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## **Sex Offender Policies that Spin the Revolving Door: An Exploration of the Relationships Between Residence Restrictions, Homelessness, and Recidivism**

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SEX OFFENDER POLICIES THAT SPIN THE REVOLVING DOOR: AN  
EXPLORATION OF THE RELATIONSHIPS BETWEEN RESIDENCE RESTRICTIONS,  
HOMELESSNESS, AND RECIDIVISM

by

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## ABSTRACT

Within the past two decades, a variety of specialized sex offender legislation has been implemented across the United States. Typically brought about in attempt to ebb the societal disquiet after notorious sexual assault cases are sensationalized in the media, these policies appear to be based on faulty assumptions, and lack any evidence-based foundation. In fact, empirical research suggests that policies such as sex offender registration, community notification, and residence restrictions do little to prevent sexual offending, and may actually work to increase the risk of these events through a number of collateral consequences. The current study critically examines the rationale of sex offender laws, and particularly considers the outcomes of the residence restriction that was implemented in South Carolina in 2011. Utilizing data from the South Carolina sex offender registry, I found that, at least in the current analysis, the residence restriction did not increase rates of homelessness or recidivism. I did, however, find support for a positive association between homelessness and recidivism. Implications and future directions are discussed.

## TABLE OF CONTENTS

Acknowledgements .....	iii
Abstract .....	iv
Chapter 1: Introduction .....	1
1.1 Sex Offender Legislation .....	3
1.2 Legislation Rationale .....	19
1.3 Legislation Outcomes & Implications .....	26
1.4 Legislation in South Carolina .....	35
Chapter 2: Method .....	39
2.1 Data & Sample .....	39
2.2 Measures .....	40
2.3 Analytic Strategy .....	42
Chapter 3: Results .....	44
Chapter 4: Discussion .....	50
References .....	60

## CHAPTER 1

### INTRODUCTION

When an individual is convicted of a serious crime in the United States, they are often sentenced to serve a term of incarceration, typically for the purpose of punishment, treatment, and/or supervision. In most circumstances, when the individual has completed his/her sentence, or paid their debt to society, so to speak, he/she is essentially free to reintegrate back into society, and move on. There is a particular group of offenders, however, who face continued punishment long after a sentence has been completed, often for the remainder of their lives. These extra measures can make reintegrating back into society, and moving on with one's life, extremely difficult, if not impossible. These post-correctional sanctions are commonly justified as an attempt to prevent recidivism among this specific group. Interestingly, there is no evidence to suggest this group reoffends at a greater rate than other offenders. In fact, research has shown that they tend to reoffend significantly less (Durose, Cooper, & Snyder, 2014; Lancaster, 2011). So, why does this group get such exceptional treatment? Because they are sex offenders.

Offenses of a sexual nature have long been viewed by the criminal justice system, and by society in general, as a unique group of especially egregious crimes deserving of unique legislation. On the surface, this may seem reasonable. Often, when people think of the term "sex offender" they think of brutal rapists and malevolent child molesters. In reality, the average person labeled as a sex offender in the U.S. is quite different from this

stereotype (Snyder, 2000). The wide variety of registrable offenses across jurisdictions in the U.S., from public urination, to prostitution, to consensual teenage sex, for example, has caused this population to grow quickly and become increasingly diverse. At the same time, notorious cases of violent sexual offenses have heightened societal disquiet, urging lawmakers to react by developing unique legislation for these types of crimes. Unfortunately, these laws tend to be based on faulty assumptions rather than empirical evidence, and fail to account for the composition of this group of offenders, and what factors impact their risk of recidivism. Investigations of the outcomes of such legislation indicate that these laws typically do not reduce sexual offending, and in fact have resulted in an array of adverse collateral consequences (Adkins, Huff, Stageberg, Prell & Musel, 2000; Letourneau, Levenson, Bandyopadhyay, Sinha, & Armstrong, 2010; Sandler, Freeman & Socia, 2008; Schram & Meloy, 2005; Tewksbury, Jennings & Zgoba, 2012; Zgoba, Witt, Dalessandro & Veysey, 2008).

One of the most troubling unintended outcomes of specialized sex offender legislation is increased rates of homelessness among this population (Barnes, Dukes, Tewksbury & De Troy 2009; Berenson & Appelbaum 2011; Chajewski & Mercado, 2008; Levenson and Cotter, 2005; Socia, 2011; Tewksbury, 2005; Zevitz & Farkas, 2000; Zgoba, Levenson & McKee 2009). Homelessness is an especially important issue to consider, as it has been identified as a strong risk factor for offending (Hanson & Harris, 2000; Hanson & Morton-Bourgon, 2004, 2005; Halsey, 2007). This relationship, however, appears yet to be tested among registered sex offenders specifically. If these laws do indeed result in increased rates of homelessness, and the relationship between homelessness and recidivism holds true for registered offenders, then such laws are



effectively working to increase offending among this group, rather than decrease it. The current research will explore how South Carolina's sex offender residence restriction law impacts rates of homelessness among the state's registered sex offender population, as well as investigate whether the relationships between homelessness and recidivism exists within this group. Answering these questions will help gain a better understanding of how the current sex offender laws affect rates of recidivism among registered offenders, and can help guide policy makers in developing evidence based policy to prevent these horrible events.

This thesis will begin by briefly outlining the history of the legislation that surrounds sex offender registration, identifying which crimes are registerable, who are committing these crimes, and finally outlining the specialized legislation individuals face once they are required to register. Section 1.3 will discuss the rationale of these laws, identify their underlying assumptions, and consider the empirical research that counters those assumptions. Section 1.4 will review the literature on past investigations of sex offender legislation, focusing specifically on how they affect recidivism, what collateral consequences have been discovered, and the implications of those collateral consequences. Finally, section 1.5 will outline and discuss the sex offender residence restriction law that was implemented in South Carolina in 2011, which is the focus of the current study.

## 1.1 SEX OFFENDER LEGISLATION

**Legislative History.** Across the U.S., law enforcement agencies have long maintained records of convicted offenders, but California created the first registration

program specific to sex offenders in 1947 (Penal Code of the State of California, 1947). Several states followed suit in the subsequent decades as a series of heinous attacks on children received extensive media coverage, and prompted the legislature to act to ebb the resulting societal disquiet (Maguire & Singer, 2010). In 1990, Washington state began notifying the public of dangerous sexual offenders, making it the first state to make information from the registry publicly available (Easterly, 2015). Federal legislation on sex offender registries first appeared in 1994, five years after the never-solved abduction of 11-year-old Jacob Wetterling. To assist in identifying and ruling out potential suspects in sex crime investigations, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act required all states to create sex offender registries accessible to law enforcement agencies (Violent Crime Control and Law Enforcement Act of 1994, 17 U.S.C §§ 170101-170303).

Shortly after the Wetterling Act was passed, news outlets across the country were reporting on the rape and murder of a 7-year-old girl in New Jersey, Megan Kanka (*New York Times*, 1994; Quindlen, 1994). The perpetrator was a neighbor who, unbeknownst to Megan's parents, had a previous conviction for the attempted sexual assault of another child. Megan's parents argued that if they had been aware that a convicted sex offender was living nearby, they could have taken measures to protect their child (U.S. Department of Justice, 1998). Shortly thereafter, federal legislation, aptly named Megan's Law, was passed requiring public dissemination of the information from the state registries established by the Wetterling Act (Violent Crime Control and Law Enforcement Act of 1994, 2 U.S.C § 20417).

Additional federal laws followed over several more years, setting further guidelines for registration and community notification, culminating in 2006 with the Adam Walsh Child Protection and Safety Act, named after yet another child victim of a sexual offense (Easterly, 2015). The Act contains the Sex Offender Registration and Notification Act (SORNA) as its first title. SORNA and the other titles in the Walsh Act were intended to streamline the tracking of sex offenders and notification requirements at the federal level (Vásquez, 2008). SORNA also mandated the creation of a national sex offender registry, now imposing rules on states, under the threat of losing federal crime prevention funds, to bring uniformity of information available on state sex offender registry websites (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 119). Additionally, it expanded the federal requirements of who must register as a sex offender, defining a sex offense as a “criminal offense that has an element involving a sexual act or sexual contact with another” (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 111).

SORNA classifies sex offenders into one of three tiers based on the severity of the offense for which they were convicted, rather than on their individual risk for re-offense. (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 111) Tier 3 is reserved for offenders whose offense is comparable to or more severe than aggravated sexual abuse, sexual abuse, or abusive sexual contact, and involves kidnapping of a minor. An offender is also classified as Tier 3 for committing any offense after being registered as a Tier 2 offender. Tier 2 is for offenders whose offense is comparable to or more severe than the following offenses: sex trafficking; coercion and enticement; transportation with intent to engage in criminal activity; abusive sexual contact; and involves the use of a

minor in a sexual performance; solicitation of a minor to practice prostitution, or production or distribution of child pornography. An offender is also classified as Tier 2 for committing any offense after becoming a Tier 1 offender. Offenders are classified as Tier 1 when they do not meet criteria for either Tier 2 or Tier 3.

SORNA sets a number of additional requirements for the management of sex offenders including, but not limited to, the following:

- Tier 3 offenders are required to update their whereabouts every three months for life, those in Tier 2 are required to update their whereabouts every six months for 25 years, and those in Tier 1 are required to update their whereabouts every year for 15 years (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 113, 115)
- states are required to publicly disclose information about all Tier 2 and Tier 3 offenders (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 121)
- sex offenders who were 14 years of age or older are required to register if they were convicted of a Tier 3 offense, or if they were tried as an adult, regardless of the offense (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 111)
- kidnapping and false imprisonment of a child, regardless of sexual intent, are registerable offenses (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 111)

- offenders are required to register in not only the jurisdiction in which they live, but also those in which they work or attend school (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 113)
- failure to register is classified as a felony offense, punishable by up to 10 years in prison (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 122)
- sex offenders are required to report a change of address to law enforcement within 3 days of relocation (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 113)
- the law will be applied retroactively, meaning that any individual who was convicted of a registerable offense before the Act was passed, is still required to register (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 129)

Unsurprisingly, the constitutionality of sex offender registration laws has been argued in courts across the country. For example, in 2002, a convicted sex offender in Connecticut filed suit in Federal court, claiming the state's requirement of public disclosure of information on sex offenders after release from incarceration violated the Fourteenth Amendment's Due Process Clause (*Connecticut Dept. of Public Safety v. Doe*, 2003). The Court of Appeals confirmed, concluding that such disclosure did indeed violate the Fourteenth Amendment since registrants were not provided with a hearing prior to the public disclosure. The Supreme Court granted certiorari to determine whether the United States Court of Appeals for the Second Circuit was correct in ordering the

public disclosure of Connecticut's sex offender registry. In a unanimous decision, the Second Circuit Court's judgement was reversed on the basis that due process does not require the opportunity to prove a fact that is not material to the State's statute (Connecticut Dept. of Public Safety v. Doe, 2003). Moreover, the retroactive application of the law was also fought against in Smith v. Doe (2003) in Alaska. In this case, John Does I and II were convicted of aggravated assault before the act's passage and filed suit, claiming the act was punitive and violated the *ex post facto* clause of Article I of the U.S. Constitution. The district court ruled against the plaintiffs, claiming that the act was nonpunitive. The appeals court, however, sided with the plaintiffs, agreeing that the act was in fact punitive and violated the *ex post facto* clause. The Supreme Court held the original ruling, stating that because the Alaska Sex Offender Registration Act is intended to enact a regulatory scheme that is civil, it is nonpunitive. Therefore, the act's retroactive application does not violate the *ex post facto* clause (Smith v. Doe, 2003).

