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**A Multiple Case Study of Memorial Crime Control Legislation and the Disconnect
Between Legislative and Empirical Success**

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Abstract

This thesis includes a qualitative, multiple case analysis by which “memorial crime control” (MCC) laws that were passed (successful) are compared to proposed MCC laws, which were not ultimately passed (unsuccessful). This comparison of MCC laws which were passed with those which were not allows for a better understanding of the nature and appeal of these laws. Additionally, the available peer reviewed research for MCC laws suggests that these laws are ineffective and can be counterproductive to their intended goals. In short, the available evidence indicates that the MCC laws that are “successful” in the political sense, are empirical failures. The goal of this thesis is to document and acknowledge the disconnect between legislative policy creation and scholarly research regarding, and to highlight the need for academic criminologists to take greater interest in the ‘hot topics’ that dominate legislative policy creation.

A Multiple Case Study of Memorial Crime Control Legislation and the Disconnect
Between Legislative and Empirical Success

Memorial Crime Control (MCC) laws are passed and sometimes implemented with the intention of protecting (usually) children from dangerous predators who might commit crimes similar to the ones which inspired the MCC law proposals. The MCC laws that have been passed and implemented are not achieving their intended goals, according to the little empirical research conducted to evaluate their efficacy. These laws have the potential to ruin the lives of many individuals, and if there is a risk that is inherent with said laws, then they should be studied and examined to ensure that they are effective in achieving their goals. For example, in the case of AMBER Alert, the legislation was passed and implemented at the state (Texas), and eventually, the federal level, after the abduction and murder of nine-year-old Amber Hagerman in Arlington, Texas. The goal of this particular example of MCC legislation was to protect children from being murdered by predatory strangers. An important consideration in this illustrative case of MCC legislation is that these types of abductions are rare, and involve relatively harmless abductors. Thus, and in general, MCC laws are reactionary; when a child is murdered it incites a “moral panic” within the public, which puts pressure on policymakers and politicians to take action to at least symbolically address the crime and loss of a child—usually in the form of proposing, passing, and implementing a new law or legislation. We need to study the features of the crimes that lead to new MCC laws being passed, and the process of law creation to better understand how and why these laws continue to be passed and implemented when empirical evidence suggests they are ineffective, and in some cases even counterproductive.

Memorial Crime Control (MCC)

MCC Law-Making Process

Cohen (2002), presented the concept of “moral panic”, which is regarded as a driving force in the proposal and implementation of MCC laws. Moral panic occurs when particular behaviors and/or categories of persons are regarded as threats to prevailing social values and order. In the particular case of crimes against children, this moral panic creates a demand from the larger society for policymakers and politicians to address such crimes in a manner that will supposedly prevent them from happening in the future. When the public reacts with strong emotion and demands, it puts pressure on policymakers to write, propose, pass, and implement new legislation to address the issue (Surette, 2011; Zgoba, 2004; Zgoba, 2008). In the cases of child murder victims such as Megan Kanka, Amber Hagerman, or Jacob Wetterling, typically there is an advocacy by citizens to create new legislation that acknowledges the crime and honors the loss of a child. Generally, the bill becomes sponsored rather quickly by a governor, member of the House of Representatives, or the Senate, then the bill is proposed (House of Representatives). This type of law serves a symbolic purpose of “addressing” the safety of children, to the individuals in both the political and public realms.

Successful MCC Laws at the Federal & State Level

In many cases, MCC laws are created in one state and are passed in other states. This is the case with Caylee’s Law, which was passed in Florida in 2012 after the disappearance and mysterious death of 2-year-old Caylee Anthony (see Appendix A for more detail). This law has since been passed in Alabama, Connecticut, Illinois, Kansas,

Louisiana, New Jersey, North Carolina, Oklahoma, South Dakota, Virginia, and Wisconsin, but has not been passed at the federal level. In contrast, AMBER Alert began in Texas in 1996 as the “Amber Plan” in response to the kidnapping and murder of 9-year-old Amber Hagerman. No other states had passed and implemented this Texas legislation, then in 2003 AMBER Alert was adopted as an integrated national network by Congress and signed into federal law by the President (see Appendix A for more detail). Additionally, some MCC laws that have been passed in one state have yet to be passed in other states (i.e. Three Strikes Legislation and Chelsea’s Law) or at the federal level (see Appendix A for more detail).

Many of the MCC laws that have been passed and implemented at the state level have not been researched to determine their effectiveness at achieving their intended goals. There has been little research conducted on the effectiveness of federal level MCC laws. The MCC laws that have received some attention of social sciences researchers are the Jacob Wetterling Act, Megan’s Law, the Adam Walsh Act, and AMBER Alert. However, this research is extremely limited. The laws that have not been empirically researched are the Three Strikes legislation, Stephanie’s Law, Jessica’s Law, and Caylee’s Law. All passed and implemented MCC laws and legislation should be studied to evaluate whether these said laws are achieving their intended goals, rather than merely serving as symbolic responses to the tragic murder of children.

There are some MCC laws intended to protect the rights of individuals in the U.S. Marsy’s Law (see Appendix A for more detail) is one example. This law was passed and implemented to ensure that victims of crimes and/or their families would be notified if

and when the perpetrator is released on bail, or released from a correctional institution after serving their sentence. Prior to this law being passed and implemented this issue had not been addressed (Marsy's Law, n.d.).

An attribute common to many implemented MCC laws, at both the state and federal levels, is an increase in prison sentence length for perpetrators. For example, the Three Strikes legislation in California and Caylee's Law both mandate harsh punishments for individuals who violate said laws (see Appendix A for more detail). Additionally, the Jacob Wetterling Act and the Adam Walsh Act mandated more severe punishments for sex offenders who fail to register within the allotted time frame, and made the registration requirement retro-active (see Appendix A for more detail). Therefore, previously convicted sex offenders who were never required to register, may not know the process, and may violate the requirements unknowingly.

Crimes Against Children

When a child is a victim of crime, there is a societal reaction of worry for one's own child(ren) and disgust, as children are vested with the strongest social attachments, since they represent the future and are regarded as completely innocent and vulnerable (Best, 1990). According to Surette (2011), when an especially horrific crime is committed, such as the murder of a child, it garners unusually high levels of public attention as a 'hot topic' in the mass media, very often resulting in a media-driven "moral panic"; in which the individuals in society feel that the crime must be addressed in a manner that prevents the same type of crime from happening in the future.

Famous Cases with No Laws Proposed

The murders of JonBenet Ramsey, Amber Dubois, and Kayla Rolland may not have qualified for the creation of any new MCC laws for multiple reasons. First, in the case of JonBenet Ramsey (see Appendix C for more detail), although it was a tragedy, the circumstances of her murder remain unclear and the murderer was never identified. Due to the fact that she was found dead in her own house with no clear murderer or motive, there was no evident information to warrant the proposal of a new MCC law. Second, In the case of Amber Dubois (see Appendix C for more detail), there had been a new MCC law created in memory of Chelsea King, who was assaulted and murdered by the same man. Therefore, there *was* an MCC law created to prevent such a murder from happening again, but it was made after the murder of Chelsea King. The subsequent legislation that was passed and implemented was Chelsea's Law (see Appendix A for more detail). Third, the case of Kayla Rolland (see Appendix C for more detail) was unique in that the perpetrator was a six-year-old child; the absence of a clearly predatory and culpable perpetrator likely explains, in part, why there was no wide scale moral panic associated with the tragedy or subsequent MCC law proposed.

Process of Law Creation

Laws are created in multiple ways by each branch of the U.S. government: executive, judicial, and legislative (House of Representatives, n.d.). The three types of law creation that will be discussed are: administrative law, case law, and legislative law. The process by which laws are created, specifically legislative laws, is crucial to the understanding of how Memorial Crime Control Laws are passed and implemented.

Although administrative law and case law have not yet been utilized to create protections that the public desires, it could be an avenue used in the future; therefore both types of law creation are explained and examined. The precedent for MCC laws to be proposed and passed through legislative law has been set, and lawmakers to date have shown no inclination to go through any other law-making channels.

Administrative Law

Administrative law originates with administrative agencies that are created by the legislature (cannot be created by courts), and are categorized under the executive branch of the government (Fox, 2012). The legislature creates a statute, known as an enabling act, that establishes and allocates power to each administrative agency. Enabling acts can contain specific parameters for agency procedures, but the acts are built upon the more broad federal Administrative Procedure Act (APA). Additionally, administrative agencies have discretion in terms of setting and enforcing their own policies and procedures. The only requirement is that the agency follows their enabling act. According to Fox (2012), the majority of the decisions made by administrative agencies are never reviewed by the legislature or the courts. The agencies function independently, with only occasional outside interference. Some examples of administrative agencies include the Social Security Administration (SSA) and the Environmental Protection Agency (EPA). Courts are also limited in their ability to change a decision or a policy that was created by an administrative agency. A lawyer or individual is more likely to get the ruling or exception that they seek by going directly to the agency, and not through a court (Fox, 2012).

