

2004

## The Social Control of Adult-Child Sex

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### Recommended Citation

Mullis, Jeffery S. and Dawn M. Baunach. 2004. The Social Control of Adult-Child Sex. pp. 389-401 n *Sex Matters: The Sexuality and Society Reader*, edited by Mindy Stompler, Dawn Baunach, Elisabeth Burgess, Denise Donnelly, and Wendy Simonds. Allyn and Bacon, 2010.

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# *Sex Matters*

The Sexuality and Society Reader

THIRD EDITION

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## *The Social Control of Adult-Child Sex*

Jeffery S. Mullis and Dawn M. Baunach

In a New Jersey suburb, July 29, 1994, 7-year-old Megan Kanka was raped and strangled to death by Jesse Timmendequas, a 33-year-old twice-convicted sex offender who lived across the street from the Kanka residence. When questioned by police the next day, Timmendequas confessed and led them to a nearby park to show where he had hidden the body. The victim's mother told reporters that if she had known a sex offender lived nearby, her daughter would still be alive.

Three years later a jury found Timmendequas guilty and recommended the death penalty. In the three-year period between the crime and the sentencing, Megan Kanka's parents led a nationwide movement calling for local authorities to notify residents whenever a sex offender moves into the community. Their efforts were highly successful: today, every state in the United States has adopted some version of community notification—also known as “Megan’s Law.” Similar procedures designed to monitor the whereabouts of sex offenders, such as the requirement that offenders register their current addresses with local police, have also been implemented in Canada, England, Wales, and Australia (Lieb, Quinsey, and Berliner 1998; Plotnikoff and Woolfson 2000; Hinds and Daly 2001).

These and other recent developments in the handling of sex crimes against children are the impetus behind the present reading. Our main goals are, first, to place these developments in historical and cross-cultural perspective and, second, to identify underlying commonalities in the wide range of responses to adult-child sex in modern society.<sup>1</sup> Such responses can be understood as *social control*; that is, they are part of a larger process by which deviant behavior is defined and counteracted and conformity is encouraged. Social control is ubiquitous in human groups, and it manifests itself in a complex variety of ways.

Whenever people express any kind of disapproval over the actions of others—whether they do so informally or formally, individually or collectively, peacefully or violently—social control is present. People may even respond to their own actions with disapproval, a phenomenon known as “social control of the self” (Black 1993: 65). Social scientists study social control in order to better understand all its manifestations and effects. In this reading we use the theory of social control developed by Donald Black (1976, 1993) to classify responses to adult-child sex into four different categories of control—penal, therapeutic, compensatory, and preventive—each one a distinctive method of handling all manner of deviant behavior.

Unlike prior research on the regulation of sex crimes, we are not concerned here with whether the social response is disproportionately severe relative to the actual incidence of such crimes, nor do we focus on the functions of social control for maintaining moral boundaries in society. Excellent work has already been done along these lines. For example, Sutherland (1950) argues that the widespread passage of sexual psychopath laws between 1937 and 1949 was based on unfounded fears generated by the news media. And Jenkins (1998) shows how past “moral panics” over the welfare of children were defensive reactions against large-scale social changes such as those occurring in gender roles and sexual mores during the twentieth century. Although we recognize that the social construction of social problems is a process not always commensurate with objective conditions and that moral panics serve important functions for group solidarity, we set these issues aside and concentrate instead on simply describing and classifying variation in the social control of adult-child sex.<sup>2</sup> Although our purpose is mainly descriptive and

classificatory, we also present some explanations of the observed variation. Finally, we examine the unintended consequences of the notification laws enacted in the wake of Megan Kanka's tragic death.

### Modern and Premodern Views

From the standpoint of contemporary Western norms, *child molester* is one of the most stigmatizing labels that can be applied to a person. Disgust and outrage are evoked in almost everyone at the mere contemplation of such people (Finkelhor 1984; Holmes 1991; Pryor 1996). Even in prisons—within a society of sinners, so to speak—other inmates single out the child molester as particularly depraved and deserving of punishment (e.g., see Siewers 1994).<sup>3</sup>

The wrath reserved for child molesters is a product of our cultural construction of childhood. We will return to this subject shortly; for now we note that despite the popularized views of Sigmund Freud, who saw even infants as highly sexual beings, and despite the wealth of research that documents the existence of childhood sexuality,<sup>4</sup> children are commonly seen as innocently devoid of sexual motivation. This image, by extension, casts sex offenders of children as exploitive, corruptive, and blameworthy. Modern law codifies this image by portraying children as mentally incapable of consenting to sexual relations and as guiltless in criminal procedures. Thus predisposed with these cultural directives, jurors find it difficult to be impartial in deciding the facts of child sexual assault cases: “[T]hat the defendant is charged with sexual assault against a child will cause the juror to consider the defendant probably guilty, or, at the very least, the burden will be placed on that defendant to prove his or her innocence” (Vidmar 1997: 6). Defendants themselves will sometimes report feeling guilty, angry, and shocked by their own actions, as indicated in the following statements from four convicted offenders (all male):<sup>5</sup>

