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Sex Offenders' Risk Assessment Process and Effects on Jurisdiction Transitioning

Lonnie Keith Grabowska
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Lonnie K. Grabowska

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Walden University
2023

Abstract

Sex Offenders' Risk Assessment Process and Effects on Jurisdiction Transitioning

by

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MA, Walden University, 2021

MA, University of Mary, 2005

BS, University of Mary, 2003

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Criminal Justice

Walden University

May 2023

Abstract

The Adam Walsh Act created sex offender notification and registration requirements to encourage state compliance toward federal guidelines and assigned threat levels to registered sex offenders using mandated assessment processes. Researchers have pointed out that the transition by states using tiered assessment processes to the federally mandated guidelines has led to operational changes to state registration procedures. The purpose of this quantitative study was to understand the effects and impacts on jurisdictions transitioning the designation of registered sex offenders' threat assessment levels from a formal risk-based assessment process to the mandated Sex Offender Registration and Notification Act conviction-based assessment tool on all currently registered offenders. The innovation and diffusion model was used to relate state policy, practice, and process transition to similar federal guidelines. Data obtained from sex offender registration data sets were analyzed using pairwise comparisons to establish the preferred entity, which pair possessed more quantitative property, or whether the two entities were identical. The results indicated varying degrees of changes in registration requirements between high-, moderate-, and low-level offenders, including major increases in areas of moderate to high offender categories. The positive social change implications of the study include limiting the overassessment and related mandated periods of registration for registered offenders and ensuring equal and fair treatment across states and jurisdictional boundaries for assessed offenders.

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Dedication

This body of work is dedicated to our son, Shawn, whom we love and miss.

Acknowledgments

Thank God our Father for His blessings during this journey and the many consolations He granted to my family and me.

I want to share my true appreciation to my wife, Kathy, for her undaunting support and patience during this journey and for providing and understanding for my time away from family and friends to accomplish this important task. Without her love and guidance, I would never have succeeded. She is truly the guiding star and the pillar in my life, and she deserves so many thanks.

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Chapter 1: Introduction to the Study

The Adam Walsh Act (AWA) established the Sex Offender Registration and Notification Act (SORNA) requiring states to comply with federally mandated guidelines regarding registered sex offenders, including the assigning of threat levels within the states the offenders reside (Adam Walsh Child Protection and Safety Act, 2006; Office of Justice Programs, n.d.-a). The Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring Apprehending, Registering, and Tracking (SMART) implemented a mandatory threat assessment tool based on the conviction status of the registered offenders (Tier III, II, or I; Office of Justice Programs, n.d.-a). In response to SORNA, various states created risk-based assessment processes based on arrest records, correctional treatment records, actuarial instruments, and psychological tools to register offenders (high, moderate, or low; Archer et al., 2006; North Dakota Office of Attorney's General, n.d.; North Dakota Office of Attorney's General Sex Offender Registry, n.d.).

Problems developed because convicted and registered sex offenders were assigned varied threat levels depending on the assessment tool (risk-based and conviction-based) by states (North Dakota) or jurisdictions obtaining SORNA compliance. These varied threat assessment levels resulted in offenders receiving increased supervision levels, including extended registration periods up to lifetime requirements. The varied assessment processes also affected states' eligibility for federal funding to support social and criminal justice agencies' communal and enforcement programs. Federal financial penalties were assessed to states not found by the SMART Office to be in full SORNA compliance (Office of Justice Programs, n.d.-b). States

continued to assess the effects and impacts (on currently assessed offenders and state government operational systems) of transitioning from currently established risk and evidence-based assessment processes to SORNA's conviction-based assessment tool to accomplish federal mandates (Harris et al., 2010).

The social change aspects related to the current study comprise criteria affecting criminal justice, communal, and societal aspects of sex offender registration and notification. Law enforcement entities will understand the effects of transitioning from current risk and evidence-based assessment practices to the federally mandated conviction-based assessment model and how the transition will change the requirements on their state's currently registered sex offender population. Offender populations may realize changes in the assigned governing threat levels and recognize reclassifications from high to moderate or low levels of registration required to be removed from any registration requirement (Harris et al., 2010). The data may also support changes in communal response regarding offender notification as threat levels decrease; sex offenders may become less identifiable through monitoring protocols and assimilate into communal settings with greater anonymity (Burchfield & Mingus, 2008). Transitions may lower public awareness of the location of registered sex offenders but would support the communal understanding of transitional offender treatment and recovery (Jeglic et al., 2012). Social change becomes law enforcement's practical communal involvement and societal responsibility to monitor and mentor registered sex offenders to return to the offender's original status in their community as accepted and participating citizens (Jeglic et al., 2012). Criminal justice systems must understand the impact of the diversity of

registered sex offenders, including variances in demographics, offenses, registry status, and risk-oriented variables, as community reunification is explored (Ackerman et al., 2011).

The current study's social change aspect also consists of developing the state government's understanding and accepting the variance in designated threat levels as a developmental partnership of criminal justice reform, treatment, and rehabilitation of registered sex offenders. Current states utilizing risk and evidence-based risk assessment may be assessing registered offenders at a higher threat level and for longer registration time requirements than states utilizing SORNA's conviction-based model (Harris et al., 2010). The perceived benefit of risk and evidence-based assessment models being more accurate than conviction-based models may not outweigh the effects of higher threat levels and increased registration periods on registered sex offenders (Center for Sex Offender Management, 2008). The fiscal penalty (reduction of federal [Justice Assistance Grant] funds) is assessed to noncompliant states for utilizing risk-based assessment processes. Retained federal funds could assist states in utilizing evidence-based assessment over SORNA's conviction-based assessment models to increase sex offender-related programs modeled at treatment, rehabilitation, and communal reunification (Office of Justice Programs, n.d.-a).

The positive societal implications related to the current study include ensuring the equal and fair treatment of registered sex offenders across states and jurisdictions. High (lifetime) and moderate assessed offenders can be victimized by registration requirements (housing issues and residence restrictions, unemployment, and social isolation) and are

subsequently prevented from societal support and hindered in reinforcing communal norms (Levenson & Cotter, 2005; Levenson & D'Amora, 2007; Levenson et al., 2007; Mercado et al., 2008; Tewksbury, 2005; Zgoba, 2011; Zgoba et al., 2009). Being overassessed and required to register for excessive periods leaves offenders feeling negatively governed through monitoring restrictions and limitations associated with risk and evidence-based assessment processes compared to conviction-based assessment models (Jeglic et al., 2012).

The various criteria affecting the unequal treatment of rehabilitated sex offenders reunifying with communal and societal norms can be understood through an awareness of the differences in threat level assessments between the models discussed in the study (Levenson & Cotter, 2005; Levenson et al., 2007; Mercado et al., 2008). Lowering sex offender threat levels (high to moderate or moderate to low) allows citizens to be more comfortable with the registered sex offender in the communal setting because citizens feel less at risk sharing proximity with the released offender. The feeling of comfort leads to developed support toward reunification of the offender in the neighborhood dynamic (Freeman, 2012). The lowered threat levels expand opportunities for education, employment, and social and communal growth for registered offenders historically prohibited by societal beliefs associated with the designations of high and lifetime threat levels (Levenson & Cotter, 2005; Kruttschnitt et al., 2000).

The positive social change implications can also be related to the societal expansion realized through the prevention of registered sex offenders being overassessed as high-risk offenders and leading to offenders being publicly driven out of community

accessible living opportunities and into “underground” housing locations (Levenson & Cotter, 2005; Levenson et al., 2007; Mercado et al., 2008). These hidden locations are often distant from family and peers’ established social support, often leading offenders into detrimental and harmful lifestyle choices while hindering law enforcement and communal monitoring for public safety and reunification efforts (Levenson et al., 2007; Schiavone & Jeglic, 2009). Lowering threat level assessment and integrating treated sex offenders into communal settings allow offenders to support societal norms by obtaining proper housing in safe and supportive areas where monitoring is appropriate. The successful placement of adequate housing for offenders allows the public to have a sense of safety regarding sex offenders’ location while realizing that offenders can be active, participating, and successful members of communal settings (Nieto & Jung, 2006). The increased level of comfort and trust by neighborhood families regarding lower tiered offenders supports the communal acceptance of offenders as peers and reduces the fear associated with the label of the person being a registered sex offender (Jeglic et al., 2012).

Increased levels of offender assessment carry the possibility of social isolation, housing issues, and unemployment as factors directly linked to reoffending and recidivism (Hanson & Harris, 2001; Kruttschnitt et al., 2000; Levenson et al., 2010; Willis & Grace, 2008, 2009). Letourneau et al. (2010-a) outlined how the legal implications of increased offender classifications and increased lifetime registrants directly affect judicial court proceedings. These strains include the pressure for registered offenders to agree to plea deals or a reciprocal demand on prosecution resources due to

increased registration cases going to full bench and jury trials. The increased assessment levels deter sound release decisions within the community and can hinder effective treatment programming (Bonta, 1996).

Juvenile offenders are affected by the communal image of being ranked as high or moderate sex offenders resulting in limited academic success and opportunity, hindered social development, and limited employment options (Chaffin, 2008; Letourneau & Miner, 2005; Schram & Milloy, 1995). As outlined by Hanson and Morton-Bourgon (2004) and Hanson et al. (2003), research supports that younger offenders are at an increased risk of reoffending. This documented risk decreases with age and extended community living periods without a repeated offense (Hanson and Morton-Bourgon, 2004; Hanson et al., 2003). The cumulative effects of these criteria can lead to negative consequences for registered juveniles transitioning into acceptable adults within societal norms (Prescott & Levenson, 2007).

The current study may allow states to realize how transitioning from risk and evidence-based assessment processes to SORNA conviction-based assessment models will affect these intricate tiered threat level systems. The major sections of Chapter 1 include the background of the study, problem, purpose, research question and hypotheses, theoretical framework, and nature of the study. The chapter continues with definitions of terms and concludes with a discussion of the study's assumptions, scope and delimitations, limitations, and significance.

Background

With the passing of the AWA of 2006, SORNA's mandated requirement to assign threat levels to registered sex offenders residing within individual states expanded exponentially (Ewing, 2011; Office of Justice Programs, n.d.-a). The Office of Justice Programs and the SMART continued to expand federally mandated criteria to individual states by updating the AWA to include the mandatory threat assessment tool based on the conviction status of the registered offenders (Tier III, II, or I; Office of Justice Programs, n.d.). Creating SORNA's tiered threat assessment tool gave states an initial template for creating assessment programs tailored to individual geographic needs (Harris et al., 2010). These unique state programs included variations of tier and risk-based assessment processes based on arrest records, correctional treatment records, actuarial instruments, and psychological tools to register offenders (high, moderate, and low) related to their propensity to reoffend and provide recommendations regarding public notification (North Dakota Office of Attorney's General, n.d.; North Dakota Office of Attorney's General Sex Offender Registry, n.d.; Office of Justice Programs, n.d.-a). The programs differed from the SORNA conviction-based tool in the tiering system, and multiple states possessed various assessment processes built on the federal requirements (Hanson, 1998; Harris et al., 2010).

The mandatory compliance of states to meet all requirements of the AWA included the use of SORNA's conviction-based tool and carried a financial penalty for state noncompliance. The established penalty comes in reduced federal funding awarded through the Byrne and Justice Assistance Grant (JAG), which states utilize toward

various law enforcement programs (Office of Justice Programs, n.d.-a). The fiscal penalty associated with non-SORNA compliance (10% reduction in overall state award) has spurred state governments to transition from established risk-based assessment programs and registration criteria to SORNA's mandated conviction-based criteria to avoid the penalties (Harris et al., 2010). The threat of lost federal funds allocated for various law enforcement programs pressured states to change their established assessment systems historically created to meet specific geographic areas and unique demographics. The transition of multiple states from the current tier and risk-based assessment processes to the SORNA conviction-based tool is influenced by the penalty of federal funds for noncompliance (Harris et al., 2010).

Although academic research exists regarding the transition and redistribution of states from basic tiered sex offender registration processes to SORNA-required guidelines, there was no research investigating the shift from a formal risk-assessment classification system to a SORNA-compliant offense-based system and the effects on high-, moderate-, and low-level offenders contained within the respective registries (Harris et al., 2010). As recommended in Harris et al. (2010), the need for the current study is based on understanding the aggregate effects and impacts SORNA implementation has on jurisdictions transitioning the designation of registered sex offenders' threat assessment levels from a formal risk-based assessment process to the mandated SORNA conviction-based assessment tool. The current study was designed to assist in understanding the changes in treatment levels on all currently registered offenders within these jurisdictions and the political subdivisions managing these diverse

programs. The study addressed the effects on the transition of currently registered sex offenders within the state of North Dakota (high, moderate, and low) to the SORNA conviction-based tool (Tier III, Tier II, and Tier I) including the level of threat assessment, mandatory time of registration, and criteria for public notification.

Problem Statement

The issue that prompted the literature search for the solution in this study was the continued regulation of state jurisdictions to comply with federal guidelines related to threat levels to registered sex offenders utilizing mandated assessment processes or tools. Some scholars have pointed out the transition from states utilizing various tiered assessment processes to federally mandated guidelines has led to operational changes in state registration processes (Harris et al., 2010).

Scholars did not yet understand the practical impact of state jurisdictions shifting from a formal and comprehensive risk-based assessment system to a federally mandated one. The AWA established the SORNA requiring states to comply with federally mandated guidelines regarding registered sex offenders, including the assigning of threat levels within the states where the offenders reside (Office of Justice Programs, n.d.-a). The Office of Justice Program's SMART implemented a mandatory threat assessment tool based on the conviction status of the registered offenders (Tier III, II, or I; Office of Justice Programs, n.d.-a). In response to SORNA, various states created risk-based assessment processes based on arrest records, correctional treatment records, actuarial instruments, and psychological tools to register offenders (high, moderate, or low; North

Dakota Office of Attorney's General, n.d.; North Dakota Office of Attorney's General Sex Offender Registry, n.d.).

Problems developed as convicted and registered sex offenders were assigned varied threat levels depending on the assessment tool (risk-based or conviction-based) by states (North Dakota) or jurisdictions obtaining SORNA compliance. These varied threat assessment levels resulted in offenders receiving increased supervision levels, including expended registration periods up to lifetime requirements. The varied assessment processes also affected states' eligibility for federal funding to support social and criminal justice agencies' communal and enforcement programs. Federal financial penalties were assessed to states not found by the SMART Office to be in full SORNA compliance (Office of Justice Programs, n.d.-a). Harris et al. (2010) provided findings referencing the transition and redistribution of states from basic sex offender registration processes to SORNA required guidelines. Harris et al. recommended additional research investigating the shift from a formal risk-assessment classification system to a SORNA-compliant offense-based system. The current study was intended to fill this gap in understanding the practical and operational impact on the statewide (North Dakota) threat level assessment designated for registered sex offenders transitioning from a risk-based assessment process to a SORNA-mandated conviction-based assessment tool, with an emphasis on high-, moderate-, and low-level offenders contained within the registry.

Purpose of the Study

The purpose of this quantitative study was to understand the overall effects and compare the impacts on jurisdictions transitioning the designation of registered sex

offenders' threat assessment levels from a formal risk-based assessment process to the mandated SORNA conviction-based assessment tool on currently registered offenders. I compared sex offender threat level tier designation changes from a state utilizing an established and comprehensive risk-based assessment process to the SORNA-mandated conviction-based tool. I examined North Dakota to compare the tier designations between both systems (risk based and conviction based) and viewed the direct effects on how high-, moderate-, and low-level sex offenders are designated under SORNA's conviction criteria. I explored the phenomenon of North Dakota fully transitioning to the SORNA-mandated process based on shifts of high-level offenders to lower tiers, affecting registration periods and levels of public notification. The perceived effects on public safety (shift in tier level) related to the transition were compared to the financial gain of full SORNA compliance by reducing federal financial penalties currently being assessed to North Dakota as a SORNA noncompliant state.

I used North Dakota sex offender registration data sets through the North Dakota Sex Offender Registry to conduct a pairwise comparison to establish the preferred entity (risk-based or conviction-based assessment), which pair possesses more quantitative property, and whether the two entities are identical (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.; Salkind, 2010). The independent variable was the SORNA tier-based classification system (Tier III, II, or I; see Office of Justice Programs, n.d.-b). The dependent variable was the North Dakota risk-based assessment classification system (high, moderate, or low; see North Dakota Office of Attorney's General Sex Offender Registry, n.d.). The population was the current sex

offenders registered in North Dakota (designated as a risk level of high, moderate, or low) based on the current North Dakota Sex Offender Registry (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.).

Research Question and Hypotheses

The central question and hypotheses framing the study were the following:

RQ: What is the aggregate impact on the mandatory threat assessment levels (high, moderate, or low) of registered sex offenders within the state of North Dakota utilizing the state's risk-based assessment process compared to implementing SORNA's conviction-based assessment system (Tier III, Tier II, or Tier I)?

H_0 : There are no changes in the threat assessment levels of registered sex offenders within the state of North Dakota transitioned from current risk-based assessment processes to SORNA's conviction-based assessment system.

H_a : There are significant changes in the threat assessment levels of registered sex offenders within the state of North Dakota transitioned from current risk-based assessment processes to SORNA's conviction-based assessment system.

Theoretical Framework

The theoretical framework for this study was based on the innovation and diffusion model (IDM) introduced by Walker (1969). Walker (1969, as cited in Weible & Sabatier, 2018) posited that states vary in how rapidly they tend to adopt new programs, and the variation is explained through a model of premises involving legislative decision making and the management of program expansion based on state governmental goals, process familiarity, and risk assessment. The IDM framework emphasizes policy process

stages more than other theories while posing distinct questions regarding policymaking venues or governments for the level of analysis while drawing inferences about how policies diffuse across a system or collection of states (see Walker, 1969; Weible & Sabatier, 2018). The IDM's scope and levels of analysis related to the current study because they focus on the diffusion or dissemination of the policy and the innovation or reorganization of policy changes.

The IDM framework was appropriate for framing the current study because I concentrated on policymaking venues or governments for the level of analysis while drawing inferences about how policies disseminate across a system or collection of states. The diffusion of the AWA and the SORNA conviction-based assessment tool for state-level political subdivisions fit well with the IDM framework. The framework has a historical application in state and national policy updates to address changes to primary policy adoption and dissemination in a broad scope. The IDM framework allowed the policy aspect of the current study to be addressed because the study focused on the transition of state policy, practice, and process to similar federal guidelines (see Walker, 1969; Weible & Sabatier, 2018).

Nature of the Study

This quantitative study included a nonexperimental design. The population was registered sex offenders assessed threat levels in North Dakota of high, moderate, and low. According to the assigned threat level, purposive sampling techniques were drawn from the population of registered offenders within the North Dakota Sex Offender Database. I collected data comparing North Dakota registered sex offender threat levels

assessed by current state risk-based processes to SORNA mandatory federally established criteria. The independent variable was the federally established and mandated SORNA tier-based classification system (Tier III, II, or I) outlined by SMART (Office of Justice Programs, n.d.-a). The dependent variable was the North Dakota risk-based assessment classification system (high, moderate, or low) currently used by the North Dakota Office of Attorney's General and implemented by the North Dakota Sex Offender Risk Assessment Committee (ND SORAC; see North Dakota Office of Attorney's General, n.d.; North Dakota Office of Attorney's General Sex Offender Registry, n.d.). Data analysis was done using a pairwise comparison (Tukey's honestly significant difference [HSD]) to compare entities in pairs to judge which entity was preferred or has a greater amount of quantitative property or whether the two entities are identical. I compared the aggregate shift from current risk-based assessment processes to conviction-based tools and the distribution of registered offenders regarding tiered threat levels.

Definitions

The following terms were used throughout this study as defined in this section:

Actuarial test: A mathematically measured prediction of a person's potential to present a danger to other people by administering a tool used to assess the risk of sexual and violent recidivism (Blasko et al., 2011).

Conviction-based assessment: The use of an offender's criminal conviction offense to estimate an offender's potential for reoffending or causing harm to others and potential causes or sources of that risk (Office of Justice Programs, n.d.-a).

North Dakota risk-based assessment classification system (dependent variable): A state-created threat level assessment program to determine the propensity of a registered sex offender to reoffend related to the sexual offense based on various tools or instruments typically based on scientific evidence (North Dakota Office of Attorney's General Sex Offender Registry, n.d.).

Registered sex offender: An individual convicted of sex offenses (Office of Justice Programs, n.d.-a)

Risk-based assessment: The use of various tools or instruments based on scientific evidence estimating an offender's potential for reoffending or causing harm to others and the potential causes or sources of that risk (Office of Justice Programs, n.d.-a).

Sex offender registration: Federal law (Title I of the AWA) provides a comprehensive system for monitoring and tracking sex offenders following their release into the community through minimum standards within the United States (U.S., Office of Justice Programs, n.d.-a).

Sex Offender Registration and Notification Act (SORNA) tier-based classification system (*Tier III, II, or I*; independent variable): A federally created threat level assessment tool used to determine the propensity of a registered sex offender to reoffend related to the sexually related offense based on the current record of criminal conviction (Office of Justice Programs, n.d.-a).

Threat level assessment: An empirical way of measuring the risk of reoffense by sex offender category (Office of Justice Programs, n.d.-a).

Assumptions

The assumption was that all assessed registered sex offenders in the state of North Dakota (utilizing a risk-based assessment process) were fairly assessed through actuarial and background data provided to the ND SORAC with no bias involved in the assigned threat level assessment. According to Blasko et al. (2011), there was no significant difference between sex offenders selected for enhanced registration and notification compared to those offenders not selected regarding pure actuarial risk (Static-99) scores, and there were very few significant differences between groups on several other factors selected from risk assessment tools. Evaluators may not rely primarily on actuarial risk assessment scores to determine enhanced registration and notification eligibility. Combining dynamic variables (psychological markers) with actuarial tools can improve predictive accuracy. This assumption was necessary because the data were initially considered unbiased and based on true actuarial and background scoring. The assumption was that SORNA's conviction-based assessment tool carried the equivalent scientific-based ability to estimate an offender's potential to reoffend or cause harm to others and potential causes or sources of that risk, as determined in risk-based assessment processes. This assumption was necessary to determine the converted risk-based assessment levels as equal in value related to the offender's propensity not to reoffend.

Scope and Delimitations

The study was conducted with registered sex offenders entering the state of North Dakota from other jurisdictions (states and territories) with previously issued threat levels requiring reassessment by the ND SORAC. These registered offenders were in an

unassessed status waiting for SORAC review and were not currently categorized in the offender's final threat level category. The total number of registered offenders in North Dakota includes incarcerated high, moderate, and low offenders. The concept and outcome of public safety and notification, including threat level assessment criteria, cannot be evenly compared between incarcerated and released offenders regarding the propensity of offenders to recidivate between the two compared demographics.

Limitations

Potential barriers to the study included data collection and sampling methods in reliability and validity. The study exposed data to areas of reliability in the direct comparison of risk-based threat levels (high, moderate, or low) to the equivalent of conviction-based threat levels (Tier III, Tier II, or Tier I; see North Dakota Office of Attorney's General Sex Offender Registry, n.d.; Office of Justice Programs, n.d.-a). The study also exposed data to areas of validity in the comparison of the number of offenders changing threat levels from high, moderate, and low in the risk-based assessment process to the tiered SORNA system, which could lead to many offenders not being required to register (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.; Office of Justice Programs, n.d.-a). The loss of these offenders was seen as a validity issue rather than a comparative measure of the transition of the assessment processes.

Significance

This research filled a gap in understanding the effects and impacts on jurisdictions transitioning from designating registered sex offenders' threat assessment levels from a formal risk-based assessment process to the mandated SORNA conviction-based

assessment tool. Harris et al. (2010) pointed to a gap in the literature regarding the practical impact of shifting from a formal and comprehensive risk-assessment-based classification system to a SORNA compliant offense-based system. The topic of registered sex offenders being assessed to varied threat level processes has led to offenders being designated to varied (higher or lower) levels of threat assessment by states using a risk-based rather than a conviction-based process. The transition from a risk-based assessment process to a conviction-based instrument significantly altered the current risk levels assigned to offenders under high (Tier III), moderate (Tier II), and low (Tier I) rankings. The effects of transitioning offenders led to current high-risk offenders receiving a reduction in risk level to moderate or even low in the SORNA process.

