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## **National Sex Offender Registration Policies and the Unintended Consequences**

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Sydney J. Selman

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## TABLE OF CONTENTS

<b>Introduction</b>	<b>3</b>
<b>SECTION I: The Rise of the Stranger Danger Panic</b>	<b>5</b>
The Disappearance of Etan Patz	5
Initial Public Policy Responses	10
Jacob Wetterling Act	13
Megan’s Law	15
Pam Lychner Act	17
The Campus Sex Crimes Prevention Act	20
Adam Walsh Act	21
Additional Sex Offender Laws	24
Intended Goals	25
<b>SECTION II: Why the Sex Offender Registration Policies Fail</b>	<b>27</b>
A Closer Look at Stranger Abduction Statistics	27
Registered Sex Offender Recidivism Rates	33
Missing Registry Information	38
<b>SECTION III: Unintended Consequences</b>	<b>41</b>
The Criminalization of Children	41
The Misdirection of Prevention Strategies	49
Residency Restrictions	49
Employment Limitations	52
Capital Punishment for Child Sex Crimes	54
The Desire for Vigilante Justice	57
The Failure to Support Victims of Sex Crimes	60
<b>SECTION IV: What Can Be Done?</b>	<b>63</b>
Community-Centered Transformative Justice	63
Victim-Centered Restorative Justice	65
Rethinking Sex Offender Registries	68
<b>Conclusion</b>	<b>71</b>
<b>Works Cited</b>	<b>72</b>

## Introduction

Since antiquity, all societies have utilized various methods to regulate sexual behavior. Some sexual behaviors, including incest and incestuous marriages, were prohibited through the courts, while others, like homosexuality and bestiality, were punishable by death in earlier eras (Terry and Ackerman 51). In the United States, many states enacted policies allowing the sterilization of habitual offenders until the Supreme Court declared this practice unconstitutional in 1942. States independently passed laws permitting court-mandated hospitalization in psychiatric care for sex offenders, where some even turned to chemical castration. Then, after a series of highly publicized child abduction cases in the 1970s and 1980s, American society became primarily concerned about an apparent upsurge in stranger-predator attacks and how the country could best keep children safe from the unknown. After several particularly emotionally charged cases of child abduction were sensationalized in the media, lawmakers implemented strict sex offender registration policies “with the singular goal of helping potential victims protect themselves from known and nearby sex offenders by facilitating the public monitoring and physical avoidance of these individuals” (Prescott 48). The laws would, in theory, enable more supervision of convicted sex offenders and ultimately keep communities safe, effectively preventing sex crimes from occurring. But national sex offender registration policies have failed to reduce sex crimes and have subsequently led to a number of unintended consequences.

Section I of this thesis explains how sex offender registration laws came to fruition, detailing the specific child abduction cases that fueled the stranger danger panic and social desire for strict legislation. Section II presents evidence on how the government relied on exaggerated claims about the prevalence of stranger attacks and sex offender recidivism and how these registration laws are not as effective in practice. Section III provides an overview of the

unintended consequences stemming from such legislation, while Section IV briefly summarizes the possible ways to better prevent sex crimes as a society and rethink the registries in a way that both protects the community and supports offenders' reintegration into society.

## SECTION I: The Rise of the Stranger Danger Panic

National sex offender registration policies did not take shape overnight. Instead, they were formed gradually, following a series of high-profile, stranger child abductions in the 1970s and 1980s. These cases incited widespread concern about the likelihood of children facing a similar fate. The stranger-predator element made people believe that this type of crime could happen to anyone. In addition, these cases were sensationalized in the media, leading to the “mistaken impression that this type of crime was increasing—in both frequency and ferocity” (Wodda 2). As a result, “stranger danger” panic ensued. The popularized catchphrase *stranger danger* was adopted as a warning for children, cautioning them about the “dangerous ‘others’ who might harm them” outside of people they know (Wodda 3).

### *The Disappearance of Etan Patz*

Stranger danger panic began with the Etan Patz case in 1979. Before Etan, other missing children were rarely televised. Of course, children went missing. And some of these cases did filter into local news cycles. But Etan’s sudden disappearance ignited “the image of endangered childhood ... [articulating] the message that ‘stranger danger’ threatened American childhood innocence” like never before (Renfro, *Stranger Danger* 27). This time, the missing child case garnered massive media attention. As Etan’s case became more and more public, parents grew increasingly concerned about the “possibility of an epidemic of missing kids” (Wodda 2). Etan’s case, the first nationally televised missing child case of its kind, “appeared to signal a growing child safety problem” (Renfro, *Stranger Danger* 20). The circulating news on Etan’s case captivated America and effectively “helped initiate the late twentieth-century stranger danger panic” (Renfro, *Stranger Danger* 25).

Since Etan Patz's disappearance launched the stranger danger panic, it is essential to understand how the case unfolded. In the early morning on Friday, May 25, 1979, six-year-old Etan Patz left his family's loft in Lower Manhattan, New York, to catch the school bus two blocks away (Renfro, *Stranger Danger* 25). After months of pestering his parents to let him walk to the bus stop alone, they finally agreed; but it would be for the first and last time ("Innocence Lost" 00:01:04-00:01:17; Renfro, "Disappearance of Etan Patz"; Renfro, *Stranger Danger* 25). That morning, Etan left his home at 7:55 a.m. with plans to buy a soda on his way to the bus stop. His mother watched him walk until he crossed the first street, turning back inside to tend to her other children once Etan was out of sight (Cohen 4). However, just within that one block span, Etan vanished.

Although Etan's classmates noticed his absence at school, it was not until around 3 p.m. when Etan should have been home from school that Etan's mother, Julie Patz, realized something was wrong (Cohen 5; "Innocence Lost" 00:01:50-00:02:10). Etan did not come home. By 6 p.m. that evening, some 300 police officers and detectives flooded SoHo—an abbreviated name for the Lower Manhattan area "South of Houston Street"—to search for Etan, retracing the path he would have taken (Cohen 7). A small army of police personnel looked for the blond-headed boy behind dumpsters, inside elevator shafts, on rooftops, and under piers (Kihss). Another group of officers knocked on doors, checked basements, and questioned businesspeople and delivery truck drivers (Sapien). Police dogs attempted to trace Etan's scent. The news of a possible kidnapping also spread quickly across SoHo. Neighbors who stayed home for the long Memorial Day weekend began to mobilize, joining the search (Cohen 16). Etan's friends and their parents visited Etan's favorite hangouts. One neighborhood preschool even turned an annual picnic gathering into an action committee (Cohen 16). The local Missing Persons Squad

considered this “the most extensive and longest search for [a] missing child in New York in decades” (Raab). But no one could find Etan.

The attention to Etan’s disappearance escalated. In just a few days, the community had already posted hundreds of missing child posters around the city. The posters featured Etan’s bright eyes, shaggy bangs, and innocent smile, using professional photographs his father, Stan Patz, captured a few months earlier. The images were stamped with desperate **LOST CHILD** proclamations and listed Etan’s description: male, white, six years old, 40 inches tall, 50 pounds, blond hair, and blue eyes (Siemaszko). Five days after Etan went missing, thousands of these posters were pasted on store windows, lampposts, and parking meters (Kihss; Cohen 21). Within a week, Etan’s picture appeared on billboards throughout Times Square. The local press soon became involved, eventually attracting national media coverage. Etan’s story appeared in magazines and news articles all across the country. U.S. Representative Peter Peyser asked his congressional colleagues to share Etan’s story, thinking that “perhaps someone, somewhere, [had] seen this young man and [could] help bring him back to his family” (Cohen 47). The posters were later sent to 60 foreign countries (Cohen 47). Eventually, Etan’s photos were the first to appear on milk cartons as part of a nationwide advertising campaign to locate missing children (Fleeman). Never before had so many people united to find a missing child. With the extensive media attention, it seemed like everyone had heard about Etan’s disappearance.

Etan’s case changed the way Americans parented their children. At the time, the Patz family’s decision to let Etan walk those two blocks by himself was common; however, the fact that Etan went missing on his first walk to school alone startled the country, and parents began to rethink how much freedom they should give their children. Especially as other missing child cases started to make waves in the news, it looked like America was facing a missing child

epidemic, and Etan Patz was just the beginning. Many parents subsequently purchased restraint devices for children, home fingerprinting kits, and other electronic monitoring systems to prevent their children from wandering too far away (Renfro, *Stranger Danger* 11). Companies, such as toy stores and fast-food restaurants, began distributing abduction prevention tips (Best 22). Anti-stranger messaging infiltrated homes in an attempt to teach children about stranger danger. There were movies, books, cartoons, and even board games that helped convey this message to children. These initiatives mark the country's first steps to address the apparent child-victim problem, informally broadcasting stranger danger awareness.

While Etan's disappearance sparked the national stranger danger panic, the case simultaneously gave credence to the growing concern that children were being abducted for sexual purposes (Renfro, *Stranger Danger* 28). Early police investigations "viewed sexual exploitation as a plausible motive for the boy's kidnapping," and the "homophobic climate [in the United States] kindled these sorts of allegations in the Patz case" (Renfro, *Stranger Danger* 43-44). Theories began to slowly emerge that "queer men had kidnapped and sexually exploited the handsome young boy," hypothesizing that pedophilia was the primary motive behind Etan's abduction (Renfro, *Stranger Danger* 28). When police officers raided a cottage in Wareham, Massachusetts, and found a photograph resembling Etan, media reports latched onto the pedophile narrative. Police later confirmed Etan was not the boy in the photo; however, two men in the cottage were identified as members of the North American Man/Boy Love Association (NAMBLA), an organization formed in 1978 that advocates for the legalization of mutually consensual relationships between adult men and young boys (Clendinen; Nelson; "Who We Are"). This photograph and subsequent membership identification permanently linked Etan's case to sexual predation speculation. Investigators found no evidence to connect NAMBLA to

Etan's disappearance, but they continued to suspect sexual motives. A while later, investigators found that a local convicted pedophile had a loose connection to Etan. Again, the discovery ignited sexual motivation theories, and many Americans were convinced this pedophile was somehow involved. Police ultimately disregarded this lead, but the suspicions heightened national concerns about lurking sexual predators.

Over the years, Etan's case would eventually grow cold. That is how the case remained until 2010, when the Manhattan District Attorney's Office reopened Etan's case. Two years later, a man named Pedro Hernandez confessed to killing Etan Patz when he worked as a store clerk in SoHo, where he lured the child into the basement and strangled him and put him in the trash. During Hernandez's confession, he "denied that he had sexually abused Etan," and no scientific evidence indicated otherwise (McKinley). Hernandez had no ties to NAMBLA. A jury ultimately found Hernandez guilty of second-degree murder and first-degree kidnapping. Hernandez was not charged with any sex offenses. However, none of this information was available at the peak of national attention to Etan's case. Public opinion largely maintained the connection between this case and sexual predation until Hernandez confessed. Etan's disappearance effectively altered the country's view on sexual offenses against children, inciting a panic that concentrated on stranger danger and pedophilia as primary causes.

This national panic intensified in the immediate years following Etan's disappearance when dozens of other children went missing across the United States. Between 1979 and 1981, at least 28 "young, poor, and working-class African Americans, almost all males, were abducted and murdered" in Atlanta, Georgia (Renfro, *Stranger Danger* 57). Of these victims, 24 were children. In March 1980, the news broke that Steven Stayner, a 14-year-old boy who lived with his kidnapper in California since age seven, had escaped after enduring years of sexual abuse.

His return, though encouraging, “opened the door to a whole new range of conflicting emotions” on the whereabouts of other missing children, especially as parents “shared the frustration of [having] nowhere to turn for help” (Cohen 53-54). These parents had just as many questions when, that same month, serial killer John Wayne Gacy was sentenced to death after assaulting and murdering 33 young boys and men in Illinois throughout the seventies. Gacy’s conviction bolstered the predatory gay man framework, again planting “the [stereotypical] homosexual monster at the center of garish sex crime narratives” in the news cycle (Lancaster 46). Then, in 1981, six-year-old Adam Walsh vanished from a shopping mall in Florida. His severed head was recovered two weeks later. This case garnered even more national interest, leading to two made-for-television films: *Adam* and *Adam: His Song Continues*, both of which followed Adam’s story and raised awareness for child disappearances. This particular case will be discussed in more detail in a later subsection of this thesis because Adam’s father, John Walsh, played a significant role in passing legislation designed to regulate sexually dangerous people further.

### *Initial Public Policy Responses*

Before the nation considered implementing sex offender registries, several policies were enacted to streamline how the country would handle missing child cases. With Etan Patz marking the tipping point, the national panic spurred efforts to restore childhood innocence and combat sexual exploitation through public policy changes. Parents, particularly parents of missing children, saw a need for a national database that would exclusively track missing children. Some of these parents, including Stan and Julie Patz, “petitioned for federal assistance in protecting American children” (Renfro, *Stranger Danger* 55). They testified before the United States Congress, and the testimony ultimately led to the Missing Children Act of 1982 (MCA), a law that received a broad range of bipartisan support. The law “[began] to address the tragedy of

America's missing children," creating a centralized database to help trace unidentified bodies across jurisdictions and require federal agents to list missing children upon parental request (Reagan; Best 38). Some U.S. Department of Justice (DOJ) officials opposed the law because they felt the MCA could "inundate the FBI with missing [child] cases," when the disappearances were "matters to be handled at the city, county, and state levels" (Renfro, *Stranger Danger* 124). Still, advocates argued that the fear of adding more responsibility to the DOJ was substantially outweighed by the new opportunities for parents to reunite with their missing children possibly.

