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**Sex Offenders—America's New Witches?  
A Theoretical Analysis of the Emergence of Sex Crime Laws\***

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## Biographical Sketches

Christina Mancini, Ph.D., is an Assistant Professor at Virginia Commonwealth University's L. Douglas Wilder School of Government and Public Affairs. She received her doctoral degree from Florida State University's College of Criminology and Criminal Justice in 2009. Dr. Mancini has published several articles in *Criminology*, *Crime & Delinquency*, the *Journal of Criminal Law and Criminology*, and other crime and policy journals. Her current research examines sex offender policy, public opinion, race and perceptions about offending, and violent victimization. Recently, she authored *Sex Crime, Offenders, and Society: A Critical Look at Sexual Offending and Policy* (Carolina Academic Press). She serves on the editorial board for the *Journal of Criminal Justice*.

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## **Sex Offenders—America’s New Witches?**

### **A Theoretical Analysis of the Emergence of Sex Crime Laws**

#### **Abstract**

During the 1990s, the U.S. enacted several punitive sex crime laws. Contemporary scholarship suggests this shift can be understood as a modern “witch hunt.” However, theoretical accounts have yet to examine systematically the emergence of such legislation. This study applies two theories—the first by Erikson (1966) and the second by Jensen (2007)—to assess whether they accord with known facts about the proliferation of these laws. Broad support for the theories as accounts for the punitive trend in sex crime legislation exists, but the inclusion of information dissemination as an additional factor would strengthen these accounts. Implications are discussed.

Keywords: witch hunt theories, sex offending, punitive policy

## Introduction

Few theoretical accounts explain the rapid growth of sex crime laws in the 1990s. As a result, the impetus for these controversial (Leon, 2011), widespread (Velázquez, 2008), and costly reforms (Meloy, Curtis, and Boatwright, 2013) has yet to be understood. The proliferation of such laws is notable because it occurred after a sustained decline in sex offending. Finkelhor and Jones (2004:685), for example, reported that from 1990 through 2004, substantiated cases of child sexual abuse in the U.S. declined by almost 50 percent. The country also witnessed decreases in reports of forcible rape among individuals 12 and older. Nationally, the rape arrest rate declined by 59 percent from 1990 to 2010 (Snyder, 2012) and continued to decline thereafter (Planty, Langton, Krebs, Berzofsky, and Smiley-McDonald, 2013). Indeed, across independent sources of data (official reports, survey research), the pattern of decline, according to experts, is “about as well established as crime trends can be in contemporary social science” (Finkelhor and Jones, 2012:3). Even so, “get tough” sex offender laws have continued to flourish (Huebner, Kras, Rydberg, Bynum, Grommon, and Pleggenkuhle, 2014; Hughes and Burchfield, 2008).

The increased reliance on sex crime laws is striking because it did not parallel the emergence of the more general tough-on-crime era of the 1980s and early 1990s. During this time, the federal government and states greatly enhanced penalties for all types of offending (Garland, 2001). However, the enactment of sex crime laws—that is, legislation aimed *specifically* at sex offenders—did not occur as rapidly during this time period. Rather, it occurred well *after* the emergence of tough-on-crime sentencing laws and reforms (Ragusa-Salerno and Zgoba, 2012). For example, prior to the mid-1990s, only a small handful of states required sex offenders to register, virtually no states required community notification efforts or restricted where sex offenders could live, and many repealed civil commitment laws that had existed since the 1930s (Logan, 2009). Yet, in the mid-1990s, states around the country enacted a plethora of sex crime laws that appeared to be inspired by a panic over unparalleled levels of sexual violence (Jenkins, 1998, p. 232; see also Lancaster, 2011).<sup>1</sup>

One turning point occurred in 1994. After the abduction of 11 year-old Jacob Wetterling by a suspected sex offender, the federal government passed the Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act; this act requires states to develop and implement sex offender registries. Two years later, following the abduction and murder of 7 year-old Megan Kanka by her neighbor, a convicted sex offender, Megan's Law was created. In addition to strengthening the Wetterling Act, Megan's Law mandates that states notify the public about sex offenders living in the community or risk losing federal funding for criminal justice programs (Center for Sex Offender Management, 1999).

States subsequently went well beyond these federal requirements. New laws focused not only on harsher sentencing for sex offenders, but also on increasing restrictions for released offenders. Many states adopted or considered a host of sanctions exclusively targeting sex offenders. The enactment of residence restrictions, civil commitment, lifetime supervision, Halloween restrictions, and laws requiring sex offenders to carry identification cards are illustrative of state efforts designed solely for managing sex offenders (Janus and Prentky, 2008).

The rapid emergence of these reforms and their clearly punitive nature—reflected, for example, in restrictions that exceed those for murderers—has led scholars to argue that the functional equivalent of a modern-day witch hunt occurred (see, e.g., Fontana-Rosa, 2001; Gardner, 1991; Krueger, 2007; Schottenfeld, 2007). Yet, to date no systematic theoretical analysis has been undertaken to assess the veracity of such depictions despite a large literature on witch hunts and, more generally, the targeting of select groups for extreme punishment. We argue that such an analysis holds the potential to provide insight into the rapid emergence of punitive sex crime laws and, conversely, to shed light on ways in which theoretical accounts of witch hunts might be improved.

Accordingly, this study draws on two theories about witch hunts—Erikson's (1966) and Jensen's (2007)—to examine whether they provide insight into the rapid proliferation of sex crime laws in modern times. First, it examines support for the assertion that sex offenders are the nation's "new witches." Second, it discusses Erikson's (1966) and Jensen's (2007)

respective theories about witch hunts. Third, the study applies these theories to known facts about sex offenders and sex offender laws. From there, it describes the role of other factors not anticipated by these theories—but potentially relevant in explaining contemporary witch hunts—such as the advent of the Internet and developments in communication and media reporting, in the shaping of sex crime laws. The paper then discusses implications of the analysis for accounts of witch hunts and the rise in punitive sex crime laws.

### **Sex Offenders—America’s New Witches?**

The literal definition of a witch hunt is a search for individuals suspected of practicing witchcraft. More broadly, the description has been extended to refer to a legislative or community targeting of individuals alleged to have engaged in specific morally proscribed offenses. For example, in Arthur Miller’s *The Crucible* (1953), the author sought to compare the hysteria about witches in Salem, Massachusetts, in the early part of the country’s history with the search for Communists in 1950s America. In this sense, “witch hunt,” as Adams (2008) and other scholars maintain (Gross, 2008; Victor, 1998), can refer to an actual hunt for suspected witches, or, more figuratively, to an intensive political search for individuals felt to constitute a threat to the moral fabric of society and to stand outside of the normal social order by dint of their behavior. Additionally, Fog (1999:149) has observed that there is “extensive myth-making about the witches. [They] are often regarded as so dangerous that common principles of justice and rules of evidence are neglected for the sake of social safety.” In this sense, the individuals are not “citizens” but rather constitute deviants perceived to be different, or “other,” and hence, particularly dangerous to society.

This paper seeks to apply witch hunt theories to the emergence of sex crime laws to assess how well they fit known facts about the emergence of what scholars have labeled America’s newest “witches” (Gardner, 1991; Krueger, 2007; Schottenfeld, 2007). Witch hunts have been theorized to constitute a unique phenomenon, one that differs from moral panics (see,

e.g., Jensen, 2007). Specifically, several distinctions between witch hunt frameworks and moral panics bear mention. Fog (1999:149) has argued that “less extreme cases of witch hunts are called moral panics,” with the latter characterized as “fierce and highly emotional collective reaction against certain perceived crimes or deviancies.” Per Best (2011), the typical panic involves “a burst of attention that fades almost as quickly as it emerges,” lasting, on average, “a few weeks, maybe a year or so” (p. 39).

