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From postmodern to psychodynamics : deconstructing sex offender registration and notification policies

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ABSTRACT

This theoretical thesis is a multilayered study that interrogates Sex Offender Registration and Notification (SORN) policies from many angles: 1) a deconstruction of the legislation itself (logistics, stipulations, restrictions and enforcement); 2) the impact such policies have on individuals who are required to register; 3) the impact on communities in creating public spaces that are increasingly policed and thereby adding to the expansion of the prison industrial complex; 4) the implications and effectiveness sex offender registries (SORs) have in preventing sexually predatory behavior and acts of sexual violence; and 5) the implicit values and beliefs underlying hegemonic U.S. discourse surrounding sexual violence and abuse. By constructing what and who gets deemed innocent and who and what gets marked as deviant and dangerous, SORN legislation consequently strengthens dominant paradigms of White, upper/middle class notions of motherhood, childhood and acceptable sexuality by making meaning of erotic innocence and constructing the "predator". Conducting a critical discourse analysis (CDA) of how SORN policies are written, the historical context for the regulation of sexual practices, and the intended and unintended consequences of enforcing such policies, will elucidate how legislation is used to validate dominant constructions of race, gender, sexuality, and innocence. By reifying signifiers for such constructions and bolstering widespread acceptance of these categories as objective "truths", SORN regulations function to protect White heteropatriarchy, capitalism and the prison industrial complex. Postmodern theory and psychodynamic concepts of

ego defenses and object relations will be discussed in the context of SORN policies and

Collective Identity.

FROM POSTMODERNISM TO PSYCHODYNAMICS: DECONSTRUCTING SEX

OFFENDER REGISTRATION AND NOTIFICATION POLICIES

A project based upon an independent study
submitted in partial fulfillment of the requirements
for the degree of Master of Social Work.

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To Hinde, this would not have been possible without you. Thank you for believing in me and in the meanings strung together here. You are my light at the end of this tunnel.

TABLE OF CONTENTS

PREFACE

An Author's Invitation:

One feminist's journey into critical inquiry

The Body Speaks

I was the arm wrestling champion of my fourth-grade class. At least this is the story that is repeated with pride by my father at dinner tables and introductions with absolute disregard for my dismay and despite my blushing cheeks. Odd how this story has followed me into adulthood, although it seems quizzically fitting, in that it somehow captures the paradoxical experience of growing up female in the modern world in just ten little words. These words however somehow rest between the borders of boxy gender binaries, the dissonance of strength versus expectation, and the rude awakening of impending womanhood. They clashed eerily with one another creating a white noise, a sound that will follow me for some time.

I have always been interested in bodies and borders, both real and imagined. There has been a theme, in some ways a conscious one and in others unconscious, yet still this theme has consistently woven itself through all that I do, everything that I study and each question I ask: the body speaks the words which go unspoken and embodies the stories for which there are no words.

Since I was a little girl I was drawn to trauma and the body, way before I even knew how to drop those words off my tongue. I have wondered if it is a part of me, sewn into my existence, punctured into my veins like pinpricks, or tiny scars left as evidence on my heels. I was born 3

months premature. At a hefty weight of 2.5lbs I forced myself into this world way before I was ready for it and in 1983 this was quite the feat. I fought for my survival, endured transfusions and needle pricks, was hooked to machines and spent the first three months of my life in an incubator.

For those months my parents would rub my legs to stimulate my muscles, willing them to grow as I fought to breathe. I wonder if with each stroke of their hand were they passing the trauma of my birth into my skin? Were their fears, worries and love being rubbed into my tiny little legs and pink pinched face, unknowingly releasing it to me to hold, to grow with, to grow into?

Now today, the logistics of my birth seem rather inconsequential, but the story of my birth I realize, continues to be repeated. It is the stories that become legend, which become myth, the ones we internalize as truth and never question, it is these stories that come to define us in ways we don't even realize: I am a survivor.

Since I can remember I have wanted to understand how the body tells stories. Somehow I knew that there were stories beneath the skin; stories that words did no justice; stories that needed words that have not yet been invented. That trauma is in itself, unspeakable. Oppression and resistance, abuse and survival, death and life, desire and ambivalence surround everything. These contradictions and ambivalences plague each corner of existence and are at the root of many struggles.

The body has been used as a silent act of resistance, as a blatant force of exploitation, or even as a nuanced representation of past hurts, recognized only in the raised, rough skin of scar tissue. And yet, how is it that many bodies together can form a collective identity, one that co-constructs a specific collective memory? My interests lie here. Between the individual and the

collective, between what is said and what is silenced. Resistance and oppression take many forms, as do power and silence. This is what fascinates me; the everyday acts of silencing that are overlooked, the individual acts of resistance which go unnoticed or even still, how the absence of voice, the act of remaining silent, is too a form of power.

As a student/clinician/writer/human I have many questions. Questions about identity and identity formation and repression. How do power dynamics and the social construction of identity categories—according to race, gender, sexuality, class, ability and body image—lead to internalized oppression? What leads us as people down our individual paths? What causes one person to act out internally and another to act out externally? How does an entire culture watch atrocities happen around them and not be compelled to act? Or even still, how can they be complacent in these acts, implicated directly and perhaps still not even recognize their own tacit consent?

This research endeavor is troublesome. It beckons to the forefront taboo topics that elicit discomfort, rage and disgust. Sexual violence, child sexual abuse, racism, homo- and trans-phobia; these topics are complex, nuanced and obvious all at the same time. As the writer/researcher of this project it felt at times as if I was entering into this topic from the wrong direction, why would I be critical of one of the only laws in place to address sexually violent behavior of which women, children and queer people are so often the victims? However, as a critical feminist committed to understanding the interlocking nature of oppressive systems, the more I researched, the deeper I got, the clearer it became that to critically analyze the impacts/effects/intent of Sex Offender Registration and Notification laws (SORN) is the perfect point of entry into problematizing the existence of rape culture in the United States. (Please note that this paradoxical approach/entry into this research will be explained further in Chapter I.)

It is for this reason I felt it was of the utmost importance to take a step back and contextualize all of my entries into this topic; from the personal, to the academic, to the political. My own story and personal interest in how the body is at times used as a source of power, regulated and commanded, and even reduced into commodity, runs as an undercurrent to the entirety of this work. From historical events, policy, media images, to law enforcement, the bodies of men, children, women, and queer people are at the forefront of this discussion. The collective national identity (as a metaphoric body) is too in question here.

Locating Academia

I spent my student career intersecting both methodologies and theory, finding that the study of the mind and the internal experience *cannot* and *should not* be separated from history and further still, that the experiences of the writer/researcher/clinician should be named and located within the context of that work. Locating myself in this place is the reason and intention for this preface. However, as my identity as a student is particularly salient in this project, it is of great importance to recognize the privilege of academia and the power bestowed on those within this institution.

Pursuing a graduate school education was never a question. I am a self-identified nerd, and have an immense love for academics. I get excited over readings and heated in discussions, and more often than I like to admit, write essays in my free time. However, I have also always had a love-hate relationship with academia as both institution and system. I have observed pretentiousness in the academic world and undeniable privilege. There are doors that open for some and not for others. This power and elite status that often comes with higher education, has been built on the backs of oppression, neglecting the needs and offers of the "other", whether it is based in race, gender, class, religion, ability or sexual orientation.

Given that this work is an effort to fulfill requirements for my graduate school education, it is important to own that this academic pursuit is both a motivating factor and powerful force in this research. That being said, however, my interest in this topic is not purely an exercise in academic masturbation, nor is it intended to rest solely between these pages. Just as the professional identity of social work prides itself so readily in its call for social action—so too is this research endeavor. It is in this effort, a humble, utterly incomplete, yet earnest attempt to connect these long ago severed dots, that I plea for your attention as a reader, as an academic, perhaps even as a social worker—but above all else as a human.

My academic interests lie in the intersections between collective cultural memory, trauma theory and internalized oppression. I have seen how these themes have strung together like beads, creating a chain and laying a path that I have followed throughout my life—academically, personally and professionally. This is the path that led me to pursue a career in clinical social work. I seek to explore how aspects of human suffering on the macro-societal level inform the micro-individual experience and vice versa. How does society play out trauma collectively, in what ways are cycles repeated and messages coded into behavior?

Further, I am particularly interested in the technologies of silence and trans-generational transmission of trauma, from the family, to history, to the collectivity. Like myths, stories that seem almost legendary are passed on from generation to generation either explicitly or implicitly. We become entangled in these histories, spending time raveling and unraveling in effort to understand, to make sense of what has been given to us. How are identities crafted through stories and memories, or rather, how are they crafted through the memories which are left unspoken, the stories that remain locked in by silence or written out of history? Just as trauma

repeats until the unconscious has healed its wounds, history too repeats itself and is passed on from generation to generation or society to society, until the silence is broken.

Convocation

Because this research is rooted in analyzing history and critiquing discourse, language and word choice is important and carries with it power, intention, and latent meaning. As a reader you may not always agree with my choice of words or appreciate the way language is strung together to make meaning. I do not shy way from potential critiques, criticisms or questions. Know that careful attention has been made to language and therefore it has been used with intention and purpose. I invite you to get angry. I am not asking you to agree or blindly accept my interpretations. I do implore you however, to ask questions, talk to someone else, to start a conversation and stop being silent.

We live our lives across multiple discourses and have different identities. We engage/embrace or are *permitted to* embrace certain identities at various times, identities that interlock and intersect. How can we create a discourse for all of our identities to be spoken for? The individual, the familial, the communal and the collective all function simultaneously as the "I" and the "We". I am interested in the connections and the spaces that are left outside of those forged boundaries. I am interested in repetition, ruptures and recovery—in silences and the unspoken. I am interested in the stories that aren't written about and the questions that are left unasked. I am curious about collective identity and the choices that are made explicitly, implicitly or even by omission.

I seek a community of professionals who are willing to interrogate and look critically at the system. I long to join a body of clinicians who work to integrate, not faction themselves off, to provide a place where therapist/activist/ally/educator are one and the same. I yearn to be part

of a body of professionals who understand how oppression is traumatic and trauma is oppressive. I seek a community of colleagues and academics alike, those who can ask questions and also admit that we are all participants, observers, victims, survivors, perpetrators and witnesses in this life together. We are also potential healers and allies.

History. Location. Trauma. Identity. Voice. These entities are unique to the self and to the collective. What I find fascinating is that each individual's story is original and unique, but also universal. The common, shared experience is that there is a story waiting to be told, histories waiting to be remembered and many voices waiting to be heard. I invite you to join me on this journey, to sit in discomfort, and to scoff and get angry at what lies between these pages. Be curious. Be outraged. But above all else to ask the question: What next?

CHAPTER I

Introduction

Myths, Morals and Meaning Making

Both academia and the political arena are in the business of meaning making. These institutions embolden rhetoric, reify discourse, and saturate language with loaded ideology. It is the widespread use of language or, at times, even the absence of language that co-constructs, implants, and begins to shape and assign meaning to a collective identity and in so doing also packages what or *who* that identity cares about and values. The construction of collective meaning and memory is a theme that is of importance in understanding individual identity formation, collective identity, and the ideological underpinnings of hegemonic discourse. This business of meaning making is not divorced from the process of producing public policy and legislation.

Societies are prone to creating myths and stories about various aspects of life. Some of these narratives provide comfort, or instill values and morals and still others offer cautionary tales about what lies in shadows, and various dangers that tempt to throw one off the righteous path of good citizenry. These stories are created and digested into popular discourse through a variety of mediums, from bedtime stories and fairytales, to television, films, history books and even public policy. These narratives are woven and embedded into the collective consciousness and passed on from one generation to the next—sometimes in the form of whispered warnings and in other ways they become codified into law.

Some of the myths circulating through dominant discourse in United States are that of the "sexual predator", "sex offender", "pedophile" or "sexual psychopath" (Jenkins, 1998). Although the labels/names/categories for such individuals have shifted and changed slightly over time—the latent meaning/belief behind said label remains constant. When one hears the words sex offender strung together there is usually a particular image, association and emotional reaction elicited from the dominant public's collective memory/imaginary. In Morrison's study of sex offender registries he raises a similar question:

> What do you imagine when you hear the words 'sex offender'? It is probably reasonable to assume you think of a person who is most likely male. Beyond that what else do you picture? Is this person bathed in light, or do shadows obscure his face? Is this person clean or dirty? Clean-shaven or scruffy? Is he smiling, sneering or frowning?...If you are like a large number of Americans the person you see is deceitful, apparently trustworthy, but actually quite dangerous…When you think of the crimes he has committed, you are outraged and disgusted. (Morrison, 2007, p.24)

Throughout history, no matter the form, shape, description the "sex offender" of that time embodied—the public/social/legal response has been one of exile—with the indignant outcry that is a tacit agreement amongst all that "they are not like us"(Morrison 2007; Kernsmith, Craun, & Foster 2009; Kincaid 1998). Such public attitudes and fears have fueled the rhetoric that has written these myths/facts/stories/atrocities into the moral fabric, storybooks, history texts and legal statutes throughout U.S. history.

No topic simultaneously fascinates, disgusts, intrigues and occupies more energy in the hegemonic dominant U.S. discourse more than sexual violence. Sex and violence. Television shows such as *Law and Order SVU*, which chronicles a fictionalized account of Manhattan's sex

crime investigation unit has been an Emmy award winning show running for the past 13 years (NBC Broadcasting). The occurrence of rape in prison and jails has become so widely accepted and even expected that it is readily used as a passing joke ("Don't drop the soap!") or a reference of vindication as an individual is convicted of a crime ("Don't worry, he will get what he deserves!"). Yet still the show *To Catch a Predator* airs on one channel while *Tots in Tiaras* airs on another. Thousands sit on their couches simultaneously fixated on voyeuristically catching the "predatory pedophile" while switching to the watch the spectacle of a sexualized 3-year-old wearing a bikini in full make-up and spray tan dancing to "America the Beautiful" during a commercial break. This duality dichotomy is not accident nor coincidence and it cannot be separated or removed from the values, beliefs and desires underwriting the stringent sex offender registries (SOR) and subsequent community notification policies enacted throughout the last two decades on a state and federal level.

It was quite poignant and interesting engaging in research around the topic of rape, sexual violence, and child sexual abuse during the wildfire-like coverage of Jerry Sandusky and the Penn State scandal this fall 2011. The details and atrocities endorsed in the grand jury indictment aside (40 counts over a 15 year period), perhaps most interesting of all was the riots of outraged students that broke out in response—not in protest of the horrific accusation of child rape and sexual misconduct—but instead trucks were flipped, property was destroyed and over 4,000 individuals marched in protest of the termination of their beloved head football coach of the Penn State Nittany Lions, Joe Paterno, due to his knowledge and subsequent covering up of the alleged crime (Schweber, 2011). This irony did not go unnoticed—but sadly it encapsulated and embodied the dissonance and contradictions at the heart of my research question. How does focusing the efforts to prevent sexual violence and sexual abuse rest solely in the policies

constructed on registration and notification of sex offenders protect the communities most vulnerable as it is intended? Coaches, preachers, teachers, priests, neighbors, uncles, husbands, boyfriends, fathers are so often the "predators" entrapping and violating youth and women yet it is the fear and perpetuation of "stranger danger" that is so articulated and strengthened—in the minds, hearts and policies enacted on a state and federal level. It begs the question: Who and what is really being protected?

Introducing policy: Sex offender registration and community notification

Although laws and policies to regulate sexual practices spanned the breadth of the 20th century, they have always been present throughout history and even date back to Puritan codes for sexual morality (Morrison, 2007). These laws have originated and continue to be enacted to repress heterodox sexualities and have had particularly been used to target homosexuality[1] and queer[2] sexual practices (Morrison, 2007; Fischel, 2010). When sex offender legislation is

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[1] This inclusion of the word queer is an intentional subversion of the assumption that homosexuality refers to a homogenous group. Including queer identities and sexualities within those groups who have been targeted by such (SOR) laws is in the effort to recognize that the term homosexual implies a sexual and romantic relationship between members of the "same sex"—which implies that gender and sexuality exist within the binary systems of male/female and heterosexual/homosexual, thereby "queer" embodies a larger spectrum of sexuality and gender expression.

[2] The term queer is used here express that there is an entire range of gender expression, sexual orientations, and behaviors that are also considered to be outside heteronormative behaviors that may not be considered homosexual. Turner (2004) explains: "…queer theorists typically begin with a poststructuralist suspicion of epistemology and the representational function of language,

4

thought of currently, generally it is pertaining to a series of state and federal acts that were

passed throughout the 1990's. In 1994 the Jacob Wetterling Crimes Against Children and

Sexually Violent Offender Registration Act was passed by congress. The Wetterling Act

mandated that all sexually violent offenders and offenders who committed crimes against

children register with law enforcement agencies for at least 10 years (Wagner, 2011, p.265). In

1996 Megan's Law was passed which expanded the mandated registration to sexual offenders

who did not target children and those who were not found to be violent offenders. Of note is that,

under Megan's law, registries were made publicly available and included provisions for

community notification policies (Wagner, 2011, p.265).

The Pam Lyncher Sexual Offender Tracking and Identification Act of 1996 and the

Adam Walsh Child Protection and Safety Act of 2006 then extended these notification and

registration requirements by extending the length of time required for registration, establishing a

national database, and creating more stringent rules for notification practices (Wagner, 2011,

p.265; Wright 2003). Under the Adam Walsh Act one of the provisions was to link the state's

registry, which must now include an offense-based classification system, to the national

registry's website (Wagner, 2011; Wright, 2003; Meiners, 2009). Additionally, if states did not

comply with these registry mandates by 2009 they were at risk of losing federal funding (Wagner

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and they empathize the fragmentation rather than the coherence of individual identity. They see

language as playing a fundamental role in shaping human understanding of the world, requiring

individuals to adopt recognizable although unstable identities—"male" or "female,"

"heterosexual" or "homosexual"—in order to communicate with others, often perpetuating

oppressive meanings and practices even among those who wish to eschew them (p. 484).

2011; Schiavone & Jeglic 2009).   Further description of the details of these acts and the sociocultural and historical context in which they were passed will be offered in Chapter II. Of note however, is that these several laws which were passed in succession in the mid 1990's and were named after high profile and media sensationalized abductions of children (Megan, Adam, Jacob) will be referred to as SORNA or SORN polices (Sex Offender Registration and Notification Act). This label will encapsulate the registration and community notification components of each act (components that distinguish these acts from other previous laws in history,) however, in an effort to unhook from the conscious and unconscious invocation of children's stories by using their names in the legislation title—they will be referred to in conjunction as SORN policies.

My research interest is in conducting a critical discourse analysis (CDA) of the Sexual Offender Registration and Notification Act (SORNA). CDA employs a detailed analysis of linguistics, and allows for the deconstruction of how language is used and how and what meanings get attached to words and become signifiers for latent ideologies (Hall, 2001). This research analysis will include using a postmodern framework to problematize the impact, intent and implications of SORN policies and understand the historical context for such policies.

This theoretical study is multilayered and will interrogate policy from many angles: 1) to deconstruct the legislation itself (logistics, stipulations, restrictions and enforcement); 2) the impact such policies have on individuals who are required to register; 3) the impact on communities in creating public spaces that are increasingly policed and regulated and thereby aiding to the expansion of the prison industrial complex; 4) the implications and effectiveness sex offender registries (SORs) have in preventing sexual predatory behavior and acts of sexual violence; and 5) the implicit values and beliefs underlying hegemonic U.S. discourse

surrounding sexual violence and abuse. Conducting an analysis of how SORN policies are written, the historical context for the regulation of sexual practices, and the intended and unintended consequences of enforcing such policies will elucidate how legislation is used to validate dominant constructions of gender, sexuality, and innocence. By reifying signifiers for such constructions and bolstering widespread acceptance of these categories as objective truths, sex offender registration and notification regulations function to protect White heteropatriarchy, capitalism and the prison industrial complex.

If the pulse of the nation is to relate to the topic of sexual violence, childhood sexual abuse and criminality with a disorganized attachment style (to borrow a term from the psychodynamic field of psychology)—a way of relating that is contradictory and chaotic (simultaneously disgusted and fascinated)—then the heteronormative praxis must be unraveled and disentangled to understand what is at the root of such contradictions. By constructing what and who gets deemed innocent and who and what gets marked as deviant and dangerous, SORN legislation consequently strengthens dominant paradigms of White, upper/middle class notions of motherhood, childhood and acceptable sexuality by making meaning of erotic innocence and constructing the "predator". In order to understand these ideological constructions that carry both intended and unintended consequences, it is necessary to reframe SORN legislation through a different lens and framework.

Constructing Femininity: Categorizing innocence

Throughout global history, but specifically citing here the United States' sociocultural and legal context, the bodies of girls, women and queer individuals have been consistently criminalized and become categorized as deviant, hypersexual and criminal (Balfour & Comack, 2006). This can be seen throughout U.S. history in a variety of ways, but is most explicitly seen

through legislative precedents, including anti-miscegenation laws, welfare policy, eugenics, forced sterilization, and legislation regulating the sex work industry. Ideology and common beliefs get coded into meaning through symbols and reinforced through images. One only needs to look to the media as a mirroring reflection of dominant beliefs. Images such as the "welfare queen," "prostitute mom," and "sexually promiscuous teen" are common portrayals of poor women and girls and particularly poor females of color (Belknap, 2001; Maidment, 2006; Balfour & Comack, 2006). These images do not get applied as a "one-size fits all" narrative however, and are deeply rooted in gendered, racial and sexualized beliefs and are predominantly attributed to the bodies and identities of poor women and women of color.

Conversely White women/girls and more economically privileged females are permitted to embody the identities of "good mother," "innocent woman" or "innocent child" more readily and largely without contestation. This distinction is clearly demarcated, as the precipitating events for the passage and creation of a national registry for sex offenders was the highly publicized murder/abductions/rape of particular White children: Megan Kanka, Polly Klaas, and Adam Walsh (more on this in Chapter III).

These categories (deviant, criminal, bad mother) simultaneously rub against and co-create the quintessential embodiment of all that exists as truly feminine: innocence. As discussed, certain women and children are afforded the label of innocence while others are demonized as deviant and criminal—such dissonance is explicitly demonstrated within the media coverage of sexual victimization of children that swept through the nation during the 1980s and 1990s. This particular distinction of who readily gets digested as "innocent" (read virginal) and therefore worthy of national attention is important as it will underscore the latent racial undertones to the discussion of whose children need and, more importantly, deserve protection.

