

Deconstructing a Puzzling Relationship: Sex Offender Legislation, the Crimes that Inspired It, and Sustained Moral Panic



Nancy G. Calleja¹

Justice Policy Journal • Volume 13, Number 1 (Spring)

© Center on Juvenile and Criminal Justice 2016 • www.cjcr.org/jpj

Abstract

Sex offender legislation has expanded significantly over the last two decades with progressively harsher sanctions and with the inclusion of juvenile offenders. However, several of the crimes upon which the legislation was established are only loosely related to the resulting laws, and none of the crimes were perpetrated by juveniles—making it even more difficult to understand the intent and scope of the legislation today. This article re-examines the history of sex offender legislation since the 1990's and the crimes that served as catalysts for the legislation. Moral panic and its potential role in current sex offender legislation is briefly explored while an argument is made for the exclusion of juvenile offenders in sex offender legislation.

Introduction

More than two decades have passed since the first sex offender registration-related legislation was enacted (Jacob Wetterling Crimes Against Children and Sexually Violent Registration Act of 1994) and several subsequent pieces of legislation have

¹ University of Detroit Mercy

Corresponding Author: calleyng@udmercy.edu.

followed that have been progressively more restrictive. Concerns over sex offender legislation has been previously covered to some degree in the literature (e.g., Batastini, Hunt, Present-Koller, & DeMatteo, 2011; Durling, 2006; Mercado, Alvarez, & Levenson, 2008) and it has long been noted that the U. S. continues to be in a heightened state of agitation over the perceived dangers that sex offenders pose (e.g., Critcher, 2002; Silverman & Wilson, 2002). In addition, the role of newer media (i.e., cable news, blogs) in promoting moral panic about sex offender litigation has been explored (Fox, 2013). Given this, a growing body of literature about sex offender legislation has continued to amass. However, missing from the literature is an in-depth examination of the crimes that were the catalysts for sex offender legislation. Such an examination is imperative to both provide an accurate historical context and to develop a fuller understanding of the current climate of sex offender legislation. Moreover, it is necessary to conceptually view the last three decades of sex offender legislation through the framework of moral panic and explore its potential role.

Gaining a fuller understanding of sex offender legislation history and the potential role that moral panic has played in it can help ensure that both new and seasoned criminal justice professionals, legislators, and other stakeholders possess an effective knowledge of this important issue. In fact, such knowledge may prove essential in the promulgation of future legislation, ensuing that it is not similarly flawed. The manner in which sex offender legislation has evolved is problematic for various reasons, one of which is due to its lack of coherence between the crimes that led to its establishment and the significant implications of the resulting legislation. Specifically, crimes that were not definitively known to be sex crimes and crimes that were committed exclusively by adults served as the catalysts for registration laws that today. However, the current legislation not only specifically targets sexual offenders, it also specifically includes adolescent offenders.

Current Status of Sex Offender Legislation

Since being introduced in the 1990's, sex offender registration and notification laws have sparked controversy, particularly due to the harsh and lengthy punishment associated with the laws. The laws were designed to promote community safety through increased offender accountability, and specifically required convicted sex offenders to register with local law enforcement as well as mandated the creation of state and national sex offender registries. With the enactment of additional sex offender legislation over the past two decades, these laws have become progressively more restrictive and have carried increasingly more punitive

measures. As a result, notification and registration legislation has been met with criticism from researchers, criminal justice professionals, and legal scholars, most notably related to potential civil rights violations (e.g., Beeler, Pittman, Roske, & Smith, 2012; Peterson & Chandler, 2011). Moreover, the most recent legislation, Title I of the Adam Walsh Act, commonly known as the Sex Offender Registration and Notification Law (SORNA), has been met with several legal challenges opposing implementation of the law (e.g., *State vs. Williams*).

SORNA represents the most sweeping legislation to date for individuals convicted of a sex offense. As such, SORNA establishes standardized national definitions of sexual offense categories and associated registration requirements (i.e., Tiers I-III), requires registration for juveniles 14 years and older convicted of specific sex crimes, and mandates states to implement the new requirements.

