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Perspectives of Americans and Canadians on the use and function of sex offender registries

Sandy Jung^{a,*}, Meredith Allison^b, Erin Martin^b

^a MacEwan University, Edmonton, AB, Canada

^b Elon University, Elon, NC, United States

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ABSTRACT

Sex offender registries (SORs) have been established in both Canada and the United States with the auspice of protecting the community from dangerous and violent sexual predators and have been generated as a response to community concerns. Yet, little is known about how community members perceive the function and use of these registries. The current study surveyed 207 student and 637 community participants from U.S and Canada. The results indicated that Americans were more in favor of the availability of SORs, were more accurate at identifying who should be placed on SORs, and were more aware of the registries than Canadians. Although students were less aware of SORs, they held more positive views of them than community members. Attitudinal measures were related to views of SORs, particularly attitudes toward sexual offenders. The findings suggest participants' views were commensurate with their respective countries' policies. Implications for public policy will be discussed.

1. Introduction

North American law enforcement agencies use registries to log and track sex offenders living in the community with the auspice of protecting the community from dangerous and violent sexual predators (Petrunik et al., 2008). Sex offender registries (SORs) exist in both the United States and Canada to monitor sex offenders (Burchfield and Mingus, 2008; Murphy et al., 2009b). However, the SOR in Canada is not accessible by the general public, whereas American states are required to post the name, photograph, addresses, and license plate number of registered sex offenders (Levenson et al., 2007). Despite differences between American and Canadian SORs, SORs, in general, are often predicated on the idea that sex offenders have an enduring disposition to offend and therefore should have their rights to privacy and freedom of movement severely limited in the interest of public safety (Zgoba, 2004). It is consequently believed that SORs will act both as a deterrent for the offender and as an investigative tool for the police (Petrunik et al., 2008). The implementation of SORs was mostly precipitated by the public response to media-reported sexual crimes. The present study examines the perspectives of the general public in the U.S. and Canada regarding the use and function of sex offender registries, specifically, their views of their own country's respective registries.

1.1. SORs in the U.S. and Canada

There are notable differences between SORs in the U.S. and in Canada. In 1994, the U.S. Congress passed the *Jacob Wetterling Crimes Against Children and Sexual Violent Offender Registration Act* that requires all states to develop systems of tracking convicted sex

* Corresponding author. MacEwan University, P.O. Box 1796, Edmonton, AB T5J 2P2, Canada.
E-mail address: sandy.jung@macewan.ca (S. Jung).

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offenders in the community. This was followed by the enactment of *Megan's Law* in 1996, which required that all states must make certain registration data publicly available. Thus community notification laws went into effect in the U.S. Replacing the *Wetterling Act*, the *Adam Walsh Child Sex Offender Registration and Notification Act* (2006) required that the dangerousness of offenders be ranked using a three-tier system, which would correspond to the length of their registration on the SOR (with those on the system for longer being labeled as more dangerous), and that DNA samples be collected from offenders. In the U.S., the sex offender registration and notification systems operate in all 50 states, the District of Columbia, and the U.S. territories and are publicly accessible (Ackerman et al., 2011). In 2003, the U.S. federal government required that every state establish and maintain Internet SORs as the primary means of community notification, and states that did not abide by this law would take the risk of losing federal funding for their programs (see White and Malesky, 2009).

Unlike the United States where each state has its own Criminal Code, Canada has a single Criminal Code that applies to all provinces and territories, and has a nation-wide SOR, National Sex Offender Registry (NSOR, *Sex Offender Information Registration Act*, 2004) that all of the Canadian police services utilize. Within the province of Ontario which has its own police service (i.e., Ontario Provincial Police), there was a separate Ontario Sex Offender Registry (OSOR, *Christopher's Law*, 2000) that was created and used by services in that particular province. Canada takes on a more cautious approach to legislative reform, and is more sensitive to the limits posed by the *Canadian Charter of Rights and Freedoms* (Petrunik et al., 2008). Neither of these registries provides information publicly, and both were implemented to assist law enforcement agencies in their investigations of sexual violence cases. Community notifications in Canada are not generated through the NSOR or OSOR but rather they are associated with release of high-risk offenders from a penal institution and often decided by law enforcement (see Murphy et al., 2009b).

