

## **Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem**

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**Abstract:** Both convicted sex offenders and innocent citizens have experienced serious and negative consequences resulting from the implementation of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, passed in 1994, which included national sex offender registration laws, and Megan's Law, passed in 1996, requiring public notification of sex offender release. This paper reviews the predictions made by the author in 1996 regarding these laws and the negative impact documented since their implementation.

**KEY WORDS:** sex offender registration; public notification; legislation; child sexual abuse; prevention; punishment.

### **An Overview of Registration & Notification Laws**

Public notification of sex offender release has been in place as a national law for approximately four years. In 1994, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act was enacted. The Jacob Wetterling Act required all states to establish stringent registration programs for sex offenders by September 1997, including the identification and registration of lifelong sexual predators. The Jacob Wetterling Act is a national law that is designed to protect children and was named after Jacob Wetterling, an eleven-year-old boy who was kidnapped in October 1989. Jacob is still missing. Megan's Law, the first amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Act, was passed in October 1996. Megan's Law mandated all states to develop notification protocols that allow public access to information about sex offenders in the community. Megan's Law was named after Megan Kanka, a seven-year-old girl who was raped and murdered by a twice-convicted child molester in her New Jersey neighborhood.

Sensationalized cases, such as the rape and murder of seven-year-old Megan Kanka of Hamilton, New Jersey, have shocked and angered our society. The public is rightfully outraged at the nation's level of crime, particularly sexual crimes. Unfortunately, the public response is often more emotional than logical. The actions of citizens are often the result of mismanaged emotions. During the 1990s, many legislative actions regarding sex offenders appeared to result from emotional public response to violent crime rather than from research showing that these laws will make any difference in correcting the problem and reducing crime. The laws sound and feel good when they are passed, but they may give citizens a false sense of security. Public notification of sex offender release, Megan's Law, is one example of what I call "feel-good legislation" that has led to worse conditions rather than the betterment or safety of society.

The first law to address the registration of sex offenders was passed in California in 1947. In 1990, the State of Washington passed its Community Protection Act that had a provision for notifying the public about sex offenders (National Criminal Justice Association). Presently, all 50 states have sex offender registration laws<sup>i</sup> (27 states require some or all juveniles adjudicated for sex offenses to register<sup>ii</sup>); and all 50 states have sex offender public notification laws.<sup>iii</sup> Most of the states that register juveniles also do some kind of notification in certain situations.<sup>iv</sup> Additionally, 16 states now have laws providing for the indefinite civil commitment of sex offenders to state mental institutions<sup>v</sup> (S. Matson, personal communication, January 26, 2000).

Public notification laws seem logical to their supporters. They give the impression of making people feel safer and of being a workable solution to the child sexual abuse problem. Megan's Law was developed to alert the public, specifically members of the local community, that they are living in the presence of a dangerous sex offender. The intent was to increase community awareness through these laws so that: (1) Parents would be able to inform their children about who is dangerous and whom to avoid; and (2) Notification of the public would reduce the likelihood that the sex offender would reoffend, because everyone would know that he/she is a sex offender, and it would be more difficult for him/her to lure a potential victim.

### **Revisiting Megan's Law and Sex Offender Registration**

I expressed my concerns about the passage of Megan's Law in two previous papers on the subject of public notification of sex offender release (Freeman-Longo, 1996a, Freeman-Longo, 1996b) and in the book, *Sexual Abuse In America*. I commented that appropriate and useful legislation requires close examination of its potential effects on citizens before it is enacted. The creation of any law requires the resources to fund and uphold it. Public notification laws require an understanding of how they will serve the citizens they are designed to protect. As Megan's Law was being considered, and after it was passed, several clinicians, researchers, legal scholars, and others addressed this federal mandate and the potential problems with enacting this law (Brooks, Pallone & Steinbock, 1995; Freeman-Longo & Blanchard, 1998; Freeman-Longo, 1996a; Freeman-Longo, 1996b; Prentky, 1996; Miller, 1996; Matson & Lieb, 1996). One of the greatest concerns of some of these authors was the potential of Megan's Law to result in harm to, and/or victimization of, innocent persons who are not sexual abusers as well as harm to, and victimization of, sex offenders identified under the law.

Portions of the Jacob Wetterling Act, including Megan's Law, are examples of legislation that was passed quickly, without securing public opinion through polls or community meetings. Necessary, detailed research was not conducted into the cost involved, the resources necessary to implement the laws, and the potential impact on law-abiding citizens. Professionals working with and treating sexual abusers and the national organizations that focus on sexual aggression (i.e., The Association for the Treatment of Sexual Abusers, The National Adolescent Perpetrator Network, The American

Professional Society on the Abuse of Children) were not contacted or asked for input into these laws.

