# Risk & redemption:

## Does social science support the assumption of lifelong risk for sexually violent predators?

*By Aaron J. Kivisto, Ph.D., HSPP*

Speaking to the NAACP on July 14, 2015, President Obama argued strongly for criminal justice reform. Appealing to "the Christian tradition that says none of us is without sin and all of us need redemption," he concluded, "justice and redemption go hand in hand." In recent years, however, concerns about convicted offenders' genuine opportunities for redemption in the criminal justice system have grown. Documenting barriers to redemption, the ABA Criminal Justice Section, with the financial support of the National Institute of Justice, developed the National Inventory of Collateral Consequences for Conviction (NICCC) to track laws and rules across the United States that restrict opportunities due to prior criminal convictions. Based on NICCC data, there are currently more than 47,000 such laws and rules, with approximately 790 in Indiana alone. These include 131 distinct restrictions stemming solely from convictions for sex offenses, making individuals convicted of these crimes uniquely vulnerable to these consequences. In an effort to address the growing concerns regarding collateral consequences, the National Association of Criminal Defense Lawyers (NACDL) established the Task Force on Restoration of Rights & Status After Conviction, resulting in the 2012 report, *Collateral Damage: America's Failure to Forgive or Forget in the War on Crime – A Roadmap to Restore Rights & Status After Arrest or Conviction*. Among the 10 recommendations offered in this report, the task force emphasized the importance of defense attorneys appreciating their integral role in helping clients avoid, mitigate and relieve collateral consequences.

This article addresses a basic question – do lifetime sex offender registration laws, which arguably present the single greatest barrier to redemption faced by sex offenders, serve the public safety function intended by their creators? To this end, sex offender registration and management laws are examined through the lens of redemption. The growing influence of distinctly non-redemptive mandates for lifetime classification, as promulgated under the federal Sex Offender Registration & Notification Act (SORNA), is reviewed and critiqued on empirical grounds. Next, the intended and unintended consequences of sex offender registration are briefly reviewed. The courts' reluctance to offer a statistically anchored definition of how much risk is sufficient to deem a convicted sex offender "likely" to recidivate is considered in the context of recent criminological contributions toward a scientifically informed approach to understanding redemption in offender populations. Finally, the practical implications of the social scientific research aimed at the quantification of redemption are considered for attorneys attempting to help their clients avoid, mitigate and relieve the collateral consequences imposed by sex offender registration laws.

### Sex offender registration laws

The 1990s saw the rapid development of sex offender registration laws at the state level, often in response to widely publicized cases involving child victims of sexual homicide committed by known sex offenders. In Indiana, the impetus was the 1993 case of Zachary Snider, a 10-year-old boy from Cloverdale, Ind., who was sexually assaulted and killed by his neighbor. Zachary's Law was introduced, requiring certain sex offenders to register for a period of 10 years.

The patchwork of registration laws that sprang up across the United States, which came to be known collectively as Megan's Laws – New Jersey's legislation named in honor of 7-year-old victim Megan Kanka – generally varied along three key dimensions: (1) the extent to which registrants were distinguished, (2) the criteria used for arriving at different classifications, and (3) the systems and processes guiding classification.[1] First, regarding the extent to which registrants were distinguished, states ranged from making no meaningful distinctions to distinguishing between two or three key categories based on offenders' perceived risk to public safety. Second, these classifications were broadly based on either offense-based or risk-assessment criteria, with some states using one or the other and several adopting hybrid criteria. Finally, regarding the processes that inform classification decisions, states adopting purely offense-based criteria have tended to utilize relatively simple, mechanistic administrative tools, whereas risk-based classification systems require additional resources to provide, most typically, actuarial risk assessment and sometimes clinical assessment.[2]

