

DEVIANCE AND DISCOURSE:
CHILD MOLESTERS IN THE UNITED STATES

BY

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ABSTRACT

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Sex offenders are the subjects of a discourse suggesting that they are “brutish, disgusting, primitive freaks” who are destined for recidivism. This discourse has provided the rationale for myriad laws designed to control sex offenders. However, these well-intentioned laws create negative outcomes for both sex offenders and society. This paper examines dominant sex offender discourse and discusses evidence that contradicts the prevailing assumptions about sex offenders. In so doing, it questions the efficacy and benefit of current sex offender laws and suggests alternative ways the U.S. can address the problem of child sexual abuse.

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Chapter One

Deviance and Discourse

Around 3:00 A.M. on February 24, 2005, John Evander Couey, a convicted sex offender, snuck into Jessica Lunsford's home in Homosassa, Florida, through an unlocked door. He quietly woke the 11-year-old girl, told her not to scream, and led her out of the house. Couey took Jessica across the street to his home and raped her that night and again the next morning. He kept her in a closet for three days while Jessica's family, hundreds of volunteers, and law enforcement conducted a frantic search a mere 100 yards away from where she was hidden. Not knowing what else to do with her and afraid of being caught, Couey wrapped Jessica in garbage bags and buried her alive (CNN 2005).

Child molesters have become modern bogeymen (O'Hear 2008:69). Over the last three decades, tragic cases like Jessica Lunsford's have increased the public's concern about child molesters. Popular media portrayals cast child molesters as "brutish, disgusting, primitive freaks," but child molesters are indistinguishable from other members of the community until they commit a crime (Hunter 2008:364). The American public's fear of an invisible threat that targets a vulnerable population has led to the rise of a dominant discourse about child molesters that socially constructs them as intractable deviants (Gavin 2005).

Social constructions created by discourse are both powerful and meaningful. Michel Foucault recognized the power of discourse when he described the effect of the swelling wave of medical and psychological literature about homosexuals that began in the 1870s: "The sodomite had been a temporary aberration; the homosexual was now a species" (Foucault 1978:43). Like

homosexuals, child molesters also have a long history in Western society, and the current dominant discourse has created them as a distinct class of person. This discourse also provided the basis for an explosion of local, state, and federal legislation designed to protect children from the threat of molestation (Janus and Prentky 2008:90-97).

This essay explores the social construction of deviance using the American people's response to child molesters as a case study. For this period in U.S. history, child molesters might be the ultimate manifestation of social deviance. While legal and medical literature about child molesters is abundant, examinations of child molesters as social constructions of deviance are sparse. Child molesters are an excellent study in deviance because the American public's response has been visceral and voluminous—creating an extensive body of vivid material that is available for consideration. The dominant child molester discourse is deeply entrenched in the public's consciousness and codified in the country's laws, which accords sex offenders unique treatment in the criminal justice system.

Studying the child molester discourse will yield a deeper understanding of U.S. society. Freilich et al. (1991:16) wrote that: "In a very real sense, the study of deviance is the study of social and cultural reality, rather than the study of idealized social and cultural abstractions." This idea helps to unravel an apparent contradiction with regard to child sexuality in the United States. Although Americans tolerate, and even encourage, the imaginary consumption of children's sexuality in the forms of advertising, child beauty pageants, and adolescent pop stars, seeking to realize such fantasies is forbidden. A population's response to deviancy is as informative as the definition of what counts as a deviant act.

Theories of deviance shed light on why child molestation has engendered a strong, negative reaction in U.S. society and why the dominant child molester discourse enjoys wide popularity. Émile Durkheim (1949 [1933]:102) explained how this phenomenon operates:

Crime brings together upright consciences and concentrates them. We have only to notice what happens, particularly in a small town, when some moral scandal has just been committed. They stop each other on the street, they visit each other, they seek to come together to talk of the event and wax indignant in common. From all the similar impressions which are exchanged, for all the temper that gets itself expressed, there emerges a unique temper—which is everybody’s without being anybody’s in particular. That is the public temper.

Durkheim (1966 [1938]:70) recognized that deviance existed in every society and that too much, or unchecked deviance, could damage the social order. Therefore, communities present a unified front in an effort to maintain their social cohesion. Matters like child sexual abuse (CSA), about which everyone in the community seems to agree, are “valence issues.” Political scientist Barbara J. Nelson (1984:27) wrote that valence issues elicit “a single, strong, fairly uniform emotional response and do not have an adversarial quality.” No one, for instance, would advocate child molestation.

These characteristics obscure the fact that the response to CSA is socially constructed. The dominant child molester discourse suggests that Americans’ reaction to sex crimes is logical, natural, or in harmony with God’s will, but such reactions are the product of social interactions and decisions. Howard Becker (1963:9) enunciated this idea well:

Social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labeling them as “outsiders.” From this point of view, deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an offender. The deviant is one to whom that label has successfully been applied; deviant behavior is that [which] people so label.

The deviant nature of an act, then, is dependent upon social context rather than cosmic edict or natural law. Cannibalism in the United States is usually linked to mental illness and the activities

of serial killers like Jeffrey Dahmer. For some groups, however, endocannibalism—the ritual eating of a member of one’s group, usually as a funerary right—is an act of respect and admiration (Lindenbaum 2004:478). The act is the same, but individual cultures interpret it differently.

The socially constructed nature of deviance means that the identities of deviant people are also socially constructed. Becker noted that a deviant is a person to whom society has applied the label. Labeling theory, as this concept is known, is a powerful form of social control that operates both in the legal and social realms. For most criminals, the deviant label is removed, or at least minimized, after their debt to society has been paid. For child molesters, however, it seems that the deviant label is permanent and can lead to problems for the child molester as he tries to rebuild his life.

Durkheim (1966 [1938]:68-69) also recognized that deviance is dependent on social context:

Imagine a society of saints, a perfect cloister of exemplary individuals. Crimes, properly so called, will there be unknown; but faults which appear venial to the layman will create there the same scandal that the ordinary offense does in ordinary consciousness.

This point can be illustrated by comparing the dress code for women in Orthodox Jewish communities to the way many Western secular women dress. To preserve modesty, Orthodox Jewish women are not permitted to wear slacks or blouses that show their collarbones or arms. In the Orthodox context, it would be considered a deviant act for a woman to wear jeans and a v-necked t-shirt. Meanwhile, a Western secular woman would not be considered deviant if she wore the same outfit. Indeed, no one would even bat an eye.

Definitions of deviance not only change from culture to culture, they can change over time. The Bloomers of the 1850s and the Flappers of the 1920s were both considered deviant

because of their politics and their fashions. As challenging as these women's behavior was at the time, the same behavior today is not considered deviant. Homosexuals are a modern deviant population that is struggling for equal marriage and property rights. The liveliness of the current national debate about gay marriage and rights illustrates that the deviancy of homosexuality is unsettled.

The passage of time is not always a pathway from deviance to normality. The ancient Greeks institutionalized intimate relationships between men and boys. Revered thinkers like Plato, Aristotle, and, closer to our own time and place, Benjamin Franklin were involved in what modern society would consider pedophilic activities (Holmes 1983:59). Additionally, photos of children engaged in sexual acts have been available in varying degrees since the late 1800s (Sonenschein 1984:127). The acceptability of these acts has changed, however. Foucault (1978:31) wrote about the rather sad story of a poor, dull farm hand in 1867 France who was accused of paying a young girl to manually satisfy him. Until this case, the sexual interactions of "simple-minded adults" and "alert children" did not arouse much concern. The farm hand was not found guilty of a crime, but he was put away in a mental hospital and his predilections were studied. Not long after this incident, in 1888 a child protection organization in England published a tract that calling child sexual abuse the "vilest crime against childhood" (Gavin 2005:396).

Although Durkheim thought deviance could destabilize the social order, Douglas Raybeck asserted that not all deviance has the same destabilizing potential. He identified two categories of deviant acts, which he labeled "soft" and "hard" (Raybeck 1991). Soft deviance merely upsets or challenges a social norm, but does not threaten to upend the proverbial apple cart—not covering your mouth when you cough, for example. Hard deviance, on the other hand, presents a risk.

Child molestation is an example of hard deviance for two reasons. First, a significant portion of child molestation is incest. It conflicts with the incest prohibition, even though the public discourse does not often address this aspect of child molestation. Claude Lévi-Strauss (1969:3-41) suggested that the incest prohibition was meant to encourage the exchange of women with other groups, creating webs of interdependency that enhanced the chances of survival for all groups. The damaging effects of incestuous sexual abuse can effectively “keep” a woman (or man) in the same family group by making it difficult for her to have normal relationships with others. Second, pedophilic relationships (a subset of child molestation cases in which the perpetrator desires a romantic relationship with the victim) transform the power field between a child and an adult and threaten to destabilize the social structure (Kincaid 1992:24-25).

Although potentially destabilizing, deviance can also be productive. Robert Merton (1938:680) suggested that deviance is a method to gain a culturally accepted commodity outside of the institution that typically controls it. A person might rob a bank because she cannot find work, for example. Regarding the case under consideration, pedophiles often experience difficulty with adult relationships and turn to children for fulfillment and comfortable relationships they can manage.

Marvin Harris and Durkheim also suggested that deviance could be productive in the sense that it can lead to social change. Both agreed that culture was flexible, or at least changeable, but Harris placed definite limits on how change could occur. Harris posited that sociocultural systems consist of three levels: infrastructure, structure, and superstructure. The infrastructure is concerned with the modes of production and reproduction—the technology and practices for managing the production of food and people. The structure is concerned with the

domestic and political economy—the decisions about how to control production and reproduction and domestic and social discipline that are made by groups at different levels of social intimacy. The superstructure is concerned with art, beliefs, emotions, religion, and values. A key feature of this system is that the infrastructure probalistically determines the form of the structure, which probalistically determines the form of the superstructure. Therefore, deviations or innovations have a greater chance of affecting the entire system if they originate in the infrastructure, whereas changes that appear in the structure or superstructure have decidedly less chance of resulting in a systemwide change. The fate of many changes, no matter where they arise in the system, is to experience system-maintaining negative feedback (Harris1979:71). That is, a deviation's influence throughout the system is minimized to the point where it disappears altogether, or the other parts of the system make small adjustments to account for it while maintaining the basic character of the system.

Such is the case with intergenerational sex. Some groups, like the North American Man/Boy Love Association (NAMBLA), seek to reframe the dominant idea that all intergenerational sex is abuse. It is difficult to imagine a world in which they would be successful, not simply because of their unpopular views, but because they are attempting to change the structure (decisions about how to manage the mode of reproduction and social discipline) from the superstructure (beliefs about the appropriateness of intergenerational sex).

From the perspective of cultural materialism, it is difficult to see how child molestation (or intergenerational sex in the NAMBLA case) could be productive or lead to new social forms.

However, Durkheim (1938:73) suggested how child molestation can affect society:

Crime implies not only that the way remains open to necessary changes, but that in certain cases it directly prepares these changes. Where crime exists, collective sentiments are sufficiently flexible to take on a new form, and crime sometimes helps to determine the form they will take.

While the crime of child molestation itself will not create new social forms, it is possible the reaction to the crime will. Indeed, attempts to control child molestation and intergenerational sex through the imposition of extensive legal regimes have led to new social forms.

The national response to child molesters and the advent of sex offender legislation is emotional in nature, rather than rooted in rational, evidence-based reasoning (Lynch 2002). The punishments for sex crimes, as well as the conditions for release from incarceration, have become more severe, in part because child molester discourse suggests that sex crimes against children are fundamentally different from other types of crimes and should be punished differently. The view that sex crimes are exceptional has its roots in America's view of sex as an orgasm-centered force of nature that is difficult to control (Schur 1988:169). This aspect of the discourse has caused some legal scholars to worry that:

the notion of exceptionalism [the concept that sex crimes, particularly against children, are different in nature from other types of crimes] is a pretext that will eventually be forgotten or discarded, and we will be left with a new and unbridled regulatory approach to criminal behavior ungoverned by any principled limitations (Janus and Prentky 2008:90).

There is evidence that this concern is justified. California is currently considering a registry for people convicted of felony animal abuse. California's lawmakers believe that the public has the right to know the identity and location of animal abusers because of the connection between animal abuse and violent crimes towards people. Additionally, the perceived exceptionalism of sex crimes has led to a worrisome expansion of the use of registries for sex crimes. The state of Ohio has created a civil sex offender registry that carries the same restrictions and responsibilities as the criminal sex offender registry. A judge may place a person on the registry if he or she feels that there is probable cause, but no trial or guilty verdict is required. Also, the advent of civil commitment laws enable the government to keep child

molesters incarcerated for an indefinite period after their criminal sentences have been completed. With each new iteration, the laws meant to control child molesters have become more restrictive, affecting the ability of child molesters to reintegrate into society and leading to a persistent underclass of citizens (Robbers 2009). Many sex offender laws challenge long-held American beliefs in “paying one’s debts to society” and threaten to transform America into a society that perpetually punishes its criminals.

Alternative discourses compete for attention with dominant discourses (Ochs and Capps 1996:35). Although Nelson noted that child molestation is a valence issue, she also recognized that the terms in which it is debated may be challenged (Nelson 1984:27). It is not surprising then for an alternative discourse to appear when considering the capacity of deviance to effect social change. This has prompted some scholars to interrogate the social construction of child molesters and Americans’ response to it. Evidence strongly suggests that the dominant child molester discourse is flawed, and, more importantly, that efforts to control child molesters are ineffective. Chapter Two of this essay will explore the dominant stereotype of the child molester, the circumstances under which it was formed, the incidence and prevalence of CSA, the history of sex offender laws in the U.S., and the cumulative effect of the discourse and response in public life. Chapter Three challenges the child molester stereotype and comments on the legislative response to it. Chapter Four explores the dominant child molester discourse, and why it obtains despite evidence of its fallaciousness. It continues to exist because of the symbolic value that children represent to America. Americans’ reactions to child molestation are strong because, for them, childhood and sex are incompatible and lead to cognitive dissonance when considered together. Finally, in Chapter Five, I suggest how America can change its policies

toward child molesters to achieve better results for communities and sex offenders while lowering economic and social costs.

Definitions

While the United States' legislative response has mainly targeted child molesters, the laws addressing them are typically called "sex offender" laws. These laws have grown to regulate other types of sexual criminals as well as child molesters. Depending on the locality, criminals ranging from rapists of adult women to streakers and peeping toms are subject to sex offender laws. Therefore, when the term "sex offender" is used, there can be confusion about the type of criminal being mentioned. With a few exceptions, when the term "sex offender" is used to describe laws or regulations, it should be understood that the discussion is limited to how that law or regulation affects child molesters.

The terms "child molester" and "pedophile" are often used interchangeably, but there is a distinct difference between them. A "child molester" is a descriptive term for a person who commits a sexual crime against a child. "Pedophile" is a medical term that is defined by the *Diagnostic and Statistical Manual of Mental Disorders, 4th Edition, Text Revision (DSM-IV TR)* as a person who has intense desires and fantasies for sexual contact with children, typically under 13 years of age (American Psychiatric Association 2000:??). A pedophile's desire will typically interfere or inhibit normal sexual relationships and everyday life. A diagnosis of pedophilia is based on the presence of desire without the commission of a crime. While some child molesters are diagnosed with pedophilia, not every person who has sexual contact with a child is a pedophile. The National Center for Missing and Exploited Children (NCMEC), a private nonprofit organization founded by the U.S. Congress in 1984 and funded primarily by the U.S.

