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## Community notification laws and sex offender recidivism: A study of state laws in pre and post time periods

Rachel Katherine Abrams  
*University of Nevada, Las Vegas*

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COMMUNITY NOTIFICATION LAWS AND SEX OFFENDER  
RECIDIVISM: A STUDY OF STATE LAWS IN  
PRE AND POST TIME PERIODS

by

Rachel Katherine Abrams

Bachelor of Science  
California State University, Hayward  
2003

A thesis submitted in partial fulfillment  
of the requirements for the

**Master of Arts Degree in Criminal Justice Studies  
Hank Greenspun Department of Criminal Justice  
Greenspun College of Urban Affairs**

**Graduate College  
University of Nevada, Las Vegas  
May 2005**

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**Thesis Approval**  
The Graduate College  
University of Nevada, Las Vegas

April 5, 2005

The Thesis prepared by

Rachel Katherine Abrams

Entitled

Community Notification Laws and Sex Offender Recidivism: A Study of State  
Laws in Pre and Post Notification Time Periods

is approved in partial fulfillment of the requirements for the degree of

Master of Arts in Criminal Justice

Examination Committee Chair

Dean of the Graduate College

Examination Committee Member

Examination Committee Member

Graduate College Faculty Representative

## ABSTRACT

### **Community Notification Laws and Sex Offender Recidivism: A Study of State Laws in Pre and Post Notification Time Periods**

by

Rachel Katherine Abrams

Dr. Terance Miethe, Examination Committee Chair  
Professor of Criminal Justice  
University of Nevada, Las Vegas

In response to public concern, all states currently have some form of a sex offender community notification law. The enactment of these sex offender laws has sparked many debates regarding their implications and overall effectiveness. Sex offender community notification laws differ in their restrictiveness between states, which, in turn, may affect the overall effectiveness of these laws. The current study examines secondary data on released sex offenders before and after implementation of community notification laws. Three different states with available pre and post notification data on their released offenders in 1994 were used for analysis.

Upon examination of these state statutes, Delaware was ranked as the most restrictive state, followed by New Jersey, and then Virginia as the least restrictive state. Since Delaware was found to be the most restrictive state, it is expected that Delaware should have higher rates of rearrest among sex offenders because of the increased surveillance and monitoring of their released offenders. Consistent with this expectation,

released sex offenders in Delaware after community notification was enacted had higher rates of recidivism and shorter relapse time between release and rearrest than the other states. These results are interpreted in light of the deterrence ideology of the increased certainty of punishment under more restrictive community supervision. This paper concludes with a discussion of its findings and implications.

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## ACKNOWLEDGMENTS

This thesis would not have been conceived and developed without the support and assistance of a number of people. I am indebted to Dr. Terance Miethe for his seminal contributions, his patience, and his expert assistance to the developmental phases of this study. Your time and dedication will never go forgotten or unappreciated, thank you. I would also like to thank Dr. Randall Shelden, Dr. Ojmarrh Mitchell, and Mr. Larry Ashley for their time and recommendations which contributed to the improvement of my study.

I want to also acknowledge the graduate assistants, which were my fellow peers, for the limitless amount of support and guidance they offered to me through this treacherous and challenging process of graduate school. Lastly, and most importantly, I would like to thank my family and friends for their endless support, encouragements, and hours of proofreading they provided throughout this endeavor. This thesis would have never been possible without you all, and I thank you immeasurably, for all that you have contributed to this remarkable accomplishment.

## CHAPTER 1

### INTRODUCTION

There are few human behaviors that society views as more obscene, despicable and worthy of public outrage than those of sexual abuse. In the last decade, American society has acknowledged that sexual assault of women and sexual exploitation of children are serious and widespread problems (Furby et al., 1989). There are high victimization rates among children, as about ten percent of boys and twenty percent of girls, are victims; also between ten and twenty percent of all women are victimized in their lifetime (Hanson and Bussiere, 1996). Random samples of adults asked about their own childhood victimization have yielded rates of three to six percent for males and twelve to thirty percent for females (Furby et al., 1989). As of February 2001, there were 386,000 convicted sex offenders in 49 states (Bureau of Justice Statistics, 2002).

During the early 1990's public outrage and concern increased in response to a number of violent sexual assaults, mainly against children, committed by persons with histories of prior sexual offending. Citizens began to demand that the justice system develop ways to rigorously monitor the location of sexual offenders released back into the community and to share more of this information with the public than had been practiced in the past.

In an effort to respond to these concerns, Congress passed three separate pieces of legislation: (1) the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (enacted in 1994), (2) the Federal version of “Megan’s Law,” and (3) the Pam Lychner Sexual Offender Tracking and Identification Act (both enacted in 1996) (Baldau, 1998; Lieb, Quinsey, and Berliner, 1998; Freeman-Longo, 2002). Together, they mandate that the states strengthen their techniques for managing and tracking sexual offenders, through the establishment of registration and notification programs. This allows local law enforcement and criminal justice agencies to know the location of sexual offenders released into their jurisdictions. Further, registration and community notification laws inform citizens about sexual offenders living in their community.

With the passage of these laws, states were unavoidably assigned the difficult task of implementing mandated requirements of these laws. They were given until 1997 to comply with the Wetterling Act and Megan’s Law, and until October 1999 to comply with the Lychner Act (National Conference on Sex Offender Registries, 1998). Those states that failed to meet the compliance deadlines risked losing ten percent of their appropriation from the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, otherwise known as the Byrne grant funds, which provides funding for State and Local crime eradication efforts (Baldau, 1998).

Those who support and advocate for sex offender registration and notification laws, generally state five main arguments for these laws (Sacco, 1998). Presented broadly, the arguments involve the following issues: (1) the significant number of sex offenders under community supervision, (2) the fear of recidivism by these offenders, (3)

a tool for law enforcement to assist in investigations to help identify and keep offenders under surveillance and in line to register, (4) the law's deterrent effect on sex offenders because of the fear of public disclosure, and (5) offering citizens information to protect their children and their families from offenders.

However, there are many who oppose these laws and feel they do not serve their intended purpose. Many feel that they require too much responsibility, on too many levels of the justice system, to implement such laws properly and effectively. According to Sacco (1998), the main arguments against registration and community notification laws are as follows: (1) the laws provide a false sense of security, (2) it possibly subjects some offenders to vigilantism and harassment, (3) some offenders avoid treatment, (4) there are no data on the effectiveness of these laws, and (5) the problem with dispersion or migration of those offenders moving to communities with less restrictive or lax registration and notification laws.

The evidence supporting registration and notification laws is sparse at best. According to Brooks (1995) and Shenk (1998), there is no empirical evidence supporting that these laws actually reduce recidivism rates for adult sexual offenders. Further, a study conducted by the Washington State Institute for Public Policy yielded similar conclusions stating that "...community notification had little effect on recidivism as measured by new arrests for sex offenses or other types of criminal behavior" (Schram and Milloy, 1995). Additionally, a study performed by Finn (1997) found that, "...although registration has been evaluated and shown to be useful in apprehending repeat offenders, the notification statutes are too recent for clear evaluation of results" (p.32).

In Matson and Lieb's (1997) study, *Megan's Law: A Review of the State and Federal Legislation*, comparisons between the study group to the comparison group revealed no difference in the number of new sex offenses, but there were differences in the timing of rearrest. Specifically, the community notification group was rearrested about twice as quickly as the comparison group. The average time in the community before rearrest was about two to two and half years for the notification group, where as the comparison group was closer to about five years. Matson and Lieb (1997) state, that

“[i]n [their] opinion, the fact that the offenders were rearrested twice as quickly indicates that the law does have an effect. In ways we do not yet fully understand, the law is producing a different response from the offender, law enforcement and or the community, either in combination or alone” (p.102).

Empirical evidence for registration and notification laws is limited, mainly because they are relatively new to the justice system. However, as time and future research continues, we will be able to better assess the effectiveness of these laws.

Registration and community notification laws were enacted in hopes of easing public concern over sexual offenders, and further, to protect society and the victims of such crimes from future offending. In order to enact laws that achieve this, criminologists and policy makers must try to understand this group of offenders through examining who and what they are trying to protect society from. However, most argue that sex offenders are not a homogeneous category of offenders. In fact, Prentky, Knight, and Lee, (1997) explicitly state this:

“[t]he classification, diagnosis, and assessment of [sexual offenders] are complicated by a high degree of variability among individuals in terms of personal characteristics, life experiences, criminal histories, and reasons for offending. There is no single “profile” that accurately describes or accounts for all [sexual offenders]” (p.67).

The heterogeneity of sexual offenders requires a wide variety of treatments, punishments, and managerial efforts. This is why these offenders represent some of the most dangerous and most difficult problems for the criminal justice community and society.

Previous researchers have characterized sex offenders through risk assessments, which help criminal justice agencies treat, manage, and punish. The value of offender typologies and risk factors is that they can assist policy makers when enacting certain laws, because it is assumed that specific laws should be applied to particular offenders in order to be most effective. Understanding that there is not a “one size fits all” law, or treatment program to manage sexual offenders, is extremely crucial in implementing policies and evaluating if they are effective.

Matson and Lieb (1997) further reveal that there are three main categories of notification laws, organized principally by the degree of notification. According Matson and Lieb (1997) and other researchers (see Pearson, 1998), the first category involves *broad community notification*, where the states authorize a broad dissemination of relevant information to the public regarding designated sex offenders. There are eighteen states which provide this type of notification. The process for determining which offenders should be subject to notification differs from state to state. For example, Texas issues notifications for all convicted sex offenders, whereas the remaining states only notify the public of those who pose a risk to reoffend.

The second category of community notification laws is *notifications to individuals and organizations at risk*. These states provide more limited notification, with the release of information based on the need to protect an individual or vulnerable organization from a specific sex offender. Fourteen states provide this type of notification. Local law

enforcement agencies generally determine which individuals are at risk. Organizations that are typically notified are child care facilities, religious organizations, public and private schools, and other entities that provide services to children or vulnerable persons.

The final category of community notification laws is the *access to registration information*. States in this category allow access to sex offender information by citizens or community organizations through their county sheriff or local police department. Fifteen states total allow such access. In most of these states, local law enforcement officials maintain a registry of sex offenders residing within their jurisdiction. Some are open to public inspection, others are open only to citizens at risk from a specific offender, and some are open only to community organizations such as schools, licensed child care facilities, and religious organization (Baldau, 1998).

