who work with or without compensation or are students in this state” to register). If this offender visits Ohio for more than three days at a time, works there, or attends school there, he must register in Ohio as well (see R.C. § 2950.04). In Indiana, an offender must register if he spends or intends to spend at least *seven* days, inclusive, in Indiana, or if he owns any real property in Indiana and returns to the state at any time (see IC 11-8-8-7). Registration laws are written such that individuals may have to be simultaneously registered in many states at a time and yet the rules and procedures for registration vary by enough to make complete compliance difficult and time-consuming. It does not help that many states require regular in-person registration.

Consider other types of post-release restraints for a Michigan registrant who travels regularly, as well: Indiana prohibits certain registrants from residing (for a period longer than 3 nights in one location in any 30-day period) within 1000 feet of a school, youth program center, or public park (see IC 35-42-4-11). Ohio prohibits offenders from residing within 1000 feet of any school or child day care center (see R.C. § 2950.034). Thus, while both states have residency restrictions, who is subject to them and what areas are off-limits varies by state. Consequently,

registered individuals travelling to other states where they also must register will be subject to a range of different regimes of post-release laws.

Finally, while post-release laws are typically defended as attempts by legislatures to reduce recidivism and improve public safety, the history of these laws across the states undermines this interpretation (and instead is suggestive of an interest in punishment):

- States enacted and implemented registration and notification laws with no sustained or rigorous study of their likely consequences, often doing so in response to a public outcry and anger following a particular crime.
- A significant body of empirical work has examined the behavior of convicted sex offenders and the likely consequences of sex offender registration and notification laws on recidivism. This evidence is consistent with my work, showing overwhelmingly that, at best, public registration does not improve recidivism rates, and it may well be counter-productive.
- Despite this research, most of these laws and their amendments remain non-evidence-based and do not reflect our current understanding of how sex offenders behave, or what research suggests works and does not work in reducing their recidivism levels.
- Research has also demonstrated that these laws are financially costly to states and local governments, create a great deal of useless fear among members of the public, and are financially, physically, and emotionally costly to covered offenders.
- Many states impose post-release laws on the basis of the crime of conviction, regardless of whether the offender presents any risk to anyone and regardless of the availability of accurate and cost-effective risk assessment protocols.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury that the above statements are true and correct to the best of my knowledge, information, and belief.



James J. Prescott, J.D., Ph.D.

Dated: March 15, 2012

ATTACHMENT A

CONSEQUENCES TRIGGERED BY MICHIGAN SEX OFFENDER
REGISTRATION, A NATIONAL SAMPLE

Consequences Triggered by Michigan Sex Offender Registration:
A National Sample

In addition to complying with their home state's registration requirements, Michigan registrants must also comply with the idiosyncratic laws of any jurisdiction in which they are "temporarily domiciled." In many states, including nearby Ohio, Illinois, and Pennsylvania, a visit lasting longer than two days triggers registration, even if the registrant's crime of conviction would not have otherwise warranted registration in those states.

Examples of such reciprocal registration laws include: Colo. Rev. Stat. § 16-22-103 ("[A]ny person convicted of an offense in any other state or jurisdiction . . . for which the person, as a result of the conviction, is, was, has been, or would be required to register if he or she resided in the state or jurisdiction of conviction . . . shall be required to register in the manner specified in section 16-22-108, so long as such person is a temporary or permanent resident of Colorado."); Mich. Comp. Laws § 28.724(6)(d); Ohio Rev. Code Ann. § 2950.04(4); 42 Pa. Cons. Stat. § 9795.2(b)(4) (all substantively similar). Every state appears to have some sort of reciprocal registration law.

Thus, registrants who travel out-of-state, even temporarily to visit family or to engage in business, may find themselves subject to unfamiliar, unpredictable, and burdensome obligations and restrictions—not to mention registration fees. As these laws reach into many areas of life, they render it very difficult to travel lawfully. This exhibit highlights some of these travel-related burdens and provides examples of some of the more unexpected and onerous sex offender laws from around the country, to which Michigan registrants are subject if they move or travel to other states.

1. Reporting, Surveillance, and Supervision

- Registrants must register, in person, if they visit for longer than two days in Illinois, Maryland, or Ohio, and if they spend 7 days in Indiana over any six-month period. They must register within 48 hours of arriving in Pennsylvania and by the first working day of arriving in Alaska. These obligations apply even if the registrant intends to stay only temporarily. Other states mandate similar time periods for registration. Alaska Stat. § 12.63.010; 730 Ill. Comp. Stat. 150/3(a)(1); Ind. Code § 11-8-8-7(a); Md. Code Ann. Crim. Proc. § 11-705(b)(5)(3); Ohio Rev. Code Ann. § 2950.04(4) (West); 42 Pa. Cons. Stat. § 9795.2(b)(4).
- In Illinois, registrants must pay a \$100 initial registration fee and a \$100 annual renewal fee; in Iowa, registrants must pay a \$200 or \$250 one-time fee post-conviction, plus a \$25 annual registration fee; and in Idaho, registrants must pay a \$40 annual registration fee. Idaho Code Ann. § 18-8307(2); 730 Ill. Comp. Stat. 150/3(c)(6); Iowa Code § 692A.110.

- In Alabama, registrants must obtain travel permits if they intend to leave their county of residence temporarily for more than two days. Ala. Code § 15-20A-15.
- In Illinois, registrants must provide law enforcement with a detailed travel itinerary if they will be away, or intend to be away, from their registered residence for more than two days; in Alabama, for visits longer than two days; and in Iowa, for visits longer than five days. Ala. Code § 15-20A-15; 730 Ill. Comp. Stat. 150/3; Iowa Code § 692A.105.

2. Denial of Access to Public Accommodations

- In Warren, Michigan, registrants are banned from public parks, playgrounds, or city recreation facilities. Warren Mun. Code 22-140 (Warren, MI). See also Irvine Mun. Code 4-14-803 (Irvine, CA) (similarly, for registrants convicted of crimes involving minors).
- In Huachuca City, Arizona, registrants are banned from all public places, including public schools, parks, pools, and libraries. Sonu Wasu, *Ordinance Bans Registrants From All Public Places*, Tucson News Now (Sept. 26, 2011).
- In Iowa, certain registrants are barred from public libraries, and in Tennessee, library directors may exclude registrants at any time. Iowa Code § 692A.113(f); Tenn. Code Ann. § 40-39-216. But see *Doe v. City of Albuquerque*, 667 F.3d 1111 (10th Cir. 2012) (striking down municipality's library ban on First Amendment grounds).
- In Florida, registrants may be banned from public hurricane or emergency shelters. *Sex Offenders Kept From Storm Shelters*, Associated Press (Aug. 8, 2005), <http://www.nytimes.com/2005/08/08/national/08florida.html>. In Collier County and Indian River County, registrants must be kept in a separate room of the shelter. In Lee County, registrants may use only "pre-designated" shelters specifically intended for registrants. Collier County, Fla. Code of Ordinances 111-33; Indian River County, Fla. Code of Ordinances 306.06; Lee County, Fla. Code of Ordinances 24½-5.

3. Restrictions on Religious Participation and Social Activities

- In Georgia, registrants cannot work or volunteer at a church. Ga. Code. Ann. § 42-1-15(c)(1).
- In Oklahoma, registrants must receive written permission from the "religious leader" of a church or other institution before entering to worship. Okla. Stat. tit. 21, § 1125(E).
- In North Carolina, certain registrants may not be present in any place where minors gather for regular educational, recreational, or social programs. N.C. Gen. Stat. § 14-208.18(a)(3). That includes churches and other institutions of religious worship. See

Bonnie Rochman, *Should Sex Offenders Be Barred from Church?* Time (Oct. 14, 2009), <http://www.time.com/time/nation/article/0,8599,1929736,00.html>.

- In North Hudson, Wisconsin, registrants cannot “participate in any holiday event involving children,” except if the registrant is the parent or guardian and no other children are present. North Hudson, Wis. Code of Ordinances 70-95.
- In Tennessee, certain registrants may not “[p]retend to be, dress as, impersonate or otherwise assume the identity of a real or fictional person or character or a member of a profession, vocation or occupation while in the presence of a minor.” Tenn. Code Ann. § 40-39-215(a)(1).
- In Missouri; Nassau County, Florida; and Orange County, California, registrants on Halloween must post a sign stating, “No candy or treats at this residence,” and must turn off all outside residential lighting. Missouri registrants must also stay inside their homes “unless required to be elsewhere for just cause.” Mo. Rev. Stat. § 589.426; Nassau County, Fla. Code of Ordinances 19¼-44; Orange, Cal. Code of Ordinances 9.10.045. See also *F.R. v. St. Charles County Sheriff’s Dept.*, 301 S.W.3d 56 (Mo. 2010) (finding the Missouri provision punitive and prohibiting its retroactive application).

4. Restrictions on Civic Engagement

- In Minnesota and Missouri, registrants cannot be candidates for school board positions. Minn. Stat. § 609B.123; Mo. Rev. Stat. § 162.014.
- In Illinois, registrants cannot be selected as election judges. 10 Ill. Comp. Stat. 5/14-1.
- In Virgo County, Indiana, registrants cannot vote at schools. *Officials: Sex Offenders Can’t Vote at Schools*, WTHI (Terre Haute, IN) (May 10, 2011), <http://www.wthitv.com/dpp/news/local/officials%3A-sex-offenders-can%27t-vote-at-schools>.

5. Free Speech, Internet, and Web Site Restrictions

- In Kentucky and North Carolina, registrants are barred from using social networking Web sites or instant messaging and chat room programs if those Web sites or programs also permit minors to use them. Ky. Rev. Stat. Ann. § 17.546 (West); N.C. Gen. Stat. § 14-202.5. For statutes imposing this restriction only on certain registrants, see Ind. Code § 35-42-4-12; La. Rev. Stat. Ann. § 14:91.5; Neb. Rev. Stat. § 28-322.05; Tex. Gov’t Code Ann. § 508.1861.
- Such Web sites are defined broadly to include “any Internet website through which users have the ability to communicate via text and which allows messages to be visible to all other users or to a designated segment of all other users.” La. Rev. Stat. Ann. §

14:91.5(c)(1). But see Doe v. Jindal, No. 11-554-BAJ-SCR, 2012 WL 540100 (M.D. La. Feb. 16, 2012) (striking down statute barring certain registrants from accessing social media as substantially overbroad and therefore a violation of the First Amendment).

- In Indiana, registrants must sign a “consent form” authorizing law enforcement authorities to search “at any time” their personal computers or other devices with Internet capability, as well as to install hardware or software to monitor their Internet usage. This installation shall occur at the registrant’s expense. Ind. Code § 11-8-8-8(b).
- In New Jersey, registrants whose crime involved a computer or any other device with Internet capability must receive court approval to use any device with Internet access and must submit to unannounced searches of those devices. N.J. Stat. Ann. § 2C:43-6.6.
- In Wisconsin, a registrant cannot intentionally photograph a minor without obtaining the written consent of the minor’s parent or guardian and notifying the parent or guardian of the registrant’s registration status. Wis. Stat. § 948.14. See also Ga. Code Ann. § 42-1-18.

6. Identification Cards

- In Alabama, Indiana, and Tennessee, registrants must carry identification at all times. Ala. Code § 15-20A-18(a); Ind. Code § 11-8-8-15; Tenn. Code Ann. § 40-39-213.
- In Florida, Tennessee, and Texas, registrants must carry special driver’s licenses or identification cards that clearly indicate that they are sex offender registrants. Fla. Stat. § 322.141; Tenn. Code Ann. § 55-50-353; Tex. Transp. Code Ann. § 521.057.
- In Texas, registrants must renew their driver’s license or personal identification cards annually. Tex. Code Crim. Proc. Ann. art. 62.060 (West).

7. Housing Restrictions

- Across the country, any person whose household includes a person subject to life-time registration is barred from accessing federally subsidized housing. 42 U.S.C. § 13663 (2006).
- In Delaware, Illinois, Indiana, Maryland, and Washington, among other states, homeless registrants must report to the local sheriff, in person, once a week. Del. Code Ann. tit. 11, § 4120; 730 Ill. Comp. Stat. 150/3(a); Ind. Code § 11-8-8-12(c); Md. Code Ann., Crim. Proc. § 11-705(d)(2); Wash. Rev. Code § 9A.44.130(5)(b).
- In Pennsylvania, any person, homeless or not, who “fails to establish a residence” where he or she “is domiciled or intends to be domiciled for 30 consecutive days,” must report

in person once a week. Such individuals must also report “a list of places the individual eats, frequents and engages in leisure activities.” 42 Pa. Cons. Stat. § 9795.2(a)(2).

- In California, a registrant on parole may not live with any other registrant in a “single family dwelling.” In Oregon, registrants on probation, parole, or supervision may not “reside in any dwelling” together. In Idaho and Oklahoma, a registrant may not live with more than one other registrant. Of these states, only California and Oklahoma provide statutory exceptions to allow married or related registrants to live together. Cal. Penal Code § 3003.5(a); Idaho Code Ann. § 18-8331; Okla. Stat. tit. 57, § 590.1; Or. Rev. Stat. § 144.642.

8. Employment Restrictions

- In Daytona Beach, Florida, registrants cannot work as garbage collectors for recycling or waste disposal franchisees. Daytona Beach Shores, Fla. Code of Ordinances 12-7.
- In Georgia, registrants are barred from working or volunteering at any childcare facility, school, or church – or “at any business or entity that is located within 1,000 feet of a childcare facility, a school, or a church.” Ga. Code. Ann. § 42-1-15(c)(1).
- In Louisiana, registrants cannot operate any bus, taxicab, or limousine, or work in any service position that would involve entering a residence. La. Rev. Stat. Ann. § 15:553.
- In Massachusetts, New York, and Tennessee, registrants cannot operate an ice cream truck. Mass. Gen. Laws ch. 265, § 48; N.Y. Correct. Law § 168-v; Tenn. Code Ann. § 40-39-215(a)(3).
- In Illinois, certain registrants cannot work at a state or county fair, lease to a family with children, or operate vending, rescue, or emergency vehicles. 720 Ill. Comp. Stat. 5/11-9.3.

9. Restrictions by Private Businesses and Universities

Many private actors also use sex offender registries to deny registered individuals goods and services. Examples include:

- Mary Helen Miller, *Lake Michigan College Bans Sex Offenders of Children from Its Campuses*, The Chronicle of Higher Education (Mar. 3, 2010), <http://chronicle.com/article/Lake-Michigan-College-Bans-Sex/64474/>.
- *Muskegon YMCA Revokes Memberships of Registered Sex Offenders*, Associated Press (Nov. 29, 2007), http://blog.mlive.com/kzgazette/2007/11/muskegon_ymca_revokes_membersh.html (crediting the Michigan online sex offender registry for “making the

policy even possible”); Emily Friedman, *YMCAs Revoke Memberships of Registered Sex Offenders*, ABC News (Feb. 4, 2010), <http://abcnews.go.com/US/ymca-community-centers-membership-sex-offenders/story?id=9737459> (explaining how 12 Connecticut YMCAs revoked memberships after cross-referencing their membership lists against the state’s sex offender registry).

- *Assoc. Asks Church with Sex-offender to Resign*, Town Hall Magazine (Mar. 08, 2012), http://townhall.com/news/religion/2012/03/08/assoc_asks_church_with_sexoffender_to_resign (reporting that the Jacksonville Baptist Association in Jacksonville, Florida, is seeking a member church’s resignation after the church hired a registrant as a minister).
- Heather May & Julia Lyon, *Utah Children’s Hospital Screens Visitors to See if They Are Sex Offenders*, The Salt Lake Tribune (Dec. 18, 2011), <http://www.sltrib.com/sltrib/news/53116318-78/visitors-hospital-primary-sex.html.csp> (reporting on computerized check-in program used to identify registered sex offenders at “more than 100 other hospitals across the country”). This Utah children’s hospital reportedly allows registrants to visit their own children (while devoting “extra scrutiny”) but asks other registrants to leave.
- Carol J. Williams, *Match.com Agrees to Screen for Sex Offenders to Settle Lawsuit*, Los Angeles Times (Aug. 24, 2011), <http://articles.latimes.com/2011/aug/24/local/la-me-match-20110824> (reporting that “the company’s promise to screen all members is expected to spark a new industry norm”).
- Aline Reynolds, *Facebook and Myspace Kick Out Thousands of NY Sex Offenders*, Discover Magazine (Dec. 4, 2009), <http://blogs.discovermagazine.com/80beats/2009/12/04/facebook-and-myspace-kick-out-thousands-of-ny-sex-offenders/>; *MySpace Kicks Out 90,000 Sex Offenders, Connecticut AG Says*, CNN Tech (Feb. 3, 2009), http://articles.cnn.com/2009-02-03/tech/myspace.sex.offenders_1_hemanshu-nigam-myspace-sexual-predators.

ATTACHMENT B
CURRICULUM VITAE

JAMES J. PRESCOTT

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EMPLOYMENT

UNIVERSITY OF MICHIGAN LAW SCHOOL, Professor of Law (2011–).
Assistant Professor of Law (2006–11).

Research: Criminal Law
Empirical Law and Economics
Sentencing and Corrections
Employment Law

Teaching: Criminal Law
Employment Law
Law and Economics Workshop
Economic Analysis of Law

Service: Organizer, Law Student Research Roundtable (2007–); University of Michigan Civil Liberties Board (2010–13); Technology Committee (2010–11); Alumni Promotion Committee (2010–11); Institutional Advancement Committee (2009–11); Academic Standards and Practices Committee (2009–10); Clinical Committee (2008–09); Student Careers and Professional Affairs Committee (2007–08); Curriculum Committee (2006–07).

EDUCATION

MASSACHUSETTS INSTITUTE OF TECHNOLOGY, Ph.D., Economics, 2006

Honors: MIT Department of Economics Fellowship (1997–99)
Jacob K. Javits Fellowship (1998–2002)

Dissertation: *Essays in Empirical Law and Economics*
(Advisers: David Autor, Michael Greenstone, Christine Jolls)

HARVARD LAW SCHOOL, J.D., 2002

Honors: Graduated *magna cum laude*
John M. Olin Fellowship in Law and Economics (1999–2002)
Treasurer (Vol. 115) and Editor, *Harvard Law Review*

Clerkship: Hon. Merrick B. Garland, U.S. Court of Appeals for the D.C. Circuit (2002–03)

STANFORD UNIVERSITY, B.A., Public Policy and Economics, 1996

Honors: Graduated with Honors and Distinction; Phi Beta Kappa (elected in junior year); Ethics-in-Society Honors Program; Presidential Award for Excellence in the Freshman Year; Truman Scholar Finalist (CA)

Thesis: *Why Vote? Using Principles to Solve the Paradox of the Irrational Voter*

PUBLICATIONS & MANUSCRIPTS

- Prescott, J.J., “Child Pornography and Community Notification: How an Attempt to Reduce Crime Can Achieve the Opposite” *Federal Sentencing Reporter*, 24 (2011), 93–101.
- Prescott, J.J. and Jonah E. Rockoff, “Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?” *Journal of Law and Economics*, 53 (2011), 161–206.
- Prescott, J.J., “The Challenges of Calculating the Benefits of Providing Access to Legal Services,” *Fordham Urban Law Journal*, 37 (2010), 303–46.
- Prescott, J.J., Kathryn E. Spier, and Albert H. Yoon, “Settlement and Trial? A Study of High-Low Agreements,” revise and resubmit at *Journal of Law and Economics*.
- Prescott, J.J., “Measuring the Consequences of Criminal Jury Trial Protections,” revise and resubmit at *Journal of Legal Studies*.
- Prescott, J.J. and Sonja B. Starr, “Improving Criminal Jury Decision Making After the *Blakely* Revolution,” *University of Illinois Law Review*, 2006, 301–56.
- Jolls, Christine M. and J.J. Prescott, “Disaggregating Employment Protection: The Case of Disability Discrimination,” *NBER Working Paper 10740* (2004).

WORKS IN PROGRESS

- Prescott, J.J., “Empirical Evidence of Prosecutorial Charging Manipulation: And What It Tells Us about What Prosecutors Are Trying to Do,” draft available.
- Garrett, Brandon L. and J.J. Prescott, “Determinants of Success in Post-Conviction Litigation by the Innocent,” draft available.
- Prescott, J.J., and Sonja Starr, “Evaluating the Impact of Criminal Record Set-Aside Laws on Recidivism and Socioeconomic Outcomes,” 15-page funding narrative available.
- Prescott, J.J., “The Possibilities of Offender Choice in Sentencing: Eliciting Forward-Looking Information,” précis and partial draft available.
- Klick, Jonathan, and Prescott, J.J., “The Effect of Sex Offender Laws on the Sexual Abuse and Health of Minors,” 25-page funding narrative available.
- Prescott, J.J., and Eric B. Laber, “The Effects of Judge, Prosecutor, and Defendant Race and Gender Interactions on Defendant Outcomes,” 15-page funding narrative available.
- Bailey, Martha J., and J.J. Prescott, “The Regulation of Vice in the 1960s: The Case of Contraception as ‘Obscene,’” précis available.
- Prescott, J.J., “Data Set: New Orleans District Attorney’s Office Data, 1988-1999,” including arrest, charging, conviction, and sentencing data with judge, prosecutor, and defendant identifiers and over 30,000 defendant observations.

OTHER WRITING & RESEARCH

Prescott, J.J., “A Fifty-State Compendium of Sex Offender Regulation,” mimeo (2010).

Prescott, J.J., “Tort as a Debt Market: Agency Costs, Strategic Debt, and Borrowing against the Future, *Harvard Law Review*, 115 (2002), 2294–316 (Student Note).

Prescott, J.J., “Prevailing Party—*Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources*, 121 S. Ct. 1835 (2001),” *Harvard Law Review*, 115 (2001), 457–67 (Student Supreme Court Case Comment).