Interestingly, SORNA was implemented despite a lack of evidence that such legislation acts as a deterrent to sexual violence (e.g., Letourneau & Armstrong, 2008; Letourneau, Bandyopadhyay, Sinha, & Armstrong, 2009). In fact, registration and notification laws have not only been deemed ineffective as a deterrent to sexual recidivism, they have created significant barriers to successful life outcomes for individuals convicted of a sexual offense. As a result, these laws have been criticized for doing more harm than good (Levenson, 2006; Levenson & Hern, 2007; Meloy, Miller, & Curtis, 2008; Mercado, et al., 2008). Specifically, the laws have resulted in barriers to education, employment and housing (e.g., Meloy et al., 2008; Zevitz & Farkas, 2000; Zimring et al., 2007), and have seriously compromised social support that is so essential to both reentry and long-term success (Durling, 2006; Edwards & Hensley, 2001; Levenson & Hern, 2007; Tewkesbury & Lees, 2006; Zandbergen & Hart, 2006).

For adolescent offenders, the problems created by registration and notification laws are even more devastating, and in addition to barriers to school, employment and housing, youth also face an increased risk for suicide (Tofte, 2007) and severely diminished well-being (Annie E. Casey Foundation, 2008). Similarly troubling is the finding that registered youth are actually at greater risk for new sexual and non-sexual charges, however, not at greater risk of reconviction (Letourneau et al., 2009), perhaps as a result of their status as a sex offender. As such, the labeling effect of sex offender registration and notification could also be contributing to discriminatory law enforcement practices—unfairly marking these young people for subsequent arrest.

Now that we have fully entered the most restrictive era of sex offender legislation to date with the full passage of SORNA, it is necessary to fully examine how we arrived here. Doing so requires an examination of the major specialized

laws that have been passed over the last two decades—laws that collectively are referred to as “sex offender legislation.” However, even more important is that we examine the crimes that served as the catalysts to the various laws so that we might be able to sort out the relationship between the two. Unfortunately, by closely reviewing sex offender legislation and the crimes associated with the various laws, we will find a significant lack of coherence, and we will be left with far more questions than answers. This is because more often than not, there is little relationship between the crimes and the resulting legislation, particularly related to the type of crime, the specific law, and the various individuals impacted by the laws. This is most glaringly true in the case of adolescent offenders who are now also mandated for inclusion in registration and notification requirements by the federal government. However, before embarking on this review of current sex offender legislation and the crimes that served as its catalysts, we must briefly review the concept of moral panic in order to explore the role that it may have played and continues to play today in sex offender legislation.

The Role of Moral Panic in Sex Offender Legislation

A moral panic is typically defined as involving a disproportionate public reaction that appears to threaten the moral order (e.g., Cohen, 1972). As such, a moral panic is generated by individuals in a society and is based on individual perceptions that collectively create widespread agitation. Several individuals have attempted to identify specific characteristics of a moral panic in order to develop a more cogent definition (e.g., Cohen, 1972; Garland, 2008; Jenkins, 2009; Rohlof & Wright, 2010; Young, 2009). For example, Goode and Ben-Yehuda (1994) have described moral panic to include concern, consensus, hostility, disproportionality, and volatility. Whereas moral panics are typically understood to peak fairly quickly and then, diminish as other issues compete for attention, moral panic related to sex offending appears to be sustained, and sustained over a significantly lengthy amount of time. Interestingly, Fox (2013) has examined the role that new media has played in sustaining moral panic related to sex offending, however, the examination is limited to a single case.

Considering that sex offender legislation has continued to become progressively more restrictive for more than 27 years, it does not follow the traditional explosive trajectory of moral panic. However, the pattern of sex offender legislation does seem to directly reflect four of the five characteristics of moral panic proposed by Goode and Ben-Yehuda (1994): public concern, consensus, hostility, and disproportionality. As such, whereas the fifth characteristic of volatility does in fact reflect traditionally defined moral panic, it could be argued that it does not apply to

the current state of sex offender legislation precisely because we are currently experiencing a sustained moral panic. Indeed, the current moral panic that appears to have begun following the 1989 disappearance of Jacob Wetterling has continued to result in increasingly harsher consequences for individuals convicted of a sexual offense and an ever-widening net defining who should be included in the punishment.

History of Current Sex Offender Legislation

The manner in which sex offenders have been perceived and sex offender laws have been enacted, has been highly variable over the last century, and has been fairly widely discussed in the literature (e. g., Jenkins, 1998; Critcher, 2003; Kitzinger, 2004; Wilson, McWhinnie, Picheca, Pinzo, & Cortoini, 2007; Zgoba, 2004). Arguably, Jenkins (1998) seminal work on the topic continues to serve as one of the most important historical examinations. According to Jenkins (1998), from the 1930's – 1950's, sex offenders were viewed as compulsive sexual psychopaths, while in the 1970's, a much less pathological, more liberal view was taken. As a result, sex offenses were adjudicated much more leniently through the 1980's. However, in the 1990's, a dramatic shift again occurred fueled by a new and heightened emphasis on risk related to sexual offenders and accompanied by harsh legislation.

