



THE NEW SCARLET LETTER

Is Minnesota's Predatory Offender Registry helping or hurting?

ARTICLE AND PHOTOS BY STACY L. BETTISON

“I’m a lot of things, but I’m not a rapist. And I’m not a child molester.”

In 2001, when James¹ was 20 years old, he had sex with a 15-year-old girl at a party. He didn’t know her age. He was convicted of fourth-degree criminal sexual conduct,² served 90 days in jail while awaiting adjudication, and pled guilty. He was sentenced to three years’ probation.

Two years later, in 2003, he was convicted of possession of a firearm. He served 10 months in prison. Upon release he was required to register as a predatory offender and attend outpatient sex offender treatment.³ “I was shocked,” he remembers. “I didn’t understand why. But I went.”

As part of that process, he took a polygraph.⁴ “I was asked about lots of different things,” he says, “my sexual history, animals, my sister, and some other really bizarre stuff.” The polygraph results caused his evaluators to classify him not as a sex offender requiring more treatment, but as an “opportunistic criminal.” He was classified a Level 1 risk.⁵ At that time, he was required to register until 2013.

In late 2009, with four years left to register, he was arrested and charged with possession of illegal weapons and drugs, and served nine years in state and federal prison. Upon his release in 2018, the clock reset, and he is required to register until 2028.⁶

James is just one of the 21,000+ people who make up Minnesota’s Predatory Offender Registry. Even though his registerable offense happened 18 years ago and involved no allegations of violence, rape, or force, James is required to provide the following information to his probation officer for the next nine years:

- (1) primary address;
- (2) secondary addresses in Minnesota, including all addresses used for residential or recreational purposes;
- (3) addresses of all Minnesota property owned, leased, or rented by the person;
- (4) addresses of all locations where the person is employed;
- (5) addresses of all schools where the person is enrolled;
- (6) year, model, make, license plate number, and color of all motor vehicles owned or regularly driven by the person;
- (7) expiration year for the motor vehicle license plate tabs of all motor vehicles owned by the person; and
- (8) telephone numbers including work, school, and home and any cellular telephone service.⁷

If he fails to provide any of the information on time, or to update any of the information as required by the statute, he will go to prison for at least one year and one day and up to five years.⁸ When he is released from prison, the 10-year registration cycle will begin again.⁹

Mission creep: Child predators and the roots of the registry

In 1991, the Minnesota Legislature enacted the state’s first version of the sexual offender registry, and it focused on child abduction—requiring convicted sex and kidnapping offenders to register their current addresses at a probation office.¹⁰

Triggered in large part by Jacob Wetterling’s abduction in October 1989, there was at the time a “legislative panic” and a fixation on “sexual predators.”¹¹ The registration requirements passed in 1991 applied solely to persons convicted of a sexual crime against a minor:

anyone sentenced to imprisonment following a conviction of kidnapping... criminal sexual conduct... solicitation of children to engage in sexual conduct, use of minors in a sexual performance or solicitation of children to practice prostitution and the offense was committed against a victim who was a minor.¹²

Recalling the early days of the search for Jacob and the investigation into his disappearance, Patty Wetterling recalls, “I was asked, ‘What would have been helpful to find Jacob?’ It would have been helpful to know who was in the area at that time that had a history of preying on children.” Danny Heinrich, the man who confessed 27 years later to abducting and killing Jacob, would not have been in any database, however—he had never been convicted of a sex crime.

The registry was designed, as Wetterling recalls, to serve as a law enforcement tool. For the past many years Wetterling has questioned the ever-widening net the registry casts, especially for juveniles required to register. Her concern: that so many now on the registry are not the same as the man who abducted her son.

“The overwhelming belief at the time was that sexual predators were always going to reoffend,” she notes. “There was no central repository of information about the suspects in Jacob’s case. Unless a suspect had been charged with a federal offense, we had to go to every single jurisdiction to get information and criminal backgrounds, to find suspects and clear them. You don’t have time for that when a child is kidnapped. Time is the enemy.”

Fast forward 28 years, and today’s registry applies to far more people for many more different crimes than it did in 1991. Since 1991, there have been 35 amendments to the registration law, making penalties for non-compliance harsher and adding more types of conduct requiring registration.

