

A Content Analysis of Sex and Drug Law Legislation

by

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Abstract

There have been claims which have suggested recent federal sex offender legislation is innovative. The current study uses previously passed, but current federal drug legislation to determine if new federal sex offender policy has been implemented in another type of crime before. A content analysis explores both federal drug and sex offender legislation. Current policies which surpass traditional forms of sentencing and fines are examined. Pattern matching is utilized to determine if commonalities exist between federal drug and sex offender policies and legislation. Existing parallels question the declarations of innovativeness the recent sex offender legislation has acquired. Theoretical implications assist in understanding why structural similar policies exist in both sets of legislation.

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List of Abbreviations

AphA American Pharmaceutical Association

AMA American Medical Association

SVP Sexually Violent Predator

BJA Bureau of Justice Assistance

SOMA Sex Offender Management Assistance

NARA Narcotics Addict Rehabilitation Act

Chapter 1 – Introduction

In the last sixteen years, beginning with the Jacob Wetterling Act (1994), new federal legislation has brought about policies to assist in the prevention of sex offending. Megan’s Law (1994) is one of several policies passed by the federal government with the goal of decreasing the frequency of sex crimes. The law has created a requirement called community notification, which directs “law enforcement, criminal justice, or corrections agencies [to] give citizens access to relevant information about certain convicted sex offenders living in their communities” (Immarigeon, 1997, p. 1). The policy attempts to indirectly reduce offending by informing the public when a sex offender moves into their area (Immarigeon, 1997; Jacob Wetterling Act, 1994; Megan’s Law, 1996).

Recent research has suggested that such sex offender legislation is innovative. In 2003, Levenson stated that the response to high profile sex crimes has brought on “innovative but controversial public policy initiatives called sexually violent predator statutes” (p. 18-19). Broderick (2006) also suggested sex offender policies are innovative. There have been further studies, organizations, and branches of government which have stated that current federal sex offender strategies are innovative (Levenson and Cotter, 2005; Lueb, 2000; Meloy et al., 2007; Petrunik, 2003; U.S. Department of Justice, 2007).

To classify legislation as innovative implies the policy is a “new method...or device” which will assist in the prevention of criminal acts (Neufeldt and Sparks, 1995, p. 306). For policies to be innovative they must be new, unseen *or* unused before by the

federal government. Community notification as a policy has been introduced and perceived as a new requirement, and it works as an attachment to prison sentencing, probation, parole, and fines.

Such innovative policies have been the focus of much discussion. A Gallup survey (2005) found 94 percent of Americans favor laws like community notification. The Supreme Court has even been brought in to verify the constitutionality of recent federal legislation such as community notification. In *Connecticut Department of Safety v. Doe* (2003) and in *Smith v. Doe* (2003) the Supreme Court found sex offender community notification and registry laws do not violate a sex offender's constitutional rights by requiring public disclosure through registration.

Although the courts have thus far supported the policies, there are still individuals who believe the current community notification laws and other recent sex offender legislation cause more harm than good. The individuals who hold the belief cite cases where the law has had negative outcomes (Gallup, 2005; Megan's Law, 1996). For example, in 2007 Michael Dodele, a 67-year-old sex offender, was murdered. After serving 20 years in prison for raping a 37-year-old woman, Dodele was released. A psychologist, Dr. Charlene Steen, recommended to the state that Dodele be released as a low-risk offender. He moved next door to Ivan Garcia Oliver in a neighborhood in Lake County, California. Oliver was already cautious because his son had previously been molested. After Dodele moved in Oliver checked the online sex offender database. He found that Dodele was listed for an offense against someone who was either under the age of fourteen *or* was forced against the victim's will. Oliver mistakenly did not pay attention to the word 'or' in the listing. The website led him to believe that Dodele had

molested a child. A few days later Dodele was found dead inside his trailer. Witnesses observed Oliver leaving Dodele's trailer with blood on his hands and shirt. In a *Los Angeles Times* interview Oliver stated, "any father in my position with moral, home, family values, wouldn't have done any different" (Ganga, 2007). Oliver was released on parole, but violated the terms and has been awaiting trial in the Lake County Jail (Ganga, 2007; Gonzales, 2007).

Dodele's story is one of many misguided vigilante stories which can be attributed to the current sex offender policies. In a 2005 study, 33 percent of sex offenders had been threatened or harassed by neighbors due to the innovative sex offender policies. In addition, 5 percent have been assaulted or injured, 21 percent have had their property damaged, and 19 percent have had a roommate threatened, assaulted, or property damaged (Levenson and Cotter, 2005).

Some advocates have suggested that the current policies might have even further iatrogenic effects. Patty Wetterling, mother of the abducted child Jacob Wetterling, has recently stated many

laws may not prevent sexual attacks on children, but do lead to harassment, ostracism and even violence against former offenders. That makes it nearly impossible to rehabilitate those people and reintegrate them safely into their communities -- and that may actually increase the risk that they'll repeat their crime (Wetterling, 2007, p. 3).

Wetterling was citing a report funded by the Human's Rights Watch entitled "No Easy Answers: Sex Offender Laws in the U.S." The article describes federal sex offender policies as "ill-considered, poorly crafted, and [states they] may cause more harm than

good” (Human Rights Watch, 2007, p. 3). The article goes on to highlight public safety concerns in which such penalties have contributed (Human Rights Watch, 2007).

As previous polling illustrates, there is much support for so-called innovative policies. Persons and groups who advocate for community notification laws believe there is a high risk for sex offenders to reoffend. Sixty-five percent of Americans believe sex offenders cannot be rehabilitated (Gallup, 2005). Individuals who support the current penalties cite instances where the recently instituted policy has not gone far enough to stop sex offenses from happening (Gallup, 2005).

A second case in 2009 involved John Albert Gardner III, who sexually assaulted and murdered a 17-year-old girl named Chelsea King. Gardner was never classified as a sexually violent predator, although in 2000 he pleaded guilty to lewd and lascivious acts with a 13-year-old. Gardner’s previous sex offender status was pooled in with 120 different types of sex offenses in the state of California, including misdemeanor offenses. After plea-bargaining in 2010, Gardner was given a life sentence without parole (Bartholow, 2010).

There are many such instances where sex offenders have reoffended. Although recidivism rates vary depending on the study, advocate groups are persistent in supporting the recent federal policies. The National Center for Missing and Exploited Children has stated “Sex offenders pose an enormous challenge for policy makers: they evoke unparalleled fear among constituents...Sex offenders have a high risk of re-offending” (NCMEC, 2010).

Thus far, the debate discussed has centered on contemporary community notification policies and other similar policies that have been brought about by recent

federal sex offender legislation. The policies that have been crafted during the past sixteen years surpass traditional fines and prison sentencing. As mentioned before previous research suggests the federal sex offender policies attempt to use innovative ways to combat sex offenders. Individuals who oppose the federal sex offender legislation argue the policies single out sex offenders and are not consistent with other forms of law which address criminal activity (Humans Rights Watch, 2007). Are recent studies and individuals who question the current federal policies correct in their allegations that these laws are innovative and not consistent with other types of federal criminal laws which have previously been established? This study addresses this important question.

To determine if the policies are innovative and exclusive to federal sex offender legislation, I compare recent sex offender legislation to drug crime legislation. Drug laws and their policies have been shaped by federal legislation for over one hundred years. The current study analyzes the content of federal drug and sex offender legislation, with a focus on current policies which go beyond sentencing and fines. The purpose of this analysis is to determine if policies such as community notification are original and innovative as suggested by advocates, or rather products of past laws. Drug legislation will be used as a point of comparison due to its similar evolution at the federal level, its history of swift policy changes, and the vast relevant literature and laws.

A wide array of policies and penalties that are present today were created throughout the hundred years of federal drug legislation. At a glance, there have been several eras of federal drug policy that range in intensity. The time frame is a considerable contributing factor in the decision to use federal drug law legislation as a

point of comparison. With many eras of federal drug legislation come a greater chance to observe an evolution of penalties that might go beyond formal types of fines and sentencing.

Both current federal sex and drug offender legislation content is compared. The comparison will assist in determining if similarities or patterns exist between sex and drug policies. In the current study, I will use past drug legislation as a point of reference to determine if there is a pattern in these two sets of evolving policies. If federal drug policies parallel current sex offender policies, it could suggest such recent policies are not innovative.

A content analysis of federal drug and sex legislation can help discover current policies that exist within both sets of legislation and determine if a pattern exists. The content analysis and pattern matching of these two sets of statutes is essential in determining the relevancy of any parallels that are found. The comparison of the two categories assists in determining whether federal sex policies are innovative and experimental or rather a product of the past. If such policies are not new, failures and successes of a hundred years of federal drug penalties can offer lessons in understanding what types of policies may work. Additionally, if a pattern does exist in both sets of legislation, the policies that surpass sentencing and fines can provide policymakers a framework to use in creating new legislation. The efficacy of federal drug law policies may help to predict the potential success of federal sex law strategy. The existence of parallels between any policies might also assist in determining sociological implications. If federal sex offender policies are specific to the offense alone, it can help to add validity to the claim by the segment of the population who are against the legislation. Their

argument has focused on innovativeness of the laws, which they believe has been unseen before the passage of federal sex offender legislation.

The current study will analyze the content of legislation and its context. Furthermore this examination will entail incorporating pattern matching to determine the exclusivity of federal sex offender policies, which have been regarded by some to be innovative via comparison with a hundred years of federal drug offense legislation. All policies within federal sex offender legislation exceeding typical sentencing and fines will be addressed. I will analyze and compare federal drug and sex laws that have brought about new forms of policy legislation to determine if innovative policies exist and if such policies are similar.

Overview

To address the innovativeness of federal sex offender policies I examine current literature and the historical development of the policies. Chapter 2 summarizes research on the federal legislation guided by a brief summary of broad federal policy. I conduct a sociological and historical review to provide a background to both federal drug and sex offender legislation. An overview of historical events leading up to legislation and policies offers insight into the development of policies. The chapter is divided into two sections: the historical and sociological review of federal drug legislation, followed by federal sex offender legislation.

Chapter 3 includes a discussion of the methodology used to determine what types of policies exist between both sets of legislation and if there are parallel. The discussion covers the qualitative techniques used, including content analysis framework and pattern matching.

Chapter 4 provides the content analysis and results. Federal sex and drug offender legislation results are laid out in a chronological order. The innovativeness of the policies which are housed within the legislation will be qualified in the following chapter.

Chapter 5 comprises the analysis of these statutes. Pattern matching is utilized to assist in determining if parallels can be found between both sets of federal penalties. Policies found in the results for federal sex and drug offender legislation are paired to determine if consistencies exist. In short I find if these parallels put into question the innovative nature of recent sex offender legislation.

Finally, in Chapter 6 I review the purpose and results of the study. Grounded theory is used to establish theoretical implications from the research and results. A discussion of social movements and social control follows, and I conclude with a discussion of policy implications and suggestions for future research.

Chapter 2 – Literature Review

The current chapter reviews the history of the impact and the range of federal types of policy. A review that consists of historical and sociological literature relating to federal drug and sex legislation is the focus of this chapter. To assist in guiding the discussion, literature which details the background of broad sweeping legislation such as federal sentencing guidelines is explored. A review of the federal history of enhanced sentencing assists in bringing context to current federal drug and sex offender law. Relevant historical literature helps in giving an accurate context to factors that contributed to the passage of legislation, which assisted in the development of policies and their potential innovative nature. Sociological literature is paired with a chronological detailed history of the events, which helped to establish federal legislation. The use of relevant sociological literature brings focus onto contributing factors within a broad history of laws, which had a direct impact on the federal legislation that is still in use today. Both the history and sociology of the laws is the literature review and will serve as the contextual unit of the content analysis.

Federal Influence

The U.S. federal government has intervened and attempted to bring consistency to both drug and sex offense sentencing. The amount of legislative attention from the federal government is not exclusive to drug and sex crimes. One example of federal legislation which affected all types of crimes was the 1984 Sentencing Reform Act. The Act created federal sentencing guidelines for all federal crimes. The guidelines were set

up by a federal commission, which set supposed sentences that judges must check before they sentence an offender. The guideline grid is divided into 43 categories, which “cover all federal crimes” (Tonry, 1996, p. 76). Although the guidelines were once mandatory, it is now a federal judge’s choice whether they choose to follow the grid. The guideline grid uses two variables, the history of the offender and the seriousness of the offense.

Judges in setting sentences are supposed first to consult a schedule for the particular offense that specifies a base offense level. Then, on the basis of various offense characteristics, the offenses level is adjusted upward or downward...Next, the judge must determine the offender’s criminal history score. Finally, the judge is to consult [the] two-dimensional grid to learn the presumptive sentence for the offender, given his adjusted offenses level and criminal history (Tonry, 1996, p. 76).

The Sentencing Reform Act of 1984 provides an example of broad sweeping federal legislation influencing sentencing and requirements for all federal crimes. Such sentencing guidelines represent a new and innovative policy that attempts to bring consistency to federal policies, penalties and requirements. The following discussion will provide a sociological and historical background of how the federal government became involved in drafting legislative requirements specifically for drug and sex offenders.

Drug Law History and Sociological Review

Initially drug use in the United States was not restricted and in some cases, it was even encouraged. Drugs were advertised to be common cures for certain ailments. The practice was reversed in the late 19th Century as the United States became more concerned with drug use. After the Civil War, western cities of the United States were

beginning to have exceptional increases in Chinese immigrants. The expansion of the country brought about new traveling needs. Railroads were rapidly trying to keep up with the western expansion. Due to such needs, laborers were needed and in many cases Chinese workers were employed. The drug of choice for these workers was opium, therefore with the immigration of Chinese workers came an increase of opium use. The immigrants were not alone in practicing the custom. At the time American women comprised a considerable portion of the opium smoking population. These women began to join the Chinese men in opium dens, much to their husbands' and fathers' dissatisfaction (Brecher, 1972; Miller, 1997; Rowe, 2006).