There are three components of administrative agency decision making; rulemaking, adjudication, and informal action (informal adjudication). When an agency engages in rulemaking, it is required to notify the public that a rule is being considered and a description of the rule. The agency is also required to invite the public to respond to the rule that is being considered. When the agency engages in adjudication, it is similar to that of a civil bench trial, but agencies do not follow the same rules of evidence and discovery in the adjudication process. When an agency engages in informal action, they use minimal procedures such as the reason for a decision, giving notice, or offering an oral hearing for individuals with grievances (Fox, 2012).

Although MCC laws have not been proposed and passed through the avenue of administrative law, they could be. For example, the legislature could create an agency that would create the policies of MCC laws, how they are to be executed, and the appropriate sentencing guidelines if policies are not adhered to. This may be a more effective avenue of law-making for MCC laws to be created and controlled.

Case Law

Case law, also referred to as common law, is created by case decisions in appellate courts for both criminal and civil cases, as well as administrative law cases (Schmallegger, 2009). Case law is part of the judicial branch of the government, and generally varies by jurisdiction (the precedent for a case in California is likely to be much different than a similar case in another state). Case law sets the precedent for future cases of a similar nature. “The principal of recognizing previous decisions as precedents to guide future deliberations, called *stare decisis*, forms the basis for our modern law of

precedent” (Schmallegger, 2009, p.119). There are two main rules: the vertical rule and the horizontal rule. The vertical rule is case decisions that are made by higher-level courts are expected to be at least considered by lower-level courts. The horizontal rule indicates that courts that are on the same level should interpret case law consistently among each other (Schmallegger, 2009). The most important task of this type of law is that it requires the Court to interpret the laws and set precedent (“Case law-Common-law”, n.d.).

Case law can be created in either a trial court or an appellate court. The process is a case is first heard by a judge or a jury in a trial court where evidence and witnesses are presented. If a defendant believes that his or her rights have been violated by the trial court, they can appeal their case with the appellate court. The appellate court considers legal issues such as if a defendant’s constitutional rights have been violated, it does not review any evidence that was presented in the trial court (Libguides, 2015).

Case law is applicable to MCC laws in that the vertical and horizontal rules apply when a court is ruling on a case that is categorized under an MCC law. Not all MCC laws contain sentencing guidelines, and therefore case law and its rules, must to be followed when there is a defendant who has committed a crime that is categorized under an MCC law. For example, if a defendant is being charged with violation of parole or probation based on requirements of Megan’s law, such as a convicted sex offender failing to register their address upon release from prison, then the judge that rules on that case should be familiar with how other courts at their level have ruled on similar violations.

Legislative Law

Legislative law is created in the legislative branch of government.

Congress, which is comprised of the House of Representatives and the Senate, vote on proposed bills, where they either pass them and the bills become laws, or they do not (Senate, n.d.). A proposed bill is voted on numerous times, if it is passed by a majority vote each time, then the bill is presented to the President of the United States. There are numerous bills that are proposed annually, and many do not pass by majority vote, and therefore are not enacted into laws.

Legislation is often created to protect the citizens of the United States, and to keep society organized (Jager, 2000). They also serve to inform Americans of what is socially acceptable, and what is considered criminal behavior via passing and implementing legislative laws (Tonry, 2004). These laws can also inform citizens of their individual rights and responsibilities. However, in order for legislative laws to be effective, there must be adequate enforcement and punishment of said laws. Legislative laws, like other types of laws, can also be a form of social control, a way of enforcing the norms of society, and making the deviation from those norms a matter of criminal or law-breaking behavior (Chambliss & Zatz, 1993). Legislative law is also the form of law creation most subject to public scrutiny, as it is formed by democratically elected representatives with a vested interest in at least appearing to respond to the perceived needs of their constituents. Thus, it makes sense that it is in the legislative realm where we would see the most aggressive MCC activity, which has been attributed to “moral panic” (see explanation above).

Bills and Legislation

All known MCC laws are introduced by the legislative process. In this section I will outline steps and considerations to understand how the legislative process functions. Additionally, I will explain how this process is important in the realm of MCC laws.

A bill begins as an idea that a representative from the House sponsors. In the case of an MCC bill, it usually gets sponsorship rather quickly. When the representative presents the bill to the House, it gets assigned to a committee composed of members of the House of Representatives. Once the committee approves the bill, it gets scheduled on the calendar for a vote in the House of Representatives, if the bill passes by majority vote, the proposed bill goes to the Senate to be assigned to a committee composed of members of the Senate. When the committee approves the bill, it is put up for a vote in the Senate, if it passes by majority vote, then a conference committee consisting of both House and Senate members discuss and debate the parameters of the proposed bill until they agree. The proposed bill returned to the House of Representatives and the Senate for a final vote, if the bill passes both legislative bodies, it is prepared and given to the President of the United States. This is typically a lengthy process, however MCC bills are signed into law rather quickly in order to illustrate that the crime has been taken seriously and is being addressed. The President has ten days to decide whether to sign the bill into law or veto it (House of Representatives, n.d.; Senate, n.d.). If the President vetoes the bill it can be overridden by a two-thirds vote by the House and the Senate, if the bill is approved by a two-thirds vote, it becomes a law, if not then the bill “dies”, and does not become a law (Senate, n.d.). This begs a question: In general, what factors suggest a proposed piece of

legislation will be successfully passed, and in particular, what differentiates successfully passed versus failed MCC proposals? It is to that specific conceptual matter that the thesis now turns.

Examples of Passed and Failed Legislative Laws

Below I will compare two types of legislation related to the safety of American citizens in order to argue that different criteria or circumstances are responsible for why one law was passed rapidly, while the other was not passed at all. The USA PATRIOT Act was passed due the perception that America and its citizens were in danger and the sense of urgency to create protection (U.S. Department of Justice, n.d.). The Gun Show Background Check Act did not pass because it was lacking a sense of urgency, and the National Rifle Association (NRA) is an influential group which fought this legislation from passing in defense of the Second Amendment of the U.S. Constitution (“In case you missed it: More gun control laws will not reduce crime”, 2016). This comparison will serve to make the argument that laws are passed for a variety of reasons that directly relate to MCC laws in which I will compare criteria and the characteristics of which I will discuss.

An example of a bill that passed Congress, and was signed into law on October 26, 2001 by the President, George W. Bush, is the USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) (U.S. Department of Justice, n.d.). This act was written and proposed soon after the September 11 terrorist attack in 2001, and was first introduced to the House of Representatives on October 2, 2001. The House voted on October 24, 2001, with 83%

of the members in favor. The Senate voted on October 25, 2001, with 98% in favor.

There are four components to the USA PATRIOT Act that serve to achieve the goal of protecting America and its citizens (U.S. Department of Justice, n.d.). This act prohibits the harboring of terrorists in one's home or place of business, eliminates that statute of limitations for terrorist crimes, and includes enhanced penalties for conspiracy crimes, such as interfering with a flight crew while on an airplane, murder in federal facilities, arson, etc. (Department of Justice, n.d.).

There have been many bills proposed in the House of Representatives and the Senate to address the issue of background checks at gun shows. However, as of the date of this thesis, none have passed Congress and been signed into law. There are some states that have enacted laws requiring background checks at gun shows, but a majority of the states do not. The Gun Show Background Check Act is one of the major bills that has been proposed multiple times, but has not yet been passed by the House of Representatives or the Senate (Library of Congress, n.d.). The first Gun Show Background Check Act of 2001 was the first to be sponsored and presented to Congress, and the most recent was in 2013. The first proposal would require dealers at a gun show who transfer (sell) guns to an individual who is unlicensed, to submit a report of transfer to the Secretary of the Treasurer. This act was presented to the House of Representatives twice in 2002 and 2003, and failed in the introduction phase. This act was presented to the Senate five times in 2001, 2008, 2009, 2011, and 2013, it also failed in the introduction phase (Library of Congress, n.d.).

In conclusion, the USA PATRIOT Act passed in a relatively short amount of time after it was proposed to Congress, while the multiple Gun Show Background Check Acts were never passed. Safety is an important issue that is addressed with a sense of urgency that individuals in political positions seem to agree on, gun control via background checks does not seem to be an urgent matter, and the NRA is the main stakeholder in preventing this legislation from passing. National security is taken seriously by citizens and policymakers alike, whereas on topics such as gun control individuals have varying opinions about how it should be addressed. The reported terrorist attack that occurred on September 11, 2001 shocked the citizens of the United States, therefore a proposed bill to protect the country and its citizens from future attacks was passed quickly due to the amount of support it received. Due to the variation of opinion on background checks at gun shows, it is the level of disagreement that has kept this bill from being enacted into law, it cannot pass the House of Representatives or the Senate. (Library of Congress, n.d.).

A key identifiable difference between these two categories of legislative proposal was the role of overwhelming consensus—or lack thereof. It is nearly tautological but nonetheless important to note that the creation of popular consensus in response to a nearly unanimously experienced moral panic was the key force animating the rapid and overwhelming passage of PATRIOT, and its absence the key determinant of proposals for background checks at gun shows. This issue—the factors animating the creation of consensus—becomes critical when comparing successful versus non-successful MCC legislative proposals.

