


Adam Walsh Act Compliance in Pennsylvania: What Does the Future Hold? A Research Note

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Abstract

In December 2012, Pennsylvania became the 16th state to comply with regulations stipulated in the Adam Walsh Act (AWA). Title I of AWA stipulates that all jurisdictions support a sex offender registry comprised of three registration levels: 15 years, 25 years, and life. Prior to implementation of AWA guidelines, the sex offender registry in Pennsylvania consisted of two registration levels: 10 years and life. Given the collateral consequences that sex offender registries create, we were interested in how registered offenders in Pennsylvania felt about the new legislation. As part of a larger project, self-report surveys were mailed to registrants in one urban county in Pennsylvania. Participants were asked about their knowledge of impending AWA-compliance and how they would be affected by it. Results suggest that sex offenders in Pennsylvania are more likely than their peers in other states to be fearful of the consequences of this change.

Keywords

Adam Walsh Act, Sex Offender Registration and Notification Act, collateral consequences, sex offenders, registry laws, Pennsylvania

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In 2006, the Adam Walsh Child Protection and Safety Act (AWA) was passed by the U.S. Congress and signed into law. The enactment of the AWA repealed several federal sex offender registration and notification laws that were already being enforced, including the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, Megan's Law, and the Pam Lyncher Sexual Offender Tracking and Identification Act of 1996 (see Ewing, 2011, for a review of these laws). An important component within the AWA is the Sex Offender Registration and Notification Act (SORNA). Otherwise known as Title I of the AWA, SORNA stipulates federal guidelines for sex offender registration and community notification.

SORNA mandates that all jurisdictions must support a sex offender registry (42 USC § 16912). Under SORNA, all registrants must: register within 3 days of being sentenced or prior to release from incarceration (42 USC § 16913); keep registration information current, including name, Social Security number, address of residence, address of primary employer, address of school, license plate number, and description of vehicle (42 USC § 16914). Jurisdictions must ensure that certain information about the registrant is disseminated, including physical description, criminal offense history, registration offense, current photograph, fingerprint sample, DNA sample, and a copy of a driver's license or identification card (42 USC § 16914). All jurisdictions are required to make this information publicly available to search via an Internet-based registry (42 USC § 16918).

In addition to these stipulations, SORNA created a three-tiered federal registration system based on the offense committed. Tier I registrants are considered the least serious offenders and must register annually for at least 15 years; Tier II offenders have committed felonies and must verify their registration status every 6 months for 25 years; Tier III registrants are considered the most serious sex offenders and are required to register every 3 months for the remainder of their lives (42 USC § 16911).

According to the U.S. Congress, the AWA was enacted with the intent of protecting children and the general public from sex offenders (42 USC § 16901). Yet, there is a disconnect between the stated intent of the AWA and the way offenders are assigned to tiers. Tier assignments are based on crime of conviction, but empirical research has not found a connection between crime of conviction and recidivism (Freeman & Sandler, 2010). The authors suggest, "[U]sing the SORNA three-tier system may impair the ability of states to accurately identify high-risk sex offenders" (p. 34). In their study on the effectiveness of the AWA, Freeman and Sandler found that offenders classified as the lowest risk were more likely than Tier II and III offenders to be rearrested for sexual and nonsexual crimes.

Compliance With the AWA in Pennsylvania

Governor Tom Corbett of Pennsylvania signed the "Adam Walsh Bill" into law on December 20, 2011. The "Adam Walsh Bill" (also known as Senate Bill 1183) brought Pennsylvania into compliance with the AWA. On signing the bill into law, Governor Corbett discussed Megan Kanka and Adam Walsh and said,

Children are irreplaceable. But we can hope that by making our laws tougher, we can spare others the pain and grief that has visited too many families in the many years since we named laws in memory of these lost youngsters. (www.governor.state.pa.us/)

The Adam Walsh Law (42 Pa. CSA § 9799.10) took effect on December 20, 2012. To be in compliance with the tier levels stipulated by the AWA, offenders sentenced to registration periods of 10 years or life in Pennsylvania were reassigned to registration periods of 15 years, 25 years, or life.