Current moderate or low-risk offenders transitioned to minimal supervision requirements, including removal from the registration process altogether. These changes reduced offender restrictions, decreased registration periods, and lessened community notification requirements. The ability for registered sex offenders to assimilate to communal and social norms increases with lowered risk level assessment or early removal from registration program requirements. The lowered threat assessment levels could lead to offenders receiving reduced governmental oversight and increased personal supervision based on communal involvement. The reduced periods of sex offender registration could include a reduction in offenders assigned to lifetime registration requirements. The varied assessment processes affected states receiving levels of federal funding sources to assist public, social, and criminal justice agencies regarding communal and enforcement programs. Penalties will continue to be assessed to states not

found by the Office of Justice Programs SMART to be deemed compliant (Office of Justice Programs, n.d.-a). The current study addressed the impacts and outcomes of jurisdictions transitioning from current risk-based assessment practices to mandated conviction-based processes.

Summary

I conducted a pairwise comparison to determine the aggregate impact on the mandatory threat assessment levels of registered sex offenders within North Dakota utilizing the state's risk-based assessment process compared to implementing SORNA's conviction-based assessment system. The compared offender threat levels addressed the gap in the literature regarding the unknown impact in the established risk-based process. Chapter 1 outlined the research problem. Chapter 2 contains a review of literature related to the theoretical framework and the historical and research background of the AWA, SORNA, SMART, and mandatory threat assessment processes for registered sex offenders.

Chapter 2: Literature Review

Over the past 20 years, the development of sex offender management policy and procedures has increased federal involvement and control related to how states implement sex offender registration and notification (SORN) systems. These laws have led to a dramatic interest in public demand for sex offender registration and the subsequent creation of related sex offender registration laws (Logan, 2008). The description of the moral outcry of child abduction (e.g., Adam Walsh, Jacob Wetterling, Megan Kanka), crime-control policy for “getting tough” on offenders, politics of personalizing child victims, public support of dehumanizing sex offenders, risk culture, scientific characterization of offender actions, and information entitlement by the public all support this culture of change (Logan, 2009). The increase in federal oversight of state SORN systems has placed many jurisdictions in a continuous process of various levels of transition and adjustment to adhere to the changes in the SORNA, Title I of the 2006 AWA (Harris et al., 2010; National Consortium for Justice Information and Statistics (2009).

The U.S. Department of Justice (2008) issued jurisdictions for the final guidelines for SORNA compliance in 2008, which outlined arrangements for registrants to be separated into three distinct tiers based on the offender’s convicted offense and level of severity connected to the crime. The conviction-based tiers act as the baseline for SORNA minimum requirements, including length of registration, parameters related to in-person verifications, and degrees of public awareness and notification (U.S. Department of Justice, 2008).

According to the U.S. Department of Justice Office of Justice Programs (n.d.-a), 158 jurisdictions (18 states [out of 50], 136 federally recognized tribes [out of 574], and four U.S. territories [out of five] have substantially implemented SORNA's mandated requirements. Harris and Lobanov-Rostovsky (2009) outlined issues from states and jurisdictions related to SORNA implementation connected to program expansion and obtaining federal classification criteria; various operational, fiscal, and legal matters; and concerns related to possible public safety-related topics. As discussed by the National Alliance to End Sexual Violence (2007), the expansion of sex offender assessment to monitor larger populations and the increased risk levels for these offenders could compromise the effective goals of SORN programs. These initiatives work to prevent sexual violence, and they unknowingly divert focus and resources away from managing high-risk offenders (National Alliance to End Sexual Violence, 2007).

The states demonstrated concern for utilizing a less encompassing assessment process of exclusive conviction offenses than established risk-based classification systems (Harris & Lobanov-Rostovsky, 2009). Evidence-based reviews of sex offender management systems aimed at developing strategies for applying evidence to sex offender policies in risk assessment tools show the effective strategy of utilizing risk assessment tools as a pillar for evidence-based development (Levenson, 2018). According to Cui et al. (2018), SORN introduced laws which created national and international detriments through the negative impacts on the lives of offenders (stigmatization), communities, and the state, which rendered most SORN programs ineffective. SORN registration status alone did not predict recidivism in any model, and

the results cast doubt on the effectiveness of broad SORN policies in preventing repeat sexual assault (Letourneau et al., 2010a, 2010-b). Lösel and Schmucker (2005) related the use of cognitive-behavioral treatment and intervention to affect sex offender outcomes positively and supported the identification of predisposition by assessment tools and actuarial testing.

I reviewed these issues and examined the effects of transitioning from an established risk-based assessment program to the SORNA-mandated conviction-based classification system. The study addressed the impacts of SORNA's mandated system on North Dakota's progressive operational, legal, fiscal, and public safety-related areas of sex offender registration. Chapter 2 includes a discussion of the literature search process and the study's theoretical foundation. I also discuss the history of SORNA and SMART's registration requirements, current implementation criteria for SORNA's conviction-based and North Dakota's risk-based assessment processes, and implementation of criteria related to various legal, fiscal, and public safety-oriented issues. These topics are relevant to understanding the effects of transitioning to full SORNA compliance from risk-based assessment processes.

Literature Search Strategy

For this literature review, empirical data were explored regarding the impact of transitioning from a formal and comprehensive risk-based sex offender assessment classification system to a SORNA-compliant offense-based system. The articles on sex offender registration, threat level assessment, and evaluation processes provided the academic background for the literature review and enabled me to identify the research

gap for the study. Multiple databases and search engines were used, including Walden University's library catalog, SAGE, Taylor and Francis, ProQuest, Google Scholar, and a Thoreau multi-database search. The keywords (search terms) researched were *sex offender registration, threat level assessment, Sex Offender Registration and Notification Act (SORNA), Adam Walsh Act (AWA), Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), STATIC-99, MnSOST-R, actuarial risk assessment, and risk-based assessment*. I explored hundreds of peer-reviewed articles, books, websites, and reference materials published between 1937 and 2018, from which 95 were chosen to review. The literature search included recent literature and older seminal literature.

Theoretical Foundation

I used Walker's (1969) IDM as the study's theoretical foundation. IDM provided a foundation to support the findings because the theory focuses on the diffusion or dissemination of the policy and the innovation or reorganization of policy changes between governmental and state jurisdictions (see Walker, 1969; Weible & Sabatier, 2018). Walker posited that states vary in how rapidly they tend to adopt new programs, and this variation is explained through a tree model. The model offers regional leaders of innovation who emulate and compete (the center of the tree and main branches). The remaining states are smaller branches sorted according to the regional leader from which they take their cues. Walker measured various states' legislatures based on how the state adopted the program to demonstrate innovative tendencies. Walker referred to programs

adopted by state legislatures versus bureaucrats and defined innovation as adopting a new program at any level of implementation where assets are expended.

Walker's tree was based on distinct premises (see Walker, 1969; Weible & Sabatier, 2018). Premise 1 states legislators accept an available option as satisfactory. Legislators rationalize the information related to the program outcomes and utilize a hand-on (heuristics) or interactive approach to the program (rules of thumb). Premise 2 states legislators accept a common heuristic and look from an analogy between the situation you are dealing with and some other situation, perhaps in some other state, where the problem has been successfully resolved. A tendency to do nothing or remain unchanged (inertia) against change. Participants become worried about potential consequences. Legislators are more inclined to support proposed solutions to the issue if the legislator can voice how the program worked in other states. Premise 3 states the quality of the current legislative policy is perceived by comparing it to reference groups. States compare peer-related outcomes based on reputations' perceptions (successful or unsuccessful). All states are comparing themselves to the average. Premise 4 says states compare themselves to regional reference groups more than national reference groups. States are inclined to draw respective outcomes from local, similar, and comfortable peer states as reference groups for program success.

Walker's (1969) IDM was central to the current study's design in understanding and categorizing the order and manner in which states adopt federally mandated policies (SORNA) and the influence (legislative) of changed processes for state jurisdictions. The tree model and associated premises demonstrate the process of sex offender registration

and notification as being reliant on regional leaders of innovation who mirror and challenge one another (trunk of the tree [SMART and larger jurisdictions]) while smaller jurisdictions with less population and limited resources (the smaller branches) react and mimic the regional leaders (see Walker, 1969; Weible & Sabatier, 2018). The IDM also defined the concept of innovation as the actions of a state adopting a new program, even resentfully and in any manner (partial or financial; Walker, 1969).

Innovation and diffusion were used to explain the baseline beginning process for states to accept sex offender registration and support the innovation of the program by limited or full participation (see Walker, 1969). IDM also applied variables to the tree model defined as Variable 1 (demographic factors, financial implications, history of offenders, assessment information) as ranking higher in overall importance than Variable 2 (political factors, party competitiveness, and turnover in offices; see Walker, 1969). The premises of Walker's tree model supported the legislative decision (national and state) to act on sex offender registration and assign threat levels as the outcomes (public safety; see Walker, 1969; Weible & Sabatier, 2018). The model explained the practical implementation process of sex offender threat level processes by outlining how legislative action toward gathering outcomes (primarily data deemed as successful) from other political entities defines a state's desired goals and allows states to base program quality on referenced peers and related processes (see Walker, 1969; Weible & Sabatier, 2018). Understanding the innovation and diffusion processes associated with the premises of the IDM tree model outlined how state-related impacts of transitioning from

an established assessment program to the federally mandated conviction-based model were viewed and governed because they were applied to the research question.

History of Sex Offender Registration and Notification

As early as the late 1920s, political subdivisions created city and state criminal registration laws in response to organized crime and gangster-related activities (Logan, 2009). These developed laws and processes were found to target crimes of societal importance, such as racial relationships and religious guidelines, rather than the issue of public safety (Logan, 2009). The laws were noted as unbalanced and irregular and led to political figures and law enforcement leaders arguing that registries isolated and traumatized convicted offenders and violated the concept of releasing people after they met their societal obligations of incarceration (Logan, 2009). In the 1980s, the U.S. lost interest in crime registration tactics, and registries were identified because of inefficient and ineffective collection and usage of current information toward deterring criminal activity (Logan, 2009). Registries during this period were identified as being “anti-American” and “stigmatizing” ex-convicted citizens deserving of a second chance (Logan, 2009).

An important resurgence of interest in registration laws developed in the U.S. in the 1990s because numerous states passed modern registration laws in conjunction with the increased awareness of tactics aimed at community notification (Logan, 2009). These expanded communal processes included legislation and operational action involving the tracking of juveniles, the requirement of in-person verification of offenders, and the consistent updating of information related to location, employment, and personal

movements (Logan, 2009). During this period, unprecedented federal awareness regarding sex offender registration and monitoring emerged through passage of several pieces of federal legislation.

The Jacob Wetterling Crimes Against Children Act of 1994, commonly referred to as the Wetterling Act, required states to establish sex offender registration and monitoring (Jacob Wetterling Crimes Against Children Sexually Violent Offender Registration Act, 1994). Further expansion of federal laws continued through successive amendments to the Wetterling Act, including Megan's Law in 1996 (Megan's Law, 1996; Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Improvements Act, 1997). These expansions included new federal SORN requirements, including guidelines stipulating community notification and the public disclosure requirements of sex offender information (Duwe & Donnay, 2008; Megan's Law, 1996; Zgoba, et al., 2008). The newly created federal laws established a national reporting and monitoring system for sex offenders integrating information from state registries (Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act, 2003).

In 2006, federal legislation and efforts culminated in the passing the AWA (Office of Justice Programs, n.d.-a; Office of Justice Programs, n.d.-b; U.S. Department of Justice, 2008). The AWA outlined compelling amendments to current SORN-related laws and policies on states, U.S. territories, and tribal governments (Office of Justice Programs, n.d.; Office of Justice Programs, n.d.-b). This legislation required all jurisdictions to update and revise current sex offender registration laws and practices

regarding SORN systems to meet the federal requirement (Harris & Lobanov-Rostovsky, 2009; National Consortium for Justice Information and Statistics, 2009). The AWA introduced states to an unseen era of federal involvement in SORN systems and mandated extensive and far-reaching requirements for state jurisdictions (Harris et al., 2010). The new SORN criteria included the development of registration and notification laws, including creating mandated registration conditions and program requirements which expanded to broader sex offender populations (Harris et al., 2010). The AWA expanded SORNA (federal) mandates to include the following:

- federal mandates to tribal jurisdictions and foreign convictions;
- extended requirements to juveniles age 14 years and older adjudicated delinquent for certain offenses;
- expanded range of registerable offenses subject to mandatory registration;
- retroactive stipulations requiring previously convicted or adjudicated offenders, on conviction of a new crime, to register regardless of whether the new crime was sexual; and
- minimum requirements related to the classification of offenders, length of time offenders remained on public internet registries, the frequency for offenders to reregister, maintained offender data, and criteria for public notification (Harris et al., 2010; McPherson, 2016; U.S. Department of Justice, 2008).

The outcomes of the expansive involvement of federal SORN changes through SORNA mandated implementation increased the reach of national registration and

notification oversight and increased the number of registered offenders and the extent to which registration and notification requirements apply (Wang, 2014).

The U.S. Department of Justice (2008) released final SORNA guidelines related to jurisdictions' compliance regarding the AWA while providing provisions to guide registering agencies (U.S. Department of Justice, 2008). These provisions included separating sex offender registrants into three distinct tiers (III, II, and I) based on the delegated conviction offense and related severity level (Harris & Lobanov-Rostovsky, 2009). The tier designation categories affected the formation of SORNA minimum requirements such as length of registration, required frequency of in person verifications with registering law enforcement agencies, and guidelines for public notification (U.S. Department of Justice, 2008).

The U.S. Code outlining the AWA (34 U.S.C. § 20927 [a]) also sets forth a penalty for jurisdictions who fail to substantially implement Title I of the AWA Child Protection and Safety Act of 2006, related to the SORNA (Office of Justice Programs, n.d.-a). For any fiscal year, after the end of the period for implementation, a jurisdiction who fails to implement SORNA substantially is subject to a 10 percent penalty reduction in its Byrne Justice Assistance Grant (Byrne JAG) formula funds (Office of Justice Programs, n.d.-a). Byrne JAG formulas are calculated based on population and violent crime statistics. These initial allocations determine the number of funds released to each jurisdiction but not the amount allocated to the jurisdiction's government (Office of Justice Programs, n.d.-a). The initial allocation (60 percent) is awarded directly to the jurisdiction, whereas the remaining funds (40 percent) are allocated to qualifying units of

local government and tribes (Office of Justice Programs, n.d.-a). If a jurisdiction is found to be substantially non-compliant with SORNA guidelines, the 10 percent reduction in Byrne JAG formula funds will be applied to the 60 percent direct grants to the state and not the 40 percent awarded to local governments and tribes within the jurisdiction (Office of Justice Programs, n.d.-a). The withheld funds can be reallocated to jurisdictions who have not failed to implement the title substantially or may be reallocated to jurisdictions (initially withheld) to be used solely to implement SORNA guidelines (Office of Justice Programs, n.d.-a).

The federal classification requirements led to numerous states voicing concerns about the difference between currently established state-level SORN programs and the mandatory requirements of the SORNA registration systems. State lawmakers have enacted approximately 250 legislative bills related to SORNA since 2007, but limited jurisdictions have met the federal requirement of “substantial implementation” standards, and the debate among states over whether to comply with the SORNA act or face a loss of federal money reflected in Congress continues (Lyons, 2011). According to Harris & Lobanov-Rostovsky (2009), states replied with implementation barriers to meeting the federal classification standards concerning potential operational, legal, and fiscal impacts. Multiple jurisdictions expressed concerns about creating possible public safety impacts related to transitioning from a risk-based classification system to a “less discriminating” system solely based on conviction offenses (Harris & Lobanov-Rostovsky, 2009).

Logan (2009) explained and justified federal action related to sweeping changes in registration action and implemented laws. The primary changes are linked to various

architectural and communal systems affected by and altering sex offender registration on a national stage. The primary areas identified are:

- A moral fear related to the abduction and sexual victimization of children by strangers and consensus that American children were not safe.
- The support for crime control policies and societal opinion focused on the desire to “get tough” on registered sex offenders.
- The developed tactic of personalizing child victims puts a personal identity (face and name) to sex offender initiatives and “humanizes” the victim, protecting the initiatives from confrontation. As demonstrated in the AWA, which named 17 other victims (and the description of their deaths) in the “Declaration of Purpose.”
- The consequence of personalizing child victims led to the automatization of sex offenders to a subhuman identity (predator, monster, etc.), supporting the communal spurn and outrage of the clear divide of “us” against “them.”
- The United State’s liability-oriented culture and societal assumptions supported the utilization of startling statistics, especially related to the high rates of sex offender recidivism. This approach supported a sense of urgency related to sex offender reform, even though many statistics were incorrect and limited child victimization data was included.
- The desire for American citizens (entitlement) to know the location of sex offenders at all times evolved registration initiatives into a rational need and a protective measure.

- The U.S. government used its spending power to mandate states adopt registration and notification systems (Adkins et al., 2000; Logan, 2009).

The Purpose of Classification Systems

The creation of SORN procedures and policies mandated to states by the federal government's actions has led to various classification methods related to registering sex offenders. The various classification methods are quite diverse, but according to Harris et al. (2010), the systems can be viewed through three main objectives: the distinguishing of the classes of registrants from one another (extent), the included classification criteria, and the detailed system of how classification decisions are formed (systems and processes).

The extent to which individual states classify or rank registered offenders was the first area of distinction (Harris et al., 2010). States range from a wide variety of registration processes to include implementing single-tier systems with no requirement of reporting, required registration periods, notification criteria, and monitoring oversight to jurisdictions employing multi-tier systems involving direct law enforcement interaction on routine bases, actuarial assessments, and full monitoring requirements (Matson & Lieb, 1996). Certain states employ registration and notification criteria to designate specific provisions for registered demographics because of juvenile offenders and offenders deemed "sexually dangerous individuals." These populations are categorized under unique protocols and standards and are often justified with specific registration requirements to protect the public (Harris et al., 2010).

The various versions of state SORN classifications affect the criteria for classifying specific registered sex offenders (Harris et al., 2010). States establishing an offense-based classification system employ the gravity of the offense the offender was convicted of and the number of historical offenses as the primary criteria for tier and threat assessment (Harris et al., 2010). States utilizing diversified risk-based classification systems consider empirical research-based criteria to assess the offender's propensity for committing subsequent sexual-related crimes (Harris et al., 2010). Risk-based criteria include age, prior sex offenses, victim demographics (age and relationship), offender neurosis, and atypical sexual incentive (Hanson & Morton-Bourgon, 2005). Jurisdictions employing risk-based systems utilize specific actuarial tools such as the MnSOST-R and Static-99R instruments to assess offenders, while other risk-based states have developed their own empirical guided tools to rank and monitor the registrant population (Epperson et al., 2004; Helmus, Hanson, et al., 2012). Still, some states (Colorado) have implemented a hybrid model of classification utilizing both offense-based assessment (to determine minimum terms of registration) and risk-based assessment (to establish the identity of discovered sexually dangerous offenders) for the higher-risk demographic (Harris et al., 2010).

The various included terms of the state's systems and processes establish tier designations as a distinct distinguishing variation (Harris et al., 2010). Offense-based classification systems allow states to operate a comparatively uncomplicated and consistent registration process, allowing for effective governmental compromise while balancing alterations to judicial procedure (Harris et al., 2010). Risk-based classification

systems allow jurisdictions to use actuarial risk assessment tools and clinical assessments to determine higher risk and threat levels for affected registrant populations (Harris et al., 2010). Many states accomplish this oversight by creating and utilizing multifaceted review boards or judicial authority to enhance newly or reevaluated offenders' tier or status (sexually dangerous status).

The latitude initially allotted by the Wetterling Act and subsequent amendments allowed states wide discretion regarding offender classification (tier levels) and threat level assignment (Harris et al., 2010). The various versions of state classification systems led to an awareness of inconsistencies between jurisdictions and produced concern by federal lawmakers to establish uniform SORN standards for all states and territories (Logan, 2008).

SORNA Classification Requirements

Title I of the Adam Walsh Child Protection and Safety Act of 2006 (AWA) outlined the SORNA and created an extensive set of minimum standards for sex offender registration and notification within the U.S. (Office of Justice Programs, n.d.-b). SORNA aims to identify and close inconsistencies and outlets existing under prior laws and reinforce the national sex offender network related to registration and notification programs (Office of Justice Programs, n.d.-b). SORNA additionally supported and created various registration criteria to include:

- Extended jurisdictional application beyond the 50 states to the District of Columbia, principal U.S. territories, and recognized Indian tribes.

- Created more robust and extensive parameters and a company of sex offenders and sex offenses requiring mandatory registration and notification.
- Expanded registration criteria for designated offenders to remain current in any jurisdiction the offender resides, works, or attends school.
- Required registered offenders to supply extensive personal information regarding public safety.
- Created a periodic in person appearance criterion with managing law enforcement agencies to verify and update current registration information.
- Expanded the information available to the public regarding the location (residence, work, school) of registered sex offenders.
- Changes regarding the required minimum length of registration for various sex offenders (Office of Justice Programs, n.d.-b).

The AWA/SORNA affirmed federal standards utilizing a uniform three-tier classification design, based on the federal criminal code and the assumed severity of the convicted offense and associated criminal penalty (Harris et al., 2010). The SORNA tier classification outlines that when states place offenses into tiers, “jurisdictions generally may premise the determination on the elements of the offense and are not required to look to underlying conduct which is not reflected in the offense of the conviction” (Office of Justice Programs, n.d.-b). The Office of Justice Programs (n.d.-b) states that tier classifications dependent on the victim’s age must be followed “even for crimes whose elements do not specify the victim must be below the threshold age if the victim was below it.”

Title I of the Adam Walsh Child Protection and Safety Act of 2006 (SORNA) requires a conviction-based structure for sex offenders' registration and notification requirements. SORNA does not address risk assessment tools for registration or notification purposes (Office of Justice Programs, n.d.-b). Many jurisdictions currently use risk assessment processes for a variety of purposes. These include aiding in making release decisions, filing civil commitment proceedings, structuring treatment programming, and establishing levels of supervision intensity. Additionally, many states use a risk assessment process to determine the level and method of community notification for registered sex offenders (Office of Justice Programs, n.d.-a). Sandler et al. (2008) performed a time-series analysis of the differences in sexual offense arrest rates before and after the enactment of SORNA's conviction-based process in the State of New York. The findings provided no support for the effectiveness of registration and community notification laws in reducing sexual offending by rapists, child molesters, sexual recidivists, or first-time offenders (Sandler et al., 2008). Sandler et al. (2008) outline the effectiveness of singular offender registration and community notification by outlining that over 95% of all sexual offense arrests were committed by first-time sex offenders, causing a review on the ability of laws targeting repeat offenders to reduce sexual offending meaningfully.

SORNA does not preclude using risk assessment tools for community notification purposes, particularly for the more active notification methods (e.g., community meetings, fliers, door-to-door canvassing, Office of Justice Programs, n.d.-b). However, some jurisdictions who currently use risk assessment to determine community

notification levels and methods to substantially implement SORNA need to include a broader class of sex offenders on their public registry websites (Office of Justice Programs, n.d.-b). In all instances, jurisdictions may use risk assessment tools to justify increasing SORNA's minimum notification requirements. Jurisdictions who use a risk assessment process to determine the duration and reporting frequency of sex offenders' registration requirements will need to modify their systems to match SORNA's tier requirements, depending on the conviction crime. Jurisdictions may use risk assessment to increase these requirements as they see fit. The SMART Office encourages jurisdictions who use an assessment process for community notification purposes without substantially undermining the purposes of SORNA's conviction-based tiering or other requirements (Office of Justice Programs, n.d.-a, n.d.-b).

A sex offender is "convicted" for SORNA purposes if the sex offender has been subject to penal consequences based on the conviction; however, it may be styled (Office of Justice Programs, n.d.-a, n.d.-b). Likewise, the sealing of a criminal record or other action which limits the publicity or availability of conviction information but does not deprive the conviction of continuing legal validity, does not change its status as a "conviction" for purposes of SORNA (Office of Justice Programs, n.d.-a, n.d.-b). "Convictions" for SORNA purposes include convictions of juveniles prosecuted as adults. It does not include juvenile delinquency adjudications, except under the specific circumstances which stipulate juvenile registration only if the juvenile was at least 14 years old at the time of the offense and was adjudicated delinquent for committing (or attempting or conspiring to commit) a sexual act with another by force, by the threat of

serious violence, or by rendering unconscious or drugging the victim (Office of Justice Programs, n.d.-a, n.d.-b).

