

# Managing Unacceptable Risk: Sex Offenders, Community Response, and Social Policy in the United States and Canada

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**Abstract:** *This article compares the community protection–risk management model for the control of sex offenders with the clinical and justice models that preceded it and with a restorative justice alternative based on the principle of community reintegration. The author discusses how this community protection–risk management model reflects the new penology as well as the fusion of panopticism and synopticism. The author also discusses the model’s actual and potential social costs. He concludes with a brief look at circles of support and accountability. This Canadian approach involves setting up support circles of volunteers who enter into a covenant with persons designated as high-risk sex offenders to help them both to integrate into the community and to reduce the likelihood that they will reoffend.*

Following developments that have swept the United States and Canada during the past decade, the development of comprehensive special controls for sex offenders is an emerging international trend (Agence France Presse, 1999; Jenkins, 2001). The number of sex offenders under state control in the United States and Canada has been increasing dramatically. Between 1988 and 1990, the number of incarcerated sex offenders in the United States increased by 48%, and by 1998, around one third of prisoners in some states were sex offenders (Becker & Murphy, 1998). In Canada, the 1991 national sex offender census estimated that about 24% of federally incarcerated offenders and 12% on conditional release were sex offenders (Motiuk & Belcourt, 1996). Increases in the number of sex offenders under correctional controls are a contributing factor to as well as an effect of the creation of new social control mechanisms to protect society against sex offenders.

In 1990, the state of Washington introduced its Community Protection Act following widespread public outrage over the sexual assault and mutilation of a 7-year old boy (Boerner, 1992; Lafond, 1992; State of Washington, 1989). In 1994, the state of New Jersey took only 4 months to introduce Megan’s Law in response to massive community protest over the sex slaying of a 7-year old girl (Wright, 1995). Since then, every state in the United States has introduced legislation creat-

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ing registries for convicted sex offenders and provisions for notifying members of the community about the whereabouts of high-risk sex offenders. In at least 30 states, access to sex offender registries is provided through state-sponsored Web sites (<http://www.klaaskids.org>) (Logan 1999; National Criminal Justice Association [NCJA], 1999).

At least 15 states have already passed legislation allowing for the indeterminate commitment under civil law of persons who are found to meet the criteria for a violent sexual predator, that is, a violent sex offender who is considered to have a psychological abnormality or personality disorder. After the constitutionality of one such law in the state of Kansas was upheld by the U.S. Supreme Court in the controversial *Kansas v. Hendricks* decision of 1997, at least 20 other states began to develop or are considering developing their own laws (Winick, 1998).

Another special measure (known as “two strikes” or “three strikes” laws) involves providing enhanced penalties for repeat felony offenders, including sex offenders. Washington State was again the pioneer with its 1993 legislation, with at least 24 other states and the federal government introducing their own legislation in the following 3 years (Boorstein, 1998; Lieb, Quinsey, & Berliner, 1998; Surette, 1996).

Finally, several states (notably, California, Florida, Georgia, Colorado, Wisconsin, and Montana) have passed laws making it mandatory for judges to impose chemical castration as a condition of parole for repeat sex offenders against children and optional in the case of other sex offenders (Logan, 1999).

In Canada, the federal government introduced a variety of measures providing for the enhanced control of high-risk sex offenders during the 1990s. These include detention until warrant expiry, peace bonds (Neumann, 1994), long-term supervision orders (Coflin, 2001; Morissette, 2001), and legislation requiring the collection of DNA samples from persons convicted of violent sex offenses and other serious offenses (Rupert, 2000).

In the province of Ontario, Premier Mike Harris’s Conservative government enacted Christopher’s Law (which came into effect April 23, 2001), creating a register for sex offenders. This legislation was named after Christopher Stephenson, an 11-year-old boy who was sexually assaulted and murdered by Joseph Fredericks, a sadistic psychopathic pedophile (Government of Ontario, 2000). After at least five other Canadian provinces had begun the process of developing a similar registry (Campbell, 2001), the federal government finally gave in to provincial pressure and announced on February 14, 2002 that it would establish a national registry (Tibbits, 2002).

What is behind this tremendous fear of sex offenders that is gripping contemporary Anglo-American societies (Jenkins, 1998, 2001)? How can we explain such a concern not only to punish them (through deprivations of liberty and privacy and shaming tactics) but also to incapacitate them through extraordinary measures that override conventional understandings of justice and civil rights?

These measures include registration and tracking systems, DNA data banks, formalized community notification systems, indefinite civil commitment, and even chemical controls.

In recent articles, criminologists such as Jonathan Simon (1998) of the University of Miami, Florida, and Dario Melossi (2000) of the University of Bologna have written about the reemergence more than a century after Lombroso of the representation of a criminal perceived to be a monster. For such criminals, there is zero tolerance. They are considered to pose an unacceptable level of risk, especially toward those persons in society—women and children—considered to be most vulnerable. Of those who pose such risk, none is more feared than the predatory pedophile or rapist. These are persons for whom neither punishment nor treatment are considered to be effective controls and whose perceived enduring danger means they must be under the watchful eye of state and community for the rest of their lives.

It is interesting that many of the new sex offender laws are named after children whose brutal sex slayings have aroused tremendous public anger. These laws include the Jacob Wetterling Law, Zachary's Law, and Megan's Law in the United States and Christopher's Law in Canada. Perhaps never before have members of the community played such a direct and powerful role in crime control, not only in demanding the speedy passage of legislation but also through the mechanism of community notification and citizen surveillance, often with the assistance of the Internet and other communications technologies.

This article explores how and why a community protection–risk management approach to sex offenders came into being as part of the culture of control (Garland, 2001) in the United States and Canada at the latter part of the 20th century. How is this approach different from other approaches? What are some of its actual and potential consequences? How might an alternative based on the principle of community reintegration work?

First, we compare the community protection–risk management approach with its two major predecessors earlier in the 20th century, the clinical approach and the justice approach. We then discuss the community protection approach in terms of what Simon and Feeley (1995) describe as the conjuncture of populist punitiveness and the new penology as well as in terms of what Mathiesen (1997) describes as the fusion of panopticism and synopticism. Next, we examine some consequences and costs of the community protection approach. Finally, we discuss an alternative approach that is rooted in the restorative justice tradition and known as “circles of support and accountability” (Kirkegaard & Northey, 2000).

In each of the four approaches to the social control of sex offenders discussed, there is a different story told about sex offenders and their victims and how the community and government should respond. In each story, different voices can be heard expressing different values, interests, and beliefs; different views of what the problem is; and different proposed solutions (Lafond, 1992).

## THE CLINICAL APPROACH

In this approach, the risk posed by sex offenders is the result of a mental or personality disorder, such as psychopathy, which can be reliably diagnosed and treated by mental health experts. With proper diagnosis and treatment, offenders can be rehabilitated and the public protected. In this story, the voices of victims and other members of the community are secondary to the voices of mental health experts and the legislators and officials who rely on their expertise and advice. Also secondary are the voices of civil libertarians who argue that offenders considered to be mentally disordered should receive the same rights and procedural safeguards granted to other offenders (Petrunik, 1994).