The MCA preceded several other programs and initiatives developed in the 1980s, implemented as additional responses to this national fear. In 1983, President Ronald Reagan declared May 25, the day Etan Patz disappeared, as National Missing Children's Day. In 1984, the United States Congress established the National Center for Missing and Exploited Children (NCMEC). The NCMEC is a private, nonprofit organization that "serves as an information clearinghouse and national resource center on issues related to victims, missing, and exploited children and operates a national toll-free hotline" (National Center for Missing and Exploited Children). NCMEC initially focused on the stranger danger message, educating families on the types of people to look out for (Strom and Strom 52). The organization receives a majority of its funding from the Missing Children's Assistance Act of 1984, an act reauthorized in Congress every few years to maintain support for NCMEC and similar projects.

President Ronald Reagan also strongly supported initiatives in the private sector, as evidenced by a 1985 executive order creating the President's Child Safety Partnership, where "the private and public sectors may cooperate in ... preventing the victimization and promoting the safety of children in the United States" (Peters and Woolley). Some of these initiatives included creating the Vanished Children's Alliance and the Adam Walsh Outreach Center, which

served as resources for families with missing children. These legislative changes and social programming solutions laid the foundation for fighting child victimization.

In the early stages, federal legislation primarily aimed to locate children who were already missing, including those considered runaways or custodial kidnappings. However, crusaders criticized the federal government for its lack of coordination in combating broader child safety issues. In fact, passing the MCA “provided a warrant for advocates of additional bills” where they argued in a Senate hearing held by the Subcommittee on Juvenile Justice that “relying solely on the original MCA ‘would be like treating major surgery with Band-Aids’” (Best 36). Advocates pressured legislative bodies to focus attention on all types of child sexual abuse crimes under the premises of the missing child problem. In 1986, the United States Attorney General’s Advisory Board on Missing Children grouped missing children and child exploitation as problems that went hand-in-hand, recommending the full prosecution of sex offenders to solve both issues (Best 40). In essence, missing children “apparently served as a rubric for addressing a range of other threats to children,” especially sexual predation (Best 40).

Several laws were subsequently passed to combat child sexual abuse. In 1986, the “Child Abuse Victims’ Rights Act and the Child Sexual Abuse and Pornography Act [both] became federal law” (Best 2). In 1988, the Child Protection and Obscenity Enforcement Act was enacted. Other community programs, such as the Child Lures Prevention Program, were established “to protect kids from sexual and other forms of abuse ... alerting children and their families to the perils of sexual predation” (Renfro, *Stranger Danger* 187). These measures contributed to the streamlined efforts to end child exploitation and provided temporary legislative satisfaction for advocates.

Then, in the late 1980s and early 1990s, another slew of “high-profile cases involving sexual offenses against children” took place (Terry and Ackerman 55). These cases created the “‘perfect storm’ [of] stranger-predator sexual assault” (Wright 3). They ultimately reinforced public fear of stranger danger and its connection to child sexual abuse. To varying degrees, each case writes the same script: a child is abducted and murdered, the crime involves (or is assumed to involve) sexual assault, and laws are enacted with authoritative claims that “no child will be harmed in the future and [sex] offenders will be severely punished and prevented from reoffending” (Wright 3). Most of these laws focused on reducing sex crime recidivism rates, resulting in the creation of comprehensive sex offender registry laws. Sex offender registries are “lists of all convicted sex offenders in a state,” and the lists “generally included the offender’s address, physical appearance, and criminal history” (“What is a Sex Offender Registry?”). Sex offender registries are the primary way the United States decided to reduce and prevent stranger abductions and child sexual exploitation. They are the primary focus of this thesis.

#### *Jacob Wetterling Act*

The first significant piece of federal legislation to mandate sex offender registries became law after 11-year-old Jacob Wetterling was abducted in St. Joseph, Minnesota. On the evening of October 22, 1989, Jacob was riding his bicycle home from a convenience store with his younger brother and his best friend. A masked gunman dressed in all black appeared on the dead-end road, ordering the three boys to get off their bicycles and lie face down in a ditch nearby (Terry and Ackerman 57; Baran, “Notorious Child Abduction”). He asked the boys their names and ages. The man grabbed Jacob and instructed the other boys to run without turning back (Baran, “Notorious Child Abduction”). When the boys finally looked back, Jacob and the gunman were already gone.

Jacob's abduction eventually "launched what would turn into one of the largest searches for any missing person in the history of the United States" (Baran, "The Circle"). Community members showed up in droves to look for Jacob. Thousands of volunteers from all over the state formed "miles long human chains," combing through cornfields (Baran, "Notorious Child Abduction"; Baran, "The Circle"). Nearly 100 law enforcement officers were involved in the case (Baran, "Notorious Child Abduction"). Police officers quickly called in the media, and the case exploded on the news. Leads soon poured in from all over the country. People reported suspicious persons, cars, and even dreams in an attempt to help find Jacob. None of these leads went far. Investigative journalists later reported that the rush for media exposure might have steered the search away from suspects right under their noses. Still, this reliance on national media nonetheless "fueled national anxiety about stranger danger" (Baran, "Jacob Wetterling").

Much like Etan Patz, "[Jacob] became a poster child for missing children" (McBride). It wasn't long before people began to suspect Jacob was a victim of sexual predation. Many community members thought the abductor was a released sex offender living in a halfway house in St. Joseph, though there was no evidence to support that theory (Costigliacci 182; Terry and Ackerman 57). John Walsh, the father of Adam Walsh and host of *America's Most Wanted*, appeared on a daytime talk show with Jacob's parents where he spoke about the crime:

I know what they're going through. They're going through the nightmare of not knowing. They're going and hoping, that sometimes in a rare incidence a child has gotten back that's been gone for a long time, but all of the people that are sitting there today know the harsh reality that lots of kids that are taken, are not taken by some caring person and taken to Disneyland. They're taken by someone who is into sexually assaulting children and if you're lucky, you'll find the body in a field. (Baran, "Notorious Child Abduction")

Walsh's remarks, though upsetting for the Wetterling family, echoed the thoughts of the general public. Everyone assumed that a previously convicted sex offender kidnapped Jacob for sexual reasons. This assumption spurred concerns from community members, who wondered how police investigators could not find and question all the known sex offenders in the area. Unlike a few other states, Minnesota did not have laws that tracked these people. The focus, then, turned toward creating legislation that would show a list of all previously convicted sex offenders and their whereabouts.

The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Jacob Wetterling Act) was enacted in 1994. This was the first federal law requiring "all 50 states to create sex offender registries or face a severe reduction in federal funding" (Costigliacci 183). Under this law, each state must create and maintain a list where "persons convicted of a criminal offense against a minor or a sexually violent offense and persons deemed to be sexually violent predators [are required] to register a current address with state law enforcement" (Heger). States must annually verify those addresses for at least 10 years, and released convicts must inform law enforcement of any changes. It is up to each state to operate its own independent registry. When the act was initially passed, states were only required to create the registry and verify addresses. Each state could determine whether its registry would maintain any additional information. If a state did not implement a registration system within three to five years, the state would face a reduction in federal funding for criminal justice. The Jacob Wetterling Act did not require states to share registration information with the public until 1996, when the law was amended following the murder of Megan Kanka.

*Megan's Law*

On July 29, 1994, in Hamilton Township, New Jersey, seven-year-old Megan Kanka left her house on foot to visit a neighborhood friend. On her way, Jesse Timmendequas, another neighbor, “lured Megan into his house across the street from hers to see a puppy, then raped her and strangled her with a belt” (“Repeat Sex Offender”). Megan’s murder is another high-profile case that attracted national attention for slightly different reasons. In this case, Timmendequas was a twice-convicted sex offender before Megan’s murder, where he was specifically convicted of sexually assaulting two young girls ages five and seven. He also “lived with two other child sexual abusers” (Terry and Ackerman 57). The community was not aware of Timmendequas’ prior convictions. Megan’s mother, Maureen Kanka, “said that if she had known that a sex offender was living across the street, she would have warned Megan, and Megan would still be alive today” (Terry and Ackerman 57). As a result of Megan’s murder, Maureen and many others wanted a law that mandated community notification of registered sex offenders living in the neighborhood.

Within three months of Megan’s murder, the State of New Jersey enacted Megan’s Law, requiring sex offender registration and community notification of high-risk sex offenders moving into a neighborhood. In 1996, Megan’s Law was passed on the federal level as a subsection of the Jacob Wetterling Act. Signed by then-President Bill Clinton, this subsection amended the Jacob Wetterling Act, requiring law enforcement officials to make information on released sex offenders available to the public rather than merely mandating sex offender registries. These registries are now maintained online; however, before the Internet, “notification strategies commonly included press releases, flyers, and door-to-door warnings about the presence of sex offenders” (Levenson et al. 3). The federal Megan’s Law allowed states to individually decide

how much information about the sex offender should be released based on the nature of the sex offense.

In 2016, President Barack Obama signed the International Megan’s Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders. Like the federal Megan’s Law, the international version was designed to notify others of sex offenders’ whereabouts. However, the international law has two components. First, the law authorizes the Department of Homeland Security and the DOJ to send and receive notifications to or from foreign governments when a sex offender travels abroad (Office of the Press Secretary). Second, the law “requires the Department of State to include unique identifiers on passports issued to registered sex offenders” (Office of the Press Secretary).

The International Megan’s Law sparked national debate. Many lawmakers defended the law, arguing that the law was a step in the right direction. U.S. Representative Eliot Engel said that “no single law will put an end to sex tourism or child sex trafficking, but every step we take strengthens our ability to prevent these crimes” (Marcos). Other groups focused on the second portion of the law. Seven unnamed sex offenders filed a lawsuit to challenge the law because the law allegedly “violates the First Amendment by compelling speech, imposes retroactive punishment, violates procedural and substantive due process, and denies the plaintiffs equal protection” (Sullum). The U.S. District Court for the Northern District of California dismissed the lawsuit. Some people even compared the passport’s new “identifier” to the way Nazi officials marked Jews with a yellow star (Post and The Volokh Conspiracy). Still, the law took effect on October 31, 2017, and remains in effect today.

*Pam Lychner Act*

As states began to adopt their own sex offender registries and community notification statutes, it became clear that maintaining different registries with varied guidelines “created logistical and interagency barriers, and the multiple registries made it difficult to track offenders across states” (Terry and Ackerman 58). To address this issue, Congress passed the Pam Lychner Sexual Offender Tracking and Identification Act of 1996 (Pam Lychner Act). This act amends the Jacob Wetterling Act to create a national database to track and identify sex offenders. Under this law, states with registries must share specific information, such as sex offenders’ identifying factors and future residences, with the Federal Bureau of Investigation (FBI) for the national database (United States Congress). For states that do not have sex offender registration programs, the FBI assumes responsibility; however, the state must notify sexually violent offenders of their duty to register with the FBI and inform the FBI of the release of such offenders (United States Congress). If a state has a sex offender registration program that does not meet the FBI’s minimum standard, the offender must then submit their current address, fingerprints, and updated photograph to the FBI. This law also amended the Jacob Wetterling Act to expand state registration requirements from a maximum of 10 years to 10 years *or* life. A sex offender must update their information with the FBI for the rest of their life “if that person has two or more convictions of any such offense, has been convicted of aggravated sexual abuse under Federal law or comparable State law, or has been determined to be a sexually violent predator” (United States Congress). States that fail to comply with these requirements are ineligible for a portion of federal funding allocated to them under the Omnibus Crime Control and Safe Streets Act of 1968 (United States Congress).

Identical to the Jacob Wetterling Act and the Megan’s Law subsection, the Pam Lychner Act was a “memorial law.” Memorial laws are legal instruments that aim to commemorate

victims and simultaneously punish those who wished them harm (Renfro, *Stranger Danger* 192). These laws are powerful in that they are typically introduced in Congress with an emotional story about what happened to the victim, ultimately rendering the law unquestionable. Supporters often characterize opponents of any particular memorial law as “more concerned about pedophiles than about the [victims]” regardless of their rationale for opposition (McLarin). In other words, “kidnapping, mutilation, and murder [have] few defenders; presented this way, the missing-children problem [is] uncontroversial” (Best 40).