I have provided only a brief overview of the history of legislation on sex offender management, but it provides adequate reference for the context of the current project. Below, I describe how these federal guidelines have been expanded upon and what current state laws and local ordinances entail.

**Current Legislation.** The original purpose of sex offender registries was to serve as a management strategy for adult sex offenders who were deemed high risk to the community, but the scope of the laws has drastically expanded over time resulting in very broad and inclusive policies that have impacts well beyond their original intention. The Walsh Act sets federal guidelines for registration, and identifies which types of offenses are registerable. It does not, however, limit the authority of states to go beyond federal

law. As a result, many states and local jurisdictions have established laws that exceed the federal recommendations. Seventeen states require lifelong registration for all offenders convicted of a sexual offense (Alabama, California, Colorado, Florida, Georgia, Hawaii, Idaho, Mississippi, Missouri, Montana, Nevada, New Jersey, Oregon, *South Carolina*, South Dakota, Tennessee, and Virginia; Tofte & Fellner, 2007), and all but 32 states enforce community notification on all offenders, regardless of tier or severity of the offense (Alabama, Alaska, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Montana, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, *South Carolina*, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin; Tofte & Fellner, 2007). Most troubling has been the expansion of states' definitions of registerable offenses. Many sex offender registries now include individuals whose offenses are nonviolent, and in some cases, not even related to sexual activity. For example, in some jurisdictions registerable offenses include public urination, streaking, taking nude (or even semi-nude) photos of oneself (if you are a minor), and engaging in consensual prostitution (U.S. Department of Justice - Office of Justice Programs, 2012). Despite the low risk these individuals pose to others, they suffer the same stigmatization and severe restrictions on their activities and as those placed on violent offenders.

This expansion of registerable offenses resulted in individuals having to register for a multitude of unfortunate reasons. One of the most commonly reported situations is that of consensual teenage sex or other sexual exploration by and with a minor. For example, when Wendy Whitaker of Georgia was 17 years old, she performed consensual oral sex on a 15-year-old classmate. For this act, Whitaker was arrested, charged with

sodomy, sentenced to five years of probation, and required to register as a sex offender (Economist, 2009). Most child behavior experts agree that sexual experimentation is a normal part of a young person's development (Campagna & Martin, 2007). By age 14, more than a third of youth report genital play with another youth under the age of 18, and one fifth have engaged in sexual intercourse (Chantala & Tabor, 1999). By age 16, over 40% of both males and females report engaging in intercourse, and that number increases to 55% by age 17 (Chantala & Tabor, 1999). Every state in the U.S. criminalizes sexual activity with someone below the age of consent, but at least 39 states have legislative exceptions to these laws (i.e. Romeo and Juliet laws) to lessen or eliminate criminal penalties for young people close in age who engaged in non-coercive sex (Schwartz, 2014). Indeed, SORNA specifies that the law exempts consensual sex when the victim was at least 13 and the offender was no more than four years older (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 111). Even with these exceptions, many teenagers remain at risk for being labeled as sex offenders for engaging in sexual conduct that is legal for adults. At least 28 states require sex offender registration for anyone convicted of having consensual sex with another teenager if the offender was either age 17, or two years older than the other party (Tofte & Fellner, 2007; Young, 2008). Additionally, 11 states have no exceptions to the statutory rape laws which means that any consensual sexual activity between minors can result in conviction and sex offender registration (Tofte & Fellner, 2007).

Other forms of sexual exploration among minors have also led to criminal convictions and sex offender registration. For example, 10-year-old Leah DuBuc was charged with eight counts of criminal sexual conduct, in the first and second degree, for



exposing herself and mimicking sexual behaviors she had seen in movies with her step-brothers (Stillman, 2016). This is not an uncommon occurrence. In fact, the National Center on Sexual Behavior of Youth, a program of the Office of Juvenile Justice Programs, reports that adolescent sex offenders, not unlike the example above, account for a third of reported sex offenses against children (NCSBY, 2007), and research suggests that approximately 40% of offenders against children up to the age of 11 are children themselves (Snyder, 2000). A detailed examination of the population of registered sex offenders in the U.S. reveals that nearly a quarter of all sexual assault offenders were under the age of 18 at the time of the offense, and 16% were under the age of 12 (Snyder, 2000). In fact, “the single age with the greatest number of offenders from the perspective of law enforcement [is] age 14” (Snyder, 2000, p.8). Arguments have been made that such activities among young people are indicative of future sex offending as an adult. Research on the rates of sexual recidivism among these young offenders, however, suggest that over 95% of those convicted of a sexual offense as a minor do not commit additional sex crimes later in life (Vandiver, 2006; Leidecke & Marbibbi, 2000).

The expanding definition of “sex offender” has also led to many adults being placed on the sex offender registry for non-violent or non-sexual offenses. In some jurisdictions, individuals have been required to register as a sex offender for engaging in consensual prostitution (Dewey, 2012). Several others require registration for public urination, and there are at least 32 states in which exposing genitals in public is a registerable offense (Silver, 2013). This means that a homeless person urinating outside, or someone streaking at a sporting event, or mooning a crowd as a prank can be forced to

register as a sex offender. In fact, in Oklahoma alone, there are 600 sex offenders on the sex offender registry for indecent exposure (Killman, 2005).

Determining the actual act that led to an individual becoming registered can be difficult, if not impossible, making it a challenge to assert how many individuals on the registry did indeed commit a violent offense, and how many were forced to register for something possibly less threatening or harmful. For instance, most registries simply cite the statute under which the offender was convicted, and although “criminal sexual conduct in the fourth degree” certainly sounds as though it could describe a sexually violent act, it was also the charge one man was convicted of when he “groped a 29-year-old woman at a clothing-optional music festival” (Slater, 2005). Though this man’s behavior was unacceptable, it seems unreasonable to deem him a dangerous sex offender.

Overall, SORNA, and its expansions across state and local level jurisdictions, have drastically increased the registered sex offender population. In 1996, there were 185,000 sex offenders listed on sex offender registries nationwide (Matson & Lieb, 1996). By 2016, that number had increased to 859,500 (National Center for Missing and Exploited Children, 2016). This increase is not due to increased convictions of truly violent sexual offenders who pose a great threat to society, but rather due to the conviction of children innocently exploring their sexuality, and adults who may have played a prank by streaking or mooning, or engaged in prostitution. Homeless individuals are especially at risk as they often do not have a reliable location to use the bathroom, and choosing to relieve oneself in an alley or other public location could result in a conviction of indecent exposure. The reality is that the number of registered sex offenders continues

to grow, but the threat that these offenders pose to the public does not warrant the drastic measures they become subject to.

If former offenders simply had to register their whereabouts with law enforcement, the adverse consequences for them would likely be minimal. Along with registration, however, comes a multitude of policies that govern the lives of released sex offenders. In addition to the regulations and guidelines SORNA specifies on registration, it also lays out rules for community notification. Additionally, many state and local level jurisdictions have implemented additional laws unique to those on the sex offender registry, such as, GPS monitoring, limited technology use, and restricting where an offender may reside, work, or be physically present (Liptak, 2017; Terry, 2015). Essentially, registering as a sex offender requires you to follow a whole new set of rules, even after your correctional sentence is complete.

Community notification is the most common consequence of being registered as a sex offender. In addition to mandating that information on Tier 2 and Tier 3 offenders be publicly disclosed by the state (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 121), SORNA also necessitated the creation of a publicly available national sex offender registry compiling each state's registry information, thus making details about previously convicted offenders available to anyone, anywhere, without restriction (Adam Walsh Child Protection and Safety Act of 2006, 1 U.S.C § 119). Since SORNA did not specify the means by which states must disclose information, community notification requirements vary across jurisdictions. Some require only passive notification, most typically via an online website, while others require active notification, which may include special bulletins, posting flyers, community meetings, or door-to-door

notification (Lytle, 2015). Moreover, some states apply notification requirements based on the Tier categories, while others enforce notification equally on all those registered (Lytle, 2015). Some courts and legislators have sought to notify the public about the presence of sex offenders through means that could deliberately expose the offender to public humiliation, degradation, and even danger. A court in Georgia, for example, ordered one registrant to put up signs on his property declaring that he is a child molester (State v. Jordan, 1998). Lawmakers in other states have proposed requiring registrants to obtain color-coded license plates, identifying them as a sex offender (Yung, 2009). Also of note, with very few exceptions, states do not impose any “need to know” limitations on who has access to registrants’ information, or what information is available. Information on the registry typically includes not only a person’s name and criminal conviction, but also his or her address, photograph, physical description, date of birth, and sometimes his or her vehicle make and model, license plate number, and place of employment (Lytle, 2015).

The terminology of the laws and language utilized by online registries does not provide useful information describing the actual conduct of the offense (e.g., “indecent liberties with a child,” “lewd and lascivious behavior,” or “crime against nature”), often leading the public to perceive the offenses as stereotypical. Moreover, the dangerousness of an offender is often difficult to determine from the available information. The online registries of 22 states and the District of Columbia contain no discernible indication of dangerousness of the offender (McPherson, 2016). Other state registries utilize various strategies for communicating this information; nine indicate how long the offender is required to register; two indicate that they include only “high level offenders”; five

include a section describing the offense in detail; seven use the terms “aggravated” or “habitual” to define more dangerous offenders; two have a separate database for medium risk and high risk offenders and 15 designate some offenders as “sexual predators” or “sexually violent predators” (McPherson, 2016).

