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Sex Offender Registration and Notification Act— Summary and Assessment of Research

A Report Prepared by the
Federal Research Division, Library of Congress

April 2022

74 Years of Research Services to the Federal Government
1948 – 2022

PREFACE

The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) is housed within the U.S. Department of Justice’s Office of Justice Programs. Authorized in 2006 with President George W. Bush’s signing of the Adam Walsh Child Protection and Safety Act (AWA)—legislation that “revamped the federal standards for sex offender registration and notification”—SMART guides jurisdictions in implementing the Act’s provisions, and provides technical assistance to state, local, and territorial governments; American Indian tribes; and public and private organizations.¹ It also tracks important legislative and legal developments and administers grant programs centered on the registration, notification, and management of sex offenders. In fall 2018, SMART contracted the Federal Research Division (FRD) within the Library of Congress for research and analytical support, tasking FRD to assess the quality of current research concerning the issues influencing states’ success in implementing the Sex Offender Registration and Notification Act (SORNA), Title I of the AWA.

The goal of this report is to provide an overview of the current state of research pertaining to SORNA and assess the issues researchers have identified as having an effect on SORNA’s efficacy. In this report, FRD analyzes nearly thirty documents returned in database searches for research specifically addressing SORNA; this analysis serves as a study of the literature found, which includes peer-reviewed research published in current periodicals and scholarly journals. The research is largely focused on criminal justice and law, but it also covers sociology and economics. Among the sources cited by FRD are documents released by universities and public interest organizations, along with an article and report published, respectively, by the Congressional Research Service and U.S. Government Accountability Office.

FRD’s Commitment to Unbiased Research: FRD provides customized research and analytical services on domestic and international topics to agencies of the U.S. government, the District of Columbia, and authorized federal contractors on a cost-recovery basis. This report represents an independent analysis by FRD and the authors, who sought to adhere to accepted standards of scholarly objectivity. It should not be considered an expression of an official U.S. government position, policy, or decision.

Helene Zakia
Project Manager

¹ U.S. Department of Justice (DOJ), Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), “Legislative History of Federal Sex Offender Registration and Notification,” accessed April 20, 2022, <https://smart.ojp.gov/sorna/current-law/legislative-history>; DOJ, Office of Justice Programs, SMART, “About SMART,” accessed April 20, 2022, <https://smart.ojp.gov/about>.

The information cutoff date for research used within this report is June 2019; however, in some instances, updated information, such as court decisions rendered after the research was identified, has been included.

This project was supported by SMART Contract No. DOJ-SMART-19-RO-0500. The opinions, findings, conclusions, and recommendations expressed within this publication are those of the authors and do not necessarily reflect those of the U.S. Department of Justice.

HOW TO READ THIS REPORT

This report evaluates research pertaining to SORNA.² It provides an analysis of peer-reviewed research studies, articles, a federal government report, and a nongovernmental organization publication. The analysis includes an examination of the methodological rigor of twenty-eight documents identified by FRD for their relevance to the subject matter.

A high-level summary of findings is found in Section 1, while Section 2 provides a brief background on sex offender registration and notification policies. Section 3 highlights the research and evaluative methodology used by FRD to examine the literature, and Section 4 summarizes and analyzes the publications reviewed; these resources are categorized by subject area and assessed for objectivity and statistical integrity. Section 5 concludes the report.

Seven appendices appear at the end of this report. The first five appendices (Sections 6–10) give detailed summaries and assessments of the literature organized by publication subject. The sixth appendix, Section 11, provides a more in-depth look at FRD’s approach to evaluating statistical integrity. Internal validity (measured using the Maryland Scientific Methods Scale), construct validity, external validity, and statistical conclusion validity are explained and determined for each assessed study. The seventh appendix, Section 12, explores the author and publication relationships of the literature assessed in this report. Section 13, the final section, is a bibliography of selected sources used in this report.

² The Sex Offender Registration and Notification Act, the current federal law regarding sex offender registration and notification policies, applies to all fifty states, the District of Columbia, the five principal U.S. territories, and federally recognized American Indian tribes that elect to implement the Act. Generally, the research in this report addresses states’ registration and notification policies. However, one report, written by the U.S. Government Accountability Office (2013), is based on data collected in all fifty states, the District of Columbia, and the five territories, while another, authored by Ashley Kilmer and Chrysanthi S. Leon (2013), does not provide location information for the study participants.

EVALUATING PUBLISHED RESEARCH

To assess the body of research pertaining to SORNA, FRD examined studies' methodologies. One question investigated was whether researchers employed randomized experimental research methods. Widely recognized by statisticians as the strongest and most reliable way of establishing valid causal relationships between variables, randomized experiments include an array of research methods. There are four distinct practices, all of which can impact a study's statistical validity:

- Randomly selecting experimental units;
- From the experimental units, collecting data on all factors that could affect an outcome (e.g., where a study consists of human participants as experimental units, factors such as gender and age may fall within this description);
- Randomly assigning units to experimental and control groups (e.g., in a study on the effectiveness of headache medication, one group receives the medication, while another group receives a placebo); and
- Collecting data on an outcome before and after the experimental treatment is given (e.g., the frequency and severity of headaches before and after receiving the experimental headache medication).

FRD evaluated qualitative and quantitative research on the basis of the above four criteria. While studies at times differed in research technique, they shared a number of important similarities. Studies employed deductive research (i.e., testing theories or ideas with specific observations) and inductive research (i.e., exploring specific observations and subsequently developing hypotheses and theories to explain them). Some studies showcased the hallmarks of both: making observations, inductively creating hypotheses about those observations, using data to test deductions based on those hypotheses, and using the findings to refine or reject those hypotheses.

Other publications were more exploratory in nature, examining the data to find what, if any, connections existed between the variables. However, such research is limited to hypothetical connections between variables and cannot validly establish statistical associations such as causation or correlation.³ Within the body of literature reviewed for this report, the two methodological limitations that appeared to affect a study's statistical integrity most frequently were the lack of a control group and overgeneralizations based on small, specific sample sizes.

³ Causation is a type of association in which a change in one variable produces a change in another, while correlation is a type of association that measures the strength of the relationship between two variables. Correlations can be positive, meaning that as one variable changes, the other changes in the same direction (i.e., either increases or decreases), or negative, meaning that the variables change in different directions (e.g., as one increases, the other decreases).

Studies that lack a control group cannot say with any certainty that an observed change is caused by the independent variable (for instance, the impacts of registration experienced by adult and juvenile registered sex offenders) or some other confounding factor.⁴ Overgeneralizations occur when the results from a single study are applied to other populations—for example, using the experiences of registered sex offenders (RSOs) navigating one state’s residency restriction policies to predict the experiences of RSOs in other states with different laws.

⁴ A confounding factor, also referred to as a confounding variable, is something that influences the outcome under study (job, housing, psychological wellness, etc.) and is correlated with the factor of interests (being on the registry and public notification), but is not included in the statistical analysis. This leads to observed correlations between the outcome and the factor of interests that are instead caused by the confounding factors. Not controlling for confounding variables reduces the validity of an experiment.

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1. KEY FINDINGS

- **Methodological Quality of Studies:** Publications reviewed for this paper discussed many different aspects of SORNA and related policies. FRD chose to focus on the five categories outlined below. Throughout the literature, authors and researchers were generally critical of SORNA and state sex offender registration and notification (SORN) laws. However, this literature typically contained methodological flaws that rendered findings unreliable, invalid, or of little to no applicability to individuals not directly included in the research itself. These flaws, which are discussed in detail in Section 4.1, “Methodological Quality of Studies,” include the following:
 - *Potential for Bias.* A significant amount of literature relied on survey or interview methodologies in which participants were told that sex offender registries and related impacts were the subject matter of the studies, leading to potential selection and confirmation biases.⁵
 - *Lack of Comparison Groups.* Many studies examined only RSOs and did not include comparison groups, such as individuals who have or have not been convicted of other types of crimes.⁶ The absence of these comparison groups comprised one of several methodological problems that undermined the internal validities of statistical research.
 - *Non-Probability Sampling.* Many researchers used non-probability sampling to select study participants, undermining the external validity of their findings (precluding the possibility of extending applications of these findings to subjects not in the samples).
 - *Misuse of Statistical Methods.* Studies that employed statistical methods in research on RSOs commonly misused them. For example, ordinal variables are those where data is classified into ordered or ranked categories (e.g., Agree, Neutral, Disagree). Computing averages for ordinal variables is not a valid statistical practice. Nevertheless, some studies calculated the averages of ordinal variables.
- **Challenges and Impacts of Offender Compliance:** This body of research examined the impacts that RSOs claimed affected their employment and finances, housing, and physical and psychological well-being, as well as the impacts experienced by their family members and by juvenile RSOs. As a whole, literature on the impacts of registration on RSOs was

⁵ Selection bias originates during sample selection—in other words, when determining those “subjects agree[ing] to participate”—while confirmation bias is “a tendency of subjects to overstate what they believe researchers are looking for” (Sarah W. Craun and David M. Bierie, “Are the Collateral Consequences of Being a Registered Sex Offender as Bad as We Think? A Methodological Research Note,” *Federal Probation* 78, no. 1 [2014]: 28, http://www.uscourts.gov/sites/default/files/june2014_final_proof_6_11_2014.pdf).

⁶ Two studies (Douglas N. Evans and Jeremy R. Porter’s quasi-experimental work on landlord behavior and John M. Nally’s team’s research on ex-offender employment rates in Indiana) did attempt to compare outcomes for sex offenders with those experienced by other types of offenders.

indeterminate in its findings. Its limitations were mostly caused by methodological shortcomings restricting reliability, validity, and/or applicability of findings to only those individuals in the samples.

- **Offense-Based and Risk Assessment-Based Schemes:** This branch of literature, though sparse, considered two approaches to categorizing sex offenders. SORNA requires jurisdictions to base offenders' registration and notification requirements on their offenses of conviction. Some scholars criticize SORNA's offense-based system, claiming that it is not an accurate indicator of risk. They argue that the approach creates additional monetary costs for states, lumps together low- and high-risk offenders, and creates false public perceptions of danger. In response to these perceived limitations, scholars promote various, alternative risk assessment-based approaches.
- **State and Law Enforcement Perspectives:** The papers analyzed in this section addressed challenges that state government and law enforcement officials faced or may face while implementing SORNA. Cited challenges broadly fell into three categories: legislative, fiscal, and operational. Research addressing legislative aspects of implementation focused on negative effects and legal issues associated with the expansion of state registration requirements. Research addressing fiscal challenges of implementation suggested that SORNA is prohibitively costly for jurisdictions to implement. However, none investigated the actual costs incurred by jurisdictions that had successfully "substantially implemented" SORNA's requirements; they relied instead on assumptions and estimates. The articles that addressed operational challenges associated with implementation looked at issues from the perspectives of various criminal justice professionals working with RSOs. In particular, they examined the general function and efficiency of SORNA (including barriers to its effectiveness), sex offender compliance, and challenges associated with non-compliance.
- **Adult and Juvenile Recidivism:** Research (as of June 2019) was inconclusive regarding SORN laws' mitigating effects on sex offender recidivism.⁷ Research discussed financial costs associated with these laws and asserted that SORN laws have a low likelihood of impacting recidivism. However, all identified studies within this category contained several methodological shortcomings, including small sample sizes and attempts to draw conclusions from those limited samples in an environment where SORN laws vary across jurisdictions.

⁷ Association for the Treatment of Sexual Abusers (ATSA), *Sex Offender Registration and Notification*, 2008, 1–2, <https://www.atsa.com/sites/default/files/ppSORegNotification.pdf>; Washington State Institute for Public Policy (WSIPP), "Does Sex Offender Registration and Notification Reduce Crime? A Systematic Review of the Research Literature," June 2009, http://www.wsipp.wa.gov/ReportFile/1043/Wsipp_Does-Sex-Offender-Registration-and-Notification-Reduce-Crime-A-Systematic-Review-of-the-Research-Literature_Full-Report.pdf.

- **Challenges Based on Constitutional Protections:** Within the related literature, FRD identified three main constitutional challenges related to SORNA: (1) whether the inclusion of juveniles on registries is cruel and unusual punishment (though not all arguments about the registration of juveniles are constitutional); (2) whether retroactive application of SORNA to sex offenders convicted prior to its passage violates the Ex Post Facto Clause; and (3) whether SORNA violates the non-delegation doctrine of Article I, Section 1 of the U.S. Constitution. Of these topics, retroactive application of SORNA was the most frequently discussed. This body of literature relies primarily on scholars' assessment of U.S. Supreme Court decisions and legal theory, and less so on statistical methods.

2. BACKGROUND

California established the first U.S. sex offender registry in 1947. Over the years, other states followed suit. By 1996, every U.S. state operated a sex offender registry, most of which were only accessible to local law enforcement. No federal laws governing sex offender registries existed until 1994's Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (the Wetterling Act).⁸ It was the first federal law requiring every state to have a registry, and it standardized the states' registry programs. The Wetterling Act had a minimalistic provision for notification that allowed, but did not mandate, the release of information about RSOs to the public when it was deemed necessary for the public's protection. In 1996, two years after the Wetterling Act, Megan's Law strengthened federal notification policies by requiring all states to notify the public about RSOs.⁹ Shortly thereafter, states began to create public registry websites.

In 2006, Congress passed the AWA, which includes SORNA.¹⁰ The AWA, and thus, SORNA, supersedes the Wetterling Act, setting federal minimum standards for jurisdictions' sex offender registries and creating baseline standards stipulating which offenders must register, how frequently they must appear before law enforcement, and how long they must remain on the registry. SORNA requirements apply to all fifty states, the District of Columbia, the five principal U.S. territories, and eligible federally recognized American Indian tribes. SORNA's goals include:

- Providing for registration and notification tools that build public awareness of RSOs in the community;
- Addressing gaps existing due to variations across jurisdictions' laws, policies, and technology systems; and
- Standardizing notification procedures by requiring jurisdictions to publish certain information on their public registries and requiring registries to connect to the Dru Sjodin National Sex Offender Public Website, thus enabling the public to search all available registries.¹¹

⁸ The act is named for Jacob Wetterling, an 11-year-old boy abducted from his hometown of St. Joseph, Minnesota, in 1989. The case remained a mystery until 2016, when a longtime person of interest confessed to his murder.

⁹ The law is named for Megan Kanka, a 7-year-old girl from Hamilton Township, New Jersey, who was raped and murdered in 1994 by a neighbor with two previous sexual assault convictions.

¹⁰ SORNA is Title I of the AWA.

¹¹ Lori McPherson, "The Sex Offender Registration and Notification Act (SORNA) at 10 Years: History, Implementation, and the Future," *Drake Law Review* 64, no. 3 (2016): 751–52, 756–58, 761, <https://lawreviewdrake.files.wordpress.com/2015/01/mcpherson-final.pdf>. The website is named for Dru Sjodin, a 22-year-old college student from Grand Forks, North Dakota, who was abducted and murdered in 2003 by a sex offender registered in Minnesota. SMART manages the site, which allows the public to search, from one location, sex offender registries for all fifty states, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands, and eligible American Indian territories.

As a federal statute, SORNA sets minimum standards for SORN policies. These policies encompass federal and state laws that require jurisdictions to maintain internal registries of convicted sex offenders for law enforcement and public registry websites with RSO identifying information for the community. However, it is important to note that states and localities may choose to enact additional or more stringent requirements, such as residency restriction laws or lifetime registration for all offenders.

3. FRD RESEARCH METHODOLOGY

3.1. Literature Selection Process

To identify the existing research on SORNA, FRD conducted keyword searches in a variety of databases and internet search engines. An initial search of select databases captured 833 documents that appeared relevant to sexual offending. Of those 833 files, 274 appeared relevant to the overall body of SORNA-related research. Of those 274 files, forty appeared relevant to provide an overview of the Act. After a close review of those forty documents, some were removed, while others did not merit full consideration, leaving twenty-eight publications to be fully evaluated for this report. In addition to these twenty-eight documents, a handful of other resources were used as references by FRD.

3.1.1. Databases Used

FRD conducted its search using the following databases: Academic Search Complete, Google Scholar, Hein Online, the National Criminal Justice Reference Service, ProQuest, and Scopus.

3.1.2. Keywords and Other Search Parameters

Keyword searches consisted of Boolean strings using the following terms combined with “Sex Offender Registration and Notification Act” or SORNA: Retroactive, Juvenile, Adult, recidivism, SMART Office, Federal Sex Offender, Adam Walsh Act, Title I Adam Walsh Act, Sex Offender Registration, Sex Offender Notification.

3.1.3. Literature Selection Criteria

This report focuses on the claimed impacts of registration experienced by RSOs; offense-based classifications and those based on risk assessments; state and law enforcement perspectives on implementation; adult and juvenile recidivism; and constitutional protections related to sex offender registration. As a result, a document was discarded if either of the following applied:

- Its focus pre-dated SORNA, and it did not influence post-SORNA publications.
- It discussed SORNA but had limited impact or reach within broader scholarship, as indicated by citation count.

3.2. Literature Evaluation Methods

After narrowing down the literature selection, FRD looked at the objectivity of the studies. To rank their methodological quality, FRD applied a modified version of the Maryland Scientific Methods Scale (SMS)—a five-point scale initially developed to evaluate criminological research.

3.2.1. *Impacts to Objectivity*

In exploring potential impacts to objectivity, FRD researchers examined authors' affiliations at the time of publication, the mission statements of the organizations disseminating the literature, and a piece's funding source (when available), as well as whether authors criticized existing policy and/or proposed alternative policy.

3.2.2. *Statistical Integrity Score*

To assess the internal validity of the research studies, FRD used a modified Maryland SMS to evaluate each study's application of research methods. Only studies and research that relied on quantitative or statistical methods were subject to this analysis. Considerations also were given to each study's construct validity, external validity, and statistical conclusion validity. Studies' methods were rated on a scale of one to five, with higher numbers indicating use of research methodologies most likely to yield valid findings. More information about these evaluations can be found in Section 11, Appendix VI, "Analysis of Statistical Integrity."

4. LITERATURE SUMMARIES

4.1. Methodological Quality of Studies

As a whole, FRD found that methodological problems undermined the validity of conclusions drawn by the publications analyzed. Within the literature on sex offender registries, two common limitations arose (as noted in a 2014 article by Sarah W. Craun and David M. Bierie): first, use of survey and interview methodologies that introduce the potential for bias; and second, a general lack of control groups. Craun and Bierie noted that while research has identified potential disadvantages of sex offender registries, methodological shortcomings may mean that researchers have overstated the harm done to offenders.

- **Potential for Bias:** A significant number of studies used survey or interview methodologies in which participants were told that sex offender registries and their impacts were the subject under review. As Craun and Bierie point out, “such priming can lead to both selection bias (which subjects agree to participate) and a tendency of subjects to overstate what they believe researchers are looking for (confirmation bias).”¹²
- **Lack of Comparison Groups:** Many studies examined only RSOs and did not include a comparison group—for example, individuals convicted of another type of crime. These studies associate RSOs with post-registration outcomes (such as unemployment) without examining whether individuals who are not RSOs, and thus are not subject to registration, have had similar outcomes. In statistical analyses of causal or other relationships between variables, the absence of comparison groups is one of several methodological problems that undermine the internal validity of statistical research.
- **Non-Probability Sampling:** Some publications used non-probability sampling to select individuals for inclusion, which limits the application of statistical findings to only those subjects in the sample. In other words, it undermines the external validity of the research.¹³ For example, the authors of several studies contacted RSOs in particular jurisdictions and interviewed or surveyed the offenders who made themselves available for interviews. This technique is called convenience sampling. The findings from research using this and other non-probability sampling methods can only be applied to research subjects in the sample and cannot be extrapolated to other populations.
- **Misuse of Statistical Methods:** Another frequent problem FRD encountered within publications was the misuse of statistical methods, which compromised the statistical conclusion validity of the research.¹⁴ For example, some studies surveyed RSOs, asking

¹² “Are the Collateral Consequences of Being a Registered Sex Offender as Bad as We Think?” 28.

¹³ William R. Shadish, Thomas D. Cook, and Donald T. Campbell, *Experimental and Quasi-Experimental Designs for Generalized Causal Inference* (Boston: Houghton Mifflin Company, 2001), 83–93.

¹⁴ Shadish, Cook, and Campbell, *Experimental and Quasi-Experimental Designs*, 42–53.

them to respond to questions with a choice of “highly likely,” “somewhat likely,” etc., and assigned a number to those categories for computational purposes (5 for highly likely, 4 for somewhat likely, etc.). Researchers then calculated an average of the numbers assigned to those choices (e.g., 3.8) and compared those averages. However, the calculation of averages with this kind of data is not mathematically sound. These and other types of variables with ordered categories are called “ordinal” variables. While these categories have some order, they do not have known, fixed differences: no numerical value describes the difference between highly likely and somewhat likely. Thus, the calculation of the averages of numbers assigned to ordinal variables is not mathematically feasible.

