

## SEX OFFENDERS: PARIAS OF THE 21ST CENTURY?

*Preventing Sexual Violence: How Society Should Cope With Sex Offenders.* By John Q. La Fond. American Psychological Association, 2005. 240 pages. \$59.95.

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Professor John La Fond is an internationally recognized scholar in the areas of mental health, criminal law and procedure, and constitutional law. *Preventing Sexual Violence*<sup>1</sup> is his latest book. It appears to be an extension of a book he co-edited in 2003.<sup>2</sup> The previous book included numerous prominent researchers in both the psychology and legal fields and covered many of the most significant areas in the sex offender arena. In *Preventing Sexual Violence*, Professor La Fond addresses the issues surrounding sex offenders, who are currently some of America's most hated public enemies. He specifically lists many myths or misconceptions regarding sex offenders, their criminal behavior, and who they are.

*Preventing Sexual Violence* discusses areas significant to current sex offender research, as well as practical application of the research. Professor La Fond addresses the existence of sex crimes, describes offender relationships, identifies dangerous sex offenders, examines the etiology of this offending behavior, and addresses the ethics of treatment. The remaining chapters delve into offender registration in the community, notification laws, the

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1. JOHN Q. LA FOND, *PREVENTING SEXUAL VIOLENCE: HOW SOCIETY SHOULD COPE WITH SEX OFFENDERS* (2005).

2. *PROTECTING SOCIETY FROM SEXUALLY DANGEROUS OFFENDERS: LAW, JUSTICE, AND THERAPY* (Bruce J. Winick & John Q. La Fond, eds., 2003).

controversial sexually violent predator (SVP) laws, castration, and risk management, along with other alternatives and recommendations for the future.

Chapter One begins with prevalence and incidence rates of sex offenses, based on police crime rate statistics and victim surveys. This chapter addresses manners of measurement, survey methods, and inconsistencies in their results. Professor La Fond provides data demonstrating that a substantial number of those committing sexual offenses against children know their victims. The majority of offenders are family members, friends, or acquaintances of the victims. Yet, only one in four offenders who victimize their own child or stepchild is imprisoned. Professor La Fond also reports that most victims of sex crimes know their attackers. Three out of four rape/sexual assault victimizations—both single and multiple offender incidents—involve offenders with whom the victim had a prior connection, such as a familial, intimate, or acquaintance relationship. Strangers are involved in only twenty percent of sexual offense victimizations by a single offender, and commit fewer than ten percent of all child molestations.

Professor La Fond concludes the first chapter by stating that over the last ten years there has been a decrease in sex crimes. The cause of the reduction is still unknown. He asks, did a single innovative strategy, like special civil commitment for sex offenders, mandatory registration, community notification, or chemical castration, cause this welcome change, or was the reduction due to other strategies, such as aggressive prosecution and longer prison sentences? He concludes that it may be all of the above.

Chapter Two addresses the etiology of sex offenders and questions, “are sex offenders really dangerous?” Here, Professor La Fond summarizes numerous theories that may explain sex offender behavior. His comprehensive review includes psychoanalytic theories, family dynamics, feminist theories, mating strategies, evolution, biology, psychopathy, faulty moral reasoning, substance abuse, violence, and offenders themselves having been victims of sexual abuse. In this chapter he addresses mental disorders and the most commonly found diagnosis within the sex offender population: paraphilia.<sup>3</sup> He defines paraphilia and includes the

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3. A recurrent, intense sexually arousing fantasies, sexual urges, or behaviors generally involving (1) nonhuman objects, (2) the suffering or humiliation of one's partner, or (3) children or other nonconsenting persons that occur over a period of at least six months. AM. PSYCHIATRIC ASS'N., DIAGNOSTIC AND STATISTICAL

dispute among professionals as to whether rapists suffer from a paraphilia, given that the DSM-IV-TR<sup>4</sup> does not include rapists within this disease category. Although he mentions the controversy surrounding the diagnosis of “paraphilia not otherwise specified (NOS) (non-consent),” which is heavily debated in SVP court commitment proceedings, he does not elaborate. He concludes that there is no generally accepted scientific explanation as to why sex offenders commit sex crimes. If it seems likely there are a number of different independent causes, then a variety of identification, treatment, modification, prevention, and monitoring methods may be needed to reduce future victimization.

