



ONCE FALLEN
Written by Derek “The Fallen One” Logue
E-BOOK EDITION

This book is dedicated to the search of truth.

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Introduction: Fallen hope?

I was born as Derek Logue on a cold Chesapeake night in October 1976, and died on an equally cold night on February 20, 2000. I merely died in a figurative sense; in the dark of night, I was taken from my bed, arrested, and charged with a sex crime. Like the chapters of a book, every major milestone in closes an old chapter of a person's life and lays the foundation for a new journey to come. For some, that milestone is a marriage, a career, dedicating your life to your God or faith, or a major achievement. Every milestone comes with a title, a definition of your life, a second name. Sadly, the milestone that defines my life in the eyes of society is a single regrettable event with a terrible consequence, a criminal act. The title that defines my "second life" is three simple words:

REGISTERED SEX OFFENDER

Perhaps no other label in our society elicits as much raw emotion as the label, "registered sex offender." This label evokes images of dirty old men waving candy at little girls to entice them into their cars for sexual pleasure, or the brutal rape-murder of a beautiful, innocent, smiling child. This label carries with it a "social death sentence;" sex offenders are considered the scourge of society, deserving of death, castration, concentration camps, and torture. Laws passed specifically against sex offenders reflect this culture of fear and loathing. There are laws placing us on public registries and cards disclosing our stigma to our neighbors; laws restrict where we live, work, or hang out; laws keep us incarcerated past our sentences, castrate us, and execute us, all in the name of "public safety." Each new proposal creates a new punishment or expands an existing law, and passes without a second thought, much to the delight of a society seemingly intent on punishment as much, if not more, as public safety. With this label comes the myriad of myths and misconceptions about who I am; society sees me as an untreatable pedophile ready to snatch a child at a moment's notice. I can even say with confidence many will read this book with the feeling I'm either getting my just desserts or I'm not being punished enough. There is little understanding, and even less sympathy. Without a doubt, sex offenders are the modern-day lepers of society.

During this new life of seven years, I have sought the answer to a number of questions. Once a person has fallen from grace, is there ever any hope of reclaiming his lost life? Can a man overcome his past or his stigma? If life without love can never be whole, then what is life without hope? I have contemplated what it takes for a person to reach the proverbial point of no return. Many times over the years I have teetered on the edge of this point, even seeking the end of my life. After all, at least by my death, I would make people happy.

However, in the past seven years of this second life I found not only the answers I sought, but a purpose and a reason to justify living out this second life. To find my answers, I had to experience the totality of my punishment, face my inner demons, and find my place in a society that would rather see my body buried than my past. From the day of my arrest to the last letter typed in this book and beyond, I have continued this second life. This body is the same, this birth name is the same, and the events of my first life are a permanent, unchangeable history. But my soul, the person I really am, has changed considerably over the years. I grew from a fearful, immature and selfish child in a man's body to the man I am today. I have confessed my sins, sought forgiveness, made reparations to the state and the victim's family, and stood up for my right to reintegrate into society, all things the old me could never do. I am no longer afraid to

admit I made a terrible mistake while simultaneously questioning or protesting laws that do nothing to protect children from sexual violence.

Virtually everyone seeks the meaning of life; for me, finding common ground between the two sides of this issue is my purpose. In a way it is penance and soul-searching, but more importantly, my purpose is to seek the answers to the root problem of sexual violence. For this reason, I felt the need to write *Once Fallen*. *Once Fallen* is, in part, a chronicle of my second life from the day of my arrest to the fight to bury the final token of my former life, the record itself, by way of a pardon. But *Once Fallen* is not intended to be simply a memoir. I seek to reach both sides of the issue. For the society at large, *Once Fallen* stands as a case study of how the popular sex offender laws impact actual human beings. For the former offender, *Once Fallen* is a message of hope. Both sides seek knowledge and wisdom to solve the sexual violence issue, and *Once Fallen* offers up, at the very least, a guide to help point us all in the right direction.

Through many years of personal experience and growth, along with research and education on the subject, I have acquired a vast amount of knowledge on the subject. Thus, the second part of my book is a comprehensive analysis of the root causes of sexual violence and the sex offender laws. If society is serious about preventing sexual violence, we must change our approach to this subject.

ROOT CAUSES OF SEXUAL VIOLENCE ARE OFTEN NEGLECTED

The root causes of criminal sexual behavior are complex and vary from person to person. My reasons for committing my crime are unique to me. Thus, finding a solution is no small task. However, there is a common and disturbing trend in our approach to sexual violence. Society has tended to neglect the root causes of sexual violence. There are a variety of possible reasons why the prevention model is largely ignored, but the key to prevention lies in addressing certain issues before they become problems.

Ironically, before we can even address the root causes of sexual violence, we must shift our approach to the entire issue. Beginning in the early 1990s, our focus has been on the registered sex offender, those people who have been convicted of committing a sex crime. Every sex offender law passed applies to individuals *ex post facto*. We have spent billions on registries, GPS devices, civil commitments, and lawsuits defending these laws. However, programs designed to address proper and realistic sexual behavior in our society are largely ignored, neglected, and sorely under funded.

A significant reason why root causes of sexual violence is largely ignored lies in America's obsession with the sex criminal. Virtually every sex offender law in existence has its roots in a sensationalized “stereotypical kidnapping” that usually ended with the murder of the victim; many of the laws are even named for a victim which inspired these laws. Virtually every sex crime garners media attention, and politicians add the obligatory “I’m tough on sex criminals” speech every election year. Humans tend to be extreme by nature; thus, these reactions are typical. However, emotions often cloud sound judgment and facts. In order to seek a feasible solution, we must overcome this obsession.

SEX OFFENDER LAWS ARE BASED ON MYTH, NOT FACT

We know all the myths by heart: sex offenders have a high recidivism rate; sex offenders cannot be cured; sex offenders are all pedophiles who cannot be cured, etc. However, researchers

have found these myths to be myths. Sadly, few people read research papers; many not in the researchers' field of expertise finds research papers dull, wordy, confusing, full of technical jargon, and boring. Thus, their target audience is often limited to others in the researchers' own field. Getting a politician or a layman to read such reports is like getting a child to eat a bowl of plain-Jane Corn Flakes without sugar or a tiger proclaiming how "g-r-r-reat" they are. A few will consume it, but most would rather trash it than eat it.

Sex offender laws were created mainly by people with a noble intention in mind, but emotions, ignorance of the facts, and the human tendency to lean toward extremism hinders the intent of the law. While the facts are analogous to a plain corn flake, the novel sex offender law is the sugar-laden cereal with a famous advertising agent in the box. True authorities on the subject, like John Q. La Fond, Lisa Sample, Eric S. Janus, Jill Levenson, or Corey Rayburn Yung are not household names, while John Walsh, Mark Lunsford, Maureen Kanka, and Patty Wetterling, among others, have become the equivalent of the celebrity on the box, and their emotional message is the sugar that disguises the bitterness of their product.

However, the tide has been slowly turning slowly but surely. The cereal analogy is appropriate in many ways, not only in its initial production, but in the change of the product over the years. The formula for many sugar-laden cereals were changed recently due to concerns that too much sugar and refined was causing obesity and diabetes; the sugar content was reduced, while more whole grain flour was added to the formula. Similarly, many people are discovering that these laws are ineffective and rife with negative consequences. Worse than having virtually no impact on the prevalence of new sex crimes, but it was actually increasing those factors that increase the likelihood of re-offending! Reforms will be slow in coming, as those who created these laws are afraid or stubbornly latching on to their failed formula. Whatever the case, reforms can only occur when we discipline ourselves as we should when dieting, which means putting away the sweet rationalizations of failed systems, and embracing the healthy solution we shunned so much in the past.

SEX OFFENDER LAWS: MISSION ACCOMPLISHED?

If candidly telling my story serves just one purpose, I want you to understand the complexity and impact of these laws on individuals who have served their time but are bound by these laws. Every day I wake up wondering whether congress has passed a new law with the latest novel approach to dealing with registrants or expounding on an existing law. Each law is progressively intruding to the point I believe we will place "the mark" on our foreheads or right hands. Sex offender laws are a powerful and dangerous tool, but are also prone to deal unintended consequences. Registries have been used by individuals targeting sex offenders for vigilantism. Residency restrictions have driven registrants "underground" or have made them homeless. Various laws have caused registrants to experience emotional and financial instability, which ironically, increases the likelihood of recidivism.

While many readers may share the sentiment sex offenders are "getting what they deserve," there are far-reaching consequences to allowing these laws continue to exist. These laws have succeeded in undoing the progress made by the civil rights movement, creating a degraded class of individuals devoid of many of the same rights and privileges the common folk take for granted. This trend is slowly spreading to other realms; the reactions to 9-11 are similar in many ways to our reactions on sex offender laws. In order to combat the perceived threat of terrorism, our government created the Department of Homeland Security, introduced a color-

coded "Terrorism Threat Level," which has never dropped below yellow since its conception, passed the so-called "Patriot Act," which granted our government nearly god-like abilities to spy on its own citizens. The media was "embedded" in the "war on terrorism" as the US invaded a country with a weak military and no real proof of "weapons of mass destruction," toppled a token bad guy, declared "Mission Accomplished," and imposed our way of life on a foreign nation. Years after the mission was *ahem* accomplished, we are sending more troops every month to this nation, pumping billions into a nation full of valuable resources while running this nation into a debt our grandchildren will be paying off in their old age. What did we really accomplish (besides angering almost the entire world)?

Sex offender laws are similar to the 9-11 laws in many ways. The laws were conceived in fear and raw emotion, passed and imposed without question or objection, grabbed a great deal of media attention, and gave society a sense that the mission was accomplished. However, after years of the proclamation the new regime is the omega factor in the evil they were trying to quell, there has been either no change, or things have gotten progressively worse. Now America has come under scrutiny for torturing terror suspects. In the same way, sex offender laws, long considered "civil" and "regulatory," are causing such severe reactions they are now being considered "criminal" and "punitive" because they cause harm to those under the law.

Looking at recent history, particularly the events of post WW1 Germany, allowing the government to degrade the status of one unpopular group of individuals opens the door for government to extend these laws to other groups. Retroactivity, due process, and the constitution in general are all thrown out for the sake of "the children" or "public safety." If even the least of our citizens is degraded, the possibility of degrading the rights other perceived threats to the American way of life is possible. The US Supreme Court has never formally struck down the Japanese internment camps of WW2. Looking at Nazi Germany, Hitler began persecuting "asocials" (gays and sexual deviants) and ended with the Jews. Public fear, ignorance, and loathing justified the horrible atrocities of these concentration camps created for the sake of "the children" and "public safety," and America is in serious danger of doing the same.

If we are looking for a panacea for the prevalence of criminal sexual violence in America, we must understand what does or does not work. It is my sincerely belief and hope my story and my research stands as the measure of what has worked, or all too often, what hasn't work. Only through wisdom and knowledge shall we rise from the ashes.

Book One: Fallen Hope

My life is an open book. This story is told through my own eyes, heart, and soul. This is a journey of personal awakening, tragedy and triumph. Within these pages you shall follow me through seven years of my life starting from the night of my arrest, chronicling my journey through the darkest depths of the human heart, whether my own dark side or those of the greater society that would ostracize me. There are two paths in this journey-- would I remain a "fallen one," or would I rise from the ashes and spread my life anew like the Phoenix? Though many obstacles lay ahead, the path I chose to take was my own.

Chapter 1: Awakening

My first life ended the night of February 20, 2000, a cold but clear winter night. I was awakened by a flashlight as an officer pulled me out of bed to "take me downtown." During the short ride to the jail, the investigator asked me if I knew why they came for me that night. Deep in my heart I knew the reason why, but I tried my best to play dumb. I responded with a comment about a fight I had been involved in a few months earlier. At the station, the investigator questioned me about the crime I had committed. I denied it at first, even feigned surprise at the accusation, but after a few minutes of questioning I confessed. It felt as if I was watching a movie from a first-person perspective rather than feeling like this was actually happening. Perhaps it was a way to cope with the scene unfolding before me, or perhaps I was simply in shock. I felt so detached from myself it was as if I had died, at least in a spiritual sense. It is for this reason I refer to that night as the end of my first life.

I read a quote from Malcolm X that stated how a man never gets over the prison bars because the bars burn a permanent mark on a person's mind for life. I soon learned the meaning of those words as those bars closed behind me that night. Those bars are unforgiving, indiscriminate, and seemingly eternal. Those bars outlast every coping strategy our mind devises to deal with being trapped within the confines of the steel cage. Those bars would be my cradle as my second life began, serving as a lasting monument to a monumental mistake and, ironically, a protective environment for the new life within. Sometimes it takes an extreme set of circumstances to compel a person to take a harsh look at his inner self.

As the initial shock wore off and the harsh reality of my situation set in, I began to worry more about my physical life than my spiritual life. Prison life abounds with stories about the fate of those accused of sex crimes in prison. They are called "chicken hawks," "baby-rapers," and "child molesters;" sex offenders are at "the bottom of the food chain;" "Big Bubba" turns sex offenders into "women." Information, or at times, "misinformation," passes quickly through the prison system, ensuring others know who you are (the rumor that spread about me was I was arrested for sodomizing a 3-year-old boy). I was placed on suicide watch, but I was still sharing a cell with another prisoner; perhaps the officers were really more concerned with my death at the hands of another inmate rather than my own hands. Though many of the inmates were rather nasty towards me at first, I never experienced any actual violence. In time, I would be treated the same as everyone else. Despite this, I still feared the destiny awaiting me.

There are many reasons why so many people "find God" in prison. My reasons were a combination of fear, boredom, and soul-searching. Christianity can be a shield to hide behind in prison; in fact, a couple of inmates told me to carry a Bible and say, "Praise the Lord, brother," when approached in prison. It can also be a tool to occupy your mind, as Bibles are readily available and there is no shortage of prison ministries. But far more importantly, Christianity is a message of hope and love to those who feel neither. A jail cell is the ideal environment for those who weren't receptive to religion in the past to receive the Word of God. Throughout my life so many people have reached out to me in the name of God but I drove them away. Now for admittedly selfish reasons I reached out to the God I had rejected for so long.

There was a series of events that proved to me that God was reaching out to me. Three weeks into my incarceration, I had a strange dream. A female angel came to me and told me that someone from my past would re-enter my life. A day or two later, one of the jailors told me I had a call from my ex-mother-in-law. Apparently my ex-wife had read about my arrest in the local paper. That Saturday, I received a visit from her. It was a most unexpected event considering

how my marriage ended. Over the next few months, the family I had abandoned came to support me and stand by me, while my real family would abandon me. Another of my long time friends who I had driven away came back into my life and supported me as well. It made me realize many things, most importantly that I wasn't alone. In the three months following my initial arrest, I began receiving regular visits and letters from all these "ghosts" from my past. They greatly influenced my decision to give my life over to God. I would "officially" commit to the faith on May 13, 2000, a day I refer to as my "day of awakening."

Being rather new to the faith, my first feelings after the high one usually feels after "being saved" is the feeling of shame-- shame over my crime, my failed marriage, and other failures in my life. It is for this reason I began calling myself "The Fallen One." Perhaps in the spirit of the "Mark of Cain," I created a mark of my own, a dragon and scythe forming a stylized "F1," to serve as a reminder of my fallen nature. The name "Fallen One" echoes the Nephilim of Genesis 6, though I was thinking more of the final battle in Final Fantasy 6 than the Bible when I came up with the name. That shame also led me to write a rather extensive collection of poetry I called "The Phantasie Divine," a highly symbolic timeline of my life. It was a way to deal with the totality of my life.

Despite my reasons for choosing Christianity, it was still difficult to give myself completely to God, as there were numerous internal issues I had to address in addition to shame. The first issue was bitterness. I had a couple of bad experiences in church; an adult physically attacked me in church as a young child, and a young girl accused me of an attack on her when I was a teenager. The latter incident was especially painful not only because I was innocent, but the person that I spent the evening in question assisting in the sound room, the youth pastor, claimed I was not helping him that night. That was the last time I stepped foot in church for many years. There was an issue of denial, which ties in with the shame I felt. We all have a tendency to deny or minimize what we have done. Claiming my innocence was a matter of survival, but internally, I simply did not want to admit I was such a fallen soul. Of all my internal obstacles, this would be the most difficult to overcome. The third issue was my resistance to change. My criminal justice teacher used to say, "People are creatures of habit." I found myself still clinging to old habits. I used my mental illness as a crutch for so many years, and in jail I relied even more on my mental illness to survive. My path to salvation was nothing like the TBN shows where the preacher lays hands on a person and that person is instantly healed; my internal struggles would be a daily struggle for years to come.

The external struggles were slightly less difficult to overcome. For most of my year-long stay in the county jail, I resided in the holding cell with as many as five men in the same six by ten foot cell. Life consisted of a daily, delicate dance of body movements, especially during lights out and shower time, since the shower was in the cell. The cell itself was miserably hot in the summertime and drafty cold in the wintertime. Due to overcrowding, we rarely left our cells for exercise. Fortunately, since most of the time I was in the holding cell, most of the people placed in the cell would bond out or were placed in other cells for processing. There were times I was placed in other cells but was kept apart from the general population because of my status. Most of the time, I spent every waking moment off in my own world, writing, drawing, playing games, and listening to music. The other guys took total control of the television, but as long as I was left alone, it suited me just fine. The human mind has an amazing capacity for adaptation, and everyone finds away to deal with the monotony.

Slowly but surely the case against me progressed. Eventually I was indicted and my bail was raised from \$10,000 to \$25,000, to which I thought to myself, why bother? I was not

bonding out to begin with. I was given the court-appointed attorney with the worst reputation; despite this being an open-and-shut case, I couldn't help but feel a bit railroaded. The attorney decided to try to convince me the best route was to "plead insanity." I suppose that was because of my history of anxiety disorders, depression and suicide attempts, and a diagnosis of "Borderline Personality Disorder" (think bipolar without the chemical imbalance). In retrospect, I'm glad his feeble attempt at trying to convince the court I was insane failed miserably. I was using my mental illness as a crutch to excuse my bad behavior for way too long, and in the end this plan of action so familiar to me would have backfired; the attorney's plan would have subjected me to indefinite imprisonment. Perhaps it was God's way of preparing me for accepting responsibility for my actions, though I wasn't ready at the time.

I had gotten quite institutionalized by this time, and realizing this time was coming closer to an end, the strategy was simply delaying the inevitable. Deep down I knew I was guilty, even confessed to it, yet was not ready to accept the fate to be handed to me. It seems rather hard to believe a man could get quite complacent in a jail cell, but the longer a person stays in a particular place, the easier it is to deal with the place. I had learned to adapt to life in a six by ten foot cell.

In October, as the case was getting closer to trial, I was placed back in the holding cell after about three months of being in a one man cell with two other individuals. The two-man cell next to the holding cell was now occupied by women, and there was just enough space to pass items between the two cells. Obviously there was no interest between the women and I because they heard I was a child molester, so at first, there was no conversation between us. One day, one of the victim's cousins, who I hung out with in the past, was placed in the holding cell with me and this other guy who was arrested for trying to rob a convenience store. After the awkward phase ran its course, the other guys and I decided to play "Uno" and shoot the breeze to pass the time late one night. As can be expected, the subject of my crime came up in the conversation. I explained it away to minimize the crime; I don't know whether they really believed me or not, but they at least publicly accepted my explanation. Apparently the women from the cell accepted it as well, as they began to open up to me as well. Ironically, I received more attention from the ladies next door than I received in my entire life beforehand. This, of course, was based on the presumption of innocence. This arrangement would last the next three months, well past the holidays into the month of February.

Finally the fated day was upon me, the cold morning of February 6, 2001. I was taken to court that morning, and something inside me compelled me to give up on the deception. I finally decided to accept a guilty plea. In retrospect, a plea of six years for a single charge wasn't much of a plea. To this day, I can't tell you why I accepted a plea which was not much less than the maximum sentence. I'd love to be able to say it was remorse and guilt over my actions, but in reality, I can't say that. I believe it was a "let's just get this over with" mentality. For months I had tried to put up a fight; I tried to fire my court-appointed attorney, file a petition questioning the conditions of confinement, and even tried a change of venue; all these petitions were denied. They would not allow me to bond out, represent myself, or plead nolo contendere. Even if I wasn't guilty, I would have been railroaded; sadly most people accused of sex crimes can expect similar treatment by the justice system. Despite this, I remained a man guilty of committing a sex crime, and the time had come for me to finally accept my fate. In all my experiences throughout this ordeal, the day I accepted the guilty plea remains the saddest moment of my life. I wanted to finish myself off, but didn't have the courage to cut the length of my arm rather merely slashing across it. I called my ex-mother-in-law and told her the news; later she came to pick up all my

belongings as I prepared for my transfer to prison. Two weeks later, on February 21, 2001, one year after my arrest, I was transferred to Kilby Correctional Facility for processing.

Prison processing is likely as close to death as any man in this country would want to be. You are deprived of every possession you ever had, even your last pair of underwear and your hair (as you are shaved), strip searched, showered, and your crime publicly exclaimed. I panicked, remembering the stories about "Bubba," dropping the soap, and the fate of sex offenders in prison. This landed me in the psychiatric unit for evaluation. I was placed in a cell with nothing but a rubber mat, a paper gown, and a roll of toilet paper I used as a pillow. I felt like an animal in a cage; maybe I would have fared better as an animal. Perhaps the greatest hardship with prison life was learning to adjust to the monotony and the loss of individuality. In prison you become a number. I was number 215332. And number 215332's first night in a state prison was in a cold cell with a rubber mat. By the next morning, the initial shock of my new environment wore off and after a brief conversation with the psychologist, I was placed back in the intake dorm.

As I was settling into my assigned bunk in the intake (the "east") dorm, a man who was a trustee at the county jail was settling in at the bunk next to me. God must've been watching over me, because this man helped me endure those five days of east dorm. I spent those five days helping him study for the CDL test, since he was transferring to a work release camp. In turn, it helped occupy my mind. I was still nervous, so I kept to myself. It was almost a week before I was able to eat. After those five days, I was placed in general population. I remembered all the tips I received while in the county jail. The general population had more freedom to move around, but I used that opportunity to further my walk with God. Aside from getting out of the dorm, I found going to every available service to be a relaxing experience. I also found time to visit the law library and walk the track to occupy my mind and keep absorbed into my own little world. After a year without exercise, my muscles had atrophied to the point that merely walking was enough to make me sore for a week. My first commissary purchase was a radio so I could further withdraw from my environment. I still managed to make friends there, and furthermore, I was never targeted by "Bubba."

Kilby was merely a processing camp, and after surviving four weeks of that place, I was transferred to Bullock County Correctional Facility. Again, somehow I believe God's plan involved this prison. Bullock had a reputation for being one of the most laid-back prisons in the system. Bullock was a medium security camp filled with mental health patients, inmates sent for the substance abuse program ("SAP class"), and of course, sex offenders. But Bullock also had one of the best faith-based initiatives in the entire country. Bullock was indeed a prison in a physical sense, complete with a fence and towers with armed guards. In a spiritual sense, however, Bullock would become my spiritual training ground. I immersed myself in religious educational classes, and after a month, was moved into the "faith dorm." It was about the best arrangement I could hope for while serving the next two years behind bars.

The chapel was a very impressive place. The chapel building itself was built brick-by-brick by prison inmates, using bricks donated from demolished properties. It was one of the few air-conditioned places in prison, which was a bonus during those hot south Alabama summers. More importantly, there were a variety of classes available to help me along my new path. I felt the most comfortable with the Catholic community, so I devoted much of my time to studying the Catholic faith. The Catholic community was a very tight knit group. My closest friends (Robert, Hutch, Scott, and Ray) were all members of this community. We would meet every Sunday morning for a prayer service, since Mass was held bi-weekly on Saturdays, and a number

of Catholic classes were available. It was a great way to learn the faith. I still took classes with the Protestants as well, and many of them were helpful as well. In a prison with about 1200 inmates, around a fifth spent at least some time in the chapel. The chapel program boasted a success rate of over 90%, meaning less than one in ten who completed one of the various programs returned to prison for any reason. The program was one of the best, and garnered plenty of national attention and interest. It was as perfect a setting for rehabilitation as you could possibly receive behind bars.

Despite having such tools of rehabilitation at my disposal, I would work on many things except confronting the issues which led me to prison. I was experiencing the feelings common to all inmates; even among those who seek God, many do not want to admit their own problems, though we are quite proficient at pointing out others' faults. I needed a "wake up call," and prison was the ideal place for that. Prison doesn't care that I didn't want to work all day in the kitchen. The prison psychiatrist wasn't much help, either; he said all my problems would be solved if "someone beat your ass one good time." People typically go to counselors for help, but for me, it was as much a crutch as it was a sincere desire to seek help. However, I could not rely on my crutch anymore. Eventually I had to learn to deal with my issues by facing them rather than running away. The hardest step to make in the path to rehabilitation was the first step, and the time was finally ripe for my first step.

Chapter 2: Dark Night of the Soul

In the 16th century, during the chaos of the so-called "Reformation," a man named St. John of the Cross wrote a religious work entitled "Dark Night [of the Soul]." The thesis of the book is that there comes a point in a person's spiritual life where a great trial rests upon the person, an internal struggle so difficult, even overwhelming, it seems even God Himself has forsaken you. Eventually one gets through this tribulation and comes out of the shadows a person changed for the better, achieving a level of understanding one formerly felt impossible to achieve. If I ever hoped to achieve anything similar in nature a great spiritual man like St. John of the Cross achieved, I expected to go through the fire. We are our own worst enemies sometimes. Think about it. How many times have we ended relationships on trivial matters, committed acts we spend a long time (if not a lifetime) regretting, or caused pain to yourself or others? If you think you have never done any of the above, you are either lying to yourself, highly delusional, or maybe you are the Second Coming. For the rest of us, we know mistakes are inevitable part of living. Some mistakes are worse than others. And in this society, no crime is frowned upon worse than sexual offenses. If I was to experience a true awakening, I had to come face to face with my own worst enemy, this fallen one I've become.

It was nearly an entire year before I attended the first Sex Offenders Anonymous meeting. In all honesty, I only went to that first meeting because I overheard some officers talking about how the warden was planning to send the sex offenders not participating in the SOA program to other camps where they would apparently be treated worse. Thus I attended my first SOA meeting as much out of fear as it was a desire to change (not to say I didn't desire change but fear is usually a great motivator for change). Sex Offenders Anonymous is patterned after the other "Anonymous" 12-step groups that have become a staple in our society. Those familiar with the 12 steps know the first step in changing a problem is admitting you have a problem in the first place. I think my most frustrating moment in my entire time in the penitentiary was that first SOA meeting. I got up in the familiar fashion of Anonymous groups and said, "My name is Derek and I was convicted of..." Before I even finished the sentence, I was immediately interrupted and lambasted by Jerry, the chairman of the group. There is a difference between saying "I've been convicted of" something and "I committed" something. Convicted simply means a judge or jury believes I committed an illicit act, but it may or may not be true. Saying I committed the act means I admit that I committed the act and *take ownership* and *responsibility* for my actions. This is a significant difference. That is why I made the profession of guilt in the prelude to my book. If I had any hope of change, I had to learn to talk the talk before I walk the walk. Even the Bible warns us to use our mouths wisely, because life and death come from the spoken word. Thus I had to learn to talk like someone ready to change his life. Though I was extremely angry at the sharp rebuke, when I calmed down, I began to understand what was taking place. I appreciate it more now than I did at the time.

Sex Offenders Anonymous also ran a nine month long course heavily based on the successful sex offender program the State of Alabama abolished in the mid 1990s (why a state would abolish a program that made society safer is beyond my ability to comprehend- I'm asking Cincinnati City Hall the same thing). The course was divided into three 12 week long courses- Pre-Treatment, Sexual Assault Cycle, and Relapse Prevention. This plan has been around quite a few years and many sex offender programs are similar in structure to the program I'm describing. Basically pre-treatment is exactly as it sounds; it is an overview of the program preparing us for the intensity of the next two classes, and we begin to assess ourselves to see

where our problem areas are. In Sexual Assault Cycle, we learn the cycle of behaviors that we fall into which leads to our inappropriate sexual behaviors. Then in Relapse Prevention, We learn new thought and behavior patterns to free us from our addiction. [Note: If you want a comprehensive book on what I just described, I strongly suggest you read the landmark book "Out of the Shadows: Understanding Sexual Addiction" by Patrick Carnes, which explains the assault cycle and relapse prevention in detail.]

Keeping God's call to confession in my heart, I hesitantly entered this nine month long mental torture chamber. After all, who wants to admit they got sexual issues? Even hard-nosed John Walsh (host of America's Most Wanted) struggled with sexual addiction for years before he sought help (at least that's what he said on Larry King Live). Now the time came for me to find out why I would make sexual contact with an underage girl. Even among sex offenders there was a vast degree of difference among the cases presented. There were flashers, "peeping Toms," true pedophiles, "situational molesters", rapists and serial rapists, and those who either downloaded child porn or make it (Of course there were those few cases where the girl was 15 and the boy was 18 too). The point is that not all sex offenses are created equal. Knowing there were others who shared my circumstances did help, however, because it let me know I wasn't alone in this and there was an answer to my problem.

Before I continue, I feel a disclaimer is necessary. Since this story is about all my experiences as a sex offender, I must speak about my time in treatment. I hope you can accept what I'm about to say with an open mind, but I also hope you understand my intention is not to justify or invalidate the wrongfulness of my actions in any way, but merely to offer what I believed to be my rationale at the time I committed my crime; in treatment terms, my "assault cycle."

There is no single reason why a man decides to commit a sexually deviant act. Modern American society would say something like, "He was thinking with the little head," but the real reason is far more complex. The Addiction Cycle breaks the pattern down into four pieces- Belief system, impaired thinking, addiction cycle, and unmanageability. The belief system is the core of our behavior. My belief system was that I somehow equated love with sex. When I was a child, I had dreamt of a beautiful garden and a woman in a wedding dress; thus I spent all my life seeking marriage and a family. I was always a loner and have not been very lucky in relationships. I married the first person who said yes and jumped into it, then fell into a deep depression after the divorce. Coupling loneliness with isolation and my faulty belief that "sex equals love" was the foundation for my offense because it led to a loss of inhibitions. In other words, I accepted sexual advances from women I would have never otherwise involved myself with for the sake of feeling loved. My thoughts were impaired to the point where I believed people who I had casual sex with actually wanted a relationship with me. Worse, I believed someone incapable of consenting to a sexual act would become, in my mind, a willing participant in an illicit sexual act.

The Addiction Cycle phase has four subparts-- preoccupation, ritualization, sexual compulsivity, and despair. I would find myself preoccupied with sex because having sex filled the void in my life at least for the moment. Since I was never good with meeting and communicating with women, I tended to rely on others to set me up on dates or dated aggressive women. Since my ex-wife and I fell in love at first sight, I based my feelings toward the other woman on how quickly things progressed between us. Since I equated sex with love I was a bit too willing to give myself to those of ill repute or engage in inappropriate sexual activity (in my case an affair with a married woman). In the end the despair kicked in as expectations were never

met and I came to the realization they didn't share my feelings of "love" for them. My life had become pretty unmanageable by this time-- I had gotten suspended from college, had trouble keeping work and was struggling just to find a place to live.

The cycle, left unchecked, drives one deeper into despair. I grew in desperation, and my inhibitions feel further. My dreams of marriage and family turned into just wanting to find that temporary feeling. I became as a drug addict growing immune to his fix in time. This was, is, and will forever be the only time in my entire miserable existence I would lower my inhibitions enough to seek my needs from an underage girl. Though I am grateful the act never progressed past kissing her (just for the record a "French Kiss" is considered sexual contact in the eyes of the law), I am ashamed and remorseful for what I did, and will be one of the burdens I will carry with me to the grave. It doesn't ultimately matter if I get a pardon somewhere down the line or if everyone forgives me and welcomes me with open arms, I will carry this memory and a heavy heart with me until the day I die. However, I will never let my crime define me. Looking into the darkest part of my soul and bringing these demons to light, painful though it may be, reminds me that at any time, under the right set of circumstances, that anyone can be capable of committing some horrific acts. Once I broke through my barrier of pride, anger, and denial, I was able to confront those demons and purge them from my body.

Once the Assault Cycle has been identified and analyzed, the next step was to learn ways to avert deviant thoughts and behaviors, also referred to as "relapse prevention." We were to find any means necessary to prevent us from committing sexual deviant acts. Some people used rubber bands or sniffing ammonia whenever they had a deviant thought (negative reinforcement); others practiced various mental techniques like role playing and victim empathy. For me the faith I embraced really helped me out during this time. My most significant problem area in the past was always my isolation from others, but being involved with a close knit support network, particularly the Catholic community, really helped me through my dark night. We worked out together, worked our prison jobs together, got together for bible studies apart from bi-monthly Mass, and just talked together about many things. Through these people I learned my faith and more about me. More importantly, I learned how to make and keep friends, to share problems, to communicate, and most of all, to accept responsibility for my actions.

The Christian approach says not to change one singular problem in your life, but to change your entire life. While I took the SOA-run classes, I took a Christian counterpart called "Living Victoriously In Christ (LVIC)." It was a 24 week program which used a lot of material from Pure Life Ministries based in Dry Ridge, Kentucky. The terminology may be different but the base patterns are there. I mention this particular program because between SOA and LVIC, I found inspiration to start my own organization. And since many of the SOA guys also took LVIC, I was getting a lot of help through both classes. It goes without saying my support network lay upon the foundations of these parallel programs. After all, repetition is a major key to learning, as well as the proper learning environment.

I believe the greatest lesson I carried with me from the penitentiary was that no matter where I go, there will be people who will love me for who I am, support me, and accept me as an imperfect soul. In retrospect, I can't remember many times where I was sad, depressed, or full of bitterness. Why bother being bitter? I did the crime, and I deserved the time. I got a bit sad when people in the "free world" quit writing me, but I believe it had to happen in order for me to focus on my mission while incarcerated. I had discovered a lot during my incarceration. You may find it hard to believe, but my main problem was not *sex* itself but *isolation*. In prison I had to carry myself with confidence so I'd be less likely to become a victim myself. I had to be honest,

though I was never a good liar anyways. The way I learned to carry myself in prison is the way I carry myself now. I accept support now where I wouldn't even admit to having a problem before. I reach out to people when I can't do it alone. I will take a chance and try to get to know someone instead of keeping my feelings to myself. Prison is not a place anyone would prefer to stay, but I am grateful I grew from this experience.

The internal struggles I overcame were merely a prelude to a greater battle to come. I was a short-timer compared with most Alabamians in prison, since Alabama is "tough on crime" (though if you ask most people, it has more to do with prisons being a top employer and industry in the poor state rather than some pseudo-noble cause). By the time I had even made it to Bullock, my sentence was nearly halfway completed. Before I was even finished with my classes, I was already faced with the burden of finding a place to go upon my release. Unlike most other types of offenders, sex offenders MUST have a home plan upon release from prison, or they are sent back to the county jail of their conviction and charged with failure to register, a felony. I don't see how that is constitutionally possible to punish a sex offender because he or she cannot find a place to live, but when it comes to sex offenders, anything goes. Even though I still had some 18 months to find a place; that thought made me nervous.

I began my search with a list in the Chaplain's office. On this list were some 50 or so addresses. Since I didn't have friends or family sending me money or stamps, I had to find a way to get up enough stamps to make the necessary contacts. The chapel sent out about a dozen of them for me, but the rest I obtained by selling the more desirable items off my tray-- fried chicken, tuna fish, French fries, some of the desserts, hot dogs, potato salad, and pancakes. In exchange I received an "item;" a ramen soup, cheese curls, candy bar, soda pop, or three stamps. I would trade the other items for three stamps, or take four items, trade for a bag of coffee, and waited till someone came by looking to trade 15 stamps for a bag of coffee. I guess I learned to be quite frugal through this experience. The more stamps I received, the more letters I subsequently sent out. It was an exercise in futility except for the letter I received from Cincinnati Restoration Church that stated they never turn anybody away. I was reluctant to choose them because their focus was on drug offenders, but I kept the information in mind just in case. I was glad I did, because that was the only positive response I ever received in the mail. When I sent a letter, I would ask them if they knew of any other programs that might accept sex offenders if their program would not. Even the programs they suggested in response to my query went nowhere. I had also talked to some of the different church groups that came to the chapel to catch any leads. The first group that gave me consideration was a Mennonite group in Georgia. Unfortunately, they had accepted a high risk sex offender who was a true pedophile and career criminal who blatantly bragged to others about his plans to re-offend upon release, and his subsequent actions upon release ruined any hope of my acceptance into their program.