Department of Justice, suggests that some people who have sexual contact with children may do so because of the “simple availability [of the child as a sexual partner], opportunity, curiosity, or a desire to hurt a loved one of the molested child” (Lanning 2010:19). In these cases, the perpetrator’s sexual fantasies are not necessarily “recurrent, intense, and focused on children,” and do not qualify them for the diagnosis of pedophilia (Lanning 1994:19).

Methodology

I gathered the information in this essay by reviewing literature about deviance, sex offenders, and the social constructions of childhood and sex. This information is supplemented by interviews with five sets of married adults in Lawrence, Kansas, and one convicted sex offender in Alabama. I interviewed the married adults in person and the sex offender over the telephone. I have lightly edited quotes from these interviews to enhance their readability but did not change the meaning. Three of the married couples had children living at home, one couple had grown children, and one couple did not have children, but were planning to. I have created pseudonyms for the married couples that participated in an interview, but have used the sex offender’s real name. Derek Logue operates a Web site called OnceFallen.com that advocates for sex offender rights and legislation reform, as well as provides resources for sex offenders after they have been released from incarceration. Derek Logue has also self-published a book about his crime. It is appropriate to use his real name because he is a public figure and his status as a sex offender is public knowledge. Derek’s inclusion in this essay will not reveal any information not already available from other sources.

Though I am challenging some of the received wisdom about child molesters, this essay is not an *apologia* for their actions. The high-profile, heart-rending cases of Adam Walsh, Jacob

Wetterling, Megan Nicole Kanka, Jessica Lunsford, and Carlie Brucia remind us of the incredible harm child molesters can cause.

Chapter Two

Incidence and Prevalence of CSA and the Transformative Case

In the United States, the dominant discourse about child molesters portrays them as less-than-human monsters. It posits the idea of their impenitence, suggests they choose random, convenient targets, are unable to be rehabilitated, and will invariably commit further offenses (Angelides 2004:141; Long 2009:148; Tekle-Johnson 2009:611; The New York Times 2007b). The discourse also attributes a great deal of power to child molesters, asserting that they are a remarkably clever, “horrifying threat” who are apt to use violence in the commission of their crimes (Lynch 2002:544). In proposing more controls for child molesters, Congressman Bill McCollum (R, Florida) said that "sexual offenders not only victimize the women and children upon which they prey, they victimize society as a whole" (Lynch 2002:546). Like toxic waste, child molesters have the power to pollute society through simple proximity. The discourse also suggests that child molestation is increasing (Fortney et al. 2007:4).

Incidence and Prevalence

The exact prevalence of child molestation is difficult to quantify. Government agencies and other researchers draw on different data sets and use varying definitions of abuse, making it difficult to arrive at a consensus about the incidence and prevalence of the crime. Because CSA is vastly underreported (similar to other forms of sexual assault like rape), all reports are estimates that have methodological limitations and vary widely in their results. CSA is underreported because victims often have feelings of shame, do not wish to get the perpetrator (often a family member or family friend) in trouble, or lack trustworthy adults to whom they can

report the crime. Sometimes, the victim is not even aware that the experience was molestation (Finkelhor, Hammer, and Sedlak 2008:9).

The secrecy that surrounds most sexual abuse makes it difficult to know exactly how many children are victims. The U.S. Department of Health and Human Services (HHS) reported 83,600 substantiated cases of CSA in the U.S. in 2005 (2007:27). This figure is conservative, however, because it only reports cases verified by the HHS. The Federal Bureau of Investigation's National Incidence-Based Reporting System, which aggregates police reports from 18 states, suggests that the incidence of CSA for 2001 was 225,000 children (Douglas and Finkelhor 2005:2). Still other research suggests that the incidence of CSA in 2008 was one in 16 children, or 6.25 percent of children (U.S. House Committee on Education and Labor 2009). This figure is an estimate and not based on confirmed cases. If the estimate is accurate, however, it would mean that 4.7 million of the 74.4 million children in the U.S. were victims of CSA in 2008. Empirical evidence from the U.S. Attorney's office supports the concern that CSA is a widespread and growing problem. The U.S. Attorney's office prosecuted 2,039 child sex exploitation cases in 2006, compared to just 313 cases in 1994 (Motivans and Kyckelhahn 2007:2).

Other researchers estimate that there is a lifetime prevalence of 39 million survivors of sexual abuse in the United States, or about 12 percent of all Americans living (Abel et al. 1987:57). Though this research suggests that the prevalence of CSA is staggering, other research paints an even grimmer picture. The Centers for Disease Control and Prevention (CDC) estimates that one in four girls and one in six boys will be sexually abused before they reach the age of 18—or, about 21 percent of all children (Centers for Disease Control and Prevention 2005).

Conventional wisdom suggests that survivors of CSA have a greatly increased risk of becoming sexual abusers of children as well—leading to worries that child molestation is a geometrically growing problem (Bouvier 2003:446; Center for Sex Offender Management 2000). Although the incidence of victims within the abuser population is higher than in the general population, it is not as high as once feared. A 1998 study demonstrated that 30 percent of adult male child molesters had been molested themselves (Becker and Murphy 1998:120). A more recent study that appeared in *The Lancet* suggested that only one in eight boys (about 12 percent) who were molested became molesters themselves (Bouvier 2003:446). Clearly, there is not a perfect relationship between being abused and becoming an abuser. Some abusers were never abused themselves, and some of those who were abused never abused others.

Though the mechanism that links past molestation with future crime is poorly understood, the study found that other factors in the victim's history—like poor adult supervision, violence at home, or being abused by a female—were correlated with an increased risk of becoming an abuser. Additionally, one out of three victims who became abusers had a history of being cruel to animals in their childhoods (Bouvier 2003:446).

The risk factors for a child to experience sexual abuse are well known. The National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children of 1999 (NISMAART-2) found that gender is the largest risk factor. The study found that 89 percent of CSA victims were female and that older teenagers represented 54 percent of the victims, even though they comprise only 17 percent of all children. NISMAART-2 also reported that 95 percent of child molesters were male and 30 percent of assaults were conducted by youth under 17 years-of-age. Other factors that predispose a child to CSA victimization are poverty and family problems such as parental alcoholism, rejection, and marital conflict (Douglas and Finkelhor

2005:6). African American and white children are abused at a rate consistent with their proportion of the population, while the rate of abuse for Hispanic children is lower than their proportion of the population (Finkelhor, Hammer, and Sedlak 2008:5). Interestingly, Native Americans comprised 70.7% of the cases that the U.S. Attorney's office prosecuted for child sexual abuse in 2006, suggesting that Native American children are abused at rates higher than their proportion of the population (Motivans and Kyckelhahn 2007:5).

Although it is difficult to quantify how many children are sexually abused each year, CSA is a demonstrated problem and has always existed in some form in U.S. society. Yet CSA received little attention before the 1980s. Changes in attitudes and the political environment, combined with the vivid tragedy of the Adam Walsh case, focused attention on the problem of child sexual abuse.

Attitudes Toward Child Protection Prior to the Adam Walsh Case

The lack of focused consideration on CSA was consistent with the approach to child welfare in general. The nation's child-centered services were fragmented and inefficient. They offered overlapping services and competed for the same scarce funding resources (Gottlieb 1977:177). The federal government's efforts to protect children were not much better. The White House held a conference on child welfare about every 10 years from 1909 to 1970. The last conference generated no meaningful results and was discontinued amid the turmoil of the Vietnam War (Child Welfare League of America n.d.). Notable as a sign of the current concern about the safety of children, the conference will resume in 2011 after a 40-year hiatus (H.R. 618).

The federal government did not have many laws that addressed the sexual exploitation of children until 1977 when President Carter signed the Protection of Children Against Sexual Exploitation Act (U.S. Public Law 99-591), which made it a crime to use children under the age of 16 in the production of pornography (Holmes 1983:94). Even in the 1980s, the existing laws were relatively permissive compared to today—non-penetrative sex acts with children were not serious crimes. The enforcement of child protection laws was relatively lax as well—child pornography was readily available in some adult bookstores (Angelides 2004:141; Holmes 1983:96).

Although the United States' legal framework for protecting children from sexual exploitation was in its nascent stages, the American people were becoming increasingly concerned about the subject of children's sexuality by the late 1970s. Sonenschein (1984:111-127) located a hotbed of concern about child exploitation in the public's reaction to fashion advertisements, particularly jeans ads, of the late 1970s and early 1980s. Americans considered the Calvin Klein jeans ads featuring 15-year-old Brooke Shields the most scandalous because the ads juxtaposed her obvious youthfulness with suggestive slogans and imagery.

The child protection lobby, in conjunction with second-wave feminism (the period of feminism from the 60s to early 80s which concentrated on informal rather than legal barriers to equality), began a "painstaking interrogation and politicization of the social problem of child sexual abuse" in the late 1970s and early 1980s that began to change the public's attitudes toward intergenerational sex (Angelides 2004:141). Feminism's involvement with CSA stemmed from similarities between discourses about rape and child molestation, which included the idea that children seduced adults or manufactured allegations of abuse. Feminists also found the issue

of child sexual abuse to be an effective means to launch a critical review of patriarchal family structures (Beckett 1996:60).

Beryl Satter, a historian at Rutgers-Newark, noted that forces other than the child protection lobby and feminism were responsible for the increasing interest in child molestation. She located the emerging interest in a complex social phenomenon driven by the massive reduction of social services during President Reagan's first term in office in the early 1980s.

As the government severely reduced social programs that served families, sexual abuse narratives were one way to speak about family pain. Ultimately, the crusades against child abuse gained support from all sides: from feminists who linked child abuse to the oppression of women and liberals who saw child-abuse laws as a means of counterbalancing the authoritarian family; conservatives anxious about sexual hedonism and evangelical Christians anxious about sexual sin; therapists, attorneys, and criminologists who sought to expand their professional authority; a sensation-hungry media seeking new sexual narratives; and politicians seeking a cause sure to attract support. In addition, Reagan and Bush officials promoted the idea that the greatest threat to American children was pornography rather than poverty (Satter 2003:452).

In Satter's formulation, the issue of child molestation became an expedient political tool that served the needs of a variety of political interests. Whereas child poverty proved to be an insidious, intractable, and structural problem, Reagan's administration felt that child molestation and pornography were factors the government could control.

The Turning Point

It was into this milieu that a case of child sexual assault emerged that would have a profound, lasting effect on the nation's response to sexual crimes against children (Logan 2009:89; Schur 1988:166). In 1981, six-year-old Adam Walsh went to the mall in Hollywood, Florida, with his parents for a day of shopping. Adam's mother let him watch a group of boys play video games while she shopped nearby. When she returned to the video game section,

Adam was gone. Adam's parents and the mall's security service searched the entire mall for two hours without success.

During the two weeks that followed, Adam's parents, John and Revé, searched tirelessly for him. The Walshes made Adam's disappearance "the most high-profile missing child case since the Lindbergh kidnapping" (Leinwand and Bazar 2008). While Adam's case sparked national media attention, only 20 percent of the police departments in Florida knew about the case at the height of the investigation—highlighting the deficiencies of a police response system designed to find adults, not children in imminent danger.

Anglers found Adam's severed head in a canal in Vero Beach, Florida, 16 days after he disappeared. Adam's body was never found, even though Ottis Toole, a serial killer and arsonist, admitted to killing him in 1983. Toole provided the police with specific details of the crime and took them to where he said he had left Adam's body. A few weeks later, however, the police declared that Toole was no longer a suspect. Though Toole confessed his involvement in Adam's death several times over the next few years, police never charged him with the crime. Toole died in prison in 1996 while serving a 20-year sentence for arson. In 2008, the police chief of Hollywood, Florida, posthumously charged Toole with the abduction and murder of Adam Walsh, officially closing the case.

Adam's parents transformed their grief into a national crusade in the name of childhood safety, ensuring that Adam's death left a lasting legacy in America's political and legal landscape. The Walshs' efforts led to a burgeoning wave of legislation that resulted in a review of police procedures for missing child cases, the creation of the Missing Children Act in 1982, the establishment of the National Center for Missing and Exploited Children in 1984, and the creation of the Adam Walsh Child Protection and Safety Act in 2006, which includes the Sex

Offender Registration and Notification Act. The Walshs' tireless lobbying efforts, combined with the nation's interest in child protection, made Adam's death the signal event of the efforts to protect children from child molesters.

The Development of the Dominant Child Molester Discourse

'Cause I am whatever you say I am.
If I wasn't then why would I say I am?
In the paper, the news, everyday I am.
I don't know that's just the way I am.
(*The Way I Am* by Eminem)

The media coverage surrounding the Adam Walsh case propelled the incident into national consciousness. Subsequent cases that led to the death of a child received similar treatment. The media's ability to relate information to the interests of its consumers, as well as create interest where little or none existed before, plays an important role in how Americans understand CSA and those who commit the crime.

The nature of the stories the media chose to cover and the way it covered them was a primary factor in the development of the child molester discourse. The themes of the discourse—undetected predators, danger, violence, and recidivism—emerged from the media coverage that presented the crime in its gory details and suggested that the frequency of violent CSA was high and rising.

Media coverage of CSA led to the popular (nonmedical and nonlegal) view that child molesters are deviant; not simply different in their sexual tastes, but different in fundamental ways that place them outside of society's boundaries. Criminologists Chris Greer and Yvonne Jewkes (2005) analyzed the narrative content of media broadcasts and demonstrated that broadcasts used narratives to create deviant persons. They recognized deviants of two types—

stigmatized others and absolute others. Stigmatized others include recent immigrants, those who improperly take advantage of social services, and single mothers. Absolute others are those people who “commit unusual offenses that seize the public imagination” (Greer and Jewkes 2005:21). Child molesters are included in the latter category. The narratives used to describe child molesters and other absolute deviants are examples of labeling theory: the narrative seeks to remove the deviant from the normal, moral, virtuous social world by asserting irreconcilable difference.

A component of media narratives about child molesters is the association of child molestation with killing. Most of the cases that attract the media’s attention focus on horrific (but nonetheless rare) cases where the child is killed, creating the impression that many cases of CSA end in death. Lisa Sample and Colleen Kadleck, criminologists from the University of Nebraska-Omaha, interviewed lawmakers from several midwestern states about the media’s effects on the legislative process. Many of the legislators they interviewed believed that child molesters often kill their victims. One particularly vibrant quote is, “You hear about these guys raping and killing kids all the time now. We have to do something. It’s gotta stop” (Sample and Kadleck 2008:51).

Sample and Kadleck (2008:43) also found that new sex offender laws are enacted shortly after “isolated incidents of sexual homicide committed by repeat sex offenders were extensively covered and sensationalized in the media.” The public fear and anger whipped up by the media coverage results in a drive for new legislation to control sex offenders (Kearnsmith et al. 2009). Politicians, seeing the media coverage and the reaction it creates, respond and create new legislation.