A good example of a clinical approach in legislation is the enactment of sexual psychopath statutes authorizing the confinement of accused or convicted sex offenders that occurred in 25 states, the District of Columbia, and Canada between the 1930s and 1950s (Brakel, Parry, & Weiner, 1985; McRuer, 1958). In the United States, these statutes (although nominally civil) were a hybrid of civil mental health and criminal controls. They authorized the involuntary indeterminate commitment of individuals convicted of (or in some jurisdictions merely charged with) sexual offenses who were found to be mentally disordered, dangerous, and in need of treatment. In Canada, individuals adjudicated as criminal sexual psychopaths were required to serve at least 2 years in prison for the crime for which they were convicted plus a life-indeterminate term under preventive detention in a penitentiary (McRuer, 1958).

The period between the 1930s and 1950s was a time when many experts believed that much criminal behavior, particularly sexual deviance, was caused by psychopathology. According to Lafond (1998),

Experts could identify and cure those sex offenders suffering from psychological pathology and could permit their release back into society as productive and safe members. Both society and the individual would benefit by this benign application of medical expertise. The community's interest in safety and the "patient's" interest in a cure could be served simultaneously. (p. 471)

Variations of these laws, both criminal and civil, expressing similar faith in the knowledge and authority of mental health experts were also passed in many European countries, including the Netherlands and the Nordic countries, as well as in North America. However, between the late 1960s and the early 1980s, as a combined result of social science research and the extension of the civil rights movement to offenders and mental patients, faith in the type of forensic clinical approach underlying the sexual psychopath statutes began to crumble (Petrunik, 1982).

First, a body of social science research began to emerge that challenged the ability of mental health experts to accurately diagnose mental disorder, particularly psychopathy, which began to be viewed as more of a moral judgment than a

scientific classification of disease (Bleechmore, 1975a, 1975b; Cirali, 1978; Hakeem, 1958). Even more critical, social science research began to challenge the ability of mental health experts to predict which mentally disordered individuals were at serious risk to harm others and which ones were not risky enough to justify their involuntary confinement.

In the Baxstrom studies in New York state, sociologists followed up more than 900 forensic psychiatric patients considered to be both mentally ill and dangerous who were released following a 1966 Supreme Court decision that due process of law had not been followed in their commitment decisions. All these individuals had been transferred from prisons to high-security psychiatric hospitals and defined by mental health experts as at high risk to reoffend. Yet, less than one out of every three persons released against clinical advice was detected in a new offense during a 4-year follow-up period. This finding of a high number of false positives following clinical predictions, which was repeated in similar studies in other states and other countries, effectively challenged the belief that mental health experts could validly and reliably assess which offenders were at greatest risk of reoffending. The large number of persons designated as too dangerous to release, which were found to be false positives, was clearly based on the conservative assessments of clinical experts. These experts put a far higher priority on reducing risk to the public and their own liability through false negatives than on avoiding false positives. Here, the deprivation of the personal liberty of already stigmatized individuals was considered to be a lesser evil than possible harm to innocent victims and the potential liability of clinicians (Cocozza & Steadman, 1976; Steadman, 1972, 1980; Steadman & Cocozza, 1975).

Second, the results of program evaluation research questioning the effectiveness of correctional intervention generally and sex offender research in particular began to be published in the 1970s and 1980s. Whereas many individuals have undoubtedly benefited from a variety of treatment programs, the efficacy of sex offender treatment at an aggregate level has been placed in doubt. A widely cited review of research on the effectiveness of sex offender treatment programs (Furby, Weinrott, & Blackshaw, 1989) suggested that although different approaches to sampling and measurement made comparisons difficult and definitive conclusions impossible, the effectiveness of treatment was limited at best. In addition, there have been some preliminary results from the ongoing California Sex Offender Treatment and Evaluation Project (Marques, 1994, 1999). This project, which follows up treated and untreated sex offenders released into the community, has thus far noted that the recidivism rates of treated offenders are slightly lower, although not significantly so, and that the cost of treatment programs to taxpayers is high. Quinsey (1998) contended that other than surgical or chemical castration, only the cognitive behavioral approach to relapse prevention (particularly when combined with pharmacological treatment) has had any significant effectiveness in reducing sex offender recidivism (as cited in Heilbrun, Nezu, Keeney, Chung, & Wasserman, 1998).

Offenders, including sex offenders, who are diagnosed as psychopaths have proved especially resistant to treatment. Some Canadian research has found either no improvement in psychopaths who received certain kinds of treatment (Ogloff, Wong, & Greenwood, 1990) or even higher rates of recidivism among psychopaths receiving a particular kind of treatment—group therapy—than among psychopaths who did not receive such treatment (Harris, Rice, & Cormier, 1994).

Third, critics have argued that indeterminate confinement of such offenders without the legal safeguards granted other offenders is a violation of constitutionally guaranteed rights (Chandler & Rose, 1973; Harvard Law Review, 1974, 1975; Petrunik, 1982, 1994).

As a result of these criticisms of the clinical approach, there was a renewed interest in the late 1970s and the 1980s in a traditional justice model approach to social control that had its roots in the utilitarianism and libertarianism of enlightenment philosophers such as Di Beccaria and Bentham.

### THE JUSTICE APPROACH

The justice approach to social control begins with the premise that all legally sane offenders, including sex and violent offenders, act rationally in terms of rewards and punishments and must be tried in a court of law according to principles of due process and proportionate penalty. The primary concern of the justice approach is with the offenses not the offenders. The law authorizes judges to administer sentences that are proportionate to the seriousness of current offenses and to the prior record of offenders, with only a limited consideration of aggravating and mitigating factors. In contrast with the clinical approach, which called for an indeterminate sentence or civil commitment based on assessments of offender pathology and propensity for future harm, the justice approach advocates determinate sentences. Once offenders have fully served their sentences, they are no longer under the control of the state and cannot be punished twice for the same offense. Under the justice approach, there is also a concern to avoid unduly restricting the liberty and privacy of mentally disordered persons. Principles of individual civil rights, equality under the law, and the use of the least restrictive yet feasible alternative in imposing a penalty take precedence over offender rehabilitation, victims rights, and community protection (American Friends Service Committee, 1971; Petrunik, 1994).

The dominant story told in the justice approach is that most sex offenders labeled as *mentally disordered* and *dangerous* by clinicians are not as disordered or as dangerous as they are made out to be. For proponents of the justice approach, evidence pointing to low diagnostic reliability, inaccurate prediction, and ineffective treatment mean that the use of indeterminate confinement and coerced treatment for individuals defined as sexual psychopaths violates principles of utility and natural justice.

Two major sets of voices were heard. Social scientists claimed that the actual risk posed by many of those clinically labeled as *dangerous* had been exaggerated; civil libertarians claimed that the rights of many allegedly dangerous offenders and mental patients were being violated by a form of therapeutic tyranny. Strikingly absent in the justice approach were the voices of those who speak on behalf of victims of crime and in the interests of a safe community (Petrunik, 1994).