The Technologies of Policy: codification of ideology & legal rhetoric

Ideology is also intrinsically connected to policy and legislation. The sociocultural historical context in which a piece of legislation is written is the most salient evidence and indicator of the symbolic rhetoric and meaning behind the policy. Locating the answers to "who, what and why now?" will indicate the pulse and the ideological underpinnings of a particular policy. Ideologies interweave through every aspect of society; they help mold and shape individuals' and families' value systems and moral codes. Ideology is what helps society make meaning of everything. Ideology saturates institutions, decision-making and the thinking of the most influential power holders. Blau & Abramovitz (2010) explain:

> Mainstream ideology defends and rationalizes a society's particular social legal, moral religious, political and economic arrangements. It does so by (1) spelling out social norms and stigmatizing departure form these prescribed behaviors, (2) blaming social problems only on individuals without considering social conditions, (3) justifying social inequities instead of remedying them, and (4) otherwise suggesting that the existing status quo is natural, inevitable, beneficial, and best left unchanged. (p.133)

Additionally, ideology intersects with social welfare policy in that a particular ideological framework will drastically affect how certain issues are defined, namely: the character of human nature, the relationship of the individual to society, the determination of need, the role of government, the meaning of work, the nature of family, and the interpretation of racial/social inequality (Blau & Abramovitz, 2010). Without a clear understanding of the ideologies sewn into the hegemonic discourse surrounding sexual offending, gender performance, sexual violence and the construction of family the latent content and symbolic indications of SORN legislation would be entirely missed.

My research interest lies in unpacking how legal rhetoric informs policy formation and codifies embodied identities (e.g. sex offender) as a digested/static category, while simultaneously bolstering a dominant hegemonic discourse that supports and reifies rape culture and the eroticization of children. Blau & Abromovitz (2010) explain:

> On a larger scale, ideologies perform several important functions. They explain and lend legitimacy to the wider society by establishing the basic values that everyone is supposed to adhere to. They provide individual members of society with a shared identity grounded in socially defined customs, language roles, symbols and values. (p.133)

SORN legislation actually functions to reinforce dominant narratives of motherhood and childhood by constructing who is permitted to embody innocence, and allows sex offenders to be a scapegoat for a culture that both scaffolds and feeds off of misogyny, the eroticization of minors, sexual violence and institutionalized homophobia.

Further still, the actual and literal process of creating new legislation involves legislative debate and testimony. Although many scholars and critical commentators explore legal rhetoric in the crises, precipitating events and social tenor that pulsates and leads to new legislation, Filler (2001) points to a significant, yet ultimately paramount gap in the analysis:

> …Commentators explore the role of rhetoric in constructing law, legal power relationships and even public perceptions of social crises that lead to new legislation…Despite the relentless focus on rhetoric in every nook and cranny of the law, commentators have forgotten the rhetoric of arguably the most important players in the legal production process: legislators, the lawmakers of themselves. Scholars have largely ignored the rhetoric of debate. (Filler, 2001, pp. 319, 320).

During the cultivation and push for SORN policies to be implemented, there was an impressive amount of storytelling, debate and personal narrative invoked by state and federal legislators and lobbyists alike.   Filler explains further,

> …This gap in literature is quite remarkable. Not withstanding the importance of judicial and courtroom rhetoric of legislative debate demands special scrutiny. Legislative debate is highly public process, concerning public problems, with serious and far-reaching consequences. The study of legislative rhetoric is essential to comprehending what laws we have, why we have them, and how they will be applied in the future. (Filler, 2001, p. 321)

Understanding the legal rhetoric and spoken and unspoken meanings and values behind these illustrations is paramount for unpacking the nature of SORN legislation.

Rationale: Locating the Research and Researcher

Further research on this subject would benefit and have impact across a multitude of disciplines from social work, law enforcement/criminal justice, community based programming, to public policy and legislation. It is not a leap for one to understand why undertaking research pertaining to sexual violence and child sexual abuse is relevant to social work practice, as the immediate and long-term effects of surviving sexual trauma has been extensively documented (Herman, 1999). It is however, perhaps an odd point of entry to problematize and critically analyze the one intervention the state and federal governments have undertaken to try and address and prevent such atrocities from taking place. Taking steps into a critical analysis of the ideological impact of policy, language, and enforcement of legislation will benefit academic discourses and have broad implications for impacting work centered in social and economic justice.

11

It is important to note the approach and intentional point of entry into this research process. Highlighting the detailed and sordid accounts of sexual violence against women and children as recounted and sensationalized in the media, only obscures the categories of meaning that have been constructed and are embedded beneath the master (read oppressive) narrative itself. Meiners (2009) explains the dangers, consequences and trappings of commodifying survivors' stories:

> The heteronormative innocence of selected white women is enshrined in policies and in the very conception of the nation-state itself (Smith, 2005)…The state establishes to protect the innocence and safety of particular women and children. Too often, constructs of the *good*, the *bad*, and the *innocent* are simply mobile artifacts that often shield racial privileges, rationalize gender and sexual oppression, and perpetuate systemic institutional ignorances (Sedgwick, 1990; Mills, 1997). (p. 36)

The exotification of these stories seeks to simultaneously satisfy the hegemonic discourse's desire for and attraction towards the eroticization of children—while concurrently repelling and disowning any involvement, splitting the collective identity's observing ego and scapegoating sex offenders as the one and only culprits of sexual abuse and violence. In this constructed narrative *they* (sex offenders) act alone and the rest of *us* "abhor" their actions while reading/writing/televising the nature of "their" crimes repeatedly for our consumption/satisfaction. Additionally, such focus and emphasis on "victims" stories is also saturated within the paradigm of individualism and obscures the centrality of systems of oppression (which are carried out and reified through legislation and law enforcement) that manifest these stories in the first place.

Although it may seem contradictory as a feminist to sit and deconstruct, trouble and interrupt legislation aimed at intervening and preventing sexual violence against women and children, my research and analysis is intended to highlight the contradictions, confounds and counter-indications of such legislative practices. Meiners (2009) writes about sex offender registries and notification laws as they pertain to the ever expanding and far reach of the prison industrial complex. As Meiners puts forth, SORN policies only feed the United States' proclivity towards becoming an incarceration nation and at the expense of the lives of women, queer people and people of color:

> Through problematizing sex offender registries, troubling childhood, and questioning constructs of sexual normalcy and deviancy it is not my intention to minimize persistent, pervasive sexual violence against children and women by challenging the limited efforts of the state to actually care or to do something…Rather…the state has always valued the lives and innocence of specific children and women more highly than those of others, and both innocence and sexual normalcy continue to be used to cloak regressive, heteronormative, and punitive state practices. (Meiners, 2009, p.36)

I echo Meiners' sentiment that this research is not meant to obscure, minimize or trivialize the very real horrors and undeniable resiliency of sexual violence survivors—on the contrary there is an epidemic occurring. There is an epidemic of sexual abuse, coercion and violence in the U.S. and globally, it is an epidemic that at once is named and ignored.

This research is an effort to turn towards, not away from this collective denial/vigilantism that scaffolds transnational rape culture. This point of entry is an attempt to move away from and interrupt a "victim-centered" discourse that places implicit blame on women/children and explicitly place sole blame on those individuals registered as sexual offenders. I hope to center

SORN laws and the enforcement of them as the problem, illuminating unequivocally how these policies serve as a conduit for the White, heteropatriarchal, capitalist agenda that functions to bolster the policing of public spaces, engenders the image of the "predator", and ultimately provides permission and space for a culture that actually supports and perpetuates the sexual exploitation of women and children.

No researcher can claim objectivity, as we all exist in relation to the world and occupy various social identities that afford us various privileges and stigmas according to particular contexts. These identities, experiences, and belief systems undoubtedly impact and influence the work we are interested in and what methods we chose to utilize. As a White, cis[1]-gendered, queer, MSW student I come packaged within a certain frame of reference. I enter into this research project aware of how my multiple identities as woman, and a queer woman inform my own experiences of oppression and regulation.

Similarly, it would be remiss to not own and explicitly state how my privileges as a White person living in the United Sates, with access to education and social capital also impacts my lens and influences my frame of reference as a researcher. These privileges get enacted in conscious and unconscious ways on a daily basis and will undoubtedly influence this study, yet it

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[1] The term "cis" is used here to denote that I am female bodied and my gender identity is fluid and congruent with the biological sex I was assigned at birth. The intention of demarcating such a distinction is to recognize that dominant culture readily applies the terms "trans" before gender when speaking of those individuals who identify as trans-gendered or gender non-conforming. By using an identifier for those who are born with gender identity and biological-sex congruence it de-centers this privilege as an assumed location for all.

is my hope to constantly re-evaluate these confounds and limit the amount of bias that may occur.

Additionally, utilizing CDA through a postmodern framework inserts a certain bias from the beginning as it locates my research and centers it in a particular frame. I make use of these lenses specifically, explicitly, with intention and without confusion that these theories enter into analysis with specific goals—to deconstruct, and contextualize events, policies and discourses within a neo-colonial, heteropatriarchical praxis. However, as highlighted above, policy, history, rhetoric and law do not exist outside of personal ideology and value-laden discourse— there is no account of any moment in time that is not from a subjective standpoint. Therefore being explicit about one's various social identities and theoretical preferences allows readers to read, synthesize and digest this research with informed consent.

Furthermore, one may wonder what importance such a topic, style of research, and analysis may have on clinical social work practice. Social work as a field, and as a professional body of knowledge, has rooted and prided itself on a more inclusive nature of the person-in-environment perspective, especially when compared to its sister field of clinical psychology. With social work's layered interest in individual well-being, community building and policy advocacy—all acknowledged professional aims to promote social and economic justice as outlined in the NASW code of ethics—it is paramount that clinical work and research be simultaneously located on behalf of both the individual and social systems at large.

There is danger in researching, writing and theorizing within the context of individualism (Sudbury, 2005). She explains, however, that the purpose of this kind of analysis is not to trivialize the importance of the individual (or an individual's real experience of sexual trauma); rather its purpose is, "to connect the individual and personal with macroeconomic and

15

geopolitical analyses" (p. xvi). It is just as important to understand the impact of socialization and dominant ideologies (on both the client *and* clinician) in building a therapeutic alliance as it is on articulating a client-centered treatment plan, although most social work literature would privilege the latter. Therefore locating and centering the ideologies and discourses that inform, and mutually create policy and legislation can be thought of as therapeutic intervention in and of itself, one that will help shape how clinicians interact, understand and intervene with their clients' lives.

Chapter II will include a historical explanation for policies intended to regulate sexual behavior throughout the history of the United States. Current SORN policies will be analyzed and discussed in detail at a state and federal level in Chapter III. SORN policies will be located in the sociocultural and political context of the time they were enacted and the ideological underpinnings will be examined. Chapter IV will introduce the theories of post-modernism and critical discourse analysis (CDA), while providing an explanation of background social theories that these theories evolved from. Chapter V will provide the framework for psychodynamic theory, Ego Psychology and Object Relations Theory. With a background in how these psychodynamic theories understand the individual psyche, the concept of Collective Identity, and Collective Trauma will be introduced so that the concepts of psychodynamic theory may be applied to a collectivity (in this case dominant U.S. discourse). The collective behavior of national identity will be understood by using psychodynamic theory in tandem with a critical discourse analysis that utilizes a postmodern and critical feminist framework. Chapter VI will provide a discussion of SORN policies through the lens of postmodernism in order to highlight connections to the prison industrial complex, historical practices, the eroticization of children, the scapegoating of "alternative" sexualities and the epidemic of sexual violence within the U.S.

CHAPTER II

Sex Crimes: History, Religion & Regulation

The following chapter will briefly outline the historical precedents of regulating sexual practices through policy from the early American colonies through the 1980s. By tracing sex crime policies to Puritanical codes and Christian ideologies one can clearly see the religious link and overtones to what is now known as sex offender registration and notification laws that were generated in the 1990s. Understanding who and what was deemed deviant, predatory and immoral throughout U.S. history is key to understanding and unpacking the formal and informal consequences of public registries and community notification requirements today. This chapter will address the various sexual acts that were considered immoral and illegal throughout history, as well as the changing and evolving labels for individuals accused of committing these acts from colonial times up until the 1990s. The details and description of Sex Offender Registration and Notification (SORN) policies enacted in the last decade of the twentieth century will be outlined in the Chapter III.

The Colonies, Puritan Morality Laws and The Crime Against Nature

Although the focus of this research study is to critically examine and understand the latent content and consequences of sex offender registration and notification laws on local, state and federal levels, laws regulating sexual practices in the United States are far from a new or unique occurrence. Dating back to settlement in North America there has been elements of strong regulation around moral actions and persecution of such individuals who committed such

sins or "crimes against nature" (Eskridge, 2008). In the 18th Century the colonies made the

"crime against nature" a capital offense, yet these crimes were illusive and hard to define—often

thought too horrid and disgusting to detail in writing (Eskridge, 2008). In fact,

> …Deviant sexual behavior inspired such horror that cases are rarely described in detail,
> making it difficult for someone today to determine the exact nature of the original
> offenses: indictments in homosexuality cases, for example sometimes refer only to 'the
> crime not to be named among Christians'. (Jenkins, 1998, p.22)

Christianity's influence over early codes and laws is strongly evident, the Puritan law invoked

similar practices of public notification, shaming and punishment of those accused of deviant

sexual practices—policies that are not unlike today's SORN policies (Morrison, 2007, p.36). It

is clear that,

> …Christianity's influence over American society is strong…felt most strongly in the
> realm of sexuality, as well as alternative, deviant sexualities that exist outside of the
> norm. It can scarcely be denied that biblical sexual prohibitions have had a major effect
> on Western Law. (Morrison, 2007, p.32).

The Puritans valued the familial, patriarchal order, and reproductive order of marriage

and considered sexual practices representative of the "covenantal bonds of marital love between

God and His people" and sex became the specific "carrier of social meaning" (Morrison, 2007,

p.35). Sexual practices such as sodomy, bestiality, fornication, homosexuality and adultery were

among the long list of crimes prohibited in the early colonies. Jenkins (1998) explains that,

> …These acts were forbidden because they were regarded as grave sins, and this religious
> consensus was reflected in the law of civil society. Nineteenth and twentieth century

concepts of perversion and sex crime were superimposed on legal codes founded on the

very different concepts of sin and immorality. (p.22)

The acts that were considered immoral and unspeakable were concepts or interpretations made

from the bible. It is undeniable that early biblical teachings have been encoded into early law

and elements of religious undertones carry through to modern law today, as "…society imposes

its moral judgments about sexual conduct through the law" (Morrison, 2007, p.33)

Sodomy or buggery (other names for what was considered to be a "crime against nature")

was a crime that was ambiguously defined but vehemently outlawed in all of the early colonies.

Generally, the acts considered so abhorrent, included anal sex of a man against another man,

boy, woman, girl, or animal (bestiality), and adultery. Sodomy is rooted in Biblical scripture and

is a reference to the story of Sodom and Leviticus 20:13 states, "If man lies with a male as lies

with a woman, both of them shall have committed a crime an abomination [to the Lords]; they

shall be put to death, their blood is upon them" (as cited in Eskridge, 2008, p.16). Colonial

sodomy laws generally had three main goals; 1) to protect vulnerable persons (minors, women)

from sexual assault; 2) to protect the procreative nature of marriage through the persecution of

such crimes; and 3) to maintain purity and order within a community. During the 17th century

sodomy and other sexual morality laws were enforced aggressively throughout the colonies.

(Eskridge, 2008, p.19)

During the struggle for independence and the establishment of the United States, there

was less emphasis and enforcement on sodomy laws. With the exception of the Carolinas,

between 1786 and 1826 all 13 original states revoked the death penalty as a punishment for

sodomy. As notions of freedom, individualism and independence characterized the development

of the young country, there was less emphasis on Puritanical beliefs of enforcing a Christian

society (Eskridge, 2008, p.23). When the 14th Amendment was added to the Constitution in 1868, twenty state codes made "crime against nature" a felony, other states included "sodomy", "buggery" or "carnal knowledge" as well to the list of criminal acts (Eskridge, 2008, p.32). As the United States developed its independent and carved out notions of morality and social acceptance, despite an intentional move away from the religiosity of the colonies, its established laws were still saturated in the same rhetoric of morality and purity. Eskridge (2008) explains:

> There is a broader way of understanding the body of American sodomy law that connects the Puritan regime to the one in place after the Civil War. While criminal law is primarily prohibitory, when the state prohibits, it also allows, and that allowance may be viewed as a form of encouragement. By outlawing many sexual activities, the Puritans' seventeenth-century code of crimes at the same time endorsed and normalized a Bible-based code of conduct. (p. 23)

These laws ebbed and flowed throughout history, yet they always existed in some shape or form and were guided by the principle of protecting purity (of women, children and the White race) and helped create and construct a community identity.

As urban cities began to develop and public parks, restrooms, and other spaces became more commonplace, the invention of the zipper for men's pants in 1893 "fueled an explosion of fellatio in the generations after the Civil War" (Eskridge, 2008, p. 50). By the late 1890s the crime of sodomy was expanded in definition to include oral sex (mainly referring to fellatio, however in a few states this also included cunnilingus). In many states these acts were named as "any act of gross indecency with another male person" or "lascivious acts" (Eskridge, 2008, p.51). Through the 19th and 20th centuries the crime of sodomy carried steep and varying penalties through all of the states and encompassed varying acts at different points in time. In

20

Wyoming a charge of sodomy carried a 4-year sentence, while in Indiana the conviction led to a 15-year sentence (Jenkins, 1998, p.23).   In 1915 Massachusetts had crime statistics that included a category of offenses "against chastity, morality and decency"(Jenkins, 1998 p.23).

Age of Consent and the Legal Embodiment of Innocence

Included in indecent sexual practices were encounters that involved children. Sexual abuse, rape, and molestation of young and pre-pubescent children are not a new phenomenon. There are multiple accounts and records of child molestation throughout U.S. history and in fact, as far back as 1894 it was recorded as a widespread social problem stating, "rape of children is the most frequent form of sexual crime" (Chaddok, 1894, p. 543 as cited in Jenkins, 1998, p.15). Although during the late 19th century in the U.S. this was oversimplified to be a problem plaguing children of the poor and working classes—ironically this was during the same time in Europe in 1896 that Sigmund Freud published his findings regarding the high occurrences of incest and sexual abuse among the bourgeois clientele—which he later refuted due to sociocultural pressures (Jenkins, 1998, p.15). Who was considered a child at various times had a great impact however, on defining the problem of child sexual assault or molestation. For instance,

> The American colonies followed the common law principle that, before a certain age, a girl was too young to give valid sexual consent to sexual activity. Most jurisdictions defined sexual intercourse with a girl younger than ten as rape or carnal abuse, while sexual interference short of intercourse would generally be classified as indecent liberties, "lewd and lascivious acts". (Jenkins, 1998, p. 24)

Therefore, under law, if a child (in this context referring almost exclusively to girls) is over the age of 10, she is legally able to consent to sexual acts.

21

States have the right to set the age of consent individually, however the average age of consent generally is around the same for most states throughout history. Interestingly, consent laws act as a barometer for societal construction for childhood and the embodiment of innocence. In 1787 the age of consent was 10-years-old, in 1887 it was raised from 10 years of age to 16. Twenty-two states established consent at ages 16 or 18 year of age by 1895. By 1896 in many states the age of consent was raised again to 18-years-old. However, there continued to be significant discrepancies in the consensus of age of consent from state to state, as although many states raised the age limit, in 1896 there were still ten states that put consent at age 14. The process of raising the age of consent did not happen smoothly or unanimously, after 1900 five southern states maintained an age of consent at 10 years old and many other jurisdictions established limits at 12 and 13, outlying all other states however was Delaware who maintained an age of consent at 7 years. (Jenkins, 1998, p. 24)

Although one would assume that states are invested in protecting children from the dangers of being subjected to sexual acts before an appropriate age by implementing minimum ages for consent, however it seems that there were particular motivations for ensuring a girl's innocence or purity. Upon closer examination of the enforcement of consent laws or prosecution of individuals who were thought to have assaulted a girl younger than the established consent age there seems to be a particular investment in capitalism, and social class status. Jenkins (1998) explains how age of consent directly correlates with the commodification of girls' bodies for economic profit:

> The moral rhetoric for regulating heterosexual behavior was reinforced by the pragmatic
> motive of preventing illegitimacy and reducing the burden on the public welfare system.
> The harm from which a young victim was to be protected was neither physical nor

psychological but economic, because loss of virginity damaged a girl's marriageability;

protection was extended as much to the girl's family as to her own prospects…State laws

reflected this 'damaged goods' approach when they qualified the simple age limit by

caveats about the girl's character. (p.25)

Further solidifying the notion that consent laws were in essence, protecting the commodification

of girls'/women's bodies is the fact that in many states a charge of rape would only be enforced

if the victim was a virgin or of "previous chaste character. During the mid-twentieth century in

Pennsylvania statutory rape charges were reduced to fornication if the girl involved was "not of

good repute or was known to be previously unchaste" (Jenkins, 1998, p.26).

From Sin to Pathology: Creating the Sexual Psychopath, 1920s-1950s

Law professor and academic, William Eskridge (2008), traces the ebb and flow of moral

panics regarding sex crimes throughout U.S. history. Eskridge implicates a cyclical rhetoric

concerning themes of disgust (sins & immoral acts), fear of pollution (of the White race by

people of color and sex deviants) and gender role conservation (women's movement/sexual

freedom) as the main ideologies underlying widespread public concern and sensationalism over

sex crimes during points in North American history. These themes will repeat throughout

history causing stringent sex offender laws to be passed in the 1910s and 1940s and will

resurface with striking volume again in the 1980s and 1990s and carry through to today (as will

be discussed in Chapters III & VI) (Jenkins, 1998). The term "homosexual did not enter the

English language until 1892" (Eskridge, 2008, p.15), and, as the twentieth century got underway,

sodomy laws, sex regulation policies and media coverage of sex crime/murders and assaults were

characterized by the "sex fiend/pervert/psychopath as perpetrator" narrative and the identity of

this villain became explicitly and increasingly equated with the homosexual.

As the U.S. became an increasingly industrialized nation and factory work making urban cities the social hubs of the nation, newspapers too became the megaphone for the tenor of public discourse. This shift in public discourse highlighted that previously the discussion was about acts that were done by an individual which made him sinful or impure, instead the onus was put now on the individual himself—the degenerate, fiend, sex psychopath who was intrinsically and biologically flawed in their internal constitution and therefore a forever danger to society. Not coincidentally this invention of the sexual psychopath coincided with the booming industrialization of the nation, which also brought further construction of penitentiaries and emphasis on the penal system, as well as the rise of the psychiatric industry. When sexually motivated murder occurred and was reported on a national scale, it led to

> …increased police intervention against those whom they believed to be part of the wider sex crime problem, which often meant homosexuals. The emphasis on fiends and sex criminals would be politically important in diverting blame for the problem of children's abuses away from incestuous fathers and toward dangers outsiders…(Jenkins, 1998, p.37)

This fear of the "dangerous outsider" would often elicit a collective image, one of sexual or racial minorities—mainly gay and Black men.