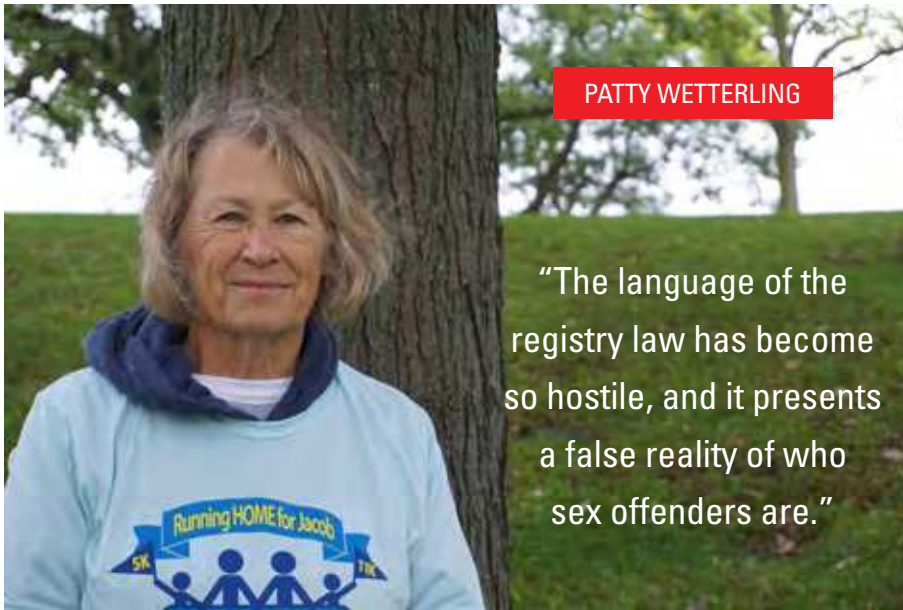
The Legislature made significant changes to the law in 2000 in response to Katie Poirier’s abduction and murder. (The measure was known at the time as Katie’s Law.) Richard Blom, a registered sex offender with several previous felonies at the time he kidnapped and murdered Poirier, was sentenced to life in prison. The Minnesota Legislature toughened the registration laws to improve the methods for tracking registrants.

The 2000 amendments imposed an additional 10 years of registration if a current registrant was convicted of another offense during the initial registration period¹³ and increased the penalty for providing false information from gross misdemeanor to a felony with up to 5 years in prison.¹⁴

Changes to the law that year also added “crime against the person”—27 of them—as an offense that would trigger registration if the person had also previously committed an offense that currently required registration but didn’t at the time the now-registerable offense was committed.¹⁵ It further included the public disclosure of information about the offender when a person fell out of compliance with registration requirements.¹⁶ And, importantly, it added a new subdivision specifying all the information a person must provide as part of registration (address of primary residence, secondary residence, addresses of all property owned, rented, or leased, address of employment, etc.).¹⁷ 2000 was also the year the term “sex offender” was changed to “predatory offender.”¹⁸

As a result, the number of registrants has steadily increased over time. In 2000, there were 12,000 registrants.¹⁹ Data requested from the Bureau of Criminal Apprehension for this article indicates the number of registrants has increased every month for the past 10 years: in January 2009 there were 16,622 registrants; as of August 2019, there were 21,189 registrants. While no comparative budgets for the past 10 years were received, the cost to implement the registry in fiscal year 2019 was \$1,074,896. Staff costs accounted for \$821,724 of that total.

What has changed since 1991 outside the confines of the registry is a tidal wave of local communities across the state passing ordinances restricting where



PATTY WETTERLING

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predatory offenders can live. Ordinances vary in scope and they tend to prohibit sex offenders from living near parks, daycare facilities, playgrounds, schools, and other areas frequented by children.²⁰

A false premise

The registry, in its current iteration, is based on one important assumption: People who commit sex crimes are significantly more likely than not to commit another sex crime. Courts have even adopted this assumption, noting that re-offend rates are “frightening and high.”²¹ Politicians, judges, and communities rest comfortably in this assumption; after all, “those on sex offender registries are seen as inveterate criminals who share essential character defects.”²²

Studies show, however, that this assumption is wrong. There’s a body of research from the past 15 years concluding that sex offender recidivism rates are lower than was thought 30 years ago.²³ While the traditional belief has been that offenders were highly likely to reoffend and remained so their whole lives, “current research suggests that after a certain amount of time living offense-free, sex offenders are no more likely to commit a sex offense than anyone else being released for another crime,” says Eric Janus, professor at Mitchell Hamline School of Law and one of the nation’s leading experts on sexual violence law and policy. “When you talk about narrative, the false part is about recidivism; it’s such a small piece of the problem with sexual violence.”