A second sex offender management strategy gaining popularity in recent decades across the U.S. are policies that restrict where a sex offender can reside (Socia, 2014). Though there is no federal legislation guiding these policies, at least 30 states have laws restricting where a sex offender can live, and nearly all other states enforce such restrictions with local ordinances or by practice of the courts, parole, or probation departments (Meloy, Miller, & Curtis, 2008). Although these policies differ from one jurisdiction to the next, they typically prohibit sex offenders from living within a certain distance of schools, daycare centers, parks, and other places where children congregate (Lobanov-Rostovsky, 2015). The first state-wide sex offender residence restrictions (SORR) were implemented in the states of Florida and Delaware in 1995, presumably motivated by the creation of Megan’s Law in 1994. Though several states followed suit shortly afterward, 40% of state legislations on SORR were passed between 2005 and 2007 – the two years following the highly-publicized killings of two young girls in two unrelated events by two separate convicted sex offenders (Meloy, Miller, & Curtis, 2008). This pattern exemplifies the notion that these specialized sex offender laws are more impulsive reactions serving as a quick fix to public alarm, rather than an empirically based solution to reduce the occurrence of sexual violence.

Residence restrictions have been described as possibly the harshest and most arbitrary of the laws targeting sex offenders (Socia, 2014). Sex offenders are effectively

banished from their already established homes, kept from living with their families, and oftentimes, when there are no available housing options outside of exclusion zones, they are forced to live in isolated rural areas, away from employment opportunities, public transportation, and social services – sometimes even mandated treatment. In worst case scenarios, they are left homeless.

SORR legislation varies in a number of ways across jurisdictions. Specifically, states differ in regard to which groups of sex offenders are subject to residence restrictions. Maryland, Minnesota, Nevada, Oregon, Washington, West Virginia, and Wisconsin, for example, only enforce residence restrictions on sex offenders who are on some form of community-based supervision (Meloy et al., 2008). Nevada and West Virginia further limit the group subject to residence restrictions to those being supervised for a minimum of 10 years (Meloy et al., 2008). State legislations also diverge on the ages of registered sex offenders who are subject to residence restrictions. While many states apply residence restrictions to adult offenders only, 20% apply residence restrictions to both adult and juvenile offenders (Socia, 2015). Interestingly, even though these laws were implemented to keep sex offenders away from children, all but nine states enforce residence restrictions on offenders whose victims were adults in addition to those whose victims were children (McPherson, 2016; Socia, 2015).

In addition to differences in to whom the laws apply, SORRs also differ in the nature and scope of the restriction boundaries, and exclusion zones. A content analysis of each state's legislation by Meloy and colleagues (2008) indicates that the least restrictive zones were 500 to 999 feet, the most common restriction size was 1,000 to 1,500 feet, and the largest exclusion zones ranged from 1,501 to 2000 feet. The analysis also

uncovered that the most common area from which sex offenders were restricted was schools, but numerous other areas were also restricted in certain legislations. In Georgia, for example, sex offenders were prohibited from coming within 1,000 feet of schools – public, private, elementary, and secondary – daycare centers, parks, playgrounds, school bus stops, recreation facilities, churches, skating rinks, gymnasiums, and any facility that provides programs or services to minors (O.C.G.A. § 42-1-12). In Alabama, the victim’s home and homes of any immediate family members of the victim are also considered restricted zones (AL Code § 15-20A-11). The severity of offenses associated with violating residence restrictions also varies across jurisdictions (Mustain, 2014). The most common penalty is a felony charge, but some states penalize with a misdemeanor (with and without mandatory jail terms), while others charge either a misdemeanor or a felony, depending on the original offense. Of those jurisdictions that limit the restrictions to those on parole or probation, most cite violations of community-based sanctions, including a potential revocation of parole or probation that could result in re-incarceration (Mustain, 2014).

Aside from registration, community notification, and residence restrictions, individuals who commit a sexual offense may be subjected to several additional sanctions. Title III of the Walsh Act, mandates civil commitment for certain dangerous offenders (Adam Walsh Child Protection and Safety Act of 2006, 3 U.S.C § 301). The U.S. Supreme Court upheld the constitutionality of indefinite civil commitment for these offenders in *Kansas v. Hendricks* (1997), although judges in Minnesota (*Karsjens et al., v. Jesson et al., 2015*) and Missouri (*Van Orden et al., v. Schafer et al., 2015*) have ruled that such practices are unconstitutional. Additionally, Title IV prohibits registered sex

offenders from sponsoring a family member for permanent residency in the U.S. (Adam Walsh Child Protection and Safety Act of 2006, 4 U.S.C § 402). Furthermore, a federal appeals court recently determined it was not unconstitutional for local ordinances to require lifelong use of GPS monitoring for certain offenders (Blake, 2016; Belleau v. Wall et al., 2016). Additionally, many local ordinances that began as residence restrictions are now expanding to forbid sex offenders from working, walking through, or even being physically present in any capacity, in the exclusion zones (Meloy et al., 2008).

It is undeniable that sexual violence is a dreadful and significant problem in this country. Legislation to prevent acts of sexual violence, both federal and local, has typically arisen from public pressure following highly-publicized occurrences of sexual assault on a minor. The fact that so many of these laws are named after child victims is indicative of their emotional nature and undermines the importance of their fairness and effectiveness. Indisputably, the government should be taking steps to reduce the rates of sexual offending, but legislation that is developed impulsively and without stringent consideration of empirical research is unlikely to result in the desired outcomes. Indeed, after the passage of the Adam Walsh Act in 2006, the population of sex offenders in the U.S. grew exponentially because of the expansion of registerable offenses, not a sudden increase in predatory offending. Now, instead of providing the police with a means of tracking violent and dangerous individuals, the sex offender registry is filled with both children and adults that pose very little risk to the public. Once an individual becomes a registered sex offender, they face a plethora of penalties including community notification and residence restrictions that were originally intended to protect us from the most threatening members of our society, but now mostly stand in the way of people



trying to successfully reintegrate back into society. The next section discusses how the rationale behind the legislation introduced here stands largely in contrast to empirical research on sex offenders. Following that, I review the empirical literature with regards to the outcomes, both intended and otherwise, of sex offender registration, notification, and residence restrictions.

## 1.2 LEGISLATION RATIONALE

Recently, criminal justice policy makers throughout the country have taken steps to utilize the large body of evidence-based literature to inform current policies, such as various rehabilitation programs, mandatory arrest for domestic violence, and treatment programs for juveniles (see Andrews & Bonta, 2006; Aos, Miller & Drake, 2006). This represents an ongoing shift away from the more punitive-based correctional policies that did not result in desired increases in public safety. By creating evidence-based policies, the potential to maximize resources and public safety outcomes is drastically enhanced. Despite these advances in evidence-based policies in the broader criminal justice field, such a movement has not yet taken hold with respect to sex offender-specific policies (see Levenson & D'Amora, 2007). The various pieces of sex offender legislation outlined in the previous chapter were each implemented with specific goals. Sex offender registration is meant to help law enforcement track individuals previously convicted of a sexual offense to aid in criminal investigations. Community notification is meant to enable parents and other individuals to protect themselves and their children against known sex offenders. Residence restrictions are meant to reduce sex offenders' access to potential victims. These laws and their purposes may appear logical on the surface, but empirical evidence on sex offenders and their patterns of offending generally contradicts

the objectives of these laws. This section will identify the assumptions these policies are based on, outline how these assumptions diverge from the empirical literature, and discuss the implications of these beliefs.

The notion that rates of sexual victimization are high and increasing, that sex offenders typically victimize strangers, and that recidivism is high among sex offenders in general, and indeed higher than that of other offenders, are widely held assumptions among the general public (Levenson, Brannon, Fortney, & Baker, 2007; Sample & Kadleck, 2008). The data, however, do not support any of these beliefs. Incidence and prevalence trends indicate that sexual crimes are declining alongside other types of violent crimes, and have been for quite some time (FBI, 2009; Sinozich & Langton, 2014; Truman & Morgan, 2015). Between 1993 and 2005, the rate of reported rape and sexual assault decreased by nearly 70% for adult victims (Catalano, 2005), and by 53% for child victims between 1992 and 2006 (Finkelhor, Hammer, & Sedlak, 2008). These numbers have remained relatively stable over the past decade with the U.S. Bureau of Justice statistics reporting that the prevalence rate of sexual assault was .08 in 2015 (Truman & Morgan, 2015). Moreover, crime victimization surveys indicate that rape and sexual assault account for less than 4% of all violent crimes (Catalano, 2005; Truman & Langton, 2013).

Regarding the assumption of “stranger danger”, sexual victimization data reveals that a large majority of sexual offense victims are abused by persons known to them (Snyder & Sickmund, 2006; Tjaden & Thoennes, 2006; Petrosino & Pertrosino, 1999), and that violence committed by a stranger has been decreasing since 2004 (Truman & Langton, 2013). In fact, for victims under the age of 18, up to almost 90% of perpetrators

are individuals known by the victim such as relatives, friends, baby-sitters, teachers, and other persons in positions of authority (Maguire & Singer, 2010).

Finally, research indicates that observed recidivism rates, although underestimated due to under-detection and under-reporting, are likely much lower than the public believes them to be (Hanson & Morton-Bourgon, 2005; Hood, Shute, Felizer, & Wilcox, 2002). In fact, nearly 90% of individuals arrested for a sexual crime have no history of sexual offending (Greenfeld, 1997). Recidivism estimates are impacted by a number of factors including the length of follow up period and definition of recidivism (i.e., re-arrest, reconviction, or re-incarceration; inclusion of parole violations, etc.). This can result in a vast array of estimates; however, most researchers suggest recidivism rates are somewhere between 3-24%, which is lower than overall rates of recidivism for offenders in general (Greenfeld, 1997; Harris & Hanson, 2004; Kruttschnitt, Uggen, & Shelton, 2000; Zimring, Piquero, & Jennings 2007). While this number is certainly not trivial, it does suggest that the clear majority of sex offenders do not reoffend. Additionally, recidivism rates seem to vary greatly depending on the original type of offense. Generally, those who commit crimes against minors recidivate much less than those committing rape and other offenses against adults (Harris & Hanson, 2004). Recidivism rates of sex offenders have also been found to be lower than that of other offenders, a finding that holds true for both adults (Harris & Hanson, 2004; Kruttschnitt, Uggen, & Shelton, 2000) and juveniles (Zimring, Piquero, & Jennings 2007). Additionally, sex offenders do not appear to be a “specialized” group of offenders; those who do re-offend, are unlikely to commit an additional sexual offense (Sample & Bray, 2003; Miethe, Olson, & Mitchell, 2006). Indeed, one study suggests that sex offending

may be best understood as a transitory phase in an offender's life (Lussier & Davis, 2011).