Since the passage of the Jacob Wetterling Act and Megan's Law, there have been many instances of violence toward sexual abusers and innocent persons. Some states have posted registration lists and notification materials on compact disks (CD's) and the Internet. Numerous problems have occurred, including, among others, innocent families being harassed, victims of sexual abuse being identified, and private residences of law abiding citizens being posted on registries and the Internet as the residences of sex offenders. Some states have applied these laws retroactively, resulting in persons charged with indecent exposure for urinating publicly being labeled as sex offenders. Other states have applied registration and notification laws to youth, labeling children as sex offenders for life. The list of problems does not stop here.

This paper follows the papers originally published addressing the potential impact of public notification on the greater community, including citizens, families, victims, and offenders (Freeman-Longo 1996a, Freeman-Longo 1996b). In this paper, I also elected to include problems and case examples with sex offender registration laws in addition to Megan's Law since the two laws are now part of the Jacob Wetterling Act and are so closely linked. Case examples from the news media and professional contacts, and information from colleagues are used to illustrate the reality of the impact of Megan's Law and sex offender registration laws four years after they were passed. To acquire as many case examples and articles as possible from different regions of the United States, I posted a request for information regarding Megan's Law and sex offender registration on a professional list-serve run by The Association for the Treatment of Sexual Abusers (ATSA). An Internet list-serve run by The Center for Sex Offender Management (CSOM) also was used to post requests for case examples. Further, word of mouth among professional friends and colleagues and requests of organizations such as Cure-Sort proved very helpful in providing me with case examples and newspaper articles addressing both laws. Many more case examples and news articles were submitted than I could realistically incorporate into this paper. Those cited are representative of the cases and issues associated with the implementation of these laws. The following is the original list of concerns and impact issues I suggested might result from public notification of sex offender release with brief explanations of each point. While not an exhaustive list, it provided some of the more pressing points to consider regarding this law. The numbering of each point does not indicate relative importance, but rather, is used for ease of reference. Additionally, I have pointed out other problem areas of concern not addressed in the original 25 points of my initial papers.

## The Problems with Megan's Law and Sex Offender Registration

- (1) Origins of Public Notification. Initially, public notification laws were proposed in response to the public's reactions to horrific crimes. Often, these crimes have been rape-murders, or extremely violent assaults on victims. Contrary to public belief, the vast majority of sexual offenses do not involve murder or violent assault of the victim. In fact, rape-murders and sadistic assaults account for less than three percent of all committed sex offenses. Unfortunately, Megan's Law and sex offender registration laws have been used even in cases involving incest and have resulted in families and victims being identified and harassed.

In a recent article, as a result of a class action suit, a Federal Judge has ordered New Jersey to rework its Megan's Law and threatened to shut down the notification process if prosecutors cannot put tighter controls on who receives information (Associated Press, 2000). Judge Irenas noted that New Jersey has failed to implement consistent standards of how notifications were conducted.

- (2) Lack of Supporting Data Determining the Efficacy of Public Notification. At the time this paper was written, states with public notification laws had not yet offered scientific evidence to support the efficacy of such laws in promoting community protection and safety. Washington, which passed a public notification law in 1990, preceding Megan's Law, is the only state that has researched the efficacy of its public notification law. The State of Washington found no reduction in sex crimes against children; however, a benefit was the level of community education regarding sex crimes (Matson & Lieb, 1996). At this writing, there are no other published studies that demonstrate the efficacy of Megan's Law.

Today, there is mounting evidence suggesting that Megan's Law is creating a variety of problems within states. In Michigan, besides other notification methods, the sex offender registry is posted on the Internet. Despite the registry being accessible to the public, the neighbors of two convicted sex offenders charged with new offenses said about one of the men (upon learning that these men, who were living in their neighborhood, were convicted sex offenders), "they had no idea of his past and had never bothered to check the list" (Knott, 1999).

- (3) Cost. Public notification requires continuous monitoring by public service agencies (police, courts, and probation and parole agencies) to ensure offender compliance. All states have had to finance the costs of this mandated law (which did not come with funding for implementation). States face losing federal funding if they do not implement the law, but they do not have the resources necessary to implement it properly. Many states report that the registered addresses are not updated, and in many cases, incorrect addresses have been given. Many states post these on the Internet, listing innocent people's addresses as those of convicted sex offenders. Additional and unexpected costs also have been associated with these laws (such as the following examples), further taxing social and criminal justice agencies (Sex offender notification laws. . ., 1997).

