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THE SYMBOLIC AND THE LAW: THE EMOTIONAL POLITICS OF CHILD MURDER

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ABSTRACT

How do emotion and reason relate in collective action? An important site for the investigation of this question is the phenomenon of the moral panic. Sociologists researching moral panics have emphasized that the phenomenon often involves strong pressure for political reforms, and recent political science research has examined moral panic as a framework for understanding policy diffusion. This study contributes to a developing synthesis of these two bodies of literature through a qualitative examination of the translation between moral panic and legislation. I examine two sets of cases, both involving horrific violence and public outrage. First, I examine cases of sex offender moral panic in the 90's. Then I turn to the social reaction to mass gun violence in the 00's and 10's. I focus on two policies which diffused among states as responses to public concern about both of these problems: Psychiatric civil commitment in the former cases and extreme risk protection orders (ERPO) in the latter. Both of these policies respond to public outrage by targeting mental illness as the cause of violence to be controlled. But while both policies have a similar psychiatric basis, ERPO is much more limited in scope, and not all states have adopted each policy. Why is the legislative response to gun violence milder compared to the response to sexual violence, and why do some states adopt moral panic legislation when others do not? In this study, I find that moral panic creates political resource. Groups struggle to monopolize the response to the sense of a problem created by moral panics. Groups seek to advance solutions which suit their own particular interests. The presence of guns as "mediating machines" allows for a much higher degree of partisan conflict over the response to violence, which in turn is more likely to deadlock legislative response.

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CHAPTER 1

INTRODUCTION

The Gospel of Luke 23:34 describes Jesus, upon his execution, imploring God to forgive his killers, “for they know not what they do” (*King James Bible* [1769] 2017). This utterance could also neatly describe the psychoanalytic theory of the unconscious after Freud: we can and often do act without knowing exactly what we are doing (Fink 1995:4-5). We prefer to believe that we are acting consciously, making well-founded and well-reasoned decisions with full awareness. Yet we know from experience that we also experience emotions which can interfere with our capacity for rational deliberation. Philosophical accounts since Aristotle’s *Rhetoric* ([ca. 350 B.C.E.]1991) have described a tension in our thought and argumentation between sober, calculating logos on the one hand and emotional pathos on the other.

At his execution, Jesus faced not just one person overcome by emotion, but a group who collectively knew not what they were doing. The tension between reason and emotion is present in our collective activity in addition to our individual actions. Bouts of collective paranoia and persecution, from the witch trials to the Satanic Panic of the 80’s, indicate that our collective reason can be overwhelmed by fear and emotional reaction (deYoung 1998, Nathan and Snedeker 2001). Such bursts of collective unreason can result in collective action, as the parable of the execution of Jesus expresses, and as the persecutions of the witch trials and the sensational trials of the Satanic Panic demonstrate. Each of these examples also occurred through the authority of the state and the law, not just through informal mob action.

Legally sanctioned collective unreason is a disturbing prospect. When we consider the question of reason and emotion in social action, the institution of law might appear to be situated

on the end of the scale closest to reason and furthest from emotion. One way law can be defined is as a rationalizing effort, a formalization of social reason and an effort to standardize and stabilize collective action according to even and rational principles (Weber [1921] 2013), Sterling and Moore 1987). As a body of intentionally passed and approved standards, law can appear as the most rational form of collective action, especially compared to the informal, unspoken, and more malleable norms that govern other facets of social life (DiMaggio and Powell 1991). Law and legal thought, in its own account of itself, describes itself in such conscious and rational terms (Caudill 1997).

Yet social researchers of varied backgrounds argue that law, like all social institutions, also has its symbolic, emotional, and irrational aspects (Bourdieu 1987; Bourdieu and Wacquant 1992; Cotterrell 1995; Lizardo and Strand 2010; Ocobock 2020). Law operates according to conscious, rational ideals, but it also serves a symbolic social function traditionally understood in terms of emotion and religion rather than rationality (Durkheim [1893] 1984). The role of conscious rationality versus subjective and subconscious emotion in law and society remains a topic of controversy in social, political, and legal theory today (Schlag 2010; Shively and Schultz 2022). How do emotion and reason relate in social governance through law at a specific place and time? To what degree is law capable of being overwhelmed by emotion? Beyond the problem of individuals who perpetuate violent acts, this study concerns the violence enacted in the name of controlling those individuals: what Foucault ([1961] 1988:ix) referred to as “that other form of madness, by which men, in an act of sovereign reason, confine their neighbors, and communicate and recognize each other through the merciless language of non-madness...”

Moral panics are popular exemplars of mass activity in which emotion overtakes collective reason. Moral panics are brief, volatile, and highly emotionally charged incidents

wherein social problems are quickly socially constructed (Cohen [1972] 2002). Moral panics often feature demands for state action and sometimes successfully produce legislation (Cohen [1972] 2002, deYoung 1998). The fact of moral panic legislation troubles the ideal of the law as society's rational self-governance. Moral panics, and specifically their translation into law, provide a privileged site of study of the intrusion of emotion into collective reason. While demands for legal reform are common features of moral panics, not all moral panics translate into law. Further specifying when and why this translation occurs can help better explain the relationship between reason and emotion in collective activity.

In this study, I compare two sets of cases of violence which provoked sensational media coverage, moral panic, and legislative response: stranger sexual assaults against children and mass shootings. Both sets of cases generated acute public outrage fitting the criteria of moral panic. Legislators sought to resolve moral panic by targeting mental illness in both sets of cases. Through the 90's, roughly half of U.S. states adopted new policies for indefinite psychiatric civil commitment of sex offenders to prevent their release from prison (NDAA 2012). More recently, several states have adopted an extreme risk protection order model (ERPO), which allows for the temporary court-ordered confiscation of firearms from an individual on the basis that they are mentally unstable and pose a risk to themselves or others. There are two puzzles of the moral panic translation to legislation process which demand investigation. The first puzzle is within cases. Given moral panics around similar themes, why do some panics translate into legislation and not others? The second puzzle is across cases. Why are some cases of violence more given to translation into stronger legislative response than others?

I want to answer these questions by exploring moral panic as a narrative. Moral panics are intense and compelling narratives of a growing threat demanding resolution, and often the

identification of an outsider group as the embodiment of that threat, with the demanded solution involving targeting that group for social control. The intensity of the narrative of the threat demands swift closure. Moral panics, as threat narratives, open up a symbolic rift: we suddenly get the sense that the status quo is unacceptable. Things must change for order to be restored. The swiftness of this demand is given to the targeting of outsiders. Locating the threat in outsiders allows us to target them as foreign bodies which have intruded into our otherwise safe and healthy life. Moral panics can be understood as a narrative process by which we as a society narrate our collective self-understanding. The narrative process involves not just the production of a moral panic narrative but also its resolution in legislation. Moral panic legislation is a narrative response to the symbolic threat opened up by the moral panic. I am calling moral panic legislation efforts “re-narrativizations” here, as they seek to close the symbolic rift opened by moral panic. Re-narrativization provides narrative closure that moral panics, as symbolic rifts, demand.

Theorizing Moral Panics

To solve the puzzles of moral panic legislation, I draw together two strains of social science which have largely remained separate to date: the sociological study of moral panics and the political science study of policy diffusion. The former asks how social problems are constructed. The latter asks how laws are passed and how models of policy are replicated in other contexts. Insofar as laws attempt to respond to social problems as defined socially, these are two moments of a single process.

Goode and Ben-Yehuda (1994) synthesized a now widespread definition of moral panic as involving the increased concern over the behavior of a certain group defined as problematic

and the extrapolation from isolated events into a narrative of a general and growing threat. Moral panic researchers emphasize that moral panic is specifically a media-driven phenomenon. Hall et al. ([1978] 2019) describe media as fundamentally profit driven and, as a result, fundamentally sensationalizing in order to drive consumption. It is this sensational media coverage which encourages the volatile outrage that defines moral panic. Another key concept in moral panic literature is the “moral entrepreneur,” a term first coined by Becker (1963). These individuals are also referred to by Best (2001) as “social activists” and by Gusfield (1981) as those who “own” social problems. Moral entrepreneurs are individuals who actively and strongly advocate for a re-narrativization, working to popularize the essential panic claims of the growing problem which demands action. Moral entrepreneurs and sensationalizing media together produce moral panic.

In this study, I am avoiding the normative claim used by Goode and Ben-Yehuda (1994) which defines moral panic as defying realistic appraisal of a problem. Instead, I follow Cohen ([1972] 2002) in adopting a descriptive definition of moral panic as a case of urgent social problem definition characterized by sensational media coverage, public outrage, and extrapolation from single events to a broader narrative of a growing threat in need of resolution. A moral panic does not have to imply that there is no reality to a social problem. In fact, we can follow Cohen ([1972] 2002: xxxiv) in affirming that there may very well be social issues to which we feel there is an “under-reaction” of not enough panic and outrage, as many would argue is the case in the relatively mild legislative response to gun violence.

Still, theorists working within this body of literature all recognize that moral panics are emotionally charged. While adopting a descriptive rather than normative view, in which I affirm that outrage may be understandable and even justified, I also follow sociologists of moral panics who warn that the volatile emotional intensity of moral panic can cause public attention and

discourse to be misdirected. Taking a descriptive position prevents me from defining moral panics as cases where misdirection *necessarily* occurs, but this approach can still recognize that the emotional intensity of moral panics *may* allow misdirection. Moral panics tend to focus on outrageous but rare incidents rather than the more every day and normalized occurrences of violence (Cohen [1972] 2002). As Goode and Ben-Yehuda (1994) emphasize, moral panics tend to identify and target outsiders as symbolic scapegoats for a larger social problem. Sociologists pursued this line of research in the late 80's warned that growing public fears surrounding outrageous child abuse scandals were detached from the wider dynamics of physical harm to children (Fritz and Altheide 1987; Gentry 1988; Parton 1985). In some cases, moral panics can effectively derail attention from widespread instances of violence endemic to a social order, redirecting attention to extreme cases as scapegoats while ironically building support for the everyday violence of the existing social order (deYoung 1998; Nathan and Snedeker 2001).

Of particular concern in recent moral panic research is the question of consensus in moral panic theory. Critics since McRobbie and Thornton (1995) have pointed out that an increasingly fragmented media environment has hindered the production of “consensus,” leading to “culture war” (Garland 2008), “polarized” (Zielińska and Pasamonik 2022), or “dual” (Adams and Behl 2023) models of panic. This model of moral panic pits factions against each other, rather than a great majority of consensus against a small minority stigmatized population. Zielińska and Pasamonik (2022) use the term Classic Moral Panic, or CMP, to define the latter and Polarized Moral Panic, or PMP, to define the former. The question of polarized moral panic and the fragmented media sphere have only become more relevant with the increasing popularity of social media, which is a topic of interest in much recent moral panic literature (Falkof 2020; Ugwudike et al. 2024; Zielińska and Pasamonik 2022).

In this study, I intervene in the debate over moral panics by following Hier (2008) and Falkof (2020) in seeking more theoretical clarity. Falkof (2020) argues that moral panic researchers have focused on the creation of replicable analytic categories, which has helped provide a more stable definition of moral panic but has still left their qualitative dynamics opaque. I follow Falkof in seeking more insight into the internal processes of panic, with particular attention to their emotional content. Following Falkof's call, I develop a qualitative analysis of a moral panic in an effort to highlight its dynamics. While sociologists have long emphasized that moral panics involve political pressure and can result in legislation, the process of translation between moral panic and law has remained understudied (Omori 2013).

To understand the process of legislation creation, we can turn to political science literature on policy creation and diffusion. In political science and policy literature, the phenomenon of policy models traveling between contexts is referred to as "diffusion" (Shipan and Volden 2008). The diffusion literature describes four basic processes by which policy models diffuse: learning, competition, imitation, coercion (Shipan and Volden 2008). Each of these categories tends to theoretically assume a rational choice response by policymakers to economic incentives and objectively intuited external pressures (Giraldi and Wasserfallen 2019). The emphasis on rational choice in the policy diffusion literature reflects the broader theoretical persuasion of political science as a discipline. Political theory can be characterized by a fundamental debate between "power" and "choice" orientations, with "power" theorists emphasizing the passive nature of dominated subjects and "choice" theorists emphasizing active participation in political systems (Shively and Schultz 2022). Political science theory tends toward the latter, retaining Enlightenment ideals of reason and conscious decision-making within

and between individuals, both in its rational choice (Downs 1957) and deliberative (Habermas [1981] 1984) formulations.

However, as phenomena like moral panics suggest, we have reason to look beyond rational choice models to understand collective political life. Political scientists working in democratic contexts have expressed concern in recent years over “democratic backsliding” and the ascendance of far-right movements (Galston 2020; Mounk 2018; Norris and Inglehart 2019; Wolkenstein 2022). Scholars have also expressed concern over the related polarization of American politics and threats to democratic ideals of rational choice or deliberative reason posed by a political media system that emphasizes outrage and extremes (Berry and Sobieraj 2014). Far-right movements and outrage media share an emphasis on emotion, appeals to morality, and opposition to the rational ideals of liberal democracy (Adorno [1951] 1985; Berry and Sobieraj 2014; Sartre [1946] 1948; Theweleit 1987). Critics suggest democratic political theory is too wed to implicit theories of choice to understand democracies and their problems realistically (Wolkenstein 2022; Young 1996). Green (2010) argues that political scientists discussing threats to democracy have defaulted too-much to an implicit standard of a rational status quo, which he calls the “vocal” perspective of politics, upon which threats like right wing movements are incursions. He suggests that to move on and better understand the dynamics of these incursions in the era of mass media we have to instead understand politics from an “ocular” perspective in which passivity and emotion are constituent components of the political system rather than emergent flaws which can be excised.

Newer developments in policy diffusion literature have begun to bridge the gap between political science research on legislation and sociological research on moral panics. While there is a longstanding and rich body of literature on policy diffusion, Giraldi and Shipan (2021) argue

that political science studies of policy diffusion have nonetheless neglected problem of issue-definition in the process of diffusion. The framing of a social problem matters for how policy is adopted in a context (Baumgartner et al. 2008; Boushey 2016; Giraldi and Shipan 2021). Recent research indicates that governments adopt similar crime policies depending in part on national social problem discourse (Blanton and Jones 2023; Boushey 2016). Developing theoretical frameworks such as policy design (Boushey 2016; Schneider and Ingram 1993) and emulation (Giraldi and Shipan 2021) have sought to incorporate an understanding of emotion into the policy development and diffusion process

My contribution is, as a sociologist, to bolster this research into policy creation and diffusion from the perspective of social construction. Political science and sociology have remained somewhat siloed in studying this process. While political scientists tend to emphasize rational legislative choices by policymakers, sociologists tend to examine moral panic as a civil society phenomenon and leave the question of translation into legislation under-addressed (Omori 2013). The study of issue-definition and the diffusion of frames can build on recent policy problems and emulation literature to help connect insights from the sociology of social problems to the political science literature on policy diffusion.

In this study, I seek to develop a robust theoretical approach capable of drawing together these two bodies of literature. I approach the question of moral panic legislation by examining moral panic as a part of the political process, rather than as an aberration interfering in an otherwise rational process. I seek to take up Falkof's (2020) call for a theorization of the general function of the politics of fear and its political salience. Hier (2024) calls for an improved understanding of moral panic as not just an isolated aberrant event, but rather as a way of understanding the general emotional dimension of collective life. Falkof (2020) calls for a more

theoretical account of moral panic, particularly one which can make use of psychoanalytic concepts in its understanding of the social function of emotion.¹ In theorizing moral panic, I draw upon Durkheim's ([1893] 1984:56) classic account of crime punishment as a symbolic expression repairing and affirming an offended social order, beyond the rational response to the specific crime itself. I have also found use in Weber's classic account of religious expression as fundamentally seeking to provide a narrative giving meaning to a world experienced as "senseless" (Weber 1915 [1946]:281). Synthesizing these theoretical approaches, I argue that moral panic narratives open a symbolic rift which demands re-narrativization to resolve. Moral panic legislation provides that re-narrativization.

Study Design

To answer these questions, I draw together recent developments in sociological media analysis and methods employed in qualitative sociology. I follow Boushey (2016) and Giraldi and Shipan (2021) in using newspaper reports contemporary with major controversial incidents and the development of laws of interest as my primary data. Newspaper accounts function as data at two levels. First, they provide basic and relatively granular details about past events and the actors and organizations involved. Second, they provide an indication of the major discursive framings employed at the time to understand those events through editorials, statements from actors taking various positions on the issue, and from framing presented by journalists

¹ While a robust and integrated social-psychoanalytic theoretical frame is beyond the scope of this study, I do borrow some concepts from psychoanalysis in order to explain the function of moral panic in collective action. In Lacanian psychoanalysis, "the symbolic" refers to socially constructed understandings which give subjects a sense of order and place in the world (Fink 1995:25). Sometimes subjects encounter events which disrupt the symbolic understandings by which they navigate the world. Lacan uses the term "the real" for that which has not been symbolized, and he describes these disruptive encounters with the non-symbolized real as traumatic (Lacan [1973] 1998:55). Subjects learn to cope with this traumatic experience by learning to put it into words, re-symbolizing their experience (Fink 1995:26).

themselves (Westbrook 2021). Newspaper data will help me reconstruct the events surrounding the debate over laws of interest.

In recent years there has been a wealth of sociological research using newspaper data (see, for example, Bloom 2020; Rodriguez-Muniz 2017; and Savelsberg and Brehm 2015). However, despite this development of content analysis and coding methods for newspapers as data, these researchers tend to translate their analyses into quantitative datasets. Qualitative interpretation of newspaper data, when used, tends to take the form of secondary supports for other data (i.e., interviews). Sociologists have developed tools for collecting and processing newspapers as valid data, but the use of this data for qualitative analysis remains underexplored.

Bloom (2020) has explored the use of newspapers to measure the occurrence of events for quantitative analysis. In order to understand political processes related to Black insurgent events, he undertook a close reading of every *New York Times* article published in a designated period of time to code for events of interest. Savelsberg and Brehm (2015) took a similar approach through a close reading content analysis of news articles within a designated date range. Both of these papers go a long way in establishing newspaper text as a legitimate source for information about events (Bloom 2020) and as a measure of public discourse about events (Savelsberg and Brehm 2015). Savelsberg and Brehm combine this data approach with a theoretical basis in the interpretive and cultural traditions of sociology. I adopt these techniques and frameworks for a qualitative analysis. These exciting developments can help extend interpretive qualitative sociology beyond the first-hand observation of contemporary events in a field site to the reconstruction of historical events through a qualitative content analysis of news reports contemporary with the events of interest. A complete description of the data collection

and analysis methods used in this study can be found in Appendix A. All newspaper articles used as data are listed in Appendix B.

My Cases

In order to investigate the translation from panic to legislation, I have selected two sets of cases of horrific violence which have provoked legislative response. The first set of cases deals with highly publicized incidents of sexual violence against children in the 90's. The second set deals with mass gun violence. Each of these sets of cases centers primarily on violence against children. The sex offender problem, as it came to be defined, was particularly focused on assaults, abductions, and murders of children by strangers. The gun violence problem also came to be prominently defined by the killing of children in school shootings. Although I also examine responses to cases of gun violence in which only harmed adults, these cases were also defined in their aftermath by comparison to school shootings as the standard-bearer case of gun violence which defined the issue. Both sets of cases are also comparable in that each produced legislation based on a definition of the violence in question being caused by mental illness. I am examining two policy models which were adopted by some states as solutions to each respective violence problem.

For the sex offender cases, I examine the adoption of the psychiatric civil commitment of sex offenders. Civil commitment laws allow for indefinite and usually lifelong commitment of a convicted sex offenders following the conclusion of a prison sentence. Committed sex offenders are detained in a special secure psychiatric facility on the grounds that they have a mental condition which causes them to be at high risk of re-offense if released (Perlin and Cuculo 2017). I examine the case of Washington State in 1989-1990, where modern civil commitment

legislation was first created as a response to a local sex offender panic. I then examine the diffusion of civil commitment legislation to the Midwest. Wisconsin was the first state to adopt a new civil commitment measure after Washington State. I also examine the passage of civil commitment in Illinois later in the decade. Finally, I examine Ohio, where civil commitment was introduced to the legislature but failed to pass. I selected these states because they all considered civil commitment legislation in the mid 90's on the Washington State model, and because of their regional proximity and baseline political similarity. All three of these Great Lakes states were blue in both of the 90's presidential elections (Carle 1997; Dendy 1993).

For the gun violence cases, I examine the development and diffusion of the extreme risk protection order model, or ERPO. ERPO allows police to obtain a court order to temporarily remove guns from an individual on the basis that they are at risk of committing violence to themselves or others (Densley and Peterson 2025). Like civil commitment, ERPO is a violence prevention policy with a psychiatric basis. And like civil commitment, ERPO developed and diffused as a response to specific sensational incidents of violence. As with the sex offender problem cases, I first examine the context in which ERPO was first developed. ERPO was created in Connecticut in 1999 as a response to both a local workplace shooting and to the Columbine shooting in Colorado. I then examine the diffusion of ERPO to the states Indiana and Washington State. I selected Indiana as it was the first state to adopt ERPO on the Connecticut model, passed in 2005 after a shooting spree in the state. I then examined the diffusion to Washington State in 2016 for comparison because of its outlier status – this was a case where a panic legislation model diffused despite the absence of a local panic.

While these cases provide information about the early development and diffusion of the model, I conclude by comparing the diffusion of ERPO to Florida and the proposal and

subsequent failure of ERPO in Texas. These cases allow for rough comparison. Both are solidly red states with a strong record of pro-gun policies. Both states experienced horrific school shootings within a few months of each other in 2018. Florida responded by adopting ERPO. Texas governor Greg Abbott initially indicated his support for ERPO adoption in Texas as a response to the local shooting there, only to retract his support and for the proposal to quickly die in the state legislature. Comparing Florida and Texas allows for a closer examination of the factors leading to the passage of panic legislation in response to violence in one context and the failure of the same legislation in another similar case.

Narrativizing Moral Panics

In order to understand moral panic legislation, I take a narrative approach. Moral panics literature emphasizes that moral panics involve strong narrative components such as the growing threat, the dangerous outsider, and the need for resolution. I bridge moral panics and policy diffusion literature by examining the policy responses to moral panics as narrative responses. I argue that moral panic narratives, as narratives of growing threat, open symbolic rifts which demand closure. Proposed solutions to moral panic problem narratives are re-narrativizations which seek to provide an answer and close that symbolic rift. Moral panics, by producing a strong demand for solutions, provide an important political resource. Groups struggle to monopolize the re-narrativization process, proposing re-narrativizations which serve their particular interests.

The targeting of mentally ill outsiders provides a useful means of quick re-narrativization across my cases, consistent with moral panics literature. Media attention to violence is a common current across these cases as well. I predictably find that the most important factor in the

adoption of moral panic legislation in a given context is the presence of a local moral panic. Groups which succeed in monopolizing the re-narrativization of panics are those which are able to speak in the terms of the panic to present their proposed re-narrativization as a feasible solution. Groups which are best able to speak to panic concerns and provide their proposed re-narrativization as providing safety are the most likely to succeed against their opponents. The outrage in this metaphor is like a flowing river. It can be channeled in different ways, but it also has a definite direction of flow, such as a clampdown of some kind on sex offenders in the civil commitment cases. Trying to resist the clampdown would be like swimming upstream. The sheer force of the stream of the panic compels those who would intervene to channel it in directions more suitable to themselves must respect its basic directional flow and frame their re-narrativization efforts in the basic terms of the panic. Groups which are unable to affirm the basic terms of the local panic are unable to intervene in the struggle for re-narrativization.