It also been observed that moral panics have a clear instrumental purpose—with elites and other powerful groups benefiting from the short-lived public hysteria (Goode and Ben-Yehuda, 1994). Zgoba (2004), for example, applied the moral panic perspective to explain the emergence of Amber Alerts (i.e., public notification systems that provide descriptions of kidnapped children) in the early 2000s.

In contrast to such accounts, scholarship on witch hunts emphasize that the targeted group has engaged in behaviors that are morally condemned by conventional society. In addition, the group is viewed as differing markedly from “normal” citizens, and, in essence, as constituting a source of evil. Indeed, prior historical accounts describe witches portrayed as cunning, predatory, and wicked (Jensen, 2007). Alternatively, moral panics are diffuse in nature, focusing on a specific problematic behavior (e.g., drug use among youths), but not necessarily on specific problematic individuals (Fog, 1999); this proposition is in contrast to witch hunt frameworks<sup>2</sup> which specifically identify problematic individuals (i.e., “witches” and deviant “others”). It is precisely such a characterization that has led some to view “witch” accusations as a symbolic justification for extreme punishment that serves expressive rather than instrumental purposes (see, generally, Andreski, 1989; Jensen, 2007). According to this view, witch hunts entail sustained efforts to target a particular group to express rage, fear, and condemnation. By contrast, moral panics are diffuse in nature and entail relatively short-term control-oriented efforts to advance the interests of particular groups, such as elites (Best, 2011; Fog, 1999).

Scholars have identified two distinct factors that characterize witch hunts. First, there is a sudden, rapid onset of public concern and “passionate fear” about a specific type of behavior



(Rapley, 2007:25). For example, in the Salem witch hunt, there were several punishments for witchcraft, such as subjecting the accused to “trials by test” and hanging those convicted of practicing witchcraft (Breslaw, 1997). In total, the trials lasted close to one year and resulted in hundreds of people being accused or convicted of practicing witchcraft (Erikson, 1966). Centuries later, another witch hunt gained national prominence. Specifically, in the 1940s and 1950s, Senator Joseph McCarthy, along with other members of the Congress, sought to detect Communism by forming special investigative panels such as the House Un-American Activities Committee (HUAC). Over a four-year time span, the “demonizing of Communism” led to thousands of Americans being accused, imprisoned, harassed, and in some cases executed for crimes against the country (Schrecker, 1998:5).

A second characteristic of witch hunts is the portrayal of a specific group as demonized, possessed, inhuman, and as a fundamental threat to the social order (Rapley, 2007). Historical accounts of the Salem witch trials described suspected witches as “evil,” “malevolent,” and “demonic” (Erikson, 1966:153; Rapley, 2007:75). Comparable terms were used to depict alleged Communists hundreds of years later. The figurative “witches” of the McCarthy era, individuals sympathetic to Communism, were similarly thought to “subvert the American way of life” (Stone, 2005:1389). In a speech to the nation in 1950, Senator McCarthy remarked that Communism is the “religion of the immoral,” and described Communists as “enemies within” (Friedman, 2005:1109).

Is it, then, reasonable—as other scholars have argued (Fontana-Rosa, 2001; Gardner, 1991; Krueger, 2007; Schottenfeld, 2007)—to characterize sex offenders as modern day witches? Let us return to our first criterion of a witch hunt—mainly that concern about a particular behavior increases dramatically in a relatively short period of time. This description certainly appears to fit the known facts of sex crime laws. Beginning in the mid-1990s, states across the country dramatically, and in but a few years, increased the types and numbers of laws for controlling and punishing sex offenders (Velázquez, 2008). Following the implementation of the Wetterling Act and Megan’s Law, the number of offenders required to register with law

enforcement substantially increased. For example, the National Center for Missing and Exploited Children (2013) estimated that over 760,000 registered sex offenders were living in the U.S. as of 2013, compared to 277,000 in 1998 (Adams, 2002:1), a 174 percent increase in the number of registrants. Reports of sex offenses did not increase during this time period (Planty et al., 2013). Accordingly, the dramatic and sustained increase in the number of registrants in the U.S. reflects not a shift in crime but rather a large-scale policy shift in sex offender management.

In addition to sex offender registries and community notification laws, national and state legislatures have enacted an array of new reforms exclusively targeting sex offenders. These include residence restrictions, castration laws, Halloween restriction laws, lifetime supervision, and laws requiring sex offenders to display special identification (Logan, 2009; Mancini, 2014).

Public fear about sexual victimization appears to have served as a catalyst toward the creation of new and increasingly punitive reforms (Levenson, 2007). To illustrate, Galeste and colleagues (2012, p. 4) have argued that “sexually-based crimes against children spark a sense of alarm and urgency among the public . . . this public response is exacerbated when the media sensationalizes cases involving the abduction and sexual victimization of children, especially those that tragically end in a child’s murder.” Indeed, this fear has translated into considerable public support—in some instances, as high as 95 percent approval—for a range of what scholars have designated “invisible punishments” (Travis, 2005:64): sex offender registration, community notification, residence restrictions, civil commitment, and other sanctions (Comartin, Kernsmith, and Kernsmith, 2009; Levenson, Brannon, Fortney, and Baker, 2007; Saad, 2005). The numerous restrictions that exist for sex offenders exceed those even for the most serious offenders, such as convicted murderers and repeat violent offenders (generally, Ackerman et al., 2012; Tewksbury and Copes, 2013). Accordingly, as Logan (2003:1288) has observed, “the 1990s [sex crime] panic was unique in its force and scope, taking tangible form in what has been aptly called a ‘legislative’ panic.”

For a witch hunt to emerge, not only does there need to be a surge in punitive measures, but also the targeted group must be characterized as demonic or especially dangerous to society,

not only in the sense of threatening individuals but also in the sense of threatening social order. It is, in fact, difficult to find accounts that do *not* portray sex offenders as essentially demonic, the equivalent of non-citizens whose very existence, if left unchecked, will undermine society's moral order. Indeed, scholars have argued that sex offenders have been "demonized and ostracized by society to a greater extent than has any other group of offenders" (Fabelo, 2000:4).

Perceptions about unusually high sex offender recidivism rates have led to the image of the sex offender as a uniquely dangerous type of criminal (Kohm and Greenhill, 2011). Individuals convicted of sexual offenses are typically portrayed as predatory and driven to reoffend. Dowler (2006:383), for example, explored the extent of media coverage of sex crime and found it to be highly "distorted" and based on "inaccuracies" about sex offenders and the nature of sex offenses (see also, Rafter, 2007). Public opinion studies suggest that such depictions have negatively influenced societal perceptions of sex offenders over the last two decades. One national study revealed nearly 80 percent of the public believed that sex offenders cannot be as effectively rehabilitated as other violent offenders (Saad, 2005).

