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Sexual Violent Predators Program: A Case Study to Determine if Sexual Violent Predators are Effectively Managed and Controlled in California

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A Case Study to Determine if Sexual Violent Predators are Effectively Managed
and Controlled In California

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Abstract

In California, there has been increased public pressure to create legislation that manages and controls sexual violent predators. This has resulted in several laws been enacted which include Sexual Violent Predator Act, Megan's Law and Jessica's Law. However, more needs to be done to the current contradicting laws that don't serve all the agencies and therefore becoming in efficient. Although there has been moderate progress made in the past, there's questionable evidence that the current laws are preventing future recidivism rates from decreasing. This paper reviews the sex offender legislation to determine whether it works, whether there are any loopholes that exist within the statute and what modifications, if any, are needed to increase efficiency. It is important t to have an overall look at whether California is managing and controlling Sexual Violent Predators including reviewing the prevention mechanisms, treatment process and other stakeholder's mandates that are within the Sexual Violent Predator law and program.

Chapter 1 - Introduction:

Over the past years, the State of California has had a significant increase in sex offender population which forced the law makers and various stakeholders to really look deeply into this problem. After numerous public outcries regarding sex offenders, California law makers were always on the front line in enacting laws that address issues that affect the citizens with a goal of ensuring that the communities remain safe at all times. (Winick, 1998) There are those that are opposed to the current Sexual Violent Predator law due to its content and there are those that support the Sexual Violent Predator law because they think that it protects the citizens of California.

According to the California Welfare and Institution Code 6600 a Sexually Violent Predator is a person who has been convicted of a sexually violent offense against one or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. In addition, Sexual Violent Predators are defined as a (i) Pedophilia- A person with mental abnormality or psychiatric disorder and (ii) A sex offender with likelihood to reoffend unless confined in a secure facility. More details are provided in depth including an outcome of a research that was conducted with a goal of identifying whether the Sexual violent Predator law is effective in California and what is being done to control this dangerous group of sex offenders.

Purpose of the Study

The purpose of this study is to examine and analyze how various stakeholders, including subject matter experts, perceive the Sexual Violent Predators Act, the programs that have been created as a result and evaluate the efficiency of these programs in delivering their mandates in ensuring that theirs proper management and control of sexual violent predators in the State of

California. The analysis of this topic provides a snap shot picture of the various perceptions, both positive and negative, to offer general description of the phenomenon as seen through the eyes of people who have experienced it firsthand.

Main Research Question

Is California effectively managing and controlling Sexual Violent Predators? The aim of this research question is to determine whether California is effectively executing its mandate by managing and controlling Sexual Violent Predator's efficiently. The main reason for choosing this research question is to analyze the perception of those who work with Sexual Violent Predators in California. This is guided by the fact that there are those who are for and against the sexual violent predator program in California. No sub questions or research hypothesis were used in this case study.

Background and History

In response to growing concerns regarding the risk to public safety resulting from violent, mentally-disordered sex offenders being released to the community directly from prison, the Legislature established new law under the provisions of Welfare and Institutions Code Sections 6600 et seq. The new law, cited as the Sexually Violent Predator Act (SVPA) became effective on January 1, 1996. The Act lists crimes that qualify as sexually violent offenses and defines "predatory" to mean acts against strangers, persons of casual acquaintance, or persons with whom the offender established relationships primarily for the purposes of victimization. Further, the Act established a new category of civil commitment for persons found to be sexually violent predators (SVPs). This law set an initial commitment term of two years – renewable thereafter until the individual's diagnosed mental disorder has so changed that he or she is not likely to

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commit an act of sexual violence. The Department designated this program as the Sex Offender Commitment Program (SOCP) (SVPA, 1996).

The Department of State Hospitals

The Department of State Hospitals (DSH) conducts psychological evaluations of inmates referred by CDCR to determine if the inmate has a diagnosed mental disorder, such that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody.

The Sex Offender Commitment Program (SOCP) within the Department of State Hospital is responsible for the administration of psychological evaluations of inmates referred by CDCR. SOCP employs licensed, clinical psychologists and psychiatrists who are trained to evaluate sex Offenders and provide court testimony. The state hospitals provide mental health treatment in a secure environment and the Forensic Condition Release Program (CONREP) provides monitored outpatient treatment and supervision. Since 1996, 62 individuals have been court ordered to CONREP to receive outpatient sex offender treatment and monitoring. Seven of these individuals had their conditional release revoked due to violation of outpatient terms and conditions; however, three of these individuals were subsequently released back to the community under court order.

The Department of State Hospitals assigns two licensed psychiatrists or psychologists who assess whether the inmate has a diagnosed mental disorder such that he or she is likely to engage in acts of sexual predatory violence. If the person is labeled a sexually violent predator, a petition requesting that the person be committed to a state mental health facility is filed in superior court. If a superior court finds there is probable cause that the inmate is likely to engage in sexually violent predatory criminal behavior, the judge will order a trial to determine whether the person is, by reason of a diagnosed mental disorder, a danger to the health and safety of

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others in that the person is likely to engage in acts of sexual violence upon his or her release. If the court or jury determines the person is a sexually violent predator, that person is committed to a facility designated by the Director of State Hospitals.

The Sexual Violent Predator Act required that sexually violent predators be committed to a mental health facility for a two-year term after their sentences were completed. The commitment could only be extended if the court granted a petition for extension. The inmate was not required to undergo treatment while Committed as this was voluntary and if the inmate received treatment, the treatment did not need to be successful for the person to be released at the end of the two-year commitment. In fact, an individual could be released without even admitting that he or she had a problem. Furthermore, the Sexual Violent Predator Act provided for automatic annual hearings to determine whether the committed person had changed such that he or she could be conditionally released. Unfortunately, many sexually violent predators committed to mental health facilities pursuant to the SVPA refused treatment but were nevertheless released back into society.

Treatment

As required by law, treatment is voluntary. While patients participate in some level of treatment, approximately 30 percent of the individuals actively participate in the Sex Offender Phase Treatment Program, which is an intensive Inpatient program designed to treat sexual mental health disorders. Treatment is provided by a team which includes psychologists, psychiatrists, social workers, psychiatric technicians and nurses.