I find that some re-narrativization processes, even within panic type, are more mediated by political party conflict than others. I call this partisan mediation, a specific type of group struggle over re-narrativization which is more formalized and entrenched as part of the competition between organized political parties. Indicators of partisan mediation tend to be removal from the referent violent incident in space and/or time. Partisan politicians will call up violent incidents from the past or from other places in the country in an effort to advance their position via panic re-narrativization.

Predictably, I find major overall differences in the passage from panic to legislation between cases of sexual violence and gun violence. The biggest difference is the much greater degree of partisan mediation of the latter problem compared to the former. On the whole, the sexual violence panics tend to fit more closely to the CMP model, while the gun violence panics

are clear examples of the PMP model in most cases. I find that this difference in reaction is enabled by the presence of the gun in cases of gun violence. I refer to guns as “mediating machines.” The externality of the gun as a machine makes it possible to divorce the act of violence from the machine itself. Gun violence re-narrativizations are highly polarized. They tend to be split between liberals who emphasize that the guns themselves are the problem, especially high-powered guns which enhance the capacity for violence, vs. conservatives who emphasize that the problem lies with the user rather than the gun itself. Pro-gun conservatives, by treating guns as neutral tools, can then intervene to reframe guns as sources of safety as well as harm. This difference changes the composition of the group struggle for re-narrativization in the aftermath of incidents of horrific gun violence. The gun as a mediating machine allows for much more polarized, partisan-mediated, and entrenched conflict. The presence of a powerful and organized gun lobby has no parallel whatsoever in the cases of re-narrativization of sexual violence. Gun reform advocates have had to become much more organized themselves to compete for re-narrativization.

I conclude by finding that mass media is conducive to moral panic and moral panic legislation, and that social media has enabled further partisan mediation and entrenchment in the re-narrativization struggle. Profit-driven mass media encourages sensationalism, threat narratives, panic, and quick re-narrativization. I argue that this model of information production and consumption is at odds with democratic ideals of rational self-governance.

Overview of Chapters

I begin this study by analyzing the civil commitment of sex offenders as a re-narrativization of panic adopted in multiple states throughout the 90’s. Civil commitment as a re-

narrativization was first developed in Washington State in 1989 as a response to widespread outrage in the aftermath of a horrific act of sexual violence. In Chapter 2, I focus on the production of that sex offender moral panic in Washington State. The moral panic closely fit the classic moral panic (CMP) model. Sexual violence was rapidly defined as a problem caused by violent and mentally ill strangers who needed to additional state control. The moral panic was not simply an organic and automatic response but instead was produced by specific institutions pursuing their own partial interests. Media outlets were the most important factor in producing the moral panic, as classic studies of moral panic have emphasized. I additionally found that police played a substantial role of the production of sex offender panic in Washington State, operating as moral entrepreneurs rather than simply as amplifiers as traditionally described in moral panic literature.

Chapter 3 examines how the moral panic in Washington State was re-narrativized once it was produced. As the panic was produced through the partial interests of institutions like media outlets and law enforcement agents, so too was civil commitment as a re-narrativization. The moral panic in Washington State produced a strong and compelling demand for re-narrativization. Groups competed to capture this re-narrativization via projects which served their partial interests. Civil commitment was pursued as a re-narrativization by a taskforce assembled by the governor. The specific form of civil commitment as a re-narrativization was influenced by this group's interest in defending prior sentencing reforms in the state, which were under threat from the re-narrativizations being pursued by law enforcement groups. Civil commitment succeeded as the form of re-narrativization which ultimately passed into law due to a combination of political capital, ability to speak in the terms of the panic, and appeal to moderation. The process of passage from panic to law in Washington State demonstrates that

panic serves as a powerful political resource but requires those who would intervene to re-narrativize it to speak in its terms. Groups who were unable to do so, like the ACLU in this case, were unable to intervene. Panic is also not absolute. Civil commitment succeeded through its appeal to moderation, whereas a more severe castration proposal advanced by Republicans in the legislature was criticized for being too excessive and too much of a panic reaction.

Having examined the factors which allowed the passage from panic to legislation in Washington State, the remainder of this study is committed to refining the theory of moral panic legislation via comparison cases. In Chapter 4, I take up the question of the diffusion of civil commitment as a policy model to other contexts. Why do some states adopt civil commitment when others do not? I examine three states in the Midwest where civil commitment was proposed before the state legislature in the 90's. The most important factor in determining the successful diffusion of civil commitment to other contexts is the presence of a local sex offender panic in those contexts. Wisconsin and Illinois experienced local sex offender panics with similar themes targeting mentally ill outsiders. The absence of a sex offender panic in Ohio corresponds to the inability of the model to find purchase there. Civil commitment was additionally weak as a re-narrativization effort in Ohio given the low political capital of its proponents there. These cases also confirm moral panic as a political resource. The passage of civil commitment in Illinois demonstrates a strong mediation of the re-narrativization process by partisan politics, with political parties competing to re-narrativize the panic. I find that increased partisan mediation of panic is indicated by invocation of violent events at further remove in either time or space.

I then switch gears to compare the re-narrativization of a different kind of sensational and horrific violence: mass shootings. In Chapter 5, I examine the development of ERPO as a re-

narrativization of the mass gun violence problem in Connecticut and the diffusion of this model to Indiana and Washington State. The development of ERPO in Connecticut was a much more partisan process than the development of civil commitment in Washington State, a consequence of the much more partisan nature of the gun debate compared to the sex offender problem. Outrage over gun violence fits the more recently theorized PMP model rather than the CMP model of the sex offender problem. This polarization of the issue is afforded by the factor of the gun as an external machine mediating the act of violence. The gun as a mediating machine allows for gun proponents to reframe guns as means of safety as well as harm, providing a basis for counter-narrativizations. The diffusion of the model to Indiana was comparatively less partisan, a neutrality which can be attributed to the specificity of a police officer as the primary victim of gun violence in the case which sparked outrage in this context. Surprisingly, ERPO diffused to Washington State despite the lack of a recent local incident of sensational gun violence in that context. In Washington State, overwhelming intervention by national gun reform advocacy groups pushed through the passage of ERPO, overcoming the weakness that a lack of panic otherwise would have created, as in the civil commitment effort in Ohio. The national group interest in Washington State, much like the partisan contestation in Connecticut, was due to the highly partisan nature of the gun issue.

I conclude this study in Chapter 6 by examining the life of ERPO in Florida and Texas in 2018. Both states are considered deep red and very pro-gun, and both states experienced horrific high school shootings just a few months apart in 2018. In a surprise move, Florida passed unprecedented gun reform, including ERPO, in response. Texas initially appeared prepared to follow suit, but then Governor Greg Abbott withdrew his initial support for the measure, and it quickly died. The difference in outcome between these similar situations was due primarily to

differences in group struggle for re-narrativization in either case. There was a unique presence of strong student survivor advocacy in Florida and an absence of the same factor in Texas, where the student victims were comparatively hesitant to endorse gun control. In Florida, politicians were pressured by the student movement to pass moderate reforms before the legislative session ended. In Texas, politicians of the governing Republican party were instead pressured by the conservative wing of the party at the state party convention, where ERPO was formally sidelined. Both cases, and especially Florida, demonstrate how the new factor of social media enhance partisan conflict over the re-narrativization of horrific violence.

CHAPTER 2

MORAL PANIC IN WASHINGTON STATE CREATES A MANDATE FOR STATE ACTION²

In 1990, Washington State became the first state to pass a modern sex offender psychiatric civil commitment law (Boerner 1992; Fitch and Hamen 2003; Harris 2005; Perlin and Cucolo 2017). As I show in this chapter, Washington State's civil commitment program was a re-narrativization of a sex offender panic in the state in the aftermath of a single horrific act of violence. An unprecedented outpouring of public demand for state action successfully pushed state legislators to pass substantial legislation, resulting in one of the strongest and most far-reaching punishments for sex crimes to this day.

On the night of Saturday, May 20, 1989, neighbors discovered a nude wandering young boy whose penis had been severed (P-I Staff 1989a). An interview with the boy led police to Earl K. Shriner, who had an extensive history of violence against children. Shriner was arraigned on Monday before a packed courtroom and picketers demanding high bail (Boerner 1992). Public outrage quickly took the form of pressure upon elected officials demanding state action. On May 25, *The Seattle Post-Intelligencer* reported that Washington governor Booth Gardner's office had been "deluged with telephone calls from citizens urging him to take action to protect the public from violent offenders" (Barber 1989b). Later in the week "a spokesperson for the Governor stated that the office had received 1,000 calls and letters about the Tacoma boy by Friday afternoon, the most correspondence the Governor had ever received on one issue in such a short

² A version of this chapter was published online by *Deviant Behavior* as Day, Cameron. 2025. "Making Civil Commitment: A Moral Panic in Washington State." At the time of writing, this article is forthcoming in the print edition of the journal.

time” (Boerner 1992:534). The first week after the attack closely fits the moral panic model of a horrific incident rapidly producing high intensity public outrage. The classification of the aftermath as “moral panic” is not only made by critics of the reaction and the law but also by David Boerner, one of the law’s chief architects (Boerner 1992:575).

In this chapter, I look at how popular narratives emerged to make sense of the event, and who drove those narratives. I argue that the moral panic over the Shriner attack was a classic moral panic (CMP) driven by media sensationalization. The panic was also produced specifically via statements made by law enforcement agents to the media seeking to advance their own organizational interests. I argue that the panic in Washington State reveals an active role of police as moral entrepreneurs in producing moral panic. The panic quickly cohered in expressions of public outrage. However, this panic follows the CMP model as a production mediated by social institutions rather than simply an organic mass reaction to the violent incident. In addition to news media and police, victim advocates played an important role in organizing public reaction and shaping the panic discourse.

Media Sensationalism

Media coverage conformed to the CMP model quickly in the first week following the Shriner attack. The media played an important role in publicizing this case, and as in Hall et al. ([1978]2019), they “spoke with one voice” with only a few exceptions. The news coverage featured three major themes: expressions of horror at the incident itself, expressions of social solidarity in the aftermath, and expressions of the inadequacy of the social controls which failed to keep Shriners from being free to attack.

The place of the media in the moral panic can initially be seen when examining headlines and placement within the papers. The attack made several A1 headlines, especially in *The Seattle Post-Intelligencer*. A1 coverage matters for public perception as headlines on A1 are visible to passerby. A1 headlines sell papers. *The Seattle Times* ran an A1 story on May 24: “Hospital Swamped with Gifts ‘to the Little Boy’” (*Seattle Times* Staff 1989a). Boerner (1992:528-529) also reports one additional Tuesday, May 23 A1 headline in *The Seattle Times* which I do not see in the archives: “Outrage in Tacoma – Police Frustrated, Neighbors Angry That Suspect in Boy’s Mutilation Was Free.” This contrasts with the response of *The Seattle Post-Intelligencer*, which ran A1 headlines covering the incident on May 22, 23, 24, and 25, each day Monday through Thursday of the week after the attack. These are the headlines which ran on A1 in *The Seattle Post-Intelligencer*:

- Wandering Tacoma Boy is Found Mutilated (May 22)
- Mutilation Suspect Denies All Charges – Spectators Cheer as Judge Sets High Bail (May 23)
- Treating Sex Offenders Often is Futile (May 23)
- Mutilation Suspect Had Been Target of Surveillance (May 24)
- The Street Where Fear Has Stilled the Children’s Laughter – Boy’s Mutilation Leaves Neighborhood in Tacoma Stunned (May 25)

The essential elements of panic are broadcast on these headlines. First, the headlines emphasize the attack as a “mutilation,” announcing the horror of a violation of the body. Second, the headlines emphasize the inadequacy of existing social controls, emphasizing that the mutilation occurred despite Shriner being under surveillance, and argue that existing treatment is inadequate. Third, the headlines describe a sense of social unity in response and reaffirm the

existence of public outrage, announcing that “spectators cheered” at Shriner’s high bail. Social solidarity is also expressed in the eerie note that “fear has stilled the children’s laughter,” indicating that the attack has traumatized the broader community in addition to the boy and his family. Boerner (1992:529) reports similar rhetoric in the front-page headlines in *The Tacoma Morning News Tribune*: “Outrage Over the Attack, Over the System” (May 24), “Lack of Options, Data, Time Restrict What Judges Can Do” (May 24). Both headlines emphasize the inadequacy of existing social controls, and the former reinforces the notion of public outrage.

Features of moral panic rhetoric were not limited to article headlines. The moral panic themes of the horror of the violence, the inadequacy of social controls, and public unity in demanding change were repeated throughout the week in newspaper coverage. All of these themes fed and reinforced each other, all tending toward political pressure on the state for action. The story broke in the papers on the Monday after the attack, and both *The Seattle Times* and *The Seattle Post-Intelligencer* reported statements made by Tacoma police sergeant Mike Thompson and lieutenant Fred Richmond on Shriner’s extensive, multi-decade history of violent crimes against children (Bakken 1989; P-I Staff 1989a). These Monday articles mostly reported the police statement of the facts of the incident and Shriner’s history – as I discuss in the following section, police provided the initial framing of the panic narrative to the press.

The coverage of Shriner’s history in the following days then developed into expressions of the inadequacy of a system faced with Shriner’s extensive history yet unable to prevent him from walking free. Boerner (1992:527) writes that *The Tacoma Morning News Tribune* published a Tuesday article headlined “System Just Couldn’t Keep Suspect” which described failed efforts by officials to civilly commit Shriner under the existing statutes, despite Shriner having “hatched elaborate plans to maim or kill youngsters while waiting out the final months of

his prison sentence in early 1987” including “lists of apparatus [sic] he might need in that regard.” The extreme case of Shriner was discursively transformed throughout the week into a general problem of sex offenders described as incurably violent and inadequately controlled by existing social mechanisms. *The Seattle Post-Intelligencer* quoted the medical director of the hospital treating the boy as making typical claims of escalation:

That same night, Saturday, and on Sunday night, we saw four other sexual assaults involving children... This is something we're dealing with all the time now... This is the tip of the iceberg. It's not something we learned about in medical school.

(Paulson 1989)

The papers reported a swell of popular reaction following the attack. *The Seattle Times* writes that gifts and “hundreds upon hundreds of cards” were delivered to the hospital where the victim was recovering (*Seattle Times* Staff 1989a). *The Seattle Post-Intelligencer* reports “loud cheers among the spectators in the courtroom” at Shriner’s arraignment, that “officers turned back a least two-dozen would-be spectators,” and that “several citizens picketed the court building in anger over the assault” (Foster 1989). *The Seattle Post-Intelligencer* reports anger and responsive action among neighbors in the vicinity of the attack, writing:

The anger is especially acute because Earl K. Shriner, the man accused of the attack, had been charged with other, similar crimes... For now, the neighbors have put their anger and fear into prayer and raising money for the boy. They've set up a community meeting next week to get answers to their own questions. Others are going to start a neighborhood watch.

(Schnellinger 1989)

The Seattle Post-Intelligencer also reports that “Hundreds of callers, many urged on by a Seattle radio station, have contacted Gov. Booth Gardner’s office about the case” (Mooney 1989), demonstrating cross-media participation in the production of the panic and reaffirming popular outrage. This may be the same radio station which later reported “raising \$45,296 for the attack victim and his family. The money was raised through an on-air auction, said a KING spokeswoman” (P-I Staff 1989c). *The Seattle Post-Intelligencer* later in the week characterizes the public response as “an uproar” (Wilson 1989).

The papers also ran editorials. *The Seattle Times* ran an editorial with a frank sub-headline proclaiming “tighter controls needed on repeat sex offenders” (*Seattle Times* Staff 1989b). This editorial makes clear but unsupported claims that: “[F]ew sex offenders - too few - receive treatment before being returned to society. That has to be corrected” and that “many are untreatable. Regardless of how dangerous they are considered, they are turned back on the streets as time bombs. That’s insane. Our criminal-justice system can - and must - do better.” (*Seattle Times* Staff 1989b). *The Seattle Post-Intelligencer* ran an editorial with the similarly frank headline “Put Mutilators Away,” which states the position succinctly:

This case makes clear that a class of criminal exists that is beyond reach of rehabilitation because of mental deficiencies. Such people cannot be put to death by a just society. But justice also demands that society be protected from such people. The legal system needs to be changed to make it possible to remove the criminally insane from society, quickly and permanently. In such obvious cases as this, the law should err, if it errs at all, on the side of protecting the innocent.

(P-I Staff 1989b)

On Sunday, May 28, *The Seattle Times* ran 11 reader-submitted letters which themselves form an instructive look at moral panic discourse. In these letters, horror at the incident, outraged demands for change to the inadequate system, and sense of social cohesion are neatly tied together. One letter opens,

Once again, we are faced with an appalling and heinous attack upon a youngster in our community. This vicious attack on a 7-year-old child is another example of the continued assault on American children. The institute of childhood is under siege. Never before in the history of our country has there been such a threat.

(Lantz, 1989)

This rhetoric plainly shows the escalation and cohesion of extrapolation in the moral panic narrative. Another expresses social solidarity in the aftermath: “No, I'm not related to this precious child. While discussing my outrage and anger with a friend he said, ‘that child is mine and yours; he belongs to all of us’” (Moriarty 1989). One letter voices pure horror and a strong desire for revenge:

In the past, my emotions have often been stirred to feel extreme outrage and indignant anger upon hearing or reading about what horrible things have happened to people, especially the very old, or the very young, at the hands of sexual deviates [sic] of all kinds... But this mutilation and attempted murder of the 7-year-old boy by a recently released sexual offender has caused me to write you my feelings, to say: I would gladly and willingly sign a petition, were there such a thing, that would “let the punishment fit the crime” in this case. Emphatically! In fact, I'd beg to hold down this inhuman beast's

offending member on the chopping block and effectively wield the hatchet myself for starters.

(Moore 1989)

Another letter writer expresses plainly: “A plea to politicians! Please, please, do something to keep the professional criminals (especially sex offenders and murderers) from preying on our communities. Executions or life sentences - just keep these monsters at bay” (Rice 1989).

These letters to the editor put a fine point on the neat solidification of the moral panic narrative. A horrified emotional response to horrific violence is emphasized. Readers express the intensity of their outrage and emotional horror, which in turn directly relates to demands for retribution matching that intensity. Readers follow prior reporting in emphasizing the scale of the threat, implying it extends beyond this specific incident to a growing threat which demands action to curtail, something for which the state is responsible. The intense terms which express the demanded state action are notable: capital punishment, a demand for retributive punishment which fits the crime, frustration with existing controls on judicial power and a request for expedited justice. Analysis of the newspaper coverage in the aftermath of the Shriner attack supports the CMP model. Media do mostly “speak with one voice” here. Classic moral panic escalations are common in the coverage, while the few dissenting views are subject to equivocation and counterargument.

It is important to note that while I am arguing that the press coverage does support the production of moral panic, it is not fair to accuse the press of simply acting irrationally in drumming up an artificial panic and completely ignoring the facts. A horrific act of violence really did occur. People really did call into the governor’s office in unprecedented numbers. I am not suggesting that, given these facts, newspapers should not report on them. The situation here

is more in line with the model of ideological reproduction advocated by Hall et al. ([1978]2019), in which structural features like the profit-oriented drive to sensationalism, ideological biases of reporters and editors, and the speed at which stories must be written all combine to produce via newspapers a moral panic discourse out of those facts.

In doing so, papers are not necessarily deviating from their ordinary function. Part of the reason moral panic is media driven is due to the prominence of media in carrying social discourse. When media organs mediate social discourse, their statements become the statements of record. Whatever a paper of record says, by definition, creates a definitive record. While the reporting in the papers examined here occasionally lapses into overtly partisan moral panic discourse such as emphasizing that the problem is spiraling out of control and demanding state action, this often happens via quotes from moral entrepreneurs which are reproduced in the paper, or in editorials and letters to the editor, rather than in the authorial voice of the articles themselves. The selection of sources by which these moral panic claims are made is part of the media's contribution to moral panic, but it is also true that such sources – especially police, state actors, and particularly vocal moral entrepreneurs – are often the most available to reporters. The media contribution to the moral panic has much to do with the media's structural position in social discourse and with structural factors pushing reporters toward the sources they quote, at least as much as it does with more overt features like the editorials run or the ideological bias of reporters and editors.

Police Advocacy

Newspaper coverage affirms the role police play in making the moral panic narrative. Police here are making explicit partisan calls, and their statements are reproduced by the

newspaper as fact. As media depend upon police sources for statements, police have the ability to frame discourse. Much of the initial moral panic framing rhetoric present in the media is not the authorial voice of reporters and editorial writers but instead quoted directly from statements made by police themselves. The initial details published regarding the attack appear to be taken almost entirely from the first statements on the matter by Tacoma police. *The Seattle Times* and *The Seattle Post-Intelligencer* cite statements by Tacoma Police Sergeant Mike Thompson and Lieutenant Fred Richmond in their articles breaking the story the Monday following the attack (Bakken 1989; P-I Staff 1989a). Thompson is credited as providing the information on Shriner and his background in both articles. This means that it was Thompson who provided the media with the initial framing of the incident as an attack by a man with a long history of violent offending, providing the suspect's name and an overview of that history the day after Shriner's arrest and prior to his arraignment. Thompson is also credited in *The Seattle Times* as providing the information regarding the location and date of Shriner's arraignment where protestors later demonstrated their outrage (Bakken 1989).

A page A1 article in *The Seattle Post-Intelligencer*, which ran on the second day of coverage after the attack, printed additional details and framings provided by police (Foster 1989). This article states, "Police disclosed yesterday that Shriner had been investigated on five occasions last year involving contacts with juveniles" and cites Tacoma Police Detective Sergeant Stan Mowre at length, again discussing Shriner's history of violent sex crimes (Foster 1989). The paper reports that "Mowre said 'there was enough (suspected) criminal action' reported to investigate Shriner involving various contacts with juveniles, ranging in age from 10 to 17. But there was not enough evidence to press charges against Shriner" (Foster 1989). The

reporter mentions Shriner's previous hospitalization as a "defective delinquent'... too dangerous to be free" and then reports the following exchange:

[Shriner] is under no parole supervision, Mowre said. "When they serve their time they are a free man [sic]." Asked if there was a way that Shriner could have been placed under supervision, the detective added. "We'd have to change the (state) statutes."

(Foster 1989)

Here Mowre directly states that the state's laws are incapable of holding people like Shriner. This follows a description of the obvious dangerousness of Shriner, and states that even so, people like Shriner "are free men" without supervision due to "state statutes" which must be changed if anything is to be done.

The Seattle Times similarly served as a platform for police advocacy around the issue of sex offender regulation. A May 27 article with the alarming title, "700 Sex Offenders Let Out Each Year" offers the following statements from various regional law enforcement agents:

- In 1988, there were 776 sex offenders among the 3,217 people released from state corrections facilities, said Corrections Department spokesman Veltry Johnson.
- "Any of these people could end up on your back porch," said Mark Mann, a spokesman for the Tacoma Police Department. "We have no leash on them at all."
- "A lot of them are out there," agreed Jack Pearson of the Spokane Police Department. "You can't believe the number of reports we get about suspicious people following children."
- "We don't really even know if those people get released to our community," said Kennewick Police Chief Bob Farnhoff. "We don't get any formal notice."