By 1875, the first restrictions on narcotics the U.S. had seen were being implemented. The first of these laws was an ordinance that San Francisco put in place, which prohibited the operation of opium dens. The legislation eventually led to a complete ban on opium use (Brecher, 1972; Miller, 1997; Rowe, 2006).

Previous to the immigration of the Chinese workers, opium drug use had been going on for years. There was not as much societal concern over opium use until the Chinese were associated with the drug. The legislative movement is but the first example of minorities and drugs being coupled together in an effort to vilify the drug and the minority (Brecher, 1972; Miller, 1997; Rowe, 2006).

After the first city ordinances, the Federal Government began to create its own statutes. In 1906, the Pure Food and Drug Act was passed by Congress in response to an increased interest of regulation by the American Medical Association (AMA) and the American Pharmaceutical Association (APhA). The event that added certainty to the passage of the bill was Upton Sinclair's exposé of Chicago meat packing plants. The

portrayal included charges of human parts being mixed with the beef as well as workers rights issues. To confirm the claim President Roosevelt sent investigators to the plant where they found evidence of many of the allegations. Soon after these findings the Act was passed (Brecher, 1972; Miller, 1997; Rowe, 2006; and Sinclair, 1906).

The Pure Food and Drug Act dealt with many of the disturbing food production issues as well as drug regulation. The legislation required all patent medicines to include a label that indicated the contents of the drug. Further provisions required there to be concentration and quantity listings on the container. The Act represented the first move by the Federal Government to regulate drugs to any extent. The statute was followed by many other types of federal legislation that regulated drug use. In a relatively short amount of time, the focus shifted from regulation to restrictions (Brecher, 1972; Miller, 1997; Rowe, 2006).

In 1910, Dr. Hamilton Wright, the United States Opium Commissioner, filed a report which stated contractors were providing cocaine to African-American employees to get more work out of them. Soon after, a *New York Times* article entitled “Negro Cocaine ‘Fiends’ are a New Southern Menace,” highlighted the dangers of opiate used among African Americans. Later testimony by a pharmacist before the Harrison Narcotics Act declared “most of the attacks upon white women of the South are the direct result of the 'cocaine-crazed' Negro brain” (Cockburn and St. Clair, 1998, p. 64). These fears soon led to action (Cockburn and St. Clair, 1998; Musto, 1999; New York Times, 1914).

Due to continued increased concern over global narcotic production and its perceived affects in the United States, there was an effort to bring nations together at a

convention to discuss the topic. The Hague Convention brought together twelve nations including the United States. The conference contributed to the first international narcotics agreement, which bound all nations into a commitment to write legislation in their own countries to combat production, transfer, and the use of narcotics (opium and coca leaves). Even writing a weakened version of the soon to be drafted bill “would have made [the U.S.] susceptible to the same criticisms [it] heaped on the foreign governments that did not rigorously and heroically stamp out the evil narcotics” (Musto, 1999, p. 54). After being one of the predominant leaders of the conference, the U.S. had no choice; they either had to create legislation or face global embarrassment. While debating over the bill in the House, the discussion centered on the obligation to hold up its agreement made during The Hague Convention, rather than the issues of opium use (Musto, 1999; New York Times, 1914; Rowe, 2006).

In 1914 the Harrison Narcotics Act was the first statute that made drug distribution an illegal activity. Although narcotic use was still legal, the bill states such drugs should be dispensed in professional practice only, which has never been legislatively defined. The statute is a tax law included within the Internal Revenue Act. After passage, doctors could no longer prescribe narcotics. Addicts could no longer turn to medically supervised treatment; instead they had to find other sources to obtain opiates (Brecher, 1972; Lindesmith, 1965; Harrison Narcotics Act, 1914).

The law allowed the U.S. to regulate and tax the development, importation, and deportation of opiates. It was an “Act to provide for the registration of, with collectors of internal revenue and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca

leaves, their salts, derivatives, or preparations, and for other purposes” (U.S. Senate Reports, 1914, p. 3-4).

Although the Act was a tax, the intent of the legislation was made clear during debate. One senator stated, “There has been in this country an almost shameless traffic in these drugs. Criminal classes have been created, and the use of the drugs, with much accompanying moral and economic degradation, is widespread among the upper classes of society” (U.S. Congressional Record, 1913, p. 2191-2211). The quote gives an example of the intent and attitudes toward such crimes during the time. The statute prohibited unregulated drug flow through the U.S. (U.S. Congressional Record, 1913; U.S Senate Reports, 1914.).

With the United States’ Hague Convention obligation upheld, the focus soon turned to another type of drug that had been used consistently throughout the United States. The movement to the prohibition of alcohol was brought about by various political parties and lobbyist groups. The most successful of these efforts was the temperance movement, which “adopted complete abstinence as its goal and prohibition as the means” (Ray and Ksir, 2004, p. G-11). These groups would campaign for “dry” candidates to further their objective of prohibition. On January 16, 1920, the Eighteenth Amendment was ratified and the Volstead Act was made the law of the land (Ray and Ksir, 2004).

For the next 13 years users either had to give up alcohol or obtain it illegally. During the time, organized crime grew substantially due to its trafficking in illegal alcohol. Another choice for buying alcohol was for individuals to make their own, but the practice also had negative consequences as a larger percentage of the homemade

moonshine was toxic and in some cases deadly. During Prohibition, people could either choose to stay sober, buy alcohol illegally or find an alternative drug. For many, that drug was marijuana (Miller, 1997; Ray and Ksir, 2004).

Much like the opium laws, race played a role in the legislation regarding marijuana. Marijuana use had grown during prohibition, but an increase of Mexican workers, illegal and legal, brought a cultural pass time of the use of cannabis. Fear of the Mexican workers was soon associated with the use of marijuana. Many in society believed the drug of choice for Mexican workers had criminogenic effects. A statement presented by Roy Garis during a discussion about marijuana in 1930 describes the sentiment of the time.

[The Mexicans'] minds run to nothing higher than animal functions – eat, sleep, and sexual debauchery. In every huddle of Mexican shacks one meets the same idleness, hordes of hungry dogs, and filthy children with faces plastered with flies, disease, lice, human filth, stench, promiscuous fornication, bastardly, lounging, apathetic peons and lazy squaws, beans and dried chili, liquor, general squalor, and envy and hatred of the gringo. These people sleep by day and prowl by night like coyotes, stealing anything they can get their hands on, no matter how useless to them it may be. Nothing left outside is safe unless padlocked or chained down (Rowe, 2004, p. 27).

The fear was used to discourage further Mexican immigration into the southwestern states.

Other than ethnicity, a few other factors affected the redefinition of marijuana use. William Randolph Hearst was the first individual who played a major role in the

vilification of marijuana. Hearst, who was a large publisher in the 1930s and 1940s, led a campaign in his newspapers to denounce marijuana. His motives are unclear, but some have taken account of the fact that he did own stock in the wood pulp paper, which at the time was facing a gigantic threat from hemp. Such hemp products could produce similar paper products for half the price. (Miller, 1997; Rowe, 2004)

Harry Anslinger was the other actor who played a significant role in reframing the perception of marijuana. As the commissioner of the Bureau of Narcotics he used his position to put forward a campaign that warned society of the dangers of marijuana. He supported the idea that such drug use would make individuals more violent, sexually promiscuous, insane, and homicidal. He lobbied for anti-marijuana legislation throughout the 1930s. With the power of media from New York to San Francisco and the commissioner of the Bureau of Narcotics lobbying against marijuana use, it was not long before the Marihuana Tax Act was passed which restricted the use of cannabis throughout the country (Miller, 1997).

After World War II Anslinger, still the Commissioner of the Bureau of Narcotics, called for Congress to pass stiffer penalties on drug use. In 1951 his testimony before Congress, Anslinger states the “average prison sentence meted out in the Federal courts is 18 months. Short sentences do not deter. In districts where we get good sentences the traffic does not flourish...There should be a minimum sentence for the second offense” (U.S. Boggs Report, No. 635, 1951, p. 4). The causes for the significant intensification of drug policy in the 1950s is attributed to “fear of widespread new narcotics usage, reaction to allegations of the Mafia’s control over the narcotics trade, a general

conservative drift in American politics, and effective law enforcement lobbying” (Miller, 1997, p. 475; U.S. Boggs Report, No. 635, 1951).

The 1960s realigned the focus of drug laws onto rehabilitative measures. In 1966, The Narcotic Addict Rehabilitative Act (NARA) was passed, which created civil commitment for drug addicts. The act “permitted federal judges and prison officials to send narcotics addict probationers and inmates to the Lexington and Fort Worth treatment facilities as a condition of sentence” (Miller, 1997, p. 476). The legislation and movement towards a treatment mentality did not come without controversy. The statutes led to long-term institutionalization, “poor treatment success, high operational costs, [and] frequent civil libertarian criticism” (Miller, 1997, p. 476). The refocus in policy was followed by legislation that reestablished all drug offense penalties (Miller, 1997).

In 1970, the Comprehensive Drug Abuse Prevention and Control Act was passed. The statute continued the 1960s process of making changes in the reorganization of drug policy and law. It had become “clear that harsh and mandatory sentencing was not solving the drug problem” (Rowe, 2004, p. 40). The 1970s Act repealed all previous drug laws except for the rehabilitative acts of the 1960s. One such law, which was overturned, was the death penalty for criminals who sell heroin to minors. In addition the statute added clarity to drug laws by creating a comprehensive classification system. The Act is the first which differentiated between individuals who were convicted for possession and traffickers (Rowe, 2004).

The drug control level could be altered under the act. Certain officials such as the Attorney General, the Health Secretary, or the Administrator for the Drug Enforcement Administration, could change the extent of regulation of the drug. The scheduling

process has triggered a debate on whether the decision should be in the hands of individuals who make such decisions for political reasons. Instead these decisions need to be made for scientific reasons. For instance, although marijuana is a Schedule I drug, it has been found to have medicinal uses. Consequently, there has been much discussion in re-classifying marijuana to a Schedule II drug (Miller, 1997).

It would not be long until the reaction to drug use would once again be refocused. The new approach to drug offense legislation increased penalties and added new types of policies. The change in policy cannot be narrowed down to one or two events but include various incidents, which consisted of changes in culture, creation of new drugs, and popularity of certain political philosophies (Rowe, 2004).

The inauguration of Ronald Reagan played a large role in a conservative approach to drug use. Under Ronald Reagan's presidency, law enforcement agencies were better funded and thus allegedly equipped to fight the War on Drugs. One example of such funded policies is the Department of Defense Authorization Act of 1982. The Act increased cooperation between law enforcement agencies and the United States military. The legislation states when "fighting this battle, it is important to maximize the degree of cooperation between the military and civilian law enforcement...as the rising tide of drugs being smuggled into the United States by land, sea, and air presents a grave threat to all Americans" (Miller, 1997, p. 480; Rowe, 2004).

Another contributor to the change in policy was the discovery of a new inexpensive form of cocaine that brought about a significant amount of concern in society. Crack was the name for an inexpensive form of cocaine, which was a popular drug in urban areas and among minorities. The new drug caught the attention of many

types of media. Newspapers, magazines, and primetime television specials informed the public about the drug and its dangers (Rowe, 2004). Support was once again found for tough legislation on drug use. Although some states and federal policies have shifted their focus, the 'War on Drugs' has continued into the 21st Century (Musto, 1999; Rowe, 2004).

The 'War on Drugs' placed focus on establishing more federal drug policies in the 1980s, which led to an increase of drug offenders in federal prison. The percentage of federal drug offenders jumped from 20% to 60% during the 1980s (Federal Bureau of Prisons, 2003). Since space is limited in federal prisons there must have been other types of federal offenders who were released early to make room for federal drug offenders. If an offender did not have a minimum mandatory sentencing requirement, they would have more likely been released to make room for drug offenders. One such type of federal prisoner, which would have been released to free up space were sex offenders (Federal Bureau of Prisons, 2003; Reinerman, 1997).

Sex Offender Law History and Sociological Review

Much like other types of crime, rape and sexual assault have been prevalent throughout history. Sexual deviancy is defined differently in each culture, if at all. In the United States there has been a recent emphasis in redefining the severity of laws related to sexual criminal deviance. The following chapter will discuss the federal sex law sentences of the 20th and 21st Centuries.

Acceptable sexual behavior has changed in the United States over time. In the colonial period, non-marital intercourse was not tolerated by the community, churches, or the courts and was a punishable offense. During the time, women were burdened with

being the ones responsible in cases of sexual deviancy. In a case of rape, the victim would not be the woman, but instead the father or husband. Since women were considered property, a raped woman would be an economic liability. As time passed these views were altered and sexual deviance began to be treated differently (Odem and Clay-Warner, 1998).

It is not until the 20th Century that sex crimes were categorized. In 1937, New York created the first index that defined 143 types of offenders. In the next 30 years many states created commissions to investigate sex offenses. One new method during the time had to do with registering sex offenders. The first law to bring about registration of sex offenders was established in California in 1947 (Odem and Clay-Warner, 1998).

Awareness and concern continued to increase throughout the middle of the century and as a result, many sexual psychopath laws were passed at the state level. These policies allowed for the court to decide between rehabilitation or prison sentence penalties. These laws have been deemed racist by some researchers (Freedman, 1989) as white men were typically labeled mentally ill and sent to a treatment center and black men were found guilty of a sexual offense and sent to prison. At the time many considered African American men as aggressive rapists. “White men used the myth of the Black man as sexually uncontrollable and as a threat to all White women as an excuse for violence toward Black men and as a means to control women through fear” (Odem and Clay-Warner, 1998, p. 39). The myth of the African American rapist brought about severe sentencing for such offenders (Freedman, 1989; Odem and Clay-Warner, 1998).

Advocacy and the victims’ rights movement have fueled much of the new state and federal legislation. In part, the feminist movement drove the victims’ rights

movement. By the 1970s, rape had become central issue with feminists and the victims' rights movements. Before the movement, rape was seen by the public as helplessness specific to men of having the inability to control their sexual impulses. The movement argued sexual assault was an act of violence that some men used as a tactic of domination to subordinate women's roles (Odem and Clay-Warner, 1998).

