



**Episode 1,202: Abolish the Sex Offender Registry?**

**Guest: Emily Horowitz**

**WOODS:** I've just told people about your *Protecting Our Kids* book, and obviously this is an extremely controversial topic, which already provokes my first question, which is: how does somebody get drawn into a topic this controversial and winds up taking what to lot of people at the beginning, anyway, seems to be the most controversial position you could take?

**HOROWITZ:** Well, sex offense issues and sex offense registries in particular are really challenging and emotional topics. They're very, very emotional. So I'm a sociologist and I'm very interested in research and data, and when I first started looking at the data on sex offense registries, I was shocked at how ineffective they are and how overwhelmingly distorted the research is about them. And it struck me that, at the same time, sex offense registries and draconian sex offense policies receive so much support. They're incredibly popular. People love them. And so I'm a sociologist, a criminologist, and I'm really interested in why people support policies and how we can have effective policies.

**WOODS:** I can also tell from the background noise you're a sociologist in New York. Am I right?

**HOROWITZ:** Yes, in Brooklyn.

**WOODS:** [laughing] Okay, all right.

**HOROWITZ:** At St. Francis College in Brooklyn.

**WOODS:** Okay, all right, well, that just adds a little authenticity to our conversation.

**HOROWITZ:** [laughing] Right.

**WOODS:** Okay, I've zipped ahead a bit in the book. We can jump around, but I started with the passage in which you say: "Our current sex offender laws emerged out of a panic driven by three interrelated phenomena beginning in the 1980s." And I'd actually like to start there, because I grew up in the '80s and I remember all three of these things vividly. The three things were: a number of high-profile abductions, some by convicted sex offenders, of white, middle class children by strangers; then – and this is the one probably that people think of the most, and here is where I'm not so sure the story has been right – a rash of daycare sex abuse accusations featuring horrific tales of child sex abuse by multiple adults, often supposedly involved in sex rings and often with satanic overtones; and then of course the development of the war-on-crime rhetoric more generally.

So let's unpack these – in fact, let's start with the middle one first, because I don't specialize in this area; I just know what I read from time to time, and I'm fairly certain – what I recall from the '80s was that this was a terrible problem and spreading and it wasn't just one place. And then since then, I've seen skeptical accounts of these stories coming out, and I don't know enough about the situation to be able to adjudicate that.

**HOROWITZ:** Okay, so let's start with sex offense registries, the first was actually in California in 1947, and that tracked gays and communists. And then in the 1990s, as you just mentioned, there were a few terrible crimes against children, actually starting the late 1980s. And these crimes had lawmakers around the country scrambling to enact statutes. So these laws bear their names: Jacob Wetterling, Adam Walsh, Megan Kanka. These crimes were very, very rare, but the fear and anger raged around them. Stranger danger became a thing, and it dramatically changed the way we raise children, and the specter of these awful cases is so powerful still that there's support for any law that will "protect children."

**WOODS:** All right, when it comes to these daycare cases, what I seem to have read or, I don't know, I'm under this impression that people took one or a handful of horrific cases and then extrapolated from that into just an irrational panic, which happens in I think not just this area, but in a lot of areas in life, where there's no denying that there may be some horrible person or institution, but people that – like for example, I think that people have an irrational fear of their children being kidnapped.

**HOROWITZ:** Right.

**WOODS:** So my child can't walk down the street without me keeping an eagle eye on them, because who knows what might happen? Certainly, that's hysteria.

**HOROWITZ:** That's right.

**WOODS:** There's no rational basis for that. So I'm wondering is that also the case, do you think that's also what's happening as a result of these daycare cases?

**HOROWITZ:** Right, so we know there's been a lot of journalism since the mid 1990s that has documented the extent to which the daycare sex abuse were almost all a result of panic and hysteria. The McMartin cases, it was the longest criminal trial in California history. There were no convictions, and almost all of those cases were a result of hysteria. There's a great book by Debbie Nathan and Michael Snedeker called *Satan's Silence: The Making of an American Witch Hunt*, which documents all of the false allegations and wrongful convictions of child sexual abuse that came out of that panic. Yet the panic was real, and even if they were ultimately debunked, they resulted in a lot of laws and a lot of – it still affects how we raise our children. People still think children are at risk of being abducted by strangers and that it's a pervasive problem, and it's not. It's statistically almost nonexistent.

