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PEDOPHILES DON'T RETIRE: WHY THE STATUTE OF LIMITATIONS ON SEX  
CRIMES AGAINST CHILDREN MUST BE ABOLISHED

SYMONE SHINTON\*

Someone that victimizes a child should never be able to hide behind time.<sup>1</sup> But in sixteen states—California,<sup>2</sup> Connecticut,<sup>3</sup> Indiana,<sup>4</sup> Iowa,<sup>5</sup> Kansas,<sup>6</sup> Louisiana,<sup>7</sup> Minnesota,<sup>8</sup> Montana,<sup>9</sup> New Hampshire,<sup>10</sup> New York,<sup>11</sup> Ohio,<sup>12</sup> Oklahoma,<sup>13</sup> Oregon,<sup>14</sup> Pennsylvania,<sup>15</sup> Tennes-

\*J.D. candidate, May 2017, Chicago-Kent College of Law, Illinois Institute of Technology; B.S., International Affairs, Florida State University, 2014. I would like to thank Marci Hamilton, the Paul R. Verkuil Research Professor at the Benjamin N. Cardozo School of Law, Yeshiva University, and Pennsylvania State Representative Mark Rozzi for their unwavering dedication and advocacy towards changing these laws and protecting children. I am also thankful to Mr. David Grosby for his continued personal support of the writing of this article.

1. Katie McKellar, *Bill Removing Statute of Limitations in Child Sexual Abuse Cases Passes Legislature*, DESERET NEWS (Mar. 11, 2015, 2:20 PM), <http://www.deseretnews.com/article/865623973/Bill-removing-statute-of-limitations-in-child-sexual-abuse-cases-passes-Legislature.html>.

2. CAL. PENAL CODE § 801.1(a)(1) (West 2016) (victim has until age forty to report).

3. CONN. GEN. STAT. ANN. § 54-193a (West 2016) (victim has until age forty-eight to report).

4. IND. CODE ANN. § 35-41-4-2(e) (West 2016) (victim has until age thirty-one to report).

5. IOWA CODE ANN. § 802.2 (West 2015) (victim has until age twenty-eight to report).

6. KAN. STAT. ANN. §§ 21-5107(c), 22-3717 (d)(1)(D) (West 2016) (victim has until age twenty-eight to report).

7. LA. CODE CRIM. PROC. ANN. art. 571.1 (2016) (victim has until age forty-eight to report).

8. MINN. STAT. ANN. § 628.26(e)–(f) (West 2016) (victim has nine years after the abuse occurred).

9. MONT. CODE ANN. § 45-1-205(1) (West 2015) (victim has until age twenty-eight to report felonies, age twenty-three to report misdemeanors).

10. N.H. REV. STAT. ANN. § 625:8(III)(i) (2016) (victim has until age thirty-eight to report).

11. N.Y. CRIM. PROC. LAW § 30.10(3)(e)–(f) (McKinney 2016) (victim has until age twenty-three to report).

12. OHIO REV. CODE ANN. § 2901.13(3)(a) (West 2015) (victim has twenty years after the abuse occurred).

13. OKLA. STAT. ANN. tit. 22, § 152(C) (West 2016) (victim has twelve years after the crime is discovered).

14. OR. REV. STAT. ANN. § 131.125 (2)–(4) (West 2016) (victim has until age twenty-two or thirty depending on severity of crime).

15. 42 PA. CONS. STAT. ANN. § 5552(c)(3) (West 2016) (victim has until age fifty to report); see also, M. Crawford, *As Cosby Case Shows, Sexual Assault Victims Need Time to Seek Justice*, PA. COALITION AGAINST RAPE (Jan. 21, 2016, 11:52 AM), <http://www.pcar.org/blog/cosby-case-shows-sexual-assault-victims-need-time-seek-justice>.

see,<sup>16</sup> and Washington<sup>17</sup>—if that child victim grows into an adult and takes too long to report his or her abuse, the abuser will escape criminal prosecution. The perpetrator is free to keep “stalking, grooming, and destroying more children[s’] lives,”<sup>18</sup> no matter how strong the evidence against him or her. Placing time limits on victims’ shoulders is at odds with the science on how a child sexual abuse victim acknowledges, copes with, and recovers from abuse. Giving adult survivors of child sexual abuse the opportunity to participate in the criminal justice system on their own time will improve otherwise crippled legislative and executive strategies at identifying and apprehending unknown sexual predators.<sup>19</sup> A “vast body of research indicates that the effects of childhood sexual abuse often span a lifetime. The opportunity to seek justice should last just as long.”<sup>20</sup>

Any society worth living in places the protection of its children at the forefront of its goals.<sup>21</sup> A 2010 Harvard Medical School study on pedophilia concluded, “[t]here is no cure, so the focus is on protecting children.”<sup>22</sup> Pedophilia is defined as the fantasy or act of sexual activity with prepubescent children, typically under the age of thirteen.<sup>23</sup> A pedophile may victimize over one hundred children in his lifetime.<sup>24</sup> Yet most criminals will receive a longer prison term for stealing property than for stealing the innocence of a child.<sup>25</sup> Although statutes of

16. TENN. CODE ANN. § 40-2-101 (West 2016) (victim has until age thirty-three or forty-three to report depending on the crime).

17. WASH. REV. CODE ANN. § 9A.04.080(1)(c) (West 2016) (victim has until age thirty to report).

18. Rob Teplitz, *Lawmakers Introduce Bills to Modernize Child Sex Abuse Statutes of Limitations*, SENATOR TEPLITZ (Mar. 2, 2015), <http://www.senatorteplitz.com/lawmakers-introduce-bills-to-modernize-child-sex-abuse-statutes-of-limitations/>.

19. Becky Perkins, *Eliminating the Statute of Limitations in Ohio: Survivors Deserve Justice, No Matter How Long It Takes*, OHIO ALL. TO END SEXUAL VIOLENCE (Jan. 24, 2014), [http://victimsofcrime.org/docs/default-source/sak-backlog-laws/oaesv-blog\\_sol\\_ncvc.pdf?sfvrsn=2](http://victimsofcrime.org/docs/default-source/sak-backlog-laws/oaesv-blog_sol_ncvc.pdf?sfvrsn=2).

20. Jon Wertheim, *End the Statute of Limitations on Child Sex Crimes*, CNN (Dec. 16, 2011, 9:35 AM), <http://www.cnn.com/2011/12/16/opinion/wertheim-sandusky-statute-on-sex-crimes/>.

21. ANN WOLBERT BURGESS ET AL., *VICTIMOLOGY: THEORIES AND APPLICATIONS* 196 (2d ed. 2013).

22. *Pessimism About Pedophilia*, HARVARD MEDICAL SCHOOL (July 1, 2010), [http://www.health.harvard.edu/newsletter\\_article/pessimism-about-pedophilia](http://www.health.harvard.edu/newsletter_article/pessimism-about-pedophilia).

23. *Pedophilia*, PSYCHOLOGY TODAY (Feb 17, 2015), <https://www.psychologytoday.com/conditions/pedophilia>.

24. JILL S. LEVENSON, *IDENTIFYING AND TREATING SEX OFFENDERS: CURRENT APPROACHES, RESEARCH, AND TECHNIQUES* 35 (Robert Geffner, et al. eds., 2003).

25. SUSAN FORWARD & CRAIG BUCK, *BETRAYAL OF INNOCENCE: INCEST AND ITS DEVASTATION* 142 (1988).

limitations are generally necessary and beneficial to society,<sup>26</sup> they are at odds with both the psychological data of the impact of sex trauma on children and society's need to stop the epidemic of child sex abuse. In the context of sex crimes against children, "[p]rosecuting old crimes prevents new ones" by enabling society to identify and punish otherwise invisible abusers before they get a chance to find their next victim.<sup>27</sup>

From statutes of limitations' inception, state legislators acknowledged that a crime may be so heinous that society's interest in identifying the criminal and redressing the crime justifies keeping the court doors permanently open.<sup>28</sup> Beginning in 1983, most states began amending their criminal statutes of limitations by both extending the length of time children have to report their sexual abuse and tolling the statute of limitations until a child turns eighteen.<sup>29</sup> In time, the majority of states decided that merely extending the statute of limitations was not enough, and abolished them altogether.<sup>30</sup> This Note will argue that the remaining sixteen state legislatures must follow the national trend, and abolish their criminal statutes of limitations.

Part I of this Note reviews empirical data researching how sex crimes against children impact victims and society, and why placing *any* time limitation on victims is psychologically unreasonable. Part II explains why tolling provisions and civil remedies fail to effectively combat the epidemic of child sex abuse. Part III explores why abolishing the statute of limitations is the only way to combat the epidemic of child sexual abuse by identifying offenders. Finally, Part IV addresses the important counterargument that defendants' rights will be compromised by abolishing the statute of limitations, and concludes that

26. For example, they prevent prosecutors from bringing stale claims, and encourage litigants to file suit while evidence is still fresh and available. MARCI A. HAMILTON, JUSTICE DENIED: WHAT AMERICA MUST DO TO PROTECT ITS CHILDREN 3 (2008).

27. Melanie Blow, *Child Victims Act*, STOP ABUSE CAMPAIGN, <http://stopabusecampaign.com/f-a-q/sol/child-victims-act/> (last visited Oct. 18, 2015).

28. *Id.* "Murder has no [statute of limitations] because of the heinous nature of the crime, the fact that the victim himself will never be able to bring his cause to justice, and society's interest in identifying murderers;" MODEL PENAL CODE § 1.06 (1985).

29. *Statutes of Limitations Regarding Clergy Sexual Abuse of Minors*, CATHOLIC WHISTLEBLOWERS (Sept. 23, 2014), <http://www.catholicwhistleblowers.com/whistleblower-essays/statutes-of-limitations-regarding-clergy-sexual-abuse-of-minors>.

30. See, e.g., ALASKA STAT. ANN. § 12.10.010(a) (West 2016); ARIZ. REV. STAT. ANN. § 13-107(A) (2016); FLA. STAT. ANN. § 775.15(13)(b) (West 2016); GA. CODE ANN. § 17-3-2.1(b) (West 2016); IDAHO CODE ANN. § 19-401 (West 2016); ME. STAT. ANN. tit. 17, §8(1) (2016); MISS. CODE ANN. § 99-1-5 (West 2016); NEB. REV. STAT. ANN. § 29-110(8) (West 2016); N.J. STAT. ANN. § 2C:1-6(a) (West 2016); 12 R.I. GEN. LAWS ANN. § 12-12-17 (West 2016); TEX. CODE CRIM. PROC. ANN. art. 12.01(1) (West 2015); UTAH CODE ANN. § 76-1-301(2) (West 2016); VA. CODE ANN. § 19.2-8 (West 2016).

sufficient procedural safeguards exist to protect defendants from injustice.

### I. THE PROBLEM: VICTIMS CANNOT REACH THE COURTHOUSE DOORS BEFORE THEY CLOSE.

Child sex abuse is a massive national problem; at least one in four girls and one in five boys are sexually abused.<sup>31</sup> A shocking twenty-nine percent of rape victims are under the age of eleven.<sup>32</sup> For a variety of reasons, about *ninety percent* of child victims of sexual assault do not report these crimes to the authorities.<sup>33</sup> Indeed, the majority of child sexual abuse survivors will not disclose their abuse until adulthood.<sup>34</sup> While these victims take decades to recover, their abusers find their next victims. Tragically, when these survivors have finally reached a point in their lives where they are ready to come forward and identify a predator, the court doors may already be closed to their claim.

Because child sexual abuse goes frequently unreported, the science outlining how long a victim of child sexual assault may need to report is neither robust nor precise. Survey methods are imperfect,<sup>35</sup> and little information has been collected assessing just how many adult victims remain in the shadows with their claims.<sup>36</sup> One study concluded that male survivors of child sex abuse delayed disclosing their abuse to a friend or family member for an average of 21.38 years after first experiencing the abuse.<sup>37</sup> Other studies estimating the averages for female victims varied from 25<sup>38</sup> to 35 years<sup>39</sup> after the abuse ended.

31. Hamilton, *supra* note 26, at 4.

32. NAT'L. VICTIM CTR., RAPE IN AMERICA: A REPORT TO THE NATION, 3 fig. 3 (1992), <http://victimsofcrime.org/docs/Reports%20and%20Studies/rape-in-america.pdf?sfvrsn=0>.

33. Hamilton, *supra* note 26, at 13.

34. See generally Rosaleen McElvaney, *Disclosure of Sexual Abuse: Delays, Non-disclosure and Partial Disclosure*, 24 CHILD ABUSE REV. 159 (2013).

35. Most information regarding child sexual abuse is collected in formal investigative interviews of the small percentage of children that do report. Kamala London & Maggie Bruck, *Disclosure of Child Sexual Abuse: What Does the Research Tell Us About the Ways That Children Tell?*, 11:1 PSYCHOL., PUB. POLICY, AND LAW 194, 209 (2005).