In the pages that follow, FRD provides summaries of claims made within the literature and assessments of the quality of the research underlying those claims. Publications are categorized into five topic areas: the claimed impacts of registration experienced by RSOs, offense-based tier classifications and those based on risk assessments, state and law enforcement perspectives on implementation, recidivism, and constitutional protections related to sex offender registration. Some studies appear in multiple categories as they discuss more than one topic. More detailed discussions of each study’s claims and methodological quality are located in Sections 6–10, Appendices I–V.¹⁵

4.2. Challenges and Impacts to Offender Compliance

FRD analyzed nine studies and one article that looked at various claimed impacts of sex offender registration and notification laws on registered sex offenders. This body of research examined the impacts that RSOs claimed affected their employment and finances, housing, and physical and psychological well-being; the impacts reportedly experienced by their family members; and the impacts reportedly experienced by juvenile RSOs. However, there were several limitations in the quality of the research in all studies examined. For example, studies were largely based on self-reported data provided by RSOs, their family members, and treatment providers in surveys and interviews with researchers. In many of these studies, the participants were informed that the study was recruiting RSOs or their family members to provide information on their experiences with registration, which may have led to selection or confirmation bias.

As a whole, literature on the impacts of registration on RSOs was indeterminate in its findings. Limitations were mostly caused by methodological shortcomings that restricted the reliability, validity, or applicability of findings to only those individuals in the sample. For example, many studies lack comparison or control groups, such as those convicted of nonsexual offenses, which

¹⁵ Publications that appear under more than one topic area are fully discussed upon first reference in the appendices. Subsequent appearances in additional topic areas will refer to the initial subsection containing the full discussion.

undermined the strength of their claims for a causal relationship between registration and the observed impact for RSOs. Additionally, many studies used nonrandom sampling techniques, which limited the applicability of their findings to the populations sampled. Finally, several studies misused statistical methods and techniques. See Table 1 for a list of the ten documents reviewed, as well as their individual statistical integrity scores.

Table 1. Studies on Challenges and Impacts to Offender Compliance¹⁶

Title, Author(s) (Date)	Type	Stat. Integrity Score*
"Collateral Consequences of Sex Offender Registration," Richard Tewksbury (2005)	Study	1
"The Impact of Specialized Sex Offender Legislation on Community Reentry," Cynthia Calkins Mercado, Shea Alvarez, and Jill S. Levenson (2008)	Study	1
"'Nobody Worries about Our Children': Unseen Impacts of Sex Offender Registration on Families with School-Age Children and Implications for Desistance," Ashley Kilmer and Chrysanthi S. Leon (2017)	Study	1
"Perceptions of Sex Offender Registration: Collateral Consequences and Community Experiences," Richard Tewksbury and Matthew Lees (2006)	Study	1
"The Prevalence and Correlates of Depression and Hopelessness among Sex Offenders Subject to Community Notification and Residence Restriction Legislation," Elizabeth Jeglic, Cynthia Calkins Mercado, and Jill S. Levenson (2012)	Study	1
<i>Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S.</i> , Nicole Pittman (2013)	Study	1
"Sex Offender Community Notification: Managing High Risk Criminals or Extracting Further Vengeance?" Richard G. Zevitz and Mary Ann Farkas (2000)	Study	1
<i>Sex Offender Registration and Notification</i> , Association for the Treatment of Sexual Abusers (2008)	Article	N/A
<i>Sex Offender Registration and Notification Act: Jurisdictions Face Challenges to Implementing the Act, and Stakeholders Report Positive and Negative Effects</i> , U.S. Government Accountability Office (2013)	Study/Background	2
"Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants," Erika Davis Frenzel et al. (2014)	Study	1

* The statistical integrity score ascends in value, with 5 being the highest score a study can receive. Because articles distill an author's reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

The publications reviewed were generally critical of SORN policies; however, no paper provided reliable and valid empirical support for claims that such policies have had adverse effects on RSOs.

¹⁶ See Appendix I for detailed summaries and assessments of the literature listed in Table 1.

While SORN policies may indeed have deleterious effects on RSOs, thus far the research has not provided evidence of an association between SORN and studied impacts. It is important to note that FRD's goal is not to impugn either survey research as a whole or the work of the researchers who study this field, but to raise readers' awareness of the limitations of the research and caution against extrapolating conclusions that cannot be supported by the current literature. It also should be noted that, in many cases, the study authors have acknowledged the limitations of their work.

Studies that addressed impacts of SORN policies' on RSOs have generally been conducted by a small number of researchers who often co-author one another's papers and sometimes use one another's survey instruments. For instance, a 2014 study led by Erika Davis Frenzel used a modification of the survey instrument Richard Tewksbury developed for his 2005 study.¹⁷

Several studies focused on how registration may impact RSOs' financial lives. The research attempted to tie SORN policies to RSOs' difficulties in finding and maintaining employment and being met with denials of promotions, bank accounts, or loans.¹⁸ Authors at times professed to have mixed views on the different aspects of these policies; however, they generally concluded that SORN restrictions harm RSOs' employment prospects, even when findings showed that a majority of RSOs sampled did not experience a particular consequence.

Multiple studies addressed the impact of laws and state or local residency restriction policies on the ability of RSOs to find and maintain housing, the quality of RSO neighborhoods, and rates of RSO homelessness.¹⁹ Residency restrictions, if in place, are enacted at the state and local level; they are neither established nor required by federal law. Specific residency restriction policies may

¹⁷ Frenzel et al., "Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants," *Justice Policy Journal* 11, no. 2 (2014), http://www.cjcj.org/uploads/cjcj/documents/frenzel_et_al_collateral_consequences_final_formatted.pdf.

¹⁸ Frenzel et al., "Understanding Collateral Consequences of Registry Laws"; Cynthia Calkins Mercado, Shea Alvarez, and Jill S. Levenson, "The Impact of Specialized Sex Offender Legislation on Community Reentry," *Sexual Abuse* 20, no. 2 (2008): 188–205, doi: 10.1177/1079063208317540; Richard Tewksbury and Matthew Lees, "Perceptions of Sex Offender Registration: Collateral Consequences and Community Experiences," *Sociological Spectrum* 26, no. 3 (2006): 309–34, doi: 10.1080/02732170500524246; Richard G. Zevitz and Mary Ann Farkas, "Sex Offender Community Notification: Managing High Risk Criminals or Extracting Further Vengeance?" *Behavioral Sciences & the Law* 18, no. 2–3 (2000): 375–91, doi: 10.1002/1099-0798(200003/06)18:2/3<375::AID-BSL380>3.0.CO;2-N; U.S. Government Accountability Office (GAO), *Sex Offender Registration and Notification Act: Jurisdictions Face Challenges to Implementing the Act, and Stakeholders Report Positive and Negative Effects*, GAO-13-211 (Washington, DC: GAO, 2013), 31, <https://www.gao.gov/assets/660/652032.pdf>; Kilmer and Leon, "'Nobody Worries about Our Children': Unseen Impacts of Sex Offender Registration on Families with School-Age Children and Implications for Desistance," *Criminal Justice Studies* 30, no. 2 (2017): 181–201, doi: 10.1080/1478601X.2017.1299852.

¹⁹ Mercado, Alvarez, and Levenson, "The Impact of Specialized Sex Offender Legislation," 188–205; Kilmer and Leon, "Nobody Worries about Our Children," 181–201; Elizabeth Jeglic, Cynthia Calkins Mercado, and Jill S. Levenson, "The Prevalence and Correlates of Depression and Hopelessness among Sex Offenders Subject to Community Notification and Residence Restriction Legislation," *American Journal of Criminal Justice* 37 (2012): 46–59, doi: 10.1007/s12103-010-9096-9.

have changed since studies were conducted, and these studies do not necessarily reflect the experiences of RSOs living in a state or locality with different policies than those cited in the research.

Another common theme was RSOs' health and well-being. The research investigated how RSOs' physical and psychological well-being linked to registration and experiences, such as loss of supportive relationships, social isolation, and victimization through harassment and assault, as well as negative emotions such as embarrassment, fear, hopelessness, and shame.²⁰ Potential impacts were emotional or psychological in nature (e.g., stress, fear, and depression), or they resulted from the actions of family, friends, neighbors, or other members of the community (such as loss of relationships, social isolation, and victimization through harassment or assault).

Researchers also explored how RSOs' family members experienced financial strain and harassment, stress, or challenges maintaining stable housing due to RSO registration requirements or residency restriction policies.²¹ Studies concluded that some family members who lived with an RSO experienced financial impacts if the RSO had trouble maintaining employment or impacts to housing (e.g., if the RSO was subject to residency restrictions or neighborhood discrimination). Family members, including children, reportedly experienced stress or other negative emotions because of an RSO's registration status. Social stigmatization reported by those with relationships with RSOs could take the form of harassment or even assault.

Lastly, the research examined in this section looked at how the application of SORN policies to juvenile RSOs affected their education, employment, emotional well-being, families, housing, safety, and social relationships.²² SORNA requires certain juvenile sex offenders who have been adjudicated delinquent for serious sex offenses be placed on the registry. Specifically, registration is required of juveniles "who are at least 14 years old at the time of the offense and who have been adjudicated delinquent for committing (or attempting or conspiring to commit) a sexual act with another by force, by the threat of serious violence, or by rendering unconscious or drugging the

²⁰ Jeglic, Mercado, and Levenson, "The Prevalence and Correlates of Depression and Hopelessness," 46–59; Frenzel et al., "Understanding Collateral Consequences"; Mercado, Alvarez, and Levenson, "The Impact of Specialized Sex Offender Legislation," 188–205; Tewksbury and Lees, "Perceptions of Sex Offender Registration," 309–34; Richard Tewksbury, "Collateral Consequences of Sex Offender Registration," *Journal of Contemporary Criminal Justice* 21, no. 1 (2005): 67–81, doi: 10.1177/1043986204271704.

²¹ Zevitz and Farkas, "Sex Offender Community Notification," 375–91; Kilmer and Leon, "Nobody Worries about Our Children," 181–201.

²² Nicole Pittman, *Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S.* (New York: Human Rights Watch, 2013), https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf.

victim.”²³ Published studies on juvenile RSOs have largely focused on juvenile recidivism and theoretical arguments on the jurisprudential, psychological, and sociological merits of registering juveniles, rather than examining the claimed impacts of registration on juvenile RSOs.

4.3. Offense-Based and Risk Assessment-Based Schemes

The offense-based classification scheme associated with SORNA has received a significant amount of criticism within the evaluated literature. SORNA requires jurisdictions to use a conviction-based structure for sex offenders’ registration and notification requirements. These requirements include how long sex offenders must maintain their registration and how frequently they must report to law enforcement to verify their information.

Based on their convictions, offenders are classified into one of three tiers:

- Tier I offenders, convicted of the least severe offenses.
- Tier II offenders, convicted of more severe offenses.
- Tier III offenders, convicted of the most severe offenses.

In contrast to SORNA’s offense-based system, some jurisdictions determine the duration of RSOs’ registration period and frequency of verification based on individual risk assessments that are intended to gauge how likely it is that a registrant will reoffend. These jurisdictions may classify RSOs into tiers or categories based on their predicted risk level, with each tier having its own duration and reporting requirements.

SORNA’s Tier System

SORNA requires jurisdictions to categorize sex offenders into one of three groups based on their convictions:

- Tier I offenders must register for a minimum of 15 years and verify their registration information annually;
- Tier II offenders must register for a minimum of 25 years and verify their registration information semiannually; and
- Tier III offenders must register for life and verify their registration information quarterly.

FRD identified four studies, published between 2010 and 2018, that directly examined offense-based classification schemes versus those based on risk assessments. A 2013 report by the U.S. Government Accountability Office (GAO) noted a lack of literature on the effectiveness of the offense-based system. Two of the other studies FRD identified determined that the offense-based scheme was flawed, and questioned its effectiveness

²³ DOJ, Office of Justice Programs, SMART, “Sex Offender Registration and Notification in the United States: Current Case Law and Issues,” March 2019, <https://smart.ojp.gov/sites/g/files/xyckuh231/files/media/document/6-other-constitutional-issues.pdf>.

as a recidivism indicator.²⁴ The fourth study examined law enforcement perspectives on the efficacy and reliability of SORN laws. See Table 2 for a list of the four documents reviewed, as well as their individual statistical integrity scores.

Table 2. Studies on Offense-Based and Risk Assessment-Based Schemes²⁵

Title, Author(s) (Date)	Type	Stat. Integrity Score*
"The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative?" Naomi J. Freeman and Jeffrey C. Sandler (2009)	Study	1
"Law Enforcement Perspectives on Sex Offender Registration and Notification: Effectiveness, Challenges, and Policy Priorities," Andrew J. Harris et al. (2018)	Study	1
<i>A Multi-State Recidivism Study Using Static-99R and Static-2002 Risk Scores and Tier Guidelines from the Adam Walsh Act</i> , Kristen M. Zgoba et al. (2012)	Study	1
<i>Sex Offender Registration and Notification Act: Jurisdictions Face Challenges to Implementing the Act, and Stakeholders Report Positive and Negative Effects</i> , U.S. Government Accountability Office (2013)	Study/Background	2

* The statistical integrity score ascends in value, with 5 being the highest score a study can receive.

Naomi J. Freeman and Jeffrey C. Sandler (2009) criticized the offense-based scheme on the grounds it created additional monetary costs for states, lumped together low- and high-risk offenders, created false public perceptions of danger, and was not an accurate indicator of risk. Andrew J. Harris et al. (2018) concluded that, from the perspective of law enforcement, the offense-based classification scheme did not always "provide for an accurate assessment of a given registrant and the nature of [their] associated risk;"²⁶ however, they did not elaborate further as to the causes of this perceived inaccuracy. Some researchers promoted using a risk assessment-based scheme, stating that doing so enabled officials to "estimate the probability of sexual re-offense based on the actual recidivism rates of convicted sex offenders with similar characteristics."²⁷ All three studies discussing offense-based classification relied primarily on surveys and interviews with RSOs or law enforcement. As a result, these studies are subject to one or more of the following statistical or methodological limitations: sampling biases when creating survey instruments, a lack of a control group, and a lack of simple random sample.

²⁴ See Naomi J. Freeman and Jeffrey C. Sandler, "The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative?" *Criminal Justice Policy Review* 21, no. 1 (2010): 31–49, doi: 10.1177/0887403409338565; Kristen M. Zgoba et al., "A Multi-State Recidivism Study Using Static-99R and Static-2002 Risk Scores and Tier Guidelines from the Adam Walsh Act," November 2012, <https://www.ncjrs.gov/pdffiles1/nij/grants/240099.pdf>.

²⁵ See Appendix II for detailed summaries and assessments of the literature listed in Table 2.

²⁶ "Law Enforcement Perspectives on Sex Offender Registration and Notification: Effectiveness, Challenges, and Policy Priorities," *Criminal Justice Policy Review* 29, no. 4 (2018): 416, doi: 10.1177/0887403416651671.

²⁷ Zgoba et al., "A Multi-State Recidivism Study," 11.

4.4. State and Law Enforcement Perspectives

FRD analyzed six articles and five studies that looked at the challenges state governments and local law enforcement faced while implementing SORNA. The papers addressed challenges that broadly fall into three categories: legislative, fiscal, and operational. The research addressing legislative aspects of implementing SORNA at the state level focused on the negative effects and legal issues associated with the expansion of state registration requirements. (This section has some overlap with Sec. 4.2, “Challenges and Impacts of Offender Compliance,” and Sec. 4.6, “Challenges Based on Constitutional Protections.”)

All identified publications addressing fiscal challenges of implementing SORNA suggested the Act is prohibitively costly for jurisdictions to implement. However, none investigated actual costs incurred by jurisdictions that have substantially implemented the Act’s requirements, relying instead on assumptions and estimates.

The articles that addressed operational challenges of jurisdictions’ implementation looked at issues from the perspectives of various criminal justice professionals working with RSOs. In particular, these studies examined the general function and efficiency of SORNA, including barriers to its effectiveness; sex offender compliance and challenges associated with non-compliance; and issues jurisdictions faced while implementing and complying with the Act.

See Table 3 for a list of the eleven documents reviewed, as well as their individual statistical integrity scores.

Table 3. Studies on State and Law Enforcement Perspectives²⁸

Title, Author(s) (Date)	Type	Stat. Integrity Score*
“The Costs and Benefits of Subjecting Juveniles to Sex-Offender Registration and Notification,” Richard B. Belzer (2015)	Study	1
“Effects of Sex Offender Registration Policies on Juvenile Justice Decision Making,” Elizabeth J. Letourneau et al. (2009)	Study	1
“From Wetterling to Walsh: The Growth of Federalization in Sex Offender Policy,” Richard G. Wright (2008)	Article	N/A
“The High Price of Misguided Legislation: Nevada’s Need for Practical Sex Offender Laws,” Stephanie Buntin (2011)	Article	N/A
“Law Enforcement Perspectives on Sex Offender Registration and Notification: Effectiveness, Challenges, and Policy Priorities,” Andrew J. Harris et al. (2018)	Study	1

²⁸ See Appendix III for detailed summaries and assessments of the literature listed in Table 3.

Title, Author(s) (Date)	Type	Stat. Integrity Score*
"Parole Board Members' Views of Sex Offender Registration and Community Notification," Richard Tewksbury and Elizabeth Ehrhardt Mustaine (2012)	Study	1
"Paying the Piper: The Cost of Compliance with the Federal Sex Offender Registration and Notification Act," Jennifer N. Wang (2014/15)	Article	N/A
"Sex Offender Law: Down to the Wire," Donna Lyons (2011)	Article	N/A
<i>Sex Offender Management Policy in the States: SORNA and Sex Offender Policy in the States</i> , Council of State Governments (2010)	Article	N/A
<i>Sex Offender Registration and Notification Act: Jurisdictions Face Challenges to Implementing the Act, and Stakeholders Report Positive and Negative Effects</i> , U.S. Government Accountability Office (2013)	Study/Background	2
"What Will It Cost States to Comply with the Sex Offender Registration and Notification Act?" Justice Policy Institute (2008)	Article	N/A

* The statistical integrity score ascends in value, with 5 being the highest score a study can receive. Because articles distill an author's reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

Legislative Challenges: Legislative challenges jurisdictions faced in implementing SORNA reportedly involved requirements to register juvenile offenders, to retroactively register offenders convicted prior to SORNA's passage, and to post additional information on jurisdictions' public registry websites. Requirements for the inclusion of juvenile offenders on public registry websites have been some of the toughest challenges for jurisdictions as they seek to substantially implement SORNA.²⁹

When SORNA was enacted in 2006, jurisdictions cited retroactive registration as particularly difficult to implement.³⁰ Since 2009, however, most jurisdictions have found a way to address this requirement. For example, SMART classified Virginia—a state that is considered to be substantially implemented—as "Does Not Substantially Deserve" for its retroactivity laws and policies.³¹ In 2015, Virginia established a registration supplement containing "limited registration information for individuals convicted of certain sex offenses between July 1, 1980, and June 30, 1994." These

²⁹ Donna Lyons, "Sex Offender Law: Down to the Wire," National Conference of State Legislatures, June 2011, <http://www.ncsl.org/research/civil-and-criminal-justice/sex-offender-law-down-to-the-wire.aspx>; Council of State Governments (CSG), *Sex Offender Management Policy in the States: SORNA and Sex Offender Policy in the States* (Lexington, KY: CSG, 2010), 5.

³⁰ It is important to note that the requirement to retroactively register sex offenders who were convicted pre-SORNA comes not from the Act itself, but from a rule issued by the U.S. Attorney General (GAO, *Sex Offender Registration and Notification Act*; CSG, *Sex Offender Management Policy*, 5).

³¹ "Does Not Substantially Deserve" is an internal determination granted by SMART to jurisdictions whose proposed deviations sufficiently address each requirement within a particular SORNA standard, and whose overall implementation efforts promote the Act's main objectives.