The movement led to many new organizations that assisted victims, as well as many new groups that advocated for new policies and laws that addressed the needs of victims of sexual assault. In 1972, the first rape crisis center was established in Washington D.C. Shortly after, many new centers and victim hot lines were created to help individuals who had been a victim of a sexual assault. In the 1980s, federal funding, which was set aside to assist the movement, was dramatically decreased. Many of the advocacy groups from the 1980s to current day are funded privately and utilize the assistance of volunteers (Odem and Clay-Warner, 1998).

The victims' rights movement and the feminist movement helped to provide a new perspective on sex crimes. The new focus assisted in creating new types of legislation that were initiated in various states.

Since the 1980s, for example, the State of Minnesota has increased the lengths of prison sentences for sex offenses, created a sex offender registry, enforced civil commitment statutes for high-risk offenders, increased the intensity and length of supervision for sex offenders, and implemented community notification for offenders who pose a greater risk to recidivate sexually. In addition, recent debate includes proposals such as an indeterminate sentencing system for all sex offenders, residency restrictions, the assignment of risk levels for all sex offenders

sentenced to probation, and the requirement that all sex offenders wear global positioning system (GPS) devices while they are under supervision (Minnesota Department of Corrections, 2007, p. 5).

The laws in Minnesota reflected a broader movement, which used new means to create requirements for sex offenders. Much of the legislation lent itself as a framework for future federal legislation.

A few years later, new strategies in combating sex offenders continued to be developed across the country. Earl Shriener, a past offender who had a history of child molestation, described in detail while he was in prison how he planned to rape and kill young boys when he was released. Knowing Shriener was about to be released, officials established new legislation that labeled certain individuals such as Shriener as sexually violent predators (SVPs).

Such legislation allowed the state to hold SVPs and monitor them after release. The Community Protection Act of 1990 allowed the State of Washington to define certain offenders as SVPs. An offender was “any person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence” (Lieb, 1997, p. 10). Probably one of the most important things the legislation did was established the first system of notification to the community (Lieb, 1997).

Before federal statutes were passed, state sex laws were inconsistent across the nation. Sentencing varied from five years to life. The death penalty was even enacted in 16 states. The federal judicial system eventually intervened in cases where the death penalty had been authorized. The Supreme Court ruled in the case *Coker v. Georgia* in

1977 the death penalty for cases of rape was cruel and unusual punishment. It was not until the 1990s the federal government officials became involved in creating sex offender policy (Odem and Clay-Warner, 1998).

In 1994, the first federal sex offender legislation was passed. The Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act was the product of five years of lobbying on the behalf of an eleven year old who was abducted by an unknown offender on October 22, 1989. Subsequent to the abduction, Jacob's parents created the Jacob Wetterling Foundation, which advocated for children's safety. The foundation helped to shape the framework of the Jacob Wetterling Act. The Act instituted many new policies, which required sex offenders to register with authorities.

In 1996, Megan's Law was passed as one of the first amendments to the Wetterling Act. "Megan's law was named after Megan Kanka, a seven-year-old girl who was raped and murdered by a twice convicted child molester in her New Jersey neighborhood" (Hodgson, 2002, p. 223). Jesse Timmendequas, a repeat offender, was found guilty of the murder of Megan Kanka. He was placed on death row, but recently New Jersey abolished the death penalty. Timmendequas will now serve life without parole. At the time, the case caught the attention of many around the nation, which led to public outrage. Soon after, Megan's parents created the Megan Nicole Kanka Foundation that pushed for law enforcement to release the locations of sex offenders in the community. The movement led to a New Jersey State law named after Megan in 1994. Soon after, Megan's Law was provided as an amendment to the Wetterling Act. The provision would not be the Act's only addition (Megan Nicole Kanka Foundation, 2010).

In 1990, Pam Lychner was attacked by a worker in her house, William David Kelly. Lychner's husband was able to stop the attack and hold down Kelly until law enforcement arrived. Kelly, who was a convicted rapist and a child molester, was given a sentence of 20 years for aggravated kidnapping with intent to commit a sexual assault.

Afterwards, Lychner received information that Kelly was a candidate for early release. After hearing the news, Lychner founded the Justice for All victim's advocate group. The group's mission at the time was to implement more policies that increased public access to sex offender information. Lychner's advocacy led to the passing of the Pam Lychner Sexual Offender Tracking and Identification Act of 1996. Lychner did not live to see the passage of the Act as she and her two daughters died in the crash of TWA Flight 800 off the coast of Long Island (Justice for All, 2010).

The Adam Walsh Child Protection and Safety Act

Another incident led to the creation of an advocacy group and piece of legislation. Adam Walsh, the six-year-old son of John Walsh, was abducted 1981 and was later found murdered. His abduction led his father to join the campaign to fight for victim's rights. He subsequently founded the Adam Walsh Child Resource Center an organization dedicated to legislation reform. Subsequently, the center merged with the National Center for Missing and Exploited Children where it, with other advocacy groups, campaigned to get the passage of The Adam Walsh Child Protection and Safety Act. The mother of Jacob, Patty Wetterling, has recently criticized the Adam Walsh Child Protection and Safety Act. She stated in a column she wrote for the *Sacramento Bee* that many "states make former offenders register for life, restrict where they can live, and make their details known to the public. And yet the evidence suggests these laws may do

more harm than good” (Wetterling, 2007). Wetterling’s opinion is an example of the divisiveness of the debate and the uncertainty of how the issue should be approached. As the preceding review has suggested society at one point or the other became extremely passionate about the actual drug and sex offender criminal acts and the reaction to these offenses.

The previous discussion also demonstrates the influence of the public in effecting public policy. Efforts by the media, government, and grass roots organizations led to public outcry for federal policy to address both offenses. These social movements were fueled by society’s inability to socially control offenders through other means. The theoretical aspects of this discussion will be continued (Chapter 6) after pattern matching and content analysis is complete.

Chapter 3 - Methodology

The current study uses qualitative research to explore the federal drug and sex offender legislation that has brought about current policies which serve as an attachment to contemporary types of prison sentences, probation, parole and fines. The research uses exploratory methods to search for policies within the drug and sex offender legislation. These measures include exploratory research, content analysis, and pattern matching. Federal drug and sex offender legislation is the content explored. The legislation covered is vast, but the focus of the research is specifically on current policies created by federal drug and sex offender legislation to determine their innovativeness. Pattern matching is utilized to better understand if the current federal drug and sex offender policies parallel. Such a discovery would suggest the current federal sex offender policies are not innovative, but instead have been previously applied with the passing of federal drug legislation.

Definitions

As mentioned in Chapter 1, the term “innovative policy” is used in the current study. For the purpose of the study, innovative policies are requirements that are used as, or perceived as new. Federal drug and sex offender policies, which serve as an attachment to contemporary types of prison sentences, probation, parole or fines will be the focus of the analysis. Community notification is an example of such a policy. The policy functions are perceived as new *or* innovative and it works in conjunction with prison sentencing, probation, parole, and fines.

Exploratory Research

Although much of the study's results include legislation that has been in the public domain for years, this explorative study is the first research that seeks to discover current policies that are defined as innovative. "When exploring a topic or phenomenon about which one knows very little, one necessarily begins with a general description of the phenomenon. This [method] sounds easy but in fact is probably the most difficult kind of study for the novice researcher to undertake" (Singleton and Straits, 2010, p. 107). Chapter 1 provided the description of policies that have been ascribed as being innovative. During the opening discussion of innovative policies, there was additional focus on the background and the debate centering on the legislation. The current discussion will continue with an exploration of drug and sex offender federal legislation that brought about new policies.

Content Analysis

The current study makes use of a type of analysis that is effective in the exploration of content within different types of texts. Content analysis has been defined in various ways. Berelson in his 1952 work, *Content Analysis in Communication Research*, defined the type of analysis as "a research technique for the objective, systematic and quantitative description of the manifest content of communication" (Berelson, 1952, p. 18). According to Berelson's definition, any data found in the content that is explored would be coded in an effort to quantify it. Holsti drafted another definition of a content analysis. In his work, *Content Analysis for the Social Sciences and Humanities*, he defined content analysis as "any technique or making inferences by objectively and systematically identifying specified characters of messages" (Holsti,

1969, p. 14). Holsti's definition explains a content analysis can be a qualitative effort to make inferences of certain texts objectively, and for that reason Holsti's version of content analysis will be employed for the current study (Berelson, 1952; Bryman, 2008; Holsti, 1969).

In *Content Analysis: An Introduction to its Methodology*, Krippendorff (2004) suggests there are three types of units that are to be considered in content analysis. It is essential to define these units or levels of analysis to increase the organizational framework of the current study. These items consist of sampling units, recording units, and context units. Sampling units are "parts of the larger whole that can be regarded as independent of each other" (Bickman and Rog, 2009, p. 605). Sampling units have identified boundaries and are defined as individual words. They are the way the broader structure of the content is divided. The sampling units can be thought of as sections which will be examined. For instance, a newspaper article would be the sampling unit. In the current study, the sampling units will be federal drug and sex offender legislation that brought about new penalties or policies. Each statute will have its own boundaries and will be identified as a specific piece of legislation (Bickman and Rog, 2009; Krippendorff, 2004).

The recording units are subsets of the sampling units. These units "tend to grow out of the descriptive that is being employed" (Stewart et al., in Bickman and Rog, 2009, p. 605). The recording units are the results, after an analysis of the sampling units. For instance, using the newspaper article example again the recording units would be specific words or phrases within the larger article or the sampling unit. For the current study

recording units are the penalties and policies within the federal legislation being explored.

“Context units provide a basis for interpreting a recording unit” (Stewart et al., in Bickman, 2009, p. 606). Once again using the newspaper example, the context would be the newspaper itself, which contain the articles that are sampling units. In the current study context units will provide background to the sampling and recording units. The historical and sociological context has provided the contextual background to the legislation and policies that were developed.

Sampling units, then, represent the way in which the broad structure of the information within the discussion is divided. Sampling units provide a way of organizing information that is related. Within these broader sampling units, the recording units represent specific [text within the legislation] and the context units represent the environment or context in which the [legislation] occurs (Stewart et al., in Bickman and Rog, 2009, p. 606).

Both sets of federal legislation that contributed to new types of policies are the sampling units and the primary focus of the study. These policies will act as the recording units. These recording units, or policies, will be examined to see if they are innovative. Context units will provide a sociological and historical background to better interpret the policies. The context analysis will assist in exploring both the vast federal legislative histories of drug and sex offender policies. The analysis will contribute in discovering the innovativeness of policies within federal drug and sex offender legislation. The analysis will set up the content to be further explored through pattern matching (Stewart et al., in Bickman and Rog, 2009).

Pattern Matching

Pattern matching (Miles & Huberman, 1994) will be employed to discover if structurally similar policies exist for both sets of legislation. Again, the variables of interest are the current policies uncovered through the content analysis. To undertake the pattern matching procedure, criteria that would constitute a match or mismatch must be first developed. After current policies are uncovered, structural similarities of these policies will be paralleled (Stewart et al., in Bickman and Rog, 2009).

The pattern matching procedure will examine policies to determine if there are similarities or dissimilarities in the framework of each legislative policy. If the structure of a certain sex offender policy is similar to a specific drug offender policy, the two will be matched to determine the extent of the pattern. To better illustrate the analysis a table will list policies from both federal drug and sex offender law. If there is a structurally similar policy that exists for the other federal offense, its year of passage will be shown next to the other. If there is a certain policy that exists for one type of offense but not the other, not applicable (N/A) will be shown next to the other offense's policy year. The procedure will consist of determining if structural patterns exist between two sets of current legislative policies to determine their innovativeness (Stewart et al., in Bickman and Rog, 2009).

Grounded Theory

In its most recent depictions, grounded theory is “theory that was derived from data systematically gathered and analyzed through the research process. In this method, data collection, analysis, and eventual theory stand in close relationship with one another” (Strauss and Corbin, 1998, p. 12). Grounded theory will be utilized to explore

the relationship between these categories of federal law. After the analysis, grounded theory will assist in shedding light on the theoretical aspects of the current study. Theoretical implications will draw upon other sociological theory including social movement and social control literature to help explain the presence or lack thereof a pattern (Bryman, 2008; Strauss and Corbin, 1998).

Theoretical implications will supply a better understanding of the reasons for federal drug policy to be structurally similar to federal sex offender policy. Grounded theory will assist in developing a broader understanding of the review and its findings. Theory will thus become a product of the research. All contents of the current study will assist in the formulation of grounded theory. All units of the content analysis (contextual units, sampling units and recording units) and pattern matching will assist in the effort.

In the past 40 years since Glaser and Strauss have developed grounded theory, new interpretations of the theory have been developed. Strauss has gone on to further the theory by assembling more systematic rules for theory development. In the meantime, Glaser has protested the scheme Strauss has put forward. For the purposes of the current study, I intend to use Glaser's form of grounded theory, which gives theorists more room to develop their ideas (Bryman, 2008).

Basic grounded theory "is the discovery of theory from data systematically obtained from social research" (Glaser and Strauss, 1967, p. 2). The effort involves a process where theory is generated throughout the evolution of a study. The procedure typically leads to past theory being put through "modification and reformulation" (Glaser and Strauss, 1969, p. 4). Instead of being replaced, theory is added on to or altered.

The qualitative and comparative aspects of the current study lend itself to Glaser and Strauss' approach that is entitled the "constant comparative method" (Glaser and Strauss, 1967, p. 101). There are four stages to the method. The stages include "(1) comparing incidents applicable to each category, (2) integrating categories and their properties, (3) delimitating the theory, (4) writing the theory" (Glaser and Strauss, 1967, p. 105). Through the process of a content analysis and pattern matching, the first step has been completed. As Glaser and Strauss suggest, "while coding an incident for a category, compare it with the previous incidents in the same and different groups coded in the same category" (p. 106). For these purposes, incidents that have been compared are the policies that have been created through federal drug and sex offender legislation (Glaser and Strauss, 1967).