36. Most research conducted regarding child sexual abuse surveys child victims and seeks to determine whether they disclosed before adulthood or not. *Id.* at 198.

37. Scott D. Easton, *Disclosure of Sexual Abuse Among Male Survivors*, 41:4 CLIN. SOC. WORK J. 344, 344 (2013).

38. Eli Somer & Sharona Szwarcberg, *Variables in Delayed Disclosure of Childhood Sexual Abuse*, 71 AMERICAN JOURNAL OF ORTHOPSYCHIATRY, 332, 332 (2001).

39. Daniel W. Smith et al., *Delay in Disclosure of Childhood Rape: Results From a National Survey*, 24 CHILD ABUSE & NEGLECT, 273-87 (2000); Thomas Roesler & Tiffany Weissmann Wind, *Telling the Secret: Adult Women Describe Their Disclosures of Incest*, 9 J. INTERPERSONAL VIOLENCE 327, 330 (1994); see London, *supra* note 35, at 199.

Disclosure rates may vary according to the severity of the abuse, the duration of the abuse, and the age of the child when abused.<sup>40</sup> Nearly every study evaluating child sexual abuse is susceptible to criticism for being unrepresentative of the general population of victims.

As a result, much of what we know about how much time adult survivors of child sexual assault need is anecdotal. Indeed, because adult survivors of child sexual assault access to both the civil and criminal tribunals, these victims are identified through their calls to legislators through the media. For example, Joan Hillman of Omaha, Nebraska claimed that three men sexually abused her from the age of four, until she was twelve.<sup>41</sup> Like approximately 60–70% of child victims of sexual abuse, Joan never disclosed what happened to her until long into adulthood—her fifties.<sup>42</sup> In a 2012, Stephen Embry, then fifty-seven years old, alleged that when he was barely twelve years old he was repeatedly raped over one hundred times by a swimming coach at Harvard University.<sup>43</sup> Pennsylvania Representative Louise Bishop needed “more than sixty years to come to terms with what happened to [her] and to find the courage to share [her] story.”<sup>44</sup> Pennsylvania Representative Mark Rozzi did not publicly disclose the sexual abuse he suffered for twenty-five years until he learned that another victim committed suicide.<sup>45</sup> Rozzi, committed to changing the same predator-friendly laws that kept him and the alleged forty other victims like him<sup>46</sup> from justice, has stated that “[i]t takes victims years if not decades to acknowledge the abuse. We need to give them the opportunity

40. MARGARET-ELLEN PIPE ET. AL, *CHILD SEXUAL ABUSE: DISCLOSURE, DELAY, AND DENIAL*, 17 (2007).

41. Kevin O’Hanlon, *Senators Consider Giving Child Sex Assault Victims More Time to Sue*, LINCOLN J. STAR, Mar. 17, 2011, [http://journalstar.com/news/unicameral/senators-consider-giving-child-sex-assault-victims-more-time-to/article\\_8a1acdac-020a-5e6a-b452-434436e5ce29.html](http://journalstar.com/news/unicameral/senators-consider-giving-child-sex-assault-victims-more-time-to/article_8a1acdac-020a-5e6a-b452-434436e5ce29.html).

42. London, *supra* note 35, at 203.

43. Matt Rocheleau, *Judge Lets Abuse Case Against Former Harvard Swim Coach Proceed*, BOS. GLOBE, Dec. 12, 2014, <https://www.bostonglobe.com/metro/2014/12/12/harvard/eiWhDzscDMCSx9Ze0gEKzO/story.html>.

44. Teplitz, *supra* note 18.

45. Ivey DeJesus, *Mark Rozzi on a Personal Journey: Abuse Victim Determined to Change Laws*, PENNLIVE (Apr. 13, 2016, 7:06 AM), [http://www.pennlive.com/news/2016/04/mark\\_rozzi\\_child\\_sex\\_abuse\\_cri.html](http://www.pennlive.com/news/2016/04/mark_rozzi_child_sex_abuse_cri.html).

46. *Id.*

to seek justice and protect future generations of children by bringing action against perpetrators.”<sup>47</sup>

Proponents of statutes of limitations for sex crimes against children often ask why twenty, thirty, or forty years is not enough time for victims to come forward. Put simply, we do not know precisely how long victims need to report these crimes. Victims require various lengths of time for various reasons. Each victim of child sexual abuse both suffers and recovers uniquely, and cannot be expected to do so on a neat and uniform timeline. Society must decide whether it is more comfortable allowing potentially valid claims from victims to slip beneath the cracks or forcing potential sexual predators to defend old claims.

Victims of child sexual assault do not report soon—if at all—for a variety of reasons. While the abuse is occurring, reporting is at odds with surviving. Indeed, a child suffering at the hands of a sexual abuser often disengages from the anxiety by dissociating him or herself from the trauma.<sup>48</sup> This dissociation may manifest itself in denial, or an inhibited sense of connection to the outside world.<sup>49</sup> In other words, reporting goes against the victim’s rational survival response by forcing the child to acknowledge and confront the reality she must dissociate herself from in order to survive. “Children often internalize the ugliness of child abuse for years because they fail to understand exactly what happened to them, or how to judge it. They need maturity to comprehend the situation.”<sup>50</sup> Even after a survivor has acknowledged the abuse, sharing this information with another is a separate process in and of itself. The survivor of child sexual abuse experiences the process of disclosing their victimization to a third-party as a significant stressor, counterintuitive to their coping methods.<sup>51</sup>

As a result, the process of acknowledgment and recovery may take decades, beginning only after the abuse has ended, and the victim is actually given the option to start reconnecting with his or her life. But

47. *Rozzi Unveils Documentary Featuring Victims of Sexual Abuse*, BCTV (Apr. 30, 2014, 4:18 pm), [http://www.bctv.org/special\\_reports/government/rozzi-unveils-documentary-featuring-victims-of-sexual-abuse/article\\_74ad0c68-d0a4-11e3-8bec-0019bb2963f4.html](http://www.bctv.org/special_reports/government/rozzi-unveils-documentary-featuring-victims-of-sexual-abuse/article_74ad0c68-d0a4-11e3-8bec-0019bb2963f4.html).

48. Burgess, *supra* note 21, at 212.

49. *Id.*

50. Marci Hamilton, *The Case For Abolishing Child-Abuse Statutes of Limitations*, CNN (July 17, 2003, 4:17 PM), <http://www.cnn.com/2003/LAW/07/17/findlaw.analysis.hamilton.settlement/>.

51. Andres Sciolla et al., *Childhood Sexual Abuse Severity and Disclosure As Predictors of Depression Among Adult African American and Latina Women*, 199:7 J. NERVOUS & MENTAL DISEASE 471, 472 (2011).

even after the abuse has ceased, victims experience severe emotional trauma well into adulthood. Many adult survivors of child sex abuse experience the same feelings of guilt, blame, and fear of scrutiny felt by adult victims of rape.<sup>52</sup> The victim may need time to become financially independent, relocate, and undergo years of counseling before being ready to publicly accuse their abuser.<sup>53</sup>

Severe emotional trauma is not the only side effect of child sexual abuse. Child sexual abuse may alter children's brain growth and development, ultimately impacting their behavior as adults.<sup>54</sup> Structurally, a child's developing brain is adversely and permanently impacted by the trauma of sexual abuse for the rest of her life.<sup>55</sup> One study revealed that the cortisol levels (otherwise known as the "fight or flight" or "stress" hormones) of some incest victims were as high as those of Vietnam veterans.<sup>56</sup> As these victims grew into adults, that same stress-response system collapsed, resulting in an overall decrease in the body's ability to deal with stress, and ultimately leading to severe mental and physical health problems such as depression and obesity.<sup>57</sup>

Early sustained abuse can produce physiological changes in the brain that result in difficulty modulating emotional responses and interpreting social situations, leading to impulsive, antisocial behavior and sexual misconduct.<sup>58</sup> Child victims of sexual abuse are more likely to experience alcoholism, drug addiction, depression, and poverty in their adult lifetime than their un-abused counterparts.<sup>59</sup> Survivors of child sex abuse are also more likely to experience posttraumatic stress disorder, dissociative behavior, eating disorders, and sexual disorders in adulthood.<sup>60</sup>

52. Perkins, *supra* note 19.

53. *Collins Lauds Law To Aid Sex Crimes' Victims*, SW. CITY NEWS-HERALD (Aug. 23, 2013), <http://swnewsherald.com/collins-lauds-law-to-aid-sex-crimes-victims-p3884-1.htm>.

54. *FAQ: The Ace Study*, STOP ABUSE CAMPAIGN, <http://stopabusecampaign.com/f-a-q/faq-the-ace-study/> (last visited Oct. 14, 2015) ("The brain and endocrine system release chemicals that are useful in ensuring short-term survival, but are harmful to long-term health.").

55. Rebecca Campbell, Professor of Psychology, Mich. St. Univ., National Institute of Justice Research for the Real World Seminar: The Neurobiology of Sexual Assault (Dec. 3, 2012) (transcript available at <http://nij.gov/multimedia/presenter/presenter-campbell/pages/presenter-campbell-transcript.aspx>).

56. Joan Raymond, *Effects of Sexual Abuse Last for Decades, Study Finds*, NBC NEWS, (June 30, 2011), [http://www.nbcnews.com/id/43594639/ns/health-health\\_care/t/effects-sexual-abuse-last-decades-study-finds/#.VqPB3PkrKUK](http://www.nbcnews.com/id/43594639/ns/health-health_care/t/effects-sexual-abuse-last-decades-study-finds/#.VqPB3PkrKUK).

57. *Id.*

58. Burgess, *supra* note 21, at 212.

59. *Id.* at 211-12.

60. *Id.*



“Stranger-danger” is a myth.<sup>61</sup> In fact, ninety-three percent of child victims are sexually abused by someone they know.<sup>62</sup> One study found that less than half of children who were sexually abused by an adult outside of their family told their parents about the abuse.<sup>63</sup> Fifty percent of those children reported feeling afraid or ashamed that their parents would be angry with them or blame them for the abuse.<sup>64</sup> Fear of rebuke rose to around 80% when the perpetrator was familiar to the child and the family, and the abuse was serious and repeated.<sup>65</sup> Indeed, most child victims initially deny having been abused, only later gradually disclosing upon specific prompting through therapy.<sup>66</sup> But current methods to discover child sex abuse rest on the assumption that children who are abused will report these crimes; in reality, less than one in ten child victims will do so, even when directly prompted by a child psychologist.<sup>67</sup>

Many children are not safe in their own homes. More than ten million Americans are victims of incest.<sup>68</sup> Intra-familial child sexual abuse “cuts across every social, economic, and educational barrier.”<sup>69</sup> Studies suggest as many as one in six women experience incestuous abuse before the age of eighteen.<sup>70</sup> Studies show that most incestuous relationships start when the victim is between the ages of six and eleven, and the abuse typically persists for at least two years.<sup>71</sup> But when in-

61. Terri Peters, *Forget ‘Stranger Danger’: ‘Tricky People’ Concept Helps Kids Spot Sketchy Adults*, TODAY, (June 6, 2016), <http://www.today.com/parents/forget-stranger-danger-tricky-people-concept-helps-kids-spot-sketchy-t95021>.

62. “Most offenses against children are with persons they have some relationship with, such as a family member, a family friend, a neighbor or a teacher.” Leroy Schultz, *The Child Sex Victim: Social, Psychological and Legal Perspectives*, 52 CHILD WELFARE, no. 3, 1973, at 148-49; LAWRENCE A. GREENFELD, *SEX OFFENSES AND OFFENDERS: AN ANALYSIS OF DATA ON RAPE AND SEXUAL ASSAULT*, U.S. DEP’T OF JUSTICE iii (1997), <http://bjs.gov/content/pub/pdf/S00.PDF>; *Perpetrators of Sexual Violence: Statistics*, RAINN, <https://www.rainn.org/statistics/perpetrators-sexual-violence> (last visited Oct. 11, 2016).

63. Irit Hershkowitz et al, *Exploring the Disclosure of Child Sexual Abuse with Alleged Victims and Their Parents*, CHILD ABUSE & NEGLECT (Elsevier Ltd. 2007).

64. *Id.*

65. *Id.* at 119.

66. Teena Sorensen & Barbara Snow, *How Children Tell: The Process of Disclosure of Child Sexual Abuse 3-15* CHILD WELFARE (1991).

67. *Id.* at 11.

68. Forward & Buck, *supra* note 25, at 145.

69. R. BARRI FLOWERS, *DOMESTIC CRIMES, FAMILY VIOLENCE AND CHILD ABUSE: A STUDY OF CONTEMPORARY AMERICAN SOCIETY* 132 (2000).

