



**WESTERN
MICHIGAN**
UNIVERSITY

The Journal of Sociology & Social Welfare

Volume 48
Issue 1 March, 2021

Article 2

2021

Narratives in Sex Offender Management Laws: How Stories About a Label Shape Policymaking

Mauricio P. Yabar

Virginia Commonwealth University, yabarm@vcu.edu

Follow this and additional works at: <https://scholarworks.wmich.edu/jssw>



Part of the Criminology Commons, Policy Design, Analysis, and Evaluation Commons, Policy History, Theory, and Methods Commons, Social Control, Law, Crime, and Deviance Commons, Social Policy Commons, and the Social Work Commons

Recommended Citation

Yabar, Mauricio P. (2021) "Narratives in Sex Offender Management Laws: How Stories About a Label Shape Policymaking," *The Journal of Sociology & Social Welfare*: Vol. 48: Iss. 1, Article 2.

DOI: <https://doi.org/10.15453/0191-5096.4426>

Available at: <https://scholarworks.wmich.edu/jssw/vol48/iss1/2>

This Article is brought to you by the Western Michigan University School of Social Work. For more information, please contact wmu-scholarworks@wmich.edu.



**WESTERN
MICHIGAN**
UNIVERSITY

Narratives in Sex Offender Management Laws: How Stories About a Label Shape Policymaking

Cover Page Footnote

The author does not claim any conflicts of interest. This paper would not have been possible without the instruction and support of Dr. Matthew Bogenschutz of Virginia Commonwealth University School of Social Work. Correspondence concerning this paper should be addressed to Mauricio P. Yabar, School of Social Work, Virginia Commonwealth University, Academic Learning Commons, 1000 Floyd Avenue, 3rd Fl, Box 842027, Richmond, Virginia 23284-2027, U.S.A. Email: yabarm@vcu.edu ORCID: <https://orcid.org/0000-0002-3706-8223>

Narratives in Sex Offender Management Laws: How Stories About a Label Shape Policymaking

Mauricio P. Yabar
Virginia Commonwealth University

Serious scholarly inquiry regarding the role of social constructions and narratives in sex offender management laws is relatively a new undertaking. In the last two decades, a myriad of studies exploring the negative effects of Sex Offender Registration and Notification (SORN) policies were added to the literature, a trend that appears to be slowing down today. The purpose of this paper is to recommend the integration of the narrative policy framework (NPF) with Schneider and Ingram's (1993) theory of social construction of target populations in the analysis of SORN policies. The author provides a critical review of SORN policies while deconstructing the stories and messages embedded in their provisions. For the reader's convenience, this paper also includes brief descriptions of both the NPF and Social Construction of Target Populations. The main argument of this paper highlights the need to modify harmful and scientifically unsupported social constructions in policy narratives in an effort to promote the development of effective and humane policies.

Keywords: narrative policy framework, sex offender registration and notification laws, sex offenders, social constructions, Adam Walsh Act, Megan's Law

Sexual offending is a serious crime that often results in severe outcomes for both victims and perpetrators. Unfortunately, sexual violence is not a rare occurrence in our society (Bonnar-Kidd, 2010); in the United States, it is approximated that one in three women

and one in four men have experienced some form of physical sexual violence at some point in their lives. It is also estimated that one in seven children experienced sexual abuse in 2019 alone (Centers for Disease Control and Prevention, 2020). These numbers expose a troubling social reality, which is that a shockingly large number of individuals are committing these types of crimes.

When most people hear the words “sex offender,” they might think only of sexual crimes committed against children, but sexual offending can include a multitude of sexual (and pseudo-sexual) acts ranging from urinating in public to rape against children and adults, especially women, whom the literature indicates represent a majority of victims of sexual assault (Bonnar-Kidd, 2010; Sample & Bray, 2003). The convicted sex offender population encompasses not only those who commit violent sexual crimes, but also individuals with non-physical contact offenses (Aebi et al., 2012; Gudjonsson & Sigurdsson, 2000). Persons may be labeled sex offenders, deemed dangerous to society, and thus, required to withstand long-term surveillance with little effort to define or distinguish the severity of harm inflicted on the victim, the age of the victim, or the type of offense (Logan, 2003).

Sex offender management policies are important to the extent that they are in place to protect victims and keep communities safe (Harris & Socia, 2014). However, their harshness may be partly attributed to emotional reactivity and societal morals, as opposed to a rational weighing of the benefits and costs of their specific components (Tewksbury, 2012). The moral and political imperative to double down on punishment can lead policy makers to dismiss, intentionally or by oversight, scientific knowledge and empirical evidence that might suggest alternative solutions to an undeniably serious problem (Freeman & Sandler, 2010).

Under pressure from the federal government, all states have adopted registration and notification laws that require jurisdictions to meet a minimum of standards for the management of persons who committed a sexual offense (e.g., Adam Walsh Act of 2006) (Harris et al., 2010; Logan, 2003). Sex offender registration and notification laws (SORN) were enacted with the explicit intention of keeping communities safe from the threat posed by dangerous sexual predators (Tewksbury & Jennings, 2010). These laws require

individuals convicted of sexual offenses to provide authorities and the community with personal information that is publicized on the internet for anyone to find (Logan, 2003; Tewksbury & Jennings, 2010). There are variations in the application of these laws from state to state (Freeman & Sandler, 2010). As a result of threatened loss of federal monies, a few states have implemented policies that treat persons who committed a sexual offense as criminals that require constant monitoring; however, other states have resisted these federal mandates, suggesting that for these states, the loss of funding is a much better choice than compliance with these laws (Freeman & Sandler, 2010; Williams et al., 2020).

In addition to the societal values and standards of morality that have shaped the development of SORN policies, several other notable factors have influenced decisions about how governments should respond to sexual crimes and how they should manage those who commit these crimes (Letourneau et al., 2010). One important variable that has contributed to the evolution of SORN policies is the stories told by policy actors about sex-related crimes. These stories help to shape perceptions about persons who committed a sexual offense as well as the policy solutions generated to manage this population (Levenson & Cotter, 2005a; Tewksbury, 2012). It is imperative that scholars who evaluate policies concerning stigmatized groups employ theoretical frameworks that take into account the crucial role of stories in the policy process (Bense & Sample, 2017; Schneider et al., 2014).

