

I choose to remember this offensive and homophobic remark as an isolated incident, rather than how sociologists in general react when I tell them what I study. But it still stung. It taught me that bias operates at all levels, even among highly educated people. To be gay and to care about gay issues is somehow narcissistic. The personal is always political, yes, but sexuality penetrates into our imagination in unique ways.

**Why is sex research important? How does your work on LGBTQ social movements relate to everyday life?**

Sex research is important for so many reasons, but I'll just share the first two that come to my mind. One of society's favorite myths about gay people is that we're all alike. Social psychologists call this the "out-group homogeneity effect," a majority-group perception that minority group members are fairly similar to one another. Sex research enables us to debunk this pervasive bias about LGBTQ individuals. From a personal perspective, part of what makes studying sexuality right now so exciting is that we're living with a generation of scholars who have pioneered the writing of our history. Unlike other minority groups, queer people have a comparatively weaker sense of our own heritage and history. Sex research is important because we still have much about queer lives that needs to be collectively remembered and preserved. There are many more stories to tell.

**If you could teach people one thing about sexuality what would it be?**

The world appears and feels so much more effervescent when passion and pleasure accompany the pursuit of your craft. It's important to love what you do. Studying sexuality offers opportunities for intense intellectual stimulation and unbridled pleasures in the process of doing it.

**THE NEW PARIAHs:  
SEX, CRIME, AND PUNISHMENT IN AMERICA**

ROGER N. LANCASTER

Narratives of sexual danger are older than the republic itself. Indeed, the drama of protection—what Susan Faludi calls “the guardian myth”—serves as something of a foundational national story line about the wresting of white civilization from sexual savagery.<sup>1</sup> During the colonial, antebellum, Jim Crow, and Progressive eras, white Americans were variously preoccupied with tales of sexual danger to white women and children. The retrograde racial and gender politics involved in guardianship could not be clearer. Historically, the guardian myth cast white men as protectors of white women and children; the villains of the piece were depraved red, black, brown, or yellow men. But Depression and McCarthy-era paranoias put a new spin on this old story line. With the decline of lynch law in the 1930s, the focus of white middle-class sexual anxieties shifted from external threats to internal deviations, and a new species of sexual monster—the “sexual psychopath” who was raced and sexed as homosexual—lurched onto the historical stage.<sup>2</sup> After a brief hiatus during the 1960s, he resumed his stalking of children in the wake of gay liberation—at about the same time that Americans started to repeal sodomy laws while getting tough on crime. . . . The sexual psychopath eventually would morph into the modern pedophile just in time for new plot twists, such as stories about satanic ritual abuse, stranger danger, and a host of subsequent perils to children.<sup>3</sup> . . .

Keeping in view the wide sweep of these trends and motifs, I shall try to take a step beyond existing analyses of what is now well established: mass incarceration's roots in racial

domination. . . . Repression, too, is only one of the mechanisms in play. Increasingly, subject citizens are primed to crave the new techniques of supervision—for their own “good,” even for their own sense of freedom—which are silently disseminated across a rebuilt landscape.

The (implicitly white) sexual predator has played an important role in the production of this wider system. His crimes are understood as being both uniquely horrific and uniquely widespread; they are thus to be constantly anticipated and guarded against. Because his predations occur in secret, and because they often invade otherwise safe spaces, they must be constantly flushed out and exposed. The merest suspicion of the predator's presence justifies, even demands, the laying of traps, the deployment of decoys, the staging of “stings,” the application of surveillance technologies at new sites. . . .

The emotions he stirs have played a crucial part in stoking public outrage, in mobilizing an inflamed citizenry, and in cementing the prevailing tabloid story line around innocence, vulnerability, and victimization.

“Innocence,” of course, is an especially precarious concept, never more so than when it is imagined as “sexlessness,” and it would appear that the sexual predator is an absolutely indispensable element in underwriting this concept: it is ultimately he who secures the existence of innocence . . . by threatening to snatch it away.