Unfortunately, these flawed perceptions regarding sexual offenders and offenses appear to have played a substantial role in the development of current sex offender legislation. Registration and community notification policies are based on the notion that a sex offender is a special type of dangerous offender who is highly likely to reoffend, which, as outlined above, is not supported by the literature (Greenfeld, 1997; Harris & Hanson, 2004; Kruttschnitt, Uggen, & Shelton, 2000; Zimring, Piquero, & Jennings 2007). Furthermore, for such policies to be effective, those responsible for sex offenses would have to be on the registries and subject to community notification. The data suggests, however, that those who engage in serious sexual offenses would not have been eligible for registration or notification prior to the offense that lead to their conviction (Petrosino & Petrosino, 1999). This is due, in part, to the fact that they often are first time offenders, or because their offenses were not "predatory-stranger" crimes. Many victims of sex offenders are related to their offender, and in most other cases, a pre-existing relationship was present between the offender and the victim (Petrosino & Petrosino, 1999).

Like registration and community notification, faulty assumptions appear to be the basis of sex offender residence restrictions. Residence restrictions are intended to eliminate sex offenders' access to potential victims through geographical lines. The rationale for these policies is that children tend to be victimized outside the home, and that they are victimized by strangers; therefore, sexual victimization of children will decrease if sex offenders are not in proximity to specific locations. Once again, this

approach ignores what is known about sexual offending. In fact, only 12% of all reported cases of sexual assault involved offenders who were unknown to the victim (Truman & Langton, 2013). For sexual assault victims under the age of 18, the perpetrator was a family member or acquaintance 93% of the time (Snyder, 2000).

Research has robustly illustrated the faulty logic of residence restrictions. Duwe, Donnay and Tewksbury (2008) analyzed data on all sex offenders who were released and later re-incarcerated for an additional sex offense over a span of 12 years in Minnesota. The analysis showed that 79% of the offenders knew the victim prior to the offense. Furthermore, 85% of the reoffenses occurred in a residential location and 39% occurred outside the home, with only 9% taking place within one mile of the offender's residence. Of these 9%, just three offenders made contact with a victim at a restricted location. Two of the three, however, were not in proximity to where they lived, and the third involved an adult victim. The authors concluded that not one of the 224 sex offenses analyzed would have been prevented by residence restrictions on the offenders (Duwe, Donnay, & Tewksbury, 2008). Using archived data on almost 1,500 sex offenders, Calkins, Colombino, Matsuura, and Jeglic (2015) made a similar discovery. In their study, 4% of sex offenses occurred in areas that would be restricted by residence restrictions. However, less than 0.5% of the offenses were perpetrated by a stranger against a minor victim within a restricted location. Findings such as these undermine the main rationale behind residence restrictions that sex offenders are likely to recidivate by identifying potential victims near their homes.

Moreover, research has failed to provide any evidence that residential proximity to schools or parks is related to reoffending (Maguire & Singer, 2010; Zandbergen,

Levenson, & Hart, 2010). In fact, one study found that to avoid recognition, sex offenders were more likely to seek victims from a neighborhood other than where they lived (Minnesota Department of Corrections, 2003). Other research indicates that parks and schools are among the least common locations where offenders meet their victims (Maguire & Singer, 2010).

Faulty beliefs about sex offenders have evidently resulted in laws that have no grounding in empirical evidence. These beliefs about sex offenders have also been used to justify such laws, when their constitutionality is debated in court. In *Smith v. Doe* (2003), the Supreme Court of the United States upheld Alaska's Sex Offender Registration law, setting a precedent for the constitutionality of various specialized sex offender legislation. The opinion of the court, authored by Justice Kennedy, argued that "a conviction for a sex offense provides evidence of substantial risk of recidivism" (*Smith v. Doe*, 2003). Although there is little or no support for this in the literature, Kennedy cited his previously-written opinion for the case of *McKune v. Lile* (536 U.S., 2002) as support. The opinion for *McKune* argued that the risk of recidivism posed by sex offenders is "frightening and high" based on a statistic that up to 80% of sex offenders will reoffend if left untreated (*McKune v. Lile*, p. 34, 2002). This single statistic set the stage for justification of numerous policies that essentially force sex offenders to the margins of society. This number stands in stark contrast to the estimated recidivism rates discussed previously. Kennedy sourced this number from *A Practitioner's Guide to Treating the Incarcerated Male Sex Offender* published by the U.S. Department of Justice, National Institute of Corrections in 1988 (Schwartz & Cellini, 1988). The publication references a large amount of statistics on sex offender recidivism rates from

numerous sources, most of which range up to 10%, with only the one notable exception claiming the recidivism rate to be as high as 80%. The source of this figure is an article published in *Psychology Today* in 1986 (Freeman-Longo & Wall, 1986), written by the operators of a sex offender counseling program, describing their program and its success rates. With no evidence or elaboration, the authors wrote that “most untreated sex offenders released from prison go on to commit more offenses – indeed, as many as 80 percent do,” a statement that was likely intended to promote the program, and possibly had no empirical grounding.

Justice Kennedy’s dramatic language describing the recidivism rate for sex offenders as “frightening and high”, has frequently been quoted by other court actors and politicians in defense of sex offender laws and their consequences. In fact, a Lexis search of legal materials found the phrase “frightening and high” in 91 judicial opinions, and in briefs from over 100 cases (Ellman & Ellman, 2015). The Solicitor General’s brief from *Smith v. Doe* is also full of assertions about sex offenders that are not supported by research:

Sex offenders exact a uniquely severe and unremitting toll on the Nation and its citizens for three basic reasons: “[t]hey are the least likely to be cured”; “[t]hey are the most likely to reoffend”; and “[t]hey prey on the most innocent members of our society.” United States Dept of Justice, Bureau of Justice Statistics (BJS), National Conf. on Sex Offender Registries (National Conf.) 93 (Apr. 1998).

Unfortunately, the Solicitor General’s language has also been quoted on numerous occasions, relating to important matters including, for example, the preamble to California’s Jessica’s Law, which attributes the quoted language only to a “1998 report by the U.S. Department of Justice.” The information, again referenced simply to “a report

by the United States Department of Justice,” was also utilized in an opinion by the California Supreme Court (*People v. Mosley*, 2015), and has appeared in several local ordinances in various states (Lave, 2008). The referenced Department of Justice report, rather than containing any empirically derived evidence on sex offenders, is a summary of conference speeches from advocates for sex offender registries (Ellman & Ellman, 2015). In fact, the Justice Department disavows any endorsement of the contents within the report, and the speech from which the three points were taken offers no source for the information (NCJIS, 1998).

Faulty beliefs about sex offenders and the nature of sex offenses are widespread among the public and policy makers alike. Assumptions regarding recidivism rates among those who commit a sexual offense, the prevalence of such crimes, and the dangers presented by strangers have culminated in laws enforcing sex offender registries, community notification, and residence restrictions. Unfortunately, these assumptions are not supported by empirical research. The pervasiveness of these faulty beliefs has many harmful outcomes to both sex offenders and society as a whole. The fact that laws are being developed and implemented with a lack of empirical grounding is a serious problem. Continuing to enforce such policies that are not evidence-based squanders resources and increases risks to public safety. The following section will outline how sex offender policies are failing to achieve the desired outcome of reducing sexual offending, and result in collateral consequences that are linked to increased risks of recidivism.

### 1.3 LEGSILATION OUTCOMES & IMPLICATIONS



Due to the lack of empirically supported rationale behind specialized sex offender legislation, it is important to investigate the outcomes of these laws. Specifically, we must consider whether they are attaining any significant reductions in sexual offending, as they were developed and implemented to do, as well as consider what other unintended effects may result. This chapter will review the literature on how these laws impact the rates of sexual offenses as well as their resulting collateral consequences, then conclude with a brief discussion of how collateral consequences are related to recidivism.

**Recidivism.** Perhaps unsurprisingly, most of the specialized sex offender legislation has not led to any meaningful reduction in sexual offending. Researchers have focused largely on two specific areas of sex offender legislation: sex offender registration and notification (SORN) and sex offender residence restrictions (SORR).

Numerous studies find no significant differences in sexual or non-sexual reoffending after the implementation of SORN policies (Iowa Department of Human Rights, 2000; Letourneau, Levenson, Bandyopadhyay, Sinha, & Armstrong, 2010; Sandler, Freeman & Socia, 2008; Schram & Meloy, 2005; Tewksbury, Jennings & Zgoba, 2012; Zgoba, Witt, Dalessandro & Veysey, 2008). The arbitrary means by which different jurisdictions apply various levels of community notification has allowed researchers to test for the impact of SORN laws controlling for the effect of any historical event. For instance, Zevitz (2006) compared matched groups of sexual offenders who were subjected to either minimal or high levels of community notification and found no significant differences in recidivism, sexual or otherwise, indicating that community notification does not work to reduce recidivism.

It can be argued that SORN laws were implemented not only to have a specific deterrence effect (i.e. decrease recidivism among registered sex offenders), but could also deter first-time sexual offenders. Therefore, it is important to look at overall rates of general sexual offending as well. An analysis of all registerable sexual offense arrest records between 1986 and 2006 in New York state indicated that the SORN laws had no impact on the occurrences of these crimes (Sandler, Freeman & Socia, 2008). Furthermore, a trend analysis from New Jersey showed that overall sex offense rates have been consistently declining since the mid 1980s, as have rearrests for both sexual and nonsexual violent crime. Interestingly, the greatest rate of decline for sexual offenses took place prior to the implementation of registration and notification laws (Zgoba, Witt, Dalessandro & Veysey, 2008). Overall, the research on these policies suggests that SORN laws are not able to reduce recidivism among sex offenders, as intended.

Unfortunately, investigations of the impact of SORR policies on recidivism suggest their impact does not drastically differ from that of SORN laws. In fact, nearly all studies indicate that residence restrictions are associated with increases in crime, rather than decreases, whether considering sexual recidivism specifically, (Blood, Watson, & Stageberg, 2008; Nobles, Levenson, & Youstin, 2012), or overall rates of sexual offending (Nobles, Levenson, & Youstin, 2012; Socia, 2015). To determine whether the apparent increases in sex crimes related to residence restrictions could be explained by general increases in overall crime, Heubner and colleagues (2014) compared registered offenders who were, and were not, subject to residence restrictions, with a control group of matched non-sexual offenders in a quasi-experimental in Michigan and Missouri. Their results refute the explanation of an overall crime rate increase, as the group of

registered offenders was the only group to show increased rates of recidivism after the SORR law was implemented (Huebner, Kras, Rydberg, Bynum, Grommon, & Pleggenkuhle, 2014). The general conclusion from the sum of work in this area is that SORN and SORR policies have not achieved their original purpose of preventing sexual offending.