- Each individual in a state hospital received an annual examination to determine if he/she continues to meet SVP criteria, and whether conditional release to a less restrictive

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alternative or an unconditional release is in the best interest of the person (conditions can be imposed that would adequately protect the community).

- The SVP Act also allows individuals the ability to petition the courts for conditional release or unconditional release and discharge. However, the law prescribes that no hearing shall be held until the person who is committed has been under commitment for confinement and care for not less than one year from the date of the order of commitment.
- Under specific circumstances, individuals, who are deemed by the court not eligible for unconditional release, may be considered at the court's discretion for conditional release. The director of the treatment facility and, where applicable, the community program director, shall recommend to the court whether the individual is a candidate for outpatient treatment in CONREP.
- It is important to note that clinicians, bound by licensing and ethical standards, issue their professional opinions independent of DSH.

Since November 1, 1995, the SOCP has operated under three program continuums: (1) Evaluation; (2) Inpatient; and (3) Outpatient. Each program continuum is described below.

Evaluation Program

State law requires the Department to designate two evaluators (licensed psychiatrists and/or psychologists) to determine if an individual has a diagnosable mental disorder such that he or she is likely to engage in acts of sexual predatory violence without appropriate confinement and treatment. Following a complete file review plus a face-to-face interview or behavior observation or both, two evaluators determine separately whether the offender meets the criteria as an SVP. Upon a finding that an individual meets the statutory criteria as a SVP, a request is made by the Department to the designated County Counsel or County District Attorney to file a

petition with the court for a commitment. Pursuant to the petition, if a judge finds probable cause that the offender is an SVP, he or she will order a trial for a final determination of whether the offender is an SVP. Individuals subject to commitment may be placed in a County jail or remain in a State correctional facility until the court issues a probable cause finding requiring the inmate or parolee to be placed in a designated State Hospital pending completion of a commitment trial.

Inpatient Program

State law also specifies that the Department provide a treatment program for persons committed as SVPs. This program is consistent with current standards for the treatment of sex offenders and is based on a standardized treatment protocol developed by the Department. In this regard, the treatment orientation of the SOCP is cognitive-behavioral with a Relapse Prevention (RP) component. The program is organized around this RP framework, and focuses on "offense specific" treatment methods. Treatment plans also include individual therapy sessions, counseling, and behavioral reconditioning for modifying deviant arousal patterns. Finally, the program also provides a number of educational and vocational training activities to further augment a patient's recovery.

Outpatient Program

When patients committed under the SVPA statutes are granted conditional release by the court, they enter community treatment and supervision under the Forensic Conditional Release Program (CONREP). This program is based upon the Containment Model of sex offender treatment that seeks to hold patients accountable by the combined use of the patient's own internal controls, developed during inpatient treatment, and the use of external tools such as polygraph, surveillance, and electronic monitoring. CONREP is a victim-centered approach that

focuses on the safety of the community as its primary goal. It emphasizes close collaboration and communication by all parties participating in the patient's community treatment and supervision. (DSH, 2013)

The Containment Model also includes sex offender specific treatment that involves the application of treatment, assessment, and clinical practice tools. In support of the RP Model, it seeks to identify high-risk situations, thoughts and behaviors that are precursors to sex offending which are specific to that patient and assists him/her to establish alternate thinking and behavioral patterns. Successful implementation of the Containment Model, together with local law enforcement assistance and/or CDCR parole collaboration, protects the public and allows the patient to remain safely in the community.

Chapter 2 - Literature Review

Citizens across California have over the years become increasingly concerned about sex offenders returning to their neighborhoods after being released by the Department of Corrections & Rehabilitation (CDCR). In fact, they want greater assurances that these offenders will not place their children or themselves in jeopardy of victimization. These concerns have resulted in stricter laws that have recently been passed that increase incarceration and community supervision periods, place restrictions on where sex offenders can reside, and prohibit them from being in specific locations. The California Sexual Violent Predator law was passed with the promise of rehabilitation as a major goal. Confinement would be limited because treatment would be provided and the "patients" would be released as soon as they were no longer dangerous or mentally disordered (Janus, 2004). But in reality, committed sex offenders are rarely discharged. The primary purpose of these laws is incapacitation so as to prevent future sexual violence by direct physical constraint. Treatment is only an additional purpose (Janus,

2004). In reality, punishment, isolation, and incapacitation are the dominant purposes (Winick, 1998). LaFond (2000) observes that in some states, there was no bona fide treatment program in place when the individuals were committed.

Subsequent legislation, Senate Bill 1128 added more crimes to the list of sexually violent offenses that could cause offenders to qualify as SVPs. (Alquist, 2006) Additionally, on November 7th of the same year, voters passed Proposition 83, known as Jessica's Law, which expanded the definition, evaluation, and commitment of SVPs. Accordingly, the two-year initial commitment term shifted to indeterminate terms, the number of qualifying sex crimes increased from nine (9) to thirty-five (35) and the number of required victims was reduced from two to one. In addition, individuals found to be high-risk sex offenders became subject to restrictive residency requirements and global positioning system (GPS) monitoring. This legislation increased the number of sexual violent predators that were referred to Department of State Hospitals for evaluations. (Jessica, 2006)

Despite significant increases in the number of convicted sexual offenders, the California prison system (California Department of Corrections and Rehabilitation, CDCR) have not implemented a formal sexual offender treatment program in its prisons to date. While there has been a compelling body of research accumulating to indicate that punishment is not as effective a crime deterrent as treatment (Cullen & Gendreau, 2000; Peebles, 2008), the underlying assumption in much of penal policy is that increased length of sentences will deter sexual offenders from committing sex crimes. Certainly, incarceration guarantees that offenders will not be a threat to the community during their incarceration period.

In California, after serving their criminal sentences, sexual offenders are released into the community untreated. Those who serve sentences under parole supervision may be required to

participate in treatment through their parole agreements. Although some positive efforts have recently begun in California to provide more effective treatment for high-risk sexual offenders serving parole, historically, the quality of treatment provided by parole services for sexual offenders has been criticized due to a lack of standardization, quality review, and adequate resources.