(*Seattle Times* Staff 1989c)

The rhetoric of these statements is clearly alarming, with police suggesting that a large number of free roaming sex offenders could end up on readers' back porches. Police advocacy becomes more specifically targeted in this article as well: "[Spokane officer] Pearson said law officers used to keep better track of released sex offenders, but sentencing-reform legislation in 1984 abolished much of the post-release monitoring and supervision. 'It just killed us,' Pearson said" (*Seattle Times* Staff 1989c). Here the police opposition to state statutes acquires a more specific valence: opposition to specific prior legislation. Pearson is actively accusing the legislation of "killing" the ability of police to supervise dangerous sex offenders in the community.

Police statements to the papers about the inability to monitor sex offenders misrepresent the reality of the extensive efforts to surveil Shriner after his release. Boerner (1992:533-534) refers to *The Seattle Times* reporting on May 25 that the principal of an elementary school near where Shriner lived was notified of his release, his location, and his criminal history. The principal was quoted saying that he asked police for a picture of Shriner to distribute to parents but was denied and told this was forbidden by law. Boerner also reports an article in *The Tacoma Morning News Tribune* on the same day describing the same situation of the school and the police which quoted police as saying they were "hampered by laws that keep police from acting unless a crime is committed" (Boerner 1992:532-533). Though this article frames the issue as one of constraints placed on surveillance, it also details the degree to which surveillance of Shriner was possible. Boerner quotes the same article as reporting that:

[S]chool officials had identified the fifty students who walked by the Shriner house on the way to school and had teachers count those children each morning and before they left in the afternoon. An additional crossing guard was hired to help watch the children,

and the principal visited the Shriner home to let the Shriners know he was in the area.

(Boerner 1992:533)

The Seattle Post-Intelligencer credits such surveillance efforts for Shriner's quick capture (Barber and Mooney 1989). What is striking here is not that authorities were cavalier or helpless following Shriner's release, but instead the extensive infrastructure which was deployed to contain Shriner. Far from being turned loose without any warning, people in positions of power, both law enforcement and otherwise, kept Shriner under close watch, despite police framings that they were "hampered by laws that keep police from acting unless a crime is committed" (Boerner 1992:532-533).

Police agents had an identifiable agenda in the definitional framing they provided to the media, who then published their position. Law enforcement actors openly contributed to the sensationalizing of the story and the ensuing panic, describing a dangerously inadequate system in order to advocate for preferred law reforms. Such a framing can help police as an interest group avoid blame in the public eye and justify greater power to the public. Police particularly targeted prior sentencing reform as misguided and implied that it needed to be undone. They characterized the danger in stark terms that aligns with the more sensational news coverage, painting a picture of waves of dangerous stranger-attacking predators let loose to roam with no oversight and the police made helpless by insufficient and limiting laws. Police and press contributions to the sensational framing of the looming threat of sex offenders actively fed the public outrage and agitation for state action which would ultimately produce the civil commitment law.

Newspaper coverage reveals the primacy of police in making the moral panic narrative. Police here are making explicit partisan calls and their statements are reproduced by the

newspaper as fact. As media depend upon police sources for statements, police have the ability to frame discourse. And here police did so explicitly as moral entrepreneurs.

The Public Reaction

The first indication that the moral panic defined by media and police was finding hold with the general public was the lively demonstration activity at Shriner's arraignment. Both Seattle papers mention in their Monday, May 22 articles that Shriner was expected to be arraigned at Pierce County Superior Court that afternoon (Bakken 1989; P-I Staff 1989a), meaning anyone who read the stories that day – including an A1 placement in *The Post-Intelligencer* – could then head to the courthouse. And people did indeed turn up, though it is unclear if any effort was made to organize turnout. On Tuesday, *The Post-Intelligencer* reported:

When Pierce County Superior Court Judge Thomas R. Sauriol set bail at \$1 million, there were loud cheers among the spectators in the courtroom. "We're here to find out what's happening and to see him back where he belongs," said Noelle Geyer, holding her 7-month-old son in the courtroom. Pierce County officers turned back at least two dozen would-be spectators at the door of the small arraignment courtroom. Outside, several citizens picketed the court building in anger over the assault on the child.

(Foster 1989)

The public also organized monetary support for the victim, though it is important to note how this too was mediated by social institutions. *The Tacoma Morning News Tribune* reported that a Tacoma bank was accepting donations to pay the boy's medical bills (Boerner 1992:528).

According to Boerner,

By Wednesday, more than \$17,000 in donations had been received by the boy's fund.

Employees at the Boeing Company offered a trip to Disneyland. The Fern Hill Tavern in the boy's neighborhood held a benefit, which raised thousands of dollars. Throughout Washington, a variety of activities, from junior high school bake sales to radio auctions, raised money to cover medical expense.

(Boerner 1992:532)

The Seattle Times reported on May 27 that “people have donated more than \$100,000 to help pay the medical expenses of [the] 7-year-old Tacoma boy,” providing an address to an “Assault Victim Trust Fund Account” at a Tacoma bank where readers could send money (*Seattle Times* Staff 1989b). The article also mentions that a regional radio station, KING 1090, held an on-air auction on the 26th in which listeners pledged about \$45,000 (*Seattle Times* Staff 1989b).

Boerner reports that by June 9, a fund for the boy had accumulated over \$335,000 (Boerner 1992:537).

This fundraising evinces widespread popular support for the victim in the aftermath of the attack, but also demonstrates the importance of institutions in organizing public support – here a bank, Boeing employees, a radio station, and a middle school are mentioned. Popular support was arranged across and through an uneven institutional field. A middle school bake sale was likely organized by students, parents, and staff at a neighborhood level, reflecting a relatively spontaneous popular response; a radio station and regional bank, on the other hand, operate on a higher level of institutional power, capable of spreading the word and coordinating response (especially via the reach of the radio station) and commanding resources (especially via the bank) to reinforce the cause of the victim as well as the sensational narrative of danger and public outrage. Collapsing the range of institutions which produced the panic into a monolithic

“public outrage” mistakes this uneven institutional field of social production into an organic response in civil society driven solely by everyday citizens.

Popular support also quickly took the form of pressure upon elected officials. On May 25, *The Seattle Post-Intelligencer* reported that Washington governor Booth Gardner’s office had been “deluged with telephone calls from citizens urging him to take action to protect the public from violent offenders,” and that by 10:30am on the 24th “Gardner’s office had logged more than 220 such calls. By late yesterday afternoon, the number of callers had risen to 318, according to Liz Mendizabel, the governor’s deputy press secretary” (Barber 1989b). Boerner (1992:534) reports: “A spokesperson for the Governor stated that the office had received 1,000 calls and letters about the Tacoma boy by Friday afternoon, the most correspondence the Governor had ever received on one issue in such a short time.”

While the call-ins may have been spontaneous and unorganized, pressure was also coordinated via campaigns by victim advocacy groups who organized and quickly entered the fray as another significant group of claims-making actors. A May 25 *Post-Intelligencer* article describes an interest group called “Friends of Dianne,” formed after 29 year-old Diane Ballasiotes was killed in 1987 by a prisoner out on work release, mentioning that the group was concentrating on pushing the governor to call “a special session of Sentencing Guideline Commission to review the policies that have resulted in what [Friends of Diane spokeswoman] Carmody refers to as ‘the complete failure of criminal justice system’” (Barber 1989b; Gillespie 2018).

On May 26, protestors “led by Mike Ballasiotes, brother of the late Diane Ballasiotes,” “gathered on the steps of the Capitol Building in Olympia to demand that the Governor call a special session of the legislature to enact tougher penalties for sex offenders, including life

imprisonment for repeat sex offenders” (Boerner 1992:534). Boerner notes that “Ms. Ballasiotes's murder had created its own storm of controversy when it was learned that her murderer, Gene Kane, was a convicted sex offender who had served thirteen years in prison and was, at the time of the murder, a resident of a work-release program in downtown Seattle as a ‘transition’ to release” (Boerner 1992:534; Rideout 1992).

There are multiple important aspects to the claims-making work of victim advocates in the aftermath of the Shriner attack. The first is the explicit organization of public response via interest groups rather than the apparently more impromptu protests at Shriner’s arraignment. Here, public response is organized in a group with a name, leadership, and public strategy. Second, it is important to note that, like police claims-makers, this group specifically names the Sentencing Guideline Commission, which was responsible for the overhaul of sentencing and the introduction of determinate sentencing, as the target of their pressure. Third, organized victim advocates contribute to the definitional work of the moral panic, connecting the Shriner attack to the murder of Ballasiotes and articulating an alarming narrative of a “complete failure of the criminal justice system” to contain the problem of “repeat sex offenders.” And like police claims-makers, victim advocates are afforded a platform in the media to pursue their definitional work through direct quotes.

Public interest and political pressure continued: Boerner (1992:535) reports that a May 30 public forum in Tacoma on the issue reached its 300-seat capacity, filled a 150 seat adjoining spillover room for remote viewing, with still over “200, including the state Attorney General, remained locked outside by order of the fire marshall.” In this hearing, Pierce County Prosecutor John Ladenburg and Tacoma Police Chief Ray Fjetland agreed that:

[T]he legislature must adopt a law dividing sex offenders into the treatable and untreatable. Under such a plan, the treatable would be supervised for life while the untreatable would be locked up for life. Ladenburg called for the state to create a "mental health prison" and for changes in the state's privacy laws to allow authorities to notify the community when violent offenders are released from prison. The meeting ended with a statement from the head of the Washington Coalition of Sexual Assault Programs, who was reported by *the Tacoma Morning News Tribune* as saying that "[y]ou must make a commitment and carry it out of this room and make it ring so loud throughout this state that nobody can ignore it."

(Boerner 1992:535, drawing from unnamed articles in *The Seattle Times* and the *Tacoma Morning News Tribune*).

Here a victim advocate appears alongside law enforcement actors calling for lifelong supervision or detention of sex offenders, making dramatic, emotionally-charged, and urgent claims about a pressing problem, demanding action from an overflowing public audience.

Another victim advocacy organization called The Tennis Shoe Brigade was formed by Helen Harlow, the mother of Shriner's victim who had by this point gone public, and Ida Ballasiotes, mother of Diane Ballasiotes and active advocate with Friends of Diane (Boerner 1992:537). The Tennis Shoe Brigade organized a campaign for concerned Washingtonians to each "send one child's tennis shoe with a note to the Governor requesting him to 'please protect us, have a special session.' The shoes were to symbolize the feet of those entitled to walk without fear" (Boerner 1992:538). The victim advocate interest groups made pressure campaigns on politicians an explicit strategy in order to advance their goals, channeling public outrage to pressure politicians to translate that outrage into concrete legislation. And they made use of

dramatic and emotionally-compelling imagery in their tennis shoe campaign. The wide appeal for children's shoes implies a vast number of potential child-victims in the state in need of protection, and also claims to represent the voices of those threatened children begging for a protection that they currently lack. The victim advocates' definitional efforts reinforced the emotional tenor and urgency of the panic, helped define the problem as one of a widespread sex offender threat to Washington state's children, and explicitly coordinated demands for state action.

Conclusion

Reviewing the news coverage in the aftermath of the Shriner attack and in the escalation of the ensuing moral panic, I find that the panic closely fits the CMP model as described by Zielińska and Pasamonik (2022). I also affirm that police, in addition to media, play an important role in producing moral panic (Ben-Yehuda 1986; Fishman 1978; McCorkle and Meithe 1998; Zatz 1987). Police contribute actively to moral panic, but do so to advance narrow organizational interests. They are players in the media ecosystem along with other institutions involved in the production of moral panic, albeit active players with more of a moral-entrepreneurial role than originally recognized in moral panic literature. The question is less about the grand designs of participants than the structure of the field in which they intervene to advance their interests. Institutions pursue their interests in a field defined by profit-driven media, which then, because of media's prominent status in social discourse, produces broader ideological effects via a cohering moral panic narrative. Police have not necessarily engineered the emotional corruption of rational politics, but the necessarily sensationalist character of mass media allows them an avenue to reproduce and consolidate their power.

Fed by press sensationalization and police claims-making efforts, public moral panic was additionally reinforced by relatively powerful civil society organs like a radio station and a bank. Outrage was also organized and directed by victim advocacy groups who, along with police, emphasized the need for legal reform in the aftermath of the attack. Victim advocacy groups helped translate public outrage into explicit pressure campaigns which state politicians quickly felt in unprecedented intensity. This was the process by which moral panic translated into a mandate for public action felt by state policymakers. This was a case of violence followed by panic followed by state response – but it is important to note the uneven social field which produced that mandate and contributed to the state response. This was not a simple case of a monolithic civil society sector evenly expressing outrage to which the state democratically responded. The outrage was selective and driven by relatively powerful social organizations like media, police, and businesses, as well as by organized and motivated victim advocacy groups. These social organs played a major role in creating the mandate for action to which the state then felt the need to respond. And police and victim advocate claims-makers specifically targeted sentencing policy which had recently been reformed in the state. The Governor was now faced with a need to assuage this institutionally-mediated panic and to fend off attacks against the sentencing reforms he supported. It was in response to these dual pressures that he and his allies pursued the civil commitment law as a means of responding to public pressure while maintaining the sentencing reforms on the whole.

CHAPTER 3

FROM PANIC TO CIVIL COMMITMENT

Today, about half of U.S. states have a program for the psychiatric civil commitment of sex offenders (NDAA 2012). Sex offender civil commitment policies allow the state to psychiatrically evaluate convicted sex offenders at the conclusion of their prison sentences. If adjudicated a “sexually violent predator” —someone with a mental illness which makes them likely to sexually re-offend—then sex offenders are psychiatrically committed to a special secure facility (Perlin and Cuculo 2017:23). Such sex offender civil commitments are usually lifelong sentences. Modern sex offender civil commitment was first developed in Washington State as a re-narrativization of the 1989 sex offender panic. How did Washington State move from panic to law, and specifically to civil commitment as the state’s answer to the panic?

As I show, civil commitment was the re-narrativization advanced by the group with the right combination of political capital and ability to speak to the terms of the panic—the demand for control of sex offenders—while also signaling rational and measured governance. Each other group competing for re-narrativization failed due to inferiority on one of these points. The Washington State Attorney General formed a committee which recommended overhauling determinate sentencing, but which lacked the political capital to gain the same support of the legislature for a monopoly on responding to the panic early on. State Republicans advanced a bill providing for the castration of sex offenders, but came across to the public as too extreme and irrational. Critics of the panic were unable to advance a coherent competing re-narrativization which could avoid incurring damage from the force of the panic. Civil commitment was developed by a taskforce backed by the state’s governor. The taskforce was able to use this

advantage in political capital to advance civil commitment as a form of re-narrativization which served its members' interest in defending prior sentencing reforms. Civil commitment succeeded as a proposal because it was able to both speak to the fundamental moral panic demand of control of sex offenders while also signaling moderation, against the extremity of the Republican castration proposal.

Why Civil Commitment?

Civil commitment was raised first by a group who had an early advantage in the fight for re-narrativization because they were convened by the governor. Facing early attacks on determinate sentencing by law enforcement in the media, and facing other early organizing efforts by other politicians, Washington State Governor Booth Gardner used his executive authority to form a taskforce to propose legislation that claimed it would prevent future releases of violent offenders likely to re-offend. Gardner was able to gain the support of the legislature in monopolizing the early state response to the panic. The governor installed allies of prior sentencing reforms in the state at its head. The taskforce, following the guidance of the governor and his allies, created civil commitment as the re-narrativization which could respond to the public demand for action while causing the least damage to the prior sentencing reforms.

The Formation of the Taskforce

Governor Gardner began searching for the means to re-narrativize public outrage soon after the attack. He directed officials in his administration to recommend legislation on May 26, 1989, less than one week after Shriner's attack (*Seattle Times* Staff 1989). Governor Gardner was not the only politician looking to formulate a response in the immediate aftermath of the

attack. Influential members of the state senate were beginning to announce plans for hearings at this time, seeking to advance their own re-narrativizations (Boerner 1992:532-534). The state's Attorney General formed an Executive Committee on Violent Sex Offenders (Boerner 1992:548).

The governor acted quickly to use his political capital as the state's executive to shape the state's re-narrativization effort. On June 15, 1989, Gardner issued an executive order to form The Governor's Task Force on Community Protection, tasked with suggesting a legislative response to the public demands for change in the aftermath of the Shriner attack (Boerner 1992; Executive Order 89-04 1989). Executive authority allowed the governor to monopolize the early re-narrativization effort. This monopolizing move was mostly successful, as state legislators agreed to defer to the taskforce and to not hold their own investigations (Boerner 1992). The Attorney General appears to not have deferred to the governor along with the legislature, as his committee remained active and made their own recommendations in September of 1989 (Boerner 1992:548). However, the governor's securing of buy-in from the legislature was decisive, as the recommendations of governor's taskforce were seriously debated and unanimously passed by the legislature when they reconvened. The Attorney General's committee's rival recommendations were not seriously debated in the legislature nor the press. The governor's political capital decidedly placed his group at a real advantage in re-narrativizing the panic. This advantage also allowed him to define the terms of that re-narrativization early on.

The Governor's executive order decreed that his new taskforce would consist of no more than 21 appointees by the governor, two appointees by the state House, and two appointees by the state Senate (Executive Order 89-04 1989). The taskforce consisted of criminal justice professionals, treatment staff, academics, and legislators (Boerner 1992:538). The taskforce also

included victim advocates, including Helen Harlow, the mother of Shriner's victim, and Ida Ballasiotes (Boerner 1992:538). The taskforce was assigned four points of responsibility, which were to be accomplished and reported to the legislature by December 1 of that year, or just under six months after the executive order was passed. The executive order assigned the taskforce to review existing policy to look for flaws in the state's ability to confine dangerous offenders, and to propose reforms which would strengthen that capacity (Executive Order 89-04 1989). The executive order specifically suggested research into a "secure facility for certain categories of people who represent the most risk to society," based on a procedure to "predict future behavior of individuals" and a "legal criteria for confining them" (Executive Order 89-04 1989). The taskforce's ultimate civil commitment proposal hewed closely to this directive.

Defending Determinate Sentencing

To understand why the governor's taskforce proposed civil commitment as their favored re-narrativization of the panic, it is important to understand the relationship of key members of the governor's appointees to prior determinate sentencing reforms undertaken in the state in the 80's. Defending determinate sentencing was a key priority for these appointees as they sought to re-narrativize the panic.

Governor Gardner appointed Norm Maleng, King County Prosecuting Attorney, as chair of the taskforce, and also appointed David Boerner, law professor and former Chief Criminal Deputy of the King County Prosecuting Attorney's Office, to a central role (Boerner 1992:539). Maleng and Boerner were long-time colleagues and friends, and had both played central roles in the determinate sentencing reforms (Boerner 1992:539; Boerner and Lieb 2001). Boerner served as the chief legal architect of the taskforce, and it was he who drafted what would become the

taskforce's final proposal of civil commitment. His 1992 reflection on his experience with the taskforce is an essential data source for understanding the process of translation from panic to law in Washington State.

What was determinate sentencing? For most of the 20th century, the standard of the American justice system was the unique feature of indeterminacy, which granted judges and parole boards broad discretion over how long a convict could be held and at what point they would be released (Pifferi 2016). Washington State was an early leader in reforming sentencing to a system where the lengths of sentence lengths were fixed by law and the discretion in varying sentence length was removed from judges and parole boards (Boerner and Lieb 2001). Indeterminate sentencing was guided by the principle of rehabilitation, where release could be decided on a case-by-case basis depending on the behavior of the convict; determinacy, on the other hand, was in principle skeptical of rehabilitation and instead saw sentences as punishments which should be set with clear fixed lengths based on what punishment was deserved for the crime (Boerner 1992).

Determinate sentencing limits judicial discretion and rationalizes sentences to provide clear sentence structure based in advance on crimes, which Boerner and Lieb (2001) argue helps limit discrimination and inequality in the application of the law by judges. Boerner directly connects the ideals which guided him in supporting sentencing reform to his concept of civil commitment as the best answer to public concern after the Shriner attack. He characterizes the former system of indeterminate sentencing as proposing that “the nature and quantity of punishment should be based on what was necessary to achieve some utilitarian goal, such as rehabilitation or deterrence,” which he characterizes as “frequently in conflict” with his preferred philosophy of “desert” (Boerner 1992:548). He describes the principle of desert as: “punishment

was justified only to the extent that it was deserved for what the individual had done” (Boerner 1992:548-9).

Boerner argues that the emphasis on desert can provide a limit principle for punishment, because, while the principle of desert may require punishment as deserved, it also holds that punishment should not exceed what is deserved (Boerner 1992:562). The concept of desert as a limit principle is essential to Boerner’s advocacy of sentencing reforms. The rehabilitative focus of indeterminacy, of releasing a prisoner when a court or parole board has judged him to have been reformed, in practice can mean longer sentences than are deserved by the criterion of the crime alone. If a schema of time deserved per crime can be established and agreed upon in advance, as determinate sentencing implements, then a convict can do his time and know when he will be released, rather than languishing at the discretion of authorities who determine when he is sufficiently reformed.

Maleng and Boerner, as advocates of the determinate sentencing reforms, were in a difficult position. Determinate sentencing had been a target of criticism in the production of the sex offender moral panic, advanced by law enforcement opponents of the reforms on the back of the Shriner attack. The Attorney General’s appointed committee’s September 1989 report called for the undoing of determinate sentencing for sex offenders altogether (Boerner 1992:548). Shriner’s release enabled him to re-offend, and opponents of determinate sentencing argued that returning to indeterminate sentences could provide state authorities with the means of preventing similar dangerous offenders from being released in the future.

Maleng and Boerner faced attacks on the policy they had fought for. But the governor gave them a leg up against their opponents by appointing them to his taskforce. From their position on the taskforce, they had to figure out how to re-narrativize the panic in way that could

counter the attacks from law enforcement on determinate sentencing. Boerner set out in his work on the taskforce from these principles with an interest in defending the determinate sentencing reforms. Civil commitment was the re-narrativization he conceived which could counter rival propositions from the Attorney General's office.

Civil Commitment as Damage Control

Civil commitment initially appears as an unlikely proposal to be advanced by proponents of determinate sentencing. If determinate sentencing is based on uniform standard sentences as punishment, why would its advocates then turn around to propose an indeterminate-length psychiatric commitment based on the standard of rehabilitation for release? In fact, determinate sentencing had directly overturned a previous instance of civil commitment of sex offenders in the state. Like many other states, Washington State had adopted what was known as a “sexual psychopath law” in the mid 20th century. These laws proliferated beginning in the 1930s and sought to control sexual offenders considered especially dangerous via psychiatric commitment, but they widely fell out of favor by the 1970s (Perlin and Cuculo 2017). In Washington State, the state's sexual psychopath law was specifically replaced by the determinate sentencing reforms in 1984, which replaced indeterminate-length civil commitment with fixed-length prison sentences for sex crimes (Boerner 1992).

Why, then, did the same proponents of determinate sentencing then develop civil commitment as their proposed re-narrativization, a model of sex offender psychiatric commitment very similar to the sexual psychopath laws they had overturned only five years prior? Determinate sentencing advocates, facing threats to their overall project, proposed civil commitment as a limited concession which would compromise the determinate sentencing

project the least. Compared to the total undoing of determinate sentencing for sex crimes proposed by the Attorney General, Boerner justified civil commitment as a much more limited use of indeterminacy more in line with the principles of determinate sentencing, which he continued to defend.