The justice approach at work can be seen in the abolition of the sexual psychopath laws in most American states during the 1980s and their replacement by legislation providing for fixed sentences and the requirement that no treatment could take place without informed consent (Lafond & Durham, 1992). In Canada, the criminal sexual psychopath legislation was amended in 1962 to apply to dangerous sexual offenders and again in 1977 to the broader category of dangerous offenders. The 1977 legislation allowed for the use of a determinate or an indeterminate sentence (Petrunik, 1994).

Although legislation based on the justice approach did address the concerns of civil rights activists and critics of the mental health profession's role in criminal justice, other interest groups were unhappy about such reforms. During the 1980s, social movements speaking on behalf of victims and their rights and community safety began to lobby for an approach to social control based on placing community protection first and treating both offenders' rights and offender rehabilitation as secondary (Lafond & Durham, 1992).

Foremost among these social movements were the women's movement and the child protection movement. Representatives of these movements noted that the findings of victimization surveys and other social science research (Janus, 2000) supported many of their concerns. Particularly important were findings suggesting that women and children, allegedly society's most vulnerable groups, were victims of a variety of unwanted sexual acts, as high as one in every three persons during the course of a lifetime. Furthermore, most of these unwanted sexual acts were never reported, and many of those that were did not result in prosecution and conviction (Committee on Sexual Offenses Against Children and Youths, 1984). In short, a new body of research began to question some of the findings on which the justice model's approach to dangerousness was based.

First, some critics noted that research indicating the unreliability of clinical assessments of dangerousness (particularly the high number of false positives) was largely carried out on populations of mentally ill (usually psychotic) persons who had been found not guilty by reason of insanity or not competent to stand trial. Findings pertaining to this population thus cannot necessarily be generalized to sex offenders. Although one study found that sex offenders are diagnosed with mental disorders more than twice as often as non-sex offenders (Bambonye, 1996) and sex offenders are often diagnosed as having personality disorders or paraphilia (Romero & Williams, 1985), few meet the present clinical criteria in the United States or Canada for certification as mentally ill and imminently dangerous (Brooks, 1992).

Second, although clinical predictions have been shown to overestimate the number of false positives, the number may not be nearly so large as proponents of the justice model suggest. For example, estimating the number of sex offenders and sex offenses by using conviction statistics can lead to a minimization of the danger posed by sex offenders for several reasons (Brooks, 1992; Groth, Longo, & McFadin, 1982).

First, reporting rates for sexual assaults and attempted sexual assaults are very low (Abel et al., 1987; Brickman & Briere, 1989; Lizotte, 1985; Polk, 1985; Wright, 1984; all cited in Petrunik, 1994). The Canadian Urban Victimization Survey found that 62% of female sexual assault victims who said they had been assaulted did not report the assaults to the police (Solicitor General of Canada, 1985). Also in Canada, the report of the Committee on Sexual Offenses Against Children and Youths (1984) found that 75% of 1,006 female respondents and 90% of 1,002 male respondents who reported being victimized did not report their assault to someone in authority.

Second, self-report research on sex offenders indicated a high rate of previously undetected offending. For example, Gene Abel and his colleagues (1987) carried out research on nonincarcerated paraphiliacs with a confidentiality certificate guaranteeing that the information obtained could not be used to charge participants. The 89 rapists in his sample reported an average of 7.5 victims; the 232 child molesters in his sample reported an average of 75.8 victims. Another self-report study of rapists and child molesters (Groth et al., 1982, as cited in Heilbrun et al., 1998) estimated that sex offenders avoid detection about twice as often as they are apprehended for their crimes.

Third, reported sexual offenses, especially prior to the 1980s, often did not lead to charges or prosecution due to technical problems. Such problems included victims who dropped the charges or were unwilling to testify, difficulty obtaining witnesses, and perceived unreliability of young children as witnesses (Marshall & Barbaree, 1990). Consequently, when researchers took into account unofficial data sources (for example, reports that for various reasons did not result in the laying of a charge or a prosecution), rates of offending were significantly higher. For example, Canadian researchers found that when they included unofficial police data and Children's Aid Society records as well as official statistics, the rate of child abuse offenses tripled. Robinson (1989) reported a follow-up study of men assessed and treated for pedophilia who were monitored in the community for an average of 4 years. Using official data, the researchers found a recidivism rate of just more than 1 in 5; when unofficial data were considered as well, the recidivism rate was almost 6 in 10.

Fourth, some critics argued that sentences for sex offenders were not proportionate to the serious psychological harm caused to child and women victims. Clinical research findings indicated that the harm resulting from sexual assault was more serious and enduring than previously thought and affected every area of life from sexuality, sleeping, and eating to forming intimate relationships with others. Claims were also made that men who were sexually abused were at greater

risk of becoming sexual abusers themselves (Berliner, 1998; Finkelhor & Associates, 1986; Hanson, 1990; Kendall-Tackett et al., 1993).

Fifth, there was criticism of an offense-driven approach to the sentencing of repeat sex offenders who were found to be at especially high risk to recidivate for sex offenses. A study of the entire Canadian federal offender population (Research and Statistics Branch, Correctional Services of Canada, 1991) found that

compared to all sex offenders, repeat sex offenders (those with a previous federal term for a sex offense) are more than twice as likely to commit further sex offenses . . . [and] . . . much more likely to violate conditional release. (p. 5)

Last, some research indicated that child molesters not only have high numbers of victims (Abel et al., 1987) but also remain at risk for long periods of time. A Canadian study (Research and Statistics Branch, Correctional Service of Canada, 1993) tracked 197 child molesters sentenced to a Canadian provincial institution between 1965 and 1973 and found that 425 were convicted of sexual or violent offenses during follow-up periods ranging from 19 to 28 years. Almost one quarter of the detected recidivists was reconvicted of new sex offenses more than 10 years after release. Heilbrun and his colleagues (1998) noted that researchers “have reported recidivism rates between 0 and 40% in one-year follow-up studies, between 10 and 46% in two-year follow-up studies, and between 18 and 55% in three-year follow-up studies” (p. 141).

The influence of such social science research along with the strong emergence of victims' rights, violence against women and children, and community safety as major social issues have had a strong effect on the response of the community toward sex offenders. In general, the mood of many communities with regard to sexual offenders became one of zero tolerance with sensational incidents involving children in particular and resulting in periodic waves of moral panic (Jenkins, 1998). Advocacy groups, the mass media, and vocal segments of the public placed enormous pressure on politicians and justice officials to do something about widespread anxieties about sex offenders (Edwards & Hensley, 2001). Both the justice model and the forensic clinical model were now under sustained attack.

During this period, a new technology-assisted approach to social control by the state made possible by the accumulation of extensive computer databases of offenders and the development of new statistical models began to gain influence. The primary objectives of this new penology or actuarial justice are neither rehabilitation nor fair and just punishment. Rather, they are the identification of statistically determined categories of persons considered to be at various degrees of risk to society and the management of individuals in these categories through a variety of techniques. These include instruments measuring deviant sexual arousal, polygraph and drug testing, psychological profiling, cognitive behavioral psychology, and pharmacological intervention aimed at preventing relapse as opposed to effecting a cure (Feeley & Simon, 1992, 1994).