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In the mutually constitutive interplay between innocent sexlessness and sexual evil, innocence serves as a stand-in for health, not only for the child but for the species as well: its preservation, up to a certain unclear age, points to a happy, well-adjusted future. Correlatively, the predator's pernicious sexuality constitutes a kind of disease: the perils he poses circumscribe the normal, desired state, and their intrusion into the closed world of childhood—more so than poverty, neglect, or violence—is deemed uniquely capable of diverting the child from the proper developmental path. This dialectic between innocence and its despoliation has given rise to a biopolitical system every bit as expansive as any variant of nineteenth-century sexual hygienics, replete with corps of specialists, advocates, and disciplinarians. The most successful new social movement of the late twentieth century, the victims' rights movement, could scarcely have staged so many notable triumphs in the fields of law, policing, and court procedures without the help of that massive new hygienic infrastructure and without invoking, as its foil, the ignominious figure of the sexual predator. Expansive new cadres of professional child protectors could scarcely have occupied an increasingly crowded field except in the shadow of his outsized existence.

A dark suspicion begins to form: Might we think that in a society committed both to a war on crime (with its mass incarceration of black men) and to ridding itself of racism (through formal adherence to a regime of civil rights), the feared figure of the white pedophile is necessary? Might we wonder whether part of the psychosocial work he performs is to absolve the guilty conscience of racism at a time when so many fears are focused on the black gang-banger or the brown border menace? Perhaps. Facts in evidence: Penalties for a variety of sex crimes have continued to intensify, even as drug crime laws have been relaxed. The population administered by sex laws continues to grow, even as the prison population has stabilized.

I therefore venture a working hypothesis. Sexual fears and strategies for the containment of sexual dangers are key threads of the new reticulum. They figure prominently in ongoing redefinitions of norms of governance. They provide a reusable template, suitable for application in other domains. If we want to see what social control could look like over the course of the twenty-first century, we should look to the sex offender.

### SEX OFFENDER LAWS

America's current sex offender laws have smaller-scale precedents in mid-twentieth-century sex panics, when, in the name of child protection, thirty states devised civil commitment procedures for sexual psychopaths and a trickle of states imposed sex offender registries. With the sexual and due process revolutions of the 1960s, some of these statutes were modified or retired. But then a new series of sex panics began in the 1970s, and by the 1980s some states were passing sex offender laws that resembled those of the McCarthy era. Still, as late as 1993, only twelve states had sex offender registries.

This picture changed dramatically in 1994, when Congress passed and President Bill Clinton signed into law a federal statute named for Jacob Wetterling, an eleven-year-old Minnesota boy who was abducted by a masked gunman in 1989. Although nothing was known of Wetterling's fate or his abductor's identity for the better part of 27 years, activists and reporters generally—and, it turns out, correctly—interpreted the tragedy as an instance of abduction, rape, and murder. The Wetterling Act required convicted sex offenders to register with authorities upon release, parole, or probation. It mandated annual registration for a ten-year period for some offenses (any sexually violent offense and certain criminal offenses against a victim who was a minor) and lifetime registration on a quarterly basis for persons determined to be

"sexually violent predators." It also required local authorities to transmit registry information to state law enforcement and the FBI.

Then, under a 1996 amendment to the Wetterling Act, all states were required to adopt statutes collectively known as Megan's Law, named for Megan Kanka, a seven-year-old girl who was raped and murdered in New Jersey in 1994. This amendment required local law enforcement authorities to notify neighbors about a sex offender's presence in their community. Although registration and notification requirements varied, all states came to post searchable online lists of at least some categories of registered sex offenders.

