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Such missing person cases are textbook examples of missing-person policy, experts say. Such cases are taken seriously from the minute a report is filed, and in situations with suspicious circumstances, authorities draw quickly on numerous resources to aid them in their search.



Johnston

"That wasn't always the case. Today's quick hitting, resource-filled response has evolved dramatically from law enforcement procedures of years ago, when local police forces had little training or assistance to help them investigate missing people. As late as the early 1980s, no national clearinghouse organization for missing children existed. And until 1991, information on missing people could not be entered into a national computer network run by the FBI.

"You could enter a stolen bicycle, but not a missing juvenile," said Steve Johnston, an 18-year veteran of the Rochester Police Department. "We've changed our priorities since then, but back then, it was frustrating. It was like no one cared."

Mayo Clinic pediatrician Dan Broughton agrees. "It was very distressing. So much was known about stolen cars, stolen TV sets... it was really a problem," he said.

### Getting the word out

Broughton, who is heavily involved with the National Center for Missing and Exploited

network. The center also operates a 24-hour telephone tip line and disseminates leads to authorities throughout the nation.

More than 27,000 children have been recovered since its founding, according to center statistics.

"The center has really helped to raise awareness of these issues," said Patty Welterling, who serves on the center's board of directors and whose son Jacob disappeared in 1989.

That awareness, Welterling said, has been critical in getting law enforcement across the country to study missing person policy and develop a highly focused approach to investigations. Doing this has enabled authorities to find thousands of missing children, she said, because officials act quickly after a report is filed.

Speed plays an important role in investigations, Welterling said, because most abducted children who are recovered are found within a short time.

"The policy is now that the (abductor) can run, but he can't hide," said Johnston of the Rochester Police Department.

Law enforcement officials and Broughton also credit high-profile cases, such as those involving Jacob Welterling and Eden Prairie teen-ager Grant Hussey with raising awareness about missing children.

Jacob's disappearance attracted national attention. Shortly after his disappearance, his family began the Jacob Welterling Foundation, an organization that assists law enforcement and families of missing children.

Hussey, 15, was kidnapped by

three men, including children in cases, particularly those involving young children, authorities are presented with a situation in which there's little doubt the child is in great danger, experts say. Children don't normally wander away from home by themselves. And even if no one took them from home, children cannot survive outdoors for long by themselves.

For that reason, it's an easy decision to call in volunteers, the media and other agencies if necessary, Johnston said.

But adults are a different case. Adults often have money, transportation, and in almost all cases, they have every right to walk out of their homes and not tell anyone where they are going for a few days or even weeks.

Authorities called into the situation must evaluate whether circumstances are suspicious enough to warrant an all-out search. In many cases, those reported missing have turned up in different states and simply decided they'd had enough of their current life, Johnston said.

Complicating the matter are the number of people reported missing.

According to David Mueller, a detective with the Olmsted County Sheriff's Department. Contrary to public belief, Mueller said, such reports are common. "We get them on a daily basis," he said.



Welterling

Officers are sent to investigate

near her home in southwest Rochester. Anger was reported missing by her co-workers and shared a home with her two young sons, ex-husband and his new wife.

Anger's photo and personal information were entered in the FBI's national computer data base and distributed to media around the region. Authorities also questioned her family members in Rochester and in Arizona and California, where she had lived before moving here.

Anger's is a good example of how even law enforcement's best efforts can turn up nothing to account for a disappearance. Despite the high-tech computer listing, extensive search and media assistance, no trace of the woman has been found.

"From very early on, we felt this was suspicious in nature," Mueller said. "We still feel that way. If we learn of any additional information we will follow up on leads. But we are limited by the lack of additional information."

### 50,000 unsolved cases

Anger is one of about 50,000 people nationally whose disappearances have never been solved, according to FBI records. She is joined by several children in the upper Midwest whose disappearances became high-profile cases but were never solved.

In 1982, two 13-year-old boys from Des Moines, Iowa, were abducted as they delivered newspapers to residents in middle-class neighborhoods on the city's western edge. Despite extensive publicity, no trace has been found of either Johnny Gasch or Eugene Martin.

In 1989, Jacob Welterling made



Age at disappearance: 11

Date of disappearance: Oct. 22, 1989

Circumstances: A gunman confronted Jacob, his younger brother and a friend in St. Joseph, Minn., as the three were on their way home from a convenience store. The man shoved Jacob into a car and left the other boys.

### Information

Anyone with information on these or other missing-person cases should call local law authorities. The National Center for Missing and Exploited Children operates a hotline at 1-800-THE-LOST.

Graphics by Rick Dahl/The Post-Bulletin

headlines when a gunman snatched him from his St. Joseph home shortly before Halloween. Investigators still continue to pursue tips, though calls have dwindled to a trickle at the St. Cloud offices of the Jacob Welterling Foundation.

In Rochester, the family of Michael Megraw, 30, has been waiting for word of him for three years. In 1992, Megraw traveled alone to Katanik Lake in Manitoba. His truck was recovered near the lake. Officials from the Royal Canadian Mounted Patrol searched the area near the lake but found nothing.

Others missing from Rochester include two girls, now ages 13 and 9. Authorities believe they are an example of the most common reason for missing children: parental abductions. Johnston said it is believed their mother took them back to her native

Korea without the father's permission. The two girls have been missing since 1992. The FBI has issued a felony warrant for the mother's arrest.

More than half of all children reported to the National Center for Missing and Exploited Children are found. No statistics are available on missing adults who have been found.

What is known, however, is how important a role time plays in an investigation. As the days and years pile up, experts say, the less likely the missing person will be found unharmed, though even found at all.

Still, many families of the missing say they'll never give up their search for loved ones.

"You have to maintain hope," Patty Welterling said. "Somebody out there knows something. All you can do is hope they will come forward."

## Diabet

### Three area roads to be fixed

The state Department of Transportation will be doing patching and resurfacing starting next week on U.S. 14 and Minnesota 30 and 56 in Dodge County.

The work on U.S. 14 will be from Dodge Center to Dodge Center. On Minnesota 30, it will be from Minnesota 56 to the east limits of Hayfield. And on Minnesota 56, it will be from Dodge Center to Dodge 4.

On Minnesota 30, crews will mill and resurface the road, grinding off a portion of the old surface to level the road and applying a fresh layer of pavement.

In all three locations, traffic will be reduced to

### Police warn of scam artists

Rochester police are cautioning people against being taken in by scam artists promising to resurface driveways or do roofing work for a fraction of what it would normally cost.

Police Capt. Steve Johnston said that while there have been no complaints so far this summer, police have reason to believe a group of transients has arrived in the city and might be trying to get some business.

He said that in past years, such groups have promised to resurface driveways or roofs for only a couple hundred dollars.

"Often, they pour some black stuff on the driveway or roof that washes off after the first rain-

### Whitewater region in pilot project

The Whitewater Watershed has been selected as one of six national Whole Farm Plan Pilot Project sites, U.S. Rep. Gil Gulknecht announced today.

Gulknecht said the pilot project was established by the U.S. Department of Agriculture National Resources Conservation Service to assist farmers with practical solutions to resource concerns.

The 205,400-acre Whitewater Watershed, in parts of Winona, Wabasha and Olmsted counties, is one of the most erosion-prone areas in the state.

The pilot project is designed to help farmers

### Corrections

An article on page 1B of Friday's Post Bulletin incorrectly stated that PORT's bylaws require that excess funds at dissolution of the community corrections organization be returned to supporting counties. The bylaws call for distribution to other non-profit organizations. An accounting firm, at the request of Olmsted County, has concluded the three counties that have provided PORT with financial support would qualify as recipients. The Probationed Offenders Rehabilitation and Treatment program is closing its residential treatment facility at the end of this month, but the organization and its board of directors will still exist.

# Authorities postpone molester's release

Victims' rights groups appeal to criminal justice board to keep McQuay behind bars

By MICHAEL GRACZYK

THE ASSOCIATED PRESS

HUNTSVILLE, Texas — The scheduled release of an imprisoned former school bus driver who claims to have molested more than 200 children was delayed today until prison and parole officials can review his case.

Officials said the release of Larry Don McQuay, 32, was halted "pending a thorough review of his release plan" by Texas Department of Criminal Justice Officials and Texas Board of Pardons and Paroles Chairman Victor Rodriguez.

Rodriguez was on his way from

Austin to Huntsville to personally interview McQuay today. The review, including a check to be sure McQuay had served enough prison time for release, was expected to take a couple of days.

McQuay, who describes himself as a "monster" and campaigned unsuccessfully to be castrated while in prison, had been scheduled for transfer from a Huntsville prison to a halfway house in Houston under a mandatory release program.

But that was placed on hold after victims rights' groups appealed to Allan Polunsky, chairman of the Texas Board of Criminal Justice.

McQuay's release was already approved by a state parole board and was described as mandatory under state law.

"It just doesn't make sense that the state of Texas must allow a convicted pedophile to walk out

knowing he's going to do it again," said Dianne Clements, president of the Houston-based group Justice For All. "It's frustrating, frightening, aggravating, illogical."

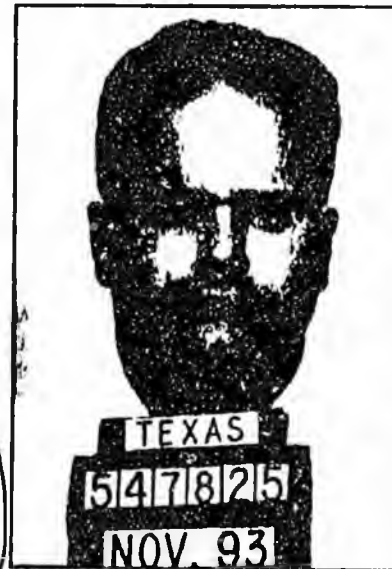
He has served six years of an eight-year sentence for molesting a 6-year-old boy in San Antonio. His early release was the result of his good behavior while in prison.

"The state of Texas, if a child suffers assault or death at the hands of Larry Don McQuay, is culpable for criminal negligent homicide," Clements said.

Clements' group has frequently exchanged letters with McQuay. In one last year, he declared: "I am doomed to eventually rape then murder my poor little victims to keep them from telling on me."

In an interview last August with the weekly Houston Press, he said, "I am a child molester. A monster."

4-2-96



THE ASSOCIATED PRESS

**Molester:** Larry Don McQuay, shown here in prison in 1993, claims to have molested more than 200 children and has vowed to molest more.

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## Punishing Sex Offenders

*Will the courts overturn tough new laws?*

**V**iolent assaults on children in several highly publicized incidents have spurred states to pass new laws cracking down on sex offenders. A majority of states now notify residents of communities where a sex offender has been released. Some detain especially dangerous sex criminals for an indefinite term of mental treatment once their sentences expire. These laws are being challenged in the courts by those who charge they punish individuals for the same crime twice. Moreover, some treatment experts say the laws are based on a misconception about who commits sex crimes. Most convicted sex offenders are relatives or friends of their victims. With therapy, many can learn to control their sexual obsessions, some clinicians maintain. But the mental health profession remains divided over whether rehabilitation works.



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COVER: MAUREEN KANKA HUGS HER TWO SURVIVING CHILDREN AT AN ANTI-CRIME RALLY IN HAMILTON, N.J., TWO DAYS AFTER HER 7-YEAR-OLD DAUGHTER MEGAN WAS SLAIN. HER DEATH LED TO PASSAGE OF "MEGAN'S LAW," WHICH REQUIRES COMMUNITIES TO BE NOTIFIED ABOUT DANGEROUS SEX OFFENDERS WHO MOVE INTO THE AREA. (PHOTO COURTESY OF THE TRENTON TIMES.)

# Punishing Sex Offenders

BY SARAH GLAZER

## THE ISSUES

Shortly before convicted child molester Earl Shriner was scheduled to be released from a Washington state prison in 1988, prison officials faced an awful dilemma. They knew Shriner had drawn pictures and written in his diary about torturing children once he was free, but he had served his sentence and had to be released. Prison officials tried to have Shriner committed to a mental institution, but a judge ruled that he was not mentally ill under the law.

Five months after his release, Shriner raped and sexually mutilated a 7-year-old boy.\*

The case raised an outcry in Washington state and led to the passage of a comprehensive legislative package aimed at stopping another Earl Shriner. One statute permits police to notify residents when a recently released sex offender moves into the neighborhood. Another permits the state to hold "sexually violent predators" indefinitely in a mental-treatment wing of the state prison.

Since then, dozens of states have passed similarly tough statutes, often following horrifying sexual crimes in their own backyards. As of December 1995, 30 states had passed community-notification laws. (See map, p. 28.)

But the laws have been challenged by civil libertarians as attacks on the rights of prisoners who have served the full sentence for their crimes. In New Jersey, a federal judge has declared the state's notification law unconstitutional, saying it amounts to a second punishment on offenders who committed their crimes before the law took effect Jan. 1, 1995.



Laws that permit dangerous sexual predators to be detained beyond their sentences have been challenged in five states — Washington, Wisconsin, Kansas, Minnesota and Iowa. Minnesota passed its statute in 1994, joining a growing number of states that detain sex offenders with mental disorders who are "likely to engage" in future sexual crimes. The law was prompted by the scheduled release of 54-year-old Dennis Linehan, a rapist and murderer. Linehan is challenging the law as unconstitutional.\*

"It's a long stretch from our system of due process and the standard of proof beyond a reasonable doubt to this prediction of future dangerousness," says attorney Kathleen Milner of the Minnesota Civil Liberties Union, which filed an amicus brief on behalf of Linehan. "Conceivably, after sex offenders they'll move on to other areas: 'Well, you're likely to shoplift again, so we're going to hold you.'"

The tough anti-predator laws raise basic questions about how sex offenses should be viewed: Are they caused by mental illnesses that can be treated with therapy? Or are they crimes, plain and simple, that should be punished?

The mental health profession is divided over the issue. And there is vigorous debate over which, if any, treatments are effective in rehabilitating sex offenders. (See story, p. 32.)

The Washington State Psychiatric Association is among those challenging the state's sexual predator law, under which the state currently is holding 32 sex offenders beyond their sentences. "These are merely criminals," says Seattle psychiatrist James D. Reardon, an association spokesman. "There is no scientifically based effective treatment for sex offenders. We couldn't find any research [showing] that treating is any more effective than incarcerating."

But some experts who work with sex offenders insist they have found therapies that work, among them Fred S. Berlin, director of the National Institute for the Study, Prevention and Treatment of Sexual Trauma in Baltimore, Md. "I don't think the majority [of sex offenders] have a condition that's curable," he says, "but I do think that many of them have a psychiatric disorder and can, like alcoholics, learn to control themselves and live safely in the community."

"There are probably sex offenders who are criminals and some who are mentally ill," says Roxanne Lieb, associate director of the Washington State Institute for Public Policy at Evergreen State College in Olympia, Wash. "It's not black and white, as it's been posed in this debate." Certain therapies may help specific types of sex offenders but have little effect on others who are more likely to reoffend, Lieb says.

"Incest offenders are in a very different category from a compulsive pedophile who targets little boys, has

\* Shriner forced the boy off his bike in woods near Tacoma, Wash., raped and stabbed him, cut off his penis and left him for dead. The boy survived and identified Shriner as his attacker.

\* Linehan is appealing a lower court ruling upholding his commitment. Oral arguments were heard by the Minnesota Court of Appeals on Nov. 17, 1995. A decision is expected in February.

# CORRECTION

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BY SARAH GLAZER

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— they want to have the opportunity to get rehabilitated."

Berliner served on the task force that drafted Washington state's pioneering sex predator law. She defends the law against assaults by civil libertarians, arguing that it's narrowly drawn to get at a few hard-core, repetitive offenders like Shriner.

For policy-makers, it comes down to a balancing act between the rights of ex-offenders and the rights of potential victims. "Is the state helpless?" asks Alexander D. Brooks, professor of law emeritus at Rutgers Law School in Newark, N.J. "Must the state release such a person and say it can't do anything until he commits another crime?"

Initially, Brooks expected to oppose the Washington state law on civil liberties grounds, but he changed his mind after contemplating the legal impasse Washington state faced in the Shriner case.

"Which interest are you more concerned about protecting?" he asks. "Keeping dangerous offenders on the street, where they will commit sexual offenses against women and children, or protecting women and children by committing the most dangerous offenders with the hope of treating them?"

As courts and legislatures debate how to deal with sex offenders, here are some of the questions being asked:

***Should citizens be informed of sex offenders living in their community?***

In July 1994, in a suburb of Trenton, N.J., 7-year-old Megan Kanka walked across the street to see a neighbor's puppy. She never came home. Jesse Timmendequas, a neighbor and twice-convicted sex offender, has been charged with murdering Megan. Jury selection in his long-delayed trial is set to begin in February.

Unbeknown to the neighborhood, Timmendequas had spent six years in Avenel, New Jersey's treatment-prison for sex offenders, for molesting and attempting to kill another little girl.

Within weeks of Megan's death, more than 200,000 New Jerseyans had signed a petition demanding that government officials notify communities when sex offenders move into the neighborhood.

In October 1994, Republican Gov. Christine Todd Whitman signed a package of 10 bills, which came to be called "Megan's Law." The most controversial provision requires released sex offenders to register with local police.

In addition, neighborhoods must be told the identity, criminal record and address of sex offenders who prosecutors think pose a high risk of reoffending. If the risk is low, only law enforcement officers are notified. If the risk is moderate, organizations such as schools and day-care organizations are notified. If the risk is high, all residents of the offender's neighborhood must be notified through such methods as distributing handbills or door-to-door visits.

Although New Jersey has had relatively little experience with the law so far, there already have been some problems with it, according to Edward Martone, executive director of the American Civil Liberties Union of New Jersey.

Shortly after the law took effect in January 1995, a father and son in Phillipsburg, N.J., broke into a house where a recently paroled sex offender was living. They beat up a man sleeping on the couch whom they mistook for the parolee.

Vigilantism is one of the major arguments that has been raised against notification laws. In Washington state, which in 1990 became the first state to approve notification, a sex offender's house was burned down after his community was notified. In the law's first three years, there were approximately 14 incidents against sex offenders ranging from insults to rock-throwing, according to the Institute for Public Policy.

The law's advocates respond that the vigilantism has been minimal considering that communities were

notified about 176 sex offenders during the period. Berliner also points out that before the law the public often learned of neighbors charged with repellent crimes through weekly records of arrests printed in local newspapers.

Catherine Broderick, who heads a unit in the Morris County, N.J., prosecutors office responsible for implementing Megan's Law, says that each notification her office makes will include a warning that vigilante activities will be prosecuted. Broderick notes that the Phillipsburg men who mistakenly attacked a neighbor have been prosecuted. "The idea is not to punish people further for offenses," she says. "The idea is to educate the public as a tool to prevent future victims."

But critics doubt the laws will work. They point to a recent study in Washington state which found no difference in rearrest rates among sex offenders since passage of the community notification law five years ago.<sup>2</sup>

In Camden County, N.J., a sex offender whose community had been notified raped a child at a fast-food restaurant in a neighboring town. The incident shows the bill "is an incentive to get out of town, to hide," Martone says. "It's cruelly ironic that the notification bill is causing people to seek anonymity. It's the worst way to deal with repetitive and compulsive sex offenders. It gives them reason to avoid family, treatment, detection and take it on the lam."

Advance publicity won't necessarily deter sex offenders within their own neighborhood, either, Martone adds. He cites the recent case of a 15-year-old Lakewood, N.J., boy who was raped in the apartment of a released sex offender despite warnings about the man sent to area residents, including the boy's parents. The law, Martone asserts, "doesn't provide protection. It says, 'Here's a picture of a guy we think is a time bomb. Have a nice day.'"

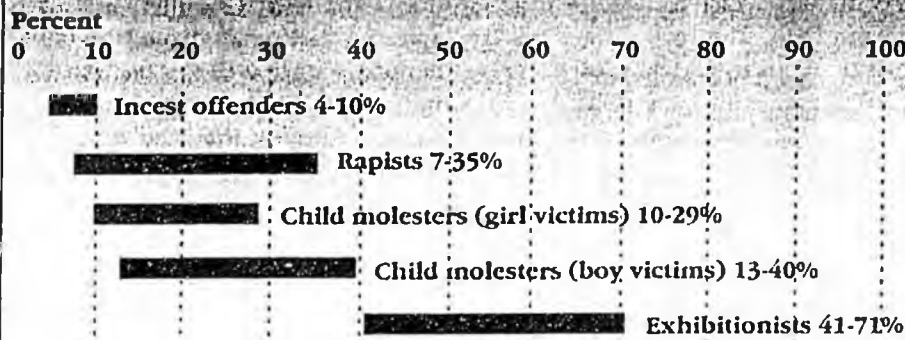
Freeman-Longo at the Safer Society

## PUNISHING SEX OFFENDERS

### When Sex Offenders Commit New Crimes

Recidivism rates vary widely among different types of sex offenders. Exhibitionists and child molesters are most likely to commit new offenses according to a survey of international research findings. \* Incest offenders are the least likely to reoffend.

#### Recidivism Rates for Untreated Sex Offenders



\* The survey tracked the most frequently cited studies of recidivism by offenders not treated by mental health professionals for sexual deviancy. Recidivism is defined as a rearrest, a reconviction or a return to prison.

Source: W. L. Marshall and H.E. Barbaree, Handbook of Sexual Assault (1990), in Lin Song and Roxanne Lieb, "Adult Sex Offender Recidivism: A Review of Studies," Washington State Institute for Public Policy, January 1994

fication and may be giving them intensified scrutiny, she suggests.

Berliner says the law was drafted not so much to reduce crime but in response to citizens who say they have a right to be informed. "If a person who has raped and molested numerous children . . . moves in next-door and you have young children, do you want to know about it?" Berliner asks. "Citizens do."

#### Should sex offenders be kept in confinement after they have served their prison sentences?

Washington state changed the nation's legal landscape in 1990 when it broadened its laws confining sexual criminals once their prison sentences had expired. Traditionally, Washington and other states permitted the involuntary hospitalization of mentally ill persons considered dangerous through civil commitment procedures. Washington's law was so narrowly drawn that convicted molester Shriver could not be detained after completing his sentence.

But the 1990 law targeted a new class of offender, the "sexually violent predator." The law defined a predator as someone charged or convicted of a crime of sexual violence who suffers from a "mental abnormality or personality disorder" which makes the person likely to commit future predatory sexual acts. Offenders deemed by a court to fit that definition can be confined at a prison treatment facility indefinitely — until considered safe to be released into the community.

A federal judge has declared such confinement unconstitutional because it punishes the same crime twice. In an opinion issued Aug. 25, 1995, John C. Coughenour, a U.S. District Judge in Seattle, called the law "an unconstitutional second punishment," violating the Constitution's ex post facto and double jeopardy clauses as well as the offender's due-process rights.

The state of Washington has appealed the decision and is expected to take it to

Foundation also opposes notification laws. In New Jersey, some incest victims now fear reporting their abuse because of the public humiliation that could be created by the public notification law, he said in a recent report. "If notification prevails, how fair is it for a child to go to school and hear others talk about his or her brother, father or grandfather, the sexual offender?"

"We know low self-esteem and lack of an ingrained social structure are factors that feed into [abusive] behavior," he says. "Public notification will worsen some of the problems."

Broderick concedes that the notification laws "will not eliminate child abuse." She admits, "Quite frankly, for this really to work, it would have to become a national program." But she says notification still provides a sense of relief to parents and has educated families to the dangers of sexual abuse.

When Broderick has knocked on doors to inform residents that a sex

offender is living in their neighborhood, she says there's usually a double reaction — shock followed by calm. "The second reaction is a kind of confidence. 'At least I know this and can work with my child and any other member of the family that needs to know.'"