### **THE RISK MANAGEMENT- COMMUNITY PROTECTION APPROACH**

The convergence of these two major trends (actuarial justice and populist social movements) at the level of state and community social control has resulted in a community protection–risk management approach. The dominant story being told here is that of community outrage at the failure of the state to protect its most vulnerable members from violent sexual predators. The major voices heard are those of victims rights and public safety advocates and those of politicians and law enforcement officials who recognize the necessity of responding to the community's demands if they wish to be considered successful in their jobs. Modern information technology, including the Internet, CD-ROMs, and databases accessed by telephone, have been important means for these different sets of voices to readily connect and have their concerns heard. Those voices less likely to be heard include those of mental health therapists calling for more resources for treatment, civil libertarians concerned that fundamental rights are being violated, and offenders themselves, specifically their concerns with stigmatization and loss of privacy and freedom of movement.

The most influential examples of a community protection–risk management approach in North America can be found in several major pieces of legislation introduced in the United States between 1990 and 1998. The community protection–risk management approach that developed in Canada will be discussed in a later section.

The first important piece of legislation was Washington State's Community Protection Act of 1990. This legislation introduced a comprehensive set of special measures for sex offenders, including registration, community notification, and postsentence civil commitment for offenders designated as violent sexual predators (Lieb et al., 1998; Poole & Lieb, 1995).

The second major piece of legislation was the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act of 1994, which required states to set up sex offender registries or else receive a 10% reduction in federal law enforcement funding. The Jacob Wetterling Act targeted two categories of sex offenders: those convicted of an offense against a minor and those convicted of a sexually violent offense. Offenders were required to register for a minimum of 10 years, and states were required to release relevant information (minimally, name, address, fingerprints, and photograph) necessary to protect the public (Coflin, 1997, 2001; Lewis, 1996; Logan, 1999; Matson & Lieb, 1996).

As of October 6, 2001, the number of sex offenders estimated to be registered in the United States was 388,319. California led with 87,000 registrants (as of January 30, 2001), followed by Texas with 28,728 (as of February 5, 2001), Michigan with 26,715 (as of May 1, 2001), Florida with 20,278 (as of January 30, 2001), Washington with 15,385 (as of November 6, 2001), Wisconsin with 12,000 (as of May 16, 2001), and New York with 11,500 (as of January 31, 2001). See <http://www.klaaskids.org/pg-legmeg.htm>.

The third major piece of legislation, New Jersey's Megan's Law of 1994, was the result of an advocacy movement led by Maureen Kanka (Megan's mother) demanding that citizens had the right to know if sex offenders lived in their neighborhoods. The widespread attention across the United States given to Maureen Kanka's advocacy movement and the subsequent legislation passed in New Jersey in 1994 had such a tremendous social and political impact that subsequently passed community notification laws have become commonly known as Megan's laws (Jenkins, 1998; Wright, 1995).

The fourth major piece of legislation, the federal Megan's Law, was passed by President Clinton in 1996. The federal Megan's Law revised the Jacob Wetterling Act in a variety of ways. There was a strong statement that all states shall release relevant information necessary to protect the public and that states that did not set up community notification systems would receive a 10% reduction in law enforcement funding (Lieb et al., 1998). Following Indiana's pioneering Zachary's Law in 1994, about 30 states and the province of Alberta, in Canada, now provide the public with direct access to detailed information (including criminal history, photographs, street maps showing places of residence, and descriptions of vehicles) on sex offenders through official state-sponsored Web sites ("Alberta to List Sex Offenders," 2002; Logan, 1999; NCJA, 1999). Some states such as Alaska (Mercer, 1997) and California also have unofficial Web sites maintained by concerned citizens. At least one state (California) provides official access through a CD-ROM database, and at least three states allow access to their registries through 800 or 900 phone numbers. There is a fee for this service, and callers must provide their name and exact information (for example, name, street address, date of birth, and social security number) on individuals about whom they are inquiring (NCJA, 1999).

Several states have introduced a strong shaming or "scarlet letter" component to notification. In Louisiana, offenders are required to identify themselves to community members. Registrants in urban or suburban areas are required to give notice of their names, addresses, and the crimes for which they were convicted to at least one person in every residence or business within a three-square-block area. If they live or work in a rural area, the boundary for notification is a 1-mile radius from their homes or workplaces. In addition, the sentencing court has the discretion to require offenders to notify community members by the use of signs, handbills, vehicle bumper stickers, or labels on clothing (Logan, 1999). A dramatic use of the scarlet letter approach has recently taken place in Texas, where a judge ordered 14 sex offenders on probation to place bumper stickers or portable plastic placards on their vehicles reading, "Danger! Registered Sex Offender in Vehicle" and signs in front of their residences reading "Danger! Registered Sex Offender Lives Here" ("Texas Sex Offenders," 2001).

A fifth major piece of legislation was passed in 1996, the federal Pam Lychner Sexual Offender Tracking and Identification Act named after a victims' advocate who died in a plane crash. This legislation amended the Jacob Wetterling Act by requiring lifetime registration for offenders convicted of one or more sexual

offenses involving penetration through the use of force or threat or penetration of victims younger than 12. The Lychner Act also mandated the FBI to create, within 3 years, a national sex offender registry that would link the registries of individual states and enable the tracking of sex offenders across state lines (Logan, 2000; Winick, 1998).

In 1998, a sixth major piece of legislation, The Commerce, Justice and State, the Judiciary, and Related Agencies Appropriation Act, was passed. This legislation mandated states to identify which sex offenders might be considered sexually violent predators, that is, those offenders convicted of sexually violent offenses who suffer from a mental abnormality or personality disorder, making them likely to engage in predatory sexually violent offenses. Those sex offenders designated as sexually violent predators are required to provide additional information upon registering (including information on treatment they have received or are receiving), to verify their address information on a quarterly basis, and to be subject to state and federal registration and notification requirements throughout their lifetimes. All states not complying with this legislation by November 25, 2000, were subject to losing 10% of their federal law enforcement funding (Logan, 2000).

The impetus for all this legislation was community outrage over the brutal sexual assault and murder or serious injury of a child victim by a sexual predator and the desire of politicians and justice officials to quell public anger and fear.

In Washington State, the Community Protection Act was passed in 1990 following the report of the Governor's Task Force, set up in 1989 in response to a series of violent sexual incidents that shocked the public. In one incident, a young woman, Diane Ballasiotes, was raped and murdered by Gene Kane, a sex offender on work release. In a second incident, Earl Shriner, a pedophile with a history of brutal sex offenses and a murder for which he was found not criminally responsible, sexually assaulted a young boy and cut off his penis. The mothers of these two victims were members of the Governor's Task Force and played a prominent role in mobilizing public support for the legislation that was proposed (Boerner, 1992; State of Washington, Task Force on Community Protection, 1989).

In Minnesota, in an incident that prompted the federal Jacob Wetterling Act, young Jacob Wetterling was abducted by a suspected violent pedophile. Neither his body nor his assailant was ever found. Members of the Wetterling family played a key role in promoting the legislation named after him (Lewis, 1996). In Indiana, the sexual assault and murder of Zachary Snider led to the enactment of Zachary's law, which provided for a sex offender registry that could be accessed through a Web site (Jenkins, 1998).