**WOODS:** All right, let's go to the more specific topic, and that's the sex offender registry itself. Explain to me what exactly being on that registry means. What does it mean about the person who's on the registry, and what does it mean for the person who's on the registry?

**HOROWITZ:** Okay, so registries exist in every state. Since 1996, we've had public registries in all 50 states. The laws vary, but each state has a list of offenses that require public registration. The lists keep getting longer. That's how you get on the registry. So you're convicted of one of these offenses, and you go to prison, jail, serve your time, and then often for life you're on a public registry. When you're on the public registry, you have to regularly go to police departments and update your photo and you have to give a lot of personal information: your home address, your age, your height, your weight, in some states even your work address. Simply missing a deadline can result in a felony charge – it's called failure to register – and prison.

And then the personal info goes on a registry website, which the world can see all the time, searchable by name or address. Some states go further. There's community notification, where people in your neighborhood get postcards that somebody with a sex offense is moving in or lives there. Sometimes there's press releases, yard signs, special driver's licenses that say "SEX OFFENDER" in bold letters. And then the information on these official websites gets picked up and redistributed by private companies, media outlets like the PATCH website; these local websites publish maps with dots to signify where registrants live.

**WOODS:** Okay, so now I want to get into the types of people who would wind up being on these registries. They are not – I mean, it's hard even to talk about this kind of question, because everybody assumes that if you consider these people to be human beings at all, then there's something wrong with you.

**HOROWITZ:** Right.

**WOODS:** But yet I do think they're human beings, and I do want to try to understand the makeup of these lists. So it's not that everybody on this list is somebody who's assaulted a three-year-old child.

**HOROWITZ:** That's right. On the website, you can see what the person was convicted of. So for example, I interviewed somebody yesterday. He lives in a Southern state, and his crime when he was in his 30s, he had sexual contact with a 15-year-old. If you look on the website, it says "child molestation." This man, he spent six years in prison. Now he's on the registry for life. He served his time, yet he has a 9 p.m. curfew, he has to go to treatment, he's restricted for the rest of his life for this offense. And when you see "child molestation" – and now this man, he's almost 50, so the crime happened when he was in his 30s, but you go and you see him and it's not exactly clear what happened.

But I just want to back up a minute. These crimes are very emotional. We have to have accountability and reasonable punishment, but we don't need laws that stigmatize and label people forever. They've failed. They don't work. All they do is stigmatize people for the rest of their lives. We want people to work and get better. So this guy, he can't get a job, because in his state, they list the work address on the website, so what employer is going to want somebody who's on the public registry working for them?

**WOODS:** Okay, so that part is just purely gratuitous.

**HOROWITZ:** That's right.

**WOODS:** You could at least carve out a plausible case for the guy's home, the neighborhood he lives in, and we'll get into that in a minute. But the idea that you would then –

**HOROWITZ:** When you say, "plausible case," I mean –

**WOODS:** I mean on the surface. Somebody who knows nothing about any of it, has never thought about it, probably they could say, "Yeah, I want to know this person's living in my neighborhood." And I do want to talk to you about that. But I think even the average person would say the work address is just meant to ruin his life. I mean, that, there's no way to justify that. So let's talk about this, though, because I think the question that's on people's minds is: it does seem to be helpful, or people think it's helpful, to know that somebody who's had a conviction like this is living among them, because then they can take the appropriate steps to protect their children. I can understand why people feel that way, but why are they wrong to feel that way? Are they?

**HOROWITZ:** Well, first of all, most sex offenses involving children are not committed by strangers in your neighborhood. About 95% are committed by non-strangers, by people in your family, teachers, coaches, not by somebody in your neighborhood who has a prior conviction for a sex offense. In addition, most people who offend, over 90% are first-time offenders. So the person who is offending against a child most likely does not have a prior sex offense conviction, so they're completely flawed.