1.2. Intentions behind the development of SORs

The impetus for developing SORs is often prompted by the public and their pressure on political and government officials to implement change. The perspectives of community members on the function of such registries and whether they believe SORs are beneficial in terms of public safety have mostly been examined in the U.S., whereas the empirical literature is scant in Canada.

SORs, along with community notification laws, have been described as community protection approaches or community-based management of sex offenders (see Murphy et al., 2009a, 2009b). It is important to examine where such policies are effective in preventing sexual violence. In a study by Prescott and Rockoff (2011), researchers found that registration may contribute to a reduction in sexual recidivism; however, community notification did not seem to have the same effect. Several other studies revealed similar negative outcomes with regards to notification laws. Ackerman et al. (2012) found *Megan's Law* did not decrease rates of rape in a national study of all 50 states, and a 10-year review of the SORs in 6 American states found that the sex offender notification laws did not have an effect on recidivism rates (Vasquez et al., 2008). Further, Schram and Milloy (1995) found sex offenders subject to notification did not recidivate at a significantly lower frequency than those not subject to notification. A study by Sandler et al. (2008) found no support for the effectiveness of registration and community notification laws in reducing sexual offending when they examined differences in sexual offense arrest rates before and after the enactment of the SOR in New York State. Also, it is notable that despite the importance placed on SORs, the information on these registries is not always accurate (Tewksbury, 2002). For example, offenders' addresses are not always updated and offences have been incorrectly stated for some offenders (Lobanov-Rostovsky and Harris, 2016). Most studies to date seem to conclude that SORs and community notification practices have little or no impact on the sexual offender's propensity to reoffend (for an opposing perspective, see research note by Bieri (2016)).

Despite the intended purposes of these laws, the benefits of their implementation in Canada and the U.S. is not well-supported by the existing empirical literature. This lack of support may be attributed to the well-documented negative impact on sex offenders when reintegrating into the community in that there are often unintended collateral consequences and emotional difficulties for the offenders. A study conducted in Florida revealed that sex offenders identified stress, fear, or shame associated with notification and over a third of offenders reported that notification led to negative events, such as the loss of a job or their home (Levenson and Cotter, 2005). Zevitz and Farkas (2000) reported that sex offenders in Wisconsin experienced negative consequences of their registration when trying to obtain housing and employment. Similar findings are mirrored in several studies, showing that registered male and female sex offender have experienced job loss, loss of friends and support persons, harassment, and residence relocation as a result of their registration on public SORs (e.g., Ackerman et al., 2013; Levenson et al., 2007; Mercado et al., 2008; Tewksbury, 2004, 2006). These reintegration problems are serious concerns because these difficulties are associated with an increased likelihood of recidivism (Hanson and Harris, 2000). These views are also held by mental health professionals who work with sex offenders (Malesky and Keim, 2001). Similarly, a survey of abuse survivors showed support SORs but there was acknowledgment that SORs create a false sense of security that may not actually impact risk or reporting of sexual abuse (Craun and Simmons, 2012). Thus, the registries may not fulfill their purpose, which is to protect the public and instead may increase the risk of reoffending. Unlike their American counterparts, only one study has been published that examined sex offender views of the Canadian registry, and it suggested that a majority of registered sex offenders find the non-public SOR in Canada to have little to no impact on their reintegration into the community (Murphy and Fedoroff, 2013).

If the SORs were developed to reduce sexual violence, then how are communities supposed to help with this? One would expect that public access to the SORs would provide those involved in child protection with additional tools to assist in their roles. However, a study that surveyed 123 child care providers in North Carolina does not seem to support this assumption. White and Malesky (2009) found that only 69.4% had access to the Internet and 37.9% accessed the registry for work purposes, questioning the utility of SORs, and suggesting SORs may be a "feel good" measure that is diverting resources from more effective programs to decrease the occurrence of sexual assault" (p. 682). Although primary prevention, sex offender treatment, and community justice initiatives (e.g.,

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