CARE FOR THE AGING: LONG-TERM CARE FACILITIES' WILLINGNESS TO ACCEPT PERSONS CONVICTED OF SEXUAL OFFENDING

by

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A Dissertation
Submitted in Partial Fulfillment of the Requirements for the
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TITLE: CARE FOR THE AGING: LONG-TERM CARE FACILITIES' WILLINGNESS TO ACCEPT PERSONS CONVICTED OF SEXUAL OFFENDING

MAJOR PROFESSOR: Dr. Breanne Pleggenkuhle

The present study is a multi-pronged approach to examine the willingness of long-term care facilities (LTCF) to admit persons on the sex offender registry or with a sexual offense conviction. First, this dissertation utilizes a statutory analysis to examine all 50 states policies for admitting and managing such individuals in long-term care. Second, the study aims to explain why some states enact a long-term care/sex offender policy by examining state characteristics, policy, and political affiliation. Third, the study sets out to better understand if facility-level characteristics matter in explaining organizational policies for the admission of persons on the sex offender registry. Fourth, findings from semi-structured interviews of LTCF administrators of their decision-making processes, and their attitudes towards company policy will be discussed. The findings of all three levels of analyses are presented and future research is discussed.

Keywords: Sex offender, long-term care facility, SORN and residency restriction laws, statutory review, collateral consequences of sex offender policy

DEDICATION

This dissertation is dedicated to my former client, a registered sex offender, who died waiting to find a long-term care facility in Illinois that would accept him. You are the inspiration for this study. Second, to those individuals who work in long-term care that have the strong desire to care for ALL people regardless of their past criminal histories. And, to those who are the focus of the study, I strongly hope my research can make the world an easier place for you to navigate in the future. And last, but certainly not least, in honor and memory of my beloved father, Dr. Phillip Gilbert, who never once doubted my ability to pursue my passion and earn my doctoral degree. Dad, I learned from you how to persevere through the muck and the mire, to keep pushing forward when things were tough and to never give up even when giving up was the easiest option. You are my hero.

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CHAPTER 1

INTRODUCTION

Over the past few years, media outlets across America (Fredricks, 2019; Penzenstadler & Golden, 2011; Wedell, 2017) have highlighted the need to restrict access to long-term care facilities (LTCFs) for people required to register for sexual offending. The primary reasons given are to protect facility residents, visitors, and staff members. Despite what is known about sex offense recidivism, the media overstates to the public that persons convicted of a sexual offense continues to be dangerous over their life course, that they cannot be rehabilitated, and they reoffend at higher rates than non-sexual offenders (Burchfield et al., 2014; Horowitz, 2007). Based on such beliefs, it is assumed that this group of offenders must be monitored for life.

Two of the most notable management policies designed to monitor individuals convicted of sexual offenses come in the form of notification and residency restriction laws. Where persons convicted of sexual offending can live has been one of the more regulated areas of policy development. However, less is known about the long-term consequences of such residency restrictions, especially in terms of long-term care placement. One area that remains relatively unexplored is how LTCFs handle the admission process of applicants with a sexual offense conviction history. Research finds that LTCFs in certain states are required to perform criminal background checks and provide some form of notification to residents, next of kin and employees (Jerstad, unpublished manuscript) when a person convicted of sexual offending is residing at the facility, but we do not really know how they implement policy at the facility level.

Regardless of these management policies, past research found that persons convicted of a sex crime can be rehabilitated (Harris & Hanson, 2004; Lösel & Schmucker, 2005; Sandler et al., 2008) and they have one of the lowest recidivism rates compared to non-sexual offenders (Alper,

2019; Greenfeld, 1997; Harris & Hanson, 2004; Langan et al., 2003; Levenson et al., 2007; Sample & Bray, 2006). While the public and policymakers are concerned with the whereabouts of people on the sex offender registry to prevent sexual reoffending, LTCF administrators admit they are more concerned with residents diagnosed with cognitive impairments and no criminal history than residents without cognitive impairment and a criminal history, including those convicted of a sexual offense (Government Accountability Office (GAO), 2006; Sparling, 2013).

Long-term care facilities are sometimes referred to as nursing homes, skilled nursing facilities, and assisted living facilities. They are residential healthcare facilities that provide a broad range of health care services to individuals who are no longer able to independently care for themselves because of chronic illness, injury, physical, cognitive, or mental disability or other health-related conditions that would qualify them to receive skilled nursing care (National Institute on Aging, 2020). For individuals to be admitted into a LTCF they must demonstrate functional limitations that would require assistance or supervision with daily living activities (i.e., walking, eating, bathing, dressing, grooming, and toileting). In 2016, there were 15,600 nursing homes in the United States (U.S.) caring for approximately 1.5 million residents (Centers for Disease Control and Prevention, n.d.). The overwhelming majority (90%) of nursing home residents are over the age of 65 and two-thirds (67%) are female (GAO, 2006). Most LTCFs participate in Medicare, Medicaid, or both, as well as receive other state and federal funding to care for their residents (GAO, 2006). The GAO (2006) also stated that because LTCFs rely heavily on federal funding there is an overwhelming interest from the federal government to ensure the safety and well-being of their vulnerable residential population.

In 2006, the GAO found approximately 700 people on the sex offender registry residing in LTCFs across the country. This figure equates to roughly 0.05 percent of the 1.5 million

people residing in nursing home facilities in the United States. The current number of registrants in LTCFs is not known, but since 2006, the number of people required to register as sex offenders has dramatically increased (Böhm, 2001). Therefore, it is highly likely that the number of registrants and those no longer required to register living in LTCFs has also increased (GAO, 2006; Sparling, 2013). Because of this increase in the population of people on the sex offender registry, LTCF administrators will more than likely come into contact with registrants needing long-term care. Thus, LTCF administrators and policymakers will need to examine how best to provide healthcare and safety to all residents, including those on the sex offender registry.

In a previous study, it was found that between 2005 and 2007, during the height of when sex offender laws were enacted (e.g., sex offender registration and notification [SORN] and residency restrictions), 13 states had explicit statutes that addressed the admission and management processes of nursing home residents with a sexual offense conviction (Jerstad, unpublished manuscript). Findings from the study showed that statutes informing and directing LTCFs varied greatly in breadth and depth. Specifically, some states were multi-faceted and included multiple legislative requirements, while other states only supported one legislative requirement for registrants' access to long-term care facilities. Additionally, this study found that many of the required legislative elements for registrants and LTCFs were forged out of the many requirements required of registrants under Megan's Law and the Adam Walsh Child Protection and Safety Act (AWA). For example, most of the states required LTCFs to notify their community (i.e., residents, resident's next of kin, and staff members). Such notification requirements are not a surprise due to the proximity registrants will have with other residents, staff members, and visitors while residing in the long-term care facility. Sex offender notification practices vary from state to state, and the requirement for LTCFs was found to be no different.

However, much remains unknown as it relates to LTCFs and their willingness to accept persons convicted of a sexual offense. First, there is no prior study that examines the accessibility of long-term care for individuals with a sexual offense conviction. Given the findings from the 2006 GAO study and knowing the number of aging registrants likely to require LTC is expected to climb, it warrants research consideration. Additionally, there is no research known to this author that may explain why a state may enact legislation that may restrict a person convicted of a sex offense access to long-term care. Second, there is no previous study that examines the implementation of a state law to understand whether LTCFs are executing their state law as required by mandate. Third, there is no evidence to know if LTCFs are drafting their own set of policies, procedures, and best practices to screen, assess, admit, notify, supervise, and manage sex offenders applying for residency at their facilities that extend beyond state law. Fourth, no research has examined the use of discretion and admission exceptions at the individual-level and applied it to a theoretical explanation. This study will explore how Illinois LTCF administrators perceive company policy relating to persons convicted of sexual offending seeking residence into their facility. And last are Illinois LTCF administrators willing to make admission exceptions for applicants on the Illinois Sex Offender Registry?

The purpose of the current research is to add to existing literature on the collateral consequences of individuals convicted of sexual offenses. This dissertation uses a multi-pronged approach to answer several research questions. First, a state-level analysis will explore if states have a law that mandates LTCFs admission processes for persons convicted of sexual offending. It will attempt to explain why a state would enact a long-term care/sex offender (LTC/SO) law. Second, a facility-level analysis will explore characteristics of LTCFs to determine if facility-level traits predict whether persons convicted of sexual offending will be admitted into long-term

care. Third, drawing on Lipsky's (1980) street-level bureaucracy theory, an individual-analysis will explore the attitudes of Illinois LTCF administrators relating to company admission policies of persons convicted of sexual offending. Fourth, this study will set out to have a better understanding of LTC administrators' discretionary decision-making practices regarding admission exceptions for applicants on the sex offender registry.

CHAPTER 2

LITERATURE REVIEW

The study of individuals convicted of sexual offenses entering LTCFs has not been thoroughly examined by criminal justice scholars, particularly in the context of criminal justice responses to this population. Over the last decade, however, there have been an increased number of news stories that highlight persons convicted of sexual offending continue to be dangerous and that more safeguards should be in place to protect the public, including whether these individuals should have access to long-term care (i.e., nursing home).[1] Between 2005-2007, 13 states enacted policies that place admission and management parameters onto LTCFs (Jerstad, unpublished manuscript) who accept persons convicted of a sexual offense. The study (Jerstad, unpublished manuscript) found that statutes are particularly concerned with the admission processes of LTCFs, their management and supervision procedures and notification policies as they relate to sex offenders applying to or residing in their care. To date, no research has been conducted to examine if states accept persons convicted of sexual offending, what may explain why a state may enact a LTC/SO law, if LTCFs are implementing their state law as its written, or if they augment admission and management parameters as to how facilities are managing and supervising residents with a sexual offense conviction, and if administrators have the autonomy and discretion to make admission exceptions for applicants with a sexual offense conviction. This study will focus on LTCFs and LTCF administrators in Illinois to gain better understanding of the long-term care situation for persons convicted of a sexual offense.

Originally, nursing homes served as a refuge for the poor, the homeless, criminals, the insane, and the inebriated (Böhm, 2001). However, over time, the nursing home institution

[1] News articles similar to this one (https://www.theatlantic.com/health/archive/2017/06/aging-sex-offenders/528849/) highlights the concerns among states allowing registered sex offenders access to long-term care.

transformed from a place of refuge to a place that provides care for aging individuals who require assistance with activities of daily living (ADL). Past scholarship has found that certain groups of individuals (e.g., Persons with AIDS [PWA]) have been denied nursing home admission based on their medical diagnosis regardless of whether they qualify for long-term care placement (Fogarty et al., 1997). In fact, 95% of LTCF administrators reported they would prefer to avoid the issue of admitting PWA (Fogarty et al., 1997). Therefore, we may anticipate LTCF administrators may have the same attitude towards admitting a person convicted of a sex offense. Thus, it is important to expand on previous research (GAO, 2006; Jerstad, unpublished manuscript) to better understand how LTCFs are responding to applicants with a sex offense history, if they are implementing state mandate, how LTCFs manage and supervise persons convicted of a sex offense residing in their care, and if LTCF administrators use discretion to make admission exceptions. Based on prior evidence relating to housing restrictions (e.g., residency restriction laws, homeless shelter policies) placed on persons convicted of sexual offending, we would expect to find that LTCFs may also restrict access to applicants and/or increase surveillance for residents with a sexual offense conviction.

Overview of long-term care facilities

Historical context

Long-term care facilities, also known as "nursing homes," are residential facilities designed for the purpose of caring for individuals who no longer can care for themselves because of a physical or mental limitation (Centers for Disease Control and Prevention [CDC], n.d.; Feder et al., 2000; GAO, 2006). The nursing home industry has evolved over time growing out of what was originally set aside for the poor. During Colonial America the government held the viewpoint that individuals who were unable to receive support from family, friends or private

charity were the responsibility of the government (Böhm, 2001). Although the government believed their role was to assist in the care of the aged, they provided very little in the way of assistance, distributing the responsibility onto residents to bear the burden (Böhm, 2001; Braithwaite, 1993). This time period introduced supplemental assistance in the form of "outdoor relief." In short, America believed it was the responsibility of the community to care for their own elderly family members, which still holds true even today. When elderly persons had no family members to provide care, the community would ensure care was still provided, usually in the form of boarding among community residents.

The shift from "outdoor relief" appeared in the early 1800s. Social policies led to the institutionalization of elderly persons. These institutions were commonly referred to as "poorhouses," or almshouses. Very much like the correctional system of the time, society believed that individuals could be cured through moral guidance which led to the decline of community support and assistance. Historians assert these facilities were very punitive in their approach to care. They were guided on the principles of order, discipline, and exacting routine (Böhm, 2001) as a way to transform an individual into securing new values. Individuals were seen as immoral versus infirmed and therefore were placed alongside people who were indigent, criminal, homeless, insane or inebriated (Böhm, 2001; Foundation Aiding the Elderly [FATE], 2020). This way of care served more as a custodial placement rather than a means to providing medical care to those requiring long-term care.

As time progressed, the original intent of almshouses transformed from a place meant for the poor to a public nursing institution where the elderly became the primary resident. However, the quality of care provided by these institutions declined during this period and evidence of deterioration was noticeable and became the focus of discourse by the end of the 19th century.

Because of their decline, the American public developed a new attitude towards the aging population believing that everyone had a right to nursing care regardless of how they lived their life. This newfound attitude was the catalyst towards the shift from the community and charitable organizations caring for the elderly infirmed to public nursing institutions as the primary source of care (Böhm, 2001).

The Social Security Act of 1935 played a significant role in the expansion of the nursing home industry, but nursing homes were initially considered institutions of last resort. Federal government programs earmarked financial support to facilitate the privatization of nursing homes. Although the expansion of the nursing home industry occurred during this era it did not come without problems. Quality care was not necessarily a priority within these newly private nursing facilities and, as a result, regulators ignored quality complaints with the hopes that operators and facilities would rectify their own quality deficiencies. In the end, Congress responded with new legislation and the amendment of laws already on the books that made nursing homes more accessible to those in need of long-term care, and more profitable to those operating private nursing facilities. The passing of the Medicare and Medicaid programs allocated large amounts of federal dollars to be spent on elderly care, including residential nursing facilities. However, it did not come without a price to the facilities in the way of complex government regulations (Böhm, 2001; Braithwaite, 1993).

Present day nursing home facilities are charged with the large task of ensuring quality care for all residents under their supervision. In 1987, Congress passed the Omnibus Reconciliation Act (OBRA 87) designed to cure some of the pitfalls of poor-quality care that plagued the nursing home industry of the past. Nursing homes enrolled in the Medicare and Medicaid programs were now forced to abide by a new set of federally mandated standards in

order to receive federal dollars.[2] The new legislation standardized the actual delivery of care and treatment outcomes by implementing a more medicalized treatment model versus a residential facility that merely provided a place for shelter and supervision. Any facility failing to meet federally mandated standards were susceptible to federal penalty. Such laws like OBRA 87 inserted the federal government in the direct line of quality care administered by the nursing home industry. This was much different than the non-existent government oversight during Colonial America since modern day nursing home facilities were required to comply with not only federal statutes but state statutes as well. OBRA 87 established that LTCFs "must care for its residents in such a manner and in such an environment as will promote maintenance or enhance the quality of life of each resident" (Böhm, 2001, p. 336). However, the definition of "quality of life" is left out of the statute thereby leading to differing interpretations of what "quality of life" means to an individual nursing home organization. Unfortunately, OBRA 87 has not met its intended effect to ensure quality care, thus more federal and state measures have been sought as an attempt to enforce quality care within such LTC setting. Given what we know, it appears that so long as quality care remains a high priority, the nursing home industry should anticipate the passage of more government oversight to regulate quality care assurance in an already heavily regulated industry (Böhm, 2001).

Organizational characteristics

LTCFs vary in size and ownership. According to the latest National Nursing Home Survey (2004), the average size of nursing homes in America is 108 beds. This figure is consistent with the On-line Survey, Certification and Reporting System (OSCAR) monitored by the Centers for Medicare and Medicaid Services (CMS) finding that 107 is their reported average

[2] Specifically, the Nursing Home Reform Act

bed per facility size. Furthermore, the average occupancy rate (number of beds divided by the number of available beds) has declined across time, finding that as of 2019, the average occupancy rate in the U.S. was 80% among certified nursing facilities, a percentage change of -7% since 2003 (Kaiser Family Foundation, 2020). In terms of funding, almost all the LTCFs are certified to participate in Medicare (97%) and Medicaid (95%) (Centers for Disease Control, n.d.; Harris-Kojetin et al., 2016). Over time, the nursing home industry has seen a shift from public, religious, and non-profit entities supplying most of the residential medical care to the infirmed to a private for-profit, chain-owned industry. In fact, it is reported that most of the LTCFs are for-profit (69%), and chain-owned (58%). Not-for-profit facilities make up 24% of all LTCFs, followed by 7% owned by the government and other entities (Böhm, 2001; Harris-Kojetin et al., 2016). Since 1987, the data has remained consistent. Typical personnel employed by LTCFs consist of medical staff in the form of Registered Nurses (12%), Licensed Practical Nurses (22%) and Certified Nurse Aide (64%). Nursing homes may also employ or contract with physicians, social workers, dietary aides, physical and occupational therapists, clergy, hairdressers/barbers, and other supplemental staff (Harris-Kojetin et al., 2016).

LTCF Population

The nursing home industry is growing due to the increase in life expectancy, largely attributed to the aging Baby Boomer population. Since 1990, the percentage of the U.S. population aged 65 and older has tripled. According to data, as of 1997 the fastest-growing age group comprises persons who are 85 and older, and those age 100 and older make for the second-fastest growing age group in America. It is expected by 2030, the senior population will reach approximately 70 million, 20% of the total population (Böhm, 2001). Additionally, estimates project that by 2050 the number of Americans aged 65 and older will surpass 87 million, which

is more than double its population in 2010. As such, this "oldest-old" population is more likely to require LTC services and tend to have the highest rates of disability than any other age group. Furthermore, it is not surprising to find this age group is more likely to be widowed and without social supports to assist them with ADL making them prime candidates for nursing home placement (Harris-Kojetin et al., 2016).

In 2016, there were 15,600 nursing homes in the U.S. caring for approximately 1.5 million residents (Centers for Disease Control and Prevention, n.d.). According to data, the median age of nursing home residents is 82 (Kaye et al., 2010) with approximately 86% of nursing home residents aged 65 years and older. Persons aged 85 and older account for the largest percentage (42%) of the group (GAO, 2006; Harris-Kojetin et al., 2016; Bercovitz et al., 2009; Kaye et al., 2010). In terms of race, gender and marital status, non-Hispanic whites (79%), females (67%) and widowers (52%) make up most nursing home residents (Centers for Disease Control and Prevention, n.d.; GAO, 2006; Harris-Kojetin et al., 2016)

The estimated number of persons in America living with significant cognitive and physical limitations is projected to increase from more than 6 million to over 15 million in 2065 (Harris-Kojetin et al., 2016). Approximately 48% of all nursing home occupants live with Alzheimer's disease or other forms of dementia (Centers for Disease Control and Prevention, n.d.; Harris-Kojetin et al., 2016). Further, most nursing home residents require extensive assistance from nursing home staff. In fact, more than 90% of nursing home residents need assistance with ADL (e.g., bathing, dressing toileting walking), 87% need assistance transferring in and out of bed and 60% need assistance eating (Harris-Kojetin et al., 2016; Jones et al., 2009). In fact, more than 90% of nursing home residents have difficulty with mobility, 76% are cognitively impaired and more than 35% have a sensory impairment (Harris-Kojetin et al.,

2016). What is more notable is less than 2% of all nursing home occupants can go about their daily activities without assistance (Kaye et al., 2010).

Funding source

The passage of the Medicare and Medicaid programs in the 1960s provided financial assistance to those individuals who could not otherwise afford nursing home care (Böhm, 2001; Braithwaite, 1993). It was during this period when the nursing home industry experienced a rapid growth in nursing home admissions. In 1954 there were fewer than 250,000 nursing home beds in the United States (U.S.), but after the passage of the Medicare and Medicaid programs nursing home beds surpassed one million (Braithwaite, 1993).

Medicaid is a joint federal-state program that was authorized by Title XIX of the Social Security Act serving as a provider of health coverage for low-income people (GAO, 2006). The CMS, a branch of the Department of Health and Human Services (HHS), is the federal agency that runs the Medicare and Medicaid programs (Medicare.gov, 2020). Although the federal government establishes certain parameters for all states to follow, each state is responsible for administering their own Medicaid program. Because of this autonomy, Medicaid coverage varies across the country.

Medicare, on the other hand, is not a joint endeavor like Medicaid but a social program of the federal government that provides health coverage to individuals aged 65 and older, or under 65 with a qualified disability no matter the income. Medicare is funded through payroll tax paid by most employees, employers, and people who are self-employed. Income taxes paid on Social Security benefits, interest earned on the trust fund investments, and Medicare Part A premiums from individuals who are not eligible for premium-free Part A benefits also contribute to the funding of Medicare (Medicare.gov, 2020).

To qualify for Medicare and Medicaid funding, LTCFs must meet certain federal requirements. For example, facilities must conduct a preadmission resident assessment that examines demographic information, social cognition (e.g., affect, behavior and cognition), psychosocial health, medical conditions, and physical limitations (GAO, 2006). Federal law requires nursing home facilities to assess potential residents to determine if they meet the criteria for nursing home placement. Applicants must demonstrate functional limitations that would require assistance or supervision with activities of daily living (e.g., walking, eating, bathing, dressing, grooming, and toileting) to be admitted into long-term care. Unfortunately, there is no standardize admission assessment tool therefore LTCFs can grant admission based on admission assessments previously conducted by an outside source (GAO, 2006).

Medicaid is the largest single funding source of long-term care services in the U.S. accounting for 44% of the nursing home residents (Feder et al., 2000). Other funding sources include out-of-pocket payments made by individuals and families (31%), Medicare (14%), private insurance (7%) and all other sources (5%) (Centers for Disease Control and Prevention, n.d.; Feder et al., 2000). Medicaid pays for an array of LTC services for those individuals with low-income and limited assets. Services include assistance with ADL such as bathing, eating, dressing and toileting. In contrast, Medicare-covered services are limited, and reserved for skilled nursing care (e.g., but not limited to, semi-private room, meals, medications, and medical supplies) as such is the reason it only contributes to 17% of the nation's total nursing home bill (Medicare.gov, 2020).

To receive funding from Medicare and Medicaid participation, LTCFs must report incidents of abuse according to their state requirements. The CMS defines *abuse* as "the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting

physical harm, pain, or mental anguish" (GAO, 2006). Physical harm generally includes acts of hitting, pushing, slapping and sexual abuse. Sexual abuse is nonconsensual sexual contact or involvement of any kind. Unfortunately, there is no universal definition of sexual abuse and facilities are left to seek guidance from their state's criminal codes. Examples of sexual offenses include rape, sexual assault, incest, child pornography and willful indecent exposure in public (GAO, 2006).

Patient Bill of Rights

Residents living in Medicare and/or Medicaid-certified nursing homes have certain rights and protections afforded to them under federal and state law. The federal Nursing Home Reform Law requires nursing homes to "promote and protect the rights of each resident" and emphasizes the right to dignity and self-determination (National Consumer Voice, 2020, para. 1). Many states, like Illinois, also have their own Patient Bill of Rights for people living in LTCFs that addresses certain rights, protections, and privileges according to state law (Illinois Department on Aging, 2018). Prior to admission, LTCFs must inform residents of their rights in writing and in a language residents will understand. At a minimum, nursing home residents all have the right to dignity and respect, the right to autonomy, and the right to privacy and confidentiality. Probably the most important right and one that is pertinent to this study is the right to be free from abuse, neglect, and exploitation. Nursing homes have a legal duty to protect residents and ensure they are not financially, physically, verbally, mentally, or sexually abused.

Under the Illinois Adult Protective Services Act, certain professionals are required by law to report suspected abuse (e.g., adult care professionals, state service to seniors) (Illinois Department of Aging, 2020). Further, any facility employee who becomes aware of abuse or neglect of a resident has a duty to report the incident immediately to the facility administrator. In

Illinois, the facility administrator must immediately report the allegations of abuse or neglect by telephone and in writing to the resident's representative. Further, it is the responsibility of the LTCF administrator to report the abuse or neglect to the Illinois Department of Public Health. When a resident is suspected as the perpetrator of the abuse, that resident's condition shall be immediately evaluated to determine the most suitable therapy and placement for the resident. Not only must the safety of the other residents and employees be considered, but the safety of the resident suspected of abuse should be considered as well (Illinois Department of Public Health, 2020).

Illinois Nursing Home Care Act

On the heels of wide sweeping sex offender management policies, 13 states, including Illinois, passed legislation that informed LTCFs how they must admit persons convicted of sexual offending and notify residents, staff, and family members how to access the Illinois Sex Offender Registry. The Illinois Nursing Home Care Act of 2005 was adopted "amid concern over reports of 'inadequate, improper and degrading treatment of patients in nursing homes" (Illinois Courts, 2020). The foundation of the law addresses the residents' bill of rights that affords residents certain rights and protections, as well as the right to be free from abuse and neglect namely by nursing home personnel. According to the law, *abuse* is defined as, "any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility" (Illinois Courts, 2020). Through this mandate, the State of Illinois entrusted the Department of Public Health with regulatory and enforcement powers to ensure all nursing homes comply with state law.

Not only does the act specifically address abuse and neglect by nursing home staff, but also addresses how LTCFs in Illinois must screen applicants for their suitability of nursing home

placement. According to the law, within twenty-four hours after admission of a resident, the nursing home must perform a criminal background check pursuant to the Uniform Conviction Information Act for all persons eighteen years or older seeking admission into long-term care, unless a background check was previously conducted by a hospital pursuant to the Hospital Licensing Act. Nursing homes must check for the individual's name on the Illinois Sex Offender Registration website and the Illinois Department of Corrections sex registrant search page to determine if the resident is listed as a registered sex offender. If the results of the criminal background check reveal the resident is an identified registered sex offender, they must inform the appropriate county and local law enforcement offices of the identity of the registered sex offender. If the individual is serving a term of parole, mandatory supervised release or probation the facility must meet with local law enforcement officials to discuss the need for and to develop policies and procedures to address the presence of registered sex offenders; as well as, provide to every prospective and current resident and resident's guardian, and to every facility employee, a written notice advising the resident, guardian or employee of his or her right to ask whether any residents of the facility are identified offenders. The notice shall be prominently posted within every licensed facility and instructions on how individuals can access the Illinois State Police (ISP) website to determine if any resident is on the sex offender registry. Throughout their residency the LTCF must maintain contact with the resident's probation or parole officer, as well as together, specifically address the needs of the resident by developing an individualized plan of care. Further, if the resident who is a registered sex offender is deemed to pose a significant risk of harm to others residing in the facility, the offender shall be required to have his or her own room subject to the rights of married residents.

The facility shall evaluate care plans quarterly for appropriateness and effectiveness specific to the identified offense. If incidents by identified offenders occur, the facility must report whether the incident involves substance abuse, aggressive behavior or inappropriate sexual behavior, or any other behavior that is deemed harmful to the identified offender or others. If the facility finds they cannot protect the other residents from misconduct carried out by the identified offender, then the facility shall transfer or discharge the identified offender. Last, the facility shall notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual misconduct that would necessitate relocation of that resident.

It is not known, however, how many incidents of inappropriate sexual behavior are occurring by registered sex offenders residing in LTCFs in Illinois, but nonetheless it is important to note mandated procedures are in place to protect other residents from resident-to-resident abuse. Though the Illinois Nursing Home Care Act exists we virtually know nothing about how the mandates are implemented at the individual facility level.

Elder Abuse

Based on news articles (Fredricks, 2019; Penzenstadler & Golden, 2011; Wedell, 2017), there is concern that persons convicted of sexual offending will continue to offend while residing in LTC increasing the number of potential elder abuse cases occurring in an institutional setting. To date, there is no federally recognized definition of elder abuse, but most scholarly works define *elder abuse* as the "physical, sexual, or emotional abuse; financial exploitation; or abandonment of an adult age 60 or older, who either lives in the community or a long-term care facility, perpetrated by a person in an ongoing 'relationship of trust' with the victim" (Brandl et

al., 2006, p. 17). However, in terms of abuse against a nursing home resident, an "ongoing relationship of trust" does not have to be a constant element of the definition since anyone, including staff, another resident, a visitor, or a stranger who enters the facility can abuse a resident in the way the definition describes.

The amount of elder abuse and number of substantiated cases in the U.S. is unknown due to having no national standardized elder abuse data collection to capture alleged incidents of abuse. Most scholarly research examines elder abuse in a domestic setting versus an institutional setting, such as a long-term care facility (Phillipson, 2000). Best estimates suggest that between 1 and 2 million Americans 65 and older have been mistreated or exploited by someone they know or someone they depend on for care or protection (National Center on Elder Abuse, 2021) And unfortunately, due to the growth in the number of aging Americans it is believed that the rate of elder abuse will surge as the aging population increases over time.

Victims of elder abuse tend to be cognitively and physically impaired due to their advanced age. According to literature, dementia is present in approximately 5 to 10 percent of the general population of persons 65 and older, and 30 to 39 percent of persons 85 and older (National Center on Elder Abuse, 2021). Studies of elder abuse have found that dementia is a major risk factor for abuse (Castle & Beach, 2013; Wangmo et al., 2017). In fact, those with dementia, aggression towards caregivers, the inability to defend themselves and those who were alone are more likely to experience elder abuse than those without these same characteristics (Wangmo et al., 2017). Thus, knowing that the nursing home population tends to be older and more impaired than elderly residing in the community, the risk of abuse among LTCF residents would likely be higher than those living in a domestic setting

Few empirical studies have focused on elder abuse in a nursing home setting. Elderly living in a long-term care setting may be particularly vulnerable to abuse because many individuals who require long-term care suffer from cognitive impairment and difficulty performing activities of daily living (e.g., ambulating, toileting, transferring, feeding, etc.). Such impairments have been identified as risk factors associated with abuse (Hawes, 2003). The few studies that have focused on abuse in LTCFs find that most of the abuse reported in a nursing home setting involves verbal and psychological abuse, with sexual abuse being the least common form of abuse reported (Castle & Beach, 2013). Resident-to-resident abuse was more commonly reported than abuse by staff. *Resident-to-resident elder mistreatment* (R-REM) is defined as the "negative and aggressive physical, sexual, or verbal interactions between long-term care residents, that in a community setting would likely be construed as unwelcome and have high potential to cause physical or psychological distress in the recipient" (Lachs et al., 2016, p. 229). In one study, the highest reported resident-to-resident abuse was arguing with another resident (13%) and the lowest was for digital penetration (0.02%). According to a survey asked of 12,555 direct care workers (DCWs), abuse in an Assisted Living (AL) setting "occurred often" during the past three months (Castle & Beach, 2013). Reasons cited for abuse and neglect in LTCFs are poor level of care, low staff-to-patient ratio, job dissatisfaction, lack of continuing education and high staff turnover rate (Wangmo, et al., 2017). Other explanations reported were residents lack impulse control, inappropriate programming, and client mix (Brandl et al., 2006). Although there is very little empirical evidence examining resident-to-resident abuse in a LTC setting, it appears that sexual abuse between residents in the U.S. is quite rare (Castle & Beach, 2013). One study reported that the most common form of substantiated sexual abuse among nursing home residents is fondling (Teaster et al., 2007). As previously noted, the study of sexual abuse in a

LTC setting is understudied which makes research into the willingness of LTCFs to accept persons convicted of sexual offending as residents into their facility that much more important. Although we have not seen new legislation passed after 2007 related to LTCFs and persons convicted of sexual offending, the attitude that persons convicted of sexual offending are dangerous remains constant. Therefore, it would be likely to find more states considering legislature that would inform and direct LTCFs admission, notification, and supervision of such residents into their care.

Aging Sex Offender Population Living in LTCF

Only one study has examined the number of sex offenders residing in a LTCF and found that there were roughly 700 individuals identified on state sex offender registries residing in long-term care facilities (GAO, 2006). This is only a minute fraction of the overall nursing home population; however, the actual number of persons convicted of sexual offending living in LTCFs is unknown. We can presume, however, that the number of registrants living in LTCFs has increased, especially when there are 10,000 to 20,000 people released from prison every year with a sex offense conviction (Corson & Nadash, 2013). Given what we know, we can speculate the number of registrants needing long-term care in the future could also continue to increase.

However, it has been found that persons convicted of sexual offending residing in LTCFs are no more likely to be repeat sexual offenders than non-sexual offenders (GAO, 2006). Furthermore, administrators of nursing facilities are more concerned with residents who are cognitively impaired and/or who exhibit other behavioral disorders than those on the sex offender registry that show no signs of cognitive impairment or behavioral disorders (Berdzik & Ioannou, 2013; GAO, 2006). Again, this is an area of research that needs to be revisited due to the study being outdated. Also, knowing the number of individuals with a sexual offense history

is most likely to increase where we may see an influx in LTC admissions in the future. Therefore, drafting legislation to control and monitor persons convicted of sexual offending to protect LTC residents would be another way to extend current sex offender policy across the life course.

Sexual Offending

Prevalence and Victimization

To completely understand the scope of sexual offending, it requires the understanding of the prevalence of sexual offenses in general. Extant literature suggests the true rate of sex offenses is difficult to determine for a variety of reasons, but mostly because the belief sex crimes go unreported (Bonnar-Kidd, 2010; Lieb et al., 1998). Unfortunately, it is unknown the actual number of unreported crimes committed by registered and non-registered sex offenders which adds to the complexity of the problem (Bonnar-Kidd, 2010). Second, measuring sex offenses with accuracy becomes convoluted as there is no concrete definition for the term "sex offense." Police departments differ in their definitions of a sex offense and is further complicated by the variation of reporting criteria across departments. Therefore, what gets reported to the Uniform Crime Report (UCR) may not be a true reflection of the actual prevalence of sexual victimization in America. Third, there are problems in the way data is collected. For example, UCR data is reported on a calendar year, whereas victimization data is based on lagged data using reports of sexual victimization in the 12 months prior to the recall period (United States Department of Justice, 2017). With that in mind, the distinct ways in which crime data and victimization data reports the rate of prevalence is murky at best. Further, what is reported in the media or in official data reports is gathered from numerous sources and surveys; therefore, prevalence rates can be mischaracterized leading to an inaccurate portrayal of sexual offending.