In Antelope Valley, California, the state had to pay a sex offender's rent because convicted sex offenders cannot live within 35 miles of the victim's residence or employment. California law requires convicted sex offenders live within the county of their last known residence. However, in one case, a convicted child molester had to move (at the request of the victim's family) to a different county than the one in which he originally resided to meet the provisions of the penal code requiring him to live at least 35 miles away from the victim's residence. Upon release, the paroled offender had no place to live and no means to move to a new home in a different county. Without the state paying his rent, he would have been homeless and in violation of his parole. The funds came from a portion of California's general fund for state corrections (Matros, 1998; Fox News, 1999).

Recently, the Massachusetts highest court dealt a crushing blow to the state's sex offender registry law by issuing a ruling that could entitle all sex offenders to a hearing before they are listed. This will put an additional strain, financially and otherwise, on an already overtaxed court system.

Some states, including Virginia, have reported that the initial cost of setting up registration and notification has been as high as \$200,000. Additional costs are an ongoing fiscal challenge, such as those for law enforcement agencies and other agencies in the criminal justice system responsible for maintaining and updating the registries and conducting notification. Despite these costs, most states acknowledge that the registries are not accurate, and 25 percent or more of names and addresses may be incorrect.

Civil commitment laws, also tied to registration and public notification laws, have resulted in similar financial impact. "The Virginia State Crime Commission is conducting a two-year study of civil commitment laws for sexual offenders as their own law is scheduled to go into effect next year in January. The information they have gleaned has led the commission to believe that such laws are 'a hornet's nest of fiscal, constitutional and practical problems,'" according to an article written by staff writer, Michael Hardy, in the *Richmond Times*, December 9, 1999 (Washington's civil commitment law. . ., 2000).

- (4) Subsequent Violence. Public notification may lead to further violence. Some states already have experienced vigilante activities. The violence is not limited to convicted and registered/notified sex offenders. In many cases, innocent people, mistaken for sex offenders, have been assaulted or had their property damaged.

Among the most notorious cases of violence and vigilantism resulting from Megan's Law was the burning down of a sex offender's house in the State of Washington. Another that occurred in New Jersey involved the mistaken identity of a man who was thought to be a sex offender. His house was broken into, and he was severely beaten, resulting in the need for hospitalization.

- (5) *Extension to Other Crimes*. Despite the horrific nature of sexual offenses, many crimes result in severe damage to innocent victims. Murders, drive-by shootings, and drunk driving are just a few. One might question why sex offenders should be singled out for registration and notification. Many other crimes cause severe harm to others, including children. Nonsexual child maltreatment can be just as devastating to a child as sexual abuse. Recently, some states have begun to develop legislation for other types of criminals that would have an impact similar to registration and/or notification.

In New Jersey, for example, the Megan's Law notification form was used in an Ocean County Community to inform the Jackson Township about a murderer, released from prison into the neighborhood, who was not a sex offender. A flier was circulated around the neighborhood (Ginsberg, 1998).

- (6) *Confidentiality*. The American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders-IV* classifies the sexual abuse of children under a diagnostic category known as pedophilia. Public notification laws require that this mental health/medical diagnosis be made public, while many other harmful conditions and behaviors remain private.

The use of confidentiality waivers is commonplace in working with sex offenders. Unfortunately, when the details of their lives and crimes are posted on public registries and divulged through notification, it is not only the offenders' confidentiality that is violated. Through the misuse and abuse of these laws, the names and addresses of families and, in some cases, the victims of sexual abuse are revealed.

- (7) *Constitutional Rights*. The constitutionality of registration and public notification laws and an individual's right to privacy have undergone considerable debate. State registries on the Internet have increased the problem around these issues. It is no longer a community that knows about a specific offender, his address, and the particulars about his crime, but the entire world – anyone with access to the Internet -- can have access to this information. Federal laws regarding sex offender registries, public notification, and now those laws that address sexual predators and civil commitment also have been under legal scrutiny.

There have been, and continue to be, legal challenges to registration and notification laws in several states. However, predator laws are now beginning to come under fire. On January 10, 2000 the Supreme Court "refused to revive Pennsylvania's law requiring that some sex offenders be designated as 'sexually violent predators' subject to lifetime registration and public notice of their address." The law was struck down and labeled as "constitutionally repugnant" (Asseo, 2000).

- (8) *Beyond Punishment*. Legal scholars and others have looked at public notification as a form of punishment. There are several examples of how professionals and others have used this law beyond the way it was designed. For example, in some cases, law enforcement personnel have organized neighborhoods to exclude sex offenders

from housing. Additionally, law enforcement officers and others have released inaccurate information about registered sex offenders and/or those subject to notification laws (P. Dennis, personal communication, December 13, 1999). When these laws harm sex offenders and others, such as families and other community members, beyond the intent of the law, how can one not consider the impact as cruel, unusual, and excessive punishment?