Chapter Two also addresses recidivism and the difficulty in achieving complete accuracy in measuring recidivism, especially with sex offenders. Other difficulties relate to re-arrest, reconviction, and official records. Official records, for example, disclose what has been reported to the police, but may not include conviction or incarceration information. Professor La Fond reports that, surprisingly, sex offenders as a group are not especially dangerous, because they commit fewer new crimes than many other types of criminals. He cites recent literature that demonstrates sex offenders have shorter criminal histories than non-sex offenders who have been released during the past ten years. Professor La Fond asks, “Can we tell who is dangerous?” He summarizes the three general predictive approaches for determining if a sex offender will commit another sex crime: clinical, actuarial, and guided clinical.

First, Professor La Fond notes that the clinical method for predicting future sex offenses has been quite poor when compared to the actuarial approach. The actuarial approach is based on a method used by insurance companies to establish risk. In the past ten years, several actuarial instruments have been used to assess the risk that groups of sex offenders pose. These actuarial tools have been developed by identifying common characteristics found in groups of sex offenders known to have committed a high number of sex crimes. The actuarial approach is not without controversy. Professor La Fond lists not only the positive aspects that supporters

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MANUAL OF MENTAL DISORDERS 566 (4th ed. text revision 2000) [hereinafter DSM-IV-TR]. The fantasies, urges, or behaviors cause significant distress or impairment in social, occupational, or other areas of functioning. *See id.*

4. The DSM-IV-TR is used by mental health professionals as an aid to diagnosis of psychological disorders. *Id.*

rely on, but also some criticism of the actuarial tools and their limitations. For example, actuarial risk instruments do not identify the actual risk for any individual. Consequently, there are serious chances of making mistakes when we use groups to predict risk for a single person. The actuarial approach could also lead to over-prediction of dangerousness. The third approach, guided clinical, includes a combination of the two previous methods: experts use actuarial instruments and then adjust their risk calculation by considering other risk factors.

Professor La Fond discusses the courts' involvement in the acceptance of actuarial instruments and prediction of sexual dangers in the civil commitment and community notification arenas. Overall, the courts have concluded that expert testimony based on actuarial instruments is admissible in SVP cases and that the actuarial tools are at least as good as, or probably superior to, clinical judgment. Professor La Fond concludes that actuarial devices, although imperfect, are the best tool available at this time. Unfortunately, although he lists many of the criticisms, he does not address the problem of probability estimates with corresponding scores and how they have varied in different populations. He also fails to discuss the issues of advancing age, low IQ, and other factors that may distinguish an individual offender from the group to which he is compared.

In Chapter Three, Professor La Fond asks the question "can sex offenders be treated?" He reports that the majority of sex offenders do not receive treatment while incarcerated. For example, in 1993, only about thirteen percent of incarcerated offenders were in treatment programs. La Fond reviews the history of treatment programs like community-based, prison-based, and SVP programs. Professor La Fond provides an excellent summary of the psychological treatment approaches, including redirecting sexual preferences through behavioral conditioning methods. He explains the types of behavior modification interventions attempted to reduce the effect of deviant stimuli on an individual. He reviews other treatment methods, including cognitive restructuring, victim empathy, social competency, stress and anger management, and relapse prevention. He also addresses medical interventions, including surgical castration and chemical castration.