As witnessed by the enactment of federal and state legislation, many calls for legislative action were based on previous assumptions that trends in sex crime were sudden and moving at a high rate of speed, but as evidence demonstrates that appears not the case (Lieb et al., 1998; United States Department of Justice, 2017).

Some research cites numbers reaching 300,000 women raped, 3.7 million are confronted with unwanted sexual activity and approximately 81,000 children are sexually abused (Bonnar-Kidd, 2010). However, despite the huge numbers of victimization, crime trends demonstrate a substantial decline over the past decade (United States Department of Justice, 2017). In 2009, the Federal Bureau of Investigation's (FBI) UCR statistics showed that the number of reported forcible rapes fell 14 percent between 1990 and 2009 (United States Department of Justice, 2017). Similarly, victimization surveys parallel the downward trend being reported by the police. According to the National Crime Victimization Survey (NCVS), the rate of sexual victimization for those ages 12 and older fell by more than 30 percent between 2002 and 2011 (United States Department of Justice, 2017). Thus, refuting anecdotal evidence that trends in sex crime were moving at a high rate of speed (Lieb et al., 1998).

Number of Sex Offenders

According to the U.S. Department of Justice (DOJ), sex offenses represent under 1 percent of all arrests, and yet sex offenders are sentenced to the harshest of sanctions of all offender groups (National Sex Offender Public Website, 2021). As of May 2021, 780,407 individuals convicted of a sex offense are required to register (SafeHome.org, 2021). Extant literature and official data sources report that 70 percent of sexual assaults are committed by acquaintances or people known to the victims, and 30 percent of child sexual abuse cases are committed by family members. Further, data finds that an estimated 23 percent of reported cases

of child sexual abuse are victimized by individuals under the age of eighteen (Cohen & Jeglic, 2007; United States Department of Justice, 2018). Thus, the earlier mindset that dangerous sexual degenerates are on the loose (Sutherland, 1950) has proven to be an over dramatization of the "atypical" sex offender—a stranger. Yet, we create restrictive laws based on perceived fear and not empirical evidence.

Trends in Sexual Offending and Victimization

Just like sexual offending prevalence, the true rate of victimization and trend patterns are difficult to ascertain. In 2015, the U.S. Department of Justice reported according to data collected from law enforcement and official data, sexual victimization, much like other types of crime, is declining. However, trends in sexual offending vary according to reporting trends. It has been well established sexual offenses are less likely to be reported to law enforcement than other types of crime (Fisher et al., 2003; Fisher et al., 2009). Therefore, we must be cautious when considering trend data before controlling for other factors. Recently, the Federal Bureau of Investigation disseminated their 2019 Uniform Crime Report (UCR). The UCR captures rape victimization rates and trends. For crime reporting purposes, the FBI defines *rape* as "Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim" (para. 1). From 2009-2013 rape rates declined from 29.1 per 100,000 people to 25.9 per 100,000 people, but then has seen an increase in the number of rape from 2013 to 2018. However, the latest UCR reports that rape rates declined from 44 per 100,000 people in 2018 to 42.6 per 100,000 people in 2019. To put this in numbers, the UCR reported in 2019 there were 61,699 rape incidents reported by 8,536 law enforcement agencies (LEA) that submit to the National Incident-Based Reporting System (NIBRS) which covers 44% of the total U.S. population. Again, it is difficult to

accurately report sexual offending trends given most sexual victimization goes unreported to law enforcement. With all that said, official data finds a gradual increase in rape victimization from 2013 to 2018 and then a decline in 2019. However, the full scope of sexual offending trends is unknown given that the data does not account for other types of sex crimes, reporting trends and other variables that could influence the actual rate of sex crimes. Either way, sex crimes whether increasing or declining has been the subject of penal policies for decades. Yet what is unknown is the rates of sexual offending and victimization occurring in long-term care facilities, which is a line of inquiry not yet examined.

Sex Offender Policies

Sex Offender Registration and Notification Laws

For the past 25 years, early sex offender laws were typically drafted in response to high profile sex crimes committed against children which resulted in their death. Knowing the whereabouts of people convicted of sexually offending has been at the heart of public safety for policymakers and the public. The first federal law enacted was after 11-year-old Jacob Wetterling went missing from his home in St. Joseph, Minnesota while taking a bike trip to the local video store. On his way home, it was reported that Jacob was abducted at gunpoint. It was not until 2016 that the location of Jacob's remains was provided to law enforcement by the killer, Danny Heinrich. Since his abduction in 1989, Wetterling's mother, Patty, made it her personal mission to protect children from child abduction. In 1994 the Jacob Wetterling Act was passed by Congress which permitted law enforcement agencies to establish a sex offender registry and address verification system. However, this initial monitoring scheme was not made available for public knowledge until Megan's Law was passed in 1996. Megan Kanka, a 7-year-old New Jersey girl, was murdered by a previously convicted child sex offender (Levenson & Cotter,

2005), Jesse Timmendequas. He lived across the street from Kanka's home and had two prior convictions for sexual assault. Megan's Law provided many changes to the monitoring and notification schemes for those convicted of sexually offending. Such changes established community notification by any means necessary, primarily via the Internet. Besides online notification websites, some states and local governments use additional notification strategies such as mailers, media outlets and door-to-door notification by law enforcement (Letourneau et al., 2010; Levenson et al., 2007; Rolfe et al., 2017; Sandler et al., 2008). Despite this federal law permitting public notification, many still felt it did not go far enough, especially since states were permitted to develop their own classification and monitoring systems for those on the sex offender registry. In other words, Megan's Law was not a universal system from one state to the next. For example, a registrant could reside in Illinois as a Tier III registrant which is the highest level and be required to register every 90-days for life. However, if that individual moves to Ohio, it is possible they would not be required to register for life. Based on such inconsistencies across the country, in 2006, the Adam Walsh Child Protection and Safety Act (AWA) was passed to close many of the loopholes in the registration and notification schemes across the country. By doing so, states could no longer classify individuals on their risk to re-offend. Instead, a three-tier system was created that placed individuals into a designated tier based on their sexual offense conviction. Not every state has adopted AWA because they have questioned its efficacy and costs to implement. States have experienced challenges when attempting to implement the standards of the Sex Offender Registration and Notification Act (SORNA), citing barriers in bringing their systems in line with SORNA requirements and the cost to operate and maintain the system. Although the Department of Justice (DOJ) and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) shifted to a more

flexible set of standards than the rigid standards initially introduced, the majority of states remain non-compliant due to the program's cost to implement and maintain (Harris et al., 2020). To date, only 17 states, 130 tribes, and 4 territories have implemented this law (Justice Policy Institute, 2008; Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART), 2020).

Illinois Sex Offender Registration and Notification Law (SORN)

Illinois was one of the few states that established sex offender polices prior to the federal mandates of the Jacob Wetterling Act. In 1986, Illinois enacted the Habitual Child Sex Offender Registration Act which required registration for "any person convicted, discharged, or paroled from a correctional facility after this date of a second or subsequent sex offense where the victim was under 18 years of age" (Illinois State Police, 2003). Unlike current sex offender registration mandates, the original Illinois law was only intended for law enforcement and was not made available to the public. Further the original law was only directed to individuals convicted of criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, or aggravated criminal sexual abuse. However, since the origination of the law in 1986, the General Assembly has amended the registry twenty-three times, each time adding new offenses or requirements (Illinois State Police, 2003).

Federal SORN law established uniform and comprehensive sex offender registration and notification requirements. For example, federal law mandates states to implement a three-tier system, which requires people to register for 15 years, 25 years or life depending on the nature of their offense and criminal history. Further, it requires states to increase the amount of information that must be collected by law enforcement and listed on the registry and expands the list of crimes that require registration and the requirement of juveniles, age 14 and older, to

register for certain sexual offenses. Last, federal SORN law made the registry retroactive by requiring all people convicted of a sexual offense to register regardless of their date of conviction (SMART Office, 2020). However, the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) which monitors compliance finds that not all states, including Illinois, comply with federal mandate. In fact, in 2016, Illinois only met five of the fourteen SORNA requirements. It was found that Illinois did not employ a three-tier system, did not meet the minimum registration requirement, unsuccessfully passed offenses that are subject to registration, lacks the technology necessary to comply with digital information required to be collected at the time of registration, does not include employer address and does not allow for multiple address and phone number entries (SMART Office, 2020). Thus, finding that Illinois has not yet been found to have substantially implemented the elements of the SORN law as mandated by federal law (SMART Office, 2020).

Residency Restrictions

There is a strong belief among the public and policymakers that knowing where people on the sex offender registry reside, work, and go to school is not enough to keep the public safe from such individuals (Huebner et al., 2014). This has led many states and municipalities to create and establish "exclusionary zones" between where registrants can reside and where children are most likely to congregate. Some states have also included no loitering statutes for people on the registry, as well as places that are completely off limits to them, such as libraries, museums, parks, state fairs, and other popular places where children assemble. To date, 21 states and countless local governments have restricted people on the registry from residing anywhere within 300 to 2,500 feet from schools, daycare centers, parks and other places deemed necessary to protect children (Savage & Windsor, 2018). Despite their wide popularity among the public

and policymakers as a tool to keep children and the public safe from such individuals, scholars have found residency restriction laws create a false sense of security (Huebner et al., 2014; Levenson & Cotter, 2005; Levenson et al., 2007). In other words, there is a sense of knowing where they live and cannot be, then they cannot harm our children or the public. However, research has shown that 95% of the victims are known to their assailant, which means the "stranger danger" ideology among the public and policymakers is not substantiated by empirical evidence (Greenfeld, 1997).

Civil Commitment for Sex Offenders

Gaining in popularity over the years, civil commitment is another mechanism of incapacitating sex offenders following the termination of their criminal sentence (Levenson, 2003). Originally, civil commitment was applied to individuals who were mentally ill and declared dangerous to themselves or others. However, civil commitment laws have broadened over time to include sex offenders to keep them out of the community after their maximum sentences have expired. The policy's application to sex offenders was the direct result of sex offenders expressing their desire to reoffend post-incarceration, thus, giving policymakers another reason to extend the application of civil commitment to sex offenders. Civil commitment laws aim at protecting the public from future victimization by sex offenders (Levenson, 2003) believing that sex offenders are likely to recidivate in high numbers despite evidence. In Illinois the court could choose to pursue either a criminal trial or a civil commitment proceeding as a way to circumvent convicting and punishing the offender (Lieb, 1996). However, there is some belief that civil commitment deprives an individual of due process incapacitating an individual on the premise that he might commit and new crime versus punishing them for a new crime committed. Civil commitment laws are being advertised as a non-punitive mechanism to treat

sex offenders versus a punitive push towards incarceration. However, there is evidence that finds sex offenders receive very little treatment while civilly committed. According to a study conducted in California, only 20% of sex offenders civilly committed participated in treatment (Doyle, 2004). Unfortunately, there is very little available data on the numbers of individuals civilly committed and released. In all, civil commitment laws may be another mechanism for housing sex offenders, which is very appropriate to include for the scope of this study.

GPS Electronic Monitoring for Sex Offenders

The use of electronic monitoring (EM) has been used in the criminal justice system for decades but has seen technological advances over time; as well as to whom the technology is applied. Originally, EM was applied to a wide-range of moderate- to high-risk offenders as an alternative to incarceration, typically in the form of house arrest, to reduce jail and prison overcrowding (Renzema & Mayo-Wilson, 2005). It has been suggested that EM may reduce reoffending while under GPS monitoring. Further, it is argued that GPS relieves the workload burden of probation and parole officers who do not have to manually monitor client whereabouts. Early detection of criminal behavior can be signaled with the use of electronic monitoring, allowing probation and parole officers a warning of who may need reincarcerated.

In a recent legislative move, EM expanded its offender population to include sex offenders to increase public safety and curb public fear. The Jessica Lunsford Act was enacted in 2005 after the disappearance and murder of a Florida girl, Jessica Lunford. Florida tightened their sex offender laws by introducing EM to surveil and monitor the whereabouts of certain sex offenders using GPS monitoring. More states followed in Florida's footsteps and enacted similar legislation to formally control a certain group of sex offenders. However, Renzema and Mayo-Wilson (2005) found that EM is nothing more than a legislative movement with very little

planning, staff training and further research that has minimal impact on crime. Last, in some states, EM can be applied indefinitely to persons on the sex offender registry. No other group of offenders are subjected to lifetime monitoring, which further punishes a certain group of sex offenders for life.

Efficacy and Collateral Consequences of Sex Offender Laws

The efficacy of the sex offender registry and residency restriction laws has been highly debated over the years. Most policymakers and the public assume that people who sexually offend have no control over their actions (Hanson & Bussiere, 1998, 2005; Hanson & Morton-Bourgon, 2005; Harris & Hanson, 2004); thus, they are assumed most likely to recidivate sexually. Despite the public and policymakers' assumptions, scholars have argued that the registry and residency restriction laws have been based on misguided information finding that most of the research does not support the assumption of high recidivism rates among this group of offenders (Hanson & Bussiere, 1998, 2005; Hanson & Morton-Bourgon, 2005; Harris & Hanson, 2004). Regardless of the empirical evidence, laws pertaining to those who commit sexual offenses are developed and implemented with little to no regard for their efficacy and collateral consequences it has on offenders or society.

Due to the various sex offender management policies, sex offenders face insurmountable challenges to the reintegration process compared to non-sexual offenders. For most, it dramatically reduces their ability to obtain and maintain employment, housing, including emergency homeless shelters, and build prosocial support systems (Levenson & Cotter, 2005a, 2005b; Rolfe et al., 2017; Tewksbury, 2005; Zgoba et al., 2009). Research has yet to examine the policies, availability, or the collateral consequences of LTCFs for people convicted of sexual

offenses, but based on previous housing research, it can be postulated that access to LTCFs for registrants will also be limited.

While scholars have highlighted many of the collateral consequences for people on the sex offender registry, they have also found that many family members are subjected to similar consequences as the registrant. For example, many registrants' family members experience social isolation, depression, anxiety, and financial hardship as their loved one (Farkas & Miller, 2007; Levenson & Tewksbury, 2009). Due to such hardships for family members of registrants, providing housing and other assistance is not an option for their loved one on the sex offender registry. This has resulted in relegating some registrants to socially disorganized neighborhoods which further diminishes their opportunities for stable housing and other necessary social services for their physical and mental health (Hipp et al., 2010; Mustaine & Tewksbury, 2011; Mustaine et al., 2006; Tewksbury et al., 2016). Moreover, some registrants become homeless in order to not violate residency restriction laws in the area in which they live (Levenson et al., 2010; Levenson et al., 2015).

Despite the assumption that sex offenders have a high propensity to sexually recidivate, studies have shown a low recidivism rate regardless of the sex offender registry. This means that the recidivism rate for pre- and post-SORN were found to be similar and very low (Huebner et al., 2014; Sandler et al., 2008; Tewksbury & Jennings, 2010; Tewksbury et al., 2012). The low recidivism rate is consistent with other studies in which scholars found a 3-15 percent rate of sexual reoffending among registrants (Alper, 2019; Greenfeld, 1997; Harris & Hanson, 2004; Langan et al., 2003; Levenson et al., 2007; Sample & Bray, 2006). Besides a low recidivism rate, most people (87 to 96 percent) who commit sex crimes commit their crimes against someone they already know and do not have a prior sexual conviction (Greenfeld, 1997; Letourneau et al.,

2010; Levenson et al., 2007; Sandler et al., 2008). Therefore, the effectiveness of laws that allow members of the public to know the whereabouts of registrants, as well as create social distancing between registrants and the public is not supported by empirical evidence.

The extant literature also posits that most people age out of their offending behavior, including those convicted of sex crimes (Alper, 2019; Farid & Whitehorn, 2014; Hirschi & Gottfredson, 1983; Piquero, 2008). Further, there is rarely a reprieve from the registry and residency restriction laws for those convicted of sex crimes. This is due to most states requiring such individuals to register for decades or life, which has had devastating effects on their reintegration efforts and quality of life. One study found that individuals over the age of 50 previously convicted of a sex crime had a recidivism rate of 3.1 percent (Wisconsin Department of Correction, 2015). The Bureau of Justice Statistics (2019) found a similar recidivism rate of 6% for individuals aged 40 or older who were convicted of sexually offending. Due to the duration that most registrants are required to register, and the belief that they will reoffend at some point, it is understandable that placement of such individuals into LTCFs could be challenging. We have seen similar housing issues for registrants throughout the extant literature, including emergency homeless shelters denying access to registrants but not others in the justice-involved population (Rolfe et al., 2017). While an expansive literature has supported the "aging out process" of both registrants and justice-involved people to reoffend, little is known about sexual offending later in life or within long-term care facilities. Certainly, research needs to be done in both contexts.

Sex offender policies are crafted to deter, restrict, control and monitor persons convicted of sexual offending for life. However, what remains unanswered is why states would enact a LTC/SO law, if organizational policies relating to persons convicted of a sex offense are a result

of structural characteristics, and what are the individual attitudes of LTCF administrators towards organizational policy that admits or denies persons convicted of a sex offense. One way to examine these unanswered questions is through a theoretical lens. The next chapter discusses three theories that may explain macro-, meso-, and micro-level decision-making.

CHAPTER 3

THEORETICAL FRAMEWORK

This chapter will discuss three theoretical frameworks to potentially explain all three levels of analyses, state punitiveness, street-level bureaucracy and loose coupling theories.

State-level Theoretical Framework

State Punitiveness

One focus of this dissertation is to examine why a state would enact a law that informs and directs LTCFs of how they should admit and supervise residents with a prior sexual conviction. One way in which a researcher could attempt to answer this question is analyzing state characteristics, a state's criminal justice policies, a state's social policies and political affiliation to examine if certain state characteristics, policies or political climate may be an explanation for more punitive policies. State punitiveness is a series of purposeful legislative decisions by a state that are often expressed in terms of penal policies ranging from incarceration to execution. Kutateladze (2010) defines *state punitiveness* as "the range of criminal justice policies that target suspects, defendants, convicts, inmates and even formerly incarcerated individuals" (p. 245). This macro-level approach to explain a state's penal austerity is commonly measured by incarceration rates, sentencing laws, prison conditions, and the death penalty. However, punitiveness scholars vary in how they measure state punitiveness, and some if not all of them omit other possible predictors of state punitiveness such as sex offender policies, social policies, and political affiliation.

State punitiveness may be associated with enhanced penalties for criminal behavior, annual spending on police resources, and the ban of social welfare entitlements for individuals with a felony record (Neill et al., 2015). Much of the punitiveness discourse centers around

criminal justice responses as a way to explain state punitiveness, and very little, if any, on legislative movements, such as a LTC/SO law, that may be an obscure response to state punitiveness.[3] Therefore, this dissertation will set out to explore other possible indicators or predictors as an explanation to why a state may enact a LTC/SO law other than those commonly used by punitiveness scholars. I will discuss each variable by group, beginning with the most commonly used variables of state punitiveness and then follow with variables not typically found in state punitiveness literature.

State Criminal Justice Policies

Death Penalty. According to state punitiveness scholars, the death penalty is one indicator of a state's punitiveness (Gordon, 1989; Kutateladze, 2010; Tonry, 2001). More so, "The level of punitivity is often, especially in the United States, measured by assessing the death penalty" (Kury & Ferdinand, 1999, p. 374). Undeniably, states that impose the death penalty in felony-murder cases are harsher than a state that sets aside the death penalty for intentional homicide (Kutateladze, 2010). Just having the death penalty alone is not the only consideration for state punitiveness scholars. State punitiveness scholars also take into consideration the number of executions carried out by a state compared to states that has the death penalty on the books but does not carry the sentence out. States that carry out executions are characterized as being more punitive than states that maintains the sentence *de jure*. Further, according to Rayburn (2004) there is an increasing number of states who support the death penalty for child rape offenders. First, Rayburn argues that public sentiment towards the support of the death penalty for sex crimes against children is one reason to believe that child rape will be punished

[3] Mass incarceration, death penalty, and crime are the most frequently discussed topics by state punitiveness scholars, and very little, if any, about obscure responses to state punitiveness.

by death in the future. Second, the case of *Coker v. Georgia* (1977) held the death penalty was excessive and disproportionate for the crime of rape against an adult woman. Therefore, this leaves the door open for a differing opinion by the U.S. Supreme Court as it relates to punishment of child rapists. Third, the Supreme Court has established that the death penalty should reflect the "conscience of the community."[4]Although, this study does not examine public attitudes as a measure of state punitiveness, the public's favor of punitive sex offender policies to the point of execution may reflect a state's legislative movements towards sex offenders.

Three-strikes and You're Out Laws. Three-strikes laws are another indicator of state punitiveness. Three-strikes laws are aimed at punishing and incapacitating repeat offenders by sentencing offenders convicted of serious violent crimes to very long prison terms. Between 1993 and 1995, twenty-four states enacted some version of a "three-strikes and you're out" law. Three-strikes laws follows the basic assumption found in deterrence theory, that all else being equal, people will be deterred from committing further crime when the stakes are higher. Despite its popularity with the public, three-strike laws have been found to have little deterrent effect. In fact, using time-series analysis it was found that in the short-term homicides increased by 10-12 percent and 23-29 percent in the long-term (Marvell & Moody, 2001). Although three-strikes laws vary significantly state to state, they nonetheless indicate states that apply any version of a three-strikes law is more punitive than states without a three-strikes law. Most of the state's three-strikes laws calls for life sentences without the possibility of release for at least 25 years upon a third conviction of a serious violent crime (Marvell & Moody, 2001). All states but one already had a habitual criminal legislation that allowed judges the discretion to sentence this group of offenders to longer prison terms. Not surprisingly, all states with three-strikes laws

[4] See *Witherspoon v. Illinois*, 391 U.S. 510, 519 (1968)

include some type of sex crime as a qualifying "three-strikes and you're out" offense (Kutateladze, 2010).[5] But, there are a few states that extend three-strikes laws to include non-violent offenses, such as drug offenses, embezzlement, weapon violations and bribery which may indicate a higher level of punitiveness and retributive attitudes towards repeat offenders.

Disenfranchisement. Disenfranchisement laws are a strong indicator of state punitiveness given their intended purpose is to limit an individual's civic rights indefinitely. Typically, people associate the word "disenfranchisement" with the deprivation of voting rights. However, disenfranchisement extends beyond just the voting rights of ex-felons. Some states exclude ex-felons from securing employment and occupational licenses in certain types of industries. Illinois alone has 1,449 statutes that limit convicted felons' rights, entitlements, and opportunities. Of these, 77% impose restrictions on employment, occupational licensing, and business activities (Illinois Criminal Justice Information Authority [ICJIA], 2016). Additionally, ex-felons may be ineligible for student loans, public housing, and social service entitlements. Whether these rights are stripped from ex-felons through criminal justice or civil remedies, they are indicative of state punitiveness because it disenfranchises a certain group of people (Kutateladze, 2010). By disenfranchising a certain group of people speaks volumes about a state's attitude towards rehabilitating offenders. It disregards the basic fundamental of law that criminal justice punishments should be the only consequence of a conviction (Kutateladze, 2010).

[5] Example includes rape, aggravated sexual assault, child molestation, and lewd contact with a child

State Criminal Justice Characteristics

Incarceration Rates. Incarceration is probably the most widely used indicator of state punitiveness. Some state punitiveness scholars would argue that incarceration may be the best measure of state punitiveness (Blumstein, 2007; Gordon, 1989; Kutateladze, 2010; Tonry, 2001). However, state punitiveness scholars vary in how they measure incarceration but one of the most common ways is the number of jail and prison inmates on any given day per 100,000 population (Kutateladze, 2010). A likely contributor to mass incarceration has been legislative movements towards criminal justice punishments. Changes in policy, like three-strikes laws, are more to blame for the rising number of people flowing in and out of jail and prison than changes in crime. Most offenders are held in state correctional facilities; therefore, state punitiveness scholars assess state incarceration rates to measure and compare state punitiveness variations. Further, crime control is mostly a function of state and local jurisdictions; thus, certain state characteristics, like incarceration, may explain punitive penal policies carried out by states.

Crime. Crime may be another indicator of state punitiveness. One argument made by Unnever and Cullen (2010) is that punitiveness in the U.S. is a direct result of the public's perceptions of crime. Although perceptions may not reflect an accurate picture of the true crime rates in America, the public's perception is a powerful motivator of legislative movements. The assumption that a perceived increase in crime and public disorder precedes government to enact criminal justice policies to protect citizens from what is perceived to be a problem (Simon, 2007). Aside from the public's perceptions of rising crime, support of punitive penal policies could be influenced by a person's prior victimization, vicarious experiences of victimization, a higher perceived level of risk of future victimization, higher neighborhood levels of crime, or a greater fear of crime (Kleck & Jackson, 2017). However, in the same vein scholars have found

that the hypothesis that crime or perceptions of crime causes punitiveness was not supported (Kleck & Jackson, 2017; Messner et al., 2006; Ousey & Unnever, 2012). Further, they examined crime rates and its relationship to punitiveness. They found that higher crime rates do not cause increased support for harsher punishment of criminals, nor does personal victimization, vicarious victimization, higher perceived risk of victimization, a perception of rising crime rates, a perception that area crime rates are higher where they live than other parts of the country, and a greater fear of crime. In all, their study did not support the argument that crime causes punitiveness. Yet at the same time, many of the sex offender policies were born out of actual crime and victimization. Therefore, we should not dismiss crime as an indicator of punitive policies and should consider it especially for the scope of this study.

Number of Full-Time Police per 1,000. One indicator of state punitiveness may be states criminal justice resources and their level of punitiveness. One of the early states punitiveness scholars, Gordon (1989), included correctional employees per capita as an indicator of state punitiveness. She found states with a higher number of correctional employees per capita are also states that are tough on crime. We would expect that states which employ more police per 1,000 are concerned with crime control, and therefore may be more punitive in their penal policies. Over time, states have increased police expenditures by 175% between the years 1977 to 2018, adjusting for inflation (Urban Institute, 2021). During this time period the U.S. transitioned from a rehabilitation model to more of a crime control model to curb criminal behavior. In turn, law enforcement agencies increased their police forces as a response to a "get tough on crime" mentality that emerged in the 1990s. Originally introduced by Beccaria and Bentham, they argued that more police on the streets can deter crime, but scholarship vary in their results. But a few studies contradict Beccaria and Bentham's assumption, and find that

more police, more crime, or no relationship at all (Cameron, 1988; Marvell & Moody, 1995). Further, Eck and Maguire (2005) concluded that there is very little evidence to suggest that more police on the streets will result in a decrease in crime. Even with these findings, we can assume that states who employ more police are concerned with crime control which may influence more punitive penal policies.

Sex Offender Policies

Residency Restrictions. Residency restriction laws are important to the scope of this study, as they may influence a state to adopt a LTC/SO law as a part of a package of measures. Residency restriction laws define distance limitations of where a convicted sex offender can live. To date, 21 states and countless local governments have restricted people on the registry from residing anywhere within 500 to 2,500 feet from schools, daycare centers, parks and other places deemed necessary to protect children. Further some local jurisdictions extend residency restriction laws beyond where children can congregate and apply to them senior living facilities, such as Hillsborough County, Florida.[6] Hillsborough County restricts sexual predators from living or residing, temporarily or permanently, near senior living facilities which further marginalize a certain group of offenders. This municipal code is likely to have an iatrogenic affect for elderly "sexual predators" seeking admission into long-term care, given that they are permitted to live in locations where senior citizens reside. Thus, we can assume that states and

[6] It is the intent of this municipal code to serve the County's interest to promote, protect and improve the health, safety, and welfare of the citizens of Hillsborough County by creating areas around locations where senior citizens reside or regularly congregate wherein certain sexual predators are prohibited from establishing temporary or permanent residences. https://library.municode.com/fl/hillsborough_county/codes/code_of_ordinances,_part_a?nodeId=HICOCOORLA_CH36OFMIPR_ARTVOFINPUMO_DIV4SEPRSEPR

local jurisdictions with stricter residency restriction laws are more likely to enact a LTC/SO policy.

Civil Commitment. Civil commitment laws may be one of the harshest forms of state punitiveness. Very little, if any, state punitiveness scholars consider civil commitment as a predictor of state punitiveness. For the sake of this study, it is likely that civil commitment laws will be a strong predictor of state punitiveness given that civil commitment laws have expanded since its original inception to include its application to sex offenders. Legal scholars have questioned the constitutionality of civil commitment laws, arguing they bypass an individual's right to due process by civilly committing a person suspected of a sexual offense under the guise that criminal procedures would result in a harsher punishment. However, Illinois has been known to use civil commitment as an indefinite confinement mechanism for some sex offenders without ever having been tried in a court of law.[7] Therefore, civil commitment laws will be used as a measure of state punitiveness and an explanation for a state to enact a LTC/SO law.

Global Position System (GPS) Monitoring. The use of electronic monitoring (EM) has been used in the criminal justice system for decades but has seen technological advances over time; as well as to whom the technology is applied. Originally, EM was applied to a wide-range of moderate- to high-risk offenders as an alternative to incarceration (Renzema & Mayo-Wilson, 2005). However, in a recent legislative move, EM expanded its offender population to include sex offenders as a way to increase public safety and curb public fear. The Jessica Lunsford Act first appeared into law in 2005 after the disappearance and murder of a Florida girl, Jessica Lunford. Florida tightened their sex offender laws by introducing EM to surveil and monitor the whereabouts of certain sex offenders using GPS monitoring. More states followed in Florida's

[7] https://www.pbs.org/wgbh/frontline/article/illinois-legislators-are-calling-for-changes-to-a-law-that-keeps-people-in-prison-without-a-conviction/

footsteps and enacted similar legislation as a way to formally control a certain group of sex offenders. Although sex offender policies were abundant during this time period, electronic monitoring further punishes a certain group of sex offenders for life. Twelve states electronically monitor certain groups sex offenders for the duration of their life as another way to control and monitor a certain group of sex offenders living in the community. The use of EM may be a predictor of a state to pass a LTC/SO law with the goal of further surveilling sex offenders through legislative movements.

State Social and Political Characteristics

Ban on Supplemental Nutrition Assistance Program (SNAP). Early punitive scholars characterized the climate of America in the 1990s as intolerant of criminal behavior sparking a greater push towards punitive policies and more severe punishments (Tonry, 2007; Whitman, 2003). Punitive penal policies have been linked to the restriction and ban of social welfare entitlements (Owens & Smith, 2012). Some states in America have permanently banned or restricted the ability for some drug felons to access to social entitlements, such as Temporary Assistance to Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) (neé food stamps). Owens and Smith (2012) examined why some states choose to limit the social rights of felons and found that states with punitive penal policies and a larger incarcerated population are more likely to limit the rights of and social entitlements to felons. Currently, twenty-six (52%) states have some form of restriction to drug felons' access to food stamps. Further, they found a relationship between incarceration rates and the retention of restrictions on social welfare access by drug felons. States with a larger incarcerated population are more likely to hold onto laws that restrict felons' access to social welfare entitlements (Owens & Smith, 2012).

Number of Children in Foster Care. Child protection intervention and foster care intervention are forms of formal social control over parents suspected of child abuse and neglect (Reich, 2005). Further, foster care intervention is considered a punitive action by a state to punish parents the court believes is incompetent to care for or dangerous to their children. Additionally, child protection and foster care interventions has connections to state criminal justice policy in the form of incarceration (Edwards, 2016). Parental incarceration disrupts the family's ability to care for a child which ultimately increases the chances of foster care entry (Edwards, 2016). Therefore, scholars have asserted that states with more punitive social policy and criminal justice policy are more likely to have higher rates of foster care interventions. We may be able to assume that states with more punitive social and criminal justice policies may also have a LTCF/SO policy, as well.

Political Affiliation. State punitiveness and criminal justice scholars have examined how political affiliation of government officials and their constituents' political position has influenced policy. Kutateladze (2010), a state punitiveness scholar, argued that Republican governments and percent of voters voting for the Republican presidential candidate are more likely to be punitive. He asserts that Republican beliefs are more aligned with the idea that moral and legal violations must be punished through criminal justice applications. Further, Whittle and Parker (2014) find that U.S. election poll results can be a useful tool to analyze conservatism. In the same vein, Phelps and Pager (2016) investigated variation in state-level incarceration through a political lens. They found that states with a Republican governor is associated with an increase of 6 (per 100,000) in the imprisonment rate the following year after being elected to office. There is also a belief that the more conservative a state, the higher the incarceration and prison admission rates (Sorensen & Stemen, 2002; Whittle & Parker, 2014). Additionally, felony

collateral consequences such as SNAP ban for drug felons or disqualification of TANF benefits for felons are thought to be associated with a state's political climate. In states where conservatism towards criminal behavior is more punitive the likelihood for additional felony collateral consequences is higher. Therefore, taking political affiliation into consideration as a predictor of a state to enact a LTC/SO law makes logical sense.

State Characteristics

Median Age. The median age of a state may be a contributing factor of state policies and punitiveness. It is argued that states older and with a higher percent of population over the age of 62, the more punitive the state (Kutateladze, 2010). There is evidence from policing scholars that older people have higher rates of fear of crime and victimization (De Donder et al., 2012), thus favoring stricter laws for their protection against violent crimes. Kutateladze (2010) makes the argument that Florida, a jurisdiction older in population, emerged in his study as the most punitive state. Therefore, we may assume that states with an older population may favor a LTC/SO law as a way to protect themselves from potential sex offenders living in long-term care.

State Population. State size may predict state punitiveness. Larger population states tend to be less cohesive racially, economically, and various other ways (Kutateladze, 2010). Socially incohesive states can be a predictor of crime which oftentimes results in more punitive criminal justice policies (Kutateladze, 2010). Therefore, state punitive scholars may include state population as an indicator of punitiveness. In this study, state population will be considered as an indicator of state punitiveness expecting that states larger in population may also be a state that would enact a LTC/SO law.

All in all, the aforementioned policies and characteristics have been included in prior research, or for the sake of this study important variables to consider for reasons why a state may enact a law directed towards the admission processes and supervision of registered sex offenders or those with a prior sexual offense conviction living in long-term care.