Such characterizations run counter to findings from extant research (see, e.g., Maguire and Singer, 2011; Piquero, Farrington, Jennings, Diamond, and Craig, 2012). This point is salient because sex offenders are viewed in contemporary society as fundamentally distinct from other criminals and as posing the greatest threat to public safety (Meloy et al., 2013). Accordingly, to the extent that these perceptions do not align with the reality of sex offending, there is evidence for Fog's (1999) assertion that typical witch hunting involves the creation of a mythology surrounding the suspected witches' assumed activities and behavior. To illustrate, prior studies have found that sex offenders in fact have lower rates of recidivism than generally assumed (Piquero et al., 2012). One federal study that followed convicted sex offenders over a three year period reported the following re-offense (arrest) percentages, based on offender classification: "rapists" (5 percent), "sexual assaulters" (5.5 percent), "child molesters" (5.1 percent), and "statutory rapists" (5 percent) (Langan, Schmitt, and Durose, 2003).

State-level accounts reinforce the assessment that sex offender recidivism is relatively

rare. In a study analyzing Illinois offenders, Sample and Bray (2003) examined reoffending patterns of different groups (e.g., sex offenders, burglars, aggravated assaulters). Within a five year follow-up period, 93.5 percent of sex offenders did not commit another sex offense. Notably, nearly two-thirds of the other offending groups (e.g., aggravated assaulters, robbery offenders) re-committed offenses similar to their initial crimes. Furthermore, although sex offenders infrequently recidivated, they were the most likely group to recommit another sex offense in the study (6.5 percent over a five year period). Even so, the other categories did not lag far behind—2 to 3 percent were arrested for sex offenses. Taken together, these results have led Sample and Bray (2003:76) to argue that “[based] on rates of reoffending, sex offenders do not appear to be more dangerous than other criminal categories.” Put differently, despite evidence that sex offenders may not reoffend more than other criminal groups, and that sex crime recidivism is rare even among sex offenders, public misperceptions to the contrary prevail.

### **Witch Hunt Theories**

Given the proliferation of sex crime laws in the 1990s, we might anticipate that there would be a corresponding rise in sex crime rates, if only in the years prior to enactment of these laws. However, official data analyzing forcible rape rates nationally show a substantial decline in reported sex offenses. The forcible rape arrest rate fell nearly 60 percent between 1990 and 2010, and, per Snyder (2012), this trend was relatively consistently across this time period (see also Planty et al., 2013).

To be sure, such official reports are flawed because they count only reported offenses and do not permit analysis of trends of sex offenses involving children (Mancini, 2014). However, victimization survey data reveal a similar pattern of decline. To illustrate, Finkelhor and Jones (2012), in a review of several prior studies, found that sex offenses involving children decreased in the early 1990s and continued to do so for more than a decade. There exists little evidence that the decrease stems from a change in reporting of sexual victimization over that two-decade

period (Clay-Warner and Burt, 2005; Planty et al., 2013).

Because the decline began well before the widespread emergence of sex crime laws, it is difficult to assert a direct causal association between the two-decade long trend and these laws (see Logan, 2009, pp. 116-117). We mention this point to emphasize that despite national support for punitive sex crime policies, empirical research suggests that declines in sex crime occurred prior to the reforms. For example, in a study examining the impact of registry laws, Zgoba, Witt, Dalessandro, and Veysey (2006:37), observed that “sex offense rates began to decline well before the passage of Megan’s Law, [and so] the legislation itself cannot be the cause of the drop in general.” In a separate study, Vásquez and colleagues (2008) explored the impact of registration on reports of forcible rape across ten states from 1990 to 2000. They concluded that “sex offender legislation seems to have had no uniform and observable influence on the number of rapes reported in the states analyzed” (p. 188).

Similar findings have emerged in studies examining community notification laws. Extant research “cast[s] doubt on the effectiveness of community notification laws to significantly reduce rates of sexual offending” (Freeman, 2012: 559; see generally, Hughes and Kadleck, 2008; Zevitz, 2006). Tewksbury and Jennings (2010) evaluated sexual reoffending among a cohort of Iowa prisoners released prior to sex offender registry/notification (SORN) and a cohort of Iowa prisoners released post-SORN. Their findings indicate that the reforms had virtually no effect on future criminality; that is, they did not reduce the rate of sex offender recidivism. Additionally, there was no evidence that the laws resulted in a decrease in the number of offenses committed by repeat sex offenders.

One other study of community notification conducted in a southeastern city found that less than one-third of the residents were aware of sex offenders living within a mile of their residences, despite this information being disseminated through the state’s notification process (Craun, 2008). This result bears emphasis because it challenges a key premise underpinning notification laws—namely, that as the public becomes more informed about potential risks (i.e., the presence of sex offenders), they will take precautions to prevent sexual victimization.

Indeed, this finding may explain in part why outcome evaluations have shown no discernible impact of community notification laws on offending.

To be clear, registry and notification laws are part of a much larger set of policy responses to manage sex offenders. Assessments of these other policy responses reveal a similar pattern in failing to find any or appreciable impacts on intended outcomes. For example, a recent national investigation found no association between several sex crime reforms (Megan's Laws, sexually violent predator laws, imprisonment, and the elimination of discretionary parole) and reports of forcible rape from 1970 to 2003 (Ackerman, Sacks, and Greenberg, 2012; see more recently, Huebner et al., 2014 finding largely null effects of residence restriction laws). In short, there has been substantial public support over the last two decades for punitive policies that have little identified benefit in reducing sexual victimization.

A second factor that might explain the emergence of a punitive turn in sex crime laws is that they resulted from a broader, more general "get tough" sentencing climate. However, the timing of sex crime laws suggests otherwise. The rise in "get tough" criminal justice policy emerged in the 1980s and then continued into the 1990s (Garland, 2001). By contrast, it was not until the mid-1990s that "get tough" sex crime legislation proliferated nationally. The time span between the two periods suggests that sex crime laws did not in a clear or direct way emanate from a more general period of punitive sentencing, punishment, or supervision policies. In addition, "get tough" legislation has declined in recent years (Listwan, Jonson, Cullen, and Latessa, 2008) whereas sex crime laws have continued to proliferate (Zilney and Zilney, 2009).

### Theoretical Accounts of Witch Hunts

Given these observations, the question that naturally emerges is whether witch hunt theories provide a compelling account for the emergence of sex crime laws. Two theoretical accounts of witch hunts, the first by Erikson (1966) and the other by Jensen (2007), provide grounds for answering this question. In his study of the 1692 Salem witch trials, Erikson (1966)

observed that when threats or crises occurred in the community, punitive legislation followed as a way to enforce the state's authority and restore social order. Drawing on the work of Emile Durkheim, Erikson (1966) theorized that a focus on deviant behavior preserves "the stability of social life" (pp. 4, 13), particularly during times of rapid social change. Erikson (1966) theorized that the witch hunt hysteria served to clarify early Americans' position "in the world as a whole, to redefine the boundaries which set New England apart as a new experiment in living" (p. 67).

Jensen's (2007) theory incorporates many of the same themes as Erikson's (1966), but extends his work as well. His theory draws on three factors, or "apocalyptic variables," to explain the emergence of witch hunts across Europe in the 1400s and 1500s as well as those in Salem, Massachusetts in 1692. According to Jensen's (2007) theory, the outbreak of disease, a lack of war, and economic hardship are factors positively associated with witch hunts.

