

# Prisoners in their own country:

A cultural criminological study of *International Megan's Law* and its impacts on U.S. registrant mobility

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## A note on terminology

American Psychological Association (APA) guidelines for reducing bias in scholarly writing advise against using “labels that equate people with their condition,” but also suggest adopting the language that the referred-to community uses (APA, 2019). In line with this advice, this thesis employs person-first terms including ‘persons convicted of sexual offences’ (PCSOs) and ‘persons convicted of sexual offences against minors’ (PCSOMs). However, it also employs the term ‘registrant’ because PCSOMs widely referred to themselves as such during interviews. The term ‘registered citizen’ was also used by some members of the community, but I chose to forgo this term because not all U.S. PCSOs identify as citizens.<sup>1</sup> This thesis does quote sources that used stigmatizing terms such as ‘sex offender.’ However, whenever such terms were employed outside of direct quotes, I offset them in single quotes to highlight their pejorative use.

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<sup>1</sup> Some are residents as opposed to citizens, and others do not feel that they are treated by their government as citizens despite legally possessing citizenship.

## Abstract

In 2016, the US passed the *International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advance Notification of Traveling Sex Offenders* (IML), marking an unprecedented shift of domestic sex offence policy into the international arena. IML required all U.S. persons convicted of sex offences against minors (PCSOMs or registrants) to register their travels, obtain marked passports, and have notifications on them sent abroad to foreign countries. This thesis explores the law's impacts on the mobility of U.S. registrants through a cultural criminological approach. Using media discourse analysis, online ethnography, and semi-structured interviews, it focused on the perspectives of registrants absent from the existing literature. The research revealed a wide gulf between the government discourse on IML and registrants' experiences of the law. Specifically, registrants challenged the popular media's legitimization of the law, highlighting the IML's systemic discrepancies, flawed design, and harmful effects on their personal lives. These accounts demonstrated the punitive new penology logics at the core of the law, as well as the risks of the IML system as a stigmatizing form of pre-emptive mobility governance. They also demonstrated that IML negatively impacted registrants' mobility across five dimensions: legally, bureaucratically, societally, subjectively, and relationally. In conclusion, studying IML reinforced that the U.S. sex offence apparatus continues to progress towards more unforgiving and counterproductive ends. At the same time, this latest integration of domestic crime control databases with international mobility control databases exemplifies a growing crimmigration control industry presenting new dangers of grave concern.

*Keywords:* sex offence policy, SORN, new penology, mobility governance, stigma, cultural criminology, mobility criminology

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## Foreword

*A global pandemic where international travel is severely curtailed for most of the general population is a fitting time to investigate a law that has had comparably disruptive impacts on more than 300,000 Americans.<sup>2</sup> I was drawn to the stories of registrants impacted by International Megan’s Law (IML) because, for the first time in my life, I was similarly stuck in a country despite desperately wanting to travel abroad. As an international student studying in the Netherlands, I returned to Canada to be with loved ones during the second wave of COVID-19. Leaving my friends and belongings overseas, I remained in Canada, also foregoing a visit to Taiwan to see an ailing relative. Unlike for U.S. registrants, however, the restrictions I faced were temporary and supported by studies of public health and safety. IML, as I quickly learned, has never been subject to the same levels of scrutiny as pandemic travel regulations.*

*Over the course of my research, I found many parallels between registrants’ experiences and my own. Many also had occupational and familial connections that were negatively impacted due to travel uncertainties. As a result of IML, they faced a confusing and ever-changing array of rules that varied widely between and even within countries. While I monitored constantly evolving COVID regulations for country entry, testing, and quarantines, encountering government websites that were frequently out-of-date and unhelpful, I often related to the feelings of frustration and helplessness registrants described in their accounts. At one point, I also experienced firsthand being arbitrarily denied travel at an airport despite having the proper documentation from my*

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<sup>2</sup> This figure is based on a conservative estimate that 74% of all U.S. registrants are those convicted of a sex crime against a minor (Ackerman et al., 2011). This 2011 figure from a study including 445,127 registrants underpredicts the true number of registrants subject to International Megan’s Law (IML), because the study only sampled those publicly listed on internet registries, excluding lower-level registrants unlisted in some states who are still subject to IML.

*destination country. Unlike most registrants affected by IML, however, I was allowed to explain my situation and ultimately continue on my way.*

*Now that countries are rolling out digital vaccine passports, the end of my travel purgatory is in sight. Yet, the IML scheme remains in place indefinitely, continuing to punish registrants for crimes often committed decades in the past that they have already served their time for. What are their stories, and why does this law persist despite no empirical proof of its efficacy? I explore these questions ahead, seeking to understand how the IML system criminalizes mobility and extends a flawed U.S. system into the global arena.*

# Chapter 1: Introduction

*International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advance Notification of Traveling Sex Offenders* (hereafter International Megan's Law or IML) was signed into law by U.S. President Barack Obama in 2016 (USMS, n.d.). According to Representative Chris Smith, who spearheaded the law, IML intended to address the problem of Americans travelling abroad to commit offences against minors, capitalizing on “perceived anonymity,” weaker foreign laws, and “perceived immunity from retaliation” from law enforcement in their own countries (C. Smith, 2019, p. 5). However, there have been sustained critiques of IML as being overbroad and unconstitutional by legal experts, civil rights activists, and U.S. registrants and their families since its inception (Alliance for Constitutional Sex Offense Laws [ACSOL], 2016; Kennerly, 2014). The crux of these critiques is that IML does not differentiate between high- and low-risk persons convicted of sex offences against minors (PCSOMs), consequently stigmatizing registrants in ways that are inhumane and ineffective towards meeting the law's stated intention.

Before explaining the academic and social relevance of this topic, and the specific research gap that this thesis addresses, this chapter provides some important context on the law. Briefly, I outline its key provisions, institutional backdrop, and colourful legislative history. This context is key to understanding why IML demands further scrutiny from a critical criminology perspective and is helpful reference material for the contents in upcoming chapters.

## **1.1 The main components of International Megan's Law**

In terms of IML's main components, the law begins with a ‘findings’ section that defines the problem it is trying to address. It notes that “law enforcement reports indicate that known child-

sex offenders are travelling internationally” and “commercial sexual exploitation of minors in child sex trafficking and pornography is a global phenomenon” (*International Megan's Law*, § 2, 34 U.S.C § 21502). Without citing any evidence, the section implies that these facts are linked and that regulating the former will address the latter. Then, IML proceeds to define the law’s target population. A ‘covered sex offender,’ meaning someone covered by the provisions of the law, is someone convicted specifically of an offence against a minor under the age of 18 years (*International Megan’s Law*, § 3).

### **1.1.1 A federally enforced requirement to register travel**

A central feature of IML is requiring ‘covered sex offenders’ to provide information about their intended travel outside of the US. This includes “any anticipated dates and places of departure, arrival, or return, carrier and flight numbers for air travel, destination country and address, or other contact information therein, means of purpose of travel, and any other itinerary or travel-related information required by the Attorney General” (*International Megan’s Law*, § 6). IML aligns the timeframe and means of doing so to existing requirements set out under the 2006 *Sex Offender Registration and Notification Act* (SORNA), requiring 21-day notice of travel to local registration authorities. I provide some institutional context on SORNA in section 1.2.1, but here it is important to note that while SORNA left enforcement of its requirements up to individual U.S. states, IML makes failure to register international travel a federally punishable crime of up to 10 years imprisonment.

### **1.1.2 A system for sharing information on travelling registrants**

Another major component of IML is creating an architecture for information sharing on travelling ‘covered sex offenders.’ Specifically, IML establishes the Angel Watch Center (AWC) as an entity within U.S. Immigration and Customs Enforcement’s (ICE) Child Exploitation Center, consisting

of analysts from ICE and U.S. Customs and Border Protection (CBP). IML also sets out AWC's procedure for sending notifications to foreign countries about PCSOMs leaving the US "not later than 48 before scheduled departure" (*International Megan's Law*, § 4). Significantly, this process consists solely of checking lists of travelling individuals against those who have registered their travel in advance, as well as against the National Sex Offender Registry to see if they fit the criteria of 'covered sex offender.' No individualized risk assessment is involved. Once AWC makes this determination, it transmits notifications abroad and also provides these names to the U.S. Department of State (hereafter State Department) for passport identifier purposes, detailed in section 1.1.3.

This information-sharing architecture involves the AWC working closely with the U.S. Marshals Service (USMS) National Sex Offender Targeting Center (NSOTC) (*International Megan's Law*, § 5). The NSOTC provides AWC with records of individuals who have registered their international travel, as well as records of general registration compliance under SORNA databases. Both the AWC and the NSOTC can also transmit notifications about PCSOMs leaving the US, share information with local and federal entities, and receive notifications regarding incoming PCSOMs. NSOTC notices abroad can be delivered through The International Criminal Police Organization (INTERPOL) system or Federal Bureau of Investigation (FBI) attachés.

Notably, IML calls on the Secretary of State to "seek reciprocal international agreements" with other countries to further IML and SORNA mechanisms of sending and receiving notices (*International Megan's Law*, § 7). It even authorizes the Secretary of State to "provide technical assistance to foreign authorities" to help them participate in notification activities (*International Megan's Law*, § 10). These provisions of the law demonstrate the US attempting to influence other countries' practices regarding PCSOs.

### **1.1.3 Marking passports with a unique identifier**

The final major component of IML authorizes the State Department to issue ‘covered sex offenders’ passports with a unique identifier (*International Megan’s Law*, § 8. It does this upon receiving confirmation from the AWC that an individual is a ‘covered sex offender’ and revokes any existing passports without the identifier. IML itself does not provide specific details on the identifier, but the State Department website explains that the identifier is printed inside the back cover of the passport and reads: “The bearer was convicted of a sex offence against a minor, and is a covered sex offender pursuant to 22 United States Code Section 212b(c)(1)” (Bureau of Consular Affairs, n.d.-b). The website also adds that this message is too long to print on passport cards,<sup>3</sup> thus ‘covered sex offenders’ cannot have those.

## **1.2 Important context on International Megan’s Law**

### **1.2.1 Key players: Chris Smith, SORNA, AWC, and INTERPOL**

IML’s provisions do not exist in a vacuum and must be considered against their institutional backdrop. First of all, the law’s sponsor, Chris Smith, is a Republican Representative from Hamilton, New Jersey (C. Smith, n.d.). This detail is notable because his district is where Megan Kanka lived. Kanka was a child victim of a PCSOM, and her widely-publicized murder led to the 1996 *Megan’s Law*, which required information on PCSOMs to be registered and released to the public (Wex Definitions Team, 2021). Kanka is mentioned in IML, which is also named after her.

Second, IML references the 2006 *Sex Offender Registration and Notification Act* (SORNA). This is the main piece of U.S. legislation enacting registration and community

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<sup>3</sup> Passport cards are a form of identification in the US that can be used for travel to Canada, Mexico, the Caribbean, and Bermuda. While they cannot be used for international air travel, they cost less than passports by more than 50% (Bureau of Consular Affairs, n.d.-a).

notifications requirements for PCSOs, supplementing the earlier *Megan's Law*. SORNA itself is part of the larger *Adam Walsh Act (Adam Walsh Child Protection and Safety Act, 2006)*, which is landmark legislation that dramatically expanded the number of offences requiring registration, as well as established the FBI's National Sex Offender Registry (NSOR). The *Adam Walsh Act* is also what created an online version of the NSOR accessible to the public and populated by state-level registry websites.

Third, while IML formally established the Angel Watch Center in 2016, ICE had been performing many of its functions for years under its existing administrative powers. In 2007, it began the Angel Watch Program as an operation from its Los Angeles Office, targeting 'known child sex offenders' travelling from LA International Airport to Southeastern Asian countries where extraterritorial sexual exploitation of children was widespread (*Doe v. Kerry, 2016*). This program was moved to ICE headquarters in 2010, becoming a national operation (*Doe v. Kerry, 2016*).<sup>4</sup>

Finally, IML refers to the INTERPOL system as a means by which the USMS may transmit notifications about U.S. PCSOMs travelling abroad. This system involves colour-coded notices that act as "international requests for cooperation" or "alerts allowing police in member countries to share crime-related information" (INTERPOL, n.d.). According to Mick Moran, INTERPOL's Assistant Director Human Trafficking and Child Exploitation in 2016, green notices can be used by member countries "to provide warnings and intelligence about persons who have committed child sexual abuse in the past and are likely to reoffend" (Moran, 2016, p. 2).

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<sup>4</sup> This history was outlined as part of the state response to the Alliance for Constitutional Sex Offense Laws' lawsuit against IML. Specifically, it was mentioned in a declaration by Patrick J. Lechleitner, which will be analyzed in Chapter 7 of this thesis.

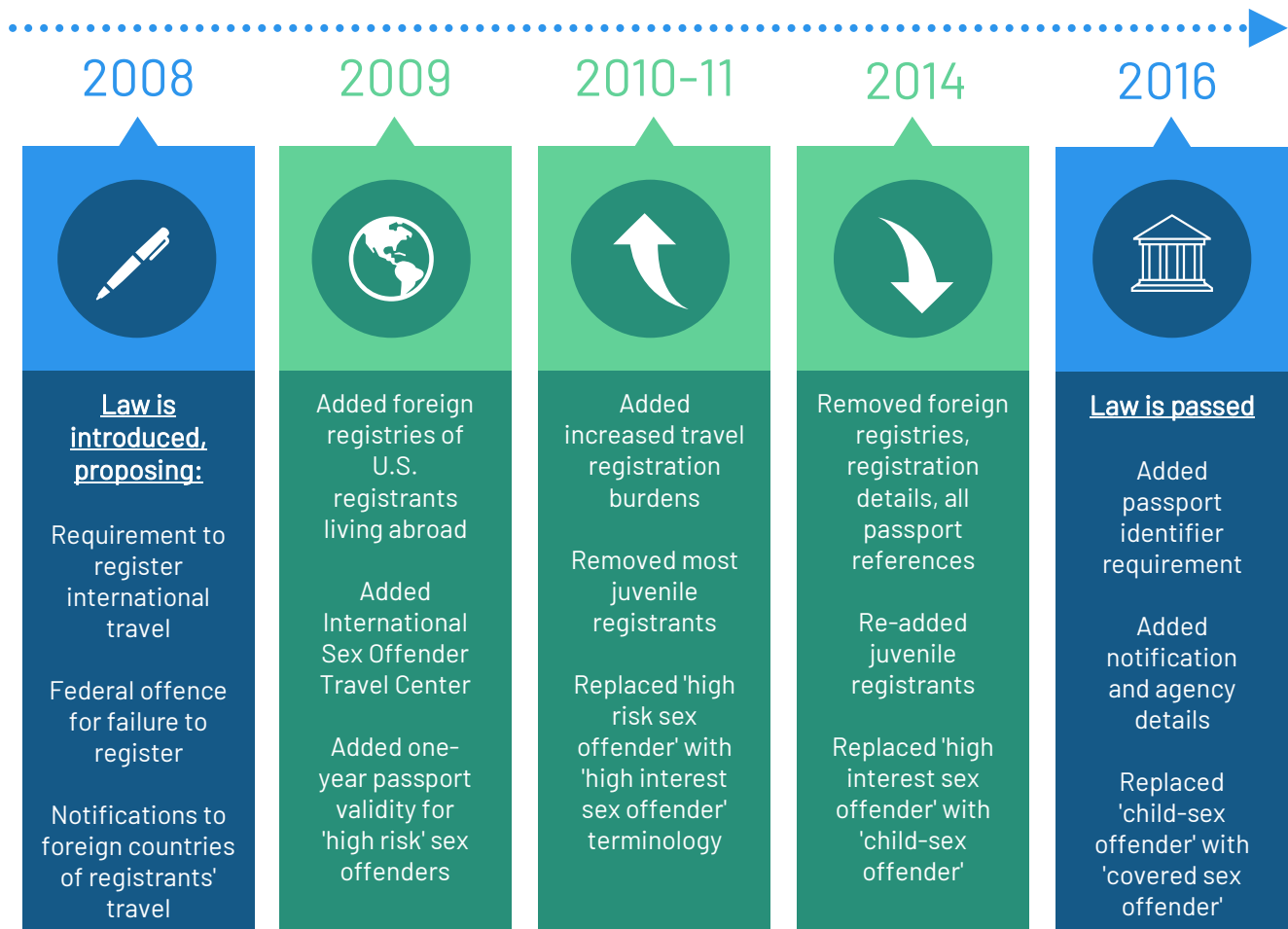
### 1.2.2 A controversial legislative history

Apart from the people and institutions mentioned in IML, it is also important to understand that IML has a controversial legislative history. The law was passed by a voice vote under a “suspension of the rules” in both the House of Representatives and Senate, meaning there was no substantive debate about it, and no record of who voted for or against it (*Doe v. Kerry*, 2016). This process is usually reserved for non-controversial bills, suggesting that politicians did not anticipate any public backlash against IML’s contents. Yet, a 2016 lawsuit against the law emphasized that this process “bespeaks a wanton indifference toward the constitutional rights” of those impacted by the law (*Doe v. Kerry*, 2016).<sup>5</sup>

The fact that IML was first introduced in 2008 and underwent significant revisions before finally becoming law in 2016 suggested that many of its ideas were controversial throughout this timeframe. Figure 1 below summarizes key changes over time (for a more detailed summary, see Appendix A: IML’s legislative evolution). Two are particularly interesting in the context of this study. First is that the 2009 version of IML initially focused on ‘high risk sex offenders,’ but this risk determination language was gradually removed from subsequent versions; it was replaced with ‘high interest registered sex offender’ in 2010, ‘child-sex offender’ in 2014, and ultimately ‘covered sex offender’ in the final 2016 version of the law. Second is that originally, IML emphasized the creation of foreign registries for U.S. PCSOs living abroad, to be maintained by U.S. diplomatic and consular missions. This major component of the law was dropped in 2014, as well as in the final law itself.

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<sup>5</sup> This comment was made as part of the plaintiffs’ Verified Complaint for Injunctive and Declaratory Relief against the law and can be found on page 19 of the document.



*Figure 1: Key changes to International Megan's Law from bill introduction to bill passing, 2018-2016.*

According to those with insider knowledge of the legislative process behind IML, both of these changes were attributed to a lack of government resources (P. Rigney, personal communication, April 7, 2021). Lawmakers felt that there was not enough money to conduct individual risk assessments for every registrant hoping to travel, thus deciding to water down this language over time. Anecdotally, foreign registries were also removed as a result of pushback from the State Department, which argued that it lacked the capacity to maintain these registries (P. Rigney, personal communication, April 9, 2021).

These evolutions set the tone for a critical study of IML because they suggest that lawmakers always intended to export American SORNA logics, at one point even trying to

replicate domestic registries abroad. Moreover, they indicate that there was a conscious decision to remove risk assessments from the information-sharing process, such that IML would apply to all U.S. PCSOMs. These themes of foreign influence and blanket treatment of registrants will be explored at length throughout my thesis.

### **1.3 Academic and social relevance**

The context on IML presented above indicates why its impacts are important to study. While there is a considerable body of existing research on the uniquely punitive nature of U.S. sex offence legislation, IML represents a new development worthy of further investigation because it shifts domestic policy into the international arena. By encouraging the reciprocal exchange of information on travelling PCSOMs, the US attempts to proactively shape how countries abroad treat not only U.S. citizens, but also those who have committed similar offences in their own countries.

Scholars have extensively criticized U.S. sex offence laws as a whole, noting their historical roots in sex panics and lack of empirical efficacy in reducing sex crimes and recidivism (Booth, 2019), their deeply politicized and emotionally reactive nature (Jung et al., 2020), and their overreaching and paradoxical effects on protecting children (Costigliacci, 2008). At the same time, they note that other regions have had very different penal cultures concerning PCSOs. Europe, for instance, does not have a pan-national registry of PCSOs, despite efforts by Europol to set one up in April 2013 (Europol, 2016). Apart from the UK and Ireland, which each have national registries, European countries tend towards a more rehabilitative stance on managing PCSOs (Petrunik & Deutschmann, 2008). Studying IML is an opportunity to trace the international effects of the US's punitive logics, enhancing existing work that situates registries within a trend

of precautionary policies driven by mediatized moral panics in the post-modern era (McAlinden, 2010).

This research also contributes to the emerging field of ‘mobility criminology,’ a subset of criminological studies that critically assesses the objectification, criminalization, and homogenization of people through border controls (Bhui, 2013). Although mobility criminology focuses on the experiences of migrants and refugees, many of its central themes are apparent in the accounts of registrants as well, under the IML system. One such theme is states’ use of opaque information technologies to govern the movement of people, and the errors that occur when large amounts of patchwork data are used to make predictive policy (Broeders & Dijstelbloem, 2015). Thus, this thesis extends many mobility criminology claims to a previously unconsidered group.

Finally, studying IML is obviously important for U.S. registrants, who feel that their ability to leave the country for legitimate purposes has been unjustly curtailed by the law. It is a way of influencing policy that impacts not only these registrants and their close ones, but also countries looking to adopt U.S. practices and PCSOs there. More broadly speaking, mobility in the modern era is increasingly dictated by inter-governmental travel notification systems that the general population often knows surprisingly little about. Society at large stands to benefit from reflecting on this case of datafied migration management gone sideways and starting some much-needed discussions about what needs to change.

#### 1.4 Research gap and questions

Currently, the little existing research on IML is dominated by legal scholarship (Cull, 2018; King, 2011; N. J. Smith, 2012; Viera, 2011). As a result, it often assesses the law's impacts through abstract legal standards and hypothetical test cases. This thesis provides the missing empirical data to substantiate these assessments, collecting and analyzing the lived experiences of U.S. PCSOMs affected by IML. It takes a cultural criminological approach, exploring the meanings, attitudes, and discourse around the law as opposed to a closed legal analysis. This is inspired by studies of domestic sex offence legislation that consider shifting trends in punishment (Cochran et al., 2021), impacts of public perceptions (Jung et al., 2020), and the voices of registrants themselves (Worley & Worley, 2013). I pose the central research question:

*How has International Megan's Law impacted U.S. registrants' mobility to any country outside of the US since 2016?*

To guide this question along a cultural criminological approach, I ask the following subquestions:

1. *How have IML's impacts on U.S. registrants' mobility been documented by U.S. media, government agencies responsible for IML, and registrant advocacy organizations?*
2. *In what ways does this documented discourse illustrate a 'new penology' logic behind IML?*
3. *How have IML's impacts on U.S. registrants' mobility been experienced by registrants and their families since 2016?*
4. *In what ways can 'pre-emptive mobility governance' risks be used to explain these experiences?*
5. *In what ways can these experiences be understood as 'stigma'?*

## **1.5 Thesis structure**

The next two chapters explain how these subquestions were developed through a literature review (Chapter 2) and a discussion of the theoretical framework that this thesis follows (Chapter 3). Then, in Chapter 4, I describe the methods I used to answer these questions, reflecting on the strengths and limitations of my research. The chapters after that present my findings, assessing, in turn, the popular discourse on IML (Chapter 5), the mechanisms of the IML ‘system’ (Chapter 6), registrants’ critiques of this system (Chapter 7), and registrants’ firsthand experiences with the system (Chapter 8). Chapter 9 concludes this thesis, answering its research questions and proposing recommendations for change.

## Chapter 2: Literature review

This chapter reviews the scholarship relevant to a critical study of International Megan’s Law (IML). First, it considers the existing analyses of IML in particular. Then, it discusses the broader work on the international expansion of ‘sex offender’ registries more generally. Finally, it contextualizes this study as part of an established body of literature critically evaluating the impacts of domestic ‘sex offender’ registries. This chapter reveals that research on the international mobility of persons who have been convicted of sex offences against minors (PCSOMs) is missing some key voices: those of the PCSOMs themselves as well as their immediate family members. Moreover, although the existing research is often critical of the schemes in place within criminal justice systems, it still primarily consists of legal and penological perspectives from these very same systems.

### 2.1 International Megan’s Law

As discussed in the previous chapter, IML was first introduced by Representative Chris Smith (R-NJ) in April 2008, undergoing significant changes before it was signed into law on February 8, 2016.<sup>6</sup> As such, there have been various assessments of the law over the years, with references to different modifications and amendments that it had incorporated. Importantly, however, these assessments have all been of a legal nature, written in law reviews and focused on interpretations of specific provisions and their possible effects. In my searches of scholarly databases (WorldCat, Google Scholar, EBSCO Criminal Justice Abstracts, ProQuest Sociological Abstracts), I was unable to find any article on IML not written by a legal professional. Here, I present and compare

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<sup>6</sup> For a record of the first and final versions of the laws, see Library of Congress (2008, 2016).

assessments of the 2009, 2010, 2011, and 2016 versions of IML, which capture criticisms of the law as it evolved into its current form.

Smith's (2012) review of U.S., EU, and international laws regarding PCSOMs positioned the 2009 version of IML as a welcome development. She did not see previous increases in domestic legislation controlling the mobility of registrants as going far enough to "address the growing problem of sexual exploitation of children across international borders" (N. J. Smith, 2012, p. 652). While Smith mentioned that there was debate over the efficacy of registration systems in increasing public safety without disproportionately harming registrants, she challenged competing claims by citing statistics supporting registry logics. Curiously, however, the studies she referenced regarding high recidivism rates among PCSOMs were outdated and ignored the plethora of contradictory findings in more recent studies (see, for instance, Ellman & Ellman, 2015).

Compared to Smith, other legal scholars have taken more critical approaches to IML. Viera's (2011) assessment of the 2010 bill introduced in the House of Representatives had three main critiques: that it didn't consider international differences in sex offence laws, that adolescents could be implicated in disproportionate punishments,<sup>7</sup> and that the law did not differentiate between high-risk and low-risk offences, resulting in overbroad reach. Regarding the potential impact of these shortcomings, she suggested that there was great uncertainty as to how foreign countries would treat U.S. registrants, which could be particularly detrimental to any juveniles on registries, as well as to those who were included on registries despite not truly being any increased danger to minors abroad (Viera, 2011). Viera also expressed concerns about the lack of scientific evidence supporting restrictions on the mobility of PCSOMs more generally as a means of reducing crime.

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<sup>7</sup> In a later, Senate version of the 2010 bill, some juvenile registrants were subsequently excluded from the law.

King's (2011) analysis of the 2011 version of the law suggested that all three problems outlined by Viera remained unaddressed in the updated version of IML. Again, it called for a less restrictive mechanism based on a more targeted assessment of registrant risk, as well as further research providing empirical support for IML's approach. It also noted that despite excluding some juvenile registrants, the law remained overly inclusive. Interestingly, it emphasized that domestic inconsistencies with sex offence registration ought to be addressed before any international expansions of U.S. practices. Specifically, King (2011) noted that "demand for more complex registration and notification infrastructures is currently outpacing the speed at which these systems can be built" and called for a detailed clarification of operational frameworks before as opposed to after passage of the law (pp. 141-142).

Cull's (2018) critique of the law, after it had officially been signed into law, indicated that previous concerns by Viera and King remained unheeded. This most recent assessment of its provisions focused on the passport identifier provisions of IML but included the same criticisms about their lack of demonstrated utility in reducing crime, and overbroad impact on those unlikely to engage in sex offences against minors abroad. Additionally, Cull argued that the stated objectives of the passport identifier could be achieved through the updates to U.S. foreign traveller information exchange databases that IML already provided for. Thus, not only was the passport identifier unnecessary, but it also carried additional detrimental and unanticipated consequences. Such consequences included potentially exposing registrants to foreign stigma, as well as forcing them to bribe corrupt officials to evade the negative consequences of the identifier (Cull, 2018). Cull (2018) posited that the identifier would disproportionately punish low-risk registrants while perversely increasing offences among high-risk registrants who could be given new opportunities

to engage in extraterritorial child sex exploitation based on the passport identifier (Cull, 2018).<sup>8</sup> Like King, Cull noted that domestic discrepancies in registration practices in the US were a barrier to preventing overbroad treatment of low-risk registrants abroad.

The existing discussion of IML has highlighted various unintended risks of the law, but primarily through hypothetical scenarios as opposed to empirical evidence. This thesis further explores these risks, through in-depth firsthand accounts of them. My research documents lived experiences of registrants and their families that either substantiate or disprove these hypothetical shortcomings of IML. I used these hypothetical scenarios to begin discussions and ultimately uncover other unanticipated effects of the law on the mobility of U.S. PCSOMs.

## **2.2 International ‘sex offender’ registries**

Apart from examining IML specifically, there has also been a small selection of work exploring the international expansion of ‘sex offender’ registries more generally and the potential barriers to this. Terry (2015) has examined both U.S. and E.U. calls for cross-border ‘sex offender’ registries as opposed to the unilateral American approach that IML represents. She noted that some key arguments against them included the difficulty in maintaining accurate databases and the expanded harms to those who were mistakenly included in them (Terry, 2015). Newburn (2011) has also raised concerns about protecting the privacy of individuals whose criminal history is shared in larger databases. She suggested that this information could be used incorrectly by countries with differing laws and norms, as well as by vigilantes to harm registrants if the data was leaked (Newburn, 2011).

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<sup>8</sup> Cull (2018) suggests that “the stamp of sex offender creates a signal a potential customer is in front of this corrupt trafficking official. A particularly devious official could use the power of their position to pressure the traveller into recidivism, even if that had not been his or her intent in travelling” (p. 194).

Taking a supportive stance of an international ‘sex offender’ registry, Thomas (2010) has instead provided rationales in favour of such an expansion; he argued that PCSOMs cross borders to avoid registration and employment screening laws and to offend in new places. Yet, after surveying existing measures aimed at preventing this, primarily in the US, UK, and Ireland, he indicated that there were significant practical barriers to greater international cooperation. These barriers included logistical challenges and state reluctance to share information on PCSOMs, evidenced through the underuse of existing INTERPOL tools for notification (Thomas, 2010). Thomas’s analysis was clearly pro-registry and did not differentiate between risks posed by distinct types of PCSOMs, reducing its value for this critical study. Still, it represented a useful example of an opposing perspective whereby negative impacts on PCSOMs were completely ignored. It also noted existing barriers to policies similar to IML, which could be extrapolated to assess IML as well.

Focusing on Europe, two key studies further contextualized pragmatic barriers to managing the mobility of PCSOMs across national borders. First, Hilder and Kemshall (2016) interviewed law enforcement and probation personnel for an E.U.-funded study on this topic (Serious Offending by Mobile European Criminals or SOMECE) and found that probation personnel specifically had reservations about privacy and data protection safeguards needed to increase information exchange on PCSOMs between countries. Similar to U.S. legal studies of IML, SOMECE documented concerns about inadequate national-level infrastructure to support this (Hilder & Kemshall, 2016). At the same time, it suggested that officials in the E.U. criminal justice system paid greater attention to the rights of PCSOMs compared to those in the US, given the “core E.U. principle of Freedom of Movement” (Hilder & Kemshall, 2016, p. 136). The US does

not uphold any comparable core principle (Kahn, 2008), perhaps explaining its increased willingness to limit the mobility of domestic registrants.

Second, Paavilainen (2017) provided a law enforcement voice from within Europol on the transnational management of PCSOMs. With her unprecedented insider access, she interviewed E.U. member state police specialists in a study of existing mechanisms addressing people travelling across borders to commit sex offences against minors. She concluded that not enough was being done to monitor and limit the travel of these offenders (Paavilainen, 2017).

At the same time, Paavilainen's research seemed to conflate these offenders with PCSOMs more broadly, assuming that everyone in the latter group intended to cross borders to re-offend. As such, she encouraged more measures of control against PCSOMs and argued that "the underlying issue" was that minimal efforts were being used to combat "something that is not demanded by the EU at the Directive level" (Paavilainen, 2017, p. 90). Essentially, she was frustrated by the lack of political will at the E.U. level to increase cross-border mobility monitoring of PCSOMs, a viewpoint likely influenced by her position within Europol. In contrast to Paavilainen, other scholars have regarded E.U. reluctance to create a central registry as a positive development (Hilder & Kemshall, 2016; Newburn, 2011; Terry, 2015). Indeed, the decision underscores E.U. officials' attention to the various practical and rights-based risks of such monitoring.

As with the literature on IML, the work on cross-border 'sex offender' registries mainly discussed hypothetical impacts on PCSOMs as opposed to empirically substantiated concerns. Moreover, it derived data from actors within criminal justice systems as opposed to the concerned PCSOMs themselves. Still, these studies provided an understanding of key arguments against expanded mobility restrictions on PCSOMs from non-U.S. perspectives. The E.U. case was a

useful point of reference and comparison as I studied the US's attempt to control the international mobility of its domestic registrants.

### **2.3 Domestic 'sex offender' registries**

Finally, a study on IML must be understood in the context of the wider body of critical scholarship on domestic 'sex offender' registries. There is a great deal of work in this area ranging from quantitative assessments of their efficacy to qualitative measurements of their unanticipated effects. A significant amount of this literature is focused on the U.S. context and situates the mobility management of PCSOMs in academic discourses that I will rely on as well in my theoretical framework. At the same time, some of the literature also draws from other countries with established registries, including Canada, Australia, and the UK.