Theoretical Framework

Loose Coupling

The current study includes an examination of LTCFs from an organizational framework. Specifically, this dissertation sets out to answer 1) Do structural characteristics matter in the admission decisions of applicants on the sex offender registry? 2) Do Illinois LTCFs follow the Illinois Nursing Home Care Act? And 3) does the Patient Bill of Rights matter in admission decisions? One way to examine organizational management is through understanding a LTCFs' organizational structure, implementation of policies and procedures, and how structural characteristics may play a role in admission decisions. Formal organizations, such as LTCFs, are subjected to state and federal regulations and unique state laws specific to long-term care. One way in which we can understand organizational behavior is through a neo-institutionalism perspective. As we would expect, LTCFs should be tightly coupled with levels of government and professional organizations given the fact they are a heavily regulated industry and supported by professional organizations and state regulatory bodies. LTCFs similar in structure would mirror one another regarding formal structures and rules given they are regulated by the same oversight bodies. Neo-institutionalism would suggest that organizations establish legitimacy, not only from within but with the public as well, through formal structures such as a board of directors and standard operating procedures (Abzug & Galaskiewicz, 2001; Sosin, 2012). The survival of an organization hinges on legitimacy, and LTCFs have been scrutinized over the

years for underperformance and poor nursing practices that have resulted in tighter oversight and stricter policies regarding the care of nursing home patients.[8] Further, LTCFs must also rely on patient census, a full staff, payer sources, and good standing with the state's Department of Health to stay in business and maintain legitimacy. Thus, LTCFs may appear to take all precautions to protect the safety and well-being of residents and staff but may circumvent organizational policy for financial reasons and administrators' belief that an applicant with a sex offense conviction does not pose a threat to others living in the facility.

Organizations foster and implement formal structures and policies and procedures that are necessary to satisfy state and federal law and state regulatory bodies as well as the public and future residents (Meyer & Rowan, 1977). However, these formal regulations may interfere with organizational goals causing LTCFs an imbalance between formal policies and procedures and the overall mission of patient care. This imbalance may result in LTCF administrators exercising discretion that may conflict with company policy to meet patient care. Loose coupling refers to the bridge between formal policies and the mission of the organization to achieve its intended purpose while maintaining legitimacy (Meyer & Rowan, 1977). Meyer and Rowan (1977) established the loose coupling framework within neo-institutional theory, but Maguire and Katz (2002) argue that loose coupling framework is not attached to any specific theory and can be applied in variation across all organizations.

Sosin (2012) asserts that organizations rely on formal and informal relationships to establish and maintain legitimacy. However, it is the power of the government and regulatory bodies that supersedes all other informal relationships in establishing legitimacy. Thus, LTCFs must abide by and consider laws and regulations while simultaneously executing their mission of

[8] The Illinois Nursing Home Care Act is just one example of increased oversight and policy relating to abuse and neglect in long-term care.

patient care. One way in which organizations establish legitimacy is the appointment of prominent members of the business community on their board of directors. This is an important formal procedure to increase an organization's reputation with local, state, and federal government agencies. According to Sosin (2012), certain features of a board and its organizational structure is important to an organization's reputation. Not only are formal relationships paramount in the healthcare industry, but informal relationships are essential to a LTCFs reputation in the community. Community members are potential residents for LTCFs and having a good reputation with local community members is critical to a LTCFs funding and long-term viability. Loose coupling has been used to explain organizational arrangements and identities across industry types, for- and non-profit. This framework works well as an application for LTCFs given they structurally vary and may have to circumvent formal company policies and procedures to meet the goals of their clients.

Loose coupling framework has been used to examine criminal justice organizations in a variety of ways. For example, during the 1970s there was an influx of sexual harassment claims that gave rise to new policies for grievance procedures and employee education on the signs of workplace sexual harassment. The intended goals of these policies were to minimize the likelihood companies would be the subject of such lawsuits. Ceremonial in value (loose coupling), judges and company executives seemed to dismiss newly formed policy to reduce workplace sexual harassment (Dobbin & Kelly, 2007). Further, policing procedures have found to be dependent on an organizations size and location when loose coupling is used and how often it is used. It has been found that relationships between police organizations and the public may largely be affected by how tightly or loosely coupled an organization (Maguire & Katz, 2002). Eitle (2005) finds that variation in organizational policies does not equate to consequential

actions by leadership for variation in police procedures while officers perform the functions of their job. Loose coupling in police organizations is a constructive way for organizations to accomplish agency goals without compromising legitimacy in the eyes of the public. LTCFs, who make exceptions to their organizational policies and procedures in the name of patient care may be characterized as loosely coupled, which may in turn increase their legitimacy by the public.

Some LTCFs are non-profit organizations and may be more vulnerable to loose coupling as they are supervised by a board of directors which typically sees a change in new members according to by-law rules. Therefore, as the board of directors change so may the organization's formal policies and procedures to maintain optimum patient care and good standing in the community (Abzug & Galaskiewicz, 2001). The community assumes the board of directors of non-profits will act in good faith to protect organizational assets and human capital. In the same way, homeless shelters, largely non-profit based community organizations, are also susceptible to loose coupling given they are organized and directed by secular and non-secular associations. In a study examining whether homeless shelters accept clients on the sex offender registry, Rolfe (2017) found that most of the homeless shelters surveyed were religious-based organizations. Further, those that did not check their state's sex offender registry were more likely to accept clients on the sex offender registry even when they had a sex offender policy in place. The practice of not adhering to organizational policies and procedures may indicate an organization is loosely coupled to the organization. Additionally, for non-profit organizations to be successful they are constantly evolving to keep up with community demands, and typically rely heavily on the lifeline of community donors. Sosin (2012) asserts that non-profit organizations are

influenced by outside sources who claim a stake in the organizations policies and mission. Therefore, it is essential to their vitality that their legitimacy remains intact.

However, in the same vein loose coupling may hinder a LTCFs legitimacy with the public when LTCF administrators circumvent organizational policy when they decide to admit a person on the sex offender registry or convicted of a sexual offense. Community residents may find that admitting a sex offender into LTC is irresponsible which could potentially affect the facility's future admissions.

Further, as the term *coupling* implies, "anythings that may be tied together" (Weick, 1976, p. 5) refers to a broad range of organizational elements tied to decisions or goals (Johnsen, 1999). A few scholars have made the argument that resource dependence and loose coupling are linked to either a loose or tight coupling framework. And, that the two should be integrated into one framework rather than working independent from each other to explain organizational behavior (Beekun & Ginn, 1993). Therefore, for the sake of this study, structural characteristics of LTCFs such as staff-to-patient ratio, number and type of beds, type of ownership, payer sources and occupancy rate may influence how tightly or loosely coupled LTCFs are with organizational policies and procedures. I would argue that LTCFs with a low patient to staff ratio may circumvent or disregard organizational policy to execute patient care, even if it compromises quality of care in order to do their job. The same with number of beds, and their ability or inability to accept what may be characterized as high-risk residents, such as registered sex offenders. To fill beds, LTCFs may ignore admission policies and the Patient Bill of Rights to meet budgetary goals. Low occupancy rate, especially given the nursing home industry just experienced and is coming out of a global pandemic, may be a predictor of loose coupling given that LTCFs are on the rebound to increase and maintain optimum occupancy to fund annual

operating costs. Structural characteristics like those previously mentioned are rarely discussed by scholars as likely contributors of loose coupling framework. However, I argue they are just as much of potential determinants in the nursing home industry than other organizations unrelated the human service industry.

More, LTCF administrators who do not consider the Patient Bill of Rights when making admission decisions would likely disregard organizational policy as a way to admit high-risk applicants, like those with a sex offense conviction. The Patient Bill of Rights is a list of guarantees afforded to patients when receiving medical care. One of the rights outlined in the Patient Bill of Rights is the right to be free from abuse and neglect. LTCF administrators should refer to the Patient Bill of Rights when making admission decisions. We would assume that LTCF administrators who prioritize the Patient Bill of Rights are more likely to adhere to their organization's policies and procedures and less likely to make admission exceptions for persons on the sex offender registry or have been convicted of a sexual offense.

Last, and maybe most importantly to the analysis of loose coupling framework, are LTCF administrators following the mandates of the INHCA? We should expect to find that 100 percent of facilities and facility administrators are adhering and implementing the INHCA if they are tightly coupled to not only organizational policies, but state regulations they must follow by law. Should we find that LTCF administrators are not adhering to and implementing the INHCA as outlined by law, it could be hypothesized that LTCF administrators are loosely coupled to policy that mandates their admission behavior.

Thus, the application of loose coupling framework to LTCFs may be appropriate in this case. LTCF administrators may feel the pressure from company leadership to maintain a high staff-to-patient ratio, fill beds to increase occupancy rate, and meet budgetary expectations which

may increase the likelihood administrators would disregard company policy and procedure to meet organizational and patient care goals.

Street-level Bureaucracy Theory

Street-level bureaucracy theory was developed by Michael Lipsky (1980) to explain the decision-making processes of those working on the frontlines, who he termed "street-level bureaucrats." Street-level bureaucrats include public service workers, social workers, teachers, police officers, members of the judicial system, public lawyers, healthcare workers, and many other public service agents who have the power to grant access to government programs and dispense benefits and services within them. He argued that ground-level employees have considerable discretion in determining the actual outcomes of public welfare policies and procedures to make policy work. This dissertation will attempt to examine LTCF administrators' discretionary power by attempting to answer the question, 1) "Would Illinois LTCF administrators make admission exceptions for applicants on the Illinois Sex Offender Registry?"

Lipsky (1980) described *discretion* as a critical concept in policy implementation because it is a direct outcome associated with ground-level workers and their freedom to make choices either through action or inaction (Evans, 2010). Lipsky (1980) argued the execution of street-level discretion occurs when there is a conflict between frontline workers and managers. However, we could certainly apply Lipsky's (1980) assumption regarding conflict to LTCF administrators who make admission decisions that may conflict between company policy and what is best for the patient. Therefore, the conflict in this regard is not between employees, but between employee and organizational policy and procedure. The question, 2) "How do Illinois LTCF administrators perceive company policy relating to persons convicted of sexual offending?" will attempt to be explained in the dissertation by understanding the attitudes of

LTCF administrators and their company policy regarding the admission of applicants on the Illinois Sex Offender Registry.

Lipsky (1980) further explained that discretion is also used to apply organizational policy under specific circumstances, namely for "complex tasks for which elaboration of rules, guidelines, or instructions cannot circumscribe the alternative" (Lipsky, 1980, p. 15), which could be applicable to LTCF administrators use of discretion to managerial decisions. Additionally, Lipsky (1980) argued that street-level bureaucrats are more concerned with client-processing goals and maximizing autonomy versus the goals of management which focus on the aggregate achievement of organizational goals and the minimization of worker autonomy (Evans, 2010). Given what we know, we may expect to find discretion being asserted as a decision-making tool by LTCF administrators as a way to circumvent organizational policy to meet the needs of the client (medical care) or individual facility goals (i.e., to fill beds, increase financial input, etc.).

Second, it is asserted that street-level bureaucrats have relative autonomy and freely employ discretion apart from managerial supervision (Prottas, 1979). LTCF administrators work apart from executive oversight and have relatively high degrees of freedom from upper management or their board of directors. Street-level bureaucrats must exercise discretion in order to process large amounts of work with very little support in the way of resources which usually results in their having to develop shortcuts and simplifications to cope with the daily output of their job responsibilities. In doing so, the coping mechanisms street-level bureaucrats are forced to develop often go unsanctioned by managers of their agencies. Further, it is determined that street-level bureaucrats evaluate clients independent from agency policies and procedures. Thus, street-level bureaucrats have unsanctioned discretion to act autonomously using his or her

evaluation of that client versus the evaluation embodied in the formal policies and procedures set forth by the organization. For example, LTCF administrators taking a client-centered approach to admission decisions and admitting potential high-risk applicants based on a client evaluation versus abiding strictly by organizational admission policies. Knowing this, we may find LTCF administrators have unlimited autonomy to exercise discretion to make admission exceptions that deviate from organizational admission policy and procedures.

Third, Lipsky (1980) asserted that street-level bureaucrats see themselves as professionals. They are public officials whose jobs require them to make decisions about other people. It can be argued that LTCF administrators are public officials or human service officials that require them to make decisions for other people (i.e., their residents), in particular admission decisions. Street-level bureaucrats define their role in terms of relationships more so than the organizational policies and procedures that ground them to their job. Lipsky (1980) characterizes them as policymakers and policy-reformers rather than implementers of organizational policies and procedures. LTCF administrators who have high degrees of autonomy are likely to have the ability to be policymakers and policy-reformers given their position in the organization. Finding, they circumvent formal policies in order to meet the needs of the client or other organizational goals that could otherwise not be possible without the use of discretion. According to Prottas (1979), eligibility requirements are usually connected to the street-level bureaucrat and client relationship. For example, to receive Social Security benefits one must meet eligibility requirements to attain benefits. Most often, eligibility requirements cannot be altered by entry-level workers. However, there are times when street-level bureaucrats alter eligibility requirements in a de facto way (Prottas, 1979). Prottas (1979) described the courtroom workgroup as an example of street-level bureaucrats, acting together, to amend charges first

placed on a defendant in an exchange for a guilty plea. He further explained this process is likely to occur when bureaucrats substitute street-level criteria for organizational criteria when deciding how to categorize a client. Not only can the courtroom workgroup be used to explain this type of street-level decision-making process, but it can be applied to other professions as well. Take for instance, an intake worker at the public welfare office. Their responsibility is to scrutinize applications for benefit eligibility based on organizational policies and procedures. In this way, the discretion of entry-level intake workers is limited. However, street-level bureaucrats are known for their differential treatment of clients based on the applicant's personal information and needs. Therefore, street-level bureaucrats use client information and exceptions when it comes time to make admission decisions, distribute benefits, apply sanctions, and issue public welfare programs (Prottas, 1979). Conversely, we may find that client information (e.g., criminal history, sex offender registry) may, in fact, negatively impact the decision-making process resulting in an admission denial fearing the applicant with a criminal history, particularly a history of sexual offending, would be too much of a risk.

I argue that LTC admission processes and attitudes towards company policy may be applied using the key constructs outlined in street-level bureaucracy theory. The decision to make admission exceptions based on individual health and social information that may deviate from standard organizational policies and procedures to fill beds and increase revenue. On the other hand, we may see the use of discretion and autonomy used in a way to deny applicants or impede the application process to reduce risk and liability.

CHAPTER 4

METHODS

The Present Study

Very little is known about the nature of long-term care and their willingness to accept persons convicted of sexual offenses into their facility. Legal and gerontology scholars have briefly summarized existing state laws that directly relates to persons convicted of a sex offense residing in LTCFs to understand risk and liability for nursing homes (Berdzik & Ioannou, 2013; Cohen et al., 2011; GAO, 2006), but little has been done to explore the policies in greater detail. This study, however, expands previous research and adds to existing literature. It is evidenced there is much that remains unanswered in terms of long-term care for persons convicted of a sexual offense. This study examined state-, facility-, and individual-levels of analysis pertaining to 1). LTCF legislation, 2). structural characteristics, 3). organizational policies and 4). individual decision-making and attitudes regarding admission of persons convicted of sexual offending into a nursing home setting. First, the present study explored which states have policies relating to the admission of persons convicted of sexual offending into long-term care facilities. Second, it attempts to explain why some states may enact LTC policies that may restrict the admission of persons convicted of sexual offending into long-term care. Third, very little, if any, is known whether persons convicted of sexual offending are accepted into long-term care. Therefore, the present study sought to explore the willingness of LTCFs to accept persons convicted of sexual offending to understand their long-term care options within a single state with LTCF/SO legislation. Additionally, at the facility level, the present study sought to understand LTCFs admission policies and practices through tenets of loose coupling theory as it relates to admitting an applicant with a sexual offense conviction. Fourth, it set out to understand

long-term care administrators decision-making processes during the screening and admission stages as it relates to theoretical concepts of street-level bureaucracy (i.e., discretion and autonomy). And, last, the current study explores the personal attitudes of LTCF administrators regarding company policies directed towards applicants with a sexual offense conviction.

Based on previous literature and theoretical prediction, the following research questions are formulated:

1. State-level Variation of Policies

> **Research Question 1:** Which states have LTCF statutes concerning protocols for persons convicted of a sexual offense seeking admission into LTC?
> **Research Question 2:** What themes emerge from analyzing the language of the statutes?
> **Research Question 3:** Why do some states enact LTC/SO policies directed towards persons convicted of sexual offending?

2. Facility-level Policies and Procedures

> **Research Question 4:** Do structural characteristics matter in the admission decisions of applicants on the sex offender registry?
> **Research Question 5:** Do Illinois LTCFs follow the Illinois Nursing Home Care Act?
> **Research Question 6:** Does the Patient Bill of Rights matter in admission decisions?

3. Administrator Perceptions of Policy and Admission Exceptions

> **Research Question 7:** How do Illinois LTCF administrators perceive company policy relating to persons convicted of sexual offending?
> **Research Question 8:** Would Illinois LTCF administrators make admission exceptions for applicants on the Illinois Sex Offender Registry?

Method

The current study uses statute review, survey, and interview modalities to evaluate the general research questions relating to state legislation and state punitiveness, the willingness of LTCFs to accept persons convicted of sexual offending and their policies related to the admission of persons convicted of a sex offense, the role of the LTCF administrator in admission decisions, and structural and organizational characteristics of LTCFs that may impact admission

decisions and administrators' personal perceptions of company policy relating to persons convicted of sexual offending.

State-level Analysis—Content

For this portion of the dissertation, two state-level analyses were conducted and incorporated into the study. First, is the use of a statutory review utilizing a content analysis to find emerging themes within the language of the law and, second, a quantitative measure of state punitiveness and social factors that may explain why a state may enact a law regarding the admission of persons convicted of sexual offending into long-term care.

Research Question 1: Which states have LTCF statutes concerning protocols for persons convicted of a sexual offense seeking admission into LTC?
Research Question 2: What themes emerge from analyzing the language of the statutes?

Procedure

Content Analysis. First, this study examined all 50 states laws that direct LTCFs admission and management processes for persons convicted of a sex offense. The primary focus is on federal and state sex offender policies and how state statute informs and directs LTCFs notification requirements and residency restrictions for those convicted of a sex crime once approved for admission into a LTCF. This portion of the study is limited to a statutory review in which it only describes and summarizes current legislation, rather than its policy implementation and practices across the states. Additionally, I identified which states have laws that guide the admission and management policies of LTCFs for residents with a sexual offense. And last, I conducted a content analysis to identify statutory themes across states that have enacted laws regarding this population and long-term care facilities.

A statutory analysis model, widely used throughout the social science discipline, was used to review, and analyze government legislation (Fritsch & Hemmens, 1995; Hsieh et al.,

2016; Kowalski, 2019; Purkiss et al., 2003). Conventional procedures were followed, which were: "the collection, review, analysis and categorization of state statutes related to a particular topic" (Hemmens, 2015, p. 16). For this study, the collection of laws that directly relates to persons convicted of a sexual offense and their ability to access long-term care facilities

All fifty states' statutes pertaining to persons convicted of a sex offense and LTCFs were collected and reviewed using the legal database Westlaw Edge, and from publicly available sources (i.e., state law enforcement sex offender websites, and state long-term care ombudsman websites). Findings were then sorted into an Excel spreadsheet for analyses. Due to different terms being used for people convicted of a sex crime and long-term care facilities, the search included key terms such as: "sex offender," "persons convicted of a sex offense," "sexual offender," "long-term care facility," "nursing home," and "nursing facility." Once the collection process was complete, the author reviewed, categorized, and analyzed all 50 states current legislations for persons convicted of a sex offense and long-term care facilities.

Analytical Plan

To analyze the language within each statute, a "tallied" method (Purkiss et al., 2003) was employed for this study. Content analysis is the process of creating label or codes that can be applied to content to develop meaningful categories that can be analyzed and interpreted (Blair, 2015). I analyzed each statute to determine what similarities, if any, emerged from laws as it relates to the required elements for LTCFs, law enforcement agencies, authorizing agencies, or individuals who must follow state statute by using an open coding process.

Open coding is a methodology whereby the researcher analyzes text to discover answers within. Open coding is a process that is refined by the repeated process of coding the data. Open coding involves the application of codes that are resultant from the text (emerging themes).

There are disagreements among scholars about how this process should be done, line by line (Glaser, 1992) or the coding of conceptual interactions (Corbin & Strauss, 1990). For this dissertation, I coded each state statute line by line and journaled mandates noted within each law. From there, I moved to the second phase of coding, which involved tallying for similar language within each state statute. Analyzing each state statute for common elements within the language of the law was captured through this process. Tallying allows the researcher to organize categories around a central explanatory concept until specific themes emerge.

The aforementioned analysis will inform the reader the number of states that have policies directing LTCFs response to applicants with a sexual offense conviction as well as the themes that emerged within the language of the law. This was conducted by examining the language set forth in each to statute to determine what elements of the statute is duplicated across states. Themes will be described using consistent language and terms relating to admission, notification, managing and supervising persons with a sexual offense conviction. However, the initial analysis does not explore explanations as to why some states have policies and some states do not. Therefore, this study attempts to explain why some states have policies using items to measure state punitiveness through criminal justice policies, criminal justice responses to crime, sex offender policies and state and social characteristics that may explain why some states have policies directing and informing long-term care facilities' admission of persons with a sex offense conviction.

Research Question 3: Why do some states enact LTC/SO policies directed towards persons convicted of sexual offending?

Procedure

One way a researcher could attempt to explain why some states enact policy and others do not is by considering state punitiveness. Using the definition by Kutateladze (2010) *state punitiveness* is defined as "the range of criminal justice policies that target suspects, defendants, convicts, inmates and even formerly incarcerated individuals" (p. 245). While most of these items are based on criminal punishment, included in the items are non-criminal law measures and social policy measures.

State-level Analysis—Predicting

For this dissertation, the researcher collected data to create a dataset to reflect punitiveness of a state as well as social and demographic characteristics. The data was collected from websites reporting official data by conducting a search via the internet. Second, the data was inserted into an Excel spreadsheet where each variable was given its own tab, and then merged into a tab that has every variable's data and its measurement. Third, after the data was SPSS ready it was exported from Excel into SPSS to begin statistical analyses. The data was collected between March and May 2021.[9]

Dependent Variable

Variable	**Measure**	**Relates to:**
States that have a statute that directs LTCFs screening, admission, notification, and supervision processes of residents with a prior sexual offense conviction.	Nominal	Relates to Research Question 3

[9] There could be changes in the number of states that were included or excluded from the study given that many new state legislations begin on July 1st. Therefore, the data collected and discussed in this data may not be the most up-to-date data.

Concepts Relevant to State Punitiveness

This study introduces 15 measures of state punitiveness that is captured in state characteristics, criminal justice policies, criminal justice responses, laws pertaining to persons convicted of a sex offense, social policy, and political affiliation. These items, referred to as indicators or predictors, used as independent variables are shown below:

State Population
Median Age
Police rate per 1,000 total population
Incarceration rate per 100,000
Crime rate per 100,000
Death Penalty 0 = no; 1 = yes
Three-Strikes Laws 0 = no; 1 = yes
Disenfranchisement 0 = no presence of a strong voting restriction; 1 = presence of a strong voting restriction
Residency Restriction 0 = no; 1 = yes
Civil Commitment 0 = no; 1 = yes
GPS Electronic Monitoring 0 = no; 1 = yes
SNAP Ban for Drug Felons 0 = no; 1 = yes
Children in Foster Care per 1,000 child population
Political Affiliation—2004 Republican Governor 0 = Democrat; 1 = Republican
State voted Republican Presidential nominee 2007—0 = Democrat; 1 = Republican

Independent Variables

Criminal Justice Policies. Criminal justice policies are a product of legislative action applied to a convicted offender and can be expressed in such a way that can represent state punitiveness. Legislation is the government's response to a convicted offender's criminal behavior and, second, punishment allows the state to publicly declare its authoritative presence to all. Some of the following indicators have been used to measure state punitiveness in other scholarly works, and therefore are included in this study as well.

Death Penalty. Capital punishment is the ultimate symbol of punitive harshness. The item, death penalty, is consistent with state punitiveness research (Gordon, 1989; Katateladze, 2009; Kury & Ferdinand, 1999; Tonry, 2001). In fact, Kury and Ferdinand (1999) write, "The level of punitivity is often, especially in the United States, measured by assessing the death penalty" (p. 374). Twenty-seven states (54%) currently have the death penalty in place as a punitive option for punishment. For the purpose of this study, death penalty is measured as 0 = no and 1 = yes.

Three-Strikes Law. Whitman (2003) describes Three-Strikes Laws as a proportionality principle, meaning that mandatory sentencing laws in the U.S. are disproportionate sentences, but are widely accepted by some state governments and public opinion. Criminal justice research has found that although popularly accepted, Three-Strikes Laws have little deterrent effect. In fact, many states have witnessed no significant reduction in crime rates with the implementation of Three-Strikes Laws (Kutateladze, 2010). However ineffective these laws may be, Three-Strikes Laws are popular legislation at the state-level and applied to habitual offenders, and often it serves as a measure of punitiveness at the state-level. Twenty-nine states (58%) have Three-Strike legislation on the books. Three-Strikes vary in what constitutes as a strikable offense, how many offenses are needed to be "out" and the length of imprisoned imposed, but for the sake of this study Three-Strikes Laws is measured as states having some form of Three-Strikes Laws as 0 = no and 1 = yes.

Disenfranchisement Laws. The deprivation of a person's voting rights is another strong indicator of state punitiveness (Kutateladze, 2010). Disenfranchising a certain group of individuals demonstrates to the public they have no interest in rehabilitating offenders and disregards the basic principle that a criminal sentence should be the only consequence of a

conviction. As shown in the 50 states, there are varying degrees of disenfranchisement laws in terms of when their voting rights are restored. Most state punitiveness scholars rank disenfranchisement from least to most restrictive in its application. A presence of a strong voting restriction includes states with permanent disenfranchisement for some or all people with felony convictions and voting restrictions to felons during incarceration and post-incarceration. In contrast, no presence of a strong voting restriction would be states that do not disenfranchise offenders and states where votes rights are restored immediately upon release from prison. For this study, disenfranchisement laws will be measured as 0 = no presence of a strong voting restriction; 1 = presence of a strong voting restriction.[10]

Laws pertaining to Sex Offense Convictions. Sex crimes receive a lot of attention by the public and lawmakers, especially sex crimes against a child. Over the last two decades, we have witnessed the development and enactment of federal and state sex offender legislation. Sex offender laws are a subset of policies that indicated state punitiveness. However, since each state is required to have a registry and each state varies significantly on how they execute their registry. For this reason, I chose to exclude this measure from my study. This study includes the items of residency restriction law, civil commitment law and lifetime GPS monitoring of persons convicted of a sex offense as measures of state punitiveness.

Residency Restriction. There is a strong belief among the public and policymakers that knowing where people on the sex offender registry reside, work, and go to school is not enough to keep the public safe from such individuals; this may also predict the likelihood of regulating LTCF residences. This has led many states and municipalities to create and establish "exclusionary zones" between where registrants can reside and where children are most likely to

[10] These data was gathered from Criminal Disenfranchisement Laws Across the United States | Brennan Center for Justice

congregate. Some states have also included no loitering statutes for people on the registry, as well as places that are completely off limits to them, such as libraries, museums, parks, state fairs, and other popular places where children assemble. Twenty-one states (42%) have residency restrictions apply differing distances to their exclusionary zones between and within states. For the sake of this study, residency restriction law is measured as 0= none and 1= yes.

Civil Commitment Law. Civil commitment laws for persons convicted of a sex offense could be a strong predictor of the likelihood of having a LTC/SO law. Civil commitment happens after persons have already served the sentence for their crime **and** without violating any new laws. Therefore, instead of being punished for past crimes, this form of punishment is based on perceived risk that the individual **may** commit a new offense in the future. Twenty (40%) states have civil commitment as an option post-incarceration.[11] In this study, civil commitment law is measured as states that have the law as 0 = no; 1 = yes.

Lifetime GPS Monitoring for Persons Convicted of a Sex Offense. Global Positioning System (GPS) adds to the existing community supervision policies for convicted sex offenders. Further GPS monitoring is seemingly applied to the most dangerous perceived class of offenders. A discretionary use of surveillance and monitoring, most states do not apply the use of lifetime GPS monitoring to sex offenders there are 12 states (24%) that do (Wilkicki & Spencer, 2008). For the purpose of this study, GPS monitoring of persons convicted of a sex offense for life is measured as 0 = no; and 1 = yes.

State Characteristics. Certain characteristics of states may play a role in adoption of punitive laws. Several characteristics and their definitional operation are introduced into this study, as it could potentially explain why some states are more punitive than others.

[11] https://casexcrimesattorney.com/practice-area/sex-crimes/civil-commitment-for-sex-offenders

Median Age. According to Kutateladze (2010) states with a higher median age or percentage of the population 65 years and older might be more punitive than states with a lower median age and lower percentage of the population elderly. He argues that older people may favor stricter laws for their protection due to their relatively limited abilities to defend themselves from violent offenses (e.g., assault, robbery, or burglary); this may extend in consideration of long-term care housing. Median age, in this study, is measured at the ratio level using median age of a state population.[12]

State Population. State population size has been correlated positively with state punitiveness (Kutateladze, 2010). Large states tend to be less cohesive racially and therefore could be a reason for a high level of criminality which commonly triggers punitive legislation among states. Therefore, we might assume that states with a larger population are more punitive than states smaller in population. State population is reported in number of residents living in the state.

Number of Full-Time Police per 1,000. Edwards (2016) makes the connection between state criminal justice policy and child protection intervention. One way in which he measures child abuse intervention is through policing measures, such as the number of full-time police per 1,000 hypothesizing that more police per 1,000 the more punitive a state as it represents a commitment to law enforcement and surveillance. For the purpose of this study, number of full-time police is measured as the number of police per 1,000.

Prison Incarceration Rate. Researchers of state punitiveness argue that incarceration rate is the best measure of state punitiveness (Gordon, 1989; Kutateladze, 2010; Tonry, 2001) making incarceration rate a strong indicator of state punitiveness. There are many examples found in

[12] Collected from World Population Review (2021).

state punitiveness research literature as to how incarceration rates are measured and applied to state punitiveness. For the purpose of this study, incarceration is number of prison population per 100,000.[13]

Crime. Crime may be another indicator of state punitiveness, and the adoption of LTC/SO laws. One argument made by Unnever and Cullen (2010) is that punitiveness in the U.S. is a direct result of the public's perceptions of crime. Although perceptions may not reflect an accurate picture of the true crime rates in America, the public's perception is a powerful motivator of legislative movements. For the purpose of this study, crime consists of murder, rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft and is measured as crime per 100,000.[14] [15]

Social Policy. It could be argued that certain bans of public benefits targeting certain groups of people could be punitive in and of itself. First, the Supplemental Nutritional Assistance Program (SNAP, née Food Stamps), a federal social service program that assists low-income individuals and families with purchasing food. *Food insecurity* is defined as not having "access by all people at all times to enough food for an active healthy life (Dong & Feng, 2021, p. 655). During the war on drugs a legislative movement towards the ban of SNAP benefits to people with a felony drug conviction grew in popularity. In 1996, a law was passed that allowed states to ban SNAP benefits to individuals convicted of a felony drug offense (Dong & Feng, 2021). Therefore, one could argue that certain bans on public assistance access equates to a more punitive-leaning state. Second, states with greater collaboration between social service agencies and law enforcement may be a predictor of state punitiveness. For example, Edwards (2016) argues that states serving

[13] This data was gathered from https://www.statista.com/statistics/302411/state-prisoner-imprisonment-rate-us/

[14] This data was gathered from https://www.statista.com/statistics/301549/us-crimes-committed-state/

[15] Crime rate consists of murder, rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft

a smaller number of children in foster care occur in states with generous welfare systems. Therefore, the choice to choose the SNAP drug felony ban (welfare) and the number of children living in foster care (welfare) as measures of state punitiveness seemed appropriate for this study.

SNAP Drug Felony Ban. To my knowledge no state punitiveness researcher has included the punitive policy of banning SNAP benefits to drug felons. It has, however, been examined as a collateral consequence of having a criminal history (Owens & Smith, 2012). Drug offenses for possession and trafficking constitute the largest proportion of felony convictions across the U.S. (Bureau of Justice Statistics, 2009). Therefore, a large number of individuals could potentially be banned from receiving welfare entitlements, such as SNAP. Federal law grants states discretion as to whether they wish to adhere to, modify or abolish the federal ban to drug felons in their state. Twenty-five states (50%) have some form of SNAP ban for convicted drug offenders. Thus, I have included this as a measure of state punitiveness. Believing that states who continue to follow federal law banning SNAP benefits to convicted drug felons would appear to be more punitive than states that have banned the federal law altogether. For the purpose of this study, the variable *SNAP Drug Felony Ban* is measured as 0 = no ban; 1 = has a ban.[16]

Number of Children in Foster Care. One study found that children who are separated from their families and enter foster care occur more frequently in states with punitive criminal justice systems than in states that employ more generous welfare programs (Edwards, 2016). Finding that states with a higher number of children in foster care collaborate at a higher rate with law enforcement; thus, would be more punitive than states with a lower number of children

[16] This data was gathered from https://www.clasp.org/publications/report/brief/no-more-double-punishments

in foster care and less collaboration with law enforcement. For the purpose of this study, the item *Number of Children in Foster* is the total number of children in the state living in foster care per 1,000 child population.[17]

Political Affiliation. Political affiliation has been positively correlated to imprisonment policy (Yates & Fording, 2005). One state punitiveness researcher, Kutateladze (2010), used political affiliation as a potential explanation of state punitiveness. He hypothesized states that have Republican governments and voted Republican in the presidential election are more likely to be punitive. Arguing that violators of legal and moral norms is more logically intertwined with Republican beliefs, mostly behaviors of immorality (i.e., drug use, prostitution, homosexuality, abortion, death penalty) and that public welfare does more harm than good (Kutateladze, 2010). Twenty-two states (44%) had Republican Governors in 2007 and 24 states (48%) voted for a Republican Presidential candidate in the 2004 Presidential election.[18] For the purpose of this study, I will use political affiliation of state Governor as 0 = Democrat; and 1 = Republican, and State voting for the Republican Presidential nominee as 0 = Democrat; and 1 = Republican.