“Of all the sex offenders who are released from prison,” he continues, “the risk of them committing a new sex offense

in the nine years following release from prison is less than 8 percent. In other words, 92 percent of offenders are not arrested for another sex offense within nine years.

“What’s surprising to a lot of people is that only 7 percent of sex offense convictions in any given year had a previous sex offense conviction,” says Janus.²⁴ “If you are worried about sexual offenses, and all you look at is recidivism, you are looking at the wrong thing—it’s a small sliver of the problem.”

What the current registry of 21,000 people does not address is this important fact: Over 90 percent of all sex crime convictions involve individuals never before convicted of a sex offense.²⁵

A recent report from the Bureau of Justice Statistics (BJS) considering the recidivism rates of people convicted of sex crimes has been criticized as further perpetuating the false narrative of sex offenders in the way it couched the most recent findings regarding recidivism. While the study and its underlying data showed that people convicted of sex offenses are actually less likely than people convicted of other offenses to be rearrested or go back to prison,²⁶ the BJS press release was entitled “Released Sex Offenders Were Three Times As Likely as Other Released Prisoners to be Re-Arrested for a Sex Offense.”²⁷

“A lot of people are very upset about the way BJS sensationalized the data,” says Janus. “‘Three times more likely to commit a sex crime’ than a non-sex offender released from prison is unsurprising, but it’s misleading—and [it] directs attention away from the indisputably low rate of sexual recidivism for sex offenders.”

Wendy Sawyer, a senior policy analyst with the Prison Policy Initiative, believes the BJS press release and how the report is positioned is “a good example of how our perception of sex offenses is distorted by alarmist framing, which in turn contributes to bad policy.”²⁸ She writes:

What the report doesn’t say is that the same comparisons can be made for the other offense categories: People released from sentences for homicide were more than twice as likely to be rearrested for a homicide; those who served sentences for robbery were more than twice as likely to be rearrested for robbery; and those who served time for assault, property crimes, or drug offenses were also more likely (by 1.3-1.4 times) to be rearrested for similar offenses.²⁹

What got lost in the headlines was data showing that people convicted of a sex crime were less likely to be arrested in general: 67 percent of prisoners released for sex offenses were arrested for any crime during the ensuing nine-year period, compared to 84 percent of other released prisoners.³⁰

Who sex offenders really are

The fact is, most sex crimes are *not* committed by strangers. To the contrary, most sex crimes are committed by people who are familiar with their victim—a family member, intimate partner, coworker, classmate, or acquaintance.³¹

Veronica Surges, an assistant state public defender with the Minnesota Appellate Public Defender’s Office, represents clients in appeals who have been convicted of sex and other crimes requiring registration. In Surges’s view, the registry is not reflective of reality: “It’s a tapestry of media reports, public fear, and laws. Media reports fuel people’s fear, which politicians react to with harsher legislation, which promises re-election.” She acknowledges that “there are people out there who do steal kids, but the registry has become so much bigger than that. The vast majority of registrants are not the Danny Heinrichs of the world.”

“The language of the registry law has become so hostile, and it presents a false reality of who sex offenders are,” says Patty Wetterling. The stigma, registry requirements, and risk of not complying with the complicated requirements “impacts everything that a human needs

to survive: stable housing, employment, community support, relationships—in effect, this takes that all away,” she adds.³²

Alissa Ackerman, an assistant professor of criminal justice at California State University at Fullerton, agrees: “Having hundreds of thousands of people on registries creates a narrative that we have hundreds of thousands of dangerous people who have committed sexual offenses and will do so again—but what we know is their recidivism rates are low. This narrative of ‘stranger danger’ takes us away from really thinking about and preventing the kinds of offenses (such as drugs, property, and other violent crimes) that are happening every day.”

