



# PREVENTING the SEXUAL VICTIMIZATION of CHILDREN

Psychological, Legal, and Public  
Policy Perspectives

CHARLES PATRICK EWING

OXFORD



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*For the latest love of my life,  
Caroline Margaret Viapiano*





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## **PREFACE**

In 2011, I published *Justice Perverted: Sex Offense Law, Psychology, and Public Policy*. In that volume, I critically examined the major recent developments in the way the law deals with sex offenders, including those who offend against children and adolescents. I examined civil commitment of sex offenders, sex offender registration and notification requirements, child pornography statutes, and laws criminalizing and severely punishing those who use the Internet in efforts to sexually entice minors. All of these legal standards were put in place by Congress and state legislatures as part of a growing effort to prevent the sexual abuse and exploitation of children and adolescents. Unfortunately, as I noted repeatedly in *Justice Perverted*, none of these laws has demonstrated much, if any, preventive efficacy. Worse yet, a number of these legal initiatives appeared to increase rather than decrease the likelihood that sex offenders would reoffend. In other words, they have just the opposite effect from what was intended. Having spent much of my career as a psychologist working with both perpetrators and victims of sex offenses, I was saddened by what I learned and what I wrote about the failure of these laws.

Even though there is good reason to believe that the incidence of child sexual abuse is decreasing, and despite data showing that the recidivism rates for sexual offenders are quite low, there is still a pressing need for better and more cost-effective ways of preventing the sexual abuse and exploitation of minors. After discussing my previous book with many readers and colleagues interested in prevention, I realized that what I had done in that volume was too simple in a number of ways. First, it was simple in the sense that it was relatively easy to criticize legal initiatives that appear to have been put in place for political reasons and probably never had any real chance of being effective preventive tools. Second, it was simple in the sense that it was limited to preventive strategies aimed at perpetrators and largely ignored broader preventive efforts aimed at children, parents, and the community. Third, it was simple in that it ignored preventive efforts aimed at a number of increasingly important contexts in which child sexual abuse and exploitation frequently occurs (i.e., institutions, such as schools, churches, and youth-serving organizations) and child prostitution and the sexual trafficking of minors.

This book reiterates and updates what was written in *Justice Perverted* about preventive strategies aimed at perpetrators, but it takes a much broader look at the nature and extent of child sexual abuse and examines in much greater detail an array of programs, laws, and policies designed to prevent such abuse.

Chapter 1 provides a brief introduction to the nature and extent of the problem of child sexual abuse in the United States and elsewhere. This chapter then offers a short history of child sexual abuse and exploitation from Mesopotamia to the Digital Age, highlighting the importance of understanding the long history of this awful phenomenon. The chapter concludes with a discussion of the need to carefully examine the efficacy and cost-effectiveness of all current efforts to prevent child sexual abuse.

Chapter 2 explores the epidemiology and effects of child sexual abuse. This chapter begins with an extended analysis of the long-standing and unresolved controversy over the incidence and prevalence of child sexual abuse, then turns to an examination of data suggesting that child sexual abuse has been decreasing in recent years. Next, the chapter considers the characteristics of child sex abuse victims and their relationships to those who abuse or exploit them. Finally, this chapter critically examines nearly half a century of research dealing with the psychological effects of child sexual abuse.

Chapter 3 critically evaluates child sexual abuse prevention strategies aimed at parents, children, and the community. With regard to strategies directed toward parents, the chapter emphasizes educating parents about child sexual abuse and translating data on such abuse into information that is useful to them in their everyday lives. As for strategies directed at children, the chapter highlights efforts to teach children to protect themselves from sexual abuse; appropriate responses to and investigation of children's disclosures of abuse; and alterations to legal proceedings to make it more likely that sexually abused children will not be further traumatized and their allegations will be heard in court. Finally, with regard to interventions aimed at the community as a whole, the chapter explores two important issues: limiting the sexualization of children in contemporary society and overcoming the resistance of "bystanders" to intervene to protect children from sexual abuse.

Chapter 4 deals with many of the same topics that were examined previously in *Justice Perverted* (civil commitment of child sex offenders; registration of these offenders; community notification of their presence; restrictions on their housing and travel; and harsh criminal punishment for "online" offenders [i.e., those who possess child pornography or use the Internet to solicit sex from minors or "decoys" they believe are minors]). However, the chapter not only updates those issues but goes well beyond them and also critically examines recent efforts to extend or abolish statutes of limitation in cases of child sexual abuse, and sharply increase criminal penalties for convicted child sex offenders.