Analytical Plan

This portion of the study attempts to answer the research question, "Which states have LTCF statutes concerning protocols for persons convicted of a sexual offense seeking admission into LTC?" This section of the analyses includes descriptive statistics to describe the dataset, an independent t-test and chi-square to compare states with a law to those without a law, and logistical regression to examine the association of independent variables with a dichotomous dependent variable. Five models are presented and discussed in Chapter 5. The first model

[17] This data was gathered from the Annie E. Casey Foundation https://datacenter.kidscount.org/data/map/6268-children-0-to-17-entering-foster-care?loc=1&loct=1#1/any/false/false/37/any/15620/any/

[18] https://www.nga.org/governors/; https://www.politico.com/2020-election/results/president/

examines state characteristics and criminal justice responses to crime. The second model examines criminal justice policies. The third model examines sex offender policies. The fourth model examines social policies and political affiliation. And the fifth model includes all significant variables which emerged in previous models.

In terms of measurement issues, the items included in the study are based on prior state punitiveness research as well as other scholarly research explaining punitiveness or punitive outcomes using other constructs. Explained by each variable, I make an argument as to why each of these variables are relevant to understanding state punitiveness, and why a state may enact a LTC/SO law. Additionally, because of the small sample size the expected coefficient may result in a very large number. There are no missing values that would cause this to occur. Further a linear regression was run to check for multicollinearity. The result indicates the variables used in the study are not highly correlated giving the research a good probability that the variables are reliable.[19]

Hypotheses

State Characteristics

Hypothesis 1: States older in age are more likely to have a LTC/SO law

Hypothesis 2: States larger in population are more likely to have a LTC/SO law

Hypothesis 3: States with more police are more likely to have a LTC/SO law

Hypothesis 4: States with a higher incarceration rate are more likely to have a LTC/SO law

Hypothesis 5: States with a higher crime rate are more likely to have a LTC/SO law

Criminal Justice Policies

Hypothesis 6: States that employ the death penalty are more likely to have a LTC/SO law

[19] VIF range (1.377-3.487) $R^2 = .462$

Hypothesis 7: States that employ three-strikes laws are more likely to have a LTC/SO law

Hypothesis 8: States with the presence of strong voting restrictions are more likely to have a LTC/SO law

Sex Offender Policies

Hypothesis 9: States that have residency restrictions are more likely to have a LTC/SO law

Hypothesis 10: States that have civil commitment laws are more likely to have a LTC/SO law

Hypothesis 11: States that electronically monitor sex offenders are more likely to have a LTC/SO law

Social Policies

Hypothesis 12: States that have a SNAP (neé food stamps) drug ban are more likely to have a LTC/SO law

Hypothesis 13: States that have a high number of children in foster care are more likely to have a LTC/SO law

Political Affiliation

Hypothesis 14: States with a Republican governor in 2007 are more likely to have a LTC/SO law

Hypothesis 15: States voting for the Republican Presidential nominee in the 2004 Presidential election are more likely to have a LTC/SO law

Last, there is more that can be analyzed within the scope of state punitiveness and why a state may enact a LTC/SO law, but for the purpose of this study we can at least ascertain some preliminary findings and potential explanations for these particular research questions using the variables mentioned above.

Facility-level Analysis

For this portion of the dissertation, facility-level analyses were conducted and incorporated into the study using items from an electronic survey of LTCF administrators in Illinois to collect information on facility characteristics, adherence to state policy, admission processes, the willingness of LTCFs to accept persons convicted of a sex offense, and administrative decision-making. The study was designed to answer three research questions:

Research Question 4: Do structural characteristics of a LTCF matter in the admission decisions of applicants on the sex offender registry?
Research Question 5: Do Illinois LTCFs follow the Illinois Nursing Home Care Act?
Research Question 6: Does the Patient Bill of Rights matter in admission decisions?

Procedure

Survey Monkey. The research focuses on all licensed LTCFs in Illinois. Illinois was chosen due to having a state law that directs LTCFs admission processes for persons convicted of sexual offending known as the "Nursing Home Care Act," as well as the state's proximity to the researcher. The Illinois "Nursing Home Care Act" was established to assure nursing home residents are free from abuse or neglect. The population for this study was obtained (August, 2020) through the Illinois Department of Public Health (IDPH). A list of 869 LTCFs including facility name, address, phone number and administrator name was sent to the researcher by the IDPH. However, the list did not include email addresses of the facility's administrator. A Freedom of Information Act (FOIA) request was sent to the IDPH requesting a list of email addresses to correspond with the facility list. This was done as a way to reach each facility's administrator in order to complete the survey about their facility. The IDPH approved the FOIA request and provided the email addresses of LTCF administrators in Illinois.

After reviewing the list and removing any duplicates or facilities without a complete email address, 840 contacts remained. LTCF administrators were contacted via email inviting

them to participate in an online survey (e.g., SurveyMonkey). With the advent of the internet, web-based surveys have become increasingly popular. Their strength lies in little-to-no-cost to operate, increased timeliness, and improvements in measurement (Groves et al., 2009). Internet surveys allow the researcher to send multiple requests efficiently and effectively to the population inviting them to participate in the research over a designated period of time. However, due to the threat of computer viruses, scams, and identity theft they are also known to produce low response rates (Smyth et al., 2009). Additionally, when using the Internet as the mode of survey delivery, anonymity can be questioned, therefore creating legitimacy and trust is paramount to produce a higher response rate. To overcome some of these potential problems, there are several processes that are suggested to increase the overall response rate (Smyth et al., 2009).

To establish legitimacy and trust, the researcher constructed an initial e-mail to the list of LTCF administrators according to the guidelines set forth by the university's Human Subject Committee. To further instill credibility and trust, the researcher's university email was used to contact each LTCF administrator. Web-based survey research asserts that directing the e-mail to the target individual creates and promotes trust, increasing the likelihood the respondent will participate in the research (Smyth et al., 2009).

The most successful way to administer a web survey is through sequential steps designed to improve response rates (Smyth et al., 2009) The researcher used the following steps. First, on February 1, 2021, an invitation letter was sent via email to 840 LTCF administrators that introduced the potential respondent to the researcher explaining the purpose and nature of the research, described the potential risks or benefits for participating and provided the link to the survey. According to survey research the best time to send out the initial invitation is during the

early hours prior to the start of the workweek (i.e., between 5-7 am on Mondays) (Smyth et al., 2009). Second, a follow-up letter with the survey link was e-mailed five to seven days after the initial invitation to only those facility administrators who did not complete the survey on the first request. Third, a final reminder letter was e-mailed with the survey link seven to ten days after the follow-up letter. The final reminder was only sent to those administrators who did not respond during the initial and follow-up requests for participation. However, due to the low response rate email reminders were sent weekly until the total number of respondents totaled a minimum of seventy-five. Of the 840 total invitations, 367 administrators opened the invitation, 345 remained unopened and 104 emails bounced. Twenty-four invitations were declined and opted-out of the survey, and 133 administrators clicked through the survey. Additionally, according to survey research, incentives offered to sample persons tend to increase cooperation (Groves et al., 2009). Upon completion of the data collection, respondents were entered into a drawing to receive one of five $50 Amazon gift cards upon completion of survey collection. Recipients of the gift cards were chosen randomly from the pool of survey respondents. The individuals who were randomly drawn were notified via email, and an electronic version of an Amazon gift card was sent to the email address collected by SurveyMonkey's email collector function. Participants who may be concerned with the receipt of a monetary incentive were given the opportunity to opt out of receiving the incentive. Given the response rate, the odds of winning a gift card 1 in 16. According to survey research, incentives offered to sample persons tend to increase cooperation (Groves et al., 2009). Cooperation rate was 21%, which is standard for survey research.[20]SurveyMonkey, using their email collector function, provided the researcher with the email addresses that received, opened, and completed the survey. Using this

[20] Cooperation rate represents the number of completed surveys (n = 78) divided by the number of administrators for which contact was made (n = 367 opened invitations).

format decoupled the respondent answers from their email address so their anonymity remained intact.

In order to better understand LTCFs willingness to accept persons convicted of sexual offending, a survey questionnaire was developed to collect information to assess whether or not LTCFs in Illinois are accepting sex offenders as residents in their facility, implementing the Illinois Nursing Home Care Act as directed, if LTCFs draft their own set of policies at the individual-level that extend beyond state mandate, and the use of discretion by LTCFs administrators to make admission exceptions. To help modify original items on the questionnaire, cognitive interviews with two LTCFs administrators were used. The administrators were asked their perceptions on wording questions in general. This approach informs the researcher whether potential participants will answer a question in the way it is intended to be answered as well as, ensuring the researcher was using terms that were relevant to long-term care (Groves et al., 2009). Based on feedback from the cognitive interviews the final survey instrument was developed and approved by the university's Human Subject Committee. The survey included general questions relating to facility demographics, but also specific questions relating to administrative functions, organizational processes and individual-level policies and procedures relating to potential and current residents on the Illinois Sex Offender Registry living in long-term care.

The questions within the survey consisted mostly of fixed choice responses and short answer inquiries questions. To promote focus from the respondent, the researcher limited the number of questions that will be visible on each page. For example, questions that require a skip pattern if the respondent answers "yes" to a particular question. This was done in order to ascertain the best answer for each question without having the respondent recall what they

answered to a previous question. By limiting the number of questions on each page helps keep respondents focused and reduces the potential for missing data. It also gives the researcher control over the branching process as a way to further protect against respondent error (Smyth et al., 2009). The survey averaged 14 minutes to complete.

Structural Characteristics

Dependent Variable

Variable	**Measure**	**Relates to:**
LTCFs that admit persons on the Sex Offender Registry.	Nominal (y/n)	Relates to Research Question 4

Independent Variables

The structural characteristic questions included in the survey instrument are similar to questions found in a survey questionnaire measuring resident abuse in Assisted Living Facilities (Castle & Beach, 2013). Castle and Beach (2013) notes that structural characteristics are often used in health services research. According to scholarship, nursing homes examine the association of organizational and internal factors when analyzing closures, psychoactive drugs, pressure ulcers and the use of physical restraint (Schiamber et al., 2011). When examining elder abuse in an Assisted Living setting, Castle and Beach (2013) found that structural characteristics (i.e., low staffing levels, high turnover levels, and high agency staffing) of a facility strongly correlate with elder abuse. Although Castle and Beach's (2013) research focused on the prevalence of elder abuse in an Assisted Living setting, we could certainly make the argument that the same structural characteristics noted in his research to explain elder abuse are transferable to a LTC setting and admission decisions. Additionally, previous sex offender research has found that certain structural characteristics (i.e., greater number of beds) (Rolfe et

al., 2017) may predict whether persons on the Sex Offender Registry or those with a sexual offense conviction have access to homeless shelters. We may be able to make the same assumptions of Castle and Beach (2013) and Rolfe et al., (2017) that certain structural characteristics of LTCFs may predict why some facilities are more willing to accept persons on the Sex Offender Registry or those with sexual offense convictions into their care. This dissertation will examine structural characteristics of LTCFs to better understand if structural characteristics matter to the admission decisions of applicants on the sex offender registry. The following independent variables will be used to measure structural characteristics:

Variable	**Measure**	**Relates to:**
Total number of beds	Continuous	Relates to Research Question 4
% Occupancy Rate	Continuous	Relates to Research Question 4
Facility Ownership	Categorical	Relates to Research Question 4
Patient-to-Staff Ratio	Ratio	Relates to Research Question 4
Private Insurance	Nominal	Relates to Research Question 4
Medicare/Medicaid	Nominal	Relates to Research Question 4

Total Number of Beds. The total number of beds could be a predictor of LTCFs admitting persons on the sex offender registry. Prior literature suggests that structural characteristics may influence whether a sex offender is admitted into LTC. The variable is a continuous variable. LTCF administrators were asked to provide the total number of beds at their facility.

Occupancy Rate. Occupancy rate could be a predictor of LTCFs admitting persons on the sex offender registry. One could assume that the lower the occupancy rate the more likely LTCFs would admit persons on the sex offender registry to increase patient census and meet budgetary

expectations. Occupancy rate is provided in percentage form as the total residents divided by total available beds.

Facility Ownership. LTCFs were asked to report if they were for-profit, not-for-profit, chained owned, or not chained owned. Given the responses from LTCF administrators the four choices were collapsed into two groups 1) for profit and 2) not-for-profit. Very few LTCF administrators reported they were chained or not chained own. The decision was made to include for-profit and chained owned into one group, and not-for-profit and not chained owned in the second group. Measured as 0 = for profit and 1 = not-for-profit

Private Insurance. LTCF administrators were asked to provide in percentage form the percent of patient population that has private insurance. The decision was made to make the percentages into groups, 1) 0-49% = little to no private insurance and 2) 50-100% = majority of population has private insurance.

Public Insurance. LTCF administrators were asked to provide in percentage form the percent of patient population that has public insurance. In this case, public insurance is patient's having Medicare or Medicaid. The decision was made to make the percentages into groups, 1) 0-49% = little to no private insurance and 2) 50-100% = majority of population has private insurance.

Procedural Characteristics

Dependent Variable

Variable	**Measure**	**Relates to:**
LTCFs that admit persons on the Sex Offender Registry.	Nominal (y/n)	Relates to Research Question 4 & 5

Second, Illinois is mandated to follow the INHCA which directs LTCFs in how they are to screen applicants and notify residents, family, staff, and visitors of how to access the Illinois

Sex Offender Registry. The law was adopted "amid concern over reports of 'inadequate, improper and degrading treatment of patients in nursing homes" (Illinois Courts, 2020), mostly by nursing home staff. The foundation of the law addresses the residents' bill of rights that affords residents certain rights and protections. One of those rights is to be free from abuse. According to the INHCA, within twenty-four hours after admission of a resident, the nursing home 1) must perform a criminal background check pursuant to the Uniform Conviction Information Act for all persons eighteen years or older seeking admission into long-term care, unless a background check was previously conducted by a hospital pursuant to the Hospital Licensing Act. Further, the facility must 2) check for the individual's name on the Illinois Sex Offender Registration website and the Illinois Department of Corrections sex registrant search page to determine if the resident is listed as a registered sex offender. If the results of the criminal background check reveal the resident is an identified registered sex offender the facility must 3) provide to every prospective and current resident and resident's guardian, and to every facility employee, a written instruction on how individuals can access the Illinois State Police website to determine if any resident is on the sex offender registry regardless of admission policies.

Procedurally, LTCFs should be following the mandate of the INHCA. For this analysis, do LTCFs who follow the mandate admit persons on the sex offender registry. Independent variables are as follows:

Independent Variables

Illinois Criminal Background Check. According to the INHCA, LTCFs must conduct a state criminal background check as part of the admission process. The variable is a dichotomous variable measured as 0 = no, 1 = yes.

Illinois Sex Offender Registry. The second mandate is to conduct a search of the Illinois Sex Offender Registry. The variable is a dichotomous variable measured as 0 = no, 1 = yes.

Written Notification. Third, and final mandate, is to provide a written notification to current and prospective residents, residents next of kin and staff of how they can locate the state's Sex Offender Registry to search for registrants living in the facility. The variable is a dichotomous variable measured as 0 = no, 1 = yes.

Admission Exceptions. LTCF administrators were asked about their ability to make admission exceptions. Admission exceptions are considered a procedural process that takes place during the admission process. LTCF administrators were asked, "Do you have the authority to make admission exceptions?" The variable is a dichotomous variable measured as 0 = no, 1 = yes.

Influenced by the Patient Bill of Rights

Dependent Variable

Variable	**Measure**	**Relates to:**
Patient Bill of Rights	Nominal	Relates to Research Question 6

Residents living in Medicare and/or Medicaid-certified nursing homes have certain rights and protections afforded to them under federal and state law. The federal Nursing Home Reform Law requires nursing homes to "promote and protect the rights of each resident" and emphasizes the right to dignity and self-determination (National Consumer Voice, 2020, para. 1). Many states, like Illinois, also have their own Patient Bill of Rights for people living in LTCFs that addresses certain rights, protections, and privileges according to state law (Illinois Department on Aging, 2018). Prior to admission, LTCFs must inform residents of their rights in writing and in a language residents will understand. At a minimum, all nursing home residents have the right

to dignity and respect, the right to autonomy, and the right to privacy and confidentiality. Probably the most important right and one that is pertinent to this study is the right to be free from abuse, neglect, and exploitation. Nursing homes have a legal duty to protect residents and ensure they are not financially, physically, verbally, mentally, or sexually abused. Therefore, the decision was made to use Patient Bill of Rights as a dependent variable to better understand if LTCF administrators refer to the Patient Bill of Rights when considering presumably high-risk applicants.

Independent Variables

Illinois Criminal Background Check. According to the INHCA, LTCFs must conduct a state criminal background check as part of the admission process, so LTCF administrators may consider their criminal background check when deciding their admission based on the Patient Bill of Rights. The variable is a dichotomous variable measured as 0 = no, 1 = yes.

Illinois Sex Offender Registry. The second mandate is to conduct a search of the Illinois Sex Offender Registry. Again, LTCF administrators may consider their criminal background check when deciding their admission based on the Patient Bill of Rights. The variable is a dichotomous variable measured as 0 = no, 1 = yes.

Written Notification. Third, and final mandate, is to provide a written notification to current and prospective residents, residents next of kin and staff of how they can locate the state's Sex Offender Registry to search for registrants living in the facility. LTCF administrators may consider a written notification on how to search for a registered sex offender as a protective mechanism to keep everyone safe and informed. The variable is a dichotomous variable measured as 0 = no, 1 = yes.

Admits RSOs. Admitting RSOs may be determined by LTCF administrators while keeping the Patient Bill of Rights in mind. Admits RSOs is a dichotomous variable measured as 0 = no, 1 = yes.

Analytical Plan

Univariate Analyses

Descriptive statistics were generated to provide simple summaries about the sample and measures. This provides sample characteristics related to variations between LTCFs structural characteristics, organizational policy and procedures, and administrative decision-making. The univariate analysis includes distribution, central tendency, and dispersion.

Chi-Square or Independent t-test Analyses

Depending on how the independent variable was measured a chi-square or independent t-test was conducted. A chi-square was conducted to test the compared observed results with expected results to determine if the difference is expected or by chance. An independent t-test was conducted to compare means states between LTC/SO laws with states without a LTC/SO law to determine whether there is statistical evidence that the associated population means are significantly different.

Multivariate Analyses

Given the dependent variables selected for this study are dichotomous and the independent variables selected for this study are continuous or categorical, Binary logistic regression was the best multivariate analyses to conduct. Binary logistic regression determines the impact of multiple independent variables presented simultaneously to predict group membership (i.e., persons convicted of a sex offense admitted/not admitted).

Assumptions

For facility-level analysis we can make some assumptions based on prior scholarship: 1) that structural characteristics may influence whether LTCFs admit registrants or those previously convicted of a sexual offense; 2) that procedural characteristics performed by LTCF administrators may influence their admission decisions; and 3) the Patient Bill of Rights may influence a LTCF administrator's admission decisions for presumably high-risk applicants.

Structural Characteristics

Hypothesis 1: LTCFs with a greater number of beds are more likely to accept registered sex offenders

Hypothesis 2: LTCFs with a lower occupancy rate are more likely to accept registered sex offenders

Hypothesis 3: LTCFs with a lower patient-to-staff ratio are more likely to accept registered sex offenders

Hypothesis 4: Not-for-profit LTCFs are more likely to admit a registered sex offender into their facility

Hypothesis 5: Registrants with Medicare/Medicare insurance are more likely to be admitted into long-term care

Procedural Characteristics

Hypothesis 6: LTCFs that follow the elements of the ILNCHA are less likely to accept applicants on the IL Sex Offender Registry

Hypothesis 7: LTCF administrators who make more admission exceptions are more likely to accept applicants on the IL Sex Offender Registry

Influenced by the Patient Bill of Rights

Hypothesis 8: LTCFs that are influenced by the Patient Bill of Rights are more likely to follow the mandates in the ILNHCA

Hypothesis 9: LTCFs that are influenced by the Patient of Rights are less likely to admit persons on the Illinois Sex Offender Registry

Administrator Perceptions of Policy and Admission Exceptions

Research Question 9: How do LTCF administrators perceive company policy relating to persons convicted of sexual offending?
Research Question 10: Would LTCF administrators make admission exceptions for applicants on the Illinois Sex Offender Registry?

Procedure

This study set out to secure semi-structured interviews from 10-20 LTCF administrators randomly selected from the list of LTCFs of which the administrator completed the online survey (n=78). Twenty LTCF administrators agreed to participate in the semi-structured interview, however two LTCF administrator did not attend the interview and one was eliminated due to not being an administrator of a LTCF, resulting in a total of 17 administrator interviews.[21] Of those that completed the interview, 10 were female (59%) and 7 were male (41%). Administrators were asked if they would like to be interviewed for the research project. Once an agreement was given, a date and time to conduct the interview was selected and confirmed. Prior to the actual semi-structured interview, an informed consent approved by SIUC Institutional Review Board was read to the administrator and recorded to document their voluntary consent to the interview. Each interview was recorded using an audio recording device and each interview was transcribed by the researcher. The interviews ranged in length between 20 and 55 minutes, for an average of twenty-three minutes. Participants, in the semi-structured interview portion of the study each were given a $25 Amazon gift card.

Qualitative data collected during the semi-structured interviews were manually coded to seek emerging themes (Creswell & Poth, 2007) across administrators. Questions asked of participants were related to: 1) their role as an administrator; 2) their autonomy and use of discretion; 3) the admission process for applicants; 4) willingness to accept persons on the Sex

[21] Once the threshold of twenty was met, no more interviews were scheduled.

Offender Registry; 5) reasons why they accept or deny admission to persons on the Sex Offender Registry; 6) personal attitudes of company policies relating to persons convicted of a sexual offense; 7) use of discretion to accept registrants or persons convicted of sexual offending into their facility, if they could; 8) willingness to accept transfers where known behaviors have been documented; and, 9) investigation procedures for allegations of sexual misconduct. See Appendix A for a copy of the interview guide, and Appendix B for a copy of the survey questionnaire.

Analytical Plan

Following the same analytical plan as the statutory analysis, I used the narratives from the semi-structured interviews to conduct a content analysis to identify emerging themes across individual administrators. To analyze the nature of the content, a "tallied" method (Purkiss et al., 2003) was employed. Content analysis is the process of creating label or codes that can be applied to content to develop meaningful categories that can be analyzed and interpreted (Blair, 2015). The author analyzed each interview through the process of open coding to determine what similarities, and differences, if any, emerged from the narratives as it pertained to 1) their perceptions of company policies relating to persons convicted of sexual offending; and 2) if they would make admission exceptions for applicants on the registry or those with a prior sexual offense convicted if they were granted the ability to do so.

Open coding is a methodology whereby the researcher analyzes text to discover answers within. Open coding is a process that is refined by the repeated process of coding the data. Open coding involves the application of codes that are resultant from the text (emerging themes). There are disagreements among scholars about how this process should be done, line by line (Glaser, 1992) or the coding of conceptual interactions (Corbin & Strauss, 1990). For this

dissertation, I coded each individual interview line by line and journaled specific responses for each question. From there, I moved to the second phase of coding, which involved tallying for similar language within each state statute. Analyzing each interview for common elements within administrators' responses was captured through this process. Tallying allows the researcher to organize categories around a central explanatory concept until specific themes emerge. The aforementioned analysis filled in the gap between what the researcher was unable to capture quantitatively and what was gleaned through qualitative interviews. Further, it offered some nuance in terms of the difference of individuals operating within a facility context.

In all, this dissertation provides an analyses of state statutes relating to LTC/SO laws and state-level findings, a survey distributed to LTCFs in Illinois, and semi-structured interviews with Illinois LTCF administrators. Each level of findings and implications are discussed in the following chapters.

CHAPTER 5

STATE-LEVEL DATA FINDINGS

Guided by three questions, the primary goal of this chapter is to describe the findings from the state-level analyses which 1) explore which states have policies relating to the admission of persons convicted of sexual offending into long-term care facilities; 2) determine if the language of the law produced themes across states that have policies relating to the admission of persons convicted of sexual offending into long-term care facilities; and 3) attempt to explain why some states may enact LTC policies that restrict the admission of persons convicted of sexual offending into long-term care.

State-level Legislation

The results of the statutory review are presented in Table 1, which shows the total number of states that have enacted variations of the federal and/or state sex offender policies for their long-term care facilities. Of the 50 states, only 13 states were found to have policies on the admission and management processes of people required to register on the sex offender registry (Berdzik & Ioannou, 2013; Westlaw Edge, 2020).

Table 1. LTCF statutes by State

State	Yes	State	Yes	State	Yes
Alabama		Massachusetts	X	Ohio	X
Alaska		Maryland		Oklahoma	X
Arkansas		Maine		Oregon	X
Arizona		Michigan		Pennsylvania	
California	X	Minnesota	X	Rhode Island	
Colorado		Missouri		South Carolina	
Connecticut		Mississippi		South Dakota	
Delaware		Montana		Tennessee	
Florida (not state-wide)	X	North Carolina		Texas	X
Georgia		North Dakota	X	Utah	
Hawaii		Nebraska		Vermont	
Idaho	X	New Hampshire		Virginia	X
Illinois	X	New Jersey		Washington	
Indiana		New Mexico		West Virginia	
Iowa		Nevada		Wisconsin	
Kansas		New York		Wyoming	
Kentucky					
Louisiana	X				
Total					13

"X" indicates the presence of a statute

Since 2005, thirteen states have enacted laws that inform and direct LTCFs admission and management processes as they relate to persons convicted of a sexual offense seeking care and residence in their facility. Legal and gerontology scholars have briefly summarized existing state laws that directly relate to persons convicted of a sexual offense residing in LTCFs as a way to understand risk and liability for nursing homes (Berdzik & Ioannou, 2013; Cohen et al., 2011; GAO, 2006). Previous research limited their scope to simply informing readers the language contained in each state law. The analysis conducted in this study extends prior research by examining the language of the law to determine if there are consistent themes across legislation strictly related to the legal mandates of how LTCFs admit, notify, and manage a resident entering

their facility with a prior sexual conviction. Ultimately, findings demonstrate policies for registrants and LTCFs are not universal in their application for all 13 states, and instead, some states have multi-faceted legal approaches for the admission and care of registrants, while other states' policy were more limited in their design. Six notable themes emerged from the analysis and are shown in Table 2.

Table 2. Characteristics of State Statutes

State	Notification	Disclosure of Status	Registry as a Screening Tool	Residency Restrictions	Individualized Care Plan	Supervision and Segregation	Total by State
CA	X	X	X	X			4
FL		X	X	X	X	X	5
ID	X						1
IL	X		X				2
LA	X						1
MA				X	X		2
MN	X	X					2
ND		X					1
OH	X		X		X		3
OK		X				X	2
OR		X		X			2
TX	X						1
VA	X		X				2
Total	8	6	5	4	3	2	

"X" indicates the presence of a statute addressing the column heading

Notification of Offender Status

Eight of the thirteen states (62%) have laws requiring LTCFs to notify residents, resident's next of kin, and staff members when registrants are admitted into such facilities. Based on general sex offender management policies (i.e., Megan's Law and AWA), it is not surprising to find some similarities between these laws and LTCFs notification requirement laws. As mentioned earlier, Megan's Law established community notification by any means necessary

(Letourneau et al., 2010; Levenson et al., 2007; Rolfe et al., 2016; Sandler et al., 2008); thus, it is not unexpected to find LTCF/SO laws mandating similar notifications to their residents, resident's next of kin, staff members, visitors, and neighborhood residents. Despite LTCF/SO laws pertaining to individuals convicted of a sexual offense, the author finds varying degrees to the notification requirements. Prior research has also found notification requirements to differ vastly across the US from state to the next (Beck & Travis, 2006; Lytle, 2015; Lytle, 2019).

The strictest form of notification requirements appears in the states of Minnesota and Ohio, specifically relating to the amount of information collected, and the requirements of planning and supervision of registrants to be housed in LTC facilities. For example, each state requires key information (offender's photo, name, physical description, conviction history and dates, their risk level classification, if assigned, and a profile of likely victims) to be collected and distributed in a fact sheet to LTCF residents, resident's next of kin, and staff member. This fact sheet coincides with the information provided on Minnesota and Ohio's public state sex offender registry (Minnesota Department of Corrections, 2020; Ohio.gov, 2021). In addition, LTCFs in Ohio are also required to include with the fact sheet the registrant's individualized care plan which outlines how the facility will protect and ensure the other LTCF residents' rights to a safe and abusive free environment.

Unlike Minnesota and Ohio fact sheet requirements, Texas requires LTCFs to extend their notification beyond the facility to neighboring residents. These types of notification requirements for LTCFs are similar to notification practices executed by law enforcement agencies across the country in terms of public notification[22]. Three states (California, Idaho, Louisiana), require LTCF administrators to inform all residents and employees when a person

[22] In Ohio, when a Tier III offender moves to a new address, the Sheriff's Department mails a postcard fact sheet which includes a picture of the registrant to every neighbor within 1000' of his/her address.

convicted of a sexual offense is being admitted to their facility. However, the law does not establish a protocol for how this information is to be disclosed nor whether the identity of the new resident is on the state's sex offender registry. Last, the two least restrictive of those with LTC/SO laws (Illinois and Virginia) require LTCFs to provide written notification on where to access the state's online public sex offender registry to all residents, their legal guardian, employees, and any prospective resident. If any resident is unable to access their state's sex offender registry website, the facility must aid the individual in locating the information, regardless of whether a current resident is on the state's sex offender registry.

The theme of notification requirements is the most common element seen in LTC/SO laws across the country. As noted above, the notification requirements outlined in the statutes varies across states, with some states requiring more information about individuals required to register as a sexual offender in order for LTCFs to notify and safeguard their residents not convicted of a sex crime, next of kin, and staff. Prior research has shown that the application of Megan's Law is not universal from one state to the next, this includes notification measures to ensure public safety from those convicted of sex crimes. This study also finds that LTCF laws pertaining to individuals convicted of sexually offending are no different from Megan's Law. However, the creation and use of specific laws for LTCFs and those convicted of sexually offending is another apparatus to perpetuate notification of such individuals into other institutions.

Disclosure of Sex Offender Status

Disclosure of having a previous criminal history and/or sexual offense conviction are often found on job, housing, and government entitlement applications, higher education admission applications, and various other sectors within our society (EEOC.gov, 2021;

HUD.gov, 2021; Studentaid.gov, 2021). While most private industries are not state mandated to do so, this is different for long-term care facilities. Although disclosure of the registry status is a requirement in some states as a condition of admission, it is unknown, whether LTCFs are admitting RSOs into their facilities in practice.

Of the thirteen states that have laws pertaining to persons convicted of a sexual offense seeking admission into a LTCF, six (46%) require registrants to disclose their status as a registered sex offender as a condition of the application and admission process. Of those six, four (67%) states (California, Florida, Minnesota, and Oklahoma) specifically address the term "registered" as the designated status that must be disclosed to LTCFs—either by law enforcement, state agencies, or the individual—when persons convicted of a sexual offense are requesting residency in a LTC facility. Registrants in California and Florida who fail to disclose their registry status to the LTCF prior to admission will be dismissed from the facility.

Two states (North Dakota and Oregon) do not impose the term "registered" or "registrant" as a condition of disclosure. They do, however, mandate the state's Department of Corrections notify nursing homes the criminal history of an applicant prior to admission into a LTCF from a correctional facility.

Oregon is the most restrictive state in this study regarding the application for residency into a LTC facility. While Oregon requires disclosure of sex offender registration status, those who are currently on Oregon's Sex Offender Registry are banned from LTCFs until they have been removed from the registry.

Disclosure of sex offender registry status may appear similar to notification procedures; however, the difference is with *who* must be notified. Notification laws mandate how LTCFs must inform the LTCF community regarding where to find if an identified offender is living in

the facility, whereas disclosure legislation determines how applicants must inform their sex offender status to the LTC facility. The two are similar in its concept, but distinct in their application. Again, disclosure of registry status mirrors the practice of some businesses asking applicants about their criminal history. Comparably, the consequences of not disclosing an individual's criminal history on a business application and not disclosing on a LTCF application are equally as damaging in terms of being fired from a job or discharged from a long-term care facility. Ultimately, this suggests that honesty is the best policy in terms of managing the disclosure of felony status. LTCFs in this study are legally required to ask about an applicant's criminal history. Although, it does not necessarily restrict access to care, but failing disclose, in some states, is grounds for being discharged from the facility. In sum, the requirement for a potential resident to disclose their criminal history, specifically registration status, to LTCFs in order to make admission decisions that are in the best interest of the facility, its residents, and staff members.

Sex Offender Registry as a Screening Tool

The sex offender registry is open to the public as a way to inform the public who has been convicted of sexually offending and their whereabouts. Originally the sex offender registry was a tool for law enforcement to monitor the whereabouts of individuals required to register as a result of a sexual offense conviction. However, the use of the sex offender registry has expanded over time. The sex offender registry is commonly used as a screening tool for human resources, landlords, the educational system, and other services that requires an application (EEOC.gov, 2021; HUD.gov, 2021; Studentaid.gov 2021). In a recent study, national and state sex offender registries were used as screening tools by emergency homeless shelters to deny registrants access to such shelters (Rolfe, 2017). Similar to homeless shelters, the public sex

offender registry website was also found to be used as a screening tool for LTCFs admissions. While 13 states have laws to guide LTCFs with the admission process for people convicted of a sexual offense, five (38%) states (California, Florida, Illinois, Ohio, and Virginia) were found to require that LTCFs use their state's sex offender registry as a routine screening tool during the admission process. This theme differs from the previous theme, disclosure of sex offender status, in that disclosure places the burden of reporting on the individual or state agency. Here, the burden is placed on the facility to use the sex offender registration as a screening tool for admission. Virginia takes it a step further by mandating all LTCFs register with the Virginia State Police Sex Offender Unit to receive automatic community notification if a new registrant registers, re-registers, or updates their status with Virginia's sex offender registry.

Given broad practices surrounding the supervision and management of populations with a history of sex offense convictions, it is not unexpected to find states mandating LTCFs use the sex offender registry as a screening tool during the application process. This study finds that five states have made checking the sex offender registry during an application consideration a mandate, while others without a state mandate use the national or their state's public sex offender registry as per company policy as a tool to screen resident applicants.

In the end, it is not surprising to find the sex offender registry is mandated by law in some states with a LTC/SO law as screening tool, given the broad use of the registry to screen applicants across various industries. Importantly, some states have broad policies that use multiple forms of disclosure, notification, and screening to get a complete picture of their applicants. These first three themes demonstrate the emphasis on managing to the application and pre-admission processes, implementing procedures to gather information. The following

themes relate to policies and procedures once admission is approved, and how to house and manage individuals with a sex offense background who are granted residence.

