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The weak registry the constitutionality and effectiveness of legal restrictions on convicted sex offenders

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THE WEAK REGISTRY:
THE CONSTITUTIONALITY AND EFFECTIVENESS OF LEGAL
RESTRICTIONS
ON CONVICTED SEX OFFENDERS

by

ANDREA-LI MEDINA

A thesis submitted in partial fulfillment of the requirements
for the Honors in the Major Program in Legal Studies
in the College of Health and Public Affairs
and in The Burnett Honors College
at the University of Central Florida
Orlando, Florida

Spring 2012

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ABSTRACT

Over the last few decades our society has moved towards restricting where sexual offenders can live, work, and overall congregate. This issue has been the focus of great public attention due to the media's role in bringing these offenders to the light. Whether it is through the news, movies, TV series, books, talk shows, newspapers articles, etc., these offenders are constantly being talked about. Every body of government in the United States has moved towards implementing restrictions that are aimed at keeping sex offenders away from places where they are considered a potential danger. However, what it is not talked about is that in efforts to limit where sex offenders can live and work to ensure the safety of our society; we are isolating these offenders and hindering their reintegration into our society. By isolating sexual offenders from our society we are doing more harm than good because we are discriminating and not working to fit the needs of each individual offender. One size does not fit all.

The intent of this thesis is to explore sexual offender legal restrictions, treatment, case law, constitutionality of these laws and to compare Florida's approach towards restriction of sexual offenders with other states. Through the analysis of case law and statutes, recidivism rates, and treatment options this thesis will evaluate what different approaches should be taken towards aiding the reintegration of sexual offenders into our society. This thesis will provide background information on sexual offenders, compare legal restrictions among states, give an analysis of sexual offender websites, and provide recommendations to a better approach in treating sexual offenders. By raising awareness to the unfairness of treatment of sexual offenders, this thesis aims to open a new gateway to determine more successful ways to rehabilitate sexual offenders.

DEDICATION

For the families of the marginalized group of sexual offenders hoping to one day have a normal
life with their loved ones,

For my mentors, Kathy Cook and Wayne Jackson, for believing in me and pushing me to always
reach for the stars,

And especially, for my mother, Deysi-Li Flores, my inspiration, my rock, my number one
motivator for making me the woman I am today, and my family for making everything better.

ACKNOWLEDGMENTS

I would like to thank everyone that made the process of writing this thesis a meaningful experience and helped me get through the tough moments that came my way when writing it. I would like to thank my thesis committee, Dr. Kathy Cook, Dr. Mary Eastep, Dr. Mark Winton, and Dr. David Slaughter for giving the guidance I needed to write this thesis. I give a special thank you to Dr. Kathy Cook for always pushing me and helping me discover my strengths. She has truly been an inspiration and I would not have achieved my highest goals at the University of Central Florida if I had not met her. Dr. Cook has been more than a mentor to me and I will forever have a place in my heart for her. To all the people that have touched my life in my four years at the University of Central Florida, thank you for coming into my life and shaping me into the woman I am today. To my Mother, a strong driven individual, thank you for teaching me the meaning of hard work. And thank you to my family for believing in me and always making me laugh.

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INTRODUCTION

Sex offenders and sexual abuse remains a concern in our society. In response to this concern, federal, state, and local governments have passed legislation in order to “protect” our communities. There is criticism that sex offender laws promote a false sense of security because the system, although it does not guarantee security, may be perceived as offering such a guarantee (Cellini, 1997). Presently there is no concrete proof that these laws reduce recidivism among sex offenders. There are other measures to reduce recidivism, but our society has moved more to restricting offenders and eliminating treatment options which could more effectively reduce recidivism. “The preponderance of the evidence seems to support the notion that treatment can reduce recidivism for some offenders better than for others” (Holmes, 2009). It is commonly believed that sex offenders cannot be cured and the only way protect our society from them is to keep them far away from children and other people, and to track their every move. “The registers are premised on the idea that sex offenders are likely to re-offend” (Thomas, 2011).

All over the country, civil sanctions for sex offenders are growing. “In addition to existing federal legislation, state and local governments are enacting increasingly strict regulations” (Walker, 2010). Laws have been designed as “one size fits all” rather than to be tailored to each individual case. The crimes that fall under sex offending can be as little as urinating in public to as horrifying as raping and murdering a child. Depending on the state, the label of “sex offender” may stay with the person forever. Rather than reintegrating sex offenders into our society and helping them become rehabilitated, our society is taking away access to

programs that can help them. “Though treatment is available today for many offenders under the care of correctional authorities, either in prison or in the community, there are few standardized programs.” (Terry, 2006).

The purpose of this thesis is to examine legal restrictions and their effects in society and on their victims. This thesis will analyze the factors that should be taken into consideration when setting restrictions, use of various treatments, as well as examination of current laws in Florida in comparison with other states. The thesis will consider current laws, and the effects that they have on the individuals to which they apply. Another important aspect that must be evaluated is the constitutionality of these laws. “Registration and notification laws have been challenged under the provisions of ex post facto, due process, Eighth Amendment cruel and unusual punishment, equal protection, Fourth Amendment search and seizure, and other arguments with varying degrees of success” (Cellini, 1997). Before examining the constitutionality of sex offender laws, we must determine whether these laws have been effective.

The threat of registration may inhibit offenders from seeking treatment, and the effects of public harassment may keep the offender from resuming a normal life, which could increase the chances of an offender reoffending. (Cellini, 1997). Restrictions apply to everyone convicted of a sex offense and do not take into consideration the type of offense or the offender.

Take Wendy Whitaker, as an example. At 17, she had consensual sexual relations with a 15-year-old boy. Now 26, and without any other mark on her criminal record, she is a sex offender who is captured under Georgia's sex offender restrictions” (Lester, 2007). The lives of people labeled a “sex offender” are being drastically altered and restricted. There is a lack of treatment available to rehabilitate these offenders and options where they can live and work

limited. The approach being taken to address the issue of sex offending may be causing more harm than good.

“A formerly incarcerated sex offender can find life outside almost as restrictive as in prison” (Walker, 2010). There should be a more humane approach that enables offenders to stay close to their families and their communities. “It is not just those who commit rape, incest, and sex abuse who are branded as sex offenders. There is a significant probability that individuals with little potential to reoffend are treated the same as those who actually are predators” (Lester, 2007). This analysis will examine the effectiveness of restrictions and consider whether the one size fits all mentality is the right way to continue approaching this issue.

This thesis will also examine various studies that have been conducted to determine which treatments work and which do not when treating sex offenders. This analysis will also look at the effectiveness of the treatment on sex offenders and how they can be tied with sex offender laws to establish a better system that can be fair, constitutional, and provide our communities with security. Sex offenders are treated differently under state and federal law. They are the only offenders whose punishment does not end after they have finished their court imposed sentence. It is argued that the punishments these offenders are given after release are harsher than those given from a judge. Even though the state's interest in monitoring the activities and limiting the contact sex offenders have with our society is understandable, the law makes it hard for those that do not pose a threat to our society be able to reintegrate themselves into the community. We need to recognize that not everyone that has been labeled a sex offender poses the same threat and therefore, punishing them all the same way is unreasonable. A definite answer is probably not available because one solution is not going to meet the needs of everyone.

However, an attempt to give judges more discretion when setting restrictions should be implemented. This thesis will examine possible legal challenges to existing laws and recommendations for changes in the laws in Florida.

BACKGROUND

States vary in the way they define sex offenders and sexual offenses, and it is mainly due to the behaviors of the time as well as each state's individual statutes. However, for the purposes of this thesis a general definition will be used. This section will also establish abbreviations for common terms to be used throughout this thesis.

Definition of Sex Offender

The term "sexual offender" (sex offender) means an individual who was convicted of a sex offense. (42 U.S.C. 16911 (2011)). Sex offenders are generally categorized by three tiers depending on the severity of their offense. When defining the term sex offender, the image portrayed by the media must be discussed. The media has convinced society that sex offenders are lonely, sick, evil and abnormal group of men. However, the prevalent and continuing nature of this image lies in the impression that as a society, we find it easier to believe crimes with motives we find hard to understand are carried out by abnormal persons living at the fringes of our communities (Brown, 2005). Another misconception is that sex offenders are older men; however, arrest statistics show that a large percentage of sex offenders are actually in their adolescent years. In addition, the media has convinced society that sex offenders are violent men even though there are multiple types of sex offenders, including women and of all ages. Sexual offending includes a widespread of behaviors (Brown, 2005).

Definition of a Sexual Offense

The definition of a sexual offense varies across jurisdictions in the United States. The following is a general definition for sexual offense. A Sexual offense includes hands-on offenses, hands-off offenses (i.e. voyeurism and exhibitionism), child and adult sexual offenses, and both violent and nonviolent offenses (Zgoba & Leonore, 2005).

Types of Sex Offenders

There are multiple types of sex offenders; however, sex offenders can generally be divided into three categories: adult male sex offenders, adult female sex offenders and adolescent sex offenders. Within these categories there are sub-categories of sex offenders. These categories can range anywhere from sadistic sex offenders, sexual predators, habitual sex offenders, introverted, seducers, etc. For the purposes of this thesis, only the three main categories of sex offenders will be discussed.

Adult Male Sex Offenders

Adult sex offenders encompass a diverse group of people. The spectrum ranges from what “it is commonly regarded as the less serious end of sexual offending, i.e. men who commit non-contact offenses such as exposing themselves or making obscene telephone calls, through men who have killed as part of a sexual assault” (Kemshall & McIvor, 2004). The most common types of adult male sex offenders are child abusers, rapist, sexual murderers, internet offenders, and exhibitionist. Moreover, adult male sex offenders typically fall under more than one of these types.

Female Sex Offenders

“Female sex offenders are considered a rarity, and until recently their offending was assessed through the filter of male models of sexual offending. Female sex offenders are heterogeneous group reflecting diverse range of offender characteristics and motivations” (Kemshall & McIvor, 2004). The majority of female sex offenders sexually abuse children. Sex offender researchers Hanks and Saradjian found that female sex offenders can fall under any of the following categories: women who abuse their own children, women abusing in conjunction with men, women abusing as part of a married couple, women abusing as part of a lesbian couple, women abusing children with learning difficulties, and women who abuse adolescents, male and/or female.

Young Sex Offenders

The majority of young sex offenders are teenage males. “Young male sexual abusers are typically portrayed as having a number of social skills deficits, often being described as socially isolated, lacking dating skills and sexual knowledge, and experiencing high levels of social anxiety” (Kemshall & McIvor, 2004). However, there are also young men and women labeled as sex offenders for having sexual relations with individuals of an age not considered legally capable of consenting to sex.

Sex Offender Notification

“The notification movement gained momentum with the 1994 enactment of New Jersey’s Megan’s Law” (Weitzer, 2003). Sex offender notification is informing the public of sex offenders in their communities. Each jurisdiction has its own way of notifying the public of sex

offenders. Methods of notification can range from internet websites, flyers, community meetings, police knocking on doors to notify the community, to sex offenders notifying the public themselves by posting signs outside their lawn. As stated above states have the discretion to establish criteria for disclosure, “such as which offenders are likely to re-offend and which ones are not” (Jung, 2006).