For some people, it is clear why the subject of child molesters engenders an angry response. Curtis, a resident of Lawrence, Kansas, said, “Child molesters are pieces of shit and they should all die.” It is easy to understand why Curtis has strong feelings about child molesters—he experienced a deep family betrayal that shattered his relationship with his father: “My father was a pedophile. He molested all [three] of my sisters. I didn’t find that out until I was in high school and he denied it until right before he died. So I have very strong opinions about this [child molestation].” For others, the “public temper” created by the dominant child molester discourse is the reason why people with no direct connection to the crime or its victims become angry.

Sample and Kadleck (2008:43) noted that E.H. Sutherland, a sociologist who researched the advent of “sexual psychopath” laws in the 1930s and 1940s, drew a similar conclusion:

Fear is produced more readily in the modern community than it was earlier in our history because of the increased publicity regarding sex crimes. Any spectacular sex crime is picked up by the press associations and is distributed to practically all newspapers in the nation . . . all this produces a widespread uneasiness which, given a few local incidents, readily bursts into hysteria.

What Sutherland described is called the deviancy amplification spiral. The *Dictionary of Media Studies* (2006) defines it as “a situation in which coverage of a deviant event in the media makes it appear more common and more of a social problem than is actually the case, causing more attention to be paid to it.” During a deviancy amplification spiral, the public feels that the deviance at hand threatens the social order and becomes concerned. What Durkheim called the “public temper” is aroused and the public begins to call for redressive action. The sociologists Annette Hampshire and James Beckford (1983:211) extended this thought when they noted that increased attention to certain types of deviance led to: “Less tolerance [which] leads to . . . more acts being defined as deviant [which] leads to . . . more actions against deviants.” Like

Durkheim, Hampshire and Beckford believe that the response to deviance can affect society (1966 [1938]:73). Additionally, although they do not explicitly say it, their observation that deviance can be met with increasingly restrictive regulations is consistent with Harris' theory that unwanted deviance will be met with negative feedback until it either disappears or diminishes to the point that it is no longer a threat to the social order.

A deviancy amplification spiral in the media can lead to a moral panic. A moral panic is different from the panic that occurs after a disaster, such as a major earthquake or hurricane (Clarke and Chess 2008). Unlike a panic triggered by a natural disaster, which has a definite origin and tendency to dissipate over time, a moral panic stems from what the public perceives as multiple high profile cases, spread over time, that seem to indicate a declining moral environment. In cases of moral panic, the public considers the type and amount of deviance a threat to the social fabric. Gayle Rubin (1993:25) wrote that a moral panic occurs when:

The media become ablaze with indignation, the public behaves like a rabid mob, the police are activated, and the state enacts new laws and regulations. When the furor has passed, some innocent erotic group has been decimated, and the state has extended its power into new areas of erotic behavior.

The public's response to child molesters is quite strong and vehement. The laws passed during this state of moral panic, however, have truly swept up and "decimated" various unrelated groups. For example, teens that send nude pictures of themselves to each other, in a practice called "sexting," are now subject to child pornography laws (Brunker 2009). Sexting is an activity that is demonstrably different from the production of child pornography, but the wide scope of the current legislation forces prosecutors to charge these teens with the felony crimes.

A moral panic about sex is also constructive in that it both "characterizes a nationalist culture that polices sex" and "polices sex in ways that produce nationalist culture" (Burgett 2009:67). Indeed, the heterosexual identity that moral panics about sex in the U.S. tend to affirm

makes sex “an institution that organize[s] national life” (Seidman 2003:55). In this light, a moral panic is as a productive result of the destabilizing threat presented by deviance. Moral panic is a declaration of a unified morality (at least with regard to CSA) that contributes to a national identity and the stability of the moral field. This concept was highlighted in Joel Brinkley’s article “Afghanistan’s Dirty Little Secret,” (2010) which addressed the Afghan practice of taking pubescent boys as lovers. Despite Brinkley’s impressive credentials (he is a Pulitzer Prize winner and a professor of journalism at Stanford), the article amounts to little more than an attempt to classify Afghan culture and Islam as corrupt, while implicitly suggesting that the U.S. and its forces are morally upright.

Not all researchers pin the current tide of sex offender legislation on the media. Wayne Logan (2009:92), a law professor at Florida State University, found that some legal scholars think the panic and subsequent growth of sex offender laws are a symptom of “the need to quell a postmodernist anxiety and disillusionment with neoliberal government.” Other writers arrived at similar conclusions. James Hunter (Hunter 2008:371), a social worker and counselor, suggested that politicians rail against the child molester because it gives “divergent groups within the United States...a common enemy to rally against as a means of attaining a national cohesion.” Additionally, Judith Levine (2002:29) noted that child molester panics “tend to crop up in times of social transformation, when the economy trembles or when social institutions crumble and many people feel they’re losing control over their jobs, their futures, or their children’s lives.”

The explanations offered by Logan, Hunter, and Levine view the deviance of child molesters, and the resulting dominant child molester discourse, as a symptom or component of larger social issues. Their ideas are similar in that they posit a need for society to periodically

pull back and galvanize itself against forces that threaten social stability. Though their ideas explain why pedophile panic tends to crop up, they do not address why the U.S. reacts so strongly to child molestation, or how child molestation can consistently be used as a political lever. (I will address that matter in Chapter Four.) Nevertheless, the laws that developed out of the public's concern about child molesters reinforce the themes of the child molester discourse.

The Development of New Legal Regimes

Response to the deviance of child molestation has created a new social form—child molesters are now a “species” in the same way as Foucault’s homosexuals—and child molesters (and sex offenders as a whole) are subject to a wide range of legal restrictions upon release from incarceration.

The Adam Walsh case demonstrated that law enforcement agencies were not equipped to investigate high-risk missing child cases. During the investigation, there was no coordination or information sharing between law enforcement agencies, and most police departments in Florida were unaware of the case despite nationwide media attention. Additionally, many police departments applied the same waiting period they used for missing adults—72 hours—before they would begin an investigation of a missing child (Leinwand and Bazar 2008).

The first legislative response to CSA addressed these deficiencies. In 1982, thanks to the lobbying efforts of Adam’s parents and the support of Senator Paula Hawkins (R, Florida), Congress passed the *Missing Children Act*. The act required the FBI to track missing children in their national database and make the information available to law enforcement agencies nationwide (Office of Juvenile Justice and Delinquency Prevention 2001). In 1984, Congress passed the Missing Children’s Assistance Act that created the National Center for Missing and

Exploited Children (NCMEC). The NCMEC, primarily funded by the U.S. Justice Department, is a clearinghouse for information about missing children and offers resources for law enforcement agencies and parents. The National Child Search Assistance Act of 1990 removed the waiting period before a law enforcement agency could act on a report of a missing child, thereby enabling an immediate response (Office of Juvenile Justice and Delinquency Prevention 2001).

These first legislative steps addressed the structural deficiencies and impediments to action in law enforcement agencies. The next round of legislative responses was triggered by the 1989 rape and attempted murder of Ryan Allen Hade by Kenneth Earl Shriner in Tacoma, Washington (Logan 2009:50). Shriner raped Hade, stabbed him repeatedly, and left him to die in the woods. Shriner's previous history of sex crimes and animal abuse figured prominently in the media's discussion of the case. A public outcry grew over the fact that Shriner was released from prison even though his therapists thought that he still presented a danger to others. The state of Washington responded to the public's concerns by enacting the *Community Protection Act of 1990*. This law differed from the laws mentioned above because it shifted the focus from enabling a quicker response on the part of law enforcement to preventing and punishing child sex crimes.

The *Community Protection Act* was significant in three aspects. First, it allowed the state of Washington to incarcerate people it considered to be "sexual psychopaths" for an indefinite period after the completion of their criminal sentences. At the time, this aspect of the law was controversial because it seemed to violate the concept of due process (Logan 2009:51). Second, the law created a statewide sexual criminal registry to assist law enforcement agencies in their investigations. Sexual criminals of all types were compelled to register for a specific period

based on the severity of their crime (Logan 2009:52). The third facet of the act was community notification. After a sexual criminal was released from incarceration, the police department of the locality where the registrant planned to live was permitted to release information to the public if it determined that the criminal posed a threat (Logan 2009:52). Other states took notice of Washington's new legal regime and began to implement similar laws after high-profile child rapes and murders (Logan 2009:54). The *Community Protection Act* laid the foundation for most subsequent legislation at the state and federal levels.

New legislative regimes continued with the case of Jacob Wetterling. Jacob was abducted from his hometown of St. Joseph, Minnesota, in 1989, and has never been found. Like the Walsh family, the Wetterling family transformed their grief into advocacy. Patty Wetterling, Jacob's mother, formed an advocacy group and successfully lobbied Congress to pass the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act* in 1994. This act mandated that all states create a sex offender registry or risk losing federal block grant monies for criminal justice (Logan 2009:56).

The bill passed easily, even though there was no evidence that Jacob was kidnapped by a child molester or had been sexually assaulted. Lawmakers viewed the *Jacob Wetterling Act* as a necessary tool in combating child molestation and kidnapping because police would be able to immediately query a database of known offenders when a crime occurred (Logan 2009:56). The act required sex criminals to register their addresses and other information with their state of residence for a period of ten years to life, depending on the severity of their crimes.

The *Jacob Wetterling Act* formed the basis of federal sex offender laws. Three subsequent cases resulted in amendments to the act that expanded its scope. Megan Kanka, of Piscataway Township, New Jersey, was raped and murdered in 1991 by Jesse K. Timmendequas.

Timmendequas had prior convictions for child molestation and killed Megan shortly after moving into a house across the street from the Kanka family when he was released. Megan's parents maintained that their daughter would not have been killed had they been aware of Timmendequas' criminal past because they would have supervised her outside play more closely. The Kankas' story was compelling and led New Jersey to adopt a new law in Megan's name. *Megan's Law* mandated local police departments to notify communities if a sex offender moved into the area. In 1996, the federal government amended the *Jacob Wetterling Act* with a nationwide version of *Megan's Law* that made community notification compulsory.

In 1996, Congress further modified the *Jacob Wetterling Act* with the *Pam Lychner Sexual Offender Tracking and Identification Act* (U.S. Public Law 104-236), named for a Houston woman who was attacked by a convicted rapist and child molester. She survived the attack and became a victim's rights advocate. The legislation that bears her name created a national registry for sex criminals (previously, individual registries were maintained by states) and allowed the FBI to intervene when the agency felt that a state was not equipped to handle a particular investigation. This act also extended the time for which certain criminals were compelled to register and expanded the types of sex crimes for which registration was required.

The most significant amendment to the *Jacob Wetterling Act* occurred in 2006. The act, called the *Adam Walsh Child Protection and Safety Act* (also known as the *Sexual Offender Registration and Notification Act* (SORNA)), was the product of years of lobbying by the Walsh family. SORNA is a very broad act that greatly affects sex offender justice practices. It further standardized the national registry system by mandating that states collect and report the same type and format of information for its registered sex criminals, increase the mandatory minimum sentences for sex crimes, establish a nationwide post-conviction civil commitment procedure,

and create a three-tiered system for registration. First-tier offenders, like those convicted of possessing child pornography, are required to register for 15 years. More serious crimes, like the sexual solicitation of a minor, are considered second-tier offenses and require registration for 25 years. The third-tier offenses require lifetime registration and is reserved for the most serious offenses like the rape of a minor.

As the federal government strengthened its efforts to control sex offenders, local and state governments did as well. The concept of a residency restriction for convicted sex offenders spread throughout the nation. A typical registry restriction makes it illegal for a convicted sex offender to live within a certain distance of a bus stop, daycare center, park, school, or any other place where children gather. The typical distance of a residency restriction is 1,000 to 2,500 feet, depending on the locality. Some states have become more creative in their approach to protecting children from child molesters. Maine recently passed a law making “visual aggression” a crime, after some parents complained that a man was staring at their children in the park (Choate 2008). The man was a registered sex offender, but was not breaking any laws. The visual aggression law allows police to detain anyone a parent considers to be a threat.

The expanding legal regime to control child molesters has been popular at all levels of government. Because child molestation is a valence issue, lawmakers rarely hesitate to adopt new laws. By voting for sex offender legislation, politicians can claim they are tough on crime and interested in protecting vulnerable classes of people. The growth of sex crime legislation has not been without controversy, however. Sex crime defendants as well as watchdog groups have brought legal challenges against two of the major provisions of sex crime legislation—retroactive registration and civil commitment.

The *Sex Offender Registration and Notification Act* is a retroactive law that compelled many sex offenders to register, even if their crimes were committed before the law was passed (Logan 2009:63-65). A third-tier offender was compelled to register no matter how long the crime occurred before SORNA was adopted. First- and second-tier offenders were required to register if their crimes occurred less than 10 or 25 years, respectively, before the passage of the law. If a sex offender did escape the retroactive horizon, he or she would nonetheless be compelled to register as a sex offender if convicted of a new crime—even if the new crime is not sexual in nature. The failure to comply with registration requirements could result in the offender being sent back to prison. Several sex crime defendants and civil rights groups have claimed that the retroactive nature of the law violated the *Ex Post Facto* clause of the U.S. Constitution. Other challenges have come because of the harsh penalties for failing to comply with the law's requirements. The challenges have been repeatedly struck down because courts interpret the law as civil in intent and not punitive.

Other defendants have challenged the civil commitment requirements of SORNA. These challenges have also failed, due in large part to the precedent established by *Kansas v. Hendricks*. In 1996, when Leroy Hendricks was about to be released from prison, Kansas filed a petition to have him civilly committed under its Sexually Violent Predator Act. This aspect of Kansas law was similar to Washington's *Community Protection Act*. Hendricks challenged the ruling, claiming it was a form of double jeopardy and violated the *Ex Post Facto* clause of the U.S. Constitution. The case went to the Supreme Court of the United States, which ruled that the Kansas law did not violate *Ex Post Facto* principles because it was regulatory and preventative rather than punitive (Logan 2009:148). The implications of *Kansas v. Hendricks* worry some

mental health professionals because these laws could be expanded to other types of criminals that society found worrisome (Becker and Murphy 1998:131).

The legal regime to control sex offenders is well established and has survived legal challenges. It is a response to the dominant sex offender discourse and uncritically accepts its precepts of unseen predators, recidivism, and violence. The discourse is applied to all child molesters even though it is accurate for only a few. Chapter Three will demonstrate that a one-size-fits-all approach to sex crimes causes problems.

Chapter Three

Unintended Consequences

The social construction of child molesters is essentially flawed. Like the myth of the hypersexual “Negro cocaine fiend” that was used to justify the fledgling drug war in the early 20th century, the popular conception of child molesters has been used to justify the legal regimes that have been adopted in the past 30 years (Cohen 2006). Although some sex offenders, like John Evander Couey, fit the child molester stereotype, most do not. Yet, that stereotype is enduring. When I asked my informants the first thing they thought of when they encountered the word “pedophile,” Robin responded:

I think of a male, I don't think of a female. I think of a male who has sexual attractions to children. He is a white male, he's got long stringy hair, perhaps a mustache...maybe middle aged, maybe older. I generally don't think of 18 or 19 year old kids. I don't think much of the act. I mostly think of him as being really disgusting.

