

# **WHEN IS COMMUNITY PROTECTION PUTTING THE COMMUNITY AT RISK? QUESTIONS ARISING FROM INTERNATIONAL COMMUNITY NOTIFICATION LAWS IN MANAGING SEX OFFENDERS IN THE COMMUNITY**

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**When is community protection putting the  
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## **Introduction**

Over the last 20 years there has been increasing interest and media coverage of offenders with a focus on the heinousness of the crimes. This has been true generally in regards to child sex offenders, and most specifically sexual murders. This high media coverage and community outcry has shown to be highly successful in promoting speedily developed and passed policies accepted as being designed to ensure no further similar offences of a similar nature happen. The idea of community notification of sex offenders first emerged in the United States in 1989, following a series of brutal rape and child molestation cases by men with long histories of prior convictions for sexual offences (Hinds & Daly, 2001; Matson, 2001).

In 1996, a twice convicted child sex offender was found to be guilty of the rape and murder of seven year old girl named Megan Kanka. The offender was living next door to the victim. The public reaction to this was understandably hostile and demanding of government action to ensure that no similar crimes of this nature would occur. In responding to this, the local Government created Megan's Law. This law has since been adopted by all 50 states in the USA required registered sex offenders to either notify their local community that they were living in the area or for the local residents to access information in regards to personal information of the offender. Throughout this paper, we will look at what Community Notification Laws (CNL) are and attempt to assess, from a clinical and community viewpoint as to whether they offer the protection to the community they purport to.

### **What are Community Notification Laws (CNL)?**

Community Notification Laws (CNL) authorise the public access of personal information of convicted sex offenders. There appears to be three tiers describing the levels of disclosure which are related to the risk of recidivism (Hinds & Daly, 2001). These are as follows:

Level 1 (Low Risk to Reoffend) – Limited Disclosure

- Restricted to law enforcement and victims family.

Level 2 (Medium Risk to Reoffend) – Selective Disclosure

- To schools, community organisations and day care centres etc.

Level 3 (High Risk to Reoffend) – General Disclosure

- Disclosure via press releases, newspapers, and direct mail to residents in the offenders community. Internet distribution of information also increasingly popular

An important question to arise out of this is to how risk measured and who decides that the risk identified is accurate? An offender being classified as high risk would lead to a significant impact on his life via pervasive levels of disclosure. This highlights the importance of the risk assessment in being robust, reliable and valid.

### **What are CNL designed to offer?**

Hinds & Daly (2001) describe CNL as claiming to provide.

- Greater inter-agency collaboration by law enforcement.
- Develop stronger bonds between law enforcement and members of the general community with greater contact in educating the public about sex offenders.
- Force previously reluctant sex offenders to participate in treatment programs: by their participation, sex offenders can avoid notification by demonstrating rehabilitation.
- Support the public to better able to protect themselves and their children, when they know a convicted sex offender resides in the neighbourhood.

### What countries currently employ CNL?

<b>USA</b>
<ul style="list-style-type: none"><li>▪ Washington State commenced implementation of CNL in 1990</li><li>▪ Megan's Law (1996)</li></ul>
<b>Canada</b>
<ul style="list-style-type: none"><li>▪ Introduced in some provinces through mid 1990's</li><li>▪ Generally limited disclosure</li></ul>
<b>UK</b>
<ul style="list-style-type: none"><li>▪ Currently no CNL</li><li>▪ Does have a sex offender register</li></ul>
<b>Australia</b>
<ul style="list-style-type: none"><li>▪ Legislated sex offender registers are active in Australia</li><li>▪ Currently no CNL</li></ul>

### Implications of CNL in a therapeutic context

One of the major claims of CNL being that they 'force' sex offenders to participate in treatment programs was examined by research conducted by Elbogen, Patry, and Scalora (2003). They specifically looked at the impact of CNL on sex offenders' perceptions of treatment. Some of the results were as follows.