The “tier” classifications in SORNA relate to substance, not form or terminology. Thus, to implement the SORNA requirements, jurisdictions do not have to label their sex offenders as “tier I,” “tier II,” and “tier III” and do not have to adopt any other approach to labeling or categorization of sex offenders (Office of Justice Programs, n.d.-a, n.d.-b). Rather, the SORNA requirements are met if sex offenders who satisfy the SORNA criteria for placement in a particular tier are consistently subject to at least the same minimum duration of registration, frequency of in-person appearances for verification, and extent of website disclosure which SORNA requires for the specific tier (Office of Justice Programs, n.d.-a, n.d.-b). According to the Office of Justice Programs (n.d.-b), the following SORNA criteria are provided regarding tier classifications:

- Tier I: Predicate offenses include whatever offenses do not support a higher classification, such as misdemeanor registration offenses and child pornography possession.
- Tier II: Predicate offenses include most felonious sexual abuse or sexual exploitation crimes involving victims who are minors, including distribution and production of child pornography.
- Tier III: Predicate offenses generally encompass sexual assaults involving sexual acts regardless of victim age, sexual contact offenses against children below the age of 13, nonparental kidnapping of minors, and attempts or conspiracies to commit such offenses.

SORNA specifies the minimum duration of sex offender registration for Tier I sex offenders to be 15 years, Tier II sex offenders to be 25 years, and Tier III sex offenders to register for life (Office of Justice Programs, n.d.-b). The registration period begins to run upon release from custody for a sex offender sentenced to incarceration for the registration offense, or in the case of nonincarcerated sex offenders, at the time of sentencing for the sex offense (Office of Justice Programs, n.d.-b).

SORNA allows jurisdictions to reduce the registration period for a Tier I sex offender by five years after the sex offender maintains a clean record for ten years. The offender's requirement to register may be terminated if the offender, required to register under SORNA, is convicted of an offense based on juvenile delinquency adjudication after the sex offender maintains a clean record for 25 years (Office of Justice Programs, n.d.-b).

SORNA criteria state that achieving a clean record means the sex offender must fulfill the following requirements (Office of Justice Programs, n.d.-b):

- Not be convicted of any offense for which imprisonment for more than one year may be imposed,
- Not be convicted of any sex offense regardless of the penalty,
- Successfully complete any periods of supervised release, probation, and parole, and
- Successfully complete an appropriate sex offender treatment program certified by a jurisdiction or the Attorney's General.

Table 1 provides an overview of the SORNA Tier Classification guidelines”
(Office of Justice Programs, n.d.-b; U.S. Department of Justice, 2008).

Table 1*SORNA Classification Guidelines*

Tier I 15 years (10 with “clean record”) ^a	Tier II 25 years	Tier III lifetime
A sex offender other than a Tier II or Tier III sex offender. 42 U.S.C. § 16911(2).	<p>Defined in 42 U.S.C. § 16911(3) as an offense punishable by imprisonment for more than one year and:</p> <p>A. Comparable to or more severe than the following offenses when committed against a minor (or an attempt or conspiracy to commit them):</p> <ol style="list-style-type: none"> 1. Sex trafficking as defined in 18 U.S.C. § 1591; 2. Coercion & enticement under 18 U.S.C. § 2422(b); 3. Transportation with intent to engage in criminal sexual activity under 18 U.S.C. § 2423(a); or 4. Abusive sexual contact under 18 U.S.C. § 2244 committed against a minor 13 years old or older. ^b <p>OR</p> <p>B. That involves:</p> <ol style="list-style-type: none"> 1. Use of a minor in a sexual performance; 2. Solicitation of a minor to practice prostitution; or 3. Production or distribution of child pornography. <p>OR</p> <p>C. That occurs after the offender becomes a Tier I offender.</p>	<p>Defined in 42 U.S.C. § 16911(4) as an offense punishable by imprisonment for more than one year and:</p> <p>A. Comparable to or more severe than the following offenses (or an attempt or conspiracy to commit them):</p> <ol style="list-style-type: none"> 1. Aggravated sexual abuse under 18 U.S.C. § 2241 or sexual abuse under 18 U.S.C. § 2242. ^c 2. Abusive sexual contact under 18 U.S.C. § 2244 (described in the tier II offense definition) when committed against a minor under 13 years old. <p>OR</p> <p>B. Involve kidnapping of a minor (unless committed by a parent or guardian).</p> <p>OR</p> <p>C. That occurs after the offender becomes a Tier I</p>

Note. Adapted from “SORNA Tier Classification Definitions” by the Office of Justice Programs. (n.d.-b). SORNA: Sex Offender Registration and Notification Act.

<https://smart.ojp.gov/sorna>.

^a To have a clean record as defined in 42 U.S.C. § 16915(b)(1), the person must: 1. Not be convicted of any subsequent offense for which imprisonment for more than one year may be imposed; 2. Not be convicted of any subsequent sex offense; 3. Successfully complete any period of supervised release, probation, and parole; and 4. Successfully complete an appropriate sex offender treatment program certified by a jurisdiction or the Attorney’s General. ^b Abusive sexual contact generally requires, among other things, that the defendant engage in or cause “sexual contact” with or by another person, defined in 18 U.S.C. § 2246(3) as the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. ^c “Sexual abuse” crimes generally require, among other things, the commission of a “sexual act,” defined in 18 U.S.C. § 2246 as contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or the mouth and the anus; penetration of the anal or genital opening of another by a hand, finger, or any object; or direct touching, not through the clothing, of the genitalia of a person under 16. Adapted with permission.

North Dakota Sex Offender Classification Requirements

This study examined the effects on the state of North Dakota undertaking the process of reclassifying registered sex offenders following the SORNA offense-based

systems established by the Adam Walsh Act. The state of North Dakota's sex offender registry was first established during the 52nd Legislative Assembly (1991) and has since had various changes and additions made to the original statute in every subsequent legislative session (see North Dakota Office of Attorney's General, n.d.). In North Dakota state law, North Dakota legislation treated sex offenses as a serious crime and described the acts that may make a person a sex offender (State Records, n.d.). Penalties associated with ND sex offenses range from a misdemeanor to felony level charges and may draw criminal sentences ranging from less than one year of incarceration in jail to life imprisonment (North Dakota Office of Attorney's General, n.d.; State Records, n.d.). The State of North Dakota requires convicted sex offenders to register according to their designated threat level and imposes related restrictions on the location the offender resides (State Records, n.d.).

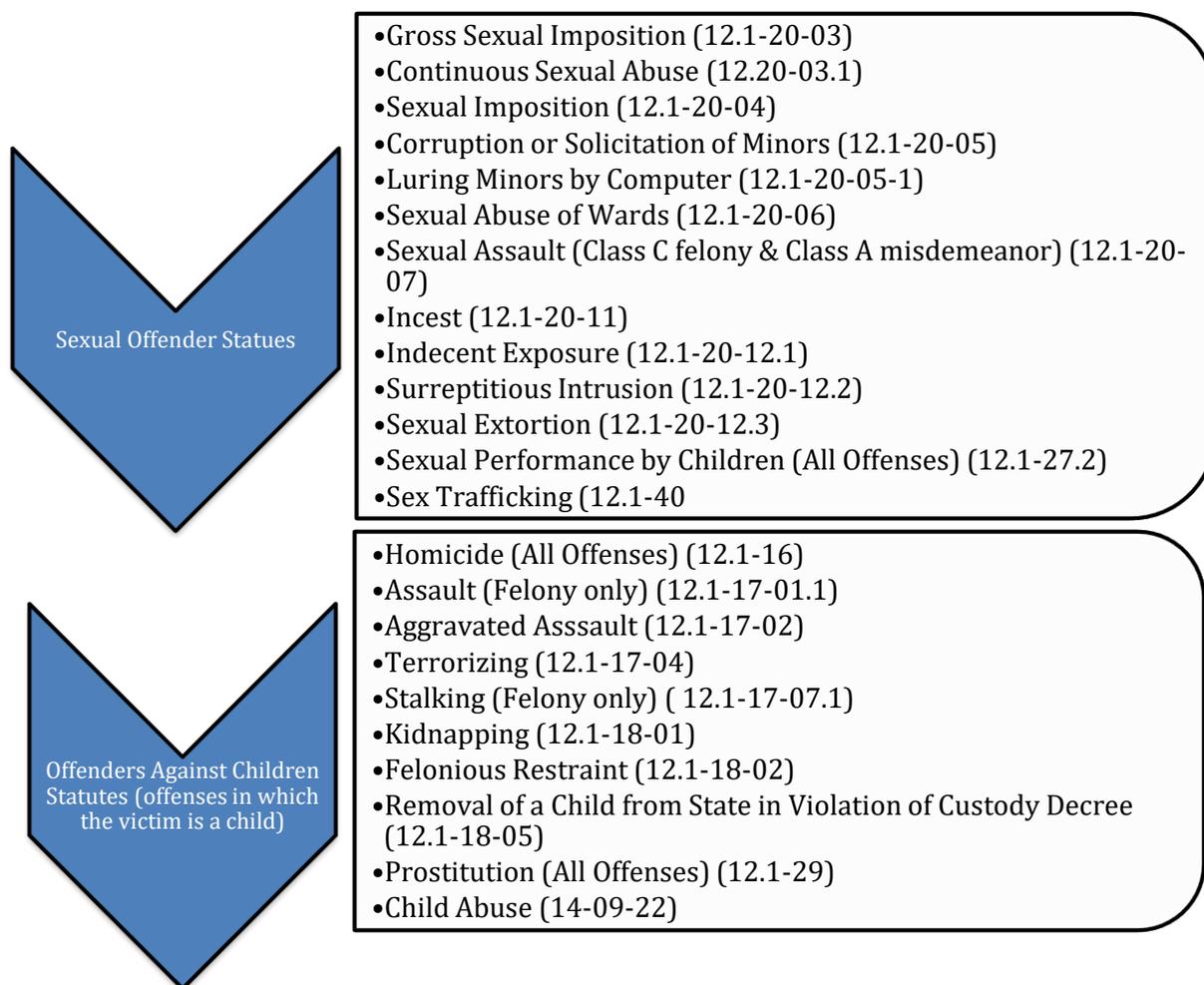
North Dakota Definition of a Sex Offender

The North Dakota Century Code does not specifically define the term "sex offender" but establishes conditions related to crimes imposing the sex offender label on a convicted person (North Dakota Office of Attorney's General, n.d.; State Records, n.d.). The state's Century Code also defines certain acts as sex offenses, because of deviant sexual acts against a deceased person or animal (North Dakota Office of Attorney's General, n.d.; State Records, n.d.).

Various Types of Sex Offenses in North Dakota

Chapter 12.1-20 of the North Dakota Century Code lists the recognized sex offenses requiring registration within any ND jurisdiction (North Dakota Office of

Attorney's General, 2021). Figure 1 lists these applicable offenses requiring registration within the state of North Dakota (see North Dakota Office of Attorney's General, 2021).

Figure 1*North Dakota Applicable Offenses Requiring Registration*

Note. Adapted from “Applicable Offenses” in the North Dakota Office of Attorney’s General (2020, November). *North Dakota offender registration procedures manual.*

<https://Attorney’sgeneral.nd.gov/sites/ag/files/documents/OffenderRegistrationManual.pdf>

f. Adapted with permission.

Appendix A contains the North Dakota Offender Registration Procedures Manual to include applicable offenses, periods of registration to include the ND Sex Offender website, allocation of responsibilities for state agencies, and registration procedures (see North Dakota Office of Attorney's General, 2021; North Dakota Office of Attorney's General Sex Offender Registry, n.d.).

Various Tiers of Sex Offenders in North Dakota

The AWA established the SORNA and mandated states to implement all sections of the AWA according to SORNA and SMART guidelines (Office of Justice Programs, n.d.-a, n.d.-b). Not all states have fully implemented SORNA, and North Dakota is one of those states (State Records, n.d.). Federal guidelines recommend an offense-based tier classification which North Dakota does not utilize. The state uses a risk-based tier classification system (see North Dakota Office of Attorney's General, n.d.; State Records, n.d.).

The state of North Dakota classifies registered sex offenders into three categories: a crime of conviction, criminal records, correctional treatment, actuarial instruments, and other evaluations (North Dakota Office of Attorney's General, 2021). The three risk levels of classification in North Dakota are outlined in Figure 2 (North Dakota Office of Attorney's General, 2021; State Records, n.d.).

Figure 2*North Dakota Levels of Classification*

Low-Risk	Moderate Risk	High-Risk
Offenders have a low possibility of committing a similar offense in the future. Offender registers for 15 years , once a year, and in the birth month of offender	Offenders have a medium risk of committing a similar offense in the future. Offender registers a minimum of 25 years , twice a year, in February and August	Offenders are the most likely to commit a similar offense in the future. Offenders may have committed multiple sexual offenses. Offender registers for life , four times a year.

Note. Adapted from “Registration Procedures” in the North Dakota Office of Attorney’s General (2020, November). *North Dakota offender registration procedures manual*.

<https://Attorney’sgeneral.nd.gov/sites/ag/files/documents/OffenderRegistrationManual.pdf>

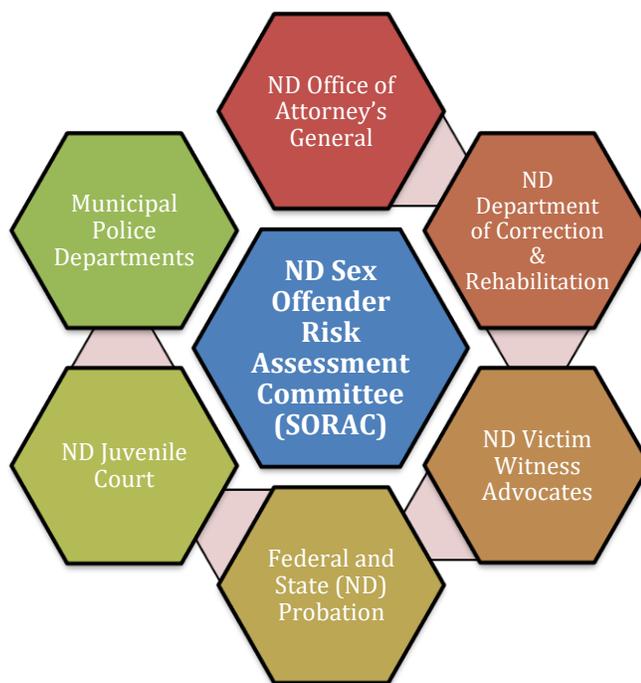
f. Adapted with permission.

North Dakota SORAC

The state of North Dakota does not impose permanent classifications on registered offenders living in the state, because a classification change can be requested by the offender through the North Dakota Sex Offender Risk Assessment Committee (SORAC; North Dakota Office of Attorney's General, n.d.; State Records, n.d.). The SORAC comprises criminal justice professionals appointed by the ND Attorney's General to review the offender's criminal history and related documents to assign an initial and subsequent follow up risk level (North Dakota Office of Attorney's General, n.d.; State Records, n.d.). Suppose an offender has more than one sexual related conviction. In that case, the offender must register for life, regardless of the assigned threat level (North Dakota Office of Attorney's General, n.d.; State Records, n.d.). The ND SORAC comprises professionals appointed by the North Dakota Office of Attorney's General, outlined in Figure 3 (State Records, n.d.).

Figure 3

Members of the ND Sex Offender Registration Assessment Committee (SORAC)



Note: Adapted from “What Types of Sex Offenders Exist in North Dakota?” from State Records (n.d.). North Dakota sex offender records.

<https://northdakota.staterecords.org/sexoffender>. Adapted with permission.

SORAC Offender Review Process

The ND SORAC oversees the offender review process and assesses threat levels, including registration periods. The SORAC evaluates offenders in three different types of assessments:

- **New Assessments:** an offender has never been assigned a risk level, so an initial risk level is assigned.

- Supplement Reviews: an offender has already been assigned a risk level and is either incarcerated on a revocation, received a new sex offense, or if a parole/probation officer requests a reevaluation of risk-based upon offender behavior. The SORAC will review the initial risk level to determine if there is recidivism risk or maintains the same risk level.
- Review and Reconsideration: an offender has already been assigned a risk level and has two weeks to appeal their initial risk level if assigned a moderate or high risk, and every two years after (North Dakota Office of Attorney's General, n.d.; North Dakota Office of Attorney's General, 2021).

The ND Office of Attorney's General's Bureau of Criminal Investigation collects all required information for SORAC members to review risk-related offender data. The data on each specific sex offender is compiled into a review document called a "Blue Book" (due to the blue outer covering of the binding). The Blue Books are compiled case-by-case because each offender has varied information. Some Blue Books will have more information than others, with the following possible documents being primary sources of information (North Dakota Office of Attorney's General, n.d.). Table 3 outlines the contents and description of data collected in the Blue Books (see North Dakota Office of Attorney's General, n.d.).

Table 2*Contents of ND SORAC Blue Books*

Table of contents	Description of data sets
Criminal records	Federal Bureau of Investigation (FBI) Interstate Identification Index (III or “triple eye”), North Dakota criminal history report, arrest information, arrest complaint, arrest judgement, conviction sentencing information.
Law enforcement report	Police Department or Sheriff’s Department report of the offense, Booking and Release from Incarceration dates/reports, and the Presentence Investigation Report (PSI; usually only a PSI or law enforcement report is available, not both).
Facility discipline reports	If the offender was incarcerated for the offense, the North Dakota Bureau of Criminal Investigation requests a Presentence Investigation Report (PSI), treatment documents, write ups or behavioral reports, and prerelease information.
Sex offender treatment	<p>The North Dakota Bureau of Criminal Investigation mails a letter to the offender requesting information if the sex offender treatment was received. This form requests 1) Facility information and 2) Requests the offender’s consent for the information to be released. The offender is given two weeks to return the letter to the North Dakota Bureau of Criminal Investigation. If the response is received and indicates that no treatment was received, the response is added to their Blue Book.</p> <p>If the response indicates that treatment was received, the North Dakota Bureau of Criminal Investigation then sends the consent form with a record request to the facility. Any information received is included in the Blue Book under “Treatment.”</p>
Sex Offender Prerelease Staffing (SOPRS)	North Dakota Department of Corrections and Rehabilitation completes the Sex Offender Prerelease Staffing report for any upcoming offenders released from incarceration for SORAC review. The Sex

Table of contents	Description of data sets
Supplemental/miscellaneous information	<p data-bbox="711 325 1414 426">Offender Prerelease Staffing report simplifies the entirety of the offender’s sexual offending history in one document.</p> <ul style="list-style-type: none"> <li data-bbox="711 472 1414 867">• Drug and Alcohol Records <ul style="list-style-type: none"> <li data-bbox="805 510 1414 653">○ The North Dakota Bureau of Criminal Investigation only requests Sex Offender Treatment records and or treatment relating to sexual offending and recidivism, <li data-bbox="805 657 1414 867">○ The North Dakota Department of Corrections and Rehabilitation would add treatment records such as Chemical Dependency Evaluations and Substance Abuse Evaluations if sexual offending were drug or alcohol related. <li data-bbox="711 877 1414 1234">• Psychological Evaluations <ul style="list-style-type: none"> <li data-bbox="805 915 1414 1234">○ Psychological evaluations are sometimes provided to the SORAC committee for review. Some types of these evaluations include Psychological and Sexual Behavior Evaluations, Psychological Sexual Evaluations, and or the original Psychological Evaluation located in the Presentence Investigation Report completed on the index sex offense. <li data-bbox="711 1245 1414 1350">• Probation Reports <ul style="list-style-type: none"> <li data-bbox="805 1283 1414 1350">○ Updates regarding any offender under current supervision up for assessment.
Actuarial scoring	<ul style="list-style-type: none"> <li data-bbox="760 1394 959 1421">• Stable-2007 <li data-bbox="760 1432 1409 1575">• Minnesota Sex Offender Screening Tool (MnSOST-R) <ul style="list-style-type: none"> <li data-bbox="854 1507 1409 1575">○ Will be discontinued by ND SORAC in April 2022 <li data-bbox="760 1585 943 1612">• Static-99R <li data-bbox="760 1623 1370 1650">• Level of Service Inventory-Revised (LSI-R) <li data-bbox="760 1661 1170 1688">• Risk Matrix 2000 (RM2000) <li data-bbox="760 1698 1409 1766">• Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR; Juvenile Tool)

Note. Adapted from “Allocation of Responsibilities” from the North Dakota Office of Attorney’s General (2020, November). *North Dakota offender registration procedures manual.*

<https://Attorney’sgeneral.nd.gov/sites/ag/files/documents/OffenderRegistrationManual.pdf>

f. Adapted with permission.

The actuarial instruments used by ND SORAC to establish risk assessments are vital to the risk-based assessment process. The actuarial tools are included to assist reviewers in understanding the psychophysical systems used to determine the offender’s unique idiographic view (unique psychological structure) and nomothetic view (comparability among individuals; Allport, 1937). Hanson & Bussière (1998) demonstrated that risk assessment was linked to recidivism related offender action and can distinguish between sexual and nonsexual related recidivism regarding community safety issues. Associated studies outline that actuarial risk instruments were consistently more accurate than unguided clinical opinion on predicting sexual, violent nonsexual, and general recidivism (Hanson & Morton-Bourgon, 2004; 2009).

The used actuarial instruments are individually outlined in Table 4 (see North Dakota Department of Corrections and Rehabilitation, n.d.).

Table 3

Description of Risk Assessment Actuarial Tools

Actuarial Tool	Description of Measurement
Stable-2007	The Stable 2007 measures sex offender risk factors that can change over time with treatment or the determination of the offender to change. It addresses the risk potential for the offender within a 6-12-month period. The Stable helps formulate case

Actuarial Tool	Description of Measurement
Minnesota Sex Offender Screening Tool (MnSOST-R)	<p>management plans or identifies treatment/supervision targets for sex offenders. Areas dealing with social influences, capacity for stable relationships, emotional id with children, hostility towards women, general social rejection, impulsivity, lack of concern for others, intimacy deficits, self-regulation, sexual self-regulation, problem solving skills, sex drive/sex preoccupation, sex as coping, and cooperation with supervision are assessed.</p> <p>MnSOST-R is a 16-item actuarial instrument coded from official records designed to predict the risk for sexual offense recidivism among adult males with a least one conviction for sexual assault (including the instant offense).</p>
Static-99R	<p>The Static 99-R is a brief actuarial instrument designed to estimate the probability of sexual and violent recidivism among adult males who have been convicted of at least one sex or sexually related offense. The scale contains ten items: Age, marital Status (long term relationship), current convictions for nonsexual violence, prior convictions for nonsexual violence, prior sentencing dates, prior sexual offenses, any convictions for noncontact sex offenses, unrelated, stranger victims, male victims. The Static 99-R addresses long term risk potential.</p>
Level of Service Inventory-Revised (LSI-R)	<p>An assessment is a quantitative survey of offender attributes and offender situations relevant for making decisions about levels of supervision and treatment. The 54 LSI-R items are based on legal requirements and include relevant factors for risk level and treatment decisions. Categories looked at are – Criminal history, education/employment, family/marital, accommodations, leisure/recreation, alcohol/drug problem, emotional/personal, and attitudes/orientation.</p>
Risk Matrix 2000 (RM2000)	<p>An actuarial scale was developed to assess the risk of adult male sex offenders (this includes noncontact offenses such as internet offenses/possession of child pornography) and consists of three separate risk scales. The Risk Matrix 2000/Sex (7 items) is designed to predict sexual recidivism, and the Risk Matrix 2000/Violence (3 items) predicts nonsexual violent recidivism. Both scales can also be combined into an overall scale (the Risk Matrix 2000/Combined) designed to predict violent recidivism</p>

Actuarial Tool	Description of Measurement
Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR; Juvenile Tool)	(sexual and nonsexual). All scales can be easily scored based on commonly available demographic and criminal history information. The offender is placed in one of four risk categories in all three scales – below average, above average, and well above average. ERASOR is an empirically guided checklist to assist evaluators in estimating the short-term risk of a sexual offense for youth aged 12-18. The ERASOR provides objective coding instructions for 25 risk factors (16 dynamic and nine static).

Note. Adapted from “Description of Risk Assessments” from North Dakota Department of Corrections and Rehabilitation (n.d.). State Penitentiary. *Description of risk assessments.* Adapted with permission. According to Dr. S. Benson (personal communication, March 2, 2022), actuarial tools are based on male offenders, and there was currently no actuarial tool to assess female offenders. Benson stated that actuarial companies continue to evolve instruments (Static-99R) to deal with this deficiency, but when this study was conducted, areas of recognized change are returned to male offender applications versus female assessment. Actuarial instruments were studied for validity details outlined for Stable-2007 (Mann et al., 2010), MnSOST-R (Boccaccini et al., 2009; Tully et al., 2013), STATIC-99 (Hanson & Thornton, 2000; Helmus, Thornton, et al., 2012; Jackson & Hess, 2007; Rettenberger et al., 2010; Smid et al., 2014; Ticknor, 2014; Tully et al., 2013), LSI-R (Austin et al., 2003; Simourd & Malcolm, 1998), Risk Matrix 2000 (Helmus et al., 2015; Smid et al., 2014; Tully et al., 2013) and ERASOR (Mann et al., 2010; Worling, 2004).