In fact, since 1994, ten major pieces of federal sex crimes legislation have been passed, either to extend or expand existing legislation or to address new areas related to sex crimes. The first and arguably the most significant piece of federal legislation was the Jacob Wetterling Crimes Against Children and Sexually Violent Registration Act (Jacob Wetterling Act). The Jacob Wetterling Act resulted in the establishment of a national registry for individuals who committed sexual or violent offenses against children. In particular, the Act established specific guidelines for states to track sex offenders—requiring the confirmation of the residences of sex offenders annually for ten years after their release from incarceration or quarterly for the rest of their lives if the sex offender was convicted of a violent sex crime.

The Jacob Wetterling Act is considered the most significant piece of legislation because of its place in history—it constitutes the first major national legislation specifically addressing sex offenders. As a result of the Jacob Wetterling Act, the majority of subsequent legislation was designed to expand from the Act, thus using the Jacob Wetterling Act as the base from which to continue to develop new and more restrictive legislation to address sexual offending.

Soon after the Jacob Wetterling Act was passed, the federal Megan's Law was enacted in 1996. Expanding the Jacob Wetterling Act, Megan's Law provided for

community notification and disclosure of information contained in the state sex offender registries. Specifically, Megan's Law provided for the public dissemination of information from states' sex offender registries, allowed for the disclosure of the registry information for any purpose permitted under state law, and required state and local law enforcement agencies to release relevant information necessary to protect the public about persons registered under the State registration program (SMART, 2013). In essence, Megan's Law promoted a means by which information about sex offenders could be shared with the public as well as between state and federal law enforcement agencies.

In the same year, the Pam Lychner Sexual Offender Tracking and Identification Act of 1996 (Pam Lychner Act) was enacted. The Pam Lychner Act was designed to permit the involvement of the FBI in tracking sex offenders as well as to establish a national database that would serve as the national registry of certain sexual offenders (i.e., National Registry for Sexual Offenders; NSOR). Specifically, the Pam Lychner Act was designed to address the gaps between state registries by mandating certain sex offenders residing in states without sufficient registry programs to register with the Federal Bureau of Investigation (FBI). In addition, the Act required the FBI to periodically confirm the addresses of this group of sex offenders, and allowed for the disclosure of the information collected by the FBI. Finally, the Pam Lychner Act provided guidelines for notification of the FBI and state agencies when a sex offender moved to another state.

Immediately following passage of the Pam Lychner Act, the Jacob Wetterling Improvements Act was passed to amend various provisions of the Jacob Wetterling Act and the Pam Lychner Act. As such, the Jacob Wetterling Improvements Act of 1997 dramatically changed the manner in which state courts made determinations regarding whether a convicted sexual offender should be considered sexually violent by including the opinions of victims' rights advocates and law enforcement representatives. Up to this time, input into this decision-making process was provided by sex offender behavior and treatment experts.

In addition, notification rules were expanded requiring registered offenders who changed their state of residence to register under the new state's laws and to concurrently register in states where they worked and or attended to school when the state was different from their state of residence. The Act further directed states to participate in the National Sex Offender Registry and to establish procedures for registering out-of-state offenders, federal offenders, and other sub-groups of offenders. Finally, the Act provided greater discretion to states to register individuals who committed offenses that did not include Wetterling's definition of

registerable offenses, thereby permitting states to adopt even more liberal definitions of sexual offenses.

In 1998, the Protection of Children from Sexual Predators Act was passed to provide assistance to states in compliance with registration requirements. As such, the Act directed the Bureau of Justice Assistance to design and implement the Sex Offender Management Assistance (SOMA) program to provide specific support to eligible states. However, in addition to providing financial and programmatic support to states related to compliance with registration requirements, the Act also placed restrictions on internet use by federal prisoners. Specifically, the Protection of Children from Sexual Predators Act prohibited federal funding to programs that permitted federal prisoners unsupervised access to the Internet.

