Volume 21 Numbers 3 & 4, Summer/Fall 2009

APSAC ADVISOR

AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN

IN THIS ISSUE

Evidence and Policy Networks: The UK Debate About Sex Offender Community Notification
Tobias Jung
Sandra M. Nutley

This article explores the role and use of evidence by actors involved in the policy debate on sex offender community notification in the summer of 2000. It examines what was considered as evidence, how it was used and by which actors. It highlights the wide and fluid nature of evidence and the rapidity with which it can infuse policy debates. Overall, the relationship between evidence and policy that emerges is a far cry from the "two communities" view of evidence providers and evidence users. This article was originally published in *Evidence & Policy: A Journal of Research, Debate and Practice, 4*(2), May 2008, and is reprinted with permission. **2**

Can Sex Offender Registration Be Effectively Applied to Juvenile Offenders? A Preliminary Study
Michael F. Caldwell, PsyD

Despite statutes that impose substantial restrictions on juvenile sex offenders in the hope of reducing sexual offending, the risk of future sex offending by juveniles is not well understood. Data suggest that juvenile sex offenders may not pose a greater risk for sexual recidivism than general delinquents who are not subject to registration laws. Further, whether risk measures for adolescent sex offending can reliably predict such a low-base rate event remains an open question. This study explores these three interrelated issues: whether juveniles adjudicated for a sexual offense differ in their reoffense patterns when compared with delinquent youth who have no history of sexual offending; the predictive accuracy of risk measures widely used in registration decisions; and the predictive accuracy of one particular protocol in predicting sexual recidivism. **12**

REGULAR FEATURES

Journal Highlights **22**
Washington Update **25**
News of the Organization **29**

ALSO IN THIS ISSUE

Message From the President **28**
Conference Calendar **31**

Evidence and Policy Networks: The UK Debate About Sex Offender Community Notification

Tobias Jung and Sandra M. Nutley

Introduction

The notion of evidence-based policy making has been a prominent theme in policy and academic discourse since the election of the Labour Party in 1997. It emerged alongside the trend to reform and modernise government (Duke, 2001) and has been an integral part of the Labour government's approach; this is reflected in publications such as the White Paper *Modernising government* (Cabinet Office, 1999a), its follow-up *Professional policy making for the 21st century* (Cabinet Office, 1999b) and more recently in the *Professional skills for government* initiative (Cabinet Office, 2007).

This increased tendency to look for evidence and place a premium on proof and demonstrable results marks a change from policy development in the 1980s. Back then, policy makers, disillusioned with social science's ability to bring about anticipated social changes, frequently distanced themselves from social scientific research or dismissed it altogether (Bulmer et al., 1986; Davies et al., 2000; Duke, 2001; Mulgan, 2003). Although it is questionable whether research and evidence were ever as far apart from the policy process as is sometimes implied (Clarence, 2002), the dominant and central role attributed to it in present-day policy making does stand out (Grayson and Gomersall, 2003).

Just what it means to 'use' evidence is a source of debate. There are various models of how evidence is used in the policy process, although most draw on the work of Weiss (Weiss, 1977, 1986). Her models of research use can be grouped under three broad headings: instrumental use, conceptual use and strategic use (Ginsburg and Gorostiaga, 2001). Instrumental use is the most prominent perception of how evidence is utilised in the policy process. It presupposes that evidence has a direct impact; as such, it focuses on the influence of a specific piece of evidence in the development of policy. A broader perception of the interaction between evidence and policy is that of conceptual use. Instead of concentrating on any direct impact evidence might have, the focus is on the complex and often subtle ways in which evidence may influence policy makers' and practitioners' thinking and actions. Finally, evidence can be used in a strategic or tactical sense: it can be employed to legitimate a decision or course of action, or the need to gather evidence can be used as an excuse for deferring action. Such diversity in the forms of evidence use means that the very concept of evidence-based policy is far from straightforward.

Despite a growing consensus about the importance of 'evidence', there is little agreement about what counts or what should count as evidence for policy making. A common view is that there are many forms of evidence relevant to policy making. These range from published research, through performance management data, routine statistics and expert knowledge, to practical examples and tacit knowledge (e.g., Marston et al., 2003; Davies, 2004; Shaxson, 2005). In this article we interpret the term 'evidence' broadly as information supporting a proposition and take the view that what counts as good evidence depends on the question being asked. Such eclecticism brings with it a need to understand more about the interaction between different forms of knowledge and evidence, and their relative influence on policy formation.

The emphasis on evidence-based policy making sits alongside another prominent trend within policy making: a growing fragmentation and increased reliance on non-governmental players to assist in the formulation and implementation of policies (Kenis and Schneider, 1991; Pappi and Henning, 1998). Consequently, an analysis of policy processes is now frequently seen as requiring an analysis of policy networks (Howlett, 2002; Pal, 2002). Despite the prominence of the network approach, analysis of the relationship between evidence-based policy on the one hand and policy development through policy networks on the other seems to have received relatively scant attention. Certainly, the main focus of the evidence-based policy literature has been on the use of research by the executive arm of government, with analyses based on a 'two communities' view of the issue: the problematic differences between the research and policy-making communities (e.g., Bogenschneider et al., 2000). Insufficient attention has been paid to the role of other forms of evidence and evidence use by other players within policy networks. The 'two communities' view oversimplifies the range of stakeholders involved in both providing and using evidence.

The challenge in studying evidence and policy is then to recognise diversity—diversity of evidence, actors and evidence use—and analyse the implications of this. This article responds to this challenge by considering the different forms of evidence used by various actors within a specific policy network, how this evidence was used and what the consequences of this were. Given that the concept of policy networks has been defined and employed in some significantly different ways (Börzel, 1998; Marsh and Smith, 2000), it is important to clarify our interpretation of this concept. We use the term 'policy network' in its literal sense as a group of actors with diverse backgrounds and interests that are involved in the same policy debate. The policy network in question is concerned with sex offender policy, and the policy decision that is the focus of our attention is whether communities should be notified about convicted sex offenders living in their area. We concentrate on a period of intense policy debate about this issue in the summer of 2000, which was sparked by the abduction and murder of eight-year-old Sarah Payne by a previously convicted sex offender. The topic continues to be an area of widespread debate that periodically captures the attention of both media and politicians (*BBC News*, 2006, 2007). Subsequent debates, however, have not been as intense and have mainly seen an update of the evidence used in 2000 (e.g., Fitch, 2006).

Criminal justice policy in general is a high-profile area of public policy, which is constantly drawn to the public's attention by the media (Sussman, 1997; Silverman and Wilson, 2002). The reporting of crimes and criminal-justice policy attracts the attention of news readers and viewers and has been used to sell newspapers

(Benyon and Edwards, 1997; Mason, 2003) and political parties (e.g., Labour Party, 1997). It has been characterised as a difficult arena for the advocates of evidence-based policy because of the influence of stereotypical views about what works best in addressing crime and dealing with criminals (Tilley and Laycock, 2000). An evidence-based approach to policy development is potentially confounded by the existence of a large body of 'folk knowledge' about crime, which is reinforced and distorted by contributions from media reports, docu-dramas and crime fiction. There has, nevertheless, been much interest in the use of research evidence to help formulate criminal justice policies (Tilley and Laycock, 2000). So, in many ways the potential clash between research evidence and folk knowledge makes the criminal justice field an ideal setting for studying the use of evidence in policy development.

Sex offender policy is one of the most controversial areas of criminal justice policy. The hatred of sex offenders as a group is unequalled by popular attitudes to any other kind of offender (Sampson, 1994; Wakefield, 2006). Hence, policies and procedures relating to sex offenders have been said to be driven by public outcries following highly publicised sex offences (CSOM, 2001; Radford, 2007). Since the mid-1990s, however, there has been an increasing evidence base about effective ways of managing such offenders and advocates for the need to pay heed to this advice (e.g., Hedderman and Sugg, 1996; Grubin, 1998; Beech et al., 2001; Maguire et al., 2001). So, studying the development of sex offender policy should bring into sharp relief the issues we are interested in: the influence and interaction of different forms of knowledge and evidence in a policy development process involving a range of policy network players.

In the next section we outline the methods used in analysing this policy area. We then present the case study by first setting the context for the events that occurred in summer 2000 and then providing an overview of those events and their policy outcomes. The main body of the case study details the key actors involved and their use of different forms of evidence. Finally, the discussion section draws together what this case study tells us about evidence use in policy networks.

Methods

In order to explore the role and use of evidence in the debate of summer 2000 a qualitative case study approach, incorporating documentary analysis and semi-structured interviews with key players, was employed. As part of the documentary analysis, a wide variety of public and private documents were accessed. These included media reports, academic publications, consultation papers, legislative texts and guidelines, which were publicly available. They also included briefing notes, personal correspondence and internal memos, as well as various personal files provided by interviewees.

All the documents were analysed manually. Themes and sub-themes within the documents were identified and avenues for further investigation singled out. The identified themes were then coded and compiled within a number of categories addressing the research questions of who were the key players involved in the debate, what type of evidence, if any, was used, and how the evidence was used in the debate.

The documentary analysis was supplemented and informed by interviews with seven people from the different organisations who played a key role during the events of summer 2000. In this study, many of the key players were first identified through the documentary analysis (media reports and government press statements) and this list was subsequently augmented through interviews with the key players identified initially. The duration of the interviews varied between 50 minutes and three hours and took place between 2004 and 2005. Six of the interviews were conducted face to face and these were recorded and transcribed. The seventh interview took place over the telephone and relied on note taking.

The analysis of the interview material mirrored the manual approach taken in the analysis of the documents. Initially, the interviews were transcribed. The transcripts were then used as a basis for highlighting the themes that emerged and as a way to categorise the various points mentioned by the interviewees.

Given the limited number of people involved in the policy debate during the summer of 2000, and the controversial nature of the topic, all interviews took place on the basis of confidentiality and anonymity. As such, comments are not directly attributed to people and direct quotes, where necessary, have been adjusted so as not to reveal the identity of the person or organisation making a specific statement.

The combination of documentary analysis and interview data allows for a substantial degree of triangulation in the development of the case study account (Young and Mills, 1980; Patton, 2002). Where multiple sources confirm an event or action we do not state the exact sources for our account. However, where views and opinions are reported we do highlight whether these are sourced from documents or interviews.

The Case

Policy Context

The issue of whether UK communities should be notified about sex offenders living in their locality has been a recurring bone of contention in sex offender policy. The idea of a sex offender register grew in popularity from about 1994 (Thomas, 2000; Jones and Newburn, 2002a, 2002b). Although various lists containing information on sex offenders already existed in the mid-1990s, the idea of a national sex offender register gained pace during 1996 and it was established by the 1997 Sex Offenders Act.

With the establishment of this register, attention began to focus on public access to the information held on it. The media and various pressure groups became interested in the approach to community notification adopted within the US (Kitzinger, 1999). Although the overall arrangements within the US are a complex set of laws and measures aimed at managing sex offenders, they have become known collectively as Megan's Law (Elbogen et al., 2003). They are named after seven-year-old Megan Kanka, who was raped and murdered by a convicted paedophile living near her home (CSOM, 2000; Megans-Law.net, 2007). Megan's parents argued that had they known about the presence of a paedophile in their area, the crime would not have happened. In order to prevent similar crimes

Cont'd on page 4

in the future they began a highly publicised campaign for the protection of children (CSOM, 2000). The campaign focused on 'knowledge' and the public's 'right to know' and led to the enactment of active community notification legislation in New Jersey in 1995, only 89 days after Megan's disappearance (Levi, 2000). A federal version of this legislation was passed within the US in 1996 (Sorkin, 1998).

In 1997 there was popular anticipation that the UK government would follow the US approach and introduce a UK version of Megan's Law requiring communities to be notified about sex offenders living in their area. However, when the sex offender register was established in 1997, a decision was made not to go down this route. Just one year after the passage of the 1997 Act, the Labour government decided that a review of the legislation surrounding sexual offences was necessary. The decision to review the law was based on the view that the current legislative framework for sex offenders was incoherent and outdated, resembling a 'patchwork quilt of provisions', which only worked 'because people make it to do so, not because there is a coherence and structure' (Home Office, 2000a, p. iii, para. 0.2). An important part of the review was to consider the compatibility of sex offender legislation with the European Convention on Human Rights. It was acknowledged that in the case of sex offences there is a delicate balance between individuals' rights and the protection of citizens (Home Office, 2000a). It was expected that this review would take about a year, but, in the event, it took longer and the review had not been completed by summer 2000.

The Events of Summer 2000

The debate about community notification became particularly intense in the summer of 2000. Following the abduction and murder of eight-year-old Sarah Payne in July 2000 by a previously convicted sex offender, the *News of the World* (a Sunday newspaper) decided to lobby for a range of measures aimed at protecting children from sex offenders. The underlying aim was to introduce a UK equivalent of Megan's Law, based on the idea that parents had the right to know if there was a convicted sex offender living in their community. In honour of Sarah, this was to be called Sarah's Law. As part of its strategy, the newspaper designed a name-and-shame campaign which threatened to publish details of known sex offenders. Similar campaigns had been used in the South West of England in the mid-1990s and had subsequently been copied in other parts of the UK (Thomas, 2000; Cross and Lockyer, 2004). On 23 and 30 July 2000, the *News of the World* published the names, photographs and approximate whereabouts of 82 sex offenders, and pledged that the campaign would not stop until all 110,000 'proven paedophiles' in Britain had been named and shamed (Taras and McMullan, 2000a). To further support its campaign, the *News of the World* organised a 700,000-strong signature petition in favour of a Sarah's Law. There were also several meetings between *News of the World* representatives, Sarah Payne's parents and Home Office ministers (Paul Boateng and Jack Straw).

© Yuriy Brykaylo/Dreamstimes.com

The campaign was quickly condemned by practitioners and organisations working in the areas of offender management and child protection. The most prominent of these were the Association of Chief Officers of Probation (ACOP), the Association of Chief Police Officers (ACPO), the National Association for the Care and Resettlement of Offenders (NACRO), the National Society for the Prevention of Cruelty to Children (NSPCC) and the Suzy Lamplugh Trust (a personal safety charity). In light of previous experience with name-and-shame campaigns, the concern of several of these organisations was that the campaign and blanket community notification could actually put children and vulnerable adults at higher risk: as a result of vigilantism, offenders might change their names, move away or simply go underground, thereby disrupting both their supervision and treatment. Riots and several acts of vigilantism following the *News of the World*'s campaign soon lent support to the critics' point of view (*BBC News*, 2000; Millward, 2000).

The debate between those for and against a Sarah's Law was played out in the media and the atmosphere was highly charged. An important event that appears to have resolved some of these tensions was a meeting between representatives of the *News of the World*, ACOP, ACPO, NACRO, NSPCC, the Suzy Lamplugh Trust and Sarah Payne's parents on 2 August 2000. Following this meeting a list of proposals was developed that addressed some of the shortcomings of existing sex offender legislation, mainly in the area of the registration requirements for sex offenders. The agreement was that all parties to this meeting would jointly lobby the government to get these proposals adopted. Two days later the *News of the World* stopped its name-and-shame campaign and instead launched its 'For Sarah' campaign. This incorporated the list of proposals agreed at the meeting but also had the aim of eventually getting a UK equivalent to Megan's Law —an aim that was not supported by the other organisations represented at the meeting.

During September 2000, various measures for improving child protection were considered and the Home Office eventually made it clear that no general public access to details about individual offenders would be allowed (Johnston, 2000). Instead, a package of measures aimed at strengthening existing legislation was announced (Home Office, 2000b) and this was added at the last

minute to the 2000 Criminal Justice and Court Services Act. This package reflected the proposals developed by the various parties to the 2 August meeting and was particularly influenced by the joint recommendations from ACOP and ACPO (see below).

The legislative changes were important in addressing prior loopholes and there seems to be little doubt that the campaign activity following Sarah Payne's death was an important factor in speeding up their introduction. Some of the ideas had previously been raised on 12 June 2000 in the House of Commons as part of the Report and Third Reading of the Criminal Justice and Court Services Act. Back then, however, the government believed that any amendments to existing approaches prior to the completion of a full review of the 1997 Sex Offenders Act would be premature (House of Commons Debate, 2000, c708). Thus, in the short term, the summer 2000 debate short-circuited some aspects of that review. In the longer term, it also appears to have been a driving factor in subsequent policy developments, such as the introduction of Multi-Agency Public Protection Arrangements (MAPPAs).

Actors and Evidence

Along with the *News of the World* and the government, the main actors involved in the sex offender community notification debate in summer 2000 were ACOP, ACPO, NACRO, NSPCC and the Suzy Lamplugh Trust. However, in relation to evidence use within this debate, NACRO and the Suzy Lamplugh Trust did not play a prominent role. NACRO considered its role to be one of practical experience, which complemented rather than replicated the input provided by the other organisations. It had provided arguments against community notification in a policy proposal it had sent to the Home Office in the previous year and it did not consider that another inquiry into the potential effectiveness of community notification was necessary on its part (interviewee). The role of the Suzy Lamplugh Trust seems to have been one of mediator rather than evidence provider; the trust was set up following the disappearance of 25-year-old Suzy Lamplugh and its involvement added 'a human credibility that the likes of ACPO and ACOP representatives just could not add because they were just seen as functionists' (interviewee). For these reasons, we focus below on the evidence gathered and used by the *News of the World*, the government, the NSPCC, ACOP and ACPO.

News of the World

To substantiate and lend credibility to its campaign, the *News of the World* referred to a spectrum of evidence, including research findings, statistics and individuals' accounts of their experiences. One prominent point of reference used by the newspaper was the 110,000 'proven paedophiles' who lived in Britain (Taras and McMullan, 2000a). In 1997, the Home Office Research and Statistics Directorate published the findings of a study examining the prevalence of convictions for various sexual offences by men in England and Wales (Marshall, 1997). The aim of the report was to provide a reliable estimate of the numbers of known sexual offenders and it commented that at least 110,000 people of the studied population had convictions for sexual offences against a child back in 1993 (Marshall, 1997). Mirroring the number in the report, the *News of the World* announced its intention to compile a list that contained at least 110,000 names, turning it into the biggest database on paedophiles in the world (*News of the World*, 2000a).