Prescott, J.J., “Second Circuit holds that Punitive Damages are Unavailable against Municipalities—*Ciraolo v. City of New York*, 216 F.3d 236 (2d Cir. 2000),” *Harvard Law Review*, 114 (2000), 666–72 (Student Recent Case Comment).

GRANTS AND AWARDS

University of Michigan, Office of the Vice President for Research (\$15,000) (2011) (“The Role of the Prosecutor in Criminal Justice Outcome Disparities”)

Population Studies Center, University of Michigan (\$4,000) (2011) (“The Effects of Sex Offender Laws on Teenage Sexual Health and on the Geography of Crime Commission”)

National Fellow, Hoover Institution, Stanford University, Stanford, CA (2010–11)

National Science Foundation, Law and Social Sciences Program (\$145,000) (2010) (“Evaluating the Impact of Set-Aside Laws on Ex-Offender Recidivism and Socioeconomic Outcomes”) (Co-PI: Sonja Starr)

University of Michigan, Office of the Vice President for Research (\$15,000) (2009) (“Evaluating the Impact of Set-Aside Laws on Ex-Offender Recidivism and Socioeconomic Outcomes”)

National Poverty Center, University of Michigan (\$7,500) (2009) (“Evaluating the Impact of Set-Aside Laws on Ex-Offender Recidivism and Socioeconomic Outcomes”)

ABA Section on Litigation, Litigation Research Fund (\$12,000) (2008) (with Albert Yoon) (“Settlement and Trial? A Study of High-Low Agreements”)

PROFESSIONAL ACTIVITIES

Affiliations: Faculty Affiliate, Population Studies Center, University of Michigan
Associate Editor, *International Review of Law and Economics*
Member, State Bar of California (admitted in 2002)
Member, American Bar Association
Member, American Economic Association
Member, American Law and Economics Association

Referee Service: *Journal of Legal Studies*
Journal of Law and Economics

Journal of Empirical Legal Studies
American Law and Economics Review
Review of Law and Economics
Quarterly Journal of Economics
Review of Economics and Statistics
Journal of Labor Economics
American Economic Journal: Applied Economics
Journal of Public Economics
Law and Society Review
Law and Social Inquiry
Crime and Delinquency

OTHER EMPLOYMENT

Research: Visiting Lecturer, University of Tokyo Faculty of Law (Summer 2009)
Visiting Researcher, Georgetown University Law Center (2004–2006)
Special Guest, Brookings Institution, Economic Studies Program (2004–2005)
Fellow in Law and Economics, Univ. of Michigan Law School (Winter 2005)
Post-Graduate Olin Research Fellow, Harvard Law School (2003–2004)
Research Assistant, Brookings Institution, Economic Studies (1996–1997)

Law Practice: Summer Associate, Gibson, Dunn & Crutcher, LLP, New York, NY (2002)
Summer Associate, Munger, Tolles & Olson, LLP, Los Angeles, CA (2001)
Summer Associate, Morrison & Foerster, LLP, San Francisco, CA (2001)
Summer Associate, Gibson, Dunn & Crutcher, LLP, Los Angeles, CA (2000)

PRESENTATIONS

2012: University of Toledo College of Law (Toledo, OH) (March) (“Criminal Choice in Sentencing”)

2011: CELS Meetings (Northwestern Law School) (Chicago, IL) (November) (Discussant on Jonah Gelbach, “The Effects of Heightened Pleading on Motion to Dismiss Adjudication”)
University of Chicago Law School (Law and Economics Workshop) (Chicago, IL) (November) (“Criminal Choice in Sentencing”)
Columbia Law School (Law and Economics Workshop) (New York, NY) (October) (“Settlement and Trial? A Study of High-Low Agreements”)
Stanford Law School (Faculty Workshop) (Palo Alto, CA) (March) (“Settlement and Trial? A Study of High-Low Agreements”)
Cornell Law School (Empirical Colloquium) (Ithaca, NY) (March) (“Settlement and Trial? A Study of High-Low Agreements”)
NBER Mid-Year Law and Economics Meetings (Cambridge, MA) (February) (Discussant on Howard Chang & Hilary Sigman, “An Empirical Analysis of Cost Recovery in Superfund Cases: Implications for Brownfields and Joint and Several Liability”)

- 2010:** Conference on Empirical Legal Studies (Yale Law School) (New Haven, CT) (November) (“Settlement and Trial? A Study of High-Low Agreements”)
- CELS Meetings (Yale Law School) (New Haven, CT) (November) (Discussant on Sasha Romanosky, Rahul Telang, and Alessandro Acquisti, “Do Data Breach Disclosure Laws Reduce Identity Theft?”)
- American Law and Economics Association Annual Meetings (Woodrow Wilson School of Public Policy) (Princeton, NJ) (May) (“Settlement and Trial? A Study of High-Low Agreements”)
- University of Haifa Law School (Law and Economics Workshop) (Haifa, Israel via Internet) (May) (“Settlement and Trial? A Study of High-Low Agreements”)
- University of Virginia Law and Economics of Crime Conference (Charlottesville, VA) (March) (“Determinants of Success in Post-Conviction Litigation by the Innocent”)
- Rice University and University of Houston (Applied Economics Workshop) (Houston, TX) (March) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)
- American Economic Association Annual Meetings (Atlanta, GA) (January) (“Empirical Evidence of Prosecutorial Charging Manipulation” and Discussant on Richard Boylan and Naci Mocan, “Intended and Unintended Consequences of Prison Reform”)
- 2009:** Harvard Law School (Law and Economics Workshop) (Cambridge, MA) (October) (“Settlement and Trial? A Study of High-Low Agreements”)
- University of Michigan, Population Studies Center (Brown Bag) (Ann Arbor, MI) (October) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)
- University of Toronto, Faculty of Law (Law and Economics Workshop) (Toronto, ON) (September) (“Settlement and Trial? A Study of High-Low Agreements”)
- NBER Law and Economics Summer Institute (Cambridge, MA) (July) (“Settlement and Trial? A Study of High-Low Agreements”)
- Hastings Law School Faculty Workshop (San Francisco, CA) (February) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)
- Stanford Law School (Law and Economics Workshop) (Palo Alto, CA) (January) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)
- American Economic Association Annual Meetings (San Francisco, CA) (January) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?” and “The Effects of Judge, Prosecutor, and Defendant Race and Gender Interactions on Defendant Outcomes”)
- 2008:** American Bar Association Litigation Section Access to Justice Symposium (Atlanta, GA) (December) (“The Challenges of Calculating the Benefits of Providing Access to Legal Services”)
- Searle Center Research Symposium on Empirical Studies of Civil Liability (Northwestern Law School) (October) (“Settlement and Trial? A Study of High-Low Agreements”)
- Conference on Empirical Legal Studies (Cornell Law School) (October) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

CELS Meetings (October) (Cornell Law School) (Discussant on John F. Pfaff, “The Myths and Realities of Correctional Severity: Evidence from the National Corrections Reporting Program on Sentencing Practices”)

Harvard Law School (Law and Economics Workshop) (Cambridge, MA) (September) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

Law and Society Annual Meetings (Montreal, Canada) (May) (“The Effects of Judge, Prosecutor, and Defendant Race and Gender Interactions on Defendant Outcomes”)

American Law and Economics Association Annual Meetings (Columbia Law School) (May) (“The Effects of Judge, Prosecutor, and Defendant Race and Gender Interactions on Defendant Outcomes”)

University of Chicago Law School (Criminal Law Colloquium) (Chicago, IL) (April) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

Brooklyn Law School (Faculty Workshop) (Brooklyn, NY) (April) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

University of Haifa Law School (Law and Economics Workshop) (Haifa, Israel via Internet) (March) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

University of Virginia School of Law (Law and Economics Workshop) (Charlottesville, VA) (February) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

NBER Mid-Year Law and Economics Meetings (Cambridge, MA) (February) (Discussant on Betsey Stevenson, “Beyond the Classroom: Using Title IX to Measure the Return to High School Sports”)

2007: Northwestern University Law School (Law and Economics Colloquium) (December) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

CELS Meetings (November) (NYU Law School) (Discussant on Stéphane Mechoulan, “The External Effects of Black-Male Incarceration on Black Females”)

NBER Working Group on Crime (Cambridge, MA) (September) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

National Federal Sentencing Guidelines Seminar (Salt Lake City, UT) (May) (“Using U.S. Sentencing Commission Data in Empirical Research”)

American Law and Economics Association Annual Meetings (Harvard Law School) (May) (“The Effects of Sex Offender Notification laws”)

2006: Conference on Empirical Legal Studies (Univ. of Texas Law School) (October) (“Empirical Evidence of Prosecutorial Charging Manipulation”)

CELS Meetings (October) (Univ. of Texas Law School) (Discussant on Brandon Garrett, “Judging Innocence”)

Junior Empirical Legal Scholars Conference (Cornell Law School) (September) (“Empirical Evidence of Prosecutorial Charging Manipulation”)

Law and Society Annual Meetings (Baltimore, MD) (July) (“Measuring the Consequences of Criminal Jury Trial Protections”)

Various Job Talks (January and February) (“Measuring the Consequences of Criminal Jury Trial Protections”) (Michigan; Harvard; Stanford; NYU; Columbia; Univ. of Pennsylvania; UCLA; Georgetown; USC; Washington University; Univ. of Texas)

2005: Various Job Talks (September through December) (“Measuring the Consequences of Criminal Jury Trial Protections”) (Yale; Univ. of Virginia; Duke; Cornell; Boston Univ.; Minnesota; Univ. of Colorado; William and Mary; Univ. of Miami)

MIT Department of Economics Labor Seminar (November) (“Measuring the Consequences of Criminal Jury Trial Protections”)

Florida State College of Law (Faculty Enrichment Series) (June) (“Measuring the Consequences of Criminal Jury Trial Protections”)

Brookings Institution, Economic Studies Program (Brown Bag Lunch Talk) (June) (“Measuring the Consequences of Criminal Jury Trial Protections”)

American Law and Economics Association Meetings (May) (NYU) (“Measuring the Consequences of Criminal Jury Trial Protections”)

EXHIBIT 9

DECLARATION OF DR. JILL LEVENSON, PH.D.,
ON SORA STUDIES AND EFFECTS

Mary Doe, et al., v. Richard Snyder, et al.

EXPERT REPORT/DECLARATION OF JILL LEVENSON, Ph.D.

I, Jill S. Levenson, Ph.D., state under penalty of perjury as follows:

1. Background and Education

I am an associate professor at Lynn University, College of Liberal Education, Department of Psychology, in Boca Raton, Florida. I earned my Doctorate Degree in Social Welfare at Florida International University in Miami (2003). I earned my Masters Degree in Social Work at the University of Maryland, School of Social Work in Baltimore (1987). I earned my Bachelor of Arts Degree in Sociology at the University of Pittsburgh (1985).

I am the author of over 80 articles, publications, and presentations in the area of sex offender recidivism, treatment, and policies regulating sex offenders. In addition to my academic work, I maintain a clinical practice as a licensed clinical social worker evaluating and treating sex offenders. I began my career as a child protection social worker, and have extensive experience working with both victims of sexual violence and sexual offenders. I have qualified to testify as an expert in at least 12 judicial proceedings involving sex offenders. I have testified by invitation before four state legislatures concerning sex offender legislation. I am currently engaged in several research projects funded by the National Institute of Justice regarding sex offender registration, and also serve on the editorial board of "Sexual Abuse: Journal of Research and Treatment." My *curriculum vitae*, including a list of my published work, is attached as Exhibit A.

2. The Michigan Registry

As of June 2011, the National Center for Missing and Exploited Children reported a total of 739,853 registered sex offenders (RSOs) across the 50 states, the District of Columbia, and six U.S. territories. Of this total, approximately 42% (308,388) came from five states: California (106,216), Texas (66,587), Florida (55,999), Michigan (47,329), and New York (32,257). (California removes from its total those offenders who are incarcerated, deported, or have moved to another state.) Michigan is, therefore, the fourth largest state registry in the U.S.

3. Overview of Sex Offender Registration and Notification (SORN) Policies

A. History of SORN Laws

Federal SORN policies began in 1994 with the passage of the Jacob Wetterling Act, which required all 50 states to create procedures for tracking the addresses of convicted sex offenders. These registries were initially intended for law enforcement purposes to assist with the identification and apprehension of suspects. In 1996, the Wetterling Act was amended to include "Megan's Law," allowing states to disclose registry information to the public. In 2006, the Adam

Walsh Act (AWA) was passed, again revising federal guidelines and requiring states to comply with new standards for the frequency and duration of registration for sex offenders based on a tiering system tied to the offense of conviction. In 2011, Michigan became one of just 16 states compliant with federal AWA guidelines. As of today, the majority of states have not complied due to concerns about the costs and efficiency of federal requirements.

B. Offense-based versus Risk-based Classification Schemes

Though federal guidelines exist, registry laws are administered by individual states. Some states include all individuals convicted of a sex crime on their public registries, and some disclose information only about those who appear to be high risk. Some states classify risk based strictly on the conviction. Statutorily-based sex offender designations cover a wide and diverse spectrum of behavior patterns, and may obscure important distinctions that affect a given offender's public safety risk. Other jurisdictions have adopted more refined approaches (*e.g.*, using empirically-derived risk assessment methods) to assist in distinguishing the most dangerous offenders and creating restrictions and monitoring consistent with an offender's assessed threat to the community.

Empirically validated risk assessment stands in stark contrast to the offense-based classification system required by the Adam Walsh Act. Whereas actuarial assessment procedures evaluate research-based risk factors and screen offenders into relative risk categories, offense-based schemes like the AWA (used in Michigan) classify offenders based only on the purported severity of the offense. Offense-based categories inflate risk in many cases, but will also underestimate the risk of offenders who pled down to lesser offenses. **The result of offense-based categories is that the public's and law enforcement's ability to identify sexually dangerous persons is significantly diluted.**

Recent studies show that the federally-mandated system of classification – based on the categories of offenses listed in the Adam Walsh Act (AWA) – fail to distinguish between registered offenders who present significant threats to public safety and those who present lower risk. For instance, in New York, AWA tiers did a poor job of identifying sexual recidivists. In fact, lower-tiered individuals had higher recidivism rates than those who were assigned into ostensibly higher-risk tiers. Empirically-derived risk factors, in contrast, were better able to predict recidivism than were the AWA “tiered” categories of offenses. (Freeman & Sandler, 2009.) In Florida, AWA Tier 3 offenders had lower recidivism rates and lower actuarial risk assessment scores than Tier 2 offenders (report in progress).

Research has also suggested a potential “net-widening” effect of implementing the AWA-mandated classification system, which places a significant majority of registrants into the highest category of offenders, contradicting evidence suggesting that the highest risk of sexual re-offense is concentrated among a much smaller group of offenders. (A. J. Harris, Lobanov-Rostovsky, & Levenson, 2010.)

C. Impact of SORN on Sex Offense Recidivism

At this time, several empirical studies have been conducted on the efficacy of SORN laws and policies. These include five group comparison studies (Adkins, Huff, & Stageberg, 2000; Duwe & Donnay, 2008; Schram & Milloy, 1995; Zevitz, 2006; Zgoba, Witt, Dalessandro, & Veysey, 2009) and six trend analysis studies (Letourneau, Levenson, Bandyopadhyay, Sinha, & Armstrong, in press; Prescott & Rockoff, 2008; Sandler, Freeman, & Socia, 2008; Vasquez, Maddan, & Walker, 2008; Veysey, Zgoba, & Dalessandro, 2009; Washington State Institute for Public Policy, 2005). These studies have examined the impact of SORN laws on general sex crime rates and/or sex offense recidivism.

The relative scarcity of empirical research is partly due to the recent implementation of these laws and partly due to methodological challenges faced by researchers when conducting sex crime policy analysis. For example, low base rates, the multiple criminal justice policies enacted within short time frames, challenges obtaining reliable recidivism data, and the need for long follow-up periods all contribute to the complexity of understanding the impact of these laws. Furthermore, each state's SORN policy is idiosyncratic, subjecting different types of offenders to a variety of registration and notification requirements. The variability in research methodologies and SORN policy characteristics likely accounts for the varied results reported across the studies.

One thing is clear, however: **Most studies reveal no significant reductions in sex crime rates that can be attributed to SORN laws and policies. The two studies that have detected reductions in sex crime recidivism as a result of SORN were conducted in Minnesota and Washington (Duwe & Donnay, 2008; Washington State Institute for Public Policy, 2005); both states use risk assessment instruments to classify offenders, and they limit public notification only to those who pose the greatest threat to community safety. An analysis examining over 300,000 sex offenses in 15 states found that while registration with law enforcement appeared to reduce recidivistic sex offenses, public notification did not. (Prescott & Rockoff, 2011.)**

D. Residence Restrictions

Sex offender registration often triggers additional requirements related to housing. Residential restriction laws prohibit sex offenders from living near places where children are likely to be found. Some 30 states have laws designating where sex offenders can live. (Meloy, Miller, & Curtis, 2007.) Too abundant to count are municipal housing ordinances passed by cities, towns, and counties. The most common proximity zones are 1,000 to 2,000 feet from venues such as schools, parks, playgrounds, and daycare centers. Some laws include other facilities such as arcades, amusement parks, movie theaters, youth sports facilities, school bus stops, and libraries. (Meloy, Miller, & Curtis, 2008.)

Residence restrictions are based on the seemingly logical premise that by requiring child molesters to live far from places where children congregate, repeat sex crimes can be prevented. The first problem, however, is that most SORN provisions apply to all sex offenders, without regard to whether or not the offender poses a danger to children. Moreover, the best current research finds no support for the hypothesis that sex offenders who live closer to child-oriented settings are more likely to reoffend.

In fact, the empirical research indicates that where sex offenders live is not a significant contributing factor to reoffending behavior. Zandbergen, Levenson and Hart (2010) compared the residential proximity of sexual recidivists and non-recidivists to schools and daycares in Florida. Those who lived within 1,000, 1,500, or 2,500 feet of schools or daycare centers did not reoffend more frequently than those who lived farther away. There was no significant correlation between sexual recidivism and the number of feet the offender lived from a school. The two groups were matched on relevant risk factors (prior arrests, age, marital status, predator status). **The authors of the study concluded that proximity measures were not significant predictors of recidivism.**

Similarly, in Colorado, the addresses of sex offender recidivists and non-recidivists were found to be distributed randomly throughout the geographical area, with no evidence that recidivists lived closer to schools and daycare centers. (Colorado Department of Public Safety, 2004.)

In Jacksonville, Florida, researchers investigated the effects of a 2,500 foot residence restriction ordinance and found no reduction in sex crime rates and sex offense recidivism over time. (Nobles, Levenson, & Youstin, in press.) The Iowa Department of Criminal and Juvenile Justice Planning studied the effect of Iowa's 2,000 foot residence restrictions law that went into effect in August of 2005 and did not observe a downward trend in the number of sexual charges over time following the passage of the law. (Blood, Watson, & Stageberg, 2008.) **In fact, sex crime arrests increased steadily each year** (with 913 charges filed during the year prior to implementation, 928 charges filed the subsequent year, and 1,095 the year after that.) **The authors concluded that Iowa's residence law "does not seem to have led to fewer charges or convictions, indicating that there probably have not been fewer child victims."** (Blood, *et al.*, 2008, p. 10.)

In Minnesota, an analysis of 224 repeat sex offenders led the authors to conclude that residential restriction laws would not have prevented even one re-offense. (Duwe, Donnay, & Tewksbury, 2008.) Most of the cases involving children were committed not by strangers but by registered sex offenders who were well acquainted with their victims, such as parents, caretakers, paramours of the mother, babysitters, or friends of the family. The repeat offender was a neighbor of the victim in only about four percent of the cases. **Predatory assaults that occurred within a mile of the offender's residence typically involved adult victims.** Although some of the offenders established relationships with minor victims within 2,500 feet of their homes, none of the crimes took place in or near a school, daycare center, or park. **Current**

research shows that sex offenders do not appear to abuse children because they live near schools, but rather they take advantage of opportunities to cultivate relationships with children and their families in order for sexual abuse to take place. (Duwe, *et al.*, 2008.)

Similarly, the majority (67%) of New Jersey offenders met victims in private locations while relatively few (4.4%) met victims in the types of locations designated as off-limits by residential restriction laws. (Colombino, Mercado, Levenson, & Jeglic, 2011.) **Noteworthy is that sex offenders rarely encountered their victims in public locations where children congregate, and therefore policies emphasizing residential proximity to schools, parks, and other “child-friendly” locations ignore the empirical reality of sexual abuse patterns.**

Residential restrictions also create barriers to offender reintegration into society. As restricted zones increase, so do transience, homelessness, and reduced employment opportunities for offenders. (Levenson, 2008.) Many sex offenders reported that housing restriction laws forced them to relocate; that they were unable to return to their homes after incarceration; that they were not permitted to live with family members; or that they experienced a landlord refusing to rent to them or to renew a lease. (Levenson, 2008; Levenson & Cotter, 2005a; Levenson & Hern, 2007; Mercado, Alvarez, & Levenson, 2008.) Many indicated that affordable housing is less available due to limits on where they can live, and that they are forced to live farther away from employment, public transportation, social services, and mental health treatment. Young adults seemed to be especially affected by these laws: age was significantly inversely correlated with being unable to live with family and having difficulties securing affordable housing. (Levenson, 2008; Levenson & Hern, 2007.) Family members of registered sex offenders also reported that residential restriction laws created housing disruption for them; larger restricted zones led to an increased chance of a housing crisis. (Levenson & Tewksbury, 2009.)