There are many differences between states' sex offender notification laws. Not including the previously discussed categories of the degrees of notification laws, other differences include: (1) the procedures and guidelines for agencies to follow when performing a notification, (2) the categories of offenders subject to notification, (3) the scope, form and content of notification information, and (4) the designation of an agency to perform the notification. These factors are important because they may ultimately affect the implementation and effectiveness the state's community notification laws.

### Statement of the Problem and Research Questions

The purpose of the current study is to determine whether variability in the nature and context of notification laws across three different states contribute to their relative effectiveness by comparing rearrest rates before and after these laws were enacted. For

purposes of this study, effectiveness is measured by the recidivism rates of the sex offending population. Recidivism rates for sex offenders will be examined through data originally collected by the Bureau of Justice Statistics in a project entitled “Recidivism of Sex Offenders Released from Prison in 1994.”

The specific research question is whether states with more restrictive sex offender community notification laws have higher rearrest rates in the post community notification time period than those states whose laws are not as restrictive in the same time period. Given the purpose of notification laws, it is expected that the states with the most restrictive community notification laws should have higher rearrest rates among their sex offending population due to the increased surveillance and monitoring these laws facilitate. The timing of rearrest will also be examined to assess whether more restrictive states have a shorter or longer time periods between release and rearrest over pre and post community notification time periods.



## CHAPTER 2

### LITERATURE REVIEW

#### The Classification/Definition of the Sex Offender

The classification of sexual offenders is a topic that receives only sporadic attention, despite its potential importance in the understanding of sexual assaults, their perpetrators and the laws pertaining to such (Grubin and Kennedy, 1991). A valid and reliable classification system further assists in the assessment of offenders, the design of evaluation of treatment, and prediction of future risk. Polaschek (2003) states that,

“At this point in the evolution of sex offender classification systems, two things are clear. First, sexual deviance, [can be legal] even if limited to acts of criminal expression, comprises a diverse range of behaviors, and the people who carry out these behaviors are highly heterogeneous. Second, there are no natural categories that reduce heterogeneity, either of the behavior or the people who carry it out, and so classification schemes for sexual offenders can be evaluated meaningful only with respect to the intended purpose of such schemes” (p.154).

Polaschek (2003) ties usefulness to the specific purpose of the classification system. However, given the diversity of offenders and behaviors under the category of “sex offender,” any structured classification system is bound to be ambiguous.

Sexual deviance can refer to socially or statistically unusual behavior. Sexual deviances or perversions are commonly referred to as paraphilias. Paraphilias are defined by the DSM-IV as, “sexual impulse disorders characterized by intensely arousing, recurrent sexual fantasies, urges and behaviors (of at least six months’ duration) that are considered deviant with respect to cultural norms...” (Kafka, 1996, p.1).

The first common group of paraphilias include: exhibitionism, pedophilia, voyeurism, fetishism, transvestic fetishism, sexual sadism, sexual masochism, and frotteurism (i.e., rape is omitted unless it fits into the diagnostic criteria for sexual sadism). Although several of these disorders can be associated with aggression or harm, others are neither inherently violent nor aggressive.

There is also a second group of sexual impulse disorders not currently classified as paraphilias, typically considered “deviant” with respect to contemporary cultural norms. The boundaries for these types of behavior are largely determined by the cultural and historical context. For example, sexual disorders once considered paraphilias (i.e., homosexuality) are now regarded as variants of normal sexuality; so too, sexual behaviors currently considered normal (i.e., masturbation) were once culturally prohibited (Kafka, 2003).

In addition to the paraphilias just described, most sexual offenders can be classified into two general categories: rapists or child molesters. Again, there must be caution when using these categories because although there are some sex offenders who only engage in one type of deviant behavior, there are those who engage in multiple deviant behaviors. Some rapists and child molesters will assault both adults and children and may possibly even engage in some form of a paraphilliac disorder (e.g., exhibitionism, voyeurism, sadism etc.).

Rape is generally defined as, “forced sexual intercourse including both psychological coercion as well as physical force” (Holmes and Holmes, 2002, p.172). Rapists are generally acknowledged to be the most heterogeneous group of sexual

offenders, and at the same time it is often difficult to distinguish nonsexual violent offenders on many of the indices that are distinctive to child molesters.

Molestation occurs when an adult or person significantly older than a victim engages in sexual activity with a minor. The abuse can be over an extended period of time, or a one- time incident, which includes touching, fondling, kissing in a sexual manner, oral sex, masturbation, and digital or penile penetration of rectum or vagina (Kafka, 2003). The 1992 rape survey conducted by the National Victim Center reported that twenty nine percent of all rapes occurred when the victim was less than eleven years old, another thirty two percent occurred between the ages of eleven and seventeen.

As stated previously, these classifications of sex offenders must be used cautiously. Sexual offenders are highly diverse, some of whom perform many sexual deviances, both illegal and legal. However, an understanding of such behaviors is important in assisting with the supervision, treatment, risk assessment and punishment of these types of offenders.

### The Sex Offending Population

Sexual offenders present a unique challenge to the criminal justice system, policy makers, and treatment providers (Burdon and Gallagher, 2002). They represent a highly variable group of offenders, most of who will serve their sentences under community supervision or be released back into communities after incarceration (Greenfeld, 1997; Perkins, 1994). Approximately five percent of convicted sex offenders in the United States are under some form of correctional supervision (i.e., probation, jail, prison, parole) (Greenfeld, 1997). By the year end 1999, there were approximately 296,100

offenders convicted of a sex-related offense (i.e., rape or sexual assault) (Burdon and Gallagher, 2002). As of February 2001, there were about 386,000 convicted sex offenders registered in forty-nine states and the District of Columbia (BJS, 2001). Additionally, the economic cost of these crimes is enormous. It has been estimated that, "...rape and child sex abuse crimes cost an estimated \$170 billion per year in health and quality of life expenses" (Philips, 2003, p.4).

Studies of sex offenders indicate that most have histories of sexual assaults, many of which have never been reported in their official criminal records. Since sexual crimes are highly underreported, estimates of the number of sexual victimization from police data or victimization surveys are likely to seriously undercount the prevalence of this type of offender (Holmes and Holmes, 2002).

### History of Sex Offender Laws

Sexually abusive behavior has occurred throughout American history, but acknowledgement and discussion of sexual abuse has long been taboo. Some of the first reports of sexual abuse in the United States were in the late 1800's (Ryan and Lane, 1997). These cases drew the attention of humanitarians, who became advocates for abused children. Conversely, the Freudian tradition also was emerging during this time, insisting that accounts of sexual victimization were simply fantasies that were symptoms of intrapsychic conflicts. The reality of sexual abuse was universally denied (Herman, 1992).

Sex offender laws in the United States can be examined in three distinct periods. These three waves represent distinct periods of intense legislation and public attention

focused on sex offenders. Most of these waves were ignited by sensationalized cases which outraged the public, and consequently, influenced political leaders (Freeman-Longo, 2002). The first wave began in the 1930's through the mid-1950's, the second started in the 1970's, and the third wave started in the 1990's (Lieb, Quinsey, and Berliner, 1998).

#### Wave 1: 1930's- mid 1950's

The first period began in the late 1930's after a series of brutal murders of children that appeared to have sexual motivations (Lieb, Quinsey, and Berliner, 1998). Serious sex offenders became the focus of the special legislation, namely the "sexual psychopath" was identified and defined. "Sexual psychopaths" were depicted as those who were neither criminal, nor legally insane, who, for the individual's and society's best interest, required special conditions (Guttmacher and Weihofen, 1952). The new rise of the sexual psychopath laws gave psychiatrists and other mental health professionals key roles in intervention and risk reduction.

The sexual psychopath laws implied that these criminals would be taken out of society and "cured" to be released back into society habilitated. However, for decades, many criminologists have expressed their distaste for these laws (Lieb, Quinsey, and Berliner, 1998). Morris (1982) stated, "...that these laws were passed irrationally and in haste, and illustrate the legislative capacity to conceal excessive punishments behind a veil of psychiatric treatment" (p.135). Under this model of crime control, sexually offensive behavior was managed through incapacitation while the offender received treatment to cure the sex-related disorder.

During this first wave of sex offender laws, Edwin Sutherland's (1950) classic study emerged. Sutherland (1950) identified three stages in the emergence of sexual psychopath laws in the United States. "First, these laws are customarily enacted after a state of fear has been aroused by a few serious sex crimes...the sex murders of children are most effective in producing hysteria" (p.75). Next, the fear is mobilized across many sectors, particularly in the communities. The communities focus on these sex crimes, and feel it is their duty to stop such behavior. Third, there is an appointment of a committee which attempts to determine the facts and study procedures in other states in order to make future recommendations, which generally include bills for legislation. Sutherland (1950) also noted that, "these committees deal with emergencies, and their investigations are relatively superficial. Even so, the community sometimes becomes impatient [passing ineffective or mistaken laws]" (p.77). Nonetheless, the proposed law is claimed to be the most scientific and enlightened method of protecting society against dangerous sex criminals (Sutherland, 1950).

Sutherland further criticized "...these dangerous and futile laws...as having little or no merit" (p. 143). While the laws' content lacked any scientific basis, Sutherland was a dominant force protesting that the specific content of sex offender laws favored the "social movement" of the day in criminal justice. During the 1930's and 1940's, when treatment policies were on the rise, the sex offender was deemed a socially sick person or patient. Sutherland saw these laws as dangerous in part because they took offenders outside the realm of ordinary punishment and placed them in state mental hospitals for indefinite periods of time. The laws were also dangerous because they rested on false or questionable propositions about sex offenses, including, "that most sex crimes are

committed by ‘sexual degenerates’, ‘sex fiends’, and ‘sexual psychopaths’ and that these persons persist in their sexual crimes throughout life and that any psychiatrist can diagnose them with a high degree of precision although they might at some time be permanently cured of their malady” (Sutherland, 1950, p. 142).

Sutherland also believed that such laws might injure society more than cure the actual problem of sex crimes or the sexual offender because the concept of the sexual psychopath was too vague. According to Sutherland (1950), the laws were almost pointless, because the states passing them made little or no use of them. He further believed that there were no differences in the rates of reported sexual offending in states with and without the legislation.