The Narrative Policy Framework (NPF) proposes the use of empirical methods to analyze the ways in which stories about particular groups play a role in the development of policy, while accounting for the interactions between individual, organizational, and societal structures, and their influences on the establishment of policies (Jones & McBeth, 2010). Despite increased attention in recent years, post-structural approaches to policy examination, including the NPF, have rarely been applied to the study of policies surrounding socially stigmatized populations (McBeth & Lybecker, 2018; Merry, 2019; Shanahan et al., 2011). The literature widely accepts the inherent role of stories and stereotypes in shaping social perception of persons who committed a sexual offense (Bense & Sample, 2017; Harris et al., 2010; Robbers, 2009), but studies that

explore the influence of these stories on policy, and more specifically, how they are used to shape and justify sex offender management laws, are virtually non-existent.

Integral to the NPF is the assumption that certain concepts and realities are socially constructed (Smith & Larimer, 2017). The NPF builds on this assumption by examining the relationships between socially constructed “characters”—who are cast as heroes, villains, and victims—engaged with one another in a particular setting and plot (Shanahan, Jones, & McBeth, 2018). Social Construction of Target Populations is another theory of policy analysis that argues that the policy agenda is fundamentally shaped by shared assumptions about specific social groups (Schneider & Ingram, 1993). Social Construction of Target Population is especially helpful in the study of policies that pertain to “deviants,” a category proposed by this theory that would include those who committed a sexual crime and are thus labeled as sex offenders (Schneider et al., 2014).

This paper incorporates ideas proposed by the Social Construction of Target Populations framework to supplement and enhance the evaluation of SORN laws through an NPF theoretical lens. It will include a detailed review of the NPF, its historical underpinnings, and most essential elements of the theory. The goal of this analysis is to gauge the utility of NPF for deconstructing SORN policies and to evaluate whether they are effective in fulfilling their purported goal of protecting the community, particularly children, from the real and perceived dangers of convicted sex offenders (Sample & Bray, 2003; Zevitz et al., 2000). This paper further examines the inevitable interactions between policy narratives and the socially constructed assumptions surrounding this population.

Sex Offender Registration and Community Notification Laws

Although sex offender management laws have existed since the 1930s, the proliferation of these laws across the United States has been more recent (Cubellis et al., 2018; Logan, 2009). From their inception, SORN policies were designed to enhance community safety by providing the public and law enforcement with information about the presence of sex offenders in their

communities (Freeman & Sandler, 2010; Prescott & Rockoff, 2011). Implementation of SORN policies varies from state to state, but in general, these laws require jurisdictions to closely track all convicted sex offenders residing in the community (Levenson et al., 2007; Matson & Lieb, 1996). Not surprisingly, there have been numerous controversies surrounding the implementation of SORN laws, with some legal experts expressing concern about the extent to which these policies violate individuals' constitutional rights (Levenson & Cotter, 2005b; Petrunik, 2003; Vásquez et al., 2008). Scholars have reported findings that dispute the efficacy of these laws with respect to their principal goals of improving public safety and reducing the incidence of sexual crimes (Levenson et al., 2007; Sample et al., 2011; Walker et al., 2005; Zevitz & Farkas, 2000). The empirical evidence not only contradicts the effectiveness of these policies; several studies indicate that SORN laws are also costly and create obstacles to successful reintegration (Kernsmith et al., 2016). Nevertheless, a large segment of the public insists that the sense of safety they get from the existence of these laws justifies their retention, or even expansion (Petrunik, 2003).

SORN laws require all convicted sex offenders to provide their personal information to law enforcement and the public (Harris et al., 2010). Depending on the state and jurisdiction, personal information to be disclosed may include the individual's name, the address where they reside, a recent photo, employment information, and details about their criminal offenses. Individuals' personal information is made public on the internet, granting access to anyone in the community. Law enforcement uses convicted offenders' personal information to track their movements, coordinate with other law enforcement agencies, and investigate sex crimes. Surveillance of persons who committed a sexual offense typically includes unannounced house visits, limited and monitored internet access, residence restrictions, and periodic in-person re-registration (Harris & Lobanov-Rostovsky, 2010; Matson & Lieb, 1996).

Federal involvement in the management of persons who committed a sexual offense began with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act of 1994, also known as the Jacob Wetterling Act (Freeman & Sandler, 2010). Jacob was eleven years old when he was abducted at gunpoint on his way home from a video store. For decades, his family tirelessly

searched for Jacob to no avail. Mrs. Wetterling made it her mission to protect other families and communities from child abduction and child sexual abuse. The Wetterling family lobbied to pass a federal law that would require convicted sex offenders to register with law enforcement and would allow police to release their personal information to the public (Lewis, 1996). With the passage of the Jacob Wetterling Act, the federal government began to put pressure on states to establish registration systems for released sex offenders (Freeman & Sander, 2010). If non-compliant, states risked losing federal funding; all fifty states have since adopted some form of sex offender registration policy (Logan, 2003).

Over the last 26 years, the federal government has accumulated more authority over how states manage their sex offender registration systems. Several amendments to the Jacob Wetterling Act have strengthened the requirements put in place under the original law (Harris et al., 2010; Wright, 2008). In 1996, seven-year-old Megan Kanka was sexually abused and murdered by a neighbor who had two previous sexual assault convictions. Just a month after Megan's body was found, the New Jersey state legislature passed the Sexual Offender Registration Act, commonly known as Megan's Law (Garfinkle, 2003). This amendment to the existing sex offender registration law introduced community notification in addition to registration with law enforcement (Levenson et al., 2007). Later amendments to SORN policies included the Jacob Wetterling Improvements Act of 1997, which expanded jurisdictions' scope of operation and revised terms of release, parole, and court-mandated requirements. Then, in 2003, Congress authorized the Other Tools to End the Exploitation of Children Today Act, creating a national system combining information on convicted sex offenders from registries around the country (Harris et al., 2010).