**Collateral Consequences.** In addition to their apparent failure to reduce sexual offenses, specialized sex offender laws have resulted in several potentially harmful collateral consequences. Researchers have identified social, economic, and psychological issues resulting from SORN policies. Large amounts of registered offenders have reported exclusion of residence (Levenson and Cotter, 2005; Tewksbury, 2005; Zevitz & Farkas, 2000), being ostracized (Zevitz & Farkas, 2000), being threatened or harassed (Levenson and Cotter, 2005; Tewksbury, 2005; Zevitz & Farkas, 2000), emotional harm to family members (Zevitz & Farkas, 2000), loss of employment (Levenson and Cotter, 2005; Tewksbury, 2005; Zevitz & Farkas, 2000;), decreased support networks (Tewksbury, 2005), increased pressure from probation/parole officer (Zevitz & Farkas, 2000;), and being physically attacked (Levenson and Cotter, 2005; Tewksbury, 2005; Zevitz & Farkas, 2000). Levenson and Cotter (2005) also found that most offenders reported that the law interfered with their recovery by causing more stress in their life, feeling alone and isolated, fear for their safety, less engagement in activities due to shame and embarrassment, feelings of hopelessness, and less hope for the future. Clearly, the outcomes of sex offender registration and notification go far beyond those for which they were intended.

Similar unintended consequences have also resulted from residence restrictions. For example, in a survey of registered sex offenders (Levenson, 2008), two thirds of the participants reported financial suffering, and three quarters reported emotional distress. Importantly, most of the respondents stated that the residence restrictions were not practical or helpful, and would have no impact on their likelihood to reoffend (Levenson, 2008). Many of the respondents further stated that the isolation caused by the restriction would increase their risk for recidivism (Levenson, 2008). Similar findings have been reported using the same survey measure in New Jersey (Mercado, Alvarez, & Levenson, 2008), North Carolina (Page, 2012), and Florida (Levenson & Cotter, 2005). Jeglic, Mercado, and Levenson (2011) also discovered that, on average, registered sex offenders report mild to moderate levels of depressive symptoms and hopelessness, but those who were negatively impacted by SORRs had significantly higher levels of depression and hopelessness than others.

Aside from the emotional and psychological effects of SORRs, a shortage of viable housing options for registered sex offenders is one of the most commonly reported collateral outcomes of residence restriction policies (Barnes, Dukes, Tewksbury & De Troy 2009; Berenson & Appelbaum 2011; Chajewski & Mercado, 2008; Socia, 2011; Zgoba, Levenson & McKee 2009). Researchers have utilized spatial analysis to determine the extent to which existing or hypothetical residence restrictions impact housing availability for this population. Unsurprisingly, results indicate that large majorities (even up to 100%) of registered offenders across diverse locations are living within a “restricted zone” (Chajewski & Mercado, 2008; Barnes, Dukes, Tewksbury & De Troy 2009; Zgoba, Levenson & McKee 2009). The size and scope of many SORRs

leaves few housing options for registered sex offenders (Berenson & Appelbaum 2011; Zgoba, Levenson & McKee 2009; Barnes, Dukes, Tewksbury & De Troy 2009), with some cities having up to 97% of residentially zoned properties within a restricted zone (Berenson & Appelbaum, 2011). The areas that are left available for RSOs are often less densely populated, have less available housing, and less affordable housing (Socia, 2011; Zgoba, Levenson & McKee 2009).

This shortage of housing has ultimately led to increasing levels of transience and homelessness among this population. The California Sex Offender Management Board (Loving, Singer & Maguire, 2008) reported that prior to the implementation of a statewide residence restriction policy, there were 2,050 registered offenders recorded as transient within the state. Within one year of implementation, those registered as transient increased 60% to 3,267. Importantly, for the population of RSOs for whom the restrictions were most consistently enforced, those on parole, the number of those registering as transient increased over 800%, from 88 to 1,056 in the same time period. Furthermore, registered offenders have been found to be at an increased likelihood of being homeless compared to the general population (Levenson, Ackerman, Socia & Harris 2015), the likelihood of an offender registering as transient is higher in jurisdictions with residence restrictions than those without (Levenson, et al, 2015; Socia, 2015).

To examine the impact of SORRs separately from sex offender registration, Tewksbury and Mustaine (2009) compared the types and extent of collateral consequences experienced by RSOs who were, and were not, subject to residence restrictions. They found that RSOs subject to residence restrictions were more likely to

have been forced to move and to view housing problems as the biggest consequence of being on the sex offender registry. Therefore, it seems unlikely that this outcome stems from simply having to register as a sex offender, and that SORRs are indeed adding additional strains above and beyond those caused by registration.

These findings are additionally supported by self-report surveys from diverse samples of registered offenders across the country. In a survey from a single county in Florida (which had both statewide and several local-level ordinance SORRs at the time) 42% of respondents reported being unable to return to their home upon release from prison, and 55% reported being forced to move from a residence in which they were living; 22% reporting having to move three times or more (Levenson, 2008). Furthermore, nearly half reported being unable to live with a supportive family member, and another 43% reported being unable to live with dependent family members. Overall, 17% reported being homeless, and nearly two thirds of the sample claimed that it was difficult to find affordable housing due to the residence restrictions in their jurisdiction. Moreover, 57% reported having to live farther away from employment opportunities, 41% had to live farther from social services and mental health treatment, and 27% had to live farther from public transportation (Levenson, 2008).

Thus far, the research suggests that specialized sex offender laws do not decrease sexual offending as intended, and they have produced numerous inadvertent outcomes such as emotional suffering, financial strains, difficulty obtaining employment, and a lack of available housing. The side-effects of the laws are unfortunate in and of themselves, but the fact that many of them are linked to increased risks of recidivism is a serious issue (Craig, Brown, & Beech, 2008; Hanson and Morton-Bourgon, 2004, 2005; Willis &

Grace, 2008). These relationships imply the possibility that these laws could be serving to increase the risk of reoffending, rather than the opposite.

**Implications of Collateral Consequences.** Factors that impact one's risk of recidivism have been examined among general and sexual offenders. Frighteningly, many of the unintended outcomes of various sex offender laws discussed above have previously been shown to increase risks of recidivism. For instance, researchers agree that stable housing is an essential element of successful reintegration (Kubrain & Stewart, 2006; Aylward, 2006; Willis & Grace, 2008; Hanson & Morton-Bourgon, 2004, 2005; Brennan, Dieterich, Ehret & Beate, 2007). While no studies to date have specifically examined homelessness as a direct influence on sexual reoffending, one study of community reintegration found that registered offenders who did recidivate had significantly lower scores on a measure of accommodation than those who did not (Willis & Grace, 2008). Additional studies have identified links between unstable housing among offenders, and a lack of social support and unemployment (Halsey, 2007); both of which are risk factors for sexual reoffending (Hanson & Harris, 2000; Hanson & Morton-Bourgon, 2004, 2005). Other research has shown strong associations between transience and criminal behavior. For example, roughly one quarter of individuals at a New York City shelter were incarcerated within the previous two years (Metraux & Culhane, 2004, 2006), and individuals who had been incarcerated tended to have spent longer times being homeless than individuals who had not been incarcerated (Phelan & Link, 1999). Residential instability has been significantly associated with recidivism (Brennan, Dieterich, Ehret & Beate, 2007; Halsey, 2007), as well as absconding from supervision (Williams, McShane, and Dolny, 2000). Furthermore, offenders released with no confirmed housing plan had

an increased likelihood of returning to prison (Halsey, 2007). Notably, Meredith, Speir, Johnson, and Hull (2003) discovered that each time a parolee changed residences, his or her likelihood of re-arrest increased by twenty-five percent.

SORRs force registered offenders to live further from employment opportunities, to be separated from supportive family members, and to experience emotional distress, including depression and hopelessness (Levenson & Cotter, 2005; Levenson, 2008; Mercado, Alvarez, & Levenson, 2008; Page 2012; Jeglic, Mercado, and Levenson, 2011). Research has also associated each of these outcomes with increased recidivism. Links between unemployment and both sexual and general recidivism are supported by extant research (Hanson & Bussiere, 1998; Hanson and Morton-Bourgon, 2004, 2005; Hanson & Harris, 2000; Craig, Brown, & Beech, 2008; Willis & Grace, 2008; Brennan, Dieterich, Ehret & Beate, 2007). Poor interpersonal relationships and lack of social support have also been linked to recidivism (Hanson & Harris, 2000; Hanson & Morton-Bourgon, 2004, 2005; Craig, Brown, & Beech, 2008; Hanson, Harris, Scott & Helmus, 2007; and Halsey, 2007). Finally, the emotional distress and negative moods associated with SORRs have been shown to increase risk of recidivism (Hanson & Harris, 1998, 2000; Craig, Brown, & Beech 2008).

Sex offender registration, notification, and residence restrictions were implemented to reduce sexual offending by aiding the police in sex crime investigations, enabling individuals to protect themselves and their children against known offenders, and decreasing the accessibility of potential victims. Unfortunately, rather than serving those intended purposes, these laws lead to various social, psychological, and economic troubles for registered offenders, many of which increase the risk for recidivism.



Homelessness, which has been associated with heightened recidivism among offenders in general is one of the most highly reported outcomes of sex offender residence restrictions. The next section outlines the sex offender legislation within South Carolina, focusing on the residence restriction that was passed in 2011, in preparation for an analysis of how this policy has impacted rates of homelessness and recidivism.

#### 1.4 LEGISLATION IN SOUTH CAROLINA

The state of South Carolina implemented its sex offender registry in 1995, and its sex offender residence restriction in 2011. Like most states, South Carolina's registration requirements extend beyond the federal guidelines. Specifically, the South Carolina Codes of Laws provides that all offenders must register for life, with Tier 1 and 2 offenders registering biannually, and Tier 3 offenders registering every 90 days. (SCCOL § 23-3-460). Offenders must register not only in the county in which they reside, but also in those in which they own property, are employed, and attend school (SCCOL § 23-3-450). Penalties for non-compliance range from a fine of up to \$1,000 and/or up to a year in prison for a first-time offense, to mandatory imprisonment of 5 years for a third-time or subsequent offense (SCCOL § 23-3-470). Information on all offenders who were over the age of 12 at the time of the offense is available online to the public and may include the offender's name, race, sex, date of birth, height, weight, hair and eye color, permanent address, current address, place of employment, vehicle make, model, color, and licence tag number, and internet identifiers (SCCOL § 23-3-530).

South Carolina state law also specifies that registered sex offenders who were convicted of an offense against a minor are prohibited from residing within 1,000 feet of

a school, daycare center, children's recreational facility, park, or public playground (SCCOL § 23-3-535). The restrictions, however, do not apply if the offender resided in the restricted zone before the Act was passed, if the offender owned the property before being charged with the crime that resulted with him/her being required to register, or if the offender resided in the restricted zone prior to the establishment of the school or other restricted area (SCCOL § 23-3-535). If an offender is found to be non-compliant with this policy, he/she must vacate within 30 days. If the offender fails to do so, a first non-compliance offense is punishable by imprisonment up to 30 days and/or a fine of up to \$1,000, and third and subsequent offenses are punishable by imprisonment up to 5 years and/or a fine of up to \$5,000 (SCCOL § 23-3-535).