Today, the circumstances that spark the passage of laws to control sex offenders are almost identical to those in the 1950’s. As Sutherland points out, the circumstances are as follows: a child goes missing, they are found dead and perhaps mutilated, which then turns into a murder investigation. However, the laws’ contents and the contexts in which they have emerged have changed dramatically. The contents of laws have shifted from treatment oriented, to punitive policies. The sexual psychopath laws of the earlier decades had an optimistic approach to sex offending: the problem could be solved by the intervention of medical expertise and psychiatric therapy. These laws were seen as an alternative to punishment, and sex offenders were involuntarily detained under civil statutes for purposes of treatment and rehabilitation, not as punishment for past criminal behavior (Sutherland, 1950).

By the 1970’s, most states had repealed their sexual psychopath laws. There were concerns for the civil rights of offenders, the ineffectiveness of treatment programs, and

the lack of a consistent or scientific basis for identifying and classifying people as sexual psychopaths.

### Wave 2: 1970's

The second wave of legislation was led by women's groups regarding sex crimes in the 1970's (Lieb, Quinsey, and Berliner, 1998). The modern feminist movement ignited awareness regarding sexual assault beyond stranger rape toward the more broad variety of sexual assault and abuse in intimate relationships and in families.

During this period, activists emphasized the seriousness of sex crimes that had been previously ignored or minimized. The stronger penalties represented the power these activists achieved from their fighting. Treatment-based sentencing alternatives, or institutional programs, were also developed and expanded. The passage of the federal Violence against Women Act, part of the Violent Crime Control and Law Enforcement Act of 1994, provides evidence that a special attention on these crimes has now succeeded in broad political support (Lieb, Quinsey, and Berliner, 1998).

During this second wave, the especially significant Washington State's Community Protection Act, was also enacted. This act required sex offenders to register with local police. The idea of "community notification" was a new concept which began with Washington State's legislation. This act also allowed for certain sex offenders to be civilly committed after completing their full prison sentence (Burdon and Gallagher, 2002; American Psychiatric Association, 1999). Specifically, following their release from prison, sex offenders determined to be sexually violent predators could be civilly committed until it was decided that the underlying disorder had changed. Therefore, the



offender no longer represented a threat to the safety of the community. Throughout the 1990's, other states followed Washington State's lead by enacting similar legislation.

### Wave 3: 1990's

The third wave of laws, in the mid-1990's, echoed the first wave, with the key focus on social control mechanisms following prison terms rather than on alternatives to conventional confinement (Lieb, Quinsey, and Berliner, 1998). Many state laws that deal with offender management developed during this time when several significant federal laws were passed (Philips, 2003).

The first of these laws, enacted in 1994, was the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. This act was named after the case of an eleven year old boy who was kidnapped in October 1989. The Jacob Wetterling Act required all states to establish stringent registration programs for sex offenders by September 1997. If not enacted by then, the federal government withheld ten percent of the federal grant fund for criminal justice (Burdon and Gallagher, 2002; Lieb, Quinsey, and Berliner, 1998). This act further requires offenders to verify their addresses annually, for ten years, and requires sexually violent predators to verify their residence quarterly for life.

The first amendment to the Jacob Wetterling Act was Megan's Law, which was passed in October 1996. This law, again the result of a widely publicized case, 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. Megan's Law mandated all states to develop notification protocols that allow public access to information about sex offenders in the community (Freeman-Longo, 2002; Burdon and Gallagher, 2002; Lieb,

Quinsey, and Berliner, 1998). Community notification became known as “Megan’s Law.”

The final legislation that Congress passed during this third wave was the Pam Lychner Sexual Offender Tracking and Identification Act in 1996. In addition to mandating more stringent registration requirements than previously implemented, it also directed or gave the responsibility to the Federal Bureau of Investigation to establish a national sex offender database in an effort to assist law enforcement agencies in tracking sex offenders when they move in or out of state (Burdon and Gallagher, 2002; Lieb, Quinsey and Berliner, 1998). The FBI created the National Sex Offender Registry (N.S.O.R.). N.S.O.R. will include fingerprint and photo (mug shots) images of registered sex offenders that will be a “hot file,” accessible to authorized users without submitting fingerprints (Baldau, 1998).

The primary purpose of the third wave of sex offender registration and community notification laws was to deter offenders from committing new crimes and create a registry to assist law enforcement (Burdon and Gallagher, 2002). This idea is founded in the deterrence doctrine that of increased certainty of punishment deters future criminal behavior. They were further meant to provide communities the opportunity to conduct their own surveillance of the sex offenders living among them, thus representing an informal, although legal, method of controlling sex offenders’ behavior. However, as some argue (see Finn, 1997 and Sacco, 1998), such legislation could possibly be more harmful than helpful in deterring or protecting communities from sex offenders. The next section of this paper examines the potential harm resulting from this kind of legislation.

## Registration and Community Notification Laws:

### More Harmful than Actually Helpful

Sensationalized cases, such as the three previously discussed, have shocked and angered society. The public is rightfully outraged at such crimes; rarely are other crimes seen as more heinous and scandalous than sex crimes. Unfortunately, the general public's response is more emotional than logical. The legislative actions during the third wave of sex offender laws (the 1990's), in particular, appeared to be the results of emotional public outrage rather than of empirical evidence proving that these laws will make any difference in correcting the problem and reducing crime (Freeman-Longo, 2002). These laws sound and feel good when they are passed (e.g., "three strikes and you're out"); however, they give a false sense of security to citizens and may result in more damaging consequences for the offender and criminal justice agencies (Laws, 2003).

The central constitutional challenge to community notification and registration statutes is whether the burden imposed by the law constitutes further punishment of the offender (Lieb, Quinsey, and Berliner, 1998). Other challenges have argued that these laws violate prohibitions of cruel and unusual punishment, double jeopardy, or failure to provide adequate due process (Sacco, 1998). Nevertheless, most courts have upheld that registration and notification laws are not punishment under the Eighth Amendment of cruel and unusual punishment. Further, courts have upheld such laws because they have found that the laws' principal purpose is regulatory in nature and not punitive (Lieb, Quinsey, and Berliner, 1998). In addition, the laws state that their primary concern is the protection of the public rather than as additional punishment to the offender.

Although the courts have upheld states' laws, some criminologists disagree with the courts. These researchers (see Sample and Bray, 2003; Baldau, 1998; Matson and Lieb, 1997) feel that notification and registration laws actually do more harm for communities and the offender, and do little for deterring criminal behavior and the protection of society. To name a few examples, Freeman-Longo (2002) state that there are specific issues such as: costs, subsequent violence, confidentiality, risk determination and limitations in the offender's ability to function in the community.

*Cost* is considered a negative issue because notification requires continuous monitoring by public service agencies. All states must finance these costs which were mandated by law. Starting with limited funding already, criminal justice agencies are faced with implementing these new laws. The failure to implement such laws results in a loss of funding from the federal government, so the pressure to enact these laws is intense. Further, states argue that registries are not kept up properly and have incorrect addresses (Freeman-Longo, 2002).

*Subsequent violence* is due to vigilant activities toward not only registered sex offenders, but occasionally to mistaken identity sex offenders. Innocent people who have been mistakenly identified as sex offenders have been assaulted or have had their property damaged.

*Risk Determination* is a crucial aspect in sex offender laws. Most states have public notification laws based on a determination of risk or dangerousness to society. However, there is no consistent tool to asses "risk," and many times risk is not determined by a trained professional in risk assessment. Errors are bound to happen with

notification laws, and if someone is found to be a high risk offender when they really are not, detrimental consequences can result from such a mistake.

Lastly, such laws *limit the offenders' ability to function in the community* because of threats, harassment, and possibly fear. Offenders are often isolated from their communities as a result. This isolation may actually limit the offender's potential for rehabilitation back into the community.

Those who argue against community notification laws concentrate their arguments on four central points: (1) the laws rest on a "false sense of precision" because prediction of sexual recidivism is not accurate, (2) the laws violate constitutional protections and are unfair to the offender, (3) the laws promote vigilantism and (4), the vagueness of the term "sex offender" (Hefferman, Kleinig, and Stevens, 1995). Some even go as far as to say that the laws represent modern day shaming or the scarlet letter (Lieb, Quinsey, and Berliner, 1998). Instead of using a brand or other physical mutilation, the laws (in some states) are available to the public, which can possibly result in labeling the offender as a public enemy.

Regardless of the criticism of these laws, they are widely viewed as essential in the supervision and protection of society. Most supporters of the laws hope that future developments in research will improve the implementation for the enhanced effectiveness of these laws to better protect communities at risk. The next section discusses risk assessment of offenders and the importance of this to the overall effectiveness of community notification laws.

## Risk Assessment of Sex Offenders

Risk assessment is a vital piece to the complete package of effective offender management in contemporary corrections (Hart, Laws, and Kropp, 2003). It is crucial to identify the risks posed by offenders, the factors associated with these risks, and the interventions that could be taken to manage and reduce risk. This is true for sex offenders and any other category of offenders.

The recent legislation surrounding sexual offenders has placed great importance on the assessment of risk. Many arguments have been resurrected about the accuracy and predictability of risk prediction in social policy decisions (Lieb, Quinsey, and Berliner, 1998; Holmes and Holmes, 2002; Cumming and Buell, 1997; Marshall et. al, 1991; Hart, Laws, and Kropp, 2003). “A *risk* is a hazard that is incompletely understood and whose occurrence therefore can be forecast only with uncertainty” (Hart, Laws, & Kropp 2003, p.209).

According to its critics, risk assessment cannot be one hundred percent accurate, one hundred percent of the time. Under these conditions, legislation is intensely controversial surrounding the use of these statutes pertaining directly to the risk assessment of an offender. False accusations can lead to harsher punishments, such as, longer sentences, more intense community supervisions, or stigmas which are wrongfully applied. Particularly with sex offender laws, risk assessment is crucial because the laws that apply to the offender depend on which category of risk the offender falls into (i.e., Tier III- high, Tier II-moderate, or Tier I- low).