The assigned representatives making up ND SORAC collect the Blue Book information from their related fields of expertise (North Dakota Office of Attorney's General, 2021). The appropriate department collects all Blue Book information to include:

- The North Dakota Department of Corrections and Rehabilitation and the North Dakota State Penitentiary are responsible for any incarcerated offenders.
- The ND Parole and Probation are responsible for an offender under supervision.
- The North Dakota Bureau of Criminal Investigation are responsible for any offenders new to ND, with an out-of-state conviction, not under supervision, and offenders convicted in ND who received a suspended sentence and or are on unsupervised probation.
- The ND Division of Juvenile Services is responsible for juvenile offenders convicted in ND and incoming juveniles under interstate compact (pact or agreement between two or more states; see North Dakota Office of Attorney's General, 2021).

Completed Blue Books are forwarded to the North Dakota Bureau of Criminal Investigation, scored by trained personnel within or related to the North Dakota Bureau of Criminal Investigation and assigned to the appropriate SORAC Committee Member. The SORAC meeting agenda was then completed showing which participant will present the offender's case and the order of the presentations (North Dakota Office of Attorney's

General, 2021). The agenda specifies if a specific offender has submitted a letter, requested a phone call, or asked for an in-person appearance (North Dakota Office of Attorney's General, 2021).

The SORAC meetings consist of a minimum of five and a maximum of nine committee members who meet once per month (North Dakota Office of Attorney's General, 2021). The assigned participant to a specific offender presents the case to the remaining committee members, stating various facts regarding the offender's offense, treatment, lifestyle, and criminal activity since the sexual offense. The presenting committee member may also have additional input regarding behavior if the committee member has previous experience with the offender (such as direct contact through supervision or treatment; North Dakota Office of Attorney's General, 2021). A letter, phone call, or personal appearance (10 minute maximum) from the offender is completed during the meeting. The committee may invite a representative from a sheriff's office or police department where the offender resides or intends to reside upon release (North Dakota Office of Attorney's General, 2021-a). The participating law enforcement agency may present information to the committee which may impact the initial risk level decision, the request for review, or reconsideration of a previously assigned risk level (North Dakota Office of Attorney's General, 2021-a). Each committee member voices their recommendation for risk level, and a majority vote rules for the assigned risk level (North Dakota Office of Attorney's General, 2021). The meetings are voice recorded, and notes are taken throughout the meeting by staff of the North Dakota Bureau of Criminal

Investigation to ensure records exist of committee actions (see North Dakota Office of Attorney's General, 2021).

Appendix B contains the ND Risk Assessment and Community Notification Guidelines to include the factors in the risk level decision, notice to offender and appeal process, requirements for reconsideration, and guidelines for community notification (see North Dakota Office of Attorney's General, 2021-a).

The assigned offenders are mailed their specific risk levels. Offenders can reply to the assigned risk level according to established protocols:

- If an offender is assigned a moderate or high-risk risk level, the offender is given 14 days to appeal the risk level. The offender must supply the reason(s) the offender would like to be reconsidered.
- If a reply is received from an offender within the allotted timeframe, the offender is put on the agenda for the following month, and the SORAC reviews the case.
- The final decision on risk level is mailed to the offender, parole officer, and registering agency where the offender resides (North Dakota Office of Attorney's General, 2021).

The North Dakota Sex Offender Registry is updated with the risk level, associated documents, related notices, etc. (North Dakota Office of Attorney's General Sex Offender Registry, n.d.). The registering agency then completes the related community notification as needed.

Offenders Against Children

Citizens convicted of crimes who are not categorized as sex offenses but involve crimes of force against or restraint of a child must register as an “Offender Against Children” in North Dakota for a minimum of 15 years (North Dakota Office of Attorney’s General, 2021). Therefore, these are not sex offenders and are not listed on the North Dakota Sex Offender website (North Dakota Office of Attorney’s General, 2021).

Juvenile Offenders

Adjudicated juvenile offenders from North Dakota’s Juvenile Court are assessed by the North Dakota Department of Corrections and Rehabilitation’s (North Dakota Department of Corrections and Rehabilitation) Division of Juvenile Services if the juvenile is required to register and under Division of Juvenile Services supervision (North Dakota Office of Attorney’s General, 2021-a). The ND Juvenile Courts are responsible for any remaining adjudicated juveniles required to register who are not under direct DJS supervision (North Dakota Office of Attorney’s General, 2021-a). Juvenile offenders transferred to adult court for disposition of the sexual offense will be assessed by the North Dakota Department of Corrections and Rehabilitation or the ND Attorney’s General’s SORAC Committee (North Dakota Office of Attorney’s General, 2021-a).

Incarcerated or Supervised Adult Offenders

North Dakota sex offenders identified as inmates, probationers, or parolees will receive their designated risk assessment from the North Dakota Department of Corrections and Rehabilitation, if the person is required to register and is under North Dakota Department of Corrections and Rehabilitation custody or supervision.

All Other Adult Offenders

All other adult sex offenders required to register, including those North Dakota Department of Corrections and Rehabilitation, no longer supervised, transfers from other states, and offenders convicted in federal court, will receive a risk assessment through the ND Attorney's General's Office SORAC Committee (North Dakota Office of Attorney's General, 2021-a). Suppose the offender is awaiting a risk assessment from ND SORAC. In that case, the ND Attorney's General will document any risk level assigned through another state, tribal government, or a foreign country, with a notation on the offender's records what state, tribe, or country assigned the initial risk level (North Dakota Office of Attorney's General, 2021-a).

According to the North Dakota Office of Attorney's General (2021-a), registering agencies should understand that offenders being considered high risk should not be presumed as offenders who will automatically reoffend, nor should offenders being ranked as low risk be presumed as offenders who will not ever reoffend. The propensity to reoffend cannot be solely based on the threat level assigned to a registered sex offender. The risk assessment process is not a precise science (North Dakota Office of Attorney's General, 2021-a). The state of North Dakota acknowledges limited evidence that clinical judgment alone effectively predicts future criminal or deviant behavior (North Dakota Office of Attorney's General, 2021-a). According to Prescott & Rockoff (2011), the sex offender monitoring and notification system affect the frequency of sex offenses and the incidence of offenses across victims. The notification system's timing and scope of changes, including police response to reported crime, indicates that offender

registration reduces the frequency of sex offenses by providing law enforcement with information on local offenders (Prescott & Rockoff, 2010). The notification system also involves aspects of community notification which acts as a deterring factor for first time sex offenders (Prescott & Rockoff, 2010). Suppose an understanding of the intention and inclination of sexual offending is combined with objective risk scales based on empirical methods for item selection and scoring. In that case, the ability to predict future sexual recidivism would be greatly improved (North Dakota Office of Attorney's General, 2021-a).

Comparison of SORNA Conviction Tool to State Risk-Based Models

The SORNA mandated requirements created various challenges for states currently utilizing risk-based assessment processes rooted in the in-depth consideration of multiple variables compared to the sole factor of the registrant's conviction offense. SORNA guidelines include considering supplemental risk factors in limited examples, because lower ranked offenders may be candidates for higher tier requirements. States with implemented risk-based systems must make considerable changes to current classification systems because they evolve existing offender categories with offense-based tier levels (Harris et al., 2010). Transitioning states shared perception in the perceived reduction of public safety due to reduced capacities of law enforcement and the public to determine risk levels of registered offenders (California Sex Offender Management Board, 2009). The numerous concerns have led states to utilize risk-based assessment systems to voice significant legal, operational, and societal concerns over the transition to the SORNA system (California Sex Offender Management Board, 2009).

SORNA's implementation created legal and operational concerns affecting states utilizing offense-based assessment processes because jurisdictions must recalibrate current systems to align with SORNA's statutory standards, often leading to the complete reclassification of lower-tiered offenders (Harris et al., 2010). SORNA mandates include expanding the list of registerable offenses. These new classification systems require states to apply the state's registration criteria to an expanded demographic of sex offenders and introduce new populations of registrants to current systems (Harris et al., 2010). As outlined by Harris & Lobanov-Rostovsky (2009), examples of the expanded demographics entail registerable offenses and the incorporation of juvenile offenders, increasing previously undocumented classes of young registrants.

An essential issue individual states addressed, outside of the operational effects on reclassification of offenders, was a noted concern regarding the diminished public safety related to the transition to a broader assessment process. Conviction-based SORN processes did not reduce the rate of sex offender recidivism nor lead to a decrease in the number of offenses committed by recidivating sex offenders among a 10-year cohort examination of offenders (Tewksbury & Jennings, 2010). Tewksbury et al. (2012) reported an analysis of sex offenders released from prison both before (247) and after (248) the implementation of SORN, which showed three quarters of sex offenders identified as low risk were more likely to commit significantly more offenses and to do so quickly the following release, than their high-risk counterparts (Tewksbury et al., 2012). Freeman and Sandler (2009) worked on reclassifying over 17,000 registered sex offenders in the state of New York to SORNA mandated tiers. The findings indicated no

significant relationship between the SORNA tier system and sexual or nonsexual recidivism (Freeman & Sandler, 2009). Freeman and Sandler found Tier 1 offenders (lowest SORNA ranking) were more likely to reoffend than offenders assigned to higher-risk SORNA tiers. The study demonstrated several risk factors, regularly reviewed in actuarial risk instruments, successfully detect offender recidivism (Freeman & Sandler, 2009; Mann et al., 2010). The findings led the authors to a perceived doubt about the effectiveness of public safety in utilizing the SORNA classification system while supporting the use of resources targeting high-risk offenders found in empirically based risk assessment tools (Freeman & Sandler, 2009). Zgoda et al. (2016) assessed the relative effectiveness of competing classification schemes used in sex offender management to compare the AWA classification tiers to actuarial risk assessment instruments in their respective abilities (4 states) to identify high-risk individuals and recidivists. The findings indicated the higher AWA tier was unrelated to reoffending in three of the four states and was negatively associated with reoffending in one state, and already existing tiering systems in the states studied outperformed AWA tiers in predicting reoffending, based on available predictor scores (Zgoda et al., 2016). Zgoda et al. (2016) displayed no connection between higher-tiered AWA assessment levels and offenders reoffending, while current state tiered systems outperformed AWA tiered systems in the criteria of predicting the propensity for a sex offender to reoffend. The results indicate the AWA classification scheme was a poor indicator of relative risk and was likely to result in a less effective system in protecting the public than those currently implemented in the states studied (Zgoda et al., 2016).

States transitioning to implementing SORNA mandated classification conditions outline legal barriers to the reclassification system (Harris et al., 2010). In *ACLU of Nevada v. Masto* (2008), a federal court ruling imposed procedural due process, ex post facto, and double jeopardy violations on the state's planned SORNA reclassification system. The Ohio Supreme Court 2009 dealt with numerous legal challenges in the lower courts and a series of state constitutional challenges related to the SORNA reclassification process (Office of the Ohio Public Defender, 2009). Ticknor & Warner (2020) outlined the lack of accuracy of offense-based classification systems regarding recidivism related to racial bias in tier designation. The findings indicated African Americans were two and a half times more likely to be overclassified than Caucasians in the SORNA classification system (Ticknor & Warner, 2020).

Jurisdictions fully implementing SORNA classification requirements have dealt with various legal, operational, societal, and resource issues to accomplish the mandated criteria (Harris et al., 2010). This context supports the discussion of the current study.

Summary

Chapter 2 contained information about how profound developments in the assessment have been, monitoring and tracking registered sex offenders in the U.S. over the past twenty years. Sex offender management policy and procedures have seen an unparalleled increase in federal involvement and control levels related to how states implement and update the established sex offender registration and notification (SORN) systems. These changes have been based on expansive federal and state legislation, developing law enforcement efforts, societal standards and expectations, and updates in

actuarial sciences (stable and acute factors) related to detecting sex offender recidivism (Hanson & Harris, 2001). The SMART office's mandatory designation of SORNA classification requirements to all U.S. States and Territories was rooted in these changes, expectations, and criteria. In response to these mandates, states and territories are transitioning from established risk-based assessment criteria to SORNA's conviction-based tool.

There was existing research on the aggregate effects and shifts in the tiers of registered offenders because of SORNA mandated assessment processes on single and multiple tier state assessment systems (Harris et al., 2010). There was insufficient literature addressing the practical impact of shifting from a formal and comprehensive risk-based assessment classification system (such as those found in North Dakota) to a SORNA compliant offense-based system (Harris et al., 2010).

Chapter 3 describes the study's methodology, and a more detailed description of the technical comparison of North Dakota's risk-based system to SORNA's conviction-based process will be included. Details will include population and sex offender demographics, the research sample, the research design, and the statistical analyses of each criterion.

Various legal, operational, and societal issues related to the reclassification of sex offenders from an established state process to SORNA's conviction-based process were discussed. Using Walker's innovation and diffusion model and statistical comparison of transitioning from North Dakota's offender assessment criteria to SORNA's conviction-based model allowed this study to focus on the aggregate effects of a state transitioning

from an established risk-based assessment process to the federally mandated conviction-based tool.

Chapter 3: Research Method

The 2006 passage of the AWA by the U.S. Congress established minimum criteria for U.S. states and territories regarding sex offender registration and notification systems (Harris et al., 2010). The SORNA established standards based on the uniformly implemented system of offender classification based solely on the associated offense of conviction, minus the application of associated risk factors (Harris et al., 2009). SORNA's initial mandatory guidelines led many states to create tier-based and risk-based versions of registration and notification systems and adapt SORNA standards to fit geographic and demographic needs (Harris et al., 2010). The continued federal involvement in a national unified assessment system led to mandatory requirements for all U.S. states and territories to transition to SORNA's conviction-based assessment tool and the related financial penalty for noncompliance (Office of Justice Programs, n.d.-b). Studies exist related to the transition of state-established tier-based assessment processes to SORNA's conviction-based criteria (Harris et al., 2010). However, there was a need to investigate the operational impact of transitioning from a formal and comprehensive risk-based assessment classification system to the SORNA-compliant offense-based system.

Chapter 3 includes a description of the design, sample, instrumentation, data analysis, and ethical considerations in the study. This chapter provides an overview of the study's design, including the rationale for selecting the design. The characteristics of the sample and sample size and a description of the used instrumentation are provided. The chapter concludes with a discussion of the data collection and analysis process.

Research Design

The study was quantitative to identify the aggregate impact on the mandatory threat assessment levels (high, moderate, or low) of registered sex offenders in the state of North Dakota utilizing the state's risk-based assessment process compared to transitioning to the full implementation of SORNA's conviction-based assessment system (Tier III, Tier II, or Tier I). The secondary data were obtained from an electronic database maintained by the North Dakota Office of Attorney's General's Bureau of Criminal Investigation in Bismarck, North Dakota, with recent and updated data through June 1, 2022 (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.) made available to me after the necessary committee, school, and institutional review board (IRB) approval (08/22/2022, 10-39-772) was secured. The secondary archival data were used in the nonexperimental (cross-sectional) quantitative study to determine the changes in threat level assessments regarding registered sex offenders (high, moderate, and low) transitioned from their established risk-based assessment system to the mandatory SORNA conviction-based assessment tool, with a concentration on changes in the level of a high-risk sex offender to lesser assessment levels and requirements.

Threat levels for registered sex offenders are issued for each offender through the ND SORAC and updates are required on offender information for low-risk (15 years of registration and confirmation once a year), moderate-risk (25 years of registration and confirmation twice a year, and high-risk (life registration and confirmation 4 times a year; see North Dakota Office of Attorney's General, 2021). The design was nonexperimental because there was no manipulation of an independent variable (SORNA conviction-based

assessment tool) and no random assignment of participants to groups (see Maxfield & Babbie, 2018). The participants for the study were currently registered sex offenders with assigned threat assessment levels from North Dakota's established risk-based assessment process in the category of high, moderate, or low. The same participants were transitioned to threat assessment levels according to the criteria of SORNA's conviction-based assessment tool. Using archival data allowed for the formation of comparative data sets and establishing statistical significance. Analyses of variance (ANOVA) and post hoc Tukey HSD were used to conduct measures of the pairwise comparison between tier classifications from North Dakota's risk-based assessment program to SORNA's conviction-based assessment tool. The assessed data were obtained from the North Dakota Office of Attorney's General, which continuously gathers the assessment data inside the North Dakota Sex Offender Registry (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.).

Quantitative

Quantitative studies are based on positivist doctrine and on philosophical systems holding justifiable affirmations that are scientifically verified or which can be logically or mathematically proven while rejecting ideology and denomination (Maxfield & Babbie, 2018). Quantitative research stems from the physical sciences and the deductive reasoning method of logically approaching general ideas to specific conclusions by applying generally accepted ideas, facts, or rules which lay the groundwork for a theory or general idea (Maxfield & Babbie, 2018). From a scientific perspective, quantitative research is intentional and used to draw a general conclusion or result (Maxfield &

Babbie, 2018). General public knowledge is affected by worldly experiences and based on instinct and awareness determined by contacts and exchanges with people and surrounding environments (Maxfield & Babbie, 2018). Quantitative research involves forming a hypothesis, testing related theories, administering questionnaires, conducting experiments, administering surveys, and analyzing numerical data (Rugg, 2007).

Quantitative researchers can manipulate preexisting numerical data using statistical techniques. The current study included two hypotheses. The literature review outlined numerous quantitative studies addressing the effects of states transitioning from an established risk-based sex offender threat assessment process to the SORNA-mandated conviction-based threat assessment tool and provided a foundation for using quantitative methodology. This was demonstrated by the dependent variable of the state-created (tiered) threat assessment processes, which demonstrated an aggregated change in sex offender designation because states transitioned to the mandatory SORNA conviction-based criteria (Harris et al., 2010). The alpha level is the probability of rejecting the null hypothesis, or assuming the hypothesis is true (Rugg, 2007). I employed an alpha level of $p < .05$, which is most often used in social science research (Rugg, 2007).

Nonexperimental Design

Nonexperimental research is based on several key factors and goals (Burkholder et al., 2020):

- structured response in which the categories are provided;
- studies are based on events which occurred previously and are analyzed later;

- controlled experiments and manipulation (of the independent variable) are not performed for reasons such as ethics or morality;
- no study samples are created; on the contrary, the samples or participants already exist and develop in their environment;
- researchers do not intervene directly in the sample's environment, and the phenomena are studied exactly because they naturally occurred; and
- nonexperimental research is usually descriptive or correlational without any explicit changes done by the researcher. The researcher describes the situation as it is or because a relationship between variables exists.

Nonexperimental research supports research questions being about a causal or descriptive relationship, but the independent variable cannot be manipulated, or participants cannot be randomly assigned to conditions or orders for practical or ethical reasons (Burkholder et al., 2020). As a type of nonexperimental research, cross-sectional research is used to observe and analyze the exact time of the research to cover various study groups or samples (Babbie, 2017). The descriptive component of cross-sectional research allows the researcher to observe the variables when one or more are presented (Babbie, 2017). This type of research allows for comparing two or more preexisting groups of people with no manipulation of an independent variable and no random assignment of participants to groups (Babbie, 2017; Burkholder et al., 2020). The criteria of nonexperimental (cross-sectional and descriptive) research supported this study because it consisted of the descriptive research related to the transition of threat level rankings of registered sex offenders from an established risk-based program to the

mandatory SORNA conviction-based tool (no manipulation of the independent variable; see Babbie, 2017). The descriptive approach supported the detailing of the population criteria (assessed sex offenders) being studied and addressed the characteristics of the population.

According to Babbie (2017) and Burkholder et al. (2020), many nonexperimental studies include various collection methods, including observations, surveys, document analysis, and case studies. Many social science researchers use data collection instrumentation because they often need measurement to quantitatively express their objects or phenomena of study (Babbie, 2017). The purpose of the measurement is to numerically express the abstract contents of the research (Burkholder et al., 2020). This is based on the fact that numerous sciences and disciplines belonging to social sciences thrive in hypothetical information (Burkholder et al., 2020). These contents can be concepts, opinions, beliefs, and perceptions, measured through data collection and related measurement instruments (Babbie, 2017). These instruments are intended to quantify the information corresponding to each variable in the social science research process (Babbie, 2017). In this sense, the measurement gives a quantitative sense to this type of information. Variables can be measured through measuring instruments regardless of whether there is a hypothesis or not (Babbie, 2017). There are investigations in which hypotheses are lacking and specific variables are measured (Babbie, 2017). Document analysis is the collection, review, interrogation, and analysis of various text forms and is a primary research data source (Burkholder et al., 2020).

Document review is used to collect data after reviewing the existing documents (Dalglish et al., 2020). Document review is an efficient and effective way of gathering data because documents are manageable and a practical resource for getting qualified data from the past (Dalglish et al., 2020). Apart from strengthening and supporting the research by providing supplementary research, data document review has emerged because it is a beneficial method of gathering quantitative research data (Dalglish et al., 2020). Three primary document types are analyzed for supporting quantitative research data for content analysis (Bowen, 2009):

- Public records: Under this document review, official, ongoing records of an organization are analyzed for further research (e.g., sex offender registry data, assessment records, SORAC folders, Blue Books).
- Personal documents: In contrast to public documents, this document review deals with individual personal accounts of individuals' actions, behavior, health, physique, etc. (e.g., actuarial instruments, treatment records, DOCR progression reports, and criminal history records).
- Minutes of meetings: Physical evidence or documents deal with previous achievements of an individual or an organization in terms of action and scalable work products (e.g., SORAC meeting minutes and assessment records, SORAC discussion reference threat level assignments).

To analyze the data in the current study, I conducted a pairwise comparison. The pairwise comparison is generally any process of comparing entities in pairs to judge which of the entities is preferred or has a greater amount of quantitative property or

whether the two entities are identical (Nordstokke & Stelnicki, 2014). The pairwise comparison method is used in the scientific study of social change and is often referred to as paired comparison (Nordstokke & Stelnicki, 2014). For the current study, the sample population was currently registered sex offenders in the North Dakota Sex Offender Registry (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.). The pairwise comparison indicated whether there was a statistically significant relationship between the independent variable (SORNA conviction-based tool) and the dependent variable (see North Dakota risk-based process) by comparing the assessment to answer the study's research question (see Nordstokke & Stelnicki, 2014). Pairwise comparison is a statistical method used to evaluate relationships between pairs of means when doing group comparisons (Nordstokke & Stelnicki, 2014). A one-way omnibus ANOVA is used to assess whether a significant difference exists among the groups; pairwise comparisons can determine which group differences are statistically significant (Burkholder et al., 2020; Nordstokke & Stelnicki, 2014). The pairwise comparison's statistical analysis allowed me to determine whether there was a statistically significant change in the threat level assessment of registered sex offenders transitioning from North Dakota's risk-based assessment process to SORNA's conviction-based assessment tool.

Secondary Data Analysis

I collected secondary data and publicly available records provided by the overseeing offender registration entity, the North Dakota Office of Attorney's General. Secondary data were used to review existing data collected for tracking and monitoring registered sex offenders in the state of North Dakota (see North Dakota Office of

Attorney's General, 2021). For the current study, the data were collected by the North Dakota Office of Attorney's General for their monthly statistical tracking and reporting and shared with law enforcement and the public on the North Dakota Office of Attorney's General website. The monthly statistical report lists current state registrant numbers including details regarding in-state registered offenders, in-state nonregistered offenders, and tribal offenders (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.). The release counts for public dissemination include offenders against children (nonlifetime offenders, lifetime offenders, and juvenile offenders) and incarcerated offenders (nonlifetime offenders, lifetime offenders, and juvenile offenders; North Dakota Office of Attorney's General Sex Offender Registry, n.d.). This data was compiled into monthly progressive statistical reports.

For the current study, current monthly and annual statistical reports for 2022 (through June 1, 2022) were located on the North Dakota Office of Attorney's General website, the North Dakota Office of Attorney's General's Sex Offender Registry, and the U.S. Department of Justice – Dru Sjodin National Sex Offender Public Website (North Dakota Office of Attorney's General, n.d.; North Dakota Office of Attorney's General Sex Offender Registry, n.d.; U.S. Department of Justice, n.d.). The data on assessment processes and assignment results were provided through the North Dakota Office of Attorney's General's North Dakota Bureau of Criminal Investigation's Sex Offender Registration division about the SORAC policy and procedures (North Dakota Office of Attorney's General, 2021b). Registered sex offender data are updated monthly through the paperwork and input of law enforcement, state attorneys, and correctional staff to

personnel assigned to the North Dakota Bureau of Criminal Investigation Sex Offender division. These updates include monthly SORAC determinations based on new offenders and offenders requesting reexamination of assigned threat levels (North Dakota Office of Attorney's General, 2021b). For the current study, the population (N) was the total number of registered sex offenders (registered and nonregistered in-state [approximately 1,700 registrants]). The goal was to answer the research question addressing the aggregate effects of transitioning from the established North Dakota risk-based assessment process to the mandated SORNA conviction-based assessment tool including changes in current North Dakota levels of high, moderate, and low to SORNA's tiered rankings of Tier III, II, and I (North Dakota Office of Attorney's General, 2021b; Office of Justice Programs, n.d.-a).