In an attempt to bring uniformity to states' variegated registration laws, the federal Sex Offender Registration & Notification Act (SORNA) was introduced in 2006 as part of the Adam Walsh Child Protection & Safety Act.[3] States' rights to determine the extent to which registrants are distinguished and the criteria for doing so were sharply curtailed under SORNA. At the core of SORNA legislation was a uniform, purely offense-based, three-tier classification system. Tier 1 registrants were

mandated to 15-year registration, Tier 2 registrants to 25-year registration, and Tier 3 registrants mandated to lifetime registration. Despite the soft deadline of 2011 for states to implement SORNA – with penalties of up to 10 percent of federal Byrne funds' as a consequence of failure to implement – to date only 17 states are considered by the Office of Justice Programs to have reached a level of substantial implementation.[4] Indiana is not among them. Many states have cited the cost of SORNA implementation as a barrier.[5] An analysis by the Justice Policy Institute estimated that it would cost Indiana $10,291,799 to implement SORNA, whereas the state was anticipated to lose only $369,603 in federal Byrne funding.[6]

In its current form, Indiana law distinguishes between two categories of individuals convicted of sexual offenses – "sex offenders"[7] and "sexually violent predators" (SVPs).[8] These classifications mandate 10-year and lifetime registration, respectively. The criteria that inform classification decisions in Indiana are best described as a hybrid model, relying primarily on offense-based classification with elements of risk-based decision-

making. For instance, all "sex offender" classifications for those 18 and older are purely offense-based.[9] By contrast, SVP classification reflects a slightly more nuanced, two-step hybrid approach with an offense-based foundation that affords prosecutors and defense attorneys the opportunity to introduce risk-based criteria at different stages of the classification process. Specifically, SVP classification begins and often ends with a purely offense-based classification scheme per IC 35-38-1-7.5(b). However, in cases in which SVP classification is not available by operation of law, prosecutors are afforded discretion to request a hearing under IC 35-38-1-7.5(e) to introduce expert testimony to determine whether the offender meets the criteria for SVP classification under IC 35-38-1-7.5(a). Classification is then based on whether the offender is determined to be "a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly commit a sex offense." In other words, individuals convicted of sexual offenses can be classified as an SVP based either on *what they did* (offense-based criteria) or *who they are* (risk-based criteria

requiring the presence of a mental disorder plus future dangerousness). Finally, individuals already classified as SVPs can petition the court after 10 years and no more than once each year to consider whether they should no longer be considered an SVP, triggering evaluations by two experts again focusing on the risk-based criteria of mental disorder plus future dangerousness.[10]

## Collateral consequences of sex offender registration laws

NACDL argues strongly that it is the duty of defense counsel to work to prevent, mitigate and repair their clients' collateral consequences of conviction.[11] Megan's Laws and SORNA, guided by the worthy goal of protecting children from sexual predators, have led to a particularly broad range of collateral consequences for those convicted of sex offenses. As an extreme example, in 2006 Georgia enacted HB 1059, which makes it a felony punishable by a prison sentence of 10 to 30 years for a registered sex offender "to reside, be employed, or loiter within 1,000 feet of a school; child care facility; church; public or private park,

recreation facility or playground; skating rink; neighborhood center; gymnasium; community swimming pool; or school bus stop."[12] [..]

Sex offender registrants across jurisdictions face multiple collateral consequences that can be generally divided into two types – legal and social.[13] Typical legal collateral consequences include the loss of constitutionally guaranteed rights, such as the right to vote or possess a firearm, and employment and housing restrictions. These consequences are generally anticipated and crafted purposefully into the law. Social consequences, on the other hand, often represent unintended but nonetheless pervasive sequelae of a conviction for a sex offense. Among the social consequences documented among registered sex offenders are general employment difficulties; harassment; ostracism; social stigmatization; verbal and physical assaults; and relationship and parenting problems.[13, 14] Research also suggests that substantial minorities of registered sex offenders have lost a job, housing or friends, and have been denied entrance into higher education, asked to leave a business or restaurant, and received harassing phone calls.[15] These researchers also documented considerable adverse impacts of registrants' status on their family, friends and neighbors.