*I realized that it was wrong. Normal people don't do these things. (O'Brien 1986: 46)*

*When I look into myself [I feel] anger, hatred for myself, sorrow, and hurt. . . . I feel disgustingly dirty, and wonder what makes me feel that I have the right to live after what I've caused. (Ingersoll and Patton 1990: 71)*

### SOCIAL CONTROL OF SEXUALITY

*I thought, oh God, all kinds of things. Like “God, what have I done?” . . . Before [the molestation] happened this was something I would read about. And the first thing that would come to my mind was, “They ought to take that sucker out and cut his nuts off and kill him. He doesn't deserve a trial.” And that's the way I felt. Then it happened to me and that's what I thought about myself. I ought to be taken out and shot. . . . But that didn't stop me from doing it. (Pryor 1996: 166)*

*When I touched her the first time on her behind . . . almost every time I touched her, I said, “This isn't right.” I knew it wasn't right. . . . After the first episode . . . I got mad. I picked a chair up and tossed it across the room. (Pryor 1996: 167)*

Whether these men are sincere or merely providing the socially desirable response is unknown. The more relevant point is that they echo in their sentiments the larger societal reaction—as if they realize their acts are indefensible and therefore require appropriate self-condemnation. It is interesting to note that not all sex offenders against children are similarly self-condemning. Indeed, some are adamantly unrepentant and deny that anything is wrong with the behavior. This contrary view is most clearly expressed by the handful of organizations, such as the North American Man/Boy Love Association and the René Guyon Society, dedicated to justifying and normalizing adult-child sex. The slogan of the latter organization is “Sex by year eight or else it's too late” (De Young 1988: 584).

Such views are, of course, extremely disreputable and rare. Even so, the negative reaction that currently prevails is far from a cross-cultural universal. Excluding cases of father-daughter and mother-son incest (prohibitions against which are found in almost all known societies), the world-historical evidence contains numerous examples of adult-child sex as part of normal cultural life; these examples include both same-sex and opposite-sex behaviors involving sexually mature and immature or maturing persons. But nowhere is adult-child sex the predominant form of sexual interaction, and in those times and places where it is accepted it tends to be, like all sexual behavior, highly regulated. Perhaps the best-known example is the ancient Greek system of *pederasty*

(“love of boys”), in which a relationship between upper-class and younger males' social and educational conditions. For the boy the submission and intercultural (because the boy was not supposed to be the dominant role in any dealing Halperin 1990). For grown men who boys were potent (Tannahill 1969) appears to have been the acceptable form of sex among Greeks extended to upper-class evidenced by them between 14 and 30 (Blundell 1995).

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("love of boys"), in which sexual relationships between upper-class men and boys were embedded in an educational context designed to further the younger males' social and emotional development. The sexual component of these mentor-student relationships was socially accepted, but only under certain conditions. For example, the man was expected to always be the dominant partner (penetrator) and the boy the submissive partner (penetrated) in anal and intercrural (between the thighs) sex. In addition, the boy was not supposed to actually enjoy the sexual interaction because it was considered improper for a future Athenian leader to desire taking a submissive role in any dealings with other males (Dover 1978; Halperin 1990). The boy also needed to be pubescent, for grown men who pursued sex with prepubescent boys were potentially subject to harsh legal punishment (Tannahill 1992). The onset of puberty thus appears to have been an important boundary dividing the acceptable from the unacceptable in adult-child sex among Grecian males. This "puberty standard" extended to upper class Grecian girls as well, as evidenced by their average age at marriage being between 14 and 18 and usually to a male around age 30 (Blundell 1995).

Beyond Ancient Greece, sexual contact between adults and children has served developmental goals elsewhere, such as the South Pacific, where ethnographers in the twentieth century documented adult-child sex rituals in several island societies. For instance, the Sambian tribe, located in the eastern mountains of Papua New Guinea, believed as late as the 1970s that the fellated semen of an older male "masculinizes" a prepubescent boy, allowing the boy to mature into a fierce warrior. Thus, around age 7, boys would begin a prolonged rite-of-passage characterized by frequent oral-sexual contacts with older, sexually mature males. Again, a reversal of dominant/submissive roles here was forbidden, and fully mature men were expected to live a heterosexual existence (Herdt 1984).

On Kolepom, an island located on the south coast of Irian Jaya/West Papua, a prepubescent girl of the Kiman Papuan would engage in sexual intercourse with multiple men as part of an elaborate semen-centered ritual. The semen produced by the intercourse would

be collected in a banana leaf and rubbed on the girl's future husband, himself either prepubescent or pubescent. The cultural meaning of this custom was twofold: intercourse with several older men was intended to test the girl's suitability for marriage, and the rubbing of the semen helped facilitate the boy's entrance into manhood (Serpenti 1984).