Alerting neighbors means some sex offenders are caught earlier in the cycle of recidivism. In Washington state, offenders identified by community notification were arrested for new crimes much earlier than similar offenders released before the notification law — a median of about two years vs. five years for the comparison group.

Often, the re-arrests are for more minor charges, such as communicating with a minor for immoral purposes, according to Lieb of the Institute for Public Policy, which conducted the study. Detectives in some counties have been assigned to offenders targeted by community noti-

the Supreme Court if necessary. \*

Because Shriner had told a cellmate about his plans to attack small children on his release, prison officials sought to commit him to a mental hospital under Washington's law for sexual psychopaths. But a judge turned down their request. Shriner did not fit the definition of a mentally ill person under the narrowly drawn statute and had not committed a recent overt act proving he was dangerous.

"Generally, the interpretation of [the psychopath law] is they are psychotic and out of touch with reality," Berliner explains, "so our [predator] bill and the ones adopted in the states since then have used a different definition of what is wrong with these people."

Washington's new legislation was intended "to fill the gap in our sentencing structure to cover people who have completed their sentences and are still dangerous" but may not be crazy under a strict definition, Berliner says. There are "people in prison fantasizing about going out and raping and killing children. Well, people [in Washington state] said, 'We don't accept that there's nothing you can do about that situation.'"

Berliner argues that the new law, which has become a model for several other states, was narrowly drawn, thus limiting the impact on most prisoners' civil liberties. In fact, only 32 offenders, less than 1 percent of all imprisoned sex offenders in the state, have been confined under the new statute.

But the law's opponents contend that the state is detaining sex offenders who aren't mentally ill under the guise of mental health treatment. "You can't put someone who is not mentally ill in an institution," says Robert C. Boruchowitz, an attorney in the Seattle Public Defender's office who represents eight of the 32 offenders. "And the state is basically pretending

our guys are mentally ill to get around the due-process problem."

One of Boruchowitz's clients is Andre Brigham Young, a three-time convicted rapist, who has challenged his commitment under the predator statute as unconstitutional. His case will be heard before the Ninth Circuit Court of Appeals later this year.

Boruchowitz argues that the Legislature was trying to find a "pseudomental definition" to get around the rights of released prisoners. "Mental abnormality" is not a clinically recognized term, he notes. And the term "personality disorder," which generally refers to a person's history of maladaptive behavior, is so broad that it encompasses "virtually everyone in prison," he argues.

Psychiatrist Reardon agrees. "These people deliberately decide to commit a crime. To say illness causes them to commit a crime is ridiculous." Though Reardon agrees the behavior is abnormal and may even be compulsive, he asserts, "to say someone who has this compulsion is mentally ill is stretching the boundaries of mental illness."

Reardon also views the treatment offered in prison as essentially a sham. "All the surveys show there is no treatment being done. The [staff] are not trained. The program is not organized."

Boruchowitz says his clients feel more like prisoners in the mental wing than they did behind conventional bars. "It's a maximum security facility," he says. "There's barbed wire all around it. The guards are instructed to shoot anyone who tries to escape."

In a highly critical 1992 evaluation of the treatment program, Canadian psychologist Vernon L. Quinsey noted that offenders being held were "embittered" by the additional confinement and that only three were actively engaged in treatment. He also pointed out an apparent contradiction in the new law. The statute is directed at those offenders unlikely to be "cured," yet it requires them to receive treatment — with their release conditional

on a court or jury decision that they are no longer a threat.

The program's lack of any procedure for releasing offenders on a gradual or temporary basis into the community is a "fatal problem," Quinsey concluded. Without it, staff had only the offender's behavior in the "artificial" environment of the prison on which to base predictions of future dangerousness.<sup>6</sup>

Four years later, the state still has not introduced a gradual-release program for these specially designated sex offenders, Boruchowitz says, and not a single offender has been declared safe enough by staff to be released permanently.

"There is no question there have been problems," Berliner concedes. But she argues the treatment program could be improved in the future and that new treatments may be developed to render this class of sex offenders less dangerous. "The law shouldn't be found unconstitutional because it's a crummy treatment program," she argues.

But civil libertarians say the law sets a dangerous precedent for detaining other kinds of lawbreakers on the basis of what they might do in the future. Eric S. Janus, a professor at William Mitchell College of Law in St. Paul, Minn., says a Minnesota law modeled on Washington's statute "is pure preventive detention." Potentially, warns Janus, "The principle underlying it would swallow the entire criminal justice system."

Janus is one of the attorneys representing rapist-murderer Linchan, who at age 24 strangled a 14-year-old babysitter who resisted his advances. Trial testimony revealed that in addition to the babysitter, Linchan assaulted several women before being caught and imprisoned. In 1975, Linchan escaped from prison and fled to Michigan, where he was imprisoned for assaulting a 12-year-old girl. In 1983, at the completion of his Michigan sentence, he was returned

\* Judge Coughenour has agreed to let the state keep the 32 prisoners committed under the law in a court until an appeals court decides the first challenge.

## Combining Group Therapy and Drugs . . .

**E**ight men sit around an oval table discussing their struggles with addiction. But these are not drug addicts or alcoholics. They are sex offenders — child molesters, exhibitionists, a cross-dresser and a peeping Tom. For the most part, they are white, affluent and well-educated.

The men are participants in group therapy at the National Institute for the Study, Prevention and Treatment of Sexual Trauma in Baltimore, Md. In essence, the institute borrows the techniques of alcoholism treatment in making clients confront their crimes while assuring them they are not alone in their fantasies.

"The child is to the pedophile what the bottle is to the alcoholic," says institute Director Fred S. Berlin, a psychiatrist at Johns Hopkins University. "When people have intense cravings, and satisfying these cravings brings pleasure, it's hard to deny themselves." Like alcoholism, Berlin believes, sex offending is a life-long disease that can be managed but not "cured."

The treatment regimen consists primarily of weekly group therapy for a year, followed by another year of occasional sessions. The aim is to make offenders accept responsibility for their acts, find remorse for the people they have hurt and develop strategies to avoid repeating their crimes, such as avoiding situations associated with their temptations. The institute currently treats 130 sex offenders.

Bob, a baby-faced child molester, clutches his coat to his chest as he describes how he recently accompanied a child on an amusement park ride — violating a court order barring him from contact with minors. \* Bob was arrested two years ago and attends group therapy as a condition of probation — as do half the group members.

Bob was on a church outing when a parent who was terrified of roller coasters asked him to ride with her 6-year-old child. "I felt sorry for the kid. He had no way of getting on the rides," Bob explains. He insists he was not sexually attracted to the boy.

The other group members are skeptical of Bob's rationale, asking why he participated in an excursion that would inevitably include children. "Let's be real," says Associate Director Kate Thomas, an attractive woman with waist-long blond hair who leads the therapy session. "If the church tells you to do something harmful, it's like friends getting

you into a bar."

It's hard to square Bob's gentle demeanor with his revelations of past crimes. While working as a nurse, he says he sexually assaulted several comatose adults. He recalls reading a pornographic story when he was 13 about a nurse who would similarly "relieve" her patients. "It stuck with me [that] I was helping them," he says. "But in my head, I knew I wasn't."

Thomas says offenders typically minimize their responsibility for their crimes. More than once she has heard a child molester say: "I shouldn't have been doing it, but she came on to me."

There's also an element of escapism in the men's acts. David, a distinguished-looking middle-aged man with a neat, gray beard, describes his recent arrest for hugging a strange woman from behind as she bent over her car in a parking lot. He has a history of "frotteurism," touching or rubbing up against strangers, and of exposing himself.

"I've exchanged normal heterosexual relations with my wife for this," David says sadly. "Your wife is a real person," observes John, who identifies himself as a pedophile. "These people are anonymous."

Though their obsessions vary, the men in the room agree that it is hard to control their behavior.

"I never intended to hurt any of these kids," says Bob, who met most of the children he molested through church activities. "The opportunity arose, and I did it. I didn't have enough control to stop it."

Bob gets weekly injections of Depo-Provera, a drug that lowers the hormone testosterone, thus reducing desire for sexual activity. About one-quarter of the men treated at the institute take testosterone-lowering drugs — all voluntarily. Although the drugs lower sex drive, Thomas says, patients on it can still have intercourse.

One group member, a medical student, was suspended from school for peeping at women in public bathrooms several times a day. He has found the medication helpful in controlling his voyeurism yet still maintains a sexual relationship with his girlfriend.

"They're tired of being so driven by sexuality that they can't do much else with their lives," Thomas says of the men on drugs.

Patients treated with the drugs also participate in the institute's standard treatment regimen of group therapy. In

to Minnesota and incarcerated.

On May 15, 1992, Linchan was scheduled to be released. Instead, he was committed to a state mental hospital under Minnesota's "psychopathic personality" law. However, the state Supreme Court overturned Linchan's commitment in June 1994, saying he

did not fit the law's definition of a psychopath as someone unable to control his sexual impulses.

Under a new law, passed in August 1994 in response to Linchan's imminent release, prosecutors need only prove that someone is unwilling to control his or her sexual impulses.

The new statute permits the commitment of "sexually dangerous persons" who have a history of past harmful sexual conduct, are likely to repeat the conduct in the future and have a personality disorder.

Linchan was committed under the new law, which he challenged on

\* The men's names have been changed to protect their privacy.

## ... Helps Sex Offenders Deal With Compulsions

a 1991 study of 626 patients treated by the clinic, Berlin reported that five years after they had been treated, fewer than 10 percent had committed sexual offenses again. Among the most compliant patients, fewer than 5 percent committed new sexual offenses.<sup>1</sup>

The hormonal treatment aims to accomplish in a reversible form the same testosterone-lowering goal as surgical castration — which removes the testes. In studies, castration appears to be the most effective treatment in reducing repeat crimes among sex offenders. One study of 121 castrated sex offenders in Switzerland found a 7.4 percent recidivism rate compared with a 52 percent rate 10 years later for men not undergoing the procedure.<sup>2</sup> A recent review of the literature also found hormonal treatments effective in reducing repeat sex offenses.<sup>3</sup> (See "At Issue," p. 41.)

However, Depo-Provera plagues some patients with side effects, including weight gain, high blood pressure, nightmares, cold sweats and lethargy. About half of those who begin the hormonal treatment discontinue it.<sup>4</sup>

A drug preferred for its limited side effects is Depo-Lupron, but according to Thomas, it costs \$400-\$500 for each monthly injection, compared with \$40 for each weekly injection of Depo-Provera.

Because of the expense and side effects, drugs are not widely used. Less than 20 percent of adult sex offender treatment programs use them, according to a national survey by the Safer Society Foundation in Brandon, Vt. "I don't know of any correctional systems that use it," says survey co-author Robert E. Freeman-Longo. "It's seen as still experimental."

Ethical and legal issues have been raised over whether sex offenders can be forced to take the drug. In a 1983 Michigan case, Judge John Fitzgerald sentenced Roger Gauntlett, who had pleaded no-contest to molesting his 14-year-old stepdaughter, to five years of treatment with Depo-Provera. On appeal, the Michigan Appeals Court ruled Gauntlett couldn't be forced to take the drug, saying it isn't widely accepted as a safe and reliable treatment for sex offenders.<sup>5</sup>

"There's always the issue of whether prisoners are really consenting or not," says Stephen Huot, director of sex offender and chemical dependency services for the Minnesota Department of Corrections, which does not offer Depo to sex offenders. "I'd hate to pressure or encourage someone to go on Depo and have them say, 'They forced me to go on it, and now I've got cancer.' We've shied away from it."

constitutional grounds. In July 1995, a district judge upheld Linehan's indefinite commitment, saying, "Commitment is necessary for the protection of the public." But the real test will come in the appellate courts in the months ahead. Meanwhile, Linehan remains in a state mental hospital.

"One of the reasons we think this law is so destructive is it puts therapists and courts in the position of gazing into a very cloudy crystal ball and predicting the future," says Janus. He describes Linehan, who has spent 27 years in prison, as "no different from any other criminal."

Also controversial is whether lowering the sex drive really gets to the root of sex offender behavior. Berlin sees sex offending, particularly pedophilia, as "occurring in response to a powerful biological drive that recurrently craves satiation." In his view, hormonal drugs work as an "appetite suppressant."

But victim advocates take issue with the institute's view of sex offending as biologically driven. "By defining the problem as one of sexual preference, and innate, they've tended to argue that the social policy of treating these people as criminals is somewhat unfair. That's where it's controversial," says Lucy Berliner, research director at the Harborview Sexual Assault Center in Seattle, which treats sexual-assault victims. She sees punishment as well as treatment as important.

Some experts suggest hormonal drugs may help individuals oppressed by persistent sexual fantasies but not those with primarily sadistic motivations.

The men who meet for group therapy at the Baltimore institute bear little resemblance to the serial murderers who make the headlines. But they are actually more representative of the majority of sex offenders, according to experts.

"Most people involved with children sexually are not dirty old men who pull children into a back alley," says Thomas. "They're people who like kids, and kids like them." Statistically, the child molester is far more likely to be the child's father, step-father, uncle or family friend than a stranger.

Dangerous sexual predators who prey on children they don't know constitute a small minority of the sex offender population. They're also the least likely to bare their souls in group therapy.

"It's the silent ones, the ones we're not hearing from, who are the real scaries," says a group member.

<sup>1</sup>Fred S. Berlin et al., "A Five-Year Plus Follow-Up Survey of Criminal Recidivism Within a Treated Cohort of 406 Pedophiles, 111 Exhibitionists and 109 Sexual Aggressives: Issues and Outcome," *American Journal of Forensic Psychiatry*, Vol. 12, No. 3, 1991, p. 5.

<sup>2</sup>Fred S. Berlin, "The Case for Castration: Part 2," *The Washington Monthly*, May 1994, p. 28.

<sup>3</sup>Gordon C. Nagayama Hall, "Sexual Offender Recidivism Revisited: A Meta-Analysis of Recent Treatment Studies," *Journal of Consulting and Clinical Psychology*, 1995, p. 802.

<sup>4</sup>*Ibid.*, p. 807.

<sup>5</sup>Anthony Schmitz, "A Shot in the Dark," *Health*, January-February 1993, p. 22.

"What could Linehan do to show he's not dangerous?" Janus asks. "He's had 20 years of good behavior [in prison] and that's not good enough. He's gone through treatment and that's not enough."

Some psychologists say they've developed good instruments for pre-

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dicting who is dangerous. Quinsey has developed a prediction tool, based largely on the offender's past history, which is "as good or slightly better than short-term weather forecasting," predicting accurately in 75 percent of cases, he says.

But that confidence is by no means unanimously shared in the field. "You can flip a coin and get a better prediction than by clinical evaluation," Reardon maintains.

Seattle University School of Law Professor John Q. La Fond asks how many harmless former offenders would be mistakenly detained on the side of caution. People tend to over-predict violence, he says, particularly when "the prosecution parades the [assault] victims in front of a jury and says, 'Do you want to be responsible for this [offender] recommitting a crime?'"

### *Can sex offenders be rehabilitated?*

There is vigorous debate within the psychological community over which, if any, treatments keep sex offenders from committing new crimes.

Psychologist Quinsey, who represents the more skeptical wing, says most studies are poor and don't show evidence of treatment effects. "I would argue we don't know enough to establish effectiveness," he says. "We don't have a lot of treatment studies with follow-ups."

Some sex offenders, such as child molesters, may assault another child as long as 20 years after their first conviction. But studies may not capture those later offenses because they don't follow sex offenders long enough.

In addition, most treatment efforts are directed at lower-risk offenders — those who are living in the community on probation or parole and receiving therapy on an outpatient basis. "So it's hard to tell whether treatment's making a difference, because their rates of recidivism are already very low," says Berliner. The most dangerous offenders, those who

would likely have the highest rates of reoffending, may get screened out of research studies, may not volunteer or may reside in prisons without treatment programs, she notes.

Complicating the study of treatment is the fact that sex offenders differ so much in their motives and modus operandi. For example, one type of child molester has primarily sadistic motives and seeks out children who are strangers exclusively for sex. Another type shows a sustained interest in an individual child and has primarily non-genital sexual relations with children.<sup>8</sup>

"I think we need to look at different forms of treatment for different types of offenders," says Judith V. Becker, a University of Arizona professor of psychology and psychiatry. She concludes in a recent article that the research literature "provides definite grounds for optimism" for some segments of the offender population.<sup>9</sup> "The majority of individuals who want to work on their behavior can do it, but there is no treatment that is 100 percent effective for everybody."

On the other hand, for the small number of dangerous offenders who have committed murder along with sexual crimes, most treatment experts agree with Quinsey that, "If you're a clinician and treating these guys, you'd have to be a fool to say we should let them go. The data on effectiveness of treatment doesn't support it."

One of the most extensive reviews of sex-offender treatment research, published in 1989, concluded after looking at 42 studies that "There is as yet no evidence that clinical treatment reduces rates of sex re-offenses in general."<sup>10</sup>

But Kent State University psychologist Gordon C. Nagayama Hall says that the review surveyed treatment programs from the 1960s and '70s that would now be considered "rather dated." In an analysis of 12 more recent studies of treatment programs, he found that treatment was on bal-

ance effective. About 19 percent of the sex offenders who attended treatment programs committed sexual offenses again, compared with 27 percent for untreated sex offenders.<sup>11</sup>

Surgical castration, which removes the testes, the body's testosterone-producing organ, is the most effective way of reducing recidivism, according to Hall's analysis of a German study. (Hall's analysis included no such studies from the U.S., where castration is widely viewed as unethical by the medical profession and criminal justice system.)

The most effective treatments after surgical castration, Hall found, are testosterone-lowering hormonal treatments and cognitive-behavioral treatments. Drugs that reduce testosterone, the hormone responsible for sexual drive, achieve nearly the same effect as surgical castration but have the advantage of being reversible. (See "At Issue," p. 41.)

Cognitive-behavioral treatments use group and individual therapy to confront the distorted thinking that leads to sex offenders' behavior. For example, a group-therapy leader will challenge a child molester's assertion that his fondling of a child is an educational initiation into sex.

Least effective, Hall found, were pure behavioral treatments. This kind of therapy generally aims to discourage or interrupt inappropriate sexual arousal. One behavioral treatment lets the patient reach a point of sexual excitement while looking at pictures of children, then gives him a strong whiff of ammonia. This approach gets temporary results but wears off over time, Hall says.

Experts emphasize that recidivism rates vary among different kinds of sex offenders. For example, rapists tend to be the most criminally versatile, repeating sexual and other crimes in higher proportions than child molesters. Incest offenders tend to have the lowest recidivism rates, probably because their interest is concentrated within the family.

## An 'Unlikely' Sex Offender

By the late 1970s, Wayne had rebuilt his life. In the small Midwestern community he had moved to he was a respected citizen, editor of the local newspaper and a youth league baseball coach.\*

Few people in town knew he had served time in prison for sexually molesting an 8-year-old boy. No one knew he hadn't stopped.

Unlike the serial pedophiles who get headlines for their savage attacks, Wayne says he never threatened or physically harmed his victims. Rather, he says, he built up their trust and manipulated it. The young boys he knew were flattered by the friendly editor's invitation to stay overnight at his house.

Typically, Wayne would invite a boy into his house to look at his *Playboy* magazines. Wayne would become sexually aroused, leading to oral sex or masturbation. Wayne likens his method to the childhood game of "playing doctor." He says he never engaged in penetration or rape.

In never physically harming his victims, Wayne is similar to most other child molesters, according to Kate Thomas, associate director of the National Institute for the Study, Prevention and Treatment of Sexual Trauma in Baltimore, Md. Few pedophiles "do something physically painful," she says. "Not a lot make verbal threats." Children often go along, psychologists say, because they don't recognize inappropriate fondling as abuse.

Wayne's double life ended in 1983, when an 11-year-old boy who had been given the overnight treatment broke the secret. Wayne was arrested and pleaded guilty.

Knowing that he faced a tough prison sentence because it was his second molestation conviction, Wayne and his lawyer cast about for an alternative treatment plan. A friend told Wayne he had seen the institute's director, Johns Hopkins University psychiatrist Fred S. Berlin, on the Phil Donahue show. Berlin had described his treatment of rapists and pedophiles with Depo-Provera, a testosterone-lowering drug that reduces interest in sex.

As part of a pre-sentence evaluation approved by the court, Wayne flew to Baltimore and entered Berlin's program for three months, receiving weekly injections of Depo-Provera and attending group therapy sessions. Wayne says Depo-Provera helped him control his obsessive desire for young boys. While he was on the drug, a 14-year-old boy attending a class with him caught his attention.

\* Wayne's last name has been withheld to protect his privacy.

"In the past in that situation, my mind would have been constantly rolling, wondering if I can work my way to visit him," Wayne recalls. "Now it wasn't. I realized that I was attracted, but I went no further."

However, the judge presiding over Wayne's case rejected his attorney's proposal that he stay in treatment in Baltimore as an alternative to prison. Wayne had to serve five years in prison, where he was not permitted to use Depo-Provera. But he says the therapy he received there was helpful.

At first, Wayne attended a prison drug/alcohol treatment program and was told to think about his sexual addiction every time participants talked about drugs and alcohol. He says he realized the addictions were similar and that he had to go through the same feelings of remorse and concern for others that are the basic building blocks of Alcoholics Anonymous.

Later, in a prison group therapy program for sex offenders, Wayne met other victims of childhood sexual abuse, including a young man serving a life sentence for killing his abuser. For the first time, Wayne says, he realized the young boys he had molested were victims, too, not equal social partners. "In this abusive behavior, I wasn't putting faces on these people," he says. "This was an object meeting my needs, and now all of a sudden I was putting a face on it."

In 1989, after getting out of prison, Wayne returned to Baltimore and attended weekly group therapy sessions at the sexual trauma institute as a condition of his parole. He finished parole in 1992, but he has continued to attend group therapy at the institute at his own expense.

"This is the most honest one and a half hours I have all week," says Wayne, who is convinced group therapy "works" as treatment.

Today, at 47, Wayne looks and talks like the white-collar professional he is. Since leaving prison, he has entered the hotel business. Moreover, he has come to grips with the fact that he is gay and is starting to feel attracted to adult men.

He traces his attraction to young boys to his own adolescence. In junior high school, he had been popular until his family moved away, and he became introverted. Apparently, he says, "I just froze at that juvenile age." Wayne estimates he has abused 75 boys in his lifetime.

Like the treatment experts at the institute, Wayne sees his pattern with young boys as a craving that, like alcoholism, cannot be "cured" but can be managed with vigilance.

"I will always be attracted" to young boys he says, "but I don't feel that desire to take it further."

Most people are surprised to discover that except for exhibitionists, a minority of sex offenders offend again. On average, about 17 percent of rapists commit sexual offenses within four years after release while about 11 percent of

child molesters do, according to an analysis of the research by R. Karl Hanson, a senior research officer for Canada's solicitor general.

When it comes to committing other kinds of crimes, "rapists look a lot more

like your general criminal," Hanson notes. About 23 percent of them commit some kind of violent, non-sexual crime, according to his analysis of studies from around the world. Only 8 percent of child molesters get involved



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in non-sexual crimes.<sup>12</sup>

Rapists also appear more difficult to treat. Some studies report successfully lowering recidivism rates with child molesters, says skeptic Quinsey, "but there aren't any with rapists."