Although other theoretical explanations about witch hunts exist, these two are especially useful for our purposes. Erikson's (1966) work, published over forty years ago, has heavily influenced theories about witch hunts and the role of social scapegoats. His work remains one of the most heavily cited in the sociology of deviance literature (Miller, Wright, and Dannels, 2001). In comparison, Jensen's (2007) work has emerged more recently, to critical acclaim,<sup>3</sup> and is useful in part because it builds both on Erikson's (1966) work and on many other efforts to theorize witch hunts. Thus, our analysis examines "old" and "new" accounts of witch hunts and applies them toward understanding the emergence of an unprecedented shift in sex crime policymaking beginning in the 1990s. Below, we describe each theory and then examine how well the theories account for the emergence of sex crime laws in contemporary times.

### Erikson's (1966) and Jensen's (2007) Witch Hunt Theories

Kai Erikson's *Wayward Puritans* (1966), considered a classic in sociological and criminological scholarship (Miller et al., 2001), explored deviance among Puritans and, in particular, the year-long Salem witch hysteria in 1692. During this time in the Massachusetts

Bay Colony, a group of young women ranging in age from 9 to 20 years old accused fellow neighbors of witchcraft. In the months that followed, several trials were held and ultimately twenty-two people were executed or imprisoned for life (p. 149). Three-hundred and fifty people in total were detained or accused of witchcraft. In the fall of 1692, the hysteria eventually subsided once the women accused prominent members of the community (p. 150). The witch trials lasted close to one year. Two questions are especially relevant to our study of sex offender laws. First, why did the Salem witch hunt emerge? Second, who were the accused?

With respect to the first question, Erikson (1966) recounted that the witch hunt was not unique to Salem. He reported on a body of scholarship that found witchcraft and the persecution of witches to be as “old as history” (p. 153). Europe, for example, experienced an episode of witchcraft hysteria that began in the fourteenth century. The perhaps most notorious witch hunt occurred in England in 1647. Despite the witch fervor in England that continued throughout the 1600s, “New England [in the United States] remained relatively calm . . .” (p. 154), with few concerns voiced about witches. In 1692, however, something changed.

Erikson (1966) argued that year marked the “end of the Puritan experiment in Massachusetts” mainly because “the people of the Bay were left with few stable points of reference to help them remember who they were” (p. 155). Although the Colony had originally viewed itself as “actors in an international movement,” the separate sects of Puritans were scattered across the world and ultimately “the Protestant Reformation had lost much of its momentum without achieving half the goals set for it” (p. 156). As a result, the Puritans in Salem lost some of their religious identity. Settlers moved from a “sense of mystery” to a “consciousness of mastery,” transitioning from a “helpless reliance on fate to a firm confidence in their own abilities” (p. 157). The emerging image of the “self-reliant Yankee” left the settlers with “no clear definition of the status they held as the chosen children of God” (p. 157).

The surrounding wilderness also played a role in the development of the Puritan identity. Originally settling in a land full of “wild beasts and wilder men,” the surrounding landscape changed after the Puritans’ initial landing. Since the “visible traces of that wilderness had



receded out of sight, the settlers invented a new one by finding the shapes of the forest in the middle of the community itself” (p. 157). Hence, per Erikson’s (1966) account, the emergence of the Salem witch hunt resulted in large part from community insecurity. The settlers “tried to discover some image of themselves by listening to a chorus of voices which whispered to them from the depths of an invisible wilderness” (p. 159). That image, according to Erikson (1966), could be obtained in part by identifying and persecuting a group that was clearly “other.”

This observation leads to our second question: Who were the targets of the witch hunts? In discussing how deviance served as an integral aspect of a healthy society, Erikson (1966) wrote, “One of the surest ways to confirm an identity, for communities as well as for individuals is to find some way of measuring what one is *not*” (emphasis in original, p. 64). In discussing the first group of women initially accused of witchcraft, Erikson (1966) commented that “three better candidates could not be found if all the gossips in New England had met to make the nominations” (p. 143). Tituba, a slave from Barbados had a reputation for conjuring voodoo and the “black arts” (p. 141). Sarah Good, the second accused, neglected her children and relied on others for financial support. The third, Sarah Osbourne, had been the subject of a scandal a year earlier involving living with a man before he became her husband (Erikson, 1966:143). Erikson (1966) reported that the Salem witch hunt eventually faltered after prominent members of society were implicated, such as Harvard University President, Samuel Willard (p. 149). Based on Erikson’s (1966) work, then, it is the individuals on the fringes of society, with little social clout and little ability to defend themselves, who are most likely to be characterized as witches.

Erikson’s (1966) analysis leads us to several conclusions. First, the emergence of the Salem witch hunt was associated with significant changes in the larger community. Citizens became disenchanted with the Protestant Reformation Movement and, as Erikson (1966:155) noted, “were left with few stable points of reference to help them remember who they were.” The witch hunts served a purpose by unifying members of the community and presenting a common enemy, witches, against which they could rally. Second, the individuals initially accused of witchcraft stood on the periphery of the community and could expect little sympathy

(p. 159). They provided, therefore, an easy target group for finding a way to establish or reinforce a sense of collective identity (p. 65).

We turn now to Jensen's study, *Path of the Devil: Early Modern Witch Hunts* (2007), which also explored factors associated with witch hunts. In contrast to Erikson's (1966) work, Jensen (2007) not only examined the Salem witch hunt in America, but also studied witchcraft hysteria in Europe in the 1400s and 1500s. He identified several factors that he argued were related to witch hunts. In particular, he claimed that witch hunts were associated with three "apocalyptic" factors—disease, war, and economic hardship. His first hypothesis was that witch hunts were positively correlated with plague epidemics. The second was that witch hunts were inversely related to war and other forms of violent conflict. And the third was that witch hunts were positively associated with climatic and/or economic hardship, such as famine. Drawing on analysis of archival records, Jensen (2007) found support for his hypotheses.

Jensen's (2007) analysis included the 1692 Salem witch hunt. He concluded that "when all of the converging conditions surrounding the trials are considered" (p. 214), the 1692 Salem witch trials arose because of the confluence of several factors. To illustrate, the worst epidemic of smallpox occurred in 1690 and another significant outbreak, although less intense, occurred two years later. He noted that although residents had experienced war in the 1690s (i.e., King William's War), there was no immediate threat from these conflicts. At the time of the 1692 trials, settlers also experienced unprecedented hardship in the form of drought and severely cold weather. Jensen (2007) cited these events as support for his "apocalyptic" theory (p. 214).

Also relevant to our study is Jensen's (2007) description of witch hunt targets. According to Jensen (2007:172), the absence of war, for example, makes it "difficult for people to define an enemy or coalesce in opposition to a common enemy" and so "they are likely to pursue troublesome people within their own communities as scapegoats." He further proposed that such "scapegoats are likely to be chosen from among groups and people who have been involved in prior conflicts" and yet who present no immediate threat if persecuted (p. 172). Jensen (2007) theorized that women were disproportionately the targets of witch hunts because

they were seen as “a source of hidden, organized conspiracies . . .” (p. 172). He also noted that other groups such as homosexuals, prostitutes, and lepers were sometimes targeted as witches because their behavior or condition were attributed to “sin”; such individuals served, as Jensen (2007:164) observed, as “credible targets of blame.”