## Risk Assessment Methods

Many states assess the risk of an offender through formal methods, called actuarial methods, while others enlist the assistance of advisory committees, and a small portion require the sentencing court to assess risk (Matson and Lieb, 1997). Actuarial decision making is more accurate or reliable than professional judgments.

In terms of actuarial decision making, there are at least two types. The first is actuarial *use of tests*. These tests are structured samples of behavior designed to measure personal dispositions or traits that are associated with sexual violent risks (Hart, Laws, and Kropp, 2003). The second type of procedure is the use of actuarial *risk assessment instruments*, also known as actuarial tests, tools, or aids. In contrast to the other tests, actuarial instruments are designed not to measure anything but solely to *predict* the future (e.g., recidivism). Both of these procedures have several strengths, the strongest being the empirical data supporting the consistency and utility of these decision-making procedures (Hart, Laws, and Kropp, 2003).

In relation to the laws concerning sex offenders, risk assessment tools consist of scales or point values on the previously discussed instruments. Offenders scoring certain point totals are subject to community notification. An assessment scale determines the offender's level of risk (Tiers I, II, III). "The assessment scale utilizes criteria intended to identify repetitive and compulsive offenders, including seriousness of offense, criminal history, characteristics of offender, and community support" (Matson and Lieb, 1997, p.11). In weighting the criteria, offense items are given the most weight.

Examples of actuarial methods include *The Violence Risk Appraisal Guide* (Hart, Laws, and Kropp, 2003). This actuarial instrument has been found to more or less

accurately predict violent or sexual recidivism in a sample of child molesters and rapists (Lieb, Quinsey, and Berliner, 1998). Another example of an actuarial method is the *Hare Psychopathy Checklist (PCL-R)*. In its revised version, the PCL-R has been widely accepted as an efficient measurement of risk (Perkins et. al, 1998; Hart, Laws, and Kropp, 2003). It is a well-researched instrument which combines record analysis with a structured interview to report interpersonal and affective traits (factor 1) and socially deviant lifestyles (factor 2) (Hare, 1991).

Sexual violence risk assessments can be considered promising insofar as they have the potential to help people make educated and important decisions about sex offenders. However, they clearly have not delivered on the promise that they can be used to make exact predictions about future sexual offenses. Those who conduct risk assessments must be careful to appreciate and communicate the limits of their knowledge and practice, especially when the harm from a bad decision is highly damaging.

#### Assessment of High Risk Sex Offenders

It is believed that risk assessment is most useful when it targets the most high-risk and dangerous offenders (Lieb, Quinsey, and Berliner, 1998; Holmes and Holmes, 2002). In a widely praised meta-analysis of sex offender treatment programs, Perkins et al. (1998) identifies characteristics of sexual offenders who pose the highest risk. They are characterized by the following:

- Early onset criminal history characterized by sex and violence convictions
- Predominantly extra-familial offense types of female rape and male child sexual assault
- Diverse sexual offending- different victim ages/gender/relationships/locations
- Anti-social lifestyle, social influences and attitudes
- Psychopathic personality- as measured by the Hare Psychology Checklist
- High impulsivity, denial, cognitive distortions and emotional loneliness
- Low victim empathy, emotional control, intimacy skills and problem-solving abilities
- Sexually deviant sexual arousal, fantasies, and pre-occupation. (p.2)



Used with caution, these characteristics can better predict risk and categorize high-risk sexual offenders. According to the risk principle, more punitive laws should be reserved for higher risk offenders. However, risk assessment is fallible and cannot completely eliminate uncertainty. Nevertheless, the risk assessment of future dangerousness or recidivism is still recognized as a necessary and appropriate process to categorize offenders for better treatment, management, and punishment.

### Structure and Restrictiveness of Community Notification Laws

As stated previously, the U.S. Congress established three statutes that collectively require states to strengthen the procedures they use to monitor and manage sex offenders: (1) the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, (2) the federal version of “Megan’s Law,” and (3) the Pam Lychner Sexual Offender Tracking and Identification Act. Together, these statutes require states to establish registration programs in order for local law enforcement agencies to know the whereabouts of sex offenders released into their jurisdictions. Notification programs are designed to increase community protection by warning concerned citizens about sex offenders living in the community.

Even though registration and notification is a national movement, it is important to note that not all states utilize the same procedures. In fact, there are various registration and notification methods states could implement to comply with these Federal mandates. Differences among the state laws are permissible by the Federal government on the condition that the *basics* of the three federal statutes are met in some way in the states variations of them (Fienberg, 1998).

As described by Thomas and Lieb (1995), there are some commonalities found among state's registration laws. For example, most of the registries are maintained by a state agency, while local law enforcement is responsible for collecting information. Typically, the information collected includes the offender's name, address, photograph, birth date, and social security number. In most states, the initial time frame to register runs from immediately after release to thirty days. The duration of registration requirements are typically ten years or more. Most registries are also updated only when an offender notifies law enforcement he/she is changing their address.

The difference among state laws may be most important in understanding the relative effectiveness of the laws. These differences are based on specific elements of state community notification policies. There are four general categories of variability in state statutes regarding notification (Pearson, 1998).

The first category is *active or broad notification* which is when state law defines which types of offenders require community notification, as well as the scope of the notification effort. Under these laws, citizens do not have to seek out information before they are notified. Those states who conduct this type of notification typically use a "tiering" system to assess risk and then base notification on that risk assessment. For example, first-time offenders are considered low-risk corresponding to a level one notification. Minnesota, Arizona, and New Jersey use this type of notification method. Many states also allow local law enforcement some discretion in releasing information they find relevant and necessary to the community. Discretion can be based on the need to protect the public. Many states also specifically define the method and scope of the

notification necessary. Delaware uses this type of notification process, where the scope of notification is dependent on the size and the population of the area.

The second category is *limited disclosure*, which refers to those states that notify certain groups or agencies about the presence of sex offenders in their community based on a fear that those groups may be negatively impacted. Several states allow limited disclosure of sex offender information to those organizations or officials who might be most vulnerable to sex offenders in the community. Examples of these types of methods are notifications to schools, state agencies that hire individuals to work with children and to daycare facilities.

The third category of notification methods is *passive notification* which requires community groups or individuals to take the initiative to request information about sex offenders in the community. This method allows the public to view sex offender information maintained at a central location. This process is used in several states, including Michigan, where the state maintains a list of registered sex offenders for view at the local level.

The final method of notification is a *combination* of the other previous three categories. Several states use a combination of the previous three. California for example, released a CD-ROM containing sex offender information. It also established a web page and a 900-prefix telephone number which residents can call to get information about sex offenders. Another example of this method is Texas' notification process via the newspaper in both English and Spanish. Residents can obtain information from their local law enforcement agency about their specific community.

Along with these statutory models for states, there are many other factors which may contribute to the success or failure of community notification laws. These following factors also vary from state to state. They include:

- *Establishing criteria* which, unless the statute mandates that all offenders, or those offenders who have committed certain crimes, will be subject to notification, someone must determine how to make each released sex offender subject to notification. Different states have conducted different methods of developing notification criteria which has resulted in many states relying on their own methods.
- The *application* of the criteria typically requires access to a range of information about the offender, including the person's progress in therapy, their family support and criminal history. Some of this information may be impossible or difficult to obtain, making the application of the criteria even more challenging.
- *Determining who will be notified* in some states is based on a geographical area within which the notification must be conducted. For example, certain states require that in a three block radius of the offender's residence post cards or flyers are released to the surrounding community, and other states require that only agencies or companies involving children must be notified if the offender lives within a radius.
- *Determining what information will be released* is another factor which states differ on and ultimately determines the effectiveness of notification laws. Some states specify the information about the offender that must or may be

disclosed. Other states leave that decision to the notifying agency, limit the information to relevant and necessary information, or are silent on the matter.

- *Determining who will do the notification* differs between states. Statutes typically assign responsibility for notification to one of four groups: law enforcement agencies, the probation and parole department, local prosecutor offices, or offenders themselves. However, “the Attorney General’s guidelines indicate that the prosecutor, in consultation with local law enforcement, determines appropriate notification methods, which may involve participation of the prosecutor, state police, or local law enforcement agencies” (Finn, 1997, p.8).

Matson and Lieb (1997) analyzed forty seven states with community notification laws. They found that eighteen states authorize broad dissemination of sex offender information to the public. Fourteen states disseminate information based on the need to protect an individual or organization vulnerable to a specific offender, and fifteen states allow access by citizens or organizations to sex offender information through local law enforcement. Further, “[a]lmost 70 percent of the states that authorize notification have enacted guidelines and procedures into law regarding how and when notification shall occur...an additional 20 percent require advisory groups or criminal justice agencies to establish such procedures” (Matson and Lieb, 1997, p.i). The remaining states allow public officials to exercise broad discretion in these decisions.

Matson and Lieb (1997) further established in terms of risk assessment, that notification is generally reserved for those offenders assessed at high-risk (i.e., Level 2 or 3, Tier II or III). These offenders are repeat offenders or those convicted of offenses

against children. Ten states assign offenders to one of the three tiers of risk for the purposes of community notification. Many states use risk assessment instruments to determine risk of reoffense and assess whether an offender should be subject to notification.

The methods of notification to the general public vary, including the use of newspaper announcements, flyers, and press releases. Several states are providing notification through interactive computers or telephones. Additionally, notification typically includes the offender's name, description and/or photograph, address or approximate address, description of crime and the age of the victim. Decision making efforts are usually developed through state organizations which develop rules and procedures for carrying out community notification, with local law enforcement agencies generally responsible for the actual notification. Many states create advisory bodies to develop guidelines and procedures for the notification process. Only a few states place decision making with district or sentencing courts.

In sum, community notification laws vary in the methods used to inform the community and citizens which offenders are subject to notification. In some states, citizens are notified about the release of all sex offenders from prison, or only when it is deemed necessary to protect the public from a specific offender. In these instances, the offender may be classified as a habitual or predatory sex offender, and someone who has shown little ability to reform. Such offender would be considered a high-risk or tier 2 or 3 offender on a risk assessment scale. Several states issue this type of notification based on an offender's assessed level of risk to reoffend, reserving notification for those deemed to be high-risk. Many states allow members of the public access to information

upon making a request to law enforcement or the decision making agency. Nonetheless, sex offender registration and community notification laws vary greatly from state to state. Some are determined to be more restrictive in terms of surveillance and control, while others are less restrictive on the sex offender. As a result of these differences, we would expect differences in the timing of rearrest and the recidivism rates of these offenders in different states.

