

10-1-2015

## Rehabilitation or Retribution? Labeling Theory and the sex offender

Brian Beville  
*Indiana State University*

Follow this and additional works at: <https://scholars.indianastate.edu/bakerman>

---

### Recommended Citation

Beville, Brian, "Rehabilitation or Retribution? Labeling Theory and the sex offender" (2015). *Bakerman Student Research Awards*. 14.  
<https://scholars.indianastate.edu/bakerman/14>

This Article is brought to you for free and open access by the Cunningham Memorial Library at Sycamore Scholars. It has been accepted for inclusion in Bakerman Student Research Awards by an authorized administrator of Sycamore Scholars. For more information, please contact [dana.swinford@indstate.edu](mailto:dana.swinford@indstate.edu).

Rehabilitation or Retribution?  
Labeling Theory and the Sex Offender

Brian Beville

Dr. Hamm  
Criminology 606

Indiana State University  
30 April 2007

*Introduction*

Sex offenders, sexual predators, pedophiles, kidnappers, molesters, rapists -- these criminals spark an enormous range of negative emotion in people who try to comprehend how any human being could commit these heinous acts. Yet, these crimes are also countered with methods past the offender's release that most other criminals do not have to endure. Sex offenders have to register under sexual notification laws that list their offenses online. Also, some sex offenders have had to go as far as placing signs in their front lawns, wearing global positioning system tracking devices, or have even had to displace to other living areas. Therefore, this "Scarlet Letter" that is placed on a sexual offender is a throwback into medieval times. Nevertheless, the public wants to know where these offenders are located so they can properly protect their children and their own safety from the offenders. Thus, this method of thinking raises several questions. Primarily, since the sex offenders served their time and are thought to be rehabilitated, should these offenders serve another "sentence" by being labeled as sexually deviant, and creating a stigma to go with their character? Additionally, what types of sex offenders have to adhere to the registries? Also, does labeling a sex offender after prison negatively correlate into higher recidivism rates? What factors does the label cause in increasing these rates? Finally, how do the sexual offender registration laws and various other tactics used to identify sexual offenders relate to the labeling theory? Perhaps the rationale behind labeling sex offenders can best be understood by a quotation from Nathaniel Hawthorne's (1850) novel the *Scarlet Letter*: "In our nature, however, there is a provision, alike marvellous and merciful, that the sufferer should never know the

intensity of what he endures by its present torture, but chiefly by the pang that rankles after it” (p. 44).

### *Labeling Theory*

Before addressing how labeling theory applies to sex offenders, labeling theory itself must first be addressed. Criminologists and sociologists have discussed labeling theory since the 1960s. It has been known as “sociology of deviance”, “social interactionism,” the “neo-Chicago school,” and the “new deviance theory.” Nevertheless, the most common term that is used to describe this theory is either simply “labeling”, or the “labeling perspective”. This theory contains three main principles: the social meaning of deviance, societal reaction, and stigma (Beirne & Messerschmidt, 2006). Labeling theorists often studied the lives of alcoholics, drug users, and mental patients in order to appreciate and understand those who are labeled in society. The theorists looked at how society’s label on these hypothetical deviants might contribute to future deviant acts. Nonetheless, this creates a problem with the labeling perspective because not all of society views these types of individuals in the same manner. Therefore, how is one to measure the activities that these individuals engage in and judge how the label is affecting them, if there is not one societal standard for which their actions should be based? Labeling theory is not studied like a natural science where one specific idea or object can be measured, such as the velocity of a ball dropped from a building. As a result, people are often studied differently than the natural sciences (Lilly, Cullen, & Ball, 2002). Thus, criminologists and sociologists alike typically view labeling theory from an underdog perspective and view how the “outcasts” of society are stigmatized by the people in society who are in power or have the greatest influence on what is deemed right

in society (Lilly, et al., 2002). This underdog viewpoint has a tremendous impact on the marginalized population since the people in power or those with the most money, generally can sway votes to have certain laws passed or have the funding to start a petition to change laws (Quinney, 1974). The work of Karl Marx and Richard Quinney's conflict theory of criminology also heavily influence this perspective (Quinney, 1974). Therefore, even though labeling theory might apply to the rich, upper class, or even the middle class – the lower class is focused on more, since they have little or no means to counteract the new laws or actions that might be considered deviant (Beirne & Messerschmidt, 2006).