RSOs are not required to verify their registration information, but their names and other data do appear on the state police's public registry website.³²

Richard G. Wright asserted in his 2008 article, "From Wetterling to Walsh: The Growth of Federalization in Sex Offender Policy," that the failure-to-register requirement was an example of certain problematic elements in SORNA. He described this requirement as "ambiguous," and therefore problematic. According to him, one of the "most disconcerting issues" about making a felony of failing to register is the "inevitable exhaustive legal challenges" it presents, largely because of questions related to a number of legal considerations, including due process. He suggested that if failing to update one's verification information routinely and accurately constituted a "failure to register," then any offender who provided a false address or updated their information after their deadline had passed may be prosecuted, which would "present a significant increase in prosecutorial and judicial caseloads."³³

Fiscal Challenges: Fiscal challenges associated with jurisdictions' implementation of SORNA reportedly relate to a variety of issues, including the complex task of amending current registration laws.³⁴ Additionally, the technical and practical aspects of implementing SORNA reportedly bear both direct and indirect costs for states.³⁵ For example, on her list of such aspects, Jennifer N. Wang includes additional personnel, new software installation and maintenance, additional jail and prison space, increased court and administrative needs, additional law enforcement requirements, including information verification at more frequent intervals, and legislative costs associated with crafting and adopting new laws.³⁶

FRD's evaluation of publications revealed problems related to the studies' chosen data points, improper attributions of costs, and unsubstantiated concerns regarding those costs. For example, in his study "The Costs and Benefits of Subjecting Juveniles to Sex-Offender Registration and Notification," Richard B. Belzer focused on the costs of implementation to offenders, their families, and their communities rather than on the costs to states. Andrew J. Harris, with co-authors Christopher Lobanov-Rostovsky and Jill S. Levenson, posited in "Widening the Net: The Effects of Transitioning to the Adam Walsh Act's Federally Mandated Sex Offender Classification System" that the creation of a tier system under SORNA is problematic and costly for states, increasing the

³² DOJ, Office of Justice Programs, SMART, "SORNA Substantial Implementation Review: Commonwealth of Virginia—Updated," August 2017, 7, <https://www.smart.gov/pdfs/sorna/VA-SORNA-Substantial-Implementation-Review.pdf>.

³³ *Federal Sentencing Reporter* 21, no. 2 (2008): 125, 129, doi: 10.1525/fsr.2008.21.2.124.

³⁴ CSG, *Sex Offender Management Policy*, 5.

³⁵ Richard B. Belzer, "The Costs and Benefits of Subjecting Juveniles to Sex-Offender Registration and Notification," *R Street Policy Study* 41 (2015), <https://www.rstreet.org/wp-content/uploads/2015/09/RSTREET41.pdf>.

³⁶ "Paying the Piper: The Cost of Compliance with the Federal Sex Offender Registration and Notification Act," *New York Law School Law Review* 59, no. 4 (2014/15): 685, https://digitalcommons.nyls.edu/nyls_law_review/vol59/iss4/4/.

burdens on both law enforcement and financial resources.³⁷ The Justice Policy Institute claimed in its article, “What Will It Cost States to Comply with the Sex Offender Registration Act?,” that the cost of implementation exceeds the amount of federal grant money states will lose if they do not implement SORNA. Similarly, Stephanie Buntin invoked costs of implementation as a reason Nevada should not come into compliance with SORNA. Wang also argued in “Paying the Piper: The Cost of Compliance with the Federal Sex Offender Registration and Notification Act” that SORNA is too costly to implement.

Operational Challenges: Operational challenges associated with implementing SORNA, which often overlapped legislative and fiscal challenges, largely arose in the areas of law enforcement and the judicial system, as well as in policymaking and regulatory efforts. These challenges reportedly stem from specific requirements, such as transitioning to a tier system and enforcing the failure-to-register requirement, which some argued would lead to larger caseloads and increased burdens on resources. In its study on SORNA and states’ implementation challenges, the GAO noted an increased workload for law enforcement agencies. Respondents to the agency’s survey on the subject indicated that these challenges were related to the increased frequency of RSOs updating their information and the need to register offenders retroactively. Harris et al. asserted in their 2018 article, “Law Enforcement Perspectives on Sex Offender Registration and Notification: Effectiveness, Challenges, and Policy Priorities,” that SORNA increased the level of resources needed to manage low-risk offenders. The results of this study indicated the need for tighter mechanisms for following up with non-compliant offenders. Richard Tewksbury and Elizabeth Mustaine conducted a similar study but used parole board members as their focus. They found parole board members to be generally supportive of SORN laws.

Elizabeth J. Letourneau et al.’s “Effects of Sex Offender Registration Policies on Juvenile Justice Decision Making” raised a different type of operational implementation challenge. Specifically, when it came to juvenile RSOs, their study determined that harsher juvenile registration requirements made prosecutors less likely to push for serious sexual assault charges for juveniles. The practical effect of this is a potential decrease in prosecution of serious sex crimes—counter to legislators’ intent.

4.5. Adult and Juvenile Recidivism

FRD reviewed four studies and three articles that looked at the effects of SORN laws on RSO recidivism.³⁸ The research is not conclusive about whether SORN laws have mitigated sex offender

³⁷ Quoted in Harris et al., “Law Enforcement Perspectives,” 408.

³⁸ While SORNA was designed to protect the public from sexual crimes, it does not specifically address recidivism. The word “recidivism” does not appear in the Act. See 34 U.S.C. § 20901 et seq.

recidivism.³⁹ Some researchers looked specifically at juvenile sex offender recidivism, while others focused on adult recidivism. Two studies used rates of recidivism to evaluate SORNA's tier system.⁴⁰ See Table 4 for a list of the seven documents reviewed, as well as their individual statistical integrity scores.

Table 4. Studies on Adult and Juvenile Recidivism⁴¹

Title, Author(s) (Date)	Type	Stat. Integrity Score*
"The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative?" Naomi J. Freeman and Jeffrey C. Sandler (2009)	Study	1
"Does Sex Offender Registration and Notification Reduce Crime? A Systematic Review of the Research Literature," Washington State Institute for Public Policy (2009)	Article	N/A
"From Wetterling to Walsh: The Growth of Federalization in Sex Offender Policy," Richard G. Wright (2008)	Article	N/A
<i>A Multi-State Recidivism Study Using Static-99R and Static-2002 Risk Scores and Tier Guidelines from the Adam Walsh Act</i> , Kristen M. Zgoba et al. (2012)	Study	1
<i>Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S.</i> , Nicole Pittman (2013)	Study	1
"Recidivism Rates for Registered and Nonregistered Juvenile Sex Offenders," Elizabeth J. Letourneau and Kevin Armstrong (2008)	Study	1
<i>Sex Offender Registration and Notification</i> , Association for the Treatment of Sexual Abusers (2008)	Article	N/A

* The statistical integrity score ascends in value, with 5 being the highest score a study can receive. Because articles distill an author's reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

The Association for the Treatment of Sexual Abusers (ATSA) and the Washington State Institute for Public Policy both surveyed literature in the field that looked at the effects of SORN policies on recidivism and stated that the literature had inconclusive results. ATSA also determined that preexisting relationships were a better indication of instances of recidivism. The Pittman and Letourneau/Armstrong studies both identified juvenile offenders as a low-risk category for reoffending, and questioned why SORN laws were applied to such groups. The Freeman/Sandler and Zgoba et al. pieces both determined that a sex offender's SORNA tier level was not correlated with their likelihood of reoffending. Taking into account the financial costs of SORN and arguments that these laws had a low likelihood of impacting RSO recidivism, FRD determined these studies were critical of SORN. However, they all faced several methodological challenges, including small sample sizes and variations of SORN laws across states.

³⁹ ATSA, *Sex Offender Registration and Notification*, 1–2; WSIPP, "Does Sex Offender Registration and Notification."

⁴⁰ Freeman and Sandler, "The Adam Walsh Act," 31–49; Zgoba et al., "A Multi-State Recidivism Study."

⁴¹ See Appendix IV for detailed summaries and assessments of the literature listed in Table 4.

4.6. Challenges Based on Constitutional Protections

FRD identified five articles (see Table 5) and several court cases that provide various points of analysis on whether aspects of SORNA violate the U.S. Constitution. These works were published between 2008 and 2019. Within this body of literature, FRD identified three main constitutional challenges related to SORNA: whether the inclusion of juveniles on registries violates the Eighth Amendment’s prohibition on cruel and unusual punishment; whether the retroactive application of SORNA to sex offenders convicted prior to its passage violates the Ex Post Facto Clause; and whether SORNA effectively violates the non-delegation doctrine of Article I, Section 1 of the U.S. Constitution.⁴²

Table 5. Studies on Challenges Based on Constitutional Protections⁴³

Title, Author(s) (Date)	Type	Stat. Integrity Score*
"Are Juvenile Sex Offenders Different from Their Adult Counterparts?" Alison M. Smith (2017)	Article	N/A
"Gorsuch Challenges Blank Check for the U.S. Attorney General," Damon Root (2019)	Article	N/A
"Retroactive Application of the Sex Offender Registration and Notification Act: A Modern Encroachment on Judicial Power," Rebecca L. Visgaitis (2011–12)	Article	N/A
<i>Sex Offender Registration and Notification</i> , Association for the Treatment of Sexual Abusers (2008)	Article	N/A
"Time to Revisit Sex Offender Registration Laws," Robert G. Schwartz (2014)	Article	N/A

* The statistical integrity score ascends in value, with 5 being the highest score a study can receive. Because articles distill an author’s reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

Inclusion of Juveniles on Sex Offender Registries: The inclusion of juveniles on sex offender registries was a point of contention in the research on SORNA. Of the articles FRD identified directly discussing this issue, two authors articulated views that SORNA’s juvenile registration requirement was either harmful or contradicts prevalent approaches. Specifically, in his 2014 column, Robert G. Schwartz described the Act’s registration of juveniles as “a lifetime scarlet letter.”⁴⁴ Buntin (2011) similarly stated that SORNA’s mandatory registration of juveniles

⁴² See 34 U.S.C. § 20912(b).

⁴³ See Appendix V for detailed summaries and assessments of the literature listed in Table 5.

⁴⁴ “Time to Revisit Sex Offender Registration Laws,” *Criminal Justice* 29, no. 1 (2014): 43–44, <https://heinonline.org/HOL/P?h=hein:journals/cjust29&i=45>.

contradicts “long-held policies” of treating juveniles differently from adult offenders in the American legal system.⁴⁵

SORNA requires certain juvenile offenders—those 14 and older adjudicated delinquent of certain serious sex offenses—to register as sex offenders. Legal challenges to this standard center on whether it aligns with the Eighth Amendment’s prohibition of cruel and unusual punishment.⁴⁶ According to a 2017 Congressional Research Service report, “[in] a series of cases, the U.S. Supreme Court has held that the Eighth Amendment prohibits imposition of certain types of punishment on juvenile offenders that might other[wise] be permissible when applied to adults.”⁴⁷ To date, the U.S. Supreme Court has not directly addressed the constitutionality of SORNA’s requirements for juvenile sex offenders.⁴⁸

Retroactive Application of SORNA: When it was passed in 2006, SORNA required adults whose sentences were completed before the legislation’s enactment to be added to public sex offender registries. Scholars have challenged this particular statute, questioning whether it is in line with the U.S. Constitution.⁴⁹ Under SORNA, the U.S. Attorney General has the authority to “specify the applicability of the requirements of [SORNA] to sex offenders convicted before July 27, 2006, or its implementation in a particular jurisdiction, and to prescribe rules for the registration of any such sex offenders.”⁵⁰ In *Reynolds v. United States*, the U.S. Supreme Court held that SORNA applied to pre-act offenders, but only when the Attorney General specified “that the Act’s registration provision apply to them.”⁵¹

⁴⁵ “The High Price of Misguided Legislation: Nevada’s Need for Practical Sex Offender Laws,” *Nevada Law Journal* 11, no. 3 (2011): 787, <https://scholars.law.unlv.edu/nlj/vol11/iss3/7>.

⁴⁶ McPherson, “The Sex Offender Registration and Notification Act (SORNA),” 741–84.

⁴⁷ Alison M. Smith, “Are Juvenile Sex Offenders Different from Their Adult Counterparts?” CRS Legal Sidebar, June 20, 2017, ProQuest Congressional (CRS-2017-AML-0138). The cases include *Roper v. Simmons*, 543 U.S. 551 (2005); *Miller v. Alabama*, 567 U.S. 460 (2012); and *Smith v. Doe*, 538 U.S. 84 (2003).

⁴⁸ See *United States v. Juvenile Male*, 564 U.S. 932 (2010) (declining to address issue of whether requiring juvenile to register as a sex offender was unconstitutional, vacating the Ninth Circuit Court of Appeals’ decision, and remanding with instructions to dismiss the case). Several cases addressing the constitutionality of requiring juvenile offenders to register as sex offenders are also listed in SMART’s March 2019 issue of “Sex Offender Registration and Notification in the United States: Current Case Law and Issues.” See *In re C.P.*, 967 N.E.2d 729 (Ohio 2012) (holding that requiring juveniles to register as sex offenders for life violated the Eighth Amendment’s prohibition against cruel and unusual punishment and the Due Process Clause of the Fourteenth Amendment); and *In re J.B.*, 107 A.3d 1 (Pa. 2014) (holding that requiring juveniles to register as sex offenders for life violated procedural due process). Conversely, see *United States v. Under Seal*, 709 F.3d 257 (4th Cir. 2013) (holding that requiring juvenile, who was adjudicated delinquent for committing aggravated sexual abuse, to register as a sex offender under SORNA did not violate the Eighth Amendment); and *In re Justin B.*, 747 S.E.2d 774 (S.C. 2013) (holding that lifetime GPS monitoring of a juvenile adjudicated delinquent of a sex offense does not violate the Eighth Amendment).

⁴⁹ See, for example, Rebecca L. Visgaitis, “Retroactive Application of the Sex Offender Registration and Notification Act: A Modern Encroachment on Judicial Power,” *Columbia Journal of Law and Social Problems* 45 (2011–12): 273–302, <http://jlsplaw.columbia.edu/wp-content/uploads/sites/8/2017/03/45-Visgaitis.pdf>.

⁵⁰ 42 U.S.C. § 16912(d).

⁵¹ 565 U.S. 432 (2012).

Two of the five articles reviewed by FRD considering SORNA's constitutionality directly discussed the retroactivity requirement. In his 2008 article, for example, Wright described this requirement as a "substantial concern," observing that in Massachusetts, the Act was associated with prolonged litigation. Visgaitis (2011) argued that SORNA's retroactive application violates the Separation of Powers Act, and relies on a decision by the Ohio Supreme Court to support her claim.⁵²

Non-Delegation Doctrine: There is limited literature on non-delegation as it directly relates to SORNA, however, a recent U.S. Supreme Court case did address the issue. Generally, the non-delegation doctrine prohibits the delegation of powers from one branch of government to another, but in *Gundy v. United States*, the U.S. Supreme Court clarified that a congressional delegation is aligned with the doctrine if "Congress clearly delineates the general policy, the public agency which is to apply it, and the boundaries of the legal authority."⁵³ Under SORNA, Congress assigns power to the Attorney General, providing the latter with the authority to "define and implement how the Act applies" to offenders whose offense occurred prior to SORNA's passing. In *Gundy*, the U.S. Supreme Court affirmed the decision of the Second Circuit, which had held that SORNA was not an unconstitutional delegation of legislative authority. In total, FRD identified two articles that directly discuss the issue of non-delegation, both of which use previous U.S. Supreme Court cases to examine *Gundy*, which at the time had not yet been decided.⁵⁴

⁵² See *State v. Bodyke*, 933 N.E.2d 753 (Ohio 2010).

⁵³ 588 U.S. ___ (2019).

⁵⁴ Although the information cutoff date for the research used in this report is June 2019, given the importance of *Gundy*, this section was updated to reflect the court's decision.

5. CONCLUSION

For this report, FRD analyzed twenty-eight unique pieces of literature, ranging from articles to original research to U.S. Supreme Court opinions. Peer-reviewed studies and articles constituted a majority of the documents analyzed. The references were chosen because of their contributions to the field, and because they all either directly or indirectly addressed various aspects of SORNA.

FRD closely examined five major subject areas covered in the literature: claimed challenges and impacts of registration on RSOs, SORNA's offense-based system versus risk assessment-based approaches for categorizing sex offenders, state and law enforcement perspectives on SORNA implementation, adult and juvenile recidivism, and various challenges based on constitutional protections.

More often than not, the selected documents were critical of SORNA, either calling for a reform of SORNA's mandate or the outright repeal of the Act. However, as discussed throughout this report, the studies reviewed all contained serious methodological shortcomings in their research designs and data analyses.

Given the small sample sizes available to researchers in this field and the fact that jurisdictions are free to implement their own registration and notification laws that go above and beyond SORNA's requirements, constructing a study that is statistically sound is challenging. Regardless, drawing sound conclusions about policy decisions is difficult due to the current cohort of limited research and lack of convincing data.

6. APPENDIX I: Challenges and Impacts of Offender Compliance

6.1. Collateral Consequences of Sex Offender Registration

Tewksbury, Richard. "Collateral Consequences of Sex Offender Registration." *Journal of Contemporary Criminal Justice* 21, no. 1 (2005): 67–81. doi: 10.1177/1043986204271704.

- **Hypothesis/Intent/Purpose:** The author sought to determine "to what degree registered sex offenders perceive they are known in their community as sex offenders, and what consequences are experienced as a result of being listed on the publicly accessible sex offender registry."
- **Methodology:** Data for this study were collected via mailed, anonymous questionnaires. The author selected offenders listed on the Kentucky sex offender registry. All sample members were mailed "a cover letter, an explanation of informed consent, a survey, and a postage-paid return envelope."

The survey instrument was a four-page questionnaire containing thirty-five closed-ended items, assessing demographics and offenses. The dependent variables for this study were self-reported responses by RSOs concerning ten negative consequences they may have experienced, including "loss of a job, denial of promotion, loss or denial of a place to live, being treated rudely in a public place, being asked to leave a business, loss of a friend, ...[being] subject to harassment or assault, and receipt of harassing/threatening telephone calls or mail."

The author drew a sample of 33 percent from the 2,408 offenders listed on the Kentucky sex offender registry. The author excluded from the sample "offenders with an unknown address included in their registration, those who were incarcerated, and those who had been registered for less than 6 months." Additionally, the sample was stratified by metropolitan and nonmetropolitan counties. Metropolitan counties accounted for 49 percent of all registered sex offenders, and nonmetropolitan counties accounted for 51 percent. A total of 795 registered sex offenders were included in the sample (390 of these were residents of metropolitan counties, and 405 of these were residents of nonmetropolitan counties). In total, the author obtained 121 usable surveys, for a response rate of 15.4 percent. The author noted that this was not a very high response rate, stating that "that this population is difficult to access." The author claimed that the "sample appears to reflect the characteristics of Kentucky's registered sex offenders" while also noting that "non-White, urban registered sex offenders may be slightly underrepresented."

The author provides racial demographics for his sample: approximately 88 percent of respondents identified as White, 8.6 percent as Black, and 2.6 percent as Other.

- **Paper/Study Reported Findings:** Survey results indicated that many registrants in the sample reported perceived negative consequences of being on the registry (however, the

numbers reported for this finding were means of ordinal variables).⁵⁵ Additionally, the majority of family, friends, coworkers, and other persons who were part of offenders' lives knew of their sexual offense convictions. Registrants in the sample with child victims were less likely to report that most people in their lives knew about their offense and registration. The majority of registrants in the sample perceived that they lost a friend who discovered the registration (other perceived consequences were noted by less than 50 percent of respondents).

Offenders in the sample with lifetime registration were less likely than those with ten years of registration to agree with statements expressing an understanding of why society wants a sex offender registry or the belief that the registry is a good thing. Statistically, the numbers reported for these findings were means of ordinal variables, with registrants being split on the registration's influence on their likelihood of recidivism.

The author claimed that his results show that "sex offenders listed on the publicly accessible sex offender registry in Kentucky...report[ed] a large number of negative experiences arising from public knowledge of their registration and offenses." More than half of all responding registrants reported having lost a friend as a result of registration and public knowledge of their sexual offending. More than one in three registrants reported losing a job, losing or being denied a place to live, or being personally harassed. Experiences such as loss of job, being treated rudely in public, loss of a friend, or being harassed in person vary significantly depending on whether registrants are from metropolitan counties or nonmetropolitan counties. The author's findings suggest that registrants in nonmetropolitan counties experience more social consequences of registration.

- **Author Affiliation(s):**

Richard Tewksbury, University of Louisville

This research was funded in part by the Foundation for the Scientific Study of Sexuality. This organization states that it supports "scientific sexuality research areas that are not likely to receive support from other sources."⁵⁶ The author closes by arguing that "the collateral consequences of sex offender registration as a criminal sanction may be quite serious and harmful, for individual offenders, for their families and loved ones, and for communities in general." According to the author, RSOs "are punished through their sentences, through the shaming process of registration, and through the reactions and responses of community members who are aware of registrants' status as sex offenders."

