

ABSTRACT

How Chelsea Changed the Law

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Sexual assault has always been an issue in the United States, but in recent years it has been given more attention due to high profile cases, new legislation, and recent initiatives, such as the White House's "It's On Us" campaign. While new legislation is being introduced, one must question why this new legislation is needed and evaluate the shortcomings of sex crime legislation as a whole. I have found that sex crime legislation in the past have been good laws in theory, but when their effects are studied, these laws have largely failed to fulfill their intent. The ineffectiveness of these laws have allowed sex offenders to use loopholes to their advantage and have not deterred first time offenders or curbed recidivism in the desired amount. The ineffectiveness of these laws has prompted the need for one of the strictest sex crime laws, Chelsea's Law. Chelsea's Law created a one-strike policy for sexual predators who commit the worst and most violent sex crimes against children while also revising other sex crime laws to improve upon their shortcomings.

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HOW CHELSEA CHANGED THE LAW

A Thesis Submitted to the Faculty of

Baylor University

In Partial Fulfillment of the Requirements for the

Honors Program

By

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Waco, Texas

May 2015

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ACKNOWLEDGMENTS

To those who have assisted me in the process of developing and writing this thesis, I wish to extend my thanks. I would like to thank the members of my defense committee, Yousry Zakhary M.P.P., Dr. David Bridge, and Randy Jacobs for dedicating their time, support, insight, and wisdom. I would also like to thank Dr. James Curry for his support and time throughout the beginning of the process and for his wisdom in finding a thesis mentor.

I would like to extend a special note of gratitude to my thesis mentor, Yousry Zakhary M.P.P. This thesis would not have been possible without your dedication, expertise, contributions, encouragement, and flexibility. I would like to also extend this gratitude to Dr. David Bridge who has acted as a second mentor in this project and who provided support and encouragement throughout the project.

I would also like to thank Bonnie Dumanis, Nathan Fletcher, Ron Edwards, and Christopher Lick for taking time out of their busy schedules to answer my questions. Your contributions to my thesis were significant and very appreciated.

Finally, I would like to thank the faculty and staff in the Honors Program who have guided and encouraged me throughout this process.

DEDICATION

This thesis is dedicated to those who have been affected by sexual assault.

“And God will wipe away every tear from their eyes; there shall be no more death, nor sorrow, nor crying. There shall be no more pain, for the former things have passed away.” ~Revelation 21:4

CHAPTER ONE

Sex Crime Statistics and Sex Offenders

Introduction

February 13, 2009 was a normal day except for the fact that I had heard about a missing girl from a high school down the street by the name of Amber Dubois. While Amber's disappearance was unusual, the significance and impact of that day remained unknown to me until a year later. On February 25, 2010, I came home from school to discover that Chelsea King, a girl from a high school the town over, went missing while on a run. I felt the impact of Chelsea's disappearance immediately as Chelsea and I shared mutual friends. A little over a week later, Chelsea's body was found in a shallow grave next to the lake where she had been running. It was later discovered that these two disappearances were connected. While walking to school, Amber Dubois was kidnapped, raped, and murdered by John Albert Gardner III. A year later, Chelsea King was raped and murdered by the same man.

Upon hearing this news, I was not only shattered by the deaths of Amber and Chelsea along with the rest of the San Diego community, but I was also filled with a sense of fear. I thought about the countless times I had run the same trails as Chelsea had on the day she died or the numerous times I had walked around my town alone. I thought about the multiple precautions I had bypassed throughout my life that could have placed me in the same situations as Amber or Chelsea. This sense of fear and my ability to identify with Amber and Chelsea led me to be an active participant in the events held in memory of Amber and Chelsea. I grieved for Amber and Chelsea alongside my friends

and community. I gathered with my community for Amber's memorial. I finished Chelsea's run and hung ribbons around my town in honor of her. While I did not have the privilege of knowing Amber or Chelsea while they were alive, their deaths have forever changed my life.

Amber and Chelsea's deaths called into question the effectiveness of sex crime legislation in California. Noticing this gap in legislation, Chelsea's Law was created as a result of these horrific acts. Chelsea's Law is an effective piece of sex crime legislation as sex crime is rampant in the United States, sex offenders are dangerous criminals, and due to the fact that sex crime legislation was lacking in many different areas, both nationally and in California.

Sex Crime Statistics

Sexual assault and abuse is defined as unwanted sexual contact between two or more people, whether they are adults or minors. This can include physical contact, such as unwanted touching or no physical contact, such as Internet crimes ("Facts and Statistics: What You Need to Know About Sex Offenders" 1). Sex crimes and sexual assault are very prevalent issues in America today. According to the Rape, Abuse, and Incest National Network (RAINN) there is an average of 237,868 victims of rape and sexual assault above the age of 12 each year, which breaks down to about one incidence of rape or sexual assault every two minutes. From this figure, it can be estimated that 1 in 6 women in America will be a victim of an attempted or completed rape in their lifetime (RAINN; Tjaden et al.). 17.7 million women in America have already been the victims of attempted or completed rape (RAINN; Tjaden et al). On the other hand, it can be estimated that 1 in 33 men in America will be the victim of an attempted or completed

rape in their lifetime (RAINN; Tjaden et al). 2.78 million men in America have already been the victims of sexual assault or rape in their life (RAINN; Tjaden et al). While these statistics seem staggering, the rate of sexual assault becomes even more astounding when examining statistics based on age.

Those who are in-between the ages of 12 and 34 are at the highest risk of being victims of sexual assault or rape (RAINN; Sex Offenses and Offenders). In fact, 80% of all known sexual assault and rape victims are under the age of 30, 44% of whom are under the age of 18 (RAINN; Sex Offenses and Offenders). In general, girls between the ages of 16 and 19 are four times more likely to be victims of rape, attempted rape, or sexual assault than the public at large (RAINN; Sex Offenses and Offenders). This is likely due to the fact that on average females make up 90% of sexual assaults and rapes and males make up 10% of sexual assaults and rapes (Criminal Victimization 2008-2012; RAINN).

Sexual assault is one of the most unreported crimes in America today, according to National Crime Victimization Surveys and Uniform Crime Reporting data. There are many reasons why sexual assault victims do not report their sexual abuse to authorities. These reasons can include fear of their attacker abusing them again, not wanting to make a very private matter public, fear of being blamed, fear of not being believed, feelings of guilt, feelings of embarrassment, and many more ("Facts and Statistics: What You Need to Know About Sex Offenders" 1). While a definitive number of unreported sexual assaults cannot be given, it is estimated that a majority, or 68%, of all sexual assaults in a five year span were not reported to the police, according to National Crime Victimization Survey: 2008-2012. While unreported sex crimes are a major contributor to the lack of

sex offenders serving time, even when sexual assault is reported, it is unlikely that these reports will lead to prosecutions or even arrests (Arrest Data: 2006-2010; Offenses Cleared Data: 2006-2010; RAINN). When compared to other crimes, arrests for sex crimes represent less than 1% of all arrests, which is not proportional to the number reports for sexual assault ("Facts and Statistics: What You Need to Know About Sex Offenders" 1).

Victims of sexual assault, attempted rape, or rape do not only have to work through the horrific experience of the sex crime, but they may also be faced with other side effects of rape. These side effects can include but are not limited to depression, post-traumatic stress disorder, alcohol abuse, drug abuse, suicidal thoughts, and pregnancy. In fact, victims of sexual assault are 3 times more likely to suffer from depression, 6 times more likely to suffer from post-traumatic stress disorder, 13 times more likely to abuse alcohol, 26 more likely to abuse drugs, and 4 times more likely to contemplate suicide (RAINN; The World Health Report 2002). Additionally, it is estimated that about 20% of women who are raped will become pregnant as a result of the rape (RAINN).

As these statistics exemplify, sex crimes are a very prominent issue in America. Sex crimes do not only affect the men, women, boys, and girls who are assaulted during the attack, but these crimes can also have a lasting impact on the victims' family members and friends. Although research and effective policies have led to a decrease in reported sex crimes in the past few years, it is still a very prevalent crime in America.

It must be noted that these statistics are based off of information collected by National Crime Victimization Surveys and Uniform Crime Reporting statistics. While these sources are largely used to collect data on certain crimes, error is assumed in the

data as victims may lie about their experiences, either by saying they were a victim of a crime they were not in fact a victim of, or by not sharing that they were a victim of a crime due to fear or shame. Furthermore, not every police department participants in reporting to the Uniform Crime Reporting and only the worst crime committed is reported. For example, if a victim was raped and murdered, only the murder would be reported.

Common Characteristics of Sex Offenders

In order to reduce sex crimes, one must start by first identifying who sex offenders are. In America today, there are approximately 799,000 registered sex offenders (Uniform Crime Reporting Statistics). This breaks down to the statistic that about 1 in 500 Americans is a registered sex offender (Velázquez 1). Among these registered sex offenders, there are a few common characteristics that they share, especially in regards to how and when they attack. The most common characteristic found among sex offenders is that 2 out of 3 of these offenders knew the victims they attacked. In fact, it is estimated that 38% of rapists are friends or acquaintances with the victim, 28% were intimate with the victim, and 7% were a relative with the victim (Criminal Victimization, 2005; RAINN). Additionally, most sex offenders attack their victim within a mile of the victim's home or in the victim's home (RAINN; Sex Offenses and Offenders). The statistics break down to show that an estimated 40% of all sexual assaults and rapes occur within the victims home, 20% of all sexual assaults and rapes take place in the home of a friend, neighbor, or relative, and 8% of all sexual assaults and rapes take place in a parking garage (RAINN; Sex Offenses and Offenders). Moreover, most sex offenders attack between the hours of 6:00pm and 6:00am. It is estimated that of

the 67% of the sexual assaults and rapes that occur between 6:00pm and 6:00am, 43% of the sexual assaults and rapes occur between 6:00pm and midnight (RAINN; Sex Offenses and Offenders). Sex offenders do not only tend to attack in a certain manner and time, but they also share common characteristics in regards to their lifestyle.

Sex offenders are by no means a homogeneous group of criminals, but they do share some similar qualities. Similar to how and when they attack their victims, most sex offenders have some lifestyle similarities. For example, the average age of a rapist is 31 years old and 52% of rapists are white (Sex Offenses and Offenders; RAINN). Additionally, in approximately 1 out of 3 sexual assaults, the perpetrator was intoxicated during the time of the attack (Alcohol and Crime; RAINN). Furthermore, research has shown that rapists are more likely to be serial criminals rather than serial rapists (Alcohol and Crime; RAINN). In a study conducted by the U.S. Department of Justice based on sex offenders who were released from prison in 1994, the study found that 78.5% of the sex offenders had been arrested at least one time before the sex crime they were serving time for. They also found that half had three or more prior arrests for another crime, 58.4% had at least one prior criminal conviction, and nearly a quarter had served time in a State or Federal prison at least once before (Langan, Schmitt, and Durose 11). However, for 71% of sex offenders, their arrest for their 1994 sex crime was the first arrest for a sex crime. This could be due to the fact that it was the sex offenders' first sex crime or it could be due to the large amount of sex crimes that are not reported (Langan, Schmitt, and Durose 12). While these statistics speak to the shared characteristics of sex offenders, it is also important to understand when some start to commit sex crimes and what leads some to commit sex crimes. In order to fully understand the spectrum of sex

offenders, one must first examine juvenile sex offenders' common characteristics, treatment, and recidivism rates.