The state law prohibits local ordinances from having more lenient or more strict penalties for non-compliance, as well as from increasing or decreasing the 1,000 foot boundary around restricted zones (SCCOL § 23-3-535). Local ordinances, however, are not limited in determining to which offenders the restrictions apply, or in regard to selecting restricted locations. For instance, Columbia, the state's capital, applies the restrictions to all sex offenders, regardless of the age of the victim, and added churches, school bus stops, and public pools to the list of restricted areas (COCCSC § 14-221). Additionally, the local ordinance in Columbia restricts offenders not only from residing, but also from loitering in these areas, which is defined as remaining idle in one location with no apparent lawful purpose (COCCSC § 14-221). Finally, while the policy in Columbia does include the grandfather clause that excludes those offenders who lived within the restricted zone before the law was passed, it does not exclude offenders who resided in the restricted zone prior to being charged (COCCSC § 14-221).

Barnes, Dukes, Tewskbury, and De Troye (2009) investigated the potential impacts of the residence restrictions in the state prior to implementation. By utilizing spatial analysis, they identified current residential locations of sex offenders in relation to the proposed restricted zones. They studied four of the six state counties with the highest number of registered sex offenders, which provided a sample of 246 registered sex offenders under the South Carolina Department of Probation, Parole, and Pardon Services (SCDPPPS). Offenders' addresses were geocoded, as were addresses of schools and daycare centers. Under the proposed 1,000 feet restriction rule, they found that roughly 20% of registered offenders would be affected. Perhaps the more interesting finding was that nearly half of the counties' unoccupied residential property would become restricted, suggesting that sex offenders would be left with a few very specific areas to reside throughout the state.

Barnes and colleagues (2009) likely underestimate the impact of the residence restriction for several reasons. First, the sample only included offenders under the supervision of SCDPPPS, but the state law is applied to sex offenders regardless of supervision status. This means that the actual number of affected offenders is likely much higher. Moreover, due to data availability, the analysis only included schools and daycare centers as restricted areas, whereas the actual law includes many other areas such as children's recreational facilities, parks, and public playgrounds. If the analysis had included all the restricted areas, it is likely that the results would have indicated many more offenders were impacted. It is important to also note that the amount of restricted unoccupied residential property is also likely greater than the reported 50% due to these issues as well. Also of note, the state law only applies residence restrictions to offenders

whose crimes involved a minor, yet Barnes et al.'s (2009) sample included offenders with victims of all ages, which could lead to overestimation of the law's impact. However, many local ordinances do not limit the application of residence restrictions as the state law indicates, so the impact of using all offenders in the sample is likely minimal.

Importantly, Barnes and colleagues (2009) highlight the large extent to which unoccupied residential property is potentially unavailable to sex offenders across South Carolina. Because local ordinances, such as Columbia, may not exclude from residence restrictions those offenders who lived in a restricted zone prior to being charged, many offenders will have to seek new residences upon release from prison. The lack of available housing, and as suggested here by Barnes and colleagues (2009), leaves registered sex offenders at an increased risk of homelessness. Due to stable housing being identified as key to successful offender reintegration, and homelessness as a factor that increases offenders' risk of recidivism (Kubrin & Stewart, 2006; Aylward, 2006; Willis & Grace, 2008; Hanson & Morton-Bourgon, 2004, 2005; Brennan, Dieterich, Ehret & Beate, 2007), it is important to examine the effect of sex offender residence restriction laws on rates of offender homelessness, and the extent to which homelessness impacts rates of reoffending.

The current study will utilize data from the South Carolina Law Enforcement Division on all offenders from the State Sex Offender Registry to investigate whether South Carolina's sex offender residence restriction, implemented in 2011, has resulted in increased rates of homelessness among this population, in addition to how homelessness relates to reoffending for convicted sex offenders in South Carolina.

## CHAPTER 2

### METHOD

#### 2.1 DATA & SAMPLE

All data were obtained from the South Carolina Law Enforcement Division (SLED). While technically publicly available, all recorded information from the Sex Offender Registry is not fully accessible online. Therefore, special access was granted from SLED to obtain complete archived data files. The data was received in four separate excel files; one containing an identification number, along with registrants' names, dates of birth, and dates of registration; the second containing registrants' Tier level and compliance status; the third containing each registrant's current and past residential addresses with their associated start and end dates; and the last file containing information on registrants' index and subsequent offenses including the crime code, date, location, and sentence.

Because the impact of changes in registration are of primary concern, the registration file served as the base file with a total 16,501 offenders listed. The relevant data needed for analysis was gathered from the additional files and merged using the identification number to link the data. First, data in the original registration file was sorted by the identification numbers, and any listing without such identification were deleted, bringing the sample size to 13,872. One hundred and eighty-one registrants had a registration date prior to 1995. Since the sex offender registration was not implemented in

South Carolina until 1995, it was clear that those dates were recorded in error, so those registrants were deleted from the sample. Finally, when the additional files were merged to the base files, the sample was assessed for missing information on all other variables and those with missing information were removed from the sample, resulting in a final sample of 11,304 registrants.

Ages of participants ranged from 17 to 95 years old, with a mean age of 48 ( $SD = 12.38$ ), and 2% of the sample was female. Most participants were Caucasian (59%) or African American (39%), and a small amount were Hispanic (1%), American Indian (.4%), Asian (.2%), or other (.6%). Of the participants, 832 (6%) were registered as a juvenile. The final sample contained 40% Tier 1 offenders, 58% Tier 2 offenders, and 2% Tier 3 offenders (described below).

## 2.2 MEASURES

**Dependent variables.** *Recidivism* was a binary measure of whether the offender had at least one subsequent conviction after registering as a sex offender (0 = no subsequent offenses; 1 = at least one subsequent offense). In the original data from SLED, offenses were sorted by date, including offenders' "primary" offenses for which they were registered. To make the data more conducive for analysis, I sorted the data by primary offense (yes/no) then rotated the data to be identified by person. If an offense had a date that occurred after the offender's primary offense, it was flagged as a "subsequent offense". If a registrant had at least one subsequent offense, they were marked with a one, and those who had no additional offenses were marked with a zero.

**Independent variables.** *Homelessness* was a binary measure of whether the offender had ever been registered as homeless (0 = never had residence listed as homeless; 1 = had at least one time period with residence listed as homeless). Because the original data recorded homelessness among registrants' addresses, all homeless listings had to be identified and coded manually. To identify cases of homelessness, I ran a frequency distribution on all registrants' addresses, and manually identified all "homeless" listings. The archived data file did not have a consistent method of recording this information. Some offenders did indeed have "homeless" or some variation (i.e. "home less", "home-less", "no home", "no residence", "no address") recorded as an address, while others were simply blank, or listed a P.O. box only. SLED indicated that the latter could likely indicate that the offender was homeless, but also that it could have been an error. For a conservative measure of this variable, only those who ever had an address of "homeless", (or an obvious variation), were coded as having ever been homeless (1), and all other offenders were coded as not ever being homeless (0). *Duration of homelessness* (in days) was calculated by determining the number of days between an individual's "start of address" and "end of address" dates for any listing of homelessness, identified as outlined above. If the "homeless" address did not have an end date, I interpreted this as the offender being currently homeless and calculated the duration of homelessness with the "end of address" date as the date we obtained the data. If an offender had more than one time-period listed as homeless, those durations were added together.

**Control variables.** *Duration of registration* (in years) was determined by calculating the difference between the date of registration and date of receipt of data.

*Compliance*, (0 = no, 1 = yes) indicated whether the registrant was compliant with updating his or her whereabouts at the mandated time periods (i.e. every six months for Tier 1 and 2 offenders, and every 90 days for Tier 3 offenders). *Tier level* (Tier 1, Tier 2, or Tier 3) indicated the severity of index offense, as specified by SORNA (see section 1.1 for description of Tier levels). *Adult/juvenile* (0 = juvenile, 1 = adult) indicated whether the offender was a juvenile or adult at the time of his or her index offense. Finally, *age* was determined by calculating the difference between date of birth, and date of receipt of data, *ethnicity* was categorized into three groups (1 = Caucasian, 2 = African American, 3 = other), and *sex* was coded 0 for female and 1 for male.

### 2.3 ANALYTIC STRATEGY

To examine the impact of homelessness on recidivism, two binary logistic regressions were conducted to assess if ever being homeless, and duration of homelessness, could predict whether an offender had a subsequent offense after registering as a sex offender. This analysis allows for the evaluation of the odds of membership in one of the two outcome groups (those who have reoffended and those who have not), based on the combination of predictor variable values. This statistical analysis is appropriate when the purpose of the research is to assess if a set of independent variables predict a dichotomous dependent variable (Peng, Lee, & Ingersoll, 2002). This strategy can be used when the independent variables are continuous, discrete, or a combination of continuous and discrete, such as the current analysis. Logistic regression also assumes that each observation is independent, and that the model should have little or no multicollinearity. This can be tested by calculating the Variance Inflation Factor (VIF) for each predictor (Allison, 2012), as well as by simply investigating the



Pearson's  $r$  correlation values between these variables (Peng, Lee, & Ingersoll, 2002). Additionally, logistic regression assumes linearity of independent variables and log odds, and requires a large sample size (Peng, Lee, & Ingersoll, 2002). Evaluation of the logistic regression model includes the overall model evaluation as well as an evaluation of each individual predictor variable. The overall model significance will be examined using the  $X^2$  omnibus test of model coefficients. The Nagelkerke  $R^2$  will be examined to assess the percent of variance accounted for by the independent variables. Finally, the impact of each predictor variable will individually be assessed by considering the significance value of  $\text{Exp}(\beta)$ , as well as the odds ratios.

In addition, an independent samples t-test was also employed to test whether registrants who have been homeless had higher rates of recidivism than registrants who had not been homeless. An independent samples t-test is an appropriate statistical test when the purpose of the research is to assess if differences exist in a dependent variable (recidivism) by a dichotomous independent variable (having been homeless, and not having been homeless).

To test whether the residence restriction has increased the likelihoods of homelessness and recidivism, two independent sample t-tests were conducted. The first compared rates of homelessness, and the second compared rates of recidivism, between offenders registered before 2011, when the residence restriction was implemented, and those registered in 2011 and beyond. Again, an independent samples t-test is an appropriate statistical test since the purpose is test for differences in a dependent variable (homelessness and recidivism) by a dichotomous independent variable (registration pre- or post-2011).