70. D. RUSSELL, *THE SECRET TRAUMA: INCEST IN THE LIVES OF GIRLS AND WOMEN* 74 (1986).

71. *Id.*

cest victims finally come forward, time may have safeguarded the predator from prosecution.<sup>72</sup>

Victims of incest face a unique set of concerns that prevent them from reporting abuse until long into adulthood. Child victims of incest often live with and depend upon their abusers; to illustrate, the vast majority of incest cases occur between a father and daughter.<sup>73</sup> Most victims remain unable to report their abuse until they have escaped the daily control by their abuser, moved out of the home, and received therapy.<sup>74</sup> But most victims do not receive therapy until they are over thirty years old.<sup>75</sup> In addition, a family member may coerce a child into silence through fear.<sup>76</sup> Reporting may have the effect of displacing the child into a foster home, upheaving any sense of shelter and family.<sup>77</sup> Reporting means that he or she must likely face testifying against her immediate family member in court, and facing the responsibility for that family member's imprisonment.<sup>78</sup> An incest victim may face a variety of consequences: the potential of breaking up and impoverishing her family by imprisoning a breadwinner; intense pressure by family members to drop the charges; and, in some cases, increased sexual advances by other members of the family.<sup>79</sup> Child victims may also rightfully fear their treatment within the court system itself, as courts have held children in contempt and imprisoned them for their refusal to testify against the accused family member.<sup>80</sup>

72. Former *Philadelphia Daily News* sports columnist Bill Conlin was accused of molesting four children through the 1970's, but the New Jersey criminal statute of limitations stopped these allegations at the court doors. Jessica Grose, *Why Are There Statutes of Limitations in Child Rape Cases?*, SLATE (Dec. 21. 2011, 11:56 AM), [http://www.slate.com/blogs/xx\\_factor/2011/12/21/bill\\_conlin\\_alleged\\_sexual\\_assault\\_the\\_tational\\_behind\\_statutes\\_of\\_limitations\\_in\\_child\\_rape\\_cases\\_.html](http://www.slate.com/blogs/xx_factor/2011/12/21/bill_conlin_alleged_sexual_assault_the_tational_behind_statutes_of_limitations_in_child_rape_cases_.html); one of Conlin's alleged victims, his niece, went public with the accusations to "draw attention to the inadequacies of these statute of limitations laws," despite her allegations not being legally recognizable at the time. The laws have since changed. N.J. STAT. ANN. § 2C:1-6(a) (West 2016) (abolishing the SOL for sexual assault altogether).

73. R. BARRI FLOWERS, *SEX CRIMES: PERPETRATORS, PREDATORS, PROSTITUTES, AND VICTIMS*, 77 (2d ed. 2006).

74. Sharon R. Lowenstein, *Incest, Child Sexual Abuse and the Law: Representation on Behalf of Adult Survivors*, 29:4 J. FAM. L. 791, 792 (1990-91).

75. *Id.*

76. *Incest*, NETWORK OF VICTIM ASSISTANCE (2013), <http://www.novabucks.org/otherinformation/incest/>.

77. Forward & Buck, *supra* note 25, at 145.

78. *Id.*

79. *Id.* at 27.

80. *State v. DeLong*, 456 A.2d 877, 883 (Me. 1983) (affirming contempt conviction and seven-day jail sentence of a fifteen-year-old girl who refused to testify against her father accused of sexually abusing her).

Child predators typically spend the entirety of their lives preying on children.<sup>81</sup> Offenders who seek out children to victimize may have hundreds of victims over the course of their lifetime.<sup>82</sup> But only an average of 3% of these crimes will be detected and reported.<sup>83</sup> Despite estimates that 90% of sex crimes go unreported and only 22% of child victims will disclose to an adult or authority,<sup>84</sup> the Bureau of Justice has found that one in five child molesters will return to prison within just three years of release for the same crime.<sup>85</sup> Other studies have placed recidivism rates as high as 40%.<sup>86</sup>

The law as it stands in sixteen states protects predators instead of victims. Victims of child sexual abuse simply cannot conform to a timeline of reporting. They are busy suffering, recovering, and recapturing their lives. Society does not need harsher punishments for identified sex offenders. Instead, society needs the identities of predators hiding in broad daylight to be revealed.<sup>87</sup> As Part II explores, this can only be accomplished by leaving the court doors open and giving survivors sufficient time to come forward with their claims.

81. LIN SONG & ROXANNE LIEB, WASHINGTON STATE INST. FOR PUB. POL'Y, ADULT SEX OFFENDER RECIDIVISM: A REVIEW OF STUDIES 7 (1994), [http://pgn-stage.wsipp.wa.gov/ReportFile/1161/Wsipp\\_Adult-Sex-Offender-Recidivism-A-Review-of-Studies\\_Full-Report.pdf](http://pgn-stage.wsipp.wa.gov/ReportFile/1161/Wsipp_Adult-Sex-Offender-Recidivism-A-Review-of-Studies_Full-Report.pdf) ("Results of ten-year follow-up study of child molesters and rapists in Canada showed that sex offense reconvictions did not decline over time. The risk of reoffending was as great in the seventh year as it was in the first.")

82. Jill S. Levenson, *Policy Interventions Designed to Combat Sexual Violence: Community Notification and Civil Commitment*, in IDENTIFYING AND TREATING SEX OFFENDERS: CURRENT APPROACHES, RESEARCH, AND TECHNIQUES 35 (Robert Geffner ed., 2003). Survey found that the average number of victims for pedophiles who molested girls was twenty; for pedophiles who preferred boys, the average number of victims was over 100.

83. See Boz Tchividjian, *Startling Statistics: Child Sexual Abuse and What the Church Can Begin Doing About It*, RNS (Jan. 9, 2014) (citing GENE G. ABEL & NORA HARLOW, STOP CHILD MOLESTATION: WHAT ORDINARY PEOPLE CAN DO IN THEIR EVERYDAY LIVES TO SAVE THREE MILLION CHILDREN (Xlibris ed., Dec. 2001), <http://religionnews.com/2014/01/09/startling-statistic/>).

84. London, *supra* note 35, at 203; *Child Sexual Abuse Statistics: Reporting Abuse*, DARKNESS TO LIGHT, [http://www.d2l.org/atf/cf/%7B64AF78C4-5EB8-45AA-BC28-F7EE2B581919%7D/Statistics\\_6\\_Reporting.pdf](http://www.d2l.org/atf/cf/%7B64AF78C4-5EB8-45AA-BC28-F7EE2B581919%7D/Statistics_6_Reporting.pdf) (last visited Feb. 28, 2016).

85. Carl Bialik, *Underreporting Clouds Attempt to Count Repeat Sex Offenders*, WALL ST. J. (Jan. 25, 2008, 12:01 A.M. ET), <http://www.wsj.com/articles/SB120122376053515485>.

86. Vernon Quinsey et al., *The Actuarial Prediction of Sexual Recidivism*, J. INTERPERSONAL VIOLENCE (Jan. 1995).

87. Hamilton, *supra* note 26, at 28. "Here is the conundrum: you can harshly punish every known predator right up to the edges of the Eight Amendment's rule against cruel and unusual punishment, but if you are punishing only a handful of the existing predators, children are still in serious peril."

## II. TOLLING PROVISIONS AND CIVIL REMEDIES: NOT ENOUGH.

Tolling provisions and civil remedies are not enough to combat the epidemic of child sexual abuse because they do not effectively identify and punish sexual predators.

### *A. Tolling Provisions: One Step Closer to Abolishment*

Tolling provisions, depending on each state, start the clock for a criminal statute of limitations when the victim turns eighteen (or in some jurisdictions, when the victim “discovers” the link between the abuse and their emotional injuries), thus buying time for victims to report.<sup>88</sup> For example, a two-year statute of limitations on sexual abuse that would otherwise require a seven-year old victim to report by age nine would effectively allow a victim to report until age twenty.<sup>89</sup>

But, “[f]ew people turn eighteen and suddenly come to terms with a traumatic event.”<sup>90</sup> On the contrary, a victim often needs much more time than the first few years of their adulthood to process what has happened to them, and some may repress these memories until decades later into their adulthood.<sup>91</sup> Former linebacker for the Philadelphia Eagles and the Chicago Bears, Al Chesley took thirty-five years to disclose the five years of sexual abuse he suffered as a teenager.<sup>92</sup> He described the abuse as “murder[ing] [him] over a lifetime.”<sup>93</sup> But Pennsylvania’s tolling provision effectively closes the door to victims that do not report before they turn fifty years old.<sup>94</sup>

88. *Statute of Limitations Guide*, NAT’L CTR. FOR VICTIMS OF CRIME, <https://www.victimsofcrime.org/docs/NCVBA/statutes-of-limitations-guide.pdf?sfvrsn=4> (last visited Oct. 17 2015).

89. That is exactly what was expected of Hawaii child-victims prior to the state’s reform on statutes of limitations, where child sex abuse perpetrators were shielded by the same two-year statute of limitations as damage to property. Thanks to aggressive statute-of-limitations reform in Hawaii, there is no limitation to prosecutions brought against continuous sexual assault of a minor or abuse of the first and second degrees. *See* HAW. REV. STAT. ANN. § 701-108(1) (West 2014).

90. Maxwell Kennerly, *The Unique Federal Sexual Abuse Claim In The Kevin Clash (Elmo’s Voice) Lawsuit*, LITIG. & TRIAL LAW. BLOG (Nov. 21, 2012), <http://www.litigationandtrial.com/2012/11/articles/the-law/federal-claim-sexual-abuse-kevin-clash/>.

91. *Id.*

92. Anne Reeves, *Anne McGraw Reeves: NFL Retiree Al Chesley Still Bears the Scars of Sex Abuse*, PENNLIVE (March 25, 2012), [http://www.pennlive.com/midstate/index.ssf/2012/03/anne\\_mcgraw\\_reeves\\_nfl\\_retiree.html](http://www.pennlive.com/midstate/index.ssf/2012/03/anne_mcgraw_reeves_nfl_retiree.html).

93. Ruben Rosario, *Ruben Rosario: Ex-NFLer, Sexually Abused as a Kid, Opposes Time Limits on Justice*, ST. PAUL PIONEER PRESS (Feb. 27, 2013), [http://www.twincities.com/ci\\_22683811/ruben-rosario-ex-nfl-player-speaking-out-against](http://www.twincities.com/ci_22683811/ruben-rosario-ex-nfl-player-speaking-out-against).

94. 42 PA. CONS. STAT. ANN. § 5552(c)(3) (West 2016).

The state in which a child is born should not dictate whether they receive justice. States that have criminal statutes of limitations without tolling provisions altogether desperately need reform. Minnesota, for example, has no tolling provision, shockingly requiring victims to report within nine years of the offense.<sup>95</sup> In other words, a five-year-old who is raped by her father in Minnesota would be expected to report that crime to law enforcement by the time she turned fourteen (unless that five-year-old obtained and retained DNA evidence from the misconduct). Tolling provisions represent progress from the archaic idea that a child must report while still a child. But many victims are still left out.

Massachusetts' progression through extending and ultimately abolishing its criminal statute of limitations provides a helpful example as to why extending statutes of limitations through tolling provisions simply is not enough. In 1996, Massachusetts extended the criminal statute of limitations for sex crimes against children until a survivor turns thirty-one years old.<sup>96</sup> Kathy Picard accused her abuser when she turned thirty-two years old—that accusation came too late.<sup>97</sup> In 2006, Massachusetts extended the statute of limitations again, giving adult survivors until they are forty-three to report.<sup>98</sup> Rosanne Sliney, allegedly abused by a family member from the age of five until fourteen, needed until age forty-eight to report her abuser.<sup>99</sup> Rosanne came to the court doors with written letters from her abuser, admitting to the abuse.<sup>100</sup> But there was nothing she could do because the statute of limitations had passed.<sup>101</sup> Heather Conner, former professional tennis player, was fourteen when her coach first raped her.<sup>102</sup> But she needed until age fifty to publicly accuse him.<sup>103</sup> It was too late.<sup>104</sup> Even though

95. MINN. STAT. ANN. § 628.26(e)–(f) (West 2016)

96. MASS. GEN. LAWS ANN. ch. 277 § 63 (West 2012).

97. Kevin Cullen, *Let's Give Justice Time*, BOS. GLOBE, Mar. 20, 2012, [http://www.boston.com/news/local/massachusetts/articles/2012/03/20/timing\\_is\\_everything/?camp=pm](http://www.boston.com/news/local/massachusetts/articles/2012/03/20/timing_is_everything/?camp=pm).

98. 2006 Mass. Acts ch. 303.