In addition to discussing actual witch hunts, Jensen (2007) examined what he termed “metaphorical” witch hunts. In so doing, he argued for description of some groups as the equivalent of witches even if not necessarily explicitly described as such. For example, he argued that in modern times, some groups, such as Communists in America in the 1950s, were targeted as political witches. Separately, he described the 1987 McMartin preschool case in California in which daycare employees were accused of molesting children. The story garnered significant media attention. Law enforcement encouraged parents to question their children about possible sexual abuse. Ultimately, 360 children cared for across ten separate preschools claimed to have been sexually abused and forced to partake in satanic rituals. Although many students recounted these allegations, no physical evidence emerged in the cases. Close to 100 preschool teachers became suspects. Because investigations found no evidence of abuse, almost all charges against the teachers were dismissed. In these examples and in others, Jensen (2007) argued that we can see similar patterns of “witch” identification and punishment.

### **Analysis**

Next, we apply Erikson’s (1966) and Jensen’s (2007) theories to the rapid proliferation of sex offender laws in America to assess how well they accord with scholarship on and known facts about these laws. We then focus on the likely effects of other factors such as the advent of the Internet and changes in media technology because of their potential to have fueled a modern-day witch hunt and their salience as an avenue along which to augment or modify Erikson’s (1966) and Jensen’s (2007) respective theories.

## Wayward Puritans

Briefly, Erikson (1966) observed that when threats to social order appear, policymakers typically respond by enacting tougher and more punitive laws. He theorized that the Salem witch trials reflected an attempt to resolve social crisis stemming from the rapidly changing Puritan colony. In turn, such action contributed to the “collective identity” of the group and reestablished social order in Salem. There are several factors that could be classified as “social threats” to collective solidarity in explaining the emergence of sex offender laws in the mid-1990s. These include the rise in violent crime in the 1980s and early 1990s, the Christianity and moral traditionalism movement, and the increasingly protected status of children in the 1990s (Moon, Sundt, Cullen, and Wright, 2000). Each of these dimensions is discussed below.

*Violent Crime in the 1980s and Early 1990s.* One threat to established boundaries that Erikson (1966) highlighted in his account was a rapid surge in violent crime. Crime trend analyses reveal that violent crime such as homicide and sexual assault “shot up sharply in the mid-1980s and continued to climb until 1991” (Blumstein and Wallman, 2000:iii). Then, as inspection of figure 1 shows, soon after 1992 the nation experienced a substantial drop in violent crime. In a five-year period following 1992, the national homicide rate continued to decline to 6.8 murders per 100,000 people (Blumstein and Rosenfeld, 1998).

[Insert figure 1 about here]

In parallel fashion, rates of forcible rape also increased in the mid-1980s. Estimates of forcible rape increased from 36.8 rapes per 100,000 people over age 12 in 1985 to 42.3 rapes per 100,000 people over age 12 in 1991. From 1991 on, the nation’s forcible rape rate then began to decline each year thereafter (Federal Bureau of Investigation, 2013; see also, Snyder, 2012).

Notwithstanding the consistent decrease in violent crime during much of the 1990s, studies examining the public’s fear of crime concluded that concern about crime remained an

important social issue for most Americans (Romer, Jamieson, and Aday, 2003). As identified in figure 1, a 1994 national Gallup poll found that the public's fear of crime peaked in this year, with thirty-seven percent of citizens reporting that crime is their "top worry." Notably, fear about crime among Americans eclipsed public concern about a range of other social issues, including the economy, unemployment, and health care (Gallup Organization, 1994). In turn, some scholars have linked the public's high level of fear in part to the emergence of punitive crime policies. There is some evidence that the public was especially punitive throughout this decade. Support for the death penalty, typically used by scholars as an indicator of punitiveness, also peaked to record high levels in 1994, with nearly eighty percent of Americans supporting the sanction (Saad, 2008). Notwithstanding a steady decline in crime rates from the mid-1990s forward, the public expressed substantial concern about crime.

These findings are particularly relevant to our study. Erikson (1966:44) argued that fear of crime, perhaps an extension of the "excitement generated by crime . . . creates a sense of mutuality among the people of a community by supplying a focus for group feeling." Clearly, during the 1980s and early 1990s, the nation experienced a substantial increase in violent crimes. However, the majority of sex crime laws were enacted after the initial spike in violent crime. At first glance, then, the emergence of violent crime does not appear to explain the emergence of sex crime laws. Even so, public concern about crime remained high well into the 1990s. This concern, potentially a lagged effect resulting from a sustained period of violent crime increases during the 1980s, may have translated into harsher laws toward sex offenders.

*The Christianity and Moral Traditionalism Movement.* In his study of Puritan society and witchcraft hysteria, Erikson (1966:154) concluded that "outbreaks of witchcraft mania have generally taken place in societies experiencing a shift of religious focus—societies, we would say, confronting a relocation of boundaries." A similar phenomenon occurred in the early 1990s in the U.S. With the formation of a powerful religious organization dedicated to reestablishing "conventional norms" and preserving traditional families, the nation witnessed the emergence of the Moral Majority Movement (later the Christian Coalition of America) in the beginning of the

decade (Martin, 1997). As shown in figure 1, it was during this time that the Christian Right—“with its emphasis on traditional families, moral values, and committed parenting”—became one of the most powerful religious groups in the nation (Sylvester and Reich, 2002:8).

Studies suggest the movement had a wide following. For example, according to a national poll conducted in 1992, over one-third of Americans identified themselves as “born-again” or “evangelical Christian” (Gallup Organization, 2009). High among the conservative Christian agenda items in the 1980s and 1990s was highlighting the consequences of engaging in deviant sexual behavior (Jenkins, 1998; Watson, 1997). Early in the 1980s and 1990s, for example, prominent Christian conservatives claimed that homosexuality was the sole contributor of the spread of HIV/AIDS. Indeed, Jerry Falwell, founder of the Moral Majority movement, proclaimed in the early 1980s that HIV/AIDS constituted the “gay plague . . . God’s way of spanking us for tolerating perverted lifestyles” (McGrory, 1985:A2).

Other accounts suggest that Christian groups in the 1990s were instrumental in linking homosexuality to child molestation (Mirkin, 1999). For example, without empirical evidence, Peter Sprigg, senior director of culture studies at the conservative Family Research Council, claimed that “homosexuality is a clear risk factor for child sexual abuse,” and further opined that exclusionary “anti-gay” policies, such as prohibiting homosexuals from serving as Boy Scout leaders are “looking better all the time” (Sprigg, 2002:A19).

Viewing these observations through the prism of Erikson’s (1966) theory, it appears plausible, then, that the Christian Right’s campaign to draw attention to homosexual practices and to link them with deviant and criminal behavior may have heightened fears about sexuality. Temporally, as inspection of figure 1 shows, the conservative Christian movement preceded the enactment of a plethora of sex offender laws. Stated somewhat differently, the Christian Right’s campaign to highlight homosexual practices and connect them with child sexual abuse may have heightened public concern specifically about sex crime and, in turn, contributed to “get tough” legislation in the mid-1990s. Perhaps motivated in part by the group’s emphasis on protecting children and preserving families, the nation also witnessed the emergence of increased public

concern about the rights of children in the early 1990s.