The remainder of the third chapter focuses on outcome measures, research regarding the effectiveness of treatment, and

difficulties incurred by researchers in this area, given the difficulty of conducting rigorous research (which would include random assignment with control groups). The question of whether treatment reduces sexual recidivism is addressed through a review of important studies conducted over the past fifteen years. Professor La Fond reports that although there has been some research showing that treatment can decrease recidivism, there have been methodological limitations. These studies can suggest, but not prove, that prison treatment programs reduce sexual recidivism. Professor La Fond reviews several analyses, including G.C.N. Hall's study from 1995<sup>5</sup> which showed a small, statistically significant positive effect from treatment and the more recent Hanson, et al. meta-analysis of forty-three studies<sup>6</sup> with over 9000 offenders, showing a cautiously optimistic reduction in both sexual and general recidivism. Finally, Professor La Fond reports that recently, in Canada, Barbaree and his colleagues demonstrated that treated offenders had a lower than expected recidivism rate when actuarial instruments were implemented.<sup>7</sup> In their study, there were significant differences between the observed percentages and the expected percentages from the probability estimates of the developmental samples in the actuarial instruments studied.

Professor La Fond concludes the chapter by emphasizing the importance of treating offenders, whether in the community or in prison, and providing tools that sex offenders can and must use to avoid harming others in the future. He believes that incarcerating large numbers of sex offenders for many years to prevent future harm is costly and unnecessary, and that such a strategy should be reserved for only the most dangerous sex offenders. He believes that treatment is a wise investment that should reduce sexual violence.

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5. Hall, G.C.N., *Sexual Offender Recidivism Revisited: A Meta-Analysis of Recent Treatment Studies*, 63 J. CONSULTING & CLINICAL PSYCHOL., 802-09 (1995).

6. R. Karl Hanson et al., *First Report of the Collaborative Outcome Data on the Effectiveness of Psychological Treatment of Sex Offenders*, 14 SEXUAL ABUSE: J. RES. & TREATMENT 169-94 (2002).

7. Barbaree et al., *The Evaluation of Sex Offender Treatment Efficacy Using Samples Stratified by Levels of Actuarial Risk*, (presented at the Ass'n for the Treatment of Sexual Abusers, Oct. 9, 2003, St. Louis, MO); see also C.M. LANGDON, CONTRASTING APPROACHES TO RISK ASSESSMENT WITH ADULT MALE SEXUAL OFFENDERS: AN EVALUATION OF RECIDIVISM PREDICTION SCHEMES AND THE UTILITY OF SUPPLEMENTARY CLINICAL INFORMATION FOR ENHANCING PREDICTIVE ACCURACY (2003).

In Chapter Four, Professor La Fond does an excellent job of addressing the effectiveness of registration and community notification laws. He provides the history of these laws, which date back only to the mid 1990's, after "Megan's Law"<sup>8</sup> went into effect. In 1990, Washington State's law<sup>9</sup> was the predecessor to Megan's Law. Throughout the chapter he addresses the advantages and disadvantages of registration and community notification. The basic purpose of notification laws is to warn the community that a dangerous sex offender is living nearby, providing essential information that allows people to take proactive self-help measures to protect themselves and their children. Professor La Fond, however, notes criticisms, including that the laws may be unconstitutional, ineffective, costly, and may do more harm than good. His review of the laws describes how different states and agencies go about classifying individuals based on their criminal history, and categorizing them as low, moderate, or high risk. Professor La Fond gives specific examples of how, in some cities, judges have created their own method of notification, by forcing sex offenders to place signs in their front yards identifying themselves as sex offenders.

Chapter Four provides excellent descriptions of all the constitutional challenges to notification laws, from cruel and unusual punishment, ex-post facto, double jeopardy, equal protection, and procedural due process, to other constitutional concerns. Most recently, the United States Supreme Court reversed two decisions, upholding Alaska's and Connecticut's registration and notification laws. The Supreme Court decided that the Alaska law did not impose a punishment on sex offenders, and therefore did not violate the ex-post facto laws of the Constitution.<sup>10</sup> In a companion case involving Connecticut law, a unanimous Court concluded offenders required to register because of a single sex-crime conviction did not have a procedural due process right to a hearing to determine if they were dangerous.<sup>11</sup> The Court decided that the Connecticut law's obligation to register was not based on a finding of current dangerousness, and thus the law did

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8. 42 U.S.C. § 14071 (2000). Although President Clinton signed Megan's Law in 1996, the first version of the law was enacted in New Jersey in 1994. *See* N.J. STAT. ANN. § 2C:7 (West 1995).