A growing body of evidence illustrates how residential restrictions profoundly reduce housing options for sex offenders. In Orlando, Florida, a study found that 99 percent of all residential dwellings are located within 2,500 feet of schools, parks, daycare centers, or school bus stops. (Zandbergen & Hart, 2006.) The vast majority of residential territory in Nebraska and New Jersey is also located within 2,500 feet of a school. (Bruell, Swatt, & Sample, 2008; Chajewski & Mercado, 2009; Zgoba, Levenson, & McKee, 2009.) Affordable housing is especially affected, since it tends to be in more densely populated areas, where homes are in closer proximity to places frequented by children.

Of nearly one million residential parcels studied in Miami-Dade County, Florida, only about 4% of residential units were outside the overlapping state and local restricted zones in effect, and only 1% had a monthly housing cost of \$1,250 or less. (Zandbergen & Hart, 2009.) A study in Nebraska showed that average home values were significantly higher outside of the restricted zone of 2,000 feet, making it difficult for sex offenders to find affordable housing. (Bruell, *et al.*, 2008.) Ohio showed the same pattern. (Red Bird, 2009.)

When prisoners are released from incarceration, they commonly seek housing with relatives, but strict residence laws can eliminate such options for sex offenders. Unable to reside with family, and without the financial resources to pay security deposits and rent payments, some sex offenders face homelessness. **Importantly, housing instability is consistently associated with higher criminal recidivism and absconding.** In Georgia, every time a parolee moved, the risk of re-arrest increased by 25%. (Meredith, Speir, & Johnson, 2007.) Residential instability was a robust predictor of absconding in a study of California parolees. (Williams, McShane, & Dolny, 2000.)

In a national sample of 2,030 offenders, those who moved multiple times during probation were almost twice as likely as stable probationers to have some sort of disciplinary hearing. (Schulenberg, 2007.) In New Zealand, unstable housing, unemployment, and limited social support were found to predict sexual recidivism. (Willis & Grace, 2009; Willis & Grace, 2008.) Some prosecutors and victim advocates have publicly denounced residence restrictions, cautioning that the transience created by housing restrictions undermines the validity of sex offender registries and makes it more difficult to track and supervise sex offenders. (Iowa County Attorneys Association, 2006; NAESV, 2006.)

4. Collateral Consequences of SORN Laws

The problems of re-entry commonly faced by other criminal offenders are exacerbated for registered sex offenders. The stigma of sex offender registration and community notification is well documented, as are the ways in which they can impede community re-entry and adjustment. (Levenson & Cotter, 2005b; Levenson, D'Amora, & Hern, 2007; Mercado, *et al.*, 2008; Sample & Streveler, 2003; Tewksbury, 2004, 2005; Tewksbury & Lees, 2006; Zevitz & Farkas, 2000.) Sex offenders have been surveyed in Florida, Indiana, Connecticut, New Jersey, Wisconsin, Oklahoma, Kansas, and Kentucky. They consistently reported adverse consequences such as unemployment, relationship loss, threats, harassment, physical assault, and property damage as well as psychological symptoms such as shame, embarrassment, depression, or hopelessness as result of public disclosure. Housing difficulties are commonly noted by registered sex offenders, and the proliferation of residential restriction laws compounds this problem. Obstacles to employment include the public disclosure of information (including employer address) on the registry, and restrictions prohibiting sex offenders from working within close proximity to a school.

Social stability and support increase the likelihood of successful reintegration for criminal offenders, and public policies that create obstacles to community reentry may compromise public safety. Stable employment and supportive relationships lead to lower recidivism rates for sex offenders. (Colorado Department of Public Safety, 2004; Kruttschnitt, Uggen, & Shelton, 2000.) It is well established that the stigma of even a non-sex offense felony conviction can inhibit participation in pro-social roles such as employment, education, parenting, and property ownership. (Tewksbury & Lees, 2007; Uggen, Manza, & Behrens, 2004.) Uggen *et al.* 2004

highlighted that self-concept, civic engagement, and stability are essential to an offender's identity as a conforming citizen and therefore to desistance from crime. Obstacles to reintegration reduce stakes in conformity and increase the likelihood that a criminal offender will resume a life of crime. (Hirshi, 1969; Travis, 2005.) SORN laws and policies interfere with employment, housing, social support, and engagement in pro-social activities, potentially and paradoxically reducing the deterrent effect intended by these laws.

The impact of SORN laws is also felt by the families of convicted sex offenders. Levenson and Tewksbury (2009) found that employment problems for registered sex offenders (RSOs) emerged as the most pressing issue identified by family members, followed by concerns about housing. The likelihood of housing disruption was higher for families of RSOs to whom residential restrictions applied; larger buffer distances were correlated with increased housing crises. Those who lived with an RSO were more likely to experience threats and harassment by neighbors. Children of RSOs were also reported to experience adverse consequences. More than half (58%) said they were treated differently by other children at school, or that their friendships had been affected (78%) by public notification. More than half said that the children of an RSO had experienced ridicule, teasing, depression, anxiety, fear, or anger. (Levenson & Tewksbury, 2009.) Family members of RSOs experienced high levels of social isolation, fear, shame, property damage, and forced residential relocation. Perceived stress was significantly higher for those who are of lower economic means, who feel isolated, have high levels of fear and shame/embarrassment, or were forced to move. (Tewksbury & Levenson, 2009.)

In another survey, several common themes emerged. Many family members spoke of persistent feelings of depression, hopelessness, and frustration as they adjusted to life with a registered sex offender. Many reported that housing and employment were disrupted by limitations imposed by the RSO's probation or registration requirements, resulting in economic hardships for family members. Family members felt they were subject to intense scrutiny and intrusion by parole or law enforcement agents, and that their right to privacy was severely affected by public notification procedures, leading to a great sense of shame and stigma. Many reported feeling "overwhelmed and demoralized," struggling to cope on a day-to-day basis. Some noted that reentry assistance policies (e.g., the Second Chance Act) exclude sex offenders from receiving services. Stress for family members can impede the important role they play in facilitating successful reentry. (Farkas & Miller, 2007.)

5. Risk and Recidivism

A. Overview

Some sex offenders are going to reoffend, and steps should be taken to prevent that from happening. But according to the U.S. Department of Justice, only 5.3% of sex offenders released from prison were re-arrested for a new sex crime within three years. (Bureau of Justice Statistics, 2003.) Over four to six years, only about 14% of more than 20,000 sex offenders (in an interna-

tional sample) were re-arrested for a new sex offense. (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2005.) A 24% recidivism rate was observed over 15 years (A. J. R. Harris & Hanson, 2004), and 27% were re-arrested over 20 years. (Hanson, Morton, & Harris, 2003.) (Note that these figures are for re-arrest rates, not re-conviction rates.) Thus, after two decades, nearly three-quarters of convicted sex offenders have not been re-arrested for a new sex crime.

The vast majority of new sexual assaults are not committed by registered sex offenders. (Bureau of Justice Statistics, 2003; Sandler, et al., 2008.) In fact, in New York, 95% of all arrests for sexual offenses are of offenders without a prior sexual offense conviction (*i.e.*, offenders who are not on the registry at the time of their arrests). (Sandler, *et al.*, 2008.) It is true that arrest data naturally underestimate true re-offense rates, because some crimes are never detected or reported to authorities. (Arrest data can also overstate re-offense rates, as some arrestees are not guilty.) The available research suggests, however, that after two decades the great majority of convicted sex offenders have not re-offended.

Risk and recidivism vary with the presence of risk factors. Risk assessment procedures consistently have been shown to improve the accuracy of predictions by setting thresholds for decision-making and by standardizing factors that professionals readily recognize as key diagnostic indicators. This process, known as the actuarial method, estimates the likelihood of a certain outcome by referring to the known (actual) outcomes of individuals with similar characteristics. Actuarial assessment is used in the insurance industry to adjust premiums and its uses are growing in a variety of other disciplines, including criminal justice. The actuarial method cannot predict with certainty that a given individual will behave in a particular way. It can, however, provide probability data with which to inform one's expectations regarding an individual and to screen offenders into relative risk categories. When sexual violence risk assessment procedures have been directly compared, empirically derived risk scales were better able to predict recidivism ($r = .61$) than clinical judgment alone ($r = .40$) or empirically guided assessments ($r = .41$). (Hanson & Morton-Bourgon, 2004.) As well, actuarial risk assessment has demonstrated significantly better utility in identifying recidivists than offense-based procedures.

The most commonly used and most well-researched risk assessment instrument, the Static-99 (Hanson & Thornton, 1999), is easily scored by anyone trained to do so (*e.g.*, probation agents, clinicians, case managers) and has demonstrated good predictive accuracy in multiple validation studies over the past several years. This instrument is used nationwide in all states that have sex offender civil commitment laws. Though not perfect, it offers a firm scientific basis for assessing the likelihood that a convicted sex offender will re-offend and assigning that individual to a risk category. Of additional interest with regard to AWA's newly enacted lifetime registration and supervision requirements is that the Static-99 scoring guidelines state that "the expected offense recidivism rate should be reduced by about half if the offender has five to ten years of offense-free behavior in the community. ... **As offenders successfully live in the community without incurring new offenses, their recidivism risk declines.**" (Static 99, p. 59.)

Without doubt, some registered sex offenders are pedophilic or sexually violent and are likely to pose a threat to public safety. For instance, a more extensive criminal history places an offender at increased risk for recidivism, as does younger age, a preference for male child victims, and a history of victimizing strangers. (Hanson & Bussiere, 1998; A. J. R. Harris & Hanson, 2004; A. J. R. Harris, Phenix, Hanson, & Thornton, 2003.) Nationwide, about 14% of all registered sex offenders are designated by states as high risk or sexually violent predators. However, sex offenders are more likely to commit subsequent non-sexual crimes than to reoffend sexually. (Bureau of Justice Statistics, 2003; Hanson & Bussiere, 1998; Sample & Bray, 2003, 2006) Moreover, the vast majority of new sexual assaults are not committed by registered sex offenders, but by first-time sex offenders. (Bureau of Justice Statistics, 2003.) Sexually motivated homicides have inspired most of our modern sex crime policies, but sex offenders are among the least likely criminals to murder their victims. (Sample, 2006.)

B. Stranger Danger

The myth of “stranger danger” had led to policies designed to prevent predatory sexual assaults against children, which actually represents a very small percentage of sex crimes. Community protection policies tend to be passed in response to highly publicized sex crimes which often involve abduction and sexually motivated homicide. These types of offenses, however, are exceedingly rare. According to the Office of Juvenile Justice and Delinquency Prevention, there are about 115 cases nationwide in which children are abducted by strangers in a given year. (U.S. Department of Justice, 2002.) The most common types of child sexual abuse cases involve perpetrators who are well known to their victims. According to the Department of Justice, in 93% of sexual molestation cases the child is abused by a relative or family acquaintance. In fact, policies like community notification and residence restrictions may give parents a false sense of security by their implication that if we know where convicted sex offenders live, or if we banish them from our neighborhoods, children will be safe. **The disturbing reality is that sexually abused children are victimized by family members in 34% of cases, and by acquaintances in 59% of cases.** (Bureau of Justice Statistics, 2000.) 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.) Only 7% of child sex abusers are strangers to their victims. (Berliner, Schram, Miller, & Milloy, 1995; Bureau of Justice Statistics, 2002.) Less than 1% of all murders involve sexual assault, and the prevalence of sexual murders has declined substantially since the 1970’s. (Bureau of Justice Statistics, 1997.) Although cases involving children receive the most media coverage, 75% of sexual murder victims are over the age of 18. (Bureau of Justice Statistics, 1997.)

C. Housing, Employment, and Family Support as Risk Factors for Recidivism

Practical, legal, and social consequences of crime are more severe for sex offenders than for other criminals. (Lees & Tewksbury, 2006; Uggen, Manza, & Thompson, 2006.) Hardships related to housing and employment, social stigma, and relationship problems can lead to higher

recidivism rates. (Lees & Tewksbury, 2006.) Conversely, employment, social bonds, and housing stability increase the likelihood of successful reintegration for all criminal offenders. (Kruttschnitt, et al., 2000; Petersilia, 2003; Uggen, 2002; Uggen, et al., 2004; Willis & Grace, 2009.) **Therefore, social policies which ostracize and disrupt the stability of sex offenders are unlikely to be in the best interest of public safety.**

D. Lifetime Registration and Risk/Recidivism

The recent trend toward lifetime registration for all sex offenders contradicts empirical evidence. The result of this movement is a growing number of sex offender registrants which requires increased fiscal and personnel resources to update technology, enforce registration rules, and incarcerate violators. Research indicates that risk for sexual re-offending is reduced by half once the offender has spent 5-10 years offense-free in the community, and that risk continues to decline as time offense-free in the community lengthens. (A. J. R. Harris, et al., 2003.) Furthermore, risk for sexual recidivism declines with advancing age, meaning that the aging sex offender population is likely to pose less of a threat to public safety. There is no empirical evidence to support the notion that more frequent registration check-ins lower recidivism, nor is there evidence to conclude that additional reporting requirements (*e.g.*, email addresses, employment information) reduce recidivism. **Requiring registration for 25 years to life is therefore both inefficient and unnecessary, based on empirical research.**

E. Effectiveness of Treatment in Reducing Recidivism

Sex offender treatment has been viewed with skepticism, and some studies have failed to detect significant differences in recidivism rates between treated and untreated offenders. (Furby, Weinrott, & Blackshaw, 1989; Hanson, Broom, & Stephenson, 2004; Marques, Wiederanders, Day, Nelson, & van Ommeren, 2005.) Other studies, however, have shown that cognitive behavioral therapy can diminish sex offense recidivism by about 40%. (Hanson, et al., 2002; Losel & Schmucker, 2005.) Although treatment does not guarantee success in every case, many sex offenders do benefit from therapy, and sex offenders who successfully complete treatment programs are re-arrested less often than those who do not. (Marques, et al., 2005, p. 97.) Collaborative approaches to sex offender management, supervision, and rehabilitation have been successful in reducing sex offense recidivism. (English, Pullen, & Jones, 1996, 1998.)

Collaborative risk management approaches evaluate and address individual offender's risks and needs, reinforce their strengths, and facilitate support systems. (English, *et al.*, 1996, 1998; Ward & Brown, 2004.) By working together, treatment providers and probation officers can apply restrictions and interventions relevant to a particular offender's patterns and risk factors. At the same time, the team can facilitate a plan that encourages engagement in pro-social activities and minimizes obstacles to reintegration.

F. Failure to Register as a Risk Factor for Recidivism

Only four published studies have looked at the relationship between failure to register (FTR) and sex-offense recidivism. The first, conducted by researchers at the Washington State Institute of Public Policy, tracked over 12,000 sex offenders required to register between 1990 and 1999. The proportion of individuals convicted for FTR climbed steadily each year from 5% in 1990 to 18% in 1999. Results indicated that sex offenders with FTR convictions were more likely to be subsequently re-arrested. (Washington State Institute for Public Policy, 2006.) Most of the new convictions, however, were for general crimes (38.5%) and violent activity (15.8%), while sexual recidivism for the FTR group was 4.3%, compared to 2.8% for compliant registrants (statistical significance was not reported). Although the rates of sexual recidivism were slightly higher for those who failed to register, the proportion of offenders who sexually re-offended was very low for both groups, and not substantially different.

Duwe and Donnay (2010) found that FTR has become the most common type of recidivism for sex offenders released from prison in Minnesota. (This may be because FTR is the crime most likely to result in detection.) When analyzing the recidivism outcomes of 1,561 high-risk sex offenders who were required to register, the authors found that 11% had been convicted of FTR. They further reported that FTR did not predict future sexual or general recidivism. Instead, the results indicated only that a FTR conviction significantly increased the likelihood of subsequent FTR arrests. The authors found that FTR offenders were less educated, less likely to have participated in treatment, less violent, less likely to have assaulted victims of different age groups, more likely to be a minority, and more likely to have prior felonies and supervision violations. **Overall, the authors concluded that registration noncompliance did not appear to raise the risk for sexual reoffending.** (Duwe & Donnay, 2010.)

In South Carolina, a study involving 2,970 registered sex offenders indicated that those who failed to register were not more likely to sexually re-offend than those who cooperated with registration mandates. (Levenson, Letourneau, Armstrong, & Zgoba, 2010.) Specifically, 10% of the sample had registry violation convictions across a follow-up period of approximately six years. No statistically significant differences were found in the sexual recidivism rates for those with an FTR charge (11%) versus obedient registrants (9%). FTR offenders were younger, had more prior non-sexual arrests, were more likely to be non-white, and were less likely to have a minor victim. **In regression analyses, FTR did not predict sexual recidivism, although it was associated with non-sexual recidivism.** The authors concluded that FTR and sexual offending may represent different constructs, with FTR being related to rule breaking behavior and sexual offending being related to sexual deviance.

A similar study in New Jersey also revealed that FTR was not a significant predictor of sexual recidivism. (Zgoba & Levenson, in press.) Few differences between the groups were detected, but FTR offenders were more likely to have sexually assaulted a stranger and to have adult female victims. **These results further refuted the myth of the pedophilic predator who absconds in order to avoid detection.** These similar findings offer some common themes that

inform our understanding of FTR offenders: namely, that they are younger, more versatile criminals who tend not to specialize in the abuse of children.

In a related line of research, other scholars have noted that FTR is not tantamount to absconding. (A.J. Harris & Pattavina, 2009; Levenson & Harris, 2011.) It is doubtful that all sex offenders arrested for FTR are willful violators, as most FTR offenders are easily located and do not appear to have absconded. (Ackerman, Harris, Levenson, & Zgoba, 2011; Duwe & Donnay, 2010; A. J. Harris, Levenson, & Ackerman, under review; Levenson & Harris, 2011; Levenson, *et al.*, 2010.) Some sex offenders may appear to be “missing” due to inadequate or incomplete address information, data entry errors, lag times in updating registry information, unauthorized travel, or homelessness. (A.J. Harris & Pattavina, 2009.) Additionally, some offenders may be confused by complex registration requirements, carelessly disregarding their duty to update information, but remaining in their known locations despite their lapse.

6. Conclusion: What Would an Effective Sex Offender Management System Look Like?

Empirically derived risk assessment models based on factors known to correlate with recidivism should be used to identify sex offenders who pose the greatest threat to public safety. Public registries, if used, should be reserved for high-risk offenders. In this way, the public would be better informed specifically about pedophilic, predatory, repetitive, or violent sex offenders likely to commit new sex offenses. At the same time, collateral consequences could be minimized for lower risk offenders re-entering communities and attempting to become productive, law abiding citizens. **Given the dearth of evidence that public notification protects children, prevents recidivism, or improves public safety, lawmakers should consider the unintended consequences of these laws.**

In addition to risk-based classification, states should also create a mechanism for sex offenders to earn release from certain registration requirements, such as public notice and residency restrictions. Sex offenders should be permitted to request exemption or de-registration if: (1) they are assessed to pose a low risk to the community based on empirical and actuarial risk factors; (2) they have successfully completed a sex offender treatment program; and (3) they have been living in the community offense-free for at least five years. Such a policy would create evidence-based incentives for law-abiding behavior and would expand opportunities for positive psychosocial adjustment and community re-entry.

Risk-based classification and collaborative risk management evaluates individual offender's risks and needs, reinforces the offender's strengths, and facilitates support systems. (English, *et al.*, 1996, 1998; Ward & Brown, 2004.) By working together, treatment providers and probation officers can address an offender's unique behavior patterns and risk factors. At the same time, the team can facilitate a plan that encourages pro-social activities and minimizes the risks of recidivism.

Public education and awareness campaigns should highlight the likelihood that children will be abused by someone they know and trust. Parents should be made aware of the signs and symptoms of child sexual abuse and of the common types of grooming patterns used by perpetrators who gain access to victims via their positions of trust or authority. In addition, factual data about the relative rarity of child sex offenses and the low recidivism rates would temper the fear induced by current law and policy. "It does not help the child maltreatment field or the public and policymakers to see child molesters as simply incorrigibly compulsive fiends who cannot be stopped." (Finkelhor, 2003, p. 1227.) The media play a crucial role in public education and should be enlisted as responsible partners in the dissemination of accurate information. Sensationalistic journalism perpetuates the myths that tend to drive legislative responses, which are then ultimately less likely to accomplish their goals of protecting communities. (Proctor, Badzinski, & Johnson, 2002; Sample, 2001; Sample & Kadleck, 2006; Wright, 2003.)

Enormous fiscal resources are allocated each year for registration and notification, despite the virtual absence of research demonstrating the effectiveness of these policies. While there is little resistance to funding criminal justice initiatives, social services and prevention programs are often discarded first when budgets need to be balanced.

This means that victims of sexual abuse often go without therapy and counseling. Child protective services and foster care programs are often underfunded and poorly staffed. Early maltreatment can create a cycle of abuse in which individuals grow up to repeat behavior witnessed and learned in childhood. Many sex offenders have experienced such problems in their own families, including physical abuse, neglect, criminality, and substance abuse. (Seghorn, Prentky, & Boucher, 1987.) Though childhood sexual abuse alone is a weak predictor of future sexual violence, early sexual abuse combined with other developmental and family problems contribute to the development of abusive behaviors. (Hanson & Bussiere, 1998; Knight & Prentky, 1990.) Funding social services for abused children is an important step in preventing future sexual violence in our communities, but is often ignored in favor of punitive criminal justice responses.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury that the above statements are true and correct to the best of my knowledge, information, and belief.



Jill S. Levenson, Ph.D.

Dated: January 13, 2012

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Zgoba, K., Witt, P., Dalessandro, M., & Veysey, B. (2009). Megan's Law: Assessing the Practical and Monetary Efficacy. Retrieved from <http://www.ncjrs.gov/pdffiles1/nij/grants/225370.pdf>

Zgoba, K., & Levenson, J. S. (in press). Failure to Register as a Predictor of Sex Offense Recidivism: The Big Bad Wolf or a Red Herring? *Sexual Abuse: A Journal of Research and Treatment*.

ATTACHMENT A
CURRICULUM VITAE

Curriculum Vitae
JILL S. LEVENSON, Ph.D., LCSW

EDUCATION:

Ph.D., Social Welfare, 2003 Florida International University, Miami, FL.