Lilly, another informant, said, “I just think of a man who is kind of sick and abuses children. For some reason I picture him as maybe a little bit skinny, balding, greasy looking.” Robin and Lilly both describe pedophiles as physically unappealing, unkempt, “sick” and “disgusting.” Both indicated that their mental image was informed by media reports. Ted was not sure where his opinion of sex offenders came from, but he reflected the stereotype nonetheless: “I don't know if it's propaganda and the media. I don't know if it's true, but in my mind, I have the idea that reoffending rates are high and it's hard to rehabilitate these people. I don't have any concrete evidence to support that.”

Marshall has a different mental image of a pedophile:

I have a friend, my dentist growing up that lived across the street, was convicted of molesting neighbors in my area. So whenever I hear the word “pedophile” I actually think of him. I really like the man. I have no hard feelings against him. He is actually a close friend of the family. He was so clean cut, so good looking. I mean, you would think that if he wanted to leave his wife and have an affair that he could have any girl he wanted. The perfect looking guy. He was a like pillar of the community. I remember when I read the newspaper that he’d been arrested, I was like, “Not a chance that he did anything.” I was like, “This guy has been framed.” Because every adult I knew liked him respected him—looked up to him. I was a kid and he was the neighbor across the street that we all looked up to and respected because he was a prominent person. He seemed like he had good relationships with everybody. He seemed like the type of person that you would want your kids to grow up to be like.

Unlike Robin, Lilly, and Ted, Marshall has a personal experience with a child molester. His experience showed him that the stereotype promoted by media coverage was inaccurate—child molesters could be handsome, educated, professional, and respected members of the community. Now, whenever Marshall hears a story about child molestation, he envisions the dentist as the perpetrator. Direct experience with child molesters can easily shatter the stereotype, at least for some.

The dominant discourse ignores the variability of child molesters’ motivations and backgrounds, misrepresents the social danger they pose, and obscures who they are in relation to their victims. In *Why They Did It: Stories of Eight Convicted Child Molesters* (1986), Shirley J. O’Brien interviewed child molesters to learn the motivation for their crimes. The reasons men gave for their actions ranged from anger to sexual and social frustration to the genuine desire to have a romantic relationship with the child. The child molester discourse, however, does not recognize this variability and focuses on the sensational, violent aspects of abuse that are present in the stereotypical kidnappings (where a child is abducted and killed by a complete stranger) that receive the most media attention. Such killings are only a fraction of all child abduction

cases. In 1999, for example, there were only 40 such cases out of 797,500 reports of missing children in the United States (Sedlak et al. 2002:6, 11).

The child molester discourse presupposes a high recidivism rate. New Jersey justified its adoption of further legal restrictions against released child molesters when its legislature “deemed [child molesters] likely to commit similar offenses in the future” (Long 2009:148). A Florida law requiring sex offenders to register with the state employs similar language, “The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment” (Florida Statute 943.0435). The indefinite language used in these statements, signaled by words such as “likely” and “often,” are nods to the child molester discourse. They are also implicit recognitions that the legal regimes cast a net over offenders that do not fit the stereotype.

Proponents of stringent sex offender laws justify their wide scope with a statistic from the Bureau of Justice Statistics, part of the U.S. Department of Justice (DOJ) study indicating that sex offenders have a 43 percent recidivism rate three years after being released from incarceration. This statistic is employed incorrectly—it refers to a general recidivism rate that encompasses all types of crime. The specific recidivism rate (for sex crimes only) is only 5.3 percent for all sex offenders, including those who had committed sex crimes on persons other than children, released from incarceration in 2003. The recidivism rate drops to 3.3 percent if considering only those sex offenders convicted of sex crimes involving children (Langan, Schmitt, and Durose 2003). Regardless of whether the general or specific recidivism rate is cited, sex offenders still reoffend at lower rates than other criminals. Non-sex offenders (e.g., thieves, murderers, drug dealers) have a 68 percent general recidivism rate within three years after

release from incarceration (Langan, Schmitt, and Durose 2003:24). Other studies have suggested that the popular belief in high recidivism rates among child molesters is accurate, particularly among a subset of child molesters who employ violence in the commission of their crimes (Rice et al. 2006). But there is enough evidence to determine whether the fear of sex offender recidivism is supported by the facts of sex offender recidivism.

Finally, and perhaps most importantly, the sex offender discourse obscures the true sources of danger. While child protection agencies urge parents to “indoctrinate their children with stranger danger rhetoric,” there are those who see the stranger danger myth as a “patriarchal ruse” (Angelides 2004:141; Long 2009:145). The Bureau of Justice Statistics asserts that in nearly 50 percent of sex crimes involving children, the victim was the perpetrator's child or other relative (Langan, Schmitt, and Durose 2003). Other studies estimate that up to 86 percent of abusers are related to their victims (Long 2009:160).

Avoidance of implicating a child's relatives in incest or sexual assault has history. Until the 1940s, even medical texts claimed that young girls contracted gonorrhea from toilet seats rather than from their infected fathers (Sacco 2002:80). It is clear that the child molester discourse encourages the public to look most vigilantly for threats where they are least likely to exist.

The dominant child molester discourse may be incorrect, but it has proven to be very useful. The discourse is a powerful set of ideas that meets the public's need to categorize and understand the deviance of child molesters. Though the discourse serves a positive function in this way, it has also led to many negative results for child molesters and other sex offenders, the American public, the legal process, and the status of scientific inquiry.

How the Child Molester Discourse Affects Sex Offenders

I'd like to hold my head up and be proud of who I am,
But they won't let my secret go untold.
I paid the debt I owed 'em, but they're still not satisfied,
Now I'm a branded man out in the cold.
(*Branded Man* by Merle Haggard)

The child molester discourse reflects America's concerns about the potential harm of a very small, but egregious, group of criminals. But law and the public apply the discourse equally to all sexual criminals, regardless of their risk to the community or the nature of their crimes. Referencing the discourse, the law creates sanctions that make it difficult for sex offenders to reintegrate into society after they have been released from incarceration, and the public uses it as justification for discriminating against the sex offenders. The uses of the child molester discourse by law enforcement and the public harm sex offenders materially and psychologically.

The best known legal sanctions against sex offenders are community notification policies, sex offender registries, and residency and workplace restrictions. Community notification actions and sex offender registries include the offender's picture, home address, and other identifying information. The police department where the offender plans to reside often distributes notifications. Although the intent of the notification policy is to arm citizens with the knowledge they need to protect themselves and their families, the policy often leads to different outcomes.

Kernsmith et al. (2009:296) showed that community notification practices engendered fear in the community, rather than increased the community's sense of safety. Child molesters and those who had incestuous relationships engendered the most fear in the study—more than rapists and other types of sexual criminals. This fear (the exact nature of which was undefined) can cause some members of the public to act in negative ways toward sex offenders.

The availability of personal information about sex offenders gives fearful community members tools to discriminate, harass, and seek vigilante justice against sex offenders. Jill Levenson and Leo Cotter, a criminologist and a psychologist, interviewed 183 sex offenders who were participating in outpatient counseling programs in Fort Lauderdale and Tampa, Florida. Of the sex offenders they interviewed; 27 percent had lost a job when their employers or coworkers discovered their criminal records; 35 percent were forced out of a residence when their landlords or neighbors learned about their past; 33 percent had been harassed by neighbors; and 19 percent said that their roommates or family members suffered harassment or property damage. Only 5 percent of the offenders reported being physically assaulted (Levenson and Cotter 2005:58).

Derek Logue, a sex offender who became an activist for sex offender rights, says that sex offenders experience more physical harassment than suggested by Levenson and Cotter's study. Logue's assertion is anecdotal, but it is based on his personal experience and activism on behalf of sex offender rights. He argues that offenders are reluctant to report physical altercations out of fear police will blame them for instigating the fight. Logue also points out that sex offenders prefer to "fly under the radar" and avoid unnecessary dealings with law enforcement. It is difficult to judge the validity of Logue's assertion based on Levenson and Cotter's study, as the researchers were not affiliated with law enforcement. However, since the study was conducted in court-mandated counseling sessions, it is possible that the offenders worried that their interviews could eventually come to the attention of law enforcement.

At least some people express a willingness to harm sex offenders, so it is possible Derek is correct. Although most of my informants expressed varying degrees of sympathy for child molesters, Brianna felt differently: "If somebody did that to one of my nieces or nephews, my theory is that there are some things worth going to prison for. It won't happen again. Better hope

you get locked up forever. Better turn yourself in first, because if I get you, you will live, but you will live in pain for the rest of your life.” It is uncertain if Brianna would follow through with her threat, but it does indicate that at least some people approve of the use of violence against child molesters.

There have been several cases where vigilantes murdered sex offenders after learning about them from community notification and on-line registries (Canfield 2006; Jost et al. 2007; La Ganga 2007; Pace 2005). Interestingly, these acts do not appear to be motivated by revenge. Rather, they appear to be predicated by moral judgments that the offender deserved to die and by fear that the offender would repeat his offense—both motivations that stem from the child molester discourse.

One case also demonstrates that the public is not trained to interpret the information it is given about an offender. Ivan Garcia Oliver murdered Michael A. Dodele because Oliver believed him to be a child molester. Dodele’s entry in California’s sex offender registry listed his crime as “oral copulation with a person under 14 *or* by force [emphasis added],” which gave Oliver the impression that Dodele committed a crime against a minor. In reality, Dodele sexually assaulted an adult woman by force (La Ganga 2007). As stigmatized “others,” sex offenders represent unknown and unknowable entities and the child molester discourse slips into this knowledge gap and supplies the interpretive framework for any individual found on the registry (Meyer 2007:68-69).

Adding to the difficulties caused by community notification and sex offender registries, many communities have adopted additional sex offender laws. Local and state lawmakers have created laws that restrict where a sex offender may live, loiter, or work. These exclusion zones can have a deleterious effect on convicted sex offenders by making it difficult for them to find a

place to live or work that is not in violation of the law. This difficulty is compounded by the fact that the Adam Walsh Act mandates long prison sentences for sex offenders who do not comply with the terms of their release. The details of residency restrictions are not uniform between states or communities, but describable by their general form. Residency restrictions prevent anyone convicted of a sex offense (regardless of the age of the victim) from living or working within a certain distance of schools, parks, daycare centers, or other places where children congregate. The required distance is usually around a 1,000 feet, but can be up to a half mile from the target area. These policies can have the practical effect of making it illegal for sex offenders to live in certain communities. An extreme example of these policies actually forced sex offenders into state-sanctioned homelessness.

Dade County, Florida, law restricts sex offenders from living within 2,500 feet of places frequented by children (Lush 2009). This distance and Dade County's urban sprawl made it impossible for newly released sex offenders to find housing they could afford and still comply with the law. In a stunning act of malfeasance, Florida's Department of Corrections housed the offenders under a highway bridge for over two years (Lush 2009). This situation continued until the media and ACLU brought it to the attention of the wider state government. Though the example from Florida is exceptional, it is indicative of the problem many sex offenders face after prison—homelessness caused by residency restrictions and discrimination (Koch 2007a).

The child molester discourse materially affects child molesters in other ways as well. Three recent bills dealing with small business loans, federal home loans, and unemployment compensation explicitly restrict those convicted of a sexual crime against a minor from receiving benefits under the bill, even though the connection to child protection is not clear (H.R.5072; H.R.5618; U.S. Public Law No: 111-240). Furthermore, child molesters are the only types of

criminals precluded in the legislation. These laws, which have no connection to child abuse prevention, challenge the assertion that sex offender restrictions are meant to be civil rather than punitive.

Sex offenders are also psychologically affected by the child molester discourse. The discourse is an act of labeling that transforms sex offenders from regular U.S. citizens into alien others. Labeling is a tool to identify and understand deviants, but it can also change how deviants understand themselves. Monica L. P. Robbers (2009:6), a criminologist at Marymount University, notes that labeling can have two outcomes—reintegrative and disintegrative shaming:

Reintegrative shaming occurs temporarily while the offender is being punished, but once punishment is complete, the offender is welcomed back into society....Disintegrative shaming occurs when an offender is not welcomed back into society upon completion of a sentence and is instead shunned and stigmatized.

Sex offenders experience disintegrative shaming because the dominant child molester discourse insists on their dangerousness and recidivism. Sex offenders are not able to rebuild their lives after serving their punishment because the law enforces a permanent identity through post-incarceration restrictions. Child molesters do not have the ability to keep their criminal past (more or less) secret like nonsexual offenders.

Robbers (2009:22, 24) noted that disintegrative shaming created by the current sex offender legislation can have two effects on sex offenders—with the first leading to the second. The first is the formation of a negative “low self-esteem as well as feelings of worthlessness...loss of civic identity and increased psychological stress.” Of the sex offenders she surveyed, 83 percent felt embarrassed or shamed, 88 percent felt isolated, 87 percent felt

despair or hopelessness, 85 percent felt persecuted, and 27 percent had contemplated suicide (ibid:16).

A sex crime overshadows a sex offender's prior life to the point where the offender's identity is coterminous with the child molester discourse. This is a particularly important result of disintegrative shaming. This loss of civic identity is particularly vivid in the case of Christopher Calandrella. At 3:00 A.M. on February 26, 2009, 47-year-old Christopher Calandrella was crossing a busy six-lane road in Orlando, Florida. Antoinette Whitley did not see him on the dark road and hit him with her car. She quickly stopped her car on the side of the road and exited her vehicle with the intent of helping Christopher. Before Antoinette could reach him, a semi-truck hit and decapitated Christopher as he lay in the roadway. The driver did not stop.

When the *Orlando Sentinel* published the story on its Web site the next day, Christopher's identity was unknown and the paper's readers expressed regret at his horrible death. On March 3, 2009, the *Orlando Sentinel* published a report that Christopher Calandrella was a homeless child molester, who had a warrant for his arrest in Wyoming for failing to adhere to his probation requirements (Pacheco 2009). The sympathy readers had previously expressed for the loss of human life was replaced with comments celebrating Christopher's death: "Are they going to give the truck driver an award?"; "Here is a fitting end to a wretched life of perversion and evil"; "It's karma!" (Topix 2009). Although the anonymity of the Internet can encourage callous remarks, my interviews also confirmed that sex offenders experience a loss of civic identity as a result of disintegrative shaming. All of my respondents recategorized the lives of sex offenders to some degree, expressing doubt that most offenders could ever lead productive social lives again.

The second effect of disintegrative shaming, which stems from the psychological stress most sex offenders experience because of their label, is the risk that offenders will accept the label as true. The acceptance of the label, and the conditions that make its application an instance of disintegrative shaming, can lead to secondary deviance. This problem has two facets. The first facet is the offender's self-belief. Some offenders, after their harrowing experience with the criminal justice system and the social aftermath, adopt the attitude that: "No one believes I can change, so why even try?" (Levenson and Cotter 2005:52). This signals a belief that surrendering to society's preconceived notions of sex offenders is easier than performing the tough work of personal change, which is likely to be unrewarded. The second facet is that disintegrative shaming creates an environment for the sex offender in which new sexual offenses become likely. The social isolation, loss of civic identity, and lack of hope is thought to contribute to the risk of recidivism in sex offenders (Robbers 2009:11).