In New Jersey, 7-year-old Megan Kanka was assaulted and killed by a sex offender who lived across the street; the girl's family did not know about his criminal history as a child sex offender. Maureen Kanka, Megan's mother, became a prominent figure in the enactment of both state and federal legislation identified by the name of her daughter and continues to be a spokesperson advocating for stronger measures to protect the community against sex offenders (Kanka, 2000a, 2000b).

In at least one of these instances, the perpetrator of the assault (Shriner) had been released from prison having served a fixed sentence for a serious sex offense, although he was still considered highly dangerous because under the criminal law, the state had no right to extend his sentence. In addition, Shriner was ineligible for civil commitment under state mental health law after a court ruled he did not meet the definitions of mental illness and imminent danger to self or others under this law (Boerner, 1992).

In addition to registration and notification provisions, there are two other major community protection–risk management strategies used to control sex offenders in the United States: sexually violent predator commitment statutes and chemical castration statutes.

### SEXUALLY VIOLENT PREDATOR STATUTES

Sexually violent predator commitment statutes are the most restrictive measures that have been adopted thus far to deal with serious sex offenders. Under such statutes, concern with the rehabilitation of offenders and their right to liberty after serving their sentences is viewed as secondary to the interests of public safety. To avoid double jeopardy, the statutes are explicitly intended as preventive measures to reduce the risk posed by dangerous offenders, not as punishment for specific crimes. Washington, the first state to adopt such a measure, introduced violent sexual predator legislation as part of its Community Protection Act in 1990, but the constitutionality of the legislation was soon challenged in the courts.

Following Washington's pioneering legislation, several other states, including Kansas, California, Iowa, and Arizona, introduced similar legislation during the next 5 years (Greenhouse, 2001; Janus, 2000). In a landmark case, *Hendricks v. Kansas* (1996), the United States Supreme Court ruled that Kansas' Violent Sexual Predator Act was constitutional. In January 2001, Washington State's legislation was also found to be constitutional by the United States Supreme Court in the face of a challenge that it violated the principle of double jeopardy. The number of individuals in the United States confined under such legislation is now around 900 (Greenhouse, 2001).

### SURGICAL AND CHEMICAL CASTRATION

In North America, unlike Europe, there has been a great reluctance to allow surgical castration to be used for offenders, mainly because the permanence of such a procedure was seen by many medical doctors to pose ethical problems (Russell, 1997). However, temporary chemical castration has been used for a long time as a voluntary treatment for sex offenders, usually combined with some form of behavioral therapy or psychotherapy. It involves the weekly use of anti-androgens (usually a synthetic progesterone such as Depo-Provera or Luperon) to

reduce blood testosterone levels in men and thus greatly reducing their sex drive (Spalding, 1998). Thus far, chemical castration has been found to be less effective than surgical castration in reducing recidivism but more effective than nonpharmacological interventions (Quinsey, 1998).

In recent years, several American states have passed legislation mandating the use of chemical castration as a risk reduction method that would complement other postcarceral risk reduction methods such as registration and notification. Such legislation has been driven by public concern that many sex offenders are irredeemably dangerous and can be deterred neither by fixed prison sentences nor reliably cured by psychotherapies and behavioral therapies.

In 1996, California was the first state to pass such legislation (Lombardo, 1997), followed by Florida in 1997 (Spalding, 1998). Under California's law, which applies to sex offenders convicted after January 1, 1997, chemical castration must be applied as a mandatory condition of parole for all repeat sex offenders against children younger than 13. The judge also has the discretion to impose chemical castration as a condition of parole for any other sex offenders. Treatments begin a week before offenders are released from prison and must be continued on a weekly basis for an indefinite time until the Department of Corrections considers they are no longer necessary. Offenders have no choice but to submit to chemical castration if they want to be granted parole. The only option they have is to undergo surgical castration instead (Druhm, 1997).

In Florida, which passed legislation similar to California's, failure to use Depo-Provera while on probation leads not only to reincarceration for the rest of the sentence but also prosecution for a separate felony offense punishable with a 15-year sentence (Spalding, 1998).

As is the case with other risk reduction legislation for sex offenders, there are likely to be court challenges when the legislation is applied. There is considerable controversy over whether chemical castration can be considered a treatment for a medical condition. It is clearly incapacitative and arguably punitive because of the significant deprivation it imposes on the liberty of persons who have completed their prison sentences (Lombardo, 1997; Spalding, 1998).

### **COMMUNITY PROTECTION– RISK MANAGEMENT APPROACHES IN CANADA**

Although some of the same public concerns about sexual offenders are occurring in Canada as in the United States, Canada thus far has been slower and more cautious in developing community protection–risk management legislation. There are a number of indications, however, that this may be changing, particularly at a provincial level (Campbell, 2001; Petrunik, 2001).

As in the United States, community protection legislation in Canada goes back to the 1980s. In 1984, the sexual assault of a female halfway-house employee by an offender on day parole led the federal government to pass legislation allowing

the National Parole Board to detain individuals at risk of a serious harm offense past their mandatory release date (two thirds of sentence), until warrant expiry, that is, the end of the sentence (Marshall & Barrett, 1990).

In 1992, following a public inquiry over the 1987 slaying of a young woman by a sex offender on a temporary absence leave, the federal government enacted the Corrections and Conditional Release Act. This legislation restricted early parole eligibility and unescorted temporary absence for high-risk sexual and violent offenders. It also required correctional officials to inform local police officials of the release from custody of all offenders on temporary absence, parole, or mandatory supervision (Aikenhead, 1988; Marshall & Barrett, 1993). In the case of offenders released on warrant expiry who are considered to “pose a threat to any person,” correctional officials are required “to give police all information under its control that is relevant to the perceived threat” (Corrections and Conditional Release Act, 1992, Section 25, as cited in Sherman, 1998, pp. 74-75).

Thus far, only one Canadian province (Ontario) has already established a registry system. However, with at least five other provincial registries in the planning stage and a threat by provincial officials to create their own coordinated national system, the federal government announced on February 14, 2002, that it would put forward a bill to set up a national sex offender registry later in the year (Campbell, 2001; Chwialkowska, 2001, Tibbits, 2002). In addition, several provinces (including Ontario in 1998 and Manitoba in 1995) have created legislation permitting law enforcement officials to release information to the public about high-risk offenders (Cooper & Lewis, 1997; Solicitor General of Ontario, 2000).

There are no provisions for postsentence civil commitment or mandatory chemical castration in Canada. Sex offenders considered to be highly dangerous can be dealt with under the Criminal Code through dangerous offender legislation that provides for indeterminate sentencing as dangerous offenders. They can also be dealt with through long-term supervision orders for up to 10 years, which come into an effect when individuals designated as long-term offenders have completed their original sentences (Morissette, 2001).