- 72% → strong incentive not to reoffend
- 56% → increased willingness to be treated for offending
- 54% → positive impact on their motivation to be treated

There were, however, issues with the research. For example, the sample used did not contain a significant number of offenders who refused treatment (Elbogen, Patry, & Scalora, 2003, p.214). Secondly, the participants recruited were from a Forensic Mental Health Service that provides treatment and evaluation for those found Not Responsible by Reason of Insanity. Finally, they identified the issue of social desirability as participants may attempt to present favourably for secondary gains such as early release from prison. Clearly, follow-up studies are necessary to garner further information on recidivism rates, relocation patterns, treatment involvement, and reunification with family.

There have been other clinical questions arisen from the implementation of the CNL. Firstly, there is the effect on a person who identifies issues regarding potential sexual offending and may be seeking treatment voluntarily. For example, The Centre for Sex

Offender Management (1997) reported that around the time of that media had heightened their focus on CNL, program operators observed a significant drop in self referrals, that may suggest the likelihood of public exposure deterring offenders from seeking treatment.

Staff who work with sexual offenders transitioning from prison to the community would be well aware that gaining appropriate supports, such as employment, stable accommodation and social outlets is imperative to their reintegration and in managing their risk level and already very difficult to undertake. The implementation of the CNL potentially reduces the capacity for sex offenders to prepare for reintegration into society. The advent of CNL in some jurisdictions and the associated fear of identification have compelled some offenders to go underground and away from community supports they may already have established or tried to establish, which may in effect increase their risk of reoffending (Hinds & Daly, 2001). Compounding this further is the issue that some property owners refuse to rent properties to sex offenders because of pressure from neighbours or tenants, and employers have discriminated against them due to criminal records or community pressure. These are seen as important factors that contribute to the recidivism of offenders (Prentky, 1996).

Clearly, it can be seen that with offenders with already low levels of positive supports, the added stress and pressure of a hostile and rejectionist community fails to adequately curb reoffending and as such community notification has a paradoxical effect

### **Implications of CNL in a community context**

Although the underlying presumption of CNL is the enhancement of public safety, what may result is a false sense of security. In reality, there are a significant number of sexual offenders who do not come into contact with the Criminal Justice System as approximately 90% of victims aged fifteen and over fail to report incidents of sexual assault and 69% of those offenders reported to police are cleared (Canadian Centre for Justice Statistics, 1995, p.7).

Furthermore, a common misconception held by the community is that sex offenders are primarily strangers, which is most likely due to the media's selective description of sexual offending and the resulting community hysteria reinforcing this. Some research studies more clearly clarify the extent of sexual offending, reporting that approximately 66% of sexual assaults occur at home or by a person that is known to the victim, where 23% involve a stranger perpetrator, in addition to the rates of child victims abused by a stranger perpetrator is reported to be even lower (Hinds and Daly, 2001; John Howard Society of Alberta, 1997; Matson, 2001).

Mc Keen (2001) identified that knowing that a family member and possibly the family as a whole could experience being identified and “ a marking for life” may dissuade victims of sexual abuse that occur at home from reporting.

There is a general assumption made that members of the community will remain within the framework of the law (Prentky, 1996). This is to say that the community will not become involved with vigilante styled attacks on the known sex offenders and their residences. Some U.S. states reported an increase in instances of vigilantism and harassment arising from CNL, as has media reports in Australia (Hinds & Daly, 2001; Matson, 2001)

There has been anecdotal evidence described by the John Howard Society of Alberta, (1997). Here it is suggested that CNL has resulted in the following

- increased plea-bargaining to lesser charges (eg. assault) that do not require community notification or mandate treatment
- lack of offender compliance with registration requirements,
- a decrease in reporting of incest cases,
- and a decrease in charging juveniles with sexual abuse by child protective agencies to avoid subjecting children and adolescents to the scrutiny of public notification

## **Conclusion**

In general, it can be seen that there is very little literature available that explores the effectiveness of CNL in meeting the claims they make. In addition, there is little research available that explores the implications of CNL in both the therapeutic and community contexts. Implementation of any CNL should take into account for the issues identified, including the need for a careful balance between a police state and the risk of citizen vigilantism. Overall, research to date on the relationship between CNL and any reduced risk of sexual offending or increased community safety is lacking, and so should be the focus of future studies to come (Matson, 2001).

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