9. *See* WASH. REV. CODE ANN. § 71.09.010-902 (2002).

10. *Smith v. Doe*, 538 U.S. 84, 87 (2003).

11. *Conn. Dep't of Pub. Safety v. Doe*, 538 U.S. 1, 7 (2003).

not stigmatize anyone on the list—in other words, individuals were required to register on the basis of their existing conviction regardless of their dangerousness.<sup>12</sup>

Professor La Fond also addresses the cost of registration and notification laws, and how they contribute to law enforcement and the reduction of recidivism. One study, he notes, found that notification does not prevent crime, but may aid in the prevention of crimes.<sup>13</sup> Professor La Fond goes on to discuss the issue of the community's response and perception of safety caused by knowledge of offenders in their area. However, as La Fond points out, such information is not always accurate. It is not uncommon for a sex offender to commit a crime in another county or state where he was not registered. Moreover, the issue of offenders committing offenses against relatives or acquaintances needs to be addressed when it comes to offender registration. Professor La Fond discusses the issue of vigilantism and provides numerous examples in which sex offenders throughout the country experienced hardships once they were known in the community. One point that Professor La Fond does not address, however, is how a victim's identity may be revealed if their father or stepfather returns to the community and people find out who the offender's victims were. In such cases a victim may be re-victimized through loss of privacy.

Another area discussed by Professor La Fond is the requirement that a sex offender may not live within 2000 feet of an elementary school or daycare center ("the 2000-foot rule"). The Iowa Civil Liberties Union fought a class action lawsuit in federal court, challenging the constitutional rights of sex offenders affected by this residency law. In February 2004, a federal court struck down the Iowa law as unconstitutional, holding that it violated the Ex-Post Facto Clause, the Fifth Amendment right against self-incrimination, and the Fourteenth Amendment right to procedural due-process.<sup>14</sup> More recently, since LaFond's book was published, the Eighth Circuit Court of Appeals overturned Judge Pratt's ruling,<sup>15</sup> and the 2000-foot law was implemented on September 1, 2005.

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12. *Id.* at 7-8.

13. DONNA SCHRAM & CHERYL MILLOY, COMMUNITY NOTIFICATION: A STUDY OF OFFENDER CHARACTERISTICS AND RECIDIVISM (1995).

14. *Doe v. Miller*, 298 F. Supp.2d 844 (S.D. Iowa 2004).

15. *Doe v. Miller*, 405 F.3d 700 (8th Cir. 2005).

Professor La Fond concludes the fourth chapter with numerous recommendations. He first argues that the system sweeps far more broadly than is necessary or can possibly be justified to protect the public. He claims the laws are over-inclusive, providing no real law enforcement benefit for registering every single sex offender, because *based on the research available*, most are not dangerous or likely to commit another sex crime. Second, the registration and notification laws are costly and require significant use of police resources that could be used more effectively to protect the public against all criminals, including sex offenders. Third, Professor La Fond suggests, universal disclosure actually *harms* public safety. The states should not publicly disclose the names of all registered sex offenders as a matter of course, as Connecticut does. Instead, states should use the more accurate screening methods now available to determine whether sex offenders are currently dangerous. Fourth, existing state registration and notification laws classifying the relative dangerousness of sex offenders use clearly inaccurate prediction methodology. Although limited in important ways, actuarial tools are the best available means for identifying which sex offenders are likely to re-offend. In contrast, using a categorical approach, such as crime of conviction, will inevitably result in too many mistakes. Professor La Fond adds that accurate information and fairness are needed, and the effectiveness of the laws is still uncertain. He suggests notification should be conducted on a need-to-know basis. He recommends registration laws being used as a therapeutic tool to encourage offenders to change positively and thereby decrease their risk of re-offending. By not providing incentives to reform, the laws may discourage sex offenders from taking positive steps, such as participating in a community sex offender treatment program. Lastly, the community has a responsibility to avoid vigilantism. If a person really is extremely dangerous, he should be subject to intensive control while living in the community. For such an offender to be cast adrift in the community with only a warning is irresponsible. The government owes it to its citizens to take effective steps to manage the risks posed by this person.