On the Polynesian island of Mangaia, boys and girls both would be initiated into adulthood through explicit instruction and practical experience in how to sexually satisfy the opposite sex. A pubescent boy, for example, would first be instructed by an older man on such techniques as cunnilingus and how to achieve simultaneous mutual orgasm with a female partner. This formal instruction would be followed by a practical application in which the boy would have sex with a mature, sexually experienced woman. Of particular importance here was teaching the boy how to delay ejaculation. Emphasis was placed on the female orgasm, which was seen as a pleasurable end unto itself for Mangaian males. Failure to induce orgasm in a future female partner might also result in a loss of social status for men, as the news would spread through gossip. Consequently, for men (and presumably for women, too), the ideal ratio of female-to-male orgasms was at least two to one (Marshall 1971).

In addition to historical and ethnographic accounts, age of consent laws are another source of information on attitudes toward adult-child sex. The legal age of sexual consent is the minimum age at which a person is considered, by the particular government in question, to be capable of consenting to sexual activity. Although minimum age statutes may apply to both male and female children, such laws have tended to be written with specific reference to females only, reflecting the historical view of females as property in need of special protection (Oberman 1994) and also suggesting a greater tolerance of young male sexuality.

Following English common law, most jurisdictions in colonial America considered a 10-year-old girl to be old enough to give valid consent to sexual intercourse. If the girl was younger than 10, the act was defined as felony rape or carnal abuse (Jenkins 1998). A notable exception to the common law tradition was Delaware, which, curiously, set its age of consent at 7. Prepubescent ages such as these

remained on the books in most U.S. states until the late 1800s, at which time a popular "social purity" movement began to pressure state legislatures and Congress to raise minimum ages. The moral justification for changing the laws was to prevent men from corrupting young girls and luring them into a life of prostitution, decried by purity activists as a major urban problem of the day. From 1886 to 1895, in response to the purity movement's campaign, the age of sexual consent was raised to between 14 and 18 years in the majority of states (Pivar 1973; D'Emilio and Freedman 1997).

At present, the age of sexual consent is 16 to 18 throughout most of the United States. Worldwide, whenever legislation specifies a minimum age, it is typically at least 14. Throughout contemporary Europe, for example, it tends to range from 14 to 16, although in a handful of European locales it is still as low as 12 (e.g., Malta, Spain, Vatican City) (Graupner 2000).<sup>6</sup> During the same time span that the legal age for sex has risen, the average age at puberty has fallen (see Jenkins 1998: 24), creating a category of people we might call *sexually mature legal minors*—youth in their mid-adolescent years caught in a limbo of hormonal urges and legal constraints.<sup>7</sup>

Why is adult-child sex taboo in the modern world? Why was it a culturally actionable option in earlier times and other places but not here and now? A number of factors have given shape to the current taboo, some more directly than others. Here we briefly sketch the influence of three historical developments: the spread of Christian thought, the "invention" and lengthening of childhood, and the advent of compulsory schooling. First and oldest among these is the spread of Christianity—now the leading religion of the Western world. Early Christian tenets strictly forbade all nonprocreative sex, a view that can still be found among many Christian moralists and one that clearly prohibits sexual intercourse with prepubescents at the same time that it prohibits masturbation and homosexuality. Christianity also has long emphasized the innocent and vulnerable nature of children and the need to protect them from "the harsh and sinful world" (see Conrad and Schneider 1992: 146). This view of childhood as an innocent, precious stage of life began to gain wider favor through the

1700s in Western Europe and the 1800s in the United States. Children increasingly became seen as "fragile creatures of God" (Ariès 1962: 133) who have special needs of their own, and parents increasingly became concerned with attending to those needs by applying appropriate childrearing practices, more benevolent and nurturing in style. Some scholars (e.g., Ariès 1962; Stone 1977) claim this general period of history marks a dramatic turning point in family life—the "invention" of childhood—the implication being that children prior to the Enlightenment were not recognized as fundamentally different from adults. This was certainly true in several key respects. For example, both adults and children were expected to make economic contributions to the family—most children in poorer families were put to work as early as age six. However, it is likely that there was more underlying continuity than dramatic change in attitudes toward and treatment of the very young in particular (Pollock 1983). For present purposes, the most important change from the eighteenth century onward is the gradual lengthening of that period of life referred to as "growing up," so that these ideas about the preciousness of childhood began to be applicable over a wider age range. Put differently, children remained *childlike*—relatively innocent and free from adult obligations—for a longer period of time than in earlier eras. We see this in the notion of the "teenager," which by the mid-1900s had become entrenched in popular thought and custom as a distinct age category characterized by continued development and dependency. A facilitating factor behind the lengthening of childhood was the expansion of laws requiring formal schooling during the late nineteenth and early twentieth centuries. Compulsory education from ages 6 to 16 helped solidify the separation of children from adults by creating a distinct role for children outside of the home economy and the paid labor market. Compulsory education also acted latently as an additional constraint on sexuality: Students were not supposed to have families of their own because of the heavy burden this would place on both the student and the educational system (Killias 1991).

These historical changes provide a normative backdrop against which the social purity agenda and other child-saving reforms become possible. To a

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greater degree than in centuries past, children and adults have come to live under separate social expectations, governmentally mandated and divinely ordained, with children as protected and adults as protector. Because adult-child sex, embodied by the child molester, defiles the sanctity of childhood, the child molestor has become "the most evil social type in our society" (Davis 1983: 110-111). How do we respond to this evil?