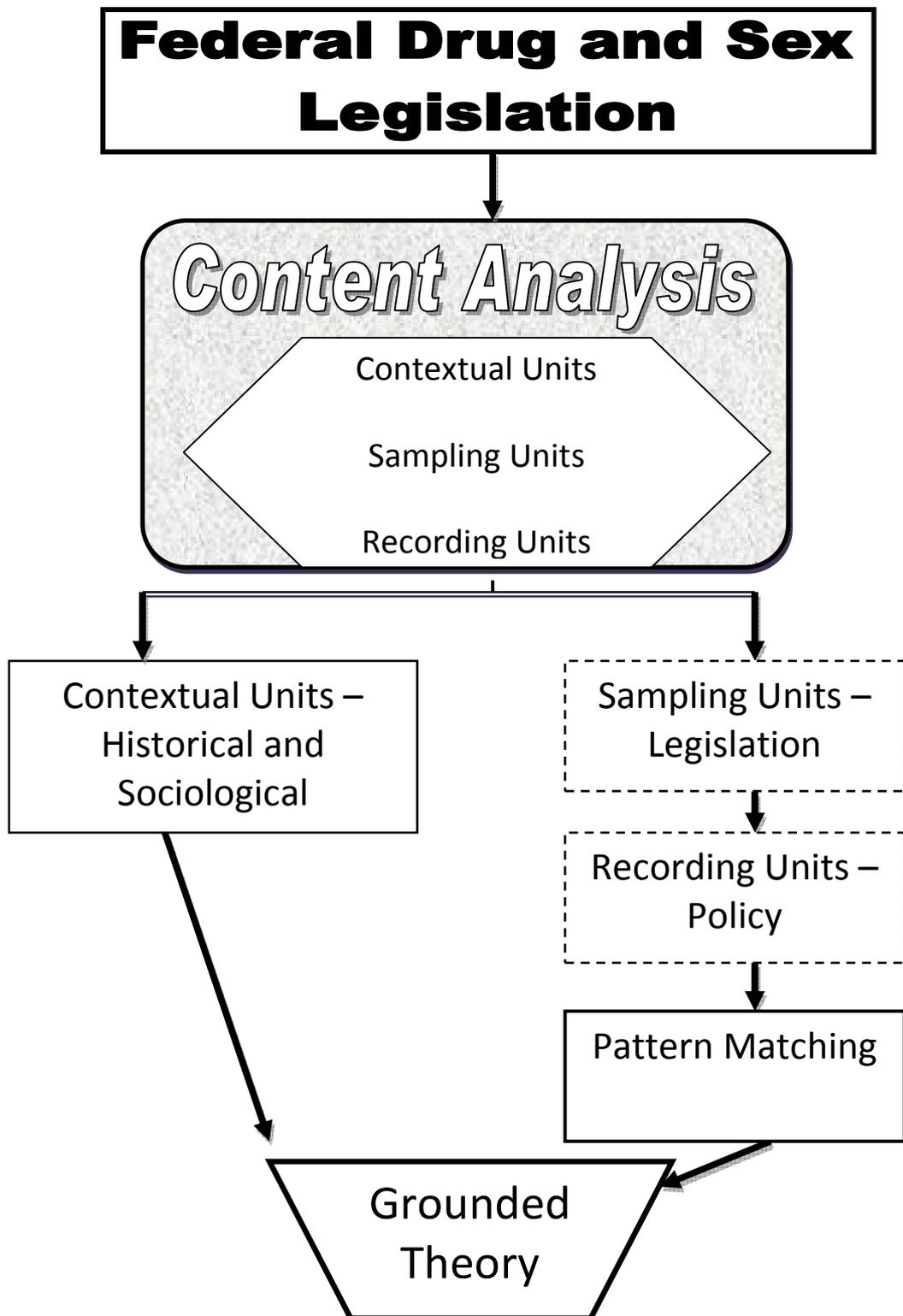
The second step of the process ascribes that categories and their properties should be integrated. Glaser and Strauss suggest "the constant comparative units change from comparison of incident with incident to comparison of incident with properties of category [which results] from initial comparisons of incidents" (p. 108). With accumulated knowledge of the incidents or for the purposes of this study of legislation, the researcher can discern important differences or similarities within the topic. For instance, the study first attempts to uncover the true innovativeness of recent sex offender policies and secondly discover what brings about or what leads to the creation of policies which are considered innovative. The search is for similar actions, which led to the creation of drug and sex offense policies which surpass typical forms of sentencing (Glaser and Strauss, 1967).

Delimiting the theory is the third step of theory development in comparative qualitative research. The process involves narrowing the theory. In the process of developing a reason for the existence of similar policies, several contributing factors can be suggested. But in delimiting the theory there must be focus in providing an answer to the question. The focus will bring together all units of the content analysis to better answer why these policies exist and are similar. The last step is to write the theory. Theoretical implications of Chapter 6 will follow the framework in the process of developing theoretical reasoning for the study's results.

Summary

The current study seeks to determine if innovative policies are not only present in federal sex offender legislation, but also in past federal drug legislation. Additionally, if innovative types of policies exist, are such requirements that penalize sex offenders structurally similar to the ones which punish drug offenders? As demonstrated in Illustration 1 on page 33, to uncover policies in an organized manner, the framework of a content analysis will be used. The legislation, its policies, and its context will be unitized. Pattern matching will be conducted on federal sex and drug offender legislative policies, which are an attachment to, contemporary types of prison sentences. If there are structural similarities within the various innovative penalties, they will be matched to determine the extent of the pattern. Grounded theory will then assist in clarifying the results of the research. The following diagram will provide an illustration of a flowchart which represents the methodology used for this study.

Illustration 1



Chapter 4 – Content Analysis Results

The section objectively lists federal drug and sex offender legislation. The legislation includes all statutes which created policies for sex and drug offenses that were an addition to standard prison sentencing and fines. The Acts represent the sampling units of the content analysis. Within the legislation current policies (recording units) are searched for and presented in the analysis section (Chapter 5) of the study.

The Harrison Narcotics Act

The legislation established penalties for individuals who failed to register or improperly distributed narcotics (opium and coca leaves). Title I Section 9 states “any person who violates or fails to comply with any of the requirements of this Act shall, on conviction, be fined not more than \$2,000 or be imprisoned not more than five years, or both, in the discretion of the court” (Harrison Narcotics Act, 1914, p. 3). The legislation set up the first mandatory minimum sentence for drug offenses. In 1920 the Supreme Court determined *U.S. v. Jin Fuey Moy*, possession of narcotics by individuals who were not required to register could still be prosecuted. An additional case furthered the frame of the legislation. In the case of *Webb et al. v. U.S.* (1919), the Supreme Court found prescribing maintenance dosages to people with narcotic addictions was not legal. The decision was later reversed in *Lindner v. U.S.* (1925), as the court determined the addict must not be considered a criminal and small dosages for these individuals should be available. After these events, the entire scope of the U.S. population could be prosecuted for the possession of narcotics under The Harrison Narcotics Act and its subsequent court

decisions (Harrison Narcotics Act, 1914, 1920; *Lindner v. U.S.*, 1925; *U.S. v. Jin Fuey Moy*, 1920; *Webb et al. v. U.S.*, 1919).

The Volstead Act

The law declared no longer could any individual in the United States buy, sell, manufacture, export and import alcohol in the U.S. The purpose of the legislation was to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries (Volstead Act, 1920, p. 1).

Under Title II Section 24 of the Volstead Act of 1919 “any person found guilty of contempt under the provisions of [this Act] shall be punished by a fine of not less than \$500 nor more than \$1,000, or by imprisonment of not less than thirty days nor more than twelve months, or by both fine and imprisonment” (Volstead Act, 1920, p. 2).

The Marihuana Tax Act

The Marihuana Tax Act of 1937 created a tax that made it prohibitively expensive to transfer marijuana. The Act stated any “person who is convicted of a violation of any provision of this Act shall be fined not more than \$2,000 or imprisoned not more than five years, or both, in the discretion of the court” (Marihuana Tax Act, 1937, p. 6). The structure of the Act was similar to the Narcotics Act legislation; in effect it completely outlawed marijuana without officially making it illegal. The legislation required persons to pay for stamps to transfer, manufacture, or possess marijuana. The government never issued the transfer stamps. After a few years an amendment to the Uniform Narcotic Drug Act was created which, added cannabis cultivation, possession, distribution and use

was to be criminalized much like the previous narcotics (Marijuana Tax Act, 1937; Miller, 1997).

The Boggs Act

In 1951 the 82nd Congress passed the Boggs Act. The title of the report identifying the bill is entitled: Increased Penalties for Narcotic and Marihuana Law Violations. The intent of the bill was made clear in its written purpose.

The purpose of the bill is to make more stringent and more uniform the penalties which would be imposed upon persons violating the Federal narcotic and marihuana laws. Enactment of more severe sentences would enable narcotic violators, who are frequently addicts themselves, to be subjected to a longer period of treatment and observation, and would at the same time have the important effect of removing from active participation in the drug traffic those offenders who may not be susceptible to corrective treatment (The Boggs Act, 1951, p. 1).

The bill fixes “maximum fines of \$2,000 for all such offenses and minimum and maximum prison terms of from 2 to 5 years for the first offense, 5 to 10 years for the second offense, and 10 to 20 years for third and subsequent offenses” (The Boggs Act, 1951, p. 6). The legislation represented one of the first attempts by federal legislation subsequent to the Volstead Act to ascribe mandatory minimum penalties for drug use. The legislation goes on to make the penalties for narcotic and marijuana use the same (The Boggs Act, 1951).

The Boggs Act increased minimum sentencing on drug offenders. A few years later, the Boggs Act narcotic minimum sentencing was once again increased. Provisions

to the 1951 law gave juries the option of using the death penalty for offenders who were convicted for the sale of heroin to a minor. (The Boggs Act, 1951; Miller, 1997)

The Narcotic Addict Rehabilitation Act

The Act creates civil commitment for drug offenders who were addicts. “These statutes permitted long-term institutionalization of addicts, typically as an adjunct to the criminal process but sometimes as a diversionary substitution” (Miller, 1996, p. 476).

The legislation states

Whenever an individual is committed to the custody of the Surgeon General for treatment under this chapter the criminal charge against him shall be continued without final disposition and shall be dismissed if the Surgeon General certifies to the court that the individual has successfully completed the treatment program (Narcotic Addict Rehabilitation Act, 1966, p. 1440).

For this legislation, addicts were defined as “any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction” (Narcotic Addict Rehabilitation Act, 1966, p. 1438). To determine if a drug offender was eligible for civil commitment the offender must have been:

an individual charged with a crime of violence. “(2) an individual charged with unlawfully importing, selling, or conspiring to import or sell, a narcotic drug. ”(3) an individual against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release,

has not been fully served: Provided, That an individual on probation, parole. or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment. "(4) an individual who has been convicted of a felony on two or more occasions. "(5) an individual who has been civilly committed under this Act, under the District of Columbia Code, or any State proceeding because of narcotic addiction on three or more occasions (Narcotic Addict Rehabilitation Act,1966, p. 1439).

The Comprehensive Drug Abuse Prevention and Control Act

The Act's opening statement set the tone of the new approach to drug legislation. The statute declared it had:

become apparent that the severity of penalties including the length of sentences does not affect the extent of drug abuse and other drug-related violations. The basic consideration here was that the increasingly longer sentences that had been legislated in the past had not shown the expected overall reduction in drug law violations (Comprehensive Drug Abuse Prevention and Control Act, 1970, p. 1).

The Act replaced all preexisting federal drug statutes except for the rehabilitative statutes of the 1960s. Drugs that were regulated by the federal government were labeled controlled substances, which drugs were "subject to increasing levels of control on the basis of abuse potential and lack of therapeutic usefulness" (Miller, 1997, p. 477). Instead of increasing the intensity of sentencing guidelines, the Act removed minimum sentences. Lesser penalties were established for use of controlled substances and simple possession.

The Act also created a policy that established schedules, which categorized certain controlled substances. The policy classified drugs by their perceived severity; the higher the severity of the controlled substance, the harsher the sentence for possessing that substance. Five schedules were created, which classified the controlled substances. Schedule I drugs are completely criminalized.

These drugs were cited for having a high potential for abuse with no accepted medical use. In the listing of specific drugs are several opiates such as heroin...Other drugs that were on Schedule I included marijuana preparations, sedatives such as methaqualone, and a number of psychedelics, including lysergic acid diethylamide (LSD), peyote, psilocybin, and others (Rowe, 2004, p. 41).

The categorization details Schedule I drugs as being most harmful. The other schedules do not carry the same societal threat according to the Act. Many of the drugs in the other schedules can be prescribed by either a physician or bought over the counter in a predetermined acceptable dosage.

[Schedule II drugs] included the opiates other than heroin, such as morphine and codeine, cocaine, and amphetamines. Schedules III, IV, and V include controlled drugs with less potential of abuse, for which physicians could write refillable prescriptions. In some instances (e.g., codeine), whether a drug was considered Schedule II, III, or V depended on the amount used. Some substances in Schedule V were even available without the physician's supervision. These included very limited quantities of codeine in cough syrups (Rowe, 2006, p. 41).

Although possession penalties decreased the legislation calls for an increase in penalties for drug traffickers. Drug traffickers' penalties were categorized by Schedule:

Traffickers violating provisions of this title relating to schedules I and II narcotic drugs are subject to a sentence of up to 12 years, a fine of not more than \$25,000, or both. Those individuals trafficking in...schedule III substances are subject to a sentence up to 5 years imprisonment, a fine not exceeding \$15,000, or both...Offenses relating to schedule IV substances could draw a fine of up to \$5,000, a sentence of up to 1 year, or both (Comprehensive Drug Abuse Prevention and Control Act, 1970, p. 8).