Numerous cases of released sex offenders being thrown out of housing or losing their jobs as a result of registration and notification laws have been documented. Some have never been able to find jobs or housing. The increased risk of reoffending when the offender is under stress and not settling into life in the community is a well-established phenomenon recognized by those providing treatment to sexual abusers. The inability to make a living and have housing due to these laws cannot be considered something less than additional punishment for one's wrongdoing. The persons subject to these laws experience extreme hardships as a result of them that other persons who commit crimes (sometimes more severe crimes) do not experience.

One convicted offender in South Dakota (where there is no law on the books about notification to the community) purchased property four miles outside the city limits, not knowing the city police chief lived three doors away. The chief went door to door notifying neighbors, which was beyond his authority, and used his position to find out the original criminal charges that he also disclosed to the neighborhood (Anonymous, personal communication, January 21, 2000).

In extreme cases, the result of being subject to registration and notification laws has resulted in the unnecessary end of life. For example, in Santa Rosa, California, a convicted sex offender, forced to comply with Megan's Law, was found hanging from a tree in his yard, an apparent suicide (Purdum, 1998).

- (9) *Primary Prevention*. The best way to stop sexual abuse is to prevent it before it begins. Public notification laws are tertiary prevention efforts at best, and the antithesis of prevention at their worst. When laws result in a decrease in reporting of a particular crime, increased plea-bargaining, and causing harm to innocent people, they cannot be seen as preventive. The arguments used over and over again in favor of sex offender registration and public notification laws has been that if they save one child, they are worth it. But is any law worth harming others, especially innocent persons, for the sake of one?

Most public health officials believe primary prevention is much less costly and more effective than tertiary prevention. Treating sex offenders is primary prevention, especially when treatment is successful and the abuser no longer reoffends. In New Jersey, one of the side effects from Megan's Law is a reluctance to prosecute juveniles for sex offenses, thus subjecting them to lifelong registration. The "diverted" juvenile sex offenders are not getting treatment (Brieling, 1998).

Megan's Law has done little to protect people and prevent crimes. If, in fact, these laws are protecting people and preventing crimes, then this should be documented as states review the impact of Megan's Law and sex offender registration. To date, there is little, if any, published evidence that Megan's Law and/or sex offender registration is having any impact on reducing child sexual abuse.

- (10) *False Sense of Security*. Public notification is an easy solution to the highly emotional issue of sexual offending. The very nature of the law leads one to believe that by knowing where sex offenders live, one will feel safer. Safety is more than knowing. Some people feel more anxious knowing they now live near a convicted sex offender. Others cannot sell their homes when they want to move and known sex offenders are residing in nearby housing.

In St. Louis, Missouri, more than 700 registered sex offenders, or approximately 46 percent, do not live at the addresses posted on the sex offender registry, and many sex offenders (approximately 285 sex offenders released from prison as of May 1999) never get put on the list (Dunklin, 1999). With this and similar situations, can one truly feel more safe? Misinformation can be more damaging than no information.

- (11) *Terrorizing of the Community*. As sex offender registration and public notification laws begin to identify an increasing number of offenders, these laws will create increasing levels of panic and possibly may begin to terrorize communities. One can only feel so safe knowing that there are sex offenders moving into and living in one's neighborhood and community. In some cases there are concentrations of sex offenders living in certain neighborhoods. As numbers increase and citizens become more concerned, more drastic measures to address the issue may result.

In one neighborhood, a residential program for juvenile sexual abusers has been operating for more than ten years. As a result of sex offender registration and notification laws, citizens banded together to have the program moved, despite prior knowledge of its existence in their neighborhood (R. Louks, personal communication, January 20, 2000). Fear of what may happen in the future, versus looking at the absence of incidents in the past, created panic among local residents.

Several articles referenced throughout this paper demonstrate the overreaction by communities to notification of sex offender release and/or posting on sex offender registries of inaccurate names and addresses of convicted sex offenders. For example, residents of an apartment building in Des Moines, Iowa criticized a landlord for renting an apartment to a man they were told by the news media was considered at risk for committing new crimes. The person in question was not a tenant, but the media created an unnecessary panic and alarm among many people (Editorial, 1998).

- (12) *Impact on Victims*. Public notification affects more than just offenders. When left to individual state discretion, many states have carried these laws to the extreme.

In Virginia, these laws have had an impact on victims and the families of convicted sex offenders. In one case, the wife and family (including the daughter who was also the victim) were harassed when the registry went on the Internet and their address was posted, even though the offender was sentenced to prison where he will remain incarcerated for some time. Despite the offender being in prison, his family's address was posted on the Internet as the address of a convicted sex offender (O'Brien, 1999).