The rhetoric used by Corbett just prior to signing the bill into law implies that tougher registration requirements for sex offenders in Pennsylvania will make the general public safer; and suggests children and families, specifically, will benefit from enhanced restrictions. More than 10 years of empirical research suggests otherwise. Sex offender registries have been shown to be ineffective at reducing sex offense rates (Sandler, Freeman, & Socia, 2008; Zgoba, Witt, Dalessandro, & Veysey, 2008; see also Welchans, 2005). More importantly, approximately 95% of individuals arrested for committing a sex offense are likely first-time offenders (Sandler et al., 2008), thus calling into question how more stringent registration guidelines will make Pennsylvanians safer. Less than 1 year has passed since the Adam Walsh Law took effect in Pennsylvania, so it is not yet possible to know the effect it has had on sexual offenses and recidivism.

Current Research Note

Prior to passage of the Adam Walsh Law in Pennsylvania we were in the midst of conducting research on the collateral consequences faced by registered sex offenders (RSOs). Knowing that the federal AWA was already signed into law by President Bush we were interested in finding out what RSOs knew about the federal mandate and how they thought it would affect them if it was implemented in Pennsylvania. Because Pennsylvania recently complied with the AWA, we feel it is appropriate to analyze the data we collected and offer a preliminary discussion of how the law may impact RSOs in the state, although we will not know the full effect of the law for years.

Method

As part of a larger study examining the unintended consequences of sex offender registration laws, the data for this research note were collected via anonymous self-report questionnaires that were mailed to 922 randomly selected RSOs in Allegheny County, a large urban county in Pennsylvania. In the existing literature on collateral consequences, Pennsylvania is not represented as well as other locations; we wanted to explore the presence of this phenomenon in one area of the state before expanding to other areas. Potential respondents were listed on the Pennsylvania State Police Megan's Law website (<http://www.pameganslaw.state.pa.us/>). They were notified that the study was being conducted to better understand RSOs' perceptions of registration and notification laws. First contact was made in December 2010 and included a cover letter,

informed consent, the survey, and a return envelope; a reminder postcard was sent to potential respondents in February 2011 and additional surveys were mailed on request. We received 83 completed surveys; this represents a response rate of just more than 9%. Without question this is a low response rate, but even previous research has admitted the difficulty of accessing RSOs for research (Tewksbury, 2004; Tewksbury & Lees, 2007) and suggests that because of these difficulties, small samples and low response rates are expected and can be considered acceptable.

One question we posed to RSOs in Pennsylvania asked, "Currently, Pennsylvania is a two-tiered system requiring a 10-year or lifetime registration period. Pennsylvania may change this to a three-tiered system requiring a 15-year, 25-year, or lifetime registration period. Are you aware of this potential change?" Respondents had the opportunity to answer "yes" or "no." The second question we asked participants focused on how they felt a potential change would affect them, "In your opinion, how will this possible change in registration guidelines affect the way you are treated by other individuals in society?" Participants were able to check one of the following: "Treated better," "No change in treatment," or "Treated worse." Moreover, some participants chose to provide written responses to elaborate on their thoughts. As part of the larger survey instrument, respondents were asked about their offense, how often they are recognized in public and how often they are in contact with law enforcement, and a series of questions about the collateral consequences that they, their family members, and their acquaintances experience because of the registry; in total, the survey instrument contained 29 questions.