Not all memorial laws relating to stranger danger or sexual predation were invented on behalf of a missing child. The Pam Lychner Act was named after Pam Lychner, a woman who was attacked when she was 31 years old. In 1990, Pam and her husband, Joe Lychner, bought a house in Texas to renovate and sell (Gray). The couple put the house on the market, and in short order, Pam scheduled a time to show the home to a prospective buyer. After a few phone conversations with the man intending to see the house, Pam asked her husband to go with her to the showing because she felt “a bit unnerved” (Gray). More specifically, when Pam once asked the man the name of his wife, the man hesitated before finally saying her name was “Pamela” (Gray). While the couple waited for the potential buyer to arrive, a workman for a cleaning company showed up with plans to clean the sink (Gray). Pam walked inside with the workman, who then proceeded to attack Pam. Joe heard the struggle from the dining room, rushing over to find the workman attempting to take off Pam’s clothes (Gray). He tackled the workman, allowing Pam to run away and call for help (Gray).

Police officers later identified the workman as a man named William Kelley. They found that Kelley was a previously convicted rapist and child molester and was out on mandatory early release (Abbott). Following Pam’s attack, Kelley received a 20-year sentence for aggravated

kidnapping with intent to commit sexual assault. Within a month, Kelley sued Pam and Joe for the “psychological injuries” he suffered during the struggle (Abbott). The judge quickly dismissed the lawsuit. After only two years, Kelley was announced as a candidate for early release again (Abbott). When Pam heard about Kelley’s early release plans, she channeled her outrage into creating a nonprofit organization called Justice For All. The organization later helped “repeal mandatory release laws ... curb inmates’ ability to file frivolous lawsuits against victims ... [and] establish the national sex offender registry” (Abbott). Pam and her two daughters, Shannon and Katie, tragically passed away in the Trans World Airlines Flight 800 explosion in 1996. After Pam’s death, Congress passed the Pam Lychner Act, honoring her efforts as a sexual assault survivor and crime victims’ rights advocate.

#### *The Campus Sex Crimes Prevention Act*

In 2000, Congress amended the Jacob Wetterling Act once again with the Campus Sex Crimes Prevention Act, creating another layer of sex offender registration. The law was officially passed as part of the Victims of Trafficking and Violence Protection Act. The law also amended the Family Education Rights and Privacy Act of 1974 (FERPA) and the Higher Education Act of 1965. While the Jacob Wetterling Act created sex offender registries and its subsequent amendments implemented community notification policies, the Campus Sex Crimes Prevention Act “provides special requirements relating to registration and community notification for sex offenders who are enrolled in or work at institutions of higher education” (U.S. Department of Justice, “Guidelines”). Once a sex offender notifies the state of their enrollment or employment at one of these institutions, the state is then required to notify the campus police department. It also requires institutions of higher education to post information for their campus community on where and how they may be able to view the sex offender registry. The law clarifies that

releasing this information is not a FERPA violation, and educational record privacy does not prevent a campus from disclosing information concerning registered sex offenders (“Disclosure of Education Records”). Congress has enacted several other laws to notify students about general crimes on campus and reinforce sexual assault victims’ rights, but these laws do not fall within the scope of this thesis.

### *Adam Walsh Act*

The most comprehensive legislation regarding sex offenders is the Adam Walsh Child Protection and Safety Act of 2006 (Adam Walsh Act). The legislation came 25 years after six-year-old Adam Walsh was murdered in Florida. On July 27, 1981, Adam and his mother, Revé Walsh, went to a department store in Hollywood, Florida. While at the store, Adam’s mother permitted him to check out the video games section by himself while she looked at lamps (“Murdered: Adam Walsh” 00:01:30-00:2:23). After some time, Revé returned to find Adam; however, he was nowhere to be found. Revé later learned that a security guard had asked a group of boys to leave the store after a small fight broke out over whose turn it was to play a game, making it likely Adam was one of the boys put outside the store (“Murdered: Adam Walsh” 00:03:52-00:04:56). When they still could not find Adam, it soon became apparent that something sinister had happened (“Murdered: Adam Walsh” 00:05:10-00:05:30). The “mobilization to find Adam Walsh [contributed] to the massive alarm about stranger abduction” (Waxman). Sixteen days after Adam went missing from the department store, “two fishermen found Adam’s severed head floating in a canal off the Florida turnpike” (Waxman). The rest of Adam’s remains were never located (Almanzar). Police officially attributed Adam’s murder to a serial killer named Ottis Toole and closed the case in 2008.

Adam's case is routinely considered as a catalyst for change on behalf of missing children. John Walsh, Adam's father, quickly became an anti-crime activist. Adam's parents established the Adam Walsh Outreach Center for Missing Children only a few days after Adam's funeral (Waxman). Joining Etan Patz's parents, both John and Revé advocated in front of Congress for the Missing Children Act of 1982 and the Missing Children's Assistance Act of 1984. John Walsh additionally helped found the National Center for Missing and Exploited Children. He later became a large television personality, hosting *America's Most Wanted*, *The Hunt with John Walsh*, and *In Pursuit with John Walsh*. Each of these television series aims to track down criminals and find missing children. In 1994, Walmart created the Code Adam alert system in Adam's memory. When a child is reported missing in a store, a store clerk pages "Code Adam," and store employees move to guard all exits to watch for the child while other employees begin searching inside the store (Larson).

John and Revé's efforts eventually led to the Adam Walsh Act (AWA), which then-President George W. Bush signed on the 25th anniversary of Adam's abduction. The AWA "[epitomized] the memorial laws before it," setting "national standards on the following measures: registration and notification, civil commitment, child pornography prevention, and Internet safety, and it makes failure to register as a sex offender a deportable offense [for immigrants]" (Terry and Ackerman 56). Before the AWA, "there were great inconsistencies between state registries" (Evans et al. 143). Some states required retroactive registration, while others did not; some states required only Tier 3 sex offenders to register, while other states listed all offenders (Evans et al. 143). Each state set its own standards and followed through with its plans to varying degrees.

The AWA established the Sex Offender Registration and Notification Act (SORNA), providing “uniform guidelines for registration of sex offenders, regardless of the state they live in” (Terry and Ackerman 59). This law requires states to maintain registrations for all sex offenders, rather than solely those who are high-risk. Thus, SORNA implemented three separate tiers to categorize sex offenders. Tier 1 includes low-risk offenders whose registry lasts 15 years. Tier 2 includes moderate-risk offenders whose registry continues for 25 years. Tier 3 includes the highest risk offenders who must maintain their registration for life. The type of crime committed determines a sex offender’s level of risk. Using a streamlined, offense-based system for classifying offenders, states can differentiate high-risk offenders while still maintaining registries for all sex offenders. SORNA also expands public notification, requires infrequent in-person verification appearances, and extends registration jurisdiction to include the District of Columbia, the principal U.S. territories, and federally recognized Indian tribes (“Sex Offender Registration and Notification Act”). Under this law, all juvenile sex offenders are required to register. If a juvenile is over the age of 14 and is found guilty of aggravated sexual abuse or some comparable offense, they will be subject to community notification as well (Terry and Ackerman 59). The AWA also opened the door for states to implement global positioning system (GPS) monitoring to track registered offenders during their time on the registry, occasionally using GPS tracking as an alternative to incarceration (Terry and Ackerman 62).

What makes the AWA unique is its inclusion of nonfamily abductions. Suppose a nonparent is convicted of kidnapping or false imprisonment of a minor. In that case, they “must submit to various conditions, including having [their] name, likeness, and other personal information published in the publicly accessible sex offender registry of [their] respective state” (Costigliacci 181). This registration is “mandatory regardless of whether the crimes committed

contained a sexual component” (Costigliacci 181). States are required to include these two crimes as part of their enlistments.

Furthermore, the AWA included a law to honor Dru Sjodin, who was 22 when she was abducted from a mall parking lot in North Dakota in 2003. Police later connected a Tier 3 registered sex offender to her murder. The law included under the AWA primarily changed the name of the National Sex Offender Public Registry to the Dru Sjodin National Sex Offender Public Website (U.S. Department of Justice, “Dru Katrina Sjodin”).

#### *Additional Sex Offender Laws*

Since the national stranger danger panic began, the country has passed legislation in other areas to prevent stranger danger and other crimes against children. In 2003, the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act (PROTECT Act) became a federal law. This act, in part, assisted states with sex offender registration program compliance; however, it also implemented measures to prevent child abductions and eliminate the sexual exploitation of children (Terry and Ackerman 56). The PROTECT Act did the following: (1) created a national AMBER Alert Program, a child abduction emergency response system named after Amber Hagerman, a nine-year-old abducted and murdered in Texas; (2) lifted the statute of limitations for child abduction and child abuse; (3) increased the minimum penalty for child abduction to 20 years in prison; (4) increased the penalty for child pornography production; and (5) created other initiatives to further penalize sex offenses. Like the Protection of Children from Sexual Predators Act of 1998, other federal laws set forth additional provisions to prevent child abuse and child sexual exploitation. Many states adopted “three-strikes” laws, where sentences are heavily increased in cases where a person has committed two or more violent crimes. Some of these were introduced in Congress, but none have become federal law.

Still, national sex offender registries are the primary way the United States decided to address the stranger danger panic and growing concerns about child predation.

### *Intended Goals*

All of the laws discussed in this section aim to reduce the number of threats to children in the United States. Starting with the Jacob Wetterling Act, each registered sex offender law is “designed to improve the public’s ability to monitor sex offenders living in the community and enhance utility, accessibility, and cross-jurisdictional sharing of registry data” (Harris et al. 1). The key component of these laws is the requirement that all sex offenders register with local law enforcement. Once an offender is registered, law enforcement officials work in tandem with state and federal agencies to maintain their registry information and make the data available to the public. People can then search for sex offenders in their community using the Dru Sjodin National Sex Offender Public Website. If a person travels internationally or enrolls in university, the appropriate officials are notified.

The laws are designed to “both promote community awareness of offenders’ presence and deter offenders via reductions in their opportunities to locate and access unsuspecting and vulnerable victims” (Tewksbury 67). When sex offender registries were first implemented, proponents believed they would help the community because “police [would] have a list of likely suspects should a sex crime occur in the neighborhood in which a registered offender lives” (“No Easy Answers” 4). Advocates also argued in favor of community notification laws because “parents [would] have information that [would] enable them to heighten their vigilance and ... warn their children to stay away from particular people” (“No Easy Answers” 4). Lawmakers rationalized registries and community notification for tracking purposes. Advocates also viewed the extended community notification system as a form of punishment where “the presence or

threat of sanction will divert potential criminal offenders from committing criminal acts” (Tewksbury 67-68). These new laws would, in theory, serve as a deterrence, where potential sex offenders would consider the possible punishment they might face and realize that the consequences of committing a sex crime outweigh any benefit they might gain from committing the crime. Then, according to this theory, they would decide not to commit the crime.

In sum, sex offender registries were designed to protect children and prevent crimes. But while they “reflect a deep public yearning for safety in a world that seems increasingly threatening,” these registry laws may be doing more harm than good (“No Easy Answers” 3). As Illinois State Representative John Fritchey stated, “the reality is that sex offenders are a great political target, but that doesn’t mean any law under the sun is appropriate” (“No Easy Answers” 2). Sex offender registries and their counterparts were adopted mainly to respond to the stranger danger panic to protect families, but there remains little evidence of any public safety benefit of these policies (“No Easy Answers” 3). The next section of this thesis focuses on how these registries and community notification laws were predicated on mistaken premises and are not designed in a way that ultimately prevents sex crimes.

## SECTION II: Why the Sex Offender Registration Policies Fail

In the United States, sex crimes involving children are considered among the worst types of crimes. Before the 1990s, the federal government had almost no sex crime laws. Understandably, “criticism of governmental inaction or ineptitude on matters of child safety underpinned the missing child scare” (Renfro, *Stranger Danger* 124). In the beginning stages of federal legislative discussions, when bereaved parents were pressuring Congress to implement a centralized database for missing child reports, “these parents had a point—when a child did go missing, the existing law enforcement infrastructure was often not up to the challenge of supporting a widespread search” (Wodda 5). In response to the missing child hysteria, Congress passed numerous laws to protect children from many evils, leading to the extensive legislation governing sex offender registration and community notification. These registered sex offender policies were designed to reduce sex crimes against children, particularly crimes committed by someone unknown to the child. Unfortunately, evidence shows that when crafting these policies, the federal government naively relied on grossly exaggerated statistics on stranger abduction frequency and registered sex offender recidivism rates. Research also shows that these registration laws are not as effective in preventing sex crimes as they were intended to be. First-time offenders are still committing crimes, and the registration laws do not account for unreported crimes. For these reasons, sex offender registries and notification laws “may be counterproductive, impeding rather than promoting public safety” (“No Easy Answers” 9).

### *A Closer Look at Stranger Abduction Statistics*

One of the most common public misperceptions regarding sex offender registration and notification laws is that “most sexual assaults are committed by strangers—implying that if the public knew who the offenders were, the assaults would not occur” (Williams 14). This

misperception is attributed mainly to the stranger danger panic that followed the extensive media coverage of several heinous stranger abductions and child sexual assault cases in the latter half of the twentieth century. Political leaders focused on especially atrocious tales, such as the sexualized abductions and murders of Jacob Wetterling and Megan Kanka, stating that “new and amended laws would have ‘prevented’ the [specific] rape/murder from occurring” (Wright 3). Then, in political conversations, “the atrocity—usually selected for its extreme nature—typifies the issue ... [and] it becomes the referent for discussions of the problem in general” (Best 28). In other words, leaders who cited these cases as evidence to support their policies “led many people to infer that the most serious cases were commonplace” (Best 30). Equally troubling is how legislators and missing child advocacy groups coupled these stories with bogus data that went “against the [widely accepted] scientific findings on sexual victimization and perpetration” (Williams 14).