Most Americans are familiar with the Adam Walsh case. In 1981, Adam was abducted from a department store in Florida. Two weeks later, police found Adam's severed head; the rest of his body has never been recovered. The case received national attention at the time due to the horrific nature of the crime and the family's relentless efforts to identify Adam's killer (Walsh & Schindehette, 1998). Despite being an older case, Adam Walsh's story has continued to garner public interest and has taken an important role in contemporary legal discourse.

The latest amendment to SORN, the Sex Offender Registration and Notification Act, also known as the Adam Walsh Child Protection and Safety Act (Adam Walsh Act), was signed into law in 2006 by then-president George W. Bush (Prescott, 2010). The act introduced even stricter requirements by expanding the criteria for sex offender registration, extending the terms and conditions to tribal jurisdictions, and including foreign convictions. These modifications further extended SORN laws to include adolescents fourteen and older who were convicted of certain offenses (Harris et al., 2010). Retroactive conditions mandated that persons who committed a sexual offense who had previously completed their sentences and were subsequently convicted of any new crime, including non-sexual crimes and misdemeanors, must comply with registration and community notification requirements (Harris & Lobanov-Rostovsky, 2010). Other changes included longer registration periods, more frequent updates, and new methods of community notification (Levenson et al., 2007). One of the most compelling revisions, however, was a multitier classification system that places individuals into one of three categories based solely on their conviction (Harris & Lobanov-Rostovsky, 2010).

Several of the new terms and conditions instituted under the Adam Walsh Act have presented significant barriers for states (Cubellis et al., 2018). Half of the states already using a multitier system relied on conviction offense and number of prior criminal offenses to determine sex offender classification; the other half prioritized empirically-based risk assessments to distinguish among convicted individuals' recidivism risk (Matson & Lieb, 1996). Officials in states previously using risk assessments have expressed concerns over community safety, claiming that the new law relies on non-scientific conditions to determine level of risk. Conviction-based states have also reported concerns regarding unnecessary expansion and the inclusion of minors (Harris & Lobanov-Rostovsky, 2010). Finally, a number of states have faced lawsuits challenging the constitutionality of the added terms and conditions of SORN laws (Handler, 2011; Levenson et al., 2007).

Several studies have examined key factors affecting the passage, implementation, and maintenance of sex offender management laws in the United States from a social constructionist perspective (Kernsmith et al., 2016; Quinn et al., 2004; Sample et al., 2011; Sample

& Kadleck, 2008; Williams et al., 2020). None of these studies, however, consider the role of narratives—events linked in sequence, across time, and according to a plot—in shaping these policies. This paper proposes a policy evaluation strategy that uses narrative tools to deconstruct policies around sexual offending in order to better understand their motivations and effects.

The Narrative Policy Framework

The Narrative Policy Framework seeks to explain the role of narratives in the policy process through the employment of empirical methods (Shanahan, Jones, McBeth, et al., 2018). Furthermore, the NPF posits that stories embedded in policy are used by policymakers as tools for manipulating public opinion, promoting favored policy agendas, and, as a result, enhancing their own political power (Smith & Larimer, 2017). While the NPF is a relatively new approach, it is quickly advancing in its methodology and application in a variety of policy contexts pertaining to different phenomena and populations (Shanahan, Jones, McBeth, et al., 2018; Smith & Larimer, 2017).

Because the NPF is not a one-size-fits-all approach, it is not always the most appropriate choice for evaluating a given policy. The research project must align with core assumptions proposed by the theory (Shanahan, Jones, & McBeth, 2018). First, the NPF posits that important aspects of the policy being studied should be explained as socially constructed (Lybecker et al., 2015). In the case of SORN laws, persons who committed a sexual offense are court-mandated to provide personal information that is published on the internet and to notify community members when they move into a neighborhood (Prescott & Rockoff, 2011). These standards are in place based on the widely-accepted characterization of these individuals as dangerous and cunning, posing a constant threat to children (Zevitz et al., 2000). The narratives attributed to the label “sex offender” that inform SORN laws are indisputably socially constructed given that there is no empirical evidence suggesting that all persons convicted of a sexual crime pose the same level of danger; in fact, research has revealed that a majority of persons who committed a sexual offense do not re-offend after conviction (Carpenter, 2014).

Second, the NPF assumes that there always is variation within the process of understanding specific social constructions (Shanahan, Jones, & McBeth, 2018). This expected variation may be slight in the case of persons who committed a sexual offense, because the social construction is relatively stable, as it is firmly tied to durable moral and ideological frameworks. Third, the NPF requires that all narrative policies have specific and identifiable structures, which should include characters, a setting, a plot, and a moral of the story (Smith & Larimer, 2017). Certainly, sex offender-specific policies and the debates around them contain all these elements of narratives.

The Narrative Arc in Sex Offender Laws

Defining the narrative components of a policy is crucial in all research grounded in the NPF in order to effectively assess the social impact of policy narratives on public perceptions and on the political fortunes of policymakers and politicians (Shanahan, Jones, McBeth, et al., 2018; Shanahan et al., 2011). In NPF analysis, each element of these narratives must be identified and thoroughly deconstructed, and all narratives must have at least one character (Smith & Larimer, 2017). In the narrative about SORN laws, individuals convicted of having committed a sexual offense, the central characters upon whom the policy burdens are placed, are invariably cast as the villains of the story. The policymakers and politicians who fight sexual violence and crime by imposing harsh punishments and stringent surveillance measures naturally take for themselves the mantle of the story's heroes. Advocates against child sexual abuse are also typically perceived as heroes, while those who experienced victimization, their families, and the community are mostly treated as the victims of the story.