*Special Status of Children in the 1990s.* Historically, children in America were not afforded special consideration or protection. However, during the 19th century, with the emergence of the first juvenile court in 1899, this situation changed. States and the federal government enacted legislation that aimed to protect children and that, in so doing, sanctified childhood (Zimring, 2002). Accounts suggest that by the early part of the 1900s, “a full-fledged children’s rights movement existed, with two distinct and highly competitive wings, the one being those who believed in the liberation of the child . . . the other being more paternalistic and traditional, concerned with a comprehensive program of adult protection for children” (Cravens, 1993:23). For example, as inspection of figure 1 shows, in 1990 the U.S. participated in the World Summit on Children, a global conference organized by the United Nations. Among other objectives of the Summit, the U.S., along with other participating countries, pledged to “promote awareness of child rights among children and adults, and foster changes in attitudes and values that undermine respect for the rights of children, especially those that result in violence against children” (Annan, 2001:79). Rooted in the premise that children are vulnerable members of the population, this movement in America emphasized increasing protections for children (Cullen, Vose, Johnson, and Unnever, 2007; Greer, 2003).

In his study, Erikson (1966:158) observed that witchcraft was punished because of its potential to threaten the fundamental character of early Americans—their religious identity. For Erikson (1966), the more general axiom is that threats that weaken the moral fabric of society are seen as particularly detrimental to the stability of the community. In the 1990s, children were characterized as the “the future of America” (Rush, 1991:68) and, concomitantly, as especially vulnerable to criminal victimization, and, in particular, to physical or sexual abuse (Greer, 2003).

From this perspective, sex offenders thus warranted active and immediate attention because of their threat to children and, in turn, to America. Lending support to this observation is Jenkins (1998:141) assertion that “[The new] laws reflected the view that a war on child abuse necessitated extreme measures and perhaps the sacrifice of liberties.” Many of these laws

exclusively targeted offenders who victimized children. Illustrative of such measures are residence restriction laws many of which were implemented during the late 1990s (Velázquez, 2008). With rare exception, these laws are designed to prohibit offenders from residing near places children frequent such as a school, school bus stop, or playground (Meloy et al., 2008). In short, and as depicted in table 1, we find broad support for Erikson's (1966) theory in that known facts about the timing and content of sex crime legislation accord with what would be anticipated based on the dimensions he identified.

[Insert table 1 about here]

### Path of the Devil

In contrast to Erikson (1966), Jensen's (2007) theory focused on the culmination of three specific factors or "apocalyptic variables." According to Jensen (2007), and as discussed above, the outbreak of disease, an absence of war, and economic hardship lead to witch hunts. Here, we apply Jensen's (2007) theory to the proliferation of sex crime laws in the U.S. in the 1990s.

*Disease.* Jensen (2007:66) noted that disease historically has been associated with "sexual excess and hedonism." He further associated sexual deviance and disease to witchcraft: "the sexual content of the depictions of witches is that sexual content of the depiction of all heretical groups . . . Jews, lepers, homosexuals . . . these were the traditional targets of persecution when epidemics were spreading" (p. 67). In the decade prior to the widespread emergence of sex crime laws, a so-called "sexual" disease featured prominently in national policy discussions. Specifically, in the 1980s, a potentially fatal sexually transmitted disease, HIV/AIDS, became increasingly common. As shown in figure 1, by 1990, the disease afflicted 100,000 Americans (Karon, Fleming, Steketee, and De Cock, 2001).

Others have proposed that the spread of HIV/AIDS drew attention to sexual practices and increased concern about sexual victimization (Parker, 2001). Since the 1990s, states have



enacted laws that require alleged sex offenders to undergo HIV/AIDS testing. In a National Conference of State Legislatures report, Dietrich (2001:1) explained that states have adopted these laws primarily because the “public has a compelling interest that outweighs the privacy rights of alleged perpetrators.” Since the mid-1990s, states have also enacted laws criminalizing the intentional transmission of HIV/AIDS through consensual sexual activity. Lazzarini, Bray, and Burris (2002) reported that as of 2002 close to half of all states had adopted such laws. The sanctions are severe. As Myers (2006:1) reported, “under U.S. law, knowingly transmitting HIV to a sexual partner is treated under murder/manslaughter statutes” and in some jurisdictions can fall under sex offense statutes (Velázquez, 2008).

Jensen (2007) in fact argued that concern about HIV/AIDS contributed to a witch hunt involving children, the McMartin preschool scandal. However, he did not apply this idea to the emergence of sex offender laws. In describing the former event, Jensen (2007:237) noted that “fear and anxiety surrounding this new disease . . . heightened fears about threats to children.” Supporting his contention is the creation of laws that require the disclosure of alleged offenders’ HIV status and that criminalize sexual acts committed by individuals with HIV/AIDS.

As inspection of figure 1 shows, prominent sex crime legislation—Megan’s Law—emerged less than seven years after more than 100,000 Americans were diagnosed as HIV positive (Karon et al., 2001). Furthermore, the enactment of laws designed to require sex offenders to undergo HIV/AIDS testing also appeared during this time period (Dietrich, 2001). Here, then, we find support for Jensen’s (2007) argument that concern about disease may contribute to the emergence of witch hunts.

*War.* Jensen (2007:70) contended that although some historians doubt a connection between warfare and witch trials, “the dominant opinion is that involvement of an area in actual warfare inhibits witch hunts.” In short, war should prioritize immediate outside threats and decrease concern about social problems on the home front. As figure 1 highlights, in the early 1990s, Desert Storm emerged as a conflict involving the U.S. and Iraq (Hiebert, 2003). Here, then, Jensen’s (2007) contention that war should inhibit a witch hunt does not hold. Why?

According to Jensen (2007), although “witches and political enemies might both be ‘enemies’ of God, and coconspirators with the Devil . . . [a full-scale] war should direct attention toward the most immediate threat [outside enemies].” By contrast, less serious conflicts—described as “war on the fringes” (2007:71)—are likely to be positively correlated to the outbreak of witch hunts. With Desert Storm, the nation experienced what historians have designated as a “forgotten war” fought thousands of miles away (Bin, Hill, and Jones, 1998:1) and what, in Jensen’s (2007) account might be a “fringe war.” Indeed, others have observed that relative to prior conflicts, such as World War II or the Vietnam War, the casualties suffered during Desert Storm were minimal (Fisher, Klarman, and Oboroceanu, 2008) and thus may not have distracted attention away from domestic concerns in the same fashion as previous wars.

Stated differently, at first glance Jensen’s (2007) hypothesis that the outbreak of war should inhibit witch hunts does not seem to fit known facts about the emergence of sex crime laws. As illustrated in figure 1, the Gulf War occurred in the early 1990s, which would suggest there should be no witch hunts during this time. However, upon further inspection, the Desert Storm conflict appears to fit Jensen’s (2007) description as a “war on the fringes” and thus was not a war, or the type of war, that would distract from the targeting of “witches.”

*Economic Hardship.* The relationship between economic hardship and the occurrence of witch hysteria has been well-documented in the literature. Jensen (2007) explained that “witch hunts were common during periods of population growth, labor competition, economic recession . . . the period of most intense witch hunts occurred during a period of declining wages . . . hence, increases in prices can be considered indicative of increases in hardship” (p. 101). He theorized that witchcraft accusations emerged during times of economic crisis because they served as “a method for resolving social tensions” (p. 73). As depicted in figure 1, the U.S. economy fell into a short-lived recession that began in 1990 and ended a year later (Brenner, 2002). Peterson (1994) reported that fifteen million Americans became unemployed during the height of the recession. However, soon after the U.S. experienced relative economic prosperity (Gainsborough and Mauer, 2000). Yet, the federal government and states continued to enact sex

crime laws even after the economy steadily improved throughout the rest of the decade. Taking together, as summarized in table 1, we see general support—with some caveats, particularly concerning his economic hardship proposition—for Jensen’s (2007) theory as an account of sex crime legislation in the 1990s.