Megan's Law, the Jacob Wetterling Act, and the Adam Walsh Act: The Literature

A number of important considerations emerge when examining the attributes of successfully passed MCC proposals in preparation for later comparison to those not successfully passed. First is the issue of likely or demonstrated empirical validity. When one examines successful MCC legislation designed to address sexual threats (i.e., Megan's Law, the Wetterling Act, and the Walsh Act), an immediately important consideration is reasonable doubt as to their utility. A statistical element of sex offender recidivism rates that should have been addressed prior to the implementation of Megan's Law, and these other measures, is that available evidence indicates that the recidivism rates for sex offenders are on average low anyway—without any legislation to deter reoffending.

For example, a study conducted by Vasquez, Maddan, and Walker (2008), found that it is not very common that sex offenders recidivate (Finkelhor, 2009; Zgoba, Witt, Dalessandro, and Veysey 2008), and therefore to enact these laws and practices to prevent recidivism of sex offenders appears unfounded. Additionally, Hanson and Bussiere (1998), found that the average sex offense recidivism rate was 13.4% of their sample of 28,972 convicted sex offenders. The community notification and sex offender registration laws that have been implemented have had no detectable significant impact on recidivism of sex offenders.

Furthermore, there is evidence suggesting that these laws are ineffective in deterring overall sex offense rates. A study by Zgoba et al. (2008), indicates that Megan's Law has not been successful (in a long-term time frame), at reducing sex offense crime

rates. Zgoba et al. argued that, based on their data analysis, the rate of decline in New Jersey for sex offenses is similar to the rate of decline in non-sex and non-drug crimes, suggesting there may be other factor(s) that could offer an explanation of the decline in sex offense rates that is unrelated to the implementation of Megan's Law. Therefore, we can conclude that the community notification and sex offender registration laws that have been implemented have had no detectable significant impact on recidivism of sex offenders.

Impact on Non-Violent Sex Offenders

Another important consideration in evaluating the passage of successful sex offender legislation is the very real possibility of deleterious effects of such legislation, despite its ironic passage. The term 'sex offender' incites feelings of fear in the public, and taps perceptions that anyone who is labeled as a sex offender is dangerous, violent, and evil (Hanson and Bussiere, 1998). But this is problematic considering dangerous sex offenders constitute only a small percentage of all convicted and registered sex offenders (Kabat, 1998). The Adam Walsh Act of 2006 is problematic, at best, in terms of the effect it has on non-violent juvenile offenders, as it requires them to register as sex offenders for many years, and even often for life (Freeman-Longo, 2000). Additionally, The Adam Walsh Act made sex offender registration retroactive to include the individuals who were convicted sex offenders prior to this new legislation, who were released from correctional facilities and completed treatment. This element of the act has ruined the lives of many people (Levenson and Cotter, 2005; Levenson, D'Amora, and Hern, 2007). Therefore, it could be said that sex offender legislation causes harm to the juveniles that are now

required to register, and has potentially ruined the lives of many individuals who were previously convicted of a sex offense that had not recidivated up until the time the legislation was passed and implemented.

There are other, additional unintended consequences of sex offender registration and notification requirements that have a negative impact on convicted sex offenders, preventing any rehabilitation from occurring. Kabat (1998), found that sex offenders are negatively impacted by registration and notification requirements to such a degree that they cannot focus on any kind of rehabilitation. Levenson and Tewksbury (2009) further found that one of the unintended consequences is the limitations of employment opportunities for convicted sex offenders, which leads to financial hardship. Some additional negative consequences that registered sex offenders suffer are, "...isolation, shame, embarrassment, and hopelessness...expressed that they were afraid for their safety because their sex offender status was known to others" (Levenson et al., 2007, p. 594). Therefore, we can conclude that sex offender registration and notification requirements have multiple unintended consequences that can greatly hinder individuals from reintegrating back into society successfully. An ironic potential negative consequence of this is that such individuals fall "off the grid", and become harder, not easier, to monitor.

There is also evidence that professionals in the criminal justice field do not believe the passed and implemented sex offender legislation achieves its intended goals. Both policymakers and practitioners reported that sex offender laws were implemented to increase public safety, but the degree of their achieved effectiveness is not clear, at best

(Meloy, Boatwright, and Curtis, 2012). Some of the reasons both groups reported for why the effectiveness of MCC laws is not clear were, "...overextension of the laws, anti-therapeutic characteristics, and the effects of stigmatization and labeling" (Meloy et al., 2012, p. 633). More specifically parole board members have also shown a lack of support for sex offender legislation. One study found that members of parole boards have shown, "...limited support for the use of sex offender registration, and accompanying community notification and residential restrictions policies (Tewksbury and Mustaine, 2011, p. 427). Therefore, if individuals that work in the criminal justice system with sex offenders do not believe that sex offender legislation is achieving its intended goals, more empirical research needs to be conducted to identify what they are achieving and the level of effectiveness of said legislation.

In summarizing the available empirical literature on sex offender registration laws, a few crucial observations can be made. First, there is no compelling empirical evidence that such laws have in fact significantly influenced rates of sex offending. Second, there is substantial evidence of negative consequences, such as the excessive and additionally punitive social marginalization of sex offenders. Finally, individuals that work in the field of criminal justice do not believe that registration and notification requirements are effective in achieving their intended goals, therefore said legislation needs to be reevaluated.

AMBER Alert

There has not been much empirical research conducted on the effectiveness of AMBER Alert system, but a few important points should be addressed when analyzing

this policy. The reader should recall that this particular MCC legislation was passed and expanded nationally owing to a truly brutal child abduction-murder case, which makes it a relevant case for examination of the attributes of such successful legislation. However, as with sex offender registration laws (see above) it too suffers from conceptual and empirical shortcomings that beg the same questions regarding the ease of its passage.

Limited available empirical evidence has pointed out serious questions regarding AMBER Alert effectiveness. First, in many child abduction cases involving an AMBER Alert, the perpetrator is not a clear threat to the health or safety of the kidnapped child. According to Griffin (2010), in about one third of the ‘success cases’ of AMBER Alert, the abductor was a non-custodial parent with no apparent intent to abuse or murder the child. Second, the time frame in which the broadcast is aired to the public can impact the effectiveness of AMBER Alert, but there are strict guidelines law enforcement officials are encouraged to follow before issuing an Alert including a description of the perpetrator, a recent picture of the child (if available), and last location and time the child was seen. Considering the three-hour window that is critical in serious child abduction cases, the time it takes to collect this information can greatly affect the ability for law enforcement officials to broadcast the information in a timely manner (Griffin and Miller, 2008).

Furthermore, many of the Alerts issued under this legislation involve cases where the child’s life was not in any apparent danger. Griffin et al. (2007), concluded that although over 25% of the alerts facilitated the return of abducted children, and are thus arguably ‘successful’, there is little evidence AMBER Alerts saved the lives of said

children. Griffin (2010), found that in more than 80 percent of the success cases the abductor was a family member or other person known to the victim. Therefore, AMBER Alert does not seem to be effective in recovering children from dangerous abductors, as per its intention.

Further demonstrating the daunting goal of AMBER Alert registering lifesaving successes is research illustrating the problematic nature of Alert issuance decisions. Williams, Griffin, Miller, and Wooldredge (2015), found that peripheral harm, or harm inflicted on someone other than the child during the abduction, is negatively correlated with harm caused to the child victim in AMBER Alert cases. This suggests that AMBER Alert issuance decisions are inherently problematic, as even an apparently “obvious” flag of danger to the abducted child could actually be indicative of the opposite, further rendering the possibility of AMBER Alert rendering lifesaving rescues improbable.

The limited empirical research available has indicated that AMBER Alert is widely overused or misused, and many of the alerts are issued without regard to the criteria given by the Department of Justice (Griffin and Weicko, 2015). The criteria are: “...(a) evidence of an actual abduction; (b) genuine risk of bodily injury or death; (c) descriptions of the perpetrator, the victim, or both; (d) verification that the victim is under 18” (Griffin & Miller 2008). When AMBER Alert success cases are evaluated with the use of hindsight, it could be said that many of these Alerts may not have been issued based on strict adherence to the criteria listed above. “...researchers noted that the system was often being misused when well-intended officials hastily issued alerts in cases that turned out to be hoaxes, misunderstandings, or relatively benign custody conflicts”

(Hargrove, 2005; Griffin & Miller, 2008, p. 165). Further research is required in order to come to the definite conclusion that AMBER Alert is ineffective at retrieving child victims from predatory strangers, but it should be noted that even with more research such cases are rare, and it is likely that there may not be enough cases in which the AMBER Alert has been issued that fit the criteria as established by the Department of Justice (Griffin, 2010).

Although the research on the effectiveness of AMBER Alert is limited, to date there is no solid evidence the system has been effective in recovering child victims from predatory abductors. Furthermore, Griffin and Weicko (2015) have argued that the AMBER Alert system poses numerous ethical dilemmas, including the possibility of backfiring if emotionally overwrought familial abductors are driven to harm their victims by the Alert. There is also a highly likely potential problem of public announcements informing abductors about the state of the search for them and their victim(s). Additionally, there is a distorted public discourse about the nature of threats to children, in which a few sensational abduction events publicized because AMBER Alerts overwhelm and distort public discourse about the real nature of threats to children (Griffin & Wiecko, 2015). Therefore, there is no empirical evidence that suggests that AMBER Alert is effective at saving the lives of abducted children, compelling reasons to believe the system is inherently conceptually constrained, and even credible suggestions that it is counterproductive to child safety in specific abduction cases and with regard to threats against children in general.