- (13) *Impact on Others*. The impact of public notification goes well beyond the offender and, in some cases, even beyond the victim. Highly publicized cases have demonstrated a severe and negative impact on the victim's family and the offender's family. In other instances, innocent persons, incorrectly identified as sex offenders, have been harassed and assaulted.

In Dallas, Texas, a man mistaken as a child molester was beaten, and four of his front teeth were knocked out by four men as they shouted, "Child molester" (Lyda, 1999).

In Virginia, an innocent man targeted by a detective, intent on nailing him for a sex crime, was falsely charged with indecent exposure, was arrested, had his home scoured in his absence, and had his computer and some family photos removed from his home (Jackman, 1999).

In Iowa, an 18-year-old high school student on the state's sex offender registry list had to quit school. He received death threats, and his family did not know how to protect their son.

In Lansing, Michigan, a 26-year-old man was branded as a child molester incorrectly. His name was immediately placed on a Family Independence Agency's "undesirables" list. The court ordered his name removed, but the damage had been done. The man lost jobs, friends, and family respect, and ultimately, his health was affected (Miner, 1998).

A civil liberties group wants Michigan State Police to notify citizens if their addresses are placed on the sex offender list on the Internet. Recently, it was discovered that as many as 25 percent of registry addresses were incorrect, which has resulted in citizens having their addresses improperly included on the registry (Webster, 1999).

- (14) *Plea-bargains*. Sexual offense cases are often weak in evidence, resulting in plea bargains to lesser offenses. With the coming of sex offender registration and community notification laws, persons charged with sex offenses now have a greater motive to avoid prosecution and to plea-bargain their crimes to lesser, nonsexual crimes. In some cases, social workers and child protection workers are reluctant to report cases involving juvenile sexual abusers to authorities out of concern that these young persons will be subjected to sex offender registration and community

notification laws (Freeman-Longo & Blanchard, 1998). In these cases many are quietly and privately referring these young persons to sex offender treatment specialists to get them treatment without the negative consequences of the law.

- (15) *Risk Determination.* New Jersey and other states have established levels of public notification based on a determination of the dangerousness of the particular offender in question. There is no consistent tool being used to determine risk, and in many states, risk is not determined by trained professionals or by the use of researched and reliable risk scales. In other cases, risk assessments are misused or misinterpreted to make individuals look more dangerous than they are.

In Washington State, one professional reports several incidents. When sex offenders move into Thurston County, Washington, the Sheriff's Department has used psychosexual evaluations to increase their risk levels, resulting in higher levels of notification under Megan's Law, despite no new crimes and lower risk levels previously determined under Megan's Law. According to the clinicians working with these men, law enforcement is undermining the supervision of the clients who are developmentally delayed sex offenders. Law enforcement is organizing neighborhoods, and in some cases, residents have tried to buy houses to keep sex offenders out of neighborhoods. In the case of one homeless client living in hotels, law enforcement went to each hotel threatening to notify the community, using the hotel's address, unless the hotel kicked out the client (Dennis, 1999).

- (16) *External vs. Internal Control.* Getting tough on crime, the death penalty, and "three strikes" sentencing options stem from emotional responses to serious societal problems and crime.

Such "get tough laws on crime have not always proven to be effective and, in some cases, have made managing crime worse" (Freeman-Longo & Blanchard 1998). Registration and public notification of sex offender release laws appear to be headed down a similar path. This article points to the many problems we are facing with the passage of these laws.

- (17) *Adversarial Role / Ethical Dilemma.* Professionals who treat sex offenders often do not receive professional respect from their colleagues who do not treat, or are opposed to treating, such offenders. Additionally, professionals in other disciplines often see little value in the work done by those who treat sexual abusers. Many of the case examples provided in this paper have been from professional colleagues who treat sexual abusers. They have provided numerous personal accounts of how their work with other agencies and other professionals has been damaged due to their treating sex offenders.

In one case, a well-established mental health clinic in Webster, New York opened a sex offender clinic. Word got out, and a nonsex-offending patient threatened to go to the media to suggest women and children were not safe at the clinic (M. McGrath, personal communication, September 9, 1999).

In my travels around the country lecturing, I have heard from a variety of professionals and child protection workers that they have been faced with the ethical dilemma of not reporting sex crimes perpetrated by youthful abusers in order to avoid the consequences these young people face from registration and notification laws. Many have, in fact, revealed that they have not reported some cases.