MSW, Clinical Social Work, 1987 University of Maryland, School of Social Work, Baltimore, MD.

BA, Sociology, 1985 University of Pittsburgh, Pittsburgh, PA.

ACADEMIC POSITIONS

September 2004 - present: LYNN UNIVERSITY, BOCA RATON, FLORIDA
College of Liberal Education, Department of Psychology
Associate Professor (2008-present)
Assistant Professor and Human Services Department Chair (2004-2008)

May 1994-August 2004: FLORIDA INTERNATIONAL UNIVERSITY, MIAMI, FLORIDA

Instructor, School of Social Work (8/99-8/04)

Instructor, Professional Development Center (Child Protection Training Institute) (5/94 - 6/99)

PROFESSIONAL CLINICAL EXPERIENCE

5/94-present OAKBROOK COUNSELING CENTER, P.A., Ft. Lauderdale, FL.
Clinical Social Worker, Clinical Supervisor & Consultant, private practice.

11/99-12/04 CHRYSLIS CENTER, INC., Ft. Lauderdale, FL.
Clinical Consultant, Clinical Supervisor, & Field Instructor, children's mental health clinic.

4/91-4/94 FAMILY SERVICE AGENCY, INC., Ft. Lauderdale, FL.
Clinical Supervisor, Field Instructor, & Clinical Social Worker, outpatient psychotherapy center.

11/90-2/91 KIDS IN DISTRESS, INC., Ft. Lauderdale, FL.
Social Worker, therapeutic preschool program.

10/89-9/90 CHILD PROTECTION TEAM OF BROWARD COUNTY, FL.
Social Worker, child protective services.

9/87-6/89 BALTIMORE COUNTY DEPT. OF SOCIAL SERVICES, Baltimore, MD.
Social Worker, child protective services & foster care services.

LICENSURE & PROFESSIONAL REGULATION

- *Licensed Clinical Social Worker*, Florida, #SW2659
- *Qualified Supervisor For Licensure*, Florida Department of Health
- *Qualified sex offender treatment provider*, Florida Department of Corrections

PUBLICATIONS

1. Levenson, J. S., Sandler, J. C., & Freeman, N. J. (under review). Do Failure to Register Laws Fail to Increase Public Safety? An Examination of Risk Factors and Sex Offense Recidivism in New York State.
2. Levenson, J.S. (in press). Beyond redemption? Myths and facts about sex offenders. In R. Bohm and J. Walker (Eds.) *Demystifying crime and justice, 2nd edition*. Oxford University Press.
3. Levenson, J.S. (in press). Turning knowledge into practice: Future directions in sex offender management policy. In Hoberman and Phenix (Eds.) *Sexual Offenders: Diagnosis, risk assessment, and management*. Guilford Press.
4. Levenson, J.S. (in press). Exhibitionism: A Case Study. In W. O'Donohue (Ed.) *Case Studies in Sexual Deviance*. Guilford Press.
5. Nobles, M. R., Levenson, J. S., & Youstin, T. J. (in press). Effectiveness of Residence Restrictions in Preventing Sex Offense Recidivism. *Crime and Delinquency*.
6. Levenson, J. S., & Harris, A. J. (2011). 100,000 Sex Offenders Missing ... Or Are They? Deconstruction of an Urban Legend. *Criminal Justice Policy Review*.
7. Zgoba, K., & Levenson, J. S. (2011). Failure to Register as a Predictor of Sex Offense Recidivism: The Big Bad Wolf or a Red Herring? *Sexual Abuse: A Journal of Research and Treatment*.
8. Levenson, J. S., Tewksbury, R., & Giorgio-Miller, J. (2011). Experiences of nonoffending parents and caretakers in child sexual abuse cases. *Southwest Journal of Criminal Justice* 8(2).
9. Ackerman, A., Harris, A.J., Levenson, J.S., Zgoba, K. (2011). Who are the people in your neighborhood? A descriptive analysis of individuals on public sex offender registries. *International Journal of Law and Psychiatry* 34, 149-159.
10. Colombino, N., Mercado, C.C., Levenson, J.S., & Jeglic, E. (2011). Preventing sexual violence: Can examination of offense location inform sex crime policy? *International Journal of Law and Psychiatry*.
11. Levenson, J.S. (2011). Sex offender policies in an era of zero tolerance. What does effectiveness really mean? *Criminology & Public Policy*, 10(2), p. 229-233.
12. Jeglic, E., Mercado, C. C., & Levenson, J. S. (2011). The Prevalence and Correlates of Depression and Hopelessness among Sex Offenders Subject to Community Notification and Residence Restriction Legislation. *American Journal of Criminal Justice*. DOI: 10.1007/s12103-010-9096-9
13. Letourneau, E. & Levenson, J.S. (2011). Preventing sexual abuse: Policy and practice. In Myers, D. (Ed.), *APSAC Handbook of Child Maltreatment*, p. 307-322. Sage Publications.

14. Levenson, J. S. (2011). Community protection from sexual violence: Intended and unintended outcomes of U.S. policies. In D. P. Boer, L. A. Craig, R. Eher, M. H. Miner & F. Pfafflin (Eds.), *International Perspectives on the Assessment and Treatment of Sexual Offenders: Theory, Practice and Research*. West Sussex: Wiley-Blackwell.
15. Levenson, J. S. (2011). But I didn't do it! Ethical treatment of sex offenders in denial. *Sexual Abuse: Journal of Research and Treatment* 23(3).
16. Prescott, D. & Levenson, J. S. (2010). Sex offender treatment is not punishment. *Journal of Sexual Aggression*. DOI: 10.1080/13552600.2010.483819
17. Willis, G.M., Levenson, J.S., & Ward, T. (2010). Desistance and attitudes towards sex offenders: facilitation or hindrance? *Journal of Family Violence*, 25, 545-556.
18. Levenson, J. S., Letourneau, E., Armstrong, K., & Zgoba, K. (2010). Failure to register as a Sex Offender: Is it associated with recidivism? *Justice Quarterly*, 27(3) 305-331.
19. Zandbergen, P. A., Levenson, J. S., & Hart, T. (2010). Residential proximity to schools and daycares: An empirical analysis of sex offense recidivism. *Criminal Justice and Behavior*, 37(5), 482-502.
20. Harris, A. J., Lobanov-Rostovsky, C., & Levenson, J. S. (2010). Widening the Net: The Effects of Transitioning to the Adam Walsh Act Classification System. *Criminal Justice and Behavior*, 37(5), 503-519.
21. Letourneau, E., Levenson, J. S., Bandyopadhyay, D., Armstrong, K., & Sinha, D. (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.
22. Levenson, J. S., Fortney, T., & Baker, J. N. (2010). Views of Sexual Abuse Professionals about Sex Offender Notification Policies. *International Journal of Offender Therapy and Comparative Criminology* 54(2), 150-168.
23. Levenson, J.S., Prescott, D., & D'Amora, D. (2010). Sex Offender Treatment: Consumer Satisfaction and Engagement in Therapy. *International Journal of Offender Therapy and Comparative Criminology* 54(3).
24. Letourneau, E., Levenson, J.S., Bandyopadhyay, D., Armstrong, K., & Sinha, D. (2010). The Effects of Public Registration on Judicial Decisions. *Criminal Justice Review*.
25. Letourneau, E., Levenson, J.S., Bandyopadhyay, D., Sinha, D., & Armstrong, K. (2010). Effects of South Carolina's sex offender registration and notification policy on adult recidivism. *Criminal Justice Policy Review*.
26. Levenson, J. S. (2010). Sex offender residence restrictions and community re-entry. In A. Schlank (Ed.), *The Sexual Predator: Law, Policy, Evaluation and Treatment* (Vol. 4). Kingston, NJ: Civic Research Institute.
27. Levenson, J. S. (2009). Sex Offender Polygraph Examination: An Evidence-Based Case Management Tool for Social Workers. *Journal of Evidence Based Social Work*, 6, 361-375.

28. Chaffin, M., Levenson, J.S., Letourneau, E., & Stern, P. (2009). How safe are trick-or-treaters? An analysis of sex crimes on Halloween. *Sexual Abuse: Journal of Research & Treatment* 21(3).
29. Tewksbury, R., & Levenson, J. S. (2009). Stress experiences of family members of registered sex offenders. *Behavioral Sciences and the Law*, 27(4), 611-626.
30. Doren, D. & Levenson, J.S. (2009). Diagnostic Reliability and Sex Offender Civil Commitment Evaluations: A Reply to Wollert. *Sex Offender Treatment* 4(1).
31. Levenson, J.S. (2009). Sex offender residence restrictions. In R. Wright (Ed.) *Sex Offender Policies*. New York: Springer Publishing Company.
32. Fortney, T., Baker, J. N., & Levenson, J. S. (2009). A Look in the Mirror: Sexual Abuse Professionals' Perceptions about Sex Offenders. *Victims and Offenders*, 4(1), 42-57.
33. Levenson, J. S., & Tewksbury, R. (2009). Collateral damage: Family members of registered sex offenders. *American Journal of Criminal Justice* 34 (1/2) 54-68.
34. Zgoba, K., Levenson, J.S. & McKee, T. (2009). Examining the Impact of Sex Offender Residence Restrictions on Housing Availability. *Criminal Justice Policy Review*, 20(1).
35. Levenson, J.S., Macgowan, M.J., Morin, J.W., & Cotter, L.P. (2009). Perceptions of sex offenders about treatment: Satisfaction and engagement in group therapy. *Sexual Abuse: Journal of Research & Treatment* 21(1).
36. Levenson, J.S. & Prescott, D. (2009). Treatment experiences of civilly committed sex offenders: A consumer satisfaction survey. *Sexual Abuse: Journal of Research & Treatment* 21(1).
37. Levenson, J.S. (2009). Sex offense recidivism, risk assessment, and the Adam Walsh Act. *Sex Offender Law Report*, 10(1).
38. Katz, S.M, Levenson, J.S., & Ackerman, A.R. (2008). Myths and facts about sexual violence: Public perceptions and implications for prevention. *Journal of Criminal Justice and Popular Culture*, 15(3).
39. Mercado, C.C., Alvarez, S., & Levenson, J.S. (2008). The Impact of Specialized Sex Offender Legislation on Community Re-Entry. *Sexual Abuse: Journal of Research & Treatment*, 20(2).
40. Levenson, J.S. (2008). Collateral consequences of sex offender residence restrictions. *Criminal Justice Studies* 21(2), 153-166.
41. Levenson, J.S., Becker, J., & Morin, J.W. (2008). The relationship between victim age and gender crossover among sex offenders. *Sexual Abuse: Journal of research and treatment*, 20(1), 43-60.
42. Zgoba, K. & Levenson, J.S. (2008). Variations in the Recidivism of Treated and Non-Treated Sexual Offenders in New Jersey: An Examination of Three Time Frames. *Victims and Offenders*, 3(1), 10-30.
43. Morin, J.W. & Levenson, J.S. (2008). Exhibitionism: Assessment and Treatment. In D.R. Laws & W. O'Donohue (Eds) *Sexual Deviance*. Guilford Press, p. 76-107.

44. Levenson, J.S. (2008). Risk assessment of criminal justice populations. In Thomlison, B. & Corcoran, K. (Eds). *Evidence-Based Practice: A Student Manual for Criminal Justice and Social Work Internships*. Oxford Press.
45. Levenson, J.S. (2007). Sex offender civil commitment. In B. Cutler (Ed.) *Encyclopedia of Psychology and Law*. Sage Publications.
46. Levenson, J.S. (2007). Sex offender community notification. In B. Cutler (Ed.) *Encyclopedia of Psychology and Law*. Sage Publications.
47. Levenson, J.S., Zgoba, K., & Tewksbury, R. (2007). Sex Offender Residence Restrictions: Sensible Crime Policy or Flawed Logic? *Federal Probation*, 71(3), 2-9.
48. Tewksbury, R. & Levenson, J.S. (2007). When Evidence is Ignored: Residential Restrictions for Sex Offenders. *Corrections Today*, December 2007, p. 54-57.
49. Brannon, Y., Levenson, J.S., Fortney, T., & Baker, J. (2007). Attitudes about Community Notification: A Comparison of Sexual Offenders and the Non-offending Public. *Sexual Abuse: Journal of research and treatment* 19(4) 369-379.
50. Levenson, J.S. (2007). The new scarlet letter: Sex offender policies in the 21st century. In D. Prescott, Ed., *Applying Knowledge to Practice: Challenges in the Treatment and Supervision of Sexual Abusers*, p. 21-41. Wood and Barnes Publishing.
51. Levenson, J.S. & Prescott, D. (2007). Considerations in evaluating the effectiveness of sex offender treatment. In D. Prescott *Applying Knowledge to Practice: Challenges in the Treatment and Supervision of Sexual Abusers*, p. 124-142. Wood and Barnes Publishing.
52. Levenson, J.S, D'Amora, D., & Hern, A. (2007). Megan's Law and its Impact on Community Re-entry for Sex Offenders. *Behavioral Sciences and the Law* (25), 587-602.
53. Fortney, T., Levenson, J.S., Brannon, Y., & Baker, J. (2007). Myths and Facts about sex offenders: Implications for practice and public policy. *Sex Offender Treatment* 2(1), 1-17.
54. Levenson, J.S, & Hern, A. (2007). Sex offender residence restrictions: Unintended consequences and community re-entry. *Justice Research and Policy*, 9(2), 59-73.
55. Levenson, J.S, & D'Amora, D. (2007). Social policies designed to prevent sexual violence: The Emperor's new clothes. *Criminal Justice Policy Review*, 18(2), 168-199.
56. Prescott, D. & Levenson, J.S. (2007). Youth who have sexually abused: registration, recidivism, and risk. *ATSA Forum*, Volume XVIII, No. 2, Spring 2007.
57. Levenson, J.S. (2007). Residence restrictions and their impact on sex offender reintegration, rehabilitation, and recidivism. *ATSA Forum*, Volume XVIII, No. 2, Spring 2007.
58. Levenson, J.S., 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.

59. Packard, R.L. & Levenson, J.S. (2006). Revisiting the reliability of diagnostic decisions in sex offender civil commitment. *Sex Offender Treatment*, 1(3).
60. Levenson, J.S. & Morin, J.W. (2006). Factors predicting selection of sexual offenders for civil commitment. *International Journal of Offender Therapy and Comparative Criminology*, 50(6), 609-629.
61. Levenson, J.S. (2006). Sexual harassment or consensual sexual relations? Implications for social work education. *Journal of Social Work Values and Ethics* 3(2).
62. Levenson, J.S. (2006). Sex offender residence restrictions. *Sex Offender Law Report*, 7(3), April/May 2006, p. 33.
63. Levenson, J.S. & Morin, J.W. (2006). Risk assessment in child sexual abuse cases. *Child Welfare*, 85(1), 59-82.
64. Kokish, R., Levenson, J.S., & Blasingame, G. (2005). Post conviction sex offender polygraph examination: Client perceptions of accuracy and utility. *Sexual Abuse: Journal of Research & Treatment*, 17(2), 211-221.
65. Levenson, J.S. (2005). Sex offender residence restrictions: *Report to the Florida Legislature*.
66. Levenson, J.S. & D'Amora, D. (2005). An ethical paradigm for sex offender treatment. *Western Criminology Review*. 6(1).
67. Levenson, J.S. & Cotter, L.P. (2005). The impact of sex offender residence restrictions: 1,000 feet from danger or one step from absurd? *International Journal of Offender Therapy and Comparative Criminology*, 49(2), 168-168.
68. Levenson, J.S. & Cotter, L.P. (2005). The impact of Megan's Law on sex offender reintegration. *Journal of Contemporary Criminal Justice*. 21(1), 49-66.
69. Levenson, J.S. (2004). Sexual predator civil commitment: A comparison of selected and released offenders. *International Journal of Offender Therapy and Comparative Criminology*, 48(6), 638-648.
70. Levenson, J.S. (2004). Reliability of sexually violent predator civil commitment criteria. *Law & Human Behavior*, 28(4), 357-368.
71. Levenson, J.S. & Macgowan, M.J. (2004). Engagement, denial, and treatment progress among sex offenders in group therapy. *Sexual Abuse: Journal of Research & Treatment*, 16(1), 49-64.
72. Levenson, J.S. (2004). Policy interventions designed to combat sexual violence: Community notification and civil commitment. In R. Geffner & K. Franey (eds.) *Identifying and Treating Sex Offenders: Current Approaches, Research, and Techniques*. New York: Haworth Press.
73. Levenson, J.S. (2004). Everything You Ever Wanted To Know About Sex Offenders but Were Afraid To Ask: ATSA's Role in Public Education. *ATSA Forum, Volume XVI, No. 2, Spring 2004*
74. Levenson, J.S. (2003). Community notification and civil commitment of sex offenders: A review of policies designed to combat sexual violence. *Journal of Child Sexual Abuse*, 12(3/4).

75. Macgowan, M. J., & Levenson, J. S. (2003). Psychometrics of the Group Engagement Measure with male sex offenders. *Small Group Research*, 34(2), 155-169.
76. Levenson, J.S. (2003). Book Review of Inside the Brain. *Social Work in Health Care*, 36(3), 97-99.
77. Morin, J.W., and Levenson, J.S. (2002). *The Road to Freedom*. [A workbook for sex offenders in treatment]. Distributed by Safer Society Press: Brandon, VT.
78. Levenson, J.S. and Morin, J.W. (2001). *Treating Nonoffending Parents in Sexual Abuse Cases: Connections in Family Safety*. Thousand Oaks, CA: Sage Publications.
79. Levenson, J.S. and Morin, J.W. (2001). *Connections workbook for non-offending parents*. Thousand Oaks, CA: Sage Publications.
80. Levenson, J.S. (2001). Overstating the Obvious: Social Workers are Mandated Reporters! (Part 2) *NASW Florida Chapter Newsletter*, May/June.
81. Levenson, J.S. (2001). Overstating the Obvious: Social Workers are Mandated Reporters! (Part 1) *NASW Florida Chapter Newsletter*, March/April.
82. Levenson, J.S. & Morin, J.W. (1998). The Role of the Nonoffending Parent in Sexual Abuse Prevention. *ATSA Forum*, Vol. X, No. 2, Summer 1998.
83. Morin, J.W., Levenson, J.S., & Cotter, L.P. (1998). *New Directions in the Management of Sexual Offenders: A Report to the Florida Legislature*. Tampa, FL: Florida Association for the Treatment of Sexual Abusers.

Dissertation: Levenson, J. S. (2003). Factors predicting recommendations for civil commitment of sexually violent predators under Florida's Jimmy Ryce Act. *Dissertation Abstracts International*, 64(03), UMI no. AAT 3085817.

RESEARCH FUNDING

\$150,000 awarded October 2010 Award # 2010-WP-BX-0006

Department of Justice (SMART Office)

Role: Consultant

Principal Agency Recipient: Palm Beach County Sheriff's Office

Comprehensive Approaches to Sex Offender Management Grant Program Palm Beach County's

Comprehensive Sex Offender Management Strategy. This project will implement a multi-faceted, multi-disciplinary strategy that incorporates assessment, risk-based supervision, registration and notification, re-entry services and treatment, and multi-disciplinary collaboration.

\$507,000 awarded 7/08 Award # 2008- MU-MU- 0001

National Institute of Justice

Role: Co-Investigator

Principal Investigator: Kristen Zgoba, New Jersey Department of Corrections.

A Multi-state Sexual Violence Recidivism Study investigating the predictive validity of Static-99 Risk Scores and Adam Walsh Act Tier Guidelines. This study will compare the abilities of Static-99 scores and Adam Walsh Act classifications to predict sexual recidivism.

\$484,000 awarded 7/12/06

National Institute of Justice

Role: Co-Investigator

Principal Investigator: Elizabeth Letourneau, Medical University of South Carolina

Evaluating the Effectiveness of Sex Offender Registration & Notification Policies for Reducing Sexual Violence Against Women. This study will examine whether sex offender registration and notification laws in South Carolina have had the intended effect of reducing sex crime rates in general and sex offense recidivism specifically.

\$296,656 awarded 8/07

National Institute of Justice

Role: Consultant

Principal Investigator: Elizabeth Jeglic, John Jay College of Criminal Justice

Sex Offender Management, Treatment, and Civil Commitment: An Evidence-Based Analysis Aimed at Reducing Sexual Violence. This research project involves a comprehensive examination of the treatment and subsequent recidivism of sex offenders incarcerated or detained in the mental health and criminal justice systems in New Jersey.

\$1,000 Pre-doctoral Research Grant awarded October 2002

Association for the Treatment of Sexual Abusers

Role: Principal Investigator (dissertation)

Factors Predicting Recommendations for Civil Commitment of Sexually Violent Predators under Florida's Jimmy Ryce Act. This research examined the psychological evaluation process and identified factors predicting civil commitment.

AWARDS

Nominee, Faculty member of the year. Lynn University 2009.

Scholarly Forum Competition, Second Place Winner

"Empirically Based Risk Assessment of Child Sexual Abuse."