In addition, the basis for these laws and one in which the Supreme Court even has picked up is that the recidivism rate is frightening and high, that somebody who committed a sex offense is destined to reoffend. This line, "frightening and high," has gone into many, many court decisions and infected an entire area of law and policy. But finally in 2015, an investigatory piece in a peer review law journal revealed that term came from a therapist who was quoted in a news magazine with no research or evidence to back up the claim, and federal and state courts have used this falsehood to rubber stamp all kinds of terrible laws. So people who commit sex offenses have far lower rates of recidivism than is believed and actually lower rates than almost any other offense, for a variety of reasons.

**WOODS:** You know, the harshness of the way this registry – the different aspects of the registry and the way it makes it difficult for the person to carry on with his life even after he's gone to prison and even after he's undergone his punishment, it calls to mind an example from the drug war, which has some similar consequences. There was a guy, I think it was when I was growing up in the '80s, Len Bias –

**HOROWITZ:** Yes, I remember.

**WOODS:** Yeah, he'd just been signed to the Celtics, and I guess he overdosed and I believe the situation was his friends did not call the authorities, or at least not in a timely manner, in large part because they were afraid they'd get in trouble, and so therefore, Len Bias died. That's my recollection of the situation. Well, in this case, I was just reading your column for *The Daily News* about Josh Duggar and about why his parents might have hesitated to contact the authorities, because yes, they want something done, but do they want his life completely ruined forever for the next 70 years? Well, that's a difficult position to put them in.

**HOROWITZ:** That's right. These laws are so harsh that treatment providers have observed that sometimes family members – which, again, most offenses are not strangers. They're people known to the families. That sometimes allegations are actually retracted when victims see the harshness of the response. The response is so harsh. I mean, these are extra punishment. I don't know anybody who doesn't believe in punishment for people who commit sex offenses, but this is extra punishment, a special set of laws that apply to people after they've already paid the price, and often for life. So it's a very different response than we have for any other crimes.

**WOODS:** What kind of numbers do we have about, hard numbers about recidivism rates?

**HOROWITZ:** Well, recidivism rates, I can tell you there was a Department of Justice study in 2003 that found that 3.5% of people convicted of sex offenses were reconvicted for another sex offense. That's very, very low compared to other crimes. A Connecticut study found 1.7% of people released from prison with sex offense convictions returned. A California study found similar numbers. Under 5% return to prison for a new sex crime. So for whatever reason, punishment works. And here's the thing: we've given sex offenses this special kind of category. With any crime, people age out, people desist. Sex offense laws, many of them, people are on this registry for life, when we know all evidence in criminal justice research for all crimes shows that people desist after time. So why do we think that sex offenses are so different than any other type of crime?

**WOODS:** What can you tell us about your chapter on New York in particular as a case study? What does it teach us?

**HOROWITZ:** Well, in New York, we found that since the passage of sex offense laws, public registries, there's been no difference in – and we see this nationally, as well. There's no difference in the rates of sex offenses before and after these laws. Sex offense have been declining since the late 1980s overall, sex offenses against children, for various reasons, partly because in the '80s there was a lot of awareness about this issue. And there's been a steady and significant decline in child sexual abuse before the registry laws were implemented, and most research in New York and elsewhere finds that registry laws have no effect on rapes and child sexual abuse.

**WOODS:** So why should the average person really care one way or another? I think the average person will listen to this and say, "Well, it's too bad some people have some inconveniences, but man, these are really, really atrocious crimes and I sure don't want my children being" – I mean, I know you've just got done saying, but look, this almost never happens in terms of a total stranger and the person has already undergone – I think with some people, it's: since I'll never be in this situation, I really don't care about the victim – like, *I'm never going to be a helpless Iraqi getting bombed in shock and awe, so I just don't care*, is the problem.