Around Christmas of 2002, one of my teachers found a place in Pensacola, Florida willing to accept me. At that point, I was three full months away from my End Of Sentence (EOS) date. Thus began the round of stories of the horrors of life on the outside as a sex offender, which were told in a manner much like the stories I heard about prison before I went there. I was given a copy of Alabama's residency restrictions, which are among the most severe in the country. I heard about sex offenders being the targets of armed vigilantes, constantly harassed at home and at the workplace, and forced into homelessness and joblessness. I was facing a rather bleak future. Normally, when a person's EOS date nears the inmate is filled with joy, but in the case of sex offenders, it is mixed at best, but more often it is a feeling of dread. I was more in the mixed feelings category. I could not go back to family since the victim was related to the spouse

of one of my family members, plus the environment would be the same environment I committed my crime in. Thus I knew I would find myself in a place I've never been to before in my life. It wasn't until five days before my EOS date (March 26, 2003) that I found out I wasn't going to Pensacola after all. Immediately I contacted Cincinnati Restoration Church and asked to join their program, and was accepted.

One of the things that stick deeply in my mind during this time was my last SOA meeting before my EOS. I was given a prison-made card with an orange kitten holding onto a clothesline with the words "Hang in There" on the outside, and on the inside read, "We just want to let you know- that you are in our thoughts... and in our prayers. And that we wish the very best for you... On your Journey! Hang in there, and trust God!" Pretty much everyone in SOA had signed it, as well as most of my friends (I still have this card to this day as well as a copy scanned onto my hard drive). During the meeting I was to give my only presentation before the group. I talked about my prison experience, what I learned about myself, who I am, and what I did, my plans for the future, and everything else. It was kind of bittersweet. But I think Gary's comment was the one moment that stood out the most. He stated he doubts I'd last three years. When asked why he'd make such a statement, he replied that the odds weren't in my favor because of the way sex offenders are treated in the outside world and because of my temper; though it is noted he did not believe I would commit another sex crime. The old me probably would have just threw up his shoulders and gave up, but for possibly the first time in my life, I took a comment like that and used it as motivation to prove someone wrong rather than to use it as an excuse to justify misbehavior and not be the best person I could be. I had to rise to the challenge if I was to succeed and prove this guy wrong.

Thankfully the last few days went by without the traditional last night hazing many inmates got before their release. What bothered me, though, was one of my friends, a fellow Catholic and a lifer, decided to make my last few days as miserable as possible out of jealousy for my leaving. He stole the mat off my bed, told everyone I raped little boys, and even tried to get me to fight him so I would lose my good time. I think this experience was a real test of my ability to control my temper, because it would have been real easy to seriously harm this guy. Yet I kept my cool and got through those last few days unscathed. I didn't get much sleep that last night, but eventually that final wake-up call came. I said my goodbyes to my friends. The last friend I would see was Randall, who I call my brother. At 2:30 pm on April 1, 2003, I finally got the call to bring my possessions to the captain's office. I sat in front of the Captain's office for what seemed like an eternity before the final processing began. I was fitted for my release clothes and signed my papers. That moment seemed almost as long as the sentence itself. I had lasted through my state-sanctioned punishment. The gates finally opened and the real test was only beginning.

Chapter 3: Trial by Ordeals

It was 3:45 pm on the sunny day of April 1, 2003 when the front gate of Bullock County Correctional Facility opened and I walked out a "free man." I was wearing a navy blue windbreaker made for a man twice my size, a matching pair of Dickies work slacks, a black polo shirt, my ugly brown state-issue Brogans (still dirty from the days in the kitchen), my bag filled with two years' worth of school notes, a bag with more stamps than the average post office, and ten lousy bucks I received upon release. I don't remember which officer took me to the bus stop, a gas station in town, but at 4:10 pm I received my ticket, paid for by the Catholic Church, I was on the Greyhound bus on my way to Cincinnati. Since my EOS date was on April 1, my friends in prison joked about how the gate has going to slam the gate on me, shout "April Fools," and send me back to my dorm. Thankfully that didn't happen, but I found myself almost wishing they did. The trip to Montgomery, Alabama, the first stop on my long ride to Cincinnati, was only about 30 minutes long, and there were only 4 people on the bus, so I just looked out the window. The reality of my release would not hit me for days, so I felt as if I was watching a show of someone else's experiences. In Montgomery, the bus we were to leave on broke down, so we ended up waiting till 1:30 am for the next bus to take us to Montgomery. I saw a couple of other guys with matching attire and Brogans who were far more elated at their newfound freedom than I was. I finally got my first video game fix in four years (the super fast version of Ms. Pac-Man, now that's a real classic). The trip would ultimately take nearly a full day. Along the way I walked with quite a few people, all I kept in prayer for many months to come.

About 2:30 pm on April 2, 2003, I finally arrived in Cincinnati, Ohio. I called the Cincinnati Restoration Church and within the hour, I was in my new home. I discovered at least part of the reason why they called the place "restoration" church-- they were rehabbing a former butcher shop into a group home. I would say it was half complete when I first moved in. After two days of getting virtually no rest, I nearly passed out the moment my head hit the pillow on my bunk. It was still a top bunk but a firm mattress was still better than a crappy prison mat. I couldn't sleep well that day; though I was completely exhausted, I was rather worried about adjusting to my new home.

When I was in prison, I had seriously contemplated taking a vow of celibacy and joining a monastery. If God sent me to CRC for a reason it was to show me I didn't have what it takes to be a monk (though I still hold them in the highest regard). The group home was structured much like prison in the sense of a very structured routine with a set wake-up and rest time and a specific schedule. Wake-up time was 6:00 am every day, and we had roughly 15 minutes to get ready to go down to the first floor chapel and pray for an hour on our knees before a morning sermon. By about 8:30 am it was breakfast time, and then it was off to the "peanut field." The first time I heard that expression, and being raised mostly in the south, I was thinking I'd be working on a farm. I think when I heard what they meant by the peanut field I thought I'd prefer the farm. It was slang for their job of soliciting donations for their group homes in exchange for bags of M&M Peanut candies, hence the name (though on occasion we used other candies like "pixy stix" or suckers, and water during the summer, though far less often). Cincinnati Restoration Church was one of a dozen or so group home under United Restoration Ministries, which began in California I believe, and has homes in major cities of California, Texas, Ohio, Illinois, and are slowly expanding. Well I applaud their efforts, but soliciting funds in exchange for candy was not one of my better talents; in fact, I was probably one of the worst fundraisers they had the whole time I was there. When we returned from the field (usually around 5:00 pm),

we'd count our money and turn it in, and pray again for 15 minutes on our knees. Then we'd have an evening service, dinner, and finally a few minutes of free time before bed.

Cincinnati Restoration Church was not your typical program, however, depending on what you feel a program targeting drug offenders is supposed to look like. There was not a 12 step program. You learned the faith by reading the Bible, praying on your knees, and listening to sermons that weren't always about drugs. Their philosophy was much like the one program I first took in prison where the passing grade was a "changed life." I can see the benefits in the structure of the program in retrospect, but at the time I felt the program was off-target and too difficult for the average person. What they said makes perfect sense; to change a problem, you have to *change your entire life*, not just the problem, and that was one of the reasons I chose to move from Alabama instead of returning to my family. Still, I had many philosophical differences with the church that made me sort of the spiritual black sheep of the group. I think my biggest problem in the program was the tendency of many of the church leaders to measure my faith by the amount of money I earned fundraising. Many were very anti-Catholic as well so I had to contend with some of the same fire I came under at Bullock. Even so, I met some genuinely good people who I still talk to on occasion. Though the church, I had seen many places and met people I never would have met on my own.

Soon after my arrival, I went to the local sheriff's office to register as a sex offender without knowing what the requirements of the state of Ohio even was. I did not possess any form of identification except my release papers from Bullock. Alabama did not inform the Sheriff's office I was moving to Cincinnati, but other than that, the deputies gave me no problems about my registration duties. While I was waiting to be thoroughly processed, I overheard a conversation between a deputy and what I believed to be a nosy neighbor on the phone, apparently asking questions about some flyer she received in the mail regarding a sex offender in the neighborhood. I can't recall everything that was being said, but I remember a line that the officer said, "There was only one perfect man and they nailed him to a cross." That line has really stuck deep in my mind all these years. If Jesus was indeed the Son of God as the Christians claim, a great man, spiritual leader, and miracle worker, yet his society had crucified him, how much more society seeks the blood of those so far from perfect! Finally I was fingerprinted, my mug shot taken, given the classification as a sexually oriented offender (the lowest risk level in Ohio's three-tiered classification system), and sent home.

I dreaded my first day on the peanut field, and it came all too quickly. My first day was to be in the suburb of Kenwood, an upper class community. My partner that day was a guy named Rodney, who preferred to solicit "business-to-business." It took me quite a while to get down the routine of telling people what I'm soliciting funds for, but with Rodney's assistance I at least raised \$32 that day, about \$8 more than my average day (after 10 months my average was \$24 per day). My second day was way out in Hamilton, Ohio, and I only managed \$17 working parking lots with a guy named Vince. If anything good came of my experience with fundraising, it was it gave me an opportunity to see places I would never have seen on my own. This doesn't detract from the fact that I absolutely despised fundraising, however, mainly because I was so bad at it. I've never considered myself a people person in the first place, but doing this forced me to deal with people on a regular basis. There were as many good experiences as there were bad when it came to fundraising, and as much as I hate to admit it, this experience helped reinforce those hard earned lessons I learned behind bars.

My first really bad fundraising day was when I got stuck with a guy named Kenny, a man I had disliked during my stay in the home, and worked an interstate off-ramp into Norwood,

another Cincinnati suburb. At that time I felt Kenny was hogging all the donations so I basically sat back and took it easy most of the day. I wasn't making very much money, but this day was particularly bad. I remember a lady I call "The Purple Nun," a black lady in what appeared to be a nun's habit, only it had the Islamic crescent on it. She rolls down her window and says, "What you want, white boy?" I've never liked that expression because after three years in prison, I knew the derogatory nature of that comment. I just smiled, bit what little tongue I have, and proceeded with the standard fundraising pitch. She went into some racist tirade as a response, and I finally let my temper get the better of me. By the time we left Norwood, I had made only six lousy dollars. This event happened within two weeks of my release, and it was probably among the worst of all my experiences, solidifying my disdain of fundraising.

I had the exact opposite experience the next week. I was a part of a five man team to post up at a Wal-Mart in Huntington, West Virginia. We arrived a day early, so we freelanced. I was working with a guy named Billy, who knew a rather nice spot on the border of Marshall University. Though it was still April, it was unseasonably hot and muggy that day. Leaders in the church like Billy were rather accustomed to working without breaks, though I was not. I was out in the direct heat on this busiest of intersections. There was some kind of fraternity or sorority house close by to where I was working and this couple came out and offered me a drink of water. I am still grateful about it to this day and I'll never forget it. I think this was also the first day I came to realize I didn't have some kind of invisible scarlet letter attached to me. When Billy asked me to move further down the street, which was actually on the campus itself, I was approached by a campus police officer. I still lacked formal Identification at this time, but he gave me no hassle, he just reminded me that I needed a permit to solicit while I'm on campus, but I was fine in my original spot, and even gave me the contact information to set up a table on campus. I really enjoyed my day in Huntington; it was the first of only three days I raised \$100 or more on my own.

The out-of-town trips were mixed blessings. On one hand, I got to see more places in those trips than I ever had in my entire life. On the other hand, the pressure to raise more funds was also higher. We worked longer shifts, but the trade-off was the chance to buy more food, take longer showers, and watch more television in the evenings. I was given enough freedom to spend some time in solitude, something I was almost completely unable to do in prison. It is rather amazing how being without even the simplest things as enjoying a plate of sweet and sour chicken or sitting in a chair to look at the stars can bring you. Depending on who was placed in charge of the trip, I would either enjoy a great deal of freedom as a reward for pouring my heart out that day, or as a need to get away from an overbearing taskmaster who was two seconds away from a fist to the face.

My time at CRC wasn't entirely bad. I admired the fact that some people were willing to seek something better in their lives that they would enter through such a difficult and trying program to do it. All of the elders of the program (this is my term for them as they were not big on giving themselves titles) had been through the program themselves, and had to do even more activities than the guys in the program. Of course, that didn't mean they were without their own problems. After all, CRC was a program primarily for drug offenders so obviously the desire to do drugs will always linger in the hearts of addicts. In retrospect, I finally understand why they were so strict and disciplined, and why the elders had to talk like they were children of God. Somewhere in the Bible it says to live by example, so the elders have to show what living like a Christian is supposed to look like, even if they are struggling themselves. Practice makes perfect is not just a cliché. The sad fact is that when these guys (or gals as there were women in the

church program too) fall, it compromises the integrity of the program and harbors doubt in the minds of the weak. This same principle hold true for sex offenders. Every time one falls, it causes the average person to believe that all the other sex offenders will follow suit. Understanding comes so easily in retrospect, but at the time I brushed off what I believed to be a "holier than thou" routine as arrogance.

Some people in town thought the CRC was a controversial program. It even was the subject of local news exposés, but I know the program to be legitimate. Since the church used M&M Peanut candies, many knew us as the "peanut guys." I suppose that is the price to pay for being such a visible presence, but I understood what it took to run such a program. My feelings about the pastor have always been mixed, but I know he has made a lot of sacrifices for the sake of the church. A married man with three children, living in a fairly small apartment complex, and shares his family time with some 30 or so men and about a dozen women on a daily basis. I have to admire his determination and dedication to the program. He was not afraid to speak his mind, either. This of course led to my share of clashes with the guy. Still, I am thankful this place gave me a second chance, and all things considered, my needs were taken care of as well.

The church had also fixed the building they owned and ran the program in. From time to time people with plumbing skills or other housing repair skills would enter the program, and their expertise was put to good use. I wished I had that kind of talent myself at the time because it would have saved me from the peanut field. My talent is more in the organization field, so in time I was put in charge of preparing the candies and documenting who went where and how much candy was distributed (I loved this job not just because I was good at it, but also because it meant I was last to go to the peanut field). During the time I was there, the church had finished a new apartment for the elders on the same floor as the pastor, a new bathroom for the men's floor (we only had one bathroom before then), and was in the process of expanding the women's floor, as it was the least developed floor at the time.

Another activity the church tended to do on a regular basis was "witnessing." Once a week or so, we'd load up the van with those in the program and head for areas of town that were considered bad neighborhoods. We would split up in groups of two or three and walk around, passing out flyers and telling people about the healing power of Jesus. Then we'd all meet back at the van and sometimes we'd follow up with a "Blast." That was the term we used to describe a presentation where we would blast some modern "Jesus music," usually some kind of Gospel rap since we always ended up in the ghettos, and give our personal testimonies. I had more than my fair share of testimonies, though I never mentioned the sex offender label. Many times, we would bring home at least one person who wanted into the program. I think we even did a blast in Pittsburgh during one of my trips there. Every so often people from out of town would enter the program. I was from Alabama; another guy was from Tulsa, quite a few from Pittsburgh or Louisville, and at least one from Charlotte. There were others as well, but I can't remember them all. On occasion I still run into people who remember me from the Cincinnati Restoration Church. For all the problems I had in the program, I still consider CRC a blessed program.

If all Christians are indeed Children of God, I would be the rebellious teenager of God. While I've managed to solve the other issues which have plagued me all my life, such as depression and isolation, I've always struggled with keeping my anger and rebellious spirit in check. The stress of such a rigorous and demanding program was met with resistance and anger rather quickly. I am not exactly social phobic, but most of my problems originated in the peanut field. Each day was a trial, filled with more bad days than good. There were four general strategies: business-to-business, post at an off-ramp or major intersection, gain permission to

post up at a store, or my least favorite, sneaking onto parking lots or posting up in front of stores without permission. The latter strategy threw up a red flag for me, and for nearly a month I managed to weasel my way out of doing this practice. I had felt it unbecoming of a Christian organization, but more importantly, I was worried the cops would give me grief about being a sex offender. Well there was always the chance for conflict with managers or rent-a-cops when they arrived to kick us off the property. So finally after nearly a full month, I was paired for the day with Will, who was barely an adult at the time. I pretty much went off on him and almost left the program, but by the end of the day, I found many of my fears unfounded. I didn't like Will too much at first, but after a while he became one of my favorite partners because we were always cutting up and I tended to drag in more money when I worked with him.

Besides the obvious issues on the peanut field, I had my share of issues dealing with being in the home itself. This was obviously largely a by-product of my rebellious streak, but I really grew to resent how some of the church elders acted as if the money you brought in every day determined your faith. My first trip to Louisville was by far most difficult trial during my stay in CRC. I had gotten along with one of the elders in the church quite well up to this point, a man some of the others had nicknamed, "Pastor Paul." The other elder scheduled for the trip was a guy named Vaudry, a guy many in the home didn't seem to like because he seemed rather bossy and pushy. We were to stay in Louisville for five straight days. There were six of us on this trip, and the first day went okay. Then the problems began. First off, we ended up staying in a Motel 6. If you have actually stayed in a Motel 6, then you know that the rooms are quite small, so you can imagine six grown men sharing a hotel room smaller than average. Secondly, I had received quite a speech from Paul because I brought in about \$50 that day. Well that was \$30 above my average, but far below the \$100 or so we were *supposed* to earn every day. I did make \$112 one of the days on the trip, only the second of the three \$100+ days, but in fairness, he had us on the field 12 hours that day. I had seen only two places pretty much any time I had ever been to Louisville: Downtown, usually by the courthouse, and a shopping district along Dixie Highway, in a suburb called Shively. Paul and Vaudry argued a lot during this trip, and I argued with both of them. We argued over whether or not to get breakfast. We argued over the use of the bathroom in the morning; he had a problem with my need to wash my hair in the morning, which was an unusual complaint, coming from a bald Paul. I can't remember any trip I hated more than this one. What was my reward for surviving that horrendous Louisville trip? I got stuck with Paul on a trip to my least favorite town, Pittsburgh. For the record, I absolutely hated Pittsburgh; it was one of the rudest cities I was ever in (alongside Effingham, Illinois and Mattoon, Illinois). My anger with him got so bad it almost ended with a fight. We eventually buried that hatchet, but humans are always humans, and our problems don't always end with a shout and a prayer.

I was already struggling with the church by this time, but I think this incident really put me on the spot with the real pastor, Rick. Even to this day, I have mixed feelings at best about that man. I suppose I should be more grateful and all since he opened the doors of the church to a sex offender, especially since there were women in the home, not to mention he lived somewhere in the home with his wife and children. Yet something about him rubbed me the wrong way. I had more than my fair share of conflicts with him, and to be quite honest, I was never really sure of his true intentions. On one hand, it seemed that he was tempting me to leave the home, but on the other hand, maybe he realized that reverse psychology worked so well on me. I'm the kind of person that thrives on proving people wrong, and I believe he saw me as being that way. Also, he also made sure I never missed the opportunity to hit the all-you-can-eat buffet. I suppose he never saw me as a threat to any of the women in the home either.

Since the entire church was in a single four story building, there were females in the home, along with the pastor's wife and children, all residing on different floors, of course. On those occasions I would happen to pass a female or a child in the building, I would merely make a quick cordial greeting and move on with my business at hand. I'm pretty sure many people knew more about me than I did about them, and while I don't remember being treated worse because of my label, I felt it best not to "maintain the appearance of sin." I made a bigger deal out of the sex offender label than everyone else; after all, there was no special mark of sin like Cain received after slaying Abel, at least not yet. All my struggles I faced during my stay in the home were problems typical of anyone in the program. Realizing that I can be treated the same as everyone else was a small blessing I'll never take for granted.

After a couple of months, I had rebelled to a point where I broke as many of the little rules as possible. We were required to fast on Tuesday. The running joke with me and the other troublemakers on Fast Day was, "We'll see how FAST we can hit Mickey D's!" I slacked off on certain days of fundraising, depending on who I was paired with. I took any chance I could to shirk my obligation to pray or read my Bible as required. But I think a critical point came around my birthday, which is on Halloween; ironically it was over something I was doing with good intentions, not bad. I had saved up \$90 in order to make and send a care package to my friend in the pen. Someone had stolen my wallet during the night, took my money, and threw it out the window. I pitched one hellacious fit over this. I was accused of stealing, but I explained I received \$30 in birthday money from the congregation and had saved all my allowance (or "blessing") money from the past few weeks. Well fortunately the pastor and the assistant helped me acquire the stuff I was going to send in the package. But they changed their policies on our "blessing" money after this incident, which lasted at least the rest of the time I was at the home.

After about six months of struggles, and mainly because of my rebellious nature compromising the integrity of the program, I "graduated" the program three months earlier, and moved into their "re-entry" program. Essentially I was given two days per week to look for a "real job," then fundraise the other days of the week. I wanted to get a job as soon as possible, but I discovered that most of Cincinnati is not as forgiving as this church was. During my first interview with Office Team, a temp-to-hire service, I had scored higher than any other person screened in months. While I was waiting for my next test, this snobby little witch came up to me in a snide little voice stating that she told me already that they do not hire sex offenders and to get out of her office and stop wasting her time. I was nice to her but I wanted to punch her square in the nose. There are nicer ways to say things to people but she made it a point to speak her disapproval of me personally. During the next couple of months, I would face rejection after rejection after rejection. I tried offices, manual labor jobs, even fast food, to no avail. I would then carry my resentment over to my hated fundraising job.

My time at the church was drawing to a close and I began to yearn more and more for my freedom. Like most events of my life, my time at the Cincinnati Restoration Church would end on a bad note. The church decided to have some kind of spiritual marathon of sorts, doubling our prayer and church time. I was mentally drained from this experience and finally I had enough. I finally got up and said I can't do this anymore. This was not my true calling. I had survived this spiritual torture chamber but I had reached my breaking point. It was decided it was my time to leave the home. The pastor gave me \$300 to leave with and on Monday, January 12, 2004, I would leave the Cincinnati Restoration Church home and find my own path.

Chapter 4- Finding My Way

I left the Cincinnati Restoration Church around 6:45 am on that fateful Monday morning, long before the morning sun. My first day of true freedom was spent looking for a place to sleep; after a day of frantically searching for a place to stay on \$300 or less, I ended up in a seedy hotel called the Fort Washington Hotel, where I acquired a run-down hotel room for \$100 for a weekly stay. I spent my first week of freedom making contact with every social agency I can find, but had little success in finding any kind of assistance. I already had three strikes against me in getting help-- I was a man, I was a felon, and I was a sex offender. After three days of shacking up at the Fort Washington I finally got a bed at the City Gospel Mission. I had to pay \$10 a week to stay there, sit through a church service, and do a chore, but it was less strenuous than the CRC. During the day I sought social services or looked for jobs, and checked into the mission at 6:30 every evening. I have always been a bit of a procrastinator, but I had only a few weeks to find a job and a place of my own before my time at the mission was up, so I didn't have much time to waste.

Homeless life in Cincinnati was more structured than you might expect. After checking out at 6:00 am or so, I would find a place for breakfast, usually from the Gospel Mission, and go on to the Mary Magdalene House to shower and get a change of clothes. I may have been homeless, but I had to look nice for job interviews. I got to the shower house at 7:00 am and stood until they opened at 8:00 am so that I'd be one of the first ones out the door for that day's activities. Then I'd either go job hunting at the employment office or the library, or go to appointments or employment training classes. I even took a computer repair course to prepare for the A+ Certification test. Unfortunately I had acquired little in the way of employment before my incarceration, so I was at quite a disadvantage. Sometimes I'd stop at a sandwich window for lunch, and then resume my job hunt. After a few hours of job hunting, I would hang out at the library until it was time to check in. Once a week I also had to check in at the Sheriff's Office to update my living status, but thankfully my check-in time was at the end of the week, so it didn't interfere with my job-hunting.

Considering the place of the internet in society over the past decade, it should come as no surprise I relied heavily on the internet to find help and support. I created an online resume and sought job hunting tips for ex-felons, but was rather disappointed by a lack of results. I found the internet was better suited for games and socializing. I met my first post-release romance online, who I'll call "Cat." I met Cat while playing an online game, and after being reassured she was an adult, we continued our conversation through instant messaging. After the third day I decided to share my record with Cat because I figured there was no point in wasting my time if she can't accept my past. I figured at least since I am not looking Cat in the eyes, it would be easier to tell her about my offense, but as I typed those words, I was still shaking like a leaf. Cat read what I wrote, but still decided to give me a chance. She eventually came to Cincinnati to meet me in person. Cat was a great gal, but distance would eventually end our long distance relationship after about four months. This experience reinforced my belief in honest disclosure of my past, regardless of whether people accepted it or not.

I carried that mentality with me into the job hunt, but was met with great resistance. Looking at all the homeless people, I kept thinking to myself what it takes for a person to give up on life so entirely they choose the homeless life. To me the homeless life seemed too much like prison. We pushed and shoved and wedged ourselves into lines to get showers, clothes, food, and hygiene products (which, by the smell of some of the guys, should be using it instead of selling it

to other people). Many of these guys collected government checks, so I always enjoyed the first few days of the month, because the shelter populations thinned out. Most of them would get a nice hotel room for a few days, get drunk and pay for prostitutes, then will be back bumming for change and clogging the shelter lines by the end of the first week. I tried for SSI myself but was denied yet again, though this time it was just for lack of proper paperwork. But I wasn't about to sit around and wait on it; I was determined to rise about this pit of despair.

I sought some assistance, so I sought a case manager. After initial screening, I was assigned a case manager at Core Behavioral Health Centers. I had problems with Core from the very beginning. The receptionist was a total bitch and my case manager was very incompetent. I was expelled from the mission two weeks early because I got into an altercation with another homeless guy. The only thing this man did right for me was set me up in a hotel room for six weeks after my expulsion from the Gospel Mission. So on April 1, 2004, my one year anniversary from my release date, I spent the day in a hotel room watching cable TV.

That following Saturday, April 3rd, I attended an "Ex-Offender Town Hall Meeting" in downtown Cincinnati. I had a chance to talk with some of the local politicians there about the state of affairs for sex offenders in particular. There was precious little in the way of assistance for felons in general but even less for sex offenders. I had thought about programs for sex offenders and I had a chance to speak with then-city councilman David Pepper when he attended my local church one Sunday morning. Unfortunately my efforts would fall in vain at this time. However, I would not take my chances to make my voice heard for granted and was determined to prove myself to those who did not believe in me. Finding people willing to hire ex-offenders in general are few, and with sex offenders, prospects of finding a job are further diminished. I had even joined a program called "Jobs Plus," which specialized in finding employment for former offenders, but came up empty. I also met another advocate for former offenders, but she had little to offer as well. Ultimately I had to rely on myself to find a way out of this predicament.

Every weekend was spent at the library, and some of the homeless people convinced me to join a Christian group. I made friends with a guy named Seth, a really spiritual man who was devoted to God and living a simple life. The guy was a vegan, as were most of the people in his church. When my time was up at the hotel, he offered to let me stay with him until I got back on my feet. I never gave it much thought until he opened his house up to me. The hotel arrangement was only temporary, and on Sunday, May 16, I was forced to leave the hotel. I ended up sleeping out on the streets that night, but the next night, Seth invited me to stay with him. On May 14 I finally got a job stocking shelves at a Kroger store in Over-the-Rhine. Seth allowed me to stay at his place until I could save up enough money for my own place. I offered him money in return for his hospitality, but he would not take it. In less than three weeks, I made enough money to rent a \$150 per month sleeping room, and I finally moved out on my own. Seth was a big help during this critical time in my life, and I'll never forget his kindness; I wish there were more people in this world like him. Finally I got a job and a place of my own, and if not for him I don't know where I would have stayed during those first few weeks on the job. Like most people, I tried my hardest to do a good job my first few weeks on the job. In the "hood," there is always a shortage of good workers, so I took this opportunity to work as many hours as possible.

My sleeping room would be considered a "slum" by most people's standard. The room had just a full size bed, a rather dated dresser, and an ugly rusted metal armoire. There were two big drafty windows facing a pawn shop; in the winter, I had the windows sealed up with rolls of tape and plastic. The floors were painted blue, and the walls were white, but the drywall was

falling off in spots. I could only plug up one appliance at a time, so when I had to cook, I had to turn off the AC and the TV first. My room, the next room over, and a one-bedroom were all on the same circuit, so at times, especially in the winter, the power would go off on a frequent basis, even when I was using just a tiny ceramic heater. My neighbors were brothers, occupying the other two apartments on my circuit, and were constantly bickering about the power. My next door neighbors constantly fought and stayed drunk all the time. Practically every resident in the whole building shared a solitary bathroom. Every morning (or evening, depending on when I wanted to shower), I would clean the communal bathroom. The toilet was constantly stopped up, as the other people had a tendency to throw un-flushable objects in the toilet. I lived on the third floor, and the bathroom was on the second floor, so every time I had to use the toilet or wash dishes, I had to carry all my stuff downstairs with me. After all the other sex offenders moved out, drug pushers moved in and started selling drugs in the place. There was a key card system in place on the outside door, but it proved to be a curse in the winter, because the system would freeze up. I remember one time, I returned home late from work, and it was snowing that night. I arrived to the apartment building, and couldn't get in. I waited over an hour, banging on the heavy metal door and yelling for people to let me in, before someone finally let me in. I'm grateful that experience is over now, but I became used to the place and the routine after a while.

A couple of weeks before I found employment, I discovered www.sexcriminals.com, an online forum for sex offender issues. There was an online poll at the time regarding what to do with homeless sex offenders, which obviously hit close to home. Perturbed by some of the posts on the issue, I made the first of a long line of posts on the site (under the screen name "fallen one," of course). I finally found the right place to seek the answers to my questions. The site was not a sex offender support site, but a place for people to debate sex offender issues. It was here I would receive my first taste of the sex offender debate. I made a few friends there on both sides of the issue, particularly "Scarlet," a lady who is also on the advisory committee for this book, and Valerie, who, ironically, is a rather well-known anti-sex offender advocate. Not everyone I met was on my side, however. Since [sexcriminals.com](http://www.sexcriminals.com) was an open forum, there were as many victims, law enforcement, and highly opinionated people as well to contend with. Obviously I had my share of conflicts with some of the most hardcore of the opposition- "dp1," "myoung," "pvulcan," and "great dad" (or should I say Great Thief, since he admitted he was busted for theft) were the ones I had the most conflict with. Personally I wouldn't doubt the hardcore opposition work for perverted-justice or some other cyber-vigilante or terrorist site. Out of all the people on the site I met or debated, I think the one person who drew my ire the most was a clown who used the screen name "JakeLF--" He said the LF stood for "lives forever," but I believe it really stood for "Likes Fooling" or "Living F-up." He was basically the reason why the rest of us once-convicted sex offenders have it so rough. I hope this guy wasn't for real, because he struck me as someone who wanted to go have sex with kids over and over again. Honestly, I hope his only motivation for posting was to get a rise out of people and not one thing he said was true. I think later he did post something about making it all up. But if there is one thing I have less respect for than self-righteous holier-than-thou vigilantes, it's the sex offenders that leave prison who never learned a damn thing and re-offend. Whether you choose to believe it or not, the vast majority of sex offenders do not re-offend; however, every recidivist strives to mess things up for people like me who are just trying to reintegrate into society and live out the rest of our lives.

The online forum was a place to vent steam and acquire knowledge, but at the time, was not ready to devote my life to advocacy. For the moment, my real life activities were of more importance, as I worked overtime every week and saved up money for a better place. In three

months I had saved up a thousand dollars and bought a few of life's necessities. I may have lived in a slum, but I never let my environment take over me, just as I learned to overcome the prison mentality many acquire while incarcerated. In the hood, like prison, I could not show fear. I was simply known as a quiet, hard worker, not as a sex offender. I suppose people saw more things to fear in the hood than a sex offender who was always at work; there were no shortage of crack addicts, drug pushers, prostitutes, and thugs to worry about. I found police apathy toward reported crime in my neighborhood was not against me personally, but against the 'hood in general. I was truly "on my own," but through all my experiences, I was better equipped to handle these trying times on my own.

As time passed, I found few people made a bigger deal of my past than I did. Perhaps it was the environment I was in. I lived in the "hood," so perhaps seeing a quiet man work all the time and keep to himself was better than an active criminal. I certainly felt normal, going to a regular job, saving money, and even dating. It was a few months after Cat and I split up before I decided to start dating again. My past posed no problems for those I chose to date, but perhaps I should have screened my dates a little better. My first date was with a "gothic chick," complete with dyed hair and assorted piercing. It was quite an interesting experience, and we were certainly a rather odd couple, since I tend to dress in polo shirts and slacks. An interesting story involved a heavy metal concert we attended on my birthday. I decided to dress up in Goth attire, including a pair of black baggy pants with chains attached to them, which got caught in every doorknob and snag in Cincinnati. My date brought along a girl she claimed was her cousin. While my date and I were making out, her cousin was eyeing us very intently. After the concert, I asked my date why her cousin was burning a hole through us, and she replied her cousin was attracted to me. A few weeks later, we split up in a less than amicable manner, and she admitted she was bi-sexual and had a girlfriend. Some time after this happened I struck up a conversation with someone who knew my ex-girlfriend; through this person I discovered this "cousin" of hers was actually her girlfriend. I was disappointed, but grateful the relationship ended, because we were two worlds apart. So much for the old cliché "opposites attract."

After a couple of months I began dating another woman that I really liked. She had children already, so I was wary of dating her even though I really liked her a lot. We had begun talking long before I dated the "gothic chick," but it was about nine months before we finally had our first date. Our first date occurred the day after Valentine's Day in February 2005. It seemed like everything was falling into place; aside from the new relationship, I had made contact with my mother for the first time since my conviction. Also, I had begun a semi-vegetarian diet using Seth's advice, and was down to 176 pounds for the first time in over a decade. During that time, I felt like a "normal" person instead of a man with a label. Unbeknownst to me, a greater storm was brewing on the horizon.

Chapter 5- Trial by Fire

Up until April 2005, I was rather oblivious to how society treated sex offenders after they have been released from prison. I heard many stories of vigilantism against former offenders, such as a recent headline that involved a Canadian man who was arrested for killing two sex offenders in Maine using information taken from the online registry. However, in the year since finding my job and sleeping room, there was only one incident I was fully aware of my vulnerability as a man with a dreaded stigma, which happened toward the end of February 2005. It was snowing that day and about half an inch or so had accumulated on the ground, so I decided to walk downtown to work. Along the way I had found a woman's purse, with assorted cards and other important-looking items had been strewn around it. Thus it was obvious I found a stolen purse. I took the purse and the papers (along with some more of the possessions I found in the garbage can nearby) and I called a number I found in the possessions in hopes I found the owner's number. The number belonged to her significant other, so I explained to him I found this lady's purse and I was on my way to the sheriff's office to drop it off. After I had gotten off the phone with him, the owner of the purse showed up and reclaimed her property. She thanked me for finding what I could for her, and she went on her way. A few minutes later her man called back and claimed I had something to do with it, and that I didn't give her everything I found. I ended up arguing with the man for a few minutes and he threatened to press charges on me. So I went to the police station and filed a report on the guy first. I explained to the police what happened, and they took a report. The officer was very understanding, at least- he seemed genuinely upset that a Good Samaritan would have to come make a statement because the one being helped was ungrateful. Still, it was an extra hour of my life wasted, and for maybe the first time since my release, I was fearful of my status being used against me.