In order to show that its campaign had wider support, another important source of evidence was surveys. Several surveys of public support for the *News of the World*'s campaign were undertaken (such as those reported by Carlton's *London Tonight* programme, ITV Teletext, Sky TV and in *The Mirror* newspaper). These surveys were quoted by the *News of the World* as providing at least a level of 80% support for their campaign (*News of the World*, 2000b). The survey most frequently referred to was a MORI poll commissioned by the *News of the World*. The newspaper stated that this poll indicated that the British public 'voiced huge support' and 'massive backing' for the name-and-shame approach taken by the *News of the World*—84% of Britons thought paedophiles should be named and 88% would want to know if one was living in their area (*News of the World*, 2000a, 2000c).

Another important strand of evidence used by the *News of the World* came from expert and personal accounts. These fall into three categories. First, there are testimonies by 'expert witnesses' who provide accounts of the nature of paedophiles and sexual offences—for example, the 'head of Scotland Yard's paedophile unit' (Taras and McMullan, 2000b) and the 'key man responsible for giving American parents the absolute right to know the offenders in their midst' (*News of the World*, 2000d). Second, reference is made to people in authoritative positions or those in the public limelight who are quoted as expressing their support for certain aspects of the *News of the World*'s campaigning or the potential helpfulness of some of the ideas underlying it. This group includes a broad spectrum of representatives including various charities, police representatives and '[e]ven a convicted paedophile' (*News of the World*, 2000d). The third and final category of people referred to by the newspaper consists of those who have been affected by sexual offences, either directly or indirectly, and the parents of murdered children (e.g., Kellaway and Begley, 2000; *News of the World*, 2000d).

Cont'd on page 6

Government

By summer 2000, the US approach to sex offender registration had been of longstanding interest to the UK government. The US approach to the management of such offenders was closely observed by the UK government throughout the 1990s (Hebenton and Thomas, 1997). In particular, Megan's Law was assessed when the government set up the national sex offender register in the late 1990s. At that time, due to reportedly poor compliance rates and the danger of vigilantism, a decision was made not to go down the US route (Ahmed and Bright, 2000).

A more recent evaluation of the British sex offender register and its associated pieces of legislation by the Policing and Reducing Crime Unit, part of the Home Office's Research, Development and Statistics Directorate (Plotnikoff and Woolfson, 2000), had highlighted several shortcomings in and concerns about existing arrangements. These related to:

- deficiencies in the current legislation;
- inadequate resources for monitoring offenders;
- increased workloads;
- fears that resources had been diverted away from other categories of higher-risk offenders;
- timeliness and quality of the flow of information from courts, prisons and hospitals regarding offenders required to register; and
- the creation of unrealistic expectations on the part of the public and other agencies.

To improve the effective management of sex offenders the report put forward several recommendations. However, the research also found that the British sex offender register had a compliance rate of 94.7% (Plotnikoff and Woolfson, 2000), much higher than the 80% within the US that had been identified in previous research for the Home Office (Hebenton and Thomas, 1997).

During the events of summer 2000 the government's official position on community notification frequently appeared to be unclear, but behind closed doors there does not seem to have been an appetite for a policy of general community disclosure (internal Home Office strategy document). Along with earlier conclusions that a Megan's Law approach would not be effective, the timing of the *News of the World*'s campaigning meant that there was a reluctance among civil servants to act quickly; they were aware that during July and August there would be very limited access to ministers with a firm grounding in the subject area and this limited the capacity for strategic decision taking. The government's strategy was to express ministerial support for the *News of the World*'s aim of improving child safety but to also convey its concern about the campaign's tactics. It wanted to show readiness to examine new avenues for improving children's safety where there existed 'evidence to back them' (internal Home Office strategy document). This sentiment had also been expressed in the Home Office's consultation paper *Setting the boundaries: Reforming the law on sex offences* (Home Office, 2000a), which constituted the first stage of the overall review on sex offender legislation. In that document, published in July 2000, it was pointed out that the government was to continue the 'open and consultative process by seeking the views of the public and of interested organizations on all of the recommendations as well as the individual consultation points set out in the text' (Home Office, 2000a, p. i).

© Rebecca Abell/Dreamstimes.com

Although blanket community notification was not favoured, the government decided to explore the feasibility of sharing some information on sex offenders with members of the public. The idea was to set up a mechanism through which a specific member of the public, such as a parent with reasons for concern, could, for very specific and limited purposes, apply to obtain information about whether a named person had any relevant previous convictions. The responsibility for exploring this issue fell to the Home Office's Mental Health Unit (Mental Health Unit document).

The results of the Mental Health Unit's analysis were reported in an internal document on 3 August 2000. This looked at five key areas:

- defining the circumstances in which disclosure would be permissible;
- examining how information should be stored and the channels of access to this;
- defining the nature of information that could be disclosed;
- ensuring an appropriate use of the information by the person obtaining it;
- the question of how any such arrangements would be funded (Mental Health Unit document).

Although the analysis highlighted various ways in which partial disclosure might operate, the conclusion reached in the document was that there were several legislative and practical obstacles to any such scheme, particularly in relation to breaches of the European Convention on Human Rights. It also argued that existing plans regarding access to information would probably address most of the problems any envisaged limited disclosure scheme would be intended to address, albeit via a different route (Mental Health Unit document).

NSPCC

As soon as the *News of the World*'s naming-and-shaming campaign started, the NSPCC was inundated with enquiries. These not only related to safety issues for children but also to the line the NSPCC was taking in relation to the *News of the World*'s campaign. In response, the NSPCC decided to do some research into the effectiveness, advantages and disadvantages of community notification. This appears to have been a genuine attempt to see where the balance of evidence lay. Some people within the NSPCC wondered

whether there might be some evidence that suggested community notification would protect children. The research process was said to be marked by 'really, really looking for some robust evidence' (interviewee).

The research started out as a 'very quick fact-finding mission' (interviewee). The initial findings were rather short and sketchy because the existing research base seemed to be limited. However, the NSPCC realised that the debate about community notification would continue beyond the initial reaction to Sarah Payne's death, so it decided to extend the original fact finding into a more extensive evidence review. It had the impression that community notification initiatives in countries such as Canada, Australia and New Zealand were not developed to the same degree as those in the US, so it was assumed that focusing on the US would be the best use of time and resources available (interviewee).

A literature review was carried out mainly via online searches. In addition, a series of 12 semi-structured telephone interviews were conducted with various people involved in community notification across the US. These interviews addressed the key questions of vigilantism, compliance rate, potential impacts on levels of recidivism, anxiety within the community and the broader question of the ways in which Megan's Law had helped or hindered the protection of children and the management of sex offenders in the community. The evidence review was conducted with remarkable speed during August 2000; it seems that people in the US had heard about the Sarah Payne case and were keen to talk. By the end of August all the required information had been amassed (personal correspondence; interviewee).

While the research was ongoing, key staff within the policy and public affairs section of the NSPCC were updated on the emerging findings and these appear to have been used both to develop the NSPCC's policy line and to inform the Home Office. The NSPCC's policy advisors were in meetings with civil servants and Members of Parliament (MPs), were sitting on representative groups discussing this issue and were participating in the overall review of the law on sex offences. Other people to whom the findings were relevant were briefed on the main findings via a memo issued during the first week of September 2000.

It took some time before the initial internal document was transformed into the official report *Megan's Law: Does it protect children* (Lovell, 2001). The final report echoed the earlier conclusions provided in the internal document. In essence, it highlights 13 key findings (see Box 1) and concludes that:

> [T]here is very little evidence to substantiate claims that community notification enhances child safety. It is possible that there are both intended and unintended positive and negative outcomes of community notification. We simply do not know enough about these at this time. (Lovell, 2001, p. 35)

This conclusion caused some frustration among policy makers and practitioners, who would have liked a more clear-cut conclusion and set of recommendations: 'the NSPCC has done this research—does it [community notification] protect children or not?' (interviewee).

However, the overall reaction to the research was positive, with several people from both the UK and the US sending letters of appreciation to the NSPCC. In addition, the findings of the report were widely quoted and they seem to have provided independent, evidence-based support for the government's decision to not introduce community notification (personal correspondence).

Box 1: Key Findings of Megan's Law: Does It Protect Children?

- Figures on stranger abuse are not available and there is no evidence that community notification has resulted in a decreased number of assaults by strangers on children.
- Although levels of recorded intra-familial sexual abuse in the US show a marked decline since the early 1990s, the decline predates the introduction of Megan's Law.
- There is very little research about how community notification empowers parents, or the ways in which parents use this information in order to protect children.
- There is little knowledge about whether and how adults and children change their behaviour as a result of community notification.
- There is little to suggest that people are more or less anxious as a result of community notification.
- There is no evidence to suggest that community notification procedures have or have not deterred children, siblings or parents from disclosing intra-familial abuse.
- There is very little awareness of, or concern about, sex offenders using public information sources in order to network.
- There appears to be some indication that community notification may result in harassment and vigilantism. However, there is little empirical quantitative or qualitative evidence about this: the number of reported examples is low and it is difficult to know the level of unreported incidents.
- There seems to be little evidence about whether or not community notification drives sex offenders 'underground'.
- Despite reports of concerns about the reintegration of sex offenders into the community as a result of community notification, there is very little evidence about this in the literature.
- It is difficult to know whether notification impacts on recidivism. To date, however, there is no conclusive evidence that community notification reduces re-offending.
- Although there is broad agreement that community notification has enhanced the tracking and monitoring of sex offenders, there is little collated information to substantiate this.
- The cost of implementing community notification is high in both financial and personnel terms.

(*Source:* Lovell, 2001, pp. 2–3)

Cont'd on page 8

ACOP and ACPO

ACOP and ACPO worked closely together in marshalling evidence and arguments against the *News of the World*'s campaign for a Sarah's Law, so their activities are discussed together in this section.

Although the NSPCC's research review was inconclusive about the effectiveness of community notification measures in protecting children, ACOP and ACPO drew on evidence from practice about the impact of disclosing sex offenders' details and this evidence was considered to be conclusive on the drawbacks of community notification. Cooperating closely, ACOP and ACPO compiled this evidence in what became known as the 'dossier of evidence (e.g., Laville, 2001). Although several people involved were unhappy with this terminology, their concerns related to the term 'dossier' rather than the notion of 'evidence': 'I don't like the word *dossier* because it has a bad connotation … I would not call it a dossier' (interviewee). 'It was a list at best' (interviewee).

The background to the dossier was that the two organisations had learnt from previous name-and-shame campaigns that collating examples about the impact these campaigns had on their work with sex offenders, and distributing these to the press, could influence discussions about sex offender management. For example, in 1998 there was widespread press coverage of the release of some sex offenders into the community. Various local media started outing sex offenders and they also set up campaigns for their expulsion from the community. This resulted in considerable problems for the probation service and in response it produced its first dossier of evidence (ACOP Briefing Note). The 1998 dossier listed various incidents that had resulted from press campaigns across England and Wales. It provided ACOP and ACPO with an important point of reference when dealing with the media. The media were interested in stories, and the dossier allowed ACOP and ACPO representatives to say 'this is the evidence [ACOP and ACOP] have gathered and these are the stories from this evidence' (interviewee).

Lessons were learnt from the 1998 experience and in summer 2000 the gathering of examples was swift and focused. One day after the start of the *News of the World*'s name-and-shame campaign, ACOP sent a letter to all chief probation officers. In that letter, entitled *(Here we go again…) News of the World: Name-and-Shame Campaign*, all probation service areas were asked to examine developments in their area and to report back any instances of problems. Replies reporting a variety of incidents immediately started to accumulate at ACOP and these were used to produce a new dossier in cooperation with ACPO. ACPO also asked all police forces to report in detail on the impact the *News of the World*'s campaign was having on their work.

Three key themes identified in the 2000 dossier were that the *News of the World*'s actions had hindered the probation services' work in child protection; it had caused harm to third parties; and it had led to violence. The evidence to support these themes covered a broad spectrum of incidents and included pieces of correspondence by 'vigilantes,' examples of local campaigns against individual sex offenders, and appeals from previously convicted sex offenders.

While compiling the dossier, ACOP and ACPO made contact with other experts in the area of child protection and sex offender management, as well as with those who might know more about Megan's Law. Drawing on the expertise of such people provided reassurance and support for the stance taken by ACOP and ACPO in the various discussions they had with the parents of Sarah Payne, with the *News of the World* and with Home Office representatives (interviewee).

Box 2: Community Notification: A Five-Point Programme of Legislative Measures

- Creation of a duty on chief officer of police and chief officer of probation jointly to establish arrangements for assessing and managing the risks posed by sex offenders with a requirement annually to publish information about those arrangements, coupled with the power for the Secretary of State to issue guidance on such things as the form in which such information is to be published; the other agencies that should be involved; the publication of information about local arrangements, including, for example, information about the number of times disclosures have been made and the categories of people to whom information has been disclosed; information about local treatment programmes etc.
- A power for the Secretary of State to make regulations concerning notification to the police and probation service by those responsible for the detention, discharge and release of sex offenders liable to registration under the 1997 Sex Offenders Act.
- A duty on the probation service to ascertain from the victim (or, if appropriate, the parent or guardian of the victim) their wish to be informed about the release arrangements for any sex offender serving a sentence of 12 months or more. Where the victim wishes to be informed, a duty on the probation service to take all reasonable steps to notify the victim of the release date, whether any conditions are attached to the license, whether those conditions include any restriction on the movements of the offender, and if so, to be told specifically the terms of any conditions that relate to contact with the victim.
- A new power for the Crown Court, when convicting an offender who falls within the scope of the Sex Offenders Act, to make a 'restriction' order (including requirements about not approaching victims) placing restrictions on the offender that will have effect on release from custody. The order will be capable of being of indefinite duration and of being varied or discharged on application by the offender, the police or the probation service.
- Amendments to the Sex Offenders Act to require initial registration in person within 72 hours of sentence or release; to give the police power to photograph and fingerprint the offender on initial registration; to require notification of foreign travel; and to increase the penalty for failure to register to five years' imprisonment.

(*Source:* ACOP Briefing Document)

Alongside the dossier of evidence, ACOP and ACPO also cooperated with some of the other agencies in the child protection field to design a five-point programme of proposed legislative changes (see Box 2). This was forwarded to the Home Office and the ideas within this programme were also discussed at the meeting with the *News of the World* on 2 August. The 5-point programme acted as a basis for the *News of the World*'s 'For Sarah' campaign, which, as noted above, superseded its name-and-shame campaign.

Discussion

Three key features stand out in the above case study account:

- Varying forms of evidence played a prominent role in the summer 2000 debate about sex offender community notification policy.
- There is not a neat distinction between evidence producers and evidence users and the overall picture is a far cry from the 'two communities' view of researchers on the one hand and policy makers on the other.
- Strategic and tactical uses of evidence by the different actors were the most prominent forms of evidence use but this, nevertheless, resulted in a well-informed debate.

Each of these features is discussed below.

The case study demonstrates how evidence can play a key role in policy debates and policy development, even in the controversial area of sex offender policy, where stereotypes abound and outrage is common. In some ways this is not surprising because organisations facing opposition to their policy preferences from other agencies or organised interests often find it expedient to draw on research and other evidence to lend credibility to their views due to the power of technocratic argumentation (Boswell, 2008). This may be especially the case where stakeholders are seeking to counter strong popular opinion about the best way forward. However, it was not only those working against popular opinion who used evidence as a recourse but also those working with the overall grain of that opinion.

What counted as evidence to those involved was a wide and fluid mixture that ranged from specific high-profile examples of the victims of sexual crimes, through the collated experiences of key stakeholders such as police and probation officers, to evidence gathered by more systematic means, such as research and evaluation findings, opinion polls data and routine statistics. Whether actors were campaigning for community notification (e.g., *News of the World*) or arguing against this course of action (e.g., police and probation services), what they shared in common was their rapid recourse to this fluid spectrum of evidence.

Davies (2004) has pointed out that different types of evidence can provide different insights. While practitioner knowledge, research findings and statistics are often used to substantiate a policy position, the use of specific examples serves to make the argument not only more accessible but also more appealing to the interests of a wider audience: they illustrate the arguments through first-hand experiences and such stories facilitate media uptake. As can be seen in the case of ACOP's and ACPO's dossier of evidence, the use of good stories to exemplify a point was important in getting other forms of evidence heard.

Although both proponents and opponents of blanket community notification used all three categories of evidence, some difference in emphasis is apparent: players' main focus was on those sources of evidence one would traditionally associate with them. The evidence put forward by the *News of the World* in favour of community notification revolved more around specific examples and opinion polls data, while the opponents of community notification focused more on collated experiences, research findings and statistics. One reason for this might be that the *News of the World* was seeking to build on existing populist support for community notification and specific examples of the horrors of sexual offences were seen as the best way of doing this. Alternatively, those arguing against community notification needed to present not only poignant stories about the dangers of community notification but also provide a greater weight of systematic evidence to counter the tide of popular opinion. So in understanding how different forms of evidence are blended in policy debates we do need to consider argumentation styles and how these are shaped in response to popular opinion.

All the key actors involved in the debate were both generators and users of evidence. For example, the *News of the World* generated its own opinion polls data and used polls data from elsewhere in arguing its case for a Sarah's Law. Similarly, the police and probation services developed their own dossier of evidence and used the findings of the NSPCC's review in arguing their case. Finally, the Home Office generated various crime statistics and also drew on research and evaluation findings generated by others. This kaleidoscopic picture of evidence generators and evidence users defies description as two separate groups—roles overlap and mutate over time.

In so far as the key actors drew on research findings generated in the traditional context of academia, their use was often mediated by the user organisation's own research officers and personal contact was key. In the case of the NSPCC, existing research-based knowledge was accessed by consulting research reports. However, more often these findings were brought to the attention of key actors through conversations with experts. This person-to-person interaction was at least as important as published findings as a means of dissemination and awareness raising, and probably more important as a means of persuasion. Again, this suggests the intermingling of several overlapping communities rather than a dichotomy between just two—research producers and research users.

Much of the normative literature on evidence-based policy envisages that evidence will be used instrumentally to determine the best course of action. In the case of the NSPCC, who initially seemed to have a more open opinion about the possible benefits of a Sarah's Law, the gathering and subsequent use of evidence was fairly instrumental in nature; that is, the use of evidence to determine a policy stance. However, this was the exception rather than the norm.