Possession laws brought about the criminalization of trafficking. The Act decreased penalties for conventional users, while increasing them for traffickers. It created a classification system that supplied definitions for the type of offender and type of drug. In addition, more funding was allocated toward "education, research and rehabilitation" (Comprehensive Drug Abuse Prevention and Control Act, 1970; Miller, 1997, p. 477).

The Comprehensive Crime Control Act

In 1984, the Comprehensive Crime Control Act was passed as part of a larger appropriations bill. The bill consisted of various statutes that increased penalties in relation to drug offenses. One such piece of legislation was the Sentencing Reform Act, which reinstated mandatory sentencing for drug users.

The Comprehensive Forfeiture Act was another statute within this legislation, which brought about a new type of policy. The Act established asset forfeiture, which is

the acquisition of any property or proceeds derived from the individual attained directly or indirectly as the result of the violation (Comprehensive Crime Control Act, 1984). Items eligible for seizure even included houses and forms of transportation such as vessels, vehicles, or aircrafts (Comprehensive Crime Control Act, 1984). The authorization of acquiring any property of a drug offender was the responsibility of the Attorney General. Forfeited property was allocated to support the local or State agency that contributed directly to the discovery and acquisition of the controlled substances. If the defendant claims that the property was acquired through legal means, they have thirty days to petition the court for a hearing. During the hearing they must prove to the court that the property was not subject to forfeiture law (Comprehensive Crime Control Act, 1984).

The Anti-Drug Abuse Act

In 1986 the Anti-Drug Abuse Act was passed by the 100th Congress. The bill increased penalties for the possession of crack-cocaine. As the bill states, individuals who are in possession of “5 kilograms or more of a mixture or substance containing a detectable amount of” cocaine or extracts of coca leaves receive the same penalties as people who are convicted for possessing “50 grams or more of a mixture...which contains cocaine base” (Anti-Drug Abuse Act, 1986, p. 2). Cocaine base represents crack-cocaine. Under the legislation people who are caught in possession of 5 grams of crack-cocaine will receive the same sentence as individuals who are in possession of 500 grams of regular cocaine. Since a kilogram is 1,000 grams, there is a 1 to 100 ratio between the total amount of grams in both mixtures. The legislation increases penalties

for individuals who were in possession of the substance crack-cocaine. Under the statute, persons who were in possession of cocaine had no increases in penalties.

Although the drugs are similar and have the same effect under certain conditions, there is a substantial and controversial differential in penalties. In 1986, Congress provided \$1.7 billion dollars “in new spending, mostly directed at interdiction efforts, and substantial increases in penalties for the sale of drugs” (Rowe, 2006, p. 43). The legislation allowed for a first time “offender to up to a year in jail and a fine of \$1,000 to \$5,000, with jail time and fines escalating upon subsequent offenses” (Rowe, 2006, p. 43; Anti-Drug Abuse Act, 1986).

The 1988 Act went even further than the 1986 Act regarding harshness of penalties. This Act was also mainly concerned with crack cocaine. A person who merely possessed five grams or more of cocaine base was subject to mandatory five- to twenty-year prison term at the time of his or her first offense. The sentence for a third offense was life without parole; this [penalty] was a mandatory sentence” (Rowe, 2004, p. 43).

The legislation established the death penalty for drug traffickers who were responsible for the death of an individual while involved in the drug trade. The statute includes any person “who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual” (Anti-Drug Abuse Act, 1988). The statute made it easier to authorize the death penalty for these cases. Furthermore, the Act and its provisions established that drug users “can lose public housing and a vast array of other federal benefits” (Miller, 1997, p. 483). Additionally, government contractors could lose their contracts if they did not provide a drug free environment.

The Crime Control Act

The Crime Control Act of 1990 continued to add to and intensify the policy from the 1980s. New drugs were added to the list of controlled substances, including methamphetamines. The legislation also enhanced penalties for drug paraphernalia and made it easier to dispose of real estate and other assets seized by the government.

The Violent Crime Control and Law Enforcement Act

The Violent Crime Control and Law Enforcement Act of 1994 also established several new types of penalties and policies. The Act created the first federal drug courts. The drug court legislation allocated federal funding for programs that involve—

continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and “(2) the integrated administration of other sanctions and services, which shall include— “(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant; “(B) substance abuse treatment for each participant; “(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress (Violent Crime Control and Law Enforcement Act, 1994, p. 161).

The program tracked non-violent drug offenders after release. The statute involved “continuing judicial supervision over offenders with substance abuse problems” (Miller, 1997, p. 488). Additionally, the Act established federal three-strike laws. A mandatory life sentence was the penalty for any person “convicted of a serious violent felony who

has two previous serious violent felony convictions of one or more serious violent felonies and one or more serious drug offenses” (Miller, 1997, p. 488).

Sex Offender Legislation

The first federal sex offender legislation was passed in 1994. The Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act required all states to create registries. The law requires:

offenders who were convicted of a sexually violent act or a crime against a child, a person who is convicted of a criminal offense against a victim who is a minor or who is convicted of a sexually violent offense to register a current address with a designated State law enforcement agency for the time period specified in subparagraph...[or] a person who is a sexually violent predator to register a current address with a designated State law enforcement agency (Jacob Wetterling Act, 1994, p. 244).

This legislation defines a sexual violent predator as “a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder makes the person likely to engage in predatory sexually violent offenses” (Jacob Wetterling Act, 1994).

Although the definition exists in the legislation, there is no attempt to differentiate between criminals who are sexually violent predators and sex offenders. In addition, the Act does not account for juvenile offenders and other low-level offenders. The courts were required to make the judgment of whether the offender was required to register. “A determination that a person is a sexually violent predator and a determination that a person is no longer a sexually violent predator shall be made by the sentencing court after

receiving a report by a State board composed of experts in the field of the behavior and treatment of sexual offenders” (Jacob Wetterling Act, 1994).

Penalties were created for failure to register. If an offender fails to register he “shall be subject to criminal penalties in any State in which the person has so failed” (Wetterling Act, 1994). The length of registration varies as offenders were required to comply either for 10 years beyond their sentence or until it is found “that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense” (Wetterling Act, 1994).

The Act allowed for state discretion on informing the public of registered offenders. The legislation utilized funding penalties to ensure state compliance. If the state did not create the registry, ten percent of its federal anti-crime funding would be taken away. All lost funds would be reallocated to other states that passed such legislation. In 1995, the Sex Crimes against Children Prevention Act increased penalties for the sexual exploitation of children. Additionally, it established mandatory minimum sentencing for certain types of sex offenses.

Megan’s Law

Megan’s Law (1994) amended the Wetterling Act and declared all states must create notification protocols, which allows the public to access information about sex offenders. The new laws are based on a belief that the Megan Nicole Kanka Foundation advocates for the idea that every “parent should have the right to know if a dangerous predator moves into their neighborhood” (Megan Nicole Kanka Foundation, 2010). The legislation states the following:

The information collected under a State registration program may be disclosed for any purpose permitted under the laws of the State... The designated State law enforcement agency and any local law enforcement agency authorized by the State agency shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released (Megan's Law, 1996, p. 1).

This provision to the Wetterling Act allowed for sex offender registration information to become public. The law allowed for the notification to the public of the location of possibly violent sex offenders. "Community Notification laws allow or mandate the law enforcement, criminal justice, or corrections agencies give citizens access to relevant information about certain convicted sex offenders living in their communities" (Immarigeon, 1997, p. 1).

Pam Lyncher Act

The Pam Lyncher Act (1996) called for the Attorney General to create the National Sex Offender Registry. The law establishing the registry is used as a national database that assists the FBI in tracking sex offenders "who have been convicted of a criminal offense against a victim who is a minor... [or] a sexually violent offense... [or is] a sexually violent predator" (Pam Lychner Act, 1996). The database information included a "current address, fingerprints of that person, and a current photograph" (Pam Lychner Act, 1996).

New statutes were created which addressed the length of registration penalties. The 10-year requirement remained the same, but if a sex offender had "2 or more

convictions for an offense... [or had] been convicted of aggravated sexual abuse... [or had] been determined to be a sexually violent predator” that offender must register for life (Pam Lychner Act, 1996). Penalties were also changed for individuals who failed to register. The first offense, for not registering would be punished by a fine of no more than \$100,000. For a second offense the offender would be fined no more than \$100,000 and face up to a year in prison. The potential sentence for a third offense is up to 10 years in prison and a fine of no more than \$100,000 (Pam Lyncher Act, 2010).

Jacob Wetterling Improvements Act

An additional statute that changed sex offense law was the 1997 Jacob Wetterling Improvements Act. Passed “as part of the Appropriations Act of 1998, the Jacob Wetterling Improvements Act took several steps to amend provisions of the Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act, the Pam Lychner Sex Offender Tracking and Identification Act, and other federal statutes” (Office of Justice Programs, 2010). The law required state courts to include victims’ rights advocates and law enforcement representatives in the determination of whether convicted sex offenders are also labeled violent offenders. The law required offenders who move to another state and/or work or go to school in another state to register within that state. Furthermore, all states are required to participate in the National Sex Offender Registry. In addition, the law required “the Bureau of Prisons to notify state agencies of released or paroled federal offenders, and required the Secretary of Defense to track and ensure registration compliance of offenders with certain [Uniform Code of Military Justice] convictions” (Office of Justice Programs, 2010).

Protection of Children from Sexual Predators Act

The 1998, Protection of Children from Sexual Predators Act directed “the Bureau of Justice Assistance (BJA) to carry out the Sex Offender Management Assistance (SOMA) program to help eligible states comply with registration requirements...[and prohibited] federal funding to programs that gave federal prisoners access to the Internet without supervision” (Office of Justice Programs, 2010). Furthermore, this legislation increased penalties for sexually violent offenses or offenses against children.

A person who is convicted of a Federal offense that is a serious violent felony...shall, unless the sentence of death is imposed, be sentenced to imprisonment for life, if...the victim of the offense has not attained the age of 14 years... [or if] the victim dies as a result of the offense (Protection of Children from Violent Predators Act, 1998, p. 8).

The Campus Sex Crimes Prevention Act

In 2000, The Campus Sex Crimes Prevention Act was passed under the Victims of Trafficking and Violence Protection Act. The act provided that sex offenders must notify institutes of higher education in which they are working or attending of their offender status. An additional act in 2003 required “states to maintain a web site containing registry information, and required the Department of Justice to maintain a web site with links to each state web site” (Campus Sex Crimes Prevention Act, 2000).

Adam Walsh Act

The statute added several changes to how society manages and classifies sex offenders. One of the first things the legislation did was have registered sex offenders provide more specific information. The name, social security number, address, place of employment, place of education, and license plate number, were all required to be given

to authorities and updated. Additional information was required to be given to the local enforcement and included a physical description, the history of the offender, a current photograph, fingerprints, a DNA sample, and a photocopy of identification of the offender (Adam Walsh Act, 2006).

The Act also created new mandates, including a new classification system for sex offenders: Sex offenders are separated into three tiers. The statute sets certain requirements on the duration of the registration. In addition to registration, length of sentencing was also mandated for sex offenders. Although specific federal laws had already existed for certain sexual offenses it was the first time mandatory sentencing was used in association with registration laws.

The third tier, which is the most serious, requires sex offenders to update their whereabouts every three months. They must also register for the rest of their lives.

Tier III are sex offenses punishable by imprisonment for more than one year and comparable to or more severe than the following federal offenses: sexual abuse or aggravated sexual abuse; abusive sexual contact against a minor less than 13 years old; offense involving kidnapping of a minor (parent or guardian excepted); or any offense that occurs after one has been designated a tier II sex offender (Adam Walsh Act, 2006, p. 5).

Tier II represents offenders who are less severely punished than offenders in Tier III. The sex offenders in the second tier must update their personal information every six months for 25 years. Individuals in this tier have been charged for offenses that are perceived less harmful than a Tier III offense.

Tier II are those [offenders] other than Tier I with an offense punishable by imprisonment for more than one year and comparable to or more severe than the following federal offenses involving a minor: sex trafficking; coercion and enticement; transportation with intent to engage in criminal sexual activity; abusive sexual contact. Also includes any offense involving use of a minor in a sexual performance, solicitation of a minor to practice prostitution, or production or distribution of child pornography (Adam Walsh Act, 2006, p. 5).

Tier I offenders must register yearly and they must remain registered for 15 years.

Tier I represents any of “those [offenders] other than a tier II or tier III” (Adam Walsh Act, 2006, p. 4). In addition, the statute also created a national registry that required all states to establish information databases that host identical information on sex offenders. Each state must post information about the offender online for the public to see. The registry includes relevant identification information such as the offender's name, address, date of birth, place of employment, and photograph (Adam Walsh Act, 2006). Fourth Amendment rights of sex offenders are also narrowed by the Walsh Act. Any sex offender must:

submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of probation or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer’s supervision functions (Adam Walsh Act, 2006, p. 29).

Civil commitment for SVPs was also created under this law. The legislation defines civil commitment as “secure civil confinement, including appropriate control, care, and treatment during such confinement; and (B) appropriate supervision, care, and treatment for individuals released following such confinement” (Adam Walsh Act, 2006, p. 618). The legislation established after sex offenders finish their sentence they could be held as long as the offender is deemed a SVP. Under this Act, a SVP is defined as “a person suffering from a serious mental illness, abnormality, or disorder, as a result of which the individual would have serious difficulty in refraining from sexually violent conduct or child molestation” (Adam Walsh Act, 2006, p. 618). There are two methods to assist in determining SVP status. An offender must have either “been convicted of a sexually violent offense; or (ii) [have] been deemed by the State to be at high risk for recommitting any sexual offense against a minor” (Adam Walsh Act, 2006, p. 618).