Residency Restrictions

The residency restriction theme does not reflect "residency restriction laws" in the truest sense of the law, which prohibit registrants from residing near places where children are most likely to congregate, but rather, language within the law that either forbid registrants' access to LTCFs, or laws that give LTCFs the ability to discharge a resident for failing to disclose their registry status. The law allows either an outright denial of admission or the ability to discharge the resident for failing to disclose or lying about their registry status during the application process. Currently, four states (California, Florida, Massachusetts, and Oregon) have laws that restrict some registrants from their state's LTCFs based on lack of disclosure or offender definition. For example, registrants in California seeking admission into LTCFs must disclose their sex offender registration status. If they fail to do so, LTCFs are permitted to discharge a resident if their registry status becomes known after being admitted into the long-term care facility. Unlike California, Florida prohibits sexual predators, someone who has been convicted of a first-degree felony sex crime or two second-degree felony sex crimes occurring within 10 years after October 1993 (Florida Department of Law Enforcement, 2021) from residing temporarily or permanently in a nursing home facility unless their status is disclosed to the facility. Further, Hillsborough County, Florida restricts registrants that are designated by Florida law as "sexual predators" from living within 1,000 feet of any Senior Safety Zone, which includes long-term care facilities. Like Florida, in Massachusetts, registrants who are designated as tier-three (highest level) are prohibited from establishing living conditions within, move to, or transfer to any convalescent or nursing home, infirmary maintained in a town, rest home,

charitable home for the aged or intermediate care facility for the intellectually disabled. If found in violation, the individual can face punitive consequences in the form of jail, prison, or by fine. This type of violation policy mirrors various forms of punishment to persons convicted of a sex offense residing where they are prohibited to live. The Massachusetts Supreme Court, however, found this law violated due process and recommended that LTCFs perform risk assessments on any person convicted of a sexual offense seeking admission into long-term care. Unlike the previously mentioned states, Oregon gives LTCFs autonomy to refuse admission to registrants who are actively on probation, parole, or post-supervision after being convicted of a sex crime, as defined by Oregon criminal code. While these states have specific mandates associated with restricting access to residential care, it is important to note other states may have more individualized business practices that vary by facility that are not mandated by state legislation.

Collectively, some states restrict an individual's access to LTCFs based on their registry status or offender definition as defined by sexual offense criminal code. Additionally, it is noted that some states restrict access to persons convicted of a sexual offense based on the facility's geographic placement within the community. While this theme is different from the traditional definition of "residency restriction" it nonetheless restricts access to a specific group of offenders seeking placement in long-term care.

Individualized Care Plan

Other legislation helps guide housing and care for facilities that allow admission of persons convicted of a sex offense, in particular developing guides. An individualized care plan is a written guide that summarizes a patient's medical, psychiatric, and social histories, along with any documentation of disruptive behaviors to propose a set of individualized nursing management strategies to ensure optimum healthcare (Medicare, 2020). According to Centers for

Medicare and Medicaid Services, an Individualized Care Plan (ICP) is an assessment required upon admission and annually thereafter. These findings outline how ICPs are mandated to go beyond what is typically found in the traditional Individualized Care Plan. Traditional ICPs are developed to outline a resident's condition, abilities, needs, routines, and goals (Indiana.gov, 2021). However, the mandate requires some LTCFs address and insert the registry status or prior sexual conviction history into the care plan. For example, Florida, Massachusetts, and Ohio require their LTCFs to perform a risk assessment during the admission process of registrants or create an ICP that includes how the facility plans to protect residents and staff members residing or working in the LTCF from potential victimization. Once completed, dissemination of the care plan varies by state. For example, Ohio requires their LTCFs to devise and distribute the safety plan to their residents and resident sponsors in the event that the resident (person convicted of a sex offense) acts out sexually against other residents or members of the staff. It does not specify how this resident is identified but we know based on their notification requirement an offender fact sheet is included in the distribution of the ICP. Disseminating an offender fact sheet to residents and staff may further contribute to the stigmatization of the individual while living in long-term care. Although, Massachusetts does not mandate an ICP, it strongly encourages its LTCFs to perform a risk assessment on registrants seeking admission into their facility. Despite these three states requiring LTCFs perform risk assessments or develop ICPs, the laws do not prescribe how they should be done. States are therefore left with the autonomy to develop and administer these plans with little to no oversight. It appears to serve as an effort to ensure the safety for their residents, staff members, or community. Overall, these findings indicate there is a lot of latitude afforded to LTCFs in terms of how they incorporate a safety plan to address a potential threat to resident and staff safety, as well as how they will supervise residents with a

prior sexual offense conviction. However, legislation that falls into the theme of care plans consistently incorporates protections designed to create guides to minimize the potential victimization of employees and residents.

Supervision and Segregation

Less commonly, there are also examples of laws that regulate housing circumstances within LTCFs. Of the thirteen states that have statutes for LTCFs regarding registrants, only two states (Florida and Oklahoma) require LTCFs to increase supervision of registrants or segregate them from the rest of the residents in the facility. In Hillsborough County (Tampa), Florida, the local statute mandates LTCFs impose stricter supervision requirements for registrants that are designated as a sexual predator by Florida law; as well as segregate them from the entire non-registrant population in the long-term care facility (Tampa.gov, 2021). In Oklahoma, policymakers passed a law that required the state to specifically build a LTCF for those who have been convicted of a sexual offense. The law also specifies how the facility is to be constructed and architecturally designed, how staff are to be trained, and what security and surveillance measures will be used to protect residents from each other, staff members and the public in general (GAO, 2006). The first word in this theme, “supervision”, aligns with sex offender policies enacted to serve as a means to monitor persons convicted of a sexual offense, sometimes for life, and in this case, it appears to be no different. This theme certainly parallels some states’ sex offender policies of lifetime supervision (i.e., lifetime parole, and GPS monitoring for life for these individuals). Also, the second word in this theme, “segregation”, resembles the concept of restrictive housing. Used in correctional settings, *restrictive housing* is the practice of segregating inmates who may cause harm to the general inmate population (Labrecque & Smith, 2019). This analysis finds that Florida and Oklahoma use supervision and

segregation as a restrictive housing mechanism to monitor and control the behaviors of persons convicted of a sex offense while they reside in long-term care.

In sum, of those states that have enacted legislation that informs and directs LTCFs sex offender policies, 62% of the legislation require some form of community notification while 46% of states include language that mandates prior disclosure of offender status before LTCFs admit them into care. Additionally, 38% of legislation instructs LTCFs to use the sex offender registry as a screening tool to conduct background checks on applicants seeking admission. A variation of residency restriction can be found in 31% of the statute requirements. Less frequently, 23% of statutes require states to develop an Individualized Care Plan or perform a risk assessment based solely on the offender's prior criminal history. And, only two states, or 15%, include language that directs LTCFs should increase supervision of, and segregate residents formerly convicted of a sexual offense from the general population, either in the same facility or a freestanding facility only for persons convicted of a sex offense (Oklahoma).

In sum, the analysis finds that even within each theme there is a lot of variation between the states, but the overarching takeaway is the language within these mandates mirror the requirements outlined in federal and state sex offender laws and emphasizes guardianship.

State Characteristics

To answer the question why some states enact LTCF policies directed towards persons convicted of sexual offending, we must think broadly. There could be many explanations for why a state enacts legislation. One overall theme of this dissertation is how crime has led to many legislative movements imposed upon persons convicted of a sex offense. This portion of the analysis will draw from several state and social characteristics that may predict whether a state will enact a LTC/SO law. Considering the state legislation content analysis as a guiding

framework for this portion of the study, a dataset comprised of criminal justice policies, social and political state characteristics, and other justice related data was created to explore why a state may enact a law that would limit a person convicted of a sex offense access to long-term care.

Prior scholars have utilized a range of measures to predict and measure punitiveness (Gordon, 1989; Kutateladze, 2010; Tonry, 2001; Whitman, 2003). In addition, punitiveness scholars have also included state characteristics which may influence policymaking (penal, or otherwise) across the U.S. For example, Kutateladze (2010) asserts that punitiveness extends beyond criminal justice practices, and that social factors could be predictors of legislative movements and must not be left out of the discussion. He argues that levels of punitiveness among states may be explained by their populations' diversity as it relates to race, age, education, religion, political affiliation, population turnover and state's population size. Further Kutateladze (2010) argued that these social factors may have a direct effect on punitive policymaking.

Descriptive and Bivariate Results

Descriptive statistics are reported in Table 3 and differences between states with a LTC/SO law and states without a LTC/SO law were analyzed using chi-square (dichotomous independent variables) or independent *t*-tests (continuous independent variables). There were 50 states analyzed in four separate models: State Characteristics, Criminal Justice Polices, Sex Offender Policies and Social Characteristics. Of 50 states, 37 (74%) do not have a LTC/SO policy. The remaining 13 states (26%) have a LTC/SO law which was documented earlier in this chapter. In Table 3, the descriptive and bivariate statistical results are reported for the overall, do have a law and does not have a law based on state characteristics.

State Characteristics

Many state characteristics are often associated with punitiveness. Overall, the average population of a state is 6.3 million. Of those states with a LTC/SO law, they are larger in population (Mean= 11.7 million, S.D. = 115.37) than states without a LTC/SO law (Mean = 4.5 million, S.D. = 40.3), and this difference is statistically significant (t = 16.140, p = <0.001). Scholars have argued that states larger in population are not as socially cohesive and therefore may have higher crime rates which may trigger more punitive penal policies as a response to crime (Gordon, 1989; Kutateladze; 2010; Tonry, 2001). The median age of a state's population is 38.9 (S.D. = 2.3). Prior literature has also found that states older in population are more likely to enact policies that would protect the older population (Gordon, 1989; Kutateladze; 2010; Tonry, 2001). Therefore, we would expect to find states with a LTC/SO law would be older in age. However, this study finds that states with a LTC/SO policy are slightly younger (Mean = 38.3, S.D. = 1.9) than states without a LTC/SO policy (Mean = 39.1, S.D. = 2.4) though the difference is not statistically significantly.

Justice related characteristics are also connected to punitiveness, where scholars have argued that states with higher incarceration rate, crime rate, and number of police per 1,000 are associated with greater punitiveness (Gordon, 1989; Kutateladze; 2010; Tonry, 2001). In this study we find states with a LTC/SO law have higher rates of incarceration (Mean = 380.2) compared to states without a LTC/SO law (Mean = 325.1), these differences are not statistically different (t = 0.648). States with a LTC/SO law have higher crime rates (Mean = 2512.7) compared to states without a LTC/SO law (Mean = 2444.9), these differences are not significant (t = 0.308). Lastly, there is virtually no difference in the number of police per 1,000 for states with and without a LTC/SO law.

Overall, there were few state demographic and justice related characteristic differences in comparing states with and without LTC/SO laws. The lone exception was state population where states with a LTC/SO law had a greater base population.

Criminal Justice Policies

Criminal justice polices are commonly used as indicators of state punitiveness. Three commonly used policies that represent greater punitiveness were included in this study, capital punishment, three-strikes laws, and felony disenfranchisement. Twenty-seven states (54%) have the death penalty as a sanctioning option, and when comparing states with LTC/SO laws (53.8%) to states without a law (54.1%) there was no significant difference. Sixty percent of states have a three-strike law, but again there was no significant difference between states with (53.8%) and without a LTC/SO law (62.2%). Twenty-two percent of states have strong voting restrictions that extend beyond incarceration, but again there was no significant difference between states with (23.1%) and without (21.6%) a LTC/SO law. Overall, when comparing states with and without LTC/SO laws, there were no differences in the proportion with the death penalty, three-strike laws, and disenfranchisement laws. This study contradicts what we would expect to find based on punitiveness research, indicating LTCF policies may be more relevant to non-justice related factors.

Sex Offender Policies

Many states have implemented restrictive and surveillance-based laws toward persons convicted of a sex offense, often extending beyond the completion of a sentence.

Residency restriction laws are aimed at restricting where people on the sex offender registry can live near where children under 18 are most likely to congregate. Currently, only 21 (42%) states have a residency restriction law (58% do not), with most states having a range of

1000’-2000’ on where registrants can live near where minors are likely to congregate. When comparing states with (76.9%) and without (29.7%) a LTC/SO, the data finds these group difference is statistically significant ($\chi^2 = 8.795$, p = 0.003).

Fewer than half, (40%) of the states in the U.S. have civil commitment laws. However, when comparing the two groups, 69.2% of states with a LTC/SO law also have a civil commitment law as compared to only 29.7% of states without a LTC/SO law. This difference is statistically significant ($\chi^2 = 6.254$, $p = .012$).

Lastly, when examining lifetime GPS monitoring for those convicted of a sex crime, both states with and without LTC/SO laws had similar frequencies of the statute with 30.8% and 21.6% respectively. This difference was not statistically different between the two groups ($\chi^2 = .441$, $p = .506$).

Social Characteristics

Finally, punitiveness literature often considers the social and political characteristics of a state in the adoption of restrictive policies. Evidence has shown that a ban on SNAP benefits for drug felons may be found in states more punitive in its social welfare policies compare to states without a ban on SNAP benefits (Martin, 2021; Owens & Smith, 2012; Sheely, 2021). This study finds that twenty-six states (52%) have some form of SNAP ban for drug felons, while twenty-four states (48%) of states have no ban. When comparing the two groups, although 56.8% of states with no LTC/SO law have a SNAP ban and 38.5% of states with a LTC/SO law have a SNAP ban, this difference appears due to chance ($\chi^2 = 1.290$, $p = .256$).

Prior research (Edwards, 2016) found that states with a generous social welfare had fewer children living in foster care. He asserts that states with a less generous welfare system also collaborate more with law enforcement, and therefore have higher rates of foster care

intervention. Therefore, LTC/SO policies may be found in states with a higher number of children living in their foster care system. This study, however, did not find support for such policies, but rather, states with a LTC/SO law have fewer children (4.1/1000 children) living in foster care versus states without a LTC/SO law (4.6/1000 children) living in foster care, and there is no statistical difference (t = -0.735, p = .184).

Lastly, punitiveness scholars argue that states with Republican oriented political indicators are more likely to have punitive policies compared to Democratic oriented states. The premise is based on the difference in ideology between the two parties when it comes to our criminal justice system, where broad ideologies suggest Republicans believe the justice system should be punitive, whereas Democrats want our criminal justice system geared more towards rehabilitating justice-involved people (Gordon, 1989; Kutateladze; 2010; Tonry, 2001). Therefore, we would expect to find states with a LTC/SO law are governed by a Republican governor, or states voting Republican in the 2004 Presidential election. In 2007 when 13 states had LTC/SO laws, 44% of states had a Republican governor. When comparing the two groups, states with a LTC/SO law (38.5% with a Republican governor) compared to states without a LTC/SO law (45.9% with a Republican governor), this study finds no statistical difference (χ^2 = .459, p = .295). In the 2004 presidential election 48% of states voted for the Republican nominee, but when comparing the two groups, states with a LTC/SO law had a higher proportion (54%) voting the Republican presidential nominee compared to states without (46%) a LTC/SO law. This study finds no statistical difference between the two groups (t = -0.482, p = .980).

Table 3: Descriptive and Bivariate Results on States with LTC/SO Law

	Overall (N=50)		States with LTC/SO law (n= 13)		No LTC/SO law (n = 37)		
Variables	Mean/Frequency	S.D.	Mean/Frequency	S.D.	Mean/Frequency	S.D.	X^2/T-Score
State Characteristics							
State Population	6.3M	7.3M	11.7M	11.5M	4.5M	4.0M	16.140***
Median Age	38.9	2.3	38.3	1.9	39.1	2.4	-1.078
Incarceration Rate/100,000	359.4	133.6	380.2	166.3	352.1	121.9	0.648
Crime Rate/100,000	2462.5	676.7	2512.7	601.2	2444.9	708.2	0.308
Police/1,000	2.7	.4657	2.6	.3950	2.7	.0807	0.571
Criminal Justice Policies							
Death Penalty (yes)	54%		53.8		54.1		0.000
Three Strikes Law (yes)	60%		53.8		62.2		0.277
Disenfranchisement (strong voting restriction)	22%		23.1		21.6		0.012
Sex Offender Policies							
Residency Restriction (yes)	42%		76.9		29.7		8.795**
Civil Commitment (yes)	40%		69.2		29.7		6.254**
Lifetime GPS Monitoring (yes)	24%		30.8		21.6		0.441
Social Characteristics							
SNAP ban (yes)	52%		38.5		56.8		1.290
Foster Care/100 Children	4.5	2.3	4.1	1.5	4.6	2.5	-0.735
Republican Governor (2007)	44%	.501	38.5	.506	45.9	.505	0.459
State voted Rep Pres (2004)	48%	10.4	54%	5.19	46%	.505	-0.482

**$p < .01$, ***$p < .001$

N = 50

The bivariate analyses find there are few differences in the means and frequencies between states with and without LTC/SO laws, as only three variables emerged statistically different (state population, residency restriction and civil commitment). In all three cases, states with LTC/SO laws had greater proportion or higher mean compared to states without LTC/SO laws, as expected.

Logistic Regression

Linear Regression was conducted on all models to test for multicollinearity. The VIF for each model indicates collinearity is not an issue. Five multivariate models are included in this

study. The dependent variable in each model is whether a state has a LTCF/SO law (No = 0, Yes = 1). There are five models which includes a different set of independent variables presented in Tables 4—8.

State Characteristics

The first model tests the effects of state characteristics on states with a LTC/SO law guided by prior literature examining the relationship between general state attributes and the enactment of state policies.

Hypothesis 1: States with an older population are more likely to have a LTC/SO law

Hypothesis 2: States larger in population are more likely to have a LTC/SO law

Hypothesis 3: States with more police are more likely to have a LTC/SO law

Hypothesis 4: States with a higher incarceration rate are more likely to have a LTC/SO law

Hypothesis 5: States with a higher crime rate are more likely to have a LTC/SO law

Table 4 shows the results of Model 1. Given what we learned from the bivariate analysis, states with larger populations should emerge as statistically significant, which was found to be supported in this model. For instance, as a state's population increases, we tend to see the odds of having a LTC/SO policy increase. Median age (p = .399), police per 1,000 (p = .511), crime rate per 100,000 (p = .995) and incarceration rate (p = .605) did not emerge as predictive of the adoption of LTC/SO laws. The model fits the data reasonably, with a Cox & Snell R^2 = .192 and a Nagelkerke R^2 = .281.

Table 4. Model 1. State Characteristics

	B	S.E.	Sig.	Exp(B)
State Population	0.017	0.008	0.025	1.02**
Median Age	-0.167	0.198	0.399	0.85
Police/1,000	0.004	0.006	0.511	1.00
Incarceration Rate/100,000	0.002	0.003	0.605	1.00
Crime Rate/100,000	.000	0.001	0.995	1.00
Constant	2.207	8.901	0.804	9.08

$p < 0.05$**
Cox & Snell $R^2 = .192$
Nagelkerke $R^2 = .281$
$\chi^{2 =} .059$

Criminal Justice Policies

Extrapolating that criminal justice policies may relate to the adoption of policies that target certain offense types, the second set of hypotheses and model tests the predictive value of punitive criminal justice policies on states also enacting a LTC/SO law. Table 5 shows the results of Model 2.

> *Hypothesis 6:* States that employ the death penalty are more likely to have a LTC/SO law

> *Hypothesis 7:* States that employ three-strikes laws are more likely to have a LTC/SO law

> *Hypothesis 8:* States with the presence of a very strong voting restriction are more likely to have a LTC/SO law

Table 5. Model 2. Criminal Justice Policies

	B	S.E.	Sig.	Exp(B)
Death Penalty (yes)	0.003	0.666	0.996	1.003
Three-Strikes Law (yes)	-0.340	0.655	0.269	0.712
Disenfranchisement (strong voting restriction)	0.059	0.792	0.940	1.061
Constant	-0.864	0.601	0.151	0.421

Cox & Snell $R^2 = .006$
Nagelkerke $R^2 = .008$
$\chi^{2 =} .281$

In the second model, no general criminal justice policy predicted whether a state has a LTC/SO law. Of the 13 states that have a LTC/SO law, 7 (54%) of those states also employ the death penalty, but this did not emerge as predictive of adopting LTC/SO policies (p = .996).

Three-strikes laws are also indicative of general punitiveness, though was found not statistically significant (p =.269) in predicting statewide LTC/SO legislation. Finally, the deprivation of voting rights is another measure of state punitiveness. Nearly every state (48) has some form of disenfranchisement law pertaining to voting for justice-involved people with eleven states restricting voting rights to felons during and post-incarceration. Of the 13 states that have a LTC/SO law, 23.1% have the presence of a very strong voting restriction that restricts the voting rights for those convicted of a felony beyond incarceration compared to 21.6% of states without LTC/SO laws. In the multivariate model, the presence of strong disenfranchisement was not statistically predictive of LTC/SO laws (p = .940). The model indicates the model is not a good fit (Cox & Snell R^2 = .006; Nagelkerke R^2 = .008).

Sex Offender Policies

The third set of hypotheses and model more narrowly examines the effects of other criminal justice and civil sex offender policies on whether states have a LTC/SO law. Table 6 shows the results of Model 3.

> *Hypothesis 9:* States that have residency restrictions are more likely to have a LTC/SO law
>
> *Hypothesis 10:* States that have civil commitment laws for persons convicted of a sex offense are more likely to have a LTC/SO law
>
> *Hypothesis 11:* States that employ lifetime electronic monitoring of persons convicted of a sex offense are more likely to have a LTC/SO law

Table 6. Model 3. Policies Relating to Sex Offenses

	B	S.E.	Sig.	Exp(B)
Residency Restriction (yes)	2.703	0.954	0.005	14.919***
Civil Commitment (yes)	2.373	0.917	0.010	10.732***
Lifetime GPS Monitoring (yes)	-0.011	0.917	0.990	0.989
Constant	-3.836	1.086	<.001	0.022

$p < 0.01$***
Cox & Snell $R^2 = .297$
Nagelkerke $R^2 = .435$
$\chi^{2 =} <.001$

In Model 3, states with a residency restriction and civil commitment laws were found to be statistically significant in predicting the likelihood of having a LTC/SO law. The predicted odds are 14.9 greater of a state having a LTC/SO law when states have a residency restriction law (ExpB = 14.919, $p < 0.01$). To date, 21 states and countless local governments have restricted people on the registry from residing anywhere within 300 to 2,500 feet from schools, daycare centers, parks and other places deemed necessary to protect children (Savage & Windsor, 2018). The association between residence laws and LTC/SO laws suggest a priority in managing people convicted of a sex offense from sexually abusing children and/or LTCF residents and staff.

Additionally, states with a civil commitment law the predicted odds of having a LTC/SO law are 10.7 greater than those without civil commitment laws (ExpB = 10.732, $p <0.01$). Civil commitment was originally set aside for individuals who were considered mentally ill and dangerous to themselves or others. However, over time civil commitment is being used in twenty states as a mechanism to keep certain persons convicted of a sex offense from re-entering society (Cohen & Jeglic, 2007). It is not surprising to find that states employing more sex offender policies would have an increase odd in enacting a law that directs LTCFs admission of sexual

offenders, indicating that the spread of managing person convicted of a sex offense often trails into non-justice related policies.

However, lifetime electronic GPS monitoring was found not statistically significant and, in the opposite, expected direction. Lifetime electronic GPS monitoring of persons convicted of a sex offense is a mechanism in 12 states. Of those 12 states, four (33%) have a LTC/SO law. The model fits the data reasonably, with a Cox & Snell R^2 = .297 and a Nagelkerke R^2 = .435.

Social Policies

The fourth model examines social policies on states with a LTC/SO law. Table 7 shows the results of Model 4.

> *Hypothesis 12:* States that have a SNAP (neé food stamps) drug ban are more likely to have a LTC/SO law
>
> *Hypothesis 13:* States that have a high rate of children in foster care are more likely to have a LTC/SO law
>
> *Hypothesis 14:* States with a Republican governor in 2007 are more likely to have a LTC/SO law
>
> *Hypothesis 15:* States voting for the Republican presidential nominee in the 2004 Presidential election are more likely to have a LTC/SO law

Table 7. Model 4. Social Policies

	B	S.E.	Sig.	Exp(B)
SNAP Ban (yes)	-.703	.711	.323	.495
Foster Care/1000 Children	-.110	.165	.507	.896
Republican Governor (2007)[23]	-.180	.717	.980	.982
State voted Rep Pres (2004)[24]	-.007	.042	.867	.993
Constant	.143	2.10	.946	1.154

Cox & Snell R^2 = .038

Nagelkerke R^2 = .055

χ^2= .751

[23] Us State Governors List - 2007 - Pilots For 9/11 Truth Forum (pilotsfor911truth.org)
[24] Federal Elections 2004 (fec.gov)

In Model 4, no hypotheses were supported. It was hypothesized that states with a SNAP ban for drug felons may also predict the likelihood of having a LTC/SO policy. However, this relationship was in the opposite direction (B = -.703) and was not statistically significant (p = .323). Further, it was hypothesized that states with greater rate of children living in foster care may be more likely to have a LTC/SO law. Edwards (2016) examined the degree of social policies and law enforcement intervention on the effects of foster care. He found that states with lower uses of social welfare and higher uses of criminal justice responses are more likely to be punitive. However, this study does not find a relationship between the rate of children living in foster care to states having a LTC/SO law. Again, the direction of this relationship was not in the predicted direction (B = -.110) and was not significantly predicted (p = .507). Third, it was hypothesized that states with a Republican governor are more likely to adopt a LTC/SO law. However, this study finds this was not significantly predicted (p = .980). Lastly, it was hypothesized that states voting for a Republican Presidential nominee in 2004 are more likely to adopt a LTC/SO law, however this study finds it was not predictive of having a LTC/SO law (p = .867).

Overall, the model is not a good fit (Cox & Snell R^2= .038; Nagelkerke R^2 = .055). This may suggest political leadership and other general social policies do not have a strong relationship with laws governing LTC and SO policy.

Last, due to a small number of cases, the final model examines only the independent variables that were significant in previous models. Table 8 shows the results of Model 5. Only two predictors remained predictive in this model.

States with a civil commitment law the predicted odds of having a LTC/SO law are almost 7 times greater than those without civil commitment laws (ExpB = 6.872, $p < .05$). Civil

commitment is one of the most restrictive forms of civil control for persons convicted of a sex offense. Civil commitment laws are laws designed to confine persons convicted of a sex offense who are considered dangerous and therefore should be civilly supervised even after their criminal sentence is complete. Civil commitment laws can confine a persons convicted of a sex offense for an indefinite period of time. Oftentimes, once a persons convicted of a sex offense is civilly committed the likelihood of ever being discharged is low. Civil commitment laws can be considered another housing legislation to restrict the movements of persons convicted of a sex offense in society.

For states that have a residency restriction law the predicted odds of having a LTC/SO law are 11 times greater than those without residency restriction laws (ExpB = 11.101, $p < .01$). Residency restriction laws are another restrictive form of legislation that aims to monitor and control the whereabouts of persons convicted of a sex offense, and this suggests states that adopt housing measures for persons convicted of a sex offense are likely to extend this into LTC facilities.

Table 8. Model 5. Final Model

	B	S.E.	Sig.	Exp(B)
State Population	0.007	0.008	0.377	1.007
Residency Restriction	2.407	0.962	0.012	11.101***
Civil Commitment Laws	1.927	0.996	0.053	6.872**
Constant	-3.738	1.009	0	0.024

**$p < .05$, *** $p < .01$
Cox & Snell $R^2 = .310$
Nagelkerke $R^2 = .454$
$\chi^2 = 20.062$

Last, Table 9 provides a visual comparison of states with a LTC/SO law and how they compare to states with civil commitment and residency restriction laws. When analyzing both residency restriction laws and civil commitment laws together, it was found that ten states (77%)

that have a LTC/SO policy also have a form of residency restriction law. Of those, Illinois has the least restrictive residency restriction of all ten states. Illinois does not allow persons convicted of a child sex offense to live within 500' of where children under 18 are likely to congregate. Four states (40%) have the most restrictive residency restriction law, restricting persons convicted of a sex offense from living 2,000' or more from where minor children are likely to congregate. But the majority of the states (50%) restrict persons convicted of a sex offense from living within 1,000'-1,999' from where children under 18 are likely to congregate. Again, there are nine states (69%) that have a LTC/SO law and a civil commitment law. Of those, six (46%) employ all three laws. Given what we find, states with housing restriction laws (i.e., residency restrictions and civil commitment) are significantly more likely to adopt a LTC/SO law to further restrict access to LTCFs for aging individuals convicted of a sex offense requiring long-term medical care.

Table 9. States with LTC/SO Law

State	LTCF/SO Law	Civil Commitment	Residency Restriction
CA	X	X	X
FL	X	X	X
IA	X	X	X
IL	X	X	X
LA	X		X
MA	X	X	
MN	X	X	X
ND	X	X	
OH	X		X
OK	X		X
OR	X		X
TX	X	X	X
VA	X	X	
	13	9	10

X = has a law

Collectively, the bivariate and multivariate analyses did not lend much support for the hypotheses. However, even with little predictive findings, the analyses did provide some important takeaways, that overwhelmingly states with residency restriction and civil commitment laws are significantly more likely to have a LTC/SO law suggesting there may be some consistencies in the adoption of laws that govern the movement of persons convicted of sex offenses.

Discussion

Collectively, this chapter demonstrates there is a lot of variation when it comes to both the adoption of, and the language used in LTC/SO legislation. Overall, however, the themes that emerged from the statutory analysis reveals that much of the language parallels what is found in more general federal and state sex offender legislation.

Further, the state-level variables used in this study may not represent all the measures or the best measures that could explain why states may enact a LTC/SO legislation but it does support that states with residency restriction and civil commitment laws are significantly more likely to predict whether a state may enact a LTC/SO legislation.

State-level Legislation

Based on the findings, it does not appear that states' motivations to enact policy mirrors the goals of federal and state sex offender legislation by addressing the concerns of public safety through comprehensive legislative action. In fact, only twenty-six percent of states (n=13) have taken further legislative action to inform and direct LTCFs admission and management practices of aging individuals convicted of a sex offense beyond what is already required by federal, state, and local sex offender laws. Overall, these laws were enacted between 2005 to 2007, and despite the discourse and attention from policymakers and the public little legislative action has been

taken to address the public safety concerns of persons convicted of a sexual offense living in long-term care facilities. States that do have legislation include language similar to federal and state sex offender laws that controls and monitors the whereabouts of persons on the sex offender registry. As it was previously highlighted above, sex offender notification and registration laws, and where applicable, residency restriction laws have created united collateral consequences for registrants throughout their reintegration efforts. And for those who must register for life, there is no reprieve from the laws and the stigma attached to being required to register for a sexual offense.

These findings add to existing literature in several important ways. First, it reveals that the majority (74%) of states do not have laws that direct the admission and/or management of people on the sex offender registry in long-term care facilities. While 13 states did have laws specifically addressing registrants and LTCFs, it was interesting to find that most laws were enacted between 2005 and 2007, which was during the height of sex offender laws (e.g., SORN and residency restrictions) being enacted across the country (Berdzik & Ioannou, 2013). Although no state was found to have enacted laws pertaining to registrants and LTCFs in more than a decade, does not mean that the public and policymakers are not concerned with public safety and the protection of those who live, work, and visit LTCFs from registrants. According to media reports (Fredricks, 2019; Penzenstadler & Golden, 2011; Wedell, 2017), states remain concerned with admitting persons convicted of a sex offense into long-term care for fear they will reoffend, thus, one of the primary reasons why some states have enacted legislation to protect vulnerable nursing home residents and employees from potential victimization.

Second, the content analysis revealed that statutes informing and directing LTCFs vary greatly in breadth and depth. It finds that some states are multi-faceted and include multiple

legislative requirements, while other states only support one legislative requirement for registrants' access to long-term care facilities. For example, of the thirteen states, Florida was found in five of the six emerging themes, while four states (Idaho, Louisiana, North Dakota, and Texas) only supported one theme. It is not surprising to find that Florida includes five of the six emerging themes found in their LTCF/SO law given that Florida has some of the harshest sex offender policies in the country (Levenson, 2008; Levenson, 2009). Punitive scholars also find Florida to be a very punitive state in terms of criminal justice policies (Gordon, 1989; Kutateladze, 2010; Tonry, 2001).

Third, it was found that many of the required legislative elements of LTC/SO policies were forged out of the many requirements required of registrants under Megan's Law and the Adam Walsh Child Protection and Safety Act (AWA). While this finding should not be surprising given the widespread use of these laws across the U.S. (Sandler et al., 2008). In particular, most of the states required LTCFs to notify their community (i.e., residents, resident's next of kin, staff members and neighborhood residents). Such notification requirements are not a surprise due to the proximity registrants will have with other residents, staff members and visitors while residing in the long-term care facility. In general, sex offender notification practices vary from state to state (Beck & Travis, 2006), and the requirement for LTCFs was found to be no different. Some states in this study provide and circulate detailed information about registrants and their sexual offense history when notifying LTCFs' residents, resident's next of kin and staff members. This notification practice could be very stigmatizing to those registrants living in LTCFs where this practice is in place. While, on the other hand, other state LTC/SO laws only provide instructions on how residents, resident's next of kin and staff members can access the state's sex offender registry.

Similarly, people are often asked to disclose their criminal histories on employment, housing, and higher education applications (EEOC.gov, 2021; HUD.gov, 2021; Studentaid.gov, 2021). This study finds that six states (46%) require the disclosure of a person's registry status to LTCFs as a requirement of the admission process. The majority of these states specifically addresses the term "registered" as the designated status that must be disclosed before admission can be granted. Most significantly, Oregon law denies any person on probation or parole for a sex offense conviction from entering long-term care. Although we do not know the exact number of aging offenders on probation or parole in Oregon, we do know the number of elderly individuals convicted of a sex offense in America is on the rise (Booth, 2016). This in and of itself reduces the chances for those living in states with a LTC/SO law of receiving long-term care which leads to another set of collateral consequences regarding their health and morbidity.

