
CRIMINAL LAW & PROCEDURE

THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT (SORNA)

An Exchange Between John Malcolm and Professors Jill Levenson and Andrew Harris***

The Sex Offender Registration and Notification Act: A Sensible and Workable Law that Helps Keep Us Safe

*By John G. Malcolm**

I. WHY WE NEED THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

On December 23, 2009, 11-year-old Sarah Haley Foxwell was snatched by a nighttime intruder from her home in Wicomico County, Maryland. That intruder was Thomas Leggs, Jr., a convicted sex offender. After brutally raping her, Leggs murdered Foxwell and deposited her burned and lifeless body in a field near the Maryland–Delaware border, where it was found on Christmas Day.¹ Leggs, who was ultimately convicted of this heinous offense, was able to avoid scrutiny in Maryland because, although listed in Delaware’s registry as a “high-risk” sex offender, Leggs was deemed to be “compliant” in Maryland. While it is impossible to say with any certainty, this tragic result might have been avoided had Maryland been in compliance with the Sex Offender Registration and Notification Act, which, despite strong public support, remains controversial.

II. BACKGROUND OF THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

In 1994, Congress passed the Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act (“Wetterling”), which required states, the District of Columbia, and the principle territories to create sex offender registries containing information about convicted sex offenders for use by law enforcement. This act was created because of public outcry in response to a series of kidnappings and sexual assaults of minors, including 11-year-old Jacob Wetterling, a crime with remains unsolved.² The act required convicted sex offenders to register their addresses with local law enforcement agencies upon the completion of their custodial sentence in order to assist the authorities in monitoring offenders and apprehending known recidivists. Although Wetterling required states to establish sex offender websites, it left discretion to the states regarding which offenders to register, what information would be posted, and who could access the websites. This lack of guidance resulted in an inconsistent patchwork of state run sex offender databases that was not capable of tracking sex offenders across state lines.

In 1996, following the brutal rape and murder of 7-year-

old Megan Kanka by a neighbor with two prior convictions for sex offenses (a fact which was known to law enforcement but not by the community), Congress passed Megan’s Law, which required that states make their sex offender databases available to the public so that citizens could be aware of dangerous sexual predators near them and take appropriate measures to protect themselves.³ This law, however, did not solve the problem of inconsistency among state databases that limited their utility in tracking the movements of sex offenders.

In 2006, Congress passed The Adam Walsh Child Protection and Safety Act (AWA), named after 6-year-old Adam Walsh who was kidnapped in 1981 outside a department store in Hollywood, Florida. Weeks later, Adam’s severed head was found by some fishermen, and in 2008, 27 years after the crime was committed, an individual named Ottis Toole confessed to killing young Adam and at least five other victims.⁴ The boy’s father, John Walsh, the host of the then-popular television show “America’s Most Wanted,” was a strong proponent of the law and lobbied hard for its passage.

Title I of the AWA, the Sex Offender Registration and Notification Act (SORNA),⁵ created the first comprehensive national system of registration for sex offenders with certain uniform, minimum standards of data (twenty data requirements in total) that must be included (i.e., name, address, social security number, date of birth, photograph, place of employment, license plate number, etc.). It establishes a baseline of information that must be included, thereby giving jurisdictions some flexibility, within limits set forth in SORNA, to supplement that information with additional information to suit the needs of the citizens living in those jurisdictions.

This change was designed to create uniformity and to prevent “jurisdiction shopping,” a practice whereby sex offenders commit offenses in jurisdictions with more lenient requirements and take advantage of inconsistencies between registries to avoid detection and scrutiny.⁶ There are many reported examples of “jurisdiction shopping,”⁷ and tribal lands, which were not covered under Wetterling, had become safe havens for sexual predators.⁸ The system allows the public, through an Internet registry, “to obtain relevant information for each sex offender by a single query for any given zip code or geographic radius set by the user.”⁹

Among other things,¹⁰ the law separates sex offenders into three tiers based mainly on their crime of conviction and sometimes elevated by past criminal sexual convictions,¹¹ and establishes the frequency and length of time for which sex offenders in each tier must remain in the registration system.¹² SORNA also created a separate prosecutable offense for failure to comply with these registration requirements.¹³ Tier III offenders, deemed the most dangerous and most likely to recidivate, applies to those convicted of aggravated sexual assault, contact offenses against children younger than 13 years,¹⁴ kidnapping of minors (unless committed by a parent or guardian), and

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attempts or conspiracies associated with any of these offenses. Tier III offenders must provide quarterly, in-person reports to confirm or update their registration information for the rest of their lives.¹⁵ Tier II offenders are those convicted of sex trafficking, coercion and enticement, transportation with intent to engage in criminal sexual activity, abusive sexual conduct, use of a minor in a sexual performance, solicitation of a minor to practice prostitution, and production or distribution of child pornography. Tier II offenders must provide semi-annual, in-person reports for 25 years. Tier I is a catch-all, covering any other “sex offense” (as defined in 18 U.S.C. § 16911(5)) not covered by the higher tiers, such as possession of child pornography, most misdemeanors sex crimes, and minor sexual assaults against adults. Tier I offenders are those deemed the least dangerous and least likely to recidivate. They must provide annual, in-person updates of their whereabouts for 15 years. Both tier III juvenile sex offenders¹⁶ and tier I sex offenders can get their registration terms reduced by several years by fulfilling the “clean record” requirement of § 115(b) of SORNA. As a general matter, jurisdictions are only required to analyze the elements of a conviction and are not required to look behind the conviction to the underlying facts of the offense (unless there is an issue pertaining to the age of the victim) to determine which tier the sex offender’s conviction falls into.

