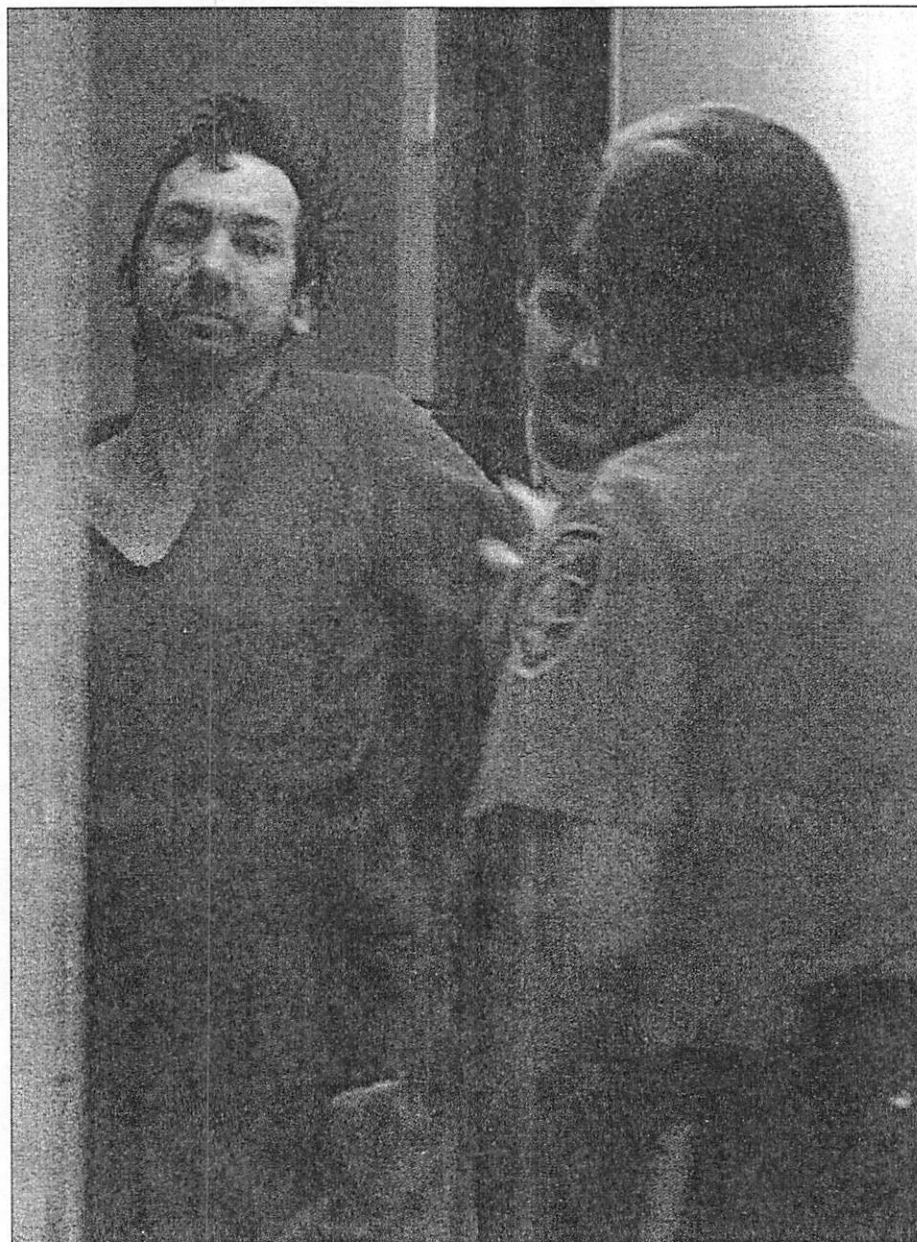


Perverts Who Prey on Kids

By Gayle M.B. Hanson

Can sex offenders safely be rehabilitated? While the debate rages, states are passing laws requiring authorities to register sex offenders released into their communities and to notify the neighbors.



Shriner: He capped a 24-year career by cutting off the penis of a 7-year-old boy.