The registry, Ackerman says, “perpetuates registrants as the ‘others,’ pariahs, and [suggests] they are all dangerous. People who have committed sex offenses are not a monolith. Yet having hundreds of thousands of registrants creates a monolith.” This in turn, says Ackerman, results in legislation that has little purpose: “There is no evidence that it’s effective. Registries have been found to have no effect on forcible rape.”³³

Ackerman believes Minnesota’s policy of creating risk levels upon release from incarceration (Level I, II, or III),³⁴ and only publicly disclosing Level III offender information, is better than the approach of states that disclose information on all registrants. She acknowledges that the information contained in private lists can be helpful to law enforcement to clear cases and rule out suspects, and that limiting public disclosure to only those deemed most likely to reoffend is a better policy.

Registries hurt youth registrants

Wetterling can cite many instances in which the registry is not working as intended when passed in 1991. One story she shares is a call she received from Ricky’s³⁵ mom. Ricky was 16 years old when he attended a teen dance designated for ages 16 and older. He met a girl there. They had a few dates, and ultimately had sex. Soon thereafter she told him she was actually 14 years old. He broke off the relationship. She ended up running away from home. She was ultimately located and talked with law enforcement. Suddenly they were knocking on Ricky’s door. Turns out she was 13, not 14.

“He was charged with criminal sexual conduct under his state’s laws, kicked off the football team, expelled, required to register, and couldn’t live with his grandma any longer because she lived next to a park,” says Wetterling. “The original intention of the registry law was not to cover someone like Ricky. Ricky was a kid who had sex with his girlfriend. We’ve gotten so far away from what we wanted to do with [the] registry.”

Wetterling’s first year as a teacher was spent working with dropouts so they could get a GED and start down a better path. She saw then—and still believes—that people can change, and that they do better when given support and help.

Wetterling, by her own account, has been “very loud” about getting juveniles off the registry: “I believe putting kids on the registry is a life sentence. We cast such a big net, but so many are different than the man who killed Jacob. That man was a predator. He had multiple victims

but had never been charged, so Heinrich would not have been on the sex offender registry while, ironically, Ricky is. There are so many on the registry for other things, like inappropriate touch—which is wrong and they need to stop, they need to get help—but it’s not the same as sexual assault or kidnapping.”

Recent research confirms that requiring children to register is creating lasting damage for those kids, and may even be creating more risk to others. Researchers at the Johns Hopkins Bloomberg School of Public Health found that children who were required to register as sex offenders “were at greater risk for harm, including suicide attempts and sexual assault, compared to a group of children who engaged in harmful or illegal sexual behavior but who were not required to register.”³⁶ Other risks to children on registries include chronic mental health problems and being approached by an adult for sex.³⁷

In an age when “sexting” among teens is commonplace, and access to porn is at the tip of kids’ fingers on their phones, the risk to children of being accused of sex crimes and consequently landing on the registry is very real.

Wetterling will be serving on a new task force assembled by the Center for Missing and Exploited Children to look at child peer-on-peer sexual victimization. Her concern is that current sexual behavior among some children may lead to criminal charges. And the registry is not helping because it presents a false narrative and perpetuates misconceptions about anyone registered, be it a child or adult. “Lock them up and shoot them is what they’d really like to do,” she says. “In many people’s eyes, it’s the worst of all crimes. But victims heal. And perpetrators can turn their lives around.”

Minnesota case law: Casting a wider net

Case law arising from Minnesota courts has served to catch more people in the required-to-register net. Most concerning to practitioners is that a person need not be convicted of an enumerated offense in order to be required to register. They simply need to be charged with a registerable offense. If they are convicted or plead to an offense “arising out of the same set of circumstances” as the registerable offense, the person must register.³⁸

But that rule was taken to a new level in “the worse imaginable case,” according to Bradford Colbert, a visiting assistant professor of law who is implementing the



VERONICA SURGES

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Legal Assistance to Minnesota Prisoners Clinic at Mitchell Hamline Law School. He brought a civil lawsuit, *Thibodeaux v. Evans*, on behalf of his client, Michael Thibodeaux, to challenge a district court’s decision that Thibodeaux was required to register as a predatory offender.³⁹

In that case, Thibodeaux was charged as a juvenile on March 4, 1997 with fourth-degree criminal sexual conduct, a felony that requires registration. The court found probable cause for the charge, but later, on March 20, the state charged Thibodeaux with fifth-degree criminal sexual conduct—a gross misdemeanor that does not require registration. The charge was based on the same incident and contained the same probable cause statement but was filed as a new complaint. Thibodeaux pled guilty to fifth degree criminal sexual conduct, and the court dismissed the complaint with the fourth degree charge. The district court did not order Thibodeaux to register.