Setting fixed determinate sentences for sex crimes had already been a particular issue for the Sentencing Guidelines Commission, the body the determinate sentencing reforms had created to design universally applicable sentence lengths for crimes. The Commission had to make early compromises on determinate sentences for sex crimes in 1983 after victim advocates lobbied for carve-outs for cases of intra-family abuse, arguing that harsh sentences would discourage reporting (Boerner and Lieb 2001; Lieb and Matson 1997). Then, just three years later, the Commission faced the opposite pressure from the prosecutor's office and public demand to make determinate sentences tougher for sex crimes (Boerner and Lieb 2001; Lieb and Matson 1997). Determinate sentencing advocates struggled to achieve their ideal of uniform standard sentences for sex crimes, facing competing demands for lenient sentencing for family offenses on the one hand and harsh sentences for other offenders on the other.

The competing pressures and highly charged nature of sexual violence made fixing uniform determinate sentences for sex crime difficult. Boerner created civil commitment as a re-narrativization model to allow for a limited outlet of indeterminacy while preserving determinate sentencing for sex offenses on the whole. Boerner indicates the continuity of his proposed civil commitment recommendation with the efforts and ideals of sentencing reform, taking care to differentiate this modern civil commitment solution from the excesses of previous overturned sexual psychopath laws. Boerner is very clear about his conception of civil commitment, which draws from indeterminate and "utilitarian" principles he otherwise rejects, as a narrow solution

targeted at the worst of the worst, which would minimize the deprivation caused by other solutions such as a broad increase in sentence lengths which would apply to many more sex offenders than the worst of the worst (Boerner 1992:563). He writes that “[o]ur remedy for the state's inability to act on its knowledge of Earl Shriner in 1987 ought to be limited to extreme cases that were equally compelling” (Boerner 1992:563). He is realistic about the ability to predict who will be dangerous, arguing that this “should be done only as a last resort, and only in the full light of day, with generous procedural protections” (Boerner 1992:565). Boerner quotes from prominent jurisprudential thinker Norval Morris: “[t]here are exceptional, gravely psychotic, extremely and repetitively violent persons whose likely future criminality does not merit study since it is so obvious” (Boerner 1992:565).

Civil commitment contradicted the principle of desert which guided sentencing reform, but Boerner defended its proposal as the smallest possible exception to those general principles, adopted pragmatically out of necessity and only to be used in extreme cases. Civil commitment was to work like a pressure release valve for the determinate sentencing faction: it provided a compromise in the principles of determinate sentencing only to the degree that determinacy advocates felt necessary, due to the real force of the moral panic, to prevent greater damage to the project of determinate sentencing. Civil commitment was created from a perspective of seeking to preserve determinate sentencing to the greatest degree possible.

Castration: Panic and Moderation

Understanding how civil commitment came to be proposed as a specific form of response, and how it had an early advantage through the governor's political capital, is just one part of the puzzle. The governor did not have absolute power to re-narrativize the panic. But civil

commitment quickly gained strong support by the legislature. The taskforce delivered their final proposal on November 28, 1989 (Boerner 1992:574). On January 24, 1990, the state Senate unanimously approved the proposed legislation (Simon 1990d). The House version of the bill unanimously passed the appropriations committee on January 26 and then unanimously passed the House on February 5 (*Seattle Times* 1990a; Simon 1990g). The house and senate spent a few weeks reconciling their versions of the bill, with the only disagreement being over a minor point that involved funding for victims of sexual violence (Simon 1990i). A compromise clause was expedited, and the reconciled bill passed both houses on February 23 (*Seattle Times* 1990b). Governor Gardner signed the final bill into law on February 28 (Suttle and Simon 1990b).

How did civil commitment gain the necessary legitimacy to be accepted as the state's re-narrativization of the panic – to become the answer to the sex offender problem narrative which exploded after the Shriner attack? When the legislature reconvened, civil commitment was debated alongside a new competing re-narrativization: a proposal advanced by state Republicans for the castration of sex offenders. The victory of civil commitment over the castration proposal reveals a piece of the process understudied in moral panic literature: civil commitment was favored in the debate because it was seen as more moderate and rational, with the castration proposal critiqued by media commentators as an excessive panic response. The translation of moral panic to legislation was not a direct path from panic to an extreme legal response. Rather, the process of translation to law also contained a critique of panic reactions and ideals of the law as rational. Civil commitment succeeded due to its moderation.

As the taskforce's civil commitment proposal was introduced, some Republicans argued it did not go far enough:

Is the Governor's Task Force on Community Protection soft on crime? Some Republican legislators think so. Senate Majority Leader Jeannette Hayner, for one, wishes the recently released task force's recommendations on how to handle sex offenders would have set even stiffer penalties than they did. "Most people think we ought to castrate 'em and throw 'em in the slough," said Hayner, R-Walla Walla... Most members of the Republican caucus praised the report, but said they want to consider even harsher measures. Sen. Bob McCaslin of Spokane wants life sentences for all first-degree rapes, while Sen. Leo Thorsness of Seattle says the state should also study the effectiveness of chemical castration and life sentences for most repeat offenders.

(Simon 1989b)

Republicans in the legislature sought to outdo the taskforce in re-narrativizing the panic. They spoke to the public cry for expression through calls for "harsher measures." Nor were the appeals to castration merely a rhetorical expression of the intensity of the outrage. The castration proposal made real progress toward becoming law.

When the legislative session opened, Republican senators pursued a measure to provide for surgical castration of sex offenders, with continued support from Senate Majority Leader Hayner (Simon 1990a). These opening calls for castration received "surprisingly strong support" from lawmakers, with *The Seattle Times* noting in reference to support from House Minority Leader Clyde Ballard, a Republican, that "the public isn't much concerned about straddling the line between civil rights and public safety" (Simon 1990b). A measure, which would reduce sentences for sex offenders in exchange for agreeing to castration, was passed by the Senate Law and Justice Committee on January 19 (Simon 1990c). If passed, this would have been the first such law in the country since the 1940s: A South Carolina judge had offered castration in

exchange for reduced sentences to three convicted rapists in 1985, but this was overturned by the state's Supreme Court (Simon 1990c). By January 31, *The Seattle Times* was reporting that the castration bill, "the most talked-about piece of legislation in the state capital," was likely to die in the House, but this article notes that it was a bill "few thought would ever make it out of committee" to begin with, and that it was a testament to "just how politically charged the castration issue has become during this election year" (Simon 1990e). The Senate actually did pass the castration bill in February, but as predicted it died in committee in the House later that month (Simon 1990h; Suttle and Simon 1990a).

The castration legislation was a counter-proposal which sought to out-do civil commitment in the vengeance it could deliver. In so doing, it also drew critical fire away from the civil commitment proposal. Critics of the castration legislation often portrayed it as an irrational reaction to the moral panic, holding up the civil commitment legislation as a rational and measured response by comparison. Civil commitment could naturally be framed as a compromise between civil libertarian skepticism of action on the one hand and overzealous castration on the other:

Civil libertarians have objected to creation of a civil-commitment system that would allow authorities to detain the most dangerous offenders in locked treatment centers once they are released from prison, as well as proposed lifetime registration of sex offenders. Others have asked for tougher action, such as longer sentences or the use of castration. (Simon 1990d)

The existence of a stronger and more violent intervention by Republican legislators allowed the proponents of the task force's proposed legislation to legitimize their proposal. The castration bill allowed for an outlet for criticism of the movement from panic to legislation because it

provided an obvious target. There were several editorials and letters to the editor critiquing the castration bill directly, often framing it as moral panic legislation. Proponents of civil commitment argued that their re-narrivization was reasonable and justified in comparison, erasing the same basic problems of the passage from panic to legislation and repressing the question of whether channeling the force of the public outrage was appropriate at all.

Commenters positioned the civil commitment bill as the moderate option by drawing direct comparison to the more harshly critiqued castration measure. Though the civil commitment legislation “was dictated by public outrage ... task force members praised Ballasiotes and her allies for seeking results - not vengeance or publicity. By contrast, some politicians later called for castration or even lobotomies of sex offenders” (Simon 1990g). A column published in *The Seattle Times* sums up the situation:

The sex-offender legislation soon to be enacted into law is the best outcome of the victims' rights movement; the castration proposal is the worst... When the sex-offender bill is signed into law, it will represent the ability of an impassioned citizenry to move government to responsible action. A series of horrible crimes prompted the governor to act swiftly. The citizen commission he appointed set the standard for a process of public involvement, thoughtful deliberation, and carefully crafted recommendations... The castration legislation is just the opposite: a hasty and ill-considered reaction to an angry public crying out for revenge.

(Cameron 1990)

The castration proposals made for a helpful comparison point for the taskforce's civil commitment proposal, against which it looked measured and reasonable. The rationality of this re-narrativization was legitimized by comparison to the castration proposal as an example of

what an irrational re-narrativization would look like. This comparison obscured a more fundamental point of critique: the question of whether the panic itself really is a legitimate expression of public will, or if it really should be answered by the state.

Governor Gardner and Boerner had wisely emphasized civil commitment as a rational and moderate response to the intensity of the panic from the early days of the taskforce, which helped prime legislators and the public to see civil commitment as a favorable alternative to the castration proposal. In the week after the attack, Gardner stated “we must turn (the public's) anger and frustration into finding effective solutions that will keep violent and dangerous people off the streets” (*Seattle Times* Staff 1989). When he created the taskforce a few weeks later, he called for care and restraint and cautioned that “the proposed legislation must be carefully crafted and not merely an irrational reaction to public outrage” (Boerner 1992:537).

Boerner consistently framed civil commitment in similar terms. Boerner justified earlier determinate sentencing reforms as rationalizing sentencing and preventing bias, and he justified civil commitment as the model of re-narrativization which will best preserve that rationalizing ethos (Boerner 1992). He compared the new civil commitment to the older sexual psychopath laws, arguing that the new form would be much narrower and soberer in its application. Throughout his 1992 account of his time on the taskforce, Boerner stresses that the taskforce saw its goal as rationally giving shape to the swell of outrage and demand for action that followed the Shriner attack. He argues that the civil commitment proposal is the product of such a process.

The Power of Panic: Populism vs. Elitism

Civil commitment's comparative advantage over castration due to its selling point as moderate and rational does not, however, mean that the panic was weak and defeated by

dispassionate rationality. On the contrary. The panic was a strong, compelling force which necessitated that re-narrativizations speak in its terms. Civil commitment succeeded because it spoke to the public outrage of the panic as legitimate while at the same time signaling moderation. Critics who fundamentally questioned the legitimacy of the underlying panic, by comparison, were powerless.

The Real Force of Panic

The terms of the discussion of the law in *The Seattle Times* reveal the degree to which the discussion, and the terrain faced by actors who would intervene to re-narrativize, was shaped by the sheer force of the panic as an unprecedented outpouring of public outrage. Many statements by actors involved in the state's response recognized that the outrage was a serious force to be contended with. As the taskforce's proposal was first presented to the legislature, one state senator noted that "[t]here's a lot of innovative approaches in there and there's a great amount of public support out there for us to act... The public may in fact feel the penalties [proposed] aren't harsh enough" (Linn and Simon 1989). Then-House Minority Leader Clyde Ballard affirmed this sentiment, stating, "you can't be tough enough for the general public" (Simon 1990b) and later: "read my mail. People are just fed up. I feel and a lot of society feels that when you commit a sex crime or something like that, you give up many [civil] rights" (Simon 1990f).

One example helps illustrate the intensity of the public discourse at the time: On November 19, the Sunday times ran a cartoon by Brian Basset depicting the torture of Washington State child molester Westley Allan Dodd. One reader wrote a letter to the editor complaining that such depictions were dehumanizing to people who, while having committed horrific violence, were also often themselves victims of violence perpetuating a cycle of abuse

(Shaner 1989). This letter was answered by another reader's letter, arguing that "Mr. Basset's cartoon was a healthy way for all who feel outrage at Dodds' crimes to symbolically express their anger," also noting that

As a victim of childhood sexual abuse, I can assure you that 25 years after the deed I am still tortured by the perversities my father perpetrated. Only recently have I allowed myself to feel anger toward this man, having fallen prey to the notion that my dad was a "poor, sick man." At one counseling session, I symbolically tied my father up and slowly tortured him.

(Walter 1989)

The writer relates her own therapeutic experience, in which she symbolically tied up and "slowly tortured" her father, to a right for similar symbolic torture as legitimate expression for "all who feel outrage" reading about the crimes of a sex offender. As I noted in chapter 2, the panic in Washington involved strong evocations of solidarity such as this – the violence of sex crimes and the right to revenge were held up as if shared by society in general. The images of violence in the media bring its experience home, and with it anger and the need for expression in response.

The public demand for symbolic expression and expiation, and the pressure legislators felt, produced the competing castration legislation as the 1990 legislative session opened. Throughout his articulation of the creation of civil commitment, Boerner affirms the legitimacy of the panic in the aftermath of the Shriner attack. He justifies civil commitment as a rational re-narrativization of that outrage but treats the outrage itself as justified.

Boerner's Populism

When distinguishing the rationality of civil commitment from the excesses of earlier sexual psychopath legislation, Boerner cites Sutherland's (1950) landmark study of sexual psychopath laws as moral panic legislation. Boerner quotes Sutherland's description of the development of midcentury sexual psychopath laws, which civil commitment resembles: "a community is thrown into panic by a few serious sex crimes, which are given nation-wide publicity; the community acts in an agitated manner, and all sorts of proposals are made; a committee is then appointed to study the facts and to make recommendations" (Sutherland 1950:142). Boerner strikingly remarks: "Prior to the formation of the Task Force, the story Sutherland told and the story I have told are the same" (Boerner 1992:575). By this he means that moral outrage and fervent demand for reform was present in 1989 Washington in the wake of the Shriner attack as it was in the impetus for the laws Sutherland criticized.

Beyond recognizing the strength of the panic, that "the political environment demanded a solution" (Boerner and Lieb 2001), Boerner legitimized the panic as a justified expression of popular will. Boerner justified his efforts at re-narrativization through what I am calling a "populist" articulation of his approach. Public outrage provided a populist thrust to Boerner's argument – public demand justifies an intervention, or at least makes it such that an intervention is inevitable. Boerner defers to the popular outrage as the ground for legitimate justice, avoiding appealing to any absolute ideals of justice. Discussing the central conflict of community risk versus civil liberty, he resolves the conflict by deferring to the mandate given by the panic:

How much risk a community must bear because the means to alleviate or reduce the risk threatens other more important values is a question that, in major part, defines the nature of a society. At its core, the public's reaction to Earl Shriner's attack on the boy was

addressed to this defining issue. The public was saying that the existing law had the balance wrong, at least as applied to Earl Shriner's case.

(Boerner 1992:547)

It is clear from Boerner's framing here that public outrage was the driving force of reform, the moral panic he references elsewhere as having created the political need to put forth a legal reform. Boerner admits: the role of the taskforce is to pragmatically channel public outrage into the most socially-beneficial and least damaging form it can take as law, provided it satisfies that outrage.

The "public" response was produced across different social organs with incentives for pursuing their partial ends in the production of moral panic (in the case of the media) and in advancing their interests through re-narrativizing in the rift the panic opened up (in the case of law enforcement). The most important social organ involved was the media. Activism by victim interest groups, such as the entry of Friends of Dianne into the fray, also played a role in making the linkage of the Ballasiotes murder with the Shriner attack. This group coordinated with the victim's mother for a public campaign on the issue. Public action co-occurred across these different institutions to create the whole of "public demand." Boerner mentions each of these factors, but ultimately refers to one collapsed and uniform public demand as the legitimating force behind the law, rather than as driven by these different partial institutions.

Boerner's deferral to the outrage can perhaps be seen best in the distinction between stranger attacks and intrafamily abuse, consistent with the approaches taken by the determinate sentencing commission discussed above:

All sex offenses involve violence, but not all sex offenses are the same. Most sex offenses, in fact, occur between persons who know one another. These crimes, as serious

and damaging as they surely are, were not what produced the public outrage that led to the creation of the Task Force. The very randomness of Earl Shriner's act produced the sense of vulnerability that was at the core of the public's fear. The Governor used the term "predatory" in his Executive Order creating the Task Force, and I used that term to further focus the proposed remedy. "Predatory" was defined as "acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization. Only those who were "likely to engage in predatory acts of sexual violence" would be eligible for civil commitment under the proposal.

(Boerner 1992)

Public rage must be spoken to, and Boerner channels public demand into the creation of the "predator" definition as specifically meaning stranger. As Boerner and Lieb (2001) specify, the carve out for abusive family members was previously adopted following victim advocate concern about securing testimony. Here Boerner reaffirms the stranger fear/family nuance distinction, further specifying that stranger attacks evoke a higher degree public panic, and that this aspect of the singular Shriner attack (along with its ferocity and brutality) drove the state response in its wake. Family and known-contact sexual abuse may be much more widespread and on a much larger scale of total social harm than stranger attacks, but this everyday structural violence does not evoke the kind of public and state response the Shriner attack does. Boerner's populism is manifest here. The public dictates the demand. Boerner does not critique the rational inconsistencies of targeting Shriner over abusive family members, and instead treats the public demand as rational and legitimate.

The question of populism also raises the question of emotion and rationality in moral panic legislation. In classic critique of moral panic legislation (see Sutherland 1950), legislation

following moral panic demands is criticized essentially for neglecting its duty to critical rationality and instead giving in to irrational pressure of emotionally-charged outrage of the moral panic – reason is lost to the irrational forces of emotion. Here, Boerner wrestles with the question of emotion biasing the legal response in his reflection. In a note, he writes: “I recognized the danger that responding to ‘horror stories’ may lead to ‘destructive laws’ and that ‘selective empathy or unreflective empathy can mask moral choice’ [quoting Henderson 1987],” stating that “this narrative is a way of confronting the moral choices I made” (Boerner 1992:547). The question of bias recurs throughout his reflection. He writes elsewhere:

The police power is "the least limitable of the exercises of government" because it is a response to the collective need for self-defense. Collective self-defense, the coming together of individuals to create communities that will protect them from dangers, must surely be at the very core of the rationale behind the police power. The limits on police power would come from the legislation enacted through the democratic process and the jury, and in the form of procedural protections. This helped explain why all the members of the Task Force, myself included, had such a strong intuitive reaction against the idea that government was constitutionally prohibited from acting to protect the community from Earl Shriner in 1987, given what was known of him at the time.

(Boerner 1992:558)

His reference to “strong intuitive reaction” is notable here – he appears to treat this feeling as an organic expression of the reality of the situation (albeit one that is then to be connected rationally to a legal framework of rules) rather than a potentially biasing factor leading the taskforce astray. Emotional reaction is intuitive here. It is an authentic expression guiding the experiencer to the rational response. The question “how could the state have let Shriner go” corresponds to the

reality of protective police power as the core function of government. In Boerner's populist view, emotion and rational governance are mutually supportive rather than at odds.

Boerner also deals with emotion in his discussion of the presence of victim advocates, including Ida Ballasiotes and Helen Harlow on the taskforce. He writes that Ida Ballasiotes told the taskforce "Helen Harlow and I will be your conscience." (Boerner 1992:540). When he differentiates the civil commitment taskforce from the coalitions which passed earlier sexual psychopath laws, Boerner writes not only that boards of opportunistic psychiatrists have been replaced by legal experts, but also specifically mentions the inclusion of the victim advocates in the drafting process. He argues that he believes the presence of the victim advocates did not bias the taskforce but instead grounded them in the concrete reality of the question:

The presence of Helen Harlow, Ida Ballasiotes, and Trish Tobias as Task Force members made it impossible to view these issues as abstract legal issues. Our work was "in the field of pain and death," and their presence made us constantly aware that whatever we did, or chose not to do, would have a direct, tangible impact on individuals. I do not believe that this influence blinded us to the presence of the other potential victims, the false positives, those who would lose their freedom when inaccurately labeled as likely to engage in predatory acts of sexual violence. For me, this focus heightened my sensitivity to the balancing that would inevitably occur. I was constantly aware that I was not engaged in an abstract intellectual enterprise, but rather the "organized practice of social violence."

(Boerner 1992:576)

Again, Boerner suggests that the emotional valence of advocacy and outrage are not in contradiction with his ideal of legislation, but work in tandem with the taskforce's mandate to

rationally channel public outrage into effective policy. He connects the presence of advocates on the taskforce to his pragmatic sense of the draft policy as a balancing act of the rights, freedoms, and safeties of different segments of society. For Boerner, the emotion here does not obscure the rational effort to balance those rights, but instead is a grounding force in the reality of balancing pain and death of real individuals in society. Boerner's politics lead him to generally treat emotional intensity as valid, generated by real suffering caused by real problems, and the driving force to which law should respond. His is a synthetic account where reason and emotion are intertwined, the two sides of the coin of human action, dual appropriate responses to real phenomena. Most importantly, by treating the panic as legitimate, and arguing that his group's philosophy of justice is sound, he is thereby justified in intervening in the struggle to steer the re-narrativization in the direction preferred by his group.

The Weakness of "Elitist" Criticism

The necessity of conceding the terms of the panic in order to intervene in its re-narrativization helps explain the failure of other potential competition for civil commitment: civil libertarian critics, including the ACLU. If critiques of civil commitment and the legitimacy of the panic were raised, why was civil commitment passed so quickly and unanimously by the legislature? Despite officially disagreeing with the civil commitment proposal, the ACLU made a strategic decision not to organize resources to contest it. The organization determined that efforts to organize actively against the bill would be "fruitless" (Simon 1990a) or would "backfire" (Simon 1990f). The group directly cited the intensity of the public outrage as defining the terms of the field. The public outrage had presented a situation such that they could not

develop a strategy to intervene in the struggle to re-narrativize it without doing more harm to their position than good.

Their analysis was that they would fail in their efforts to counter the taskforce's re-narrativization and, in so doing, also incur the wrath of the outraged public and take a major blow in the process. The sheer force of the outrage presented an ideal resource for groups seeking to advance their interests by speaking to it through their re-narrativizations. But intervention is conditional on their being able to speak to the outrage. The ACLU mounting a position against the taskforce's re-narrativization would be too potentially damaging because it would also mean fighting the outrage itself and positioning itself as an obstacle to its channeling, rather than intervening as another channeler. And even so, the ACLU, despite their limited critique of the task force legislation, were still forced to play to the basic terms of the panic. When opposing the proposed castration legislation, the organization argued that "the bill ultimately could lead to reductions in sentences for all sex offenders, because those who choose not to be castrated will argue that constitutional equal-protection provisions prevent them from being treated more harshly" (Simon 1990c). They had to articulate their opposition through the basic frame that it did not go far enough to keep sex offenders locked up.

Criticisms of civil commitment were isolated as the legislation was being debated. More attention was drawn to the incendiary castration legislation. The decision by the ACLU to abstain from active struggle against the legislation demonstrates the difficulty in articulating critique against the momentum of the panic and the civil commitment program's gaining legitimacy. The central points of the critique of civil commitment were made in these isolated moments during the debate of the law. Important critiques were also tellingly articulated by a service provider working on the concrete response to sexual violence in the state. But these

critiques mattered little in the quick passage of the taskforce's legislation. Critique of the panic itself, which I characterize as "elitist," was insufficient to stem the tide of media-produced panic. Critics were too committed to critiquing the terms and origins of the panic itself, unable to intervene in the struggle to channel its flow, which necessitates legitimizing the panic itself, as Boerner's successful position demonstrates.

The isolated elitist critique of civil commitment was articulated early on in an article covering the delivery of the taskforce's final report, which captures a basic disagreement between Boerner and fellow University of Puget Sound Law Professor John Q. La Fond:

"Calling them sexual predators is just a label of convenience," said University of Puget Sound Law Professor John [La] Fond. "[It's] a way of dressing up incarceration in psychiatric terms, so you can hold them after they've already been punished in prison."