Still, aside from a few worries, I was blessed with a normal life. My girlfriend and I were slowly getting closer, and I was making plans to visit my mother for the first time in six long years. I had only been out for two years, but I was becoming a model for the other inmates from Bullock to follow in their quest for reintegration upon release. Still, it was only two years, and the SOA challenge was to last three years. I had survived prison, a church program, homelessness, and the 'hood (even after someone broke into my apartment and stole everything I owned), and have risen to every challenge thus far. But my next trial would pierce my heart in a way no other event has done, and has forever changed me.

This trial arrived in a letter from the Hamilton County, Ohio, Sheriff's Department, on April 15, 2005. The letter read as follows:

*"Sir: After further review of your case from Alabama it has been brought to our attention that your convicting state has subjected you to registration requirements that last for life. That means your classification with us has changed to **Sexual Predator**. The State of Ohio lifetime registrants are required to register every 90 days for life, in addition to every time you change your address. Your next registration date is June 25, 2005. Enclosed is a new form. Sincerely, Sheriff Simon L. Leis, Jr."*

You could only imagine the overwhelming anger and the deep piercing pain I felt in my chest as I dropped to my knees in disbelief. Even as one sex offender sheltered from the trials and tribulations of many others with the unfortunate label, I knew what connotation comes with the words "sexual predator." Sexual predators are supposed to be the worst of the worst, the true

pedophiles with multiple victims and sadistic rapists. Now I'm to be labeled as if I raped and killed someone and treated accordingly. This is much more than having to register more often and getting cards in the mail with my face on it. It is about how people are going to view me for the rest of my natural life as well as increased penalties and restrictions.

Once I was able to regain my composure, I made my way down to the sheriff's office to find out why the sudden change in my status. The deputy I report to had explained to me why the change was made and told me how I can fight to reverse the decision. I believe it was from her that I first heard of the Ohio Justice and Policy Center (Which, at the time was called the Prison Reform Advocacy Center). The OJPC is a non-profit agency that represents the poor and disadvantaged in a variety of cases, but was making some headlines for representing sex offenders against the goliath that is sex offender legislation. The most recognizable person there was David Singleton, a Harvard law grad and a kind of champion of the poor who makes little financially from all his legal battles. But it is about justice and not money, so I have a lot of respect for what they do. Needless to say, they decided to take my case.

The first fallout of this change in labels was my relationship with my girlfriend at the time. Not surprisingly, we split up, but not before she had borrowed \$500 from me beforehand. I fell into a deep depression because it was at that point I finally become aware of how sheltered from the darkness I had been since my release from Prison. Perhaps God had decided that it was time for me to face this trial. In retrospect, I can imagine how David felt with that slingshot and that rock staring in the eyes of a gargantuan and heavily armored Goliath. I bet he was scared out of his wits but still mustered up enough courage to stand up to the giant. Now everything was falling apart around me, and there I was standing alone, without so much as a slingshot, looking into the eyes of a legislative Goliath.

It was later confirmed that the reason my girlfriend at the time had disappeared that time was because of the predator label (Not against me directly, but against her just because we were dating). I figured as much but I was still angry with her for a long time. I should have been more compassionate but at the time I was so wounded and could only think of myself. This scenario will repeat itself a few more times over the course of my life. In subsequent relationships I would also see firsthand how easily this label could be used against me. In fact I don't even think I can name how many people have used my status as a sexual predator to prey upon my good nature and used me to their advantage, mostly for money.

I had been absent from groups for a while, but I had to return to counseling to help cope with these turn of events. But the problem with groups is that I could not bring out all my problems, because I know not everyone is a registered sex offender. I ended up having to leave the group after one of the group members tried to incite a group of thugs to jump me when she saw me on the streets one day. That was one of the few times I can remember being threatened physically due to my status as a sex offender. Eventually I was given an individual counselor.

Getting back to my court battles, the first course of action was to place a temporary restraining order against my change of classification. Surprisingly enough, we won that battle. Victories for the sex offender's rights are far and few between so I revel every victory no matter how small. The court ordered that I be given a risk assessment evaluation. I never received one in Alabama, so this would be a first for me. Sometime in July 2005 I went for this evaluation. I was basically interviewed for an hour or two and took a Minnesota Multiphase Personality Inventory 2 (MMPI-2) test, a six hundred plus questionnaire that asked everything from whether I liked flowers or my job to the hardcore sexual stuff. In the field of risk assessment, there are a variety of so-called "actuarial" risk assessment tests available. The one court psychiatrist Dr. Lee relied

upon was the "Static-99." Essentially, the Static-99 is a list of static (I.e., non-changing) factors that correlates to an increased probability of re-offending, factors like multiple victims, fixations on children, and so on. I scored a two which is "moderate-low" because the victim is not a blood relative (though one of her relatives married into my family) and because I did not have a sexual relationship lasting longer than two years (which shouldn't seem odd because I was 23 and fresh out of college when I was arrested).

Around the time I took my court evaluation, the prosecutor's office decided to up the ante on their case by claiming I was now in violation of Ohio's 1000 foot residency restriction. When I had moved into my sleeping room, the sheriff's office had reassured me that that residence met the requirements before I moved in, and a year later now they claim I'm in violation? It seemed very fishy, and with impeccable timing, at that. It seemed like everything was designed to get me to leave town with my tail tucked between my legs. However, if I gained nothing else from living in prison then on the streets of Cincinnati, it was to fight for survival. At least in this case, the fighting was with my mind, not my fists.

Somewhere in the Bible it says when you are faced with more than you can handle, God will provide a way out. My "way out," at least in the way of a temporary vacation from the collapsing problems around me, came in the form of a planned trip to visit my family for the first time in five years. I had earned a weeklong vacation from my job, and my boss placed my off days together to give me an eleven day long vacation. I had planned to spend my vacation visiting my mother. I was eager to get away from Cincinnati for a while, but I was apprehensive about returning to the place my journey began. But my mother had taken quite a journey of her own. My mother had been married to a wicked man for around a decade, a man who abused both prescription pills and my mother. He also sold his prescription pills to pay for alcohol, and ended up selling some to an undercover officer, and my mom was arrested as an accessory, since she was holding his medicine bottle. Mother ended up taking the fall for her husband, and was given probation, but ended up in prison after her husband refused to help pay her \$30 per month probation fee. During her prison stay, Mother discovered she had cancer, and the state begun treatment to save her life. I found out from a woman I call my "Aunt" (she was the sister of my mother's previous husband) that Mother was incarcerated. Her husband had recently drowned in a lake while high on drugs, which I confirmed by checking online. Mother was released in February 2005, and over the next three months, we planned my first trip to Alabama, a place I once swore I would never return to.

Only now do I realize that this trip was such an integral part of my life. One can never truly bury the past without confronting it completely. Though I knew my mother meant me no harm, I still had great reservations about taking this trip. I would leave Cincinnati in the dead of a cool May night and ride the Greyhound until I reached Florence, Alabama in the heat of the afternoon sun. Though both of our appearances have changed dramatically over the years, we recognized each other immediately. Watching my mother walk was like watching a toddler learn to walk, since the chemo sapped her strength, but she's made quite a recovery since that first visit. Though Alabama tends not to change much over the years and we passed by so many places I knew, the trip back to her trailer felt quite surreal, as if I was dreaming a slightly distorted memory of the past. So many memories of those faces and places embedded in a past I hoped never to relive flooded my mind. Still, I knew there was a purpose for everything.

The victim in my case was a relative of the spouse of one of my family members, so seeing a family member of the victim for the first time was a bittersweet moment. They were well aware of my visit, since they had been helping Mother since she was released on parole.

Cancer had taken a toll on Mother, and watching her learn to walk again was like watching a toddler learn to walk. Fortunately, I inherited her fighting spirit. Still, seeing family of the victim was an awkward and humbling experience. You could literally cut the tension with a knife, as we sat in silence, but we had to address each other because we shared a common interest in Mother's well-being. Before the day was out we at least spoke a few words with each other. It was the first step toward reconciliation, though another chance would not come for nearly half a year. For now, I had to return to Cincinnati so I could face the trials I was scheduled for.

I believe over the next few months, I spent so much time at the courthouse I practically lived there. I had the reclassification hearing coming up, the fight to keep my residence, and I was taking one of my ex-girlfriends to court in a civil suit. The stress of everything coming apart at once affected other aspects of my life. At my job, the man who hired me was promoted, and this interim manager, Michelle Humphries, took over. Apparently she must've got wind of my status as a sex offender, because she zeroed in on making my job a living hell. I would only last three whole weeks under the new regime. I was having some problems with a certain ex-girlfriend of mine (who I was taking to court over a loan), the constant conflict gave Michelle Humphries an excuse to terminate my employment. Right before I had lost my job, I had made a \$600 loan to a friend in need (who would renege on the loan), which placed me in quite a financial bind. It took me two months to get a new job, but eventually I landed a job working as a meat and seafood clerk at Wild Oats. I was literally down to my last dollar when I received my first paycheck from Wild Oats.

I began dating a lady I was homeless with, and in October 2005, she moved in. She knew of my situation, but thankfully she had no children of her own. She reminded me of my ex-wife in many ways-- same name, same hair, and even a similar personality. Sadly, our relationship came during the month I would endure my reclassification hearing.

The morning of October 15, 2005 was another cold and dreary Cincinnati fall morning. Dressed in my only suit and tie, I stood before Judge Steven E. Martin in hopes of keeping my status as a Tier I offender. That trial changed my entire perspective regarding hope in reintegration, rehabilitation, and second chances in the course of a single hour. The case of Logue v. Leis consisted of two witnesses, Dr. Lee, the forensic psychologist, and myself. Dr. Lee was called first, and he explained the results of the two tests I had taken, the Static-99 and the MMPI-2. The Static-99 gave me a score of 2 out of 12, based upon my age and relation to the victim. The MMPI-2 is a personality profile, and my results stated I fell in a category which people "tends to be self-centered, self-indulgent, and passively dependant on others." Nothing in the report pointed to any indicators of high risk, though the defense painted the entire report in a negative light. However, there was an unexpected turn of events. Back in January 2004, I was screened by Mental Health Access Point (MHAP) while trying to obtain a case manager to help me obtain housing. MHAP had absolutely nothing to do with sex offender treatment, screening psychologist Linda Pettit made the claim I told her I fantasized about and am attracted to underage girls. I never made the statement because I don't feel that way, so I was not expecting this allegation in court. I never expected my treatment for anger management and depression to be used against me, either.

In retrospect, I feel putting me on the stand was an exercise in futility. I was questioned on my view of the night of the crime, my treatment, how I ended up in Cincinnati, and what I had done to remain offense free since my release. After a recess, the cross-examination began. Since the defendant in my case was the Hamilton County Sheriff, the District Attorney's office was the defense attorney, and they were quite adept at painting a picture of me as a violent

offender who wouldn't take no for an answer. While I have been in fights throughout my life, I only use actual physical violence if I am defending myself. Had I known they would use this tactic against me, I could've subpoenaed numerous individuals, including the ex-girlfriend I had taken to court a couple of months prior. I find it rather fascinating how easily you can be painted in a negative light when you have a negative label placed on you. If you have been in treatment, treatment is considered proof you are a risk; if you are not in treatment, then you are in denial of your problems. The defense also claimed I used physical force in the commission of my crime (which simply was untrue-- had I used force, Alabama would have added multiple charges to the single charge I was given).

I believe with all my heart that Judge Steven E. Martin would not have given me a fair hearing no matter what. He believed all sex offenders will re-offend and openly expressed that belief in court. Essentially he ruled that because I am an out-of-state offender, the burden of proof shall fall upon me to *disprove* I'm a sexual predator. Had I been convicted in Ohio, the burden of proof would have fallen upon the state. Even though I was very cooperative in releasing information and answering questions about the details of the crime, the treatment I have received over the years, the judge saw me as minimizing my behaviors and lying about a lot of things. He questioned my credibility, believed I was not accepting responsibility for my actions (despite my many statements to the contrary during the trial), and even accused me of moving to Ohio to bypass my registration requirements! When my attorney asked Judge Martin how he came to that conclusion, the judge replied, "I just don't believe him." The judgment was reclassification as a sexual predator.

Even to this day, that single hour of my dark remains the darkest moment in my journey of reintegration and reconciliation. I lost hope for returning to any semblance of normalcy in my life, branded for life as the scourge of society. Ever since that day, I have lost faith in this system of justice, in second chances, and in society as a whole. Essentially, the case shattered everything I had come to believe in up to that point. Once again everything I had worked for had been reduced to ashes and scattered to the winds.

I think I have a good case to get a retrial of the original case because I had discovered quite a few things deficient in the first trial (most of these were my fault for misinforming my attorney, albeit due to lack of knowledge on my part). First, Alabama handles classification hearings differently. The reason I never had a Predator hearing is because it is not automatically done. If there were aggravating circumstances in my case, the DA would have petitioned the court for one. Second, had the crime happened the way the Hamilton County DA's office suggested, I would have had other charges placed on me at the time of arrest, like assault or attempted rape. Third, I filed a grievance against MHAP and they ran an investigation and discovered that the psychologist who interviewed me there, Linda Pettit, was using the terms "sexual offender" and "sexual predator" interchangeably, as if it was the same, when in fact, they have different meanings. It was also noted I denied making the claim that I made the comment about liking young girls. Finally, the Judge at the classification hearing made it clear he was not acting impartially. I have a strong case for a complete reversal, though I doubt I can achieve this goal as long as Judge Martin is on the bench.

While my attorney was drafting the appeal to my classification hearing, I had to get ready for the battle to keep my residence. I began the search to find a new residence in October 2005, after my girlfriend moved in with me. Since two months passed between jobs, I had to rebuild my depleted savings account, so I wasn't able to move just yet. But when my girlfriend and I split up soon after my reclassification, I put off the apartment hunt until after the New Year. The

prosecutor's office and the sheriff's office were no help in suggesting where I could move to, so I took the time to draft a brief to argue against the residency restriction law.

My ex-girlfriend and I had a brief reconciliation, and began working at Wild Oats with me. I began having problems at work, as word spread of my sexual predator status. I was hired two weeks before my classification hearing, so at the time, I was a Tier I offender, but with Tier III status came community notification, which also included registering my work address. Not coincidentally, a couple of individuals anonymously complained that I made "sexually suggestive comments" towards them. The complaints came at regular intervals throughout my tenure, and it seemed like no matter what I did to conduct myself in the utmost professional manner, the complaints kept coming. After six months of complaints, I was fired from Wild Oats. Thankfully I was awarded SSI benefits the following week. In all of the chaos, I had forgotten I applied for SSI after losing my job at Kroger. I received around \$4000 in back pay, but knowing I would be out of an apartment as well as a home soon enough, I held back as much as possible for the move.

I was dating another woman during this time, a 47 year old woman who could best be described as a "working girl" trying rather half-heartedly to reform her ways. I had known her since my days working at the Kroger in Over-The-Rhine; since she "worked" the next block over from the grocery store, we saw each other quite regularly. I had made a few friends among the prostitutes of OTR, and thankfully most of them finally quit working the streets since the time I first met them. She also knew of my situation, but it didn't matter to her, and she had no children, so it seemed a good match. We used to joke about how we make quite the couple-- an ex-sex-offender with an ex-hooker for a girlfriend. The bad news was one of us would go back to our old ways; the good news was it was her, not me. Again I was betrayed, as this time someone I had opened my heart to stole my credit card and maxed it out. Thankfully I proved my credit card was stolen, and she had to pay them back. But what hurt more than the betrayal of trust was the realization that when someone has an addiction, in her case, marijuana, the desire to revert to the old ways remains strong. Of course, the same argument is used against sex offenders, so it has made me wonder if it is *ever* possible to prove I have overcome that which gave me the label "sex offender" in the first place.

With everything going against me, I was long overdue for a victory in something, *anything*, just for the sake of hope. My battle over my unemployment benefits was the first substantial victory in the courtroom. The interviewer for my benefits had granted me unemployment benefits after hearing my side of the story. The regional manager of Wild Oats had let me go because supposedly my sex offense had not shown up on my initial background check, but magically appeared on it after I had filed a grievance against a manager for making a threat against me after filing a grievance against someone else. In reality, it was a convenient excuse to get rid of an unpopular person. The corporation told the Ohio Unemployment Compensation division that I lied on my employment application. Of course, I never lied. Employment services that train ex-cons teach us to respond to the felony question on employment applications by checking "yes" then saying, "will explain during the interview." I fully explained the situation, of course, and with the information on the internet, there was no way they could not confirm my sex offender status like they claimed. They claimed I misled them to believe that I wasn't a registered sex offender, but it was nothing a simple registry check would have disproved. But my boss, the store manager, and pretty much every employee for that matter, knew my status. It was the regional director who let me go. I had to represent myself in a courtroom setting, but since the trial was held outside of Cincinnati, I had to do it by telephone. I

got to play Perry Mason, cross-examining (and badgering) the store manager, the only witness, then gave my testimony. The unemployment court ruled in my favor yet again. I am still seeking someone to take my case in a lawsuit against Wild Oats for wrongful termination, but I gave up on suing Kroger because the union won't back me up.

The unemployment trial gave me practice for my upcoming battle against the residency restrictions. I had delayed my case for over a year, but in August 2006, the judge granted them a default judgment claiming I had "no issues of material fact." I filed an appeal to the decision, and filed a brief stating Ohio's residency restrictions violated the 8th and 14th Amendments. There was a hearing on my constitutional issues on September 6, 2005. I did not have an attorney on this particular case, so I had the unique opportunity to argue the case on my own. I faced the assistant District Attorney Thomas Beridan, who had me barred from city hall. I had an incident earlier in that year where I went to the district attorney's office to complain about the law and find out where I could move to. Beridan, an *assistant DA*, had come out to answer my questions and when I questioned its constitutionality, he responded by stating I'm getting what I deserve and get the hell out of his office. I let my anger get the better of me and proceeded to curse him out as I left. I think that is also why he was the one to stand opposite of me in this case. I ended up making him look like a fool. If I was fighting anything else but a sex offense, I would have hit a home run. Even the judge was impressed with my brief and my argument. However, since I'm fighting a very popular piece of legislation, the judge spent nearly the entire month fishing for ways to discredit my argument. The answer he settled on was that the residency law was *civil* in nature and didn't constitute *punishment*, thus making my constitutional argument invalid. I filed appeals, but the appeals court and the state supreme court both threw my case out on technicalities. The difficulty in fighting sex offender laws lies in the fact that they are civil laws. Unlike criminal laws, civil laws bypass constitutional safeguards. Thus they are not considered *punitive* but *regulatory*.

After a year and a half of fighting, I had one win and two losses under my belt. I had thirty days to vacate my sleeping room, but God was watching over me. That day I was to return to court to hear the judge's final decision in the residency restriction case, the building inspector condemned the building I was living in so I had to move anyways. But I qualified for relocation assistance in the form of \$650 so at least it would take the sting out of moving.

I had anticipated losing my case, so during the summer I had called about 150 apartment buildings trying to find a place to move to. My girlfriend at the time helped me call the first few places; I called quite a few on my own; later on I had paid a friend \$10 an hour to call a few more for me. After a couple of weeks I started documenting the numbers I called and the various responses I got, 131 in all. Out of 131 numbers, I managed to locate (only) three apartments I could rent that met the current residency laws. It is surprising how difficult finding a place to live in a metropolitan area as large as Cincinnati is when you cannot live within 1000 feet of a school. My other requirement was the rent could not be over \$400 a month, since I'm on SSI. I settled on a one-bedroom apartment that was about a mile away, which was about two blocks from the University of Cincinnati. I would have to pay considerably more money than before-- \$395 per month instead of \$150-- but I had a brand new apartment with new equipment so it was a major step up. Since it wasn't ready yet, I spent close to two months staying at my mother's house in Alabama until then.

Chapter 6-- Burying The Past

My first trip to Alabama back in May 2005 began a chain of events that would bury the past once and for all. That first trip to Alabama was surreal, especially that first visit with the relative of the victim. That first visit, we never addressed the crime, just caught up on old times. When I returned to Alabama three months later for another visit, I didn't even let them know I was coming. I didn't see them again until my third trip around my late October birthday. This time I finally invited them over and talked about the state of our relationship. As I put it I'm "too far gone" and life's too short to keep up the barrier between us, at least to the point we can resolve the conflict regarding the crime.

Part of the restorative justice rehabilitation plan involves making amends to your actions whenever possible. It has to be voluntary on the part of both parties. Thus, I couldn't just call the victim and say "we need to talk." Also, Alabama law specifically states I am never to contact the victim or be within 100 feet of her. Restorative justice is a lifelong process, and I took a small step toward that goal by offering up the desire to resolve this in whatever way possible.

However, another part of treatment specifically states that I am to avoid the places, people, and events which could cause a relapse. Thus, contact with the victim's family had to be limited because their lifestyle choices helped to influence my decision to commit a sex offense. Even though I have no desire at all to re-offend, I recognize the dangers of certain thoughts, behaviors, and actions which would either lead to a relapse or the suspicion of a relapse. I vaguely remember a bible verse regarding "the appearance of sin," actions that are not inherently wrong but gives someone else the appearance of wrongdoing. That means there are certain things I would not do today just because it looks suspicious. Think of it like the recovering alcoholic whose old drinking buddies are family members. It may have seemed like a bit of an insult to a family member to refuse to spend the night at his house because he has children, but in my mind I was doing the right thing.

Even now I keep my family at arm's length. While I have changed considerably over the years, the environment I came from had not, and that I knew was not a good thing. They were free to come visit me during my visits to Mother if they chose to, but their minds change as often as wind directions. Conflicts centered on typical familial tensions which have remained unresolved from long before my offense, and once again I found myself in the familiar role as peacemaker. This would be a test of how far I have come along. Rather than be dragged headlong into a petty dispute, I'd merely give a bit of advice and leave it to them to resolve it themselves. I cannot play peacemaker any longer. I could not let it come down to isolation versus environment.

Fortunately my relationship with my Mother had no bearing on that part of my past, so my visits with her did not affect this process either way. Mother and I didn't always have the best relationship either, but she was trying to make amends for some wrongs she committed against me in the distant past. I received my personality and temperament from her, not to mention most of my looks. We are both emotional people and our feelings about people and issues run deep. Thankfully we agree on most issues, because we are rather stubborn. Being alike has one great advantage; we are able to help each other deal with the other's issues. We've become a mutual support network, and now we talk almost every single day. The rest of my family still comes and goes like the wind, but it is probably better that way.

I needed all the emotional support I could get as my world crumbled around me. For the longest time I felt as if I lost two steps for every step forward I took. Since I no longer worked, I was able to focus on a couple of projects. I had bought a computer and a camcorder when I still

had a job, so I began shooting film to document my life. I planned on making a documentary to chronicle my experiences. I shot video of my sleeping room, the neighborhood, and some of my daily routine in hopes of making a decent independent film. I never gave writing a book much thought, but in all honesty, I feel now writing a book carries a greater deal of respect than a video, because it is hard to share thoughts in a video. I have been keeping in contact with my prison support network as well, which has helped me keep my life in perspective.

Despite the trials I was facing, I still believe God was watching over me. I briefly dated another woman right during the summer of 2005, but we never really got too close and ended up as "friends." I wasn't too fond of the company she kept, but in the summer of 2006, I was making my phone calls, so I decided to recruit her to make calls with me. I paid her \$10 per hour to call numbers on my list to assist me in my apartment hunt. One day I made the mistake of paying her in advance, and she began making excuses as to why she couldn't do her job, so I asked for my money back. She said for me to meet her in front of the courthouse since she worked with a hot dog vendor outside the courthouse on occasion. When I got there, she and her boyfriend decided to make a scene. She decided that the best way to weasel her way out of repaying me was to try to get me in trouble, but when the cops actually came, her plans backfired. During the incident, she had hit me while my arms were outstretched after she started putting her hands on me, and tried to incite a riot by telling everyone I was a "pedophile." When the cops came she claimed it was I who hit her, and her boyfriend butted in, claiming, "I saw the whole thing! He hit her!" The cops told him to shut the hell up before they cited him for obstruction. They had watched the entire incident on surveillance camera, and it clearly shown her as the aggressor. I declined to press charges, but they at least let her stew for a while. I guess I couldn't bring myself to be as vindictive as the rest of society. What tripped me out, however, was how she was blaming her deceit and criminal behavior on myself; *"I'm going to jail because of him."* I'm fortunate in this instance because of hard evidence, but what if there had been no witnesses? I believe this story would've had a different ending. Clearly God was watching over me in this instance.

I have been involved in a few relationships since my release; however, the past was a barrier in more ways than one. I am speaking beyond the sex offender label. I am speaking of the "ideal" relationship I held since my marriage. My ex-wife "Tasha" was my first true love, and my divorce had affected me for more than I cared to admit. Had I dealt with it properly at the time, I would not have ended up a sex offender. However, Tasha and family were there for me when everyone had abandoned me after my arrest. Over the years, I had occasionally contacted them, but I felt it was not my place to be a significant part of her life.

In October 2006, I had to go stay with my mother after I was evicted from my sleeping room. My mother decided to throw a birthday party to celebrate my turning 30. The weekend before my birthday, the city of Florence, Alabama was holding a renaissance festival, so my brother asked me if I wanted to go with him before my birthday party. I rather enjoy such things, so I agreed to go. While we were searching for a place to park, I saw my ex-wife walking to the festival, but I wasn't sure it was her. I separated from my group and went searching for her to no avail. Then just when we were ready to leave, my brother turned to me and pointed to her and said, "Isn't that the woman you thought was your ex?" It was. She recognized my voice and embraced me. We talked for a little while, and she agreed to let me call her later. That night, after my birthday party, I called her. We ended up talking for 10 hours straight, all the way till 5:00 am, and we ended up reconciling. We spent some time together before I had to return to Cincinnati to move into my new apartment, including spending my actual birthday with her.

On November 1, 2006, I had to return to Cincinnati for a week to move into my new apartment and handle other monthly business, but I returned to Alabama and stayed with my mother until after Thanksgiving. My mother was going to move up to Cincinnati with me to help me split the expenses with my new apartment. I only got to spend weekends with Tasha since she was in college, but I enjoyed what time I did get to spend with her. It was hard to leave her so soon after finally getting back together, but I had no choice. I still had a war to fight back in Cincinnati. (Thank God for unlimited night and weekend minutes!) Over the next three months, we probably spent an average of three hours on the phone each day talking to each other.

A lot had changed over the course of the decade that had passed since the day Tasha and I first met. However, the strain of the distance and the barrier formed by my sex offender label would prove to be too much for our relationship to handle, and we split up at the end of January 2007. I will always care about and respect her, but one of the things she had told me when we split up wounded me so deeply it would forever change how I felt about my hopes of ever being considered "normal." In her frustration, she had directed a comment at me that I interpreted as I could never be forgiven for my past and that I choose to remain a "fallen one." I didn't realize what she meant at the time, but she was right. I was still holding on to some bitterness and resentment. It is ironic that I had left her years ago because I had accused her of being unable to let go of the past, and now I found myself in the very same position. Regardless, I found myself facing the exact same event which began this downward spiral which brought about this journey. However, the events after my break-up would yield a different result.

After two months, I had a "rebound relationship" with a lady I had known for a couple of years (who I'll call "Tanya"). Tanya was a "pagan," which holds practices and beliefs rather similar to Wicca. Tanya placed me in quite a precarious position. One of their beliefs involved an interview of sorts with her spiritual advisor, whom she suspected of wanting to be more than just a spiritual advisor to her. I couldn't help but feel like I had no chance of getting approval to date Tanya. Sure enough they found an excuse to split us up, namely my perceived "lack of interest" in their beliefs (never occurring to them I am more observant than they gave me credit for). She was crying over the decision, but I honestly didn't really care all that much. I was not used to feeling apathetic towards a breakup, but I didn't feel very upset. We had known each other for years, but I had grown used to people appearing and disappearing out of my life by now. My family had done this for years. City girls seem to follow this pattern, at least from my observations. Nothing had changed except my reaction to the breakup. I wasn't upset or depressed. From the time I shared with Tanya, I pretty much knew it wasn't going to last, accepted it, and prepared for it.

Those breakups gauged how far I have come since my crime. My inability to deal with my divorce had set in place a series of events (a "downward spiral") leading to my arrest for a sex crime. This scenario played out almost exactly the same way, with the same key figures in my life at the time. However, the end result was different. If there was any doubt I had buried the past once and for all, my reactions to the same scenario removed the last shred of doubt.

Chapter 7- Fighting Goliath

Cincinnati, Ohio is named after a legendary Roman named Cincinnatus. Cincinnatus was a simple farmer before the Roman Republic became the Roman Empire, who became Rome's first dictator in order to quell a mighty foreign invasion. After the invaders were defeated, Cincinnatus returned the control of the Republic back to the Senate and returned to his farm. Thus he became the legend the great Julius Caesar patterned his reign after. The city of Cincinnati shares little common ground with this noble leader. Cincinnati has had its share of problems over the years-- racial tensions, issues with police brutality, low morale, and one of the fastest shrinking populations in the United States. However, because one church opened their doors to me, I found a way to make this city my home. I used to love this city, but over the years I have grown to hate it. It feels too much like the small towns in Alabama I longed to leave so many years ago. Still, I like it better than Alabama. After two months of staying with my mother in the fall of 2006, the time had come to return to Cincinnati.. I had gotten a nice spacious one-bedroom apartment, more than enough room for the two of us. Over the next few weeks, we would obtain furniture and other things to make the apartment more homely. I was satisfied with the new arrangement. I had my own room and have managed to turn it into my own office, complete with a classic metal office desk like the ones I used to see in the 80s. Unlike my old sleeping room, my new apartment looked like someone actually lived there.

It seemed that no sooner than I settled into my new home, the City of Cincinnati was intent on forcing me to move yet again. As I turned on the TV to watch the midday news on December 5, 2006, I saw there was to be an open city hall meeting to discuss increasing residency restrictions on sex offenders living in the city. The first thing I can think of was, "oh, shit!" I just got through moving and now they are going to make me move yet again? I grabbed my mother and my camcorder and hopped the bus downtown. I made it just in time to check in with security so I can be allowed to access city hall and speak. It would be my first time speaking in a public forum about this issue, but I figured it was time someone put a face to the laws these people pass without thinking. Out of about a dozen people speaking, only my attorney, David Singleton of the Ohio Justice and Policy Center, one of his colleagues, and I were speaking out against the proposal.

I was the last speaker, and as I began to speak, I grew in passion and confidence. I spoke from the heart in my rather loud, booming voice. My simple act of giving my testimony and disapproval of the law had lasting repercussions. I guess the notion of a sex offender speaking out was a bit of a novelty since it was apparently unexpected. After the meeting, one of the reporters from Channel 5 came up to me and shook my hand and told me, "You've got guts." I did a brief interview for the news hounds. I made three out of the four news shows in Cincinnati, the Cincinnati Enquirer, and even some radio stations. What I didn't discover until much later was that there were at least a half dozen registered sex offenders in the audience, and not one spoke out. However, after I had my 15 minutes, some other sex offenders finally spoke out against the sex offender ordinance. I was at three meetings total, including the meeting where they passed the ordinance by a 7-2 vote. But in the last two meetings, everyone who spoke was opposed to the ordinance. I took the liberty of recording all the meetings and have copies available for your viewing pleasure.

Most people who saw me in the media supported me. I think my only public critic was city councilman Chris Monzel, who ripped me in the paper (not without misrepresenting a statement I made). Also, council woman Leslie Ghiz criticized me to her cronies, but shut her

mouth when my mother approached her. So during my second appearance before the city council I returned the favor by using his very words against him. In the paper, he asked why I was even in Cincinnati, to which I replied, "Because someone believed I deserved a second chance." I described how I had not re-offended or even accused of improprieties since my release from Bullock, like the other 95% or so who don't re-offend.

By the time I came in for my third appearance, which was also the day in which they were to vote on the ordinance, there were already changes in the works. The original Cincinnati ordinance called for a ban on living within 1000 feet of parks, swimming pools, boy's and girl's clubs, YMCA's, and daycares. I received a map of the areas affected by this new ordinance, which covered most of the city. On the opposite corner of the block I live on is a small flower garden surrounded by a stone wall that is run by the Cincinnati Park commission. Thus it is a park for purposes of the law. But before the meeting started, the council had already decided to remove parks from the ordinance. One of the councilmen asked me what I thought of it and I said it wasn't enough. Again my mother held the camcorder as I spoke out against the ordinance. This time I made reference to how these laws are not only under scrutiny in Iowa, but how they compare to Nazi laws. During the break the council added a "grandfather clause," meaning it won't apply to sex offenders currently at their residence, until they move from that location. While three council members expressed reservations about this ordinance, only two voted against it. After the meeting, one of the councilmen shouted out to me that at least I didn't have to move. Returning his smile, I replied it was not about me, but about doing the right thing. I don't believe restricting where I live does have any impact on what I do. I simply choose to do what is right.

Though the bill passed, it was at least a partial victory. I can't say how much impact I actually had. My mother and others believe I made quite an impact. Perhaps I did inspire other sex offenders to speak out against the ordinance. I know city council anticipated lawsuits and acted in a way to minimize that threat. I would like to think at least a miniscule part of it had to do with my story. In a recent interview with the Enquirer I was asked why I am such an outspoken advocate. I replied that someone has to be our voice, but most everyone is afraid to speak up. The day after I was in the news and in the paper, I hopped a bus downtown as usual. I was never harassed or threatened when people recognized me; if anything, people congratulated me for being bold and honest. It was a victory to me. If I made a difference in one person's life I served a purpose, and my sacrifices are all worth it.

The thing I find most disturbing about Cincinnati is their desire to prevent the state from sending sex offenders to one treatment program in the city. It is ironic that a government would close a program that is successful in reducing recidivism among sex offenders. But Chris Monzel had made it his political pet project. It is a shame when a politician targets a successful program, especially one that reduces the commission of the most heinous of crimes, for the sake of media time and vote lobbying. Ironically enough, I must add the two most vocal proponents of the ordinance, Monzel and Ghiz, live in parts of Cincinnati with the most available housing for sex offenders *after* the ordinance was passed! I even threatened to move in their neighborhood after the ordinance passed, but since they added the grandfather clause, I had no reason to tempt fate, for now.

I have to commend the two city councilmen who voted against the ordinance. They did not vote against it because they were being soft on crime. They simply found the laws to be defective and inefficient at best. They thought at least some research should be done before blindly passing such an ordinance. One of the councilmen sent me a letter in January 2007, days

after the passing of the laws, noting skepticism on the issue, and voiced concerns the law would drive sex offenders underground. The state of Iowa had been one of the first to enforce such laws, and now there is a movement to repeal this law. Surprisingly enough, the movement involves law enforcement and county prosecutors! I just wish the other council members had listened, rather than jump on the political bandwagon. Chris Monzel was pushing this legislation to get airtime (and re-elected). It is interesting to note that when the last election was held, he got the least amount of votes of the nine councilmen who were elected, just beating out the tenth candidate by a few lousy votes. Needless to say, I only voted for the one candidate on the ballot who voted against the ordinance.

This subject is very controversial and complex. On one hand, you have people passing these laws under the guise of public safety and child protection. On the other, you have once convicted sex offenders who made a mistake and are trying to rebuild their lives, and the laws are preventing it from happening. The evidence points in our favor, while public opinion ignores the hard evidence and swings the other way. But to me, it becomes an issue of survival. I am still human after all, with such base needs as food, clothing, and shelter. And in order to survive, I have to fight for my rights. To me it is not about public safety, but about my safety. Human nature leads us to fight for survival, and I thus feel compelled to fight to survive even at the expense of personal safety. If there was some compromise on both sides, it would be acceptable, but as things stand now, both sides stand as divided as ever.

Chapter 8-- Pardon Me

Back during my first visit to Alabama in 2005, I had learned that I could apply for a pardon. This was probably the best news I could have received, especially since my first visit to Alabama came as I had just been reclassified. With a pardon, I could be free from having to register or live under the myriad of oppressive sex offender laws. The pardon petition was the glimmer of hope which had kept me going through nearly two years, through my court battles, the reconciliation with my family, and the many personal trials I had dealt with. I was seeking a return to normalcy, a chance to be a "regular person" again.