According to official statistics, sex offenders actually have lower recidivism rates than criminals who commit crimes for economic gain. In the United States, more than half the inmates in state prisons for car theft are arrested again for some kind of property crime within three years of their release. By contrast, fewer than 8 percent of rapists in U.S. prisons are rearrested for rape.<sup>13</sup>

Of course, rape and other sexual assaults are notoriously underreported, researchers caution. Psychologist Becker cites one estimate that less than 10 percent of U.S. rapes are ever reported to police. Moreover, sex offenses are often plea-bargained down to lesser infractions and may not show up as sex crimes in official records, Becker notes.<sup>14</sup>

Public concern focuses on the small group of offenders who commit sexual assault repeatedly. Some child molesters may have 100 victims over a lifetime, experts say, but may only be convicted for abusing one or two. ■

## BACKGROUND

### Focus on Punishment

From the beginning, American society has punished sex offenses harshly. The nation's first recorded execution of a youth involved a 17th-century Massachusetts farmboy who engaged in sexual play with one of his pet animals.<sup>15</sup>

But at various times in American history, sexual deviancy has been viewed as a disease to be treated. Between 1937

and 1972, 25 states and the District of Columbia passed laws that permitted sex offenders who were considered psychopaths to be institutionalized.<sup>16</sup> These statutes, writes law Professor La Fond, "reflected the buoyant therapeutic optimism of that period."<sup>17</sup>

Generally, such offenders were hospitalized in lieu of imprisonment. But by 1990, most of those laws had been repealed. "The treatment was not successful," explains Brooks at Rutgers. "Many people became very disillusioned with those statutes and said, 'We'll rely on punishment.'"

In Washington state, for example, a major legislative study on the sexual psychopath program confirmed the critics' view that the programs did not work. In a 1985 audit of Washington's sex offender treatment program, the Legislature's Budget Committee found that the recidivism rate of offenders in treatment was about the same as that for offenders imprisoned without treatment.

Some state legislatures came to believe that offenders were being released prematurely under the statutes, posing a danger to public safety. In addition, some critics charged that many sex offenders were manipulating the programs to avoid prison.<sup>18</sup>

In the 1970s, many states introduced "determinate sentencing," which set minimum sentences for violent crimes. This approach reflected the general disillusionment with rehabilitation and increasing public insistence on punishing violent criminals. In the late '70s and early '80s, rehabilitation programs in prisons across the country were dramatically curtailed.

### Washington Gets Tough

Ironically, determinate sentences have now been blamed by some observers for incarcerating sex offenders for relatively short periods. On average, rapists served just over five years in prison in 1992, the latest year for which BJS statistics are available. In Washington, Berliner says determinate sentencing forced the release of

rapist Shriner because he had met good-behavior requirements in prison.

Shriner's subsequent savage assault on a 7-year-old boy prompted the passage in 1990 of the first of a new wave of state "sexual predator" laws. These laws aimed to confine sex offenders who meet a broader definition of mental abnormality than the old laws. If a prosecutor can persuade a judge or jury that a prisoner eligible for release is still dangerous and suffers from a mental disorder, the prisoner can be detained until the state determines he is rehabilitated.

The Washington statute was part of a broad law aimed at sex offenders, known as the Community Protection Act. Another pioneering statute in the act requires communities to be notified about newly released sexual offenders in the area. Components of the comprehensive Washington legislation that have received less national attention, but which Berliner considers equally important, include:

- Treating victims of sexual assault and children with sexual behavior problems;
- Treating juvenile sex offenders; and
- Establishing standards for professionals who treat sex offenders.

Since 1990, several states have used Washington's predator statute as a model, including Minnesota, Kansas, California, Arizona and Nevada. Law Professor Janus believes that the laws have sprung up largely in response to public sentiment that sentences are generally too short for violent offenders.

La Fond says the new trend toward involuntary therapy for sexual offenders recalls the thinking behind the early psychopath laws, when it was widely believed that sexual deviancy was a treatable illness. "You're getting a resurgence from the psychology camp saying, 'This may not be mental illness, but it's a behavioral problem.'"

### Child Abuse Reporting Laws

In the 1960s and '70s, growing

*Continued on p. 38*

# Chronology

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**1930s** *In an era optimistic about the powers of psychotherapy, states begin passing laws permitting involuntary commitment of sex criminals to mental hospitals in lieu of prison.*

**1937**

Minnesota becomes one of the first states to enact a "sexual psychopath" law, authorizing the government to place a sex offender in a psychiatric institution for treatment instead of prison.

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**1960s** *By the late 1960s, well over half the states have enacted "sexual psychopath" laws permitting the state to commit sex criminals indefinitely for mental treatment. Federal government pushes states to adopt laws requiring reporting of child abuse.*

**1963**

U.S. Children's Bureau drafts model legislation for states to require physicians to report suspected child abuse. Within three years, all states enact reporting laws.

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**1970s** *Crime increases at alarming rates, raising questions about the goal of rehabilitation for criminals. Between 1971 and 1980, the violent crime rate increases almost 50 percent, according to the FBI. Rise in reported cases of child abuse prompts*

*academic studies and the first federal abuse legislation.*

**1974**

President Richard M. Nixon signs Child Abuse Prevention and Treatment Act establishing federal Center on Child Abuse and Neglect.

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**1980s** *As the national mood turns away from criminal rehabilitation and toward punishment, states begin repealing their sexual psychopath laws and adopting "determinate sentencing" laws to ensure prison sentences for violent crimes. All but a handful of states repeal their sexual psychopath laws by 1990.*

**1981**

California Legislature repeals its Mentally Disordered Sex Offender legislation, stating that sex offenses are not the product of "mental disease."

**1984**

Washington state passes legislation phasing out its sexual psychopath law and adopting a determinate-sentencing scheme.

**1989**

Psychologist Lita Furby publishes review of 42 treatment studies finding no evidence that clinical treatment reduces recidivism among sex offenders.

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**1990s** *Responding to crimes committed by released sex offenders with histories of*

*violent sexual assault, states pass laws to detain sex offenders longer for mental treatment and to warn communities about released sex offenders.*

**1990**

Washington passes pioneering Community Protection Act, permitting the state to detain dangerous "sexual predators" in mental treatment indefinitely after their prison sentences expire.

**1994**

President Clinton signs federal crime bill urging states to pass sex offender registration statutes by 1997 and encouraging passage of community notification laws.

**October 1994**

Following the murder of 7-year-old Megan Kanka, allegedly by a released sex criminal, New Jersey enacts "Megan's Law" requiring communities to be notified about dangerous sex-offenders who move into the area; it is considered the toughest law of its kind.

**Feb. 28, 1995**

A federal judge in Newark, N.J., declares the notification provision of "Megan's Law" unconstitutional. The state is appealing the case, which is expected to reach the U.S. Supreme Court.

**Aug. 25, 1995**

A federal judge declares Washington state's sexual predator law unconstitutional on the grounds that it punishes the same crime twice. The state is appealing the decision, which is also expected to reach the Supreme Court.

# PUNISHING SEX OFFENDERS

Continued from p. 36

awareness of child abuse prompted the federal government to pass legislation encouraging the reporting of such offenses. In 1964, the U.S. Children's Bureau drafted model legislation requiring physicians to report suspected child abuse. Within three years, all states had enacted such reporting laws.<sup>19</sup>

Some of these laws had the unintended effect of driving sex offenders underground, some treatment experts charge. For example, in 1988, Maryland expanded its reporting law to require treatment professionals to report disclosures by adult patients about their abuse of children while they were in treatment. In 1989, all patient disclosures, even about abuse that occurred before treatment, became reportable in Maryland.

Since the reporting change in 1989, the number of adult patients voluntarily coming to the Johns Hopkins University Sexual Disorders Clinic (now the National Institute for the Study, Prevention and Treatment of Sexual Trauma) has dropped from approximately seven per year to zero, according to clinic Director Berlin.

"The law that's intended to make society safer is actually deterring undetected people with pedophilia from getting treatment that would enable them to be less risk to the community," Berlin says.

## The 'Typical' Offender

Sex offenders come from all classes of society. But in contrast to most

criminals, those in state prisons for rape or sexual assault are "primarily older white males," notes Allen J. Beck, a BJS statistician.

Unlike youths arrested for stealing cars or TV sets, whose criminal activity usually decreases as they age, sex offenders can be remarkably persistent. While sex offenders account for only one out of 10 state prison inmates, they represent one of every four prisoners over age 54, Beck says.



Reginald Muldrew, also known as the "pillowcase rapist," was released from a California prison in December.

Nevertheless, treatment experts say it is becoming increasingly clear that most adult offenders commit their first sexual crimes before reaching adulthood. According to one study, 60-80 percent of adult sex offenders began their deviant behavior as teenagers.<sup>20</sup>

In one national study of 1,600 youths referred to treatment programs, sexual offenders ranged in age from 5-19, with a median age between 14 and 15. Over 90 percent of the juvenile offenders had victimized a relative or acquaintance. The most common scenario involved a victim age 7 or 8.<sup>21</sup>

Numerous theories explain why people become sex offenders. They range from the biological — offenders have higher testosterone levels and thus stronger sex drives — to the environmental. Freeman-Longo at the

Safer Society Foundation says the children and teens he sees have been victims of childhood abuse themselves. "We see kids 4-6 who have been sexually abused. They act it out on other kids at the same ages."

"A lot of these kids are masurbating to thoughts of sexually abusing and molesting people," says Freeman-Longo. "We believe this behavior in most cases is learned, and we believe we can help them unlearn the behavior."

Another theory views sex offenders, especially pedophiles, as never having acquired the social skills necessary for normal adult relationships. In American society, "we have a very definite pressure for people to succeed socially," Freeman-Longo says. "For someone who comes up short," a less threatening form of behavior, like a relationship with a child or flashing in front of strangers, "is an option." ■

## CURRENT SITUATION

### Tracking Offenders

Despite statistics indicating that many sex criminals do not repeat their crimes, the public is not convinced. Over the past three years, as a result, states have been busy enacting a variety of laws to track sex offenders after they leave prison. As of November 1995, 17 states had laws requiring offenders to register with law enforcement authorities whenever they move into a

community; in 1993, only 24 states had such registration laws.

Generally, these laws require offenders to provide their name, address, place of employment and sex convictions for up to 10 years after leaving prison. In most states, the registration information is available only to police. Registration helps police enforce court orders forbidding child molesters from working around children — such as in day-care centers or nursery schools. It also gives police a headstart if, for example, a parent calls with concerns about a neighbor who happens to be registered, according to Teresa Klingensmith, manager of legislative affairs at the National Center for Missing and Exploited Children in Arlington, Va.

"With registration, police can say, 'Ma'am, it's probably not a good idea for your child to be alone with this individual,'" even though they can't give explicit information, Klingensmith says. "Meanwhile, they send a squad car to check things out."

The 1994 omnibus anti-crime bill gave states additional impetus to enact registration laws. States that don't pass them by 1997 lose a portion of their federal crime-fighting funds under the sweeping \$30.2 billion legislation. The law also encourages the state to enact community notification laws.<sup>22</sup>

## Notification Laws

As of December 1995, 30 states had gone a step further, passing laws requiring communities to be notified about dangerous sex offenders. Both registration and notification laws have been challenged in the courts. Though some decisions have limited the scope of registration laws, they have generally withstood constitutional challenges. The legal status of the notification laws is less clear.

New Jersey's notification law has been challenged on constitutional

grounds. Because of lower-court rulings halting the notifications, the state has had barely six weeks of experience with the law since it took effect Jan. 1, 1995. New Jersey's Supreme Court ruled in July 1995 that the law was constitutional but ordered the state to give sex offenders more due-process rights, including the right to

However, the New Jersey Supreme Court decision upholding the statute takes precedence, and thus the notification law remains enforceable pending resolution of the appeals in federal courts. But most experts agree the constitutional questions will cast a shadow over such laws until the issue is eventually resolved by the United States Supreme Court.

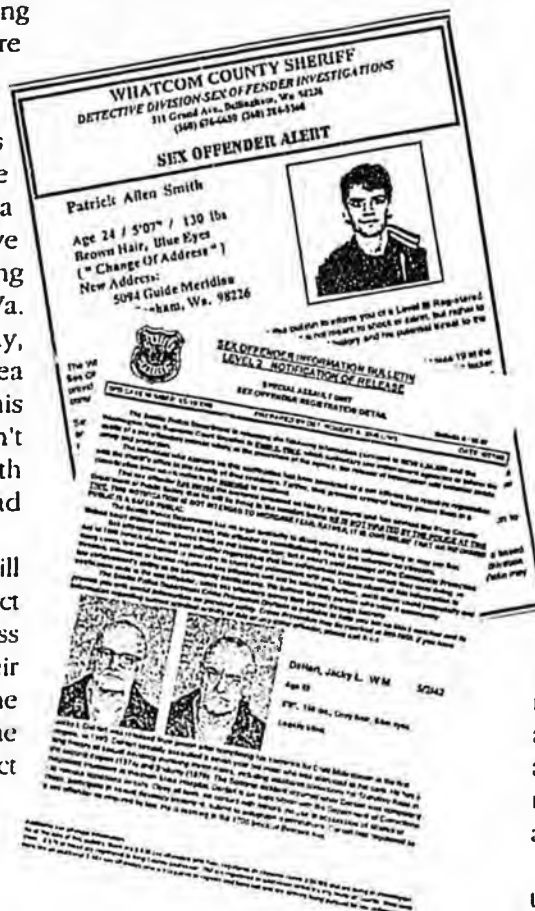
The challenge to the law in federal court was brought by a man who was found guilty of sodomy in 1971 and sentenced to 20 years in state prison. After his release, Megan's Law was enacted and applied retroactively to him. The man, Alexander Artway, argued that because he had already served his time, community notification amounted to a second punishment.

Federal District Judge Nicholas H. Politan found that the law violated the U.S. Constitution's ex post facto clause, which forbids laws that change the punishment attached to a crime after the crime has been committed. He likened the notification law to the "Scarlet Letter" in Colonial America and the Star of David that Jews were forced to wear in Nazi Germany. Public notification could affect an individual's ability to be employed and to return to a normal, law-abiding life in the community, the judge said, thus constituting a second punishment.<sup>23</sup>

"The judge is saying, 'You didn't tell people [about notification] when they pleaded guilty two decades ago, and so it's unfair to say now, 'Here's another punishment,'" says Martone of the ACLU, which filed an amicus brief challenging the law.

The state of New Jersey has appealed the federal decision to the Third Circuit, arguing that the notification is merely regulatory, not a punishment. A decision is expected early this year. The losing side is expected to appeal to the Supreme Court.

In addition to its constitutional problems, New Jersey's law faces a practical hurdle. Some 2,100 sex offenders have registered so far, but the



appeal their notification status before a judge. New Jersey prosecutors were preparing to resume enforcing the law again under the new procedures in December.

Meanwhile, a federal district court judge in Newark has declared the notification law unconstitutional because of its retroactive nature. New Jersey's law, the nation's toughest, covers anyone who has ever, at any time, committed a sex crime. (Washington state's law, by contrast, applies only to offenders about to be released or on probation or parole.)

## PUNISHING SEX OFFENDERS

number eligible could be in the tens of thousands. "One of the failures is the only way notification works is if you have a universe of honest, compliant sex offenders," says Martone.

But sex offenders have been inventive in evading the laws. In Washington state, offenders have given vacant lots as their addresses. In New Jersey, released prisoners have embarrassed innocent citizens by giving their addresses.

Klingensmith estimates that 15 states have followed Washington state in enacting sexual predator laws permitting violent and mentally ill offenders to be held for treatment after completing their prison sentences. The constitutionality of such laws has been challenged in five states. Most eyes are trained on Washington state, which has appealed a federal ruling that the law is unconstitutional. Oral arguments are set for March in the Ninth Circuit Court of Appeals.

### Harsher Sentences

Harsher sentences being meted out today reflect the increased public anxiety over violent sex crimes. Reported rapes, for example, grew by 14 percent between 1988 and 1994. But experts say the main reason for the harsher sentences (and resulting rise in the prison population) is that judges are doing what the public wants — locking up sex criminals for longer periods.

In 1980, 20,500 men and women were in state prisons for sex offenses. By 1993, the number had quadrupled to 80,000, growing faster than the general prison population, which tripled in the same period, according to the BJS.

Between 1988 and 1992, the average time rapists served in prison rose from 48 months to 57 months. On average, rapists served 50.4 percent of their sentences, while first-time mur-

derers went free after serving only 41 percent of their sentences.<sup>24</sup>

The numbers disguise the fact that sentences are all over the board for sex offenders. In some states, a molester with numerous victims may get just four years; in others the same offender may receive 20 years, according to the Center for Missing Children.

At the same time, funding for treatment in prisons has been drying up. In the past year, Alabama, Virginia, Oregon and California have shut down their programs, according to the Safer Society Foundation. "Most sex offenders in prison do not get treatment," says Freeman-Longo. "You have to go to private clinics, and not every state has one."

One reason for the closed programs is expense. In Washington, institutionalized sex offenders cost the state \$100,000 per person annually, about four times the cost of regular imprisonment. Another reason is undoubtedly the current get-tough-on-crime climate. "Since politicians are unwilling to pay for treatment in prison, there's very little rehabilitation," says Klingensmith. "The public is thinking, 'Let's just incapacitate them.'"

### Treatment Approaches

In a 1994 national survey, the Safer Society Foundation counted 1,784 public and private sex-offender treatment programs nationwide, 710 of them for adults. The most popular single treatment approach is the behavioral-cognitive approach, which seeks to change sex offenders' warped thinking about their crimes through such means as group therapy. The next most popular approach, known as relapse prevention, combines therapy for sex offenders with monitoring by counselors trained to recognize when offenders are falling into old behavior patterns.<sup>25</sup>

The nation's most extensive relapse

prevention program, set up in Arizona in 1987, allows lifelong probation for sex offenders considered likely to reoffend. According to psychologist Becker, virtually all convicted child molesters in the state are put into the program — either instead of prison or upon release from prison for a second molestation conviction. Participants must attend two hours of outpatient group therapy per week for at least 18 months. Probation officers and specially trained "surveillance" officers make unannounced visits to those probationers considered most likely to commit another crime.<sup>26</sup>

Arizona is the only state with lifelong probation. But the idea of using probation and parole with mandated treatment as an alternative to prison is becoming "more and more common" nationwide, according to Freeman-Longo. Part of the motivation is avoiding the cost and overcrowding of prisons.

"We can't put everyone that commits a crime in prison," says probation officer Randy Walker, who works with sex offenders in Maricopa County, Ariz. "Otherwise we'd have to put a chain-link fence around Arizona." Arizona's toughened probation program, including mandatory therapy, costs the state \$3,500 per individual annually, compared to \$16,000 for keeping a prisoner behind bars, according to Lori Scott, supervisor of the sex offender unit for Maricopa County Adult Probation in Phoenix.

Under the Arizona law, lifetime probationers must meet 17 conditions on their lifestyle, including living at an approved residence, generally one not located near a school or playground, and are generally prohibited from dating women with children, possessing pornographic material or patronizing topless bars or adult bookstores.

In Arizona, a sex offender who violates any of these conditions can have his probation revoked and be returned to jail. Probation officers can also use intermediate steps like im-

# At Issue:

## Is "chemical castration" an acceptable way to treat sex offenders?

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FROM ABA JOURNAL, JULY 1992.

**O**n humanitarian and civil liberties grounds, most experts now oppose (surgical castration) and it is unlikely that many courts will turn to it as an alternative to incarceration — especially since there is a better option.

First tried more than 25 years ago, the use of hormone suppressors — also known as "chemical castration" — has proven highly effective for certain sex offenders. The most common drug used is medroxyprogesterone acetate, a synthetic progesterone originally developed as a contraceptive marketed as Depo-Provera. . . .

Carefully-conducted research indicates that hormone therapy works — when coupled with appropriate counseling — for most paraphiliacs (sex offenders driven by overwhelming sexual fantasies). Recidivism rates are under 5 percent.

Just as in surgical castration, the subject can still have erections, and many successfully impregnate their wives. For this reason, hormone treatment does not work for anti-social personalities or for those who sex offenses are motivated by feelings of anger, violence or power. The treatment does not reach the causes of their harmful behavior. Thus, proper diagnosis is essential.

Some may argue that hormone treatment as an alternative to incarceration is too lenient for serious sex crimes. First, it is possible to combine treatment with incarceration. But more importantly, we should remember how frequently serious offenders serve very short sentences. Nationally, convicted rapists serve less than six years in jail, and that does not include all those who plead guilty to a lesser offense. For too many offenders, the sexual abuse and violence in prisons merely heightens their propensity to commit further crimes. . . .

Others will oppose using these drugs because, even though they work, they are an invasion of bodily integrity and reproductive freedom. (Side effects include weight gain, hot flashes and hypertension.) But it is more accurate to see them as equivalent to the psychotropic drugs, which include antidepressants, antipsychotics and tranquilizers, now routinely used to treat many mental disorders.

Some would even deny defendants the right to accept the treatment in lieu of imprisonment because the choice is inherently coercive. Perhaps it is. But the question is this: When faced with the certainty of incarceration, wouldn't we all want to be able to make such a choice? To ask the question is to answer it.

After all the sensationalism, the use of hormone-suppressing drugs, in certain cases, holds great promise for reducing the level of sexual violence against women and children. As a voluntary alternative, it is in both the defendant's and society's interest.

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ANDREW VACHSS

Juvenile justice advocate and crime novelist

FROM ABA JOURNAL, JULY 1992.

**a**s a criminal justice response to the chronic, dangerous sexual psychopath, castration of any kind is morally pernicious and pragmatically impotent. Even if we could ignore the implications of mutilation-as-compensation for criminal offenses, castration must be rejected on the most essential of grounds: The "cure" will exacerbate the "disease." . . .

Violent sex offenders are not victims of their heightened sex drives. Rapists may be "expressing their rage." Predatory pedophiles may be "replaying their old scripts." But any sexual sadist, properly interviewed, will tell you the truth: They do what they do because they want to do it. Their behavior is not the product of sickness — it is volitional.

Castration will not remove the source of a violent sex offender's rage — only one single instrument of its expression. . . . The castration remedy implies some biological cause for sexual offenses. Once fixed, the offender ceases to be a danger. This is nonsense — the motivation for sexual assault will not disappear with the severed genitalia or altered hormones. . . .

Even the most liberal of Americans have become suspicious of a medical model to explain sex offenders. Such offenders may plot and plan, scheme and stalk for months, utilize the most elaborate devices to avoid detection, even network with others and commercially profit from their foul acts.

But some psycho-apologist can always be found to claim the poor soul was deep in the grip of irresistible impulse when he was compelled to attack. Imagine the field day the expert-witness fraternity will have explaining how the castrated child molester who later killed his new victims was rendered insane as a result of the castration itself.

Sex offender treatment is the growth industry of the 1990s. Chemical castration already looms as a Get-Out-of-Jail-Free Card. Castration validates the sex offender's self-portrait: He is the victim; he can't help himself. It panders to our ugliest instincts, not the least of which is cowardice — the refusal to call evil by its name.

Nor can castration be defended because the perpetrator chooses it. Leaving aside the obvious issue of coercion, under what theory does a convicted criminal get to select his own (non-incarcerative) sentence?

America loves simple solutions to complex problems, especially solutions with political utility, like boot camp for youthful offenders. The last thing our cities need is muggers in better physical shape. When it comes to our own self-interest (and self-defense), the greatest sickness is stupidity. Castration qualifies — on all counts.

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## FOR MORE INFORMATION

**The Association for the Treatment of Sexual Abusers**, 10700 S.W. Beaverton-Hillsdale Highway, Suite 26, Beaverton, Ore. 97005-3035; (503) 643-1023. This nonprofit organization for professionals in the field of sex offender treatment is devoted to the development of professional standards and the dissemination of research.

**CURE-SORT** (Citizens United for the Rehabilitation of Errants — Sex Offenders Restored Through Treatment), P.O. Box 7782, Baltimore, Md. 21221-0782. CURE is a national organization founded by families of prisoners in 1972. This chapter, which represents sex offenders, lobbies for treatment of imprisoned sex offenders and alternatives to incarceration.