In the US, Booth (2019) has traced the history of 'sex offender' registries, noting their origin in "mid-20<sup>th</sup> century sex panics" that "initially targeted queer and trans folk" (p. 220). He added that modern registries remain disproportionately full of low-income people of colour as well as queer and trans folk: "the most marginalized people" of American society (Booth, 2019, p. 221). As a reputable social justice advocate in this space, Booth presented a well-researched and harrowing account of modern sex crime laws that aligned with the work of other critical scholars. He argued that they result in "civil death" for registrants, depriving them of many rights otherwise guaranteed to citizens, despite the lack of evidence that they work to reduce recidivism (Booth, 2019, p. 224).

Booth's research meticulously cited a number of quantitative studies suggesting that U.S. 'sex offender' registries have not significantly reduced sex offences (Ackerman et al., 2012; Agan, 2011; Ewing, 2011; Mancini, 2014; Sandler et al., 2008; Tewksbury & Jennings, 2010; Zgoba et

al., 2008). These studies supported the assertion that sex offence laws were fuelled more by sentiment than by empirical evidence. Scurich and John (2019), however, have challenged recent studies of sexual recidivism as underestimating the “true rate” of recidivism, emphasizing that most sex crimes are unreported (p. 158). They had reservations about any studies based on government crime statistics and called for new models that more accurately predicted sexual recidivism rates.

Nonetheless, one recent study that advanced Booth’s larger critiques was Cochran et al.’s (2021) study on sex crime sanctions in Florida. They found that sanctions increased disproportionately to seriousness and rates of crime, suggesting exaggerated concerns and reactions to these crimes by the legal system. Additionally, Jung et al. (2020) have measured political leaders’ attitudes and discovered greater support for registries among conservative-leaning participants. Their study implied that certain values impacted decision-makers’ adoption of registries independently of empirical evidence, again bolstering Booth’s position.

### **2.3.1 Media and public framings**

Regarding attitudes towards these registries, Willis et al. (2010) have conducted an extensive literature review regarding the research on attitudes towards PCSOs in Canada, Australia, the US, and the UK. This review found that people were generally more negative towards PCSOs than other types of offenders, but that certain groups were less negative towards PCSOs: professionals who worked with them in rehabilitative roles, personal contacts of PCSOs, those with higher education levels, and those of higher socioeconomic status (Willis et al., 2010). It also suggested that the public often inaccurately believed that PCSOs were a “homogenous group with very high recidivism rates,” despite research that showed the opposite (Willis et al., 2010, p. 550).

Building upon these findings, McCartan et al. (2015) investigated the constructions of child sexual abuse by the media and public. With respect to media constructions, they emphasized how PCSOMs are overwhelmingly portrayed as “predatory monster[s]” which they suggest is “both inaccurate and unhelpful” (McCartan et al., 2015, p. 103). Jewkes and Wykes (2012) have also questioned media mythologizing of PCSOMs as “dangerous stranger[s],” despite the fact that most children who are sexually abused are done so by men known to them (p. 936). They also emphasized that most child sexual abuse is not reported in the news because it “happens within the private sphere of the family,” “does not resonate with media audiences,” and “transgresses cultural ideals” of the sanctity of the family unit (Jewkes & Wykes, 2012, p. 936). Hence, these authors implied wider sociological reasons for the public’s fixations on the ‘dangerous stranger’ narrative of child sex abuse.

In the same vein, McCartan et al. (2015) suggested that public understanding about PCSOs and “their etiology, offending behaviour, treatment and reintegration is very limited” (p. 107). Because much of the U.S. and U.K. publics generally believed that PCSOMs were a constant and incorrigible danger, they supported a punitive approach “partially at odds with professional discourses but seemingly in line with parts of policy-maker discourses and fully representative of media ones” (McCartan et al., 2015, p. 107). McCartan et al. cite a 2008 study by Sample and Kadleck to highlight the impact of media reporting on policy discourses and ultimately policies regarding sex offences. After interviewing 35 Illinois legislators who passed sex offence laws in the 1990s, Sample and Kadleck (2008) noted that “the media are by far the predominant source of information” for them (p. 57). They found that the legislators either directly relied on media reporting to remain informed on issues of sex offence governance and crime, or indirectly received

this information through constituents that got in touch after consuming this reporting (Sample & Kadleck, 2008).

These studies indicated the importance of media and public discourses on policymakers' perceptions and attitudes in shaping sex offence legislation in the US and UK. They also provided examples of popular 'sex offender' archetypes that I looked for in my analysis of documents outlining IML's impacts. Importantly, I paid attention to the sources cited in official government news releases and publications about IML, to see if they drew from media reporting that relied on stereotypes and misassumptions about PCSOMs.

### **2.3.2 Perspectives of PCSOMs and their families**

Another important subset of the critical literature on U.S. 'sex offender' registries was work that addressed the perspectives of PCSOMs. Scholarship in this area acknowledged that U.S. practices of "shaming, societal ostracism, and increased community awareness" were theoretically and empirically popular, but maintained that registrant perspectives remained valuable for informing risks of future offending and addressing broader questions about the administration of justice (Tewksbury & Lees, 2007, p. 381).

Tewksbury and Lees (2007) were trailblazers in this type of research and interviewed 22 Kentucky registrants in one of the first U.S. studies focusing on registrant perspectives. They found that respondents supported three main changes to registration processes: distinguishing between different types of PCSOMs, increasing transparency and standardization of the registration process, and restricting access to the information on the registry (Tewksbury & Lees, 2007). Importantly, Tewksbury and Lees recognized that while these suggestions were a direct reflection of registrants' personal frustrations, this subjectivity did not mean they were not without merit. This was an important consideration in the design of my research as well.

Similar work conducted in New Jersey on a larger sample size of 107 respondents revealed similar findings (Tewksbury & Zgoba, 2010). There, Tewksbury and Zgoba (2010) found that New Jersey registration and notification laws, which included a ban on internet access, were both “potentially problematic for [PCSOs’] successful community re-entry and reintegration” and “very difficult, if not impossible, to effectively monitor and enforce” (p. 548).

In the U.K. context, Hudson (2005) has also investigated the management of PCSOs through the registrants’ perspectives. Interestingly, she justified her approach by noting that researchers were often affected by moral panics as well (Hudson, 2005). Hudson’s respondents generally supported law enforcement knowing PCSO whereabouts to investigate and prevent future crime. At the same time, they seriously questioned full public access to the information, noting that resulting stigmas might paradoxically encourage PCSOs to evade detection (Hudson, 2005). Overall, she concluded, much like Tewksbury and Lees, that registrants wished to be treated as heterogenous as opposed to “one-dimensional beings that are incapable of change” (Hudson, 2005, p. 168).

A related but less explored portion of the critical literature on ‘sex offender’ registries was scholarship addressing the experiences of registrants’ family members. In one example of this, Bailey and Klein (2018) surveyed a sample of 116 family members of registrants and found some support for the argument that “there is a diffusion of legal sanctions effects” or “courtesy stigma” onto these individuals (p. 452). They indicated that such courtesy stigma could reduce family support for registrants, leading to further isolation and recidivism among registrants instead of community reintegration (Bailey & Klein, 2018). This work emphasized the importance of further studying indirect punishments of those who have not committed offences, a key component of this thesis design.

Altogether, these studies demonstrated the value of perspectives on sex offence laws from outside of the criminal justice system. The lived experiences of PCSOMs and their family members expose practical and ethical impacts of registration that may not be evident to law enforcement and legal policymakers. Thus, this study expanded upon this body of work and found inspiration in the scholars' theoretical and methodological reflections.

#### **2.4 Chapter summary**

This chapter has outlined the debates on International Megan's Law to date, which are closely tied to broader discussions about domestic and international 'sex offender' registries. Scholars do not denounce the idea of tracking the travel of PCSOMs who pose actual risks to children abroad; however, they have serious reservations about existing domestic registries in the US, and how shortcomings with these systems would have international effects through IML. The main critiques of IML's potential impacts on U.S. PCSOMs can be summarized along three lines: it is a policy fuelled by media-perpetuated misconceptions as opposed to empirical evidence, it may unfairly stigmatize low-risk registrants who do not pose risks to children abroad (and by extension their families), and it may introduce system-level inefficiencies that are risks to registrant privacy and data protection. In the next chapter, I introduce the theoretical framework that this thesis uses to explore empirical support for each hypothetical critique.

## Chapter 3: Theoretical framework

This chapter positions the research gap on IML and my theoretical approach to it within a cultural criminology framework. First, I elaborate on the relevant aspects of this framework for my research questions, primarily its attention to critically analyzing lived experiences and the impacts of media narratives on crime and responses to crime. Then, I introduce three other analytical streams that I also draw from: the ‘punitive new penology’ concept that has previously been applied to the study of U.S. sex offence laws, literature on the stigmatizing effects of registries, and newer work on ‘pre-emptive mobility governance’ which comes from critical migration studies. Beyond assessing the strengths and weaknesses of each framework for my study, I outline how I operationalize these frameworks within my research sub-questions.

### 3.1 Cultural criminology

Ferrell et al. (2008) in their influential *Cultural criminology* call for a study of crime that moves “beyond narrow notions of crime and criminal justice to incorporate symbolic displays of transgression and control, feelings and emotions that emerge within criminal events, and public and political campaigns designed to define (and delimit) both crime and its consequences” (p. 2). Their later work outlines three main positions of the theoretical orientation (Ferrell & Hayward, 2011):

1. Cultural criminologists view all criminological phenomena as culturally constructed as opposed to natural or objective occurrences.
2. Cultural criminologists critique any conventional criminology that uncritically relies on government and media reports or removes meanings and emotions from analysis.

3. Cultural criminologists are focused primarily on the dynamics of the late-modern world.

This paradigm aligned well with the findings of the literature review, which is why I use it to frame my study as a whole. Regarding point one above, historical and comparative research has shown that U.S. sex offence policy has been strongly influenced by cultural factors as opposed to purely empirical measures of utility. Secondly, IML is a topic that is meaning and emotion-laden for all stakeholders involved. Sex offences against children are especially likely to incite enhanced societal concern, often framed as a ‘moral panic.’ These concerns, in turn, impact the positions of policymakers and law enforcement. At the same time, efforts to understand the experiences of offenders have revealed the importance of their interpretations to making more effective and humane policies.

Regarding the third point, the late modern focus of cultural criminology, Ferrell et al. (2008) characterize our current era as one of “hyperpluralism” and “rampant ontological insecurity” (p. 56). They explain both concepts in relation to patterns of increased mobility bringing “discordant values” into contact with one another and contributing to increased uncertainties and fears (Ferrell et al., 2008, pp. 59–60). They also explain that this situation carries both positive potentials in terms of new avenues for change, but also can lead to “essentializing and othering” as an alternative response (Ferrell et al., 2008, p. 60).

Thematically, IML can be clearly conceptualized within these late-modern parameters. It has an international orientation in trying to control responses to crime across national borders. As such, it deals with hyperpluralism in the sense of conflicting legal and cultural norms regarding sex offences and how best to respond to them. Additionally, IML may be understood as a response to ontological insecurity in that it essentializes a certain group of people as ‘dangerous’ and ‘risky’

to generate feelings of safety through stigmatizing them and excluding them from society by limiting their mobility.

### **3.1.1 Lived experiences and media narratives**

I have explained above how my research benefits from a general cultural criminology perspective, outlining how the literature on IML indicates that it is a criminological phenomenon that has constructed meanings, is situated in the late modern era and invites critical scrutiny given its emotion-laden subject matter. Now, I outline two additional aspects of cultural criminology that prove particularly useful for my analysis: a focus on lived experiences and an exploration of media narratives. Here, I provide a brief theoretical overview of the importance of these two aspects, which specifically inform research subquestions 1 and 3 (see Research gap and questions in Chapter 1). I delve into detailed methodological considerations in the next chapter of this thesis.

Cultural criminology has a “phenomenological” focus drawing from Katz’s (1988) work in *Seductions of crime*. Such a focus acknowledges the importance of analyzing emotions to distinguish between foreground experiences of individuals and background sociological factors in criminological contexts (Ferrell et al., 2008). This attention to corporeal, cognitive, and affective dimensions of criminal behaviour is situationally responsive and interactional, meaning that it cannot be studied at distance but rather requires a more ethnographic approach (Ferrell et al., 2008).

Cultural criminology also invites scholars to consider “how mediated processes of cultural reproduction constitute the experience of crime, self, and society” (Ferrell et al., 2008, p. 81). This involves paying attention to contested images and meanings in understanding deviance and normality, as well as crimes and responses to crime. Such attention necessitates critical studies of representations of crime and responses to crime, and keeping in mind the importance of

ethnographic context since the media, crime, and crime control all mutually influence one another in an “infinite hall of mediated mirrors” (Ferrell et al., 2008, p. 82).

In this study, I apply Katz’s framework for understanding the emotions of those who have committed crimes to better understand the perspectives of registrants’ experiences with IML. An important caveat, however, is that my respondents were not describing experiences with illegal activities when they shared their stories with me. While every registrant I spoke to was convicted of a crime against a minor, their experiences with IML were accounts of trying to navigate their lives in accordance with, rather than against, the provisions of the law. The purpose of my study was not to fixate on the details of the crimes they committed. As such, it is not the concept of the seductions of crime that I borrow from Katz but rather his approach of considering people’s sensual experiences of specific criminological situations.

To do this, research subquestion 3 about registrants’ experiences of IML focuses on foreground experiences, using them as a means to understand larger structural dynamics (Katz, 1999). Specifically, I asked questions about how registrants felt about various aspects of the law and their treatment by authorities as a result of the law, recording affective responses. Also, because the literature review repeatedly revealed stigma as one of the largest consequences of sex offence laws, I was particularly attentive during interviews as to whether respondents identified feeling stigmatized by IML. Additionally, since Katz emphasizes the interactional element of analyzing foreground experiences (Katz, 1999), I reflected on my own positionality throughout the interviews. This involved considering how registrants might be trying to shape the emotions of others, including myself, through their narratives, something that I discuss at length in the next chapter.

As for mediated meanings of crime, I incorporate cultural criminological concepts into investigating research subquestion 1, focusing on the media documentation of IML. In particular, my analysis involves the concept of ‘loops’: documentation of crime and responses to crime that “circles back to amplify, distort, and define the experience of crime and criminality itself” (Ferrell et al., 2008, p. 130). This was a useful theoretical concept because registrants often shared news stories and academic studies relating to sex offence legislation with one another, commenting about these in online forums. Hence, I was able to follow how they responded to media representations of IML, extrapolating how registrants used these representations to redefine their own experiences.

To operationalize the concept of ‘loops,’ I conduct a comparative analysis. I investigated how IML’s impacts were represented by supporters and critics in the popular media, and then explored how these representations were understood by registrants and came to shape their own perceptions, noting similarities and differences. In my analysis, I also consider the appearance of ‘spirals’: loops that are less self-contained and instead move “away to new experiences and new perceptions, all the while echoing, or other times undermining, meanings and experiences already constructed” (Ferrell et al., 2008, p. 133). I identified ‘spirals’ when actors (including respondents) transferred meanings and experiences related to IML to other areas of policymaking, such as other types of crime.

### **3.2 Punitive new penology**

Apart from cultural criminology, an analytical stream that informs my thesis is Simon’s (1998) critique of U.S. sex offence laws as “the new penology combined with a strong appeal to populist punitiveness” (p. 456). This is the impetus behind research subquestion 2. The concept of an

integrated ‘punitive new penology’ references Feeley and Simon’s (1992) work on the “new penology”: transformations in American penal processes beginning in the 1970s and 1980s that are characterized by increasingly actuarial approaches to crime control targeting groups instead of individuals, a focus on the management of risk as opposed to the rehabilitation of people that have committed crimes, and insular technocratic efficiency-seeking as opposed to holistic consideration of societal impacts.

The ‘punitive new penology’ of sex offence laws also references a punitive dimension that draws from trends in public and political discourse. According to Simon, “populist punitiveness” involves increasingly severe “zero-tolerance” criminal sanctions driven more by emotions than rationality (Simon, 1998, p. 455). There is a politicization of this discourse involving politicians appealing to public sentiment for re-election purposes. He suggests that although new penology and populist punitiveness often seem contradictory, in practice they co-exist, with punitiveness often trumping new penology attempts at scientific determinations of risk.

Despite being dated, Feeley and Simon’s work remains relevant to this study because it is a system-level critique of criminal justice policy. Specifically, the new penology is a policy orientation “found among criminal justice practitioners and the research community” (Feeley & Simon, 1992, p. 451). By recognizing the existence of this policy direction, I was able to expand my analysis of IML beyond the individual experiences of registrants and make broader connections to trends in U.S. penal policy. Thus, my second research sub-question focuses on identifying these trends in the IML discourse.

Simon (1998) takes the position that modern-day ‘sex offender’ legislation represents the institutionalization of an alarmingly hostile approach towards PCSOs that is presented as rational, effective, and constitutional. He claims that this is the result of an internal managerial orientation

within the criminal justice system unsympathetic to the treatment of PCSOs, coupled with external public sentiment that demands ever greater sanctions against PCSOs (Simon, 1998). The aforementioned media analysis component of this thesis considers how Simon's ideas apply to the popular and official government messaging on IML today. Another section analyzing how the IML 'system' as a whole actually functions and impacts registrants further investigates Simon's claims that the entire criminal justice system is alarmingly hostile to PCSOs.

McAlinden (2012) has applied Simon's ideas to a non-U.S. setting. Using a U.K. case study, she situated extensions of sex offence governance in the mobility sphere within three trends: "a vigorous, and at times vicious media culture," "a general loss of faith in the 'rehabilitative ideal,'" and citizen distrust in the state (McAlinden, 2012, p. 182). Her theoretical deliberations were useful for this study because they involved a more recent historical context and served as a bridge between punitive new penology and cultural criminology. Specifically, I connect McAlinden's references to a 'vicious media culture' and 'citizen distrust in the state' to the late modern condition at the centre of cultural criminology. This helps with understanding Simon's ideas using updated cultural criminological concepts of hyperpluralism and ontological insecurity.

### **3.3 Stigma and coping mechanisms**

As mentioned earlier, stigma was cited in the literature as a central consequence of sex offence registration laws, so my study draws upon related theories as a second analytical stream with which to understand the impacts of IML. Indeed, this is the focus of research subquestion 5. McAlinden (2005) was an early contributor on this topic, situating trends in U.S. and U.K. sex offence legislation in the framework of Braithwaite's reintegrative/disintegrative shaming dichotomy. This dichotomy suggests that reintegrative shaming is where certain acts are labelled as evil while

offender identities are preserved as essentially good, and offenders are allowed back into society before being permanently labelled as “deviant” in their “master status” (Braithwaite, 1989, p. 101). Stigmatization, on the other hand, is “disintegrative shaming” whereby “no offender is made to reconcile the offender with the community” (Braithwaite, 1989, p. 101). According to Braithwaite, a high level of societal stigmatization encourages crime rates, by “creating populations of outcasts with no stake in conformity, no chance of self-esteem within the terms of conventional society” (1989, p. 102). Indeed, McAlinden critiqued modern sex offence legislation as highly stigmatizing, deterring rehabilitation and encouraging recidivism among offenders (McAlinden, 2005).

However, Braithwaite’s theory, and McAlinden’s study by extension were of limited relevance to my study because they focused on the impact of ‘sex offender’ legislation in terms of impacts on future crime. In contrast, I sought to understand individuals’ responses to IML in a wider sense. Tewksbury’s 2012 study was more valuable for this reason, approaching the same issue with an added focus on self-perceptions of stigmas. This was useful for my study because I was concerned not only with the tangible, external consequences of IML but also the emotive, internal ones.

Tewksbury (2012) references Goffman’s understanding of stigma as “a disconnect between how individuals see themselves (their actual social identity) and how they are perceived and responded to by society (their virtual social identity),” with the latter being overwhelmingly more negative than the former (p. 609). He also draws upon Goffman’s concept of ‘courtesy stigma,’ the transferal of stigma to those that associate with registrants (1990). In my analysis, I heavily rely upon both of these concepts. They help explain variations in how different registrants perceived IML’s impact. This is because both concepts are highly subjective, changing based on

individuals' own assessments of their actual and virtual social identities, as well as the number of people they closely associate with.

The other theory I draw from is Link et al.'s (1989) modified labelling theory. Both Evans and Cubellis (2015) and Mingus and Burchfield (Mingus & Burchfield, 2012) have cited this theory in their work on how people on registries cope with stigmatization. This theory builds on Thomas Scheff's original application of labelling theory to mental illness (1999), which had incorporated leading symbolic interactionist perspectives at the time (see Becker, 1963). However, it departs from Scheff's ideas by focusing on how labelled individuals respond to their predictions of how others will treat them. According to Link et al., this response follows a five-step process (1989):

1. Society creates ideas about a stigmatized group, often with media and political involvement. These ideas consist of two components, as understood by the stigmatized group:
  - a. Devaluation, or loss of status; and
  - b. Discrimination, or being treated differently, both as a result of being part of the group.
2. The stigmatized individual is officially labelled and aware of societal ideas about their label.
3. The stigmatized individual responds to this label through secrecy, preventative telling, or withdrawal.
  - a. Secrecy involves concealing one's label to avoid rejection.
  - b. Preventative telling involves educating others in order to shape one's narrative and avoid devaluation and discrimination.

- c. Withdrawal involves limiting interaction to avoid further stigmatization.
- 4. The stigmatized individual withdraws from society due to negative beliefs about societal attitudes toward them or to avoid potential consequences of being labelled.
- 5. The stigmatized individual is susceptible to further problems due to negative events in previous steps resulting from responses to stigma.

Modified labelling theory, like Goffman's understanding of stigma, involves highly individualized components of self-perception by the labelled/stigmatized individuals. For my study, this was again very relevant for explaining differences between how individuals coped with the negative impacts of IML on their lives. Two additional coping mechanisms that Evans and Cubellis add to Link et al.'s framework are 'grouping' and 'denial.' The first involves grouping with others similarly stigmatized to gain a sense of equality, and the second involves distancing themselves from their stigmatized identities by reframing their offence "to a simple mistake" (Evans & Cubellis, 2015, pp. 597–598). I employ both of these mechanisms to describe how those in my study responded to the impacts of IML.

### **3.4 Pre-emptive mobility governance**

A final analytical stream that shapes my study is that of 'pre-emptive mobility governance' from critical migration studies. This is the focus of research subquestion 4. Broeders and Hampshire (2013) use this term to describe the increasing number of digital technologies being used by governments to "identify and categorize would-be immigrants and travellers, often well before they arrive at the territorial border" (p. 1203). Mobility criminologists have the similar concept of 'crimmigration control technologies,' exemplified by 'The Five Country Conference' of Australia,

Canada, New Zealand, the UK, and the US, who signed an agreement in 2009 to share biometric data for immigration processing (Bowling, 2013, p. 296).

According to Broeders and Hampshire, governments' enthusiasm for such digitalization of border control reflects the "instrumental and symbolic value" of these technologies in signalling state control over immigration (2013, p. 1202). They argue that these developments are not solely attributable to securitization trends post-9/11, but in fact relate to wider ideas of efficiency and border-politicization. Bowling also characterizes this technology as part of a larger state project. He observes: "the powers to coerce, monitor, and punish have migrated from the criminal justice system to inhabit border control agencies hitherto thought of as administrative" (Bowling, 2013, p. 300).

While these authors are primarily theorizing mobility governance technologies in the context of immigration politics, their ideas are equally applicable to my study of IML, adding a much-needed technological dimension to the study of sex offence legislation. Not only does IML call for a system of international information exchange to control the mobility of PCSOMs, but it also draws from existing state-level databases that are already used to track the movement of registrants within the US. Such systems, by their very nature, are meant to identify and categorize people ahead of their travel, making them a form of 'pre-emptive mobility governance.'

While reviewing the literature on pre-emptive mobility governance, I observed similarities between the claims by governments pursuing this form of governance and the narratives of those who supported punitive new penologies. Both groups emphasized efficiency, risk-control, and the prioritization of certain groups' 'safety' from supposedly 'dangerous' out-groups. Furthermore, under both systems, governments sought to categorize people in actuarial ways, all while appealing

to public sentiments of fear and insecurity. Thus, the ‘pre-emptive mobility governance’ critique ties in well with the other analytical stream I use in my analysis.

Broeders and Hampshire (2013) highlight the limits of much-touted Information and Communications Technologies (ICTs) in practice. They argue that efficacy claims regarding the use of ICTs in border management should not be taken at face value. Instead, they note that ‘indeterminacy’ often results from the multiplicity of information input sources, and human subjectivities constantly shape supposedly automated and neutral systems. While this argument is compelling, it is largely theoretical. Hence, in my analysis of how the IML ‘system’ works, I had the opportunity to provide empirical evidence for these claims. To do so, I invoked the concepts of indeterminacy and human subjectivities; I looked for examples of systematic errors that resulted from aggregating large amounts of information to control registrant mobility, and points within the system where discretionary human decision-making was especially apparent.

More recent work from critical migration studies reveals further problems inherent in datafied responses to mobility risks but again present primarily theoretical critiques. Broeders and Dijkstra (2015) study new developments in European border management and suggest that such datasets increase thinking in terms of pre-emptive risks, promote the favouring of correlations over causality, and pursue categorization that ignores complexities to facilitate binary decision-making. There is some practitioner support for these arguments. In the context of considering stricter measures to govern the mobility of PCSOs within E.U. borders, probation officers emphasized the need for an evidential approach to limiting PCSO movement, accounting for “work opportunities, past patterns of behaviour, disappearances, and family connections across borders” for a “reasonable assumption of mobility” (Hilder & Kemshall, 2016, p. 136). Hence, there is some

level of recognition among those who work with PCSOs that nuance is needed when trying to make decisions about PCSO mobility.

In the U.S. context of IML, I was interested in how these risks of pre-emptive mobility governance manifested. Given that critical migration studies and mobility criminologists have not traditionally focused on PCSOs as a group targeted for discrimination, I aimed to apply the existing critique in ways that expanded the field and examined marginalized groups previously unconsidered. Thus, the media analysis scrutinizes how various news sources reported on the pre-emptive elements of IML. When conducting interviews, I also posed questions to registrants regarding their opinions on being pre-emptively categorized during international travel.

### **3.5 Chapter summary**

This chapter has defined the theoretical framework for this thesis, consisting of an overarching cultural criminological orientation paying close attention to lived experiences and media narratives, as well as the analytical concepts of punitive new penology, stigma, and pre-emptive mobility governance. This framework was specifically selected to address the lack of empirical case studies on IML identified in the literature review, as the existing legal scholarship primarily critiqued the law using hypothetical scenarios. It drew inspiration from the body of work scrutinizing domestic registries, which has more actively solicited perspectives of registrants and their families, as well as critically questioned the socially constructed aspects of sex offence legislation. Additionally, the selected analytical concepts position this study of IML within broader discourses in critical criminology. In this way, they help explain how IML relates to larger trends in penal and migration politics.

## Chapter 4: Methodology

This chapter details the methods used to explore the research question. It starts with an overview of the research design and then discusses the particulars of the three selected research methods. Following this, it explains the strategies of data recording and analysis that were employed, followed by the ethical considerations that occurred throughout the research process. Finally, it reflects on the quality of the data collected. I scrutinize my own positionality as a researcher, the trustworthiness and authenticity of this study, and the study's limitations and related mitigation tactics.

### 4.1 Epistemology

As discussed in the previous chapter, this study was conceptualized within a cultural criminology framework which itself follows a social constructivist epistemology. According to Ferrell et al. (2008), cultural criminologists “highlight the collective construction of shared meaning” and the “ongoing, contested negotiation of morality and cultural identity” (p. 27). This theoretical orientation informed my approach to understanding IML's impacts. I began from a position that rejected any single, ‘true’ understanding of IML or the people whose mobility is impacted by the law. Instead, I employed methods of data collection that would allow for critical analysis of government and media reports on the law, as well as attention to the individual stories of people whose perspectives are often ignored in these ‘official’ accounts.

### 4.2 Research design

Given cultural criminology's focus on meanings and emotions, and my desire to understand how people had experienced IML's effects, a qualitative methodology “concerned with exploring the

behaviour, opinions or perspectives, feelings, and experiences of people as individuals or groups” was the natural choice (Bows, 2018, p. 96). Specifically, I chose online discourse analysis, ethnographic content analysis, and in-depth interviews as my three methods of data collection to explore the central research question:

*How has International Megan’s Law impacted U.S. registrants’ mobility to any country outside of the US since 2016?*

Online discourse analysis was selected to address my first two research subquestions:

1. *How have IML’s impacts on U.S. registrants’ mobility been documented by U.S. media, government agencies responsible for IML, and registrant advocacy organizations?*
2. *In what ways does this documented discourse illustrate a ‘new penology’ logic behind IML?*

Discourse analysis was selected as opposed to more rigid content analysis in order to extract the broader “ideas, values and meanings articulated directly or indirectly” in texts (Segrave & Milivojevic, 2018, p. 354).

Ethnographic content analysis and in-depth interviews were selected to address my next three research subquestions:

3. *How have IML’s impacts on U.S. registrants’ mobility been experienced by registrants and their families since 2016?*
4. *In what ways can ‘pre-emptive mobility governance’ risks be used to explain these experiences?*
5. *In what ways can these experiences be understood as ‘stigma’?*

I primarily engaged in online ethnography in a covert sense. This involved regularly browsing popular websites frequented by U.S. registrants and following the community discussions there

without commenting on posts myself. This type of ‘lurking’ may be denounced by some scholars as illegitimate ethnography due to the lack of interaction with the study population.

At the same time, others have suggested that it is “a useful part of the virtual ethnographer’s repertoire when it mirrors the practices of ordinary members of a group, and where it allows for a period of cultural familiarisation in order to facilitate a relatively smooth entry into active participation” (Hine, 2017, p. 8). Indeed, the goal of my ‘lurking’ was to facilitate better conversations with respondents during the later stage of my research when I conducted in-depth interviews with registrants (recruited in a separate process). Thus, the intent was always to actively engage with the research population as opposed to solely observe their activities passively.

Reflecting this intent, my overall analysis relied more heavily on the content of the interviews than on the ethnographic materials. This was because I was able to develop more nuanced understandings of themes through interaction and directed questioning with respondents. Nonetheless, my initial ‘lurking’ provided important contextual knowledge for the semi-structured interviews, as well as helped with establishing credibility and rapport with respondents, as will be detailed in the last section of this chapter on data quality.

A significant consideration throughout the research design was the COVID-19 pandemic, which largely precluded in-person data collection during the main period of fieldwork in March and April of 2021. Even so, the fully virtual aspect of my research methods aligned well with cultural criminology’s emphasis on studying digital media and virtual identities (Ferrell et al., 2008). Thus, it presented both unique opportunities and challenges which I now proceed to discuss.

### 4.3 Data collection

#### 4.3.1 Online discourse

My sample of online discourse on IML was ‘purposive’ in that I conducted a targeted search according to specific criteria (Yar, 2018). I focused on popular news media, government media, and registrant advocacy media that a hypothetical member of the American public would likely encounter if they performed a basic search on IML. The concept of an ‘average’ U.S. reader was informed by studies on the perceived interests of audiences (Jewkes, 2004) and U.S. Census data. According to Jewkes’ (2004) news values favouring geographic proximity and simplification, I selected for local news sources and eliminated long-form opinion blogs associated with niche interest groups. The former were more likely to be read by people either in passing or during a specific search for information on IML, as they did not “strain the attention span” (Jewkes, 2004, p. 43). I also eliminated non-English material, as 80% of the American public only speaks English (Lufkin, 2018).

Before my searches, I used a virtual private network to set my browser to the ‘U.S. East’ region, because my research sub-question focused on U.S. discourses. For all online content, I limited my searches to an approximately two-year timeframe from January 2019 to March 2021. This timeframe was chosen to reflect the most recent discourse on IML while accounting for the disruption of international travel beginning in 2020 due to COVID-19 by extending back into 2019. For a full list of content analyzed, see Discourse analysis references.

#### *Popular news media*

My sample of popular news media was gathered using the Google News aggregator, which is what someone clicking on the ‘News’ tab would see after a basic Google search. This method and tool were chosen to reflect the most accessible and free form of news to the American public, as

opposed to a subscription service search (such as Factiva). I searched on the keywords ‘International Megan’s Law’ with quotation marks to ensure the exact wording and limited the date of results to range from January 2019 to March 2021. Searching without quotation marks would have returned significantly more results unrelated to IML and instead focused on the domestic *Megan’s Law*.

My search originally returned 25 articles, but according to the criteria outlined earlier, I reduced this sample to 14 articles. I eliminated two articles in French and Chinese, and four magazine articles that resembled long-form opinion blogs as opposed to news reports. Additionally, I eliminated three articles where IML was not mentioned at all within the article and two government press releases that were analyzed as part of the next category of discourse.

While data collected in purposive sampling largely disregards “concerns about statistical representativeness and generalizability” (Yar, 2018, p. 418), my decisions to eliminate certain articles were based on what an average member of the American public would likely consult for a quick reference on IML. As previously mentioned, this excluded articles that were not in English, or were very lengthy and complex, as opposed to a “bite-sized message” that people are usually more readily drawn to (Jewkes, 2004, p. 45). Importantly, as an exception to the ‘proximity’ news value criteria, I did end up sampling three non-U.S. sources in my analysis. However, these were specifically used as examples of the spread of U.S. discourse abroad.