### Varieties of Social Control

Human societies have developed a diverse repertoire of responses to deviant behavior. Adult-child sex provokes a number of these responses. For example, it is prosecuted in criminal courts as statutory rape and treated in psychiatric hospitals as pedophilia. Drawing on Black's theoretical framework, we classify these and other examples according to the general method of social control they illustrate, whether penal, therapeutic, compensatory, or preventive. These represent different strategies for defining and handling deviant behavior. They are not necessarily mutually exclusive strategies, however. Some of the specific examples described next combine the different methods of control in ways that make our classification somewhat arbitrary. In such cases our decision to classify in one category and not another is based on the primary type of social control in evidence.

#### Penal Control

In the application of penal control, the deviant is defined as an offender and punishment is seen as the logical response (Black 1976). The criminal justice system exemplifies the formal (i.e., governmental) variety of this type of social control. From the standpoint of criminal law, sexual contact between adults and minors may be prosecuted under any number of different sex offenses, including statutory rape, sexual assault, crimes against nature, defilement of a minor, carnal knowledge of a child, and indecent liberties with a child. In modern society it is the adult who is held accountable for these offenses. The minor is not charged with any crime and is in fact perceived as the victim of criminal wrongdoing, but the extent of perceived

victimization will vary directly with situational characteristics such as the age difference between those involved and whether the act is mutually consensual versus coerced. Mutual consent, however, can have complex effects, sometimes absolving the older party of wrongdoing and sometimes resulting in a form of collective liability where both old and young are punished. For example, consider the following:

*A priest by the name of Johann Arbogast Gauch, who for ten years (1735-1744), while serving as village parson in the former principality of Fürstenberg (Germany), had sexual relations with a number of boys and a few girls. The sexual acts were restricted to masturbation and, with the girls, displaying of the genitals. Some of the children were willing participants; many seem to have resisted at first but were compelled to give in. It seems that the whole village had been well aware of what had been going on, but for a long time nobody interfered. After ten years, i.e., after a change on the throne of Fürstenberg, however, Gauch was finally prosecuted and sentenced to death. The children were kept in a subterranean prison for several months and the boys, as accessories to the crimes, were beaten and whipped. The oldest of the boys barely escaped death sentences. The girls only received ecclesiastical penalty for unchaste behavior. Since the sexual activities in which they had been involved were heterosexual, they were thus not considered as being too serious. (Killias 1991: 42)*

Imprisonment and torture of the younger parties and capital punishment of the adult are evidenced in this example from eighteenth-century Germany. Today, in the United States, life imprisonment of the adult, without the possibility of parole, is the most severe formal punishment meted out for child sexual abuse.<sup>8</sup> But if murder is also committed, as in the case of Megan Kanka mentioned at the outset of this reading, then capital punishment may be imposed with the sexual act and the age of the victim regarded as aggravating circumstances justifying the harsher penalty.

In contrast to imprisonment and other officially authorized actions, ordinary citizens have been known to apply their own brand of punishment to child molesters. These informal measures vary from covert acts apparently perpetrated by lone individuals to more organized and collective responses, and

they have become more common in the wake of community notification laws. For example, the home of a convicted child molester was burned to the ground after his name and address were released to the public (van Biema 1993). In another case, a convicted molester's car was firebombed within days of the community being notified of his release (Chiang, Gaura, and Lee 1997). In yet another case, five gunshots were fired at the home of a known molester, injuring no one but narrowly missing a woman in an upstairs room (Hajela 1999). In one community, 100 neighbors of a known molester protested outside his apartment building and collected signatures in a campaign to persuade his landlord to evict him (DeVecchio 1997). In some instances the actions of neighbors have forced molesters to move to a new location in the community or to move out of town altogether (see Anderson 1997).

It may seem incongruous to classify these informal and sometimes criminally violent acts together with official governmental sanctions. In particular, how can crimes such as arson and assault with a deadly weapon be equated with legitimate legal responses such as arrest and imprisonment? Although these acts would seem to be diametrically opposed—the difference between lawful and unlawful—Black's theory of social control leads us to consider the characteristics they share in common:

*Far from being an intentional violation of a prohibition, much crime is moralistic and involves the pursuit of justice. . . . To the degree that it defines or responds to the conduct of someone else—the victim—as deviant, crime is social control. . . . This implies that many crimes belong to the same family as gossip, ridicule, vengeance, . . . and law itself. . . . In other words, for certain theoretical purposes we might usefully ignore the fact that crime is criminal at all. (Black 1993: 27, 41–42)*

Paradoxically, then, the molester might be both the perpetrator of crime and the victim of crime, depending on whether public officials or private citizens are acting against him. In either case, penal social control is present.