### Deterrence and other Control Theories

Can legal penalties actually deter sexual criminal activity? Can simple common sense precautions really prevent one from being victimized? According to deterrence theory, if the punishment is swift, severe, and certain, crime will be deterred. However, this theory has caused a great deal of controversy, especially because most of the earlier research has found this relationship to be contrary to belief. In other words, when there is an increase of punishment, crime increases as well; consequently, there is *not* a deterrent effect (Walker, 2001; Akers, 2000).

The deterrence doctrine indicates that, by increasing certainty through swift and severe punishments, crime will be deterred. However, empirical studies have found that severity seldom has a deterrent effect on crime (e.g., death penalty) (Geerken and Grove, 1977; Walker, 2001; Akers, 2000). Neither the certainty of capital punishment nor the existence of such, has had any effect on the rate of homicides (Akers, 2000). For a long time it was generally assumed by sociologists and criminologists that punishment did not deter criminal behavior. “Recently, however, sociologists have expanded their analyses to include a broad range of offenses and a variety of punishment, and they have used

more sophisticated research methods,” to find that deterrence theory may have some validation (Geerken and Grove, 1977, p.424).

Deterrence theory makes two general assumptions about human nature: (1) that humans act rationally (i.e., that they act to maximize their profits) and (2) that humans accurately perceive the costs and benefits associated with a potential act (Geerken and Grove, 1977). A closely related theory is known as “rational choice,” which is an expansion or modification of deterrence theory (Akers, 2000). According to Geerken and Grove (1977), “there are substantial reasons for believing that for a great deal of crimes many criminals are motivated by the potential reward and are aware of the potential risks, and thus the conditions necessary for a deterrent effect exists” (p. 426). Most of the recent work on the deterrence theory has focused on the different deterrent effects for certain crimes.

Research on deterrence theory conducted by Geerken and Grove (1977) presents evidence that certainty is more important than severity of punishment in deterring crime. Their research found that the deterrence should have a strong effect on property crimes, little (if any) effect on homicides and assaults, and a moderate effect on rape. Overall, their results supported the deterrence theory. However, in terms of sexual victimization, there is no significant deterrent effect.

Another study performed by Tittle and Rowe (1974) examined the deterrence hypothesis by concentrating more specifically on the certainty of punishment and its effects on deterrence. Along with Geerken and Grove (1977), they also assumed that certainty is one of the most important variables which affect the degree of deterrence. They attempt to identify the “tipping” point at which certainty of punishment becomes



associated with decreasing crime rates. Their results concluded that, “it appears that there is a critical level that certainty of punishment must research before there is a noticeable change in volume of crime” (Tittle and Rowe, 1974, p. 458).

Although there is some support for deterrence theory, it is unclear how the threat of sanctions deters sex offenders. In fact, there is not significant evidence to prove the laws are effective in reducing this type of criminal behavior (Matson and Lieb, 1997). Sex offenders rarely weight the costs and benefits of their crime before they act. Most offenders act on impulse or are intoxicated (i.e., drugs or alcohol) when they perform such an act, therefore any deterrent effect is virtually impossible (Schram and Milloy, 1995).

The primary elements of deterrence/rational choice theory are also found in opportunity theories. In order for a personal or property crime to occur, there must be (at the same time) a perpetrator, a victim and/or the object of property and the lack of a capable guardian. This occurrence can be facilitated if there are other persons or circumstances that encourage it or prevent it by the presence of the other person deterring it. Cohen and Felson (1979) developed the “routine activities” theory. However, in 1981, Cohen et. al present the theory in a more formalized fashion, renaming it “opportunity” theory. The central components underlying criminal opportunity theories are exposure to crime, target attractiveness, and guardianship (Miethe et. al, 1991; Cohen et. al, 1981).

Criminal opportunity theory does not offer an explanation of why some persons are motivated to develop a pattern of crime or commit a particular crime. Instead, it argues that people commit crimes in certain places and at times which the opportunities

and potential victims are available (Akers, 2000). Therefore, it is not a theory that deals in any way with the *causes* of crime. Rather, it is a theory of methods of preventing crime.

### Theories of Situational Selection

The term “situation selection” refers to the assessment of a situation as suitable for a crime (Birkbeck and LaFree, 1993). Some assessments may be conducted rapidly, such as a random sexual assault, others require the decision to commit a crime and thereby require the search for the evaluation for the right time and place. However, it is difficult to prove this approach empirically because it requires the evaluation of the criminal’s premeditation of the crime. There are two important questions concerning situational selection: (1) the extent to which it enters decision-making by offenders, and (2) the criteria of selection that offenders utilize.

Research has been mixed in terms of determining how, when, or if offenders plan their crimes before they commit them. For example, as Birkbeck and LaFree (1993) illustrate,

“Researchers have reached varying conclusions when they have studied the extent to which offenders plan their crimes. For example, Reppetto (1974) found evidence of planning among 75% of a sample of convicted burglars. Petersilia et. al (1978) found that about 25% of a sample of incarcerated armed robbers planned in detail, 50% planned some aspects of the crime and 25% did not plan at all... Feeney (1986) found that only 15% planned their robberies. This variability undoubtedly derives from different sampling strategies, the focus on different crimes, different definitions of planning, and different data collection” (p.124).

These studies as well as many more have contributed to our understanding of crime. They demonstrate that offenders’ decisions are partially determined by situational incidents. They further indicate the dimensions of situations that are frequently evaluated

by offenders. These studies show the type of situation commonly chosen by offenders. According to the research, it is clear that there is not one definite type of offender or situation which facilitates crime. Some offenders do plan their crimes, whereas others do not or simply act on impulse. The same conclusions apply to sex offenders and other criminals.

### Notification Laws on Reducing Criminality

Notification proponents believe that by informing the public about the presence of a sex offender in the community neighbors will be able to take action to protect themselves from sex offenders by keeping themselves, and their children out of harm's way. It is widely assumed that registration and notification systems are important law enforcement and public safety tools. By informing local authorities of the identities and whereabouts of convicted sex offenders, registration systems aid in the investigation of sex crimes. Likewise, community notification programs enable communities and parents to take precautionary measures to protect themselves and their children.

Simply put, community notification is based on the deceptively simple belief that if you could identify all of the "bad" people, you are more able to protect your loved ones from victimization. However, knowing that a convicted sex offender is your neighbor is similar to knowing that a person convicted of murder, drug dealing or an HIV carrier is your neighbor. While such knowledge may assist the community to "feel better" by increasing perceptions of control, there is no evidence that public safety will in fact increase by simply knowing an offender is in the area (Prentky, 1996).

In spite of this, community notification laws are an extension of long standing crime control policies of opportunity reduction and the assumptions of deterrence that go along with those ideas. An example of such assumptions is by having “more eyes” on the sex offender in the community it is supposed to decrease the opportunity of re-offending. If this is true, then we would expect criminal re-offending to be lower in the states with more restrictive community notification laws. Further, those sex offenders who do reoffend should be rearrested more quickly than those who were released without notification and registration requirements because they are again “watched” more closely. To summarize the effectiveness of community notification, Finn (1997) states,

“The effectiveness of community notification depends to a considerable degree on the provisions of the State statute, the resources that States and localities are able and willing to provide for implementing the statute, and the dedication and expertise of the probation officers, police officers, and prosecutors responsible for carrying out notification. Respondents agreed that notification is most likely to be effective if it is accompanied by extensive community education and is carried out by specialists” (p.16).

By properly managing and controlling the behavior of sex offenders released back into the community, there is a greater chance of reducing victimization. Also, by taking certain precautionary measures, citizens might be able to reduce their chance of being victimized. Under these conditions, community notification and registration laws would be considered necessary in the management and control of sexual offenders released back into the community.

#### Purpose of Study: Research Questions

The primary purpose of this study is to determine whether variability in the nature and context of notification laws contribute to their relative effectiveness in reducing rearrest rates of sex offenders. Specifically, the study will examine whether states with

more restrictive community notification laws have higher rearrest rates in the post community notification time period. The study will also determine if those states with more restrictive community notification laws have faster rates of rearrest among sex offenders, particularly after the laws were enacted. Such an outcome is expected under the assumption that the more restrictive a state is, the greater the monitoring and control of these offenders they have.

## CHAPTER 3

### METHODOLOGY

This study is based on the secondary data analysis of the 1998 Bureau of Justice Statistics (BJS) study titled, *Recidivism of Prisoners Released in 1994: [United States]*. Before use of the data for secondary analysis, approval from the Institutional Review Board at the University of Nevada, Las Vegas (UNLV) to conduct this project was sought and granted. The codebook for the data is available through the Inter-University Consortium for Political and Social Research (ICPSR-#3355).

#### Sample Information

The data used for this study is from the Bureau of Justice Statistics (BJS) study titled, *Recidivism of Prisoners Released in 1994: [United States]*. This is a database of information on 38,624 sampled prisoners released from prisons in fifteen states in 1994 and tracked for three years following their release. For analytic purposes, “3 years” is defined as 1,096 days from the day of release from prison. Any rearrest, reconviction, or re-imprisonment occurring after 1,096 days from the 1994 release was not included. A conviction after 1,096 days was not included even if it resulted from an arrest within the period.

In 1998, the U.S Department of Justice asked fifteen State Department of Corrections to participate in this national study of recidivism. The states included in that study are: Arizona, California, Delaware, Florida, Illinois, New York, Florida, Minnesota, New Jersey, New York, North Carolina, Ohio, Oregon, Texas, and Virginia. The Department of Corrections from each of these states provided BJS with computerized information on each person released from prison in 1994. These fifteen states were chosen as a purposive sample, based on three factors:

“First, 11 of the 15 states were included in order to maintain continuity with an earlier recidivism study conducted by BJS (*Recidivism of Prisoners Released in 1983*, ICPSR study number 8875). Inclusion of the 11 states from the first recidivism study makes it possible to compare recidivism rates among prisoners released in 1994 to earlier recidivism rates. Second, the 15 states are large, collectively accounting for two-thirds of all prison releases nationwide in 1994. The third reason for inclusion was a willingness to participate in this study” (Langan & Levin, 2002, p.2).