In *Hubbart v. Superior Court*, the California Supreme Court upheld the Sexual Violent Predator Act against constitutional attack. Although the U.S. Supreme Court has not specifically reviewed California's Sexual Violent Predator Act, the Court has upheld similar statutes. Civil commitment statutes, like California's Sexual Violent Predator Act, are generally upheld as a valid exercise of state police power. Because such statutes involve deprivation of personal liberty, individuals subject to the statutory provisions are guaranteed certain constitutional safeguards. Even so, both the California Supreme Court and the U.S. Supreme Court have held a statute that civilly commits a sexually violent predator constitutionally sound if the inmate is dangerous and suffers from a diagnosable medical disorder.

In *Kansas v. Hendricks*, the U.S. Supreme Court upheld the constitutionality of the Kansas Sexual Violent Predator Act. Similar to California's Sexual Violent Predator Act, the Kansas Sexual Violent Predator Act required a finding of a present mental abnormality and evidence of past sexually violent behavior for a person to be civilly committed as a sexually violent predator. In determining whether Hendricks qualified as a Sexually Violent Predator, the jury found a "chilling history" of his sexual offenses against children. In addition to the inculpatory testimony of his victims, including his stepchildren, Hendricks testified that he "repeatedly abused children whenever he was not confined" and stated that the only sure way he could keep from sexually abusing children in the future was to die. He admitted that he suffered

from pedophilia and agreed with the state physician's diagnosis "that he [was] not cured of the condition." The trial court determined that pedophilia qualified as a "mental abnormality" and ordered Hendricks civilly committed as a sexually violent predator. Hendricks appealed on the grounds that the Kansas Sexual Violent Predator Act violated his rights under the Due Process, Double Jeopardy, and Ex Post Facto Clauses. The Kansas Supreme Court did not address the double jeopardy and ex post facto claims but found that the Kansas Sexual Violent Predator Act violated Hendricks' substantive due process rights.

The U.S. Supreme Court reversed, upholding the constitutionality of Kansas's Sexual Violent Predator Act. The Court held that the Sexual Violent Predator Act's definition of "mental abnormality" satisfied due process and that because the SVPA was non-punitive in nature and in effect, it did not violate double jeopardy and ex post facto principles. This decision is widely understood to uphold the constitutionality of state statutes like in California that are providing for the civil commitment of sexually violent predators for the purpose of treatment.

People support the sexual violent predator law because they believe the vast majority of sexual violent predators repeat their crimes (Levenson & Cotter, 2005), despite the fact that research indicates that sexual offense recidivism is far much lower than what most people believe (Hanson & Bussière, 1998; Hanson & Morton-Bourgon, 2004). Although sex offenders are required to register in California, there is no research indicating registration actually reduces recidivism. A study in Washington State during the first years of registration found no statistically significant differences between offenders who were subjected to notification (19% recidivated) and those who were not (22% recidivated) (Lieb, 1996). Levenson (2003) notes, "Driven by revulsion, anger, and fear that far exceed responses to other types of crimes in our society, sexually violent predator statutes may succeed in providing an illusion of public safety.

In addition, notification laws assume most sexual offenses are committed by strangers. But in reality, more than 75% are committed by family members and by people known to the victim (Winick, 1998). It is evident that there are different perceptions on recidivism rates throughout the country although there's some level of control because the recidivism rates are not as high as would be otherwise expected.

To date there has been no formal research on recidivism among California's legally designated SVP population. However, evidence has emerged from other samples of sexual offenders that many sexual offenders do benefit from treatment. For example, two large meta-analyses (Hanson et al., 2002; Losel & Schmucker, 2005) of sexual offenders who participated in highly structured cognitive-behavioral programs found reductions in sexual recidivism, from a rate of 17% to 10%, and reductions in general recidivism from a rate of 51% to 32%. This overall 40% reduction in sexual recidivism (rates dropping from 17% to 10%) appears to be the result of treatment specifically focused on deviant arousal and other criminal-genic needs found among sexual offenders, including sexual pre-occupation, antisocial orientation, attitudes tolerant of sexual offending and intimacy deficits (Hanson, 2007).

In California, there are approximately 85,000 registered sex offenders in our Communities, more than any other state in the nation according to the recent CDCR survey conducted by the Division of Parole Operations (DAPO) in 2010. Although there's increased sentencing of sex offenders, nearly all convicted sex offenders sentenced to state prison will eventually be released back to their respective communities. According to CDCR, most of the sex offenders released will be placed on supervised parole for a period of time to monitor their reintegration as a way to help and protect the public. As of November 2010, fewer than 10% 5,900 of all California sex offenders are on supervised parole in the community and being

monitored by GPS technology. Additionally, there are approximately 2,900 sex offender parolees that are on parole, who are either in custody pending revocation, committed to a State Mental Hospital or have absconded supervision. (DAPO, 2010)

It is hard for sex offender to find a place to live; it may be next to impossible for a civilly committed sexual predator, assuming he is ever discharged. In California, Brian DeVries, the first graduate of the state treatment program for violent sexual predators, ended up in a trailer at the Correctional Training Facility on a judge's order after more than 100 Santa Clara County landlords refused to rent to him (Janus, 2004). Over the past few years, two horrific crimes have focused the concerns of citizens. Phillip Garrido and John Gardner, both registered sex offenders, committed unthinkable acts that forever changed the lives of the victim's families and communities. The California Governor at the time requested a review of the John Gardner case be completed by the California Sex Offender Management Board (CASOMB) to offer recommendations for improving sex offender management. This will help identify the areas that lack resources, strategic improvements in the parole process and accurate electronic monitoring that will help and assist in managing and controlling the release of sex offenders in the community. CDCR has vowed to close all loopholes within its department that cause such incidents like the Garrido case to happen.