#### Therapeutic Control

One of the most significant trends in the social control of deviance is the increasing use of a thera-

peutic model to understand behaviors that might otherwise be seen as immoral or criminal, a trend referred to as the *medicalization of deviance* (Conrad and Schneider 1992). Therapeutic social control entails viewing the deviant as a patient, sick and in need of help (Black 1976). The impulse behind therapy is not to punish but to treat and ideally cure the deviant, thereby restoring normalcy to the mind or body. Psychiatric treatment exemplifies this type of social control. In psychiatry and related mental health fields, sexual contact between an adult and a child (whether real or imagined contact) indicates a potential mental disorder in the adult, namely pedophilia, defined clinically as “recurrent, intense, sexually arousing fantasies, sexual urges or behaviors” involving a prepubescent child, in which the individual with the disorder is at least 16 years old and five years older than the child (American Psychiatric Association 1994: 527–528). Pedophilia is distinguished from ephebophilia, which refers to an adult's sexual attraction to pubescent children or young teenagers. Ephebophilia is not widely recognized in professional therapeutic doctrine as a mental disorder. This may reflect the well-documented preference among human and other primate males for sexually mature younger partners (Ames and Houston 1990; Okami 1990), making ephebophilia perhaps more readily comprehensible as a biocultural norm than as a psychiatric problem.

The therapeutic control of pedophilia includes such techniques as social skills training, victim role-taking, aversion therapy, orgasmic reconditioning, surgical castration, libido-reducing drugs, and a host of other behavioral, cognitive, and pharmacological treatments (Howitt 1995; Stone, Winslade, and Klugman 2000). The sheer variety underscores the psychiatric belief that there is no single cause of pedophilia and that no single treatment is effective for all cases. Courts frequently order or provide such treatments as part of the criminal sentence, a practice that illustrates institutional cooperation between the criminal justice and mental health care systems in the control of deviant behavior (see Szasz 1963). This cooperation is further illustrated by U.S. Supreme Court rulings that allow states to confine “sexual predators” for

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psychiatric treatment *after* they have served their prison sentences (Greenhouse 2002).<sup>9</sup>

Of the different treatments for pedophilia, the most controversial are surgical castration and so-called *chemical castration*. Both reduce the level of testosterone in the body, which in turn reduces sexual desire. The controversy revolves around the ethics and efficacy of castration, some claiming it is simply barbaric (especially the surgical variety) and others questioning the validity of the theory that pedophilia is in fact caused by sexual desire. In surgical castration the testes are removed, permanently reducing testosterone. Chemical castration yields a temporary reduction in testosterone via the injection of antiandrogen drugs such as Depo-Provera. Historically, castration has served both penal and therapeutic ends. It has been used throughout history as punishment for sex crimes such as rape and adultery but is intended in modern society as a medical deterrent to sexual deviance. The first European country to legalize surgical castration was Denmark in 1929, followed by Germany, Iceland, Sweden, and other countries (Heim and Hursch 1979). A growing number of U.S. states authorize both surgical and chemical castration as a condition of parole for convicted child molesters. Because neither form has been shown to unambiguously reduce recidivism, some critics have speculated that therapists and lawmakers who advocate castration are actually seeking punishment by medical means (see Heim and Hursch 1979; Stone et al. 2000).

#### Compensatory Control

In compensatory social control, the deviant is defined as a debtor who has failed to fulfill an obligation. Payment is the solution (Black 1976), though punishment may be a byproduct. Compensatory control is seen most clearly and familiarly in civil lawsuits, in which offenders are asked to pay damages to remedy the wrongs they allegedly committed. It is also seen in lesser-known victim compensation programs, in which the government provides payment to victims, a provision partly based on social welfare ideology and partly on the argument that the government is liable because it has failed to prevent crime (Henderson 1985; Greer 1994). Although both civil lawsuits and governmental funds are options avail-

able to victims of sex crimes, we focus here on lawsuits only, specifically; lawsuits against the Roman Catholic Church.

In recent years the Catholic Church has been embroiled in public scandal over pedophilic priests, who might be more aptly termed "ephebophilic priests" because most of their known sexual activities have involved adolescents (Jenkins 1998; Ripley 2002). Reliable statistics are lacking on the total number of lawsuits and amount of paid compensation, but a national survey of Catholic dioceses suggests that, since the early 1960s, over 850 priests in the United States have been accused of child sexual abuse, and an estimated one billion dollars has been paid to the accusers in court-ordered and out-of-court settlements (Cooperman and Sun 2002). Approximately 40 percent of the accused priests were removed from their ministerial positions. Only 6 percent of these were actually defrocked (removed from the priesthood altogether) (Cooperman and Sun 2002). The Church apparently failed to promptly remove all the priests that were known to be abusers, thus enabling them to become repeat offenders:

*At the same time that Church officials denied that clergy engaged in sexual activities with children, they privately assured complainants that the "problem" would be investigated and resolved immediately. In actuality, the Church began to transfer perpetrators either to active ministry in other parishes or to church-affiliated treatment centers. The international scope of the Catholic Church allowed the official hierarchy to relocate offending individuals to distant geographical locations. For Church officials, such moves [temporarily] solved the problem. (Krebs 1998: 19, citation omitted)*

However, the accumulating claims of abuse and the accompanying media scrutiny eventually forced the Church to take additional steps—the drafting of a zero-tolerance policy, "Charter for the Protection of Children and Young People." This is a truly remarkable title considering that the protection being referenced is *protection from priests*, in other words, from the Church itself.