More recently, the 2006 Adam Walsh Act enhanced and systematized registry and notification requirements. Named for the abducted and murdered son of John Walsh, who went on to become the host of Fox Broadcasting Company's *America's Most Wanted*, the legislation was expressly drafted "in response to the vicious attacks by violent predators" against seventeen other named victims who died over a sixteen-year period. The act's preamble cites these anomalous child murders as evidence of "deadly loopholes" in the antecedent Wetterling Act and Megan's Law. (There is no evidence that sex was involved in Walsh's kidnapping and murder, but as in the Wetterling case, this was the motive assumed by family members, advocates, and reporters.) And so the Walsh Act tightened sex offender registration requirements and established a three-tier system based on the type of offense committed (a break with earlier classifications that purported to be based on the risk of recidivism): Tier 1 offenders are subject to annual registration for a period of fifteen years; Tier 2 offenders must update their registration every six months for twenty-five years; and Tier 3 registrants are required to register their whereabouts every three months for life.

In addition to enhancing penalties for an array of sex crimes, the legislation established

a national public sex offender database (over and above existing state registries) and made failure to register or update one's registration a felony. Other sections of the act, each named for a different child victim, contain provisions for DNA collection and, in a striking display of petty punitiveness, make it more difficult for the relatives of anyone ever convicted of a sex offense to obtain green cards. Ex post facto law is usually viewed as inimical to democratic norms, but the Walsh Act also gives the U.S. attorney general the authority to apply its provisions retroactively.

The marking and tracking of sex offenders leapt beyond national borders with the enactment of International Megan's Law. Passed by the House in a unanimous voice vote . . . the bill was signed into law by President Obama in 2016. The new law purports to allow authorities to preempt sex tourism and child exploitation: it requires registered sex offenders convicted of crimes involving minors to pre-report all international travel, and it provides for a newly created Angel Watch Center to share these travelers' itineraries with foreign governments. The law also requires a "visual designation affixed to a conspicuous location on the passport indicating that the individual is a covered sex offender."

One might well hope for a legal classification system that distinguishes menace from nuisance, with nuanced criteria for sorting violent repeat offenders, who belong in prison or require supervision, from nonviolent or one-time offenders. But as Gayle Rubin observed in her indispensable essay on sex panics, American thinking admits little nuance or proportion when it comes to sex.<sup>4</sup> This lack of nuance is not merely a cultural legacy of Puritanism; it is constantly stoked in raw, emotional campaigns by victims' rights and child advocacy groups, crusading journalists, and opportunistic politicians. Every victim-named law tells the story of an elaborate institutional collaboration to exaggerate risk

and to conflate categories of harm: its naming commemorates the true story of a helpless child who suffered a terrible death at the hands of a hardened criminal; its legislative content applies stringent measures against a host of minor, first-time, and nonviolent offenders. . . .

The most intense form of public dread is directed at the lurking stranger, the anonymous repeat offender. In fact, the crimes that most spur public outrage—the abduction, rape, and murder of children—are exceedingly rare. In a nation whose population includes roughly 74 million minors, about one hundred high-risk abductions of children by strangers occur every year, and about half end in murder. Statistically, then, a child's risk of being killed by a sexual predator who is a stranger (1 in 1,480,000) is lower than the chance of being killed by lightning (1 in 1,200,000). Most perpetrators of sexual abuse are family members, close relatives, or friends or acquaintances of the victim's family. And in 70 to 80 percent of child deaths resulting from abuse or neglect, a parent is held responsible.<sup>5</sup>

Advocates for laws to register, publicize, and monitor sex offenders after their release from custody typically assert that those convicted of sex crimes pose a high risk of sex crime recidivism. But studies by the Justice Department and other organizations show that recidivism rates are significantly lower for convicted sex offenders than for burglars, robbers, thieves, drug offenders, and other convicts. And only a tiny portion of sex crimes are committed by repeat offenders, which suggests that current laws are misdirected and ineffective. A federally financed study of New Jersey's registration and notification procedures found that sex offense rates were already falling before the implementation of Megan's Law; the study also found no discernible impact on recidivism and concluded that the growing costs of the program might not be justifiable. Other studies

have suggested that public registries actually promote recidivism by relegating registrants to a status of permanent social exclusion, thus depriving them of any interest in their own rehabilitation.<sup>6</sup>