While the overall goal remains relapse prevention in the broad sense, the field of Sexual Violent Predators expertise continues to develop. According to the California Sex Offender Management Board (CASOMB), Sex offending has a complex etiology, and there are numerous elements involved that have been suggested as potential causes of why individuals offend (Ward, 2003). A treatment model that does not incorporate numerous strategies to account for the complex range of factors involved with sexual offending behavior will not adequately correct

this behavior (CASOMB, 2008). There are new emerging models of treatment that focus on factors such as underlying attachment disorders, the various pathways of re-offense (Hudson, S. M., Ward, T., & McCormack, J.C., 1999) offender motivation and strengths, therapist characteristics, and interventions strategies that specifically target empirically-defined dynamic risk factors.

One of the most hotly debated issues in criminal law today is how to manage the perceived risk of sex offenders loose in the community (Durling, 2006). Sex offender risk management policies are controversial. While implemented across the nation as tools for protecting the community, research on the effectiveness of these statutes on reducing recidivism is limited. In fact, many opponents to this legislation believe that there are collateral consequences that could actually lead to an increase in offending over time. Research indicates that some assessments using known risk factors are able to help predict risk of recidivism, including the SONAR, SORAG, RRASOR and the Static99. In addition, research suggests that some treatments have been moderately successful in decreasing recidivism, namely the use of biochemical agents and cognitive behavioral therapy. The extent of their success remains in debate given the methodological shortcomings associated with recidivism research.

Statistical procedures consistently have been shown to improve the accuracy of predictions by setting thresholds for decision-making and by standardizing factors that professionals readily recognize as key diagnostic indicators. This process, known as the actuarial method, estimates the likelihood of a certain outcome by referring to the known (actual) outcomes of individuals with similar characteristics. The actuarial method cannot predict with certainty that a given individual will behave in a particular way. It can, however, provide probability data with which to inform one's expectations regarding an individual and to assess

the likelihood of a certain outcome. Simply put, the identification of risk factors associated with both violent and sexual reoffending has improved our ability to predict future dangerousness. Prediction of sexual dangerousness has improved markedly over the past decade as a result of studies identifying risk factors correlated with violent and sexual recidivism. When sexual violence risk assessment procedures have been directly compared, actuarial risk scales were better able to predict recidivism ($r = .61$) than clinical judgment alone ($r = .40$) or empirically guided assessments ($r = .41$) (Hanson & Morton-Bourgon, 2004). It is important to use the appropriate risk assessment tools so as to effectively carry out accurate evaluations hence avoiding misdiagnosis or medical errors that can result in fatal injuries to patients.

The most commonly used risk assessment instrument, the Static-99, has demonstrated good predictive accuracy in multiple validation studies over the past several years. Risk assessment scales have formulated, tested, and refined to yield the best possible predictions as to which offenders are most likely to re-offend. They are used in California and other states that have sex offender civil commitment laws and have become the standard for risk assessment. Although they are not perfect, they give us a firm scientific basis for assessing the likelihood that a convicted sex offender will re-offend and assigning that individual to a risk category. Although the etiology of sexual deviancy and offending is complex and as various researchers have pointed out, no single theoretical perspective can fully explain why an individual engages in certain types of behavior or commits sexual crimes (Fishbein, 2001; Terry, 2006). What may deter one offender may actually excite another (Groth, 1979). According to Binkley and Beech (2001), no theories to date adequately explain either the etiology or maintenance of sexually abusive behavior or provide a comprehensive description of the offense process itself. Sex offenders are a heterogeneous group and thus a multidisciplinary approach to explaining the

causes of sexual deviancy is required. Fishbein (1994) asserts that criminal behavior requires social, environmental, psychological, and biological scientists and researchers to work together to explain and manage antisocial and violent behavior. This actually means that there's a need for continuous research to be conducted in an effort to try and find new ways that may help in detecting sexual behaviors at the early stages of life, which can be treated before escalation.

In California, there are various ways of managing and controlling sexual violent predators which includes the following:

Community Notification.

- Community notification is the act of taking specific information about an offender and disseminating it to the public. The information provided via community notification has also varied greatly by state. Although information is not consistent, a new federal statute (Adam Walsh Act) will eventually lead to a national database created from the information provided by each individual state, including information on non-violent offenders (Farley, 2008). This is important because it creates awareness of sexual violent predators in the community without victimization and discrimination.

Residency Restrictions.

- Residency restrictions are one of the most current methods used to control and manage the whereabouts of sexual offenders. These laws regulate where an offender can reside and are based on the assumption that offenders are more likely to offend if they are within the vicinity of children. This is based upon a routine activities framework, which states that when sex offenders and unsupervised or unguarded targets are at the same place at the same time then the risk for victimization is greater. It is also believed that sex offenders purposefully choose their residence based on the opportunities to offend (Mustaine,

Tewksbury, & Stengel, 2006). In California, there's legislation that limits where offenders can live and work and especially where children congregate (Durling, 2006; Wright, 2008). According to Berenson and Appelbaum (2010), there are at least 29 states with registry legislation on the books.

Global Positioning System (GPS).

- The U.S. Department of Defense built the Global Positioning Satellite system during the 1970s (Johnson, 2002). In 1984, law enforcement agencies in New Mexico became the first to use GPS as a method to monitor criminal offenders (Levenson & D'Amora, 2007). The judicial system uses this system as an alternative to incarceration and as a community supervision tool by giving offenders bracelets to wear when released from prison or when placed on house arrest. It is for surveillance by law enforcement providing them with real-time geographic whereabouts of offenders at all times. The belief is that increasing the chance of apprehension may act as a deterrent and may decrease the likelihood of recidivism.

Civil Commitment.

- The sexual psychopath laws of the mid-twentieth century were the predecessors of today's civil commitment statutes (Wright, 2008, p.38). These laws allow for the indefinite commitment of offenders to a secure facility if they have a mental abnormality or personality disorder and are a danger to themselves or others. Civilly committed offenders typically have multiple child victims, psychiatric diagnoses, and high-levels of substance abuse (Wright, 2008, p.40). According to Levenson and D'Amora (2007), there are currently 18 states that have passed sex offender civil commitment statutes including Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Missouri,

Nebraska, New Jersey, North Dakota, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin.