Chapter 5 considers ways of preventing the use of the Internet to sexually abuse and exploit children and adolescents. Specifically, the chapter examines efforts to prevent the Internet from being used to distribute images of child sexual abuse (commonly referred to as child pornography) and solicit sex from minors.

Chapter 6 examines efforts to prevent child sexual abuse in institutions, particularly schools, juvenile correctional facilities, daycare centers, churches, and youth-serving organizations. The chapter emphasizes that whatever the institution, prevention of child sexual abuse begins with understanding and communicating the nature of the risk. Although most of the preventive measures discussed in the chapter are educational in nature, many are practical or even physical (e.g., rearranging the layout of facilities to maximize transparency and minimize privacy, requiring that staff and/or volunteers never be alone with a child, and conducting fingerprint and criminal background checks on those who apply to work with children in these institutional settings).

Chapter 7 deals with the commercial sexual exploitation of minors, a global phenomenon in which children are forced into prostitution. The chapter examines the nature and scope of juvenile sex trafficking, explains why “child prostitution” is a misnomer, and critically examines both domestic and international efforts to prevent minors from being abused in this particularly egregious fashion.

Chapter 8 summarizes and synthesizes many of the ideas expressed in earlier chapters and offers a cautious but hopeful assessment of future efforts to prevent child sexual abuse and exploitation. This concluding chapter emphasizes the need to view preventing such abuse and exploitation as an ongoing and ceaseless process for which all people bear responsibility.



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# Preventing the Sexual Victimization of Children



# Introduction and Historical Overview

Although reliable and accurate data are hard to come by, it is clear that the sexual exploitation of children is a major social problem in the United States and around the world. Depending upon how child sexual exploitation is defined and measured, wildly divergent estimates indicate that in the United States between 3 and 37 percent of males, and between 8 and 71 percent of females, are sexually abused in some manner during childhood or adolescence.<sup>1</sup> The federal government reports that in recent years more than 80,000 complaints of child sexual abuse have been received annually by authorities.<sup>2</sup> Many believe that this figure understates the scope of the problem because child sexual abuse is thought to be notoriously underreported. As the recent and still ongoing clergy sex abuse scandals have demonstrated, many victims of child sexual abuse do not come forward, if ever, until they are adults. Even accepting the lowest estimates of the incidence of child sexual abuse in the United States today, there can be little doubt that this is an extraordinarily serious problem.

In other nations, it appears that the problem of child sexual abuse is even more severe. In South Africa, for example, which has about a sixth of the United States' population, there were 23,000 reported cases of child rape in one recent year.<sup>3</sup> In India, where the national police agency has reported that 1.2 million children are involved in prostitution, a recent survey of 2,211 school children in a large city found that more than 20 percent said they had been exposed to severe forms of sexual abuse including sexual assault, being forced to sexually fondle another, being required to exhibit their private body parts, and being photographed in the nude.<sup>4</sup> In Japan, where the national government recently estimated that in one year there were only 590 reported cases of child sexual abuse, a retrospective survey of 665 college students found 54.7 percent reported having been the victim of some form of child sexual abuse (broadly defined to include such victimization as seeing an exhibitionist before the age of 13, being offered pornography before age 18, and engaging in sexual intercourse before age 13).<sup>5</sup>

However, statistics tell only part of the story of child sexual exploitation. Whatever the numbers may say, and no matter how controversial some of them may be, there is no denying that hundreds of thousands, if not millions, of children are sexually exploited each year. In some instances, the abuse is nonphysical: children are exposed to pornography, adult genitalia, and online sex chats and solicitations. However, in many cases the abuse is physical: children are sexually fondled, assaulted, sodomized and raped, forced into prostitution, and filmed and/or photographed to produce child pornography.

In response to this worldwide scourge, governments have passed strict laws, entered into international treaties, and established large bureaucracies aimed at curbing child sexual abuse and ameliorating its often devastating effects on victimized children and society as a whole. In virtually all of these efforts, governments have relied upon input from social scientists and mental health professionals. Over the years, these experts have shaped and implemented social, legal, and psychological responses to child sexual abuse in countless ways. More than any other group, they have identified the problem, defined its scope, gathered data, provided estimates, offered and implemented potential solutions, and evaluated and/or provided treatment to both the perpetrators and victims of child sexual abuse.