It is imperative we as a society give individuals a chance at redemption, a reason to hope, and a goal to achieve. Without this hope, we place released offenders of any kind in a position of failure. The pardon process is not automatic; the process involves a lengthy and thorough investigation into your entire life, especially in regards to your post-release actions. I waited nearly two years while the investigation took place, throughout all my legal battles, my personal battles, my battles with the city of Cincinnati, and my move. The investigator had entered places of employment, and contacted those who knew me. I can only assume that over the course of his investigation, he witnessed my enduring and overcoming the many obstacles placed before me. Two years is a long time for any investigation, more than sufficient time to learn a lot about anyone. However, I was behaving myself not for that hope alone, but because rehabilitation came naturally. Some people have to work harder because they have inclinations I do not have, or have not learned ways to prevent recidivism. Whatever the reason, two years seems sufficient time to know a person to the fullest extent possible.

I had hope for a full pardon. Aside from the fact I had not re-offended in the four years since my release date, I felt I had proven myself in other ways. I had endured reclassification, attacks on my character (and at least once I was physically attacked), I had endured a forced move, personal trials, and even the exact same scenario which triggered the series of events which had led me to decide to commit a sex crime. I believe that should be sufficient proof. In addition, I had gained respect as an activist regarding sex offender laws and issues. I had begun working to get a faith-based initiative founded, at least in relation to the ideas and organizational structure (admittedly so, I lack talent in the business aspects of the organization).

The year 2007 had started with promise. The year began with my successful battle with Cincinnati's residency ordinance, and I had overcome a rehash of the past scenario which began this journey. Finally, in March 2007, I received the letter I had waited for two long years to receive, the notice of the pardon hearing. I have been a rather pessimistic person most of my life, but I had hope, even though I had only a one in fifty chance of obtaining a pardon, according to the Alabama Board of Pardons and Paroles website. One of my Christian friends I had known for years had a friend who had received a full pardon years after conviction for a sex crime. Perhaps that hope was what really helped me to overcome the pain of losing Tasha permanently. That is why I feel hope is so powerful. Hope separated me from the Derek who lived in me before I had gone to prison. Hope separated me from those homeless people who are still living on the streets to this day. I choose not to even entertain the thought of what kind of man I would be without hope.

I had roughly two months to prepare for my trip to Alabama. I came up with the idea to draft up a pardon petition. Since Mother returned to Alabama, she took a couple of pages of the petition to gather signatures. Over the next month, I asked individuals I had actually known (no strangers) to sign my petition. I had collected 45 signatures in all, but even with that many

signatures, I missed quite a few people who knew me, not to mention all the people I knew from my online support network. I don't know how many people wrote individual letters on my behalf, but the pardon board told me it was "quite a few."

Since Mother was in Alabama, she had heard from the victim's family regarding the pardon. In Alabama, the policy is to notify the victim since they have the right to attend and speak out against it if they so choose. However, when they contacted Mother, they informed her they would not interfere in my bid for a pardon. As far as they were concerned, the past was the past. They offered to write a letter on my behalf, but I don't know if they actually did, since the pardon board did not mention it. The victim by this time was a legal adult. I have not directly spoken to the victim. After all, I'm not legally allowed to communicate with her. There was one time I accidentally ran into her while visiting family, and immediately I left because of the law; even though they were not making an issue of the incident, I had to obey the law.

Even with all this support and even a nod from the victim's family, I still suffered from a hint of doubt. After all, there was that classification debacle, and my struggles with employment. However, knowing I had accomplished many things helped me keep hope alive. Simply looking at a petition full of signatures helped me keep things in perspective. I had been a lone wolf most of my life, but now I had more friends and support than I ever had before, and for once, I was fully aware and thankful for it.

I was never fond of riding the Greyhound on my trips to Alabama, but I was especially excited about this trip, even though the trip would take 6 hours longer than the trips to visit Mother, plus I had never actually been to Montgomery, except on the day I was released from prison. However, to obtain a pardon and a chance at a second life, I would have endured just about anything. Fortunately I had saved up \$300 for the trip as well; since the trip was long, I would need to spend two nights in a hotel. I left Cincinnati on a cool Saturday evening, and arrived in Montgomery the next day. I left Cincinnati wearing a jacket, but it was 90 degrees as I got off the bus in Montgomery. I found a nice hotel for \$55 per night and rested up for the pardon hearing on Monday morning. The next morning, I put on my only suit and rode the local bus to the Pardon Board. I arrived around 7:45 am, which made me number 28.

After spending about 5 hours waiting, I was finally called in for my pardon hearing. I stood alone before three people who held my destiny in their hands. Immediately I was given the bad news that because I still owe thousands of dollars in fines, I could not get a full pardon. However, I was granted a partial pardon. My voting rights were restored, which matters not in Ohio, but is a big deal in Alabama since sex offenders cannot get the right to vote except by pardon. They basically gave me all they could give me allowed by the law under the circumstances. Had I paid my fines, I strongly believe I would have gotten the full pardon. Fortunately I can reapply in two more years.

I stopped on the return trip to visit Mother for a couple of weeks. Since Mother lives in the county of my conviction, I figured I could clear up the issue with the fines. The way the system had handled my fines was reminiscent of how the system handled my bail. I had paid faithfully on my fines during the times I held a job, and Mother had even made payments. However, it seems no matter how many times I paid on my fines, the fines kept increasing. Originally I was ordered to pay court costs, around \$450 altogether. Eventually the county added \$2100 for the court-appointed attorney fees (I don't think that is constitutional), and now they added close to \$1000 in charges for not being able to make payments due to unemployment. As of this writing, I owe \$2850 in total fines. This, of course leads to an interesting paradox. I cannot obtain a pardon because I cannot pay my fines; I cannot pay my fines because I cannot

maintain steady employment; I cannot maintain steady employment until I clear my record, and I the only way to gain a clear record is to obtain a pardon. There are essentially two things I can do at this point; I could either spend months seeking employment, or fight the fines in court. Either way, it would take a lot of effort (and perhaps a bit of luck) to deal with the fines. Thus, the road to normalcy will be longer and harder than I thought.

To this day, I continue to find a way to deal with the fine issue through either method. Writing this book is part of my efforts to repay through employment. Many people had suggested I take up a writing career because I had "a way with words." I believe it was probably thanks to Tasha, because she was a great writer (who, unfortunately, allowed some bad experiences and fear from allowing her to live up to her full potential). Over the years I had cultivated my talents in research and writing, and this book is part of the fruits of my labor. The second half of my battle involves the legal battle to reduce or remove the fines. Unfortunately, I am living off SSI, of which two-thirds go directly to unsubsidized rent. I had paid up nearly a thousand already, just to have the system raise the fines by a thousand.

As an aside, the county of my conviction has faced issues with internal corruption. Ironically, the district attorney who prosecuted the case against me is now serving time in Federal prison for committing sex crimes against multiple victims. Also, other members of the local DA office have been implicated in corruption scandals since the time of my conviction. This knowledge serves to remind me how those over me are as fallible and as subject to the fall as I was. I don't revel in this knowledge; in fact, I feel even angrier when hearing stories of people who abused their authority, because the people voted for them. Quite often, they used sex offenders as a platform for easy votes. It reminds me of the old expression, "Those who cry the loudest often have the most to hide." Therefore I try to allow my actions to speak louder than words. Whether someone involved in my case has a bad reputation or not or whether someone believes me or not, it does not really matter. The most I can do is continue to live out my life the best way possible, and keep hope alive that I can prove myself to society as someone who has overcome.

Chapter 9-- Phoenix

The decision to remain The Fallen One was mine alone. The final words of my ex-wife resonated in my mind in many ways; it was a rallying cry, a challenge, and a measure of my resolve. Within those words was a symbol, for the "Fallen One" persona is a symbol of what I believed my life to be. Ever since I was a child, winged creatures have always been a symbol I have used for myself. In grade school, I had formed a club called the "Silver Birds," named for the 80s cartoon "Silver Hawks;" each member carried a triangular card with a bird I had traced onto it. As a teenager, I used nicknames with birds of prey as a symbol behind the name. My ex-wife had created the name "Shadow Hawk," a name I used for many years. Yet the day of my fall, I began my life as a different person, and with it, the "Fallen One" persona.

Over the course of seven years, I have used the name Fallen One to serve as a symbol and a reminder of what I had done, just as the first murderer Cain lived out his life with a mark of infamy. the course of seven years, I had wandered around much like the biblical Cain, seeking at the least to learn to live with my own mark of infamy. I believe after seven years of wandering, I had come to the point of finding ways to live out my life the best way possible under the circumstances. Survival takes discipline, determination, and sacrifice. I had possessed all three qualities, which aided my survival. Also, I had taken every step I possibly could to make amends for the past. Tasha's final words still run through my mind, "the decision to remain the Fallen One is yours alone," and she was right. It was up to me whether to remain a fallen one forever, or to at least be productive with the rest of my life, as Cain did. After all, even the accursed Cain, after years of wandering in the Land of Nod, had taken a wife and built a civilization.

My last therapist (and member of the Once Fallen advisory committee) one day made an interesting observation; I had been reduced to nothing so many times in my life, yet had risen above it so many times, that I was more a "phoenix" than a "fallen one." I understand that struggles can reduce me to ashes, yet like the Phoenix, I collect my ashes, renew my spirit and rise once more. I can see how different I have become. In the seven years I had learned to deal with my problems on my own, to seek help and support for problems I cannot solve on my own, and to right my past wrongs.

I used a phrase from a poem I had written years ago as a personal statement about the old Derek: "Life without love can NEVER be whole." I had spent my entire life seeking someone else who could fill some perceived void in my life, someone to make me "complete," or to solve my problems for me. Over the course of this journey, I learned to handle even those smaller tasks I would never handle on my own, especially interacting with people. I had come to realize the difference between support and dependence, and now I saw people as a support rather than a crutch. As St. Paul once said in 1 Corinthians 13, "When I was a child, I thought, spoke, and acted as a child, but now that I am an adult, I put away childish things." I had learned to put away my childish way of thinking, and that is why I believe I have rehabilitated.

I believe my ex-wife is the measure of my change. As her last words had sunk into my heart, slowly I began to understand what she really meant in her final words to me. It wasn't a condemnation, but a mere observation of an obvious fact. We are masters of our own destiny! I resented Tasha for what she said to me that day because I wasn't ready for the message and blamed her for "living in the past," but in reality it was I who was stuck in the past. I carried the past with me in many ways, as the "Fallen One," as a label given me by society, and as a person who still measured his self worth by being loved by someone else. A recent turn of events had made me realize this. I have a friend who shares a birthday with my anniversary date. I had

promised this friend I would see her for her birthday, so I spent the night at a nearby hotel so I can go to church with some other friends the next morning. At the service, I ran into Tasha; ironically, it was the first she had been to my friend's church, as they never met. She had remarried, and somehow they had been led to that church that day. I would like to think God had a hand in this. The sermon of the day was "learning your identity." I had battled the past a long time, but I think that day, everything had come together. I was surrounded by those who had stood by me from beginning to end, who had forgiven me far more than I can remember and have stood by me when society had forsaken me. If not for these individuals-- Amy, Bobby, Tasha, and those who have entered my life through them-- I would never have made it to this point in my life. The totality of my experiences and my interactions with those I love dearly helped define who I am, not some label, stigma, or mistake.

Now I seek to pass on my experiences and what I have learned to others. One of the observations I have made over the years is the lack of understanding on the part of society regarding sexual issues. An individual struggling with sexual issues rarely has a place to turn to because of society's contrary stance on human sexuality. When I was incarcerated, I had been actively involved in sex offender classes, and had the opportunity to work with offenders with a variety of crimes and belief systems. However, after release, there was few, if any, programs available dealing with sexual issues. I found that to be a major area of concern, because given how our society views sex crimes, I would have believed we would have a variety of programs to teach others about healthy and legal sexual behavior, but we do not. I believe there is something wrong with our society when we have warning labels on cups of hot coffee and bottles of soda pop, but our teachings on sex education in this country is limited to discussions about AIDS and abstinence. It was partially for this reason why I decided to create an organization of my own.

The idea began in prison with a couple of individuals: Robert E., who was in my Catholic community, and Jerry W., the one who confronted me on my first day of SOA class. After I had experienced the difficulty of reintegration, I thought it worthwhile to create an organization to deal with the reintegration issue. The original intent of our organization was to assist in the reintegration of released offenders back into society, including continuing treatment, offering support, and assisting obtaining housing and employment. Though I came up with the name SOFIA (I called it the Sex Offender Free Information Association), Robert Emmonds came up the better acronym, Sex Offenders Pursuing Healing In Adversity (SOPHIA). SOPHIA is an information and education network designed to help the recovering sex offender successfully reintegrate into society. I drafted up the mission statement, while Robert and Jerry both created a draft for a treatment workbook.

While I continue to strive towards creating SOPHIA, I have continued work on other projects. Since early 2004, I have been involved with certain online communities, and have slowly gained credentials as an activist on sex offender law reform. Throughout 2007, I had worked on this book, and in July 2007 I had created the first draft. I formed a six-person advisory committee to review this book, and after constructive criticism, began the process to refine my book. During this process, a rally had been proposed to protest the passage of the Adam Walsh Act in Ohio. I attended this rally, and through this rally, I found other like-minded activists to work with in promoting the cause. I felt this rally was a landmark event in many ways, not just for myself but for the cause as well. The rally was a peaceful event, despite a few counter-protesters, many of whom were misinformed about the intent of the rally. The fears of those who were afraid to come were unfounded, and I felt fortunate to be a part of the event. Through this rally, I was able to reach more people. A few days later, I launched a modest website,

www.oncefallen.com, a legal information site, a temporary home for SOPHIA, and a place for me to post some of my controversial articles.

I believe 2007 was a critical turning point in this issue of sex offender legislation. For the first time ever, politicians, child victim advocates, law enforcement, and even the media publicly vocalized criticisms of current sex offender legislation. The Federal government is now compelling states to pass the "Adam Walsh Act," the most severe sex offender legislation to date, but many states are reluctant to pass the AWA regardless of the backing by John Walsh and the threat of losing 10% of federal law enforcement grant money. Many are looking into alternatives into finding solutions to greatly reduce the amount of sex crimes in this country. Through my personal experiences, I have learned that rehabilitation and a successful re-entry program would work wonders. But the issue goes beyond that. I believe any strategy to reduce sexual deviance begins with prevention. My beliefs are gaining popularity amongst those who see the inefficacy of current legislation against offenders who have served their sentences.

In closing this first half of my book, I would like to offer up a few points I hopefully made in using my personal life as a case study on the efficacy of sex offender laws. First of all, my rehabilitation came by my own free will, though there were times I needed to be pushed in the right direction. Second, I had the freedom to choose whether or not to re-offend. Truthfully speaking, had I decided to re-offend, I could have done so rather easily. My success was despite the law, not because of it. Finally, my success did not come without a fight. I had learned to deal with the events and scenarios which would have sent me in a downward spiral in the past. Perhaps in the minds of some of you readers, some of it could be attributed to simple growth and maturity, or a simple fear of going back to prison, but I believe the answer is deeper than that. I simply have no desire to repeat my past mistakes because I know the wrongfulness of my actions. But I must emphasize the fact that success came by my own design. Fortunately I am not alone. Ninety-five percent of the hundreds of thousands of registered sex offenders in our country join me among the ranks of the successful that also join me on a struggle to live under increasingly oppressive laws. These laws have no bearing on our success. Like the fallen Cain, we found ways to live with our marks of infamy. Though reduced to ashes, we have risen from the ashes of the past. It is now up to you to take my story to heart as we explore the sex offender issue.

ONCE FALLEN PART 2

Addressing Errors and Raising Objections to Sex Offender Legislation ("The AEROSOL Report") -- Introduction

In the past decade or so, American society has focused on laws that punish individuals convicted of sex crimes long beyond prison sentences. It seems with every high profile sex crime (not to mention a subsequent election period), legislators introduce either new legislation or an expansion of an existing law. In the decade or so since "Megan's law" passed, our society has shifted their views from "sex offender laws are wrong" to "kill all sex offenders/ these laws aren't doing enough." Increasingly debilitating laws are introduced on a regular basis, passed with virtually no opposition, and largely supported by the general public without even a thought of the consequences. Even in the face of evidence to the contrary, we continuously push for even more legislation because we feel we "aren't doing enough."

As a culture, we are seeking to progress rather than regress, and sex offender laws symbolize a regression. We have reintroduced concepts held in contempt by previous generations: public humiliation, a degraded class status, and the incapacitation model of justice. Despite the dangers of this sentiment, few individuals have spoken out against these laws.

However, resistance to sex offender legislation is growing. Sex offender laws have been proven to be "ineffective, inefficient, and counterproductive." Judges, prosecuting attorneys, sheriff's offices, and even child victim advocates have called for wholesale reforms of sex offender laws, and even total opposition to some of the laws. In 2007, the media has released more reports critical of sex offender legislation than in any other year since the passage of Megan's law in 1996.

All this opposition begs the question: what IS the proper way to prevent sex crimes in America? American government spends billions on sex offender legislation that have done nothing to address prevention. Prevention and education programs are limited and are largely forsaken in our society. In the first half of Once Fallen, I gave my personal story to illustrate how the laws affect the individual sex offender. One thing I hope you find striking is the freedom I had whether or not to re-offend regardless of the law. Hopefully this illustration will lead you to question the efficacy of our current laws. The second half of this book addresses these concerns from an intellectual standpoint. Is there truly a way to prevent sex crimes? Do these laws impact criminal sexual behavior, or are we merely blowing more air than an aerosol can? Are these laws causing "more harm than good?" In order for us to find these answers, we must address the issue as a whole rather than the narrow focus on the former offender.

Chapter 10: The Root of the Problem

Without a doubt, criminal sexual acts are among the most traumatic and horrifying acts committed against another human being; in many cases, the repercussions lasts months, years, or even a lifetime. Sex crimes are more disturbing if a child is involved. As a human being first and foremost, I believe that if a person commits a sex crime, that person shall be punished with criminal sanctions. As a rehabilitated sex offender, I believe a person convicted as a sex criminal be held accountable and be taught responsibility and accountability for their actions, to make amends for transgressions and settle debts with those hurt by the crime, and fulfill the court-imposed sanctions. As a Christian, I believe forgiveness does not detract any more from these obligations than King David was in seeking forgiveness for his sin against Uriah the Hittite. In no way should sexual abuse and rape be tolerated and go unpunished. In this sense my views and the views of society meld.

However, there is a great divide regarding what must be done to reduce the perceived prevalence of deviant sexual activity. Much of the current sex offender legislation merely punishes an act already committed. Legislation has done virtually nothing to study the root causes of sex crimes, and even less to actually address the issues. It leaves little wonder why sex offender legislation has virtually no impact on actual sex crimes. Thus, my duty as an advocate is to find a solution to the dilemma that finds the delicate balance between public safety and successful reintegration and rehabilitation of former offenders. In the spirit of the “ounce of prevention” slogan, I believe any serious discussion of sex crimes should begin with learning the root causes deviant sexual behavior.

Origins

The root causes of deviant sexual behavior are many, adding to the complexity of the issue. The experts have listed a variety of internal and external factors, any one of which may play a role in one case while absent in other cases. Internal factors may include the following:

1. Brain chemistry
2. Evolutionary predispositions (in Christian terms, “Original Sin“)
3. Deficient behavioral skills
4. Anger and rage
5. Deviant sexual preferences
6. Impulsivity
7. Low self esteem
8. Bad moral choices
9. Prior victimization

External factors include:

1. Political and economic forces in society
2. Cultural attitudes favoring aggression
3. Misogynist values and attitudes
4. Social Learning Theory [1]

The complexity of finding the root causes lies in the fact that these causes do not necessarily mean a person experiencing these deficiencies will become a sex offender. The classical psychology argument of "nature" versus "nurture" leans towards the "nature" argument in the eyes of society. However, while we have overemphasized the nature aspect, the nurture argument has been underemphasized.

Nature alone?

The greatest danger in emphasizing nature over nurture is how we have come to view the sex offender; most people believe that sex offenders are "incurable," "untreatable," "sick," and "unable to control his impulses." In the 1950s the FBI distributed flyers of the stereotypical sex offender in the trench coat [2]. The words "sex offender" immediately brings up the image of the dirty old man in the wrinkled trench coat, hiding in the bushes, waving candy at a little kid, luring the kid to his car to be raped and killed. We have given sex offenders such names as "sexual psychopath," "predators," and "sexually violent predators" [3].

Society has painted a picture of the sex offender as an animal or a sub-human. I have a problem with this unbalanced focus for a couple of reasons. Firstly, this mentality nullifies the base concepts of treatment, rehabilitation, accountability, and responsibility; this approach paradoxically mandates punishing people for inherent characteristics rather than by choice, i.e., punishing people for something they have no control over. There are numerous studies regarding the labeling theory and the self-fulfilling prophecy, which can be found in any standard general psychology textbook. Sex offenders are either responsible for their actions or they are not; I believe the latter to hold true. Secondly, by propagating "nature alone" we fail to properly address the cultural, social, and environmental factors which play an equally important role in controlling deviant sexual behavior. In fact, many of the aforementioned internal factors, particularly low self esteem, deficient behavior skills, and bad moral choices are greatly influenced by external factors. Thirdly, by labeling sex offenders as "monsters," we tend to forget we are dealing with living, breathing human beings as capable of emotion and rational thought as the rest of society.

Perhaps the main reason why we paint this picture of the "pedophile-monster" is "not because he is a deviant, but because he is ordinary... he is us" [4]. They are our politicians [5], teachers [6], district attorneys [7], and other prominent members of our society. If Dateline NBC's "To Catch A Predator" series did anything positive, it was to show how sex criminals come from all walks of life rather than from "under a rock" [8]. Society is truly frightened by the notion that sex offenders cannot be identified on looks or nature alone. Even among sex offenders we fail to distinguish between those who made a mistake and are truly remorseful for their actions and not likely to re-offend and those truly twisted individuals who prey upon people without reason. In short, society fears "the unknown." In order to "know" the "unknown," we must study the unknown.

External Factor #1: Political and economic forces in society

Political and socioeconomic forces are at odds. Mass Media is a cornerstone of our economic culture; virtually everyone in this country owns a television, a movie player, cable or satellite service, a computer, and a video game system. Considering how much the entertainment industry makes in revenue, there is little incentive to "clean up their act." If sex didn't sell, then

the entertainment industry would not saturate our environment with sex-laden images, movies, and shows. On the other hand, the current political views clash with this cultural mainstay. The result is a contrary society filled with mixed messages. American society is contrary; on one hand we seemingly worship sex while condemning it with the other hand. It is hard to deny the prevalence of these contrary views in our society.

Ironically our clashing political and economic forces rely on the same source for their livelihood: mass media. A recent study by Lisa Sample and Colleen Kadleck from University of Nebraska-Omaha found the media to be the primary source of information for politicians, professionals, and the general public alike [9]. It is not a stretch to say the media influences our attitudes towards a broader range of our sexual behavior. After all, mass media is an integral part of American culture. But what I find alarming is the mixed signals we give in this so-called “information age.”

Our culture has a definite lack in teaching guidance in general, much less sexual responsibility. Our culture discourages teaching sex. For example, a mother of two in Wisconsin was arrested for “exposing children to harmful descriptions;” the actual crime was giving them too much information when giving the “birds and the bees” speech [10]. Recently, a government-sponsored ad campaign teaching abstinence gave a statement reminiscent of a quote Stan from the animated show American Dad told his son not to have sex before marriage “or angels will kill you” [11]. We teach little about sexual responsibility, instead opting for censorship in the name of “protecting children from sex” [12]. In light of the Sample study, it would not be a stretch to say mass media influences our overall sexual attitude.

External Factor #2: Cultural attitudes favoring aggression

A preliminary on the prevalence of sexual aggression in movies watched a total of 143 movies released between 1996 and 2006 with rape or attempted rape scenes. Most notable was the ratings system itself; the ratings system listed the films as having “sexual” or “nudity” or related words in the content listing, but lacked the words “rape,” “sexual assault,” or “sexual violence” in the content listings. This study also found documented multiple instances of racism, women being physically assaulted, domestic violence, prostitution, murders of sex partners, and even incestuous sexual acts [13].

It is hard to argue movies, music and other forms of media have absolutely no impact in our lives. If I said, “Say Hello to My Little Friend,” most of you could envision the scene from the movie “Scarface,” with Al Pacino holding his “Tommy Gun.” That is merely one example of the influence of our culture. In recent years there has been a great deal of concern about the amount of violence portrayed in every form of media, from “gangsta’ rap” to the “Grand Theft Auto” video game (which contained an “Easter Egg” or secret which allowed players to depict graphic sex; this became known as “Hot Coffee”). I must concede here that while this saturation with violence can impact us (some have greater propensity to certain actions than others), not everyone who listens to a rapper calling a woman a “ho” or can perform the complex button combinations necessary to behead someone in Mortal Kombat. The danger lies with those who fail to separate the fictional worlds depicted in the media and their own lives.

External Factor #3: Misogynist values and attitudes

Misogyny, also known as “woman-hating,” is a term usually associated with the

"feminist" movement, which helped change the way we looked at sexual violence. First, it helped bring to light the social norms and attitudes which played a significant role in sexual violence. [14]. It also debunked the myths of rape as a stranger issue, the belief women have significant control over being raped, and the belief that women "secretly want to be raped" [15]. This led to significant changes in rape laws [16]; "the clear implication was that society bore a heavy responsibility for allowing violence against women to flourish" [17]. Janus also noted that in 1994, when the National Crime Victimization Survey restructured to measure the new definitions of rape, the amount of reported rapes jumped from 0.9 victimizations per 1000 women to 2.3 victimizations per 1000 women [18]. Despite efforts of the feminist movement, misogynist attitudes still linger in our society.

External Factor #4: Social Learning Theory

Social Learning Theory essentially means we learn much of our human behavior through our interactions with other people. The problem is, our society treats sex as dirtier than most other bodily functions, while contrarily saturated with sexual innuendo in the media. The media has become a cheap substitute for parental guidance. The following e-mail from one of the members of my advisory committee illustrates my point perfectly:

"I think it would be wonderful if we had parents who would teach us at the ages of 10-up, that how we represent ourselves gives people their lasting opinions... The #1 problem I think could be fixed with teens is having the parents/ grandparents/ guardians, teach them that they are of value. Get them involved in activities, to keep them busy and work towards a goal/ dream. It probably doesn't seem like much, but it is what kept me away from a lot of things as a teenager. I didn't have a 'father figure' and a lot of girls like me look for that in different men. They feel unloved and unwanted, so they want to feel 'needed'... so to speak. A lot of girls who grow up without fatherly love do search for attention in negative places, whether intentional or not. For example: A 15 year old has a crush on a 25 year old... She grew up without a dad, low income family, etc. She is looking for attention and feels this older man can give her a sense of some sort of purpose. He has low self-esteem, had a rough upbringing, felt unloved, etc., as well. They help each other fill some sort of gap. Well people find out they have been 'secretly dating/ kissing.' They immediately get the authorities involved and it goes from there. Now the 15 year old has that attention from parents, or whoever she was trying to get it from. She is more than likely not going to tell them the feeling is mutual with her and didn't force her... Why would she? She feels loved now from her family... This is not a true scenario, just something I made up. Hope this helps. [19]

I grew up in a generation when having both parents working two jobs to "make ends meet" was common. The writer of the email is younger than I am; by this time, single-parent households became the norm. All too often, many children were left to their own devices, or in this case, the television. The current generation has swung in the opposite generation; now society is filled with "helicopter parents" coddling and sheltering their children from the world well into adulthood. Either way, we have failed to teach sexual responsibility, leaving mass media as the primary source of information in society, in tune with the aforementioned Sample and Kadleck study which found politicians and society at large rely on the media for information.

Many of the internal factors mentioned by Janus are heavily influenced by external forces. For example, children have hit puberty at younger ages than in times past, thanks in part to better nutrition and disease control:

"And the age of sexual maturity is declining: In the United States one in seven Caucasian girls and one in two African American girls start to develop breasts and pubic hair by age eight." [20]

Judith Levine asserts that the coupling of earlier sexual maturation with waiting longer for marriage has led to major gap between physical sexual readiness and official sexual legitimacy [21]. In other words, children gain the tools for sex long before we give them the knowledge to use it properly. If you have watched "The Maury Povich Show" regularly, there are no shortage of "wild teen girls" shows; while largely a rather risqué form of entertainment, the show illustrates how far our society is removed from addressing sexual responsibility in our youth.

The extent to which we learn from external sources is unclear, but at the least, the center of influence has shifted from parents and others close to our youth to the impersonal world of mass media.

Sex and our youth

The ideal sexual experience in our society, with few exceptions, has remained constant throughout our history. America finds its roots in Christianity, which teaches abstinence until marriage. As a Christian, I have no qualms about abstinence until marriage, but realistically, many teenagers will not wait. Consider the following survey from the Center for Disease Control. Every two years, the CDC conducts a survey of 9th to 12th graders in certain high risk behaviors ("Youth Risk Behavior Surveillance System," or YRBSS). In the 2003 YRBSS, 4.2% of females and 10.4% of males claim to have engaged in sexual intercourse before age 13! When asked how many have ever had sexual intercourse at all, 45.3% of females and 48% of males claimed to have had sex at least once. About 11.2% of females and 17.5% of males have reported having had at least 4 or more sex partners at the time of the survey. The survey states only 44.9% of females and 43.8% of males have tried alcohol, and 37.6% of females and 42.7% of males have tried marijuana; thus, more teens have tried sex than drugs and alcohol! And since only 11.9% of females and 6.1% of males claim they were forced to have sex, then that means the vast majority are engaging in willful sexual contact. Teenagers had even posted some 10 *million* posts online regarding illicit activities from drug use to "hooking up" [22]. Whether we want to admit it or not, teenagers are aware of their sexuality, and without proper education and guidance, they will be left to discover the hard way about the gravity of their behaviors.

There is a definite need for American society to stress the need for sexual responsibility. In using that phrase, I'm not speaking of the issue of safe sex versus abstinence; I'm speaking of boundaries and open dialogue. I'm suggesting an open and honest discussion, clear and convincing, without speaking in parables about birds and bees and storks. We can't control our environment, but we can control our own reactions to the environment. Surely this suggestion will burn ears, but I feel this is integral because of two disturbing trends in sexuality amongst our youth.

The first disturbing trend is the prevalence of actual criminal sexual activity among

juveniles. In Newark, Ohio, an 11-year-old was sent to a sex offender treatment program and committed to the Ohio Department of Youth Services for raping an 8-year-old boy [23]. This is only one article regarding one of a series of crimes including underage perpetrators. An Associated Press report has discovered that the number of children committing sex crimes is increasing dramatically, not to mention the age of the offenders are getting younger and the acts more violent. The writer of this article states, "Scary. But not surprising." [24]. Telfer notes that juvenile sex crimes *increased* 40% while adult sex crimes *decreased* 56% between 1993 and 2004. A US Dept. of Justice study of incident reports found that 23.2% of all sex crimes against Juveniles, and 40% of sex crimes against children under 12 were committed by other juveniles. The single age with the greatest number of offenders was age 14 [25]. For this reason, the STATIC-99 and other risk assessment tests list youth as a primary recidivism factor.

An equally alarming trend is the criminalization of all sexual activity amongst our youth. A couple of recent cases made national headlines for criminalizing consensual sex between two teenagers. The Utah Supreme Court recently debated a case of a 13-year-old girl and her 12-year-old boyfriend, in which they are both the victim and the perpetrator of a sex crime for having sex with someone under age 14, in this case, each other [26]. One of the more prevalent cases, which was even the subject of a Dateline NBC special, has been the case of Genarlow Wilson, a 17-year-old boy serving 10 years under an outdated Georgia sodomy law for having oral sex with his 15-year-old girlfriend (who was released in October 2007, after two years). Many other similar cases have led to classification as sex offenders, subject to all the Kafkaesque and draconian laws that the serial rapist or child predator will live under for possibly the rest of their lives! American Chronicle writer Niki Delson has noted the following:

"Our obsession with and horror about sex, have paradoxically generated both great sexual freedom and draconian laws which unfortunately have several (largely unintended) consequences..."

1. *Legal age of consent is out of sync with normal sexual development and adolescents are given conflicting and many confusing messages about human behavior. For example, they can generally consent to abortion and obtain birth control at age 12 but cannot consent to sex until 16 or 18 (depending on the state). As a result, many are being convicted of felonies for developmentally normal behaviors and having to register as sex offenders for the remainder of their lives.*
2. *Pre-pubescent children are being ostracized (and occasionally even criminalized) for sexual behavior that is often normal or at worst, an annoying means of attention seeking [27]*

Sexual Responsibility a "Hard Sell"

Chief researcher Dr. David Finkelhor emphasizes the need for educating our children about *proper* sexual behavior, especially in the online era. His concern is that he found most dangerous was the teenagers were willing to talk about sex online with complete strangers, and going to sex chat rooms and websites ("kind of behaving in what we call like an internet daredevil"). His conclusion is similar to mine- educating about the consequences of inappropriate sexual behavior [28]:

"So for example, we have to educate them about why hooking up with a 32-year-old guy has major drawbacks like jail, bad press, public embarrassment. We have to educate them about the ploys that people they're going to meet online might use to gain their trust. We have to talk to them about why they should be discouraging rather than patronizing sites and people who are doing offensive things online, fascinating as that may seem to them" [29].

Hopefully by now, after reading my story and seeing how easily even a juvenile can be branded a sex offender, you will understand why I think *it is imperative we teach our children proper sexual behavior long before they become adults*. But as Dr. Finkelhor put it, "...unfortunately, these aren't easy sells" [30]. Part of the main reason why is the "taboo" stigma surrounding sex talk in general, but in using the word "sexual responsibility" some people come to the conclusion we are somehow blaming the victim or removing the concept of accountability and responsibility on the part of the perpetrator. This is simply untrue.

I remembered a discussion I had on www.sexcriminals.com regarding dress codes, which led to some pretty heated arguments. A recent fashion trend involved tight pants with provocative expressions like "Booty-licious" emblazoned on the buttocks. Immediately I was criticized for bringing it up because somehow the women on the forum assumed I was implying people who wore such things were "asking to be sexually assaulted." That wasn't the point I was trying to make. However, I did not believe children should be allowed to wear clothing designed to warrant attention to a sexual part of their bodies. I believe the aversion is a result of our belief in freedom; simply put, we want freedom to do whatever we want. However, freedom comes with great responsibility. While it is no less wrong for a criminal to rob a man with a hundred dollar bill strapped to his chest than if he hid it in his shoe, but common sense would tell us strapping a hundred dollar bill to your chest is rather irresponsible. I'm not suggesting they wear a Muslim veil, but being vigilant. Society stresses vigilance, yet when anyone suggests an act of vigilance that involves a small personal sacrifice, society rebels against the notion.

On the other hand, there has been a trend towards "hyper vigilance." A prime example of hyper vigilance was a controversial ad campaign for the Virginia Department of Health's sex abuse hotline. The ad featured a photo of a man holding a little girl's hand and the caption, "It doesn't feel right when I see them together." Hundreds of men complained because the ad implied every time you see a father out with his child, he is likely a sexual predator. The Virginia Department of Health defended the ads, stating that men are more likely than women to sexually abuse children. The same article reminds us John Walsh had suggested never hire a male babysitter [31].

Predator panic has diverted us from feasible preventive measures, focusing on released sex offenders and now men in general. Patty Wetterling of the Jacob Wetterling Foundation (and mother of the missing child which led to the first sex offender registry in America) has advocated spending more money on programs working with abused youth and perhaps help prevent troubled youth from committing the crimes in the first place. Wetterling found the same results as noted in the Sample and Kadleck study, namely, legislators were unwilling to read reports and had little knowledge of the nature of sex crimes. Many legislators have even stated, "don't confuse me with the facts" [32].