### ***Government media***

As for the government media on IML, I visited the websites of the three departments primarily responsible for enforcing the law to look for relevant news releases: U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and the U.S. Marshals Service (USMS). On each of these websites, I used the keywords ‘International Megan’s Law’ and

‘Angel Watch Center’ to look for press releases. Ultimately, I found two such articles on the ICE website, and one on the CBP website. This search also yielded various lengthy government reports that I read and later incorporated into my study (see Reports). I did not use these in my general discourse analysis sample due to the aforementioned criteria of selecting succinct news media that the general public was likely to read. The CBP website search also yielded many stories of foreign PCSOs being apprehended in the US, but this was not in the scope of my research questions. In addition to press releases, I found two accompanying video press conferences that I also transcribed and included in my analysis.

### ***Advocacy websites***

Lastly, for an initial understanding of registrants’ perspectives on IML, I relied on the website of one of the largest and oldest registrant advocacy organizations in the US: the National Association for Rational Sex Offense Laws (NARSOL). Specifically, I consulted NARSOL’s resource page on domestic and international travel (NARSOL, n.d.). I also searched the website for mentions of IML and eventually discovered the existence of the Registrant Travel Action Group (RTAG), an affiliated entity specifically concerned with the issue of international travel. For my analysis, I refer to this website’s home page and its travel matrix, which many interview respondents also indicated that they frequented as a resource (RTAG, n.d., 2021).

### **4.3.2 Online ethnography**

For my second method, I sought to immerse myself in the online communities of registrants concerned about IML and the prospects of its provisions. To do this, I first thoroughly explored the NARSOL and RTAG websites. Eventually, I discovered a third advocacy organization website that my research population frequented, that of the Alliance for Constitutional Sex Offense Laws (ACSOL). Compared to NARSOL, ACSOL is a newer organization and appeared to place a

stronger focus on legal issues relating to registrants. Its Executive Director and President are both practicing lawyers, reflecting this orientation.

### ***International travel discussion threads***

On all three of the websites, I encountered extensive travel discussion threads, with some comments dating back to 2013 (ACSOL, 2019, 2020, 2021; NARSOL, 2015; Rigney, 2017). Following the same temporal parameters as for my online discourse sample, I focused on comments on each website between January 2019 and March 2021, reading through 643 comments on the NARSOL thread, 671 comments on the RTAG thread, and 1893 comments on the ACSOL threads (which were separated by year). At times, certain comments referred to previous comments that fell outside of the timeframe I had defined in my sample—in these situations, I also read the previous comments in order to understand the full context of select conversations.

### ***Blogposts, conference calls, and videos***

Additionally, to better understand my research population, I consulted a section of the NARSOL website called “Tales from the Registry,” where registrants shared their personal stories. A selection of these blogposts fell within the timeframe of my research and directly addressed experiences of international travel (see Consulted registrant advocacy content). On the ACSOL website, there was also a historical record of monthly conference phone calls dating back to July 2018. These meetings were “open and free to registrants, family members, and those who support them” (ACSOL, 2018), and often involved discussion of travel-related inquiries. I listened to several recordings of these meetings where IML was the primary subject. Finally, NARSOL has an extensive YouTube presence where it posts videos of its annual conference. Its 2015 and 2016 conferences both involved panels on IML, which I watched to get a historical understanding of the organization’s perspective on the law.

### 4.3.3 In-depth interviews

Finally, aside from all the non-participatory methods of data collection, I pursued in-depth interviews with people who had experienced firsthand the effects of IML, as well as experts who had second-hand knowledge of these effects. These interviews were semi-structured, meaning conducted with topic lists (see Appendix B: Interview topic lists) so that key themes were explored while flexibility was retained, allowing me to remain “responsive to relevant issues raised spontaneously” (Legard et al., 2003, p. 141).

#### *Access*

My research topic was ‘sensitive’ in that it was about a highly politicized form of social control (Deakin & Spencer, 2018), and my research population was ‘hard-to-reach’ because many registrants did not want to be readily identified for fear of being stigmatized or harmed under the guise of ‘research.’ For these reasons, I sought access to the population through gatekeepers: initially, I contacted NARSOL about my project to see if they were willing to post my call for participants on their website. Ultimately, they had me write an email about my study that they distributed through their national networks (see Appendix C: Communications with NARSOL). They also allowed me to post my study on their member-only social network platform, NARSOL Connections.

When I contacted ACSOL and RTAG about my project, I had two ‘experts’ on IML respond to me, indicating interest in being interviewed and consenting to having their names used in the study. ACSOL Executive Director Janice Bellucci had a decade of experience advocating for registrants as a civil rights attorney and had filed two lawsuits on their behalf against IML. RTAG Executive Director Paul Rigney was a registrant himself and considered to be a community expert on the issue.

Both Bellucci and Rigney additionally acted as gatekeepers for snowball sampling, directing me to additional members of the registrant community. Bellucci posted my call for research on the ACSOL website, and Rigney provided me with ‘Travel Experience Reports’ he had received via the RTAG website. Rigney also introduced me to the sole female registrant I was able to interview in my study, vouching for the purpose and approach of my research. Two registrants that I interviewed (R5 and R6) were involved in registrant advocacy efforts as well and promoted my study within their networks.

### ***Respondents***

Though my call for participants solicited registrants, their families and friends, and lawyers and social workers who had worked with registrants, I only ended up receiving inquiries about participation from registrants. Of the 27 registrants that initially contacted me about the study, four did not reply after I followed up with details about the interview process. In the end, I spoke to 23 registrants, but three turned out not to fit the criteria of being impacted by IML. Rather, they were PCSOs whose international travel was regulated under the 2006 *Sex Offender Registration and Notification Act* (SORNA). Thus, these interviews were excluded from my final analysis.

For the 20 registrant interviews that were analyzed in this study (see Appendix D: List of interviews), participants were PCSOMs, and ranged in age from 38 to 78, with a mean age of 60 and a median age of 61. As previously mentioned, all registrants were male apart from one female respondent. Ethnicity data was not collected because it was not explicitly relevant to the goals of my research. However, for data generalizability considerations, most respondents who participated in videocalls appeared to be Caucasian.

For their primary state of residence, registrants hailed from 13 different states, including California, Colorado, Connecticut, Florida, Hawaii, Illinois, Massachusetts, Michigan,

Mississippi, New Mexico, Oklahoma, Oregon, Texas, Utah, and Virginia. The majority of registrants interviewed were subject to lifetime registration requirements, except for three registrants that were off of their state registry, and five registrants who were either categorized as a ‘tier one’<sup>9</sup> offender in their state (with varying registration lengths depending on the state) or did not disclose their registration length due to being unsure of this (often due to ongoing state-level recategorization processes).

#### **4.4 Data recording and analysis**

##### **4.4.1 Online discourse**

Due to the transient nature of online materials, I made sure to archive copies of all the online media I consulted, using the NVivo 12 qualitative data analysis software and its NCapture function to do this. Using these tools, I saved PDF versions of all the news articles and websites I analyzed. For the government press conference videos, I created an account on the website hosting these videos, to download copies of the videos under education-related copyright allowances. These were also imported into NVivo and fully transcribed for thematic coding.

Across all of this data, I coded each item in terms of five features: the context in which IML was being mentioned (1), how IML’s purpose and impact were depicted (2 and 3), and the characterization of PCSOMs (4) as well as the population that IML was trying to protect (5). This coding system allowed me to make consistent comparisons across the different forms of media. Additionally, for the registrant advocacy webpages, I further analyzed these using Pauwels’ (2012)

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<sup>9</sup> The *Adam Walsh Act* created a three-tiered system of classifying registrants based solely on their offence, with minimum registration periods for each tier as follows: 15 years for tier one, 25 years for tier two, and lifetime registration for tier three (*Adam Walsh Act*, 2006).

multi-modal framework for analyzing websites as cultural expressions (see Appendix E: Sample website analysis).

Pauwels' framework eschews a narrow, text-based analysis for a broader analysis encompassing websites' visual and multimedia features as well. As such, I found it useful for understanding more subtle meanings of websites. For example, I was able to come to some conclusions about RTAG organizers based on the information organization and spatial priming strategies used on the website, such as that it was a grassroots effort actively seeking donations. This analysis allowed me to gain additional insights into my research population that would not have been possible from a purely text-based analysis of websites.

#### **4.4.2 Ethnography**

Like with the online discourse, I used NVivo software to archive copies of all the blog posts, conference calls, and videos I consulted in my attempt to become familiar with the community I was studying. These were not analyzed in-depth but rather used as background knowledge, meaning I made notes on interesting findings in my research journal, which I often later referenced during my interviews, as well as in my final analysis. As for the discussion threads that I planned to analyze in more detail, I used the Python programming language and an open-source library, Beautiful Soup, to scrape copies of the thousands of comments and reproduce them in a tabular file format. Since I was not performing any advanced analytics or copying information that was not already freely available for anyone browsing the website, this did not present any additional ethical issues.

In the tabular format, I was able to sort the data to eliminate comments that fell outside of the timeframe I was interested in. Next, I read through each of the individual comments and adopted a grounded theory approach to allow analytic themes to “emerge from the data collected”

(Noaks & Wincup, 2004, p. 4). Initially, I attempted to get a sense of the main topics regarding travel that registrant communities cared about, ahead of creating my interview topic lists and interacting with respondents. Thus, I categorized comments along five broad lines: general commentary on IML (1), inquiries about citizenship for registrants and their families (2), the passport identifier (3), pre-travel registration processes (4), and experiences and inquiries about specific travels (5).

This process also helped with eliminating comments that did not strictly relate to my research subquestions. For example, citizenship discussions often had to do with other U.S. laws affecting registrants, allowing me to sort those out of the massive amounts of data. After this initial review of the comments, I imported the tabular files with the discussion threads into NVivo so that I could code specific comments in line with themes that emerged following the in-depth interviews.

#### **4.4.3 In-depth interviews**

Due to the COVID-19 pandemic, all interviews were conducted over Zoom video calls. As anticipated, this involved some technical challenges, such as having to coach respondents through unmuting themselves upon joining the call or repeating segments of interviews when internet connections were unstable. Nonetheless, this platform ended up also solving technical problems because it offered the option for respondents to dial into the call by telephone, which was useful for respondents unfamiliar with the interface, with one registrant choosing the option after his mobile data was not fast enough to support a video call. Additionally, Zoom includes an in-app function for recording each call that made it clear to respondents when recordings started and ended. Zoom also provided an automated transcription function that significantly reduced the time I later spent producing transcripts following each interview.

Upon completion of each interview, I imported the video and transcript files from Zoom into NVivo. This is where I manually reviewed each automatically generated transcript against its video recording to ensure an accurate and complete account, usually within 24 hours of the interview. At this stage, I also incorporated the notes I took during the interview either into the transcript or my research journal. For each transcription, I followed the protocol suggested by McLellan et al. (2003) of providing a verbatim record of the interview, including “elisions, mispronunciations, slang, grammatical errors, nonverbal sounds (e.g., laughs, sighs), and background noises” (p. 65). This decision was made to provide important context when coding the transcripts later on.

#### **4.4.4 Follow-up materials**

Importantly, respondents often emailed me following interviews with materials they believed were important for me to consult. Sometimes these involved personal information, in terms of their experiences with IML. Other times, these involved government and academic documents they thought I might find useful in my research. I kept track of these in my research journal and saved local copies to NVivo for easy access.

#### **4.4.5 Aggregating and coding ethnographic materials with interview data**

As mentioned earlier, my initial ethnographic analysis influenced my interview data by informing the structure of the topic lists. However, I conducted a detailed analysis of the interview transcripts before returning to the contents of the online discussion forums, since I was able to explore many of the same themes that were discussed in more depth through the interviews. Since all data was centralized within NVivo, I was able to complete multiple rounds of coding across both datasets.

My approach to coding was largely inductive, meaning data was “analyzed to see if any patterns [emerged]” without explicitly seeking to test any existing theories (Bows, 2018, p. 96). I

engaged in ‘*in vivo* coding’ of the interview transcripts, largely adhering to the categories and terms that respondents themselves identified (Ryan & Bernard, 2003, p. 179). As such, the first iteration of my codebook was organized around individual topics that respondents brought up, loosely categorized similarly to the themes identified in the ethnographic analysis and topic lists (see Appendix F: Coding progression). At the same time, if respondents mentioned topics that resonated with some of the theories outlined in the literature review, these were also coded for later review.

During this process, it became evident that respondents were discussing IML experiences at two levels—in terms of systematic problems, and then in terms of personal experiences. As such, in subsequent rounds of coding, topics were re-organized according to such a framework (see Appendix F: Coding progression). Finally, following all the coding of interview data, I returned to the ethnographic content and assessed this against the interview data. I used the comments that I had categorized earlier for ‘negative case analysis,’ seeing if it contradicted any of the interview data (Ryan & Bernard, 2003, p. 280).

#### **4.5 Ethical considerations**

As briefly mentioned in an earlier section on interview access, my research was ‘sensitive’ in nature because sex offence legislation is a highly politicized and emotion-laden topic. Moreover, PCSOMs are a heavily stigmatized group in society, and this stigma often extends to those who advocate on their behalf. With this study of IML specifically, I was seeking to understand deeply personal experiences that respondents “[did] not wish profaned” (Lee & Renzetti, 1990, p. 512). For all of these reasons, ethical considerations were paramount at every stage of the study, to minimize harm to my respondents and me.

Before NARSOL agreed to distribute my call for participants, I had to provide them with a statement of purpose, research aims, and the ethical standards my study was following (see Appendix C: Communications with NARSOL). Since I was researching an American population, but studying at a Dutch institution, I followed both the American Anthropological Association (AAA) guidelines (American Anthropological Association, n.d.) and the Dutch national standards for social science research (KNAW et al., 2018). I also consulted the Utrecht University guidelines for handling personal data (Research Data Management Support, 2020).

#### **4.5.1 Informed consent**

Because my primary method of recruitment was through NARSOL and ACSOL posting my call for participants, respondents who contacted me were usually aware of the aims and purpose of my study before contacting me. Nonetheless, I offered to address any additional questions by email ahead of our interviews, and again provided a brief summary of my study at the start of each interview. Furthermore, I explained the data collection procedure: I would make a video recording of our call, stored locally on my computer, and use this to create a transcript. Upon completion of the transcript, I would delete the video recording. The transcription stage would involve assigning codenames to respondents and removing identifying information. I also explained that respondents could withdraw their consent at any point during the interview, or even afterwards, without any questions asked. Only after ensuring that respondents understood and agreed to this procedure, with the opportunity to ask clarifying questions, did I begin recording.

In terms of the online ethnography, DiMarco and DiMarco (2002) have suggested that in some virtual spaces, informed consent is not strictly necessary or even possible to obtain. This is because people who use them are aware that what they are contributing can be seen by anyone in the world and have taken care to anonymize their identities accordingly. Moreover, their lack of

identifying information makes it impossible to contact the individual behind each comment to seek consent. Additionally, the AAA states that “normally, the observation of activities and events in fully public spaces is not subject to prior consent” (American Anthropological Association, n.d.). Given that the discussion threads were essentially fully public, I decided to proceed with data collection. Nonetheless, in the spirit of the core AAA principle to “do no harm,” I took additional measures to protect the identity of commenters, which I detail in the following section.

#### **4.5.2 Anonymity and confidentiality**

For all interviews, I offered respondents the option to participate with their cameras off, anticipating that some might be concerned about being subject to harm given hypothetical complications with the video recording. Some respondents took the additional measure of communicating with me solely using a pseudonym to further protect their identity. As a security measure, I only kept one document linking respondents’ first names to codenames, keeping this document password protected. All other raw data was labelled using codenames.

The use of codenames for respondents, or pseudonymization, was chosen to allow for linking information from the same person across the study while protecting their identity (Research Data Management Support, 2020). Two respondents requested to review the transcript of their interviews, in order to note indirect identifiers that they were not comfortable with including in the study. When selecting quotes to include in the analysis, efforts were made to minimize identifying information, unless they directly related to state-specific or country-specific experiences with IML. In several instances, respondents mentioned their current age and the time that had elapsed since their offence. Because this identifying information was contextually significant, I replaced the specific age with an age range to minimize the risks of inadvertent identification.

During interviews, many respondents disclosed details about the offences that led them to become listed on registries. Some were quite open about their exact charges and even expressed that they did not care if I used their names in my study since they were already publicly “named and shamed” on the internet. Nonetheless, I treated all of these details as confidential and assigned all registrants codenames as an extra precaution. I also treated any personal documents that respondents provided to me following interviews as confidential. For all the ethnographic material I quoted in my data analysis, I decided to eliminate any references to usernames, due to the risk of inadvertent identification. I also followed the same procedure as with the interview transcripts in terms of removing or minimizing all identifying content in the comments.

An exception to the above was the decision to identify my two expert respondents by name, as well as registrant respondent David Kennerly, which is his chosen pseudonym. For the two expert respondents (Bellucci and Rigney), their names and positions on IML were already widely publicized due to their activism activities. Thus, any efforts to obscure their identities would likely lead to indirect identification. As for respondent Kennerly, several influential articles that were publicly available within the registrant community already bore his pseudonym. Therefore, it made sense to connect his opinions there with his thoughts provided in the interview.

## 4.6 Data quality

### 4.6.1 Reflexivity

Davies and Francis (2018) emphasize that reflexivity is vital throughout the stages of planning and doing criminological research, due to the social, political, and ethical dimensions of such research. Indeed, as already addressed, I was aware from the outset of the political sensitivity of my research topic and reflected throughout the study about my positionality on IML. The three main dilemmas I had were my registrant-focused perspective on the law, my outsider status within the registrant community, and handling personal biases and emotions throughout my research.

#### *Registrant-focused perspective*

After completing the initial literature review, I noted that the research gap that I wanted to explore would require a registrant-centred assessment of IML. Moreover, I recognized that the theoretical orientations of this study (cultural and critical criminology) would enhance this predisposition. While taking a balanced approach to investigating an issue is usually preferable, in this case, I decided that focusing on the perspectives of PCSOMs was justified and necessary because this was so clearly missing from both the literature and the public's knowledge. In contrast, the perspectives of authorities within the criminal justice system were widely available in media reporting and official government publications, so I did not focus on this. After all, the project of cultural criminology is both to "give voice to everyday accounts seldom heard" and "to gather those voices into a chorus of condemnation for broad structures of violence, inequality and exploitation" (Ferrell et al., 2008, p. 145).

At the same time, I did not completely ignore conflicting perspectives in my analysis. Instead, I made efforts to compare and contrast official government discourses with those of my respondents. I also made sure to maintain some distance from my respondents such that I was able

to critically assess their narratives on IML. This is how I realized that three of my respondents were not PCSOMs but rather PCSOs—two described themselves as subject to IML but turned out to be talking about travel restrictions implemented on them as a result of SORNA, and the third had reached out knowing he was not impacted by the law but wanting to contribute nonetheless to my study.

### *Outsider status*

Additionally, I was very aware of my status as an ‘outsider’ to the community I was studying in various senses: I was a non-registrant, female, member of a visible minority who was significantly younger than the mean age of my respondents. Additionally, I was a Canadian student studying at a Dutch university, investigating an American phenomenon. Due to my nationality specifically, respondents often questioned why I was studying IML. Eventually, I volunteered this information upfront at the beginning of interviews, referencing the wider social and academic relevance of this topic (See 1.3 Academic and social relevance).

On the whole, I did not feel that my ‘outsider’ status impaired rapport-building. In fact, my demographic distance from the respondents may have made me seem less threatening and more credible as a ‘researcher trying to understand’ rather than a ‘judgemental member of the public.’ One respondent told me at the end of our interview that he thought I was a good listener, supporting this impression. My East-Asian heritage also helped to make conversation and build rapport, because of IML’s strong impacts on travel to that part of the world. My identity as an international student with an interest in foreign cultures helped with this as well—I was able to demonstrate a sense of understanding when respondents described their love of international travel and what it meant to be denied this interest.

Nonetheless, I took several steps to increase trust, primarily through educating myself before the interviews. This was done through the ethnographic immersion that I undertook for most of March 2021. During this period, I became aware of the terminology nuances employed within the registrant community (See A note on terminology), which I adopted in my communications with NARSOL, ACSOL, and RTAG, as well as during all of my interviews. Once I began interviews, I also met with experts and ‘insiders’ Bellucci and Rigney early on, to develop more nuanced understandings of the registrant community prior to speaking with the registrants themselves.

Rigney was a particularly important ‘insider,’ ‘gatekeeper,’ and ‘guide’ throughout this study, as I met with him several times and he provided me with many secondary accounts of registrants impacted by IML. Because I was aware of the danger of ‘over-rapport,’ whereby insiders may dismiss subtle nuances of great interest to an outsider (Hall, 2018, p. 398), I often created agendas of items I was interested in discussing before our meetings, using these to steer the conversation. At the same time, insiders can sometimes paradoxically achieve more critical distance because of not being subject to the “moral injunction to appreciate others” that often falls on outsiders (Hall, 2018, p. 398). Several times, Rigney demonstrated this critical distance in his comments. For example, he mentioned to me, “Now there—I will be perfectly honest with you—have been registrants who have travelled to break the law. There have.” (P. Rigney, personal communication, April 7, 2021)

### ***Personal bias and emotions***

Lastly, I must acknowledge that I am not a victim of human trafficking or a sex offence. As such, I may have been more empathetic towards PCSOMs than somebody who had been directly victimized. That said, Spoo et al. (2018) tested this assumption and found that victims of sexual

abuse actually report more positive attitudes towards PCSOs than non-victims. Either way, throughout my study, I often found myself feeling frustrated, sad, and angry when I read and heard about respondents' experiences with IML. Nonetheless, I made every effort to remain "a warm and interested, but neutral presence" (Legard et al., 2003, p. 161) throughout the interviews. When asked for my personal opinions on the law, I responded that I wanted to focus on the respondents' opinions but would provide some of my thoughts at the end of the interview. In this way, I was able to maintain some social distance from respondents, while also being honest with my critical perspectives to round out interviews.

#### **4.6.2 Trustworthiness and authenticity**

According to Guba and Lincoln (1994), the quality of constructivist research should be assessed using two sets of criteria: trustworthiness and authenticity. Trustworthiness is comprised of credibility, transferability, dependability, and confirmability, which correspond to the measures of internal validity, external validity, reliability, and objectivity that are used for assessing the quality of quantitative data. Authenticity extends beyond parallelisms of positivist data assessment and involves critical objectives: it questions the value of data in improving understandings of constructions of others, as well as stimulating and empowering action.

To increase the credibility and dependability of my data, I employed data, theory, and method triangulation (Bows, 2018). I interviewed both experts and registrants and consulted materials across a range of time. I also drew from a variety of different theoretical frameworks to develop a multi-layered analysis of the data. Finally, because I was aware that my ethnography and interviews would primarily focus on registrant perspectives, I selected the third method of media analysis to incorporate perspectives of different stakeholders. As for transferability and

confirmability, I have outlined my methodology in detail, and also appropriately archived my data. Thus, future researchers can assess and even replicate to some extent this data if the need arises.

In terms of authenticity, my study is explicitly positioned to provide an understudied population's perspective on IML and clearly criticizes the law while including concrete evidence and suggestions for changing it. At the same time, I recognize that the registrant community itself is comprised of many diverse individuals and that my study is not representative of every person's experience or opinion. Nonetheless, to the best of my knowledge, this is the first ethnographic study on IML's impacts on registrants. Thus, while the data is not perfect, it is an important start to improving society's understandings of the U.S. PCSOMs affected by this law, hopefully spurring further studies and eventual political change.

#### **4.7 Limitations and mitigations**

In terms of this study's limitations, one initial concern was that the fully virtual approach to the interviews would create obstacles in observing participants' body language, inhibiting rapport-building (O'Connor & Madge, 2017). However, as earlier discussed, rapport-building did not end up being a challenge. Additionally, conducting Zoom interviews allowed for ease of communication with respondents across different time zones, allowing for interviews that would not have been possible in person due to the extensive travel it would have required. For many respondents, virtual interviews were also something they were already comfortable with, having lived through a year of the pandemic primarily communicating with others via video conferencing.

Another critique of this study might be the lack of government perspectives solicited regarding IML. While I have already addressed that the decision to focus on registrant perspectives was intentional and aimed at addressing a research gap, I did initially reflect on ways to provide a

more balanced approach to my research questions. Given the short timeframe available for research and the anticipated bureaucratic red tape, in the end, I did not try to request interviews with any government officials knowledgeable about IML. I did, however, file a *Freedom of Information Act* Request with the U.S. Department of Homeland Security (DHS) ICE regarding the Angel Watch Program in March 2021. At the time of completing this thesis, in July 2021, my request is still listed as pending. Ultimately, by incorporating government news releases and reports in my analysis, I provided some of this missing perspective.

A final note must be made on the diversity of my respondents. As indicated earlier, many registrants that participated in my study were self-selected in the sense that they contacted me after seeing my call for participants that was shared by NARSOL, ACSOL, and RTAG. As such, the sample was limited to those who frequented these websites or learned about my study through another participating respondent. Additionally, most of my participants were male, Caucasian and in an older age range. According to the most recent nationwide study on the demographic characteristics of U.S. registrants, 97.7% of all registrants were male, about two-thirds of registrants were Caucasian, and the mean age of registrants was 44.8 (Ackerman et al., 2011). Compared to this profile, my sample population seemed reasonable.

At the same time, there might have been unique experiences of IML that were not captured due to the lack of participants who were juveniles; females; and identifying as black, indigenous, and people of colour (BIPOC). Given that the literature review identified concerns with the disproportionate impact of IML on juvenile PCSOMs, and that BIPOC, in general, are likely to have personal connections overseas, this study would have benefitted from the added viewpoints of both groups. Additionally, throughout the interviews, I was often provided names of scholars, lawyers, and even therapists that specialized in US sex offence legislation and worked with

registrants. While these perspectives would have undoubtedly enriched this study, it was simply impossible to include them all, given the resources I had as a lone researcher working on a tight timeframe.

#### **4.8 Chapter summary**

On the whole, this research proceeded quite smoothly, especially accounting for the limitations imposed by a fully virtual approach due to the COVID-19 pandemic. Despite a sensitive subject matter and a hard-to-reach study population, I was able to recruit a high number of respondents, while triangulating the interview data through the two other qualitative methods of online discourse analysis and online ethnography. While my research on IML involved a registrant-focused approach from the outset, this was by design, allowing for in-depth data collection from an underrepresented group in a way that increased the study's authenticity. Like all research, there were avenues left unexplored to due time and resource constraints, but these have been documented and will be discussed at length in the conclusion chapter such that others may take up the mantle.

## Chapter 5: “What the media portrays” – The discourse on IML

*Because the mindset of the populace is that of, I am somebody who literally hangs out at schools looking for the next kid to rape. And that's what the media portrays, that's, you know, all the NCIS and all the crime drama shows. I mean, that's what it's perpetuated.*  
(Respondent R11)

As discussed in Chapter 2, the literature on domestic sex offence legislation questions the role of the media in shaping public discourse and policy, particularly when it comes to responses to sex crimes against children. In this chapter, I apply this line of inquiry to recent U.S. media reporting on International Megan’s Law, focusing on how the documented discourse on the law illustrates logics of punitive new penology. Then, I evaluate content about IML produced by registrant advocacy groups, revealing a stark juxtaposition in views regarding IML’s purpose and impacts. The following analysis underscores a disconnect between popular perceptions of the IML and understandings of its meanings for those acutely impacted by the law’s provisions. It argues that the mainstream media reports a distorted, law enforcement-dominated narrative that either reduces registrants to unclear statistics or demonizes them as criminals travelling solely for the intent of committing future crimes against children.

### 5.1 Media reporting

#### 5.1.1 A law enforcement-centric context

In a sample of 17 news releases reporting on IML between 2019 and 2021 (see Discourse analysis references, as well as 4.3 for a detailed discussion on selection methodology), more than a third of articles referenced the law in the context of law enforcement initiatives, by far the most common framing. The other articles discussed IML in the context of Caribbean adoption of U.S. registry

technologies, U.S. human trafficking laws, general interest pieces, and features on Representative Chris Smith. Interestingly, IML was referenced as part of both local and federal law enforcement activities, in articles that promoted the work of various agencies. At the local level, IML was mentioned as part of compliance check operations of people on registries by Arizona and Utah county-level police (Blowers, 2020; Murillo, 2021). The Arizona-specific operation in Pima County, Tucson specifically noted that the U.S. Marshals Service (USMS) had requested local help with getting registrants to fill out IML forms informing authorities if they were leaving the country within 21 days (Murillo, 2021).

At the federal level, IML was mentioned as part of cooperative efforts by the USMS and U.S. Customs and Border Protection (CBP) (CBP, 2019). Another federal organization that was mentioned was the Angel Watch Center (AWC), housed within Homeland Security Investigations (HSI), itself a subset of Immigration and Customs Enforcement (ICE) (US ICE, 2019a, 2019b, 2019c, 2019d). Both CBP and ICE are part of the Department of Homeland Security (DHS), while the USMS reports to the Department of Justice. Like with the local-level articles, IML was reported on in relation to registrant-monitoring activities, albeit at a transnational level.

### **5.1.2 A pro-government, actuarial discussion of IML's impacts**

#### *A statistics-dominated discourse*

Because IML was primarily reported through the lens of law enforcement agency activities, the law's impacts were often reflected as agency-relevant statistics such as notifications sent and entries denied. For instance, the article on Utah compliance checks emphasized that as of August 2020, the U.S. Marshals Service had “processed more than 8100 international travel notifications that were sent to the destination country” (Blowers, 2020, para. 25). Yet, these statistics were

usually presented in ways that lacked important context, skewing how the general public received the messaging in favour of government success narratives.

For example, according to one 2019 article reporting on IML in the context of the *Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act*, “since the International Megan’s Law was passed, 3442 people have been denied entry into the US or other countries” (Sadowski, 2019, para. 9). This figure is unhelpful for two reasons. First, it did not distinguish between U.S. registrants denied entry into other countries and PCSOs from other countries denied entry into the US, obscuring whether IML had more effect on U.S. citizens on registries or foreign PCSOs barred from entry. Second, it did not separate the statistics by year, to indicate if more or fewer notifications had been sent out since IML passed. As such, it failed to inform readers about how IML changed travel for U.S. registrants, especially since there was no comparison point for pre-IML numbers.

Moreover, the statistics cited were themselves contradictory. A January 2020 article reporting on a press conference by Representative Chris Smith regarding IML noted the following portion of his speech:

*The law is working as intended. In just over two years, the U.S. government has notified foreign governments of the planned travel of 10,541 covered sex offenders to their countries. As of July—3681 individuals who were convicted of sex crimes against children were denied entry by these nations.* (Baldwin, 2019, para. 19)

The 10,541-figure mentioned here is higher than the 8100-number mentioned in the Utah registrant compliance check article from eight months later, which does not make sense if the 8100 number was the total number of notifications sent to date, while the 10,541 figure was just for the past two years, suggesting that one of the figures is incorrect. There was also a lack of reference to any

official documentation, preventing readers from verifying the statistics themselves. All of this reporting ultimately provides the public with acontextual figures that look large and suggest that some quantity of U.S. PCSOMs was being barred from travel. Yet, for anyone seeking a deeper understanding of the issue, there is little clarity or nuance.

On the whole, when the articles referenced statistics in reference to IML, these were not credible, nor useful for tracing the actual impact of IML. Readers were not provided with a sense of how many U.S. registrants were having notifications sent out on them during travel year-on-year, nor what percentage of travelling registrants were subsequently denied entry as a result of the notifications. There was also no effort to contextualize these figures against the greater population of U.S. registrants, to convey what proportion of registrants were even travelling internationally to begin with. In fact, there was essentially no context about the registrants themselves at all—they were reduced to statistics and dehumanized.

***Only two case studies of ‘success’***

Interestingly, in terms of IML actually resulting in law enforcement apprehension of U.S. registrants travelling to commit crimes against minors, only two specific case studies were reported in the media. One was outlined by ICE Acting Director Matthew Albence at the opening of the new, IML-established AWC in November 2019. At the press conference, he remarked:

*Just one recent illustration of the success of the Angel Watch Center is from February 2018 in which an Angel Watch Center notification was sent to the United Kingdom for a registered sex offender from Washington who was previously convicted for possession of sexual imagery of a minor. U.K. authorities executed a border inspection upon his arrival and discovered child abuse imagery in his possession. It was also discovered the subject's purpose for travel to the United Kingdom was to take part in a youth cheerleading camp*

*as an instructor. The subject was deported from the United Kingdom and his electronic devices were confiscated by UK authorities and sent to ICE Homeland Security Investigations. A search of those items along with additional items discovered during the execution of a search warrant in the subject's home led to the discovery of more than 5000 images and 2000 videos of child abuse imagery. In May of 2019, the subject pled guilty to federal transportation of imagery depicting sexual exploitation of minors and was sentenced to nine years and 10 years supervised release. (US ICE, 2019a)*

The other reported ‘success story’ of IML was a piece on the Jeffrey Epstein investigation from September 2019, which presented the law as contributing to his arrest.<sup>10</sup> The article noted that Epstein was required to report his travel in line with IML, but that the “US Attorney’s Office for the Southern District of New York, however, suspected that Epstein hadn’t complied, and referred the matter to the Marshals Service as early as January 2019” (Orden, 2019, para. 9). When the Marshals Service received notification of Epstein’s March 2019 travel to France via the US Virgin Islands registry authorities, they tracked his flight activity and discovered additional travel to Austria and Monaco that were not reported, opening an investigation (Orden, 2019).