The AWA also expanded the definition of “jurisdiction” beyond the states, the District of Columbia, and the five principal U.S. territories to include federally-recognized Indian Tribes. In order to comply with SORNA, virtually all of the covered jurisdictions needed to make some revisions to their existing registries and to their SORNA-related laws, and many had to make substantial revisions in order to meet these new federal requirements. States that don’t comply risk losing 10% of the funding that they receive under a program called the Byrne Justice Assistance Grant, although states that lose that funding can petition to get it back if they agree to apply it towards implementing the Act. Additionally, the federal government has provided many states, tribes, and territories with substantial grants to help cover the costs of implementation. Despite these “carrots and sticks,” to date, only forty-eight jurisdictions (fifteen states, two territories, and thirty-three tribes) have substantially implemented the requirements set forth in SORNA.¹⁷

III. SORNA IS NOT A SOLUTION IN SEARCH OF A PROBLEM, AS SOME CONTEND

Providing members of the public with information about the identities and residential locations of convicted sex offenders enables the public to avoid putting themselves in situations where they might be victimized. Heightened community awareness also increases the likelihood that the police will be notified promptly when something suspicious occurs, and notification lets the offender know that the community is watching. Notification may also reduce sex crimes that would otherwise have been committed by first-time or nonregistered sex offenders, because they are aware that their crimes and personal information about them will be made public if they are caught and convicted. Knowledge is power and parents who become aware of the presence of sex offenders in their neighborhood

can take steps to avoid these neighbors altogether (or make a special effort to get to know them better before having extensive contact with them) as well as the locations where they live and work. Parents can also assist their children by providing them with a list of sensible do’s-and-don’ts to stay safe, including information about people or places to avoid, and by accessing reliable websites or other resources with educational material on prevention or on what indicators to look for as a sign that a child may have been a victim of abuse.

Despite these clear benefits, there are those who contend that SORNA is a bad idea because it needlessly and unjustifiably causes panic. These critics point to a number of studies (but there is by no means a consensus) that suggest that, contrary to conventional wisdom, the recidivism rates for sex offenders are significantly lower than the recidivism rates for those who commit non-sex offenses, at least in the short term (1-5 years).¹⁸ However, even if this were true, people who commit property offenses and drug offenders cannot be compared with sex offenders in terms of the devastating and permanent psychological and physical damage that they cause to their victims (not to mention the great psychological harm that such offenses cause to the community), the fear that they engender in the public, and, at least with respect to child molesters, the vulnerability of their victims. Therefore, the fact that recidivism rates might be higher for these categories of offenders is of little import.

SORNA’s critics also argue that the negative collateral consequences caused by SORNA outweigh any advantages.¹⁹ To be sure, there are potential negative collateral consequences that might flow from the notification requirements in SORNA. Sex offenders whose presence becomes known because of SORNA can be subjected to general harassment or even vigilantism.²⁰ Public knowledge of an offender’s past can also make it extremely difficult for that individual to get a job and find a place to live, thereby making it more difficult for that person to reintegrate into society, which can lead to isolation and instability that some have hypothesized might increase the likelihood that such an individual might reoffend rather than become a productive member of the community.²¹ People who have served their debt to society deserve the chance to live in peace, so long as they remain law abiding.

While there are costs to be sure, the benefits of SORNA outweigh these costs, particularly since the argument that sex offenders have a low level of recidivism is subject to considerable doubt. Studies do not typically differentiate among classes of sex offenders,²² not all of whom are equally culpable or likely to re-offend, when analyzing recidivism rates. Further, while recidivism rates for sex offenders may be relatively low in the short-term, over the longer term (15 years or longer), most studies show that, while still below the rates for drug and property-related offenses, recidivism rates for sex offenders increase to levels (25% to 30% or more, according to some studies) that would and should certainly concern most people.²³

More alarmingly, there is strong reason to believe that recidivism rates among sex offenders are likely far higher than even these statistics would suggest. Recidivism rates focus exclusively upon sex offenders who are re-arrested or, in some cases, convicted; however, such statistics do not consider the well-established fact that sexual assaults are extremely underreported

post *more information* concerning registrants than SORNA and these Guidelines require.”³⁵ If a territory prefers empirical risk assessment analyses, believing them to be more useful to the public, that jurisdiction is free to supplement its public registry with findings from those studies, so long as it provides the baseline information mandated by SORNA and so long as the risk assessment is used only to increase a sex offender’s tier status and not to reduce his or her status.

V. SORNA IS A WORKABLE AND EFFECTIVE WAY OF ADDRESSING A REAL PROBLEM

Will SORNA stop all sexual predators from re-offending? Of course not. Many, if not most, sexual predators are immune to increased scrutiny and societal opprobrium as constraints on their behavior. To be sure, there are difficulties with SORNA that merit further study; SORNA’s offense-based classifications are not perfect and may, as its critics charge, obscure some important distinctions among offenders that are germane to the continuing risks they pose. However, despite its imperfections, SORNA is a practical, workable, and effective piece of legislation that assists law enforcement and the general public alike who desire to keep themselves and their children safe from dangerous sexual predators such as Ottis Toole and Thomas Leggs.

Sir Winston Churchill once stated that “it has been said that democracy is the worst form of government except all the others that have been tried.” Perhaps the same might be said of the objective, tier-based classification system set forth in SORNA. There may come a time when additional research will warrant further refinements to SORNA’s registration and notification process which will make sex offender registries more useful to the public and to law enforcement while still being workable, consistent, and uniform. That day has not yet arrived, and SORNA in its present form still serves a useful purpose when it comes to aiding law enforcement and providing the public with useful information that it can use to protect itself.

Endnotes

- 1 *Missing Child: Sarah Haley Foxwell Found Dead on Christmas Day, Sex Offender in Custody*, THE EXAMINER, Dec. 27, 2009, <http://www.examiner.com/amber-alerts-in-national/missing-child-sarah-haley-foxwell-found-dead-on-christmas-day-sex-offender-custody-video>.
- 2 John Wetenhall, *Investigators Dig For New Evidence in Wetterling Case*, CBS, July 2, 2012, <http://abcnews.go.com/US/investigators-dig-evidence-wetterling-case-mom-hopeful/story?id=11075883#.UDxoUaM0Tt8>.
- 3 Glaberson, W., *Stranger on the Block — A Special Report; At Center of Megan’s Law Case, a Man No One Could Reach*, N.Y. TIMES, May 28, 1996, available at <http://www.nytimes.com/1996/05/28/nyregion/stranger-block-special-report-center-megan-s-law-case-man-no-one-could-reach.html>.
- 4 Associated Press, *Ottis Toole: Adam Walsh’s Killer*, HUFF. POST, Dec 16 2008, available at <http://www.huffingtonpost.com/2008/12/16/adam-walsh-killer-to-be-in151464.html>; John Holland, *Adam Walsh case is closed after 27 years*, L.A. TIMES, DECEMBER 17, 2008, [HTTP://ARTICLES.LATIMES.COM/2008/DEC/17/NA-TION/NA-ADAM17](http://ARTICLES.LATIMES.COM/2008/DEC/17/NA-TION/NA-ADAM17).
- 5 Codified at 42 U.S.C. § 16901, *et seq.*

6 Christina Horst, *The 2006 Sex Offender Registration and Notification Act: What Does It Mean for Your Law Enforcement Agency?*, THE POLICE CHIEF: PROFESSIONAL VOICE OF LAW ENFORCEMENT, Nov. 2007, available at http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1317&issue_id=112007.