The advantages of secondary data include the practical time efficiency and cost effectiveness approaches. The data was readily available for viewing and downloading offender criteria from the North Dakota Office of Attorney's General website and the Dru Sjodin National Sex Offender website. This availability supported the online data analysis of offender criteria by accessing a publicly available dataset considered valid and reliable. This data could not have been collected due to time restraints and the criteria involving protecting personal information. Accessibility to primary information would have been impossible to obtain without the use and availability of the North Dakota Office of Attorney's General secondary dataset. The secondary data also alleviated ethical concerns, because the contact with registered sex offenders did not have to occur, eliminating possible bias related to human subjects' research.

Variables

The data and variables related to this study result from the continued real time collection of tracking and monitoring of registered sex offenders by the North Dakota Office of Attorney's General used to create a consistent statistical report shared with law enforcement and made available to the public through the ND Attorney's General's website. The monthly statistical reports provided a totaled amount of sex offenders (registered, nonregistered, and tribal) residing in the state of North Dakota (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.). These reports also provided detailed breakdowns of the category (offenders against children, nonlifetime, and lifetime) and include demographic (adult, juvenile, and incarcerated) criteria (North Dakota Office of Attorney's General Sex Offender Registry, n.d.). The data analysis regarding the current threat level assessments of ND registered offenders was used to answer the research question. The independent variable is a variable (often denoted by x) whose variation does not depend on another and can cause or influence outcomes (Creswell, 2009). The independent variable for the current study was the mandatory SORNA conviction-based (tier) assessment tool. SORNA's assessment tool is based solely on the convicted criminals of the registered sex offender, which places the offender into one of three levels of Tier designation (Tier III being the highest, followed by Tier II, and then Tier I; U.S. Department of Justice, n.d.). The SORNA tier designation system carries related times of mandatory registration (lifetime, 25 years, or 15 years – respectively) and requirements/recommendations regarding public notification. The dependent variable is defined as a variable (often denoted by y) whose value depends on

and is influenced by another (the independent variable; Creswell, 2009). The dependent variable for the current study was the North Dakota risk-based assessment process. ND's assessment system is based on the collection of offender records, including arrest and conviction data, treatment records, DOCR records, actuarial tools, etc., and places the offender into one of three levels (high, moderate, and low; see North Dakota Office of Attorney's General Sex Offender Registry, n.d.). The ND risk-based process also carries similar related times of mandatory registration (lifetime, 25 years, or 15 years – respectively) and varied requirements/recommendations regarding public notification.

Data Extraction Plan and Analysis

The North Dakota Office of Attorney's General's North Dakota Bureau of Criminal Investigation's Sex Offender Division Supervisor requested the secondary data required to conduct the study. Various data points were open sourced on the NDAG website, such as a list of offenders, high-risk and lifetime offenders, mapping, delinquent offenders, and links to out-of-state, sex offender, and tribal offender sites (see North Dakota Office of Attorney's General, n.d.). The data regarding SORAC assessment processes, assignment results, and continuous monthly sex offender demographics were retained by the North Dakota Office of Attorney's General's Bureau of Criminal Investigation's Sex Offender Division. To obtain this information, a request was submitted to obtain the updated North Dakota Offender Registration Procedures Manual (November 2021), and the updated North Dakota Risk Assessment and Community Notification Guidelines (November 2021). These documents describe SORAC processes and tools and the continuously updated monthly sex offender registration numbers. The

study's data analysis was completed once secondary data was received and reviewed. The *N* sample population for the study was the total number of North Dakota sex offenders (registered and nonregistered in state; see North Dakota Office of Attorney's General Sex Offender Registry, n.d.). The required statistics and data were primarily located on the North Dakota Office of Attorney's General Sex Offender Registry page and related offender websites (U.S. Department of Justice Dru Sjodin Sex Offender Public Website). The available data was compared to the SORNA conviction-based assessment criteria to answer the research question and test the hypotheses.

RQ: What is the aggregate impact on the mandatory threat assessment levels (high, moderate, or low) of registered sex offenders within the state of North Dakota utilizing the state's risk-based assessment process compared to implementing SORNA's conviction-based assessment system (Tier III, Tier II, or Tier I)?

H_0 : There are no changes in the threat assessment levels of currently registered sex offenders within the state of North Dakota transitioned from current risk-based assessment processes to SORNA's conviction-based assessment system.

H_a : There are significant changes in the threat assessment levels of currently registered sex offenders within the state of North Dakota transitioned from current risk-based assessment processes to SORNA's conviction-based assessment system.

Analyses were conducted in two distinct phases. The first phase relied on data from the state of North Dakota and assessed the aggregate shift from the current North Dakota risk-based threat levels to the SORNA conviction-based classification system by generating relevant descriptive measures. The second phase included North Dakota's

case level data and compared the characteristics and distribution of individuals placed within North Dakota's newly established tiers.

For the first phase of the study, data were compared and summarized according to the characterization and distribution of the North Dakota registrant population (percentage distribution). The data was then summarized into the prereclassification (ND risk-based) and postreclassification (SORAC conviction-based) status of the ND registrant population (N). The data were then summarized to depict the effects of reclassification within each designated category (adult and juvenile –threat level and length of registration). This included the aggregate effects of reclassification on the distribution of North Dakota registrants.

For the study's second phase, data analysis was conducted utilizing IBM SPSS Statistics and evaluated for pairwise comparison/difference using ANOVA and post hoc Tukey's HSD tests. The case level data from North Dakota permitted a comparison of registrants assigned to the various threat levels through the reclassification process.

A series of ANOVA was used to compare the designated levels across a series of established variables. ANOVA is a statistical test which allows the researcher to tell if there are any statistical differences between the means of three or more independent groups (Burkholder et al., 2020). Like a t -test, ANOVA analyzes the levels of variance within the groups through samples taken from each of them (Burkholder et al., 2020). If there appear to be higher levels of variance (spread of data away from the mean) within the data groups, then there is more chance the mean of the sample selected from the data will be different due to chance (Babbie, 2017). ANOVA looks at variance within the data

groups and considers sample size (a larger sample means less chance of picking outliers from the sample by chance) and the differences between sample means (if the means of the samples are spread apart, it is more likely the means of the whole group will also be; Rugg, 2007). All these elements are combined into an F value, which can be analyzed to give a probability (p -value) of whether differences between the groups are statistically significant (Babbie, 2007). A one-way ANOVA compares the effects of an independent variable (SORNA conviction-based tool) on multiple dependent variables (ND risk-based process; Burkholder et al., 2020).

When an ANOVA gives a significant result, at least one group differs from the others (Burkholder et al., 2020). The omnibus test does not inform the pattern of differences between the means. The ANOVA is followed by specific comparisons to analyze the difference between means, which commonly involves comparing two means through pairwise comparison (Abdi & Williams, 2010; Burkholder et al., 2020). The post hoc Tukey's HSD tests evaluated pairwise comparison. Post hoc tests were run to confirm the differences between groups which showed an overall statistically significant difference in group means (i.e., a statistically significant one-way ANOVA result; Abdi & Williams, 2010). According to Abdi & Williams (2010), the Tukey HSD test establishes whether there is a strong chance of an observed numerical change in one value is causally related to an observed change in another value. Tukey's test is a way to compute the significant difference between two means using a statistical distribution defined in the study called the q distribution (Abdi & Williams, 2010). This distribution gives the exact sampling distribution of the largest difference between a set of means

originating from the same population (Abdi & Williams, 2010). All pairwise differences are evaluated using the same sampling distribution for the largest difference, making the HSD approach conservative (Abdi & Williams, 2010). ANOVA and Tukey's HSD test allowed the study to show the differences among the data groups (ND risk-based and SORNA conviction-based) and answer the aggregate effects outlined in the research question and related hypotheses (Abdi & Williams, 2010; Burkholder et al., 2020).

Threats to Validity

According to Maxfield & Babbie (2018), internal validity makes the conclusions of a causal relationship credible and trustworthy. If a study does not have high internal validity, an experiment cannot demonstrate a causal link between two variables (Maxfield & Babbie, 2018). To ensure the current study's conclusion was valid, the researcher must rule out other explanations from the results (Maxfield & Babbie, 2018). A key element in the study was identifying if a correlation existed between the transition of the currently registered ND sex offenders to the SORNA conviction-based assessment tool, thereby altering the threat levels of transitioned offenders.

The registration data provided by the North Dakota Office of Attorney's General appears not to include other variables related to the risk-based assessment of ND registered sex offenders (high, moderate, and low) or variables affecting the criteria for SORNA conviction-based assessment of Tier III, II, or I (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.; Office of Justice Programs, n.d.-b). The assumption was made that no other variables influenced the change in threat levels of transitioned ND offenders or the validity of the data. The secondary data from the North

Dakota Office of Attorney's General's North Dakota Bureau of Criminal Investigation related to SORAC processes consists of variables already present who could not be altered. Pairwise comparisons (ANOVA and HSD) were used to measure statistical differences between the means and answer the aggregate effects of transitioning on registered offenders. Threats of invalidity exist in quantitative studies in content, construct, and criterion validity (Maxfield & Babbie, 2018). The category of content validity looks at whether the instrument adequately covers all the content (or domain) that it should concerning the variable(s) (Maxfield & Babbie, 2018). The category of construct validity refers to the extent to which a research instrument (or tool) measures the intended construct (Maxfield & Babbie, 2018). The current study included a pairwise comparison, and the threat to validity was found in the concept the instrument was attempting to cover the entire domain related to the variable(s) (risk-based to conviction-based) or construct it was designed to measure and the criteria the instrument measures one construct (homogeneity) being the reclassification of risk-based offenders (Maxfield & Babbie, 2018). According to Maxfield and Babbie (2018), external validity involves the extent to which the results of a study can be applied (generalized) beyond the sample (other people [population validity] or settings [ecological validity]).

The study's external validity was related to the sex offender data set and its internal validity. An aspect of external validity related to the current study was my ability to eliminate bias and compromise the study results. External validity can be proven through my actions of making no mistakes which could limit the ability to transfer ND sex offender data to the SORNA established criteria. The external validity of academic

research provided for the generalization of results because they relate to the study's participants (ND registered sex offenders). There was a necessity for the sample (ND offender data) to create generalized results; because of this, the current study sample consisted of data supplied by the ND Sex Offender Registry related to currently assessed offenders from the state of North Dakota (see North Dakota Office of Attorney's General Sex Offender Registry, n.d.). The current study was based on quantitative research, so reliability becomes an important partner to validity. According to Maxfield & Babbie (2018), reliability relates to the consistency of a measure, stability, and equivalence. Common methods to measure reliability are rooted in processes including test/retest and internal consistency (Maxfield & Babbie, 2018). Implementing the test/retest process was more conservative and was an established manner of estimating reliability. Internal consistency can measure reliability in measuring two different versions through the same item, producing similar results (Maxfield & Babbie, 2018).

Ethical Procedures

To ensure ethical procedures were in place related to the data collection process of the current study, approval was obtained from the student's dissertation committee through Walden University and the University's Institutional Review Board (IRB). Once approval from the dissertation committee to proceed with the proposed research was received, the updated version of the IBM SPSS instrument was downloaded for data collection and analysis. The researcher had no direct or indirect relationship with the currently registered sex offenders in the state of North Dakota, because the data was obtained through the ND Sex Offender Registry and the North Dakota Office of

Attorney's General's North Dakota Bureau of Criminal Investigation's Sex Offender Registration Division. The researcher received data via emails and provided information directly from the North Dakota Office of Attorney's General's North Dakota Bureau of Criminal Investigation's Sex Offender Registration Division. The data was directly obtained from the ND Sex Offender Registry, and the data variables were already present and could not be changed. The researcher did not control the data collected and created by the state of North Dakota. The researcher did not control the data quality and collected the data obtained as accurate and true. The quantitative study did not cause the registered sex offenders any harm or danger in the research. The sex offenders were further protected because no identifying markers were present in the data set. The researcher outlined the purpose of the study to Walden University's IRB for approval. IRB final study approval was granted on 08/22/2022: 10-39-772. Academic research must be based on a topic that is essential and compelling to the field of study and the scholar practitioners working in the associated discipline (Burkholder et al., 2020).

Summary

The current quantitative study was completed to add to the current literature on the transition of states utilizing a risk-based sex offender assessment process to the federally mandated SORNA conviction-based model. The study also adds to the academic review of the aggregate effects of SORNA and the AWA on political subdivisions. The study has provided research questions which were examined, and the justification behind the research design was provided. The role of the researcher and possible bias toward the topic and data were considered. A description of the study's

implemented methodology was explained, which consisted of details related to data source, data collection, selected instrumentation, and data analysis methods. The researcher addressed issues of perceived trustworthiness through an outlined process to reduce bias and impacts of the researcher (influence) aimed at transforming data. These processes included identifying and understanding possible ethical issues and the considerations to address them. This chapter consisted of a description of data logistics and the approach (methodology) of the quantitative study. The purpose of the study was restated, and the pertinent research questions and hypotheses were established. The chapter reviewed secondary data and explained how the data was related and applicable to the study's criteria. The researcher outlined the affected population, sample size, and appropriate data collection procedures. The study's survey instrument was the statistical data from the North Dakota Sex Offender Registry, managed and updated monthly through June 1, 2022, were discussed, and the related variables were defined. The researcher outlined the data extraction plan and analysis procedures to include ethical concerns affecting the study. The nonexperimental design was deemed appropriate for the current study because nonexperimental research aims to examine research which is usually descriptive or correlational without any explicit changes done by the researcher. The researcher describes the situation or describes a relationship between variables. All data were statistically analyzed utilizing IBM SPSS Statistics (Version 28). Chapter 4 contains the collected data and the detailed analysis included in the study. The following chapter presents the study's setting, participants (affected demographics), evidence of trustworthiness, and the eventual results.

Chapter 4: Results

This quantitative study was conducted to understand the aggregate effects and changes in the threat assessment levels of currently registered sex offenders within the state of North Dakota who transitioned from the state's risk-based assessment processes to the SORNA conviction-based assessment system. This study focused on the overall effects in the various risk levels of registered sex offenders currently assessed as high, moderate, and low (dependent variable) as these individuals were transitioned to the federal tier categories of Tier III, II, and I (independent variable). These effects included the outcomes on offenders' ranking and their subsequent length of mandatory registration. The following RQ and hypotheses guided this study:

RQ: What is the aggregate impact on the mandatory threat assessment levels (high, moderate, or low) of registered sex offenders within the state of North Dakota utilizing the state's risk-based assessment process compared to implementing SORNA's conviction-based assessment system (Tier III, Tier II, or Tier I)?

H_0 : There are no changes in the threat assessment levels of currently registered sex offenders within the state of North Dakota transitioned from current risk-based assessment processes to SORNA's conviction-based assessment system.

H_a : There are significant changes in the threat assessment levels of currently registered sex offenders within the state of North Dakota transitioned from current risk-based assessment processes to SORNA's conviction-based assessment system.

This chapter includes data collection, beginning with a description of the study participants from the archival data. The following section consists of the study results,

and the final section summarizes the chapter. The IDM introduced by Walker (1969) served because the theoretical foundation assessed the aggregate effects of the transition of registered sex offenders, and the results highlighted the potential changes in governmental actions and system processes.

Data Collection

Data were collected by submitting requests for information to the North Dakota Office of Attorney's General's North Dakota Bureau of Criminal Investigation's Sex Offender Division and by accessing the public websites of the North Dakota Office of Attorney's General website, the North Dakota Office of Attorney's General Sex Offender Registry, and the U.S. Department of Justice's – Dru Sjodin National Sex Offender Public Website (North Dakota Office of Attorney's General, n.d.; North Dakota Office of Attorney's General Sex Offender Registry, n.d.; U.S. Department of Justice, n.d.). Data were obtained for current sex offender information as of June 1, 2022. The North Dakota Bureau of Criminal Investigation receives real time updates outlining state sex offender information through the submittals of criminal justice agencies at the state, local, tribal, and federal levels of government (see North Dakota Office of Attorney's General, 2021). Data sets related to sex offenders in the state of North Dakota are updated through the submission of registration information from the North Dakota Department of Corrections and Rehabilitation (related to recently released offenders) and from local police departments and sheriff's offices (related to newly registered offenders or offenders with changes to registration information; North Dakota Office of Attorney's General, 2021). The North Dakota Bureau of Criminal Investigation statistical period is run monthly

throughout the year. Due to the fact data were obtained by the North Dakota Bureau of Criminal Investigation, I assumed there were no discrepancies in the data. The data collection method did not deviate from the method outlined in Chapter 3. No unplanned events were encountered in the data collection process.

The North Dakota data set from the North Dakota Office of Attorney's General Bureau of Criminal Investigation consisted of aggregate data depicting the number of sex offender registrants within each original registration classification category. The data provided consisted of the total number of instate registered and instate not registered (juvenile, adult, lifetime, not lifetime, offenders against children, incarcerated, and not-incarcerated) sex offenders (see North Dakota Office of Attorney's General, 2021). The data provided details regarding the following (North Dakota Office of Attorney's General, 2021):

- incarcerated and not incarcerated sex offenders and offenders against children,
- their related adult and juvenile status,
- their lifetime and nonlifetime registration requirements, and
- the currently assigned risk (threat) levels (high, moderate, low, and undetermined).

The information outlined the number of submitted offender forms for the previous month and a systematic breakdown of sex offender registrants reported by North Dakota County (residence location).

The population of interest for the ANOVA and HSD included representatives of the sex offender population (registered and incarcerated) required to register in the state

of North Dakota who were assessed by the North Dakota Sex Offender Risk Assessment Committee using the state's risk-based threat assessment process. The primary function of the assessment was to understand the overall effect of transitioning current North Dakota sex offenders to the SORNA's conviction-based assessment tool while providing information to outline and lead best future assessment practices. The secondary data were proportional to the registered offenders (local, state, tribal, and federal) in the risk-based assessment process in the state of North Dakota. The criminal convictions of North Dakota's sex offenders were used to compare and categorize North Dakota offenders under the SORNA's conviction-based criteria. The newly transitioned offenders (from North Dakota risk-based system to the SORNA's conviction-based tool) were examined to determine aggregate changes and success in threat level changes.

Success was determined by the aggregate changes of threat level assessment from high (Tier III) to moderate (Tier II) to low (Tier I) to no registration requirements, and vice versa. The aggregate changes were viewed because of the accumulated differences (increase or decrease) from the current threat levels assigned to North Dakota risk-based offenders to the threat levels of the reclassified offender under the requirements of the SORNA conviction-based tool. The success of this study was based on the detected changes to the threat levels of transitioned North Dakota sex offenders from their current threat level (high, moderate, or low) to their reevaluated threat level based on SORNA criteria (Tier III, Tier II, or Tier I). The changes in offender threat levels allowed me to collect and report the changes in sex offender threat levels related to the offender's pre (North Dakota) and post (SORNA) reevaluation status. These aggregate changes also

affect mandatory registration periods, offender notification guidelines, and public notification criteria.

The analysis was conducted in two phases. The first phase consisted of drawing on data from the North Dakota Sex Offender Registry and assessing the aggregate shift from the original North Dakota risk-based assessment process to the new SORNA conviction-based classification system by creating relevant descriptive measures:

- The transition of North Dakota sex offenders convicted of federal sex offenses already established within the SORNA assessment criteria and the related mandatory registration periods.
- The transition of North Dakota sex offenders convicted of state sex offenses categorized into established SORNA assessment criteria and the related mandatory registration periods.

The second phase of analysis was comparing the case level data provided through the North Dakota Sex Offender Registry for characteristics and distribution of registered offenders placed within North Dakota's newly established tiers (transitioned offenders to the SORNA) with those classified under the original risk-based assessment process.

Particular attention was given to the registered offenders whose threat level classification moved from lower to higher tier levels. This analysis included ANOVA and HSD comparisons to examine the differences in threat level classifications and years of required registration requirements within adult and juvenile offenders.

Results

An ANOVA was conducted to determine whether there was any statistical difference between the means of the various threat level designations of the transition of risk-based assessment to SORNA conviction-based tool. The Tukey HSD test was conducted to determine whether the relationship between the SORNA conviction-based assessments (identified as postreclassification) was statistically significant and whether there was a strong chance an observed numerical change in risk-based assessment was causally related to observed changes in the SORNA conviction-based assessment. The ANOVA and HSD tests included a Type I alpha error of .05 ($p < .05$). This was the most crucial test performed within the quantitative phase of the study because it related to the quantitative research question and hypotheses.

An a priori power analysis was conducted using the statistical power analysis tool G*Power Version 3.1.9.4 (see Faul et al., 2007). G*Power was used to determine the minimum sample size required to test the study hypothesis. Results required to achieve 80% power for detecting a medium effect at a significance criterion of $\alpha = .05$ was $N = 400$ for a one-way ANOVA. Thus, the usable sample size of $N = 1,695$ was adequate to test the study hypothesis.

Statistical Assumptions

According to Rugg (2007), a one-way ANOVA is used to determine whether statistically significant differences exist between the means of two or more unrelated groups. One-way ANOVA is an omnibus test and is not used to tell which groups were significantly different from each other because it only indicates at least two groups are

different (Laerd Statistics, n.d.). Analyzing data using a one-way ANOVA requires the data to meet statistical assumptions for a valid result. The following six assumptions are used to ensure a one-way ANOVA is appropriate (Laerd Statistics, n.d.):

- Assumption 1: The dependent variable should be measured at the interval or ratio level (continuous). This assumption was met because the dependent variables consisted of age (measured in partial and full years) and the number of convictions (measured in whole numbers).
- Assumption 2: The independent variable should consist of two or more categorical and independent groups. This assumption was met because the independent variable consisted of SORNA threat levels of Tier III, Tier II, and Tier I (3 categorical groups).
- Assumption 3: There should be independent observations related to no relationship between the observations in each group or between the groups themselves. This assumption was met because the different participants in each group (Tier III, Tier II, and Tier I) had no participants in more than one group.
- Assumption 4: There should be no significant outliers or single data points within the data that do not follow the usual pattern. This assumption was met because the data run in the Statistical Package for the Social Sciences (SPSS) statistical application did not show any possible outliers and all participants fell into distinct SORNA Tier levels (Tier III, Tier II, and Tier I).

- Assumption 5: The dependent variable should be approximately normally distributed for each category of the independent variable. This assumption was met because the participant's age and the number of convictions was normally distributed because each participant possessed both variables in the data set.
- Assumption 6: There needs to be homogeneity of variances. This assumption was met because the groups being compared (Tier III, Tier II, and Tier I offenders compared to age and conviction number of the same number of offenders) had roughly equal sample sizes.

Descriptive Statistics

RQ: What is the aggregate impact on the mandatory threat assessment levels (high, moderate, or low) of registered sex offenders within the state of North Dakota utilizing the state's risk-based assessment process compared to implementing SORNA's conviction-based assessment system (Tier III, Tier II, or Tier I)? After initial Walden University IRB approval, data were collected and analyzed quantitatively. Data were obtained from the North Dakota Office of Attorney's General and the North Dakota Bureau of Criminal Investigation – Open Records emailed in an Excel spreadsheet. From the data recorded in June of 2022 and according to the North Dakota Bureau of Criminal Investigation's Sex Offender Registration Coordinator (personal communication, September 4, 2022), the various definitions of North Dakota registered sex offenders were established.

The registered offenders were defined as compliant and actively registered inside North Dakota, with a total of $N = 1,615$ (of the 1,615, only 1,495 had assigned risk levels). Incarcerated offenders were defined as in-custody persons within North Dakota under two categories: $n = 435$ included in-custody offenders with a North Dakota assigned SORNA risk level ($n = 200$) and offenders in custody in North Dakota without an assigned North Dakota SORNA risk level who may never be released from custody due to life sentence or a future release date exists with no ND SORAC review completed ($n = 235$). Out-of-state offenders were defined as offenders previously registered in North Dakota who had no current obligation to register in North Dakota (not living, working, or attending school in North Dakota) with a total offender count of $n = 2,077$. The compliance of these registrants was confirmed in another state or jurisdiction including Tribal Nations. Completed offenders were defined as an offender with a previous North Dakota registration requirement who had fulfilled all registration requirements or possessed a combination of a low or moderate risk assessment and/or determination being made by the North Dakota Office of Attorney's General that the offender met registration requirements (personal communication, September 4, 2022). This group of offenders totaled $n = 1,149$.