**National Center for Missing and Exploited Children**, 2101 Wilson Blvd., Suite 550, Arlington, Va. 22101-3052; (703) 235-3900. The center closely tracks state legislation affecting child abuse.

**Safer Society Foundation**, P.O. Box 340, Brandon, Vt. 05733-0340; (802) 247-3132. The foundation provides information on treating sexual abusers, conducts a nationwide survey every two years of treatment programs for sex offenders and provides a service that refers sex offenders to treatment.

**National Center for Prosecution of Child Abuse**, 99 Canal Center Plaza, Suite 510, Alexandria, Va. 22314; (703) 739-0321. The center tracks legislation and court cases related to sex offenders and assists prosecutors with their cases.

*Continued from p. 40*  
posing a curfew.

Since May 1993, only 10 of the 800 sex offenders on probation in Maricopa County have committed new sex offenses, a recidivism rate of less than 1 percent, according to Scott. About 10 percent have committed technical violations like consorting with children.

### **Emphasis on Prevention**

Increasingly, child abuse experts are urging more emphasis on improving prevention programs.

A recent report by the American Psychological Association says that traditional school programs that try to teach children to avoid sexually abusive situations "don't work very well," because children can't be expected to know what is, or isn't, appropriate touching in every situation. Instead, the report urges, programs should be expanded to target adults perpetrators. ■

In Vermont, the Safer Society Foundation is pioneering a confidential telephone hotline called "Stop it Now!"

to encourage molesters and potential offenders to seek treatment. Organizers also hope that offenders will turn themselves in to criminal authorities, noting that someone who does so is likely to receive more lenient treatment than someone arrested.

Other experts are working to root out sexual abusers even earlier. Since 1988, the C. Henry Kempe National Center for Prevention and Treatment of Child Abuse and Neglect in Denver, Colo., has been training teachers in 12 states to identify sexually abusive children. A curriculum developed by the center teaches educators to confront children about the behavior and to know when to refer them to counseling.

Gail Ryan, director of the center's Perpetration Prevention Project, says sexually abusive teens treated by the center often start their behavior in preschool and elementary school — with no adverse consequences from adults. "If we can interrupt the behavior and get it back on a more normal course," she says, "that's the only way we'll slow the tide." ■

## OUTLOOK

### Legal Skirmishes

Activists on both sides of the sex-offender debate are looking to the Supreme Court for resolution of key issues. Yet even if the high court upholds state efforts to detain sex criminals beyond their sentence, the struggles in courtrooms and legislatures won't necessarily stop.

Klingensmith predicts further legal skirmishes as civil libertarians in some states charge that incarcerated sex offenders are not receiving meaningful counseling. "You can't just house them in what is really a prison — with a mental-hospital name," she says. "The court is still going to say, 'In application, that's punishment even though your law in spirit is constitutional.'"

If the Supreme Court strikes down sexual-predator laws as unconstitutional, state legislators are likely to crack down on sex offenders with harsher sentences.

According to Rutgers law Professor Brooks, the attacks on Washington state's sexual-predator statute already have fostered a get-tough attitude among many legislators. Brooks says the local sentiment is, "What we really ought to do is enact statutes like 'two strikes and you're in for life.' Forget treatment. Let's just punish these bastards." That approach would be "dreadful," in Brooks' view, because it would take in many sex offenders who could otherwise be successfully treated.

California has already moved in that direction. During the 1994 gubernatorial campaign, Republican Gov. Pete Wilson signed a so-called "one-strike" bill. It calls for 25 years to life for a first-time sexual assault involving torture, mayhem, kidnapping or burglary with the intent to commit rape. ■

During the campaign, Wilson also signed legislation to commit repeat sex offenders to secure mental health facilities before their scheduled release from prison. He emphasized that he saw the bill as a way to incapacitate sex criminals with mental disorders. "They'll only see the light of day when a jury is convinced they won't prey on innocent citizens," Wilson said. "For some, that should be a very long, long time."<sup>2</sup>

California's crackdown gained national attention recently when a notorious rapist was released from prison in December. Both of California's recently enacted sex-offender laws had been signed too late to affect Reginald Muldrew.

Known as the "pillowcase rapist" because he put pillowcases over his victims' heads, Muldrew has been linked to 200 sex crimes in the Los Angeles area from 1976-78. In 1978, he was convicted of four rapes and 13 related sex, burglary and robbery offenses. He was sentenced to 25 years but eventually had nine years shaved off for good behavior.

"He is one of a handful of very high-profile cases where the Department of Corrections has no leeway to keep them in prison any longer than their prison sentence," says Christine May, a spokeswoman for the California Department of Corrections. Psychiatrists diagnosed Muldrew as having a mental disorder that still makes him dangerous, she said.

Three demonstrators from the Women's Coalition in Pasadena held pillowcases as they protested Muldrew's release from Vacaville State Prison on Dec. 5. Muldrew flew to Las Vegas and has not been heard from since, according to May.

Some of Washington state's older sex-crime prisoners also could go free if the state's ground-breaking mental-commitment law is struck down. After the state passed the law in 1990, it enacted a "three strikes and you're out" law which sends criminals to

prison for life after committing three serious offenses. In the future, many of the repeat sex offenders originally targeted by the 1990 mental-commitment law would be locked up for life under the three strikes law, according to Lieb at the Institute for Public Policy.

In fact, the debate over Washington's mental-commitment law could become moot if the Legislature passes a "one-strike" law covering most serious sex offenders, according to Berliner.

But Berliner cautions that such a law will take effect too late to apply to the 32 controversial sex offenders currently being held for mental-health therapy in Washington's prison system. If the sexual-predator law that put them there is declared unconstitutional by the Supreme Court, she says, "32 extremely dangerous people will be released all at once." ■

*Sarah Glazer is a Washington, D.C., writer who specializes in health and social-policy issues.*

## Notes

<sup>1</sup> For background, see "Violence Against Women," *The CQ Researcher*, Feb. 26, 1993, pp. 169-193.

<sup>2</sup> Donna D. Schram and Cheryl Darling Milloy, "Community Notification: A Study of Offender Characteristics and Recidivism," Washington State Institute for Public Policy, October 1995.

<sup>3</sup> Robert E. Freeman-Longo, "Public Notification of Sexual Offender Release: Prevention or Problem," Safer Society Foundation, 1995, p. 3.

<sup>4</sup> Schram and Milloy, *op. cit.*

<sup>5</sup> *Andre Brigham Young v. David Weston*, U.S. District Court, Western District of Washington at Seattle, Aug. 25, 1995.

<sup>6</sup> *Review of Sexual Predator Program*, Washington State Institute for Public Policy, February 1992, pp. 3-4 of appendix by Vernon L. Quinsey, Queens University, Ontario.

<sup>7</sup> See Lisa Grace Lednicer, "Linehan Confined Under New State Statute," *St. Paul Pioneer Press*, July 28, 1995, p. 1A.

<sup>8</sup> See Judith V. Becker, "Offenders: Characteristics and Treatment," *The Future of Children*, summer/fall 1991, p. 181.

<sup>9</sup> *Ibid.*, p. 189.

<sup>10</sup> L. Furby, M. Weinrott and L. Blackshaw, "Sex Offender Recidivism: A Review," *Psychological Bulletin*, Vol. 105, No. 1, 1989, pp. 3-30.

<sup>11</sup> Gordon C. Nagayama Hall, "Sexual Offender Recidivism Revisited: A Meta-Analysis of Recent Treatment Studies," *Journal of Consulting and Clinical Psychology*, October 1995, pp. 802-809.

<sup>12</sup> Hanson presented his unpublished data in September 1995 to a conference in Cambridge, England, on sex offenders. It is based on 77 studies encompassing some 24,000 offenders in the U.S., Canada and Europe. Publication is scheduled in the May 1996 issue of *Forum on Corrections Research*, published by the Correctional Service of Canada.

<sup>13</sup> Allen J. Beck, "Recidivism of Prisoners Released in 1983," *Bureau of Justice Statistics Special Report*, April 1989, p. 6. This is the most recent year for which national recidivism rates are available.

<sup>14</sup> Becker, *op. cit.*, p. 183.

<sup>15</sup> See Jerome G. Miller, "Why the Scarlet 'A' Works Against Us," *Los Angeles Times*, Oct. 19, 1994, p. B7.

<sup>16</sup> Becker, *op. cit.*, p. 185.

<sup>17</sup> John Q. La Fond, "Washington's Sexually Violent Predator Law," *University of Puget Sound Law Review*, spring 1992, p. 661.

<sup>18</sup> *Ibid.*, pp. 668-69.

<sup>19</sup> The Children's Bureau is part of the Health and Human Services Department. For background, see "Child Sexual Abuse," *The CQ Researcher*, Jan. 15, 1993, pp. 25-48.

<sup>20</sup> Becker, *op. cit.*, p. 179.

<sup>21</sup> *Ibid.*

<sup>22</sup> *1994 Congressional Quarterly Almanac*, pp. 273-294. President Clinton signed the bill on Sept. 13, 1994.

<sup>23</sup> *Artway v. New Jersey*, Feb. 28, 1995.

<sup>24</sup> See Andre Henderson, "Corrections: The Scariest Criminal," *Governing*, Aug. 1, 1995, p. 34.

<sup>25</sup> *1994 Nationwide Survey of Treatment Programs and Models Serving Abuse-Reactive Children and Adolescent and Adult Sex Offenders*, Safer Society Foundation, 1994, p. 12.

<sup>26</sup> Becker, *op. cit.*, p. 192.

<sup>27</sup> American Psychological Association news release, "Psychologists Call for Overhaul of Child Protection System," Dec. 22, 1995, and "Psychological Issues Related to Child Maltreatment: Working Group Reports of the APA Coordinating Committee on Child Abuse and Neglect," *Journal of Clinical Child Psychology*, December 1995, p. 19.

<sup>28</sup> Amy Wallace and Eric Bailey, "One Strike Rape Bill is Signed by Wilson," *Los Angeles Times*, Sept. 9, 1994, p. 3.

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*News & World Report*, Sept. 19, 1994, p. 64.

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Texas inmate McQuay, imprisoned for child molestation, argues that he should be castrated. "Without the right treatment, I believe that eventually I will rape, then murder my victims to keep them from reporting me," he writes. (See response to McQuay, below).

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Psychiatrist Berlin responds that chemical castration, lowering testosterone through hormonal injections, is a better idea.

Wright, Lawrence, "A Rapist's Homecoming," *The New Yorker*, Sept. 4, 1995, pp. 56-69.

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### Reports and Studies

Schram, Donna D., and Cheryl Darling Milloy, "Community Notification: A Study of Offender Characteristics and Recidivism," Washington State Institute for Public Policy, October 1995.

This widely cited study found that community notification made little difference in sex offender recidivism.

"1994 Nationwide Survey of Treatment Programs and Models Servicing Abuse-Reactive Children and Adolescents and Adult Sex Offenders," Safe Society Foundation, 1994.

This nationwide survey is conducted every two years by the Brandon, Vt.,-based foundation.

# The Next Step

## *Additional information from UMI's Newspaper & Periodical Abstracts database*

### **Chemical Castration**

**Basheda, Valarie, "Measure seeks chemical castration of rapists,"** *Detroit News*, May 12, 1994, p. A1.

Chemical castration could be used to prevent twice-convicted rapists from committing the crime again under a measure that passed the Michigan House.

**"Castration bill in Florida,"** *The New York Times*, March 31, 1994, p. A14.

The Florida Senate approved legislation March 30, 1994, that would allow judges to order the chemical castration of twice-convicted rapists by having them take a synthetic female hormone.

**"Chemical castration: Whoa,"** *Detroit News & Free Press*, May 15, 1994, p. B2.

An editorial discusses the Michigan House of Representatives having approved legislation allowing a judge to order a sex-drive inhibiting drug for twice-convicted sex offenders. It says that the provision is probably a bad idea that, at the very least, deserves a much closer look by the Michigan Senate.

**Vaillancourt, Meg, "Chemical castration mulled for sex crimes,"** *Boston Globe*, April 13, 1995, p. 31.

Freshman legislator John Locke urged Massachusetts lawmakers to consider voluntary "chemical castration" for sexual offenders, but civil libertarians and prisoners' rights advocates called the proposal "political grandstanding."

**Williams, Mike, "Nudity, castration steal the spotlight,"** *Atlanta Constitution*, April 6, 1994, p. A3.

They have clamored for the chemical castration of repeat rapists. With only days remaining in their two-month session, however, Florida lawmakers have yet to pass a budget or tackle the much-publicized crisis in the state's juvenile justice system.

### **"Megan's Law"**

**Bernstein, Andrea, "Should you be told that your neighbor is a sex offender?"** *Ms.*, November 1995, pp. 24-26.

Many states are adopting laws that allow police officials to notify residents and community organizations if a repeat sex offender is moving into the neighborhood. Opposition to this type of law argues that these measures only provide the illusion of safety and that public officials do not need to concern themselves with the private sphere.

**Fein, Bruce and Edward Martone, "Megan's Law,"** *ABA Journal*, March 1995, pp. 8-39.

Whether or not there should be laws to inform communi-

ties when convicted sex offenders move into the area is discussed. Some say this will help cut down on crime, while others believe it creates a climate of vigilante justice.

**Hanley, Robert, "Sex-offender disclosure law hitting snags in New Jersey,"** *The New York Times*, Jan. 9, 1995, p. A1.

Megan's Law, which requires community notification of the presence of those convicted of sexual crimes, is hitting snags in New Jersey much like similar programs attempted in several other states. Logistical and legal problems have popped up, slowing the Legislature's plan to make entire towns aware of sexual predators and prevent attacks like the one on Megan Kanka, after whom the law has come to be known.

**Jerome, Richard, Maria Eftimiades, Nick Gallo and Stephen Sawicki, "Megan's legacy,"** *People Weekly*, March 20, 1995, pp. 46-51

Seven-year-old Megan Kanka was brutally murdered, and her family is fighting for a law that would let other parents know when a sex offender moves in next door. Kanka's ghastly death at the hands of a child molester and the fight for legislation to alert parents to the danger of an offender in their neighborhood are discussed.

**Peterson, Iver, "Mix-ups and worse arising from sex-offender notification,"** *The New York Times*, Jan. 12, 1995, p. B1.

New Jersey's new sex-offender law, named for Megan Kanka, has caused mix-ups and mishaps that have sent officials scrambling to correct shortcomings. The law requires county prosecutors to determine whether a convicted sex offender about to be released poses a low, medium or high threat, and such offenders are required to register with the police when they settle in the state.

**Plesa, David, "Law would notify sex offenders' neighbors,"** *The Houston Post*, Jan. 5, 1995, p. A19.

Texas Sen. Florence Shapiro is proposing legislation that would help make communities aware of sex offenders who are released from prison into their neighborhoods. The bill follows the example of "Megan's Law" in New Jersey, which was passed in 1994 in the wake of the slaying of 7-year-old Megan Kanka, allegedly by a convicted sex offender living across the street from her home.

**"Sex offender laws require notification,"** *News Media & the Law*, spring 1995, pp. 4-6.

New Jersey passed "Megan's Law," which authorizes prosecutors to notify community members when released sex offenders move into their neighborhood, after the murderer

## PUNISHING SEX OFFENDERS

of 7-year-old Megan Kanka turned out to be a neighbor with a record of child molestation. "Megan's Law" and affirmative disclosure in various states are discussed.

**Sullivan, Joseph F., "A crackdown on sex offenders in New Jersey,"** *The New York Times*, Oct. 21, 1994, p. B6.

The New Jersey Assembly on Oct. 20, 1994, gave final passage to six bills that tighten supervision of sex offenders and impose tougher sentences in certain cases. The package of legislation is known collectively as "Megan's Law," after Megan Kanka of Hamilton Township. Highlights of the new legislation are discussed.

**Sullivan, Joseph F., "Whitman approves stringent restrictions on sex criminals,"** *The New York Times*, Nov. 1, 1994, p. B1.

New Jersey Gov. Christine Todd Whitman on Oct. 31, 1994, signed into law a nine-bill package intended to keep a tight rein on sex offenders, making them subject to lifetime supervision. Critics say the legislation, which was spurred by the assault and killing in July of 7-year-old Megan Kanka by a convicted sex offender, contains more symbolism than substance and is headed for a certain constitutional challenge.

**"Suspect's lawyers want an alias for Megan's law victim,"** *The New York Times*, Oct. 25, 1995, p. B5.

Defense lawyers representing Jesse K. Timmendequas, the man who is accused of brutally raping and then killing 7-year-old Megan Kanka in New Jersey, want the girl's name excluded from their client's capital murder trial, with Megan and her family, who are potential witnesses, identified to jurors by an alias. The case led to the creation of a law bearing Megan's name.

**Wharton, Joseph, "Court upholds Megan's Law,"** *ABA Journal*, October 1995, p. 6.

New Jersey's Supreme Court has upheld Megan's Law, a law requiring government officials to notify communities of the presence of sexual offenders at the time of their release from prison. The bill had first been approved last fall by the state legislature.

### Sex Offenders

**Davis, Laura, Marilyn D. McShane and Frank P. Williams III, "Controlling computer access to pornography: Special conditions for sex offenders,"** *Federal Probation*, June 1995, pp. 43-48.

Computers have given child molesters access to a plethora of pornographic material. Vital information that probation officers who are preparing presentence investigations on sex offenders and who are supervising them should know about computer access to pornography is discussed.

**Denson, Bryan, "Castration will no help for jailed sex offender,"** *The Houston Post*, March 27, 1995, p. A13.

Texas inmate Larry McQuay will not receive his wish to be castrated by the state as medical treatment for his urge to molest children even if a bill that would allow imprisoned pedophiles to be voluntarily castrated goes through as expected. Under the bill, only offenders with two convictions are eligible for castration, and McQuay only has one conviction.

**Leo, John, "Dealing with career predators,"** *U.S. News & World Report*, April 11, 1994, p. 19.

The U.S. appears to be growing numb to the folly of a justice system that keeps putting dangerous sexual offenders and other criminals back on the streets. The social cost of letting career predators go is discussed.

**Nordheimer, Jon, "New look at jail unit housing sex offenders,"** *The New York Times*, Nov. 2, 1994, p. B6.

A New Jersey task force on Nov. 1, 1994, toured the Adult Diagnostic and Treatment Center in Avenel, which houses violent rapists and child molesters with compulsive disorders who are often driven to commit more crimes once in the outside world unless their behavior can be modified before their prison time runs out. The visit came one day after Governor Christine Todd Whitman signed a package of bills that will keep a tight rein on sex offenders once they're released from prison.

**Schultz, Pamela D., "Sex offender law not the answer,"** *Chicago Tribune*, April 2, 1995, p. 6.

Schultz explores why sex-offender notification policies are not the way to protect children from sexual exploitation; they just force criminals to move from one community to another.

**"Sex offenders: Double jeopardy?"** *The Economist*, Sept. 2, 1995, pp. 24-25.

Federal Judge John Coughenour has ruled that Washington State's sexual-offender center is little more than a jail in disguise. The state has apparently violated constitutional provisions guaranteeing a fair trial and barring two prison terms for one crime.

**Smolowe, Jill, "Not in my backyard!"** *Time*, Sept. 5, 1994, p. 59.

Citizens are determined to keep paroled murderers and sex offenders from settling in their communities. The crusade to keep criminals out and the demand for notification laws are discussed.

### Sex Offender Registration

**"Children's Express — Assessing Megan's Law: Kids hold court to fight sex offenders,"** *Amsterdam News*, Sept. 9, 1995, p. 20.

A Children's Express article discusses "Megan's Law," which forces convicted sex offenders to register with the state. Megan Kanka was a 7-year-old New Jersey girl who was abused and murdered by a convicted sex felon.

**Johnson, Ted, "Sex offenders arrested for violating registration law," *Los Angeles Times*, July 26, 1995, p. B3.**

A police task force arrested seven convicted sex offenders in the San Gabriel Valley and Whittier, Calif., for violating a state law that requires them to register their addresses with city authorities. The sweep came after the murder of a West Covina woman by a paroled sex offender.

**Rojas, Aurelio and Thail Walker, "Sex offender registration system failing," *San Francisco Chronicle*, April 4, 1994, p. A1.**

A special report examines the failure of California's Sex Offender Registration Act, a 47-year-old law requiring convicted sex offenders to inform police every time they move. Justice Department officials say 80 percent of offenders routinely ignore registration requirements.

**Tierney, Tim, "Police are gearing up to track sex offenders — All of them," *Chicago Tribune*, Dec. 1, 1995, p. S5.**

Stricter registration laws for paroled sex offenders will take effect Jan. 1, 1996, so officials at the South Suburban Association of Chiefs of Police meeting in Crestwood, Ill., took advantage of a state police training session to prepare.

### ***Sex Offender Treatment Programs***

**Bonapace, Ruth, "Can sex offenders really be cured?" *The New York Times*, Aug. 21, 1994, p. N1.**

The recent arrest of convicted sex offender Jesse Timmendequas in the murder of a 7-year-old Hamilton Township, N.J., girl, Megan Kanka, has raised concerns about the effectiveness of treatment programs for those who commit sex crimes.

**Lakey, Joyce F., "The profile and treatment of male adolescent sex offenders," *Adolescence*, winter 1994, pp. 755-761.**

The most prominent characteristics of male adolescent sex offenders are described. Treatment includes and mandates accountability and correcting of thinking errors in such offenders, while building a foundation of morality, remorse and empathy for victims.

**Lester, Thomas L., "Sex offender facility committed to change and rehabilitation," *Corrections Today*, April 1995, pp. 168-171.**

Ninety-eight percent of the population at Oregon's Snake

River Correctional Institution are sex offenders. The other 2 percent are there for gang management purposes or have the skills to maintain the physical plant.

**Marx, Gary, "Getting help to sex offenders," *Chicago Tribune*, Dec. 18, 1994, p. C2.**

A group therapy session is one part of a new sex-offender treatment program at the Big Muddy River Correctional Center in far southern Illinois, which officials hope will help rapists, pedophiles and other sex offenders across the nation. The program is examined.

**Miller, Jerome G., "The folly of not treating sex offenders," *The Washington Post*, Jan. 10, 1995, p. A17.**

Jerome G. Miller criticizes Virginia Gov. George Allen's proposal to end funding for all treatment programs for sex offenders in state prisons on the premise that treating them does not work. Miller says that the sex offender ex-convict released to the streets after years without treatment is a disaster waiting to happen.

**Slattery, Ryan, "Bill would OK drug treatment, study of Massachusetts sex offenders," *Boston Globe*, Dec. 8, 1994, p. 39.**

Proposals to correct 1994's ballot problems and to offer voluntary chemical treatment to sex offenders are among the thousands of bills filed for consideration by the Massachusetts Legislature in 1995.

**Smith, Mark, "Therapists assail controversial self-help plan for sex offenders," *Houston Chronicle*, April 23, 1995, p. E1.**

A proposal in the Texas Legislature to allow released sex offenders to seek treatment from other sex offenders in volunteer self-help groups is drawing heavy criticism from licensed therapists, who feel they should be the primary providers of treatment.

**Worling, James R., "Adolescent sibling-incest offenders: Differences in family and individual functioning when compared to adolescent non-sibling sex offenders," *Child Abuse & Neglect*, May 1995, p. 633-635.**

Adolescent male sex offenders who assaulted younger siblings were compared to those who offended against non-sibling children. The etiology and treatment of adolescent sibling-incest offenders are discussed.