7 Matt Stout, *Brockton Sex Offender Arrested in Arkansas*, ENTERPRISE NEWS, Feb. 16, 2011, http://www.enterpriseneews.com/news/cops_and_courts/x1992209794/Brockton-sex-offender-arrested-in-Arkansas#axzz1G1eCWSxX; Bob Gibbins, *Task Force Snares Sex Offender*, TAHLEQUAH DAILY PRESS, Mar. 7, 2011, <http://tahlequahdailypress.com/local/x814629177/Task-force-snares-sex-offender>; Bob Gibbins, *Suspected Sex Offender Arrested in Yerington*, NBC My News 4, Mar. 2, 2011, <http://www.mynews4.com/story.php?id=38736&n=122>; Cara Liu, *Marshals: Sex Offender Arrested Failed To Register*, KPHO CBS 5 News, Mar. 3, 2011, <http://www.kpho.com/news/27060536/detail.html>.

US Marshals Track Down Wanted Sex Offender, ASSOCIATED PRESS, Feb. 12, 2011, <http://www.newswest9.com/Global/story.asp?S=14018296>; Ganosellis, E., *Massachusetts Fugitive Arrested in Fort Myers*, News Press, Feb. 9, 2011, <http://www.newspress.com/article/20110209/CRIME/110209032/Massachusetts-fugitive-arrested-Fort-Myers?odyssey=tab%7Ctopnews%7Ctext%7CHome>; *Convicted Sex Offender Lived Near School*, THE DAILY NEWS J., Feb. 17, 2011, <http://www.dnj.com/article/20110217/NEWS06/110217005/1093/POLICE++Convicted+sex+offender+lived+near+school>; Migdail-Smith, L., *Transients Law Aids Officials in Arrest of Man Wanted on Child-Rape Charges*, PATRIOT NEWS, Feb. 8, 2011, http://www.pennlive.com/midstate/index.ssf/2011/02/transients_law_yields_child-ra.html; *Out-Of-State Sex Offender Accused in Rape of Girl, 12*, WBNS-10TV, Nov. 24, 2010, <http://www.10tv.com/live/content/local/stories/2010/11/24/story-columbus-out-of-state-sex-offender-arrested-park-rape.html?sid=102>.

8 See, e.g., Suzaianne D. Painter-Thorne, *Tangled Up in Knots: How Continued Federal Jurisdiction over Sexual Predators on Indian Reservations Hobbles Effective Law Enforcement to the Detriment of Indian Women*, 41 N.M. L. REV. 239 (2011).

9 42 U.S.C. § 16918(a) (2011).

10 The AWA also enlarged the kidnapping statute, increases the number of federal capital offenses; enhanced the mandatory minimum terms of imprisonment and other penalties that attend various federal sex offenses; expanded the number of sex offenses that must be captured by registration jurisdictions to include all state, territory, tribal, federal, and Uniform Code of Military Justice sex offense convictions, as well as certain foreign convictions; established a civil commitment procedure for sex offenders deemed to be dangerous; authorized random searches as a condition for sex offender probation and supervised release; outlawed Internet trafficking of so-called date drugs; permitted the victims of state crimes to participate in related federal habeas corpus proceedings; and, eliminated the statute of limitations for certain sex offenses and crimes committed against children.

11 The definitions of tier I, tier II, and tier III sex offenders are set forth in 42 U.S.C. §§ 16911(2), (3) & (4), respectively.

12 42 U.S.C. § 16915 (2011).

13 18 U.S.C. § 2250 (2011).

14 Situations in which “the victim was at least 13 years old and the offender was not more than 4 years older than the victim” are specifically excluded from the definition of a sex offense under SORNA so as not to require registration. 42 U.S.C. § 16911(5)(C) (2011).

15 The time frames for in person verifications for offenders are set forth in

42 U.S.C. § 16916 (2011).

16 Great controversy surrounded the requirement of juveniles being required to publically register under SORNA. Initially, juveniles 14 years of age or older at the time of offense were required to register under SORNA only if they were adjudicated delinquent, tried as an adult, and if the offense they committed (or attempted or conspired to commit) would be classified as a tier III offense. However, in 2011, the Department of Justice stated that “the Attorney General has exercised his authority in these supplemental guidelines to provide that jurisdictions need not publicly disclose information concerning persons required to register on the basis of juvenile delinquency adjudications.” Supplemental Guidelines for Sex Offender Registration and Notification, 76 Fed. Reg. 1630, 1632 (Jan. 11, 2011).

17 U.S. DEP’T OF JUSTICE, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, Jurisdictions that that substantially implemented SORNA, http://www.ojp.usdoj.gov/smart/newsroom/jurisdictions_sorna.htm (last visited on September 5, 2012).

18 See, e.g., RICHARD TEWKSBURY ET AL, FINAL REPORT ON SEX OFFENDERS: RECIDIVISM AND COLLATERAL CONSEQUENCES (2011) (and studies cited therein), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/238060.pdf>; IVAN KUZYK, RECIDIVISM AMONG SEX OFFENDERS IN CONNECTICUT, OFFICE OF POLICY AND MANAGEMENT, CRIMINAL JUSTICE POLICY & PLANNING DIVISION (2012), available at http://www.ct.gov/bopp/lib/bopp/sex_offender_recidivism_2012_final.pdf. But see STEPHEN BRAKE, RECIDIVISM AND REOFFENSE RATES OF ADULT SEX OFFENDERS (revised in 2011), available at <http://www.stephenbrakeassociates.com/Recid.pdf> (and studies cited therein); 2011 ADULT INSTITUTIONS OUTCOME EVALUATION REPORT, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Tables 8.2 & 9 (2011) (showing three-year recidivism rates for the following categories of sex offenders: 46.5% for “lewd act with child”; 50.5% for “sexual penetration with object”; 51.5% for “rape”; 58.7% for “oral copulation”; 71.5% for “other sex offenses” which would include unlawful sex with a minor).