Additionally, sex offender registries are a widely utilized tools for the purpose of informing the public who has been convicted of sexually offending and their whereabouts. Landlords, homeless shelters, human resources, and the educational system uses the sex offender registry as a screening mechanism when vetting applicants for housing, employment, and education (EEOC.gov, 2021; HUD.gov, 2021; Studentaid.gov, 2021). Similarly, five states (38%) have mandated their LTCFs to use their state's sex offender registry as a screening tool when processing an applicant for admission. However, it is likely that some applicants are no longer on the registry and would likely be admitted into LTCFs without their knowledge unless the registry check is coupled with a criminal background check. The law does not indicate whether offenders on their state's sex offender registry would be denied access to care, just that it must be checked when reviewing an applicant's resident application. Thus, making the sex offender registry just one component of the screening process, but one that continues to reflect

the priority of screening potential residents for admission into a long-term care facility. At the heart of the screening process, it is to develop the best individualized care plan, but at the same time, it is to protect residents from one another, including staff. Therefore, being on the sex offender registry places potential residents of a LTCF into the highest risk category which unfortunately disqualifies them from admission into most LTCFs in Illinois.

Last, while the theme of residency restriction does not reflect the typical residency restriction laws where persons convicted of a sexual offense are restricted to reside anywhere within 300 to 2,500 feet (Savage & Windsor, 2018) where children most likely congregate. The theme is more of a residency restriction where states place restrictions on some registrants' access to long-term care facilities. Access to safe and affordable housing is a common and reoccurring barrier faced by many registrants and persons convicted of sexual offending (Levenson & Cotter, 2005a, 2005b; Rolfe et al., 2017; Tewksbury, 2005; Zgoba et al., 2009). This study finds that persons convicted of a sexual offense may experience continued difficulty when applying to long-term care.

Overall, the language within LTC/SO laws are very similar to and taken from the language found in federal and state sex offender laws. Key words such as notification, disclosure, sex offender registry, residency restriction, supervision and segregation are all terms found in other federal and state sex offender legislation. This study finds sex offender legislation overlaps and duplicates many of the goals found in Megan's Law and the Adam Walsh Act, and other sex offender legislation. While this study did not set out to determine and understand the collateral consequences attached to laws relating to LTCFs admission and management practices for registrants; it does, however, show the potential for similar collateral consequences for this group of justice-involved people. Frankly, limiting someone's ability to access long-term care

based on their registry status or prior sex offense conviction could be another collateral consequence faced by aging individuals convicted of a sex offense.

State Characteristics

The secondary purpose of this portion of this chapter was to analyze a variety of state-level characteristics to examine whether state policies and characteristics may explain the presence of a LTC/SO law. A state with a LTC/SO law may be located in a state that is more punitive in its penal and social policies given they are restricting access to stable housing and long-term medical care to a targeted group of offenders. Therefore, we may expect to find that certain punitiveness state characteristics, criminal justice policies, social policies and political affiliation are statistically significant in state's that employ a LTC/SO law. This study specifically addresses states that have a LTC/SO law to better understand what state characteristics, if any, influence a state's policymakers to enact a law that directs and informs LTCFs admission and management processes of persons on the sex offender registry or those with a prior sexual offense conviction. Again, as it was previously discussed, residency restriction laws have created united collateral consequences for registrants, and for those who must register for life entering a LTCF can be problematic for many of the elderly convicted of a prior sex offense conviction living in Illinois.

When examining each model separately there are three statistically significant variables that increase the likelihood of enacting a LTCF law. The current study finds that states larger in population are more likely to have a LTC/SO law. This result supports state punitiveness scholar's argument that states greater in population tend to be less cohesive which may directly impact a state's crime rate triggering more punitive penal policies. The criminological theory of social disorganization introduced the concept of collective efficacy and asserts that

neighborhoods less socially cohesive tend to have higher crime rates (Sampson et al., 1997). Therefore, we could expect to find states greater in population employing policies to protect the public, which may include a LTC/SO law as another mechanism to prevent crime before it happens.

Second, we know that regulating, via legislation, where persons convicted of a sex offense can live is a priority in the U.S (Levenson et al., 2010; Levenson et al., 2015). Therefore, we assume that states with a LTC/SO law are also located in states that have harsher policies targeting persons convicted of a sex offense. This study finds that states with a residency restriction law have 11 times higher odds of having a LTC/SO law. Residency restriction laws impose limits to where a person with a sex offense conviction can live. Residency restriction laws vary across the country in terms of who is affected and how it affects their ability to find stable housing. In fact, certain jurisdictions in Florida have no residential area where a person convicted of a sex offense can live due to local governments greatly expanding the restricted distance of where a person convicted of a sex offense can live beyond state mandate.[25] Additionally, this study finds that Florida includes the most requirements in their LTC/SO law than any of the 13 states. Given that some states have laws that inform and direct LTCFs admission and management processes for people convicted of sexually offending, makes it that much more difficult for these individuals to obtain care and residency in a LTC facility. In fact, of those facilities surveyed in Illinois for this study only 13% accept persons on the sex offender registry or with a prior sexual offense conviction. Therefore, it is not unlikely to find that states

[25] While Florida law restricts sexual offenders from living within 1,000' of parks, schools and other child-friendly places, various local ordinances set additional limitations to further exclude this group of individuals from certain areas.

that restrict where people convicted of sexually offending can live, but also where and how they can obtain long-term medical care at a LTC facility.

Third, civil commitment laws were originally set aside for the mentally ill because of being a danger to themselves or others. However, over time, civil commitment laws were extended to include those convicted of a sexual offense. It can be argued that civil commitment laws are the most punitive type of civil punishments towards those convicted of a sexual offense because often it confines them to a facility long-term, sometimes for life, even after their criminal sentence has been completed. In fact, states with civil commitment laws have odds almost 7 times higher of having a LTC/SO law than states without a civil commitment law for persons convicted of a sex offense. Of the 13 states with a LTC/SO law, 9 (69%) have a civil commitment law. Thus, just another legislative mechanism to control and supervise the whereabouts of those on the sex offender registry.

Finally, when entering all previously significant variables into the full model two predictors remained statistically significant. It should not be surprising to find that the presence of residency restriction laws emerged as both statistically significant and as the strongest predictor of having a LTC/SO law. Residency restriction laws restrict the housing of persons convicted of a sex offense and seem subsequently related to explaining continued restriction on housing options for persons convicted of a sex offense. The second predictor, civil commitment laws are characterized as punitive policies towards persons convicted of a sex offense. Although disguised as a public safety mechanism, civil commitment laws are used to confine persons convicted of a sex offense without treatment, and oftentimes for longer admissions than their court-ordered prison sentence, or what would have been their court-ordered sentence had they

chosen to go through the criminal justice system.[26] Similarly, states that adopt these types of laws seem to predict the extension of restrictions for persons convicted of sex offenses in consideration of LTC facility policies.

These findings add to existing literature in several important ways. First, it reveals that states having residency restriction and civil commitment laws are the strongest predictors of a state having a LTC/SO law. Residency restriction and civil commitment laws are aimed at confining, monitoring, and restricting the movement of certain persons convicted of a sex offense, sometimes for life (Cohen & Jeglic, 2007; Levenson, 2003), which is very similar to the goals of community notification, the sex offender registry and residency restriction laws. Furthermore, this study finds that some components of LTC/SO laws are also aimed at restricting access to LTC or closely monitoring persons convicted of a sex offense while they reside in a nursing home setting. In fact, the majority (87%) of LTCFs surveyed in Illinois do not accept persons on the sex offender registry or those with a prior sexual offense conviction (discussed further in Chapter 7). Therefore, restricting persons convicted of a sex offense access to long-term medical care is an additional collateral consequence not yet explored. In many ways these laws overlap, and duplicate efforts aimed at controlling and monitoring the movement of persons convicted of a sex offense for life, and sometimes at the cost of their health and well-being.

[26] Illinois is taking legislative action to modify its current civil commitment law that has been on the books since the 1930s. Under this law, persons convicted of a sex offense have the option to voluntarily enter a "treatment" facility through civil commitment rather than navigate the criminal justice system. However, Illinois civil commitment has been characterized as confinement rather than treatment. See https://www.pbs.org/wgbh/frontline/article/illinois-legislators-are-calling-for-changes-to-a-law-that-keeps-people-in-prison-without-a-conviction/

CHAPTER 6

FACILITY-LEVEL FINDINGS

The primary goal of this chapter is to describe the findings from the facility-level analyses which 1) explore facility characteristics and their influence on admission decisions for applicants on the Illinois Sex Offender Registry; 2) determines if Illinois LTCFs follow the mandates outlined in the INHCA; and 3) question does the Patient Bill of Rights matter in admission decisions. To address these topics, LTCF administrators were asked to report facility characteristics, questions relating to the Illinois Nursing Home Care Act and if the Patient Bill of Rights matter in admission decisions.

The analysis includes descriptive statistics to describe the data and provide an in-depth exploration on the characteristics associated with structural and procedural characteristics and the Patient Bill of Rights influence on admission decisions, and multivariate analyses to assess factors related to admitting registered sex offenders (RSOs) into long-term care facilities in the state of Illinois.

Descriptive and Bivariate Results

In Chapter 5 findings show that Illinois is a state with a LTC/SO law as outlined in the INHCA. LTCFs are to follow the mandate of the law before admitting someone with a sex offense conviction. However, the majority of facilities (87%) do not admit persons convicted of a sex offense. Descriptive statistics are reported in Table 10 and differences between LTCFs admission or denial of admission of RSOs into their facilities were analyzed using chi-square (dichotomous independent variables) or independent *t*-test (continuous independent variables). A sample of 78 LTCFs were analyzed in three general models to predict admissions of registrants or persons convicted of sexual offending. Of those 78 LTCFs, 68 (87%) LTCFs stated that

registered sex offenders or persons with a prior sex offense conviction were not permitted as residents in their facility. The remaining 10 facilities stated that RSOs and persons convicted of a sexual offense were allowed admission into their facilities but must be placed in a single room located near the nurse's station. However, the INHCA only states the identified offender of a sexual offense conviction shall be required his or her own room and does not explicitly say near the nurse's station.

Facility Characteristics of LTCFs

In Table 10, the descriptive and bivariate statistical results are reported for the overall, accept, and denial of RSOs into LTCFs based on facility characteristics.

Overall, the average number of beds in LTCFs was 112 which is slightly higher than the national average number of beds (107, Medicare.gov, 2021). However, LTCFs that allow registered sex offenders have an average of 104 beds compared with an average of 113 beds in LTCFs that do not allow RSOs. Although the data show that LTCFs that admit RSOs tend to be smaller, this difference was not statistically significant (t = -.435, p = .665). The total average occupancy rate was 72.4%, which is 7.6% less than the national average. However, during data collection, the nursing home industry was trying to rebound from a global pandemic which is most likely the culprit of lower-than-average occupancy rates.[27] The occupancy rate was marginally higher for LTCFs that accepted RSOs (74.5%) in comparison to LTCFs that would not admit such individuals (72.1%) though this difference was not significant (t = .426, p = .672). The overall patient-to-staff ratio was within industry standards (9.50 patients to 1 staff member), and mean scores for each group were virtually identical. LTCFs that accept persons on the registry or with a sexual offense conviction was slightly less with 9.10 patients per staff member

[27] Data collected from LTCF administrators took place in March 2021

compared to 9.56 patients per staff member at LTCFs that did not accept RSOs, and an independent *t*-test was not found to be significant when comparing the two groups (t = -.241, p = .811). The type of ownership (for profit vs. not-for-profit) was found statistically different in proportion when comparing those who admit and do not admit RSOs into their facility. Within the sample, 44% of the facilities are not-for-profit organizations. Of facilities that do admit persons convicted of a sex offense as residents in their facility, 80% are not-for-profit whereas only 38% of facilities who do not admit persons convicted with a sex offense as resident are not-for-profit. This difference was found to be significant (χ^2 = 6.184, p = .013) between the two groups. Overall, 20.5% of facilities are made up with residents who have private insurance, but when comparing LTCFs that admit (30%) and do not admit RSOs (19%), the difference was not statistically significant (χ^2 = 1.121, p = .578). The majority, 78.2%, of residents use Medicaid or Medicare to cover the cost of their long-term care costs. However, when comparing the two groups the mean scores were virtually identical and was found not significant (χ^2 = .699, p = .314).

Table 10: Descriptive and Bivariate Results on Long-term Care Facilities that Admit Registered Sex Offenders

	Overall		Allow RSOs (N = 10)		Do Not Allow RSOs (N = 68)			
Variables	Mean	S.D.	Mean	S.D.	Mean	S.D.	Range	*X2*/T-Score
Facility Characteristics								
Total Number of Beds	111.65	61.62	103.7	39.55	112.82	64.36	15 - 304	-0.44
Occupancy Rate	72.41	16.54	74.5	17.51	72.10	16.15	15 - 98	0.43
Patient-to-Staff Ratio	9.50	5.60	9.1	3.57	9.56	5.85	2 - 28	0.24
Ownership Type (not-for-profit)	44.0%		80.0%		38.2%		0 - 1	6.18**
Private Insurance	20.5%		30.0%		19.1%		0 - 1	1.121
Public Insurance (Medicaid/Medicare)	78.2%		80.0%S		77.9%		0 - 1	.669

Note: p < .10, *p < .05, **p < .01, ***p < .001

N = 78

Procedural Characteristics of LTCFs

In Table 11, the descriptive and bivariate statistical results are reported for procedural characteristics, first by the overall output then comparisons by those who admit or deny RSOs into LTC facilities.

There are three procedural requirements outlined by the INHCA. One is to conduct a state criminal background check; and 2) is check the Illinois Sex Offender Registry for every admission application; and 3). provide a written notification to all prospective and current clients, their next of kin and employees on how to locate the state's Sex Offender Registry. Overall, 95% of LTCFs stated they complied with performing both a state criminal background check and Illinois Sex Offender Registry check. When comparing those that admit RSOs, 100% of facilities comply with both procedural requirements compared to 94% compliance by facilities that do not admit registered sex offenders and was found not significant ($\chi^2 = .620$, $p = .431$). When it comes to implementing the third requirement outlined in the mandate overall only 29% of administrators reported they provide a written notification to all prospective and current clients, their next of kin and employees on how to locate the state's Sex Offender Registry. However, when comparing facilities that admit RSOs to those that do not, 90% of LTCFs that admit RSOs disseminate the notification compared to only 20.6% for those who do not admit RSOs, and this group difference is statistically significant ($\chi^2 = 20.201$, $p = .001$). Further, only 31% of the total administrators surveyed reported they have the autonomy to make exceptions to admission policies, which includes those applicants on the Illinois Sex Offender Registry. Importantly, 60% of administrators at LTCFs that admit RSOs into their facility reported they have the autonomy to make admission exceptions compared to 26.5% for LTCFs that do not

admit registered sex offenders, and this group difference is statistically significant ($\chi^2 = 4.60$, $p = .032$).

Table 11: Descriptive and Bivariate Results on Long-term Care Facilities that Admit Registered Sex Offenders

	Overall (N=78)	Allow RSOs (n = 10)	Do Not Allow RSOs (n = 68)	
Variables	Mean/Frequency	Mean/Frequency	Mean/Frequency	*X2*/T-Score
IL Criminal Background Check	95.0%	100%	94.1%	0.62
IL Sex Offender Registry Check	95.0%	100%	94.1%	0.62
Written Notification for RSOs	29.5%	90.0%	20.6%	20.20***
Admin. Exception Autonomy	30.8%	60.0%	26.5%	4.60**

Note: $p < .10$, *$p < .05$, **$p < .01$, ***$p < .001$

LTCFs Consideration of the Patient Bill of Rights

In Table 12, the descriptive and bivariate statistical results are reported for the overall sample, then by those that refer to or do not refer to the Patient Bill of Rights. This analysis focuses on procedural characteristics related to the admission process and if the Patient Bill of Rights influences a facilities admission decision.

The federal Nursing Home Reform Law, in the form of the Patient Bill of Rights, requires nursing homes to "promote and protect the rights of each resident" and emphasizes the right to dignity and self-determination (National Consumer Voice, 2020, para. 1). Every nursing home resident and next of kin receives a copy of the Patient Bill of Rights outlining in writing their rights and protections afforded to them. Because the Patient Bill of Rights ensures residents are free from abuse, neglect, and exploitation, LTCFs may be influenced by such rights when making admission decisions. Further, if facilities are influenced by the Patient Bill of Rights when making admission decisions, they may be more likely to implement all three required elements of the INHCA. However, that does not appear to be the case. Only 30% of facilities

refers to the Patient Bill of Rights when following the INHCA and when making admission decisions for those with a sexual offense conviction. When considering the Patient Bill of Rights, 95% reported that they conducted both types of checks on applicants compared to 92.7% of facilities that do not refer to the Patient Bill of Rights prior to making an admission decision and was found not significant ($\chi^2 = 1.76$, $p = .184$). Of those facilities that are influenced by the Patient Bill of Rights, 52% of facilities reported they disseminate the written notification to prospective and current residents, next of kin and employees, compared to only 20% of those who do not refer to the Patient Bill of Rights and was found to be significant ($\chi^2 = 8.07$, $p = .004$). This suggests referring to the Patient Bill of Rights is somewhat associated with adhering to more aspects of the procedural requirements set forth in the INHCA.

Overall, 17% of facilities reported they are influenced by the Patient Bill of Rights when admitting persons convicted of a sex offense compared to 11% who do not refer to the Patient Bill of Rights and was not significant ($\chi^2 = 0.61$, p =.435).

Table 12: Descriptive and Bivariate Results on the Influence of the Patient Bill of Rights

	Overall (N=78)		Refers to (n = 23)	Does not refer to (n = 55)	
Variables	Mean	S.D.	Mean	Mean	*X2*/T-Score
Patient Bill of Rights Influence					
IL Criminal Background	95.0%		100%	92.7%	1.76
IL Sex Offender Registry	95.0%		100%	92.7%	1.76
Written Notification	29.5%		52.2%	20.0%	8.07**
Admits RSOs	13.0%		17.4%	10.9%	0.610

Note: $p < .10$, *$p < .05$, **$p < .01$, ***$p < .001$

Logistic Regression

While there were some bivariate differences, multivariate regression was utilized to examine facility characteristics of LTCFs that admit RSOs, and persons convicted of sexual offending.[28]

Facility Characteristics of LTCFs

There is evidence to suggest that facility characteristics (e.g., maximum occupancy and organization status) matter when it comes to allowing RSOs into homeless shelters (Rolfe, 2017). Therefore, facility characteristics were used in this study to examine the effects facility characteristics may have on LTCFs that accept registered sex offenders. Table 13 shows the results.

> *Hypothesis 1:* LTCFs with a greater number of beds are more likely to accept registered sex offenders
>
> *Hypothesis 2:* LTCFs with a lower occupancy rate are more likely to accept registered sex offenders
>
> *Hypothesis 3:* LTCFs with a lower patient-to-staff ratio are more likely to accept registered sex offenders
>
> *Hypothesis 4:* Not-for-profit LTCFs are more likely to admit a registered sex offender into their facility
>
> *Hypothesis 5:* LTCFs with higher proportion of Medicare/Medicare insurance are more likely to be admitted into long-term care

Only one hypothesis was supported in the model, the odds of LTCFs admitting a registered sex offender were influenced by only profit status. There are 14.2 greater predicted odds of LTCFs granting admissions to RSOs if they are owned by a not-for-profit company (B = 2.650; *exp(B)* = 14.150).

[28] Originally three binary logistic regression models were used to examine LTCF characteristics; however, due to little variation in some of the predictors and large expected coefficients, two were eliminated.

The remaining hypotheses received no support, indicating that those facility characteristics tested do not reliably predict admission policies. This model indicates there is no significant difference in the odds of LTCFs accommodating registered sex offenders or those with a sexual offense conviction based on the total number of beds in the facility, occupancy rate, patient-to-staff ratio, private or Medicare/Medicaid insurance. The model fits the data reasonably, with a Cox & Snell R^2 = .117 and a NagelKerke R^2 = .219. [29]

Table 13. Facility Characteristics of LTCFs for Admitting RSOs

Variables	Coefficient	Standard Error	Odds Ratio
Constant	-2.236	2.072	0.098
Total # of beds	-0.002	0.009	0.998
Occupancy Rate	0.004	0.023	1.004
Patient-to-Staff Ratio	0.006	0.11	1.006
Ownership (not-for-profit)	2.65	1.132	14.15*
Private Insurance	0.525	1.126	1.691
Medicare/Medicaid Insurance	-1.771	1.482	0.17
Chi-squared	9.715		
Cox & Snell R^2	0.117		
Nagelkerke R^2	0.219		

Note: +$p < .10$, *$p < .05$, ** $p < .01$, *** $p < .001$

N = 78

Discussion

The purpose of this portion of the study was to analyze a variety of facility-level characteristics to examine whether certain characteristics predict a LTCF to accept a person on the Illinois Sex Offender Registry or previously convicted of a sexual offense. Using prior scholarship as a foundation, literature (Rolfe, 2017) finds that certain structural characteristics can influence a facility's decision to accept persons on the sex offender registry. More broadly, organizational theory suggests that environmental conditions and size are important determinants

[29] VIF range 1.094-2.928

of structural patterns (Child, 1972; Child, 1997; Mery & Kahn, 2013; Miles et al., 1978; Ranson et al., 1980) For this study, drawing from prior literature, the author examined how environmental and facility size may influence admission decisions.

The loose coupling framework helps to explain admission decisions related to company policies and procedures. Loose coupling framework asserts that organizations loosely tied to company policy may make organizational decisions (i.e., admission decisions) that do not align with company policy (Meyer & Rowan, 1977), such as the decision to admit applicants on the Illinois Sex Offender Registry. Therefore, we would expect to find that LTCFs that are loosely coupled may admit registrants more frequently than those facilities more tightly coupled to organizational policies and procedures.

Broadly, for felons, and specifically for persons convicted of sexual offending, housing has become challenging including in an institutional setting (Rolfe, 2017). The findings within this study parallel what is previously known regarding housing collateral consequences for registrants. And for those who must register for life, entering a LTCF can be problematic for the majority, if not all, of sex offenders living in Illinois.

The first significant finding at the facility-level is the majority (87%) of the LTCFs surveyed do not admit registered sex offenders or persons convicted of a sexual offense. This points to the previous paragraph citing the significant challenges RSOs face in terms of obtaining safe and stable housing. It seems that LTCFs, at least in Illinois, are following the same trend as emergency homeless shelters (Rolfe, 2017) and private and commercial landlords (Levenson & Cotter, 2005a, 2005b; Rolfe et al., 2017; Tewksbury, 2005; Zgoba et al., 2009) by excluding registrants or persons convicted of sexual offending as users or tenants of temporary and permanent shelter. Residency restriction laws were meant to keep the public (especially children)

safe from sexual predators, therefore, some states and local jurisdictions have enacted residency restriction laws that limits the distance persons convicted of a sexual offense can reside. As studies have shown, there are areas in the country where housing is completely off limits to sex offenders given the distance established in the exclusionary zones which by eliminates any housing possibilities for registrants (Socia et al., 2015; Wernick, 2006; Zandbergen & Hart, 2006). In the same vein, the vulnerable population in this study refers to the sick and elderly. Therefore, restricting residency in a LTCF may be another legislative mechanism to protect vulnerable populations by denying RSOs and persons convicted of a sexual offense. Therefore, the finding that 87% of LTCFs do not admit registrants or persons convicted of a sexual offense further broadens the scope of residency restriction laws and adds to the list of collateral consequences persons convicted of a sex offense face in the community, likely in the name of continuing to protect public safety. Although, this study is limited to Illinois we may expect to find similar findings in states with a LTC/SO law.

Of those facilities that do accept registered sex offenders or persons convicted a sexual offense, there are some notable findings. First, the bivariate data provides some limited evidence that not-for-profit LTCFs are significantly more accommodating to registered sex offenders than LTCFs that are for-profit. This study finds that 80% of facilities that admit registered sex offenders are not-for-profit organizations. As previously mentioned, there is 14.2 greater predicted odds of admitting a RSO when the facility is not-for-profit compared to for profit nursing facilities. Not-for-profit organizations may be more vulnerable to a loose coupling framework and more willing to deviate from company policy and procedures by admitting presumably high-risk residents. A few studies have found that not-for-profit organizations are most susceptible to loose coupling given the composition of their Board of Directors may be

constantly changing which may affect their organization's policies and formal structures (Abzug & Galaskiewicz, 2001; Rolfe, 2017). Likewise, administrators of not-for-profit LTCFs who report to a board of directors may be given more autonomy than LTCF administrators working for a for-profit corporation. Therefore, they may have the freedom to deviate from mandates to meet the medical needs of clients.

Second, in LTCFs that do admit RSOs, their administrators did report more autonomy (60% versus 26.5%) than administrators employed at LTCFs that do not admit sex offenders. This study finds LTCFs that admit RSOs are also facilities that allow administrators more autonomy and was statistically significant. This finding could be applicable to loose coupling framework given that administrators with more autonomy and high degrees of freedom may not be tightly coupled to policy and procedures (Abzug & Galaskiewicz, 2001; Rolfe, 2017), and would therefore have the ability to make risky admission decisions compared to administrators with less autonomy and limited freedom to deviate from company policy. However, overall, the majority of LTCFs in Illinois do not admit RSOs and are found to be more ridged and tightly coupled to organizational policy and procedures.

Third, we should expect to find that 100 percent of facilities are adhering to and implementing the INHCA if they are tightly coupled to not only organizational policies, but state regulations they must follow by law. Should we find that LTCFs are not adhering to and implementing the INHCA as outlined by law, it could be hypothesized that LTCFs are loosely coupled to policy that mandates their admission behavior. All three elements of the INHCA should be executed at the facility level: 1) state criminal background check; 2) Illinois Sex Offender Registry check; and 3) written notification to their prospective and current residents, their next of kin and staff of how they can locate the Illinois Sex Offender Registry *regardless* of

the facility has a person convicted of a sexual offense living in their facility. Overall, most LTCFs conduct a state criminal background and Illinois Sex Offender Registry checks, but less than one-third (29%) of LTCFs reported they disseminate the written notification as mandated by the INHCA to their prospective and current residents, their next of kin and staff of how they can locate the Illinois Sex Offender Registry. This finding demonstrates that not all facilities are complying and implementing the INHCA as it is written but in turn reveal facilities may be complying with company policy versus following state law. However, when comparing groups (admits/does not admit), those facilities that admit RSOs comply 100% of the time with two of the three elements of the INHCA (state criminal background check and IL SOR) and 90% of LTCFs that admit sex offenders comply with the dissemination of the written notification. We find that overall, LTCFs in Illinois are very compliant, especially with background checks. However, there may be a misunderstanding of policy since there are no persons convicted of sexual offending living in the facility. Loose coupling framework, on one hand, inserts opportunity for organizations to be flexible which could allow organizations to choose which mandates to follow (Maguire & Katz, 2002; Weick, 1976). Weick (1976) stated that loose coupling conveys the image that "coupled events are responsive, but that each event also preserves its own identity and some evidence of its physical or logical separateness" (p. 3). Further, Maguire and Katz (2002) referred to Weick's scholarship describing how organizations are comprised of actors with a great deal of discretion to "interpret and implement organizational change" (p. 506). Therefore, LTCFs not adhering to state mandate may be those organizations that are loosely coupled even with their own policies and procedures. However, facilities that fully implement mandates may be more tightly coupled to organizational procedures, but facilities who grant administrators more autonomy and discretion to make admission decisions

on a case-by-case basis may be the stronger predictor of admitting RSOs versus the concepts of loose coupling framework.

In the same vein, the federal Nursing Home Reform Law requires nursing homes to "promote and protect the rights of each resident" and emphasizes the right to dignity and self-determination" (National Consumer Voice, 2020, para. 1). Many states, like Illinois, also have their own Patient Bill of Rights for people living in LTCFs that addresses certain rights, protections, and privileges according to state law (Illinois Department on Aging, 2018). At a minimum, nursing home residents all have the right to dignity and respect, the right to autonomy, and the right to privacy and confidentiality. Probably the most important right and one that is pertinent to this study is the right to be free from abuse, neglect, and exploitation. For this study, given the goals of the Patient Bill of Rights and an individual's right to be free from abuse and neglect, it was chosen as a dependent variable to compare groups that refer to and do not refer to the Patient Bill of Rights. We would assume that LTCFs always refer to or influenced by the Patient Bill of Rights when following the INHCA and making admission decisions. Those LTCFs not considering the Patient Bill of Rights may be loosely coupled to formal federal and state guarantees for those receiving long-term medical care. Thus, we would hypothesize that LTCFs that prioritize the Patient Bill of Rights when adhering to state policy and making admission decisions are more tightly coupled and less likely to admit persons on the sex offender registry or with a prior sexual offense conviction. However, the findings from this study contradicts that assumption. Overall, only 29.5% of LTCFs surveyed for the study reported they always consider the Patient Bill of Rights when making admission decisions. Of those facilities that admit RSOs, 100% comply with two of the three required elements of the INHCA, and a little more than half (52%) comply with the written notification, which is very similar to the

previous finding. In total, all three required elements are more frequently performed by LTCFs who refer to the Patient Bill of Rights compared to those that do not. More interestingly may be the finding that those who reported the Patient Bill of Rights influences their admission decisions accept persons on the registry or with a prior sexual offense conviction more so than LTCFs who do not refer to the Patient Bill of Rights when making admission decisions. It would be assumed that LTCFs are more concerned with patient rights and the right to be free from abuse would less likely admit potentially high-risk applicants. On the other hand, perhaps the facilities that do refer to the Patient Bill of Rights when making admission decisions are those with the mindset that everyone, regardless of their past, should have access to long-term care taking a more wholistic approach to admission decisions. Although there is no literature that examines the Patient Bill of Rights and admission decisions, we could draw from loose coupling literature that examines the institutionalized norms and practices of congregations' responses to homosexuality. Homosexuality is not always accepted in religious organizations believing the behavior goes against biblical teaching. Whitehead (2018) applies loose coupling framework to explicate which congregations are most likely to align their formal stance and practical activity within the church organization. Prior research finds congregations that consider the Bible more inerrant are also more apt to oppose homosexuality. However, research also finds that inclusive congregations that interpret the Bible as inerrant adapt to the competing demands of their local context, which the same could be said about LTCFs that admit persons on the sex offender registry as an inclusive organization who take a wholistic approach to admission decisions, including the Patient Bill of Rights serving as a guide to treat individuals with dignity and respect, regardless of the criminal past.

Conversely, Rolfe (2017) found that homeless shelters that did not check their state's sex offender registry were more likely to admit registrants, even when they are required to do so per company policy. This also supports a loose coupling framework, that even when there is an organizational policy requiring intake staff to conduct a sex offender registry check, they are not always following company rules. Rolfe (2017) argued these shelters were more loosely coupled to organizational procedure than their shelter counterparts. Although there is scant literature examining loose coupling framework as it relates to organizational policies and procedures affecting persons convicted of sexual offending, there is evidence in other areas of research. For example, qualitative findings examining correctional officers' perceptions of policies and procedures finds that correctional officers describe organizational policies as a loosely coupled system from frontline practices. They report having to perform workarounds and exercise discretion as a way to perform the functions of their job. Likewise, Becker (1999) and Ammerman (1997) found that religious congregations loosely couple their openness toward gays and lesbians away from any formalized position. Evidence finds that congregations who do not take a formal stance are more loosely coupled than religious organizations who adopt a formal mission statement. Studies by Becker (1999), Ammerman (1997) and Whitehead (2017) connects with the current study finding that LTCFs that do not adopt a formal statement regarding the admission of persons convicted of a sexual offense are more likely to be loosely coupled to organizational policies and procedures, thereby, using discretion to guide their admission decisions. Although the majority of LTCFs do not admit persons convicted of a sex offense, there are inconsistent findings regarding the adherence to organizational policy and procedure.

The finding that facilities smaller in number of beds were more likely to accept RSOs was not significant. Evidence examining facility size to admissions is scant. However, drawing from evidence in healthcare, studies found that resources matter. In particular, reduced bed availability decreases the likelihood of emergency admissions (Stelfox et al., 2012; Town et al., 2014). Although different measures of a similar concept we can make the connection that resources matter in admission decisions. In terms of LTCFs with a smaller number of beds, facilities may be architecturally designed where registrants can be closely monitored given they have a smaller space to move about the facility than those facilities larger in size. Unfortunately, this study does not allow for strong conclusions on the aforementioned assumption, but it may be worth researching in the future.

Within the loose coupling framework, decoupling occurs when organizations that "face institutional complexity whenever they confront incompatible prescriptions from multiple institutional logics" (Greenwood et al., 2011, p. 318). Therefore, we may find that LTCFs with lower occupancy rates would decouple from organization policy and procedure to strategically respond to the consequences of having a low census (i.e., not meeting financial goals, employee lay-offs) by admitting RSOs or those with a prior sexual offense conviction. Lower occupancy rates may increase institutional pressures to increase census however they can, and one way would be to admit registrants or persons convicted of a sexual offense. Further, facilities with a lower occupancy would presumably have the option to give registrants or persons convicted of a sexual offense a private room to increase safety between residents. On the other hand, facilities with a lower occupancy rate may also have a low staffing volume that would decrease the level of guardianship of potentially high-risk residents. We could assume that facilities with a higher occupancy rate could be more choosey in who they decide to admit than facilities with a lower

occupancy rate, and not have to strategically respond to admission pressures by admitting high-risk applicants. On the other hand, those with a higher occupancy rate may in fact have the staffing capabilities to monitor risky behavior by RSOs or residents with a prior sexual offense conviction. Therefore, occupancy rate and staff-to-patient ratio may be complementary versus mutually exclusive.

Less surprising, however, is the finding that facilities with a lower patient-to-staff ratio have a higher percentage of admitting persons on the registry or with a prior sexual offense conviction compared to facilities who do not admit persons with a sex offense conviction. A lower patient-to-staff ratio could mean higher levels of surveillance to reduce the potential for resident misconduct. Surveillance of high-risk residents in a LTC setting parallels with the goals of federal and state sex offender policies that are designed to surveil and control persons on the sex offender registry or with a prior sexual offense conviction (i.e., community notification, residency restriction, civil commitment, and GPS electronic monitoring) (Cohen & Jeglic, 2007; Letourneau et al., 2010; Levenson et al., 2007; Renzema & Mayo-Wilson, 2005; Rolfe et al., 2016; Sandler et al., 2008). Therefore, we would expect to find that facilities lower in patient-to-staff ratio would be willing to take on more potential risk due to a higher number of staff to supervise and manage their residents. Which in turn, would allow LTCF s the opportunity to deviate from company to meet the medical needs of patient.