When the students of the exclusive Phillips Academy in Andover, Mass., returned to campus this fall, they were greeted with the news that a popular teacher, a member of the faculty for 25 years, had been arrested for trying to lure three children into his car. The teacher allegedly was carrying 512 Polaroid "kiddie porn" photos and rate sheets of "modeling" fees. Around the same time, a two-year FBI investigation into on-line kiddie porn resulted in 20 arrests (see "Virtual Chaos: Crime Goes On-Line," May 8). Crime watchers say the case could develop into the largest-ever inquiry into juvenile pornography.

There are few crimes as heinous as the sexual exploitation of children, and there is little disagreement among citizens and legislators that America's youth should be protected from predators stalking the playground or the Internet. But what disagreement exists often erupts into vigorous controversy.

Take the 1994 Crime Bill. Described by opponents as "pork," the measure funneled millions of federal dollars to states to hire more police officers. The bill also authorized states to create registration programs for the thousands of sex offenders who are released each year from jail. While law-enforcement officials and victims'-rights organizations support a nationwide sex-offender database, state registration programs are under fire from civil-rights groups and the offenders themselves.

Indeed, from jail cells across the country convicted child molesters are claiming infringement of their constitutional rights. They are looking to the courts to overturn community efforts to identify them or, in cases in which individuals are believed to be extremely dangerous, keep them from returning to society altogether.

Some 40 states have enacted registration programs. Far less have undertaken notification programs, which not only register convicted child molesters but also alert citizens to those released into their communities. The states that practice community notification have been besieged by lawsuits challenging its validity, making it likely the issues of registration and community notification eventually will end up in the lap of the Supreme Court.

"There's no question but that these challenges are going to lead right to the Supreme Court," says Jim O'Brien, chairman of the New Jersey Coalition of Victims' Rights Organizations which was involved in the passage of Megan's Law, the state's tough registration and

MIKE LEVY/SEATTLE TIMES

Hard Cases, Bad Law

How pervasive is the stain of child sexual abuse? According to the National Committee to Prevent Child Abuse, 2.9 million cases were reported to local child-protection service agencies in 1993. Of these, agencies substantiated 1 million. Of those, 25 percent involved physical abuse, 47 percent neglect and 15 percent sexual abuse.

In all cases, parents were the primary culprits. A landmark study by David Finkelhor of the Family Research Laboratory at the University of New Hampshire concluded that day-care centers were 20 to 30 percent safer than childrens' homes. And journalist Debbie Nathan, coauthor of the forthcoming book, *Satan's Silence: Ritual Abuse and the Making of an American Witch-Hunt*, argues that even that figure is misleading, since Finkelhor is a believer in ritual-abuse claims. Remove those dubious allegations, Nathan says, and the percentage shoots up past 60.

Whatever the validity of these statistics, political and legislative efforts to end child abuse have focused disproportionately on sexual abuse — specifically on sexual abuse by strangers. More than 85 percent of public schools have government-funded programs to teach children to stave off sexual advances,

although studies have found such programs ineffective. Two years ago, the New York City Board of Education ruled that any contact between a teacher and student constituted sexual abuse. In the mid-1980s, state courts stripped sex-abuse defendants of their Sixth Amendment rights (the right to confront one's accuser in the courtroom) by allowing children to testify on videotape or closed-circuit television. In one notorious case, children testified while sitting in the judge's lap.

Indeed, trials of accused sex abusers have become so fraught with error, prosecutorial misconduct and tainted testimony — witness the domino-like overturning of convictions during the last few years — that some child-protection workers fear a backlash wherein real cases of sexual abuse are disregarded as part of the same hysteria.

A recent case highlights the growing skepticism about child-abuse hysteria. Kelly Michaels, a former day-care worker, spent five years in prison after being wrongly convicted of horrific acts of child sexual abuse at a New Jersey center. Even after her conviction was overturned this year, however, she was not allowed to reenter the state. Now she has decided to take an unusual step for sex-abuse defendants: Michaels is suing the state and the parents who, she says, inflamed the accusations against her.

By Chi Chi Sileo



SANDRA DICHNIS/STOCK ILLUSTRATION SOURCE

efficacy of any of this sort of therapy.

Arthur Gordon is director of the Sex Offender Treatment Program at the Twin Rivers Correction Center in Monroe, Wash. Approximately 200 of the 800 inmates receive treatment at the facility. Most will be released into society. Gordon claims that recidivism rates for sex offenders are much lower than generally believed and that effective treatment can reduce them further. "The reality is that you are looking at a much lower percentage rate, around 7 to 15 percent," he tells *Insight*. "The problem is, who wants to read a headline saying 'Offender fails to reoffend'?"