19 See, e.g., Brittany Ennis, *Quickly Assuaging Public Fear: How the Well-Intended Adam Walsh Act Led to Unintended Consequences*, 2008 UTAH L. REV. 697, 717 (2008).

20 See, e.g., Jon Nordheimer, ‘Vigilante’ Attack in New Jersey Is Linked to Sex-Offenders Law, N.Y. TIMES, Jan. 11, 1995, <http://www.nytimes.com/1995/01/11/nyregion/vigilante-attack-in-new-jersey-is-linked-to-sex-offenders-law.html>; <http://www.foxnews.com/us/2012/06/05/washington-man-accused-killing-sex-offenders-allegedly-leaves-note-it-had-to-be/>. SORNA attempts to ameliorate this risk, however, by providing that sex offender registry websites must include a warning that the information contained on the site “should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry” and that “such action could result in civil or criminal penalties.” 42 U.S.C. § 16917(f) (2011).

21 See, e.g., R.E. Freeman-Longo, Feel good legislation: Prevention or calamity, 20 CHILD ABUSE & NEGLECT 95–101 (1996); R. Prentky, *Community Notification & Constructive Risk Reduction*, Association for the Treatment of Sexual Abusers Newsletter, at 9-10 (1996); Edwards, W. & Hensley, C., Contextualizing sex offender management legislation and policy: Evaluating the problem of latent consequences in community notification laws, 45 INT’L J. OF OFFENDER THERAPY & COMP. CRIMINOLOGY 83–101 (2001); Presser, L. & Gunnison E., *Strange bedfellows: Is Sex Offender Notification a Form of Community Justice?*, 45 CRIME & DELINQUENCY 299–316 (1999). Further, many states impose additional restrictions on where convicted sex offenders can live, often prohibit-

ing residency within a designated distance from schools, playgrounds, daycare centers, and other similar facilities where children are likely to congregate. See, e.g., *Fine-Tuning Megan’s Law*, N.Y. TIMES, July 30, 2008, http://www.nytimes.com/2008/07/30/opinion/30wed3.html?_r=1&ref=megankanka. It is worth noting, however, that, even in the absence of SORNA, sex offenders would likely be called upon to disclose their convictions when completing rental agreements, job or mortgage applications, or any of an assortment of documents that require disclosure of such information.

22 Sex offenders constitute a large group of people that include, of course, rapists and child molesters, but also include exhibitionists, voyeurs, pimps, prostitutes, those who patronize prostitutes, and those who distribute obscene material, and those who possess or distribute child pornography.

23 See BRAKE, *supra* note 18 (and studies cited therein).

24 See, e.g., SHANNAN M. CATALANO, CRIMINAL VICTIMIZATION, BUREAU OF JUSTICE STATISTICS (2006) (suggesting that less than 39% of all rapes and sexual assaults are reported to law enforcement); U.S. DEPARTMENT OF JUSTICE 2005 NATIONAL CRIME VICTIMIZATION STUDY (estimating that 60% of rapes go unreported); Mary P. Koss et al., *The Scope of Rape: Incidence and Prevalence of Sexual Aggression and Victimization in a National Sample of Higher Education Students*, 55 J. OF CONSULTING & CLINICAL PSYCHOL. 162–170 (1987); BRAKE, *supra* note 18 (and studies cited therein).

25 See, e.g., Gene Abel et al, *Self-reported Sex Crimes of Nonincarcerated Paraphiliacs*, 2 J. OF INTERPERSONAL VIOLENCE 3–25 (1987); Judith Becker et al, *Multiple Paraphilic Diagnoses Among Sex Offenders*, 15 BULLETIN OF THE AM. ACAD. OF PSYCHIATRY & L. 153–168 (1988); Ahlmeyer et al, *The Impact of Polygraphy on Admissions of Victims and Offenses in Adult Sexual Offenders*, 12 SEXUAL ABUSE 123–138 (2000); English et al, *Sexual Offender Containment: Use of the Postconviction Polygraph*, in PRENTKY, SEXUALLY COERCIVE BEHAVIOR: UNDERSTANDING AND MANAGEMENT (Janus & Seto eds., 2003); Emerick & Dutton, *The Effect of Polygraphy on the Self-report of Adolescent Sex Offenders: Implications for risk assessment*, 6 ANNALS OF SEX RESEARCH 84–103 (1993); Heil et al, *Crossover Sexual Offenses*, 15 SEXUAL ABUSE 221–236 (2003); Weinfott & Saylor, *Self-report of Crimes Committed by Sex Offenders*, 6 J. OF INTERPERSONAL VIOLENCE 286–300 (1991); Cunningham-Rathner et al., *Self-reported Sex Crimes of Non-incarcerated Paraphiliacs*, 2 J. OF INTERPERSONAL VIOLENCE 3–25 (1987); Baker et al., *Calculating Number of Offenses and Victims of Juvenile Sexual Offending: The Role of Post-Treatment Disclosures*, 13 SEXUAL ABUSE 79–90 (2001); Groth et al., *Undetected Recidivism Among Rapists and Child Molesters*, 23 CRIME AND DELINQUENCY 450–458 (1982); Weinfott & Saylor, *Self-report of Crimes Committed by Sex Offenders*, 6 J. OF INTERPERSONAL VIOLENCE 286–300 (1991); Zolondek et al., *The Self-reported Behaviors of Juvenile Sexual Offenders*, 16 J. OF INTERPERSONAL VIOLENCE 73–85 (2001).

26 Lisak & Miller, *Repeat Rape and Multiple Offending Among Undetected Rapists*, 17 VIOLENCE AND VICTIMS 73–84 (2002).

27 See, e.g., Sher, J. & Carey, B., *Debate on Child Pornography’s Link to Molesting*, N.Y. TIMES, July 19, 2007 (reporting on a study of 155 male inmates from the Federal Correctional Institute in Butner, N.C. who were convicted of molesting 75 identified victims but who admitted to molesting a total of 1,777 victims), available at <http://www.nytimes.com/2007/07/19/us/19sex.html?pagewanted=all>; BRAKE, *supra* note 18.