Eight months later, in December 1997, Thibodeaux was certified as an adult and convicted of fourth degree assault on a separate matter, not arising out of the same conduct as the juvenile-charged criminal sexual conduct. Following that conviction, the district court ordered him to register as a predatory offender based on the prior fifth degree criminal sexual assault adjudication.

Thibodeaux argued that his due process rights were violated and the BCA was estopped from requiring him to register because his 1997 plea agreement dismissed the fourth degree criminal sexual conduct charge. The appeals court disagreed. Citing the Minnesota Supreme Court’s decision in *State v. Lopez*,⁴⁰ the appeals court noted that the “requirement to

register for those who are ‘merely charged with predatory offenses’ was meant to ‘ensure that true predatory offenders cannot plead out of the registration requirements.’”⁴¹ The court of appeals went on to note that a defendant will be required to register based on a dismissed charge if the charge was supported by probable cause.⁴²

“There are so many things wrong with this decision. It was literally part of the plea agreement—the registerable offense was thrown out. This case means that once it’s charged by complaint, it’s over,” say Colbert.

This means there are very serious real-life consequences when prosecutors use their discretion to overcharge sex crimes in the first instance, based only on probable cause—a far less demanding legal standard than “beyond a reasonable doubt,” which is required to convict. While it’s easy for a prosecutor to amend the complaint and modify the charges, any defendant initially charged with a registerable offense will be on the registry for the next 10 years—simply because a prosecutor decided to charge it that way.

This also means, says Surges, that defense attorneys in such cases need to bring a motion to dismiss the complaint for lack of probable cause. Not only do they need to make the motion; they need to create a record. “Make the record,” she emphasizes. “Make sure you get all parties to say, on the record, the complaint is dismissed for lack of probable cause. Explain why there was no probable cause to charge in the first place, and what new evidence supports that contention. That is what the Bureau of Criminal Apprehension will look at when determining whether registration is required.”



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Conclusion

Sex crimes must be taken very seriously. They affect the most vulnerable and private aspects of people, and especially of children. Yet both longstanding and significant research supports the proposition that the majority of sex crimes are committed by people who have some familiarity with their victim, and most sex crimes are *not* committed by those previously convicted of a sex crime.

Given the overwhelming body of research confirming that registries (as well as community notification and residency restrictions) have little impact on preventing sex crimes, we are left with very serious questions about the ultimate value of Minnesota’s Predatory Offender Registry, given the potential long-term consequences to the over 21,000 Minnesotans who comprise the registry. Those most deeply affected by the requirements of the registry are, of course, those who need the most support as they integrate back into society to become productive, engaged, contributing citizens.

At the end of the day, the need for some kind of registry is contested by few. As with any complex system, the devil is in the details: scope, application, and penalties for failure to comply.

Even James, who must register for at least nine more years, doesn’t take issue with the registry itself. “I think it’s useful. There are people who should be monitored closely. By the same token, they should weed out those who don’t need to be—and shouldn’t be—monitored. It’s covering way too many people.” ▲