In conclusion, given that it is unlikely that the Sexual Violent Predator Act of 1996 in California will be repealed; there is a need to carefully consider the improvement process of the ongoing supervision, monitoring and treatment of known offenders in order to meet the goal of reducing further offending. This can be achieved by integrating current knowledge of sexual offending and risk of sexual re-offence with the current offender supervision, treatment and monitoring process. Based on research, those in favor of the law strongly feel that it increases safety by reducing the likelihood of victimization. Those not in favor, strongly feel that the law creates a false sense of security because it is based on faulty assumptions that include, most offenders are strangers to their victims and the proximity of sex offenders is known to everyone in the public.

Chapter 3 - Research Methodology

Research Design

In order to answer the main research question in this thesis, a phenomenological study was carried out in order to attempt to understand the respondent's perception, perspective and understanding of the effectiveness of the sexual violent predator act in California. This design is in this study since it focuses on the issues that occur in the real world, in this case the sexual violent predators being the phenomena. This research focuses on the general research problems of sexual violent predators and therefore only general questions will be asked in the interview process in order to gain and understand the perceptions of the respondents. The reason why I chose the Phenomenological study, is because I have had a personal experience dealing with

sexual violent predators and I want to gain a better understanding of others experience as well in order to find out whether California is effectively managing and controlling SVP's.

Research Question

Is California effectively managing and controlling Sexual Violent Predators? The aim of this research question is to determine whether California is effectively executing its mandate by managing and controlling Sexual Violent Predator's efficiently. The main reason for choosing this research question is to analyze the perception of those who work with Sexual Violent Predators in California. This is guided by the fact that there are those who are for and against the sexual violent predator program in California. No sub questions or research hypothesis was used in this case study.

Independent Variable:

Effectively managing and controlling Sexual Violent Predators- The results and findings from the interview questions caused a change without something else causing or influencing it for the purposes of internal validity.

Dependent Variable:

Ensuring our communities in California are safe- Based on the results and findings from the interview questions, there's an effect on the safety of communities in California in a more positive way.

Effectively managing and controlling Sexual Violent Predators, as the independent variable, will impact the dependent variable which is ensuring our communities in California based on the relationships of the variables with one another. If Sexual Violent Predators are effectively managed and controlled, then the rate of sexual violent crimes will be reduced significantly which essentially will have a positive impact on the dependent variable.

Data Collection Process Overview

Interview questions were asked to a selected list of participants who have had direct experience dealing with sexual violent predators in California. The interview questions were carefully designed to solicit a more general description regarding sexual violent predators in California.

Interview Data

I interviewed the following individuals extensively because they had direct experience dealing with sexual violent predators in California. The individuals interviewed included:

- Sexual Violent Predators Case Managers- These individuals are responsible for managing and maintaining the day to day activities of sexual violent predators in various State Hospitals in California which include evaluator scheduling, pre-commit, commit and recommitment and treatment.
- Forensics Analysts-These individuals are responsible for dealing with all inside and outside stakeholders including the Department of State Hospitals executive team, Judiciary, the DA's office and various law enforcement personnel throughout California and beyond. They are also responsible for analyzing sexual violent predators' records, court abstracts, data analysis, case analysis, rap sheets retrievals, tracking inmate locations, criminal history analysis as well as predetermination of qualifications of sexual violent predator's into the Sex Offender Commitment Program.
- Clinical Psychologists and Psychiatrists- These are doctors that are licensed by State of California and there primary role is to perform evaluation on sexual violent predator so that they can determine whether they are likely to reoffend and commit sexual violence if their released back to the community. Their mandate is guided by the California statute welfare and institution code 6600 under the Sexual Violence Predator Act.

- Chief Psychologist-These individuals are responsible for overseeing the Sex Offender Commitment Program in California. They are also responsible for managing all clinical psychologists in the field. In addition, their responsible for training, performance management, program planning, legislature briefing, program evaluation and treatment evaluation among other duties.

Secondary Data

The purpose of obtaining the secondary data is to focus on distinguishing the common themes and then relate them to the primary data findings. The secondary data will also be used to describe other resources that are currently being used. The secondary data will also be used to draw conclusions of the findings by trying to answer the questions as to whether or not California is effectively managing and controlling SVP's. Various resources to be used include the Sex offender Commitment Program Support System (SOCPSS), Sex Offender Civil Commitment Programs Network (SOCCPN) and Strategic Offender Management System (SOMS)

The Sex Offender Commitment Program Division in the Department of State Hospitals uses a variety of systems that are used to track all sexual violent predators when they are referred from California Department of Corrections and Rehabilitation. The reason why the department uses this system is because they need to keep records of all inmates that are referred to them for future references in case they are to be re-referred back by the Department of Corrections and Rehabilitation. This database is also used by all the evaluators and access is only granted to specific individuals due to the inmate/patient confidentiality laws including HIPPA laws. In addition, these systems are maintained and strictly operated by the Department of State Hospitals. Due to access sensitivity of this database systems, users are required to change the log

in's information every month in order to ensure that the security and integrity of the systems is maintained at all times. Furthermore, users must also be trained and certified prior to using these systems according to the provisions set by the Department of State Hospitals.

Sex Offender Commitment Program Support System (SOCPSS)

This is an internal system that is used to track patient evaluations, additional information updates, DA referrals, case updates and hospital location of patients. To date, this system has:

- Tracked cases over 250,000 cases referred by CDCR to Sex Offender Commitment Program for sex offenses evaluation.
- Approximately 1900 individuals committed to a stet hospital have been tracked by this system.(SOCPSS, 2013)
- In addition, Sex Offender Commitment Program has tracked over 250,000 evaluations and screening since the implementation of the program.
- This database has been used by over 100 DSH staff that include forensic analysts, managers, psychologists and psychiatrists who have access on a daily basis.
- Identifying the top five counties with the highest number of commitment consistently since the program's inception in 1996 which are (I) San Diego- 109, (ii) Los Angeles-93, (iii) Santa Clara-61, (iv) Sacramento-48, (v) Riverside -42.
- Identifying the racial composition in the top five counties which are Caucasian 62.75%, African American 21.80%, Hispanic 5.10%, and Other 3.50%.