But while Gordon claims his treatment program has been especially successful with pedophiles, a study of 278 inmates by the Washington state Institute for Policy Studies found only a 1 percent improvement in recidivism rates. "One of the problems is the public wants a 100 percent success rate and we just can't do that," says Gordon.

In St. Albans Correctional Facility in rural Vermont, William Pithers runs one of the country's most highly touted sex-offender programs. In 1991, Pithers claimed to have reduced recidivism rates for rapists from 38 to 19 percent. However, one graduate of his program went on to rape and murder a 15-year-

old girl. Meanwhile, the ACLU has brought a lawsuit against Vermont, claiming the Pithers program is "cruel and unusual punishment." At issue is the use of "drama therapy" in which sex cons reenact their crimes in front of other inmates and prison employees who shout obscenities at them.

"This is just part of a larger suit by the ACLU against the Vermont Corrections Department," says ACLU staffer Andrea Warnecke. "Many of these individuals who are convicted molesters were victims themselves, and there is concern that the therapy is traumatic to them."

Others express concern that, no matter how many registration and notification programs are in place, the most dangerous pedophiles need only drive to the next community to find victims. Rather than locking such individuals up forever, they favor "chemical castration."

Canadian psychiatrist John Bradford is one of the world's foremost experts in the use of drug treatment for sex offenders. "In many cases these people hate what they are doing," says Bradford. "They are doctors, priests, schoolteachers — people who otherwise are pillars in their community"

But while some drugs have been approved for treatment of sexual compulsives, monitoring for medication remains a problem. Once offenders stop taking a drug, they easily can slip back into criminal behavior.

Last year the Florida Legislature debated a bill that would have required chemical castration of sex offenders found guilty of a second offense. This year the Texas State Assembly is reviewing such a law. It is likely that any such legislation immediately would be challenged.

In the meantime, victims' advocates are continuing to pressure their communities to enact legislation to track these most dangerous of predators. Their goal is to install a nationwide registration and notification program by the year 2000. "It is obviously disappointing when we face setbacks," says the National Victim Center's Beatty. "But victims have been under such difficult circumstances for so long that they understand that the fight is going to be a long one. This is a very young human-rights movement. So there isn't a lot of case law on the books. But every time a case holds up in court it emboldens legislators to be more assertive. We just need to get good laws into place." ●

notification bill. "We are tiptoeing right down a constitutional fine line. And this is very, very complicated litigation. But the only way these laws are going to be upheld is when they are taken to the highest court. And we are certainly prepared for that to happen."

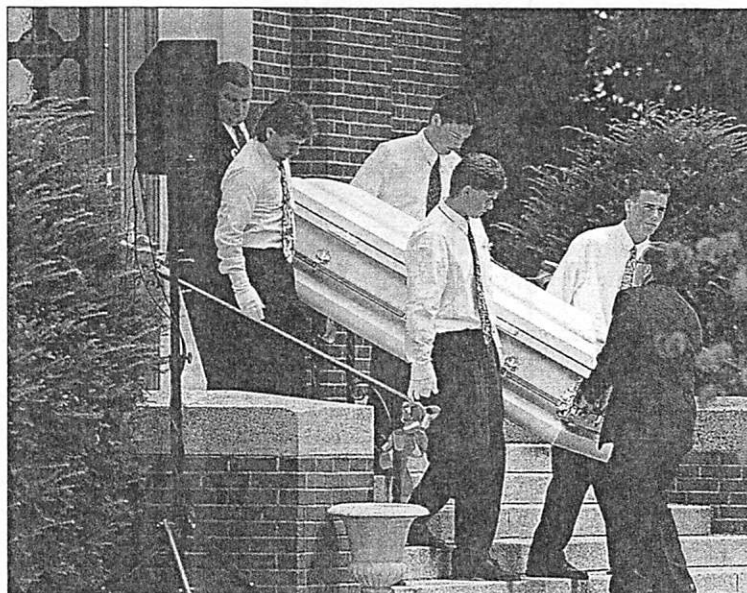
Megan's Law was named for Megan Kanka, a 7-year-old lured from her home, raped and murdered by her next-door neighbor, a convicted child molester. In February, federal Judge Nicholas H. Politan struck down the law on grounds that its notification provisions were extra punishment for offenders who had served their prison terms. But the New Jersey Supreme Court upheld the law by a 6-1 vote in July. Chief Justice Robert N. Wilentz argued the law was not additional punishment but merely a registration procedure intended to protect the community.