This civil commitment statute has been contested in the Supreme Court. In the case *U.S. v. Comstock* (2010), it was found this civil commitment for SVPs is constitutional. Writing for majority opinion Justice Stephen Breyer declared

The statute is a 'necessary and proper' means of exercising the federal authority that permits Congress to create federal criminal laws, to punish their violation, to imprison violators, to provide appropriately for those [offenders] imprisoned and to maintain the security of those [offenders] who are not imprisoned by who may be affected by the federal imprisonment of others (U.S. v. Comstock, 2010).

Transportation for Illegal Sexual Activity and Related Crimes Provisions

In 2009, the Transportation for Illegal Sexual Activity and Related Crimes Provisions were passed into law. The law made changes to human trafficking

penalties. These penalties addressed individuals who transported individuals for prostitution. The provision states the following:

The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States (1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and (2) any property, real or personal, constituting or derived from any proceeds that such person obtained, directly or indirectly, as a result of such violation. (b) Property Subject to Forfeiture. (1) In general. - The following shall be subject to forfeiture to the United States and no property right shall exist in them: (A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter. (B) Any property, real or personal, that constitutes or is derived from proceeds traceable to any violation of this chapter (Transportation for Illegal Sexual Activity and Related Crimes, 2009, stat. 1961).

The law established asset forfeiture for individuals who are involved in interstate prostitution. In addition, offenders who are involved in child pornography are subject to the penalty. Much of the legislation already existed but had come from the 1986 version of drug trafficking legislation (Comprehensive Crime Control Act, 1984; Transportation for Illegal Sexual Activity and Related Crimes, 2009).

The previous provided a listing of federal legislation which created policies that work outside the prison sentencing and fines framework. The content explored includes

legislation which is both active and inactive today. For this reason some outdated policies will be excluded from the analysis (Chapter 5). The content analysis section of the current study has been completed. The contextual units were supplied during the literature review (Chapter 2) and the sampling units were explored with the recording units in the current chapter. The following chapter will analyze the content *or* data found in the results. The method of pattern matching will be utilized to determine if recent sex offender legislation are as innovative as some suggest.

Chapter 5 – Data Analysis

The previous chapters have highlighted the origin, history, and current state of sex and drug law policies in order to discover innovativeness of the requirements. The current chapter analyzes the content found within the federal sex and drug offense laws. Using pattern matching, I begin with a brief review of the policies discovered through the content analysis, which are still active. I then compare and contrast policies to determine patterns that might be present (Miles & Huberman, 1994).

Federal Drug Policies

As covered in Chapters 2 and 4, federal drug offense policies have a long history. The first federal law that had an effect on drugs and drug use was established in 1906. The Pure Food and Drug Act brought about federal regulation for drug use. It was 64 years later when the first current federal legislation created policies that provided requirements. The 1970 Comprehensive Drug Abuse Prevention and Control Act repealed all previous drug laws except for rehabilitative statutes. The analysis will begin with legislation that is still current under contemporary law.

The 1966 Narcotic Addict Rehabilitative Act established civil commitment for drug addicts. The legislation proclaims drug offenders, who are labeled as addicts could be held beyond their sentence under the supervision of prison or treatment officials. The state authorities and individuals who are responsible for drug offender treatment were responsible for deciding if the drug offender was cured. The Act is a policy that contributes to additional requirements to sentencing.

The 1970 Comprehensive Drug Abuse Prevention and Control Act developed a scheduling classification system, which assigned punishments for certain degrees of criminal behavior. The schedules categorize length of sentencing with the perceived seriousness of the drug. The scheduling system is a policy that goes beyond typical sentencing as it classifies offenders based on the controlled substance possessed.

In 1986, a drug policy was created which gave the federal government the ability to take away assets from drug offenders if the assets were suspected to be used or received in the process of drug trafficking. The Anti-Drug Abuse Act of 1986 went beyond typical fines and allowed goods, such as houses and vehicles, to be taken away by law enforcement.

In 1994, a system to track federal drug offenders was developed. The Violent Crime Control and Law Enforcement Act established drug courts where non-violent drug offenders were put under judicial supervision. The program would keep track of the drug offender's behavior. Offenders were subject to drug tests, and if they were caught with drugs in their system or on their person, they would be brought back to court for additional sentencing.

The Act also created another type of policy that established new requirements: mandatory life imprisonment for one or more serious violent felonies with one or more serious drug offenses. The punishment is not a regular type of sentencing; it is a mandatory life sentence for repeated serious drug and violent offenses. The Act established life in prison without the possibility of parole for a repeat drug offender. The three-strikes statute had been popular with certain states, but the legislation was one of the first implementations of it by the federal government.

Federal Sex Offender Policies

Beginning in 1994, there have been several types of federal sex offender legislation policies introduced in the past sixteen years. Under the Violent Crime Control and Law Enforcement Act, the Wetterling Act was passed. The Wetterling Act established the first federal sex offender registration system. In all cases sex offenders would have to report their location to the local government. The policy would further punish offenders for not updating registration status. If an offender changes location and fails to re-register, they will be penalized through further fining and sentencing.

In 1996, a policy was developed to protect the public from sex offenders in their neighborhoods. The community notification policy, which Megan's Law brought about held that anyone had the right to know the whereabouts of sex offenders. The notification law was the beginning of granting the public to access to the location of sex offenders through various methods including fliers, computer CDs, and more recently the Internet.

In 2006, a policy addressed the level of enhanced penalties a sex offender would receive. A classification system was created which separated sex offenders into tiers. The Adam Walsh Act established there were three types of sex offenders. Each tier represented a different degree of sex offense, which ascribes a specific registration requirement. As the tiers increase, the length of registration for sex offenders increases. The classification system supplements previous enhanced penalties such as registration in order to shift from the 'one size fits all' mentality.

In the same legislation, civil commitment was established for sex offenders who are ascribed SVP status. Civil commitment sets a SVP can be held in a prison or

treatment facility until they are declared as not being a threat to society. The state and treatment officials are in charge of making decisions on SVP status. The policy creates requirements beyond prison sentencing and fines.

In 2009, new penalties were added for sex trafficking law with the implementation of asset forfeiture in the Transportation for Illegal Sexual Activity and Related Crimes Provisions. Any assets that were suspected of being derived from or funded by human trafficking would be forfeited to the government. The policy went past conventional fines as residences and automobiles could be collected.

The policies which have been mentioned above in the chapter have been deemed as being current federal drug and sex offender policy which goes beyond traditional prison sentencing and fines. The nature of these policies creates further requirements and penalties. The presence of a total of twelve policies that have been found in both sets of current legislation implies that current sex offender innovative policies might not be as new as some theorists (Levenson and Cotter, 2005) have put forward in previous research. To better understand the innovativeness or lack thereof, of these policies the next section will assess if any of these policies are structurally similar.

Pattern Matching

Similarities in the structure of all the policies were found except in three-strike laws and community notification. The sex offender tiered classification system has structures that parallel the drug scheduling classification system. Asset forfeiture policies were found to be identical, except for the differences in sex trafficking and drug trafficking. Both sets of federal legislation had tracking systems that monitored

offenders. In addition, both federal sex and drug offense laws contained civil commitment policies.

Most recent sex offender policies which have been declared as having innovative qualities have been rediscovered within the content analysis of federal drug offender legislation. The recent labeling of federal sex offender policy as being new or innovative is not supported by the content analysis. Moreover, the only current policy which was not found within the results was community notification. The following section will supply further analysis of the current legislation.

Registration

Registration is an integral part of the current federal sex offender legislation. The first federal legislation that addressed sex offenders specifically was the Wetterling Act, which was drafted to create a registration system. The system requires individuals who are sex offenders to provide address and further information to local authorities. There is a comparable system of registration for drug offenders, which was also created in 1994 in the same legislation. The Acts were separate, but the creation of tracking systems for both crimes is an odd coincidence. The legislation created federal drug courts, which had the power to monitor and keep track of non-violent drug offenders after release. These drug offenders were monitored and subject to drug tests.

Similar to federal sex offender legislation, there were penalties enforced for breaking registration rules or testing positive for a controlled substance. However, drug offender registration was strongly encouraged, but not mandatory. Violent drug offenders were not considered for the drug court tracking system, while all sex offenders must be registered.

The intent of drug offender registration was to assist offenders in getting off drugs, but unintended consequences occurred. For example, the law makes it easier for drug offenders to be tracked and receive additional penalties for possessing drugs during a standard drug test that is implemented in accordance to the legislation. The measure soon becomes a public safety law as less drug offenders are on the street due to failed drug tests. The sex offender registration is intended to be a public safety measure by design. The legislation may not be similar in their intent, but the outcomes of both laws are structurally similar in their efforts in tracking offenders and getting them off the streets.

Civil Commitment

The drug offense civil commitment policy was the first policy developed which is still in place today. The Narcotic Addict Rehabilitation Act established drug addicts can be held beyond their sentence in prisons and treatment facilities until state or treatment officials declare the drug offender is no longer an addict. A structurally similar policy for sex offenders was created as the third in a sequence of legislation in 2006. Civil commitment was instituted for SVPs under the Adam Walsh Act. The statute affirmed SVPs could be kept in custody beyond their sentence in prisons and treatment facilities until a state official or treatment supervisor deems they are no longer a SVP.

Much like the registration tracking laws, the civil commitment legislation holds drug offenders for their on safety. But a drug addict's confinement becomes a social control mechanism, which keeps drug offenders out of the public for longer periods of time. The SVP civil commitment law does what it intends to do by detaining sex offenders until they are believed to no longer be a danger to society.

Community Notification

In 1996, the first notification system was created for sex offenders. Megan's Law assisted states in creating a means in which to notify the public of the location of sex offenders in a specific area. There is no federal drug law which can be compared to the notification system that Megan's Law established. The difference could have to do with the nature of the crimes. Sex crimes always have victims, so there might be more of a perceived societal need to be informed. Community notification is one of two policies found which share no structural counterpart. Megan's Law was the second policy implemented which set new requirements for sex offenders and officials. Further federal legislation for other types of crimes could hold similar types of legislation, but for now community notification is an innovative policy. There are no previous similarities within the drug legislative literature and results.

Tiered Classification System

The Adam Walsh Act of 2006 created many established new requirements for sex offenders. A tiered classification system was developed, which distinguished three types of sex offenders. Tier 3 offenses were established as more severe, and if convicted, offenders would face a longer time of registration. The tiered system was the third in a progression of the creative types of policies. In 1970 federal drug offense scheduling distinguished five types of drugs. Schedule I drugs were labeled more serious offenses and individuals who were sentenced for using such controlled substances were assigned longer sentences and higher fines.

Both classification systems establish a ranking of more severe penalties that delegate various degrees of penalties. The sex offender tiers are split up into three

different types, while drug offender schedules are divided into five different classifications. However, the Walsh Act focused on the offender, while the Controlled Substance Act focused on the type of drug. Both systems attempted to establish more consistency in federal sentencing by classifying types of offending. The attempt is the second drug legislative policy, while it was the third policy in the series of sex offense policies.

Three-strike Laws

In 1994, the Violent Crime Control and Law Enforcement Act created a mandatory life sentence for certain violent drug offenders. To be given a life sentence without parole, an offender must have more than one drug offense and violent offense. There have been no federal sex offender statutes similar to the legislation. The policy was the fourth to create new requirements for drug offenders. The study is focused only on innovative policies, which are established on the federal level. There have been states that have passed three-strike legislation.

This policy is the only one that exists for drug offenders but not for sex offenders. Some sex offenses can be labeled as serious violent offenses and thus be eligible for the three-strike penalties. Overall this policy cannot be qualified as innovative due to its presence in past federal legislation and the fact that it has not been applied broadly to federal sex offender policy.

Asset Forfeiture

The most recent policy created to penalize sex traffickers is asset forfeiture. In 2009 provisions were passed, forcing sex traffickers to forfeit any assets used or reaped in the trafficking of prostitutes. In 1986, asset forfeiture legislation was passed for drug

offenders who sell and transport drugs. The policy uses the same language as is used in the 2009 sex offender provision. The only difference in the legislation is the provision's focus on sex trafficking, while the previous legislation concerns drug trafficking.

The civil law associated with both sets of legislation is written in a general manner so it can apply to different types of trafficking crimes. The federal legislation came into existence to impede the progress of drug trafficking. Since then the law has become less specific to drug use and has recently added sex trafficking. The law states such trafficking includes "dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)" (Asset Forfeiture Definitions, 2009, stat. 1961). The asset forfeiture drug offense statute was the third policy implemented, while the sex offense version was the final and most recent policy created.

Structural similarities were found in four of areas of both sets of legislation a tiered classification system, tracking system, asset forfeiture penalties, and civil commitment. There were no parallels in the sequence of the legislation, although registration for both drug and sex offenders were found in the same piece of legislation, drafted in 1994. A total of 12 policies which surpass typical prison sentencing and fines were discovered during the content analysis. Eight policies had counterparts that were structurally similar, four from each group. There were no parallels in the chronological timing of federal drug and sex offender legislation, although the creation of sex offender policy coincided with the end to drug offender policy. After 1994, there is no new drug offender policy that surpasses traditional forms of sentencing; there are only additions to current policies. Federal sex offender policy began to be implemented in the same

legislation. The Violent Crime Control and Law Enforcement Act of 1994 established registration requirements for both drug and sex offenders. The registration requirements for drug offenders were the final policy, while the sex offender registration was the first policy created by the federal government.

With the exception of community notification policy, all sex offender policies have been implemented in some form or fashion previously initiated within drug policy. The innovativeness of current sex offender policies is put into question. The focus of enhanced sex offender policy can be shifted to only one policy, community notification.

The following table displays the recording units or policies that have emerged. Each unit has been created throughout the analysis of current federal drug and sex offender legislation. These policies include a tiered classification system, three-strike laws, tracking system, notification system, asset forfeiture, and civil commitment. To the side of the current federal laws are two categories, federal drug laws and federal sex offender laws. The year of passage signifies if there is any legislation which represents the policy. If there is no corresponding legislation for the policy 'not applicable' (N/A) will be present instead.