⁵⁵ See Section 4.1, "Methodological Quality of Studies," for more information about why calculating the mean value of ordinal variables is not mathematically feasible.

⁵⁶ Carleton International, "The Foundation for the Scientific Study of Sexuality: Grants-in-Aid Program," Carleton University, October 25, 2016, <https://carleton.ca/ci/2016/the-foundation-for-the-scientific-study-of-sexuality-grants-in-aid-program/>.

- **Integrity of Findings: 1/5**

The primary issue of external validity was non-response bias, meaning a high non-response with no measures to address this (such as post-survey weighting). Issues of statistical validity include the fact the study uses means of ordinal level data (using a 10-point scale) and selecting on the response variable. All individuals in the sample were registered sex offenders and all problematic experiences were attributed to sex offender registration (e.g., job loss, denial of promotion, being treated rudely in a public place).

The study sample had external validity issues because the sample was selected from Kentucky's sex offender registry, comprised of RSOs subject to Kentucky-specific SORN policies, thereby making the results of this study applicable only to Kentucky. For the study's findings to be applied nationwide, the study sample would have to have been drawn from a representative sample or a nationwide registry of offenders. The author also acknowledges a low response rate of 15.4 percent of those RSOs contacted to participate and noted that non-White, urban RSOs "may be slightly underrepresented."

6.2. Impact of Specialized Sex Offender Registration on Community Reentry

Mercado, Cynthia Calkins, Shea Alvarez, and Jill S. Levenson. "The Impact of Specialized Sex Offender Legislation on Community Reentry." *Sexual Abuse* 20, no. 2 (2008): 188–205. doi: 10.1177/1079063208317540.

- **Hypothesis/Intent/Purpose:** The goal of the study was to "examine the perceived impact of community notification and residency restriction statutes among a sample of higher risk sex offenders in New Jersey." The authors claim that this study is one of a few that examines the impact of "specialized legislation on a broad sample of higher risk offenders who are not necessarily involved in treatment."
- **Methodology:** The authors used a modified version of earlier surveys from Levenson to examine New Jersey legislation. Levenson's earlier surveys "included a series of force-choice questions concerning offenders' perceptions of the impact" of community notification and restriction statutes. The modified questionnaire contained eight items asking participants whether they had experienced discrete events as the result of notification. Participants could respond with "yes," "no," or "I don't know." Participants were then asked to rate their agreement with items "that focused on positive or negative impacts of notification statutes." Respondents could select from a range of 1 (strongly disagree) to 5 (strongly agree). The questionnaire was sent to all sex offenders listed in New Jersey's publicly available sex offender registry, which only includes Tier II and III offenders. A total of 1,601 questionnaires were mailed and 137 were completed and returned (9.5 percent response rate).

Eighty-one percent of the respondents recorded being between the ages of 25 and 64, while 11 percent were 65 years old or older and 3 percent were aged 24 or younger. Fifty-

nine percent of respondents were White, 28 percent were African American, and 12 percent were Latino. Additionally, the authors found that “forty-one percent of the respondents reported never having been married, with the remainder indicating that they were currently married (30 percent) or divorced, widowed, or separated from partners (30 percent). Sixty-one percent of the sample indicated that they had high school levels of education or less.”

- **Paper/Study Reported Findings:** Generally, survey respondents indicated that they had experienced several negative consequences from notification laws and residency restrictions. Specifically, notification law consequences included feeling worried about the safety and well-being of friends and family, being concerned about their own safety, and feeling that notification laws create stress that complicates their recovery. Sex offenders in treatment programs at the time of the survey tended to report more difficulties than those not in such programs. Residency restriction consequences included various problems with housing, financial hardships, and residing farther from employment opportunities.

Fifty-two percent of respondents indicated employment loss due to notification laws. Twenty-four percent reported having to move out of their housing after landlords or neighbors became aware of their sex offender status, while 4 percent reported having to move out of homes they owned. Approximately 48 percent of survey respondents reported having been harassed or threatened, and 11 percent reported being physically injured. Additionally, 27 percent reported having experienced property damage by someone who found out about their sex offender status. The authors also reported that the majority of their respondents agreed that notification laws “caused more stress in their lives and that shame and embarrassment keep them from engaging in activities.” Compared with sex offenders not receiving treatment, those in treatment reported greater levels of isolation, fear, shame, embarrassment, and hopelessness.

- **Author Affiliation(s):**
Cynthia Calkins Mercado, John Jay College of Criminal Justice, City University of New York
Shea Alvarez, John Jay College of Criminal Justice, City University of New York
Jill S. Levenson, Lynn University

The authors conclude their study by stating that policymakers should “reevaluate whether enacted policy measures are truly meeting stated public protection goals.” They note that unintended consequences of sex offender registration may potentially increase recidivism.

- **Integrity of Findings: 1/5**
The study had a self-selection bias as the research is based on self-reported information from survey responses, including information on psychological states. Those RSOs who felt compelled to respond might have done so in order to air their grievances with or express support of SORN policies. The study also had a high non-response rate with no corresponding measures to compensate for it. Thus, there is non-response bias, and the results cannot be generalized to the population of registered sex offenders in New Jersey. Additionally, the data is from one state and thus cannot be generalized to other states.

6.3. Nobody Worries about Our Children

Kilmer, Ashley, and Chrysanthi S. Leon. "‘Nobody Worries about Our Children’: Unseen Impacts of Sex Offender Registration on Families with School-Age Children and Implications for Desistance." *Criminal Justice Studies* 30, no. 2 (2017): 181–201. doi: 10.1080/1478601X.2017.1299852.

- **Hypothesis/Intent/Purpose:** The research "examined the way registrant family members made sense of current sex offender policies and laws (such as residency restrictions, registration requirements, and community notification) and the impact of such policies on family members in the areas of social/family relationships, employment, housing, and community involvement."
- **Methodology:** The study was based on interviews with nineteen family members of RSOs and written narrative data from fifty-eight family members. The authors used "interview and written narrative data ($n=19$ and $n=58$, respectively) to explore the experiences of registrant families." Family members of registrants were recruited using "flyers and direct communication at the national Reform Sex Offender Laws conference in 2014 and through online support groups for sex offenders and their families found through Facebook and internet searches." Because the authors consider sexual offending such a sensitive and sensationalized issue, they "chose to accept the limitations of a convenience sample skewed towards advocates because of the advantages attached to publicizing [their] study, as well as hearing from people who were willing to share their experiences with others." Additionally, anyone who identified as a family member, partner, or friend of someone who was convicted of a sex offense was eligible to participate in the study. All of the study's respondents were adults.

The study's findings were based on a qualitative study using a web-based survey with a sample size of fifty-eight family members and short phone interviews with a sample size of nineteen family members. Additionally, the survey included the option for follow-up contact; fourteen of the study's phone interviews were the result of such follow-ups. As a result, the total sample was sixty-three respondents: "(58 survey takers plus five additional phone-only respondents), of which 58 provided demographic data through the survey." Seventy-four percent of the respondents were women.

- **Paper/Study Reported Findings:** Key themes induced from the survey and interviews were that registrants' families frequently felt stigma and shame or experienced difficulties in obtaining and keeping employment and housing. Registrants' family members noted further problems, such as additional financial obligations from paying for required therapy.
- **Author Affiliation(s):**
Ashley Kilmer, Bridgewater State University
Chrysanthi S. Leon, University of Delaware

While the authors did not propose specific policy recommendations, they concluded that resources used to “promote misperceptions of sex offending behavior and ineffective policies” could have been better allocated to support programs and resources for registrants with families who were trying to create positive memories. The authors did not identify their source of funding for the study.

▪ **Integrity of Findings: 1/5**

There were several issues regarding the statistical validity of this study, namely that the analysis drew from a non-random sample. There was sample bias, given that forty-one of the subjects in the sample were involved in advocacy work for sex offenders. In qualitative terms, the research did not use the comparative method to compare across cases and within cases, and it lacked variation in the independent and dependent variables. In quantitative terms, the research did not control for covariates and lacked variation in the predictor and response variables. The authors also employed inappropriate use of statistical methods, with no measure of inter-coder reliability for their qualitative coding.

6.4. Perceptions of Sex Offender Registration

Tewksbury, Richard, and Matthew Lees. “Perceptions of Sex Offender Registration: Collateral Consequences and Community Experiences.” *Sociological Spectrum* 26, no. 3 (2006): 309–34. doi: 10.1080/02732170500524246.

- **Hypothesis/Intent/Purpose:** This study sought to provide further insight “about the experiences [of] registered sex offender[s] as they live in the community and manage their identities as not only convicted felons, but as publicly proclaimed sexual offenders.” The aim was to identify “what, if any, collateral consequences were experienced as a result of sex offender registration.” It examines the ways in which “being labeled as a registered sex offender imposes additional and unanticipated penalties on offenders.”
- **Methodology:** Researchers conducted qualitative semi-structured interviews with twenty-two RSOs in Kentucky. Data was collected through one-on-one interviews with a sample drawn from Kentucky’s sex offender registry. Two hundred individuals were sent a letter inviting them to participate in the study, if willing, and were asked to contact one of the authors to schedule an interview (the twenty-two interviewed RSOs represent a 12 percent response rate). Interviews covered a range of topics, including registrants’ knowledge of the Kentucky sex offender registry; perceptions of reactions from family members, friends, and coworkers; perceptions of strengths and weaknesses of the registry as a tool for public safety; and whether (and to whom) the registrant had disclosed their status as a sex offender. Interviews were recorded, transcribed, and coded.

The sample of interviewees was 95 percent male and 86 percent White, with an average age of 48. The authors provide a full description of the sample in Table 1 of their study. On average, interviewees had been on the registry for three years.

- **Paper/Study Reported Findings:** The authors' analysis of the data illustrated four primary areas of interest: employment difficulties, relationship difficulties, harassment, and stigmatization and feelings of vulnerability. Participants reported difficulty in finding and maintaining employment. They also reported difficulties in their personal lives, including rejection from family, friends, coworkers, and significant others. Approximately 50 percent of participants reported experiencing verbal harassment.
- **Author Affiliation(s):**
Richard Tewksbury, University of Louisville
Matthew Lees, University of Louisville

The authors claim that according to recent studies, policymakers failed to achieve a lessening of sex offending with the registration process. Based on their findings, the authors imply that registration and notification policies have had an adverse effect on the lives of RSOs. The authors claim that "what is supported by research is that sex offender registration has effectively extended and intensified the consequences of a sex offense conviction," and that "[a]s revealed in these interviews, the centerpieces of the experiences of RSOs are negative consequences for employment and relationships, and experiences of harassment, stigmatization, and perceived feelings of vulnerability."

- **Integrity of Findings: 1/5**
Issues of external validity present in this study include a high non-response rate with no corresponding measures to compensate for it, as well as selection bias in the sample. Additionally, there were several issues of statistical validity, including having no control of covariates (including the demographic data collected for the study) and no variation in the independent variable—sex offense registration. All subjects in the sample are RSOs, and the problems they describe (employment difficulties, relationship difficulties, etc.) are all attributed to sex offense registration. The authors state that interview responses were coded, but do not provide a measure of inter-rater reliability.

6.5. Prevalence/Correlates of Depression and Hopelessness among Sex Offenders

Jeglic, Elizabeth, Cynthia Calkins Mercado, and Jill S. Levenson. "The Prevalence and Correlates of Depression and Hopelessness among Sex Offenders Subject to Community Notification and Residence Restriction Legislation." *American Journal of Criminal Justice* 37 (2012): 46–59. doi: 10.1007/s12103-010-9096-9.

- **Hypothesis/Intent/Purpose:** The objective of this study was to examine the prevalence of affective distress in a community sex offender population. Specifically, the authors' aim was to examine the impact of policies that extend and strengthen "registration and notification requirements" for sex offenders, as outlined under legislation like SORNA. The authors hypothesize that symptoms of depression and hopelessness are positively correlated with "the degree of perceived negative impact of community notification and

registration legislation.” The authors anticipated that sex offenders subject to notification and/or residence restrictions “would report elevated levels of negative mood states such as depression, hopelessness, and suicidal ideation.”

- **Methodology:** The study relies on self-reported survey data to test the hypothesis. On the fourth page of the study, the authors provide a table listing each sub-article of their questionnaire. Each participant was questioned on the effects of “negative notification experiences” and “negative residence restrictions experiences” on levels of depression and hopelessness. Participants were asked to provide an answer of “yes,” “no,” or “I don’t know” in response to whether they had experienced negative impacts from discrete events. The authors sent 1,601 surveys to sex offenders listed on New Jersey’s publicly available sex offender registry, which only includes sex offenders categorized at the Tier II and III levels.

With the questionnaires, all participants were provided a description of the study and were informed that surveys had been “mailed to all sex offenders” on the New Jersey sex offender registry. Participants were informed that their participation was anonymous and voluntary. In addition to the questionnaire, all participants were asked to complete the Beck Depression Inventory-II (BDI-II) and the Beck Hopelessness Scale (BHS). The 21-item BDI-II was self-reported and designed to “assess the severity of depressive symptoms experienced by adults and adolescents.”

Of the total questionnaires mailed, “1,446 were assumed to be received by the offenders” and the others were returned as undeliverable. In total, 137 surveys were returned, indicating a response rate of 9.5 percent. Demographic data, including age, marital status, ethnicity, offense history, and income, were collected and anonymized. Fifty-nine percent of participants reported being 41–64 years old, 26 percent ages 25–40, and 12 percent over 65 years old. Forty-one percent of participants reported never being married while 30 percent reported being currently married and 23 percent were divorced. Sixty percent of sex offenders described themselves as White, while 28 percent reported as Black and 12 percent as Latino.

Once responses were collected, the authors calculated and reported descriptive statistics of the BDI-II and BHS questionnaires, including the mean and standard deviations. They also performed t-tests.

- **Paper/Study Reported Findings:** Using the self-reported survey responses, this study found that, overall, participants who reported facing negative consequences as a result of notification and residence restrictions simultaneously reported feelings of depression and hopelessness. The authors note that no significant differences were found between offenders of varying ages and ethnicities across the BDI-II and BHS results.

Specifically, sex offenders in this sample study reported having mild to moderate levels of depression and hopelessness at rates higher than the general population. Forty-three percent of respondents indicated suicidal ideation to varying degrees. In addition, high-

risk sex offenders (Tier III) reported more depression symptoms than moderate-risk sex offenders (Tier II), but both reported comparable levels of hopelessness. Notably, sex offenders in treatment reported higher levels of both depression and hopelessness than offenders not in treatment. However, the authors note that this study “was unable to determine whether these offenders had existing negative affectivity which manifested prior to the sex offense arrest.”

Feelings of isolation, including loss of friends and fear of personal safety, were significantly positively correlated with feelings of depression and hopelessness. Reported negative consequences as a result of the registry were associated with higher rates of depression and hopelessness. Notably, there was no difference in levels of depression and hopelessness between sex offenders who reported having to move because of public disclosures and those who did not report having to move.

The BDI-II and BHS results indicate a significant positive correlation between perceived negative consequences of residence restrictions and levels of depression and hopelessness. Specifically, sex offenders who reported not being able to live close to supportive family reported higher levels of depression and hopelessness than sex offenders who did not report the same issue. Sex offenders who reported having to move because of housing restrictions also reported higher rates of depression and hopelessness.

The following factors did not significantly impact rates of depression and hopelessness: whether or not sex offenders were allowed to return to their former residences, whether or not sex offenders were subject to electronic monitoring, and the number of times a sex offender reported having to relocate.

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The authors stated that their findings have “a number of important implications” for policy. Specifically, they recommended that offenders be offered treatment for affective disorders and “psychiatric assessment and pharmacological intervention,” which may enhance emotional stability and prevent recidivism. According to the authors, further review of policies such as notification statutes and residence restrictions is needed. They note that previous studies indicate “limited support” for the effectiveness of such policies. Given the passage of SORNA, the authors propose that “stakeholders...closely examine whether legislative efforts are likely to achieve their purported goals.”

- **Integrity of Findings: 1/5**

There were several issues of internal validity, including the lack of comparison/control groups in the study, as the sample consists entirely of RSOs. Additionally, there were no pre- and post-measures of depression and hopelessness before and after registration and treatment.

The research is based on self-reported information from survey responses, including information on psychological states, reducing the research construct validity. Additionally, there were several issues with the report's statistical integrity. Namely, this report examines the "impact of community notification" and "impact of residence restrictions." SORNA does not require residence restrictions, therefore perceived impacts of this SORN policy cannot be adequately applied to possible impacts of SORNA. The study was also subject to self-selection bias. Those RSOs who felt compelled to respond might have done so in order to air their grievances with or express support of SORN policies. Further issues include a high non-response rate with no corresponding measures that compensate for it. Thus, there is non-response bias, and the results cannot be generalized to the population of registered sex offenders in the state. More broadly, data comes from one state (New Jersey) and cannot be generalized to other states.

6.6. Raised on the Registry

Pittman, Nicole. *Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S.* New York: Human Rights Watch, 2013. https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf.

- **Hypothesis/Intent/Purpose:** The author investigated the lives of youth offenders who committed sexual offenses as children, inquiring as to "how, if at all, being on the sex offender registry affected" their lives, such as their ability to attend school, find employment and housing, and associate with others.
- **Methodology:** The author investigated 517 individual cases of people who committed sexual offenses as minors in twenty states. She conducted 281 in-person, semi-structured interviews with youth sex offenders and fifteen interviews with immediate family members of youth sex offenders. Her recruitment of the "majority" of interviewees took place through "a written request...posted in a bulletin circulated among loved ones of individuals on registries, mental health treatment providers, juvenile advocates, social workers, and defense attorneys," while about 100 interviewees "were identified by a search of state sex offender registries." The author sought registrants from a variety of ethnic and racial backgrounds, locations (rural and urban), and ages (ranging from 14 to 48). Before being interviewed, interviewees were "informed...of the purpose of the investigation and the kinds of issues...covered, and asked whether they wanted to participate."
- **Paper/Study Reported Findings:** The author concluded that sex offender registries are misinterpreted by the public, noting that previous studies are "inconclusive as to whether the registries have any effect on the incidence of reported sex offenses." The author further argued that it does not make sense for high-risk and low-risk individuals to be listed on the same registry and that, overall, law enforcement is unnecessarily burdened by sex offender registration. More broadly, she concluded that being on a registry affects one's ability to live a normal life.

The author also noted that children are fundamentally different from adults and that this requires more consideration in sex offender legislation. According to her, children are vulnerable to having their right to due process violated, and youth sex offenders have a low risk of recidivism. Additionally, youth offenders on sex offender registries suffer from depression and suicide, are the targets of vigilante attacks, and incur costly effects on their parents and children. They also have trouble completing their education and face long-term economic hardship.

This study looked at a total of 352 convictions of child sex offenders (some individuals had more than one conviction) and grouped offenses into fifty-three categories. The most common category of offense was sexual battery (7.6 percent), followed by lewd lascivious molestation (4.1 percent).

- **Author Affiliation(s):**
Nicole Pittman, Human Rights Watch

At the time of publication, Nicole Pittman, author of the report, was the Senior Soros Justice Advocacy Fellow at Human Rights Watch, a nonprofit organization that advocates for human rights. Pittman also has a background as an attorney specializing in child sexual assault cases.

- **Integrity of Findings: 1/5**
There is potential for selection bias in the sample, which the author acknowledges. She used chain-referral sampling to create the sample of interviewees.

The findings are largely based on self-reported data. For example, many interviewees stated that they experienced various problems (e.g., depression, sense of isolation) and attributed these problems to their registrant status.

The analysis does not control for covariates and treats registry laws as having a bivariate association with many of the outcomes experienced by the individuals discussed in the report (e.g., depression, sense of isolation, suicide, financial difficulties, and other problems). Stated differently, the analysis does not examine alternative explanations.

The analysis does not include a control group; in other words, the analysis does not incorporate variation in the independent variable—registration. Specifically, the study sample only includes offenders who have been subject to legal registration requirements and not offenders who have not been subject to those requirements.

The report uses anecdotal evidence to support arguments. For example, the statement “youth offender registrants can experience severe difficulties and high costs in purging their information from the registry” is supported by two cases from the 296 interviewees.

The individuals in the interview sample were not selected through random sampling, thus the findings apply only to the individuals in the sample and cannot be reliably extrapolated to individuals outside of the sample. The author acknowledges something similar, noting that the demographics of the 296 individuals whose cases were examined for the report are not generalizable to a larger population.

6.7. Sex Offender Community Notification

Zevitz, Richard G., and Mary Ann Farkas. "Sex Offender Community Notification: Managing High Risk Criminals or Extracting Further Vengeance?" *Behavioral Sciences & the Law* 18, no. 2–3 (2000): 375–91. doi: 10.1002/1099-0798(200003/06)18:2/3<375::AID-BSL380>3.0.CO;2-N.