The "typical" sex offender is a less exceptional figure than official narratives suggest. Contrary to the common belief that burgeoning registries provide lists of child molesters, the victim need not have been a child and the perpetrator need not have been an adult. Child abusers may be minors themselves. (Up to 41 percent of child sex abuse perpetrators are said to be juveniles.<sup>7</sup>)

First-degree rape is always a registry offense. Statutory rapists—who are not rapists at all, insofar as their crimes involved neither coercion nor violence—are variously covered in many states. Some states require exhibitionists and "peeping Toms" to register. Louisiana once compelled some prostitutes to do so. "Forcible touching" is a registry offense, and this designation may apply even to adolescent boys who "copped a feel," as it was called on my junior high playground. (In New Jersey a neurologically impaired twelve-year-old boy who groped his eight-year-old brother in the bathtub was required to register as a sex offender.<sup>8</sup>) Fully two-thirds of the North Carolina registrants sampled in a 2007 study by Human Rights Watch had been convicted of the nonviolent offense of "indecent liberties with a minor," which does not necessarily even involve physical contact. (Virtually all of the five hundred registrants randomly sampled—98.6 percent—were one-time offenders; that is, the offense for which they were registered was their first and only conviction for a sex offense.<sup>9</sup>) Culpability and harm vary greatly in these offenses. Some are serious. Some would not be classified as "criminal" under European laws, which set lower ages of consent than do American laws. Some defy common sense. And because sex crimes are broadly defined and closely

monitored, the number of people listed in sex offender registries has grown rapidly: 843,680 at latest count, more than the population of San Francisco (currently the thirteenth largest city in the country).<sup>10</sup>

Talk about "risk" was ubiquitous in deliberations around registry requirements. Risk assessment models usually purport to provide calibrated calculations and bias-free assessments of probability. But applied to sex offenders, actuarial logic has deteriorated into something else: panicky risk-aversion, arbitrary judgments, and a rapid expansion of sanctions targeting broad populations for registration and other forms of "waste management."<sup>11</sup> Registry procedures involve not one but two leaps of actuarial logic. First, the recidivism of some becomes tantamount to the recidivism of all, with the result that "there can be no such thing as an 'ex-offender'—only offenders who have been caught before and will strike again," as David Garland succinctly puts it. Under this distorted logic, "criminals" will "have few privacy rights that could ever trump the public's uninterrupted right to know."<sup>12</sup> Second, since the commission of lower-level sex offenses with willing participants is understood to be preliminary to the commission of horrendous, brutal crimes, this anticipated escalation must be deterred by escalating penalties. Thus, gradations that were first haltingly elaborated to distinguish degrees of risk or harm subsequently have become the basis for blurring those very distinctions, and in many locales mid- and lower-level nonviolent offenders have become subject to invasive, onerous notification procedures: web listings, the distribution of electronic notices or paper flyers, to say nothing of increasingly punitive federal rules.

This is associative logic—or magical thinking, as the anthropologists would have it: the logic of panic.<sup>13</sup> It aligns not with "science" in any meaningful sense of the word, much less with rational risk assessment, but with much

older ideas about danger, taboo, and ritual pollution. It has the force of an irrefutable argument; it takes the form of extortion; and it gathers like an unstoppable wave: Who but a moral monster would oppose a law, no matter how draconian, named for a murdered child?