### Theorizing Modern Day Witch Hunts

Each of the two theories provide compelling arguments for the rise in sex offender laws in the mid-1990s. Erikson (1966) stressed that social threats to the established moral order create collective insecurity. We explored several factors that would characterize threats to social solidarity. These variables include an increase of violent crime, the Christianity and moral traditionalism movement, and the special status of children in the 1990s, with the latter two factors heightening fears regarding threats to vulnerable populations. Inspection of figure 1 shows that many of these events preceded the enactment of sex crime laws, such as Megan’s Law (nationally implemented in 1996), castration laws (enacted by states beginning in 1997), and sex offender residence restriction laws (which emerged toward the latter part of the decade) lending broad support to Erikson’s (1966) hypothesis that perceived social threats increase punitive responses to problematic behavior.

Jensen’s (2007) theory also appears to explain the proliferation of sex crime laws. Inspection of figure 1 shows that Jensen’s (2007) hypotheses about disease and economic hardship are in the predicted direction. However, his contention that economic hardship contributes to the emergence of a witch hunt does not explain why sex crime laws continued to emerge even after the U.S. economy improved in the 1990s. In addition, we find little initial support for Jensen’s (2007) hypothesis about the inverse relationship between war and witch hunts given the Desert Storm conflict in the early 1990s. However, to the extent that it can be aptly viewed as a “war on the fringes,” there is support for his hypothesis.

Before concluding, we turn to discussion of two specific factors that may have

contributed to the rise in sex offender laws and that are neither predicted by Erikson's (1966) or Jensen's (2007) respective theories. The first is the advent of the Internet in the mid-to-late 1990s. Prior to 1990, the Internet was not widely available or used by the public. As examination of figure 1 shows, less than a decade later, close to 57 million Americans had access to the Internet (Newburger, 1999). This dramatic shift in Internet availability exposed Americans to information about sex crime on a number of dimensions. Online sex offender registries, which emerged at this time, permitted public access to information about released sex offenders. News accounts about sexual victimization pervaded the Internet and could be shared with others with the simple click of a mouse. The emergence of the Internet, too, heightened concerns about Internet predators and distribution and accessing of child pornography (e.g., Marcum, Higgins, and Ricketts, 2010).

In addition, the 1990s witnessed the birth of the 24-hour news program. The descriptions of a "CNN Effect" and of "media pervasiveness" capture the content of these programs (Robinson, 1999:301). Ever more, despite substantial national declines in reports of sex crime "the media's interest . . . in sex offenders has increased exponentially over the last two decades" (Quinn, Forsyth, and Mullen-Quinn, 2004:221). In describing the media's role in shaping public concern about sex offenders, Quinn et al. (2004:221) further have noted that "the growth of 24-hour news means that major offenses against children, and especially unusual ones such as stranger-abductions, help assure increased attention to this type of crime."

Throughout the 1990s, then, Americans increasingly—on a scale not previously possible prior to the advent of the Internet and 24-hour-a-day news programming—were confronted with news accounts about violent sex offenses and tragic cases, often involving child victims and child pornography (Anderson and Sample, 2008). Supporting this contention, Zgoba (2004:385) has observed that "media broadcasts of a rash of child abductions, molestations and homicides have led to a nationwide moral panic concerning the safety of children. The media frenzy . . . has created a 'fear factor' among parents and caregivers."

Consideration of information dissemination vehicles does not necessarily require

developing new theoretical accounts of witch hunts. Rather, it serves to highlight that technological changes—or any changes that allow for widespread dissemination of information—may serve to amplify or accelerate factors associated with the occurrence of contemporary witch hunts. Viewed in this light, witch hunt theories likely should incorporate more directly and systematically arguments about the relative salience of different types of information and, more generally, the importance of information and the media in influencing public opinion. In Salem, Massachusetts, and in many of the accounts discussed by Jensen (2007), information could have been communicated easily because the communities were tight-knit and spatially delimited to small areas. Arguably, the ability to convey information rapidly is necessary to create a swift coalescence of public fervor around a specific population and issue. Certainly, America in the 1990s—with increased Internet availability and use along with increased news media availability—provided a historically unprecedented context for rapidly distributing information, accurate or otherwise, about social concerns.

If we include this dimension in a theoretical account of sex offenders as the target of a modern-day witch hunt, and do so by drawing on Erikson's (1966) and Jensen's (2007) respective theories, the following explanation for the “punitive turn” in sex crime legislation emerges. First, social groups and the media highlighted the existence of threats to children and contributed to the perception that the threat was ubiquitous. Second, this threat was viewed as tantamount to a threat to the social fabric of American society. Third, simultaneously, a new type of disease emerged, one that was both fatal and involved sexual contact; in so doing, it reinforced the sense that America's very well-being and identity were under attack. Fourth, an intense economic recession occurred that spurred on or contributed to this perception. Fifth, these factors converged at a time of relative peace in the United States, thereby offering the equivalent of an “internal” war that could be and, by this logic, needed to be fought. Sixth, there emerged the technology for rapidly communicating fear, concern, and misinformation about a social group, sex offenders, thought to be directly implicated in the undermining of society.

Viewed in this light, then, we can see an integrated theory of witch hunts that emerges

from both theories and that is readily apparent when we examine the wave of sex crime legislation that arose in the 1990s. This theory argues that the likelihood of extreme and punitive legislative responses against “witches”—that is, threatening groups of a seemingly demonic nature—is greater in eras where threats exist to vulnerable populations, outbreaks of disease occur, outside threats to national security are minimal, economic hardship is evident, and it is possible to rapidly disseminate information about perceived or actual threats.

### **Discussion and Conclusion**

The rapid enactment of punitive sex crime measures in the mid-1990s is puzzling because it did not reflect trends in sex crime rates and it occurred well after the initiation of a tough-on-crime movement in the U.S. What, then, explains the historically unprecedented emphasis on punishing sex offenders? To our knowledge, no theoretical assessment of this question has been undertaken despite calls by scholars to understand the historical emergence of punitive laws and policies in America (Garland, 2001; Logan, 2009). The goal of this paper was to evaluate whether two theories of witch hunts—one proposed by Erikson (1996) and the other by Jensen (2007)—fit known facts about the proliferation of laws in America that have targeted sex offenders, what scholars have termed the newest “witches” in contemporary American society.

Although several theoretical perspectives, including moral panic theory, might be used to examine the punitive turn in sex crime legislation and policy, witch hunt theories constitute a logical point of departure for several reasons. The most obvious reason is that sex offenders have been characterized as witches, a group of “monstrous others” perceived by the public and policymakers alike as inherently immoral and evil, cunning, predatory, and importantly, as fundamentally distinct from other types of offenders (Gardner, 1991; Krueger, 2007; Schottenfeld, 2007). Indeed, legislation that targets sex offenders is built on the logic that sex offenders constitute an especially threatening offender population and so are in need of special restrictions and punishments (Logan, 2009; Meloy et al., 2013).

Erikson's (1966) and Jensen's (2007) respective theories provide compelling explanations for the recent surge of punitive sex crime policies, with some caveats. Starting first with Erikson (1966), we found that the nation experienced several threats during the 1990s that lend support to his account. These included an increase of violent crime and concern about crime, the Christianity and moral traditionalism movement, and public concern about children. Although the presence of these factors accord with and are anticipated by Erikson's (1966) account, his theory nonetheless can be criticized for providing vague descriptions of the precise conditions under which we can expect witch hunts to arise (Jensen, 2007:56).