Although countless books and articles have been written about all of these efforts, few if any have sought to critically evaluate national and international efforts to reduce child sexual exploitation and ameliorate its effects. For the most part, input from social science and mental health experts has been accepted uncritically, as have the programs and laws that have been developed in reliance upon that advice. It is assumed that the epidemiological data, disparate though they may be, are relatively accurate in assessing the incidence and prevalence of child sexual abuse and providing a reasonable guide to the allocation of scarce preventive, investigative, and treatment resources. Similarly, it is often assumed that child sexual abuse is a clearly defined phenomenon that can be assessed, "diagnosed," or even proven solely by psychological means; that its effects are predictable; that generally effective psychological treatment is available for victims and perpetrators; and that severe legal sanctions (criminal and civil) levied upon its perpetrators will reduce the incidence of child sexual abuse.

This book questions what we actually know about the sexual exploitation of children, its nature, prevalence, incidence, victims, perpetrators, investigation, assessment, proof, treatment, prevention, and deterrence. Critically examining existing empirical evidence, this book demonstrates that much of what we think we know about child sexual abuse (and what governments have relied upon in shaping law and public policy in this realm) is not accurate or at least not substantiated by the evidence. The book argues that uncritical acceptance of inaccurate or questionable data has locked both law and psychology into many ineffective and counterproductive measures that fail to achieve the goal of reducing the incidence and impact of child sexual exploitation. Finally, the book offers a number of psychological and legal reforms that appear to stand a better chance of achieving that goal.

## A BRIEF HISTORY OF CHILD SEXUAL ABUSE FROM MESOPOTAMIA TO THE DIGITAL AGE

Although often regarded as a modern phenomenon, the sexual abuse and exploitation of children has occurred throughout the course of human history: “The taboo against using children and adolescents as sexual objects is only a few hundred years old. In very early times the age distinctions between child, adolescent and adult were not strong.”<sup>6</sup>

In Mesopotamia, the cradle of civilization, prior to the Code of Hammurabi (which dates to around 1772 BC), female children were sold into marriage, sometimes to more than one man. In Ancient Greece, beginning around the seventh century BC, adult males often engaged in socially accepted sexual relationships with boys, a practice known as pederasty; young Greek females in the same historical era who “lost their virginity, often against their will, would shame the honor of their family and, as a result, were commonly sold as slaves for prostitution.”<sup>7</sup> During the early Roman Empire, children were often abandoned or sold into slavery. Some of these slave boys were castrated and sodomized by masters who knew it was illegal to engage in homosexual relations with a free male and “upper-class boys wore distinctive necklaces lest their fathers engage in sexual behavior with them by mistake in public bathhouses.”<sup>8</sup>

In the Byzantine Empire, the “rational continuation of the Roman empire” (324-1453 BC), the law (which was usually not followed) required husbands to wait until their wives reached the age of 12 before having sex with them. Sexual abuse of a female child outside of marriage or engagement was punished variously by fining the offender; dragging him through the streets; cutting off his nose; or (“in extreme cases”) executing him.<sup>9</sup> Sexual abuse of boys was punished by dragging the adult offender naked through the streets, mutilating his penis and, more often, “decapitation by sword.”<sup>10</sup> Victims were placed in monasteries that “had the characteristics of a modern reformatory.”<sup>11</sup>

During the Middle Ages (500–1400) in Europe, sexual mores were dictated largely by the Catholic Church, but the lives of children appear to have been no better for it. Child slavery continued and often included sexual services. Children who were indentured or served as apprentices “were easy prey for sexual perpetrators.”<sup>12</sup> During the Renaissance (roughly the fourteenth to seventeenth century), “both male and female children were seen as largely innocent in sexual matters [but] sexual innocence for males was perceived to fall away at about age ten, while for females it was lost two to four years later.”<sup>13</sup> Although the Renaissance was marked by cultural and scientific revolutions, that era “reintroduced the West to the mores of the pagan classical world where pederasty was more widely accepted and even extolled in myth.”<sup>14</sup> “Public opinion during the Renaissance held teachers to be ‘notorious sodomites’ and civil authorities, for instance in Venice, tried to restrict teaching to public halls and daylight hours in an effort to restrict temptation” to engage in sex with male pupils.<sup>15</sup> And “although most societies throughout this period considered [man-boy sex] a crime it was not always punished harshly.”<sup>16</sup> On the other hand, sex with a female child was considered

rape. Although punishment in proven cases generally involved execution, the age parameters of childhood were not clearly defined and, in any event, “the burden of proof fell heavily on the child.”<sup>17</sup>