Notes

- ¹ This individual's name has been changed to protect his anonymity.
- ² See Minn. Stat. §609.345, Subd. 1(b) (“[T]he complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant . . .”).
- ³ See Minn. Stat. §243.166, Subd. 1b(a)(1)(iii).
- ⁴ See Minn. Stat. §609.3456.
- ⁵ See Minn. Stat. §244.052, Subd. 3(e).
- ⁶ See Minn. Stat. §243.166 subd. 6(c) (requiring registration until 10 years have elapsed since the person was last released from incarceration for conviction for a new offense or following a revocation of probation, supervised release, or conditional release for any offense).
- ⁷ Minn. Stat. §243.166, Subd. 4a.
- ⁸ *Id.* at Subd. 5(b).
- ⁹ *Id.* at Subd. 6(c).
- ¹⁰ Law of June 1, 1991, ch. 285, Sen. File No. 371 (amending Minn. Stat. §13.82) (“An act relating to crimes; child abduction; requiring certain convicted sex and kidnapping offenders to report a current address to probation officer following release from prison; requiring the publication of missing children bulletins; requiring training concerning the investigation of missing children cases; providing law enforcement officers access to medical and dental records of missing children; extending DNA analysis requirements to persons sentenced as patterned sex offenders. . . .”). Section 3 was added to Chapter 285 and codified as Minn. Stat. §243.166, “Registration of Sex Offenders.”
- ¹¹ Wayne A. Logan, *Jacob's Legacy: Sex Offender Registration and Community Notification Laws, Practice and Procedure in Minnesota*, 29 WM. MITCHELL L. REV. 5 (2003). Community notification is a significant component of our criminal justice system as it relates to people who have been convicted of sex crimes. Community notification, residency restrictions, and applicable federal laws are not discussed here. For a comprehensive overview of both Minnesota and federal legislation as well as critical considerations as to the efficacy of registry and notification laws, see Justin P. Rose, *Where Sex Offender Registration Laws Miss the Point: Why a Return to an Individualized Approach and a Restoration of Judicial Discretion Will Better Serve the Government Goals of Registration and Protect Individual Liberties from Unnecessary Encroachments*, 38 MITCHELL HAMLIN L. J. OF PUB. POL'Y & PRAC., 2 (2017).
- ¹² See *supra* note 10.
- ¹³ Law of June 3, 2000, ch. 311, House File No. 2688, Ch. 311, Art. 2, §7, Subd. 6(c) (2000).
- ¹⁴ *Id.* at §6, Subd. 5.
- ¹⁵ *Id.* at §11, Subd. 1-2.
- ¹⁶ *Id.* at §8, Subd. 7(a).
- ¹⁷ *Id.* at §5, Subd. 4a. The 2000 amendment resembles the current requirements of what information a person must provide. In 2019, the law was amended again, however; a person must now also provide the expiration year for the motor vehicle license plate tabs of all motor vehicles owned by the person and all telephone numbers including work, school, and home and any cellular telephone service. Law of May 30, 2019, ch. 5, Sen. File No. 8, Article 5, Sec. 6 (2019).
- ¹⁸ Law of June 3, 2000, ch. 311, House File No. 2688, Ch. 311, Art. 2, §12 (2000). The statute now requires registry of individuals who are convicted, charged, or adjudicated delinquent for specific crimes: murder involving sexual component, kidnapping and false imprisonment, criminal sexual conduct, indecent exposure to minors, soliciting a minor to engage in sexual conduct, prostitution, or sexual performance. The registry includes registration of people who are civilly committed as Sexually Psychopathic Personalities or Sexually Dangerous Persons, Mentally Ill and Dangerous if found not guilty of predatory offense because of the Mentally Ill and Dangerous diagnosis. See Minn. Stat. §243.166, Subd. 1b.
- ¹⁹ *Katie's Law Highlights Crime Package*, Minnesota Public Radio (1/10/2000) (interview with Rich Stanek, the chair of the House Crime Prevention Committee).
- ²⁰ See e.g., City of Orono, City Ordinance Article V11, Sexual Predatory Residence Restrictions; see also Ass'n for the Treatment of Sexual Abusers Minnesota Chapter, *Residency Restrictions for Sexual Offenders in Minnesota: False Perceptions for Community Safety*, <https://mnatsa.org/wp-content/uploads/2017/05/MnATSA-Residency-Restrictions-April-2017.pdf> (listing Minnesota localities with residence restriction ordinances as of 2015) (last visited 9/11/2019). Importantly, a 2007 Minnesota Department of Correction study analyzing how residency restrictions impact recidivism rates concluded there was “very little support for the notion that residency restriction law would lower the incidence of sexual recidivism, particularly among child molesters.” Minn. Dep't of Corrections, *Residential Proximity & Sex Offense Recidivism in Minnesota*, p. 24 (April 2007).
- ²¹ *Smith v Doe*, 538 U.S. 84, 103 (2003) (quoting *McKime v Lile*, 536 U.S. 24, 34, (2002)).