In short, society chooses to hold fast to their preconceived notions about the origins of sex crimes, while largely ignoring those external root causes we as a society can intervene in and address. This is significant when you consider the fact that 86% of inmates in federal prison for

committing sex crimes are *first time offenders* [33], while 95% of state inmates are first time offenders [34]. At the least, sex offender laws have done nothing to address the six of every seven sex offender inmates who are serving a prison sentence for the first time. When you consider the fact repeat offenders are more likely to be incarcerated than first time offenders, it is safe to say we are underestimating the amount of sex crimes committed by first time offenders. Our narrow focus on sex offenders has led to neglect the vast majority of sex crimes occurring in our society!

To summarize, I believe any strategy to reduce sex crimes should have *prevention* as its foundation. While deviant sexual behavior is a product of varying degrees of internal nature and external factors, our contrary culture has emphasized the internal factors while simultaneously propagating external factors which increases the likelihood of deviant sexual behavior. Prevention should start with teaching sexual responsibility with the same dedication that we teach in operating motor vehicles or other things that can cause harm when misused or abused. Sadly, since we have neglected to teach responsible sexual behavior for whatever reason, whether through neglect or an attempt to "shelter" children from the world, mass media has filled the void, reinforcing faulty beliefs through innuendo while reducing inhibitions toward responsible sexual behavior. Teaching children sexual responsibility is easier and superior to a futile attempt at environmental censorship; however, our negative attitude toward even suggesting the teaching of sexual responsibility constitutes a barrier to prevention. Only by subverting the current views and trends in our current culture can we have any real hope of reducing and preventing sex crimes in America.

Chapter 11: Monsters, Inc.: Creating Sex Offender Myths

The regulation of sexual behavior is nothing new; the Old Testament had entire chapters on regulations devoted to sexual behaviors [1]. Most American views on sexuality still stem from the Christian heritage of this nation’s founding fathers. America is also a major influence on the field of civilian policing. Many nations come to America to observe, or even be trained by, American police forces. So it is not surprising that America has become an innovator in novel approaches to crime prevention and control in general, not just sex offender management. Like many novel ideas, sex offender laws came as reactions to public outrage over particularly heinous crimes. Many of our current sex offender laws are named in memory of victims murdered by their attackers- Megan Kanka, Jacob Wetterling, Jessica Lunsford, and Adam Walsh to name a few (the latter was never proven to be sexually assaulted before his murder, while Wetterling has never been found). Rape-murders are extremely rare, but attract the most media and public attention, not to mention the most public outrage. The public outrage, in turn, fueled what Janus refers to as “a novel, aggressively preventive approach to controlling the ‘sexual predator’ before he can strike again” [2]. Current laws and societal beliefs about criminal sexual behavior are based on widely held myths and misconceptions on the true nature of sexual offending. These laws were passed on assumptions that may have been loosely based on common sense, but have shown to be quite ineffective, if not detrimental, in practice.

Our focus on individuals who have been convicted of sexual crimes has been exacerbated by many myths, misconceptions, and mistruths about sex offenders in many ways. We know many mantras by heart: sex offenders lurk in the bushes, rape and murder children, can never be cured, are all pedophiles, and so forth. However, the truth deviates greatly from these commonly held mantras. In this chapter, I will identify and debunk the main myths regarding sex offenders, and delve into the origins and rationale behind perpetuating these myths.

Myth #1: The “Stranger-Danger” Myth

One of the most commonly held myths and the myth most responsible for the passage of the myriad of sex offender laws in America is the “stranger-danger” myth. The typical sex crime is viewed in the manner described below:

“...the FBI (in the 1950s and 1960s) distributed a poster that epitomized this attitude. It showed a man, with his hat pulled down, lurking behind a tree with a bag of candy in his hands. He was waiting for the sweet little girl walking home from school alone.” [3].

It is difficult to pinpoint an origin for this myth, but it is the greatest myth in terms of the amount of fear it perpetuates in our society. After all, consider the fact that nearly all sex offender laws are named after a rape-murder victim- Megan Kanka, Jessica Lunsford, Adam Walsh (killed but no proof of sexual abuse), and so on. When we hear of these rare occurrences, we are moved by the raw emotion of anger, fear, and heartbreak. That is understandable, but that raw emotion is also the greatest of obstacles to understanding the reality of sex offenses, because we have been trained into thinking “sex offender = predator = raped and murdered child.”

In actuality, the probability of the stereotypical child abduction-murder is far lower than our focus on predator panic may suggest. The US Department of Justice found the actual number of stereotypical kidnappings was 115 (defined as stranger or slight acquaintance abductions

where a child was transported more than 50 miles, detained overnight, held for ransom or with intent to permanently keep child, or killed), and only 46 of those ended in murder or were permanently missing (while 46 is still tragic, it is far lower than we are led to believe). There are a larger number of incidents, 58,200 to be exact, referred to as "non-family abductions," which was defined as a non-family member (thus including friends and acquaintances as well as strangers) detaining a child by force or threat for at least one hour; if the child is under age 15 or mentally incompetent, this can include voluntary leaves with the perpetrator. [4].

Many of the missing child groups quote the larger number, according to Bill Carter of the FBI's public information bureau. The majority of the 797,500 missing children (under 18) reports were either runaways or family custody disputes. Yet John Walsh and others have testified before Congress that more than 1.5 *million* children were *abducted* each year and that "this country is littered with mutilated, decapitated, raped and strangled children" [5]. However, in light of the NISMART-2 report, a number of the missing child agencies have changed their stranger abduction reporting. Child Find changed their estimates from 50,000 to under 600 per year [6]; www.missingkids.com has added the NISMART-2 report and analysis on the confusion over defining abduction on their site; even the NCMEC has amended their "FAQ: Missing Children" page to include the NISMART-2 findings, among other research to back up the fact that these stranger abduction murders are extremely rare. Speaking of the NCMEC, the John Walsh-founded organization has taken a lot of criticism over its inaccuracies [7] as well as connections to scandals in connection with disgraced Florida congressman Mark Foley as well as Hank Asher [8]. However, despite the criticism, the NCMEC is considered by many to be the most well known of all the missing child agencies in the country.

The vast majority of sex offenses are committed by friends and acquaintances of the victim, not strangers. According to the Bureau of Justice Statistics, only 6.7% of the victims under age 18 and 34.4% of the victims over 18 were attacked by strangers [9]. A similar report released by the National Center for Juvenile Justice reported stranger sexual violence was only 4.9% [10]. Thus, the vast majority of victims know their attacker.

The stereotype of the dirty old man in the trench coat is a myth. The only good which came out of the controversial Dateline NBC series, "To Catch a Predator," was illustrating the diversity of individuals willing to meet teenagers for sex-- doctors, teachers, lawyers, contractors, even prosecuting attorneys. Some may have looked creepy, but many others looked like normal people. They weren't wearing wrinkly trench coats or hiding in bushes. I believe this show heightened our fears and paranoia, because Dateline revealed to us that sexual offenders can be anyone.

Myth #2: All Sex Offenders are "Pedophiles" or "Predators"

American culture uses the words, "sex offender," "sexual predator," and "pedophile" interchangeably, even though the words have different connotations. The label "sexual offender" is already a scarlet letter in society, but the word "sexual predator" is supposed to be reserved for the worst of the worst, like those who had multiple victims, perpetrators of particularly heinous offenses, and those warning they would "do it again." "Pedophile" implies a person is sexually attracted to children. However, just as we came to associate all sex offenders with raped and murdered children, we have come to consider all sex offenders "predators" and "pedophiles." If these terms weren't foreboding enough, society coined a new term, "sexually violent predator," denoting an even more fearsome type of sex offender. Such terms perpetuate the myth of

strangers in the bushes.

Pedophilia is a mental disorder that signifies persistent sexual attraction to children under age 12 by DSM-IV standards. Yet only about half of the victims (51.6%) under 18 were under age 12 in the aforementioned BJS 1997 Inmate study. Sex crimes against persons under 18 comprised 70.5% of all victims. That would mean sex crimes against children under 12 comprised one out of 3 sex crimes. That means 2 out of every three people who committed a sex crime would not even meet the base criteria for pedophilia based on victim age. Furthermore, not every child victim offender is a “pedophile;” a number of offenders are “situational” offenders, offenders who have a preference for adults, relying on a child for sex under a certain set of circumstances, such as fulfilling an inadequate sexual need [11].

The term “sexual [violent] predator” is more a legal term; typically courts determine who is a predator based either upon a risk assessment of the offender or the circumstances of the crime. A hearing is generally involved in this process. The Adam Walsh Act, however, removes risk assessment tests and places individuals into tiers based upon circumstances of the crime, overcompensating the number of individuals in the highest tier. Hamilton County Ohio found the number of sex offenders placed in Tier III jumped from 350 to 1150 after the state implemented the AWA [12]; an Oklahoma study found the AWA would classify 78% of sex offenders of that state as Tier III offenders [13]. The AWA inadvertently hides the serious offenders in a sea of low risk offenders.

In early 2008, Colorado began debating the use of the term “sexually violent predator” label in many cases where there was no violence, no actual touching involved, or in minor offense cases. One former DA stated the label “does a lot in terms of scaring people and making the offender equally afraid of more repercussions when tagged” [14]. It is hard to know who is truly a threat when our society labels virtually all offenders in such a negative light designed to amplify the fear of former offenders as a whole.

Myth #3: Sex Offenders have a high recidivism rate

People often refer to this myth when justifying the rationale for the sex offender laws. Not even the judicial system has been immune to this myth:

“The risk or recidivism posed by sex offenders is ‘frightening and high’.” [15]

Sex offenders pose an enormous challenge for policy makers: they evoke unparalleled fear among constituents... Sex offenders have a high risk or re-offending.” [16]

I’ve heard similar statements repeated time and time again, by Congress, the media, and the public. However, according to the US Department of Justice, only 5.3% of previously convicted sex offenders; 3.5% were re-convicted in three years [17]. All legitimate research studies have been met with similar results. Critics point out the study was only for three years. The Ohio Department of Rehabilitation and Correction followed a group of sex offenders for 10 years. At the end of 10 years, re-commitment for a new sex offense was 8%, plus 3% for a sex-related technical violation of parole. But what is most significant is that the researchers found that half of the sex offenders that recidivated did so in 2 years, and 2/3 did so within three years [18]. A study of Canadian recidivism studies found an average of 24% after 15 years [19].

Recidivism is more complex than the statistics quoted above indicated. There are a

number of factors to consider when reading recidivism studies:

1. What determines recidivism? Re-conviction rates? Re-arrest rates? Are technical violations of probation/ parole included? Self-reporting? Does recidivism include arrests for sex-specific crimes (specific recidivism) or for any crime like theft or drug offenses (general recidivism)?
2. The "Recidivism Curve:" Most recidivists do so within the first three years of release. Thus, the longer a former offender has not re-offended, the less likely he will re-offend. The Harris and Hanson found offenders who were offense free for 5 years had a 7% recidivism rate; offenders out 15 years had a 4% recidivism rate.
3. Offender type: Harris and Hanson found rapists and boy-victim molesters to recidivate higher than girl-victim and incest offenders
4. Factors in recidivism: Static factors are traits that do not change, such as age at first offense or childhood trauma; dynamic factors are changeable and can be stable or slowly changing, like marital status, or acute or quick changing, such as personal stress [20].

The most popular counterargument to the consistently low recidivism rates is the "underreporting" argument. The US Department of Justice conducts the "National Crime Victimization Survey" (NCVS) bi-annually, which measures various crime statistics, whether reported or not. The NCVS studies estimates of non-reporting and the reasons for non-reporting. The 2003 NCVS found that 67.3% of rapes and attempted rapes (*attempts included verbal threats of sexual violence*) and 53.2% of sexual assaults go unreported. There are, however, a few studies which cast doubt on this argument. The 2005 NVCS found reporting varied greatly depending on victim-perpetrator relationships. if the offender was a stranger, the top two reasons why victims of stranger offenders did not report the crime was "reported to another official" (49.6%) and "police don't want to be bothered" (19.9%); when the offender was an acquaintance, the top reasons changed to "other reasons" (47%) and "private or personal matter" (31.1%). The Harris and Hanson study noted a Canadian self-reporting study found 59% of sex cases were not reported because the case was "not important enough to pursue," to which Hanson mused that it makes one wonder what exactly constitutes a sex crime. The NCVS further confuses the situation by adding "attempts" including "verbal" threats. Aside from the vague definitions in self reporting studies, there are also concerns such as suggestibility among subjects and the real possibility of false charges. In short, there is no possible way to accurately estimate how many sex crimes are underreported, or even how many of those unreported crimes can really be attributed to sex offenders. A final note: a similar myth argues sex crimes are underreported at a higher rate at other crimes, but one study reviewing the NCVS found underreporting rates for crimes in general was at about the same rate as rates for sex offenders [21]. The underreporting myth, in short, is a largely false assumption.

Myth #4: Sex Offenders "Sex Offenders cannot be cured"/ "Treatment doesn't work"

I hope that my life is living proof of successful rehabilitation; however, studies have found treatment has been effective in curbing recidivism. The Ohio 10 year study on recidivism found that those who completed "basic (Level 1) sex offender programming" recidivated sexually at 7.1% as opposed to 16.5% without programming [22]. This study reflects a general consensus that treatment is indeed effective [23].

For the longest time, I felt entering treatment should be voluntary, but there is at least some good in mandatory programs, because it would expose the more dangerous sex offenders (in my view, the ones in denial or express desire to re-offend) to the principles of treatment. And the most prevalent method, and the one I participated in, is the relapse prevention model with a cognitive behavioral approach, or as more commonly known in some circles, "restorative justice." Typical of this form of treatment is victim empathy training, identification of deviant thought patterns and thought aversion techniques. Sadly though this form of treatment has been the staple of offender treatment for a generation, the justice system has turned away from this approach in favor of longer prison sentences; often times, offenders receive little or no treatment before release.

Myth #5: Sex Offenders are X times more likely than non-sex offenders to be re-arrested for a sex crime

Not every myth is a complete fabrication, but at times are an exaggeration, misinterpretation, or a twisting of a statistic or factoid. This phenomenon is known as "twististics." The danger with twististics is often times a fact is turned into a myth by virtue of presentation by individuals or groups desperately seeking to prove a point.

A prime example of twististics is the statement that sex offenders are 4 times more likely to be arrested for a sex crime than a non-sex criminal. This is a rather misleading statement, though not a total myth. Allow me to explain. The statistic is taken from the US Department of Justice report, "Recidivism of Sex Offenders released From Prison In 1994." The study followed paroled inmates in 15 states, mainly states with larger populations like California or Florida, for 3 years. There were 9,641 sex offenders and 262,420 non-sex offenders paroled in those states that year. In three years, 517 sex offenders (5.3%) were re-arrested for a sex crime, while 3,328 non-sex offenders (1.3%) were re-arrested for a new sex offense. Thus, based on the percentages, we get the idea that sex offenders are roughly 4 times more likely than non-sex offenders to commit a crime. This statement would be true IF we are talking about an equal number of sex offenders and non-sex offenders. But going by the actual number of offenses, the opposite holds to be true; you are 6.3 times more likely to be victimized by a non-sex offender than a registered sex offender; divide the 3,328 non-sex offenders that committed a sex crime by the 517 sex offenders that committed a sex crime in the same time period and you get 6.3. This, of course, does not take into account the number of sex crimes committed by first time offenders; 86% of inmates in prison for committing sex crimes are *first time sex offenders* [24].

Myth #6: Sex offenders have hundreds of victims on average

Perhaps the most damning of all has been the myth of the average sex offender has possibly hundreds of victims. The myth has existed for at least an entire generation, long before the recent wave of sex offender legislation. One possible origin of this prevalent myth is a Gene Abel study which used "self-reporting" to draw the desired conclusion [25]. There are a few points to keep in mind when reading this perplexing study. The study observed acts of "paraphilia," sexual behavior of any kind, including sadomasochism, "golden showers," fetishes, frottage, and since the study was completed in the 1980s, homosexuality was listed as a paraphilia. The study relied on "self-reporting;" despite seeking volunteers, at least a third felt pressured to participate, since two-thirds were referred by a law enforcement or mental health

agencies. However, the study found while the number of individual instances or acts varied greatly by number (non-incest boy victim offenders bucked the trend by committing more acts with more victims than other offenders), the study suggested paraphiliacs, “through coercion or varying degrees of compliance, repeated acts are carried out with the same victims or partners” [26]. The Abel study did not number the amount of victims in the self reports, but the number of acts committed.

A more recent attempt at creating this hyperbolic number involved not only “self-reporting,” but polygraphs as well. A study using the polygraphs noted most subjects showed levels of deception. Again, paraphilias were included in this study, and no definite number of reported behaviors was given. “Comparatively, conclusions cannot be made on the frequency of sexual offending for inmates and parolees, because of the unique external confounds present for each setting.” The end result was the belief that polygraphs influenced more self-reporting because the inmates believed they worked [27].

The common factors in the aforementioned articles are self-reporting and paraphilias. Most notably is the lack of a number depicting the actual number of victims. In the Abel study, the number of paraphilic acts varied greatly on offender type, but offered no real number of victims. In the Ahlmeyer article, only a number of increases of admissions in light of polygraphs, not any numbers of actual victimization, nor does the article proclaim hundreds of individual victims exist. This has not stopped the uninitiated from quoting these sources as proof of this arbitrary myth. For example, Parents For Megan’s Law (PFML) claims the average “pedophile” commits 117 sex acts in his lifetime, 280 if the pedophile prefers boys. Stats of similarly high numbers have appeared in many articles, often without reference to these sources; thus, it is quite possible the myth is older than even these articles.

A key consideration is the suggestibility of subjects in these studies. A recent study using polygraphs found that participants reported a relatively low incidence of false indications of both deception (22 of 333 tests) and truthfulness (11 of 333) tests, suggesting that clients agreed with examiners’ opinions 90% of the time. About 5% of participants reported that they responded to allegedly inaccurate accusations of deception by admitting to things they had not done [28]. At the least, this study suggests self-reporting can be influenced by external sources or a desire to merely appease the individuals offering the tests. Thus, the validity of self-reporting is questionable.

Myth #7: Virtual sexual predator myths

There are a few internet-related myths in our society, but the most prevalent is the “one in five children have been solicited for sex over the internet” myth [29]. The origin of this prevalent myth is a misinterpretation of the 2000 Internet Youth Safety Survey or YISS [30]. The YISS found “one in five teens received a sexual solicitation within the past year. A “sexual solicitation” is defined as a “request to engage in sexual activities or sexual talk or give personal sexual information that were unwanted or, whether wanted or not, made by an adult.” Using this definition, one teen asking another teen if her or she is a virgin—or got lucky with a recent date—could be considered “sexual solicitation” [31]. However, only 24% of “sexual solicitations and approaches” were from adults, 48% were from other juveniles, and 28% of an unknown age. One in 33 (3.33%) experienced an “aggressive solicitation,” a situation where the parties communicated offline as well (included attempts and requests for offline contact). In this instance, 34% were adults, 48% were juveniles, and 12% were at an unknown age. One in 4

children report "unwanted exposure to sexual material," such as e-mails selling sex sites (I'm sure everyone has had their fair share of sex spam). Only one in 4 who reported these incidents were distressed by them [32]. This, of course, flies in the face of the picture of the internet painted by "To Catch a Predator" and the rest of the media. Another important finding in the YISS was none of the solicitations led to actual sexual contact or assault.

Taking essentially a third of a third, the probability of such a scenario seen on dateline is roughly one in 99. Now the statistics get even more complex. Ninety-three percent of teens use the internet. Now a second report finds that 45% of teens *do not* have a profile on a social networking site, and 66% of children with profiles restrict access to their profile. Of those receiving online solicitations, 65% ignored or deleted it, 21% followed up contact for whatever reason, 8% asked to be left alone, and 3% informed an adult. While in this report, it left a stat of 7% unwanted contact by a stranger that made the teen "uncomfortable," but the report itself makes two disclaimers- first, it merely sought contact by strangers in general, not sexual solicitations; secondly, the definition of "stranger" has rather vague and broad meaning, which can include legitimate business solicitations or a peer simply reaching out to make a new friend [33].

The media tends to simplify a complex situation, which leads us to an overestimation of the prevalence of a problem. The simple media answer is the "one in five children were solicited online by an internet predator." Out of 1000 children, 200 would have been sexually solicited online in the past year by a sexual predator. But the actual statistical math puts the number much lower: 1000 children - 70 children who do not use the internet - 899 children who did not experience an "aggressive online solicitation" - the 25 children of the remaining group who did not make follow-up contact for whatever reason, and you are left with 6. Six out of a thousand (or 0.6%) is a lot smaller number than 200. Factor in a few more "X" factors, and the number is even lower-- take the six, divide it by the 45% of children who do not post a profile online, then take the three left, and divide it by the 66% who restrict access to their profile, and we find only 1 out of 1000 (0.1%) meet an aggressive adult solicitation through online social networks. If only 1 in 7 inmates in prison on sex charges are repeat offenders, then that number lowers even more, to 1 in 6000 (0.017%) will *theoretically* be solicited by a registered sex offender. There are a number of other factors that can lower that possibility even more; for example, how many registered sex offenders participate in online chat rooms frequented by teenagers? There are some states that do not allow sex offenders to own internet services. While there have been incidents of teens meeting adults online for sex, the incidents have been extremely rare.

The YISS-2, the second series of the US Department of Justice surveys, completed in 2005, found total sexual solicitations was reduced from one in five (19%) to one in seven (13%), but aggressive solicitations remained the same. Higher numbers of real life acquaintances were responsible for the unwanted solicitations. Exposure to unwanted sexual material, such as spam and pop-ups, actually increased. However, one key finding was that even when solicitors were adults, many were in the "young adult" range (age 18 to 24), some solicitors were female, and an overall lack of civility and rude sexual comments made amongst peers. In short, the vast majority of sexual comments made to teens were originating from their peers.

Another internet-related myth is the "50,000 sexual predators are online stalking your children myth." This myth finds its origins from the controversial Date Line NBC series "To Catch a Predator." Chris Hanson, who quoted this number numerous times in the series, later admitted the number was arbitrarily made up, though he tried to attribute the number to law enforcement. This did not stop former Attorney General Alberto Gonzalez from quoting this

number in a subsequent congressional hearing [34]. According to FBI Analyst Ken Lanning, the number “50,000” itself is a commonly used number. Lanning refers to the 50,000 as a “Goldilocks” number, not too hot or too cold, or too small or too large. The 50,000 number was also used in a number of ways, including annual number of murders attributed to satanic cults in the 1980s, Korean War casualties, and the annual death toll from second-hand smoke [35].

There are many other internet related myths which have been debunked by recent studies. Posting personal information online, using social networking sites, and the increase of sex crimes related to the internet are all commonly held beliefs that are false; of equal importance is the fact that teenagers often engage in risky online behavior that increases that miniscule risk of online victimization [36]. Another interesting fact is deception about age was only present in five percent of online victimization cases. Furthermore, while internet stings have netted a few thousand arrests across the country, the number of actual cases of teens meeting adults for sex is quite small [37]. Our fear of internet predators, just as with real-world stranger-danger, is grossly disproportionate to the actual risk.

Myth #8: Harsh sex offender laws will reduce sexual violence

Sex offender laws are theoretically supposed to reduce sexual crimes, but evidence is mounting the laws are having either no impact at all or increasing recidivism among former offenders. Psychologist John Q. LaFond points out a Washington state study that found notification laws do not prevent crime; instead, it leads to quicker arrest times, either by the constant scrutiny, or by disrupting employment, housing, and support for the sex offender, causing stress and increasing the likelihood of recidivism [38]. As former offenders are denied opportunities to reintegrate into society and stigmatized, they lose hope. Stigmatized offenders are more likely to recidivate than reintegrated offenders, as the resistance to recidivate diminishes among offenders who are ostracized. On the other hand, a “pro-social identity,” including concrete recognition of their reform, is integral to reducing recidivism [39].

Societal Consequences

Sex offender myth-mongering and legislation has negative consequences not just for the sex offender, but society as a whole. Most notably is the “illusion of increasing society’s safety from sexual violence” [40]. LaFond [41] lists numerous negative consequences of sex offender legislation: false sense of security, inaccurate information, focus on sex offenders when sex crimes are committed, desensitization to risk, acts of vigilantism, impediments to rehabilitation, and denial of housing. Of course, society’s focus on the sex offender does not take into account the 86% of inmates in Federal prison for committing sex crimes who are *first time offenders* [42]. That fact may be the most striking fact of all.

Public perceptions and fear of sex offenders have led to a number of other unintended consequences. For example, a North Carolina study found when a sex offender moves into a residence, the surrounding properties lose 4% (\$5500) of their average values; furthermore, the cost of damage done by sex crimes was estimated to exceed \$1 million, which is likely the result of overestimating risk [43]. The negative portrayal of men in American culture is even worse. Our culture now “teaches children to fear men,” while men also share a fear of being falsely accused of inappropriate touching. One man explains, “Being male, I’m guilty until proven innocent.” Hundreds of men responded to an online blog “lamenting that they’ve now become

fearful of children,” and refusing activities as being a scout leader, mentor, or even helping a lost child at the mall [44]. John Walsh told people to never hire a male babysitter. Controversial billboards in Virginia displayed a picture of a man holding a child’s hand with the slogan, “It doesn’t feel right when I see them together.” The campaign sparked public outrage [45]. Policies of child-oriented organizations such as the Boy Scouts are designed to never have a child alone with an adult, not just for the protection of the child, but for the adults as well [46].

Perhaps the most disturbing negative consequence of all is the prospect of false allegations. There have been a number of high profile cases over the years, such as “satanic ritual abuse” daycare scare in the 1980s, but the 2006 high-profile “Duke Lacrosse case” epitomizes this phenomenon. The case involved a stripper making a rape claim at a Duke University frat party; over the course of a year, the case made headlines, and three Lacrosse players were convicted in the eyes of public opinion. A feminist law professor, Wendy Murphy, stated on CNN’s “The Situation,” “I never, ever met a false rape claim, by the way. My own statistics speak to the truth.” Among the people on the Duke lacrosse “witch hunt” were “many among Duke’s faculty and administration, as well as random race-baiters, campus feminists, various reporters, commentators and assorted armchair prosecutors,” along with district attorney Mike Nifong. All of a sudden, the stripper became a “working mother and college student;” few people questioned her story. There were problems during the entire case: no DNA match, no witnesses, logistical impossibilities, a ‘victim’ who couldn’t get her story straight and contrary evidence impugning her claims [47]. The case ended with the disbarment of Durham County District Attorney Mike Nifong for withholding evidence, fraud, dishonesty, and lying before a judge, among other ethics violations; while pleading guilty, Nifong denies intentionally breaking the rules for political gain [48].

America has taken on a “guilty until proven innocent” mentality in matters of child sex abuse allegations. For example, while government statistics suggest false allegations of sexual abuse cases in divorce custody battles are high, even the courts err on the side of caution, preventing fathers to even visit their children on the basis of a false allegation alone; furthermore, the mere allegation is tantamount to a conviction in the “court of public opinion” [49]. False allegations may be more prevalent than first thought; one study found 41% of all rape allegations in one community to be false; reasons for the false allegations included seeking an alibi, revenge, or to gain sympathy [50]. Furthermore, a number of research studies suggest that false allegations are more common during child custody disputes [51].

In short, our hypersensitivity to allegations of sexual abuse coupled with our “tough on crime” stance crime has many negative consequences that go far beyond punishing sex offenders.

Chapter 12: The New "Ministry of Propaganda"

"I can't get my hands on the guy that murdered my daughter so I've made it my job to make the rest of these sexual offenders and predators' lives miserable, as miserable as I can." -- Mark Lunsford [1]

The various sex offender myths are quite prevalent in our society. A 2007 study on public perceptions about sex offenders found that society held a number of beliefs which were contrary to empirical research [2]. Other studies have confirmed that gossip reigns supreme in our culture. People are influenced by gossip even when they know the gossip conflicts with the truth [3]. The primary influence and source of information in our society is mass media [4]. There is little doubt the media has been largely responsible for the current state of predator panic, as the Sample and Kadleck study accurately illustrates. Politicians not only rely on the media rather than their own commissions, the constituents who pressure the politicians rely almost entirely upon the media.

Sex offender laws were created as novel approaches to panic over high profile sex crimes reported by the media [5]. The proof can often be found in the laws themselves; many sex crime laws are named after an individual who was a victim of a sex crime or a kidnapping, typically a high-profile rape-murder. The most recent act is the "Adam Walsh Child Protection Act of 2006," a federal law which established nationwide guidelines for sex offender legislation. The act is named for the son of child advocate and host of Fox television's "America's Most Wanted," John Walsh. Most of the individual provisions of the Adam Walsh Act (AWA) are also named for individual victims of high profile cases; however, many of the individuals listed were not targeted by registered sex offenders, including Adam Walsh. This, of course, did not stop the law from becoming passed "in recognition of the twenty-fifth anniversary of Adam Walsh's abduction and murder [6]. Child abduction-murders are tragic indeed, but our overreaction to the tragedies is leading to laws which indeed are doing more harm than good.

It is no secret tragic cases have made celebrity advocates out of the parents of the victims (or in a couple of cases, the victims themselves). Names like Patty Wetterling, Mark Klaas, Maureen Kanka, John Walsh, Elizabeth Smart, and Mark Lunsford are a virtual who's who of child victim advocacy. Many of these advocates run organizations, make appearances before congress, and host programs to promote the noble cause of child safety. However, at what point does this "tugging of heart strings" override sound research and common sense? Is it possible some of those advocates are exploiting, rather than promoting, the cause? As in most movements, there are vast discrepancies between different advocates and organizations, and not every individual who claims to be on the side of the children are as they appear.

Recently I posted an in-depth analysis of various victim advocate sites on my website [7]. The eight groups in the study varied greatly in mission, argument, statistics given, how the website was presented, and donation solicitations. Of the eight sites, the Jacob Wetterling Foundation and Stop It Now, not surprisingly, ranked highest among the groups listed, while the Jessica Marie Lunsford Foundation and Family Watchdog ranked lowest among the nationally known groups. Whereas the former groups took a balanced approach in dealing with former offenders (I.e., vigilance and education without fear), the latter groups rely heavily on fear mongering and aggressive donation solicitations. With the exception of the National Center for Missing and Exploited Children, the higher ranked organizations linked only to higher ranked organizations, while lower ranked organizations tended to not only link to each other, but they

tended to share the same (unreferenced) statistics as well. Some organizations do not even post legitimate physical addresses, such as WASP Ohio, which is intimately connected with the newly formed “Perverted-Justice Foundation, Inc.” (Which, in turn, rents PO Boxes from a Mailboxes, Etc. store). Sadly, it is the lower ranked organizations that generate the most attention, because the ministry of propaganda has succeeded in spreading the sex offender myths and scaring the public into believing the solution to reducing sex crimes buying into their “quick fix” of the latest sex offender legislation.

Sex offender legislation has followed the same pattern over the years: a high profile crime (generally a rape-murder of a young girl), and public outrage ensues. Someone suggests that if a certain law was in place, then this crime would never have happened. The law is drafted and presented to legislators, then passed with little to no resistance regardless of effectiveness. That appeases the angry mob until the next high profile sex crime occurs, subsequently exposing “loopholes” in the previous cure all. American society clearly prefers fads to tried-and-true facts. The local bookstore is filled with fad diets that make claims that if you buy this book and follow this program, you will lose weight. No one wants to hear “eat less, exercise more,” because that involves hard work, discipline, and most of all, sacrifice. The problem is not evident until later, after so many months or years of little to no results (or even bad results). Unfortunately, like losing weight, there is no quick fix solution. Those who push for the law know that, but results do not include what they are advocating.

“Do as I say, not as I do”

“Congressman Mark Foley’s resignation is a great loss to Florida and the nation. He has been a hard working, dedicated and effective Congressman. He will be missed.” -- NCMEC [8]

There are a number of household names in this war on sex offenders: John Walsh, Mark Lunsford, and Patty Wetterling, to name a few. Everything they say is accepted as gospel. However, claiming a noble cause doesn’t make the messengers noble. Over the years, a number of individuals have ridden the wave of sex offender legislation into power, only to get caught in the act of doing the same thing. Most notable was Florida senator Mark Foley, who resigned months after passing the Adam Walsh Act in 2006 for sending sexual messages to teenage pages. Other notables included New York Governor Eliot Spitzer, who was busted for soliciting prostitutes after passing a law making soliciting prostitutes a sex crime, and Idaho senator Larry Craig, who was a staunch supporter of sex offender legislation and opponent of gay marriage, but caught soliciting men for sex in a public bathroom [9].

A few of the most well-known advocates have never been caught in compromising positions, but nonetheless have generated controversy. John Walsh, perhaps the most well-known advocate and host of America’s Most Wanted, has generated the greatest amount of controversy. The most controversial comment came during the lobbying campaign for the Adam Walsh Act (AWA), John Walsh had told critics that he suggested electronic implants in the anuses of sex offenders and “if they go outside the radius, explode it, and that would send a big message.” His wife, Reve, suggested asking those stymieing the AWA if they molested kids or had child porn on their computers [10]. In the same interview, Walsh stated he supported rehabilitation and second chances, and then followed with the suggestion to “put the pedophiles down in the yard... Let them see what it’s like to be terrorized by a 250-pound guy” [11]. Walsh

also stated we should never hire a male babysitter [12]. However, John Walsh admitted on Larry King Live on July 15, 2003, that he was a sex addict and cheated on his wife; he subsequently received counseling for his sex addiction and is cured [13]. Using Walsh's own logic, he would be considered a threat to our children, since he is a male and a sex addict, since he believes sex offenders can't be cured. This begs the question why he would be an exception to his own rules; sadly, many lawmakers and celebrity advocates act as if the rules and assumptions they make about others somehow do not belong to them.

While Walsh has been suspect on relatively few occasions aside from the above assertions, the career of Mark Lunsford as a child victim advocate has been marred in controversy since day one. John Walsh found a confidant in Mark Lunsford, a "dirt truck driver with a checkered past," and helped Lunsford become another outspoken celebrity advocate [14]. I suppose that John Walsh found a kindred spirit in Lunsford; they share the same "pedophiles are scum" mentality, as can be derived from the quote on his "Jessie's Riders" website: "Your time is short, your shelters few, Jessie's riders are coming for you" [15]. During the investigation into little Jessica's disappearance, however, police found child pornography on Lunsford's home computer. However, since the images were "viewed but not downloaded," and the fact that the killer, John Couey, could use that against them at trial, the prosecutor decided not to charge Lunsford with possession of child pornography. As noted by the prosecutor, "this office is focusing its attention on a murderer." Though it was called child pornography in the report, Lunsford maintains it was adult porn he was looking at on the internet. "My focus is on tougher laws for predators. If you don't like me because I look at naked women, I don't care," Lunsford stated [16].

On May 18, 2007, Joshua Lunsford, Jessica's older brother, was arrested in Ohio for "unlawful sexual conduct with a minor," more specifically kissing and putting his hand down the pants of his 14-year-old girlfriend [17]. In a statement to the press, Mark Lunsford stated, "it has not been proved that he (Joshua) has done anything wrong... We're talking about Romeo and Juliet here, not some 36-year-old pervert following around a 10-year-old" [18]. In another news report, Lunsford stated, "We have to learn to extinguish between a Romeo and Juliet and a predator. We need to redefine the term, 'sexual offender,' not predator." [19]. Originally, Joshua Lunsford was facing a Class 4 felony charge, which carries up to 18 months in prison and a \$5,000 fine. However, Lunsford was able to plead guilty to a Class 1 misdemeanor. He was given a 180-day sentence, with 170 days suspended, and 1 year probation. He won't have to be registered as a sex offender [20]. I don't like the idea of a "Romeo and Juliet" offense on the registry, but the reality is that his father's celebrity status earned the kid preferential treatment. Had the kid been your average 18-year-old with the 14-year-old, Lunsford would have been on the registry next to the anger rapist and the pedophile.