99. Cullen, *supra* note 97.

100. *Id.*

101. Note that *Stogner v. California* established that updating and amending statutes of limitations laws cannot apply retroactively as this violates the Ex Post Facto Clause. 539 U.S. 607 (2003). Accordingly, the victim's abusers would have been shielded by the statute of limitation in place at the time the sexual abuse occurred. These examples, however, demonstrate how an arbitrary cut-off date needlessly excludes victims.

102. Bob Hohler, *Bob Hewitt Faces New Mass. Sex Abuse Suit*, BOS. GLOBE, July 9, 2014, <https://www.bostonglobe.com/sports/2014/07/09/bob-hewitt-faces-sex-abuse-suit-under-new-law/21hGzqoSsCfeekR49hj35I/story.html>.

103. *Id.*

substantial evidence indicated Hewitt was guilty, Conner and the six other women who identified themselves as his victims had no criminal remedy.<sup>105</sup>

In 2012, Massachusetts finally abolished the criminal statute of limitations altogether, correcting this problem for future generations with one caveat: victims that report after the age of forty-three must bring forth independent evidence that corroborates the victim's allegation.<sup>106</sup> Sexual abuse will not end in Massachusetts, but Massachusetts will no longer arbitrarily reject victims who suffer lengthily in silence.

Tolling provisions still reward abusers by closing the court doors to victims who are not able to recover in time. As a result, these statutes of limitations shield predators who traumatize, intimidate, and scare victims out of reporting—the very predators that society desperately needs to identify and apprehend. Tolling provisions that start the clock when a victim turns eighteen do not shift the burden off of the victim's shoulders. Tolling provisions are not enough.

### *B. The Civil Suit: A Potential Remedy for Victims but Not Society*

While civil remedies are important and necessary, they still leave offenders free to reoffend and thus cannot substitute the criminal justice system. While lawsuits may cast a spotlight on predators, potentially alerting society that children under this person's care are at risk, lawsuits cannot take sex offenders off the streets and away from our children. While lawsuits provide a forum for justice where a victim may obtain financial remedy for their physical and emotional injuries, lawsuits fail to solve the most important problem facing society: prevention.

Survivors of child sexual abuse are entitled to be heard in the civil forum.<sup>107</sup> Sex crimes against children are expensive. Long after the traumatic event has ended, a victim bears physical and mental costs that have dollar signs. Heather Conner, for example, required psychiat-

104. Bob Hohler, *Hewitt Must Pay \$1.2 million in Mass. Sex Abuse Case*, BOS. GLOBE, Oct. 2, 2015, <https://www.bostonglobe.com/sports/2015/10/01/tennis-star-hewitt-ordered-pay-mass-woman-million-rape-case/RDEXJvUzi5KFsCcgVwlBhP/story.html>.

105. *Id.*

106. MASS. GEN. LAWS ANN. ch. 277 § 63 (West 2012).

107. Survivors of child sexual abuse have struggled to extend and abolish the civil statute of limitations as well. Only a handful of states have abolished the civil statute of limitations for adult survivors of child sexual abuse. See Marci A. Hamilton, *Summary of Statutes of Limitations Reform Across the United States*, BENJAMIN N. CARDOZO SCHOOL OF LAW (June 22, 2015), <http://sol-reform.com/snapshot.pdf>.

ric care, hospitalizations, and continuing treatment for her “significant psychiatric disability” that totaled over \$200,000 in medical bills.<sup>108</sup> Her lawsuit against her abuser provided a potential remedy for the financial costs of the emotional and physical damage that her abuser inflicted on her.<sup>109</sup> Lawsuits provide important compensation for victims’ medical bills, and, where applicable, force the institutions responsible for victim protection to pay for the victims’ rehabilitation.

A 1993 study estimated that sexual violence against children between the ages of zero and fourteen imposes a \$56 billion cost to victims in the United States every year.<sup>110</sup> In 1993, insurance companies expended \$6 million in health care to child sex abuse victims,<sup>111</sup> and the average child sexual abuse victim expended at least \$5,800 in mental health care services alone.<sup>112</sup> Recent studies suggest that child sexual abuse is responsible for annual mental health costs of at least \$20 billion.<sup>113</sup> Adult victims of child sex abuse often resort to long-term coping methods including high-risk behaviors, suicide attempts, depression, PTSD, and other psychological problems requiring treatment.<sup>114</sup> Many survivors experience reduced income into adulthood, estimated at \$241,600 in their lifetime.<sup>115</sup>

Civil suits also serve an important function in society by holding accountable the institutions that are entrusted with our children. Civil remedies force churches and schools to put their money where their mouths are when they turn a blind eye to crimes committed by staff.<sup>116</sup> The civil penalty ensures that these institutions will be held accounta-

108. Hohler, *supra* note 104.

109. *Id.* Although Conner won a \$1.2 million judgment, her lawyer is skeptical she will actually receive this money as Hewitt defaulted before the court and has been found guilty of rape and indecent assault of minors in South Africa.

110. Ted R. Miller et al., *Victim Costs and Consequences: A New Look*, NAT’L INST. OF JUST. 17 (Jan. 1996), <https://www.ncjrs.gov/pdffiles/victcost.pdf>.

111. *Id.* at 21.

112. *Id.* at 9.

113. *Child Sexual Abuse Facts*, THE CHILDREN’S ASSESSMENT CTR., <http://cachouston.org/child-sexual-abuse-facts/> (last visited Oct. 10, 2016); see also, *The Costs and Consequences of Sexual Violence and Cost-Effective Solutions*, THE NAT’L ALL. TO END SEXUAL VIOLENCE (Apr. 2011), <http://www.nsvrc.org/sites/default/files/CostsConsequencesSV.pdf>.

114. DIANE M. DAANE, *SEXUAL ASSAULT: THE VICTIMS, THE PERPETRATORS, AND THE CRIMINAL JUSTICE SYSTEM* 89 (Frances P. Reddington & Betsy Wright Kreisel eds., 2005).

115. *The Costs and Consequences of Sexual Violence and Cost-Effective Solutions*, *supra* note 113.

116. “A civil suit protects all children by holding institutions accountable for protecting the children placed in their care.” Mai Fernandez, *To Protect N.J.’s Kids, Senate Must Expand Statute of Limitations on Sex Abuse Lawsuits*, NJ.COM (June 8, 2015), [http://www.nj.com/opinion/index.ssf/2015/06/to\\_protect\\_njs\\_kids\\_senate\\_must\\_expand\\_statute\\_of.html](http://www.nj.com/opinion/index.ssf/2015/06/to_protect_njs_kids_senate_must_expand_statute_of.html).

ble should they foster or be willfully neglectful of child sex abuse.<sup>117</sup> This deters institutions from ignoring abuse, thus reducing instances of sexual abuse against children and increasing the likelihood that abusers themselves will be held accountable.

But the civil suit is not a given. Indeed, it is even less likely to be an option for adult survivors of child sexual abuse than the criminal forum. Less than ten states have abolished their civil statutes of limitations for sex crimes against children.<sup>118</sup> If an adult victim of child sexual abuse is lucky enough to live in a jurisdiction that has abolished the civil statute of limitations, the victim still faces an uphill battle in succeeding against their abuser. Sexual abuse plaintiffs face the same evidentiary battles alongside some of the same misunderstandings and prejudices about their delay in reporting that they face from police officers, prosecutors, and a jury.<sup>119</sup> Even if a survivor is successful in suit, her abuser may lack the means to compensate her.<sup>120</sup>

In 2012, twelve former attendees of Poly Prep Country Day School in New York sued the school, claiming their football coach sexually abused them.<sup>121</sup> They alleged that the abuse took place over twenty years and “ranged in frequency from two incidents . . . to hundreds” depending on the plaintiff.<sup>122</sup> Their claims against the coach were all barred by the three-year statute of limitations, which required them to file suit by age twenty-one.<sup>123</sup> Indeed, under New York law, sexual abuse victims are charged “with the responsibility for investigation, within the [three year] limitations period, of all potential claims and all potential defendants.”<sup>124</sup> A plaintiff has no cause of action after he or she turns twenty-one even if he or she was unaware that he or she had a cause of action at the time of the injury.<sup>125</sup>

117. If the survivor can show an institution concealed its knowledge of the plaintiff's abuse, the statute of limitations will be tolled to the point at which the survivor “discovered” that the institution knew of the abuse. *See, e.g., Zimmerman v. Poly Prep Country Day School*, 888 F.Supp.2d 317, 337 (E.D. N.Y. 2012).

118. *See* Hamilton, *supra* note 107.

119. *See infra* at IV for a discussion of “iconic victims.”

120. Or simply evade the forum altogether. *See* Hohler, *supra* note 104.

121. *Zimmerman*, 888 F.Supp.2d at 317; *see also*, Jenny Anderson, *School Abuse Case May Proceed, Judge Says*, N.Y. TIMES, Aug. 28, 2012, [http://www.nytimes.com/2012/08/29/nyregion/poly-prep-sexual-abuse-case-may-proceed-judge-rules.html?\\_r=1](http://www.nytimes.com/2012/08/29/nyregion/poly-prep-sexual-abuse-case-may-proceed-judge-rules.html?_r=1).

122. *Zimmerman*, 888 F.Supp.2d at 323.

123. *Id.* at 333.

124. *Doe v. Archdiocese of Wash.*, 689 A.2d 634, 644 (Md. Ct. Spec. App. 1997).

125. *Woodlaurel, Inc. v. Wittman*, 199 A.D.2d 497, 498 (N.Y. Sup. Ct. 1993).



In another recent New York case, the court held that two alleged victims of sexual abuse had no claim against Catholic priests when they brought suit after the age of twenty-one because “each plaintiff was aware of the sexual abuse he or she suffered at the hands of defendant priests. Certainly they had sufficient knowledge to bring an intentional tort cause of action . . .”<sup>126</sup> The court went further to say, “[a] wrongdoer is not legally obliged . . . to alert people who may have claims against it, to get the benefit of a statute of limitations.”<sup>127</sup>

The civil statutes of limitations for sex crimes against children are equally in need of reform. Victims are often denied access to both forums. Accordingly, the civil suit is not an adequate substitute for criminal justice.

### III. THE SOLUTION: ABOLISH THE STATUTE OF LIMITATIONS.

“When I was 13 years old and I was standing in the shower getting raped . . . *do you think I knew what a statute of limitations was?*”<sup>128</sup> Abolishing the statute of limitations is the only way to improve identification of sex offenders and thereby reduce instances of child sexual assault. Statutes of limitations permit repeat offenders to capitalize on how long it takes their victims to recover, shielding predators’ identities from society and permitting them to reoffend. “[C]hildren will never be fully protected so long as the identities of predators are secret from the public.”<sup>129</sup>

#### *A. Statutes of Limitations Unreasonably Frustrate the Identification and Prosecution of Predators*

Statutes of limitations on sex crimes against children are “a dam holding back the identities of predators from the public.”<sup>130</sup> The majority of sexually based crimes are committed by someone who is *not* on a

126. *Zumpano v. Quinn*, 849 N.E.2d 926, 929 (N.Y. 2006).

127. *Id.* at 930.

128. Scott Malone, *The Catholic Church Is Fighting to Block Bills That Would Extend the Statute of Limitations For Reporting Sex Abuse*, BUSINESS INSIDER (Sep. 10, 2015), <http://www.businessinsider.com/r-as-pope-visit-nears-us-sex-victims-say-church-remains-obstacle-to-justice-2015-9>.

129. Marci Hamilton, *Let Victims Pursue Their Abusers: New York’s Outdated Civil Statute of Limitations Badly Needs Fixing*, NEW YORK DAILY NEWS (Nov. 9, 2015), <http://www.nydailynews.com/opinion/marci-hamilton-victims-pursue-abusers-article-1.2426370>.

130. Hamilton, *supra* note 26, at 28.

sex-offender registry.<sup>131</sup> Statutes of limitations are determined by the “legislative goals and purposes” underlying the law.<sup>132</sup> Where application of the statute of limitations does not “actually further any of the [interests] it is meant to protect,” the strong state interest in prosecution outweighs the benefit of a time-bar.<sup>133</sup> The sexual abuse of a child is uniquely unfit for a legal time limitation on reporting crimes. The statute of limitations as applied to sex crimes against children undermines successful prosecution of predators at every turn:

The very nature of the crime is predicated on secrecy and shame and manipulation. It often takes years, decades even, for victims to grasp what has happened: that an adult, often a trusted authority figure or a family member, did horribly wrong by them . . . Shutting the door on accusers only serves to arm the molesters with still another advantage in what is already an unfair fight.<sup>134</sup>

Recent administrations have focused on increasing penalties and expanding registry laws for offenders, but sex-offender registries are of little help if they are incomplete and vastly unrepresentative of some of society’s most reprehensible repeat-offenders.<sup>135</sup> Marci Hamilton aptly explained this conundrum: “[y]ou can harshly punish every known predator right up to the edges of the Eight Amendment’s rule against cruel and unusual punishment, but if you are only punishing a handful of the existing predators, children are still in serious peril.”<sup>136</sup> Abolishing the criminal statute of limitations will enhance these otherwise crippled legislative strategies.<sup>137</sup>

Statutes of limitations are appropriate where a wrongdoer deserves the closure of knowing he will not be prosecuted for a crime that took place half a lifetime ago.<sup>138</sup> In these cases, statutes of limita-

131. Kelly K. Bonnar-Kidd, *Sexual Offender Laws and Prevention of Sexual Violence or Recidivism*, AM. J. PUBLIC HEALTH, 100(3) 412–419 (Mar. 2010), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2820068/>.