Sex Offender Registries

“The U.S. Congress enacted a sex offender registration law in 1994. The goals of the Jacob Wetterling Act were to increase public safety, deter sex offenders from committing future crimes, and provide law enforcement with additional investigative powers” (Jung, 2006). Sex offender registries help law enforcement track sex offenders. It is a way to supervise offenders and ensure that they are following residency restrictions. Each state’s sex offender registry is different. States have different agencies that are responsible for maintaining the registry, how long they require an individual to be registered as a sex offender, the types of offenses that would require an individual to register, and the type of information the individual must provide to the registry.

Below is an example of what a sex offender registry search looks like in the State of Florida when searched under The Florida Department of Law Enforcement Florida Sexual Offenders and Predators site. This sex offender registry offers very detailed information on sex offenders. It offers their physical addresses, description of crime committed, and personal characteristics, and even aliases.



Frederick L Campbell
Date Of Photo: 10/08/1997

Click Here to Track this Offender	
Designation:	Sexual Predator
Name:	Frederick L Campbell
Status:	Absconded
Department of Corrections #:	M03441 Search the Dept of Corrections Website
Date of Birth:	04/04/1959
Race :	Black
Sex:	Male
Hair:	Black
Eyes:	Brown
Height:	5'06"
Weight:	175 lbs

Campbell is registered as a Sexual Predator pursuant to [Section 775.21 F.S](#)
Positive identification cannot be established unless a fingerprint comparison is made.

Figure 1- Example of Sex Offender Registry Entry in Florida. Source:
http://offender.fdle.state.fl.us/offender/homepage.do;jsessionid=37-euQCnQf8qzAHN+SVT7g__

Recidivism

It is a common belief that recidivism rates for sex offenders are higher than other criminals. However, studies have shown that this is not the case. Conceptually, recidivism refers to the commitment of a new offense by an offender previously arrested, convicted, or

incarcerated for an offense. Recidivism can be consistent with the previous type of crime, in this case a sexual offense, or it can be for a different type of crime altogether. Although the definition or type of recidivism varies by study, at the most basic level, it includes an arrest for some type of re-offense (Zgoba & Leonore, 2005). “In a 1994 study of recidivism, 46% of sex offenders released in 1994 were rearrested within three years for a felony. However, these subsequent arrests were not necessarily the result of sex-based crimes” (Griffin & West, 2006, p. 2). This study showed that that only 2.5% of those sex offenders in the study were re-arrested for sex related offenses. Moreover, “according to the Department of Justice's statistics of sex offender recidivism, 5.3 percent of sex offenders were rearrested for a sex offense within three years of their release. Forty-three percent of convicted sex offenders were arrested for all crimes during this same period, but the overwhelming majority of those arrests were for other non-sexual allegations” (Lester, 2007, p. 4).

HISTORY OF FEDERAL SEX OFFENDER LAWS

The first national and state laws to contain sex offenders required the creation of sex offender registries (Jung, 2006). Sex offender registry is defined as “registry of sex offenders, and a notification program, maintained by a jurisdiction” (42 U.S.C. 16911 (2011)). Sexual offender registries were designed to track the location of sexual offenders. In response to the following victims of violent predators, Congress established a comprehensive national system for the registration of sex offenders: (42 U.S.C. 16901 (2011)). Many of the laws were based upon victims who it is believed suffered at the hands of sexual or violent offenders. These include:

- 1) Jacob Wetterling- an eleven-year-old abducted in 1989 in Minnesota who still remains missing.
- 2) Megan Nicole Kanka- a seven-year-old girl abducted, sexually assaulted, and murdered in 1994 in New Jersey.
- 3) Pam Lychner- a thirty-one-year-old woman attacked by a career offender in Houston, Texas.
- 4) Jessica Gage- a ten-year-old girl kidnapped, sexually assaulted, and murdered in 2005, in Cedar Rapids, Iowa.
- 5) Dru Sjodin- a twenty-two-year-old woman sexually assaulted and murdered in 2003 in North Carolina.
- 6) Jessica Lunsford- a nine-year-old abducted, sexually assaulted, buried alive, and murdered in 2005 in Homosassa, Florida.

- 7) Sarah Lunde- a thirteen-year-old girl strangled and murdered in 2005 in Ruskin, Florida.
- 8) Amie Zyla- an eight-year-old girl sexually assaulted in 1996 by a juvenile offender in Wisconsin.
- 9) Christy Ann Fornoff- a thirteen-year-old girl abducted, sexually assaulted, and murdered in 1984 in Tempe, Arizona.
- 10) Alexandra Nicole Zapp- a thirty-year-old woman brutally attacked and murdered in a public restroom by a repeat sex offender in 2002, in Massachusetts.
- 11) Polly Klass- a twelve-year-old girl abducted, sexually assaulted, and murdered in 1993 by a career offender in California.
- 12) Jimmy Ryce- a nine-year-old boy kidnapped and murdered in Florida in 1995.
- 13) Carlie Brucia- an eleven-year-old girl abducted and murdered in Florida in 2004.
- 14) Amanda Brown- a seven-year-old girl abducted and murdered in Florida in 1998.
- 15) Elizabeth Smart- a fourteen-year-old girl abducted in Salt Lake City, in 2002 and found in 2011.
- 16) Molly Bish- a sixteen-year-old girl abducted in 2000 whose remains were found three years later.
- 17) Samantha Runnion- a five year-old girl abducted and sexually assaulted and murdered in California in 2002 (42 U.S.C. 16901 (2011)).

While the first state to enact sexual offender laws was the state of California in 1947, the majority of the other states began enacting sexual offender laws after the passage of the Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act of 1994.

The following is existing legislative framework which had its origination in the 1990s and has grown continually since then.

The first major act adopted by the Federal government was *Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act*. (42 U.S.C. 14071 (2011)). This law was enacted in 1994 to:

1. Establish procedures for states to track sex offenders
2. Require states to track sex offenders by confirming their place of residence annually for ten (10) years after their release into the community or quarterly for the rest of their lives if the sex offender was convicted of a violent sex crime.

Amended two years later, provisions were added to the Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071 (2011)). The purpose of the Act is to:

1. Change the way in which state courts make a determination about whether a convicted sex offender should be considered a sexually violent offender to include the opinions not just of sex offender behavior and treatment experts but also of victims' rights' advocates and law enforcement representatives.
2. Allow a state to impart the responsibilities of notification, registration, and FBI notification to a state agency beyond each state's law enforcement agency, if the state so chose.

3. Require registered offenders who change their state of residence to register under the new state's laws.
4. Require registered offenders to register in the states where they worked or went to school if those states were different from their state of residence.
5. Direct states to participate in the National Sex Offender Registry.
6. Require each state to set up procedures for registering out-of-state offenders, federal offenders, offenders sentenced by court martial, and non-resident offenders crossing the border to work or attend school.
7. Allow states the discretion to register individuals who committed offenses that were not included in Wetterling's definition of registerable offenses.
8. Require the Bureau of Prisons to notify state agencies of released or paroled federal offenders, and required the Secretary of Defense to track and ensure registration compliance of offenders with certain UCMJ convictions.

Megan's Law was enacted in 1996 as the result of the death of the young Megan Kanka with the intent to (42 U.S.C. 16922 (2011)):

1. Provide for the public dissemination of information from states' sex offender registries.
2. Provide that information collected under state registration programs could be disclosed for any purpose permitted under a state law.
3. Require state and local law enforcement agencies to release relevant information necessary to protect the public about persons registered under a State registration

program established under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

That same year the *Pam Lychner Sex Offender Tracking and Identification Act of 1996* was established to give the FBI the ability to track sex offenders and in addition it (42 U.S.C. 16902 (2011)):

1. Mandated certain sex offenders living in a state without a minimally sufficient sex offender registry program to register with the FBI.
2. Required the FBI to periodically verify the addresses of the sex offenders to whom the Act pertains.
3. Allowed for the dissemination of information collected by the FBI necessary to protect the public to federal, state and local officials responsible for law enforcement activities or for running background checks pursuant to the National Child Protection Act (42 U.S.C. §5119, *et. seq.*).
4. Set forth provisions relating to notification of the FBI and state agencies when a certain sex offender moved to another state.

Additional protections to children were extended in 1998 by the *Protection of Children from Sexual Predators Act* (42 U.S.C. 13032 (2011)). This act was to:

1. Direct the Bureau of Justice Assistance (BJA) to carry out the Sex Offender Management Assistance (SOMA) program to help eligible states comply with registration requirements.

2. Prohibit federal funding to programs that gave federal prisoners access to the internet without supervision.

Two years later the *Campus Sex Crimes Prevention Act* was enacted to (42 U.S.C. 14071(j) (2011)):

1. Require any person who was obligated to register in a state's sex offender registry to notify the institution of higher education at which the sex offender worked or was a student of his or her status as a sex offender; and to notify the same institution if there was any change in his or her enrollment or employment status.
2. Require that the information collected as a result of this Act be reported promptly to local law enforcement and entered promptly into the appropriate state record systems.
3. Amend the Higher Education Act of 1965 to require institutions obligated to disclose campus security policy and campus crime statistics to also provide notice of how information concerning registered sex offenders could be obtained.

Furthermore, in the year 2003 the *Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act* was enacted to (18 U.S.C. 2252 (2011)):

1. Require states to maintain a web site containing registry information, and required the Department of Justice to maintain a web site with links to each state web site.
2. Authorize appropriations to help defray state costs for compliance with new sex offender registration provisions.

Three years after the enactment of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act the *Adam Walsh Child Protection and Safety Act* was passed in 2006 to (42 U.S.C. 16911 (2011)):

1. Create a new baseline standard for jurisdictions to implement regarding sex offender registration and notification.
2. Expand the definition of “jurisdiction” to include 212 Federally-recognized Indian Tribes, of whom 197 have elected to set up their own sex offender registration and notification systems.
3. Expand the number of sex offenses that must be captured by registration jurisdictions to include all State, Territory, Tribal, Federal, and UCMJ sex offense convictions, as well as certain foreign convictions.
4. Create the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) within the Department of Justice, Office of Justice Programs, to administer the standards for sex offender notification and registration, administer the grant programs authorized by the Adam Walsh Act, and coordinate related training and technical assistance.
5. Establish a Sex Offender Management Assistance (SOMA) program within the Justice Department (Office of Sex Offender Sentencing).

FEDERAL CONSTITUTIONALITY CHALLENGES ON SEX OFFENDER LAWS

“Where sex offender registration laws serve to protect the community and track recidivists, they are legitimate regulatory vehicles that withstand constitutional scrutiny” (Carpenter, 2006). Sex offender laws label the offender forever notwithstanding the crime that was committed by the individual. This section will discuss various issues that have been considered during court decisions and set the tone for the following section which will discuss available case law.

The Due Process Clause states that “no State shall deprive any person of life, liberty, or property without due process of law” (U.S. Const. amend. XIV, §1). However, the main deprivation that sex offenders face is their right to liberty. Restrictions as to where sex offenders can live and work deprives them of their very right to liberty. Statutes providing for the commitment and registration of sex offenders have mostly been upheld as not violating due process. However, the constitutionality of this statute has been challenged multiple times. An example of a case that challenged sex offender laws as violating due process is Hince v. O’Keefe, 632 N.W.2d 577 (Minn. 2001). Sex offenders are not afforded a sentencing trial at which a judge can set the appropriate restrictions for each individual offender. Once labeled a sex offender, restrictions are applied without consideration of the intensity of the crime committed.