- (18) *Undermining Treatment*. The majority of sex offender treatment specialists identify similar problem areas for sex offender clients, including (but not limited to) poor anger management skills, fear, lack of trust, low self-esteem, feelings of rejection, inadequate social skills, lack of empathy, isolation from others, and poor communication skills. These skills need to be improved, and that happens when sex offenders have good community support systems and close ties in the community.

Recently, Megan's Law resulted in zoning laws being changed in Colorado. The revised law prohibits more than one sex offender from living in the same residence. This, in turn, led to a residential group home for adolescent sex offenders being required to move from the location it had occupied for more than 10 years (Abbott, 2000).

One clinician treating sexual abusers in Michigan states, "Many of the adult clients -- adult sex offenders -- have stated that they are afraid of the 'witch-hunt' that is occurring. At first (about 5 years ago), I passed it off as displacement and projection. . . . When I hear about the registration and notification laws, and the new punitive laws being passed, I wonder if sex offender therapy will even achieve its ultimate goal" (Rosenberg, 2000)

- (19) *Misplaced Responsibility*. Public notification places responsibility for community safety and appropriate individual conduct on the community instead of the offender. Treatment is most effective when offenders are required to take total responsibility for their behavior.

Several examples in this paper illustrate that these laws are having an impact on sex offender treatment, and in some cases, they are resulting in sex offenders not getting treatment at all. In the absence of treatment, sex offenders will never learn to take responsibility for their behavior and stop the abuse. Unfortunately, sex offender registration and notification laws are impacting quality sex offender treatment in many states, continuing to put the responsibility for personal safety on potential victims, existing victims, and society -- where the responsibility has been all along. These laws have not demonstrated their ability to prevent sex crimes or make communities safer, and it is not likely they will if the first five years have not been able to demonstrate such.

- (20) *Limiting of the Offender's Ability to Function in the Community*. Sex offenders need to learn appropriate skills that assist them in functioning appropriately and safely in the community. In the absence of these skills they do not function well and

are at greater risk of reoffending. Threats, harassment, and fear of reprisal by citizens keep the offender in a state of stress and anxiety and, thus, more likely to reoffend. To function in the community, the offender has to feel a part of the community like anyone else. Sex offender registration and public notification laws compromise the sex offender's ability to do so in a healthy and safe way.

One man who was released from prison in California and was doing well for three years was subjected to Megan's Law when it was implemented in California. He experienced the loss of three jobs and was run out of town twice. After fliers were distributed, the news media showed up at his door, and he was put on television. He knew of two other cases in California where sex offenders also were affected by these laws; one had his car bombed, and the other committed suicide (Anonymous, personal communication).

In Fallon, Nevada, a woman was the recipient of death threats as a result of her husband's arrest for committing a sexual offense and publication of his crime. Her home was also broken into and extensively damaged, and some of her property was stolen (Garcia, 1999). Her husband was in the news for failing to reregister with police in California as a sex offender.

In Milwaukee, Wisconsin, a judge ordered the Department of Health and Family Services to assist an offender, who was being released, to find housing. The Department of Health and Family Services claims it is not able to find a place for him to live and is now under the threat of a \$1000 per day fine for contempt of court if housing is not found (B. West, personal communication, February 1, 2000).

In Kentucky, a convicted sex offender released from prison had his picture placed in the local newspaper, and he was labeled a high-risk sex offender. He lost his job and housing and ended up living in his car (Breed, 1999).

In Lake Oswego, Oregon, a group of residents in a neighborhood are pooling funds to send a registered sex offender to college, preferably out of state or in a different part of the state, to move him out of their neighborhood (Hoppin, 1999). In cases like this, I am constantly struck by the lack of concern for others and their neighborhoods or, in this case, the college they send him to. This is an example of the "not in my back yard" (NIMBY) syndrome.

- (21) Age of the Offender. Public notification laws often assume the offender is an adult. With tougher laws, laws waiving youth to adult courts, the public sentiment toward all sex offenders, and the general failure to separate different types of sex offenders by age and risk, juveniles are now subject to sex offender registration and public notification laws in a growing number of states. This is being done without regard for the youth's maturity and developmental stage, or the potential long-term consequences on their lives.

In Michigan, adolescents are now listed on the Internet. In one case, an 11-year-old was listed improperly, exposing his name to other adult sex offenders who might prey on him (R. Grooters, personal communication, January 24, 1999). In another example from Michigan (where juvenile sex offenders are registered), an 18-year-old male, who engaged in a "senior prank" of "mooning" the school principal was convicted of indecent exposure, had to register with the state for 25 years, and has his name, address, and crime publicly posted (Rosenberg, 2000). In yet another Michigan case, one professional had two juvenile clients who were harassed at school by classmates as a result of having their names and addresses posted on the Internet (R. Grooters, personal communication, October 22, 1999).