Discussion

Based on the available literature, we can conclude that MCC laws are often ineffective at best, and counterproductive in many ways. Yet these laws are passed. The factors associated with the passage of MCC laws is important to understand to offer clarity as to how and why they continue to be passed and implemented despite the apparent limitations and even negative unintended consequences. The characteristics of the victim, crime, and offender are critical elements that I will analyze to offer a clear explanation as to why some MCC laws are passed and implemented, while others are not.

Methods

The unit of analysis for this qualitative, multiple case study is the passed versus not-passed MCC laws that are based on available media accounts and other basic descriptions of successfully passed versus not-successfully-passed proposed MCC legislation. For the purpose of this thesis, a successful MCC law has been defined as one that has been passed and implemented, and an unsuccessful MCC law has been defined as one that has been written and proposed, but not passed. The goal of this qualitative multiple case study comparison is to identify relevant case and law attributes associated with the crimes, victims, and perpetrators involved in these two categories of cases to potentially identify key case facts and features associated with successful passage of such laws. This analysis will allow for a preliminary answer to the questions of how contextual attributes influence how the impulse for MCC legislation can potentially override the absence of empirical validation.

I used a matching technique to select the laws and cases to be analyzed for the purpose of this thesis, "...using pairs or small sets of cases that are comparable on many variables, but that contrast on the variable of central interest, commonly known as matching techniques" (Swanborn, 2010, p. 62). I selected a total of sixteen MCC laws that are the most well-known, such as Megan's Law and AMBER Alert. Then I searched for other MCC laws that were based similar crimes, and others that were different in terms of the characteristics of the cases and laws to determine what types of patterns were apparent. The passed MCC laws that are analyzed below are: the Jacob Wetterling Act, Megan's Law, the Adam Walsh Act, AMBER Alert, Three Strikes, Stephanie's Law, Jessica's Law, Marsy's Law, Chelsea's Law, and Caylee's Law (see Appendix A for details). The proposed, but not passed MCC laws that are analyzed below are: Cristina's Law, Amelia's Law, Dustin's Law, Lilly's Law, and Relisha's Law (see Appendix B for details).

In selecting the cases I used what Yin (2003), refers to as replication logic in making sure that the outcome of each proposed law was clear (passed and implemented or not). Another consideration in the selection process, policy concern (Yin), was to not only have laws that were federally proposed, but also ones proposed at the state level to ensure that the not-passed laws could not be explained as a function of them not being proposed at the federal level. The selection of successful and unsuccessful MCC laws was the most effective design to use for this multiple case study comparison to better understand what makes and MCC law successful or not successful. The availability of information such as proposed legislation and case facts was also considered when the MCC laws were bring selected. It was necessary to have enough available information on

the case, victim, perpetrator, and proposed law such that the analysis would have sufficient support for the findings.

I used multiple categories to compare and analyze the successful and unsuccessful MCC laws in terms of their characteristics. The first category is that of victims, including victim age and victim race. All of the victims that the successful and unsuccessful proposed MCC laws are named are were murdered, except Stephanie Fuller. The second category of characteristics is that of the perpetrators, including previous criminal history and intent. The last category of characteristics analyzed are the nature of the crimes and their elements. The comparison of the three above named categories of characteristics allows for a preemptive understanding of why some proposed MCC laws are passed, while others are not.

Findings

I am comparing specific characteristics in this multiple case study to identify patterns and differences between the victims, crimes, and perpetrators of the MCC laws that have passed and those that have not. Additionally, I am comparing the mens rea of the perpetrators and whether or not the existing laws are adequate at addressing the issue that was highlighted as a result of the crime that has triggered the proposal of a new MCC law.

Victim Characteristics of MCC Laws

Some characteristics of the victims of the successful MCC laws differ from those of the victims of the unsuccessful MCC laws. Specifically, most successful MCC laws

were implemented and passed as a result of the murder of a young, white child who would be more likely considered the “ideal victim”. The first clear difference is that Jacob Wetterling, Megan Kanka, Adam Walsh, Amber Hagerman, and Polly Klaas were all 12 years old and under who were kidnapped and murdered under especially heinous circumstances. According to Surette (2011), there are “ideal victims” that the media covers and focuses on. The ideal victim is, “...the innocent, naive, trusting, obviously-in-need-of-protection true human. Children are the archetypal innocent victims and key symbols in the media...” (Surette, 2011, p. 185). With the media covering crimes against children much more in detail and for longer periods of time than other crimes (Surette, 2011), the public feels that such crimes need to be addressed by politicians and policymakers by passing and implementing new legislation to prevent children from becoming victims in the future. However, the victims that the unsuccessful laws were written in memory for were older; Cristina LoBrutto was 18, Amelia Keown was 16, Dustin Ledford was 24, and Sheena Kiska was 23. It seems that our government, at both the state and federal level, is more likely to support and pass legislation that will protect children, and prevent them from being the victims of any crime.

Another important characteristic of the above-named child victims is all five were Caucasian. When MCC laws were written and proposed in memory of these children, they were passed and implemented. Relisha Rudd, by contrast, was a black female child, and Lilly Garcia was a Latina female child. Both the Relisha Rudd’s Law and Lilly Garcia’s laws were proposed, but were not passed by state legislators. The circumstances of their deaths are serious enough to get the attention of the public and legislators alike, but the attention was not sufficient in itself. The media in the U.S.

covers more crimes involving white female victims than any other race, a fact observed by previous critical analysts of the nature that coverage. “Sensationalized news coverage of young white women and girls in peril is so common in the USA that commentators have coined a name for it: ‘The missing white girl syndrome’” (Stillman, 2007), or the media’s disproportionate reporting on stories and crimes highlighting a white woman, and many times a white female child who was the victim of a kidnapping or some other serious crime. This message that white female victims are more important, and take precedence over, a victim that does not meet this description is very powerful, it suggests the marginalization of other groups of victims, such as women belonging to minority groups or low socioeconomic status. (Stillman, 2007). It stands to reason that this very plausible cultural bias affects not only media coverage, but differentiates successfully passed from not-successfully passed MCC proposals owing to this preferential treatment of white victims.

Differences in the Crimes of MCC Laws

MCC laws are much more likely to pass when the crime involves victimization and murder of a child; the laws that did not pass were proposed based on crimes where the victim is older, the perpetrator was a veteran, or the death of the individual was unintentional. Amelia and Dustin were victims of another driver under the influence of drugs or alcohol. The other drivers that caused each of the car accidents did not intend to hurt Amelia, Dustin, or themselves. Sheena was a victim of a burglary gone array when she walked into her apartment while there was someone who had broken in to steal her property. Cristina was the victim of what seemed to be a veteran suffering from PTSD.

Although these circumstances resulted in the unfortunate death of these individuals, the crimes that caused their death are different than the crime of premeditated murder of a child (often with aggravating factors of severity, such as sexual assault or extremely brutal modes of death). Jacob, Adam, Amber, and Polly were all kidnapped by a predatory stranger and murdered. In the case of Jacob, the location of his body was unknown and his murder remained unsolved for 27 years. Although Adam's remains were found within a few weeks after his disappearance, law enforcement officials did not positively identify his murderer until many years later. However, in both cases, strong suspicions were cast on individual stranger suspects, suggesting the two boys were in fact victims of such a criminal. In Amber's case, authorities knew that she had been murdered, as of the date of this thesis, her murderer has not been found or identified, but the difficulty of identification despite a witness to the abduction further suggested she was the victim of a predatory stranger. The man who murdered Polly Klaas had confessed to the crime. Thus in all of these cases there was at least some strong suggestion that the perpetrator fit the "predator" narrative.

Megan, Jessica, and Chelsea were all kidnapped, sexually assaulted, and murdered by a known predatory stranger. In the cases of both Megan and Jessica, the men who murdered them lived in their neighborhoods and were convicted sex offenders. All three victims' remains were located by law enforcement within a month of their disappearance. Caylee was just a toddler when she was found dead, and it is suspected that she was murdered, but the fact that her disappearance was never reported by her mother to authorities made her case unique. Similarly, Relisha's disappearance was also never reported to authorities by her mother, or any family member. Although a suspect in

the case was found dead of suicide, the circumstances surrounding her disappearance and assumed death remain unknown. The case of Stephanie is different from all other cases because she did not suffer any physical harm, and is still alive with known whereabouts. Therefore, it could be said that one of the reasons that the unsuccessful laws were not passed is due to the fact that the crimes that caused the death of these individuals were not deemed demonstrably heinous enough to pass new laws or legislation.

Perpetrator Characteristics of MCC laws

MCC laws are more likely to be passed when the perpetrator has been previously convicted of violent crimes, or is a convicted sex offender. Another difference between the successful cases and the unsuccessful cases is that while the perpetrators that murdered Jacob, Megan, Adam, Polly, Jessica, and Chelsea were all predatory strangers that had been previously convicted of violent crimes, most of them were also convicted sex offenders. In comparison, although the perpetrators that were driving while under the influence in the deaths of Dustin and Amelia had previous contact with the criminal justice system, neither had been previously convicted of violent crimes. Additionally, in the murder of Cristina, the assailant had no previous criminal history. In the murder of Sheena, she was a victim of being in the wrong place at the wrong time, and at the hands of a perpetrator with no previous criminal record. In the cases of Dustin, Amelia, and Cristina, the individuals that caused each of their death did not plan it. In the case of Cristina, her murderer was suffering from PTSD.

