

# Are We All Sex Offenders?

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*Capture the audience...*

Three and a half years ago, I was sitting alone in a cell in Arlington, VA waiting for a trial that would determine whether I would spend the rest of my life in prison.

Unlike most trials, this one didn't come at the beginning of my encounter with our legal system, but at the very end. I had already been imprisoned for almost 9 years, including 4.5 years in solitary. I wasn't on trial for what I had done in the past.

Instead, I was standing trial for what I *might* do in the future.

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*Explain why I was in prison...*

When I was 19, I fell in love with a boy who was sweet and smart... and quirky. He would read me his poetry and talk to me late into the night about anything and everything. We told each other our secrets, and he made me laugh. He was my best friend.

One night we stayed up late, talking quietly together after our friends had fallen asleep in the room around us. It was my last night back home on break before returning to college for the Spring semester. He kissed me for the first time, and asked to have oral sex. He was a freshman in high school.

WE never thought that night would lead to a prison cell, or that the next decade of my life would be spent mired in a criminal justice system designed to crush my humanity.

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*Civil Commitment Explained*

On my 26<sup>th</sup> birthday – three weeks before I was scheduled to be released from prison – I was told that Virginia had decided not to let me out. Instead the state was seeking to give me a new sentence – to indefinitely confine me to a prison masquerading as a treatment facility.

Twenty states and the federal government have laws that allow the state to indefinitely detain someone, even after they have completed their prison sentence. The government wants you to believe they can predict the future – that some people are just too dangerous to be released... and they know who will or will not commit future crime?

Their theory goes like this: If you have broken a law, you must have a psychological problem. This psychological problem means you must not be in control of your behavior. And his lack of control means you must be likely to commit future crime.

This idea represents a frightening departure from the fundamental principles of our legal system – that we hold people accountable for what they have done, and we restore them to our communities after they have repaid their debt to society. Our system of justice is built on proportionality between crime and punishment. ***These new systems of indefinite detention rely on circular reasoning and reimagine a legal system where we no longer punish someone for what they have done, we've begun to punish people for who they are.***

In the history of the law in Virginia, no one had ever won one of these trials in front of a jury.

***Witches aren't supposed to win witch trials.***

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At the age of twenty-eight, Virginia gave me a trial by jury – not for anything I had done, but for who they claimed me to be. What was on trial, was my identity.

During this trial the jury would be asked to decide whether I have a psychological problem that makes me a danger to the public – and the only side allowed to introduce expert testimony was the prosecutor.

I was barred by law from mounting a defense.

Then something unprecedented happened. We won.

*consider moving somewhere on the carpet... physically move to create a shift*

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*Sex Offender Identity: Intro*

There are nearly a million people in the United States who are forced to register as sex offenders. As a teenager I became one of them. The US is unique in the way it treats people convicted of breaking our sex laws – we criminalize far more things, and we penalize them far more harshly than any other modern western society. *(Remember the theme of Borders and Belonging here – there is nothing more intimate than sexual belonging and nothing more rigid than sexual borders in our society... perhaps bring this back as a conclusion)*

In the public imagination, the sex offender identity is associated with serial rapists and lurking child predators. We all think we know what a sex offender is – we see sensationalized news reports, episodes of Law & Order: SVU. But what if everything we thought we knew was wrong?

When is a sex offender not a sex offender?

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When Virginia tried to make me spend the rest of my life behind bars, their argument to the jury rested almost entirely on the sex offender label.

But what is a sex offender? This label has taken on an identity of its own. We imagine sex offenders to be inherently dangerous – a sex offender is someone who has committed harm, and will do so again.

The fascinating thing about my trial is that when the state was forced to prove to a room full of smart people that someone convicted of a sex crime IS a sex offender – they couldn't do that. And this points to much broader problem with these labels.

At one point, the state tried to argue that I suffered from narcissistic personality disorder. Sounds scary right? Their proof? When I was a teenager I thought I knew more than my parents.

I remember sitting in my friends' kitchen here in New York last fall explaining to her bright 16-year-olds how the trial worked. I told them how the state tried to diagnose me with something called *hebephilia*... which their expert defined as the psychiatric disorder of finding sexually mature teenagers attractive. Both boys immediately paled in horror, clearly recognizing their own feelings being pathologized by the state – and one stammered... "Um, is that actually a thing?"

No, it turns out it's not a thing. If it were, most of the human race would have that psychiatric disorder. But there is an entire cottage industry of psychologists willing to prostitute their professional credentials for financial gain. So they've taken to inventing greek-sounding words that frighten juries to help prosecutors win cases. If you look up this fake disorder – and others like paraphilia nonconsent – you'll not find them listed in the DSM. But if you look at the more than 5,000 people being indefinitely detain right now for imaginary future crimes, you will find that many of them have been committed using these fraudulent labels.

For nearly two decades the American Psychiatric Association has held that laws allowing for the indefinite detention of people labeled sex offenders represent a bastardization of the legitimate medical model of civil commitment and threaten the credibility of psychiatry itself.

I was lucky, I had a soccer mom jury that didn't scare easily and I had amazing attorneys who believed in me and knew that these laws are fundamentally un-American. Instead of seeing me as someone who might harm their children, I think the moms on that jury recognized that I could have very easily been their son. (*add a dramatic pause here*)

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### *Labels...*

There is a power in naming things. The sex offender identity is arguably the most hated identity in America. People labeled sex offenders are banished from entire communities through residency restrictions, publicly shamed through registration and notification laws, restricted from all kinds of employment, barred from colleges, even banned from using social media.