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NATIONAL

JULY 1991

# Trial Lawyer

*The Magazine for Advocates*

The Flight of  
Innocence:  
Children  
in the  
'90s

Pedophiles:  
America's Most Dangerous Criminals

## WANTED BY THE FBI



**KENNETH M. D'CUNHA**

**Nationality:** Indian

**Sex:** Male

**Date of Birth:** August 10, 1955

**Height:** 6 ft. 1 in.

**Place of Birth:** Bombay, India

**Weight:** 190-210 lbs.

**Hair:** Black

**Eyes:** Brown

**SSAN:** 152-70-6384

**Other:** When last seen, had beard and mustache.

**Occupation:** Dentist—practices orthodontistry; dental licenses in New York, New Jersey and Connecticut

Dr. D'Cunha is WANTED by the New York City Police and FBI for numerous counts of sodomy against young, teenage males and unlawful flight to avoid prosecution.

If you have information, you are asked to contact your local FBI office or the joint FBI/NYCPD Sexual Exploitation of Children Task Force at (718) 459-3140 or toll free in the USA and Canada (800) 843-5678.

## Pedophiles: America's Most Dangerous Criminals

ERNEST E. ALLEN

*Ernest E. Allen is President of the National Center for Missing and Exploited Children in Arlington, VA.*

Sex offenders who prey on children are the most dangerous criminals facing America today.

Hyperbole? Perhaps. Yet even in this time of drug-related violence, escalating public fear of crime, and enormous challenges facing public safety officials in virtually every community, a strong case can be made that there is a large and underappreciated problem, quietly undermining America's future and requiring greater sensitivity, awareness and action.

Let me attempt to defend the above-stated premise. Research and experience

demonstrate that sex offenders who prey on children:

- Victimize vast numbers of children;
- Are serial offenders;
- Are dangerous and often violent;
- Seek legitimate access to children;
- Are rarely apprehended and rarely convicted for the most serious charges.

### The Problems

1. *Child sexual abuse and victimization is a large and underreported problem.*

A senior law enforcement official once said, "The only way not to find the problem in your community is simply not to look." In recent years, America has finally begun to look. As a result:

- The American Humane Association estimates 100-500,000 cases per year.

- ChildHelp USA estimates that one in three girls and one in six boys will be sexually abused or victimized before age 18, with growing awareness regarding the true extent of the problem with males.

- The National Committee for the Prevention of Child Abuse reported that there were 2.4 million child abuse reports in 1989, of which 16 percent—more than 380,000 cases—involved sexual abuse.

- 54 percent of sexually abused children are victimized before age seven, and 84 percent before age 12.

- While most abuse cases occur in the home, there is also a major problem outside the home. *FBI Law Enforcement Bulletin* reports that "like rape, child molestation is one of the most under-reported crimes; only one to 10 percent

are ever disclosed."

- The rape rate for girls under 17 is four times the adult rate.

- The U.S. Department of Justice's National Incidence Study of Missing, Abducted, Runaway and Throwaway Children found that two-thirds of the cases of non-family child abductions reported to police involved sexual assault.

- The Justice Department study also reported 114,600 attempted abductions of children, most of which were unsuccessful attempts by strangers to lure children into automobiles.

- The Justice Department study found that half of the non-family abduction victims were 12 or older and three-fourths were girls.

- The Justice Department researchers noted that the estimate of non-family abductions is almost certainly too low due to the lack of uniform reporting and to non-reporting.

- National research suggests an alarming cycle of victimization in which significant numbers of sex offenders who victimize children were themselves victimized as children.

### 2. Child sex offenders are serial offenders.

According to a National Institute of Mental Health study by Dr. Gene Abel at Emory University, the typical offender is male, begins molesting by age 15, engages in a variety of deviant behavior, and "molests an average of 117 youngsters, most of whom do not report the offense." He also reported that:

- Those who attack young boys molest an average of 281;

- With the promise of confidentiality, offenders admit an average of 75 sex crimes each;

- By the time he reaches adulthood, the average pedophile has attempted over 25 child molestations;

- Of rapists, 26 percent began as pedophiles, nine percent as voyeurs.

Dr. Ann Burgess, Dr. Nicholas Groth, et al. studied imprisoned offenders and found that 74 percent had one or more prior convictions for a sexual offense against a child. They noted that "the behavior is highly repetitive, to the point of compulsion, rather than resulting from a lapse of judgment."

Burgess and Groth also reported on several myths about the offender:

- He is not a dirty old man; 71 percent are under 35.

- He is not a stranger; in 71 percent of the cases, the victim and offender knew each other, at least casually.

- He is not retarded. Eighty percent

fell within normal intelligence ranges; 59 percent gain sexual access to victims through seduction or enticement.

### 3. Child sex offenders are dangerous and often violent.

Dr. Mace Knapp, Nevada State Prison Psychologist, reported: "The criminal who seduces or rapes children is different from all other convicts, except for a certain type of killer: The serial killer has the same personality characteristics as the sex offender against children." He added, "Psychologists and psychiatrists . . . continually make serious judgmental errors in evaluating for parole." The sex offender against children is usually the model prisoner, but has a "high rate of continuity to prey upon children. The worst case scenario is that they may start murdering their victims to avoid returning to prison."

shows that almost 40 percent of those homicides of children in which the circumstances are known involve rape or sexual offenses.

### 4. Child sex offenders seek legitimate access to children.

As we have come to recognize that the traditional child safety message, "Don't take candy from strangers," is not enough, and in fact, only reflects a small part of the total problem, we have come face to face with the reality that offenders seek opportunities in which they have legitimate access to children. Child serving agencies and institutions have recognized that while the vast majority of employees and volunteers are positive, well-meaning people, they must be prepared for those whose purposes are not appropriate. Such agencies are striving to protect children through improved background screening

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"A review of state statutes in 1989 found that only 22 states require a criminal history record check as part of the application process for school jobs."

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In the Emory University research previously cited, Dr. Abel reports that child sex offenders are very difficult to treat in a prison setting. They display:

- A high degree of denial;
- Cognitive distortions (they justify the behavior, reducing guilt and anxiety);
- Insufficient arousal to non-deviant stimuli;
- A lack of social skills;
- A lack of assertiveness skills.

Thus, while researchers support treatment efforts, and believe that properly constituted treatment programs can be effective, there is a high rate of recidivism.

Recent research has indicated that we have historically underestimated the violence potential of sex offenders who victimize children. The Justice Department study found that over 85 percent of non-family abductions involved force and over 75 percent involved a weapon.

Dr. Abel reported that violence in child molestation is high when children are unknown to the molester.

- 50 percent of reported child molestations involve the use of physical force.

- Child molesters produce as much visible physical injury as rapists—39 percent of victims.

- The Justice Department's review of FBI stranger abduction homicide data

of personnel, adequate monitoring and supervision, and thorough training.

Dr. Abel noted, "Everyone is so surprised that a priest is a child molester, or that a schoolteacher is a child molester. I am flabbergasted that anyone would be surprised. Child molesters seek out jobs to access kids. That's why they become pediatricians, child psychiatrists, and work in boys' camps."

There are countless examples. To cite just a few:

- A Washington elementary school teacher moved to Nevada and received a teaching certificate in 1986, five days after failing a Washington police polygraph test and as police were preparing molestation charges (UPI, 1988).

- In 1985, a Maryland school psychologist was convicted of child molestation and received probated sentence. He moved to Virginia, was hired as a school psychologist and was subsequently arrested for the molestation of 12 to 15 elementary school students.

- In 1986 a physician was convicted of molestation, moved to Washington, D.C., resumed his medical practice, and was later arrested for molesting children in a hospital.

- In 1987 a Maryland school principal was charged with sexually abusing four young boys. Investigators learned that he

# Children is usually the children. They may start murder- our victims to avoid returning to prison.' »

had also been convicted in Connecticut in 1969, after which he was hired by a school system in Vermont. During the investigation he faked his own death and escaped. He ultimately sought and obtained employment as a school principal in Maryland.

In 1971 John Wayne Gacy was on parole from Iowa, where he had served time on a sodomy charge. He had served from parole even though he had been arrested again in Illinois on a similar offense. He moved to Chicago and became a civic leader, businessman and active Jaycee, played the role of a clown at children's events, and became a serial murderer of young boys.

Child sex offenders are rarely apprehended and rarely convicted for the serious charges. Wild victims are often confused, comfortable, afraid and unwilling to talk with anyone. Even when their parents report the crime due to revictimizing the child through a trauma-

the child is the only actor when the crime is on the child's testimony of plea

is strong with offender, who observers "seek ss," rally to his "robated require- fine

While records checks are not a panacea, and in fact will not identify many offenders due to the low level of reporting, arrest, prosecution and conviction, they are clearly a foundation step that must be taken. Such a procedure can be constructed which does not violate the legitimate privacy rights of any individual and would, at a minimum, reduce inter-state movement, relicensure and recertification of convicted offenders.

A criminal history background check should be a two-part process consisting of:

A check through the state law enforcement information system to determine if there have been offenses

ture, sparing the institution embarrassment and potential civil liability, but allowing the offender to move on to a new opportunity.

## Action

Sex offenders who prey upon children represent a serious threat to the American family and to the very fabric of society. It is time that we recognize the enormity of the challenge. In order to address this challenge there are a series of common sense actions that must be considered:

1. Create a national capability for screening child serving personnel.
- All states have a central repository of criminal offender information. All state repositories provide criminal justice agencies with access to compiled offender data. Noncriminal justice agencies can gain access only through a user agreement, statute, executive order or court rule.

A review of state statutes in 1989 found that only 22 states require a criminal history record check as part of the application process for school positions. Only 18 of those states conduct nationwide criminal history checks. Four states perform only an intrastate search.

Only 34 states require a criminal history record check as part of the licensing/certification process for a wide range of child serving positions. Of those states, 18 conduct nationwide criminal history checks; 16 perform only an intrastate check.

While records checks are not a panacea, and in fact will not identify many offenders due to the low level of reporting, arrest, prosecution and conviction, they are clearly a foundation step that must be taken. Such a procedure can be constructed which does not violate the legitimate privacy rights of any individual and would, at a minimum, reduce inter-state movement, relicensure and recertification of convicted offenders.

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A check through the state law enforcement information system to determine if there have been offenses

committed by that individual in the enforcement information system—FBI's National Crime Information Center—Interstate Identification Index (II)—determine if other states have records of the criminal history of the individual.

In 1984 a federal law was passed that requires any state wishing to receive certain funding under Title 20 of the Social Security Act to enact a law or regulation providing for background checks for operators, staff or employees of child care facilities, juvenile detention, correction or treatment facilities. (P.L. 98-473).

There is very little uniformity regarding the scope and type of checks that are done. The National Center for Missing and Exploited Children has urged that comprehensive state laws be enacted containing the following elements:

- Mandatory screening (not discretionary);
- Both newly hired staff and current staff are screened;
- Both volunteers and employed staff are screened;
- Staff at both public and private agencies are screened;
- Child care personnel are screened, including family care providers;
- Juvenile detention and correction facility personnel are screened;
- Federal criminal history checks (using fingerprints) are required through the FBI;
- Child abuse registries must be used in the screening process;
- Conviction of specified crimes is a bar to providing services to children as an employee or volunteer (procedures for exceptions are allowed);
- The licensing agency, rather than the employer, receives criminal history information;
- Provisions exist for a person to challenge or expunge inaccurate information; convictions are not resulting in
- Provision is made for payment of costs for the criminal history check.

2. Create state sex offender registries.

A 1989 statutory review found 11 states which now require convicted sex offenders to register their whereabouts with law enforcement authorities. Convicted felons usually lose some civil rights, including privacy. Since sexual attraction to children may not be curable, states have good reason to monitor the whereabouts of convicted sex offenders.

A leader in the issue is California,

which since 1947 has required individuals convicted of a registrable sex offense, including rape, sodomy, molestation, incest, etc. to register for life. A person determined to be a mentally disordered sex offender or convicted in any other state of similar offenses is also required to register. Currently, approximately 70,000 individuals are registered under the California law.

A recent assessment mandated by the California State Legislature found widespread support within the California criminal justice system. For example, 97 percent of law enforcement officers supported sex offender registration and 83 percent indicated that the registration process aids in the apprehension of suspected offenders.

The study found a generally high rate of offender compliance, though still short of the optimum. In recent years approximately three-fourths of offenders have registered, with the compliance rate at nearly 89 percent for prison releasees. The study found that nearly half of the offenders were rearrested for some subsequent offense—almost 20 percent for a sex offense. Areas of concern, which should be considered by other states, include high volume/high workload, need for a statewide automated system, importance of effective communication of the registration system to offenders and agencies, meaningful punishment for failure to register, and information sharing between criminal justice agencies.

In 1988 California took an additional step with the creation of the Serious Habitual Offender Program as a pilot project in 10 counties in the San Francisco Bay area to target and track serious habitual sex offenders and to provide apprehension and prosecution of offenders who reoffend. Sponsored by State Senator Bill Lockyer and based in the Office of the Attorney General, SHOP provides a comprehensive, data-based system for dealing with habitual sex offenders.

There are variations across the country. Illinois and Arkansas, among others, have established Habitual Child Sex Offender Registration laws, requiring the registration for a period of years of a convicted child sex offender following his second such conviction. It is important to emphasize that the states which have taken such aggressive steps, including California, Illinois, Alabama, Arkansas, Nevada and others, are in the minority. There are no comparable statutes in most states.

At a minimum, states should require that the released offender register within 30 days with the law enforcement agency in the community in which he will reside, that the law enforcement agency immediately notify the state agency that maintains criminal history information, and that the state agency maintain a computerized central registry of such convicted offenders.


*3. Create serial abductor/molester profile information for parents, law enforcement, schools, health care providers, the court system, corrections professionals and average citizens.*

The National Center for Missing and Exploited Children, the Federal Bureau of Investigation and the University of Pennsylvania, with the support of the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice, have begun a series of abductor/molester profiles. These profiles will ultimately focus upon 40 different offenders—specifically, their backgrounds, modus operandi and histories. While the actual names will be changed, we are hopeful that these profiles will provide the basis for additional public policy debate and action, and stimulate community prevention and public education activities.

*4. Ongoing areas of advocacy and action.*

There are a series of other actions which could help turn the tide in this crusade to protect children:

- Enact a Child Victim's Bill of Rights in each state, including new and improved protections for children in the courtroom.
- Enact tougher provisions regarding the parole of convicted sex offenders against children.
- Enact tougher state sentencing measures.
- Provide mandatory follow-up treatment and monitoring for sex offenders in the community.
- Develop early intervention treatment programs, targeting youthful offenders.
- Increase public education and awareness.
- Increase services to victims.
- Encourage reporting and family communication.

The public safety challenges of the 1990s are many, but there is no more insidious threat to America's future than that posed by child sex offenders. We have begun to look for the problem. Now we must respond swiftly and effectively. There is a great deal of work to do. 

which since 1947 has required individuals convicted of a registrable sex offense, including rape, sodomy, molestation, incest, etc. to register for life. A person determined to be a mentally disordered sex offender or convicted in any other state of similar offenses is also required to register. Currently, approximately 70,000 individuals are registered under the California law.

A recent assessment mandated by the California State Legislature found widespread support within the California criminal justice system. For example, 97 percent of law enforcement officers supported sex offender registration and 83 percent indicated that the registration process aids in the apprehension of suspected offenders.

The study found a generally high rate of offender compliance, though still short of the optimum. In recent years approximately three-fourths of offenders have registered, with the compliance rate at nearly 89 percent for prison releasees. The study found that nearly half of the offenders were rearrested for some subsequent offense—almost 20 percent for a sex offense. Areas of concern, which should be considered by other states, include high volume/high workload, need for a statewide automated system, importance of effective communication of the registration system to offenders and agencies, meaningful punishment for failure to register, and information sharing between criminal justice agencies.

In 1988 California took an additional step with the creation of the Serious Habitual Offender Program as a pilot project in 10 counties in the San Francisco Bay area to target and track serious habitual sex offenders and to provide apprehension and prosecution of offenders who reoffend. Sponsored by State Senator Bill Lockyer and based in the Office of the Attorney General, SHOP provides a comprehensive, data-based system for dealing with habitual sex offenders.

There are variations across the country. Illinois and Arkansas, among others, have established Habitual Child Sex Offender Registration laws, requiring the registration for a period of years of a convicted child sex offender following his second such conviction. It is important to emphasize that the states which have taken such aggressive steps, including California, Illinois, Alabama, Arkansas, Nevada and others, are in the minority. There are no comparable statutes in most states.

At a minimum, states should require that the released offender register within 30 days with the law enforcement agency in the community in which he will reside, that the law enforcement agency immediately notify the state agency that maintains criminal history information, and that the state agency maintain a computerized central registry of such convicted offenders.

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The public safety challenges of the 1990s are many, but there is no more insidious threat to America's future than that posed by child sex offenders. We have begun to look for the problem. Now we must respond swiftly and effectively. There is a great deal of work to do.

# Sexual Abuse of Children

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## Incidence and Characteristics of Abuse

Sexual abuse involves any sexual activity with a child where consent is not or cannot be given (Finkelhor, 1979). This includes sexual contact that is accomplished by force or threat of force, regardless of the age of the participants, and all sexual contact between an adult and a child, regardless of whether there is deception or the child understands the sexual nature of the activity. Sexual contact between a teenager and a younger child also can be abusive if there is a significant disparity in age, development, or size rendering the younger child incapable of giving informed consent (Ryan, 1991). The sexual activity may include sexual penetration, sexual touching, or noncontact sexual acts such as exposure or voyeurism.

All states have laws prohibiting child molestation (Meyers, 1992). Each state individually defines child abuse, and thus criminal statutes vary from state to state. Child abuse statutes define sexually abusive behavior usually quite broadly but sometimes extend jurisdiction only to acts committed by caretakers. States identify an age that an individual can consent to sexual contact with an adult, usually between 14 and 18 years. Sexual contact between an adult and a minor under the age of consent is illegal. In addition, incest is generally illegal regardless of age or consent. Criminal statutes also can apply to teenagers and sometimes children, but for prosecution to proceed, it must be established that the offending child was capable of forming the intent to commit a crime.

### Rates of Sexual Abuse

The exact incidence and prevalence of sexual abuse in the general population are not known precisely. It is difficult to establish incidence rates because most sexual abuse is not reported at the time it occurs (e.g., Finkelhor, Hotaling, Lewis, & Smith, 1990). In addition, it is impossible to know exactly how many cases of sexual abuse are reported on an annual basis nationwide. Because there is no national reporting system for crimes against children, official crime and child abuse statistics tend to be unreliable. Child abuse figures vary by state definitions and sometimes do not include sexual abuse committed by nonfamily members. Currently, the best mechanism for determining the scope of child sexual abuse is through retrospective surveys of adult nonclinical populations. Such surveys show considerable variability that can be best explained by differences in research methodology. The population surveyed, survey method, type and number of screening questions, and definitions of sexual abuse all influence the reported figures of abuse (Finkelhor, 1994).

Russell (1984) and Wyatt (1985) surveyed probability samples of adult women in two U.S. cities on the West Coast. Both studies had numerous screening questions, used broad definitions, and conducted in-person interviews. These studies found, respectively, 33% and 45% victimization by age 18 and, when non-contact offenses were included, 54% and 62% victimization rates. A telephone survey of a national probability sample of adults revealed 27% of women and 16% of men reported a contact sexual offense by age 18 (Finkelhor et al., 1990). Similarly, in a mail-out questionnaire to a national, stratified random sample, 32% of females and 13% of males reported a history of contact sexual abuse (Elliott & Briere, 1995).

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Although reporting of sexual abuse has increased significantly in recent years, results of nonclinical studies do not support a conclusion that the rate of sexual abuse has changed dramatically (Feldman et al., 1991). Recent research on the impact of trauma on memory suggests that estimates of abuse rates based on self-report actually may underestimate its prevalence. For example, in a follow-up study of sexually abused girls who had been examined at a county hospital for sexual assault, more than one third did not recall that abusive experience an average of 17 years later (Williams, 1994). The women were not informed of the purpose of the study at follow-up but were asked questions about a sexual abuse history. Analysis of the responses of women who did not report the index case of abuse strongly suggests that they did not recall what had happened; they were not simply reluctant to report it, given that more than half of these subjects reported *other* abusive experiences in childhood. Williams's data suggest that at any given time, a significant number of individuals who had been sexually abused as children might respond negatively to questions inquiring into such a history because they did not recall the abuse.

### Characteristics of Sexual Abuse Experiences

The reported characteristics of sexual abuse vary depending on the data source. For example, child abuse reporting systems and clinical programs tend to over-represent intrafamilial cases. Based on general population surveys (e.g., Finkelhor et al., 1990; Saunders, Kilpatrick, Resnick, Hanson, & Lipovsky, 1992), abuse by parent figures (parents and stepparents) constitutes between 6% and 16% of all cases, and abuse by any relative comprises approximately one fourth of cases. In these nonclinical samples, teenagers represent up to 40% of offenders, and strangers account for a relatively small proportion (5%-15%), with the remainder of cases involving individuals known to the child or family. In clinical samples, however, parent figures comprise about one third of the offenders and all relatives about one half (e.g., Elliott & Briere, 1994; Gomes-Schwartz, Horowitz, & Cardarelli, 1990). In both clinical and non-clinical samples, the vast majority of

offenders are male, although boys are more likely than girls to be abused by women (20% vs. 5%) (Finkelhor & Russell, 1984), and 40% of the reported cases of day care sexual abuse involve female offenders (Finkelhor, Williams, & Burns, 1988).

Multiple abuse episodes of sexual abuse are very common, occurring in more than half of the cases in nonclinical samples and in 75% of clinical samples of children (Conte & Schuerman, 1987; Elliott & Briere, 1994). Completed or attempted oral, anal, or vaginal penetration occurs in between 20% and 49% of nonclinical subjects (Finkelhor et al., 1990; Russell, 1984) and in more than 60% of forensic samples (Elliott & Briere, 1994; Gomes-Schwartz et al., 1990). The mean age for sexual abuse in nonclinical samples is approximately 9 years old, with a range from infancy to 17 years.

In clinical samples, both sex and race are associated with some differences in abuse experiences and circumstances. Compared to girls, boys are older at onset of victimization, more likely to be abused by nonfamily members, and more likely to be abused by women and by offenders who are known to have abused other children (e.g., Faller, 1989). Differences in abuse experience, offender relationship, family characteristics, and family response also are associated with ethnic background (Rao, DiClemente, & Ponton, 1992). Asians tend to be older at victimization, whereas African American children tend to be the youngest. Hispanic and African American children are more likely than Asian and Caucasian victims to experience penetration offenses. Asian victims are most likely to be abused by a male relative and Caucasian children by an acquaintance. A significant proportion of Asian and Hispanic children have immigrant parents, and Asian victims are most likely to be living with both parents. Reported retrospectively, nonclinical African American and Caucasian women have similar rates of child sexual abuse (Wyatt, 1985), the rates for Asian women are somewhat lower, and Hispanic women are at increased risk for incestuous abuse (Russell, 1984).

Families with a child who has been sexually abused are thought to have certain characteristics. Empirical studies have found that families of both incest and nonincest sexual abuse victims are reported as less cohesive, more disorganized, and generally more dysfunctional than families of nonabused individuals

(Elliott, 1994; Harter, Alexander, & Neimeyer, 1988; Hoagwood & Stewart, 1989; Madonna, Vart Scovik, & Jones, 1991). The areas most often identified as problematic in incest cases are problems with communication, a lack of emotional closeness and flexibility, and social isolation (e.g., Dadds, Smith, Weber, & Robinson, 1991). Although it appears that families in which incest has occurred do exhibit greater dysfunction, it is possible that the pathology is at least as much a result of the incest as the cause (Briere & Elliott, 1993).