28 See R.W. Wollert, *Low Base Rates Limit Expert Certainty When Current Actuarial Tests are Used to Identify Sexually Violent Predators: An Application of Bayes’ Theorem*, 12 PSYCHOL. PUB. POL’Y, & L. 56 (2006); STATE OF CONNECTICUT OFFICE OF POLICY AND MANAGEMENT CRIMINAL JUSTICE POLICY & PLANNING DIVISION, RECIDIVISM AMONG SEX OFFENDERS IN

CONNECTICUT STATE (2012); Tewksbury & Levenson, *When Evidence is ignored*, 69 CORRECTIONS TODAY 54–57; J.P. Fedoroff & B. Moran, *Myths and Misconceptions about Sex Offenders*, 6 CANADIAN J. OF HUM. SEXUALITY 263–276 (1997); A.J. Harris et al., *Widening The Net: The Effects of Transitioning to the Adam Walsh Act’s Federally Mandated Sex Offender Classification System*, 37 CRIM. JUST. & BEHAV. (2010); Ackerman et al., *Who Are the People in Your Neighborhood? A Descriptive Analysis of Individuals on Public Sex Offender Registries*, 34 INT’L J. OF L. & PSYCHIATRY 149–159 (2011).

29 Cully Stimson, *Defunding the Fight Against Sexual Predators*, THE HERITAGE FOUNDATION BLOG, March 5, 2009 <http://blog.heritage.org/2009/03/05/defunding-the-fight-against-sexual-predators/>. See also Wollert, *supra* note 28.

30 See Hanson et al, *Sex Offender Recidivism Risk*, in 989 ANNALS OF THE N.Y. ACAD. OF SCI.: SEXUALLY COERCIVE BEHAVIOR 154–166 (Prentky et al. eds., 2003); George Dix, *Differential processing of abnormal sex offenders: Utilization of California’s Mentally Disordered Sex Offender Program*, 67 J. OF CRIM. L. AND CRIMINOLOGY 233–243 (1976); Hall, *Criminal behavior as a function of clinical and actuarial variables in a sex offender population*, 56 J. OF CONSULTING AND CLINICAL PSYCHOL. 773–775 (1988); Kahn & Chambers, *Assessing Reoffense Risk with Juvenile Sex Offenders*, 70 CHILD WELFARE 333–345 (1991); Smith & Monastersky, *Assessing juvenile sexual offenders’ risk for reoffending*, 13 CRIM. JUST. & BEHAV. 115–140 (1986); Sturgeon & Taylor, *Report of a Five-year Follow-up Study of Mentally Disordered Sex Offenders Released from Atascadero State Hospital in 1973*, 4 CRIM. JUST. J. 31–63 (1980).

31 Harris & Rice, *Actuarial Assessment of Risk Among Sex Offenders*, in 989 ANNALS OF THE N.Y. ACAD. OF SCI. 198, 207 (Prentky et al. eds., 2003).

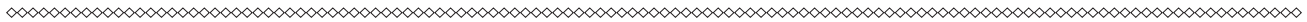
32 WILLIAM SHAKESPEARE, THE TEMPEST act 2, sc. 1.

33 See, e.g., Prescott, J.J. & Rockoff, J.E., *Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?* (National Bureau of Economic Research Working Paper No. 13803) (2008), available at <http://www.nber.org/papers/w13803.pdf>; Shao, L., & Li, J., *The Effect of Sex Offender Registration Laws on Rape Victimization*, Unpublished manuscript, University of Alabama (2006); DRAKE, & AOS, WASH. STATE INST. FOR PUB.POL’Y, DOES SEX OFFENDER REGISTRATION AND NOTIFICATION REDUCE CRIME? A SYSTEMATIC REVIEW OF THE RESEARCH LITERATURE (Document No. 09-06-1101) (2009); Duwe, G. & Donnan, W., *The Impact of Megan’s Law on Sex Offender Recidivism: The Minnesota Experience*, 46 CRIMINOLOGY 411–446 (2008); R. BARNOSKI, WASH. STATE INST. FOR PUB.POL’Y, SEX OFFENDER SENTENCING IN WASHINGTON STATE. HAS COMMUNITY NOTIFICATION REDUCED RECIDIVISM? (Document No. 05-12-1202) (2005), available at <http://www.wsipp.wa.gov/rptfiles/05-12-1202.pdf>.

34 U.S. DEP’T OF JUST., *The National Guidelines for Sex Offender Registration and Notification*, at 6, available at http://www.ojp.usdoj.gov/smart/pdfs/final_sornaguidelines.pdf.

35 *Id.* at 7 (emphasis added).





SORNA:

Good Intentions, Flawed Policy, and Proposed Reform

*by Jill Levenson & Andrew J. Harris***

I. SORNA: GOOD INTENTIONS

Sexual victimization is a profound societal issue that often goes unreported to authorities and can leave a legacy of far-reaching effects for victims, families, and communities. Though rarely publicly discussed until the 1980s, sexual abuse has emerged over recent decades as an important social problem requiring inter-disciplinary attention. Law enforcement and child protection initiatives to investigate allegations and bring perpetrators to justice have improved our response to sexual abuse, giving voices to victims and reinforcing that such crimes will not be tolerated.

One prominent feature of our society’s response to sexual violence has been the creation of sex offender registries. Although systems of sex offender registration and notification began as state initiatives and still operate independently at the state level, they have been subject to increasing federal oversight and involvement. The Jacob Wetterling Act of 1994 represented the first national mandate for states to develop sex offender registries, and was amended several times over the next decade, including the 1996 passage of Megan’s Law requiring states to provide public access to registration information. In 2006, The Adam Walsh Child Protection and Safety Act (AWA) introduced a comprehensive new set of federal mandates, ostensibly in an effort to establish greater uniformity and standardization across states. In contrast with most prior federal legislation, which granted states a fair degree of latitude in how to implement their registries, Title I of the AWA, the Sex Offender Registration and Notification Act (SORNA), set forth a wide array of requirements governing the structure and operation of sex offender registries for states, U.S. territories, and tribal nations. In passing SORNA, Congress invoked its spending authority as a means of compelling jurisdictional compliance—the law provided for a 10% reduction in federal Justice Assistance Grant (JAG) funding for jurisdictions not compliant with SORNA mandates.