Several key questions related to sex offender classification and management emerge with clear implications for public safety and criminal defense practice. Broadly, the competing assumptions between offense- and risk-based classification systems – such as those promulgated through federal SORNA legislation and many states' statutory approaches, respectively – raise the fundamental question of which is more effective and just? Data-driven policy decisions and adjudication require consideration of the extent to which SORNA's implicit assumptions regarding risk for recidivism and the resultant registration mandates fit with current social science research. To this end, the remainder of this article will focus on the application of contemporary social science research to the following legally relevant questions:

1. Is SORNA's purely offense-based classification system valid in the sense that registrants with higher notification requirements (and who require a disproportionate amount of resources) are indeed higher-risk individuals, as indicated by higher recidivism rates? Relatedly, do offense-based classification systems, at a minimum, perform on par with readily available actuarial risk-based systems in predicting future sexual violence?

2. What might an evidence-based, statistically guided criterion for redemption in the criminal justice system look like?

3. Is redemption possible for those who have been convicted of serious sexual offenses, or does public safety require that these individuals be monitored and managed for the rest of their lives?

### Validity of offense-based and actuarial risk-based classification

"It's fashionable nowadays to think that a person's worst act tells us everything about who he is and will always be. But it's not true." – David Bruck[16]

Emerging research suggests that SORNA's purely offense-based classification system results in significant reconfigurations of states' sex offender registration roles. In one study, for example, researchers analyzed data from Ohio and Oklahoma, which were among the first states to implement a large-scale overhaul of their existing classification guidelines in favor of SORNA's 3-tiered, purely offense-based system.[17] Prior to SORNA implementation, Ohio utilized a 3-tier classification system distinguishing between "sexually oriented offenders," deemed to be the lowest risk; moderate risk "habitual sexual offenders"; and high-risk "sexual predators." Oklahoma had previously distinguished "aggravated" and "habitual" sex offenders, representing the highest risk, from all other sex offenders. Only 20 and 34 percent of offenders were classified as high risk under Ohio and Oklahoma's registration systems prior to reclassification, respectively. Strikingly, following SORNA implementation, both states witnessed a major upward realignment in sex offender classification levels – whereas a majority of sex offenders in both states had been classified in lower risk categories prior to SORNA, this trend fully reversed itself post-SORNA implementation, with a majority of sex offenders categorized as Tier 3. For example, whereas 66 percent of offenders were classified in lower risk tiers in Oklahoma prior to SORNA reclassification, nearly 84 percent were classified in Tier 3 (high risk) after reclassification.

While not problematic in and of itself, the significant upward reconfiguration in sex offender classification that results from SORNA's offense-based classification system forces the question: Do the additional resources required for monitoring an expanded pool of presumptively high-risk registrants reflect money well spent, or are SORNA's purely offense-based classifications inadequate to distinguish offenders at different levels of risk for recidivism? Put somewhat differently, do a vast majority of sex offenders indeed represent a genuinely high risk for committing another sex offense, as would be suggested under SORNA's classification scheme? Two large-scale studies have addressed this very question. In one, commissioned by the National Institute of Justice, researchers compared the predictive accuracy of SORNA classification guidelines to actuarial risk assessment guidelines with a sample of 1,789 adult sex offenders from Minnesota, New Jersey, Florida and South Carolina.[18] Comparative results of these approaches to classification (offense-based versus actuarial risk-based) resoundingly failed to support the validity of SORNA's 3-tiered offense-based system. Specifically, across all analyses, SORNA's offense-based system was either completely unrelated to future sexual offending or in some cases was actually inversely related to recidivism such that Tier 1 offenders were found to recidivate at rates *higher* than Tier 3 offenders. By contrast, actuarial risk assessment measures, coded based on information already available in the sex offender registries from each state, demonstrated the capacity to distinguish high- from low-risk offenders. Furthermore, these findings are nearly identical to results

from another study in New York State in which 17,000 sex offenders were reclassified into SORNA's offense-based tiers and, contrary to expectations, offenders classified as Tier 1 (*i.e.,* low risk) recidivated at *higher* rates than those in Tiers 2 and 3.[19]

Another study found that multiple non-offense variables, and particularly those found in widely used actuarial risk assessment instruments, did significantly predict recidivism, thereby supporting risk-based classification over offense-based systems.[...]