132. Durga M. Bharam, Comment, *Statute of Limitations for Child Sexual Abuse Offenses: A Time For Reform Utilizing the Discovery Rule*, 80 J. CRIM. L. & CRIMINOLOGY 842, 860 (1989).

133. Lindsey Powell, *Am. Crim Law: Unraveling Criminal Statutes of Limitations*, GEO. U. L. CTR. (Jan. 1, 2008).

134. Wertheim, *supra* note 20.

135. For example, on July 27, 2007, President George W. Bush signed the Adam Walsh Protection Act (AWA), a federal law mandating state registration requirements. The law streamlines the tracking of sex offenders and notification requirements at the federal level. Pub. L. No. 109–248, 120 Stat. 587.

136. Hamilton, *supra* note 26, at 28.

137. Marci A. Hamilton, *What Is a Statute of Limitations?* SOL-REFORM.COM, <http://sol-reform.com/what-is-a-sol/> (last visited Oct. 14 2015).

138. See James Herbie DiFonzo, *In Praise of Statutes of Limitations in Sex Offense Cases*, 41 HOUS. L. REV. 1205, 1209 (2004).

tions foster a more stable society. Child sex abuse is not one of those instances; abusing a child is not like stealing a laptop.<sup>139</sup> Society's desire for retribution of child sex offenders does not lessen or expire over time; on the contrary, a forward-looking society *must* seek out and hold accountable those responsible for these crimes who stay hidden and buried in victims' pasts. Our failure to do so ensures these crimes will happen again.<sup>140</sup> Sex offenders pose a continuing threat to society, a threat that does not end when the arbitrary statute of limitations terminates a victim's claim.<sup>141</sup>

The court in *Mary D. v. John D.* understood this injustice when it allowed a twenty-four-year-old's case to proceed despite the statute of limitations period passing; the court found it unreasonable to expect the plaintiff to have reported the crimes committed by her father when she was a child any sooner.<sup>142</sup> The court noted the importance of a defendant's right to be free from stale claims, "which are difficult to defend and sometimes rest entirely on subjective evidence."<sup>143</sup> However, the plaintiff's "right to seek redress for an outrageous violation against her" outweighed concerns of stale evidence given that her failure to report was *a direct result of the defendant's abusive actions*.<sup>144</sup>

The court in *Johnson v. Johnson* similarly understood that the victim's delay was psychological: she had to "block out the experience in order to maintain her sanity."<sup>145</sup> The court rearticulated that the purpose of allowing adult survivors of childhood sexual abuse to bring forward claims is:

139. "Perpetrators and their enablers do not deserve predictability and stability in their lives." Hamilton, *supra* note 26, at 110.

140. Given the limitations in the recidivism data, it is difficult to make definitive conclusions about the rate at which sex offenders repeat their crimes. The definition or interpretation of recidivism varies in many studies, with some using arrest or conviction data for any crime, such as a parole violation, and others using arrest or conviction data for a sexually based crime. That most sexual crimes go unreported is another significant limitation of the recidivism data. For example, in the United States in 2007, an estimated 42% of rapes or sexual assaults were never brought to the attention of authorities. Unfortunately, the number of unreported crimes committed by registered sex offenders relative to the number among individuals without a record of sexual offenses is unknown. Bonnar-Kidd, *supra* note 131.

141. On the Subject of the DNA Sexual Assault Justice Act of 2002, 107th Congress (2002) (statement of Susan Herman, Executive Director, National Center for Victims of Crime, Before the U.S. Senate Judiciary Committee Subcommittee on Crime and Drugs).

142. *Mary D. v. John D.*, 264 Cal. Rptr. 633 (1989). The Supreme Court of California overturned the decision a year later. *Mary D. v. John D.*, 268 Cal. Rptr. 283, 283 (1990) (en banc).

143. *Id.* at 638.

144. *Id.*

145. *Johnson v. Johnson*, 701 F. Supp. 1363, 1368 (N.D. Ill. 1988).

*Not to provide a guaranteed remedy* to such plaintiffs<sup>146</sup> [but] to provide an *opportunity* for an adult who claims to have been sexually abused as a child to prove not only that she was abused and that the defendant was her abuser, but that her suffering was such that she did not and could not reasonably have discovered all the elements of her cause of action at an earlier time.<sup>146</sup>

Critics of abolishing the statute of limitations rightfully point out that all statutes of limitation are inherently arbitrary; indeed, they are *intended* to frustrate prosecution of crimes. But the reality is that states have developed a tapestry of exceptions, outlawing the criminal statute of limitations for a litany of crimes besides murder. In Washington, a state that has not abolished its criminal statute of limitations for sex crimes against children and only gives victims until age thirty, there is no time limit for prosecution of homicide by abuse, arson that results in death, vehicular homicide, and other vehicle-related crimes resulting in death;<sup>147</sup> crimes a human can commit *unintentionally*.<sup>148</sup> Surely if the state has such an interest in crimes that result in the *accidental* harm of another human being, an equally strong interest exists in protecting our children.<sup>149</sup>

In Minnesota, where child victims are only given nine years to report after the abuse ends, there is no criminal statute of limitations whatsoever for labor trafficking of any kind.<sup>150</sup> The arbitrary nature of statutes of limitation is no longer an excuse for legislators to sit on their hands.<sup>151</sup> The majority of states have already eliminated their criminal statute of limitations for sex crimes against children, and even those that have not followed this action have carved out exceptions for several other crimes. These states must now apply their exceptions even-handedly to include victims of the epidemic of child sexual abuse.

Theories of punishment also support abolishing the statute of limitations for sex crimes against children. Utilitarian and restorative jus-

146. *Id.* (quoting *Tyson v. Tyson*, 727 P.2d 226, 237 (Wash. 1986)).

147. WASH. REV. CODE ANN. § 9A.04.080(1)(a)(i)-(vi) (West 2016).

148. WASH. REV. CODE ANN. § 46.42.020 (West 2015).

149. WASH. REV. CODE ANN. § 46.61.520 (West 2016).

150. MINN. STAT. ANN. § 628.26(b) (West 2016).

151. It appears that state legislators are more likely sitting on their hands in order to protect their wallets. See Malone, *supra* note 128. "Hefty settlement costs have forced dioceses to close parishes and sell off properties. The Archdiocese of St. Paul and Minneapolis in Minnesota in January became the 12th U.S. diocese to file for bankruptcy . . . states [that] have sizeable delegations of Catholic lawmakers who are responsive to the Church's view that extending statutes would hurt its social mission, from closures of parishes to cutbacks of church-run schools and other programs"; see also Marci A. Hamilton, *The California Catholic Bishops Fight Access to Justice for Child Sex Abuse Victims*, VERDICT (Aug. 8, 2013), <https://verdict.justia.com/2013/08/08/the-california-catholic-bishops-fight-access-to-justice-for-child-sex-abuse-victims>.

tice theories support abolishing the statute of limitations as advancing the goals of society. From a utilitarian perspective, permitting adult survivors of child sex abuse to bring claims at any time would advance the goals of deterrence both specifically and generally. The seventy-year-old offender whose abuse is brought to light and punished may refrain from recommitting the conduct, and this punishment may deter other similarly situated pedophiles. The mere label of “criminal” and “pedophile” can deter the behavior of an offender lest he remain a social outcast.<sup>152</sup>

Indeed, the founder of the deterrence theory, Jeremy Bentham, stated “unpunished crime leaves the path of crime open, not only to the same delinquent but also to all those who may have the same motives and opportunities for entering upon it.”<sup>153</sup> The punishment of the previously unidentified offender becomes a source of security for all, as society can feel safer as a whole and renew faith in the criminal justice system.

The restorative justice theory perhaps most strongly supports abolishing the statute of limitations, with the central goal of bringing the community together by recognizing the harm done to society and the individual victim.<sup>154</sup> Restorative justice acknowledges that a crime is more than “State versus offender”, but necessarily involves the interests of the victims, families, and community members.<sup>155</sup> Allowing victims to bring these claims, regardless of their success, empowers victims by giving them a platform to express to the offender and to the community-at-large the gravity and impact of the sexual violence they suffered as a child. This victim-centered remedial process improves the victim’s road to restoration.

Statutes of limitations on sex crimes against children unreasonably frustrate the legislative goals of outlawing the crime to begin with. We cannot expect to adequately address the problem of child sex abuse in this country while simultaneously expecting victims to do what is psychologically unreasonable. Abolishing the statute of limitations gives victims a chance to identify the sex offenders that are hiding in broad daylight.

152. ANTHONY AMATURDO, *CRIMINOLOGY AND POLITICAL THEORY* 80 (1st ed. 2009).

153. JEREMY BENTHAM, *Principles of Penal Law*, in *THE WORKS OF JEREMY BENTHAM* 396 (Vol. 1 Bowring, Edinburgh 1838-43).

154. Erik Luna, *Punishment Theory, Holism, and the Procedural Conception of Restorative Justice*, 218 *UTAH L. REV.* 228 (2003).

155. John Braithwaite, *A Future Where Punishment Is Marginalized: Realistic or Utopian?*, 46 *UCLA L. REV.* 1727, 1743 (1999).

### *B. States Must Abolish Their Criminal Statutes of Limitations for Sex Crimes Against Children.*

Since the inception of statutes of limitations, state legislators have carved out exceptions as society calls for them.<sup>156</sup> Thirty-four states have generally and meaningfully abolished their criminal statute of limitations for all or most sex crimes against children.<sup>157</sup> Maine, for example, has abolished both its criminal and civil statutes of limitations for sexual acts against minors.<sup>158</sup> Kentucky abolished the statute of limitations for any felony, including the most heinous sex crimes against children.<sup>159</sup> Illinois abolished its criminal statute of limitations for sex crimes against children as recently as 2013.<sup>160</sup>

But sixteen states have yet to meaningfully abolish the statute of limitations:<sup>161</sup> California,<sup>162</sup> Connecticut,<sup>163</sup> Indiana,<sup>164</sup> Iowa,<sup>165</sup> Kansas,<sup>166</sup> Louisiana,<sup>167</sup> Minnesota,<sup>168</sup> Montana,<sup>169</sup> New Hampshire,<sup>170</sup> New York,<sup>171</sup> Ohio,<sup>172</sup> Oklahoma,<sup>173</sup> Oregon,<sup>174</sup> Pennsylvania,<sup>175</sup> Tennes-

156. Powell, *supra* note 133; Society has called for change in this area of law for decades. See, e.g., Jodi Leibowitz, *Criminal Statutes of Limitations: An Obstacle to the Prosecution and Punishment of Child Sexual Abuse*, 25 CARDOZO L. REV. 907, 927 (2003).

157. For example, Minnesota has no criminal statute of limitations for sex crimes against children if the victim has DNA evidence linking their abuse to their abuser. Without DNA evidence, the statute of limitations starts tolling immediately after the abuse occurs and ends after nine years. Given the unlikelihood child sex victims will obtain and store DNA evidence, this “abolishment” is not meaningful. MINN. STAT. ANN. § 628.26(e)–(f) (West 2016).

158. ME. REV. STAT. ANN. 14 § 752-C (2015).

159. KY. REV. STAT. ANN. § 500.050(1) (West 2008).

160. H.B. 1063, 98th Gen. Assemb., 379th Sess. (Il. 2014), eliminates the criminal statute of limitations for felony sex crimes against children when corroborating physical evidence exists or a mandated reporter failed to report the sexual abuse; see also, *Gov. Quinn Signs Law to Remove Statute of Limitations for Child Sexual Abuse, Ensuring Survivors No Longer Run Out of Time to Seek Justice*, CHI. CHILDREN’S ADVOC. CTR. (Aug. 8, 2013), <http://www.chicagocac.org/gov-quinn-signs-law-to-remove-statute-of-limitations-for-child-sexual-abuse-ensuring-survivors-no-longer-run-out-of-time-to-seek-justice/>.