Both stories above suggested that IML regularly contributes to the apprehension of registrants travelling to commit crimes against minors abroad. Yet, because they did not provide contextualizing statistics of how many registrants travelling abroad were actually found to be doing so for illegal purposes, they were misleading. They implied that the average PCSOM who is travelling will inevitably be doing so for illegal purposes, and this is easily revealed if their

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<sup>10</sup> Epstein was a prominent American financier convicted for soliciting prostitution from a minor, and charged with sex trafficking before he died awaiting trial for these charges (BBC News, 2019).

possessions are searched, or their travels are tracked. Yet, the lack of other case studies that indicated so weakens this pro-law enforcement narrative.

***International influences and private sector interests***

Another notable impact of IML, as reported in the media, was the influence of U.S. sex offence legislation on practices abroad. A 2019 Sun Gazette article covering the opening ceremony of the AWC obtained a statement to this effect, noting that:

Some foreign countries provide reciprocal notifications, letting U.S. officials know when convicted sex offenders from those nations will be travelling to the United States.

*“We don’t get that from a lot of countries, but our attachés overseas are trying to push the issue and see what countries we can work with for getting information on [offenders] coming to the US,”* said a burly, bearded HSI criminal analyst who identified himself only as Dan. (Trompeter, 2019, paras 8–9)

Several other articles reported on IML in the context of developments in the Caribbean regarding ‘sex offender’ registries, furthering the impression that the law was having international impacts. For example, one article on Trinidad and Tobago’s 2019 legislation establishing a ‘sex offender’ registry read:

Not every state needs to go the route of a public sex offenders registry as they can choose to follow the U.K. and Canadian models of having a registry only accessible to the police. However, in light of the standard set by the US International Megan’s Law which establishes the Angel Watch Center to monitor and track sex offenders entering or leaving the United States CARICOM should adopt a similar policy. (St. Lucia News Online, 2019, paras 7–8)

Importantly, the language used in the reporting referred to IML as a “standard” for other countries to follow. An interesting aspect of this transfer of U.S. policy abroad is the involvement of U.S. business and private NGO interests. Several Caribbean focused articles mentioned the U.S. company OffenderWatch, “the leading sex offender registry management solution,” which has a close partnership with private non-profit Zandoli USA, a group that focuses on implementing registries in all 15 members of the Caribbean Community (CARICOM) (Barbados Today, 2020, para. 1).

These entities framed their work as “inspired by the Angel Watch Center” and “designed to enhance the effectiveness of the US International Megan’s Law . . . by implementing similar policies and software in partner countries” (Barbados Today, 2020, paras 8–9). Such systems characterize U.S. technologies for tracking registrant mobility as cutting edge, efficient, and accurate, contributing to predictive policing and public safety. By extension, the IML system is also characterized as accurate and useful for reducing sex crimes.

These understandings of the law pervasive in the media demand further scrutiny. They hint at a configuration of power favouring private interests in the name of crime control, akin to the U.S. ‘prison-industrial complex.’ Indeed, mobility scholars have referred to systems of mobility control as a “cimmigration control industry,” noting their parallels to the domestic crime control industry whereby technological innovation by the private sector is rampant (Bowling, 2013, p. 295). A detailed exploration of these private interests in promoting IML is beyond the scope of this paper. However, they are an important component to consider when thinking about the global export of American registry logics.

### *No discussion of IML's burden on registrants*

Significantly, the media coverage of IML's impacts largely disregarded what the law actually meant for registrants, in terms of the processes they had to go through to be compliant. Out of the 17 articles, only two mentioned the passport identifier provision of the law—and it was omitted altogether from the AWC opening ceremony press conference. This is a key component of the law that was curiously ignored by most outlets, reducing the public's understanding of the full consequences of the law on individuals required to adhere to it.

#### **5.1.3 An emotionally charged simplification of IML's purpose**

Examining how the media reported the purpose of IML made it clear that the law's precise mechanisms were of little interest. Rather, there was an extensive focus on the law's stated intent of protecting children from sexual abuse. More than a third of the articles explicitly mentioned this, often with emotionally charged wording. For example, one October 2020 article quoted Representative Chris Smith as saying that IML was meant "*to protect children from pedophiles who look to travel to exploit children*" (Baldwin, 2020). At the 2019 AWC opening ceremony, ICE Acting Director Albence suggested that the notifications enabled by IML were important so that foreign governments knew "*that they have this predator coming, maybe engaged in child sex tourism or something along those lines. That we don't send somebody, you know, into an environment where we put them in harm*" (US ICE, 2019c). Clearly, the emphasis of government messaging was the law's desire to increase the safety of children, and not the methods by which this would be pursued.

A very interesting caveat made by HSI Acting Deputy Executive Associate Director Matthew Allen at the AWC opening ceremony was that IML did not prevent legitimate travel for U.S. registrants. At the press release, he stated, "*So as part of our program of International*

*Megan's Law, we don't do anything to impede the lawful travel of any United States citizens, so we don't stop anybody from travelling as part of our program” (US ICE, 2019a). Albence affirmed this claim and added:*

*But that's the key to this. So it's right, we don't stop them from travelling. But we do know that these individuals have a proclivity for sex offences. They're registered sex offenders, are convicted criminals [sic]. That's the importance of notifying these foreign governments that they're going there so that they can take whatever actions they may need to take when they get to their country. (US ICE, 2019a)*

The official government messaging suggested that IML was merely a due diligence notification system and that any consequences that resulted were solely at the discretion of foreign governments that received the notifications. This is a contentious claim that will be revisited later in this chapter.

#### **5.1.4 Demonizing registrants versus the ‘vulnerable groups’ targeted for ‘protection’**

Perhaps the most jarring element of media reporting on IML was the contrast between how U.S. registrants were depicted, versus the ‘vulnerable groups’ targeted for ‘protection’ from them. Registrants were repeatedly referred to using language suggesting that they were imminent dangers to those around them: “child sex predators” (Blowers, 2020, para. 18), “convicted pedophiles” (Rousselle, 2019, para. 7), “on the prowl internationally looking to exploit and abuse” (Smith, quoted in Baldwin, 2020), and prone to “travel to foreign countries undetected [to] misbehave” (Trompeter, 2019, para. 1).

The language chosen reinforces stereotypes of all PCSOMs as being dangerous strangers that could strike anytime, undetected, with little control of their impulses. The use of the term “convicted pedophiles” is particularly problematic, as it implies that every person targeted by IML

is an adult that is attracted to pre-pubescent minors. This is an often-misused psychiatric term with heavy negative connotations that does not accurately describe everyone who has been convicted of a sex offence against a minor. Thus, the use of it here incorrectly and harmfully generalizes the many diverse groups of individuals impacted by IML.

At the same time, media reporting elevated the supposed ‘vulnerable group’ in need of ‘protection,’ noting that “there is nothing more important than protecting our children and our community from child sex predators” (Blowers, 2020, para. 18), and highlighting ICE HSI’s “relentless efforts to combat and eliminate heinous crimes against children” (US ICE, 2019c, para. 2). There was a clear appeal to emotion and public panic in the quotes that were selected for publication, especially evident in passages like: “You’ve got kids out there, especially with COVID you’ve got kids who aren’t in school, a lot of them at home on the streets playing” (Murillo, 2021). Readers were encouraged to think about children close to home and envision IML as protecting these children.

There was also a noteworthy use of statistics to highlight the ‘risk’ of travelling registrants to children. Specifically, numbers were used to link this ‘risk’ to much larger problems. One article stated, “According to UNICEF an estimated 223 million children, 10 percent of the world’s children, have been sexually assaulted; this includes 150 million girls and 73 million boys” (Barbados Today, 2020, para. 21). Another added, “The Attorney General of Jamaica Mrs. Malahoo Forte says it’s her information that up to 80-percent of young girls in Jamaica lose their virginity to rape or molestation” (St. Lucia News Online, 2019, para. 11). These figures were presented for shock value, but like the earlier statistics on travel notifications, they lacked essential context. As a result, they implied that the risk of travelling registrants harming children was extremely high, fuelling existing stereotypes about PCSOMs. Yet, as discussed in the literature

review, the majority of sexual offences committed against children are not by strangers nor by travellers—they are perpetuated by people known to victims in their local neighbourhoods.

### **5.1.5 A punitive new penology narrative**

On its surface, the media reporting on IML clearly demonstrated what Feeley and Simon (1992) call a ‘new penology’ logic. Central to this logic is “emphasizing correctional programs in terms of aggregate control and system management rather than individual success and failure” (Feeley & Simon, 1992, p. 455). Indeed, all U.S. PCSOMs subject to IML were grouped together and treated as dangerous and at high risk of reoffending abroad, regardless of their individual circumstances.

However, beyond just the ‘management’ of these groups, media discourses often reflected ‘populist punitive’ tendencies “rooted in normative judgements about aberrational evil (Feeley & Simon, 1992, p. 455). Specifically, PCSOMs were branded as ‘predators’ and ‘pedophiles’ with no impulse control, reducing them to “modern-day monsters” incapable of rehabilitation (Simon, 1998, p. 456). This dehumanization of registrants was juxtaposed with harrowing statistics of child abuse, even when the statistics were not shown to directly relate to travelling registrants. The resulting media support for IML reflected ‘zero-tolerance’ logics, whereby scientific assessments were replaced by disproportionate punitiveness (Simon, 1998). Thus, the media reporting on IML is more accurately characterized as promoting a combined ‘punitive new penology’ narrative.

Interestingly, the media depiction of ‘the vulnerable’ groups needing ‘protection’ from registrants also demonstrated populist essentializations of children. As McAlinden (2014) has observed, “the innocence of children has become the symbol of purity and an important moral conduit for the channelling of sentiments about right and wrong” in late modernity (p. 183). This social construction emphasizes certain aspects of “legitimate victimhood,” including age and

gender, presenting younger females as particularly vulnerable (McAlinden, 2014, p. 184). Indeed, the statistics of child abuse cited to support IML indicated a disproportionate risk of sexual abuse for young girls, even implying that “the virginity” of “young girls in Jamaica” needed protection (St. Lucia News Online, 2019, para. 11). This depiction of victims symbolized wider moral stakes, framing PCSOMs as violators of literal and symbolic purity.

Finally, the media emphasis on statistics indicating IML’s ‘success,’ as measured in terms of notifications sent and U.S. registrants denied entry into foreign countries, reinforced the insular technocracy indicative of the new penology. Simon and Feely note that institutions “[measuring] their own outputs as indicators of performance” is a strategy to insulate themselves from the more complicated realities of the world “by limiting their exposure to indicators that they can control” (1992, p. 456). In reality, the statistics presented on IML were not reliable or nuanced, failing to indicate that IML was reducing extraterritorial child sexual exploitation in any real sense. Nonetheless, they did signal to the public that the relevant law enforcement agencies were ‘doing something,’ thus serving an internally meaningful function for the government agencies themselves.

## **5.2 Registrant perspectives**

Given that the popular and government media reporting presented a favourable impression of IML’s impacts, it was especially interesting to consult the perspectives of registrants who were demonized and dismissed in the mainstream reporting. Various U.S. registrant advocacy groups had web pages carrying their own messaging on the context, purpose, and impacts of IML. Individuals impacted by the law also wrote alternative analyses of IML that challenged the media discourse. In contrast to the mainstream media’s punitive new penology narrative, registrant

counternarratives emphasized the need to treat PCSOs as individuals and called for a more rational analysis of IML's impacts.

### **5.2.1 A different context of reporting**

One immediate difference in how registrant advocacy media portrayed IML was its critique of the law as being unconstitutional. The National Association for Rational Sexual Offense Laws (NARSOL), one of the largest and oldest registrant advocacy organizations in the US, stated on its resource page for domestic and international travel that IML was a “growing problem that registered citizens and their families have in travelling to international destinations for licit and lawful purposes” (NARSOL, n.d., para. 1). The organization emphasized that it intended to challenge this law through the courts and “search for appropriate and legally ripe opportunities to litigate on a state by state basis” (NARSOL, n.d., para. 2).

Similarly, the Registrant Travel Action Group (RTAG) framed IML as a violation of civil rights on its home page, citing various court decisions and legal documents to this effect. It declared its organizational vision as such:

Registrant Travel Action Group (RTAG) envisions a future in which individuals who are required to register on any US jurisdiction's sex offender registry and have served their required time of incarceration and/or supervision, are allowed travel internationally, safely and with the same freedom of movement as every American citizen and resident. (RTAG, n.d., para. 1)

The language on both websites focused on the rights of registrants, emphasizing their “safety” and “freedom,” as opposed to the mainstream media's focus on the safety of ‘vulnerable’ children. These counternarratives also challenged the mainstream media's law enforcement-centric

narrative, which contextualized IML as part of upholding the law. Instead, IML was presented as an infringement of American citizens' legal protections.

### **5.2.2 A cynical view of IML's purpose**

One document that both the NARSOL travel page and RTAG Executive Director Paul Rigney referenced was a research report on IML's history written in 2014 before the law was passed. This report was extremely critical of IML's purpose, and framed the bill at the time as part of a wider trend of "the US, Interpol, and governments worldwide [conspiring] to strip, not just 'sex offenders,' but everyone of the fundamental right to travel and to cross borders" (Kennerly, 2014). The author of the report, David Kennerly positioned IML as "an additional power of the advanced global security state," referencing the Edward Snowden disclosures, and naming various actors as being complicit in this 'security state' targeting PCSOs. He specifically cited the "Five Eyes" intelligence alliance, INTERPOL, the media, anti-trafficking NGOs, and politicians like Chris Smith (Kennerly, 2014).

Kennerly was extremely cynical about these actors, suggesting that they co-opted issues of human trafficking and child abuse to serve their own aims of increasing their own relevance and diminishing the rights of citizens. He called out the media for having a "central and dominant influence in shaping the present 'sex offender' moral panic" and noted various scandals involving anti-trafficking NGOs that have used the cause of saving children from sexual abuse to generate profits for individuals running the NGOs (Kennerly, 2014). Significantly, Kennerly reminded readers that many of IML's proposed mechanisms already existed and operated without the law's formal passage, and ought to be the cause of great concern. He wrote that travel notifications on U.S. PCSOMs had been sent out since at least March 2013, with many such policies being

introduced “administratively i.e. under broad discretionary powers of federal departments” (Kennerly, 2014).

Curiously, while Kennerly critiqued the ‘moral panic’ behind IML, his narrative also relied on emotion-laden and dramatic language throughout, although his sources were substantially better cited than the media reports. This was likely an intentional strategy for producing a counternarrative that would also appeal to the emotions of readers, prompting their outrage over the ‘true’ purpose of the law. In comparison, the tone of NARSOL and RTAG commentary on IML was more measured and restrained, likely since they were writing from the point of view of organizations with vested interests in presenting themselves as formal and legitimate.

### **5.2.3 Individualizing registrants and questioning narratives of ‘vulnerable groups’**

Nonetheless, the registrant advocacy media unequivocally departed from the popular media in how it referred to U.S. PCSOMs impacted by IML. In the web pages examined, registrants were referred to as ‘registered citizens,’ emphasizing their legal status as U.S. citizens deserving the same rights as any other citizens. Kennerly’s (2014) report further called registrants “victims of these laws,” flipping the dominant narrative about registrants being the ‘violent offenders needing to be controlled at all costs.’ Unlike the mainstream media’s homogenization of registrants, he distinguished between distinct groups of ‘sex offenders,’ and emphasized that IML would have disproportionate impacts on certain groups. Such groups included minors (at the time of their offence) that ended up on the registry, and “those convicted of possessing or viewing child pornography and other *non-contact* offences” (Kennerly, 2014). The implication was that these groups of U.S. PCSOMs posed lower risks for extraterritorial child sexual exploitation and that IML treating every group as high risk was irrational and overreaching.

Importantly, the registrant advocacy media did not disagree with the aim of preventing extraterritorial child sexual exploitation. However, it clearly disagreed with the notion that IML would achieve this. RTAG, for example, noted that “98% of acts of sex tourism and child exploitation is committed by non-registrants,” and that part of its mission was to “seek out and support programs with effectively prevent sex tourism” (RTAG, n.d.). The subtext was that effective alternatives to IML existed, and RTAG supported these. At the same time, registrant voices sometimes diverged on this subject, as Kennerly (2014) was skeptical of the media framing of child sex crimes more generally, believing that much of it was driven by erroneous statistics and “apocryphal legends.” He closed his report with the following statement:

If you scare people enough with lurid tales of the boogeyman and of his ostensible designs upon their children and are willing to lie, distort and to create the phantoms necessary to sustain his mythology, they will tend to believe you, no matter their culture, no matter where they live and no matter their station in life. (Kennerly, 2014)

This quote is interesting because it directly challenged the rationality of framing registrants as monsters, a feature of punitive new penology. Instead, Kennerly positioned registrants as the target of mythology that had significant power across cultural, geographical, and class divisions. His critique aligns well with cultural criminological theories that claim that the late modern era is one of “rampant ontological insecurity” driven by mediated distortions of crime and criminality (Ferrell et al., 2008, p. 130). Here, the claimed distortion was the essentialization of PCSOMs as ‘dangerous’ and ‘risky,’ which is consistent with the findings of my earlier analysis of the popular media reporting on IML.

#### 5.2.4 A challenge to the government accounts of IML's impacts

Where the popular media and official government reporting remained unclear about IML's scale of impact, RTAG's travel matrix webpage presented a powerful illustration of the number of countries currently turning registrants away, based on anecdotal reports submitted to the website. As of its last update in May 2021, the matrix listed 38 countries as definitively turning registrants away, summarized in the table below (RTAG, 2021):

*Table 1: Countries turning registrants away according to the RTAG travel matrix as of May 10, 2021*

Region	Countries
Africa	Kenya, Senegal
Asia	China, Cambodia, India, Indonesia, Korea, Japan, Laos, Malaysia, Philippines, Singapore, Taiwan, Thailand, Vietnam
Caribbean	Bahamas, Cayman Islands, Dominican Republic, Haiti, Jamaica, St. Lucia
Europe	Ireland, UK
Middle East	Dubai
North America	Canada, Mexico
Oceania	Australia, New Zealand
South America	Argentina, Brazil, Chile, Colombia, Ecuador, Peru

What this matrix illustrated was that Asia as a region was essentially closed off to registrants, as was most of North America, including many (but not all) islands in the Caribbean. In contrast, much of Europe allowed registrants entry, including Caribbean islands associated with European governance such as Aruba (Dutch) and Tahiti (French). Interestingly, the matrix had columns indicating if countries had specific laws barring the entry of PCSOs and felons, as well as whether they had domestic registries, and in most cases, the countries turning registrants away did not have any of these. As such, this matrix suggested that even when countries did not have

legal regimes matching that of the US regarding PCSOMs, IML was still influencing their treatment of U.S. PCSOMs towards adopting U.S. practices.

On the whole, the matrix contradicted the official government position discussed earlier that IML was not impeding any legitimate travel. This is because many countries were anecdotally turning all registrants away upon receiving notifications from the US, failing to take into account any individual circumstances, and regardless of not having any local laws calling for this. In my interview with Kennerly, he elaborated his position on this disconnect between reported and actual impacts of IML:

*The way I look at it is they are not allowing me to travel. They can say that they're allowing me, as long as I've jumped through hoops, but that's a lie. They have essentially blocked us from travel. Because, given the statements that they're giving foreign countries, there's no way that this could be looked at any other way than that they're trying to prevent us from travelling. (Personal communication, April 28, 2021)*

Other registrants interviewed also expressed this opinion. Respondent R4 specifically emphasized the power of the US to influence other countries' decisions:

*The US seems to use its 800-pound gorilla thing to muscle all these countries into doing what the US wants, which it's done for years, through political pressure, money and everything else, the US controls the world or thinks they do, and that registry is one of the main ways that they're doing that. And [Chris] Smith, the leading representative that started the whole International Megan's Law, [he's] been quoted saying his mission was that registered citizens can no longer travel—period.*

Respondent R11 added that he felt U.S. authorities were two-faced in denying their role in impeding registrant travel:

*The way they couch this is, “Oh, we don't prevent you from going to another country. But wink wink nudge nudge, we're going to tell them that you should not be allowed in because you're a horrible, horrible person.” And so then they wash their hands like, “Well, we didn't prevent you from going anywhere. It's the other country that didn't let you in.”*

### **5.2.5 Reclaiming discourses through co-opting official terminologies**

A final interesting element of the registrant discourse on IML was the co-opting and subversion of official government terminologies. As earlier mentioned, NARSOL and RTAG webpages often used the term ‘registered citizen’ to refer to PCSOs instead of the stigmatizing ‘sex offender’ label. In my online ethnography, I also came across a post on the 2020 Alliance for Constitutional Sex Offense Laws (ACSOL) travel thread that expanded this concept. The post stated that “people should just see overwhelming negative connotations and branding regarding the registries,” and called on registrants to refer to the AWC as “Satan Watch,” the government as the “criminal regime,” and registry supporters as “registry Nazis/terrorists.” The term ‘Satan Watch’ was adopted by several registrants in subsequent comments.

These efforts are an interesting example of registrants engaging in preventative telling strategies (Link et al., 1989) to rebrand the government narrative on IML and avoid their own devaluation and discrimination by devaluing the entities supporting the law. Registrant responses to the stigma of IML will be discussed at more length in Chapter 8. Here, it suffices to say that creating their own online presence to counter popular narratives, and intentionally co-opting government terminologies in these discourses may be an important part of the coping process.

### 5.3 Chapter summary

As suggested by this chapter's opening quote, the popular media has reported on IML in a biased and problematic manner indicative of punitive new penology logics. A recent sample of this media indicated a fixation on the 'threat' posed by all registrants to children everywhere, despite no empirical evidence for this assertion. Additionally, the sample suggested that IML was influencing foreign governments' treatment of U.S. registrants, as well as their domestic policies towards increased adoption of registries and monitoring of PCSOs. This development was presented as positive and necessary to protect children globally.

In contrast, the registrant advocacy media depicted IML as a violation of registrants' civil rights, and a dangerous example of increasing government surveillance of citizens under the guise of public safety and national security. The monitoring of registrant travel was seen as having no rational connection to the goal of protecting children, and this objective itself was called into question as an overblown fear perpetuated by the media, politicians, and NGOs towards their own benefits. Significantly, the RTAG travel matrix emphasized IML's far-reaching impacts on all registrants' abilities to travel: indicating large regions of the world effectively off-limits due to U.S. notifications despite no official domestic laws calling for this. Registrants impacted by the law felt that regardless of governments' official statements, IML's intent and its actual effect on registrants was the prevention of legitimate travel.

The following chapter takes a closer look at the components of the IML 'system.' These are the 'hoops' that registrants wishing to travel are required to jump through, the details of which have not made it into the popular media. Primarily through the perspectives of registrants who have experienced these mechanisms firsthand, it presents many of the unreported inefficiencies and problems created by the system.

## Chapter 6: “Everything with a grain of salt” – IML as a system

*Yes, you are at legal risk for not giving 21-day travel notification in the USA as required if you need to do so. And why should you trust this registration agent you talked with? If she says people are ok with jumping into a pit of sulfuric acid, would you do it?*

*(Comment on 2019 ACSOL International Travel Thread, June 2019)*

This chapter introduces the International Megan’s Law as a ‘system’ of processes experienced by U.S. PCSOMs. It begins by analyzing the Angel Watch Center’s description of how it operationalizes the law’s three main components, which were outlined in Chapter 1. Then, it considers registrants’ negative interactions with the IML system, in terms of the extensive administrative hurdles they navigate prior to leaving the country. Following this, it discusses one in-depth account of the IML system impacting a registrant abroad, demonstrating how pre-emptive mobility governance critiques of the system manifest in action. Finally, it assesses the results of a government-funded report on the U.S. SORNA apparatus, which corroborate many of the registrants’ experiences described in this chapter.

### 6.1 The ‘official’ line on the system

An internally conducted 2020 *Privacy Impact Assessment* of the Angel Watch Program (AWP) provides an ‘official’ government perspective on how the three main components of IML interact: the 21-day advance travel registration provision, the process of sending notifications abroad, and the coordination of passport identifiers for PCSOMs. Compared to the text of the law (see 1.1), this document goes into more operational depth, even detailing the specific units operating the system: the ICE Office of Homeland Security Investigations (HSI) Cyber Crimes Center (C3), the

CBP National Targeting Center (NTC), and the USMS National Sex Offender Targeting Center (NSOTC) (DHS, 2020).

According to this document, the IML system works as follows. Angel Watch Center (AWC) personnel check CBP's Advance Passenger Information records (also known as flight and vessel manifests) against federal databases such as the FBI's National Sex Offender Registry (NSOR), "to identify passengers who have a conviction for a sexual crime against a child" (DHS, 2020, p. 3). After manually verifying matches using various other databases, they send notifications to three entities. These include the USMS NSOTC, the "appropriate HSI attaché/CBP liaison office in the destination country," and the State Department Bureau of Consular Affairs (DHS, 2020, p. 3). The first entity ensures that the registrant has complied with state and federal registration requirements, the second entity passes on the information to the foreign law enforcement or border patrol agency in the destination country, and the third entity handles marking registrant passports.

Curiously, there is no reference to any timelines for these processes. The document does, however, note that when the AWC receives notice of a travelling registrant less than 24 hours before their departure, it simultaneously notifies the NSOTC and HSI attaché/CBP liaison offices (DHS, 2020, p. 4). This practice implies that before a registrant's domestic registration record is verified, information on them could already be transmitted abroad, creating a potential margin for error. Yet, the document largely dismisses such risks, explaining that any erroneous notifications sent can be addressed through AWP's "comprehensive review and redress process" (DHS, 2020, p. 23).

Consistent with the government messaging discussed in the previous chapter, the document insists that "the notification to the destination country is only informational. It does not advise on

whether to permit or deny the offender’s entry, as foreign countries have sovereignty” (DHS, 2020, p. 10). At the same time, the document mentions that the HSI attachés and CBP liaison offices brief destination country authorities “with respect to the purpose and scope of the AWP’s mission” (DHS, 2020, p. 12). Given the U.S. government’s strong diplomatic influence, it is likely that many less powerful countries simply follow the U.S. line on how to treat incoming registrants. Since the US emphasizes actuarial measures of ‘mission success,’ the corresponding response is to deny registrants entry, to increase the statistics of ‘travelling sex offenders’ turned away.

Interestingly, unlike in the text of the law, the document does not explicitly mention INTERPOL’s role in the notification process. An undated report to Congress on SORNA implementation released as part of a 2014 *Freedom of Information Act* request does note that “in February 2011, an agreement was created between the NSOTC, DSS [U.S. State Department Bureau of Diplomatic Security] and INTERPOL that established a notification system of U.S. sex offender travel” (USMS, 2014, p. 3).<sup>11</sup> It is unclear if these are the same notifications as mentioned in the AWP document above, but INTERPOL notifications appear to involve different regional liaison bodies than those of the HSI and CBP. Regardless, the report indicates that the IML system involves a wide-reaching law enforcement communications infrastructure that operates on an international scale.

Concerning the passport identifier process, the *Privacy Impact Assessment* explains that the State Department Bureau of Consular Affairs follows AWC guidance to revoke existing passports not bearing “the required IML child sex offender endorsement” (DHS, 2020, p. 4).

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<sup>11</sup> The report further details that: “INTERPOL sends a copy of the country notification to the DSS crime liaison office, which is forwarded to the appropriate RSO [U.S. State Department Regional Security Officer] in the receiving country. The USMS and other agencies, including the FBI, DSS, and Immigrations and Customs Enforcement’s (ICE) “Angel Watch” program are copied on the notifications in order to maintain communication between the agencies” (USMS, 2014, p. 3).

Registrants are notified by letter of this revocation and required to apply for a new passport with an identifier. Notably, errors in this process are to be dealt with through contacting the AWC as opposed to the State Department.

On the whole, government documentation on the IML system sets out a complex process of sending notifications that involves many domestic and international players. It also outlines, in theory, how the passport identifier provision of the law is implemented. Curiously, this documentation largely ignores the process of registrants registering their travels. Additionally, it omits details about timelines, risks of error, and realities of U.S. influence abroad. Nonetheless, the narrative presented is one of a seamless, efficient system that functions well despite its many moving parts. Now, I turn to an analysis of how registrants interact with the IML system, revealing systemic inefficiencies missing from the official government narrative.

## **6.2 Pre-travel research**

Prior to taking any official actions, many registrants reported researching other people's accounts of trying to visit their destination country. More than a third of respondents interviewed explicitly mentioned consulting the Registrant Travel Action Group (RTAG) travel matrix to get an idea of whether they could be expected to be turned away. At the same time, various registrants indicated that the website was not a perfect source of information. One registrant commented online:

The RTAG Matrix is definitely a good starting point, but since there have been no reports in such a long period of time, I question as to whether this source is up-to-date. I would definitely recommend extreme caution. (2021 ACSOL International Travel Thread, February 2021)

Indeed, throughout my fieldwork, the RTAG Matrix was only updated once, in May 2021. At the same time, the lack of updates may have been due to the lack of travel more generally during the pandemic. One registrant noted that even with RTAG, there was still a *“50-50 shot that you could have a problem,”* given that the information was crowd-sourced (R11). R11 also noted that there was *“no other resource”* that registrants could rely on to fulfill a similar function, expressing a lack of confidence in the information provided on government websites.

Interestingly, multiple respondents shared that they were not inclined to contact officials from foreign countries for information before travelling. Some mentioned difficulties with getting a reply, and others remarked that replies they had received had been unhelpful. One respondent expressed frustration when detailing his experiences with contacting Canadian, U.K., and Japanese authorities, noting that his local Canadian Embassy *“gave him the run around”* when he called them for information (R14). Still another respondent explained his reluctance to contact foreign authorities ahead of travel as due to not wanting *“to be on their radar by name”* (R18). This reasoning can be understood as a withdrawal response to anticipated stigmatization (Link et al., 1989) by the foreign officials, a concept that I further explore in Chapter 8.

### **6.3 Registering travel 21 days in advance**

The next step in being compliant with IML is providing 21-day advance notice of international travel plans to one’s local registration authorities. Providing this notice was noted as a challenge by many registrants, especially in the earliest travel discussion threads I examined from 2019. Many characterized the process as haphazard. One registrant wrote of his experience with a county-level official in August of that year:

At first she said she “recommended” that I call the State Police; she later said I “needed” to call them as they would have further questions. I called the State Police who asked for the dates, which countries, my passport number and the address and dates for each lodging in Italy. They said that they merely forward the information to the Feds and that she had no knowledge of what they do it with [*sic*]. She claimed that I “needed” to contact Italy to make sure I wouldn’t be turned away. Both the county and the state level folks were polite but careful to distance themselves from the Feds. The State police officer wasn’t very bright and thought that Venice was a city in the country of Rome, etc. So I’m taking everything she says with a grain of salt . . . (Comment on RTAG IML Discussion Thread, August 2019)

This comment reflected a lack of confidence in local registration authorities. Moreover, the registrant described a disjointed relationship between her local authorities and “the Feds,” contradicting the official government narrative of a seamless IML infrastructure.

Another registrant also expressed doubts about the information his local authorities provided him with, explaining in an online comment:

They said that I was supposed to bring my passport as well . . . along with my itinerary including my seat number for every flight as well as the hotel I am staying in . . . and any rental car info. They said I would need to carry a travel permit with me. I have not seen anyone having to carry this around I am not on parole or probation [...] <sup>12</sup> Some registration officers did not know about the 21 day [*sic*] thing . . . some did. Shouldn’t they all know?  
(Comment on RTAG IML Discussion Thread, July 2019)

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<sup>12</sup> Several sentences in the original comment were omitted, indicated by a bracketed ellipsis [...]. All other instances of unbracketed ellipses are preserved from the original text.

Interview respondent R4, who had last travelled internationally in 2017, shared an anecdote that reinforces both themes identified above. When he contacted his local authorities to obtain information on complying with IML, “*they’d never heard of it*” and directed him to the state police, who had also never heard of it. Eventually, he was mailed paperwork to fill out, which he mailed back 21 days in advance of travelling. However, when he returned from his travels to the US, CBP seized his passport, brought him into an interrogation room, and asked if he was compliant with IML. When he finally got home, he discovered that the state police had returned his paperwork in the mail, failing to ever file it.

This anecdote underscores an almost comical absurdity in how local authorities have handled the process of registrant travel registration. Not only does it indicate communication breakdowns between different government authorities, but it also suggests discrepancies in the types of information collected by authorities in different locales. While R4 was provided with specific paperwork to submit, the July online commenter was seemingly asked for more specific information than the August one. Another registrant I interviewed mentioned that:

*A few times I have given hotel names and sometimes I have not. For example, staying with acquaintances, et cetera I've been able to be fairly vague which has been helpful and has not come back to bite me in any way. (R18)*

R18’s experience emphasizes inconsistencies in how even the same local authority chooses to collect registrant information.