In the early 1980s, lawmakers backed their bills with claims that “relied heavily on estimates of the number of children affected” (Best 29). At the time, the term *missing children* was used broadly, encompassing runaways, custodial kidnapping victims, and nonfamily abduction victims. In some contexts, the term also included people who went missing in their twenties and other children who returned home after brief disappearances, where certain ages or time lengths were counted in the overall total of missing children (Best 26-27). Advocates did not “[discriminate] against *kinds* of missing children” (emphasis in original; Best 27). But this overbroad definition of *missing children* opened the door for advocates to distort quantitative data.

To advance their positions, “missing-children crusaders routinely presented statistics” that were misleading or simply wrong (Best 46). In one congressional hearing, U.S. Senator

Paula Hawkins cited a statistic from the Department of Youth Development in Health and Human Services reporting that “as many as 1.8 million children disappear each year” (“The Missing Children’s Act” 2). This became one of the most frequently repeated figures in the national missing child dialogue (Best 46). Of these 1.8 million children, lawmakers estimated approximately 50,000 were abducted by strangers (Best 46). In 1984, Michael Agopian, then-Director of the Child Stealing Research Center, testified in Congress: “We are all aware of the Adam Walsh case, but please recognize that there are tens of thousands of additional Adams that are not so prominently reported by the media” (Best 29). Around the same time, U.S. Representative Dan L. Schaefer told Congress that in the state of Colorado, “over 11,000 children are listed as having been abducted” (Griego and Kilzer). U.S. Senator Paul Simon wrote, “150,000 or more [children] are taken by estranged parents, thousands of others are abducted by strangers who want children for prostitution, child pornography or other exploitative purposes. Some 4,000 are later found dead” (Griego and Kilzer). One television station in Chicago, Illinois handed out pamphlets saying “nearly 2,000,000 children in this country disappear from their homes each year. Many end up raped, forced into prostitution and pornography. Many are never heard from again” (Best 30). These figures capitalized on the lack of authoritative official statistics on missing children, reflecting the lack of existing policies at the time. Since local police agencies had no formal process for tracking missing children or sexual offenders, these estimates highlighted the government’s need to implement systems that pinpointed the exact number. If these estimates were challenged factually, advocates would remind critics that the figures ultimately did not matter because one missing child was too many. Thus, counterclaims became ineffective, and the registration and notification laws passed.

While no child (or adult) should ever be subjected to terror under any circumstance, stranger abductions are not as common as many people believed when legislators created the registration and notification laws. Missing child experts have since determined that these laws were built on egregiously inflated figures. In the 1980s, proponents of sex offender registries and other similar policies initially estimated 50,000 stranger abductions per year. However, in 1985, Child Find, the nation's oldest and best-known missing child organization, said "the actual number of stranger-abduction children is less than 600 per year" in the United States (Griego and Kilzer). The NCMEC reported fewer cases, with 142 known stranger kidnappings in 1984 (Griego and Kilzer). The FBI reported even fewer known cases: 67 in 1984 (Griego and Kilzer). Some experts pointed to analogical evidence to explain the absurdity of the original statistics. For example, Bill Carter with the FBI referenced the 50,000 soldiers who died in the Vietnam War and said, "almost everyone in America knows someone who was killed there ... [but] do you know a child who has been abducted? That should tell you something" (Griego and Kilzer). Others indicated that "the actual number of stranger abductions was 'fewer than the number of preschoolers who choke to death on food each year'" (Best 48). Some studies have found stereotypical stranger abductions occur with "lightning-strike rarity" (Shutt et al. 128). Representative Schaefer and Senator Simon's claims were also debunked (Griego and Kilzer). The Polly Klaas Foundation provides more assuring statistics, indicating that "only about 100 children (a fraction of 1%) are kidnapped each year in the stereotypical abductions you hear about in the news" ("National Child Kidnapping Facts"). What's more, "about half of these 100 children come home" ("National Child Kidnapping Facts"). Most of the missing child cases—nearly 90%—are children who have "simply misunderstood directions or miscommunicated their plans, are lost, or have run away" ("National Child Kidnapping Facts").

When high-profile stranger abductions occur, children either are or are assumed to be victims of sexual assault. This explains the urgency for registered sex offender laws during the 1990s, despite many cases going cold until after the laws were passed. But evidence shows that not all stranger abductions are sexually motivated. As one report notes, “the fear of ‘stranger danger’ is misplaced and should not be used to justify the proliferation of registered sex offender laws” (Bonnar-Kidd 414). In 1999, the DOJ launched a National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMAART) to determine the actual number of missing children and recovered children. The NISMAART found 115 stranger abductions that year, with 56 of those cases involving sexual assault (Bonnar-Kidd 414). Had the Adam Walsh Act, the most recent and comprehensive registered sex offender law, existed in 1999, all 115 perpetrators would have had to register as sex offenders even if they did not abduct the child for sexual purposes. The Adam Walsh Act requires nonparent, nonpredatory offenders to register as sex offenders if they are convicted of kidnapping or false imprisonment of a minor, regardless of sexual involvement. However, labeling these types of offenders as sex offenders is a “dangerous directive that defeats the stated purpose of the Adam Walsh Act” (Costigliacci 181). It also causes “misallocation of child protective resources, misdirection of the public’s attention, and an overall confusion as to who poses a threat to the safety of our nation’s children” (Costigliacci 181). The government argues that this requisite is warranted because it is “difficult always to determine if the kidnapping or false imprisonment of a child was committed with a sexual motive, purpose, or component” (Costigliacci 181). Thus, any nonparent who commits these crimes is supposed to register as a sex offender as a precautionary measure.

Curiously, the Adam Walsh Act does not require states to include *parents* who kidnap or falsely imprison a child on the sex offender registry when the crimes do not involve sexual

motives (Costigliacci 181). The assumption of possible sexual assault only applies in nonparent abductions, further demonstrating how the registration and notification legislation centers around stranger abductions and sexual assaults. It is important to note that there is limited research on how many parent abductions are sexually motivated; however, the extant research indicates that “parents were the perpetrators in more than 90% of kidnappings and abductions” (Ordway). When the scope is expanded to nonparent family members, some estimates run “as high as 95% of all reported cases” (Miller et al. 525). Studies have found that, in general, “family abduction is the most prevalent form of child abduction in the United States” (U.S. Department of Justice, “Family Abduction”).

In summation, sex offender registration and community notification laws are predicated on the belief that stranger abductions and sexual assaults are high-frequency events. But evidence reveals that “husbands, boyfriends, uncles, aunts, mothers, family friends, and dating partners represent a greater threat of sexual violence than does the stranger-predator for whom these laws were developed” (Wright 7). Though stranger abductions, or any abductions for that matter, have little to do with sex offender registries, it is crucial to consider how high-profile stranger abduction tragedies and outrageous statistical data influenced the push for these laws. If American legislation is based on flawed assumptions, the laws may not be as efficient as they were intended to be.

Community notification laws were part of a concentrated effort to provide members of the public with a way to identify and avoid local sex offenders. However, the Rape, Abuse & Incest National Network (RAINN), the nation’s largest anti-sexual violence organization, reported that 93% of children who are sexually assaulted know the person who harmed them (“Perpetrators of Sexual Violence: Statistics”). Likewise, it is “uncertain whether people will

look up the names of their fathers and grandfathers, their wives and their aunts to see if they are listed on the registry” (“Blacklisted”). Community notification laws are the backbone of sex offender registries, but they also only make sense in very limited circumstances (Lind). For example, a list of registered sex offenders may help identify a neighboring sex offender. Still, they do not make a difference when a stranger approaches a person outside the neighborhood context. Ironically, these types of stranger attacks are the very ones the notification laws attempt to prevent by giving people the resources to Google surrounding sex offenders. Consequently, the community notification laws are not an effective preventative measure against stranger abductions because the potential gains are far too narrow. The laws also heavily depend on a person to search the names of everyone within their broader circles, which is unlikely. Further, community notification does not work as a preventative tool because a person is only registered as a sex offender after being convicted of a sex crime. It does not account for family members, acquaintances, or even strangers who are not previously convicted sex offenders. The following subsection expands on this idea in more detail.

#### *Registered Sex Offender Recidivism Rates*

When Congress began drafting sex offender registration and community notification laws, members also weaponized exaggerated statistics on recidivism. U.S. Senator Kay Bailey Hutchinson said on congressional record that “we know that more than 40% of convicted sex offenders will repeat their crimes” (“IV. Sexual Violence in the United States”). U.S. Representative Jim Ramstad referenced “a study of imprisoned child sex offenders,” pointing out that the study had supposedly found “74% had a previous conviction for another child sex offense” (“IV. Sexual Violence in the United States”). U.S. Representative Mark Foley spoke about sex offenders in a broader term, declaring that “there is a 90% likelihood of recidivism for

sexual crimes against children ... that is the standard. That is their record. That is the likelihood ...” (“IV. Sexual Violence in the United States”). In other debates, politicians frequently referenced recidivism rates for sex offenders between 80% and 90% (“No Easy Answers” 4). Legislators rarely cited their sources or established credibility for such figures (“IV. Sexual Violence in the United States”). These statistics suggested that the registration and notification laws would protect people from a group of criminals who posed a high risk of reoffending (Bonnar-Kidd 413). Even today, “sex offenders are often scrutinized because of the fear that they will inevitably commit new sex crimes” (Terry and Ackerman 64). Many people assume that most sex offenders cannot control their urges and would commit the crimes again if given a chance (“No Easy Answers” 4). Therefore, community members and law enforcement presumably needed to know sex offenders’ whereabouts so parents could watch their children more closely and investigators could quickly form a list of suspects if something were ever to happen.

Yet, “the majority of recidivism studies provide findings that are contrary to this belief” (Terry and Ackerman 64). Studies show that registered sex offenders rarely return to prison for another sex crime (Bonnar-Kidd 413). The DOJ described registered sex offenders as “the least likely class of criminals to reoffend, with 3.5% of registered sex offenders released from prison in 1994 being reconvicted for another sexual offense within [three] years of their release” (Bonnar-Kidd 414). That same year, one study of about 10,000 released sex offenders found that “only 2% of the released rapists in this study were rearrested for a rape ... [and] a closer examination of those offenders with at least one prior sex crime arrest determined that only 5% were exclusively sex offenders (i.e., all of their arrests were for sex crimes)” (Williams 33). Thus, if these offenders were arrested more than once, their additional crimes were not sex

crimes. In the early 2000s, the Bureau of Justice Statistics (BJS) conducted a study finding a “5.3% recidivism rate for sex offenders over three years” (Terry and Ackerman 64). Still, various studies present consistent findings that indicate “when sex offenders do reoffend, they are more likely to commit a nonsexual offense than a sexual one” (Terry and Ackerman 64). In 2002, the BJS conducted one of the most comprehensive studies on recidivism with 272,111 former inmates from 15 states (Williams 31). The inmates in the study were not exclusively sex offenders. It was a general study on all types of offenders. The results are presented below:

[The BJS study] found that 67.5% [of the inmates] were rearrested within a 3-year period. The majority of these rearrests were for felonies or serious misdemeanors. Of this group, 46.9% were convicted of a new crime. Rapists, who represented 1.2% (n = 3,138) of the total of released inmates, were among those with the lowest rate (46%) of rearrest, as were other sexual assault (41.4%) prisoners. Those rearrested were robbers (70.2%); burglars (74%); larcenists (74.6%); motor vehicle thieves (78%); those convicted of possessing or selling stolen property (77.4%); and those possessing, using, or selling illegal weapons (70.2%). Within 3 years, 2.5% (n = 78) of released rapists were arrested for another rape. A rearrest rate of 2.5% for new sexual assaults, although a likely underestimate of actual reoffending, is still a low-frequency event. (Williams 31)

This data shows that the legislative concern for sex offender recidivism, as it pertains to committing new sexual assaults, may not be as necessary as society once believed.

Still, it is worth noting that rape crimes are “in the midst of a slow but persistent six-year upward swing” (Lartey and Li). Rape, in this context, uses the modern definition of a nonconsensual sex crime rather than only sex crimes involving force, broadening the term to encompass what is traditionally classified as sexual assault. Comparatively, numerous studies

have shown that the violent crime rate in the United States remains on a downward trend over the past few decades, where the overall rate has “plunged by more than 50% since the highwater mark of the early 1990s” (Lartey and Li). This is significant because it shows that violent sex crimes are still continuing despite registration laws intended to also serve as a deterrent. In fact, in 2018, the BJS released its annual National Crime Victimization Survey, which documents crimes Americans experienced even if they did not report them to the police (Kaste and Brown). According to the survey, those who “said they had been raped or sexually assaulted nearly doubled from 2017 to 2018” (Kaste and Brown). This further indicates that the sex offender registries and community notification laws do not wholly prevent sex crimes from occurring.