Altogether, the 15 states released 302,309 prisoners in 1994, providing the BJS study with all release records for these offenders. The information provided included the prisoner’s name, date of birth, sex, race, department of corrections identification number, state identification number, the offense for which he/she was in prison, the length of the current prison sentence, the date of admission to prison, and the date of release from prison, along with any other information, including measures of problems the prisoner had and treatment the prisoner received for those problems while in prison. From these 302,309 records, BJS drew a sample for each state. A total sample of 38,624 prisoners was selected from these.

For drawing the sample, each of the 302,309 prisoners was placed into one of thirteen offense categories corresponding to the offense that brought the individual to prison. For those with more than one offense conviction, the offense that resulted in the longest prison sentence was used. Each of the thirteen categories was sampled within

each state. A target set for each category determined the size for the sample. However, *each* of the 10,543 convicted violent sex offenders was placed into the “rape/sexual assault” category. There was no sampling done to these sex offenders from each state, (i.e., *all* of the violent sex offenders released in each state were included in the study).

Once each state’s sample was drawn, BJS contacted the agency in that state that holds criminal history files, requesting the computerized “RAP” (Record of Arrest and Prosecution) on each of the sampled prisoners. Using individual identifiers (not including fingerprints) supplied by BJS to match released prisoners to individuals in their criminal history files, these agencies were able to supply BJS with computerized RAP sheets on 37,647 (97%) of the 38,624 released prisoners. RAP sheets, however, do not provide a complete record of every instance where a person was arrested or prosecuted in the state. For example, juveniles are generally not included and arrest and prosecutions are routinely included for felonies or serious misdemeanors, but not for petty offenders, such as minor traffic violations and drunkenness (Langan and Levin, 2002).

After receiving a state’s RAP sheet, BJS asked the FBI for any computerized RAP sheets they had on the sampled prisoners. FBI identification numbers received from state Department of Corrections (on 29,053 releases) and from state criminal history repositories (on an additional 2,695 releases) greatly helped the FBI to match individual prisoners in the sample to individuals with criminal history records in the FBI’s database. Even without that special ID number, the FBI was still often able to perform matches by using other individual identifiers. BJS supplied the FBI with the name, date of birth, and other individual identifiers on 35,985 of the 38,624 prisoners. The FBI succeeded in supplying BJS with automated RAP sheets on 34,439 released prisoners (96%) of the



35,985 prisoners. The FBI RAP sheets also provided a unique value to BJS by supplying the out-of-state records, both prior to and following release, they contained on arrests and prosecutions. As a result of largely successful efforts to obtain RAP sheets from the two repositories, at least one RAP sheet was found on 38,049 (nearly 99%) of the 38,624 prisoners.

The information obtained from the three sources (i.e., (1) the 15 State Department of Corrections, (2) the 15 state criminal history files, and (3) the FBI) was all combined into a single study database. Of the total 6,427 variables in the database, 6,336 document the prisoner's entire adult criminal history record, including every arrest and any court records of convictions or non-conviction arising from that arrest based on RAP sheets.

#### Measures of Variables

##### Dependent Variables

The primary dependent variables are recidivism and the length of time before rearrest. Recidivism is measured by rearrest within a two year period of release from prison. By using a two year period after their release date in 1994, examination of recidivism in relation to the enactment of community notification laws was available. This variable is a nominal variable coded as 0 for those who did not recidivate upon prison release and 1 for those who did recidivate within the two year period.

The second dependent variable involves the amount of time to recidivate. This measure was calculated by converting the release date from prison and the date of rearrest into Gregorian days (i.e., days since the date of 1582). The length of days between these two points was then computed for all released inmates who recidivated.

The study also examined the comparative rates of recidivism and timing of rearrest of other offenders. When computing recidivism rates, four offense categories were used: (1)= sex offense, (2)= violent, (3)= property, and (4)= public order. The specific definitions of each offense type are summarized below by Langan and Levin, (2002). They include the following:

“(1) *Sexual offending*= rape which includes forcible intercourse (vaginal, anal, or oral) with a female or male. Includes forcible sodomy or penetration with a foreign object...excludes statutory rape or any other nonforcible sexual acts with someone unable to give legal or factual consent. Sexual offending also includes any *other type of sexual assault*: (1) forcible or violent sexual acts not involving intercourse with an adult or minor, (2) nonforcible sexual acts with a minor (rape or incest), and (3) nonforcible sexual acts with a minor or someone unable to give legal or factual consent because of mental or physical defect or intoxication.

(2) *Violent offenses*= homicide, kidnapping, rape, other sexual assault, robbery, assault and other violent.

(3) *Property offenses*= stolen property, all types of knowingly dealing in stolen property, such as receiving, transporting, possessing, concealing, and selling, (excluding motor vehicle theft) and illegal drugs. *Other property offenses*, include possession of burglary tools, damage to property, smuggling, and miscellaneous property crime.

(4) *Public order offenses*= those that violate the peace or order of the community or threaten the public health or safety through unacceptable conduct, interference with governmental authority, or the violation of civil rights or liberties. *Other public order offenses* include, probation or parole violation, traffic offenses (not including DUI or DWI), escape, obstruction of justice, court offenses, nonviolent sex offenses, commercialized vice, family offenses, liquor law violations, bribery, invasion of privacy disorderly conduct, contributing to the delinquency of a minor and miscellaneous public order offenses” (p.15-16).

### Independent Variables

The primary independent variable is the degree of restrictiveness of the community notification law. The three states in this study with pre and post community notification data were classified on an ordinal scale based on the degree of restrictiveness. These levels were determined by examining specific requirements imposed by the state statutes.

To classify states according to their restrictiveness of community notification laws, I developed a list of criterion and policies in each state in the original data (N=15

states) (see Table 1 for criterion). By examining each state and their laws, fifteen statutory requirements were identified that are vital to community notification. These specific state requirements were ordered from most important to least important. These fifteen specific statutory requirements of each state's community notification laws were then coded based on their restrictiveness by the presence or absence of these characteristics.

The three states with pre and post community notification data (Delaware, New Jersey, and Virginia), were ranked according to their restrictiveness (as shown in Table 1, the three states examined are highlighted). Delaware is considered the most restrictive state due to the number of requirements and the characteristics of their community notification laws. For example, Delaware provides the name, offense type, residence and a picture/description of their registered sex offenders. New Jersey also has these requirements, but, Virginia does not. Delaware also punishes through a mandatory jail time penalty for non-compliance, whereas New Jersey has either jail or a fine for non-compliance. The sex offender registries (SOR) for both Delaware and New Jersey have the capabilities to store fingerprints, and mug shots while being able to transmit these electronically to the FBI's National Sex Offender Registries (NSOR). Virginia does not have this capability. New Jersey is the only state (among the three) which requires a mandatory DNA sample of their registered sex offenders. Delaware is also currently in the process of developing an internet website available to the public to view registered sex offenders in their area.

As stated before, rankings for these three states were conducted after thoroughly examining their community notification laws. Upon review of the characteristics of the

requirements of each state, Delaware is considered the most restrictive state, where as New Jersey is considered a moderately restrictive state, and Virginia is considered the least restrictive state in this sample. My rankings of states on restrictiveness (i.e., Delaware as the most restrictive) are consistent with the rankings of states in other studies (see Finn, 1997).

Another primary independent variable is whether or not the arrest is before (pre-CN) or after (post-CN) the enactment of community notification law. This variable is important because it allows for the assessment of the magnitude of change in the likelihood of recidivism after community notification was enacted in that state. Given the greater control expected under community notification, recidivism rates should be higher and the timing of rearrest should be more quickly after the enactment of community notification statutes (post-CN). This should be especially true in those states (i.e., Delaware) where community notification procedures are most restrictive.

The final group of independent variables includes demographic characteristics of the offenders and their prior arrests histories. Race of the offender is coded as either white (1) or other race/ethnicity (0). The sex of the offender was coded as males (1) and females (0). Age of the offender upon release is coded in years. Prior arrest is based on the number of separate arrests over different days. Lastly, the release date is converted into the number of days using the Gregorian calendar. By controlling for this release date, the effects of community notification on recidivism can be better assessed because I have taken into account differences in the length of time for possible repeat offenders.

STATE	AZ	CA	DE	FL	IL	MD	MI	MN	NJ	NY	NC	OH	OR	TX	VA
1. Notification Process Dependent on Risk of Offender	1	1	1	1	9	0	0	1	1	1	0	0	0	0	0
2. Duration of Registration Based on Seriousness of Offense	0	0	1	1	1	0	1	0	1	1	1	1	1	0	1
3. Registration Information Includes: Name, Offense, Residence and a Picture/Des.	1	1	1	0=R	0=R 0=P	1	1	9	1	1	0=R	0=R 0=P	1	0=N 0=P	9
4. Info. Provided to Public is Dependent Risk of the Offender	1	1	1	1	1	0	0	1	0	1	0	0	1	0	9
5. Registration for life (no provisions)	1	1	0	0	0	0	0	0	0	0	0	9	0	0	0
6. Registration for life (w/provisions)	1	1	1	1	1	1	1	0	1	0	0	1	1	1	1
7. Penalties for Non-Compliance 1=Jail 0=Fine	1	1	1	1	1/0	1/0	1/0	1	1/0	1	1	1	1	1	1
8. Mandatory DNA Sample Required of Offender	1	1	0	1	1	0	0	1	1	0	1	0	0	1	0
9. State Proactively Notifies Registrants to Re-Register	0	0	0	1	1	1	1	1	0	1	1	0	1	0	1
10. Internet Access/ Website Available to the Public	0	0	9	1	1	1	0	1	0	0	1	0	1	1	0
11. SOR has the Capability to Store Fingerprints Electronically	1	0	1	1	1	1	1	0	1	1	0	0	1	1	0
12. SOR has Capability to Store Mug shots Electronically	1	1	1	1	0	1	1	0	1	1	1	1	0	1	0
13. SOR is Transmitted Electronically to FBI's NSOR System	1	1	1	1	1	1	1	0	1	0	1	0	1	0	1
14. SOR is Linked Electronically to Their Criminal History Files	1	1	1	1	1	1	0	0	1	0	0	0	1	1	0
15. Automation Public Access	0	9	1	1	1	0	9	1	1	1	1	9	0	9	1