## CHAPTER 3

### RESULTS

Individuals in the sample have been registered for an average of 10.40 years ( $SD = 5.74$ ), with 76% registering between 1995 and 2011, before the residence restriction was implemented, and the remainder (24%) registering afterward. One hundred and seventy-nine registrants (2%) were listed as homeless for at least one time period, and duration of homelessness ranged from seven to 7,385 days (i.e., over 20 years), with a median of 886 days (i.e., 2.4 years). Ten percent of those who had been homeless had an address listed at a subsequent point, but the remainder of the group continues to be homeless (for this group, duration of homelessness was calculated using the date of receipt of data). Of those who have been homeless, 88% became homeless prior to 2011, and 12% became homeless afterward.

Roughly 6% of the sample have been convicted of at least one subsequent offense since being added to the registry. Of those who have reoffended, 72% have been convicted of only one reoffense, 25% have been convicted of two or three reoffenses, and 4% have been convicted of four to seven reoffenses. Prior to 2011, there was a mean of 42.11 reoffenses per year. Since 2011, that number has increased to 48.86. Compliance with registration requirements, adult/juvenile status at time of index offense, Tier level, ethnicity, sex, age, and duration registered were included as control variables in the analysis. A statistical description of these variables, including correlations, is available in

Table 1. Notably, recidivism is positively correlated with homelessness, tier level, and duration registered, and homelessness is inversely related to compliance status.

**Research Question 1: Does Homelessness Predict Recidivism?** An independent samples t-test was also utilized to compare rates of recidivism between registrants who had been homeless and those who had not. In support of the hypothesis, those who had experienced homelessness ( $M = .11$ ,  $SD = .31$ ), were significantly more likely to recidivate than those who had never been homeless ( $M = .06$ ,  $SD = .23$ ;  $t(11302) = -2.88$ ,  $p = .004$ ).

To investigate this relationship in more detail and to control for covariates, two binary logistic regressions and a t-test were conducted to explore how homelessness is associated with recidivism. The first logistic regression tested the predictive ability of ever having been homeless, the second tested the predictive ability of duration of homelessness, and both models controlled for compliance, adult or juvenile registration, Tier level, age, sex, ethnicity, and duration registered. Tests of multicollinearity indicated only low levels of multicollinearity within the predictor variables ( $VIF = 1.01$  for *homelessness*, 1.01 for *compliance*, 1.02 for *adult/juvenile*, 1.01 *tier level*, 1.02 for *race*, 1.01 for *sex*, and 1.04 for *age*). Considering homelessness first, a test of the full model against a constant only model was statistically significant, indicating that the predictors as a set reliably distinguished between those who did, and those who did not recidivate (chi square = 82.87,  $p < .001$  with  $df = 8$ ). Nagelkerke's  $R$  of .021 indicated a weak to modest relationship between prediction and grouping. The Wald criterion demonstrated that homelessness made a significant contribution to prediction ( $p = .007$ ), as did Tier level ( $p < .001$ ), age ( $p = .004$ ), and time registered ( $p < .001$ ).  $\text{Exp}(\beta)$  value indicated

that when a registrant has spent time homeless, the odds ratio is 1.95 times greater. Therefore, registrants who have been homeless are almost two times more likely to recidivate, than those who have not been homeless. Moreover, for each increase in Tier level, a registrant is 1.59 times more likely to recidivate; for every additional year of age, a registrant is .01 times less likely to recidivate; and for each additional year registered, a registrant is 1.04 times more likely to recidivate (see Table 2).

For the second model, testing duration of homelessness with the same control variables was also statistically significant (chi square = 76.58,  $p < .001$  with  $df = 8$ ), and had a slightly smaller Nagelkerke's  $R$  of .019, which indicated a weak relationship between prediction and grouping. The Wald criterion, however, indicated that duration of homelessness was not a significant predictor in this model ( $p = .777$ ). As expected, the same control variables as the previous model were found to have significant predictive ability in this model as well (see Table 3).

Overall, this set of analyses supports the hypothesis that homelessness is associated with recidivism, although it appears that the experience of being homeless, is an important factor, while duration of homelessness is not.

**Research Question 2: Has the Likelihood of Being Homeless Increased Since the Residence Restriction was Implemented in 2011?** An independent-samples t-test was conducted to compare experiences of homelessness between registrants who were registered before 2011, and registrants who were registered after 2011, when the residence restriction was implemented. In contrast to the hypothesis, there was no significant difference in experiences of homelessness between those registered prior to 2011 ( $M = .02$ ,  $SD = .13$ ), and those registered afterward ( $M = .02$ ,  $SD = .12$ ;  $t(11302) =$

.08,  $p = .88$ ). These results suggest that the period in which a registrant was registered does not impact their likelihood of homelessness.

**Research Question 3: Has the Likelihood of Recidivism Increased Since the Residence Restriction was Implemented in 2011?** An independent-samples t-test was conducted to compare recidivism between registrants who were registered before 2011, and registrants who were registered after 2011, when the residence restriction was implemented. A significant difference was discovered in recidivism between those registered prior to 2011 ( $M = .06$ ,  $SD = .24$ ), and those registered afterward ( $M = .04$ ,  $SD = .21$ ;  $t(11302) = 3.18$ ,  $p < .001$ ), although in the opposite direction as hypothesized. These results suggest that those registered before 2011 were more likely to recidivate than those registered in 2011 and beyond.

Table 3.1 – Correlations and Descriptive Statistics

Variables	1	2	3	4	5	6	7	8	9	10
1. Reoffense flag	-									
2. Homelessness flag	.027**	-								
3. Days homeless	.003	.699**	-							
4. Compliant	-.012	-.067**	-.064**	-						
5. Adult or Juvenile	.005	-.004	-.003	.019*	-					
6. Tier level	.057**	.004	-.027**	.058**	-.009	-				
7. Ethnicity	.006	-.002	-.017	-.030**	.000	.040**	-			
8. Sex	-.005	.008	-.017	.001	-.006	.028**	.052**	-		
9. Age	-.011	-.013	.002	.039**	.126**	.068**	-.092**	.057**	-	
10. Years registered	.054**	.000	.025**	-.001	-.049**	.105**	-.001	.031**	.233**	-
Mean	.057	.020	21.506	.970	.990	1.620	.463	.980	48.146	10.353
Standard deviation	.231	.125	242.681	.168	.090	.526	.635	.141	12.311	5.745
Range	0-1	0-1	7-7385	0-1	0-1	1-3	1-3	0-1	17-95	1-21
Skewness	3.834	7.758	18.757	-5.622	-10.890	-.075	1.595	-6.780	.269	3.834

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

*Table 3.2 – Logistic Regression of Homelessness on Recidivism*

	<i>Exp(B)</i>	<i>S.E.</i>	<i>Wald</i>
Homelessness flag	1.951*	.248	7.264
Compliance	.728	.219	2.106
Adult or juvenile	1.884	.518	1.492
Tier level	1.585*	.080	32.733
Ethnicity	1.008	.067	.015
Sex	.806	.272	.626
Age	.990*	.004	8.086
Years registered	1.043*	.007	33.032
Constant	.025*	.629	34.239

\*. *Significant at the 0.01 level.*

*Table 3.3 – Logistic Regression of Duration of Homelessness on Recidivism*

	<i>Exp(B)</i>	<i>S.E.</i>	<i>Wald</i>
Days homeless	1.000	.000	.080
Compliance	.704	.218	2.585
Adult or juvenile	1.872	.518	1.465
Tier level	1.586*	.080	32.889
Ethnicity	1.008	.067	.013
Sex	.814	.272	.571
Age	.990*	.004	8.249
Years registered	1.043*	.007	32.827
Constant	.026*	.629	33.342

\*. *Significant at the 0.01 level.*

## CHAPTER 4

### DISCUSSION

This study set out to explore the relationship between homelessness and recidivism among registered sex offenders, as well as to investigate the effect of South Carolina's sex offender residence restriction on rates of homelessness and recidivism among this population. Specifically, I hypothesized that homelessness among registered offenders would be significantly associated with recidivism, and that rates of homelessness, as well as rates of recidivism, would have increased since 2011, when the state implemented its residence restrictions on this group of offenders.

In testing the link between homelessness and recidivism, a t-test showed that recidivism is indeed significantly higher for the group of registrants that had experienced homelessness, than the group that had not. Additionally, a logistic regression indicated that homelessness is a significant predictor of recidivism among this sample, while controlling for duration registered, compliance with registration requirements, adult or juvenile registration, Tier level, age, sex, and ethnicity. Although the Nagelkerke's *R* value indicated that the overall model could only modestly predict recidivism at best, homelessness was the most influential variable, with those who were homeless being nearly twice as likely to recidivate. A separate logistic regression testing whether a registrant's duration of homelessness could predict recidivism was significant overall, but determined that length of homelessness was not a significant predictor of recidivism.



These results, taken in sum, suggest that any experience of homelessness, regardless of duration, does indeed appear to be significantly associated with recidivism. An increasing amount of time spent homeless, however, does not equate to an increased risk of recidivism.

The association between homelessness and recidivism coincides well with findings from other empirical research. While no other studies were found that considered the direct impact of homelessness on recidivism for this particular group of offenders, Willis and Grace (2008) found that an index measure of accommodation was inversely related to recidivism among registered offenders. Unstable housing among registered offenders has also been found to be linked to unemployment and a lack of social support, both of which are risk factors for sexual reoffending (Hanson & Harris, 2000; Hanson & Morton-Bourgon, 2004, 2005; Halsey, 2007). Moreover, among offenders in general, research has long supported a relationship between homelessness and offending (Brennan, Dieterich, Ehret & Beate, 2007; Halsey, 2007; Speir, Johnson, & Hull, 2003). For instance, individuals at homeless shelters are significantly more likely to have committed a criminal offense than the general public (Metraux & Culhane, 2004, 2006), and individuals who have been incarcerated have a higher likelihood of having been homeless than those who have not (Phelan & Link, 1999). Findings from the current analysis provide additional support for the relationship between homelessness and general offending, as well as bolster support for this relationship among sexual offenders in particular.

Tier level also significantly predicted whether an offender would recidivate. Specifically, for each increase in tier level, a registrant is 1.59 times more likely to

recidivate. This information implies that although those in higher tiers present a significantly greater threat to public safety, the increased risk of recidivism is not as drastic as might be expected based on tier level. If the application of these policies differs based on tier level, then tier levels should represent meaningful differences among offenders' levels of dangerousness. The current system of basing tiers on the perceived severity of the crime for which an offender became registered doesn't appear to result in such meaningful distinctions, or at least not as much as one would hope. Perhaps a system that considers other factors that have been found to contribute to an individual's risk of recidivism, such as criminal history, victim characteristics, social support, sexual preferences, and relationship history (Hanson, 2004), would be better suited to categorize offenders based on their dangerousness.