- **Hypothesis/Intent/Purpose:** The authors focused their research on "the social and psychological effects of community notification on sex offender reintegration." They describe the study as an "in-depth assessment of a single state's [Wisconsin] experience [from] the vantage point of those most affected by the community notification process." The authors note the exploratory nature of their study by stating that, "[t]o the extent that there has been no research to date on the experiences and reactions of sex offenders who have undergone community notification, this aspect of the study is exploratory in nature."
- **Methodology:** The research used face-to-face interviews with thirty "recently released"⁵⁷ level II sex offenders in Wisconsin whose experiences were solicited through open-ended questions. Using sources from the U.S. Department of Justice to generate the population, the authors selected participants if they held a status as a level II sex offender or based on "their notification exposure in the community at large." The sample consisted entirely of adult males. Seventy percent of respondents identified as European American, 16.7 percent as African American, 10 percent as Hispanic, and 3.3 percent as Native American. All interviewees had been sentenced to prison for between eighteen months and twenty years. All interviewees were informed that their participation was anonymous and voluntary. The interview questions related to participants' experiences with community notification and sex offender registration. Specifically, they were asked about "their experiences with community notification and the impact that it had on their lives" and those of their families and friends. They also were asked "to assess how notification affected their supervision and treatment experiences." Responses were recorded and analyzed using qualitative data analysis software.
- **Paper/Study Reported Findings:** Over half of interviewees felt that community notification requirements had a wide-ranging impact, including loss of employment and/or residence; ostracism or harassment by neighbors, strangers, and acquaintances; and emotional harm to family members. Less than half of interviewees felt that community notification requirements led to attacks by a vigilante or additional pressure from probation or parole officers.

⁵⁷ The study did not indicate what parameters define "recently released."

Loss of employment and “exclusion of residence” were frequently cited as consequences of expanded notification actions. Most interviewees attributed their loss of employment to their high-profile status. The authors also questioned sex offenders about their experience in the community after notification. The authors reported that those sex offenders “identified several consequences that affected their post-prison adjustment, [with] all but one of the interviewed subjects [stating] that the community notification process had adversely affected their transition from prison to the outside world.”

- **Author Affiliation(s):**

Richard G. Zevitz, Marquette University

Mary Ann Farkas, Marquette University

No specific policy recommendation was given. The two authors simply noted that additional research is required. The authors also stated that their findings “indicate that community notification can have a critical impact on the minimum essentials needed for the reintegration of offenders within the community.”

- **Integrity of Findings: 1/5**

Issues of external validity include the fact that a non-random sampling was used to select interview participants. The thirty individuals interviewed for the study were selected out of forty-four who consented to be interviewed and the authors do not provide evidence of how representative these thirty individuals were of the population of individuals who have met community notification requirements.

Regarding statistical validity, issues included no control of covariates and no before-and-after comparison of the problems the interviewed sex offenders experienced (i.e., employment status and earnings before sex offense conviction and after satisfying community notification requirements) and no case-control comparison of sex offenders to non-sex offenders (i.e., intergroup comparison of employment status and earnings). Offenders’ experiences with problems concerning employment, housing, and other matters were solely attributed to community notification requirements.

6.8. Sex Offender Registration and Notification

Association for the Treatment of Sexual Abusers. *Sex Offender Registration and Notification*. 2008. <https://www.atsa.com/sites/default/files/ppSORegNotification.pdf>.

- **Hypothesis/Intent/Purpose:** This brief publication provided a succinct overview and assessment of then-existing research on the effectiveness of registration and community notification laws.
- **Methodology:** Using a handful of broad subject headers, this two-page report purported to summarize the contents of twenty-eight reports or studies published between 1995 and 2008.

- **Paper/Study Reported Findings:** The article authors indicate that existing research is inconclusive as to whether or not registration and community notification laws significantly impact sex offender recidivism. Additionally, they state that notification can lead to harassment, homelessness, instability, loss of family and social support, and unemployment—factors that are associated with criminal recidivism. Further findings include that law enforcement should use risk assessment-based classification systems to determine higher risk individuals and adjust resources accordingly. Additionally, the authors note that pre-existing relationships are more likely than residential proximity to result in recidivism.
- **Author Affiliation(s):** ATSA indicates on its website that it is “an international, multi-disciplinary organization” that “promotes sound research...informed public policy, and collaborative community strategies that lead to the effective assessment, treatment, and management of individuals who have sexually abused or are at risk to abuse.”⁵⁸
- **Integrity of Findings: N/A**
Reviewed studies in this article were treated as equally valid and comparable, but the cited studies varied in their adherence to scientific inference. Additionally, the authors discussed findings from their review of studies, but did not always cite the studies from which those findings were drawn.

6.9. Sex Offender Registration and Notification Act

U.S. Government Accountability Office (GAO). *Sex Offender Registration and Notification Act: Jurisdictions Face Challenges to Implementing the Act, and Stakeholders Report Positive and Negative Effects*, GAO-13-211. Washington, DC: GAO, 2013. <https://www.gao.gov/assets/660/652032.pdf>.

- **Hypothesis/Intent/Purpose:** GAO issued this report in response to a request from the U.S. House Judiciary Committee’s Subcommittee on Crime, Terrorism, and Homeland Security to assess two questions: “(1) To what extent has the SMART Office determined that jurisdictions have substantially implemented [SORNA], and what challenges, if any, have jurisdictions faced? (2) For jurisdictions that have substantially implemented [SORNA], what are the reported effects that the Act has had on public safety, criminal justice stakeholders, and registered sex offenders?”
- **Methodology:** This report incorporated information from interviews with criminal justice officials, a web-based survey of state registry officials, site visits, information from staff at relevant advocacy groups, existing studies that looked at parts of SORNA, and other government sources of data.

⁵⁸ ATSA, home page, accessed April 21, 2022, <https://www.atsa.com/>. The organization changed its name to the Association For The Treatment & Prevention of Sexual Abuse in June 2022.

- **Paper/Study Reported Findings:** Specific to the SORNA tier requirement, GAO found that “stakeholders reported that SORNA’s requirement to tier offenders based on the crime for which they were convicted does not consider the offender’s risk of reoffending, and that implementation increased workload and caused difficulties in sex offenders’ ability to reintegrate into the community.” GAO observed, however, that interviewed officials’ perspectives on the effects of SORNA “cannot be generalized to all substantially implemented jurisdictions, [rather,] they provided insights into the effects of the Act’s implementation.”

GAO reported that one official in a public defender’s office stated that SORNA’s requirement to publish addresses of RSOs’ employers had resulted in “several instances” of registrants losing their jobs. Regarding implementation, at the time of the report’s 2013 publication, nineteen jurisdictions had substantially implemented SORNA, with thirty-seven having submitted packages for review. Political motivation and the need to reconcile legal conflicts between state laws and SORNA were cited as the biggest challenges to implementation. GAO also noted an increased workload for law enforcement agencies. Respondents to GAO’s survey on the subject indicated that these challenges are related to the increased frequency of RSOs updating their information and the need to register offenders retroactively.

- **Author Affiliation(s):** GAO, a nonpartisan U.S. government agency, published this study in response to congressional requests from Rep. F. James Sensenbrenner (R-WI) and Rep. Robert C. Scott (D-VA).

- **Integrity of Findings: 2/5**

The GAO study has some methodological limitations, as it was based on reported information from state officials to a survey on program implementation. This type of survey data is generally regarded as potentially inaccurate because respondents may have varying interpretations of survey questions, may not accurately recall information, or may provide responses that reflect favorably on themselves. However, GAO took several steps to minimize non-sampling errors, such as pretesting questions to remove ambiguous language and checking responses during analysis for inconsistencies.

Additionally, the survey did not collect information about state experiences implementing sex offender laws prior to SORNA or other federal legislation, thereby making it impossible to establish either a baseline or point of comparison.

6.10. Understanding Collateral Consequences of Registry Laws

Frenzel, Erika Davis, Kendra N. Bowen, Jason D. Spraitz, James H. Bowers, and Shannon Phaneuf. “Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants.” *Justice Policy Journal* 11, no. 2 (2014). http://www.cjcj.org/uploads/cjcj/documents/frenzel_et_al_collateral_consequences_final_formatted.pdf.

- **Hypothesis/Intent/Purpose:** The study’s goal was to “examine collateral consequences of the sex offender registration laws in Pennsylvania, Texas, and Wisconsin.” Additionally, the authors wanted to examine whether treatment of sex offenders by the general public had changed over the past decade.
- **Methodology:** This study relied on a mail survey of 443 RSOs in Pennsylvania, Texas, and Wisconsin, using a modified version of Tewksbury’s 2005 survey instrument. Individuals who were incarcerated during the time of the study were not included. The authors expanded Tewksbury’s questionnaire to include “additional closed and open-ended questions” related to fifteen consequences experienced. Close-ended questions asked survey respondents about their knowledge of the tier system. Anonymous, self-reported surveys were sent to 922 individuals identified on the Pennsylvania State Police Megan’s Law website, all of whom reside in one area representing “a large urban county.” In Texas, three counties were chosen based on their size and location. One was urban, one was suburban, and the last was rural. Using the Texas Sex Offender Registration Program website, the authors generated a simple random sample of 842 RSOs from the urban county, and a sample of 158 for the suburban and rural counties. Similarly, an anonymous questionnaire was sent to a sample of 1,221 sex offender registrants in Wisconsin, drawn from the Dru Sjodin National Sex Offender Public Website. Of the mailed surveys, eighty-three out of 922 were received from Pennsylvania (9 percent response rate), 165 out of 1,000 were received from Texas (16.5 percent response rate), and 195 out of 1,221 were received from Wisconsin (16 percent response rate).
- **Paper/Study Reported Findings:** Using the self-reported survey results, the authors’ analysis concluded that the average number of negative experiences per respondent was “slightly over four.” The study reports that approximately half of respondents had experienced loss of employment, housing, and/or friendship, or had been harassed: Due to their registration status, 50 percent of survey participants reported a job loss, 25 percent a denial of a promotion, and 6 percent a denial of a bank account or loan. The survey also reported that 42 percent of respondents said they had been harassed in person and 14 percent had been assaulted or attacked as a result of SORN policies. The authors concluded that because these “negative experiences occur[red] at roughly the same rate in various regions throughout the country,” it would not be a localized effect. Additionally, 52 percent of respondents reported having lost a friend due to these policies, while 28 percent said they had lost a spouse or dating partner.
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This report was published in the Center on Juvenile and Criminal Justice's (CJCJ's) *Justice Policy Journal*. The CJCJ defines itself as a nonprofit organization "whose mission is to reduce society's reliance on incarceration as a solution to social problems." The CJCJ provides policy analysis and direct services "to promote a balanced and human criminal justice system."⁵⁹ The report was funded in part by grants from the Indiana University of Pennsylvania and the University of Wisconsin.

The authors stated that their study may offer policy suggestions. Specifically, they stated that some of the "collateral consequences" experienced by RSOs, such as harassment, constitute criminal acts. The intention of SORN laws, according to the authors, "was not to create vigilante groups or create more punishment for RSOs." The authors conclude their report by stating that the continued application of SORN laws may prohibit RSOs from "fulfilling their debt to society."

- **Integrity of Findings: 1/5**

This study modified a survey instrument from Tewksbury's 2005 study. The authors expanded the instrument to include additional closed and open-ended questions. The study's conclusions are based on self-reported results. Self-reported survey data is generally regarded as potentially inaccurate because respondents may have varying interpretations of survey questions, may not accurately recall information, or may provide responses that reflect favorably on themselves.

The primary issue of internal validity present in this study was the use of an un-objective research question focused on examining the "collateral consequences of the sex offender registration laws in Pennsylvania, Texas, and Wisconsin." This research question assumes an associative or causal relationship exists between such laws and some results rather than seeking to determine if such laws have associated results, what those results are, and the extent to which such laws affect those results while controlling covariates.

An issue of external validity arose as the data was derived from convenience samples. Additionally, the overall study sample was biased due to high non-response rates and an overrepresentation of respondents in urban areas.

⁵⁹ Center on Juvenile and Criminal Justice, "About," accessed April 21, 2022, <http://www.cjcj.org/About.html>.

7. APPENDIX II: Offense-Based and Risk Assessment-Based Schemes

7.1. Adam Walsh Act

Freeman, Naomi J., and Jeffrey C. Sandler. "The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative?" *Criminal Justice Policy Review* 21, no. 1 (2010): 31–49. doi: 10.1177/0887403409338565.

- **Hypothesis/Intent/Purpose:** The study indicates that it aims to "test the predictive ability of the tier system under SORNA."
- **Methodology:** This study examined sex offenders in New York state who were under legal supervision and those who were not under supervision. Females were not included in the study because of data showing they are distinctly different from male sex offenders. Researchers started tracking offenders from the time they were first released. In addition to recidivism of RSOs, this study examined recidivism of nonsexual offenses because sexual offenders are "likely to engage in both sexual and nonsexual offenses." Other factors considered included the offenders' race and age, prior criminal history, and victim information.
- **Paper/Study Reported Findings:** This study concluded that the tier-based SORNA system was not a helpful predictor of recidivism. According to the authors, "almost any empirically based risk factor would yield more accurate predictions than the SORNA tier level."

Results from correlations of fourteen predictor variables associated with nonsexual and sexual re-arrest indicated that twelve of the fourteen variables were found to have significant correlations with nonsexual re-arrest, with correlation coefficients ranging from 0.05 to 0.42 and -0.06 to -0.28. Additionally, two predictors that were not found to have significant correlations with nonsexual re-arrest were SORNA tier level and county of residence. Ten of the fourteen predictor variables were found to have significant correlations with sexual re-arrest, with correlation coefficients ranging from 0.03 to 0.16 and from -0.05 to -0.07, which would be a low or negligible correlation. These ten variables are supervision type, county of residence, prior violent felony offense arrests, prior drug offense arrests, prior registrable sex offense arrests, variety of offenses, prior supervision violations, prior incarceration terms, offender race, and offender age. The four predictor variables that were not found to have significant correlations with sexual re-arrest were SORNA tier level, number of victims, victim age, and victim gender.

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At the time of publication, Naomi Freeman was the director of the Sex Offender Risk Assessment and Record Review Unit at the New York State Office of Mental Health. Jeffrey Sandler worked for the New York State Psychiatric Institute.

▪ **Integrity of Findings: 1/5**

This study was subject to a number of confounding factors. The article noted that SORNA had several aspects, including its three-tier classification system, its in-person verification requirements, and internet registry. However, the authors' analysis examined only the tier classification and not the other components. Additionally, the timeframe of the data was not explicitly stated.

The statistical methods were not clearly described in the study, so it is difficult to discern how the findings were derived. The correlations were noted as significant, but without details on the analysis, it is difficult to understand how the stated numbers were achieved using common methods. Table 3 in the study listed correlations between categorical variables and continuous and categorical variables, but the types of correlations were not stated (e.g., rank bi-serial, Pearson). Thus, it was unclear if the authors were testing for Pearson correlations, but the context suggests they may have done so (i.e., not specifically stating the use of rank bi-serial, point bi-serial, or other correlations for different variables). The aforementioned correlations' significance level was listed as $p < 0.0006$ for two-tailed (the same was the case for Table 2, which contained a correlation matrix). It was unstated why this was so, such as if this was a family-wise error rate adjustment. It was not a Bonferroni correction, which would have been $0.05/14 = 0.004$.

Regarding issues of external validity, the study was based on a sample of offenders from the state of New York. The authors did not show how comparable this sample was to offenders in another state or the country on the whole.

The study further misinterpreted the findings. The authors referred to correlations as indicators that "many other risk factors supported by empirical research would be better predictors of future sexual offending than [sic] the SORNA tier level." Correlations, however, are not indicators of prediction, as data may support linearity assumptions but do not guarantee a linear relationship beyond the range of data, rendering extrapolations beyond the range of data risky. Also, as noted above, it is unclear if the authors used the proper types of correlations for the different data types. The proportional hazard analysis included covariates that prior research had found to impact RSOs' recidivism rates, including covariates for offender demographics, offender prior criminal history, and victim information. The results of the Cox regression did not support the argument that these other covariates are better/more robust indicators of sexual recidivism than SORNA tiers. Of these eighteen covariates, eight were statistically insignificant and three were practically insignificant ($\exp(B)$ ranging from 0.94 to 1.03). While the covariates' effect sizes cannot be compared because they are not standardized beta-weights, the coefficients for the seven remaining covariates were generally not greater than those of the two covariates

for SORNA tiers (only one of the seven covariates had a higher coefficient than the coefficients for the SORNA tiers).

The authors misstate some statistical findings. For example, they state, "[s]pecifically, the presence of prior sexual offenses, the number of previous sentencing dates, having male victims, and being younger (all items on the Static-99) were all related to an increase in the likelihood of sexual recidivism." The results of the Cox regression include the findings that male victims were not a significant predictor of sexual offense re-arrest and that age was statistically significant but practically insignificant ($e(B)=0.98$). Additionally, the authors state, "as indicated by the results of the current study, the system proposed in SORNA actually decreases the ability of states to predict which sex offenders will sexually reoffend and which ones will not." However, the study does not incorporate data from a time in which SORNA tier levels were in effect for New York or another state. Moreover, the results indicate that some variables used in Nebraska's and New York's standardized risk assessment instrument were not significantly correlated with sexual offense re-arrest (specifically, some measures of victim demographics, such as age and gender) or significantly associated with sexual offense re-arrest (some measures of victim preference and one measure of offender's prior criminal history). In addition, the authors do not test some variables of risk-based measures used by Nebraska, such as mental health diagnoses and disciplinary misconduct during incarceration.

7.2. Law Enforcement Perspectives on Sex Offender Registration and Notification

Harris, Andrew J., Jill S. Levenson, Christopher Lobanov-Rostovsky, and Scott M. Walfield. "Law Enforcement Perspectives on Sex Offender Registration and Notification: Effectiveness, Challenges, and Policy Priorities." *Criminal Justice Policy Review* 29, no. 4 (2018): 391–420. doi: 10.1177/0887403416651671.

- **Hypothesis/Intent/Purpose:** The researchers set out to collect data on law enforcement views of SORN functions, effectiveness, and policy priorities. The researchers also discussed their findings' implications for SORN policy.
- **Methodology:** This was a mix-method study that used semi-structured, in-person interviews in addition to a national online survey. The interview portion of the study took place in 2014 in a handful of states and tribal jurisdictions. In total, 105 law enforcement personnel participated in interviews, half of which took place in areas that had substantially implemented SORNA. After the interviews were transcribed and checked for quality, the research team worked to find divergence and convergence in the data, in addition to emergent themes. The researchers used those factors they identified in the interviews to develop the online survey they sent to police chiefs and command staff nationwide in 2015. The online survey had a response rate of 15.7 percent and totaled 1,485 respondents. To analyze the data from their studies, researchers used ANOVA and Welch's t-tests for

intergroup differences among law enforcement positions, and Kruskal-Wallis and Mann-Whitney U tests as ordinal measurements.

- **Paper/Study Reported Findings:** On the survey, three groups of respondents (civilian, uniformed, agency leadership) were asked to evaluate the effectiveness of five different SORN aspects on a 4-point scale (very effective, somewhat effective, somewhat ineffective, and very ineffective). The survey found that the highest-rated aspects of SORN in all respondent groups was information sharing across agencies and monitoring of offenders. SORN's information sharing with the public and the usefulness of SORN policies in criminal investigations were rated moderately effective. SORN's impact on the likelihood of reoffending was rated less effective. Civilians had the overall most confident view of SORN while agency leaders had the lowest confidence view.

In the interview portion of the study, the research team identified eighteen commonly mentioned issues with SORN systems—ten of these had to do with citizens' relationship to SORN (i.e., perception and utility), and eight were about how law enforcement utilized SORN. When asked about challenges related to SORN systems, all respondent groups rated issues about RSO homelessness and public misinterpretations of registry information as high concerns. Respondents were least concerned with the scope of the registry being either too broad or too narrow.

In the interviews, the researchers identified sixteen subcategories of common policy reforms and grouped them into four categories: enforcement and compliance, operational improvements, offender management, and public-focused strategies. In the survey portion of the study, respondents were asked to rank the policy reforms in order of priority. According to respondents, two of the top three priorities fell in the enforcement and compliance category: "expanded penalties for SORN non-compliance and expanded prosecution of registrant non-compliance." Policies in the operational improvements category (e.g., improving interoperability between SORN and other criminal justice divisions) were all moderately high priorities across all respondent groups. Also rated very highly by all three groups of respondents was the expansion of non-SORN probation and parole supervision. Public-focused policy reforms, "taken in tandem," "ranked as lower priority" across all three groups of respondents.