According to Surette (2011), there are also characteristics indicative of the ‘ideal perpetrator’ which garners the most media and social attention. The ideal perpetrators are,

“...outsiders, strangers, foreigners, aliens, and intruders who lack essential human qualities...and as such can never be rehabilitated” (Surette, 2011, p. 185). When examining media coverage of the above listed crimes and murderers from this perspective, it could be argued that offender characteristics allow some crimes, and their victims, to be covered by the media more extensively than others, and also conform to a set of social values that prioritize some victims as more sympathetic, and some offenders as more monstrous, than others.

Mens Rea

The MCC laws that have been passed and implemented include a perpetrator with apparent mens rea, or clear premeditation and intent to harm. The MCC laws that were proposed but did not pass, were inspired by crimes in which the perpetrator did not have such apparent levels of mens rea, and in a few of them there was almost certainly no intention to harm anyone. Mens rea is the concept that the individual who committed the crime had a “guilty mind”, or the level of culpability in for the crime that he/she is accused of committing. The courts examine an individual’s mental state by considering, “...intention, knowledge, recklessness, or perhaps negligence... Thus, the difference in causing death a intentionally and causing a death non-negligently is the difference between liability for murder and no liability” (Brown, 2012, p. 2). The level of culpability that a defendant is found to have has a great influence on the sentence they receive for the crime they are found guilty of.

In the cases of Jacob, Megan, Adam, Amber, Polly, and Jessica, the perpetrator had the apparent level of mens rea that made each of them appear especially culpable for

their crimes. The kidnapping, torture, and murder of these children was planned, and executed carefully, in each case. Whereas, in the cases of Amelia, Dustin, and Sheena the individuals that caused each of their deaths did not plan for it to happen, and thus they lack the level of mens rea associated with the successfully passed MCC laws. For example, in the case of Cristina, since the assailant was a veteran, he could have been experiencing war flashbacks, and not been fully cognizant of his actions, thus he lacked substantial mens rea when committing this crime. In the cases of Marcy, Caylee, Lilly, and Relisha, the mens rea of the perpetrator is unknown due to the ambiguous circumstances of each case.

Apparent mens rea in the perpetrator's state of mind when committing the crime may also be a factor in whether governments will support and pass a new law after the murder of an individual. It should be noted that crimes are often deemed as heinous when the perpetrator obviously had clear mens rea when he/she committed the crime. When crimes such as these are committed the laws passed and implemented intend to provide punishments that are harsher for the individuals that commit similar crimes in the future given a presumption of mens rea present. This element of the new passed and implemented laws is important because judges, "...do not intend punishment to be proportionately connected to culpability, which means they do not intend mens rea terms to attach to facts that adjust sentences even when these facts can impact sentences quite dramatically" (Brown, 2010, p. 11). Although mens rea is an important factor that is considered when deciding the level of guilt and culpability of a defendant, it should not be an element that is considered when creating new laws and legislation.

Adequacy of Existing Laws

Another element relevant to whether a proposed MCC law is passed or not is if the existing laws are perceived as adequate to address the issue that is presented when the given crimes are committed. In the case of Dustin and Amelia, the state and local governments seemed to have taken the position that the existing laws and consequences addressing driving while under the influence were adequate. Additionally, it seems that local governments did not want to alter the existing laws to allow a tenant to break their lease if they felt unsafe, as in the case of Sheena. In the case of Cristina, the law that was written (but not passed) was to allow employers access to employees' and potential employees' social media accounts to monitor behavior. This law was not altered as it would go against other proposed legislation to prevent this exact thing from happening in order to protect the privacy of individuals. Stephanie's Law was written and proposed to update existing voyeurism laws to address the new technology and subsequently, the new ways that people are able to breach other's privacy. The existing "peeping Tom" law that was in effect in New York only addressed the issue of an individual looking into another's residence from the outside. Due to the fact that Stephanie's landlord was viewing her and her residence from the inside via video camera, there was no law that was applicable. Therefore, Stephanie's Law was likely passed and implemented because of the perceived inadequacy of the existing voyeurism laws.

While in the cases of Jacob, Megan, Adam, and Amber it would seem that the federal government thought that more serious action needed to be taken in order to at least try prevent these kinds of crimes from occurring again in the future. Similarly, in the

cases of Polly, Jessica, and Chelsea, the state-level legislator believed that new laws should be passed and implemented to address their murders. Additionally, Caylee's Law was likely passed and implemented because there were no existing laws that required the parents of a missing child to report their disappearance within a specific amount of time. Marsy's Law was passed because there were no victim or family of the victim notification laws in effect to ensure that if a perpetrator was released on bail before sentencing, or released after they had served their sentence the victim or the victim's family was notified. Therefore, another element that is different between successful and unsuccessful MCC laws is whether or not the local, state, and/or federal government perceives existing laws to be adequate.

Predictions Regarding Future MCC Laws

Based on the comparative analysis of the above laws and legislation, it is apparent that in order for a proposed MCC law to be passed and implemented, a number of key elements must be present. These include: the crime was committed against a child, it would be considered a heinous crime, the existing laws or legislation in place are deemed inadequate to address the issue that is presented by said crime, the offender would have to have been previously convicted of a violent crime, and the perpetrator of said crime would need to have the element of mens rea in committing the crime. Although it is not impossible for proposed legislation to pass without encompassing each of the above elements, it is much more likely for the MCC law to pass if it does contain each or at least a combination of the elements listed above. (See Table 1 for a visual summary.)

Table 1 summarizes the various laws discussed in terms of their characteristics.

MCC Laws	MCC Laws and Characteristics of the Crimes & Victims							
	Victim Race	Age of Victim	Nature of Crime	Offender Prev. Convicted	Relationship to Victim	Mens Rea Present	Did Law Pass	Level of Law
Jacob Wetterling Act	White	11	Murder	Yes	Stranger	Yes	Yes	Federal
Adam Walsh Act	White	6	Murder	Yes	Stranger	Yes	Yes	Federal
AMBER Alert	White	9	Murder	Unknown	Stranger	Unknown	Yes	Federal
Megan's Law	White	7	Murder	Yes	Stranger	Yes	Yes	Federal
3 Strikes Law	White	12	Murder	Yes	Stranger	Yes	Yes	State
Stephanie's Law	White	23	Privacy Violation	No	Landlord	Yes	Yes	State
Jessica's Law	White	9	Murder	Yes	Stranger	Yes	Yes	State
Marsy's Law	White	21	Murder	No	Neighbor	Unknown	Yes	State
Chelsea's Law	White	17	Murder	Yes	Stranger	Yes	Yes	State
Caylee's Law	White	2	Suspicious Death	No	Unknown	Unknown	Yes	State
Cristina's Law	White	18	PTSD Shooting	No	Co-Worker	No	No	N/A
Amelia's Law	White	16	DUI Accident	Yes	Stranger	No	No	N/A
Dustin's Law	White	24	DUI Accident	Yes	Stranger	No	No	N/A
Sheena's Law	White	23	Burglary	No	Stranger	No	No	N/A
Lilly's Law	Latina	4	Road Rage Shooting	Yes	Stranger	Unknown	No	N/A
Relisha's Law	Black	8	Disappearance	No	Unknown	Unknown	No	N/A

Implications

There is an ironic connection between the MCC laws that have been passed and implemented, and the empirical research suggests these laws do not achieve their intended goals, and are arguably even counterproductive. MCC laws are symbolic laws that might make the public feel that crimes committed against children are being addressed with no empirical research to support their effectiveness. Passing MCC laws based on characteristics of the crime such as the ideal victim and ideal perpetrator is problematic at best, and sets these new laws up to fail. The murders of Jacob Wetterling, Megan Kanka, Adam Walsh, Amber Hagerman, Polly Klaas, Jessica Lunsford, Chelsea King, and Caylee Anthony were deemed so heinous that the public and policymakers alike felt a strong need to propose, pass, and implement laws to show that something was being done to address these crimes. The MCC laws that were passed and implemented, were thus more indicative of social “success” than the success of preventing the murder

of another child in the future (Griffin & Miller, 2008; Griffin & Wiecko, 2015; Griffin & Williams, 2015; Levenson et al., 2007, Miller et al., 2009). It seems that this country is more compelled to propose, pass, and implement laws that involve child victims, such as Amber Hagerman, than it is to pass MCC laws in memory of someone like Cristina LoBrutto. In essence, the confluence of a young, sympathetic—especially white—victim of a particularly heinous crime, committed by a predatory and culpable perpetrator, with a history of sexual or other violent crimes, can overshadow available empirical considerations (Sillman, 2007; Surette, 2011). When this right confluence of conditions is present, society and its governing bodies are thus more likely to respond with what has been called “crime control theater” (Griffin and Miller, 2008).