Taken together, SORNA's offense-based classification system differs significantly from many existing state systems, creating barriers toward implementation, and places exponentially more individuals on lifetime registration. What's more, these significant changes were mandated with no empirically documented benefit. To the contrary, based on emerging research, it appears accurate to conclude that the offense-based SORNA guidelines directly detract from decision-makers' ability to distinguish high-risk sex offenders from those unlikely to recidivate while eliminating actuarial risk-based assessments with proven utility.

### How likely is likely enough?

The topic of redemption is particularly relevant to registrants classified as sexually violent predators because mandatory lifetime registration is automatic *unless* the offender is able to demonstrate that he or she is no longer "a person who suffers from a mental abnormality or personality disorder that makes [them] likely to repeatedly commit a sex offense."[20] If there is a point of redemption, surely it hinges on the definition of "likely." How likely must one be to recidivate to remain an SVP? Large numbers of people have diagnosable psychiatric conditions and/or personality disorders, but few among them are made "likely" by their affliction to commit a sex offense. But how does the law explicitly and triers of fact implicitly define "likely"?

Regarding explicit legal definitions, courts and legislatures have resisted offering precise definitions, particularly definitions anchored to statistical probabilities.[21] For example, in declining to offer a statistical probability to clarify the meaning of the "highly likely" standard, the North Dakota Supreme Court clarified its desire to "prevent a contest over percentage points," offering instead the ambiguous definition of a person's "propensity towards sexual violence [that is] of such a degree as to pose a threat to others."[22] Similarly, in the case of *Commonwealth v. Boucher*, the Massachusetts Supreme Judicial Court wrote that, "while 'likely' indicates more than a mere propensity or possibility, it is not bound to the statistical probability inherent in a definition such as 'more likely than not ... .'"[23]

Of course, despite courts' and legislatures' resistance to offering a clear definition of how likely an individual must be to meet the statutory threshold for SVP classification, triers of fact nonetheless must make these difficult determinations. Offering a glimpse into the implicit standards applied in similar situations, researchers surveyed 153 real jurors that had served on 14 SVP hearings regarding their implicit models of how likely an offender had to be to reoffend in order to meet their understanding of the statutory threshold of "likely."[24] More than 4 in 5 (81.7 percent) considered a 15 percent likelihood of recidivism to meet the threshold of "likely." Surprisingly, just over half (53.6 percent) indicated that they considered a mere 1 percent chance of recidivism to meet a sufficient level to consider it "likely" under the law, suggesting that decision-makers – in the absence of clear guidelines – might apply a remarkably high threshold for offenders petitioning to be no longer considered an SVP.

### Is evidence-based, statistically guided redemption possible?

Criminologists have recently attempted to quantify redemption, and these efforts provide a useful context for considering statutory interpretations of how "likely" one is to recidivate. Importantly, criminologists have begun utilizing a statistical approach known as "survival analysis," derived from

medical research examining rates of survival over time. At its core, survival analysis provides a statistical window into the evolving probabilities of an event, including criminal recidivism, across time.[25] This is important because it offers a particularly informative piece of information not available in many other common statistical approaches. By way of illustration, consider the two following hypothetical research studies examining recidivism. In study one, researchers identify 1,000 inmates at the time of their release and track their re-arrest rates at 5-, 10- and 15-year follow-up periods. They find that 250 are rearrested at 5-year follow-up, 400 by 10-year follow-up, and 450 by 15-year follow-up. Findings such as these would often emphasize something to the effect that nearly half of all prisoners released recidivated within 15 years. In study two, researchers identify 1,000 inmates at the time of their release, but frame their analyses from a slightly different perspective – instead of retrospectively examining overall offense rates at the end of the three follow-up periods, the researchers examine the likelihood that, *if an individual has "survived"* (*i.e.,* remained offense-free in the community) for five years, what is the likelihood that he or she will subsequently be reconvicted between years 5-10? If the individual survives 10 years offense-free, what is the likelihood that he or she will be reconvicted over the ensuing five years? And so on.