Dangerous offenders must have been convicted of a serious personal injury offense and demonstrated one or more of the following: extreme brutality in carrying out the offense, failure to control sexual impulses, and likelihood of causing injury, pain, or other evil to other persons in the future (Petrunik, 1994). Long-term offenders must meet similar criteria but are subject to less restrictive control (a determinate prison sentence followed by community supervision) on the basis that there is a reasonable possibility that their risk can be managed through a combination of treatment and intensive community supervision (Coflin, 2001; Morissette, 2001).

The dangerous offender legislation has been in existence since 1977 and was recently amended in 1996 to expand the window of opportunity for its application, to allow only an indeterminate sentence, and to increase the eligibility period for applying for parole from 3 to 7 years. There are presently around 320 persons confined as dangerous offenders. Long-term offender legislation was introduced in

1997, and as of 2001, approximately 60 persons (more than half in the province of Quebec) have been found to meet the long-term offender criteria (Morissette, 2001; Solicitor General of Canada, 2001).

An approach distinctive to Canada is the practice of recognizance or peace bonds specifically for sex offenders. This measure (Section 810.1), which was largely prompted by the high-profile case of a pedophile offender named Wray Budreo, was added in 1994 to existing peace bond provisions (Section 810) in the Criminal Code. Section 810.1 enables a judge to hold a hearing following a complaint by anyone who fears, on reasonable grounds, that a person will commit one or more of 12 specified sexual offenses against children. A person found to be at risk of such offenses, using a balance of probabilities standards, is prohibited from contact with children younger than 14 and from being in locations such as school yards and parks where one might reasonably be expected to find such children. A person who refuses to agree to the terms of a peace bond or violates them can be sentenced to prison for up to 1 year. The term of a peace bond is 1 year, but it can be renewed an indefinite number of times (Grant, 1998; Neumann, 1994).

Some individuals held under a Section 810.1 peace bond have never been convicted of a criminal offense. Blatchford (2000) described the case of a Canadian man brought to the attention of the Toronto Police by Interpol, who had allegedly been trying to “groom” children in various foreign countries to participate in sexual relationships with him. The children he contacted all had been the focus of intensive media coverage after tragedy struck their families and he approached them in the guise of offering sympathy and support. Following a psychiatric examination that determined he was a pedophile, the man voluntarily agreed to sign a peace bond forbidding him from being in contact with children and requiring him to take polygraph tests every 3 months, to undergo chemical castration, and to take part in therapy. As a result, although he has never been convicted or even charged with a sexual offense, he is liable to go to prison should he violate one or more of these conditions.

In May 2001, the Supreme Court of Canada dismissed Wray Budreo’s appeal challenging the peace bond legislation, thereby upholding its constitutionality (Abbate, 2001).

### **CONSEQUENCES AND COSTS OF A COMMUNITY PROTECTION–RISK MANAGEMENT APPROACH TO SEX OFFENDERS**

Numerous critical commentaries and a few empirical studies have sounded a number of alarm bells that a community protection–risk management approach may be costly in money and resources and limited in effectively reducing offending and may have other serious negative side effects. The following discussion draws from literature discussing practical and ethical issues (Edwards & Hensley,

2001; Lafond, 1998; NCJA, 1999), recent evaluation research (Farkas & Zevitz, 2000; Zevitz & Farkas 2000a, 2000b), and the literature on therapeutic jurisprudence. The latter is defined as the analysis of the positive (therapeutic) and negative (antitherapeutic) effects of laws, legal procedures, and enforcement practices on the mental health and well-being of those affected: offenders, victims, and other members of the community (L. Simon, 1999; Peebles, 1999; Winick, 1998).

In an analysis of the Washington and California experience with sexually violent predator commitment laws, Lafond (1998) argued that the costs of such legislation are unduly high. These costs include the costs of implementing new bureaucracies to carry out the law, the costs of litigation (including the inevitable appeals to higher courts and constitutional challenges), the fees of psychiatric experts, and the costs of maintaining special facilities for those committed. Lafond estimated that Washington has been spending more than \$98,000 and California about \$107,000 a year per person committed (Lafond, 1998). He argued not only that the legislation will be expensive to carry out but also that it is likely to generate several generations of expensive litigation; he concluded that the costs involved are probably not a wise expenditure of scarce public resources.

Winick (1998) pointed to a number of possible antitherapeutic consequences:

Labeling offenders as “sexually violent predators” . . . is demonizing, dehumanizing, and demoralizing in ways that not only predictably diminish the offender’s potential to change, but also increase social and occupational ostracism if the individual is ever released to the community thereby preventing successful social reintegration. . . . In addition, the political rhetoric that often accompanies enactment of these laws may make the public come to see all sex offenders as repeatedly offending sexual predators, even though some may be first-time offenders. First-time offenders may be particularly amenable to treatment, yet the rhetorical heat of the sexual predator label may make it politically impossible for them to obtain diversion to treatment programs. (p. 539)

Registration and notification legislation have already posed considerable problems in terms of costs and resources as well as in ensuring that there is compliance with the legislation. Of 25 states surveyed by the U.S. Justice Department, 15 of those interviewed said they had no way of knowing what percentage of sex offenders in the state were registered, with the remainder of those interviewed estimating that between 51% and 100% were registered (NCJA, 1999). State officials and criminal justice practitioners talked about the sheer magnitude of the tasks involved and the high cost in time, money, and resources resulting from trying to enforce the laws. Some officials commented that law enforcement staff could spend virtually all their time on registration and notification issues and still not do all that they were legally required to do. A number of concerns were identified by officials surveyed by the Justice Department (NCJA, 1999) and in research by Zevitz and Farkas (2000a, 2000b; Farkas & Zevitz, 2000) in Wisconsin, as follows:

1. unofficial dissemination of registry notification beyond that legally authorized (including the use of unofficial Web sites) to transmit information far beyond the area of an offender's residence;
2. possible identification of victims (particularly in the case of intrafamilial offenses) through public identification of offenders;
3. negative effects on the housing market in areas where identified offenders reside, and limitations on the ability of offenders to obtain housing;
4. harassment and acts of vigilantism;
5. excessive fear of being victimized or its opposite, an unrealistic sense of security because of the existence of registration and notification;
6. problems with the accuracy of data collected and a lack of feedback on the effectiveness and costs of registration and notification (including information on compliance and recidivism);
7. inappropriate use of information on the Internet (for example, access by children to sensitive information and the use of registry information by offenders to "network" among themselves or market pornography); and
8. increased expenditure of the time and resources of law enforcement, probation, and parole agents.

One of the major unanticipated negative consequences has been the impact on the housing market. In at least one state (New Jersey), a Megan's Law disclaimer has been issued to advise potential buyers or renters of the existence of the law. This disclaimer cautions renters and buyers to check with law enforcement officials about the possible existence of registered sex offenders in the neighborhood to which they are considering moving (NCJA, 1999).

Another major issue has been the ability of registered offenders, following community notification, to settle in neighborhoods and obtain housing and access to community services (Zevitz & Farkas, 2000b). In Wisconsin, a 60-year-old offender confined to a wheelchair was forced to move from the apartment he had previously lived in when his landlord refused to honor his lease and let him return. As a result of community protests, he was forced to relocate eight times between 1997 and 1999 and now lives in isolation. In addition, he was shunned by neighbors and not welcomed in local churches. He was even discouraged from using publicly funded transport for disabled persons (NCJA, 1999).