Derek Logue expressed the same sentiment during my interview with him. He also wrote about it in his book *Once Fallen* (Logue 2009:4): "This label [registered sex offender] carries with it a 'social death sentence'; sex offenders are considered the scourge of society, deserving of death, castration, concentration camps, and torture." There are not any legal provisions allowing for the torture of sex offenders. Logue is reflecting his personal experience as a sex offender, which seems like civil or social torture to him. His past interferes with his current life. Finding gainful employment was a challenge: "During the next couple of months, I would face rejection after rejection after rejection. I tried offices, manual labor jobs, even fast food, to no avail." (Logue 2009:24). He cannot live with his girlfriend or spend the night at her house because she has a minor son. (This may seem to be a common sense restriction, but Logue's

crime was against a female. Child molesters often have gender preferences.) Logue has even considered suicide.

How the Child Molester Discourse Affects the Public

The dominant child molester discourse has affected how women, men, and children react to and make decisions about social situations. Diane, a mother of two, is more aware of potential threats her children might face when they are out of her care. She is also concerned about how she interacts with children:

I am just more aware of different things. Like for school clubs, a lot of counsel is given not to give people rides, you know, just one youth with just one adult leader or something. Make sure there is always multiple people. And having your kids grow up to be a little older and wanting to go to play at people's houses and you're not going to be there, so you start thinking about that.

The child molester discourse has also had unexpected effects on nonoffending males. The fact that females comprise 89 percent of the victims of CSA and that males are 95 percent of the perpetrators suggests that gender issues play a significant role in Americans' understanding of CSA. It is beyond the scope of this investigation to address why gender plays a role in CSA and how gender is constructed in America. However, CSA's effects on Americans' understanding of gender are pertinent. In reference to males as the dominant offenders, John Walsh, a leading proponent of child molester legislation, says that parents should never hire male babysitters. Some men's rights advocates, such as Marc H. Rudov, are incensed by Walsh's suggestion. Rudov responded by saying, "If boys can't be baby sitters, then they shouldn't be allowed to be fathers, either. Then you shouldn't let John Walsh near your kids either, because, by his definition, he's dangerous" (Hart 2007). Even if some men are concerned about being profiled,

the fact is that the child molester discourse has chilled some men's relations with children in public.

One of my respondents, Dan, a father of three, worries about how people interpret his actions with his sons while in public, or his interactions with children at church:

I find that I am really cautious about how I behave because I don't ever want to be accused of something like that. So I find that I always try to watch what I do. So if there was ever an opportunity to be alone with a kid, I would never, I would just avoid those situations at all costs, because I just would never be accused of something like that. And it's the kind of thing that if you are accused of, it's really hard to defend yourself against.

He worries that someone might think he is acting inappropriately and fears the massive disruption that an accusation of child molestation would cause his family. Dan's worries do not appear to be idiosyncratic. Jeff Zaslow, a columnist for the *Wall Street Journal*, described a story about a doctor in Austin, Texas, who refused to help a child lost in the mall because he was afraid people would think he was a child molester. He said, "Being male, I am guilty until proven innocent" (Zaslow 2007). Zaslow wrote that child protection groups and police departments advise that children lost in malls should seek out a low-risk adult such as a pregnant woman, a mother with her children, or a grandmother. The message is clear—men are high risk and women are nurturers.

The effect of the child molester discourse has also been noticed by researchers. Susan B. Murray conducted field interviews with both male and female childcare workers. Her research showed how "deeply feminized" childcare work is (Murray 1996:368). Male childcare workers are regarded as suspicious for wanting to perform that type of work, and the suspicion is even greater if the male is gay (Murray 1996:381). One male worker was accused of inappropriate behavior with a little girl—even though he was gay. In some daycares, men are not allowed to help children in the bathroom or hold them on their laps (Murray 1996:382). The tension that

men face in the daycare setting can follow them into other public spaces. Some airlines have a policy prohibiting men from sitting next to unaccompanied children. Some men have reported feelings of stigma when they are “cast as potentially dangerous threats to children, and their lives are subject to constant scrutiny and regulation” (Hodgetts and Rua 2008:540).

My own experience as an adult male reflects this hesitancy to interact with children, both on my part and, sometimes, on the part of the children themselves. Before entering graduate school, I worked for a nonprofit organization in Orlando, Florida, that addresses the educational needs of children. It was sometimes necessary for me (and other members of the organization) to spend time alone with children during our daily business. One instance stands out for me and is one of the reasons I became interested in this topic. My organization was staging its annual fundraising dinner and I was responsible for transporting a 12-year-old girl from our offices to the event location. It had crossed my mind that I was nervous about this assignment. I knew, of course, that my behavior toward the girl would be both appropriate and professional, but in the back of my mind I was worried that the young lady might interpret my behavior as inappropriate and raise concerns with my employer and her parents. When she arrived at the reception area of the office, I was paged to meet her. After exchanging pleasantries with the student and her father, her father said to her, “See, he’s not an axe murder. Are you okay to go with him?” After eyeing me carefully for a moment, the student agreed for me to take her to the event. Everyone in the office laughed a little bit, but it was clear that the student was nervous. It seems that we each had concerns about the arrangement. The discourse is powerful enough to cause me, an innocent person, to feel nervous about the way my behavior could be interpreted.

Although I disliked being scrutinized for possible sexual or moral deviance, I realized that the young lady I was about to chaperone had real fears that needed to be addressed. As much

as I feel that my social reality has changed, I cannot help but wonder how difficult it might be to grow up in a world where every strange man is a potential threat. Children, it seems, may be as affected by the dominant child molester discourse as men.

Although real children have real fears of victimization, child molesters have nonetheless become sources of entertainment. Even if society uses the language of disgust and pollution to discuss child molesters and their crimes, Americans still like to see them on television (Lynch 2002). Media coverage sensationalizes the details of child sexual abuse to enhance their ratings, rendering the coverage equal parts news and prurient entertainment. Perhaps the most striking example of this formula is the now defunct NBC television show *To Catch a Predator*. The premise of the show was to lure men, who thought they had been talking to an underage girl on the Internet, to a designated house for a sexual encounter. When the man arrived at the house for the liaison, an actor posing as a young girl greeted him at the door, but quickly made an excuse to leave the room. When the actor left the room, the show's host would walk out to confront the befuddled man. After the host told the man that the date was a trap, pointed out the hidden cameras, and declared him a twisted psychopath, police officers appeared and arrest the would-be child molester.

It is beyond the scope of this paper to explore the reasons why Americans like *To Catch a Predator*. However, James Kincaid (1992), an English professor and literary critic at the University of California, has suggested that Americans like to be reminded of the rightness of their morality by seeing stories of fallen or twisted "others," taking pleasure in not being one of them. His observation is compatible with the theories of deviance and labeling discussed here. The problem is that the consumption of such shows trivializes the serious issue of child molestation while doing little to solve the problem.

How the Child Molester Discourse Affects the Legal Process and Scientific Inquiry

The strength of the child molester discourse has had chilling effects on public debates about sex offender legislation and the outcomes of child sexual abuse. This may not appear to be a large issue at first. CSA is a valence issue (Nelson 1984:27) and very few people would argue against laws to control sex offenders or deny that CSA can harm children. These issues are effectively tabled. Rather, the debates that are being silenced are about the shape of the sex offender policies and the extent to which children are harmed by CSA.

The child molester discourse insists that the number of cases of CSA is growing. Sample and Kadleck's (2008:52) research on the effect of the discourse shows a disturbing response from lawmakers. A legislator they interviewed said:

I can't go anywhere without someone asking me about some story they heard on the news. "Did you hear about that little girl who was raped and killed . . . What are you doing about that?" You know, they hear something about some child who has been raped and killed, and then boom, I have another bill to vote on, and I'm sure not going to vote no.

This legislator believes he must vote "yes" on sex offender legislation or suffer political damage. John Sarcone, the county attorney for Des Moines, Iowa, agrees, "There are some horrendous crimes perpetrated against kids, and we want to protect them ... but this 2,000-foot rule is not protection for kids. It protects politicians" (Long 2009:154).

Legislators are quick to respond to calls for laws that protect them and their children from child molesters. When lawmakers act quickly on sex offender legislation, they appease the public and appear tough on crime. The danger in this approach is that lawmakers pass hastily written legislation without fully considering its ramifications. Illinois State Representative John Fritchey voiced this concern when debating the Adam Walsh Act of 2006. He said, "The reality is that sex offenders are a great political target, but that doesn't mean any law under the sun is

appropriate” (Long 2009:147). Representative Fritchey’s statement is encouraging, but few join him in exercising constraint in the passing of sex offender legislation.

In light of the Adam Walsh case and others, where the child was ultimately killed, it is easy to understand why the public calls for sex offender legislation and why legislators give into them. The reality is that most cases of CSA do not end in the death of the child. That is not to say that child molesters pose little risk to children. My informants are of the opinion that CSA has persistent and harmful effects:

When I hear of something like that I think, “Poor kid—that child’s life is changed forever.” Abuse has lasting effects for a kid and there’s no way to change that. Our society in general is really protective of children and so I think that there’s these strong reactions because people don’t want to see that happen. You can’t undo some things.

Numerous studies demonstrate that individual victims do experience deleterious effects from CSA. Child sexual abuse has been linked to an increased risk of psychiatric disorders that include generalized anxiety disorder, social phobias, panic disorders, agoraphobia, bipolar disorder, depression, eating disorders, obsessive-compulsive disorder, post-traumatic stress disorder, sleep disorders, and suicide attempts (Chen et al. 2009:619). Victims of CSA are also predisposed to high-risk behaviors such as drug abuse and unprotected sex. Additionally, the severity of the sexual abuse (defined as the use of force and genital-to-genital contact) contributes to the severity of the symptoms that result from the abuse (Mimiaga et al. 2009:341).

There is no constellation of problems that characterize a “post-child abuse syndrome” (Cantón-Cortés and Cantón 2008:497). The lack of a clear pathogenesis and the wide-ranging symptoms attributed to CSA led psychologists Bruce Rind, Philip Tromovitch, and Robert Bauserman (Rind, Tromovitch, and Bauserman 1998) to question whether the traditional assumptions of the harmfulness of CSA were correct.

Rind and his colleagues conducted a meta-analysis of 59 studies of college students with a history of CSA. Their goal was to assess how CSA affected victims' psychological adjustment. The concept of psychological adjustment included factors such as alcohol problems, anxiety, depression, eating disorders, self-esteem issues, poor sexual and social adjustment, and suicidal thoughts. The authors also thought it was important to recognize that the category of CSA was too broad to be useful when it included both the raping of a five-year-old and consensual sex between a 15-and a 20-year-old. The problem, according to the authors, with labeling both of these acts as CSA is that the former is certainly the abuse of a person and the latter is an "abuse" of social norms.

Rind et al. concluded that those students who had experienced CSA were slightly less well psychologically adjusted than students who had not. However, they discovered that effects of the victim's family environment were confounded with the effects of CSA. Additionally, the family environment was nine times better at predicting psychological adjustment problems than CSA. Finally, and most importantly to public debates about the effects of CSA, they concluded that CSA did not lead to inevitable outcomes of long-term and pervasive suffering.

This study appeared in a 1998 issue of the *Psychological Bulletin*, a publication of the American Psychological Association (APA), and did not draw much attention at first. Unfortunately, for Rind et al., the North American Man/Boy Love Association posted the study on its Web site in an attempt to justify its position that intergenerational sex was not harmful. When this occurred, conservative organizations such as the Christian Coalition and Family Research Council began to attack the article, saying it was a defense of child abusers (Haaken and Lamb 2000:8). Dr. Laura Schlessinger, a popular radio personality at the time, even went so far as to accuse the authors of travelling the world to promote the virtues of intergenerational

sex. Eventually, the article gained enough notoriety that both houses of Congress voted unanimously (with a few abstentions) to condemn the article's findings (Wakefield 2006:2)

Controversy enveloped the article because its findings were contrary to the belief that children are inevitably harmed by CSA. Additionally, the authors' suggestion that some children might be willing participants in sexual relationships with adults was incompatible with the child molester discourse, which unquestioningly and uncritically configures any child-adult sex as abuse. The article's methodology was also attacked even though it was peer-reviewed before it was published. The APA's executive director asked the American Association for the Advancement of Science (AAAS) to review the article's methodology and findings. The AAAS refused to review the article, citing its concern that the politicization of the issue "by those in the political arena and in the media indicate a lack of understanding of the analysis presented by the authors or misrepresented the article's findings" (Wakefield 2006:2). The AAAS's criticism of the reaction to the paper illustrates the problem of allowing discourse to control research. The public figures that criticized the study were largely unqualified to judge its merits. Laura Schlessinger has a Ph.D. in physiology, not psychology, and the majority of the members of Congress are not scientists of any stripe. Thus, the Senate's resolution stating that intergenerational sex could not be "anything but abusive, destructive, exploitive, [and] reprehensible" demonstrated the body's unwillingness to consider the possibility that any other interpretation of the act was possible (Wakefield 2006:2).

This controversy was not the first time an incident like this had occurred. Alfred Kinsey, a founding father of American sexology, was also roundly criticized for statements like "it is difficult to understand why a child, except for its cultural conditioning, should be disturbed at having its genitalia touched, or disturbed at seeing the genitalia of other persons, or disturbed at

even more specific sexual contacts” (Angelides 2004:143-144). Kinsey’s critics called him everything from a pervert to a Communist (Carey 2004).

Other sexologists have been censured for statements that challenge the accepted discourse about intergenerational sex (Wakefield 2006:2). It is understandable. Suggestions that children could sometimes be the aggressor, not the victims, in adult–child sexual relationships and that incest between fathers and daughters could create “beautiful and mutually satisfying relationships”; or that adult–child relationships were not harmful do appear radical when viewed from the lens of the child molester discourse (Jenkins 1998:104).

Hollida Wakefield, a forensic psychologist, is pessimistic about the ability to have thoughtful debates about how to conduct scientific research on CSA. Whenever she tells people that she psychologically evaluates sex offenders, she receives the same response:

“I know what I'd do, I'd take that guy outside and shoot him. None of them should be given a second chance." This is the typical reaction I get when I tell people I review child interviews in sexual abuse cases or evaluate sex offenders. It doesn't matter whether the person is male or female, young or old, conservative or liberal. I have heard such sentiments from all manner of people. It may, by now, simply be impossible to do the type of research that will help solve important social problems dealing with sexual behavior.

If Wakefield is correct, then U.S. society’s ability to learn about child sex offenses, prevent them from occurring, and treat the victims will be severely hampered. As Curtis said, “Sex with children may be normal in some cultures, but it’s not normal. It’s never normal.” He is unwilling to examine culture-specific concepts of appropriateness and believes in an absolute morality. It seems that at least some Americans have already made up their minds about sex offenders.

Chapter Four

What Americans Think of Children

“The child is father to the man.”

William Wordsworth, *My Heart Leaps up When I Behold*

The dominant child molester discourse does not reflect the identity and nature of the majority of sex offenders. The sex offenders that Curtis and Marshall described were well known to them and not the shadowy stranger of media reports. The assertion that CSA inevitably harms children is also questionable. Notions of harm should be revisited to recognize that there are various outcomes of adult–child sex. Despite the evidence, popular ideas about the harm of CSA seem fixed. Why?