Most recently, Mark Lunsford sparked public outrage by filing a civil suit against Citrus County and the Sheriff for wrongful death [21]. One local news page noted that their blogs were filled with comments questioning his motives and suggesting Mark could have prevented his daughter's death [22]. This controversy escalated when a local shock jock, "Bubba the Love Sponge," accused Lunsford of mismanaging the money to the Jessica Marie Lunsford Foundation and suing out of greed [23]. Eventually Lunsford agreed to drop the suit under "undisclosed conditions" [24].

A Perversion of Justice: To Catch a Predator

“But, you should know that I intend to fight as hard and as long as I can to prevent other people from becoming victims of such reckless actions as those taken by your employees, which were set in motion by a self-appointed group acting as judge, jury and executioner that was encouraged by an out-of-control reality show.” Patricia Conratt, sister of Bill Conratt, who committed suicide during a botched arrest attempt during the Dateline NBC show [25]

Dateline NBC’s series “To Catch a Predator” (TCAP) was probably the most controversial reality show in the history of television. The show was a success for NBC, netting an average of 7 million viewers during the 2006-2007 season [26]. The premise was simple: lure people soliciting sex with teenagers online to a set-up house to be confronted by a reporter, captured on camera, and, after the second show, arrested.

NBC hired the members of www.perverted-justice.com, an online vigilante group with questionable tactics, to assist with the stings. Rolling Stone described members as “a secretive citizenry of seventy-five predator-fighting zealots determined to save children from the long-term scars of sex abuse. The group is an assortment of Genesis-loving fatsos from Texas, introverted copywriters from Wisconsin, and New York nightclub door girls, with a dedicated core of West Coast anarchist tech geeks and gamers in their twenties and thirties” [27]. “Pee-J members have been accused of entrapment (I.e., the decoys often suggest sex first); their justification is the targets “talk like they’ve done it before” [28]. There is also no shortage of detractors, including www.corrupted-justice.com, a site comprised primarily of former Pee-J members denouncing their tactics, which has included harassment and posting of personal information of targets. Perhaps of equal importance is the organization is listed in the Rick A. Ross Institute of New Jersey’s internet database for destructive cults and controversial groups and movements [29].

In the first five stings on the show (New York City, Washington DC, Southern California, Greenville Ohio, and Ft. Myers Florida), 129 men were arrested. It is interesting to note that out of those 129 men, only 5 had prior sex offense convictions [30]. That’s 3.8% for those interested in statistics; the other 96.2% were first time offenders. The show was popular enough to spawn a second season, despite its controversial approach, criticisms regarding the methods of all involved, and my personal favorite, reading the chat log as if for a sleazy 900 phone sex line.

The real controversy began when NBC planned a sting in the town of Murphy, Texas. Though Plano Police and the Collin County DA’s office voiced disapproval, Murphy Police decided to go through with the sting. The climax of the operation was the suicide of one suspect, an assistant district attorney from a nearby county, to which his sister attributed his death to “an out-of-control reality show.” The Dateline crew filmed the standoff and the aftermath. One of NBC’s former producers, Marsha Bartel, was fired for voicing concerns over the series; she responded with a lawsuit. In the lawsuit, she refers to the Perverted Justice chats as “trolling operations,” and the operators “beg individuals to come to the sting locations.” She goes on to say the NBC producers gave the police video equipment in exchange for dramatic arrest videos. [31]. There was also public outrage over not being warned of the operation. There was even talk of firing the City Manager and Police Chief for failing to give notice of the sting or to get

approval. Even the owner of the rental home used in the sting did not know his house was being used for that purpose. The police department defended the sting, while the perverted justice group stated that the Murphy residents were acting out of "pure and unadulterated ignorance" [32]. The sister of the former DA is now suing NBC for \$105 million for wrongful death [33].

Sadly, perverted justice has spawned a number of copycat cyber-terrorists, such as "Absolute Zero United (AZU)," with ties to Perverted Justice and their various projects, including "Wikisposure," a bastardization of Wikipedia, which labels individuals as sexual predators and posts personal information and slander, and "corporate sex offenders," a group of companies they claim don't do enough to dissuade "pedos" from using their services (though they use the same services they boycott). Like "Pee-J," members of this group have been accused of harassment and posting of personal information online. One target not only filed a civil suit against them [34], but was featured on 20/20's March 14, 2008 "Age of Consent" show, along with one of the members of AZU, Barbara Ochoa, a.k.a., "Petra Luna." On that show Luna admitted that she or one of her associates harassed this woman, made mock videos to post online, claimed she's an active pedophile, and posted her address online. Most damning to her cause, Luna states her target "deserves" to be harassed by her. As of this writing, a number of individuals (including myself) are in the process of filing a class action lawsuit against AZU for actions ranging to defamation of character to making personal threats.

"Get Smarter, Not Harder"

"Everybody wants to out-tough the next legislator. 'I'm tough on crime,' 'No, I'm even more tough.' It's all about ego and boastfulness." -- Patty Wetterling [35]

Patty Wetterling is "tired of tough" [36]. Tough has been fueled by myths, fear, politics, and ignorance. Patty Wetterling, however, does not stand alone in this call to reform. The National Center for Missing and Exploited Children was once criticized for perpetuating the stranger-danger myth and inflating missing child statistics [37]; now, the NCMEC warns people about teaching "stranger-danger" [38] and offers up the NISMART-2 statistics noting "stereotypical kidnappings" are rare [39]. Months after popular residency restrictions were enforced, the Iowa County Attorneys Association did an about-face and began opposing the very laws they helped pass [40]. In 2007, there were more articles critical of the laws than in any time since the first laws were passed. I believe the tide of public opinion is slowly turning. After ten years with no positive results and even a few bad results, people are starting to see at least some of the rhetoric that has been ingrained into our society for the past decade or so. Patty Wetterling offers up a solution that sums up my thoughts in a nutshell:

"We need better answers. We need to fund prevention programs that stop sexual violence before it happens. We need to look at what can help those released from prison to succeed so that they don't victimize again -- and that probably means housing and jobs and treatment and community support. Given that current laws are extremely popular, taking truly effective measures may exact a high political price. But that's surely not too much to pay to prevent the kidnap, rape or murder of another child." [41].

Solutions are not popular or politically correct, but we must not only discover what works and what does not work, but have the courage to implement them. Unfortunately, it will take

years to dispel many of the myths and the propaganda in order to find real solutions to the sex crime issue. The myths and propaganda have led to a series of increasingly restrictive laws with the good intention of saving children, but is failing at its intended purpose. In the next few chapters, I will examine the laws and explain why we must seek a major reform of the existing approach to addressing sex crimes.

Chapter 13: Scarlet Letters and Pink Triangles- The Shame Game

Registration laws were the first of “a novel, aggressively preventive approach to controlling the ‘sexual predator’ before he can strike again” [1]. Though the Jacob Wetterling Act had created the first sex offender registry for use by law enforcement in 1994, the Megan Kanka case compelled states to make these registries *public*. Soon, all 50 states had passed the law without few dissenting votes and with little or no research beforehand [2]. The battle against sex offenders began with registries. Megan’s law was built upon an “if only.” The Kanka family believed if they “knew” a twice convicted child sex offender lived next door, they could have taken the preventive measures. But the problem of giving away an inch of civil rights is people then take a mile of it away. “If only I knew a sex offender lived next door” became “if only they didn’t live in the neighborhood at all;” now the trend is becoming “if only sex offenders were emasculated or better yet, dead.” The trend quickly turned from mere public safety to inflicting public shame and inflicting harm upon undesirable human beings. Megan’s law began the downward trend of disassembling the civil rights movement by setting apart a particular group of undesirables, namely, sex offenders, and imposing special penalties without equal in society.

Registry laws are the first of a regressive trend towards public shaming. While it has been possible to acquire criminal information for years through NCIC checks, sex offender registries has made the information both easily accessible and public. The internet has placed this information at our fingertips, and community notification laws ensure the community is notified every time a former offender moves into the community. For the first time in generations, we have placed the “mark of Cain” upon individuals, and created a “suspect class” of individuals with reduced rights on the basis of a perceived risk to society [3].

Megan’s Law’s Flaws

“Megan’s law” has become a mainstay in our country since its passage in 1996, but the law was not without controversy. Patty Wetterling stated, “Back in 1990, when we first recommended registering convicted sex offenders, we were met with resistance: ‘You can’t do that. These people have rights!’” It would not long for Wetterling’s notion to be tested, as challenges came almost immediately after the passage of the law. In *State of Hawaii v. Eto Bani* (Nov. 21, 2001), the Court struck down the state’s registration law because it allowed authorities to notify the public about sex offenders without notifying the offenders or given the chance to argue they pose no threat [4]. The registry in Hawaii was not fully abolished, but offenders were given the chance to argue their dangerousness. In 2003, the state Attorney General began a campaign to reverse the State Supreme Court’s ruling and deny the right to a hearing at all [5]. In the birthplace of Megan’s law, New Jersey, saw more than its share of challenges, including another ruling against the law in the Federal District Court of Camden in 2001. Again, not a total victory, but in this ruling, the amount of information given in the registry was declared unconstitutional. Connecticut also shut down its registry on a court order [6]. Unfortunately, so far the US Supreme Court has taken the stance that these measures are regulatory/ civil, not punitive/ punishment [7]. Thus, the argument used to justify residency restrictions and other laws exclusive to sex offenders found its origins in Megan’s law as well.

Registry laws may be upheld for now, but registries have suffered from a number of problems. With about 667,000 registered sex offenders currently on registries, there are questions regarding the accuracy and validity of maintaining registries. Despite our best efforts,

the probability of inaccurate information, whether from clerical error or by offenders failing to register, is very probable. Individual states had been given great discretion in the amount of information to disseminate to the public; thus, the amount of information given has varied greatly. A University of Florida study rated the registries of all 50 states on a scale of 1 to 7 and found great differences between states- Nine states ranked a "2," while 4 states ranked a "6" [8]. The Adam Walsh Act, which was intended to set a national standard for registries, has actually led to more confusion a states clamor to adjust accordingly. Consider Tennessee for example, where law enforcement officials are retroactively seeking sex offenders as far back as 1960 and placing them on the registry. When they find a former offender, the police threaten them with a visit from the US Marshals if they fail to comply. But even those devoted full-time for the registry upkeep maintain it is far from perfect, and there are "some bugs to it" [9]. The cost of compliance enforcement is very high; California has spent \$24 million to reclassify registrants to comply with the Adam Walsh Act, which includes a national standard for state registry information [10].

While the possibility of the size and inaccuracies of registries is real, the number of "missing sex offenders" is the subject of controversy. The prevalent myth of "100,000" missing sex offenders stems from a 2003 report from "Parents for Megan's Law (PFML)," which in turn was inspired from an AP report of "33,000 missing sex offenders" in California. The PFML called all 50 states to inquire of the accuracy of their registries. The PFML counted 461,000 sex offenders altogether; only 32 states gave accuracy estimates, which in turn **estimated** the number of "missing sex offenders" to be 77,000 based on an **average** 24% unaccounted for [11]. There are quite a few problems with the results:

1. Nineteen states stated they were "unable to track" or "did not know" the actual number of registered sex offenders failing to register,
2. Many of those who gave estimates said they "never audited" their registries and "provided only rough estimates of their accuracy (In other words, the estimate or guess of the person answering the phone),
3. There is no indication on when the surveys were done, but they were done **before** 2003, and thus would not be a valid estimate in 2007 (sex offenders move, die, go off to war, etc), and,
4. The PML gave no indication how they came to their conclusion [12].

In addition to the registry survey, Parents For Megan's Law also released a "report card" [13] of each state's registries which "evaluated accessibility of sex offender information, the extent of information available and states' participation in civil committment (sic) laws." The PFML gave Florida an "A+" rating in both report cards. However, Florida had a number of issues with its "top ranked" registry; as of November 2005, Florida had 541 sex offenders who were unable to perform their annual registration duties because they suffered from a common human condition called "death." The report also notes that 807 had been deported, 7,173 moved out of state, and 8,260 are still incarcerated. Florida's policy on dead offenders is to keep them up for at least a year after death as a precaution [14]. As of April 2007, there are 41,993 registered sex offenders in Florida [15]. There is an 18 month span between the two reports, but for the sake of argument, I'd like to play with the stats for a moment. Without the groups listed above, that leaves 25,212 free sex offenders in Florida, but for the sake of argument, I'm using the grand total; after all, inmate sex offenders should be counted as compliant if Florida insists on counting them. Anyways, 24% of the grand total is 10,078. If you tally up the number of

dead, deported, and sex offenders who moved out of state, you get 8,521. Subtract the 8,521 explainable "missing sex offenders" from the 10,078 estimated sex offenders based on the FML average and we end up with 1,557, or 3.7%. If I take the actual number listed in the report-36,037 offenders, 24% is 8,649, subtract 8,521 from that, and you end up with 128, or 0.35%. Hardly the astronomical numbers claimed by PML either way. On the bright side, in the event the dead walk in Florida, you will know which zombie may be at higher risk of molesting you while eating your brains.

Compare PFML's claims with the situation in Iowa. The number of **transient** and **missing** sex offenders jumped from 140 to 400 in one year after the enforcement of that state's sex offender residency law in 2005. Note the number included "transient" or homeless sex offenders. In the NCMEC chart I quoted above, as of April 2007, 6,226 registered sex offenders resided in Iowa. By this number, we find 6.25% non-compliance in 2006, up from 2.2% before the enforcement of residency restrictions. Still nowhere near the number estimated by PML. James Carlson gives an interesting theory behind the way Florida handles the sex offender registry. "Besides portraying Florida as crawling with offenders, the overall figure can help determine how much money Florida gets to comply with registration laws... More sex offenders equal more money" [16]. Thus, the state has no real incentive to accurately number the amount of living sex offenders who are actually residing in Florida. According to the 2007 NCMEC chart, Florida has the third highest number of sex offenders in the nation; Only California (110,305) and Texas (48,877) has more sex offenders. But weed out the dead, deported, incarcerated, and sex offenders who moved out of state, Florida would be passed by Michigan (40,484) and in a statistical dead heat with New York (24,942) for 5th place. According to Carlson, the top prize is a \$10+ million payout for GPS tracking. But it wouldn't be the first time Florida botched up an important count in the twenty-first century.

Another great concern has come from vigilantism and misuse of the registry information. One legal site, e-Advocate, has a comprehensive list of murders, suicides, and acts of vigilantism available at his website [17]. There have been numerous reports of sex offenders harassed by politicians, neighbors, and police and prosecutors. This is done in spite of the fact that practically all of the registries warn that the use of registries to harass offenders or other illegal purpose is a criminal offense. Sex offenders are so reviled in the community, even the accusation that a person is a pedophile, untrue it may be, has led to "vigilante" or "organized stalking" against the accused. "Vicious lies are circulated throughout the community, and these lies don't stop. Such lies as the target is a prostitute, a drug user, a drug dealer, has a long criminal record, or the highly destructive favourite (applied to men and women,) the target is a pedophile... 'vigilante stalking' is sometimes used because of the false allegations that targets are active criminals." [18]. These crimes, as with any crime, are underreported. Speaking from personal experience, most law enforcement could care less about crimes against former offenders so many crimes are never reported.

A couple of recent high profile slayings made national headlines, shedding light on the dangers posed by the abuse of the registries. In Bellingham, Washington, a man posing as an FBI agent murdered two level three sex offenders sharing an apartment; he pick the victims off the Whatcom County sheriff's sex offender website [19]; he sought to plead guilty, but later recanted his story [20]. In 2006, another double-murder took place in Maine. Again, it was proven the murderer took the names off the state registry. In 2004, a man was convicted on two counts of attempted murder on two different sex offenders he pulled off the New Hampshire Registry [21]. The sex offender registry in Maine was temporarily shut down after the murders there [22].

These are just a few examples of murders linked to the registry.

Public registries have also made former offenders victims of identity theft. In 2005, a man was arrested in Arkansas for stealing over \$20,000 using credit card and tax schemes using information taken from the Indiana sex offender registry [23]. Currently there are no requirements to access this public information whatsoever, not even signing in. In fact, there is so much information on former offenders available to the public, an individual wouldn't even *need* a social security number to obtain enough information to open credit accounts in the name of Former Offenders!

Some states, thankfully, place limitations as to what you can do with criminal records information, and you can be charged with harassment if you misuse the information taken from public registries [24]. A website used to mock and harass a former offender was taken down in light of a federal lawsuit [25]. In Ohio, a woman who sodomized her husband with an object after accusing him of sexually abusing her child is now on the sex offender registry for life [26]. Many states do post disclaimers regarding the use of the registry information, but disclaimers have done little to deter the amount of vigilante violence. One recent study on community notification found that 13% of offenders have experienced physical harm while 24% have received verbal threats of harm; in all, nearly half reported some form of damage as a result of community notification. Only 10% of the public was even aware of vigilante violence [27]. The registries are doing more than “empowering the public,” they are seemingly giving people a “license to kill,” and the powers that be rarely step in to stop it.

“Although the law is popular with parents, there is no evidence that open access to sex offender registers actually enhances child safety. There is no evidence that Megan’s Law reduces re-offending. However, there is some evidence that it may have unintended negative consequences for children.” [28]. If registries don’t work, then why do we have them? In reading many blogs, forums, and commentaries, the answer has become clear; the intent is not as much protection from the public as it is the continuous ostracism of former offenders.

The ever expanding registries

Our “need to know” mentality regarding sex offenders is a by-product of the information age, and now our society has expanded this mentality in many ways. Other states are seeking registries for violent crimes, domestic violence, non-sexual child abuse, and so forth. In England, the Violent and Sex Offense Register (ViSOR) also includes those jailed over 1 year on violent offenses and even un-convicted people thought to be at risk of offending [29]. In Pennsylvania, a bill to start a domestic violence registry is dubbed “Robin’s Law” [30]. State Violent Offender registries are up in Montana [31], Indiana, and Oklahoma, with debates on violent offender registries in Connecticut and Pennsylvania [32]. Missouri has a child abuse registry, with limited availability; in 2006 the registry was deemed unconstitutional because those on the list were not given a due process hearing, and in the legal case, the child-care workers were not even accused of the abuse in question [33]. After “9/11,” we have taken the “no-fly list” for granted; only problem is, one of the people listed was only 8-years-old [34]. In Cincinnati, there has been a heated debate over the city council making a list of local violent offenders deemed likely to re-offend. There is actually some question of whether there actually is a list to begin with, and whether it would become public if it does exist [35]. Illinois went so far as to pass a law to place certain non-sex offenders on the list, such as murderers of minors (like “gang-bangers”) and those convicted of kidnapping or wrongful imprisonment. The legislators justified the move by

stating they believed a connection between perpetrators of these crimes and “pedophilic crimes.” The final sentences of the article note how sex offender registrations were upheld in courts because they are “not punishment” [36]. The evolution of sex offender laws gives us a glimpse into the future of criminal justice in general. The future is very scary indeed.

We are ever closer to an era where we face the possibility of placing individuals on the registry based upon **risk alone**, without a criminal case involved:

*“Do these decisions mean that a state would be justified in compelling registration and disclosure of individuals whose **health status alone** arguably created either current or future risk?” [37]*

Ohio has already made a step in the direction of forming what Eric S. Janus calls the “Preventive State.” In August 2006, Ohio passed a “civil registry” to prosecute cases that have long passed the statute of limitations for prosecution. Of course, this law was made in response to the Catholic Church priest abuse scandal. The law allows prosecutors, the attorney general, or alleged victims to seek to put a person on a civil registry. Since this is a civil proceeding, the burden of proof is much lower than a criminal trial; a judge merely has to determine that the abuse more likely happened than not happened. Thus, it is punishment without the protection of a criminal proceeding [38]. All it takes is the mere accusation of a crime and in the eyes of society, you are guilty. We are treading treacherous waters which lead us closer and closer to proactively incarcerating, castrating, or executing people because they share a characteristic linked by correlation with traits of a pedophile.

Risk alone has experienced limits even when relying on the heavily used “public safety” doctrine. In 2004, Maryland Comptroller William Donald Schaefer proposed an AIDS registry, noting how “risky behavior” is the typical origin of the disease; the proposal sparked outrage and harsh criticism [39]. It was met with harsh criticism, of course, but in light of our view on sex offenders, an AIDS registry meets the same basic argument regarding public safety. This issue does have its supporters and detractors as well. One person posted a question on the Yahoo! Answers page in 2006 asking the question. There were only three responses, but two people said no, while one said yes. The two who voted against it said stuff like “No one chooses their status and should not be published by public knowledge of it” and “there is a lot of stigma attached to HIV/AIDS patients...they could be targeted by crazies.” The proponent stated, “It would be wonderful to know who in the country has this dreaded disease for the good of the rest of the country. I do not see it as a violation of civil rights or human rights. Many HIV/AIDS survivors are infecting innocent people knowingly” [40]. Not surprisingly, Schaefer backed off and stated the registry would only be for individuals who intentionally spread the disease; after his speech, a protest was held in which the AIDS registry was compared to the Nazi laws and called for a boycott of Maryland tourism [41]. Not surprisingly, many of the arguments both for and against the AIDS registry mirror the same arguments used with other registries. For now, at least, there is a limit to the intrusion, but in light of recent history, the possibility of the erosion of the rights of all individuals remains a distinct possibility.

Scarlet Letters and Lime Green Car Tags

“[Ohio state senator Kevin] Coughlin said lawmakers are trying to stay ahead of sex offenders... ‘We understand sex offenders are entrepreneurial,’ Coughlin said. ‘They find ways around rules

and find ways around the laws, and that's why legislators all over the country are constantly introducing and passing bills dealing with this stuff'." [42].

Registries are insufficient for identifying sex offenders in a mobile society; thus, the trend toward placing some kind of identifying mark on sex offenders' bodies is becoming closer to reality. There have been a number of more intrusive identifying techniques suggested in recent months (special license plates, ID marks, and GPS), which has many people wondering when the step will involve actual marks on the bodies of former offenders.

One of the more controversial measures involves placing special license plates for sex offenders. Three states are pushing for these special florescent green license plates: Wisconsin, Ohio, and Alabama. Like the other sex offender laws, the concept for this law came about because of a high-profile rape-murder; thus, in Ohio, it is dubbed "Kristen's law." The proponents repeat the same line also used to justify registries- "We would have known that perpetrator lived in our neighborhood." A Wisconsin state Rep makes the statement "For far too long child sex predators have been watching our children. It's time we have an opportunity to watch them back" [43]. Or how about this statement; "He's in the neighborhood. I don't know if he's actually living in that neighborhood, or if he's just passing by. But just knowing that car is registered to a sex offender is relief to me." [44].

At least in this instance, the amount of criticism is growing in number. There are a great many concerns with this law, to say the least:

"I'm not quite sure what a law abiding Ohioan is supposed to do when he sees a green license plate. After all, the sex offender driving the car has already done prison time, has gone through counseling, has been judged OK to live in society, is not allowed to live close to schools, playgrounds, etc. Do you ignore the license plate? (In which case, what's the point of it?) Do you give the driver the finger? Ram his car? Give a polite nod? Or What?" [45]

"An Earlier bill called for pink plates for sex offenders but went down to defeat after critics painted the legislation as too vindictive...Critics have raised concerns about probable cause, due process, privacy and unequal treatment...legislation a matter of 'political grandstanding.' ...the plates could lull kids into a false sense of security by allowing them to [think] that anyone without a green plate is not dangerous... Critics also warn that the fluorescent-green plates will incite vigilante violence, not only against sex offenders who've served their time but also against offenders' family members who are driving around in vehicles with the special plates... the state shouldn't continue to penalize people after they've paid for their crimes... others warn that the green plate solution totally misses the mark when it comes to targeting child molesters... For some, the whole thing seems too much like Hitler's mandatory pink triangles and the yellow star of David." [46]

"Another concern is the sex offender facing more public humiliation, especially if they've been rehabilitated." [47]

"In Wisconsin, state Rep. Mark Pocan, a Democrat, said the plates could simply encourage sex offenders not to drive. Or, the plates could spur vigilantism, he said. 'The

problem is we come up with a lot of knee-jerk reactions that don't do anything about public safety'." [48]

Two states taken the special marks one step further by passing legislation requiring special marks on state-issued IDs- Alabama and Louisiana. In Alabama, the words "Sex Offender" are typed in scarlet red letters across the top of the ID card.

"The mark will be visible to anyone who checks a person's identification- from police officers to grocery store cashiers to clerks at video stores... 'So now, when we've got a missing child in the neighborhood and the officers are checking a certain area, doing roadblocks and making sure they check all the vehicles in that area, we can look at (the sex offender) and check them a little bit closer,' Tuscaloosa Police Chief Ken Swindle said.... Law enforcement officials, who supported the law's passage, say the mark is a way to ensure that sex offenders are scrutinized. Defense attorneys, though, see it as a way of painting all sex offenders as deviants." [49].

GPS: Bagging and Tagging Human Cattle

The latest craze in sex offender surveillance is GPS Tracking, with a wave of popularity unlike any other proposal available since the registries began. As with all the other laws, this proposal is touted as a solution to deficiencies in post-release monitoring of sex offenders. See, for example, one company's claims in regards to GPS, iSECUREtrac [50]. The company website boasts GPS devices accurate to within 15 feet, customizable zoning and scheduling to ensure offenders are where they are supposed to be, and claim to have "the greatest impact on reducing re-offense." By June 2006, twenty states had proposed or passed GPS tracking bills-- California, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Maine, Michigan, Mississippi, Missouri, Montana, New Jersey, Ohio, Oklahoma, South Carolina, Tennessee, Virginia, and Wisconsin [51]. Many of the proposals require monitoring for life.

Of course, GPS is not without its limitations and critics. Many of the problems arise from the technology itself. Among the common technological problems: "Geometric Dilution Of Precision" (GDOP), meaning if the angle of the receiver to the satellite is too small, the satellite may give a false reading; satellite visibility- buildings, metal, and other terrain obscures the signal; speed limits- if it is going above a certain speed, it will not work; and temperature limits- will not work in extremes of temperature [52]. Washington state did a test run with "passive" devices (passive devices merely record where the person has been and must be uploaded to read, whereas active devices send out constant signals), and found 4000 "notices of violation," the vast majority of which were false alarms due to technical difficulties [53]. One senator who voted against the Wisconsin bill stated it would create a "big brother bureaucracy" and was unnecessary [54]. GPS doesn't monitor the offender's actions, just location, and can easily be removed [55]. Most importantly, most states are imposing the devices on all offenders, even low-risk offenders. It raises questions on the limits states can invade in the private lives of freed citizens. The batteries could fail to be recharged or defective. There is also a question of whether the devices violate the fourth amendment ban on unreasonable searches and seizures [56].

Of course there is a cost issue as well, as it costs around \$10 per day to keep the devices running [57]. Considering the difficulties of the average sex offender to obtain and maintain employment, chances are the costs will be passed on to the taxpayers. The few states that have

implemented GPS have limited tracking to "high-risk" offenders; however, the Adam Walsh Act places larger number of sex offenders into the high risk category. In Oklahoma, the AWA placed 78% of its 5,462 registered sex offenders into Tier III [58], 78% of 5,462 would be 4,261, and if all Tier III offenders were fitted with GPS devices, then Oklahoma would have to pay \$15,552,650 annually for those offenders based on the \$10 per day (\$3,650 per year) figure. Of course, you have to take into account false alarms from losing the signal; with gas reaching \$4 per gallon, check-up expenses could easily exceed that amount.

Global Positioning has severe limitations in technology and questionable results, but technological advances will eventually implant readable microchips in people. CityWatcher.com, a Cincinnati surveillance company, had become the first known company to implant microchips in

some of their employees. The move sparked immediate outrage; within days, civil libertarians and conservative Christians denounced the act. Some critics referred to the biblical "mark of the beast," citing concerns the government may tell us to "take a chip or starve;" others felt akin to the "Big Brother" society on Orwell's classic novel "1984." The primary concern with many critics is that chip implanting would progress from Alzheimer's patients and soldiers, convicts, sex offenders and so forth, until every citizen will be implanted with the microchips. Marc Rotenberg, executive director of the Electronic Privacy Information Center, calls the chips "a form of electronic leases, a form of digital control." [59]. One Ohio state senator is already proposing a system utilizing microchip technology, called "Offendar," short for "offender radar." Offendar would alert customers when a sex offender wearing a GPS or microchip is within a certain distance. The company promoting the new technology stated, "The public wants more than after-the-fact tracking of sex offenders. Many people want to know when a threat is in the vicinity so they can take steps to protect themselves and their children before something happens" [60]. It is unlikely even Christian Fundamentalists who are afraid of the "Mark of the Beast" will speak out against these laws.

As the small number of high profile sex crimes continued to strike fear in the hearts of the public, greater burdens were placed on the lives of former offenders than a mark of infamy. Tracking former offenders is not going to be enough. Society has called for greater intrusions in order to fear safer and punish offenders.

Chapter 14 - Banishment by Attrition: Residency Restrictions for Sex Offenders

"In U.S. legal history, the most egregious and prominent form of preventive legislation has been racially discriminatory laws. These laws created an alternate system of degraded justice in which the outsider group's rights were reduced in order to prevent some (imagined) future harm to the larger society" -- Eric S. Janus [1]

Residency restrictions placed upon suspect classes of individuals are nothing new. There is always a group in our history that has been relegated to a reduced rights class of people. Unlike members of a race, however, all sex offenders have violated the rights of another in one form or fashion [2]. We punish offenders in the justice system, but as Janus explains, various sex offender laws represent a move in the opposite direction from those hard earned rights of the civil rights movement. Residency or proximity laws are arguably the most severe of all the degraded rights. In our current it is hard to imagine what it would be like for someone to tell you where you can live, where you can work, who you can date, where you can go worship your God, go shopping, or eat, where you can go to "hang out," and having to give every bit of personal information, like your vital statistics, address, and even what kind of car you drive, to the police, who monitor your every move. While this would typically bring up images of the Nazi "Gestapo" or old segregation practices, this is the typical life as a sex offender.

Residency laws simply state that a registered sex offender cannot live within so many feet of a particular place, such as a school, daycare center, park, bus stop, or "any place where children congregate" (as written in California's and Georgia's laws). Much like the segregation laws, sex offender residency restrictions are based on the notion of preventing "some (imagined) future harm to the larger society." The first formal sex offender residency restriction laws began taking effect in Oklahoma in 2003, though many states quickly followed suit or passed them around that time [3]; Iowa actually had a test case for residency restrictions in October 2002 [4]; and Florida had some form of residence restriction as far back as 1997 [5]. As of 2006, 22 states had some form of residency restriction: Alabama, Arkansas, California, Georgia, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Michigan, Missouri, New Mexico, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Washington, and West Virginia [6]. Residency restrictions are popular, with many states or municipalities clamoring to pass restrictions out of fear of migrating sex offenders. However, the million dollar question remains: Do residency restriction laws work?

"They Don't Work"

"They don't work. They don't work, and they actually make things more dangerous rather than make them safer."-- Kansas Corrections Secretary Roger Warhol [7]

The justification for passing residency laws is based on the logic that by dictating where a sex offender sleeps at night we can somehow prevent that offender from committing sex crimes during the day. Frankly, it is the dumbest explanation I have ever heard. While these laws were based on a notion that sounds good at first glance, a major problem is that the laws *don't work as directed*. I put it quite nicely to the Cincinnati Enquirer on December 6, 2006:

"With this law, I can't sleep 1,000 feet across from a school, but if I wanted to- and I

don't want to- I could stand across from a school all day long. How does that help anybody?” [8]

There are a few major studies available to validate my claim. Minnesota has made two research studies. In the first study, case studies of sex offender recidivism failed to find any correlation between proximity to schools and recidivism [9] - “Enhanced safety due to proximity restrictions may be a comfort factor for the general public, but it does not have any basis in fact.” [10]. The second study studied a larger group of sex offenders who met criteria that included a previous offense to the offender’s residence and had a minor victim. Again they found, “Not one of the 224 sex offenses would likely have been deterred by a residency restriction law.” They found recidivism was an issue an issue or “social or relationship” proximity rather than residential proximity, not to mention 49% committed their crimes more than a mile away from their home. They saw the deterrent effect as “slim” because of the rarity of the offenses it was trying to protect and, in Minnesota, “virtually non-existent over the last 16 years.” Furthermore, they found housing restrictions detrimental because they “exacerbate sex offenders’ reintegration into society” [11]. In a 2003 Colorado study [12], the researchers failed to find any correlation between proximity to schools and recidivism; in addition to noting the laws place severe restrictions on sex offenders especially in urban areas and the potential constitutional challenges, the board recommended, “placing restrictions on the location of correctionally [sic] supervised sex offender residences may not deter the sex offender from re-offending and should not be considered as a method to control sexual offending recidivism” [13]. The researchers had contacted states with residency laws, and of the four states that responded (Alabama, Illinois, Florida, and Oregon), none of the states passed their laws based on any scientific research regarding proximity and recidivism [14].

While there are practically no benefits to residency laws (aside from a false sense of security), there are numerous consequences. For example, critical factors in sex offender recidivism includes hardships related to housing and employment, social stigma, a sense of vulnerability, and relationship problems [15]. A Florida Sex Offender survey conducted by Jill Levenson [16] found a significant number of former offenders have experienced these critical stress factors directly caused by residency restriction laws:

<i>I have had to move out of a home that I owned because of the 1,000-ft rule.</i>	22%
<i>I have had to move out of an apartment that I rented because of the 1,000-ft rule</i>	28%
<i>When released from prison, I was unable to return to my home.</i>	25%
<i>I have been unable to live with supportive family members because of the 1,000-ft rule.</i>	44%
<i>I find it difficult to find affordable housing because of the 1,000-ft rule.</i>	57%
<i>I have suffered financially because of the 1,000-ft rule.</i>	48%
<i>I have suffered emotionally because of the 1,000-ft rule.</i>	60%

The chances of finding suitable housing after a forced move is extremely difficult; my own study had found only 3 of 131 residences (1.5%) were available for rental in a location with merely a thousand feet restriction from schools [17].

Residency laws are controversial and doubts about its efficacy are growing, yet the laws remain popular, and in some states, there are movements to increase the residency restrictions to the limits, effectively making entire cities, towns, and even entire states off limits. That is why I refer to residency laws as "banishment by attrition;" even when the laws do not call for total exile, the primary purpose is to completely dissuade former offenders from taking up residence in the few areas that remain for them to live. Below are a few of the major battles in the residency restriction fight.

Iowa- The Heartland of the Storm

In 2002, the State of Iowa passed one of the most restrictive sex offender residency restriction laws in the country, a 2,000 foot restriction from schools and daycare centers, but did not strongly enforce it until 2005, after the Jetseta Gage rape-murder case (which coincided with the 8th US Circuit Court decision overturning an earlier defeat of the law in *Doe v. Miller*). The consequences were severe. The law had a ripple effect as each town tried to outdo the others in passing the most restrictive laws, and the next town (or even state) over passed restrictions to keep sex offenders from moving there. The number of transient and missing sex offenders jumped from 140 to 400 in one year, Others have settled or clustered into shady motels, RVs, tents, under bridges, and so forth [18].

For the first time in almost a decade, criticism of the law was aired publicly by multiple sources. One local news station shared Iowa crime data showing, among other things, that the number of people convicted of sex crimes against children remained a constant number despite enforcement of the law, and that offenses committed by strangers against children were less than 1% in that state [19]. Paul Stageberg, director of Iowa's Office of Criminal Juvenile Justice Planning, called the laws "overkill." He also noted that sex crimes against minors actually increased from 433 between September 2004 and August 2005 to 445 between September 2005 and August 2006. During that last year, only one sex offense committed against a child was committed by a stranger [20]. A doctor on behalf of the Sexual Abuse Treatment Program (SATP) professes "I know of no professional who supported the law..." [21]. There was an interesting discovery as well: sex offenders as nomads. About 700 sex offenders moved out of the state or even the country. Unlike other states, even ones with residency restrictions, the vast majority of those Iowa sex offenders moved specifically because of the law. There was also an increase of arrests of sex offenders for giving false addresses [22]. It is interesting to note in the above article that legislatures in two neighboring states, Nebraska and Kansas, actually prohibited their cities from passing ordinances as restrictive as Iowa's. Numerous opponents of the law, Iowa County Attorneys Association (I.e., county prosecutors), the Iowa State Sheriffs and Deputies Association, and prevention organizations (such as the Iowa Coalition Against Sexual Assault), among others, called for a change to the residency restriction law in favor of a less restrictive anti-loitering law.