Data in this study indicate that while law enforcement professionals supported the existence of public-facing aspects of registries, they were skeptical about SORN's public information utility. Their skepticism was largely due to citizens' lack of understanding and contextualization of sex offender registration information. However, on the policy priorities side, public-facing changes were consistently ranked beneath changes to law enforcement-centric functions.

As a law enforcement tool, interview and survey participants believed SORN was more useful for sharing information between agencies than aiding in criminal investigations. There were also concerns across the board about the utility of registry data. Notably, the lack of offense-related information in the registries and the generalized nature of statutory

offense categories does not provide a telling picture of the risk posed by RSOs. More than 60 percent of survey respondents indicated that “incomplete offense histories” were a major or moderate concern.

Interview and survey respondents agreed that the role of SORN policies in aiding law enforcement efforts to monitor sex offenders was important, but they emphasized the need for actors outside law enforcement to step up their activities by expanding penalties and prosecutions of registry non-compliance.

Data indicated high levels of concern about the impact of SORN policies on RSO homelessness, particularly in states with registrant residence restrictions, though the authors point out that such restrictions are not required by federal law.

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Although the authors acknowledged deficiencies in SORN policies, they also provided disclaimers that their findings did not conclusively determine the effects of such policies. The authors further noted, “There is significant variability in how SORN systems are implemented and how SORN information is used by criminal justice professionals and agencies.”

- **Integrity of Findings: 1/5**

The study contains sampling biases in the development of the survey instrument, namely the convenience sample of individuals selected primarily through intermediary organizations including state public safety agencies and police chiefs’ associations. This bias is addressed in the report, with the authors stating that “any interpretation of the findings presented [in the report] should recognize that the study participants did not represent a cross-section of law enforcement professionals, but rather specifically targeted subgroups, many of whom may be highly invested in SORN systems and their perceived success.”

In addition to sampling issues, the report is missing critical covariate data used to develop the survey instrument (e.g., current position at the respective agency, years in law enforcement), which would reinforce the study’s findings.

7.3. Multi-State Evaluation of Sex Offender Risk and Recidivism

Zgoba, Kristen M., Michael Miner, Raymond Knight, Elizabeth J. Letourneau, Jill S. Levenson, and David Thorton. *A Multi-State Recidivism Study Using Static-99R and Static-2002 Risk*

Scores and Tier Guidelines from the Adam Walsh Act. November 2012. <https://www.ncjrs.gov/pdffiles1/nij/grants/240099.pdf>.

- **Hypothesis/Intent/Purpose:** This study had four central aims: (1) to compare AWA tiers⁶⁰ with actuarial risk assessment instruments in identifying high-risk offenders; (2) to evaluate the predictive accuracy of current state risk assessment classification schemes; (3) to examine distribution risk scores across AWA tiers; and (4) to “examine the role of offender age in recidivism risk across adult lifespans.” The central research question of the study was whether or not the AWA “accurately represents the risk of re-offense” and results in more effective management of sex offenders.
- **Methodology:** The authors randomly selected 500 formerly incarcerated sex offenders from Florida, Minnesota, New Jersey, and South Carolina. Using “available automated databases,” data from offenders’ archival records were collected, including sex offender registry information. Once collected, the authors coded the data “to calculate recidivism risk scores for two commonly used actuarial risk assessments,” Static-99R and Static-2002R, as well as to extract historical and demographic data. In the second phase of data collection, variables were coded based on “charge information.”

During the data collection process, the authors noted that “there were differences across states in the information that was available in the prison records and in other criminal justice records.” Specifically, Minnesota and New Jersey had less systematically missing information than Florida or South Carolina. The authors reviewed each state’s statutory code; assigned baseline tiers for the different offenses across three age groups: 12 and under, 13–17, and 18 and over; and reviewed variables in the datasets to determine whether offenders had a criminal history. The authors noted that Static-99R scores were not computed for South Carolina due to missing data. For the other three states, differences were evaluated by one-way ANOVA test. The differences in reoffending rates across the three tiers were assessed using chi-square test, while multiple regression analyses were used to assess their relative contributions in predicting sexual recidivism. In order to evaluate the degree to which classification systems correctly classified or predicted offender risk, the authors used a Receiver Operating Curve (ROC) analysis.

Of the sample, 51 percent were White, 31 percent Black, 7 percent Latino, and 2 percent Native American. The average age of the sample was 33 years at the time of sentencing and 37 years at the time of release. The majority of offenders had no prior convictions for a sexual crime, however, nearly 66 percent had a prior criminal offense.

- **Paper/Study Reported Findings:** The authors’ quantitative analysis indicated the overall recidivism rate over five years was 5.1 percent and 10.3 percent over ten years. Sixty-nine

⁶⁰ While the authors purported to compare SORNA’s tier system to recidivism rates, two of the four states analyzed, Minnesota and New Jersey, had not (and currently have not) substantially implemented SORNA. Notably, the tiering systems of these states are not entirely consistent with SORNA’s requirements, and Minnesota’s is significantly different.

percent of the offenders met the criteria for AWA Tier III while 29 percent were categorized as Tier II. Static-99R scores were calculated for Florida, Minnesota, and New Jersey, while Static-2002R scores were calculated for Minnesota and New Jersey. The one-way ANOVA test indicated significant differences between the Static-99R risk scores across the states, with Minnesota having the highest scores followed by New Jersey and Florida. ROC analyses of available predictor scores and Static-2002R were statistically significant but somewhat low, ranging from 0.59 to 0.66 with different sample sizes; Available Predictor (AP) scores were calculated for all states.

Logistic regression model including re-coded states' classification/tiering schemes and AWA tiers for five-year recidivism rates found that the coefficient for AWA tiers was significant and negative. The coefficient itself was unstated, and the article included no model or regression output. A logistic regression model for the same predictor variables and ten-year recidivism rates found re-coded state category 0.704 and AWA tier -0.814, and both were statistically significant. Model output was provided for the coefficients and constant, but nothing else and no model was provided. The sample size for the logistic regression models was not stated, but the sample size for the re-coded state tiers was 1,594, which was higher than the sample sizes for the chi-squared tests of AWA tiers and five- and ten-year sexual offense recidivism rates (1,581 and 1,320, respectively). Based on results from chi-squared tests of data from all four states in the sample, sexual recidivism rates differed among states in the sample for the ten-year lag period but not for the five-year lag period.

Chi-squared test of data for each state found that in Florida, the difference between AWA tier and sexual recidivism over a five-year lag was statistically significant, but not for the other three states in the sample. Moreover, AWA Tier II offenders in Florida had higher recidivism rates over a five-year period than Tier III offenders. Chi-squared test of data for each state found that in Florida, the difference between AWA tier and sexual recidivism over a ten-year lag was statistically significant, but not for the other three states in the sample. Moreover, AWA Tier II offenders in Florida had higher recidivism rates over a ten-year period than Tier III offenders.

The authors' results indicated the distribution of AWA tiers differed across states. Higher AWA tiers were not significantly associated with recidivism in Minnesota, New Jersey, or South Carolina. In Florida, AWA tiers were significantly inversely related with recidivism.

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This report was supported with a grant from the U.S. Department of Justice, National Institute of Justice. The authors put forth a number of policy implications. First, they

suggest that existing tier systems “outperformed AWA tiers in predicting sexual offending.” According to the authors, their findings “call into question the accuracy” of AWA tiers in detecting high-risk sex offenders.

- **Integrity of Findings: 1/5**

Regarding internal validity, there were several confounding factors. The sample consisted of data collected from different states and from different periods in time from state to state. The states included in the study were not a representative sample of all states and jurisdictions that might have implemented SORNA. The authors did not discuss control for possible covariates (such as formal supervision during the five years of follow-up; this was noted by the authors) that could have been associated with the different places and times from which the study’s samples were drawn, thus decreasing the applicability of the study to other populations.

Additionally, there were several issues with external validity, namely, that the states included in the study were not a representative sample of states. The sub-samples of offenders were not randomly selected samples of sex offenders but were comprised primarily of prison “releases,” making the sample pool over-representative of individuals who would have been classified as Tier II or Tier III offenders. The overall sample consisted of several sub-samples whose comparability was doubtful due to different years of coverage (release dates of sex offenders vary among states rather than a uniform period for all states), data availability and accessibility, and inconsistencies in record keeping and categorization among the states in their sample. Moreover, the authors did not statistically test the comparability of the sub-samples.

The method of sampling was unstated, and it was unclear if the authors used a consistent sampling method for all four states or different methods. The analysis included different tests for the associations of different scales with sexual recidivism rates over five- and ten-year periods. Moreover, these tests were based on different sample sizes (chi-square for AWA tiers and recidivism, $n=1,606$ and $n=1,320$; ANOVA and LSD for Static-99R and recidivism, $n=707$). Thus, the results of these tests were not comparable to each other. Additionally, a one-way ANOVA test of statewide Static-99R scores and sexual offense recidivism rates was based on an imbalanced sample (Florida $n=103$, Minnesota $n=369$, and New Jersey $n=237$). No adjustment to the ANOVA test was described in the text. Logistic regression models were discussed, but the authors did not provide models or sample sizes. Moreover, only partial model output was provided for one of the models and no output for the second model.

7.4. Sex Offender Registration and Notification Act

U.S. Government Accountability Office (GAO). *Sex Offender Registration and Notification Act: Jurisdictions Face Challenges to Implementing the Act, and Stakeholders Report Positive and Negative Effects*, GAO-13-211. Washington, DC: GAO, 2013. <https://www.gao.gov/assets/660/652032.pdf>.

- Please see publication profile in Section 6.9.

8. APPENDIX III: State and Law Enforcement Perspectives

8.1. Costs/Benefits of Subjecting Juveniles to SORN

Belzer, Richard B. "The Costs and Benefits of Subjecting Juveniles to Sex-Offender Registration and Notification." *R Street Policy Study* 41 (2015). <https://www.rstreet.org/wp-content/uploads/2015/09/RSTREET41.pdf>.

- **Hypothesis/Intent/Purpose:** The author purported to evaluate the costs and benefits of juvenile registration and notification.
- **Methodology:** The methodology consisted of two benefit–cost analyses, including a “quantitative retrospective assessment of the benefits and costs of registration and notification laws,” as well as a “qualitative prospective benefit–cost analysis of several alternative reforms.”
- **Paper/Study Reported Findings:** This study concluded that registration is “calculated to produce about \$200 million in social benefits per year. Social costs were calculated to range from \$200 million to \$2 billion, depending on the proportion of registrants listed due to offenses committed as juveniles. Thus, net benefits were calculated to range from -\$40 million to -\$1 billion per year, with present-value net benefits that ranged from -\$2 billion to -\$20 billion.” The author explained that this result depends on a small number of parameters, including available literature assumptions that sex offender registration has “reduced sex-offense recidivism by about one-eighth ...[which] translates into an annual reduction of about 800 major sex offenses committed by juveniles.”

The author stated that notification laws are “estimated to produce no social benefits, with social costs per year that range from \$10 billion to \$40 billion and present-value costs that range from -\$100 billion to -\$600 billion.” He estimated that sex offenders’ neighbors shoulder three-fourths of these costs because “living near a registered sex offender—whether an adult or juvenile—has a substantial ‘disamenity’ value.” The author claimed that annual costs imposed on juvenile offenders ranged from \$400 million to \$2 billion per year, while costs on their families were estimated to add another 50 percent. The author claimed additional calculated costs to third parties included an estimated “\$3 billion per year on employers for registry searches; \$100–\$500 million on employers for adaption and mitigation of employment issues; and \$200 million to \$1 billion on the public for registry searches.” Following from the conclusion that notification did not produce net benefits, the author stated that his “qualitative prospective benefit–cost analysis focuses on ways to reduce the social costs of notification.”

- **Author Affiliation(s):**
Richard B. Belzer, Associate Fellow, R Street Institute

This paper discussed the policy implications of its findings. Namely, the author contended that “a number of reform alternatives warrant consideration to reduce the substantial net social costs of notification. These alternatives involved exempting certain fractions of registrants listed due to offenses committed as juveniles. High-quality risk assessment was necessary to minimize false positives.” The author likened SORNA to “draconian laws.”

- **Integrity of Findings: 1/5**

With regard to the study’s construct validity, much of the data in the analysis was not actual data; instead, the author used contrived figures that appeared to be based on assumptions of incident rates, costs, etc. (e.g., “the baseline level of social cost is assumed to equal the number of violent sex offenses committed per year [70,000] multiplied by the fraction attributable to juveniles [20 percent]”). The author noted that much of the actual data used in the report had data quality issues.

As for statistical conclusion validity, the sensitivity analysis of the retrospective benefit–cost analysis is effectively a non-quantitative estimation.

In terms of the organization producing the report, R Street may have had an unstated policy preference. Though it claims to be a non-partisan organization, R Street also mentions certain policy orientations (e.g., “free markets” and “limited, effective government”) on its website.⁶¹

8.2. Effects of Sex Offender Registration Policies on Juvenile Justice

Letourneau, Elizabeth J., Dipankar Bandyopadhyay, Debajyoti Sinha, and Kevin Armstrong. “Effects of Sex Offender Registration Policies on Juvenile Justice Decision Making.” *Sexual Abuse* 21, no. 2 (2009): 149–65. doi: 10.1177/1079063208328678.

- **Hypothesis/Intent/Purpose:** The study aimed to look at the impact of sex offender registration policies on prosecution decisions and disposition outcomes. Policies affecting this research included the sex offender registration requirements that began in South Carolina in 1995 and were amended in 1999.
- **Methodology:** The sample for this study included all males charged as minors in South Carolina from 1990 through 2004. Researchers compared prosecutor decisions and final disposition outcomes in the years prior to and following 1995 and 1999, and included a logistic regression for probability of the response variable (i.e., case forwarded for prosecution or case resulting in guilty determination).
- **Paper/Study Reported Findings:** This study concluded that, as registration requirements increased, prosecutors were less likely to push for serious sexual and assault charges for

⁶¹ R Street Institute, homepage, accessed April 21, 2022, <https://www.rstreet.org/>.

juveniles. The results were statistically significant with the likelihood of prosecuting felony-level sexual offense charges abating by over 40 percent. The practical effect of this conclusion was a potential decrease in prosecution of serious sex crimes.

The study had two response variables: the probability of cases forwarded for prosecution and the probability of guilty determinations. The first variable (probability of cases forwarded for prosecution) was measured along the following dimensions: age at initial charge, prior offenses, and race. For each year of age, there was a 12 percent increase in the "odds" of prosecutors moving forward on felony-level sexual offense charges; for assault offenses, the increase was 15 percent; and for robbery offenses, it was 8 percent. For each prior offense, there was a 13 percent increase in the odds of prosecutors moving forward on felony-level sexual offense charges; for assault offenses, the increase was 20 percent; and for robbery offenses, it was 7 percent. Race of offender, year of prosecution, and offenses committed after January 1, 1999, had no statistically significant association on this response variable for sexual offense charges. Lastly, the 1995 charge-point (i.e., offenses committed after the January 1, 1995, implementation of South Carolina's sex offender registration law) was considered. For sexual offenses committed on or after this law's implementation, there was a 41 percent decrease in the odds of prosecutors moving forward on felony-level sexual offense charges after January 1, 1995, compared to such offenses committed before that date; for assault offenses the decrease was 22 percent, and this variable was statistically insignificant for robbery offenses.

The second variable (probability of guilty disposition) considered the same dimensions as the first. For each year of age, there was an 8 percent increase in the odds of guilty dispositions for felony-level sexual offense charges. This covariate was statistically insignificant for assault and robbery offenses. Regarding race, White offenders had 52 percent higher odds of guilty dispositions for felony-level sexual offense charges than non-White offenders. For assault offense charges, there was a 16 percent increase in odds, and this covariate was statistically insignificant for robbery offense charges. Prior offense, disposition year, and "1995 change-point" were statistically insignificant for all three categories of offense charges, with the exception of disposition year and robbery offense charges. For each subsequent year of disposition, there was a 9 percent increase in odds of guilty disposition for felony-level robbery offense charges. For sexual offenses committed after January 1, 1999, there was a 67 percent increase in odds of guilty disposition for felony-level sexual offense charges. For assault offense charges, there was a 41 percent increase; this covariate was statistically insignificant for robbery offense charges.

■ **Author Affiliation(s):**

Elizabeth J. Letourneau, Medical University of South Carolina
Dipankar Bandyopadhyay, Medical University of South Carolina
Debajyoti Sinha, Florida State University
Kevin Armstrong, Medical University of South Carolina

This paper received funding from the Centers for Disease Control and Prevention (a part of the U.S. Department of Health and Human Services) and the National Science Foundation. The researchers discussed the policy implications of their findings.

- **Integrity of Findings: 1/5**

This study had issues of internal validity as the authors noted some covariates that influenced the response variables, but which they did not test; therefore, these covariates are confounding variables: specifically, South Carolina state policies enacted in the mid-1990s that effected prosecution of certain juvenile offenses. Such policies included minimum age requirements for juvenile transfer to adult court, truth-in-sentencing, and three-strikes law sentencing, all of which affected "many" sexual offenses.

As for external validity, some covariates and the setting (South Carolina's 1995 and 1999 sex offense registration and notification laws and various categories of offenders in that state) had limited comparability to other state laws and with federal laws, such as SORNA.

The authors stated that they used South Carolina's 1995 and 1999 registration and notification laws to infer effects of registration and notification laws broadly on juvenile justice decisions. However, the authors noted differences between South Carolina's registration laws and various federal laws, with South Carolina's laws being putatively harsher than federal laws, including the AWA. The authors did not state how South Carolina's law is harsher.

The authors also noted that thirty-six states require registration of juvenile sex offenders. This implied variability in state laws concerning registration of juvenile sex offenders and, possibly, limited comparability of South Carolina's legally stipulated registration requirements with those of other states. In addition, the authors stated that the study's purpose "[was] to empirically examine the effects of lifetime registration on juvenile judicial decision making," suggesting limited comparability with laws that have different registration periods.

8.3. From Wetterling to Walsh

Wright, Richard G. "From Wetterling to Walsh: The Growth of Federalization in Sex Offender Policy." *Federal Sentencing Reporter* 21, no. 2 (2008): 124–32. doi: 10.1525/fsr.2008.21.2.124.

- **Hypothesis/Intent/Purpose:** The author examined the impacts and consequences of the AWA.
- **Methodology:** This paper mostly relied on the author's analysis of open-source documents and existing literature. Additionally, the author cited a study he conducted before SORNA was enacted about SORN laws in Massachusetts.

- **Paper/Study Reported Findings:** The author believed that the contentious politics surrounding the issue of sex offenders overshadowed evidence-based approaches to sex offender laws. He concluded, “It is highly probable that as states implement the AWA they will continue to experience many problems, costs, and unintended consequences, with minimal likelihood of a reduction in sexual assault rates.”
- **Author Affiliation(s):**
Richard G. Wright, Bridgewater State College

This article was published in a journal focused on sentencing law, policy, and reform. The journal was launched in collaboration with the Vera Institute of Justice, a nonprofit focused on criminal justice issues. The article contains a “Policy Discussion” section and argues that everyone should be highly skeptical of the AWA.

- **Integrity of Findings:** N/A⁶²

8.4. High-Price of Misguided Legislation

Buntin, Stephanie. “The High Price of Misguided Legislation: Nevada’s Need for Practical Sex Offender Laws.” *Nevada Law Journal* 11, no. 3 (2011): 770–92. <https://scholars.law.unlv.edu/nlj/vol11/iss3/7>.

- **Hypothesis/Intent/Purpose:** The intention of this paper was to argue that Nevada should not try to comply with SORNA, but rather adopt its own set of SORN requirements.
- **Methodology:** The author relied on her own historical and legal analysis of SORNA, law review publications, and studies published by other authors about sex offender laws.
- **Paper/Study Reported Findings:** This paper argued that SORNA had invoked a series of debates about its constitutionality, that SORNA did not significantly reduce recidivism, that risk assessments made more sense than SORNA’s tiers, that SORNA was problematic for juveniles, and that the cost of state compliance with SORNA was greater than the incentive to comply.
- **Author Affiliation(s):**
Stephanie Buntin, William S. Boyd School of Law, University of Nevada, Las Vegas

This paper was written with the intent of dissuading Nevada policymakers from attempting SORNA compliance. It was published in the *Nevada Law Journal* while the author was a juris doctor candidate at the University of Nevada’s law school.