The state of Texas does registration of all sex offenders, children and juveniles included. The youngest on the list is ten years old. The name and address of this ten-year-old is now posted on the registry for anyone to see (G. Davis, personal communication, November 2, 1999).

In another Texas case, foster parents asked to have two of their foster children removed from their home to avoid having their address listed on an Internet sex offender registry (G. Davis, personal communication, November 2, 1999). In still another Texas case, a young teen male asked a girl out on a first date. She initially accepted but then turned him down, as his name was on the Internet sex offender registry (G. Davis, personal communication, November 2, 1999).

In Oklahoma, a two-and-one-half-year-old child was placed on a state unpublished internal registration system list for youth with sexual behavior problems. The child was seen touching another child and kissing the child (M. Chaffin, personal communication, March 11, 2000).

In recent months, the public has become more aware of the Texas sex offender registry's existence through the media. As a result, juvenile probation officers are encountering an unexpected dilemma. In a recent case, a landlord, after looking at the Internet and finding a registered juvenile sex offender residing in his apartment complex, went to the apartment and told the parent of the eleven-year-old boy they had two days to move out. The probation officer then had to deal with a family that was being evicted, had nowhere to move to, and would be subject to dealing with the sex offender registry and community notification requirements elsewhere. At the same time, the probation officer had to effectively supervise the family with no stability (a moving target) while trying to ensure treatment services continued (A. T. Aguirre, personal communication, March 11, 2000).

An eleven-year-old boy from an upper middle class family in Texas was adjudicated delinquent for having sexual intercourse with his six-year-old sister. He was sent out of state to an inpatient treatment program for adolescent sex offenders. He successfully completed the treatment program, and the staff recommended he return home. However, the probation officer and the judge denied his return home and ordered his involvement in additional treatment. The boy then successfully

completed an outpatient program for children ages six through twelve with sexual behavior problems. His parents drove 16 hours each month to participate in the program. To meet requirements of the court, the boy wrote an apology letter and participated in a family session in which he apologized to his sister. Following overnight visits in his home, the boy was to be returned to the community. At that point, the judge requested a letter from the treatment provider that could be used to justify not placing the boy on the Texas sex offender registry. Registration would include the boy's name being published in the local newspaper and all schools being notified. After several drafts of carefully worded text by the provider, the judge accepted the letter and did not place the boy on the registry. One year later, the boy, his sister, and the family were functioning well with no further sexual or other behavior problems by the boy (B. Bonner, personal communication, March 11, 2000).

- (22) *Mentally Ill Sex Offenders*. A small percentage of offenders sexually abuse because they suffer from a biological anomaly or a mental illness. Despite this handicap, and the need to be sensitive to people with mental illnesses, once a mentally ill sex offender is registered or subject to notification, they are treated with the same level of disrespect and disregard as other sex offenders.

In Michigan, a 47-year-old mentally ill sex offender was arrested and sentenced to more than five years in prison because he failed to register his name and address with the Sheriff's Department in Saginaw County within ten days of being released from prison after serving a sentence for a rape conviction. His previous address was at a homeless shelter (Tucker, 1999). These circumstances only make it more difficult for these men to adjust to society.

- (23) *Intelligence of the Offender*. Many sexual abusers are developmentally disabled. Some are mildly retarded, while others have severe learning disabilities. Like the mentally ill, they live in society with a handicap that makes their lives more difficult, and the need to adjust to society more stressful.

In Washington State, one program for developmentally disabled sex offenders has had very negative experiences with Megan's Law. Staff working in the program have received death threats and have been physically assaulted. Clients were harassed, and dead animals were left on the porch of the program (P. Dennis, personal communication, December 13, 1999).

- (24) *Female Sexual Abusers*. Female abusers are being identified in increasing numbers. As of the writing of this paper, I have not received any cases or news stories regarding the impact of sex offender registration and Megan's Law on females who sexually abuse. In one case I was made aware of, the female sexual abuser was so distraught by the impact of these laws on her life that she requested that the therapist not forward any information about her case, even if made confidential. Given the absence of cases involving female sexual abusers, it may be possible that the public feels less threatened by females who sexually abuse.

(25) Decrease in Reporting. Reports from New Jersey and Colorado indicate that there is a decrease in the reporting of juvenile sexual offenses and incest offenses by family members and victims who do not want to deal with the impact of public notification on their family.

Although reported, many sex crimes are not resulting in convictions, now, or the charges are reduced to nonsexual offenses through plea bargaining. In Michigan, many Judges and prosecutors are having a difficult time obtaining convictions for juvenile sex offenders because many jury members do not want to live with the guilt of ostracizing a 15-year-old for the majority of his life. Moreover the actual prosecutors, judges, and referees are reluctant to convict these juveniles for the very same reason. They are placing a growing number of juveniles under advisement status. (If the juvenile sex offender completes treatment, the juvenile record is dismissed.) (Rosenberg, 2000).