Moreover, statutes providing for the commitment and registration of sex offenders have also mostly been upheld as not violating the right to equal protection. The rationale behind upholding this statute can be found in the case In re Care and Treatment of Norton, 123 S.W.3d 170 (Mo 2003). In this case the court stated that a statute allowing for the secure commitment of persons classified as sexually violent predators has been thought to be narrowly tailored to serve the state's compelling interest in protecting the public from future violent sex crimes, and therefore, does not violate equal protection. The constitutionality of statutes has been challenged multiple times as violating equal protection. Unlike other offenders, sex offenders are required to submit personal information to registries. Moreover, individuals convicted of a sexual offense are restricted as to where they can live and work. It is not equal protection when sex offenders are the only group of lawbreakers facing these restrictions and marginalized by displaying their personal information.

Ex Post Facto Statutes providing for the commitment and registration of sex offenders have generally been upheld, however; the constitutionality of this Clause has been challenged in various cases. An Ex Post Facto law is any criminal law that operates retroactively to the disadvantage of the defendant in a criminal case. The Ex Post Facto Clause states that laws cannot be applied retroactively if they cause greater punishment than their original punishment. This means that if a law comes into effect after a person has committed a crime and been punished, courts are not allowed to re-open a case and applied the newly enacted law to the offender. Sex offenders have been mandated to register as sex offenders, even though they were not required to do so at the time of sentencing. A case that can be used as an example is In re Treatment and Care of Luckabaugh, 351 S.C. 122, 568 S.E.2d 338 (2002). In this case the court

stated that a prior conviction is required for commitment under such a statute does not establish that the statute is punitive in purpose and nature, as required for the statute to be deemed in violation of the ex post facto clause, where the prior conviction merely serves as evidence of past dangerous conduct of the presence of a mental abnormality. Registration is not regarded as punishment although it most certainly does have a punitive nature.

Sex offender laws have also been challenged under Double Jeopardy. Under double jeopardy, statutes providing for the commitment and registration of sex offenders have mostly been upheld; however, the constitutionality of sex offender laws has been challenged multiple times. The main argument brought by sex offenders is that they are being punished twice by being required to register as sex offenders. The argument is that their Fifth Amendment right is being violated. The Fifth Amendment states that “no person shall be subject for the same offense to be twice put in jeopardy” (U.S. Const. amend. V). An example of how courts have ruled on sex offender cases where the argument of double jeopardy has been argued up can be found in Slansky v. Nebraska State Patrol, 268 Neb. 360, 685 N.W.2d 335 (2004). In Slansky v. Nebraska State Patrol, the court stated that where sex offenders registration statute did not serve to punish the offender twice for the same offense in violation of the double jeopardy clause, the act is deemed as merely constituting a non-punitive civil regulatory scheme, and thus the double jeopardy clause is not implemented.

Another challenge that sex offenders have argued to the courts is that sex offender laws are cruel and unusual. Sex offenders argue that the stigma they acquire when convicted is cruel and unusual punishment and it is a violation of the Eighth Amendment. The Eighth Amendment

stays that “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted (U.S. Const. amend. VIII). Moreover, it is argued that subjection to community notification and its negative effects for example vigilantism or invasion of privacy constitutes additional punishment that lasts longer than the original punishment imposed by the courts (Williams-Taylor, 2012). Sex offenders are the only offenders that continue to be punished after being released into society. However, courts argue that commitment of persons under sexually dangerous persons’ statutes does not amount to cruel and unusual punishment. Courts have also argued that the indefinite duration of these statutes is not cruel and unusual punishment. This argument can be found in State v. Post, 197 Wis. 2d 279, 541 N.W.2d 115 (1995). Statutes providing for the commitment and registration of sex offenders have mostly been upheld as not constituting cruel and unusual punishment; however, there have been challenges to its constitutionality.

Decisions made by state and federal courts can be analyzed to determine the Court’s attitude towards sex offender restrictions. Courts opinions are very important when addressing this issue. Dissenting opinions could potentially alter the way sex offenders are restricted and are therefore significant to this thesis. Court opinions have directly addressed current restrictions in place and the treatment available this group of offenders. The overall trend in the court opinions vary on their perception and the effect on sex offender restrictions.

In Kansas v. Hendricks, 521 U.S. 346 (1997), Hendricks brought action against the Kansas’s Sexually Violent Predator Act which states that any person due to personality disorder, and/or mental abnormalities, likely to partake in predatory sexual violent acts can be confined

indefinitely. When Hendricks was due to be released, the state of Kansas ordered him civilly committed due to a diagnosis by the state psychiatrist finding that he suffered from pedophilia. Hendricks had a long history of sexually molesting children and he himself admitted to experiencing a sexual desire for children when he was under stress. Hendricks appealed the legitimacy of his commitment by claiming that the Kansas's Sexually Violent Predator Act was unconstitutional by challenging them as violating the Constitutional ex post facto and double jeopardy provisions. On appeal, the State Supreme Court nullified the Act on the basis that the pre-commitment condition of a mental abnormality did not satisfy what it seemed to be the substantive due process requirement that involuntary civil commitment must be centered on a mental illness finding.

The Supreme Court held that the Kansas's Sexually Violent Predator Act's definition of "mental abnormality" satisfies "substantive" due process requirements. Additionally, it held that the Act does not violate the Constitution's double jeopardy prohibition or its ban on ex post-facto. However, there was a dissenting opinion in this case's decision from Judge Breyer stating that:

I agree with the majority that the Kansas Act's definition of mental abnormality satisfies the "substantive" requirements of the Due Process Clause. However, I concede that Hendricks' condition is treatable; yet the Act did not provide Hendricks (or others like him) with any treatment until after his release date from prison and only inadequate treatment thereafter. These and certain other, special features of the Act convince me that it was not simply an effort to commit

Hendricks civilly, but rather an effort to inflict further punishment upon him. The Ex Post-Facto Clause therefore prohibits the Act's application to Hendricks, who committed his crimes prior to its enactment (p.373).

The dissenting opinion from Judge Breyer shows that there are judicial authorities that believe there to be a lack of care for sex offenders because adequate treatment is not being offered.

In Doe v. Miller, 405 F.3d 700 (8th Cir. 2005), a group of sex offenders brought action against the Iowa Code § 692A.2A which prohibits individuals convicted of certain sex offenses involving minors from living within 2,000 feet where children congregate. This group of sex offenders brought action against this code because they believe it to be unconstitutional. The plaintiffs claim that the code severely restricted them from finding residence and the code therefore, infringed on their fundamental rights, and violated substantive and procedural due process. Another claim made by the plaintiffs was that the requirement of reporting their physical address was self-incrimination.

The District Court that heard Doe v. Miller found the Iowa Code § 692A.2A to be unconstitutional under ex post facto with respect to sex offenders who committed an offense prior to the passage of the Code. The District Court also held that the Code did in fact violate right against self-incrimination and right to due process. After these findings, the District Court issued a permanent injunction against the enforcement of the Code. However, this decision was appealed by the Iowa Attorney General and the case was then heard by the Eight Circuit Court. The Eight Circuit Court reversed the District Court's decision and held that the Iowa Code §692A.2A was constitutional and it did not violate the plaintiff's rights regarding due process,

ex post facto, and the right against self-incrimination provisions. The dissenting opinion in this case by Judge Melloy stated that:

Though I believe a rational connection exists between the residency restriction and a non-punitive purpose, I would find that the restriction is excessive in relation to that purpose. The statute limits the housing choices of all offenders identically, regardless of their type of crime, type of victim, or risk of re-offending. The effect of the requirement is quite dramatic: many offenders cannot live with their families and/or cannot live in their home communities because the whole community is a restricted area. This leaves offenders to live in the country or in small, prescribed areas of towns and cities that might offer no appropriate, available housing. In addition, there is no time limit to the restrictions.

Also, the residency restriction applies to plaintiffs who are not the most serious sex offenders. There is no doubt a class of offenders that is at risk to re-offend and for whom such a restriction is reasonable. However, the restriction also applies to John Doe II, who pleaded guilty to third degree sexual abuse for having consensual sex with a fifteen-year-old girl when he was twenty-years-old. The restriction applies to John Doe VII, who was convicted of statutory rape under Kansas law. His actions which gave rise to this conviction would not have been criminal in Iowa. The restriction applies also to John Doe XIV, who pleaded guilty to a serious misdemeanor charge in 1995 after he exposed himself at a party at which a thirteen year-old girl was present. John Doe XIV was nineteen at the time of his offense. The actions of these and other plaintiffs are serious, and, at

least in most cases, illegal in this state. However, the severity of residency restriction, the fact that it is applied to all offenders identically, and the fact that it will be enforced for the rest of the offenders' lives, makes the residency restriction excessive (p.723).

Judge Melloy's dissenting opinion is a perfect example of the way courts should be rationalizing their rulings rather than treating all sex offenders the same way. Judge Melloy recognized the excessiveness of restrictions which should have been more narrowly stated or their application violated the defendant's due process rights.

In Smith v. Doe, 538 U.S. 84 (2003), the Supreme Court of Alaska evaluated the issue of Ex Post Facto Clause as it applies to sex offenders. Two sex offenders brought action claiming that they should not be required to register as sex offenders due to the passage of Megan's Law because the law came into effect after their conviction. In this case, the Supreme Court of Alaska had the goal of determining if the legislatures had the intention of enacting Megan's Law with the purpose of punishing sex offenders for their crimes. The court ruled against the two sex offenders and stated that:

The stigma of Alaska's Megan's Law results not from public display for ridicule and shaming but from the dissemination of accurate information about a criminal record, most of which is already public. Our system does not treat dissemination of truthful information in furtherance of a legitimate governmental objective as punishment (p.99).

In addition, the Supreme Court of Alaska stated that Megan's Law was not punitive and therefore, did not violate the Ex Post Facto Clause because sex offenders have the option of moving somewhere else or switching employment. This is unfair because it puts all sex offenders into situations with no option other than to leave their families behind and move from place to place.

In Connecticut Dept. of Public Safety v. Doe, 538 U.S. 1 (2003), the defendant alleged that Connecticut's version of Megan's Law violated his Fourteenth Amendment right to due process. In this case the defendant argued that the Fourteenth Amendment was being violated because he was required to register as a violent sex offender when he was not a danger to society. The District Court that heard his case agreed with his argument which eventually resulted in the stoppage of the Department's sex offender website. On appeal, the Second Circuit Court affirmed the lower court's decision stating that there was a violation of the Fourteenth Amendment; however, this case was appealed to the United States Supreme Court and the rulings by the lower courts were overturned. The Court found that there had been no violation because the offender had a trial and was convicted therefore providing him with due process. The Connecticut Dept. of Public Safety v. Doe is an important case because it is a good example of how lower courts have ruled in favor sex offenders, but yet their rulings were later overturned. The rationale behind the lower court's decision in this case is a good argument for sex offenders and one that should be carefully reexamined.

To date there is no controlling authority that has moved towards radically changing sex offender restrictions. There are multiple dissenting opinions as stated above, but there are no

decisions in favor of sex offenders that have struck down the overly broad laws. When the issue of sex offender restrictions is addressed, the concern that these restrictions might be excessive is brought up, but none of restrictions have been struck down. Courts argue that these restrictions are not punitive in nature and they are aimed towards protecting a greater number of people and therefore should not be altered.