Another important narrative element outlined by the NPF is the setting, which in this context refers to the circumstance surrounding a policy agenda and the context in which policy-specific conflicts take place (Crow et al., 2017). Central to SORN laws is the role allocated to communities and community members. The notification component of the policy requires individuals who have been convicted of a sexual crime to inform community members of their presence in the neighborhood with the expectation that neighbors will then be

empowered to serve as watchdogs and collective guardians of the community's children. Standards and procedures for notification vary from state to state, with some states even encouraging the use of a third party, such as a notification delivery company, to assist in the process (Levenson & Cotter, 2005a).

The NPF further defines the plot of the policy narrative as the storyline comprising social narratives about the actors, the problem, causes of the problem, and political intervention (Shanahan, Jones, & McBeth, 2018). A plot or storyline can be socially constructed through the dissemination of specific information designed to increase public fear and elicit powerful emotional responses in society at large (Lybecker et al., 2015). Such is the case with the stories and messages about persons who committed a sexual offense that have proliferated in the policy debates surrounding the Jacob Wetterling Act and Megan's Law (Garfinkle, 2003; Levenson & Cotter, 2005a). Both of these highly publicized stories featured shocking accounts of child sexual abuse, the murder of children, and the desecration of their corpses (Handler, 2011). These frightening story elements highlight the vileness of the acts and promote a characterization of all individuals convicted of a sexual offense as evil, and thus deserving of long-term punishment and surveillance, regardless of the nature of their specific crime.

In the policy development narrative, policy solutions are usually presented as a response to the supposed moral of the story (Shanahan, Jones, McBeth, et al., 2018). The appropriate punishments and consequences for those who commit sexual crimes against children have been debated for decades, resulting in the passage of several laws that build successively on their predecessors, such as in the case of the Adam Walsh Act of 2006, which was enacted despite the presence of numerous existing laws that addressed the issue of sexual crimes against children (e.g. Jacob Wetterling Act of 1994 and Megan's Law of 1996) (Harris et al., 2010). The solutions to the phenomenon of child sexual abuse, however, have spectacularly failed to integrate scientific and empirical knowledge, creating loopholes that affect not only those convicted of sexual offenses, but also the families of victims and communities (Freeman & Sandler, 2010).

Levels of Analysis: Sex Offender Laws, the Individual, and the Community

The NPF postulates that narratives operate at different levels of analysis—i.e., micro, meso, and macro—which all interact with each other (Shanahan, Jones, & McBeth, 2018). The micro level of analysis pertains to individuals at the center of the policy, who may be targeted to receive either burdens (persons who committed a sexual offense) or benefits (members of the community). A micro-level analysis of SORN laws might focus on how messages and stereotypes about persons who committed a sexual offense have the power to influence policy decisions, and vice versa (Jones & McBeth, 2010). Consistent with the Social Construction of Target Populations framework, proponents of the NPF argue that persons who committed a sexual offense are socially conceptualized as deviant, and are widely viewed as deserving of punishment and long-term consequences, which is clearly identified in existing policies to manage this population (Schneider & Ingram, 1993; Shanahan, Jones, McBeth, et al., 2018; Tewksbury, 2012).

The meso level of analysis is concerned with how policy actors construct narratives to influence the policy process (Smith & Larimer, 2017). In their advocacy efforts for policies pertaining to the management of persons who committed a sexual offense, policy actors have historically attached the names of children who were sexually abused and murdered to policies (Handler, 2011). This often successful tactic emphasizes the brutality of specific crimes to convince the public that all individuals convicted of a sexual crime deserve equally harsh punishment despite the fact that less than 3% of all child sexual abuse cases present such characteristics (Tewksbury et al., 2012).

Communities have been quick to react in support of harsh new policies, regardless of scientific knowledge to the contrary. Shortly after its passage, the Jacob Wetterling Act of 1994 was deemed insufficient to address the problem of child sexual abuse, obliging policymakers and politicians to advocate for even tougher laws in response to new, highly publicized cases of child sexual abuse and murder (Harris et al., 2010). Specifically for Republicans, whose

“tough-on-crime” stance has been central to their political identity, it was likely seen as important to promote these laws in order to maintain this identity and meet the expectations of their voters (Wright, 2008).

Lastly, the macro level of analysis focuses on the narratives embedded in culture and society as a whole. Research at the macro level attempts to understand how change or stability in macro policy narratives shapes policy realities (Shanahan, Jones, McBeth, et al., 2018). Because this level of analysis is most appropriate in longitudinal evaluations of policy, the cultural narratives and changes within SORN laws can best be understood by exploring the interactions among narrative elements at the micro and meso levels.

Understanding Social Constructions and Narratives in Policy Analysis

As previously stated, evaluating public policy from a narrative framework allows for a deeper understanding of the role of stories in shaping political and legal realities (Shanahan, Jones, & McBeth, 2018). In the specific area of sex offender policy, the popular view that all individuals convicted of a sexual offense pose a great and imminent danger of sexually reoffending has been established by policymakers through policies that perpetuate this narrative (Stevenson et al., 2013). The successful distribution of such a harmful narrative can only be possible if the group at the center of the narrative is widely perceived in singular terms (Bensel & Sample, 2017; Merry, 2019). Although most individuals convicted of a sexual offense are male, research highlights the existence of a relatively small, but significant, group of female offenders (Peter, 2009; Wijkman et al., 2010). The social construction of women convicted of a sexual offense is different from that of men, where women are perceived as particularly unnatural, lacking the nurturing qualities expected of them (Hayes & Carpenter, 2013).

As a prerequisite for using the NPF to evaluate SORN laws, researchers must provide evidence that persons who committed a sexual offense can be understood as having a socially constructed identity (Shanahan, Jones, & McBeth, 2018). Schneider and Ingram (1993) proposed a theory of policy analysis that explains the role

of social construction in the political process. Their theory of Social Construction of Target Populations proposes that social constructions play a crucial role in shaping public policy and policymakers' decisions (Schneider et al., 2014). Existing social constructions may become entrenched in policies, which then become powerful messages that are disseminated to the public. This self-reinforcing process is highly effective in influencing public opinion and motivating citizens to participate in the political process in ways that benefit those with power and burden specific target groups (Schneider & Ingram, 1993).