Recidivism data is imperfect, however. This is, in part, due to the various ways recidivism is defined. Some studies define sex offender recidivism as the tendency of a convicted sex offender to commit *any* crime. In contrast, other studies define it as a convicted sex offender’s tendency to commit *sexual* crimes. In some cases, data is only collected when the re-offense involves violence rape, rather than sexual assault, child pornography possession, or indecent exposure (Bonnar-Kidd 414). Recidivism rates also do not account for unreported sexual crimes. According to RAINN, “only 230 out of every 1,000 sexual assaults are reported to police. That means about 3 out of 4 go unreported” (“The Criminal Justice System: Statistics”). Of course, these unreported crimes do not factor into the recidivism data, so it is unknown whether these crimes are committed by a previously convicted sex offender or by someone not on the registry. This information would likely reshape the statistics to some degree; however, the known data still does not support the “rhetorical contention (often repeated in the policy debate) that sex offenders ‘always reoffend’” (Williams 32). It is unreasonable “to assume that the bulk

of these unreported crimes are being committed by the [917,771] registered sex offenders in the United States today” (Bonnar-Kidd 414; Vigderman and Turner).

In evaluating reported sex crimes, research shows that they are committed mainly by someone not previously registered as a sex offender (Bonnar-Kidd 414). In lay terms, this means that these offenders “haven’t [previously] done anything that would have landed their names on the sex offender registry” (“Blacklisted”). In 1997, the DOJ found that “87% of the people arrested for sex crimes were individuals who had not previously been convicted of a sexual offense” (“No Easy Answers” 25). One independent study conducted in the state of Ohio found that “in 1999, 92% of those convicted of a sex offense against a child and 93% of those convicted of a sex offense against a teenager were first-time offenders” (Bonnar-Kidd 414). A separate analysis conducted in New York “reported that 96% of all new arrests for sexual crimes occurred among those without previous sexual crime convictions” (Bonnar-Kidd 414). This data calls into question the effectiveness of the sex offender laws because there is no way the registry could warn the victim or survivor in these instances (“Blacklisted”).

In short, the recidivism rates are not as high as legislators initially thought. Even when considering unreported crimes and the uptick in sexual assaults, there is no evidence that convicted sex offenders commit new assaults at “astronomically high” rates, as U.S. Representative Jennifer Dunn claimed in one congressional hearing (“IV. Sexual Violence in the United States”). Research has since revealed a fundamental flaw in the sex offender registration, where the laws are designed to protect people from reoffenders. The evidence shows that recidivism rates are relatively low. Since sex crimes are still occurring and are increasing, these laws are not effective in reducing sex crimes. Again, these laws are not preventative tools if they only apply to offenders who have already committed a sex crime, especially because first-time

offenders commit most new sex crimes. While these laws may serve as a deterrent to a small group of individuals, it is far more likely that perpetrators are not considering the implications of the sex offender registry when committing sex crimes. Thus, sex offender registration and community notification laws are not as effective as legislators anticipated.

### *Missing Registry Information*

Registry accuracy is another major problem associated with sex offender registration laws. In 2001, researchers closely examined the Kentucky Sex Offender Registry, “focusing on whether offenders’ listed information was complete and accurate” (Tewksbury 71). The results revealed that 43% of offenders did not have a photograph included in their registry and 8.2% maintained “unknown” addresses (Tewksbury 71). In urban counties, the problem was exacerbated; “10.5% had unknown addresses, 10.5% listed addresses that turned out to be commercial locations, and 5.4% had addresses that did not exist” (Tewksbury 71). In other more recent instances, the state registries include “names of offenders who died as long as 20 years ago [as of 2020]” and others maintain the “names of hundreds of offenders who have failed to verify their whereabouts [for] more than a decade” (Thompson). This evidence contradicts the purpose of the sex offender registries, where members of the public have the apparent right to access offenders’ proximity (Tewksbury 71). In contrast, “95% of offenders [were] in compliance with registration requirements in the United Kingdom” in 2000 (Tewksbury 71).

While it is true that the Adam Walsh Act recognized these problems and attempted reform in 2006, states still are not maintaining and verifying information on the registries, rendering the system wholly ineffective. In 2020, National Public Radio (NPR) conducted an investigative case study on sex offenders’ whereabouts. Law enforcement agencies say that they are unable to locate sex offenders whose addresses are incorrect. But after combing through

registries, NPR “counted tens of thousands of offenders who are considered absconders or whose locations are unknown. Among them were men whom NPR found easily using public records” (Thompson). Colorado listed one man as one of the state’s 100 most wanted sex offender fugitives; NPR quickly found him in Washington state, “where he has never registered as a sex offender” (Thompson). Additionally, NPR interviewed a man named Curtis Lang Sr., who was convicted of rape in 1994 and served a decade in prison. Upon release, Lang was required to register as a sex offender and update his registration every three months for the rest of his life (Thompson). He stopped updating his information around 2015. Then, in 2019, Lang received a traffic citation for driving with an expired license (Thompson). In court, Lang listed an address different from the one listed on the public sex offender registry (Thompson). The police did not cite him for failure to register and have not come after him. Other states rely on traffic stops or domestic calls to catch absconders, including Illinois, where “12.5% of the state’s 32,249 sex offenders [as of 2020] are missing or have failed to comply with reverification laws” (Thompson). In other states like Nevada, “authorities rarely check to ensure that sex offenders live where they say they do,” according to Mindy McKay, an administrator in the Nevada Department of Public Safety, who also told NPR that “if they abscond, they abscond. There’s nothing we can do about it” (Thompson).

The NPR study also determined that some “sex offenders [do occasionally] commit additional sex crimes after failing to tell police their whereabouts” (Thompson). For example, in Missouri, a man convicted of sexually abusing a five-year-old girl in 1991 was convicted a second and third time in 1998 and 2017 for similar crimes after moving to different states without registering as a sex offender (Thompson). More recently, in 2019, a Tennessean named Austin Kelly was released after serving 10 years in prison for attempted child rape (Thompson).

He was required to register as a sex offender upon release. Within a few weeks, Kelly absconded, moving to Oklahoma, where “he filled out a sex offender registration form, but when the [local] Sheriff’s Office mailed the address verification form to him, he didn’t send it back as required by law,” which also made him an absconder in Oklahoma (Thompson). At the end of 2019, Kelly was arrested and charged with sexual abuse of a minor along with aggravated possession of child pornography, and he was sentenced to 35 years in prison.

Arguably, stories like Kelly’s are the types of headline-grabbing cases the sex offender registry laws aim to prevent. But it appears that the current system does not properly block these crimes from occurring. When a sex offender does not pursue the registry themselves, state officials typically do not prioritize chasing after them. It does not make sense, then, for a sex offender to diligently follow up on their sex offender registries if they know the police are not going to find them for breaking the law. If the information on the registry is only partially accurate and up to date, the sex offender laws are not an effective means to prevent sex offenders from reoffending.

### SECTION III: Unintended Consequences

In 1936, sociologist Robert Merton “observed that when a society overreacts to a perceived threat and seeks to curtail that threat by drastically altering the social order, unexpected outcomes can subsequently result” (Levenson 10). This observation is exemplified in the matters pertaining to this thesis. The social response to the stranger danger panic in the 1980s effectively triggered extensive legislation on sex offender registry and community notification laws; however, evidence shows that these laws not only fail to reduce and prevent sex crimes, but also lead to unintended consequences.

#### *The Criminalization of Children*

One of the most widely cited consequence stemming from the sex offender registration and community notification laws is the criminalization of adolescent sexual behavior. Traditionally, the American legal system treats juveniles differently from adults, creating an entirely separate court system for juvenile offenders. This separate system is known as “juvenile court” rather than “adult court.” The idea behind this separated system is that “forcing [juveniles] to carry the burden of a public criminal record for childhood mistakes serves neither them nor the community” (“No Easy Answers” 66). Juvenile court holds a greater emphasis on rehabilitation, even allowing juvenile records to be expunged or sealed once the juvenile becomes an adult (“No Easy Answers” 66). When it comes to sentencing, the United States Supreme Court found in *Miller v. Alabama* (2012) that “children are constitutionally different from adults ... juveniles have diminished culpability and greater prospects for reform.” However, this does not apparently apply in cases involving sex crimes and subsequent sex offender registration.

Since 2006, when the Adam Walsh Act and Sex Offender Registration and Notification Act became federal laws, states have been required to include juvenile sex offenders ages 14 and

up on their registries if they are adjudicated delinquent for sex offenses (Wright 256). In some states, the minimum age is even lower. Massachusetts, for example, allows registration for children as young as seven years old (McKay). In 2009, the DOJ reported that “one in eight [registered] child sex offenders who committed crimes against other children were under the age of 12” (McKay). The DOJ further estimates that “there are at *least* 89,000 children on the sex offender registry” (emphasis in original; McKay). The Adam Walsh Act does not require states to subject registered juvenile sex offenders to community notification, but many states do. In states where juvenile sex offenders are placed on nonpublic registries, “citizens may still obtain registrants’ information upon request” (Spooner and Wright 256). Once a youth offender turns 18, they must register as an adult offender and adhere to community notification laws. Thus, juvenile sex offenders are still subject to the lasting effects of registration, and their records are not sealed upon adulthood.

While it is true that some of the crimes youth offenders commit can cause considerable harm, “children are also subjected to sex offender laws for conduct that, while frowned upon, does not suggest a danger to the community” (“No Easy Answers” 8). Examples of such conduct include youthful pranks such as exposing one’s buttocks, age-appropriate activities like “playing doctor,” touching another child’s genitalia over clothing, and consensual sexting (“No Easy Answers” 65; “Raised on the Registry” 3; Spooner and Wright 267). Consensual teenage sex is also a behavior that leads to sex offense conviction because there are no “Romeo and Juliet” exceptions in 11 states (“No Easy Answers” 73). “Romeo and Juliet” laws establish that a person can legally have consensual sex with a minor if that person is only a certain number of years older than the minor. In most cases, the person may be four years, at most, older than the minor. But when “Romeo and Juliet” laws are not implemented in a given state, “anyone who has sex

with a person below the minimum age of consent is committing a crime and could, if convicted, be required to register as a sex offender” (“No Easy Answers” 73). This applies to minors who are also under the minimum age of consent, having consensual sex with another minor. In addition to consensual teenage sex, all of these different activities are most frequently deemed as “normative behavior” and “experimentation,” but still land children on the registry each year (Berkowitz). State registries often provide broad descriptions of the crimes sex offenders commit without indicating what the crime entailed or the offender’s age at the time of the crime. For example, states will enter “indecent liberties with a child” onto the registry to describe any number of different sex crimes involving children, opening the door for the public to “understandably assume the worst” (“No Easy Answers” 6). It is valuable, then, to consider the effects of blanket registration requirements on *all* juvenile offenders, rather than just the perceived “worst” offenders, since our laws treat all sex offenders the same.

Juvenile sex offenders frequently experience severe psychological harm (“Raised on the Registry” 5). Children on sex offender registries are at a greater risk for suicide attempts. One study conducted by the Johns Hopkins Bloomberg School of Public Health found that “registered children were four times as likely to report a recent suicide attempt ... compared to nonregistered children” (“Children on Sex Offender Registries”). Registered children are also more likely to experience other mental health problems, including depression. Further, registrants’ relationships with their peers suffer, as young offenders on the registry are often isolated and ostracized by their peers (Shah). This effectively “deprives youth of sources of psychological support at the precise time they most need community acceptance” (Shah). Placing juveniles on the sex offender registry can negatively impact their peer relationships, doing further damage to their mental health in their formative years.

Evidence also suggests that labeling youth as sex offenders can become a self-fulfilling prophecy. Many juvenile sex offenders are deemed as such before they can fully comprehend what it means to be a sex offender. Thus, at a time when adolescents are most struggling to define their identity, these laws provide them with one of the most harmful labels to construct their social identity and perception of self. Accordingly, these labels “can cause profound damage to a child’s development and self-esteem” (Raised on the Registry” 50). One therapist who treats children with sexual behavior issues, Scott Smith, explained how “it’s a negative self-fulfilling prophecy when you label a child a sex offender. You place that kind of stigma on a kid and they tend to live up, or rather down, to those expectations” (“No Easy Answers” 65). Youth offenders’ cognitive immaturity and developing identities are actually what make them “excellent candidates for rehabilitation—they are far more able than adults to learn new skills, find new values, and re-embark on a better, law-abiding life” (“Raised on the Registry” 25). It is most unfortunate, then, for our societal laws to permit juvenile sex offender registration in the same capacity as adult sex offender registration. Arguably, “justice is best served when ... rehabilitative principles, which are at the core of human rights standards, are at the heart of responses to child sex offending” (“Raised on the Registry” 25).