RESIDENCY AND EMPLOYMENT RESTRICTIONS

Sex Offender Residency Restrictions

The United States currently has twenty-three (23) states with sex offender residency restrictions that have been implemented. However, the states that do not have residency restrictions usually have local communities that have implemented some form of restriction. These restrictions prohibit a sex offender from living within a certain distance from places where children normally congregate. These places mainly involve schools, playgrounds, child-care facilities, public swimming pools, parks, churches, arcades, and even school bus stops (Lester, 2007). There is not a set distance that sex offenders must be from children because each state/community has its own restriction. Some states are stricter than others; these variations demonstrate the unfairness that sex offenders face. States restricting offenders from living within 2,000 feet from children seriously limit where sex offenders can inhabit. These restrictions leave sex offenders with virtually no options as to where they can live and no assistance from their local government to find housing.

These restrictions also affect sex offenders that their own children and were labeled a sex offender due to technicalities. An example of a sex offender facing this issue is Frank Rodriguez. “Having been on the sex offender list for nearly half his life, Frank is unable to secure a job with a major corporation or leave the state without notifying local law enforcement. He cannot coach soccer for any of his daughters, who range in age from 4 to 11 years old.” (Rodriguez, 2011, p. 2). Frank’s only mistake was falling in love with a fifteen-year-old girl when he was nineteen-years-old. However, it is not unusual for something like this to happen when there are people of

Frank's age still in high school. Frank is an example of the major problem with sex offender laws. It should not be a one-size-fits-all.

The following chart lists all fifty states; however, only twenty-three states currently have residency restrictions.

Figure 2 - Sex Offender Residency Restrictions Chart

State	Residency Prohibition Applies to:	Prohibited Zone	Duration of restriction	Possibility of Release
Alabama	Persons convicted of a "criminal sex offense"	Within 2,000 feet of any school or child care facility	Life	No possibility
Alaska	N/A	N/A	N/A	N/A
Arizona	N/A	N/A	N/A	N/A
Arkansas	Persons required to register as a sex offender and who are assigned risk level 3 or 4.	Within 2,000 of any elementary or secondary school or daycare facility	15 years to life	Yes, there is possibility
California	A sexually violent predator or a serious paroled sex offender	Cannot live within one-fourth of a mile of a school, and high-risk paroled sex offenders cannot live within one-half mile of a school, daycare center, or place where children congregate	Life	No possibility
Colorado	N/A	N/A	N/A	N/A
Connecticut	N/A	N/A	N/A	N/A
Delaware	Persons convicted of	Within 500 feet	Life	No possibility

	certain sex offenses involving a child under 16	of the property of any school		
Florida	Persons convicted of certain sex offenses involving a child under 16	Within 1,000 feet of any school, day care center, park, or playground	Life	No possibility
Georgia	Persons required to register as a sex offender	Within 1,000 feet of any child care facility, church, school, or anywhere minors congregate	10 years to life	Yes, there is possibility
Hawaii	N/A	N/A	N/A	N/A
Idaho	Persons required to register as a sex offender	Within 500 feet of the property on which a school is located	10 years to life	Yes, there is possibility
Illinois	Persons convicted of a child sex offense, or certified as a sexually dangerous person whose victim was under 18	Within 500 feet of any school that persons under the age of 18 attend	Life	No possibility
Indiana	Persons required to register as a sex offender who are sexually violent predators or have been convicted of certain offenses involving a minor.	Within 1,000 feet of school property, a youth program, center, or public park.	10 years to life	Yes, there is possibility
Iowa	Persons who have committed a criminal, aggravated, sexually violent, or other offense involving a minor	Within 2,000 feet of an elementary or secondary school or child care facility	Life	No, possibility
Kansas	N/A	N/A	N/A	N/A

Kentucky	Persons required to register as a sex offender	Within 1,000 feet of a school, preschool, public playground, or daycare facility	20 years to life	Yes, there is possibility
Louisiana	Sexually violent predators	Within 1,000 feet of any elementary or secondary school, day care, playground, youth center, public swimming pool, or free standing video arcade	Life	No possibility
Maine	N/A	N/A	N/A	N/A
Maryland	N/A	N/A	N/A	N/A
Massachusetts	N/A	N/A	N/A	N/A
Michigan	Persons required to register as a sex offender	Within 1,000 feet of school property	10 years to life	Yes, there is possibility
Minnesota	N/A	N/A	N/A	N/A
Mississippi	Persons required to register as a sex offender	Within 1,500 feet of any elementary or secondary school or child care facility	10 years to life	Yes, there is possibility
Missouri	Persons convicted of certain sex offenses	Within 1,000 feet of any school or day daycare facility	Life	No possibility
Michigan	N/A	N/A	N/A	N/A
Minnesota	N/A	N/A	N/A	N/A
Mississippi	N/A	N/A	N/A	N/A
New Hampshire	N/A	N/A	N/A	N/A

New Jersey	N/A	N/A	N/A	N/A
New Mexico	N/A	N/A	N/A	N/A
New York	N/A	N/A	N/A	N/A
North Carolina	N/A	N/A	N/A	N/A
North Dakota	N/A	N/A	N/A	N/A
Ohio	Persons convicted of a sexually oriented offense or child-victim oriented offense	Within 1,000 feet of any school premises	Life	No possibility
Oklahoma	Persons registered as a sex offender	Within 2,000 feet of any school, educational institution, park, playground, or childcare facility	10 years to life	Yes, there is possibility
Oregon	N/A	N/A	N/A	N/A
Pennsylvania	N/A	N/A	N/A	N/A
Rhode Island	N/A	N/A	N/A	N/A
South Dakota	Persons required to register as a sex offender	Within 500 feet of any school, public park, playground, or public pool	10 years to life	Yes, there is possibility
Tennessee	Persons required to register as a sex offender whose victim was a minor	Within 1,000 feet of any school, day care or child care facility, public park, playground, recreation center, or athletic field	10 years to life	Yes, there is possibility
Texas	Adults registered as sex offenders	The state parole board decides how close to a child safety zone a paroled sex offender can live	Life	No possibility

		or visit.		
Utah	N/A	N/A	N/A	N/A
Vermont	N/A	N/A	N/A	N/A
Virginia	Adults convicted of certain sex offenses where the offender is more than 3 years older than the victim	Within 500 feet of the premises of a child day center, or primary, secondary, or high school	Life	No possibility
Washington	A sex offender convicted of a serious offense with a high-risk assessment	Within 880 feet of any school or daycare center	10 years to life	Yes, there is possibility
West Virginia	A paroled sex offender	Within 1,000 feet of a school or childcare facility	Life	No possibility
Wisconsin	N/A	N/A	N/A	N/A
Wyoming	N/A	N/A	N/A	N/A

Sex Offender Employment Restrictions

Employment restrictions may be a bit harsher than sex offender residency restrictions. Employment restrictions may prohibit sex offenders from working where children congregate as well as near places where children congregate. The limitations that sex offenders face are immense and extremely harsh. By restricting where sex offenders work as well as where they can live, they are being kept from reintegrating into society. These restrictions are only isolating sex offenders more and potentially causing more harm. “While unemployment is not the stated objective of these restrictions, it is often the result” (Lester, 2007). Sex offenders have two

negatives on their side by being restricted where they can work. Their options for employment are limited by being considered a criminal and also the fact that they are registered sex offenders.

The following chart lists all fifty states; however, only ten states currently have employment restrictions.

Figure 3 - Sex Offender Employment Restrictions

State	Residency Prohibition Applies to:	Prohibited Zone	Duration of restriction	Possibility of Release
Alabama	Persons convicted of a “criminal sex offense”	Within 2,000 feet of any school or child care facility	Life	No possibility
Alaska	N/A	N/A	N/A	N/A
Arizona	N/A	N/A	N/A	N/A
Arkansas	N/A	N/A	N/A	N/A
California	N/A	N/A	N/A	N/A
Colorado	N/A	N/A	N/A	N/A
Connecticut	N/A	N/A	N/A	N/A
Delaware	N/A	N/A	N/A	N/A
Florida	Sexual Predators	At any business, school, day care center, park, playground, or other place where children regularly congregate	30 years to life	Yes, there is possibility
Georgia	Persons required to register as a sex offender	Within 1,000 feet of any child care facility, church, or school	10 years to life	Yes, there is possibility
Georgia	Sexually dangerous persons	Within 1,000 feet of an area where	Life	No possibility

		minors congregate		
Hawaii	N/A	N/A	N/A	N/A
Idaho	Persons required to register as sex offenders	At a day care center, group day care facility, or family day care home	10 years to life	Yes, there is possibility
Illinois	N/A	N/A	N/A	N/A
Indiana	Sexually violent predators	On school property, at youth program centers, or public parks	10 years to life	Yes, there is possibility
Iowa	N/A	N/A	N/A	N/A
Kansas	N/A	N/A	N/A	N/A
Kentucky	N/A	N/A	N/A	N/A
Louisiana	N/A	N/A	N/A	N/A
Maine	N/A	N/A	N/A	N/A
Maryland	N/A	N/A	N/A	N/A
Massachusetts	N/A	N/A	N/A	N/A
Michigan	Persons required to register as a sex offender	Within 1,000 feet of school property	10 years to life	Yes, there is possibility
Michigan	Persons convicted of a listed sex offense	By a school or allowed to work under contract in a school	N/A	N/A
Minnesota	N/A	N/A	N/A	N/A
Mississippi	N/A	N/A	N/A	N/A
Missouri	N/A	N/A	N/A	N/A
Montana	N/A	N/A	N/A	N/A
Nebraska	N/A	N/A	N/A	N/A
Nevada	N/A	N/A	N/A	N/A
New	N/A	N/A	N/A	N/A

Hampshire				
New Jersey	N/A	N/A	N/A	N/A
New Mexico	N/A	N/A	N/A	N/A
New York	N/A	N/A	N/A	N/A
North Carolina	N/A	N/A	N/A	N/A
North Dakota	N/A	N/A	N/A	N/A
Ohio	N/A	N/A	N/A	N/A
Oklahoma	Registered sex offenders	To work with or provide services to children or work on school premises	10 years to life	Yes, there is possibility
Oregon	N/A	N/A	N/A	N/A
Pennsylvania	N/A	N/A	N/A	N/A
Rhode Island	N/A	N/A	N/A	N/A
South Carolina	N/A	N/A	N/A	N/A
South Dakota	N/A	N/A	N/A	N/A
Tennessee	Persons required to register as a sex offender whose victim was a minor	Within 1,000 feet of any school, day care or child care facility, public park, playground, recreation center, or athletic field	10 years to life	Yes, there is possibility
Texas	N/A	N/A	N/A	N/A
Utah	N/A	N/A	N/A	N/A
Vermont	N/A	N/A	N/A	N/A
Virginia	Adults convicted of certain sex offenses where the offender is more than 3 years older than the victim	On public or private elementary or secondary school or child day care center property	Life	No possibility
Washington	N/A	N/A	N/A	N/A

West Virginia	N/A	N/A	N/A	N/A
Wisconsin	N/A	N/A	N/A	N/A
Wyoming	N/A	N/A	N/A	N/A

Other Sex Offender Restrictions

Sex offenders have other kinds of restrictions aside from residency and employment. Some states have enacted laws that restrict what sex offenders can do on Halloween. For example, the state of Missouri bans sex offenders from celebrating Halloween all together. “They must avoid all Halloween-related contact with children, cannot leave their homes from 5 p.m. to 10:30 p.m. on Halloween without just cause (which includes an emergency or employment), cannot have any lighting outside their house after 5 p.m., and must post a sign that says ‘No candy or treats at this residence’ outside of their home” (Wagner, Spring 2011). The type of restrictions imposed on sex offenders in other states during Halloween generally range from no passing out candy to no driving after dark (Hinkle). The criticism of a law like this is that sex offenders continue to be punished and restricted post-release.