The Federal Bureau of Investigation Uniform Crime data revealed that in 2000 16% of all arrests for forcible rape and 19% of all the arrests for all other sex offences were for juveniles (Falconer 16). Additionally, research has shown that juveniles commit almost half of all child molestations each year (Becker and Hicks). Unlike most crimes, new research has shown that sexual abuse for juveniles tends to increase with age, especially when a juvenile enters into the teenage years and early adulthood (Hoghughi 5). The research supports this claim by providing a study that revealed that 50% of college males admitted to having perpetrated or having attempted to perpetrate a sexual assault (Hoghughi 9). Additionally, national research tells us that approximately 1 of every 3 of the freshman college women are likely to experience a sexual assault during her first year of college, and that 1 of every 5 college women is likely to experience a rape or attempted rape while they are in college ("Rape and Sexual Assault: A Renewed Call to Action"). This research begs the question, who are juvenile sex offenders and how should clinicians go about treating juvenile sex offenders so that they will not become repeat offenders? In order to curb recidivism, clinicians need to identify who juvenile sex offenders are, acknowledge that juvenile sex offenders differ from adult sex offenders, juvenile sex offenders must be assessed correctly, and juvenile sex offenders need to be treated, not just punished for their crimes.

The juvenile court system was established because the government acknowledged that juveniles differed from adults. Social change surrounding children began in the late 1800s to the early 1900s (Agnew and Brezina 15). With these changes, separate

institutions and probation began to be established for juveniles. The philosophy that the juvenile court system adapted was *parens patriae* or parents of the state. Under this philosophy, the three primary concerns of juvenile courts were to protect the youth, to rehabilitate and treat the youth, and to create an environment of informality (Agnew and Brezina 15). However, the juvenile court became increasingly more formal in the 1960s, deriving from the Supreme Court decision in *Kent v. United States*. This formality is counterintuitive to what researchers advocate for when dealing with juvenile sex offenders. Those who have done research on juvenile sex offenders state that it is important to treat juvenile sex offenders differently than adult sex offenders. The current “adult-based treatment models may be too confrontational for many youth and can result in unintended and punitive consequences,” (Falconer 59). Adult models are often focused on punishment and are based on the understanding that the adults knew what they were doing when they committed the act. However, if this same approach is taken with juveniles, it could have some very negative consequences. For example, if a juvenile is labeled as a sex offender from a young age, it can affect the whole course of their life. A real life example can be seen through Evan B, a high school student who was charged with indecent exposure and was required to register as a sex offender in Oklahoma. The stigma of being a registered sex offender followed Evan around, even after he moved and found a new community. Evan eventually dropped out of high school and tried working full time, but struggled to maintain employment (Farley 472). A month before his twentieth birthday, Evan killed himself because he could not escape the stigma of being a sex offender (Farley 472). Under the Adam Walsh Act, Evan was required to register even though he did not commit a sex assault and was forced to continue registering for

ten years (Farley 471). The punishment Evan received was harsh for a minor and had severe repercussions on his life. While these types of punishments might be suitable for adults, they are too harsh for minors and caused Evan to believe that he had a problem that could not be fixed. Cases like Evan's are not uncommon for juvenile sex offenders. As a result of cases like this, many clinicians have advocated for separate models for juveniles. One example of a model that researchers have supported is the Trauma Outcome Process model, which focuses on individual treatment, meeting the needs of the juvenile, and helping to lower the possibility of recidivism. In this model, the clinicians examine possible risk factors that could contribute to recidivism in order to help the juvenile to know how to counteract against these risks (Falconer 60). This is a common characteristic for juvenile models. These models by no means justify the horrible act the offender committed, but focus instead on ensuring that the same offenders do not commit these acts again. However, before any of these models can be put into practice, research states that a juvenile must be properly assessed.

In order for a juvenile sex offender to receive proper treatment, they must first be assessed correctly. However, assessment is often difficult due to the fact that many adolescents are not willing to open up about deeply personal and sensitive information (Hoghughi 52). Researchers have found that "adolescents are expected to describe verbally their sexual feelings and behaviors in an interview where they are in a less powerful position, and to do so to a level of detail which would even tax many adults" (Hoghughi 52). However, without the vulnerability from the juvenile, the clinicians and the other professionals cannot make the proper decisions regarding how the offenders are managed and treated. In order to properly assess juvenile offenders, the offenders must be

vulnerable with the clinicians, which can only be achieved if the offender and the clinician are given enough time to establish and develop a relationship. Another obstacle to proper assessment is the individual rights that are afforded to the juvenile offenders. The offender is allowed to withhold information from the clinician that might incriminate them or affect their defense (Hoghughi 53). This could be detrimental to the assessment process and ultimately could affect how the juvenile offender is treated. If the clinician and offender can move past the issues of vulnerability and self-incrimination, however, then the focus of assessment can turn to evaluating what the motivation or driving force was behind the offense. Unlike many adult sex offenders, juvenile sex offenders are not usually driven to commit sexual offences due to mental illness, personality types, or a preoccupation with a deviant arousal pattern (Hoghughi 53). Instead, research has shown that adolescent sex offenders tend to be driven by inadequate parenting, prior sexual abuse, exposure to inappropriate sexual role models, opportunity, learning by outcomes, low self-esteem, poor social competence, and cognitive distortions (Hoghughi 53). In other words, sexually abusive behavior in adolescents is not inherent but rather a behavior that is learned (Hoghughi 53). During assessment, clinicians need to look into how this behavior was learned. Was the offender sexually abused? Did the offender have absent parents? Did the offender ever have the opportunity to learn about appropriate sexual behavior? The answers to these questions need to be discovered during assessment. This can be done through the many different measures that are taken during assessment which include: discovering details of incidents of sexually abusive behavior, professional reports, clinical interviews, psychometric testing, self-monitoring diary entries, direct observation, and history of offending (Hoghughi 56). All these measures

are important in the assessment process, as treatment cannot be a “one size fits all” model. Because each offender is different and because each offense varies, the treatment of the offender must mirror this. After a proper assessment, the juvenile offender needs to receive treatment in order to help curb recidivism.

Without treatment, juvenile sex offenders are more likely to reoffend (Hoghughi 93). In order to prevent reoffending, many researchers have not only looked into the effects of treatment, but also the most effective forms of treatment. One of the most common characteristics found among juvenile sex offenders is a low social competence (Hoghughi 93). Additionally, research has shown that adolescent sex offenders tend to have more problems controlling their anger than non-sex offender adolescents (Hoghughi 93). If these characteristics are identified during assessment and then addressed during treatment, the juvenile offender has the best chance of rehabilitation. Identifying and treating these characteristics while the offender is still an adolescent is very important, as adolescents are more malleable than adults and this treatment helps to prevent juvenile sex offenders from becoming adult sex offenders. Following assessment, the first step in treatment is to hold an intervention for the juvenile (Hoghughi 103). During the intervention, the juvenile is confronted with their offense. While confronting the juvenile, the clinician holds the juvenile responsible for their actions and also gives the juvenile the opportunity to make try to make amends for their actions. Following the intervention, the clinicians make a profile for the juvenile offenders. Once this profile is made, the clinicians use this profile in the final stage of treatment: application. Some researchers start the application or treatment with an educational process due to fact that some research has shown that a large factor behind sexual abuse is a lack of education

(Hoghughi 115). Certain studies indicate that treatment programs including education about the nature of sex offender therapy and sex education tend to have a positive effect in reducing long-held denials, which in turn can help the offender to become more vulnerable during treatment (Hoghughi 115). Following educating and motivating the offender about the treatment and to be open to treatment, the clinicians then use the profile to address the issues the juvenile offender has. For example, if a juvenile offender has problems relating to the opposite gender, or social competence issues in general, then role-playing proper conversations with a member of the opposite gender might be part of the application process (Hoghughi 109). Furthermore, if an offender tends to have specific triggers then the clinician might expose the offender to situations that tend to trigger anger or other negative emotions so that the offender can learn how to properly react in real-life situations (Hoghughi 109). From this point on, researchers all agree that a juvenile sex offender needs to receive treatment and this treatment must be individualized. Again, there is no “one size fits all” model for treating juvenile sex offenders as they are not a homogeneous group.

Juvenile sex offences have become more common in our society. This is a serious issue as sexual abuse increases with age, unlike most juvenile crimes. Additionally, if sexual abuse is not addressed in adolescence, then the issue will only continue to worsen. In order to address this issue in adolescence, the clinicians need to acknowledge that juvenile sex offenders differ from adult sex offender, clinicians need to assess the juvenile sex offenders correctly, and the juvenile sex offenders need to be treated first and foremost and punished secondly. All these steps are very important as they build on one another. If the clinician does not acknowledge the differences between juveniles and

adults, then the juvenile will not be assessed or treated correctly. Furthermore, if the clinician acknowledges the difference between juveniles and adults but does not assess the juvenile correctly, then treatment will not be effective. Finally, if punishment is the focus instead of treatment, then the acknowledgement of the differences between juveniles and adults and proper assessment will not be relevant. However, if the clinicians and other professionals address all these factors and execute them correctly, then the juvenile sex offender has the best chance at avoiding recidivism and potentially becoming adult sex offenders.

In general, juvenile sex offenders respond better to treatment and reoffend less frequently than adult sex offenders ("Facts and Statistics: What You Need to Know About Sex Offenders" 7). Only about 10% of juvenile sex offenders reoffend and are more likely to engage in other crimes as opposed to another sex crime ("Facts and Statistics: What You Need to Know About Sex Offenders" 7). However, 12-24% of adult sex offenders will reoffend. Similar to juvenile sex offenders, adult sex offenders are also more likely to commit a crime it is not sexual or violent ("Facts and Statistics: What You Need to Know About Sex Offenders" 7). Juvenile sex offenders recidivism rates are more contingent on the supervision and treatment they receive. On the other hand, adult sex offenders' recidivism rates tend to be more dependent upon negative public feelings toward them, the restrictions placed on them surrounding where they can live, and difficulties they have when looking for a job ("Facts and Statistics: What You Need to Know About Sex Offenders" 4). While juvenile sex offenders are less likely to reoffend, some juvenile sex offenders do continue offending into adulthood. If juvenile sex offenders are not treated properly, then they have a much greater chance of becoming an

adult sex offender. Therefore, understanding juvenile sex offenders and how they respond to different types of treatment is imperative for addressing and reducing sex crimes at large. Although juvenile sex offenders and adult sex offenders differ on certain aspects, the common factors that may combine to increase people's inclination to offend tend to be the same for both juvenile sex offenders and adult sex offenders.

The factors that can contribute to some people having more of a tendency to commit sex crimes are physiological/biological factors, sociocultural factors, developmental/environmental factors, and situational/circumstantial factors ("Facts and Statistics: What You Need to Know About Sex Offenders" 3). Physiological/biological factors include factors such as imbalanced hormones or being sexually attracted to children. Sociocultural factors include factors such as being exposed to messages that promote aggression. Developmental/environmental factors include factors such as having witnessed domestic violence. Situational/circumstantial factors include factors such as having easy access to victims or having extreme levels of stress ("Facts and Statistics: What You Need to Know About Sex Offenders" 3). While these factors can lead to a higher tendency to commit sex crimes, it does not necessarily mean that someone who is affected by one or more of these factors will commit a sex crime.

Sex offenders are by no means a homogenized group. Both juvenile and adult sex offenders could be male or female, wealthy or poor, very intelligent or unintelligent, active in the community or inactive, mentally healthy or mentally ill. While sex offenders cannot be placed in a stereotypical category, similarities can be found among sex offender. These similarities include who they attack, when they attack, where they attack, the age of the victim they attack, certain lifestyle choices, how they respond to treatment,

and certain factors that may contribute to the possibility of reoffending. While these elements cannot distinctly point to potential sex offenders or define all current sex offenders, identifying common characteristics of sex offenders can help potential victims make safer and smarter choices. Additionally, by identifying common characteristics of sex offenders, laws and treatment of sex offenders can be tailored in order to keep the community at large safer and to help reduce sex crimes in general.