Despite the number of civil claims against wayward priests, very few criminal charges have been brought to date (Pfeiffer and Cullen 2002). Why? In some cases the statute of limitations has expired,

while other cases may prove to be unfounded. But, in general, the high number of civil claims and the low number of criminal charges reflects the social structure of these cases: When the accused ranks relatively high in social status, as priests do as individuals and the Catholic Church does as an organization, then compensatory control becomes more likely and penal control becomes less likely (see Black 1993: 53–55).

Preventive Control

In preventive social control deviants are defined in terms of past transgressions and the likelihood of future offending. Prevention might be attempted by placing deviants under closer surveillance or by restricting their freedom of movement, and by potential victims taking steps to reduce their vulnerability (see Black 1993: 8; Horwitz 1990). Corresponding examples in the preventive control of adult-child sex are registration and notification systems, electronic monitoring devices that alert authorities when the target has ventured beyond permitted boundaries, and the informal method of avoidance, curtailing interaction with the deviant. Next we describe registration and notification as implemented in the United States. We then address the unanticipated consequences of notification.

Beginning in the mid-1990s, all fifty states became federally required to maintain sex offender registries. On release into the community, offenders are ordered to provide local law enforcement with such data as their home address, photograph, criminal history, fingerprint identification, social security number, place of employment, vehicle registration, and DNA profile. The purpose is to maintain a record of the whereabouts and characteristics of offenders. If a sex crime occurs in the vicinity of a known offender, the police have an immediate suspect. Thus the lag between the commission of the crime and apprehension/arrest is potentially shortened (Finn 1997). Updated registries are needed for states to fulfill a second federal requirement of the 1990s, community notification (or Megan’s Law), signed in 1996. Although roughly half of the fifty states had implemented notification systems before 1996, the federal version of Megan’s Law required the remaining states to do so. All now have. States achieve

notification in several ways, ranging from active to passive. For example, officers may distribute fliers with the offender’s photo, address, and criminal history, or a centralized database may be made available to the public via the internet (Adams 1999). In some jurisdictions, the offender may be required to notify neighbors personally, going door-to-door. Judges have also required offenders to place warning signs in their yards and bumper stickers on their cars. As Jenkins notes, such procedures have seldom been seen in Anglo-American law, “at least not since the days when thieves, adulterers, and blasphemers were branded or otherwise mutilated in order that they be identifiable by their crimes” (1998: 199).

Consequences of Community Notification

Notification transforms a “discreditable” neighbor into a “discredited” one (Goffman 1963; Pryor 1996), the secret stigma now publicly known. As a result, the neighborhood at large is placed in a heightened state of uneasy awareness:

*[W]hat few facts residents already had about their new neighbor—his chattiness, his bike rides, reports of his playing with children with water balloons—took on sinister implications after the police alert. (DeIVecchio 1997)*

As mentioned previously, the results of notification include vandalism, assault, protest demonstrations, and subsequent migration or banishment of the offender, none of which notification was intended to produce. Notification is premised on the “parents’ right to know.” The information is intended to be used as part of an avoidance-prevention strategy, with parents warning their children not to go near the offender’s home or walk alone in the neighborhood. Vigilantism was an unintended consequence, but states are now fully aware of its possibility. In fact, many Internet-based registries now specifically warn citizens against using the information to commit a crime. The criminal actions of notified citizens may encourage child molesters to “go underground,” not registering with local law agencies, thus thwarting notification. This in turn may allow them to continue molesting, only now with greater anonymity. In this sense, notification potentially creates the crime it is designed to control.

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But how common are these informal responses? Are they in fact driving large numbers of child molesters underground? Even if uncommon, it plausibly takes only a few well-publicized incidents to get the attention of numerous molesters, who may read or watch the story with great interest and then choose to act upon it by moving, not registering, and so on. We investigated these issues by conducting a Lexis-Nexis search of incidents reported in newspapers nationwide during the years 1994 to 2001. The results are presented in Figure 40.1, which shows the nature and extent of informal responses occurring before and after the federal notification statute.<sup>10</sup> As shown in Figure 40.1, the number of incidents increased from 1994 through 1999. This increase very likely reflects (a) the enactment of notification, as those states without it began to comply with the federal statute, and (b) the novelty of notification (i.e., people initially responded with greater outrage on learning that a pedophile lived nearby). Over time, however, as people across the country became accustomed to the laws (and perhaps resigned to their neighbors), outrage diminished, as suggested by the decrease in events from 1998 through 2001.