“Sex offenders are often subject to creative lawmaking that singles them out for public shaming and increases the chance that they will be targeted based on their status as registered sex offenders. Wisconsin, Ohio, and Alabama have considered requiring their registrants to have specially colored license plates that would clearly identify the driver of the vehicle as a sex offender” (Wagner, Spring 2011, p. 4). Had this law been passed in Wisconsin, sex offenders that failed to comply with this requirement would have had to pay a fine up to \$25,000 as well as

time in prison. Moreover, there are also laws that prohibit sex offenders from entering public parks. The state of North Carolina for example prohibits sex offenders from entering parks. As seen in Figure 4, the state of North Carolina has signs in public parks as a disclaimer that sex offenders are not allowed and will be fined if found roaming the area.

Figure 4- Sign in North Carolina prohibiting Sex Offenders from Entering Park.



Other sex offender restrictions in place and currently being considered as found in research done by Marcus Nieto, Senior Research Specialist and Professor David Jung are:

- In Florida and Louisiana, lawmakers are proposing that a special mark be placed on a sex offender's driver's licenses. (Jung, 2006, p. 13)
- In North Carolina, the attorney general has proposed that residents receive e-mail notifications when a sex offender moves within a mile of their home. (Jung, 2006, p. 13)
- Lawmakers in Arkansas, Virginia, West Virginia, and Maryland have set a mandatory minimum 25-year sentence for certain violent sex offenses against children. Maryland is also considering legislation to impose lifetime supervision and GPS electronic monitoring for all sex offenders. (Jung, 2006, p. 13)
- Louisiana is considering a bill that would require lifelong electronic monitoring of sex offenders convicted of targeting children. (Jung, 2006, p. 13)
- In Kentucky, lawmakers have expanded the sex offender registry to include people convicted of possessing child pornography. The minimum time offenders are listed on the registry will double to 20 years under one proposal. (Jung, 2006, p. 13)

The above restrictions outside residence and employment restrictions are only a few restrictions that show the extra measures jurisdictions have taken. However, there are more restrictions in place, some stricter than others.

SEX OFFENDER LAW IN FLORIDA

Current state sex offender laws

In this section, only sex offender statutes relevant to this thesis will be listed. The State of Florida has found that the following offenses will require an offender to register as a sex offender:

1. Florida Statute § 787.01- Kidnapping of a child under age 13 under aggravating circumstances: Kidnapping forcibly, secretly, or by threat confining, abducting, or imprisoning another person against her or his will without lawful authority with intent to hold for ransom, commit or facilitate in the commission of a felony, inflict bodily harm, interfere with the performance of any governmental or political function.

2. Florida Statute § 787.02- False imprisonment of any child under age 13 under aggravating circumstances: Forcibly, secretly, or by threat confining, abducting, or imprisoning another person against her or his will. Confinement of a child under the age of 13 is against her or his will within the meaning of this section if such confinement is without the consent of her or his parent or legal guardian.

3. Florida Statute §787.025- Luring or enticing a child: When a person 18 years of age or older who intentionally lures or entices, or attempts to lure or entice a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose.

4. Florida Statute § 794.011- Sexual battery: A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of a person less than 12 years of age. A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and is in the process thereof uses or threatens to use a deadly weapon or uses physical force likely to cause serious personal injury.

The above are a few of the offenses that fall under sexual battery. The complete list of offenses can be found under Florida Statute § 794.011.

5. Florida Statute § 794.023- Sexual battery by multiple perpetrators: During the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

6. Florida Statute § 794.05- Unlawful sexual activity with certain minors: A person 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age.

7. Florida Statute § 796.03- Procuring person under age of 18 for prostitution: A person who procures for prostitution, or causes to be prostituted, and person who is under the age of 18 years.

8. Florida Statute § 796.035- Selling or buying of minors into sex trafficking or prostitution: Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, with knowledge that, as a consequence of the sale or transfer,

force, fraud, or coercion will be used to cause the minor to engage in prostitution or otherwise participate in the trade of sex trafficking.

9. Florida Statute §800.04- Lewd or lascivious offenses committed upon or in the presence of person less than 16 years of age: A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person 16 years of age to so touch the perpetrator.

More detailed information of what consists lewd and lascivious behavior and what would require registering as a sex offender can be found under the Florida Statute § 800.04.

10. Florida Statute 825.1025- Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person: When a person encourages, forces, or entices an elderly person or disabled person to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, when the person knows or reasonably should have known that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.

The complete list of offenses that fall under this statute can be found under Florida Statute 825.1025.

11. Florida Statute 827.071- Sexually performance by a child: A person is guilty of promoting a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child less than 18 years of age to engage in a sexual

performance or, being a parent, legal guardian, or custodian of such child, consents to the participation of such child in a sexual performance.

12. Florida Statute 847.0137- Transmission of material harmful to minors to a minor by electronic device or equipment: Any person in this state who knew or reasonably should have known that he or she was transmitting child pornography.

13. Florida Statute 847.0145- Selling or buying of minors: Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor.

14. Florida Statute 985.701- Sexual misconduct: An employee who engages in sexual misconduct with a juvenile offender detained or supervised by or committed to the custody of, the department. An employee of the department, or an employee of a provider under contract with the department, who witnesses sexual misconduct committed against a juvenile offender, or has reasonable cause to suspect that sexual misconduct has been committed against a juvenile offender.

The list above shows which offenses would require a person to register in the state of Florida as a sex offender. When comparing the crimes require a convicted sex offender to register one can see that some crimes are more serious than others.

The State of Florida has in place the Florida Sexual Predators Act. § 775.21 (3) (a) states that repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety.

These sexual offenders are viewed as extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes.

The State of Florida has found that individuals labeled sex offenders are a threat to the community and therefore must be carefully regulated (Fla. Stat. §775.21(3)(a) (2011)). The level of threat that sex offenders appear to pose in our community, has given the State of Florida the right to implement an Act that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.
2. Providing for specialized supervision of sexual predators that are in the community by specially trained probation officers with low case loads, as described in §947.1405(7) and § 948.30. The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.
3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.
4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer. (Fla. Stat. §775.21(3)(b) (2011))

Florida Registration Requirements:

In the state of Florida, sex offenders required to register must provide the following:

Name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, photograph, address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box, date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

If the sexual predator is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment or employment status.

Any other information determined necessary by the department, including criminal and corrections records; non-privileged personnel and treatment records; and evidentiary genetic markers when available. (Fla. Stat. §775.21(6)(a)(1) (2011)).

Florida Community and Public Notification

The duty of community and public notification falls mainly on law enforcement, however; the sex offender also plays a role in notifying the public of his/her criminal status. The State of Florida requires the following under the community and public notification requirement:

Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed day care center, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator. (Fla. Stat. § 775.21(7) (2011)).

Moreover, aside from having to register as a sex offender and notify the public of their criminal status in the state of Florida sex offenders cannot reside within 1,000 feet of any school, day care center or playground. This rule applies to every individual labeled a sex offender regardless of the severity of the crime committed. Whether it is a 19-year-old high school boy that had consensual sexual relations with a 15-year-old high school girl, or a 50-year-old man that

brutally raped an 11-year-old. Both of these cases would require mandatory registration. The state of Florida does not review each case individually.

ORDINANCES

Sex offender restrictions are not only implemented through federal and state laws, but by towns, cities, counties, and other local governments around the state. Local ordinances are usually stricter because there is more pressure by the communities to keep sex offenders out of their neighborhood. This is what we called a “not-in-my-backyard” mentality. Even though local ordinances are stricter, local governments have a harder time enforcing these restrictions because there is less funding to go around. “State and local governments, already strapped for funds, are not equipped to handle all the work required by these restrictive ordinances” (Lester, 2007). Moreover, local ordinances restricting sex offenders are generally in place when there are no state wide restrictions for sex offenders.

The city of Orlando has also taken a step at enforcement of these sexual offender restrictions:

“The Orlando Police Department has taken active measures to help ensure the safety of our citizens with respect to sexual offenders and sexual predators.

Working closely with the Department of Corrections, the Orange County Sheriff’s Office, the State Attorney’s Office, other local and state law enforcement agencies, as well as community organizations, the Orlando Police Department Sexual Predator Offender Tracking (S.P.O.T.) carefully monitors the activities of those sexual offenders and sexual predators who reside within the City of Orlando” (Orlando Police Department Sexual Offenders and Predators, 2011).

Other cities have also created restrictions. The following are a few examples of local ordinances around the state of Florida:

- The City of Pembroke Pines, Florida prevents convicted sexual offenders and predators from living in the city. Individuals convicted as sex offenders anywhere in the country are not allowed to live in the city. The consequences of breaking this code are harsh. First-time violators face sixty-days in jail and a \$500 fine. Second-time violators face one year in jail and \$1,000 fine. Those offenders breaking the code multiple times will face even more time in jail and a higher fine (Kollin, 2005).
- Lake County's commissioners moved ahead to tightening sex offender restrictions on January 11, 2012. "In October, commissioners passed an ordinance banning sex offenders from residing within 2,500 feet of day-care centers, public and private parks, playgrounds and schools and prohibited them from living with each other unless they were related. However, commissioners felt that wasn't enough and pushed to add the more stringent restrictions. Under the new ordinance, offenders cannot live within 500 feet of another sex offender, which County Attorney Sandy Minkoff said will prevent clustering in any part of the county" (González, 2012).
- The Tampa City Commission adopted an ordinance that bans sex offenders from living within 1,500 feet of any school, day care, public or private park and bus stop. This ordinance bans sex offenders from pretty much residing in the city of San Antonio. Due to the size of this city restricting sex offenders from not

living within 1,500 feet leaves them with no area in the city where they would be allowed to live. (Ban Restricts Sex Offenders from most of City North of Tampa, 2011).

OTHER ISSUES AFFECTING LAWS

“There are times when politicians are hostages to the lusts of their constituents. They dare not oppose bills that, if defeated, would serve only to aggravate those who placed them into office” (Lester, 2007). Decisions legislators make are highly influenced by voters and because of it more laws restricting where sex offenders live and work are being enacted. Not only are more laws being enacted, but these restrictions are getting stricter. The life of a sex offender can be as harsh if not more as a life in prison. “The increasing legislation is inspired by proliferating fears about sexual abuse and seeks to quell those fears by defining and controlling the threat” (Walker, 2010). They are being written in a way to give the impression that legislators are being tough on crime. “When it comes to laws that involve sex offenders, the passions of the majority must be tempered with reason” (Lester, 2007). The focus of this thesis is not aimed to attack the choices made by legislators, but to bring awareness that sex offender laws are not being carefully written. These laws may be promoting a false sense of security because they are guaranteeing to keep sex offenders away from our society when there are really no resources to control all of their whereabouts.

Sex offenders are not only restricted where they can live and work, but they are being personally harassed by the public. They are not only in danger behind bars due to their criminal history, but also in great danger when released. Figure 5 is a comic strip that ridicules the way politicians are handling the issue of sex offending in the State of California.