Social constructions intersect with policymakers' political motives in several key ways in the development of policy. Elected officials court voters by proposing and enacting policies that they believe will assist them in the maintenance of their own political power (Schroedel & Jordan, 1998). To that end, they may take advantage of existing social constructions about particular groups to promote policies that grant benefits or impose burdens on those groups according to their perceived merit (Schneider & Ingram, 1993). Policymakers thus anticipate citizens' reactions to proposed policies based on widely shared cultural and social beliefs about those targeted groups (Schroedel & Jordan, 1998). In this way, the consolidation of power and the perpetuation of social constructions are both part of a premeditated strategy to serve elected officials' personal and political self-interest (Schneider & Ingram, 1993; Schroedel & Jordan, 1998).

According to the theory, targeted groups fall into one of four basic categories based on their respective social constructions. Advantaged groups tend to hold substantial social and political power and are positively socially constructed (e.g., police, veterans, the elderly). Contenders are also powerful and well-connected, but are associated with negative social constructions (e.g., big banks, lobbying interests, unions). Dependents are politically weak, but are associated with positive social constructions (e.g., mothers, children, persons with disabilities). The final group, deviants, are both politically weak and negatively socially constructed (Pierce et al., 2014; Schneider & Ingram, 1993; Schneider et al., 2014). Due to their criminal status and widespread public contempt, individuals

convicted of a sexual crime are summarily allocated to the deviant group category and subjected to severe social burdens (Gavin, 2005; Grover & Soothill, 1995).

Contesting Social Constructions to Influence Policy Change

Despite their notable flaws, existing sex offender management laws do serve the public interest in some important ways. Sexual assault and other sex crimes demand serious attention and responsible intervention, including significant punishments for those who commit these crimes. However, contemporary sex offender management laws do not address this problem effectively, due in part to their overreliance on fear tactics and singular social constructions (Ehrhardt Mustaine et al., 2015; Freeman & Sandler, 2010; Stevenson et al., 2013). Moreover, recent research has shown how SORN policies have been designed with a narrow understanding of the problem and limited scientific support (Cubellis et al., 2018; Levenson et al., 2007).

Research has demonstrated the negative effect that SORN policies can have on individuals' mental health, including increased stress, feelings of hopelessness and helplessness, and suicidal ideation (Cubellis et al., 2008; Levenson et al., 2007). Far from being a problem that affects only persons who committed a sexual offense, these negative outcomes have been linked with a higher risk of recidivism (Levenson & Cotter, 2005a). In practical terms, that means they may be at least partially responsible for creating new victims of sexual crimes. In a study of the social and psychological processes around community reintegration, persons who committed a sexual offense reported believing that social isolation and other barriers to reintegration increased their risk of sexually reoffending (Zevitz & Farkas, 2000). Another study that examined long-term consequences of sex offender management policies for adolescents convicted of these crimes concluded that labeling associated with registration increased several risk factors previously found to be significantly correlated with higher rates of recidivism (Hayes, 1997). The literature consistently suggests that the strict requirements imposed by SORN laws may accomplish the

opposite of their stated intentions (Freeman & Sandler, 2010). Rather than keeping communities safe, SORN laws may be inducing a false sense of security while exacerbating the actual risk to the public (Levenson & Cotter, 2005a; Logan, 2003).

This contradictory (and perhaps counterintuitive) outcome can be explained by the social construction of persons who committed a sexual offense and the often misleading narratives promoted by policymakers through poorly informed and reactionary policies. An evaluation of SORN using a narrative framework informed by the Social Construction of Target Populations theory exposes the storylines pushed mainly by politicians to convince the voting public that they are the real heroes in this drama (Schneider & Ingram, 1993; Shanahan, Jones, & McBeth, 2018). By keeping the focus on the negative social constructions about persons who committed a sexual offense, politicians can secure their positions of power in the political arena and smear opponents of these policies with the taint of these constructions as well (Link & Oldendick, 1996).

From the start, SORN laws have tended to lump all individuals convicted of a sexual offense into the same target group with little regard for the type or severity of their crimes (Gavin, 2005; Robbers, 2009). This has the effect of characterizing the entire group based on the handful of sensational stories that receive the most attention. A tiny percentage of those convicted of sexual crimes are responsible for acts like those that led to the passage of SORN laws, exemplified by cases such as the rapes and murders of Jacob Wetterling, Megan Kanka, and Adam Walsh (Carpenter, 2014; Garfinkle, 2003). These highly publicized cases support a compelling narrative about the urgency of harsh sex offender management laws, even as the scientific literature describes an altogether different reality that the public rarely sees (Carpenter, 2014; Harris & Socia, 2014). Studies show that cases combining sexual assault and homicide happen rather infrequently and are perpetrated by a minority accounting for less than 3% of all convicted sex offenders (Firestone et al., 1998; Tewksbury et al., 2012). While the existence of these dangerous few surely calls for some level of monitoring, the present degree of surveillance and social ostracism may be not only unnecessary and unhelpful; it might also have dire consequences for families and communities who are lulled into a false security. The same could

be said of the impact on lower-risk convicted individuals who are caught up in the plot of this story (Carpenter, 2014).

The recent expansion of SORN laws has created serious collateral consequences for several groups that arguably do not deserve the punishment. One such group, adolescents who committed a sexual offense, comprises about one-third of the entire population of individuals convicted of a sexual crime (Campbell et al., 2020; Jones, 2015), yet most of adolescents' sexual offenses are of a less severe nature and the literature shows a recidivism rate of approximately 5% among this subset (Nisbet et al., 2004). Nonetheless, these youth are often mandated to register as "sex offenders," and some states even require community notification (Comartin et al., 2010; Harris et al., 2016). Such provisions can impede social development and complicate the process of rehabilitation (Hiller, 1998); they can also prove devastating for the families of these youth and those they victimized, who are often one and the same (Harris et al., 2016; Jones, 2015). Because of the cultural bias in favor of youth, it may be possible to educate the public about adolescents who commit sexual crimes and the science that shows that, for most of these young people, treatment can effectively prevent future offenses (Kim et al., 2016). If a popular majority can be persuaded that adolescents who sexually offend do not deserve to be automatically categorized as deviant, then sex offender management policies should exempt them from harsh long-term punishments and provide them with adequate resources for successful rehabilitation.