Despite this potential funding reduction, however, the majority of covered jurisdictions have been unable or unwilling to bring their systems into SORNA compliance. As of the July 2011 compliance deadline, a total of 38 jurisdictions—fifteen states, twenty one tribal jurisdictions, and two U.S. territories—had been deemed by the U.S. Department of Justice to have substantially implemented SORNA’s provisions. Pennsylvania recently became the 16th state to comply. Notably, while two of the compliant states (Florida and Michigan) are among five largest sex offender registries in the country—the

remaining three states in that group (California, Texas, and New York—which together account for nearly one third of the nation’s registered sex offenders) have affirmatively repudiated SORNA’s mandate, suggesting that they view SORNA as a step backwards from their existing systems.

While the Department of Justice, through its Office of Sex Offender Sentencing, Monitoring, Apprehension, Registration, and Tracking (SMART), has worked diligently with covered jurisdictions to help expand the ranks of SORNA states, their work remains constrained by a federal law that is deeply in need of revision. Implementation barriers are diverse and complex, with jurisdictions identifying a range of legal, fiscal, and practical concerns and remaining wary of the law’s unintended public safety impacts. This commentary delineates the shortcomings that have plagued the law since its inception, and sets forth recommendations for a more effective and responsive federal policy governing sex offender registration and notification.

II. A CONSENSUS DOES EXIST

As the story of SORNA has unfolded, the debate over its future has often taken on an acrimonious and polarizing tone. SORNA’s most ardent supporters, believing that their approach represents a “model” system, have often characterized those criticizing the law as advocates for sex offenders and unconcerned about the safety of children. This rhetoric, aside from impeding progress on improving the nation’s sex offender registries, has obscured important areas of consensus shared by SORNA supporters and critics alike.

III. SORNA PROVIDES OPPORTUNITIES FOR DIALOGUE ABOUT SEXUAL ASSAULT AND VICTIMIZATION

Over the past twenty years, the expansion of online registries had helped the public to become increasingly aware of convicted sex offenders living in our communities. Meanwhile, countless talk shows, crime dramas, and news outlets have addressed issues of sexual assault, using both fictionalized portrayals and accounts of real victims to share information that can lead to awareness and prevention. This expanded awareness has opened up a dialogue, facilitating discussion of the formerly taboo subject of sexual assault and victimization. Within families and communities, the dialogue has provided opportunities for parents to speak with their children about sexual abuse, remind children of appropriate boundaries, and reinforce the availability of adults to whom children can turn in times of need. At the policy level, the national discourse about sexual victimization is a healthy one that eluded public attention in previous generations. Scores of agencies, organizations, and services have been developed to promote awareness and education about sexual assault and to provide assistance for victims. Many of these services are publicly funded at the national, state, and local levels. Congress and state legislatures have recognized the need to support investigation and enforcement of sex crime laws, and to subsidize services for sexual assault victims. Grass-roots efforts have sprung up in communities, in public schools, and on college campuses to educate boys and girls, men and women, about the importance of consensual sexual behavior, respectful intimate relationships, bystander responsibilities, and

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the consequences of sexual assault. Considering that policy enactment can serve to inspire and reinforce social solidarity by uniting toward a commonly accepted goal,¹ registration and notification laws send a clear message that sexual victimization will not be tolerated and that politicians are willing to address public concerns.²

IV. THERE IS NEED FOR STANDARDIZATION

It is generally acknowledged—by SORNA supporters and critics alike—that significant variation exists across state registration systems. SORNA’s guidelines have attempted to bridge gaps between state laws and to provide a foundation of standardization to states’ processes and procedures. There are important operational reasons for uniformity; beyond creating more consistency between states, common definitions and data collection methods can also potentially lead to better nationwide data integration. In this way, uniformity might facilitate a wealth of data regarding registrants and their offenses, leading to better understanding and management of the national sex offender population. In addition, national data can be utilized to frame public policy debates, allocation of resources, and justification for operational decisions.³

V. REGISTRIES REPRESENT ONE LEGITIMATE ELEMENT OF A COMPREHENSIVE SEX OFFENDER MANAGEMENT POLICY

Without a doubt, some individuals convicted of a sexual crime pose an ongoing risk for future offending. Moreover, the ability for law enforcement, supervising authorities, and in some cases the general public to have information on the whereabouts of high risk individuals represents a valid public policy goal.

It is vital, however, to recognize two important realities related to sex offender registration and notification. First, despite the pronounced role that the registries have played in the public discourse about community management of sex offenders, they are simply one of many tools that should be deployed as part of a more comprehensive strategy. Second, the potential public safety utility of registries is related to their ability to effectively distinguish the most dangerous offenders from those who present a lesser risk. Viewed in this context, the debate over SORNA should not be thought of as questioning whether or not states should invest in improving the utility and reliability of registration and notification systems—there is a fair degree of unanimity on this point. Rather, the more fundamental issue pertains to how states might optimize the scope, reach, and discriminatory value of their registries.

VI. FLAWED POLICY: THE ROOTS OF CONTROVERSY

There are many reasons for SORNA’s implementation difficulties, and they may be rooted largely in the circumstances and processes leading to the law’s development during the 109th Congress. Following a decade of increased federal government involvement in the issue of sex offender registration and notification, the years immediately preceding AWA passage witnessed increasing news reports focused on the problem of noncompliant sex offenders and the inaccuracy of state registries. One “poster child” for these problems was Jessica Lunsford, a nine-year-old Florida girl who in 2005 was

abducted from her bed, raped, and buried alive by a repeat sex offender who was not living at his registered address. Based on these reports and on testimony provided to Congress, a fairly cohesive and compelling narrative emerged—namely that the nation’s sex offender registries were plagued by lax standards that could be easily exploited by sexual predators seeking to prey on children.⁴

A review of Congressional hearing transcripts from 2005 suggests that SORNA’s recipe for reforming the nation’s registries was driven by a limited and select circle of stakeholders holding fairly narrow assumptions about the nature of sexual offending, the problems with the nation’s registries, and the formula for addressing those problems. Information provided by clinical experts, such as testimony concerning the diverse nature of the sex offender population and recidivism risk, was met with relative hostility during congressional hearings, and was largely disregarded in the final legislation. While some input may have been sought from states and tribal jurisdictions, there are no indications in the official record that state registry officials or legislators were consulted in any systematic way. Nor are there any indications of a serious attempt to analyze and understand the precise nature of the problems with registries, the scope of potential barriers to the proposed law, or the relative efficacy of alternative approaches.