Two years later, the Campus Sex Crimes Prevention Act of 2000 was enacted to expand notification rights to specific communities (it should be noted that the Campus Sex Crimes Prevention Act was passed as part of the Victims of Trafficking and Violence Protection Act). In particular, the Act mandated individuals who were required to register in a state's sex offender registry to also notify the college or university at which she or he was employed or was a student about his or her status as a sex offender. Further, the Act required that the sex offender notify the institution of any change in his or her enrollment or employment status. The Act also required immediate reporting of the information to local law enforcement for input into the appropriate state record systems. Finally, the Campus Sex Crimes Prevention Act amended the Higher Education Act of 1965 to mandate institutions required to disclose campus security policy and campus crime statistics to also provide notice of how information concerning registered sex offenders was obtained.

In part to promote the use of current technology in criminal justice, the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act was passed in 2003. This Act required states to develop and maintain a website to house the state registry information and required the Department of Justice to maintain a national website that contained links to each state web site, thus providing for comprehensive linking of the nation's sex offender registries. In addition, the Act provided specific funding to states to help defray costs associated with compliance of the new rules.

By far the most sweeping piece of legislation since the enactment of the Jacob Wetterling Act was the Adam Walsh Child Protection and Safety Act of 2006 or the Sex Offender Registration and Notification Act (SORNA). The Act substantially updated and expanded previous notification and registration requirements, creating a new baseline standard for jurisdictions. Specifically, the definition of

jurisdiction was expanded to include federally-recognized Indian Tribes, and expanded the number of sexual offenses that must be captured by registration jurisdictions to include all State, Territory, Tribal, Federal, and Uniform Code of Military Justice (UCMJ) sex offense convictions, as well as certain foreign convictions (SMART, 2013). SORNA also significantly expanded the amount of information collected and the frequency by which the information must be updated (Council of State Governments, 2010).

In addition, SORNA was specifically designed to address disparities between states in applying registration requirements to individuals convicted of a sexual offense. As such, SORNA established standard guidelines for registration and classifications (Tiers I – III). For instance, Tier III includes individuals who have been convicted of a felony sexual offense (e.g., aggravated sexual abuse) and individuals who have re-offended sexually. Individuals classified as Tier III are required to register for life.

Most notably, SORNA differs substantially from previous sex offender legislation in its inclusion of adolescent offenders. Prior to SORNA, the inclusion of adolescent offenders was left to the discretion of states. However, SORNA now mandates adolescent offenders 14 years of age or older at the time of their offense and who had committed a specific type of crime (i.e., comparable to or more severe than aggravated sexual assault against a person younger than age 12) be subject to registration for up to 25 years to life (see Batastini, et al., 2011) for a comprehensive review).

Since the passage of SORNA, two additional pieces of legislation have been passed that are directly related to it. The first, Applicability of the Sex Offender Registration and Notification Act (28 CFR Part 72), involved a regulation passed by the Department of Justice specifying that the registration requirements of SORNA are retroactive. The second, Keeping the Internet Devoid of Predators (KIDS) Act, amended SORNA to require registration jurisdictions to register Internet Identifiers while also exempting Internet Identifiers from disclosure on any registration jurisdiction's public sex offender registry website.

Although the promulgation of such legislation alone has had a tremendous effect on increasing the stature of sexual offending, further complicating this issue is the manner in which the legislation has been both covertly and overtly linked to offenses against children—both when justified as well as, when not. As a result, legislation that was specifically identified as child-focused (i.e., PROTECT) or that was initiated in specific response to child safety (e.g., Jacob Wetterling Act) has been unwittingly designed to target sexual offenders—individuals who have committed a sexual offense against an adult as well as those who have committed an offense

against a child. This blurring has created further confusion regarding sexual offending by implying that sexual offenses and offenses against children are intricately tied together, or at best, one and the same. Albeit highly unfortunate, these actions have served to ensure that sexual offending has continued to occupy its role among the primary criminal justice issues of our day. Moreover, it may have reinforced the belief that individuals who have committed a sexual offense are the most despised type of offender (Meloy, Curtis, & Boatright, 2012).

The Crimes Behind the Legislation

The amount of sex offender legislation—10 Acts in all—that has been passed in less than a twenty-year period demonstrates a level of political and legislative productivity otherwise difficult to fathom. Indeed, it reflects an issue that has garnered wide bipartisan support and relative ease in passage—a feat of almost epic proportions given the highly bipartisan and antagonistic manner to which we have become accustomed in the behavior of our legislators. It makes one wonder, what type of issue could inspire such widespread support and passion—passion to work diligently to continue to pass sweeping legislation? To answer this question, we must first consider the role that sustained moral panic has played, and then, we must examine the cases that ignited such moral panic initially and that have been used to sustain the moral panic. And the one that started it all is the one related to a child named Jacob Wetterling. However, just as the relationship between sex offending and several pieces of legislation is blurry, so too, are the relationships between the crimes that inspired the legislation and the laws that followed.