*Labeling is a Matter of Perception*

Labeling theory is also based on people's perceptions. For example, a person who has a tattoo, or has several uncommon piercings (lip-ring or nose-ring) may be seen as exotic and striking in some settings. Yet, in other locations, those very same people may be viewed as deviant, abnormal, dangerous, or even criminal. Therefore, labeling theory concludes that perceptions like those previously mentioned are the only difference between deviant and normal behavior (Lilly, et al., 2002). This also describes how the term deviant is applied to behavior -- since society labels some behavior as deviant, and if these behaviors are engaged in, the person must then be deviant. This idea has been witnessed throughout history. Actions such as prostitution and marital relations with juveniles are accepted in several cultures today and not thought of as deviant; however, in numerous other societies, these actions are viewed as being extremely atrocious and evil – only the most immoral people could engage in these behaviors (Beirne & Messerschmidt, 2006). Thus, one's view of deviance is in the eye of the beholder, and

since wealthy lawmakers usually pass the laws, those in power have the greatest pull on perceiving what should be considered right or wrong in society (Quinney, 1974).

### *Kai Erikson*

Outside the obvious negative aspects of deviance, several prominent sociologists claim that deviance has many positive attributes as well. Kai Erikson depicts this idea best in his book *The Wayward Puritans* (Erikson, 1966). In this book, Erikson describes that deviance serves as a contrast to what is moral and just in a society. Therefore, in the Puritan colony, actions were defined as deviant, most likely by members of the clergy, and this served as a method to make people conform to the clergy's societal standards (Erikson, 1966). The Puritans were rewarded if they conformed to the conventional norms and were punished if they acted in violation of the established norms. As a result, even in the Puritan colonies, there was an incentive to conform to society, and those who were outsiders were labeled as deviant and punished accordingly (Erikson, 1966). This is another clear example relating to Quinney's conflict theory of how those in power can establish rules to fit his or her own beliefs while alienating others (Quinney, 1974).

### *Howard Becker*

Howard Becker, author of the book *Outsiders: Studies in the Sociology of Deviance*, which discusses labeling perspective, also confirms that "deviant" behavior is considered deviant because society creates and labels it as such (Becker, 1963). Becker (1963) claims "the deviant is one to whom the label has successfully been applied; deviant behavior is behavior that people so label" (p. 9). Also, Becker uses the work of esteemed sociologist Everett C. Hughes and his ideas of master and auxiliary status traits to describe labeling theory. (Hughes, 1945). Hughes notes that a person may have a

master status trait of a doctor, and since the person is a doctor, the individual is assumed to have other auxiliary traits such as being Caucasian, protestant, upper-middle class, and male for example (Hughes, 1945). Becker uses this concept in discussing labeling theory. He claims that once an individual is labeled a criminal that label becomes his or her master status trait and the aspect of the individual's character that is referred to before anything else is mentioned (Hughes, 1945). Also, he notes that once it is known that a person is deviant, it is assumed that he or she has no regard for the law, and will likely be deviant again in the future (Becker, 1963).

### *Frank Tannebaum*

Frank Tannebaum shares a similar view as Howard Becker and states that delinquency arises out of a dramatization of evil (Tannebaum, 1938). For instance, when a child gets in a fight in school, acts out in class, or vandalizes property, the child is then viewed and dubbed a "bad boy," and this contributes to further delinquent acts (Beirne & Messerschmidt, 2006). Tannebaum's point is that when a person is labeled and is subsequently called a "bad boy", a "trouble-maker," or a "hoodlum," the labeled person is going to start feeding into that belief and complete a self-fulfilling prophecy. Furthermore, the labeled child is going to identify the label, and as a result, will continue to act within it (Tannebaum, 1938). For example, a sex offender is immediately labeled outside prison as a "sex offender" as a result of the various registration laws he or she has to obey. Hence, this fits into Tannebaum's scheme of the dramatization of evil because society is basically dubbing these people as "sex offenders" (Tannebaum, 1938). Consequently, this could lead the person to feed into this belief and commit future acts.