### **6.3.1 Disconnects between state practices and federal legislation**

The biggest source of confusion for many registrants trying to comply with international travel registration requirements was when state practices and federal legislation did not align. Several registrants explained that their local authorities followed different timelines for requiring

notification. One registrant commented online that Chicago police officers insisted that there was no 21-day requirement in the state of Illinois, and only permitted him to provide three-day advance notice when travelling, which was the general practice for any change of address. The registrant noted that an officer at the Illinois State Police Sex Offender Registration Unit “understood that this seems to be contrary to the IML/SORNA rules” but assured him that “no one had been arrested or had any problems” following this advice (Comment on 2019 ACSOL International Travel Thread, June 2019).

Another registrant I spoke to, who resided in Michigan, was surprised to hear during our interview that there even was a federal requirement to register international travel 21 days in advance, punishable by a felony conviction under IML. The only requirement he had heard of was a local one:

*If you're gone for over seven days our requirement is that you report that to the police department before you leave. “If you're going to be somewhere for seven days,” so I restrict my travels to seven days so that I don't have to report that. (R13)*

These discrepancies seemed to be associated with the larger problem of U.S. states having a patchwork of different ‘sex offender’ registry laws and systems as opposed to a single national standard. While the 2006 *Sex Offender Registration and Notification Act* (SORNA) was a federal effort to address this, it left implementation of the law to individual states, as mentioned in Chapter 1. As such, only 18 out of 50 states have been adjudicated as having “substantially implemented SORNA’s requirements” as of 2020 (SMART, 2020). IML gave some teeth to SORNA requirements to register foreign travel, by making the failure to do so punishable by federal law. At the same time, it overlooked the persistent and underlying problem of different states having

vastly varied enforcement requirements, wills, and capabilities when it comes to the registration of PCSOs.

Janice Bellucci, civil rights attorney and Executive Director of the Alliance for Constitutional Sex Offense Laws (ACSOL), indicated during our interview that IML unfairly placed the burden of remaining compliant on registrants, despite larger systemic issues out of their control. As such, she elaborated that her advice to clients was always to provide 21-day notice, even if their local authorities said to do otherwise:

*Because you're dealing with the federal government now, you're no longer dealing with the state government, I'm concerned that they're going to basically haul you off to jail and possibly face up to 10 years of federal prison, and that's a huge penalty. So that's why I recommend it—just to be safe, I recommend at least 21-day notice to local law enforcement.* (J. Bellucci, personal correspondence, April 2, 2021)

Bellucci's comments did not seem to consider the possibility of certain local authorities refusing to accept 21-day notices of travel, as the online commenter from Chicago described. At the same time, Bellucci opined that while many local registration offices were initially uncertain of how to handle travel notifications, the situation had improved over time. She explained that California, where she is based, eventually implemented a standardized form for registrants to fill out. Bellucci added that as of late, she had received fewer questions about registering travel and more questions about the passport identifier provision of IML.

#### **6.4 Obtaining a passport with an identifier**

Indeed, both the online threads and my interviews revealed that a major hurdle for many registrants was the process of obtaining a passport with an identifier. Several registrants indicated that they

had pre-emptively renewed their non-marked passports, anticipating that these would be revoked under IML. Yet, their new passports arrived unmarked. One registrant commented online that to obtain a passport with an identifier, they had to contact their congressional representative:

Their staff member asked their State Department liaison for assistance, and they were told I could ask to have my passport revoked and apply for a new one. The Congressional staff member communicated my revocation request to the liaison, and upon notification that my passport had been revoked (I had to ask the staff person to find this out for me) I reapplied ay [*sic*] my local post office. (Comment on 2019 ACSOL International Travel Thread, August 2019)

Although this registrant was able to successfully obtain a marked passport before travel, their account indicates that the AWC did not automatically communicate the registrant's status as a PCSOM to the State Department. The registrant had to manually request to have their newly renewed and unmarked passport revoked before they were issued a passport with an identifier. As the registrant clarified in a later post, they had to pay fees in both instances, and actually did not receive an official letter of passport revocation until they had already received the endorsed passport.

Two interview respondents also had the same experience of renewing their passports and not receiving ones with the identifier. Unlike the commenter above, however, neither attempted to follow up on the process. R7 rationalized his decision because he felt "*pretty sure that the visible notification is not being done.*" He concluded that his renewed passport with no visible identifier meant he "*could only assume that [the identifier] was electronic.*" R14, on the other hand, had some reservations about travelling with his unmarked passport, "*that the US customs official might*

*yank it because it doesn't have the identifier.*” Nonetheless, he maintained that he had followed proper processes for initially applying for his passport:

*When my previous passport had expired—long enough that I had to go through the complete process again, it was not a renewal—nowhere on the form did they say, “Are you a registrant?” So, you know, I didn't do anything surreptitious, I answered all their questions honestly and they didn't put an identifier on it. (R14)*

These experiences, much like with travel registration, demonstrate the administrative burden that IML creates. In this case, miscommunications between the AWC and the State Department are the genesis of issues. Significantly, the State Department is a federal government entity, meaning that IML processes are not streamlined even at the highest level of governance. Again, the risks involved when the system fails to function are borne by registrants, who have to travel with the uncertainty of knowing if their passports will be confiscated.

Janice Bellucci and Paul Rigney, the Executive Director of RTAG, shared with me two extreme cases of registrants directly impacted by the identifier provision of the IML system. One of Bellucci's clients had lived overseas for five years when his passport was revoked during a business trip to Hong Kong. Bellucci was able to argue that since her client had deregistered from his state registry when he left the country, the identifier provision could not be applied to him, and eventually, he was issued a new, unmarked passport. However, she mentioned that *“it took about six weeks' time, and he was stuck in Hong Kong, which I guess is expensive. And then he couldn't be with his family.”* (J. Bellucci, personal communication, April 2, 2021)

Rigney explained that he had helped a registrant who was living part-time in Italy and about to obtain residency and get married there when he received notice that his passport had been revoked. Unlike in the previous case, the registrant simply applied for a new passport with the

identifier but doing so abroad presented new complications. Rigney was visibly exasperated when recounting this incident, exclaiming, *“It's like they didn't even think about that. You're going to revoke people's passports while travelling. You've gotta be kidding me”* (P. Rigney, personal communication, April 7, 2021)

Both Bellucci and Rigney indicated that the revocation of registrants' passports while they were overseas had become less frequent over time. Now, the State Department's normal practice was to send letters or emails to registrants after they returned from their travels notifying them that their passport had been revoked. According to the government account of the passport identifier process outlined at the beginning of this chapter, Advance Passenger Information records are what trigger the AWC to notify the State Department about people subject to IML. These records are generated by travel bookings (CBP, 2013), perhaps explaining why registrants who pre-emptively renewed their passports prior to travel did not receive a new passport with an identifier.

At the same time, one relatively recent online comment from February 2021 challenged this understanding:

From my conversations with the Passport Office it seems that the revocation is not triggered solely by using your passport for international travel. That may start the process sooner for some, but it's not until the Angel Watch Office actually does the leg work to confirm you meet their qualifications do you get added to the list. What it sounded like to me is that they are slowly working through all the names on the various state registries one by one inspecting each to determine if an IML passport is in order. After each of my trips overseas I fully expected to get a letter from the State Department, but mine was almost nine months after my most recent return to the USA. Perhaps at the beginning of the IML process the revocation letters were more closely connected with an overseas trip, but it

didn't seem to be the case for me. (Comment on ACSOL 2021 International Travel Thread, February 2021)

This comment reinforced that there remains great uncertainty for registrants regarding when they could expect to have their passports revoked. As earlier remarked, official government documentation is curiously vague about the timelines for this process.

#### **6.4.1 Registrant status**

Like with travel registration, state discrepancies in sex offence laws also impacted how IML's passport provision was carried out. One point of contention raised by many registrants was that the provision and the IML system as a whole applied differently to people who had committed the same crime in different states. For example, Rigney mentioned that Florida required lifetime registration for all sex offences, meaning that a low-level offence registrant there would be subject to IML for life. If the same registrant had been convicted in another state, they could be off the registry and free from both travel registration and having a marked passport after their time on the state registry finished.

One respondent detailed his especially confusing situation. He explained that he had been convicted under the Uniform Code of Military Justice (UCMJ), a federal law. But, he resided in Utah, a non-SORNA compliant state which had removed him from its registry after a certain period of time. Thus, while he was not on a state registry, he believed he was still subject to IML requirements due to being convicted under federal law. The respondent remarked:

*In SORNA-compliant states, depending on the state, I would either be on it for the rest of my life or 25 years [...] In a state like California, I could as of this year petition to come off the registry after 20 years, so I would have another four years to go [...] But if I were to live in Pennsylvania, the state courts in Pennsylvania determined that that change from*

*a 25-year to a lifetime [registration period] was unconstitutional. That state would be 25 years. (R20)*

These remarks elucidate the extent to which complications with the IML system are symptomatic of larger problems in the U.S. SORNA scheme. As with any new penology system, crime control is no longer based on individual circumstances but rather “categories and subpopulations” (Feeley & Simon, 1992, p. 453). Yet, the categories and subpopulations appear ever more arbitrary, given that registrants convicted of the same crimes living in different states can be treated so differently. When geography rather than offence determines how a registrant is treated under IML, one begins to question the rational connection between the outcome and aims of the law.

### **6.5 Travel notifications in action: pre-emptive mobility governance critique**

Thus far, this chapter has outlined various examples of the IML system operating in inconsistent ways even before registrants have left the US, causing much confusion for those attempting to remain compliant. A lot of these inconsistencies have often been attributed to differences at state-level information collection, with local authorities influencing whether or not processes aligned with federal standards. Now, I present one registrant’s in-depth account that further illustrates how information input challenges, and human subjectivities under the IML notification scheme manifest during travel.

In August 2016, R1 and his wife travelled to the UK via the London Heathrow airport to take two back-to-back cruises, both departing from Southampton. Upon arrival on August 2, R1 was separated from his wife, who was admitted into the country. He was taken to a detention centre, informed that the US had notified the UK that he was arriving, interrogated, and eventually admitted into the country for 30 days. After going on the first cruise with no further issues, he was

again pulled aside by customs upon return to Southampton. This time, he was informed that he had to leave the country by midnight. In response to R1's explanation that he had been admitted at Heathrow for 30 days, the officer informed him that the authorities at Heathrow had made a mistake and that if R1 didn't leave he would be deported. R1 and his wife left the country that night and lost the money that they had paid for the second cruise.

Later the same year, they were informed that three cruises they had booked on Carnival Cruise Lines for the fall of 2016 and winter of 2017 had been cancelled, prompting R1 to begin looking into the matter. After a great deal of effort talking to various people at Carnival Cruise Lines, he eventually learned that the company used a third-party vendor to obtain data about their passengers. Upon contacting Carnival's legal department, an employee looked at their file on R1, and "*became almost hysterical.*" The employee refused to tell R1 what was in his file but informed him that he would never be allowed to cruise with the company again. R1 noted that he could not understand the employee's reaction to whatever information was in the file: "*My crime was a crime, but it was . . . it certainly didn't deserve hysteria.*"

These two experiences prompted R1 to further investigate the two incidents. What he ultimately discovered was the following. In the federal NSOR database maintained by the FBI, he was designated as a 'sexually violent predator—approach with caution.' This designator was applied because the federal database automatically considered all lifetime registrants as such. Illinois, where R1 was registered, had never adjudicated him as dangerous, but the federal authorities claimed that any inaccuracies with the NSOR were the states' responsibility, since they were the ones responsible for inputting information.

According to R1, "*after a great deal of hullabaloo*" he was able to challenge this designation with the Illinois state police, who maintained the state registry:

*I got somebody to acknowledge that yes, there is a problem in transferring Illinois sex offender data to the National Sex Offender Registry, and the persons in Illinois that have a lifetime registry, even though they were never adjudicated as dangerous, do appear in the National Sex Offender Registry as a ‘sexually violent predator.’ And the state police had acknowledged that that was not correct—that they would correct that within the National Sex Offender Registry.*

R1 believed that this label was what the Carnival Cruise Line employee had seen, and what had caused the “*hysterical*” reaction. Additionally, he believed that it had partially impacted how he had been treated in the UK as well.

R1 learned that originally, he had been let into the UK because the AWC had sent Heathrow authorities a notification that he was a ‘travelling sex offender.’ He was able to convince the authorities there that he was not a danger because the offence had been from 20 years ago. However, another notification had been sent by the USMS to the U.K. INTERPOL office, using the NSOR designation that he was a ‘sexually violent predator.’ This notice was delayed in processing and not conveyed to Heathrow until after they had already admitted R1 into the country. Thus, only upon return from his first cruise was he apprehended and deported.

R1’s entire account strongly exemplifies the ‘indeterminacy’ that pre-emptive mobility governance often introduces. As critical mobility theorists argue, these datafied systems are often presented as automated but remain heavily dependent on human agency in terms of design and actual function (Broeders & Hampshire, 2013). Importantly, “new systems and databases come with formal policy categorizations but also more informal labels” that impact how travellers are treated (Broeders & Dijstelbloem, 2015, p. 253).

For R1, formal policy categorizations were involved when state police mapped his state-level registrant classification to the federal system. The federal label of ‘sexually violent predator’ became an informal label of ‘high-risk inadmissibility’ when it was translated by other entities. In the UK, it caused a re-evaluation of R1’s admissibility, leading to his deportation following an initial admission into the country. For the cruise line that acquired this information through a third-party vendor, it resulted in a decision to ban R1 from any future trips.

In both of these situations, the imperfect information conveyed through the IML system was dependent on human subjectivities. The individuals who designed the NSOR failed to account for the fact that not every lifetime registrant was necessarily ‘dangerous.’ As such, their categorization reflected the damaging wording that alarmed foreign and private sector actors alike. In the UK, Heathrow authorities who initially admitted R1 clearly decided that despite the AWC notification, he was not a threat. In contrast, the U.K. authorities who received the INTERPOL notification evidently decided that he was.

All of these decisions were made by people, often missing important contextual information. Indeed, a major consequence of datafying mobility governance is sacrificing complexity for legibility, to make binary decisions “ultimately about inclusion and exclusion” (Broeders & Dijstelbloem, 2015, p. 256). Additionally, the essentialization of R1 according to a category as opposed to his individual characteristics again underscores the punitive new penology logics behind the IML system. The label of ‘sexually violent predator’ branded him as just a member of a group of “high-risk subjects in need of management” (Simon, 1998, p. 453). In the end, the notifications sent severely limited the mobility of a registrant who was likely not a threat. R1 had maintained a clean record for more than two decades, with no further offences since his initial conviction.

### 6.5.1 Database indeterminacy

Significantly, R1 was not the only registrant who recounted having their travels interrupted due to mistakes with information delivered through the IML system. One registrant, R8, frequently travelled to France for vacation without issue, since E.U. countries did not usually turn registrants away based on AWC notifications. In one instance, however, he was met by police officers upon landing at the Charles de Gaulle Airport. He was escorted off the plane, questioned, and ultimately released after 10-15 minutes and expedited through customs. Upon returning to the US, R8 contacted the USMS to inquire why he had been apprehended. He discovered that the US had mistakenly sent France a notice indicating that he was a fugitive.

R8 did not feel that he had a particularly negative experience, prompting me to ask if this mistake would have been handled differently by another country. Reflecting on my question, he opined:

*I imagine if I had been somewhere like Dublin Airport, there would have been no question that I would have been turned around. I think one of the other things that may have helped is the fact that I had travelled to France fairly regularly. So, I must assume they have a record of my passport, going in and out of the country. Just about every year for the past several years, so they were well aware that I was a frequent traveller. And they could also see that I had had no issues or problems in the country at all. No involvement with law enforcement in their country. (R8)*

R8's response was interesting because despite experiencing mistakes with the information transmitted on him, he expressed confidence in the travel records maintained by the French authorities. There was also an implicit expectation that the French authorities would consider his holistic circumstances beyond just the information from the IML system.

A starkly opposing example was provided to me by Paul Rigney in the form of a Travel Experience Report (TER) he had received through the RTAG website. In 2018, a registrant who had come off the registry in 2017, after moving states, travelled to Thailand for work purposes. There, he was denied entry and detained until his flight leaving the country. Before he left, he was given a copy of the information that Thai authorities had received from DHS HSI. This information erroneously indicated that he was a lifetime registrant when was actually no longer required to register in his state.

This registrant's experience indicated that Thailand, unlike France, adopted punitive new penology logics with respect to how they treated IML notifications. Instead of acknowledging the registrant's documentation proving his legitimate reason for travel, as well as his updated registry status, Thai authorities adopted a 'zero-tolerance' approach that prioritized eliminating whatever risk was posed. There was no consideration of the registrant's individual situation, only his erroneous categorization as a 'high risk offender.'

### **6.5.2 Human subjectivities**

Other than erroneous information, many registrants also indicated that their travels were directly impacted by the whims of individuals. Another RTAG TER which Rigney shared with me involved a Texas registrant who attempted to travel to Argentina in 2019. The registrant had contacted the Consulate of Argentina in Houston in advance to explain his conviction history, and after providing a copy of his passport, was assured that he should be allowed entry for a 10-day visit. Nonetheless, he was turned away when he attempted to enter the country and sent on the next flight back. This registrant's experience illustrates how under the IML system, final decisions on if individuals are admitted into countries are often made by officials at the border. The mobility of

registrants is at their discretion, even if a country's consular representatives and official policies do not explicitly ban registrants.

R8's interactions with Irish officials strengthen this assessment. When he spoke to "*the person in charge of border control at the Dublin International Airport*" about whether or not he would be turned back on a layover, the official said, "*it should not be a problem*" but "*could not guarantee it.*" R8 elaborated that: "*What he said specifically was that it is actually up to the specific border agent you encounter. That border agent has the authority to allow you to transfer planes, or to send you back.*" Again, this statement emphasizes the key role of human discretion in pre-emptive mobility governance systems such as the one created by IML.

R1 provided an extreme example of this discretion in action, describing another cruise experience he had in 2020. On a six-week trip with Holland-America cruise lines, the ship stopped at the same Caribbean ports several times. The first week, he was allowed entry into Barbados and St. Lucia. Two weeks later, he was not permitted to leave the ship at Barbados or St. Lucia. Barbadian officials refused to speak with him, but after speaking to the port police in St. Lucia about his criminal record, he was admitted. On the third iteration of the islands, he was again denied entry into Barbados and St. Lucia. This time, however, a different border official at St. Lucia refused to let him in, citing a notification from the US. Only after R1 explained his previous experience with the first official who let him in was he again granted entry.

Speaking about the human subjectivities involved in his experience, he opined:

*See what I mean—it's strictly the border cop that makes the decision. Nobody else. So even if I'd gotten permission from somebody in Chicago, that border cop could've and would've overwritten it because there's no, you know, there's a limited time frame. Even if I'd*

*appealed it, it'd have taken two weeks to get the appeal approved and by then we would have been gone. So that's what's frightening about this IML business. (R1)*

These comments allude to the IML system's indifference to the realities of registrant travel. As already noted in this chapter, official government descriptions of this system demonstrate little regard for how registrants experience the system abroad, minimizing the role of AWC notifications sent and the information provided in these notices. Yet, like the migrants that mobility criminologists are concerned about, registrants are also left in a precarious position abroad. They experience "criminalization alongside a lack of the protections that apply in criminal law" (Bhui, 2013, p. 2). As R1 explained, formal procedures do not apply, and registrants' mobility is decided by individual officials.

## **6.6 Government position on system issues**

Despite all of the above accounts indicating the contribution of domestic processes to travel problems abroad, the U.S. government's official position remains that:

Foreign governments set their own standards and make their own decisions on who they will admit to their country. Denials of entry can be for any reason, including an individual's previous criminal history. Offenders planning to travel internationally may wish to check with the appropriate foreign embassy or consulate before departure about their specific circumstances. (SMART, 2019)

The quote above, from a factsheet on IML produced by the Department of Justice, obscures the AWC's role in providing foreign authorities (sometimes erroneous) information about registrants' "previous criminal history." It also disregards the difficulties, risks, and complications that registrants have described in contacting foreign officials ahead of travels.

Nonetheless, a 2020 study funded by the government on the wider U.S. SORNA apparatus validates many of the problems described with the IML system in this chapter. The study involved site visits to state registration units and interviews with “both sworn and civilian staff,” as well as “local law enforcement and representatives of the USMS assigned to the region” (Harris et al., 2020, p. 38). Thus, it reflected a more ‘front-line’ take on the IML system, albeit still from government actors running the system.

The study indicated that state officials felt that registrants would benefit from government guidance “on those countries that will not allow registrants past their borders” (Harris et al., 2020, p. 82). This observation reveals a communication gap that is currently addressed by the RTAG travel matrix. It also suggested that local officials did not have the capacity to compile this information themselves, given that they called for a higher level of government to address this.

Additionally, the study indicated that state officials struggled with the process of registering registrants’ travel plans. In one specific scenario, a local law enforcement officer simply noted this travel via a post-it note in the registrant’s folder without further transmitting the information, resulting in the registrant being detained on their travels. Further confusion arose when ICE contacted the local agency and reached a different enforcement officer unaware of the situation, leading to the registrant’s arrest. Like the earlier accounts provided by registrants, this scenario underscores the impact of human decision-making on the end effects of the IML system. It also underscores breakdowns in communication between federal and local authorities.

Regarding “the nature and quality” of travel information collected, local authorities reported “attempting to properly fill out the forms and their databases” only to find that “fields in registry databases were not fully equipped to enter international addresses” (Harris et al., 2020, p. 83). These technical issues echo the limitations of the FBI’s NSOR database as described by R1,

reiterating that the IML system is beholden to the limitations of its constituent parts. As such, local authorities tried to navigate the limitations of their technology by “[adding] information into the notes section” to “send as much information to the USMS as they [could]” (Harris et al., 2020, p. 83)

Interestingly, both state and local registry personnel were specifically critical of NSOR, characterizing it as “antiquated” and “an embarrassment” (Harris et al., 2020, p. 103). The researchers who conducted the 2020 study concluded:

The system is widely viewed by those in the field as having minimal utility as either a reliable repository of actionable information or as an analytic and operational planning tool. Specific issues raised by field-based registry personnel included challenges with NSOR’s user interface, the sporadic reliability of the data, constraints of certain data fields (e.g. offence fields, “offender status” field), and the system’s inability to generate reports and capture and maintain historical information. (Harris et al., 2020, p. 11)

This finding affirms R1’s experience with being miscategorized due to NSOR’s limitations, as well as highlights additional shortcomings with the design of the database. It also raises the question of what other carry-on effects this database has caused that remain undiscovered. The answer to this question likely extends well beyond the scope of the IML system.

## **6.7 Chapter summary**

As suggested by this chapter's opening quote, the IML 'system' has not inspired confidence in government officials among registrants. This chapter outlined how IML's travel registration, notification, and passport identifier mechanisms are supposed to work in theory, contrasting this with examples of unintended consequences for many registrants attempting to comply with the law. Drawing upon critiques of pre-emptive mobility governance, it explained how a multiplicity of data input sources can often result in erroneous information, especially in the disjointed legislative and technical environment created by SORNA in the US. Additionally, it detailed the importance of individual officials in impacting whether registrants were ultimately allowed to travel or not. All of this suggests that the IML system is not as efficient and seamless as portrayed by the popular media and the official government line. The next chapter further analyzes registrants' assessments of this system's intent and design.

## Chapter 7: “Absolutely no effect” – Assessing the IML system

*An Act: To protect children and others from sexual abuse and exploitation, including sex trafficking and sex tourism, by providing advance notice of intended travel by registered sex offenders outside the United States to the government of the country of destination, requesting foreign governments to notify the United States when a known sex offender is seeking to enter the United States, and for other purposes. (The full title of International Megan’s Law, 2016)*

This chapter builds upon some of the initial criticisms of the International Megan’s Law ‘system’ introduced in the previous chapter. First, it assesses registrants’ understandings of the law’s intents and underlying motivations. Then, it discusses registrants’ perspectives on the law’s actual impacts, in terms of addressing the problems that it claims to target. Finally, this chapter examines registrants’ critiques of the law’s ineffective design, specifically its flawed notion of risk, system redundancy, and negative impacts on other systems. These critiques reinforce understandings of IML as a punitive new penology system, as discussed in Chapter 5, as well as a problematic form of pre-emptive mobility governance, as discussed in Chapter 6.

### 7.1 IML’s intent

As quoted at the beginning of this chapter, IML’s long title provides its officially stated intent: to prevent child sex trafficking and ‘tourism.’<sup>13</sup> About half of the respondents interviewed supported this stated intent to some degree. For instance, R6 expressed that concerns around extraterritorial

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<sup>13</sup> The U.S. Department of State’s 2020 Trafficking in Persons Report notes that the anti-trafficking community is moving away from the term ‘child sex tourism’ in favour of ‘extraterritorial child sexual exploitation and abuse,’ to reflect the fact that abuse by foreign perpetrators takes place in various contexts beyond that of tourism (Office to Monitor and Combat Trafficking in Persons, 2020, p. 28).

child sexual exploitation were a “*natural reaction*” in countries with histories of this. He added that “*exploitation of children is a sensitive matter—it’s an important matter—I understand where the sentiment comes from.*” This comment indicated an awareness of societal attitudes regarding the risks of child sexual exploitation. As discussed in Chapter 5, cultural notions “regarding the sexual innocence and vulnerability of children and their hierarchal status as the ultimate ‘victim’” dominate popular discourses on sex offence legislation (McAlinden, 2018, p. 82). When asked to provide thoughts on IML’s stated intent, R19 also acknowledged that “*human trafficking is a very serious subject*” and R22 stated, “*I think that’s an honourable position, but in theory.*”

At the same time, all three respondents felt that IML’s approach to addressing its stated intent was misguided. While acknowledging that the exploitation of minors abroad was a problem that warranted attention, R6 felt that the law irrationally punished U.S. PCSOMs without any scientific basis, “*especially when the recidivism rates prove that chances are they’re not going to do it.*” This comment aligned with previous studies indicating that the public inaccurately perceives PCSOMs as a “homogenous group with very high recidivism rates” (Willis et al., 2010, p. 550). R6 also compared IML to issuing “*country bans*” for people charged with driving under the influence as a means of protecting others from drunk driving, opining that “*most people would think that’s an overreach.*” This comparison was interesting because it underscored R6’s opinion of PCSOMs as akin to people convicted of other crimes, deserving of the benefit of the doubt as opposed to ‘zero tolerance’ sanctions.

Like R6, R19 also emphasized the lack of evidence suggesting that registrants were likely to commit acts of extraterritorial child sexual exploitation. He referenced the UN *Global Report on Trafficking in Persons*, suggesting that authorities on human trafficking directly contradicted this erroneous assumption. Specifically, R19 explained that the Report provided a “*profile of*

*traffickers*” which indicated that “*most of the cases are domestic,*” and “*something like 30-40% of the traffickers in a lot of countries are older women trafficking younger women.*” He contrasted this with the narrative that “*people like Chris Smith*” presented when promoting IML, that there was a “*big problem where’ve you got white Western males coming to small countries in Asia and Latin America and trafficking these girls, you know, they’re there for child sex tourism.*”

R19’s assessment of IML’s misguided focus on “*white Western males*” supports critiques of the public discourse’s excessive focus on “the adult male stranger” as the archetypical agent of child sexual abuse (McAlinden, 2018, p. 190). One negative consequence of this focus is the diversion of attention from the culpability of female perpetrators of abuse, as women are assumed to be innocent and lacking in agency (McAlinden, 2018). R19 elaborated that from his personal experience “*being in the Philippines,*” the majority of tourists who engaged in extraterritorial commercial sexual exploitation were “*Koreans and Japanese and Chinese.*” Again, his account challenges archetypes of a ‘dangerous stranger’ by highlighting the “*regional*” dimensions of human trafficking in many countries.

One respondent was significantly more critical about IML’s stated purpose. David Kennerly, whose report on the law was introduced in Chapter 5, characterized the issue of “*child sex tourism*” as “*by and large a lot of bullshit*” in our interview. He expressed the belief that a lot of non-profit organizations “*[made] money fomenting hysteria*” and “*[worked] hand-in-glove with corrupt governments to shake people down,*” especially in countries “*like Cambodia and Sri Lanka and Thailand*” (personal communication, April 28, 2021). Unlike R19, who attributed IML’s misguided focus to a failure to understand the realities of human trafficking, Kennerly believed IML was the product of “*a long tradition of bald-faced lies in this country on anything*

*having to do with sex and children.*” He was specifically dismissive of government records on the issue, remarking that *“the statistics are just bald-faced lies.”*

### **7.1.1 The ‘true’ scope of the problem**

In contrast, R19 emphasized that even government reports showed that the true number of U.S. citizens engaged in extraterritorial child sexual exploitation was *“very small”* and *“somewhere around of average of 8 to 10 cases a year.”* He explained that these cases often involved citizens trying to sponsor immigration for spouses they had married abroad while the spouse was underage and were not *“the extreme rare case”* of citizens offending abroad, as IML assumed. As such, R19 believed that official statistics supported the conclusion that IML was misdirected in targeting travelling PCSOMs.

Nonetheless, R19 did express doubts about how statistics were used by officials, noting that: *“They don’t have very many statistics for these cases”* so they *“lumped all the child pornography charges statistics in with those to make it look exaggerated or amplified.”* His claim that government reports misrepresented child abuse statistics to exaggerate perceptions of risk resonates with findings discussed in Chapter 5. The earlier analysis of the media’s use of statistics reinforced the need to critically question the relationship between numbers cited and the actual problem IML sought to address.

Statistics in the last ten years of the U.S. Department of State’s *Trafficking in Persons (TIP) Report* seem to support R19’s claim. Indeed, they present low annual conviction numbers for extraterritorial child sexual exploitation, averaging at about 11 a year, as indicated in Figure 2 below.

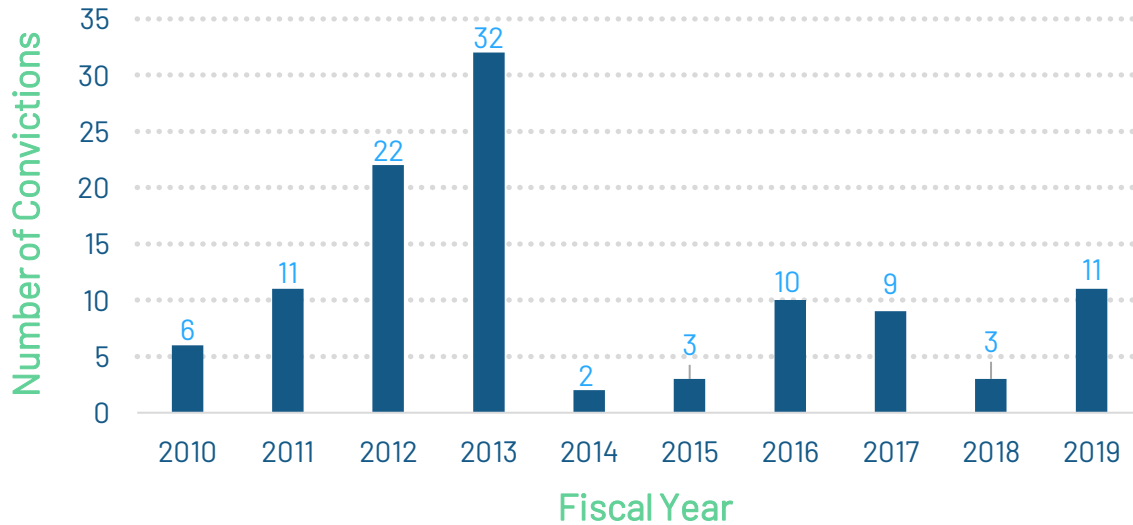


Figure 2: U.S. convictions for extraterritorial child sexual exploitation, 2010-2019.

(Office to Monitor and Combat Trafficking in Persons)<sup>14</sup>

At the same time, the 2020 *TIP Report* disclaims that “offenders who abuse children abroad may have been prosecuted under other statutes, and prosecutions based on other statutes are not reflected in this statistic” (Office to Monitor and Combat Trafficking in Persons, 2020, p. 522). As such, these convictions alone may not reflect the full scope of the problem. Moreover, because they only capture successful convictions, they underestimate the true number of crimes committed. Nonetheless, as R19 indicated, the reports do not provide details about the specific crimes that are prosecuted. Thus, they are of limited utility for arriving at any definitive conclusion about how many U.S. PCSOMs were engaging in extraterritorial child sexual exploitation, and if this figure warranted the measures introduced by IML.

### 7.1.2 Domestic political motivations

Unrelated to nuanced considerations of extraterritorial child sexual exploitation, many respondents felt that IML was primarily driven by political motivations rather than any sincere desire to address

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<sup>14</sup> Since TIP Reports are published annually in June, reporting on the previous fiscal year, I consulted the reports from 2011-2020.

a problem. R14, for instance, described the law's intentions as *"just to punish sex offenders and to gain political points."* R15 similarly opined, *"They're trying to gain votes. They're using fear to get re-elected, to make it look like they're solving a complex issue of sexual violence or sexual assault when they're not doing anything positive."*

These comments reflect Simon's (1998) understanding of modern U.S. sex offence laws as 'populist punitiveness,' whereby politicians pursue criminal sanctions "with more sound-byte appeal than penological justification" because they believed doing so was widely supported by the public (p. 455). This conceptualization implies a certain bloodlust for the increasingly harsh treatment of registrants regardless of a connection to any tangible outcome. Indeed, R14 highlighted the complicity of the public in this process, stating that *"people go, 'yay, yay, yay' because [registrants are] the lowest on the totem pole."* His statement implied that the political interests in supporting IML were part of a larger societal desire to endlessly punish PCSOMs.