Crime control theater emerges when the need for a symbolic response that makes people feel as if there is something being done to address the horrific crime of murdering a child, is the strongest (Griffin & Miller, 2008). Crime control theatre is, “...a socially constructed “solution” to a socially constructed problem, enabling public officials to symbolically address an essentially intractable threat” (Griffin & Miller, 2008, p.1). Griffin and Miller (2008), critiquing the disconnect between the apparent official and public adoption and acceptance of the AMBER Alert system in particular, argued that criminal justice organizations and policymakers are driven to try to at least symbolically address intractable crime problems, even if the symbolic responses are dubious. However, the irony of passing and implementing these MCC laws is that we as Americans have no reason to believe we have done ourselves any favors, as these types of crimes are so rare and random they likely defy effective public response. This is why conducting empirical analysis on MCC laws is so important, but it is also crucial to

recognize when certain case attributes drive the public and policymakers to in essence, “overpower” rational considerations when deciding whether to adopt new MCC legislation.

There needs to be more research done on the implementation and effectiveness of sex offender laws and other MCC policies, in order to conclude that any given MCC law or legislation is “successful”. However, there are amendments that could be made to these laws that might make them more effective. There are also programs like community education that could be implemented in order to make the public better equipped and knowledgeable about safety and able to avoid victimization. These types of programs would likely be much more effective at reducing the rates of sex offenses than community notification and sex offender registration.

There are numerous elements that need to be considered in order to understand why some MCC laws are passed and implemented while others are not. A key element in the discussion of successful and unsuccessful laws is whether a MCC law should be considered “successful” based on said law being passed and implemented. One critical element that should be evaluated before this is determined is if the given law is likely to be successful at achieving its intended goals or not. Just because a MCC law makes the public feel like there is something being done to address a horrific crime should not itself be sufficient impetus for passage.

For example, AMBER Alert was implemented in response to a moral panic in the public. This policy was implemented with the best of intentions, but the reality is that when there is a child abduction case involving a stranger and possible injury and death, it

is very unlikely that law enforcement officials will be able to gather the necessary information to release a broadcast within the time frame needed (Griffin, 2010). When evaluating the effectiveness of the broadcasting system against the criteria that was created by the Department of Justice, there seems to be very few, if any, ‘success stories’. AMBER Alert is most effective in recovering child victims when it seems they were not in eminent danger to begin with (Griffin, 2010). Yet again, the AMBER Alert system was adopted—in direct response to a grotesque crime committed by an apparently monstrous stranger against an ideally, young, white victim.

The apparently failed Megan’s Law, and its associated legislation, has very likely needlessly ruined people’s lives (Levenson & Cotter, 2005; Levenson, et al., 2007) while providing no progress in averting the category of crime targeted. The Jacob Wetterling Act, Megan’s Law, and the Adam Walsh Act, were all implemented in response to the victimization and murder of children, which angered the public and caused a moral panic leading to MCC proposals. Arguably, having to register as a sex offender is something that should be reserved for violent, dangerous, or multiple-time sex offenders. The research that I reviewed indicated that the sex offender registration laws that have been implemented, have had no detectable significant impact on recidivism rates of sex offenders (Vasquez et al., 2008; Finkelhor, 2009). It is not very common that sex offenders recidivate (Hanson and Bussiere, 1998; Zgoba et al., 2008), and therefore to enact these laws and practices to prevent recidivism of sex offenders seems unfounded.

I have analyzed and compared passed and implemented MCC laws with those that were not, and have found them to be clearly problematic. One of the issues that became

evident to me is that the race of the victim seems to have a considerable influence as to whether an MCC law is created or not, it would seem that legislators may not feel the need to create, sponsor, or pass a new law in the memory of a victim who is not Caucasian. A more detailed analysis on this finding would assist in a greater understanding of why this is a foundational characteristic of whether or not an MCC law is passed. Additionally, more research could be done to confirm my finding that the characteristics of the perpetrator influence the passing of a new MCC law. More research and analyzation can be done to look at the process by which MCC laws are created to confirm what I have found in my multiple case study comparison.

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Appendix A

Case and Law Descriptions of Passed MCC Laws

Jacob Wetterling

Jacob Wetterling was a Caucasian, 11-year-old male who was kidnapped in Minnesota in 1989. The perpetrator had been previously convicted of a violent crime, and had apparent mens rea. Although law enforcement officials suspected that a previously convicted sex offender was the perpetrator, Jacob's case remained unsolved until September 2016. The man who murdered Jacob confessed to his murder and disclosed the location of the boy's remains to law enforcement. (CBS News, 2016).

In 1994 the Jacob Wetterling Crimes Against Children and Sexually Violent Registration Act was enacted by the United States Congress. This legislation required that all states create a registry containing the addresses of sexual offenders upon their release from correctional institutions. This Act was implemented after Jacob's parents advocated for law enforcement to take preventative measures against sex offenders.

Megan Kanka

Megan Kanka was a Caucasian, 7-year-old female who was kidnapped, sexually assaulted, and murdered in New Jersey by a convicted sex offender residing in a halfway house near her home in 1994. The perpetrator was a previously convicted sex offender who had apparent mens rea.

In 1996 Megan's Law was implemented as an amendment to the Jacob Wetterling Act. Megan's law "...requires all 50 states to establish and maintain a community

notification system” (Schiavone & Jeglic, 2009, p. 2). Following the implementation of Megan’s Law the public became aware of, and has had varying degrees of access to, sex offender registries. Megan’s Law is a major legal addition to the Sex Offender Registration and Notification Acts.

Adam Walsh

Adam Walsh was a Caucasian, 6-year-old male who was kidnapped from a shopping center in Hollywood, Florida in 1981. Adam was murdered, and his remains were found sixteen days later. The perpetrator was previously convicted of violent crimes and had apparent mens rea. According to Time Magazine (2016), Adam’s assailant was identified by law enforcement officials as Ottis E. Toole, a serial killer. The police chief of Hollywood Police Department, Chad Wagner, apologized to Adam’s parents for allowing investigative mistakes to mislead them. Wagner explained that Toole had confessed to kidnapping and murdering Adam in October of 1983, but because Toole had confessed to crimes he had not committed in the past, the police did not take his confession seriously. Toole died in prison in 1996 while serving consecutive life sentences for other crimes.

The most recent national legislation addressing sex offenders is the Adam Walsh Child Protection and Safety Act, it was passed and implemented in 2006. Adam was 6 years old when he was kidnapped and murdered in 1981. The Adam Walsh Act requires states to comply and follow through with the requirements of Megan’s Law in regards to posting information about sex offenders in their state registries. It is with the implementation of this act that the new classification system was developed for sex

offenders. The classification system is comprised of three tiers, Tier I includes the lowest level of offenses, and Tier III includes the most serious offenses. The following is a description as defined by the act of the three Tiers. According to Reinhart (2006), A sex offender that is classified under Tier I is convicted of a crime that included sexual contact with another, sexual contact or interaction with a minor, or conspiracy to commit either or the above. Tier II sex offenses include sexual conduct with a minor that includes sex trafficking, coercion, abusive sexual contact, or transportation with the intent to commit criminal sexual contact. Tier III sex offenses include committing one of the following crimes, attempting to commit one of the following crimes, or conspiring to commit one of the following crimes; aggravated sexual abuse, sexual abuse, or abusive sexual contact against a child under 13 years old. This act places juvenile sex offenders in the most serious classification of sex offender--tier III. There are many requirements that an individual must meet if they are classified as a tier III sex offender. According to Enniss (2008), tier III sex offenders must,

“...appear in person to at least one of the jurisdictions (jurisdiction of residency, jurisdiction of employment, or jurisdiction of education) where they are required to be registered, allow a photograph to be taken, and verify and update their information every three months for the remainder of time the offender is listed on the registry”

Amber Hagerman

Amber was a Caucasian, 9-year-old female who was kidnapped and murdered in Arlington, Texas by a predatory stranger in broad daylight. Witnesses that saw the

abduction immediately reported it to law enforcement. The perpetrator remains unknown, but is presumed to be a predatory stranger. A local citizen responded to the tragedy with the idea that if law enforcement officials could have found her sooner, then her life would have likely been saved.

AMBER (America's Missing Broadcast Emergency Response) Alert began in 1996 as the "Amber Plan" in Texas. After the "Amber Plan" was implemented in Texas, AMBER Alert was implemented in 2005 as a nationwide broadcasting service. In addition to AMBER Alert, the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act was passed and implemented. This Act contains two sections. Title I includes sanctions and offenses, half of which address AMBER Alert legislation, according to the written law these are, "first degree murder for child abuse and child torture murders, sexual abuse penalties, stronger penalties against kidnapping, and attempt liability for international parental kidnapping" (U.S. Department of Justice, 2003). Title II includes investigations and prosecutions, half of which address AMBER Alert legislation, according to the written law these are, "No statute of limitations for child abduction and sex crimes and no pretrial release for those who rape or kidnap children" (U.S. Department of Justice, 2003).

A local citizen responded to the murder of Amber with the idea that if law enforcement officials could have found her sooner, then her life would have likely been saved. AMBER Alert was greatly inspired by research on child abduction showing that, "...over 70 percent of kidnapped and murdered children are dead within three hours of their abduction, and that faster official response could save lives in the most menacing

abduction cases” (Griffin, 2010). The idea behind AMBER Alert was if law enforcement can get the description of the perpetrator and child out to millions of people, then the likelihood of finding them via a citizen tip, within the crucial 3-hour period would be much greater.