In addition to psychological damage, youth sex offenders are often denied access to education. Before a court deems a child to be a sex offender, the child is often expelled from public school due to their actions (“Raised on the Registry” 71). Once the child registers as a sex offender, the problem is exacerbated. If a child is not expelled before their sex offender registration status, they may face expulsion after registering as a sex offender. If a child sex offender is not outright banned from attending school, they may experience difficulties in school due to the registry’s public nature (“Raised on the Registry” 72). This could include bullying,

harassment, or social isolation. Should a child sex offender obtain a high school diploma or pass the General Educational Development (GED) exam, they still may face additional barriers to accessing higher education. Higher education applications typically require applicants to disclose their criminal convictions. Even if a college or university does not require applicants to disclose juvenile delinquency adjudications, they must still do so if the adjudication involved a sexual offense (“Raised on the Registry” 72). In other cases, students are not permitted to attend school because of residency restrictions. Residency restrictions are, essentially, court-imposed limitations on where a person can or cannot live. Some residency restrictions prohibit sex offenders from living within school zones, which could effectively prevent a child from attending school at all. This thesis will go into residency restrictions in more depth in a subsequent subsection; however, it is important to note that these residency restrictions prevent even child sex offenders from living near or being inside a school, which undoubtedly hinders their educational process.

Child sex offender registries also double a juvenile offender’s likelihood of experiencing sexual assault, and they are “five times more likely to have been approached by an adult for sex” (“Children on Sex Offender Registries”). Elizabeth Letourneau, a professor with the Johns Hopkins Bloomberg School’s Department of Mental Health, shared that the sex offender registration policies “may make children vulnerable to unscrupulous or predatory adults who use the information to target registered children for sexual assault” (“Children on Sex Offender Registries”). In one instance, reported through a Human Rights Watch interview, a young woman described how she was placed on the registry for “unlawful sexual contact” at age 11, and she was bombarded with phone calls from unknown men calling her house wanting to hook up with her, despite her being a virgin (“Raised on the Registry” 58). Research on this particular

consequence is substantially limited, but it is worth considering, even momentarily, in this context.

Furthermore, child safety tends to be a recurring point of contention regarding placing children on the sex offender registry. These registries may be endangering the very population the laws are aiming to protect. Though this thesis will discuss vigilante justice to a greater extent in an upcoming subsection, it is necessary first to discuss vigilantism related to child offenders. Vigilantes are defined as “private citizens who take the law into their own hands to harass, assault, or physically harm another individual” (Cubellis et al. 3). According to the American Bar Association, “more than 50 percent of registered youth report experiencing violence or threats of violence against themselves or family members that they directly attribute to their registration” (Shah). In 2012, Human Rights Watch conducted a series of interviews with youth sex offenders on the registry and their family members. Consider the following reports on this issue:

1. Bruce W., who had two sons (then ages 10 and 12) placed on the registry for committing an offense against their younger sister (then age 8), reported “that a man once held a shotgun to his 10-year-old son’s head” (“Raised on the Registry” 56).
2. Isaac E., who was placed on the registry at age 12 for “indecent liberties by forcible compulsion” after touching a 12-year-old female classmate’s chest, described a time where his brother “was nearly beaten to death by a drunk neighbor who thought he was [Isaac]” (“Raised on the Registry” 56).
3. Carson E., who registered at age 13, faced routine harassment from his peers at school. On one occasion, “Carson was beaten severely by some people in the area” (“Raised on the Registry” 57).

4. Terrance W., who has registered as a sex offender since he was 14 years old, fears most for his father's life, who he lives with, knowing that "the registry is being used more and more as a publicly available hit list for vigilantes to murder or assault those on the registry" ("Raised on the Registry" 57).

Human Rights Watch interviewed several others with similar stories. Despite youth offenders' strong indication for rehabilitation, their presence on the registry exposes them to vigilante attacks, often far more severe than the crimes they initially committed.

The consequences of criminalizing adolescent sexuality are broad in nature, and there are many other associated consequences this thesis does not reach. Registration, for example, "disproportionately affects ... youth of color and youth who identify as LGBTQ+" (Shah). The registries also impose financial burdens on family members, especially when a child is too young to seek employment. Paying the associated registration fees, totaling upwards of \$2,000 per year, unfairly falls on family members to help the child registrant avoid a conviction for failure to register, which is considered a felony in most states ("Raised on the Registry" 61).

Although it is reasonably difficult to empathize with the devastating impacts the registry has on youth sex offenders, Patty Wetterling, Jacob's mother, has since become an outspoken advocate against juvenile registries. Patty strongly supported the Jacob Wetterling Act in 1994 but has since clarified many of her positions on sex offender registration and community notification in light of the substantial amendments to the Jacob Wetterling Act. In a 2008 interview, Patty explained:

I don't believe in registering juveniles. I don't see any, not one, redeeming quality in doing that. The goal is to interrupt behaviors if they've done something wrong, get them some help so they can live a normal, healthy, wonderful life. Registering juveniles takes

away everything that would allow them a normal, healthy, happy life. It takes away any stability and sense of support. Registering juveniles is ludicrous and wrong always.

(Wright 71)

In the interview, Patty also explains how, during the legislative process, she “kept raising questions about treating juveniles the same way we treat adults,” but was told “not to worry about the juvenile provisions because that would get thrown out” (Wright 70). Still, federal lawmakers took a precautionary approach and ultimately decided to implement juvenile provisions.

It is safe to assume that legislators did not fully consider all of the potential consequences of allowing states to mandate child offender registrations. Lawmakers operated under the presumption that child sex offenders are much the same as adult sex offenders, and catching them early on in their lives would still prevent future offenses. But just like with adult offenders, “recent studies reveal low recidivism rates for child sex offenders” (“No Easy Answers” 69). In fact, one study found that “a lengthy record of non-sex juvenile offenses was a better predictor of committing a sex offense as an adult than a record of a single juvenile sex offense” (“No Easy Answers” 70). Upon examination of adult sex offender records in Philadelphia, “only eight percent of adult sex offenders had been juvenile sex offenders ... [where] using juvenile sex crime records to predict who would become adult sex offenders would miss 92 percent of all adult male sex offenders” (“No Easy Answers” 70). Accordingly, the Association for the Treatment of Sexual Abusers found “there is little evidence that ... these [youth offenders] engage in acts of sexual penetration for the same reasons as their adult counterparts” (“No Easy Answers” 68-69). Sex crimes committed by children are most often attributed to poor social competency skills and deficits in self-esteem, whereas paraphilic interests and psychopathic

characteristics best explain sex crimes committed by adult offenders (“No Easy Answers” 68). These findings contradict the apparent necessity for requiring children to register as sex offenders as a meaningful effort to keep our children and the general public safe.

### *The Misdirection of Prevention Strategies*

As federal legislation on sex offender registration broadened, additional penalties began to stack up in new legislative proposals on the state and local levels, including residency restrictions, employment limitations, and even capital punishment. Each state and local government drafted their own solutions to prevent atrocious sex crimes from occurring in their communities. However, there may be unanticipated consequences affiliated with each of these prevention strategies, where they may not ultimately work to reduce or prevent sex crimes.

### *Residency Restrictions*

Since the inception of sex offender registration and community notification laws, over 20 different states have also enacted sex offender residency restrictions (White 161). These restrictions prohibit registered sex offenders from “living within a specified distance of schools, daycare centers, parks, and other places where children [traditionally] congregate” (“No Easy Answers” 100). Some laws extend these restrictions to other facilities, including “arcades, amusement parks, movie theaters, youth sports facilities, school bus stops, and libraries” (Levenson 3). Most states prohibit sex offenders from living within 1,000 or 2,000 feet from these designated areas (Levenson 3). In theory, these restrictions serve to protect the public from sex offenders who may reoffend. Unquestionably, “these laws have intuitive appeal ... [because few] would want a registered sex offender living near their children” and forcing sex offenders out of certain areas does make communities feel safer (Bonnar-Kidd 415). Yet, these efforts may

“result in communities having a false sense of security,” and research does not indicate that a residency restriction is an adequate method to prevent sex crimes (Bonnar-Kidd 415).

The sex offender residency restrictions, much like the registration and community notification laws, are based on the assumption that registered sex offenders frequently recidivate and that most sex crimes are committed by strangers lurking in areas where children congregate (Bonnar-Kidd 415-416). This thesis has proven both assumptions to be false. Residency restrictions also functionally depend on the premise that “children and families are protected from sexual crimes if a registered sex offender does not live in their neighborhood” (Bonnar-Kidd 416). But research has shown that “residency restrictions do not affect rates of sexual assault” (Bonnar-Kidd 416). Residency restrictions are ineffective because most sex offenses are committed by first-time offenders who were not previously registered under the law. Most of these offenses are committed by persons known to the victim. Thus, parents and families cannot rely on residency restrictions as a blanket shield protecting their children from sex crimes.

Furthermore, some of the most vocal critics of residency restrictions are law enforcement officials, because of the difficulty in keeping track of sex offenders after adopting such restrictions (“No Easy Answers” 105). When the restrictions were first implemented, they were applied retroactively. This uprooted many people away from their established lives, forcing them to relocate or face charges for violating the local ordinances on residency restrictions. Many offenders stopped updating their registry information, fearing punishment for living within the designated sex offender-free zones (Murphy). Where officers once knew the location of approximately 90 percent of sex offenders, law enforcement officials are now considered lucky to know the whereabouts of 50 percent of all sex offenders in their area (“No Easy Answers” 105). Mark Pulsey, a senior probation officer with the Department of Corrections in Oklahoma,

said in 2006, “we’ve taken stable people who have committed a sex crime and cast them out of their homes, away from their jobs, away from treatment, and away from public transportation ... and the communities are at greater risk because of it” (Murphy).

From a broader community safety perspective, limiting sex offenders’ housing options “can push former offenders into homelessness and transience, interfering with effective tracking, monitoring, and close probationary supervision” (“No Easy Answers” 116). This prevents local law enforcement agencies from keeping track of where sex offenders travel and reside in their areas. When sex crimes do occur in the community, law enforcement agencies cannot rule out suspected sex offenders with any efficiency, because they are unaware of the sex offenders’ whereabouts.

The residency restrictions most affect sex offenders released after serving a substantial amount of time in jail. As part of their parole stipulations, they must abide by the residency restrictions. Often, this means that the sex offenders are unable to live with their family members upon their release, upending their support and stability (“No Easy Answers” 117). This prohibition also jeopardizes community safety because “sex offenders with positive, informed support systems—including stable housing and social networks—have significantly lower criminal and technical violations than sex offenders who had negative or no support” (“No Easy Answers” 116-117). Accordingly, sex offenders forced away from their families and support systems may be more likely to reoffend than those who are not.

Still, a large percentage of sex offenders do follow the residency restriction laws, leading many cities to adopt further restrictions to prevent sex offenders from gathering in their cities. Consequently, these restrictions disproportionately affect low-income neighborhoods, where sex offenders are most able to find affordable housing within the boundaries set forth by local

ordinances and state law. Sex offenders are effectively pushed into small pockets of our society as a form of modern-day banishment, sequestering sex offenders into socially challenged areas (Auge). When sex offenders start migrating to certain areas, those areas feel the need to implement even stricter residency requirements to keep their community members safe and satisfied. Soon, there are no viable places for sex offenders to live.

When sex offenders are shunned from society, reintegration becomes much more difficult. As such, “reintegration can only occur once the offender is viewed as full and active citizens, contributing to community and society” (Deakin et al. 33). Reducing their access to freedom to live where they choose socially isolates them from society, preventing sex offenders from becoming full and active citizens. Living where one feels most comfortable is only one factor that reduces a sex offender’s likelihood of reoffending, but it has a tremendous impact on treatment outcome.

#### *Employment Limitations*

In addition to the sex offender registration policies, community notification laws, and residency restrictions, many states maintain employment restriction laws barring sex offenders from obtaining certain jobs. These limitations serve as an additional barrier to sex offenders reintegrating into society after serving their prison sentence, where employment is a “necessary part of the process of rehabilitation” (Deakin et al. 34). In several states, sex offenders are “[prohibited] from working in schools, childcare centers, child-oriented non-profit organizations, and other places where they may come into regular contact with children” (“No Easy Answers” 82). For sex offenders who commit crimes against children, this may seem reasonable. However, these laws do not account for youth offenders adjudicated for sex crimes against other minors, whereas those youth offenders, even as adults, are permanently barred from obtaining positions

that come into contact with children. Moreover, many states do not specify that only sex offenders convicted of sex crimes involving minors cannot hold these positions; these states apply the law broadly to “*all* registered sex offenders—regardless of the nature of the crime” (“No Easy Answers” 82). This “effectively [bars] registered sex offenders from employment in large sectors of the economy” (“No Easy Answers” 82).

Most employers mandate background checks as part of their private business policy (“No Easy Answers” 81). After completing the background check, “most employers will reject a convicted sex offender outright” (Cahill). These employers may have legitimate standing in their argument against hiring a sex offender, citing a concern for the safety of others in the company as well as their customers. Employers are also concerned about community backlash and hostility, where the company’s reputation may be at risk. The employers may argue that hiring a sex offender is bad for business, where customers become no longer interested in continuing service with the company. In some instances, other employees may decide to subsequently leave the company as a result. If the company does not require background checks but later finds out that they hired a sex offender, they may fire the employee for similar reasons. Thus, it is tough for sex offenders to find and keep jobs.