The sexual abuse and exploitation of children in America dates back to colonial times. “Tens of thousands of children were indentured from England and Scotland between 1600 and 1800” and “the French, Portugese, and Dutch also ‘sent out’ their unwanted children to Louisiana, the West Indies, Algeria, Africa, East Indies, and New York.”<sup>18</sup> These indentured children “experienced sexual victimization at the highest level—some moving into prostitution after the indenture was completed.”<sup>19</sup> Most of the colonies adopted laws banning incest and some prescribed execution as the penalty for this offense. However, “the goal of most colonial legislatures was not to punish fathers who had coercive sexual relationships with their minor daughters [but] to avoid complicated inheritance issues that arose when kin related by affinity married, such as a widower marrying his wife’s sister.”<sup>20</sup> Because incest laws were vaguely written, courts argued over whether they even applied to cases of intrafamilial child sexual abuse, and “few men who sexually assaulted their daughters were punished before the 1890s under a criminal law prohibiting incest.”<sup>21</sup>

Even this early in American history there were, of course, rape laws. As early as 1787, New York criminalized rape of a female under the age of 10, specifying death as the punishment for a convicted offender. Although incest required only proof of sexual relations between a father and daughter, rape required proof that the victim had not consented to the sexual contact. Perpetrators of child sexual abuse could be charged with statutory rape, having sexual relations with a minor regardless of consent. However, it was not until the late nineteenth century that most states “recognized an ‘age of consent,’ an age below which the law presumes that a girl is developmentally incapable of consenting to sexual contact, regardless of her apparent willingness.”<sup>22</sup>

At about the same time most American legislatures were beginning to deal with this issue, other major developments in the history of child sexual abuse were occurring in Europe. Between 1857 and 1878, Auguste Ambroise Tardieu, an early forensic physician, published studies of child sexual abuse in France. Tardieu documented thousands of sex crimes against children and reported that more than 75 percent of rapes and attempted rapes in France involved victims under 16. He also noted that most of these youngsters were girls younger than the age of 12. Around 1886, Sigmund Freud, the father of psychoanalysis, presented a group of papers on the cause of hysteria. These papers dealt with 18 patients who had been diagnosed with what was then called hysteria. Freud concluded that all of these women had been sexually abused as children by various caretakers, most often their fathers, and that this abuse caused their mental illnesses.<sup>23</sup> By 1897, however, Freud had repudiated this “theory of seduction”: “Freud now believed that most, but not all, of the assaults he reported had never occurred. He instead suggested that the young child, needing to release sexual tensions, wished for the sexual attention from her father. He believed that these tensions were universal and unfolded in developmental stages.”<sup>24</sup>

As the works of Tardieu and Freud were unfolding in Europe, American child protective agencies had become aware of, and were taking action against, child sexual abuse, particularly incest. Tardieu's work appears to have had little impact in America, but Freud's repudiation of his "seduction theory" may well have played an important role in changing the way child sexual abuse was dealt with in the United States: "In the early twentieth century the child-savers view of child sexual abuse changed significantly... By the 1920s... the *locus* of the problem was moved from home to streets, the *culprit* transformed from father or other authoritative male family member to perverted stranger, the *victim* transformed from innocent betrayed to sex delinquent. In other words, the fact that child sex abuse is overwhelmingly a family problem was obscured; instead it was pictured as rape by strangers on the street."<sup>25</sup> Apparently spurred by a handful of brutal sex crimes against children, the American news media began to vastly increase and sensationalize their coverage of these offenses in the late 1930s. As Freedman, an historian, wrote:

Between 1937 and 1940, and again during the postwar decade, the New York Times, previously silent on the subject, averaged over forty articles per year on sex crimes. In 1937, magazines ranging from *Science* and the *Christian Century* to the *Nation* and the *New Masses* reported on the sex crime panic. After World War II news and family magazines, including *Time*, *Newsweek*, and *Parents' Magazine*, carried articles titled "Queer People," "Sex Psychopaths," and "What Shall We Do About Sex Offenders?" In its 1950 series on "Terror in Our Cities," *Collier's* magazine summarized the newspaper headlines in St. Louis ("The City that DOES Something About Sex Crime") in a representative composite. KINDERGARTEN GIRL ACCOSTED BY MAN—CLERK ACCUSED OF MOLESTING 2 GIRLS IN MOVIE—MAN ACCUSED BY 8-YEAR-OLD BOY OF MOLESTING HIM IN THEATRE—6-YEAR-OLD GIRL AT ASHLAND SCHOOL MOLESTED—LABORER ARRESTED FOR RAPE OF 10-YEAR-OLD GIRL—FINED FOR MOLESTING 2 BOYS, AGED 8 AND 10—ARRESTED ON SUSPICION OF MOLESTING 4-YEAR-OLD GIRL—YOUTH WHO MOLESTED BOY 4, IS FINED \$500—9 CHARGES AGAINST MOLESTER OF GIRLS.<sup>26</sup>