SORN laws often place impossible obstacles on adults who are convicted of sexual crimes, too, which prevent them from successfully reintegrating into society. Such impediments commonly include strict and unreasonable residence restrictions, limited access to employment and resulting financial hardship, and loss of public support services (Harris et al., 2018). A quarter of all states have established housing restrictions forbidding registered individuals from living in close proximity to schools, parks, bus stops, and daycare facilities. The distance requirement ranges from within 500 feet in some states to within 2,000 feet in others (Levenson & Cotter, 2005b). The Justice Department's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking issued a statement on housing restrictions advising that "residence restrictions may actually increase offender risk by undermining

offender stability and the ability of the offender to obtain housing, work, and family support. There is nothing to suggest this policy should be used at this time" (Lobanov-Rostovsky, 2015). Most participants in a study exploring the impact of residence restrictions on registered individuals' experiences of social reintegration reported significant levels of isolation, financial stress, and emotional and psychological instability (Levenson & Cotter, 2005a). With abundant research pointing to a link between these collateral consequences and the resulting increased risk of recidivism (Bensel & Sample, 2017; Cubellis et al., 2018; Harris et al., 2018; Harris et al., 2016; Levenson et al., 2007; Prescott & Rockoff, 2011; Tewksbury & Jennings, 2010), it would clearly benefit everyone for the socially constructed image of "sex offenders" to be politically and socially contested, in light of the best scientific knowledge available.

The potential policy benefits of updating the social construction of persons who committed a sexual offense are clear and numerous. First, these individuals could be more accurately classified and their level of risk determined using careful assessments completed by experts and guided by the latest empirical research on recidivism factors. Second, if treated more fairly and humanely, individuals convicted of a sexual crime may feel more inclined to trust professionals, to willingly participate in treatment, and to volunteer to take part in research. This in turn would foster the development of even greater knowledge of the causes of sexual offending and the most effective ways to support all who are affected. The social construction of these individuals as deviants and monsters stands in the way of a more sophisticated understanding of the problem, which could support nuanced, sensitive, and effective policies for the management and rehabilitation of persons who committed a sexual offense.

Conclusion

The purpose of this paper was to gauge the utility of the Narrative Policy Framework (NPF), an innovative theoretical approach to evaluating policy. The NPF proposes that narratives embedded in policy are used by politicians in order to sway public opinion and enhance their own political power. Inherent to the NPF is the assumption that stories of particular groups are socially

constructed. For this reason, this paper has suggested integrating the NPF with the Social Construction of Target Populations theory to explain the process by which policymakers take advantage of existing social constructions to promote policies that grant benefits or impose burdens on target groups according to their perceived merit. This paper has critically examined Sex Offender Registration and Notification (SORN) laws to point out how social constructions of persons who committed a sexual offense, who are considered socially deviant, are used to justify increasingly harsh policies in spite of empirical evidence that might suggest different strategies to address the problem of sexual abuse.

Future research that applies a narrative framework to the study of sex offender management laws should include a detailed investigation of legal debates and proceedings around the passage of these laws. This type of research should pay close attention to language used to reinforce inaccurate and harmful stereotypes about this group. Continuing to explore the compatibility of NPF with other socially aware theoretical approaches can enhance the study of policies and policymaking that affect stigmatized populations.

References

- Aebi, M., Vogt, G., Plattner, B., Steinhausen, H. C., & Bessler, C. (2012). Offender types and criminal dimensions in male juveniles convicted of sexual offenses. *Sexual Abuse: A Journal of Research and Treatment, 24*(3), 265–288.
- Bensel, T. T., & Sample, L. L. (2017). The influence of sex offender registration and notification laws on fostering collective identity among offenders. *Journal of Crime and Justice, 40*(4), 497–511.
- Bonnar-Kidd, K. K. (2010). Sexual offender laws and prevention of sexual violence or recidivism. *American Journal of Public Health, 100*(3), 412–419.
- Campbell, F., Booth, A., Hackett, S., & Sutton, A. (2020). Young people who display harmful sexual behaviors and their families: A qualitative systematic review of their experiences of professional interventions. *Trauma, Violence, & Abuse, 21*(3), 456–469.
- Carpenter, C. L. (2014). Against juvenile sex offender registration. *University of Cincinnati Law Review, 82*, 747–793.
- Centers for Disease Control and Prevention (2020). *Preventing sexual violence*. https://www.cdc.gov/violenceprevention/pdf/sv/SV-factsheet_2020.pdf
- Comartin, E. B., Kernsmith, P. D., & Miles, B. W. (2010). Family experiences of young adult sex offender registration. *Journal of Child Sexual Abuse, 19*, 204–225.
- Crow, D. A., Lawhon, L. A., Berggren, J., Huda, J., Koebele, E., & Kroepsch, A. (2017). A narrative policy framework analysis of wildfire policy discussions in two Colorado communities. *Politics & Policy, 45*(4), 626–656.
- Cubellis, M. A., Walfield, S. M., & Harris, A. J. (2018). Collateral consequences and effectiveness of sex offender registration and notification: Law enforcement perspectives. *International Journal of Offender Therapy and Comparative Criminology, 62*(4), 1080–1106.
- Ehrhardt Mustaine, E., Tewksbury, R., Connor, D. P., & Payne, B. K. (2015). Criminal justice officials' views of sex offenders, sex offender registration, community notification, and residency restrictions. *Justice System Journal, 36*(1), 63–85.
- Firestone, P., Bradford, J. M., Greenberg, D. M., & Larose, M. R. (1998). Homicidal sex offenders: Psychological, phallometric, and diagnostic features. *Journal of the American Academy of Psychiatry and the Law, 26*(4), 537–552.
- Freeman, N. J., & Sandler, J. C. (2010). The Adam Walsh Act: A false sense of security or an effective public policy initiative? *Criminal Justice Policy Review, 21*(1), 31–49.