CHAPTER TWO

The Positive and Negative Effects of Current Sex Crime Legislation

Sex crimes are a serious issue in the United States, which can be seen through the statistics provided in the previous chapter. In order to curb sex crime rates, one does not only need to examine common characteristics of sex offenders, but also the current sex crime laws in effect. Just like sex offenders, sex crimes laws cannot be completely categorized, but they can be broken down into seven major groups: sex offender registries, community notification, residence restrictions, civil commitment, lifetime supervision, sex offender driver license notation requirements, and castration laws (Barnes, Mancini, Mears 168).

In recent years there has been a national movement towards harsher and stricter sex crime laws. In fact, some has gone so far as to say that “the sweeping number of sex crime laws enacted by the federal government and states is tantamount to a ‘legislative epidemic,’” (Carpenter 66; Barnes, Mancini, Mears 167). However, when examining these laws across state lines, there are great variations within the laws from state to state. Some claim that these variations are due to “high-profile cases, emotion-laden rhetoric, and inaccurate assumptions about crime and criminals,” (Carpenter 66; Barnes, Mancini, Mears 167). In this chapter, I will examine the seven different categories of sex crime laws and what current research states about the effectiveness of these different types of laws.

Sex offender registries and community notification laws are the two categories of sex crimes laws that are the most well known. Illinois was the first state to begin forming

sex offender registration laws by passing the Habitual Child Sex Offender Registration Act in 1986. The act required both adult and juvenile second offense criminals of sexual assault or abuse against minors to register for 10 years with their local law enforcement agencies (Wright). From this act, sex offender registration and community notification laws continued to be established and reformed. In 1994 and 1996, two of the most well known acts in the area of sex offender registry and community notification came into effect, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (1994) and Megan's Law (1996).

The Jacob Wetterling Act specifically focuses on sex crimes committed against children, while Megan's Law applies to all sex offenders. Additionally, Megan's Law ensures that sex offender information is made public through the means of sex offender registries and community notification practices. Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act came about as a result of Jacob Wetterling's death in October 1989. A masked man kidnapped Jacob at gunpoint near his home in St. Joseph, Minnesota. During the investigation, law enforcement learned that the halfway house near St. Joseph provided housing to sex offenders (Heger). However, at this time, the police did not keep a record of sex offenders and therefore did not have this resource to help them in solving the case. With the help of the Jacob Wetterling Foundation, the Jacob Wetterling Act was created. The act established sex offender registries for law enforcement agencies across the nation (Heger). Around the same time that the Jacob Wetterling Act went into effect, seven-year-old Megan Kanka went missing. During the investigation, it was discovered that three convicted sex offenders lived across the street from the Kanka family in Hamilton Township, New Jersey

(Heger). Jesse Timmendequas, one of the three convicted sex offenders living across the street, later confessed to raping and killing Megan (Heger). To prevent further crimes, Megan's parents helped to create Megan's Law, which made the sex offender registries established by the Jacob Wetterling Act, public. The law also created a system in which communities must be notified when sex offenders reenter the community. While these laws were intended to protect the community, there was some resistance by the public when these laws went into effect. Critics claimed that these laws violated the *Ex Post Facto* clause (Wright). However, these objections have not prevailed and sex offender registries and community notification laws continue to exist and evolve. Sex offender registries and community notification laws were reformed again in 2006 when President George W. Bush signed the Adam Walsh Child Protection Act (Wright). This act enhanced penalties for those who sexually exploit children and ordered a compilation of all state sex offender registries into one uniform national sex offender registry (Wright). Again, this new law was met with resistance and objection. For example, Wright sites studies that indicate that registration and notification have had little to no influence on the rates of sex crimes in general or recidivism rates. Due to this research, Wright warns against creating more laws before we evaluate our current laws to see which laws are effective and which are simply costing the nation money.

In order to ensure that the states applied these federal laws, the federal government threatened to take away 10% of the Byrne Formula funding for criminal justice programs for states that did not comply (Center for Sex Offender Management). These two areas of legislation are closely linked due to the fact that community notification laws were mandated under the same federal acts that spurred the creation of sex offender

registries (Bandy). Additionally, sex offender registries are often considered a form of community notification. Other forms of community notification include but are not limited to press releases, flyers, phone calls, door-to-door contact, and neighborhood meetings (Velázquez).

Sex offender registries and community notification laws are required and established in every state. While sex offender registries and community notification laws seem like good laws in theory, they are largely viewed as ineffective. This ineffectiveness is measured monetarily and statistically. Monetarily, for each sex offender added to the registry, there is a substantial increase in the money required due to the law enforcement, probation, and parole agencies that must monitor the offender (Wright 223). Additionally, sex offender registries and community notification laws vary from state to state. These variations create “logistical and interagency barriers,” (Wright 81). Furthermore, when I conducted research in this area, I found that states with stricter sex offender registry and community notification laws did not necessarily have lower rates of sex crimes.

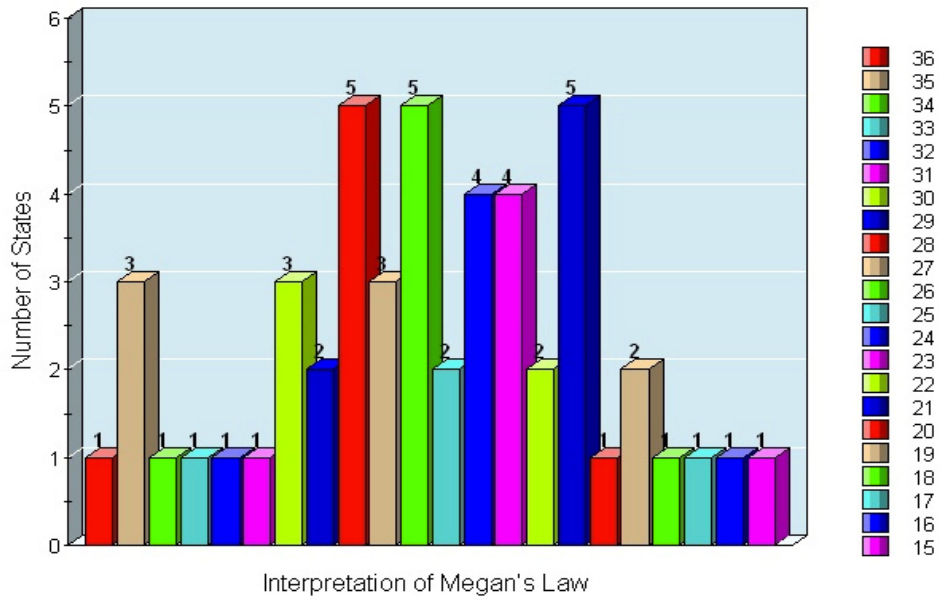
In order to conduct my study, I had to create a scale in order to measure the strictness of interpretations of Megan’s Law. To create this scale, I visited each state’s sex offender registry and noted the elements included. After compiling this information, I then revisited the sites and noted whether they had certain characteristics or whether they were excluded. There were 52 different elements that made up sex offender registries. The elements include: a current photograph, offender’s name, alias names, status (compliant vs. noncompliant), race, sex/gender, date of birth, current age, age at the time of the offense, height, weight, build, eye color, hair color, scars marks and tattoos, shoe size, release date/prison status, permanent address, temporary address, last verification,

first registration date, registration/ID number, link to a map of offender's address, school information (address), date of arrest, date offense was committed, conviction date, court in which conviction was given, statute, risk level of sex offender, type of sex crime committed, crime location (separated into three subcategories: city, county, and state; city received a 3, county received a 2, and state received a 1), description of the crime(s), gender and age of the victim, the offender's relationship to the victim, UCR code/court docket number, vehicle year, make, and model, vehicle color, license plate number, license type, occupation, employer, date that they started working, work address, work phone number, which police department they report to, boundaries for local schools, daycares, etc., option to track offender, option to report a tip or correction, and registrant type (lifetime, 10 years). Most sex offender registries had basic information such as a current photo, the offender's name, alias names, the offender's permanent address, gender, height, weight, etc. However, the other elements changed considerably from registry to registry. A particular element that was surprisingly inconsistent was information on sex offender's vehicles. Since being abducted via vehicle is not uncommon, it was surprising that not all the states provided vehicle information to the public, especially for offenders who committed their sex crime via vehicle.

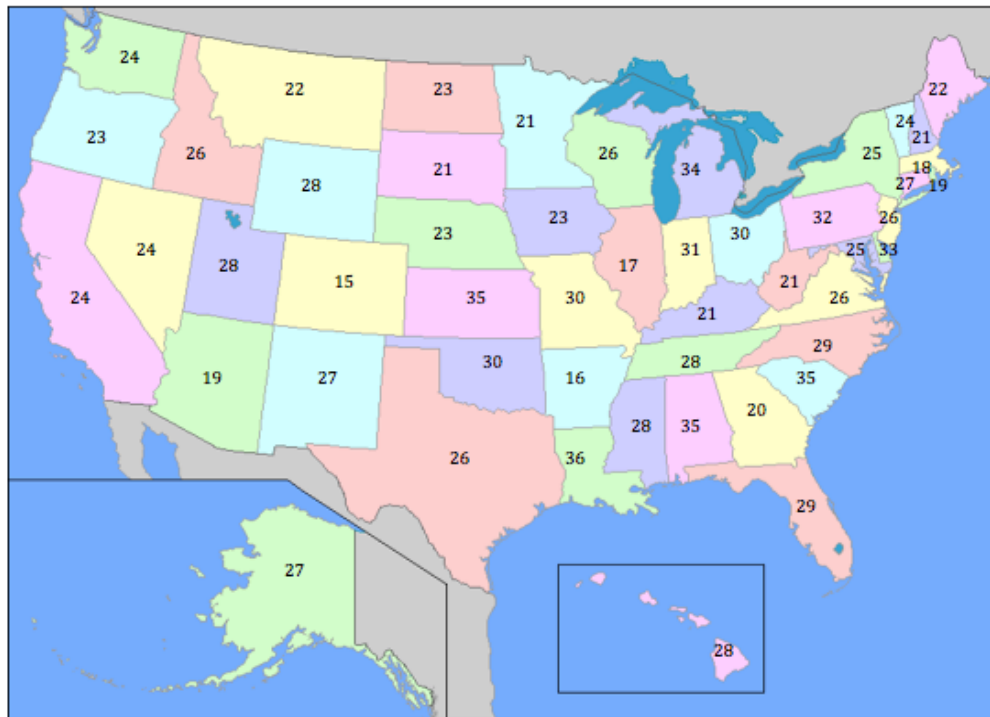
The other aspect of this study was community notification. Since some states notify the community through sex offender registries, this was more difficult to measure. However, I measured this through examining what types of sex offenders the community notification laws apply to. The three different categories consisted of all registered sex offenders, all sex offenders with one variable, and only high-risk sex offenders. If the state had laws that required notification for all sex offenders, they received a 3, if they

required all sex offenders except for one variable, such as only moderate to high-risk offenders or excluding juveniles, they received a 2, and if they required only high-risk offenders, they received a 1.

When comparing all the different elements of the sex offender registries and the sex offenders that community notification applies to, the total number of elements is 55. The highest total of any of the states is Louisiana with a total of 36 and the lowest is Colorado with a total of 15. In this study, the dependent variable was the forcible rape rates from each states and the independent variable was the scores the different states received for their interpretations of Megan's Law.