There was a particular surge of concern about sodomy, sex crimes and child molestation in the late 1930s when a series of sex psychopath statutes were introduced, yet there is no hard evidence that there was an actual increase in sexual assaults of children—it was merely reported on and enforced by police more emphatically (Jenkins, 1998; Eskridge, 2008). Further, most arrests made were of adult men who perpetrated on minor girls, yet nearly the entire public panic

24

was focused on the homosexual "sex fiend" and "child molester". Eskridge (2008) highlights the nature of this collective contradiction:

> We cannot understand the regulatory interest in sodomy without understanding why homosexuality became a national obsession during this period. Social anxiety about homosexuality was fueled by such factors as guilt over a secret boom in oral sex among married couples, nostalgia for old-fashioned marriage, and concerns about racial mixing. As Americans became fearful of a sexual chain reaction that would destroy the nation's moral fiber and expose them to external as well as internal enemies, the resulting philosophy of containment made homosexuals the universal scapegoat. (p. 78)

Individuals projected their guilt and anxiety around there own sexual activities, desires and fantasies onto the increasingly visible sexual minority group, gays and lesbians.

As WWII ended, and fear of Nazis and communism lingered fresh in dominant American discourse, there was a spike in numbers and a fierce articulated nostalgia for traditional marriage in the U.S. Between 1946 and1955 more couples married than in any other point in modern American History (Eskridge, 2008, p.79). These couples had children immediately and were comforted by the notions of tradition and family following the traumas of depression and war. This was also the time period of the GI Bill and the creation of White, racially segregated suburbia which further cemented the idealized version of the all American (White) family.

With racial segregation and suburbia firmly in place there was a seamless reinforcement of already entrenched racism to scapegoat Black men as dangerous hypersexual deviants in relation to the panic over sex crimes as well. With an already perfect scapegoat of gay men and lesbians, dominant White American discourse slid with ease into the persecution of people of color as hypersexualized Black bodies that threatened White racial purity (which is a narrative

that was generated from the institution of slavery). This was most blatantly enacted through Anti-Miscegenation laws and the backlash from desegregation and from the beginnings of the modern Civil Rights Movement. Black men were continuously accused of raping, or attempting to rape White women and children, which justified thousands of lynchings both public and state sanctioned. Sexual incidents have often "ignited racial violence in the United States," and well before the 1950s between the years of 1880-1920 alone rape, attempted rape, or molestation were cited as the justification for 25% of the 4,259 lynchings that occurred throughout the United States and 90% of all lynching victims were African American (Jenkins, 1998, p. 26).

This zealous persecution of Black men as hypersexualized, dangerous aggressors who were a threat to White women and children continued to justify the murders of thousands of Black men throughout the mid-twentieth century. There are no specific data that break down statistics of sodomy arrests by race on national basis, but a survey of state-by-state rates suggests that during this time period in the U.S. Black men were disproportionately arrested. During the 1930s in New York City, only 6% of the city's adult male population was Nonwhite, yet 20% of the city's sex offenders were black, and 21% of the sodomy arrests were of Black men. Similarly disproportional arrests and convictions of Black and African American men for sodomy and sex crimes existed in cities such as San Francisco, and Washington, D.C. throughout the 1940s and 1950s. (Eskridge, 2008, p.81)

There was also a modest migration of Latinos from Puerto Rico and Mexico to urban centers during this time period. Latinos represented a very small portion of the overall population in these cities, yet they were even more grossly overrepresented as sex offenders. In the 1940s California's Mexican population was estimated at 2%, yet they represented 10% of all individuals convicted of sex crimes, 28% of convicted rapists, and 21% of convicted

"sodomists". The ideology guiding this disproportionate response was the "…supposed animalistic sexual conduct and widespread concern with maintaining boundaries or purity…" along racial and sexual lines. Police, prosecutors and judges often showed more lenience and forgiveness for White defendants of sex crimes as was evidenced by the sheer number of individuals of color who were sentenced to prison or jail upon conviction. Racism and homophobia interlocked and connected with this issue particularly as the society was much more likely to be punitive towards a person of color who "dared to have sex with whites of the same sex". (Eskridge, 2008, p.82).

Throughout the 1930s and 1940s there was a resurgence of strong moral politics that once again aligned themselves along the themes of disgust, pollution and traditional gender roles, just as it had in the 1870s (Eskridge, 2008, p.82). The shift in discourse however shifted slightly, emphasizing "racially pure" marriage and "compulsory heterosexuality" (Eskridge, 2008, p.82). Homosexuality and the preservation of Whiteness continued to be the focus of political and legal rhetoric. It was around this time that homophobia became more saturated and institutionalized — with J. Edgar Hoover at the forefront of the fight, backed up by the medical establishment, psychiatric community and criminology experts. During World War II the armed forces began establishing procedures and standards to bar homosexuals from serving in the military. Post World War II saw many efforts of the federal government to ban homosexuals from civil service positions such as teaching, the military, and government positions.

Coinciding with this anxiety was a dramatic rise in the number of sodomy arrests between 1946 and 1970. These post war era arrests included an unprecedented focus on consensual sodomy acts in private spaces (bedrooms and houses). Further still, in 1948 the Miller Act was passed and carried a sentence of ten years for a single act of sodomy, and carried

a twenty-year sentence if with a minor under the age of sixteen. In 1945 California amended its

habitual offender law to include a second conviction of sodomy to lead to an automatic life

sentence—a striking foreshadowing to the stringent Three Strikes Law enacted in California and

across the nation in the mid 1990s (see Chapter III for more). (Eskridge, 2008, pp. 86, 87, 91)

Continuing the trend of the McCarthy era witch-hunt for communists (which often was

equated with homosexuals) the 1950s saw a more aggressive campaign to cleanse homosexuals

from American culture and keep them on the margins or in the closet. President Eisenhower in

April of 1953 signed Executive Order 10,450, which added "sexual perversion" officially as

grounds for investigation and dismissal under the federal loyalty-security program. Over the

next two years over 800 federal employees resigned or were terminated because of suspicion of

"sex perversion". This purging of individuals working in the public sector extended beyond the

military and government positions into the sector of public education. Numerous states adopted

legislation that prohibited employing individuals suspected of homosexual conduct and hundreds

of teachers were fired or forced to resign. Any professions that required state licensures such as

doctors, nurses and lawyers were at risk as well. In an effort to thwart homosexuals from

congregating socially many states also adopted policies that revoked the liquor licenses of bars

and restaurants that served gay and lesbian patrons. (Eskridge, 2008, pp. 99-103)

Persecution, Medicalization and Sterilization: The power of the psychiatrist

As the discourse of around sex crimes continued to shift its focus to the innate and in

some cases assumed biological flaws of the "sexual psychopath", it would be remiss to not

highlight the connections and influence the medical establishment and its cousin, the psychiatric

industrial complex, had on thickening these notions of pathology and need for stringent, long-

term "intervention". This problematic marriage between law and medicine was long established

and continued to grow strong throughout the twentieth century. In most instances, the expertise

of doctors and psychiatrists to determine someone as a "sex pervert" or "degenerate" had dire

and irreversible consequences. As social problems became increasingly medicalized as a

condition afflicting individuals, mental health professionals acted as puppeteers, pulling the

strings and guiding the actions of the penal system at large.

Sterilization and Eugenics: As the crime against nature and sodomy statutes were being

expanded to include the vague and ill-defined categories of, "contributing to the delinquency of a

minor", "lewd and lascivious acts", "improper liberties", and enticement of minors to "commit

masturbation", the response to such crimes became increasingly more severe. Doctors and

psychiatrists posited that "rape, sodomy, bestiality and habitual masturbation" were serious

crimes that should result in the loss of civil rights for the offending sex deviant—from the right

to vote to the right to procreate (Eskridge, 2008, p. 54). Over thirty states adopted legislation by

1937 requiring the sterilization of inmates judged to be "moral or sexual perverts", specifically

targeting "sodomites and degenerates" (Eskridge, 2008, p. 55; Jenkins, 1998, p.43).

Sterilization was enacted with enthusiasm; the state of California, between the years 1909

and 1935, performed approximately 10,000 such operations. Eugenics was the goal, as these

conditions were considered hereditary—and the sanctity and purity of who was deemed

acceptable and worthy of having (and creating) life was paramount above all else. Those who

were victims of these eugenic statutes included, "…Rapists, those guilty of carnal knowledge,

sexual perverts, syphilitics, drunkards, drug fiends, habitual criminals, lunatics, prostitutes,

sodomists…because some legislatures considered it hereditary" (Jenkins, 1998, p.43). Those

deemed by society and dominant discourse as "the Other" were particularly at risk; without

cultural and social capital marginalized groups were particularly at risk. As indicated previously,

sodomy and sex crime laws (including vagrancy laws targeted at males and sex workers) were already explicitly and intentionally targeting homosexuals and people of color, therefore the act of sterilization too, overly impacted these communities of people more than any other groups. Forced sterilization with its intention for restricting the ability to procreate has genocidal implications.

Involuntary Commitment and Mental Disorders: In 1952 the American Psychiatric Association formulated homosexuality as a mental disease and included it as a pathological diagnosis in the diagnostic and statistical manual DSM-I (and was also included in the DSM-II published in 1968). The APA also promoted and advocated for attempts to "cure" individuals from the affliction of homosexuality through therapeutic treatment and intervention. By making homosexuality a mental disorder, it enshrined society's rhetoric as seeing homosexuals as diseased and bolstered ideas about biological determinism. "Prevailing therapeutic orthodoxy viewed homosexuality as a form of arrested psychosexual development, one likely to be associated with an unnatural attraction toward children" (Jenkins, 1998, p. 62). The psychiatric profession undoubtedly helped perpetuate and thicken the association of homosexuals as pedophiles—despite the actual demographics indicating otherwise,

> Tolerance for homosexual lifestyles was inversely proportionate to the degree of popular concern over sex crimes and threats to children. When public fears were at their height, homosexuals were most vulnerable to vice purges and mob vigilantism, to incarceration and medical intervention. (Jenkins, 1998, p. 62)

Further underscoring and fueling this panic of the "queer threat" was an association of homosexuality with cult-like behaviors, presenting homosexuals as devious individuals who intended to recruit and brainwash innocent children into their lifestyle.

The criminal justice and psychiatric systems were working in tandem and the "view that sexual deviation was closely related to aggressive sexual crime had bleak implications for homosexuals who faced the most immediate collateral damage from the movement against psychopathy" (Jenkins, 1998, p.62). Epitomizing this rhetoric of pollution and sensationalized fear was the Johns Committee's report *Homosexuality and Citizenship in Florida* published in 1964, which drew many of its conclusions from the medical establishment. The Johns Committee asserted that the homosexual was worse then the (assumed heterosexual) child molester: "The homosexual prefers to reach out for the child at the time of normal sexual awakening and to conduct a psychological preliminary to the physical contact. The homosexual's goal and part of the satisfaction is to 'bring over' the young person, to hook him for homosexuality…" (as cited in Eskridge, 2008, p.84).

The Miller Act, which was discussed in the previous section, allowed for a second conviction of sodomy to carry a life sentence, also included a clause that "permitted civil commitment without even a criminal charge" (Eskridge, 2008, p.95). Further still, nearly half of the jurisdictions with sexual psychopath statutes including California, the District of Columbia, Florida, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, New Hampshire and Washington included stipulations that allowed for just a charge of sodomy (not a conviction) to invoke statutory procedures, including indefinite detention in a state sanatorium. Inmates and individuals who were civilly committed, some for consensual sodomy acts, were subjected to various experimental therapies including lobotomies, castration, electrical and pharmacological shock therapy, and aversion therapy. (Eskridge, 2008)

There were elements of power and prestige that fueled the mental health establishment's energy around providing their expertise regarding the treatment, prognosis and explanation for

"sexual deviants". For psychiatrists, psychologists and social workers, who were fueling the

child protection initiatives of the time, "…the area of sexual deviance offered unparalleled

opportunities for demonstrating their expertise. The movements against sex psychopaths helped

to consolidate the wartime gains of the psychiatric profession" (Jenkins, 1998, p.217).

Free Love, Sex, and Fear: Polices and public discourse, 1960s-1980s

In reaction to the widespread panic over sex crimes in the 1940s and 1950s and with

society's evolution into an era of free love, experimentation and social unrest, the 1960s and

1970s saw a shift in the ideological discourse where, "…psychiatrists and scholars…underplayed

the scale and seriousness of the sex offender issue" (Jenkins, 1998, p.94). With gender norms,

sexuality, and the institution of marriage all being challenged by the young revolutionaries of the

counter-culture, there was a distinctive reaction from politicians and law enforcement alike,

planting seeds for a particular backlash that followed in the 1980s and 1990s.

The late 1960s and 1970s ushered in a more liberal era of political and social thought and

notions of government authority was questioned with the U.S. involvement in the Vietnam War.

The psychiatric profession was being questioned and criticized for its institutionalization and

questionable practices of control and "alternative therapies". As the baby boom generation

entered adolescence they carried with them particular ideas about sexuality, critical thought and

political activism. This youth revolution was "radicalized by political protest, extensive drug

use, and dramatic sexual experimentation…[and] was hostile to traditional controls on the

young" (Jenkins, 1998, p.106). With these new attitudes toward sexual awareness came a

distinct shift in the notions about age of consent and acceptable sexual practices.

With the women's movement gaining speed, and the gay rights movement barreling

forward after the Stonewall Riots, there began to be considerable pressure to reform sodomy

laws and decriminalize consensual sodomy. As homosexuals became increasingly visible during

this time period, anxiety of the regulators and power holders increased.

> The social meaning of sodomy crystallized during this period, and by 1961 it was a
>
> thoroughly homosexualized term. Even though most adult Americans had engaged in
>
> oral sex, they did not consider themselves felons, because only "homosexuals and other
>
> sex perverts" engaged in the crime against nature. (Eskridge, 2008, p.75)

State sanctioned witch-hunts of homosexuals/queer people, raids on gay bars, and police

harassment became the norm (Eskridge, 2008).

This era of sexual freedom inevitably saw backlash and collective anxieties from

religious leaders, politicians, and law enforcement alike, who feared that decriminalizing

consensual sodomy would be "promoting homosexuality". This era when the younger

generation solidified their right to sexual and reproductive freedom the connection between

homophobia and patriarchy became more crystallized and clear. Morrison (2007) understands

this connection between sexuality and nationhood, explaining that this era in U.S.,

> …indicated to the old guard a loss of self-control; and because women were seen as wild
>
> and uncivilized of nature, not culture, the advancements of sexual liberation and women's
>
> liberation were conflated, and together they indicated a frightening threat to the nation.
>
> Women and sex both had to be controlled. (Morrison, 2007, p.37)

The child protection movement spiked at its height in the late 1970s and 1980s. "Moral

conservatism gained rapidly in vigor and public support from about 1975 and reached its apogee

when Ronald Reagan was elected president in 1980" (Jenkins, 1998, p.121). One of the most

prominent campaigns responding to the increase in proposals to extend gay rights throughout

various jurisdictions and states was the Save Our Children (which was later renamed Protect

America's Children) campaign lead by Anita Bryant. Although this organization touted a goal of saving children from "generalized moral decay" the subtext and focus of the campaign emphasized a crusade against homosexuals who would sexually molest children, corrupting and transforming them. Bryant herself coined the slogan, "Homosexuals can't reproduce, so they have to recruit" (as cited in Jenkins, 1998, p.124). Linking homosexuality to pedophilia was "central to antigay rhetoric until the mid-1980s, when it was largely replaced by the still more effective terror weapon of AIDS" (Jenkins, 1998, p.125). The epidemic of HIV/AIDS that swept through the nation in the 1980s only further ostracized and stigmatized queer/gay/lesbian individuals as it acted as a literal embodiment of society's fears. Now homosexuals could be feared literally and metaphorically, as if they were "contaminated". This climate of moral regulation and political conservatism helped foster a culture of fear and created a platform for religious conservatives and evangelical Christians to stand on as renewed socially conservative political agendas were presented with enthusiasm in the 1990s.

This chapter provided a review of the historical practices and ideological paradigms that grounded the regulation of sexual behavior throughout U.S. history. The following chapter will look more specifically at events that precipitated a series of policies that were implemented from the 1990s through 2000s. The stipulations, consequences and restrictions that apply to individuals who are required to register under SORN policies will also be looked at. The ideology of family values, child protection and "the war on drugs" will be examined in tandem with SORN legislation.

CHAPTER III

Sex Offender Registration, Community Notification Policies &

The Legal Rhetoric of the 1990-2000s

This Chapter provides an overview of the precipitating events, rhetoric and details of the sex offender registration policies and the expansion of registries to include community notification clauses that occurred in the mid-1990s. Having an understanding of historical, social and religious precedents of such acts will illuminate the intricacies of the policies and the ripple-like effect they have on individuals, families, and communities. In addition to registration and notification policies, statutes requiring the indefinite civil commitment of individuals deemed to be "sexually violent predators" (SVPs) will be discussed through the first decade of the 21st century. The statistics of sex offender recidivism, which provides the basis for all such legislation, will be discussed in the context of the "sex offender" as an assumed fixed and homogenous entity.

Legal Rhetoric and Language: The Political Stage of the 1990s

The 1990s ushered in a particular political, criminal and legal rhetoric. The era of the "war on drugs" and creation of the "career criminal" helped to foster a particular public moral panic about the safety of family and "America's children" leading to the passage of Three Strikes Legislation (TSL) and priming public discourse for the acceptance of SORNA. The TSL was intended to address the "career criminal" who posed, at the very least, a menace to society, and at the worst was a dangerous, repetitive predator. Those individuals who were convicted of crimes

three times (varying crimes in severity and description) faced long-term jail sentences of multiple decades, and at times were subject to life sentences. The sociocultural historical context in which a piece of legislation is written is the most salient evidence of the symbolic rhetoric and meaning behind the policy. Filler (2001) highlights,

> Legislative debate is a highly public process, concerning public problems, with serious and far-reaching consequences. The study of legislative rhetoric is essential to comprehending what laws we have, why we have them, and how they will be applied in the future. (p. 321)

Locating the answers to "who, what and why now?" for a particular policy, will provide a greater understanding of the ideological underpinnings of a particular policy.

Ideologies interweave through every aspect of society, they help mold and shape individuals' and families' value systems and moral codes. Ideology saturates institutions, decision-making and the most influential power holders. Blau & Abramovitz (2010) explain,

> Mainstream ideology defends and rationalizes a society's particular social legal, moral religious, political and economic arrangements. It does so by (1) spelling out social norms and stigmatizing departure form these prescribed behaviors, (2) blaming social problems only on individuals without considering social conditions, (3) justifying social inequities instead of remedying the, and (4) otherwise suggesting that the existing status quo is natural, inevitable, beneficial, and best left unchanged. (p. 133)

Additionally, ideology intersects with social welfare policy in that a particular ideological framework will drastically affect how certain issues are defined, namely: the character of human nature, the relationship of the individual to society, the determination of need, the role of government, the meaning of work, the nature of family, and the interpretation of racial inequality

(Blau & Abramovitz, 2010). One can clearly see how ideology was enacted, reified, and

perpetuated through the conception, lobbying, and ultimate passing of the Three Strikes Law

(TSL) in California in 1994 and other states followed suit with passing similar legislation.

Without a clear understanding of the ideological discourse surrounding TSL, the latent

content and symbolic indications of the law would be entirely missed. As outlined above, it is

impossible to remove social context from the discussion of a piece of legislation and the TSL

legislation helped set the stage for tightening the grip on sexual crime legislation and promoting

the need for public notification of "dangerous criminals" residing in "our communities".

Jenkins (1998) points out that

> …Panics about sex offenders are closely related to other fears, from anxieties about youth
>
> crime to worries about drug abuse, a link that partly explains why concerns about sex
>
> crimes have so frequently acquired similar ideological directions, emphasizing external
>
> monster figures, psychopaths and predators. (p.19)

Therefore the climate that generated TSL is directly connected to the passage of sex crimes

legislation in the mid-1990s.

Notions of morality and spiritual codes characterize social conservatism, or what is also

called the far/religious right. Social conservatives order themselves under a hierarchical sense of

values, one guided by God and Christianity that have specific and stringent views on behavior

and life choices. Therefore, there is a great need/drive to gain control over human behavior, if

for nothing else than to protect one's family, and ultimately to do right by the higher power. It is

these dominant narratives in conjunction with a particular public paradigm that laid the

groundwork for the birth of TSL and subsequently the SORNA that followed shortly thereafter.

These religious overtones to legislation and justification for policy harkens back to morality laws

enforced in the early colonies where the sanctity of family and marriage was paramount to all else. Morrison (2007) explains,

> Puritans are in large part responsible for ascribing an economic and symbolic function to sex that survives today…religion and law had to take control of alternate sexualities in order to preserve society, which was symbolized by the dominant sexuality of marriage, reproduction and patriarchy. (p.36)

It can be argued that these themes of sexuality, procreation, sin and morality interweave their way in and throughout most public policy in the United States today, and this rhetoric of protecting the "good" (White) American family is central to both TSL and SORNA.

The TSL (1993) legislation was born on the heels of an increasingly stringent and conservative private and public climate. The 1980s saw a rampant increase in the criminalization of drug offenses and an explosion of legal consequences from The War on Drugs. The public discourse around criminality was slowly becoming solidified,

> Crime and drug addiction—the two were inseparable in an America whose only answer since the early 80's had been to lock up addicts, release them, and lock them up again…No one, it seemed was looking for any other answer…In short, once an addict and a criminal, always an addict and a criminal. (Domanick, 2004, p.74)

In the early 1990s the poverty and violent crime rates in the nation were on the rise. The sexual revolution had been stifled by the spread of sexually transmitted infections such as herpes and HIV/AIDS. This began an era of zero tolerance policy-making and often regulations around drug use and illicit substance use coincide with more stringent views around sexuality and sexual practices—as the converse is also true when both drugs and sexual freedom were more widely accepted in the 1960s-70s. Jenkins (1998) highlights this correlation:

The cycle also helps explain why waves of concern about social dangers like drug addiction are often correlated with fears about sex crimes: drug scares similarly peaked in the critical year 1914, when the federal government effectively prohibited cocaine and opiate drugs, and in 1936-37, the time of national regulation of marijuana…The Reagan era marked a sudden and violent transition…Both movements [the war on drugs and campaign against child abuse] were part of a general determination to purge the decadence of the 1960s from American life. (pp. 224, 225)

With the increased tenor of "tough on crime" policies saturating public discourse through legislation and news media, the public was primed and ready to take on a particular outcry in reaction to two tragedies that occurred in the late 1980s and early 1990s.