Chapter Five addresses the recent controversial sexual violent predator laws, which permit civil commitment of sex offenders for an undetermined amount of time. Before addressing the new civil commitment laws, Professor La Fond distinguishes the old “sexual psychopath” statutes from the new sexual predator laws. In the

past, civil commitment laws gave courts the authority to order a person deemed mentally ill and dangerous to a psychiatric hospital. The purpose of civil commitment was to prevent these persons from harming themselves or others. At the time *Preventing Sexual Violence* was written, there were seventeen states with new sexual violent predator laws, many of them similarly written. Most states have comparable processes for determining which sexual offenders should be subjected to SVP laws. These processes include initial screenings, probable cause hearings, evaluations, trials, and eventually release hearings. As a result of SVP laws, over 2000 individuals are currently housed in facilities ranging from prison hospitals to stand-alone maximum security hospital facilities. Professor La Fond addresses the pros and cons of SVP laws, where these individuals are seen as sick and dangerous, needing to be placed away from society.

Opponents of SVP laws make many arguments about why the laws are inappropriate. They believe commitment is preventive detention, not treatment. The new laws are detached from the medical treatment model. They use a personality disorder diagnosis as a means to civilly commit a person. Professor La Fond also cites political pressure for questioning the new expertise of prediction, and the lack of due process inherent in the laws. He points out that the difficulty in determining a sex offender's level of volitional impairment is a major flaw that has not been cleared up by the most recent Supreme Court case, *Kansas v. Crane*.<sup>16</sup>

After *Crane*, the Supreme Court now requires the government to prove in an SVP trial that a defendant's mental condition significantly impaired his ability to control his sexual behavior. The requirement that there be a significant causal connection between the offender's mental condition and the resulting impairment in his sexual control was designed to distinguish SVPs from most other sex offenders. Presumably, the less-impaired offenders should be dealt with by the criminal justice system, because they are capable of controlling their sexual desires and are therefore considered responsible for their choices and deserve punishment. Yet, there is general agreement that mental health professionals cannot determine when a person has significant difficulty controlling their behavior.

Professor La Fond also includes an issue introduced in 1997 by

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16. 534 U.S. 407 (2002).

the Supreme Court in *Kansas v. Hendricks*.<sup>17</sup> Because of that case, mental illness is seen as a political, not a medical, decision and elected state officials have been able to decide who should be civilly committed. The Court also concluded that the Kansas law was not punitive and therefore did not violate either the Ex Post Facto or double jeopardy provisions of the U.S. Constitution.<sup>18</sup> Various states have enacted laws to civilly commit sexual violent predators since 1990.<sup>19</sup> From 1990 through 2002, over 2400 men have been confined in SVP facilities, with over 1600 committed, and over 800 waiting for trial. In the past three years those numbers have increased.

The release of SVPs into society is another controversial issue discussed by the author. Some states release offenders, but the majority release very few. Many offenders are released through legal means, while others gain their freedom through treatment completion and provision of a least restrictive alternative (LRA). LRA dates back decades in the release of civilly committed mental patients to the community. An LRA is proposed when it would be in the best interest of the person and conditions can be imposed that would adequately protect the community upon an offender's release. The LRAs appear to be an excellent way to reintegrate and facilitate an offender's return to the community. Also, there have been concerns about where such persons would be housed, and if they re-offend, the political backlash and potential state liability would be problematic.

Professor La Fond also addressed the cost of implementing the laws, as they range significantly (between \$50,000 and \$130,000 per year, per offender) depending on the state. On average, it takes \$100,000 per person to keep an SVP committed in a facility for a year.

The fifth chapter asks, "What should be done with SVP laws?" One idea was to abolish them, based on the fact that it is very easy

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17. 521 U.S. 346 (1997).