Awarded by the Graduate Student Association, Florida International University, April 2001

Expert Witness Qualification, Broward County (FL) Circuit Court

- | | | |
|--------------------|-----------------|------------------|
| • Judge Kearney | • Judge Seidlin | • Judge Birken |
| • Judge Holmes | • Judge Aramony | • Judge Gold |
| • Judge Fruscianté | • Master Beilly | • Judge Horowitz |

Expert Witness Qualification, Duval County (FL) Circuit Court

- Judge Eleni Derke
- Judge Russell Healey

PROFESSIONAL SERVICE

Professional Affiliations

- Member, National Association of Social Workers (1987 – present)
- Member, Association for the Treatment of Sexual Abusers (1994 – present)
- Member, American Society of Criminology (2006– present)
- Member, Society for Social Work and Research (2004 – 2006)
- Member, American Professional Society on the Abuse of Children (1996-2004)

Scholarly Service

- Editorial Board. Sexual Abuse: Journal of Research and Treatment
- Research grant proposal reviewer. National Science Foundation
- Research grant proposal reviewer. National Institute of Justice
- Manuscript reviewer. American Journal of Criminal Justice
- Manuscript reviewer. Criminology & Public Policy
- Manuscript reviewer. Journal of Research on Crime & Delinquency
- Manuscript reviewer. Child Maltreatment
- Manuscript reviewer. Journal of Criminal Justice
- Manuscript reviewer. Analyses of Social Issues and Public Policy
- Manuscript reviewer. Justice Quarterly
- Manuscript reviewer. Sexual Abuse: Journal of Research and Treatment
- Manuscript reviewer. American Journal of Orthopsychiatry: Interdisciplinary Perspectives on Mental Health and Social Justice
- Manuscript reviewer. Justice Research and Policy.
- Manuscript reviewer. International Journal of Offender Therapy and Comparative Criminology.
- Manuscript reviewer. Human Rights Watch.
- Manuscript reviewer. Sociological Spectrum.
- Manuscript reviewer. Journal of Research on Social Work Practice.
- Manuscript reviewer. Ethical Human Sciences and Services.
- Abstract Reviewer, Annual Conference, Association for the Treatment of Sexual Abusers (2006-present)
- Editor, Florida Forum (1996-2001), Newsletter of the Florida Chapter of the Association for the Treatment of Sexual Abusers (FATSA)
- Abstract Reviewer, 12th National Conference on Child Abuse & Neglect, (1998)

Community Service

- Invited Member, Sex Offender Housing Task Force, Council of State Governments, (2008)
- Member, National Advisory Board, Safer Society Foundation (Oct. 2007 – present)
- Member, Prevention Coalition, National Center for Missing and Exploited Children (Oct. 2006 – Dec 2007)
- Board Member (2001-2007), Association for the Treatment of Sexual Abusers (ATSA)
- Committee Chair (Oct. 2003 – 2007), ATSA Ethics Committee (member to present)
- Committee Chair (May 2002 – Oct. 2003), ATSA Organization & Development Committee
- Member, ATSA Public Policy Committee
- President (2001-2004), Florida Association for the Treatment of Sexual Abusers (FATSA)
- Board Member (1996-present), FATSA
- Member (1999-2002), Statewide Child Abuse Death Review Team; Appointed by the Secretary of the Florida Department of Health
- Member, Broward County Sexual Abuse Intervention Network (SAIN) (1999-2002)
- Subject Matter Expert On Sexual Violence for the Department of Corrections, Broward County Probation Officers
- Advisory Board Member, (1996-1998), Crawford Center, Inc. (A residential facility for sexually aggressive children)
- Invited Member, Assessment Workgroup, Child Welfare League Of America, (1995-1996)

PUBLIC POLICY ACTIVITIES

2009 Chair, Broward County Sex Offender / Sexual Predator Task Force (appointed by Broward County Commissioners).

October 16, 2008. Invited testimony before the Vermont Legislature regarding sex offender registration, risk assessment, and the Adam Walsh Act.

August 29, 2008. Invited testimony before the Vermont Legislature regarding sex offender registration, notification, and residence restrictions.

March 18, 2008. Invited testimony before the Florida Legislature's Senate Criminal Justice Committee regarding proposed House Bill 1430: Residence of sex offenders and predators.

August 16, 2007. Invited testimony before the New Mexico Legislature's Courts and Justice Committee regarding sex crime policies

November 15, 2006. Invited testimony before the Kansas Legislature regarding residence restrictions for sex offenders and predators.

October 19, 2005. Invited testimony before the Florida Legislature's House Judiciary Committee regarding proposed House Bill 91: Residence of sex offenders and predators.

ATSA (2005). Contributor: Amicus Brief submitted to the United States Supreme Court by the Association for the Treatment of Sexual Abusers in the case of Doe v. Miller. [Regarding sex offender residence restrictions]

ATSA (2002). Contributor: Amicus Brief submitted to the United States Supreme Court by the Association for the Treatment of Sexual Abusers in the case of Connecticut Dept. of Public Safety v. John Doe. [Regarding implementation of "Megan's Law"]

UNIVERSITY SERVICE

- IRB
- Internship Committee
- Human Services Dept Chair
- Strategic Academic Assessment Plan Task Force
- Taskforce on Professoriate
- Quantitative Reasoning taskforce
- 3 dissertation committees, 1 QP committee
- Research practicum site for Masters in Psych students
- Clinical supervisor, Masters in Psych students
- Sexual Assault Response team
- Alert Team 2006-2007
- Student Conduct Review Board

Courses taught at Lynn: Introduction to Human Services; Groupwork & Family Systems; Social Problems & Policy; Ethical Practice; Current Perspectives in Substance Abuse; Introduction to Sociology; Assessment & Interviewing; Criminal Justice Research Methods; Case Management Strategies; Human Services Senior Seminar. Masters in Applied Psychology Internship Seminar.

Courses taught at FIU: Graduate courses taught: Human Behavior and the Social Environment I; Psychopathology (HBSE II); Theory and Practice with Family Violence; Social Welfare Policy; Child & Family Policy; Social Welfare Policy & Services. Undergraduate courses taught: Child Welfare Policy and Practice; Human Behavior and the Social Environment I; Social Work Practice Methods with Individuals; Social Work Practice Methods with Families and Groups; Techniques of Interviewing.

DOCTORAL STUDENT SUPERVISION

Tina Bauer Goldsmith (2007-2008), Lynn University Ph.D. in Global Leadership. Dissertation committee. *Emotional Intelligence and work performance*.

Judith Cineas (2007-2008), Lynn University Ph.D. in Global Leadership. Dissertation committee. *Faculty perceptions of student evaluations of teaching*.

Sherry Fulmore-Murray (2005-2008), Lynn University Ph.D. in Educational Leadership. Qualifying paper committee chair. *Violence against GLBT high school students*.

Markell Harrison-Jackson (2005-2009), Lynn University Ph.D. in Educational Leadership. Dissertation committee chair. *Factors Influencing Self-sufficiency Outcomes for Emancipated Foster Youth*.

SELECTED MEDIA APPEARANCES

Vitelli, Romeo (November 29, 2011). How useful are public sex offender registries? *Huffington Post*.

Crocker, Lizzie (November 22, 2011). The Penn State Scandal: 7 Facts about child sex abuse. *Daily Beast*.

Hudack, Stephen (November 14, 2011). Lake mulls new restrictions for sex offenders. *Orlando Sentinel*.

Nguyen, Linda (November 4, 2011). Sex offender registries don't deter convicts from reoffending. *Calgary Herald*.

Bluestein, Greg (July 19, 2010). Georgia softens once lauded sex offender law. *Associated Press*.

Gardner, Michael (April 12, 2010). King parents lobby for Chelsea's Law. *San Diego Union Tribune*.

Skipp, Catherine (February 1, 2010). A law for sex offenders living under a Miami bridge. *Time Magazine*.

Frank, John (February 24, 2010). Sex Laws Revisited. *Miami Herald*.

Levenson, Jill (November 4, 2009). Child safety zones work. *Miami Herald* (OP-ED).

Knutson, Ryan (September 3, 2009). Sex-Registry Flaws Stand Out. *Wall Street Journal*.

Gallacher, Andy (August 13, 2009). Florida faces sex offender dilemma. *BBC*.

Levenson, Jill (August 11, 2009). Residency rules endanger us. *Miami Herald* (OP-ED).

Harlem, Georgia (August 6, 2009). Unjust and Ineffective. *The Economist*.

Skipp, Catherine (August 3, 2009). A Bridge Too Far. *Newsweek*.

Rood, Lee (July 19, 2009). Sex offender costs to skyrocket. *Des Moines Register*.

Rodriguez, Ihosvani (July 9, 2009). Where neighbors are sex offenders. *South Florida Sun Sentinel*.

Grimm, Fred (June 20, 2009). Sex offender laws burden neighborhood. *Miami Herald*.

Vick, Karl (December 27, 2008). Laws to track sex offenders encouraging homelessness. *Wall Street Journal*.

Reed Ward, Paula (October 26, 2008). Residency restrictions for sex offenders popular, but ineffective. *Pittsburgh Post-Gazette*.

Sandberg, Lisa (October 16, 2008). AG wants online IDs of sex predators listed. *San-Antonio Express News*.

Spangler, Nicholas (April 8, 2008). For sexual predators, a camp of isolation. *Miami Herald*.

Arkowitz, Hal & Lilienfeld, Scott (April, 2008). Once a sex offender, always a sex offender? Maybe not. *Scientific American*.

White, Nicola (April 2, 2008). Senate committee OKs sex offender bill. *Tampa Tribune*.

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- Levenson, J.S. (2011). *Sex offender policy trends: Research and Practice*. Michigan State Bar Association. Dearborn, MI, 9/16/11.
- Levenson, J.S. (2010). *Sex offender policy trends: Research and Practice*. Keynote speaker, Colorado Sex Offender Management Board. Breckenridge, CO, July 16, 2010.
- Levenson, J.S. (2010). *Sex offender policy trends: Research and Practice*. Keynote speaker, Minnesota Association for the Treatment of Sexual Abusers. Minneapolis, MN, April 16, 2010.
- Levenson, J.S. (2009). *Residential proximity and sex offense recidivism*. National Institute of Justice Crime Mapping Conference. New Orleans, LA. August 20, 2009.
- Levenson, J.S. (2009). *Justice System and Children's Rights (response to plenary speaker)*. National Adolescent Perpetrator Conference. Tampa, FL. May 18, 2009.
- Levenson, J.S. (2008). *Sex offender registration, notification, and residence restrictions*. Vermont Legislature. August 29, 2008.
- Levenson, J.S. (2008). *Sex offender residence restrictions*. National Coalition to End Homelessness Web Conference. Washington, DC. July 10, 2008.
- Levenson, J.S. (2008). *Sex offender residence restrictions*. California Coalition on Sexual Offending. San Francisco, CA. May 15-16, 2008.
- Levenson, J.S. (2008). *Sex offender policies: The Emperor's new clothes?* Keynote speaker, New Jersey ATSA Chapter, Scotch Plains, NJ, 4/11/08.
- D'Amora, D., Klein, A., Levenson, J.S., Lieb, R. (2007). *Sex offender policies in the new millennium (Plenary Session)*. 26th Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, San Diego, CA, 11/2/07.
- Levenson, J.S. (2007). *Sex offender policies: The Emperor's new clothes?* Liberty Health Care Sex Offender Treatment Conference, Indianapolis, IN, 6/15/07.
- Levenson, J.S. (2007). *Sex offender policies: The Emperor's new clothes?* Texas Sex Offender Treatment Board Conference, Austin, TX, 2/18/07.
- Levenson, J.S., & Palmer, R. (2006). *Ethical issues in working with sex offenders*. 25th Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, Chicago, IL, 9/27/06.
- Levenson, J.S. (2006). *Sex offender policies: The Emperor's new clothes?* Tennessee Sex Offender Treatment Board Conference, Nashville, TN, 8/21/06.
- Levenson, J.S. (2006). *Sex offender policies: The Emperor's new clothes?* National Association of Criminal Defense Attorneys Conference, Miami Beach, FL 7/27/06.
- Levenson, J.S. (2006). *Sex offender policies: The Emperor's new clothes?* Keynote speaker, Illinois ATSA statewide conference, Bloomington, IL, 4/28/06.
- Levenson, J.S. (2006). *Sex offender policies: The Emperor's new clothes?* Keynote Speaker, Alliance for Women in Community Corrections, Columbus, OH, 4/27/06.
- Levenson, J.S. (2006). Keynote speaker, Sexual Violence Awareness Day Conference, Fort Myers, FL, 4/7/06.
- Levenson, J.S. (2006). *Sex offender policies: The Emperor's new clothes?* Illinois ATSA Board of Directors Meeting, Chicago, IL, 1/17/05.
- Levenson, J.S. (2005). *Sex offender policies: The Emperor's new clothes?*, Florida Sexual Abuse Intervention Network, Tampa, FL, 9/16/05.
- Levenson, J.S., (2004). *Post conviction sex offender polygraph examination: Client perceptions of accuracy and utility*. Florida Chapter of the Association for the Treatment of Sexual Abusers Annual Meeting, Tampa, FL, 3/6/04.
- Levenson, J.S. (2004). *Working with Families of Juvenile Sex Offenders*, Florida Sexual Abuse Intervention Network, Tampa, FL, 4/30/04.

- Hines, B. & Levenson, J.S. (2004). *Assessment and Treatment of Adolescents and Children with Sexual Behavior Problems*, Sponsored by Children's Psychiatric Center, Miami, FL, 3/13/04.
- Levenson, J.S. (2003). *Reunification, Supervision, and Visitation of Sex Offenders with Children*. Department of Corrections, Portland, OR, 4/24/03.
- Levenson, J.S. (2003). *Working with Families of Juvenile Sex Offenders*, Florida Sexual Abuse Intervention Network, Tampa, FL, 4/3/03.
- Levenson, J.S. (2002). *Juvenile Sex Offender Risk Assessment & Treatment Planning*, NASW Ft. Myers Chapter, Ft. Myers, FL, 10/18/02
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- Levenson, J.S. (2001). *Victim or Victimizer?*, Assessment and Treatment of Adolescents and Children with Sexual Behavior Problems, Ft. Lauderdale, FL, 8/10/01
- Levenson, J.S. (2001). *Juvenile Sex Offender Treatment: Child Development, Psychopathology, Family Safety Planning, & Treatment Issues*, Florida Chapter of the Association for the Treatment of Sexual Abusers State Conference, Orlando, FL, 2/10/01
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- Levenson, J.S. (1998). *Connections: Psychoeducational Group Treatment for Nonoffending Parents of Sexually Abused Children and Partners of Sexual Offenders*, Joining Forces: Sexual Abuse Conference, Lakeland, FL, 10/14/98.
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PEER-REVIEWED PRESENTATIONS AT PROFESSIONAL CONFERENCES

- Levenson, J.S. (2011). A descriptive analysis of individuals on public registries. 30 Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, Toronto, CA, 11/3/10.
- Levenson, J.S. (2010). *Residential restrictions for sex offenders*. 29th Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, Phoenix, AZ, 10/21/10.
- Levenson, J.S. (2009). *Proximity & sex offense recidivism*. American Society of Criminology, November 4, 2009, Philadelphia, PA.
- Levenson, J.S. (2009). *Charting new territory: Mapping trends in sex offender policy*. 28th Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, Dallas, TX, 9/30/09.
- Levenson, J.S. (2008). *Failure to register & sex offense recidivism*. American Society of Criminology, November 12, 2008, St. Louis, MO.
- Levenson, J.S., Prescott, D., & D'Amora, D. (2008). *What can we learn from sex offenders? Data from a series of consumer satisfaction surveys*. 27th Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, Atlanta, GA, 10/24/08.
- Levenson, J.S. (2007). *Sex offender residence restrictions*. American Society of Criminology, November 14, 2007, Atlanta, GA.
- Levenson, J.S. (2007). *Sex offender policies: The Emperor's new clothes?* Florida Council Against Sexual Violence, June 20, 2007, Daytona Beach, FL.

- Levenson, J.S. (2007). *Sex offender policies: The Emperor's new clothes?* Sexual Abuse Intervention Network, May 16, 2007, Tampa FL.
- Levenson, J.S. & Cotter, L.P. (2006). *The impact of Megan's Law and residence restrictions on sex offender reintegration*, 25th Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, Chicago, IL, 9/28/06.
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- Levenson, J.S. & Cotter, L.P. (2005). *The impact of Megan's Law and residence restrictions on sex offender reintegration*, 24th Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, New Orleans, LA, 11/3/05.
- Levenson, J.S. (2005). *The Impact of Megan's Law on Sex Offender Reintegration*. 9th Annual Conference of the Society for Social Work and Research, Miami, FL. 1/16/05.
- Levenson, J.S. (2004). *Sex Offender Civil Commitment Selection: Preliminary Research Findings*, 23rd Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, Albuquerque, NM, 10/29/04.
- Levenson, J.S. & Rapa, S. (2003). *Clinical Supervision of Therapists who Treat Sex Offenders*, 22nd Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, St. Louis, MO, 10/9/03.
- Rapa, S. & Levenson, J.S. (2003). *Countertransference in the treatment of sexual abusers*, 22nd Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, St. Louis, MO, 10/9/03.
- Levenson, J.S. (2003). *Engagement, Denial, and Treatment Progress in a Sample of Male Sex Offenders in Group Therapy*, 22nd Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, St. Louis, MO, 10/9/03.
- Macgowan, M.J. & Levenson, J.S. (2003). *Psychometrics of the Group Engagement Measure with Male Sex Offenders*. 7th Annual Conference of the Society for Social Work and Research, Washington, D.C., 1/17/03.
- Levenson, J.S. (2002). *Improving CPS risk assessment in child sexual abuse cases*. 10th Annual Conference of the American Professional Society on the Abuse of Children (APSAC), New Orleans, LA, 5/30/02
- Levenson, J.S. (2001). *The Role of ATSA Members in Child Protection*, 20th Annual Treatment and Research Conference of the Association for the Treatment of Sexual Abusers, San Antonio, TX, 11/9/01.
- Levenson, J.S. (2001). *Social Workers are Mandated Reporters*, NASW statewide conference, Ft. Lauderdale, FL, 6/16/01
- Levenson, J.S. (2000). *Connections: Working with the Nonoffending Parent in Sexual Abuse Cases*, 19th Annual Treatment and Research Conference of the Association for the Treatment of Sexual Abusers, San Diego, CA, 11/3/00.
- Levenson, J.S. (2000). *Psychopathy in Children*, NASW statewide conference, Ft. Lauderdale, FL, 6/22/00.
- Levenson, J.S. (1999). *Inside the Mind of the Sex Offender*, NASW statewide conference, Ft. Lauderdale, FL, 6/11/99
- Levenson, J.S. (1999). *Family Safety Planning and Reunification Following Child Sexual Abuse*, 7th Annual Conference of the American Professional Society on the Abuse of Children (APSAC), San Antonio, TX., 6/4/99.
- Levenson, J.S. (1998). *Utilizing Group Process as an Intervention Strategy with Sexual Offenders*, 17th Annual Treatment & Research Conference of the Association for the Treatment of Sexual Abusers, Vancouver, British Columbia, 10/16/98.

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- Levenson, J.S. (1997). *Connections: Working with the Nonoffending Parent in Sexual Abuse Cases*, 16th Annual Treatment and Research Conference of the Association for the Treatment of Sexual Abusers, Arlington, VA, 10/17/97.
- Morin, J.W. & Levenson, J.S. (1997). *Defining Successful Completion: A Competency Based Treatment Model*, Second Annual Florida Sex Offender Treatment Conference, Tampa, FL, 4/11/97.
- Morin, J.W. & Levenson, J.S. (1996). *Defining Successful Completion: A Competency Based Treatment Model*, 15th Annual Treatment and Research Conference of the Association for the Treatment of Sexual Abusers, Chicago, IL, 11/15/96.

Social Work Supervision (1991-present)

- Field instruction for MSW & BSW students from FIU, FAU, and Barry University
- Clinical supervision for Masters-Level licensure interns as required by Florida Statute 491

EXHIBIT 10

DECLARATION OF DR. JANET FAY-DUMAINE, PSY. D.,
ON THE PLAINTIFFS' RISK LEVEL

Declaration and Report of Janet Fay-Dumaine, Psy. D.

TO: Miriam Aukerman and Paul Reingold
RE: Static-99R Assessment of Named Plaintiffs
DT: February 29, 2012

Introduction

You asked me to provide an actuarial assessment regarding the risk for recidivism in five sex offender cases that you sent to me for review. As we discussed, there are multiple methods for risk assessment, some of which include interviewing the offender and some of which do not. The actuarial risk assessment technique used for this report is the Static-99R, which is widely employed throughout the United States, including by the Michigan Department of Corrections. It is described in more detail below. It is described in more detail below.

I scored three male offenders (John Doe #2, John Doe #3, and John Doe #4) using the Static-99R. One other offender (John Doe #1) could not be scored because his conviction was for armed robbery and kidnapping; there was nothing in the record to indicate that he has ever been convicted of a sexual offense or that there was a sexual component to his offense and the Static-99R only measures risk for sexual offenders. In addition, the one female offender (Mary Doe) could not be scored because the Static-99R does not apply to female offenders. I have included some general information about female offenders in this report.

Summary of the Report

The three cases that I scored using the Static-99R came out as follows: John Doe #2, John Doe #3, and John Doe #4 all earned a score of "two."

The Static-99R score for risk of reoffending is typically expressed as a percentage. Offenders from routine correctional samples with a score of two have been found to sexually reoffend at a rate of 5.0 percent in five years. Using a confidence interval of 95%, the range of the rate of reoffending would be 3.4 percent to 7.4 percent.

As to the female offender Mary Doe, the available information suggests that the five-year risk for reoffending in that population is extremely low, which means in the 2 percent range.

For all, the risk of sexual reoffending declines both with the passage of time (without a new offense) and with increasing age. Mr. Doe #2 has been in the community, offense free, for 15 years (since 1997), and Mr. Doe #3 has been in the community, offense free, for 11 years (since 2001). Previous data show that those in the Low and Low-Moderate nominal category for risk for re-offending have a significant decline in risk as time in the community increases. All three offenders here also earned one point for being under 35 years of age. When they turn 35 (absent new offenses) their Static-99R score will drop to "one." A score of "one" has a predicted recidivism rate of 3.8 percent with a 95% confidence interval from 2.5 percent to 5.8 percent.

Overview

In the following brief report I describe both the measures used and the interpretation of the results. The results presented are only for recidivism for sexual reoffending. Each Static-99R coding form will not be presented here, but is available for review. The score for each subject is attached as Exhibit 1. A copy of my CV is attached as Exhibit 2.