Note: 1= yes, 0= no, 9= unknown

Table 3.2: Coding and Frequency Distribution of Major Variables				
Variables	Coding	Sample Statistics (N)	Community Notification Pre	Community Notification Post
<i>I. Dependent Variables:</i>				
<b>A. Recidivism 2 Years after Release (RECID2YR)</b>	0= No 1= Yes	46.9% (2249) 53.1% (2545)	47.3% 52.7%	46.0% 54.0%
1. Sex Offender Recidivates	0=No 1=Yes	68.8% (506) 31.3% (230)	31.0%	31.9%
2. Violent Offender Recidivates	0= No 1= Yes	43.1% (425) 56.9% (562)	56.2%	58.4%
3. Property Offender Recidivates	0=No 1=Yes	36.8% (372) 63.2% (638)	64.2%	60.9%
4. Public Order Offender Recidivates	0=No 1=Yes	45.9% (946) 54.1% (1115)	53.4%	55.5%
<b>B. Time to Recidivate (REC1ST)</b>	Days	$\bar{x} = 559.6$ (3618)	567.6	542.6
1. Sex Offenders	Days	$\bar{x} = 768.3$ (401)	803.3	676.9
2. Violent Offenders	Days	$\bar{x} = 535.8$ (772)	546.5	515.4
3. Property Offenders	Days	$\bar{x} = 477.0$ (848)	466.9	498.9
4. Public Order Offenders	Days	$\bar{x} = 562.2$ (1597)	568.4	550.0

Continued from Table 3.2

Variables	Coding	Sample Statistics (N)	Community Notification	
			Pre	Post
<i>II. Independent Variables:</i>				
<b>A. States</b>				
Delaware	(1) Low Restrictiveness	13.7% (659)	10.3%	20.8%
New Jersey	(2) Moderate Restrictiveness	44.2% (2130)	55.9%	19.7%
Virginia	(3) High Restrictiveness	42.1% (2026)	33.8%	59.5%
<b>B. Gender (OMALE)</b>				
	0= Female	7.1% (340)	7.3%	6.6%
	1= Male	92.9% (4475)	92.7%	93.4%
<b>C. Race (OWHITE)</b>				
	0= Other	63.9% (2992)	63.7%	64.3%
	1= White	36.1% (1688)	36.3%	35.7%
<b>D. Age at Release from Prison (RELAGE)</b>				
	Age in Years	$\bar{x} = 32.6$ (4815)	32.5	32.9
<b>E. Number of Prior Arrests (PRIOR)</b>				
	Number of Arrests	$\bar{x} = 7.7$ (4815)	7.3	8.4
<b>F. Number of Gregorian calendar days offender is at risk to recidivate (GDATERLS)</b>				
	Days	$\bar{x} = 150371.8$ (4815)	150319.9	150480.9

## CHAPTER 4

### DATA ANALYSIS AND RESULTS

There were three types of analyses performed in this study. First, the frequency distribution of the major variables were examined. Second, bivariate comparisons of the levels of restrictiveness between the three states, comparisons of the rearrest histories of different offenders, and the length of time before rearrest are examined in the time periods before (pre) and after (post) implementation of community notification laws. Multivariate regression analysis was conducted to assess the net association between community notification restrictiveness on risk of rearrest and the length of time before being rearrested.

#### Frequency Distributions of the Major Variables

The major dependent variable is whether or not the offenders recidivated within a two year period after their release. Particular attention is given to sex offenders because community notification laws are intended to control and monitor these offenders specifically. However, recidivism rates for other types of offenders are also examined to provide a comparative basis for assessing whether pre and post community notification periods are similar for different groups of offenders.

As indicated by the frequency distributions in Table 3.2 of the previous chapter, a little more than half (53.1%) of all released offenders in this study recidivated



in the last two years. The average number of days between the release dates from prison to the date of the first rearrest was approximately 560 days, about a year and a half. Comparing offenders reveals that sex offenders had a lower recidivism rate (31.2%) than the other offense types for both time periods.

For sex offenders and other offenders, recidivism rates were actually fairly stable across the pre and post-CN periods. For example, one-third of all sex offenders recidivated before and after community notification while more than one-half of the other types of offenders' recidivated in each of the time periods. These percents were the lowest in comparison to the other types of offenders. Sex offenders also had the longest period of desistance before rearrest (approximately 768 days). However, there was a shorter amount of elapsed time before being rearrested during the post community notification period, 677 days (post-CN) compared to 803 days (pre-CN). One possible explanation for this difference is that community notification laws are monitoring offenders successfully because they are being rearrested more quickly after the enactment periods of these laws.

Table 3.2 also reveals that the sample is almost entirely male (93%) and fairly evenly distributed across ethnic and racial groups. The average offender was released in their early thirties and had about seven prior arrests. There were no noticeable differences in these demographic characteristics of offenders during the pre and post community notification time periods.

Although fifteen states are included in the original data file, only three of them (Delaware, New Jersey, and Virginia) are used in this analysis because they contained

information on released offenders both before and after community notification laws were established in them.

### Bivariate Relationships

Differences in recidivism rates and the time to recidivate were compared over the different types of offenders to assess the importance of community notification laws. These results are summarized below.

Bivariate comparisons revealed that the risk of recidivism is higher for non-sex offenses. This was also true regardless of the time period (pre and post community notification). The recidivism risks were substantially higher for released sex offenders in Delaware than in any other state, 65.2%, compared to 24.7% in New Jersey, and 36.0% in Virginia. This pattern was also found over both pre and post community notification time periods. Consistent with the goals of community notification, the high rearrest rate in Delaware among released sex offenders may represent greater monitoring capabilities of this state's restrictive community notification policies.

As noted earlier, the length of time before rearrest also varied by type of offense and state. Specifically, the time before rearrest was substantially longer for sex offenders (768 days) than other offender types (536 days for violent offenders, 477 days for property offenders, and 562 days for public order offenders). This pattern holds true for rearrest rates before and after the passage of community notification laws. The state with the most restrictive community notification statutes (Delaware) had the shortest relapse time for released sex offenders than any other state. However, a similar pattern was also

found among other offense types that should not have been affected by community notification laws.

When state and time periods are considered simultaneously, Delaware's recidivism rates for the post community notification period (58%) was nearly double the recidivism rates of other state's and other time periods (e.g., New Jersey post-, 18.2%, Virginia post-, 32.8%). The time to recidivate in Delaware was also substantially shorter after community notification laws were enacted than other states' (632 days compared to 776 days). Bivariate comparisons further revealed that the risk of reoffending for sex offenders was significantly greater ( $p < .05$ ) for non-whites, for persons who were released at a younger age, and those with multiple prior convictions. Persons with multiple prior arrests also had a significant shorter time before rearrest.

#### Multivariate Analysis

Several multivariate analyses were conducted to assess the effects of community notification on recidivism. These regression models included the main effect of the state and time periods (pre and post CN), as well as an interaction term that contrasts Delaware (the most restrictive state) during post community notification period with all other combinations of state's and time periods. Under the deterrence doctrine, it is expected that recidivism rates should be substantially lower in Delaware after community notification laws were enacted than in any other place or time period. In contrast, after community notification, offenders released in Delaware should be monitored and controlled more closely than in any other state. Under these conditions, recidivism rates could actually be higher in Delaware than in any other state because of their enhanced

monitoring capabilities. The results of these multivariate analyses are summarized in Table 4.1.

As shown in Table 4.1, both Delaware and Virginia had higher risks of recidivism than New Jersey even after controlling for the time period and other variables. The odds ratio for the interactive effects of being released in Delaware in the post community notification time period suggests that restrictive policies was associated with decreased risks of recidivism. However, this interaction effect relationship was not statistically significant. An examination of the other variables in Table 4.1 suggests that recidivism risks were significantly greater for non-whites, younger offenders, and those with more extensive prior records. These differences in recidivism by state, race, and prior record were also generally observed among persons released for non-sex offenses as well.

The multivariate regression analysis of length of time before rearrest for sex offenders indicates that there was a shorter time period between rearrest for offenders released in Delaware and in Virginia, than in New Jersey (see Table 4.2). There were no significant differences on this measure between pre and post community notification time periods. The expected interaction effect between Delaware and post community notification time periods was also insignificant. Among the other variables, the time before recidivating was significantly longer for whites, older offenders, and those with less extensive prior records. Similar findings are evident when other types of offenders are examined.

4.1: Odds Ratios from Logistic Regression Analysis of Recidivism Risks by Release Offense Type				
Independent Variables	Dependent Variables			
	Sex Offenders	Violent Offenders	Property Offenders	Public Order Offenders
Restrictiveness of Law				
1. Delaware (High)	4.8**	3.9**	1.29	1.95**
2. New Jersey (Medium)	0.00#	0.00#	0.00#	0.00#
3. Virginia (Low)	1.9**	1.2	.96	1.12
Post Community Notification	.77	.99	.72	.85
Delaware x Post Community Notification	.80	.43	.88	1.59
Race (OWHITE)	.43**	.46**	.59**	.72**
Age at Release (RELAGE)	.93**	.91**	.92**	.93**
Prior Arrests (PRIOR)	1.16**	1.09**	1.10**	1.10**
Gregorian Days the offender is at risk of recidivating (GDATERLS)	.99	1.00	1.00	1.00
Likelihood Ratio Chi-Square	713.39	1139.38	1177.81	2412.33
Nagelkerke R Square	.28	.22	.16	.20
Total (N)	707	965	994	1993
Note: * = p < .10, ** = p < .05 # = represents the comparison category				

Independent Variables	Dependent Variables			
	Sex Offenders	Violent Offenders	Property Offenders	Public Order Offenders
<b>Restrictiveness of Law</b>				
1. Delaware (High)	-0.12*	-0.17**	-0.05	-0.09**
2. New Jersey (Medium)	0.00#	0.00#	0.00#	0.00#
3. Virginia (Low)	-0.14**	-0.06	.01	-0.03
<b>Post Community Notification</b>	.02	.03	.04	.06
<b>Delaware x Post Community Notification</b>	.05	.10*	.06	-0.04
<b>Race (OWHITE)</b>	.08*	.08**	.03	.02
<b>Age at Release (RELAGE)</b>	.10**	.20**	.16**	.19**
<b>Prior Arrests (PRIOR)</b>	-0.22**	-0.24**	.16**	-0.23**
<b>Gregorian Days the offender is at risk of recidivating (GDATERLS)</b>	-0.07	-0.06	-0.02	-0.03
<b>R Square</b>	.09	.10	.05	.08
<b>Total (N)</b>	707	965	994	1993
Note: * = $p < .10$ , ** = $p < .05$ # = represents the comparison category				

## CHAPTER 5

### CONCLUSIONS AND IMPLICATIONS

The major purpose of the current study is to examine the rearrest rates of sex offenders in three states that vary in restrictiveness of their community notification laws. If restrictive community notification laws increase the apprehension of released sex offenders, it is expected that recidivism rates would be higher and the time to reoffend should be shorter in the most restrictive state (i.e., Delaware) after community notification laws were enacted. Two major findings were revealed in the analysis of sex offenders.