18. *Id.* at 360-71.

19. See ARIZ. REV. STAT. ANN. § 36-3707 (2003); CAL. WELF. & INST. CODE § 6600 (1998); FLA. STAT. ANN. § 394.910 (West 2002); ILL. COMP. STAT. ANN. 207/40 (West 2002); IOWA CODE ANN. § 229A (West Supp. 2004); KAN. PROB. CODE ANN. § 59-29A01 (1994); MASS. GEN. LAWS ANN. ch. 123A, § 1 (West 2003); MINN. STAT. § 253B.02 (2004); MO. REV. STAT. § 632.480 (2005); N.J. STAT. ANN. § 30:4-27.26 (West Supp. 1998); N.D. CENT. CODE § 25-03.3 (2002); S.C. CODE ANN. § 44-48-90 (2002); TEX. HEALTH & SAFETY CODE ANN. § 841.001 (Vernon 2003); VA. CODE ANN. § 37.1-70.1 (Supp. 2005); WASH. REV. CODE § 71.09.060 (2004); WIS. STAT. § 980.05 (2005).

to commit, but impossible to release people. Professor La Fond declares these laws are not legitimate and bona fide forms of civil commitment. He believes SVP laws do not identify a group of sex offenders who suffer from a recognized mental disorder that seriously interferes with their ability to obey the law. Mental health experts are unable to tell us definitively why sex offenders commit crimes. The statutory definitions of mental pathology and mental abnormality have no authoritatively recognized meaning to mental health professionals. The mental health term "personality disorder" could include most sex offenders, because it includes a sweeping subcategory, "anti-social personality disorder."

Once sexual offenders are committed, it is difficult to release them. The uncertainty of whether treatment is effective in reducing sexual recidivism is a concern. Even if a state has provided constitutionally required treatment, and the offender has sincerely participated and completed treatment, it may not be clear if he has a lower risk of re-offending. Experts have not yet developed proven techniques for determining when a sex offender has changed for the better and is ready for release. Much of this is because the predictions of sexual dangerousness are based on fixed, or static, facts. The dynamic factors are much more difficult to measure.

However, Professor La Fond believes SVP laws cannot be abolished. He advocates for reformation. He recommends several reform measures including using a medical model of diagnosis, requiring two convictions, better screening, limiting authority to file SVP petitions, taking "probable cause" seriously, ensuring a speedy trial, limiting the right to jury trial to defendants, allowing out-patient commitment at onset, limiting the terms of commitment, allowing staff to release patients, and insulating the system from political interference.

The fifth chapter concludes with La Fond's alternative to existing SVP laws, such as a dangerous sex offender sentence. He suggests that if the real purpose of SVP laws is to keep very dangerous sex offenders in confinement, the criminal justice system should find another way for this to occur. The main problem with the current system is the determinate sentencing imposed throughout most of the country. With La Fond's proposal, prosecutors could, after the second conviction of a serious sex crime, move to have the offender sentenced to an indeterminate term to begin after the normal punishment

provided under the state's sentencing laws. The prosecutor would have to present evidence at a special hearing to show that the offender has an enduring propensity to commit serious sex crimes, and would be more likely than not to do so if released into the community. The hearing would focus solely on the offender's current sexual dangerousness, and not the offender's diagnosis. As in SVP trials, the prosecution could present the offender's full criminal record; however, there would be no need to present live testimony from past victims. This evidence would not materially assist either the expert in formulating his or her opinion on sexual dangerousness, or the court in determining the offender's past criminal record. Upon the completion of his prison sentence, the offender would be confined indefinitely until prison authorities felt his release was appropriate. If the judge agreed with the treatment staff's recommendation, the offender would be released. This approach would provide strong incentives for convicted sex offenders to participate fully and sincerely in prison treatment programs.