For comparison, the two questions about the AWA also were posed to RSOs in Texas and Wisconsin¹; the first question was amended to reflect the particular state's current registration and notification structure. Surveys were mailed to 1,221 randomly selected registrants from the 10 most populous cities in Wisconsin, while another 1,000 surveys were sent to randomly selected registrants in three Texas counties near the Dallas–Fort Worth area; in addition, a nonprofit advocacy group in Texas copied the survey and had an unknown number of its members, who are registrants, complete and return the survey. We received 165 completed surveys from RSOs in Texas, but are unable to calculate an accurate response rate because a nonprofit advocacy group sent the survey to RSOs who were not in our original sample. A sample of 1,221 registrants in Wisconsin returned 195 completed surveys, a response rate of nearly 16%. The respondents from Texas and Wisconsin were purposively sampled because registrants in the two states are understudied in collateral consequences literature.

Results

Table 1 presents the demographics of the RSOs who responded. Respondents from Pennsylvania were predominantly lower/working class (75%) White (85%) males (100%) in their early-50s (52.5 years old). Similarly, the majority of respondents from Texas and Wisconsin were White males in their late-40s or early-50s; participants from Texas self-reported as middle class (54%) while those from Wisconsin were lower/working class (62.3%).

Table 1. Description of Sample.

	Pennsylvania	Texas	Wisconsin	Total
Race/ethnicity	<i>n</i> = 80	<i>n</i> = 164	<i>n</i> = 192	<i>n</i> = 436
White	68 (85.0%)	130 (79.3%)	134 (69.8%)	332 (76.1%)
African American	9 (11.3%)	5 (3.0%)	48 (25%)	62 (14.2%)
Asian	0 (0%)	5 (3.0%)	2 (1.0%)	7 (1.6%)
Hispanic/Latino	2 (2.5%)	17 (10.4%)	3 (1.6%)	22 (5.0%)
Other-biracial	1 (1.3%)	7 (4.3%)	5 (2.6%)	13 (3.0%)
Sex	<i>n</i> = 79	<i>n</i> = 165	<i>n</i> = 192	<i>n</i> = 436
Male	79 (100%)	160 (97.0%)	185 (96.4%)	424 (97.2%)
Female	0 (0%)	5 (3.0%)	7 (3.6%)	12 (2.8%)
Age (<i>M</i>)	52.5 (<i>n</i> = 76)	50.6 (<i>n</i> = 165)	49.1 (<i>n</i> = 190)	50.3 (<i>n</i> = 431)
Socioeconomic status	<i>n</i> = 79	<i>n</i> = 161	<i>n</i> = 191	<i>n</i> = 431
Lower/working	59 (74.7%)	65 (40.4%)	119 (62.3%)	243 (56.4%)
Middle	19 (24.1%)	87 (54.0%)	69 (36.1%)	175 (40.6%)
Upper	1 (1.3%)	9 (5.6%)	3 (1.6%)	13 (3.0%)

Table 2. Awareness and Potential Effect of Change on RSOs.

	Pennsylvania	Texas	Wisconsin	Total
Aware of AWA (<i>n</i>)	<i>n</i> = 80	<i>n</i> = 163	<i>n</i> = 191	<i>n</i> = 434
No (%)	60 (75)	141 (86.5)	175 (91.6)	376 (86.6)
Yes (%)	20 (25)	22 (13.5)	16 (8.4)	58 (13.4)
Potential effect (<i>n</i>)	<i>n</i> = 78	<i>n</i> = 156	<i>n</i> = 185	<i>n</i> = 419
Better (%)	1 (1.3)	31 (19.9)	29 (15.7)	61 (14.6)
No change (%)	51 (65.4)	105 (67.3)	131 (70.8)	287 (68.5)
Worse (%)	26 (33.3)	20 (12.8)	25 (13.5)	71 (16.9)

Note. RSO = registered sex offenders; AWA = Adam Walsh Act.

Table 2 contains participants' responses to questions about their knowledge of the AWA. Three fourths of the limited respondents from Pennsylvania indicated that they had no knowledge of the state's impending compliance with AWA and mandatory switch from a two-tiered to a three-tiered registration and notification system. Nearly two thirds of Pennsylvania respondents believe the switch will result in no change in the way they are treated by the general public. Yet, one third of the RSOs from Pennsylvania who responded believe they will be treated worse by the general public as a result of the SORNA guidelines.