Polly Klass

Polly Klaas was a Caucasian, 12-years-old female who was kidnapped at knife point from her bedroom during a slumber party in Petaluma, California in October of 1993. The perpetrator was previously convicted of sex offenses, and had apparent mens rea. Ironically, law enforcement officials found a vehicle belonging to the man who was ultimately convicted of murdering Polly Klaas, Richard Allen Davis, stuck in a ditch near Petaluma, and they unwittingly assisted him in getting his vehicle out and letting him go. The police were not aware of the kidnapping. Nor were they aware that Davis was currently on parole at the time, and he was a convicted felon that was wanted on a parole violation. After he was tracked down and later arrested, Davis told interrogators that he had put Polly a short distance from the vehicle before the police arrived. Davis claimed that once the police left he knew that he had to kill Polly to avoid going back to prison, so he strangled her to death. During post-arrest interrogation, Davis identified the location of Polly Klaas’s body.

Richard Allen Davis, the assailant, was a convicted sex offender. The law that was proposed, passed, and implemented one year after the murder of Polly Klaas was California’s Three Strikes Law, and it is widely accepted that her murder was the key political impetus for the law’s passage. This law required that any individual who had

two or more serious or violent felonies on his/her record would be sentenced to 25 years to life in prison. This law was written and proposed just a few months prior to Polly's murder by Mike Reynolds after his daughter Kimber was murdered when she was mugged. The legislature said that the law was too harsh and would cost too much money, so they rejected it. However, when Polly was murdered, and the law obtained attention on a national level, and was passed and implemented. There has not been any empirical research conducted on the effectiveness of this law in terms of achieving its intended goals. It should be noted that, "California's Three Strikes Law is not only the harshest in the nation—providing life sentences for crimes that would ordinarily qualify as misdemeanors—but it also applies to more criminal cases than any other sentencing law in the United States" (Romano, 2010).

Stephanie Fuller

Stephanie Fuller, is a Caucasian female in her twenties, who lived in an apartment building in Long Island, New York, in 2001, discovered that her landlord, Shultz, had installed a video camera in the smoke detector in her room. Shultz had been recording Stephanie when she was undressing, and when she was engaging in sexual activity with her boyfriend. The police found video tapes in Shultz's apartment. Due to the fact that Shultz was not filming Stephanie through a window, the state's "Peeping Tom" laws could not be applied. Stephanie is a white, attractive, female victim that was in her twenties when her privacy was violated. Although she was not murdered, she was victimized by a perpetrator that had apparent mens rea.

Shultz was charged with trespassing, he was given a fine of \$1,500, and sentenced to three years of probation and community service. Stephanie felt that Shultz's punishment was inadequate she, "...began a state-wide campaign. Fuller, joined by other previous victims, lobbied the state legislature for two years to redefine the laws to take into account new types of surveillance technology..." (Staff, 2003). Stephanie's Law was passed in June of 2003 in New York, "Under Stephanie's Law, unlawful Surveillance is now a Class E felony, punishable by up to four years imprisonment for first time offenders, and up to seven years for repeat offenders" (New York State Assembly, 2014). Before this law was written, passed, and implemented, there was no legislation to address the type of voyeurism possible with advances in technology. There have been multiple states that have passed and implemented laws similar to Stephanie's Law to address more technologically advances tactics that are used to invade the privacy of others, including Washington, Tennessee, Wisconsin, Virginia, California, and Illinois. There has not been any empirical research conducted to explore the effectiveness of this legislation. However, if an individual is convicted under Stephanie's Law they, "...may face between two to seven years' imprisonment and must register with the state's sex offender registry when released" (Staff, 2003).

Jessica Lunsford

Jessica Lunsford was a Caucasian, 9-year-old female who was kidnapped from her bedroom in Homosassa Springs, Florida in February of 2005, she was sexually assaulted and murdered. The perpetrator lived in her neighborhood and was a previously convicted sex offender, he also had apparent mens rea. John Couey, 48, the man who

kidnapped Jessica, was staying in Jessica's neighborhood with a relative. Jessica's body was found a month later behind the house Couey was staying in, her hands were bound with stereo wire, she was encased in garbage bags, and had died of asphyxiation. She had been sexually assaulted. Within days Governor Jeb Bush passed the Jessica Lunsford Act in Florida soon after her death.

Within days of the murder, Governor Jeb Bush passed the Jessica Lunsford Act in Florida soon after her death. The legislation was aimed at stricter sentencing and monitoring of convicted sex offenders, "...prison sentences of 25 years to life for sex offenses against children under age 12, better registration of convicted sex offenders and a GPS notification system to track down probation violators" (CNN News, 2007). In 2006, California passed Jessica's Law which prohibits registered sex offenders from living within 2,000 feet of a school or a park. The one size fits all application of Jessica's Law in California led to a court case in San Diego County. There were four convicted sex offenders that were released on parole, they had planned on living with family or friends upon release from prison, but could not because of Jessica's Law. Therefore, these four men were homeless, their case made it to the California Supreme Court, *In re Taylor*. "The justices noted that universal application of the law violates offenders' constitutional rights—and doesn't keep children safe" (Laird, 2015). There are only eight states that have not passed some variation of Jessica's Law; Idaho, Illinois, Wyoming, Colorado, New Jersey, Massachusetts, Hawaii, and Vermont. The major issue with zoning restrictions is that they eliminate majority of the housing, good housing at that, for these sex offenders to live in. "A 2011 report from the California Sex Offender Management Board expressly noted that 'nearly 32 percent of sex offenders on parole are homeless

due to Jessica's Law” (Laird, 2015). There has not been any empirical research conducted on the effectiveness of Jessica's Law in preventing previously convicted sex offenders from harming children, by implementing zoning restrictions.

Marsy Nicholas

Marsalee (Marsy) Nicholas was a Caucasian, 21-year-old female college student who was stalked by her ex-boyfriend and neighbor, 30-year-old Kerry Conley. In November of 1983 Conley shot Marsy in the head, she was transported to the hospital, but died soon after in Santa Barbara, California. One week after Marsy's death her mother Marcella and her brother Henry were confronted in the grocery store by Conley. Marsy's family was not notified that Conley was released on bail. Marsy's Law seeks to define and protect the rights of victims and the families of victims. Marsy's Law passed in California in November of 2008, "...[it] became the strongest and most comprehensive Constitutional Rights Law in the U.S. and put California in the forefront of the nation victim's rights movement” (Marsy's Law, n.d.). In 2012, Illinois became the second state to pass Marsy's Law. As of the date of this thesis, no other states have passed Marsy's Law. In California and Illinois Marsy's Law requires, “Victims of violent crime...must by law be treated with respect and dignity by the criminal justice system. Courts must consider the safety of victims and families when setting bail and release conditions” (Marsy's Law, n.d.). This law also includes the victims' family as well. Henry Nicholas continues to advocate for amendments to the state constitutions in all other states that have yet to pass Marsy's law, to advocate for the rights of victims and their families. “If passed, Marsy's Law would require an amendment to the state's constitution that would

keep victims informed of court proceedings, bail-setting for the accused, parole board hearings” (Bowman, 2016).

Chelsea King

Chelsea King was a Caucasian, 17-year-old female who was sexually assaulted and murdered in San Diego, California when she was jogging in a park in February of 2010. The perpetrator had been previously convicted of a violent crime and there was apparent mens rea. John Gardner III was the perpetrator, and he had attacked another woman in the same park a few months before killing Chelsea. The San Diego police said the DNA that was found on Chelsea’s underwear belonged to Gardner, and a previous victim had identified him as the man that attacked her. Gardner was a previously convicted sex offender who had molested and physically beaten a 13-year-old girl for which he had been sentenced to six years in prison, but was released after three years. “Before Gardner was sentenced, a psychiatrist warned that he showed no remorse and would likely attack a young girl again. He recommended “the maximum sentence allowed by the law”” (Velez-Mitchell, 2010).

Chelsea’s Law was passed and implemented in California in September of 2010 by Governor Arnold Schwarzenegger. This law requires longer sentences and more strict parole conditions for sex offenders. “Chelsea’s Law also will increase sentences for forcible sex crimes; increase parole terms for those who target children under 14...restrict sex offenders from entering parks...” (American City & County, 2010). Chelsea’s Law has only been passed and implemented in the state of California. There has not been any empirical research conducted to examine if this law achieves its intended goals of

protecting children by giving longer sentences to sex offenders or preventing sex offenders from entering any parks.

Caylee Anthony

Caylee was a Caucasian, 2-year-old female who disappeared in Florida in June of 2008. “Caylee was missing for a month before grandmother Cindy Anthony reported her disappearance to police” (ABC News, 2011). Caylee was not reported missing until July 15, 2008. Caylee’s mother, Casey Anthony told police that a nanny had kidnapped Caylee, and she maintained this story for three years, until Anthony’s lawyer conceded at her trial that Caylee had accidentally drowned in a pool. Six months after Caylee’s disappearance her body was found buried in a wooded area behind Anthony’s house, and it appeared that Caylee’s body had been bound with duct tape. Although there are speculations that she was murdered, the court did not identify any mens rea of the accused perpetrator (Casey Anthony), who had no prior criminal record.