Registration and notification rules violate basic legal principles and amount to an excessive and enduring form of punishment. They render registrants all but unemployable and unhousable. But these are only the beginning of added-on penalties and collateral measures. Other laws go much further. At last count, forty-one states and the District of Columbia have passed laws that require some sex offenders to be monitored—sometimes for life—with electronic ankle bracelets that use radio frequency or global positioning systems (GPS). The Walsh Act includes a federal pilot program to use global positioning to keep an eye on sex offenders. Nine states either allow or require chemical castration for some categories of sex offenders. In addition, new civil commitment laws in twenty states and the District of Columbia resurrect that odd institution from the 1950s, allowing for the indefinite detention of sex offenders after the completion of their sentences. . . . The Walsh Act created a federal civil commitment program. Civil libertarians oppose civil confinement on principle: it violates due process, it represents a form of double jeopardy, and it is tantamount to indefinite preventive detention. The Supreme Court has repeatedly swatted aside these objections: civil confinement is not deemed punitive if psychological treatment is provided. Such a rationale for civil commitment would seem to display an inherent illogic: the accused is deemed mentally fit for trial and sentencing but mentally unfit for release.<sup>14</sup> Moreover, psychological treatment for civilly confined sex offenders is largely unscientific, based more on therapeutic fad and conjecture than on any body of informed evidence or double-blind



studies. Still, inmates are presented with a legal catch-22: One condition of release from civil commitment is the successful completion of psychological therapy. But since therapy typically requires a complete recounting of past crimes—including those unknown to authorities—and since the number of crimes committed is a factor in determining whether the detainee is subject to civil commitment, many logically refuse therapy and do so on the advice of counsel.<sup>15</sup>

In theory, these procedures are applied against the worst of the worst: violent repeat offenders. In practice, civil commitment is applied to a mixed group that sometimes includes minors and nonviolent offenders such as exhibitionists but not violent, garden-variety rapists. One detainee shared his story with me in a letter: When he was eighteen, he was charged with sending pornographic material via email to a respondent he believed to be his fourteen-year-old male cousin. The recipient was actually a decoy, planted by an aggressive prosecutor. And because this was the young man's second offense—his first offense had involved voluntary relations with a same-sex partner when he was fifteen and the younger partner was thirteen—he was classified as a "violent sexual predator" and sent directly to civil commitment. Such are the judgments that can go into designating a violent sexual predator.

The most recent survey of sex offender civil commitment programs, dating to 2013, found 5,640 detainees.<sup>16</sup> Meanwhile, laws in more than twenty states and hundreds of municipalities restrict where a sex offender can live, work, or walk. Where a sex offender lives has no bearing on whether he will commit new crimes. But residency restrictions have proved popular, promoted by citizens' groups, victims' rights advocates, crusading journalists, and politicians in a wide variety of settings. California's Proposition 83 prohibits all registered sex offenders (felony and misdemeanor alike) from living within two

thousand feet of a school or park, effectively evicting them from the state's cities, rendering them homeless, or scattering them into isolated rural areas. The law also mandates lifelong electronic tracking of all felony sex offenders, whether deemed dangerous or not, through GPS.

A lawyer describes his client's shattered life in 2008: the uprooted offender perpetually circulates through the streets of the Bay Area, where there are no places he can live. He and his wife must move their trailer constantly to avoid violating a rule tacked on by the Department of Corrections and Rehabilitation, which prohibits sex offenders from being in the same noncompliant place for two hours.

His original registry offense was indecent exposure: mooning his sister-in-law during a family argument.<sup>17</sup>

There are signs of corrective movement on some of the most excessive "child safety zone" laws. California courts have scaled back the statewide law in a succession of rulings, a U.S. District Court judge has thrown out Michigan's one-thousand-foot buffer zone, and the Massachusetts Supreme Judiciary Court has broadly ruled residency restrictions an unconstitutional form of "banishment." A few states and municipalities have modified their laws in the wake of chaotic displacements. Still, lawmakers are loath to appear "soft" on sex crime, so these modifications usually give something with one hand and take away something with the other. . . .

### CONTINUOUS CONTROL

. . . Digital scarlet letters, electronic tethering, and practices of banishment have relegated a growing number of people to the logic of "social death," a term introduced by the sociologist Orlando Patterson, in the context of slavery, to describe a condition of permanent dishonor and exclusion from the wider moral community.