Of the 2,050 registered and incarcerated offenders, only 1,695 have North Dakota assigned risk levels. The data of 1,695 offenders were categorized and tabulated into an Excel spreadsheet and entered into the International Business Machines (IBM) Statistical Package for the Social Sciences (SPSS) statistical application to analyze the research question. This total number was used to analyze the research question and determine the

aggregate effects on threat levels and times of mandatory registration assigned to North Dakota registered sex offenders (risk-based assessment) transitioned to the SORNA's conviction-based tool.

The North Dakota data presented in Table 4 summarizes the characteristics of the North Dakota Sex Offender Registrant Population as of June of 2022. The table outlines the gender, race, and age of currently registered offenders and each offender's classification within the population (registered, incarcerated, out of state, and completed).

Table 4

Characteristics of North Dakota Sex Offender Registrant Population (Percentage Distribution) as of June 2022

	Registered ^a (n = 1,615)	Incarcerated ^b (n = 435)	Out of State ^c (n = 2,077)	Completed ^d (n = 1,149)	All (n = 5,276)
<u>Gender</u>					
Male	1,582	430	2,045	1,115	5,172
Female	33	5	32	34	104
Unknown	0	0	0	0	0
<u>Race ^e</u>					
White	1,334	289	1,584	954	4,161
Black	75	48	187	59	369
American Indian	172	90	231	108	601
Asian	9	4	13	6	32
Unknown	25	4	62	22	113
<u>Age (years)</u>					
17 & younger	1	1	0	0	2
18-29	208	84	145	17	454
30-39	519	131	572	228	1,450
40-49	377	113	549	369	1,408
50-59	271	66	483	269	1,089
60 & Older	239	40	328	266	873

Note. Adapted from North Dakota Office of Attorney's General Sex Offender Registry

(n.d.). <https://sexoffender.nd.gov>. North Dakota Office of Attorney's General (2020,

November). *North Dakota offender registration procedures manual*.

<https://Attorney'sgeneral.nd.gov/sites/ag/files/documents/OffenderRegistrationManual.pdf>

f. North Dakota Office of Attorney's General (2021, November-a). *Risk assessment and community notification guidelines*.

<https://Attorney'sgeneral.nd.gov/sites/ag/files/documents/Risk>

[ManagementAndCommunityNotificationGuidelines.pdf](#). Adapted with permission.

U.S. Department of Justice (n.d.). *Dru Sjodin national sex offender public website*.

<https://www.nsopw.gov/en>

Descriptions of the table headings are defined as: ^a Registered is defined as compliant and actively registered inside of North Dakota. ^b Incarcerated is defined as in custody within North Dakota under two distinct categories to include: in custody with a North Dakota assigned Sex Offender Risk Assessment Committee risk level, in custody in North Dakota, without an assigned North Dakota Sex Offender Risk Assessment Committee risk level (may never be released from custody due to life sentence or a future release date exists with no North Dakota Sex Offender Risk Assessment Committee review completed. ^c Out of State is defined as an offender previously registered in North Dakota that has no current obligation to register in North Dakota (not living, working, or attending school in North Dakota). The compliance of these registrants is confirmed in another state or jurisdiction. This includes Tribal Nations. ^d Completed is defined as an offender with a previous North Dakota registration requirement who has fulfilled all registration requirements. This could be a combination of a low or moderate-risk assessment and/or a determination by the North Dakota Office of Attorney's General that the offender met registration requirements. ^e The SORNA requires race types of White, Black, American Indian, Asian, and Unknown. Once an offender selects one of these Race types, a subcategory of ethnicity is offered to identify as Hispanic/Latino or Non-Hispanic/Not Latino.

Table 5 outlines the first phase of analysis and provides an overview of the descriptive statistics related to the distribution of assigned sex offender threat levels for North Dakota registrants transferred from North Dakota's current risk-based assessment process (prereclassification) to the SORNA's conviction-based tool (postreclassification). The table shows the effects on adult and juvenile sex offenders related to the reassignment under the SORNA guidelines. The table outlines the adult and juvenile threat levels as follows:

- Prereclassification level of High (339) to postreclassification Tier III of 1,370. 61.5% increase for adults and 50.8% for juveniles transitioned from High to Tier III.
- Prereclassification level of Moderate (754) to postreclassification Tier II of 115. 38.1% decrease for adults and 34.4% for juveniles transitioned from Moderate to Tier II.
- Prereclassification level of Low (602) to postreclassification Tier I of 182. 25% decrease for adults and 22.3% for juveniles transitioned from Low to Tier I.
- Postreclassification of no assigned threat level for 28 offenders. 1.6 % increase for adults and 2.5% for juveniles in this new category.

Table 5*Distribution of Threat Levels for North Dakota Registrants Pre and Postreclassification**as of June 2022*

	Adults		Juvenile	
	<i>n</i>	%	<i>n</i>	%
<u>Prereclassification</u>				
(North Dakota risk-based)				
High Risk	288	18.2	51	44.0
Moderate Risk	716	45.3	38	32.7
Low Risk	575	36.5	27	23.3
Total	1,579	100.0	116	100.0
<u>Postreclassification</u>				
(Sex Offender Registration and Notification Act conviction-based)				
Tier III	1,260	79.7	110	94.8
Tier II	113	7.2	2	1.7
Tier I	181	11.5	1	1.0
None ^a	25	1.6	3	2.5
Total	1,579	100.0	116	100.0

Note. Adapted from North Dakota Office of Attorney's General Sex Offender Registry

(n.d.). <https://sexoffender.nd.gov>. North Dakota Office of Attorney's General (2020,

November). *North Dakota offender registration procedures manual*.

<https://Attorney'sgeneral.nd.gov/sites/ag/files/documents/OffenderRegistrationManual.pdf>

f.

North Dakota Office of Attorney's General (2021, November-a). *Risk assessment and community notification guidelines*.

<https://Attorney'sgeneral.nd.gov/sites/ag/files/documents/Risk>

ManagementAndCommunityNotificationGuidelines.pdf. Adapted with permission. U.S.

Department of Justice (n.d.). *Dru Sjodin national sex offender public website*.

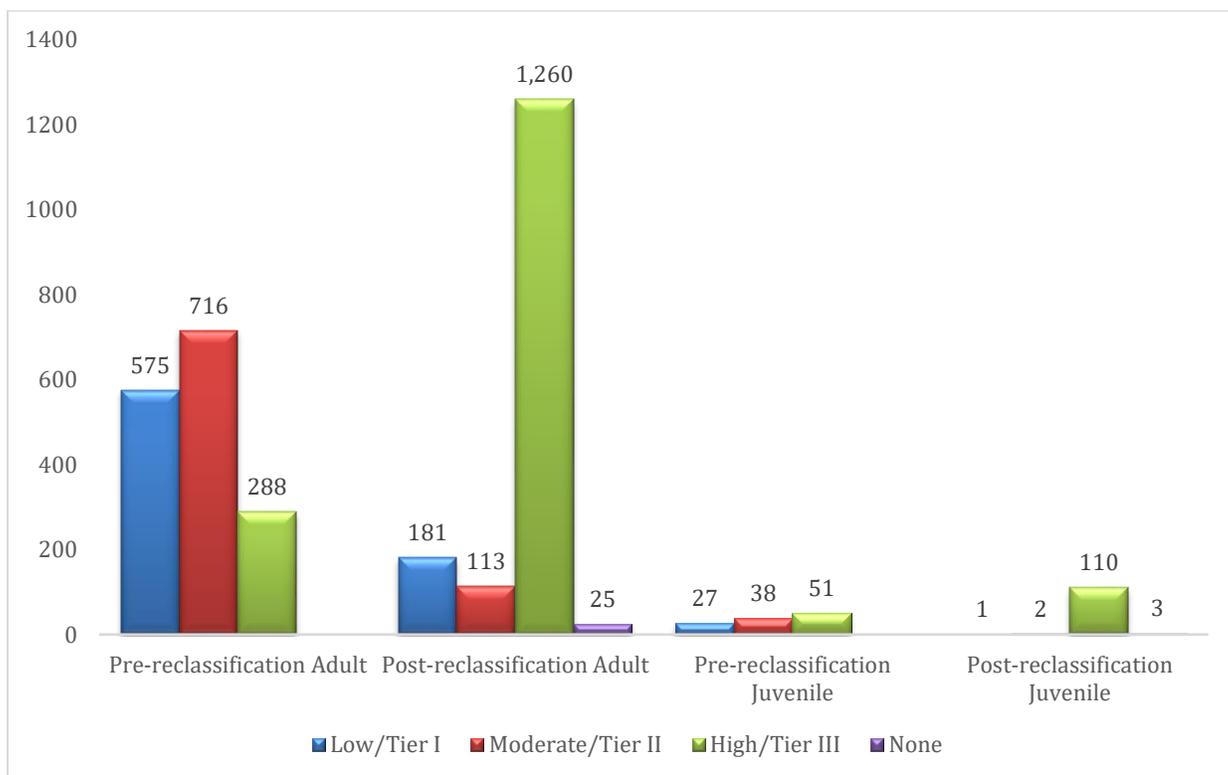
<https://www.nsopw.gov/en>

^aNone is the category assigned to North Dakota registered sex offenders possessing convictions of indecent exposure related offenses. The SORNA does not require registration for these offenses.

Figure 4 graph is a visual representation of Table 5.

Figure 4

Effects on the Threat Levels of North Dakota's Risk-Based Sex Offenders Transitioned to the Sex Offender Registration and Notification's Conviction-Based Tool



The first analysis phase was concluded with the data outlined in Table 6. The table provides an overview of the descriptive statistics related to the distribution of mandatory registration periods assigned to North Dakota registrants transferred from North Dakota's risk-based assessment process (prereclassification) to the SORNA's conviction-based tool (postreclassification). The table shows the effects on adult and juvenile sex offenders regarding the mandated registration periods after reassignment to the SORNA's guidelines. The table outlines the registration period for adult and juvenile offenders:

- Prereclassification Lifetime registration requirement (558) transitioned to a postreclassification lifetime registration requirement of 1,372. 48.6% increase for adults and 39.6% for juveniles transitioned from Lifetime (risk-based) to Lifetime (SORNA).
- Prereclassification 25-year registration requirement (603) transitioned to a postreclassification 25-year registration requirement of 115. 29.0% decrease for adults and a 25.0% decrease for juveniles transitioned from 25 years (risk-based) to 25-years (SORNA).
- Prereclassification 15-year registration requirement (534) transitioned to postreclassification 15-year registration requirement of 180. 21.2% decrease for adults and 17.2% for juveniles transitioned from 15-year (risk-based) to 15-year (SORNA).
- Postreclassification of no registration period required for 28 offenders. 1.6 % increase for adults and 2.6% for juveniles in this new category.

Table 6

Distribution of Registration Periods of North Dakota Registrants Pre and Postreclassification as of June 2022

	Adults		Juvenile	
	<i>n</i>	%	<i>n</i>	%
<u>Prereclassification</u> (North Dakota risk-based)				
Lifetime	494	31.3	64	55.2
25 years	572	36.2	31	26.7
15 years	513	32.5	21	18.1
Total	1,579	100.0	116	100.0
<u>Postreclassification</u> (Sex Offender Registration and Notification Act conviction-based)				
Lifetime	1,262	79.9	110	94.8
25 years	113	7.2	2	1.7
15 years	179	11.3	1	0.9
None ^a	25	1.6	3	2.6
Total	1,579	100.0	116	100.0

Note. Adapted from North Dakota Office of Attorney's General Sex Offender Registry

(n.d.). <https://sexoffender.nd.gov>. North Dakota Office of Attorney's General (2020,

November). *North Dakota offender registration procedures manual*.

<https://Attorney'sgeneral.nd.gov/sites/ag/files/documents/OffenderRegistrationManual.pdf>

f.

North Dakota Office of Attorney's General (2021, November-a). *Risk assessment and community notification guidelines*.

<https://Attorney'sgeneral.nd.gov/sites/ag/files/documents/Risk>

ManagementAndCommunityNotificationGuidelines.pdf. Adapted with permission. U.S.

Department of Justice (n.d.). *Dru Sjodin national sex offender public website*.

<https://www.nsopw.gov/en>

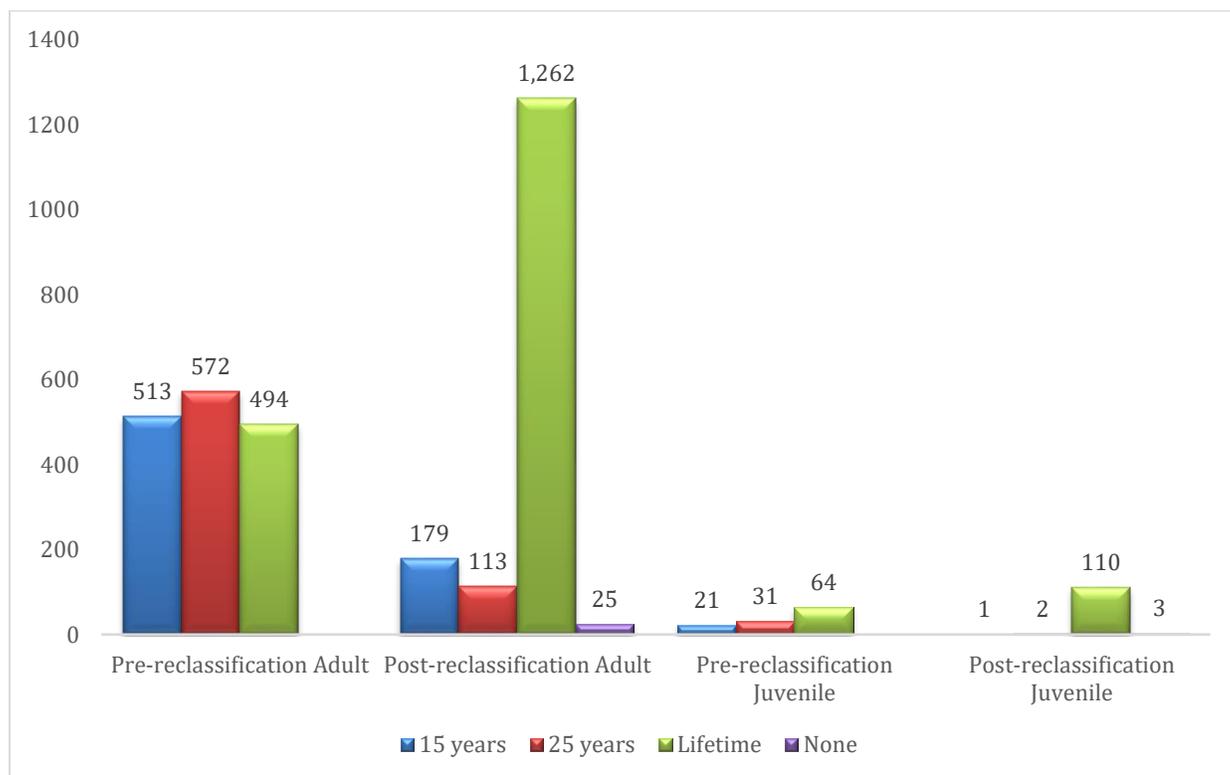
^aNone is the category assigned to North Dakota registered sex offenders possessing convictions of indecent exposure related offenses. The SORNA does not require registration for these offenses.

Figure 5 graph is a visual representation of Table 6.

Figure 5

Effects on the Registration Time Periods of North Dakota's Risk-Based Sex Offenders

Transitioned to the SORNA's Conviction-Based Tool



The first phase of the analysis showed significant aggregate changes related to the assigned threat levels of prereclassification (North Dakota risk-based threat level) reclassified to the postreclassification (SORNA conviction-based threat level), along with the mandatory registration periods associated with the assigned threat levels.

For the current study, an alpha level of $p < .05$ was used. According to Rugg (2007), this alpha value is most often and commonly included in social science research. The case level data allowed for an examination of aggregate shifts in registrant categories from North Dakota guidelines to SORNA's criteria ultimately led to the reclassification

of North Dakota offenders (High, Moderate, and Low) threat levels to the SORNA's Tier III, Tier II, a Tier I. This reclassification also affected the mandatory registration time for the reclassified offenders.

The second phase of analysis consisted of a series of analyses of variance (ANOVA) compared the four SORNA postreclassification (None, Tier I, Tier II, and Tier III) categories across a series of variables – current offender age and the number of prior offender convictions. Post hoc Tukey's HSD tests were conducted to evaluate pairwise differences. One analysis was conducted for each variable, utilizing all observed cases ($N = 1,695$).

Current offender age did not differ significantly across categories, with an F ratio close to 1.0, supporting a small variation among group means ($F = 1.59, p = .188$). Post hoc HSD comparisons indicated the mean age difference between each SORNA category was not significant but demonstrated a discernible pattern across the group pairings. Specifically, between Tier I ($M = 45.59, SD = 12.07$), Tier II ($M = 44.97, SD = 13.19$) and Tier III ($M = 43.66, SD = 13.43$). The difference between the polar ends of these categorical means (Tier I and Tier III) was identified as 1.93 years between mean registrant ages. The SORNA category of None was slightly different ($M = 41.87, SD = 14.45$), with a difference of 3.72 years between mean registrant age.

The ANOVA indicated significant between group differences in the number of prior convictions for all cases ($F = 14.90, p < .001$). The pairwise analyses (post hoc HSD) comparisons indicated the number of convictions differed slightly between each SORNA category and again demonstrated a discernible pattern across the group pairings.

Specifically, between None ($M = 1.00$, $SD = 0.00$), Tier I ($M = 1.02$, $SD = 0.23$), Tier II ($M = 1.12$, $SD = 0.54$) and Tier III ($M = 1.29$, $SD = 0.61$). The difference between the polar ends of these categorical means (None and Tier III) was identified as 0.29 convictions per registrant. Post hoc HSD analyses indicated a statically significant progression across this variable, between None and Tier III (M difference = -2.87 , $p < .046$), Tier I and Tier III (M difference = $-.265$, $p < .001$), and Tier II and Tier III (M difference = $-.165$, $p < .017$).

The descriptive statistics and results are summarized in Table 7 (ANOVA) and Table 8 (HSD).

Table 7

Analysis of Variance for Age and Number of Convictions of Reassigned North Dakota Registrants as of June 2022 (Mean [M] and Standard Deviation [SD])

	None		Tier I		Tier II		Tier III		F Value (Sig. Level)
	M	SD	M	SD	M	SD	M	SD	
All cases ($N = 1,695$)									
<u>Age (years)</u>	41.87	14.45	45.59	12.07	44.97	13.19	43.66	13.43	1.59 .188
<u>Number of convictions</u>	1.00	.000	1.02	0.23	1.12	0.54	1.29	0.61	14.90 <.001*

***The mean difference was significant at 0.05 ($p < .05$).**

Table 8

Differences in Mean Values for Age and Number of Convictions of Reassigned North Dakota Registrants as of June of 2022 (Tukey Pairwise Comparisons)

	None/Sig. Level	Tier I/Sig. Level	Tier II/Sig. Level	Tier III/Sig. Level
All cases ($N = 1695$)				
<u>Ages (years)</u>				
None	0	3.72 (.512)	3.09 (.686)	1.78 (.895)
Tier I	-3.72 (.512)	0	-.626 (.979)	1.93 (.253)
Tier II	-3.09 (.686)	.626 (.979)	0	-1.30 (.742)
Tier III	-1.78 (.895)	1.93 (.253)	1.30 (.742)	0
<u>Number of convictions</u>				
None	0	0.22 (.998)	.122 (.748)	.287 (.046)*
Tier I	-.022 (.998)	0	.100 (.467)	.265 (< .001)*
Tier II	-.122 (.748)	-.100 (.467)	0	.165 (.017)*
Tier III	-2.87 (.046)*	-.265 (< .001)*	-.165 (.017)*	0

***The mean difference is significant at the 0.05 level ($p < .05$).**

The second phase of the analysis showed statistical significance related to the assigned threat levels of reclassified offenders under the postreclassification (SORNA conviction-based threat level) because the categories relate to the number of convictions.

The review of the first and second phases of the analysis indicated the RQ failed to be rejected and demonstrates significant changes in the threat assessment levels of currently registered sex offenders within the state of North Dakota transitioned from current risk-based assessment processes to the SORNA's conviction-based assessment system. The null hypothesis can be rejected.

Summary

Summarizing the research question was as follows: The RQ found that “failed to be rejected” means it was accepted, and the null hypothesis was rejected as the data analysis found a significant association with statistical changes of prereclassification sex offenders (see North Dakota risk-based threat level assessments) and postreclassification sex offenders (SORNA conviction-based threat level assessments). The findings of the ANOVA and the differences in mean values related to age and number of convictions of reassigned North Dakota registrants as of June of 2022 showed the statistical significance of $p < .001$ between postreclassification variables and the registrant's number of convictions. Study findings are further discussed in Chapter 5. Conclusions, implications, and recommendations are also discussed. Areas of future research are also presented.

Chapter 5: Discussion, Conclusions, and Recommendations

The purpose of this quantitative study was to validate the aggregate effects and changes in the threat assessment levels of currently registered sex offenders within the state of North Dakota who transitioned from the state's risk-based assessment processes to the SORNA conviction-based assessment system. The current study focused on the overall effects in the various risk levels of registered sex offenders currently assessed as high, moderate, and low rankings as these individuals were transitioned to the federal tier categories of Tier III, II, and I, and the outcomes on offender ranking and length of mandatory registration. The RQ for this study was: What is the aggregate impact on the mandatory threat assessment levels (high, moderate, or low) of registered sex offenders within the state of North Dakota utilizing the state's risk-based assessment process compared to implementing the SORNA's conviction-based assessment system (Tier III, Tier II, or Tier I)?

The key findings of this study revealed two phases of analysis. The first phase outlined the transition of registered offenders from the North Dakota risk-based process to the SORNA conviction-based tool. This process outlined the threat level assessments showing significant changes in assessment designation (high, moderate, and low [North Dakota] to Tier III, Tier II, and Tier I [SORNA]) and the related mandatory registration time frames. The second phase of analysis and comparison showed no significant relationships between postreclassification (SORNA) assigned registrants and registrant age while showing significant relationships between postreclassification assigned registrants and the number of convictions related to the offenders.

Interpretation of the Findings

The research question in this study focused on expanding the understanding of the overall organizational effects on sex offender threat level designations when North Dakota registrants were transitioned to the mandated the SORNA conviction-based assessment tool. Answering this question was essential to comprehend the effects of threat level designation and the associated length of mandatory registration on currently registered offenders in any state working on the mandate transition to the SORNA's conviction-based tool. The aggregate change in registrants allows the state of North Dakota to understand how achieving full SORNA compliance affects the state's offender population related to public reunification and mandated registration periods compared to the financial penalty for non-SORNA compliance. The findings confirmed both the literature review and the IDM theory framework used in the study. The IDM confirms how the diffusion and dissemination of a policy and the innovation or reorganization of policy changes between governmental (Office of Sex Offender Monitoring, Apprehending, Registering, and Tracking [SMART]; offices affect state (North Dakota Sex Offender Registration) and local jurisdictions (see Walker, 1969; Weible & Sabatier, 2018).

The Jacob Wetterling Crimes Against Children Act of 1994, commonly referred to as the Wetterling Act, required states to establish sex offender registration and monitoring (Jacob Wetterling Crimes Against Children Sexually Violent Offender Registration Act, 1994). The Wetterling Act was the pillar for the passing of the AWA and confirmed the societal need for increased sex offender monitoring and the creation of

the assignment of threat levels for community safety (Office of Justice Programs, n.d.-a, n.d.-b; U.S. Department of Justice, 2008). These provisions included separating sex offender registrants into three distinct tiers (III, II, and I) based on the delegated conviction offense and related severity level (Harris & Lobanov-Rostovsky, 2009). The tier designation categories affected the formation of the SORNA minimum requirements such as length of registration, required frequency of in person verifications with registering law enforcement agencies, and guidelines for public notification (U.S. Department of Justice, 2008).