The murder of the young, White, Kimber Reynolds and death of twelve-year-old Polly Klaas by repeat-offenders, drove right into the collective heart of public discourse and incited feelings of outrage and horror. News media had tremendous influence on thickening the dominant paradigm of fear and retribution, as it had done throughout history time and time again. Particularly with the rape and murder of Polly Klaas, the collective White-Euro-American nuclear family was portrayed as being under attack. "Their" daughters needed to be protected at all costs. The extended period of time during which Polly's fate was uncertain was a key factor in heightening feelings of hope *and* hopelessness, "Her fate was unknown for two months, during which news coverage intensified as the American public waited tensely to learn her fate" (Vitello, 2002, p.260). As noted above, ideology can be thought of the as blood in the veins pumping to the proverbial heart of social welfare policy: the character of human nature, the relationship of the individual to society, the determination of need, the role of government, the

meaning of work, the nature of family, and the interpretation of racial inequality, are all shaped and defined through an ideological framework (Blau & Abramovitz, 2010).

Language has a way of invoking a performance, and yet still, at times, language in itself i*s* the performance. The meanings/assumptions/privileges ascribed to a particular word creates a spectacle. A word can deny or grant a person rights (read criminal/lawful person; citizen/immigrant; heterosexual/homosexual); it can deem someone incapable of personal choice/autonomy (read insane) or even predict where a person may spend the rest of their life (read guilty/convicted). This speaks to the technologies of language, how meanings and symbols are constructed and encoded into words. Looking carefully at the language of the TSL and the surrounding discourses around crime, one can see how the ideology of social conservatism was evoked in its creation, reified through campaign and then ratified into policy.

More specifically however, when using social conservatism as an ideological framework to analyze the TSL in California, the paradigm behind "the nature of family" is a paramount discourse. In fact, the ideological frameworks regarding human nature, the meaning of work, determination of need, interpretation of racial disparities, and the role of the government can be best understood as efforts to protect, secure and preserve the American Family, both literally and symbolically.

Language, labels and meaning are key components in SORN policies and the creation of public entity/enemy: the sex offender (See Chapter VI for more discussion on the language and discourse analysis directly relating to SORs). The rhetoric of the "career criminal" and the need to "protect our families" are key influences in SORN policies. However, let us first look at the dominant paradigm in which the Three Strikes Law came to fruition. The "tough on crime" agenda and its cousin "the war on drugs" uses aggressive, war-laden rhetoric to clearly, yet

implicitly delineate between what is acceptable behavior and what was not. "Tough on crime" is a misleading concept. One cannot be tough on crime; crime is a noun, an entity not something that can react or respond to toughness. What "tough on crime" really meant was tough on criminals, on individuals, sons and daughters. By removing the "person" from the campaign, the public can distance itself from the personal impact. Similarly the "war on drugs" purposefully evokes the language of war, a battle, a fight. Wars however, are not waged on things; wars are waged on people. These words crafted together created categories of people, those who are deviant/criminal/unworthy and those who are righteous. This value judgment is grounded in the fundamental beliefs of human nature based in social-conservative ideology:

> Social conservatives views human nature as evil, that is flawed or governed by uncontrollable impulses and selfish needs and not perfectible in this world. Therefore, the wellbeing of individuals and society depends on restricting the freedom of individuals and controlling their behavior so that their unruly passions and desires will not endanger themselves or the social peace. (Blau & Abramovitz, 2010, p.140)

Further still, these two law enforcement campaigns specifically created a binary for the public to align itself with, the morally righteous versus the criminal.

With the "criminal" already digested into public discourse as the less-than human, all Mike Reynolds's[2] campaign for the TSL needed was to capitalize on a tragedy of the American Family. Polly Klaas's highly publicized death explicitly invoked the personal. Her death was named this human tragedy, and codified the face of a young, White daughter as the ultimate

---

[2] Mike Reynolds is the father of 18-year-old Kimber Reynolds who was murdered by an individual who had recently been incarcerated. Mike Reynolds helped author and was a key advocate in pushing to pass Three Strikes Legislation.

persona, an entity in need of protection and further cemented the criminal as a violent monster. This dynamic was clearly staged at her funeral, where Governor Wilson took the opportunity to speak to the hearts of the American family: "…In his eulogy, Wilson, seemed to reach beyond mere political calculation when he powerfully summed up what people all over the country were feeling: 'We cannot call ourselves a civilized society, if our children aren't safe even in their own bedrooms'"(Dominack, 2004, p.127). It is this guiding principle and socially conservative rhetoric that set the stage for the Mike Reynolds's campaign for the Three Strikes Law, and allowed Governor Wilson to capitalize on this tragedy as a means to get re-elected.

> One can see how Polly Klaas became the face of this symbolic, collective American Daughter. Whether conservatives believe that the modern nuclear family structure is God given, biologically destined, or essential to an efficient and productive society, they prefer it to any other arrangement. Therefore, its strength and stability must be protected and sustained at all costs. (Blau & Abramovitz, 2010, p.166)

This idealized (religious right) version of the family was fiercely alive in dominant discourse, from constructing the monster criminal from whom "our" (read White) families needed to be protected through "tough on crime" campaigns, to the very choice of words for the name of the "Three Strikes Law". The protection of the family, (both patriarchy and the innocence) children is also the underlying motivation and rationalization for SORN policies (more on this in Chapter VI).

Family values, protectionism and work ethic are all intertwined in the making of and meaning behind TSL. Outside the obvious baseball analogy, "Three Strikes and You're Out" also connotes images of parenting. This notion of "tough love parenting" was born out of socially conservative family values, and not only is this the ideological meaning behind the TSL

but it is also the reason behind many individuals were eligible for being penalized under three strikes. (Many individuals incarcerated for non-violent drug offenses often were people whose first and second strikes came from their parents' efforts to "scare them straight".) The public discourse became these are "career/professional criminals" they had their chance, they won't change, we need to protect our children.

The post-incarceration regulations and policing of individuals in the community as stipulated through SORN policies are a direct extension of the larger Prison Industrial Complex (PIC) and an example of public discourses increasing tolerance of the policing in public spaces—if certain rationales are used as justification (e.g. safety of women and children). The intricacies of the PIC will be outlined in the following section. The collateral consequences of SORN policies and regulations are broad in reach and in scope:

> Such laws work to isolate sex offenders from society, increase the costs for sex offenders of complying with sex offender legislation, and make complying with sex offender legislation increasingly complicated…These laws usually create new and more public ways to identify sex offenders, serving as a scarlet letter for sex offenders and their families. This type of widely popular legislation can be used by legislators to boost their own popularity and can be passed with an inadequate concern for the collateral consequences generated by such enactments. (Wagner, 2011. p.272)

This explicit connection between the PIC industrial complex and SORN legislation will be discussed further in chapter VI, as both connect to a White, heteropatriarchal, capitalist agenda fueling most legislative and public discourse today in the U.S.

The Rise of the Prison Industrial Complex

When researching the current state of and need for sex offender registration and notification laws in the U.S., it would be negligent to not locate these facts, discourses and ideologies within the framework of critical analysis in order to understand the intersection of how neo-colonial politics, patriarchy, misogyny and racism impact individuals who are in conflict with the law ("offenders"/"criminals") and are funneled into the ever-expanding industry of incarceration. The erasure of these stories and neglect to frame and contextualize "criminal acts" within the interlocking nature of oppressive practices seeks to reproduce the ideologies of the "career criminal" and "tough on crime" dominant discourse and functions to fuel the profit of the larger prison industrial complex (PIC) (Solinger, Johnson, Raimon, Reynolds, & Tapia, 2010; Pollack, 2005; Pollack, 2011).

Because issues do not exist on an island and because the ethics, purposes and goals of clinical social work are to concurrently understand the impact of larger systems and institutionalized oppression on the lives and health of our individual clients and communities in which they live, it is vital to locate the current state of SORNA policies and individuals who are in conflict with the law within the larger context of the PIC. The state of individuals incarcerated in prison/jails, in immigration detention centers, and under criminal "supervision" cannot be removed or analyzed outside of the PIC, as they mutually inform, reinforce and ultimately reproduce one another and function to maintain the status quo of White supremacy and heteropatriarchy within the U.S.

Researchers, academics and international communities alike have noticed and recognized the U.S. as being entangled in a crisis of mass incarceration (Solinger et al., 2010; Van Wormer, 2001; James, 2000). It has been understood and generally accepted that the current

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corrections/penal system in the U.S. has expanded so vastly and its reach is so grand, that it can more accurately be categorized as an industry designed for profit. The registries and community notification laws to which sexual offending individuals are subjected represent a distinct aspect and agent of the larger PIC, one that expands the reach further into public spaces. Therefore SORN laws should not be thought of as removed, or separate from the PIC. Angela Davis (1998) explains the layered ways the prison system works as an industry:

> All this work, which used to be the primary province of government, is now also performed by private corporations, whose links to government in the field of what is euphemistically called "corrections" resonate dangerously with the military industrial complex. The dividends that accrue from investment in the punishment industry, like those that accrue from investment in weapons production, only amount to social destruction. Taking into account the structural similarities and profitability of business-government linkages in the realms of military production and public punishment, the expanding penal system can now be characterized as a "prison industrial complex". (p. 569)

Given all the interest groups and corporations that stand to benefit from and even profit from the business of incarceration, it is no surprise that the U.S. incarcerates a larger percentage of its population than any other nation in the world.

Currently 2.2 million adult Americans are incarcerated, a number that has tripled since 1983, and the cost of corrections has increased six-fold from $10.4 to $68.7 billion (Wood, 2010, p.8). This number put in a statistical perspective means there is approximately one prisoner for every 99.1 men and women (PEW Center on the States 2008; Meiners, 2009, p.32). Some scholars estimate that with the inclusion of individuals on parole, probation, in immigration

detention centers, and those detained in prisons outside U.S. borders, this number increases

significantly to around 8 million (Bureau of Justice Statistics, 2006; Meiners, 2009; Rodriguez,

2008). African Americans are incarcerated at nearly six percent the rate of Whites, currently

9000,000 of the 2.2 million individuals incarcerated are African American (Mauer & King, 2007.

Women of color are disproportionately represented in the prison system, comprising nearly 70%

of the overall female prison population. The number of women who are incarcerated has

increased 757% since 1977 (Solinger et al., 2010, p.3).

Further, large numbers of individuals being detained and disproportionate representations

of people of color are also trends within the juvenile detention system. Krisberg (2007)

highlights these disparities among juvenile offender populations:

African American youth are detained at 4.5 times the rate of White youth. Latino youth

are detained at 2.3 times the rate of White youth. African American youth are 16% of

youth in the general population but 58% of youth admitted to state adult prison[s].

African American youth are more likely than White youth to be formally charged in

juvenile court and to be sentenced to out-of-home placement, even when referred for the

same offense, and according to the latest available data, three out of four of the 4,100

new admissions of youth to adult prisons were youth of color. (p. i)

Additionally, just as adult women's rate of imprisonment has increased more steadily and faster

than the adult male population in the most recent years, this is also true of the juvenile offender

population. Currently, girls account for 29% of juvenile arrests, which is an11% increase since

1980 (Zahn, 2009, p.3). These parallels in demographic statistics of the adult penal and juvenile

justice systems only further strengthens the conclusion that both systems serve as conduits for

the larger PIC and thereby function to protect a larger capitalist agenda.

Precipitating Events and Initial Registration Policies

As discussed in the previous chapter, laws and policies to regulate sexual practices have always been present throughout history and dating back to Puritan codes for sexual morality within the early North American colonies (Morrison, 2007). These laws originated and continue to be enacted to repress heterodox sexualities particularly targeting homosexuality and queer sexual practices today through the code of protecting "family values" (Morrison 2007; Fischel 2010; Jacobson, 1999). Having outlined and briefly discussed the social and historical context/precedents or the regulation of sexuality, and response to the social problem of sexual violence, the following chapter will outline the specific details of the slew of policies that were passed in the 1990s which created sex offender registration and community notification policies on state and federal levels.

As such policies are traced throughout U.S. history, one can see how the evolution of "crimes against nature" lead to, and set the stage for, the highly publicized and sensationalized coverage of the rape/abduction/murders of several white children in the 1990s. Morrison (2007) explains how the conditions leading up to the passage of these policies cannot be separated from the laws themselves:

> To understand the deeper societal conditions that led to the emergence of SORNAs, we need to contextualize them. That is, we need to show that they bear a relationship to the society in which they emerged, and not just to Kanka[3], who was, if anything, merely one of the many sparks that could ignite SORNAs into existence. It was America's peculiar form of conservative religiosity that existed in the mid-1990s and which gave rise to

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[3] Kanka refers to the abduction/murder of Megan Kanka for whom Megan's Law was named.

SORNAs. This religiosity sought to protect families and their privacy, rather than to

protect children. (p.48)

These incidents subsequently lead to a panicked public discourse that was chomping at the bit to

tackle the "sexual predator" problem—demanding federal and state legislators to answer their

call, and "protect our children"—and legislators answered. The war on drugs, AIDS epidemic

and parallel fear of homosexuality, and "tough on crime" political stage opened the doors for the

further policing of particular communities/regions and conversely more fierce protecting of

certain communities and of particular children. Currently, when sex offender legislation is

discussed generally it is pertaining to a series of state and federal acts that were passed

throughout the 1990's.

Registration and Community Notification

As mentioned above, following the abduction/rape/murders of several *White* children that

were widely covered in the media (Megan Kanka, Adam Walsh, Poly Klass, Jacob Wetterling,

Jessica Marie Lunsford) in the mid-1990s there was a considerable public outcry and a push to

"protect society from sex offenders" (Wagner, 2011, p. 264). These laws are reiterations of

previous morality law and sexual regulation laws—although masked in the form of a new moral

panic, the reactionary, post-incarceration punitive policies are far from a modern-day

phenomenon:

> …These recent laws [Megan's Law, Walsh Act] strongly recall the sex psychopath
>
> statutes that were passed with so much enthusiasm between about 1937 and 1957. In that
>
> era also, an offender could be designated as a sex psychopath, a judgment that could earn
>
> him (or, very rarely, her) an indefinite period of institutional confinement…These sex
>
> psychopath statutes echoed an even earlier wave of legislation passed to regulate those

who were then called defective delinquents, a category that caused public panic between

about 1908 and 1922. The modern rebirth of the sex psychopath laws powerfully

illustrates the cyclical nature of concern about sex crime and the same popular tendency

to seek legislative panaceas that also shape reactions to juvenile delinquency and

substance abuse. (Jenkins, 1998, p.11)

In 1994 the Jacob Wetterling Crimes Against Children and Sexually Violent Offender

Registration Act was passed by congress. The Wetterling Act mandated that all sexually violent

offenders and offenders who committed crimes against children register with law enforcement

agencies for at least 10 years (Wagner, 2011, p.265).

In 1996 Megan's Law was passed which expended the mandated registration to sexual

offenders who did not target children and those who were not found to be violent offenders. Of

note is that under Megan's law registries were made publicly available and included provisions

for community notification policies (Wagner, 2011, p.265). The Pam Lyncher Sexual Offender

Tracking and Identification Act of 1996 and the Adam Walsh Child Protection and Safety Act of

2006 then extended these notification and registration requirements by extending the length of

time required for registration, establishing a national database, and creating more stringent rules

for notification practices (Wagner, 2011, p.265; Wright 2003). The U.S. Department of Justice

(2008) explains how sex offender policies were refined and upgraded in its published guidelines:

SORNA refers to the Sex Offender Registration and Notification Act that is Title I of the

Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248). SORNA

provides a comprehensive set of minimum standards for sex offender registration and

notification in the United States. SORNA aims to close potential gaps and loopholes that

existed under prior law and generally strengthens the nationwide network of sex offender

registration and notification programs. (p.4)

Under the Adam Walsh Act one of the provisions was to link the state's registry, which must

now include an offense-based classification system, to the national registry's website (Wagner,

2011; Wright, 2003; Meiners, 2009).

Under SORNA certain information about individuals convicted of sexual offenses must

be made available to the general public. In order to satisfy requirements for SORNA

implementation jurisdictions must include certain information on the website detailing the

individual's current offense, employer address, name and physical description, place of residence

or description of where the individual "habitually lives", photograph, school address, and

vehicle(s) description and license plate number (U.S. Department of Justice Frequently Asked

Questions: SORNA Guidelines, 2008). Other more detailed information is included on the

jurisdiction's registry and shared with law enforcement and other agencies of interest, such as

social security numbers, immigration status documents, DNA samples, fingerprints, professional

licensure numbers and telephone numbers. Additionally, if states did not comply with these

registry mandates by 2009 they were at risk of losing federal funding (Wagner, 2011; Schiavone

& Jeglic 2009).

Restrictions: Housing and employment

Registering as a sex offender not only necessitates that your name, address, and place of

employment will be made available to the public but it also calls for a host of other restrictions

that impact the individual's day-to-day life. There are restrictions on how close (most states

have distance restrictions between 500-3,000 feet) registered sex offenders may live to a school,

park, playground, day care, after school program and other places that children frequent—

leaving very few legally acceptable areas for individuals to live (Wagner, 2011). Additionally,

these restrictions do not differentiate between those who have been convicted of crimes targeted

at children, nor do they distinguish between individuals who knew their victims and those who

targeted strangers (Tewsbury, 2007; Levenson & Cotter, 2005; Wagner, 2011). Furthermore,

when the SORN policies were passed they were applied retroactively, meaning that anyone

convicted of a sex crime in the past was now forced to register publicly as a sex offender in their

neighborhood and possibly forced to move (Wagner, 2011; Jacobson, 1999). Meiners (2009)

explains,

> …Even when laws are supposedly neutral or not targeting non-heteronormative practices,
> they are disproportionately used against non-heteronormative sex practices, they are
> disproportionately used against non-heterosexuals. For example, lewdness and indecent
> exposure charges are still levied against men who engage in consensual same-sex sexual
> acts in public spaces and are almost never directed toward public acts of heterosexuality.
> (p. 39)

As discussed in Chapter II however, historically these laws were often applied more aggressively

to non-heterosexuals, therefore queer individuals were targeted for their sexual

orientation/practices historically, and are once again targeted presently.

As these distance restrictions make it harder to find a permissible location to live,

homelessness presents as a prominent issue for many individuals registered. Registered

individuals are often ostracized from their families, or unable to return to their pre-conviction

homes due to close proximity to one or several of the prohibited establishments. As it is hard to

find employment for any individual who has been formerly incarcerated and therefore is subject

to explain and rationalize their convictions, which come up on routine criminal offender record

information (CORI) reports required by most places of employment, it is even more difficult for individuals who are registered sex offenders (RSOs). This additional obstacle in place is because one of the notification requirements implemented in SORNA is that the name and address of places of employment are readily available on public registries for each individual registered, therefore employers are reluctant to hire them, and if notified of their status many registered individuals are quickly terminated (Wagner, 2011). Further restrictions on the type of employment (e.g. banned from driving commercial vehicles, school buses, ice cream trucks, and occupations that interface with children) a registered individual can have makes it increasingly difficult to find gainful employment and housing within a reasonable commuting distance. These employment restrictions are in place under the guise of protecting children, but again, like housing guidelines above, consideration of type of offense and whether or not it involved minors is not considered—restrictions and registration are applied as "one size fits all".

The Myth of the Homogenous Sex Offender

Sex offender policies are employed through three related assumptions/generalizations: 1) sex offenders are much more likely to recidivate than other offenders—therefore they pose a great risk to the community necessitating community awareness and notification; 2) communities are protected by creating registries that allow for surveillance; and 3) sex offenders are deterred from re-offending when their status is known to a community (Vasquez, Maddan, & Walker, 2008, p.176). As protecting the public against the recidivism of sex offenders is at the heart of the motivations for registration and notification laws, one would assume that there is considerable data supporting such notions. However, a multitude of studies set out to understand the recidivism rates of sex offenders have found no generalizable themes or congruencies in the data (Vasquez et al. 2008). There has been a wide variance in findings. Furby, Weinrott &

Blackshaw (1989) conducted a review of 49 articles concerned with sex offender recidivism and found some studies reported recidivism rates of 50%, while others reported very low or marginal reoffending rates (as cited in Vasquez et al., 2008, p.177). Quinsey (1984), in his study of sexual aggression, made conclusions about sexual offending recidivism, which are quite relevant to this day (see also cited in Furby et al. 1989; Sample & Bray, 2006; Vasquez et al., 2008), He states, "The difference in recidivism across these studies is truly remarkable; clearly by selectively contemplating the various studies, one can conclude anything one wants" (p.101).

While the many methodological difficulties, systemic snares and logistical loopholes of studies on sex offending recidivism rate are beyond the scope of this paper, one glaring point worth highlighting is the fact that the category of "sex offender" actually encompasses a wide range of people who commit and were convicted of varying acts. The "…more basic and obvious problem [in calculating recidivism] is that such a wide span of conclusions is simply an expected by-product of assuming sex offenders are homogenous while systematic differences across both offenders and offenses are likely" (Vasquez et al., 2008, p.177). Sex offenders as a group are not homogenous and studies that are "…assuming homogeneity are likely to produce misleading conclusions" (Vasquez et al., 2008, p.178). Furthermore, a significant amount of research suggests (see Andrews & Bonta, 2007; Hanson et al., 2009; Lafond, 2005; Levenson & D'Amora, 2007, Levenson & Prescott, 2007; Marshall et al., 1999) that convicted sexual offenders should in fact, be considered a heterogeneous group that embody a wide range of motivations, psychological characteristics, victim preferences, treatment considerations, and re-offending risk factors (Ackerman, Harris, Levenson, Zgoba, 2011, p.150).