Haaken and Lamb (2000:13), reflecting on the Rind et al. controversy, ask this poignant question, “How can we send adolescents to prison and adult court for murder and also say that an adolescent boy who seeks to have sex with an adult can give no consent?” This contradiction is central to the question of why the dominant child molester discourse persists.

The writer Niki Delson (2007) brings the issue into sharper focus:

Legal age of consent is out of sync with normal sexual development and adolescents are given conflicting and many confusing messages about human behavior. For example, they can generally consent to abortion and obtain birth control at age 12 but cannot consent to sex until 16 or 18 (depending on the state).

The messages that American children receive about sex reflect American adults’ conflicted relationship with it. Adults consider sex to be a pleasurable activity, but fraught with dangers like disease, emotional turmoil, and unwanted pregnancy—making it inappropriate for children.

Rebecca, who has grown children, said that: “Children can make their own decisions but are not

aware of the consequences of their sexual actions.” The contradictory permissions American adults give to their children are based on this view. I suggest that the reason these ideas obtain is due to how Americans’ understand childhood and sex.

For Americans, childhood is not simply a period of life, and sex is not simply a group of acts. Childhood and sex are both categories of being and categories of acting. Although both categories are contested, a mainstream understanding of them does exist. Children are expected to possess certain qualities (curiosity, happiness, innocence, playfulness) and to behave in certain ways (dependently, obediently, respectfully). Likewise, sex includes expected sets of behaviors (monogamy, partner satisfaction) and responsibilities (appropriate choice of partner, disease prevention). In the American mind, each category is mutually exclusive leading to cognitive dissonance when considered together. The main conflict is between the innocence that defines childhood and the dirtiness that comes from sex.

Ideas about Childhood

What is a child? When is childhood? What should childhood be like? The answers to these questions vary, depending on where and when they are asked. In *The Anthropology of Childhood: Cherubs, Chattel, and Changelings*, David F. Lancy explores the ways people think about children and what it means to be a child around the world. Depending on the social and economic conditions of the parents, a child can be considered a blessing (cherub), an economic resource (chattel), or a curse (changeling—a fairy, elf, or some other mystical creature that secretly replaces a human child) (Lancy 2008:2-3). Lancy’s book shows that, within these categories, there are myriad ways the child relates to and is treated by its parents and others.

Childhood is both a period of biological maturation and social integration. Childhood, in both its senses, is culturally constructed to meet the needs of the group into which the child is born. Childhood is a time to learn gender roles and cultural skills that are required of successful adults as well as the types of activities in which children are allowed to participate. What may be less obvious is that the biological aspect of childhood is also culturally constructed. The amount of food and medical resources given to children is culturally determined. From the first day of its life, a child born in the United States is subject to the interventions and inoculations of the medical establishment. Calorie-dense foods and a sedentary lifestyle have created an epidemic of childhood obesity, the legacy of which can have a life-long effect. In China, the one-child policy has created “little emperors,” who are doted upon by parents and grandparents (Goodspeed 1991). With China's industrializing food supply, this is causing obesity and related diseases in prepubescent children. In contrast, the Yoruba of Nigeria feed their children table scraps that are barely recognizable as food. The adults eat their fill before the children are even considered. This is not malicious behavior, however. Yoruba believe that feeding a child too well will spoil its personality (Lancy 2008:121). This practice leads to chronic malnutrition among Yoruba children, which is evident in their overall health and leaves diagnostic markers in their bones and teeth that are evident for the rest of their lives (Price 2007:388-390).

The length of childhood is also culturally determined. Western societies tend to link biological and social maturation and delay the onset of adulthood until the late teens or early twenties. In the U.S., children do not cross into legal adulthood (the age of majority) until they reach 18 years of age. My informant, Barney, has a concept of adulthood that emphasizes understanding the impacts of decisions. Children, he says, do not have this ability:

You don't have an understanding and don't know the mistakes that you can make at 14, 15, 16 that can really hurt you. If you are taking pictures of yourself at 16 and sending them to people, that's a childish mistake. I think I still see them as children all the way up to the point where you hopefully move on with your life at the age of 18.

For the Pygmies of central Africa, however, childhood ends for boys when they have enough skill and strength to kill an animal that is large enough to feed their family; it ends for girls at the onset of menarche (Turnbull 1961:227; 187).

The types of tasks and economic contributions children are permitted to make vary between cultures as well. In the U.S., children are not permitted to work in most businesses until they have reached their mid teens—though there are exceptions. Other groups have different thresholds for maturation and entrance into adult roles. In eastern Africa, Maasai children begin to tend a herd of goats around the age of five or six. As they prove their ability with the goats, the children graduate to working with their family's cattle herds—a vital economic activity (Archambault 2009:289). For Indian families in debt bondage in the Tamil Nadu brickyards, children are viewed as an extra set of hands to help the family fulfill its production quotas (Bhukuth 2005:293).

Nutritional independence, a concept that can be considered independently of social maturation, also differs between groups. The children of Torres Straights islanders gain adult levels of proficiency in spear fishing and foraging on the reef around the age of 10 (Lancy 2008:6). The children of Hadza foragers in Tanzania help with the search for food and provide about half of their own caloric needs (ibid :103). These examples stand in stark contrast to the abilities of American children.

Many Americans (and other people, I suspect) like to think of the categories they use to understand the world as being relatively fixed, at least within their lifetimes. Challenges to the

“natural order” can be upsetting. These categories do change, however, for reasons such as overt challenges (gay rights, for example), as well as more subtle economic and philosophical reasons. The preceding comparison of U.S. children to their counterparts in other cultures was meant to illustrate the many ways children exist in the world. The comparison also highlights several characteristics of children in the West. The next section explains how those characteristics developed.

The Development of the Child and Childhood in the West

Western societies tend to think of their children as desirable, innocent, and playful companions—but rather useless for anything else. My informant, Lilly, sees childhood as a time of innocence and safety that comes from them living in a separate world: “I think children should be innocent, shouldn’t have to worry about too much of the problems in the world. And just let their imaginations guide what they do in *their* [emphasis added] world. I think childhood is about exploring and having fun and not worrying too much.”

Though this way of thinking about children may seem natural to a Westerner, it is a relatively recent development. Phillipe Ariès, a French historian, maintains that the modern conception of childhood did not exist until the middle of the 18th century. Before then, children were not accorded a special place in society. Ariès (1962:125) wrote that “as soon as you can walk around without the constant attention of your mother or nursemaid, a child simply joined adult society as an inept adult.”

An archaeological example helps support his point. An excavation of a 10th century graveyard in Briton found several graves of children (or more accurately, subadults) who had been interred with swords and other full-sized weapons. The grave goods suggested that the

children were warriors, but it was almost certain that they could not have managed the weight of the weapons. One solution to the mystery was offered by archaeologist Sally Crawford when she noted that, for the Anglo-Saxons in the seventh century, individuals over 10 years of age were considered adults. Therefore, even if the individuals could not have used the weapons, they were still included in the burial rights because the weapons were the legitimate accessories of adult life.

Ariès relied on an extensive review of medieval art, literature, and other writings to support his conclusion. He noted that, “Medieval art until about the twelfth century did not know childhood or did not attempt to portray it. It is hard to believe that this neglect was due to incompetence or incapacity; it seems more probable that there was no place for childhood in the medieval world” (Ariès 1962:33). Though Ariès' point that children did not exist in the past was constructed rather narrowly, ignored ancient cultures such as Egypt and Sparta, and was even challenged on the European continent, he did bring attention to the fact that the child as we know it is socially constructed.

A brief survey of the Madonna and child motif from the medieval period demonstrates Ariès's point. For example, in Berlinghiero's version of the motif from 1230 A.D., the Christ figure resembles a tiny man, what Ariès calls a “shrunken homunculus,” rather than an infant or child. The proportions of the Christ figure are those of a man and the full head of hair even seems to be receding. Lorenzo Di Bicci's *Madonna and Child with Angels*, circa 1405-1410, shows a slightly more plump Christ figure reminiscent of a child or infant. The facial features, however, are still those of a grown man, as are the well-defined abdominal and pectoral muscles. Finally, Raphael's 1503 version of the motif features a Christ figure that can easily be recognized

as an infant. Raphael's Christ has rounded features, a chubby belly, infantile face, and limb proportions that are appropriate for an infant.

Developments in philosophical thought also contributed to the development of the modern concept of the child. In the Middle Ages, Christianity stressed the concept of Original Sin: all humans are born in an imperfect state, bearing the scar from Adam's transgression against God in the Garden of Eden. Thomas Hobbes, in his 1651 book *Leviathan*, worked within this paradigm and incorporated the concept into his writing. *Leviathan* sought to legitimate Europe's monarchies by demonstrating humanity's fallen nature and need for direction and guidance. To Hobbes, all humans entered the world with the mark of original sin. Therefore, humans were prone to evil deeds and were not capable of living in social harmony without guidance. God provided guidance in the form of monarchs and parents. Only through knowledge gained from experience could the evil impulses be tamed and proper social living be achieved. Though Hobbes never addressed childhood as a condition directly, the roots of this thought are clear in his prose. Parents and monarchs both subscribed to these beliefs (James, Jenks, and Prout 1998:12).

John Locke, also raised in a Puritan background, did address the lives and education of children. In *An Essay Concerning Human Understanding*, from 1690, Locke rejected original sin and claimed that children were born as a blank slate, but possessing the ability to reason. Children were simply actors, predisposed to neither good or evil, with the capacity to interpret their environments based on the experiences that were provided. Experience was the key to knowledge, and it was the responsibility of the parents to provide the correct sort of environment for the growing child (ibid :16).

Jean Jacques Rousseau is responsible for the formulation of the modern concept of the child. Like Locke, Rousseau rejected the concept of original sin. Where they differ is in their ideas of how children are composed. Where Locke favored the idea of an “empty child,” Rousseau believed that children were born complete and that they “leave the hands of the creator perfect and pure.” Comparing this formulation to Hobbes's “evil child,” Rousseau believed that children were born perfect but were corrupted by society, whereas Hobbes viewed children as a destabilizing force on society. Rousseau's formulation stressed the corruption of the world but the perfectness of the creator and the creator's work. Therefore, it was incumbent on the parents to shepherd their child through the dangers presented by society and protect the child's innocence. It is important to note that Rousseau's innocence was a positive quality that could be measured, whereas Locke's innocence was an emptiness, or lack of quality (ibid :13).

Though Rousseau's ideas have had a great influence on Western concepts of childhood, economic and political factors also helped to create the modern child. In Victorian England, children comprised the main workforce of industries like textiles (Nieuwenhuys 1996:239). Some historians have proposed that the British government regulated child labor to encourage the expensive process of mechanization over inexpensive child labor. Other historians argue that the British government became concerned with the mass of uneducated, hardened children who worked the same long hours as adults and spent much of their leisure time with them as well. British politicians viewed them as a potential threat that could one day destabilize society with their rough manners and raw minds, which had not been disciplined by social institutions like the army, church, or schools. Child labor laws and the rise of schooling became ways for the government to mold precocious children into adult citizens (ibid :239).

David Lancy (2008:25) refers to the United States as a neontocracy—a society that privileges children over older adults. Children are highly valued. The amount of resources and services dedicated to children’s well-being in the U.S. is staggering. Even poor children in the U.S. have more resources dedicated to them (as measured in dollars), by the state, if not by their parents, than children in most of the developing world. In a neontocracy, children also control or influence the expenditure of incredible amounts of attention, resources, and time. One example of this pattern is the Nickelodeon Suites Resort in Orlando, Florida, where children are immersed in the world of Nickelodeon characters. The only attraction for their parents is the hotel bar. One estimate suggests that children directly spend \$12 billion and indirectly influence more than \$165 billion of spending by their families (Robbins 2008:37). This is a great deal of money for an “economically worthless” class of people to control.

American adults not only strive to please their children, they try hard to retain the youthful appearance that they value in children. Plastic surgery, hair coloring, wrinkle-fighting ointments, slimming undergarments, weight loss plans, and exercise regimens are all evidence of American adults’ preoccupation with looking younger. It is no wonder that Americans want to look and be young. Many of the aged are shuffled off to residential institutions to live out their final years because their family considers caring for them to be a burden. Meanwhile, the same people who have just marginalized their parents are willing to invest an incredible amount of time and money on their children. The beginning of life is valued much more than the end of it. These patterns exist in stark contrast to many agrarian societies that privilege their elderly members. In these societies, children may not even be named until the group determines they are strong enough to survive (Lancy 2008:11).

The neontocracy combines features of Locke's empty child and Rousseau's innocent child. On the one hand, Americans view children as vessels in which they can deposit whatever desires, dreams, and personal qualities they value, with the hope that the child will carry them into the future. Children are symbolically important for Americans. Yet, this view of children as "vessels" must not interfere with the inborn innocence that Rousseau suggested—an innocence that is under constant attack. These two concepts have led to childhood becoming more narrow and proscribed by adult authority at the same time that sexual fields are broadening.

American Conceptions of Sex

Ideas about sexuality in the U.S. are both complex and contested. This contested nature makes it difficult to talk about a singular American approach to sexuality and sexual issues. The sexual revolution and the advent of the birth control pill changed the focus of some sexual relations from procreation to pleasure. Masturbation is no longer widely viewed as self-pollution, and homosexual behavior is no longer classified as a mental illness. Yet, a conservative sexuality still insists sex is for procreation only, and masturbation and homosexuality are sins. There are countless interpretations between these positions.

The fact that children have an active sexuality is well-established (Calderone 2001; Foucault 1978:27-30). Nonetheless, American adults think of children as asexual—or at least protosexual—preferring to delay children's sexual expression for as long as possible. The majority of people feel that adult sexuality does not belong in the realm of childhood (Gooren 2010:4). Lilly, who does not have children, said, "Children are not supposed to be sexual at all." Some of my other informants recognized that children do have sexual feelings, but that

expressions of sexuality by children are simple exploration. Marshall gave a representative response:

I think that they have experiences with sexuality but I don't think they are sexual experiences, if that makes any sense. So, like a kid of a certain age could have exposure to a naked body with someone and maybe play around with body parts and stuff, but I don't think in a sexual nature. It is maybe more curious, or maybe innocent. It's just different. So if two three-year-old boys were to play with each other's penises, it's just different.

Many American parents teach their children about sex at home when their children begin to ask questions about intimacy or approach puberty. American children are also taught about sex in formal settings, like sex education classes in public schools, where they often receive strong encouragement to remain celibate until marriage. American attitudes about child sexuality are not universal, however. For the children of the Dobe Ju/'hoansi of southern Africa, sexuality is part of the child's everyday experience. When children are young, they sleep under the same blanket with their parents and are present when their parents quietly have sex at night. One Ju woman said, "When a child sleeps besides his mother, in front, and his father sleeps behind and makes love to her, the child watches. Perhaps this is the way the child learns. Because as his father lies with his mother, the child watches" (Lee 1993:90). As Ju children mature, they start sexual experimentation with their age mates that can include intercourse (Lee 1993:91). It seems that for the Dobe Ju/'hoansi childhood exposure to sex does not carry the same worry that it does for American parents.