Perhaps the most striking finding in Figure 40.1 is the seemingly low number of incidents—115 in all—surely far fewer incidents than there were notifications in this time period. The low number, however, is consistent with the findings of other studies. For example, surveys of law enforcement specialists who routinely work with sex offenders find that name calling, verbal threats, graffiti, protest demonstrations, and minor vandalism sometimes do occur, but not nearly as frequently as expected (see Finn 1997: 13–14 for an overview of these studies). In our data, the most common type of incident is what we call “miscellaneous protest,” a category consisting mainly of scattered complaints to the police, landlords, and employers. There were forty-eight such incidents described in newspaper articles from 1994 through 2001. The second most common type of event is the comparatively organized protest demonstration (or picket), most of which occurred in front of offenders’ homes. Overall, there were thirty-one pickets from 1994 through 2001. Also included in this second category are three instances of petitioning in 1996 through 1997 and two instances of petitioning in 2000 through 2001, in which individuals collected

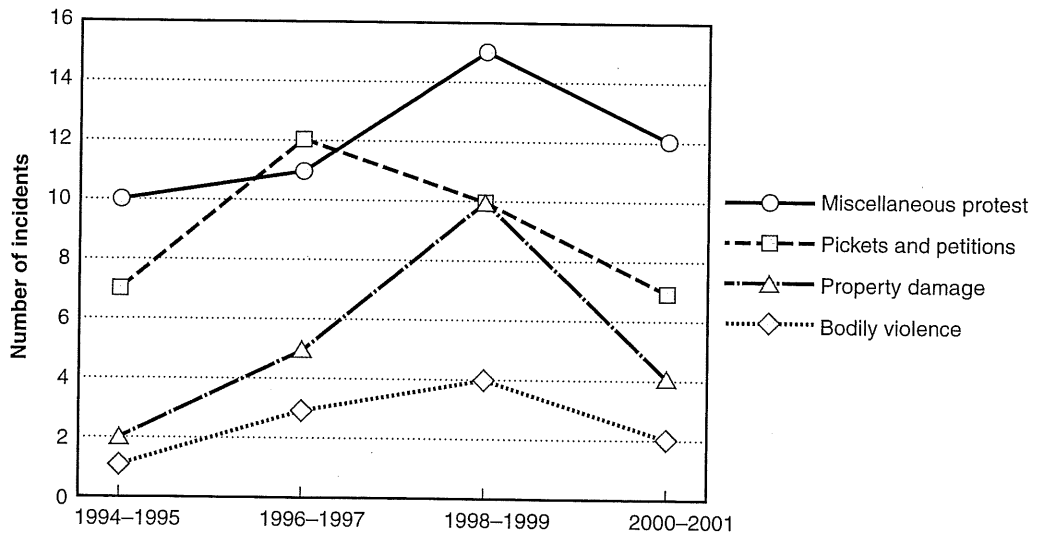


Figure 40.1 What Happens When Sex Offenders Become Neighbors? Tracking the Consequences of Community Awareness, 1994–2001

signatures supporting the ousting of offenders from their homes or jobs. We grouped these with picketing because of a tendency for petitioning and picketing to occur together. The third most common type of event is property damage, including firebombed cars, threats spray-painted on cars and lawns, homes set ablaze, and bricks and eggs thrown at homes. There were twenty-one instances of property damage. The least common event is actual physical violence inflicted on offenders. There were only ten such incidents reported in newspapers from 1994 through 2001. Two of these incidents were cases of mistaken identity in which residents beat the wrong man. In three of the ten cases the molester inflicted the violence on himself by committing suicide shortly after notification was made to the neighborhood. Finally, not shown in Figure 40.1 is the number of offenders evicted or otherwise compelled to relocate as a result of community actions. Overall, there were thirty-nine reported relocations, and these tended to occur during the height of the other activity, becoming less frequent from 1998 onward.

### Summary and Conclusion

A wide range of social control is directed toward adult-child sex in modern society: imprisonment, hospitalization, castration, drug treatment, civil litigation, surveillance, assault, banishment, and even suicide, a type of self-applied social control. Extreme deviance brings forth the extremes in social control. We have sought to place these modern responses to adult-child sex in a world-historical context. Ancient Greece was examined in this regard, together with South Pacific examples and the changing legal age of sexual consent. Further, we have attempted to identify Blackian commonalities among the different responses, focusing on penal, therapeutic, compensatory, and preventive social control.

Regarding the consequences of community notification, we anticipate a continued drop in confrontational and violent social control, at least until the next moral panic over child sexual abuse. Then it seems reasonable to expect an increase in violence against child molesters. Community notification laws, unlike many other laws, appear to be a written rule that

actually has some consequence for the way people behave, for better or worse.

### NOTES

1. In the scientific literature and the news media alike, adult-child sex is often referred to as *child sexual abuse*, *child molestation*, and *pedophilia*. *Pedophilia* denotes a psychiatric disorder found in some, but not all, sex offenders of children (Freund, Watson, and Dickey 1991). Depending on the context, we use each of these alternative terms, but for general sociological purposes we prefer the more neutral term *adult-child sex* because contemporary evaluative notions of abuse, molestation, and disorder do not always fit the empirical record of this behavior. For discussion of the normative character of research on adult-child sex and how it impedes a scientific understanding of the subject, see Ames and Houston (1990), Okami (1990), and Rind, Tromovitch, and Bauserman (2000).