The Senate Republican majority leader, Mary Lundby, however, stated she would resist changes, and even go against the overwhelming call of reform by increasing restrictions and expanding electronic monitoring, before accusing law enforcement of being too "lazy" to do their jobs [23]. In spite of the overwhelming call to repeal the law, the state legislature avoided making any decisions. As Story County Sheriff Paul Fitzgerald said, "they're just afraid to take action, and the people of Iowa should be ashamed. It's absolutely politics at its worst." Legislature teased the public with the idea of replacing residency restrictions with "safe zones,"

but no serious discussion was made. Lundby stands by her convictions, basing them on mere popularity of the laws alone. [24]. The next session proved no different, sparking yet again more outrage but falling on deaf ears. The same media outlet had warned of the effects of clustering or "colonizing" sex offenders, or even increasing numbers of those failing to register, but politicians fear debating it because it is a "political-capital killer." [25]. While the legislature tossed the issue around like a hot potato, they threw out a GPS monitoring schematic in hopes of distracting the public. But given Iowa's largely rural area and the limitations of GPS technology, critics state that there are downsides to GPS as well, such as false alerts as well as no improvement to public safety. [26].

Florida- A Bridge Too Far

After Miami passed a local ordinance barring sex offenders from living within 2500 feet from schools, a judge ordered five registered sex offenders to sleep under the Julia Tuttle Causeway, garnering national attention [27]. When the sex offenders first moved in, they had to sleep on wooden pallets to keep from being eaten by rats while they slept [28]. The city even went so far as to try to stop a small band of activists from a peaceful protest against the harsh treatment against the former offenders; despite this, the activists were able to obtain some temporary assistance for the offenders living under the bridge. [29]. Despite the public attention and the promise of change, nothing changed, and as the media attention faded, the number of offenders sent to the bridge grew slowly. In time, they turned it into a colony, buying a generator, cooking utensils, and tents and coolers for makeshift showers [30]. After keeping them under the bridge for a year, the Florida Department of Corrections gave the former offenders an ultimatum- move out or go to prison. At first, the DOC gave them 72 hours, but then retracted, stating no definite deadline [31]. In an effort to prevent local ordinances from banishing former offenders, the Florida Senate passed a bill creating statewide uniform 1500 foot residency laws with 300 foot anti-loitering laws. However, the bill died in the House, noting it unwise to repeal a popular law during an election year [32]. For this year, at least, it appears no hope is in sight for the offenders living under the bridge.

Georgia On My Mind

Georgia State House Majority Leader Jerry Keen, while signing Georgia's residency law, stated, "My intent personally is to make it so onerous on those that are convicted of these offenses ... they will want to move to another state." [33]. Georgia's law added school bus stops and churches to the list, which effectively made all but a handful of hotels and shelters off-limits to sex offenders. The Southern Center for Human Rights and the American Civil Liberties Union had to file an injunction in order to prevent nine elderly and severely disabled offenders who lived within 1,000 feet of a church from being evicted [34]. Another sex offender is facing a life sentence for failure to register an address; since the man is homeless, he has no address to register. The article also notes, "At least 15 sex offenders have been arrested because of homelessness since the law took effect in July 2006." while the sheriff's office maintains that homelessness is not an acceptable excuse, a lawsuit filed by the Southern Center for Human Rights and the American Civil Liberties Union argues the law is cruel and unusual because the law "leaves offenders with virtually nowhere to live" [35]. In November 2007, the Georgia Supreme Court struck down the residency restrictions as overbroad [36]. Unfortunately, not only

did the ruling apply just to homeowners, the Georgia legislature passed a slightly revised state residency law (SB 1), placing the offenders back under 1000 foot restrictions from schools, churches, child care facilities and other places children congregate [37].

Cincy-Nasty

After Cincinnati increased their residency restrictions in January 2007, adding daycares, the Cincinnati Enquirer reported that the number of "multi-family housing units" (I.e., apartments) off limits increased from 38,674 (44%) to 54,447 (60%) [38]. One homeless sex offender was barred from staying in a homeless shelter (The "Drop Inn Center") that was located within 1000 feet of a school. Again we see a common problem with residency laws: social services are off limits in metropolitan areas. In this particular case, the lawsuit was filed because the sex offender was "struggling just to survive in the cold." In response, Hamilton County prosecutor Joe Deters, replies, "I know its cold outside, but we have to enforce the law. There is no constitutional right to warmth." [39]. A temporary injunction allowing the sex offender to stay at the shelter was later granted. But it disgusts me to see that even the most basic of human rights, the right to shelter from the elements, is being denied because someone is perceived as a threat.

Habitat for Inhumanity- The ill-legality of residency restrictions

Residency laws are useless and ineffective, but are extremely popular, so the only recourse seems to be taking the battle to the courts. In order to argue against the efficacy of the residency laws, we must debate the all-important question-- are residency laws *punitive* (I.e., a punishment, thus a criminal matter) or *regulatory* (I.e., a public safety or civil matter)? This argument has been the primary justification for sex offender laws in general; remember in the Doe v. Miller case, the US Supreme Court upheld registries because it was "regulatory." However, residency restrictions pose an even greater hardship on sex offenders than registries, because it affects a basic human need- our need for shelter.

Though the residency restrictions are regarded as civil sanctions, even a civil penalty is considered a punishment if the sanction cannot be fairly said to serve a remedial purpose, but instead as a *deterrent* or retribution, [40], or when it is overwhelmingly disproportionate to the damages caused to the government [41]. The mere claim that certain sanctions served purposes of deterrence and public scrutiny does not justify sanctions which do not serve a legitimate governmental purpose or worse yet, cause harm to the targets of the sanctions [42]. Even when punishment is neither the actual or objective purpose of the law, civil sanctions may constitute punishment if the effects or "sting" are harsh enough to be considered a punishment, and must be evaluated in light of importance of any legitimate governmental interest served [43]. Even if some remedial purpose can fully explain a legislative measure, if a historical analysis shows that a sanction has been traditionally regarded as a punishment, and if text or history does not demonstrate that the measure is not punitive, it *must* be considered a punishment [44].

I believe that the residency restriction law is an act of banishment by attrition, comparable in American jurisprudence only by deportation of illegal aliens. In *Trop v. Dulles* [45], an order of banishment (or "divestiture") was executed against a native born citizen who did not voluntarily relinquish or abandon his citizenship or become involved in any way with any foreign nation. The court ruled that the "divestiture of a natural born citizen was held to be

unconstitutionally forbidden as a penalty 'more cruel and more primitive, inasmuch as it entailed statelessness' or 'the total destruction of the individual's status in organized society' [46]. One of the consequences of passing such laws is the effectively exiling sex offenders as far from civilization as possible by limiting available housing to the point where finding housing is virtually impossible, what I refer to as "banishment by attrition." In *Rutherford v. Blankenship* [47] the Court stated, "To permit one state to dump its convict[ed] criminals into another is not in the interests of safety and welfare; therefore, the punishment by banishment to another state is prohibited by public policy" [48]. In other words, just because somebody calls these laws "civil" and "regulatory" does not make them so.

The reason this argument is so critical is because in civil law, there are *NO* constitutional safeguards against such actions as cruel and unusual punishment, freedom to peacefully reside within a state, due process, or other rights every American citizen is supposed to enjoy. In a criminal matter, constitutional safeguards apply. Lawmakers know this base concept of law, and have used this to circumvent the constitution in order to pass these laws. Even when a criminal penalty is attached to violation of the residency laws, the argument has been the laws are as regulatory as the laws regarding regulation of nuclear waste [49]. However, in light of the case law mentioned above, not to mention the premise of the entire chapter, it would be hard to say residency restrictions do not serve a punitive purpose.

Even though our government makes the claim that regulating the living arrangements of sex offenders meets some standard of "legitimate governmental interest," there is no evidence that these regulations do exactly what the government claims they will do. All the research I quoted points to the otherwise. Besides, residency restrictions punish sex offenders on the presumption that all sex offenders will more likely re-offend if residing within close proximity of a school, but presumption of criminal activity cannot be used to justify punishment without an actual crime committed. The mere knowledge of a person's past behavior does not justify a belief the person will automatically re-offend [50]. While the state may claim a compelling interest in deterring convicted sex offenders from re-offending, there are certain fundamental rights that are being infringed upon, and thus "more than a compelling interest is needed to survive constitutional scrutiny. *The statute must be narrowly tailored to meet the compelling interest*" [51]. In *State v. Burnett* [52], a similar law barring convicted drug offenders from entering Cincinnati's "Over-The-Rhine" district failed constitutional analysis because *it went beyond restricting those interests associated with illegal drug activity and restricted a substantial amount of innocent conduct, like living in an apartment, or visiting human services*. The essence of *Burnett* is that the law restricted and/or punished behavior *not even linked* to criminal activity (merely the act of being in the restricted area was enough to get you arrested). Also, the restriction restricted drug offenders from obtaining the assistance or support networks necessary for rehabilitation which was otherwise severely diminished by the restrictions. The principles are the same in the *Burnett* case and current sex offender residency restrictions, namely, to restrict activities for the purpose of alleged decreasing access to children. The decision to repeal the drug exclusion law was later upheld in *Johnson et al. v. City of Cincinnati* [53].

In short, the state is supposed to regulate only the behavior directly related to criminal sexual behavior. Iowa's proposed "safe zones" would seem more in tune with this principle. A sex offender loitering around a school without a legitimate cause for being there would seem more suspicious than a sex offender who lives 999.9 feet from a school but works in a factory during school hours.

On the flip side, there are a number of 'legitimate governmental interests' largely neglected by our government. The Courts have firmly established that "rehabilitation of criminals is of paramount interest" [54]. In the *Abbott* case, it was determined that registration of ex-felons is both in conflict with public policy and at variance with "moral and ethical concepts of decency and human dignity." Without a doubt, sex offender residency laws are so restrictive as to undermine the goals of rehabilitation by denying housing opportunities, forcing sex offenders to just take what's available, or undermine public safety by giving sex offenders ample incentive to fail to register. The right to reside and settle is such a fundamental constitutional right, the founding fathers of this country assumed it to be an unquestionable right. The need for human shelter is as basic as our need for food and air. Thus, like the right to eat and breathe, the right of residence in and of itself is rarely spoken of directly. The Universal Declaration of Human Rights, Article 13, declares, "Everyone has the right of freedom of movement *and residence* within the borders of each state." In *United States v. Wheeler* [55], it was duly noted that from the time of the Articles of Confederation, the right to peaceably reside within a state and be immune from unlawful deportation to another state. The Court noted as follows:

*"That the Constitution plainly intended to preserve and enforce the limitation as to discrimination imposed upon the states by Article 4 of the Confederation, and thus necessarily assumed the continued possession by the states of the reserved power to deal with free residence, ingress and egress, **cannot be denied** for the following reasons:*

- 1. Because the text of article 4, 2 of the Constitution, makes manifest that it was drawn with reference to the corresponding clause of the Articles of Confederation and was intended to perpetuate its limitations, and*
- 2. **Because that view has been so conclusively settled as to leave no room for controversy.**"*

Citing *Ward v. Maryland* [56] the Court states the clause "plainly and unmistakably secures and protects the right of a citizen of one state to pass into any other state of the Union... to acquire personal property; to take and hold real estate..." In *US v. Guest* [57], the Court again addresses certain rights as basic and fundamental; "The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created" [58]. In *Godfrey/ Bothelho v. John Doe et al.*, [59], the Court has ruled that under the Constitution individuals have the right to travel *and reside wherever they desire*, unless under court supervision.

Sex offender laws represent a reversal of the direction of the courts toward individual human rights [60]. The latter half of the 20th century was the era of civil rights. The 1960s abolished racial discrimination, the 1970s with gender, and the 1990s with disabilities and homosexuality. The Courts had also struck down punishment based on a degraded status alone, like a drug addict [61]. The courts also established in order to prove conspiracy, there must be some concrete action related to specific acts [62]. Based upon the legal argument I just presented, the state should not be able to assume all sex offenders are likely to re-offend and pass laws based upon this assumption, but as Janus puts it, "Predator laws, in short, ascribe group risk to the individual [63]." Residency restrictions or proximity laws, as a sanction, form a "collective punishment." Wikipedia defines collective punishment as "the punishment of a group of people for the crime of a few or even of one. *It is contradictory to the modern concept of due process*, where each person receives separate treatment based on their individual circumstances- as they

relate to the crime in question." Collective punishment is contradictory to Due Process. The 1949 Geneva Conventions, 4th Convention Article 33 states, "*No protected person may be punished for an offense he or she has not personally committed*,"..."collective penalties and likewise all measures of intimidation or of terrorism are prohibited." The United States Supreme Court also stated, "If the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare... desire to harm a politically unpopular group cannot constitute a *legitimate* governmental interest..." [64]. Sex offender laws, especially residency restrictions, perpetuate the myth of high recidivism and perceived dangerousness among sex offenders.

In the lower courts, at least, there have been rulings in opposition to these laws. In some states where residency laws have been passed, there have been a number of successful challenges. In Massachusetts, a Chelsea District Court magistrate dismissed the case against a Level 3 sex offender, and the state later chose not to pursue the case any further [65]. In Oklahoma, the ACLU settled a suit involving a sex offender who was being forced out of a residence after the house had already been pre-approved by the sheriff's office [66]. In *State v. Benjamin David Groves* [67], a married sex offender with five children was arrested for violating the state's sex offender residency laws. Polk county judge Carol Egly dismissed the case stating, "The Residency restrictions are a severe restriction of the defendant's liberty rights... [The] Court concludes the defendant's rights to substantive due process have been violated." This is the second time an Iowa court struck down the law, the first being the 2002 *Doe v. Miller* case [68]; but the US 8th Circuit Court of Appeals eventually overturned the lower court's ruling that the law was unconstitutional. New Jersey is worth watching because the law has been struck down multiple times [69]. More recently, a US District Court in Northern Ohio also struck down the law, at least as it applied to offenders who committed their crimes before the law was enacted [70]. As the opposition mounts, it would be reasonable to expect a US Supreme Court to be inevitable.

There are two other laws which also seek to limit the places sex offenders can stay, even in temporary circumstances. Below are some laws which are similar in many ways to residency restrictions.

Anti-Clustering Laws

If a sex offender residency restriction makes 96% of a particular metropolitan area off-limits to sex offenders, the logical answer is the offenders will either skip town or will occupy that remaining 4% of the city. In Long Beach, California, one apartment complex housed 15 sex offenders, which compelled the city to pass a local ordinance limiting the number of sex offenders allowed per apartment building to one [71]. Long beach is one of the few cities in the entire country with such an ordinance, and for good reason; litigation over the new law is highly possible, and it will encourage offenders to register as transient [72]. Across the country, in Tampa Bay, Florida, the county commission is seeking to allow clusters in appropriate areas, away from children but allowing access to public transportation [73].

Tricks, not Treats

Despite far fewer reports of children sexually abused during trick-or-treating than reports of razor blades in apples, but that hasn't stopped cities across the country from enacting laws to

bar offenders from giving out candy or even celebrating Halloween. In Anderson, South Carolina and Roanoke, Virginia, sex offenders under supervision are temporarily locked up in the local probation office. In other locations, sex offenders are told to shut off the lights to their houses, not to decorate or give out candy, and even post signs that say, "no candy" [74]. There have not been any documented cases of any child being molested by a convicted sex offender during Halloween [75].

Rock You Like a Hurricane

In 2005, Florida banned supervised sex offenders from taking refuge in hurricane shelters, sending them to prisons to wait out the storm. Offenders were forced to wear special badges and were subject to be searched at any time [76]. In Louisiana, the offenders are segregated from the public while in shelters, and are not allowed to live in FEMA trailers [77]. No known reports of sex offenses occurring in hurricane shelters have ever taken place, yet predator panic has set in even during times of dire need, like a natural disaster. With former offenders segregated from the populace and denied government assistance after a natural disaster, it leaves little wonder why so many Louisiana sex offenders chose to disappear after hurricane Katrina [78].

It is hard to find a way to justify the treatment of sex offenders in light of the vast majority of research. John Q. La Fond reminds us to be realistic about the risk: "...it appears that most sex offenders are not dangerous and will not re-offend. Society's fear that all sex offenders pose an ongoing threat of committing more serious sex crimes is incorrect, and more important, self-defeating... moreover, in painting with such a broad brush, we may be creating a public hysteria that is unnecessary and even counterproductive." [79]. Later, in citing a Washington state study on notification laws, it was found that the notification law "does not prevent crime but aids in the investigation of a crime." This translates into quicker arrests, either by higher scrutiny of activities, *or by disrupting housing, employment, and support networks of the sex offender, thus causing stress and increasing likelihood of recidivism* [80]. The laws have had many adverse consequences, such as vigilantism, loss of employment, residence, and relationships, difficulty in obtaining suitable housing, and incentives to violate existing registration laws [81]. Needless to say, the APA recommends sex offender laws need a dramatic overhaul [82]. Locally, the Ohio Justice and Policy Center filed an Amicus Curiae brief with the Ohio Supreme Court to strike down the residency restrictions in that state [83]. Note the following signed the brief: The Jacob Wetterling Foundation, the Association for the Treatment of Sexual Abusers (ATSA), the Iowa County Attorneys Association, the Iowa Sheriffs and Deputies Association, the Iowa Coalition Against Sexual Assault, and the Rosenthal Institute for justice at the University Of Cincinnati College Of Law. Again, this is not a matter of being "soft" on crime, but a matter of safety for both the former offender and society as a whole, and our current scare tactics aren't working.

Chapter 15- Pulp Classi-Fiction (The "Sexually Violent Predator")

"... [Sexual predator laws]-- although well-intentioned-- are ill-conceived, bad policy. They are sold as innovative approaches to finding and incapacitating the worst of the worst, but there is little evidence they have succeeded in that important task. It is not simply that these new laws have not been able to solve the problem of sexual violence. It is that our way of thinking about sexual violence is increasingly distorted. The distortion had led us to the predator laws, and that the predator laws strengthen the distortion." -- Eric S. Janus [1]

Sex offender laws were created with the "worst of the worst" in mind, those individuals who pose a "clear and present danger" to society. However, as predator panic has gripped this country, we have chosen to "err on the side of caution," arbitrarily labeling more and more people in the "high risk" category. In fact, we have become to use the words "violent," "habitual," "predator," and "pedophile" in speaking of all sex offenders, not just the ones deemed "high-risk." This generalization has extended even into the legal field; for example, the age of the victim alone determines whether or not a sex offender is considered "violent," a "predator," or both. In the case of the word habitual, the legal usage can be applied to a one-time offender if the victim claims multiple offenses. The most misused word is pedophile. The psychiatric definition denotes strong sexual arousal and urges for pre-pubescent children; the legal usage is applied to all offenders with a minor victim, which is misleading since not all "child molesters" are "pedophiles" [2]. The use or misuse of the label has become a hot topic in recent years. Ken Lanning, a top FBI profiler, disagrees with the use of the "predator" label because it reinforces the belief those who commit sex crimes are dirty old men and not regular individuals [3]. Recently Colorado also expressed concern over the use of the "predator" label [4], which will surely be more controversial as states debate whether or not to implement the Adam Walsh Act.

There is a lot at stake with the issue of labeling offenders; at the least, the label determines how long he will have to register, but at the worst, it may determine whether he will be civilly committed, castrated, or possibly be executed. Even worse, this label is usually determined on a whim rather than static methods. For example, I had scored a two on one of the various tests, the STATIC-99, which ranked me at moderate-low to re-offend. However, the judge had rejected the test in favor of more circumstantial (not to mention negative) evidence. Had the STATIC-99 score had been a six or above (the "high-risk" categories), it would be safe to say the judge would have relied on this test as "proof" I was worthy of the predator label. Many judges choose to err on the side of caution, and little can be done to change the minds of individuals whose mind has been made up. These whims, often relying on unproven scientific methods, can lead to disastrous and costly consequences.

Risk assessments are never an exact science, though the variety of tests and procedures available are numerous. Various tests include actuarial tests like the STATIC-99, personality tests, polygraphs, and plethysmographs, sometimes taken independently, sometimes used in conjunction with each other. There has been much debate in the use of these tests, but the courts have relied on them to assess sex offenders for years.

Risk Assessment Tests

There are many types of risk assessment tests, including the Violence Risk Appraisal Guide (VRAG), the Sex Offender Risk Appraisal Guide (SORAG), the Rapid Risk Assessment of Sexual Offense Recidivism (RRASOR), the Static-99, the Minnesota Sex Offender Screening Tool-Revised (MSOST-R), the Multifaceted Assessment of Sex Offender Risk for Recidivism (MASORR), and the Psychopathy Checklist-Revised. A Canadian study found only the VRAG, SORAG, RRASOR, and Static-99 was able to predict sexual recidivism [5].

Risk assessment tests attempt to identify risk factors associated with sex offender recidivism. There are numerous factors which could be considered risk factors, such as age, criminal history, lack of remorse, pattern of drug use, the number of victims involved in the offense, mental illnesses, the type of offenses committed, whether a pattern was involved in the abuse, or certain factors like the offender’s status in society, such as a politician abusing his power. On the other hand, if the offender has not been in trouble with the law before, had committed the crime under circumstances unlikely to occur again, and shows genuine remorse for the crime, then those factors signify the offender is less likely to re-offend [6].

Perhaps the greatest criticism of the psychological approach comes from the use of “unspecified mental illnesses,” specifically the diagnosis of “Not Otherwise Specified (NOS).” This diagnosis means the offender does not exhibit enough symptoms to be considered as suffering from a mental illness; many clinicians call it a “garbage diagnosis.” A diagnosis of NOS would thus be like diagnosing the flu on the basis of a stuffy nose. Sadly, the US District Court for the Eastern District of Wisconsin has recently upheld NOS as a scientific diagnosis for the purposes of civil commitment, though it is currently in challenge in higher court [7].

Polygraphs

Polygraphs (so-called “Lie Detector Tests”) have become a cultural mainstay in our society, especially on television shows like the “Maury Povich” show, but in many other places, polygraphs have not been universally accepted. The National Research Council determined they were invalid for security screening because they lacked accuracy when detecting merely probability of an individual committing a crime as opposed to investigation of specific crimes, and it would mistakenly mark large numbers of innocent people as guilty [8]. In fact, thousands of individuals have been falsely accused of deception and have suffered negative consequences, while it masters of deception can pass polygraphs, as did convicted spy Aldrich H. Ames [9]. In fact, not only does polygraphs lack scientific validity, the test itself is actually biased against the truthful [10].

Polygraphs have generally been held inadmissible in court except under special circumstances, particularly the consent of both parties. However, polygraphs are being used under the banner of treatment and as conditions of probation or parole. The justification is polygraphs allegedly enhance the assessment, treatment, and monitoring of sex offenders by encouraging disclosure of risk factors and compliance with treatment requirements [11]. However, the more likely scenario is the offender simply goes along with the examiners’ opinions, even when the examiner questions offenders on things they haven’t done [12]. A major blow to the usage of polygraphs was the *US v. Antelope* case [13], which stated mandatory polygraphs violated the 5th Amendment safeguard against self-incrimination. However, this does not completely eliminate the use of the polygraphs in a clinical setting, though it limits the

ability of polygraphers to force disclosure of incriminating criminal histories.

Plethysmographs: “Peter Readers”

Penile plethysmographs (PPGs), derogatorily known as “peter readers,” are instruments that allegedly measure arousal to sexual stimuli. Like the polygraphs, PPGs have been around for decades, though there have been doubts in its accuracy in measuring arousal in certain types of offenders, such as rapists. A recent study found the PPG was accurate only in assessing abusers of young boys; in fact, the PPG found arousal patterns in abusers of young girls to be lower than in other victim choice categories. A test which relies on Visual Reaction Time (VRT) was found to be accurate against offenders of adolescent girls [14]. Other tests have found PPGs unreliable, and some states prohibit its use. In fact, the 4th US Circuit Court of Appeals ruled in 2002 the PPG lacks “scientific validity” and prone to false positives. [15]. More recently, the case of *Billips v. Commonwealth of Virginia* [16], the Court ruled against the use of the PPG, noting the PPG lacked scientific reliability. Of equal importance, the Court also noted scientific reliability is not limited to tests conducted to the trial. This decision counters arguments used to justify the use of PPGs and polygraphs in sex offender evaluation.

Labeling as SVP

The common thread in each of the risk assessment tests is the human element; in other words, the rests rely entirely on the individual’s interpretation of the test results. As a result, a number of false positives are believed to have occurred, which in turn, lands a person a “sexually violent predator” label unnecessarily. The SVP label has consequences ranging from lifetime registration requirements to indefinite civil commitment. John Q. La Fond finds a number of negative consequences associated with the SVP label:

1. Preventive detention, not treatment
2. Detachment from the medical treatment model (most SVP do not have a mental illness)
3. The slippery slope: Antisocial personality disorder is most commonly labeled on SVP, but the diagnosis relies on history and conduct in which 25-50% of the prison population also qualifies for the diagnosis.
4. Impossible to determine whether SVP is un willing or unable to control deviancy
5. Labels SVP as sick and unchangeable
6. Irresistible political pressure to commit lower risk offenders
7. Leads to warehousing of thousands indefinitely without hope of improvement/ release
8. Impossible for defense to ever prevail at a SVP hearing [17]

Eric S. Janus notes numerous negative consequences throughout “Failure to Protect:”

1. Distortion of the nature of sexual violence (p. 4)
2. Focus on the impossible task of prevention (p.4)
3. Ignoring the root causes of sexual violence (p. 4)
4. Pushing most minor sexual aggression into relative obscurity (p. 4)
5. The enactment of measures that are “harbingers of a ‘preventive state’,” (p.4)
6. Resurrecting the concept of a “degraded other” (p.5)

7. Focus on risk instead of crime (p. 6)
8. Neglecting role of social structures and attitudes in favor of actuarial risk assessment (p. 7)
9. The bypass of constitutional safeguards through use of the civil courts (p.19-20)
10. Notion to label human beings in the same manner as we would label “nuclear waste” (p. 21)
11. Creates a “damned if you do-damned if you don’t” situation in treatment- if a person admits there is a risk he will, offend, it is acknowledgment of his dangerousness, but if he states he will not re-offend, this is seen as lack of insight and is counted as risk factor (p. 33-34)
12. Negative reinforcement for good behavior- good behavior is punished by the claim that the offender is being manipulative (p. 34)
13. Recidivism and risk assessment tells us nothing about the root causes of sex crimes (p. 38)
14. Reliance on either a single opinion of a clinical expert; or a list of static, unchanging factors in a person’s history, which does not take into account changes in risk due to treatment, aging, or supervision (p. 58)
15. Requires massive resources to enforce (p. 66)
16. Impedes successful post-release integration into society (p. 66)
17. Distorts sense of magnitude and risk of sexual violence (p. 66)
18. Focus on “stranger-danger” (p. 67)
19. Undercuts feminist views and notions on sexual violence (p. 88)
20. “The Death of the Social.” Sociological term characterized by transfer of responsibility of problems from society to the individual, paying attention to blocking the symptoms of the problem rather than attacking the root causes of the problem, and “de-moralizing” problems by defining them not by absolute moral codes but by potential harm to us (p. 90)
21. The creation of an alternate system of justice in which civil liberties are substantially degraded for the sake of a preventive agenda (p. 93-94)
22. Reverses the trend of civil rights for a group of American citizens (p. 94)
23. Ascribes group risk to an individual (p. 102)
24. “Mental disorder” standard so vague it can apply to anyone- “difficulty in controlling behavior” is normal struggle for humans (p. 103)
25. Risk can be assessed without exhibiting any harmful behavior (p. 104)
26. Shifts balance from liberty to security; risk, not guilt, determines loss of rights (p. 106)
27. Everyone becomes suspect, increased surveillance (p. 107)
28. Detracts from funding to prevent a wider array of violence (p. 113)
29. Vigilantism and public protests (p. 142)

A number of severe penalties lie in wait for those considered sexually violent predators, civil commitment, castration, and even the death penalty. Slowly these harsher laws are gaining in popularity and, in the case of civil commitment, a part of the Adam Walsh Act. Such laws are the measure of the extent predator panic has reached in this country.

Modern Segregation: Civil Commitment

Civil commitment is the confinement of an offender in a mental hospital after the completion of the offender’s prison sentence on the belief that offender poses a significant risk to the community. Thanks to the landmark decision *Kansas v. Hendricks* [18], the US Supreme Court gave states great discretion on committing individuals based on the vague term “mental abnormality” that makes them a danger to others, even if they lack a “mental illness.” This has

led to harsh criticisms from the National Association of State Mental Health Program Directors (NASMHPD), including:

1. Since the laws are strictly punitive, civil commitment undermines treatment
2. Takes away resources from those who are truly mentally ill and need and desire treatment
3. Endangers the safety of those in facilities who have treatable illnesses [19]

Despite concerns from mental health professionals, some states have implemented civil commitment laws. As of March 2007, 20 states have imposed some form of civil commitment: Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin. About 2700 sex offenders so far are held indefinitely; only 50 have been released through program completion, while another 115 have been released due to a legal technicality, court ruling, terminal illness, or old age. The practical application of civil commitment has led to a list of problems:

1. Haphazard commitment standards, as some violent rapists are overlooked while exhibitionists are committed; other factors such as age ignored
2. Expensive; Average commitment price- \$100k+/ yr; prison- \$23k/ yr
3. Offenders cannot be compelled to participate
4. Little standard independent oversight or monitoring
5. Completing treatment often not reason for offender's release
6. No place to send graduates when they are released [20]

Another article I found poses a good question. In quoting a New York study with 8% sex offender recidivism in 8 years, the author states,

"Are we going to civilly commit 92% of former offenders who in 8 years have not been caught repeating their crime? And which 92% or which 8% will be civilly committed? Notice no one has figured this problem out yet." [21]

Perhaps most damning of all is a recent report regarding a civil commitment center at Arcadia, Florida. The center, run by a private corporation, kept conditions so bad at the facility it was described as a "free-for-all prison, out of control." At the heart of the issue was the question of whether to treat the committed as mental health clients or as prison inmates. The private contractor had asked for more money to help with the added expenses for accepting more inmates and to provide more treatment and re-entry options, but was denied. Commitment centers have sought to perform the treatment roles, but as was the case in Arcadia, political pressure pushes them towards serving a prison-like role [22]. Unfortunately the current idea of civil commitment remains as the state intends, as a holding tank for those they believe pose a significant threat to society.

Castration: "Off with their heads"

When speaking of castration of male sex offenders, there are two methods- chemical or surgical. Surgical involves removal of the sex glands, while so-called 'chemical castration' seeks

to alleviate the sex drive through certain hormonal drugs. Seven states had passed some kind of castration laws in recent years: California, Florida, Georgia, Iowa, Texas, Louisiana, and Montana. Though chemical castration is temporary, lasting only as long as treatment is administered, there are a variety of side effects, including weight gain, hypertension, high blood pressure, and liver problems. Large doses have to be given to be effective in men. The ACLU argued these points, in addition to being cruel and unusual punishment and interference with the right to procreate [23]. Surgical castration, at least has its detractors:

"Because courts have struck down the lesser punishment of a coerced vasectomy as 'cruel and unusual punishment,' it is logical to assume they would also declare the harsher punishment of surgical castration unconstitutional" [24]

*"The California legislation is problematic for two main reasons. It imposes a medical intervention in the absence of evidence that forced (as opposed to voluntary) treatment is likely in and of itself to be effective. Medications that lower the sex drive... may be helpful only for that group of persons whose crimes are driven by normal erotic cravings, such as persons with pedophilia. The legislation makes no provision for an individual assessment to determine whether a given person belongs to this group... To enhance community safety, the state of California should require that sex-drive-lowering treatments be available to all offenders **who want them and are found to be appropriate candidates after a proper psychiatric and medical assessment.** The state should also provide collateral psychological therapies and support and should systematically track clinical outcomes and criminal recidivism among patients undergoing voluntary treatment. In the absence of evidence that treatment is likely to be efficacious when administered involuntarily, the state should not mandate it. [25]*

Dr. La Fond is alluding to the so-called "Eugenics movement" and sterilization laws of the early 20th century. Janus point out that the laws were upheld in the 1927 case of *Buck v. Bell*, [26]; thirty-three states administered the sterilization of 60,000 people. The attitude of the times is made manifest in the words of Justice Oliver Wendell Holmes: "it is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind." Janus states that there is no explicit overruling of these laws in the Supreme Court [27]. The psychological field maintains that such an intrusive form of controlling behavior should be on a voluntary basis. Still there are concerns and criticisms that must be seriously considered when discussing castration: Critiques of castration to prevent crime why arguments for use are likely to fail include:

1. Assumption *all* sex offenders are likely to commit another sex crime;
2. Castration does not necessarily eliminate sexual drive and function;
3. Both types of castration are reversible thus never accomplishing intended purpose, and
4. Not all sex crimes spring from sexual urges (such as the anger rapist), some sex crimes are result of social and cultural forces, such as desire for domination or power or desire for revenge for harms done. [28]

Anytime a physically intrusive procedure is performed, the utmost precautions must be taken so as not to compromise the integrity of the program. For example, The Council of Europe maintains a committee for the Prevention of Torture; it found two psychiatric hospitals in the

Czech Republic to be a cause for grave concern. The Council questioned the issue of voluntary consent for castration where the only other alternative was indefinite civil commitment. Also, there are no standardized methods for determining appropriate treatment for sex offenders [29]. The policy of the Czech Republic is not unlike the American policy and subject to overestimation and abuse as well.

The few research studies available originate mostly from Denmark and Nazi Germany from around the World War 2 era, and their validity is questionable at best, especially since non-sex crimes were usually included in the mix, and no control group was tested. In fact, none of the studies were entirely comprised of sex offenders. Furthermore, in studying people castrated for the medical purpose of removing testicular cancer, the researchers found that patients could still have erections and respond to sexually stimulating materials. Some of the medical side effects can be countered with hormone injections, which in turn, increases the sex drive. Only one study (California Legislative Report, 1952) claimed a 0% sexual recidivism rate, but only 11 of the 60 in the report were convicted of sex crimes. Finally, in one case study, the patient still displayed aggression towards women, which was attributed to his misogynist belief system as opposed to sex hormones. Not all factors involving criminal sexual behavior can be attributed to sex hormones [30]. Thus, even castration is not the silver bullet to the sex offender recidivism issue.

Life for an Eye, Life for a Tooth

As the thirst for revenge has sunk deeper into the fabric of our society, there has been a trend to impose the death penalty on repeat or violent sex offenders. So far, five states have passed laws which allow repeat child sex offenders to be put to death (Florida, Louisiana, Montana, Oklahoma, and South Carolina); one inmate already sits on death row in Louisiana under the new law [31]. In early 2007, Texas Lt. Gov. David Dewhurst pledged to pass mandatory 25 year sentences (The Jessica Lunsford Act) and a two-strikes-you're-dead for repeat child predators, which won him the admiration of Bill O'Reilly and John Walsh. [32]. In the above articles, opponents of the measure, which includes top prosecuting attorneys and victim's rights groups, state that the laws:

1. Give ample incentive to kill the victim, since the penalty is the same regardless of whether life was taken;
2. Given the proportion of sex crimes committed by acquaintances rather than strangers, the likelihood of crimes going unreported rise as victims and family members will be more reluctant to report the crime; and,
3. These measures are disproportionate and unconstitutional.

Minnesota was the last state to execute a sex offender, way back in 1964, but the US Supreme Court ruled capital punishment for rape unconstitutional [33]. Still, since the case involved an adult victim, proponents hope the Supreme Court would rule in their favor if a case goes that far. Just as with the argument in the Duke Lacrosse case, there is the possibility of false accusations. As noted in the above Inter-Press Service report:

"Other critics of the death penalty laws say they fear that children may be forced by malevolent adults to make false statements against the innocent. 'There was a flurry of trials during the 1980s and 1990s of adults charged with sexual crimes against children

in daycare centers,' according to Amnesty International, the London-based rights group. '(But) time has shown that all, or almost all, of the alleged perpetrators were innocent'." [34].