The creation of a pariah class of unemployable, uprooted criminal outcasts largely escaped the notice of academic queer theorists, who in their heyday supposedly earned their keep by accounting for such phenomena. But it has drawn the attention of human rights activists, and even a journal as staid as the *Economist* has decried U.S. sex offender laws as harsh and ineffective.<sup>18</sup>

This business should worry us more than it apparently does, in part because the techniques used for marking, shaming, and controlling sex offenders have come to serve as models for laws and practices in other domains. Electronic ankle bracelets and techniques of house arrest are being applied to an expanding list of offenders and defendants—including undocumented immigrants who have been released from custody to await processing (on civil, not criminal charges). It is estimated that a quarter of a million people are currently manacled to some form of electronic monitoring.<sup>19</sup> Public registries, which make visible any stain on a person's record, have proved especially popular with government agencies, civic organizations, and private vigilante groups. A victims' rights clearinghouse in New Mexico posts an online database of everyone convicted in the state of driving while intoxicated. Several states publish online listings of methamphetamine offenders, while lawmakers in Texas, Nevada, and California have introduced initiatives to create public registries of those convicted of domestic violence. Gregory Tomso discusses the website *STDcarriers.com*, for example, [which] publishes the names and photographs of thousands of people worldwide who have tested positive for STIs or who have been prosecuted for criminal HIV transmission.<sup>20</sup> Mimicking Megan's Law, Florida maintains a website that gives the personal details (including photo, name, age, address, offenses, and periods of incarceration) of all prisoners released from custody. Some other states post similar public listings

of paroled or recently released ex-convicts. It goes without saying that such procedures work against rehabilitation and reintegration.

Other things merit saying, however. Costly and inefficient as they are, such techniques of supervision are cheaper than incarceration. They invite adoption in a time of budget shortfalls and ever-less-expensive digital technologies. They resonate well with public opinion, which would like to see fewer people in prison but also favors putting all ex-convicts under some form of supervision, if recent survey results are any guide.<sup>21</sup> And they satisfy liberal urges to look for supposedly more humane alternatives to mass incarceration. . . .

### Anxiety (Dis)Order

. . . Crime-conscious routines and surveillance technologies purport to make us feel safer, but there is good reason to think that they have the opposite effect: they produce subject citizens who are always thinking about crime. . . .

Judith Levine, Janice Irvine, and other sex-positive feminists have argued that the established culture of child protection—with its fetishization of virginity and its constant battery of alarmist messages that equate sex with risk and danger—actually harms children and impedes their social development.<sup>22</sup> A lifeworld dominated by sexual fear certainly discourages experimentation, pleasure, and autonomy. More than that, it tacitly redefines sex, like smoking, as a form of harm, permitted only to adults (who are allowed to accept responsibility for their own decisions). James Kincaid goes further to suggest that in the prevailing story line about harm, "innocence" itself has been eroticized: the purer the child is imagined to be, the greater the danger of his or her defilement—and the greater the thrill some adults will experience in performing rites of protection.<sup>23</sup> Speculations along these lines purport to delve into the nether regions of the psyche.

But what if what lurks in the closet and stirs anxieties there is more literal than figurative? The kinds of laws that I have been enumerating are themselves logical sources of anxiety. Harvey Silverglate has suggested that the average American unwittingly commits three felonies per day. Or, more accurately put, expansive, vaguely written laws give prosecutors great leeway in pinning raps, and America's sex laws supply prosecutors with a veritable trove of actionable material. What sort of leeway? Silverglate gives the example of a respected lawyer who was charged with obstruction of justice when he destroyed a hard drive containing images of naked boys that were discovered on his client's—an Episcopal church's—computer. The attorney acted in good faith: he recommended immediately firing the church's organist (who had stored the images) and he destroyed the hard drive without any knowledge that the feds had begun an investigation of the organist. Many attorneys would have done the same. Child pornography "is illegal to possess ('contraband') and therefore holding, rather than destroying it, arguably would be criminal."<sup>24</sup> The lawyer's dangerous predicament illustrates a recurring dilemma in modern sex laws: the difference between licit and illicit behavior becomes so slight as to be a matter of point of view.