At the same time media sources were trumpeting cases such as these, American psychiatrists appeared split on the causes of child sexual abuse. Freud's change of heart on his seduction theory likely altered the way many professionals, especially those in the mental health field, perceived child sexual abuse, particularly incest. For example, in 1937, in what may have been the first American study of victims of child sexual abuse, noted child psychiatrist Lauretta Bender and a colleague examined the cases of 16 boys and girls between the ages of 5 and 12 at New York's Bellevue Hospital. Bender and Blau recognized the existence of child sexual abuse but cautioned that "the child might have been the actual seducer rather than the one innocently seduced."<sup>27</sup> Meanwhile, however, most psychiatrists were interested more in the perpetrators than the victims of child sexual

abuse. In the late 1930s, American psychiatrists began to tout the notion that persistent sex offenders were “psychopaths” with “no control over their sexual impulses,” who, if simply incarcerated and left untreated, would “prey again upon women and children.”<sup>28</sup> According to this growing psychiatric point of view, these offenders could be readily diagnosed, treated, and perhaps even cured under the proper medical regimen.

Together, the media and the psychiatric profession swayed not only the opinion of the public but that of many legislators. In 1937, Michigan passed the nation's first state “sexual psychopath” law; within two decades 25 other states followed suit. The idea behind these laws was that: “[A] man accused of rape, sodomy, child molestation, indecent exposure, or corrupting the morals of a minor—if diagnosed as a ‘sexual psychopath’—could receive an indeterminate sentence to a psychiatric, rather than a penal, institution. The laws defined the sexual psychopath as someone whose ‘utter lack of power to control his sexual impulses’ made him ‘likely to attack... the objects of his uncontrolled and uncontrollable desires.’”<sup>29</sup>

Although sexual psychopath laws remained in effect well into the 1970s (and in some cases beyond), the idea that children were not innocent victims of sexual abuse remained prominent. For example, in 1952, Bender and another colleague published a follow-up study of the 16 sexually abused children she had described in the 1930s. In their follow-up, they reported that “The original psychiatric evaluations repeatedly remarked on the children's unusually attractive and charming personalities, and it was frequently considered that these qualities had contributed to their appeal as sexual objects. In many, it was highly probable that the child had used his charm in the role of the seducer rather than that he had been the innocent one who had been seduced.”<sup>30</sup>

A year later, famed sexologist Alfred Kinsey and his colleagues published the startling results of a groundbreaking survey of 4,441 adult women. Twenty-four percent of these women reported that, as children, they had been sexually abused by an adult male. Most of these women reported that these sexual experiences were frightening, but Kinsey and his colleagues could not understand this reaction: “It is difficult to understand why a child, except for its cultural conditioning, should be disturbed at having its genitalia touched, or disturbed at seeing the genitalia of other persons, or disturbed at even more specific sexual contacts.”<sup>31</sup> While Kinsey “minimized his remarkable statistics, the largest body of data about child sexual abuse that had ever been collected,” he and his colleagues expressed concern for alleged child sex offenders who were “imprisoned for accidental exposure of the genitalia while intoxicated, for nude swimming, or for the bestowal of ‘grandfatherly affection.’”<sup>32</sup>

Numerous other nonrandom surveys of adults, conducted between 1940 and 1965, arrived at prevalence statistics similar to those of Kinsey and his colleagues. Three such studies reported that “between 17% and 28% of respondents were sexually abused as children.”<sup>33</sup> Also, a number of studies conducted between 1942 and 1969 “confirmed the Kinsey findings that survivors recalled sexual contacts with adults as frightening, shocking, and emotionally upsetting, and also that



these contacts led to sexual difficulties, depression, and other serious long-term effects.”<sup>34</sup>

Although Kinsey’s data on premarital and extramarital sex received wide attention, his findings regarding incest and child sexual abuse were “almost completely ignored.”<sup>35</sup> It was not until the 1970s that experts and others began to challenge “the prevailing view that child sexual abuse was extremely rare and mostly confined to the economically disadvantaged or to particular ethnic or racial groups.”<sup>36</sup>