Perhaps unsurprisingly, criminological research adopting this latter approach has revealed that the likelihood of recidivism is not static and in fact decreases exponentially as offense-free time in the community increases. In the former approach, one might conclude that all released prisoners have about a 50 percent chance of reoffending. In the latter, we might know that *at the time of release*, the best available evidence suggests that all offenders have about a 50 percent chance of recidivism, but that this likelihood decreases drastically across time for those who have survived offense free in the community. They

are no longer best classified as having a nearly 50 percent chance of offending – time clean has considerably changed the relationship between past crime and the likelihood of future behavior. In essence, over a sufficient period of clean time, an individual who was once likely to reoffend becomes statistically very unlikely to do so.

So just where is the "redemption threshold," whereby we might reasonably consider those previously "likely" to reoffend to no longer be deserving of this descriptor? While courts have resisted statistically anchored guidelines, would it be reasonable to, at a minimum, define "likely" as at least more likely than a random person selected from the community that has never been convicted of any criminal offense whatsoever? According to Blumstein and Nakamura, criminologists at Carnegie Mellon University and pioneers in the quantification of redemption, the "redemption threshold" is best viewed as just that – the time at which an offender's statistical level of recidivism risk has declined to the point at which it intersects with the statistical likelihood of arrest among those in the general population who have never before been arrested.[26]

Importantly, research shows that this intersection indeed occurs for offenders convicted of a range of offenses if they have been able to reside offense-free in the community for an extended period of time. For example, Blumstein and Nakamura monitored 88,000 individuals experiencing their first arrest in New York State in 1980, followed them for several decades, and compared their arrest rates over time using survival analysis to the risk of a comparison group of non-offenders being arrested for the first time over this period.[27] Results were conclusive – although individuals convicted previously of violent crimes took longer to reach the redemption threshold, risk for reoffending did indeed eventually become indistinguishable from
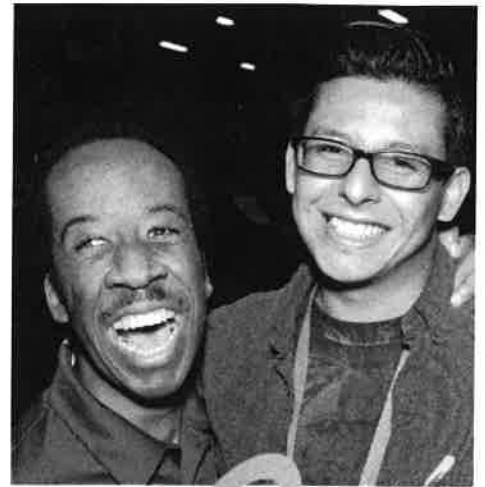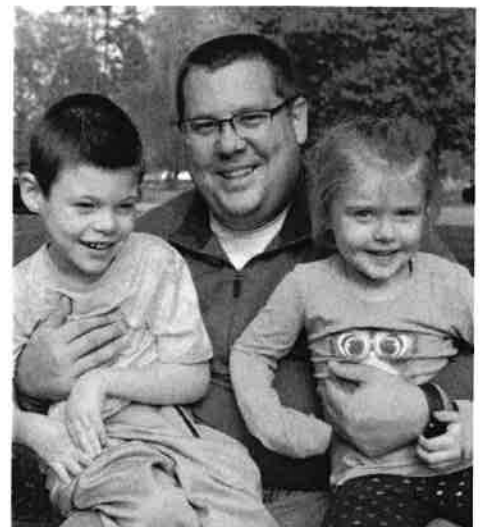
those who had never been arrested. In other words, even for those previously convicted of serious crimes, there comes a time when these individuals represent no greater statistical risk for committing another offense than you or I who have never been arrested for any crime. Although Blumstein and Nakamura included individuals convicted of a range of violent and non-violent offenses, none were previously convicted of sex offenses, which raises questions about the generalizability of these findings to individuals classified as sexually violent predators.