However, the author of the proposed bill, fellow UPS Professor David Boerner, calls it a "powerful but limited law." He said the task force resisted calls for allowing civil commitment of those who psychiatrists or other professionals believe might in the future be a danger, even if they haven't committed a crime... Boerner and [La] Fond agree on one matter. Both think the new law can resist legal challenge, because the state Supreme Court has approved more sweeping sexual-psychopath laws in the past.

(Simon 1989a)

Boerner's approach to the use of civil commitment is similar to the characterization used by La Fond here. It is about incapacitation more than treatment. And as the article notes, both law professors predict, correctly, that the Supreme Court would hold up the law. Boerner himself characterizes the question of the civil commitment legislation: "Over the years I had come to approach the question of whether to propose a particular reform with two questions. First, 'can

we?’ and then, ‘should we?’” (Boerner 1992:553). In Boerner’s terms, then, he and La Fond both agree that the answer to the first question, “can we?”, is yes. They differ in their response to the second question, “should we,” and in the analysis they develop to support their differing answer.

Boerner’s “populist” approach, which treats the moral panic as a legitimate expression of popular will, avoids the question of whether the panic is justified and proportionate – if it is a rational response to the Shriner attack. It assumes that the panic is justified and legitimate, rather than an irrational outburst of emotion derailing rational governance. Boerner, like other defenders of civil commitment, is able to reconcile civil commitment as a rational response to the emotional outburst by accepting the latter as already having defined the playing field. Boerner treats the panic as understandable and implicitly justified, and then presents the activity of the taskforce in creating civil commitment as the rational channeling of that inchoate force to rational ends. There is a division of labor between popular will and state action here. The critical position aligned with La Fond, on the other hand, as comparatively elitist, as it doubts the first half of the division of authority sketched here – it doubts the legitimacy of the public reaction and questions whether it is legitimate to allow the public to set the agenda in this way.

An important moment I see as defining Boerner’s populist approach was his engagement with the question of the particular outrage generated by stranger sex attacks, when sexual abuse by family and known acquaintances is much more common and a much larger part of the problem of sexual violence in our society. Boerner acknowledges this point, and simply defers to the wisdom of the panic, which he treats as legitimate in setting the terms for the taskforce’s approach. This deferral is an important point for differentiating the position of a group struggling for re-narrativization of the panic, necessarily engaging with the panic as legitimate, versus critiquing the terms on which the panic is posed.

The question of family violence, under-appreciated in its commonality, versus the outrage at a stranger attack, was raised during the debate over the taskforce's proposed legislation. Both times it was voiced by Mary Ellen Stone, executive director of the South King County Sexual Assault Resource Center. She first raised this point in conversation with a reporter for a story about an expansion of the center to accommodate child victims, which was occurring in the midst of attention to the topic of child sexual abuse in the aftermath of the Shriner attack. Stone is quoted in this article as saying:

While we have predatory sex offenders, most of the time it will be a child's relative, not some guy coming, literally, out of the bushes... It has also been frustrating as a service provider, where we're seeing 1,200 to 1,600 victims per year, to see people's interest on a particular victim and their seeming reluctance to look at the bigger picture.

(Plank 1989)

In a latter editorial critical of the castration proposals, the author describes a conversation with Stone:

We talked about the growing number of reports of sexual assaults and the increasingly violent nature of some offenders. We discussed an overburdened social-service system with not enough resources or personnel or viable alternatives. We also predicted that state legislators would try to out-tough-guy one another with penalties and punishments, but ignore the fact that more and more predators and sick, tortured people are being created each day.

(Williamson 1990)

Stone's comments get to a basic critique of moral panic: that moral panics have an ultimately reactionary function by superficially engaging a deep social problem in sensational terms,

finding scapegoats, and quickly re-narrativizing through targeting those scapegoats onto whom a structural problem is externalized. This is the function of the common “dangerous madman” figure in moral panics. And this is a critique that feminists have made of other panics over sexual violence (Nathan and Snedeker 2001).

The function of these panics is to raise and quickly abolish the question of sexual violence without dealing with it in its structural, normalized, and everyday scope. Sexual violence is deeply engrained in the everyday operation of our society; moral panics allow us to pretend to exorcise it without dealing with its deeply grounded nature. Doing so would involve a much longer process and much more extensive social transformation and would prevent easy re-narrativization and return to the status quo. As an article on Shriner’s trial put it:

Shriner fit the profile of the convictable defendant - “the scary stranger wearing a trench coat in the alley,” as one prosecutor described it. It’s harder - much harder - to persuade a jury to convict a father who has raped his own daughter, especially if the father is articulate, credible and an upstanding member of the community, said Pierce County Deputy Prosecutor Rod Moody.

(Shatzkin 1990)

A figure like Shriner - “the scary stranger wearing a trench coat in the alley” - is useful for generating sensational news stories as well as for quick re-narrativization. It is comforting to believe that the source of violence is located in monstrous strangers who are identifiable. This is a social narrative of violence, one reinforced through the production of the moral panic after the Shriner attack and through its resolution via civil commitment. The legitimacy of the panic and of its re-narrativization is exactly what is at stake in the debate over civil commitment. Critiques

of civil commitment which held that the panic itself was illegitimate was thereby unable to enter into the group struggle over the channeling of the force of the panic.

Conclusion

Civil commitment succeeded as a re-narrativization of the Shriner panic due to the strength with which it was articulated by its proponents against competing groups. The civil commitment group had an initial advantage due to support from the governor. Political capital allowed the governor to monopolize the early state response to the panic through forming his taskforce. The governor staffed the taskforce with leaders who were motivated to defend their earlier determinate sentencing reform accomplishments. The desire to defend determinate sentencing shaped the taskforce's proposed re-narrativization: civil commitment was the re-narrativization which would provide concessions to the panic while doing the least damage to the determinate sentencing reforms.

Once proposed by the taskforce to the legislature, civil commitment was able to beat competing re-narrativization efforts by signaling moderation and rationality. Moral panics do not always directly translate into extreme panic legislation. The legislative process contains its own critique of excessive panic legislation. In this case, the critique of excess was drawn by the castration proposal advanced by state Republicans. Civil commitment benefited from its comparative moderation and the ability of proponents to frame it as reasonable against the criticized over-reaction and irrationality of castration. But at the same time, civil commitment was able to speak to the terms of the panic: the punishment of sex offenders. This was something civil libertarian critics, who fundamentally questioned the legitimacy of the panic, could not do. Unable to speak in the terms of the panic, the ACLU withdrew from competition. Civil

commitment proponents, on the other hand, actively legitimized and affirmed the terms of the panic, while presenting their re-narrativization as its rational expression in law. Civil commitment involved the right combination of political capital, moderation, and affirmation of the panic to succeed as a re-narrativization.

CHAPTER 4

PARTISANS OF PANIC: THE DIFFUSION OF CIVIL COMMITMENT

Washington was the first U.S. state to pass significantly tougher sex offender laws in the 90's, but it was not the only state to do so. Throughout the decade, new sex offender laws began to diffuse across U.S. states. Other states passed major sex offender legal reforms, often prompted by local violent incidents. Some of these laws became nationally influential. While pioneering Washington State programs like police registration and public notification became federal standards in the 90's, civil commitment did not. Nevertheless, 22 U.S. states passed their own sexual civil commitment laws through the 90's and 00's (NDAA 2012). I have shown that civil commitment was created out of a local set of circumstances to respond to a specific local incident in Washington State. Why then would this model be taken up by other state governments elsewhere in the country? Why did some, but not all, states go "beyond" the federally required registration and notification standards to additionally adopt civil commitment?

This chapter seeks to answer these questions. I examine three states in the Midwest: Wisconsin, Illinois, and Ohio. Wisconsin was one of the first states to consider and later import the civil commitment model from Washington State in the early 90's. Illinois adopted the model later in the decade in 1997. Civil commitment was proposed in Ohio in 1993, but the measure failed. In 1995 the same legislator instead proposed and passed longer sentences for sex offenders, abandoning the civil commitment model. Civil commitment was then later proposed in 2006 and 2013, failing both of these times as well. Why was civil commitment adopted in Illinois and Wisconsin, but not in nearby Ohio, in the mid-90's?

At first, the diffusion of civil commitment appears straightforward. Wisconsin was the first U.S. state to adopt a new civil commitment law on Washington's model, and it did so directly after experiencing its own sex offender panic. Illinois had also recently experienced a serious sex offender panic. I argue that the presence of a local sex offender panic is the most important determinant of civil commitment passage, and the absence of a panic in Ohio is the primary reason the proposal failed there. However, all three of these diffusion cases also demonstrate the status of sex offender panic as a political resource. The introduction of civil commitment in each of these contexts occurred alongside partisan struggles for power. Each case demonstrates the partisan mediation of local panics and incidents of violence. The Illinois case in particular demonstrates the location of this diffusion within national discourses of toughness-on-crime and sex offenders that characterized the mid-90's. In each case, politicians sought to draw strength from the power of this national discourse in order to get an edge on their opponents. In Washington and Illinois, politicians re-narrativized local panics by drawing on civil commitment as a resource to outflank political opponents on toughness-on-crime. These efforts also occurred in Ohio, but the lack of a local panic meant these invocations could not acquire the necessary heft to produce the passage of civil commitment.

Wisconsin: From Panic to Partisanship

Wisconsin was the first state to import the policy of civil commitment from the Washington State model. At first glance, the replication of the civil commitment model in Wisconsin makes intuitive sense, as the state had recently had a local sex offender panic. A replication of circumstances corresponds to a replication in outcome. This would fit the "learning" model of policy diffusion in political science literature: a state, faced with a problem,

learns from ways other states have solved that problem and rationally applies other solutions which worked (Shipan and Volden 2008). However, closer examination of the Wisconsin case complicates this formula. The proposal and ultimate passage of civil commitment in Wisconsin was also the product of a specific partisan political conflict in the lead-up to an election year. The Wisconsin case demonstrates moral panic as a political resource, and the proposal civil commitment in this case was the subject of competition between parties.

The Panic in Wisconsin

Like Washington State, civil commitment was adopted in Wisconsin following a local sex offender panic. In the case of Wisconsin, the panic was set in motion in 1992 with press coverage of the imminent release of sex offender Gerald Turner Jr. Turner, lent the striking name “Halloween murderer” by the press, was convicted of raping and murdering 9-year-old Lisa Ann French while she was out trick-or-treating in 1973 (Weintraub 1992). He was reported to have also previously been charged for sexually assaulting a teen girl (Jones 1992b). Turner’s parole had been denied seven times, but he was required by law to be eligible for release in October 1992 (Weintraub 1992). The press reported that prison officials were “forced to free” Turner on October 13, 1992 (Jones 1992a; Jones 1994a). Despite a “publicity campaign” started by French’s relatives calling for a prevention of Turner’s release, prison officials stated their “hands [were] tied” on the matter (*Milwaukee Journal Sentinel* 1992).

Turner’s release was met with outrage. The media and local politicians quickly turned the incident into a broader narrative of a growing sex offender threat. An article covering his imminent release quoted the victim’s father, Allan French, illustrates this point:

French said the last few months' grim news about two other central Wisconsin women Laurie Depies, the 21-year-old Appleton woman who has been missing since Aug. 19, and 10-year-old Ronelle Eichstedt of the Ripon area, whose body was found last week after weeks of searching has sharpened his feelings. "You've got those two women," said French, a 52-year-old factory worker. "Is that right? Why doesn't somebody do something about that? Why don't the newspapers write articles about bringing back the death penalty."

(Weintraub 1992)

This sentiment was echoed by Republican state senator Michael Ellis, who cited the same incidents and the killing of a 2-year-old in a statement calling for a reinstatement of the death penalty (Walters 1992). Ellis proposed legislation which, in addition to re-instating the death penalty, would also prevent Turner's release (Walters 1992).

The Milwaukee Journal Sentinel ran a page 1 story covering Turner's release under the headline "Free and unrepentant, killer comes here" (Jones 1992b). This article reported that:

Turner is going straight from a maximum-security prison to a Milwaukee halfway house and, in time, the city streets, even though he refused treatment as a sex offender...

According to his file, Turner maintained he was innocent, showed no remorse, admitted to no problems and refused counseling and sex offender treatment.

(Jones 1992b)

Turner's release was listed among examples of repeat offenders described as dangerous but released anyway in a page 1 *Milwaukee Journal Sentinel* article which concluded: "you don't have to look far to understand why many people have less faith in so-called criminal justice than in bottled cures sold from a salesman's trunk" (McCann 1992). Another article notes "growing

protests from neighbors and their elected representatives” after Turner’s release to a Milwaukee halfway house, describing a press conference held by aldermen and other local officials demanding Turner’s relocation, noting that the halfway house was located near a school (Held 1992). Turner was subject to unusually strict supervision (Held 1992).

As public outrage grew over Turner’s release, the state acted. Milwaukee County District Attorney E. Michael McCann successfully sent Turner back to prison on November 22, 1992 through a technical challenge of the calculation of good behavior time which led to his release (Jones 1994a). However, in classic moral panic fashion, the panic around Turner’s release had extended beyond his singular case and coalesced around a sense of a problem in general which his case revealed. As in Washington State, the public asked: if this could happen in this case, what was to say it could not happen in others?

A Partisan Fight Over Civil Commitment

Civil commitment, as a re-narrativization of the broader sex offender release issue, was initially proposed in the 1993-1994 legislative session by junior Republican State Senator Alberta Darling (Jones 1994a). However, Darling’s bill failed to advance by the time the legislature adjourned in March 1994, and its failure quickly became “a partisan hot potato” (Jones 1994a). State Republican Party Chairman David Optiz accused Madison, WI Attorney General Jim Doyle, a Democrat, of undermining the bill and obstructing its passage (Rinard 1994). Darling blamed Democrats for partisan opposition to the bill based solely on the fact that it was authored by a Republican (Rinard 1994). Darling and Doyle mutually criticized each other in the aftermath of the bill’s death (Rinard 1994; Jones 1994a).

While Doyle and other Democrats opposed the bill, the force of public outrage compelled them nevertheless to speak using the general terms of the outrage. When Darling introduced the bill, Doyle argued that the bill as proposed would force prosecutors to decide between psychiatric commitment or prison for sex offenders. To sound tougher on crime, he emphasized that sex offenders ought to go to prison (Jones and Schultze 1994). This approach generally characterized the partisan politics of the time. Democrats and Republicans tangled over specific policies, but each agreed, in line with the national mood of the era, that a general toughness on crime was needed; indeed, each party sought to outflank the other on toughness-on-crime (Alexander 2010; Hinton 2016). The partisan fight over civil commitment is captured in a *Milwaukee Journal Sentinel* feature of a conversation with two State Senators, Democrat Lyn Adelman and Republican Joanne Huelsman, described as “adversaries on the crime issue,” discussing various recent anti-crime proposals (*Milwaukee Journal Sentinel* 1994a). Huelsman supported Darling’s bill and Adelman opposed it. However, Adelman articulates her opposition in terms of the sex offender panic itself, arguing that previous sexual psychopath commitments allowed psychiatrists to potentially release offenders *too quickly*, placing the public at risk of re-offenders (*Milwaukee Journal Sentinel* 1994a).

1994 was an election year, and each party sought to mobilize the energy of the 1992 Turner release panic against the other party. Republicans cited Doyle’s opposition, blaming him for the failure of civil commitment and accusing him of blocking a good re-narrativization of the sex offender panic (Jones and Schultze 1994). Democrats, on the other hand, blamed Republican Governor Tommy Thompson and his administration for their history of defending the sentence-reduction program which had led to the release of Turner under their watch (Jones and Schultze 1994; Rinard 1994).

In both cases, the partisan pressure produced results (Rinard 1994). Doyle caved under the Republican accusations of obstructing civil commitment. He reversed course and joined Darling in pushing for Governor Thompson to call a special legislative session specifically to reconsider the civil commitment bill (Jones 1994a; Jones and Schultze 1994; Rinard 1994). Governor Thompson, facing his own attacks from Democrats, eventually relented, calling the special legislative session in mid-May (Jones and Schultze 1994). Thompson specifically instructed the legislature to make a decision on Darling's civil commitment bill, which had not advanced during the normal legislative session (Jones and Schultze 1994). The governor cited the imminent release of a convicted sex offender, Raymond Matzker, as the impetus for the special session, also noting that Turner could potentially be released again if the law was not changed (Jones 1994b; Jones and Schultze 1994). Turner's case had regained media attention at this time, as it before the state Supreme Court on appeal, making the specter of a second release a distinct possibility (Jones 1994a; Rinard 1994). Tellingly, the civil commitment bill was referred to as the "Gerald Turner bill" (*Milwaukee Journal Sentinel* 1994b).

The special session quickly resurrected and passed the previously dead civil commitment bill. The bill passed the Joint Finance Committee of the legislature on May 19 (Jones 1994b; Rinard 1994). It quickly passed the legislature and was signed by Thompson on May 26, 1994 (*Milwaukee Journal Sentinel* 1994b; Rinard 1994). Darling's persistence in the fight had paid off, and the party did not fail to take notice. Darling was tapped to introduce the Republican Party's candidate for attorney general at the state party convention in June, having earned "a new political aura as a hard-working crime-fighter who went eyeball to eyeball with the Democratic attorney general and did not blink" (Rinard 1994).

Washington and Wisconsin

At first glance, the process of civil commitment adoption in Wisconsin resembles the process in Washington State. Civil commitment was successfully adopted as the state's re-narrativization of a sex-offender panic, in this case one set off by the early release of Turner. However, case of civil commitment's diffusion to Wisconsin also helps to highlight civil commitment and sex offender moral panic as a political resource, including elements of political mediation which were not present in Washington State.

The most immediate difference between the adoption of civil commitment in Washington State and Wisconsin is that the program was developed through the executive power of the governor in the former case, whereas in Wisconsin it was introduced and fought through the partisan legislature. Civil commitment was a political issue in Washington State, and one competing with rival re-narrativizations, but it was not a partisan issue in the same way. Civil commitment was proposed by Washington State Governor Booth Gardner through his executively established committee after he had already received buy-in from legislators. After the civil commitment proposal was sent to the legislature, it was essentially rubber-stamped and passed quickly. The timeline was very short – the Shriner attack occurred in May 1989, the executive taskforce was formed in June, and it presented its proposal to the legislature in late November. The legislature reconvened for their regular session in January 1990 and both bodies had unanimously approved the proposal by early February. As a partisan and legislative issue in Wisconsin, civil commitment was less immediate in securing its success as a re-narrativization of the sex offender panic. Turner was released in October 1992. Darling proposed civil commitment during the following legislative session, which opened in January 1993 (Wisconsin

Blue Book 2023). But Darling's legislation had not advanced by the time that session adjourned in March 1994, due to partisan conflict over the measure.

As I have shown, this partisan conflict over civil commitment and the sex offender issue accelerated after the legislative session adjourned, in the face of the upcoming elections of November 1994. The sex offender panic had yet to be re-narrativized, and the parties actively competed for re-narrativization while seeking to associate their rivals with the sex offender problem. The re-narrativization of the panic was temporally displaced: it was much less immediate than in Washington State and instead was much more mediated by partisan conflict. The party struggle for re-narrativization in Wisconsin treated the sex offender problem as a political tool to use against rivals in a way which was more implicit and secondary in Washington State, where civil commitment was an executive project quickly approved. Civil commitment as an object of partisan competition was a defining feature of the model's diffusion to other states as well.

Illinois: Burying the "Ticking Time-Bombs"

Illinois passed civil commitment later in 1997. The case of the diffusion of civil commitment in Illinois helps illustrate the relationship between the diffusion of moral panic legislation in a local context and the national discursive context which informs that diffusion. As I show, the partisan fight over civil commitment in Illinois involved a mobilization of a national discourse of sex offender threat and toughness-on-crime. The partisan proposal of civil commitment in Illinois was particularly well-timed relative to national developments, as it was debated in the state at the same time as Kansas's 1994 civil commitment adoption was before the national Supreme Court. When the national Supreme Court affirmed Kansas's use of the policy

and gave states the green light to adopt it, Illinois's bill was ready at hand for the governor to sign.

Illinois Politics in the Tough-On-Crime Era

The development of civil commitment in Illinois has to be understood against the backdrop of a broader politics of sex offender control in the state, which itself was a local manifestation of a general mid-90's national spirit of toughness on crime and on sex offenses in particular. There were two important federal directives concerning the control of sex offenders. In 1994, New Jersey passed Megan's Law after 7-year-old Megan Kanka was killed by a previously convicted sex offender who had moved across the street (*Chicago Tribune* 1995). Megan's Law required public notification of the sex offender registry, which was previously held only by police (*Chicago Tribune* 1995). The horror of the killing, and the notification law as its re-narrativization, quickly spread beyond the local context in New Jersey to become a national debate (*Chicago Tribune* 1995).

Tough-on-crime posturing was the order of the day in the mid-90's, and Illinois was no exception (Chapman 1995). Illinois was in a unique political situation for the state. The state Republican Party had achieved its first trifecta control of the governorship and both legislative chambers in the previous 25 years (Pearson and Kuczka 1995). Tough-on-crime bills, and particularly increased control of sex offenders, ranked high on the agenda for Governor Jim Edgar and the ruling Republican party (Kuczka 1995; Parsons and Frisch 1995).

Crime bills were seen as particularly popular with voters (Pearson 1995a). Governor Edgar touted his record passing tougher controls on sex offenders in his 1996 state of the state address as his party geared up for an election year (*Chicago Tribune* 1996a). Assistant majority

leader of the state House of Representatives, Kathleen Wojcik, ran an editorial which similarly touted tough-on-crime measures and particularly sex offender laws as Republican achievements to make their case in the upcoming elections (Wojcik 1996). Crime bills remained popular with the public in the lead-up to the 1996 election season, especially after local news station WBBM aired of a tape filmed in an Illinois prison in 1988 featuring mass murderer Richard Speck bragging about enjoying sex and drugs while locked up (*Chicago Tribune* 1996b; Dizon 1996b). A *Chicago Tribune* article in 1997 discussed the eagerness with which Republican lawmakers passed new legislation with little regard for the bills' legal standing:

Illinois Supreme Court Justice James Heiple even went so far as to suggest Edgar and the legislature "return to the classroom and take up Civics 101." One may speculate endlessly about why lawmakers are so willing to throw constitutionality to the winds, but one fact seems indisputably clear: The documents may indeed spell out legislators' powers, but it's the folks back home who decide whether the leaders get to keep those powers. In other words, if a bill is popular with Grace and Elmer Voter, it doesn't matter what James Madison might have thought.

(Parsons 1997b)

Coverage of the Republican trifecta period which preceded the passage of civil commitment frequently repeats the strong popular support for crime bills, to which state legislators were eager to appeal. Commentary also often indicates that this was not just a local mood in Illinois but situated within the broader tough-on-crime ethos of the 1990s around the time of the major Clinton crime bill. The prevailing sentiment was that tough-on-crime measures were very popular with voters, and the Republican trifecta was eagerly shoring up its popular base through crime bills.

Democrats had to decide how to position themselves in relation to the GOP-led crime crackdown and the national tough-on-crime atmosphere. Democrats did not resist the crime control measures: an expansion of sex offender categories required to register with police in February 1995 was passed unanimously in the state Senate with no dissenting Democrats (Pearson and Kuczka 1995). Instead, Democrats sought to tap into the tough-on-crime spirit circulating nationally and outflank their Republican opponents. The escalating war on drugs was filling prisons and jails nationwide, and Illinois was no exception (Chapman 1995). When Republicans sought to implement an early-release “boot camp” program to reduce jail overcrowding, Democrats led by Rep. Tom Dart criticized the program as a “let-em-out-early bill” that threatened safety (Kuczka 1995). Democrats took the approach of trying to show that Republicans were failing to deliver on their popular tough-on-crime promises (Pearson 1995a).