Throughout the debate there is little indication that evidence played a role in changing people's perceptions on the topic. Research findings and other forms of evidence were in general used to support pre-existing positions on the desirability of sex offender community notification, which is frequently described as a strate-

Cont'd on page 10

gic or substantiating use of evidence (Weiss, 1977). Initially, the Home Office's interest in evidence seems to have been driven by tactical concerns—a reason for delaying a policy statement and decision. Subsequently, the extent to which Home Office officials or ministers used the evidence gathered by themselves or provided by others instrumentally or strategically is not easy to judge because it depends on the extent to which they genuinely had open minds about the potential benefits of a Sarah's Law. From interview data, it seems that from early on there was little appetite for a Sarah's Law. However, evidence still played an important confirmatory role as one Home Office representative pointed out:

> [W]e have concluded that extending access to the information on the register of sex offenders would not improve child protection. There is no evidence from the United States that their community notification laws reduce offending against children and very little evidence that they enhance child safety in any way. Research by the National Society for the Prevention of Cruelty to Children has confirmed this conclusion. (personal correspondence)

Strategic uses of research might be seen as a betrayal of the principles of evidence-based policy. However, once we think in terms of policy networks comprising various interest groups, a predominantly strategic use of research in policy debates seems inevitable. This is not necessarily a cause for concern as such debates can be an effective way of bringing a wide range of evidence into the public domain, as occurred in the case reported here. As Weiss (1979, p. 429) notes: 'When research is available to all participants in the policy process, research as political ammunition can be a worthy model of utilisation.'

Concluding Remarks

While public outcries following high-profile sex offences may be an important trigger for policy development, the events of summer 2000 demonstrate that evidence can still play an important role in the ensuing debate. The summer 2000 debate involved several actors and interest groups, many of whom were active evidence generators and evidence users. They worked with an eclectic view of evidence and largely used evidence-based arguments to support pre-existing policy positions. Nevertheless, the overall result was a well-informed debate. It is tempting to say that evidence played a prominent role despite the controversial and sensitive nature of the topic, but it may have played a prominent role precisely because of this sensitivity and contestation.

This case study reaffirms the importance of paying more attention to the different forms of evidence used in policy processes and the need to understand more about how evidence is used by various key actors in policy networks. It highlights the wide and fluid nature of evidence and the rapidity with which it can infuse policy debates. It also highlights how different forms of evidence are used for different purposes by all key actors at different points in time. In tracing the interaction of evidence and policy in a specific policy setting, it finds little support for the 'two communities' model of this interaction, which appears to oversimplify the spectrum of actors involved in the provision and usage of evidence, and the nature of their involvement.

References

Ahmed, K., and Bright, M. (2000). Setback for paedophile campaign. *The Observer*, 6 August.

BBC News. (2000). Paedophiles list condemned. *BBC News*, 23 July.

BBC News. (2006). Minister examines Megan's Law. *BBC News*, 18 June.

BBC News. (2007). Review says no to UK Megan's Law. *BBC News*, 10 April.

Beech, A., Erikson, M., Friendship, C., and Ditchfield, J. (2001). *Findings 144: A six year follow-up of men going through probation-based sex offender treatment programmes*. London: Research, Development and Statistics Directorate.

Benyon, J., and Edwards, A. (1997). Crime and public order. In P. Dunleavy, A. Gamble, I. Hollida,y and G. Peele (Eds.), *Developments in British Politics 5*. London: Macmillan Publishing Company, pp. 326–41.

Bogenschneider, K., Olson, J. R. Linney, K. D., and Mills, J. (2000). Connecting research and policymaking: Implications for theory and practice from the Family Impact Seminars. *Family Relations*, vol. 49, no. 3, pp. 327–39.

Börzel, T. A. (1998). Organizing Babylon: On the different conceptions of policy networks. *Public Administration*, vol. 76, no. 2, pp. 253–73.

Boswell, C. (2008). The political functions of expert knowledge: Knowledge and legitimation in European Union immigration policy. *Journal of European Public Policy*, vol. 15, no. 4, pp. 471–88.

Bulmer, M., Banting, K., Blume, S. S., Carley, M., and Weiss, C. H. (Eds.). (1986). *Social science and social policy*. London: Allen & Unwin.

Cabinet Office. (1999a). *Modernising government*. London: The Stationery Office.

Cabinet Office. (1999b) *Professional policy making for the 21st century*. London: Strategic Policy Making Team, Cabinet Office.

Cabinet Office. (2007). *Professional skills for government*. www.government-skills.gov.uk/professional_skills/index.asp

Clarence, E. (2002). Technocracy reinvented: The new evidence based policy movement. *Public Policy and Administration*, vol. 17, no. 3, pp. 1–11.

Cross, S., and Lockyer, S. (2004). Paedophiles in the community: Interagency conflict, whistleblowers, and the local press. *Ethical Space: The International Journal of Communication Ethics*, vol.1, no. 4, pp. 22–7.

CSOM (Center for Sex Offender Management). (2000). *Public opinion and the criminal justice system: Building support for sex offender management programs*. Silver Spring, MD: CSOM.

CSOM. (2001). *Recidivism of sex offenders*. Silver Spring, MD: CSOM.

Davies, H. T. O., Nutley, S., and Smith, P. C. (Eds.). (2000). *What works? Evidence-based policy and practice in public services*. Bristol: The Policy Press.

Davies, P. (2004). Is evidence-based government possible? 4th Annual Campbell Collaboration Colloquium, Washington. www.policyhub.gov.uk/downloads/JerryLeeLecture1202041.pdf

Duke, K. (2001). Evidence-based policy making? The interplay between research and the development of prison drugs policy. *Criminal Justice*, vol. 1, no. 3, pp. 277–300.

Elbogen, E. B., Patry, M., and Scalora, M. J. (2003). The impact of community notification laws on sex offender treatment attitudes. *International Journal of Law and Psychiatry*, vol. 26, pp. 207–19.

Fitch, K. (2006). *Megan's Law: Does it protect children? (2): An updated review of evidence on the impact of community notification as legislated for by Megan's Law in the United States*. London: NSPCC.

Ginsburg, M.B., and Gorostiaga, J. M. (2001). Relationships between theorists/researchers and policy makers/ practitioners: Rethinking the two-cultures thesis and the possibility of dialogue. *Comparative Education Review*, vol. 45, no. 2, pp. 173–96.

Grayson, L., and Gomersall, A. (2003). *A difficult business: Finding the evidence for social science reviews*. London: ESRC UK Centre for Evidence Based Policy and Practice.

Grubin, D. (1998). Sex offending against children: Understanding the risk: Police Research Series Paper 99. *Police Research Series*, B. Webb. London: Policing and Reducing Crime Unit.

Hebenton, B., and Thomas, T. (1997). *Keeping track? Observations on Sex Offender Registers in the US: Crime Detection and Prevention Series Paper 83*. London: Police Research Group.

Hedderman, C., and Sugg, D. (1996). *Research findings no. 45: Does treating sex offenders reduce reoffending?* Croydon: Home Office Research and Statistics Directorate.

Home Office. (2000a). *Setting the boundaries: Reforming the law on sex offences*. London: Home Office.

Home Office. (2000b). *Government proposals better to protect children from sex and violent offenders*. Press release 283/2000, 15 September, Reference COI3048. London: Home Office.

House of Commons Debate. (2000). New Clause 8. Sex Offenders Act 1997: Notification Period [12 June 2000]. *House of Commons Hansard*, Column 708.

Howlett, M. (2002). Do networks matter? Linking policy network structure to policy outcomes: Evidence from four Canadian policy sectors 1990–2000. *Canadian Journal of Political Science*, vol. 35, no. 2, pp. 235–67.

Johnston, P. (2000). Straw rules out "Sarah's Law" on paedophiles. *The Daily Telegraph*, 16 September.

Jones, T., and Newburn, T. (2002a). Learning from Uncle Sam? Exploring US influences on British crime control policy. *Governance: An International Journal of Policy, Administration, and Institutions*, vol. 15, no. 1, pp. 97–119.

Jones, T., and Newburn, T. (2002b). Policy convergence and crime control in the USA and the UK: Streams of influence and levels of impact. *Criminal Justice*, vol. 2, no. 2, pp. 173–203.

Kellaway, R., and Begley, C. (2000). Lock them up for life. *News of the World*, 23 July 23, p. 4.

Kenis, P., and Schneider, V. (1991). Policy networks and policy analysis: Scrutinizing a new analytical toolbox. In B. Marin and R. Mayntz (Eds.), *Policy networks: Empirical evidence and theoretical considerations*. Frankfurt am Main: Campus Verlag, pp. 25–59.

Kitzinger, J. (1999). The ultimate neighbour from hell? Stranger danger and the media framing of paedophiles. In B. Franklin (Ed.), *Social policy, the media and misrepresentation*. London: Routledge, pp. 207–21.

Labour Party. (1997). *The Labour Party's Manifesto 1997*. www.bbc.co.uk/election97/background/parties/manlab/labman6.html

Laville, S. (2001). Pressure to halt "name and shame" campaign. *The Daily Telegraph*, 19 June.

Levi, R. (2000). The mutuality of risk and community: The adjudication of community notification statues. *Economy and Society*, vol. 29, no. 4, pp. 578–601.

Lovell, E. (2001). *Megan's Law: Does it protect children?* London: National Society for the Prevention of Cruelty to Children (NSPCC).

Maguire, M., Kemshall, H., Noaks, L., Wincup, E., and Sharpe, K. (2001). *Risk management of sexual and violent offenders: The work of Public Protection Panels: Police Research Series Paper 139*, *Police Research Series*, L. Singer. London: Policing and Reducing Crime Unit.

Marsh, D., and Smith, M. J. (2000). Understanding policy networks: Towards a dialectical approach. *Political Studies*, vol. 48, no. 4, pp. 4–21.

Marshall, P. (1997). *Research findings no. 55: The prevalence of convictions for sexual offending*, Croydon: Home Office Research and Statistics Directorate. www.homeoffice.gov.uk/rds/pdfs/r55.pdf

Marston, G., Watts, A. J., and Watts, R. (2003). Tampering with the evidence: A critical appraisal of evidence-based policy making. *The Drawing Board: An Australian Review of Public Affairs*, vol. 3, no. 3, pp. 143–63.

Mason, P. (Ed.). (2003). *Criminal visions: Media representations of crime and justice*, Cullompton: Willan Publishing.

Megans-Law.net. (2007) Megan's Law. http://megans-law.net/Megans-Law.asp

Millward, D. (2000). Newspaper's paedophile expose "puts children at risk". *The Daily Telegraph*, 24 July.

Mulgan, G. (2003). Government, knowledge, and the business of policy-making: Facing the future. National Institute for Governance & APPRN, 23–24 April, Canberra, Australia. http://dwafapp4.dwaf.gov.za/dwaf/download.asp?f=CDs%5CODI%5CMulgan_2003.pdf&docId=1166

News of the World. (2000a). Our aim is safety for our children. *News of the World*, 23 July, p. 6.

News of the World. (2000b). The people who are backing us in battle for Sarah. *News of the World*, 6 August, p. 2.

News of the World. (2000c). 88% say name and shame. *News of the World*, 23 July, p. 6.

News of the World. (2000d). Parent power can change law. *News of the World*, 30 July 30, p. 2.

Pal, L. A. (2002). Virtual policy networks: The Internet as a model of contemporary governance? www.isoc.org/inet97/proceedings/G7/G7_1.HTM

Pappi, F. U., and Henning, C.H.C.A. (1998). Policy networks: More than a metaphor? *Journal of Theoretical Politics*, vol. 10, no. 4, pp. 553–75.

Patton, M. Q. (2002). *Qualitative evaluation and research methods* (2nd edition). Newbury Park: Sage Publications.

Plotnikoff, J., and Woolfson, R. (2000). *Where are they now? An evaluation of sex offender registration in England and Wales*. Police Research Series Paper 126. London: Policing and Reducing Crime Unit.

Radford, B. (2007). Americans exaggerate threats posed by sexual predators. In L. M. Zott (Ed.), *Sex offenders and public policy*. Chicago, IL: Greenhaven Press, pp. 54–63.

Sampson, A. (1994). *Acts of abuse: Sex offenders and the criminal justice system*, London: Routledge.

Shaxson, L. (2005). Is your evidence robust enough? Questions for policy makers and practitioners. *Evidence & Policy*, vol. 1, no. 1, pp. 101–12.

Silverman, J., and Wilson, D. (2002). *Innocence betrayed: Paedophilia, the media, and society*, Cambridge: Polity Press.

Sorkin, L. G. (1998). *The triology of federal statutes*. National Conference on Sex Offender Registries, Washington, Bureau of Justice Statistics.

Sussman, P. (1997). *Peter Sussman Paper*. Transcripts of a talk presented by Peter Sussman of the San Francisco Chronicle. http://venus.soci.niu.edu/~jthomas/class/388/papers/peter-sus.html

Taras, T., and McMullan, P. (2000a). Does a monster live near you?. *News of the World*, 23 July, p. 2

Taras, T., and McMullan, P. (2000b). 10 facts to shock every parent. *News of the World*, 23 July, p. 2.

Thomas, T. (2000). *Sex crime: Sex offending and society*. Cullompton: William Publishing.

Tilley, N., and Laycock, G. (2000). Joining up research, policy, and practice about crime. *Policy Studies*, vol. 21, no. 3, p. 213–27.

Wakefield, H. (2006). The vilification of sex offenders: Do laws targeting sex offenders increase recidivism and sexual violence? *Journal of Sexual Offender Civil Commitment: Science and the Law*, vol. 1, pp. 141–9.

Weiss, C. H. (1977). *Using social research in public policy making*, Lexington: Lexington Books.

Weiss, C. H. (1979). The many meanings of research utilisation. *Public Administration Review*, vol. 39, no. 5, pp. 426–31.

Weiss, C. H. (1986). The many meanings of research utilization. In M. Bulmer, K. Banting, S. S. Blume, M. Carley, and C. H. Weiss (Eds.), *Social science and social policy*. London: Allen & Unwin, pp. 31–40.

Young, K., and Mills, L. (1980). *Public policy research: A review of qualitative methods*. London: Social Science Research Council.

Reprinted, with permission, from *Evidence & Policy: A Journal of Research, Debate and Practice*, *4*(2), May 2008, pp. 187–207.

About the Authors

Tobias Jung is an ESRC Research Fellow within the Management School & Economics, University of Edinburgh. Contact: tobias.jung@ed.ac.uk

Sandra M. Nutley is Professor of Public Management and Director of the Research Unit for Research Utilisation (RURU), University of Edinburgh. Contact: Sandra.Nutley@ed.ac.uk

Can Sex Offender Registration Be Effectively Applied to Juvenile Offenders? A Preliminary Study

Michael F. Caldwell, PsyD

On July 27, 2006, President Bush signed the Adam Walsh Child Protection and Safety Act into law. Title I of the Adam Walsh Act, entitled the Sex Offender Registration and Notification Act (SORNA), provides a comprehensive set of minimum standards addressing sex offender registration and notification that was to be implemented in each jurisdiction by July 27, 2009. Failure to substantially comply with the law will result in a 10% reduction in funding under the Byrne Justice Assistance Grant. The act gained bipartisan support in the United States House of Representatives, where it garnered 88 cosponsors and passed with 371 "yea" votes and 52 "nay" votes (GovTrack.us, 2007). When fully implemented in 2009, SORNA will become the latest in a series of state and federal laws that will place adjudicated sex offenders on a public registry. Information available to the public through the registry will include a personal description and information on residence, employment, school, offense history, and other information. The stated purpose of SORNA is to protect the public from sex offenders. SORNA is intended to create a more uniform registration and notification system across states and establish a national registry publicly available through the Internet.

SORNA requires states to participate in a national sex offender registration and notification database that will include juveniles. Juvenile offenders who offend after their 14th birthday and who were adjudicated delinquent for a crime comparable to or more severe than aggravated sexual abuse as defined in federal law (Sexual Abuse Act of 1986) will be included in the registry.

SORNA also establishes a tiered system that is used to determine the length of time an individual will be required to register. Under the SORNA Tiers, offenders are required to register based solely on the charged offense without regard to a determination of future risk. By definition, all juvenile sex offenders included under SORNA would qualify to be placed on the Tier 3 level, requiring registration for 25 years to life. The statute also includes a provision to study the effectiveness of SORNA.

Despite the legislative popularity of sex offender registration measures, there is considerable discussion about their effectiveness (Caldwell, 2002; Edwards & Hensley, 2001; Garfinkle, 2003; Letourneau & Miner, 2005; Levenson, 2003; Levenson & Cotter, 2005a; Levenson & Cotter, 2005b; McGinnis, & Prescott, 2007; Redlich, 2001; Tewksbury, 2002; 2005; Trivits, & Reppucci, 2002; Welchans, 2005; Zevitz, 2006; Zimring, 2004). Studies have documented that sex offender registration applied to adult offenders has a variety of negative consequences for registrants that may interfere with successful community reintegration of offenders. These consequences include impeding employment and housing, disrupting supportive relationships, and subjecting registrants to social harassment and rejection (Levenson, 2003; Levenson & Cotter, 2005a; Levenson & Cotter, 2005b; Redlich, 2001; Tewksbury, 2002; 2004; 2005; Zevitz, & Farkas, 2000).

Research to date has not supported the effectiveness of sex offender registration and notification in reducing recidivism with adult offenders (Adkins, Huff, & Stageberg, 2000; Barnoski, 2005; Levenson, D'Amora, & Hern, 2007; Schram & Milloy, 1995; Walker, Maddan, Vasquez, VanHouten, & Ervin-McLarty, 2005; Welchans, 2005; Zevitz, 2006) or with juvenile offenders (Caldwell & Dickenson, In press; Caldwell, Ziemke, & Vitacco, 2008; Letourneau Bandyopadhyay, Sinha, & Armstrong, 2009; Letourneau, Bandyopadhyay, Sinha, & Armstrong, 2008). Under SORNA and other state registries, it is assumed that higher-risk juvenile sex offenders can be identified by the characteristics of their offenses or with specialized risk assessment measures.