The biggest takeaway from this chapter is the finding that not-for-profit organizations are 14 times greater predicted odds to admit a RSO or someone convicted of a sexual offense compared to for-profit organizations. Literature finds that not-for-profit organizations may be more susceptible to loose coupling framework which may explain why not-for-profits admit more registrants or those with a prior sexual offense conviction. Second, this analysis finds that

LTCFs are not fully implementing the INHCA. Most facilities are very compliant with conducting a criminal background check and check of the Illinois Sex Offender Registry, but less than one-third reported they comply with providing a written notification to all prospective and current clients, their next of kin and employees on how to locate the state's Sex Offender Registry. It is found that LTCFs that admit RSOs, and persons convicted of sexual offending are doing a much better job at implementing all three requirements of the INHCA; however, they too are not completely following the law as written. This study does not allow for an explanation to be ascertained as to why facilities are not fully implementing state mandate, and only inferences can be drawn from this finding. However, it is important to note because facilities may be more rigid to following their own policies versus following state mandate. Third, this study finds that facilities who admit persons convicted of a sex offense administrators have more autonomy compared to facilities that do not admit persons convicted of a sex offense. This finding can be linked to street-level bureaucracy theory knowing that street-level bureaucrats generally have more autonomy to circumvent policy when dispensing services. And last, less than 30% of facilities surveyed reported they refer to the Patient Bill of Rights as a guide when making admission decisions. It was hypothesized that the Patient Bill of Rights would be a contributing factor in denying the admission for RSOs and persons convicted of a sexual offense arguing that residents are afforded protection from abuse as per the Patient Bill of Rights. However, this was not the case. This study finds that those who reported the Patient Bill of Rights influences their admission decisions admit persons on the registry or with a prior sexual offense conviction more so than LTCFs who do not refer to the Patient Bill of Rights when making admission decisions but was not statistically significant. Although not statistically different, it may demonstrate that

facilities who admit RSOs or persons convicted of a sexual offense look at the applicant as a whole versus denying solely on the basis of their criminal history.

What is left unknown is the reasoning for some of these decisions and processes as this chapter primarily examines the facility-level tendencies. Rather, individual accounts can better inform us. In Chapter 7 the findings of the semi-structured interviews will be reported. In this, the study links some of the facility-level findings to the individual-level findings bridging the gap between what we know quantitatively to what is learned through the qualitative interviews.

CHAPTER 7

INDIVIDUAL-LEVEL FINDINGS

Individual-level Data

A single method can never fully explain a phenomenon. Using multiple methods to examine a topic can further enrich and facilitate a deeper understanding of the topic. Triangulating the data allows the author to obtain a variety of information on the same topic, use the strengths of each methodological approach to overcome the deficiencies of the other and to increase validity and reliability (Honorene, 2017). The primary goal of this chapter is to describe the findings from the individual-level analysis and to combine results from the state- and facility-levels findings to provide a deeper understanding and broader picture of LTCFs willingness to accept registered sex offenders or persons with a sexual offense conviction. Semi-structured interviews were conducted to 1) explore how Illinois LTCF administrators perceive company policy relating to persons convicted of sexual offending seeking residence into their facility; and 2) do LTC administrators make admission exceptions for sex offender applicants in LTCFs? This portion of the study was guided by street-level bureaucracy framework to understand administrators attitudes on company policy and their use of discretion and decision-making. Typically, street-level bureaucracy theory commonly refers to formal government employees or civil service workers. However, I would argue that the LTCF administrator could be included in this group of employees that Lipsky (1980) outlines in his theory. LTCF administrators have the primary responsibility of planning, organizing, and supervising the delivery of care to residential patients. Oftentimes, they work in an independent setting apart from their parent company or board of directors. According to the survey data collected in this dissertation, 95% of LTCF administrators reported they have quite a bit or all authority in determining their everyday tasks,

and 88% reported they have quite a bit or all authority in establishing rules and procedures about how their work is to be done. This aligns with street-level bureaucracy theory finding that LTCF administrators exercise a considerable degree of discretion and have relative autonomy from organizational authority. Even then, we do not have an understanding on how they carry out their admission decisions and if some decisions cannot deviate from company policy. This analysis will help fill in the gap between what we learned at the state- and facility-levels to complement the findings from the qualitative interviews.

Semi-structured interviews were conducted in April 2021 (see Appendix A and Appendix B). Administrators were contacted to participate in the interview via email from the list of administrators provided by the Illinois Department of Public Health. Twenty administrators agreed to participate in the interview, two administrators did not complete the interview and one facility did not qualify as a LTCF making 17 total participants. The primary goal of the interviews was to have a better understanding of administrator's attitudes towards their company policy of accepting or denying applicants on the Illinois Sex Offender Registry and their ability to make admission exceptions.

Two questions in particular, "What are your personal views about the company policy of accepting or not accepting registrants?" and "If you could, would you make admission exceptions for applicants on the Illinois Sex Offender Registry?" "If yes, why?" Additionally, all relevant interview content was included in the analysis. There was no follow-up with the participating administrators, given that all clarifying questions to statements were conducted during the initial interview. Using the narratives from the semi-structured interviews, I conducted a content analysis to identify emerging themes across individual administrators. In the end, four broad themes were noted from the data as shown in Table 14.

Table14. Themes

ID#	Would make admission exceptions for SO's	In Favor of Company Policy	Location of facility matters	Room placement
1	X	X	X	
2		X		
3		X		
4		X		X
5	X			
6	X		X	
7	X	X		X
8	X	X	X	
9	X	X		
10	X			X
11	X	X		
12	X			
13	X	X		X
14	X		X	
15		X	X	
16	X	X		X
17	X	X		
Total	13	12	5	5

"X" indicates the presence of a theme addressing the column heading

The majority (76%) of LTCF administrators interviewed would make admission exceptions for applicants on the Illinois Sex Offender Registry, and the majority (71%) support their company policy for both those that accept or do not accept applicants on the registry. Additionally, it was found that the location of the facility and room placement matters when considering an applicant with a prior sexual offense conviction.

Admission Exceptions

Illinois law does not prohibit LTCFs from accepting persons convicted of sexual offending, however survey results indicate the majority of LTCFs do not admit RSOs. Thirteen

percent of facilities that do admit persons convicted of sexual offending as residents into their care, administrators reported the admission decisions were made on a case-by-case basis. Thirteen (76%) of the seventeen administrators interviewed agreed they would make admission exceptions for applicants on the Illinois Sex Offender Registry, but many reported they are restricted by company policy when it comes to applicants with a disqualifying offense, particularly a sexual offense. Given the ability, however, all thirteen would make admission exceptions and consider each applicant on a case-by-case basis, considering a number of factors including current health condition, offense context, and applicant risk to make a holistic admission decision. Administrator #7 stated, "I have made an admission exception for an applicant who had a sexual offense conviction by reviewing his criminal history and comparing it with his current health status." He went on to tell the story about the 85-year-old applicant who had a prior criminal history of statutory rape and kidnapping, which are disqualifying offenses and would previously leave the administrator no choice but to deny his admission. However, because he is granted the authority to make admission exceptions, he continued to review the individual's application. Upon further review, the administrator learned the offense occurred when the applicant was 20 years old and his wife, who was 17, eloped which did not sit well with the wife's family. The family urged law enforcement to charge the husband. The administrator also learned the applicant was still married to same woman. It was clear to him the applicant was not a risk to his residents and made the decision to admit this applicant into the facility, estimating a low risk from this judgement. Echoing Administrator #7, Administrator #14 told a similar story. She reviewed an applicant with a sexual offense conviction from 25-years ago. At this point in his life the applicant was quadriplegic and mostly bed bound. She went on to say, "Right now he is in a position where he needs 24-hour care and help from institutions like

us, and we shouldn't hold their past against them." Considering all the facts before her, she admitted the applicant believing his health needs came first and that he would not be a risk to the other residents. More generally, administrators felt they should have greater discretionary power. Administrator #11 believes, "the state should give administrators more discretion to make admission decisions." And administrator #17 went as far to say, "would make exceptions on a case-by-case basis, but also the State should provide more supportive services to care for high-risk residents whether it's because of their criminal history, mental health or Alzheimer's." Through the interview process it was found that all 13 administrators who would make an admission exception for an applicant on the Illinois Sex Offender Registry or with a prior sexual offense conviction would do so by considering their current health status and the likelihood they are physically able to reoffend.

This qualitative finding is important to the scope of the study. It extends what is learned from the facility-level analysis, that 59% of administrators reported they have some or quite a bit of authority to make exceptions to the admission process at their facility; however, it excludes the authority to make admission exceptions for those on the Illinois Sex Offender Registry or those with a prior sexual offense. Further, those that reported on the survey the ability to make admission exceptions, 73% reported it rarely or never happens. Administrators' responses to open-ended questions on the survey explained that admission exceptions are rare because the screening process rules out individuals disqualified to enter long-term care based on their ability to pay, medical assessment or disqualifying offense, making discretion unwarranted at the screening phase. Recent examples of admission exceptions given on the survey are related to the ability of an individual to pay or the type of insurance allowing administrators to override insurance limitations and allow admission to such applicants. Much like what is learned from the

narratives, most survey respondents stated they could not deviate from their company's admission policy, especially if it is related to a disqualifying offense, but there are some administrators (30%) who reported they disagree with company policy that restricts or denies a person convicted of sexually offending access to long-term medical care. Ultimately, responses from both the interviews and surveys found that although many administrators have wide use of discretion to make admission exceptions it rarely happens, and almost never happens for applicants with an inability to pay or those a prior sex offense conviction.

Three administrators that did make admission exceptions for applicants on the Illinois Sex Offender Registry or with a prior sexual offense conviction reported they did so by weighing the perceived risks the applicant may impose to the general facility population. The use of discretion, although a relatively uncommon event, resulted in zero disciplinary issues from those applicants. In fact, one administrator stated, "I never saw anything out of them that scared me or made me afraid to take care of them." Thus, their decision to circumvent policy emerged as a positive result for the facility and the applicant. Although LTCF administrators have the desire to do what is best for the patient—with or without a sexual offense conviction—some of their decision-making processes are restricted because of company policy that is outside of their administrative control.

Administrators in Favor of Company Policy

Most administrators interviewed for the study favor company policy, whether that is the policy to admit or deny admission to individuals convicted of sexual offenses. Of the 17 administrators interviewed, 7 (41%) facilities admit persons on the sex offender registry or with a prior sexual offense conviction and the other 10 (59%) facilities do not admit. Of those 10 administrators working in facilities that *do not admit* persons on the registry or with a prior

sexual offense conviction, 7 (70%) are in favor of company policy denying admission to prior sex offenders and 3 (30%) disagree with the policy. Further, of the 7 administrators working in facilities that *do admit* sex offenders, 100% of the administrators agree with company policy to admit applicants on the registry or with a prior sexual offense conviction. Overall, of the 17 administrators interviewed 10 (59%) would likely admit RSOs into their care as residents.

Table 15. Agreement with Policy

	Admit RSO/Offense History (n=7)	Do Not Admit RSO/Offense History (n=10)
Agree with Company Policy	100%	70%
Disagree With Company Policy	---	30%

Those administrators that agree with their facility's policy of not accepting registrants recognize that long-term care placement is difficult for individuals with a prior sexual offense conviction but are not willing to put other residents in harm's way of potential victimization and appreciate having the choice already made. Administrator #3 recognizes, "placement for sex offenders is difficult, but I still support the company policy." Another administrator stated, " …because we care for the most vulnerable population, we would not knowingly put someone at risk in the community." Administrator #7 stated his facility "does not accept registered sex offenders. As an administrator I like not having to make the decision." The agreement with policy did not fully override discretionary privilege and use, as this administrator made an admission exception for an applicant with a prior sexual offense conviction by reviewing the applicant's criminal history and comparing it to his current health status. He believed given the applicant's current health status he would not be a threat to the other residents, which is a

common thread with administrators who would admit RSOs, or persons convicted of a sexual offense after reviewing their individual health status. Administrator #9 stated that he "understands sex offenders need somewhere to go but is reluctant to accept them." This indicates there is cognition that individuals convicted of sexual offenses may require long-term medical care in the form of a nursing home, though general reluctance in providing that care. He stated he, "would review them on a case-by-case basis but would most likely refuse them." Administrator #11 echoed the acknowledgment of all levels of risk, stating, "For the population served by LTCFs it would be difficult to accept someone on the registry or has a sexual abuse history. Other residents may have the inability to recognize someone is hurting them and lack communication skills." However, despite her hesitation she also believed the state should give administrators more discretion to make admission decisions for applicants with a disqualifying offense. Last, Administrator #17 stated she is, "ok with allowing residents with criminal histories into the facility, but I am unsure about sex offenders due to knowing very little about their behaviors. I believe facilities must have appropriate staffing to care for high-risk residents." She, too, however, would make admission exceptions on a case-by-case basis and believes the state should offer more supportive services to LTCFs so they can accept and care for high-risk residents. As a result, four (57%) of the seven administrators that support their company policy of not accepting persons sex offender registry or with a prior sex offense conviction would consider admission exceptions on a case-by-case basis. On one hand they like having a policy in place that establishes parameters around who they can and cannot accept because it simplifies the admission process, but at the same time they recognize even applicants with a prior sex offense conviction should be considered for admission on a case-by-case basis. This mindset towards sex offenders is different from other professions and policymakers who generally look at sex

offenders as a homogenous group of offenders that need to be restricted, controlled, and monitored for life. Instead, most of the LTCF administrators interviewed strongly believe that individuals who require long-term care should have access to services regardless of their past discretions. Though the majority of administrators indicated they favor company policy, LTCF administrators agree that delivering healthcare to all individuals is top priority and should be balanced with risk.

However, the three administrators that *do not* favor company policy of denying admission to persons convicted of a sex offense believe applicants should have access to care regardless of their past. Administrator #1 stated,

> "…me personally, I believe that everyone should have access to care. I don't think anyone should go without the care that they need whether that's because of your criminal history or your mental status or anything. I mean, there needs to be a place for everyone to be cared for."

Administrator #4 stated, "There would not be a need to have them in a private room. I don't want to isolate them from other residents if I am going to allow them to live in the building. So, how do we as a society understand how to protect people but balance how to treat someone with humanity who is not likely going to harm someone else?" Overall, these administrators acknowledge applicants with a sex offense conviction should have their healthcare needs as the number one priority, and strongly believe these individuals should not be punished for life. Administrator #17 stated, "I believe everybody should have a second chance of some sort." As a whole, these administrators believe their company should consider *all* applicants regardless of their past having expressed a strong conviction that everyone should have access to care.

Similar in attitude, all seven administrators with a company policy of accepting applicants on the Illinois Sex Offender Registry strongly believe healthcare is deserved, there are ways to minimize risk and that ultimately have found sex offenders to be low-risk residents. For some, prior positive experiences offered confidence in the safety of admitting persons convicted of sex offenses. Administrator #13 stated,

> "I think it's perfectly fine. In fact, the very first facility I ever worked at, I just remembered this many, many, years ago, we had a gentleman or two who were on the sex offender registry. I didn't really understand everything at the time…their rooms were very close to the nurse's station, and they were closely supervised, but they were truly not a problem."

For others, there was a belief in change or the ability to manage risk. Administrators #14 and #16 both reported, "I'm ok with LTCFs accepting sex offenders." One administrator stated, "I would not use their registry status as a disqualifying factor. We would look at the referral in its entirety just like any other referral. Truthfully, my personal opinion while I feel like it's a heinous act, I mean I also believe people change." He went onto further explain that he is charged with weighing the risk an applicant could impose upon other residents and staff but recognizes that individuals may not have the capacity to physically commit a crime. Therefore, the risk would be so small he would not rule out someone based singularly on their criminal history. These lived professional experiences reported by the administrators shaped their attitudes and perceptions about accepting a person on the sex offender registry or with a prior sexual offense conviction.

Together, all the interviewed administrators acknowledged everyone should have access to care regardless of their criminal history. However, those administrators who favor company policy are not willing to accept an applicant with a prior sex offense conviction believing there is

too much risk posed to the general facility population and that is a risk they are not willing to take even if that individual is physically unable to commit a crime. Additionally, those who disagree with company policy of not accepting RSOs believe their company fails to provide healthcare as a basic human right. And last, those administrators that are willing to accept an applicant with a prior sexual offense conviction recognize there are safety protocols in place to minimize risk, and that a comprehensive background matters more than a single offense.

Location of Facility Matters

Through discussions with LTCF administrators it was noted that the location of the facility in the community is factored into admission decisions based on Illinois residency restriction laws. A third of the administrators noted their policy would be to deny registrants or persons with a sex offense conviction because of their proximity to schools, daycares, playgrounds, and other places where children under 18 are likely to congregate. Although Illinois does not explicitly state a residency restriction in the INHCA, upon interviewing LTCF administrators it was found that LTCFs situationally positioned where children are likely to congregate do not accept applicants with a sex offense conviction. Therefore, we may assume there are other states not indicated in this body of research that also includes an unwritten provision into the admission process for applicants with a sex offense conviction.

Five administrators reported their facility is located near a school, daycare, or playground and therefore because of its location are unable to accept applicants on the Illinois Sex Offender Registry. However, the Illinois residency restriction states, “It is unlawful for a *child sex offender* to reside within 500 feet of a school, playground, or any facility providing programs or services exclusively directed toward people under age 18, unless they owned the property prior to July 7, (Illinois State Police, 2021). The language from the Illinois State Police (ISP) website explicitly identifies “child sex offender” as the designated term of the offender who is restricted to live

within 500 feet of a school, playground, or any location where children under 18 congregate. Yet, no LTCF administrator mentioned the designated term of "child sex offender," just that they exclude "sex offenders" from living in their facility due to its proximity to locations where children under 18 congregate. This raises additional questions and concerns regarding the exclusion of sex offenders into long-term care facilities across Illinois, indicating an informal adoption of this rule to broadly cover an entire offense category. Even though LTCFs are not considered a "traditional" home, administrators still refer to Illinois residency restriction laws to deny persons convicted of a sex offense or those on the sex offender registry admission into their facility.

Room Placement

Not only does facility location in the community matter when considering an applicant for LTC, but housing arrangements within the facility play a role in the admission decision-making process. Five administrators (29%) reported that if a person with a sex offense conviction is accepted into LTC, the facility is required to (1) place them in a private room that is (2) located near the nurse's station. These conditions are in place to improve efforts at supervising at-risk behaviors. Subsequently, facilities that would be able to accept an applicant with a prior sex offense may have to deny them based solely on having no room availability that meets these requirements. Some administrators mentioned their facility does not have private rooms; therefore, they cannot accept applicants with a prior sex offense conviction based on facility structure alone. Administrator #17 stated, "We don't have a room that we can secure off and deemed necessary. This facility does not have that many private rooms." Other administrators reported they do have private rooms but may have to deny the applicant based on their inability to place them in a private room near the nurse's station. While these types of

housing requirements aim to mitigate risk, not all administrators felt this should be a requirement. Administrator #5 stated, “There would not be a need to have them in a private room. I don’t want to isolate them from other residents if I am going to allow them essentially living in our building. I just have to ensure a safe environment. So, if they are wandering around at night maybe I do need them in a private room.” Administrator #5 statement contradicts some of the other responses by administrators indicating that according to state regulation they must be placed in a private room near the nurse’s station. He believes that a person’s criminal history should not be the only indicator for the potential of at-risk behaviors, but should also include health conditions (e.g., dementia, Alzheimer, and mental illness) as an indicator of where individuals should be placed within the facility.

Room placement within a facility was the only mechanism reported by administrators to control and monitor the behaviors of residents. It is policy that dictates room placement which may bring comfort to those administrators who accept RSOs knowing they are able to keep a closer watch over residents that may engage in at-risk behaviors. Also, room placement policy mirrors the supervision and monitoring goals of federal and state sex offender policy, prohibiting where registrants and persons convicted of sexual offending can live and how they are to be supervised and monitored. Upon further review of the Illinois Department of Public Health website, an amended notice to the Skilled Nursing and Intermediate Care Facilities Code’s mandatory placement of an offender in a private room near the nurse’s station has been replaced with,

> If the identified offender is a convicted or registered sex offender or if the Criminal History Analysis conducted reveal that the identified offender poses a significant risk of

harm to others within the facility, the offender shall be required to have his or her own room within the facility subject to the rights of married residents.

Thus, it appears that at least one of the facilities (Administrator #5) may not be abiding by state code given the amended regulation specifically designates "convicted or registered sex offender" as the type of offender requiring a private room near the nurse's station. Nonetheless, regardless of code, room placement within a facility is used as a mechanism to reduce risk and supervise and monitor residents convicted of a prior sex offense which further controls their whereabouts in and out of the community.

In sum, through policy and administrator experiences, room placement is commonly used as a protective mechanism to potentially admit RSOs, or persons convicted of a sex offense in attempt to control and monitor potential risky behavior. Room placement serves as a means to reduce the risk of potential victimization to a vulnerable group of people. It was found that not every LTCF has private rooms available, or rooms in proximity to the nurse's station; therefore, the attempts of risk management or use of discretion to admit a RSO or person convicted of a sex offense is removed simply by the lack of resources.

Discussion

This portion of the study adds to existing literature in several important ways. Foremost, the overarching concern among the nursing home industry and LTCF administrators is the potential risk persons on the registry or those with a prior sex offense conviction poses to the residential community. Administrators indicated because of the vulnerable population they serve, admitting a registrant or someone with a prior sex offense conviction elevates risk within the facility. Working through each of the notable themes that emerged from the narratives, a consistent presentation were efforts and mechanisms to mitigate risk for other residents. For

example, admission exceptions can mitigate risk by considering identified offenders on a case-by-case basis, taking into consideration offense context or physical limitations. In this study, administrators reported several ways in which facilities attempt to reduce risk. First, was the indication of state policy by the Illinois Department of Public Health that influences where persons with a sex offense conviction can live, and where they can be located within a facility. Second, risk-management is dictated by room placement; hereby, giving persons convicted of a sex offense a private room as a mechanism to reduce the risk of potential victimization to a roommate, while being near the nurse's station adds an additional layer of supervision. Third, company policy of outright denying applicants on the registry or persons convicted of a sex offense supports the idea of reducing risk at their facility. Fourth, facilities located near areas where children under 18 are likely to congregate do not allow registrants or those with a prior sex conviction to live in a LTCF serves as another mechanism facilities can implement to reduce the risk of victimization to the public. Reducing risk was a common explanation by administrators when reporting how they make admission decisions, supervise identified offenders within the facility and place persons convicted of a sex offense at a location or in a private room to reduce the opportunity of victimization. Furthermore, those administrators that have admitted RSOs or those with a prior sex offense conviction reported no deviant behaviors or reports of victimization by this group of residents. They strongly believe admission decisions made on a case-by-case basis can be one of the greatest forms of risk-management prior to a resident ever stepping inside the facility.

Second, LTCF administrators participating in this study have some similarities and dissimilarities with Lipsky's (1980) street-level bureaucrats. Like Lipsky's street-level bureaucrats, LTCF administrators reported on the survey and in interviews a relatively high

degree of autonomy and discretion when it comes to daily tasks and procedures, as well as the ability to make decisions regarding the care of residents and application consideration. Very few, however, reported having the ability to make admission exceptions for those who have the inability to pay, individuals on the sex offender registry or with a prior sex offense conviction. According to the survey, 95% of respondents reported they have quite a bit or all authority in determining their everyday tasks. And 88% of respondents reported they have quite a bit or all authority to establish rules and procedures about how their work is to be done. Many of the administrators interviewed reported they work independently from the superiors; therefore, allowing them relative autonomy from organizational authority.[30] However, even with a high degree of autonomy and discretion, most administrators are not permitted to deviate from their company's admission policy when it directly relates to an applicant's sexual offense history. Much like probation and parole officers, the use of discretion to deviate from probation and parole conditions for persons convicted of a sex offense are limited, if at all (e.g., electronic monitoring and lie-detection testing) (Reed, 2017; Regina, 2007). In this same vein, like Lipsky's (1980) street-level bureaucrats, LTCF administrators reported feeling conflicted about company policy of denying access to services to a particular group of individuals. On one hand, they are positionally situated where they must follow company policy but on the other hand, they are care providers who strongly believe everyone should have access to healthcare regardless of their criminal past. This confliction reported by LTCF administrators is very similar to other professionals who provide a service to the public. For example, social workers report feeling conflicted between company policy and service delivery. On one hand they are bounded by policy and guidance, and on the other hand they are frontline providers who believe a client-

[30] Superiors meaning Regional Managers, Corporate Office, or Board of Directors

centered approach to service delivery takes precedence (Anasti, 2020; Evans & Harris, 2004) Administrators interviewed believe looking holistically at an applicant's health history, current health status, and criminal history is a better approach to admission decisions versus denying access to long-term medical care based solely on their criminal record. This certainly parallels to criminal justice actors' attitudes on holistic approaches to supervision, considering the person as a whole and collaborating with key stakeholders versus a cookie-cutter approach to supervision (Shannon et al., 2015). On the contrary, however, four LTCF administrators reported they like not having to make admission decisions for potentially risky applicants. In fact, they reported it makes their job a little easier to default to company policy of not accepting applicants on the sex offender registry.

Third, location of the facility matters when considering an admission for RSOs and persons convicted of a sex offense. The facility proximity to areas where children under 18 are likely to congregate led to organizational policies prohibiting the admission of persons convicted of a sex offense. This reaffirms how residency restriction laws complicate housing security for aging individuals with a prior sex offense conviction. Similarly, literature finds that emergency homeless shelters located within proximity to schools or day care centers deny registrants from receiving overnight shelter out of concern of revictimization and the potential risk sex offenders pose to the homeless community and the surrounding neighborhood (Rolfe, 2017; Rolfe & Tewksbury, 2017). Although Illinois residency restriction law explicitly designates "child sex offender" as the type of offender restricted from living within 500 feet from a school, playground, park or anywhere a child under the age of 18 would likely congregate, LTCF administrators reported they are unable to accept sex offenders if their facility is in this exclusionary zone. As discussed earlier, this brings up a lot of questions about the interpretation

of the Illinois residency restriction law by long-term care facilities. Illinois LTCFs may be erroneously excluding all persons convicted of a sex offense which ultimately may adversely affect the applicant's overall health and delay medical treatment. Registrants and persons convicted of a sex offense already have difficulty finding suitable housing options post-incarceration and being denied admission into LTC further extends the list of collateral consequences. Evidence finds that RSOs and persons convicted of sexual offending experience negative effects of residency restrictions based on locations near places where children under 18 are likely to congregate. Sixty percent of RSOs surveyed reported emotional instability because of state residency restriction laws (Levenson & Cotter, 2005). Denying applicants based on LTCF location further stigmatizes and discriminates against a certain group of applicants potentially leading to negative healthcare outcomes. Therefore, policies that overgeneralize housing restrictions based on an offense type have large implications related to stability and success.

Fourth, designated room placement has been indicated as a guide for admission decisions. It serves as another mechanism to reduce risk and control and surveil those that LTCFs designate as high-risk residents based solely on their criminal history. As we learned in this study, several LTCF administrators asserted that it is an Illinois state regulation that LTCFs must place a person convicted of a sex offense into a private room near the nurse's station. Additionally, because state regulation mandates LTCFs that admit persons convicted of a sex offense into private rooms near the nurse's station may further limit an individual's LTC options. LTCF administrators reported that even if company policy allows them to accept an applicant with a sex offense conviction, if they do not have proper room placement, they must ultimately deny the applicant's request for admission. This practice reported by LTCF administrators can be linked

to resource dependency finding that LTCFs are dependent on available resources (Katz et al., 2002), and in this example having an available private room or private rooms in general depends on their ability to accept a RSO or person convicted of a sex offense into their care. Further, this finding also links to what is learned during the state-level legislation analyses of LTC/SO laws. Of the thirteen states that have LTC/SO statutes, only Florida and Oklahoma include language that LTCFs must increase supervision or segregate them from the rest of the residents in the facility. As we know, one reason sex offender policies were enacted is to monitor persons convicted of a sex offense, sometimes, for life and in this case, it appears to be no different. The idea of having a designated room placement parallels with some state's sex offender policies of lifetime supervision (i.e., lifetime parole, GPS monitoring for life) for these individuals.

In sum, the major takeaways from Chapter 7 are (1) managing the potential for risk, (2) administrators use of discretion, (3) the adherence to and the agreement of company policy and (4) state residency restrictions law are ultimately keeping some applicants out of long-term care. The majority of LTCF administrators are willing to consider residency for a RSO or person convicted of sexual offending which is driven largely by a preference for discretion to make admission decisions on a case-by-case basis. Each LTCF administrators interviewed verbalized they recognize the difficulty RSOs, and persons convicted of a sex offense face when applying to LTC and believe every person should have access to care regardless of their criminal background. However, some administrators reported they are not willing to take the risk of admitting someone on the registry or with a prior sex offense conviction because they need to keep everyone safe even at the expense of one. Ultimately, the interviews revealed that risk, facility location and room availability play a role when it comes to admission decisions for RSOs, and persons convicted of sexual offending. In the end these state and organizational

policies, discretion and limitations make access to housing and healthcare far less available to those on the registry or with a prior sex offense conviction, further extending the list of collateral consequences for those with a sex offense conviction.

CHAPTER 8

DISCUSSION

The present study uses a multi-prong approach to examine the willingness of LTCFs to accept persons on the sex offender registry, or those with a sex offense conviction. First, this dissertation utilizes a statutory analysis to examine all 50 states for policies relating to the admission and management of registrants and persons convicted of sexual offending in long-term care. Second, the study aims to explain why some states may adopt a LTC/SO policy by drawing from state punitiveness literature to examine if state characteristics, criminal justice policies and responses to, sex offender policies, state's social policies and political affiliation have an influence on whether a state may enact a LTC/SO law. Third, the study sets out to better understand facility-level characteristics to the admission of persons on the sex offender registry and those with a previous sex offense conviction. Last, this study discusses findings from semi-structured interviews of LTCF administrators regarding their decision-making processes, and their attitudes towards company policy. Included in the study are theoretical applications to the study of organizational practices and individual decision-making and use of discretion. Coupled together, there are several notable findings that emerged from the study.

In this final chapter a general overview of the findings from all three findings chapters will be presented, discuss theoretical takeaways, policy implications, future research, and limitations.

State-level

The biggest takeaways from Chapter 5 are, first, 13 (26%) states have taken further legislative action to inform and direct LTCFs admission and management practices of aging individuals with a sex offense conviction beyond what is already required by federal, state, and

local sex offender laws. Overall, these laws were enacted between 2005 to 2007, as a legislative response to public fear regarding persons convicted of a sex offense seeking residence to institutions like long-term care facilities.

Second, the themes that emerged from the content analysis reveals that LTC/SO laws vary greatly in breadth and depth. It finds that some states are multi-faceted and include multiple legislative requirements, while other states only support one legislative requirement for registrants' access to long-term care facilities. Although different in some respects, one thing is true for all states with LTC/SO law, they are forged out of federal sex offender management policies, such as Megan's Law and the Adam Walsh Act. Generally, public safety and enhanced policies, regarding felons and specifically persons convicted of a sex offense were noted as important.

The second half of the state-level analysis considers state characteristics and criminal justice policies to explore why states would enact a LTC/SO policy. This study uses some of the same variables previously used by state punitiveness scholars but also includes a greater range of sex offender policies and broader social policies that have not been considered in the past to predict adoption of LTC/SO policy. Overall, few variables were consistently relevant to understanding whether states utilized a LTC/SO policy, though some findings stood out.

First, the strongest predictor of a state having a LTC/SO law was the presence of residency restriction laws for persons convicted of a sex offense. In fact, states with a residency restriction law have 11 times higher predicted odds of having a LTC/SO law. Residency restriction laws are aimed towards restricting and controlling the whereabouts of persons convicted of a sex offense, so it is not surprising to find states would enact legislation that would

further creating housing collateral consequences for persons convicted of sexual offending into their older age.

Second, civil commitment is a strong predictor of a state having a LTC/SO law. States with a civil commitment law have 7 times higher predicted odds of having a LTC/SO law. Civil commitment laws are very punitive on its own, extend beyond the completion of a sentence related to a criminal conviction. Civil commitment laws punish the offender even when the offender has not been convicted of a new sex crime and can place sex offenders in civil custody indefinitely under the pretense that the individual poses a threat to public safety. It is not surprising to find civil commitment law emerge as the strongest predictor of a state having a LTC/SO law, given it is a legislative movement to restrict where registrants and persons convicted of a sexual offense can live, and also often extend beyond the original sanction and sentence. Further, civil commitment laws emphasize a prospective view, seeking to protect against the potential future of harmful behavior and take additional measures to protect the public. Civil commitment laws use past behavior as an evidentiary foundation or predication for future criminal behavior. Its aim is to fill the "incapacitation gap", which is a legitimate goal of civil commitment. Civil commitment, a preventative form of legislation, is very similar to other federal and state sex offender policy, and as the findings show LTC/SO policy can easily be included in this same line of legislation.

Overall, Chapter 5 finds that some states use legislation to extend the state's formal social control onto aging individuals convicted of a sex crime who wish to seek residence in a long-term care facility. States with a civil commitment law is more likely to have restrictive housing policies that include institutions, like LTCFs, as a mechanism to control the whereabouts of persons convicted of a sex offense for life.

Facility-level

The findings also show overwhelmingly the majority (87%) of LTCFs in Illinois do not accept applicants on the sex offender registry or persons convicted of a sex offense. This finding increases the housing collateral consequence for registrants and persons convicted of a sex offense limiting their housing options across their life course. In 2006, the GAO reported there were 700 people on the Sex Offender Registry living in long-term care. Although that figure has not been updated in over a decade, we may expect to see a rise in the number of registrants and/or persons convicted of a sex offense requiring LTC as the offender population ages. Therefore, registrants and persons convicted of sexual offending will be impacted by policies aimed at controlling this group of offenders. The application of residency restriction laws has placed limits where registrants or persons convicted of a sex offense can live, and we find this to be no different for registrants seeking admission into long-term care.