161. Either meaningfully or at all.

162. CAL. PENAL CODE § 801.1(a)(1) (West 2016) (victim has until age forty to report).

163. CONN. GEN. STAT. ANN. § 54-193a. (West 2016) (victim has until age forty-eight to report).

164. IND. CODE ANN. § 35-41-4-2(e) (West 2016) (victim has until age thirty-one to report).

165. IOWA CODE ANN. § 802.2 (West 2015) (victim has until age thirty-one to report).

166. KAN. STAT. ANN. §§ 21-5107(c), 22-3717 (d)(1)(D) (2016) (victim has until age twenty-eight to report).

167. LA. CODE CRIM. PROC. ANN. art. 571.1 (2016) (victim has until age forty-eight to report).

168. MINN. STAT. ANN. § 628.26(e)–(f) (West 2016) (victim has nine years after the abuse occurred).

169. MONT. CODE ANN. § 45-1-205(1) (West 2015) (victim has until age twenty-eight to report felony sex crimes, age twenty-three to report misdemeanors).

170. N.H. REV. STAT. ANN. § 625:8(III)(i) (2016) (victim has until age thirty-eight to report).

171. N.Y. CRIM. PROC. LAW § 30.10(2)(a),(3)(e)–(f) (McKinney 2016) (victim has until age twenty-three report unless abuse meets certain specifications: occurred over a period of time not

see,<sup>176</sup> and Washington.<sup>177</sup> Some of these states, like Pennsylvania, are currently making strides to remove the criminal statute of limitations altogether.<sup>178</sup> Others, like Iowa, Kansas, Minnesota, Montana, and New York, lag far behind in improving access to justice for child abuse victims.<sup>179</sup> Victims of assault in New York have until age twenty-three to report.<sup>180</sup> Victims in Montana have until age twenty-eight if the sexual abuse is a felony, otherwise they must report by age twenty-three.<sup>181</sup> Victims in Iowa and Kansas have until age twenty-eight to report.<sup>182</sup> Minnesota victims may not even be given until the age of eighteen if they do not have DNA evidence.<sup>183</sup>

Problems with these exceedingly short time-bars are evident in the press. In 2014, nearly a dozen women in their fifties, having accused their former middle school teacher of sexually abusing them in their youth, were barred by both New York's criminal and civil statutes of limitations.<sup>184</sup> Chillingly, in a series of phone interviews with the Wall Street Journal, the teacher acknowledged that he sexually abused multiple children throughout his career, stating, "in this one area I seem to have gone completely amoral or immoral."<sup>185</sup> Another group of

less than three months, two or more acts of sexual conduct including intercourse, child is less than eleven years old).

172. OHIO REV. CODE ANN. § 2901.13(3)(a) (West 2015) (victim has twenty years after the abuse occurred).

173. OKLA. STAT. ANN. tit. 22. § 152(C) (West 2016) (victim has twelve years after the crime is discovered).

174. OR. REV. STAT. ANN. § 131.125(2)-(4) (West 2016) (victim has until age twenty-two or thirty, depending on severity of crime).

175. 42 PA. CONS. STAT. ANN. § 5552(c)(3) (West 2016) (victim has until age fifty to report); see also, Crawford *supra* note 15.

176. TENN. CODE ANN. § 40-2-101 (West 2016) (victim has until age thirty-three or forty-three to report depending on the crime).

177. WASH. REV. CODE ANN. § 9A.04.080(1)(c) (West 2016) (victim has until age thirty to report).

178. S.B. 172, 2015-2016, Reg. Sess. (Pa. 2015); see also Mark Rozzi, *Rozzi Thanks Supporters for Successful Statute of Limitations Reform Lobby Day*, PAHOUSE.COM (Apr. 15, 2015), <http://www.pahouse.com/InTheNews/NewsRelease/?id=65798>.

179. Sophia Hollander, *New York Has Strict Statute of Limitations for Child Sex Abuse*, WALL ST. J. (June 4, 2014), <http://www.wsj.com/articles/new-york-has-strict-statute-of-limitations-for-child-sex-abuse-1401852918>.

180. N.Y. CRIM. PROC. LAW § 30.10(3)(e)-(f) (McKinney 2016).

181. MONT. CODE ANN. § 45-1-205(1) (West 2015).

182. IOWA CODE ANN. § 802.2 (West 2015); KAN. STAT. ANN. §§ 21-5107(c), 22-3717(d)(1)(D) (West 2016).

183. MINN. STAT. § 628.26 (2015).

184. Sophia Hollander, *Years of Abuse at Brooklyn School Alleged*, WALL ST. J. (June 4, 2014), <http://www.wsj.com/articles/years-of-abuse-at-brooklyn-school-alleged-1401852826>.

185. *Id.*

women in their fifties realized they were all victimized by the same teacher when they were children.<sup>186</sup> But these women lived in Virginia, a state with no statute of limitations on felony charges.<sup>187</sup> Their testimony assisted in sentencing their former teacher to forty-three years for sexually abusing children under the age of fourteen.<sup>188</sup> New York is currently considering a law that will extend the criminal statute of limitations by five years, still only giving victims until they turn twenty-eight years old to report.<sup>189</sup>

Iowa and Kansas' limitations have also kept victims from justice. Natalie Long, a victim who missed the statute of limitations in Iowa stated, "[i]t is unfathomable to me they (perpetrators) sweat it out for 10 years and then never have to worry again. Then there's me. No day comes that I get to say, 'Whew! I'm done with that!'"<sup>190</sup> Her attorney, Arthur Winstein, added, "[i]f you're raped as a child in Iowa, but you haven't come to terms with it by the age of 28, that guy goes free forever."<sup>191</sup> Kansas is closer to progress. Representative Brandon Ellington introduced a bill the first week of 2016 that would eliminate both the civil and criminal statutes of limitations in Kansas for sexual offenses committed against children.<sup>192</sup> In support of the bill, Ellington stated, "[b]y removing the statute of limitations, we're not guaranteeing conviction. The only thing we're doing is allowing people to go back and prosecute or face their abuser."<sup>193</sup> Kansas is one of about twenty other states that have eliminated their statute of limitations for rape cases;<sup>194</sup> there is hope the same broad support will make changes for adult survivors of child sexual abuse.

186. Hollander, *supra* note 179.

187. *Id.*

188. *Id.*

189. S.B. S2186, 2015–2016, Reg. Sess. (N.Y. 2015),

<http://www.nysenate.gov/legislation/bills/2015/s2186>.

190. Barb Ickes, *Victim: Statute of Limitations Too Short in Iowa and Illinois*, QUAD-CITY TIMES, Nov. 30, 2013, [http://qctimes.com/news/local/victim-statute-of-limitations-too-short-in-iowa-and-illinois/article\\_17241fe7-147d-5080-9f77-c52b422c7a82.html](http://qctimes.com/news/local/victim-statute-of-limitations-too-short-in-iowa-and-illinois/article_17241fe7-147d-5080-9f77-c52b422c7a82.html).

191. *Id.*; the statute of limitations has since been extended by three years. IOWA CODE ANN § 802.2 (West 2015) (victim has until age twenty-eight to report).

192. H.B. 1525, 98th Gen. Assemb., 2d Reg. Sess. (Mo. 2016), <http://www.house.mo.gov/billssummary.aspx?bill=HB1525&year=2016&code=R>.

193. Mike Lear, *Proposal Would Lift Statute of Limitations on Child Sexual Abuse*, MISSOURINET (Feb. 19, 2013) <http://www.missourinet.com/2013/02/19/proposal-would-lift-statute-of-limitations-on-child-sexual-abuse/>.

194. Brent D. Wistrom, *Kansas Governor Signs Bill Eliminating Statute of Limitations on Rape Cases*, THE WICHITA EAGLE, Apr. 1, 2013, <http://www.kansas.com/news/politics-government/article1112518.html>.



Minnesota may also see progress in its criminal statute of limitations. It recently joined the handful of states that have abolished their civil statute of limitations for sex crimes against children.<sup>195</sup> A now fifty-three year-old man, who described himself as “suffering in the shadows,” is suing his former church and priests.<sup>196</sup> Victims like Barbara Dorris and Jim Keenan were barred by civil and criminal statutes of limitations when they attempted to report the same abuse.<sup>197</sup> While Minnesota’s criminal statute of limitations still remains exceedingly predator-friendly, a successful influx of lawsuits may illuminate the need for abolishing it in time. Discovery often reveals the hidden horrors going on in institutions entrusted with our children. For example, the civil suit against the Roman Catholic Archdiocese of Boston resulted in “the largest release of diocesan documents ever achieved,” revealing an intricate web of sexual abuse with hundreds of victims.<sup>198</sup> The process revealed information that led to the charging and conviction of a priest for the rape of a child twenty years prior.<sup>199</sup>

But even states like Pennsylvania that give victims until age fifty to report must change. John Delaney was thirty-four years old when he first reported the sexual abuse he suffered as an altar-boy at age eleven.<sup>200</sup> At the time the statute of limitations in Pennsylvania was set at age thirty, barring prosecution of Delaney’s abuser. A three-year investigation into the Philadelphia Archdiocese revealed that the church was aware of his abuser’s sexual assault of at least sixteen other boys.<sup>201</sup> The investigation concluded that the church actively shielded a total of *sixty-three* priests who had molested *hundreds* of children over three decades by burying reports and covering up conduct until the statute of limitations had lapsed.<sup>202</sup> An adult survivor of child sexual

195. Katie Rucke, *Change in Statute of Limitations Laws Spells Trouble For Catholic Church*, MINTPRESS NEWS (May 31, 2013), <http://www.mintpressnews.com/change-in-statute-of-limitations-laws-spells-trouble-for-catholic-church/162443/>.

196. Chao Xiong, *Minn. Churches Are Sued Under New Abuse Law*, STAR TRIBUNE, May 29, 2013, <http://www.startribune.com/minn-churches-are-sued-under-new-sex-abuse-law/209446891/>.

197. *Id.*

198. Paul R. Shanley—*Assignments and Archdiocesan Documents*, BISHOP ACCOUNTABILITY (Sept. 24, 2011), <http://www.bishop-accountability.org/assign/Shanley-Paul-Richard.htm>.

199. Pam Belluck, *Former Priest Is Sentenced to 12 to 15 Years in Rape*, N.Y. TIMES (Feb. 16, 2005), <http://www.nytimes.com/2005/02/16/us/former-priest-is-sentenced-to-12-to-15-years-in-rape.html>.

200. Jason Sickles, *Alleged Victim Targets Accused Pedophile Priest 30 Years Later*, YAHOO (March 28, 2014), <http://news.yahoo.com/alleged-victim-targets-accused-pedophile-priest-30-years-later-014011517.html>.

201. *Id.*

202. *Id.*

abuse who is not ready to publicly accuse until the age of fifty carries the same valuable information to society: someone entrusted with our children is harming them. Arbitrarily barring prosecution enables sexual predators and shields them from accountability.

Even states that have generally abolished their statute of limitations for sex crimes can improve. For example, states like Hawaii unjustly distinguish between the forms of sexual abuse and the child's age in deciding whether the victim has unlimited time to report. Indeed, a child victim of incest in Hawaii only has three years to report after the abuse occurred.<sup>203</sup> The identity of the abuser should not impact a victim's access to justice.

States that have abolished their criminal statutes of limitations have given victims a voice and identified otherwise hidden sexual predators.<sup>204</sup> As recently as October of 2015, a seventy-three-year-old man was arrested on sexual assault charges of three young girls in Maine, two of whom were the grandchildren of his significant other.<sup>205</sup> According to the affidavit, the grandchildren were assaulted over a seven-year timespan that only terminated when they moved out of the home they were sharing with their grandmother and their abuser.<sup>206</sup> The young girls stated that their abuser threatened to hurt them if they told anyone.<sup>207</sup> Because Maine has abolished its criminal statute of limitations, prosecution did not rest on the age of the victims.

Critics of abolishing statutes of limitations correctly point out that some victims are negatively impacted psychologically by participating in the criminal justice system.<sup>208</sup> True, some victims justifiably fear reliving the trauma of their abuse by publicly disclosing what happened to them.<sup>209</sup> Certainly, some victims will choose not to participate in the criminal justice system whatsoever. But they deserve the choice. Our failure to conduct criminal justice in a manner that encourages

203. HAW. REV. STAT. ANN. § 701-108(2)(d) (West 2014) (abolishing statute of limitations for sexual assault of minors under the age of fourteen).

204. See, e.g., ME. REV. STAT. ANN. 14 § 752-C ("Actions based upon sexual acts towards minors may be commenced at any time").

205. Rachel Ohm, *North Anson Man Accused of Assaulting Three Girls*, CENTRALMAINE.COM (Oct. 19 2015), <http://www.centralmaine.com/2015/10/19/north-anson-man-accused-of-assaulting-three-girls/>.