When we turn to Jensen (2007), we find support for his theoretical account as well. Specifically, and in accordance with his theory, several conditions arose—including the outbreak of disease, absence of war, and economic hardship—that can be viewed as having spurred on the increase in sex crime laws in the 1990s. Even so, his propositions regarding economic conditions were not fully consistent with events that occurred prior to and during the period when sex crime legislation intensified. For example, economic conditions worsened in the early 1990s and could be viewed as giving rise to a punitive turn in sex crime policymaking; even so, by the late 1990s, these conditions had improved and yet punitive policymaking continued.

Several implications flow from this analysis. First, application of Erikson's (1966) and Jensen's (2007) respective theories to the punitive turn in sex crime laws provides a seemingly useful foundation on which to understand this policy shift. Even so, there remains a need to articulate a theoretical framework that can combine the insights of the two theories and generate more precise predictions about the conditions under which a witch hunt will occur. In undertaking such work, it may be useful to draw on related theoretical perspectives, such as scholarship on moral panics. For example, a moral panic framework could yield insights into different factors or mechanisms through which witch hunts arise. The very notion of a witch hunt suggests that a particular group has caused harm, or is believed to have done so. By contrast, a moral panic perspective points to the notion that underlying concerns about the moral foundation of society influence how the public acts. The perspective highlights the potential

salience of social control efforts for achieving instrumental goals, but it does not provide clear guidance about the direction in which such concern gets channeled (Best, 2011). By contrast, witch hunt theories highlight the symbolic and expressive functions of seeking to severely punish groups deemed to be somehow beyond the pale of society. A more powerful account of extreme social responses likely would be one that combined such perspectives and drew attention conceptually to variation in the purposes of these responses, their duration, and their intensity.

Second, future scholarship should investigate other factors that may explain the emergence of sex crime laws in particular and witch hunt efforts more generally. Missing from Erikson's (1966) and Jensen's (2007) theories, for example, was a discussion about the impact of technological changes on public hysteria. As we discussed previously, several accounts suggest that the advent of the Internet and increased media attention about sex offending in the 1990s may have contributed to the rapid emergence of sex crime laws. As media transforms, arguably the resulting changes may contribute—through information dissemination—to moral panics or witch hunts that target particular groups or individuals who engage in certain behaviors.

Finally, a policy-related observation warrants mention. To the extent that sex crime laws resulted from the functional equivalent of a witch hunt, the attendant concern arises that they constitute an excessive exercise in state power. Any such determination ultimately is a moral or normative one. However, in so far as the laws have been built on incorrect assumptions, there would seem to be a potential need for corrective steps. These need not involve deprioritizing sex crime. Rather, they may involve simply characterizing sex crime accurately and identifying punishment schemes that more closely align with the management of other serious types of crimes and relying on treatment where it can be effective.



## Notes

<sup>1</sup> Concern about sex crime existed prior to the mid-1990s (Jenkins, 1998; Leon, 2011; Rafter, 2007; Sutherland, 1950; Tappan, 1950). A small number of states, for instance, enacted sex offender registries in the 1930s and 1940s (Jenkins, 1998). However, by the 1970s, states either rescinded or rarely made use of them (Logan, 2009). It was not until the 1990s that *intense* policymaking concentrating on sex crime began, including passage of new federal registry and notification laws (Jenkins, 1988; Zgoba, 2004). In his historical analysis of sex crime policymaking in America, Logan (2009) recounts that these contemporary efforts are distinct from previous restrictions. For example, modern registry and notification laws, in contrast to their earlier counterparts, apply to a wide range of individuals, such as juveniles and first-time offenders. At the same time, current registries and notification procedures are substantially more onerous and stigmatizing than earlier methods. They require offenders to have more frequent interaction with law enforcement and publication of offenders' personal information on the Internet. Additionally, coinciding with this federal shift and in the years that followed it, states went well beyond these measures, enacting restrictions never before seen in earlier decades. These restrictions were increasingly punitive in nature and exclusively targeted sex offenders (Ackerman et al., 2012; Velázquez, 2008).

<sup>2</sup> Prior scholarship distinguishes witch hunts from moral panics with the former emphasizing the threat of identified groups (i.e., literal witches and figurative deviant outsiders), whereas moral panics ("less extreme cases of witch-hunts") involve collective and swift reactions against certain "perceived crimes or deviancies" (Fog, 1999, p. 149).

<sup>3</sup> In a 2008 book review, Ben-Yehuda (p. 1845) judged Jensen's scholarship to be "a freshly seductive, credible and fascinating examination and interpretation of witch hunts, immersed in an attractive sociological viewpoint." Similarly, Ulmer (2009:580) evaluated it as "an exemplar of sociology at its best" (see also Geis, 2007).

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**Figure 1. Timeline of Sex Offender Laws and Notable Related Events, 1990-2000**

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
<p><b>Christian Coalition formed<sup>1</sup></b></p> <p><b>100,000 Americans are HIV positive<sup>2</sup></b></p> <p><b>Gulf War ends<sup>3</sup></b></p> <p><b>U.S. economic recession improves<sup>4</sup></b></p> <p><b>World Summit on Children held<sup>5</sup></b></p> <p><b>Violent crime declines<sup>6</sup></b></p> <p><b>Public's fear of crime peaks<sup>7</sup></b></p>						<p><b>States develop and implement Megan's Law<sup>8</sup></b></p> <p><b>FL and CA pass castration law<sup>9</sup></b></p> <p><b>57 million Americans report Internet use<sup>10</sup></b></p> <p><b>States enact residence laws<sup>11</sup></b></p>				

<sup>1</sup> Watson (1997) <sup>2</sup> Karon et al. (2001) <sup>3</sup> Hiebert (2003) <sup>4</sup> Gainsborough and Mauer (2000) <sup>5</sup> Annan (2001) <sup>6</sup> Blumstein and Wallman (2000)  
<sup>7</sup> Gallup Organization (1994) <sup>8</sup> CSOM (2001) <sup>9</sup> Spalding (1998) <sup>10</sup> Newberger (1999) <sup>11</sup> Meloy et al. (2007)

**Table 1. Erikson’s (1966) and Jensen’s (2007) Theories as Accounts of the Emergence of Sex Crime Laws: A Summary Assessment**

	<b>Erikson (1966)</b>	<b>Jensen (2007)</b>
<b>Propositions</b>	Witch hunts are spurred by threats to the social order and in turn define moral boundaries in rapidly changing societies	“Apocalyptic variables”—such as the emergence of disease, absence of war, and presence of economic hardship in societies—motivate witch hunts
<b>Factors</b>	<ul style="list-style-type: none"> <li>• Violent crime in 1980s and early 1990s</li> <li>• Moral Traditionalism Movement</li> <li>• Special status of children</li> </ul>	<ul style="list-style-type: none"> <li>• HIV/AIDS (disease)</li> <li>• Desert Storm (“war on the fringes”)</li> <li>• Recession (economic hardship)</li> </ul>
<b>Support</b>	Broad support	Broad support
<b>Critiques</b>	Potentially “unfalsifiable” since threats to social order always exist; little discussion about the role of changes in technology and modes of communication	Economic hardship hypothesis inconsistent with economic trends in the mid- and late-1990s; no hypothesis about the role of changes in technology and modes of communication