Sex Offender Civil Commitment Programs Network (SOCCPN)

According to the 2013 annual survey of the Sex Offender Civil Commitment Programs Network (SOCCPN) which is a professional network for individuals working in and with sex offender civil commitment programs, California had 574 individuals committed to the SOCP

program with a population of 37.7 million compared to Minnesota which had 690 individuals committed to SOCP with a population of 5.3 million. One can argue that California has the highest population in the U.S; therefore it should have the highest rate of commitments.

(SOCCPN, 2013)

Strategic Offender Management System (SOMS)

It is a new system that is used to give an accurate location of inmates in all correctional institutions in California and vicinity. This system of late has not been accurate due to the increase in movement of inmates as a result of *AB109 (Statute that requires prison crowd reduction through the devolved system)* (SOMS, 2013.) This database also contains information relevant to the sexual violent predators including the number of convictions and whether or not the SVP is on parole. In addition, the database also maintains the Central-file famously known as the C-file of the SVP. The purpose of the database is to create a unified offender case management system that allows for tracking of an offender anywhere, anytime throughout their life with the Department of Corrections and Rehabilitation (CDCR). It also allows parole staff and other authorized staff to access complete offender information at any given time without restrictions. According to CDCR, the database will improve staff work efficiencies by reducing the use of paper files, the need for printed forms, transporting information between CDCR locations, and the costs associated with staff having to travel to specific locations to review paper files. This database will help reduce offender to offender violence by using up to date, accurate information to make critical determinations on inmate classifications, movements, parole monitoring, and gang activity management.

Controlling for Internal Validity and External Validity:

The purpose of my research question is to draw accurate conclusions from the data gathered on whether California is effectively managing and controlling sexual violent predators. In order to avoid other possible explanations of the study, the triangulation strategy was used as a precautionary step in order to ensure and maintain the internal validity of the research. This strategy increased the probability of the explanation that will be given at the results and findings of this thesis where I will be looking for common themes from the data collected geared towards answering my main research question in a more general way.

Chapter 4 - Results and Findings

This chapter describes the results and findings obtained from the answers to interview questions provided by key respondents. The research question for this study was: *Is California effectively managing and controlling Sexual Violent Predators?* The purpose of the study was to provide information and analysis regarding how various stakeholders perceive the Sexual Violent Predators Act including lawmakers, the programs that have been created as a result and how efficient these programs are in delivering their mandates in ensuring that their proper management and control of sexual violent predators in the State of California.

Collecting and analyzing the responses from the key experts in the field of Sexual Violent Predators Case Managers, Forensics Analysts, Clinical Psychologists, Clinical Psychiatrists and Chief Psychologists was vital in determining and answering the research questions.

Results from Interviews

1. How effective is the current SVPA law being implemented in California?

- 12 respondents agreed that the current law works and is effective.
- 2 respondents felt that from a clinical treatment perspective, the law was not effective

- 1 of the respondents was not sure since in his opinion there was no way to measure this.

It is important to know that a majority of those interviewed agreed that the current SVPA law works in California. This means that the Department of State Hospitals is successfully screening and evaluating all inmates referred from the Department of Corrections and Rehabilitation before they are released to the community. Additionally, this response means that the Sexual Violent Predator law works based on the current parameters specified in the statute. Arguably from a clinical perspective, it should be noted that not all Sexual Violent Predators are clinically treated due to the way the statute was written which makes treatment voluntary as opposed to being involuntary. As a result, there's a significant number of Sexual Violent Predators that are not treated and therefore increasing the chance for recidivism as an assumption. There should be more ways to measure the overall Sexual Violent Predator law through the administration of various research methodologies by the State of California with a goal of sharing this information with all stakeholders including the general public without violating any HIPPA laws.

2. *What modifications are needed to ensure the effectiveness of managing SVP's in California?*

- 11 respondent felt that more people have gotten released via the court system without any type of treatment versus the few who have really engaged the treatment program and been released to the community and therefore there needs to be a change in the judicial system that limits this trend.

- 3 respondents observed that once an SVP is released to the community, the state and county government agencies need to ensure proper post-commitment treatment is available.
- 1 respondent felt that the statute could be written to show that incest could be identified as predatory in certain cases.

California should strive to close any gaps that exist in the legal process in order to address the rapid release of inmates without undergoing treatment. All agencies must work together to ensure that theirs is proper communication being carried out within the agencies for the purposes of improving the management of Sexual Violent Predators in California. Leadership in the state and local agencies should work together and propose amendments to the legislature that are geared towards expanding the current Sexual Violent Predator law so that it can include incest as predatory in all cases. This effort will help improve how Sexual Violent Predators are classified which means that a majority of Sexual Violent Predators would be subject to treatment and counselling.

3. *How should we make these modifications?*

- 15 respondents observed and agreed that there should be statutory changes to broaden the threshold for criteria for SVP status in California.

In response to the above outcome and considering the opinion of the respondents, it is clear that the respondents are in agreement when it comes to amending the Sexual Violent Predator law. Based on this opinion, any contrary opinion might not give factual evidence on SVP statute modification because of the result represented above. It is with no doubt that the SVP statute should be modified for the better which may also affect the number of recidivism only if the proposal is properly implemented.

4. *How effective is the SVP treatment process in California?*

- 11 respondents indicated that offender treatment cannot be mandated once an SVP is committed to the hospital. It is still voluntary. Phase treatment (sex offender) for SVPs at Coalinga State Hospital will take longer for them to complete than if they take other forms of treatment such as drug and alcohol counseling, SVPs also have to admit to their offenses in part of Phase treatment and so many will not partake. Essentially, not many individuals committed to CSH are even participating in sex offender treatment.
- 2 respondents observed that SVPs can only be managed and not treated because when they participate in treatment and stay away from temptation, the recidivism rates go down slightly.
- 2 respondents did not know how effective the SVP treatment process was.