Letourneau and Miner (2005) have argued that three faulty assumptions serve as the basis for the trend toward harsher sanctions and restrictive management of juvenile sex offenders: (a) that juvenile sex offending is at epidemic levels, (b) that juvenile sexual offenders have more in common with adult sex offenders than they do with other delinquents, and (c) that juvenile sex offenders are at exceptionally high risk for sexual recidivism. None of these assumptions is supported by empirical evidence.

Although limited, studies that have compared juvenile sex offenders with delinquents who have no history of sexual offending have not found significant differences in the rates of sexual recidivism in the two populations. For example, in a study of three birth cohorts from Racine, Wisconsin, Zimring, Piquero, and Jennings (2007) found no significant difference in sexual recidivism rates between juveniles with sex offense histories and those with juvenile police contacts for nonsexual offenses. Similarly, Caldwell (2007) reported no significant difference in the rate of charges for adult sexual offenses between 249 juvenile sex offenders and 1,780 nonsex offending delinquents over a 5-year follow-up.

Risk Assessment of Adolescent Sex Offenders: General and State-Specific Approaches

Base rates of detected sexual recidivism among juvenile sex offenders have tended to be low. In a recent meta-analysis of 63 data sets that studied recidivism in a total of 11,219 juvenile sexual offenders over an average 5-year period, Caldwell (in press) found an average sexual recidivism rate of just 7.08%. These findings were affected by the location of the study, whether recidivism was defined as arrest or conviction, or whether the group studied was drawn from a community or secured placement setting. However, offense rates during adolescence were more than 4 times greater than offense rates in adulthood (e.g., age 18 or older). This finding suggests that sexual aggression may be dependent on developmental stage. Sexual aggression is significantly stable within a particular developmental stage (i.e., adolescence or early adulthood) but typically discontinuous across developmental stages (i.e., between adolescence and early adulthood).

Recognizing the relatively low base rate of juvenile sexual recidivism, some states have limited the application of sex offender registration to select juveniles meeting statutorily defined risk criteria or those assessed as high risk on assessment instruments. Such strategies are assumed to narrow the application of these laws to more serious and high-risk juveniles (Gonzales, 2007). Statutory strategies identify a subgroup of juvenile sex offenders based on their age at the time of the offense or the characteristics of their offenses (as with SORNA), or both. Other states employ risk assessment protocols that are widely available or have been developed by the state to predict sexual recidivism.

Measurements of Risk in Juvenile Sexual Offenders

For many years, the reliable assessment of risk of future sexual violence by juvenile sex offenders has been pursued without much success. One of the more concerted efforts to develop a reliable risk measure produced the widely used *Juvenile Sex Offender Assessment Protocol–II* (J-SOAP–II, Prentky & Righthand, 2003). The original J-SOAP–item pool was generated through a review of available adult and juvenile literature (Prentky, Harris, Frizzell, & Righthand, 2000), with items scored on a three-point scale (0,1, or 2). The scale did not predict sexual recidivism in the development study, possibly due to the low (4%) sexual recidivism rate. The scale underwent two major revisions to improve reliability, resulting in the current 28-item measure. The Rhode Island Department of Children, Youth, and Families and the Wisconsin Department of Corrections, Division of Juvenile Corrections, have adopted the J-SOAP–II as a mandated component of their assessment processes for youth who have committed sex offenses. The J-SOAP–II is not specifically intended for use in determining registration, and in both states, the J-SOAP–II is scored to inform community supervision and treatment planning decisions.

The predictive accuracy of the J-SOAP–II for sexual recidivism has not yet been established. Several studies have reported no relationship between the J-SOAP–II and sexual recidivism (Prentky, Harris, Frizzell, & Righthand, 2000; Viljoen, Scalora, Cuadra, Bader, Chávez, Ullman, & Lawrence, 2008; Waite, Keller, McGarvey, Wieckowski, Pinkerton, & Brown, 2005). Other studies have found conflicting information about what components of the J-SOAP–II predicted sexual recidivism. For example, Martinez, Flores, and Rosenfeld (2007) reported that the Dynamic scales of the J-SOAP–II (which rate the youth's treatment response and community adjustment) predicted sexual recidivism, but the Static scales (which rate previous behavioral problems and sexual offending) did not. By contrast, Parks and Bard (2006) found that one of the two components of the Static Summary scale predicted sexual recidivism, but the Dynamic scale components did not.

Three states (Wisconsin, Texas, and New Jersey) have sex offender registration laws that contain elements similar to SORNA and have created their own risk tools to improve classification when evaluating juvenile sex offenders. Each of these state risk assessment protocols was developed with the input of one or more experts in the field, and they relied heavily on risk factors derived from studies of adult offenders (see Table 1 for a listing of the items on each measure). These measures mirror the sex offender registration laws that include certain juveniles and employ some form of risk assessment or tiers to inform or determine the specific requirements of registration and notification. Thus, all three are designed to assess the same underlying trait: the propensity for sexual recidivism. Not surprisingly, these measures contain several overlapping items, including level of force or seriousness of sexual offenses, characteristics of the victims, and the degree of nonsexual offending.

The New Jersey and Wisconsin measures include some items devoted to treatment compliance and response. The *New Jersey Registrant Risk Assessment Scale* (NJRRAS, Codey & Harvey, 2007) was developed by a panel of experts assembled by the Office of the Attorney General. The risk measure generates a total risk score matched to a category of risk that determines the tier of registration and community notification. In response to a 2001 New Jersey Supreme Court decision, the Office of the Attorney General developed a juvenile risk scale by slightly revising the RRAS. The resulting 14-item *Juvenile Risk Assessment Scale* (JRAS, Office of the Attorney General, 2006) retained 13 items from the RRAS and added one item (victim gender). The coding of two items was slightly modified and the scales and weights of the RRAS were dropped. The measures are to be completed by the prosecutor, and the result, although subject to judicial review, is considered binding.

By contrast, the *Wisconsin Department of Corrections Guidelines for Release of Confidential Information on Persons Committing Sex Offenses as Youth* (WDOC, Wisconsin Department of Corrections, 2006) and the *Texas Juvenile Sex Offender Risk Assessment Instrument* (TJSORAI, Texas Department of Criminal Justice, 2005) are intended to be advisory. The TJSORAI, completed by correctional staff, is the latest of several measures developed in response to a legislative mandate that requires a numeric risk level to be assigned to all registered sex offenders. Although the total score corresponds to a risk level, the final assignment of a registration tier is the responsibility of a judge. The WDOC was developed in response to legislation allowing local law enforcement to determine the breadth of notification to the community regarding a juvenile sex offender who has been placed on the sex offender registry. The measure does not produce a numeric score or risk level. Instead, a risk level for each item is checked. The measure is intended to assist Department of Corrections staff in advising local law enforcement about the extent of community notification.

The Association Between Juvenile Sex Offending and Psychopathy Features

Psychopathy is defined by a constellation of affective, interpersonal, and behavioral characteristics that include egocentricity; shallow emotions; lack of empathy, guilt, or remorse; a behavioral pattern of impulsivity; irresponsibility; lying and manipulating others; and the repeated violation of social rules and expectations (Hare, 1991). Psychopathy has been associated with a variety of antisocial and maladaptive behaviors (Leistico, Salekin, DeCoster, & Rogers, 2008). Features of psychopathy have often been associated with persistent sexual offending in adult offenders, particularly when associated with sexual deviance (Serin, Malcolm, Khanna, & Barbaree, 1994; Seto & Barbaree, 1999; Quinsey, Rice, & Harris, 1995). Studies that have examined how useful features of psychopathy may be in predicting future sexual offending in adolescents have

Cont'd on page 14

produced inconsistent results. Most studies have reported that although features of psychopathy in teens were associated with general violence, they have not been related to sexual violence in particular (Auslander, 1998; Brown & Forth, 1997; Gretton, Hare, & Catchpole, 2004; Gretton, McBride, Hare, O'Shaughnessy, & Kumka, 2001; McBride, 1998). Others have reported that features of psychopathic personality were associated with past sexual offending (Forth, 1995) or that some characteristics were associated with future sexual offending (Parks & Bard, 2006). All studies were limited by the relatively small number of youth in the study that had severe psychopathic features and by the low sexual recidivism rates of the youth they studied.

A Preliminary Study

Despite widely adopted statutes that impose substantial restrictions on juvenile sex offenders in the hope of reducing sexual offending, the risk that juvenile sex offenders pose for future sex offending is not well understood. There are some indications that juvenile sex offenders may not pose a greater risk for sexual recidivism than general delinquents who are not subject to registration laws. Whether risk measures for adolescent sex offending can reliably predict such a low-base rate event remains an open question. More generally, features of psychopathy appear to have some utility for predicting violent recidivism, but psychopathy's efficiency in predicting sexual recidivism in adolescents is not established due to limited research plagued by inconsistent results.

This study was designed to address three interrelated issues. First, the study examined whether juveniles adjudicated for a sexual offense differ in their reoffense patterns from nonsex offending delinquents. Second, the study looked at the predictive accuracy of risk measures currently used in juvenile sex offender registration decisions, and the statutory inclusion criteria embedded in SORNA. Third, the study examined the predictive accuracy of the PCL:YV in predicting sexual recidivism. For a complete description of this study, see Caldwell, Ziemke, and Vitacco (2008).

© Yuri Arcurs/Dreamstimes.com

Methods

Participants

This study included 91 juvenile males who were treated in a secured correctional treatment program after being adjudicated for a felony sexual offense. An additional group of 174 juvenile males who were treated in the same program during the same time period—but who had never been referred, charged, or adjudicated for a sexual offense—were included in the study. The two groups were of similar age and racial makeup, and they were followed for an average of 6 years to determine the rates of new charges for general, violent, and sexual offense.

Measures and Instruments

All participants had been assessed with the *Psychopathy Checklist: Youth Version* (Forth, Kosson, & Hare, 2003) on admission to the program. For this study, the treatment records of participants who were sex offenders were coded using the *Juvenile Sex Offender Assessment Protocol–II* (Prentky & Righthand, 2003), the *Wisconsin Department of Corrections Guidelines for Release of Confidential Information on Persons Committing Sex Offenses as Youth* (Wisconsin Department of Corrections, 2006), the *New Jersey Registrant Risk Assessment Scale* (Codey & Harvey, 2007), the *New Jersey Juvenile Risk Assessment Scale* (Office of the Attorney General of New Jersey, 2006), and the *Texas Juvenile Sex Offender Risk Assessment Instrument* (Texas Department of Criminal Justice, 2005). The adjudicated sex offenses of the sex offending participants were compared with the SORNA juvenile inclusion criteria and coded as included or excluded from SORNA Tier 3.

Recidivism/Outcome Data

Data were collected from open records of all charges filed in a state circuit court during the follow-up period. The number of sexual and nonsexual misdemeanors, felonies, and violent offenses were recorded. To minimize underreporting due to plea bargaining, the original charge was considered in recording recidivism. Participants were followed for an average of 71.6 months after release from custody (SD = 18.1 months). The follow-up time of the two groups of participants did not differ significantly.

The degree of overlap among the state risk measures, the J-SOAP–II, and the SORNA Tier designation was examined by calculating the correlations between the various scale scores, total scores, and (where relevant) risk tier designation. The predictive accuracy of the measures was then examined using a Cox proportional hazard analysis. This procedure calculates the recidivism risk associated with a specific factor while controlling for variations in opportunities to offend due to varying time at risk for the participants. For this analysis, each risk score or tier designation was analyzed separately to determine how well it predicted general, violent, or sexually violent recidivism.

Results

Sex Offender Registration and Notification Act Tier

The majority of the sex offender participants (70.3%) met the criteria for inclusion under SORNA. With respect to the specific criteria, 82.4% (n = 75) offended after their 14th birthday, and 81.3% (n = 74) had been adjudicated for a crime comparable to or more severe than aggravated sexual abuse, as defined in federal

law (Sexual Abuse Act of 1986). The majority of these involved young child victims. Sex offending participants had assaulted victims between the ages of 1 and 69, with 78% (n = 71) victimizing individuals under the age of 12. Two victims were over age 60, and the rest were under age 16. The mean age of the child victims assaulted by sex offending participants was 9.1 years (SD = 3.9 years). This is consistent with other studies that have determined that juvenile sex offenders are more likely to have victims that are close in age to or younger than themselves, as compared with adult sexual offenders (Craun & Kernsmith, 2006; Righthand & Welch, 2001).

Relationships Among Risk Measures

The relationships among the instruments and inclusion in SORNA were evaluated. A complete listing of the correlations among the risk measures is presented in Table 2. This analysis found that SORNA Tier inclusion had no significant relationship with any of the J-SOAP–II scale scores. Of the three risk measures developed specifically by the states, the SORNA Tier status was significantly related only to the New Jersey JRAS tiers. In addition, the SORNA Tier designation had a significant negative correlation with the PCL:YV total score. Although the state risk measures were designed to measure the same type of risk, for the most part, they were not significantly correlated. The New Jersey JRAS total score was positively correlated with the WDOC total score and the SORNA Tier status. The Texas JSORAI tier, however, was significantly negatively correlated with the WDOC total, and it was unrelated to the New Jersey RRAS and JRAS tiers and to SORNA Tier status.

Predictive Accuracy

The prevalence rate of new felony sexual offense charges among the juvenile sex offenders (12.1%) was not significantly different from that of nonsex offending delinquents (11.6%). Cox proportional hazard analysis revealed that the risk for a new violent or sexual offense charge for juvenile sex offenders was similar to the rates for nonsexual offending delinquents. However, juvenile sex offenders were significantly *less* likely to be charged with general offenses. Sixty-nine percent (69%) of the juvenile sex offenders were charged with any new offense, while the comparable rate for nonsexual offending delinquents was 88.4%.

Likewise, none of the total scores or risk tiers on the J-SOAP–II and state-developed risk measures significantly predicted new sexual offense charges during the follow-up period. However, scores on the J-SOAP–II scale 3 that indicated better treatment progress predicted less risk for new felony sexual offense charges.

The risk measures studied here fared no better with regard to more general offending. SORNA Tier designation was unrelated to new charges for general or sexual offenses. The SORNA Tier designation did predict new charges for violent offenses, but offenders captured by the SORNA Tier designation had a lower rate of new violent offense charges than their non-SORNA designated counterparts. Of the participants qualifying for SORNA registration, 46.9% were charged with a new violent offense (including nonsexual and misdemeanor offenses), while 70.4% of the participants who were not eligible for SORNA registration were so charged. Similarly, the Texas JSORAI total score was inversely related to new violent offense charges, and the New Jersey JRAS tiers were inversely related to general offense charges. In each of these analyses, *higher* risk scores were associated with *lower* actual offense rates.

The tier designations generated by the Texas JSORAI did not predict general or violent offense charges. WDOC total score also failed to predict new general or violent offense charges, as did the tier designations from the New Jersey JRAS tiers. Repeating these analyses after controlling for the difference in racial make up of the two groups did not alter the earlier findings. In sum, not only did the state-developed risk assessment instruments and SORNA Tier fail to predict sexual recidivism but these specialized instruments also possessed no demonstrable ability to predict new offending of any kind.

None of the J-SOAP–II scales, including the total score, predicted charges for general offending. However, scale 2 (measuring impulsive, antisocial behavior) predicted new charges for any violent offense, including misdemeanor and nonsexual offenses. None of the other J-SOAP–II total or scale scores predicted charges for general offending.

A further examination of the 55 individual items coded on the J-SOAP–II and the state risk measures revealed that only 6 items were related to new felony sex offense charges. These 6 items, including internal motivation in treatment (J-SOAP–II-item 18), expressions of remorse or guilt (J-SOAP–II-item 21), lack of cognitive distortions (J-SOAP–II-item 22), compliance with treatment (WDOC-item 8), and therapeutic support (JRAS-item 12), predicted higher risk as scored. That is, higher scores on each item predicted lower reoffense rates. On the other hand, WDOC-item 6 (any evidence of deviant sexual arousal) was inversely related to felony sexual offense charges; the presence of evidence of deviant sexual arousal was associated with *lower* sexual offense rates. Only 4.7% of participants coded as having shown any evidence of deviant sexual arousal (such as having multiple young child victims) had new felony sexual offense charges compared with 18.8% of participants who had no indications of sexual deviance.

PCL:YV and Recidivism

The mean PCL:YV total score for the full sample was 31.0 (*Median* = 32.1, SD = 5.9). Statistical analysis revealed that the mean scores for the sex offender and nonsex offender groups did not differ significantly. The PCL:YV could be expected to predict general and violent recidivism; however, results concerning its predictive accuracy for sexually-based offenses have been inconsistent. In contrast to the sex-specific measures, the PCL:YV significantly predicted new felony sex offense charges. In addition, the PCL:YV significantly predicted general and violent offenses. A subsequent analysis examined whether criminal propensity as measured by the PCL:YV may have masked the predictive accuracy of an adjudication as a juvenile sexual offender. To analyze this, the PCL:YV total score was controlled while the predictive ability of a youth's status as a juvenile sex offender was analyzed. Juvenile sexual offense adjudication continued to fail to significantly predict any form of recidivism. An important caveat to this finding, however, is that the juveniles who sexually offended in the follow-up period had obtained extremely high-PCL:YV scores (i.e., over 34).

Cont'd on page 16

Discussion

The current study is one of the first to prospectively evaluate the efficacy of specialized measures to predict sexual offenses in light of new statutory requirements for classifying and registering juvenile sex offenders. The findings highlight important deficiencies with both instruments and legislation specifically designed to identify high-risk youth and to prevent future sex offenses.

The specialized measures created by New Jersey, Texas, and Wisconsin did not consistently correspond with each other, nor did they predict sexual reoffending. Despite the fact that the state risk measures were intended to measure the same recidivism potential, assessed several of the same dimensions, and shared several of the same items, their final risk ratings did not consistently overlap. It is also evident from our data that some juveniles assessed as high risk using the SORNA criteria would not be so designated on some state measures. Of greater concern is the failure of these risk measures to predict reoffense of any kind. These findings suggest that a juvenile's assessed level of risk may be more dependent on the state he lives in than on his actual recidivism risk.

More important, these inconsistencies suggest that these methods are not valid assessments of the underlying risk construct. The SORNA criteria that would be used to place putatively higher-risk juveniles in a national public registration database did not identify juvenile sex offenders at greater risk to commit either sexual or general offenses. In fact, the only significant predictive value of inclusion in the SORNA Tier was in predicting *lower* rates of violent offending among participants designated as *higher* risk. These initial data indicate that sexual recidivism-specific measures and the proposed tier classifications will not correctly identify adolescents most at risk for sexual offenses.