In addition to such negative effects on the offenders themselves, there have been a variety of negative consequences for family members (Zevitz & Farkas 2000b). They include restrictions on where they can go to school as well as on access to recreational and other services and even harassment and exclusion as a result of the "courtesy stigma" that afflicts them via their close ties to the offenders (NCJA, 1999).

From a therapeutic jurisprudence perspective (Winick, 1998), it is easy to see from such examples how registration and notification requirements can impede the potential for offender rehabilitation in a variety of ways. Individuals registered as sex offenders acquire a highly adhesive label that

must be worn for many years and sometimes for a lifetime . . . [Such lengthy or lifetime registration along with the requirement for community notification] . . . indicates that the individuals are not redeemed and not forgiven by the community. They are characterized as deviant and ostracized by the community in ways that may seem impossible to overcome. By denying them a variety of employment, social and educational opportunities, the sex offender label may prevent these individuals from starting a new life and making new acquaintances, with the result that it may be extremely difficult for them to discard their criminal patterns. (Winick, 1998, p. 556)

Finally, Edwards and Hensley (2001) point out that the emphasis on punishment and incapacitation and the disinterest or even hostility toward treatment and reintegration that tends to accompany community protection approaches may induce a sense of hopelessness in sex offenders. This hostile climate may reduce their motivation to change their behavior with the result that their actual risk of reoffending may increase.

**COMMUNITY PROTECTION–  
RISK MANAGEMENT APPROACHES:  
THE NEW PENOLOGY AND THE FUSION OF PANOPTIC  
AND SYNOPTIC APPROACHES TO SOCIAL CONTROL**

In discussing the rise of the community protection–risk management approach in the late 20th century, we borrow from Mathiesen’s (1997) discussion of two types of social control, panoptic and synoptic, and from Feeley and Simon’s (1992, 1994) notions of the new penology or actuarial justice.

The notion of panoptic control is derived from Jeremy Bentham’s notion of a prison where every prisoner is under constant surveillance. In Mathiesen’s (1997) usage, panoptic control refers to the few (that is, prison or psychiatric staff) who survey the many (that is, all those who are under correctional or psychiatric control). Mathiesen contrasted the notion of panoptic control with that of synoptic control, which refers to the many (that is, members of the community) who survey the few (that is, those such as sex offenders who are considered to be especially dangerous to the community).

What Feeley and Simon called the new penology (1992) or, more broadly, actuarial justice (1994) is a panoptic approach to controlling risky categories of persons by small numbers of persons who use expert knowledge and technology to carry out their work of surveillance. This panoptic approach combines the assessment of risk in selected target populations with a variety of risk management techniques.

First, there is the identification of categories of offenders according to their risk using risk assessment scales. Second, there is intensive surveillance and tracking of persons, particularly those who fall into the highest risk categories, using com-

puterized registries and testing and screening procedures such as urine analysis, blood tests, polygraph tests, and plethysmographic testing to determine deviant sexual responsivity. Third, there is a shift in emphasis from approaches designed to treat offenders to approaches that focus on preventing recidivism (relapse prevention). Such approaches combine behavioral management and pharmacological intervention along with supervision. Fourth, there is the use of incapacitative measures, the nature and extent of which depend on determinations of the level of the offenders' risk. Some examples are the use of restrictions on movement such as peace bonds, electronic monitoring, and confinement in prisons or psychiatric hospital and pharmacological intervention such as chemical castration.

Feeley and Simon (1990, 1994) noted the following major characteristics of actuarial justice approaches:

1. There is a focus on actuarially defined target populations and categories of person as opposed to particular individuals.
2. The actuarial language of differential probability and risk takes primacy over earlier discourses of clinical diagnosis (that is, the clinical model) and proportionate retribution and civil rights (that is, the justice model).
3. There is a technocratic emphasis on the cost-effective and efficient management of people and resources not only in the interests of public safety but also in the corporate interest of providing social control agencies with measures of their productivity that can be used to justify their mandates and budgets.

Congruent with the increasing emphasis of state agencies on panoptic forms of risk management characteristic of actuarial justice and often in the vanguard of it has been the response of populist social movements (Garland, 2001; J. Simon & Feeley, 1995). These movements respond to dramatic media reports of the sexual victimization of children and women by attempting to increase public safety through collective punitive and incapacitative actions.

Such populist groups take as their starting point that the civil rights of offenders and their rehabilitation through treatment must take a back seat to the rights of victims and the right of the community in general to freedom of movement, freedom from fear, and safety and quality of life. In such a view, even the most minimal risk of sexual or violent victimization is so unacceptable that there is a call for zero tolerance. The approach taken at a community level is not only to demand panoptic control on the part of the state but also to take an active synoptic role in risk management through surveillance and collective expressions of disapproval. Concerned members of the community demand the means to exercise such measures on the basis that it is their right to know the presence of a particular kind of risky person (that is, the sex offender) in their midst (Sherman, 1998).

Some of the ways in which synoptic controls are actively exercised are the following:

1. community vigilance measures such as neighborhood watch, block parents, citizen patrols, street proofing, and sexual danger courses for potential victims;
2. media coverage of persons or places deemed to be risky for vulnerable segments of the population and crime stopper call-in programs;
3. intensive lobbying of public officials by pressure groups calling for reforms to increase public safety and allegations of undue concerns for offender rights and insufficient concerns for victims and community safety;
4. vigilantism, including picketing residences of known or alleged sex offenders and demanding they leave the neighborhood, vandalism, and acts of interpersonal violence.
5. public access to sex offender registries via the Internet, CD-ROM, or 900 phone numbers.

The widespread use of such community social controls suggests a trend toward a synoptic approach that involves the eyes of the many—the community—surveying the few—that is, the predatory sex offender. This trend, however, has gone hand in hand with the ongoing development of panoptic controls by the state, with one development sparking the other. As Mathiesen (1997) stated, “Panopticism and synopticism have developed in intimate interaction even fusion with each other” (p. 223). What Mathiesen did not note, however, is that some forms of synopticism may be based on different visions of justice than are others. In other words, a synoptic approach need not take a punitive or incapacitative stance. To illustrate this point, the last part of this article briefly discusses a synoptic community response to sex offenders that is based on the principle of community reintegration rather than that of community protection.

#### **CIRCLES OF SUPPORT AND ACCOUNTABILITY: A RESTORATIVE JUSTICE APPROACH**

The Community Reintegration Project (CRP), better known as circles of support and accountability, had its origins in the restorative justice work of the Canadian Mennonite church in southern Ontario and in a ministry of reconciliation established by several individuals working as chaplains with Correctional Services Canada. The aim of this ministry, in the words of former Correctional Services Canada Head Chaplain Pierre Allard, is to demonstrate “the impact of a community of faith on a community of crime”(Cayley, 1998, p. 301).