R16 also attributed the politicization of IML to a larger, systemic problem regarding the public's punitive orientation, noting:

*A politician is either going to be viewed as soft on sex offences or tough on sex offences, and no politician's going to be viewed as soft, so there's no legislative path [to change the law]. I mean, technically there is but not functionally.*

This pessimistic assessment was notable because unlike studies attributing more punitive sex offence laws to conservative politicians (Jung et al., 2020), it suggested that punitive measures would be adopted regardless of political orientation. R16 believed that the public's attitudes on sex offences were simplistically dichotomized, and as long as this dichotomy existed, laws like IML would remain unchanged.

Unlike other registrants interviewed, R19 focused on one politician's use of IML for personal benefit. He alleged that "*Chris Smith [had] made a lot of money peddling this information for years,*" hosting "*camp fundraising dinners*" where he obtained many donations "*based on stopping global sex trafficking and sex trafficking in general.*" R19's argument supported Kennerly's more critical understandings of IML's intentions, as discussed earlier. It underscored the "*influence and political capital*" that Smith supposedly gained from IML, a powerful motivating factor in sponsoring the legislation.

ACSOL Executive Director Janice Bellucci also expressed cynicism about Smith's intent in sponsoring IML. She referenced the fact that Smith represented the district where Megan Kanka lived (see 1.2.1 for a discussion of Kanka's significance). Bellucci referred to Smith derisively as "*Mr. I Hate Sex Offenders,*" arguing that he had been repeatedly re-elected based on this messaging and that passing sex offence laws had become his "*raison d'être*" (J. Bellucci, personal communication, April 2, 2021). Notably, Bellucci stated that Smith did not and could not deliver on his grandiose promises of 'protecting' the public, condemning the lack of empirical basis for his laws. These comments again illustrate the limits of IML as a populist punitive measure, designed to appeal to a public that either did not understand or did not care about the rational basis for criminal sanctions.

### **7.1.3 Global political motivations**

Still some other registrants believed that IML was part of a flawed effort to expand U.S. influence over other countries' law enforcement practices. R18 remarked: "*There's this assumption just from a purely practical or legal perspective that the U.S. government is responsible for global law enforcement. That's an enormous assumption that I think has far-reaching implications from a liberty perspective.*" He seemed to disagree with the ambitious aims on the part of the US, but also

the expectations for the US to play this role by other countries. Significantly, R18 also expressed worries that Europe would eventually “*cave*” to U.S. pressures and change its current policy of admitting registrants.

Interestingly, R18 contrasted the current “*European mindset*” with that of the US, noting that “*their legal attitudes toward restoration are just really different than our much more punitive conception under common law.*” Comparative criminologists have also made this observation, explaining that “even when criminalization of sexual offending occurs in Europe, there has been great resistance to punitive sentences” (Petrunik & Deutschmann, 2008, p. 507). More broadly speaking, R18’s comments reflect the condition of ‘hyperpluralism’ in the modern era, whereby a plethora of conflicting global and local values compete for influence (Ferrell et al., 2008).

According to Ferrell et al. (2008), this condition offers a dual potential: “to change, reinvent and resist, or to choose to deny choice itself and instead retreat to essentialist and fundamentalist notions” (p. 60). R18’s reflections reveal this duality. European countries admitting PCSOMs allow registrants to attain some level of normalcy in their travels, resisting the punitive logics of IML. At the same time, U.S. practices could eventually supersede this resistance, leading to the essentialization of registrants as ‘inadmissible risks’ worldwide.

Speaking to this latter development, both R1 and R18 noted that Caribbean countries seemed to be increasingly adopting the U.S. approach of turning registrants away, due to pressure applied on it by the country. Additionally, a 2019 post on the NARSOL International Travel Thread shared an article indicating that the US was also promoting the Philippines’ cooperation with IML through subtle diplomatic measures. According to the article, the Philippines’ Bureau of Immigration was awarded a certification of commendation by the U.S. Embassy in Manila for excluding the second-highest number of American registrants in 2018, following only Mexico in

denying entry to registrants (Philippine News Agency, 2019). The news agency reporting this story was affiliated with the Presidential Communications Office of the state (Philippine News Agency, n.d.), suggesting that the country took pride in this partnership with the US and sought to continue aggressively enforcing IML.

#### **7.1.4 The symbolic value of IML**

On the whole, critiques of IML's intent as politically motivated, whether at domestic or global levels, emphasize the symbolic value of IML. Characteristic of punitive new penologies, this value is independent of a rational connection to a tangible outcome. Critical mobility theorists have specifically noted that datafied border controls are often used by governments to serve a signalling function of control over immigration (Broeders & Hampshire, 2013). In the case of IML, what is being signalled is a sense of control over the well-being of children worldwide. This well-being translates into a sense of societal order (McAlinden, 2014). It also symbolizes competence and good governance by extension. In turn, these symbolic values benefit a variety of actors, including politicians, governments, and even non-profit organizations.

## **7.2 IML's actual effects**

This chapter now turns from IML's intent to its impacts. Significantly, all but two respondents interviewed believed that IML was not preventing extraterritorial child sexual exploitation and abuse in any meaningful way. R1 dismissed the law altogether, calling it "*a bunch of bureaucratic nonsense that goes in circles and never accomplishes anything.*" At the end of our interview, he also reiterated: "*This law will have absolutely no effect on anything that is of any importance to the world. All it will do is create havoc in the lives of innocent travellers.*" These comments offer a damning indictment of IML's connection to any rational outcome. The characterization of the

law as “*bureaucratic nonsense*” was particularly notable because it echoed critiques of new penologies as “*technocratic rationalization[s]*” divorced from social realities (Feeley & Simon, 1992, p. 456).

In contrast, R5 believed that “*there's no doubt that [IML] has had some impact on reducing sex tourism.*” However, he heavily qualified his assessment:

*The people who have already been convicted of a sex crime are a drop in the bucket, kind of a red herring, and they're an easy target, it sells legislation, it makes politicians look good. But in the final analysis, I don't think this law is having the intended effect. Yeah, I think it's preventing repeat offenders. But again, 90 plus percent of the child sex offences and sex trafficking or sex tourism involving minors are going to be people who don't fall under this category, who don't have a passport that is stamped. And this law does nothing to stop those people. (R5)*

R5’s assessment is similar to R6’s earlier comments on the misguided focus of IML. The statistic he cited extrapolated low sexual recidivism rates in the US to global levels of crime, implying that most new offences would not be committed by registrants.

R23, on the other hand, admitted that she did not know “*the details or particulars*” about IML’s effects. Interestingly, despite her own extremely negative travel experience (discussed in the next chapter), R23 initially explained that she supported “*laws against any and all child sex trafficking and human trafficking of any kind,*” even hoping “*that the laws will get stronger*” in that area. After I inquired if she was aware that IML was the reason for her negative travel experience, she still seemed supportive of the law, stating, “*I feel like it’s important to have it in place.*” At the same time, R23 expressed that how the law was enforced in her personal

circumstances did not make sense to her. This was a central theme of many registrants' critiques of IML.

### **7.3 IML's flawed notion of 'risk'**

As R5 outlined, and R23 implied, most registrants attributed IML's ineffectiveness to its problematic design. The general sentiment was that it irrationally categorized a large group of people as likely to re-offend abroad, all the while failing to focus on people actually committing crimes that had not yet been caught. Respondents frequently referenced studies that indicated low recidivism rates among registrants, claiming that the treatment of all PCSOMs as high-risk dangers was not only ineffective but actively harmful to actually addressing extraterritorial child sexual exploitation and abuse.

Some scholars have questioned the value of studies measuring sexual recidivism using government statistics, claiming that they underestimate recidivism due to the significant underreporting of sexual crime to authorities (Scurich & John, 2019). A 2017 report commissioned by the Department of Justice reviewed leading studies on sexual recidivism and also presented this critique (Przybylski, 2017). Nonetheless, it concluded that "the empirical evidence clearly demonstrates that different types of sex offenders have a different propensity to re-offend," and that policies accounting for these differential risks were "likely to be more effective and cost-beneficial than those that treat sex offenders as a largely homogenous group" (Przybylski, 2017, p. 122). In other words, the report refuted IML's blanket approach to PCSOMs.

Regarding risks of recidivism, R15 believed that IML was a "*moral panic*" that did not account for the fact that most PCSOs had "*had their system shocked*" and would not want to re-offend. In a similar vein, R3 exclaimed, "*Why would I want to do that anyway if I've got a criminal*

*record?*” R7 also stated, *“I spent three years in prison, there’s no way I would consider doing anything that would put myself in jeopardy again. And I know that legal systems overseas could be so much worse.”* At face value, these comments indicated that the existing U.S. sex offence regime was already serving deterrence functions. IML, by disregarding these considerations, increasingly distances itself from “traditional objectives of rehabilitation and crime control” in favour of the new penology (Feeley & Simon, 1992, p. 450).

Regarding differentiated policies based on individual risk assessments, registrants frequently expressed desires to have their specific circumstances considered. R11, for example, noted that he had *“successfully completed probation,” “never missed a registration”* in 22 years, and *“never had another offence,”* yet all of these factors were not taken into account. R13, on the other hand, described the IML system’s complete apathy towards understanding him as a person. He remarked:

*I think that they should really evaluate the people that they are placing these restrictions on. [...] Don't just say, “Hey, they were underage, you're on this list, you can't go.” Send me down, talk to me, find out who I am and what I've done and how my life has changed when it happened. The fact that I was 18 when this happened and I'm in my early forties now, I've spent more of my life on this list than I have off of it. (R13)*

Again, these remarks underscore IML’s abandonment of the rehabilitative ideal, in favour of zero-tolerance strategies of incapacitation (Simon, 1998).

One particularly interesting example of IML’s zero-tolerance approach to registrant risk was R19’s experience with travelling to the Philippines. He explained that while on probation before IML’s existence, he had actually been cleared by a state court for travel to the Philippines.

Yet, after IML came into effect, he was treated as a high-risk PCSOM in the notifications sent out by the US, and as a result, turned away from the country.

R19 expressed incredulity that all of the authorities associated with his case, including a therapist and a judge, had assessed that he was suitable to travel. However, even after travelling without incident to the Philippines, he was again labelled as a risk by the IML system. R19's account underscores how new penology systems become increasingly insular and limited to "indicators that they can control" (Feeley & Simon, 1992, p. 456). Instead of considering evidence from within the criminal justice system that R19 was not likely to engage in extraterritorial child sexual exploitation, the IML system simply treated him according to his PCSOM status, categorizing him as a threat.

### **7.3.1 Addressing higher risk groups**

As an exception to the above critiques, three respondents mentioned specific circumstances where IML's provisions could be useful. R20's mentioned that he could see "*a rational connection*" for the law to apply to someone proven to be "*partaking in trafficking, whether they're a pimp, or if they're partaking in child prostitution.*" Another example R20 mentioned was "*if somebody is diagnosed as a pedophile.*" Importantly, even for this group, he mentioned that there had to be "*clinical evidence to show that they could be a danger to the children of other countries.*" R20's understanding of high-risk populations indicated a much higher standard of proof than simply being a registered PCSOM.

R6 also believed that IML "*may make more sense*" for somebody who had been "*charged and convicted and proven*" to have travelled "*for purposes of child exploitation.*" Again, his understanding of a higher risk group involved a much narrower conceptualization of risk than in IML's design. R6's comments were striking because he commented that he was "*always hesitant*

*to throw somebody under the bus,*” demonstrating a sense of empathy for those permanently labelled as risks by the criminal justice system. Even for those who had been convicted of extraterritorial child sexual exploitation, R6 asked the question: *“at what point in time does that person have the ability to rehabilitate and move forward with his life?”* This point of view emphasizes the humanity of those convicted of crimes, opposing punitive tendencies to regard them as “modern-day monsters” (Simon, 1998, p. 456).

Janice Bellucci offered a similar sense of compassion in her remarks, explaining that she condemned the use of passport identifiers universally:

*I don't want anybody have a unique identifier, but if they want to basically send a notice to another country about somebody who has been convicted of sex trafficking or sex tourism, I'm okay with that, the notification portion. I am not okay with the unique identifier; I can't even throw those folks under the bus.* (Personal communication, April 2, 2021)

These remarks, alongside Bellucci’s repeated references to IML’s passport identifier provision as a “*scarlet letter*,” suggested that the provision was a form of stigma inappropriate even for higher-risk populations.

### **7.3.2 Disproportionately punished groups**

Apart from citing the mitigating factors in their own situations, many respondents referenced hypothetical groups of people for whom IML restrictions seemed to be particularly irrational. This included so-called “*Romeo and Juliet*” cases where consensual sex between a teenager under the age of consent and a young adult resulted in the latter becoming a PCSOM. Bellucci also raised concerns about increasing instances of underage teenagers being convicted of sex crimes against minors as a result of sharing nude pictures, sometimes of themselves. She indicated that in one

case, one LGBTQ juvenile was actually convicted as a result of exploring his sexuality by looking at an online image of another minor older than himself.

According to Bellucci, all of these juveniles would be impacted by IML, despite not posing any real danger in terms of extraterritorial child sexual exploitation and abuse. She expressed exasperation at the apparent irrationality of the law, exclaiming, “*Really?! Who are we protecting?*” Like R5 and R6, whose assessments of IML’s effects were discussed earlier, Bellucci concluded that IML was not capturing the right group of people. Notably, she offered a legal practitioner’s perspective on the matter, detailing that “*people who are convicted of child sex tourism and child sex trafficking, they’re not going to get caught up in this net.*” Instead, Bellucci suggested that most of these people “*don’t even end up on the sex offender registry because they’ve been convicted of RICO<sup>15</sup> conspiracy.*”<sup>16</sup>

Feely and Simon (1992) observe that new penology systems evolve over time such that their connection to “substantive social ends” becomes ever more tenuous, presenting challenges to critically evaluating these systems (p. 457). Indeed, Bellucci’s comments support that the IML system has also moved in this direction. Not only does its treatment of juveniles seem to make no sense, but it also fails to even apprehend those involved in extraterritorial child sexual exploitation.

#### **7.4 Risk assessments in theory versus in practice**

The U.S. government has rebutted the claim that the IML system fails to properly evaluate individuals’ risk levels. As part of ACSOL’s 2016 lawsuit against IML (*Doe v. Kerry*, 2016),

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<sup>15</sup> *The Racketeer Influence and Corrupt Organizations Act* is a federal law aimed at addressing organized crime.

<sup>16</sup> To Bellucci’s point, Utah passed a bill in 2020 making human trafficking an offence subject to registration as a ‘sex offender’ (*Human Trafficking Amendments*, 2020). This example suggests that states have indeed been convicting people for human trafficking offenses without requiring them to register on a sex offence registry.

Patrick Lechleitner provided a declaration under oath regarding the Angel Watch Center's process of sending notifications on travelling registrants. At the time, Lechleitner was the Acting Deputy Assistant Director for the division directly responsible for running the Angel Watch Program (AWP),<sup>17</sup> making his testimony extremely valuable as a government expert on the IML system.

In his statement, Lechleitner claimed that his division:

Does not make blanket notifications for all U.S. citizens or lawful permanent residents planning international travel who are identified by DHS as having a conviction involving a minor. Rather, [it] uses discretion after reviewing relevant information to determine which matches more strongly suggest intended child sex tourism. (p. 5)

Contrary to this statement, the experiences of registrants I interviewed, as well as the thousands of posts in ACSOL, NARSOL, and RTAG's travel discussion forums suggested that PCSOMs of varying tier levels and offence histories were all having notifications sent out on them.

RTAG Executive Director Paul Rigney provided some very interesting background on this discrepancy between AWP's stated actions and actual practices. He mentioned that previous versions of IML had explicitly required an individualized assessment of registrants as 'high risk' before notices were sent out, but this language was ultimately dropped from the final bill that was passed. My independent analysis of IML's evolution also confirmed this finding (see 1.2.2 and Appendix A: IML's legislative evolution).

Rigney explained during the lobbying process against IML, "*one of the staffers who helped write the bill*" had told him that "*they didn't have the money*" to perform individualized assessments of registrants. Thus, the final decision was to send blanket notices on all U.S.

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<sup>17</sup> Specifically, Lechleitner was the Acting Deputy Assistant Director for the Cyber Crimes Division, housed within DHS ICE's HSI. As explained in Chapter 6, this division's analysts, alongside CBP analysts make up the Angel Watch Center staff.

PCSOMs. This legislative history of IML bolsters understandings of the law as part of a managerial turn in penal policies (Feeley & Simon, 1992). Instead of prioritizing the law's effectiveness, internal resource constraints were prioritized in the final design of the system.

#### **7.4.1 Lack of context in notifications sent abroad**

One specific concern raised by both Bellucci and Rigney was that AWP notifications sent abroad also inhibited foreign officials' accurate risk assessments of registrants. During my research, I obtained two examples of notification emails sent by the AWP, each with different amounts of information about the travelling registrant. One, from 2012, indicated the registrant's name, date of birth, offence, date of offence, flight number, and arrival time. The other, from 2018, provided a bit more information about the offence by detailing the age of the victim and the resulting sentence. However, as detailed in Chapter 6, the 2018 notification was actually sent erroneously, as the registrant had come off his state registry in 2017 and was not a lifetime registrant as stated in the email about him.

These examples support the argument that insufficient and inaccurate context is provided to foreign countries about registrants, leading to incorrect understandings of the risk they pose to children abroad. In both cases, the offence was listed using vague legal language that would not be meaningful to anyone unless they were familiar with the niche subset of U.S. law on sex offences. Bellucci believed that this vagueness was leading foreign countries to interpret the offences by their own standards and legal norms, assuming the worst of every registrant. She compared this process to *“the story about the blind men and the elephant: one's got the tail, one's got the trunk, one's got the tusk, and you think you know what an elephant is when the fact is you do not have the big picture.”*

As mentioned in Chapter 6, U.S. authorities have claimed to mitigate risks that foreign authorities would misuse information provided through AWP notifications by establishing protocols and providing briefings abroad (DHS, 2020). Nonetheless, it remains highly unlikely that this training adequately equips foreign authorities to fairly assess the risk level of U.S. registrants. Moreover, they have no incentive to do this, as the much easier option administratively would be to simply turn registrants away.

#### **7.4.2 Mobility governance critiques**

The IML system's operationalization of registrant risk assessment, or lack thereof, has clearly indicated new penology targeting of groups over individuals (Feeley & Simon, 1992). Referencing newer critical theory, the IML system also reflects what Broders and Dijstelbloem (2015) describe as a central problem of datafied mobility governance. It categorizes while ignoring complexities to facilitate binary decision-making. In the US, individualized assessments of registrants do not happen. Instead, categorization happens purely based on PCSOM status, and blanket travel notifications are sent out on all PCSOMs. In foreign countries, authorities again categorize registrants based on the limited amount of information provided by the AWP, and ultimately either admit them or turn them away.

### **7.5 Other critiques of IML**

#### **7.5.1 System redundancy**

Apart from the primary critique of IML's flawed notion of risk, registrants identified several components of the system as redundant. Some felt that the requirement to register travel was unnecessary given that authorities already had access to manifest records and could thus identify travelling registrants. One 2019 online post observed, "Kind of interesting that with or without a

21-day notification ‘they’ know when we leave and when we return. They can send the dire warnings through angel watch [sic] with or without notifications” (Comment on 2019 ACSOL International Travel Thread, July 2019).

A response to this post read, “In this respect, the IML is just giving them a basis for criminally charging us for not properly notifying them. Everything works to their advantage and never to ours. Aren’t databases wonderful?” (Comment on 2019 ACSOL International Travel Thread, July 2019) Both of these comments suggested a sense of power imbalance between registrants and the government, reinforced by the use of oppositional pronouns “they/we” and “them, their/ us, our.” Interestingly, they flip the ‘othering’ narrative of registrants that often frames them as “particularly immoral” (McAlinden, 2014, p. 187) Instead, the comments call into question the government’s intentions, as seemingly seeking any reason to endlessly punish PCSOs.

In contrast to legal scholars’ extensive concerns about IML’s passport identifier (see Chapter 2), this was a provision that many registrants noted as being functionally superfluous. When asked if he had any concerns travelling with an endorsed passport, R16 opined:

*By the time we're that close, they've already got all that stuff in front of them on a computer screen—about what the US government has sent them and told them about me. So, I don't foresee that being a straw that breaks the camel's back as to whether or not I get in.*

His remark, like the comments that questioned the travel registration component, reflected a belief that authorities already had information on registrants through digital systems. As such, the ‘analog’ identifier in registrants’ passports did not make any difference regarding their treatment by authorities.

Like R16, R1 indicated that he had never seen anyone look at the identifier page in his passport. He maintained that this could happen when passports were collected on cruise ships but

did not seem particularly concerned about this prospect. R8 also mentioned that when he had presented it to rent a car or stay at a hotel, “*no one’s bothered looking, so it had no impact whatsoever.*”

On the whole, these critiques of system redundancy support new penology critiques of many U.S. crime control policies as being out of touch with social realities (Feeley & Simon, 1992). Indeed, the U.S. administration has seemed to ignore the primacy of digital information at border checkouts in designing the IML provision on passport identifiers. It has also created a convoluted system of registering travel (discussed in Chapter 6) that is arguably unnecessary with existing technologies. Most alarmingly, there has been little critical evaluation of the impact and efficacy of this system as a whole.

### **7.5.2 Negative effects on other systems**

Various registrants opined that IML’s flawed design and execution would lead to negative effects on other systems. Rigney, for one, believed that IML’s failure to conduct individualized risk assessments of registrants before sending notifications would obstruct the INTERPOL system of colour-coded notifications (see 1.2.1 for further elaboration on this system). Rigney referenced the INTERPOL website, which stated that INTERPOL green notices were designed to “provide warning about a person’s criminal activities, where the person is considered to a possible threat to public safety” (INTERPOL, n.d.). He interpreted the purpose of this notice as indicating “*that an individual has committed a crime previously and is likely to commit that crime in the future*” (P. Rigney, personal communication, April 7, 2021).

In contrast to this specific purpose, Rigney suggested that AWP’s blanket approach to notifications was also resulting in blanket green notices that were sending alerts on people that were “*not a danger.*” As such, AWP was “*diluting the efficacy*” of the system. This was an

interesting assessment because beyond criticizing IML's impacts on its stated intent, it suggested that the IML system was actively harming wider crime prevention efforts.

Taking a different perspective, R11 critiqued the IML system as further expanding the 'prison-industrial complex' whereby specific groups financially benefitted from more sex offence legislation. He explained that those who sat on the board of programs for 'sex offender management' in his locale often promoted policies that they could make money from, such as polygraphers promoting the continued use of polygraphs despite their scientific unreliability. R11's example implied that IML did the same for other actors. This conclusion echoed accusations of individuals profiting from the system as presented earlier in this chapter.

The same respondent also worried that IML was reflecting further trends toward pre-emptive crime control policy, noting:

*It's the Minority Report if you've seen that film. That's exactly what this is. It's pre-crime, and they're basically sitting there going, "Oh, well, you're going to [offend] again so we're just going to keep you on this list."* (R11)

This remark was interesting because it reiterated the risks of data-based mobility technologies identified by critical mobility scholars. According to Broeders and Dijstelbloem (2015), such technologies rely on the simplification of rich data into 'facts' but these facts are often taken as "fait accompli" without further scrutiny (p. 256). R11's assessment of IML indicated the system's treatment of registrant risk as an indisputable 'fact' justifying pre-emptive controls, despite the lack of evidence for this 'fact.'

Finally, one respondent expressed concerns regarding IML's contribution to the US's extensive repository of data on its citizens, questioning:

*What type of information are they keeping on me after I come home? What type of information are they keeping on my travel companions? If I go with my wife or my kids, now are they going to be tagged as somebody that's dangerous? (R15)*

Indeed, ensuring the privacy rights of registrants has been noted as a challenge of information exchange by law enforcement personnel (Hilder & Kemshall, 2016). Privacy risks are also an obvious risk of any data-based mobility control technology. R15's comments reinforce the need to question the wider context of IML, whereby information is its own lucrative form of currency subject to manipulation and control.

## **7.6 Chapter summary**

This chapter explored registrants' perspectives on the IML's intentions and effects, revealing that most felt that the system was not accomplishing what it sought out to do. While some were specifically dubious about the law's underlying motivations, most were concerned with its problematic design. They believed that the IML was irrationally overbroad in treating all PCSOMs as high risks instead of considering registrants' individual circumstances. These criticisms reiterated concerns about punitive new penology systems' categorical treatment of individuals in ways that are increasingly disconnected from social ends and realities.

Registrants also characterized the law's travel registration and passport identifier provisions as redundant given existing mechanisms of mobility control. Furthermore, they added that the system could negatively impact other systems of crime control, diluting the efficacy of INTERPOL, as well as expanding the U.S. prison-industrial complex and further eroding the privacy of U.S. citizens through increasingly pre-emptive approaches. These criticisms reinforced

the risks of data-based mobility technologies, as well as highlighted the outcomes of insular technocracies as indicative of new penology systems.

## Chapter 8: “They just don’t care” – IML’s personal impacts

*I think the personal heartburn that I have with it is my wife—who is supposedly defined as a vulnerable person because they are associated with me, who the government has profiled as a threat to her—these laws are actually more harmful to her than anything. (R19)*

This chapter moves beyond system-level critiques of IML to explore the personal impacts that the law has had on the lives of registrants. It takes a Katzian approach, attuned to the phenomenological aspects of individuals’ stories, using these to understand larger social conditions as described in the previous chapters (Katz, 1999). First, it presents diverse accounts of IML’s effects on registrants’ careers, family lives, and general travels. Then, it examines how registrants have described the practical and emotional costs of the law. Finally, it considers some of the efforts that registrants have taken to address the negative impacts of IML on their lives. Registrants’ emotions and responses to IML are interpreted using theories of stigma and modified labelling.

### 8.1 Personal stories

Over the course of my research, I encountered many, many stories of how IML had impacted registrants on a personal level. These stories were extremely valuable because they addressed a gap in existing understandings of the law, in terms of providing specific lived experiences of it and the emotional components of these experiences. Although they were too numerous to discuss exhaustively, below is a selection that represents common themes shared across interviews and online threads.

### 8.1.1 Ending and inhibiting careers

One context in which multiple registrants framed IML's relevance was in terms of the law's negative impacts on their careers. David Kennerly, a registrant whose writings on the law were discussed in Chapter 5, introduced himself in an email agreeing to be interviewed as someone "devastated" by IML:

*It came more than thirty years after I had gotten out of prison and after I had built up a company that was based in Taiwan with extensive travel required to Europe (especially Amsterdam which became my second home but also the UK which is completely forbidden to me) and Asia. My company, as a result, failed and I have had to retire much too early with very little left for my retirement. (D. Kennerly, personal communication, April 4, 2021)*

Kennerly's account was one of the more extreme examples of IML's collateral consequences. His note on the time that had passed between IML's effects and his offence reflected the law's flawed notions of registrant risk, as discussed in the previous chapter.

Another example of a registrant who lost his livelihood due to the IML system was the individual introduced in Chapter 6, who was turned away from Thailand following an erroneous notice being sent out on him after he had been removed from his state registry. According to his Travel Experience Report (TER), this registrant was an aircraft mechanic whose company had sent him to Thailand to service a plane there. As a result of the incident, he was fired from a "\$100k a year job" and "forced to cash in retirement savings in [sic] early." Both Kennerly and this registrant expressed a sense of helplessness against IML's effects, choosing phrases such as "had to" and "forced" to describe their predicaments.

In contrast to these two cases, R18 expressed that IML's impact on his career was more subtle. He worked in a senior role for an international non-profit organization and generally considered himself "*very lucky*" to have this position given his registrant status. Nonetheless, he expressed that his inability to travel had "*made impossible any further advancement*" both in his current organization and in the sector more broadly. Similar to Kennerly, R18 referenced the more than two decades that had passed since his offence at age 19, emphasizing that he had maintained a clean record since.

All of these accounts indicated that IML limited legitimate employment opportunities for registrants. While the extent to which they were individually impacted depended on their occupations' requirements for travel, their experiences prompted categorical questions about IML's proportionality. Neither the registrants' legal reasons for travel nor the significant amounts of time that had passed since their original convictions appeared to have been considered. Rather, IML was applied without any regard for these mitigating factors.

### **8.1.2 Separating family and impeding family experiences**

This disregard for registrants' individual circumstances was also reflected in the context of IML's negative impacts on family relationships. Like with IML's impacts on registrants' careers, stories sharing this theme varied in terms of the severity of impacts. R19, for instance, shared his immense challenges in trying to visit his wife in the Philippines. He had "*built a marital home*" there in 2012, but due to the US "*interfering*" was deported twice and "*blacklisted by Philippine Immigration.*" He and his wife undertook lengthy legal processes in the Philippines and were successful in getting the blacklists lifted twice. While R19 was not presently blacklisted to his knowledge, he had not travelled since IML's passport provision was enacted since he "*[did] not want the marked passport.*" As a result, he had not met with his wife in person since 2018.

R19's account stood out because it illustrated disconnects in the IML system that resulted in him being repeatedly blacklisted through redundant processes. Even after convincing the Philippines that he was not a threat once, a subsequent IML notification involving the same information overturned the lifting of his blacklist. This experience emphasized that limitations in foreign governments' specific border regimes have led to incoherent uses of IML notifications, a risk that the U.S. government has dismissed as an issue out of its control (see The 'official' line on the system in Chapter 6).

Significantly, R19's situation was not unique. In the RTAG and ACSOL travel threads, as well as in several TERs, many registrants with spouses in the Philippines reported being turned away due to U.S. travel notifications, even prior to the IML. R19 mentioned that he and his wife had encountered and even tried to help several other couples in the same situation. However, while their relationship was able to withstand the "*challenges*" presented by IML, many of the other couples were "*not together anymore.*"

Other than being separated from spouses, several respondents expressed regrets that they could not be present to support ageing and ailing family members who lived abroad. R6 mentioned having an elderly father overseas who was "*not in the greatest condition,*" and worried about if he would be exempted from IML registration provisions if he had to attend a funeral on short notice. R22, becoming visibly upset during our interview, lamented that he could not support his ex-wife through a major surgery due to not being admissible to the country she lived in: "*She needs me. And I'm not there.*" These accounts underscored IML's punitive functions, showing how it was ambivalent regarding the human relationships important to registrants.

Still other registrants indicated that IML had excluded their participation in important family experiences, damaging these relationships in other ways. R23 was unable to attend her son's

wedding, due to being turned away by Colombia in 2017. She explained that she had even contacted Colombian authorities ahead of time, providing them with a letter detailing her situation and successfully obtaining a visa. Yet, she “*could not get through the customs, even with the letter and the permission of the [bride’s] family.*” Notably, this experience was not just upsetting for R23, it also affected her extended family:

*I was crying at the customs area, and so was my soon-to-be daughter-in-law. And then her mother came in, speaking Spanish very quickly and said that all the familia was here and that I needed to stay. And they still would not allow me to stay.*

### ***Vacations***

In terms of family experiences disrupted by IML, another common theme was ruined family vacations. For example, R11 explained that he and his wife had spent “*five or six thousand dollars*” on a vacation in Jamaica, but were intercepted on arrival before even leaving the plane:

*They literally told everybody to sit down and said my full name, [R1], needs to come to the front of the airplane. And so, it was almost like having a perp walk down the aisle of the airplane, as everybody looks at me like, “Why is this guy special getting off the airplane like this?”*

After being interrogated, R11 and his wife were denied entry into the country and put back on the same plane to the US.

Compared to R11, R13’s experience of being turned away on a family vacation involved a much larger group. He had an “*eight-thousand-dollar investment*” in a trip to Mexico with his wife and their two children, his parents, and his wife’s mother and sisters. Similar to R11, R13 was also intercepted on arrival before leaving the plane, and ultimately denied entry into the

country. Unlike R11's wife, however, R13's family stayed for the vacation without him, likely due to the greater number of people whose expenses would have been lost.

Interestingly, R13 expressed frustrations that he had travelled multiple times to Mexico previously without incident and that nobody had contacted him in advance to let him know that he would be turned away. These frustrations reiterated the inconsistent responses of foreign governments to IML, as experienced by R19 with the Philippines. It also emphasized a desire for clearer U.S. government communication on countries' expected treatment of U.S. registrants, which has also been recommended by government-funded studies (see 6.6).

### **8.1.3 Hindering travel for other personal reasons**

Finally, respondents shared diverse experiences of other personal travels being hindered by IML. R2, for instance, was deported from Cambodia on a volunteering trip to teach English at a school for HIV-positive children. He reflected on his choice of the country as not being the best "*in hindsight,*" given the country's association with high rates of extraterritorial child sexual exploitation. Even so, he maintained that his intentions were positive and further explained that he had even gone through an extensive process of therapy indicating an extremely low reoffence risk, leading him to eventually be removed from his state registry.