The 1995 Sex Offender Panic and Notification Laws

The tough on crime posturing, and Governor Edgar’s particular focus on sex offenders against the backdrop of the national discussion of Megan’s Law, was already a definitive political issue in summer of 1995 (Pearson 1995b). This was only intensified when Illinois experienced its own horrific sex offender attack and ensuing outrage that August.

In late August 1995, Timothy Buss was charged with the murder of 10-year-old Christopher Meyer in Kankakee, IL (Marx 1995). He had previously been sentenced to 25 years for killing a 5-year-old girl when he was just 13 years old himself, and he had been released in 1993 after serving less than half of his sentence (Marx 1995). Coverage in the aftermath of the attack emphasized that sex offenders have high recidivism rates and “the discouraging success

rate for treating sex offenders and the inadequate programs inside and outside the correctional system” (Marx 1995).

The killing was met with shock and outrage (Pearson and Parsons 1995a). Concerned parents, neighbors, and officials organized public meetings in its aftermath (Tierney 1995). Of particular public concern was the early release of the perpetrator (Marx 1995; Pelarenos 1995). One concerned parent was quoted as stating that it “just seems like there's more and more criminals on the streets every day” (Tierney 1995). The killing, in its aftermath, was narratively tied to another recent scandal in Chicago in which a sex offender was discovered to be living near the Our Lady of Victory grade school, prompting alarm among school staff and the parents of children who attended the school (Parsons 1995; Parsons and Kass 1995).

The Republicans had already pursued tougher sex offender laws. Edgar had just signed a truth-in-sentencing law, designed to hold offenders to longer sentences, as Buss was charged (Marx 1995). In a community meeting in the aftermath of the Buss attack, Judge Robert Lorz of the Joliet Family Court sought to calm outraged parents by pointing to the Edgar administrations already-passed truth-in-sentencing reforms (Tierney 1995). But the killing, and the ensuing outrage, occurred after the suite of tough-on-crime laws had already been passed. This sequence of events pushed the governing Republican trifecta, led by Governor Edgar, to seek additional legislation to re-narrativize in its aftermath (Pearson 1995c).

Notification laws, such as made nationally popular by Megan’s Law in New Jersey, quickly became a favored re-narrativization of the outrage in the aftermath of the Buss killing (Parsons 1995; Parsons and Kass 1995). As 1995 began, Illinois law only allowed registries to be held by law enforcement and did not allow public notification (*Chicago Tribune* 1995). An article discussing the national spread of notification laws and their introduction in Illinois noted

that, in the mid-90's climate, such laws were "virtually impossible for any politician to oppose" (Parsons 1995). In an editorial, William Pelarenos (1995), an executive board member of the Hellenic American Police Association, wrote:

We as police officers who deal with the law every day, know that the laws need to be changed. The public becomes aware of this problem only when a major incident occurs. It's a shame that an innocent child has to suffer a horribly malicious death in order for this problem to get public attention. But we cannot let this child's death be in vain. We, the citizens and voters of Illinois, must put pressure on our elected legislators to pass a new law. This legislation should stipulate that once a convicted sex offender moves into a neighborhood, the neighbors must be notified... Child molesters are like ticking time bombs. Once they go off, they go looking for their prey—an unsuspecting and vulnerable child. They cruise the parks, shopping malls and playgrounds looking for their victims.

The legislature quickly took up the call for public notification as a re-narrativization, the House unanimously passing a notification measure in early November (Pearson and Parsons 1995a).

The story so far closely resembles the panic and re-narrativization in Washington State. A horrific act of violence generates outrage and a narrative of a growing threat which requires re-narrativization via increased controls. The push for notification laws even resembles the Washington State push for civil commitment in the presence of police advocates arguing in their favor. The re-narrativization occurred quickly, as in Washington State: The attack occurred in August 1995 and the House unanimously passed the notification measure in November, only months later.

However, Republicans in the legislature did make an unusual tactical move in advancing the notification law, which ended up creating more trouble for themselves. The notification law

was *so* popular that Republicans packaged it together with an unpopular gas-tax measure which had been subject to stalemate, in hopes of getting the latter passed more easily (Pearson and Parsons 1995b). The package law was struck down in May 1996 when a judge found “it was a blatant attempt to piggyback unpopular laws on the back of a popular,” a testament to both the sheer popularity of sex offender laws and also their tempting status as a political resource (Fegelman and Pearson 1996). The notification law was quickly re-introduced as its own separate measure, passed, and signed (Dizon 1996a; Parsons 1996). The May 1996 passage of the Illinois version of Megan’s Law coincided with President Clinton signing a federal requirement for states to pass such measures (Dell’Angela 1996; Parsons 1996).

The bill-bundling episode gives credence to mid-90’s news coverage which emphasized how politically popular sex offender controls were. Although the quick initial passage of notification laws on the heels of the Buss killing resembles the immediate executive action that produced civil commitment in Washington State, the bill-bundling tactic also speaks to the sex offender panic as a political resource. Republicans understood that the notification law had a broad base of support and were not above seeking to leverage that support to pass other measures. As in Wisconsin, party politics shaped the creation of re-narrativizing sex offender laws. And partisan conflict would shape the introduction of civil commitment in the state as well.

Democrats Intervene with Civil Commitment

Democrats, and State Representative Tom Dart in particular, had already begun 1995 by taking a strategic approach of trying to outflank Republicans on the crime issue, and they took a similar position on the notification debate. No House Democrat voted against the measure. Dart, while clarifying his support for the bill, nevertheless expressed concern that dangerous sex

offenders shouldn't be out on the street to begin with (Parsons 1995). Democrats criticized the combination of the notification and gas-tax measures, accusing Republicans of "playing politics with sexually abused kids" (Pearson and Parsons 1995b).

Dart first began pursuing civil commitment in summer 1996, around the time that the notification bundle bill was struck down. The narrative of the ongoing threat which still required further action was strengthened by another notable incident, when recently released sex offender Robert Koppa abducted and assaulted a teenager at Woodfield Mall in summer 1996 (Dell'Angela 1996). An article discussing the Woodfield Mall abduction covers Dart's introduction of the measure:

Convinced that the current laws don't get at the real problem--the drastically different psychology of sex offenders compared to other criminals--two Illinois legislators have proposed a law that would require a psychological screening before any sex offender is released from prison. For those revealed as especially dangerous, a prosecutor could seek a civil order to have the prisoner committed to a mental health center. The others would be supervised by specialized parole officers with limited caseloads. "When we release these folks, they are like contact bombs: We know they're going to go off, we just don't know when," said state Rep. Tom Dart, a former Cook County prosecutor. "The menace is always there unless you have a 24-hour guard on the person. It's ludicrous to ignore that reality."

(Dell'Angela 1996)

Dart here repeats the time bomb analogy used by Hellenic American Police Association executive board member William Pelarenos in his call for notification laws a year prior

(Pelarenos 1995). *The Chicago Tribune* excerpted Dart's bomb line in its "Quotes of the Day" section for the day it ran the article (*Chicago Tribune* 1996c).

Dart introduced a civil commitment bill to the House, and it passed the House Criminal Judicial Committee in late February 1997 (Parsons 1997a). An article in *The Chicago Tribune* notes that civil commitment had at that point been adopted in several other states, and notes that Kansas's law was at that time expected to receive a ruling on its constitutionality from the U.S. Supreme Court (Parsons 1997a). The article mentions the 1995 Buss killing, and quotes Dart also referring to the Woodfield Mall abduction to argue that his bill would be "much more effective" than notification: "'what good does notification do when the guy's heading down to Woodfield Mall to look for children?' asked Dart" (Parsons 1997a). Dart later repeated that Megan's Laws were insufficient and that the "last 30 years have shown that we have a growing population of violent sex offenders who have not been rehabilitated" (Peres and Parsons 1997).

Once introduced, the civil commitment bill received little coverage. It is briefly mentioned in a few *Chicago Tribune* articles covering legislative updates in general (McCarron 1997; Pearson and Challos 1997). *The Chicago Tribune* ran one op-ed endorsing the bill as a narrowly-targeted and cost-effective way to confine dangerous sex offenders for life while still ostensibly allowing for treatment and eventual release (*Chicago Tribune* 1997). The bill passed the Senate with little fanfare and was sent to Governor Edgar to review in late May 1997 (Challos and Pearson 1997). Attorney Jim Ryan endorsed the bill, saying "sexual assaults in this country are epidemic" but not specifying any particular events in Illinois or elsewhere (Challos and Pearson 1997).

Though he received the legislation from the Senate on May 21, Edgar did not sign it until June 30, as he was waiting for the Supreme Court to rule on the constitutionality of the Kansas

civil commitment law (Banchero 1997). The Supreme Court ruled in favor of the Kansas law on June 23, giving states a clear greenlight to adopt the model (Peres and Parsons 1997). The Supreme Court decision was a very close 5-4 ruling (Peres and Parsons 1997). When he signed the Illinois civil commitment measure into law, Edgar repeated the bomb analogy: “Sexual predators are among the most dangerous criminals and this legislation will help protect the community from these ticking time bombs” (Banchero 1997).

The diffusion of civil commitment in Illinois, as in Wisconsin, was shaped by partisan competition. Both occurred in a moment when tough-on-crime politics prevailed nationally, and in both cases, politicians sought to shore up support through crime bills, particularly through measures targeting sex offenders. As in Wisconsin, the temporal remove from the immediacy of the panic indicates the political mediation of sex offender panic re-narrativization in Illinois. Dart, in introducing civil commitment, referred back to violent incidents in the prior two years. These local events were still close enough in time to be relevant to civil commitment as a re-narrativization, but this is a longer timescale than the few months it took to produce civil commitment in Washington State or notification as the initial state panic re-narrativization effort in Illinois.

In addition to this temporal remove, the Illinois case also demonstrates the relevance of events at *spatial* remove. The Illinois sex offender laws of the mid-90’s were closely related to developments in discourse and legal action occurring at the national level. The adoption of notification laws as the initial state panic re-narrativization effort occurred within the general sweep of Megan’s Laws across the country and was understood as such. The civil commitment measure was timed to coincide with the federal Supreme Court approval of the model. Politicians in Illinois were paying attention to, and influenced by, discourses of sex offender control and

toughness-on-crime which were proliferating at the national level and in other locations. But while the sex offender laws in Illinois should be situated alongside these national developments, they were legitimized through appeals to local violent incidents and the local outrage these incidents generated. The locality of the panic anchored these laws and ultimately provided their force. This is the key distinction between the successful diffusion of civil commitment in Illinois and Wisconsin on one hand and the failure of diffusion in Ohio.

Ohio: The Absent Panic

As in Wisconsin, civil commitment was also introduced in Ohio in 1993. However, unlike Illinois and Wisconsin, civil commitment failed in Ohio. Moreover, it failed in two other cases in which it was proposed in the state, once in 2006 and again in 2013. Why did civil commitment fail in Ohio when it succeeded in Wisconsin and Illinois? The most important difference in the case of Ohio was the lack of a strong local panic in the state. The absence of a local panic in Ohio meant the absence of that legitimizing political force, and the proposal quickly fizzled out in 1993. The second weakness of the proposal in Ohio was its poor timing. The proposal in Ohio came too early in 1993, when the legal status of civil commitment was much more uncertain. This was also true for Wisconsin, but the sheer force of the local panic in Wisconsin was enough to tip the scales in favor of civil commitment anyway, giving the proposal an urgency that lawmakers felt legitimized taking the legal risk. The latter proposals of civil commitment in Ohio were also poorly timed. They came after the heyday of the sex offender panic as a national discourse of the mid-90's had faded, and that distance made the proposal less urgent and easier to criticize.

In June 1993, Ohio State Representatives Karen Doty, a Democrat, and Jeff Jacobson, a Republican, introduced a sex offender commitment bill to the Ohio House modeled on Washington State's bill (Lang 1993; Riskind 1993). Jacobson and Doty were both "freshman" representatives in their first legislative session (Lane 1993; Suddes 1993). Jacobson referred to a local incident of a released sex offender who assaulted another child soon after release when publicizing the bill, and the legislators argued that this and other local violent incidents made the law necessary (Riskind 1993). Jacobson repeated rhetoric familiar from other introductions of the bill:

Not infrequently, our justice system turns loose people who are still dangerous, who plan to commit more violent sex offenses... The system in Ohio doesn't have a way to deal with violent sex offenders to keep them from being a harm to society.

(Riskind 1993)

The bill was initially popular: over 60 of the 99 House Representatives signed on to co-sponsor the bill (Riskind 1993). Ohio was one of nine states considering a civil commitment law around this time, following its diffusion to Wisconsin and Kansas (Gunn 1994). A columnist for the Cincinnati Enquirer cited the proposal approvingly, writing "God knows, we seem to be seeing more and more violent criminals with weird compulsions to repeat the same crimes over and over again" (Lang 1993).

Like Illinois, Ohio's first civil commitment introduction followed prior activity seeking greater control of sex offenders. Before Jacobson introduced civil commitment, State Senator Roy Ray had separately announced a bill which would establish harsher penalties for sexual violence against children (*Plain Dealer* 1993). Ray publicized his proposal with a press conference in which he warned that "such 'heinous crimes' against children are growing too

common” (*Plain Dealer* 1993). Ray’s announcement notes a recent indictment of an Ohio man who sexually abused and then murdered a toddler (*Plain Dealer* 1993). Ray gave the press conference alongside the county prosecutor in whose jurisdiction this murder occurred, and who announced he would seek the death penalty in this case (*Plain Dealer* 1993). Ohio Democrats had a narrow House majority in this session, and Republicans sought to boost their position through a suite of tough-on-crime measures (Johnson 1993).

Despite its popularity in the House, the 1993 civil commitment proposal received little attention. *The Plain Dealer* did not cover the proposal at all; *The Cincinnati Enquirer* ran a single column supporting the measure (Lang 1993). *The Columbus Dispatch* published only two articles covering its introduction: a story summarizing the proposal (Riskind 1993) and a letter to the editor criticizing the proposal (Pinta 1993). The latter letter was submitted by a psychiatrist, Dr. Emil Pinta, who noted the proposal’s similarity to the state’s previously repealed sexual psychopath law (Pinta 1993). Pinta argues in his letter that the previous law’s failures and eventual repeal will only be repeated by the proposed civil commitment law (Pinta 1993). He mentions the opposition of the Washington State Psychiatric Association and the American Bar Association to the Washington State law and that “most psychiatrists in Washington are unwilling to testify under this law” (Pinta 1993). The bill passed the house judicial committee, was introduced to the Senate, and was assigned to the Senate judicial committee, where it died (Ohio General Assembly 1994). Jacobson did pass legislation defining and targeting sexually violent predators – but after the defeat of his 1993 law, he returned in 1995 with a bill which abandoned civil commitment and instead strengthened the power of courts to pursue life sentences for sex offenders (Hudak 1997). This law ultimately passed. It also included a Megan’s Law notification component, following the Supreme Court upholding of the original Megan’s

Law in New Jersey and the federal directive in support of notification (*Gongwer News Service* 1996).

Politicians referred to local incidents, but none of these had garnered the kind of sheer outrage which had been the legitimizing force of sex offender law reforms in other states. Jacobson and Doty did not have the political capital to pass the bill in the absence of a strong panic. The legislators also timed their intervention poorly. Without the strength of a local panic, there was too much uncertainty about civil commitment as a model. It was at that time before Washington State's Supreme court (Lang 1993), and this is likely why it died in committee in the Ohio Senate. The Illinois proposal was much better timed: it cleared the chambers and reached Governor Edgar at a time when the national Supreme Court's decision on the Kansas law was imminent. Edgar was able to sign it quickly after the Supreme Court greenlit the model. By that point, Jacobson had already moved on with his alternative Sexually Violent Predator stipulations in the Ohio iteration of Megan's Law. Wisconsin's law was also proposed around the same time, but the strength of the local panic in that case overrode legal concerns. In the absence of a powerful local panic in Ohio, those concerns could not as easily be overlooked when weighing the political pros and cons of supporting the measure. There was no powerful local demand which would provide a political benefit of increased support which could potentially outweigh the political damage of passing a bill later struck down in the courts. The lack of organic panic in Ohio is also indicated by the airing of a letter to the editor by a psychiatrist critical of the law as one of the only two *Columbus Dispatch* publications on the subject. There was little attention in general, and critical attention from an expert was published, unlike in the other cases. Criticism of the law was in a much stronger position due to the lack of a strong compelling panic force.

Civil commitment resurfaced a few times in Ohio politics after 1993. The model briefly re-emerged when a Democrat, Richard Cordray, ran a campaign for State Attorney General against incumbent Republican Betty Montgomery (Bradshaw 1998). Cordray made civil commitment of sexual predators a plank of his general “children’s protection agenda” campaign platform (Bradshaw 1998). However, he lost the election, and the proposal disappeared with the death of his campaign (Ayres 1999).

Civil commitment was then formally re-introduced to the legislature in 2006, introduced by Republican State House Representative Keith Faber (Fisher 2006). When introducing the bill, Faber’s team directly referred to the kidnapping and killing of a child in the state of Florida “captivated the nation” (Pyle 2006a; Pyle 2006b). Reception to this proposal in the press was hostile to a degree unthinkable in Washington State in 1989. The proposal was roundly criticized as expensive and pointless. A columnist covered its introduction for the Columbus Dispatch, writing it off as “this year’s law-and-order bandwagon... pandering to voters” and noting that “Although taxpayers will be the poorer for lawmakers' most recent efforts, if they are enacted, little suggests that Ohioans will be safer. Worse yet, the lawmakers' best intentions could backfire” (Fisher 2006). The columnist continues:

The sponsor, state Rep. Keith L. Faber, a Republican from Celina, defended the bill by asking, what price to save one would-be victim? Try this: \$9 million for the first year and as much as \$44 million annually to operate a new 40-bed unit for sex offenders. If we're serious about treatment, get it done during the period of prison or jail. Why wait? If the aim is to keep predators off the streets, change sentencing guidelines and give the already strained mental-health system a break.

(Fisher 2006)

This except demonstrates the ongoing hostility the civil commitment proposals received in Ohio, completely unlike the reception in Washington State, Wisconsin, and Illinois. Faber uses the same kind of rhetoric which was commonly used to defend sex offender crackdowns in the mid-90's, invoking potential child victims to call critics callous for quibbling about policy price tags. In this case, it is clear that this rhetorical move falls completely flat. The columnist immediately dismisses the defense and insists the price tag does indeed matter. This kind of dismissal is worlds away from the mood in the press in Washington State in 1990, in which politicians were exhorted to contain sexual predators at any cost whatsoever. The absence of an immediate panic, along with the decline of national sex offender control discourse as a whole by the mid-00's, renders this kind of rhetoric powerless.

Reginald Wilkinson, director of Ohio's Department of Rehabilitation and Correction, and Michael Hogan, director of Ohio's Department of Mental Health, both testified against the proposal before the House Criminal Justice Committee (Pyle 2006b). Both officials similarly emphasized the high cost of the program, which would likely require the construction of a new maximum-security hospital (Pyle 2006b). Mental health advocates also criticized the potential stigmatization effects the bill could have on the non-violent mentally ill, and that patients could be endangered by sharing space with sex offenders (Pyle 2006a; Pyle 2006b). The proposal did not receive much media attention, it was openly criticized by multiple groups, and these critiques were published alongside defenses of the proposal. Records from the state legislative session show that the proposal never made it out of the Senate Committee where it was first assigned (Ohio General Assembly 2008). Civil commitment was once more proposed in Ohio in 2013, this time sponsored by Republican State Senator Kevin Bacon (Santus 2013). It was quickly criticized on similar terms as the 2006 proposal. The Ohio Public Defender's office criticized the

program as a “money pit” (Santus 2013). The ACLU argued civil commitment was not effective in actually reducing sex crimes (Santus 2013). This proposal also quickly died in committee (Status Report of Legislation 2014).

These latter two efforts demonstrate the continued inhospitable atmosphere for the civil commitment model in Ohio. Across these three discrete proposals of civil commitment to the legislature, the model was met each time with much more critical reception in the media and by experts. This was enabled by the continued lack of a local panic in the state, as illustrated by Faber’s reference in 2006 to a killing in Florida rather than a specific need in Ohio. The proposals were also poorly timed relative to national events. While the 1993 proposal was introduced at the same moment in which sex offender laws were gaining traction across the United States (Terry and Ackerman 2015), the uncertain legal status of civil commitment specifically at this time prevented the bill from making it out of the senate judicial committee. By 2006, civil commitment had long been greenlit by the federal Supreme Court, but the moment of national intensity of sex offender legislation had also since passed. In the meantime, opposition groups had mobilized talking points and counter-experts. In the absence of the legitimizing force of local panic, these proposals were dead on arrival.

Conclusion

Examining the diffusion of civil commitment as moral panic legislation during the tough-on-crime 90’s demonstrates moral panic’s status as a political resource. The diffusion of civil commitment to Wisconsin and Illinois is not surprising, since both of these states experienced their own local sex offender panics in the mid-90’s. The baseline formula for the diffusion of civil commitment across these cases therefore at first appears to be: the repetition of a local sex

offender panic results in the adoption of civil commitment as a re-narrativization of the panic. This basic formula is strengthened by comparison to Ohio, where civil commitment repeatedly failed in the absence of a local panic. This finding is consistent with my analysis of the passage of civil commitment in Washington State, where I found that the sheer force of the moral panic set the terms by which civil commitment was adopted as a re-narrativization.

However, Wisconsin and Illinois each also demonstrate a greater degree of partisan mediation, compared to the immediate executive creation and legislative approval of civil commitment in Washington State. The partisan mediation in both cases is evinced by the temporal remove of the passage of civil commitment from the local panics to which they referred. In Illinois, this is also accompanied by a close relationship between the developments of sex offender policy in the state and national developments in crime and sex offender discourse and law. In Washington State, civil commitment passed quickly with strong support from the legislature at large. In Wisconsin and Illinois, the passage of civil commitment was mediated by partisan conflict in which the political parties in each state each sought to mobilize the nationally-relevant spirit of sex-offender crackdown to marshal support against their partisan opponents. Politicians in Ohio also sought to mobilize this spirit, but without a local panic to ground its relevance, these efforts quickly evaporated. The diffusion of civil commitment confirms moral panic as a strong and compelling political resource upon which politicians seek to draw.

CHAPTER 5

GUNS AS MEDIATING MACHINES: PARTISANSHIP, COMPROMISE, AND EXTREME RISK PROTECTION ORDERS

On March 6, 1998, at 8:45am, accountant Matthew E. Beck got up from the desk where he worked at the Connecticut Lottery Corporation, walked to the administrative suite at the back of the building, and stabbed Michael Logan, the lottery's information systems director, to death in his office (McIntire et al. 1998; Moore et al. 1998; Springer 1998). Beck returned to the front of the building, walking to the office of Linda Blogoslawski Mlynarczyk, former mayor of New Britain, CT, who was holding a meeting (McIntire et al. 1998). Beck lifted a handgun, told Mlynarczyk "bye-bye," and shot her to death (McIntire et al. 1998; Moore et al. 1998; Springer 1998;). He ignored the other employees present for the meeting (McIntire et al. 1998). Beck then shot and killed Frederick Rubelmann III, vice president of lottery operations and administration, in the hallway outside as Rubelmann issued directions to employees beginning to flee the building (McIntire et al. 1998; Moore et al. 1998; Springer 1998). Beck followed Lottery CEO Otho Brown into a nearby parking lot, shot him to death, then shot and killed himself as police arrived at the scene (McIntire et al. 1998; Moore et al. 1998; Springer 1998).