⁶² Because some articles distill an author’s reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

- **Integrity of Findings: N/A**

The author based her conclusion on sources providing analyses of jurisdictions other than Nevada. She did not clarify if and how those analyses are applicable to Nevada's particular situation with regard to implementing SORNA effectively. (Also see the Justice Policy Institute summary analysis, Section 8.11, for a statistical analysis of the figures referenced in this article.)

8.5. Law Enforcement Perspectives on Sex Offender Registration and Notification

Harris, Andrew J., Jill S. Levenson, Christopher Lobanov-Rostovsky, and Scott M. Walfield. "Law Enforcement Perspectives on Sex Offender Registration and Notification: Effectiveness, Challenges, and Policy Priorities." *Criminal Justice Policy Review* 29, no. 4 (2018): 391–420. doi: 10.1177/0887403416651671.

- Please see publication profile in Section 7.2.

8.6. Parole Board Members' Views of Sex Offender Registration and Notification

Tewksbury, Richard, and Elizabeth Ehrhardt Mustaine. "Parole Board Members' Views of Sex Offender Registration and Community Notification." *American Journal of Criminal Justice* 37, no. 3 (2012): 413–31. doi: 10.1007/s12103-011-9119-1.

- **Hypothesis/Intent/Purpose:** This study's aim was to conduct a systematic investigation of how state parole board members perceive sex offender registration and community notification laws and practices.
- **Methodology:** The authors conducted a forty-three-item online survey of parole board members from forty-eight state parole boards. The survey had a 31.5 percent response rate with a total of eighty respondents out of 254 state parole board members. A majority of respondents were male, White, and college-educated. Less than half of the items in the survey were from the Community Attitudes Toward Sex Offender Scale (CATSO) instrument, which the authors drew from the 2008 paper, "The Community Attitudes Toward Sex Offenders Scale: The Development of a Psychometric Assessment Instrument," by W.T. Church, E.E. Wakeman, S.L. Miller, C.B. Clements, and F. Sun. The authors used principal components analysis with Varimax rotation of responses to eighteen survey questions and logistic regression to analyze survey results. Covariates within the logistic regression included gender, age, race, marital status, educational achievement, years on parole board, number of children, and political orientation.
- **Paper/Study Reported Findings:** The authors conclude that parole board members generally support sex offender registries and community notification procedures. Specifically, findings suggest that parole board members hold attitudes that are not

especially strong in support of many common registration and community notification procedures. The only method of community notification that was supported by a majority of parole board members was supplying law enforcement agencies with lists (71.3 percent of respondents). Community notification requirements that are more widely disseminated were supported by significantly fewer parole board members. Parole board members with higher education were 20 percent less likely to believe that community notification would reduce sex offenses. Parole board members with larger caseloads of children were 32 percent more likely to believe that community notification effectively reduces sex offenses.

- **Author Affiliation(s):**

Richard Tewksbury, University of Louisville

Elizabeth Ehrhardt Mustaine, University of Central Florida

This study was published in a journal focused on criminal justice issues and calls into question the efficacy of sex offender-related policies.

- **Integrity of Findings: 1/5**

There are several issues of external validity, including the use of a non-probability sample (convenience sample). Regarding statistical conclusion validity, the study has a low response rate (31.5 percent) and uses a probability-based parametric test—i.e., the convenience sample—to analyze a non-probability sample.

Additionally, the authors use “Principle [*sic*] Components Factor Analysis with Varimax rotation”; however, principal components analysis and factor analysis are different procedures, conceptually and mathematically (e.g., factor analysis has error and unique variance; principal components analysis does not). It is unclear how these two analyses were used either together or with Varimax rotation.

8.7. Paying the Piper

Wang, Jennifer N. “Paying the Piper: The Cost of Compliance with the Federal Sex Offender Registration and Notification Act.” *New York Law School Law Review* 59, no. 4 (2014/15): 681–706. https://digitalcommons.nyls.edu/nyls_law_review/vol59/iss4/4/.

- **Hypothesis/Intent/Purpose:** In this *New York Law School Law Review* article, the author conducts a cost-benefit analysis of state implementation of SORNA.
- **Methodology:** Through open-source research, this article examined the aspects of SORNA that created challenges for states to come into compliance with the law.
- **Paper/Study Reported Findings:** This paper found that there were high costs for states to implement SORNA, and suggested several ways that the federal government could increase the incentive for states to come into compliance. The three main suggestions are for Congress to (1) increase the financial penalty for state non-compliance, (2) provide

more financial assistance to help states with implementation, and (3) lessen the SORNA compliance requirements of aspects that are most financially costly to states.

- **Author Affiliation(s):**

Jennifer Wang, Unknown

Although the author's affiliation at the time of publication is unknown, she was an executive editor of the *New York Law School Law Review* the year (2013/14) before the journal published her article and graduated from the New York University Law School with a juris doctor in 2014.

Wang recommends that Congress reevaluate its fiscal approach to SORNA, and "must take steps to reform the financial structure of the SORNA implementation plan without losing focus of the long-term goal of compliance."

- **Integrity of Findings: N/A**⁶³

8.8. Sex Offender Law

Lyons, Donna. "Sex Offender Law: Down to the Wire." National Conference of State Legislatures, June 2011. <http://www.ncsl.org/research/civil-and-criminal-justice/sex-offender-law-down-to-the-wire.aspx>.

- **Hypothesis/Intent/Purpose:** The author discussed several issues states faced in implementing SORNA, observing that while state lawmakers "have enacted some 250 bills related to SORNA since 2007, ...only Delaware, Florida, Ohio, South Dakota and two tribes have met 'substantial implementation' standards" as of 2011.
- **Methodology:** The author conducted a literature review and interviewed stakeholders, including state senators from Kansas, South Dakota, and Texas.
- **Paper/Study Reported Findings:** The author concluded that state systems were a better means of regulating sex offenders. She cited concerns regarding potential high costs of implementation, SORNA's offense-based tier requirement, and the juvenile registration requirement.
- **Author Affiliation(s):**
Donna Lyons, Director, Criminal Justice Program, National Conference of State Legislatures

This article was published by the National Conference of State Legislatures, an organization that "represents legislatures in dealing with the federal government,

⁶³ Because some articles distill an author's reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

especially in support of state sovereignty and state flexibility and protection from unfunded federal mandates and unwarranted federal preemption.”⁶⁴

- **Integrity of Findings: N/A**⁶⁵

8.9. Sex Offender Management Policy in the States

Council of State Governments. *Sex Offender Management Policy in the States: SORNA and Sex Offender Policy in the States*. Lexington, KY: Council of State Governments, 2010.

- **Hypothesis/Intent/Purpose:** Most of the article consists of an overview of SORN law history, SORNA legislation, and SORNA-specific requirements for states. In addition to providing background information on SORNA, the Council of State Governments (CSG) presents negative viewpoints of SORNA legislation and its requirements in the areas of juvenile registration, retroactive registration, costs of implementation, effectiveness of SORN laws, and legal challenges.
- **Methodology:** The authors presented five areas of controversy surrounding SORNA and summarized critics’ viewpoints on each.
- **Paper/Study Reported Findings:** The authors stated that critics of juvenile registration point out the developmental differences between juveniles and adults and argue that SORNA “contradict[s] the rehabilitative intent and confidentiality that is inherent in the juvenile justice system.” With regard to retroactive registration, the article discussed concerns about the amount of time and cost it will take to reevaluate existing sex offenders, as well as the possible conflict such a provision may face in terms of states’ constitutions. CSG touched upon general costs of SORNA implementation; it also pointed out the lack of empirical research into the interplay between online registries and rates of recidivism (in discussing the effectiveness of SORN laws in general), as well as a lack of research into conviction types and rates of recidivism (in discussing the merits of offense-based versus risk assessment-based categorization systems). The authors also implied SORNA has and will continue to face legal challenges, particularly in relation to the Ex Post Facto and Double Jeopardy clauses of the U.S. Constitution.
- **Author Affiliation(s):** CSG is a nonpartisan organization that conducts research and advocates for states’ rights. A grant from the U.S. Department of Justice’s Bureau of Justice Assistance supported this project.

⁶⁴ National Conference of State Legislatures, “About Us: NCSL; Our Mission,” accessed April 21, 2022, <https://www.ncsl.org/aboutus.aspx>.

⁶⁵ Because some articles distill an author’s reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

- **Integrity of Findings: N/A**

This report relied on a survey conducted by nonprofit organization SEARCH and the “Virginia Department of Planning and Budget 2008 Fiscal Impact Statement” to determine estimated costs, the latter of which has since been updated to reflect a more accurate estimated cost. It also introduced outcomes in state courts that might not be relevant to other jurisdictions, or that might not remain relevant if a U.S. Supreme Court decision supersedes it.

8.10. Sex Offender Registration and Notification Act

U.S. Government Accountability Office (GAO). Sex Offender Registration and Notification Act: Jurisdictions Face Challenges to Implementing the Act, and Stakeholders Report Positive and Negative Effects, GAO-13-211. Washington, DC: GAO, 2013. <https://www.gao.gov/assets/660/652032.pdf>.

- Please see publication profile in Section 6.9.

8.11. What Will It Cost States to Comply with SORNA

Justice Policy Institute (JPI). “What Will It Cost States to Comply with the Sex Offender Registration and Notification Act?” August 2008. https://ccoso.org/sites/default/files/import/08-08_FAC_SORNACosts_JJ.pdf.

- **Hypothesis/Intent/Purpose:** The author argued that first year and following years’ costs faced by states in implementing SORNA were “far more costly than the penalties [10 percent loss of a state’s Edward Byrne Memorial Justice Assistance Grant (JAG) Program money] for not being in compliance” and that “states should think carefully before committing to comply with SORNA.” The author also alluded to a “lack of evidence that registries and notification [policies] make communities safer,” but did not elaborate further on this.
- **Methodology:** This two-page publication, a summary of a longer report by the same organization, argued that first-year and following years’ costs faced by states in implementing SORNA will be “far more costly than the penalties for not being in compliance.” It gave a brief summary of two states’ projected costs of implementing SORNA, Ohio and Virginia, and purportedly used the Virginia methodology to further project costs of implementation for all fifty states according to population.

Ohio’s cost projections were drawn from a 2007 “Ohio Legislative Service Commission Fiscal Note & Local Impact Statement”; Virginia’s were from the “Virginia Department of Planning and Budget 2008 Fiscal Impact Statement.” The second page of the article included a table that presents a “SORNA Implementation Estimate for 2009” for each state

using Virginia's cost projection methodology. The author included the amount of money each state received in Byrne JAG funding in 2006, and a calculation of what 10 percent of that Byrne JAG funding would be (the amount lost due to non-compliance with SORNA). The author stated that Virginia's cost estimates were used because they are "the most comprehensive analysis...available to the public," but did not elaborate on why that was, nor gave any further details. The author also stated that 2006 Byrne JAG funding levels were used because "the U.S. House of Representatives estimates that 2009 federal allocations will return to 2006 levels."

The author gave no discussion on the enormous disparity between Ohio's own estimated cost projection (\$475,000, excluding any new personnel, court, and administrative cost increases) and the cost projection for Ohio they calculated using Virginia's methodology (\$18,598,869).

- **Paper/Study Reported Findings:** The publication, using Virginia's cost projection methodology, projected 2009 SORNA implementation cost estimates to be anywhere from \$848,009 (Wyoming) to \$59,287,816 (California). Based on calculations of first-year costs using Virginia's estimates, the author found that each state would incur a dramatically high financial burden. In fact, the author's calculated "SORNA Implementation Estimate for 2009" for the state of Ohio was \$18,598,869, an amount more than 3,200 percent greater than that of Ohio's own estimate of \$475,000. Based on the high estimates they calculated, the author argued that states lose more money by implementing SORNA than by accepting a decrease in Byrne JAG grant funding. However, the author did not mention in this publication that the penalty is annual until SORNA is implemented, not a one-time penalty.
- **Author Affiliation(s):** JPI titled its main report, upon which this shortened version is based, *Registering Harm: How Sex Offense Registries Fail Youth and Communities*, identifying its position as being against SORNA. JPI identifies itself as being "consciously provocative" in its work. The article, to further its message that implementing SORNA "is far more costly than the penalties for not being in compliance," employed fiscal numbers based on some states' initial estimates, but it eliminated mention of lower figures for implementation that were provided by states in their actual estimates or subsequent, final estimates.
- **Integrity of Findings: N/A**
The author used Virginia's preliminary cost estimate for implementing the SORNA; however, the state later revised this downward. On January 28, 2008, Virginia's Department of Planning and Budget released an estimate of \$12,497,267 for staff and other costs to make Virginia compliant with the SORNA in fiscal year (FY) 2009 and \$8,887,362 per year thereafter. However, on March 27, 2008, the same Department released a revised "final" estimate of only \$59,345 for FY2009, and \$58,133 annually thereafter.

Similarly, the author employed a formula based on Virginia's initial figures to estimate that it would cost Ohio more than \$18 million to implement SORNA, when in fact, Ohio's own fiscal impact statement estimated that the state would incur a total cost of \$475,000 in one-time expenses.⁶⁶

Cost estimations for implementing SORNA for forty-nine states and the District of Columbia are based on data from one state, Virginia. However, the author did not illustrate the comparability of Virginia and its cost estimate with other states and their respective costs, nor did they cite other studies that have reliably used the same methodology. The authors acknowledged that states may arrive at different cost estimates due to their "unique statutory and law enforcement characteristics."

⁶⁶ Ohio, Legislative Service Commission, "Fiscal Note & Local Impact Statement: 127th General Assembly of Ohio; Revised," June 20, 2007, 1, <https://www.lsc.ohio.gov/documents/gaDocuments/127ga/sb0010sp.pdf>.

9. APPENDIX IV: Adult and Juvenile Recidivism

9.1. Adam Walsh Act

Freeman, Naomi J., and Jeffrey C. Sandler. "The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative?" *Criminal Justice Policy Review* 21, no. 1 (2010): 31–49. doi: 10.1177/0887403409338565.

- Please see publication profile in Section 7.1.

9.2. Does Sex Offender Registration and Notification Reduce Crime?

Washington State Institute for Public Policy (WSIPP). "Does Sex Offender Registration and Notification Reduce Crime? A Systematic Review of the Research Literature." June 2009. http://www.wsipp.wa.gov/ReportFile/1043/Wsipp_Does-Sex-Offender-Registration-and-Notification-Reduce-Crime-A-Systematic-Review-of-the-Research-Literature_Full-Report.pdf.

- **Hypothesis/Intent/Purpose:** To examine the effectiveness of sex offender registration and community notification laws, researchers conducted a literature review to determine whether they lowered crime.
- **Methodology:** This paper included a review and meta-analysis of nine evidence-based research papers from across the United States on sex offender registration and community notification laws.
- **Paper/Study Reported Findings:** After evaluating seven studies that looked at the effects of SORN on the recidivism rates of registered sex offenders, WSIPP found that there was no consensus opinion on the effects of SORN on registered sex offender recidivism.

The other two studies examined in this paper looked at how SORN laws affect the general public. WSIPP concluded that these two papers "provide some indication" the laws had the effect of lowering sex offense crime rates.

- **Author Affiliation(s):** WSIPP is an organization that carries out non-partisan research on behalf of the Washington State legislature. This particular paper was requested by the state's Sex Offender Policy Board.
- **Integrity of Findings: N/A**
There were limitations within the cited studies, which WSIPP noted. Regarding external validity, none of the studies were "well-implemented random assignment studies"; moreover, six of the seven studies covered by the meta-analysis were on specific states (e.g., Minnesota, South Carolina, and Washington). Additional issues included small sample sizes in three studies, and thus limited statistical power.

9.3. From Wetterling to Walsh

Wright, Richard G. "From Wetterling to Walsh: The Growth of Federalization in Sex Offender Policy." *Federal Sentencing Reporter* 21, no. 2 (2008): 124–32. doi: 10.1525/fsr.2008.21.2.124.

- Please see publication profile in Section 8.3.

9.4. Multi-State Recidivism Study Using Risk Scores and Tier Guidelines

Zgoba, Kristen M., Michael Miner, Raymond Knight, Elizabeth J. Letourneau, Jill S. Levenson, and David Thorton. *A Multi-State Recidivism Study Using Static-99R and Static-2002 Risk Scores and Tier Guidelines from the Adam Walsh Act*. <https://www.ncjrs.gov/pdffiles1/nij/grants/240099.pdf>.

- Please see publication profile in Section 7.3.

9.5. Raised on the Registry

Pittman, Nicole. *Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S.* New York: Human Rights Watch, 2013. https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf.

- Please see publication profile in Section 6.6.

9.6. Recidivism Rates for Registered and Nonregistered Juvenile Sex Offenders

Letourneau, Elizabeth J., and Kevin Armstrong. "Recidivism Rates for Registered and Nonregistered Juvenile Sexual Offenders." *Sexual Abuse* 20, no. 4 (2008): 393–408. doi: 10.1177/1079063208324661.

- **Hypothesis/Intent/Purpose:** The authors indicated that the purpose of the study was to examine registration policies' effects on recidivism rates of juvenile sex offenders in South Carolina.
- **Methodology:** This study consisted of 222 juveniles convicted of a registrable offense between 1995 and 2005. Half of this group was required to register on the South Carolina sex offender registry and the other half was not. Individuals in the two groups were matched 1:1 based on similar demographic characteristics. Researchers tracked sexual offense recidivism, nonsexual person offense recidivism, and nonperson offense recidivism. The study included Cox proportional-hazard models and chi-squared tests.

- **Paper/Study Reported Findings:** The results of this study did not suggest that juvenile registration was helpful in preventing recidivism. However, there were only two instances of sexual recidivism in the entire sample, which limited the ability to draw wider conclusions from the study. The authors stated that one implication of the low recidivism rate was that juvenile offenders are a low-risk category that did not benefit from registration. Nonsexual person recidivism rates between the two groups were not statistically significant.
- **Author Affiliation(s):**
Elizabeth J. Letourneau, Medical University of South Carolina
Kevin Armstrong, Medical University of South Carolina

This article was published in *Sexual Abuse: A Journal of Research and Treatment*. The data for the study was provided by the South Carolina Law Enforcement Division. The authors stated that more research was needed before policy recommendations could be made.

- **Integrity of Findings: 1/5**

Regarding internal validity, the research design was difficult to assess because the authors did not explicitly state what the design was. In one portion of the paper, the authors stated that they offered no hypotheses and described their research as exploratory in nature. In another portion of the paper, they stated the research was examining the effects of South Carolina's 1995 sex offender registration law on recidivism among juvenile sex offenders.

The study suffers from some confounding factors, including the use of variables that may be related to sexual recidivism risk, such as gender and offender's relationship to victim, and variables that may be related to general recidivism risk, such as youth substance use.

Regarding the study's statistical conclusion validity, the authors noted that their results generally failed to support a registration policy's effectiveness on reducing recidivism among juvenile sex offenders; however, the authors previously noted the lack of statistical support for any conclusion about sexual offense recidivism amongst registered juvenile sex offenders. In effect, their findings support (1) a null hypothesis of no relationship between South Carolina's 1995 sex offense registration law and recidivism among juvenile sex offenders, rather than (2) an alternative hypothesis of South Carolina's 1995 law having an effect on recidivism among juvenile sex offenders (increase in recidivism, decrease in recidivism, etc.)

Issues impacting the study's external validity include the fact that the sample contains data from juvenile offenders in South Carolina; thus, the findings cannot be extrapolated to adult offenders in South Carolina or to juvenile and adult offenders outside the state.

9.7. Sex Offender Registration and Notification

Association for the Treatment of Sexual Abusers. *Sex Offender Registration and Notification*. 2008. <https://www.atsa.com/sites/default/files/ppSOREgNotification.pdf>.

- Please see publication profile in Section 6.8.

10. APPENDIX V: Challenges Based on Constitutional Protections

10.1. Are Juvenile Sex Offenders Different from their Adult Counterparts?

Smith, Alison M. "Are Juvenile Sex Offenders Different from Their Adult Counterparts?" CRS Legal Sidebar, June 20, 2017. ProQuest Congressional (CRS-2017-AML-0138).

- **Hypothesis/Intent/Purpose:** This article is a three-page summary of court decisions concerning the constitutionality of SORNA's registration requirements for juvenile sex offenders and discussing major pivotal legal determinations underlying those decisions. It addressed the opinions of three states' supreme courts—Ohio, Pennsylvania, and South Carolina—and highlighted several U.S. Supreme Court cases that, although they did not comment on the issue of juvenile registration directly, may impact future lower court decisions.
- **Methodology:** The author gave a brief background on the requirements within some states to register and monitor juvenile sex offenders and associated challenges to the constitutionality of this requirement. She gave a similarly brief overview of constitutional protections offered by the Fifth, Eighth, and Fourteenth Amendments, as well as specific U.S. Supreme Court opinions that assessed the constitutionality of death penalty sentences for juveniles, life without parole sentences for juveniles, and retroactive applications of sex offender registration statutes for sex offenders in general. The author then discussed the differing opinions of three state supreme courts (Ohio, Pennsylvania, and South Carolina) on the constitutionality of juvenile sex offender registration and notification policies within their states, each relying on distinct precedent and language used by the U.S. Supreme Court.