That view was challenged most directly in 1978 when Diane Russell, a feminist sociologist, conducted a random sample survey of 930 women in the San Francisco area with regard to their experiences with child sexual abuse. Russell appears to have been the “first researcher to conduct a probability survey to ascertain the prevalence of incestuous and extrafamilial child sexual abuse.”<sup>37</sup> Russell took pains to narrowly define child sexual abuse so that the data she obtained “would be taken seriously and not trivialized.”<sup>38</sup> She defined incestuous abuse as “any kind of exploitive sexual contact or attempted sexual contact that occurred between relatives, no matter how distant the relationship, before the victim turned eighteen years old.”<sup>39</sup> Sexual abuse outside the family was defined as follows: “Extrafamilial child sexual abuse involves one of more unwanted sexual experiences with unrelated persons, ranging from attempted sexual fondling to rape, before the victim turned 14 years, completed or attempted forcible rape experiences from the ages of 14 to 17 years (inclusive), and attempted or completed sexual fondling from the ages of 14 to 17 years (inclusive) by adult perpetrators (over 18 years of age) who were five or more years older than the victim.”<sup>40</sup>

Despite the somewhat convoluted definitions used by Russell, her findings were striking. Sixteen percent of these women reported at least one incidence of incestuous abuse before the age of 18; 31 percent reported that they had experienced at least one incident of extrafamilial child sexual abuse before age 18; and overall, 38 percent reported at least one experience of incestuous and/or extrafamilial sexual abuse before turning 18. To the extent that Russell’s findings could be generalized to American society at the time (and that is debatable), they suggested that more than a third of American women had been the victims of sexual abuse before they turned 18. While carefully detailing those findings, Russell also added to these numbers “incomplete data on noncontact experiences of incestuous and extrafamilial child sexual abuse” including unwanted sexual kisses, sexual hugs, and other nongenital touching” as well as “genital exposure experiences.”<sup>41</sup> With these numbers added, she concluded that “54% of the 930 women . . . reported at least one experience of incestuous and/or extrafamilial child sexual abuse before 18 years of age.”<sup>42</sup>

Within a decade of Russell’s research a number of other random community surveys, as well as one national prevalence survey of child sexual abuse, had been conducted. In these studies, using various methodologies, 22–27 percent of women and 6–16 percent of men reported that they had been sexually abused as children.<sup>43</sup> In a random, nationwide telephone survey of 2,626 adults in 1985, 27 percent of women and 16 percent of men indicated that they had been sexually

abused before the age of 18.<sup>44</sup> Sexual abuse was defined as an act the respondent believed was sexual abuse and included attempted or completed sexual intercourse; oral sex or sodomy; kissing, touching, or grabbing the respondent; rubbing up against the respondent's body; someone taking nude photographs of the respondent; someone exhibiting parts of his or her body to the respondent; and performing a sex act in the presence of the respondent.<sup>45</sup>

All of these numbers were hard to ignore, but they were brought to public attention and their impact was significantly amplified (if not sensationalized) to a large extent by feminists and members of an emerging self-help movement in the 1970s and 1980s. For example, in 1976, Russell and one of her colleagues wrote that: "Every woman is a potential victim of rape: little girls, adolescents, single women, married women, middle-aged women—and even dead women... Women live in terror of rape from the most tender age. An incredible number of children are victims of sexual aggression even in their own families or from relatives. The climate of terror thus formed continues into adulthood and pushes women to look for 'protection' just where it cannot be secured: from men."<sup>46</sup> Later, psychiatrist Judith Herman would write in a chapter titled "Sex Offenders: A Feminist Perspective" that given the number of child sexual abuse victims uncovered by these studies, "common sense would suggest that some comparable percentage of the male population has been doing the victimizing."<sup>47</sup>

The self-help movement for survivors of child sexual abuse emerged in the 1980s with the publication of best-selling books, such as *The Courage to Heal: A Guide for Women Survivors of Child Sexual Abuse* by Ellen Bass, which "combined personal narratives, explanations of the effects of abuse, and suggested healing exercises."<sup>48</sup> The book's premise was that although as many as one-third of women were sexually abused as children, many are unable to remember the abuse. Readers, who numbered in the hundreds of thousands, were told: "There are many women who show signs of having been abused without having any memories"<sup>49</sup>; "If you are unable to remember any specific instances... but still have a feeling that something abusive happened to you, it probably did"<sup>50</sup>; and "If you think you were abused and your life shows the symptoms, then you were."<sup>51</sup> The "symptoms" included feeling bad, dirty ashamed, powerless, victimized, endangered, unmotivated, vulnerable, and the need to be perfect.<sup>52</sup>