In this study, the risk for sexual reoffense was predicted by variables that tapped two general areas. First, the finding that extreme PCL:YV total scores predicted sexual offense charges, independent of sexual offending history, supports the findings that characteristics related to a relatively extreme criminal propensity predicted adult sexual offending in sex offenders and nonsex offending adolescents alike (Zimring et al., 2007). Second, scale items that tapped into dynamic variables related to treatment involvement and progress were associated with lower rates of new sexual offense charges. Considering the findings in Martinez et al. (2007) and Reitzel and Carbonell (2006), the results reported here suggest that, among adolescents, sexual reoffense risk is dynamic and susceptible to mitigation through treatment.

These results may shed some light on the inconsistent previous findings concerning the utility of the PCL:YV for predicting sexual recidivism. The participants studied here were an unusually criminally prone group that included a substantial number of individuals with high-PCL:YV scores (*Median PCL:YV total* = 32.1). All of the participants who sexually offended in the follow-up period had obtained extremely high-PCL:YV scores. These data suggest that previous studies may have been limited by having relatively few participants with extremely high-PCL:YV scores.

Scale items that tapped into static variables such as characteristics of the previous sexual offenses (e.g., victim selection, previous sex offenses, or level of force) were consistently unrelated to sexual recidivism. These items, primarily based on factors predictive of recidivism in adults (Codey & Harvey, 2007; Prentky et al., 2000), failed to demonstrate any power to predict sexual or general recidivism. Notably, specific offense characteristics are commonly used to determine which youth will be subject to sex offender registration or community notification.

As noted by Saleh and Vincent (2004), simply extending protocols from adult sex offenders to juvenile sex offenders inadequately captures the complexities inherent in juvenile offenders. Predicting persistence of a specific type of misconduct in juvenile delinquents is limited by the complexities of adolescent development. Although it is clear that developmental forces play a significant role in adolescent sexual behavior (Sisk & Foster, 2004; Sisk, 2006), exactly what aspects of adolescent development are most salient to sexual aggression and how these change to generate more adaptive sexual behavior in adulthood are not well understood. The legislation proposed by SORNA and its predecessors is based upon the assumption that juvenile sex offenders are on a singular trajectory to becoming adult sexual offenders. This assumption is not supported by these results, is inconsistent with the fundamental purpose of the juvenile court, and may actually impede the rehabilitation of youth who may be adjudicated for sexual offenses.

The finding that indicators of involvement and progress in treatment substantially outperformed static risk variables further highlights the importance of recognizing juveniles as distinct from adult sex offenders. By contrast, in a large meta-analysis of studies that primarily focused on adult offenders, Hanson and Morton-Bourgon (2005) found static variables to be the most reliable predictors of sexual recidivism, while indicators of treatment motivation and progress were noted to be poor predictors of sexual recidivism. This suggests that the most common determinants and protective factors relevant to persistent sexual offending in juveniles differ dramatically from those commonly found in adults.

Policy Implications

Full enactment of SORNA would result in a significant increase in the number of juvenile sex offenders subject to registration and community notification. This increase would result from several interrelated factors. First, many states that now exempt juveniles from sex offender registration or notification would be required under SORNA to include juveniles, resulting in an increase in the number of states that register juveniles. Based on these data, 70% of the approximately 15,000 juveniles arrested for sexual offenses annually would qualify for lifetime registration under SORNA Tier 3 (Federal Bureau of Investigation, 2006). Second, most states that currently register juveniles make certain exceptions for them, recognizing that juveniles have a different risk profile than adults. For example, several states exempt juveniles from community notification and limit access to their information only to law enforcement. Other states have a provision allowing juveniles to petition the court for termination of registration by showing that they have been rehabilitated and no longer pose a threat to the community. SORNA makes no provision for judicial discretion to determine which juveniles will be subject to registration. As a result, some juveniles who are currently excused from state registries will be subject to registration under SORNA. Third, juveniles currently

on state level registries, but who do not qualify for SORNA Tier 3, would most probably be retained on some form of registry.

The finding that the propensity for criminality, as measured by the PCL:YV, was predictive of sexual violence cuts across sex offenders and nonsex offending delinquents alike. These and other studies (Caldwell, 2007; Zimring et al., 2007) suggest that criminal propensity in adolescence plays an important role in future sexual violence. Recent research with adolescent offenders suggests that even the most intractable offenders with elevated PCL:YV scores and significant and varied histories of antisocial behavior can be rehabilitated (Caldwell, Skeem, Salekin, & Van Rybroek, 2006; Caldwell, McCormick, Umstead, & Van Rybroek, 2007), and it can be done in a cost-effective manner (Caldwell, Vitacco, & Van Rybroek, 2006). This suggests that even criminal behavior arising from high levels of criminal propensity can be amenable to treatment interventions.

The finding that treatment-related variables were reliable predictors of sexual recidivism poses specific practical problems. The meaning and value of participation and progress in treatment depends on the nature and quality of the treatment. Recent studies of the effectiveness of sex offender treatment for juveniles have reported mixed results (Hanson, Broom, & Stephenson, 2004; Reitzel & Carbonell, 2006), and failure to participate in an ineffective treatment program may have no bearing on an adolescent's risk. These results lend support to studies that indicate that juvenile sex offenders can benefit from treatment and, as a clinical matter, it is reasonable to assume that treatment can reduce risk in juvenile sex offenders. However, these results do not resolve the issue regarding the effectiveness of treatment and do not support imposing long-term registration and notification requirements on the basis of treatment refusal or poor treatment progress.

An important finding in these results was the failure of the SORNA Tier criteria to identify sexual recidivists. Of greater concern is the fact that the SORNA Tier criteria designated participants who were at lower risk for violent reoffense as appropriate for lifetime registration and community notification. To the extent that registration and community notification impede community reintegration and adjustment, they may have the paradoxical effect of increasing risk of reoffense. A recent study found that a group of registered youth who obtained lower scores on the Youth Level of Service/Case Management Inventory (a measure of general recidivism risk) had recidivism rates that were comparable to juvenile sex offenders who were at higher risk but not required to register (Caldwell, 2009). To the extent that registration and community notification are intended to reduce offending opportunities for high-risk offenders, these data suggest that SORNA will fall short by failing to accurately identify high-risk offenders. These findings also raise the possibility that including juveniles in SORNA Tier 3 would actually result in a greater risk to community safety.

The state risk measures studied here fared no better as predictors of reoffense risk. These results suggest that the risk estimates that these measures generate have no reliable connection to a youth's risk to the community. To the extent that these results may generalize, the registration and notification demands placed on juveniles that are based on these risk estimates appear to be nonscientific and arbitrary. This may raise important constitutional questions related to the equal protection of juveniles subject to SORNA registration.

The Equal Protection Clause of the U.S. Constitution does not deny the government the power to treat different classes of persons in different ways. It does, however, require that the criteria for defining a class of persons accorded different treatment must be rationally related to the objective of the statute. The classification must be reasonable, not arbitrary, and it must rest upon some ground of difference having a fair and substantial relation to the objective of the legislation, so that all persons similarly circumstanced will be treated alike (see, for example, *Carolene Products Co. v. United States*, 1938a; b; *City of Cleburne, Texas v. Cleburne Living Center*, 1985; *Plyler v. Doe*, 1982; *Romer v. Evans*, 1996). These results support a small but growing body of research that has found juvenile sex offenders engage in adult sexual offending at similar rates to nonsex offending delinquents (Caldwell, 2007; Sipe & Jensen, 1998; Zimring, et al., 2007). More important, the identification of juvenile sex offenders as a class of individuals whose characteristics are distinct from other juveniles and whose civil regulation will further the public safety purpose of the law is not supported by this study.

Although sex offender registration laws have survived several constitutional challenges, several features of SORNA revive or raise new constitutional concerns. These include provisions that juveniles subject to SORNA would lose protection from warrantless searches for life. This provision raises the potential that SORNA will merit a more rigorous standard of constitutional review than previous sex offender registration laws.

In addition, juveniles affected by SORNA will be subject to adult sanctions without the benefit of the same degree of due process protections afforded adult offenders. The traditional juvenile court priority of protecting juveniles from adult sanctions and long-term stigmatization will be largely abandoned by public registration, and the traditional confidentiality afforded juvenile records will be compromised.

Trivits and Reppucci (2002) outlined the difficulties of applying sex offender registration and notification laws to adolescent sex offenders, including evaluating appropriate and inappropriate sexual conduct, the heterogeneity of adolescent sex offenders, and developmental issues that complicate risk assessment. Laws designed to target adolescent sex offenders must balance risk, management, and treatment (Byrne & Roberts, 2007) if they are to be effective. Unfortunately, data suggest that laws intended to manage risk miss the mark and have an unintended and detrimental effect of interfering with access to treatment. Letourneau (2006) has described the unintended effects of restrictive sex offender legislation applied to juvenile sex offenders that may result in less formal intervention and, consequently, less treatment. These results suggest that improving access to treatment and community support services should be the overriding concern of public policies that hope to reduce the risk of persistent sexual offending.

Cont'd on page 18

Despite the incentives included in SORNA, some states may elect to exclude juveniles from sex offender registration. States that elect to include juveniles under these laws could reduce the potential harm and improve the effectiveness of these measures by incorporating several provisions. The application of these laws to juveniles could be designed to be more consistent with the traditional goals of the juvenile justice system. For example, recognizing that most juvenile sex offenders desist from offending by early adulthood, the term of sex offender registration could be limited to the maximum age of juvenile court jurisdiction.

The finding that commonly used risk measures perform poorly in predicting recidivism raises questions regarding how to identify juveniles who may be more appropriate for registration. These data indicate that the specific characteristics of a particular offense category are of little or no value. There are, however, indications that a comprehensive assessment may be a more reliable way to identify higher-risk delinquents. The most comprehensive assessment utilized in this study was the PCL:YV, and this measure proved to be the best predictor of all forms of recidivism. Although scores from the PCL:YV have not proven to be a reliable predictor of sexual recidivism, a similarly comprehensive assessment of treatment needs, behavioral history, personality, social influences, and other issues is an important part of the juvenile court dispositional process (Grisso, 1998). The best method for identifying higher-risk juveniles may be this type of comprehensive assessment, particularly if informed by the findings that most juvenile sex offenders do not sexually reoffend. This would be in keeping with traditional practice in juvenile court dispositional hearings and would require that juvenile court judges be granted discretion in applying registration requirements in the disposition of specific cases.

None of this is to say that adolescent sexual violence is not a significant public policy concern. In fact, the results of public health surveys over the past several decades have led to a consensus that at least 1 in 5 adolescent males engages in sexually assaultive behavior (Abbey, 2005). Considering that only a fraction of these assaults come to the attention of authorities, the potential for sex offender registration to significantly reduce the incidence of sexual violence in society is quite limited. The findings reported here lend further support to those who have called for a broader approach that places emphasis on prevention of sexual violence (Abbey, 2005; Caldwell, 2007).

Limitations and Future Directions

This study represents an initial attempt to evaluate the capacity of commonly used risk measures and the SORNA criteria to predict sexual offenses in a sample of antisocial adolescents. However, the results must be interpreted in light of some methodological limitations. First, the results are limited by the reliance on a sample drawn from a program designed to treat unusually aggressive and disruptive adolescent males (Caldwell et al., 2006). The risk assessment methods studied here may be more effective with a less criminally prone population. However, a less delinquent population would be expected to generate lower reoffense base rates, making accurate risk assessment even more difficult.

In addition, all of the participants studied here were assessed or treated in a specialized intensive treatment program that has demonstrated promising results in treating aggressive delinquents (Caldwell, McCormick, & Umstead, 2007; Caldwell, Skeem, Salekin, & Van Rybroek, 2006; Caldwell & Van Rybroek, 2005; Caldwell, Vitacco, & Van Rybroek, 2006). All of the sex offending participants received some level of specialized sex offender treatment. It is a possibility that specialized sex offender treatment reduced the risk of the sex offending participants to the level of more generic delinquents. This possibility, however, would not alter the findings that the J-SOAP–II total, SORNA Tier 3, and state risk measures failed to predict any type of recidivism, including sexual recidivism, among adolescent sex offenders.

Psychopathy as a predictor for adolescent sexual offending presents an additional dimension that requires further study. Although the results described here suggest an avenue of speculation to account for the inconsistent performance of PCL:YV scores in predicting juvenile sexual recidivism, the issue is far from resolved. Use of PCL:YV scores to predict juvenile sexual recidivism is clearly not warranted on the basis of the existing research.

On one level, the impulse to adopt broad statutory restrictions on sex offenders reflects a skepticism that the professionals entrusted with the supervision and rehabilitation of sex offenders possess the expertise to optimally manage the risk posed by these offenders. To the extent that our knowledge about the onset, persistence, and desistence of sexual misconduct in adolescents is incomplete, expertise in managing sexual offenders' risk is also limited. These results, however, indicate that current sex offender registration and notification laws that are broadly applied to adolescents have significant limitations of their own. Further, these laws cannot be refined, and the expertise of professionals cannot advance, without a concerted effort to conduct high-quality empirical studies of these issues.

Perhaps the most important and least studied question in this field relates to why so few juvenile sexual offenders continue to offend as adults. The existing evidence shows that, in general, even juveniles who continue to offend rarely persist in sexual offenses. What accounts for this extensive pattern of desistance? It is reasonable to assume that developmental forces play some role in this, but exactly what those forces are, how they work, and what policies may foster or impede their effects on desistance remain unknown.

The extensive use of sex offender registration and concerns over public safety must be balanced against the potential and significant harm that may accompany public registration of juvenile offenders. Clearly, considerably more study of the effects of these laws is needed. Considering that these laws are currently in place and affect thousands of individuals nationwide, the need for additional study goes far beyond scientific interest. It is a requirement of fair, just, and effective public policy.

Table 1: Items on the *New Jersey Registrant Risk Assessment Scale (RRAS)*; *Wisconsin Department of Corrections Guidelines for Release of Confidential Information on Persons Committing Sex Offenses as Youth* (DOC); and *Texas Juvenile Sex Offender Risk Assessment Instrument* (JSORAI).

New Jersey RRAS	Wisconsin DOC	Texas JSORAI
(1) Seriousness of offense scale:	Number of charged sexual offenses	Seriousness of offense
Degree of force	Number of victims	Use of a weapon
Degree of contact	Duration of sex offense history	Age at first referral
Age of Victim	Other nonsexual antisocial behaviors	Prior sex offense adjudications
(2) Offense history scale:	Any stranger victims	Prior referrals for sex offense
Victim selection	Evidence of deviant sexual arousal	Prior adjudications for felony offenses
Number of offenses/victims	Deception, planning, or grooming of victim	Prior felony referrals
Duration of offensive behavior	Treatment compliance	
Length of time since last offense	Stability of living situation	
History of antisocial acts	Positive support system	
(3) Characteristics of offender:		
Response to treatment		
Substance abuse problems		
(4) Community support scale:		
Therapeutic support		
Residential support		
Employment/educational stability		

Table 2: Correlations Between Studied Risk Measures: *Sex Offender Registration and Notification Act of 2006 Risk Tiers (SORNA); Psychopathy Checklist: Youth Version* (PCL:YV); *Juvenile Sex Offender Assessment Protocol–II* (J-SOAP–II); *New Jersey Registrant Risk Assessment Scale* (NJRRAS); *New Jersey Juvenile Risk Assessment Scale* (JRAS); *Wisconsin Department of Corrections Guidelines for Release of Confidential Information on Persons Committing Sex Offenses as Youth* (WDOC); *Texas Juvenile Sex Offender Risk Assessment Instrument* (TJSORAI).
**= p < .05; ** = p < .005; *** = p < .001; - = no significant relationship*

	2	3	4	5	6	7	8	9	10	11	12
(1) SORNA Tier	.28**	.28**	.00	.04	- .18	- .10	- .25*	- .16	.28**	- .17	.23*
(2) NJRRAS tiers	-	.70***	.11	.38***	.08	.15	- .06	.37***	.72***	.37***	.79***
(3) JRAS tiers		-	.04	.36***	- .03	.19	- .21*	.37***	.71***	.38***	.24*
(4) TJSORAI tiers			-	- .10	- .06	- .07	.09	- .12	- .00	- .23*	.63***
(5) J-SOAP–II scale 1				-	- .25*	- .09	- .33**	.48***	.57***	.74***	- .03
(6) J-SOAP–II scale 2					-	.29**	.39***	.49***	- .02	.04	- .25*
(7) J-SOAP–II scale 3						-	.15	.71***	.29**	.25*	- .11
(8) PCL:YV total							-	.07	- .19	- .13	- .06
(9) J-SOAP–II total								-	.55***	.66***	- .21
(10) JRAS total									-	.68***	.14
(11) WDOC total										-	- .16
(12) TJSORAI total											-

Cont'd on page 20

Table 3: Results of Cox Proportional Hazard Survival Analysis of Study Measures Used to Predict New Charges. Analyses that found that higher-risk scores were significantly related to lower offense rates are designated as *(reversed).*
= p < .05; ** = p < .005; *** = p < .001; - = no significant relationship

Measure	Any offense	Violent offense	Violent sexual offense
Sex offense adjudication (N = 264)	-	-	-
PCL:YV total (N = 264)	***	***	***
Wisconsin DOC guidelines (n = 91)	-	-	-
J-SOAP–II scale 1 (n = 91)	-	-	-
J-SOAP–II scale 2 (n = 91)	-	**	-
J-SOAP–II scale 3 (n = 91)	-	-	*
J-SOAP–II total (n = 91)	-	-	-
JRAS total (n = 91)	*(reversed)* *	-	-
JRAS tiers (n = 91)	-	-	-
Texas JSORAI total score (n = 91)	-	*(reversed)***	-
Texas JSORAI risk tiers (n = 91)	-	-	-
SORNA inclusion (n = 91)	-	*(reversed)* *	-

References

Abbey, A. (2005). Lessons learned and unanswered questions about sexual assault perpetration. *Journal of Interpersonal Violence, 20*(1), 39–42.