Sexual exploration among children is common. When Margaret Mead visited Samoa in 1926, she learned that Samoan children of the time were similarly experienced with sex. Children as young as ten would spend their time scouring the palm groves around their village in hopes of spying on two lovers having sex. Like the Dobe Ju/'hoansi, Samoan children were also privy to sexual encounters in their homes. The interior walls were made of mosquito netting and

children were familiar with adult sexual relations (Mead 1961[1928]:135-136). Masturbation and casual homosexual practices are common among children. The adult attitude toward such practices was one of acceptance, with the exception of public displays of sexual expression. At the time, Samoan culture frowned upon open sexuality even among married couples.

Not all non-Western peoples share the same beliefs about child sexuality. The Rapans, of French Polynesia, believe that children are asexual. They allow children to sit together in church, but separate men and women in order to enhance concentration on the service (Hanson 1970:10). Rapan youth do become sexually active after puberty and have pre-marital sexual relationships with their age mates. Rapan adults, reflecting the teachings of their Protestant Christian faith, denounce pre-marital sex, but nonetheless tolerate the practice because it is part of traditional Polynesian courtship pattern (Hanson 1970:119).

The Sambia of Papua New Guinea, as presented by Gilbert Herdt (the anthropologist who has spent over 30 years learning about them), provide a different perspective on child sexuality. Whereas Americans deny or forbid a child's expression of sexuality, and the Dobe Ju/'hoansi and Samoans adopt a permissive stance, the Sambia formalize the sexual development of their young men. The Sambia believe that masculinity is conditional and enabled by the possession of *jerungdu*, a finite life force that is dependent on the presence of semen and may be depleted over time. The Sambia believe that the male body does not produce semen on its own and that young boys must acquire it through ritual boy-insemination (Herdt 2006:24, 57). Therefore, Sambia boys undergo a prolonged course of initiation, which includes three stages of sexual socialization, to ensure that they accumulate *jerungdu* and conform to the tightly proscribed masculine ideal.

When a male child is between the ages of seven and 10 (depending on the timing of the ritual cycle), the adult men remove him from his mother's home and take him to the men's cult hut, where he begins the first stage of his multi-year initiation into the warrior society. The early stage initiates fellate older initiates to orally ingest semen and begin accumulating *jerungdu*. The rituals concentrate on removing the feminine influence from the boy and include homoerotic play where the younger initiates seek out the older boys who possess desirable masculine qualities. The Sambias believe that initiation must begin before the age of 10 in order for it to hold—not just in a cultural sense, but in a psychosexual sense as well. Herdt (2006:124) suggests that one of the goals of initiation, besides the masculinization of boys, is to “forever anchor his [a boy's] subjectivity and desires, including his homoerotic desires, in a secret utopian world regulated by the men's house.” The psychosexual intervention must be performed before this age or the combination of adrenarche and gonadal puberty will cause a “sense of stable attraction” to emerge that may not conform to the Sambias' cultural beliefs and needs.

Eventually, the Sambias boy begins the second stage of initiation and is considered a bachelor. He ceases to be a fellator and becomes an inseminator, promising that he will “shoot” some of the younger boys. The insemination is does not seem to be a solemn rite. Herdt (2006:68-71) describes a scene from the initiation that contains sexual affection (bachelors and young initiates rolling in the grass and hugging cheek to cheek), sounds of sexual enjoyment and the evidence of preferential attraction on the part of the bachelors. At this stage, the bachelor is learning techniques to rid his body of female pollution and restore his semen.

Eventually, the bachelor is married and enters into the third stage of sexual development, a heterosexual relationship with his wife. However, a married man will often continue homoerotic relationships with younger boys until he becomes a father. Herdt writes that these

men pursue these relationships for pleasure because they find them easier and more familiar than their relationships with women. The married men will continue this behavior even though there is a belief that they may contaminate the boys because their penis has been polluted by contact with a woman (Herdt 2006:118-119). The suggestion that married men seek these encounters for pleasure is supported by the fact that they will break kinship taboos about insemination to sleep with an especially attractive boy. Herdt (2006:106) wrote that this behavior strongly suggests sexual desire is a factor in this practice, and that while homosexual practices begin in ceremony, “their occurrence and meaning fan out to embrace a totally secret way of life.”

It is important to note that the Sambia have no concept of “homosexual” or “gay” and that their initiation rites have no correspondence to Western ideas about homoerotic activity. Herdt (2006:xv) perceives the initiation as fundamentally sexual in nature, but notes that it combines sex with a display of power and “channels attraction through several distinct forms of sexual behavior, each having differing motives and meanings.” Though Herdt himself uses the terms like “homoerotic” and “homosexual” in reference to the Sambia, they should be understood as descriptions of behavior between two males rather than an expressions of sexual identity.

The Sambia’s channeling of sexual practices in service of their cultural beliefs about masculinity stands in stark contrast to how American children learn about sexual and social roles. American parents communicate expectations of sexual behavior and roles, but do not exert the same overt control over their children’s sexual expression as the Sambia. Steven Seidman (2003:43-44), a sociologist at the State University of New York at Albany, wrote that, in the U.S., a person’s identity is connected to his or her sexual practices—including deviant identities that emerge when cultural norms are not followed. This essentialism is at odds with ideas about

the fluidity and performativity of sexuality and ignores the fact that sexual roles, functions, and meanings are socially learned, as the Sambia case elegantly illustrates.

Who controls the socialization of a child's sexuality is a matter of some concern even though there is no approved pathway or means of sexual socialization that is uncontested in the United States (Gooren 2010:4). Although there is a discourse about the beauty of sexuality, sex is often perceived as flirting with a dark emotionality and being vulnerable to corruption through lust and illicit desire. The darker side of sexuality in the U.S. includes the use of power to achieve sexual satisfaction. Rape is not just a sexual crime; it is a crime of control and power (Allison and Wrightsman 1993:16). Intergenerational sex is constructed in ways similar to rape. Tyler and Stone, law enforcement agents specializing in child sex crimes, testifying to the United States Senate Committee investigating child pornography and pedophilia said, "Children have been sexually exploited by adults since homo sapiens acquired the intelligence and reasoning capabilities to recognize that sexual activity can provide a sense of power, control, gratification, and recreation" (Kincaid 1992:17).

Seizing upon Rousseau's concept of the innocent child, Kincaid (1992:13) wrote that this innocence has become erotic:

By insisting so loudly on the innocence, purity, and asexuality of the child, we have created a subversive echo: experience, corruption, eroticism. More than that, by attributing to the child the central features of desirability in our culture purity, innocence, emptiness, Otherness—we have made absolutely essential figures who would enact this desire. Such figures are certainly not us, we insist, insist so violently because we must, so violently that we come to think that what we are is what these figures are not.

Kincaid's statement that child molesters are necessary is an exercise in hyperbole; however, his suggestion is worthy of consideration. Kincaid configures the child–pedophile relationship as an almost mythical battle between the forces of good (the child) and the forces of evil (the

offender). The reason the labeling and othering that occurs in child molestation cases is compelling is that it reflects established tropes with which Western society is familiar and can readily identify.

When that innocence is corrupted through adult intervention, or even early sexual exploration, there is a symbolic cost to society: “The sexually active child ceases to perform its function as a divine creature among adults and closes a symbolic deal with an already corrupted and depraved world” (Gooren 2010:3). Children are stripped of the characteristics that adults had so carefully invested in them, and the clear division between children and adults becomes blurry. My informant, Curtis, agrees that sexual abuse robs children of their innocence: “When that innocence is taken from you, there’s nothing given in return. There’s no trade off. It’s just an emptiness. There’s a lack, there’s a hole where your innocence used to be.” Experience must necessarily fill that void, prematurely moving the child toward adulthood.

Despite the emphasis on preserving a child’s innocence, there is at least a portion of American culture that considers that innocence a delicacy. When innocence became desirable, it also became fetishized. In the Led Zeppelin song, *Hot Dog*, Robert Plant sings, “I took her love at 17, a little late these days it seems, but they say heaven is worth waiting for.” These lines contain two important themes. First, a high value is placed on the young lady’s innocence. Second, the singer expresses concern that the quality of the innocence may have already been compromised. This leads to an important question. If a 17-year-old’s love is “heaven,” but is on the verge of being spoiled, what quality is attached to a 16-year-old’s love or that of a 13-year-old? The question quickly becomes uncomfortable to ponder. Yet it is exactly this type of question that Kincaid says we are forced to consider if we maintain our current concepts of childhood innocence and adult sexuality.

It is an important question to ask. Americans consume the sexuality of children in myriad legal ways. How should child beauty pageants, where young girls are dressed to resemble adult women, be understood? What is it exactly that pop stars like Britney Spears are selling? America, past and present, has dominated children in many ways and continues to do so. While Americans frown on taking their bodies for sexual purposes, they still exploit children's bodies in the context of work and fashion—which are themselves forms of sensuality.

There is also tension between what Americans say about childhood sexuality and what they do with childhood sexuality. This tug of war is present in the Styx song *Jennifer*: “She’s 17, barely old enough to cry. A child in her father’s eyes, a woman every night.” Jennifer is at the liminal age where she is about to cross into legal adulthood. Yet, her father wants to maintain her as “his little girl,” but Jennifer has other ideas. This song demonstrates that parents’ wishes to keep their children innocent for as long as possible are impotent in the face of children’s desires to explore the world and claim portions of adulthood for themselves. It is nearly impossible to maintain children’s innocence when they are rushing headlong toward the adult world.

Conway Twitty’s, *Touch the Hand of the Man* is another popular song that illustrates the transformation of childhood to adulthood through sexuality. The lyric, “Touch the hand of the man that made you a woman” demonstrates Americans’ understanding that sexual experiences break the cocoon of childhood, out of which arises the mature adult. The implication is that childhood is a chrysalis period that should not be truncated by early sexuality.

Such popular songs illustrate the significant tension between childhood innocence and sexuality. Most people do not act on this tension, but can identify it when they see it—in movies or books where teenage sexuality is part of the plot line, for example. The tension between

childhood and sexuality did not always exist in Western society, however. The two used to blend more easily than they do today.

In *Centuries of Childhood*, Philippe Ariès detailed treatment received by King Louis XIII that we would consider scandalous, if not pathological, today. Ariès provides excerpts from the journal of Louis XIII's caretaker, Monsieur Heroard. As an infant, little Louis XIII “laughed uproariously when his nanny waggled his cock with her fingers,” and that even his mother, the Queen, fondled his genitals (Ariès 1962:100-101). Today, this type of behavior would elicit a call from child protection agencies at a minimum and most likely a visit from the gendarme, too. Yet, for Louis XIII and his parents, it was normal play. What is interesting about this passage (which includes a mention of Louis XII and his sister being put into their father's bed while naked) is that it shows a complete lack of concern regarding exposing a child to sexual information and behavior (Ariès 1962:101).

An incident in Wisconsin illustrates how far American culture has moved away from the attitudes of Louis XIII's time. In November 2007, a mother was charged with the felony crime of exposing a child to harmful sexual descriptions (Portage Daily Register 2007). The mother was giving “the talk” to her two sons, 12 and 16, and included information about her sexual experiences and the showing, but not demonstration, of a sex toy. The 16-year-old felt uncomfortable with the discussion and told his school administrators, who eventually called the police.

There are a few points on which this mother can be criticized for her teaching of sexual education. Nevertheless, it is hard to imagine that her talk contained something so shocking or inappropriate as to require a felony indictment. This incident illustrates how sexuality, even

information about sexuality, is considered a polluting force from which children must be protected.

Another researcher supports my supposition that attitudes about childhood and sexuality are the reason for the persistence of the dominant child molester. Chris Jenks, a sociologist who studies childhood at Brunel University in the United Kingdom, believes that Western peoples' reactions to child abuse are driven by "nostalgia" (Jenks 1994:116). Jenks posits that the works and family patterns of late modernity have destabilized social patterns and set people adrift on a sea of uncertainty and "existential anxiety" (Jenks 1994:117). In these conditions, adults perceive children as a form of nostalgia, projecting on them their idealizations of the safety and security of the past. Jenks' argument voices an additional reason for the cognitive dissonance between childhood and sexuality in the Western world.

Chapter Five

Suggestions for Moving Forward

In the previous chapters, I outlined theories of deviance and related them to the serious problem of childhood sexual abuse. I presented evidence that the discourse has negative effects for sex offenders, society, and scientific inquiry. I examined the dominant child molester discourse from the perspective that it is based on Americans' reaction to deviance and used the resulting insights to explain why the discourse persists despite contradictory evidence. In this final chapter, I will suggest reasons why the United States should change how it handles its sex offender population.

An Expensive and Ineffective System

Sex offender laws, and monitoring and treatment programs are expensive. The Justice Policy Institute (2008) estimated that states spent a total of \$489,217,150 to comply with the federal Sex Offender Registration and Notification Act by the 2009 deadline imposed by the federal government. This estimate does not include the costs associated with adding new personnel to administer the regulations, registry software (including installation and maintenance), additional jail and prison space to accommodate the extra criminals who will be convicted under the federal standards, court and administrative costs, law enforcement costs to ensure that sex offenders meet the conditions of their parole, social workers and counselors to treat sex offenders, and legislative costs related to adopting and crafting state law.

Of course, it is imprudent to place a cost on child safety. Sex offender control and SORNA laws would certainly be worth the money—if they worked as designed. Evaluations of

sex offender laws demonstrate that there is significant cause to question their effectiveness. As of 2007, Minnesota, Nebraska, North Dakota, Pennsylvania, and Texas have yet to release a person from civil commitment. Most other states have released between 1-10 percent of their civil commitment prisoners. On the other hand, Arizona has released almost all and South Carolina has released almost half of their civilly committed prisoners. The uneven results lead to questions about how civil commitment programs are administered and whether they are effective. These are important questions to ask: maintaining a person in civil commitment can cost up to six times as much as maintaining a normal prisoner (The New York Times 2007a).

The motivations of states that have civil commitment procedures can also legitimately be questioned on the basis of their dedication to sex offender treatment. A *New York Times* (2007a) review of 20 states with civil commitment laws found that Arizona, California, South Carolina, Texas, and Vermont offered as little as three hours per week of sex-crime-specific counseling to prisoners in civil commitment. This seems like a token effort when compared to Illinois, Iowa, Kansas, Nebraska, and North Dakota, which provide 18 to 32 hours per week of sex-crime-specific counseling. Additionally, the criteria for release from civil commitment are poorly defined and defy the concept of due process. Although the U.S. Supreme Court has mandated that civilly committed prisoners must receive adequate treatment that will enable their eventual release, the court failed to define what constitutes adequate treatment. The result is that states are “reluctant to provide adequate treatment programs that provide a pathway to eventual release” (Smith 2008:1428).

Not all child molesters (or other types of sexual criminals) will be civilly committed. Many will serve prison sentences before being paroled. Others will be placed on probation directly after sentencing. In prison, treatment is often not mandatory, but it is required as a

condition of parole (Daly 2008:9). There is a debate about the ethics of making treatment mandatory for all sex offenders because it would conflate punishment with rehabilitation (Ward 2010).

Sex offender treatment usually includes some form of cognitive-behavioral therapy. This approach seems to reduce overall recidivism, but has not been shown to reduce sexual recidivism (Daly 2008:6). In fact, Hanson and Slater (1988) and Marques et al. (2005) showed that sex offenders who went through treatment had no statistically significant difference in recidivism rates than sex offenders who did not go through treatment.

