

Proper Risk Assessment will PROMOTE Public Safety

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The following narrative explains the purposes of a risk-based classification system for registered sex offenders and how a classification by risk may differ from a categorical classification. Further, it addresses some assumptions frequently made by critics of risk assessment.

Risk-based classification should not be considered contradictory to the use of broad categorical definitions created by current public policy for the purpose of creating minimal standards for registration requirements and notification; rather, it should be endorsed as an enhancement focused on promoting greater identification, monitoring and community notification of the most high risk sex offenders by law enforcement.

Proper risk assessment is paramount to ensuring public safety by allocating sufficient resources toward the enhanced monitoring and enforcement that is required by law enforcement and other criminal justice partners. It is not realistic to believe that adequate monitoring is possible for all registered sex offenders. This is evidenced by the unacceptable high percentage of sex offenders who are required to register, but whose whereabouts are currently “unknown”.

Responsible risk classification does not weaken the registry or notification procedures; rather, it would

- Identify sex offenders who pose the greatest danger to the American public;

- Enhance surveillance, tracking and accountability of sex offenders;

- Consider offenders’ backgrounds, criminal history, crime cycle, potential victims; and

- Be flexible to take into consideration dynamic risk factors that may elevate risk and require increased intervention and monitoring.

Further, it is possible that risk classification could be designed to

- Motivate sex offenders to voluntarily submit to continued sex offender treatment and monitoring in an effort to demonstrate to law enforcement through verifiable means the presence or absence of high risk behaviors (a possible deterrence to further criminal behavior); and

- Minimize negative unintended consequences—particularly those to the victims and their families.

It is unfair and unjust to force the American people to make an uninformed determination about the risks posed by sex offenders. All sex offenders pose a level of threat to the community and therefore should be subject to monitoring and exposure; however, not all are predatory.

It is not reasonable to expect the public to determine the risk posed by a sex offender anymore than it is to expect citizens to determine their own risk of cardiovascular disease or cancer. We leave the latter jobs to the professionals, and it is up to the individuals to decide what to do about it.

Not every sex offender should be considered high risk, an implication that takes into account the importance of individual differences in the offenders and the variation in the risk they pose in a given community. Just how is

the community to decide on the risk posed? For example, using a medical analogy, one may suggest that everyone with any form of cardiovascular disease should be treated as if they have the same high risk of heart attack. This is ludicrous on the face of it and dangerous in practice. Some sex offenders can be safely managed in the community (most often with the help of the “Containment Model”, supervision, treatment and monitoring), and some cannot. Again, how to separate the former from the latter if not with standardized risk tools, of which there are several that are well-validated. The situation is not much different from the assessment of risk for recidivism and violence among offenders in general. Many state jurisdictions already use such procedures. With respect to sex offenders, they also use risk assessments to help determine which of them is to be civilly committed as a sexually violent predator (SVP).

Risk assessment tools can provide vital information to assist law enforcement in making critical decisions about the best strategies to manage sex offenders, which should also include proactive community education that extends beyond broad dissemination through the Internet in neighborhoods where high risk offenders reside. Previous arguments made against risk classifications for registered sex offenders are based upon many unfounded assumptions:

Assumes risk will be narrowly defined;

Assumes use of offender self report;

Assumes a three tiered system;

Assumes purpose is to reduce accountability, rather than to provide improved protections;

Assumes that the use of risk assessment will be an effort to expand a category of low risk offenders and then possibly excuse them from their registration/notification requirements. (Risk assessments are not designed to excuse sex offenders or to identify only those at low to medium risk. They also identify those at high risk, and it is up to the criminal justice system (CJS) and community stake holders to decide on the level of risk they are willing to tolerate. A system might decide that even "medium" risk is unacceptable.) Any statement that such assessments are designed to favor the offender at the expense of society is ill-considered and contrary to the real purpose of such assessments: to provide as objective and useful an evaluation of the risk posed as is currently possible.

Ultimately, the task force may recommend a risk classification as an internal component of law enforcement/criminal justice; thus, not contradicting the categorical structure currently supported. An example of how things might work is provided by I-SPIN (Integrated Sexual Predator Intelligence Network) jointly developed and operated by the prison service and law enforcement, in this case, the Behavioral Sciences group of the Royal Canadian Mounted Police (RCMP). The aim is to identify high risk sex offenders and to put in place community and monitoring procedures that will ensure that their risk can be managed and that if they reoffend even in minor ways they will be apprehended. Variants of this procedure are being adopted in jurisdictions in several countries.

More information, not less, is key to public safety efforts related to sex offenders. While some criminal charges on their face tell us an offender is a *prima facie* danger to the community, too often offenders with relatively minor offenses exhibit dangerous characteristics and behaviors, which if undocumented and unchecked, lead to increased community risks. Risk assessment tools are a key weapon in the public safety arsenal. Used properly, they provide critical information to criminal justice providers and to the public.

The adoption of risk assessment systems offer valuable offender behavior information to public safety officials. With proper public safety collaborations in place, this will ideally assist in stopping criminal behavior through immediate intervention. For example, a first-time indecent exposure offender in California, under misdemeanor court probation, was ordered to complete sex offender counseling which included a risk assessment. The assessment noted multiple risk factors far beyond what the crime suggested. Periodic polygraphs were imposed by the treatment provider because of those now, well known high risk factors. During a polygraph, the offender admitted current behaviors including stalking toddler females in public places, sexually fantasizing about them, and watching for opportunities to abduct the children. Alerted to this, law enforcement and the courts immediately imposed stringent formal probation supervision and periodic court reviews. The District Attorney's Office, probation officer and treatment provider are working hand-in-hand to insure community safety. Without this assessment information, this offender presents as a "minor sex offender" generally falling into a lesser category of scrutiny.

Registration and notification procedures within the criminal justice system will be greatly enhanced with this additional offender information. Rather than depend solely on the level of the crime to gauge a community danger, this bill seeks to provide more detailed information on the behavior, thinking and habits of the offender to allow for better judgments by law enforcement when determining community dangers, and ultimately greater public access to offender information.

Risk based classification maximizes the available protections offered to the public.

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