Risk Assessment

The Static-99 Revised (Static-99R) is an instrument designed to assist in the prediction of sexual (and violent) recidivism for male sexual offenders. The measure defines recidivism in terms of officially detected new offenses (charges or convictions). This instrument has been shown to be a moderate predictor of sexual re-offense potential. All risk assessment instruments are based on officially detected new offenses within the population, and therefore may understate risk to the extent that such offenses are underreported, or overstate risk to the extent that a charged offense may turn out to be mistaken or misattributed.

The Static-99R fully incorporates the relationship between age at release and sexual recidivism, whereas the original Static-99 scale did not (Helmus, 2009). Therefore, the developers of Static-99R recommend that the revised version of the scale (Static-99R) replace Static-99 in all contexts. Static-99R has shown moderate accuracy in ranking offenders according to their relative risk for sexual recidivism. The recidivism estimates provided by the Static-99R are group data and as such these estimates do not directly correspond to the recidivism risk of an individual offender. The accuracy in assessing relative risk with the Static-99R has been consistent across a wide variety of samples, countries, and unique settings (Helmus, 2009).

Discussion of Static-99R Scores

Of the three male cases that had sufficient data to develop a Static-99R score, they all scored a "two."

Percentile data for Static-99R scores are based on an international sample of sexual offenders from eight studies, including samples from Canada, the United States, England, Austria, and Sweden ($n = 4,040$). The samples used for percentile data were considered relatively unselected groups that would be representative of the population of all adjudicated sex offenders within a given correctional system. The norms are presented as percentile ranges, reflecting the observed percentage of offenders scoring at or below a specified score. Percentile rankings are useful in situations where the allocation of limited resources must be made, such as for treatment, community supervision, etc.

Absolute degrees of recidivism risk cannot be directly inferred from the percentile rankings. The appropriateness of applying these percentiles to sexual offenders in jurisdictions other than those listed above is not known.

Compared to a representative and international sample of adult male sexual offenders, a Static-99R score of "two" falls into the 39.7 – 54.4 percentile. This percentile range means that 39.7 – 54.4 of sex offenders in these samples scored at or below a score of "two." Conversely, 45.6 – 60.3 percent of this sample of sex offenders scored higher.

Relative risk refers to the ratio of two recidivism rates. Research has found the relative risk associated with different Static-99R scores to be consistent even when the overall base rate

of recidivism varies across samples. Information concerning relative risk for Static-99R scores were based on 22 samples of sexual offenders from Canada, the United States, the United Kingdom, Denmark, Holland, Austria, Sweden, Germany, and New Zealand ($n = 8,047$). The recidivism rate for sex offenders with a score of "two" would be expected to be approximately the same as the recidivism rate for the typical sexual offender (defined as median score of two).

There have been a large number of studies examining the absolute sexual recidivism rates associated with Static-99 scores. Helmus (2009) combined 28 Static-99 replication studies and was able to calculate Static-99R scores for 23 of these samples. The samples ($n = 8,139$) were drawn from Canada, the United States, United Kingdom, western Europe and New Zealand. Recidivism was defined as charges in about half of these studies and as convictions in the other half.

Although the relative risk was consistent across studies, the observed recidivism base rates varied considerably across samples based on factors not measured by Static-99R. Samples that were preselected to be high-risk/high-needs (6 samples) show the highest recidivism rates; samples preselected based on treatment need (6 samples) had intermediate recidivism rates; and routine correctional samples had recidivism rates substantially lower than the pre-selected groups (and also lower than the recidivism rates in the original development samples for Static-99).

Local recidivism norms applicable to the group of offenders to which a specific offender most closely resembles would be ideal, but are not available for these cases. The routine sample norms developed in the Static-99R research as considered appropriate to reflect recidivism rates as the routine sample norms were developed with typical sex offenders in correctional systems. A description of the routine correctional samples follows.

Routine Correctional Samples

This group consisted of eight samples of sex offenders from Canada, the United States, England, Austria and Sweden. These samples were relatively random (i.e., unselected) samples from a correctional system (as opposed to samples from specific institutions or subject to specific measures). In other words, they can be considered roughly representative of all adjudicated sex offenders. Some offenders in these samples would have been subsequently screened for treatment or other special interventions (e.g., psychiatric admission or exceptional interventions related to dangerousness), but these samples represent the full population of all offenders prior to any pre-selection processes. The recidivism norms for the unselected samples are the closest available to a hypothetical average of all sex offenders.

As noted in the summary above, offenders from routine correctional samples with a score of two have been found to sexually reoffend at a rate of 5.0 percent in five years. Using a confidence interval of 95%, the range of the rate of reoffending would be 3.4 percent to 7.4 percent.

All three offenders in this case earned a point due to their age of under 34.9 years. As with other types of criminal offenses, sexual offending tends to decrease steadily with age (Barbaree & Blanchard, 2008; for research on general offending, see Hirschi & Gottfredson, 1983; Sampson & Laub, 2003). The offenders scored are all currently under 34 years old. They will therefore drop from a score of "two" to a score of "one" after their 35th birthday. A score of "one" has a predicted recidivism rate of 3.8 percent with a 95% confidence interval from 2.5 percent to 5.8 percent.

Length of Follow-Up and Recidivism

In addition to the risk for sexual offense recidivism information provided above, two of the offenders in the ACLU sample have been in the community, offense free, for more than ten years. Mr. Doe #2 has been in the community since his conviction in 1997, and Mr. Doe #3 has been in the community since his conviction in 2001.

The original recidivism estimates for Static-99 included adjustments for time offense-free in the community, but the authors do not currently recommend using these estimates because they are outdated. The authors do endorse discussing the overall pattern of relative risk reduction that occurs as offenders spend more time offense-free in the community. Previous data show that those in the low and low-moderate nominal category for risk for re-offending have a significant decline in risk as time in the community continues to increase.

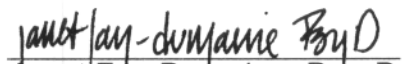
In general, longer follow-up periods for offenders in the community increase the recidivism base rate because recidivism accumulates over time. The increase in risk for recidivism, however, is not linear and the available data show that most re-offending occurs within the first five years in the community. The data indicate that the longer an offender is offense-free in the community, the more their individual probability of re-offending decreases (Harris & Hanson, 2004; A.J.R. Harris, Phenix, Hanson & Thornton, 2003).

Studies that directly compare the rate of sex offense charges versus convictions within a single sample do find differences in recidivism rates when charges versus convictions are compared (Epperson, 2003; Johansen, 2007; Langan, Schmitt, & Durose, 2003; Minnesota Department of Corrections, 2007). For example, of 9,691 sex offenders from 15 states, 5.3% were charged with a new sexual offense within three years, whereas only 3.5% were convicted, suggesting a small but nonetheless meaningful difference (Langan et al., 2003). A similar difference was found in a smaller study ($n = 280$) with a longer follow-up (average of seven years), where 6.8% of offenders were rearrested and only 3.9% were re-convicted (Johansen, 2007).

Female Sexual Offenders

Risk assessment of female sex offenders is limited to statements about female sex offenders generally because instruments to assess risk have yet to be developed. A recent meta-analysis published in *Sexual Abuse: A Journal of Research and Treatment* by Cortoni, Hanson and Coache (2010) examined the findings of ten studies that included over 2400 female sex offenders with an average follow-up period of six and a half years. In summary, the sample group were found to have an "extremely low" rate of sexual recidivism (between one and three per cent). Violent recidivism (including sexual recidivism) remained extremely low and ranged from four to eight per cent. Thus, the results suggest that female sex offenders, after release from sanctions by the criminal justice system, tend to refrain from engaging in detected sexual offenses.

Thank you again for the opportunity assess your clients. Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury that the above statements are true and correct to the best of my knowledge, information, and belief.


Janet Fay-Dumaine, Psy. D.
Licensed Psychologist

ATTACHMENT A
PLAINTIFFS' STATIC 99R SCORES

Static-99R Scores

Name	Score	Items for which point(s) earned
JOHN DOE #2	two	Aged 18 to 34.9 Any unrelated victims
JOHN DOE #3	two	Aged 18 to 34.9 years Any unrelated victims
JOHN DOE #4	two	Aged 18 to 34.9 years Any unrelated victims

Unable to score JOHN DOE #1 (did not commit a sexual offense) and MARY DOE (female).

ATTACHMENT B
CURRICULUM VITAE

Curriculum Vitae

Janet Fay-Dumaine, Psy. D.
PO Box 3263
Ann Arbor MI 48106
734/845-8872

Educational History

Virginia Consortium Program in Clinical Psychology*
Virginia Beach, Virginia

*The College of William and Mary, Eastern Virginia Medical School, Norfolk
State University, Old Dominion University
Full APA Accreditation
Doctoral degree requirements completed August 31, 1994
Psy.D. awarded December 1994

University of Massachusetts/Boston
B.A., Summa Cum Laude with Honors in Psychology May 1988

Professional Employment History

Center for Forensic Psychiatry
November 2010 to present

The Center for Forensic Psychiatry is a state facility that provides forensic evaluations and treatment services to criminal defendants throughout Michigan. Responsibilities include evaluations of competence to stand trial, criminal responsibility and other forensic issues; providing group therapy and participation in treatment team meetings; participation in the Path Oversight Committee for committed sex offenders and other duties as assigned.

Diagnostic and Evaluation Center
Nebraska Department of Correctional Services
March 2006 to November 2010

The Diagnostic and Evaluation Center is the initial classification center for inmates entering the Nebraska prison system. Responsibilities as supervisor of mental health include supervision of five licensed, master level clinicians and an administrative assistant, development and implementation of assessment protocol for incoming inmates, monitoring and treatment of inmates on suicide prevention plans and inmates with major mental illness, evaluation and

assessment of pre-sentence and post-conviction sex offenders as assigned, clinical supervision of pre-licensed doctoral level psychology staff, participation Clinical Sex Offender Review Team, Clinical Violent Offender Review Team and Mentally Ill Review Team and various administrative duties.

Legal Services Branch of Forensic Services Administration
District of Columbia Department of Mental Health
May 1999 to February 2005

Legal Services Branch is a forensic evaluation public service in Washington, D.C., located at the St. Elizabeths Campus. Evaluations are conducted at the D.C. Detention Facility, Correctional Treatment Facility, St. Elizabeths Campus, and the D.C. Superior Court cellblock. Responsibilities as a clinical psychologist include conducting post-trial evaluations – probation, sex offender and aid at sentencing; pre-trial competency screenings at the field office at Superior Court, competency and criminal responsibility evaluations, and providing consultation to attorneys, probation officers, and clinical staff. Responsibilities also include clinical supervision of unlicensed psychology staff and pre-doctoral psychology interns and post-doctoral residents, as well as providing the Ethics Seminar to pre-doctoral interns.

Northern Virginia Mental Health Institute
Falls Church, Virginia
June 1997 to May 1999

NVMHI is a state inpatient facility. Responsibilities as senior psychologist included participation in treatment team, providing treatment services for inpatients including patients adjudicated not guilty by reason of insanity and conducting the competency education group. Services included development of treatment plans, individual and group psychotherapy, and psychological assessment and evaluation. Evaluation services for NGRI acquittees included reports to Forensic Review Panel to petition for privileges and annual reports to the court. Supervised psychology externs for psychological assessment and psychotherapy. Additional responsibilities included serving as Forensic Coordinator for the facility as of October 1998. Responsibilities included risk assessment of forensic admissions, supervision of forensic evaluations, and administrative duties.

Central State Hospital, Forensic Unit
Petersburg, Virginia
October 1994 to May 1997

CSH Forensic Unit is the only maximum-security forensic mental health facility in Virginia. Responsibilities as senior psychologist included participating in treatment team and providing services for jail transfers, defendant's order for restoration to competency and defendants found not guilty by reason of insanity. Services included individual psychotherapy, psychological assessment, conducting community meeting and monitoring of point system on ward. Co-leader of competency education group for patients admitted for restoration to competency. Evaluation services included initial psychological evaluation, analysis of aggressive behavior, competency to stand trial, and mental status at the time of the offense. Provided clinical supervision of pre-doctoral interns from the Medical College of Virginia.

Faculty Appointments

December 2011 – present
Adjunct Faculty
Madonna University
Livonia, Michigan

December 1999 - January 2005
Adjunct Faculty
Argosy University
Washington, D.C.

August 1996 – May 1997
Assistant Clinical Professor of Psychiatry
Virginia Commonwealth University/Medical College of Virginia
Richmond, Virginia

Presentations

Symposium: Difficult Cases, Multiple Choices: A Few Forensic Dilemmas presented at the March 2006 Society for Personality Assessment Annual Meeting, San Diego, California.

Ethics Workshop
March 19, 2002 Pathways Homes, Inc. Fairfax, Virginia

Professional and Ethical Issues Workshop

December 7, 2001 St. Elizabeths Psychology Department Washington, D.C.

Mental Illness as a Risk Factor for Interpersonal Violence

October 2, 2001 Workplace Violence Conference Huntington, West Virginia

Ethical Issues in Forensics

March 2001 St. Elizabeths Campus, Washington, D.C.

Institute of Law, Psychiatry and Public Policy's Risk Assessment Training

April 1998 Participate in panel discussion highlighting risk assessment issues.

"Awareness of illness in Inpatients Diagnosed with Schizophrenia and Bipolar Disorder." Poster session at Southeastern Psychological Association 1997 Annual Meeting presented April 1997.

Institute of Law, Psychiatry and Public Policy's Insanity Acquittee Evaluation Training March 1997 Presentation, instruction, and discussion of not guilty by reason of insanity case illustrating forensic evaluation process.

Training and Clinical Internship

Institute of Law, Psychiatry and Public Policy

University of Virginia, Charlottesville

March 2000 Juvenile Evaluation Update Training

March 1995 Sex Offender Evaluation Training

December 1994 Insanity Acquitte Evaluation Training

November 1994 Basic Forensic Evaluation Training

Springfield Hospital Center Sykesville, Maryland

September 1993 through August 1994

SHC is an APA accredited internship program that includes two six-month inpatient rotations at the state hospital. Each rotation included individual and group psychotherapy, treatment team meetings, conducting ward community meetings, and completing at least one psychological assessment case per month. Staff psychologist for the ward supervised all ward activities. Group psychotherapy supervision and a weekly assessment seminar were conducted for the interns. During the year, completed one day a week outpatient practice at a community mental health center. Responsibilities for adolescent and child services included initial psychological evaluation of new referrals, individual psychotherapy for a caseload of three to four clients and participation in family therapy practice seminar. Throughout the internship year, interns and staff

participated in a series of seminars covering a broad array of psychotherapy and assessment topics.

Doctoral Practica

Eastern State Hospital – Mentally Ill/Chemical Abuse Recovery Unit
July 1992 to March 1993

Twenty hour per week advanced graduate training. Responsibilities included co-leader of group psychotherapy and substance abuse group, individual psychotherapy, participation in treatment team meetings, intake assessments, including administration of Addiction Severity Index interview, and other psychological testing as appropriate.

Research Experience

Research Assistant – College of William and Mary
September 1991 to May 1992

Responsibilities included conducting research investigating interaction styles of depressed/non-depressed female college students. Directed small groups in systematic relaxation, videotapes interpersonal interactions between subjects, and rated interactions. Conducted interviews with adult inpatients diagnosed with schizophrenia in a long term care unit at Eastern State Hospital. Rated interviews for positive and negative symptoms.

Research Assistant – College of William and Mary
September 1990 to May 1991

Assisted in clinical interview and administration of the Wisconsin Card Sort to adult inpatients diagnosed with schizophrenia in long term care unit at Eastern State Hospital. Rated interviews for positive and negative symptoms.

Professional Licensure and Associations

Licensed Psychologist - Michigan
Licensed Psychologist - Nebraska (inactive)
Licensed Clinical Psychologist - Virginia (inactive)
Licensed Psychologist - Washington, D.C. (inactive)
Society for Personality Assessment - Member

EXHIBIT 11

DECLARATION OF PETER WAGNER, J.D.,
ON THE IMPACT OF EXCLUSION ZONES

John Doe #1, et al., v. Richard Snyder, et al.

**EXPERT REPORT/DECLARATION OF
PETER WAGNER, J.D.**

1. Introduction

I am an attorney and Executive Director of the Prison Policy Initiative, a non-profit research organization based in Easthampton, Massachusetts. The Prison Policy Initiative focuses on the intersection of criminal justice policy and other social issues.

I have been retained by plaintiffs as a geographic expert to address and quantify the impact of Michigan's laws that prohibit registered sex offenders from living, working, or loitering within 1,000 feet of a school.

2. Relevant experience

As further detailed in my c.v., I regularly make maps that analyze Census and other demographic data in relation to statutory restrictions that impose geographic limits for criminal justice purposes.¹ My experience includes:

- I testified in *Whitaker v. Perdue* (U.S. Dist. Ct., N.D. Georgia, 4:06-cv-00140-CC) in 2006 and 2008 regarding the impact of HB1059, Georgia's sex offender residency restriction law. I prepared maps of 1,000 foot exclusion zones around schools, day-care centers, bus stops, parks and other areas listed in the statute as places that people on the sex offender registry cannot live. I initially prepared analyses of the law's effect in 6 counties, and subsequently prepared detailed maps of the exclusion zones in two additional counties.
- From 2006 to 2009, I led a project that involved mapping 1,000 foot zones around schools — and a smaller distance around parks — in Hampden County, Massachusetts and then analyzing the Census populations of the affected areas. The purpose was to evaluate the efficacy and socio-economic implications of a sentencing law that gave higher

¹ A copy of my c.v. is attached.

sentences for certain drug offenses committed in prohibited areas. These findings were published in reports I co-authored entitled *The Geography of Punishment: How Huge Sentencing Enhancement Zones Harm Communities, Fail to Protect Children*² and *Reaching too far, coming up short: How large sentencing enhancement zones miss the mark*.³

- In 2006, I prepared a detailed study for the Massachusetts Committee for Public Counsel Services of a sex offender residence ordinance in Revere, Massachusetts, which prohibited offenders from living within 1,000 linear feet of a school, nursery school, day care center, kindergarten, or playground.
- I have performed similar analyses in Massachusetts in the city of Lynn (2009 and 2011), the city of Waltham (2010) and the town of Barnstable (2009).

3. Methodology

The methodology in all of these research projects was to use a Geographic Information Systems software package called ArcView to map each protected property by drawing a 1,000 foot “buffer” around each. For my socio-demographic analysis, I would then overlay that map with U.S. Census data and calculate the population that lived within and outside the zones. For housing analyses, I then determined which properties in the jurisdiction were within the exclusion zones.

Identifying each protected place is a time-consuming but straightforward process. The key ingredient for each of these analyses is the ability to obtain the complete geographic coordinates of every property parcel *boundary* in the jurisdiction. It is not sufficient to perform such an analysis with only the address of the protected property/building.

² *The Geography of Punishment: How Huge Sentencing Enhancement Zones Harm Communities, Fail to Protect Children*, by Aleks Kajstura, Peter Wagner and William Goldberg, Prison Policy Initiative, July 2008 available at <http://www.prisonpolicy.org/zones/>

³ *Reaching too far, coming up short: How large sentencing enhancement zones miss the mark*, by Aleks Kajstura, Peter Wagner and Leah Sakala, Prison Policy Initiative, January, 2009, available at <http://www.prisonpolicy.org/toofar/>

For example, the residence restrictions for sex offenders that I analyzed in Georgia and Massachusetts were measured on a property line to property line basis. Similarly, the drug sentencing enhancement statute I analyzed in Massachusetts was measured from the property line of the school parcels. To be accurate, such analyses must account for the fact that laws are enforced based on distance from a property boundary line, rather than from a building. This analysis produces a result that encompasses significantly more area than non-geographers would expect.

4. The Difficulties Created by Mapping Exclusion Zones.

In my work mapping criminal justice exclusion zones in other states, I have identified several significant problems with the use of such zones:

- A. It is extremely difficult if not impossible to identify the areas that are inside and outside the exclusion zones, even with sophisticated mapping technology;
- B. Exclusion zones cover a huge area, much of which is not actually “near” schools as we think of distance in human terms;
- C. Exclusion zones have the practical effect of severely restricting access to housing and employment, and of limiting the ability to engage in normal human activity for those subject to exclusion.

A. Identifying areas that are inside and outside of the zones is extremely difficult if not impossible.

Geographic exclusion zones can only function to keep individuals out of prohibited areas if individuals know where the exclusion zones are.⁴ However, in practice it is extremely difficult if not impossible for an individual to determine, at any given time, whether he or she is within an exclusion zone because:

⁴ My research on the Massachusetts school zones law showed that it has been ineffective at moving drug activity away from schools and that, *as currently designed it can never work*, because individuals do not know where the zones are.

- **The protected areas are unmarked.** Moreover, because protected areas bisect private property, their boundaries are impossible to mark.
- **Long distances are extremely hard to estimate.** Most people have a very hard time estimating distances, and the only experience most people have with quantifying the distance of 1,000 feet is when approaching work construction zones at highway speeds. Experiments conducted for my reports demonstrated that very few people can estimate large distances reliably.
- **Protected locations are difficult to locate.** Even if people can recognize 1,000 feet, they need to know where the protected locations are in order to mentally measure that distance. This is often difficult and frequently impossible. Even if one knows where a school is, one is unlikely to know where its property line is (e.g., see the strange shapes below in Figures 3, and 4). Further, in both urban and rural locales, it is generally difficult to see 1,000 feet in a single direction without visual obstructions.
- **Protected zones will have irregular shapes and be difficult to recognize and avoid.** The zones are measured from the irregularly shaped property boundaries of the protected places, making for an irregularly shaped zone. Then, they frequently overlap with other zones, making an even more irregular shape that is difficult to recognize and avoid.
- **Exclusion zones in dense areas frequently intersect and overlap, blanketing communities with multiple zones.** This has the effect of making it impossible for an individual to determine when he or she is inside the boundaries of a zone, or of multiple zones that *simultaneously extend from multiple locations*.⁵ The most critical finding in our

⁵ In New Jersey, the Sentencing Commission explained the problem in particularly colorful language exploring the impact of the state's then-existing statute creating a 1,000-foot sentencing enhancement zone for certain drug offenses: "Simply stated, New Jersey's densely populated urban areas have been literally transformed into massive, unsegmented 'drug free' zones. Consequently, the protected areas demarcated by the statutes no longer exist, having merged with contiguous zones." The New Jersey Commission to Review Criminal Sentencing, *Supplemental Report on New Jersey's Drug Free Zone Crimes and Proposal for Reform*, April 2007 at 4, available at <http://sentencing.nj.gov/downloads/supplemental%20schoolzonereport.pdf>.