There are positive views reflected on the treatment questions based on the above response. A number of committed Sexual Violent predator's refuse treatment for both their paraphilia and any other disorders with which they have been diagnosed. Even with treatment, there is no way to 'cure' a pedophile. Teaching Sexual Violent Predator's ways to avoid situations and triggers that could exacerbate their condition is one of the options. However, this takes a great commitment from the Sexual Violent Predator, to work on their recovery for the better. This is also one of the reasons why the state has recently changed the treatment program from a phase model to a Better Lives model.

5. *What, if any, loopholes exist in the SVPA in California?*

- 15 respondents agreed that there were loopholes that exist in the SVPA due to the fact that California evaluators use risk assessment tools that have been developed outside of the United States, namely Canada.
- 15 respondents agreed that without assessment tools that can account for the specific sex offender population and risk associates within California, the current tools have a moderate predictability.
- 15 respondents agreed that the statute states that the individuals have to be “likely” to recidivate in a sexually violent way. All the respondents also observed that each evaluator assessing the criteria for SVP possesses a different threshold of what the “likely” standard is.
- 3 respondents also indicated that California is holding individuals past their time served and “against their will”, which many argue is against civil liberties of the individual.

Interestingly, there seems to be an agreement by all respondents that for various reasons loopholes exist. However, it appears as if the loopholes can be improved for the better of the statute. Arguably, the assessments tools seem to be working just fine since they are not only used in California but all across America where similar laws and programs exist. Although there those of us that feel that California is violating civil liberties of the individual, it is for the greater good of the society due to the nature of the crime where violence is part of the crime. There should be no reason why protecting the lives of the majority can be superseded by a few Sexual Violent Predator who critics think their civil liberties are been violated. As a matter of fact, there should be adequate pressure on the legislature to ensure that treatment is changed from voluntary to involuntary for the sake of treating these individuals.

6. *What are the prevention mechanisms of SVP's in California?*

- 15 respondents agreed that the prevention mechanisms include therapy for those who choose to partake confinement to a state hospital.
- 15 respondents agreed that many sex offenders have strict parole terms and if they violated parole or committed a sex offense, they were made to wear a GPS device.
- 15 respondents agreed that Sex offenders must stay away from parks, school, or anywhere children may be at play under the Megan's law which is also used as a registry to alert members of the community to the location of sex offenders in their neighborhoods.

The prevention mechanisms of SVP's appear to be working in California based on the respondent's feedback. However, there seems to be some level of concern on the few SVP's that refuse treatment which includes therapy and counselling. California needs to put measures that are geared towards increasing the number of SVP's that partake treatment in order to ensure that California communities remains safe. Furthermore, California should ensure that the public is made aware about those SVP's that refuse treatment in any way and their whereabouts disclosed. Many researchers also agree that early education should be emphasized in not only schools but also at home so as to help prevent sexual offenses at all levels.

7. *How effective is the SVP assessments and evaluation in California?*

- 15 respondents observed that the assessment and evaluation process is effective in weeding out the most dangerous offenders and committing them to the state hospital until they receive treatment.

- 1 respondents observed that they are variably effective which is evidenced by the fact that doctors do not always come to the same conclusion about whether an inmate meets SVP criteria or not.

Evaluators that work in the SVP program are highly trained in their field. They use many diagnostic tools to assess the individual and write evaluations that will stand up in court to a high degree of criticism. This is evidenced by the overwhelming support from all the respondents in their response to this question. Arguably, the fact that the assessment tools used in California have been developed outside of the United States of America in neighboring Canada seems not to change the perceptions and views of the respondents. In addition, evaluators use independent judgment when carrying out their evaluations with SVP's hence being answerable to their findings without the influence of other sources.

8. How are SVP's managed and controlled in California?

- 15 respondents indicated that the conditional and unconditional release program under the Department of State Hospitals manages and controls SVPs that are released and they are also required to update their registry (Megan's Law) which is tracked by the Department of Justice failure to which they are re-arrested and charged with a violating the Megan's law.

Since the Sexual Violent Predator Act inception in 1996, The Department of State Hospitals and Department of Corrections and Rehabilitation has always been tasked with ensuring that SVP's are managed and controlled effectively. So far, there is no proof of any breach of mandate in either of the two agencies which is a positive outcome. However, this does not mean that the process of managing and controlling cannot be improved even though this fact is not indicated in the response by respondents.

9. *What is the role of the California judges in managing SVPs?*

- 15 respondents indicated that California Judges have various roles including; ordering sex offenders to register, declaring a sex offender as a Sexual Violent Predator and Issuing warrants of arrests to those who fail to register.

The respondents unanimously agreed that California judges play a role in presiding over trials for possible SVP commitments and can create court orders compelling an inmate to complete an SVP interview. Judges are also tasked with overseeing the trials for commitment into the State programs. Civil commitment trials are generally heard by a jury that has been carefully selected. In the absence of a jury, a judge would hand down the sentence. A judge could also sentence the individual for a longer prison term when he/she commits the qualifying offense.

10. *What's being done today to fix the problems of SVP's being released without proper treatment and SVP's remaining incarcerated without due process?*

- 13 respondents agreed that SVP's cannot be released from the hospital until they are deemed to no longer be a danger to society.
- 2 Respondent also indicated that SVP's are released with the condition to receive Community based treatment.

Majority respondents agree that SVP's cannot be released once they are determined a danger to the society. Judges must ensure that they request periodic reports from the assigned evaluators for the purposes of gauging whether the committed SVP are a risk or not prior to being released. Although due process must take place eventually, it should be noted that evaluators play a pivotal role in their recommendation to the judge.

11. *Who is/are working on these problems in California?*

- 13 respondents felt that society and government officials can all attempt to solve any problems that may arise.
- 2 respondents did not know

The California government is responsible to ensure that all citizens are safe at all times especially from those who have been previously convicted of sexual violent crimes. The legislature must play its part in ensuring that it passes laws that address the violence epidemic especially sexual violence including incest. Perhaps may be there those who have a different mindset towards SVP's either positively or negatively and maybe or not, that's why two respondents did not answer the question. We may not know why this was the case but the majority of the respondents feel otherwise.