VII. WILL SORNA INCREASE PUBLIC SAFETY?

Over the past two decades, states have made varied choices regarding the means of classifying offenders for registration purposes, registration duration and reporting requirements, parameters of public disclosure, and the inclusion of adjudicated juveniles. These choices have been driven by a complex array of variables, including legal and organizational constraints, fiscal efficiency considerations, and the division of responsibilities among units and levels of government—factors that are highly idiosyncratic from one state to the next. Addressing variation between states has been a significant and prominent goal of SORNA. Many of the law’s requirements are related to a set of minimum classification standards based exclusively on the offense of conviction and the number of prior offenses, without regard for other factors that may affect the risk of re-offense. This offense-based classification system and its related requirements governing the duration and frequency of registration as well as public disclosure have emerged as the most significant sources of resistance among the states.

Yet in repudiating SORNA’s mandates, many states have asserted that, in its quest for uniformity, SORNA has compromised fundamental public safety goals. The goal of SORNA is to facilitate protection of the public from known sex offenders through increased public awareness and enhanced law enforcement monitoring. Though the research in this area is still in a nascent stage, the literature seems to support that a more refined approach to classification and public notification results in better outcomes. Most empirical investigations of registration and notification have not detected significant reductions in reoffending.⁵ Notably, the two exceptions—studies that have detected a decrease in sex crime recidivism as a result of registration and

notification—were conducted in Minnesota⁶ and Washington;⁷ both states use empirically derived risk assessments to classify offenders and limit public notification only to those who pose the greatest threat to community safety. A national analysis examining over 300,000 sex offenses in fifteen states found that while registration with law enforcement appeared to reduce recidivistic sex offenses, public notification did not.⁸

Increased public awareness is often cited as a goal of SORNA, and most studies concur that citizens are strongly in favor of public notification.⁹ Other studies have found, however, that knowledge of a sex offender living nearby does not seem to produce long-term change in protective behaviors.¹⁰ Notification can also increase citizens' anxiety due to a lack of education and information about protecting oneself or one's children from sexual assault.¹¹

In sum, the research supports a “less is more” approach—that methods limiting information disclosed to the public might actually be better aligned to the public safety goals of SORNA. While the implementation barriers to SORNA are diverse and complex, comprising a range of legal, fiscal, and practical concerns,¹² many states have resisted federalization due to a belief that their existing systems have been uniquely tailored to local needs and that state governments should be able to determine what is in the best interests of their residents. Some states have implemented more refined approaches to SORNA which utilize empirically derived risk factors to screen offenders into relative risk categories and disclose registry information to the public in a more discretionary way. These states should not be penalized for choosing not to conform to the offense-based classification system required by the Adam Walsh Act.

VIII. DOES SORNA IMPROVE DATA RELIABILITY AND CONSISTENCY BETWEEN STATES?

Citing a range of data integrity and data consistency issues, researchers have noted the significant variability in the scope, content, and format of information contained within state registries—a factor that complicates inter-jurisdictional comparisons and challenges efforts to develop a comprehensive descriptive portrait of the nation's RSO population.¹³ States that have implemented SORNA are no more immune to these problems than those that have not. Despite SORNA's intent to instill uniformity, the current guidelines simply do not address critical definitional issues that directly impact the utility of registry information for law enforcement and the general public. Consider, for instance, the concern about the nation's “100,000 missing sex offenders.” It turns out that a range of designations exist across the states, that few states distinguish absconders from other types of registration violators, and that it is sometimes difficult to discern offender noncompliance from administrative inaccuracies. Labels such as “noncompliant,” “delinquent,” “address unknown,” “whereabouts unknown,” “unverified,” and “homeless” or “transient” obscure the ability to determine how many offenders are truly missing.¹⁴ SORNA guidelines do not assist states to develop a more universal array of definitions that might help create a more integrated management system.

Beyond data reliability and definitional issues, there are

other factors that will continue to compromise SORNA's vision of a seamless and uniform web of state registries. First, the positioning of the guidelines as “minimum” rather than “absolute” standards means that there will continue to be some states that operate with more rigorous registration requirements than others. In turn, RSO designations (for example, tier or risk level status) will continue to have different meanings across jurisdictions. Second, and perhaps more critically, we have seen a marked policy shift in recent years related to the criteria applied in determining whether jurisdictions have met SORNA requirements. Implicitly recognizing the unique aspects of each jurisdiction's legal and operational landscape, the Department of Justice has shifted from a fairly rigid approach (“substantial compliance”) to a more flexible standard (“substantial implementation”). While this shift reflects DOJ's increasing attunement to the barriers to state compliance and represents a perfectly sensible approach, it has also underscored the difficulties in establishing a uniform national system.

It has yet to be determined whether SORNA standards will improve the public safety utility of individual state registries. Though SORNA might improve some aspects of some existing state systems, there will be others for which attempts at SORNA implementation could disrupt and compromise an otherwise well-functioning process. Ultimately, the quest for consistency as envisioned in the initial SORNA legislation is emerging as an increasingly untenable goal.

IX. EVIDENCE CAN INFORM POLICY INITIATIVES

Reliability of registries involves more than simply creating replicable methods and definitions across states. It also requires that public registries provide citizens with a valid and practical means for communicating the risk an offender may pose to individuals in the community. Successful implementation of a uniform classification system requires the ability to test hypotheses about risk categories, evaluate the outcomes of new procedures, and continue to refine the process using data learned from ongoing analyses.