- Garfinkle, E. (2003). Coming of age in America: The misapplication of sex-offender registration and community-notification laws to juveniles. *California Law Review*, 91(1), 163–208.
- Gavin, H. (2005). The social construction of the child sex offender explored by narrative. *The Qualitative Report*, 10(3), 395–415.
- Grover, C., & Soothill, K. (1995). The social construction of sex offenders. *Sociology Review*, 4, 29–33.
- Gudjonsson, G. H., & Sigurdsson, J. F. (2000). Differences and similarities between violent offenders and sex offenders. *Child Abuse & Neglect*, 24(3), 363–372.
- Handler, M. R. (2011). A law of passion, not of principle, nor even purpose: A call to repeal or revise the Adam Walsh Act amendments to the Bail Reform Act of 1984. *The Journal of Criminal Law & Criminology*, 101(1), 279–308.
- Harris, A. J., Levenson, J. S., Lobanov-Rostovsky, C., & Walfield, S. M. (2018). Law enforcement perspectives on sex offender registration and notification: Effectiveness, challenges, and policy priorities. *Criminal Justice Policy Review*, 26(4), 391–420.
- Harris, A. J., & Lobanov-Rostovsky, C. (2010). Implementing the Adam Walsh Act's sex offender registration and notification provisions: A survey of the states. *Criminal Justice Policy Review*, 21(2), 202–222.
- Harris, A. J., Lobanov-Rostovsky, C., & Levenson, J. (2010). Widening the net: The effects of transitioning to the Adam Walsh Act's federally mandated sex offender classification system. *Criminal Justice and Behavior*, 37(5), 503–519.
- Harris, A. J., & Socia, K. M. (2014). What's in a name? Evaluating the effects of the "sex offender" label on public opinions and beliefs. *Sexual Abuse: A Journal of Research and Treatment*, 28(7), 660–678.
- Harris, A. J., Walfield, S. M., Shields, R. T., & Letourneau, E. J. (2016). Collateral consequences of juvenile sex offender registration and notification: Results from a survey of treatment providers. *Sexual Abuse: A Journal of Research and Treatment*, 28(8), 770–790.
- Hayes, H. D. (1997). Using integrated theory to explain the movement into juvenile delinquency. *Deviant Behavior: An Interdisciplinary Journal*, 18, 161–184.
- Hayes, S., & Carpenter, B. (2013). Social moralities and discursive constructions of female sex offenders. *Sexualities*, 16(1–2), 159–179.
- Hiller, S. (1998). The problems with juvenile sex offender registration: The detrimental effects of public disclosure. *Public Interest Law Journal*, 7, 271–293.
- Jones, M. D., & McBeth, M. K. (2010). A narrative policy framework: Clear enough to be wrong? *The Policy Studies Journal*, 38(2), 329–353.

- Jones, S. (2015). Parents of adolescents who have sexually offended: Providing support and coping with the experience. *Journal of Interpersonal Violence, 30*(8), 1299–1321.
- Kernsmith, P., Comartin, E., & Kernsmith, R. (2016). Fear and misinformation as predictors of support for sex offender management policies. *Journal of Sociology & Social Welfare, 43*(2), 39–66.
- Kim, B., Benekos, P. J., & Merlo, A. V. (2016). Sex offender recidivism revisited: Review of recent meta-analyses on the effects of sex offender treatment. *Trauma, Violence, & Abuse, 17*(1), 105–117.
- Letourneau, E. J., Levenson, J. S., Bandyopadhyay, D., Armstrong, K. S., & Debajyoti, S. (2010). The effects of sex offender registration and notification on judicial decisions. *Criminal Justice Review, 35*(3), 295–317.
- Levenson, J. S., & Cotter, L. P. (2005a). The effect of Megan's Law on sex offender reintegration. *Journal of Contemporary Criminal Justice, 21*(1), 49–66.
- Levenson, J. S., & Cotter, L. P. (2005b). The impact of sex offender residence restriction: 1,000 feet from danger or one step from absurd? *International Journal of Offender Therapy and Comparative Criminology, 49*(2), 168–178.
- Levenson, J. S., D'Amora, D. A., & Hern, A. L. (2007). Megan's Law and its impact on community re-entry for sex offenders. *Behavioral Science and the Law, 25*, 587–602.
- Lewis, C. L. (1996). The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act: An unconstitutional derivation of the right to privacy and substantive due process. *Harvard Civil Rights-Civil Liberties Law Review, 31*, 89–118.
- Link, M. W., & Oldendick, R. W. (1996). Social construction and white attitudes toward equal opportunity and multiculturalism. *The Journal of Politics, 58*(1), 149–168.
- Lobanov-Rostovsky, C. (2015). *Adult sex offender management*. U.S. Department of Justice. <http://www.smart.gov/pdfs/AdultSexOffenderManagement.pdf>
- Logan, W. A. (2003). Sex offender registration and community notification: Emerging legal and research issues. *New York Academy of Sciences, 989*, 337–351.
- Logan, W. A. (2009). *Knowledge as power: Criminal registration and community notification laws in America*. Stanford Law Books.
- Lybecker, D. L., McBeth, M. K., Husmann, M. A., & Pelikan, N. (2015). Do new media support new policy narratives? The social construction of the U.S.–Mexico border on YouTube. *Policy & Internet, 7*(4), 497–525.
- Matson, S., & Lieb, R. (1996). *Sex offender community notification: A review of laws in 32 states*. Washington State Institute for Public Policy.