Post-Sentence Civil Commitment, Enhanced Registration, & SVP Status

The indefinite civil commitment of individuals deemed to be "sexual psychopaths" to psychiatric hospitals is not a new occurrence, as it was practiced throughout the first half of the twentieth century (see Chapter II). This type of "treatment" over "punishment" went through a period of criticism and was used with less enthusiasm during the 1970s (Jenkins, 1998). The basis and ideological underpinnings of the sexual psychopath statutes had a reinvention in the 1990s with what states called post-sentence civil commitments for sexually violent predators (SVPs). As of 2010, the federal government, nineteen states, and the District of Columbia have all enacted a form of SVP civil commitment statues (Ewing, 2011, p. 21). These statutes follow the "punish now, treat later" philosophy and require for individuals who have served their full sentences in a correctional center and up for release to be screened by state employees to determined whether or not they should be evaluated for a SVP status. If they are screened in, the individual undergoes a psychiatric or psychological evaluation where a decision is made whether or not to petition them (ordered to court) and charge him as a SVP. If a petition is placed for an individual being committed as an SVP a series of events occur: they are provided legal counsel, given a probable cause hearing, an evaluation from a mental health professional and jury trial. This all occurs after an individual has been convicted and incarcerated for a sex offense, and is used to determine if they are in fact, a sexually violent predator. (Ewing, 2011, pp. 21, 22)

If an individual is found to be a sexual violent predator and granted SVP status, in most states this carries an automatic, indefinite commitment to a "secure prison-like sex offender treatment center or conditionally released to the community under strict intensive supervision that generally amounts to a form of super-parole" (Ewing, 2011, p.22). Not unlike the 1930s and the original sexual psychopath statutes, the mental health and psychiatric professional

54

community is again at the crux of the decision to grant someone the status of SVP and thereby

ushering them into a possible lifetime of involuntary commitment. The State of New York's Sex

Offender Management and Treatment Act (SOMTA), which became effective April, 2007 is

representative of similar SVP statutes that are enacted in other states. This statue as detailed in

New York State Office of Mental Health, Report to the Governor and the Legislature Pursuant to

Article 10 of New York State Mental Hygiene Law (January 28, 2008):

> …Established an elaborate process for evaluating the mental condition of certain sex
>
> offenders who are scheduled to be released…to determine whether the individual is a
>
> 'sex offender requiring civil management'…defined as one having a mental abnormality
>
> which predisposes him or her to sexual offending and deemed by the court to be either 1)
>
> a dangerous sex offender requiring civil commitment (who would be confined to a secure
>
> treatment facility operated by OMH [the Office of Mental Health]), or 2) a sex offender
>
> requiring strict and intensive supervision and treatment (who would be supervised by a
>
> Parole Officer in the community). (As cited in Ewing, 2011, p.vii)

Though not required to do so, the burden of proof lies in assessing the individual in question's

mental state and whether or not they are deemed to have a "mental abnormality", therefore a

diagnosis of a mental disorder from the DSM-IV always accompanies one being granted an SVP

status. Once again, this implicates clinical social workers, psychologists, psychiatrists and the

APA directly in the center of influencing the fate of an individual's freedom post incarceration,

and often leads to generous applications of certain diagnoses.

Some form of treatment and periodic review of the individual's SVP status are

components of all states' SVP statutes, however to be released usually it is required to complete

the entire "treatment regime" which often takes years. Most often however, individuals have

been held more or less permanently under SVP status. Between 1990 and 2006 only 494 (11 percent) of the 4,465 individuals subjected to inpatient civil commitment as sexually violent predators were released or discharged. Of those who were released or discharged, 89 (18 percent) had their releases or discharges revoked, which brings the overall number released from commitment down to slightly over 9 percent. Additionally, it has been indicated that nationwide, half of those who are released from civil commitment under SVP statutes are "let go on legal or grounds unrelated to treatment" (Davey & Goodnough, 2007).   Therefore, the overwhelming majority of individuals who are granted SVP status across the nation remain institutionalized indefinitely. (Ewing, 2011, p. 22)

This chapter sought to outline the specifics of SORN legislation and the regulations that are required of individuals on the registry. Additionally, intended and unintended consequences of this legislation were discussed (e.g. vigilantism, homelessness, the policing of poor communities, and the creation of "gated" communities). These policies were discussed in light of the latent ideologies that fueled their popularity. The following chapter introduces the first of two theories through which SORN policies will be discussed. Postmodern theory and the social theories that it grew out of will be discussed.

CHAPTER IV

Theoretical Frame: Social Theory, Language, Power & Discourse

As the historical context and logistical explanations for SORN policies have been explored in the previous chapters it is important to pause and locate even more explicitly, the theoretical frame from which I am analyzing this phenomenon (e.g. the sexual exploitation of women, queer people and children and the laws/policies meant to regulate, punish and control such/certain behavior). Just as the social identities (race, class, gender, ethnicity, sexual orientation, ability), life experiences, education and privileges of the researcher undoubtedly influence the way in which data are thought about and synthesized for the reader, the theories that ground the researcher's analysis equally influence and color the way information is presented. Hence it is paramount to specify that this research is rooted in a postmodern analysis/understanding of power and history and utilizes Critical Discourse Analysis (CDA) as a framework to unpack notions of language, hegemonic discourse and collective identity.

CDA and postmodernism are theories that did not arise suddenly or in isolation. They have in fact, evolved over several decades and have undergone many permutations. In order to present a different understanding of social, cultural and historical events, postmodernism and CDA have built upon terms, reframed prominent assumptions, and expanded aspects of other important social theories that came before. Therefore this chapter will briefly highlight and explain the evolution of social theory that grew out of the positivist and Enlightenment era. The foundations of social identity theory and collective identity theory will be briefly described as

they pertain to the underpinnings of postmodernism and CDA. Particularly, these background theories are discussed as they relate to notions of linguistic power, dominant discourse and deconstructionism, as these are the most salient themes relevant to this topic. This research endeavor cannot be neatly contained within one analysis or a singular theory because at its foundation—in order to understand the phenomenon presented, the intersectionality and interlocking nature of history, religion, law, criminality, sexuality and notions of power must first be understood and considered simultaneously.

Tracing Social Theory: From religion to science

Social theory has evolved over time and is rooted in the need to explain and understand culture and social behavior. The evolution of the theories that are most prominent today can be traced backwards to the era of "…Enlightenment and the modernist quest for scientific knowledge and social process" (Wagner, 1992, p. 2). Throughout the development of academia, which historically has its roots in theology and metaphysics, the philosophy underpinning most ideas became generally rooted "…in the notion that true knowledge must be universal and grounded in some metadiscourse" (Seidman & Wagner, 1992, p.2). This sentiment largely characterized the era of Enlightenment.

Enlightenment is categorized by the *philosphes* (referring to a group of French intellectual and philosophers that dominated popular thought in the 18th century) as a time where science would replace theological dogma as a medium of truth (Seidman & Wagner, 1992, p.3). During this era of "modernity" embodied fully during the 18th century, science replaced religion as the rule of law and for explanations of behavior and morality (Dickens & Fontana, 1995). This era was characterized by a fervent effort to reduce/understand human behavior and social interactions into general principles, codes or laws and that social science would serve as a

conduit and tool for social progress (Seidman & Wagner, 1992). It was thought that, "Scientific enlightenment would enable humankind to fashion a social order in accordance with the true principles of nature and history" (Seidman & Wagner, 1992, p.3).

Social Identity Theory

To explore the current policies of publicly registering individuals convicted of sexual offenses, it is necessary to understand the historical precedent for the regulation of sexual behavior and deeming certain practices deviant and immoral, while reifying others as compulsory and expected. The creation of "in and out groups", which is the inevitable consequence of creating laws and notions that dictate dominant/"normal" behavior, therefore, by default or intention, create and maintain categories of difference (e.g. different from the "norm"—Whiteness, heterosexuality etc). These categories of difference then get applied to people (e.g. criminal/deviant/predator, innocent/guilty, sane/insane, Black/White, heterosexual/homosexual). Originally developed as a way of understanding intergroup discrimination (Tajifel, 1981; Harrison, 2009), Social Identity Theory developed by Tajfel and Turner in 1979 sought ways to understand how groups create and maintain categories of difference. Additionally, Social Identity Theory seeks to explain how individuals maintain multiple "social identities" that either relate to or differentiate them from a perceived group to which they identify. These social identities whether imposed or self-selected create a perceived "us" and "them" separation between groups. As referenced above, it is evident how such categories of identity are applicable to the many actors invoked within this research from sex offender/predator, to child, to psychiatrist.

Collective Identity & Collective Trauma

Theories of collective identity roll out of Social Identity Theory seamlessly as it begins to assess how groups begin to identify collectively with a specific individual identity, creating a group mentality that leads to group behavior and (collective) belief systems. It is the widespread use of language or, at times, even the absence of language that co-constructs, implants and begins to shape and assign meaning to a collective identity and, in so doing, also packages what or *who* that identity cares about and values. Think again of the evolution and wave-like nature of how collectively, society became concerned and then less concerned about homosexuality, sex offenders and the "safety of women and children" throughout history (Eskridge, 2008; Jenkins, 1998). Furthermore, that concern was mirrored by the use of various identifiers for the particular antagonist of that time period (e.g. sexual predator, pedophile, sex pervert etc.). The construction of collective meaning and memory is a theme that is of importance in understanding individual identity formation, collective identity formation, and collective trauma. Although the concepts of collective trauma and collective identity can be somewhat abstract, several authors have made great contributions to unpacking these concepts and highlighting their connection to, and impact on, communal/mass violence, scapegoating of perpetrators and genocide (see Staub, 1989; Alexander, 2004; Minow, 2002).

The formation of collective identity and collective/cultural trauma will be further developed and contextualized in Chapter V. Areas to be explored include how a collectivity's response to collective trauma can be understood through an extension of the psychodynamic theories of ego psychology and object relations. It is important to highlight these theories here, albeit briefly and by no means exhaustively, because collective identity can only be understood as an extension of Social Identity Theory and it would be remiss to not, at the very least,

illuminate these connections. Furthermore, the importance of language, labels and group identification is essential to understanding the progression of social theory into postmodern perspectives and CDA.

Postmodernism, Discourse & Disciplinary Power

Postmodernism is a cross-disciplinary philosophy that originally was conceptualized in the fields of art and literature (Dickens & Fontana, 1994) and first usage can be traced back to 1870 with English painter, John Watkins Chapman's work being described as "postmodern" (Best & Kellner, 1991 as cited in Dickens & Fontana, 1994, p.1). This concept/label would be used throughout literary disciplines as well during the 1930s and 1940s. Because of its use in a variety of disciplines and the very nature of the theory, postmodernism is difficult to "define" or even synthesize into a "common" understanding of its meaning (Dickens & Fontana, 1994).

Although the logical positivism of modern social theory was being be challenged by many social theorists by the 1960s and 1970s, poststructuralists and feminists began to further critique the aspects of logical positivism and the inherent epistemic privileging of science still left saturating dominant social theory:

> Many began to emphasize the social and historical embeddedness of an inquiry, its essentially moral and political nature, and the failure and indeed undesirability of all efforts to provide a unifying social scientific paradigm. A new division was drawn between those social scientists who defended the possibility and desirability of achieving secure analytical foundations—"modernists"—and critics of this project. (Siedman & Wagner, 1992, p. 2)

This critique is the foundation of what becomes postmodern theory, wherein postmodernists, "…reconsider the relationship between scientific knowledge, power, and society as well as the relation between science, critique, and narrative" (Seidman & Wagner, 1992, p. 2).

For the purpose of this research, however, background on postmodern theory will be limited to how it pertains to the realm of social theory and critical inquiry; yet even within this domain, "…postmodernism has come to signify a wide range of positions" (Seidman & Wagner, 1992, p.82).   Postmodernism, as Linda Nicholson (as cited in Seidman & Wagner, 1992) explains, can be thought of in the context of three major themes:

(1) a rejection of the all-encompassing and frequently teleological theories of human history and social change associated with the Enlightenment ideas about reason and progress with Hegelianism and Marxism; (2) a linking of claims about social life, human nature and criteria of truth and validity with strategies of power; and (3) a replacement of the emphasis on the individual subject and contents of the consciousness of that subject by an emphasis on language as intersubjective. (pp. 82-83)

Postmodernism seeks to trouble and problematize the notion that there is an attainable, definitive, and universal Truth that can be discovered, unearthed and explained. Conversely, postmodernists urge individuals to consider and locate all knowledge as context dependent; information cannot be considered outside of a particular social, cultural, historical, institutional, or personal context.   Juxtaposed to the modern views of the Enlightenment era, postmodernists "valorize incommensurability and fragmentation as liberating" (Dickens & Fontana, 1994, p. 29).

One of the foundational and arguably most influential, thinkers in postmodernism as it pertains to social theory is Michel Foucault (1926-1984). Foucault's many works have become

the foundations for understanding discursive practices, systems of knowledge, technologies of experience and disciplinary power; he produced works that compels readers, "…to reexamine their relationships to truth, power, and to self" (Brown, 2000, p.1). Ironically, Foucault himself resisted and resented the tendency to reduce his work into labels such as "postmodern" and thought of himself as a "...teacher above all else" with a primary goal of "transformation" (Brown, 2000, p.1).

Perhaps why Foucault is so often thought of, and even conflated with postmodernism is his rejection of knowledge as concrete and universal truth. Brown (2000) explains that Foucault's philosophy is that,

> Knowledge is not a body of abstract truths nor is it an understanding of some
> brute reality. Instead knowledge is an on-going process used as a tool to insert
> oneself, and one's groups, in a fight against the desire for power. (p. 2)

It is Foucault's works exploring knowledge, power, discipline and sexuality that are most relevant to this research project (see Foucault, 1972; Foucault, 1978; Foucault, 1979; Foucault, 2000).

In the previous chapters outlining the historical patterns of regulating/criminalizing sexual behavior and the construction of what "subject" (individual with a particular social identity) was considered to be feared, immoral, or predatory during that time period, one can see how discourse, language and experience dictate a particular hegemonic understanding of a phenomenon. This unraveling of historical context and de-centering of hegemonic discourse as an absolute truth are key tenets of postmodernism. Foucault (1997) posited a particular understanding of historical progress:

63

Humanity does not gradually progress from combat to combat until it arrives at universal

reciprocity, where the rule of law finally replaces warfare; humanity installs each of its

violences in a system of rules and thus proceeds from domination to domination. (p.151)

It is clear that Foucault privileged a context-centered analysis of history/power, one that is based

in an understanding of experience and discursive practices. Overall Foucault underscores the,

"amazing efficacy of discontinuous, particular and local criticism" (as cited in Dickens &

Fontana, 1994, p. 29).

Though his works are dense, broad and defy overreaching generalizations, there are

distinct efforts that run as undercurrent to all of his writings. Foucault "… 'problematizes'

modern forms of knowledge, rationality, social institutions, and subjectivity that seem given and

natural but in fact are contingent constructs of power and domination" (Best, 1994, p.27).

Foucault describes an understanding of what he deemed "bio-power", which is a power that

seeks to control the organization and discipline of life and is directly related to the development

of capitalism (Brown, 2000, p.2). Bio-power has two intersecting modalities: "disciplinary

power" and "species body" (Best, 1994).

Disciplinary power is enacted in social institutions such as hospitals, asylums, schools

and the ultimate goal is to achieve "normalization" and the "elimination of all social and

psychological irregularities and the production of useful docile subjects through a refashioning of

minds and bodies" (Best, 1994, p.37).   The concept of "species body" is tied to disciplinary

power as it pertains not just to individual subjects, but also to the general social population (e.g.

the collective identity): "The supervision of the population by demography, studies on birth and

death rates, and so on, represent 'the entry of life into history,' into a densely constituted political

field of knowledge, power and political techniques" (Best, 2004, p.38). Therefore the

industries/disciplines of psychiatry, medicine, criminology, education, media and sociology became instruments of disciplinary power that developed, implemented, and proliferated the "technologies" of bio-power on individuals and the population as whole.

Critical Discourse Analysis

Critical Discourse Analysis (CDA) developed as a variety of disciplines that began to acknowledge that, "…changes in language use are linked to wider social and cultural processes" and therefore, the importance of analyzing patterns in linguistics has become an important method for studying social change (Fairclough, 1992, p.xii). CDA has its roots in linguistic studies (the branch of social science that examines pragmatics, vocabulary, and grammar), yet linguistics and language studies have been relatively isolated arms of the other social sciences, and are often dominated by "formalistic and cognitive paradigms" (Fairclough, 1993, p.1). Therefore, CDA was developed in an effort to synthesize and bridge linguistics with other social theories of discourse analysis, particularly because the social sciences have a propensity to put little emphasis on language, or have "a tendency to see language as transparent" (Fairclough, 1993, p.2).

As postmodernism puts forth, language is anything but transparent and CDA attempts to take the process of untangling the meanings, assumptions and ideologies assigned to language/labels even further. At its core, CDA seeks to draw together a synthesis of language analysis and social theory. Fairclough (1993) unpacks the meanings attached to discourse as it relates to CDA:

Discourses do not just reflect or represent social entities and relations, they construct or 'constitute' them; different discourses constitute key entities (be they 'mental illness', 'citizenship' or 'literacy') in different ways, and position people in different ways as

social subjects (e.g. as doctors or patients), and it is these social effects of discourse that are focused upon in discourse analysis. (p. 4)

In the introduction of this research project I highlighted how academia and the political arena are in the "business of meaning making"—here I purposefully evoked the language of business—inferring an industrial or financial (capitalistic) aspect to ideological discourse. The postmodern analytics of the intersections of power, knowledge and capitalism is a key aspect to underscore when looking at the intentional and unintentional uses of language both in my writing as a researcher/writer/academic and in tracing the patterns and use of language/labels throughout history. Therefore a careful and critical analysis of discourse in legal, political, personal, and ideological terms is a prominent feature to this research which seeks to problematize SORN policies and their effectiveness in addressing sexually violent behavior.

The concepts of power, discipline, knowledge and truth as context/experience/history-dependent discourses are the themes of postmodern theory that are essential to understanding the scope, frame and analysis for this research project. Furthermore these essential aspects of postmodern theory have also had an explicit and implicit influence on how I, as a researcher, understand the historical, sociocultural, and intersubjective nature of SORN policies, sexual violence and the oppression of women, children and queer people throughout history and currently in the U.S.

The analysis of language (literal and metaphorical) in policies regulating or reacting to sexual behavior throughout the U.S. history, as well as the analysis of language in dominant discourse surrounding such ideologies of sexuality, innocence, and gender roles, is at the foundation of this endeavor. Conducting a CDA of SORN policies and utilizing a postmodern framework to locate the important historical underpinnings for the dominant attitudes and

discourses surrounding these policies, will allow this research to illuminate the possible

explanations for why sexual violence is understood and legally has been, and continues to be,

addressed in these particular ways.

With a basic understanding of the social theories that underlie postmodernism and CDA

the next chapter will bridge these understandings to illuminate the theories of Collective Identity

and Collective Trauma. A background of the psychodynamic theories of Ego Psychology and

Object Relations will be described so that they may be applied to a collective culture, which is

relevant to understanding the position of this research. Providing an explanation of the

foundation to these theories will enable this research to draw connections and suggest possible

reasons for why sexual violence and crime continues to be digested in a particular way that

points to SORN policies as the answer to this phenomenon.

CHAPTER V

Psychodynamic Theory, The Ego & Collective Identity

Locating the Frame: Why psychodynamic theory?

The theoretical frame for how history, policy and ideology is understood/analyzed in the majority of this paper was discussed in the preceding chapter on postmodernism, social theory, and Critical Discourse Analysis (CDA). The purpose of this forthcoming chapter is to provide a theoretical background that may lead to answers for the *how* and *why* questions that root this critical inquiry of Sex Offender Registration and Notification (SORN) policies. More specifically, I am proposing that a postmodern framework that encompasses a critical analysis of SORN policies be used in tandem with traditional psychodynamic theories of Ego Psychology and Object Relations Theory. By using postmodernism and psychodynamic theories together, one may better understand the behavior of the collective identity in the U.S.; behavior that scaffolds, supports and reinforces a culture of sexual violence against women, queer people, and children, while simultaneously creating a profit from the policing and criminalization of certain communities. Although salient themes and events in history will be revisited point-by-point through this theoretical lens in the following Discussion Chapter, a brief review of the key concepts in Ego Psychology, Object Relations, Collective Identity and Collective Trauma theories will be presented.

It may seem ironic or even paradoxical to apply psychodynamic theories (which refers to the general branch of psychology that is concerned with conscious and unconscious mental and

emotional processes that determine human behavior and motivation) to a postmodern understanding of a phenomenon, considering that many of the tenets of these theories contradict one another. However, despite these fundamental differences in origins there is benefit to using these theories in a complementary fashion, as postmodernism and CDA rest primarily in troubling common understandings/beliefs/explanations of experiences or events, yet they do little to take action in understanding how this dominant discourse came to be reified into unquestioned hegemony in the first place. This is the intersection where psychodynamic theories come into use for the purpose of this research. If SORN policies have little effectiveness in preventing sexual violence and abuse of individuals and children—then why is it such a widely accepted and fiercely backed policy approach in the legal, academic and popular sentiment?

It may seem to readers that the content of this chapter is taking a sharp turn into the field of psychology, a field that has thus far been skirted, or merely critiqued as an industry that exploits and perpetuates oppressive practices. However, I invite you to sit with a questioning curious stance—as I am highlighting these theories in hopes of utilizing them in a non-traditional/radical way to better make sense of a cultural phenomenon that seems, at times, to defy explanation. In true postmodern fashion I implore that one takes in this information with a critical stance, from a position that is located in context and experience, and finally, with an openness that allows for multiple possibilities and truths to exist. The power saturated industrial complex that so often encompasses the mental health field can have damaging and oppressive effects on individuals and communities—which can be seen in historical and present practices. However, some theories that at once could be used to pathologize, understand, analyze or explicate an individual's behavior, can, when applied to collectivity (in this case dominant culture in the U.S.), hold the possibility of unearthing alternative narratives of understanding.

The intent of this chapter is to provide cursory information regarding these psychological theories in the hopes that these themes will come to life in the following Discussion Chapter when applied to the historical, ideological and political contexts outlined throughout the previous chapters.

Traditionally, the field of psychodynamics and particularly Ego Psychology and Object Relations (which are the primary theories focused on here,) is meant for the analysis of individual behavior, attachment and contextualizing interpersonal relationship styles. I will draw upon the fundamentals of these theories and apply them to the collective dominant discourse in the U.S. (through the complementary theories of Collective Identity and Collective Trauma) as a possible way to understand and explain the process of constructing SORN policies as a reaction to sexual violence and the simultaneous scaffolding of cultural processes that support a culture that eroticizes, sexualizes and objectifies children, women, and gender-non-conforming/queer individuals.

Ego Psychology

Sigmund Freud originally asserted a structure of an individual's mind compartmentalized into three parts: the Id, Superego and Ego. Each had its function and Freud (1923) hypothesized that all human behavior was motivated by conscious and unconscious drives and impulses towards sex and aggression: impulses that are regulated (by the Ego), encouraged (by the Id) or defended against (by the Super Ego). Although it is beyond the scope of this chapter to detail the nuances of Freud's Structural Theory, it is important to briefly recognize Freud's influence in this context, as Ego Psychology was very much developed in reaction to Freud's more rigid and often reductionistic views of human behavior. Ego Psychology began to take shape in the time period between World War I and World War II. However it was not until after World War II

when the theory began to gain more traction and was further elaborated by European expatriates who escaped Nazi persecution by fleeing to the U.S. (Shamess & Shilkret, 2008, p. 63). Ego Psychology puts more emphasis on identity development across the life span, and the individual's capacity for adaptation and interaction with environmental/social influences. Goldstein (1995) summarizes the key components of this theory as a,

> …set of theoretical concepts about human behavior that focus on the origins, development, structure, and functioning of the executive arm of the personality—the ego—and its relationship to other aspects of the personality and to the external environment. The ego is considered to be a mental structure of the personality that is responsible for negotiating between the internal needs of the individual and the outside world. (p.xi)

After the death of Freud in 1939, his daughter Anna Freud developed the first adaptations of the defensive structure of the ego that her father had originally put forth, suggesting that defenses may serve "other purposes than merely protecting the individual from anxiety and conflict" (Goldstein, 1995, p.7). The second adaptation to the theories regarding the ego came from Heinz Hartmann (1939) where he began to explore the idea that the ego had autonomous functions that matured during the development process, but that there were also functions that have "primary autonomy" outside of the id (as cited in Goldstein, 1995, p.53).