For R5, visiting Japan involved a personal connection because he had been born there. However, he could not do so because he knew he would be turned away because of IML. For R7, visiting Mexico was significant because he had a grandfather-like relationship with adults there that were unable to visit the US. He had known these adults since they were young, as they were his neighbour's children, and had remained in close contact over the years. Lastly, R10 and his wife had travelled widely as part of their involvement in a faith community, having met in

Singapore and lived in Saudi Arabia for 15 years. Due to worries about IML, they avoided travel to many countries and consequently were separated from many friends.

These disparate accounts reflected that registrants had many legitimate reasons for wanting to travel to countries that turn them away due to IML. While these reasons were not directly related to employment and family, they still involved great personal costs when denied. Additional examples that were shared with me involved registrants being sent back to the US while travelling with friends (relayed to Janice Bellucci and repeated to me), and trips gifted to registrants by business clients that had to be turned down (R22). The emotional impacts of these experiences will be discussed in greater detail later in this chapter. I now turn to analyze the practical impacts of registrants' experiences.

## **8.2 Practical impacts**

### **8.2.1 Financial costs**

In the selection of stories outlined above, financial costs were the practical impact most frequently identified. For Kennerly and the registrant who lost his job, this cost amounted to the main source of their livelihoods. In our interview, Kennerly explained, *“I thought I was going to be able to have a nice retirement. That’s not going to happen now, it’s going to be very, very touchy”* (personal communication, April 28, 2021). As noted earlier, the registrant who was fired also emphasized the loss of his salary and the premature withdrawal of his retirement savings *“with a substantial penalty.”*

For the registrants who had hired lawyers in their efforts to visit family or get off the registry, this required significant financial resources as well. R2, for instance, had paid US\$14000 between two lawyers to complete the process of being removed from the registry. And R19, who

had spent many years engaged with the Philippines legal system mentioned that, unlike many other registrants, he was comparably well off financially: *“I’ve managed in my situation to still thrive. There’s some people it’s not so fortunate [sic].”*

As for the registrants turned away during vacations, many lost out on non-refundable hotel fees and excursion packages. R11 explained that although he and his wife had bought insurance, the amount they were able to recover was minimal because the fact of being denied entry into Jamaica *“basically invalidated insurance at that point in time.”* This comment was notable because it suggested that registrants experienced discrimination outside of the IML system—their treatment due to the law was not considered by insurance companies as a ‘valid’ risk of travel. Like cruise line bans of PCSOMs discussed in Chapter 6, these insurance caveats reiterated IML’s wide-reaching impacts.

Nonetheless, R11 reflected that other registrants had faced worse financial outcomes, stating: *“Nobody likes to lose four or five thousand dollars but at the same time, it didn’t crater us.”* His reflection underscored the relative nature of IML’s financial impacts on registrants, whereby the same costs incurred affected registrants in different financial situations differently. On the same topic, R15 remarked at the end of our interview that registrants who were travelling were already the more *“privileged”* members of the wider population of PCSOs simply by virtue of having the means to do so. Indeed, scholars have noted that the U.S. sex offence apparatus has made it extremely difficult for many registrants to remain employed, often resulting in financial precariousness (Booth, 2019). I found R15’s remark to be extremely insightful and an important reminder of IML’s larger context as part of a problematic system of U.S. sex offence legislation.

### 8.2.2 Disproportionate uncertainty

Another major theme identified as a practical consequence of IML was great uncertainty about travel in general, even when registrants had taken all precautions possible. R13 felt that calling ahead and getting a visa was “*no guarantee that they let you in.*” He reasoned that U.S. Customs and Border Protection (CBP) was a “*unique*” entity that was “*really uncontrolled,*” and also believed that foreign countries’ customs authorities operated similarly. R23’s experience of being turned away from Colombia despite obtaining a visa beforehand strengthens R13’s position. These accounts underscored earlier analyses of the human subjectivities inherent in the IML system (see 6.5.2). They also elaborated the impact of these systemic subjectivities on individual registrants, exposing them to constant uncertainty.

R15, who had been granted a pardon and removed from his state registry, suggested it was unfair that registrants were expected to bear the costs of IML’s ambiguities. He emphasized: *I’m the one that could go to prison. I’m the one that could be arrested if I don’t follow the law correctly. What applies, what doesn’t, there’s all this confusion around it. Confusion about whether the state’s going to let you in. Confusion about whether it applies. How long does it apply? And if the state and federal regulations are different? How does that impact the person who’s trying to travel?*

This assessment of the situation aligned with Bellucci’s opinion that IML unfairly burdened registrants with systemic issues, as discussed in Chapter 6. For R16, the uncertainty IML created discouraged him from travelling altogether, a response to the law that I explore in the last third of this chapter.

### 8.2.3 A lack of flexibility

Several registrants felt that IML provisions also impacted the flexibility of their travels. This was less frequently cited as a practical impact but nonetheless an important one to R4, a high-adventure traveller who had been to 25 countries and had founded a non-profit organization in Nepal. He opined that the 21-day registration requirement did not consider the realities of travel, explaining that his exact travel itinerary was often still in flux within that timeframe as he “[*hunted*] for the *best price flight*.” Additionally, R4 mentioned that he had personally encountered “*missed flights*” and “*natural disasters*” that would have also been impossible to report in advance.

R14 shared similar thoughts, despite being a very different type of traveller. He was a retiree in his 60s, who explained that when he visited his daughter in Seattle, last-minute trips to Canada were not possible due to the 21-day registration requirement. To R14, this lack of “*wiggle room*” did not make sense since Canadian authorities already had access to shared criminal history databases with the US and could thus assess him instantaneously when he arrived at the border.

Both R4 and R14 experienced IML as a rigid and redundant system. These characterizations were synonymous with new penology critiques of IML as insular and technocratic, as detailed in the previous chapter. Distinctive of an insular technocracy, IML was concerned with enforcing internal measures of success in the form of 21-day registrations. At the same time, it ignored the realities of changing travel plans and existing systems for transmitting registrant information to foreign authorities without requiring registration.

### 8.2.4 Undue delays

Implied in all the personal stories above was the practical impact of delays during travel. These delays occurred not just abroad but also upon return to the US, in the form of prolonged questioning and being detained. For many registrants detained abroad, the experience was especially

distressing. R23, who had been denied entry into Colombia, was arrested, brought to a police department, and “*put in a cell*” overnight until the next available flight back to the US. She recalled that she “*didn’t sleep much at all,*” and was woken up at 4:30 the next morning by an officer who “*couldn’t speak English*” to return to the airport for her flight. R23’s account highlighted the disorienting nature of her treatment by Colombian authorities, a direct result of the IML notification.

R22 also described his experience of being detained in South Korea as daunting. He referred to the airport jail he was kept in as “*really deep in the bowels, deep and dark, kind of in a tunnel,*” eliciting feelings of fright and discomfort. Like R23, he also mentioned that the police did not speak English, but unlike with R23, they had “*pushed [him] around quite a bit.*” This difference in physical treatment may have been due to their gender difference, given that R23 was female. Nonetheless, R22’s experience also appeared to have lingered with him, as he emphasized: “*Until you’re in a Korean jail, you just don’t know.*”

For other registrants, the delays that they found the most distressing were upon re-entry to the US. On one 2019 online post, a registrant shared that he had been sent for secondary inspection “*maybe a dozen times*” flying into the LA International Airport. He outlined the process as first having his passport confiscated, and then waiting 10-40 minutes in public to be collected by an officer, which he found “*embarrassing with everyone looking at you.*” The registrant recommended that anyone trying to make a connecting flight after returning to the US ought to allow “*at least a 3-hour layover*” to account for these delays.

Interestingly, the registrant contrasted his treatment by U.S. authorities with that of authorities abroad, opining:

It IS [*sic*] sickening that you can travel to other countries and be treated with some respect, only to be treated like dirt by your own country when you return home. Even in Thailand, when I was denied entry, they were very friendly and apologetic. They said they would have let me in if it weren't for the letter from "Angel Watch" which they showed me. (Comment on 2019 ACSOL International Travel Thread, April 2019)

This opinion contrasted with R22's less courteous interactions with South Korean authorities. At the same time, they also contradicted with official U.S. narratives that other countries' responses to IML were out of their control (DHS, 2020). Thai authorities' claims instead suggested that the AWC's notice was the main reason this registrant was even turned away.

These experiences of travel delays as a result of IML reinforced that the law often led to a lack of due process for registrants. As mobility criminologists have explained, immigration controls often leave those detained with meagre legal protections, as they are not subject to the same rights as full citizens (Bhui, 2013). This seemed to be the situation for R22 and R23, and R23 even wondered if the outcome of her trip would have been different if she were able to obtain legal assistance in Colombia. Yet, the comments of the registrant that posted online suggested that even on U.S. soil, where registrants were citizens, they were still treated "like dirt." The dehumanizing, emotional impacts of IML are the focus of the next section of this chapter.

### **8.3 Emotional impacts**

#### **8.3.1 Embarrassment, exclusion, and stigmatization**

Throughout their stories, registrants often conceptualized IML as part of a general effort to humiliate them both domestically and abroad. The most commonly mentioned emotional impact of IML was embarrassment. This emotion was specifically identified by the registrant who

commented online about his CBP experiences, in terms of being scrutinized by other passengers while waiting to be collected by an officer. Furthermore, five interview respondents recalled authorities publicly announcing their names when their planes landed, leading those around them to regard them with suspicion. In R11's earlier account of being detained in Jamaica, he used the words "*perp walk*" to describe his experience, implying that those around him viewed him as a criminal.

Those that had been arrested and detained abroad were literally treated as criminals. R22, for instance, mentioned that he had been kept "*with drug smugglers and prostitutes.*" R23 added that she had not been allowed to change before being brought from the police department back to the airport, and thus "*just went without having street clothes on, just [her] pyjamas.*" The fact that these registrants highlighted these details indicated a heightened awareness of their self-image in those moments. R22 seemed to want to contrast himself from the 'real' criminals, and R23 seemed to want to appear 'presentable' like a 'normal' member of the public. Yet, neither was afforded this opportunity.

Another registrant, whose story was relayed to me by Bellucci, felt the need to lie to his friends when he was turned away on a trip with them. The registrant was "*so embarrassed*" that he was "*willing to make up a story as to why he was being denied entry because he was afraid what his friends would think of him if they found out he had been convicted of a sex offence*" (J. Bellucci, personal communication, April 2, 2021). For this registrant, the humiliating impacts of IML were more acute, because the relationships at stake were close ones with friends as opposed to with strangers.

All of these descriptions of IML's impacts align with Braithwaite's concept of stigmatization, whereby the law does not allow registrants normal societal participation (1989).

Instead, it promotes “disintegrative shaming” which actively ostracizes and ‘others’ the registrants (Braithwaite, 1989, p. 102). Stigmatization encompasses more than just the emotional impacts of IML. It also explains the law’s practical effects for those whose careers it curtailed. By destroying some registrants’ financial stability and limiting others’ abilities to reach their full financial potentials, IML has stigmatized registrants in an economic sense.

### **8.3.2 Labelling and disconnects between self and social identities**

Similar to R11 and R22, many respondents expressed the feeling that they were being ‘labelled’ by the IML system in ways that did not align with who they were. These perspectives coincided with the theoretical understanding of stigma as a disconnect between how individuals view themselves, and the significantly more negative identity they are assigned by society (Goffman, 1990; Tewksbury, 2012). Notably, three registrants compared the treatment of U.S. PCSOMs under IML to the historical discrimination of other groups.

R2 mentioned that he had “*a lot of sympathy for the Black Lives Matter movement*” because he had experienced what it felt like “*to be crushed down.*” This parallel suggested that he viewed himself as part of a righteous group deserving of better treatment, as opposed to the “*wicked pedophile man*” that society saw him as. R2 also emphasized that his label as a “*level one*” registrant was unwarranted, even if it was the lowest tier of registration. He noted: “*I’m not ‘just’ a level one, I’ve been a level one for something I did 40 years ago, [which] I haven’t done again.*”

In a similar vein, R5 implored me to “*imagine if your passport had a stamp in it that said you were a Jew, or that you were a lesbian, or that you were a communist.*” His comments stood out because he explained that he understood there was a difference between registrants being

labelled for their crimes versus these groups being labelled based on their identities. At the same time, he reiterated that societal labels could be, and had been incorrectly applied:

*If they didn't like you in the 1950s, they would label you a communist and it would destroy your life. It had nothing to do with whether you self-identified as a communist or whether you had ever committed a crime in the name of communism, it was just a way to dehumanize you and to turn you into the enemy somehow. (R5)*

This analogy suggested disconnects between registrants' self-identification and societal identification. Moreover, it carried a cautionary message against supporting systems like IML, which could be easily manipulated towards arbitrary ends. Indeed, R5 warned that eventually *“that target gets aimed at you . . . and by then it will be too late.”*

Lastly, R18 observed *“from a sociological perspective”* that IML exemplified how societies always needed a group *“to fear and to hate. And in the Middle Ages, all the way up until 1945 in Central Europe, it was Jewish people.”* His comparison of registrants to a historically persecuted group was interesting because it highlighted the cultural functions of negatively labelling registrants. As McAlinden (2014) has argued, sex offence discourses have been problematically exploited to maintain constructed social boundaries between *“‘pure’ and ‘dangerous’ spheres”* (p. 189). Ultimately, R18 challenged these artificial divides. He acknowledged that he had committed a crime, but also stressed that he had *“[paid] the penalty right by law.”* As such, like R2 and R11, he disagreed with how IML continued to view him as a criminal as opposed to a law-abiding citizen.

### **8.3.3 Courtesy stigma of various degrees**

Another emotional impact often referenced by respondents was IML's effects on their families. R19, for instance, lamented that his Filipina wife was forced to live apart from him, unable to even

get a divorce due to being a devout Catholic. As a result, she suffered both emotionally and economically. He concluded, as per the opening quote to this chapter, that *“these laws are actually more harmful to her than anything.”*

Furthermore, R11 and R16 both mentioned that IML had curtailed their wives’ travel by proxy. R11 explained that his wife did want to travel but was *“not going to go without [him] because that's sort of the point of being married.”* His comment suggested that she had willingly given up an aspect of her liberty despite not personally being subject to IML itself. R16, other the other hand, explained that his wife was unable to travel without him, since she was in poor health, and he was her primary caretaker. Again, this registrant’s spouse was deprived of mobility by association. R16 expressed a sense of resignation about the situation, calling it a *“ripple effect”* of the law.

Although no family members of registrants responded to my call for interview participants, some shared their perspectives on IML on the online threads I consulted. In 2019, one wife of a registrant posted about the “horrible experience” she had had on her honeymoon:

We arrived to Cancun, they announced his name over the intercom, and he got off the plane. I got off the plane minutes later and was taken to the customs area where I could hear them yelling at my new husband. When I saw him I was so relieved and then that’s when they told us we could not go into Cancun and had to get back onto the airplane. Cried the entire way back. The entire honeymoon was awful and I still think about that day. They would not let me pee so I almost peed my pants I was wearing. I finally snuck to the bathroom feeling like a convict but I wasn’t even the RSO [registered sex offender], my husband was. (Comment on RTAG IML Discussion Thread, May 2019)

Significantly, this account demonstrated “sensual metamorphoses” (Katz, 1999, p. 6) as the wife of the registrant initially experienced relief at being united with her husband, which turned into sadness upon realizing that her honeymoon would not happen, and finally became a sense of anger upon reflecting that she had been treated “like a convict.” This emotional ‘rollercoaster’ was a direct result of IML.

All of these above experiences illustrated Goffman’s concept of courtesy stigma, whereby those in relationships with stigmatized individuals find that they “suffer many of the standard deprivations” of the stigmatized group (1990, p. 32). Importantly, these deprivations went beyond being denied travel and included being denied basic privileges such as accessing a bathroom. They also involved an emotional dimension such that registrants’ spouses shared many of the same feelings of confusion, anxiety, disappointment, and rage as the registrants themselves.

Additionally, as Goffman explains, those who experience courtesy stigma can “themselves have connections who acquire a little of the disease twice-removed” (1990, p. 31). In other words, negative impacts of IML could also impact those more distantly related to registrants than their spouses. One strong example of this was R10’s comment that he was unable to see his in-laws in Malaysia, which was both “*a hardship for [his] wife and for [himself]*.” Another example of this was R18’s comment that IML had “*not totally prevented*” but “*definitely stymied*” his ability to travel with his children. He elaborated that Europe was the only region his family could travel to with confidence, but this was “*very expensive*” compared to other destinations, which unfortunately prevented him from “*sharing the world*” with his kids. While the courtesy stigma experienced by R18’s children was not as extreme as that experienced by R19’s wife, who was mentioned at the beginning of this section, they were nonetheless deprived of some opportunities to travel because their father could not accompany them.

### 8.3.4 Fear and ‘the chilling effect’

According to Janice Bellucci, IML’s biggest danger was “*the chilling effect*”: whereby registrants stopped travelling “*because [they were] afraid what [would] happen to them.*” Indeed, 60% of the registrants I spoke to had stopped international travel, citing the law as a direct reason for their decision. Importantly, half of these respondents stopped travelling independently of any firsthand negative experience.

When asked about what kept them from travelling to regions known for admitting registrants, these respondents cited horror stories that others had shared; the legal, financial, and personal risks involved; being ‘flagged’ by the system in irreversible ways; and simply to avoid the potential hassles involved. All of these reasons involved the emotion of fear. Those who had ceased travel following poor experiences expressed not wanting to repeat aspects of their experiences: poor treatment by customs authorities, feelings of stress and paranoia during travels, worries about being separated from family during travels, and personal and financial risks incurred. Again, the emotion of fear was a dominant factor in their rationalizations.

What was evident from registrants’ accounts was that fear, like many of IML’s other impacts, was highly subjective. For example, R22 shared that he was holding off on travel until California’s recent registry amendments took effect. He believed that these amendments would remove him from the registry and the purview of IML by extension. Until then, he did not “*want to be on anyone else’s list.*” In contrast, while R2 had already been removed from his state registry, he remained hesitant to travel to certain regions. He noted: “*I wouldn’t dare try to go to Japan. Even now, the Japanese are just insane about this stuff.*” When further questioned on the nature of his worries, R2 reasoned: “*Who knows what’s in their little databases over there, there could be relics of this whole process [...] they’ll just grab you up and incarcerate you.*” These

speculations reflected a lack of confidence in ever fully escaping IML's reach, as well as continued fears of arbitrary punishment by foreign authorities.

This continuous sense of fear was similarly expressed in a 2019 post online. One registrant commented that he seemed to "constantly learn" about new "mines" he was previously "oblivious to" (Comment on 2019 ACSOL International Travel Thread, September 2019). As a result, he was "always filled with anxiety of having done something potentially wrong." This comment underscored that registrants' fears about IML were "interactional processes" (Katz, 1999, p. 6), in that they were reinforced by interactions with other registrants and hearing about their encounters with the system.

Link et al.'s modified labelling theory (1989) helps explain why some registrants responded to these fears by ceasing all travel, despite not having had negative firsthand travel experiences. The theory's second stage involves stigmatized groups becoming aware of societal attitudes about their label, while its third stage involves a response to these attitudes (Link et al., 1989). Indeed, registrants described learning about how IML impacted other PCSOMs (becoming aware of societal attitudes about their label as 'high-risk traveller'). Some responded to this situation by ceasing travel altogether (a withdrawal response, limiting interaction to avoid further stigmatization). This finding was significant because it suggested that IML caused chilling effects through both direct and indirect means. While some registrants were deterred from legitimate travel by fears relating to past travel experiences, others were deterred just by negative expectations regarding how they could be treated if they were to travel.

#### 8.4 Responding to IML

In response to all of the impacts described above, respondents took a variety of actions to cope with IML's effects on their lives. As already discussed, some decided not to travel internationally altogether, withdrawing from the possibility of being stigmatized by the law. Others decided to travel separately from their family members, in order to avoid imparting a courtesy stigma onto them. Curiously, few took follow-up actions to complain to officials or seek redress for their treatment, indicating that they felt too distraught at the time to do so, or believed that it would not be helpful.

Those that did attempt to contact authorities described being bounced around by different departments, with *“people pointing to each other—that’s their job, their job”* (R3). They also described apathy from political representatives: *“I’ve called my senators, I’ve written them letters and all that and they always give me a canned ‘too bad, so sad’ response back and [it] usually just comes from a staffer”* (R4). Registrants that managed to obtain documents from *Privacy Act* requests indicated that the information they received was often heavily redacted due to security concerns cited by the DHS. This rendered the information unintelligible and of no clarificatory value.

Registrants' responses to IML often aligned with stigmatized individuals' general coping mechanisms for responding to societal devaluation and discrimination. This included withdrawal, secrecy, and preventative telling (Link et al., 1989), as well as grouping and denial responses (Evans & Cubellis, 2015). As Link et al. (1989) have suggested, many of these mechanisms produced further negative consequences for registrants, which I detail below.

### 8.4.1 Withdrawal

Demonstrating a withdrawal response, several respondents described hopelessness and defeat regarding IML. R13 felt that there was no legal recourse against being treated poorly by customs, saying: *“I deal with that, and I have nothing I can say or do about it.”* Speaking to legal recourse in the sense of overturning the law, R16 expressed that it was *“a very, very steep climb.”* He elaborated that court precedents meant that IML only needed to meet a very low threshold of rational basis review to be upheld. Similarly, registrant David Kennerly opined that with the IML system in place, *“there’s no due process there whatever. There’s no way to dispute it, there’s nothing.”*

These responses involved withdrawal in an emotional sense, but also a physical sense, as all three respondents had decided to abstain from international travel. R20 shared a more extreme example of withdrawal in response to IML. He intended to immigrate to Germany, explaining that he would seek *“equitable relief”* by asking to be treated the same as somebody there who had committed the same crime *“over 20 years ago.”* R20’s plan corresponded to modified labelling theory’s fourth stage of societal retreat (Link et al., 1989), in his case a complete withdrawal from U.S. society.

### 8.4.2 Secrecy

Taking a secrecy response to IML, other registrants attempted to hide their identity as PCSOMs when travelling, to avoid the stigmatization of the label. Some dual nationals did this by travelling on their non-U.S. passports. Others pursued tactics including using a plastic cover to conceal their marked passport page, providing purposefully vague information when registering travel to avoid being detected abroad, and taking alternative routes during travel to avoid having notifications sent out on them.

As stage five of modified labelling theory outlines, however, these secrecy tactics left registrants susceptible to further problems down the road (Link et al., 1989). Bellucci mentioned that legal efforts were underway to close loopholes on registrants travelling with non-U.S. passports (J. Bellucci, personal communication, April 2, 2021). Additionally, comments on the RTAG and 2021 ACSOL travel threads indicated that authorities were paying increasing attention to unreported stops during travel. One registrant warned, “They are now catching onto this. I just did this and was contacted by a detective in my jurisdiction and he said I will be charged with a crime when I return” (Comment on RTAG IML Discussion Thread, July 2019). Thus, secrecy seemed to be an increasingly risky response to IML’s effects.

### **8.4.3 Preventative telling**

Taking an alternative approach, other registrants tried to educate authorities about their situation and take control of their own narratives through “preventative telling” (Link et al., 1989). R10, for instance, explained that would first apply for the Canadian criminal rehabilitation program. Once he was able to prove that he was “*not a threat*” on the official record, he would pursue the equivalent processes in the UK and Australia. Then, he would “*go with the evidence in hand to the Malaysian embassy*” and “*present those facts to them.*” R10 seemed to be optimistic that he would be able to reshape authorities’ existing notion of him as a ‘high-risk travel threat.’

Interestingly, he also mentioned sharing his narrative with a wider audience by creating an alternative online ‘registry’ where registrants could list “*things like not having any criminal records, describing the details of [their] lives*” on their own terms. Compared to R10, R4 was decidedly less optimistic about preventative telling as a response to IML’s stigmatization. He explained that despite presenting extensive evidence of his positive character, and 30 years having passed since his conviction in his early 20s, authorities had not granted him any leniency:

*We sent a huge packet of all of that stuff; I went and had an evaluation from a Ph.D. therapist. [...] He wrote a long report stating that I was a rehabilitated citizen, outlined all the work I've done. I've literally saved 2000-3000 lives; I was embedded in a special forces unit in Nepal during the earthquake in 2015, had my own Indian Air Force helicopter. They flew me into remote areas, I recovered bodies, I dug mass graves, I saved over 200 babies. [...] So far, we've not made any headway, no matter how many specialists we bring in and how many lives I save and how many news stories. [...] We send them everything, they just don't care. (R4)*

The U.S. government's reported indifference towards R4's exceptional community contributions affirmed the pessimistic prospects of challenging IML. It suggested that the bar for overturning registrants' negative labels by the system was unreasonably high and potentially even impossible.

On another note, the decision of registrants to be interviewed for this study could also be considered preventative telling. Through the semi-structured format of interviews, they were able to engage with me on their own terms and explain their perspectives on why they did not deserve to be discriminated against by IML provisions. Notably, R6 even characterized himself as someone who “*wanted to be part of that conversation*” to “*better fight [the sexual exploitation of children] in the future.*” By sharing their stories and opinions, respondents educated me on their narrative about IML, which differed from popular perceptions of the law. At the end of our interviews, many also expressed the wish that I would share this critical understanding with others.

#### **8.4.4 Denial**

Like in Evans and Cubellis' (2015) study, some registrants denied their stigmatizing labels by referring to their crimes as mistakes separate from their identity. For instance, R13 opined: “*People like myself who have made that mistake in life learn from it, we don't continue to do things*

*like that.*” Similarly, a 2020 online post read: “Everyone makes mistakes and sometimes those mistakes affect many lives, including our own, for a long time. You are not defined by your crime unless you allow yourself to be” (Comment on RTAG IML Discussion Thread, June 2020). This comment was significant as it challenged populist ideas of registrants as a ‘monstrous other,’ insisting that they were just like “everyone” and encouraging others to resist internalizing negative labels.

At the same time, the denial response is controversial because it risks encouraging further public stigmatization of registrants based on the belief that they were refusing responsibility for their wrongdoings. R2 expressed this perspective to some extent as well, stating: “*If you fight it, you're not accepting personal responsibility, you're not owning up to it, you might re-offend as a result.*” His comment indicated that denial responses to IML could be counterproductive, reinforcing existing societal misconceptions of PCSOs as remorseless recidivists.

#### **8.4.5 Grouping**

Finally, as evidenced by the existence of the various advocacy groups encountered during this research, registrants did pursue ‘grouping’ as a response to IML stigmatization, seeking out other registrants “as a source of social support and understanding” (Evans & Cubellis, 2015, p. 594). Even on the virtual threads where commenters were often anonymous, there was a sense of equality, respect, and camaraderie. Illustrating this sense of community, one 2021 post read: “I love this place. So many good people and great ideas and there is always something to learn” (Comment on 2021 ACSOL International Travel Thread, March 2021). Various respondents also mentioned maintaining in-person relationships with other registrants, often through local advocacy groups.

At the same time, public association with other registrants had potentially negative consequences. In our interview, Kennerly explained that he had been “*harassed by the FBI*” for his activism. He added that they had surveilled and questioned him, emphasizing that this was what happened to “*people who try to stand up for their rights and their liberty.*” This experience seemed to be on the extreme end of the spectrum. At the same time, he was not the only registrant who expressed concerns about being monitored by the government. One 2019 commenter wrote: “I really worry about whether ICE, State Department, Customs, Satan Watch, etc. monitor this webpage, but what the heck” (comment on 2019 ACSOL International Travel Thread, December 2019). Ultimately, such comments reflected that for some registrants, grouping responses to IML stigma carried very real threats to their perceived well-being.

## 8.5 Chapter summary

This chapter presented extensive empirical evidence of the personal consequences of IML on registrants’ lives. These consequences extended beyond practical inconveniences to involve deep emotional impacts including fear, anxiety, and paranoia. Such emotions, in turn, led to chilling effects on travel, even among those who had not directly experienced adverse treatment themselves. Significantly, registrants’ family and friends were also exposed to IML’s negative effects through courtesy stigmas. While registrants pursued mechanisms to cope with IML’s stigmatizing impacts on them, these mechanisms often imparted further negative impacts onto the lives of registrants and their loved ones.

## Chapter 9: Conclusion

This thesis has taken a cultural criminological approach to studying the impacts of the International Megan's Law, using lived experiences as a lens through which to understand its larger structural dynamics (Ferrell et al., 2008). Relying on qualitative methods of online discourse analysis, ethnographic content analysis, and in-depth interviews, it explored the central research question: *How has International Megan's Law impacted U.S. registrants' mobility to any country outside of the US since 2016?* Five subquestions guided this research question, focusing on media discourses and registrant experiences of the law, as well as on explanatory concepts including the new penology, pre-emptive mobility governance, and stigmatization.

First, this chapter summarizes the empirical findings of this research and answers the research questions. Then, it discusses the theoretical and policy contributions of these findings, including avenues for future research as well as concrete policy recommendations. Finally, I provide some closing thoughts on this thesis as a whole.

### 9.1 Summary of empirical findings

The question of IML's impacts on U.S. registrants' mobility yielded different answers from different stakeholders. Online discourse analysis revealed that mainstream media narratives on the law were often law enforcement-centric and pro-government. They depicted IML as justifiably restricting the movement of dehumanized 'predators' towards the rational and important ends of protecting 'vulnerable' children everywhere. They also presented IML's influence on foreign countries' restrictions of U.S. registrant mobility as a positive development.

This mainstream media reporting reflected 'punitive new penology' logics (Simon, 1998) in discussing the impacts of the law. U.S. PCSOMs were often treated as a homogenous group and

labelled as ‘high-risk dangers’ in need of management as opposed to individuals capable of rehabilitation. Such discourses were not only managerial but punitive, portraying PCSOMs as monstrous and sub-human to support a zero-tolerance policy towards them. The popular media also presented acontextual government statistics regarding registrants implicated in the IML system. These statistics evidenced an insular technocracy focused on measures of success defined by government agencies themselves, all while promoting the superficial impression that IML was meaningful in addressing extraterritorial child sexual exploitation.

In contrast, registrant advocacy websites challenged these narratives, emphasizing that IML unconstitutionally limited the freedoms of registrants, who were U.S. citizens and residents undeserving of differential treatment. Additionally, these websites suggested that the mobility limitations lacked any empirical basis, and were instead the outcome of media, NGO, politician, and state manipulation toward each group’s own gains. Finally, registrant advocacy media presented foreign countries’ increasing tendency to turn away U.S. PCSOMs as a problematic development for registrants’ legitimate travels. Thus, the discourse-level analysis suggested that IML impacted registrants in a legal sense, as an over-extension of punishment that violated their rights.

In terms of the IML’s system-level effects on registrant mobility, government and registrant perspectives again diverged. The ‘official’ line on IML’s three main provisions of travel registration, passport identifiers, and notifications abroad was that these provisions were operationalized through seamless processes. Despite the many domestic and international entities involved, the system was presented as efficient and effective. Furthermore, the U.S. government took no responsibility for registrants’ mobility challenges abroad, maintaining that these decisions were at the sole discretion of foreign governments.

Yet, registrants outlined U.S. government complicity in administrative hurdles they faced at each stage of travel. Before even deciding to travel, they faced great uncertainty in researching which countries would turn them away based on IML notifications. Then, when trying to register travel 21 days in advance in compliance with the law, registrants encountered local registration authorities unknowledgeable about IML. These authorities often pursued inconsistent and contradictory implementation of registration processes, reflecting communication breakdowns between local and federal agencies. These disconnects also related to larger discrepancies between state and federal ‘sex offender’ registration and notification (SORN) laws and systems.

Similarly, registrants faced significant administrative barriers when attempting to obtain a passport with an identifier. Some registrants had their passports revoked while abroad, presenting serious impediments to their mobility. While this scenario was becoming less frequent, the process by which passports with identifiers were issued remained opaque, reflecting communication barriers even between federal-level government entities. During registrants’ travels, the notifications sent abroad then subjected them to communication barriers on an international scale. They were affected by database errors and human subjectivities at various borders around the world, demonstrating IML’s limits as a form of pre-emptive mobility governance (Broeders & Hampshire, 2013).

Importantly, all of these experiences were validated by a 2020 government-funded study that interviewed local U.S. authorities, reflecting a ‘front-line’ perspective from the government actors running the IML system (Harris et al., 2020). The study affirmed communication gaps in terms of official messaging on countries turning registrants away, as well as between local and federal entities during the travel registration process. It also acknowledged critical technology barriers that contributed to system-level errors and impeded reliable government decision-making

on registrants. Thus, the system-level analysis suggested IML impeded registrant mobility in a bureaucratic sense, disrupting and preventing travels with confusing, inconsistent, and erroneous information.

Registrants' assessments of the IML system governing their mobility were overwhelmingly negative overall. Unlike the rights-based arguments in the registrant advocacy media, individual registrants primarily focused their arguments on IML's efficacy. Generally, they believed that IML's approach to its stated intent was misguided and disproportionate. While many registrants agreed that preventing extraterritorial child sexual exploitation was a worthy objective, they cited the lack of empirical evidence that U.S. PCSOMs were at high risk of engaging in this offence. Others were more critical of the political interests driving IML, suggesting that their mobility was being limited to appeal to a punitive public who had many misconceptions about PCSOMs.