**HOROWITZ:** Right. Well, there's over 900,000 people on public registries right now –

**WOODS:** That's amazing. I did not know it's that many.

**HOROWITZ:** That's a lot. That's right. And these people have children, spouses, parents. In New York, we have over 40,000, every age from minors to seniors. The 2006 Adam Walsh Act mandated that some states, not every state adopted this, but some states even list juveniles

on their registry. And what's really important is that these laws do nothing. They're really, really expensive. They ruin lives. These are people who've served their time, and there is some evidence that people are more likely to reoffend when they don't have housing, when they can't get a job, when they can't reintegrate. People should serve their time, and people should get a second chance for any crime. This crime has been elevated to a level that is completely disconnected from facts and data and research.

We also know, for example, the most frequent age of people who sexually abuse children – and this isn't on the registry, but just data from the National Institute of Justice on instances that come to the authorities. The most common age is 14 of people who sexually abuse children. So it's a really complex issue. It's not the stereotype of a much older man in a white van plucking a three-year-old off the street. It just doesn't exist.

**WOODS:** But not to mention the range of people who can wind up on the registry could be people guilty of – and obviously I don't endorse any of these behaviors, but I can recognize that, on a continuum, there are extremes. And as I work up to the extreme, we're dealing with obviously less serious offenses like indecent exposure or if somebody has been with a prostitute. Well, they shouldn't do that, but that's not my business. And I know that I can go to the website and find out what exactly their offense was, but I bet a lot of people don't. They just hear "sex offender," and that's it. The person is stigmatized forever. And I think if everybody's moral foibles were known to the world on a registry, it would be an unhappy world.

**HOROWITZ:** That's right, and we have a really harsh criminal justice system. I mean, going to prison, on probation, parole, all of these consequences are really, really serious, so we don't need any extra punishment. It's totally unnecessary. I mean, registrants often have to follow local and state laws, which restrict where they can live and work or visit. I think there's been a highly publicized story about Miami, where many people with sex offense convictions were living under a bridge, and then they moved to a parking lot, and then they were kicked out of the parking lot. There was literally nowhere they could live. Some of them had spouses and families, and they could go to spend the day with their family and shower, but they'd have to go sleep in the parking lot. Registrants have to often undergo polygraph tests, which they have to pay for. Nine states have castration laws. These are all extra punishments, and that's what's really important to understand. These laws are after people have paid a price and experienced the harsh realities of jail, prison, probation, and parole.

**WOODS:** I'd like to take a minute to talk about the way I found out about you, which was, as I told you, I watched the debate that you did at the Soho Forum, put on by our friend Gene Epstein. It was between you and Marci Hamilton, who is described as a child safety advocate. And what's interesting about this debate is the result, that your – because the way these are – these are all Oxford-style debates, which means the audience is polled on the resolution before the debate, then polled a second time after the debate, so you have a clear-cut winner. There's no subjectivity involved. The winner is the person who changes more minds. And the yes column – because the resolution was that these registries should be abolished. You had a little over 38% at the beginning, and you had over 72% afterward, and I think that is the most – I could be wrong, but I think that's the most decisive victory that anyone's had at the Soho Forum. And then her position actually lost 6 or 7 percentage points, so it was absolutely decisive. How do you account for that? What do you think the weaknesses were in her position?

**HOROWITZ:** Well, I think in that case, her case was we need registries because of people like Larry Nassar. He went undetected for years, molesting dozens and dozens of young girls who were under his care. He was the doctor for a gymnastics team. But I think when I pointed out that he was not on the registry, he'd never been convicted – something happens when people are punished. Clearly, if he'd been convicted and been punished, he wouldn't have been able to reoffend because of his conviction, but he wasn't on a registry. So that wasn't a very good example of why we need registries, and ultimately, she didn't really have much data. It was very emotional. She said, "Look at the 'Me Too' movement. We need these registries." But the "Me Too" movement doesn't really have anything to do with registries. All of the sort of celebrities and people that have been highlighted as a result of "Me Too" activism have not been on sex offense registries. Not only have they not been on registries, they've never had a sex offense conviction. Larry Nassar never had a sex offense conviction. So registries don't help with problems of sexual abuse, sexual harassment, and sexual assault. They're excessive punishment for people who've been caught.