*Edwin Lemert*

Edwin Lemert expands on Tannebaum's claims and proposes the idea of primary and secondary deviance. According to Lemert, primary deviance is the first act engaged in by a person that might be considered "deviant" in society, but the individual does not see it this way; consequently, there is no change in the "offender's" view of himself or herself or the way he or she acts in society (Lemert, 1951). Afterwards, societal reaction to the primary deviance creates secondary deviance. The individuals who engaged in primary deviance are now labeled as "sick," "twisted," "deviant," "insane," or "disturbed." (Beirne & Messerschmidt, 2006). Thus, these labels can create a self-fulfilling prophecy because the stigmatization can be so powerful that people have to change their lives, which often can lead to extreme stress and pressure that contributes to the person re-offending (though Lemert never went so far as to say societal reaction causes consequent deviance). Hence, Lemert concludes that deviance is not caused by a lack of social control as most criminology theorists conclude, but rather it is the social controls that contribute to deviance (Lemert, 1951). Lemert's ideas directly relate to sex offenders because numerous people who commit these atrocious actions do not believe they are committing inappropriate acts, yet it is societal reaction (which could be argued to be justifiable) that oftentimes convinces them they are horrible beings.

*Edwin Lemert and Deviance Amplification*

Lemert's conclusion leads to another term that labeling theorists often mention – deviance amplification. Deviance amplification is seen when social control actually contributes to delinquency (Lemert, 1951). For example, in the 1960s marijuana use was not seen nearly as deviant as it is today; however, the police started focusing on the act,



and “cracked down” on it. Additionally, marijuana users were then labeled as dirty, un-bathed, weirdoes, and drug use became the act of rebellion against the police (Beirne & Messerschmidt, 2006). Consequently, the increased police action actually countered what it initially set out to control. Therefore, this again reiterates the labeling theorists’ main ideas that too much social control can actually negatively affect “deviant” behavior (Lemert, 1951). When relating this to sex offender registration laws, one could assume that Lemert might conclude that increasing the number of these laws, by making stricter registration guidelines, by placing signs in one’s front lawns, or by having to wear a GPS monitoring anklet would actually have an opposite effect on the offender’s behavior. Even so, sex offenders and sex offender registration is going to be an extremely controversial issue due to the victims who are involved and in the methods that are used to commit these offenses.

### *The Social Construction of Crime*

Labeling theorists also argue that it is society reaction’s to the crime and the reality that it creates, that determine whether an act is criminal, not the actual act itself. The theorists try to remove the notion that some behavior is intrinsically wrong (Pfohl, 1985). Stephen Pfohl’s dialogue on homicide in his book *Images of Deviance and Social Control: A Sociological History* depicts this idea of inherently criminal acts or “natural deviance” (Pfohl, 1985). Pfohl argues that most would state that homicide could be viewed as an act that is intrinsically criminal; however, given the context, it might be seen as excused, justified, or necessary (Pfohl, 1985). For example, in war, a person kills another human being but it is justifiable. A factory’s pollutants might cause illnesses that eventually kill, but it could be argued as excusable and necessary for economic reasons.

Yet, when a man kills another person in a drug war or a man maliciously stabs and kills another, it is seen as criminal homicide. Therefore, labeling theorists argue that it is society's reaction and construction of the events that determine whether or not the action is criminal (Pfohl, 1985).

### *Stigmas*

Lastly, labeling theorists believe that it is the stigma from the labels that are attached to the criminals that influence future behavior. A stigma is a sign of disgrace and shame that is placed on the individual (Goffman, 1963). Examples of several stigmas that are placed on people are "crazies" for the mentally insane, "nerds" for the highly intelligent people, "retards" for the mentally challenged, "gimps" to those who are physically handicapped, and "convicts" to those who have been convicted of a crime (Beirne & Messerschmidt, 2006). Also, individuals who have been accused of crimes and then found innocent may still have the same stigma attached to them as people who have actually been convicted. As a result, the self-fulfilling prophecy is often witnessed again (Lilly, et al, 2002). The individual might not always act indistinguishable from the stigma that was given to him or her, but constantly having the label will influence people to view the person in accordance with the stigma (Goffman, 1963). For instance, having a newly reintegrated sex-offender place a sign in his or her front yard claiming "Warning – A convicted sex offender lives here" could be argued to be an extreme form of stigmatization. Not only would the offender himself or herself be shamed because of this sign, but the community could also create a backlash against the offender (Milloy, 2001). Additionally, knowing that a convicted sex offender lives in the area could create lower property value among the residents, thus creating even more problems simply because of

the label (Milloy, 2001). Therefore, labeling theory gives an excellent outlook into why labeling sex offenders could possibly be detrimental to the community and the ex-offender, rather than beneficial.