Following this attack, Connecticut became the first state in the U.S. to adopt what is now typically called the Extreme Risk Protection Order model, or ERPO. ERPO allows police to seize weapons from someone on the grounds that they pose a risk to themselves or others. These seizures are typically limited to a certain amount of time, sometimes with the option for a future

court extension of the order if necessary (Jones 2025). In recent years, ERPO has become a popular model for achievable gun control (Mack 2019).

In this chapter I examine the development and early diffusion of ERPO. ERPO resembles civil commitment in that it is a re-narrativization of outrage which targets mental illness as a cause of violence. In the cases in which ERPO was adopted, the figure of the violent madman was effective for externalizing the problem of violence and locating it in a population which can be controlled. Yet, as social control, ERPO is much more limited than civil commitment. The latter often involves confinement for life, while ERPO provides only for the temporary removal of weapons from someone's possession, typically for up to one year (Berstein 2018). How can we understand this difference?

I argue in this chapter that legislative responses to sensational incidents of gun violence differ from similarly sensational incidents of sexual violence due to the object of the gun acting as what I call a “mediating machine” in the commission of violence. Guns are treated by gun proponents as neutral machines which provide safety as well as cause harm. Controlling guns is understood by gun reform proponents as providing safety, but the neutrality of the gun as a machine also allows gun control to be cast by opponents as removing safety. This makes the partisan conflict over cases of gun violence more extreme than that of cases of sexual violence. ERPO provides a means of compromise in this partisan conflict. It allows gun reform proponents to achieve some restriction on gun access, while limiting that restriction on a basis of mental illness in a way palatable to gun advocates. Interestingly, I find that gun advocates' portrayal of guns as symbols of safety tends to moderate not just the targeting of guns but also the targeting of the mentally ill. Skepticism of gun control allows for nuance and concern about over-targeting to a higher degree than in cases where civil commitment was adopted.

After examining ERPO's development in Connecticut in the late 1990s, I turn to two states where the model later diffused: Indiana and Washington State. In an interesting reversal from civil commitment, I find that ERPO's original development in Connecticut is *more* partisan and politically mediated than its later diffusion to Indiana, which more closely resembles the case of the quick and relatively non-partisan development of civil commitment in Washington State. I argue this is the case due to the political fights over other gun legislation in Connecticut, as well as the comparative political unity afforded in Indiana particularly due to the shooting victim in that case being a police officer. The diffusion of ERPO to Washington State provides an even more puzzling reversal: ERPO was adopted in that state *despite* the lack of an immediate local panic to ground the national debate over gun violence in that context. In this latter context, the lack of an immediate, local panic was overcome by very strong support from national gun-reform organizations. This case introduces a new dynamic of mediation of local social control politics by the national debate, not just in discursive terms but in active intervention by non-governmental interest groups. I argue that this presence is due to the increasingly partisan and intense fight over gun reform at the national level.

Connecticut: Shifting Frames

First developed in Connecticut in 1999, ERPO resembles civil commitment in that it was a policy model developed in response to a singular sensational incident of violence. Specifically, ERPO as a model addressed the narrative that this case of violence was caused by the mental illness of the perpetrator, and the sense in the aftermath that the incident could have been predicted and prevented through attention to the perpetrator's mental illness as a threat. However, the case of the development of ERPO in Connecticut bears more of the features of

partisanship which I identified among diffusion cases of civil commitment. The passage of ERPO was delayed in time from the initial incident, was subject to partisan debate, and was mediated by national discourses of violence. The mediation of re-narrativization by national discourse is all the more apparent in this case, as the discursive frame narrating the attack and legislative response shifted from the originally common notion of “workplace violence” to discussion alongside “school shootings” following national attention to a 1998 school shooting in Arkansas and then especially the 1999 Columbine High School shooting in Colorado.

Closing the Loophole

After the massacre at the lottery office, the public in Connecticut began to demand state action. Two frames were immediately at hand to understand the massacre in Connecticut: workplace violence and the particular threat posed by mentally ill people with access to guns. This latter frame informed the initial re-narrativization effort, which sought to “close the loophole” in Connecticut law which formally banned gun purchases by people who had been involuntarily psychiatrically committed, but which had little mechanism for enforcement. ERPO, then, was not the immediate re-narrativization applied in the aftermath in the shooting. Instead, the development ERPO has to be understood in light of this earlier re-narrativization effort.

The shooting was initially framed by the media within a narrative of “workplace violence.” Connecticut’s Chief State’s Attorney, John M. Bailey, referred to the shooting as one of the worst workplace shooting incidents of its time (Springer 1998). *The Hartford Courant*, ran an editorial the day after the shooting arguing that “raw and fatal eruptions of anger in the workplace are, sadly, too much a part of modern life” (*Hartford Courant* 1998). Another article in the same issue warned that the workplace was “becoming a danger zone,” citing expert

opinion that increased alienation was producing increasing rates of workplace violence (Leavenworth and Halloran 1998). “Workplace violence” had become thematized as a social problem in the decade prior to the massacre in Connecticut. Research on the subject greatly accelerated between the late 80’s and the early 00’s (Mullgn 1997; Paterson et al. 1999; Waddington et al. 2012; Wells and Bowers 2002). Workplace violence was particularly thematized and sensationalized around the concept of “going postal,” a phrase that emerged in popular culture after a mail carrier in Oklahoma shot and killed 14 co-workers and then himself in 1986 (Applebome 1986). This theme of the post office as a particular site of workplace violence was reinforced by a series of similar incidents which occurred in the following decade, and the sensational coverage of these horrifying incidents (see, for example, Lasseter 1997). The workplace violence frame was therefore already at hand, and the occurrence of this shooting within the office where the perpetrator was employed fit neatly with that frame.

Mental illness was the other immediately salient frame. Soon after the attack, it was reported that Beck had previously attempted suicide and had long suffered from depression (Julien et al. 1998; Tuohy 1998). In the previous year, after beginning work at the lottery and after filing his grievance, Beck had twice been psychiatrically hospitalized, once for a medication overdose (Julien et al. 1998; Tuohy 1998). Beck had been on medical leave for stress much of the previous year (Julien et al. 1998; Touhy 1998). The initial frame of the attack as caused by mental illness quickly translated into an initial re-narrativization effort, which sought to “close the loophole” in state law to enable the enforcement of an existing prohibition on gun purchases by those who had previously been involuntarily committed. An editorial published in *The Hartford Courant* on March 8, two days after the shooting, describes Connecticut as having “some of the toughest gun laws in the nation” but specifies that, despite a law on the books

barring handgun sales to anyone involuntarily psychiatrically committed in the previous year, there was no database of commitments. The law relied on self-reporting (Jacklin 1998a). The paper then ran an article three days after that under the headline “Killings Expose Loophole in the Laws,” further developing this narrative of the potentially deadly loophole: “Lottery gunman Matthew Beck had a handgun permit and a history of psychiatric problems, but police had no way of linking the two” (Moreau 1998a).

This “loophole” did not apply directly to Beck and his massacre at the lottery office. The permit revocation law only applied to court-ordered psychiatric commitment, and Beck’s previous commitments were not court-ordered. Still, in a moral panic narrative theme of the growing threat, advocates nevertheless argued that the massacre brought the issue of the loophole to light and made it all the more necessary to do something in to avoid similar massacres by other disturbed potential killers. Police are quoted as advocating for closing the loophole, playing an active advocacy role as they did in the first civil commitment case.

The question of legislative response the massacre gun violence was quickly raised in media commentary. In fact, two state politicians described by *The Hartford Courant* as “leading gun control advocates” had recently announced an upcoming press conference to discuss proposed state gun control legislation when the lottery massacre occurred, including a measure to deal with workplace gun violence (Lender and Daly 1998). The two leading control advocates were Democrat State Representative Michael P. Lawlor, co-chairman of the House’s judiciary committee, and Democrat State Senate Majority Leader George C. Jepsen (Lender and Daly 1998).

Lawlor and Jepsen produced a “closing the loophole” bill as an initial re-narrativization of the massacre, speaking effectively to the early press frames of mental illness and the loophole

in extant law enforcement. A newspaper article introduced the package as “in part, at making it more difficult for mentally imbalanced people to own guns,” indicating the centrality of the mental illness gun removal feature in the narrative (Daly 1998a). This aspect of the bill responded to the “loophole” problem identified in the aftermath of the shooting, requiring a mechanism of notification to police when someone is psychiatrically committed by court order, to assist in the police following existing law and revoking that person’s gun permit. Lawlor’s language is telling for its targeting of mental illness as among the causes of violence:

If you are a law-abiding gun owner, you have nothing to worry about. We are not on the road to confiscating your gun... If you are a convicted criminal or a mental patient, you should worry. We'd like to separate irresponsible people from guns.

(Daly 1998a)

The stigmatizing aspect of this approach is clear. “Mental patients” are grouped with criminals as “irresponsible” and potentially dangerous people who the law should seek to control in the aftermath of the massacre.

The targeting of the mentally ill was initially productive for compromise between the state’s legislative leaders in gun reform and prominent gun advocate Robert Crook. *Courant* editorialist Michele Jacklin referred to Crook derisively as the “chief propagandist in Connecticut” for the National Rifle Association (NRA) in one column (Jacklin 1998b). Crook was a vocal opponent of Lawlor’s legislation from the beginning, but the *Courant* notes that “Crook and Lawlor, who rarely see eye to eye, agreed on the provision requiring that police be notified when a probate court involuntarily commits a person to a hospital for mental problems” (Daly 1998a). Crook criticized other proposed gun control measures such as trigger locks and

allowing property owners to ban guns on their premise, but said of the psychiatric commitment provision that “that should have been the whole bill right there” (Daly 1998a; Moreau 1998a).

This first round of re-narrativizing legislation, after some compromises with pro-gun interests, passed the state Senate unanimously in May. (Daly 1998c). Jepsen is quoted celebrating the victory, saying gun-control bills “used to be steamrolled by the NRA... Now we have staunch defenders of the NRA looking for opportunities to vote for sensible gun control” (Daly 1998c). Outrage in the aftermath of the shooting provided a force by which gun reforms could be advanced. While the general question of gun reform involved partisan division, both camps supported closing the loophole in preventing the mentally ill from accessing guns.

Risk, Protection, and the Shifting Frame

Early on, Jepsen and Lawlor had also argued that “police should be allowed to take guns away from people who show signs of becoming dangerous,” beyond the bounds of just closing the loophole on preventing new purchases after involuntary commitments (Moreau 1998a). In February 1999, Lawlor and Jepsen began anew, pursuing a new suite of legislation for a new session. It was in this session, building upon their gains of their previous session, that they would develop the first full ERPO law. While this process continued from the previous year’s accomplishments, it also involved a transition in framing of the gun violence problem from a workplace violence frame to a newer “school shooting” frame. This transition had in fact already begun during the development of the first suite of laws. It was further accelerated by the shock of the Colorado Columbine High School shooting on April 20, which claimed 13 lives (Vigdor 2025). While gun advocates had accepted the “closing the loophole” re-narrativization, they were

dismayed to face another round of gun reform efforts, and this second round was marred by more partisan conflict than the first.

An article published February 26 announced the new plans for Jepsen and Lawlor, notably opening with a description of the measure which would become ERPO: “Relatives or acquaintances concerned that a gun owner's mental ability may be impaired could swear out an affidavit with police and ask a judge to allow the weapons to be confiscated under a law proposed by leading Democrats” (Halloran 1999). Already this indicates that the focus on increased police power for gun removal from the mentally ill would be a major theme of the new suite of legislation, alongside other proposed measures. *The Courant* ran an editorial calling the new gun legislation “appealing” in early march (*Hartford Courant* 1999).

Lawlor and Jepsen may have in part been motivated to redouble their efforts after they each received threats from a Connecticut resident named Thomas Doyle as they spearheaded the first round of gun reforms in 1998. Doyle had made repeated calls to both Lawlor and Jepsen two days after Beck’s massacre, upset that the pro-gun control legislators had publicly discussed their planned gun legislation in the aftermath of the massacre (Altimari 1998). Each politician pursued separate legal action against Doyle (Altimari 1998). Doyle’s calls to Lawlor resulted in the revocation of his gun permit, while the case involving his threats to Jepsen proceeded to trial in October 1998. Regarding this case, Lawlor stated: “I got 10 phone calls from a guy who was off the wall... He lost his gun permit, which was important to me. Guns are extremely dangerous, and only people who are clearly responsible should be handling them” (Altimari 1998). Lawlor had already mentioned seeking legislation to take guns away from irresponsible “mental patients” and criminals.

While the framing of mental illness remained central throughout the development of the new legislation, the frame of workplace violence was supplanted by a new frame: school shootings. This shift in frames had begun during the previous legislative process, and indeed had influenced an amendment to the 1998 legislation at the last minute. On March 24, 1998, as the “closing the loophole” gun reform package was passing the legislature, a school shooting in Jonesboro, Arkansas shocked the nation. Westside Middle School students Mitchell Johnson, 13 and Andrew Golden, 11 pulled the fire alarm, set up in woods facing the school, and, using guns taken from Andrew’s grandfather, began shooting at their fellow students as they exited the building in response to the alarm (Bragg et al. 1998). Police soon arrived on the scene and were able to arrest both of the boys. They had killed one teacher, Shannon Wright, 32 years old, and four of their female classmates: Paige Ann Herring, 12; Stephanie Johnson, 12; Natalie Brooks, 11; and Britthney Varner, 11 (Bragg et al. 1998). Ten additional students were injured (Ford 2024).

The Jonesboro case made national news (Bragg 1998; Ford 2024). As that news reached Connecticut, it was absorbed into discussions over the gun reform legislation already in progress. Another editorial by Michele Jacklin demonstrates how the Jonesboro shooting was narrativized within a broader emergent problem of school shootings:

The episode was at least the third fatal shooting in a school in the past five months. On Dec. 1, a boy opened fire on a student prayer circle at a high school in West Paducah, [KY], killing three students and wounding five. Two months earlier, two students died in a shooting in Pearl, Miss. Two students also were wounded in Arkansas in December when a student sniper opened fire in the town of Stamps... Lest you think this could never

happen in Connecticut, consider that in the past two years, 41 students were expelled for bringing handguns onto school property, and four for possessing rifles. (Jacklin 1998c). Jacklin makes a clear narrative of the growing problem of school shootings, and emphasizes that this problem is close to home. She lists a series of gun-related incidents which have occurred in Connecticut in the two weeks which have passed since the Arkansas shooting. At the end of the same month, an article providing updates on the suite of gun legislation, coming up on the deadline of May 6, when the legislature was to adjourn, noted that the legislation had been updated in the aftermath of the Jonesboro attack to keep guns away from schools. Under the extant laws at the time, school boards could not prevent faculty and adult visitors from being armed. As the article states, “gun-control proponents called that fact outrageous and said that in wake of the mass killings at an Arkansas school last month – and the killings at state lottery headquarters in Newington – Connecticut should take the lead in ensuring that Connecticut schools and workplaces are free of gun violence” (Daly 1998b). This update in the legislative response, and its framing in the press – “schools and workplaces” – demonstrates the updated framing of the guns social problem in transition between the major frame of workplace shooting to the major frame of school shooting. And this update also demonstrates the sensitivity of the local issue-based legislation to the diffusion of frames through the national media. The Jonesboro shooting produced a legislative response in direct reference to it – a classic panic legislation – in the Connecticut capital building, roughly 1,000 miles away. An article reporting the update to the 1998 legislation repeats the transition to a new frame, describing “a bad year for incidents of gun violence in schools and workplaces,” referring first to Beck’s massacre and then to the Jonesboro shooting (Moreau 1998b).

As Lawlor and Jepsen introduced their new legislative efforts in the 1999 session, this shift in frame was ready at hand to ground their arguments, which increasingly anchored the need for gun violence in the problem of school shootings rather than workplace violence. This was particularly accelerated by a mass shooting at Columbine High School in Colorado on April 20. This incident was quickly incorporated into the framing of the developing gun legislation, adding further weight to the school shooting frame of gun control in addition to the earlier workplace violence frame. Jacklin's (1999) editorial in the aftermath of Columbine is instructive in this regard. Her column opens: "To suggest, as some have, that we as a nation are incapable of halting the murderous outbursts that have occurred in our schools is to concede that children will continue to be gunned down."

Columbine only intensified the already-developing theme of school shootings, a social problem for which Jacklin had already argued demanded not only national action but local action in Connecticut (Jacklin 1998c). Jacklin thematizes the gun violence problem by connecting the Columbine massacre to Jonesboro as well as a shooting in West Paducah, KY (Jacklin 1999). The latter incident involved a student shooting and killing three classmates and injuring five others in 1997 (Philpott 2017). Jacklin approvingly cites Lawlor and Jepsen as standing up to the NRA and "threats to their safety," referring to the Doyle case (Jacklin 1999). She notes that their bill has at that point passed Lawlor's House Judiciary Committee and has been sent to the Senate, and specifically notes its weapons seizure clause (Jacklin 1999).

The strength of the school shooting frame is also demonstrated in a May 22 *Courant* article covering debates over the bill, which opens: "The series of school shootings across the country is generating a big reaction from Connecticut lawmakers -- and some say it is an overreaction" (Ohlemacher 1999a). This sentence demonstrates both the strength of the framing

of the social problem, as well as the difference from the uncomplicated moral panic discourse which occurred in the development of civil commitment in Washington State. Like the panic over sexual violence, mass shootings are presented as a growing threat in need of a solution. The article even solidifies this narrativization, adding in another recent event into the “series” of shooting events, referring to an incident which had occurred a few days prior to the article’s publication in which a 15-year-old high school student shot and wounded six of his classmates in Conyers, GA (Pilcher 1999). However, the introduction of the panic frame is immediately followed by a counterclaim of overreaction. In fact, this update on the legislation notes that the gun seizure proposal is the “most controversial” inclusion in the legislation (Ohlemacher 1999a).

Jepsen directly referred to the school shooting frame in pursuing this legislation: “Tragedies like those in Georgia and Colorado showed that gun violence is a part of our social landscape... They tragically and graphically make the argument for why we need to have tight controls on gun possession and ownership” (Ohlemacher 1999a). Lawlor made a similar argument in defense specifically of the gun seizure clause:

In light of the publicity surrounding the [school] shootings, people are more likely to report to police about people they know who are dangerous and have a lot of guns... It would be more of a tragedy if police had to say there is nothing we could do.

(Ohlemacher 1999a)

Still, the proposal met opposition from both gun advocates as well as the Connecticut Civil Liberties Union, particularly its draft criteria that “any two credible persons” could file the confiscation complaint, which opponents referred to as a “turn in your neighbor” clause (Ohlemacher 1999a). One senate opponent referred to this measure as resembling “1939 Germany” (Ohlemacher and Springer 1999). While gun advocate Robert Crook had welcomed

the provision closing the loophole in commitment reporting, he vocally opposed another round of gun legislation, including the gun removal clause, arguing it resembled “Soviet Russia” in its overreach (Halloran 1999). While targeting mental illness provided for effective compromise with gun advocates the previous year, the expanded powers for seizure, despite their supposed targeting of the mentally ill, would remain controversial for gun advocates in this session. This indicates that such scapegoat targeting had its limits in the case of gun laws: claiming to target the mentally ill did not dissuade gun advocates from worrying this targeting might bleed over into affecting “good guys,” a notable difference from the more comfortable targeting of the mentally ill in the case of sex offender laws without the mediating partisan counterweight of the gun lobby.

Discussing the debate over the 1998 gun bill, Crook stated of gun-owners that guns “are like seat belts to a lot of these people” (Jacklin 1998b). The presence of a powerful gun lobby already makes responses to gun violence much different from responses to sexual violence. One way gun advocates are able to counter the momentum that leads from cases of horrific violence to legislative reform is to mobilize emotional counter-claims. As Crook notes, guns are felt to be like, and portrayed as, seat belts. They are framed as guarantors of safety in a scary and threatening world. This framing quickly takes on an emotional tenor, as slogans referring to the measure as a “turn in your neighbor” clause demonstrate, evoking a slippery slope into a totalitarian police state.

Gun advocates mobilized such claims against the seizure provision, and in Connecticut in 1999 they almost prevented the country’s first ERPO law from ever being created. The bill passed the state Senate with some revisions on June 5 (Ohlemacher and Springer 1999). It then passed the House a few days later after a nail-biting vote specifically over the elimination of the

seizure provision, which failed by only four votes: 71 to 75 (Ohlemacher 1999b). An essential reform that allowed for the bill's passage narrowed the criteria for the seizure complaint from "any two credible persons" to specifying that complaints must be made by law enforcement (Ohlemacher 1999b). Despite continued opposition from some gun advocates and civil libertarians, Robert Crook expressed his satisfaction with the changed language of the complaint process in the seizure provision (Ohlemacher 1999b). The bill was signed into law by the governor soon after.

The development of ERPO in Connecticut demonstrates the gulf between the response to sexual violence and gun violence. The partisan counter-organizing against gun reforms is without parallel in the aftermath of the sensational incidents of sexual violence which produced civil commitment laws. The partisan dimension of gun reform is enabled by the gun as a mediating machine, capable of providing safety as well as harm. The comparatively partisan nature of the gun issue also makes the response to incidents of gun violence more subject to mediation by national political discourse, illustrated by the importance of the shifting national frames of first workplace violence and then school shootings to make the case for the legislation. The responses to sexual violence and gun violence both involve a targeted focus on mental illness as the cause of violence in both cases, but even here the partisan nature of gun reform produces a difference. ERPO is much more limited in scope, and the use of the mentally ill scapegoat has clearer limits in the ERPO debate. This difference is even more pronounced in Indiana, the first state that considered ERPO after Connecticut.

Indiana: Partisanship Eclipsed

Connecticut's development of ERPO resembled the partisan struggles of the diffusion of civil commitment rather than the non-partisan development of civil commitment in Washington State. However, Indiana, as the first state to which the model of ERPO diffused, looks very different. The process of ERPO's diffusion to Indiana was non-partisan, widely supported, and quick – bearing the marks of the development of civil commitment in Washington State rather than the partisan fights of its diffusion. Indiana adopted ERPO after a similar case of sensational gun violence. The non-partisanship of the adoption of ERPO in Indiana was enabled by ERPO and its mental illness focus being the main re-narrativization of an incident of violence. The response was further unified by the fact that the victim of the shooting in this case was a police officer. Although ERPO was the means by which a non-partisan re-narrativization was achieved in this case, the focus on mental illness in the immediate aftermath of gun violence was also comparably sensitive and nuanced, especially compared to the cases of sexual violence which produced civil commitment.

A Shooting and a Brief Partisan Debate

On August 18th, 2004, Kenneth Anderson went on a 16-minute shooting rampage on the south side of Indianapolis, killing his mother, wounding four responding police officers, and killing officer Jake Laird before being killed by responding police (Spalding 2004a; Walton 2004b). Anderson was known to Indianapolis police. They had previously confiscated his guns in January after he exhibited distress and was taken to a hospital for psychiatric evaluation (Spalding 2004b). In this incident, Anderson had given a gun to his mother and told her to shoot the police when they came; she was concerned he had killed his brother, who was later found

unharmful (Mack 2019). When searching the house, police had uncovered “two pistols, six rifles, a shotgun and 227 rounds of ammunition,” which they confiscated (Mack 2019).