### Is redemption possible for sex offenders?

Research suggests that the general public vastly overestimates recidivism rates for individuals convicted of sexual offenses. In a survey of 193 adults in Melbourne, Fla., researchers found that respondents, on average, believed that 74 percent of sex offenders go on to commit another sex offense.[28] Georgia's HB 1059, noted above, unequivocally stated, "Many sex offenders are extremely likely … to repeat their offenses."[29] However, reliable research fails to support these beliefs. In an influential study that statistically combined 61 prior studies to include an overall sample of 23,393 convicted sex offenders, effectively representing the state of the science at that point in time, the overall recidivism rate for sex offenders was 13.4 percent over 5 years after release from prison.[30] Complimentary research suggests that this rate increases to approximately 20 percent after 10 years.[31]

While these findings provide reliable estimates of overall sexual recidivism rates among sex offenders, they do not address potential changes in risk over varying periods of offense-free time in the community – a key consideration, for instance, when an individual classified as an SVP in Indiana petitions the court after 10 years of offense-free time in the community to no longer be considered "likely" to commit another sex offense. Filling this gap, Karl Hanson and colleagues recently published a groundbreaking study employing survival analysis with a large ($N = 7,740$) sample of sex offenders, many of who were followed for two decades in the community.[32] Additionally, these researchers classified each sex offender as representing a low, moderate or high risk based on offenders' scores on the most widely utilized actuarial measure of risk for sexual violence (Static-99R) at the time they were released to the community, allowing for an analysis of potential differences across time for offenders initially classified at different risk levels.

Results of Hanson and colleagues' study provided clear support for three conclusions: (1) sexual recidivism rates are lower than commonly understood by the general public; (2) actuarial measures are effective in distinguishing high- from low-risk offenders; and (3) risk for sexual recidivism is very low for those who accumulate 10 years of offense-free time in the community, regardless of initial risk classification.[33] Specifically, regarding overall recidivism rates across all offenders, 11.9 percent were known to have committed a subsequent sex offense. Recidivism rates ranged from 2.9 percent for those categorized as low risk to 8.5 percent for those categorized as moderate risk and 24.2 percent for those classified as high risk. Most importantly, these authors clearly demonstrated that the risk of sexual recidivism was highest during the first several years after release, after which risk for future sexual violence decreased exponentially. Among offenders who were classified as "high risk" at the time that they were released from prison, recidivism rates were approximately cut in half for each five years the offender was offense-free in the community. For example, the 5-year sexual recidivism rate for a group of sexual offenders classified as high-risk was 22 percent at release, 8.6 percent after 5 offense-free years, and 4.2 percent after 10 offense-free years. Among offenders

initially classified as low risk, recidivism rates remained consistently low across the entire follow-up period. For example, the 10-year sexual recidivism rate for this group was 3.1 percent at the time of release and 3.4 percent for those who remained offense-free in the community for 10 years. In other words, among the offenders in this large-scale study who had not committed another sexual offense after 10 years living in the community, regardless of their level of risk at the time of their release, approximately 96 percent did *not* go on to commit another sexual offense.

Based on their findings, Hanson and associates concluded that sex offenders who have remained offense-free in the community could eventually cross the "redemption threshold," such that their actuarial risk for a sexual crime eventually becomes indistinguishable from the risk of someone who has never committed a sex offense. These authors, citing previous research, conclude that the likelihood of someone with no history of prior sexual offending committing an "out of the blue" (*i.e.,* first time) sex offense is between 1 percent to 3 percent.[34, 35]

Practical Implications

Attorneys representing clients who have been convicted of sex offenses would benefit from a familiarity with the social scientific literature on recidivistic risk over time. This is particularly true under Indiana's SVP laws, which allow for registrants to attempt to demonstrate that they no longer present a likely risk for future sexual offending after 10 years offense-free in the community. With the emerging literature utilizing survival analysis tracing evolving risk levels over time, it has become increasingly clear that most offenders – including those previously convicted of violent and sexual offenses – can reach an actuarial level of risk that closely approximates that of non-offenders residing in the community. Coincidentally, the largest study to date applying this methodology to sex offender recidivism rates found that this "redemption threshold" could be approximated after 10 years offense-free in the community, offering valuable information to the courts responding to SVP registrants' petitions.