### *Labeling Theory Criticism*

As will all theories, there are criticisms of labeling theory. Several prominent theorists claim that labeling theory focuses too much on the societal response to deviant behavior and not what causes people to initially engage in deviant behavior (Beirne & Messerschmidt, 2006). Therefore, when applying this criticism to sex offenders, people argue labeling theory does nothing to claim why sex offenders originally engage in crime. Also, since it does not explain why people begin to engage in crime, it does not give an adequate solution as to how to prevent crime from occurring. Nevertheless, labeling theory does explain why sex offenders re-offend because it is a responsive theory (Beirne & Messerschmidt, 2006). Another important criticism of labeling theory relates to recidivism. Labeling theory does not explain why some people who are labeled do not re-offend (Beirne & Messerschmidt, 2006). For example, not all people who are put on the offender registries, or who are labeled in society through more drastic means re-offend, and labeling theory offers little or no explanation for these criticisms.

Additionally, with the new “get tough on crime” movement, labeling theory has lost momentum as a prominent criminological theory – it is an extremely liberal offender-oriented theory and is often viewed as being too soft on criminals, in a time period where harsh punishment from conservative views is the norm (Berine & Messerschmidt, 2006). Even with these critiques, labeling theory is influential and often recited. Therefore, criminologists often seek to explain current issues facing criminals today with labeling

theory – and a significant topic that is in constant continual conflict are sex offenders and the laws that affect them.

*The History of Sexual Offender Registration Laws*

In 1990, the Washington Department of Corrections enacted the first sex offender state-wide registration law known as the Washington State Community Protection Act of 1990 (CPA). This law was created after a seven-year old boy from Tacoma, Washington was brutally raped and had his penis cut off by a recently released sex offender (Anonymous, 1995). Thus, with this type of viciousness, it is easy to understand why reactive legislation would be passed. The CPA required that that a sex offender, within twenty-four hours of release, must register with the county sheriff when he or she plans on moving into the community (Anonymous, 1995). The CPA also mandated that the sex offenders be classified into three different groups by law enforcement agencies. There are Level I, II, and III cases (Anonymous, 1995 & Anonymous, 1998). Level I sex offenders are the lowest risk offenders where community notification is available only on request (Anonymous, 1995 & Anonymous, 1999). Level II sex offenders are the medium risk offenders which required local community notification, such as the schools and day cares (Anonymous, 1995 & Anonymous, 1999). Level III sex offenders are the high risk offenders (Anonymous, 1995 & Anonymous, 1999). Members from Level III not only had to register, with the appropriate community officials being notified afterwards, but they also had to attend a public community meeting (Anonymous, 1995 & Anonymous, 1999). Then, their picture with a description was usually placed into the community newspaper (Anonymous, 1999). Therefore, this was the first law that was enacted that labeled a sex offender post-release and attempted to shame the offender and notify the

community to increase awareness and protection. Nevertheless, is it community notification that is being witnessed here, for community protection, or is it another form of retributive punishment for the heinous acts that these individuals committed, and for which they have already served their time?

*Jacob Wetterling Act*

Following the enactment of the CPA, there was another major sex offender registration case that added to the community's hatred of these individuals, and the community's attempts to halt their actions. This case was of an eleven-year-old boy named Jacob Wetterling. Jacob Wetterling was coincidentally kidnapped outside a halfway home housed numerous convicted violent sex offenders who were acting properly according to their parole guidelines (Lewis, 1996). However, to this day, Jacob has not been found, and it has not been proven that it was a convicted sex offender that kidnapped him. Nonetheless, the societal reaction to the kidnapping immediately called for stricter violent sex offender laws (Lewis, 1996). Often what makes these crimes so hard to digest and so easy to want to punish is the victims are regularly usually children who are violently molested (or at least those are the sex crimes that are most often portrayed by the media). Yet, it is hard to deny or reject these parents or guardians the right to protect their children. However, when are the offender's rights violated? Should the offender even receive the benefit of the doubt to ask such questions (Lewis, 1996)? This case, as have several others mainly involving children, confirms the notion that community notification takes precedence over sex offenders' rights, and it is difficult to disagree against those statements – especially given the travesties that usually lead to the enactment of such laws.