2. Unless otherwise indicated, what follows is intended to apply to both incestuous and nonincestuous adult-child sex.

3. The early French sociologist Emile Durkheim suggests that even within a perfect "society of saints," certain acts inevitably will be defined as deviant, albeit to the average person the acts in question would probably be considered trifling ([1895] 1938: 68-69). Likewise, even within a society of sinners (such as a prison), there exists a moral ranking of acts from bad to worse. The fact that child molestation is considered one of the more loathsome crimes within the prison subculture—where tolerance levels for deviance are comparatively high—indicates the gravity of the stigma attached to the act in ordinary society.

4. Most college textbooks on human sexuality provide overviews of this research, and most rightly caution against equating early childhood sexuality with adult sexuality. The pleasure-seeking behavior of young children is not the same thing, subjectively at least, as the learned eroticism experienced later in life (e.g., see Rathus, Nevid, and Fichner-Rathus 2000: 386-392; Kelly 2001: 163-166).

5. Almost all convicted child molesters are male. Female offenders may be more prevalent, however, than the gender profile of the convicted would suggest. For example, compared to other offending scenarios, when an adult female sexually engages an underage male the event may be less likely construed as an unwelcome advance and hence less likely to be reported to the police. It can even become a source of pride and status for the boy (see Pryor 1996: 36-37). If it is reported, others will consider it less serious than cases involving male offenders, with arrest,

prosecution, and conviction. In one case, a father considered himself lucky to "older woman" (Holr

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prosecution, and conviction being comparatively unlikely. In one case, a father remarked that his son "should consider himself lucky to have had a sexual experience with an older woman" (Holmes 1991: 34).

6. In the Philippines and in Thailand, where the child sex industry thrives, the ages of sexual consent are 12 and 15, respectively, except in cases of prostitution, whereupon it is raised to 18 in both countries in an attempt to curtail the exploitation of children (Graupner 2000).

7. This term has an analogue in the healthcare context, where the *mature minor doctrine* enables older adolescents to bypass parental consent and make their own decisions regarding medical treatment. The term *minor* in this doctrine refers to those under the age of full majority rather than those specifically under the age of sexual consent.

8. On sentencing outcomes and rates of incarceration, see Cheit and Goldschmidt (1997).

9. In the most recent ruling, *Kansas v. Crane* (decided January 22, 2002), the Supreme Court specified that post-prison confinement is appropriate if offenders have a mental disorder that undermines their self-control.

10. We read newspaper articles with an eye toward counting the number of separate informal incidents resulting from notification. Newspapers tend to report more violent or organized incidents, hence minor insults and harassments are undoubtedly underrepresented. Considering the enormous media attention paid to the Kanka case and to notification legislation generally, when more visible events did occur (e.g., picketing), the news media probably were keen to report them (see Best and Horiuchi 1985 for a similar point regarding their newspaper analysis of Halloween sadism). Overall, from the period of January 1994 through December 2001, there were 1,401 articles generated by our inclusive keyword searches. The articles were generated from the Lexis-Nexis database of 219 different newspaper sources, including major city, regional, and national newspapers, and Associated Press and state/local wire reports. During the period observed, 128 separate incidents involving 85 different molesters were reported in these sources. Figure 40.1 presents a subset of these cases (n=115) classified according to the type of incident. The vast majority of incidents were directed at child molesters even though notification applies to other kinds of sex offenders too. Some incidents received coverage in multiple papers and on multiple days; these were counted only once. In addition, some offenders were targets in multiple incidents; these were counted as separate events. The complete details of the analysis are available on request.

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### *Too Young to Consent?*

#### **Elizabeth Cavalier and Elisabeth O. Burgess**

In contemporary U.S. society, most sexual activity is between two people of similar ages. Approximately 74% of the first male sexual partners of adolescent females are the same age or one to three years older and only 8% of teen females have first partners 6 or more years older (Abma, Martinez, Mosher, & Dawson, 2004). But the legal and cultural significance of age difference is variable over the life course. The fifteen year gap between a 55-year-old man and his 40-year-old wife is less significant than the three year age difference between a 18- and 15-year-old having sex under the bleachers at their high school. In some states, that 18-year-old could be arrested for statutory rape, even if both parties agree the sex was consensual. Change the scenario and now the 18-year-old is engaging in sex acts with a 10-year-old. Most people in the U.S. would agree that 10 is too young to consent to sex. So, where do we draw the line? Who

gets to decide and why? How are these moral values leg-  
islated and prosecuted?

England developed the first known laws proscribing an age limit on consent to sexual activity in 1275. By 1576, the age limit was codified at 10 years old and sex between individuals above and below the age of consent became a felony. Colonial America adopted these laws defining ages of consent ranging from age 10 to 12 (Cocca, 2004). Traditionally, these laws were enacted to protect the virginity of white girls and, in fact, were only enforced if the victim was a white female who was a virgin prior to the sexual act in question. These crimes were prosecuted as property crimes—premarital virginity was treated as a valuable commodity.

Since Colonial times, laws about age of consent<sup>1</sup> have become more complicated, the age of consent has steadily risen, and the statute has expanded to include both female and male victims. Regulations around adolescent sexual activity in modern history have generally