The publication presents a legal analysis of relevant state court proceedings in Ohio, Pennsylvania, and South Carolina. The author notes: "State supreme courts in Ohio and Pennsylvania used the distinctions between juveniles and adults articulated in *Roper*, *Graham*, and *Miller* when invalidating each state's respective juvenile sex offender notification and registration statutes."⁶⁷

The author conducted a legal analysis of relevant U.S. Supreme Court cases and history, noting: "In recent years, the Supreme Court has established categorical rules prohibiting certain punishments for juveniles on the grounds that such sanctions run afoul of the Eighth Amendment's prohibition on cruel and unusual punishments. In *Roper v. Simmons*, the Court prohibited the death penalty for juvenile offenders under the age of 18 at the time of the offense. In *Graham v. Florida*, the Court analogized life without parole (LWOP) sentences to the death penalty, and held that the imposition of LWOP sentences for juveniles guilty of non-homicide crimes constituted cruel and unusual punishment. Most

⁶⁷ See *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 567 U.S. 460 (2012).

recently in *Miller v. Alabama*, the Court struck down the imposition of mandatory LWOP sentences for juvenile offenders. In each decision, the Court relied on what it characterized as an established and evolving national consensus that juveniles exhibit ‘[a] lack of maturity and an underdeveloped sense of responsibility’ that reduces the retributive or deterrent effect of the punishment at issue in the particular case.”

- **Paper/Study Reported Findings:** The author noted that the supreme courts of Ohio, Pennsylvania, and South Carolina split on the question of whether the requirement to register and monitor juvenile sex offenders is constitutional. According to her, previous U.S. Supreme Court cases concerning juvenile sentencing contained language that distinguished juveniles from adults based on “[a] lack of maturity and an underdeveloped sense of responsibility,” language that the state supreme courts of Pennsylvania and Ohio used to invalidate their states’ laws on juvenile registration and notification. However, the author pointed out that the South Carolina Supreme Court relied on the U.S. Supreme Court’s language in *Smith v. Doe*—distinguishing notification and registration statutes as non-punitive and having a “civil-regulatory character”⁶⁸—to rule that such restrictions on juveniles is not cruel and unusual punishment. It further noted that this language was distinct from the U.S. Supreme Court ruling in *Roper*, which addressed juvenile death penalty sentencing.

The author speculated that, if the U.S. Supreme Court heard a case regarding SORNA’s juvenile offender provisions, two questions for consideration could be “whether the notion of diminished culpability for juvenile offenders applies in the context of state SORNA statutes and whether state SORNA statutes are punitive when applied to juveniles.” The author did not suggest the U.S. Supreme Court would hear such a case, but pointed out that a ruling could “compel Congress to reconsider or alter the federal framework” behind SORNA’s application to juvenile offenders.

The author concluded that the status of the constitutionality of subjecting juveniles to SORNA remains unclear. She cited the fact that the U.S. Supreme Court has “not yet addressed whether SORNA requirements for juvenile sex offenders are constitutional.” She also noted that “[m]ost states have followed suit when addressing Eighth Amendment challenges to mandatory monitoring and registration for adult sex offenders. However, things are less clear when dealing with juvenile sex offenders challenging the constitutionality of such schemes.”

- **Author Affiliation(s):**
Alison M. Smith, Congressional Research Service

This article was written for the Congressional Research Service (CRS). A part of the Library of Congress, CRS works exclusively for Congress, providing policy and legal analyses to committees and members of both the House and Senate.

⁶⁸ 538 U.S. 84 (2003).

- **Integrity of Findings: N/A.**⁶⁹

Extrapolations of findings in the three state supreme courts assessed should be conducted with caution due to differences in state constitutions. The author notes that further guidance could come from U.S. Supreme Court rulings on the issue of juvenile requirements under SORNA.

10.2. Gorsuch Challenges Blank Check for U.S. Attorney General

Root, Damon. "Gorsuch Challenges Blank Check for the U.S. Attorney General." *Reason Magazine* (January 2019). <https://reason.com/2018/12/20/gorsuch-challenges-blank-check/>.

- **Hypothesis/Intent/Purpose:** The author provided commentary on the U.S. Supreme Court case *Gundy v. United States*, which at the time had not yet been decided.⁷⁰ Gundy, a registered sex offender, had challenged the constitutionality of SORNA based on the amount of power the Act delegated to the U.S. Attorney General.
- **Paper/Study Reported Findings:** Based on previous comments from Justices Neil Gorsuch and Sonia Sotomayor, the author concluded that "[i]f we read between the lines of the oral arguments, a couple of members of the Supreme Court seemed to be leaning toward siding with Gundy." The author asserted that if the U.S. Supreme Court sided with Gundy, it would be a "significant win both for criminal justice reformers and for critics to executive overreach."
- **Author Affiliation(s):**
Damon Root, Senior Editor, *Reason Magazine*

Reason Magazine asserts to be "the nation's leading libertarian magazine."⁷¹
- **Integrity of Findings: N/A**⁷²
The U.S. Supreme Court ruled in favor of the U.S. government, thus Root's prediction about the effect of decision in favor of Gundy did not materialize.⁷³

⁶⁹ Because some articles distill an author's reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

⁷⁰ In June 2019, the Supreme Court affirmed the Second Circuit's ruling that SORNA's authorization to the U.S. Attorney General to specify the applicability of its requirements to offenders convicted prior to SORNA's enactment was not a violation of the nondelegation doctrine.

⁷¹ Reason Magazine, "About Reason," accessed April 21, 2022, <https://reason.com/about/>.

⁷² Because some articles distill an author's reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

⁷³ 139 S. Ct. 2116 (2019).

10.3. Retroactive Application of Sex Offender Registration and Notification Act

Visgaitis, Rebecca L. "Retroactive Application of the Sex Offender Registration and Notification Act: A Modern Encroachment on Judicial Power." *Columbia Journal of Law and Social Problems* 45 (2011–12): 273–302. <http://jlsplaw.columbia.edu/wp-content/uploads/sites/8/2017/03/45-Visgaitis.pdf>.

- **Hypothesis/Intent/Purpose:** The author argued that SORNA's retroactive application to sex offenders who have already received a judicial determination is a violation of constitutional jurisprudence, specifically the separation of powers doctrine. The author discusses policy alternatives that would avoid such a violation.
- **Methodology:** The author argues that because SORNA gives power to the U.S. Attorney General to retroactively apply SORNA's registration requirements, the Attorney General is able to undo previous court decisions. The author argues that this "retroactivity regulation encroaches on judicial power by changing offenders' registration requirements that had been [previously] adjudicated by a court based on the offenders' risk level."
- **Paper/Study Reported Findings:** The author concludes that the "[U.S.] Attorney General's regulation retroactively applying the SORNA registration requirements to sex offenders convicted before the statute's enactment violates the separation of powers doctrine."
- **Author Affiliation(s):**
Rebecca L. Visgaitis, Managing Editor, *Columbia Journal of Law and Social Problems*

The author was a managing editor of the *Columbia Journal of Law and Social Problems* the year the journal published her article and a 2012 juris doctor candidate.

- **Integrity of Findings: N/A⁷⁴**

10.4. Sex Offender Registration and Notification

Association for the Treatment of Sexual Abusers. *Sex Offender Registration and Notification*. 2008. <https://www.atsa.com/sites/default/files/ppSOREgNotification.pdf>.

- Please see publication profile in Section 6.8.

⁷⁴ Because some articles distill an author's reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

10.5. Time to Revisit Sex Offender Registration Laws

Schwartz, Robert G. "Time to Revisit Sex Offender Registration Laws." *Criminal Justice* 29, no. 1 (2014): 43–44. <https://heinonline.org/HOL/P?h=hein.journals/cjust29&i=45>.

- **Hypothesis/Intent/Purpose:** The author argued that federal sex offender laws were punitive and, that upon further deliberation by state supreme courts and the U.S. Supreme Court, will be found to be unduly harsh.
- **Methodology:** In this two-page article, the author looks at previous court decisions. He also cites *Raised on the Registry*, a study profiled in Section 6.6 of this report.
- **Paper/Study Reported Findings:** Based on his analysis of several court cases and the *Raised on the Registry* study, the author argued that juvenile sex offender laws were not fair or logical, and should be revised so as to not unjustly punish juveniles.
- **Author Affiliation(s):**
Robert G. Schwartz, Executive Director, Juvenile Law Center

The Juvenile Law Center describes itself as an organization that advocates for the rights of "children who come into contact with the child welfare and justice systems."⁷⁵

- **Integrity of Findings: N/A.**⁷⁶

⁷⁵ Juvenile Law Center, "About: Our Mission," accessed April 21, 2022, <https://jlc.org/about>.

⁷⁶ Because some articles distill an author's reading of the subject matter, rather than gathering and analyzing data through formal sampling or survey methods, it is not possible to give them a statistical integrity rating.

11. APPENDIX VI: Analysis of Statistical Integrity

As noted previously in Section 3, “FRD Research Methodology,” FRD’s analysis included a statistical component to evaluate the sixteen research studies referenced in this report. This analysis was used only for reports that relied on statistical and quantitative methods (i.e., studies receiving an integrity score).

11.1. Internal Validity

This evaluation used the five-point Maryland SMS to assess the internal validity of the reported research methods.⁷⁷ In statistical research, internal validity describes the truth or falsity of any causal relationships cited by the researchers.⁷⁸ To have a study that is internally valid, the research must, at a minimum, include the following:

- An experimental condition to estimate what happens to research subjects when a treatment is applied to them (e.g., sex offender registration);
- A control condition to estimate what happens to research subjects when the treatment is not applied to them (e.g., not being registered as a sex offender); and
- Measurements of the hypothesized outcomes in both groups before and after the treatment is applied (e.g., measures of employment before and after individuals in the experimental group register as sex offenders).

In line with the Maryland SMS, FRD rated the publications’ statistical methods on a scale of 1 to 5, with higher numbers indicating the use of research methods more likely to yield internally valid findings. The Maryland SMS levels and criteria are as follows:

- **Level 1:** The research design states that one variable is associated with another at a point in time, but does not specify which variable precedes the other (e.g., “Individuals who are registered sex offenders are less likely to have full-time employment than those who are not RSOs”).
- **Level 2:** The research design measures an outcome before and after a treatment, but does not include a control condition (e.g., “After registration, sex offenders were likely to lose full-time employment”).

⁷⁷ David P. Farrington et al., “The Maryland Scientific Methods Scale,” in *Evidence-Based Crime Prevention*, ed. David P. Farrington et al. (New York: Taylor and Francis, 2002), 13–21, <https://www.taylorfrancis.com/books/e/9781134489831/chapters/10.4324%2F9780203166697-7>.

⁷⁸ Shadish, Cook, and Campbell, *Experimental and Quasi-Experimental Designs*, 53–63.

- **Level 3:** The research design measures an outcome before and after the treatment in experiment and control groups (e.g., “After registration, sex offenders were more likely to lose full-time employment than individuals who were not RSOs”). Oft-cited literature on research design describes Level 3 as the minimum for drawing valid conclusions about associations between variables.
- **Level 4:** The research design measures an outcome before and after the treatment in multiple experiment and control groups, controlling for other variables that influence the outcome (e.g., “After registration, sex offenders were more likely to lose full-time employment than individuals who were not RSOs, controlling for age, educational attainment, and race”).
- **Level 5:** The research design includes randomized experiment and control groups with reports of pre-existing characteristics for both (e.g., “Individuals who were sex offenders were randomly selected to register as such (experiment group) or not (control group); the design also included randomly selected individuals who were convicted of another felony and those who had never been convicted of a felony. All possible covariates were controlled, including age, educational attainment, gender, geographic region, industry of employment, and race”). A Level 5 research design is regarded as the veritable gold standard to produce valid cause-and-effect findings. However, it is relatively uncommon in many research fields, due to legal and ethical considerations that prevent conducting social science experiments on humans that could have negative outcomes.

11.2 Additional Considerations

In addition to internal validity, FRD rated the sixteen research studies on construct validity, external validity, and statistical conclusion validity. With the exception of internal validity described above, all measures are baselined at zero.

Construct validity refers to a research design’s inclusion of reliable and valid measures of the variables. For example, unemployment is a variable and the unemployment rate repeatedly measures it, making the rate a reliable and valid measure. FRD deducted a single point for studies if they did not include such measures in their research designs.

External validity is the extent to which the research findings can be applied to other people, places, times, and outcomes. For example, the results from a study of juvenile drug use in Manhattan during the 1980s may depend greatly on a combination of factors not frequently found outside that time and place. Similarly, findings from research based on non-random samples of people may reflect some particular trait of those individuals.

A single point was deducted from a study for each of the following criteria it did not satisfy:

- Having sample, setting, and temporal characteristics that are neither unique nor so specific that they are not generalizable to other peoples, places, and times;
- Having a response rate that would not bias the sample (using 80 percent as a rule of thumb) or having differential attrition in comparison groups; or
- Using a random sampling method to select research subjects if the study included a survey.

Statistical conclusion validity is the measure of whether one variable and another are related and how strong that relationship is. If, for example, a study of twenty athletes' change in running speed after using a high-intensity interval training method finds no significant increase in speed, the reason may be that the study's use of a small sample limited its capacity to detect significant changes. Other factors that can affect statistical conclusion validity are low response rates (in the case of surveys) and the misuse of statistical techniques.

A single point was deducted from a study for each of the following criteria it did not satisfy:

- Using appropriate statistical analyses, or
- Using a sufficiently large sample to support those analyses.

Table 6 lists the internal validity (IV), construct validity (CV), external validity (EV), and statistical conclusion validity (SCV) for the sixteen research studies referenced in this report. It also includes the final score for each study. If a study loses points based on these measures, the lowest score it can receive is a 1. The studies are listed in the order in which they appear in the five tables in Section 4, "Literature Summaries."

Table 6. Statistical Validity Scores

Title, Author(s) (Date)	IV	CV	EV	SCV	Total
"The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative?" Naomi J. Freeman and Jeffrey C. Sandler (2009)	2	0	-1	-1	1
"Collateral Consequences of Sex Offender Registration," Richard Tewksbury (2005)	2	0	-1	-1	1
"The Costs and Benefits of Subjecting Juveniles to Sex-Offender Registration and Notification," Richard B. Belzer (2015)	2	-1	-1	-1	1
"Effects of Sex Offender Registration Policies on Juvenile Justice Decision Making," Elizabeth J. Letourneau et al. (2009)	4	0	-1	-2	1
"The Impact of Specialized Sex Offender Legislation on Community Reentry," Cynthia Calkins Mercado, Shea Alvarez, and Jill S. Levenson (2008)	2	0	-2	-3	1
"Law Enforcement Perspectives on Sex Offender Registration and Notification: Effectiveness, Challenges, and Policy Priorities," Andrew J. Harris et al. (2018)	2	0	-2	-1	1

Title, Author(s) (Date)	IV	CV	EV	SCV	Total
<i>A Multi-State Recidivism Study Using Static-99R and Static-2002 Risk Scores and Tier Guidelines from the Adam Walsh Act</i> , Kristen M. Zgoba et al. (2012)	3	-2	-2	-5	1
"'Nobody Worries about Our Children': Unseen Impacts of Sex Offender Registration on Families with School-Age Children and Implications for Desistance," Ashley Kilmer and Chrysanthi S. Leon (2017)	2	0	-2	-1	1
"Parole Board Members' Views of Sex Offender Registration and Community Notification," Richard Tewksbury and Elizabeth Ehrhardt Mustaine (2012)	2	0	-2	-1	1
"Perceptions of Sex Offender Registration: Collateral Consequences and Community Experiences," Richard Tewksbury and Matthew Lees (2006)	2	0	-2	-3	1
"The Prevalence and Correlates of Depression and Hopelessness among Sex Offenders Subject to Community Notification and Residence Restriction Legislation," Elizabeth Jeglic, Cynthia Calkins Mercado, and Jill S. Levenson (2012)	2	-1	-2	0	1
<i>Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S.</i> , Nicole Pittman (2013)	2	0	-1	-1	1
"Recidivism Rates for Registered and Nonregistered Juvenile Sex Offenders," Elizabeth J. Letourneau and Kevin Armstrong (2008)	3	0	-1	-1	1
"Sex Offender Community Notification: Managing High Risk Criminals or Extracting Further Vengeance?" Richard G. Zevitz and Mary Ann Farkas (2000)	2	0	-2	-1	1
<i>Sex Offender Registration and Notification Act: Jurisdictions Face Challenges to Implementing the Act, and Stakeholders Report Positive and Negative Effects</i> , U.S. Government Accountability Office (2013)	2	0	0	0	2
"Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants," Erika Davis Frenzel et al. (2014)	2	0	-2	0	1

12. APPENDIX VII: Researcher and Publication Details

Table 7 lists the positions/titles, affiliations, and numbers of studies authored or co-authored in relation to the authors of the twenty-eight sources evaluated in this report. The position or title of the author, as well as their affiliation, is—as far as FRD could ascertain—correct as of when the works reviewed in this report were published.

Table 7. Author Positions/Titles, Affiliations, and Studies Authored/Co-Authored

Author	Position/Title	Affiliation	Lead Author (#)	Co-Author (#)
Alison M. Smith	Legislative Attorney	Library of Congress, Congressional Research Service	1	—
Andrew J. Harris	Professor	University of Massachusetts Lowell	1	—
Ashley Kilmer	Professor of Criminal Justice	Bridgewater State University	1	—
Christopher Lobanov-Rostovsky	Program Director, Colorado Sex Offender Management Board	Colorado Department of Public Safety	—	1
Chrysanthi S. Leon	Associate Professor of Sociology	University of Delaware	—	1
Cynthia Calkins Mercado	Professor of Psychology	John Jay College of Criminal Justice	1	1
Damon Root	Senior Editor	<i>Reason Magazine</i>	1	—
Debajyoti Sinha	Professor of Statistics	Florida State University	—	1
Dipankar Bandyopadhyay	Assistant Professor of Biostatistics	Medical University of South Carolina	—	1
Donna Lyons	Director, Criminal Justice Program	National Conference of State Legislatures	1	—
Elizabeth Ehrhardt Mustaine	Professor of Sociology	University of Central Florida	—	2
Elizabeth J. Letourneau	Professor in Department of Mental Health	Johns Hopkins University/ Medical University of South Carolina	3	—
Elizabeth Jeglic	Professor of Psychology	John Jay College of Criminal Justice	1	—
Erika Davis Frenzel	Professor of Criminal Justice	Indiana University of Pennsylvania	1	—
Jeffrey C. Sandler	Professor of Criminal Justice	State University of New York at Albany	—	1
Jennifer N. Wang	Unknown	<i>New York Law School Law Review</i>	1	—
Jill S. Levenson	Professor of Social Work	Barry University/Lynn University	—	2
Kevin Armstrong	Statistician	Medical University of South Carolina	—	1
Kristen M. Zgoba	Supervisor of Research and Evaluations	New Jersey Department of Corrections	1	—

Author	Position/Title	Affiliation	Lead Author (#)	Co-Author (#)
Mary Ann Farkas	Professor of Criminal Justice	Marquette University	—	1
Matthew Lees	Graduate Research Assistant	University of Louisville	—	1
Naomi J. Freeman	Division of Forensic Services	New York State Office of Mental Health	1	—
Nicole Pittman	Senior Soros Justice Advocacy Fellow	Human Rights Watch	1	—
Rebecca L. Visgaitis	Managing Editor	<i>Columbia Journal of Law and Social Problems</i>	1	—
Richard B. Belzer	Consultant	R Street Institute	1	—
Richard G. Wright	Assistant Professor of Criminal Justice	Bridgewater State University	1	—
Richard G. Zevitz	Professor of Criminology and Law Studies	Marquette University	1	—
Richard Tewksbury	Professor of Criminal Justice	University of Louisville	4	—
Robert G. Schwartz	Executive Director	Juvenile Law Center	1	—
Scott M. Walfield	Professor of Criminal Justice	East Carolina University	—	1
Stephanie Buntin	Juris Doctoral Candidate	University of Nevada, William S. Boyd School of Law	3	—
Trish McCubbin	Professor of Law	Southern Illinois University School of Law	1	—

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