Consequently, the law that was passed from this case is commonly known as the "Jacob Wetterling Act," or more formally known as the Federal Violent Crime Control and Law Enforcement Act of 1994 (Lewis, 1996). This law addresses and expands on three main issues: sexual offenses with a minor, sexual predators, and sexual offenders migrating from state to state. Primarily, when dealing with the issue of sexual offenses with a minor, this act contains numerous definitions that include what is considered a sexual offense with a minor, such as a formal definition about kidnapping of a minor (the reason for the Jacob Wetterling Act), and criminal sexual conduct toward a minor (Lewis, 1996). Additionally, the Wetterling Act was the first law that defined a sexual predator. A sex offender is deemed a sexual predator by the original sentence mainly (what sex offense was committed), with the offender's prison conduct also taken into consideration (Lewis, 1996). This law also enacted mandatory lengths of time that the offenders must remain on the registry (Lewis, 1996). The time was determined by the seriousness of the offense, whether the offense was violent, and the amount of prior offenses that the person might have committed (Lewis, 1996). Moreover, when moving out of state, the offender had to report to the local law enforcement agency in the community in which he or she was moving and report that he or she was a sex offender (Lewis, 1996). Furthermore, the offenders who move to a new state must comply with the new state's sex offender registration laws (Lewis, 1996). Therefore, not only are the offenders labeled as sex offenders after prison, but they also are subjected to various other inconveniences when they move to another community. This notion relates to Goffman's idea of stigma, and how the sex offenders cannot escape their stigma even when they move out of state.

*Megan's Law*

Soon after the Wetterling incident, another tragic occurrence took place – a twice convicted sex offender, Jesse Timmendequas, brutally raped and killed Megan Kanka, a 7-year-old girl. Timmendequas had moved and crossed the street from the Kanka family without the community having any knowledge of his past transgressions. (Pinicus, 1998). Therefore, this crime sparked an outrage within the community against sex offenders and instigated a knee-jerk reaction to the incident. This case became a national event, and there were 200,000 signatures to enact "Megan's Law" or a stricter form of the Jacob Wetterling Act (Jones, 1999). The main difference between Megan's Law and the Wetterling Act is law enforcement is required to make the sex offender registration available to the public; whereas, under the Wetterling Act, the police had discretion to make the information available (Lewis, 1996). States were required to list all sex offenders or lose a portion of their anti-crime funds (ten percent) from the federal government. Nevertheless, even if this seems like an extremely beneficial act, there are arguments that support and condemn Megan's Law (Anonymous, 1998).

Advocates of Megan's Law address several arguments that the general populace would normally conclude to be true. Most everyone would agree that one's own security and protection is of chief importance. Yet, even past one's own safety, a person's child or children take precedence over all (Jones, 1999). Additionally, there is a real threat to children from molesters, pedophiles, and kidnappers that needs to be addressed. Supporters believe that Megan's Law gives the community the ability to protect its children and its own well-being from these offenders, even if it means sacrificing some of the sex offender's rights -- a small price to pay for children's security (Jones, 1999). Also,

supporters of Megan's Law claim that labeling the offenders in the community, so that the residents know where the sex offenders are located, is the only way to truly feel safe in the neighborhood since treatment is not always successful (Pinicus, 1998). Finally, advocates claim that the alternative of not having a law such as Megan's Law has already been tried, and the results were disastrous; thus, sacrificing offenders' rights is better than possibly losing a child's life (Jones, 1999). Thus, supporters of this law do not worry that some of the punishment could be considered retributive. The offender engaged in the action, so he or she deserves to receive the punishment equal to his or her actions. Consequently, advocates believe there is no label or stigma that can be attached to a sex offender that should take priority over a child's protection.

Conversely, people who oppose the sex offender registration laws and Megan's Law in general, claim numerous thought-provoking arguments. First, only five to fifteen percent of all sex offenses are committed by complete strangers (and most agree that around ten percent is the most accurate) (Jones, 1999). Therefore, the rest of all sex offenses are committed by people the victim already knows, such as friends, relatives, or immediate family members (Jones, 1999). Hence, they claim that Megan's Law provides a false sense of security since it only accounts to protect those "strangers" who happen to be in the community, while, more than likely, a sex offense is going to happen to and with someone whom a person already knows (Jones, 1999). This does not even account for the crimes within families that goes unreported (Jones, 1999) Thus, those who argue against sex offender registration laws say they do very little to prevent intra-family sex offenses from occurring (Jones, 1999).



Additionally, civil libertarians who oppose legislation such as Megan's Law claim that these laws create an additional form of punishment in conjunction with the sentence of incarceration, and it is meant only to punish the offender again (Jones, 1999).