Ego functions: After Hartmann put forth the foundational thoughts about the potential for ego functioning, several authors have contributed to the development of this theory and provided a more complex and specific list of functions. The most comprehensive synthesis of these functions came from the work of Ballak and colleagues (1973) (as cited in Goldstein 1995, p.54). They identified twelve major ego functions:

71

(1)	Reality testing
(2)	Judgment
(3)	Sense of reality of the world and the self
(4)	Regulation and control of drives, affects and impulses
(5)	Object relations
(6)	Thought processes
(7)	Adaptive regression in service of the ego (ARISE)
(8)	Defensive functioning
(9)	Stimulus barrier
(10)	Autonomous functioning
(11)	Mastery-competence
(12)	Synthetic-integrative functioning

Essentially, ego functions serve as the ego's ability to "organize and synthesize mental activity" (Shamess & Shilkret, 2008, p.67). The list provided above are the labels used to understand how an individual comes to understand identity, interpersonal relationships and navigating the "norms" of the social environment around them. For the purpose of this research each function will not be described in detail, instead a few key functions will be highlighted either because of their importance in how they will be applied to a collective identity or because they lead directly into important aspects of other background theories.

Regulation and control of affects, drives and impulses: This function refers to an individual's ability to regulate emotions (affect), and control expression of impulses in a manner that is appropriate and safe within the environment around them. Goldstein (1995) explains:

While the maintenance, regulation and control of impulses and affects rest with the ego,

they are affected by the amount and intensity of impulses and unpleasant emotions (id)

within a given individual. They also depend upon the nature of internalized constraints

against the expression of impulses (superego) and the impact of frustrating, dangerous, or

unpleasant life circumstances (reality). (p. 59)

When individuals have difficulty in this area it may manifest in struggles to manage feelings of

anger, anxiety, sadness to the extreme (given that it is common human experience to experience

feelings of overwhelmedness). Further, drives (urges) or impulses may encompass wishes or

fantasies that may be harmful to self or others if acted upon (e.g. to punch someone when angry;

to get intoxicated due to overwhelming emotions; to feel sexual attraction and want to act on it).

This particular function is highlighted for its importance to understanding how certain desires,

impulses, and emotions are defended against. In the subsequent section on Ego Defenses this

function will be further explored. This ego function and the way it is defended is particularly

relevant to this research endeavor when applied to understanding how a collective identity (in

this case dominant U.S. discourse) supports (historically and presently) a culture of

eroticizing/sexualizing children and women and persecuting alternative sexualities all while

denying their tacit consent in those actions.

Object Relations: This function will be discussed as a separate theory in greater detail in

the following sections. However, a foundational understanding of this ego function would be

described as, how well an individual is able to accurately represent and create a cohesive

understanding of the self and others (Shamess & Shilkret, 2008). It is thought that object

relations is central to the development of all other ego functioning, and "refers to both the

development of one's internalized sense of self and others and the evolution of the capacity for mature relationships" (Goldstein, 1995, p.60).

Defensive functioning: The ways the ego defends itself against unwanted, unacceptable or dangerous situations, desires, or impulses is an immensely important aspect of an individual's personality development and overall function. Although this is considered to be an autonomous function of the ego, the ways defenses are enacted are detailed, nuanced and complex. It is important to understand that at its foundation defenses have adaptive and maladaptive qualities. At the most adaptive, "defenses protect the individual from anxiety while simultaneously fostering optimal functioning" (Goldstein, 1995, p. 65)

Synthetic-integrative functioning: The role of this ego function is to integrate and synthesize the host of the other functions. When an individual has strong synthetic-integrative functioning there is a cohesive, solid presentation to their personality. Goldstein (1995) explains this as being responsible for, "…the binding or fitting all the disparate aspects of the personality into a unified structure that acts upon the external world…responsible for personality integration, the resolution of splits, fragmentations, and conflicting tendencies within the personality" (p. 70). Occasionally, when this function is less intact, an individual may exhibit strong functioning in certain areas, but may act at times in "…contradictory, fragmented, inconsistent, unpredictable, or chaotic ways" (Goldstein, 1995, p.70).

Ego Defenses: In addition to synthesizing and organizing mental processes, another major component essential to ego functioning is the role of "protecting the self from real and perceived danger", which occurs by employing certain methods known as *defenses* (Shamess & Shilkret, 2008, p.72). Although this is considered one of the major autonomous ego *functions*, because of its significant impact on individuals' overall functioning and quality of interpersonal

74

relationships, it is deserving of a greater explanation. Shamess & Shilkret (2008) describe the

four kinds of danger the ego requires protection from:

> (1) conflict among the different agencies of the mind (id, ego, superego); (2) conflict in
>
> interpersonal relationships; (3) conflict in relation to social norms and institutions; (4) the
>
> disruption of psychological equilibrium that occurs in response to trauma. (p.73)

Ego defenses operate unconsciously, which is what differentiates them from coping mechanisms.

Coping mechanisms are skills that individuals intentionally employ in times of distress in order

to ease immediate discomfort or unease. Conversely, defenses "are part of the ego's repertoire

of mechanisms for protecting the individual from such anxiety by keeping intolerable or

unacceptable impulses or threats from conscious awareness" (Goldstein, 1995, p. 73).

> Anxiety is an essential component to understanding ego defenses. Shamess & Skilkret

(2008) underscore the profound impact that anxiety has on the psyche, explaining:

> Unpleasant though it is, anxiety serves a necessary and useful function in regulating
>
> mental processes. In much the way that pain alerts us to problems that are likely to affect
>
> our bodily functions, anxiety alerts us to problems that are likely to affect our emotional
>
> wellbeing. (p. 74)

Anxiety acts as an alert that something is dangerous, unsafe or uncomfortable; it is a signal to

awaken an individual's instincts for self-preservation. Freud (1926) outlined what he saw as the

five major types of anxiety that he attributed to particular stages of development (as cited in

Goldstein, 1995, p.75).

> Again, Freud first postulated about defenses of the ego in relationship to unconscious

sexual and aggressive impulses, however he emphasized repression as the primary defense. His

daughter Anna Freud (1936) continued this work on defenses and identified ten defenses (as

cited in Goldstein, 1995, p.76). Laughlin (1979) produced a book that thoroughly details twenty-

two major and twenty-six minor defenses (as cited in Goldstein, 1995, p.77). The major

defenses often written about in literature, illuminated theoretically, or thought to be salient in

clinical cases are enumerated below (Goldstein, 1995, pp.77-85).

       (1)   Isolation

       (2)   Repression

       (3)   Reaction Formation

       (4)   Undoing

       (5)   Regression

       (6)   Introjection (also related; Identification, Internalization, Incorporation)

       (7)   Turning against the self

       (8)   Reversal

       (9)   Sublimation

       (10)   Intellectualization

       (11)   Rationalization

       (12)   Displacement

       (13)   Denial

       (14)   Dissociation

       (15)   Somatization

       (16)   Idealization

       (17)   Compensation

       (18)   Asceticism

       (19)   Altruism

(20)   Splitting

(21)   Projective identification

(22)   Omnipotent control and devaluation

It is beyond the scope of this paper to describe each defense in detail (nor is it necessary for a

thorough understanding of the relevance of these key concepts for this research). The following

subsections however will highlight the key defenses that are key components to synthesizing the

current and historical use of SORN policies in the U.S.

Furthermore, certain defenses are particularly important to the understanding of Object

Relations Theory, which evolved out of Ego Psychology. As discussed in the previous chapter,

just as postmodernism and CDA evolved out various permutations of general social theory, the

background psychodynamic theories of Ego Psychology are key to understanding how other

theories evolved from these foundations. It is with this conceptualization of background

information that these theories can be applied in non-traditional ways to contemporary

phenomena.

In particular, the application of Object Relations Theory to the field of antiracism work is

of particular interest and makes valuable connections to human behavior (Rasmussen & Salhani,

2010). A similar application of Object Relations Theory and Ego Defenses will be made to

understand, analyze and provide possible explanations for how and why SORN policies are used

today, despite their ineffectiveness in preventing sexual violence/exploitation; and further still,

why, given the pervasive epidemic of acquaintance rape/sexual assault and child sexual abuse at

the hands of perpetrators *known* to the victims, that the sensationalism of "Stranger Danger"

(emboldened by SORN policies) seems to prevail as the master narrative around who (e.g. what

predator) "innocents" need to be "protected" from.   However, before further explanation of how

77

these theories may be applied to this phenomenon, it is paramount to have a grounded, albeit cursory explanation of particular ego defenses and Object Relations Theory.

Projection: Projection occurs when an individual attributes negative emotions or unacceptable impulses to the external world. Rasmussen & Salhani (2010) explain that projection occurs when, "Attributes or personal qualities that one cannot bear to see in oneself are easily found in others. Not coincidentally, these same attributes are often unacceptable to the dominant social order in which one is embedded" (p.496). Projection is often mistaken for the defense of displacement (discussed below), as there are similar mechanisms involved. However, it is important to distinguish that projection involves internal (unconscious) feelings, wishes, desires that are put out onto another person, whereas displacement always involves a third party or situation.

Projective Identification: The concept of projection is taken one step further in application when it comes to the defense of projective identification. Many theorists conceptualize this as an extremely complex phenomenon that has a several variations that range in presentation and is difficult to define (Rassmussen & Salhani, 2010). Flanagan (2008) offers this understanding, "The projective part…is the same as in simple projection…the aim is to get rid of something within the self that is uncomfortable and unacceptable. But…the projector does not want to lose the projected part completely—hence the identification"(p.147). Flanagan goes on to cite the work of Ogden (1979) in order to synthesize how projective identification plays a powerful force in much of psychic life and serves four main functions:

> (1) A defense to distance oneself from an unwanted part of the self, while in fantasy
> keeping the part alive in the recipient. (2) A mode of communication in which the
> projector hopes to be understood by making the recipient feel the same way. (3) A type of

object relation in which the projector has achieved a certain degree of separateness but is still in some ways merged with or undifferentiated from the object. (4) An important pathway for psychological change and growth since the process is by no means static and the projector can learn much from the identification with the other. (as cited in Flanagan, 2008, p.147)

The concept of projective identification was further developed and utilized with a slightly different frame under the work of Melanie Klein who is one of the founders of contemporary Object Relations Theory. This defense will be further detailed in the sections below and then utilized in the context of SORN policies and the relevant phenomena pertaining to this research in the Discussion Chapter.

Splitting: Splitting is a defense that describes the process of experiencing disparate parts of oneself, feelings or contradicting aspects of others as separate. Splitting can be utilized as a way of organizing a chaotic, disorganized or unsafe world. "Splitting keeps apart two conscious, contradictory feeling states, such as love and anger or admiration and disappointment. Thus an individual who is viewed as all 'good' suddenly may be seen as all 'bad'"(Goldstein, 1995, p.83).

Reaction formation: Reaction formation involves keeping certain desires, emotions, impulses or interactions out of conscious awareness. The way that this defense plays out however, is by replacing this impulse with its opposite. Shamess and Shilkret (2008) explain, "to understand this defense one must recognize that expressed love can conceal hatred, expressed mercy can conceal cruelty, and expressed obedience can conceal defiance" (p. 82).

Displacement: Displacement involves the transferring of feelings or conflicts about one situation or person to another. Displacement occurs when a desire is unconsciously perceived as

unacceptable and therefore, "…impulses are directed away from the person who is perceived as inappropriate and/or dangerous, and redirected toward a person who is perceived as appropriate and/or safe" (Shamess and Skilkert, 2008, p. 83).

Sublimation: Sublimation is at times a difficult defense for people to understand, as it involves a nuanced response to anxiety. Goldstein (1995) explains this defense as, "…converting an impulse from one socially objectionable aim to a socially acceptable one while retaining the original goal of the impulse" (p.81). Often athletic competitions (e.g. boxing, and other contact sports) can be thought of as an act of sublimation for aggressive impulses that an individual may have toward a particular situation. Therefore that individual "retains the original goal" of releasing physical aggression—however has done so in a "socially acceptable" manner.

Object Relations

Object Relations Theory evolved out of the earlier psychodynamic theories, however it strays significantly from Freud's Drive Theory and Structural Theory, and even from the importance on ego functioning in Ego Psychology. The general emphasis of Object Relations is on the "complex relationship of the self to the other," it explores the "…process whereby people come to experience themselves as separate and independent from others, while at the same time needing profound attachment to others" (Flanagan, 2008, p. 121). A quick note on the use of the word *object*—which can be misleading, in the context of this theory object generally refers to a person. Although this seems odd, as an object generally is used to describe a thing, object in this sentiment does usually refer to an actual external person, but it may also refer to other things that are deeply rooted or symbolic connection to the self (e.g. music, art, medication, memorabilia). Flanagan (2008) explains this nuanced use of object in the context of this theory:

…The word has been chosen to capture an important facet of human relations—that people outside the self can be many things, including objects of desire and fear, rather than simply the people they are…It clearly differentiates the object from the subject…the subject is the self and the object is the thing outside the self that the self perceives, experiences, desires, fears, rejects, or takes in. (p.122)

The take away theme of Object Relations Theory is about relationship, representation and how important relationships get internalized into the self to help create identity. Theories previously had been focused on desire and impulses, and in Object Relations there is a greater emphasis on needs, and an understanding of need as a wider, more encompassing concept (Flanagan, 2008). This theory focuses on "… the interaction that individuals have with other people, on the processes through which individuals internalize those interactions, and on the enormous role these internalized object relations play in psychological life" (Flanagan, 2008, p.122). It also highlights primacy for attachment to others in development, and the harm that can occur if trauma, violence, avoidance, oppression and a host of other things disrupt attachment from taking place.

Melanie Klein & Object Relations: Applications to group processes

Melanie Klein (1882-1960) was a psychoanalyst trained by Freud and two of his closest colleagues (Flanagan, 2008). Klein was a member of a core group of British psychoanalysts who developed variations of object relations theories. Due to its dense and somewhat abstract prose, Klein's work is often disregarded or misunderstood, and she is not included as readily as other theorists as a prominent force in psychodynamic practice, particularly in the U.S. (Rasmussen & Salhani, 2010). Despite this, in many ways Klein is considered "one of the most influential

psychoanalysts in the world…one of the original contributors to the development of object relations theory (Rasmussen & Salhani, 2010, p.495).

Again, here, as in other points of entry in this research (with history, law, identity), by taking a postmodern frame, I intend to utilize aspects of Klein's theories, without undertaking a literal interpretation of her theories. It is imperative to understand Klein in a contextualized way, locating the theory in a particular intention, time, place, and experience. Elliot (2002) emphasizes the influential force that Klein had on the field of psychoanalysis,

> [Klein] extends and challenges Sigmund Freud's thinking about the potential for human destructiveness. In radicalizing object relations theory, Klein understands individuals in a way that makes aggression, destruction, grief, envy and mourning central to the achievement of mature and creative living. (as cited in Rasmussen & Salhani, 2010, p. 495).

For the purpose of this research I am extending the "traditional" use of Kleinian concepts, stretching them beyond the understanding of micro (individual) psyche and illuminating the potential for applying the foundations of her thinking to social theory, as other writers (albeit few and far between) have done (Rasmussen & Salhani, 2010; Alford, 1989; Clarke, 2003).

Specifically, Kleinian thinking on envy, love, hate, and projective identification will be deployed as an extension of collective identity theory. There are many problematic aspects to Klein's theories when they are taken literally and at face value (Alford, 1989). However, it is the application of these particular key concepts and ideas in combination with ego defenses that may prove to be of use when located within a postmodern framework in order to understand the intentions, effectiveness and popular support for SORN policies. It is the work of Rasmussen & Salhani (2010) and their application of Kleinian thinking to understand and look critically at

race, racism and racial microaggressions, that this study will build upon and thereby apply a similar analysis/understanding to the complex issue of sexual violence, rape culture and the intersections of racism and homophobia. The sentiment of this endeavor and of this project's engagement with Kleinian theory is best echoed by Alford (1989), "…to show how the inner world [Klein] describes helps to make the outer world we all live in" (p.vii).

Here I provide a brief explanation of key Kleinian concepts (that are extensions of ego defenses) that are utilized in ways to illuminate the social construct and phenomenon of racism. As racism involves a defense of unearned privilege and power that is afforded to White individuals through culturally, socially, and institutionally sanctioned practices, and which involve direct action on the individual and collective levels—this parallel process serves as a useful and relevant comparison to this phenomenon. Of even further importance to highlight, is that, particularly because racism is an institution of collective power, its impact and implications cannot be divorced from the topic of sexual violence as a cultural phenomenon in the U.S.

Klein further developed the concepts of projection, splitting and projective identification that were discussed in the above section on *ego defenses*. Although these specific concepts will be drawn upon for specific parallels in the Chapter VI, because Klein's perspectives do not differ significantly enough in foundation to the definitions presented above, it is not necessary to rearticulate them in detail here. It is important to remember however, that most of Klein's concepts are intrinsically tied to the concept of projection, splitting and projective identification (Rasmussen & Salhani, 2010; Clarke 2003; Alford, 1989). As is clear from the contents of this chapter, many of the intricate details of these theories are linked, interlock and build upon one another, and therefore it is "helpful to have a grasp on the whole and the parts of [Klein's] theory at the same time" (Rasmussmen & Salhani, 2010, p.498). Therefore these concepts should be

held closely in mind as the remaining aspects of Kleinian theory that are of import are outlined below.

      Positions: Klein differs from Freud in her understanding of the development process—proposing that development is more flexible and fluid and instead of labeling "stages" that one progressively moves through, she instead offers the concept of "positions" that may be continuously revisited throughout one's life. Klein suggests that the mind exists in two positions: the paranoid-schizoid and the depressive (Hinshelwood, 1989 as cited in Rasmussen & Salhani, 201, p.499). In its intended and original use, the paranoid-schizoid position describes,

> …the infant's earliest relationship to the external world. It represents the child's attempts
> to manage powerful anxieties and organize experiences. Splitting, a defense that is to
> keep good and bad experiences separate, is the mechanism that dominates this early
> period. (Rasmussen & Salhani, 2010, p.499).

The key to understanding the paranoid-schizoid position is in the occurrence of the split: the separation of what or who is perceived as "good" and "bad".

      This split occurs because it is overwhelming and impossible to grasp that both (the good and the bad) can exist within the same person or thing (whether it is the self, your partner, parents and so forth). Rasmussen and Salhani (2010) go onto explain further:

> Splitting, therefore, orders the world into such binominal categories as good and bad,
> love and hate, pleasure and unpleasure, hunger and satiation. Hence, the term 'schizoid'
> captures the deep division of the mind that occurs when these experiences are kept
> separate. But these experiences are also derived from the phantasies of the infant who
> perceives that he or she is the target of persecution from the outside. (p.499)

This concept of fearing persecution and splitting are essential concepts to apply towards a collectivity in the context of this research. Building from the Chapter IV, with a postmodern frame in mind, it would not be a far leap to add other rigid binaries or "binominal" categories that are alive in dominant discourse such as: male and female; heterosexual and homosexual; moral and immoral; innocent and guilty. This is where the intersections of discourse analysis, postmodernism and psychodynamic theory can be more clearly delineated.

The depressive position speaks to the process of realizing that "the good and the bad objects are really one and the same" and involves a process of reparation (Rasmussen & Salhani, 2010, p.500). However, for the purposes of this research more emphasis will be placed on how the paranoid-schizoid position is replicated and reinforced in dominant discourse's collective identity, preventing any movement towards a depressive position.

Envy: According to Klein, envy plays an essential role in people's emotional life and she makes a clear distinction between envy, jealousy and greed; Klein sees envy as an "entirely destructive" force (Rasmussen & Salhani, 2010, p.500). Clarke (2003) also uses Kleinian thinking to stretch critical social theory as a frame for understanding racism and adds:

Arguably, envy compounds the anxiety associated with reparation in the depressive position. We perceive others as possessing something good that has been stolen from us: jobs, culture, ways of life. We try to take it back, but we cannot have it all (greed), so we destroy it (envy). In seeking to ethnically cleanse 'others,' we are in fact cleansing ourselves, ridding ourselves of the discomfort of envy. The racist in envy seeks to destroy the good that he cannot have. (as cited in Rasmussen & Salhani, 2010, p.500)

It is Klein's emphasis on the experience of envy, and the splitting that occurs in the paranoid-schizoid position that will be looked at as a process that can also appear within a large social

group or collective identity. These concepts that were created to understand the formation and protection of an individual's personality and ego development can conceivably appear in the formation and protection of a collective ego or national identity.

Collective Identity & Collective Trauma

Although the concepts of Collective Identity and Collective Trauma were briefly discussed in Chapter IV, it is imperative to revisit these concepts again here, as it is this notion of a collectivity that will act as the bridge for these seemingly disparate theories (namely postmodernism and psychodynamics) and it is in this combination that the phenomenon will be illustrated. Collective Identity and Collective Culture are used somewhat interchangeably, and although in many cases this would be problematic as the use, meaning, intention and definition of the word culture is infinitely variable according to context, however for the purpose of this research, the word culture will considered an act of transmitting social knowledge and norms to a collectivity (U.S. collective national identity). Riley (2007) explains how culture is linked to collective identity and the communication of "social knowledge":

> To be learnt, culture, has to be transmitted and any society that fails to pass on its knowledge to future generations fails to reproduce itself. This truism leads directly to a less obvious conclusion, namely that any theory of 'culture' is necessarily a theory of communication, of the structures and functions of the social knowledge system and of the practices which instantiate it. (p.40).

Therefore building upon the notion of Social Identity Theory (discussed in Chapter IV), the concept of collective identity works similarly to create tacit agreements within a large group of individuals, about who belongs, what behavior is acceptable and who deserves membership. The dominant culture, informed by hegemonic discourse (one that privileges a White, heterosexist,

86

capitalist agenda), thereby creates a collective identity (based upon White, Christian, heteropatriachical, upper middle class ideals) that is inextricably tied to the national identity. This creates a collective identity that serves as a powerful force, which holds great influence and power in bolstering widespread beliefs and disseminating those beliefs through influential mediums such as law enforcement, policy, media, academia and religious institutions.