Graph One



Graph Two

Adjusted w/ Community Notification			
		Wisconsin	26
Louisiana	36	Maryland	25
Alabama	35	New York	25
Kansas	35	California	24
South Carolina	35	Nevada	24
Michigan	34	Vermont	24
Delaware	33	Washington	24
Pennsylvania	32	Iowa	23
Indiana	31	Nebraska	23
Missouri	30	North Dakota	23
Ohio	30	Oregon	23
Oklahoma	30	Maine	22
Florida	29	Montana	22
North Carolina	29	Kentucky	21
Hawaii	28	Minnesota	21
Mississippi	28	New Hampshire	21
Tennessee	28	South Dakota	21
Utah	28	West Virginia	21
Wyoming	28	Georgia	20
Alaska	27	Arizona	19
Connecticut	27	Rhode Island	19
New Mexico	27	Massachusetts	18
Idaho	26	Illinois	17
New Jersey	26	Arkansas	16
Texas	26	Colorado	15

Graph Three

Graph one illustrates the spread of scores that the different states received for their sex offender registry elements and their community notification laws. The left side of the graph is the higher scores starting at 36 and the right side of the graph are the lower scores ending at 15. Graph two illustrates the distribution of the Megan’s Law scores across the nation as a whole. The graph helps to illustrate that scores are well spread out across the nation, not clustered in one particular area. Graph three is the Megan’s Law

score given to each different state in order from highest to lowest. The perfect score would be a 55 on the Megan's Law scale. The information for these graphs came from each state's individual sex offender registry website and community notification laws. The forcible rape rates for my dependent variable came from the Federal Bureau of Investigation's Uniform Crime Reporting Program.

Results

When running regressions, I was unable to prove that the relationship between the independent variable and the dependent variable were statistically significant at the 95% confidence level. I ran regressions based on forcible rape rates from 1990, 1994, 1996, 2000, 2006, and 2010. I examined whether changes from 1990-2010, 1994-2000, 1994-2010, and 1994-2006, were statistically significant. A majority of the regressions could be statistically significant at the 80% confidence level, but not at the 95% confidence level I was looking for. I also examined individual years such as 2000, 2006, and 2010, but these were not statistically significant at the 95% confidence level either. Overall, the forcible rape rates decreased since 1990 and took a particular dip after 1994 and 1996, when The Jacob Wetterling Act and Megan's Law were finalized. In regards to my research question, I would not say that the different implementations of Megan's Law, in regards to sex offender registries and community notification, in different states, affect forcible rape crime rates.

The study I conducted was not the only study that showed that stricter interpretations of sex offender registries and community notification laws do not necessarily lead to lower rates of sex crimes. In a study conducted by Bedarf, he found that states that have more restrictive policies have less compliance rates (Wright 93). This

study shows that simply because a state has stricter policies does not necessarily mean that sex offenders will comply with these restrictions or that they will prevent sex crimes.

The variations in these types of laws, however, are just one factor that makes them largely ineffective. The most cited reason for the ineffectiveness of these laws is that people do not look at or pay attention to the registries or notifications. In a study conducted by Naomi Freeman and Jeffrey Sandler, they found that the Adam Walsh Act tier system failed to increase public safety. Based off of a sample of registered sex offenders in New York, Freeman and Sandler found the system actually decreased the ability of states to predict which sex offenders will be most likely to reoffend (Freeman and Sandler 44). If no one looks at the registries or notifications, then they do not serve the purpose that they were created to serve. While all these studies and factors speak to the ineffectiveness of these two categories of laws, the most worrisome factor is that some studies show that public registration might encourage recidivism for some sex offenders.

The underlying reason for harsh sex crime laws is the fear that sex offenders will reoffend. While sex offenders do reoffend and reoffenders needs to be monitored, the rates of reoffending for sex offenders are not higher then the rates for most other criminals (Wright 39). A Bureau of Justice Statistics study conducted in 2002, found that among 272,111 released inmates from 15 different states, the 3,138 rapists who were released had one of the lowest rates of rearrests as well as the other sexual assault prisoners (Wright 39). In fact, only 78 of the rapists were rearrested for another rape. This is likely to be an understatement of reoffending but it is still a low-frequency event (Langan & Levin; Wright 39). In a review of literature, studies found that the base rate

for sexual recidivism was approximately 20% (Wright 40). Studies in this area do fluctuate based on how researchers define recidivism, data sources, sample characteristics, and methodology. However, it must be taken into account that sexual assault is one of the most underreported crimes and therefore no study can provide a truly accurate picture of the recidivism rates for sexual assault.

Sex offender registries and community notification laws, although very pronounced, are only two out of seven types of sex crime laws. Sex offender registries and community notification laws are present in all fifty states. Following in prominence are residence restriction laws. Residence restrictions are “implemented to prohibit sex offenders from residing in close proximity to schools, school bus stops, parks, daycare centers, and other locations” (Barnes, Mancini, Mears 169; Barnes, Dukes, Tewksbury, & De Troye; Mercado, Alvarez, & Levenson). These restrictions are set by the state and are usually enforced by local law enforcement agencies. States range from not having residence restrictions to having restrictions of 2,000 feet (Barnes, Mancini, Mears 182). Overall, 33 states have some form of residence restrictions for sex offenders (Barnes, Mancini, Mears 173-4). The reason that some states do not have residence restrictions is due to the fact that, unlike sex offender registries and community notification laws, states do not lose federal funding if they do not have these types of laws (Barnes, Mancini, Mears 169). These types of laws are monitored by law enforcement and other state agencies (Barnes, Mancini, Mears 170; Tewksbury & Levenson).

The first law regarding residence restrictions was passed in Florida in 1995 (Wright 268). The law applied only to sex offenders who were on probation and who had committed a crime against a minor. The law prevented sex offenders from going within

1,000 feet of schools, parks, playgrounds, day care centers, etc. (Wright 268). Within the next nine years, 15 other states had enacted some type of residential restriction laws. However, after the murder of 9-year-old Jessica Lunsford in 2005, residence restriction laws doubled. This was largely due to the fact that Jessica was murdered by a convicted sex offender living in her neighborhood (Wright 268). The strictest residence restriction laws were passed in Iowa, Georgia, and California (Wright 269).

Residence restriction laws are often times uncontroversial. The thought of having a sex offender live near a school or a park is a valid concern. While these laws are well intentioned, what some do not know about residence restriction laws is that the increased amount of restriction has been shown to lead to homelessness for many sex offenders (Wright 268). In many metropolitan areas, most housing options are within 1,000 feet of a school, park, day care, bus stop, etc. For example, in Orange County, Florida research has shown that 95% of residential properties were located within 1,000 feet of a restricted area and 99% were within 2,500 feet of a restricted area (Wright, 279). These restrictions can make it very difficult for sex offenders to find housing, leading to high rates of homelessness, and therefore making sex offenders more difficult for law enforcement to track and monitor.

Residence restriction laws are a relatively new category of sex crime laws. Due to this fact, there is not a lot of research available on the effectiveness of these laws. However, the evidence that is available does not show that residence restrictions reduce sex crime recidivism or protect more children (Wright 283). Most sex offenders tend to not commit another sex crime, and those that do have not lived any closer to places where children would be found (Wright 283). While this type of sex crime law seems very good

in theory, it makes monitoring of sex offenders more difficult and makes social reintegration more difficult, which is the leading cause behind recidivism (Wright 284). Researchers suggest that a collaborative approach using containment models consisting of treatment providers, probation officers, and polygraph examiners, should be used to curb the risk of registered sex offenders reoffending (Wright 285-6).

Civil commitment laws follow residence restriction laws in popularity. Civil commitment laws are intended to prevent recidivism by requiring that high-risk sex offenders undergo psychiatric evaluation (Barnes, Mancini, Mears 170; Birgden & Cucolo). During this evaluation, sex offenders must stand trial and if they are committed, they must stay incarcerated until they are no longer deemed a threat to the community (Barnes, Mancini, Mears 170; Levenson, 2004). Out of the 50 states, only 19 states, or 38% of the states have civil commitment laws (Barnes, Mancini, Mears 173-4).

Governor Booth Gardner signed the first civil commitment law into affect in 1990 in the state of Washington (Wright 339). The law, known as the Community Protection Act, was the first of many laws passed regarding civil commitment. In general civil commitment laws state that sexually violent predators who are seen as a risk due to a mental abnormality or personality disorder, can be retained after they receive a criminal sentence (Wright 340). After commitment, the individual is placed in the custody of mental health authorities, which provides the offender with treatment in hopes that this action will address the condition that makes the offender likely to engage in sexual violence (Wright 340).

Civil commitment laws, unlike other types of sex crimes laws, are rather controversial. Critics of the policy state concerns regarding the constitutionality of these

policies and the limitations of the treatment and risk-assessment technology (Wright 340). However, those who support the law state that this is a necessary step in order to protect society from a dangerous group of select offenders who pose a threat to society after they complete their criminal sentence (Wright 340). Researchers currently stand by these laws, as the risk of the offender is great and the amount of careful consideration that goes into the process, as well as the a lack of alternative means, calls for civil commitment in a “rational system of sex offender management” (Wright 368).

Lifetime supervision laws are another area of sex crime legislation. Like civil commitment, lifetime supervision is intended to prevent recidivism. If a sex offender is given lifetime supervision, they are monitored and on sex offender registries for the rest of their lives (Barnes, Mancini, Mears 170; Armstrong & Freeman; Nieto). Lifetime supervision is usually reserved for high-risk offenders and is drastic compared to normal 10 to 15 year monitoring for lower risk offenders. Only 14 states have legislation that requires lifetime supervision (Barnes, Mancini, Mears 174). The only difference between lifetime supervision laws and sex offender registry laws are the length of monitoring. The results are the same as sex offender registries and community notification laws, which is that they are ineffective and create a stigma for the offender, which can encourage the offender to reoffend.

One of the newer areas for sex crime legislation is in the area of sex offender driver license notation requirements. These laws can either make offenders have a special indication on their actual driver’s license or they can require special license plates that designate that they are a sex offender (Barnes, Mancini, Mears 183; Bonnar-Kidd). This section of legislation came about due to fear that states were not updating their sex

offender registries frequently and to help identify sex offenders who move from state to state (Barnes, Mancini, Mears 170). 11 states have driver license notation requirements (Barnes, Mancini, Mears 174). There is little to no research on the effectiveness of these laws as the laws are rather new and limited.

The final area of sex crime legislation are castration laws. This type of legislation is still being experimented with among states and is often times considered controversial. Castration laws require high-risk male sex offenders to receive injections of synthetic hormones to help reduce sexual arousal (Barnes, Mancini, Mears 170; Scott & del Busto). However, some states give the sex offenders flexibility on how they would like to receive the treatment. Some states allow chemical castration or surgical castration--although not reversible, as well (Scott & Holmberg). This is the least popular area of legislation for sex crimes, with only eight states having castration laws.

Studies conducted on individuals who underwent chemical or surgical castration have shown that there have been decreases in sexual reoffending as a result (Wright 329). However, there are no conclusive studies due to the fact that large amounts of information on offenders eligible for castration is not available to the public, it is almost impossible from the public data provided to determine how many eligible offenders have refused castration, the legislation is relatively recent, only a few castrated offenders have been released into the community, and many states do not require a psychological examination before an offender receives castration (Wright 329). One item that needs to be balanced is the need to protect society with making sure treatment is safe and ethical. There has not been a case challenging the constitutionality of these laws, but a future case could help establish that boundary. Examining and understand the different areas of sex

crime laws are very important. However, it is also important to understand how these laws help or prevent prosecutors from convicting guilty sex offenders.