Table 1

| Structure of Federal Drug and Sex Offender Policies | | |
|--|------------------|--------------------------|
| Current Federal Laws | Drug Laws | Sex Offender Laws |
| Tiered Classification System | 1970 | 2006 |
| Three-strike Laws | 1994 | N/A |
| Tracking System | 1994 | 1994 |
| Notification System | N/A | 1996 |
| Asset Forfeiture | 1986 | 2009 |
| Civil Commitment | 1966 | 2006 |

-The years specify when a policy was first established.

Table 1 lists the policies and the corresponding year of passage. Thus far it has been established that similarities exist in drug and sex crime legislation. The following chapter will discuss theoretical implications to better understand the similarities found in federal drug and sex offender policies.

Chapter 6- Discussion and Conclusion

The study explored federal drug and sex offender legislation that created policies and requirements for offenders. The exploration of the legislation assisted in uncovering structurally similar policies. Structurally similar policies were discovered within federal drug and sex offender legislation.

The sex trafficker asset forfeiture policy was found to be structurally similar to the drug trafficking version of asset forfeiture. The decision was made due to the fact that it is the same legislation. Essentially, the sex trafficking version is only an amended version of the drug trafficking asset forfeiture bill. The drug trafficking legislation was extended to cover sex trafficking. The provision only altered the type of offender not the trafficking offense itself.

Comprehensive Drug Abuse Prevention and Control's scheduling policy was found to be structurally similar to the Adam Walsh Child Safety Act's tiered system. Both classification systems assigned penalties for certain degrees of crimes. The differences came from the nature of crime. The Comprehensive Drug Abuse Prevention and Control Act assigned prison sentences to certain drugs, while the Adam Walsh Child Safety Act designates types of offenses, with specific registration lengths.

NARA and the Adam Walsh Act provided similar federal legislation. Civil commitment was found within current law for both sets of legislation. The law allowed for offenders to be held beyond their sentences.

In 1994, The Violent Crime Control Act was passed, creating two tracking systems. The statute established federal drug courts, which created a program that was designed to track non-violent drug offenders after release and instituted mandatory drug testing. At any time an offender could be tested or checked for drugs. If an offender was found to be in possession of a controlled substance they were brought in front of the judge, who was responsible for their supervision, and they were sentenced accordingly.

In the same bill, sex offender registration was established to keep track of sex offenders by having them register with local enforcement. The offender had to inform the local department when he or she moved to a new address so officials would be aware of the offender's background. If the offender failed to register, he or she would face further penalties.

Community notification and three-strike laws are the only policies which do not have counterparts. The federal government has failed to establish three-strike legislation for sex offenders. Many states have already made changes to their three-strike legislation to include sex offenses. Considering the current direction of federal sex offender laws, there is no reason why three-strike laws would not be established in the future.

Community notification laws have not been instituted for federal drug offenders. The difference might have more to do with the nature of the crime rather than the form of federal laws. The purpose of community notification is to inform the public of a sex offender moving into the area. Such notification comes with the fact that sex offenses are never a victimless crime. Many types of drug offenses are self-inflicting. In addition, notifying the public of every drug offender would be a rigorous task which borders on the

impossible. With fifty percent of federal prisoners convicted of a drug related offense, this endeavor would place a financial burden on the federal government.

Federal policies that surpass traditional fines and sentencing were found in both sets of legislation. It was determined many of these policies and requirements were structurally similar. The similarities demonstrate how many of the policies are not actually innovative, but have been seen before. To achieve a better understanding of why structurally similar policies exist in both drug and sex offender legislation, grounded theory will be utilized.

Theoretical Implications

The current study found six types of creative policies within current federal drug and sex offender law. There were structural similarities between four of six types of policies. Many of the policies that newer sex offender legislation is currently instituting have already been established for drug offenses. The structural similarities would suggest there are common traits between these two sets of legislation. The crimes themselves are not structurally similar, as one is mostly victimless and the other is not. The federal legislation that places penalties on these two does consist of structural similarities. Since the legislation and policies were used to establish there are similarities between these two sets of statutes, the contextual units will assist in understanding why similarities exist.

As mentioned in Chapter 2 grounded theory provides a framework in theoretical development, drawing upon previous sociological theory. The one consistency between these sets of statutes, besides the legislation itself, is the context or histories and societal movements behind the policies. Social movements and collective action have played a

significant role for both drug and sex offender federal legislation. Once termed collective behavior by sociologists, the theory of collective action can facilitate the development of a theory that explains the contextual link between the two sets of legislation.

Blumer (1962), who coined the term symbolic interaction in his sociological study of crowds, contributed some of the most well known research done on collective behavior. Collective behavior or collective action occurs when individuals act in unison to cause or resist political, economic, or social change. Blumer acknowledges four forms of collective behavior: the crowd, the public, the mass, and the social movement. Out of these forms of collective action, the study focuses social movements.

Social movements can be viewed as collective enterprises seeking to establish a new order of life. They have their inception in a condition of unrest, and derive their motive power on one hand from dissatisfaction with the current form of life, and on the other hand, from wishes and hopes for a new system of living. The career of a social movement depicts the emergence of a new order of life (Blumer, 1969, p. 99).

Since Blumer's work, research on collective action and social movements has evolved from purely theoretically to a macro-level analysis (Blumer, 1951, 1969; Schweingruber and McPhail, 1999).

The social movement literature has expanded into various areas, which include resource mobilization (Zald and McCarthy, 1977), political opportunities (Tarrow, 1994), frame alignment (Benford, 1997; Blumer, 1969; Goffman, 1974) and social control (Black, 1976; Durkheim, 1897; Oberschall, 1993, Ross, 1901). The two areas which will be the focus of this discussion are frame alignment and social control.

A theory within the social movement literature has assisted in understanding how groups who do not have the capacity to mobilize still continue to recruit more members. Frame alignment is a contributing factor for these social movements. Originally a theory from Erving Goffman's work *Frame Analysis*, the method is:

particularly fundamental to the issues of grievance construction and interpretation, attributions of blame/causality, movement participation, the mobilization of popular support for a movement cause, resource acquisition, strategic interaction, and the selection of movement tactics and targets. Whatever else social movement actors do, they seek to affect interpretations of reality among various audiences. They engage in this...framing work because they assume, rightly or wrongly, that meaning is prefatory to action. Symbolic interactionists have long operated under similar assumptions. As Blumer (1969, p. 2) asserted, "human beings act toward things on the basis of the meaning things have for them." Meanings are derived (and transformed) via social interaction and are subject to differential interpretations. Hence meaning is problematic; it does not spring from the object of attention into the actor's head, because objects have no intrinsic meaning. Rather meaning is negotiated, contested, modified, articulated, and rearticulated. In short, meaning is socially constructed, deconstructed, and reconstructed (Benford, 1997, p. 410).

Race and Framing

Frame alignment is the process by which experiences are organized and action is guided either individually or collectively. "So conceptualized, it follows that frame alignment is a necessary condition for movement participation whatever its nature or

intensity” (Worden and Benford, 1986). Framing increases the scope of social movements by grouping together various public interests. The size of the movement is increased when topics are grouped together. This method was used in the instance of federal drug and sex offender legislation.

The technique has been employed by much of the legislation in the current study. For instance, when the Marijuana Tax Act was being considered, Mexican immigrants were brought into the debate. Marijuana and hemp products were associated with the Hispanic immigrants. Individuals who had racist tendencies were thus involved with the movement to ‘tax’ marijuana through the frame alignment method (Benford, 1997; Blumer, 1969; Goffman, 1974; Rowe, 2007).

The previous example is not the only scenario where racial framing has contributed to the creation of further drug and sex offense legislation, which have led to innovative policies. As mentioned in Chapter 2, much of the 1980s drug penalties can be traced back to the development and use of crack cocaine. The less expensive version of cocaine was more easily accessible to lower-income people who were typically African Americans. The 1986 Anti-Drug Abuse Act established that individuals who use crack cocaine would receive 100 times the sentence than individuals who use powder cocaine. Accusations of the law being classist and racist soon followed since crack was mostly used by the lower-class and minorities. It is clear further support for the policy was brought about by racial framing. African Americans were framed with crack-cocaine, which led to much stiffer criminal penalties than what powder cocaine users faced (Musto, 1999).

Although the federal government was not involved, the 1875 San Francisco ordinance was in response to opiate smoking and Chinese immigrants. Opiate smoking had been acceptable behavior until Chinese workers were framed with the use of the drug. Many of these immigrants embraced a cultural pass time of using opium. There were no types of laws against opium use until San Franciscans were confronted with Chinese immigrants and their traditions. Frame alignment was used to associate opiates with the Chinese immigrants (Miller, 1997).

Frame alignment has also been used in the history of sex offense legislation. Many of the sex psychopath laws of the early 20th Century were associated with African American men. In many cases, if a Caucasian male was convicted of a sex crime they would be sent to mental hospitals. When an African American male was found guilty of a sex crime he would be labeled a sex psychopath and sent to prison. The minority under the circumstances would be framed with the crime in order to pass and preserve legislation (Freedman, 1989).

The Harrison Narcotics Act ties together sex and drug offender legislation. As stated in Chapter 2, one of the contributing factors which led to the passage of the Act was the fear of cocaine addicted African Americans. A quote during the Harrison Act testimony illustrates the relationship that drug and sex offense legislation has, as it states “most of the attacks upon white women of the South are the direct result of the 'cocaine-crazed' Negro brain” (Cockburn and St. Clair, 1998, p. 64). The statement, which was mentioned earlier, demonstrates how race, drug use, and sexual deviance can be framed together to align groups together for a common cause. In such a case the common cause was the Harrison Narcotics Act of 1914 (Cockburn and St. Clair, 1998).

Framing the racial component with drug and sex offender legislation added to the size of the social movement supporting the passage of federal statutes and new policies. Associating racial issues with sex and drug legislation increased the size of the frame. Moreover, tying racism to the fear of criminal activity increased the size of the population who would support legislative reform, which would lead to policies that provide additional penalties beyond prison sentencing and fines. The social movement mechanism of frame alignment can help to explain much of the drug and sex offender legislation. The previous demonstrates a method in which social movements use to expand their reach.

Social Control

First coined by Herbert Spencer, defined by Edward Ross (1901) and most notably discussed by Emile Durkheim (1897), social control has been a relevant sociological paradigm for the past two centuries. Sociological theorists ranging from functionalists to conflict theorists have shaped the direction of the concept of social control (Innes, 2003). The social control theoretical paradigm has only recently been grouped with social movement literature (Oberschall, 1993). Within the social movement literature, social control is the government's reaction to social movements. As previous research suggests reactions can vary, especially depending on the organizational structure and size of the population involved in the social movement (Oberschall, 1993). In many cases, as seen with sex offense laws, the government may submit to a social movement's demands. Social control has become an integral component of the social movement literature; this study integrates Donald Black's depiction of social control (1976) to social movement theory. The remainder of the discussion will focus on the

theoretical dynamics of social control (Black, 1976) through a social movement lens (Oberschall, 1993).

Social movements have contributed to the current federal policies that have been instituted for drug and sex offenses. In previous literature it has been suggested that social control is the reaction to social movements (Oberschall, 1993). Thus in this study the federal policies represent the social control, which was brought about by society.

As defined by Black (1976) social control is the mechanism that defines and reacts to deviant types of behavior. Moreover, social control is a paradigm which identifies unacceptable behavior and applies social mechanisms to punish and do away with such behavior. Black (1976) goes on to say that “law is governmental social control...in other words, the normative life of a state and its citizens, such as legislation, litigation, and adjudication” (p. 2).

As federal legislation was created, creative policies to combat sex and drug offenders were developed. A consistent finding within the literature is the presence of social movements throughout all these federal legislative policies (Chapter 2). The existence of the social movements suggests the frustration of society’s inability to control these criminal acts. Each federal sex and drug offense law was brought on through social movements. The social movements’ pushing for federal legislation is consistent with Black’s theory of social control. “Law is stronger where other [types of] social control is weaker” (Black, 1976, p. 107). The inverse relationship which is set up between law and other types of social control is the focus of this section’s theoretical implications.

Drug and sex offenses were unable to be addressed through informal means of social control. Such means include various social mechanisms, which do not include

federal law. The previous assessment suggests social movements were essential to both drug and sex offenses. Since there was an inability to control such deviance through other types of social controls, social movements were necessary to push for formal means of social control *or* federal legislation. As Black's paradigm of law suggests, formal means of social control are strong for drug and sex offender criminal activities. Informal means of social control which attempts to address both criminal acts must then be weaker. Statistics support society's inability to control these criminal acts. Sixty percent of sexual offenses go unreported (U.S. Department of Justice, 2005). A national survey conducted in 2002 found 19.5 million Americans currently use controlled substances (Substance Abuse and Mental Health Services Administration, 2002). Due to the fact that society was unable to control such behavior through other means, the federal law and policies must be perceived to exhibit more strength. The increases of intense federal legislative policies lead to the claims of the innovativeness of the laws.

The perceived lack of social control over such crimes led to desperate calls from society. The social movements themselves had to be intense and use measures previously mentioned, such as framing, which sometimes had negative racial consequences, to bring about federal legislation that could combat these two types of crimes. The similarity between these two types of crimes is society's inability to control them. Thus the reason why there has been a societal need for creative policies that attempt to halt these two types of deviant behavior. The inability to control the crimes has added to the intensity of the social movements that have brought about federal legislation that has been perceived as being innovative.

Conclusion

The current study has discovered many of the federal sex offense policies that have been described as being innovative have been implemented for drug crimes. Since innovative is a descriptive word which illustrates something's newness, the innovativeness of many of the sex offender policies comes into question considering parallels found in the current study. The structural similarities between the policies of these two sets of legislation suggested drug and sex offense legislation had commonalities. The common trait both crimes exhibit is society's inability to control them. Society turned to the federal government to place strong controls over the offenses.