Massachusetts school zone report was that the law — which mandated a single unmarked zone around numerous protected places — resulted in a massive overlapping zone that covered a majority of the urban parts of our study area. One of our recommendations was to reduce the size of the zones to 100 feet, allowing distinct and identifiable zones to be created.



Figure 1. *Note the overlapping shapes of the zones in Holyoke Massachusetts from the Geography of Punishment report. This detail view is a good explanation of the strange shapes that multiple 1,000 feet exclusion zones will create.*

- **Accurately mapping exclusion zones, even with sophisticated technology and access to the relevant parcel boundary data is very time consuming.** For example, after obtaining the parcel boundary data for my analysis of the Massachusetts town of Barnstable, it took more than 15 hours to produce my map. And as discussed below, given the unavailability of the parcel boundary data in Michigan, an individual on the registry would not be able to determine the boundaries of the prohibited areas even if they had the required time, expertise and tools to map the exclusion zone.

The difficulty — or impossibility — of determining what areas are inside or outside exclusion zones is relevant to Michigan's laws prohibiting registrants from residing, working, or loitering within 1,000 feet of school property. I did not find any evidence that the Michigan legislature knew where the boundaries would be when it passed this legislation. Moreover, I was unable to identify any state agency that maintains a state-wide map of the exclusion zones.

While it is possible to use specialized tools to evaluate individual locations one at a time, there is no systematic way to map an entire area short of the research methodology outlined above. The process of determining whether a particular property is within a protected area is burdensome in the context of the employment and residence restrictions. In the context of a prohibition on "loitering," which requires moment-to-moment knowledge of whether one is within an exclusion zone, it is likely impossible for a registrant to comply.

B. Exclusion zones cover a huge area, much of which, in conventional human terms, is not actually "near" schools.

- **1,000 feet is actually quite far.** For the *Geography of Punishment* report, we set out to discover whether people can be seen 1,000 feet from a school under ideal circumstances. We sought out a school on a flat, straight and unobstructed road, but we had considerable difficulty finding such a location. We eventually found a street in West Springfield that fit our criteria and then, because common household tools are incapable of measuring such large distances, we purchased a measuring wheel typically used for surveying. While standing on the school's property line, I took pictures of my co-author at various distances from the property. (See images in Figure 2 below.) Despite picking a day in early spring before the trees had leaves, *and* despite picking the flattest street we could find, *and* despite my co-author carrying a huge white sign, it was nearly impossible to see my co-author at the longer distances.



Figure 2.

- **The laws restrict access to areas that, in human terms, are not at all close to schools.** The distances are measured as the crow flies, not as human beings travel. Measuring the exclusion zone in a straight line, regardless of obstruction, puts many distant areas under the law's jurisdiction. Below in Figure 3 is an example of a single 1,000 foot school zone from the *Geography of Punishment* report illustrating how a 1,000 foot zone can apply to housing that, in human terms, is significantly further away. The map below shows a single school zone that abuts a large pond and a cemetery. Given the arrangement of properties, a person living in the marked house would need to travel 3,200 feet to get to the closest part of the school property (without trespassing or navigating major obstacles). Getting to the closet part of the actual school building would require a total travel distance of 4,200 feet. Yet the law requires that the exclusion zone be measured in a straight line from the edge of the property, regardless of the obstacles in between.

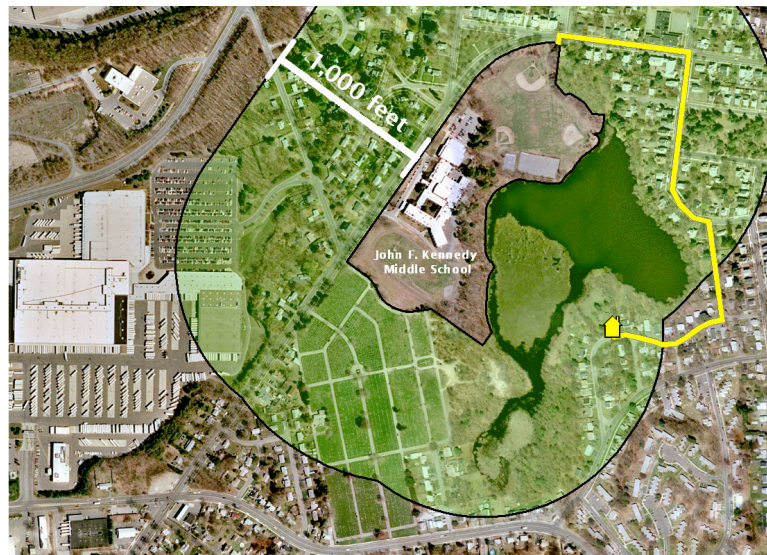


Figure 3.

Another example from my *Geography of Punishment* report is even more extreme: The 1,000 foot zone from a high school reaches across the Connecticut River (the largest river in all of New England) to reach a different town. (See Figure 4.) Although the legislature assumed that all people within 1,000 feet of the school would have

proximity to children, the driving distance between the two points in this example is 4.4 miles, which would take about 11 minutes to travel by car.



Figure 4.

- **Schools are not a single point at the front entrance, but instead tend to be large complexes that include playing fields, auditoriums, etc.** A single 1,000 foot zone around a school is generally considerably larger than a circle with a 1,000 foot radius and will render off limits far more housing and employment opportunities than a simple 1,000 foot circle.
- **Residence and workplaces are considerably larger than the single point at their entrance.** As can be seen in the below illustration prepared for the *Whitaker v Perdue* case, even when the zone is centered around an actual point (a bus stop) the resulting exclusion zone is considerably larger than a simple circle. The 1,000 foot distance is itself a circle around a bus stop, but the properties that are within the zone (in peach) make the exclusion area significantly larger.

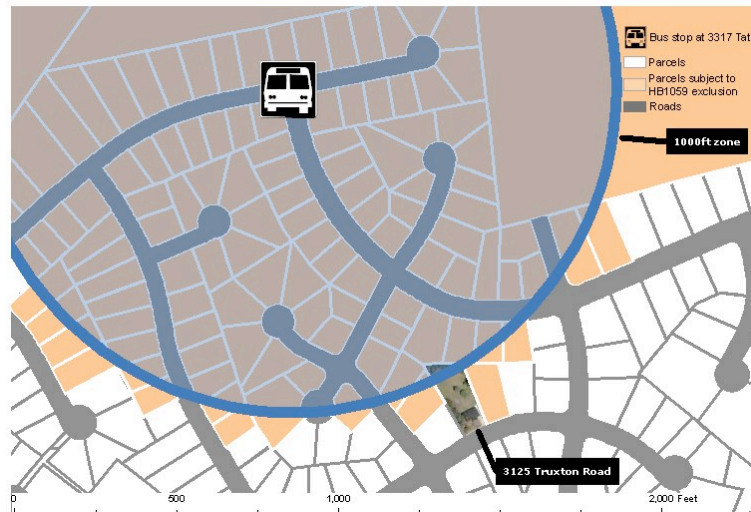
HB1059 exclusion reaches beyond 1,000 feet

Figure 5. This illustration shows that drawing simple circles with a radius of 1,000 feet understates the actual impact of the exclusion zones.

C. Exclusion zones have the practical effect of severely restricting access to housing and employment, and of limiting the ability to engage in normal human activity.

My work mapping exclusion zones has shown that such zones render large portions of the affected jurisdiction off-limits. As a result, whatever activity is limited (e.g. housing, employment, spending time in parks, etc), is significantly restricted for those subject to exclusion. For example, my prior research has shown:

- In the *Whitaker v. Perdue* case, I demonstrated that Georgia's HB1059, in large part due to the inclusion of school bus stops on the list of prohibited places, rendered all urban areas, all suburban areas, and most of the inhabitable portions of rural areas off limits to people on the registry.
- In my study of the Revere Massachusetts city ordinance⁶ which prohibited certain offenders from living within 1,000 linear feet of a public or private school, nursery school, day care center, kindergarten, or playground, I found that at least 99% of the city's residential properties were off limits

⁶ See my affidavit of August 14, 2006 at <http://www.prisonpolicy.org/articles/affidavit08142006.html> and the accompanying map at <http://www.prisonpolicy.org/atlas/revere528060.html>.

to people on the registry. I did not perform a formal analysis of the impact on employment opportunities, but it is relevant here to note that the only parts of the city not within 1,000 feet of a protected place were parts of a fuel oil terminal, parts of a race track, undeveloped woodlands and a marsh.

- My research on Massachusetts' 1,000 foot sentencing enhancement zones showed that these zones disproportionately cover lower-income and lower-rent areas off-limits to people on the registry.⁷

The key factors in evaluating the scope of an exclusion zone are the combination of the size of the zones and the number of places that are to be protected. While large-sized zones and multiple protected places can make entire cities and towns off-limits, even smaller zones around one or two protected places can make significant portions of a city or town off-limits.

5. Efforts to conduct similar research in Michigan

Despite my considerable experience developing methodologies to study how legislation that regulates activities in special geographic zones operates, I have been unable to secure the data needed to perform a similar analysis of Michigan's laws in a sample city or county.

As a preliminary matter, there do not appear to be any unified maps of the prohibited areas. Michigan state and local law enforcement claim to measure the distance of potential properties to protected places one at a time in an online system roughly equivalent to using the measuring tool in Google Earth. This is insufficient to tell someone on the registry which places they should avoid. Similarly, there is not even one centralized list of protected places under the statute, although one could be built from other data sources with a reasonable likelihood of being mostly complete.

⁷ See the section in *The Geography of Punishment* entitled "An 'urban effect': Interlocking sentencing enhancement zones blanket urban areas and barely touch rural populations" for my research on density, poverty and educational attainment as it relates to Massachusetts' sentencing enhancement zone statute available at <http://www.prisonpolicy.org/zones/urban.html> .

I attempted to prepare an analysis of how the sex offender registry law is applied in two counties in Michigan: Kent and Ingham. These counties were chosen for their diversity in density and land uses and would have been representative samples to apply to the state as a whole. Unfortunately, the counties refused to make available the necessary data showing the property lines of each property, making it impossible to prepare accurate maps of the exclusion zones.⁸

The difficulties I encountered while attempting to map Michigan's exclusion zones speaks to the difficulty that registrants face in complying with the exclusion zone laws. If I, despite my specialized skills and software, cannot develop a map of exclusion zones for two counties, it is highly unlikely that a typical registrant would be able to determine what places she or he must avoid around the state.

6. Analysis of Michigan Statutes during Discovery.

Assuming that it is possible to obtain the necessary parcel data through the discovery process, I plan to show the Court the number, size, and scope of sample exclusion zones in Michigan. I would then be able to overlay the protected areas over U.S. Census data and other data to demonstrate the portion of the sample county that is rendered off-limits by Michigan's sex offender registry law. I would be able to do this by analyzing factors such as:

- Portion of the county's population;
- Portion of the county's housing stock;
- Portion of the county's affordable housing stock.

Based on my experience with performing similar analyses of school zones elsewhere, I anticipate that the analysis will show that Michigan's sex offender residence exclusion zones cover large portions of urban and suburban areas and somewhat smaller portions of rural areas. Many of the areas that are theoretically

⁸ The data that I sought exists as government records held by Kent and Ingham Counties. Both counties make this data available in a free online mapping system designed for typical uses like identifying abutters. This is insufficient for identifying how 1,000-foot zones around hundreds or thousands of protected places overlap. The only way to answer that question is by accessing the parcel database in a mapping program with more features.

available will likely be industrial or agricultural in nature, and therefore not appropriate for housing.

I also expect that the exclusion zones will be irregular shapes. If this is the case, it would support a finding that it is difficult or impossible to identify and avoid the exclusion zones when moving about the state.

Once I am able to build a geographic database of the exclusion areas in sample counties, I will apply this map to existing datasets on employment patterns (if they can be obtained) to produce estimates of the size and nature of the employment impact of the law. I would expect to find that a significant number of jobs are rendered off-limits to people on the registry due to the exclusion zones.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury that the above statements are true and correct to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'P. Wagner', with a stylized, cursive script.

Peter Wagner
Executive Director
Prison Policy Initiative
PO Box 127
Northampton MA 01061
(413) 961-0002
pwagner@prisonpolicy.org
March 13, 2012

ATTACHMENT A
CURRICULUM VITAE

PETER J. WAGNER

69 Garfield Ave, Floor 1, Easthampton MA 01027
pwagner@prisonpolicy.org (413) 527-0845

EDUCATION	Western New England College School of Law	Springfield, MA
	Juris Doctor, May 2003	
	University of Massachusetts at Amherst,	Amherst, MA
	B.A., August 1994	
	Major: Social Thought and Political Economy	
	Minor: African-American Studies	
WORK EXPERIENCE	Prison Policy Initiative	Springfield, Easthampton, MA
	Co-Founder, Exec. Director, Asst. Director	September 2001 – Present
	Co-founded organization committed to documenting how mass incarceration affects individuals, communities, and the national welfare. Lead a national movement to change the way that the Census Bureau counts people in prison, and the way that state and local governments use Census prison counts to draw legislative districts.	
	Civil Liberties Union of Massachusetts	Boston, MA
	Mapping Consultant	June 2009 – Present
	Assist litigators with evaluating potential challenges to overly broad city ordinances in Barnstable, Lynn and Waltham, showing that city overreached and rather than regulating where people on the sex offender registry could live, the cities barred people on the registry from living anywhere.	
	Southern Center for Human Rights	Atlanta, GA
	Mapping Consultant	June 2006 – September 2009
	Prepared maps and analysis, and testified twice for plaintiffs in federal court in the case <i>Whitaker v. Perdue</i> . The case challenged Georgia's ban on people on the sex offender registry from living within 1,000 feet of schools, churches and a long list of other places including school bus stops. My testimony showed that because almost every tract of habitable housing in Georgia was served by one of 350,000 school bus stops, the legislature unwittingly declared all urban areas, all suburban areas and most rural areas off limits to people on the registry.	
	Open Society Institute Fellowship Program	New York City
	Consultant	January – June 2007
	Assist Soros Justice Fellows with a range of research and technical support needs, including combing databases, developing educational materials and using quantitative research to tell stories and illustrate problems to diverse audiences.	

Prison Policy Initiative **Cincinnati, OH; Northampton, MA**
Open Society Institute Soros Justice Fellow **June 2003 – May 2005**

Conducted a national research and advocacy project to quantify, publicize, and reform the current practice of utilizing the Census to shift political power away from poor and minority communities and into the hands of prison expansion proponents. Conducted state-specific analyses of the impact of prison-based gerrymandering on state legislative redistricting and develop both national and state-specific solutions.

Center for First Amendment Rights **Hartford, CT**
Webmaster **December 2000 – May 2003**

Law Clerk **Springfield, MA**
Magistrate Judge Kenneth P. Neiman **January – May 2003**

Jessup International Moot Court Team **Springfield, MA**
Member **October 2002 – February 2003**

Anti-Discrimination Clinic **Springfield, MA**
Student Attorney **August 2002 – December 2002**

Represented victims of employment discrimination and public accommodations discrimination in proceedings before the Massachusetts Commission Against Discrimination. Performed research for the Attorney General's Office on housing discrimination cases.

Capital Defender Office **Albany, NY**
Legal Intern **June 2002 – August 2002**

Performed legal research on the constitutionality of a jury "life qualification" statute. Digitized and organized mitigation evidence. Transcribed witness interviews.

Massachusetts Correctional Legal Services **Boston, MA**
Legal Intern **May 2001 – October 2001**

Investigated prisoner complaints of poor medical care; conducted medical advocacy and prepared referrals to outside attorneys for potential medical malpractice litigation. Investigated a major disturbance at a super-maximum facility and represented the alleged ring-leader against 54 charges at his disciplinary hearing and on administrative appeal.

**TEACHING
EXPERIENCE**

Smith College **Northampton, MA**
Instructor **January 2003, 2005, 2006, 2011, 2012**

Designed and taught "Prison Industrial Complex Through Film" non-credit course.

Smith College **Northampton, MA**
Instructor **January 2002, 2004, 2008**

Designed and taught "Constitutional Law Through Film" non-credit course.

**HONORS
& AWARDS**

Soros Justice Postgraduate Fellow, 2003-2005
 Massachusetts Bar Foundation Legal Intern Fellow, Summer 2001
 Partial tuition academic scholarship, 1999-2003
 Recipient, Law Alumni Scholarship, Fall 2002
 Recipient, Katherine M. Connell Scholarship, Fall 2001
 Deans' List, Spring 2002

**PUBLISHED
REPORTS**

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Presentation: *Prisons, Redistricting, and the Census: New Options for States and Localities*, Congressional briefing, Rayburn Congressional Office Building, (Washington, D.C.) April 27, 2010

Panelist: *Census and Redistricting*, NAACP Continuing Legal Education Seminar, 100th NAACP Convention, (New York City) July 13, 2009

Panelist: *Technical solutions to avoid prison-based gerrymandering*, National Conference of State Legislature's Legislative Summit, (Philadelphia, PA) July 21, 2009

Workshop: *Legislative options to avoid prison-based gerrymandering*, Legislative Black Caucus of Maryland, (Annapolis, MD) October 2, 2009

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Keynote address: *Coming Home: Addressing the Issues Faced by Prisoners as They Re-enter the Community*, Community Service Society of New York (New York City) December 10, 2005

Panel presentation: *Prisoners of the Census: Criminal Justice Populations in Census Data*, Crime Mapping Research Conference, National Institute of Justice (Savannah, GA), September 9, 2005

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Panel presentation: *Protecting and expanding voting rights*, NAACP Continuing Legal Education Seminar, NAACP Convention (Milwaukee, WI) July 11, 2005

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Panel presentation: *Felon Disenfranchisement and the Three-Fifths Clause*, Rebellious Lawyering Conference, Yale University (New Haven, CT) February 18, 2001

**LEGISLATIVE
TESTIMONY**

Testimony in support of SB400, the “No Representation Without Population Act” before the Education, Health & Environmental Affairs Committee of the Maryland State Senate (Annapolis, MD) March 4, 2010

Testimony on the 2010 Census: Enumerating People Living in Group Quarters, before the Subcommittee on Information Policy, Census and National Archives, Committee on Oversight and Government Reform, United States House of Representatives (New York, NY) February 22, 2010

Testimony in support of the Census Correction Amendment, before the Committee on State Affairs and Homeland Security, Wisconsin House of Representatives (Madison, WI) September 15, 2009

Testimony in support of ending prison-based gerrymandering, before the Assembly Standing Committee on Governmental Operations and the Assembly Legislative Task Force on Demographic Research and Reapportionment, New York State Assembly (Albany, NY) October 24, 2007

Testimony in support of ending prison-based gerrymandering, before the Assembly Standing Committee on Governmental Operations and the Assembly Legislative Task Force on Demographic Research and Reapportionment, New York State Assembly (New York, NY) October 17, 2006

Testimony on Adjusting Prisoner Census Enumeration for Purposes of State Legislative Redistricting, New York State Legislative Task Force on Demographic Research and Reapportionment (Bronx, NY) March 14, 2002

**PROFESSIONAL
ASSOCIATIONS**

Member of Massachusetts Bar, BBO# 662207

EXHIBIT 12

DECLARATION OF ANNE YANTUS, J.D., ON THE IMPACT OF
REGISTRATION ON PLEA BARGAINING

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

JOHN DOES # 1-4 and MARY DOE,

Plaintiffs

File No.

Hon.

-VS-

RICHARD SNYDER, Governor of the State
Michigan, and COL. KRISTE ETUE.
Director of the Michigan State Police, in their
Official capacities

Defendants

AFFIDAVIT OF ANNE YANTUS

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

ANNE YANTUS, being first sworn, states as follows:

1. I am a managing attorney with the State Appellate Defender Office (SADO) in Detroit, Michigan. I am in charge of the Special Unit (also known as the Plea Unit) that focuses on plea appeals and sentencing relief. Most of the work I do in handling plea appeals has to do with sentencing error or plea withdrawal claims.
2. I also teach a criminal sentencing class at the University of Detroit-Mercy School of Law, and have done so since 2003. I taught a corrections law class for Baker College in 2011, and edited the SADO Defender Plea and Sentencing book in 2011. I co-authored a chapter on circuit court sentencing for *Michigan Criminal Procedure* (ICLE) in 2010. And I have written a number of articles on sentencing and plea matters for the Criminal Defense Newsletter.
3. I frequently conduct seminars or lectures around the state that address sentence and/or plea issues for the following organizations: the Criminal Defense Attorneys of Michigan, the Wayne County Criminal Advocacy Program, the Michigan Assigned Appellate Counsel System, the Institute of Continuing Legal Education, the Michigan Judicial Institute, the Criminal Law Section of the Michigan State Bar, and local bar organizations. I also taught a sentencing guidelines seminar for the Michigan Court of Appeals in February 2012.
4. Much of the plea and sentence training I do is directed at criminal defense attorneys. As part of that training, I offer suggestions on better client counseling vis-à-vis plea bargains so that defense attorneys can adequately advise their clients about the consequences of their pleas. I regularly update practitioners on new case law and

new laws that address some of the harsher consequences of criminal convictions, including sex offender registration. I have included a discussion of sex offender registration in my training handouts since 2007.