Jacob Wetterling was an eleven year old boy from St. Joseph, Minnesota who had been out riding his bicycle with his brother and friend on the evening of October 22, 1989 when they were allegedly stopped by a man in a ski mask with a gun. After allegedly instructing Jacob's brother and his friend to leave their bikes and run into the woods, it is believed that this man abducted Jacob. Despite an almost immediate and broad sweeping search that involved both law enforcement and hundreds of volunteers as well as, more than 50,000 leads in the case over more than two decades, Jacob's fate remains unknown to this day (Jacob Wetterling Resource Center, 2010).

Because Jacob has never again been heard from, his remains have never been identified, nor has his alleged abductor ever been identified, little is factually known about Jacob's case or about his alleged abductor. As such, it is not known if Jacob was physically harmed nor is it known if Jacob was sexually assaulted. It is not known if the alleged abductor had a history of kidnapping, violence against

children, or if he or she had ever committed any type of sexual offense against a child or an adult. All that is known is that Jacob disappeared. As astonishing as this may seem, this alleged crime—for which few facts exist—served as the catalyst for the first major federal legislative act specifically pertaining to sexual offending.

The second crime that served as a catalyst for additional sex offender legislation was that involving Megan Kanka. Megan was a seven year old girl who was raped and murdered by a neighbor on July 29, 1994. The neighbor, Jesse Timmendequas, had two previous convictions for sexual assault. The case of Megan Kanka led to the enactment of legislation requiring community notification of the location of sexual offenders.

The third specific crime involved a woman by the name of Pam Lychner. Ms. Lychner was a married adult woman who had been in a house that she and her husband were preparing to sell. While her husband was upstairs, a workman entered the house claiming he had left a tool, and proceeded to attempt to attack Ms. Lychner. Hearing this, Mr. Lychner came down and was able to subdue the man while Ms. Lychner called the police. The man was later convicted of aggravated kidnapping with intent to commit a sexual offense and sent to prison.

Learning that the attacker had previously served time for a sexual offense conviction, Ms. Lychner became a staunch advocate for stricter rules regarding registration and notification of sexual offenders. In an effort to recognize Pam Lychner's legislative advocacy work, the Sexual Offender Tracking and Identification Act of 1996 was named in her honor.

Another crime linked directly to sex offender legislation is that of the murder of Jeanne Clery in 1986. At the time of her death, Ms. Clery was a student at Lehigh University. She had been in her dorm room when a fellow student, Joseph Henry entered, sexually assaulted and murdered her. Mr. Henry was convicted of both sexually assaulting and then murdering Ms. Clery.

In the aftermath of their daughter's tragic death, and upon learning that there were no uniform rules or laws requiring colleges and universities to report crimes occurring on campus to students, parents, and others, Mr. and Mrs. Clery began lobbying for such disclosure. Their efforts to regulate notification of campus crimes, thus, inspired the passage of the Crime Awareness and Campus Security Act of 1990—a predecessor of the Campus Sex Crimes Prevention Act of 2000.

Finally, the most recent and arguably most well-known crime specifically related to SORNA is that of the abduction of Adam Walsh. Adam Walsh was a six year old boy who had

been shopping with his mother at a Sears store on July 27, 1981 when his mother discovered he was missing. Two weeks later, Adam's severed head was found in Vero Beach, Florida, more than 100 miles away from the store and his home. His body was never found, and as a result, there is no evidence that he was sexually assaulted.

In December 2008, it was announced that the killer of Adam Walsh was Otis Toole, a convicted serial killer who had died in the late 1990's while serving five consecutive life sentences. Mr. Toole had confessed to and subsequently recanted the murder twice before confessing for a final time to his niece while on his deathbed as his niece reported to Adam's father, John (Associated Press, 12/16/08). It should be noted that Otis Toole had previously confessed to hundreds of other murders, however, the police had determined that the confessions were lies. Although, Mr. Toole had been convicted on murder charges, he had never been convicted nor charged with a sexual assault, nor did he ever confess to a sexual assault.

Following the abduction of his son, John Walsh, became an activist for increasing community awareness, and tracking down missing children, and their abductors. A major part of his efforts resulted in the creation of the television show, *America's Most Wanted*, which served for years as an effective vehicle in the fight to bring criminals to justice. The good that has been done by the actions of Mr. Walsh cannot be argued. However, the relationship of his son's death to the most sweeping form of sex offender legislation is difficult to fathom, and further highlights the too often politically charged missteps of our criminal justice system.