... Arrests for "public" sex, for example, typically target men who "[believe] they are alone or out of view," but who are observed by police using peepholes or hidden cameras, or who are responding to overtures from police decoys.<sup>25</sup> Lawyers and researchers tell me that a large percentage of defendants in statutory rape cases credibly believed that they were involved with a partner who was above the age of consent. (Many states do not allow defendants to argue that the minor impersonated an adult.) Of course, mature adults have no monopoly on misjudgments, momentary lapses, indiscretions, or reckless passions. Many young

people do not realize that they are violating their states' consent or abuse laws when they engage in standard routines of courtship and seduction. Cell phones put the tools for serious lawbreaking—"sexting" among underage teens, which violates child pornography laws—in everyone's hands. (A recent survey finds that nearly 20 percent of teens under the age of eighteen have sent a sexually explicit picture of themselves via cell phone; nearly 40 percent had received such images, with a substantial number of those forwarding them on to others.<sup>26</sup>)

In view of rampant legal hazards it is unclear just where the search for "monster" might lead us. Tabloid scandals give hints. A headline, typical of its genre, announces a citizenry's shock and consternation: "Town Is Shaken after Prosecutor's Arrest in a Child-Sex Sting." The first line of a story in *USA Today* reads, "A Bible camp counselor and a Boy Scout leader were among 125 people arrested nationwide in an Internet child pornography case." An article on a lawsuit against Richard Roberts, then president of Oral Roberts University, obliquely refers to cell phone text messages sent to "under-age males."<sup>27</sup> . . . The monster, we are told, is hiding in plain sight!

Such narratives ricochet and whiplash in the culture at large. . . . Sad stories about fallen figures or exposed pretenders trade in schadenfreude: they allow tellers and listeners to revel in exposing the hypocrisy of others; and in this telling, they reveal the capacity for recursive regression in sex panics. That is, whenever those who have been most zealous about protecting innocence find themselves caught up in scandal, the result is not a reconsideration of the ground from which this business started—inflated notions of harm, the politics of protection—but instead, remorse on the part of the fallen and panicked calls for greater zeal, tighter laws, tougher enforcement, more continuous control. . . .