Looking at group behavior is not a new realm of knowledge or study in the psychological or sociological fields. Groups have throughout global history been the victims of and the perpetrators of mass violence (genocide, slavery, internment, systematic rape)—atrocities so unthinkable that they are almost beyond comprehension. However, they have and continue to occur. Groups and collectivities serve as participants, witnesses, or observers in these events and these events get digested, represented and remembered through certain processes. Just as an individual can suffer from a "traumatic event" that may result in a host of responses (e.g. denial, repression, displacement, acting out), so can a collectivity—and with that experience the collectivity can respond in mirrored ways. Alexander (2004) explains how traumatic status can be applied to a collective experience.

> Traumatic status is attributed to real or imagined phenomena, because their actual harmfulness or their objective abruptness, but because these phenomena are believed to have abruptly, and harmfully, affected collective identity. Individual security is anchored in structures of emotional and cultural expectations that provide a sense of security and capability. These expectations and capabilities, in turn, are rooted in the sturdiness of the collectivities of which individuals are a part. …what is at stake, rather, is the collectivity's identity, its stability in terms of meaning, not action. (p.10)

What is essential to understand here is that the contents/details of the "trauma" are of less consequence than the impact, the *meaning,* such an event has on the way the collectivity understands its identity. National, personal, and collective identity is protected and defended against at all costs. Remember now, the ego functions and defenses—if an event, person or perceived group is seen as a conscious or unconscious threat to a collective identity's way of life (literally or metaphorically), action will be taken to reduce the anxiety/fear and achieve regulation of the status quo.

This idea of protecting identity (self-preservation) has been a key concept applied to understanding the psychology of mass killing and genocide. This area of study is a useful parallel to this project. Ervin Staub (1989) outlines his theory of the preconditions that exist in a society which make it vulnerable for mass violence/killing. Staub argues that a combination of difficult life conditions, psychological consequences (when one's needs and goals are threatened), as well as cultural and personal preconditions, set up a society and individuals to be well on the continuum of mistreatment. Such psychological preconditions are thought to be a result of hard economic, political, or otherwise stressful times:

> Hard times make people feel threatened and frustrated…All human beings strive for a coherent and positive self-concept, a self-definition that provides continuity and guide's one's life. Difficult conditions threaten the self-concept as people cannot care for themselves and their families or control the circumstances of their lives. (Staub, 1989, p. 15)

When one is feeling threatened, the most typical reaction is to act in one's own interest towards self-preservation. Staub applies his theory about pre-conditional "hard times", within the psychological mindset of an entire group of people. Although he does not necessarily use this

language, Staub is referencing the formation of collective identity. During hard times, people strive to protect certain notions; "the motive to defend the physical self (one's life and safety) and defend the psychological self (one's self-concept, values, and ways of life)" is extremely high on an individual's list of basic "needs and goals" (p. 15). In these conditions, self-preservation is one's highest priority.

This process of self-preservation need not apply only to extreme and explicit hard times. The psychological threat and hardship experienced by the collective identity may produce a backlash rooted in the collectivity's insecurities. This backlash (reaction/behavior) is an effort to preserve the (self) collective identity.

> Devaluation of a subgroup helps to raise low self-esteem. Adopting an ideology provides a new worldview, and a vision of a better society that gives hope. Joining a group enables people to give up a burdensome self, adopt a new social identity, and gain a connection to other people. This requires action, but is frequently not constructive action. (Staub, 1989, p. 17)

This concept of self-preservation on the behalf of the collective identity is instrumental in understanding how and why oppressive systems of power (whether it be racism, classism, sexism, heterosexism) remain in place and are fiercely protected by the dominant group. As the history, context and nuances of SORN policies are revisited, it is of the utmost importance to hold these theories closely together as a frame of reference to understanding collective behavior and meaning.

With a basic understanding of the foundations of ego functions, ego defenses, object relations and collective identity the following Discussion Chapter will apply these concepts to the context of SORN policies as they serve as a reaction to, and preventative measure against,

sexual violence in the U.S. This chapter will illuminate the possible nuances and unconscious

processes that the dominant collective identity in the U.S. might be employing when it comes to

the sexual exploitation and eroticization of women and children. The defense mechanisms of

scapegoating, denial, envy and splitting will be utilized to understand and contextualize the

intersections of criminality, the prison industrial complex, and the policing of the

queer/female/child body.

CHAPTER VI

Discussion

It would be hardly an overstatement to say that the subject of the child's sexuality and erotic appeal, along with our evasion of what we have done by bestowing these gifts, now structures our culture. It would not be an overstatement to say that the way we are handling the subject is ripping apart our young people. I do not deny that we are also talking sincerely about detection and danger. We worry about the poor, hurt children. But we also worry about maintaining the particular erotic vision of children that is putting them at risk in the first place. (Kincaid, 1998, p.14)

Critical Discourse Analysis

The themes of this theoretical study have been vast and broad covering historical, legal and social aspects to this phenomenon. As this chapter seeks to synthesize the entirety of information presented throughout the study through the lenses of postmodernism and psychodynamic theories, it is important to revisit the intent and goals set forth in the Introduction Chapter. This study interrogated Sex Offender Registration and Notification (SORN) policies from multiple angles: 1) to deconstruct the legislation itself (logistics, stipulations, restrictions and enforcement); 2) the impact such policies have on individuals who are required to register; 3) the impact on communities in creating public spaces that are increasingly policed and regulated and, thereby, adding to the expansion of the prison industrial complex; 4) the implications and effectiveness sex offender registries (SORs) have in preventing sexually predatory behavior and acts of sexual violence; and 5) the implicit values and beliefs underlying hegemonic U.S. discourse surrounding sexual violence and abuse.

Critical Discourse Analysis has been conducted throughout the entirety of this research endeavor. CDA methods (within a postmodern, critical feminist framework) were utilized from a variety of angles: 1) to understand the historical roots of regulating sexual behavior (Chapter II); 2) to unpack the linguistic choices throughout the construction of policy with the "war on drugs" and "stranger danger" panic of the 1990s (Chapter III); and 3) to locate the application of SORN policies as an extension of the Prison Industrial Complex (PIC) by increasing surveillance in already policed communities and the formation of "gated" communities in order to "keep out" sex offenders (Chapter III).   CDA and postmodernism were utilized to highlight the social context and ideologies that inform policy and therefore de-center a universal "truth" about sexual violence and sexual perpetrating in the U.S. Furthermore this critical framework was used to analyze how legislation condones the commodification, regulation and criminalization of feminine, child and queer bodies, as well as non-heterosexual sexualities.

Conducting a critical analysis of how SORN policies are written, the historical context for the regulation of sexual practices, and the intended and unintended consequences of enforcing such policies, highlighted how legislation is used to validate dominant constructions of gender, sexuality, and innocence. This legislation and the specific language used to promote such policies, helps to reinforce socially constructed notions of gender, sexuality, violence, and innocence and thereby bolsters widespread acceptance of these categories as "objective truths". This study argues that SORN regulations function to protect White heteropatriarchy, capitalism, and the prison industrial complex by providing tacit consent to a collective culture of sexual exploitation and violence (rape culture). This chapter will make explicit connections between the dominant (collective) construction of multiple social identities (race, class, gender, sexual orientation) and the ideologies attached to them through the collective identity of the nation state.

The psychodynamic theories of Ego Psychology and Object Relations will be applied to the collective identity to better understand the processes that directly connect public support for SORN policies to the denial (and unconscious support) of the larger existing rape culture in the U.S.

Construction & Performance: Postmodern perspectives to history and policy

       Protecting the Family: The innate need to "protect the family" (which implies in its subtext the presence of "innocent" children) has been one of the most salient themes throughout the evolution of policy and historical events outlined in this research. This ideology was present in Puritanical Moral Codes, Anti-Miscegenation Laws, the persecution of Black Men and Homosexuals throughout the 20th Century (all discussed in Chapter II), as well as the Child Protection Movement that grew out of fear of the HIV/AIDS epidemic, the "war on drugs" and precipitated the "Stranger Danger" campaign of the 1990s (Chapter III). The ideology of "family values" is a long-standing paradigm in U.S culture which carries with it specific codes about race, gender and sexuality. The racialized discourses that are inherent in colonialism are intrinsically connected to patriarchal notions of the family. "Perhaps one of the most common observations about the racial discourse of colonialism is the patriarchal familial metaphors in which it was cast" (Stoller, 1995, p.150).

       Additionally, there is a direct relationship between Christian Conservatism and the ideology of the family. Religious code/belief/law is used as the simultaneous explanation and excuse for passing particular legislation (the connection between legal and social rhetoric). It is important to distinguish here the ties of homophobia to "protecting the family," as family within the collective identity refers to heterosexual, (mainly White) nuclear family systems. Rothenberg (2004) explains:

Homophobia works effectively as a weapon of sexism because it is joined with a powerful arm, heterosexism. Heterosexism creates the climate for homophobia with its assumption that the world is and must be heterosexual and its display of power and privilege is the norm. Heterosexism is the systemic display of homophobia in the institutions of society. Heterosexism and homophobia work together to enforce compulsory heterosexuality and that bastion of patriarchal power, the nuclear family. (p.182)

This tool of the nuclear family is a primary force guiding SORN policies, one that was gripped fiercely by the mass media in the cases of Megan Kanka, Polly Klass, Jacob Wetterling, and Adam Walsh ushering the passing of several SORN policies. In fact, to further highlight the notion of family/child protection as a direct origin for policy, remember that these (White) children became the namesakes of the policies themselves: Megan's Law (1996), Adam Walsh Child Protection and Safety Act (2006), and Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (1994).

How family is defined (which is tied to other policies such as marriage, adoption, health insurance, employment) is a key factor in deciding who therefore deserves protection. "How the family is defined becomes key in social welfare policy because access to many, if not all, social welfare benefits depends on one's family structure and on deep-seated assumptions about 'deserving' and 'undeserving' families" (Blau & Abramovitz, 2010, p.165). This further constructs the individuals who then embody innocence (in need of protection e.g. [White] women and children) as well as those who embody the guilty/undeserving or even punishable (in need of regulation and restriction e.g. people of color, lesbians, gays, and gender non-conforming individuals).

Legal construction of identity: Children and innocence. It is important to revisit how "child" and "minor" are socially constructed categories (e.g. age of consent, the official working/labor age, age of reaching "adulthood") that get coded into law, which creates the illusion of a static/stable definition. However, it is clear that these categories have evolved, shifted and changed over time according to the needs and interests of society (as was discussed in Chapter II). The ways that "the child" has been used as a tool to represent various literal and metaphorical needs of the collective identity is explained by Kincaid (1998):

> This new thing, the modern child, was deployed as a political and philosophical agent, a weapon to assault what had been taken as virtues: adulthood, sophistication, rational moderation, judicious adjustment to the ways of the world. The child was used to deny these virtues, to eliminate them and substitute in their place a set of inversions: innocence, purity, emptiness. (p.15)

This particular distinction of who readily gets digested as "innocent" (read virginal) and therefore worthy of national attention is important as it underscores the latent racial undertones to the discussion of whose children need and, more importantly, deserve protection. Illustrating the racialized discourse implicit in this issue is that the namesakes of the very policies in question, the stories that received national media attention, were all of White children. Certainly this is not reflective of the full demographics of children whom are victims of sexual abuse/exploitation, but instead reflects the privileging of certain children who are deemed more "innocent" and representative of the "American Family".

As discussed in Chapter II, the notion of purity, consent, and sexual acts were constructed through age of consent legislation that varied from year-to-year and from state-to-state throughout the 19th and 20th centuries (Jenkins, 1998). Although one would assume that states

are invested in protecting children from the dangers of being subjected to sexual acts before an appropriate age by implementing minimum ages for consent, there were particular (economic, patriarchal) motivations for ensuring a girls' innocence or purity. Upon closer examination of the enforcement of consent laws, or persecution of individuals who were thought to have assaulted a girl younger than the established consent age, there was a particular investment in capitalism, and social class status, not to mention an unspoken racial discourse. Although the following quotation was already referenced in Chapter II it is worthwhile to return to it now in this discussion; Jenkins (1998) explains how age of consent directly correlates with the commodification of girls' bodies for economic profit:

> The moral rhetoric for regulating heterosexual behavior was reinforced by the pragmatic motive of preventing illegitimacy and reducing the burden on the public welfare system. The harm form which a young victim was to be protected was neither physical nor psychological but economic, because loss of virginity damaged a girl's marriageability; protection was extended as much to the girl's family as to her own prospects…State laws reflected this 'damaged goods' approach when they qualified the simple age limit by caveats about the girl's character. (p.25)

It is apparent from these historical qualifications to this policy, that women's and girl's bodies (and "purity") were directly tied to monetary value. It was this commodity that the law sought to protect more so than person (victim) in question.

The reason it is of particular importance to highlight the historical use of legislation regulating sexual acts with minors, is because it parallels how current interpretations of the law across, racial, class and gender lines are being enforced. The enforcement (or lack thereof) of age of consent legislation is particularly salient when considering the issue of "juvenile

96

prostitution" or commercial sexual exploitation of children (CSEC). The mere fact that there are two very specific and different ways to refer to this issue (Juvenile Prostitution vs. CSEC) highlights the complexity of the issue as well as serving as a metaphor for dichotomy of ideologies at play. If a child is thought of, and treated as a "prostitute" in the eyes of the law and in the community, she is treated and channeled through services in vastly different ways than her "sexually exploited" peer.

There is no age distinction written into the legislation deeming sexual acts for a fee illegal (prostitution and soliciting laws), thereby leaving room for minors who are legally and technically too young to consent to sexual acts, suddenly vulnerable to being arrested, prosecuted and detained as a prostitute. Data on just how many minors are arrested/prosecuted on prostitution charges are unclear, as the criminal justice system does not collect data on juvenile arrests in this category, making concrete numbers accounting for this group nearly non-existent. However, not unlike the adult penal system where people of color are disproportionately incarcerated (as discussed in Chapter I and II), this trend is also true within the juvenile detention system (Krisberg, 2007). Currently, girls account for twenty-nine percent of juvenile arrests, which is an eleven percent increase since 1980 (Zahn, 2009, p.3). These parallels in demographic statistics of the adult penal and juvenile justice systems only further strengthens the connection that both systems serve as conduits for the larger prison industrial complex (PIC) and thereby function to protect a larger capitalist agenda.

These statistics are important as they intersect with the ideological construction of who is deemed "innocent" and who is deemed "criminal" within dominant U.S. discourse and further still, that these socially constructed and racialized categories also get readily applied to children. Concrete numbers and the sheer magnitude of how many children are victim/survivors of

97

commercial sexual exploitation are unknown, as databases have yet to collect comprehensive

demographics along this category. It is estimated however that as many as 300,000 children may

become victims of commercial sexual exploitation each year (Adams, Owens & Small, 2010;

Estes and Weiner, 2001). Because historically juveniles involved with prostitution have been

considered "run-aways," "street youth," "offenders" or "delinquents," much of the research that

has been conducted has been through the lenses of criminologists (Gray, 2005; Kreston, 2005)

and the ways in which children are being maltreated within this area have largely gone ignored

(Mitchell, Finkelhor, & Wolak, 2010).

These descriptive, socially constructed terms are far from the terms used to describe

Megan Kanka, Adam Walsh and Jacob Wetterling—further underscoring that only some children

get to be considered "victims" of sexual abuse/exploitation, while others get forgotten or are

even considered culpable or consenting as "juvenile prostitutes". Another aspect to

understanding and untangling the legal and practical processes that lead minor girls, who are too

young to legally consent to sexual acts by law, to be arrested, detained, and prosecuted for

prostitution—is that there is, in fact, a demand within the sex trade industry (within the U.S. and

internationally) for children and youth. There is a market for sex with children.

Making Meaning through Policy: This research deconstructs how legal rhetoric

informs policy formation and codifies embodied identities (e.g. sex offender) as a digested/static

category, while simultaneously bolstering a dominant hegemonic discourse that supports and

reifies rape culture and the eroticization of children. As was shown in Chapter II, dominant

discourse has enshrined different meanings, causes, labels and most saliently, various identities

to who are the most dangerous perpetrators of sexual violence throughout U.S. during particular

times in history.

…The cyclical nature of public interest shows that we need a more subtle and complex

explanation. Theories about sexual abuse have not evolved in a simple or linear way;

rather, they have ebbed and flowed—we forget as we learn. Public willingness to accept

claims has also fluctuated over time, and together these changes have affected not only

the mass media but also legislators, judges, medical experts, and criminal-justice

professionals have approached the sexual abuse of children. (Jenkins, 1998, p.3)

The identity of whom one may expect to find on a sex offender registry (SOR) has also changed

over time. As Jenkins (1998) points out, "…All concepts of sex offenders and sex offenses are

socially constructed realities: all are equally subjected to social, political, and ideological

influences, and no particular framing of offenders represents a pristine objective reality" (p.4).

SORN legislation actually functions to reinforce dominant narratives of motherhood and

childhood by constructing who is permitted to embody innocence, and allows sex offenders to be

a scapegoat for a culture that both scaffolds and feeds off of misogyny, the eroticization of

minors, sexual violence and institutionalized homophobia.

Eroticizing and Sexualizing Youth

Much of this research study seeks to provide context, alternative understandings and

problematize past and current legislation that is a state or federally sanctioned reaction to

individuals who exhibit sexually inappropriate, abusive or violent behavior. However, it would

be remiss to contextualize these judicial and historical aspects without also recognizing the

various ways that children and women are sexualized and eroticized within collective U.S.

culture. By creating an environment where women and girls (speaking specifically about

women/girls in this context, as the sexualization process happens almost exclusively to them and

less commonly to men/boys) are consistently produced as sexual objects only bolsters a culture

99

of sexual violence by "naturalizing" objectification as commonplace or expected. Whether it is the sexualization of young girls or the forced (read youthful) beauty standard of women, it seems that youth (with its latent meaning of purity/innocence) is eroticized above all else. This systematic sexualization has severe consequences.

Younger girls imbued with adult sexuality may seem sexually appealing, and this may suggest their sexual availability and status as appropriate sexual objects. Concomitantly, women are often considered sexy only when they appear young, thus blurring the line between who is and is not sexually mature (Cook & Kaiser, 2004)…The sexualization of girls may not only reflect sexist attitudes, a societal tolerance of sexual violence, and the exploitation of girls and women but also contribute to these phenomena. (Zurbriggen et al., 2010, p. 7)

Zurbriggen et al. (2010) report on the many contributors to the sexualization of girls including, cultural (media, television, animation, magazines, music lyrics/videos, movies etc.), interpersonal, and intrapsychic (referring to internal psychological processes).

The process of sexualization not only entails turning a living person into an object (also referred to as dehumanization), but it also involves a process of creating commodities in which that gendered expectation can be bought and sold and therefore performed by literally being embodied by young girls. There is a plethora of methods that exemplify the sexualization of girls and girlhood within U.S. culture:

Toy manufacturers produce dolls wearing black leather miniskirts, feather boas, and thigh-high boots and market them to 8-to-12-year-old girls. Clothing stores sell thongs sized for 7-to-10-year-old girls, some printed with slogans such as "eye candy" or "wink wink"; other thongs sized for women and late adolescent girls are imprinted with

characters from Dr. Seuss and the Muppets. In the world of child beauty pageants, 5-

year-old girls wear fake teeth, hair extensions, and makeup and are encourage to "flirt"

on stage by batting their long, false eyelashes. (Zurbriggen et al., 2010, p.6)

Girls as young as two-to-four-years-old are being spray tanned and having their eyebrows waxed

in hopes of winning the crown and title of "Beauty Queen". As recently as August 2011, the

French company Jours Après Lune released a line of lingerie for girls' age 4-to-12-years-old, by

designer Sophie Morin who describes the line as, "the first designer brand dedicated to

'loungerie' for children and teenagers, comprised of loungewear and lingerie to be worn over

and under, inside and outside" (Guiliano, 2011). This line of "loungerie" is coupled with a series

of pictures depicting young girls wearing the items, dressed with pearls, teased hair and posed in

"very adult positions" (ABC News, Today Show, August 18, 2011).   Though the supposed

outrage was reported by various news sources nationwide, these pictures that were thought to be

so abhorrent, were repeatedly shown time and time again on televisions across the nation for all

to gaze upon while outwardly expressing disgust. Simultaneously, while this disgust/fascination

and display of outrage was presented in the media, the ever-popular U.S. stores of Abercrombie

& Fitch and the Limited Too were selling thongs, bras and padded bikini tops for America's

prepubescent girls (Brooks, 2006).

These examples of the commodities (clothing, underwear, make up, music, shoes, bras)

that are being sold and marketed specifically to young children, makes the link between the

sexualization of youth/women/girls and capitalism both explicit and undeniable. Kincaid (1998)

speaks to the contradictions inherent in this blatant eroticization of innocence:

We seem stuck with a vacant child that is both marginal and central to our lives: easily

disposed of, abused, neglected, abandoned; and yet idealized, treasured, adored. The

eroticizing of empty innocence seems to have left us ashamed and transfixed, unable to

change and unable to resist the cultural directives that instruct us to long for children

precisely in reference to what they do not have. (Kincaid, 1998, p.16)

Advertising and product companies have long realized the potential market (financial gain) of

this age group (namely the 9-to-13-year-olds) and throughout the past sixty years have devoted

considerable research as to how reach/target this specific age group of girls (Cook & Kaiser,

2004).

From the 1940s-1970s this group was generally referred to as subteen or preteen,

however beginning in the late 1980s and more extensively during the 1990s this group began to

be labeled tweens—which carries with it a specific meaning. Cook & Kaiser (2004) explain,

The tween, in its feminine incarnation, registers social ambiguities regarding maturity,

sexuality and gender that call attention to uncertainties as to when a girl becomes, and

ceases to be a tween physically, chronologically or culturally. These ambiguities bespeak

moral tensions informing the 'appropriate' body, as articulate in the idiom of commerce.

The tween girl, both as a biographical person and as a commercial persona constructed

through market discourses, resides in an unstable cultural space where ambiguities of

social identity invite, even tolerate, polysemous and polyvalent renderings of who 'she'

is. (p. 3)

This particularly aggressive advertising boom marketed specifically at "tweens" really took hold

in the 1990s (Kaiser & Cook, 2004), which, not coincidentally, but perhaps ironically, is the time

where the media was sensationalizing the terrible rape/murders of Megan Kanka and Polly Klass.