First, slightly more than half of all released sex offenders recidivated within the two years following release. However, sex offenders had the lowest recidivism rates among all other offending categories. The relatively low risk of recidivism among sex offenders has been found in other studies as well (see, Sample and Bray, 2003; Langan and Levin, 2002). Sex offenders also had the longest period of time between their release to the date of their first rearrest than any other offense type.

Second, Delaware's notification policies were found to be the most restrictive among the three states included in the sample. As expected, Delaware also had higher rates of recidivism among their released offenders. Sex offenders released from prison in this state also recidivated more quickly than sex offenders in other states, as indicated by a shorter time period between release and rearrest. This shorter time period before

reoffending in Delaware was also observed for all offender types and was especially true in the post-CN period.

Deterrence theory would predict lower risks of reoffending in more restrictive states because of the presumed effect of greater certainty of apprehension. The fact that Delaware had the highest recidivism rate is inconsistent with this prediction. Furthermore, multivariate analyses revealed no significant interactions between state policies and time periods. Additionally, rearrest trends were not substantially different in Delaware in the post community notification period than any other state or time period. This finding suggests that community notification does not substantially deter sex offenders more than any other state or policy. Under these conclusions, the deterrence effect of community notification laws is brought into question.

Nonetheless, the findings in the current study are somewhat optimistic about the effectiveness of community notification laws in apprehension of sex offenders. States like Delaware that are most restrictive in their law and practices had higher rearrest rates for sex offenders.

One possible explanation for this pattern is the so-called “fish bowl effect” (Hepburn and Griffith, 2002). The “fish bowl effect” implies that with closer monitoring of specific offenders, the likelihood of rearrest is increased. With the increased oversight on sex offenders because of notification laws, any suspicious or criminal behaviors should be caught more quickly, thus, producing higher rates of rearrest. However, in the case of Delaware, all offender types revealed increases in their rearrest rates after notification laws were enacted. This latter finding suggests that community notification



policies may enhance community monitoring of all suspicious and criminal behavior, not just potential situations of sexual predation.

### Study Limitations

As with any study, there are limitations in the current study. Therefore, these findings must be viewed in context of such limitations. The major limitations of the current study involve the sample and the measures of recidivism.

The study focuses on recidivism risks for sex offenders involving three states. The sample sizes are also relatively small in each state (i.e.,  $n=46$  for Delaware,  $n=429$  for New Jersey, and  $n=261$  in Virginia), which further restricts the generalizability of the findings. While these three states vary widely in their community notification policies, further research on other states in different regions of the country will provide a better gauge of the generalizability of the observed results.

The second major limitation of the present study is the use of official arrest data and the subsequent inability to measure unreported sex offending. Compared to other studies with offense data, the current study is more comprehensive because it uses both state RAP sheets and FBI RAP sheets. The use of these two RAP sheets combined allows for a more accurate assessment of official risks offending across state boundaries. Self report and victimization surveys would also provide alternative measures of sex offending. However, these non-official measures of crime can suffer from many of the same problems of low validity and reliability that plagues official data (see Mosher, Miethe, and Phillips, 2002).

Official arrest data is susceptible to reporting bias and sometimes may more accurately reflect police procedures than actual criminal incidents (Sample and Bray, 2003). Other researchers have also suggested that the use of arrest data is particularly problematic because many sexual assaults are not reported to the police (see Bachman, 1998; Wood et. al, 2000; Holmes and Holmes, 2002). However, the under-reporting of criminal victimization to the police is a problem in all studies investigating recidivism.

Another limitation in the current study involves the classification of states according to the restrictiveness of their community notification statutes. In particular, it is difficult to unequivocally quantify a state policy according to its restrictiveness. However, the relative ranking of states in this study is consistent with the classifications in other studies. For example, other researchers (see Finn, 1997; Baldau, 1998; and Matson and Lieb, 1997) classify states according to broad notification (Delaware and New Jersey), notification to individuals at risk, and access to registration information through local law enforcement (Virginia). Broad notification allows anyone to obtain information on registered sex offenders in their area. This type of notification system is categorized as the most restrictive to potential and current sex offenders because anyone can obtain information on them. The other two categories of notification require individuals specifically at risk (i.e., school officials, day care facilities) to go to their local law enforcement agencies to obtain information.

Even if state policies can be rank ordered, another limitation is that there is no assurance that such policies are followed in practice. Under these conditions of a type of symbolic reform, the most restrictive state's laws may be less restrictive in actual practice

than in other states. This possible gap between law in theory and law in practice may contribute to the lack of significant differences across states found in the current study.

A final potential limitation in the current study involves how we define a “sex offender.” When examining recidivism rates of sex offenders and attempting to conclude if notification laws are effective, determining who is a sex offender is crucial. However, not all sex offenders are classified as such. Due to police and prosecutorial practices, some sex offense charges can be plea-bargained down to a lesser offense which does not require some offenders (depending on the state) to register as a sex offender. Under these conditions, sex offenders and non-sex offenders are indistinguishable because of the possible definitional ambiguity.

#### Future Research Implications

The present research available on sex offender community notification laws is very limited (Cumming and Buell, 1997). Aside from a study of state practices conducted by the Washington State Institute for Public Policy (see Baldau, 1997; Matson and Lieb, 1997), the current study represents one of the few empirical studies which examined sex offenders under community notification laws. In order to properly manage these offenders and to better protect the communities at risk, future research should continue examining this offending population and the effectiveness of notification laws. At the very least, this research should involve more detailed comparisons of sex offenders across a wide variety of states and different community notification time periods.

Some researchers argue that the current laws for sex offenders exist only to appease society (see Sample and Bray, 2003). These researchers further argue that sex

offenders are really no more dangerous than any other offending population. Sex offenders do not offend more frequently than other types of offenders, nor do they reoffend at a different rate than any other offender (Langan and Levin, 2002; Baldau, 1998; Sample and Bray, 2003; Cumming and Buell, 1997). Even so, these offenders receive particular attention because of the heinousness of their crimes especially when they are against children.

Rather than relying on sensationalized cases that do not accurately reflect general trends, law makers should consider the recent research and empirical evidence available on sex offenders before they pass future laws to control them. By examining the literature, law makers could better protect our communities by implementing laws and policies which are shown to be effective through empirical evidence. As noted by Sample and Bray, (2003),

“We suggest that before further legislation is proposed and enacted to suppress criminal behavior, it would be wise to identify popular beliefs about the behavior, assess the conceptions against current empirical evidence, and then decide the most prudent course of action based on what we know about the prevalence, frequency, and etiology of the behavior, rather than basing our policies on what we simply believe to be true” (p.79).

## Conclusions

There are few human behaviors that society views as more obscene, despicable and worthy of public outrage than those of sexual abuse. It is of no surprise that community notification laws were sparked out of public outrage in demand for the government to better monitor and control these offenders to protect citizens. Community notification laws were developed to ease the public’s fear and demand for such control over these offenders as well as to assist local agencies in investigations involving sexual

crimes. However, these laws could possibly be causing a false hope of protection for communities. Yes, sex offender notification laws do inform the communities at risk who, what, or where an offender resides. However, as previously stated, Hinds and Daly (2000) argue that knowing that a convicted sex offender is your neighbor is similar to knowing that a person convicted of drug dealing, murder or is HIV positive is your neighbor. While such knowledge may assist a community to 'feel better,' by increasing perceptions of control, there is no evidence that public safety will in fact increase (Prentky, 1996).

Sex offenders are highly heterogeneous and have various capabilities to commit a wide variety of crimes. Future researchers must keep in mind that there is not a "one size fits all" approach in combating these types of offenders. Community notification laws must be seen as only one component of a package designed to address recidivism among sex offenders. The complete package should include, according to Finn (1997), "close supervision, treatment, polygraph testing, and working to educate the community to react constructively to suspicious offender behavior" (p.16). These laws also will have no influence on the primary offenders in sexual abuse cases (i.e., close friends, and family members).

In sum, community notification laws are intended to protect the public, ease the public's fear, and to increase the knowledge of potential dangerous persons living in their community. It is important to note that some offenders only violate the law once and never commit another offense, while there are others who are very dangerous and need serious help. Completely negating the chances of being victimized is impossible, but there are some actions which can be utilized to help protect one from being a victim. This

is where community notification laws can assist individuals in taking precautionary actions. Additionally, the findings in the current study will hopefully provide assistance to law makers when enacting future sex offender laws by contributing to their knowledge on improving the management and control of this offending population to protect our family and our loved ones.

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VITA

Graduate College  
University of Nevada, Las Vegas

Rachel Katherine Abrams

Local Address:

901 Collingtree Street  
Las Vegas, Nevada 89145

Home Address:

5582 Lakeview Drive  
La Verne, California 91750

Degrees:

Bachelor of Science, Criminal Justice, 2003  
California State University, Hayward

Master of Arts, Criminal Justice, 2005  
University of Nevada, Las Vegas

Thesis Title: Community Notification Laws and Sex Offender Recidivism: A Study of State Laws in Pre and Post Notification Time Periods

Thesis Examination Committee:

Chairperson, Dr. Terance Miethe, Ph. D.  
Committee Member, Dr. Randall Sheldon, Ph. D.  
Committee Member, Dr. Ojmarrh. Mitchell, Ph. D.  
Committee Member, Mr. Larry Ashley, Ed.S