CHAPTER THREE

Sex Crime Legislation in California

Definitions

California Penal Code §261 defines rape as engaging in sexual intercourse with someone who is not the offender's spouse under the following conditions:

1. The victim is unable to give consent due to a mental disorder, developmental disability or physical disability (California Penal Code § 261-269; California Crime Definitions).
2. When the victim does not give consent and the act is committed against his or her will by means of "force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another." Duress is defined as an implied or direct threat of force, violence, danger, or punishment sufficient to coerce a reasonable person to perform an act they would not usually perform. Menace is defined as any threat or act that shows intent to inflict an injury upon another person (California Penal Code § 261-269; California Crime Definitions).
3. When the victims is incapable of resisting due to intoxication, anesthetic substance, or any controlled substance and this influence is known or could have reasonably be known by the offender (California Penal Code § 261-269; California Crime Definitions).
4. When the victim is "unconscious of the nature of the act" and this was known to the offender. "Unconscious of the nature of the act" is defined as incapable of resisting because the victim was unconscious, asleep, not "aware, knowing,

perceiving, or cognizant” that the act happened, what the act entailed due to fraudulent representation, or that the act had a professional purpose when it had no such purpose (California Penal Code § 261-269; California Crime Definitions).

5. When the victim believes that the offender is the victim’s spouse and therefore submits under this belief and the offender convinces the victim using artifice, pretense or concealment (California Penal Code § 261-269; California Crime Definitions).
6. When the act is committed against the victim’s will through the use of threat against the victim or another person (California Penal Code § 261-269; California Crime Definitions).
7. When the act is committed against the victim’s will through the use of threat to use the authority of a public official to incarcerate, arrest, or deport the victim or another person. Public official is referred to as someone who works for a government agency and has the power to incarcerate, arrest or deport the victim or another person. The offender does not have to be a public official. (California Penal Code § 261-269; California Crime Definitions).

The punishments for rape in California ranges depending on who the victim for the crime is. Rape as defined in this section is generally punishable by imprisonment for 3-8 years. If the victim is under 14 years of age, imprisonment generally ranges from 9-13 years. If the victim is a minor who is older than 14 years of age, imprisonment generally ranges from 7-11 years (California Penal Code § 261-269; California Crime Definitions).

California Penal Code §261.5 defines unlawful sexual intercourse as “an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor,” (California Penal Code § 261-269). Minor is defined as someone under the age of 18 and an adult is defined as someone 18 years of age or older. The punishment for engaging in sexual intercourse ranges on the extent of the act, the age of the victim, and the age of the offender. The punishments range from fines to felonies (California Penal Code § 261-269).

Unlawful sexual intercourse can take many different forms. These forms and the punishment for these acts include:

1. Sexual intercourse with a minor who is not more than three years older or three years younger than the offender is guilty of a misdemeanor (California Penal Code § 261.5).
2. Sexual intercourse with a minor who is not more than three years younger than the offender is guilty of either a misdemeanor or a felony. The offender shall be punished by imprisonment in a county jail for up to one year or imprisonment in accordance with section 1170 (California Penal Code § 261.5).
3. Any person who is 21 years old or older who engages in an unlawful sexual intercourse with a minor who is under 16 years of age is guilty of committing either a misdemeanor or a felony. The offender shall be punished by imprisonment in a county jail for up to one year or by imprisonment in accordance with section 1170 for 2-4 years (California Penal Code § 261.5).

4. In addition to the provisions listed above, an adult who engages in an act of sexual intercourse with a minor may also be liable for civil penalties that include payments up to \$25,000 (California Penal Code § 261.5).

California Penal Code §261, 262, 286, 288, and 289 defines consent as “positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved,” (California Penal Code § 261-289). A previous or current dating or marital relationship does not constitute consent where consent is in question (California Penal Code § 261-269). Additionally, the suggestion to use a form of birth control without any other evidence of consent does not constitute consent (California Penal Code § 261-289).

California Penal Code §262 outlines the definition of rape of a spouse. An offender commits spousal rape by engaging in sexual intercourse with one’s spouse under the following conditions:

1. The offender commits the act against the victim’s will by means of “force, violence, duress, menace, or fear of immediate and unlawful bodily injury” to the victim or another person (California Penal Code § 261-269; California Crime Definitions).
2. The victim is unable to resist the offender due to an intoxicating, anesthetic, or controlled substance and the offender knew of this influence or could have reasonably known of this influence (California Penal Code § 261-269; California Crime Definitions).

3. The victim was “unconscious of the nature of the act” and the offender knew of this unconsciousness. “Unconscious of the nature of the act” has the same definition for spousal rape as it does for rape (California Penal Code § 261-269; California Crime Definitions).
4. The offense is committed against the victim’s will where the offender threatens to retaliate against the victim or another person in the future. Threatening to retaliate is defined as “a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death,” (California Penal Code § 261-269; California Crime Definitions).
5. The offense is committed against the victim’s will and the offender threatens to use the authority of a public official to incarcerate, arrest, or deport the victim or another person (California Penal Code § 261-269; California Crime Definitions).

The definition of terms and phrases such as unconscious of the nature of the act, duress, menace, and public official are the same for spousal rape as they are for rape. Guilt of rape is dependent upon the outrage and feelings of the victim of the rape, no matter how slight the sexual penetration (California Penal Code § 263). California Penal Code § 243 outlines the definition of sexual battery:

1. Unwanted touching of an intimate part of a person while that person is unlawfully restrained by the accused or by an accomplice for the purpose of sexual arousal, sexual gratification, or sexual abuse (California Penal Code § 243.4; "Summary of California Law on Sex Offenders").
2. Unwanted touching of an intimate part of a person who is disabled or medically incapacitated for the purpose of sexual arousal, sexual gratification, or sexual

abuse (California Penal Code § 243.4; "Summary of California Law on Sex Offenders").

3. Unwanted touching of an intimate part of a person while the victim is “unconscious of the nature of the act” at the time of the act due to a fraudulent representation that the act served a professional purpose. The purpose of the touching was for sexual arousal, sexual gratification, or sexual abuse (California Penal Code § 243.4; "Summary of California Law on Sex Offenders”).
4. Causing the unwilling victim, who is unlawfully restrained, institutionalized for medical treatment, seriously disabled, or medically incapacitated to masturbate or touch an intimate part of the offender, the victim, or another person for the purpose of sexual arousal, sexual gratification, or sexual abuse (California Penal Code § 243.4; "Summary of California Law on Sex Offenders”).
5. Unwanted touching of an intimate part of a person where the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse (California Penal Code § 243.4; "Summary of California Law on Sex Offenders”).

The punishment for committing sexual battery ranges from imprisonment in a county jail for up to one year and a fine up to \$2,000 or imprisonment in a state prison for 2-4 years and a fine up to \$10,000 (California Penal Code § 243.4; "Summary of California Law on Sex Offenders”).

In this section, touches is defined as “physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense” (California Penal Code § 243.4; "Summary of California Law on Sex Offenders”). Intimate part is defined as “the sexual organ, anus, groin, or

buttocks of any person, and the breast of a female” (California Penal Code § 243.4; "Summary of California Law on Sex Offenders"). Seriously disabled is defined as “ a person with severe physical or sensory disabilities (California Penal Code § 243.4; "Summary of California Law on Sex Offenders”). Medically incapacitated is defined as “a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication” (California Penal Code § 243.4; "Summary of California Law on Sex Offenders”). Institutionalized is defined as “ a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital” (California Penal Code § 243.4; "Summary of California Law on Sex Offenders”). Finally, a minor is defined as “a person under 18 years of age” (California Penal Code § 243.4; "Summary of California Law on Sex Offenders”). When any of these acts are committed with a child, the punishments increase.

Sex Offender Registration and Community Notification Laws

Sex offender registration and community notification laws are present in all 50 states. However, as mentioned before, the application and establishment of these laws vary from state to state. In California, all sex offenders must register with local law enforcement agencies, but only certain offenders’ information must be placed on the Megan’s Law Internet website. Additionally, the amount of information placed on the site varies for certain offenders. Finally, the updating of this information also varies depending on the offender.

California Penal Code § 290 establishes the guidelines for registration. Registration as a sex offender is required for those who have been convicted of the sex offenses listed in Penal Code § 290 (c). However, if the offense is not listed in section 290, the offender may still be required to register if ordered by a court because the criminal offense committed was sexually motivated (California Penal Code § 290.006; "Summary of California Law on Sex Offenders"). This section also applies "automatically to the enumerates specified offenses" and persons convicted have a lifetime obligation to register (California Penal Code § 290; "Summary of California Law on Sex Offenders").

To register, the offender must appear in person to register with the police department in the city in which the offender resides. If the offender lives in an unincorporated area or city that does not have a police department, the offender must register in person with the sheriff's department ("Summary of California Law on Sex Offenders"). The offender has five working days to register after being released from custody, placed on probation, coming into or changing his or her residence within any city or county ("Summary of California Law on Sex Offenders"). If the offender resides in two or more residences, the offender must also register these additional addresses, regardless of how many days or nights the offender spends at the residences. If the residences are in two different jurisdictions, then the offender must register with both local law enforcement agencies (California Penal Code § 290.010; "Summary of California Law on Sex Offenders").

If an offender is required to register but does not have a residence address due to homelessness, the offender is required to register within five working days after being

released from custody or on probation. The offender must register every 30 days thereafter as long as they are a transient. The offender must register with the police or sheriff department in whose jurisdiction the offender is physically present on the 30th day (California Penal Code § 290.011; "Summary of California Law on Sex Offenders").

If an offender resides, is living as a transient upon, is enrolled, or is employed by a university, college, community college, or any other type of institution of higher learning, the offender must register with the campus police department, if applicable, or the police or sheriff's department in the city or county where the campus is located in addition to registering with the local law enforcement agency that has jurisdiction over the offender's residence (California Penal Code § 290.01; "Summary of California Law on Sex Offenders").

Offenders who reside outside of the state but attend school or work in California must also register as a sex offender in California if they are required to register in their state of residence (California Penal Code § 290.002; "Summary of California Law on Sex Offenders"). An employee is defined as, "as a person who is employed in California on a full or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year," (California Penal Code § 290.002; "Summary of California Law on Sex Offenders"). A student is defined as, "a person who is registered in an educational institution, as defined in Education Code section 22129, on a full or part-time basis," (California Penal Code § 290.002; "Summary of California Law on Sex Offenders"). The offender must register in the jurisdiction where the offender attends school or is employed, (California Penal Code § 290.002; "Summary of California Law on Sex Offenders").

Registered offenders must also notify the last registering agency in writing within five working days of moving. If the offender is moving to a new jurisdiction, then they must also re-register in person with the local law enforcement agency (California Penal Code § 290.013; "Summary of California Law on Sex Offenders"). If a transient moves to a new state, the offender must provide the local law enforcement agency of the jurisdiction they are currently present in with written notification of his or her move. After leaving the state, the transient must register a residence address within five working days of leaving or if he or she does not have a residential address, they must provide notification of their move and must register a residential address or transient location within five working days (California Penal Code § 290.013; "Summary of California Law on Sex Offenders").

In addition to the updates listed above, all offenders must update their registration every year within five working days of their birthday (California Penal Code § 290.012; "Summary of California Law on Sex Offenders"). Furthermore, offenders who are classified as sexually violent predators must update their registration no less than every 90 days (California Penal Code § 290.012; "Summary of California Law on Sex Offenders"). Finally, if a registrant changes his or her name, they must notify the local law enforcement agency of this change within five working days (California Penal Code § 290.014; "Summary of California Law on Sex Offenders").

If an offender was convicted in federal court, military court, or out-of-state, the offender will likely be required to register in California and should do so within five working days of moving to California. If the offender is not required to register in California, then he or she will be notified by the Department of Justice of the assessment

and termination of his or her registration (California Penal Code § 290; "Summary of California Law on Sex Offenders").