In investigating how South Carolina's residence restriction has impacted rates of homelessness among its registered offender population, the current analysis indicated no significant difference in rates of homelessness among offenders registered between 1995 and 2011, and those registered between 2012 and 2016. Counter to my expectations, this finding suggests that offenders who registered after the residence restriction was implemented do not have an increased likelihood of homelessness compared to those registered prior to the residence restriction implementation. Additionally, in exploring whether the residence restriction had an effect on rates of recidivism, the analysis also determined that, in contrast to the hypothesis, offenders registered after the implementation of the residence restriction had a decreased likelihood of recidivism, compared to offenders registered pre-implementation. One interesting finding of note,

however, is that the average number of re-offences per year did increase from 42.11 to 48.86 after the residence restriction was put into place.

Counter to the findings of the current analysis, previous research has provided ample support for a decrease in available housing for registered offenders following the implementation of residence restrictions (Barnes, Dukes, Tewksbury & De Troy 2009; Berenson & Appelbaum 2011; Chajewski & Mercado, 2008; Socia, 2011; Zgoba, Levenson & McKee 2009), as well as for subsequent increases in homelessness (Levenson, Ackerman, Socia & Harris 2015; Loving, Singer & Maguire, 2008; Socia, 2015). For example, Berenson and Appelbaum (2011) identified cities where up to 97% of residentially zoned properties exist within a zone that is restricted to registered offenders, and Loving, Singer, and Maguire (2008) reported that the number of offenders on parole registering as transient increased by over 800% within one year of implementation.

A large body of research has also shown that residence restrictions tend to increase recidivism and overall sexual crime rates, rather than decrease such occurrences (Blood, Watson, & Stageberg, 2008; Nobles, Levenson, & Youstin, 2012). Indeed, one group of researchers compared recidivism between registered offenders who were and who were not subject to residence restrictions, as well as a matched group of non-sexual offenders, and discovered that only the group of registered offenders who were subjected to residence restrictions had a significant increase in recidivism (Huebner, Kras, Rydberg, Bynum, Grommon, & Pleggenkuhle, 2014).

The discordance of this large body of evidence and the findings from the current study could exist for a number of reasons. For example, the results could be interpreted as suggesting that, in the present context, residence restrictions do not have a negative impact on homelessness, and may even be associated with decreased recidivism. However, the limitations of the available data and analytic strategy utilized likely negate such conclusions. Specifically, while the use of archived data provides opportunities to answer a plethora of research questions that would otherwise be impossible or impractical to answer, and can save researchers years of painstaking data collection, it also comes along with a number of important disadvantages. Specifically, the data may contain errors or missing information, or the available variables may not be ideal to provide the answers sought by researchers. In the current analysis, the sample had to be reduced by nearly a third due to obviously faulty data, missing data, or ambiguous data. Moreover, because the collecting agency did not have a consistent method for recording homelessness, it is likely that many registrants who have been homeless were not recorded as such.

Moreover, it is likely that the residence restrictions were not applied equally to all registrants in the sample due to variations between the state law and individual local ordinances. As explained in the first chapter, South Carolina state law mandates that only offenders who victimized a minor are subject to residence restrictions, and also includes a grandfather clause excluding offenders who resided in a restricted zone before the law was passed, who owned the property being charged with the registerable crime, and who resided in the restricted zone before the restricted venue was established (SCCOL § 23-3-535). Some local ordinances, though, do not include the same grandfather clauses, and many also apply the law to all registered offenders, not only those who offended against a

minor (COCCSC § 14-221). Furthermore, restricted locations differ from jurisdiction to jurisdiction. For example, the state law includes schools, daycare centers, children's recreational facilities, parks, and public playgrounds, whereas, the city of Columbia restricts offenders from living near churches, school bus stops, and public pools as well (COCCSC § 14-221). These variations between jurisdictions make it a challenge to identify which registrants in the sample were indeed subject to the residence restrictions, and to what degree.

In addition to the limitations of the available data, the analytic strategy utilized may not have been the ideal method to test for the specific impact that South Carolina's residence restriction has on either homelessness or recidivism. With the available data, homelessness and recidivism could only be compared between offenders who were registered pre- and post-implementation, rather than between groups who were and were not subject to residence restrictions. Although the group registered before 2011 would have experienced varying amounts of time being registered without being subject to residence restrictions, they all have also experienced five years with the residence restrictions, as has the group to which they were compared, those registering post-2011. Due to the grandfather clauses described above, however, it is plausible that individuals in the group registered prior to 2011 were less likely to be subject to the residence restrictions, although this cannot be said with certainty. Ultimately, comparing rates of homelessness and recidivism between these groups could be somewhat of an arbitrary comparison, since both groups have been subject to residence restrictions to an unknown extent, making the present analysis a conservative one.

While this study does not provide support for the notion that sex offender residence restrictions increase homelessness and recidivism, it does add to the body of evidence supporting a link between homelessness and recidivism. This relationship has long been supported for offenders in general (Brennan, Dieterich, Ehret & Beate, 2007; Halsey, 2007; Metraux & Culhane, 2004, 2006; Phelan & Link, 1999; Speir, Johnson, & Hull, 2003), but this is the first study to directly test this relationship among registered sex offenders. Investigating this association for this particular group is especially important since a great deal of research has indicated that current sex offender policies, such as registration, notification, and residence restrictions have led to heightened rates of homelessness for this group (Levenson & Cotter, 2005; Levenson, Ackerman, Socia, 2015; Socia & Harris 2015; Loving, Singer & Maguire, 2008; Tewksbury, 2005; Zevitz & Farkas, 2000). The results of this study indicate that offenders who spend any amount of time homeless are almost twice as likely to recidivate than offenders who have not. Programs and policies that work toward ensuring stable housing for this population could drastically reduce rates of recidivism among registered offenders, and policy makers should make this a priority. Likewise, policies that decrease available housing and increase rates of homelessness, such as sex offender registration and residence restrictions should be modified or eliminated immediately.

Unfortunately, these laws are often justified by false beliefs of high recidivism rates among registered offenders (i.e. Smith v. Doe, 2003; McKune v. Lile, 2002; see Ellman & Ellman, 2015). Although not a main objective of this project, the finding that only 6% of the sample had committed a reoffense after being registered is an important one, and adds to the evidence that registered offenders are quite unlikely to recidivate,

especially in comparison to general offenders who have been estimated to recidivate at a rate of 68-77% (Durose, Cooper, & Snyder, 2014). Previous research estimates that 3-25% of sex offenders will recidivate (Greenfeld, 1997; Harris & Hanson, 2004; Kruttschnitt, Uggen, & Shelton, 2000; Zimring, Piquero, & Jennings 2007), and the current finding increases support to the lower end of these estimates. Sex offender recidivism rates were declared to be “frightening and high” by the United States Supreme Court (*McKune v. Lile*, p. 34, 2002), and this notion has been used repeatedly in the legal realm to justify these specialized sex offender policies (Ellman & Ellman, 2015). In reality, this group of offenders is offending at a substantially lower rate than offenders in general (Durose, Cooper, & Snyder, 2014), and it is imperative that this information be accurately considered in legal policy making. This low rate of recidivism reveals that these drastic measures to reduce recidivism that have been shown to have negative collateral consequences are not only unreasonable, but also unjustifiable.

With the growing amount of empirical evidence that indicates the faultiness of residence restrictions and other sex offender policies, it is curious and troubling that law makers continue to create and support such policies. Future research should consider what factors influence policy makers to take empirical evidence into account when developing laws for the management of sex offenders, as well as ways in which we can encourage these actors to strive to develop evidence-based policies. Additionally, because current sex offender registries include individuals convicted of such a variety of offenses, it is important to gain a better understanding of the actual conduct that lands individuals on the registry. This information could help guide future modifications of registration laws to ensure that policies are aimed at offenders who will actually be deterred from

reoffending by them, rather than unnecessarily punishing those to whom the laws are irrelevant. Of course, since this is the first project that directly tested the relationship between homelessness and sex offender recidivism, future research should continue to investigate this relationship within this group to increase support for this finding. Finally, future replications should examine if this relationship differs by race, sex, age, and other demographic variables, to ensure policies are being correctly targeted.

Legitimate sexual offenses are clearly a horrendous type of crime for anyone to experience, and surely governments should be taking steps to prevent their occurrence. Unfortunately, high levels of public concern that follow publicized sexual victimization, combined with faulty assumptions regarding those who commit sexual offenses have led to impulsive development of laws that are not based on research (Levenson & D'Amora, 2007; Maguire & Singer, 2010). What's worse, these laws that are intended to reduce such offenses, have been found to either have no impact (Adkins, Huff, Stageberg, Prell & Musel, 2000; Letourneau, Levenson, Bandyopadhyay, Sinha, & Armstrong, 2010; Sandler, Freeman & Socia, 2008; Schram & Meloy, 2005; Tewksbury, Jennings & Zgoba, 2012; Zgoba, Witt, Dalessandro & Veysey, 2008), or even increase their rates (Blood, Watson, & Stageberg, 2008; Huebner, Kras, Rydberg, Bynum, Grommon, & Pleggenkuhle, 2014; Nobles, Levenson, & Youstin, 2012; Socia, 2015). What began as a means for law enforcement to track individuals who had previously committed a sexual offense to aid in investigations, has evolved into an elaborate list of individuals who have committed a range of crimes, many of which lack sexual intent and pose very little, if any, threat to the public. Additional laws now require public dissemination of offenders' information, as well as limit where an offender can live. Alas, no logical basis for these



laws exist. The large majority of sexual offenses involve victims already known to the offender (Maguire & Singer, 2010; Petrosino & Pertrosino, 1999; Snyder & Sickmund, 2006; Tjaden & Thoennes, 2006), so warning the public of an offender in the area is unlikely to foster prevention. Moreover, offenders are unlikely to seek potential victims at the locations targeted with residence restrictions (Calkins, Colombino, Matsuura, & Jeglic, 2015; Catalano, 2005; Donnay & Tuwksbury, 2008; Snyder, 2000) and no evidence has been found to support a link between residential proximity to such locations and recidivism (Maguire & Singer, 2010; Zandbergen, Levenson, & Hart, 2010). Even with findings that suggest these registration policies work counterproductively, jurisdictions continue to implement these laws. South Carolina recently implemented a state-wide 1000-foot residence restriction for registered offenders whose offense included a minor (SCCOL 23-3-535). Utilizing data from the state sex offender registry, the current analysis discovered that this law may not have impacted rates of homelessness or recidivism, but it did support the existence of a relationship between homelessness and recidivism. As support for this association continues to grow and we gain a comprehensive understanding of the outcomes of specialized sex offender laws, perhaps policy makers will rethink these laws and alter them to reflect empirical evidence on the nature of sexual offending. With the implementation of evidence-based policies, hopefully we will see meaningful reductions of these unfortunate events.

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