This best-selling self-help book (along with others of the same genre) went a long way toward making child sexual abuse a major social and political issue in the 1980s and 1990s: "[I]ts influence went far beyond the feminist survivors' movement. Virtually every participant in survivors' self-help groups of any political stripe read the book, and many other survivors did, too. It thus served as a link between the feminist survivors' wing, the larger self-help movement, and the mainstream culture."<sup>53</sup>

However, the same powerful aspects of the feminist and self-help movements that popularized the issue of child sexual abuse appear to have contained the seeds for what would ultimately be described as a "formidable backlash" against what some saw as a societal overreaction to child sexual abuse.<sup>54</sup>

In the 1980s and early 1990s, some law enforcement, social work, medical, and mental health professionals took extreme positions regarding child sexual abuse, such as suggesting that children never lie about allegations of molestation; when sexual abuse is suspected it almost certainly exists; certain childhood behaviors (not all of which are sexual) were indicators of child sexual abuse; and memories of child sexual abuse “recovered” long after the alleged abuse were generally evidence that such abuse actually occurred. Numerous sensational cases of child sexual abuse—often of a bizarre nature—purportedly committed by child care workers led to staggering criminal charges and hotly contested trials: “[A]llegedly abused children were talking about strange rituals, possibly satanic, involving the killing (and eating, in some cases) of animals. They told of eating excrement, drinking urine, and observing the murder (and cannibalizing, in some instances) of babies.”<sup>55</sup> A number of these cases involved disclosures from children made in the face of allegedly biased and suggestive questioning from law enforcement personnel, social workers, or mental health professionals. Many eventually ended in acquittals or legal exonerations after conviction, but only after defendants were jailed for months or even years and their reputations and livelihoods were ruined. During the same era, there were many more questionable allegations of child sexual abuse raised in bitterly contested child custody proceedings around the country, with one parent seeking to gain legal leverage by accusing the other of abusing the child. Also, a host of adults brought lawsuits against their parents and others, usually family members, alleging that they had only recently recalled long repressed instances of childhood sexual abuse. Many of these claims were ultimately dismissed by the legal system, but not before families were torn apart and lives shattered. In some case, mental health professionals were even successfully sued for implanting false memories of child sexual abuse in adult patients.

The so-called backlash engendered by these developments ranged from bad press (books, articles, television shows, and films documenting numerous miscarriages of justice) to harsh political critiques of the child welfare system. Some claimed that as a result of a moral panic thousands of innocent individuals had been falsely accused of sexually abusing children (usually their own) and the most extreme critics likened the child welfare system’s handling of child sexual abuse to Nazism, McCarthyism, and worse. One group, Victims of Child Abuse Laws (VOCAL), was especially active in fueling this backlash: “VOCAL has contended that a great many child sexual abuse allegations arise out of divorce and custody proceedings where one parent falsely and maliciously accuses the other to gain an advantage in court. The accuser then ‘brainwashes’ the child to testify accordingly. In other cases, VOCAL asserts, investigators are so sure the crime has occurred that they browbeat children until the abuse is ‘admitted.’ In the end the children are abused—but by the investigators, not the accused, says VOCAL.”<sup>56</sup>

Some authorities in the field of child sexual abuse blamed the so-called backlash on accused child sex offenders and their attorneys and complained that it lacked any empirical basis, and that it was largely designed to defend adults accused of molesting children or to “otherwise minimize, rationalize, or deny the realities of childhood sexual abuse.”<sup>57</sup> Significantly, even some of the strongest critics of the

backlash conceded that it was not entirely without merit: "Although the backlash is characterized by extreme positions, lack of supporting research data and near total rejection of the knowledge and experiences of child sexual abuse, there is often an element of truth in its critique."<sup>58</sup> As one leading critic of the backlash acknowledged several years later: "We know and do things today that we could not envision a few years ago. We also believed things in the past that we know now were not accurate. To the extent that decisions were based on those data, it is likely that errors were made."<sup>59</sup>

The backlash forced many changes in the way legal, social service, and mental health professionals dealt with child sexual abuse and inspired major research initiatives. Some of this research was designed to test whether certain childhood behaviors and adult attitudes were in fact symptomatic of child sexual abuse victimization, whether children's suggestibility could result in false allegations of sexual abuse, and whether "recovered" memories of childhood sexual abuse were valid and reliable. However, the backlash was short-lived—not because its essential claims were disproven but because a new wave of concern about child sexual abuse in the 1990s overrode its influence.