Ultimately, as with any legal decision, the determination of whether a registrant's level of risk is sufficient to warrant an SVP designation requires consideration of a complex mix of legal, ethical, moral and, sometimes, scientific considerations – considerations clearly under the province of triers of fact. Ideally, science in the service of the law can assist triers of fact in making more informed decisions. Surely the science cannot answer the complex legal questions before the court, and to

this end prior courts' hesitance to tie legal risk decisions to specific statistical probabilities appears warranted. Attorneys representing clients designated as SVPs, however, should be familiar with the scientific literature that might assist them in avoiding, mitigating and relieving the downstream consequences of their clients' prior convictions. To this end, attorneys retaining experts to evaluate their clients pursuant to SVP review petitions should ensure that their experts are well versed in the sexual violence risk assessment literature and capable of clearly describing the well-documented shift in risk across time for many offenders.

In conclusion, offense-based classification schemes, such as that promulgated under SORNA, lack the ability to distinguish genuinely high-risk sex offenders from the majority that will never reoffend. The available research points to two broad implications. First, those convicted of sex offenses, regardless of their actual risk, face a range of collateral consequences. In addition, the best available evidence suggests that this approach might even be detrimental to public safety to the extent that those classified as lower risk – and who receive less monitoring and supervision – have actually been shown to recidivate at higher rates. In harnessing the best available social science research, standardized risk-based approaches to sex offender classification and management provide a useful alternative. The assumption of lifelong risk is likely warranted only for a minority of all sex offenders, while redemption appears possible for most. ⸪

\* The Edward Byrne Memorial Justice Assistance Grant ("Byrne funds") provides federal funding to state criminal justice programming.

\*\* A comprehensive list of the 131 collateral consequences for individuals convicted of sex offenses in Indiana is available at *http://www.abacollateralconsequences.org/search/?jurisdiction=19*.

\*\*\* There exist several validated actuarial risk assessment measures specific to sex offense recidivism that have been adopted by several states, including the Static-99, Static-2002 and STABLE. Some states, such as Minnesota, have developed and validated their own instruments (Minnesota Sex Offender Screening Tool, MnSOST), whereas others utilize freely available instruments such as the Static-99.

1. Andrew Harris, *et al.,* "Widening the net: The effects of transitioning to the Adam Walsh Act's federally mandated sex offender classification system," 37 *Criminal Justice and Behavior* 503-19 (2010).
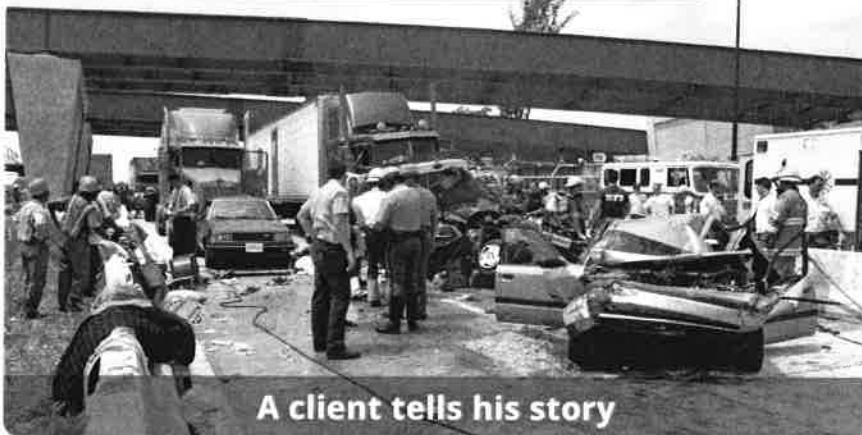
2. *Id.*

3. Adam Walsh Child Protection & Safety Act, 42 U.S.C. §16901 (2006).

4. Office of Justice Programs, "Jurisdictions substantially implement sex offender registration and notification act," Department of Justice (2013), available at *http://ojp.gov/newsroom/pressreleases/2013/ojppr110813.pdf*.

5. Jennifer Wang, "Paying the piper: The cost of compliance with the Federal Sex Offender Registration and Notification Act," 59 *New York Law School Law Review* 681- 705 (2014-15).

6. Justice Policy Institute, "What will it cost states to comply with the Sex Offender Registration & Notification Act?" (2009), available at *http://www.justicepolicy.org/images/upload/08-08_fac_sornacosts_jj.pdf*.