Recent studies have suggested that the federally-mandated system of classification based on the categories of offenses listed in the Adam Walsh Act (AWA) failed to accurately identify 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.¹⁵ In a four-state study, AWA tiers showed an inverse relationship with risk and recidivism, with Tier 2 offenders having higher actuarial risk assessment scores and reoffending at higher rates than Tier 3 offenders, while actuarial assessment proved to be better at identifying sexual recidivists.¹⁶

Research has also indicated a substantial “net-widening” effect of AWA classification, placing a significant majority of registrants into the highest risk tier.¹⁷ This effect contradicts evidence that the highest risk of sexual re-offense is concentrated among a much smaller group of offenders.¹⁸ Nationally, under current state classification schemes, about 14% of public reg-

istrants have been designated as high risk, predator, or sexually violent,¹⁹ suggesting that AWA inflates risk in many cases. For instance, in Ohio, which previously classified 73% of sex offenders as “sexually oriented” lower risk offenders and 18% as habitual or predatory, the AWA reclassification assigns only 16% to the low risk category and reclassifies 40% as tier 3 offenders.²⁰ In Oklahoma, of 6,721 previously designated non-aggravated and non-habitual registrants, 19% were classified as Tier 1, 5% as Tier 2, and 76% as Tier 3.²¹

As more sex offenders are placed on registries, the public becomes less able to discern truly dangerous predators, and law enforcement resources are stretched thinner to monitor a much more heterogeneous population. At least 85% of registered sex offenders nationally are first time offenders with no prior sex offense.²² In New York, 95% of all arrests for sexual offenses were found to be offenders without a prior sexual offense conviction.²³ Despite fears that most sex offenders are compulsive and repetitive, research has found that over four to six years, about 14% of more than 20,000 sex offenders in an international sample were re-arrested for a new sexual crime.²⁴ A 24% recidivism rate was observed over 15 years,²⁵ and 27% were re-arrested over 20 years.²⁶ It is true that arrest data naturally underestimate true re-offense rates, because some crimes are never detected or reported to authorities. The available research suggests, however, that after two decades the majority of convicted sex offenders have not re-offended. Recidivism varies with the presence of risk factors such as criminal history and victim preferences, and consideration of those factors can help identify those more likely to pose an ongoing threat to community safety.²⁷

SORNA minimum standards require specific durations of registration dependent on the tier classification assigned to an offender. Tier 1 offenders (primarily misdemeanor offenders in most states) must register for ten years, Tier 2 for 25 years, and Tier 3 offenders for life. The result of this movement is a growing number of sex offender registrants and little attrition, requiring increased fiscal and personnel resources to update technology, enforce registration rules, and incarcerate violators. Research indicates, however, that risk for sexual re-offending is reduced by half if 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.²⁸ Furthermore, risk for sexual recidivism decreases with advancing age,²⁹ meaning that the aging sex offender population is likely to pose less of a threat to public safety.

Thus, it behooves us to re-think the wisdom of an over-inclusive registry and to consider the virtues of a more selective registry that targets resources toward the riskiest group of offenders. A more inclusive registry with longer durations and little attrition results in a costly and confusing conglomeration that offers little ability for the public to distinguish those who pose the greatest threat to potential victims. Over time, ever-expanding requirements—and the associated workload increases on already overburdened systems—may in fact undermine public safety by increasing the probability of administrative errors and creating an inefficient distribution of limited resources.

Does a jurisdiction’s level of compliance with SORNA

denote a more effective and reliable registry system? Does deviation from SORNA necessarily imply an inferior system? More broadly, do SORNA standards produce a better, more effective national system of sex offender registration and notification? SORNA’s de facto position (yes, yes, and yes to the above questions) is that registry systems that place greater restrictions on larger groups of offenders are implicitly better and more effective than those that are more selective. This position follows logically from SORNA’s fundamental narrative that states choosing more selective standards had established themselves as “safe havens” for sex offenders, and therefore needed to have their ways corrected through federal action. The simple and straightforward message was simple: *More is Better*.

But in reality the questions have never really been asked and answered. Do registered sex offenders systematically engage in “jurisdiction shopping” and migrate to places with less onerous registration restrictions? How is non-compliance with registration associated with increased risk of re-offense? Do states with more expansive registration laws produce better public safety outcomes? How might the contours of sex offender registration laws affect plea bargaining and other legal case processing factors? Empirically examining and answering these and similar questions—all of which relate in some way to SORNA’s potential efficacy as a public policy—can help to inform the development of a national sex offender registration policy that is driven more by data than by conjecture and rhetoric.

X. WHERE DO WE GO FROM HERE? CONSIDERATIONS FOR THOUGHTFUL REFORM

In a key respect, the root of SORNA’s implementation difficulties has been the limited evidence base in support of its core assumptions. SORNA has been based on a series of presumed “truths” about the nature of sexual offending, the motivations and behaviors of known sex offenders, and the extent and etiology of problems with the nation’s sex offender registries. Few of SORNA’s underlying assumptions have an empirical basis, and evidence offered in support of SORNA has often taken the form of anomalous and egregious case examples rather than results generated from systematic research.

Development of an effective national sex offender policy requires that the claims driving those policies be put forth as testable research questions, not as “self evident” statements. While it may seem that by casting a wider net, states can generate greater public safety outcomes than those using more refined approaches, no research evidence produced to date has supported this assertion. In fact, there is a compelling argument that the opposite may be true, and that identifying smaller pools of high risk offenders helps the public and law enforcement focus their attention on the more dangerous individuals. Moreover, the question remains whether states with systems that adhere more closely to SORNA standards are any more immune to administrative and operational problems than those with systems that deviate from SORNA.

There is little question that many state registry systems are in need of improvements. Yet if Congress is to continue to assert its role in the nation’s sex offender policy matters, it needs

to take a fresh look at SORNA and its attendant assumptions, informed by recent experience. Congress should begin by acknowledging that an inherently superior system of registration may take a form different from SORNA as currently written, and that key stakeholders in covered jurisdictions need to have a voice in shaping public policy. State and practitioner concerns about federal intervention cannot be discounted and attributed to simple intransigence; they need to be carefully considered and integrated into cohesive policies based on greater consensus. As well, policy implementation should include a process for analysis by which strategies can be refined and enhanced based upon ongoing evaluation of progress toward measurable goals.

Developing meaningful and viable national standards requires a more inclusive process through which input is actively solicited from law enforcement and supervision professionals, state legislative representatives, researchers, and a broadly representative cross-section of the victim advocacy community. Much to its credit, the Department of Justice SMART Office has recently moved in this direction through its Sex Offender Management and Policy Initiative, which seeks to engage diverse stakeholders and promote the diffusion of more evidence-based approaches to sex offender management. In this spirit, Congress needs to follow suit by ensuring that federal laws support, rather than impede, the advancement of effective practices. Through these steps, we can begin to move toward a more cohesive, evidence-based, and realistically-implemented national sex offender registration policy.

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