Between 1989 and 1994, a highly publicized series of gruesome sex crimes committed against children effectively ended the backlash. In May 1989, in Tacoma, Washington, a man kidnapped, raped, strangled, and severed the penis of a 7-year-old boy who had been riding a bicycle near his own home. The boy survived and identified the perpetrator, who was known to the police for his previous offenses, including homicide, kidnapping, and the assault of two teenage girls, and had recently been released from prison because he had fully completed his latest sentence. Less than 4 months later, in Vancouver, Washington, two brothers were found stabbed to death in a city park. Both boys were tied up and one had been sodomized. About 2 months later, the body of another boy, age 4, was found by a lake in Vancouver. The boy had been repeatedly raped, strangled, and sexually abused postmortem. The man ultimately charged with all of these crimes was a 28-year-old pedophile with a long record of sex offenses against boys dating back to his teenage years. Upon being arrested, he admitted to killing all three Vancouver boys and to previously molesting approximately 30 children.<sup>60</sup>

Public outrage over these rare but horrible crimes, committed within such a limited geographic area and short time span, led the Washington legislature to pass in 1990 what would become the first of more than 20 modern laws aimed at allowing states and the federal government to indefinitely confine sex offenders believed to be dangerous even after they have served their full criminal sentences. In this reinvention of the "sexual psychopath," sex offenders, particularly those who offended against children, were dubbed "sexually violent predators" and many have been given what may amount to a life sentence of confinement in an extremely expensive and highly secure treatment facility.<sup>61</sup>

At the same time that outrageous crimes against children were leading to passage of these "sexually violent predator" laws, they were also prompting legislatures around the country to enact what have come to be called "Megan's laws."<sup>62</sup>

The push toward these laws, which deal exclusively with sex offenders, ironically began with a case in which there has never been any evidence of a sex crime. In 1989, an 11-year-old Minnesota boy was kidnapped from the street at gunpoint by a masked man. The boy was never seen again.<sup>63</sup> In response, his mother created a foundation and led a movement to press for laws requiring the registration of sex offenders. In 1994, Congress passed the Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act, which effectively required every state to establish a sex offender registry by 1997.<sup>64</sup> Thereafter, every state required sex offenders to register with the authorities; ultimately every state made at least some of its sex offender registry available to the public. Today that information, often including not only the names and addresses of convicted sex offenders, but also other identifying details about them, is only a few mouse clicks away for anyone with access to a computer.<sup>65</sup> Many states and municipalities have taken the registry idea even further, prescribing where and under what conditions registered sex offenders may live, work, or travel.<sup>66</sup>

Most recently, the dawn of the Digital Age has impelled Congress and state legislatures to take legal steps calculated to protect children from sexual abuse conducted in whole or part via the Internet. For example, although child pornography has a history dating back to the ancient Greek culture, possession of child pornography has been considered a criminal offense only for several decades.<sup>67</sup> In the 1960s and 1970s, production and distribution of child pornography became an international commercial industry, leading to the relatively widespread availability of magazines, films, and photographs of children depicted in a sexual manner. In response to the growing availability of these materials, in the late 1970s and early 1980s, Congress and many state legislatures enacted laws prohibiting and criminally punishing the production and dissemination, but not the mere possession, of child pornography. It was not until 1991 that possession of child pornography was made a federal crime. Today, all 50 states and the District of Columbia have laws criminalizing the possession, manufacture, and distribution of child pornography.

Child pornography is defined by law as the visual depiction of a person under the age of 18 engaged in sexually explicit conduct. However, even a simple photograph of a naked minor may constitute child pornography if it is sufficiently sexually suggestive. In addition, for purposes of the child pornography statutes, federal law considers a person under the age of 18 to be a child. It is irrelevant that the age of consent for sexual activity in a given state might be lower than 18. Given that virtually all child pornographic images are today sent and received via the Internet or were created and/or stored at some point on media that travelled in interstate or foreign commerce, the federal law reaches virtually all child pornography offenders. Criminal penalties for possession of child pornography range from probation to life in prison. The courts have upheld the constitutionality of these statutes and penalties (including life imprisonment for mere possession of child pornography) based on their conclusions that child pornography constitutes a form of child sexual abuse, that children are sexually victimized not only in its making but in its distribution and repeated showing, and that those who possess