206. *Id.*

207. *Id.*

208. DiFonzo, *supra* note 138, at 1271-74.

209. See Francie Latour, *Revisited Rapes, Reawakened Trauma: DNA Testing Worries Victims' Advocates*, BOS. GLOBE (May 28, 2000), <https://www.highbeam.com/doc/1P2-8603396.html>; see also Martin Symonds, "The 'Second Injury' to Victims," *Evaluation and Change* 36 (Special Issue, 1980).

victims to participate is not an excuse to exclude them from the forum. Many victims find that, despite the emotional distress of publicly disclosing their traumatic experiences, the criminal prosecution process is vindicating and healing.<sup>210</sup> Studies show that disclosure is generally an effective component of many therapeutic treatments to the long-term symptoms associated with child sexual abuse.<sup>211</sup> In a recent civil suit brought against Catholic priests in Chicago, one victim, now sixty-one years old, stated, “[i]f I give that power [to come forward] to another person, I think I’ve done a good thing.”<sup>212</sup> When former priest Paul R. Shanley was sentenced to twelve years in prison, an alleged victim stated: “How I feel today? The spell is broken. For the first time in more than 35 years, I can sleep through the night.”<sup>213</sup>

#### IV. THE COUNTER-ARGUMENT: ABOLISHING THE STATUTE OF LIMITATIONS WILL NOT COMPROMISE DEFENDANTS’ RIGHTS.

Statutes of limitation generally play an important and beneficial role in society. They encourage states to prosecute crimes while they are fresh, reduce court dockets, and ensure that the accused will have access to witnesses and evidence in proving their innocence.<sup>214</sup> Proponents of keeping the statute of limitations for sex crimes against children raise concerns that abolishing the statute will unjustly disadvantage criminal defendants. But concerns of fading memories and missing evidence must be balanced with justice for victims, and society’s benefit of identifying and apprehending sex offenders.<sup>215</sup> Furthermore, there are many procedural safeguards that protect defendants from facing uncorroborated, stale evidence that is impossible to defend. On the contrary, it is the adult victim of child sex abuse that faces an uphill battle from the moment she decides to report.

First and foremost, permitting an adult victim to report guarantees neither that a charge will be filed, nor that the accused will be re-

210. Hamilton, *supra* note 26, at 16 (explaining that both civil and criminal remedies “validate the survivor and get the truth to the public.”).

211. Bradley RG et al., *Utilizing Disclosure in the Treatment of the Sequelae of Childhood Sexual Abuse: A Theoretical and Empirical Review*, 21:1 CLIN. PSYCH. REV. 1–32 (2001).

212. Christy Gutowski, *Joliet Diocese Settles Priest Abuse Claims for More Than \$4 million*, CHI. TRIBUNE, April 14, 2015, 7:27 PM, <http://www.chicagotribune.com/suburbs/joliet-romeo/romeo/news/ct-joliet-diocese-priest-settlement-met-20150414-story.html>.

213. Belluck, *supra* note 199.

214. Grose, *supra* note 72.

215. *More Time for Justice*, N.Y. TIMES, May 6, 2012, [http://www.nytimes.com/2012/05/07/opinion/more-time-for-justice.html?\\_r=0](http://www.nytimes.com/2012/05/07/opinion/more-time-for-justice.html?_r=0).

quired to defend himself. At a threshold level, police officers and prosecutors have the discretion not to pursue cases if they perceive the evidence to be sparse or unbelievable.<sup>216</sup> Of the small percentage of sex crimes against children that are reported, only a very small number will actually be prosecuted. On average, 86% of reported sexual assaults to police officers and detectives are never even referred to prosecutors.<sup>217</sup> Where law enforcement has chosen not to refer a claim of alleged child sexual abuse, 81% cited an insufficiency of evidence as their reason.<sup>218</sup> Indeed, both victims and law enforcement agree that almost 70% of the times a victim reports to the police, law enforcement tells the victims to drop their complaint.<sup>219</sup>

This is in part due to the “iconic-victim” stereotype that both law enforcement and society-at-large hold of what a real victim looks, acts, and sounds like.<sup>220</sup> “Iconic” sexual assault victims, for example, were not under the influence of drugs or alcohol at the time of the assault, dressed modestly, did not know their abuser, physically struggled to escape their abuser, and reported quickly and accurately after the assault occurred.<sup>221</sup> This subconscious prejudice causes law enforcement to disbelieve victims that do not fit the mold. For example, law enforcement tends to distrust and disbelieve sexual assault victims that are unable to clearly articulate precisely what happened to them.

Even though victims of sexual abuse trauma do in fact *accurately* perceive and store the details and memories of their assault, the storage process that takes place during the actual abuse may be disorganized and fragmented.<sup>222</sup> The mere stress of recounting a traumatic event to a stranger may impact the victim’s behavior in communicating with the police, notwithstanding the fact that many police officers question the victim in a manner that makes the victim feel disbe-

216. *An Arbitrary Statute of Limitations on Sexual Assault*, THE DENVER POST, Sept. 19, 2015, [http://www.denverpost.com/editorials/ci\\_28838157/an-arbitrary-statute-limitations-sexual-assault](http://www.denverpost.com/editorials/ci_28838157/an-arbitrary-statute-limitations-sexual-assault).

217. Campbell, *supra* note 55.

218. Wendy A. Walsh et. al, *Prosecuting Child Sexual Abuse: The Importance of Evidence Type*, 20 CRIME & DELINQUENCY 12 (July 8, 2008), [http://www.unh.edu/ccrc/pdf/CV175\\_Online%20version.pdf](http://www.unh.edu/ccrc/pdf/CV175_Online%20version.pdf).

219. Campbell, *supra* note 55.

220. For example, in sex trafficking the iconic victim is a rescued female that cooperates fully with law enforcement investigations from the first instance and is assessed to be a good witness for the prosecution. Jayashri Srikantiah, *Perfect Victims And Real Survivors: The Iconic Victim In Domestic Human Trafficking Law*, 87 B.U. L. REV. 157, 187 (2007).

221. See Campbell, *supra* note 55.

222. *Id.* at 6.

lieved.<sup>223</sup> As a result, when victims attempt to access and explain these memories to law enforcement, their stories often come out in “pieces and parts,” instead of fluid, easy-to-follow testimony.<sup>224</sup> Law enforcement may perceive this fragmented testimony as sketchy and unbelievable, interpreting the victim’s choppiness as evasiveness and untruthfulness.<sup>225</sup> In more cases than not, law enforcement disbelieves the non-iconic victim and refuses to refer the case to a prosecutor.<sup>226</sup> Thus, from the moment an adult survivor of child sex abuse dials 911, there is already a substantial likelihood that the allegation will not make it to the courthouse.

Should the case proceed, the victim faces another procedural hurdle through another stranger she must convince: the prosecutor. Prosecutors play a major role in screening out claims that would likely be difficult for a defendant to defend against for their lack of evidence. Studies show that, like police officers, prosecutors, juries, and society-at-large are also prejudiced against non-iconic victims.<sup>227</sup> These biases cause prosecutors to selectively prosecute cases based heavily on their perception of the victim’s credibility to a jury.<sup>228</sup> For example, a prosecutor is significantly less likely to file a charge where a victim took a long time to report the crime or is unable to identify specific details of the offense.<sup>229</sup> In addition, prosecutors are aware that many contemporary jurors expect to be presented with scientific evidence that establishes guilt.<sup>230</sup> Prosecutors are significantly less likely to bring cases where such evidence is absent.<sup>231</sup> Prosecutors are also more likely to reject charges in cases where the victim and the suspect know each other—the norm in child sex abuse cases.<sup>232</sup> Prosecutors, then, veto victims’ access to the criminal justice system if their claims appear unwinnable due to stale or uncorroborated evidence. Prosecutors’ own

223. Tyler Kingkade, *And People Ask Why Rape Victims Don't Report to Police*, HUFFINGTON POST (Aug. 12, 2016 11:39 AM), [http://www.huffingtonpost.com/entry/rape-victims-report-police\\_us\\_57ad48c2e4b071840410b8d6](http://www.huffingtonpost.com/entry/rape-victims-report-police_us_57ad48c2e4b071840410b8d6).

224. Campbell, *supra* note 55, at 8.

225. *Id.*

226. *Id.*

227. JEFFREY W. SPEARS, *Prosecution of Sex Crimes, in* SEXUAL ASSAULT: THE VICTIMS, THE PERPETRATORS, AND THE CRIMINAL JUSTICE SYSTEM 283 (Reddington & Kreisel ed. 2005).

228. *Id.*

229. *Id.*

230. Donald E. Shelton et al., *An Indirect-Effects Model of Mediated Adjudication: The CSI Myth, the Tech Effect, and Metropolitan Jurors' Expectations for Scientific Evidence*, 12 VAND. J. ENT. & TECH. L. 1, 17 (2009).

231. *Id.* at 21.

232. Spears, *supra* note 227, at 284.

self-interests to maintain a high conviction rate safeguards defendants from allegations that are impossible to defend.

But concerns for defendants' rights are more grounded if a charge is filed. One study found that 80% of defendants charged with the rape of an adult or a child were convicted once charged, mostly through plea agreement.<sup>233</sup> In theory, the state's burden of proving guilt beyond a reasonable doubt should outweigh any evidentiary concerns. But assuming that, like 80% of criminal defendants, the accused will not be able to afford a private attorney, he is already greatly disadvantaged in his ability to mount a defense.<sup>234</sup> Indeed, in 2007 state prosecutors nationwide spent nearly \$3.5 billion more than public defenders in their efforts to obtain evidence and try cases.<sup>235</sup> Prosecutors have much greater resources than their public defender counterparts, including easier access to evidence through partnerships with local police departments.<sup>236</sup> This is because for every tax dollar that goes towards public defense, fourteen dollars go towards corrections.<sup>237</sup> Even more troubling, public defenders are so overwhelmed with cases and so under-resourced that the average public defender would require an extra six months of time in order to adequately defend their annual caseload.<sup>238</sup> In Atlanta, Detroit, and New Orleans, public defenders have less than an hour to spend on any single case.<sup>239</sup>

Beyond these resource concerns, jury members themselves are not insulated from prejudice and may approach a criminal case with preconceived notions of guilt.<sup>240</sup> These jurors expect a defendant to produce positive evidence that proves his innocence or identifies the "real culprit," rather than merely pointing to the prosecution's lack of evidence.<sup>241</sup> But most instances of child sexual abuse have no third-party witnesses and only time-sensitive physical evidence, if any, making it difficult for a defendant to put forth positive evidence of inno-

233. Walsh, *supra* note 218.

234. Hannah Levintova et al., *Charts: Why You're In Deep Trouble If You Can't Afford A Lawyer*, MOTHER JONES (May 6, 2013), <http://www.motherjones.com/politics/2013/05/public-defenders-gideon-supreme-court-charts>.

235. *Id.*

236. *Indigent Defense*, ACLU, <https://www.aclu.org/issues/criminal-law-reform/effective-counsel/indigent-defense?redirect=racial-justice/indigent-defense> (last visited Feb 16, 2016).

237. Levintova, *supra* note 234.

238. *Id.*

239. *Id.*

240. Saby Ghoshray, *Untangling the CSI Effect in Criminal Jurisprudence: Circumstantial Evidence, Reasonable Doubt, and Jury Manipulation*, 41 NEW ENG. L. REV. 533, 533 (2007).

241. *Id.*; Tamara F. Lawson, *Before the Verdict and Beyond the Verdict: The CSI Infection Within Modern Criminal Jury Trials*, 41 LOY. U. CHI. L.J. 119, 130 (2009).

cence.<sup>242</sup> It is no secret that wrongful convictions occur in our criminal justice system.<sup>243</sup> The National Registry of Exonerations recently noted that the majority of deliberately fabricated crimes are child sexual assault cases, although these are claims brought when the victim remains a child.<sup>244</sup> These cases are often criticized for their lack of physical evidence to corroborate the victim's claims.

Despite this, procedural safeguards protect defendants' rights, even at trial. Victims are subject to vigorous cross-examination in an effort to discredit their testimony.<sup>245</sup> Studies show that jurors require scientific evidence to find guilt and are less willing to rely on the prosecution's factual witnesses in rape cases.<sup>246</sup> Conviction rates for incest are also sobering: out of the *two percent* of childhood incest cases that are actually reported to the police, *less than one percent* of incest cases result in a conviction.<sup>247</sup> Indeed, the amount and strength of evidence against a defendant in a child sexual abuse case directly correlates to the likelihood of a conviction.<sup>248</sup>

Finally, concerns regarding false memories and misidentifications,<sup>249</sup> although not unfounded, are largely misplaced in the area of child sexual abuse. Although eyewitness misidentification is the leading cause of wrongful convictions,<sup>250</sup> eyewitness misidentifications occur substantially less often where the victim knows or has a relationship with the aggressor, as is the case for most instances of child

242. Hershkowitz, *supra* note 63, at 112.

243. Virginia Hughes, *How Many People Are Wrongfully Convicted? Researchers Do the Math*, NAT'L GEOGRAPHIC (April 28, 2014), <http://phenomena.nationalgeographic.com/2014/04/28/how-many-people-are-wrongly-convicted-researchers-do-the-math/> (placing wrongful convictions as high as 4.1%).