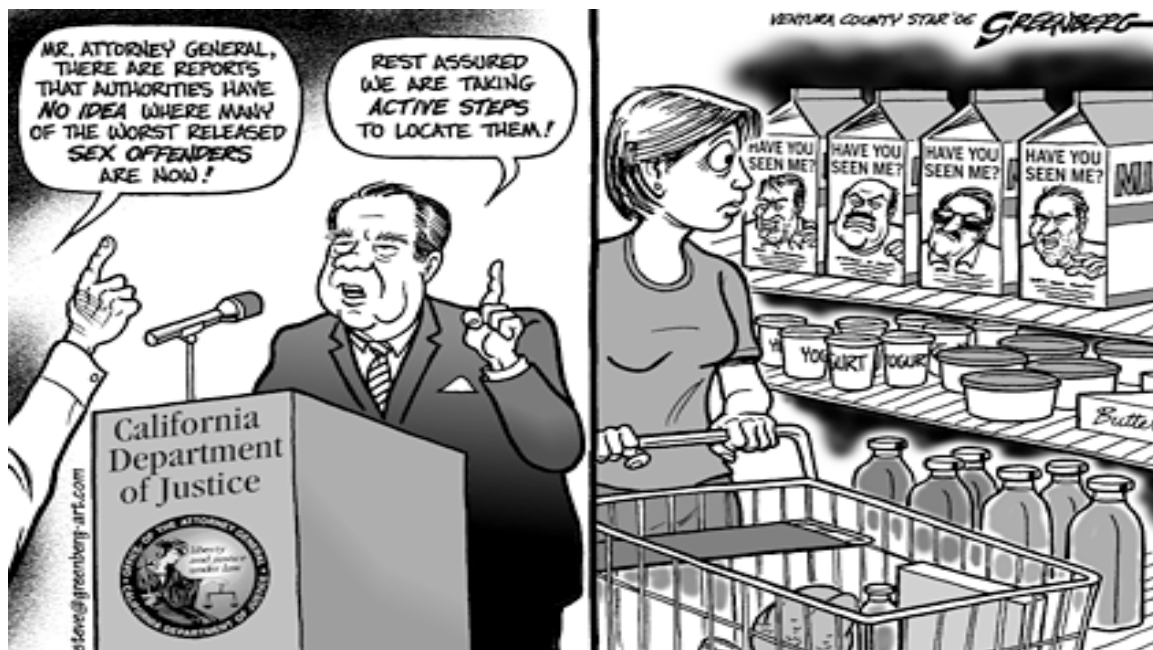


Figure 5- Comic strip. Source: <http://www.postbourgie.com/2008/02/28/whos-really-a-sex-offender/>

The above comic strip was drawn after the state of California introduced a bill that would require kids as young as fourteen to register as sex offenders if they commit any crimes that would require them to. However, we must take into consideration special cases of kids of a young age having sexual relations with other kids younger than them which under state law may not be considered mentally capable to consent. An example of such a case is that of a sixteen-year-old boy named Ricky who had sexual relations with a thirteen-year-old. The following story details the relationship between Ricky and the young girl and what their young love left him with:

Amanda turned out to be 13. Ricky was arrested, tried as an adult, and pleaded guilty to the charge of lascivious act with a child, which is a class D felony in Iowa. It is not disputed that the sex was consensual, but intercourse with a 13-year-old is illegal in Iowa. Ricky was sentenced to two-years-probation and ten

years on the Iowa online sex offender registry. Ricky and his family have since moved to Oklahoma, where he will remain on the state's public registry for life. Being labeled a sex offender has completely changed Ricky's life, leading him to be kicked out of high school, thrown out of parks, taunted by neighbors, harassed by strangers, and unable to live within 2,000 feet of a school, day-care center or park. He is prohibited from going to the movies or mall with friends because it would require crossing state borders, which he cannot do without permission from his probation officer. (G.D, 2008)

Another example of tough sex offender laws is a new law that is being considered by the state of Delaware. If the law is passes, children younger than 14-years-of-age would be required to register as sex offenders.

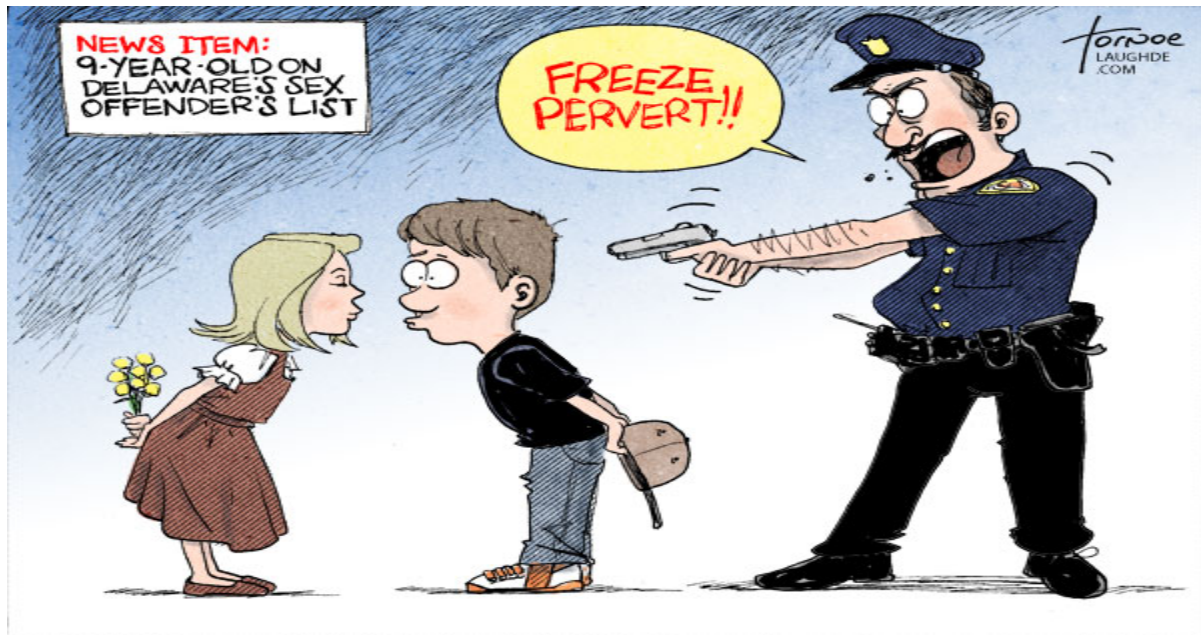


Figure 6- State of Delaware considers requiring children as young as 9-years-old to register as sex offenders for certain sex offenses. Source: <http://www.delawareliberal.net/2010/05/12/tornoes-toon-those-9-year-old-perverts/>

The state of Delaware is headed towards having the toughest rules in the nations for sex offenders. “State Rep. Melanie George (D-Bear) has a bill that would allow Family Court judges to decide if children younger than 14 (mandated by the Adam Walsh Act) should be listed on the registry” (Tornoe, 2010).

SEX OFFENDER WEBSITES

As part of this thesis it is important to name and analyze a few of the websites available to the public to track sex offenders to better understand the trend of how sex offenders are viewed.

A very popular website is Family Watchdog, it is the first option that comes up when you type “sex offender registry” on Google. The services offered by this website are free to the public as stated in the home page: “Family Watchdog is a free service to help locate registered sex offenders in your area. We encourage you to use our site to help educate your family on possible dangers in areas they visit. Also, please sign up for our free notifications to keep updated with offenders that move in/out of your area.” Family Watchdog allows users to search for sex offenders in their neighborhood by typing an address, city or zip code. Under the University of Central Florida’s zip code (32816), 245 offenders are shown are registered in the area.

The image below is the map the website generates when UCF’s zip code is searched. According to Family Watchdog there are 242 sex offenders in the area and 30 non-mappable offenders.

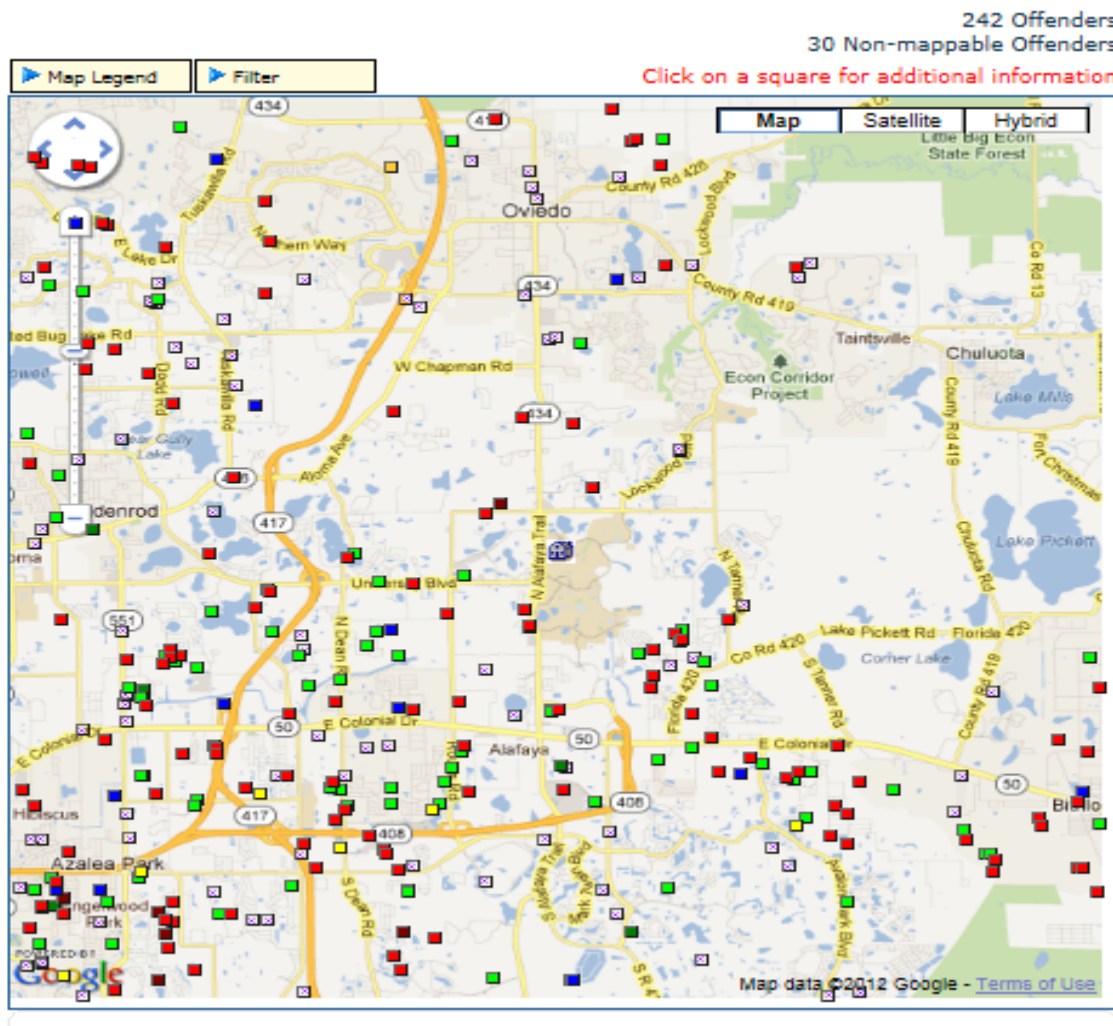


Figure 7- Example of Sex Offender Search in Orlando (32816). Source: <http://www.familywatchdog.us/>

Family Watchdog allows the user to click on the squares to obtain information regarding the sex offender in that particular area. Below is an image of what it looks like when a square is clicked. The website does not give full access to view the search result and it cuts information that should be able to be accessed at no charge. Although, Family Watchdog is meant to inform the community of sex offenders in the area it does not give extended information on these sex

offenders. In order to obtain full information on a particular sex offender, the user must buy the information.