Some risk factors for sexual abuse have been identified. Girls are at higher risk for sexual abuse than boys. Both males and females are at increased risk if they have lived without one of their natural parents, have a mother who is unavailable, or perceive their family life as unhappy (Finkelhor & Barou, 1986; Finkelhor et al., 1990). There is speculation that children who have a psychological or cognitive vulnerability also may be at increased risk for sexual abuse (e.g., Tharinger, Horton, & Millea, 1990). The incidence of sexual abuse among children with a disability is 1.75 times the rate for children with no disability (National Center on Child Abuse and Neglect [NCCAN], 1993). To some extent, this confirms the report that offenders select children whom they perceive to be vulnerable to manipulation (Conte, Wolfe, & Smith, 1989). Unlike other forms of child abuse, socioeconomic status does not appear to be related to sexual abuse.

Sexual abuse is accomplished in a variety of ways. In some cases, even though the offender has a relationship with the child, the victimization occurs without warning. More typically, offenders engage in a gradual process of sexualizing the relationship over time (Berliner & Conte, 1990). They may conceal the sexual nature of the activity by characterizing it as nonsexual (e.g., sex education, hygiene) or may encourage the child to consider the relationship as mutual. Repeat offenders generally calculate and plan their approach to victimizing children, often employing elaborate strategies to involve the children, maintain their cooperation, and prevent reporting (Conte et al., 1989; Lang & Frenzel, 1988). In a substantial percentage of cases, offenders use force, threaten the child, or induce fear of injury or death (e.g., Elliott & Briere, 1994; Gomes-Schwartz et al., 1990; Saunders, Kilpatrick, et al., 1992). In other cases, the offender employs emo-

tional coercion, offers tangible rewards, or misuses adult authority.

#### Disclosing and Reporting Sexual Abuse

Most sexual abuse is neither disclosed immediately nor reported to authorities subsequent to disclosure.

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Studies of clinical and nonclinical populations of adults reveal that fewer than half of victims tell anyone at the time of the abuse, and a large percentage never reveal the victimization until asked for research purposes. For example, Finkelhor et al. (1990) found that only about 40% of both men and women had disclosed the abuse at the time it occurred, 24% of women and 14% of men told at a later time, and 33% of women and 42% of men had never told until the time of data collection. Similarly, Elliott (1993b) found that among professional women who were abused as children, immediate disclosures occurred in only 20% of the cases, whereas 40% of the sample had not disclosed the abuse until completing the survey. Even when abuse is disclosed, only 6% to 12% of cases are reported to authorities (Elliott, 1993b; Russell, 1984; Saunders, Kilpatrick, et al., 1992).

Research conducted in clinical and forensic samples of children similarly suggests that there is typically a delay in disclosure. Gomes-Schwartz et al. (1990) found that only 24% reported within a week of the last episode, and Elliott and Briere (1994) found that 75% of children did not disclose within the year of the first incident, and 18% waited more than 5 years. Many times the victimization comes to light because of an unintentional report from the child victim. Sometimes, for example, children confide in a friend without intending an official report. When children do disclose, they are most likely to tell a parent, usually their mother. Sgroi (1982) has discussed acci-

dental versus purposeful disclosure, and research suggests that preschool children are more likely than older children to make accidental disclosures (Sorensen & Snow, 1991). In 45% to 75% of all cases that come to the attention of authorities, the precipitating event is something other than the child's disclosure of abuse (Sauzier, 1989; Sorensen & Snow, 1991). Abuse may be uncovered because of suspicious behaviors or statements, medical findings of injury or infection, or because a witness interrupted the abuse, pornographic pictures were found, or an offender confessed.

It has been commonly noted that even when children who have been abused are questioned directly, they may deny the abuse initially or later recant. Sorensen and Snow (1991) found that in 116 confirmed cases of sexual abuse, almost three fourths of the children did not reveal abuse when first questioned, and only 11% provided initial disclosures without denying or demonstrating tentative features. Between 8% and 22% of children recant true allegations of sexual abuse (Elliott & Briere, 1994; Jones & McGraw, 1987; Sorensen & Snow, 1991). Children are thought to recant either because they have been subjected to pressure from the offender or family members or because their report has produced negative consequences to themselves or others. Many children report fears about telling or regret the disclosure because of the outcome (Sauzier, 1989). Even when children do report abuse that is later confirmed, their accounts frequently are marked by inconsistencies and tentativeness (Sorensen & Snow, 1991). Summit (1983) described a child sexual abuse accommodation syndrome that consists of several dynamics that can affect children's ability to disclose their abuse. These dynamics (secrecy, helplessness, entrapment, and accommodation) can lead to delayed, unconvincing disclosure or retraction.

Although children sometimes do not disclose when asked, it has been demonstrated in clinical samples that children and adult women are more likely to report abuse if they are asked. A study of child outpatients showed a marked increase in the reported rate of sexual abuse (from 6% to 31%) when the children were asked specifically about a possible abuse history (Lanktree, Briere, & Zaidi, 1991). Similarly, Briere and Zaidi (1989) found that the rate of sexual abuse

history in adult female psychiatric emergency room patients increased from 6% to 70% after clinicians were instructed to screen for sexual abuse. The prevalence of sexual abuse in clinical samples and the hypothesized relationship between abuse and later psychological functioning support routine inquiry regarding sexual abuse for individuals who present in clinical settings.

## Effects of Sexual Abuse

Research conducted over the past decade indicates that a wide range of psychological and interpersonal problems are more prevalent among those who have been sexually abused than among individuals with no such experiences. Although a definitive causal relationship between such difficulties and sexual abuse cannot be established using current retrospective research methodologies (Briere, 1992b), the aggregate of consistent findings in this literature has led many researchers and clinicians to conclude that childhood sexual abuse is a major risk factor for a variety of problems, both in the short term (e.g., Beitchman, Zucker, Hood, daCosta, & Ackman, 1991; Berliner, 1991; Kendall-Tackett, Williams, & Finkelhor, 1993) and in terms of later adult functioning (e.g., Browne & Finkelhor, 1986; Finkelhor, 1990). Fundamentally, the harm can be attributed to the fact that sexual abuse is always nonconsensual, frequently developmentally inappropriate, and invariably alters the nature of the relationship within which it occurs. It can be painful, frightening, and confusing and can lead to responses in childhood that interfere with normal developmental processes and increase the risk for subsequent maladjustment in adult life.

### Effects on Children

The scientific study of the impact of sexual abuse on children is a relatively recent endeavor. However, a body of empirical literature specifically describing the effects of sexual abuse on child victims has accumulated. Unlike studies of adults that have been conducted with nonclinical as well as with clinical samples, most information on children is derived from clinical samples, virtually all of which have some involvement with child protec-

tion or criminal justice authorities. Thus, what is discussed below regarding the effects of sexual abuse on children is based primarily on clinical data. Consistent with the clinical data, however, two recent studies of nonclinical teenagers suggest that sexually abused adolescents report higher rates of emotional and behavioral problems than their nonabused peers (Boney-McCoy & Finkelhor, 1995; Hibbard, Ingersoll, & Orr, 1990).

*Emotional distress and dysfunction.* As a group, sexually abused children do not self-report clinically significant levels of distress on symptom checklist measures of depression, anxiety, and self-esteem and often do not differ from comparison groups of nonabused children on these measures (Einbender & Friedrich, 1989; Mannarino, Cohen, & Gregor, 1989; Wolfe, Genule, & Wolfe, 1989). However, emotional disturbance has been found on personality tests (e.g., Basta & Peterson, 1990; German, Habernicht, & Fitcher, 1990; Scott & Stone, 1986) and projective measures (Stovall & Craig, 1990). Projective measures may pick up aspects of functioning that children cannot or do not reveal symptomatically. For example, children who were reported by parents to have internalizing distress but did not themselves report depression revealed depressive symptomatology on their Rorschach responses (Shapiro, Leifer, Martone, & Kassem, 1990).

A number of factors may account for the lack of group differences in symptom checklist measures. It has been hypothesized that generic measures do not tap the abuse-specific effects of sexual molestation (Briere & Runtz, 1993). In addition, there is significant variation in the effects of abuse on children, mediated by a number of factors discussed in the next section. Finally, problems in certain areas of clinical interest appear to develop over time and may not be apparent when victims are screened initially (Briere, 1992b; Gomes-Schwartz et al., 1990).

Unlike with *child* victims, nonclinical *adolescent* samples of sexual abuse victims do report higher levels of depression and anxiety on generic measures (Gidycz & Koss, 1989). The group differences noted in adolescents may result from an increased ability of teenagers (compared to younger children) to report problems or, alternatively, may represent a delayed response to earlier sexual abuse experiences.

When sexually abused children in treatment are compared to their non-abused clinical cohorts, they tend to have different kinds of problems. They are more likely than their nonabused peers to be diagnosed with depression, exhibit suicidal behavior (Lanktree et al., 1991), and have lower self-esteem (Cavaiola & Schiff, 1989; Wozencraft, Wagner, & Pellegrin, 1991), greater symptoms of anxiety (Kolko, Moser, & Weldy, 1988), and more substance abuse problems (Singer, Petchers, & Hussey, 1989). When sexually abused girls from dysfunctional families are compared with nonabused girls from similarly disturbed families, the abused girls have lower self-esteem, more internalized aggression, and poorer relationships with their mothers (Hotte & Rafman, 1992).

*Posttrauma effects.* Posttraumatic stress disorder (PTSD) (American Psychiatric Association, 1994), a psychiatric diagnosis that describes anxiety responses to a significant stressor, has been found in abused children. Researchers assessing children specifically for PTSD using standard diagnostic criteria or interview schedules have found rates up to 48% (McLeer, Deblinger, Atkins, Ralphe, & Foa, 1988). Sexually abused children appear more likely than other maltreated children to receive the diagnosis (Deblinger, McLeer, Atkins, Ralphe, & Foa, 1988). Although the majority of sexually abused children do not meet full diagnostic criteria, many exhibit PTSD symptoms (McLeer, Deblinger, Henry, & Orvaschel, 1992; Wolfe et al., 1989). Conte and Schuerman (1987) found that sexually abused children differed significantly from a nonabused comparison group, especially in posttraumatic symptoms such as fear, anxiety, and concentration problems.

*Behavioral problems.* On standard measures of child behavioral problems, sexually abused children are reported by their parents to have more behavioral problems than nonabused children. The problems reach clinically significant elevations but are not as severe as in clinical populations (e.g., Cohen & Mannarino, 1988; Einbender & Friedrich, 1989; Gomes-Schwartz et al., 1990; Tong, Oates, & McDowell, 1986). In addition, maternal distress and lack of support for the child appear to be associated with reporting higher levels of child behavior problems (Everson, Hunter, Runyan, Edelson, &

Coulter, 1989). When sexually abused boys were compared to a clinical sample of boys with oppositional or conduct disorders, abused boys were less externalizing and more sexualized (Friedrich, Beilke, & Urquiza, 1988).

Adolescents who have been sexually abused are more likely than nonvictims to run away from home, use drugs, and be bulimic (Hibbard et al., 1990) than nonvictims. In addition, teenage mothers with a history of sexual abuse are more likely to abuse their children or have them taken away by child protective services (CPS) (Boyer & Fine, 1991).

A specific effect of sexual abuse is increased sexual behavior. Samples of sexually abused children are reported consistently as having more sexual behavior problems than samples of nonabused children. In addition, the increased sexualized behavior appears uniquely related to sexual abuse, with sexually abused children reported to have more sexual behavior than a clinical comparison of neglected, physically abused, and psychiatrically disturbed children in outpatient samples (Gale, Thompson, Moran, & Sack, 1988; Kolko et al., 1988; White, Halpin, Strom, & Santelli, 1988). Sexually aggressive boys generally have more serious abuse histories and more disturbed family functioning (Friedrich & Luecke, 1989).

Friedrich developed a parent report instrument to assess the presence and level of sexual behavior in children (Child Sexual Behavior Inventory [CSBI]) (Friedrich, Grambsch, Broughton, Kuiper, & Beilke, 1991). Their data suggest that some types of sexual behaviors are quite common in nonabused children. For example, more than 40% of parents report that their children touch their sex parts at home and undress in front of others. Other more explicit sexual behaviors appear quite rare. Oral-genital contact and the insertion of objects into the vagina or anus, for example, were observed by less than 1% of the parents. Parental nudity, exposure to explicit sexual behavior, and a history of life problems are associated with increased sexual behavior in children. When sexually abused children are compared with nonabused children, they tend to have more sexual behavior and engage in sexual behavior imitative of adult sexual activity (Friedrich et al., 1992). However, most sexually abused children do not engage in sexualized behavior (Friedrich, 1993).

*Interpersonal consequences.* Sexually abused children tend to be less socially competent, more aggressive, and more socially withdrawn than nonabused children (Friedrich, Beilke, & Urquiza, 1987). As a group, these children perceive themselves as different from others and tend to be less trusting of those in their immediate environment (Mannarino, Cohen, & Berman, 1994). On projective measures, abused children exhibit more disturbed object relations than do their nonabused peers (Stovall & Craig, 1990).

As previously stated, a specific effect of sexual abuse among children is that of increased sexual behavior. Such behavior not only may result in interpersonal rejection or stigmatization by the victim's peer milieu but may lead to social sanctions and punishments when such behavior escalates into the victimization of other children (Gil & Johnson, 1993).

*Cognitive difficulties and distortions.* Cognitive functioning appears to be affected by sexual abuse experiences. Einbender and Friedrich (1989) report greater cognitive impairment in a sample of sexually abused girls. Some effects of abuse on children who have been observed clinically have not been fully examined empirically. For example, guilt, shame, self-blame, loss of trust, and the effects of stigmatization are thought to be common in sexually abused children. Few measures are designed to assess these impacts, thus little data are available. Contrary to a common clinical impression, empirical studies find that most children do not blame themselves for what happened (e.g., Hunter, Goodwin, & Wilson, 1992). However, preliminary evidence supports the view that sexually abused children as a group tend to perceive themselves as different from peers and have heightened self-blame for other negative events and reduced interpersonal trust (Mannarino et al., 1994). Until further data are available, generalizations about these areas of potential impact should be made cautiously, because these relationships are apt to be complex and multidetermined.

*Course of symptoms.* The few available studies that document children's symptoms over time reveal a general pattern of improvement for most children. However, between 10% and 24% of child victims either do not improve or deteriorate (see Kendall-Tackett et al., 1993). In addition,

Gomes-Schwartz et al. (1990) found that abused children who were initially least symptomatic had more problems at 18 months than did their initially more highly symptomatic peers. Friedrich and Reams (1987) note that in a series of case studies, symptoms tend to fluctuate over time rather than improve in linear fashion. In a longitudinal study of children in abuse-focused therapy, Lanktree and Briere (1995) demonstrated a positive impact of such treatment on symptomatology. Their data also suggest that certain symptoms, particularly dissociation, sexual concerns, and posttraumatic stress, require longer-term treatment before significant attenuation in distress is reported by children. Because the longest follow-up period has been 18 months, little is known about the long-term process of symptom development and subsequent recovery.

#### Effects on Adults

Sexual abuse constitutes a major risk factor for a variety of problems in adult life (Browne & Finkelhor, 1986; Finkelhor, 1990). However, the effects of abuse on adult living are not uniform; some survivors report very few symptoms, but others experience life as overwhelming in many domains. Of the latter group, those who seek treatment often present with a complex array of difficulties and concerns. Whether mild or severe, the symptoms evidenced by adult survivors are an extension of those found in child victims (Briere, 1989).

Like child victims, many adult survivors of sexual abuse internalize abuse-related pain (producing affective symptoms such as anxiety and depression) as well as externalize it (creating behavioral problems and interpersonal difficulties). This range of abuse-related difficulties has been documented across race and social class (Stein, Golding, Siegel, Burnam, & Sorensen, 1988).

Research on the long-term effects of sexual abuse has tended to focus on the sequelae in women. Studies that include males suggest that sexual abuse has lasting impacts on adult adjustment for both genders. However, there may be sex differences in symptomatology, reflected in a tendency for males to cope with their abuse by externalizing their distress (e.g., increased anger and aggression toward others) and for females to employ greater

internalization in coping (e.g., depression; Lew, 1988; Urquiza & Crowley, 1986).

*Emotional distress.* As with sexually abused children, adult survivors report more dysphoria than do their nonabused peers. Depression is the most frequently reported symptom and has been documented in a variety of clinical and non-clinical samples (Browne & Finkelhor, 1986).

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Sexual abuse victims may have as much as a fourfold greater lifetime risk for major depression than do individuals with no such abuse history (Stein et al., 1988). The pervasiveness of depression among some survivors is thought to be the cumulative effects of chronic betrayal, disempowerment, feelings of guilt and helplessness, and low self-esteem (Finkelhor & Browne, 1985; Peters, 1988). Thus, it should not be surprising that increased suicidal ideation and behaviors have been linked to sexual abuse. In two studies of outpatient women, for example, patients with an abuse history were twice as likely to have attempted suicide than were their nonabused peers (Briere & Runtz, 1987; Briere & Zaidi, 1989). In a community sample, approximately 16% of survivors had attempted suicide, whereas less than 6% of their nonabused cohorts had made a similar attempt (Saunders, Villepontaux, Lipovsky, & Kilpatrick, 1992).

Anxiety is also a well-documented sequel of sexual abuse (Donaldson & Gardner, 1985; Peters, 1988). In the general population, survivors are more likely than nonabused individuals to meet the criteria for generalized anxiety disorder, phobias, panic disorder, and/or obsessive compulsive disorder, with sexual abuse survivors having up to five times a greater likelihood of being diagnosed with at least one anxiety disorder than their nonabused peers (Saunders, Villepontaux, et al., 1992; Stein et al., 1988). Adults with child abuse histories may manifest their anxiety in multiple dimensions: (a) cognitively (e.g., through excessive preoccupa-

tion with and hypervigilance to danger) (Jehu, 1988), (b) with classically conditioned responses (e.g., sexual dysfunction), and (c) somatically, as a natural extension of sympathetic nervous system hyperarousal (e.g., headaches, gastrointestinal problems, back and pelvic pain, and muscle tension) (Springs & Friedrich, 1992).

In addition to chronic anxiety and depression, problems with anger often are reported by adult survivors of child sexual abuse. Survivors frequently report chronic irritability, unexpected feelings of rage, and fear of their own anger (Briere & Runtz, 1987; Donaldson & Gardner, 1985). Such feelings can be internalized as self-hatred and depression (Courtois, 1988) or externalized and result in the perpetration of abuse against others (Herman, 1988). The rage experienced by some survivors can intensify when it is restimulated by interpersonal events reminiscent of the original abuse scenario.

*Posttrauma effects.* Psychological distress that occurs in reaction to a traumatic event often manifests itself in the ongoing reexperiencing of that event through nightmares, flashbacks, intrusive thoughts, and other symptoms of PTSD. Child sexual abuse has been shown to result in PTSD in as many as 36% of adult survivors (Donaldson & Gardner, 1985; Saunders, Villepontaux, et al., 1992). When the abuse included penetration, the risk for developing PTSD appears especially high, with as many as 66% of such victims developing the disorder at some point in their lives (Saunders, Villepontaux, et al., 1992). Although many adult survivors do not meet the *DSM-III* criteria for PTSD, the experience of both intrusive and avoidant symptoms associated with PTSD is common (Elliott & Briere, 1994). The reliving of the original abuse experience (whether through flashbacks, intrusive thoughts, or nightmares) often is not perceived as under the control of the adult survivor and, therefore, is apt to reinforce the feelings of helplessness and victimization of the original experience.

Clinical writers suggest that, along with PTSD, dissociation is a common response to highly traumatic events and often is seen in adult survivors of sexual abuse (Kluft, 1985; Punam, 1990). In addition, research studies demonstrate a relationship between dissociation and childhood sexual abuse (Briere & Runtz, 1987; Chu

& Dill, 1990). Dissociation is thought to be the psyche's defense against the complete awareness of abuse-related thoughts, feelings, and behaviors (van der Kolk & Kadish, 1987). For victims of especially severe abuse, the trauma may be overwhelming, making it difficult for the survivor to fully integrate the events cognitively and thus reinforcing any mechanism that reduces complete awareness of the trauma. The ability of the survivor to dissociate abuse-specific thoughts, affects, and memories allows for the reduction of the acute and continuing impacts of victimization by changing the nature or extent of abuse-related pain (Shengold, 1989).

Along with psychic numbing, depersonalization, and disengagement, dissociation may take the form of amnesia for the abuse. According to *DSM-IV* (APA, 1994), amnesia refers to a memory disturbance "characterized by an inability to recall important personal information, usually of a traumatic or stressful nature, that is too extensive to be explained by ordinary forgetfulness" (p. 478). Recent research suggests that a substantial proportion of sexual abuse survivors report partial or complete loss of memory for their abuse experiences (Briere & Conte, 1993; Elliott & Briere, 1995; Williams, 1994). It appears that dissociation of abuse-related memories may be correlated with maltreatment that began at a particularly early age, was long in duration, or was chronic or violent in nature (Briere & Conte, 1993; Herman & Schatzow, 1987). Dissociation also may be correlated with earlier abuse by a family member (Williams, 1994).

Dissociation of memories superficially may increase the survivor's level of behavioral and psychological functioning by numbing or partitioning off abuse-related affect and recollections (van der Kolk & Kadish, 1987) and thus can be a valuable defense in the presence of acute trauma. However, it can have negative long-term consequences for adaptive functioning later in life and ultimately may decrease the survivor's capacity for self-care and interfere with adaptive cognitive processes. Among sexual abuse survivors, for example, the use of avoidant and suppressing strategies as a means of coping with the abuse has been associated with poorer adult psychological adjustment (Leitenberg, Greenwald, & Cado, 1992).

*Cognitive distortions.* During childhood, internal templates for adult assumptions about self, others, and safety of the environment are created (Cole & Putnum, 1992). Sexual abuse survivors often are raised in intrusive and violent environments. As a result, abuse-related cognitions are common and reflect self-blame, low self-esteem, negative self-attributes, a disbelief in self-efficacy, and a perception of self as helpless and life as dangerous or hopeless (Gold, 1986; Jehu, 1988). Such cognitive disturbance is thought to arise from stigmatization associated with responses to the abuse and the victim's internalization of the assumptions regarding self, the abuser, and society at large (Finkelhor & Browne, 1985).

Clinical writers have stressed the role of the victim's need to make sense of his or her abuse as supporting the development of cognitive distortions (Briere, 1989).

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*The child who is victimized by a caretaker is forced into an "abuse dichotomy" when attempting to understand the perpetrator's behavior: "Either he or she is bad or I am the bad one."*

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The child who is victimized by a caretaker is forced into an "abuse dichotomy" when attempting to understand the perpetrator's behavior: "Either he or she is bad or I am the bad one." Because of children's developmental status and their acceptance of social messages regarding parent-child interactions (i.e., the caretaker is necessarily right in disagreements), children often assume that the abusive act is justifiable punishment for some misdeed. This conclusion logically leads to another: "It must be my fault that I am being hurt, and thus it follows that I am as bad as whatever was or is done to me" (Briere, 1989, p. 88). As a result, the survivor may internalize a sense of self-blame and inherent badness that lasts well into adulthood.

*Externalized emotional distress.* Child abuse can result in a constant challenge to the development and implementation

of coping mechanisms because of the level of hyperarousal, emotional pain, and resimulation of abuse memories experienced by many survivors. Thus, any external activity that successfully reduces such internal tension (e.g., through distraction, self-soothing, or anesthesia) is reinforced. These activities include self-mutilatory activities such as cutting, burning, hitting oneself, or pulling out hair (van der Kolk, Perry, & Herman, 1991; Walsh & Rosen, 1988); using sexual activity during times of intense painful affect (Briere, 1992a); bingeing and purging to deal with feelings of emptiness (Piran, Lerner, Garfinkel, Kennedy, & Brouillette, 1988; Steiger & Zanko, 1990); and alcohol or substance abuse (Singer et al., 1989; Sullivan, 1988).