- McBeth, M. K., & Lybecker, D. L. (2018). The narrative policy framework, agendas, and sanctuary cities: The construction of a public problem. *Policy Studies Journal, 46*(4), 868–893.
- Merry, M. K. (2019). Angels versus devils: The portrayal of characters in the gun policy debate. *Policy Studies Journal, 47*(4), 882–904.
- Nisbet, I. A., Wilson, P. H., & Smallbone, S. W. (2004). A prospective longitudinal study of sexual recidivism among adolescent sex offenders. *Sexual Abuse: A Journal of Research and Treatment, 16*(3), 223–234.
- Peter, T. (2009). Exploring taboos: Comparing male- and female-perpetrated child sexual abuse. *Journal of Interpersonal Violence, 24*(7), 1111–1128.
- Petrunik, M. (2003). The hare and the tortoise: Dangerousness and sex offender policy in the United States and Canada. *Canadian Journal of Criminology and Criminal Justice, 45*(1), 43–72.
- Pierce, J. J., Siddiki, S., Jones, M. D., Schumacher, K., Pattison, A., & Peterson, H. (2014). Social construction and policy design: A review of past applications. *The Policy Studies Journal, 42*(1), 1–29.
- Prescott, M. (2010). Invasion of the body snatchers: Civil commitment after Adam Walsh. *University of Pittsburgh Law Review, 71*, 839–884.
- Prescott, J. J., & Rockoff, J. E. (2011). Do sex offender registration and notification laws affect criminal behavior? *Journal of Law and Economics, 54*, 161–206.
- Quinn, J. F., Forsyth, C. J., & Mullen-Quinn, C. (2004). Societal reaction to sex offenders: A review of the origins and results of the myths surrounding their crimes and treatment amenability. *Deviant Behavior, 25*(3), 215–232.
- Robbers, M. L. (2009). Lifers on the outside: Sex offenders and disintegrative shame. *International Journal of Offender Therapy and Comparative Criminology, 53*(1), 5–28.
- Sample, L. L., & Bray, T. M. (2003). Are sex offenders dangerous? *Criminology & Public Policy, 3*, 59–82.
- Sample, L. L., Evans, M. K., & Anderson, A. L. (2011). Sex offender community notification laws: Are their effects symbolic or instrumental in nature? *Criminal Justice Policy Review, 22*(1), 27–49.
- Sample, L. L., & Kadleck, C. (2008). Sex offender laws: Legislators' accounts of the need for policy. *Criminal Justice Policy Review, 19*(1), 40–62.
- Schneider, A., & Ingram, H. (1993). Social construction of target populations: Implications for politics and policy. *American Political Science Review, 87*(2), 334–347.
- Schneider, A., Ingram, H., & DeLeon, P. (2014). Democratic policy design: Social construction of target populations. In P. A. Sabatier & C. M. Weible (Eds.), *Theories of the policy process* (pp. 105–149). Westview Press.

- Schroedel, J. R., & Jordan, D. R. (1998). Senate voting and social construction of target populations: A study of AIDS policy making, 1987–1992. *Journal of Health Politics, Policy, and Law*, 23(1), 107–132.
- Shanahan, E. A., Jones, M. D., & McBeth, M. K. (2018). How to conduct a narrative policy framework study. *The Social Science Journal*, 55, 332–345.
- Shanahan, E. A., Jones, M. D., McBeth, M. K., & Radaelli, C. M. (2018). The narrative policy framework. In P. A. Sabatier & C. M. Weible (Eds.), *Theories of the policy process* (pp. 173–213). Westview Press.
- Shanahan, E. A., McBeth, M. K., & Hathaway, P. L. (2011). Narrative policy framework: The influence of media policy narratives on public opinion. *Politics & Policy*, 39(3), 373–400.
- Smith, K. B., & Larimer, C. W. (2017). Whose values? Policy design. In K. B. Smith & C. W. Larimer (Eds.), *The public policy theory primer* (pp. 69–91). Westview Press.
- Stevenson, M. C., Smith, A. C., Sekely, A., & Farnum, K. S. (2013). Predictors of support for juvenile sex offender registration: Educated individuals recognize the flaws of juvenile registration. *Journal of Child Sexual Abuse*, 22, 231–254.
- Tewksbury, R. (2012). Stigmatization of sex offenders. *Deviant Behavior*, 33, 606–623.
- Tewksbury, R., & Jennings, W. G. (2010). Assessing the impact of sex offender registration and community notification on sex-offending trajectories. *Criminal Justice and Behavior*, 37(5), 570–582.
- Tewksbury, R., Jennings, W. G., & Zgoba, K. M. (2012). A longitudinal examination of sex offender recidivism prior to and following the implementation of SORN. *Behavioral Sciences and the Law*, 30, 308–328.
- Vásquez, B. E., Maddan, S., & Walker, J. T. (2008). The influence of sex offender registration and notification laws in the United States. *Crime & Delinquency*, 54(2), 175–192.
- Walker, J. T., Maddan, S., Vásquez, B. E., VanHouten, A. C., & Ervin-McLarty, G. (2005). *The influence of sex offender registration and notification laws in the United States*. Arkansas Crime Information Center. http://ilvoices.org/uploads/3/4/1/6/34164648/the_influence_of_sex_offender_registration_and_notification_laws_in_the_us.pdf
- Walsh, J., & Schindehette, S. (1998). *Tears of rage: From grieving father to crusader for justice: The untold story of the Adam Walsh case*. Thorndike Press.
- Wijkman, M., Bijleveld, C., & Hendriks, J. (2010). Women don't do such things! Characteristics of female sex offenders and offender types. *Sexual Abuse*, 22(2), 135–156.
- Williams, M., Comartin, E. B., & Lytle, R. D. (2020). The politics of symbolic laws: State resistance to the allure of sex offender residence restrictions. *Law & Policy*, 42(3), 209–235.

- Wright, R. G. (2008). From Wetterling to Walsh: The growth of federalization in sex offender policy. *Federal Sentencing Reporting*, 21(2), 124–132.
- Zevitz, R. G., Crim, D., & Farkas, M. A. (2000). Sex offender community notification: Managing high risk criminals or exacting further vengeance? *Behavioral Sciences and the Law*, 18, 375–391.
- Zevitz, R. G., & Farkas, M. A. (2000). The impact of sex-offender community notification on probation/parole in Wisconsin. *International Journal of Offender Therapy and Comparative Criminology*, 44(1), 8–21.