On the whole, registrants felt that IML was ineffective towards addressing its stated intent because of its flawed design. Specifically, they referenced its flawed notion of risk, categorically branding all U.S. PCSOMs as dangerous as opposed to considering individual mitigating and aggravating characteristics. They highlighted cases where this was especially detrimental, such as punishing juveniles on registries who did not present any real risk of engaging in extraterritorial child sex exploitation. This assessment again underscored IML's new penology logics of sorting without evaluating individuals, as well as pre-emptive mobility governance problems of categorization without nuance.

Registrants also identified various system redundancies, suggesting that IML's registration and passport identifier provisions were unnecessary in practice. They reported that authorities never looked at their passports, and that travel notifications could be sent using information systems already available to the government without registration. Lastly, registrants identified

IML's negative spill-over effects for the criminal justice system as a whole, diluting the integrity of INTERPOL's green notice system, expanding the U.S. prison-industrial complex by facilitating its international reach, and progressing crime controls towards more privacy-invasive, pre-emptive norms. Thus, registrants' system-level assessments questioned IML's impacts on their mobility in a broader societal sense, in terms of being an inefficient means of addressing its intent and for weakening criminal justice systems both domestically and abroad.

Finally, registrants provided diverse accounts of how IML's impacts on their mobility translated into their personal lives. These included stories of careers ended and inhibited; families separated, and family experiences impeded; and other personal travels for legitimate reasons curtailed. These encounters with IML involved various practical impacts, including financial costs, travel uncertainties, a lack of flexibility, and undue delays. At the same time, they also involved emotional impacts including embarrassment, stigmatization, and fear.

Fear was especially significant because it led to the 'chilling' of travels based on both direct and indirect experiences. Indeed, half of the 60% of respondents who had stopped travelling due to IML did so without experiencing any firsthand negative experiences. Additionally, emotional and practical impacts were often highly subjective. IML's financial costs impacted registrants differently depending on their specific financial situation, and registrants had different tolerances for risks they were willing to take on their travels, reflective of different personal thresholds for fear.

A particularly notable impact of IML was the courtesy stigma (Goffman, 1990) extended to registrants' families and loved ones as a result of their curtailed mobility. Spouses suffered disproportionately, facing harms including having to live apart and being unable to travel by proxy, as well as sharing many of the same practical and emotional risks as registrants when travelling

together. The children and extended family of registrants also experienced these stigmas, albeit to a lesser degree due to their more distant relationships with registrants. Thus, these personal accounts showed that IML's impacts on registrant mobility were both subjective and relational, impacting not just registrants alone but also those associated with them.

In accordance with modified labelling theory (Link et al., 1989), registrants coped with IML's stigmatizing effects on their lives in various ways. Some withdrew from travel altogether, some tried to hide their identity as PCSOMs while travelling, some engaged in preventative telling to take reshape others' understandings of their identities, some denied their stigmatizing labels by downplaying their crimes, and some grouped with other registrants impacted by IML for social support. Yet, many of these coping mechanisms carried risks of further negative consequences for registrants, including legal repercussions, additional public stigmatization, and even government repression.

Altogether, this research revealed that IML negatively impacted registrants' mobility across five dimensions: legally, bureaucratically, societally, subjectively, and relationally. While previous studies had challenged the legal and bureaucratic aspects of registrants' curtailed mobility, this study's presented novel findings on IML's subjective and relational consequences. These additional impacts of IML underscored that mobility restrictions were experienced not as mere administrative inconveniences, but rather as forms of punishment, imparting practical and emotional harms onto registrants and those close to them. Together with the negative societal effects of IML, the findings prompted reconsideration of both the law and its wider system.

## 9.2 Theoretical and policy contributions

This research has contributed to the critical scholarship on IML by substantiating existing legal analysis with rich empirical data based on lived experiences of U.S. PCSOMs. It showed the value of cultural criminological approaches to broadening understandings of the law's effects. It also demonstrated how fully virtual methods could be used to analyze divergent discourses and explore the meanings of the law for individuals directly impacted. Research findings confirmed and nuanced three hypothetical critiques of IML that emerged from the literature review: that it was supported by the mainstream media, that it introduced system-level inefficiencies, and that it stigmatized registrants and their families based on erroneous perceptions of risk.

Additionally, this research situated IML within larger trends of penal and migration politics, explaining how the law was both a form of punitive new penology and an embodiment of pre-emptive mobility governance. As such, it reinforced that the U.S. sex offence apparatus continues to progress towards more unforgiving and counterproductive ends. At the same time, it suggested that this apparatus has evolved to produce new dangers associated with its reliance on information data technologies. This includes erroneous decision-making based on both incorrect data and incorrect human interpretations of data. Academics, policymakers, and the public should not ignore these dangers.

Indeed, IML's integration of domestic crime control databases with international mobility control databases highlights an important nexus relevant to the emerging field of mobility criminology. Specifically, the case study of IML suggests that there are populations beyond migrants and refugees implicated in the growing 'crimmigration control industry' necessitating scholarly attention (Bowling, 2013). PCSOs, for one, are an important group for mobility

criminologists to consider. The following sections present some additional possibilities for future research, as well as specific policy recommendations based on the findings of this thesis.

### **9.3 Future research**

A central conclusion of this research was the need for evidence-based rather than sentiment-driven policy to address the problem of extraterritorial child sexual exploitation. ‘Evidence-based’ is used here to refer to both qualitative and quantitative research that is conducted in a systematic, transparent, and credible manner, which contrasts with the acontextual and unreliable statistics currently used to justify IML. Given the contentious nature of IML’s central premise, a top research priority should be to empirically assess whether PCSOMs actually pose any increased risks of travelling to re-offend compared to the general population. This research could involve statistical comparisons but should be designed to carefully consider diverse types of PCSOMs. Additionally, the reoffence rates of those convicted of extraterritorial child sexual exploitation should also be examined, to see if targeted controls on their mobility can even be justified. The results of these investigations would likely discredit IML’s underlying assumptions and logics.

Moreover, further qualitative investigation would help to better understand IML’s specific harms. As this study has shown, some of these harms are highly subjective and only revealed through methods that engage with personal narratives. As such, scholars should explore the experiences of registrants underrepresented in this study, such as juveniles; females; and those identifying as black, indigenous, and people of colour (BIPOC). BIPOC registrants might have more personal connections abroad, causing the impacts of IML to be felt more acutely. They could also experience added stigmatization at borders due to their combined BIPOC and registrant status. Along the same vein, it would be useful to compare the accounts of juvenile and female registrants

with male registrants, to see if there was any difference in their treatment by officials. This would be significant given scholars' critiques of IML's disproportionate impacts on juvenile registrants in particular.

Scholars would also benefit from the perspectives of registrants' families, who could provide valuable insights into the details of courtesy stigmatization as those directly implicated. They might also seek the perspectives of lawyers, social workers, therapists, and other practitioners who have assisted registrants impacted by IML. These individuals could provide unique occupational expertise on the legal, relational, and emotional costs of IML on PCSOMs.

At a system level, scholars should try to find undiscovered points of database inconsistencies and human subjectivities within the IML infrastructure. As this study revealed, these often remain shrouded in secrecy due to government reluctance to provide those impacted by them with meaningful records. Scholars could directly examine sites of information inputs to investigate how registrant information is transformed as it moves between domestic and international agencies. Useful questions to ask include what kinds of categories and labels are used by different entities, and what types of training are offered to the officials involved with each entity. This knowledge would help to pinpoint the types of information distortion that occur, as well as ways to minimize this distortion and reduce harm to those impacted.

Finally, this research has suggested that ulterior motives and interests are rife within the IML system. Thus, scholars should seek to uncover further details about how the U.S. government may be pressuring foreign governments to adopt its system, the extent to which foreign governments are capitulating, and who stands to benefit from these developments. A particularly interesting and unmapped area is the involvement of the private sector in the U.S. SORN apparatus, which was indicated by some media reports and registrant accounts. Outstanding questions on this

topic include how third-party screening companies fit into the IML information-sharing apparatus, and how their use of registrant information is regulated and overseen. This research would deepen insights on IML's societal impacts, as part of a 'prison-industrial complex' and 'cimmigration control industry.'

## 9.4 Policy recommendations

Table 2: Recommendations for addressing IML issues based on research findings

Finding-based issues	Recommendations	Anticipated results
The discourse analysis found that popular media reporting on IML was one-sided and poorly researched.	The popular media should <b>represent registrant perspectives in reporting</b> as well as provide well-referenced and contextualized statistics when citing them in articles.	This would lead to more well-rounded public knowledge about IML's scope and impacts.
<p>The system-level analysis found that IML processes were inconsistent, opaque, and error-prone, causing undue hardship to travelling registrants.</p> <p>Registration and passport identifier provisions were identified as especially redundant.</p> <p>There was also great uncertainty about the nature of notifications and how registrants would be treated by foreign officials.</p>	<p>The U.S. government should <b>minimize all bureaucratic burdens IML currently imparts</b> onto registrants, by:</p> <ul style="list-style-type: none"> <li>- halting registration and passport identifier requirements,</li> <li>- immediately informing registrants when notifications are sent out on them and indicating the exact information shared,</li> <li>- establishing accurate and up-to-date guidelines on how foreign countries treat IML notifications, and</li> <li>- ensuring registrants detained abroad have the same consular support as any other U.S. citizens.</li> </ul>	This would alleviate some of the IML system's administrative harms, providing travelling registrants with a greater sense of certainty and safety until such time that IML can be entirely repealed.
The system-level analysis found that there was no empirical evidence supporting the underlying premise of IML, that PCSOMs as a group presented high risks of	Governments should <b>repeal IML until such time that its underlying premise can be supported</b> by evidence-based research.	This would stop the perpetuation of IML's existing legal, bureaucratic, societal, subjective, and relational harms to registrants.

Finding-based issues	Recommendations	Anticipated results
<p>engaging in extraterritorial child sexual exploitation warranting limits on their mobility.</p>	<p>Foreign governments specifically should <b>stop turning away U.S. PCSOMs based on IML notifications</b>, diluting the efficacy of the system and pressuring the U.S. to repeal the law.</p>	
<p>The personal-level analysis found that IML had caused significant disruptions to some registrants' careers and personal lives.</p>	<p>Governments should <b>work with researchers to better understand the nature of these harms</b> and acknowledge their roles in creating them.</p>	<p>This knowledge and action, while not undoing the original harms, could help to prevent future harms.</p>
<p>These disruptions involved substantial financial costs, but also deep emotional impacts that also extended to those close to them.</p>	<p>This could include creating compensation schemes for those critically impacted.</p>	<p>They would also provide registrants with positive coping mechanisms for the stigma experienced, through formal opportunities to engage in preventative telling without risks of government repression.</p>
<p>The research as a whole found that many system-level questions regarding policy effectiveness remained unanswered, due to a lack of government transparency about its mechanisms of mobility control.</p>	<p>Governments should <b>cooperate with researchers in good faith</b> as they explore the topics in the "future research" section, providing them access to important data in a timely fashion.</p>	<p>This collaboration and informed decision-making would help make government policies more effective and credible.</p>
<p>Moreover, registrants reported being harassed by the government for raising awareness about these issues.</p>	<p>This would also involve cooperating with rather than attacking registrant advocacy efforts, acknowledging their perspectives and contributions to this research.</p>	<p>It could also help redirect resources towards more effective means of addressing the problem of extraterritorial child sexual exploitation.</p>

## 9.5 Final thoughts

While developing the policy recommendations, I deliberated over whether they were too naïve in proposing such drastic overhauls to the IML system. After all, the U.S. SORN apparatus as a whole has so far been extremely resilient to widespread calls for reform from the academic and advocacy communities. Yet, new penology narratives have staying power precisely because they suggest quick-fix forms of crime control that governments can easily implement within bureaucratic structures divorced from reality. To challenge these narratives, my study had to do something different than suggesting superficial tweaks to the existing system.

When I began this research, even I believed to some extent that travelling PCSOMs were a risk that could be managed in an actuarial way. I initially expected that my final recommendations would simply involve narrowing IML's scope, to focus only on the most 'dangerous' registrants. However, as my research progressed, it became increasingly apparent that there was no clear connection between any PCSOMs and heightened risks of extraterritorial child sexual exploitation, undermining the law's central justifications. Moreover, the existing U.S. SORN system was clearly unable to categorize registrants in any meaningful way. Some of the most rehabilitated respondents I spoke to who actively contributed to society were also labelled the most dangerous by the government, with little recourse to ever get off the registry.

In this heavily flawed system that disregarded all individual circumstances, any incremental changes to IML would do nothing to alleviate the continued punishment of registrants permanently branded as 'irredeemable risks.' Furthermore, any law that curtailed the liberties of citizens without strong empirical support negatively impacted the integrity of the wider criminal justice system. Thus, I concluded at the end of this research that IML must be repealed in its entirety.

My final policy recommendations reflect that there is no easy, clear-cut solution to the problem of extraterritorial child sexual exploitation. Rather, U.S. and foreign governments have to do the hard work in investigating the crimes instead of scapegoating PCSOMs to pretend that they are addressing the problem. If the U.S. government were held to account for the many harms that it has unfairly imparted to registrants, it would likely see the International Megan's Law for what it really is—an irrational and costly system holding U.S. citizens prisoners in their own country.

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## Appendices

### Appendix A: IML's legislative evolution

	2008	2009	2010, 2011*	2014	2016 (final)
<b>Travel Registration</b>	<ul style="list-style-type: none"> <li>- Requires 21-day advance notice of international travel</li> <li>- Creates federal offence for failure to register punishable by 10 years in prison</li> </ul>	<ul style="list-style-type: none"> <li>- Adds specific information to be provided when registering travel</li> <li>- Adds creation of foreign registries of U.S. registrants residing abroad, to be maintained by U.S. diplomatic and consular missions</li> <li>- Adds requirements to register in foreign countries with U.S. diplomatic or consular missions</li> </ul>	<ul style="list-style-type: none"> <li>- Adds more information to be provided when registering travel</li> <li>- Increases registration period to 30 days advance notice</li> <li>- Adds \$25 fee for registration</li> <li>- Adds requirement to deliver registrants with a "written confirmation of receipt of the travel report" at least seven days before travels</li> </ul>	<ul style="list-style-type: none"> <li>- Removes all registration requirements for U.S. PCSOMs living abroad</li> <li>- Removes all details about registration timeline, fees, and confirmation receipts</li> </ul>	
<b>Government Information-sharing</b>	<ul style="list-style-type: none"> <li>- Establishes notification to foreign countries of registrants' travel</li> </ul>	<ul style="list-style-type: none"> <li>- Adds creation of International Sex Offender Travel Center (ISOTC)</li> </ul>	<ul style="list-style-type: none"> <li>- Adds call for creation of separate system for registrants who regularly transited US-Mexico and US-Canada borders for legitimate reasons</li> </ul>	<ul style="list-style-type: none"> <li>- Renames International Sex Offender Travel Center from 2009 version to Angel Watch Center (AWC)</li> <li>- Adds requirement to "make reasonable efforts to provide constructive notice" to registrant prior to travels should a notice be sent out on them</li> <li>- Removes all 2010/2011 references to registrants who regularly transited US-Mexico and</li> </ul>	<ul style="list-style-type: none"> <li>- Removes all references about notifying registrants ahead of travel that a notice is being sent out on them</li> <li>- Adds details about receiving notifications from other countries</li> <li>- Adds details about roles of AWC, USMS</li> </ul>

	2008	2009	2010, 2011*	2014	2016 (final)
				US-Canada borders	
<b>Passports</b>		<ul style="list-style-type: none"> <li>- Adds one-year validity limit for 'high risk sex offenders'</li> <li>- Adds provision to rescind passport from any U.S. PCSO convicted abroad</li> </ul>		- Removes all references to passports	- Adds unique identifier provision, marking all passports of 'covered sex offenders' and revoking unmarked passports
<b>Other</b>	<ul style="list-style-type: none"> <li>- Denies US entry to anyone convicted of a sex crime in a foreign court</li> <li>- Makes no differentiation between PCSOs and PCSOMs</li> </ul>	- Adds requirement for ICE to make a determination on who qualified as a 'high risk sex offender,' defined as someone who "[posed] a high risk of harm to children in a country to which he or she intends to travel."	<ul style="list-style-type: none"> <li>- Replaces 'high risk' terminology from 2010 version with 'high interest registered sex offender,' defined as someone whom the ISOTC "has a reasonable belief presents a high risk of committing a sex offence against a minor in a country to which the sex offender intends to travel"</li> <li>- Excludes most juvenile registrants from the act</li> </ul>	<ul style="list-style-type: none"> <li>- Removes 'risk' and 'interest' language of previous versions dropped and replaces this with 'child-sex offender'</li> <li>- Removes 2010/2011 exclusion of juvenile registrants from the act</li> </ul>	<ul style="list-style-type: none"> <li>- Uses 'covered sex offender' instead of 'child-sex offender'</li> <li>- Adds details on data collection, corrections, and complaint procedures</li> </ul>

\* There were no substantial changes between the 2010 and 2011 versions of the bill.

*Note:* This summary consulted the final versions of bills produced in each legislative session, which often differed from the initial versions of bills introduced. All bills and versions are specified in the reference list.

## Appendix B: Interview topic lists

### Registrant interviews

Topic 1: Personal background → Can you tell me a bit about yourself?

- Location
- Education/job
- Age
- Family dynamics
- History with registry
  - o Location(s)
  - o Tier of offence
  - o Current registration status

Topic 2: The process → What steps do you take before travel to be compliant with IML?

- Researching country policies (if so, which websites?)
- Contacting country officials
- Registering travel (timeframe, information given)
- Obtaining passport with identifier
- Type of traveller
  - o Frequency, locations, purpose, alone/family
  - o Citizenship(s), status in other countries
- Any additional precautions taken:
  - o At customs, beyond customs (e.g., hotels, banks)
  - o If plans change

Topic 3: Travel → How have you experienced international travel since the introduction of IML?

- Changes post-IML (if none, why?)
- Specific experiences: airport security, cruises, places where ID is needed
- Impacts on them and family (emotional, financial, career)
- Differences between countries (any they feel more/less comfortable in?)

Topic 4: Opinions → What changes would you like to see to IML?

- Rationale: elected officials frame this law as a means “to protect children and others from sexual abuse and exploitation, including sex trafficking and sex tourism” (text of law). How does that framing fit with your understanding of the impact of the law?
- Are there any parts of the law that you feel were done right?
- Thoughts on:
  - o People covered by the passport identifier
  - o Travel registration
  - o Travel notifications

## Expert interviews

Topic 1: IML → How did IML get on your radar?

- Evolution of law?
- Passing of law?
- What provisions most adversely impact lives?
  - o Travel registration
  - o Notification scheme
  - o Passport identifier

Topic 2: Travel registration → Can you explain how it works on paper versus in reality?

- Official process
- Client experiences with process
  - o State and federal inconsistencies
  - o Mistakes (not registering within 21 days, not enough information as required, changes to itinerary)
  - o Emergencies
  - o Any others?

Topic 3: Notification scheme → Can you explain how it works on paper versus in reality?

- Official process
  - o Angel Watch Center notice triggers and risk assessments
  - o Interpol Green Notice triggers and risk assessments
- Client experiences with process
  - o Notification inconsistencies (same types of people treated differently)
  - o Patterns: countries that are particularly problematic
  - o Mistakes, layovers (Canada, Ireland, Japan, Taiwan)
- Corrective processes

Topic 4: Passport identifier → Can you explain how it works on paper versus in reality?

- Current legal proceedings involving this provision of the law?
- Client experiences with process

Topic 5: Opinions

- Rationale: elected officials frame this law as a means “to protect children and others from sexual abuse and exploitation, including sex trafficking and sex tourism” (text of law). How does that framing fit with your understanding of the impact of the law?
- Do you think there is a legal solution to meet the stated intent of the law?
  - o Key legal cases
  - o Key legal standards

## Appendix C: Communications with NARSOL

### Email detailing purpose, aim, and institutional review board of study

**From:** Lee, G. (Grace) <g.lee1@students.uu.nl>  
**Sent:** Wednesday, March 17, 2021 9:07 AM  
**To:** [redacted NARSOL internal email address]  
**Subject:** Re: Academic Study on International Megan's Law

Dear [redacted name of NARSOL board member],

Please find below the details on my project, for NARSOL review. I am hoping that NARSOL can put me in touch with the right people to speak to regarding points 1. and 2. in the research aims below.

---

#### Statement of purpose

I am critically assessing the impacts of International Megan's Law (IML) by including the under-represented voices of those whose mobility is impacted. I hope to add to the academic and policy debate about disproportionate systems of punishment and their unintended consequences on citizens' rights and livelihoods.

#### Research aims

1. Gathering first-hand accounts of post-IML experiences with international travel from:
  - a. persons accused or convicted of sexual offences
  - b. families and friends of persons accused or convicted of sexual offences
2. Gathering second-hand accounts of post-IML experiences with international travel from:
  - a. lawyers who have represented the groups listed in point 1
  - b. social workers who have assisted the groups listed in point 1
3. Systematically analyzing and documenting unintended consequences of IML that disproportionately punish the two groups of respondents listed in point 1.
4. Framing my findings using critical theory to start more conversations in academia and policy about the injustices of IML.

#### IRB

As this is a master's level thesis, my university does not require me to go through a formal IRB review process. However, my project design, including methodology and ethical considerations has been approved by my supervisor and second reader. They are both staff members of the Willem Pompe Institute for Criminal Law and Criminology, within the Faculty of Law, Economics and Governance at Utrecht University (Netherlands). This is in accordance with American Anthropological Association guidelines, as well as my university [code of conduct](#) and the Dutch [national standards for social science research](#). Please find a letter from my supervisor attached, confirming my project and affiliation with the university.

---

Thank you for taking the time to review this, and looking forward to hearing back soon!

**Grace Lee**  
 g.lee1@students.uu.nl

## Email for recruiting respondents, distributed through NARSOL mailing lists

### Participants needed: Study on International Megan's Law

Lee, G. (Grace) <g.lee1@students.uu.nl>

Wed 3/24/2021 10:43 AM

To: [redacted NARSOL internal email address]

Dear [redacted name of NARSOL board member],

Please find below a call for participants for a study on International Megan's Law. A big thank you to you and NARSOL for helping to distribute this to your networks.

### Study on the impacts of International Megan's Law

#### Why:

- The academic and policy literature on International Megan's Law (IML) is missing the voices of those whose mobility is impacted.
- This study will add a qualitative analysis of lived experiences to the debate about disproportionate systems of punishment and their unintended consequences on citizens' rights and livelihoods.

#### Who:

- Seeking accounts of challenges with post-IML international travel from:
  - Registered citizens
  - Families of registered citizens
  - Lawyers and social workers who have worked with the two groups above

#### Details:

- You will take part in a 30–60-minute online interview.
- You will be asked about you/your family/your client's experiences with travelling after the introduction of IML.
- Your answers will be confidential and fully anonymized.
- The online interview can be conducted with video on or off.

**How to participate:** Send an email to [g.lee1@students.uu.nl](mailto:g.lee1@students.uu.nl) indicating your interest and participation preferences **by April 30, 2021.**

Best,

**Grace Lee**

g.lee1@students.uu.nl

**Appendix D: List of interviews**

<b>Expert respondents</b>		
<b>Name</b>	<b>Interview Date(s)</b>	<b>Interview length</b>
Janice Bellucci	April 2, 2021	1:18
Paul Rigney	April 7, 2021	1:14
	April 9, 2021	1:11

<b>Registrant respondents</b>		
<b>Code/pseudonym</b>	<b>Interview Date</b>	<b>Interview length</b>
R1	March 29, 2021	1:22
R2	March 30, 2021	1:11
R3	March 31, 2021	0:57
R4	March 31, 2021	1:02
R5	April 1, 2021	1:03
R6	April 3, 2021	1:07
R7	April 5, 2021	0:44
R8	April 6, 2021	0:56
R9*	April 7, 2021	0:57
R10	April 9, 2021	1:00
R11	April 11, 2021	1:10
R12*	April 19, 2021	0:57
R13	April 20, 2021	1:05
R14	April 20, 2021	0:42
R15	April 21, 2021	0:49
R16	April 22, 2021	0:46
R17*	April 23, 2021	0:37
R18	April 26, 2021	0:53
R19	April 26, 2021	1:42
R20	April 27, 2021	0:46
David Kennerly	April 28, 2021	1:13
R22	May 3, 2021	1:16
R23**	May 20, 2021	0:57

\*Respondents R9, R12, and R17 were PCSOs rather than PCSOMs, meaning that IML did not apply to them. Thus, their interview content was excluded from the analysis.

\*\*Respondent R23 was the sole female registrant interviewed.

## Appendix E: Sample website analysis

### Multi-modal analysis of RTAG homepage (RTAG, n.d.)

Framework component (Pauwels, 2012)	Analysis
First impressions and reactions	<ul style="list-style-type: none"> <li>- Simplistic</li> <li>- Grassroots, home-made feel as opposed to professionally designed</li> </ul>
Salient features and topics	<ul style="list-style-type: none"> <li>- Two pictures at top: statue of liberty, U.S. passport</li> <li>- Background picture is of an airplane</li> <li>- Links at top: ‘travel matrix,’ ‘share your travel experience,’ ‘donate’ <ul style="list-style-type: none"> <li>o ‘Travel matrix’ leads to a chart showing countries allowing entry/turning registrants away</li> <li>o ‘Share your travel experience’ leads to a Travel Experience Report form for people to fill in about their travels</li> <li>o ‘Donation’ links lead to a PayPal website</li> </ul> </li> <li>- Second layer of links: ‘home,’ ‘info,’ ‘contact’ <ul style="list-style-type: none"> <li>o ‘Home’ redirects back to this page</li> <li>o ‘Info’ is a drop-down menu linking to the travel matrix and a blog page</li> <li>o ‘Contact’ is also a drop-down menu linking to the travel experience report and a contact form page</li> </ul> </li> <li>- Three main sections of text in body: Vision, Mission, Assertions</li> <li>- Donation buttons on bottom for \$5, \$15, and \$35</li> </ul>
In-depth analysis of content	<ul style="list-style-type: none"> <li>- Written signifiers: <ul style="list-style-type: none"> <li>o Uses human rights language: “the same freedom of movement as every American citizen and resident,” “reverse immigration policy that discriminates against registrants,” every section under the Assertions section</li> <li>o PCSOs referred to as “registrants” or “individuals who are required to register” → neutral, person-first language</li> <li>o Sole reference to victims of extraterritorial child sex exploitation ‘disses’ IML: “support programs which effectively prevent sex tourism,” implying IML does not</li> </ul> </li> <li>- Typographic signifiers: sans-serif fonts indicating simplicity</li> </ul>

Framework component (Pauwels, 2012)	Analysis
	<ul style="list-style-type: none"> <li>- Visuals: very few, seem to be stock images, emphasizing home-made quality of website <ul style="list-style-type: none"> <li>o Chosen images hint at ideas of freedom and travel, in line with theme of website and written signifiers</li> </ul> </li> <li>- Sounds: none</li> <li>- Layout: not a lot of embedded parts, quite simple</li> <li>- Missing: the personal touch, pictures of registrants impacted, links to stories <ul style="list-style-type: none"> <li>o Interestingly, no external advertisements other than donation button</li> </ul> </li> </ul>
Voice and implied audiences	<ul style="list-style-type: none"> <li>- Speaks on behalf of an organization: “our vision,” “our mission,” “our assertions”</li> <li>- Primary a resource for registrants, as emphasized under “our mission” and also by presence of travel experience report form and travel matrix</li> <li>- Reaches out not just to registrants impacted by travel but also those facing problems with marrying foreign nationals</li> </ul>
Information organization and spatial priming	<ul style="list-style-type: none"> <li>- Linear structure aimed at keeping audience within website, with few external links</li> <li>- Multiple donation buttons appear at the top and bottom of the page, reinforcing visitor attention</li> <li>- Information is organized in a somewhat confusing way, with repeated links under dropdown menus and only one link to the blog, making it difficult to find</li> </ul>
Context, provenance, and inference	<ul style="list-style-type: none"> <li>- Likely created by one individual with basic web-design abilities, explaining the simplistic layout and general lack of complex content and features <ul style="list-style-type: none"> <li>o No embedded videos</li> </ul> </li> <li>- At the same time, perhaps aiming to be assessable to older visitors with less dexterity in navigating online websites <ul style="list-style-type: none"> <li>o Perhaps simply trying to present information as cleanly and simply as possible</li> </ul> </li> </ul>

## Appendix F: Coding progression

### First round of coding

<b>Code</b>	<b>Sub-codes</b>
Demographic information	Age Offence details State located/registered
IML's efficacy	Not assessing risk Impacting other countries Not stopping extraterritorial child sex exploitation Stopping extraterritorial child sex exploitation
IML's impacts	Chilling effect Delays Fear <ul style="list-style-type: none"> <li>- No fear</li> </ul> Financial cost Flexibility while travelling Labelling Love of travel More countries turning people back Personal connection to country Safety Uncertainty
Ideas from the critical mobility literature	Database classification Discretion of border officials
Experiences with the passport identifier	Delays in getting identifier Do not use marked passport at all Identifier is ineffective Nobody checks identifier Stopped travelling because of passport identifier
Responses to IML's impacts	Cleaning up state registries will not help Clearing personal record and getting off registry Pre-travel preparation <ul style="list-style-type: none"> <li>- Contacting foreign gov'ts</li> <li>- Use of RTAG</li> </ul> Travelling precautions Trying to follow up after problems with IML
Travel experiences	Barbados Being set up by the government Cruises Europe Mexico Singapore UK
Other topics	Media reporting on registrants Political will to fix issues with registries State discrepancies in registry laws (within US)

**Fourth round of coding (re-structured)**

Code	Sub-codes
IML's structural problems	Travel preparations <ul style="list-style-type: none"> <li>- Contacting foreign gov'ts</li> <li>- Registration and research</li> <li>- State discrepancies in registry laws (within US)</li> <li>- Use of RTAG</li> </ul> Passport identifier Discretion of officials Database issues
Structural assessments	Acknowledgement of extraterritorial child sex exploitation as problem Assessment of risk <ul style="list-style-type: none"> <li>- Overly broad</li> </ul> Not stopping extraterritorial child sex exploitation <ul style="list-style-type: none"> <li>- Exaggeration of problem</li> <li>- Stopping extraterritorial child sex exploitation</li> </ul> Opinions <ul style="list-style-type: none"> <li>- Against carrying government message</li> <li>- Cleaning up state registries will not help</li> <li>- Feeling fortunate to even be able to travel</li> <li>- Government intent is questionable</li> <li>- Legality of IML is questionable</li> <li>- Media reporting on registrants is problematic</li> <li>- Political will to fix issues with registries is lacking</li> <li>- Public disinformation is rampant</li> <li>- US should stop trying to be global law enforcer</li> <li>- US society is too puritan</li> <li>- Worries about information collected</li> </ul> Passports <ul style="list-style-type: none"> <li>- Identifier is ineffective</li> <li>- Nobody checks identifier</li> </ul> Pre-emptive nature of system Prison-industrial complex connection Redundancies
IML's impacts	Chilling effect <ul style="list-style-type: none"> <li>- More countries turning people back</li> <li>- Notifications worse than passport identifier</li> <li>- Stopped travelling completely</li> </ul> Labelling <ul style="list-style-type: none"> <li>- Feelings of embarrassment</li> <li>- Feelings of being scapegoated</li> </ul> Personal assessments <ul style="list-style-type: none"> <li>- Barrier to normalization</li> <li>- Collateral impacts on family</li> <li>- Fear (and no fear)</li> <li>- Love of travel</li> <li>- Personal connection to country</li> <li>- Punishment</li> <li>- Safety</li> </ul>

Code	Sub-codes
	Practical effects <ul style="list-style-type: none"> <li>- Career</li> <li>- Delays</li> <li>- Financial cost</li> <li>- Flexibility while travelling</li> <li>- Uncertainty</li> </ul> Responding to effects <ul style="list-style-type: none"> <li>- Clearing personal record and getting off registry</li> <li>- Fighting versus complying with the system</li> <li>- Human rights challenges</li> <li>- Leaving the US</li> <li>- Loopholes in the system</li> <li>- Pessimism about there being no way to challenge IML</li> <li>- Travelling precautions</li> <li>- Trying to follow up after problems with IML</li> <li>- Using a non-U.S. passport to travel</li> </ul>
Demographic information	Age Offence details State located/registered
Background on IML	Angel Watch Center Before IML Lawsuits against IML Nuances of terminology
Travel case studies	Asia <ul style="list-style-type: none"> <li>- Japan</li> <li>- Philippines</li> <li>- Singapore</li> <li>- South</li> <li>- Korea</li> </ul> Caribbean <ul style="list-style-type: none"> <li>- Barbados</li> <li>- Costa Rica</li> <li>- Jamaica</li> </ul> Cruises Europe <ul style="list-style-type: none"> <li>- France</li> <li>- Ireland</li> <li>- Spain</li> <li>- UK</li> </ul> North America <ul style="list-style-type: none"> <li>- Mexico</li> </ul> South America <ul style="list-style-type: none"> <li>- Brazil</li> <li>- Colombia</li> </ul> Middle East <ul style="list-style-type: none"> <li>- UAE</li> </ul>