**WOODS:** Do you do a lot of public speaking on this subject?

**HOROWITZ:** I do some public speaking. It is a very emotional topic, so I'm very careful. I've given talks at conferences. There are three national groups that are made up of family members and lawyers and others who are seeking to create rational laws, and I speak there, and I speak at academic conferences on this topic.

**WOODS:** I'm just curious about what people mind most surprising about what you're saying, because you are saying something that, as you know, is very much out of the mainstream, but yet when you presented it at the Soho Forum, you had a tremendous response. What do you think it is that people falsely believe that you are successfully correcting them about?

**HOROWITZ:** I think people believe that stranger danger is a real threat.

**WOODS:** Yeah.

**HOROWITZ:** And people like Lenore Skenazy of Free Range Kids have really tried to make the public aware, and she's a very public person that stranger danger is not a real concern, that crime rates have been dropping for decades, and that giving kids freedom is really important and one of the most important things we can do, and being frightened of a boogeyman, of a stranger sexual criminal is not something we should be worrying about, and we should be worrying about how to create strong and resilient kids. And when you present the data, I mean, the data is data from the federal government, which shows that 90% of sexual offenses against children and teens are committed by someone they know, often a family member, and 95% of the time the person isn't on the registry. Child sexual abuse is very complex, and it doesn't fit the stereotype. As I said, about one-third to one-quarter of those who sexually abuse children are other children and teens. And even among adult perpetrators, young adults under the age of 30 are overrepresented.

**WOODS:** I'm just looking, by the way, at your Twitter, because I want to tell people if they want to follow you, one way to do so is on Twitter: @HorowitzEmily, so just remember your name and just switch the order of the names. But you mentioned the exoneration registry. That's something I've also been interested in, and I just had somebody earlier this week on from the Innocence Project, so are you – so your criminal justice activism, does it extend also in this direction?

**HOROWITZ:** Yeah, I actually started working on false allegations and wrongful convictions for child sexual abuse. That was how I first became interested in this subject. But then as I studied that, I was interested in: what if one is guilty of a sexual crime? What happens? Because it was clear the punishment was so over the top, it was so draconian that it really stood out to me. And as I started to look at the research, I became more interested in how we punish people who have committed wrongdoing. I'm very interested in accountability and how to decrease sex offenses against children, and I think the registry is just a huge waste of money and it doesn't do anything. It doesn't improve public safety. It doesn't decrease recidivism. As I said earlier, I'll repeat it: there's some evidence that it might increase recidivism.

**WOODS:** Well, as I say, I think I probably fall into the category of people who never really gave the subject a second thought, to be perfectly honest with you, until I saw the provocative resolution to be debated at the Soho Forum, and I thought, well, I like all these debates so I'll tune in and listen. And then when I saw the decisive numerical result of that debate, I thought, okay, I really, really need to listen to this one. So the book is *Protecting Our Kids? How Sex Offender Laws Are Failing Us*. I'm going to link to that at [TomWoods.com/1202](http://TomWoods.com/1202); that's our episode number.

**HOROWITZ:** Thank you.

**WOODS:** And follow Emily at @HorowitzEmily on Twitter. Any other place you'd like me to link to?

**HOROWITZ:** No, that's great. thank you so much. May I add one thing?

**WOODS:** Please do.

**HOROWITZ:** When people say, "What would happen if we didn't have a registry?" I mean, nothing would happen. Every state has a raft of criminal statutes, as does the federal government. Any concern over re-offense is addressed with all of these additional penalties that already exist. And the United States really stands out globally in terms of the punitive and empirically terrible policies that we have in this area, and it's really not the answer.

**WOODS:** Well, again, I really appreciate having an opportunity to look at a topic and think about it more deeply when so many topics I talk about on the show I've thought about for years, I already know where I stand. Maybe I get a new wrinkle on the subject from a guest, but here, I don't know, it's just surprising to me. I mean, look, I've done over 1,200 episodes. What could surprise me at this point? And yet your book very much did and I appreciate it, so I hope people check it out, and thanks for your time today.

**HOROWITZ:** Okay, thank you so much.