Juvenile sex offenders adjudicated of certain offenses are also required to register as sex offenders when they are released from the California Department of Corrections and Rehabilitation, Division of Juvenile Facilities (California Penal Code § 290.008; "Summary of California Law on Sex Offenders"). However, adjudicated juveniles cannot be publicly disclosed on the Internet website, but the community can be notified about a juvenile offender moving into the community if local law enforcement agencies believe the offender poses a risk to the public (California Penal Code § 290.45; "Summary of California Law on Sex Offenders").

The penalties for failing to comply with the sex offender registration requirements vary. However, in general, a registrant who is convicted of a register-able felony sex offense who knowingly violates the registration law is guilty of another felony. A registrant who is convicted of a register-able misdemeanor sex offense who violates the registration law is guilty of a felony for failing to comply with the registration law (California Penal Code § 290.018; "Summary of California Law on Sex Offenders").

If an offender successfully completes probation and has the offense dismissed, the dismissal does not relieve the person from the obligation to register as a sex offender (California Penal Code § 290.007; "Summary of California Law on Sex Offenders"). For those in the nondisclosable category, they may receive relief from the obligation to register if they obtain a certificate of rehabilitation (California Penal Code § 290.5; "Summary of California Law on Sex Offenders"). With a few exceptions, all other offenders must have a governor's pardon to be removed from the registration obligation.

An offender is eligible to apply for a certificate of rehabilitation seven to ten years after the offender's release from custody or on parole or probation, the earliest event. However, certain offenders are never able to obtain a certificate of rehabilitation (California Penal Code § 4852.01; "Summary of California Law on Sex Offenders").

California Penal Code § 290.46 specifies the requirements for the posting categories of registered sex offenders. The categories a sex offender is placed in determines if his or her information is disclosed on the Megan's Law Internet website and if so, how much of his or her information is provided to the public through the website ("Summary of California Law on Sex Offenders"). California's requirements for sex offender registration is split into five main categories, from the most restrictive to least restrictive:

The first category is the home address category. If a sex offender is placed in this category, then the home address of the offender is posted on the Megan's Law Internet website along with other information about the offender ("Summary of California Law on Sex Offenders").

The second category is the conditional home address category. This is similar to the home address category, but only designated sex offenders are placed in this category according to their conviction ("Summary of California Law on Sex Offenders").

The third category is the zip code category. If a sex offender is placed in this category, then his or her Zip code, along with other information is posted on the Megan's Law Internet website. The home address is not posted ("Summary of California Law on Sex Offenders").

The fourth category is the undisclosed category. If a sex offender is placed in this category, then they may not be found on the Megan's Law Internet website. They must still register with the local law enforcement agencies ("Summary of California Law on Sex Offenders").

The fifth category is the excluded category. A sex offender can apply to be excluded from the Megan's Law Internet website. Exclusion is generally granted for offense such as felony sexual battery (California Penal Code § 243.4(a)) or a misdemeanor annoy/molest children (California Penal Code § 647.6.) ("Summary of California Law on Sex Offenders"). Exclusion must be given if there is register-able offense or a felony child pornography where the victim was at least 16 years or older (California Penal Code § 311; "Summary of California Law on Sex Offenders"). Exclusion can also be granted if an offender successfully completes probation for an offense in which the victim "was their child, stepchild, sibling, or grandchild, and which did not involve either oral copulation or penetration of the victim,"("Summary of California Law on Sex Offenders"). In 2012, the exclusion rule was amended to ensure that offenders who were in risk levels above low or moderate-low would not be able to receive exclusions. Those who are placed in this category must still register as a sex offender with local law enforcement agencies ("Summary of California Law on Sex Offenders").

Besides the normal categorization of sex offenders, there is a separate category for sexually violent predators. These offenders are defined as "a person who has been convicted of a sexually violent offense against one or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of

others in that it is likely that he or she will engage in sexually violent criminal behavior,” (“Summary of California Law on Sex Offenders”). These offenders have additional requirements, such as having to update their registration more often.

Once these offenders are registered, local law enforcement agencies have the right to notify communities about the residence of certain sex offenders in the community. However, this is only done if the offender is thought by law enforcement agencies to pose a risk to the community (California Penal Code § 290.45; “Summary of California Law on Sex Offenders”).

Sergeant Christopher Lick from the Escondido Police Department states that the Megan’s Law Internet website “is a great tool and it is used daily by members of the public to educate themselves about who is living in their neighborhood.” However, sex offender registration and community notification laws in California do have some shortcomings. While these types of laws are largely seen as ineffective, as mentioned earlier, the shortcomings in California are due to a lack of interest in the registries, lack of resources, and loopholes offenders find within the law. The main problem with Megan’s Law is that not enough people in the public look at the registry. Sergeant Ron Edwards from the San Diego County Sheriff’s Department states, “just because you build a better mousetrap, it doesn’t always mean people will use it. Even though the Megan’s Law website gives easy access to this information, it is rarely accessed by citizens. Public education and highly publicized sexual assault cases increase web traffic and awareness of Megan’s Law, but most citizens that we contact admit they know about it, but don’t use it.” Additionally, local law enforcement agencies do not always have the resources to properly enforce Megan’s Law. For example, Edwards states that it is “up to each agency

to decide whether or not to allocate resources to ensure sex offenders are abiding by Penal Code 290.” Additionally, another challenge that contributes to the ineffectiveness of these laws is the large amount of sex offenders in most communities. Edwards states that “the number of offenders is staggering since compliance checks are very time consuming and often difficult for some smaller agencies. If other agencies are not conducting compliance checks, offenders may have moved out of their jurisdiction and into another jurisdiction without the other agency’s knowledge.” Additionally, command audits are only conducted once a year. This means “if an offender moves into the community we just audited the day after, we won’t verify them until the following year,” (Edwards). Furthermore, the homeless community creates some problems for local law enforcement agencies striving to keep track of sex offenders. Edwards shed light on this issue by providing more details about transients who need to register:

If you are a transient, you are required to register anywhere in California every 30 days. An offender can register in Sacramento and within the 30 days he/she can travel to San Diego and register. In essence, it is nearly impossible for any citizen to view the Megan’s Law website and memorize all 6,500 transient offenders in California in order to protect themselves. When we perform compliance check operations we do not target transient offenders since we have no idea where they are on that specific date. We only contact those offenders who have an address to verify.

Even if local law enforcement agencies are able to find an offender who is not in compliance with registration laws, an extensive investigation needs to be made and the District Attorney’s office is required to prove the case beyond a reasonable doubt (Edwards). Finally, the stigma associated with being a registered sex offender can have negative side effects for the community as a whole. Sex offenders may face harassment or problems finding employment, and therefore may revert to a life of crime. For example, to avoid these registration requirements, “if their [a sex offender’s] classification is ‘Full Address’ which means their complete address is posted on Megan’s

Law [Website] they sometimes register as transient so they don't appear on the map," (Edwards). This can be seen in the incidence that lead to the deaths of Amber Dubois and Chelsea King:

From the perspective of a unit whose mission is to monitor sex offenders through compliance checks, the fact that the killer John Gardner was a sex offender was very troublesome. While I was not on the task force at that time, a lot of questions were asked as to why this sex offender was unregistered in San Diego County. This is the complexity of tracking sex offenders. In essence it's an honor system. They tell us where they are going to live and we register that address. In the case of John Gardner, if I remember correctly, he was registered in Riverside County but was actually living with this mother in the city of San Diego. He probably did this to avoid being a dot on the Megan's Law website map. The embarrassing question is did the law enforcement agency in Riverside ever confirm his home address? Even then, as mentioned above, there are so many variables as to how the offender can defeat the system (Edwards).

These loopholes can cause the law to be less effective than it could be and can lead to horrific crimes.

Residence Restrictions and GPS Monitoring

Sex offender registration and community notification laws allow the public to be informed about sex offenders within their community. However, some do not find these laws sufficient and went further to seek the wellbeing of their community. Following the Sexually Violent Offender Registration Act, more than 30 states and hundreds of individual counties established some form of residential restrictions for sex offenders (Zucker 101). After some provisional restrictions, California voters passed Proposition 83 in November 2006, which established specific residential restrictions for sex offenders (Zucker 101). The Proposition is known as the Sexual Predator Punishment and Control Act: Jessica's Law (SPPCA), (Zucker 101). Jessica's Law is known for its main provision, which prohibited registered sex offenders from living within 2,000 feet of places where children gather, such as parks and schools (Zucker 102). Additionally, Jessica's Law increased penalties for sex offenses and required GPS monitoring for sex

offenders, both on parole or probation and not on parole or probation (Zucker 102). However, ambiguity in the wording of this law led to confusion surrounding which sex offenders this restriction applies to, whether violating the law constitutes another criminal offense, punishments for non-compliance, and various terms in the statute. For example, the phrase, “places where children gather” was unclear and often broadened. Due to this broadening, this law greatly limited where offenders could reside, leading to homelessness (Zucker 109). This homelessness also affected the GPS monitoring aspect of the law. California currently leads the nation in tracking sex offenders (Gies et al.). While Jessica’s law expanded GPS tracking to more offenders, it also complicated GPS tracking. For example, if the offender is homeless, they will have a harder time trying to charge the device twice a day.

The passage of Jessica’s Law required that all California registered sex offenders on parole must have GPS supervision (“San Diego County District Attorney”). The supervision is split into two categories: active and passive. If a sex offender is on active monitoring, parole agents are notified immediately if they enter into a restricted area and their movements are reviewed daily (“San Diego County District Attorney”). If a sex offender is on passive monitoring, their movements are only reviewed if law enforcement requests the tracks (“San Diego County District Attorney”). California Penal Code § 3004 (b) requires lifetime monitoring. However, the section does not specify who should monitor, funding for the monitoring, or penalties for failure to comply. Due to these shortcomings, some local law enforcement agencies are unable to monitor offenders who have been discharged from parole (“San Diego County District Attorney”).

On Monday, March 02, 2015, the California Supreme Court overturned the residency restrictions for sex offenders. A group of registered sex offenders from San Diego County challenged the law due to the fact that the restrictions made it impossible for them to find housing ("Sex-Offender Housing Limits in CA Overturned"). Justice Marvin Baxter wrote that this law "infringed their liberty and privacy interests, however limited, while bearing no rational relationship to advancing the state's legitimate goal of protecting children from sexual predators, and has violated their basic constitutional right to be free of unreasonable, arbitrary and oppressive official action," ("Sex-Offender Housing Limits in CA Overturned"). The residency restrictions are now to be taken on a case-by-case basis ("Sex-Offender Housing Limits in CA Overturned").

Castration Laws

Courts may require first time offenders of certain sex crimes committed against children under the age of 13 to undergo medroxyprogesterone acetate (MPA) treatment or chemical treatment, in addition to other forms of punishment, before they are placed on parole. For repeat offenders, the treatment must be given before they can go on parole. (California Penal Code § 645; "Castration of Sex Offenders"). However, offenders are given the choice of surgical castration if they would rather not receive chemical treatment. The Department of Corrections (DOC) gives the treatment one week prior to the offender's release from custody and continues giving this treatment until the DOC shows the Board of Prison Terms that the treatment is no longer needed (California Penal Code § 645; "Castration of Sex Offenders"). The DOC must inform the offender about to receive the treatment about the effects of the chemical treatment and the side effects that may occur (California Penal Code § 645). The crimes that could qualify an offender for

chemical castration include: sodomy, oral copulation, lewd and lascivious acts done with force, violence, duress, or fear of bodily harm, and rape committed with force, violence, duress, or fear of bodily harm (California Penal Code § 645; "Castration of Sex Offenders").

CHAPTER FOUR

Chelsea's Law

“Everything about the King case and Dubois case left an impact on our community and our state...I think it shows the power of resilience and parents that take something very tragic and horrific and turn it around to make it a positive legacy.”