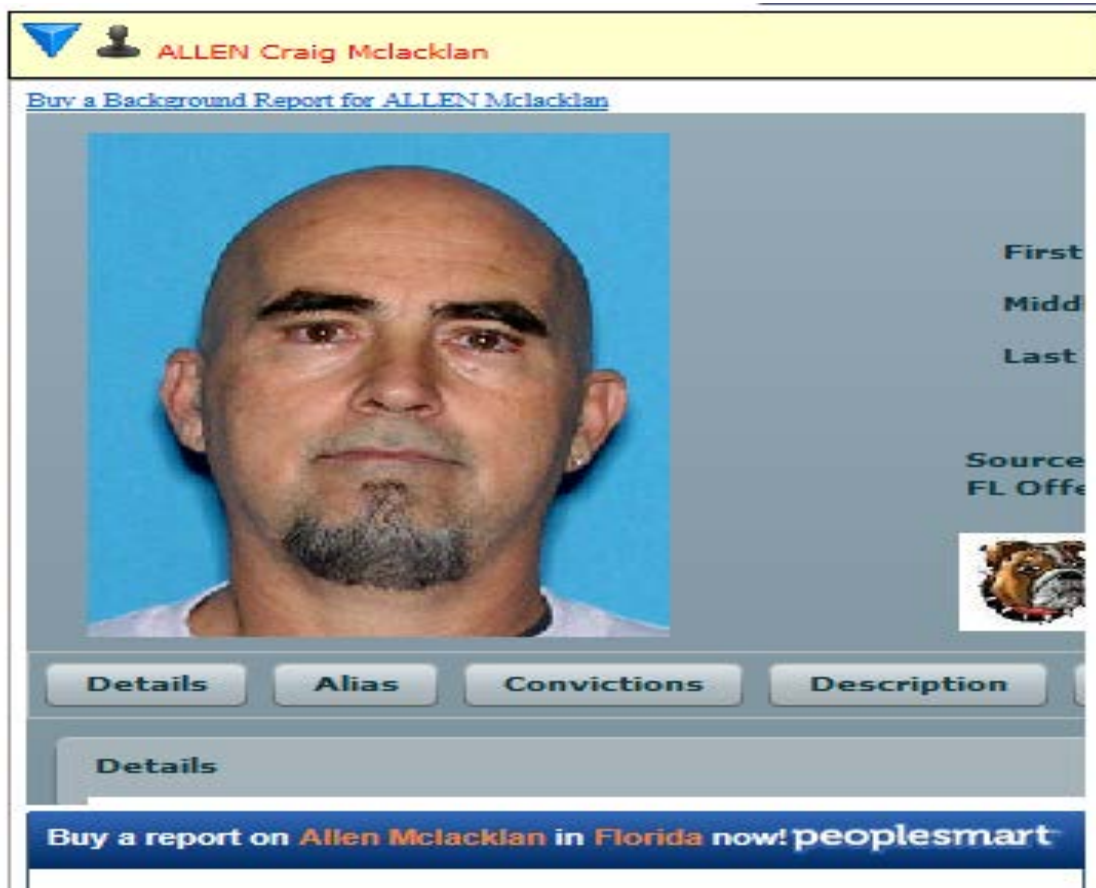


Figure 8- Example of Search on Watch Dog Website. Source: <http://www.familywatchdog.us/>

Another website to search for sex offenders in an area is the United States Department of Justice Dru Sjodin National Sex Offender Public Website. “The Dru Sjodin National Sex Offender Public Website (NSOPW), coordinated by the U.S. Department of Justice, is a cooperative effort between jurisdictions hosting public sex offender registries (“Jurisdictions”) and the federal government and is offered free of charge to the public. These Jurisdictions

include the 50 states, U.S. Territories, the District of Columbia, and participating tribes. The Website provides an advanced search tool that allows a user to submit a single national query to obtain information about sex offenders; a listing of public registry websites by state, territory, and tribe; and information on sexual abuse education and prevention” (Dru Sjodin National Sex Offender Public Website, 2011).

This website first gives the user the option of typing in the first and last name of a sex offender being searched for. Figure 8 shows what the website looks like when conducting a search.

The screenshot shows the homepage of the Dru Sjodin National Sex Offender Public Website. At the top, there is a header with the United States Department of Justice logo and the SMART (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking) logo. Below the header, the title "DRU SJODIN NATIONAL SEX OFFENDER PUBLIC WEBSITE" is displayed. A navigation bar contains links for Home, Search, About NSOPW, FAQs, Public Registry Sites, and Education & Prevention. A red banner with a "NEW" tag on the left side reads: "Search for sex offenders by address by performing an Advanced Search. Try it now". Below this, the "Standard Search" section instructs users to enter a last name and first name, followed by a "Search" button. The "Advanced Search" section provides a link to perform a search by locality, zip code, or address. At the bottom, there is a footer with links for Amber Alert, Victim Services, Privacy Policy, and Legal Policies and Disclaimers.

UNITED STATES DEPARTMENT OF JUSTICE
United States Department of Justice SMART

SMART Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

DRU SJODIN NATIONAL SEX OFFENDER PUBLIC WEBSITE

Home Search About NSOPW FAQs Public Registry Sites Education & Prevention

NEW Search for sex offenders by address by performing an Advanced Search. Try it now

Standard Search: Enter a last name and first name; then press Search to search the sex offender registries for all 50 states, the District of Columbia, Puerto Rico, Guam, Northern Mariana Islands, and Indian Country.

Last Name: First Name:

Advanced Search: To conduct an advanced search by locality, zip code, or address [click here](#).

[Amber Alert](#) | [Victim Services](#) | [Privacy Policy](#) | [Legal Policies and Disclaimers](#)

Figure 9- United States Department of Justice Website (Sex Offender Search). Source: <http://www.nsopw.gov/Core/Portal.aspx?AspxAutoDetectCookieSupport=1>

If you are conducting a general search of sex offenders in an area then it would look as follows:

The screenshot shows the top of the website with the United States Department of Justice logo and the SMART (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking) logo. Below the header is a navigation bar with links: Home, Search, About NSOPW, FAQs, Public Registry Sites, and Education & Prevention. A red banner below the navigation bar contains the text: "Search for sex offenders by address by conducting an Address Radius Search below." A yellow "NEW" ribbon is on the left side of the banner.

Name and Zip Code Search: Enter a last name and first name, and use the additional options to narrow the search results or just enter a zip code; then press *Search*.

☒ Search all States, Territories, and Indian Country

☐ State/Territory:

☐ Indian Country:

Last Name:

First Name:

County:

City/Town:

Zip Code(s):

(maximum five zip codes separated by spaces)

Address Radius Search: Enter an address and select a distance to search for offenders by location. The search will return offenders with a registered address that is within the specified radius around the location searched.

Address:

City:

State: *

Zip Code:

Distance:

*Only states that provide address geographic coordinates to NSOPW are included in the search.

Figure 10- Screenshot of general search under United States Department of Justice Website. Source: <http://www.nsopw.gov/Core/Portal.aspx?AspxAutoDetectCookieSupport=1>

When the search is done then this website will show the user a map of the area that has been searched and provide a list of the offenders currently listed in that area as follows:



UNITED STATES DEPARTMENT
OF
JUSTICE

SMART Office of Sex Offender Sentencing, Monitoring,
Apprehending, Registering, and Tracking

DRU SJODIN NATIONAL SEX OFFENDER PUBLIC WEBSITE

[Home](#)
[Search](#)
[About NSOPW](#)
[FAQs](#)
[Public Registry Sites](#)
[Education & Prevention](#)

Address Radius Search: Enter an address and select a distance to search for offenders by location. The search will return offenders with a registered address that is within the specified radius around the location searched.

Address:

City:

State: *

Zip Code:

Distance:

*Only states that provide address geographic coordinates to NSOPW are included in the search.



Figure 11- Search conducted on the United States Department of Justice Website (zip code: 32816). Source: <http://www.nsopw.gov/Core/Portal.aspx?AspxAutoDetectCookieSupport=1>

3 hits from 2 jurisdictions.




	Name	Location	Age
	BROMPTON, MICHAEL ADAM Aliases: <ul style="list-style-type: none">• BROMPTON, MICHAEL	Locations: <ul style="list-style-type: none">• Residential: 12125 WALDEN WOODS DR ORLANDO, FL 32826 ORANGE	23
	GONZALEZ, FRANK Aliases: <ul style="list-style-type: none">• GONZALES, FRANK• GONZALEZ, DIAZ FRANK• GONZALEZDIAZ, FRANK DAVID• GONZALEZ, DIAZ• GONZALEZ, FRANK D• GONZALEZDIAZ, FRANK• GONZALEZ, FRANK DAVID	Locations: <ul style="list-style-type: none">• Residential: 3723 VISION BLVD ORLANDO, FL 32839 ORANGE• Residential: TRANSIENT ORLANDO, FL 00000 ORANGE	30
	WIGGINS, JACK BERNARD Aliases: <ul style="list-style-type: none">• WIGGINS, JACK BERNARD• WIGGONS, JACK JR• WIGGONS, JACK• WIGGINS, JACK JR	Locations: <ul style="list-style-type: none">• Residential: 3600 ARISTOTLE AVE ORLANDO, FL 32826 ORANGE	53

Figure 12- Search results on the United States Department of Justice (Zip Code: 32816). Source: <http://www.nsopw.gov/Core/Portal.aspx?AspxAutoDetectCookieSupport=1>

According to the United States Department of Justice there are three registered sex offenders living in the 32816 zip code. Unlike, the Family Watchdog website, the National Department of Justice website fully discloses all available information on sex offenders registered in a particular area. The issue with these websites is that they do not rate the severity of the crimes committed by these sex offenders. The information provided can be misleading to a person with no legal knowledge because they may perceive the information as providing that all sex offenders listed pose the same danger to society. Not all sex offenders pose the same danger to society. What it is even more troubling is that these registries do not disclose whether these sex offenders are under treatment or whether they have been rehabilitated.

RISK ASSESSMENT

A factor that needs and should to be taken into consideration when applying restrictions and sentencing sex offenders is the risk the offender poses to society. In order to determine this risk we need to look at:

1. The likelihood of offending
2. Imminence of offending
3. Consequences of offending
4. Frequency of offending.

“Defining what type risk is being assessed, and recognizing that an individual may represent a different level of risk in respect of each of these, is the first step in getting the risk assessment right” (Kemshall & McIvor, 2004). Utilizing the correct risk assessment to determine the likelihood of reoffending is important because it can give jurisdictions a better understanding of which sex offenders to track closely. Some sex offenders do not need to be supervised as closely as other sex offenders. The likelihood of offending, imminence of offending, consequences of offending and the frequency of offending are probably the most important factors to evaluate when setting up a risk assessment tool. However, the “the age of the offender, the age and relationship to the victim, the availability and level of social and family support for the offender, prior history, educational attainment, and access to therapeutic treatment” (Jung, 2006) are other factors that greatly affect how likely the sex offender will reoffend.