These patterns, although potential problems for family members and therapists, are often the survivor's attempt to reduce overwhelming pain and reestablish a sense of internal balance. They are activated most frequently when feelings of anger, anxiety, guilt, intrusion, isolation, or sadness overwhelm the survivor's internal resources. Subsequent to engaging in tension reduction behaviors, survivors often report an initial sense of escape, pleasure, relaxation, or relief. This, however, may be followed by increased feelings of guilt or self-loathing and may precipitate a repeat of the tension reduction behavior (Briere, 1992a).

*Interpersonal difficulties.* Given the emotional distress, the tendency toward distorted beliefs regarding self and others, the intrusion and destabilization associated with posttraumatic stress, and the often maladaptive efforts to deal with such difficulties experienced by many survivors, interpersonal problems in adulthood are a predictable sequel of childhood sexual abuse. Because the victimization typically occurs in the context of human relationships, sexual abuse can cause a disruption in the normal process of learning to trust, act autonomously, and form stable, secure relationships (Courtois, 1988; Elliott, 1994). Furthermore, the violation and betrayal of boundaries in the context of developing intimacy can create interpersonal ambivalence in many adult survivors.

As adults, female survivors report a greater fear of both men and women (e.g., Briere & Runtz, 1987). They are more likely to remain single, and once married they are more likely to divorce or

separate from their husbands than are nonabused women (e.g., Russell, 1986). They report having fewer friends (Gold, 1986), less satisfaction in their relationships, greater discomfort and sensitivity, and more maladaptive interpersonal patterns (Elliott, 1994).

Of the interpersonal sequelae, perhaps the most common complaint of sexual abuse survivors is in the sexual domain. This may take the form of sexual dysfunction (Maltz & Holman, 1987), sexual preoccupation (Lew, 1988), fantasies of forced sexual contact (Briere, Smiljanich, & Henschel, 1994), or multiple brief and superficial sexual relationships (Courtois, 1988). In addition, sexual abuse survivors are more likely to become involved in abusive sexual or romantic relationships (Browne & Finkelhor, 1986) and experience revictimization in their adult lives (Russell, 1986; Sorensen, Siegel, Golding, & Stein, 1991).

## Mediating Factors

Although the literature summarized earlier is relatively unanimous with regard to the potential negative psychological impacts of childhood sexual abuse, such victimization does not necessarily have inevitable or massive impact on victims. A careful examination of the data suggests that although child and adult survivors tend, as groups, to have more problems than their nonabused peers, there is no single universal or uniform impact of sexual abuse and no guarantee that any given person will develop any posttraumatic responses to sexual abuse. In fact, up to 40% of sexually abused children did not appear to have any of the expected abuse-related problems in a number of studies (Kendall-Tackett et al., 1993). This may reflect the fact that the term *sexual abuse* covers a range of abusive behaviors of varying intensity and duration. For example, survivors who experience a single incident of less intrusive sexual abuse and then disclose to a supportive parent who takes protective action may be more likely to report minimal or none of the typical sequelae documented in research studies and outlined in this chapter.

Certain characteristics of the abuse experience and the environment in which it took place appear to influence the ultimate development of distress. Abuse

involving penetration, violence, a closer relationship to the offender, multiple offenders, longer duration, and more frequent contact usually are found to be related to more negative impact in both child (e.g., Conte & Schuerman, 1987) and adult survivors (Peters, 1988; Russell, 1986). Age and sex appear to be related more to the type of distress seen in children. Boys appear to have more externalizing problems than girls (Friedrich et al., 1988). As previously mentioned, children manifest different kinds of problems at different developmental stages, and adult symptomatology appears to be influenced by the developmental stage in which the abuse occurred (Cole & Putnum, 1992; Kendall-Tackett et al., 1993). Parents report more behavior problems in school-age children, and adolescents self-report higher levels of distress.

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*Cognitive appraisal and coping may be among the most important factors for the development of problems in sexually abused children.*

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Cognitive appraisal and coping may be among the most important factors for the development of problems in sexually abused children (Spaccarelli, 1994). Interestingly, higher levels of cognitive functioning are correlated with greater distress (Shapiro, Leifer, Martone, & Kassem, 1992), perhaps because older children or those with more sophisticated cognitive functioning are more able to appreciate the implications of having been abused. Greater distress also is found in children who (a) have a global, stable, and internal attributional style (Wolfe et al., 1989); (b) blame themselves for the abuse (Morrow, 1991); (c) view their experiences as threatening and use wishful thinking as a coping strategy (Johnson & Kenkel, 1991); and (d) form various other negative cognitive appraisals regarding the abuse (Spaccarelli, in press).

A number of studies document the contributory role of the victim's childhood family environment in symptomatology (Alexander, 1992; Briere & Elliott, 1993).

Family dysfunction not only may increase the likelihood of intrafamilial sexual abuse but also may exacerbate the ef-

fects of the abuse once it has occurred (Alexander, 1992; Courtois, 1988). Abused children are more distressed if their families have characteristics of negative family functioning (Conte & Schuerman, 1987), more conflict, and less cohesion (Friedrich et al., 1987). Families of abused children often have multiple additional problems, including parental divorce, violence, psychiatric problems, and substance abuse (Elliott & Briere, 1994; Finkelhor & Baron, 1986). More extreme psychological problems are predicted in adulthood by subsequent revictimization (Russell, 1986; Sorensen et al., 1991) and a lack of social support available to the adult survivor (Ferman, 1992; Springs & Friedrich, 1992).

Maternal belief in the child's disclosure and support following disclosure have a significant impact on later functioning. In contrast to conventional wisdom, most parents believe their children and take some protective action (Conte & Schuerman, 1987; Elliott & Briere, 1994; Gomes-Schwartz et al., 1990). Maternal support (Everson et al., 1989; Gomes-Schwartz et al., 1990; Runyan, Hunter, & Everson, 1992) or a supportive relationship with an adult (Conte & Schuerman, 1987) is associated with decreased psychological distress.

In general, the closer the relationship of the offender to the mother, the more likely that support will be compromised. The highest risk of failure to support is found when the offender is a stepfather or the mother's live-in boyfriend (Elliott & Briere, 1994; Gomes-Schwartz et al., 1990). In incest cases, mothers are more likely to believe if the child is younger, has not also been physically abused, and when the offender does not have a history of alcohol abuse (Sirles & Franke, 1989). Similarly, in combined incest and nonincest cases, lack of maternal support was predicted by physical abuse or neglect of the victim, spousal abuse, and substance abuse of the caretaker (Elliott & Briere, 1994). Lack of maternal support also is associated with the impact of intervention. The most important variable predicting out-of-home placement is whether the mother believes and supports the child (Hunter, Coulter, Runyan, & Everson, 1990). Children who lack maternal support are more likely to recant the original allegation of abuse or refuse to report it, even in the face of clear evidence that the abuse occurred (Elliott & Briere, 1994; Lawson & Chaffin, 1992). Finally, mater-

nal support also is related to the impact of criminal court testimony on the abused child (Goodman et al., 1992; Whitcomb et al., 1991).

The various activities associated with professional intervention may affect the level of psychological distress. Multiple interviews by *different* personnel appear to increase symptoms (Tedesco & Schell, 1987), although multiple interviews with the *same* individual may not necessarily do so. Placement or separation per se is not always distressing (Berliner & Conte, 1995). The increased symptomatology noted in children who are taken into protective custody may be secondary to the lack of caretaker support that provoked placement (Runyan, Everson, Edelson, Hunter, & Coulter, 1988). Testifying in *juvenile* court has not been found to increase distress in child victims (Runyan et al., 1988). However, testimony in *criminal* court is associated with increased distress when it occurs more than once or is lengthy and harsh (Goodman et al., 1992; Whitcomb et al., 1991). The outcome of the case or whether the children received psychotherapy is not associated with the impact of testifying on psychological distress. However, children who are provided with a stress inoculation court preparation intervention have reduced psychological distress associated with providing court testimony (Sas, 1991).

## Treatment Issues

### Clinical Assessment

As previously stated, several studies using generic measures of distress have not demonstrated differences between non-clinical abused and nonabused children. Such instruments may not tap the specific effects of sexual abuse and thus overestimate the number of asymptomatic abuse victims. In response to this problem, investigators have attempted to identify abuse-specific effects by developing measures specifically designed to assess the impact of abuse. Briere (in press), for example, has developed the Trauma Symptoms Checklist for Children (TSCC), which taps into symptoms such as anger, dissociation, PTSD, and sexual concerns and has been shown to distinguish abused from nonabused children (e.g., Elliott & Briere, 1994). Other helpful abuse-

specific measures include Friedrich et al.'s (1992) Child Sexual Behavior Inventory, the Child Dissociative Checklist (Putnum, Helmers, & Trickett, 1993), the Children's Impact of Traumatic Events Scale (Wolfe, Wolfe, & LaRose, 1986), and the Children's Attribution and Perception Scale (Mannarino et al., 1994).

In addition, the use of generic psychological tests by clinicians examining *adult* sexual abuse survivors (e.g., Minnesota Multiphasic Personality Inventory [MMPI], Millon Clinical Multi-axial Inventory [MCMI], Rorschach) may underestimate the specific abuse-related distress of these individuals. Elliott (1993a), for example, found that neither the MMPI-2 nor the MCMI-II distinguish adult victims from nonvictims. However, the Trauma Symptom Inventory (Briere, 1995), a clinical instrument designed to assess traumatic impacts in adults, discriminated between the two groups on 8 of the 10 scales. These and similar data suggest that although measures of personality disturbance and generic psychological distress may not be particularly helpful in clarifying the symptom picture unique to victims of interpersonal violence, more specific measures such as the Belief Inventory—Revised (Jehu, 1988), the Impact of Events Scale (Horowitz, Wilner, & Alvarez, 1979), and the Trauma Symptom Inventory (Briere, 1995) appear to address the symptoms and concerns most relevant to sexual abuse treatment.

### Treatment Issues With Children

It is widely accepted that treatment is indicated for most children who have been sexually victimized (Friedrich, 1990). Whether a child actually receives treatment, however, is affected by socioeconomic status and ethnicity (Haskett, Nowlan, Hutcheson, & Whitworth, 1991). Most children who are seen for treatment receive relatively few sessions (Gomes-Schwartz et al., 1990). Keller, Cicchinelli, and Gardner (1989) surveyed more than 400 programs and found that individual therapy is the most common form of therapy for sexually abused children, although group and family therapy also are employed frequently. Programs for sexually abused children often lack conceptual clarity about the specific purpose or expected outcomes of treatment (e.g., Kolko, 1987).

Empirical evaluation of treatment effectiveness is just beginning. Pre- and posttreatment studies reveal that children generally improve over the course of abuse-specific therapy (Bentoyim, van Elberg, & Boston, 1988; Deblinger, McLeer, & Henry, 1990; Lanktree & Briere, 1995; Nelki & Watters, 1989). Without comparison groups, the improvement cannot be ascribed definitively to the treatment process, although Lanktree and Briere (1995) found that time in treatment accounted for the improvement when time from abuse to the onset of treatment was controlled. No controlled clinical trials have been published, but a review (Finkelhor & Berliner, 1995) finds that abuse-specific treatment appears to be effective when compared to no-treatment control groups. On the other hand, when two alternative treatments are compared, few significant differences emerge. Extensive clinical literature describes treatment approaches for sexually abused children. Friedrich (1990), Gil (1991), and James (1989) offer a theoretical framework for abuse-focused therapy and give examples of specific interventions. Case studies illustrate a variety of approaches to therapy with individual clients: cognitive-behavioral (Becker, Skinner, & Abel, 1982; Kolko, 1986), psychodynamic (Ellis, Piersma, & Grayson, 1990; Seinfeld, 1989; Van Leeuwen, 1988), and pharmacological (Famularo, Kinscherff, & Fenton, 1988). Friedrich (1991) has edited a volume of case studies by various authors encompassing a range of clinical situations.

Group therapy is the most specifically described therapeutic approach, with numerous published articles (e.g., Berman, 1990; Corder, Haizlip, & DeBoer, 1990; Furniss, Bingley-Miller, & Van Elburg, 1983; Mandell & Damon, 1989; Steward, Farquar, Dicharry, Glick, & Martin, 1986). Groups are usually theme oriented and characterized as supportive and psychoeducational. They are often time limited, especially for younger children. Topics frequently covered are feelings about the abuse and the offender, corrective information about abuse and offenders, education regarding sexuality, sexual abuse prevention material, preparation for court, and identification of a support system. In some cases, a concurrent parent support group is recommended (e.g., Damon & Waterman, 1986).

Specific treatment approaches for children with sexual behavior problems have

been described by Gil and Johnson (1993), Cunningham and MacFarlane (1991), and Berliner and Rawlings (1991). All borrow from abuse-focused therapy, offender treatment, and standard interventions for child behavior problems and/or family dysfunction. The source of the behavior (especially unresolved victimization issues), the behavior itself, and the family context are addressed. The process of treatment may be as simple as educating parents to supervise and set appropriate limits. Typically, however, treatment is complex and requires intervention at many levels. The need for intervention targeted on specific behaviors is supported by the apparent unresponsiveness of sexual acting out to conventional abuse therapy.

Family therapy is strongly indicated because poor family functioning and family disruption are associated with increased risk for abuse, official response following abuse disclosure, and psychological harm to children. Negative parental reactions are related to initial impact, recovery over time, and the impact of the criminal justice process. Siblings also experience psychological distress in families in which there has been incest (DiPietro, 1987; Lipovsky, Saunders, & Murphy, 1989). Clinical literature often mentions the importance of enhancing parental support, usually through supportive, psychoeducational approaches in which the parent is provided with information about victimization and offenders and is helped to understand and empathize with the child's experience. However, little empirical data are available on family interventions. Winton (1990) reports on a positive evaluation of a parent support group. Approaches to reunification of offenders with the family have been described (Meinig & Bonner, 1990), although there has been no formal investigation of this type of therapeutic intervention.

#### Treatment Issues With Adults

Because of the complex array of symptoms evidenced by many adult survivors of sexual abuse, diagnosis and treatment of such individuals require careful attention to a variety of issues. Survivors in treatment may satisfy diagnostic criteria for several different forms of psychological disturbance (including various affective, dissociative, and somatization disorders), posttraumatic stress, and substance

abuse or addiction (Pribor & Dinwiddle, 1992; Saunders, Villeponteaux, et al., 1992; Stein et al., 1988). As a result of this complexity, clinicians run the risk of either over- or underdiagnosing or of being distracted by the diagnosis per se. A case in point is the borderline personality disorder (BPD). The association between a childhood sexual abuse history and the diagnosis of BPD has received particular attention in the recent literature (Briere & Zaidi, 1989; Herman, Perry, & van der Kolk, 1989; Kroll, 1993) because many of the logical affective and interpersonal sequelae of chronic child abuse are contained in the diagnostic criteria for BPD. The excessive or reflexive use of this diagnosis with abuse survivors, however, demonstrates that the mere application of a diagnostic label is often not helpful without a contextual understanding of the specific dynamics and phenomenology of the childhood events that underlie it (Briere, 1992a; Kroll, 1993).

Despite the many abuse-related problems cited earlier and the prevalence of childhood sexual abuse among clinical groups, relatively few works elucidate abuse-specific treatment methodologies with adults (e.g., Briere, 1989; Courtois, 1988; Jehu, 1988; Maltz & Holman, 1987), and only a handful of studies report on the efficacy of a group treatment approach with adult survivors (e.g., Alexander, Neimeyer, & Follette, 1991; Follette, Alexander, & Follette, 1991). These treatment studies suggest that although there is significant benefit to an interpersonal group therapy approach in terms of reducing symptoms of depression and social anxiety, treatment effects are mitigated by the current social support system and education of the survivor. Such treatment may be most helpful as an adjunct to intensive individual therapy.

Although clinical outcome data are limited at this time, abuse-specific treatment is probably more helpful in the resolution of postabuse trauma than are therapies that overlook the existence and impact of childhood molestation. Because the known effects of childhood sexual victimization are so varied (e.g., posttraumatic symptoms, cognitive distortions, problems with self-development, and disturbed relatedness), abuse-focused therapy must respond to a wide range of clinical problems and employ a variety of treatment interventions rather than rely on a single therapeutic approach or philosophy.

## Conclusion

Sexual abuse is a relatively common experience in the lives of children, and sexually abused children typically suffer psychological aftereffects. Of great concern is the fact that such experiences not only produce immediate difficulties but also constitute a significant risk factor for the development of subsequent health, psychiatric, and life-functioning difficulties. Important mediating variables have been identified, including characteristics of the abuse and support from the family. Prospective studies that follow children into adulthood would provide the best method for understanding the processes and experiences that mitigate or exacerbate abuse effects. In the absence of such research, intervention efforts should be designed not only to ameliorate current symptoms but also promote an emotional and cognitive resolution that may improve the likelihood of a positive outcome in later years.

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**DRAFT**

**FISCAL NOTE**

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO: CS HB 273**

Revision Date: 02/06/98 Dept. Affected: Public Safety  
 Title: Notification of public concerning sex offenders BRU: Alaska State Troopers  
 Component: AST Director's Office  
 Sponsor: Rep. Masek  
 Requestor: House Judiciary COMPONENT SERIAL NO. 0508

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	.8	.8	.8	.8	.8	.8
TRAVEL						
CONTRACTUAL	5.7	6.6	7.5	8.4	9.3	10.2
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>6.5</b>	<b>7.4</b>	<b>8.3</b>	<b>9.2</b>	<b>10.1</b>	<b>11.0</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b> Revenue Code	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	6.5	7.4	8.3	9.2	10.1	11.0
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>6.5</b>	<b>7.4</b>	<b>8.3</b>	<b>9.2</b>	<b>10.1</b>	<b>11.0</b>

Estimate of current year (FY 98) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary.)**

The proposed bill gives no guidance as to the frequency of the publications that would be required to be made in newspapers across the state. The figures above are predicated upon a yearly publishing of the listing of registered sex offenders beginning with the number of offenders currently registered (1,496) and continuing to increase, both by increased compliance rate and an increase in the number of qualifying offenders, through 2004 (2,700).

If the publications were to be mandated on a monthly basis, the costs would increase x 12, thus; FY 99 = 78.0, FY 00 = 88.8, FY 01 = 99.6, FY 02 = 110.4, FY 03 = 121.2, and FY 04 = 132.0.

Prepared By: F/Sgt. Don Bowman Phone: 269-5084  
 Division: Alaska State Troopers Date: 02/06/98

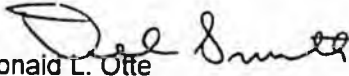
FISCAL NOTE

DRAFT

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO: CSHR 273

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety

Approved by Commissioner: Ronald L. Otte  Date: 2/6/98  
Agency: Department of Public Safety

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ATTACHMENT TO FISCAL NOTE  
CS HB 273

DRAFT

PERSONAL SERVICES:

AC III	21.38 per hour	37.5 hours	\$802	.8
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CONTRACTUAL:

Newspaper publication costs

	per line
Anch.	1.17
Fbks.	1.00
Juneau	2.00
Ketch.	.98
Nome	<u>1.15</u>

Avg. 1.26 @ 3 lines per offender = 3.78

1496 offenders currently registered x 3.78 = 5,654.88 5.7

2700 offenders (target) in 2004 x 3.78 = 10,206.00 10.2

Lines needed based upon 26 characters per line, including spaces and punctuation, with a typical name, address and charge requiring 75 characters.

Example: Douglas B. Smith 1410 Jones Rd. Anchorage  
Sexual Abuse of a Minor 2nd Degree



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS

DRAFT

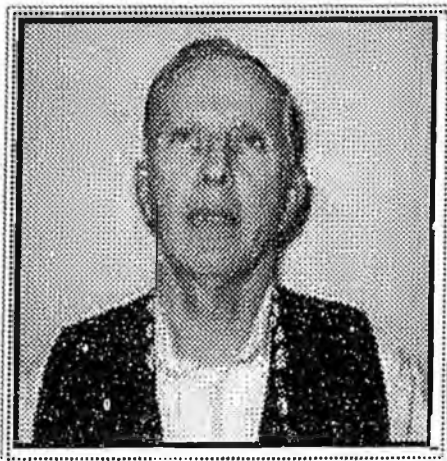
Department Public Safety	Division Alaska State Troopers	Bill Number CS HB 273	Sponsor Rep. Masek
Short Title of Bill  An Act relating to notification of the public concerning sex offenders.			
Department Position  Oppose.			
Prepared By  F/Sgt. Don Bowman	Date  2/6/98	Commissioner's Signature   Ronald L. Otte	Date  2/6/98

SUMMARY

Other Agencies Affected by the Bill  Community Councils, School Districts	Constituent Group(s) Affected by Bill  ACLU, Victim's Rights Groups
Organizational Support for Bill  Victim's Rights Groups	Organizational Opposition to Bill  ACLU
Fiscal Impact <input type="checkbox"/> None	<input checked="" type="checkbox"/> Fiscal Note Attached
Background/Legislative Intent  This bill is intended to provide for a broader, more affirmative public notification process (via printed material) concerning those persons registered as sex offenders.	
Analysis of Bill/Program Effects  This bill would have specific program effects for AST.  This bill would require DPS to adopt regulations to provide for the publication of the name, address and crime of a sex offender in a newspaper in the community where the offender lives. Additionally, DPS would need to provide the same information to the head of each community council concerning offenders residing within the community boundaries as well as to the superintendent of the school district in which a sex offender resides.  It would apparently be up to DPS, through the regulation process, to determine how often to publish the list of offenders and which offenders to publicize. A considerable difference exists between publishing the entire list and publishing only those newly convicted offenders. If publication is determined to be necessary once per year, the information will soon be outdated, considering that in January 1998, 142 persons registered. If the list had been published January 1st, the vast majority of those newly registered sex offenders would not have appeared in newspapers.  Citizen access to the data base as provided for on the Internet is still the most efficient method to publicize not only the information sought to be published by this bill, but other information to include the offender's photograph, place of employment and physical description. Information published in newspapers as provided for in this bill is outdated soon after the publication date, while the SOR data on the Internet is updated on a daily basis.	
Amendments Proposed  None.	
PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS	

Current Report Date: 2/16/1998

Database Last Updated: 2/6/1998

**Registered Sex Offender****PAUL VINCENT SMITH**

Name Aliases:  
**PAUL SMITH VINCENT**  
**PAUL V SMITH**

**Person Info**

<b>Race:</b> WHITE		<b>Sex:</b> MALE	
<b>Hair:</b> BROWN	<b>Eyes:</b> BLUE	<b>Height:</b> 5' 11"	<b>Weight:</b> 160 LBS.
<b>Date of Birth:</b> 10/4/1941		<b>Employer:</b> NORTHERN LIGHTS HOTEL	

**Address Info Last Changed on: 8/26/96**

<b>Registration Address:</b> 2020 W 36TH AVE #7		
<b>City:</b> ANCHORAGE	<b>State:</b> AK	<b>Zip:</b> 99517
<b>Employer Address:</b> 598 W NORTHERN LIGHTS BLD		
<b>City:</b> ANCHORAGE	<b>State:</b> AK	<b>Zip:</b> 99517

**Convictions**

NO statute

Court Docket Num: 82-1909	Court: SUPERIOR COURT ANCHORAGE
Conviction Date: 3/4/1983	
Offense Code: 3601	Description: SEXUAL ABUSE OF A MINOR
Court Docket Num: 82-1909	Court: SUPERIOR COURT ANCHORAGE
Conviction Date: 3/4/1983	
Offense Code: 3601X	Description: ATTEMPTED SEXUAL ABUSE OF
Court Docket Num: 82-1909	Court: SUPERIOR COURT ANCHORAGE
Conviction Date: 3/4/1983	
Offense Code: 3601	Description: SEXUAL ABUSE OF A MINOR
Court Docket Num: 82-1909	Court: SUPERIOR COURT ANCHORAGE
Conviction Date: 3/4/1983	
Offense Code: 3601	Description: SEXUAL ABUSE OF A MINOR
Court Docket Num: 82-1909	Court: SUPERIOR COURT ANCHORAGE
Conviction Date: 3/4/1983	
Offense Code: 3601	Description: SEXUAL ABUSE OF A MINOR

PAUL VINCENT SMITH is required to register under AS 12.63.010

*The Department of Public Safety updates this information regularly, to try to assure that it is complete and accurate, however this information can change quickly. You are cautioned that information provided on this site may not reflect the current residence, status, or other information regarding an offender.*

If you believe that any of the information found in these records is in error, please contact the Alaska State Troopers, Permits and Licensing Unit at 117 West 4th Avenue, Anchorage, AK 99501 Phone (907) 258-8892. This information is made available for the purpose of protecting the public. Anyone who uses this information to commit a criminal act against another person is subject to criminal prosecution.