The findings of the current study confirm the AWA tier system as a means to reclassify offenders from an established risk-based process to the SORNA conviction-based guidelines. There is existing research on the aggregate effects and shifts in the tiers of registered offenders because of SORNA-mandated assessment processes on single and multiple-tier state assessment systems (Harris et al., 2010). The findings of this study extend the knowledge of the impact of shifting from a formal and comprehensive risk-based assessment classification system to a SORNA conviction-based system. This transition includes the individual state's requirement and duty to monitor a higher number of Tier III (high-risk) offenders while allocating appropriate state and local resources to effectively monitor increased mandatory registration periods for the postreclassification registrants (Harris et al., 2010). According to the U.S. Department of Justice (2008), the SORNA Tier III (high, lifetime) and Tier II (moderate, 25 years) registrants cannot request a reevaluation once a SORNA threat level designation is issued. Tier I (low, 15

years) offenders are eligible to repeat the original court of conviction for a reassessment of SORNA designation after 10 years, minus any additional felony convictions.

Walker's IDM framework supported the study's findings by confirming that the outcomes concentrate on policymaking and the ability to support governmental analysis of the postreclassification registrants. The IDM confirms the inferences about how policies disseminate across a system or a collection of individual states. The AWA and the SORNA have diffused state policymaking and inferred mandatory requirements to state governments and have directly affected the transition of state policy, practice, and process to meet the federal guidelines (see Walker, 1969; Weible & Sabatier, 2018). The IDM confirms states vary in how rapidly they adopt new programs, and the variation is explained through Walker's (1969) tree model. The model supports the idea of regional leaders of innovation who emulate and compete (representing the center of the tree and main branches), which for this study is identified as the Office of Sex Offender Monitoring, Apprehending, Registering, and Tracking (SMART) office and the SORNA program (see Walker, 1969; Adam Walsh Child Protection and Safety Act, 2006; Office of Justice Programs, n.d.-a). The remaining states (e.g., North Dakota) are smaller branches, sorted out according to the regional leader from which they take their guidance and oversight (see Walker, 1969). The state of North Dakota is then measured by how the state's legislators adopt the SORNA program to demonstrate the state's ability to remain and become innovative (see Walker, 1969). North Dakota governmental leadership is then defined by how legislators adopt a new program (SORNA-mandated requirements) at any level of implementation where assets are expended (see Walker, 1969).

The IDM applies the findings of this study to the practical decisions of how North Dakota legislators can accept an available option because satisfactory outcomes meet societal needs, provides an example of how state registrants can be transitioned to federal requirements, incorporates change compared to peer related outcomes of the SORNA, and compares their political decisions to regional reference groups (other similar states in full SORNA compliance) over national reference groups (Office of Sex Offender Monitoring, Apprehending, Registering, and Tracking [SMART] office; see Walker, 1969). Walker's (1969) IDM was central to extending knowledge on the study's design of understanding and categorizing the order and manner of how states adopt federally mandated policies (such as guidelines for the SORNA) and the influence of changed processes for state jurisdictions (North Dakota legislators).

Limitations

Limitations exist in the design of the study, the use of archival data, and the study processes. The statistical limitations were outlined in Chapter 4 related to the use of ANOVA statistical tests. The limitations inherent to the design of the study could be identified because:

- The use of archival data for the analysis obtained from the North Dakota Office of Attorney's General's Bureau of Criminal Investigation's Sex Offender Division was provided data. This data was created, collected, and stored by individuals other than me, and the reliability of the data collected may not be measured or compared for quality assurance.

- The data relating to each North Dakota registrant's risk-based threat level was created by the combined input of the ND SORAC members. Individuals other than me determined the designated risk-based level of high, moderate, or low, and the data's trustworthiness may not be measured or compared for quality assurance.
- The transition of the direct comparison of risk-based threat levels (high, moderate, or low) to the equivalent of conviction-based threat levels (Tier III, Tier II, or Tier I) was based on me correctly interpreting the SORNA assessment guidelines and criteria. The validity of the postreclassification threat levels for all registrants could be affected.
- The North Dakota prereclassification threat levels used to transition to the SORNA postreclassification tier system were based on individual registrants' current North Dakota threat levels as of June 2022. Each registrant, at their time of initial offender registration, may have received a higher or lower threat level. Due to completed treatment/rehabilitative work or follow up arrests/offenses, these offenders may have been reassessed by the ND SORAC to a varied (higher or lower) threat level. I used the current threat level assessment (June 2022) of each registrant and did not take into consideration any initial or modified threat levels leading to the registrant's current registration threat level or associated requirements.

- The data examined did not provide the years between convictions for each North Dakota registrant. This information could have provided the third level of statistical comparison and supported a direct link to Harris et al. (2010).
- The creation of a postreclassification designation of “None” was due to various state offenders (convicted of indecent exposure) not being transferred into a SORNA conviction-based category. SORNA does not deem indecent exposure a registerable offense. The loss of these offenders may be seen as a validity issue rather than a comparative measure of the transition of the assessment process.

Recommendations

I focused on exploring the effects of North Dakota sex offender registrants transitioned to the federal SORNA- mandated threat level assessment tool. The transition included the reassessment of each registrant to SORNA’s threat level tool and the related mandatory registration periods. In this assessment, the effects of transitioning currently registered offenders from a traditional and established risk-based threat level assessment process to a tiered conviction-based assessment tool carried risk factors to current registrants. Adding to existing research, the findings of this study support potential action to improve the effects and outcomes of sex offender registrants in states transitioning from current assessment processes (risk-based) to the SORNA-mandated requirements.

This study indicated a substantial shift of registrants from lower degrees of the threat level to higher levels of monitoring. This aggregate shift may affect criminal justice resources’ operational and fiscal responsibilities. The study showed a 61.5%

increase for adults and a 50.8% increase for juveniles who transitioned from North Dakota's current risk-based levels to the SORNA Tier III designation. This transitional change shows a need as an identified area of required monitoring and planning. The increased demands placed on political subdivisions due to the increase in threat levels include the following:

- The increased number of in person meetings with each Tier III offender. This consists of the mandatory quarterly meetings conducted in January, April, July, and October of each calendar year, and more monthly monitoring with home checks or mail (U.S. Postal Service) checks on high-level offenders.
- The modifications to public notifications of high-risk offenders moving into or around a jurisdiction include planning related to the management of public outreach and opposition by the community due to increased threat level designation.
- The financial effects may include the need for additional civilian support and sworn personnel to monitor and process failure to register criminal complaints. States found to be substantially compliant with the SORNA regulations through the Office of Sex Offender Monitoring, Apprehending, Registering, and Tracking (SMART) will not be assessed the 10% reduction in state awarded Justice Assistance Grant (JAG) funding. For the state of North Dakota, meeting SORNA's substantial compliance would return approximately \$46,500.00 in penalties based on the state's full JAG award of \$465,000.00.

Related to the perspective of public safety, the postreclassification of North Dakota registrants led to the decrease of registration requirements from various North Dakota risk-based threat levels to a category of None under the regulations of the SORNA. These changes have been explained because SORNA has no registration requirement for individuals arrested for indecent exposure related crimes. The postreclassification led to the assignment of 28 registered offenders to the status of None, which would include no registration requirements, no registration period, and no further requirements for the individual to register within the state of residence or state in which the offender works or attends school. This group of previous registrants and any future individuals convicted of indecent exposure related crimes would not be tracked by the criminal justice system in any manner. The community will not have access to the locations of these convicted persons, which may expose the community to further instances of illegal sexual activity. The removal of indecent exposure related offenders (currently registered in risk-based states) will remove the obligation of subsequent monitoring and tracking. This supports offenders in reunification efforts because of society's low-level criminal views of indecent exposure provide an opportunity for these historically registered offenders to avoid registration and notification requirements altogether or be removed from current risk-based threat level designation.

Practically speaking, the study shows a larger concentration of postreclassification sex offenders in the SORNA's Tier III, or highest-ranking designation. This result contradicts peer reviewed data on recidivism risks among adult and juvenile sex offenders. According to Hanson et al. (2003) and Harris & Hanson (2004), a well-

established sex offender registration system should allow tier assignments to predict the overall risks of offenders reoffending within the assessed sex offender population. Hanson & Morton-Bourgen (2005) outlined a limited group of sex offenders are at a high risk of recidivating, and those registrants that reoffend normally struggle due to antisocial diagnosis, atypical sexual preferences, multiple offenses/convictions, and offenses to unrelated victims. Data also suggests most convicted sex offenders do not go on to be arrested for subsequent sexual offenses (Hanson & Morton-Bourgon, 2005). The current study shows the percentage increase in Tier III offenders, which requires lifetime registration, active public notification, and quarterly in person updates, and lends to a contradiction of policy (notification processes) and available peer reviewed evidence. The increase in the threat level designations of offenders transitioned from prereclassification (ND risk-based process) to postreclassification (SORNA's conviction-based tool) lends society to deem these offenders as high-risk persons which reoffend. Current research shows the criteria for reoffending cannot be solely based on the individual offender's designated threat level, but more on the personal criteria (mental and physical history) affecting the treatment and recovery of high-risk offenders. This was specifically seen in the factors of multiple SORNA Tier III registrants possibly being overestimated, while decreasing SORNA Tier II registrants may possibly be underestimated relating to the risk for certain offenders who plead to lesser offenses (Harris et al., 2010).

From a legal perspective, the current study showed enhanced prospects for the SORNA's Tier III and lifetime requirements for many ND offenders. This transition may

significantly affect criminal justice proceedings and expand the plea bargain process or require increased prosecutorial resources to manage and maintain sexual offense cases being taken to trial (Letourneau, Levenson, Bandyopadhyay, Armstrong, & Sinha, 2010). As North Dakota citizens are charged with sexual related offenses, which carry mandatory registration requirements, the increased likelihood of being designated as a Tier III (High) level offender is higher under the SORNA conviction-based tool. Citizens will weigh their decision to plead to a sexual related offense against the level of threat designation and the related length of registration (lifetime). The legal representatives of these arrested citizens could start negotiating the crime of arrest to avoid Tier III designation. The possibility of many more sexual related offenses going to a jury trial may occur. Litigation costs for prosecutorial offices and requests from convicted and registered offenders for administrative reviews related to threat level assessment, will likely increase because the stakes associated with escalated SORNA classifications carry greater restrictions and requirements for transitioned offenders.

From the standpoint of further academic research, the expansion of this area of study could include the review of a current state who originated as an established risk-based assessment program and transitioned to being fully implemented with the SORNA's conviction-based assessment criteria. The expanded areas of study could measure the quantitative and qualitative effects on offenders reentering communities, assessed state financial costs, and caseload for prosecutorial offices within the affected criminal justice system. These studies could concentrate on the fiscal costs associated with increased offender threat levels because they affect state tracking (state crime

bureaus), local monitoring (police and sheriff's departments), and treatment processes (corrections and rehabilitation). The topic could expand to the societal effects of examining how communities view high risk sex offenders and the effectiveness of community notification related to the reunification of the offender to their original status in society. The areas of concentration could include the effects of high-risk registration and lifetime registration time periods on the mental and physical wellbeing of registered offenders and their affected families.

Implications

The implications for social change resulting from the current study are significant because these findings contribute to a body of research involving registered sex offenders, offender monitoring, the public's safety, and the restorative nature of offenders in their communal setting. My suggestions are offered to assist the interested parties in assessing the overall impact on state registrants, the state's criminal justice system, and community related support and processes. The current study may assist state offices and lawmakers in identifying appropriate operational tracts and policies to address the decision to become fully compliant with SORNA mandates. Some of those decisions and policies will need to include the overall effects SORNA compliance has on individual registered sex offenders, the demands placed on offenders' families, mandates to state organizations, and the societal influence on the community.

Offender populations may realize changes in the assigned governing threat levels and recognize reclassifications from low (Tier I) and moderate (Tier II) to high (Tier III). The data will also support similar changes in offender notification because threat levels

increased from 15 years and 25 years to lifetime registration requirements. These reassigned offenders will be directly affected because their threat level designations will increase and carry with them increased registration time periods. The transitions will most likely result in currently registered offenders becoming distraught at the increased requirements mandated to them regarding offenses they have historically complied with related to monitoring guidelines. The simple increase in offender threat level, due to states transitioning to SORNA requirements, may be seen as unfair and unnecessary. The increased threat levels and registration time will also affect the offender's families and the families' social status toward integration. The increased threat levels may be met with public and political outcry by offenders who have worked to follow all state requirements, yet still receive an increased ranking and additional registration time requirements.

Changes may include reducing or removing offender registration requirements from low risk (Tier I) offenders to being removed from all monitoring requirements (Harris et al., 2010). The data will also support similar changes in offenders moving from 15 years of registration time to no requirement status. This decrease would allow the sex offenders to become less identifiable through monitoring protocols and assimilate into communal settings with greater anonymity (Burchfield & Mingus, 2008). The effects of these transitions may lower public awareness of the location of registered sex offenders related to public safety and public awareness. The awareness of the public, related to the location of registered offenders, offers a comfort level for community members regarding the safety of their family and children. The removal of registration requirements would

support the communal understanding of transitional offender treatment and recovery and the direct effects these standings have on the offender's family within the community (Jeglic et al., 2012). Offenders benefitting from the removal of registration requirements allows these historically Tier I (low risk) offenders to successfully complete their offender registration requirements and support their dedication to community reunification and restorative justice. The removal of registration requirements supports the offender's families by providing a reprieve from the social "mark" of having a registered sex offender in their family unit and avoids the continued apprehension felt from neighbors and peers.

Social science is focused on creating social change and consists of the criterion of community safety. The outlined removal of registered sex offenders from any tracking criteria (indecent exposure convictions) can be harmful to communal safety by reducing the ability for citizens and law enforcement to identify all levels of registered offenders. The "sense" of communal safety may be lost when citizens believe registered offenders are not being actively tracked by law enforcement and mapped within community boundaries (safety in school zones, playgrounds, parks, etc.) Citizens expect to be able to view a public website or contact local law enforcement to verify if any offenders are residing in their specific neighborhood(s). This communal offender check is a common practice for parents with small children or families relocating to new jurisdictions. The accuracy of state and local monitoring of all convicted sex offenders would be decreased.

The increase in threat level assessments to numerous currently registered sex offenders (Tier I [low] and Tier II [medium] to Tier III [high]) can affect communal

safety because the public would be subject to increased public notifications regarding their residential areas. The increased number of Tier III (high) level sex offenders will lead to law enforcement agencies publicly releasing updated sex offender notifications outlining each offender's increased threat level and the offender's change in status. These status increases will cause current low and medium level offenders to now be mandated to meet the registration requirements of high-level offenders. These mandated changes will include increased tracking criteria and harsher residential requirements outlined by their individual communities. According to the National Alliance to End Sexual Violence (n.d.), these changes could include:

- Electronic monitoring, such as Global Positioning Satellite (GPS) tracking and monitoring. The devices are often a visible ankle bracelet easily seen by the public and costly for the offender (daily monitoring fees).
- Residency restrictions include prohibitions to the radius of an offender's residence to schools, parks, public areas, homeless shelters, group homes, and certain neighborhoods.
- Increased mandatory registration sentences would extend currently participating and cooperating sex offenders to longer registration time requirements. This outcome could incentivize offenders to disregard registration requirements and decide to live "underground" to become undetected.

This shift to the increased awareness of registered sex offenders as a collective demographic, can ultimately affect the stability of low-risk offenders in ways that may

displace low risk offenders currently residing in communities and possibly increase low risk offender recidivism. These low-risk offenders may become the “focus” of communal attention and could find themselves being identified and targeted by community members who do not fully understand the definition of the designated threat levels (Tier III, Tier II, and Tier I). Most citizens do not understand the criteria and purpose outlining sex offender threat level assessments. This lack of understanding of sex offender processes, along with the increase in Tier III (high) level offenders, will not be seen through the complicated lens of SORNA compliance, but will be felt because of an influx of high-risk offenders in their community, which ultimately decreases the perception of public safety. For communities to feel a sense of safety and to protect citizens from the dangers of sexual related crimes, communities will need to develop comprehensive sex offender management policies and practices rooted in community education. These steps could include:

- Educating the community on sexual related crimes to include facts and myths about registration requirements, communal statistical data related to registered sex offenders, and victim centric information.
- Data and information related to the behavior of sex offenders and sexual crime related actions.
- Sharing risk reduction and prevention measures to outline the strengths and limitations to community and victim involvement.
- Outlining professional resources for citizens, victims, and offenders.

- Utilizing social media campaigns to outline respectful and safe interaction between community members and registered offenders (National Alliance to End Sexual Violence, n.d.).

The study outlined how the criminal justice system will need to respond to the requirement of working toward practical communal involvement and the overall societal responsibility to monitor and mentor registered sex offenders. The goal becomes the return of the offender's original status in their community as an accepted and participating citizen (Jeglic et al., 2012). Criminal Justice systems will need to adapt and understand the impact of the vast diversity of registered sex offenders to include variances in demographics, offenses, registry status, and risk-oriented variables because community reunification will be explored (Ackerman et al., 2011). The increased threat level designations associated with compliance of the SORNA will task the criminal justice system with implementing effective community notification and practices of offender reunification. These progressive steps will include the law enforcement modifying historical sex offender registration practices to include additional Tier III (high level) offenders in numerous community settings. This change will include the method of implementing community notification to the extent the notification is effective, but not punitive to the individual offenders. This may take the creation of community groups to assist law enforcement on the decision-making processes to the extent of community notification with a focus on safety (citizens) and personal rights (offender). The shift from viewing sex offender registration as a punitive process to one of rehabilitation and reunification will need to a primary goal of these community groups.

State governments must develop and comprehend the effects of accepting the variance in designated threat levels because a developmental partnership of criminal justice reform, treatment, and rehabilitation of registered sex offenders exists. Current states utilizing risk and evidence-based risk assessment will be required to assess registered offenders at a higher threat level with longer registration time requirements than states utilizing traditional risk-based or hybrid assessment models (Harris et al., 2010). The historically perceived benefits of risk and evidence-based assessment models being more accurate than conviction-based models may not outweigh the effects of the SORNA's higher threat levels and increased registration periods mandated to registered sex offenders (Center for Sex Offender Management, 2008). States will be required to adapt their practices if a transition from risk-based to conviction-based assessment was decided upon. The state government's allocating resources to assessment committees will need to reassign personnel and reallocate funds to the monitoring of higher risk offenders versus risk-based planning and assessment. This will include state governments becoming "comfortable" with the loss of offender data and tracking capabilities on offenders transitioning from Tier I (low risk) to no registration requirements.

The fiscal penalty (reduction of federal [Justice Assistance Grant] funds) is assessed to noncompliant states for utilizing risk-based assessment processes. Retained federal funds could assist states in utilizing the SORNA's conviction-based assessment model to increase sex offender related programs modeled at treatment, rehabilitation, and communal reunification (Office of Justice Programs, n.d.-b). These programs could allow for municipal and county political subdivisions to create and maintain community groups

and committees to oversee public notification of registered offenders. The funds could also be directed to the support of community-based treatment and employment programs to assist with the reunification of released offenders.

Societal programs and processes support positive social change by concentrating on the societal implications related to the current study. These implications include ensuring the equal and fair treatment of registered sex offenders across states and jurisdictions. Tier III (high and lifetime) and Tier II (moderate and 25 years) assessed offenders can be victimized by registration requirements (housing issues and residence restrictions, unemployment, and social isolation) and are subsequently prevented from societal support and hindered in reinforcing communal norms (Levenson & Cotter, 2005; Levenson & D'Amora, 2007; Levenson, D'Amora, et al., 2007; Mercado et al., 2008; Tewksbury, 2005; Zgoba, 2011; Zgoba et al., 2009). Being over assessed and required to register for excessive periods leaves offenders feeling negatively governed through monitoring restrictions and limitations associated with Tier III and Tier II threat levels assessments (Jeglic et al., 2012). The various criteria affecting the unequal treatment of rehabilitated sex offenders reunifying with communal and societal norms can be understood through an awareness of the differences in threat level assessments between the models discussed in the study (Levenson & Cotter, 2005; Levenson, D'Amora, et al., 2007; Mercado et al., 2008). Community awareness and development will assist in the restorative justice approach to registered offenders residing and safely interacting within the established social norms.

Current trends recognize the need for evidence-based practices within the criminal justice system. Criminal justice agencies have embraced and used risk and need based assessment tools to address this important platform. An established and tested assessment process was recognized to have positive enforcement and rehabilitative benefits to registered sex offenders and communities working to accomplish reunification. The use of evidence-based practices assists with the creation of effective and efficient policies to implement the required services to balance offender wellbeing and concerns related to societal safety. These evidence-based practices have an assessable result, allow for input related to the outcomes of the implemented processes, and provide a mechanism for updates and changes to evolve into legislative developments.

Conclusion

The current quantitative study examined the aggregate effects of transitioning registered sex offenders from an established and traditional risk-based threat level assessment process (North Dakota) to the SORNA's mandated conviction-based threat assessment tool. The study discussed the outcomes of transitioning current sex offenders to include the effects on reassigned threat levels and the associated length of registration. The study compared the relationship of the postreclassified offenders (SORNA's Tier III, Tier II, and Tier I) to the age and number of convictions related to each transitioned offender. The current study sets a basis for various states to understand the full effects of transitioning to and becoming compliant with the SORNA versus the continued loss of financial resources as a penalty for not being substantially compliant (AWA). Recommendations were made which could improve the reunification of registered sex

offenders into their original communal settings and the operational and financial effects on states working to transition to the SORNA's conviction-based assessment. Criminal justice agencies must understand the importance of supporting the synergy of treatment and monitoring programs to return registered offenders to societal expectations with the tools to succeed. Communities should realize the societal responsibility of understanding who offenders are but work with the offenders (and the monitoring criminal justice agencies) to ensure basic needs because employment, housing, security, and safety exist for all citizens. Public education, rooted in criminal justice involvement, would allow community understanding of the sex offender monitoring system and allow the stigma of sex offender registration to evolve from a component of fear and ignorance to one of support and assistance. Each sex offender who transitioned into the current study should receive the benefit of restorative assistance, so the registrants become active and supportive members of their chosen community. This outcome can be accomplished through the growth, education, and understanding of how criminal justice must balance individual citizen rights (offender and public) with the requirement of providing safety for all citizens. There is a need for further research into this topic to understand how fully transitioned states following the SORNA, balance how offenders reenter communities, monitor and implement financial responsibilities, and balance the caseload for prosecutorial offices within the criminal justice system.

The study has revealed the importance of implementing an effective sex offender assessment tool while outlining the effects of continuously evolving to improve the accuracy and outcomes of offender assessment and monitoring. The ability to utilize an

efficient assessment process/tool allows criminal justice agencies, elected representatives, and communal leaders to develop reunification strategies supporting the safety of citizens while emphasizing the importance of registrant reintegration. By consistently monitoring and developing registered sex offender assessment processes, the participating states, the Office of Sex Offender Monitoring, Apprehending, Registering, and Tracking (SMART), affected communities, and the offenders themselves are provided the criteria to make educated decisions regarding the lives of individual citizen registrants.

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NORTH DAKOTA OFFENDER REGISTRATION

PROCEDURES MANUAL

**REQUIREMENTS ESTABLISHED
BY NORTH DAKOTA CENTURY
CODE SECTION 12.1-32-15**

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**Office of Attorney's
General Bureau of
Criminal Investigation**

November 2021

APPLICABLE OFFENSES

Registration applies to the following offenses:¹

Sexual Offender Statutes

N.D.C.C. Section	Offense
12.1-20-03	Gross Sexual Imposition
12.1-20-03.1	Continuous Sexual Abuse
12.1-20-04	Sexual Imposition
12.1-20-05	Corruption or Solicitation of Minors
12.1-20-05.1	Luring Minors by Computer
12.1-20-06	Sexual Abuse of Wards
12.1-20-07	Sexual Assault (Class C felony & Class A misdemeanor)
12.1-20-11	Incest
12.1-20-12.1	Indecent Exposure
12.1-20-12.2	Surreptitious Intrusion
12.1-20-12.3	Sexual Extortion
12.1-27.2	Sexual Performance by Children (All Offenses)
12.1-41	Sex Trafficking

Offenders Against Children Statutes

(offenses in which the victim is a child)

N.D.C.C. Section	Offense
12.1-16	Homicide (All Offenses)
12.1-17-01.1	Assault (Felony only)
12.1-17-02	Aggravated Assault
12.1-17-04	Terrorizing
12.1-17-07.1	Stalking (Felony only)
12.1-18-01	Kidnapping
12.1-18-02	Felonious Restraint
12.1-18-05	Removal of Child from State in Violation of Custody Decree
12.1-29	Prostitution (All Offenses)
12.1-41	Labor Trafficking
14-09-22	Child Abuse

¹ A person must also register if that person has pled guilty or nolo contendere to, or been found guilty of, an offense in a tribal court, municipal court, or a court of another state, country, or the federal government, which is equivalent to those offenses set forth above.