What each of these five crimes share is the significant influence—either directly or indirectly—that each has had on sex offender legislation. These cases also highlight the role that sustained moral panic has likely played in advancing sex offender legislation, and in continuing to advance more progressive sex offender legislation. Whereas the heinous and tragic deaths of Megan Kanka, Jeanne Clery and Adam Walsh must not be forgotten, it is unclear what would have transpired in the crime against Pam Lychner had her husband not intervened. And, to this day, the case of Jacob Wetterling continues to remain a mystery with a body never found, and therefore, no evidence of sexual abuse or of an identified perpetrator. Interestingly, only three of the cases actually involved known sexual assault—the rapes of Megan Kanka and Jeanne Clery and the attempted assault of Pam Lychner. There is no evidence that Adam Walsh or Jacob Wetterling were victims of sexual assault, and in the case of Jacob Wetterling, exactly who abducted him has yet to be known. Further, only two of the convicted offenders had a history of sexual offending.

This is somewhat astonishing given the fact that since its inception sex offender legislation has become increasingly restrictive and progressively directed at targeting repeat sex offenders. Yet, the vast majority of crimes that inspired the major pieces of federal sex offender legislation were not committed by individuals with histories of sexual offending. Yet even more startling is the fact that the most recent legislation (i.e., SORNA) now mandates the inclusion of adolescents who have committed a sexual offense. This is equally troubling given that none of the crimes linked to any of the federal sex offender legislation were committed by an adolescent.

Conclusion

Whereas it is difficult at best to identify coherence between the initial crimes and the resulting sex offender legislation, it is even more challenging to square sex offender legislation with empirical knowledge. In fact, extant knowledge regarding who is most likely to sexually offend, as well as, potential recidivism of both adults and adolescents is not only inconsistent but at odds with current sex offender legislation.

With regard to who is most likely to sexually offend children, family members and other individuals familiar to potential victims are most likely to sexually offend (e.g., Snyder, 2000). However, registration and notification laws are largely predicated on the false notion that strangers have the greatest risk of sexually offending. As such, these laws reinforce the falsehood of stranger danger through public disclosure of unfamiliar individuals with a prior sexual offense conviction to community members and the public at large (Meloy, et al., 2012).

Similar to reinforcing the falsehood that strangers are most likely to sexually offend children, sex offender legislation was also promulgated upon the false notion associated with recidivism. Indeed, registration and notification processes are designed to protect community members from individuals who have previously been convicted of a sexual offense as if a prior history is the primary risk factor for new sexual offenses. This is simply not supported by research, and in fact, most adults who have committed a sex offense will not commit another sexual offense (e.g., Greenfeld, 1997)

With regard to adolescents, the likelihood of sexual recidivism is even less likely. In fact, recidivism rates for adolescents who have sexually offended have ranged from 0 – 40% (Caldwell, 2007; Calley, 2014; Carpentier & Proulx, 2011; see Fortune & Lambie, 2006) while recidivism rates for juvenile non-sexual offenders have ranged from 40.16% (Taylor, Kemper, Loney, and Kistner, 2009) to 65.2% (Benda, Corwyn, &

Toombs, 2001) to 85% (Trulson, Marquart, Mullings, & Caeti, 2005). Moreover, adolescents previously charged with a sexual offense are far more likely to subsequently commit a non-sexual offense opposed to another sexual offense (e.g., Caldwell, 2007; Zimring, 2004). As such, adolescents who have committed a sexual offense rarely commit another sexual offense which is in direct contrast to the inclusion of adolescents on public registries as a means to deter further sexual offenses.

Each of these falsehoods—strangers are more likely than familiar individuals to sexually offend, adults will continue to sexually offend, and adolescents will continue to sexually offend—is reflected in sex offender legislation, making it even more difficult to understand the intent of the legislation. As a result, there is an equally disturbing lack of coherence between extant knowledge and the legislation mirroring the incoherence between the legislation and the crimes associated with the legislation.