5. In training events, I have stressed the need for defense attorneys to provide complete and accurate advice to their clients about sex offender registration. This has been a growing area of concern within the criminal justice community, and this is especially true since 2006 when the first Student Safety Zone laws were enacted in Michigan. Michigan also passed laws increasing the penalty for certain sex crimes against individuals under the age of 13 in 2006, and passed the first lifetime electronic monitoring statutes for sex offenders in 2006. The increased legislative and legal activity related to sex offenders has been an important area of concern for attorneys since at least 2006.
6. In my own practice, I have reviewed approximately two thousand cases in the past 26 years. Issues related to sex offender registration have become more and more prevalent since the sex offender laws were modified in 2006. I have seen in my own cases that a defendant's decision to plead guilty or stand trial may often hinge on whether sex offender registration will result from the conviction. For example:
 - a. Several years ago I handled an appeal from Ingham County where the prosecutor, defense attorney and judge agreed on the record that the guilty plea would not entail sex offender registration. The probation department nevertheless referred the case to the Michigan State Police for registration. We were able to remove the defendant's name from the registry as a result of the appeal, and this was the only relief we requested.
 - b. I also had a case in 2006 that involved a defendant's guilty plea on December 29, 2005 to attempted criminal sexual conduct in the fourth degree. The plea was entered just days before the Student Safety Zone laws took effect on January 1, 2006. Unbeknownst to the defendant, his guilty plea would have precluded him from living in the home he was then purchasing. We filed a motion to withdraw the plea, claiming he would not have pled guilty had he known about the new law. The case was resolved by agreement in the trial court.
7. Through my own cases and from discussion with hundreds of attorneys from around the state, it is clear to me that sex offender registration is a critical issue for criminal defendants who are charged with sex crimes. The questions of whether a defendant must register, for how long, and whether registration is public or private are often pivotal in resolving cases through plea negotiations.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury that the above statements are true and correct to the best of my knowledge, information, and belief.



ANNE YANTUS (MICH BAR NO. 39445)

Dated: March 5, 2012

EXHIBIT 13

TEXAS ASSOCIATION OF COUNTIES REPORT ON COSTS TO LOCAL
GOVERNMENTS OF IMPLEMENTING THE ADAM WALSH ACT

COSTS TO LOCAL GOVERNMENTS FROM IMPLEMENTING THE ADAM WALSH ACT

Tim Brown, Texas Association of Counties

October 19, 2010

Executive Summary

The Adam Walsh Child Protection and Safety Act of 2006 (AWA) was signed by President George Bush on July 27, 2006, 25 years to the day after 6-year-old Adam Walsh disappeared from a Florida mall. The AWA includes provisions for a national Sex Offender Registration and Notification Program (SORNA), to standardize registration and notification requirements across the country while also providing greater offender accountability and increased sanctions for non-compliance. States that fail to substantially implement the SORNA guidelines face a 10 percent reduction in their Byrne Justice Assistance Grant funds, used to support multi-jurisdiction drug task forces and to provide other support to local law enforcement agencies. It is unclear to what extent cities and counties will be impacted by this potential reduction.

In response to requests from State Sen. Florence Shapiro and State Sen. John Whitmire, the Texas Municipal League (TML) and the Texas Association of Counties (TAC) collected data on the costs associated with sex offender registration from 75 local law enforcement agencies.

Two main difficulties appear to have prevented other cities and counties from participating in the survey. First, many, if not most, local law enforcement agencies do not keep records with the level of detail required to answer some of the questions or their record systems are not designed for easy retrieval of the data needed. Second, the survey asked local officials to predict how their agencies would be impacted by state laws which have not been drafted, much less enacted. This required a certain amount of creative estimation on their part.

Based on the responses, TAC and TML estimate that implementing SORNA would cost those specific 75 cities and counties an additional \$1.3 million per year in nominal dollars (not adjusted for inflation). A simple extrapolation based on the number of sex offenders currently registered, indicates that, statewide, cities and counties would be hit with an additional \$14 million per year in costs for registering sex offenders.

Extrapolating from a similar study conducted by the Austin Police Department suggests that total costs would be around twice this amount. However, there is always difficulty in extrapolating from a small sample; particularly a sample size of one. It is encouraging therefore that the two extrapolations are so similar and lends confidence in the accuracy of the \$14 million statewide estimate despite the number of assumptions used in its calculation.

Background

The Adam Walsh Child Protection and Safety Act of 2006 (AWA) was signed by President George Bush on July 27, 2006, 25 years to the day after 6-year-old Adam Walsh disappeared from a Florida mall. According to Congress, the AWA seeks to establish a “comprehensive national system for the registration [of sex offenders and offenders against children].”

In addition to setting minimum national standards for state sex offender registries and notification laws, AWA has the potential to overhaul sex offender laws across the nation. The act, which is divided into seven titles, calls for a more detailed, uniform and nationalized system of sex offender registries; addresses issues of child pornography, Internet safety and civil commitment; creates grants for electronic monitoring; and revises the Immigration and Nationality Act to address immigrant offenders.

By creating the first federal involuntary civil commitment law targeting “sexually dangerous persons” and creating a national child abuse and neglect registry, the AWA substantially overhauled federal registration and community notification policy – and in the process expressly repealed the Jacob Wetterling Act, Megan’s Law and the Lychner Act.

The AWA includes provisions for a national Sex Offender Registration and Notification Program (SORNA), which seeks to standardize registration and notification requirements across the country while also providing greater offender accountability and increased sanctions for non-compliance. States that fail to substantially implement the SORNA guidelines will face a 10 percent reduction in their Byrne Justice Assistance Grant funds, which are used to support multi-jurisdiction drug task forces and to provide other support to local law enforcement agencies. It is unclear to what extent cities and counties will be impacted by this potential reduction.

Even with this penalty looming, few states have been certified AWA compliant; some states believe the cost of compliance outweighs the loss of funds. States are also concerned about the act’s juvenile registration and reporting requirements and certain new, retroactive registration requirements.¹

¹ SEARCH. “Survey finds no state in position to comply with July 2009 deadline for Walsh Act’s expanded sex offender monitoring.” Available from: www.search.org/about/news/2009/survey.asp. Accessed 18 August 2010.

Some of those concerns were partially addressed in supplemental guidelines published May 14, 2010.² Under the supplement, states would no longer need to register all offenders convicted prior to SORNA's implementation by the state. A state may be judged to have substantially implemented SORNA if that state registers all prior convicted persons who fall into one of the following four categories:

1. Offenders who are incarcerated;
2. Offenders who are on probation or parole;
3. Offenders who are presently registering; and
4. Offenders who are convicted of a new felony offense or of any type of sex offense.

The supplemental guidelines leave open the possibility that some states might choose to go beyond the minimum requirements and attempt to extend SORNA to more cases retroactively.

The Survey

The Texas Senate is currently studying the costs associated with the changes in state law required to be certified compliant with SORNA. TAC and the Texas Municipal League (TML) were asked to gather information on costs associated with that compliance since sex offenders are required to register with their local law enforcement office (city or county depending on their place of residence). Working with State Sen. Florence Shapiro, State Sen. John Whitmire and TML, TAC developed an online Adam Walsh Act Costs Survey to gather information directly from county sheriffs and municipal police chiefs.

TAC contacted the sheriffs in early August requesting their assistance with the survey. At about the same time, TML contacted the police chiefs for their assistance.

The online survey was closed on September 17. By that time 127 responses had been received. Due to problems with duplication of responses and missing data (responses that included contact information but no other data), only 75 responses were found to be usable for the analysis. The low response rate was not unexpected due to the complexity of the questions asked on the survey. In many cases, it appears partial and duplicative responses were created when respondents started the survey only to log off to research the data needed to complete the survey. In logging back on to the survey, a new survey response was initiated.

² "Supplemental Guidelines for Sex Offender Registration and Notification." Federal Register. 14 May 2010: 2010-11665. Available from: www.thefederalregister.com/d.p/2010-05-14-2010-11665. Accessed 18 August 2010.

Presumably, in some cases, the complexity of the questions was too great and local officials did not log back on to complete the survey after they saw how difficult it would be to answer those questions. For those who were able to respond, there were two main difficulties. First, many, if not most, local law enforcement agencies do not keep records with the level of detail required to answer some of the questions or their record systems are not designed for easy retrieval of the data needed.

Second, the survey asked local officials to predict how their agencies would be impacted by state laws which have not been drafted, much less enacted. This required a certain amount of creative estimation on their part. It is likely that some will have estimated too high while others will have estimated too low. Given the number of responses, however, it seems reasonable that the high and low estimates should balance out overall.

The remainder of this report will focus on the 75 usable responses only unless otherwise stated.

Survey Results

Survey responses were received from 42 cities and 23 counties. In addition, another 10 responses were received from agencies representing multiple jurisdictions. In some cases, one law enforcement agency, either a county or a municipality, may be responsible for registering sex offenders for areas outside of their normal jurisdiction. For example, in a rural area, the county sheriff may assume responsibility for registering sex offenders who reside in some of the small towns within the county. Alternately, a larger municipality may assume responsibility for registering sex offenders who reside in some of the surrounding towns or suburbs, or in the unincorporated areas of the county.

The following questions asked on the survey are shown with a summary of the responses by type of local government. Note that there is no overlap. If a county responded for itself, then the data does not include any incorporated areas of that county. Similarly, if a municipality responded for itself, then the data does not include the unincorporated areas of the county or counties in which that city is found. If a local government reported for multiple jurisdictions, then there was no report for the individual municipalities or counties that made up that group.

Numbers in parentheses indicate how many responses were received on the particular question from that type of local government.

1. What is the total number of sex offenders currently registered in your jurisdiction?

Cities (42)	Counties (22)	Multiple (9)
1,526	1,600	384

2. In calendar year 2009, how many sex offenders registered with your department?

Cities (39)	Counties (23)	Multiple (9)
974	1,789	319

The City of Port Arthur (population 56,694) noted that records are not kept that would enable them to provide the total number of registrations for the calendar year.

3. How many verifications did your department perform in calendar year 2009?

Cities	Counties	Multiple	Required Frequency
1,239 (38)	1,163 (22)	328 (10)	Annual verifications?
276 (32)	350 (21)	82 (9)	90 day verifications?
10 (26)	20 (19)	0 (9)	30 day verifications?

4. How many additional in-person appearances did your department handle for change in address, change in employment, or exit registrations (leaving jurisdiction)? Do not include visits for registration or verification that were counted in the two previous questions on this page.

Cities (37)	Counties (21)	Multiple (10)
799.5	1,204	220

5. How many of the registered sex offenders that are currently residing in your jurisdiction have a post ten year registration?

Cities (39)	Counties (22)	Multiple (9)
269	232	36

6. How many of the registered sex offenders that are currently residing in your jurisdiction have a lifetime registration?

Cities (38)	Counties (22)	Multiple (9)
1,206	1,139	345

7. How many of the currently registered sex offenders in your jurisdiction have been convicted of what SORNA calls Tier 3 offenses?

Cities (37)	Counties (21)	Multiple (9)
347	762	187

The City of Granbury (population 8,872) noted that they have an offender convicted of online solicitation (one of the 13 offenders currently registered in the city). They were unable to determine into which Tier to place this individual. Granbury noted that they also have offenders that move back and forth from the city to the county. This may make it appear that there are more offenders by increasing the number of verifications reported for a calendar year since the offenders must register their new address with each move. However, each of these verifications occurs at a cost to the city.

Comal County noted that they did not attempt to categorize their registered sex offenders by the SORNA Tiers.

8. How many of the currently registered sex offenders in your jurisdiction have been convicted of what SORNA calls Tier 2 offenses? Do not include anyone counted in the previous question for conviction of a Tier 3 offense.

Cities (35)	Counties (20)	Multiple (10)
155	187	214

See the notes under question 7.

9. How many of the currently registered sex offenders in your jurisdiction have been convicted of what SORNA calls Tier 1 offenses? Do not include anyone counted in the two previous questions for conviction of a Tier 2 or a Tier 3 offense.

Cities (35)	Counties (21)	Multiple (10)
348	174	21

See the notes under question 7.

10. How many Full-Time Equivalents (FTEs) work on sex offender registrations and verifications in your department? Full-time equivalent (FTE) is a way to measure total employee involvement. An FTE of 1.0 means that the person is equivalent to a full-time worker. An FTE of 1.0 can also indicate that you have two half-time employees who together add up to one FTE or, alternately, that two full-time employees each spend half their time working on registrations and verifications. An FTE of 0.5 signals the equivalent of a single half-time employee assigned to these tasks.

Cities (39)	Counties (21)	Multiple (10)
36.9625	17.95	7.81

This question attempted to determine the total amount of manpower dedicated to sex offender registration and verifications for the responding law enforcement agencies. Although instructions were provided to explain the concept of an FTE, the instructions did not always prove adequate.

The City of Seagoville (population 12,319) reported 3 FTEs, but in a comment noted that they “have so few offenders this does not take very much time out of their normal duties as records clerks.”

Galveston County noted that they had changed from 0.5 FTE in 2009 to 1.0 FTE in 2010, although at a lower salary.

Grimes County entered “0” in response to this question, but noted that they use one investigator to maintain the sex offender case load and that approximately 20 percent of that individual’s workload is devoted to this effort.

11. What was the total Fiscal Year 2009 cost for registration and verification of sex offenders in your jurisdiction?

Cities	Counties	Multiple	Cost Category
\$842,950 (34)	\$585,568 (18)	\$223,205 (8)	Salaries and benefits
\$88,041 (29)	\$25,425 (16)	\$25,400 (6)	Other costs
\$930,991	\$610,993	\$248,605	Total

Respondents were not asked for the total. Total cost was calculated from their responses by adding the costs from each category.

One city, Paris, noted that they combined their total costs of \$42,300 which were reported as salaries and benefits rather than in separate categories.

12. SORNA requires all offenders to register, and maintain their registration as required, in the jurisdictions where they live, work, and/or attend school. This may require some offenders to register in multiple jurisdictions. In addition, some offenders who are not currently required to register will have to under SORNA. This includes individuals who are no longer required to register under current Texas law as well as those who may be convicted under new laws required to implement SORNA. Please provide an estimate, if you are able, of the number of additional registrations you anticipate per year under SORNA.

Cities (21)	Counties (14)	Multiple (6)
183	2,322	68

The City of West Orange (population 3,716) noted, "Our community has many transient employees, we have numerous chemical and industrial plants as well as a large commercial base (Super Wal-Mart, etc.). There is no way to estimate the hundreds of possible registrants out of this SORNA requirement."

Hays County explained their estimate of 230 additional registrations by stating that most of the sex offenders will have to register two times per year instead of once. This adds 180 registrations; come back adds 0-15, new registrations 20-25, and not currently registered 8-10. They further noted that there "will be a huge movement of SOR when this takes place and keep in mind none of this includes the mandatory compliance checks."

The Harris County group, one of the previously mentioned "multiple jurisdictions" which includes the City of El Lago and the City of Taylor Lake Village, noted difficulty in providing an estimate since "the sample group size [is] insufficient to predict future trends."

In addition to the previously noted comments, Taylor County (population 127,683) noted, "So much attention is placed on Sex Offender compliance, however, little to none is placed on monitoring and or home visits. I believe a 'Proactive' measure of compliance monitoring would be so much more effective. There needs to be a National standard for offenders to follow and for Law Enforcement too."

The Childress County Sheriff, who responded for both the county and the City of Childress, noted that he is the only person who registers sex offenders in those jurisdictions.

Calculations

Estimating the Number of Additional Verifications

Estimating additional verifications under SORNA is a bit more complicated. Questions 7, 8 and 9 asked for an estimate of how many currently registered offenders would fall into the three tiers or categories under SORNA. Responses accounted for 2,395 of the 3,510 sex offenders currently registered in the responding jurisdictions (see question 1). That leaves 1,115 sex offenders not counted in the responses to these three questions.

In responding to question 3, local officials noted that 2,730 currently registered offenders required annual verifications in 2009. Another 708 require 90 day verifications (four per year) and only 30 require verifications every 30 days (12 per year). That indicates a total of 5,922 verifications per year by the respondents based on the following calculation.

$$\begin{array}{rcl}
 2,730 \times 1 & = & 2,730 \text{ verifications per year} \\
 708 \times 4 & = & 2,832 \text{ verifications per year} \\
 30 \times 12 & = & \underline{360 \text{ verifications per year}} \\
 & & 5,922 \text{ verifications per year}
 \end{array}$$

Based on the responses to questions 7, 8 and 9, those same offenders would have required 7,079 registrations for Tier 1, 2 and 3 offenders if SORNA had been in effect during 2009 per the following calculation.

$$\begin{array}{rcl}
 543 \times 1 & = & 543 \text{ verifications per year} \\
 556 \times 2 & = & 1,112 \text{ verifications per year} \\
 1,266 \times 4 & = & 5,064 \text{ verifications per year} \\
 30 \times 12 & = & \underline{360 \text{ verifications per year}} \\
 & & 7,079 \text{ verifications per year}
 \end{array}$$

The above calculation assumes that requirements would not be reduced under SORNA. For example, offenders that had to have verifications every 30 days would continue to have the same requirement. It also assumes that there would be no need for any of the registered sex offenders to register in additional jurisdictions (if one lived in one jurisdiction but worked or went to school in another, for example). The calculations also fail to account for the 1,115 registered sex offenders whom the respondents were unable to classify in any of the three tiers.

These two calculations indicate 1,157 additional verifications ($7,079 - 5,922$) would have been required under SORNA for those offenders the respondents were able to classify, a 19.5 percent increase. This number (1,157) is significantly less than the number of additional verifications the respondents estimated would be required under SORNA (2,573). However, the calculated

number (1,157) does not include any additional offenders. Under SORNA certain offences will require offenders, who are not currently required to register as a sex offender, to register under SORNA.

Nor do the calculations address the additional verifications that would be required for the 1,115 offenders the respondents were unable to classify. It is difficult to estimate how many more verifications would be required for this group given that we don't know how many verifications were required in 2009. Thus, while we can estimate that at least 1,157 additional verifications would be required, it is not possible to estimate the total number of additional verifications that would be required under SORNA. This is not, however, a show stopper since costs can be estimated.

Estimating Additional Salary and Benefits

Manpower assigned to handle the registration and verifications of sex offenders turned out to be lower than anticipated for FY 2009. For the 3,510 sex offenders registered in the jurisdictions of the 75 respondents (see question 1), there were reportedly only 62.7225 full-time equivalents assigned (see question 10) earning \$1,651,722 in salaries and benefits (see question 11). That indicates that, on average, one FTE is required for each 55.96 sex offenders at a cost to local law enforcement of \$26,333.81 per year in salaries and benefits.

A simple method to estimate statewide costs to local governments for registering sex offenders under current law would be to assume that the number of sex offenders per FTE from the survey respondents, and the cost in salaries and benefits for that FTE, is consistent with the non-responding local governments. Then, the total number of sex offenders currently registered in Texas (40,219 as of September 22, 2010) could be divided by 55.96 to determine a total of 718.7 FTEs needed statewide. Multiplying that number by the average cost per FTE of \$26,333.81 results in estimated statewide salaries and benefits of \$18,926,109 for FY 2009.

Estimating Total Additional Costs

Total costs of \$1,790,588 were reported by all respondents for registration and verification of sex offenders in FY2009 (see question 11). In that period the respondents performed 3,468 verifications (see question 3). That is \$516.32 per verification on average.

On question 12, the respondents estimated SORNA could add an additional 2,573 verifications, a 74.2% increase. At \$516.32 per verification, additional costs to local governments that responded to the survey would be \$1,328,484 annually for the respondents (not adjusting for inflation and other cost drivers).

An estimated 74.2% increase statewide would require the addition of 533.3 FTEs (718.7 FTEs X 0.742). Those additional FTEs would require salaries and benefits of \$14,043,821 in FY 2009

dollars (not adjusted for inflation). Note that this estimate of \$14 million per year is for additional salaries and benefits only. Total additional costs would be even higher.

Some law enforcement agencies would be able to achieve economies of scale which would tend to lower this rough estimate. However, the estimate does not allow for other factors which might increase the cost such as inflation. Additional record keeping and other requirements mandated by the as yet unwritten bills could also increase the amount of local resources needed to meet the standards set by SORNA.

Conclusion

The Texas Municipal League and the Texas Association of Counties were able to collect sex offender registration data from a variety of local cities and counties. Based on the 75 responses, TAC and TML estimate that implementing SORNA would cost those specific cities and counties an additional \$1.3 million per year in nominal dollars (not adjusted for inflation). A simple extrapolation based on the number of sex offenders currently registered, indicates that, statewide, cities and counties would be hit with an additional \$14 million per year in costs for registering sex offenders.

Alternatively, the Austin Police Department (APD) prepared a cost of compliance report which estimates 137 percent cost increase for staffing due to SORNA. Based on the costs collected in question 11 of the TAC/TML survey, a 137 percent increase would cost the responding counties a little over \$2.6 million in additional staffing only. An estimate of the additional statewide staffing cost can be made by multiplying the additional cost by the number of registered sex offenders statewide and then dividing by the number of sex offenders registered in the jurisdictions that responded to our survey. That calculation results in a statewide estimate of \$25.9 million for additional staffing in cities and counties.

This second estimate is significantly higher than the first estimate of \$14 million for total additional costs. The difference points to the complexity of attempting to determine future costs due to implementation of bills which have yet to be drafted and to extrapolate statewide costs from a very small sample – the APD study is based on only one city after all. It is actually quite encouraging that the two estimates are not further apart and lends confidence in the accuracy of the \$14 million statewide estimate despite the number of assumptions used in its calculation.