"We assume that the strongest message will be delivered and repeated by the governor and other public officials at all levels, as well as by community and religious leaders and the media, that this is a law that must be used only to protect and not to punish," wrote Wilentz. "... Despite the unavoidable uncertainty of our conclusion, we remain convinced that the statute is constitutional. To rule otherwise is to find that society is unable to protect itself from sexual predators by adopting the simple remedy of informing the public of their presence."

The New Jersey law, based upon Washington state's long-standing Community Protection Act, classifies sex offenders according to the seriousness of their crimes and the likelihood they will commit others. Those considered the highest risk can be required to identify themselves to neighbors and local residents. A sex con deemed a moderate risk must notify only community groups with children directly under their care. (Prior to the court's decision, any community group with an interest in child welfare could register with police and request notification.) In addition, the revised law allows sexual offenders more involvement in the classification process. The 2,000 registered sex offenders in New Jersey now are entitled to a reclassification hearing.

But even as New Jersey Gov. Christine Todd Whitman signed into effect changes to the law based upon court

recommendations in mid-September, the attorney who brought the initial complaint on behalf of a convict known only as John Doe has vowed a challenge. The American Civil Liberties Union, which has opposed sex-offender registration programs across the country, also vowed to fight against community notification. "We don't anticipate, at least for a long time, any community notification going forward," Marcia Wenk, legal director for the New Jersey ACLU, tells *Insight*. "And if



Megan's Law began with rape and murder by a convicted molester.

it does, it will be subject to challenge."

The ACLU's involvement in mounting legal opposition to registration programs for sex offenders has disappointed many victims'-rights groups. "When it comes to constitutional-rights issues they are always going to line up on the rights of defendants," says David Beatty, director of public affairs for the Arlington, Va.-based National Victim Center. "The ACLU has authored a book on victims' rights, but on most of the issues surrounding sex offenders they back the convicted." The national office of the ACLU was reluctant to defend its legal challenges to registration and community-notification programs to *Insight*. And the organization did not return repeated phone calls from *Insight's* West Coast correspondent.

Victims'-rights groups pushing to have registration and notification programs expanded have produced mixed results. In Washington state, the high court affirmed the community-notification program, while the Louisiana supreme court declared parts of a similar program unconstitutional. But Washington has been the leader in sex-offender programs — with its embrace

of such legislation stemming from a sensational incident that occurred there in 1989.

In that year, a convicted child molester with a 24-year history of sexual violence raped, stabbed and severed the penis of a 7-year-old boy, who managed to survive the ordeal and identify his torturer. The community was further shaken by revelation that Earl Shriver, the man convicted of the crime, had confided to a cellmate that he fantasized about outfitting a van with cages — all the better to kidnap, molest and murder children.

In the wake of the crime, Washington enacted some of the toughest legislation in the country. The final piece of Washington's Community Protection Act was a civil-detention provision that allowed the courts to keep sex offenders deemed dangerous to the community behind bars even after they had completed their sentences.

"Certainly, the most controversial aspect to community protection is the civil-commitment component," Victoria Roberts, who administers the Community Protection Program for the state, tells *Insight*.

"It is a very long and arduous process."

But Roberts, who has been outspoken in her concern that Washington is releasing dangerous individuals into the community, was dealt a tough blow in August. U.S. District Judge John Coughenour ruled the state's law unconstitutional in a challenge brought by Andre Brigham Young, a 54-year-old convicted rapist. The judge found the confinement of Young beyond his sentence was tantamount to punishing him again or punishing him for crimes he might commit in the future.

"Victims' rights are a very new area of law," says Beatty. It's not surprising that laws like these are going to be subjected to challenges."

As legal challenges to sex-offender registration, notification and civil-commitment programs mount, states looking to enact similar legislation are treading lightly. When it passed a civil-commitment law for the worst sexual offenders last year, Minnesota made sure it had an adequate budget, staffing and freedom to develop a full-blown treatment program that promised participants release if they completed it. Some experts, however, question the