Indeed, it is difficult to fully understand just how these specific crimes became the catalysts for such far-sweeping and progressive legislation without applying the concept of sustained moral panic. This is again not to suggest that any of these crimes were not horrific, but rather that there must always be strong and effective justification for all legislation, since without such justification, we run the risk of promoting injustice—the very issue we are trying to address. Moreover, the basis for all laws must be clearly identified and well-justified, demonstrating clarity and coherence between the objective of the law and the reasons for its enactment. As such, laws that are reactively promulgated must demonstrate a clear relationship between the issue that is intended to be addressed by the law and the actual mandates of the law, and they must be free from issues such as subjective bias and moral panic that otherwise threaten the very application of justice. Achieving such clarity and coherence is not only the aspirational goal of our justice system, but a necessity for a civil society.

References

- Annie E. Casey Foundation, (2008). Kids count data book. Baltimore, MD: Author.
- Associated Press, (2008, December 16). O'Toole: Adam Walsh's killer. The Huffington Post. Retrieved from <http://www.huffingtonpost.com>
- Bandyopadhyay, D. Sinha, D., Lipsitz, S., & Letourneau, E. J., (2010). Changing approaches of prosecutors to juvenile repeat sex offenders: A Bayesian evaluation. *The Annals of Applied Statistics*, 59(6), 1124-1131.

- Batastini, A. B., Hunt, E., Present-Koller, J., & DeMatteo, D. (2011). Federal standards for community registration of juvenile sex offenders: An evaluation of risk prediction and future implications. *Psychology, Public Policy, and Law*, 17(3), 451-474. doi:10.1037/a0023637.
- Beeler, J., Pittman, N., Roske, S., & Smith, T. (2012). "Second-level" protected-class defenses: Contesting SORNA's applicability to protected-class members. National Juvenile Defender Center Summit.
- Benda, B. B., Corwyn, R. F., & Toombs, N. J. (2001). "Recidivism among adolescent serious offenders: Prediction of entry into the correctional system for adults." *Criminal Justice and Behavior* 28: 588-613.
- Caldwell, M. F. (2007). Sexual offense adjudication and recidivism among juvenile offenders. *Sexual Abuse: A Journal of Research and Treatment* 19: 107-113.
- Calleja, N. G. (in press). Juvenile sexual and non-sexual offenders: A comparison of recidivism and risk. *Journal of Addiction and Offender Counseling*.
- Carpentier, J., & Proulx, J. (2011). Correlates of recidivism among adolescents who have sexually offended. *Sexual Abuse: A Journal of Research and Treatment* 23: 434-455.
- Cohen, S. (1972). *Folks, devils, and moral panics: The creation of the mods and rockers* (3rd ed.). London: Routledge.
- Council of State Governments (2010). SORNA and sex offender policy in the states. Public Safety Brief. Washington, DC: Author.
- Critcher, C. (2003). *Moral panics and the media*. Berkshire, UK: Open University Press.
- Durling, C. (2006). Never going home: Does it make us safer? Does it make sense? Sex offenders, residency restrictions, and reforming risk management law. *Journal of Criminal Law and Criminology* 97: 317-380.
- Edwards, W., & Hensley, C. (2001). Contextualizing sex offender management legislation and policy: Evaluating the problem of latent consequences in community notification laws. *International Journal of Offender Therapy and Comparative Criminology* 45: 83-89.

- Fortune, C., & Lambie, I. (2006). Sexually abusive youth: A review of recidivism studies and methodological issues for future research. *Clinical Psychology Review* 26: 1078-1095.
- Fox, K. J. (2012). Incurable sex offenders, lousy judges and the media: Moral panic sustenance in the age of new media. *American Journal of Criminal Justice* 38: 160-181.
- Garland, D. (2008). On the concept of moral panic. *Crime, Media, and Culture* 4: 9-30.
- Goode, E., & Ben-Yehuda, N. (1994). *Moral panics: The social construction of deviance*. Oxford: Oxford University Press.
- Greenfeld, L. (1997). Sex offenses and offenders: An analysis of data on rape and sexual assault (NCJ-163392). Washington, DC: U.S. Department of Justice, Bureau, of Justice Statistics, Office of Justice Programs.
- Jacob Wetterling Resource Center, (2010). How we began and the need for transition. Retrieved from:
<http://www.jwrc.org/WhoWeAre/History/tabid/128/Default.aspx>
- Jenkins, P. (1998). *Moral panic: Changing concepts of the child molester in Modern America*. New Haven, CT: Yale University Press.
- Jenkins, P. (2009). Failure to launch: Why do some social issues fail to detonate moral panics? *British Journal of Criminology* 49: 35-47.
- Kitzinger, J. (2004). *Framing abuse: Media influence and public understanding of sexual violence against children*. London: Pluto Press.
- Letourneau, E. J., & Armstrong, K. S. (2008). Recidivism rates for registered and noregistered juvenile sex offenders. *Sexual Abuse: A Journal of Research and Treatment* 20: 393-408.
- Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2009). The effects of sex offender registration policies on juvenile justice decision making. *Sexual Abuse: A Journal of Research and Treatment* 21: 149-165.
- Levenson, J. (2006). Sex offender residence restrictions. *Sex Offender Law Report* 7: 46-47.
- Levenson, J., & Hern, A. (2007). Sex offender residence restrictions: Unintended consequences and community reentry. *Justice Research and Policy* 9: 59-73.