In Idaho, one professional noted that since enacting the juvenile registry law, actual juvenile sex offenses are down approximately 85 percent. Original charges are being reduced to unspecified "battery" charges in order to avoid the registry law (Meyers, 1999).

## **Other Issues**

Besides the issues addressed above, there have been additional negative effects on offenders and others that have been the direct result of sex offender registration and notification laws. Some of these were hard to foresee, while others are simply a matter of technology and advancement. They are addressed briefly below.

### Real Estate

Real estate is not selling when potential buyers find a sex offender lives in the neighborhood (Hoppin, 1999). In New Jersey, it is not legal to advise prospective buyers that there is a registered sex offender in the neighborhood K. Singer, personal communication, February 2, 2000). In contrast, in Cleveland, Ohio one large real estate company is asking on the disclosure statement form (along with the leaky basement, radon, and roof questions) whether or not the sellers have ever been notified of a registered sex offender living in their neighborhood (Fazekas, 2000).

In Detroit, a couple trying to sell their home had their address incorrectly included on a sex offender registry list. After reporting the error, the couple was informed by police that the police department could not remove the listing until they could track down the former owner of the house who bought their house three years earlier from a sex offender (Associated Press, 1998).

### Use of Technology

Today's world is full of technological advances that have advanced communications beyond dreams and expectations. CD-ROMs can store large amounts of data on a small plastic disk. The Internet makes it possible to put information in large quantities on the worldwide web for access by anyone. These technologies also have the potential to spread harm as quickly as they spread knowledge and information.

A growing number of states are posting sex offender registries and notification announcements on the Internet. Many of these lists are not kept updated, as mentioned above, and as many as 25 percent of the materials listed on them are incorrect (W. Bowers, personal communication, February 2, 2000).

### Abuses of the Law

There is a saying that goes, "Laws were meant to be broken." Certainly we know that people take advantage of the law in many instances, and apparently sex offender registration and notification laws are no different.

Several states (Florida, Minnesota, and Washington) are considering laws that restrict residency options for sex offenders. In Minnesota, there is an effort to create a law that addresses the problem of sex offenders congregating in certain neighborhoods (usually poor inner city neighborhoods). Several landlords now target sex offenders as potential renters, therefore creating clusters of sex offenders in particular neighborhoods (Hout, 2000). In Washington, a proposed law would prohibit sex offenders from residing within a mile of their victims (O'Connell, 2000)

A company that falsely identified itself as a state agency mailed postcards to all registered sex offenders asking for information correction. The card, being a postcard and not, therefore, sealed, let mailmen know addresses of registered sex offenders (G. Davis, personal communication, October 8, 1999).

In California, a sex offender moved to a small town, put all of his money into buying a plumbing business, and registered, as was required by law. Despite his being a low-risk offender (his offense was a very minor, one-time offense), and the fact that his registration was not intended for public notification, word got out after he registered that he was a convicted sex offender. As a result of the leak of information, he lost his business (C. Steen, personal communication, October 5, 1999).

### **Summary**

There is no doubt that unexpected problems and blatant abuses of sex offender registration and notification laws have occurred. Many of these were foreseeable and could have been avoided with more planning, research, and forethought about potential problems. With the writing of this paper, I hope we will not take another five or six years to revise these laws. The laws need to be more uniform between states, less punitive and destructive to sex offenders, less destructive to the lives of innocent persons, and more preventive (even though prevention will only occur in a limited way with these

laws). Until we look at them closely and research their potential effectiveness, I am concerned that laws designed to protect our citizens may, instead, do more damage than if they did not exist at all.

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## Endnotes

<sup>i</sup> Massachusetts is having difficulties in the courts with their public notification law. This is related to the severe retroactivity of the statute (1981) and the appeals process for risk determination.

<sup>ii</sup> Arizona, California, Colorado, Delaware, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Jersey, North Carolina, Oregon, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, and Wisconsin.

<sup>iii</sup> Technically, Vermont's program isn't adequate (the legislature has not enacted a federally compliant version) and New Mexico has not yet started notifying. Massachusetts is having legal difficulties; see footnote i.

<sup>iv</sup> California, Colorado, Idaho, Minnesota, Mississippi, Missouri, North Carolina, and South Dakota register juveniles, but do not perform notification on them. The remaining states in footnote ii perform notification.

<sup>v</sup> Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Missouri, New Jersey, North Dakota, South Carolina, Texas, Virginia, Washington, and Wisconsin.