7. Ind. Code §11-8-8-4.5.

8. Ind. Code §35-38-1-7.5.

9. Consistent with SORNA, Indiana law also classifies as a sex offender children age 14 through 17 who have been found delinquent of an act that would be a criminal act if they were an adult and have been found, by clear and convincing evidence that includes expert testimony, to be "likely to repeat" an act that would be a sexual offense, Ind. Code §11-8-8-4.5(b)(2). As such, classification of juvenile sex offenders reflects a hybrid offense-based plus risk-based determination, in contrast to the purely offense-based classification for adult sex offenders.

10. Ind. Code §35-38-1-7.5(g).

11. *See, e.g.*, National Association of Criminal Defense Lawyers, *National Inventory of the Collateral Consequences of Conviction*, available at *http://www.abacollateralconsequences.org*.

12. GA. Code Annotated §42-1-15.

13. Richard Tewksbury, "Exile at home: The unintended collateral consequences of sex offender residency restrictions," 42 *Harvard Civil Rights-Civil Liberties Law Review* 531-40 (2004).

14. Richard Tewksbury, "Collateral consequences of sex offender registration," 21 *Journal of Contemporary Criminal Justice* 67-81 (2005).

15. Erika Frenzel, *et al.*, "Understanding collateral consequences of registry laws: An examination of the perceptions of sex offender registrants," *Justice Policy Journal* 1-22 (Fall 2014).

16. David Bruck, "Change, redemption do exist," *The Champion*, 33-34 (June 2003).

17. *See supra* note 1.

18. Kristen Zgoba, *et al.*, "A multi-state recidivism study using the Static-99R and Static-2002 risk scores and tier guidelines from the Adam Walsh Act," research report submitted to the National Institute of Justice, Report No. 240099 (Washington, DC: U.S. Department of Justice, 2012).

19. Naomi Freeman, *et al.*, "The Adam Walsh Act: A false sense of security or effective public policy initiative?" 21 *Criminal Justice Policy Review* 31-49 (2009).

20. *See supra* note 8, at (a).

21. *See, e.g.*, Robert Prentky, *et al.*, *Sexual Predators: Society, Risk, and the Law* (New York, NY: Routledge Press, 2015).

22. *Grosinger v. M.B.K.*, 639 N.W.2d 473, 477 (N.D. 2002).

23. Com. v. Boucher, 780 N.E.2d 47, 277 (2002).

24. Jefferson Knighton, *et al.*, "How likely is 'likely to reoffend' in sex offender civil commitment trials?" 38 *Law and Human Behavior* 293-304 (2014).

25. *See, e.g.*, Alfred Blumstein and Kiminori Nakamura, "Redemption in the presence of widespread criminal background checks," 47 *Criminology* 327-59 (2009).

26. *See supra* note 25.

27. *See id.*

28. Jill Levenson, *et al.*, "Public perceptions about sex offenders and community protection policies," 7 *Analyses of Social Issues and Public Policy* 1-25 (2007).

29. *See supra* note 12, at 2.

30. R. Karl Hanson and Monique Bussiere, "Predicting relapse: A meta-analysis of sexual offender recidivism studies," 66 *Journal of Consulting and Clinical Psychology* 348-62 (1998).

31. Andrew Harris and R. Karl Hanson, "Sex offender recidivism: A simple question," Corrections Users Report No. 2004-03 (Ottawa, ON, Canada: Public Safety and Emergency Preparedness Canada 2004).

32. R. Karl Hanson, *et al.*, "High-risk sex offenders may not be high risk forever," 29 *Journal of Interpersonal Violence* 2792-2813 (2014).

33. *See supra* note 31.

34. Patrick Langan, *et al.*, "Recidivism of sex offenders released from prison in 1994," research report submitted to the Bureau of Justice Statistics. Report No. 198281, (Washington, DC: U.S. Department of Justice, 2013).

35. J. Stephen Wormith, *et al.*, "The predictive validity of a general risk/needs assessment inventory on sexual offender recidivism and an exploration of the professional override," 39 *Criminal Justice and Behavior* 1511-38 (2012).

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