Professor La Fond believes the existing laws are flawed—morally, economically, and practically. Such laws corrupt the concepts of responsibility and illness, and allowing preventive detention under the guidelines of treatment drains scarce resources away from helping law-abiding citizens who are truly mentally ill and in need of mental health services. In addition to avoiding the subterfuge and hypocrisy of SVP laws, the special sentencing law meets the sex offender problem head on: it would confine very dangerous sex offenders for as long as necessary to prevent them from committing another sex crime. The criminal justice system would provide notice, informing offenders in advance that if they commit serious sex offenses and are found to be dangerous, they may be punished indefinitely. Professor La Fond's alternative also avoids the unnecessary and inept use of three-strike laws, which currently do not use state-of-the-art methods for predicting dangerousness, and as a result, are over-predictive.

In Chapter Six, Professor La Fond attempts to answer the question, "Should sex offenders be castrated?" In this chapter, Professor La Fond explains the different types of castration (surgical and chemical) and the ethics surrounding them in relation to sexual recidivism. Almost fifty years ago, researchers discovered recidivism rates after surgical castration were less than

three percent in a large group of sexual offenders in Germany and Denmark. Researchers there concluded that there was evidence that surgical castration was effective as a therapeutic intervention for people having pedophilic disorders (with respect to both libido and sexual activity, and also, more importantly, reducing sexual offenses). Other studies with smaller sample sizes have found that chemical castration may also reduce sexual recidivism. In the last ten years, several states have enacted new castration laws. These laws are designed to reduce sexual recidivism, and the statutory language clearly indicates a punitive intent. Professor La Fond is especially concerned that these laws do not require any medical assessment of the offender to determine (1) if the offender suffers from a paraphilia, which is a recognized sexual mental disorder; (2) if these drugs are clinically indicated or medically appropriate for him; or (3) if the drugs are likely to cause adverse side effects if given to a particular individual. This chapter also focuses on constitutional and other rights, including due process, the right to think, and whether castration is actually a treatment. The issue of consent to surgical castration, specifically the individual's competence, knowledge, and understanding that this procedure is voluntary, is also explained.

Additionally, Professor La Fond cites actual cases from a variety of states where castration has been at issue over the past twenty years. Professor La Fond believes it is simply unacceptable to impose surgical castration as punishment on a convicted sex offender. He believes that causing physical and psychological loss and scarring an offender in retribution for his behavior is uncivilized and not worthy of America. Regarding chemical castration, the side effects are different and may even be more severe than surgical castration. These laws do not require that the offender give informed consent, and this requirement is essential in a bona fide treatment regimen. La Fond writes that, clearly, the only plausible rationale for chemical castration is to prevent future crimes. If the chemical castration laws are upheld, it is possible that legislatures would want to expand their reach, imposing chemical castration on all sex offenders as a condition of their parole. He compares this to using a nuclear bomb—harming all sex offenders to control the relatively few who are truly dangerous. Professor La Fond concludes that surgical castration should never be imposed on sex offenders, and sex offenders should not be allowed to bargain away body parts for a lighter sentence. The state

has no legitimate business maiming its citizens, even with their supposed consent, in the name of crime control. Whether castration is characterized as treatment or punishment, it should be used on a group of sex offenders identified by a legal category, like those identified as committing specified sex crimes or those committed as SVPs. Society has effective crime control measures at its disposal to prevent sexual recidivism and there is no need to misuse medicine for social control. The author's question is, if that boundary is violated, then what will the future hold?

Chapter Seven asks, "Does risk management make more sense?" In this chapter, Professor La Fond summarizes many of his previous concerns, including critiques of criminal sentencing, SVP laws, registration, and notification. He reminds the reader of some of the limitations of the prediction model of dangerousness. He summarizes the categorical approach, discretionary approach, and actuarial approach.

He reiterates that actuarial prediction can only identify a range of risk for a group of sex offenders, and cannot identify the specific risk for any individual within the group. These predictions make judgments about a person on the basis of their membership in a group and the characteristics of that group. Professor La Fond also reports on the issue of base rates and how predictions regarding less-dangerous sex offenders are likely to be less accurate, because these offenders have a lower base rate of offending, that is, as a group, they do not commit as many sex crimes as a high risk group does. Predictions about this group will be less accurate, resulting in more errors, including false positives (where an offender is predicted to offend but does not). He concludes that although actuarial predictions of sexual recidivism are the most accurate so far, at the highest level of confidence, they will still have significant error rates. They state only a group risk of re-offending, not an individual rate.