Finally, Oberschall (1973) suggests the government can choose to adhere to, ignore, or appease social movements. In the case of current social movements which support stiffer penalties for sex offenders, federal officials have adhered to the advocacy groups. The movement has become the social control. When the social movement wins outright, the melding of the two can be expected. The results of such integration has led to a fact which cannot be ignored; it has only taken sixteen years to create structurally similar types of legislation which took a hundred years for drug legislation to achieve. The reasoning for such a quick evolution of policy could imply something about the crimes themselves. Society might be more involved in sex offense cases since the crime in most cases has a victim. Drug offenses have less victims; the nature of the crime could affect the intensity of the social movement. An additional reason for the difference in the time frame of sex and drug offender legislation might have to do with the increased level of media. Such communication can heighten the level of concern over sex offender victims across the country. Considering the history of the length of time drug offense

policy took to evolve it can be suggested that sex offense policies will be the focus for many years to come.

Policy Implications

The research in this study has uncovered society's inability to control drug and sexual deviance and has created the need for innovative legislation, which attempts to combat such acts. Instead of being reactionary to crime, legislation needs to be consistent and rational. The emphasis on controlling such deviance needs to be approached in a manner which causes less harm to society as a whole. The longer history of drug legislation can assist in better understanding how to properly implement structurally similar sex offender legislation. Since the sex offense policies were not truly innovative, there needs to be an effort to examine the efficacy of past policies which hold similarities to current sex offense legislation.

Unlike drug offenders, sex offenders have not had a large counter movement contesting the intensity of many of these innovative types of policies. Alternative styles of policies should continue to be implemented for both crimes. Treatment has had success with many drug offenders, but there is current debate over the extent of sex offender treatment success. Overall, reasoning over innovative policies needs to be reevaluated to better prevent criminal activities.

Future Directions of Research

To better understand the similarities between drug and sex offender legislation the following needs to be considered. A comparison of federal penalty length needs to be considered. Increases or decreases in fines for sets of statutes should be further explored. Other types of federal legislation need to be examined to determine if innovative

penalties and policies warrant more attention. Further exploration of the societal triggers, which helped to bring about legislation, need to be considered. In addition, racial components which went into the drafting of the legislation need to be further analyzed.

References

- Adam Walsh Child Protection and Safety Act of 2006. Pub. Law No. 109-248, 120 Stat. 587 (2006).
- Anti-Drug Abuse Act. Pub. L. No. 99-570. 100 Stat. 3207. (1986).
- Bartholow, S. (2010). Sex offender vs. sexually violent predator: An important distinction. San Diego News Network. Retrieved at <http://www.sdn.com/sandiego/2010-03-29/politics-city-county-government/sexoffender-vs-sexually-violent-predator-an-important-distinction> on 3-29-2010.
- Berelson, B. (1952). *Content Analysis in Communication Research*. New York, NY: The Free Press.
- Benford, R. D. (1997). "An Insider's Critique of the Social Movement Framing Perspective." *Sociological Inquiry* 67(4): 409-439.
- Bickman, L. & Rog, D. J. (2009). *Applied social research methods*. Thousand Oaks, CA: Sage.
- Black, D. (1976). *The behavior of law*. New York, NY: Academic Press, Inc.
- Blumer, H. (1951). "Collective Behavior." in A. M. Lee, ed., *Principles of Sociology*, New York, Barnes & Noble, 1951, pp. 67-121.
- _____ (1962) *Symbolic interactionism: Perspective and method*. Englewood Cliffs, NJ: Prentice-Hall.
- Brecher, E. (1972). *Licit and illicit drugs*. Boston, MA: Little, Brown and Company.

- Broderick, S. (2006). Innovative legislative strategies for dealing with sex offenders. *National Center for Prosecution of Child Abuse*. 18(10): p. 1-2.
- Boggs Act of 1951, Chapter 666, 65 Stat. 767 (1951).
- Bryman, A. (2008). *Social research methods*. New York, NY: Oxford University Press
- The Campus Sex Crimes Prevention Act of 2000, Pub. L. No. 106-386, 114 Stat. 1537, 1538 (2000).
- Cockburn, A. & St. Clair, J. (1998). *Whiteout: The CIA, Drugs and the Press*. New York, NY: Verso.
- Coker v. Georgia, 433 U.S. 584 (1977).
- Connecticut Department of Safety v. Doe, 538 U.S. 1 (2003).
- Controlled Substances and Prevention Act of 1970, Pub. L. No. 91-513, title II, 21 U.S.C. 801 (1970).
- Comprehensive Crime Control Act of 1984. Pub. L. No. 98-473, Title II, 98 Stat. 1837 (1984).
- Comprehensive Drug Abuse Prevention and Control Act of 1970. Pub. L. No. 91-513, 84 Stat. 1236 (1970).
- CNN (2008). "Police: Drifter killed Adam in 1981" Retrieved at <http://edition.cnn.com/2008/CRIME/12/16/walsh.case.closed/index.html> on February 28, 2010.
- Crime Control Act of 1990. Pub. L. No. 101-647, 105 Stat. 4689 (1990).
- Durkheim, E. (1897). *Suicide: A study in sociology*. New York, NY: Free Press.
- Federal Bureau of Prisons (2003). Retrieved at <http://bjs.ojp.usdoj.gov/> on May 24, 2010.
- Freedman, E. B. (1989). *Uncontrolled desires: the response to the sexual psychopath, 1920-1960*. In K. Peiss and C. Simmons (Eds.). *Passion and power: Sexuality in*

- history* (p. 199-225). Philadelphia, PA: Temple University Press.
- Gallup, April 29-May 1, 2005. Poll questions retrieved May 3, 2010, from LexisNexis Academic database.
- Glaser, B. G. & Strauss, A. L. (1967). *The discovery of grounded theory*. Chicago, IL: Aldine Publishing Company.
- Goffman, E. (1974) *Frame analysis. An essay on the organization of experience*. Boston: MA. North- eastern University Press.
- Gonzales, R. (2007) Murder may be tied to online sex offender list. National Public Radio. Retrieved at <http://www.npr.org/templates/story/story.php?storyId=17680920> on April 3, 2010.
- Harrison Narcotics Act 1914, Chapter 1, 38 Stat. 785 (1914).
- Hodgson, J. F., & Kelley, D. S. (2002). *Sexual violence: Policies, practices, and challenges in the United States and Canada*. Westport, CT: Praeger Publishers.
- Holsti, O. R. (1969). *Content analysis for the social sciences and humanities*. Reading, MA: Addison-Wesley.
- Human Rights Watch (2007). "No easy answers: Sex offender laws in the U.S.
- Immarigeon, R. (1997). An overview of sex offender community notification practices: Policy implications and promising approaches. Center for Sex Offender Management. Silver Spring, MD.
- Innes, M. (2003). *Understand social control: Crime, deviance and the social order*. Berkshire, England: Open University Press.
- Jacob Wetterling Act of 1994.. Pub. L. No. 103-322, 108 Stat. 1796 (1994).

- Jacob Wetterling Improvements Act of 1997. Pub. L. No. 105-119, 111 Stat. 2440 (1997).
- Justice For All (2010). "In Memory of." Retrieved at <http://www.jfa.net/memory.html> on March 9, 2010.
- Krippendorff, K. (2004). Content analysis: an introduction to its methodology. Thomas Oaks, CA: SAGE Publications, Inc.
- La Ganga, M. L. (2007). Megan's Law listing may be tied to slaying. L.A. Times. Retrieved <http://articles.latimes.com/2007/dec/10/local/me-molester10> 3-17-2010.
- Levenson, J. S. (2003). Policy interventions designed to combat sexual violence: Community notification and civil commitment. *Journal of Child Sexual Abuse*. 12(3-4): P. 17-52.
- Levenson, J. S. & Cotter, L. P. (2005). The effect of Megan's Law on sex offender registration. *Journal of Contemporary Criminal Justice*, 21(1): p. 49-66.
- Lieb, R. (1997) "Findings From the Community Protection Research Project." Washington State Institute for Public Policy.
- Lindesmith, A. (1965). *The addict and the law*. Bloomington, IN: Indiana University Press
- Lueb, R. (2000). Social policy and sex offenders: Contrasting United States' and European policies. *European Journal on Criminal Policy and Research*. 8(4): p. 423-440.
- Marijuana Tax Act of 1937, Pub. Law No. 238, 50 Stat. 551 (1937).
- Megan's Law of 1996, Pub. Law No.104-145, 110 Stat. 1345 (1996).

- Megan Nicole Kanka Foundation (2010). Megan's Story. Retrieved from <http://www.megannicolekankafoundation.org/mission.htm> on March 23, 2010.
- Meloy, M. L., Saleh, Y., & Wolff, N. (2007). Sex offender laws in America: Can panic driven legislation ever create safer societies? *Criminal Justice Studies*. 20(4): p. 423-444.
- Miles, M. B. and Huberman, A. M. (1994). *Qualitative data analysis: an expanded sourcebook – 2nd ed.* Thousand Oaks, CA: Sage.
- Miller, G. J. (1997). *Drugs and the laws 2nd Edition, detection, recognition, and investigation.* Longwood, FL: Gould Publications, Inc.
- Minnesota Department of Corrections (2007). Sex offender recidivism in Minnesota. St. Paul, Minnesota.
- Musto, D. (1999). *The American disease: Origins of narcotic control.* New York, NY: Yale University Press.
- Narcotic Addict Rehabilitation Act. Pub. L. No. 90-574. 82 Stat. 1006. (1966).
- National Center for Missing and Exploited Children (2010). Sex-Offenders: History. Retrieved at <http://www.missingkids.com/missingkids/servlet/PageServlet?PageId=3032> May 3, 2010.
- Neufeldt, V. & Sparks, A. N. (1995). *Webster's new world dictionary.* New York, NY: Pocket Books.
- New York Times (1914), "*Negro Cocaine Fiends, New Southern Menace.*"
- Obershall, A. (1993). *Social movements: Ideologies, interests and identities.* New Brunswick, NJ: Transaction Publishers.

- Oden, M. E. & Clay-Warner, J. (1998). *Confronting rape and sexual assault*.
Wilmington, DE: Scholarly Resources Inc.
- Office of Justice Programs (2010). Bureau of Justice and Statistics. Retrieved at <http://www.ojp.usdoj.gov/BJA/what/2a2jwactbackground.html> on February 28, 2010.
- Pam Lyncher Sex Offender Tracking and Identification Act of 1996. Pub. L. No. 104-236, 110 Stat. 3093 (1996).
- Petrunik, M. (2003). The hare and the tortoise: Dangerousness and sex offender policy in The United States and Canada. *Canadian Journal of Criminology and Justice*, 45(1): p. 43-72.
- Protection of Children from Sexual Predators Act of 1998 P.L. 105-314, 112 Stat. 2974 (1998).
- Ray, O. and Ksir, C. (2004). *Drugs, society, and human behavior*. New York, NY: McGraw-Hill Companies, Inc.
- Reinarman C. & Levine, H. (1997). *Crack in America: Demon drugs and social justice*. Los Angeles, CA: University of Berkeley Press.
- Ross, E. A. (1901). *Social control: A survey of the foundations of order*. Norwood, MA: Norwood Press.
- Rowe, T. C. (2006). *Federal narcotics laws and the war on drugs, Money down a rat hole*. Binghamton, NY: The Hawthorne Press, Inc.
- Schweingruber, D. & McPhail (1999). "A Method for Systematically Observing and Recording Collective Action." *Sociological Methods and Research* 27(4): 451-498.
- Sinclair, U. (1906). "The condemned-meat industry: A reply to Mr. M. Cohn Armour",

- Everybody's Magazine*, 14: p. 612-613.
- Singleton, R. A., & Straits B. C. (2010). *Approaches to social research 5th Edition*. New York, NY: Oxford University Press.
- Smith v. Doe, 538 U.S. 84 (2003).
- Strauss, A. and Corbin, J. M. (1998), *Basics of qualitative research: Techniques and procedures for developing grounded theory*. Thousand Oaks, CA: SAGE Publications, Inc.
- Stewart, D. W., Terwilliger, C. & Rook, D. W. (2007). *Focus groups: Theory and practice* (2nd ed.). Thousand Oaks, CA: Sage.
- Substance Abuse and Mental Health Services Administration (2002). *Overview of findings from the 2002 National Survey on Drug Use and Health*. Rockville, MD: Office of Applied Studies.
- Tarrow, S. (1994). *Power in movement: Social movements, collective action and politics*. Cambridge University Press.
- Tonry, M. H. (1996). *Sentencing matters*. New York, NY: Oxford University Press.
- Transportation for Illegal Sexual Activity and Related Crimes Provisions of 2009, Chapter 117, Title 18, 96 Stat. 1961 (2009).
- U.S. Boggs Report 1951. H.R. Rep. No. 635, 82nd Cong., 1st Sess. 1 (1951).
- U.S. Congressional Record (1913). Vol. 50(3), 2191-2211.
- U.S. Department of Justice (2005). National Crime Victim Survey.
- U.S. Department of Justice (2007). Comprehensive approaches to sex offender management (CASOM) program FY 2007 competitive grant announcement. *Bureau of Justice Assistance*.

U.S Senate Reports (1914). Vol. 1, of the 63rd Congress, 2nd sess. On Senate Bill 6552, report #258, February 18, pp 3-4.

U.S. v. Comstock, 08 U.S. 1224 (2010).

Violent Crime Control and Law Enforcement Act of 1994. Pub. L. No. 103-322, 108 Stat. 1796 (1994).

Volstead Act. Pub. L. No. 66-66. 41 Stat. 305 (1920).

Wetterling, P. (2007). "The harm in sex offender laws." *Sacramento Bee*.

Worden, S. K. & Benford, R. D. (1986). "Frame alignment processes, micromobilization, and movement participation." *American Sociological Review* Vol. 51(4) 464-481.

Zald, M. N. & McCarthy, J. S. (1977). "Resource mobilization and social movements: A partial theory," *American Journal of Sociology*. 82(6): 1212-1241.