PERIOD OF REGISTRATION

A person required to register pursuant to N.D.C.C. § 12.1-32-15 must comply with the registration requirement for the following periods:

- a period of **fifteen years** after the date of sentence, after the date of order deferring or suspending sentence upon a plea or finding of guilt, or after incarceration, whichever is later; or
- a period of **twenty-five years** after the date of sentence, after the date of order deferring or suspending sentence upon a plea or finding of guilt, or after incarceration, whichever is later, if the offender is assigned a moderate risk level; or
- for the **life** of the individual if any one of three conditions listed in N.D.C.C. § 12.1-32-15(8) are present, or if the offender is assigned a high risk level.

Offenders Against Children Information

Individuals convicted of crimes that are not sex offenses but which involve, for example, force against or restraint of a child, are required to register as an “Offender Against Children.” These individuals are not sex offenders, and are not listed on the sex offender website. The registration requirement is a minimum of 15 years. Current information about these offenders is at www.Attorney’sgeneral.nd.gov.

ALLOCATION OF RESPONSIBILITIES

Responsibilities for carrying out the provisions of the law rest with the following as indicated (the specific subsection within N.D.C.C. § 12.1-32-15 is referenced at the end of each item):

The Courts

North Dakota courts shall:

- Impose the requirement that the individual register if that individual has pled guilty or been found guilty in accordance with the provisions of N.D.C.C. section 12.1-32-15 subsection 2, subdivision a through e. (Subsection 2)
- State the requirement to register on court records of sexual offenders and offenders against children. (Subsection 2)
- Inform the offender, who is released on probation or discharged upon payment of a fine, of the duty to register, and require that person to read and sign a form acknowledging the duty to register. (Subsection 6)
- Inform the offender that they are required to provide information regarding residence address, school enrollment, employment address, for registration purposes, and that any change in residence address, school enrollment, employment, must be reported to the law enforcement agency at which the offender is registered. (Subsection 6) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, and the Adam Walsh Child Protection and Safety Act of 2006.)
- Obtain the addresses of the offender, who is released on probation or discharged upon payment of a fine, where the offender expects to reside, attend school or work, and report those addresses to the Attorney's General within three days. (Subsection 6) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, and the Adam Walsh Child Protection and Safety Act of 2006.)
- Impose a minimum term of ninety days in jail and one year probation on persons who willfully violate this section. If the violator is a juvenile, this minimum term does not apply. (Subsection 9)
- Order the probation revoked for persons released on probation who are required to register but fail to do so within three days of release. (Subsection 10)
- May deviate from requiring an individual to register in a misdemeanor case if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the offender has not previously been convicted as a sexual offender or of a crime against a child, and the offender did not exhibit mental

abnormality or predatory conduct in the commission of the crime. (Subsection 2, subdivision b)

- Determine, for purposes of discretionary deviation for juvenile offenders guilty of Gross Sexual Imposition, when the victim is less than fifteen years old, or for juvenile misdemeanor sexual offenders, whether the juvenile offender has been previously convicted as a sexual offender or of a felony crime against a child, and whether the offender exhibited mental abnormality or predatory conduct in the commission of the crime. (Subsection 2, subdivision c)
- Determine, for purposes of discretionary deviation when the adult or juvenile offender is guilty of a felony crime against a child, whether the offender has been previously convicted as a sexual offender or for a felony crime against a child, and whether the offender exhibited mental abnormality or predatory conduct in the commission of the crime. This determination is not necessary if the offense was 1) facilitating prostitution, or 2) kidnapping/felonious restraint by a person not the parent of the victim. (Subsection 2, subdivision d)
- Determine, in any other crime not otherwise specified in 12.1-32-15(2), if registration is warranted by the nature of the crime. (Subsection 2, subdivision e)
- In consideration of mental abnormality or predatory conduct, consider the ages of the offender and victim and the differences between those ages, circumstances and motive of the crime, the relationship of victim and offender, and the mental state of the offender. (Subsection 4)
- In consideration of mental abnormality or predatory conduct, may order evaluation of the offender by qualified counselor, psychologist, or physician, before sentencing, if the court chooses. (Subsection 4)
- State on the record in open court the court's affirmative finding for not requiring an offender to register, if the court has chosen to deviate from requiring an individual to register. (Subsection 4)
- Apply a risk assessment tool to juvenile sex offenders who are required to register, and provide the Attorney's General any information, including the offender's risk score supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community. (The juvenile court system has contracted with DOCR's Division of Juvenile Services to score risk assessment tools on all juvenile offenders.) (Subsection 12, subdivision c)
- Consider, if petitioned, whether to relieve an offender of the registration requirements, if registration is no longer mandatory due to changes in section 12.1-32-15 or 27 20 52.1 made in the 1999 Legislative Assembly. (Subsection 17)

Attorney's General

The Attorney's General shall:

- Prepare forms for use in the registration process. (Subsections 5 and 7)
- Receive and forward a copy of the registration acknowledgement to the law enforcement agency where the person will actually register. This is intended to alert the law enforcement agency to the anticipated registration of the offender in that jurisdiction. If the offender does not appear for the purposes of registration within three days of the relocation date indicated by the offender, the law enforcement agency is expected to attempt to locate the offender. If the Bureau of Criminal Investigation has not received registration documents within 10 days of the expected relocation date, the BCI will contact the law enforcement agency in that jurisdiction regarding a possible delinquent registration.
 - The BCI will notify campus police departments and/or law enforcement agencies having institutions of higher education in their jurisdictions of any registerable offenders who intend to either be enrolled in, or employed by, such institutions of higher education. (Subsections 5, 6, and 7) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.)
- Forward a copy of the registration acknowledgement to the court in which the person was prosecuted and to the prosecutor. (Subsection 5)
- Receive the statement, biometric data, and photograph of each registered person, enter this information in the automated system on a daily basis, and file such. (Subsection 7)
- Transmit registration information and fingerprints to the Federal Bureau of Investigation, upon receipt of that information from local agencies. (As a matter of administrative policy, the BCI will forward registration information to the FBI within three working days of receipt of the information.)
- Receive name change information, or address change information for changes in residence address, school enrollment, and/or employment address, and forward address change information to the FBI and to the law enforcement agency in the new place or state of residence, school enrollment, and/or employment.
 - The BCI will notify campus police departments and/or law enforcement agencies having institutions of higher education in their jurisdictions of any offenders enrolled in, or employed by, such institutions of higher education who have indicated a change in their enrollment or employment situation or status. Additionally, any information received by the BCI regarding unanticipated enrollment or employment by registerable offenders in institutions of higher education will be shared with the law enforcement agencies in those jurisdictions. (As a matter of administrative policy, the Bureau of Criminal Investigation will forward address change information to

the new place or state of residence and to the FBI, within three working days of receipt of the information, on State Form Number 18094 Change of Registration Information form.) (Subsection 7) (Notification of changes is also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.)

- Develop guidelines for the risk assessment of sexual offenders who are required to register, with a low risk, moderate risk, or high risk level being assigned to each offender. (Subsection 12)
- Apply a risk assessment tool to sexual offenders who are not under the custody or supervision of the DOCR. (Subsection 12, subdivision b)
- Assign a risk level to all sexual offenders. (Subsection 12)
- Notify offenders of their assigned risk level. (Subsection 12, subdivision d)
- Develop guidelines for public disclosure of offender registration information. (Subsection 14)
- Report intended international travel by an offender to the US Marshal Service. (Subsection 19)

Law Enforcement Agencies

Law enforcement agencies shall:

- Receive copies of the registration acknowledgement forms, which indicate that offenders will appear for registration. (Subsections 5 and 6)
- Register convicted offenders by fingerprinting, photographing, and having registering offenders sign the appropriate portion of the registration document. (Fingerprints may be omitted if that agency *has already registered* that offender previously, has fingerprints on file, and is personally familiar with and can visually identify the offender.) (Subsection 7)
- Perform responsibilities of both the originating agency and the registering agency for offenders who appear to register without the registration papers in hand (i.e. out-of-state offenders will not have copies of the North Dakota registration forms, and therefore, the law enforcement agency will have to acquire the information requested on the form, as well as register the offender).
- Forward a signed registration statement, fingerprint card, and a photograph to the Office of Attorney's General within three days after registration. (Subsection 7)
- Inform the registering offender that any change in residence address, school enrollment, employment, vehicle information, or online identity must be reported to

this agency at least ten days before the effective date of the change. (Subsection 7) In case of a termination of school or employment, it must be reported to this agency within **three** days of the termination. (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act and the Adam Walsh Child Protection and Safety Act of 2006.)

- Obtain information on changes of name, residence address, school enrollment, employment address, vehicle information, and/or online identity, from the registered person, and forward that information to the Office of Attorney's General within three days after receipt of the information. (Subsection 7) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act and the Adam Walsh Child Protection and Safety Act of 2006.)
- Assist the Office of Attorney's General in verifying offender addresses. Maintain a file of registered offenders (not explicit in the law, but implied).
- Receive information from correctional facilities on individuals who are temporarily sent outside a facility or institution that are required to register once permanently released from custody. (Subsection 11)
- Register juvenile offenders in the same manner as adult offenders. (Subsection 16)
- Disclose relevant and necessary conviction and registration information to the public if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. (Subsection 14)
- Disclose relevant and necessary conviction and registration information to institutions of higher education regarding registered sex offenders who are enrolled in those institutions or are employed by those institutions in any capacity. (Required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act.)
- Release relevant and necessary juvenile information to other law enforcement agencies, the Department of Human Services, the superintendent or principal of the school the juvenile attends, or the public if necessary to protect public health or safety. (Subsection 16)
- Obtain information regarding intended international travel by an offender at least twenty-one days prior to travel. Forward all international travel information to the BCI. (Subsection 19)

Correctional Facilities

Local correctional facilities² shall:

- Inform convicted offenders prior to discharge, parole or release, of the duty to register. (Subsection 5)
- Require the convicted person to read, prepare, and sign the acknowledgement forms provided by the Office of Attorney's General. (Subsection 5)
- Obtain the addresses where the individual expects to reside, attend school and/or work upon discharge, parole or release, and report those addresses to the Office of Attorney's General. (Subsection 5) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act.)
- Give a copy of the signed forms to the individual, retain one copy for agency records, and send one copy to the Office of Attorney's General within forty-five days of scheduled release of the person.
- Notify local law enforcement agencies when an individual who is required to register is temporarily sent outside the facility where that individual is confined. (Subsection 11)

Department of Corrections and Rehabilitation

The Department of Corrections and Rehabilitation (DOCR) shall:

- Inform convicted offenders, prior to discharge, parole or release, of the duty to register. (Subsection 5)
- Require the convicted person to read, prepare, and sign the acknowledgement forms. The forms will be provided by the Office of Attorney's General. (Subsection 5)
- Obtain the addresses where the individual expects to reside, attend school and/or work upon discharge, parole or release, and report those addresses to the Office of Attorney's General. (Subsection 5) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act.)
- Give a copy of the forms to the individual, retain one copy for agency records, and send one copy to the Office of Attorney's General no later than forty-five days prior to the scheduled release of the individual.

² If the person will be supervised by the Field Services (Parole and Probation) Division of DOCR, the Division will handle most of the above requirements.

- Notify local law enforcement agencies when an individual required to register is temporarily sent outside the facility where that individual is confined. (Subsection 11)
- Assist the Attorney's General in the development of guidelines for the risk assessment of sexual offenders who are required to register. (Subsection 12)
- Apply a risk assessment tool to sexual offenders who are incarcerated in institutions under the control of the DOCR, and sexual offenders who are on supervised probation. (Subsection 12, subdivision a)
- Provide the Attorney's General any information, including the offender's risk score and supporting documentation concerning individuals required to be registered under this section who are about to be released or placed into the community. (Subsection 12, subdivision a)

Parole Board

The Parole Board shall:

- Order the parole revoked for individuals released on parole who are required to register, but fail to do so. (Subsection 10)

Offenders

Offenders required to register³ shall:

- Receive notice of duty to register and sign the form acknowledging the registration requirement. (Subsections 5 and 6)
- Appear at the law enforcement agency in the jurisdiction of residence within three days of discharge, parole or release, to be fingerprinted and photographed, and to sign the registration form. (Subsections 2 and 7)
- If the individual is residing in another state, but working or attending school in North Dakota, that individual must register in the North Dakota jurisdiction in which he/she is working or attending school. If the individual should change the location of work or school within the jurisdiction in which he/she is registered, that individual must complete a change of school or employment address form. If the individual should change the location of work or school to a jurisdiction other than the one he/she is registered in, that individual must register in the new jurisdiction. (Subsections 2 and 7)

³ See FN 1 on page 1.

- In the case of a change in name, school enrollment, residence address, employment, vehicle information, or online identity, complete an updated registration form with the law enforcement agency at which the person last registered. (Subsection 7)
- In the case of a change in residence address to a new law enforcement jurisdiction, appear at the law enforcement agency in the new jurisdiction of residence within three days to register with that agency. (Subsections 2 and 7)
- Remain registered for a minimum period of fifteen years as required by statute, twenty-five years if assigned a moderate risk by the Attorney's general, or for life if the individual 1) is a repeat offender, or 2) has committed an "aggravated offense," 3) has been assigned a high risk by the Attorney's general. (Subsection 8)
- Petition the court to be removed from the offender list if registration is no longer mandatory for that individual and the individual had been required to register as a sexual offender or an offender against a child prior to August 1, 1999. (Subsection 16)

REGISTRATION PROCEDURES

The **Offender Notice/Acknowledgement and Registration Form (SFN 18092)** is a six-page form. It contains instructions directing the offender to register in person with the law enforcement agency in the community or county where the offender will reside. The offender is required to register with the chief of police of the city, or the sheriff of the county if the person resides in an area other than a city.

The **registering agency** is the police department or the sheriff's department in the jurisdiction in which the offender resides. The offender must register with the police department if there is one in that jurisdiction. If there is no police department in that jurisdiction, the offender must register with the sheriff's department.

Based on status/risk level (to be determined by the Office of the Attorney's General), each offender is required to verify their information with their current registering agency as follows:

- High Risk – in the months of January, April, July and October;
- Moderate Risk – in the months of February and August;
- Low Risk, Offender Against Children, or not yet assigned a risk level in North Dakota – in the month of their date of birth.

The registering agency sends a copy of the signed registration form(s), one fingerprint card, DNA and one photograph to the Bureau of Criminal Investigation (BCI) within three days of registration.

- Email to agoso@nd.gov
- Or mail to: Bureau of Criminal Investigation, Offender Registration, PO Box 1054,

Bismarck, ND 58502-1054

The Office of Attorney's General BCI maintains a master file of all persons registered in the state, and monitors that file for any violations of the registration statutes by offenders. The BCI is notified by other states when an offender from another state has indicated a move to North Dakota. For offenders convicted in North Dakota, copies of the registration form are sent to the BCI when the offender is notified of the need to register. Offenders who fail to register are identified, and law enforcement agencies will make every effort to locate, arrest and work with prosecutors to get these individuals charged.

Changes to Registration Information

Offenders must report any changes in registration information to the registering agency within three days of the change. The registering agency shall complete the registration form (SFN 18092) noting the reported changes and shall have the offender review and sign the form before submitting it to the BCI.

November 2021

Risk Assessment And Community Notification Guidelines

Introduction

These guidelines have been developed by North Dakota's Attorney's General pursuant to North Dakota Century Code (N.D.C.C.) § 12.1-32-15. Assistance was received from the Department of Corrections and Rehabilitation (DOCR) and the Juvenile Courts.

The purpose of the guidelines is to set forth procedures for assigning low, moderate, or high-risk designations to all sexual offenders who are required by law to register. It is important to keep in mind that being considered a high risk does not necessarily mean that someone will reoffend, just as being considered a low risk does not necessarily mean they won't reoffend. Risk assessment is not a precise science.

There is little evidence that clinical judgment alone is useful in predicting future criminal or deviant behavior. However, when knowledge about the motives and dynamics of sexual offending is combined with objective risk scales that utilize empirical methods for item selection and scoring, the ability to predict future sexual recidivism is greatly improved.

These guidelines discuss which offenders will receive a risk designation, what information will be gathered, the tools used in the assessment process, and the assignment of risk levels based upon that information and actuarial scoring.

Covered Offenders

All sex offenders who are required to register pursuant to N.D.C.C. § 12.1-32-15 will be designated as low, moderate, or high risk to commit another sexual offense. The responsibility for gathering information and conducting an initial risk assessment tool is divided as follows:

Juvenile offenders

DOCR's Division of Juvenile Services (DJS) will be responsible for conducting risk assessments of all juveniles who are adjudicated in North Dakota juvenile court, required to register, and under DJS supervision. The Juvenile Courts will have responsibility for those juveniles who are adjudicated and required to register, but are not placed under DJS supervision.

Juveniles who were transferred to adult court for disposition of their sexual offenses will be assessed by the DOCR or Attorney's General as discussed below.

Incarcerated or supervised adult offenders

The DOCR will conduct risk assessments of all inmates, probationers, or parolees who are required to register and are still under DOCR custody or supervision.

All other adult offenders

The Attorney's General will conduct risk assessments on all other offenders who are required to register, including those who are no longer supervised by the DOCR, transfers from other states, and offenders convicted in federal court. Until the Sex Offender Risk Assessment Committee (SORAC) assigns a risk level, the Attorney's General will document any risk level assigned by another state, tribe, or foreign country, with a notation on the offender's records what state, tribe, or country assigned the risk level.

III. Records/Sharing of Information

N.D.C.C. § 12-47-36 allows all DOCR records to be shared with the Attorney's General and criminal justice agencies. The only exception is for drug and alcohol treatment records, and the DOCR will require waivers to be signed by offenders for release of those records.

N.D.C.C. § 27-20.2-21(1)(h) allows juvenile court records to be provided to criminal justice agencies if the juvenile is registered.

N.D.C.C. § 27-20.2-23(1)(d) allows law enforcement records pertaining to juveniles to be shared with other law enforcement agencies when necessary for the discharge of official duties.

N.D.C.C. § 27-21-12 allows DJS records to be distributed to the Attorney's General and law enforcement agencies.

North Dakota Rules of Criminal Procedure 32(C)(4)(c) allows presentence investigation reports to be disclosed to the Attorney's General.

The following records, or the equivalent juvenile records, will be gathered and exchanged for the purposes of risk assessment, level assignment, and community notification:

- A. Drug & Alcohol records
 - 1. With waiver, full disclosure.
 - 2. Without waiver, only affirmative answers that allow scoring of item 14 of the MnSOST-R.
- B. PSI or sentencing report

- C. Criminal Records
- D. Police Reports
- E. Psychological Evaluations
- F. Prison or Juvenile Facility Discipline Reports
- G. Other records

When the Bureau of Criminal Investigation (BCI) disseminates criminal history record information pursuant to N.D.C.C. § 12-60, the BCI shall also indicate whether the individual is a registered sex offender or offender against children, and the offender's assigned risk level, if any.

Sex Offender Risk Assessment Committee (SORAC)

A. Committee meetings

The Attorney's General will appoint a committee of members that will include representatives of the Attorney's General, the DOCR (North Dakota State Penitentiary), DOCR Field Services, a victim advocate, a mental health professional, law enforcement officers, a position shared by the juvenile courts and DOCR's Division of Juvenile Services, and a citizen representative. Appointed representatives may fill other seats at monthly meetings until a quorum is met.

SORAC will convene once per month, or less frequently as needed, to review offender records and risk assessment scores, assign risk levels to offenders, and hear appeals and requests for reconsideration as discussed below.

At least five members of the committee must be in attendance to constitute a quorum. Majority vote of attending members will decide all business. The Attorney's General's representative will not vote except as needed to fill a quorum or to break ties.

An invitation to the meeting may be sent to the sheriff's office or police department where the offender resides or intends to reside upon release. That police agency may present information to the committee that may impact the initial risk level decision, the request for review, or reconsideration of a previously assigned level.

B. Criteria

Any available published risk factors will be distributed to the members of the Risk Level Committee for their use. The committee will also consider the following factors in the risk level decision:

- 1) The seriousness of the offense should the offender reoffend:
 - a) the degree of likely force or harm;
 - b) the degree of likely physical contact; and
 - c) the age of likely victim.
- 2) The offender's prior offense history:
 - a) the relationship of prior victims to the offender;
 - b) the number of prior offenses or victims;
 - c) the duration and frequency of the offender's prior offense history;
 - d) the length of time since the offender's last prior offense while at risk to commit offenses; and
 - e) the offender's prior history of antisocial acts.
- 3) The offender's characteristics:
 - a) the offender's response to prior treatment efforts; and
 - b) the offender's history of substance abuse.
- 4) The availability of community supports to the offender:
 - a) availability and likelihood that the offender will be involved in therapeutic treatment;
 - b) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;
 - c) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and
 - d) the offender's lack of education or employment stability.
- 5) Whether the offender has indicated (or credible evidence in the record indicates) that the offender will reoffend if released into the community;
- 6) Whether the offender demonstrates a physical condition that minimizes the risk of reoffending, including, but not limited to, advanced age or a debilitating illness or physical condition.

Notice to Offender and appeal process

The SORAC will provide written notice to each offender of the level assigned to that offender. The notice will include a general statement outlining the basis for the decision, as well as information about the community notification that is required by statute for that level. The notice must provide information as to how the offender requests immediate review or later reconsideration of the decision.

Unless the offender is incarcerated at the time of the decision, notice will be provided to the offender's last registration address.

The offender will have 14 days to file a request for review of the determination. Failure of the offender to maintain a correct address for receipt of the notice will not be cause for extension of that deadline.

Offenders may choose to submit information in writing that supports their appeal of the risk level decision, to appear by telephone conference, or to appear before the committee in person or through an Attorney's (at their own expense). Incarcerated offenders, or those confined in a facility, may not have the option of personal appearance.

Offender requested review hearing

At the next scheduled SORAC hearing, information provided by the offender will be considered. If an offender has requested a personal appearance, a maximum of 10 minutes will be allowed for presentation of arguments by the offender or their counsel.

If a majority of the committee believes that a reduction in level is warranted, the risk level will be changed to reflect that decision. The offender will be notified whether there will be a reduction in risk level, and if not, the earliest date that the level may be reconsidered.

Distribution of level and materials

The SORAC will not release the SORAC-assigned risk level to the registering law enforcement agency until after the 14-day review period has expired, or the review has been heard and a decision reached by the SORAC.

The SORAC will then distribute the risk level and the information upon which it was based to the law enforcement agency where the offender will be residing and any agency that is supervising or will be supervising the offender.

If an offender requests that a review hearing be rescheduled, the Committee chair has discretion whether to grant the continuance. If the offender will be living in the community prior to the next available review hearing, the risk level will be immediately distributed to the registering agency, and then corrected if there is a change in risk level.

Reconsideration

C. At the request of the offender

The SORAC will reconsider the assigned level upon request by the offender. Reconsideration requests will not be considered any sooner than two (2) years after the original level assignment, and thereafter no more frequently than every two (2) years.

An offender wishing to have their risk level reconsidered must file a written request with the SORAC, specifying what circumstances have changed warranting a modification in risk level.

By request of an agency or by the committee's own motion

The SORAC will reconsider the assigned level upon request of any law enforcement agency or any agency referred to in these guidelines. Upon the occurrence of a known event, the committee may reconsider an assigned risk level on its own motion.

Community Notification

Responsibility for conducting community notification rests with the local law enforcement agency where the offender resides. Other than some mandatory requirements set forth in N.D.C.C. § 12.1-32-15(13), decisions about who will be notified and how that notice will be given are left up to the local law enforcement agency.

The list that follows contains suggestions about who the law enforcement agencies will notify, and possible methods for conducting the notification.

LOW RISK

Notify victims and witnesses to the offense
 Distribution to other law enforcement agencies
 Information to the public upon request

MODERATE RISK (in addition to above notifications)

Notify agencies the offender is likely to target:
 Schools
 Park/Recreation districts
 Senior Centers
 Churches
 Daycares
 Civic Organizations
 Shopping malls
 Offender's employer
 (where appropriate)
 Neighbors, neighborhood watch groups

BY:

Flyers
 Personal contact
 Phone contact
 Allowing citizens to review lists or
 information on demand
 Social Media platforms

HIGH RISK (in addition to above notifications)

- Internet
- Flyers (more widespread)
- Posters
- CD-rom purchased from commercial vendor
- Community Meeting
- News release
- Newspaper public service announcements
- Television public service announcements
- Social Media platforms