Results from Pennsylvania participants were compared with data from RSOs in Texas and Wisconsin. Pennsylvania–Texas comparisons and Pennsylvania–Wisconsin comparisons were made using independent-samples *t* tests; we sought between state

comparisons of RSOs' knowledge of a potential change to SORNA guidelines as well as perceptions on how potential changes would affect the way the public treats them. When comparing Pennsylvania with Texas, we found no significant differences in the awareness level of RSOs from each state. We did find a significant difference between how Pennsylvania RSOs ($M = 2.32$, $SD = .497$) thought they would be treated compared with the feelings Texas RSOs ($M = 1.93$, $SD = .569$) reported, $t(232) = 5.163$, $p < .001$. This suggests that RSOs in Pennsylvania were more likely than their counterparts in Texas to believe they would be treated worse by the general public if SORNA guidelines were implemented in their state.

When making the same comparisons between RSOs from Pennsylvania and Wisconsin we saw significant differences in both independent-samples t tests. The difference between Pennsylvania RSO ($M = 0.25$, $SD = .436$) and Wisconsin RSO ($M = 0.08$, $SD = .278$) knowledge of the potential for change to SORNA guidelines was significantly different, $t(106.893) = 3.154$, $p = .002$. Based on this, we can conclude that registrants in Pennsylvania were significantly more aware of stipulations in the AWA than their counterparts in Wisconsin. In addition, we found a significant difference between how RSOs in Pennsylvania ($M = 2.32$, $SD = .497$) thought they would be treated with a switch in registration tiers compared with the perceptions that RSOs in Wisconsin had ($M = 1.98$; $SD = .541$), $t(156.99) = 4.967$, $p < .001$. Once again, this leads us to conclude that registrants in Pennsylvania were more likely than RSOs from Wisconsin to believe they would receive worse treatment from the general public if SORNA were implemented in the state they live in.

In addition to reporting their thoughts on the AWA, respondents shared the following insight into how current registration laws affect their families:

My family members are treated rudely by some people because they are related to me. (R55)

My parents and brother are shunned by co-workers. (R47)

Church members treat my mother differently. (R75)

My wife's application for housing was denied because my name would be on the lease. (R23)

A wife of a RSO in Pennsylvania sent this note:

I live in constant fear—even seven years after his conviction. I am always stressed that someone will approach me or attack me or him. I am afraid someone at my workplace will see my street address on my paycheck and decide to check the registry; I am afraid of losing my job. It has been hell.

Discussion

The results from the independent-samples t tests made us question the potential causes for Pennsylvania RSOs to be more fearful of additional consequences with AWA. We decided it would be appropriate to determine if there were any newsworthy events that may have corresponded with our initial round of survey distribution to RSOs in

Allegheny County. Any newsworthy events or possible historical effects may have influenced RSOs responses. Through local news searches via Lexis/Nexis we determined that two events may have contributed to the feelings reported by the respondents. The first event occurred less than 2 months before we first mailed surveys to registrants—the American Civil Liberties Union of Pennsylvania and the Pennsylvania Institutional Law Project argued before the Pennsylvania Supreme Court against an Allegheny County ordinance that prohibited RSOs from living within 2,500 feet of schools/day cares, parks, and community and recreation centers (ACLU, 2008). Second, within a 1-week span less than a month before surveys were distributed, the *Pittsburgh Tribune-Review* published two stories about a GPS program Allegheny County was planning to use to track sex offenders in the county. In conjunction with a local school district, the Allegheny County District Attorney Office planned to track 45 RSOs with a GPS device for approximately 2 months; the tracking project began on November 17, 2010 (Kerlik, 2010; Ramirez, 2010). Given the timing and the tone of the *Tribune-Review* articles and the breadth of the residency restrictions in Allegheny County (which have been repealed by the Pennsylvania Supreme Court), we conjecture that this information may have influenced the responses from participants in Pennsylvania. Presumably, RSOs from Allegheny County feared additional punishments if the state became AWA-compliant.²