-Bonnie Dumanis, District Attorney of San Diego, California

In recent years, the United States has seen a sharp increase in the amount of sex crime legislation. Some of the legislation that has been enacted has been less effective than anticipated and has had negative, unforeseen side effects. Chelsea's Law is not one of those laws. Chelsea's Law is designed to protect the community from violent sexual predators who attack children. The law is named after Chelsea King, a bright young woman who disappeared on the afternoon of February 25, 2010 while on a run ("Chelsea's Light Foundation"). The San Diego community joined together and searched for days until the worst was discovered. Chelsea's body was found just off the running trail in a shallow grave by Lake Hodges ("Chelsea's Light Foundation"). It was later discovered that Chelsea was the victim of a horrible crime committed by a convicted sex offender. The offender later confessed and plead guilty to taking the life of Chelsea King and another young woman in the San Diego community, Amber Dubois.

As a result of this tragedy, the King family established Chelsea's Law (AB1844) to help prevent tragedies like this from happening again. It was signed unanimously into law in September 2010 with the purpose of ensuring that the state is doing everything

within its power to keep sex offenders who prey on children from committing more horrific crimes, whether that is through tracking them upon release or putting them away for life ("Chelsea's Light Foundation"). Chelsea's Law has seven major elements:

1. It established a new one-strike policy for sexual predators who commit the worst and most violent sex crimes against children. This means that the worst offenders are given life without the chance of parole. In addition, it increased other penalties for sex crimes committed against minors through the use of force, violence, duress, menace, and/or fear (Chelsea's Law; "Chelsea's Light Foundation").
2. It increased the parole periods with active GPS monitoring for offenders convicted of a felony for sex crimes involving physical contact with children. There is also a new restriction against parolees convicted for sex crimes loitering in parks (Chelsea's Law; "Chelsea's Light Foundation").
3. It established the "containment model" proposed by California's Sex Offender Management Board, which increases oversight, psychological evaluations, and polygraph testing for all sex offenders on parole or probation (Chelsea's Law; "Chelsea's Light Foundation").
4. It established a Dynamic Risk assessment model to help evaluate a sex offender's risk for new sexual violence (Chelsea's Law; "Chelsea's Light Foundation").
5. It updated the Megan's Law Internet website so that it included more useful and important data for law enforcement agencies and the public, specifically in regards to risk of the sex offenders in the community (Chelsea's Law; "Chelsea's Light Foundation").

6. It funded victim services and outreaches as well as developed more resources for Sexual Assault Felony Enforcement (SAFE) teams in rural areas (Chelsea's Law; "Chelsea's Light Foundation").
7. It changed the Mentally Disordered Offender (MDO) evaluation process so that offenders who are deemed too dangerous to be released, by two psychologists, are kept in detainment (Chelsea's Law; "Chelsea's Light Foundation").

To see the impact of this law, Chelsea's Light Foundation has been conducting Chelsea's Law Impact Reports in several counties in California. The first report was published in September 2011 and used San Diego County as "a geographic snapshot" because it is the second largest city in California ("Chelsea's Law Report, September 2011"). The report found that in a 12-month period, 19 people in San Diego County had been charged under Chelsea's Law ("Chelsea's Law Report, September 2011"). In October 2012, Chelsea's Light Foundation conducted another report in San Diego County and found that 22 people had been charged under Chelsea's Law ("Chelsea's Law Report, October 2012"). The following year, Chelsea's Light Foundation included information from four counties in California: San Diego, Los Angeles, Orange, and Riverside. From October 2012 to October 2013, 382 people were charged under Chelsea's Law in these counties ("Chelsea's Law Impact Report, 2013"). In the most recent report conducted, Chelsea's Light Foundation found that in five counties in California, San Diego, Los Angeles, Orange, Riverside, and Sacramento, 286 people were charged under Chelsea's Law ("Chelsea's Law Impact Report 2014").

Chelsea's Light Foundation states that Chelsea's Law has "helped to protect the 9.3 million children [currently residing] in California." While this is impressive, the

effect of Chelsea's Law can be seen beyond the impact reports and the information provided by the Chelsea' Light Foundation. Chelsea's Law did not only help to address issues that other sex crime legislation has failed to acknowledge, but it did this while remaining a revenue neutral bill that has also been accepted warmly by law enforcement agencies and prosecutors.

The goal of sex crime legislation is to punish those who commit atrocious crimes, reduce the occurrences of these crimes, and to prevent recidivism. However, some sex crime legislation falls short of meeting this goal. As shown, Megan's Law, while a good law, does not have a statistically significant effect on forcible rate statistics. While some argue that Megan's law is ineffective, Chelsea's Law helps to meet the shortcomings of this legislation. Chelsea's law provides a more comprehensive and consistent scoring system for sex offenders and places more parolees on active GPS monitoring (Chelsea's Law; "Chelsea's Light Foundation"). The new scoring system provides law enforcement agencies with more information on the offender and therefore allows them to take note of which offenders might be more of a risk to the community. Furthermore, by placing the offender on active GPS monitoring, local law enforcement agencies are immediately notified if an offender is in an area where children are present, such as a park. This allows law enforcement agencies to keep better track of offenders and helps to keep these offenders more accountable. Additionally, it prevents the most dangerous offenders who prey on children from ever being placed back on the streets. Furthermore, this law gives prosecutors more tools to use to ensure the safety of the public. Edwards emphasizes that before Chelsea's law the penal code did not allow for the correct punishment: "In my opinion, with John Gardner's past convictions and severity of those offenses, he should

have been in prison for decades. He wasn't and that's a problem with California's penal system." Chelsea's law aimed to correct this weakness in the penal code through its life sentence provision.

Some have asked if this legislation is too harsh. While giving a sex offender life without the chance of parole might be harsh, especially since some murderers do not even receive this punishment, Former State Assembly Member Nathan Fletcher, who worked with the King family to write the law, believes that the major difference is in the recidivism rates. Fletcher emphasized that data shows that murderers tend to have lower recidivism rates than sex offenders, which justifies the need for this harsh legislation (Fletcher). Fletcher is not the only person to hold this belief. Bonnie Dumanis, the District Attorney of San Diego believes that "there is only one true way [to curb recidivism] and that is to keep them [sex offenders] in prison for the rest of their lives."

Edwards echoed a need for life sentences:

Issuing life sentences for sex offenders seems to be the only guarantee to protect the public from the most serious offenders...The true details that investigators discover of sexual assaults would cause a normal person to give up faith in the human race. The indescribable actions of the offender understandably demand immediate and lasting retaliation such as life in prison. I believe certain offenses and repeat offenders require a life sentence without the possibility of parole. Recently there are some lawmakers who also share my opinion, which is evident by recent law changes and pending law amendments.

Lick furthered reiterated the importance of certain sex offenders receiving life sentences, "incarceration is certainly warranted in some cases. I have interviewed countless child molesters and many have said they are unable to control their urges and re-offending is going [to be] inevitable." While some see the purpose behind life sentences, some advocate for a different avenue, rehabilitation and treatment.

Rehabilitation and treatment are championed as a way to curb recidivism. However, many believe that rehabilitation and treatment is not possible for all offenders.

Edwards states, “in my opinion, rehabilitation is based on an individual’s desire to have self-control. You either resist your desires or don’t. This is no different than an alcoholic who can resist that first drink or a person who quits smoking. The desires are equally strong and can both be equally controlled.... If the offender has no desire to curb their own behavior then [they] will continue to re-offend.” Lick also holds the belief that some can be rehabilitated while other cannot, “most child molesters cannot be rehabilitated. I believe rapists often can because the circumstances are different.” However, Dumanis holds a firmer belief. When asked if she believed sex offenders could be rehabilitated, she responded, “I don’t think that is possible, but the law requires us to try.” Chelsea’s Law does acknowledge that treatment can be a useful tool for certain offenders, which can be seen through its requirement that particular offenders receive treatment as a condition for parole (Chelsea’s Law).

Chelsea’s Law does not only address the issues that other sex crime legislation failed to address, but it does this while being a “revenue neutral bill,” (Fletcher). When writing this law, it was a goal to not overcrowd the prisons or cost the taxpayers more money (Fletcher). In order to alleviate the cost of placing more sex offenders in prison, Fletcher worked within the means of justice to lessen punishments for crimes that should not be punished as harshly, such as petty theft with a prior, to keep the costs neutral (Fletcher). Additionally, Chelsea’s Law has also been reformed and updated since the law was signed in 2010. Following the initial law, there have been a few clean up bills to improve the original legislation (Fletcher).

Finally, law enforcement agencies and prosecutors in the community have largely accepted Chelsea’s Law. When asked about his thoughts on Chelsea’s Law, Edwards

stated, "I'm 100% behind it." Lick reiterated this opinion stating, "it is a great tool and, with some offenders, it is completely appropriate. Also, because of the heavy penalties, the Law may be a deterrent to those who want to offend." Lastly, Dumanis echoed support for Chelsea's Law, "there are aspects of the legislation which I think are very helpful and there are aspects of the legislation that...are difficult to prosecute. But for the most part it has been a good tool because it added some consequences that are very real and have changed the dynamic...some of these [offenders] are going to get out and if they are going to get out we needed a higher level of accountability and monitoring of them and I think that added that too."

Chelsea's Law seems to be a promising law to date. It addresses the holes in other legislation, is a revenue neutral bill, and has the support of local law enforcement agencies and prosecutors within the community. While forcible rape statistics have decreased since 2010, when Chelsea's Law was signed, there is not enough information currently to run regressions on this data (Uniform Crime Reporting Statistics). However, in order for Chelsea's Law to be an effective piece of legislation, it must be properly enforced. There must be enough manpower to parole the offenders who are out in the community and the changes the law calls for must be applied to the Megan's Law Internet website, risk assessment, and parole periods.

In the future, if there is proper enforcement, I foresee Chelsea's Law continuing to be a very useful and successful piece of legislation. While the legislation was created in response to a very specific high profile case, the legislation thoughtfully and thoroughly addresses all the issues that previous sex crime legislation failed to do. I believe that Chelsea's Law will lower sex crime rates overall and have a significant

impact on lowering sex crime recidivism rates. I would recommend that law enforcement agencies enforce the legislations to the fullest so that the impact of this legislation can be fully seen and felt in California. I would also recommend that Chelsea's Light Foundation continues conducting impact reports and that more research is done on the influence of Chelsea's Law, once more time has passed and more data is available.

February 25, 2010 is a day that will always be remembered within the San Diego community. The horrific events that occurred on that day did not only change and impact the community, but also the law. The legacy that Chelsea left touched the lives of those in the community and helped to better sex crime legislation in California. Because of Chelsea, sex crime legislation is better. Because of Chelsea, California is safer.