## NOTES

1. Susan Faludi, *The Terror Dream: Fear and Fantasy in Post-9/11 America* (New York: Metropolitan, 2007), 215–16, 262, 289. . . .
2. Estelle B. Friedman, "Uncontrolled Desires: The Response to the Sexual Psychopath, 1920–1960," *Journal of American History* 74 (1987): 83–106; Neil Miller, *Sex Crime Panic: A Journey to the Paranoid Heart of the 1950s* (Los Angeles: Alyson Books, 2002). . . .
3. Debbie Nathan and Michael Snedeker, *Satan's Silence: Ritual Abuse and the Making of a Modern American Witch Hunt* (New York: Basic, 1995); Richard Ofshe and Ethan Watters, *Making Monsters: False Memories, Psychotherapy, and Sexual Hysteria* (Berkeley: University of California Press, 1996); Philip Jenkins, *Moral Panic: Changing Concepts of the Child Molester in Modern America* (New Haven: Yale University Press, 1998).
4. Gayle Rubin, "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality," in *Pleasure and Danger: Exploring Female Sexuality*, 2nd ed., ed. Carole S. Vance (London: Pandora, 1992), 267–319.
5. I derive these numbers from various studies produced by the Office of Juvenile Justice and Delinquency Prevention and published in *National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children* (NI SMART), U.S. Department of Justice, Washington, D.C., as well as from the U.S. Department of Health and Human Services Child Maltreatment Annual Reports.
6. Patrick A. Langan, Erica L. Schmitt, and Matthew R. Durose, "Recidivism of Sex Offenders Released from Prison in 1994," U.S. Department of Justice, 2003; . . . Patrick A. Langan and David Levin, "Recidivism of Prisoners Released in 1994," U.S. Department of Justice, 2002. . . .
7. Emily M. Douglas and David M. Finkelhor, "Childhood Sexual Abuse Fact Sheet," Crimes against Children Research Center, May 2005, <http://www.unh.edu/ccrc/factsheet/pdf/childhoodSexualAbuseFactSheet.pdf>.
8. Judith Levine, *Harmful to Minors: The Perils of Protecting Children from Sex* (New York: Thunder's Mouth, 2003), 47.
9. "No Easy Answers: Sex Offender Laws in the U.S.," Human Rights Watch 19, no. 4G (September 2007): 31–32.
10. According to statistics compiled from state registries by the National Center for Missing and Exploited Children, <http://www.missingkids.com/en/US/documents/SexOffendersMap2015.pdf> (accessed Feb. 8, 2016).
11. See Malcolm M. Feeley and Jonathan Simon, "The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications," *Criminology* 30, no. 4 (1992): 449–74. . . .
12. David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2001), 180–81.
13. See . . . Roger N. Lancaster, *Sex Panic and the Punitive State* (Berkeley: University of California Press, 2011), 7, 41, 81, 237–38.
14. *Kansas v. Hendricks*, 521 U.S. 346 (1997); Allison Morgan, "Civil Confinement of Sex Offenders: New York's Attempt to Push the Envelope in the Name of Public Safety," *Boston University Law Review* 86 (2007): 1034.
15. Monica Davey and Abby Goodnough, "For Sex Offenders, Dispute on Therapy's Benefits," *New York Times*, March 6, 2007: A1.
16. Deirdre D'Orazio, Rebecca Jackson, Jennifer Schneider, and Alan Stillman, "Annual Survey of Sex Offender Civil Commitment Programs 2013," October 28, 2013. Presented at the Annual Conference for Sex Offender Civil Commitment Programs Network, Chicago, IL.
17. Marc Gardner, a defense attorney living in the Bay Area, has written about this case: "When Mooning Is a Sex Crime," *Counterpunch*, November 18, 2008, <http://www.counterpunch.org/2008/11/18/when-mooning-is-a-sex-crime>.
18. . . . Georgia Harlem, "America's Unjust Sex Laws," *Economist*, August 6, 2009: 9. . . .
19. This estimate was given by Robert Gable, a student of B. F. Skinner who co-designed the first electronic monitoring system with the aim of providing positive social support for the rehabilitation of offenders and parolees. Instead, laments Gable, the tool is being (mis)used "almost exclusively as an information system to document rule violations." . . .
20. Gregory Tomso, "HIV Monsters: Gay Men, Criminal Law, and the New Political Economy of HIV," in *The War on Sex*, ed. David Halperin and Trevor Hoppe (Durham, NC: Duke University Press, 2017), 353–77.
21. Public Opinion Strategies and the Mellman Group, "Public Opinion on Sentencing and Corrections Policy in America," March, 2012.
22. Levine, *Harmful to Minors*; Janice M. Irvine, *Talk about Sex: The Battles over Sex Education in the U.S.* (Berkeley: University of California Press, 2004).
23. James R. Kincaid, *Erotic Innocence: The Culture of Child Molesting* (Durham, NC: Duke University Press, 1998), esp. 14–16, 54–55, 102–06.
24. Harvey Silverglate, *Three Felonies a Day: How the Feds Target the Innocent* (2009; repr. New York: Encounter, 2011), see esp. 159–66.
25. Robert L. Jacobson, "'Megan's Laws' Reinforcing Old Patterns of Anti-Gay Police Harassment," *Georgetown Law Journal* 81 (1998–1999): 2456.