Because, in prison, one is supposed to learn the skills, commit to programs, and obtain the treatment that is necessary to rehabilitate oneself to be able to function normally in the outside world. Thus, the enactment of this law is declaring that the criminal justice system, and the department of corrections cannot rehabilitate sex offenders, and the only protection people have against them is to know where they are and control them by shaming and stigmatizing them through labeling (Jones, 1999).

Further, those who oppose this law assert there has been no support depicting that sex offender registration laws, and Megan's Law specifically (with research conducted after it was presented), has reduced recidivism rates among sex offenders. Opponents argue these laws only seek to control external factors when they account for only a small portion of the offender's actions (Jones, 1999). Consequently, people argue there should be more cognitive-behavioral treatments that are given to focus on the offender's mental problems, which often is at the root of the offender's problems (Jones, 1999).

Additionally, when most people think about sex offenders they think of pedophiles, molesters, rapists, or other violent sex offenders, but Megan's Law makes people who have not committed a crime against another person register (Jones, 1999). As a result, this law makes even people who have urinated in public, have been publicly indecent, or have been a gay or bisexual man (or woman) looking for a partner in public have to register on the sex offender registration laws. Finally, those who oppose Megan's Law argue by raising the question, why should sex offenders have to register post release

when burglars, arsonists, robbers, and murderers are not required to register? Would the public not like to know when another convicted felon is living next door (Jones, 1999)? Nevertheless, Megan's law added to the stigma of being a post-release sex offender and adds to the alleged protection that sex offender registration laws provide.

Thus, with the continued increase of requirements for released sex offenders, the label that is being placed on them continues to increase and reintegration into society arguably becomes harder with each passing law. Therefore, again, when is it worth being protected to sacrifice human rights?

#### *Campus Sex Crimes Prevention Act*

In 2000, legislation was passed that amended and expanded previous sex offender registration laws. It was called the Campus Sex Crimes Prevention Act (CSCPA) (Turrentine, Stites, Campos, & Henke, 2003). This law requires sex offenders to comply with all the older sex offender registration laws, in addition to having to report to any institution of higher education or vocational school. The sex offenders have to notify the school that he or she is a convicted sex offender prior to being accepted as a student. Thus, this allows the school to properly monitor the ex-offender's actions (Turrentine, et al., 2003). The CSCPA modified the Clery Act, which made campuses have to notify law enforcement agencies when there was a "sex offender threat" on campus (Turrentine, et al., 2003). The CSCPA requires schools to make the offender's information available to the public. Now, the offender not only has to worry about being shamed at his or her household, but also if and when he or she wants to pursue higher education after his or her prison sentence. Consequently, sex offenders have to be labeled if they want to try to better themselves, which does not exactly give a warm reception into society.

*Texas Sex Offender Court Case*

Next, one specific court case, in Corpus Christi Texas, has taken the issue of sexual notification to the extreme. In 2001, Judge Banales ordered fourteen convicted sex offenders to place signs in their front yards and on their automobiles (Milloy, 2001). The sign (bumper-stickers) for the vehicles read, “Danger – Registered Sex Offender in Vehicle, and a sign stating “DANGER: Registered Sex Offender Lives Here was given to the sex offenders to place at their homes (Thomas, 2001). The President of the Defense Council of Corpus Christi claimed, “It’s totally shocking what happened here... It’s frightening, as if we’re going back to the time of scarlet letters, public hangings, and witch hunts” (Milloy, 2001, p. A.10). The backlash from the signs within the community was almost immediate. One of the offenders committed suicide; several were evicted from their homes; and one even had their father abused. Nevertheless, there has been a tremendous amount of support for labeling these offenders with the signs. Judge Banales himself claimed, “They have only themselves to blame (Milloy, 2001, p. A.10).” Thus, one has to wonder if seeking retributive punishment for these offenders is the correct method. They have already served their term of incarceration, and in this case, several have now had their property, persons, or family harmed afterwards. Now, the “get tough on crime” laws in extremely conservative states seem to have been put to use in this instance, and there has been no proof that the signs, or any other extreme form of sex offender registration deters the individuals from re-offending at all (Thomas, 2001). Rather, the only results that have occurred from the integration of these signs are negative outcomes such as the evictions or suicide. Thus, these incidents support Edwin Lemert’s

idea that an extreme form of social control can actually worsen a situation -- his idea of deviance amplification (Beirne & Messerschmidt, 2006).