Collectively, some structural characteristics matter when making admission decisions for applicants with a sex offense conviction. Of those facilities that accept registrants or persons convicted of a sex offense, 80% are not-for-profit facilities. In fact, ownership type was the strongest predictor of whether a LTCF would admit RSOs into their facility. In regard to loose coupling framework (Abzug & Galaskiewicz, 2001; Rolfe, 2017), not-for-profit organizations may be more vulnerable to loose coupling and more willing to deviate from company policy and procedures by admitting presumably high-risk residents. Also, when comparing facilities that admit and do not admit persons convicted of a sexual offense the structure and resources of a facility also differed. Although not statistically significant, bivariate analysis finds a higher percentage of facilities that admit persons convicted of a sexual offense have fewer beds, a higher occupancy rate and lower patient-to-staff ratio. This finding may point more towards the

notion of risk management than the organizational theory of loose coupling as it is difficult to tease out whether this finding correlates more with concepts of loose coupling theory or if it aligns better with concepts of risk management. However, given the nursing home industry just experienced and is coming out of a global pandemic, it may be an outcome of loose coupling given that LTCFs are on the rebound to increase and maintain optimum occupancy to fund annual operating costs.

Finally, regarding decision-making, administrators of LTCFs that do admit RSOs, reported more autonomy (60% versus 26.5%) than administrators employed at LTCFs that do not admit persons convicted of sex offense. Although, this study does not establish whether those 60% are administrators from not-for-profit facilities versus for-profit, it would be something to consider in the future knowing what we know about loose coupling framework. Again, both findings could be applicable to loose coupling framework given that administrators with more autonomy and high degrees of freedom may not be tightly coupled to policy and procedures and may come from not-for-profit facilities more than for-profit facilities.

One of the reasons for moving forward with the facility-level data was to have a better idea if LTCFs in Illinois are implementing the INHCA as mandated by law. According to LTCF administrators surveyed for this dissertation we find that facilities are missing the mark when it comes to fully implementing the three elements of the INHCA, 1) perform a state criminal background check; 2) check the Illinois Sex Offender Registry; and 3) provide a written notification to prospective and current clients, their next of kin and employees on how to locate the state's Sex Offender Registry. Only 29% of the LTCF administrators are disseminating the written notification as required by law. However, the majority (95%) of LTCF administrators are

performing a state criminal background check and checking the Illinois Sex Offender Registry as screening tools for the admission process.

The Patient Bill of Rights is an important set of rights afforded to nursing home residents. LTCF administrators may refer to the Patient Bill of Rights when making admission decisions. The most important right outlined in the declaration, and most pertinent to this study, is the right to be free from abuse, neglect, and exploitation. Nursing homes have a legal duty to protect residents and ensure they are not financially, physically, verbally, mentally, or sexually abused. Therefore, we could assume that LTCF administrators who consider the Patient Bill of Rights are less likely to accept registrants or persons convicted of a sex offense, and more likely to fully implement the Illinois Nursing Home Care Act. However, this study finds that overwhelmingly the majority (70.5%) of administrators are not influenced by the Patient Bill of Rights when making admission decisions, of those, however, 17% reported they do admit persons on the registry with or a prior sex offense conviction. Conversely, administrators who do not refer to the Patient Bill of Rights, 11% admit RSOs, or persons convicted of a sex offense. This finding contradicts the assumption that LTC administrators who are influenced by the Patient Bill of Rights would be more likely to deny applicants with a sex offense history. In regard to loose coupling framework, LTCF administrators who do not consider the Patient Bill of Rights when making admission decisions may be loosely tied to organizational policies and procedures as a way to increase their occupancy rate. We might be able to assume that administrators tightly coupled to organizational policies and procedures, would also be administrators who refer to the Patient Bill of Rights when making admission decisions for applicants perceived as being high-risk.

Overall, Chapter 6 finds that company policy and state mandates matter when facilities are considering admission applications for persons on the sex offender registry or with a prior sex offense conviction as most of the LTCFs in Illinois surveyed for the study do not admit persons with a sex offense conviction. Theoretically, there could be potential connections between facility characteristics and administrators' decision-making processes and loose coupling framework. I think more could be explored in terms of making connections between loose coupling framework and facility-level characteristics that is not captured in this dissertation.

Individual level

The qualitative findings examining individual perspectives on policies and actions complement the quantitative findings looking at state and facility procedures very well. LTCF administrators interviewed for this study have some similarities and dissimilarities with Lipsky's (1980) street-level bureaucrats. Like Lipsky's street-level bureaucrats, it was found that LTCF administrators have relatively high degrees of discretion; and relative autonomy from organizational authority but are unable to deviate from company admission policy for registrants. This is where administrators, much like street-level bureaucrats, feel conflicted about their role as the decision-maker regarding who can and cannot access services. One administrator stated, "As a rule you should always follow company policy to a T, but as the administrator it is within my scope of practice to deviate from company policy if it is in the best interest of the patient." Contrary to this, organizational leadership may find that not accepting persons convicted of a sex offense into their facility considers the interest of the other residents versus considering what is in the best interest of the individual applying for admission. The overarching concern among the nursing home industry and LTCF administrators is the potential risk persons on the registry or

those with a prior sex offense conviction pose to the residential community. However, many of the administrators interviewed feel conflicted between company goals and patient care. On one hand, they are positionally situated where they must follow company policy but on the other hand, they are care providers who strongly believe everyone should have access to healthcare regardless of their past.

Many of the administrators interviewed reported they would make admission exceptions for applicants on the Illinois Sex Offender Registry. Many reported their hands are tied by company policy when it comes to applicants with a disqualifying offense, but given the ability, they would make admission exceptions and consider each applicant on a case-by-case basis. This qualitative finding is important to the scope of the study. It extends what was learned from the facility-level analysis, that 59% of administrators reported they have some or quite a bit of authority to make exceptions to the admission process at their facility. According to the qualitative finding, however, it excludes admission exceptions for those on the Illinois Sex Offender Registry or those with a prior sex offense. As reported earlier, those who can make admission exceptions, reported it rarely or never happens. Further, many of the administrators interviewed disagreed with company policy that restricted or denied a person convicted of sexually offending access to long-term medical care. This finding aligns well with street-level bureaucracy theory, given that administrators recognize company policy exists they would still use discretion on a case-by-case basis to make admission exceptions for applicants on the registry or convicted of a prior sex offense.

Geographically, location of the facility in the community and location of the room inside the facility matters when considering admission for persons convicted of a sex offense. One way in which LTCFs can mitigate risk is denying admission to persons convicted of a sex offense

access to their facility based on the facility's location in the community. Although Illinois does not explicitly state a residency restriction within the language of the INHCA, interviews with LTCF administrators indicated that LTCFs located near a school, daycare, playground, or where children under 18 are likely to congregate do not accept applicants with a sex offense conviction. It appears LTCF administrators are making a restrictive interpretation of the law by denying access to long-term care for individuals convicted of sexual offenses unrelated to minors. Therefore, we may assume there are other states not indicated in this body of research that also includes an unwritten provision into the admission process for applicants with a sex offense conviction. Further, administrators reported that if a person convicted of a sex offense is accepted into LTC the facility must place them in a private room near the nurse's station. And it was found facilities that may be able to accept an applicant with a prior sex offense may have to deny them due to having no room availability that meets state regulation. Some administrators mentioned their facility does not have private rooms, so therefore they cannot accept applicants with a prior sex offense based on facility structure alone. Others reported they do have private rooms, but not near the nurse's station, so therefore they may have to deny the applicant based on their inability to place them in a private room near the nurse's station. Again, the more limits in place at the facility-level the more ways in which policies (sex offender laws and facility-level policies) can restrict persons convicted of a sex offense from accessing long-term care.

All in all, residency restrictions continue to plague persons convicted of a sex offense as they age. As we learned from this study, Illinois LTCFs may be erroneously excluding all persons convicted of a sex offense which may adversely affect the applicant's health and delay medical treatment. Registrants and persons convicted of a sex offense already have difficulty finding suitable housing options post-incarceration and being denied admission into LTC further

extends the list of collateral consequences. It also further stigmatizes and discriminates against a certain group of applicants potentially leading to negative healthcare outcomes.

Theoretical Takeaways

Drawing from state punitiveness literature, the study was guided by prior literature to explore what is different between states with and without a LTC/SO law. State punitiveness is a series of purposeful legislative decisions by a state that are often expressed in terms of penal policies ranging from incarceration to execution and predicted by state characteristics. It is a macro-level approach to explain a state's penal austerity and commonly measured by incarceration rates, sentencing laws, prison conditions, and the death penalty.

State punitiveness is often associated with enhanced penalties for criminal behavior, annual spending on police resources, and the ban of social welfare entitlements for individuals with a felony record (Neill et al., 2015). Much of the punitiveness discourse centers around criminal justice responses to crime as a way to explain state punitiveness, and very little, if any, on legislative movements, such as a LTC/SO law, that may be an obscure response to state punitiveness.[31] Therefore, this dissertation analyzed indicators and predictors of state punitiveness to explain why a state may enact a LTC/SO law.

This study finds that states with a LTC/SO law look somewhat different than those without a LTC/SO policy, but differences existed when considering policies specific to surveillance and restrictions of persons convicted of a sex offense. Scholars should consider incorporating expanding criminal justice responses to crime (i.e., residency restriction and civil commitment laws) and outcomes of penal policy to explain legislative movements. Further,

[31] Mass incarceration, death penalty, and crime are the most frequently discussed topics by state punitiveness scholars, and very little, if any, about obscure responses to state punitiveness.

punitiveness explorations may consider offense group differences as these findings indicate states may have consistent measures of control targeting persons convicted of a sex offense.

Second, loose coupling framework has been used to examine the healthcare industry's latitude of how they perceive and manage their environment (Beekun & Ginn, 1993). The term *coupling* implies, "anythings that may be tied together" (Weick, 1976, p. 5) and refers to a broad range of organizational elements tied to organizational decisions or goals (Johnsen, 1999). In this study we find that in some ways loose coupling framework can be applied to long-term care facilities. Findings show that LTCFs that are not-for-profit are more likely to admit a person on the sex offender registry or with a prior sex offense conviction. Not-for-profit organizations may be more vulnerable to loose coupling and more willing to deviate from company policy and procedures by admitting presumably high-risk residents. Administrators of non-profit LTCFs report to a board of directors and may be given more autonomy than LTCF administrators working for a for-profit corporation. During the semi-structured interviews, administrators employed at not-for-profit facilities stated they have a great amount of discretion and can use their discretion to make admission exceptions that goes against formal company policy. Therefore, they have the freedom to deviate from mandates to meet the medical needs of clients. Learning from LTCFs that do admit RSOs, their administrators reported more autonomy (60% versus 26.5%) than administrators employed at LTCFs that do not accept persons with a sex offense conviction. Again, this finding could be applicable to loose coupling framework given that administrators with more autonomy and high degrees of freedom may not be tightly coupled to policy and procedures and may come from non-profit facilities more than for-profit facilities.

Additionally, we should expect to find that 100 percent of facilities and facility administrators are adhering and implementing the INHCA if they are tightly coupled to not only

organizational policies, but state regulations they must follow by law. This study finds that LTCFs are not fully implementing the Illinois Nursing Home Care Act which aligns with loose coupling framework. The majority of LTCF administrators reported they comply with two of the three elements discussed in this dissertation, but a little over a quarter of the administrators disseminate the written notification requirement to their prospective and current residents, their next of kin and employees. This dissertation does not establish the reasons why administrators do not fully comply with the INHCA, but if we did, we may find a stronger connection to loose coupling framework. Overall, LTCFs are very compliant but when disseminating the written notification of how to access the Illinois Sex Offender Registry noncompliance may seem non-relevant. This dissertation finds that loose coupling framework can be applied to long-term care as an organizational theory to examine the health care industry's latitude of how they perceive and manage their environment.

Last, street-level bureaucracy theory was used in this dissertation to explain the decision-making processes of those working on the frontlines termed "street-level bureaucrats." Street-level bureaucrats commonly discussed in literature are public service workers, social workers, teachers, police officers, members of the judicial system, public lawyers, healthcare workers, and many other public service agents who have the power to grant access to government programs and dispense benefits and services within them (Anasti, 2020; Evans & Harris, 2004; Lipsky, 1980). However, in this study, street-level bureaucrats are LTCF administrators who are the employees granting or denying admission to applicants seeking residence in their facility. The findings at the individual-level adds to existing literature in several important ways.

This study supports some characteristics of Lipsky's (1980) street-level bureaucracy theory. LTCF administrators reported high degrees of autonomy and discretion to make

decisions regarding the care of residents and application consideration. However, when it comes to disqualifying offenses, in particular sexual offenses, the majority reported they cannot deviate from their company's admission policy. In this same vein, like Lipsky's (1980) street-level bureaucrats, LTCF administrators reported feeling conflicted about company policy of denying access to services to a particular group of individuals. As previously discussed, on one hand, administrators are positionally situated where they must follow company policy but on the other hand, they are healthcare providers who strongly believe everyone should have access to healthcare regardless of their past. Further, most LTCF administrators would like to have the ability to consider an applicant with a disqualifying offense on a case-by-case basis. They strongly believe that looking holistically at an applicant's health history, current health status, and criminal history is a better approach to admission decisions versus denying access to medical care based solely on their criminal record. On the contrary, a few LTCF administrators reported they like not having to make that decision. In fact, they reported it makes their job a little easier to default to company policy of not accepting applicants on the sex offender registry. Overall, this dissertation finds that some element of street-level bureaucracy theory can be applied to administrative decision-making of those working in long-term care.

Policy Implications

The findings from this study informs four major implications for policy and practice. Although all four implications do not come directly from the Illinois Nursing Home Care Act, there is evidence to suggest that LTC/SO laws are strongly influenced by federal and state sex offender policies which in turn advances the discussion of how policy affects persons convicted of a sex offense seeking access to long-term care.

First, the state-level findings show that few states (13) have enacted laws set aside for LTC which aims to inform and direct facilities on how they should screen, admit, manage, and supervise persons convicted of a sex offense as residents in their care. In Illinois specifically, LTCFs are mandated by law to perform a state criminal background check, check the state's Sex Offender Registry, and provide written notification to prospective and current residents, their next of kin and employee how to locate the state's Sex Offender Registry to determine if anyone in the facility is a registrant or persons convicted of a sex offense. While these measures are taken to increase public safety, corrections literature finds that these measures come at a high cost to an organization's bottom line (e.g., personnel, time, and budgetary resources) (Cohen & Jeglic, 2007; Zevitz & Farkas, 2000). So, while these screening methods and notification scheme are designed to mitigate risk, policies such as this are costly to implement and execute, but more importantly it further adds to the list of collateral consequences for persons convicted of a sex offense making housing in a LTC setting difficult, if not nearly impossible. Therefore, laws such as this should be reconsidered. Screening methods should be decided at the facility-level and not mandated by the state. Also, the determination of residency for persons convicted of a sex offense should not be mandated by the state, but to allow facilities the freedom to examine an applicant holistically and any denial into LTC should not solely rely on an individual's prior criminal history.

Second, the INHCA removes much discretionary power from LTCF administrators and mandates what they can and cannot do and who they can and cannot accept into long-term care, especially when it comes to applicants on the sex offender registry or convicted of a sex offense. LTCF administrators no longer have the discretion to examine an application holistically as they once were able prior to 2005 when the INHCA was passed into law. LTCF administrators who

were administrators prior to 2005 reported they had more discretionary power to make admission exceptions more freely regarding presumably high-risk applicants. Although, on one hand some of the administrators that were interviewed reported they liked having some of the discretion taken away making their jobs a little easier, the majority, however, reported they would like to have the discretion to make admission decisions on a case-by-case basis. Reinserting greater use of discretion back into the INHCA with language that specifically states LTCF administrators can assess an applicant holistically and admission denials would not solely be based on a person's criminal background. This would allow administrators more latitude to determine whether the applicant is a good fit for their facility versus denying admission to applicants based solely on their criminal record.

Aside from the INHCA, other Illinois state laws may be contributing to the additional list of collateral consequences faced by aging individuals with a sex offense conviction. The first comes from the state's residency restriction law. As noted earlier, the Illinois residency restriction states, "It is unlawful for a child sex offender to reside within 500 feet of a school, playground, or any facility providing programs or services exclusively directed toward people under age 18, unless they owned the property prior to July 7, 2000 " (Illinois State Police, 2021). The language from the Illinois State Police (ISP) website explicitly identifies "child sex offender" as the designated term of the offender restricted to live within 500 feet of a school, playground, or any location where children under 18 congregate. Yet, no LTCF administrator mentioned the designated term of "child sex offender," just that they exclude "sex offenders" from living in their facility due to its proximity to locations where children under 18 congregate. As we learned in this study, 87% of LTCFs do not admit applicants on the Illinois Sex Offender Registry and some of those facilities are located within 500' of an area where children under 18

are likely to congregate. Knowing this raises two additional questions, 1) How many of those facilities (87%) could admit persons convicted of a sex offense if their crimes are not against a minor; and, 2) are LTCFs in Illinois erroneously excluding all persons convicted of a sex offense from accessing LTC when the facility is located 500' from areas where children under 18 are likely to congregate? Ultimately, LTCFs should be explicitly excluded from residency restriction laws and eliminated from the list of businesses where persons convicted of a sex offense can reside. By doing so, will open more housing options for persons convicted of a sex offense requiring long-term care.

The final policy implication relates to Illinois' civil commitment law. This study finds that states with LTC/SO laws are significantly more likely to have a civil commitment law. And Illinois is no exception. Unfortunately, this study cannot determine how many aging individuals with a sex offense conviction in Illinois are housed under the civil commitment law versus long-term care. Illinois civil commitment law allows persons convicted of a sex offense to remain in the custody of civil commitment indefinitely. Therefore, it is hard to discern how many aging individuals with a sex offense conviction are housed under civil commitment because they cannot access long-term care. In 2019, legislators in Illinois acted against the state's civil commitment law that imposes indefinite civil commitment without ever being convicted. Activists and legislators argued the Illinois civil commitment law is an abuse of due process using the law as a backdoor entrance to commit alleged high-risk individuals. Given the fact that Illinois has a civil commitment law and a LTC/SO law there is a possibility that aging individuals with a sex offense conviction are being civilly committed post-incarceration because they have nowhere to go. Civil commitment laws should not be used as a mechanism to deny persons convicted of a sex offense long-term care, and therefore aging individuals with a prior

sex offense conviction should be afforded the opportunity to live out the rest of their days receiving medical care versus committed to a facility not designed for long-term care.

Future Research

This study only examined the Illinois LTC/SO law and therefore cannot generalize findings from this study to the remaining 12 states with a LTC/SO policy. One area of future research is to conduct a multi-state study to compare states with similar elements of the LTC/SO policy, like Illinois and Virginia. A multi-state study would allow the researcher to explore similarities and differences between state characteristics, criminal justice policies, criminal justice responses, sex offender laws and social characteristics. The study could utilize a multi-pronged approach similar to the format utilized in this dissertation. Although, still not generalizable, the study could add to existing literature and add more breadth and depth to the sex offender outcomes related to sex offender policies.

Second, civil commitment laws may be one of the harshest forms of state punitiveness. Very little, if any, state punitiveness scholars have considered civil commitment as a predictor of state punitiveness. In this study civil commitment laws were found to be a strong predictor of a state having a LTC/SO law. An exploratory statute analysis, similar to the analysis employed in this study, may add to existing literature on civil commitment laws and how they are executed at the state level and its role on other state sex offender restrictions.

Third, this study may be missing some exploration into state characteristics and policies that explain why a state may enact a LTC/SO law. A future including additional measures of state punitiveness or state-level characteristics may produce different results than what is reported in this dissertation. Further exploration into other criminal justice responses and outcomes may be indicated to examine state punitiveness and sex offender policies.

Fourth, seventeen LTCF administrators were interviewed for this study. Of the seventeen, 59% are female and 41% are male. There is evidence to suggest that gender difference in attitudes may influence decision-making (Evans, 2013). Evans asserts there are different "ethical voices" associated with gender (p. 753). Men generally have an ethical voice of justice, which is committed to equality. Whereas, women have an ethical voice of care, adopting a more attentive and responsive approach to the individual (Evans, 2013). With that said, it may be fruitful to explore the semi-structured interviews collected in this study to explore gender differences in attitudes towards company policy of accepting or not accepting persons on the sex offender registry or with a prior conviction of a sexual offense.

Fifth, another area of future research is to explore attitudes of LTCFs direct care workers as it relates to residents with a prior sex offense conviction. There is evidence that finds law enforcement and probation and parole officers attitudes vary across offender types. Law enforcement and community correction staff are found to have undesirable attitudes towards individuals with a sex offense conviction which affects offender outcomes (Digard, 2014). It may be worth exploring the attitudes of LTCFs direct workers to have a better understanding if quality of care is compromised when caring for a resident with a prior sex offense conviction. Given what we know from policing and community correction literature, direct care workers with undesirable attitudes towards individuals with a sex offense conviction may not provide the best patient care to this group of offenders which ultimately may affect their morbidity.

Last, hearing from aging individuals with a sex offense conviction may further advance the discussion regarding the hardships of finding a LTCF that will accept their registry status or criminal background. This study finds that the majority of Illinois LTCFs do not accept registered sex offenders or those with a prior sex offense conviction. But what this study does

not explore is how their search for placement affects their overall health, physical and mental. It would be interesting to glean more from aging individuals with a sex offense conviction regarding their attitudes towards LTC policies for sex offenders, treatment by healthcare workers, the role of law enforcement and community correction as it relates to their assisting in or resisting their long-term medical needs.

Limitations

A small-scale study that only examines one state with a LTC/SO law is not intended to be a representative sample of LTCFs and LTCF administrators attitudes. It does seek to offer a useful perspective on why states may enact a LTC/SO law, how facility-level structural and procedural characteristics influence admission decisions and LTCF administrators attitudes to the formal rules that are part of the environment of practice. The findings outlined in this study are observations that offer preliminary insights that can contribute to our understanding of policy and practice, but they are also approximate and provisional and relative to their personal experiences.

Second, as with any survey research collected electronically, the risk of a low response rate is a limitation of the study. In this study an email invitation was issued to 840 LTCF administrators in Illinois. Of those, 367 opened the invitation, 345 invitations were left unopened, and 104 emails bounced. Additionally, 24 LTCF administrators opted-out of the study and only 78 responded. The cooperation rate for the study was 21 percent, but the response was below average at 10 percent. There could be several reasons that could explain this low rate. One, I heard from a few LTCF administrators that company policy prohibits them from participating in research. Two, several of the potential respondents emailed the author to inform they are not considered a long-term care facility. Three, LTCF administrators were not encouraged by upper-level management to participate in the study. And, last, the COVID-19

pandemic may have reduced the number of respondents given they must dedicate their time to managing a facility during a global pandemic.

Third, the study may have applied measurements to variables that reduce the likelihood of producing the best results. Many of the state punitiveness variables were collapsed into dichotomous variables for ease and time constraints. Therefore, had variables been measured similarly to variables used by state punitiveness scholars perhaps the results of the dissertation may have been different.

Last, this study developed four primary datasets to examine LTCF willingness to accept persons convicted of a sexual offense. Primary data collection has its advantages and disadvantages. One, primary data collection allows the author to collect information for the specific purposes of their study. Two, primary data is considered more accurate because it is directly collected from the population you intend to study. Third, the researcher has higher levels of control on how the data is collected and measured. Fourth, the data should be the most up-to-date information. However, there are also disadvantages to primary data collection. One, primary data collection is more time consuming. And two, primary data collection limits the researcher to the specific time, place, or number of participants.

All in all, this dissertation contributes to existing literature and adds new findings not yet examined through a criminal justice lens. Throughout the dissertation discussion of new findings and the evidence of additional collateral consequences for persons convicted of a sex offense were reviewed in detail. In summary, this dissertation finds it is difficult for registrants and persons convicted of a sex offense to be admitted into a LTCF in Illinois. Administrators have similarities to Lipsky's (1980) street-level bureaucrat as it relates to high degrees of discretion, but generally not for applicants with a disqualifying offense. They reported their personal beliefs

conflict with company policy which makes circumventing company policy difficult for presumably high-risk applicants that may pose a risk to the general resident population. However, most of the administrators surveyed reported they would like to be granted discretion to review and admit applicants on a case-by-case basis, rather than denying an applicants' admission solely based on their previous criminal history. Additionally, loose coupling framework could potentially explain admission decisions for those LTCFs that did report they will accept persons convicted of a sex offense. Overwhelmingly, LTCFs that were not-for-profit are more likely to admit a be person convicted of a sex offense than facilities with a for-profit status. Further, an overarching theme that was revealed throughout each analysis is that management schemes (i.e., screening methods, notification, room placement, and increased supervision) are used as preventive measures to reduce risk. All administrators surveyed reported they believe everyone should have access to LTC, even those with a questionable past but that risk must be mitigated to protect all residents, staff, and visitors from potential victimization. Overall, this dissertation extends the list of collateral consequences for those with a sex offense conviction; as well as continues to control the whereabouts of people living with a sex offense conviction for life.

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APPENDICES

APPENDIX A

INTERVIEW GUIDE

ROLE AS AN ADMINISTRATOR	
How much authority do you have in determining what tasks to perform day-to-day?	
How much authority do you have in establishing rules and procedures about how your work is to be done?	
ADMISSION PROCESSES	
Tell me about your facility's admission processes (in general)	
Does your facility accept applicants on the Illinois Sex Offender Registry? If no, why not? What are your personal views about the company policy of not accepting registrants? What criminal histories **are you allowed** to accept for admission into your facility? What other criminal histories, excluding sexual offense conviction, **are not** allowed? How much authority do you have in determining how admission exceptions are to be handled? If you could, would you make admission exceptions for applicants on the Illinois Sex Offender Registry? If yes, why? Do you accept transfers from other facilities where the resident has a documented behavioral history? • Verbal • Physical • Sexual	
FINAL THOUGHTS	Is there anything else you would like to add to this interview today that you think I should know, or would be helpful to this research study?

APPENDIX B

SURVEY QUESTIONNAIRE

The following questions are related to the characteristics of your facility:
(Multiple-choice/Open-ended question format)
1. How many facilities do you supervise?
2. Total number of beds
3. How many beds are currently occupied (in %)
4. What is your current staff-to-patient ratio
5. Resident characteristics
    a. % private pay
    b. % Medicaid residents
    c. % Medicare residents
    d. % Private health insurance residents
    e. % Other
6. Ownership type (please check all that apply)
    a. For-profit
    b. Not-for-profit
    c. Chain owned
    d. Not part of a chain
7. What is the total number of employees at your facility
    a. Medical
    b. Administrative
    c. General
8. Including yourself, how many administrators have worked at this facility during the past 3 years? (If you do not know, provide your best guess) (#)
9. How many Director of Nurses have worked at this facility during the past 3 years? (If you do not know, provide your best guess) (#)
10. For the prior 90-days, what was your staff turnover rate across all shifts? (If you do not know, provide your best guess)
    a. RNs Full-time FTE's (%)
    b. RNs Part-time FTEs (%)
    c. LPNs Full-time FTE's (%)
    d. LPNs Part-time FTEs (%)
    e. CNAs Full-time FTE's (%)
    f. CNAs Part-time FTEs (%)
11. For the prior 90-days, across all shifts what percentage of agency (i.e. temporary) staff did you use? (If you do not know, provide your best guess)
    a. RNs (%)
    b. LPNs (%)
    c. CNAs (%)
12. What percentage of your current staff have worked at your facility for 3 years (or more)? (If you do not know, provide your best guess)
    a. RNs (%)
    b. LPNs (%)

c. CNAs (%)

The following set of questions are related to your role at the facility and the facility's admission process:

13a. How much authority do you have in determining what tasks to perform day-to-day?

a. None at all, very little, some, quite a bit, all

13b. How much authority do you have in establishing rules and procedures about how your work is to be done?

a. None at all, very little, some, quite a bit, all

14. Does your facility have standard operating procedures and policies relating to the admission processes of new residents?

a. Yes/No

15. In number of days, what is the average turnaround time an applicant is approved for admission starting with the initial screening process to the time the admission is approved.

_____ days

16. Does your facility have a standard operating admission process that differ for applicants with a criminal history, excluding a sexual offense conviction?

17. Yes

a. If yes, please provide in the space provided what is different from admission processes of applicants without a criminal versus those with a criminal history, excluding a sexual offense conviction.

b. No

18. Does having a criminal history, excluding a sexual offense, delay the admission process?

19. Yes

a. What is the average turnaround time an applicant with a criminal history is approved starting with the initial screening process to the time the admission is approved?

i. _____ days

b. No

20. Does your facility admit applicants who are on the Illinois Sex Offender Registry?

a. Yes/No

21. Does your facility have a standard operating admission process that differ for applicants with a criminal history of sexual offending?

22. Yes

a. If yes, please state if you complete the following (please check all that apply):

i. Conduct a state criminal background check
ii. Conduct a national criminal background check
iii. Check the Illinois Sex Offender Registry
iv. Check the national Sex Offender Registry
v. Provide a written notification to residents, next of kin, and staff of how to access the Illinois Sex Offender Registry (if admission is approved)
vi. Other

1. Please provide in the space other admission processes related to applicants with a sexual offense conviction that is not listed above.

23. Does having a sexual offense history delay the admission process?

24. Yes
    a. What is the average turnaround an applicant with a sexual offense history is approved starting with the initial screening process to the time the admission is approved?
        i. _____ days
b. No

25. Do you have authority to make exceptions to the admission process for your facility?
26. Yes
    1. If yes, how much authority do they have to make admission exceptions
        a. very little, some, quite a bit
b. No

27. How frequently are admission exceptions used at your facility?
    a. Never, rarely, sometimes, often, always
28. How much does the Patient Bill of Rights influence your decision to admit or deny an applicant for residence to your facility?
    a. Never, rarely, sometimes, often, always
29. Tell me about the most recent example when you used discretion that deviates from company admission policies.
    Open-ended response

The following set of questions are related to resident behavior:

30. How common is it for residents to engage in examples of the following…
(never, very uncommon, uncommon, common, very common)
    a. Yelling at another resident
    b. Swearing at another resident
    c. Arguing with another resident
    d. Pushing, grabbing, or pinching another resident
    e. Pulling hair or kicking another resident
    f. Hitting another resident
    g. Stealing things (excluding money) from another resident
    h. Stealing money from another resident
    i. Unwelcome touching of another resident
    j. Unwelcome discussion of sexual activity with another resident
    k. Exposing of private-body parts to another resident
    l. Digital (e.g. finger) penetration of another resident
31. Do you keep track of the different types of resident-to-resident abuse at your facility?
    a. Yes
    b. No
32. Are you required to report your facility's incidents of resident-to-resident abuse to the state level?
    33. Yes
        a. To whom do you report this to?
            i. Company
            ii. Local Authority
            iii. State Authority

iv. State Board of Health
v. Other

b. No

34. Give me an example of a behavior(s) that would result in discharging or transferring a resident out of your facility

35. If you could give your facility a grade on how well your facility prevents resident-to-resident abuse, what grade would you give?

a. Provide a sliding scale A+--F
b. Why did you give your facility the grade you did?
    a. Open-ended response

36. Do you currently have a resident who is on the Sex Offender Registry residing in your facility?

37. Yes

a. Must they be placed in a designated area of the facility due to their history of sexual offending? (Check all that apply)

38. If yes, where in the facility must they be placed

1. Near the nurse's station
2. In a designated wing
3. Away from common areas
4. Other
    a. List

39. In your opinion, do staff treat them differently because of their history of sexual offending compared to residents without a history of sexual offending?

ii. Yes
iii. No

40. In your opinion, (if known), do other residents treat them differently because of their criminal history compared to residents without a history of sexual offending?

iv. Yes
v. No

41. Do you know if there are or has been issues relating to sexual misconduct from this person?

42. Yes

1. Describe the nature of this misconduct
    a. Unwelcome touching of another resident
    b. Unwelcome discussion of sexual activity with another resident
    c. Exposing of private-body parts to another resident
    d. Digital (e.g. finger) penetration of another resident
    e. Other

43. How was the misconduct reported?

f. Another Resident
g. Resident family member(s)
h. Staff
i. Visitor(s)

44. And what was the disciplinary action, if any, given to the resident accused of sexual misconduct?

j. Verbal warning
k. Written warning
l. Transfer to another long-term care facility
m. Other

45. Have you had a resident in the past who was on the Sex Offender Registry residing in your facility?

46. Yes

a. Were they be placed in a designated area of the facility due to their history of sexual offending? (Check all that apply)

47. If yes, where in the facility must they be placed

2. Near the nurse's station
3. In a designated wing
4. Away from common areas
5. Other
    a. List

48. In your opinion, did staff treat them differently because of their history of sexual offending compared to residents without a history of sexual offending?

vi. Yes
vii. No
viii. Do not know

49. In your opinion, (if known), did other residents treat them differently because of their criminal history compared to residents without a history of sexual offending?

ix. Yes
x. No
xi. Do not know

b. Do you know if there were issues relating to sexual misconduct from this person?

50. Yes

1. Describe the nature of this misconduct
    a. Unwelcome touching of another resident
    b. Unwelcome discussion of sexual activity with another resident
    c. Exposing of private-body parts to another resident
    d. Digital (e.g. finger) penetration of another resident
    e. Other

51. How was the misconduct reported?

f. Another Resident
g. Resident family member(s)
h. Staff
i. Visitor(s)

52. And what was the disciplinary action, if any, given to the resident accused of sexual misconduct?

j. Verbal warning
k. Written warning
l. Transfer to another long-term care facility
m. Other

53. In your opinion, did staff treat them differently because of their history of sexual offending compared to residents without a history of sexual offending?

54. In your opinion, did other residents treat them differently because of their history of sexual offending compared to residents without a history of sexual offending?

55. Do you know if there were issues relating to sexual misconduct from this person?

The following set of questions are related to the challenges as an administrator of a long-term care facility:

56. Name your #1 challenge regarding the following topics:
    a. Admission of residents
    57. Caring of residents
    58. Protecting staff
    59. Protecting residents
    60. Protecting visitors

61. As an administrator, are you more concerned with the following:

Answer the following with y/n response options

a. A resident **with** cognitive impairment and **no** criminal history
b. A resident with **no** cognitive impairment and a criminal history, **excluding** sexual offending
c. A resident with **no** cognitive impairment and a **prior conviction for sexual offending**
d. A resident **with** cognitive impairment and a **prior conviction for sexual offending**
    a. Please tell me the reason for your answer

35. Would you be willing to participate in an interview with the researcher to seek more information regarding facility policies, managerial decision-making, and challenges related to your job? If so, as a token of our appreciation you will be awarded a $25 Amazon gift card.

a. Yes
    a. How would you like to be contacted?
        i. Email _____
        ii. Phone _____
b. No

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