- ²² Brief of Scholars Whose Work Includes Sex Offense Studies as Amici Curiae in Support of Petitioner, *Gundy v. United States*, 139 U.S. 2116 (No. 17-6086) (2019).
- ²³ See Karl Hanson et al., *Reductions in risk based on time offense free in the community: Once a sexual offender, not always a sexual offender*, 24 PSYCHOL. PUB. POL'Y & L. 48 (2017); see *supra* note 22 (outlining research and data showing low recidivism rates for people convicted of sex crimes).
- ²⁴ Brian Collins, Minnesota Department of Corrections, Presentation at the 2017 MnATSA Conference presenting *Residency Restrictions, Sound public policy or tinfoil hats?* (4/21/2017) (7% of criminal sexual conduct convictions in Minnesota 2001-2015 had prior sex crime conviction; 93% of criminal sexual conduct convictions in same period had no prior conviction).
- ²⁵ See *id.* at 22; see also, e.g., Jeffery Sandler, Naomi J. Freeman, Kelly M. Socia, *Does a watched pot boil? A time-series analysis of New York State's sex offender registration and notification law*, 14 PSYCHOL. PUB. POL'Y & L. 284, 297 (2008) (Data from New York State show that 95% of those arrested for sex crimes are first-time sex offenders).
- ²⁶ Special Report, U.S. Dep't of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005-14)* (May 2019).
- ²⁷ Press Release, Bureau of Justice Statistics, *Released Sex Offenders Were Three Times As Likely as Other Released Prisoners to be Re-Arrested for a Sex Offense (5/30/2019)* (last visited 9/14/2019).
- ²⁸ Wendy Sawyer, *BJS fuels myths about sex offense recidivism, contradicting its own new data*, [https://www.prisompolicy.org/blog/2019/06/06/sexoffenses/\(6/6/2019\)](https://www.prisompolicy.org/blog/2019/06/06/sexoffenses/(6/6/2019)) (last visited 9/15/2019).
- ²⁹ *Id.*
- ³⁰ *Id.*
- ³¹ National Sexual Violence Resource Center, *People Who Commit Sexual Violence*, https://www.nsvrc.org/sites/default/files/publications_nsvrc_fact-sheet_media-packet_people-who-commit-sexual-violence_0.pdf (last visited 9/15/2019); Minn. Dep't of Corrections, *Residential Proximity & Sex Offense Recidivism in Minnesota*, p. 24 (April 2007) (“Sex offenders are much more likely to victimize someone they know.”)
- ³² See also Center for Sex Offender Management, *Sex Offender Residence Restrictions*, <https://www.csom.org/pubs/ATSA%20Residence%20Restrictions.pdf>
- (last visited 9/11/2019) (“The unintended consequences of residence restrictions include transience, homelessness, and instability . . . [which] can lead to diminished access to specialized treatment and probationary supervision, employment and housing disruption, and separation from supportive an/or dependent family members.”)
- ³³ “Forcible rape” is defined in the FBI's Uniform Crime Reporting (UCR) Program: “the carnal knowledge of a female forcibly and against her will. Attempts or assaults to commit rape by force or threat of force are also included; however, statutory rape (without force) and other sex offenses are excluded.” United State Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, *Forcible Rape*, <https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/violent-crime/rapemain> (last visited 9/11/2019).
- ³⁴ Risk Level I is considered the least likely to re-offend and only local law enforcement and victims or witnesses are notified of the offenders release or relocation. Risk Level II is thought to pose a moderate risk of re-offense. In this case, local law enforcement and victims or witnesses are notified of the offenders' release or relocation, as well as any agencies that may serve a population at risk of victimization that are located near the offenders' home. Risk Level III is determined to be the most likely to re-offend. In this case, local law enforcement, victims or witnesses, and any agencies that serve a population at risk of victimization may be notified, as well as the general public. Civilly committed offenders are believed to pose a severe risk to him/herself and/or to the public. They can be committed instead of being released. See generally Minn. Stat. §244.052. As of 1/1/2017, current risk levels percentages assigned to people convicted of sex crimes in Minnesota were: Level 1 – 56%; Level 2 – 29% and Level 3 – 15%. See *supra* note 22 at 16.
- ³⁵ This individual's name has been changed to protect his anonymity.
- ³⁶ Press Release, Moore Center for the Prevention of Child Sexual Abuse, *Children on Sex Offender Registries at Greater Risk for Suicide Attempts, Study Suggests (12/6/2017)*.
- ³⁷ *Id.*
- ³⁸ *Boutin v. LeFluer*, 591 N.W.2d 711, 716 (Minn. 1999).
- ³⁹ 926 N.W. 2d 602 (Minn. Ct. App. 2019).
- ⁴⁰ 778 N.W.2d 700, 705 (Minn. 2010).
- ⁴¹ *Thibodeaux*, 926 N.W. 2d at 606.