The first circles of support and accountability were informally set up in 1994. In one instance, Reverend Hugh Kirkegaard, a Baptist minister and community chaplain with Correctional Services Canada, set up an informal support group to assist the aforementioned Wray Budreo who had a total of 36 convictions (26 involving sexual touching of boys between the ages of 5 and 17). On his release from prison, after being detained to warrant expiry as a high-risk offender, Budreo

moved to the Toronto area without friends, a place to stay, or a job. He was placed on a peace bond by the court requiring him to avoid contact with children and was subject to hostile media coverage and threats from members of the community (Abbate, 2001; Makin, 2000).

Volunteers from Kirkegaard's church helped Budreo find a place to stay and helped him cope with the police, pressure from the media, and hostile people in the community. Members of the group took turns telephoning him and visiting him on a daily basis. They sought to both provide Budreo with support and to hold him accountable for changing attitudes and behaviors that could get him into trouble. Also in 1994, Reverend Harry Nigh, a Mennonite pastor in the nearby city of Hamilton, set up a similar circle around Charley Taylor, another high-profile pedophile who had been released from prison after warrant expiry and placed on a peace bond (Cayley, 1998; Nigh, 1997).

During the next few years, as these initial circles were judged successful in preventing sexual recidivism, Reverend Kirkegaard began to work together with Reverend Nigh, Reverend Evan Heise, and other Mennonite pastors concerned with restorative justice to develop a general model of community reintegration for sex offenders. The result was the CRP, a model of circles, support, and accountability that could be applied to other sex offenders in other communities (Heise et al., 2000). This model can be briefly summarized as follows.

Members of the CRP team identify candidates for the project among those sex offenders who have been denied parole and detained in custody until warrant expiry, the last day they can be legally confined. Offenders considered for the project lack community support, are considered at high risk to reoffend, and typically are high-profile cases who have been subjected to a peace bond on release and sometimes community notification under provincial community safety legislation.

The circle of support around offenders consists of four to seven specially trained volunteers (usually members of a church or religious faith group) who agree to help offenders establish themselves in the community and avoid situations that might lead to reoffending. Volunteers are taught about how the law and criminal justice system works, human sexuality (including sexual deviancy), group dynamics, and some basic principles of counseling. Once the circle is established, members work at everything from helping offenders to find housing and work and to take part in recreational activities to helping them change attitudes and behaviors that might lead to reoffending. This inner circle of support may be supplemented by an outer circle consisting of police, social workers, family, and friends who sit in occasionally or as needed. The volunteers in the inner circle commit to working with core members, and core members commit to working with them. The shared agreement or consensus into which they enter with each other is called a covenant.

The volunteers agree to provide a community of support and accountability by

assisting with practical living needs; open and honest communication; designating a few members of the circle who will screen sensitive information about the offender (for example, confidential information provided by therapists); consulting with other members of the circle before speaking to people outside the circle such as the police or the media; mediating with the outside community including the police and the media; adhering to plan of action that the circle has agreed upon; defining the consequences of failure of the core member or the inner circle members to meet the terms of the covenant; respect for the process used by the circle to reach consensus; commitment to immediate response in a crisis situation. (Heise et al., 2000, pp. 15-16)

In turn, the core member must agree to

respect the confidentiality of personal information shared in the circle; open and honest communication; developing a relapse prevention plan, sharing it with the circle and agreeing to follow it; identifying any substance abuse problems, medical problems and counseling needs and commit to dealing with them; signing a form authorizing the release of confidential information to at least one circle member; consulting with the circle before discussing his situation with persons outside the circle (for example, police and media); respecting the consensus that is reached in the circle. (Heise et al., 2000, p. 16)

Between its beginnings in 1994 and 2000, the CRP has set up 30 circles in the Toronto-Hamilton area and another 12 in other parts of Canada. Most of the circles have been in operation from 18 to 24 months, and the longest has been in place for more than 6 years. A recent evaluation of Circles in Ontario found that although the statistical probability was that seven offenders were likely to reoffend, only three members have been charged with another sexual offense. The offenses that resulted in charges were an indecent telephone call, a sexual offense against a female adult, and a sexual offense against a child (Wilson & Prinzo, 2000, p. 18).

One of the objectives of evaluating the CRP has been to assess the feasibility of wider application. Although circles of support and accountability are currently only applied to sex offenders released on warrant expiry, it may be possible to extend or modify this concept so that a wider range of offenders might be covered.

In closing, let us briefly compare the voices being expressed by adherents of the community reintegration approach to sex offenders with the voices of those who represent the other major approaches we have discussed. In addition to developing the practical features of circles of support and accountability, some members of the CRP (Kirkegaard & Northey, 2000) have been attempting to develop a rationale for their project in Christian theology and the writings of contemporary scholars such as Rene Girard (Cayley, 2001). Kirkegaard and Northey seek to understand the social roots of both sexual violence and the community's fearful response in the confluence of the commodified sexuality of consumer society, the pervasive anomie wrought by the rapid emergence of a global economy, the culture of abuse, and the desire to find scapegoats to make things right.

In contrast with other approaches to sex offenders, the voices heard from members of the CRP propound a distinctly different message.

In the clinical approach, the clinical expert, with the alleged authority of science and medicine, speaks loudest, claiming that individuals can be healed and communities made safe through diagnosis, prognosis, and treatment.

In the justice approach, it is the voices of legal experts with strong civil libertarian values that are loudest. These experts argue that it is not the community that is at risk but rather the right of all individuals to not have their liberty restricted without just cause and without the full protections of constitutional guarantees.

In the community protection–risk management approach, it is the community safety advocates and risk reduction technocrats who speak in the interests of safeguarding the community against those whose deviant natures pose unacceptable risks to children and women. The approach taken is to segregate or isolate sex offenders from the community on the basis that they are too dangerous to be part of it. Failing the possibility of such isolation or segregation, they are placed under varying degrees of watch from within because their enduring propensities for sexual deviance mean they can never be fully trusted.

In contrast, circles of support and accountability transcend panopticism and a narrow protection-based form of synopticism in favor of a reintegrative or restorative approach. Members of the CRP decry the dehumanizing and scapegoating of sex offenders. They call for an end to approaches based on divisions between “us”– (the good and decent citizens of society) and “them” (the alien and monstrous others who must be banished from society on the basis of their deviant propensities).

Instead, the CRP looks to the possibility of individual and community healing in which not only sex offenders and members of the circle but also the community at large have the opportunity for positive change. This does not mean denying the very real dangers sex offenders can pose to members of the community. On the contrary, the accountability placed both on sex offenders and on circle volunteers to minimize risk is the primary concern. Sex offenders must meet the legal restrictions such as peace bonds that are placed on them, follow a relapse prevention plan that includes whatever form of treatment is clinically deemed to be necessary, and keep all other terms of the covenant they have made with circle members. An important difference from the community protection–risk management approach, however, is that sex offenders receive sympathy and help, not just hostility, from at least some members of the community. Rather than being driven from neighborhood to neighborhood like some tormented Frankenstein and perhaps reoffending in despair that he can ever be any different, the sex offender is given a chance to redeem himself under the caring but ever so watchful eyes of a concerned community.

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