The legal rhetoric of the 1990s was discussed at length in Chapter III; it was a time where the

"War on Drugs" and "Stranger Danger" rhetoric reigned supreme.   To know that this era was

also the home to renewed advertising campaigns that overtly sexualized young girls, provides yet

another layer to the collective identity within the U.S.—an identity that simultaneously abhors

and supports the exploitation of youth. In this Op-Ed piece written for the L.A. Times, one

mother begins to piece together the connection between "abduction panic," the sexualization of

girls and capitalism:

> In a culture in which the sexualization of childhood is big business—mainstream mega-
> corporations such as Disney earn billions by marketing sexy products to children too
> young to understand their significance—is it any wonder that pedophiles feel emboldened
> to claim that they shouldn't be ostracized for wanting sex with children? …There are
> plenty of good reasons to worry about children and sex. But if we want to get to the heart
> of the problem, we should obsess a little less about whether the neighbor down the block
> is a dangerous pedophile—and we should worry a whole lot more about good old-
> fashioned American capitalism, which is busy serving our children up to pedophiles on a
> corporate platter. (Brooks, 2006)

Here it becomes evident that the collectivity has a paradoxical response to the exploitation of

children—on one hand they speak of disgust/fear and on the other they support and seek the

voyeuristic pleasure of sexualizing youth in the media. (Please note that his particular process

will be discussed in greater detail when referring to the ego defenses of projective identification

and sublimation in a subsequent section of this chapter.)

Yet another nuanced component to the sexualization of girls is that it cannot be separated

from the sexualization and objectification of women. Further yet, the sexualization and

objectification of women/girls cannot be seen as separate from gender and sexually based

violence. This violence, in turn cannot be separated from homophobia, transphobia and violence

against queer people. Throughout this research the interlocking nature of oppression has been stressed as they are interconnected and interrelated. In this instance, eroticizing children, objectifying women and heterosexist, violent behavior against queer people are intrinsically connected, as they are based in their foundation (and in the latent meaning/ideology dominant discourse assigns) in misogyny and the fierce protection of gender roles (which includes the notion of the White nuclear family). The "heterosexual male gaze" in the literal and metaphorical sense is the driving force. The way girls/women are expected to perform their (presumably heterosexual) sexuality within the media and in their interpersonal relationships is for the benefit and consumption of (hetero) men individually and in the collectivity. Literally, girls and women are dressed, made-up and literally positioned in submissively sexualized positions no matter what product is being advertised. Similarly, if gay, lesbian, bisexual and gender-queer individuals step outside, or threaten the heteronormative constellation of the prototypical "American way of life" it is seen as a threat and even as a "danger" (anti-gay rhetoric is rooted in "protecting the family").

Psychodynamic Considerations for Collective Identity

As presented in the Introduction of this work, and referenced in the previous section, if U.S. collective identity relates to the topic of sexual violence, child sexual abuse and criminality with a disorganized attachment style (to borrow a term from the psychodynamic field of psychology)—a way of relating that is contradictory and chaotic (e.g. simultaneously disgusted and fascinated)—then the heteronormative praxis must be unraveled and disentangled to understand what is at the root of such contradictions. Kincaid (1998) explains this ambivalent and contradicting relationship dominant discourse has to both SORN policies and the eroticization of children:

104

Our culture has enthusiastically sexualized the child while denying just as

enthusiastically that is was doing any such thing. We have become so engaged with tales

of childhood eroticism (molestation, incest, abduction, pornography) that we have come

to take for granted the irrepressible allure of children. We allow so much power to the

child's sexual appeal that we no longer question whether adults are drawn to children.

(p.15)

By constructing what and who gets deemed innocent and who and what gets marked as deviant

and dangerous, SORN legislation consequently strengthens dominant paradigms of White,

upper/middle class notions of motherhood, childhood and acceptable sexuality by making

meaning of erotic innocence and constructing the "predator".

In order to understand these ideological constructions that carry both intended and

unintended consequences, it was necessary to reframe SORN legislation through a historical and

postmodern framework that deconstructed categories along race, class, sexuality and gendered

lines. Stoller (1995) explains the particular connections between the construction of child

sexuality and racial/class discourse:

What is striking is how much the middle-class impulse to prescribe children's social, and

specifically sexual behavior was based on racialized language of class difference. The

social grammar of prescriptions for making a child into a bourgeois adult rested on

distinctions that affirmed the virtues of Whiteness and the moral high ground of

bourgeois civilties at the same time. If we are looking to race the embeddedness of race

in the cultivation of the bourgeois self, it may be that this prescriptive discourse on

childbearing is a place to turn. If to be a respectable bourgeois adult meant that one

acquired a set of behaviors that prescribed restraint attributes in which racial and class

"lower-orders" did not share. (Stoller, 1995, p.151)

These intersections and ideologies are important to keep in mind while applying the concepts of

psychodynamic theory to this phenomenon. This section seeks to take this research and analysis

one step further and utilize Object Relations and Ego Psychology theories to understand the

behavior of U.S. collective identity, as this behavior often results in the protection, support and

scaffolding of rape culture.

      Individualism, National Identity, Trauma and Rape Culture: The latent meanings

and distraction encoded in media representations of child abductions/rape/murders has been

discussed throughout the entirety of this research, particularly in the Introduction and Chapter

III. It is worth repeating a few of the key components around innocence, eroticism, and violence

here in this section as it relates to national/collective identity. This particular passage was first

presented in the Introduction and offers an important frame and analysis that will further the

understanding of how psychodynamic theories apply to the collectivity. Highlighting the

detailed and sordid accounts of sexual violence against women and children as recounted and

sensationalized in the media, only obscures the categories of meaning that have been constructed

and are embedded beneath the master (read oppressive) narrative itself. Meiners (2009) explains

the dangers, consequences and trappings of commodifying survivors' stories:

      The heteronormative innocence of selected White women is enshrined in policies and in

      the very conception of the nation-state itself (Smith, 2005)…The state establishes to

      protect the innocence and safety of particular women and children. Too often, constructs

      of the good, the bad, and the innocent are simply mobile artifacts that often shield racial

privileges, rationalize gender and sexual oppression, and perpetuate systemic institutional

ignorances (Sedgwick 1990; Mills 1997). (p. 36)

Additionally, such focus and emphasis on "victims" stories is also saturated within the paradigm

of individualism and obscures the centrality of systems of oppression (which are carried out and

reified through legislation and law enforcement) that manifest these stories in the first place.

The exotification of these stories seeks to simultaneously satisfy the hegemonic

discourse's desire for and attraction towards the eroticization of children—while concurrently

repelling and disowning any involvement. This process can be framed as a splitting of the

collective identity's observing ego and scapegoating sex offenders as the one and only culprits of

sexual abuse and violence. In this constructed narrative they (sex offenders) act alone and the

rest of us "abhor" their actions while reading/writing/televising the nature of "their" crimes

repeatedly for our consumption/satisfaction. The sensationalized and repetitive reporting on

incidents of child sexual violence, coupled with the pervasive sexualization of children in various

media outlets can be conceptualized as the Collective Identity sublimating their desires to

sexualize girls/youth/innocence into a more "socially acceptable" process.

The collectivity consistently engages in splitting, projection, sublimation and

scapegoating in an effort to mitigate dominant anxieties over non-heterosexual sexualities (queer

bodies), protecting the innocence of children and "the family" and any perceived threat to White

privilege. These enactments, (which are in essence repetitions of ideologies and insecurities

underscoring other historical eras) are characteristic of what Klein describes as the paranoid-

schizoid position (as was discussed in Chapter V). If the collective identity is in the paranoid-

schizoid position, it will consciously and unconsciously seek ways to relieve anxiety and protect

the status quo.

107

Protecting the Ego and Preserving the Self. The discourse of self-preservation (discussed in Chapter V) is an important one, especially when looking at collective identity and the protection of a culture that scaffolds sexual violence. The act of rape and other forms of sexual violence can be interpreted as an act of "self-preservation". Gender domination and violence is an act of preserving a system of heteropatriarchy that is deeply rooted in the collective unconscious of an entire society, as well as the individual psyches of those who live in that culture (and thereby share a collective identity). If a cisgendered male's status is threatened, or one person wants to claim dominance over another, he might act out in violence against a woman to prove his status.

This also has implications for the collective culture, as not all men commit acts of sexual violence/abuse/exploitation, but if it is extended beyond the singular, beyond the individual, and the "status" and "identity" of the collectivity is threatened, would it not react similarly in order to protect the status quo and engage in mechanisms of "self-preservation"? The anxiety that is experienced when there is a perceived threat to the collective identity (comprised of the dominant White, heteropatriarchal, capitalistic discourse,) may produce backlash from collectivity. This backlash (reaction) is an effort to preserve the collective identity (self/ego and masculine, heteropatriarchal ideal), and often results in the objectification, rape, abuse, sexualization and altogether devaluation of the "other" (women, children, queer individuals). Just as a woman's gender role carries meaning for the larger society, acts of sexual violence also have broader implications. Sexual violence cannot be seen as separate from politics, nor can the politics of gender roles be separated from the violence and domination inherent in such discourses.

Rape culture refers to a dominant paradigm that tolerates and perpetuates the abuse of girls/women/feminine identities and non-heterosexual sexualities through objectification and violence. The process of cultivating a rape culture happens slowly and insidiously. It happens through the pervasive sexualization of girls discussed earlier; through the objectification of women's bodies; through the forgetting (or denial) of incidents of violence against queer people; the "victim blaming" that occurs in reporting of sexual assault of adult women that details what she was wearing, where she was going, and even her sexual history; and through the sensationalistic media coverage of child rape/murder cases. These occurrences help scaffold a collective culture that is fascinated by stories of sexual violence, yet unable to locate or link these things together to name it as an epidemic. Ehrlich (2001) further exemplifies through a postmodern lens, how rape culture is integrated into our linguistic choices and discourses—even in trials adjudicating charges of sexual assault/rape:

> To locate the problem of rape trials in discursive practices, embodied in institutional settings, is not to deny the power of law to enact rules and impose sanctions. Rather, it is to recognize the structuring potential of language, its capacity to constitute "the objects of which it speaks" and the effects of this structuring on the particular way rules are enacted and sanctions are imposed. (Ehrlich, 2001, p.152)

How is it that the collective identity of the U.S. can easily recognize single acts of sexual violence (particularly involving children) while simultaneously turning away from the pandemic of violence against women/girls/children domestically? Seeing a single act of sexual violence as a separate and solitary incident serves to reify this collective denial and contributes to a culture that colludes with violence that is systematic.

In order to unpack this collective denial of a collective trauma inflicted on the feminine body, one can look at the processes of individualism. As ironic and paradoxical it may seem to apply a theory of individualism to a collective identity (that by nature encompasses many), it is key to understanding how meaning is made and attached to trauma and even what gets to be considered traumatic in the first place. Alexander (2004) explains how trauma gets synthesized into a collective conscious:

> For traumas to emerge at the level of the collectivity, social crises must become cultural crises. Events are one thing, representations of these events quite another. Trauma is not the result of a group experiencing pain. It is the result of this acute discomfort entering in to the core of the collectivity's sense of its own identity. Collective actors "decide" to represent social pain as a fundamental threat to their sense of who they are, where they came from, and where they want to go. (p.10)

If the actors are in the position of power to "decide" what gets coded into meaning through representation, dialogue and symbols, what does it mean then if those actors are also in the dominant group who are the perpetrators? The master narrative is then written in a particular way, with a specific agenda—one that is both conscious and unconscious. This analysis can similarly be applied to the reifying of White dominance and systemic racial oppression (Rasmussen & Salhani, 2010).

To distance oneself from the violence is an intentional way to absolve and separate from taking responsibility or even recognizing the violence. As stories of mass killing and systematic rape have become more frequently reported throughout international media over the past ten years, it has become easy for dominant U.S. discourse to look from afar at the atrocities occurring globally and react in horror while simultaneously patting ourselves on the collective

110

back for being above such despicable acts (this is a form of collective splitting). Kleinman (1995) highlights how this splitting of the collective ego serves to reify the binary of "us versus them", positioning the U.S. as different than those "other" nations where such atrocities occur: "Stories of untamed violence in the so-called third world are then used to domesticate our own forms of oppression. Images of violent political events are of crises that disguise the everydayness of routine violence" (p.177).

One can further see the implications of this individualistic schema when looking at the medicalization of trauma/sexual violence into the psychological affliction of posttraumatic stress disorder (PTSD). Constructing this experience of sexual assault and its consequences into a mental disorder of an individual, functions to further perpetuate the collective splitting and isolation of affect for the collectivity as whole (the notion that the repercussions are experienced solely by the victim/survivor and not by the collectivity). There is a need to distinguish sexual violence as a collective injury. PTSD needs to be de-centered as the dominant frame in which sexual violence is discussed.

The key to understanding the significance in de-centering PTSD as an individual infliction, is that it shifts the injury from the individual to the collective and centers it not as a finite experience/memory/event, but rather as a constantly re-formulating and re-emerging event, one that ruptures, is repaired—only to rupture again. Perhaps this is an excellent explanation of a parallel process of how the U.S. dominant discourse treats sexual violence against women. If we medicalize rape, and diagnose rape survivors with PTSD, then the onus for healing and restoration can be put on her as the individual, and most important the responsibility of harm can be targeted toward the single perpetrator and the collective identity can therefore maintain its cohesive sense of self.

Projection and Projective Identification: Carrying this concept of the splitting of the collective ego in an effort to maintain a cohesive sense of self within the collective identity, it is possible to begin applying other aspects of ego defenses and object relations to this phenomenon. Additionally, splitting is a key component to understanding projection and projective identification, because the "bad" and intolerable parts/desires/impulses of the self are projected onto another—often onto the "Other" (marginalized groups, e.g. people of color, women, queer people). Historically, (as discussed in Chapter II) this projection could be used to understand the policies that targeted gay men, queer sexualities, and black men as "dangerous" or as "sexual predators".

Projection can be applied specifically to the construction of SORN policies and the meaning the collective culture attaches to the individuals on the sex offender registry (SOR). Rasmussen & Salhani (2010) provide a relevant example of how to view projection within a sociocultural dynamic:

> …[An] individual, unable to accept his or her sexual impulses (and inhabiting a social
> world that frowns on the lack of sexual restraint) may target another individual or
> identifiable group for carrying this trait. In these examples, one can see an important link
> between the psyche and social. That individuals routinely use projection as a
> psychological defense to manage anxiety and maintain self-esteem is a key insight. In
> deploying this defense to manage ideas, feelings, and impulses on race, one begins to fill
> the empty container of race with projections that are shaped in part by historical
> influences, current culture, and media discourse. (pp. 497-498)

As Rasmussen and Salhani (2010) used projection to understand racism, and Adorno (1950) used a similar analysis of Anti-Semitism, following the atrocities that occurred during World War II, I

seek to use a similar understanding of projection in relation to dominant discourses of sexual

abuse, rape and sexual violence in the U.S. Moreover, and taking this thought one step further, it

is important to acknowledge that rape culture intersects with other systems of power. Ideologies

constructing race, class, gender, capitalism and compulsory heterosexuality cannot be thought of

as separate, or of functioning from a different space; the ways projection functions in one social

context is similar to how it functions in others (e.g. idea of projection as a way of protecting

White privilege).

In this context the concept of projective identification is particularly salient. "Projective

identification involves splitting the ego and disposing of unwanted parts of the self by projecting

them onto a person who is identified as the other and then phantasizing about controlling those

parts in the other person" (Rasmussen & Salhani, 2010, p.497). As was discussed earlier in this

chapter, dominant culture in the U.S. routinely objectifies women, sexualizes girls, eroticizes

innocence, and demonizes non-heterosexual sexualities, which are all on the continuum of sexual

violence and undoubtedly contribute to rape culture. Despite the pervasive examples of such, the

collectivity generally denies that this is occurring. Within this denial, the collective identity is

able to split the parts of itself that engages in voyeuristic pleasure of witnessing/reading/writing

about sexual violence and the eroticization of children and (unconsciously) projects these aspects

onto individuals registered as sex offenders. This is a quintessential example of collective

projective identification. The individuals on the sex offender registry can then be "controlled"

and regulated as needed, and in so doing eases the collectivity's anxiety and discomfort. Further,

if the collectivity is taking "action" against the "predators" (through legislation and at times

vigilantism), it absolves the collective ego from turning inward and integrating/admitting the

culpability and contribution to creating a culture that routinely victimizes the feminine/child/queer body.

Envy. A discussion about projective identification would be incomplete without addressing the Kleinian concept of envy (discussed in Chapter V). To review, Klein places a great weight on the importance of envy and believed that it,

> …plays a key role in people's emotional life….and distinguishes it from the more commonly understood experiences of jealousy and greed. Greed can be seen as a desire to possess all the goodness one can; jealousy can be seen as the desire to possess the cherished object and remove the rival. Envy, however, in Klein's view is entirely destructive. It is experienced as a need to remove or destroy the source of the envy. (Rasmussen & Salhani, 2010, p. 500)

Although, rationally it may seem ridiculous to suggest that the collective identity within the U.S. is unconsciously envious of sex offenders because they have overtly acted on impulses/desires that are implicitly coveted. However, if one considers the many "faces" the "sexual predator" (e.g. the dangerous/pedophile homosexual, the hypersexual Black male) has embodied throughout U.S. history is it really that extreme to suggest that there was an un/conscious wish for their destruction? Remember a key component here is the drive for self-preservation, and so often the targets of the collective identity's envy/projective identification represented something, or someone, who posed a threat to the collectivity (White, middle-upper class, heteropatriarhcal ideals).

Furthermore, the fact that the SORN policies have been proven to not be an effective means to preventing recidivism among sex offenders (who, despite the nature of the policy, do not represent a homogenous group with predictive behavior) (Ewing, 2011), it begs the question

of what is the gain/purpose of continuing such stringent and restrictive notification laws? If sexual abuse/violence is most often perpetrated by an individual known to the victim/survivor, then why is there such fierce protection over the myth of "stranger danger" and anxious obsession with "protecting the children" by creating "safe" neighborhoods (Synder, 2000; Jenkins, 1998)? The answers to these paradoxical situations may lie within the psychodynamic theories presented in this research. If the potential sex offender in one's neighborhood is not the man living down the street but instead a brother, husband, father, uncle, coach, or priest—this reality may be too much to handle (remember the Sandusky scandal discussed in the Introduction). The anxiety and overwhelmedness that this understanding potentially activates in an individual and within the collective culture creates a split and offers up the perfect scapegoat (the sex offender) to focus on, so that those closest to us can remain the "good objects".

Conclusion

This research endeavor is not meant to obscure, minimize or trivialize the very real horrors of sexual violence. Nor is it meant to ignore the undeniable resiliency and activism of sexual violence survivors. It is also not a project meant to discuss the treatment of "pathology of sexual offending". Rather, it is meant to highlight that there is an epidemic of sexual violence occurring. It is meant to highlight the connections between policy, history, experience and trauma. There is an epidemic of sexual violence, one that is fed by rape culture, a culture in which each actor within the collective identity is a participant/observer/silent witness. This research is in effort to turn towards, not away from, this collective denial/splitting/projection that scaffolds rape culture.

To enter into this research from the vantage point of legislation is an attempt to move away from and interrupt a "victim-centered" discourse that places implicit blame on

115

women/children/queer individuals and explicitly places sole blame on those individuals

registered as sexual offenders. Throughout this work I centered SORN policies and the

enforcement of them, as part of the problem. Using a critical analysis of history, ideologies and

practices through a postmodern lens allowed for connections to be made in how these policies

serve as a conduit for the White, heteropatriarchal, capitalist agenda that functions to bolster the

policing of public spaces, engenders the image of the "predator", and ultimately provides

permission and space for a culture that actually supports and perpetuates sexual exploitation and

violence of women, queer individuals and children.

This research has multiple implications for the profession of social work. From a policy

and advocacy perspective it is clear that SORN legislation is restrictive, ineffective, creates

opportunities for indefinite detention of individuals (through post-conviction commitments and

Sexually Violent Predator status—discussed in Chapter III), and is extremely expensive to

maintain and enforce. There is a clear need for reform. Additionally, psychologists,

psychiatrists and other mental health workers are directly involved in maintaining these policies

as they are often employed as "experts" to testify, evaluate and even "predict" the dangerousness

and likelihood of recidivism among sex offenders (which empirically speaking is not predictable)

(Ewing, 2011). Therefore, as one of the only subsets of the larger mental health field

(psychology, psychiatry, social work) to explicitly center social/economic justice as one of its

core values, it is imperative to interrogate the ways that field of social work may be contributing

to the maintenance of an oppressive and ineffective system, one that is directly related to the

larger prison industrial complex (PIC).

The implications of pervasive sexual violence in U.S. and the rape culture that inevitably

scaffolds such acts provide many potential areas of intervention. Clinically, this research will

inform therapists' work with survivors and perpetrators of sexual violence. Further, understanding the history and intersectionality of racism, sexism, and homophobia in cultural and linguistic practices is important in any clinical work—individual, group or family work. The other relevant implication for social work comes in the form of education about sexual violence, sexual health, and boundaries. If the dominant narrative in the U.S. is to guard against "stranger danger" and implicitly engage in "victim blaming", social workers must be the prominent voice against these discourses and encourage families, individuals and children to have agency and voice over their own experiences, whether it be experiences of violence, homophobia, or racism.

On an individual level, it is important to recognize that as individuals within the social work (or mental health) profession, we are not immune to the oppressive discourses that saturate society, theory and clinical practice. It is of the utmost importance for clinical social workers to be in constant interrogation and reinvention of their own beliefs, practices and language in order to not blindly or even unconsciously reify hurtful and oppressive paradigms. On a collective level I would like to think about Recovery and Reparation (to further stretch Kleinian Object Relations Theory within a collective context). Reparation occurs in the depressive position and "provides a ray of hope in an otherwise rather shadow (some say realistic) view of humanity…reparation integrates love, hate and the realization of the wholeness of the other" (Rasmussen & Salhani, 2010, p.50).

I wonder what it would look like if the collective identity in the U.S. moved more towards the depressive position and a more integrated view of our own culpability in creating these systems? What would it mean to be recovering from pervasive rape culture domestically and internationally—what would we have to admit, let go of, resist? Van Denend (2010) used Kleinian theories to unpack the dynamics intertwined with the criminal justice system's

117

treatment of women and mothers. Her closing statement is something I echo in this research and speaks profoundly to the possibility for collective reparation and recovery:

> At the danger of causing Melanie Klein to roll in her grave, I finish with a quote. Although it sounds sentimental or naïve, it expresses a hope I have for the criminal justice system and for ourselves. Klein (1935) writes, 'Full identification with the object…goes hand in hand with anxiety for it (of its disintegration), with guilt and remorse, with a sense of responsibility. …These emotions, whether conscious or unconscious, are in my view among the fundamental elements of the feeling we call love" (Klein, 1935, p.270). May we all learn this type of love toward others and toward ourselves. (pp. 21-22)

May we speak truth only from the place of experience. May we locate policies within the ideologies that shaped them. May we rewrite history so that the multiple and many narratives are represented. May we always be leaning towards justice and seeking reparation.

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119

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