*Adam Walsh Child Protection and Safety Act of 2006*

The newest addition to sex offender registration laws is the Adam Walsh Child Protection and Safety Act of 2006. This law further expands sex offender registration laws through three aspects of sex offender legislation. Primarily, the act allows law enforcement agencies across the United States access to the same information through the Internet, avoiding state by state confusion of sex offender registration (Office, 2006). The Bush Administration hopes this will allow law enforcement agencies to combine their efforts to properly track sex offenders (Office, 2006). Next, the act imposes harsher penalties on those who have been convicted of child-based sex offenses, and the act also provides grants to states to institutionalize offenders post-release, if the state deems the sex offenders have not demonstrated they have adequately changed their behavior (Office, 2006). This second concept takes the idea of labeling to the extreme. Who is to determine that an offender is properly rehabilitated, and when is holding a sex offender post-release a violation of his or her constitutional rights? It seems it is easier to label the offender as a convicted sex offender and continue holding them, than attempt to give them a chance to reintegrate properly into society. Nevertheless, the last aspect of sex crime legislation that has been expanded is tracking sex offenders on the Internet. Internet-crimes-against-children taskforces have been assembled to track offenders who try to seduce and exploit minors online (Office, 2006). Consequently, the Adam Walsh Child Protection and Safety Act is the next chapter in sex offender legislation, which

adds to the stigma of being a released sex offender. Nonetheless, there are still measures that are being taken that could be argued to be even more drastic.

#### *Global Positioning Ankle Bracelets*

Now, several states, and specifically Minnesota, have gone even further to shame a released sex offender. As of 2006, several states place global positioning system (GPS) ankle bracelets on sex offenders that track them twenty-four hours a day, seven days a week (Downing, 2006). The department of corrections has only placed them on Level III offenders thus far who are serious violent predators. Yet, politicians want to expand this program to include additional sex offenders (Downing, 2006). One could argue though that having an ankle bracelet instead of a sign in one's front lawn would be a better solution, since the public could not see the bracelet so there would be a smaller chance for a backlash from the community (Downing, 2006). Nevertheless, this incident is simply another example of regulations that reintegrated sex offenders have to follow. Further, how can one expect for these ex-offenders to properly reintegrate into society when they have to follow more and more guidelines?

#### *Cognitive-Behavioral Treatments*

Still, even with all the new sex offender legislation; there are some who have tested other methods to see if treatment can help an ex-offender instead of placing an extreme stigma on the individual. A study was conducted of one hundred ninety-five inmates using a cognitive-behavioral treatment program, and there were three groups that were measured over a six-year period (McGrath, Cumming, Livingston, & Hoke, 2003). There was a group of fifty-six people that successfully completed the program; a group of forty-nine who entered the program but did not complete it; and ninety who had no

treatment at all (rejected treatment) (McGrath, et al., 2003). The results that were found are interesting: when viewing the sex offenders' recidivism rates six years following this program, only 5.4% of the forty-six inmates who completed the treatment program re-offended, compared to 30.6% of the partial treatment group, and 30% of the non-treatment group (McGrath, et al., 2003). Therefore, this would at least give some reassurance that alternatives to shaming and labeling these offenders can lead to positive results; although, more studies would need to be conducted to confirm the findings. Yet, some people would argue about the costs of providing sex offenders treatment programs, but the price to monitor ex-sex offenders is not inexpensive, either (McGrath, et al., 2003).

### *Conclusion*

As a result, with each passing sex offender registration law, there is a stricter guideline in which an ex-sex offender has to adhere. One has to wonder if the retributive forms of punishment, instigated by the labels that are placed on these offenders, are appropriate. Research on sex offender recidivism rates and the benefits of sex offender registration laws, depict that the laws are more of an extreme form of shaming, or stigma, as identified through labeling theory (even if that is not their intention), more than as a benefit to community protection. Nonetheless, with the atrociousness of some of these sex offenders' actions, it would be difficult to convince people into thinking sex offenders deserve any pardon post-release. Thus, it is hard to fathom that the notification laws would ever be removed; however, these laws should possibly be amended by only requiring the most violent of sexual offenders (Level III and sexual predators) to be placed on the registries, so not all of the offenders have to be stigmatized. After all, most

people currently on the registries have not committed a violent offense against another person before or after their prison release (Jones, 1999). Additionally, since there is evidence that cognitive-behavioral therapy helps if the programs are successfully completed, then all sex offenders should be required to undertake that treatment, instead of simply labeling them. Nevertheless, with the continued heightened security and monitoring of sex offenders, one has to wonder how far the laws could possibly extend in the future.