Facebook bars people labeled sex offenders from the social network, making us digital pariahs – in some states it would be a felony punishable by prison time for me to have a LinkedIn account, or send a tweet.

Sex offenders are imagined to be an exceptional category of criminal deserving of exceptional policies – our approach to child safety over the last thirty years has been defined by the containment, incapacitation, and banishment of this category of people we've labeled sex offenders.

When I became a teenage sex offender I learned two things – The first is that everyone's a sex offender. The second, is that there's no such thing.

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### *We're all sex offenders now...*

Sex laws in the United States have become so overly broad, so puritanical & draconian, and so unmoored from the rational goal of child safety that very few among us can claim to have never violated one of these laws. Teenagers who have consensual sex, skinny dippers, the college kid who urinated in public, high schoolers who sext or streak or hook-up willingly – any of these things can put you on the sex offender registry.

No one can doubt that child sexual abuse is traumatic and devastating. The state has a clear interest in preventing such harm. ***The open secret is, these laws can't do that.***

In our new War on Sex Offenders, the fastest growing area of prosecution in every state system and the federal government is for sex crimes. More and more people are being caught up in these systems who don't deserve to be, and present no danger to our communities.

So many lives are being ruined by these laws that I believe we have more to fear now from the cure than from the disease.

Consider sexting – laws invented to protect children from exploitation are being used to persecute kids instead.

Cops in Colorado recently figured out that high schoolers sext. In what I'm sure was an amazing feat of police investigatory work, law enforcement succeeded in finding more than 500 images on the cell phones of students at one particularly school. Half the kids at this high school have been implicated in this teen

sexting ring. And they could all be placed on the sex offender registry if charged. Each naked selfie is treated by police as a crime scene.

Last summer in North Carolina a 16-year-old boy exchanged nudes with his 16-year-old girlfriend. The boy was charged with the production of child pornography – for taking a picture of his own penis. In the eyes of the state he is simultaneously the child victim and the adult offender.

These teens were legally old enough to consent to actual intercourse with each other in real life, but sending naked pictures is a felony with prison time and followed by a lifetime on the public sex offender registry?

If we caught all the kids doing this, we'd be locking up most of our high schools. Criminalizing adolescent sexuality doesn't change the behavior of these teens. America is unique in the western world for the way we try to use the power of the state to police what teenagers do behind closed doors. Our laws have become ridiculous and absurd.

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*There's no such thing...*

We aren't just doing a bad job of deciding who should be labeled a sex offender. The term itself is a mistake.

The label sex offender has made us fundamentally confused about how to protect children from sexual abuse. Sex Offender Registries only make sense if they identify threats in the community and help parents keep their children safe. But registration laws don't do that because the danger isn't external – ninety-three percent of child sexual abuse is committed by a family member or close family friend.

These are people who don't have a previous conviction. By definition, they aren't people who would be on the list.

And consider for a moment the people on that list? did you know that 95 percent of them won't reoffend. the us DOJ says 95 percent.

The sex offender registry assumes that crimes are committed by strangers. Stranger danger is a myth. All of our policies are built on this myth.

There are 100 high risk child abductions every year in the United States – in a country of 320 million people. That risk is comparable to a child's chance of being struck by lightning.

This summer the Department of Justice admitted to something that researchers have been saying for a long time – laws that make people we've labeled sex offenders register with the police have, and I quote, "no impact on sexual recidivism rates".

Simply put, that means the registry isn't doing anything to protect anyone's kid. In fact, because our laws are so overly broad and because so few people commit a new crime after release, your child is more likely to be labeled a sex offender, than they are likely to ever be abused by someone on the list.

Imagine a world where child sexual abuse is understood as a public health problem. Where we invest in preventing harm to children before it occurs and make mental health treatment available to persons struggling with sexual feelings toward children to help them avoid harmful behavior. The Netherlands, Germany, and Japan already do this.

America still favors persecution over meaningful interventions to promote child welfare.

Lawmakers have brandished the label sex offender as a weapon, using shame and fear to convince the public they're protecting our children. To prove our commitment to child safety, we condemn people labeled sex offenders to a life of social death, marked by banishment from belonging to our communities.

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### *Good News...*

When I walked out of prison just a few years ago, people told me it wasn't possible to do anything about this problem. That the fear and misunderstanding that inspires these laws was endemic. They said the same thing about the trial, that I would lose because no jury would vote to free someone labeled a sex offender.

I'm really glad I didn't take their advice... because change is coming!

This year alone federal courts have ruled against indefinite detention programs in Missouri and Minnesota. European courts are calling America's indefinite detention laws a *flagrant violation* of international human rights standards. Supreme Courts in California, Massachusetts and New York have struck down residency restrictions. This summer, the Department of Justice acknowledged the sex offender registry doesn't do what it claims to, and laws banishing people from our communities don't keep us safer.

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### *Values*

I am here because I believe many of you understand that Injustice anywhere is a threat to justice everywhere. That modern day scarlet letters condemn individuals and their families to poverty, and create barriers to opportunity that weaken entire communities. That our laws should be grounded in evidence, not built on fear.

There's no such thing as a sex offender. It's a made-up up category full of all kinds of people who have nothing in common. The serial rapist and the teenage lover, the exhibitionist and the child molester – they

have nothing in common with one another. We brand them all the same, define them by the worst one percent. And once we give them that label, we treat them all as if we know what they're going to do next.

Labels like these don't contribute to public safety or to understanding – they just rob people of their humanity.

The antidote to fear is understanding. A jury of people just like you were asked to believe in a label – instead they saw a person and chose to set me free. I was the first. I won't be the last.