BIBLIOGRAPHY

- Agnew, Robert, and Timothy Brezina. *Juvenile Delinquency*. 4th ed. Oxford University Press, 2012. Print. 27 October 2014.
- "Alcohol and Crime." *Bureau Of Justice Statistics*. U.S. Department of Justice. Web. 04 Oct. 2014. <<http://www.bjs.gov/content/pub/pdf/ac.pdf>>.
- Armstrong, G. S., & Freeman, B. C. "Examining GPS Monitoring Alerts Triggered by Sex Offenders: The Divergence of Legislative Goals and Practical Application in Community Corrections." *Journal of Criminal Justice*, 39, 175-182. April 2011. Web. 23 April 2013. <http://www.sciencedirect.com/science/article/pii/S0047235211000201>
- "Arrest Data: 2006-2010." *Uniform Crime Reports, FBI*. Web. 26 July 2011. Web. 04 Oct. 2014. <<http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/violent-crime/rapemain>>.
- Bandy, R. "Measuring the Impact of Sex Offender Notification on Community Adoption of Protective Behaviors." *Criminology & Public Policy*, 10, 237-263. 23 April 2013.
- Barnes, J. C., Dukes, T., Tewksbury, R., & De Troye, T. M. "Analyzing the Impact of a Statewide Residence Restriction Law on South Carolina Sex Offenders." *Criminal Justice Policy Review*, 20, 21-43. April 23, 2013.
- Barnes, J.C, Mancini, Christina, and Mears, Daniel P. 2011. "It Varies From State to State: An Examination of Sex Crime Laws Nationally." *Criminal Justice Policy Review*. 10 October 2011. Web. 24 Mar. 2013. <http://cjp.sagepub.com/content/24/2/166.full.pdf>
- Becker, Judith, and Scotia Hicks. *Juvenile Sexual Offenders: Characteristics, Interventions, and Policy Issues*. Print. April 2013.
- Birgden, A., & Cucolo, H. "The Treatment of Sex Offenders: Evidence, Ethics, and Human Rights." *Sexual Abuse: A Journal of Research and Treatment*. October 2011. Web. 23 April 2013. <http://sax.sagepub.com/content/23/3/295.full.pdf+html>.
- Bonnar-Kidd, K. K. "Sexual Offender Laws and Prevention of Sexual Violence or Recidivism." *American Journal of Public Health*, 100, 412-419. March 2010. Web. 13 April 2013. <http://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2008.153254>.

- “California Crime Definitions.” RAINN| Rape, Abuse and Incest National Network. Web. 04 Oct. 2014. <<http://apps.rainn.org/policy-crime-definitions/index.cfm?state=California&group=3>>.
- "California Penal Code Section 261-269." *CA Codes (Pen:261-269)*. Web. 01 Feb. 2015. <<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=261-269>>.
- Carpenter, Catherine. “Legislative Epidemics: A Cautionary Tale of Criminal Laws that Sweep the Country.” *Social Science Research Network*. 27 August 2009. Web. 23 April 2013. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1462784
- "Castration of Sex Offenders." *Castration of Sex Offenders*. Web. 16 Mar. 2015. <<http://www.cga.ct.gov/2006/rpt/2006-R-0183.htm>>.
- Center for Sex Offender Management. *Sex Offender Registration: Policy Overview and Comprehensive Practices*. Silver Spring, MD. 1999. April 23, 2013.
- Chelsea’s Law. AB1844 (2010). 16 Feb. 2015.
- "Chelsea’s Law Report, September 2011." *Chelsea's Light Foundation*. Sept. 2011. Web. 15 Mar. 2015. <<http://www.chelseaslight.org/wp-content/uploads/Chelseas-Law-Impact-Report-2011.pdf>>.
- "Chelsea’s Law Report, October 2012." *Chelsea's Light Foundation*. Oct. 2012. Web. 15 Mar. 2015. <<http://www.chelseaslight.org/wp-content/uploads/Chelseas-Law-Impact-Report-2012.pdf>>.
- "Chelsea’s Law Impact Report, 2013." *Chelsea's Light Foundation*. Oct. 2013. Web. 15 Mar. 2015. <<http://www.chelseaslight.org/wp-content/uploads/Chelseas-Law-Impact-Report-2013.pdf>>.
- "Chelsea’s Law Impact Report 2014." *Chelsea's Light Foundation*. Oct. 2014. Web. 15 Mar. 2015. <<http://www.chelseaslight.org/wp-content/uploads/2014-Chelseas-Law-Impact-Report.pdf>>.
- "Chelsea’s Light Foundation." *Chelsea’s Light Foundation*. Web. 15 Jan. 2015.
- “Criminal Victimization, 2003.” *National Crime Victimization Survey*. U.S. Department of Justice, 2003. Web. 04 Oct. 2014. <<http://www.bjs.gov/content/pub/pdf/cv03.pdf>>.
- "Criminal Victimization, 2005." *2005 National Crime Victimization Survey*. U.S. Department of Justice, 2005. Web. 14 Oct. 2014. <<http://www.bjs.gov/content/pub/pdf/cv05.pdf>>.

- "Criminal Victimization 2012." *2012 National Crime Victimization Survey*. U.S. Department of Justice, Oct. 2013. Web. 04 Oct. 2014. <<http://www.bjs.gov/content/pub/pdf/cv12.pdf>>.
- Dumanis, Bonnie. Personal Interview. 11 February 2015.
- Edwards, Ron. Personal Interview. 05 February 2015.
- "Facts and Statistics: What You Need to Know About Sex Offenders." *Center for Sex Offender Management*. Center for Sex Offender Management, 2008. Web. 20 Oct. 2014. <http://www.csom.org/pubs/needtoknow_fs.pdf>.
- Falconer, Robert, ed. "Identifying and Treating Youth Who Sexually Offend: Current Approaches, Techniques, and Research." Ed. Robert Geffner, Kristina, Crumpton Franey, and Teri Geffner Arnold. Vol. 13. Binghamton: Haworth Maltreatment & Trauma, 2004. Print. April 2013.
- Farley, Lara G. "The Adam Walsh Act: The Scarlet Letter of the Twenty-First Century." *HeinOnline* (2008): 471-503. Web. 28 Apr. 2014. <http://heinonline.org/HOL/Page?handle=hein.journals/wasbur47&div=26&g_sent=1&collection=journals>.
- Fletcher, Nathan. Personal Interview. 17 March 2015.
- Freeman, Naomi J., and Jeffrey C. Sandler. "The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative?" *Criminal Justice Policy Review*. SAGE, 25 June 2009. Web. 20 Oct. 2013. <<http://cjp.sagepub.com/content/21/1/31>>.
- Gies, Stephen V., Randy Gainey, Marica I. Cohen, Eoin Healy, Dan Duplantier, Martha Yeide, Alan Bekelman, Amanda Bobnis, and Michael Hopps. "Monitoring High-Risk Sex Offenders With GPS Technology: An Evaluation of the California Supervision Program, Final Report." *NCJRS*. U.S. Department of Justice. 2012. Web. 17 Feb. 2015. <<https://www.ncjrs.gov/pdffiles1/nij/grants/238481.pdf>>.
- Heger, David M. "Jacob, Megan, and Pam: Federal Sex Offender Registration Legislation." 25 September 2000. Print. 24 April 2013.
- Hoghugh, Masud, "Working with Sexually Abusive Adolescents." ED. Surya R. Bhate, and Finlay Graham. Thousand Oaks: SAGE Publications, 1997. Print. April 2013.
- Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. (1994). *Public Law* 103-322. 01 May 2013.
- Kent v. United States*. Supreme Court. 1965. Print. April 2014.

- Langan, Patrick A., and David J. Levin. "Recidivism of Prisoners Released in 1994." *Federal Sentencing Reporter* 15.1:58-65. Bureau Of Justice Statistics. U.S. Department of Justice. 2002. Web. 04 Oct. 2014. <<http://www.bjs.gov/content/pub/pdf/rpr94.pdf>>.
- Langan, Patrick A., Dr., Erica L. Schmitt, and Matthew R. Durose. "Bureau of Justice Statistics." *Recidivism of Sex Offenders Released from Prison in 1994* (2003): 1-40. U.S. Department of Justice. Office of Justice Programs. Web. 18 Oct. 2014.
- Levenson, J. S. "Sexual Predator Civil Commitment: A Comparison of Selected and Released Offenders." *International Journal of Offender Therapy and Comparative Criminology*, 48, 638-648. November 2004. Web. 23 April 2013. <http://ijo.sagepub.com/content/48/6/638.full.pdf+html>.
- Lick, Christopher. Personal Interview. 21 February 2015.
- Megan's Law, H.R.2137 (1996). 01 May 2013.
- "National Crime Victimization Survey." *National Crime Victimization Survey*. Bureau of Justice Statistics. Web. 04 Oct. 2014. <<http://www.bjs.gov/index.cfm?ty=dcdetail&iid=245>>.
- "National Crime Victimization Survey: 2008-2012." *National Crime Victimization Survey*. Justice Department, 2012. Web. 04 Oct. 2014. <<http://www.bjs.gov/developer/ncvs/>>.
- Nieto, M. "Community Treatment and Supervision of Sex Offenders: How it's Done Across the Country and in California." *Sacramento: California Research Bureau*. December 2004. Web. 23 April 2013. <https://www.library.ca.gov/crb/04/12/04-012.pdf>.
- "Offenses Cleared Data: 2006-2010." *Uniform Crime Reports, FBI*. 2011. Web. 04 Oct. 2014. <<http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/violent-crime/rapemain>>.
- RAINN| Rape, Abuse and Incest National Network. Web. 04 Oct. 2014. <<http://apps.rainn.org/policy-crime-definitions/index.cfm?state=California&group=3>>.
- "Rape and Sexual Assault: A Renewed Call to Action." The White House Council on Women and Girls, Jan. 2014. Web. Oct. 2014. <https://www.whitehouse.gov/sites/default/files/docs/sexual_assault_report_1-21-14.pdf>.
- "San Diego County District Attorney." *Sex Offenders, Sex Offender Monitoring and the*

- Law. Web. 15 Mar. 2015. <<http://www.sdcda.org/preventing/sex-offenders/>>.
- "Sex-Offender Housing Limits in CA Overturned." *Courthouse News Service*. 03 Mar. 2015. Web. 10 Mar. 2015. <<http://www.courthousenews.com/2015/03/03/sex-offender-housing-limits-in-ca-overturned.htm>>.
- "Sex Offenses and Offenders." *Bureau Of Justice Statistics*. U.S. Dept. of Justice, Office of Justice Programs. Web. 6 Feb. 1997. <<http://www.bjs.gov/content/pub/pdf/SOO.PDF>>. Web. 04 Oct. 2014.
- Scott, C. L., & Holmberg, T. "Castration of Sex Offenders: Prisoners' Rights vs. Public Safety." *Journal of the American Academy of Psychiatry and Law*, 31, 502-509. 2003. Print. 23 April 2013.
- Scott, C., & del Busto, E. (2009). "Chemical and Surgical Castration." In R. G. Wright (Ed.), *Sex Offender Laws: Failed policies, new directions* (pp. 291-338). April 13, 2013.
- "Summary of California Law on Sex Offenders." *Megan's Law*. State of California Department of Justice. Web. 18 Feb. 2015. <<http://www.meganslaw.ca.gov/registration%5Claw.aspx>>.
- Tjaden, Patricia Godeke., and Nancy Thoennes. "Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey." *U.S. Dept. of Justice, Office of Justice Programs, National Institute of Justice*, 1998. Web. 04 Oct. 2014. <<https://www.ncjrs.gov/pdffiles/172837.pdf>>.
- "Uniform Crime Reporting Statistics." *Uniform Crime Reporting Statistics*. Web, 18 Mar. 2015. <http://www.ucrdatatool.gov/Search/Crime/State/RunCrimeTrendsInOneVar.cfm>.
- "The World Health Report 2002." World Health Organization, 2002. Web. April 2015. <http://www.who.int/whr/2002/en/whr02_en.pdf?ua=1>.
- Wright, Richard Gordon. *Sex Offender Laws: Failed Policies, New Directions*. New York: Springer, 2009. Print. 24 March 2013.
- Velázquez. Tracy. *The Pursuit of Safety: Sex Offender Policy in the United States*. New York: Vera Institute of Justice, 2008. Print. April 2014.
- Zucker, Bruce. "Jessica's Law Residency Restrictions in California: The Current State of the Law." *Golden Gate University Law Review* (2014): 101-15. *Ebsco Host*. 01 May 2014. Web. 16 Feb. 2015.

<<http://eds.b.ebscohost.com.ezproxy.baylor.edu/ehost/pdfviewer/pdfviewer?sid=e10ec862-6346-4371-b372-288a8c542612%40sessionmgr111&vid=4&hid=103>>.