Some psychologists have suggested that encouraging sex offenders to develop empathy for their victims, and guilt and shame about their crimes is effective in reducing recidivism (Roseman, Ritchie, and Laux 2009). At first, this approach appears to be a constructive use of reintegrative shaming that is meant to encourage a deviant to realign with society's norms, as opposed to the disintegrative shaming designed to ostracize a deviant (discussed in Chapter Three). However, similar approaches which use shame and in-therapy confessionals to discourage sex offenders from having inappropriate fantasies have been criticized for creating a "species entirely consumed by sex" (Lacombe 2008:55). Foucault would not be surprised.

The sex offender registries, the most visible component of sex offender management efforts, also seem to be ineffective. According to the National Center for Missing and Exploited Children, there are currently 716,750 registered sex offenders in the United States. About 100,000 of them are not living at the address on file, in violation of SORNA regulations. Some of my informants felt that the missing offenders were a threat to public safety: "When I look at the registry, I look at that and I say these are the good guys, that are playing by the rules. But I

have in my head that there are lots of bad guys that aren't playing by the rules and those are the ones that you have to be afraid of.”

In 2007, the United States Marshals Service (USMS) dedicated a task force to finding the missing offenders. They apprehended 2,221 offenders in 2007 and will likely apprehend 4,500 in 2010. As many as 100,000 offenders are still missing. The USMS is likely facing an uphill battle because over 100,000 additional sex offenders were added to the registry in the last three years, of which a portion are non-compliant (Wolf 2010).

Without a doubt, some of the missing sex offenders are serious threats. Others could simply be homeless because they are unable to find work due to the stigma of being a sex offender or another issue like mental illness. Still others have homes lie about where they live because residency restrictions make it impossible for them to find housing compliant with the law. In states like Iowa, which has a 2,000-foot exclusionary zone around places like daycares and schools, sex offenders are moving to rural areas to find housing. Sex offenders living in rural areas are more likely to offend again because there is no access to mental health services and jobs (Koch 2007a). Dr. Jill Levenson, professor of human services at Lynn University in Boca Raton, Florida, notes, “residency restrictions have a lot of unintended consequences.” An additional point that is often overlooked when considering residency restriction laws is that they only affect where a sex offender sleeps, not where that person travels during the day.

Police departments even have a problem monitoring compliant sex offenders. The demands of administering the registry can be overwhelming. Sex offenders are required to update periodically their information with their local police department. When faced with a personnel shortage created by budget cuts and other duties, the Dallas police department limited such updates to 36 per day. As a result, “the small waiting room [in the police station] was

packed and lines snaked down to the sidewalk outside” (Jennings 2010). Several sex offenders missed their registration deadlines. Des Moines Police Chief William McCarthy indicated that keeping up with the registry only serves to draw down resources from other areas of need and does little to enhance public safety (Rood 2006).

A compliant sex offender in California committed one of the most disturbing cases of abduction and sexual abuse in recent memory. Phillip Garrido is a registered sex offender and was on parole for a rape he committed in 1976. In 1991, Garrido kidnapped Jaycee Dugard near her home in South Lake Tahoe, California. For the next 20 years, Garrido kept Dugard, and the children he fathered with her, in a shed and tents in his backyard. California correctional officers routinely checked on Garrido and even encountered Jaycee and her daughters in Garrido’s house. They never inquired about Jaycee’s relationship to Garrido or about the structures on the property. Jaycee brought a lawsuit against California for its officers’ failures to investigate the irregularities they encountered. California settled the lawsuit for \$20 million (CNN Wire Staff 2010).

Admittedly, one case, albeit a horrendous one, is not a compelling argument for change in and of itself—but it does point out the inadequacies of the system. Becker and Murphy (1998:127) find that sex offender laws have only a small impact on recidivism rates and do absolutely nothing to prevent CSA. My informants, too, are skeptical of the registries’ efficacy in preventing recidivism: “I think they [registries] are good safeguards. Nice precautions. I think that if someone wanted to commit the crime again it’s not going to stop them,” and “I don’t think placement on a registry is going to stop you from doing it again. How well can they enforce it either?” are typical responses. The most damning evidence against registries comes from a 20-year study of sex offender arrests in New York. The study found that 95 percent of those arrested

for a sex crime were first-time offenders, suggesting that the sex offender registry is not exceedingly helpful in preventing child sexual abuse (Sandler, Freeman, and Socia 2008).

Strategies for Addressing the Problem of Sex Offenders

Changing the Discourse

It is easy to show how the current system does not work; it is much more difficult to suggest changes to the system that would protect the public while avoiding inefficiencies and inequities. Still, there are strategies that lawmakers can pursue to alleviate the current condition facing sex offenders.

Lawmakers should recognize that sex offender laws are part of a feedback loop. The laws are created as a reaction to the dominant child molester discourse. The enforcement of the laws then supports the validity of the discourse. The first step is to counter the dominant child molester discourse with information grounded in empirical data.

While it is impossible to control the messages produced by media outlets, it is possible for lawmakers and officials to lend a sober, realistic tone to stories in which they participate. From an article about finding noncompliant sex offenders, quotes like “These guys [referring to all sex offenders] are dangerous. They have a sexual appetite that can only be satisfied by going after who they deem to be sexually arousing – such as kids, minors, toddlers, infants – and doing it by rape,” and “They [all sex offenders] could be up to no good, stalking another child. You never know,” from representatives of the U.S. Marshals Service are hyperbolic and are appeals to fear instead of rationality (Wolf 2010). Instead, officials should provide statements that acknowledge the difficulties of controlling sex offenders, but that do not engender fear. Examples of such statements include: “The people you need to be worried about most are the

ones who aren't registering at all" from a Justice Department official and, "Residency restrictions are the linchpin for causing homelessness among sex offenders," from a representative of the Kansas Department of Corrections (Koch 2007a). Unfortunately, this approach may be like swimming upstream. Some researchers believe that "Seeking to overcome the current hostile atmosphere and the media's misrepresentation of risk is proving almost impossible" (Matravers 2003:228).

If lawmakers and officials begin to counter the child molester rhetoric, some of the problems associated with sex offender laws might be alleviated. Even though community notification is meant to help the public feel safer, surveys have shown that up to 67 percent of respondents feel less safe after a community notification event (Brown, Deakin, and Spencer 2008:261). This could drive community members to harass and discriminate against sex offenders. Officials should educate the public about how sex offender programs work and what the community can expect from them (Becker and Murphy 1998:132). If officials begin to counter the child molester discourse with rational statements, communities might react to the presence of sex offenders with less fear. Employers and property managers might be less hesitant to deal with sex offenders, which would help alleviate sex offender homelessness and the subsequent problems that creates. Additionally, incidents like the one Lilly mentioned, where residents demonstrated outside of a sex offender's house until he moved, might not happen:

I don't know what I would do if I had a child and a pedophile moved next door. I recall seeing on the news that people had pedophiles move in the neighborhood. The whole neighborhood just picketed this guy's front lawn for weeks and weeks until they finally force him to move. And I felt sympathy for the guy. Where's he supposed to go? After he's served his time, and gets counseling, and hopefully finds a way to be rehabilitated back into society. You know, people think it's okay to do that, because it's a pedophile and this person did this horrible, terrible crime. But we can't just kick them out of society all together. But I'm not living next door to a pedophile with a child, my perspective might change if I did.

Lilly acknowledged that she might have a different attitude if she had a child, but she seems receptive to realistic discussions about sex offender control policies. Lilly is not alone in questioning the current attitude toward sex offenders. Ted said,

I feel so bad for some of these guys. I saw one guy on the registry. He was in his teens and had some incident with a 13-year-old girl, which obviously I don't condone, but that makes him a lifetime registrant. And I think, "You're crippling that kid for life." Because no matter what he tries to do to change his life, he will never escape from the registry—that is going to follow him. And so I have a problem with those kinds of things, but I don't know what the solution is.

If the incident to which Ted is referring is statutory rape, then it probably did not result in a lifetime registration for the perpetrator. The point remains, however, that Ted feels it is unjust to hobble this teenager's economic and social possibilities for what appears to be a case of youthful indiscretion. Ted feels that sex offender laws are overly broad in scope and too punitive.

As encouraging as the quotes from Lilly and Ted are, the idea that child molesters deserve a second chance to be productive members of society is met with resistance. The desire to protect children can overcome sympathy for child molesters living under a harsh legal regime. When asked about civil commitment laws, Diane said, "It depends on the crime that they were sentenced for. It really depends on the original nature of their crime. You don't want them to do it again and though I don't like the idea of perpetually incarcerating someone, you need to make sure they don't do it again." Diane is not in favor of civil commitment for other types of criminals, however. She thinks that child molesters are essentially different from other criminals: "When I think pedophilia, I think of something that doesn't ever go away. That it is a disorder that they're going to struggle with forever. So maybe they are not acting on it, but they have the impulses and urges or whatever. It's a disconnect in their brain that doesn't get solved." Marshall partially agrees with Diane's assertion, but he expresses optimism that sex offenders can be

rehabilitated: “I don’t know if there is an innate desire to abuse children. I don’t think you can cure someone of an attraction to children if they have it, but you can control the behavior.”

My small sample shows that at least some people are willing to consider new approaches to sex offender control, while still considering public safety a priority. This is good news for politicians, some of whom view sex offender laws as reactionary but politically popular. No politician wants to garner a reputation as “soft on pedophiles” (Rood 2006). Yet, lawmakers must find a balance between the protection of children and the punishment of criminals because the current approach to child molester control creates more problems than it solves.

Changing the dominant child molester discourse through public conversations might affect more than the public’s attitude toward sex offenders. The effects of the discourse on sex offenders themselves should not be disregarded. Rates of treatment acceptance and completion by incarcerated sex offenders dropped precipitously in the 1980s and continued to decline in the 2000s. In the 1980s, half of sex offenders wanted treatment compared with just 25 percent in the 2000s (Langevin 2006:409). Ron Langevin (2006:414), a criminologist at the University of Toronto, feels that this decrease may be attributable to the advent of harsh sex offender laws and the growth of the child molester discourse. Therapists in the 1980s grew discouraged with their sex offender treatment results and shifted their focus from treating sexual disorders to preventing recidivism. As therapies changed, sex offenders may have accepted their condition as incurable (a component of the child molester discourse, whose effects on the child molester were discussed in Chapter Three) and began to view therapy as a fruitless endeavor. A discourse that stresses restoration might encourage more offenders to accept treatment.

Changing the Sex Offender Laws

Politically and practically, sex offenders will need to be monitored when they are released into the community. With the exception of residency restrictions, which are linked to homelessness and increased recidivism, the current monitoring techniques seem appropriate. They include: sex offender therapy and polygraph examinations; registration requirements; ankle bracelets with GPS transmitters, limiting contact with minors; avoiding areas where children congregate; prohibitions against possessing child pornography; and searches of the offender's home, business, computer files, and vehicles with reasonable suspicion (Palmiotto and MacNichol 2010). Not all of these techniques should be applied to all offenders, however.

Not only must lawmakers and officials work to change the tone of the conversation about sex offenders, they must acknowledge that the legal system is overwhelmed with the requirements of sex offender control. The state of California alone lost track of 33,000 sex offenders (Collins 2003). Representative Lucky Lemons of Tulsa, Oklahoma, offered this advice: “We need to focus on people we're afraid of, not mad at” (Koch 2007b). This sounds like simple advice, but it reaches the heart of the problem. The current laws fail to distinguish between the two types of sex offenders – those who pose an ongoing and serious risk, and those who did something inappropriate.

How can we tell who is who? There are a variety of risk assessment tools, such as the Hare Psychopathy Checklist, the Minnesota Multiphasic Personality Inventory, and STATIC-99, which therapists can use to determine how much of a threat an offender poses to the community. High-risk offenders should be subject to rigorous controls—including civil commitment if the process is adjusted to be more transparent—while low-risk offenders probably do not need to be placed on a sex offender registry for 10 to 25 years.

Some people who are currently considered sex offenders—like older teenagers who have consensual sex with younger teenagers, public urinators, sexters, and streakers—are not really sex offenders in any meaningful sense. Exempting these types of offenders from SORNA laws would have the immediate effect of reducing the number of sex offenders that requires monitoring for long periods and would concentrate resources on the people who are real threats to public safety.

There are alternative strategies for treating sex offenders with low-risk profiles and managing them in the community. The psychologists Judith V. Becker at the University of Arizona and William D. Murphy of the University of Tennessee-Memphis (1998:133) advocate that risk assessments should be performed at a sex offender's sentencing and used to create a customized therapy program that would be administered while the offenders are incarcerated. Currently, risk assessments are performed as part of prerelease programs.

Becker and Murphy believe that risk assessments given early in the offender's contact with law enforcement can lead to better treatment results. They wrote that: Placing a sex offender "in prison for 10 years with no treatment is likely to lead only to further reinforcement of his or her deviant pattern. These individuals continue to use their deviant sexual fantasies, masturbating to them and reinforcing them, making their condition all the more chronic" (Becker and Murphy 1998:133) This delay in treatment could help explain why some studies found that treatment was ineffective (Hanson and Slater 1988; Marques et al. 2005). Daly (2008:3) notes that treatment during incarceration seems to be more effective. Although there are concerns that mandatory therapy during incarceration makes it a form a punishment, this approach might lead to less civil commitment proceedings and less need to monitor low-risk offenders in the community.

Another approach to managing offenders as they return to the community is to address their specific needs. As of 2008, only three states have halfway houses for sex offenders. Only one-third of states have some sort of reentry program tailored to sex offenders (Daly 2008:12). The cost of these programs is a concern, but two strategies can help alleviate the financial burden. The first is to have offenders help with the costs of the programs. This is a model that currently exists with drug and alcohol offenders. (This is another reason why the child molester discourse should be countered—sex offenders would need to find employment to help support the programs.) The second strategy for controlling the cost is to determine which of the low-risk offenders has dynamic risk factors, such as addiction, depression, or other mental illnesses, that might trigger recidivism. Becker and Murphy (1998:134) suggest that officials develop adequate community-based programs to target offenders early in their offending career when their patterns of deviance are not set in stone.

Whatever reforms are implemented, the way forward will require courageous lawmakers to lead sober conversations that replace “tough on crime” rhetoric with honest evaluations of the effectiveness and essential fairness of the nation’s sex offender laws. A just society cannot tolerate the legal creation of a persistent underclass.

Unfortunately, none of the current or recommended strategies prevents molestations in the first place. This remains a difficult area to address. It is impossible to remove risk entirely from children’s lives. My informant, Marshall, has a realistic perspective on the problem: “But I don’t know how effective the laws are in preventing what it is that they want to prevent. I think that the best prevention is good parenting. At the same time, you just can’t prevent some things. And if some sex offender desired to do something to your child, sometimes just nothing will stop

that.” There is a certain degree of fatalism in his sentiment, but it does remind us that vigilance is the best way to protect our children. Most child molesters are not strange men with candy. Most child molesters are related to, or know, their victims. Only by being honest with ourselves about where the majority of risk lies, can we make significant inroads to preventing child molestation and managing those who would commit the crime.

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