Understandably, many people do not believe sex offenders deserve to be hired after committing such crimes, especially in the current competitive job market. However, “making it difficult for former sex offenders to find and keep gainful employment is counterproductive for public safety” (“No Easy Answers” 84). Research has shown that “employment contributes to the likelihood that people who have previously committed crimes, including sex crimes, will not reoffend,” whereas Virginia’s Criminal Sentencing Commission determined that “sex offenders

who had been unemployed or not regularly employed were found to recidivate at higher rates than sex offenders who experienced stable employment” (“No Easy Answers” 84).

For sex offenders, finding a job after serving time in prison and joining the public registry can be an onerous task. Yet, it is still one of the major first steps to re-enter society successfully. Limiting their opportunities for employment does not reduce a sex offender’s ability or desire to reoffend. Without employment, sex offenders are actually more likely to reoffend, which contradicts the intended goal for public safety. Then, it is necessary to find appropriate solutions that both protect the public and help offenders reintegrate into society upon their release.

#### *Capital Punishment for Child Sex Crimes*

In 1977, the U.S. Supreme Court found in *Coker v. Georgia* that executions for rape of an adult woman were unconstitutional under the Eighth Amendment of the United States Constitution, which requires “a punishment be proportionate to the crime charged” (Yung 240, 243). However, in 1995, the Governor in Louisiana signed a bill allowing the death penalty for those convicted of raping a child under the age of 12 as a new strategy for preventing child rape and sexual assault (Yung 240, 246). Although *Coker* prohibited the death penalty in cases involving adult victims, Louisiana (and other states, later) argued that this law was constitutional because it involved child victims instead. By 2008, Georgia, Montana, Oklahoma, South Carolina, and Texas had adopted similar provisions allowing capital punishment for child rape (Yung 240). Other states, including California, Pennsylvania, Massachusetts, Alabama, Virginia, and Mississippi, also debated legislation making child rape a capital crime in their respective states, though they ultimately were not signed into law (Yung 247). All of these states rationalized that states and the federal government were “[allowing] the death penalty for crimes that did not result in death,” including aggravated robbery, aggravated kidnapping, and

espionage; therefore, the death penalty for child rape would thus not be a constitutional violation. In all of these states, various ages and aggravating factors were considered. Louisiana was the only state to allow the death penalty for first-time sex offenders (Yung 247). These laws, collectively, arose from the government's exhaustive commitment to preventing sex crimes, using capital punishment as a presumed deterrent for potential child rapists.

In 2008, the U.S. Supreme Court heard arguments for *Kennedy v. Louisiana*. In this case, a jury recommended the death penalty for Patrick Kennedy after he was found guilty of the aggravated child rape of his eight-year-old stepdaughter. The Court ultimately found "the death penalty for child rape constituted cruel or unusual punishment" (Yung 249). However, the Court made this determination in a 5-4 decision, rendering it possible for this ruling to be overturned should the makeup of the Court change in the future (Yung 249). Therefore, it is necessary to briefly consider the consequences of issuing the death penalty for child rape, should the Court's opinion later change.

If the U.S. Supreme Court were to overturn *Kennedy v. Louisiana* (2008), capital punishment could become counterproductive to justice. Admittedly, our society has the right to be angry at those who commit crimes against children. It is understandable why groups of our society strongly advocate in favor of imposing the death penalty on these criminals. However, bringing back the death penalty for these types of crimes may discourage people from reporting sexual violence against children. It may also prevent children from telling other trusted adults for fear they may cause another person's death. One victim of sexual abuse as a child put it this way: "If I knew that my relative would be put to death for what he had done, would I have answered my mother at all [when she asked about what the relative had done]? Imagine living your whole life with not just the shame of being abused, but also the guilt of having caused someone's

death” (Manek). Because strangers do not perpetrate most child sex crimes and they are rather perpetrated by someone known to the victim, the death penalty could substantially influence how many victims report their abuse. Accordingly, “as fewer children speak up, abusers will get more emboldened [and] the cycle of abuse will continue” (Manek).

From a different perspective, consider how the death penalty is intended to have a deterrent effect on a criminal. This logic assumes criminals are thinking about the consequences of their actions before committing an offense and wholly depends on a victim’s ability to report the crime. If our society were to bring back the death penalty, this would send a dangerous message to child rapists, where they have “an increased incentive to kill the person he or she has raped” (Yung 250). Should the offender be found guilty of murder, there would be no additional penalty because they would already be eligible for execution, making murder a “low-risk, high-reward scenario” because killing the victim would substantially decrease the likelihood of facing consequences (Yung 251). In an interview between Patty Wetterling and Richard Wright, Patty, upon being asked how she feels about executing sex offenders, said:

If you made it possible to use the death penalty for a child rape situation, the perpetrator might as well kill the child because there’s the same consequence, and if offenders are cognizant of those kinds of consequences, then they have no motivation to keep the child alive ... If the child lives, he or she might tell ... Will [the death penalty] make our communities safer? Will [it] make our children safe? No. Executing child rapists [may] stop one rapist, one time, but it’s not a discouraging factor. These guys don’t think they’re going to get caught in the first place, so it doesn’t discourage the behavior.

(Wright 72)

Like Patty, many scholars and activists do not propose the death penalty as the penultimate answer to ending rape. If anything, bringing back the death penalty could lead to unintended consequences that magnify the issue of child abuse. Thus, even though the death penalty is not currently available in sentencing sex offenders convicted of child rape, it is crucial to address the growing calls for this form of justice.

### *The Desire for Vigilante Justice*

Just like registered youth sex offenders, registered adult sex offenders face threats from their communities. Sometimes these threats escalate into violent attacks against registrants, where the sex offender registry resembles a type of hit list. While it may be easy to dismiss any concern for sex offenders' lives, the steady increase in vigilantism contradicts the registries' intent to keep our communities safe. And even if one did not feel as though sex offenders deserve safety, it is still "one of the fundamental obligations of [our] government ... to put in place measures [that] protect the lives and safety of those within its jurisdiction. This duty to protect extends to people who have been convicted of crimes, including sex offenses" ("No Easy Answers" 87). Yet, when implementing the sex offender registry, few legislators examined vigilantism. Thus, vigilante justice is an unintended and unnecessary consequence of the sex offender registration and community notification laws.

In the United States, one study found that approximately 15% of sex offenders are physically assaulted after being publicly identified, with as many as one-third experiencing physical threats (Hall). According to the Third Circuit Court of Appeals, vigilante attacks "happen with sufficient frequency and publicity that registrants justifiably live in fear of them" ("No Easy Answers" 87). Consider the following:

1. Lawrence Trant was arrested in 2003 for “[stabbing] one New Hampshire registrant and [lighting] fires at two buildings where registrants lived;” police also “found a printout of New Hampshire’s sex offender internet registry, with checkmarks next to the names of those already targeted” (“No Easy Answers” 89).
2. In Tennessee, in 2007, a “man’s wife died after two neighbors set their house on fire ... prompted by the man’s recent charges for possession of child pornography” (Hall).
3. 18-year-old Stetson Johnson was viciously attacked in Oklahoma City in 2011, where a group of people beat him with a baseball bat and tattooed the misspelled word “rapest” on his forehead and “I like little boys” on his chest (Ramsey). Stetson was not a convicted sex offender or suspect (Cubellis et al. 11). The vigilantes retroactively accused him of rape, but the police found no evidence of sexual assault (Cubellis et al. 11).
4. In 2011, a man in Hazelwood, Missouri was charged with assaulting his 74-year-old neighbor after beating him with a hammer and calling police to inform them he was “doing God’s work” (Clarke).
5. Patrick Drum was charged with homicide in Washington in 2012 after shooting Gary Lee Blanton Jr., who had been convicted of third-degree rape of a 17-year-old girl when he was also 17. Upon arrest, Drum stated that “he hated sex offenders and that the murder had to be done” (Spooner and Wright 269; “They Deserved to Die”).
6. Charles Parker, 59, and Gretchen Parker, 51, both lost their lives in 2013 in South Carolina when a couple murdered them inside their homes because Charles was a registered sex offender and because Gretchen lived with him (Clarke).

7. In 2016, Alaskan Jason Vukovich pleaded guilty to beating three sex offenders after using the registry to target his victims, and many people referred to Vukovich as a “hero” (Boroff).

These examples are only the tip of the iceberg as it pertains to vigilante justice. There are hundreds of other known cases just like them. There are likely just as many attacks that go unreported, because “research indicates that they experience more acts of vigilantism than the public is aware” (Cubellis et al. 4). Furthermore, individuals who are incorrectly identified as sex offenders are occasionally victims of misinformed vigilantes, broadening the issue, whereas approximately seven percent of vigilante attack victims had not committed a sex offense (Cubellis et al. 4).

Our current public policy favors disintegrative shaming practices, including sex offender registration, community notification, and residency restrictions, where these practices simply serve to stigmatize and isolate sex offenders (Giustina 333). Rather than trying to reintegrate sex offenders back into society successfully, the current policies also function to “fuel the public’s fear, anger, and hostility toward the sex offenders living in the community, creating a public hysteria, which has led to harassment and vigilante attacks” (Giustina 334). Despite the well-documented cases of vigilante violence, few lawmakers publicly object to this negative consequence, and most lawmakers do not “try to curtail registration requirements or include protections for sex offenders whose publicly-posted information puts them at risk of vigilante attacks” (Clarke). Only 14 states and the District of Columbia “specifically prohibit the misuse of registry information for purposes of harassment, discrimination, or acts of vigilantism ... [and] persons who misuse the information may be subject to prosecution” (“No Easy Answers” 90).

The lack of response from public officials on vigilante attacks may work against efforts to keep communities safe. Registered sex offenders are aware of the possible danger they face, and many often “abscond, relocate to other states and not register, or provide a false address” (Cubellis et al. 12). These actions effectively undermine the goal of the sex offender registry, where law enforcement and community members have the right to know a sex offender’s location. When a sex offender reports incorrect information and a vigilante uses that information to take matters into their own hands, innocent people could get hurt (Cubellis et al. 12). In some cases, sex offenders will also isolate themselves away from their community out of fear of being recognized and facing threats or victimization (Cubellis et al. 11-12). This isolation detracts from their reintegration into society and can ultimately increase the risk of recidivism (Giustina 334).

#### *The Failure to Support Victims of Sex Crimes*

Perhaps the most disappointing consequence stemming from the sex offender registry is how it “[does] nothing for people who have survived sexual violence” but is routinely justified as a law that provides justice and safety for victims (Condon; Spoo et al. 4). It is widely presumed that the registries help victims with the healing process and that “victims hold more punitive views toward sex offenders compared with the general public” (Spoo et al. 4). But this does not necessarily apply to all victims in all cases, and there is no evidence to support these assumptions because “there has been little investigation in general about victims’ beliefs about [the] legislation development” (Spoo et al. 4). Arguably, every victim is different. Many victims, as research has found, “do not have strong feelings of anger and vengeance toward their perpetrators, but rather are open to considering alternatives to imprisonment for those that offended against them” (Spoo et al. 4-5).

The primary focus of sex offender laws should be on the needs and wants of victims. However, our current legal system designates the state as the victim and “the true victim is relegated to the status of witness to [their] own victimization, with their “injuries treated as evidence in bureaucratized criminal proceedings” (Bandy 360). To that end, victims are not offered educational resources about the effects of sexual abuse or other therapeutic services. Notably, these resources may not be available because “the majority of state funds earmarked to address sexual violence focus on offenders, not victims” (Bandy 376). State funds are mostly used for initiatives like GPS tracking or “civil commitment” programs, which are expensive confinement facilities for states to lock away sex offenders after they finished their prison sentences (“Sex Offender Confinement”). In California, tracking sex offenders through electronic surveillance/GPS devices costs approximately \$88 million each year (Meloy 167). As described by Patty Wetterling, the laws “don’t necessarily stop crimes from happening, and they cost a ton of money ... additionally, the AWA allocates zero dollars for prevention” (Wright 70). Some legislators rationalize that the sex offender laws are inherently victim-focused, and victims subsequently need no further funding (Bandy 377). Others explain that there is not a large enough public outcry, and any changes to the current legislation may result in significant financial loss (Bandy 377). It is for these reasons sexual assault victim services are unfunded and largely unsupported across most states.

In summary, the sex offender registration and community notification laws originated from a rise in public hysteria associated with the stranger danger panic. Legislators designed these laws to prevent the stereotypical stranger child abduction, basing policy on false premises surrounding the frequency of stranger attacks and sex offender recidivism rates. Theoretically, these laws reduce and prevent sex crimes in communities because sex offenders register upon

release and the public has access to updated information about their whereabouts. In practice, these registrations have substantial amounts of information missing, and law enforcement officials cannot locate a large number of offenders. The laws also precede several unintended consequences, such as the criminalization of other children; the creation of unnecessary social restrictions that hinder reintegration, effectively increasing the risk of recidivism; vigilante attacks; and the reallocation of resources away from victims, financially obstructing their path to healing. These policies, then, create only a *sense* of safety, rather than *real* safety (Bandy 378). The laws most focus on the sensational types of offenders, strangers, which effectively reinforce stereotypes that may well lead to the creation of more victims and the decrease in public safety (Bandy 378). So, what is to be done? This question will be thoroughly answered in the next section of this thesis.