When the Pennsylvania Supreme Court invalidated the residency ordinance in Allegheny County, the concluding paragraph of the opinion contained the following, “The County’s legislative effort in this instance undermines the General Assembly’s policies of rehabilitation, reintegration, and diversion from prison of appropriate offenders” (*Fross v. County of Allegheny*, 2011). That said, we question how compliance with the AWA will help with the rehabilitation and reintegration of RSOs in Pennsylvania. Based on prior research on the collateral consequences of sex offender registration laws discussed above, we expect registrants will continue to have a difficult time finding gainful employment and suitable housing while they endure harassment and stigmatization from the general public. Compliance with the AWA prolongs registrants’ exposure to these unintended consequences and makes reintegration much more difficult.

On passing legislation that brought the state into compliance with the AWA, Governor Corbett said, “by making our laws tougher, we can spare others the pain and grief that has visited too many families” (www.governor.state.pa.us/). As discussed above, it is well known that sex offense registries are ineffective at reducing the rate of sexual offenses and registries are unable to predict who will commit a sex offense, especially considering upward of 95% of those arrested for a sex crime are first-time offenders. Instead of simply promoting new laws as “tougher” and a way to “spare others the pain and grief” of victimization, Pennsylvania and the 15 other states that have complied with AWA (National Conference of State Legislatures, 2013) should exercise more discretion before enacting ordinances that have such a profound negative impact on not only the registrant but the families of registrants. The written responses from registrants and a family member in Pennsylvania included above suggest registration laws negatively impact the families of offenders, yet policy makers in

Pennsylvania and elsewhere continue to spread the belief—through public statements and actions—that these laws spare families from pain and grief.

Our findings suggest respondents from Pennsylvania endured several negative consequences because of their registration status before the state switched to a three-tiered system. Results also show that the families of RSOs in Pennsylvania have experienced grief and pain because of the way they and their loved ones are treated by other members of society. Now we are aware that registrants in Pennsylvania who participated in this research think they will be treated worse with the recent update to the state's registration and notification laws. We do not want that to happen, but are fearful of the prescience of the individuals who responded to our inquiries. Hopefully, future research on the impact of AWA-compliance in Pennsylvania proves them incorrect. Although we believe when research is conducted years from now, Pennsylvania's decision to comply with the AWA will show an increase in the collateral and unintended consequences endured by RSOs and their families. We think compliance with AWA will show little return in terms of reduced rates of sex offenses and little change in rates of recidivism among sex offenders. It is our desire that this research note gives future researchers a modicum of insight into the ever-changing issue of state compliance with AWA and the effects it has on RSOs.

Limitations

This exploratory research note is not without limitations. First, we did not survey Pennsylvania RSOs from outside of Allegheny County. Thus, we do not know how the majority of RSOs in Pennsylvania feel about the state's decision to comply with the AWA. Second, our response rate is low. Even though much of the survey research on collateral consequences of registration laws reports comparable response rates, we cannot ignore the idea that those who do not respond may differ from those who do respond. We hope future research will overcome the limitations of this research note when assessing Pennsylvania's compliance with the AWA.

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Notes

1. When we first sent surveys to registered sex offenders (RSOs) in Allegheny County, the law in Pennsylvania stipulated registration periods of 10 years and life; obviously, that

has since changed. The law in Texas stipulates a registration periods of 10 years and life, whereas the law in Wisconsin stipulates 15 years and lifetime registration for sex offenders (surveys for both states were sent during the summer months in 2012). Similar offenses were punished with similar registration periods in each state.

2. We conducted Lexis/Nexis searches to determine if similar newsworthy events occurred in Texas and Wisconsin during the time period immediately before and after survey distribution in those states; our search resulted in no results.

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