Adkins, G., Huff, D., & Stageberg, P. (2000). *The Iowa sex offender registry and recidivism*. Des Moines: Iowa Department of Human Rights. Retrieved April 17, 2008, from: http://www.iowa.gov/dhr/cjjp/images/pdf/01_pub/SexOffenderReport.pdf

Auslander, B. (1998). *An exploratory study investigating variables in relation to juvenile sexual re-offending.* Unpublished doctoral dissertation, Florida State University.

Barnoski, R. (2005). *Sex offender sentencing in Washington State: Has community notification reduced recidivism?* Olympia: Washington State Institute for Public Policy.

Brown, S., & Forth, A. (1997). Psychopathy and sexual assault: Static risk factors, emotional precursors, and rapist subtypes. *Journal of Consulting and Clinical Psychology, 65*, 848–857.

Byrne, J., & Roberts, A. (2007, September). New directions in offender typology design, development, and implementation: Can we balance risk, treatment and control? *Aggression and Violent Behavior*, *12*(5), 483–492.

Caldwell, M. (2002). What we do not know about juvenile sexual reoffense risk. *Child Maltreatment, 7*(4), 291–302.

Caldwell, M. (2007). Sexual offense adjudication and recidivism among juvenile offenders. *Sexual Abuse: A Journal of Research and Treatment, 19*, 107–113.

Caldwell, M. (in press). Study characteristics and recidivism base rates in juvenile sex offender recidivism. *International Journal of Offender Therapy and Comparative Criminology.* DOI:10.1177/0306624X08330016

Caldwell, M., & Dickenson, C. (in press). Sex offender registration and recidivism risk in juvenile sexual offenders. *Law and Human Behavior.*

Caldwell, M., McCormick, D., Umstead, D. & Van Rybroek, G. (2007). Evidence of treatment progress and therapeutic outcomes among adolescents with psychopathic features. *Criminal Justice and Behavior, 34*(5), 573–587.

Caldwell, M., Skeem, J., Salekin, R., Van Rybroek, G. (2006). Treatment response of adolescent offenders with psychopathy-like features. *Criminal Justice and Behavior, 33*(5), 571–596.

Caldwell, M., & Van Rybroek, G. (2005). Reducing violence in serious and violent juvenile offenders using an intensive treatment program. *International Journal of Law and Psychiatry, 28*, 622–636.

Caldwell, M., Vitacco, M., & Van Rybroek, G. (2006). Are violent delinquents worth treating? A cost-effectiveness study. *Journal of Research in Crime and Delinquency, 43*(6), 148–168.

Caldwell, M., Ziemke, M., & Vitacco, M. (2008). An examination of the Sex Offender Registration and Notification Act as applied to juveniles: Evaluating the ability to predict sexual recidivism. *Psychology, Public Policy, and Law, 14*(2), 89–114.

Carolene Products Co. v. United States, 304 U.S. 144, 82 L.Ed. 1234 (1938a).

Carolene Products Co. v United States, (1938) (overturned on other grounds, 323 U.S. 18, 65 S.Ct. 1 (1938b).

City of Cleburne, Texas v. Cleburne Living Center, 473 U.S. 432, 105 S. Ct. 3249 (1985).

Codey, R., & Harvey, P. (2007). *Attorney General guidelines for law enforcement for the implementation of sex offender registration and community notification laws, Exhibit E*. Retrieved September 11, 2007, from: http://www.state.nj.us/lps/dcj/megan/meganguidelines-2-07.pdf

Craun, S. W., & Kernsmith, P. (2006). Juvenile offenders and sex offender registries: Examining the data behind the debate. *Federal Probation, 70*(3), 45–49.

Edwards, W., & Hensley, C. (2001). Contextualizing sex offender management legislation and policy: Evaluating the problem of latent consequences in community notification laws. *International Journal of Offender Therapy and Comparative Criminology, 45*(1), 83–101.

Federal Bureau of Investigation. (2006). *Crime in the United States 2005.* Washington, DC: U.S. Department of Justice. Retrieved April 17, 2008, from: http://www.fbi.gov/ucr/05cius/data/table_32.html

Forth, A. E. (1995). *Psychopathy and young offenders: Prevalence, family background, and violence*. Ottawa, Ontario: Solicitor General of Canada.

Forth, A. E., Kosson, D., & Hare, R. D. (2003). *Psychopathy Checklist: Youth Version*. Toronto, Ontario, Canada: Multi-Health Systems.

Garfinkle, E. (2003). Coming of age in America: The misapplication of sex-offender registration and community-notification laws to juveniles. *California Law Review, 91*, 163–208.

Gonzales, A. R. (2007). The national guidelines for sex offender registration and notification: Notice (Part V, Department of Justice). *Federal Register, 72*(103), 30209–30234.

GovTrack.us (2007). H.R. 4472 [109th]: *Adam Walsh Child Protection and Safety Act of 2006*. Retrieved October 18, 2007, from: http://www.govtrack.us/congress/bill.xpd?bill=h109-4472

Gretton, H., Hare, R., & Catchpole, R. (2004). Psychopathy and offending from adolescent to adulthood: A 10-year follow-up. *Journal of Consulting and Clinical Psychology, 72*, 636–645.

Gretton, H., McBride, M., Hare, R., O'Shaughnessy, R., & Kumka, G. (2001). Psychopathy and recidivism in adolescent sex offenders. *Criminal Justice and Behavior, 28*(4), 427–449.

Grisso, T. (1998). *Forensic evaluation of juveniles*. Sarasota, FL: Professional Resource Press.

Hanson, K., Broom, I., & Stephenson, M. (2004). Evaluating community sex offender treatment programs: A 12-year follow-up of 724 offenders. *Canadian Journal of Behavioural Science, 36*(2), 87–96.

Hanson, K., & Morton-Bourgon, K. (2005). The characteristics of persistent sexual offenders: A meta-analysis of recidivism studies. *Journal of Consulting and Clinical Psychology, 73*(6), 1154–1163.

Hare, R. D. (1991). *Manual for the Psychopathy Checklist—Revised*. Toronto, Ontario, Canada: Multi-Health Systems.

Letourneau, E. J., (2006). Legal consequences of juvenile sex offending in the United States. In H. Barbaree & W. Marshall (Eds.), *The juvenile sex offender, 2nd edition* (pp. 275-290). New York: Guilford.

Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. (2009, June). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20(2), 136-153. DOI: 10.1177/0887403408327917

Letourneau, E. J., & Miner, M. H. (2005). Juvenile sex offenders: A case against the legal and clinical status quo. *Sexual Abuse: Journal of Research and Treatment, 17*(3), 293–312.

Leistico, A., Salekin, R., DeCoster, J., & Rogers, R. (2008). A large-scale meta-analysis relating the Hare measures of psychopathy to antisocial conduct, *Law and Human Behavior, 32*(1), 28–46.

Levenson, J. (2003). Community notification and civil commitment of sex offenders: A review of policies designed to combat sexual violence. *Journal of Child Sexual Abuse, 12*(3/4), 17–52.

Levenson, J., & Cotter, L. (2005a). The impact of sex offender residence restrictions: 1,000 feet from danger or one step from absurd? *International Journal of Offender Therapy and Comparative Criminology, 49*(2), 168–178.

Levenson, J., & Cotter, L. (2005b). The impact of Megan's Law on sex offender reintegration. *Journal of Contemporary Criminal Justice, 21*(1), 49–66.

Levenson, J., D'Amora, D. A., & Hern, A. (2007). Megan's Law and its impact on community re-entry for sex offenders. *Behavioral Sciences & the Law, 25*, 587–602.

Martinez, R., Flores, J., & Rosenfeld, B. (2007). Validity of the *Juvenile Sex Offender Assessment Protocol–II* (J-SOAP–II) in a sample of urban minority youth. *Criminal Justice and Behavior, 34*(1), 1284–1295.

McBride, M. (1998). *Individual and familial risk factors to adolescent psychopathy*. Unpublished doctoral dissertation, University of British Columbia, Vancouver, Canada.

McGinnis, R., & Prescott, D. (2007). *Comments on proposed guidelines to interpret and implement the Sex Offender Registration and Notification Act* (SORNA). Available at: http://www.atsa.com/pdfs/SORNA.pdf

Office of the Attorney General of New Jersey. (2006). *Juvenile Risk Assessment Scale Manual.* Retrieved December 9, 2007, from: http://www.state.nj.us/lps/dcj/megan/jras-manual-scale-606.pdf

Parks, G., & Bard, D. (2006). Risk factors for adolescent sex offender recidivism: Evaluation of predictive factors and comparison of three groups based upon victim type. *Sexual Abuse: A Journal of Research and Treatment, 18*, 319–342.

Plyler v. Doe, 457 U.S. 202, 102 S.Ct. 2382 (1982).

Prentky, R. A., Harris, B., Frizzell, K., & Righthand, S. (2000). An actuarial procedure for assessing risk with juvenile sex offenders. *Sexual Abuse: A Journal of Research and Treatment, 12*(2), 71–93.

Prentky, R. A., & Righthand, S. (2003). *Juvenile Sex Offender Assessment Protocol*–II (J-SOAP–II). [NCJ 202316]. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Quinsey, V. L., Rice, M. E., & Harris, G. T. (1995). Actuarial prediction of sexual recidivism. *Journal of Interpersonal Violence, 10*, 85–105.

Redlich, A. D. (2001). Community notification: Perceptions of its effectiveness in preventing child sexual abuse. *Journal of Child Sexual Abuse, 10*, 91–116.

Reitzel, L. R., & Carbonell, J. L. (2006). The effectiveness of sexual offender treatment for juveniles as measured by recidivism: A meta-analysis. *Sexual Abuse: A Journal of Research and Treatment, 18*, 401–422.

Righthand, S., & Welch, C. (2001). *Juveniles who have sexually offended: A review of the professional literature.* Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

Romer v. Evans, 517 U.S. 620, 116 S.Ct. 1620 (1996).

Saleh, F., & Vincent, G. (2004). Juveniles who commit sex crimes. *Adolescent Psychiatry: Developmental and Clinical Studies, 28*, 183–207. Mahwah, NJ: Analytic Press.

Schram, D., & Milloy, C. D. (1995). *Community notification: A study of offender characteristics and recidivism.* Olympia: Washington Institute for Public Policy.

Serin, R. C., Malcolm, B. P., Khanna, A., & Barbaree, H. E. (1994). Psychopathy and deviant sexual arousal in incarcerated sexual offenders. *Journal of Interpersonal Violence, 9*, 3–11.

Seto, M., & Barbaree, H. (1999). Psychopathy, treatment behavior, and sex offender recidivism. *Journal of Interpersonal Violence, 14*, 1235–1248.

Sexual Abuse Act of 1986, 42 U. S. C. A. Section 2241. Washington, DC: Government Printing Office.

Sipe, R., & Jensen, E. (1998). Adolescent sexual offenders grown up. *Criminal Justice and Behavior, 25*(1), 109–125.

Sisk, C. L. (2006). New insights into the neurobiology of sexual maturation. *Sexual and Relationship Therapy, 21*(1), 5–14.

Sisk, C. L., & Foster, D. L. (2004). The neural basis of puberty and adolescence. *Nature Neuroscience, 7*(10), 1040–1042.

Tewksbury, R. (2002). Validity and utility of the Kentucky sex offender registry. *Federal Probation, 66*(1), 21–26.

Tewksbury, R. (2004). Experiences and attitudes of registered female sex offenders. *Federal Probation, 68*(3), 30–33.

Tewksbury, R. (2005). Collateral consequences of sex offender registration. *Journal of Contemporary Criminal Justice, 21*(1), 67–82.

Texas Department of Criminal Justice. (2005). *Texas Juvenile Sex Offender Risk Assessment Instrument*. Retrieved September 11, 2007, from: http://www.tjpc.state.tx.us/publications/forms/2004/RARCSEX0104.doc

Trivits, L. C., & Reppucci, N. D. (2002). Application of Megan's Law to juveniles. *American Psychologist, 57*, 690–704.

Viljoen, J., Scalora, M., Cuadra, L., Bader, S., Chávez, V., Ullman, D., & Lawrence, L. (2008). Assessing risk for violence in adolescents who have sexually offended: A comparison of the J-SOAP–II, J-SORRAT–II, and SAVRY. *Criminal Justice and Behavior, 35*(1), 5–23.

Waite, D., Keller, A., McGarvey, E., Wieckowski, E., Pinkerton, R., & Brown, G. (2005). Juvenile sex offender re-arrest rates for sexual, violent nonsexual and property crimes: A 10-year follow-up. *Sexual Abuse: A Journal of Research and Treatment, 17*(3), 313–331.

Walker, J. T., Maddan, S., Vasquez, B. E., VanHouten, A. C., & Ervin-McLarty, G. (2005). *The influence of sex offender registration and notification laws in the United States*. Retrieved April 17, 2008, from: www.acic.org

Welchans, S. (2005). Megan's Law: Evaluations of sexual offender registries. *Criminal Justice Policy Review, 16*(2), 123–140.

Wisconsin Department of Corrections. (2006). *Guidelines for release of confidential information on persons committing sex offenses as youth*. Retrieved September 11, 2007, from: http://www.wi-doc.com/DJC_memos/2006 Admin Memos/Cmem0611 Act 5 Att2.doc

Zevitz, R. G. (2006). Sex offender community notification: Its role in recidivism and offender reintegration. *Criminal Justice Studies, 19*(2), 193–208.

Zevitz, R. G., & Farkas, M. (2000). Sex offender community notification: Managing high- risk criminals or exacting further vengeance? *Behavioral Sciences and the Law, 18*(2–3), 375–391.

Zimring, F. (2004). *An American travesty: Legal responses to adolescent sexual offending.* Chicago: University of Chicago Press.

Zimring, F., Piquero, A., & Jennings, W. (2007). Sexual delinquency in Racine: Does early sex offending predict later sex offending in youth and young adulthood? *Criminology and Public Policy, 6*(3), 507–534.

About the Author

Michael F. Caldwell, PsyD, is Lecturer in Psychology at the University of Wisconsin—Madison and Senior Staff Psychologist at the Mendota Juvenile Treatment Center. He has over 25 years experience working with aggressive and difficult-to-treat juveniles and adults. He has conducted research in risk assessment and treatment outcomes with psychopathic and violent juveniles and adults. Dr. Caldwell has published articles on assessment of recidivism risk in juvenile sexual offenders, treatment outcomes with serious and violent juvenile delinquents, effective treatment of aggressive juveniles with psychopathic personality features, and traumatic stress related to patient violence. His current area of research examines juvenile sex offender recidivism risk and treatment-related changes in psychopathic personality features in adolescent offenders. Contact: mfcaldwell@wisc.edu

Journal Highlights

Patti A. Beekman, BSW, Stacey Saunders, MSW, and Susan Yingling, BS

The purpose of Journal Highlights is to inform readers of current research on various aspects of child maltreatment. APSAC members are invited to contribute by mailing a copy of current articles (preferably published within the past 6 months) along with a two- or three-sentence review to the editors of the APSAC Advisor *at the address listed on the back cover, or E-mail: JSRycus@aol.com.*

Primary Care Pediatricians: Evaluation and Management of Child Maltreatment

Prior research has focused on the role of pediatricians in medical evaluation and reporting of suspected abuse and neglect. Less is known about pediatricians' feelings of confidence and competence in providing opinions regarding the likelihood of abuse, in completing medical evaluations, and in providing court testimony. This study assessed the self-reported experiences of pediatricians in these areas. The study also examined pediatricians' need for expert consultation when evaluating possible abuse and neglect and the amount of specialized training they received in medical management of child maltreatment.

One hundred forty-seven randomly selected members of the American Academy of Pediatrics (AAP) were surveyed. Pediatricians responded to a three-part questionnaire about their experience, comfort level, and competence in assessing suspected child maltreatment, and their need for and use of expert assistance. Frequency of participation in lectures and courses on child maltreatment was also assessed.

Study findings supported the authors' expectations that while pediatricians generally felt competent in conducting medical exams for suspected maltreatment, they felt less competent in rendering a definitive opinion about the likelihood of abuse and neglect or in testifying in court. They also reported the least level of comfort and confidence related to child sexual abuse. Participants indicated they would take advantage of consultation in the medical evaluation of sexual abuse, in reaching definitive opinions about maltreatment, and in court testimony if such assistance were available.

The study also found that increased clinical practice experience and skill-based training correlated with higher degrees of self-reported comfort and competence among respondents. These findings support the decision of the American Board of Pediatrics to create a Child Abuse Pediatrics subspecialty, which could potentially increase the availability of experts for clinical consultation, especially if funding were available for fellowship training programs in the medical management of child abuse and neglect.

Lanea, W. G., & Dubowitz, H. (2009). Primary care pediatricians' experience, comfort, and competence in the evaluation and management of child maltreatment: Do we need child abuse experts? *Child Abuse & Neglect, 33*, 76–83.

Findings From Dependency Mediation Research

In this article, the author reviews empirical studies and discusses issues related to the use of mediation in child protective services. Research indicates that mediation has resulted in positive case outcomes in a wide range of case types and at all stages of case processing, and that it is successful in reaching agreements in between 60% and 80% of cases where it is used. In child welfare, families referred for mediation often have drug and alcohol problems, prior reports of child maltreatment, mental health issues, or felony convictions. The present article focuses on descriptions of program structures, implementation challenges, and many benefits of mediation, including but not limited to successful settlement agreements.

One benefit of mediation is that it can encourage caseworkers and parents to reevaluate their positions and alter their perspectives of each other. Routine use of mediation is also thought to balance power between the court system, parents, and attorneys, and as such, it can protect parents' rights while engaging family participation in developing service plans. Mediation also provides a forum to discuss concerns and possible consequences of a petition before an agreement is reached. As a result, agreements can often be implemented more quickly than in traditional casework, and parents can feel a sense of ownership and empowerment in the solutions that are reached.

While mediation offers many benefits, these are not always easily achieved. Parents in the current study were concerned about confidentiality of discussions in the mediation hearing, and parental compliance with mediation activities may be difficult to measure. The research also suggested a lack of professional support for mediation, evidenced in few referrals for the service, even though the benefits are well documented. The author suggests that reduced budgets may affect the frequency of referrals for mediation. The author concludes that, while not appropriate for all child protection cases, mediation can offer a cost-effective way to reach a resolution in some difficult cases, particularly if administrators can overcome budget issues that would restrict its use.