In order to determine the risk the offender poses the above factors would be applied to the offender and scored. The offender would then be assigned to a tier. For example, the state of Minnesota has a tier system to rank offenders. The following is the tier system used by Minnesota:

- Tier-three: Highest risk of committing another sex crime. Police inform neighbors, schools and community groups of the sex offenders' location. The offender's photo, address and type of car are placed on the state's Megan's Law Internet registry.
- Tier-two: Moderate risk of committing another sex crime. Schools and community groups are notified about the offender. Photo, address and type of car may be placed on the Internet.
- Tier-one: Low risk of committing another sex crime. The offender's address is listed by local police on their Internet website. (Jung, 2006).

The risk assessment may not be completely accurate for all sex offenders, but it can still estimate the risk the offender poses. Having knowledge of which sex offenders pose a greater risk in our society and which sex offenders do not will allow jurisdictions to adjust restrictions and not apply the same restrictions to all sex offenders. For example, a person that had consensual sexual relations with an underage teen may not need to be restricted as harshly as a person that brutally rapes and murders underage teens. "Broad prohibitions may, by lumping all sex offenders together, dilute the public's ability to truly identify those who pose the greatest threat to the public safety" (Jung, 2006).

TREATMENT

There are controversial issues regarding treatment for sex offenders. On one side it is believed that treatment does not work, and it is too costly. On the other hand, proponents of treatment believe that the cost of providing treatment is worth it because there is proof that certain treatment does work. “The majority of convicted sex offenders are eventually released back into the community. Consequently, effective treatment interventions that can lower the recidivism rates of sexual offenders are needed” (Moster, Wnuk, & Jeglic, 2008). Proponents argue that there is a large spectrum of treatment that can be offered to a sex offender to fit higher needs. Treatment ranges from cognitive-behavioral, chemical-medical, behavioral, psychotherapeutic, and other psychosocial approaches.

Proponents of treatment programs will argue that if society is truly serious about preventing future acts of sexual abuse, rehabilitation should be given due consideration. Even if the treatment is ineffective, there is no additional harm to the family and victim. At best it could help rehabilitate and reform the offender and release some pressure off of the victim and family; at worst, it would maintain the status quo, the state that the offender would have been returned to his family had he not received the benefit of treatment (Ho, Spring 2008).

Treatment for sex offenders is not mandated, but courts do recommend it. As found in McKune v. Lile, 536 U.S. 24 (2002) “mental health professionals seem to agree that accepting responsibility for past sexual misconduct is often essential to successful treatment, and that

treatment programs can reduce the risk of recidivism by sex offenders.” Establishments offering treatment options range from correctional services, faith organizations, community groups, to mental health establishments. “Intervention strategies that combine therapeutic treatment, risk assessment, specialized supervision, and global positioning system (GPS) monitoring have some effect on reducing sex offender offenses and recidivism rates” (Jung, 2006). One kind of treatment will not work for every sex offender, but the purpose of treatment is to adjust it to fit the needs of the person being treated.

“The major goal of sex offender treatment is to reduce victimization, with the hope of reducing victimization for any given offender to zero” (Cellini, *The Sex Offender- Corrections, Treatment, and Legal Practice*, 1996). Some other goals of treatment are to get the offender to admit guilt, accept responsibility, understand dynamics identify deviant cycle, and make restitution. “The goals of treatment progress from owning up to one’s deviant behavior to exploring its origins to identifying its precursors and substituting alternative coping mechanisms” (Cellini, *The Sex Offender- Corrections, Treatment, and Legal Practice*, 1996). If the goal of treatments for sex offenders is to assist them in substituting their current needs with healthier needs in order to reintegrate them into our community, then these offenders should be allowed to have a support system and not be isolated from our society.

Cognitive-Behavioral Treatment

“Cognitive behavioral therapy is based on the cognitive model that posits that distorted and dysfunctional thinking is a common symptom of all psychological problems and illnesses and that these distorted thoughts influence a person’s moods and behaviors” (Moster, Wnuk, & Jeglic, 2008). According to the National Alliance of Mental Illness, cognitive-behavioral treatment is “is an empirically supported treatment that focuses on patterns of thinking that are maladaptive and the beliefs that underlie such thinking.” When treating sex offenders, treatment providers focus on the pattern of thinking of sex offenders and aid them in controlling their own thoughts. Sex offenders will get in touch with their mental process when they are about to become sexual deviants. “Since the 1980s, this treatment has been widely adopted by the correctional field and thought among the most promising. The success of this treatment often is attributed to its structured and focused nature” (MacKenzie, January 2005).

Chemical-Medical Treatment

This treatment is meant to reduce the certain sexual desires by sex offenders mainly through medication. In addition to medical treatment there is surgical treatment that falls under this type. Surgical treatment is done through castration of the testicles not the penis. Medical treatment and surgical castration are options that aim at altering physical desires through hormonal manipulation. Chemical-medical treatment is more popular among male sex offenders than female sex offenders. The sole application of the chemical-medical treatment is not enough for successful rehabilitation of a sex offender. “Hormonal treatment is often administered in

concert with other forms of treatment, most typically psychotherapy. Using a combination of biological and psychological perspectives, this hybrid approach reflects the view that physiological factors are not solely responsible for sexual offending” (MacKenzie, January 2005).

Behavioral Treatment

Behavioral treatment is aimed at changing the deviant behavior of sex offenders with a more socially acceptable one. “Behavioral treatment usually begins by assessing the offenders’ sexual preferences through self-report, criminal history or phallometric measures. Phallometric assessments or penile plethysmography uses physiological monitors to measure penile tumescence. The monitor is attached to the penis and measures erections in response to various stimuli. (Quinsey & Chaplin, 1988).

Psychotherapeutic Treatment

This treatment attempts to analyze the offender’s life experiences to determine what went wrong along the way that lead them to develop abnormal sexual desires. In attempts to figure out what experiences went wrong “it is assumed that understanding the problems will help to facilitate the correction of the problem” (MacKenzie, January 2005). By analyzing past experiences, offenders can work on fixing unsolved issues and develop a healthier dynamic to cope with their desires. The goal is to ultimately develop a more socially acceptable attraction towards another person.

“All in all, treatment for drug and sex offenders shows promise. Although it is no quick fix and it can cost fair amount of money, treatment appears to be much more effective than are traditional methods of dealing with crime, such as imprisonment” (Worrall, 2008). A combination of the treatments discussed above can be effective in treating sex offenders, and should therefore be made available. Determining which kind of treatment would work for each individual sex offender could make a lasting difference in rehabilitating.

CONCLUSION AND RECOMMENDATIONS

This thesis on sex offender restrictions and registration requirements was intended to bring awareness to the excessive nature of sex offender laws. Sex offenders are treated unfairly compare to other offenders because they are subject to restrictions far stricter than other criminals. Sex offenders are unable to live normal lives because all of their personal information is made available to the public. “Sex offender status is painted with a broad brush, marking more individuals than necessary” (Lester, 2007). By providing their personal information to the public and classifying them all as sex offenders the public has no way to tell whether an individual is a dangerous or a non-dangerous sex offender. Society has isolated these offenders by implementing strict restrictions that force them out of our community. By isolating this group of people the chances that they will be targeted and harassed are increased

The families of those classified as sex offenders are also greatly affected by these restrictions and registration requirements. These families must live with the humiliation they face when their neighbors find out or are informed that they live near a sex offender. Families often end up relocating in order to satisfy the restrictions on their family members. Sex offenders are not only restricted from where they can live, but they are also limited as to where they can work. If the sex offender is the main provider and is unable to keep a job or find a job because of this status, then the family is greatly affected. “Sometimes the desire of the majority overbears individual liberty, it is critical that the courts protect the legitimate interests of ‘the others’” (Lester, 2007).

Registration and notification can create social, psychological and emotional tensions in the offender and the community in which he or she lives. The offender is stigmatized in his future endeavors. Neighbors may shun him, not wanting to associate with someone they deem morally deplorable; employers may be unwilling to hire him, fearing public backlash and the possibility of recidivating. Citizens who do attempt to aid the sex offender's transition back into society may also be the target of scorn, for "notification draws a line not only between neighbors and offender, but also between neighbors and anyone who offers the offender much needed support, including relatives, friends, and employers. (Ho, Spring 2008).

A major issue with the restrictions and registration requirements for sex offenders is that no exceptions are made. The restrictions placed upon sex offenders should be determined according to the risk the individual poses to society. Exceptions should be made for those sex offenders that are not considered dangerous. For example, if a sex offender did not commit an offense towards a child, then he should not be subject to the harsh restrictions of prohibiting him from residing or working 2,000 feet from children as mandated in the State of Florida. The registration requirement should not be required for all persons who are labeled sexual offenders. For example, a person that is being convicted for urinating in public he should not be required to register as a sex offender.

By having a wide range of crimes that are considered a sex offense, it makes it hard for law enforcement to keep track of all sex offenders registered. It is especially hard for local

governments because their lack of funding prevents them from having sufficient resources to track all those registered. Moreover, having too many sex offenders to track prevents law enforcement from focusing their time on those sex offenders that pose a greater threat to our society. A solution to this problem would be to make exceptions and stop thinking that these restrictions are “one-size-fits-all”. Additionally, by making exceptions there might better compliance on the part of sex offenders to keep their file up to date and to not break the law. The stigma an individual faces by having to register as a sex offender when the crime they committed is not as serious as other crimes, forces them to risk breaking the law before severely restricting themselves. Furthermore, it would also be fair for those offenders that have complied with all requirements of registration to be able to petition to be removed from registries after a set amount of years.

Instead of providing adequate and consistent treatment to rehabilitate this group of offenders, jurisdictions have cut back on treatment. The treatment that is available does not guarantee that it will fit the needs of each sex offender. However, treatment can lower recidivism rates, and even if it does not work, no harm will be done in trying. An important point that should be discussed in the future is if treatment in fact does not work and sex offenders cannot be rehabilitated, then they should not be released back to society. “Releasing individuals before they are competent to control their anti-social desires and creating a massive system to monitor and track them until the inevitable day occurs when they re-offend is not in society's best interest” (Lester, 2007).

Residence, employment restrictions and registration requirements are ways to protect the community from sex offenders because it keeps the public aware of sex offenders in their neighborhoods. However, it has yet to be proven whether these restrictions are effective tools. A more effective way to address the issue of sex offending is to have “practitioners who are conducting sex offender treatment programs, judges who are making decisions about sentencing, and victim advocates to work together to find a successful way to deal with individual sex offenders on a case-by-case basis” (Griffin & West, 2006). This would mean that judges would need to have more discretion when sentencing sex offenders and more treatment programs would need to be explored and provided.

There is no arguing that the crimes committed by sex offenders must be punished and our communities protected, but the individual rights of this group of sex offenders must also be protected. Sex offenders pay their debt to society just like every other group of criminals. Sex offenders have constitutional rights and commit mistakes just like everybody else. It is unfair for this group to continue to be punished even after they have served their sentence and have been released back into society. “If there is no redemption possible for sex offenders, then why not act accordingly and lock them up forever or execute them? If not, no matter how much we hate the sin; we have to reach out to the sinner. We must offer sex offenders real hope, because without hope, they will act without conscience; then everyone loses” (Lester, 2007).

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