244. Samuel R. Gross & Michael Shaffer, *Exonerations in the United States, 1989-2012*, 73 NAT'L REGISTRY OF EXONERATIONS (June 22, 2012), [http://www.law.umich.edu/special/exoneration/Documents/exonerations\\_us\\_1989\\_2012\\_full\\_report.pdf](http://www.law.umich.edu/special/exoneration/Documents/exonerations_us_1989_2012_full_report.pdf).

245. Forward & Buck, *supra* note 25, at 27.

246. Shelton, *supra* note 230, at 21.

247. *End Violence Together for The Dignity Of Every Woman*, ENDING VIOLENCE ASSOCIATION OF BC 3 (Aug. 2012), [http://endingviolence.org/wp-content/uploads/2014/02/urvivors\\_Childhood\\_Sexual\\_Assault\\_Fact\\_Sheet.pdf](http://endingviolence.org/wp-content/uploads/2014/02/urvivors_Childhood_Sexual_Assault_Fact_Sheet.pdf).

248. Walsh, *supra* note 218, at 13, tbl. 3.

249. See Kathleen A. Biesterveld, *False Memories and the Public Policy Debate: Toward a Heightened Standard of Care for Psychotherapy*, WIS. L. REV. 169-70 (2002) ("False memory syndrome is an enigma whereby patients develop 'memories' in therapy that have no basis in reality.").

250. *DNA Exonerations Nationwide*, THE INNOCENCE PROJECT (Feb 8, 2016), <http://www.innocenceproject.org/free-innocent/improve-the-law/fact-sheets/dna-exonerations-nationwide>.

sexual abuse.<sup>251</sup> In addition, prospective studies of adults' memories of documented child sexual abuse establish that individuals do in fact accurately record and remember their victimization:

Individuals who designated [child sexual abuse] as their [most traumatic experience] and individuals with more PTSD symptomatology were *particularly accurate* in their memory of the documented [child sexual abuse] case, which suggests an important influence of trauma symptoms and cognitive appraisals on long-term CSA memory. Evidence demonstrates that memory for emotional events often endures and that *trauma-related information is generally retained well*, especially among individuals with PTSD . . . Finally, victim-perpetrator relationship and delay [in reporting] were statistically unrelated to memory of [child sexual abuse].<sup>252</sup>

According to the American Psychological Association, "there is a *consensus* among memory researchers and clinicians that *most people who were sexually abused as children remember all or part of what happened to them* although they may not fully understand or disclose it."<sup>253</sup> Concerns of false memories have merit; in the small percentage of cases where the victim repressed memories of the abuse and then recovered them through therapy, scientists agree that these recovered memories are not always accurate.<sup>254</sup> But claims involving repression and memory recovery are the exception. The vast majority of criminal prosecutions involve victims who consistently remembered their abuse.<sup>255</sup> Research indicates that in balancing the rights and protections of alleged victims and alleged predators, memory concerns do not justify preemptively closing the court doors.

Opponents of abolishing the statutes of limitation rely upon the well-known work of Elizabeth Loftus in arguing that victim memory is

251. The stress of a particularly traumatic event, the use and presence of a weapon, the wearing of a partial disguise, exposure to post-traumatic-event information, nighttime viewing, and cross-racial identification play a role in eyewitness misidentifications where the witness does know the defendant. But "if the suspect is someone previously known to the victim, then high accuracy is more probable." *People v. Lerma*, 47 N.E.3d 985, 989 (Ill. 2016).

252. K.W. Alexander et al., *Traumatic Impact Predicts Long-Term Memory for Documented Child Sexual Abuse*, 16 AM. PSYCHOL. SOC. 33, 38 (2005), [https://www.researchgate.net/profile/Allison\\_Redlich/publication/8070317\\_Traumatic\\_impact\\_predicts\\_long-term\\_memory\\_for\\_child\\_sexual\\_abuse/links/0fcfd5092a5c66211b000000.pdf](https://www.researchgate.net/profile/Allison_Redlich/publication/8070317_Traumatic_impact_predicts_long-term_memory_for_child_sexual_abuse/links/0fcfd5092a5c66211b000000.pdf).

253. *Questions and Answers about Memories of Childhood Abuse*, AM. PSYCHOL. ASS'N, <http://www.apa.org/topics/trauma/memories.aspx> (last visited Feb. 16, 2016).

254. *Childhood Trauma Remembered: A Report on the Current Scientific Knowledge Base and Its Applications*, THE INT'L SOC. FOR TRAUMATIC STRESS STUD., <http://www.leadershipcouncil.org/docs/ChildhoodTraumaRemembered.pdf> (last visited Feb. 16, 2016).

255. The American Psychiatric Association reported that loss of CSA memories is a rare event. See Deborah A. Connolly & J. Don Read, *Remembering Historical Child Sexual Abuse*, 47 CRIM. L.Q. 438, 438-39 (2002).



not reliable. Loftus conducted a study in which subjects watched a film of a robbery involving a shooting, and were then shown a television account of the event that contained erroneous details.<sup>256</sup> When asked to recall what happened during the robbery, many subjects incorporated the erroneous details but remained certain they had accurately recalled the event.<sup>257</sup> This conclusion that memory both fades with time and is susceptible to outside influence has been wrongfully extrapolated to dismiss the memories and identifications of adult victims of sexual assault as inherently unreliable.

But all of the participants in Loftus' study accurately recalled watching a robbery.<sup>258</sup> They may have forgotten or mistaken some of the less important details—what the assailant was wearing, what time the crimes occurred, or the precise chain of events—but their major conclusion that a crime occurred remained unchanged.<sup>259</sup> As one author poignantly stated, “[n]one of the subjects in Loftus’s experiment confused the robbery they had witnessed on film with a film of someone taking an uneventful trip to the mall. One is highly unlikely to get being raped mixed up with having watched pornography on a computer.”<sup>260</sup> Indeed, Loftus’ conclusions based upon the third-party participants watching a crime involving complete strangers is entirely inapplicable to the victim of child sexual assault that more often than not both knows their accusers and suffers the of abuse over a period of time.<sup>261</sup>

Concerns of faded and unreliable evidence highlight the underlying fact that the prosecution must have enough reliable evidence to convince a jury or they simply will not bring the case. After abolishing the statute of limitations for rape in Kansas, Attorney General Derek Schmidt stated:

It won’t change the reality that evidence has to be there in order for a successful prosecution to be mounted . . . And the passage of time can weaken some types of evidence. But in cases where there is

256. Elizabeth F. Loftus & Hunter G. Hoffman, *Misinformation and Memory: The Creation of New Memories*, J. EXPERIMENTAL PSYCHOL.: GEN. (1)100–104 (Mar. 1989).

257. *Id.*

258. *Id.*

259. *Id.*

260. David M. Allen, *Why Don't Child Sex Abuse Victims Tell?*, PSYCHOL. TODAY (Oct. 22, 2012), <https://www.psychologytoday.com/blog/matter-personality/201210/why-dont-child-sex-abuse-victims-tell>.

261. Schultz, *supra* note 62.

strong and enduring evidence, such as physical evidence, the law will now not create an arbitrary bar.<sup>262</sup>

Indeed, now more than ever, hard evidence like text messages, letters, and emails corroborate victim's testimony. For example, key evidence in Bob Hewitt's criminal conviction of rape in South Africa included letters written by Hewitt to his child victims containing lines such as: "I can only assume you think of me as a sex maniac. Believe me, I'm not. My heart is going faster and faster because in 40 minutes I will see you again."<sup>263</sup> In those cases, it can hardly be said that the evidence is inadequate and the charges unfair to defend.

Moreover, some states expressly work evidentiary concerns into their statutes. States like Massachusetts explicitly require "independent evidence" that corroborates a victim's allegations when a charge is brought twenty-seven years after the offense.<sup>264</sup> Other states heavily rely on DNA evidence that is almost always long gone by the time adult victims are ready to report.<sup>265</sup> States like Delaware only permit victims to report beyond the three-year statute of limitations where they have corroborating evidence—"no prosecution . . . shall be based upon the memory of the victim that has been recovered through psychotherapy *unless there is some evidence . . . independent of such repressed memory.*"<sup>266</sup> The reality is that charges based on uncorroborated, decayed evidence are unlikely to be brought, and that lack of evidence protects defendants who may point to it in disproving their guilt beyond a reasonable doubt. Abolishing the statute of limitations, however, gets rid of the arbitrary protection for repeat-offenders who have in fact left a trail of physical evidence of their abuse, if not having admitted committing the crimes altogether.<sup>267</sup>

Permitting adult survivors of child sexual abuse to report at any time does not mean defendants will be faced with the single, uncorroborated testimony of one witness or victim at trial. On the contrary, the public reporting of one victim often causes a domino effect that encourages other victims who have since remained silent to come forward with their stories as well, as is seen clearly in the litany of claims against the Catholic Church throughout the United States, and even in

262. Wistrom, *supra* note 194.

263. Tanya Waterworth, 'Hewitt Did So Many Bad Things,' IOS NEWS (March 28, 2015), <http://www.iol.co.za/ios/news/hewitt-did-so-many-bad-things-1.1838322>.

264. MASS. GEN. LAWS ANN. Ch. 277 § 63.

265. GA. CODE ANN. § 17-3-1(d) (West 2016).

266. DEL. CODE ANN. tit. 11, §§ 205(b)(2), (e).

267. See Hollander, *supra* note 179.

the recent Bill Cosby scandal.<sup>268</sup> “In any abuse case, when the first victim has the courage to speak out, other victims feel empowered to also speak out to correct the injustice.”<sup>269</sup> Sometimes, it only takes one victim to begin what will result in a long, credible chain of evidence that clearly and justifiably supports the conviction of a sex offender.

Finally, false or fabricated allegations are no more likely in the area of child sex abuse than in any other crime: the rate of false reporting falls consistently between two and eight percent.<sup>270</sup> The law must reflect that abusers, and not victims, have the incentive to lie about these painful, humiliating experiences.<sup>271</sup> While the victim’s memory of dates and details of specific instances may fade with time, the sexual abuse itself and the identity of the abuser responsible is not forgotten.<sup>272</sup> The damage done by sexual abuse does not fade with time.<sup>273</sup> Legitimate survivors of childhood sexual abuse face an uphill battle in prosecuting their abusers to begin with. We must not continue to bar the countless, legitimate claims out of fear for the rare and exceptional false charge.

## V. CONCLUSION

“Why should a [victim’s] access to the courthouse depend on when the crime was committed?”<sup>274</sup> Jeff Dion, of the National Crime Victim Bar Association, emphasized the danger of statutes of limitations that protect predators: “We find them in walkers and wheelchairs still molesting kids because pedophiles don’t retire.”<sup>275</sup> It has been said, “if you want to commit the perfect crime, molest a young child.”<sup>276</sup>

268. Gutowski, *supra* note 212. (explaining lawsuit against Catholic Church based on the testimony of fourteen adult male victims, many of which only came forward after other victims publically made allegations against the church); Crawford, *supra* note 15.

269. Heather Steinberger, *More Victims Claiming Sexual Abuse by Montana Priests*, TODAY MEDIA NETWORK (July 30, 2012), <http://indiancountrytodaymedianetwork.com/2012/07/30/more-victims-claiming-sexual-abuse-montana-priests-126332>.

270. Crawford, *supra* note 15.

271. Forward & Buck, *supra* note 25, at 158.

272. Viatcheslav Wlassoff, *How Does Post-Traumatic Stress Disorder Change the Brain?*, BRAIN BLOGGER (Jan. 24, 2015), <http://brainblogger.com/2015/01/24/how-does-post-traumatic-stress-disorder-change-the-brain/>.

273. Blow, *supra* note 27.

274. Eileen McNamara, *Cosby Rape Allegations: It’s Time To End The Statute Of Limitations In Sexual Assault Cases*, COGNOSCENTI (Nov. 24, 2014), <http://cognoscenti.wbur.org/2014/11/24/bill-cosby-eileen-mcnamara>.

275. Kathleen E. Carey, *Proponents of Expanding Statute of Limitations for Abuse Victims Update the Battle in Pa.*, DAILY LOCAL NEWS (Sep. 20, 2016), <http://www.dailylocal.com/article/DL/20160920/NEWS/160929976>.

276. Forward & Buck, *supra* note 25, at 158.

Abolishing the statute of limitations for sex crimes against children will not solve the problem of child sexual violence in the United States overnight, but it will equip society with the tools necessary to protect our children. Sex crimes against children are “serious enough to take seriously.”<sup>277</sup> Society’s need to identify and apprehend child sex offenders does not expire with time. Victims’ access to justice should not either.

277. Perkins, *supra* note 19.