Professor La Fond also addresses the problem of accurately determining sexual recidivism, and revisits treatment efficacy. He suggests a better alternative: risk management. Because experts can predict dangerousness much more accurately than they can predict safety, they do not know why treatment reduces sexual recidivism. Risk management is thus a much better system for protecting the community, because it allows better control through periodic risk assessments and updated information learned from them. Under a risk management model, an initial risk assessment

for each sex offender would be conducted at the time of sentencing, using state-of-the-art actuarial instruments and other techniques. Sentencing would be controlled, and the release of the offender into the community would be managed. Professor La Fond introduces new locator technologies, such as global positioning satellites, and outlines their advantages and disadvantages in terms of monitoring individuals in the community. He compares these costs with the costs of incarceration or other types of surveillance. According to the author, risk management should be involved in criminal sentencing and post-release, and with sexual predators in LRA situations.

This chapter also describes the community containment model. This approach uses polygraph examinations, treatment, surveillance, compliance, interagency communication, timed probation, and parole. One case study is from Maricopa County, Arizona, in which intensive supervision correlated with a decrease in sexual offending, as well as reduced expense to the state. The chapter also includes the therapeutic jurisprudence approach, where a judge plays a key role in a sex offender re-entry course. The judge is intimately involved with a disciplinary team that establishes the risk management plan, and makes key adjustments in light of the on-going risk assessments. The role of the judge is to enter into a behavior contract with the offender. The courts would be involved in control and oversight of the treatment with appropriate professionalism. Restorative justice is also cited as an innovative program in Arizona that is an alternative to prison for sex offenders. Restorative justice is a response to criminal behavior that seeks to restore the losses suffered by crime victims and to restore peace and tranquility among victims, the offenders, and the community.

La Fond believes that society cannot and should not keep massive numbers of sex offenders confined forever, as it is cruel, expensive, and unnecessary. He thinks most sex offenders will return to the community, and most of them will pose little risk of committing another crime. Strategies have been developed that combine on-going risk assessment with aggressive community surveillance and treatment. These show great promise of reducing sexual recidivism.

The final chapter includes numerous recommendations and debunking of myths. In summarizing previous chapters, La Fond reiterates that (1) most sex offenders are not dangerous, (2)

greater harm to victims may justify special laws for sex crimes, (3) all offenders are not equally dangerous, (4) most sex crimes are committed by offenders who know their victims, (5) there is still no knowledge of what causes sex offending, and (6) the jury is still out on whether treatment reduces sexual re-offending.

La Fond's final section offers his comprehensive solution. He recommends preventive programs for children who engage in sexually inappropriate behavior, including treatment and education at an early age. Judicial sentencing flaws need to be corrected, and repeat sex offenders need to serve longer sentences. Existing three-strike laws impose a mandatory minimum sentence, including life sentences for repeat serious offenders. This approach is also being used with sex offenders, and often the results have been overly harsh in relation to the crimes committed. Mandatory sentences do not individualize justice in any meaningful sense. Instead, La Fond believes that dangerous sex offenders should be incapacitated and given indeterminate sentences. Sex offenders should be provided prison treatment before they are looked at for civil commitment. Post-release supervision is necessary for keeping individuals and society safe. He summarizes the cost-effective community containment approach, along with special sex offender courts, in which risk management is included.

This book provides an excellent summary of many controversial areas regarding sex offenders in and out of our society. Professor La Fond has adequately reviewed the literature and addressed many of the misconceptions regarding sex offenders, their crimes, and their victims. This book provides mental health professionals, attorneys, and individuals involved in public policy with many practical recommendations that could be implemented to deal with sex offenders in a more cost-effective manner.