Caylee’s Law has been passed in the following states; Alabama, Connecticut, Florida, Illinois, Kansas, Louisiana, New Jersey, North Carolina, Oklahoma, South Dakota, Virginia, and Wisconsin. This law requires that the disappearance of a child is reported to law enforcement in a specific amount of time, and some states have also included that parents are required to notify authorities within a specific time of the death of their child. The punishments for not adhering to the law carry various charges, and most are felonies.

Appendix B

Case and Law Descriptions of Proposed MCC Laws

Cristina LoBrutto

Cristina LoBrutto was a Caucasian, 18-year-old female who was at work inside of a Pathmark convenience store in New Jersey late one night the summer of 2012, when her co-worker came in from his break and, "...fired 16 shots from an assault rifle, striking and killing Cristina LoBrutto, 18, and Bryan Breen, 24, according to accounts from law enforcement. He then killed himself" (Rossi, 2012). The shooter, Terence Tyler, was a former Marine, and had posted more than once on his social media account that he wanted to kill people. The perpetrator was a veteran with no prior criminal convictions, and the court found that he did not have mens rea to commit the murder.

Following the death of Cristina, her parents created a petition to change the law on background checks for employment to include social media accounts. In this case, the idea sparked by hindsight, was that if Terence's social media accounts were screened prior to him being employed at Pathmark, the employer would have seen warning signs of violence and would not have hired him. However, Cristina's Law was in opposition to current proposed state and federal legislation. This currently proposed federal legislation denies employers the ability to screen social media accounts of their employees or prospective employees for anything inappropriate or indicative of violent behavior or intentions. The underlying issue when examining this case is whether privacy of the individual or safety of the people around the individual is more important to protect.

Amelia Keown

Amelia was a Caucasian, 16-year-old female who was killed by an intoxicated driver on a Tennessee highway in 2012. John Perkins, the driver, crossed over the center line into Amelia's lane and hit her vehicle head-on. "Officials said a Tennessee Highway Patrol trooper clocked the other driver, John C. Perkins, 44, of Maryville, going 73 miles per hour in a 55 mile-per-hour zone" (Krafcik, 2012). Keown died instantly in the crash, and Perkins died the next morning in the hospital. Perkins had a long criminal history in Tennessee, and had been involved in numerous vehicle accidents in the months prior to the crash that cause Amelia's death. At the time of the accident Perkins was on parole. Amelia's family believes that if Perkins had been monitored more closely by his parole officer, she would still be alive. However, the court did not find apparent mens rea in the perpetrator for the murder of Amelia. Amelia's Law was proposed to more closely monitor individuals who have committed crimes while under the influence of alcohol or drugs.

Dustin Ledford

Dustin was a Caucasian, 24-year-old male who died from the injuries he sustained in a car accident in the summer of 2010. A vehicle heading in the opposite direction came into his lane and hit him head-on in Tennessee on his way home from the grocery store. The other driver was 29-year-old Tiffany Isaza. Law enforcement stated that Isaza was intoxicated, and her blood alcohol concentration (BAC), was more than twice the legal limit. Isaza was also high on methamphetamine. Isaza had some injuries, but she lived, and was sentenced to ten years in prison. The perpetrator had been previously convicted

of a DUI, but the court found that there was not apparent mens rea for Dustin's death. Dustin's Law aims to seek harsher punishments for DUIs.

“As introduced, enacts ‘Dustin’s Law’, which adds vehicular homicide with a blood alcohol concentration of .20 percent or more or vehicular homicide with a blood alcohol concentration of .08 percent or more and any blood concentration of methamphetamine to the definition of aggravated vehicular homicide. -Amends TCA Title 39 and Title 40” (Trackbill.com).

This law was also proposed to target repeat DUI offenders, to try to prevent the death of innocent individuals. This element of the proposed law mandated jail/prison time for repeat offenders, and “...longer periods of ankle monitoring, and it forces more violators to have to serve all of their time, instead of reduced sentences” (WRCB, 2011). This law also failed to be passed and implemented.

Sheena Kiska

Sheena Kiska was a Caucasian, 23-year-old female who was murdered in the winter of 2008, while living with her two children in an apartment in Indiana. Sheena came home one day to find her apartment had been burglarized. In the weeks following the burglary, Sheena was afraid to be at home, and did not feel safe. However, she could not move because it would break her lease, and therefore she would owe three months' rent if she left. One month after her apartment was burglarized, Sheena was found in her apartment stabbed to death. The perpetrator had no previous convictions, and the court found no apparent mens rea for the murder of Sheena. The authorities found the man who

murdered Sheena. His name was Tyrice Halliburton, and he confessed. Halliburton told authorities that his intention was to burglarize Sheena's apartment and leave, as he thought there was no one in the apartment. Sheena's family believes that if she would have been allowed to break her lease, she would have had the ability to move out of her apartment, and would still be alive.

Sheena's law was written and proposed to change the law in Indiana to offer more protection to tenants, rather than only landlords. This law would allow tenants to break their leases if they feel unsafe. However, per the proposed law, tenants would have to prove that they are in real danger in order to avoid penalties. Sheena's family believes that if she would have been allowed to break her lease, she would have had the ability to move out of her apartment, and would still be alive. "Representative Fry says it will be a tough fight because apartment associations will likely try to block the bill. But he says he believes tenants deserve the security" (Greenfogel, 2009).

Lilly Garcia

Lilly was a Latina, 4-year-old female who was murdered on the side of a highway in Albuquerque, New Mexico when her father got into a road-rage dispute with another driver in October of 2015. No one else was harmed during the incident. The perpetrator had no previous criminal convictions, and there was no apparent mens rea in Lilly's death. The other driver was Tony Torrez, who claimed he fired warning shots with his gun and was unaware there were children inside the vehicle. Lilly's Law was intended to, "...crack down on criminals with continued run-ins with the law. But during the special legislative session last month, a strengthened "three strikes law" passed the state House

but did not make it through the Senate” (KOB News, 2016). Lilly’s mother, Veronica Rael-Garcia, is still encouraging people to vote and be more active with the legislature. The motivation to propose and pass Lilly’s Law, is that if individuals like Torrez were not released so quickly from jail or prison, then less innocent people would become victims or be murdered.

Relisha Rudd

Relisha Rudd was an African-American, 8-year-old female who disappeared in Washington D.C. in March of 2014. Relisha was living in a homeless shelter with her mother, and was last seen with a janitor who was employed at the shelter, named Khalil Tatum. Law enforcement authorities have not yet identified the perpetrator. It was not until two weeks after her disappearance that a school social worker reported Relisha missing. In April of 2016 the Washington D.C. police department organized and launched a new search for Relisha based on new information the department had obtained, but were still unable to find Relisha. Shortly after Relisha was reported missing, “...the body of Tatum’s wife was found in a motel, and Tatum was found dead of a self-inflicted gunshot wound” (CBS News, 2016). Law enforcement officials believe that Tatum was the perpetrator who kidnapped and presumably murdered Relisha.

The law that was proposed, (the Relisha Rudd Law), is similar to Caylee’s Law that has been passed and implemented in multiple states. This law would require, “...people with custody of minor under the age of 13 have 24 hours to alert law enforcement or they will [face] misdemeanor chargers...over the age of 13, they would have 48 hours to report their disappearance” (DCist.com). Although the Relisha Rudd

Law was sponsored by members of the Washington D.C. Council, it did not pass the introduction phase of the Judiciary Committee in April of 2016.

Appendix C

Case Descriptions of Child Victims With No MCC Law Proposals

JonBenet Ramsey

JonBenet was a Caucasian, 6-year-old female beauty queen who was murdered in Boulder, Colorado on December 25, 1996. The parents of JonBenet called law enforcement Christmas morning and reported that their daughter was missing, and told the authorities that they had found a ransom note in their home for JonBenet. Upon searching the Ramsey residence, law enforcement found JonBenet's body in the basement of their home (Francis, 2016). The autopsy report concluded that she had died from asphyxiation due to strangulation. The parents were the prime suspects in the case, but the authorities exonerated them 10 years later, in 2006. The individual who killed JonBenet has not been found or identified.

Amber Dubois

Amber was a Caucasian, 14-year-old female who disappeared while walking to school on February 13, 2009 in Escondido, California. Her remains were found one year later in a remote area of San Diego County, less than a week after John Gardner III, was charged with the murder of Chelsea King (CBS News, 2010). Gardner confessed to murdering Amber (10News Digital Team, 2015). There was apparent mens rea in the perpetrator, who was also a previously convicted sex offender.

Kayla Rolland

Kayla was a Caucasian, 6-year-old female who was shot at her elementary school on the outskirts of Flint, Michigan on February 29, 2000. Kayla was shot in the arm, and the bullet struck a major artery, she died from blood loss. The shooter was Kayla's classmate, 6-year-old Dedrick Owens who brought his uncle's gun to school. Dedrick's father was in prison at the time of the shooting. Dedrick had been raised in a house with drugs and guns, the elementary school had identified him as high-risk, and he had documented anger problems (CBS News Staff, 2000). This case received a great deal of coverage in the media due to the age of the shooter and his home life.