Considering the typical sex offender case rests solely on word of mouth, as evidence can be non-existent, the probability of a false conviction and execution is highly probable. Still, opponents of the bill are few compared to the number of proponents. The Texas House voted 118 to 23 to approve the death penalty as included in their version of the Jessica Lunsford Act [35]. The Bill Analysis of Texas HB 8 reads as follows:

"Since (the rape-murder of Jessica Lunsford), states have been rallying to enact stricter penalties for sex crimes committed against children. The 80th Legislative Session provides Texas the opportunity to follow these examples and take steps to keep children safe from predators...Additionally, a sexually violent offense, as defined by the bill would be punishable as a capitol felony if the victim was younger than 14, or including substantially similar crimes committed in other states." [36]

Again, the politicians do not hide the fact that the law is a reaction to a particularly heinous, not to mention high-profile, crime. However, the Supreme Court ruled in *Furman v. Georgia* [37] that, "The Court will consider whether a punishment is (a) too extreme or barbaric; (b) arbitrarily imposed; (c) excessive, disproportionate, or inconsistent with contemporary norms; or (d) unnecessary to achieve a penal purpose that could be served by a less severe punishment." [38]. The US Supreme Court finally ruled by the narrowest of margins, 5-4, that the death penalty for child rape violated the 8th Amendment ban on cruel and unusual punishment [39].

The concept of "an eye for an eye" is a limit to the scope we can punish someone for a crime, but American jurisprudence has largely disregarded that concept in dealing with sex offenders. Exile us, cut our penises off, kill us, send us to the moon, brand us for public shaming, etc... yet still, sex offenses are happening at the same rate. Again, we are looking one way, while the real issue surrounds us on all other sides.

Ironically, we are taking the same public approach as those countries we call "terroristic," like Iran. Iran recently held 20 public hangings of "thugs convicted of rape, sodomy, assault, and battery." Before the executions, the accused publicly paraded with "toilet hygiene implements hung around their necks and bearing signs from having suffered severe beatings" [40]. The US State Department accuses Iran of being a major hub of human trafficking [41], yet, in our own country we are taking the same stance as "Iran's supreme leader, Ayatollah Ali Khamenei, [who] has vowed to resist western pressure on human rights" [42]. But the United States has made sex offenders a suspect class and stripped them of many human rights as well. Can the US really police the world when it can't even practice its own rhetoric with foreign nations?

In short, the term "sexually violent predator" was created to separate the truly dangerous from those convicted of petty offenses and who pose little risk of re-offending. However, predator panic has led us to place virtually every offender in the "SVP" category, coupled with increasingly damning laws and provisions, lead us down a potentially dangerous path. The question is how far will we go down this path before society realizes his or her own rights are in danger? The answer has been repeated throughout history, right here in the "land of the free."

Chapter 16: The Fourth Reich?

Republican congressman and 2008 Presidential candidate Ron Paul ran on a rather ominous platform. Paul warns us that the American elite is ready to take our individual liberties at any time, that unless we preserve our fundamental freedoms, soon we won't be able to fight back. The president even has "emergency powers acts," which gives him dictatorial power in times of "emergency" situations [1]. Democracy and equality are fragile states of existence, and when we allow one group of individuals to exist in a degraded state, we open the doors to give up our own rights.

The enactment of the numerous sex offender legislation are "harbingers of a 'preventive state' " [2]. In becoming a preventive state, we are treading dangerous waters. The preventive state is a step beyond any efforts we currently make, such as "proactive policing" and prevention and education programs. The next logical step towards the preventive state is the application of the law on the basis of health status or perceived alone [3]. Indeed, registry laws have expanded since the Wetterling Act passed in 1994, including gun crimes, domestic violence, meth makers, and even dangerous dogs. The next step was Ohio's civil registry, which added individuals to the registry on the basis of an accusation and a civil trial. What would be the next step? In 2007, an anonymous blogger drafted the "No More Victims Act of 2007," which suggested that every individual who has contact with children submit to the actuarial tests, a polygraph, and a plethysmograph. In a true preventive state, the No More Victims Act is the next logical step, as the Act suggests removing individuals from children based on risk alone. After all, the main argument used to justify overbearing sex offender legislation is "public safety" and "protecting the children."

Predator Panic in Nazi Germany

Recent history has given us glimpses of the dangers of allowing the degradation of rights among an unpopular group of people. Post-World War 1 Berlin was a Mecca for another group of unpopular people-- homosexuals [4]. But soon after Hitler rose to power and the assassination on publicly gay rival Ernst Rohm in the "night of the long knives," Hitler began a severe persecution of the homosexual community [5]. The country was filled with fear of sexual predators; the infamous "Paragraph 175" was recoded with fierce penalties for deviant sexual acts, raised the age of consent to 21, and imposed severe loss of civil liberties for violators of the laws. In addition, Paragraph 174 forbade incest and other sexual offenses with dependants, and Paragraph 176 outlawed pedophilia. [6]. It is worth noting that the German word *unzucht*, translated literally as anal sex, can also mean the broader interpretation "lewdness," which leads to the possibility of punishing milder acts like mutual masturbation, fondling, or even kissing. This interpretation was used by the Nazis and, later, in the Federal Republic of West Germany [7]. Even gossip and innuendo- "a touch, a gesture, or a look" was enough to get you arrested [8].

In 1933, the Nazis passed the "Dangerous Habitual Criminals and Measures for Protection and Recovery," a series of restrictions on sex offenders. This laws gave judges the authority to order mandatory castration in cases of rape, defilement, sex acts against children (Paragraph 176), coercion to commit sex offenses (Paragraph 177), the committing of indecent public acts including homosexual acts (Paragraph 183), murder of manslaughter of a victim (Paragraph 223-226), if they were committed to arouse or gratify the sex drive, or homosexual

acts with boys under age 14. The Amendment to the Law for the prevention of Offspring with Hereditary Diseases dated June 26, 1935 allowed castration of violators of Paragraph 175 "with consent" [9]. Castration was a "medically effective way to deal with these people" [10].

After Rohm's execution, Hitler ordered the registration of so-called "asocials;" this task fell upon the infamous "Gestapo" [11]. Registration of all the citizens of the Reich was a tool deemed necessary by the Gestapo for the promotion and security of their Nationalist ideology [12]. The Gestapo (Geheime Staatpolizei, "State Secret Police") was given immense power. One such power was the power to make laws retroactive, meaning they could make crimes out of actions that were not illegal when they were first performed [13]. Asocials were taken into "protective custody;" a euphemism allowing "brown shirt gangs" to pick up anyone they chose, since no charges were issued, and held indefinitely [14].

On March 9, 1937, Himmler ordered a round-up of registered "professional and habitual criminals or dangerous sex offenders." Armed with registration lists, the Gestapo rounded up 2,000 asocials and sent them to the concentration camps. It happened "suddenly and without warning," and came exactly one year after a round up of the "work-shy." Among the other "asocials:" Jews with prior criminal records, tramps, prostitutes and pimps, transients, gypsies and "such persons as having numerous previous convictions for resistance, bodily harm, brawling, disturbances of domestic peace or similar and have thereby shown that they do not wish to adapt themselves to the order of the national community." This practice was perfected in respect to "elements harmful to the people." [15].

During this period about fifty thousand men were convicted of "indecenty," and about fifteen thousand of them were condemned to the concentration camps [16]. The concentration camps began as "a terrifying development of the Nazi aim of removing from society all those who, for reasons of race, politics, religion, or sexual orientation, were regarded as unfit to live with ordinary Germans," which included Jews, gypsies, Communists, Jehovah's Witnesses, and homosexuals [17]. These camps were filled not just with criminals, but with "people who could not be convicted by normal courts because they had not broken valid law but who were considered socially undesirable [18].

Sexual deviants were first marked by the label "Paragraph 175," then later by a pink triangle. Officially, the death penalty was reserved for the Jews and the Roma and Sinti gypsy tribes; the official policy on sexual deviancy was "re-education." This meant sexual deviants were subjected to castration, slave labor, or human (surgical) experimentation. In addition, like most modern prisons, the sexual deviants were at the bottom of the prison food chain; they were victimized by prison guards and stronger inmates alike. Roughly two-thirds of those who entered the concentration camps died there [19]. Re-education was a policy of "open-ended punishment," or what we would refer to as "indeterminate sentencing." This was designed to more deeply compel the individual to change behaviors for the good of the nation and to no longer be a burden upon the government [20].

Nazi ideals of racial purity required the elimination of undesirables [21]; this social "weeding out" was one of the Nazis' most important duties [22]. Powerful as the Gestapo was, they were not large enough to act alone; around 70% of the arrests made by the Gestapo were initiated by the tips or information of the general public [23]. The Gestapo heavily relied on an intricate network of informants that even included children. Suspected sexual deviants were then arrested and used to fill their registries of real or suspected deviants. Later the registries were used in their sweeps and round-up [24].

Most Germans approved of the use of these so-called "cleansing" camps; many saw those

taken away as deserving of their punishment, and believing they would come back "all the better." Of course, the camps were also standing symbols of power to intimidate dissidents. However, most citizens were in the dark about the true conditions of the camps, as the Germans hid the deplorable conditions really well. Some camps were open to visitors such as the Red Cross; these were "model prisons," where prison conditions were civilized. The camps closed to the public were "hell holes" [25]. Relatively few people, aside from the "suspect classes," were fully aware or gave thought to the actions of the Gestapo. Before long even mental patients at the asylums knew when the T4 squads retrieved patients for "special treatment," it meant they were going to be exterminated [26].

Even after the fall of Nazi Germany, the indoctrination of society continued to plague "sexual deviants." Many of those released from the camps by the Allied Forces were rearrested and sent back to prison to complete their court mandated sentences under Paragraph 175. After the fall of Nazi Germany, the East Germany and West Germany had very different views on Paragraph 175. West Germany retained the full Nazi version of Paragraph 175 until 1969, where prosecution was limited to "qualified cases." Between 1945 and 1969, some 50,000 were convicted under these laws. Interestingly enough, while homosexuality was still banned in many situations, bestiality was removed from the books. East Germany removed much of the sting of Paragraph 175, but did not abolish it altogether until 1989 [27].

Germany had allowed these atrocities for "the children" and "public safety." The progression, however, began with one group of undesirables, panic ensued, and a series of severe penalties were imposed on that group. These penalties were expanded to other undesirables with disastrous results. Even worse, the public were not only supportive of these laws, but was the main source of enforcement of these laws!

Land of the Sheep, Home of the Slaves

The United States has not been immune to great injustices committed during its history; we need only to remember Manifest Destiny, the "Trail of Tears," slavery, the Civil War, women's suffrage, the Eugenics movement, segregation, the civil rights movement, and, of course, Japanese "Internment camps." On February 19, 1942, President Franklin D. Roosevelt signed "Executive Order 9066," which allowed the roundup of 120,000 Japanese-Americans and sent into so-called "relocation centers." Their only crime was being Japanese [28]. Roosevelt justifies this action in the Order itself:

"Whereas, the successful prosecution of war requires every possible protection against espionage and sabotage to national-defense material, national defense premises and national defense utilities..." [29]

"Roosevelt's executive order was fueled by anti-Japanese sentiment among farmers who competed against Japanese labor, politicians who sided with anti-Japanese constituencies, and the general public," who were in a state of panic after the Pearl Harbor bombing. Canada also passed a similar policy. As in the German concentration camps, US internment camps were overcrowded and living conditions were poor. Many died there, and the only hope for release was by enlisting in the US Army, which less than 1% of "internees" enlisted. In 1944, Roosevelt finally rescinded the order, and the US government did not make reparations until 1988. Other ethnic groups were also sent into these camps or were met with increased restrictions as "enemy

aliens." These groups never received reparations [30].

Even the US Supreme Court upheld these abominable practices [31]. In the *Korematsu* case, the majority ruled the Internment camps were necessary because it is impossible to separate the "loyal" (non-risk) from the "disloyal" (high risk) members of the "suspect class."

"Exclusion of those of Japanese origin was deemed necessary because of the presence of an unascertained number of disloyal members of the group, most of whom we have no doubt were loyal to this country. It was because we could not reject the finding of the military authorities that it was impossible to bring about an immediate segregation of the disloyal from the loyal that we sustained the validity of the curfew order as applying to the whole group... Regardless of the true nature of the assembly and relocation centers-- and we deem it unjustifiable to call them concentration camps with all the ugly connotations that term implies... Korematsu was not excluded because of hostility to him or his race. He was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures, because they decided that the military urgency of the situation demanded that all citizens of Japanese ancestry be segregated from the West Coast temporarily, and finally, because Congress, reposing its confidence in a time of war in our military leaders-- as inevitably it must-- determined that they should have the power to do this..."

Justice Murphy offered a dissent in this case:

"Such exclusion goes over 'the very brink of constitutional power' and falls into the ugly abyss of racism... That this forced exclusion was the result in good measure of this erroneous assumption of racial guilt rather than bona fide military necessity is evidenced by the Commanding General's Final Report on the evacuation from the Pacific Coast area. In it he refers to all individuals of Japanese descents as 'subversive,' as belonging to 'an enemy race' whose 'racial stains are undiluted,' and as constituting 'over 112,000 potential enemies...at large today' along the Pacific Coast. In support of this blanket condemnation of all persons of Japanese descent, however, no reliable evidence is cited to show that such individuals were generally disloyal, or had generally so conducted themselves in this area as to constitute a special menace to defense installations or war industries, or had otherwise by their behavior furnished reasonable ground for their exclusion as a group...No one denies, of course, that there were some disloyal persons of Japanese descent of the Pacific Coast who did all in their power to aid their ancestral land... But to infer that examples of individual disloyalty prove group disloyalty and justify discriminatory action against the entire group is to deny that under our system of law individual guilt is the sole basis for deprivation of rights... To give constitutional sanction to that inference in this case... is to adopt one of the cruelest of the rationales used by our enemies to destroy the dignity of the individual and to encourage and open the door to discretionary actions against other minority groups in the passions of tomorrow..."

Justice Murphy argued the law was dangerous; despite the good intentions, the law called for the wholesale deprivation of rights on the basis of perceived risk alone. Justice Murphy

worried the law would not only “destroy the dignity of the individual,” but would also lead to the possibility of discrimination spreading to other undesirables in the future. Sadly Murphy’s opinion is in the minority, and the Japanese Internment Camps, like the Eugenics forced sterilization movement, was never formally rejected by the high court. As Justice Murphy predicted, the door to discrimination would open on the newest passion: sex offenders.

Could we repeat history by placing former offenders in concentration camps? I believe it is not just likely, but inevitable. Halliburton recently acquired \$385 million to build detention centers for “illegal immigrants,” another suspect class of individuals [32]. The next logical step is the sex offender, the other reviled suspect class. One internet personality, “Peter Del Valle,” has proposed an amendment to the Constitution called the “Sex Offender Residency, Employment, and Technology Restriction Amendment” (SORETRA), calling for complete segregation of released former offenders from the rest of the public. Del Valle claims SORETRA “a civilized evolution” of sex registries [33]. Perhaps he is right. The next logical step is complete banishment from society. Residency restrictions are only a part of this path to total segregation; the Adam Walsh Act all but completes the segregation of former offenders from the general public.

The Abominable Adam Walsh Act

The course sex offender legislation has taken since the Wetterling Act passed in 1994 has led to the passage of the “Adam Walsh Child Protection and Safety Act of 2006,” also known as the Adam Walsh Act (AWA). The AWA was created to standardize sex offender laws across the country. A summary of AWA provisions are below:

- Title I: SORNA, national sex offender registry including both residence and employer/school, community notification, three tiered classification system based on crime rather than risk, giving immunity to law enforcement and NCMEC when acting in “good faith,” DNA database, US Marshals given jurisdiction in sex cases
- Title II: Stiffens penalties for sex and related crimes (such as selling date rape drugs), and gives victims greater leeway in criminal cases
- Title III: Civil commitment for “dangerous sex offenders”
- Title IV: Immigration laws making sex offenses deportable offenses, and bars offenders against minors from obtaining a family-based visa.
- Title V: Stronger record keeping requirements for porn industry to ensure no minors are used in creation of porn, civil forfeiture
- Title VI: Funding for numerous programs, including GPS pilot program, fingerprinting children, and a national child abuse registry
- Title VII: Increasing penalties for Internet related crimes, funding for increased law enforcement, and expand the civil remedy available to sex crime victims [34].

The Walsh Act has been controversial since its inception. Originally, the original bill was created in 2005 but died out multiple times. In fact, Representative Sensenbrenner modified the bill multiple times. Perhaps after feeling the pressure to pass this federal law, Sensenbrenner called “suspension of rules” on March 8, 2006, meaning the bill would be voted on by present members of the House. Suspension of the rules is reserved only for no controversial bills because it circumvents normal voting procedures. Furthermore, the House didn’t ever hear many of the

provisions added into the Walsh Act. The pressure came mostly from John Walsh, who wanted this law passed on the 25th Anniversary of his son's death. [35]. After passage of the Walsh Act, disgraced US Attorney General made the Act retroactive by way of "Interim Rule," meaning he placed the rule into effect before public comment, bypassing APA procedure due to a "pressing emergency." Again, the argument used to justify bypassing the Constitution was the claim the Walsh Act was "non-punitive, regulatory measures adopted for public safety purposes [36].

Not only did legislators bypass their own rules to pass a blatantly constitutional law, they added a negative provision to the bill; if states do not implement the Walsh Act by July 27, 2009, they face a 10% cut in the Byrne/ Justice Assistance Grant (JAG), money used for various law enforcement projects around the country. However, with JAG facing a 70% cut in funding in 2008 and 2009, states would only stand to lose smaller amounts of cash. Even if JAG was fully funded, states will lose more money to implement the law than to take the 10% cut in JAG funding. For example, the state of Ohio collected \$9.4 million from JAG in 2007; in 2008, 70% funding cuts would leave \$2.8 million. That would mean Ohio stood to lose \$280,000 in JAG funding by not implementing the AWA. However, Ohio stood to spend at least \$475,000 just to make one-time changes and send out notification of the changes! This does not include lawsuits, the added expenses accrued by keeping people on the registries longer, and the cost of longer incarceration periods, among other expenses [37].

Ohio was one of the first states to implement the Walsh Act. Like their federal counterparts, Ohio legislators passed their version of the AWA in June 2007 in a special "emergency session." The legislators denied their constituents the opportunity to speak out against these laws. Thousands of offenders were placed on Tier III; in Cincinnati alone, 800 offenders were added to the 350 Tier III offenders already on the registry [38]. After the law took effect on January 1, 2008, thousands of Ohio sex offenders filed lawsuits against the state. Recently, lower courts struck down the AWA on constitutional grounds, particularly ex post facto [39]. Other defeats of the AWA involve the prohibition against discovery in child porn cases [40] and against civil commitment with any standard below "beyond a reasonable doubt" [41].

Clipping FALCON's wings

Perhaps the most thorough of defeats against the Walsh Act to date came from the "FALCON" round-ups. In the three FALCON operations, a total of 30,110 "fugitives" were rounded up in the largest sweep in US history, which included an undisclosed number of sex offenders for failing to comply with AWA [42]. However, courts would later throw out these arrests [43]. Critics have questioned Operation FALCON as an exercise in pushing the limits of rights deprivation. FALCON is only a part of the measures which the Bush administration has passed after the "9/11 terrorist attacks." This decade has experienced an "assault on the constitutional system of checks and balances, including the repeal of habeas corpus, warrantless wiretaps and searches, and the use of torture." Detention centers are being built in the US. Bush also signed the Military Commissions Act of 2006, which allows the government to imprison people indefinitely without charge and without the right to habeas corpus, and allows violations on the 8th Amendment ban on cruel and unusual punishment [44]. There were also vast inconsistencies in the reports for the Falcon roundups. FALCON II was supposed to target "violent sex offenders," but out of the 462 alleged violent sex crime suspects and 1,094 "unregistered sex offenders" and other minor "sex crime" suspects, meaning 7,481 were rounded

up for other reasons [45]. FALCON II stands as proof the government are not only aware of the power of predator panic, but are ready to use it to achieve their goals!

The Common Thread

Many individuals have realized how easy it is to use predator panic to achieve their goals. Politicians use sex offenders as a platform during election campaigns. The media use sex offenders for ratings. The government uses predator panic to chip away at the Constitution, and the masses have blindly allowed these individual rights to be taken away for the façade of public safety and the benefit of the next generation. We should not be surprised fear unites the people to a common cause. Hitler realized this, repeating the concept repeatedly in his book "Mein Kampf." Hitler declares, "To win the masses for a national resurrection, no social sacrifice is too great" [46]. Later Hitler contends that only with a "ruthless and fanatically one sided" orientation toward a common goal can this goal be achieved [47]. "The soul of the people can only be won if along with carrying on a positive struggle for our own aims, we destroy the opponent of these aims... their internal poisoners are exterminated" [48]. Indeed, Americans have relinquished constitutional powers during times of perceived crisis; we gave Roosevelt the power to control the economy and confiscate private gold during the Great Depression; during the Cold War, we allowed the government collect great amounts of income taxes and fight undeclared wars in Korea and Vietnam; after 9/11, we have allowed the government to invade a foreign country and to take away civil liberties like habeas corpus [49]. Thus, it stands as little surprise that the voice of reason has been quelled thanks to "predator panic."

Epilogue: The Ameri-CON way

"Registration, notification, and residency restrictions for sex offenders are utilized with the expectation that these laws will protect the general public. However, many unintended consequences have arisen from the increasing level of restrictions." [1].

The Hamilton County (OH) Commission recently released a study on the local policies passed against former offenders, raising a number of concerns and making a number of suggestions which fall in line with at least some of the suggestions listed in Chapter 10, including the use of "citizen circles" (a support network), reintegration programs, exploring housing options, and properly educating the public on the nature and risk Former Offenders pose to the community. However, there are still areas of concern in the commission's suggestions, such as stricter enforcement of registry and residency restriction laws, which they admit was both ineffective and counterproductive [2]. Also of concern was the concept of lifetime supervision, which, in light of the low recidivism rate, is excessive. The mentality of keeping citizens under tabs is so ingrained into our society we cannot sever the pull of constant monitoring and supervision from our society.

In a recent high-profile Pew Center report, America has 2.3 million inmates (1 in 99 adults) are incarcerated, more than China (1.5 million) and Russia (600,000). The higher incarceration rates are not attributed to higher crime, but stiffer sentences [3]. This number does not include the millions on probation/ parole, nor the 650,000 or so on sex offender registries across the country. America believes lengthy incarcerations and supervision periods are a panacea to the problem. Even if we incarcerated or executed every convicted sex offender in America, there would still be thousands of sex crimes occurring every year, because the vast majority of sex crimes are committed by those people not currently on a registry. The main reason sex offender laws do not prevent sex crimes is because we have failed to let go of the myths and fallacious beliefs we hold dear to our hearts.

The Hamilton County Regional Planning Commission holds a lofty goal in proposing dispelling myths and educating the public on the true nature of sex crimes. I commend them on dispelling myths and proposing public education and training, and I wish them the best. However, they have an uphill battle. The general public will prove to be the greatest difficulty in approaching the sex offender issue rationally and humanely. In March 2009, Anthony Kirkland, a man who served 18 years for manslaughter and arson, was sent to a sex offender treatment facility in Cincinnati following a charge of importuning, despite his protests of innocence. After an altercation with another patient in the program, he was released, and he allegedly murdered two people during a 10 day crime spree which included the murder of 13 year old Esme Kenney [4]. The backlash from the tragedy included a protest against one of the few treatment facilities for sex offenders released from prison [5]. While I worked to counter that protest that day, I heard much of the same myths spoken in this book. The Commission has a long road ahead of them indeed.

When it comes to sex offender issues, emotions override facts. As a consequence, we have canonized those who use questionable methods of dealing with real or imagined threats. On June 19, 2008, a woman named "Angry Tammy" (Tammy Lee Gibson) attacked a Former Offender with a baseball bat and became an instant celebrity. Gibson, a woman "well-versed in the criminal justice system," has criminal record spanning years, including assault and drug charges, and was charged with second degree assault and felony harassment [6]. Gibson

exclaims she would kill her victim while interviewed in the county jail, yet was given a lower bail than her victim, who was arrested on suspicion of failure to register as a sex offender [7]. Another local news station, KIRO TV, conducted a poll; as of July 3, 2008, 496 voters call angry Tammy a "hero," while 584 people call her a criminal [8]. On June 26, 2008, she was bailed out after a bail bondsman bailed her out for half price and a "Free Tammy" movement helped raised money for her bail [9]. If the "Angry Tammy" case has taught us anything, it is even a woman with a mile long rap sheet can become an instant celebrity with a weapon and a Former Offender for a target.

Society's hatred and loathing has led to disastrous consequences. Florida has had no qualms about forcing sex offenders to live under the Julia Tuttle Bridge in Miami, Florida. Worse, few people are noticing the consequences of passing feel good legislation that does not work. Broward County, Florida even wishes to repeat the Julia Tuttle dilemma by increasing residency restrictions in their county. And the Julia Tuttle residents, over 60 now, welcome Broward County officials to see the consequences of overbroad residency restrictions [10]. Or maybe they can talk to Ron Book, the man who helped create the colony and who lobbies to keep them living in squalor [11]. Perhaps the Broward officials should also take a side trip to Michigan, where a Thomas Pauli, a homeless registrant, died in the cold in January 2009 after denied shelter because the homeless shelter was too close to a school [12]. Or they could call Iowa, which is planning to repeal their residency restrictions after years of negative consequences [13].

If this doesn't scare you into rethinking these laws, consider the "sexting" trend. A recent study found one in five teens have sent explicit pictures of themselves to others [14]. In Ohio (and in many other states), "sexting" cases could end with defendants landing on the sex offender registry [15]. While some state officials are scrambling to excluding teen sexting from registerable offenses [16], other prosecutors plan on using sexting participants by adding them to the registry [17]. A thoughtless decision could land you or your child on the sex offender registry next to a dangerous rapist or child molester and no one can tell the difference!

If we are to have any hope of solving such a complex problem, we must stop basing decisions on simple, emotional "answers." The solution is not "soft on crime," but smart. While we punish those who commit harmful acts, it is also our duty as human beings to rehabilitate them as well. Sadly, that aspect is neglected in favor of fear and loathing. There are many solutions in this book; however, you must approach the subject with an open mind and set aside emotional and mental blocks to the truth. For too long we have based public policies on emotions, which has backfired, while neglecting to make a difference in reducing sex crime rates in this country. If we are truly committed to protecting children and public safety, we would be emphasizing prevention and education of the public coupled with rehabilitation and reintegration programs to treat those who have sexually offended. Revenge tactics and current legislation is a placebo rather than a panacea. Ultimately, it is up to you whether to support laws that "do good" or simply "feel good."

--Derek "The Fallen One" Logue

Appendix 1: Notable Quotes

"They don't work."-- Kansas Corrections Secretary Roger Werholz, when asked why the state doesn't have laws restricting where sex offenders can live

"The only thing that comes close to this is dueling."-- Utah Supreme Court Associate Chief Justice Michael Wilkins, regarding a case involving a 13 year old girl who was considered both a "victim" and "perpetrator" in a sex crime. Her 12 year old boyfriend pled guilty to the same offense, unlawful sex with a person under age 14

"I think this is a clear example of an unintended consequence, which can occur when we go beyond what we call police protocol when handling sex offenders. I understand the concern of parents for their children. But we must not allow hysteria to take place."-- Marion County, Florida Sheriff Ed Dean, responding to the suicide of a handicapped Former Offender after flyers picturing him with the words "CHILD RAPIST" printed in big bold letters were plastered all over the community

"When we face it in this situation, why is it so wrong? Let me tell you why it's so wrong. It's so wrong because in these situations, until and unless the lady in Shrewsbury and people of her ilk have the opportunity to do away with the right of confrontation, which I'm sure they'd like to, that 6-year-old's going to sit in front of me, or somebody far worse than me, and I'm going to rip them apart. I'm going to make sure that the rest of their life is ruined, that when they're 8 years old, they throw up, when they're 12 years old, they won't sleep, when they're 19 years old, they'll have nightmares. And they'll never have a relationship with anybody. And that's not because I'm a nice guy. That's because when you're in court and you're defending somebody's liberty, and you're facing a mandatory sentence of those draconian proportions, you have to do every single thing you can do on behalf of your client. That is your oath and obligation as a trial lawyer, to confront the witnesses against your client, which in this instance will always be a child, who will undoubtedly be permanently dreadfully scarred."-- Massachusetts State Representative James Fagan, on why mandatory sentences could backfire

"We have gotten people fired, we have gotten people kicked out of their homes, we've broken up relationships and friendships. The reward in Perverted Justice is peeling back the curtain on these fuckers, we do that. And as we grow (and we're growing, oh boy, are we growing) we continue to have greater successes in making lives a living hell."-- Philip von Eide, aka., "Xavier Von Erck," leader of the cyber-terrorist organization Perverted-Justice.com

"I said I was kidding when I was talking to the Senate and I said they were talking about electronic monitoring, which is big and unwieldy for the sex offenders, and that some of these guys, no matter what the law in their state was, would have to wear one for 20 years or whatever. I said implant it in their anus and if they go outside the radius, explode it and that would send a big message. It was a joke. Nobody thought it was funny."-- America's Most Wanted host John Walsh, in a 2006 press conference to promote his Fox TV show

"I hope they bring these grubs to justice. We find out how much guts they've got ... as one of them

committed suicide yesterday and another one had a big go, but he must not have had the courage to do it properly. If they all went and did it first up, we wouldn't have this problem. They must be guilty if they commit suicide ... maybe I am too harsh but I've got no time for that."-- Central Queensland, Australia, politico Vaughan Johnson, addressing the state Parliament

"I whole heartedly support mandatory sentencing as well lifetime monitoring with strong resrictions and regulations. And as for as I am concerned these people should be thankful we allow them out of prison at all. You can play this card that politicians only do this because they are trying to be tough on crime line but again this discounts the fact they are working to make our communities safer... And I personally don't believe their is any such thing as a "first time offender", I believe its just the first time the have been caught. And once they have been caught, then we should refer to them as Registered sex offenders! Have a great day."-- Georgia Republican Steve Davis, addressing a blogger on his personal site

"I feel bad for him. I know it's cold outside, but we have to enforce the law. There is no constitutional right to warmth."-- Hamilton County, Ohio Prosecutor Joe Deters, responding to a lawsuit by a homeless Former Offender to stay at an emergency shelter within 1000 feet of a school

"I know some folks think it is great that you can go online today and see where these monsters live, block by block – but I look forward to the day when you can go online and see that they all live in one place – in Angola – far away from our kids."-- Louisiana Governor Piyush "Bobby" Jindal, during a television address

"Truly, I don't care if we stomp on his civil liberties. I truly don't."-- Howell, New Jersey, Councilman Mike Howell, in addressing a pending lawsuit over residency laws in his state

"I can't get my hands on the guy that murdered my daughter so I've made it my job to make the rest of these sexual offenders and predators' lives miserable, as miserable as I can." -- Mark Lunsford

"Congressman Mark Foley's resignation is a great loss to Florida is a great loss to Florida and the nation. He has been a hard working, dedicated and effective Congressman. He will be missed."-- The National Center for Missing and Exploited Children, on the announcement of Foley's resignation after the Congressional page scandal broke. The statement was revised within the day after harsh criticism

"I never, ever met a false rape claim, by the way. My own statistics speak to the truth."-- Wendy Murphy, adjunct professor at the New England School of Law and alleged "legal analyst," commenting on the "Duke Lacrosse case," later discovered to be a case of malicious and false prosecution

"Save a child- Hang a Pedophile."-- Patches sewn onto the jackets of "Jessie's Rider's" biker gang, run by Mark Lunsford

"Sex Crimes against children is ZERO TOLERANCE, offenders need no mercy....Death is the

only resolution....Prison??? Our tax dollars...I can think of better ways to spend our money...what about death for the predators and put the money that would of been used supporting these sickos and rehabilitate the survivors..."-- Judy Cornett, vigilante

WALSH: *"I think my inability to deal with my problems -- I never went to a therapist for 20 years. I think it just -- my own selfishness, my own stupidity, my own ego, all of those things, and I hurt my children, and I hurt my wife, and she's a good woman, and she, you know, we're working very hard at this I do -- I think [therapy] helps. I think especially crime victims, and it's not an excuse, people that have been through an awful traumas, I think therapy is a terrific thing, and I thought, you know, I'm the tough guy, I'm the toughest guy, I mean, I can deal with this myself -- I couldn't deal with it. And you know, you thinking not hurting somebody, you know, women can be an addiction, and you have to deal with it..."*

KING: *"So you understand men who have that problem?"*

WALSH: *"Oh, I had it for years and didn't think I had it."*-- John Walsh admitting he has a sexual addiction on Larry King Live, July 15, 2003

"My focus is on tougher laws for predators. If you don't like me because I look at naked women, I don't care. I'm not putting a black mark on my daughter's name."-- Mark Lunsford, in a Citrus County Chronicle article which stated child porn was found on his computer

"[Foley] kept his shame to himself for almost 40 years. Specifically, Mark has asked that you be told that between the ages of 13 and 15 he was molested by a clergyman. Foley] does not blame the trauma he sustained as a young adolescent for his totally inappropriate e-mails and IMs. He continues to offer no excuse whatsoever for his conduct Mark was the under the influence of alcohol at the time he sent the alleged e-mails and IMs that I have been informed of... Any suggestion that Mark Foley is a pedophile is false, categorically false. Mark Foley denies ever, ever having any sexual contact with a minor. Finally, Mark Foley wants you to know that he is a gay man."-- David Roth, attorney for Mark Foley

"One of the things that we have learned is that people seek help for drug use or alcoholism because it is far more socially acceptable. But what's usually lying underneath are sexual behavioral problems. They are not dealing with the root cause."-- Yvonne Cournoyer, Program Director of the Minnesota chapter of Stop It Now!, on the Mark Foley scandal

"I think the story behind the story is that this is something that everybody in every walk of life seems prone to doing, no matter what your position."-- Nancy Sabin, executive director of the Jacob Wetterling Foundation, on the Mark Foley Scandal

"Sometimes what happens is lawmakers don't want to know the facts, or the facts don't make any difference. There really are two things that affect public policy. One is the facts. The other is the feelings and political pressure. There are legislators who will say, 'Don't confuse me with the facts. I've made up my mind.'"-- North Dakota state Senator Tim Mather

"The attorney general at the time was, 'I'm going to be tough on crime, the governor is soft on crime and soft on sex offenders.' The governor was declaring he was not going to allow any sex offenders out on his watch. The message patients in the program got was, 'It doesn't matter how hard you work or whether you might recover, you're not getting out.' So if you want to

undermine a program, that's the best way to do it. Get the chief executive officer of your state to tell them that no matter how hard they work, they'll never get out. At that point I said, 'I can't do this work anymore.'"-- Michael Farnsworth, who stepped down as head of Minnesota's sex offender program amid a political tug-of-war during the 2003 elections

"By their voluntary acts, sex offenders have surrendered certain protections that arguably are afforded to other citizens. Their conviction of felony offenses puts them into a class that has already been deemed to have no expectation of finality in the consequences of the judgments against them ... The fact that Sewell belongs to a class that has voluntarily surrendered certain protections and rights makes the conclusion that Senate Bill 10's tier-classification and registration requirements are constitutional even more certain." – Sylvia Hendon, First District Appellate Court of Ohio presiding judge in *Sewell v. Ohio*. She is the mother-in-law of Joe Deters, Hamilton County, Ohio Prosecutor, who was the defendant in the case.

APPENDIX 2: More Resources

Here are just a few sources outside of my book and website to gain a further understanding of the sex offender issue, more can be found at <http://www.oncefallen.com/LinksPage.html>:

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