Thoennes, N. (2009). What we know now: Findings from dependency mediation research. *Family Court Review*, *47*(1), 21–37.

Effects of Sex Offender Registration Policies on Juvenile Justice Decision Making

Over the past two decades, juvenile sexual offenders have been included in legislation targeting adult sexual offenders. The original federal legislation that mandated registration (1995) did not require the inclusion of youth adjudicated as minors, although states could choose to do so. The Adam Walsh Child Protection and Safety Act of 2006 extended public registration requirements to offenders as young as 14 years of age for durations of 15 years, 25 years, and life. As a result of the increasing number of juvenile registrants, many state policy makers are now expressing concerns about complying with both Adam Walsh Act requirements and existing state laws governing the legal treatment of juvenile offenders.

The present study examines the effects of registration polices as applied to juvenile sexual offenders in South Carolina. The primary goal was to examine how comprehensive sex offender registration laws (originally implemented by South Carolina in 1995, revised in 1999, and bolstered by the 2009 Adam Walsh Act) have influenced prosecution and judicial decisions. The authors completed an extensive literature review confirming that previous research on the effects of registration policies has focused on adult but not juvenile offenders.

South Carolina legislators had modified the law to require lifetime registration of youth based on conviction offense, regardless of other risk factors or mitigating circumstances. However, data analyses suggested that after this registry policy was enacted, prosecutors and judges began taking a more moderate stance regarding which juvenile cases should be subject to lifetime registration. As a result, the incidence of prosecuting felony-level juvenile sexual offense charges decreased by more than 40%. The authors conclude that prosecutors have become significantly less likely to move forward on cases if juvenile registration is lifelong and offense-based (vs. risk-based).

In the past decade, some states have made it easier to prosecute youth for more offenses in adult criminal courts, while in other states, the judicial system has found ways to increase discretion in these decisions. In states where sex offender registration requirements are based primarily on offense disposition versus an approach that considers risk factors, juvenile justice decision makers might circumvent processes and reassert their power to influence registration decisions.

The authors conclude by suggesting three specific policy reforms: (1) Basing registration requirements on risk of reoffense, (2) including knowledge about the developmental stages of juveniles when making decisions about registration timeframes, and (3) shortening juvenile registration and eliminating public notification.

Letourneau, E. J., Bandyopadhyay, D., & Armstrong, K. (2009). Effects of sex offender registration policies on juvenile justice decision making. *Sexual Abuse: A Journal of Research and Treatment*, *21*(2), 149–165.

Overcoming Challenges to Implementing and Evaluating Evidence-Based Interventions

The authors of this article highlight some of the key challenges encountered when implementing and evaluating an evidence-based practice in child welfare. They present a case study detailing the school-based implementation of a cognitive-behavioral intervention protocol (CBITS) for foster children who had experienced trauma. The CBITS program had not previously been utilized with youth in foster care. The authors described the three classes of barriers encountered—including system/legal challenges, therapeutic challenges, and logistical challenges—and described solutions for overcoming them. Strategies to promote successful implementation included the involvement of key stakeholders, informing and engaging all stakeholders, and engaging in the collaborative development of procedures.

The authors suggest that program evaluation can pose challenges as well. In the current study, one difficulty was in identifying a large enough sample of youth in foster care. Other barriers can be the IRB application and approval process, and the costs of personnel to collect evaluation data.

The authors contend that through continual sharing of lessons and information by practitioners, the processes of implementation and evaluation of evidence-based practices can foster new programming and research efforts. They conclude by indicating that although challenges do exist, these should not be a barrier to or undermine either service provision or research in child welfare. Instead, they insist that implementing evidence-based practices is a necessity to improve the well-being of youth in care.

Maher, E. J., Jackson, L. J., Pecora, P. J., Schultz, D. J., Chandra, A., & Barnes-Proby, D. S. (2009). Overcoming challenges to implementing and evaluating evidence-based interventions in child welfare: A matter of necessity. *Children and Youth Services Review*, *31*, 555–562.

Cont'd on page 24

The Role of Child Welfare Managers in Promoting Agency Performance Through Experimentation

Child welfare managers are integral to ensuring that the best available services are provided to children and families. For a variety of reasons, child welfare agencies are continually being asked to improve agency performance in achieving these goals. In this article, McBeath, Briggs, and Aisenberg discuss experimentation as a tool to move the field toward greater incorporation of an evidence-based social work practice model, and they describe factors that might affect a child welfare agency's willingness to use experimentation.

The authors identify three possible models of experimentation that might help agency managers meet increasing demands. They are the Scientific Management model, the Continuous Quality Improvement model and the Learning Organization model. Although these models have many differences, they all require child welfare managers to engage in problem identification, problem analysis, identification of solutions, solution planning, implementation, and evaluation.

The authors appear to offer the greatest support for the Learning Organization model. This more flexible model focuses on the integration of managerial and staff training, service delivery, and program evaluation, and its strengths include shared accountability, high levels of communication, and minimal power differentials between staff and managers.

The authors also identify factors that can affect an agency's success in adopting such experimental models. The primary categories, each with several subcategories, include the external environment, organizational structure, informal organization, and staff characteristics.

Although models of experimentation lack empirical research, the authors suggest that they may still be useful tools to practice outcomes. The models allow managers to tailor interventions and services to meet the specific needs of the individual clients, client populations, and communities they serve. The authors also point out that transitioning to these models may be difficult; however, the benefits outweigh the costs. Much like the evidence-based social work practice model, these models of experimentation require that services be evaluated and adapted based upon the needs of clients and evidence of service success.

McBeath, B., Briggs, H .E., & Aisenberg, E. (2009). The role of child welfare managers in promoting agency performance through experimentation. *Children and Youth Services Review, 31*, 112–118.

Association of Emergency Room Visits and Child Maltreatment Reports

This article reviews a study conducted to determine the association between emergency room visits and child protection services (CPS) reports. Although diagnosis and awareness of child abuse in the medical field have increased, children's injuries are not always identified as maltreatment, particularly injuries related to neglect. Further, studies have suggested that information about previous injuries could help physicians better identify current injuries that may be a result of child maltreatment.

This study examined children's visits to the emergency room for injuries and matched the data to child protective services records. The study included records from all nonfederal emergency departments in one state and all CPS cases for the same state. The study criteria limited inclusion to children who were under the age of 5 during a one-year period. The researchers excluded many types of injuries that were not likely to be related to child maltreatment. This resulted in a total sample of 50,068 children and 56,364 injury visits. Using logistic regression models, the researchers analyzed and controlled for race, gender, age, and number of emergency room visits.

Study results indicated that the relative risk of a child being reported to CPS after two or more visits to the emergency room in one year increased from 1.9 to 3.8 for four visits. A similar pattern was noted with substantiated reports as well. The relative risk of substantiation for a child with two visits in one year was 2.5, and for a child with four visits in one year, 4.7. The study also found that children under 1 year of age and children with public sources of insurance were more likely to have a maltreatment report.

The authors make several recommendations for the improved identification of child maltreatment in emergency rooms. They suggest consideration of injury history when making a diagnosis, and improved data tracking so physicians can access records about previous emergency room visits. They also encourage emergency room physicians to offer supervision guidelines to parents if an injury appears to be a result of lack of supervision, and to consider referring a family to social services, to a family support agency, or to CPS. They also urge physicians to consider lack of supervision and neglect as possible causes of injury when children have had multiple visits to the emergency room and the possibility of inflicted injury has been ruled out.

Spivey, M. I., Schnitzer, P. G., Kruse, R. L., Slusher, P., & Jaffe, D. M. (2009). Association of injury visits in children and child maltreatment reports. *The Journal of Emergency Medicine*, *36*(2), 207–214.

Thomas L. Birch, JD
National Child Abuse Coalition

Health Care Reform Tops the Agenda in Congress

House and Senate Democratic leaders hope to deliver a health care reform bill to President Obama before the end of the year. By mid-October, the Senate Finance Committee was the last of five congressional committees to draft its version of the health care legislation. The bill proposed by committee chair Sen. Max Baucus (D-MT) includes, as expected, provisions for a program of home visitation grants. As drafted, the bill would add a new section to the Maternal and Child Health Block Grant program—Title V of the Social Security Act—for grants to states to use in support of evidence-based program models for early childhood home visitation.

The Baucus health care measure would appropriate $1.5 billion over 5 years for the home visitation grants program. A portion of the funds (25%) could be used to fund promising new program models that would be rigorously evaluated. As a condition for receiving the MCH block grant, states would be required to conduct a needs assessment to identify communities that are at risk for poor maternal and child health and have few quality home visitation programs.

The Senate's proposal would establish priority for services to families who are determined to be at risk by needs assessment and other indicators, including low income, young maternal age, and involvement with child welfare. The funded home visitation programs would be targeted to make improvements in prenatal, maternal, and newborn health; child health and development; parenting skills; school readiness; juvenile delinquency; and family economic self-sufficiency.

Among other amendments affecting the health of children was one offered by Senator Jay Rockefeller (D-WV)—and accepted by the Finance Committee—to extend the statutory authority for the Children's Health Insurance Program (CHIP) through 2019. This program is otherwise set to expire in 2013 under provisions in the Baucus version of the health care draft bill. Rockefeller's amendment would also extend CHIP coverage to families earning up to 300% of the poverty level and to simplify the enrollment process for families seeking CHIP coverage.

Rockefeller had objected to moving children covered by CHIP into a proposed new government-regulated insurance exchange fearing that benefits would be reduced. In explaining his amendment, Rockefeller claimed his proposal would save $25 billion because children would otherwise have needed subsidies to buy insurance in the exchange.

In July, the Senate Committee on Health, Education, Labor and Pensions (HELP) voted out its version of the Affordable Health Choices Act, as did the three committees in the House responsible for drafting their version of the health care bill—H.R. 3200, America's Affordable Health Choices Act. Before taking health care reform to the floor for votes, the House leadership must craft a single bill from the three drafts approved by the Ways and Means Committee, the Education and Labor Committee, and the Energy and Commerce Committee. The Majority Leader in the Senate must do the same with the two bills developed by the HELP and Finance Committees.

Provisions in the bill from the House Ways and Means Committee authorize $750 million over 5 years in mandatory spending to support states in the establishment and expansion of voluntary home visitation for families with young children and families expecting children. The measure in the House health care legislation is almost identical to provisions in the Early Support for Families Act, H.R. 2667, introduced in June by Reps. Jim McDermott (D-WA), Danny Davis (D-IL), and Todd Platts (R-PA).

The home visiting proposal also follows the outlines of the Obama administration's budget initiative to create a program of mandated funding for grants to states for home visitation services to low-income families. The funding is authorized through Title IV of the Social Security Act, which is administered by the HHS Children's Bureau to fund a variety of child welfare services.

In addition to the provision in the bill to establish entitlement funding for home visiting programs, the health care measure in the House includes a separate provision giving states the option to offer Medicaid coverage for nurse home visitation services to families with a first-time pregnant woman or a child less than 2 years of age.

The initiative to create a new federal program to fund home visitation services gathered momentum with President Obama's fiscal year 2010 budget proposal in May. Congress was asked to approve legislation creating a program of mandated funding for grants to states for home visitation services to low-income families. At a White House briefing in May, the President's domestic policy staff suggested that the legislation to authorize the home visitation funding could be folded into a health care reform bill, because of the prevention focus of home visiting services.

Congress Moves on FY10 Funding

Before adjourning for the August recess, the House of Representatives had passed all 12 appropriations bills, and all but two had been approved by the Senate Appropriations Committee. The FY10 Labor-HHS-Education Appropriations measure, including funds for children and family programs, passed the House on July 24. The Senate committee voted on its version of the measure on July 30. With none of the bills enacted in final form by October 1, Congress passed a continuing resolution to buy more time for deliberations and to carry federal funding forward for another month.

With a few exceptions, the dollar outcome for 2010 appears much the same as the current year's funding. Head Start's budget would grow by 17%, allowing Head Start to serve approximately 978,000 children in fiscal year 2010 and maintaining the 69,000 increase in children served as a result of funding injected into the program by the stimulus package enacted earlier this year.

Cont'd on page 26

Both the House and Senate bills would provide $20 million in new spending requested by the Obama administration to fund innovative strategies that improve outcomes for children in long-term foster care. The new initiative would increase the budget for child welfare training from $7.2 million to $27.2 million for grants to identify and implement evidence-based approaches to increasing permanent placements for children.

The National Center for Injury Prevention and Control (NCIPC) in the Centers for Disease Prevention and Control (CDC) is marked for additional funding in both the House and Senate bills. They propose a $3.3 million increase to $148.615 million, the funding level requested in the President's budget. The Senate bill specifically refers to the child maltreatment activities supported by NCIPC, noting the serious impact of adverse childhood experiences on lifelong physical and mental health. It also encourages the CDC to consider developing a network of researchers and research institutions to foster research, training, and dissemination of best practices on the prevention, detection, diagnosis, and treatment of child abuse and neglect.

With the exception of these and a handful of other initiatives, the Obama administration's 2010 budget proposes very few changes from the 2009 spending levels in child welfare programs and services to children and families. In the House and Senate appropriations bills, funds for the three Child Abuse Prevention and Treatment Act (CAPTA) grant programs remain unchanged. Thus, the President's 2010 budget requests state grants for child protective services at $26.5 million, community-based prevention grants at $41.7 million, and discretionary grants at $41 million.

© Andrei Contiu/Dreamstimes.com

The CAPTA discretionary grants include $13.5 million for the third year of competitive funds to evidence-based home visitation models. In response to the President's budget proposal for mandated funding to states for home visitation programs, the House Appropriations Committee's report expresses strong support for home visitation and the intention to continue to fund the CAPTA grants for home visitation.

Both the House and the Senate appropriations bills include some million plus dollars of CAPTA's discretionary competitive grants earmarked for a handful of projects. The local programs tagged for the funds in five states include prevention services, a national parent helpline, relief nurseries, parent education, and services to abused and neglected children.

In addition to level funding in the two bills for the CAPTA program grants, funds would be frozen at 2009 budget levels for the Title XX Social Services Block Grant, Title IV-B(1) child welfare services, Title IV-B(2) Promoting Safe and Stable Families grants, the Child Care and Development Block Grants, independent living grants for older youth leaving foster care, Community Services Block Grants, and the Adoption Opportunities program.

Two signature programs initiated by the Bush administration—the Compassion Capital Fund and Abstinence Education—receive short shrift in the 2010 budget bills. The House and Senate went along with the Obama administration's request to eliminate funding for the Compassion Capital program, a vehicle for grants funded at $47.688 million in 2009 to support community-based social services. The Senate committee report explains that the program "lacks accountability and adequate performance measures."

HHS Report Says National Registry Not Feasible

A proposal to establish a national child abuse registry presents substantial challenges, according to a report released by the Department of Health and Human Services (HHS) Office of the Assistant Secretary for Planning and Evaluation (ASPE). The interim report on the feasibility of a national child abuse registry responds to provisions proposed by Sen. Jon Kyl (R-AZ) in the Adam Walsh Child Protection and Safety Act passed by Congress in 2006. The Adam Walsh bill also required HHS to conduct a feasibility study, proposed by the National Child Abuse Coalition, before setting up the registry required by the Kyl amendment. The law's study provisions require HHS to assess the costs and benefits of a national child abuse registry, to recommend a due process procedure for the registry, and to provide standards for the data to be included in a registry.

Such a registry could serve as an aid in the investigation of abuse or neglect allegations in families who may have been the subject of a child maltreatment report in another state, since a family's past conduct could represent a factor helpful in assessing a child's safety. HHS found that some 40–45 states operate child abuse registries, with a varying range of information, to enable a state's local child protective services (CPS) agencies to share information about past maltreatment investigations. The registries are also used, typically and often more frequently, for screening applicants for employment or volunteer positions with children. No system exists for national

checks of child abuse histories, and state-to-state inquiries can be cumbersome and time-consuming.

The HHS report concludes that a registry as defined by the Adam Walsh statute is "not feasible" and could involve "substantial costs" to the state and local child protection systems it is meant to help. It also questions how much child safety would be improved through a national database of child abuse perpetrators even if the challenges were met in implementing a registry.

The HHS feasibility study draws the following conclusions:

- Potential benefits of a national child abuse registry are largely unknown, with no current data available to assess how a national registry might improve child safety.
- The implementation of a national child abuse registry would include the costs of establishing secure electronic systems to protect the data from unauthorized use, and of addressing procedural weaknesses in some state and local CPS systems to assure the accuracy and reliability of the national registry's information.
- Without incentives to states for participation in a voluntary national registry, the data could be incomplete and of little practical value.
- The requirement in the Adam Walsh Act to limit identifying information to the name of the perpetrator would need to be changed before a national registry could be implemented. Additional identifying information would be required, and even then "high false positive and false negative rates must be anticipated."
- Clarification is needed on whether Congress intends for a national registry to be used only for CPS inquiries or also for child abuse history checks related to employment and licensing purposes. Decisions must be made on how to maintain restricted access and validate the identities of legitimate users of the registry.
- Minimum due process protections must be certifiably available to the perpetrator whose information is submitted to the national registry. Key due process issues include the following: (1) the level of evidence used to make substantiation decisions; (2) whether individuals must be notified of their inclusion and the implications of being listed in the registry; (3) and the strength of the hearing or appeal procedures in place at the local level through which substantiation decisions may be challenged.

HHS notes that a requirement for strong due process protections could mean significant changes to existing CPS investigation processes in some states. The changes could be costly to implement and might discourage participation in a national registry. The report asserts that there can be no federal substitute for procedural protections at the state and local level, and that HHS is not prepared to recommend the specific due process protections a national registry would require.

In the FY09 appropriations bill for HHS, Congress allocated $500,000 from discretionary spending for the Child Abuse Prevention and Treatment Act (CAPTA) activities for continuation of the feasibility work, which is underway. A final report, to be sent to Congress when findings are available, will address unresolved issues in the feasibility of establishing a national child abuse registry and assess the potential benefits of such a registry.