12. If you were in charge of the SVP management program, what would you do to improve it?

- 10 respondents identified the need for continuous staff training in any new treatment models that come up.
- 2 respondents felt that the Department of State Hospitals should do more to educate society on SVP's
- 3 respondents indicated that the statute should be rewritten to include incest related sexual offenses as predatory.

Overwhelming positive support is described above from all the respondents indicating that there's a lot of faith in the SVP program to safeguard and offer treatments to all the SVP's. These subject matter experts are all in agreement that loopholes and inefficiencies in the Sexual Violent Predator Act exist which must be addressed in order to ensure adequate efficiency in both the law and program. It is important that everyone working in a civil

commitment program realizes the significance of what is being done. Not only are stakeholders trying to keep the public safe and victims at peace knowing their attacker is being properly treated and committed, but the sexual violent predators themselves need to be thought of. Whether or not we agree with the length of their prison sentences, once they have been evaluated by the clinicians they have in fact served their time. Taking away one's civil liberties is not something to be taken lightly and can be a bit of a slippery slope. Everyone should be aware of the criteria that are needed for a commitment and be well informed of all aspects of the program.

Significant findings

Program and Sexual Violent Predator Measurement

The fact that one (1) of the respondents was not sure on how the SVP law and program was measured should not be ignored. This issue raises questions on whether there are other ways of measuring the SVP law and program. Further research and analysis should be conducted to determine if this is a significant issue or vice versa.

Lack of Incest Clause

This research identifies the need for lawmakers to re-write the current Sexual Violent Predator statute in order to increase the scope of those individuals that violate their family members. This means that the current SVPA law is missing a significant part that must be addressed as identified by one (1) respondent.

Civil Liberties

Although there is a need for due process to take place based on California constitution, State officials should ensure that they follow the rule of law without prejudice by ensuring that Sexual Violent Predators are not incarcerated or confined beyond the parameters of their allocated

timelines without a valid reason. There were three (3) respondents that indicated that California is holding individuals past their time served and “against their will”, which many argue is against civil liberties of the individual.

Chapter 5 – Conclusions, Recommendations and Further Research

Conclusion

In presenting the conclusion in this case study, it is important to note that there were similar views and perceptions from all the answers gathered from the interview questions with only minor differences and perceptions identified. Twelve (12) respondents agreed for the most part that California was effectively managing and controlling Sexual Violent Predators with two (2) of them identifying the need for more treatment provisions.

Eleven (11) respondents also agreed that California needed modifications of the court system process of releasing Sexual Violent Predators without proper treatment. Additionally, there was a need for the statute to be written differently to show that incest could be identified as predatory in certain cases as Identified by one of the respondent. These issues can be addressed by amending the current Sexual Violent Predator Act to close the loopholes that have been known to exist.

Fifteen (15) respondents also agreed that the inpatient and outpatient programs administered by the Department of State Hospitals were effective in carrying out their mandate of managing and controlling Sexual Violent Predators and preventing recidivism. Furthermore, the Department of Justice was effectively managing the registration of Sexual Violent Predators as described in Megan’s law. Fifteen (15) respondents observed that the assessment and evaluation process conducted is effective in weeding out the most dangerous offenders and committing them to the state hospital until they receive treatment.

Ideally, the overall treatment process was effective as indicated by all fifteen (15) respondents hence validating the effectiveness of the entire Sex Offender Commitment Program in California. As a result of all the findings from the interview, what was learned was that the research question has been positively and satisfactorily answered and therefore California is effectively managing and controlling Sexual Violent Predators.

Recommendations

With the conclusion of this project, next steps will be:

Recommendation 1:

- Share the outcomes of this research with the Sex Offender Commitment Program Director and Executive Management team by May 10, 2014
 - Evaluate and analyze Sexual Violent Predators subject matters results (Key themes, new information, etc.)
 - Compare research outcomes with any other past or present for the purposes of determining the need for future research including cost and timeframe.

Recommendation 2:

- Implement current research outcomes in program by June 1, 2014.
 - The program will formulate a strategic process that will be geared towards implementing the research outcomes.

Recommendation 3:

- Encourage further research to be carried out by November 1, 2014 by the Sex Offender Commitment Program for process and program improvements.
 - Use other research methodologies (Surveys and statistical analysis, etc.)

- Increase the number of research participants (Clinical Psychologists and Case Managers, etc.)
- Increase the demographical area in California
- Determine whether there are any significant changes in perceptions and experience of the current law and program or any other new learning being identified.

Recommendation 4:

- On May 10, 2014 Propose amendment of Sexual Violent Predator law in order to close existing loopholes.
 - Incest clause to show predatory in cases- Currently there are many incest offenders that do not qualify as Sexual Violent Predators even though they have violently molested and raped multiple family members.
 - Increase strict release policies of Sexual Violent Predators – Based on the research outcome, more people have been released via the court system without any type of treatment versus the few who have really engaged the treatment program and been released to the community
 - Increase Sexual Violent Predator monitoring in California- Currently not all counties is monitoring Sexual Violent Predators due to list of reasons.

- Chan
ge judicial laws that violate civil liberties of Sexual Violent Predators - California
is holding individuals past their time served and “against their will”, which many
argue is against civil liberties of the individual.
- Allo
w new Sexual Violent Predators measuring methods to be used- Besides
conducting interview questions, other research methodologies should be used to
determine the scope of program efficiency in California.

Further Research

Expand research beyond a year in order to determine whether there are any significant changes or different results in perceptions and experience on the current Sexual Violent Predator law and program.

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Appendix A

Interview Questions

1. How effective is the current SVPA law being implemented in California?
2. What modifications are needed to ensure the effectiveness of managing SVP's in California?
3. How should we make these modifications?
4. How effective is the SVP treatment process in California?
5. What, if any, loopholes exist in the SVPA in California?
6. What are the prevention mechanisms of SVP's in California?
7. How effective is the SVP assessments and evaluation in California?
8. How are SVP's managed and controlled in California?
9. What is the role of the California judges in managing SVPs?
10. What's being done today to fix the problems of SVP's being released without proper treatment and SVP's remaining incarcerated without due process?
11. Who is/are working on these problems in California?
12. If you were in charge of the SVP management program, what would you do to improve it?