[Modify Search](#) | [Back to SORCR Home Page](#)

0-LS1011E  
Luckhaupt  
2/3/08

CS FOR HOUSE BILL NO. 273( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE MASEK

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to notification of the public concerning sex offenders."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 \* Section 1. AS 18.65.087(d) is amended to read:

4 (d) The Department of Public Safety

5 (1) shall adopt regulations to

6 (A) allow a sex offender to review sex offender registration  
7 information that refers to that sex offender [,] and, if the sex offender believes  
8 the information is inaccurate or incomplete, to request the department to correct  
9 the information: if the department finds the information is inaccurate or  
10 incomplete, the department shall correct or supplement the information;

11 (B) ensure the appropriate circulation to law enforcement  
12 agencies of information contained in the central registry;

13 (C) provide notice of the name and address of a sex offender  
14 and the crime for which the sex offender was convicted

15 (i) by publication of a legal notice in a newspaper of

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DELETE  
lines 3-6

general circulation in the community where the offender resides or near where the offender resides;

~~(ii) to the president or chair of each community council established by municipal charter or ordinance if the sex offender resides inside the boundary of the area represented by a community council;~~

(iii) to the superintendent of the school district in which the sex offender resides; and

(iv) to other persons the department determines appropriate to notify;

(2) shall provide to municipal police departments the forms and directions necessary to allow sex offenders to comply with AS 12.63.010;

(3) may adopt regulations to establish fees to be charged for registration under AS 12.63.010 and for information requests; the fee for registration shall be based upon the actual costs of performing the registration and maintaining the central registry but may not be set at a level whereby registration is discouraged; the fee for an information request may not be greater than \$10;

(4) shall remove from the central registry of sex offenders under this section information about a sex offender required to register under AS 12.63.020(a)(2) at the end of the sex offender's duty to register if the offender has not been convicted of another sex offense; in this paragraph, "sex offense" has the meaning given in AS 12.63.100.

violate the prohibition on ex post facto legislation, because the law includes a provision providing for public dissemination of information concerning sex offenders whose convictions antedate the Registration Act. *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

Because the Registration Act, ch. 41, SLA 1994, is likely penal in nature because of the provision for public dissemination of information, plaintiffs, who pled no contest to sex offenses pursuant to plea bargains that did not include any duty to register, are likely to prevail on claims for violation of the plea agreements and due process. *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

Sex offenders required to register with police authorities were not likely to prevail on their assertion that the Registration Act, ch. 41, SLA 1994, and specifically the requirement to submit oneself to the state troopers or local police for photographs and fingerprinting, was an unreasonable search or seizure. *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

Sex offenders required to register with police authorities do not appear to be able to establish a reasonable expectation of privacy in the information required to be disclosed by the Registration Act, ch. 41, SLA 1994. *Rowe v. Burton*, 884 F. Supp. 1372 (D. Alaska 1994).

**Sec. 12.63.010. Registration of sex offenders and related requirements.** (a) A sex offender who is physically present in the state shall register as provided in this section. The sex offender shall register within

- (1) seven days of release from an in-state correctional facility;
- (2) seven days of conviction for a sex offense if the sex offender is not sentenced to a term of incarceration; or
- (3) 14 days of becoming physically present in the state, except the sex offender shall register within seven days of becoming physically present in the state if the sex offender
  - (A) is a probationer or parolee being supervised by the state as the receiving state under AS 33.36.110 — 33.36.120; or
  - (B) has been released from an out-of-state correctional facility where the sex offender was serving a term of incarceration for a sex offense conviction in this state.

(b) A sex offender required to register under (a) of this section shall register in person at the Alaska state trooper post or municipal police department located nearest to where the sex offender resides at the time of registration. To fulfill the registration requirement, the sex offender shall

- (1) complete a registration form that includes, at a minimum, the sex offender's name, address, place of employment, date of birth, each conviction for a sex offense for which the duty to register has not terminated under AS 12.63.020, date of sex offense convictions, place and court of sex offense convictions, all aliases used, and driver's license number;
- (2) allow the Alaska state troopers or municipal police to take a complete set of the sex offender's fingerprints and to take the sex offender's photograph.
- (c) If a sex offender changes residence within the state after having registered under (a) of this section, the sex offender shall provide written notice of the change to the Alaska state trooper post or municipal police department located nearest to the new residence within 10 days of the change.

(d) A sex offender required to register under (a) of this section shall annually, during the term of a duty to register under AS 12.63.020, on a date set by the department at the time of the sex offender's initial registration, provide written notice to the department of any changes to the information initially provided under (b)(1) of this section, or if there are no changes, a statement to that effect.

(e) In this section, "correctional facility" has the meaning given in AS 33.30.901. (§ 4 ch 41 SLA 1994)

**Sec. 12.63.020. Duration of sex offender duty to register.** (a) The duty of a sex offender to comply with the requirements of AS 12.63.010 for each sex offense

- (1) continues for the lifetime of a sex offender convicted of two or more sex offenses;
- (2) ends 15 years following the sex offender's unconditional discharge from a conviction for a single sex offense.

(b) The department shall adopt, by regulation, procedures to notify a sex offender who, on the registration form under AS 12.63.010, lists a conviction for a sex offense that is a

violation of a form the offender's duty

- Sec. 12.63.100**
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**Section**

- 05. Duty to notify
- 15. State medical
- 20. Medical death
- 25. Post mortem ex

**Cross reference**  
09.55.062 — 09.55.0

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**HB**

**282**



### North Star Youth Court

800 Cushman Street  
Fairbanks, AK 99701

(907) 457-6792  
Fax (907) 457-6791

#### Board of Directors

Kathy Helfrick, Chair  
*Capt. Bartlett Inn*  
Christine Smith, Co-Chair  
*Lathrop High School*  
Robert Calvillo, Treasurer  
*Denali State Bank*  
Becky Wilbanks, Secretary  
*West Valley High School*

Virgie King  
*Retired FNSBSD*  
Colleen Kosluchar  
*Niewohner & Associates PC*  
George Riley  
*FNSB*

#### Student Directors

Leslie Fazio, *N.P. Christian*  
Sarah Fehmerling, *Lathrop H.S.*  
Tenille Gregory, *N.P. Christian*  
Trevor Miller, *Lathrop H.S.*  
Robert Purcell, *Monroe H.S.*  
Lyric St. John, *West Valley H.S.*  
Matt Sampson, *Lathrop H.S.*  
Harold Sunkel, *Lathrop H.S.*  
Zak Wilson, *Lathrop H.S.*

### MEMORANDUM

January 26, 1998

TO: House Judiciary Committee Members:  
Rep. Joe Green, Chair  
Rep. Con Bunde  
Rep. Jeanette James  
Rep. Brian Porter  
Rep. Ethan Berkowitz  
Rep. Eric Croft  
Rep. Norman Rokeberg

FROM: Wendy Leach, Coordinator  
North Star Youth Court

Dear Committee Members:

I am writing on behalf of the North Star Youth Court in support of HB-282.

The North Star Youth Court benefits our community on several levels. Young people develop understanding and a general knowledge about the legal system through classroom education and the administration of justice. The community receives valuable services to address juvenile crime and redress for the wrongs committed. Juvenile defendants resolve their problems without receiving a criminal record, and in a manner that may appear less authoritarian yet equally as consequential. North Star Youth Court also serves to reduce the volume of cases that is currently burdening the Juvenile Court.

NSYC is a community, volunteer based program. All activities are accomplished through student and adult volunteers with just one paid employee. NSYC members and adult volunteers work to maintain services because we believe results show the positive impact a Youth Court can have for our community.

HB-282 represents the interests of Youth Courts throughout Alaska, providing partial, but ongoing, funding for Youth Courts through the imposition of a \$25 surcharge on adult fines and bail forfeiture.

Sincerely,

**NORTH STAR YOUTH COURT**

*Wendy Leach*

Wendy Leach  
NSYC Coordinator

**HB**

**284**



# SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

## Sponsor Statement for CSSB 284 (STA)

"An Act relating to cruelty to animals"

CS SB 284 was introduced in response to concerns about the treatment of animals and the difficulty of prosecuting cases which involve animal cruelty.

There have been numerous incidents of serious animal cruelty and neglect in Alaska which have gone un-prosecuted because of the current statutory language. One district attorney testified that the language, which reads, "intentionally inflicts severe and prolonged physical pain or suffering on an animal", is "un-prosecutable". CS SB 284 gives the state a more workable statute. The following outlines the changes the bill would make.

- ❖ Changes "intentionally" to "knowingly" which lowers the state of mind the state must prove in prosecuting an animal cruelty case. This would help in cases of starving animals. An owner's actions may not have been "intentional", but a reasonable person would "know" that lack of food causes starvation.
- ❖ Changes "recklessly" to "with criminal negligence" which lowers the criminal standard. Recklessness is indicated by an awareness and conscious disregard. Criminal negligence is indicated by a "failure to perceive a substantial and unjustifiable risk that the result will occur..." AS 11.81.900.
- ❖ Adds "animal husbandry" to existing statute as an accepted practice and a defense to the prosecution.
- ❖ Does not affect existing statute which protects farmers, ranchers, hunters and trappers who are conducting accepted veterinary practices including castration, de-horning, branding, euthanizing, etc. AS 11.61.140
- ❖ Does not affect the existing statute which designates cruelty to animals as a class A misdemeanor.

Supporters of this bill include: The Department of Law, Mush With Pride, the Alaska Farm Bureau, the Alaska Livestock Producers Cooperative, the Alaska Animal Control Association, Alaska Society for the Prevention of Cruelty to Animals, Iditarod Race Winner Libby Riddles, Fairbanks Animal Control, Kenai Animal Control, Friends of Pets, and the Gastineau Humane Society.

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-3181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee  
• Senate Community & Regional Affairs Committee

Produced in House



# Mush with PRIDE

Providing Responsible Information on a Dog's Environment

David Monson, President Mush with PRIDE  
P.O. Box 60249  
Fairbanks, AK 99706

Sen. Dave Donely  
State Capitol  
Juneau, AK 99801

March 18, 1998

RE: SB-284 ANIMAL CRUELTY BILL

Dear Sen. Donely,

Thank you for your continuing efforts to strengthen Alaska's animal cruelty laws. We believe that the lowering of the criminal standard for prosecution of cruelty to animals is a necessary step in protecting Alaska's domestic animals from negligent owners.

Sleddog medicine has become a specialty within the veterinary profession. Veterinary members of the international Sled Dog Veterinary Medical Association (an internationally recognized professional organization), as well as most veterinarians in the Alaska Veterinary Medical Association are well aware of the conditions and standards used in assessing care and well-being of sleddogs. In addition, Mush with PRIDE has issued Sleddog Care Guidelines which set standards for most common sleddog practices. These PRIDE standards, which have been endorsed by all major Alaskan racing organizations (Iditarod, Quest and ADMA) as well as most international sleddog racing groups (ISDRA and IFSS) were developed with constant input from several mushing veterinarians who are Directors of PRIDE. Therefore, we believe that the current statute does provide adequate protection against prosecution. We do not feel that any other musher-specific defense against prosecution is needed to protect mushers against prosecution.

We are hopeful that SB-284 will be passed this session so that state officials can better deal with the small minority of abusive owners who tarnish the image of our state and the official state sport of dogsledding.

Sincerely,

David Monson



# THE ALASKA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC.

SPCA State Headquarters and Spay Clinic • 549 W. International Airport Road • Anchorage, Alaska 99518  
Phone: 562-2997

March 2, 1998

To Whom It May Concern:

The Alaska Society for the Prevention of Cruelty to Animals, SPCA is in full support of SB 284. Efforts in past cruelty cases have been next to nothing. Alaska needs to have a stronger law to support our justice system in prosecution of animal abusers. The SPCA in past years, has witnessed animal abusers in the worst scenarios. Due to insufficient laws, the District Attorney's office was unable to penalize these people. Animal abuse is and has been occurring throughout the state. Most people are unaware of the severity of some of these cases. Public awareness is increasing and the state needs to update legislation to deal with cruelty offenders.

Statistics show that there is a definite link between animal cruelty and spousal, child abuse occurring within the home.

Again, the SPCA, as well as most of the general public, are in strong support of SB 284, and show a very strong interest in the passage of this bill.

Sincerely,

Ethel Christensen, Director

Diane Zarfoss

John McLane

Diane Vuckovich

Lori Cornett



February 26, 1998

Senator Dave Donley  
State Capitol Building  
Juneau, Alaska 99801

Senator Dave Donley:

On behalf of the Gastineau Humane Society we would like to go on record as being in support of Senate Bill 284. The statutory language currently in AS 11.61.140 is very difficult to prove and courts have been unable to prosecute a number of neglect and cruelty cases. Bill 284 will improve the language in AS 11.61.140 and enable prosecutors to convict those that have participated in obvious acts of neglect and cruelty.

Currently both the Humane Society of the United States and American Humane have initiated campaigns, "First Strike Animal Cruelty / Human Violence" and "Campaign Against Violence", this year to increase the awareness and alert all agencies involved in addressing issues of child abuse and neglect that there is a high correlation between animal abusers and child abusers. If the animal abuser can be prosecuted under AS 11.61.140 this could be a tool not only to prevent further animal cruelty but also provide opportunity for intervention in cases where children are also victims.

If there is anything I can do to facilitate passage of Bill 284 please let me know.

Sincerely,

A handwritten signature in cursive script, reading "Linda M. Blefgen". The signature is written in dark ink and is positioned above the printed name and title.

Linda M. Blefgen  
Executive Director



# FAIRBANKS NORTH STAR BOROUGH

2408 Davis Road \* P.O. Box 71267 \* Fairbanks, Alaska 99707-1267

Department of Direct Services  
Division of Animal Control

(907) 459-1451 \* FAX (907) 459-1120

March 13, 1998

The Honorable Dave Donley  
Alaska State Capitol, Room 508  
Juneau, AK 99801

Dear Senator,

I support passage of CSSB 284, an act relating to cruelty to animals.

The proposed changes create a more useful tool for investigators and prosecutors of cruelty to animals cases than the current language. It has long been known that under the current statute the only good evidence to prove the crime of cruelty to animals is a dead animal. The proposed changes will give enforcement officers the ability to intervene and hopefully save animals before they die or suffer severe injury due to inhumane treatment.

With the strong connection between cruelty to animals and abuse of children and other humans it is essential that we take cruelty to animals very seriously. Recognition, intervention and effective prosecution of cruelty to animals cases may help prevent the cycle of abuse from continuing in Alaskan families. Cruelty to animals cannot be tolerated, and an enforceable law is the first step in addressing the problem. Thank you.

Sincerely,

Laura Hood, Manager  
Division of Animal Control

**HB**

**285**

(7)  
Date Referred to Committee: February 23, 1998

FURTHER REFERRALS:

Date of Committee Action: 2/25/98

The JUDICIARY Committee considered:

HB 285

HOUSE BILL NO. 285

POINT SYSTEM FOR COMMERCIAL FISH VIOLATIO

"An Act relating to suspension or revocation of commercial fishing permits and privileges."

recommends it be replaced with the following committee substitute \_\_\_\_\_ [ ] the same title [ ] a new title

[ ] additional referral to \_\_\_\_\_ Committee  
[ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[  ] zero fiscal note(s) PWS Safety  
Fish & Game

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Richard D. Porter</i>	<input checked="" type="checkbox"/>			
<i>Ann Tolby</i>				<input checked="" type="checkbox"/>
<i>John W. ...</i>	<input checked="" type="checkbox"/>			
<i>Christine ...</i>				<input checked="" type="checkbox"/>
<i>Jessamine James</i>	<input checked="" type="checkbox"/>			
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CHAIR'S SIGNATURE *[Signature]*

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO: CS HB 285(RES)**

Revision Date: 02/20/98 Dept. Affected: Public Safety  
 Title: Point System for Commercial Fish Violation BRU: Fish & Wildlife Protection  
 Component: \_\_\_\_\_  
 Sponsor: Representative Ivan  
 Requestor: House Judiciary COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

Estimate of current year (FY 98) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

This bill would not have any significant fiscal impact on FWP.

Prepared By: Captain Joel Hard Phone: 746-9139  
 Division: Fish and Wildlife Protection Date: 02/20/98  
 Approved by Commissioner: Ronald L. Otte *[Signature]* Date: 2/23/98  
 Agency: Department of Public Safety

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STATE OF ALASKA  
1998 LEGISLATIVE SESSION

No: \_\_\_\_\_  
Bill Version: CSHB 285 (RES)  
(H) Publish Date: 2/23/98

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
Title: An Act relating to suspension or revocation of commercial fishing permits, licenses and privileges BRU: Commercial Fisheries (Limited) Entry Commission  
Sponsor: Rep. Ivan Component: Limited Entry Program Administration  
Requester: House Resources COMPONENT SERIAL NO. 0471

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other:						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: \$ 0.0

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There are 600-800 commercial fishing convictions per year which are affected by this bill. The Court System is willing to work out a methodology to electronically transfer the convictions to CFEC on a weekly basis and thereby eliminating any need for additional personal services expenditures to accomplish the work detailed in this bill. Therefore, this bill will have no fiscal impact on this agency.

Prepared By: Roger Kolden Phone: 789-6160  
Agency: Commercial Fisheries (Limited) Entry Commission Date: 2/17/98

Approved by Commissioner: Bruce Twomley Date: 2/18/98  
Agency: Commercial Fisheries (Limited) Entry Commission

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**COMMITTEE COPY**

**FISCAL NOTE**

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO.** CSHB 285

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: An Act relating to suspension or revocation of commercial BRU: Commercial Fisheries (Limited) Entry Commission  
fishing permits, licenses and privileges Component: Limited Entry Program Administration  
 Sponsor: Rep. Ivan  
 Requester: House Resources **COMPONENT SERIAL NO.** 0471

(Thousands of Dollars)

EXPENDITURES/REVENUES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

(Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There are 600-800 commercial fishing convictions per year which are affected by this bill. The Court System is willing to work out a methodology to electronically transfer the convictions to CFEC on a weekly basis and thereby eliminating any need for additional personal services expenditures to accomplish the work detailed in this bill. Therefore, this bill will have no fiscal impact on this agency.

Prepared By: Roger Kolden Phone: 789-6160  
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 2/17/98  
 Approved by Commissioner: Bruce Twomley  
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 2/18/98

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# Alaska State House of Representatives House District 39



## Session

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## **Representative Ivan M. Ivan SPONSOR STATEMENT - CSHB 285 (RES)**

This bill was introduced to address concerns of illegal fishing activities committed by commercial fishers throughout my district and other commercial fishing communities. It has been said that some of these illegal activities become a philosophy among some fishers as the "cost of doing business" should they be convicted for such activities.

The main intent of this legislation is to establish a point system against a commercial fishing permit holder for a conviction of commercial fishing laws found under Title 16. Should 12 or more points be assessed against a permit holder during any consecutive 36-month period as a result of convictions, the Commercial Fisheries Entry Commission is given the authority to suspend the permit for a one-year period. A suspension of two-years occurs when 16 or more points are accumulated during a consecutive 48-month period. A suspension of three-years is invoked when a permit holder accumulates 18 or more points during any consecutive 60 month period. Two points will be deducted from the total points assessed against a permit if the permit holder is not convicted of a violation of commercial fishing laws during a 12-month period after the date of the last conviction.

The bill outlines the assessment of points, the suspension process, the notice and appeal process and the notification to the commission by the Court System.

Another provision of CSHB 285 (RES) affects emergency transfers of a permit. Should the permit holder decide to transfer the permit, any points accumulated by the person in possession of the permit will also be assessed against the transferor. This provision will discourage permit transfers by a permit holder who has accumulated a large number of points and is trying to avoid suspension by transferring the permit to another fisher.

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**Representative Ivan M. Ivan**

**SECTIONAL ANALYSIS - CSHB 285 (RES)**

**Section 1:** Adds new sections to AS 16.43, Regulation of Entry into Alaska Commercial Fisheries.

**Sec 16.43.850. Point System.**

- (a) Establishes assignment of demerit points for convictions of violations of commercial fishing laws. The Commercial Fisheries Entry Commission will adopt regulations establishing a uniform system for the suspension of a commercial fishing permit. The Commission will also assess demerit points against a permit holder for each violation of commercial fishing laws consistent with the demerit point scheduled outlined in subsection (b) and (c) of this section.
- (b) Establishes a schedule of demerit points for violations of commercial fishing laws which are already established under Title 16.
- (c) One-half the of the points will be assessed for a conviction of a violation of commercial fishing laws under AS 16.05.722.
- (d) Requires the Commercial Fisheries Entry Commission to suspend a limited entry or interim use permit based on an aggregate number of accumulated points within a specified period of time.

**Sec. 16.43.855. Assessment of Points.**

- (a) Requires that notice be given to the permit holder when points are assessed. The Commission must also notify a permit holder before the expiration of a suspension that subsequent violations of commercial fishing laws may result in further suspension of the permit.
- (b) Points will be assessed against the permit holder based on the date of the conviction.

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Sectional Analysis  
CSHB 285 (RES)

- (c) States that the assessment of points against a permit holder is in addition to and not a substitute for other provisions of Title 16 nor is it a substitute for any penalty imposed by a court.
- (d) Points assessed against a permit holder who holds a permit under a permanent or emergency transfer will also be assessed against the transferor of the permit.

**Sec. 16.43.860. Reduction of Points.** Requires the deduction of two points from the total points assessed if the permit holder has not been convicted of commercial fishing laws in a fishery for which the permit was issued during a 12 month period after the date of the last conviction.

**Sec. 16.43.865. Suspension.**

- (a) A permit holder who has had the permit suspended may not obtain an entry permit or limited use permit for that fishery during the period of suspension.
- (b) A permit holder whose entry permit or interim use permit has been suspended may participate in the fishery only under a crew member license.
- (c) if a permit holder's interim use permit is suspended and the commission established a limited entry system for that fishery, the permit holder will be eligible to obtain an entry permit for that fishery, if the permit holder qualifies for the entry permit. However, the commission will withhold issuance of the entry permit until the period of suspension has expired.

**Sec. 16.43.870. Notice and Appeal.** The commission will provide notice of its' determinations. A permit holder may request a hearing on the determination.

**Sec. 16.43.875. Required Notice to Commission.**

- (a) The Court System will forward a record of convictions on a weekly basis to the commission.
- (b) A conviction is obtained upon a plea of nolo contendere or a forfeiture of bail or collateral to secure the defendant's appearance in court that has not been vacated.