HHS has already identified issues that have been the subject of legal challenges to state child abuse registries. Issues that could not be resolved in the initial assessment and are to be addressed in the next phase of the study include the following:

- An effort to determine how frequently child maltreatment perpetrators offend in multiple states. The lack of this information prevented HHS from assessing the potential benefits of a national child abuse registry.
- A review of the data systems comprising state child maltreatment registries, with a view toward identifying data standards for a national child abuse registry.
- An assessment of the interest of states in participating in a national child abuse registry, including an understanding of factors hindering participation.

About the Author

Since 1981, Thomas Birch, JD, has served as legislative counsel in Washington, D.C., to a variety of nonprofit organizations, including the National Child Abuse Coalition, designing advocacy programs, directing advocacy efforts to influence congressional action, and advising state and local groups in advocacy and lobbying strategies. Birch has authored numerous articles on legislative advocacy and topics of public policy, particularly in his area of specialization in child welfare, human services, and cultural affairs.

MESSAGE FROM THE PRESIDENT

Dear Colleagues:
As I wind down my term as President of APSAC, I wanted to take an opportunity to share a few thoughts with you. It has been my privilege to serve as your President for the past two years, and I'm proud to report that the state of the organization is excellent. Our membership is stable and showing signs of increasing despite the economic climate; our clinics and institutes have continued to perform well and we are receiving more and more requests to provide training and support on a regional basis. Our Colloquium in Atlanta received some of the best evaluations that we've ever had, and we're looking forward to an even more successful Colloquium in New Orleans June 20–23.

Some examples of activities other than the Colloquiums include APSAC's support of regional conferences in Ohio and North Carolina and a "mini-clinic" for the Children's Advocacy Center Network in New Hampshire. Forensic Interview clinics are being scheduled in Florida, Virginia, and Washington State in 2010. The guidelines are being revised and brought up to date with current literature and research. Our neglect guidelines have been well received by our members and professional partners. And in the near future, the investigative interviewing guidelines will be sent out for review.

We have a tremendous number of activities under way; one of the most important has been given to the Long Range Planning Committee. They've been tasked to review our strategic plan and explore updating the organization's mission, vision, and values. As a direct result of this work, the Board worked together to revise our existing mission and vision statements, which we've posted on our vastly improved Web site (www.apsac.org).

> *The American Professional Society on the Abuse of Children is the leading national organization supporting professionals who serve children and families affected by child maltreatment and violence. As a multidisciplinary group of professions, APSAC achieves its mission in a number of ways, most notably through expert training and educational activities, policy leadership and collaboration, and consultation that emphasizes theoretically sound, evidence-based principles.*
>
> *Our Vision: APSAC envisions a world where all maltreated or at-risk children and their families have access to the highest level of professional commitment and service.*

I'd like to recognize Drs. Ron Hughes, Jon Conte, and Viola Vaughan-Eden for their leadership and vision in directing and guiding this project on behalf of APSAC, along with the contributions of the members of their committee. In addition, APSAC has been working with the Executive Services Corps (ESC), led by Mr. Tom Read and other volunteer consultants. The ESC utilizes executives and professionals who have had senior-level experience in business, government, or nonprofits. Their volunteers are motivated by a desire to "give back" their time, knowledge, and experience to communities. These men and women are committed to strengthening the management of nonprofit agencies in order to build the capacity of these organizations to effectively achieve their missions. ESC consultants have been instrumental in helping us redefine our mission and vision statements. I owe them a debt of gratitude for helping us to keep this project on task and moving forward.

I hope you've been able to review the mission statement, as well as to enjoy the updated features in the member section of the APSAC Web site. Strategically, the Board is considering how APSAC can modify and enhance its services to members. We have worked closely with our operations managers to implement budget efficiencies and to improve our management practices, which, in turn, have allowed us to hold the line on our dues structure and the cost of our publications. We still have a lot of work to do, which is reflected in the additional strategies still under consideration. These include, but are not limited to, the following:

- Ensuring that APSAC is the leading organization in the field of child maltreatment
- Increasing APSAC's capacity to provide educational and consultative services to larger, more diverse populations of child maltreatment professionals
- Increasing the effectiveness and performance of the Board of Directors
- Clarifying and publishing roles, responsibilities, and expectations for the APSAC Board
- Promoting the development of current Board members and the recruitment of new Board members
- Improving the continuity of our operational planning
- Conducting regular evaluations of Board effectiveness in meeting strategic and operational goals and objectives
- Increasing the effectiveness and efficiency of APSAC operations
- Improving APSAC's financial status

This list is by no means comprehensive, and there will be many objectives, activities, and action steps required to successfully implement these ideas. Once fully thought through by the Board, they will be shared with the membership by posting them on the Web site. I'm excited about the direction we're taking, and I encourage you to communicate your ideas to your Board representatives. APSAC is successful because of the commitment and contributions of its members. I look forward to hearing your thoughts and seeing your ideas reflected in the future of this organization.

As I started in this letter, it has been my privilege to serve you on the Board of Directors and as your President. I look forward to my continued involvement on the Board as I pass the reins to incoming President Dr. Ron Hughes. Ron is filled with energy and enthusiasm for the future of APSAC and has shared his ambitious agenda for continuing the growth and professional development of our organization. I encourage you to chat with him or write him and share your thoughts and ideas. I know that Ron will value and incorporate your input. Also, I'd like to offer my personal thanks to the State Chapter Presidents and our Board liaison, Kathy Johnson, for their commitments to APSAC and the work that they do in their communities to make life better for the children we serve. I recognize that my term as President has been successful, in large part, because of the support and quality effort that I've received from all the members of the Board of Directors who have served during my tenure. Their strength and commitment have helped APSAC prosper.

I believe we are poised for a period of positive growth and development, resulting in an improved and increasingly diverse membership, better communication, a more efficient, active Board, and enhanced member benefits. I'm excited about working with the Board and our members to make our strategic ideas a reality. The steps we've taken in the past are reflected in APSAC's current stability and ability to make significant contributions to the field of child maltreatment, and the future holds unlimited potential for our organization.

Thank you for all your ideas, constructive criticisms, and support over the past two years. I have grown and learned from you and will miss the daily interactions and communications I had with our members. I hope you will feel free to continue to communicate with me as Past President and Board member because I value what you contribute to this organization.

Finally, New Orleans is going to be the best Colloquium ever. Make your reservations and travel plans now - and I look forward to seeing ya'll there.

Michael Haney, PhD
APSAC President

Awards Presented at APSAC's 17th Annual Colloquium

During its Annual Colloquium in Atlanta, Georgia, the American Professional Society on the Abuse of Children recognized outstanding service and commitment by child maltreatment professionals and APSAC members. The following awards were presented during the Friedrich Memorial Lecture, Membership Luncheon, and Awards Ceremony on June 19, 2009.

Judy Donlin, Editorial Assistant, the *Child Maltreatment* Journal
Outstanding Service Award

Recognizes a member who has made substantial contributions to APSAC through leadership and service to the society

Judith S. Rycus, PhD, MSW, Program Director, Institute for Human Service/North American Resource Center for Child Welfare; Associate Editor, *APSAC Advisor*
Outstanding Professional Award

Recognizes a member who has made outstanding contributions to the field of child maltreatment and the advancement of APSAC's goals.

Esther Deblinger, PhD, Clinical Psychologist, University of Medicine and Dentistry of New Jersey; researcher, and co-developer of Trauma-Focused Cognitive Behavioral Therapy
Outstanding Research Career Achievement

Recognizes an APSAC member who has made repeated, significant, and outstanding contributions to research on child maltreatment over her or his career

Stephanie Halter, PhD, University of New Hampshire
Outstanding Doctoral Dissertation

Recognizes an individual whose dissertation has the greatest potential for making a significant contribution to the child maltreatment theoretical and applied knowledge base.

Oprah Winfrey/Harpo Productions, Inc.
Outstanding Media Coverage

Recognizes a reporter or team of reporters in newsprint or broadcast journalism whose coverage of child maltreatment issues shows exceptional knowledge, insight, and sensitivity.

Joseph Price, PhD, Professor of Psychology, San Diego State University
Outstanding Article in the* Child Maltreatment *Journal
Effects of Foster Parent Training Intervention on Placement Changes of Children in Foster Care (2008). *Child Maltreatment, 13*(1), 64–75.

Recognizes the outstanding article published during the preceding year in the *Child Maltreatment* journal.

Katherine J. Melhorn, MD, Associate Clinical Professor of Pediatrics, University of Kansas
Outstanding Front Line Professional

Recognizes a front-line professional (child protection, law enforcement, mental health, or medical professional) who demonstrates extraordinary dedication and skill in direct care efforts on behalf of children and families.

Elizabeth Letourneau, PhD, Associate Professor; **Jason Chapman, PhD**, Assistant Professor, and **Sonja Schoenwald, PhD,** Professor; Medical University of South Carolina
Outstanding Research Article
Treatment Outcome and Criminal Offending by Youth With Sexual Behavior Problems (2008), *Child Maltreatment, 13*(2), 145–166.

Recognizes the authors of a research article judged to be a significant advancement to the field of child maltreatment.

Bridging Refugee Youth and Children's Services (BRYCS)
Accepted by **Lyn Morland, MSW, MA**, Director and Senior Program Officer
Outstanding Service in the Advancement of Cultural Competency in Child Maltreatment Prevention and Intervention

Recognizes an individual, organization or agency that has made outstanding contributions to the advancement of cultural competency in child maltreatment prevention and intervention.

Thomas Lyon, JD, PhD, Professor of Law and Psychology, University of Southern California.
William Friedrich Memorial Award and Lecture

L-R: Judy Donlin, Joseph Price, Elizabeth Letourneau, Thomas Lyon, Judith Rycus, Stephanie Halter, Lyn Morland, Katherine Melhorn, and Esther Deblinger

APSAC 2010 Colloquium

APSAC's 18th Annual Colloquium will be held June 23–26 in New Orleans, Louisiana. Information on this event will be posted on the APSAC Web site this winter.

Cont'd on page 30

Mike Haney to Join Board of Prevent Child Abuse America

Mike Haney, PhD
APSAC President

Dr. Mike Haney, President of APSAC's Board of Directors, has been elected to the Board of Directors of Prevent Child Abuse America, a national organization tasked with providing leadership in building awareness, providing education, and inspiring hope in efforts to prevent the abuse and neglect of children. His day job is Director of the Division of Prevention and Intervention, Children's Medical Services, Florida Department of Health. Congratulations, Dr. Mike.

APSAC Offers Three Advanced Training Institutes in January

Three APSAC Advanced Training Institutes are being held in conjunction with the 24th Annual San Diego International Conference on Child and Family Maltreatment, Jan. 24–25, 2010. APSAC's Advanced Training Institutes offer in-depth training on selected topics. Taught by nationally recognized leaders in the field of child maltreatment, these seminars offer hands-on, skills-based training grounded in the latest empirical research. Participants are invited to take part by asking questions and providing examples from their own experience. The 2010 Institutes include the following:

APSAC Pre-Conference Institute #1:
Advanced Forensic Interviewing Techniques for Children: The Cognitive Interview and Beyond
Sunday, Jan. 24, 8 a.m.–Noon and 1–4 p.m., continuing on Monday, Jan. 25, 8 a.m.–Noon (Total of 12 Hours)
Julie Kenniston, Chris Ragsdale, Lynda Davies-Faroni, and *Michael Haney*

APSAC Pre-Conference Institute #2:
Advanced Sexual Abuse Evaluation for Medical Providers
Sunday, Jan. 24, 1–4 p.m., continuing on
Monday, Jan. 25, 8 a.m.–Noon (Total of 8 Hours)
Lori D. Frasier and *Suzanne Starling*

APSAC Pre-Conference Institute #3:
Medical Issues in Child Maltreatment for the Nonmedical Team Member
Monday, Jan. 25, 8 a.m.–Noon (Total of 4 Hours)
Rich Kaplan

Details and registration materials are available on the APSAC Web site under the Events & Meetings tab, Event List. When registering, please note that times and registration fees vary and that some Institute programs span a 2-day period of time.

APSAC members: Remember to login with your username and password to save time during registration.

Strategic Planning Continues—Board Will Review Plan at January Meeting

Working with Executive Service Corps of Chicago, Illinois, the APSAC Board of Directors continues to develop a comprehensive strategic plan for the organization (see *APSAC Advisor*, Spring 2009). The Board held a day-long planning session in June prior to the Colloquium. As a result, working groups were formed to focus on governance, membership, and programs and services.

The working groups have since met several times via conference call. The APSAC Board plans to review and adopt a final strategic plan in conjunction with its meeting this January in San Diego.

Forensic Interview Training Clinic Offered in March and July

APSAC is offering its Forensic Interview Training Clinics, focused on the needs of professionals responsible for conducting investigative interviews with children in suspected abuse cases. Interviewing alleged victims of child abuse has received intense scrutiny in recent years and increasingly requires specialized training and expertise.

This comprehensive clinic offers a unique opportunity to participate in an intensive 40-hour training experience and have personal interaction with leading experts in the field of child forensic interviewing. Developed by top national experts, APSAC's curriculum emphasizes state-of-the-art principles of forensically sound interviewing, including a balanced review of several models.

Training topics include the following:

- How investigative interviews differ from therapeutic interviews.
- Overview of various interview models and introduction to forensic interview methods and techniques.
- Child development considerations and linguistic issues.
- Cultural considerations in interviewing.
- Techniques for interviewing adolescents, reluctant children, and children with disabilities.
- Being an effective witness.

The 2010 Virginia Beach clinic is being held March 8–12, and the Seattle clinic takes place July 12–16. Details and registration are available on the Web site at www.apsac.org.

APSAC Advisor Library Expanded

The *APSAC Advisor Library*, powered by OmniPress, was recently expanded to include content dating back to 1990. This online resource provides members with direct access to the vast amount of knowledge that has been published in the association's quarterly news journal, the *APSAC Advisor*. Articles are provided in Adobe PDF format and are organized by year, issue, and title. Full search capability is provided.

The *APSAC Advisor Library* is exclusively available to APSAC members. Simply login with your username and password and visit the Members Only section for access.

CONFERENCE CALENDAR

November 19, 2009
WIPSAC "Lunch at Your Desk and Learn" Webinar
Featuring "Mothers, men, and Child Protective Services involvement" by Lawrence M. Berger, from *Child Maltreatment, 14*(3), August 2009. Discussion will be facilitated by the author. CLE credits applied for.
E-mail: rfreitag@mw.nccd-crc.org, or Visit: wipsac.org/events

December 17, 2009
WIPSAC "Lunch at Your Desk and Learn" Webinar
Featuring "Motivational interviewing and child welfare: What have we learned?" by Melinda Hohman and Lisa Salsbury, from *APSAC Advisor, 21*(2), Spring 2009. Discussion will be facilitated by Raelene Freitag.
CLE credits applied for.
E-mail: rfreitag@mw.nccd-crc.org. or Visit: wipsac.org/events

January 25–27, 2010
Child Welfare League of America
2010 National Conference
Washington, DC
Call: 703.412.2400,
or Visit: http://cwla.org/conferences/default.htm

January 25–29, 2010
San Diego International Conference on
Child and Family Maltreatment
San Diego, CA
Call: 858.966.4972. or E-mail: sdconference@rchsd.org,
or Visit: www.chadwickcenter.org

January 24–25, 2010
APSAC Advanced Training Institutes
San Diego, CA
Call: 877.402.7722, or E-mail: apsac@apsac.org,
or Visit: www.apsac.org

March 8–12, 2010
APSAC Child Forensic Interview Clinic
Virginia Beach, VA
Call: 877.402.7722, or E-mail: apsac@apsac.org,
or Visit: www.apsac.org

March 14–17, 2010
National Conference on Juvenile and Family Law
National Council of Juvenile and Family Court Judges
Las Vegas, NV
Call: 775.784.6012, or E-mail: dbarnette@ncjfcj.org,
or Visit: www.ncjfcj.org/content/view/1246/315/

March 17, 2010
6th Annual Conference on
Childhood Grief and Traumatic Loss
ICAN–NCFR
Pasadena, CA
Call: (323) 409-4292,
or Visit: http://ican-ncfr.org/documents
2010Griefsavethedate.pdf

March 22-25, 2010
26th National Symposium on Child Abuse
National Children's Advocacy Center
Huntsville, AL
Call: 256.327.3863, or E-mail: mgrundy@nationalcac.org,
or Visit: www.nationalcac.org

April 11–14, 2010
28th Annual NICWA "Protecting Our Children"
National American Indian Conference
on Child Abuse and Neglect
Portland, OR
Call: 503.222.4044, or E-mail: laurie@nicwa.org,
or Visit: www.nicwa.org/conference/

May 17–19, 2010
Prevent Child Abuse America National Conference
Changing the Way We Think About Prevention:
Making Children Our Priority
Jacksonville, FL
Call: 312.663.3520,
or E-mail: ajohnson@preventchildabuse.org,
or Visit: www.preventchildabuse.org/2010NC/index.html

June 22–25, 2010
2010 Conference on Protecting
Children and Supporting Families
American Humane Association
Burlington, VT
Call: 800.227.4645, or E-mail: anitah@americanhumane.org,
or Visit: www.americanhumane.org

June 23–24, 2010
Substance-Exposed Newborns:
Collaborative Approaches to a Complex Issue
National Abandoned Infants Assistance Resource Center
Alexandria, VA
Call: 510.643.7018
E-mail: jzrussell@berkeley.edu,
or Visit: http://aia.berkeley.edu/training/SEN2010

June 23–26, 2010
18th Annual APSAC National Colloquium
New Orleans, LA
Call: 877.402.7722, or E-mail: apsaccolloquium@charter.net,
or Visit: www.apsac.org

July 12–16, 2010
APSAC Child Forensic Interview Clinic
Seattle, WA
Call: 877.402.7722, or E-mail: apsac@apsac.org,
or Visit: www.apsac.org

September 26–29, 2010
ISPCAN International Congress
on Child Abuse and Neglect
Honolulu, HI
Call: 630.876.6913, or E-mail: congress2010@ispcan.org,
or Visit: www.ispcan.org/congress2010

APSAC ADVISOR

American Professional Society
on the Abuse of Children
350 Poplar Ave.
Elmhurst, IL 60126

APSAC Important Information

350 Poplar Avenue, Elmhurst, Illinois 60126
Toll free: 877.402.7722, and 630.941.1235
Fax: 630.359.4274 E-mail: apsac@apsac.org
Web site: www.apsac.org