## REFERENCES

- Anonymous (1995). Criminal Law. Sex offender notification statute. *Harvard Law Review*. 108(3) 787-792. Retrieved February 16, 2007, from EBSCOhost Database.
- Anonymous (1998). Megan's law: Fears vs facts. *Alternatives to Incarceration*. 31(5), 7-8. Retrieved February 4, 2007, from ProQuest Database.
- Anonymous (1999). Information sharing: Sex offender registration and notification. *Alternatives to Incarceration*. 5 (4): 11-14. Retrieved February 2, 2007, from ProQuest Database.
- Becker, H. S. (1963). *Outsiders: Studies in the Sociology of Deviance*. New York: The Free Press.
- Beirne P., & Messerschmidt J. W. (2006). *Criminology 4<sup>th</sup> ed*. California: Roxbury Publishing Company.
- Downing H. (2006). The Emergence of Global Positioning Satellite (GPS) in Correctional Applications. *Corrections Today*. 68(6), 42-46. Retrieved February 18, 2007, from ProQuest Database.
- Erikson, K. T. (1966). *Wayward Puritans: A Study in the Sociology of Deviance*. New York: John Wiley and Sons.
- Goffman, E. (1963). *Stigma: Notes on the Management of Spoiled Identity*. New Jersey: Prentice-Hall.
- Hawthorne, Nathaniel. (1850). *The Scarlet Letter*. Boston: Ticknor, Reid & Fields.
- Hughes, E. C. (1945). Dilemmas and the Contradictions of Status. *American Journal of Sociology*, 893-896.



- Jones K. D. (1999). The Media and Megan's Law: Is community notification the answer? *Journal of Humanistic Counseling, Education and Development*. 38 (2) , 80-89. Retrieved February 4, 2007, from ProQuest Database
- Lemert, E. (1951). *Social Pathology: A Systematic Approach to the Theory of Sociopathic Behavior*. McGraw-Hill Book Company, Inc.
- Lewis, C. L. (1996) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act: An unconstitutional deprivation of the right to privacy and substantive due process. *Harvard Civil Rights – Civil Law Review*. 31 (1): 89-102. Retrieved February 3, 2007, from EBSCOhost and ProQuest Databases.
- Lilly, J. R., Cullen F. T., & Ball, R. A. (2002). *Criminological Theory: Context and Consequences*. California: Sage Publications.
- McGrath R. J., Cumming, G., Livingston, J. A., & Hoke, S. E. (2003). Outcome of a treatment program for adult sex offenders: From prison to community. *Journal of Interpersonal Violence*. 18 (1): 3-17. Retrieved February 21, 2007, from ProQuest Database.
- Milloy, R. E. (2001). Texas Judge Orders Notices Warning of Sex Offenders. *New York Times*. New York, N.Y. Retrieved February 2, 2007, from ProQuest Database.
- Office of the Press Secretary (2006). Fact Sheet: The Adam Walsh Child Protection and Safety Act of 2006. Retrieved Feb 25, 2007, from <http://www.whitehouse.gov/news/releases/2006/07/20060727-7.html>
- Pfohl, S. J. (1985). *Images of Deviance and Social Control: A Sociological History*. New York: McGraw-Hill.

- Pinicus W. (1998). Megan's Law and the protection of the child in the on-line age. *The American Criminal Law Review*. 35(4), 1319-1342. Retrieved February 3, 2007, from ProQuest Database.
- Quinney, R. (1974). *Criminology: Analysis and critique of crime in the United States*, Boston: Little, Brown.
- Tannenbaum, F. (1938). *Crime and the Community*. Boston, New York: Ginn.
- Thomas, C. B. (2001). A new scarlet letter. *Time*. 157(23), 82. Retrieved February 2, 2007, from ProQuest Database.
- Turrentine, C. G., Stites, P. T., Campos M. G. T., & Henke, P. A. (2003) The Campus Sex Crimes Prevention Act: What student affairs professionals need to know. *College Student Affairs Journal*. 22 (2): 150. Retrieved February 3, 2007, from ProQuest Database.