#### **SECTION IV: What Can Be Done?**

Preventing sexual violence from ever occurring in the first place is the ultimate goal. However, our current legal system focuses on conviction rather than reconciliation, retribution rather than rehabilitation, and punishment rather than prevention. As it stands, the U.S. legal system does not prevent sexual violence, intervening “only after the violence has been reported, which occurs for only a minority of sexual violence offenses” (Giustina 332). Thus, it is critical to rethink how our society addresses justice and the threat of future sexual victimization.

##### *Community-Centered Transformative Justice*

Several non-profit organizations and independent advocates focus on a transformative justice approach, where a community approach is the most effective mechanism of intervention for sexual violence (Ilia 8). Community-centered transformative justice focuses on what specific communities can and should do to best transform and reintegrate sex offenders into society. As an example, Generation FIVE is a non-profit organization whose mission is to “end the sexual abuse of children within [the next] five generations” (“About Us – Generation FIVE Mission). This organization works to “interrupt and mend the intergenerational impact of child sexual abuse on individuals, families, and communities ... through survivor and bystander leadership development, community prevention and intervention, public action, and cross-movement building” (“About Us – Generation FIVE Mission”). Rather than taking action against individuals who have already offended, Generation FIVE “focuses on the conditions, norms, and practices that allowed violence to occur or ever fostered it” (Ilia 364). In essence, they work not to strengthen the criminal justice system but our communities (Ilia 364). To that end, this organization believes that it is of utmost importance to change the environments that allow sexual violence to exist.

In an all-encompassing electronic handbook titled “Ending Child Sexual Abuse: A Transformative Justice Handbook,” Generation FIVE dives into the oppressive practices reinforced in society that ultimately contribute to sexual assault. Theories like *adultism*, which is defined as “the everyday, systematic, and institutionalized ways that young people are prohibited from making choices about their own lives,” are explained as unnecessary power dynamics that build on systems of injustice where ultimately sexual violence prevails (“Ending Child Sexual Abuse” 20). To Generation FIVE, transformative justice is “an approach that seeks healing, justice, and accountability for child sexual abuse, while also transforming the ongoing social conditions that allowed the abuse to occur” (“Ending Child Sexual Abuse” 37).

Transformative justice, then, can take shape in many ways. One proposed solution to preventing sexual violence is pursuing a social power shift where communities collectively confront and divest from power dynamics rooted in exploitation, privilege, and/or entitlement (“Ending Child Sexual Abuse” 39). Some of these power systems are formed from the economy, white supremacy, male supremacy, or ableism. Generation FIVE also prioritizes a community commitment to provide safety for victims, to intervene during immediate violence and prevent future threats (“Ending Child Sexual Abuse” 39). In practice, this might look like promoting and maintaining access to external supports, including those that provide emotional encouragement in addition to material aid; teaching community members how to best control their emotions in the event a child or loved one reveals or exhibits signs of sexual assault; or gathering resources to meet a victim’s most basic needs for food, water, and shelter (“Ending Child Sexual Abuse” 40). Furthermore, community-centered transformative justice relies heavily on ongoing accountability and creating the conditions that reward those that actively seek accountability for their harmful actions (“Ending Child Sexual Abuse” 40). As outlined in Generation FIVE’s

handbook, this step may include: “listening to the [victim], and acknowledging the negative impacts of the harm done ... apologizing for the harm ... making appropriate reparations to individuals ... committing to deeper personal work to understand the root causes of the harmful behavior ... engaging with others to shift the conditions and to contribute to collective liberation” (“Ending Child Sexual Abuse” 40-41).

Generation FIVE outlines a substantial number of ways to further eradicate child sexual abuse in our communities, in ways the sex offender registries do not address. Some of these include methods on how to implement bystander accountability, build sustainable support systems that provide alternatives to policing, and cultivate resilience in individuals and community spaces as a whole (“Ending Child Sexual Abuse” 41-44). Together, all of these avenues may serve as catalysts for social change, where our society wholly prevents sexual violence from occurring.

#### *Victim-Centered Restorative Justice*

Community-centered transformative justice presents ideal solutions for preventing sexual violence that involve community collaboration and a change in social values, but this progressive approach may, realistically, overestimate societal willingness to tackle such a complex movement. There is also little evidence to support its effectiveness thus far, because few communities have adopted this approach. Hence, the increased social advocacy for victim-centered restorative justice. Community-centered transformative justice focuses more on preventing sex crimes from a community support perspective, while victim-centered restorative justice “frames [sex crimes] as a violation of people and relationships,” where the goal is to heal the survivor/victim and restore the offender to the community (Giustina 331). Notably, victim-

centered restorative justice does not work to proactively prevent sex crimes; however, these efforts may contribute to a type of restoration that ultimately reduce future sexual violence.

Historically, “the legal system does too little to protect the survivor/victim or to effectively hold offenders accountable” (Giustina 332). When states prosecute sex crimes, victims are often subjected to revictimization and stigmatization through grueling questioning that tend to traumatize and blame victims for what happened to them. Other times, they are treated with “casual indifference and disrespect” (Giustina 332). Courtroom procedure is also confusing and difficult to understand, where victims are “limited to answering the lawyers’ questions instead of explaining the trauma caused by the sexual violence” (Giustina 332). Though conviction rates are remarkably low when it comes to sex crimes, when there are convictions, “the survivor/victim has no say in the punishment ... [and judges are] not obligated to consider the survivor’s/victim’s wishes when imposing a sentence” (Giustina 333). Treating victims in such a way tends to hinder the healing process, where “healing depends on the opportunity, ability, and success in telling their stories, including the offense’s impact on their lives” (Giustina 334). Victims must receive community validation and compassion, where their stories are heard and believed. Victims may also want “to confront the offender ... [and] participate in the decision-making process regarding punishment” (Giustina 335). Others may want to independently decide “their future relationship (if any) with the offender” (Giustina 335). A victim-centered restorative justice model accounts for all of these factors within the legal system.

Victim-centered restorative justice focuses most on what each individual victim wants. Many victims “want acknowledgement, support, and a renewed sense of power and control over their lives ... [and] the opportunity to tell their stories in their own way” (Giustina 333). Some

“may want to heal the relationship rather than to sever all ties with someone they may still love,” especially in complicated cases involving family members (Giustina 333). They may want an apology or a court-provided mechanism for “disclosure and reconciliation in a safe, controlled environment” (Giustina 335). Others may seek the feeling that the offender is on trial, not them, or simply a legal process that does not place blame upon victims’ shoulders (Giustina 334). Still, a large number of victims may want the maximum prison sentence available under state or federal guidelines. Others may want no part in the legal process at all. Each victim views “justice” differently, and a victim-centered restorative justice model provides flexibility in victim needs for each respective case. This would require our current legal system to readjust some of its structures to account for these needs.

Any victim-centered restorative justice program would, of course, necessitate careful consideration and implementation. There are practically no victim-centered restorative justice processes affiliated with our state or federal legal system, so there is limited evidence on how these systems work in actuality. Since the victim-centered restorative justice model stems solely from victim testimony and interviews, this type of model may need to be readjusted and reevaluated to ensure its effectiveness across the United States.

If our society adopted a victim-centered restorative justice model, this system “may encourage increased reporting of sexual violence crimes” (Giustina 334). An increase in reports does not, however, equate an increase in these types of crimes. Reporting sexual violence with this model in place would pave the way for more offenders to undergo a restorative justice process, promoting victim recovery and safe sex offender reintegration into the community. Restorative justice allows sex offenders to “earn back a place within the community,” whereas victim-centered restorative justice focuses first on victims’ needs in order to transform sex

offenders (Giustina 340). Our current punitive policy does not necessarily support victims of sex crimes, and this framework provides the flexibility to account for individual desires. Still, allowing sex offenders a supportive reintegration process will undoubtedly reduce sex crimes, as previously discussed in Section IV.

### *Rethinking Sex Offender Registries*

Perhaps the most practical solution for failed public policy is to modify the policy itself. While the other justice models would certainly make changes to the sex offender registration and community notification laws, this subsection explores how legislators can and should tweak the current public policy to utilize economic and governmental resources better to make the registries more effective generally.

The current sex offender registry lists nearly a million sex offenders, making it impossible for law enforcement officials to consistently verify information. Many sex offenders have used this fact to their advantage, reporting inaccurate information or absconding. Registries would become significantly more effective if the government imposed strict limitations on which offenders had to register, reducing the number of offenders listed (Lehrer). If the government insists on utilizing sex offender registries, the government should remove offenders convicted of non-sexual offenses as well as juvenile offenders (Lehrer). Indeed, many sex offenders are on the list for “offenses like indecent exposure, public urination, prostitution or soliciting prostitution, kidnapping their own children as part of a custody dispute [with no sexual motive], and consensual incest with other adults” (Lehrer). While committing these offenses should result in some form of punishment, these convictions clog up the sex offender registry with people who are not at risk of committing further acts of sexual violence. Putting these types of offenders on

the sex offender registry effectively “wastes public resources, ruins lives, and does nothing to improve public safety” (Lehrer).

Juvenile offenders should be released from the sex offender registry for similar reasons. The current laws “consider victims’ ages but not those of offenders,” where some juveniles are inaccurately, but permanently, labeled as “pedophiles” (Lehrer). In another scenario, “two teenagers who swap naked ‘selfies’ may deserve to lose their smartphones, but they certainly aren’t ‘child pornographers’” (Lehrer). Even for more reprehensible sex crimes, there is little good that comes from registering children as sex offenders, most especially since they are most receptive to treatment and rehabilitation programs. Arguably, children should not be on the registries at all. However, in instances where the law permits a child’s registration, “no child should ever be required to register unless a court or authorized panel of experts determines he or she poses such a serious risk to public safety that other safety measures are insufficient and registration is necessary” (“No Easy Answers” 77). If a child must be subjected to community registration, “law enforcement should undertake to do so in a careful and limited way that would minimize the harm to the child while protecting public safety” (“No Easy Answers” 77).

In every case, the registration should be reevaluated periodically, reassessing the risk an offender poses on the community. Every few years, a panel of experts should review treatment progress, community reintegration, and other relevant factors to decide if the offender is still at a high risk of re-offense. When the panel determines an offender is at a lower risk, the offender should be removed from public registries, and possibly moved to registries contained within law enforcement agencies. Eventually, the offender should be moved off all registries entirely when a panel of experts marks them as low risk. Before the Adam Walsh Act’s passage, the state of Minnesota carefully tailored a registration and community notification system with a similar

structure (“No Easy Answers” 63). When sex offenders were released from custody, a panel of experts determined “whether they needed to register, and if so, for how long” (“No Easy Answers” 63). The sex offenders could then appeal their status every two years for reassessment. Minnesota also implemented a community notification system operating on the “need-to-know” basis, where the law read: “the extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the offender’s pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety” (“No Easy Answers” 64). The Adam Walsh Act changed the federal sex offender registration mandates, where Minnesota had to suspend this system. Their system, then, could provide a framework for an alternative solution to sex offender registries in a way that is more conducive to preventing sex crimes due to the greater focus on sex offenders that pose significant risk to their communities.

There are likely dozens of other possible solutions for preventing sex crimes or altering sex offender registries to increase rehabilitation and societal reintegration success that are not included in this thesis. Many practical solutions are still largely unknown because our society has not yet attempted to test these possible answers. Regardless, this thesis primarily aims to identify how the registries and notification laws came to fruition, how they do not necessarily prevent sex crimes, and how they may have led to several unintended consequences. After evaluating these factors, it is only necessary to start the conversation on what types of approaches our society can take to address the problem with sex offender registries. Any substantial change will require effort and participation from sex offenders, victims, legislators, and community members as a whole, but understanding how our current sex offender registration system is fundamentally flawed can spark constructive dialogue on what to do next.

## **Conclusion**

Though U.S. legislators admirably recognized a compelling need to address the supposed epidemic of child abductions and murders in the 1970s and 1980s, their initial sex offender registration laws were ultimately taken too far. What was once a reference list for law enforcement officials has now become a public, online registry with strict and unreasonable provisions. These registries were intended to prevent sex crimes, but they may be increasing former offenders' risk of recidivism rather than reducing that risk. While the registries themselves may be helpful in certain scenarios, the sex offender registries do not actively protect against child sex crimes in the vast majority of cases. The laws were primarily enacted out of fear, which is hardly a reason to impose a never-ending punishment. These laws must be rational, but their current design is wholly unjust. It is our responsibility, then, to understand how these laws were made, why they don't work, what the unexpected outcomes are, and what we might can do to one day live in a society free from sex crimes.

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