- Meloy, M. Curtis, K., & Boatwright, J. (2012). The sponsors of sex offender bills speak up: Policy makers' perceptions of sex offender, sex crimes, and sex offender legislation. *Criminal Justice and Behavior* 40: 438-452.
- Meloy, M. L., Miller, S. L., & Curtis, K. M. (2008). Making sense out of nonsense: The deconstruction of state-level offender residence restrictions. *American Journal of Criminal Justice* 33: 209-222.
- Mercado, C., Alvarez, S., & Levenson, J. (2008). The impact of specialized sex offender legislation on community reentry. *Sexual Abuse: A Journal of Research and Treatment* 20: 188-205.
- Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) (2013). Sex offender registration and notification in the United States: Current case law and issues. Washington, DC: Author.
- Peterson, C. J., & Chandler, S. M. (2011). Sex offender registration and the convention on the rights of the child: Legal and policy implications of registering juvenile sex offenders. *William & Mary Policy Review* 3: 1-35.
- Rohloff, A., & Wright, S. (2010). Moral panic and social theory: Beyond the heuristic. *Current Sociology* 58: 403-419.
- Silverman, I., & Wilson, D. (2002). *Innocence betrayed: Pedophilia, the media, and society*. Cambridge: Polity Press.
- Snyder, H. (2000). Sexual assault of young children as reported to law enforcement: Victim, incident, and offender characteristics. Washington, DC: U. S. Department of Justice.
- Taylor, J., Kemper, T. S., Loney, B. R., & Kistner, J. A. (2009). Recidivism in subgroups of severe male juvenile offenders. *Psychology, Crime and Law* 15: 395-408.
- Tewkesbury, R., & Lees, M. (2006). Consequences of sex offender registration: Collateral consequences and community experiences. *Sociological Spectrum* 26: 309-334.
- Tofte, S. (2007). Human rights watch: No easy answers. Retrieved from: <http://www.hrw.org/reports/2007/us0907>.
- Trulson, C. R., Marquart, J. W., Mullings, J. L., & Caeti, T. J. (2005). In between adolescence and adulthood. Recidivism outcomes of a cohort of state delinquents. *Youth Violence and Juvenile Justice* 3: 355-387.
- Wilson, R. J., McWhinnie, A., Picheca, J. E., Pinzo, M., & Cortoini, F. (2007). Circles of support and accountability: Engaging community volunteers in the

- management of high-risk sexual offenders. *Howard Journal of Criminal Justice* 46: 1-15.
- Young, J. (2009). Moral panic: Its origins in resistance, resentment and the translation of fantasy into reality. *British Journal of Criminology* 49: 4-16.
- Zandbergen, P., & Hart, T. (2006). Reducing housing options for convicted sex offenders: Investigating the impact of residency restriction laws using GIS. *Justice Research and Policy* 8: 1-24.
- Zevitz, R. G., & Farkas, M. A. (2007). Sex offender community notification: Managing high-risk criminals or exacting further vengeance? *Behavioral Science and Law* 18: 375-391.
- Zgoba, K. M. (2004). Spin doctors and moral crusaders: The moral panic behind child safety legislation. *Criminal Justice Studies* 17: 385-404.
- Zimring, F. (2004). *An American travesty: Legal responses to adolescent sexual offending*. Chicago: University of Chicago Press.
- Zimring, F., Jennings, W., & Piquero, A. R. (2007). Juvenile and adult sexual offending in Racine, Wisconsin: Does early sex offending predict later sex offending in youth and young adulthood?" *Criminology & Public Policy* 6: 507-534.

About the Author

Nancy G. Calleja, Ph.D., LPC is Professor and Chair of the Department of Counseling and Addiction Studies at the University of Detroit Mercy, 4001 W. McNichols Rd., Detroit, MI 48221. She can be reached at calleyng@udmercy.edu.