However, police had to return the guns – including the same SKS assault rifle later used in the rampage – to Anderson in March after determining that they had no legal grounds for continuing to hold the weapons (Spalding 2004b; Walton 2004b). The tragic sense of the event was amplified by reporting that police still considered Anderson dangerous: “After Anderson's guns were returned to him, one IPD officer sent an e-mail warning that Anderson was a homicide waiting to happen. The department had ‘flagged’ his house, meaning that any run there included a computer warning of risk” (Walton 2004b). Indianapolis Police Department officer Eric Strange, when informed that the department would be legally required to return the guns, wrote an email stating:

I have a feeling this guy will be a suspect in a homicide very soon... Plus this guy is anti-police and paranoid the FBI is out to kill him and his family. I just hope I don't get dispatched to his house. He has enough firepower to give our SWAT team a long fight” (Mack 2019)

News media framed the attack as a tragedy which police predicted but were helpless to stop.

The initial framing in the immediate aftermath of the incident was focused on the danger posed by high-powered assault-style rifles and whether these weapons should be banned. The question was timely, as the federal assault weapons ban, a component of the 1994 crime bill, was set to expire the following month (Spalding 2004a). However, this framing and re-narrativization were also highly contested, with partisans on both sides of the question of banning assault weapons locally (Kelly 2004). The initial debate resembled arguments over gun control in Connecticut. Gun control advocates, particularly those organized as Hoosiers Concerned About

Gun Violence, faced off against gun advocates (Schneider 2004; Spalding 2004a). The assault weapon debate was fought in the pages of letters to the editor. A Democratic State Representative had argued against an assault weapons ban by asking if it mattered whether Anderson carried out his rampage with an axe or gun; two letters to *The Indianapolis Star* responded that Anderson's onslaught on IPD officers would have been greatly diminished if he had only had an axe (Campbell 2004; Snow 2004). Another reader warned that calls for an assault weapons ban were coming from "people who are driving on pure emotion," arguing that a "firearm is just a tool that should have never found its way back to this mentally ill man's hands" (Pavey 2004).

This debate over gun reform proved acrimonious. The partisan defense of guns was enabled by the gun as a mediating machine: pro-gun partisans argued that it was the user, not the tool, that ought to be controlled. A gun-owner was quoted elsewhere worrying that guns were necessary for defense, stating, "Society has changed. I don't think people have the conscience they had" (Schneider 2004). The problem was with people; as much as providing harm, guns were just as capable of providing safety against those who would do harm. Wholesale gun reform was fiercely opposed by partisans operating from this perspective.

ERPO and Non-Partisan Compromise

While calls to ban assault weapons were controversial and enmeshed in partisan conflict, an alternative frame emerged early in the aftermath which quickly eclipsed the assault weapons ban frame. This second frame emphasized the particularity of the perpetrator of this act of violence, locating danger not in the gun he used but in the mental illness from which he suffered. A psychiatric post-mortem on the situation issued by the city in the aftermath of the event found

that the hospitals that treated Anderson erred by not involuntarily committing him (Walton 2004b).

In calls surveying state legislators, *The Indianapolis Star* found opposition to assault weapons ban, and “much more interest in finding ways to keep guns out of the hands of people such as Kenneth C. Anderson, a schizophrenic” (Schneider et al. 2004). Reporters reached 84 out of 150 state lawmakers, and of those: 23 favored an assault weapons ban, while 31 opposed and 30 remained undecided; by comparison, 41 favored giving police more power to confiscate guns from “the dangerous or mentally ill” (Schenider et al. 2004). The treatment of guns as neutral and external machines shifts the location of violence from guns to those who wield them. The question then becomes how to distinguish the “good guy” with a gun from the “bad guy.”

In Indiana, in the aftermath of the Anderson shooting, that distinction rested upon the category of mental illness. Anderson’s previous distress and gun removal was given to this kind of framing, especially since he had been briefly psychiatrically hospitalized following his January episode (Spalding 2004b). Anderson’s mental instability had been stressed in the response to the August attack. The pro-gun side of the assault weapons debate had emphasized the mental illness frame (Bass 2004). This line allowed the pro-gun set to reframe the question in terms of bad users rather than the guns themselves:

The public lobbying of Hoosiers Concerned About Gun Violence drew some criticism, mostly from gun owners who say criminals will always find ways to get the powerful weapons. The real issue is keeping weapons out of the hands of illegal users, opponents of the ban have said.

(Spalding 2004a)

While the targeting of mental ill gun owners was a means for the pro-gun set to counter gun reformers, it also opened them up to compromise and reforms of a different kind. As Republican State Senator David Long put it:

We have to protect people's rights... but if there is a better way to determine if someone doesn't have the mental capacity, such that they would be a danger to society at that moment... it might be perfectly appropriate to put a restraint (on them).

(Spalding 2004b)

Targeted removal of guns thus became a palatable compromise between proponents of gun rights and proponents of gun reforms. Perhaps most strikingly, the removal of guns from at-risk individuals was not resisted by the NRA; on the contrary Brent Steele, a prominent NRA member running for a state Senate seat openly endorsed such a measure in his campaign (Spalding 2004b). Steele kept his word: he was elected to the state Senate that Fall and proceeded to sponsor the ERPO bill in the following legislative session (Walton 2005b). And ERPO was also supported, with some reservations, by the Mental Health Association of Indiana (Walton 2005a; Walton 2005b). The bill was explicitly referred to as a compromise “between protecting the public and the rights of the mentally ill” (Walton 2005b).

ERPO was proposed early in the 2005 legislative session and sponsored by a Republican representative (Walton 2005a). The father of slain officer Jake Laird spoke in favor of it, as did the Indianapolis mayor and representatives of the city’s police department and the state’s police union (Mack 2019; Walton 2005a). The prior adoption of ERPO in Connecticut was invoked by Indianapolis Police Lieutenant Brian Clouse, who had responded to the Anderson attack, in his support for the measure (Walton 2005a). The measure was passed unanimously in the house and with only one opposing vote in the Senate, with reporting that “public demands for reform” made

its passage “virtually assured from the start” (Mack 2019; Walton 2005b). Though it was introduced as legislation, ERPO had a neutral and non-partisan nature much closer to the original proposal of civil commitment in Washington State than the previous hotly contested assault weapons ban. It enjoyed widespread support and was endorsed by formally non-partisan actors including the police and victim advocates.

Another factor that helps explain why conservative and pro-gun elements were more open to a gun removal reform of any kind in this case is the particularity of a police officer as the victim. Pro-gun and gun reform advocates alike both appealed to police in making their cases. Gun reform advocacy group Hoosiers Concerned About Gun Safety boasted support from 49 police departments in the state in their early advocacy for an assault weapons ban (Spalding 2004a). The NRA state Senate candidate Steele couched his endorsement of an ERPO law by arguing that “police can be trusted” with such a power, and stating that “Police officers need to have the right” to bring gun owners to court when they deem it necessary (Spalding 2004b). As an attendee of a gun show held the week following the shooting put it: “It really upsets me when a policeman gets killed” (Schneider 2004).

The topic of mental illness was treated with unexpected sensitivity in Indiana, especially compared to the cases where civil commitment was developed. In Indiana, mental health advocates were given space in the press to offer a nuanced view on the relationship between mental illness and violence – and in the immediate aftermath of the attack, no less. Jim Jones, executive director of the Indiana Council of Community Mental Health Centers, was quoted warning about declining support for services (Walton 2004a). Joe Vanable, president of the board of directors of the National Alliance for the Mentally Ill Indiana, warned of the danger of stereotypes (Walton 2004a). It was a discourse of advocacy – an article notes that in “past

decades, thousands of people like Anderson might have been confined to state mental hospitals. Now, many live and even work in the community” (Walton 2004a). Jones is quoted:

There’s a knee-jerk reaction, that this is the cause and effect, that it wouldn’t have happened if the person weren’t mentally ill. That may or may not be the case. But the tendency is to regret that the individual was not locked up some place.

(Walton 2004a)

Why, if the distinction between good and bad users is the foundation of the ERPO compromise, do gun advocates hedge the scapegoating and express concern of over-targeting, rather than emphasizing the difference between the good user and the stigmatized other? The treatment of the gun as a mediating machine also relativizes the targeting of bad others. Gun advocates are so sensitive about improper removal of guns that they want to be doubly sure of targeting. The gun as a mediating machine enables the partisan advocacy politics which ends up softening the scapegoating of the mentally ill rather than hardening it. No comparable nuance exists in the case of the sexually violent predator issue because no such organized counter-force exists in the same degree in the absence of an object like the gun which can be cast as providing both safety and harm.

Washington: New Dimensions of Partisan Mediation

As I have shown, the most important factor in passing moral panic legislation is the grounding of the issue in a local panic. Civil commitment failed to diffuse to Ohio due to the lack of a recent local panic in that state to ground the issue as relevant. I have also argued so far in this chapter that the social problem of gun violence is comparatively more mediated by partisan politics than sexual violence. ERPO was passed quickly and fairly unanimously in

Indiana in the aftermath of a mass shooting. It was developed in Connecticut in the aftermath of the lottery office shooting, though even in this case it was more contested. The diffusion of ERPO to Washington State in 2016 presents us with a puzzle because there was no local recent outrage over gun violence. The lack of a local panic, combined with the more partisan nature of gun reform, should predict that ERPO would not diffuse to Washington State, just like civil commitment failed in Ohio. Why then was Washington State an early adopter of ERPO?

ERPO had previously failed in Washington State, failing to pass the legislature in 2015. What the Washington State case instead introduces are two new factors. First, a new mechanism for moral panic legislation: ERPO was passed in Washington state by direct voter ballot initiative after it failed to pass through the legislature, allowing voters to bypass partisan legislative gridlock. Second, this case involves a new dimension of national mediation with the direct intervention by national advocacy groups in passing local gun legislation. In Washington State, it was the strong fundraising power of the campaign and the coalition of advocacy groups that supported it which allowed for ERPO's success despite the absence of a recent local panic. The gun reform coalition was able to raise an overwhelming amount of funds for the campaign, to the degree that pro-gun groups like the NRA made a strategic decision not to organize against the campaign. The NRA, much like the ACLU in Washington State during the development of civil commitment, calculated that they were outgunned and that expending resources in a fight they were bound to lose would be a waste. The introduction of this new dimension of national interest group intervention demonstrates the heightened partisan nature of the gun issue – it is a new dimension of local politics mediated by the national level. Gun reform has become a national issue, capable of marshalling support from around the country for reforms in other localities and responding to violent incidents across the country, due to a cohered narrative of gun violence

being the concern of everyone. The extraordinary political support this coherence affords can carry a campaign for moral panic legislation to success even in the absence of a recent local panic.

Gun Politics in Washington State

To understand the passage of ERPO in Washington State, it helps to understand the campaign in the context of the three years of partisan gun politics which preceded it. The fight began with a bill designed to toughen background checks for gun purchases, which failed to advance through the legislature in 2013 (Gutman 2016). Around this time, a local interest group called The Alliance for Gun Responsibility formed to advocate for gun reforms. According to their website, the Alliance formed as a “group of concerned citizens, parents, and faith leaders, fed up with the inaction” after the shooting massacre of 20 first graders at Sandy Hook Elementary School in Newtown, Connecticut” (Alliance for Gun Responsibility 2025a; Dews 2013). The group initially focused on the background checks issue. In 2014, the Alliance first pursued the strategy of using a direct ballot initiative to work around the legislature’s inactivity to produce a background check measure. They encountered counter-organizing from national gun-rights groups such as the National Rifle Association and the Second Amendment Foundation, which together raised and spent about \$2 million in their counter-campaign (O’Sullivan 2016b). However, The Alliance for Gun Responsibility, supported by Michael Bloomberg’s national organization Everytown for Gun Safety, raised and spent about \$10 million, and were ultimately successful in passing by ballot initiative what had failed in the legislature (Gutman 2016; O’Sullivan 2016a; O’Sullivan 2016d).

This 2014 victory suggested a workable model for success. When an ERPO measure similarly failed in the legislature in 2015, the Alliance repeated their previously successful ballot initiative campaign strategy (Gutman 2016). The same situation repeated with the ERPO measure – it failed in the legislature in 2015, only to be proposed as a direct ballot-initiative in 2016 (Gutman 2016). Like the previous proposal, this initiative also passed and became law. The Alliance raised around \$4 million to support this campaign, again from wealthy supporters within the state as well as from supporters and advocacy groups from without (O’Sullivan 2016d). The initiative also gained the endorsement of editorial board of the biggest newspaper in the state, *The Seattle Times*, as well as support from the state’s then-governor Jay Inslee (O’Sullivan 2016c; *Seattle Times* 2016; *Seattle Times* Editorial Board 2016). Following their defeat in 2014, gun advocates made a strategic decision to not run another costly counter-campaign against the ERPO measure. This analysis more or less came down to a competition in fundraising: the founder of a local chapter of the Second Amendment Foundation stated, “It’s not worth spending millions of dollars when the other side is going to spend a fortune” (O’Sullivan 2016b). The ERPO measure won about 70% approval on the ballot in 2016 (O’Sullivan 2016d).

The powerful intervention by national advocacy groups was able to eclipse the lack of a recent sensational incident of gun violence in the state. Support for the measure did refer to specific events – but, as I have noted in cases of partisan-mediated diffusions, they were events at greater temporal or spatial remove than the immediate local incidents to which ERPO responded in Connecticut and Indiana. In their endorsement of the measure, *The Seattle Times* Editorial Board referred to a 2006 shooting in the state at the Jewish Federation, and a shooting in 2012 at Café Racer, both of which occurred in Seattle (*Seattle Times* Editorial Board 2016). A survivor of the 2006 Jewish Federation shooting was the citizen sponsor of the 2014 background

check initiative campaign for The Alliance for Gun Responsibility (Alliance for Gun Responsibility 2025b). And the 2016 campaign for ERPO was also sponsored by a citizen victim advocate, not a survivor of a mass shooting this time, but a woman whose son was able to access a firearm and kill his stepsister and himself, despite serious concerns about his mental wellbeing (O’Sullivan 2016b; *Seattle Times* Editorial Board 2016).

Support for the measure was not restricted to references to local events of prior years. The Alliance for Gun Responsibility and affiliates were canvassing support for the ERPO measure in June 2016 in the immediate aftermath of the Pulse nightclub shooting in Orlando Florida, which had occurred around the time that the campaign was collecting signatures to get the issue on the ballot (Thompson 2016). Jerry Large, a columnist who supported the measure referred to the Café Racer shooting but also to multiple shootings which had occurred around the country (Large 2016a; Large 2016b). Large quotes a proponent of the measure on the reference to recent shootings elsewhere in the country:

The truth is, everybody in the gun-safety movement has to be an opportunist... The gun-rights people say, ‘Well now is not the time to talk about gun violence’ after [a shooting] event... It’s exactly the time to talk about it because it keeps happening again, and it’s when people are motivated.

(Large 2016a)

The adoption of ERPO in Washington State demonstrates an even greater degree of mediation of re-narrativization by national discourse. Beyond local legislation passed with reference to national discursive framings and with reference to events which occurred elsewhere in the county, in this case national organizations directly intervened in the political process and competed in a national fundraising fight to influence local legislation. Furthermore, the gun

reform set were able to command resources to the degree that they were able to muster sufficient support even in the absence of a recent local sensational violent event to ground the campaign. This degree of national mediation was enabled by the highly partisan nature of the gun issue, and indeed demonstrates an escalation of partisan competition beyond the situation in Connecticut and Indiana. Increasingly, the battle between gun reform and gun advocacy is fought by national organizations commanding greater resources as the issue continues to polarize.

Conclusion

At first glance, ERPO shares much in common with civil commitment. Both are re-narrativizations pursued in the aftermath of highly sensational incidents of violence which garner widespread media coverage and public pressure for state action. ERPO and civil commitment both respond to the problem of violence by targeting the mentally ill as potential perpetrators of future violence. However, ERPO is much more limited in scope. And as I have argued, the mentally ill are treated with comparatively greater nuance in some of the debates over ERPO.

The difference in the responses to sexual violence and gun violence rests upon the distinction of the gun as a mediating machine in the latter cases. Because guns are external machines, gun advocates are able to conceive of and frame guns as neutral and as possible sources of safety in addition to harm. As Connecticut gun advocate Robert Crook put in in 1998, gun advocates see guns as “like seat belts.” The possibility of framing guns as providing safety in addition to harm allows for the possibility of pro-gun counter-advocacy in a way that has no parallel in the case of sexual violence. This counter-advocacy makes the gun issue far more partisan than the sexual predator issue. And the partisan nature of the gun issue also makes the gun debate comparatively more mediated by national politics, including intervention by national

advocacy organizations directly in local politics, as occurred in the Washington State adoption of ERPO. ERPO emerged in Connecticut and Indiana as a compromise capable of bridging the gun issue's highly partisan strife specifically through the targeting of the mentally ill as "bad users" of guns, rather than pursuing blanket gun reforms. Yet the partisan nature of the gun issue also unexpectedly moderates the scapegoating of the mentally ill compared to the sexual predator issue.

CHAPTER 6

BEYOND “THOUGHTS AND PRAYERS”?

SCHOOL SHOOTINGS AND ERPO IN FLORIDA AND TEXAS

Two red states. Two high schools. Two devastating shootings by recent students, just over three months apart. But in one case, a surprise adoption of gun reforms, and in the other, the failure of the same. In Florida, the devastating Parkland school massacre in February of 2018. In Texas, a very similar school shooting in the town of Santa Fe in May of 2018. Both shootings were quickly absorbed into a polarized national gun politics debate. However, Florida surprised gun proponents and gun reform advocates alike by passing moderate but substantial gun laws in response, despite its reputation as a deep red and pro-gun state. This victory for gun reform advocates seemed to indicate that moderate gun reform, and ERPO in particular, was achievable even in a state as Republican-dominated as the “Gunshine State” (Smiley 2018a). In Texas, Governor Greg Abbott initially indicated that he might follow Florida Governor Rick Scott in considering moderate gun reforms. But the ERPO and other gun measures that passed in Florida failed in Texas.

There are two puzzles at the heart of this chapter. The first is the puzzle of why pro-gun Florida passed gun reforms after Parkland despite opposition from the powerful gun lobby. The second is the puzzle is why Texas, in a situation which was apparently very similar, did not do the same. I argue that the passage of gun reform in Florida can be explained by the unusually strong and compelling movement of student survivor advocacy in the immediate aftermath of the shooting. Student survivors were able to stick to a strong message and make use of traditional and social media to present a discursive challenge to opponents of gun reform. By comparison,

students in the more conservative town of Santa Fe were less convinced of the need for gun control and were less vocal in their response. Another important factor distinguishing the two cases is the timing of each relative to the legislative and partisan calendar. The Parkland shooting occurred while the Florida legislature had a little over three weeks remaining in their regular session, creating the opportunity and pressure for politicians to act quickly. The Texas legislature had already recessed by the time of the Santa Fe shooting. Furthermore, the Santa Fe shooting occurred roughly one month before the Texas Republican Party's convention. The timing allowed Texas Republicans to prepare for the upcoming legislative session before responding, and the convention allowed the party's more conservative elements to exert their influence to rule out an initial ERPO proposal from Governor Abbott. The confluence of events allowed ERPO and other gun reforms to pass by a narrow majority in Florida and to be left to the cutting room floor in Texas.

Gun violence and the social response to it demonstrates how legislative re-narrativizations of sensational violence are evolving with changes in the media ecosystem. Victim advocates have long been noted as an important in moral panic legislation (deYoung 1998), but this case exhibits a new dimension of social media allowing for the direct advocacy of victims themselves. These incidents are much more polarized and nationally mediated. The faster delivery of news via the internet means news stories escape their local context more easily. Social media also allows unprecedented direct access between vocal constituents and public figures. The Parkland students used Twitter to directly challenge their political opponents. Greg Abbott's distancing from ERPO notably took the form of Twitter response to a concerned constituent. In the case of Parkland, a liberal-leaning social movement was able to use the power of new media platforms and the polarization of the gun debate to extract concessions from a

conservative government despite organized opposition from powerful interest groups. Texas, on the other hand, demonstrates how these same forces can allow politicians open to compromise to be disciplined by ideological elements in their party despite popular support for moderation.

After Parkland: Unprecedented Reforms in the “Gunshine State”

On the afternoon of Valentine’s Day, 2018, Nikolas Cruz killed 17 people at Marjory Stoneman Douglas High School in Parkland, a city in Broward County in South Florida (*CBS News* 2018; Gurney et al. 2018b). Cruz, 19, was a former student at the school (Teproff et al. 2018). The shooting shocked Florida, especially due to the tragic sense that Cruz’s previous behavioral issues indicated that the violence was foreseeable and therefore preventable. The response was, as in other states, strongly divided along partisan lines. Partisan mediation of the question of guns and mass shootings had indeed only intensified in the intervening years since the adoption of ERPO in Connecticut and Indiana. Predictably, liberals called for gun control and conservatives emphasized that guns themselves were not the issue.

As I show, the Parkland student activists were very capable in their intervention in the re-narrativization of the horrific incident which they themselves experienced. Their presence is unique among the cases of moral panic legislation considered thus far, and it was their advocacy which forced Florida’s gun reforms forward despite strong NRA opposition. However, it is also important to remember how fraught their victory was. The victory gun reform advocates scored against the NRA was a surprise upset, but it was short of the assault weapons ban the students had sought all along. And even in this moderated form, the legislation barely passed – at one point surviving by only a single vote in the state Senate. The victory of gun reform was much

more tenuous than hagiographic accounts in its aftermath might suggest (Luscombe 2024). It is a victory which very nearly was not.

Understanding the Shooting

In the immediate aftermath of the Parkland shooting, commentators focused on a handful of themes to define the incident and make sense of it. Most important of these was an argument that Cruz displayed warning signs in advance of the attack, especially indications that he was mentally unstable. This theme in turn directly fed the mental illness framing that was key to the political debate over the response to the shooting that would soon follow. Other elements that were emphasized were the continuity of this incident with other recent mass shootings in Florida and elsewhere in the country, the young age of the shooter, and the specificity of the high-powered assault rifle he used.

As in the Connecticut and Indiana cases I discussed in the previous chapter, the Parkland shooting was framed by news media in its aftermath as having been committed by a known threat. Cruz was known to have a gun and to have had behavioral trouble at school (Ogle et al. 2018). The same day as the shooting, when it was first reported, the parent of a student at the high school said his son had told him, “[i]f you were to pick one person you might predict in the future would shoot up a school or do this, it would be this kid” (Ogle et al. 2018). It soon came to light that the Broward County Sheriff’s Office had been notified twice that Cruz was a potential school shooter (Staletovich 2018). Cruz was revealed to have previously received mental health treatment, prompting the Broward county mayor to tell the press, “We missed the signs... we should have seen some of the signs” (Weaver et al. 2018). Republicans soon turned on Broward County Sheriff Scott Israel, accusing his office of neglect for failing to act on tips about Cruz

(Smiley 2018b). Republicans blamed Israel and the deputies assigned to the school for waiting outside while the massacre unfolded, accusations Israel dismissed (Smiley 2018b). Governor Scott also pointed the blame at the FBI for not acting on a tip they received about Cruz, calling for the agency's director to step down (Bousquet 2018a).

The shooting was quickly contextualized with reference to other recent mass shootings in the state, particularly the 2016 Pulse nightclub shooting, and a 2017 shooting at the Fort Lauderdale-Hollywood airport, the latter located in Broward County along with Parkland (Daugherty 2018a; Staletovich et al. 2018). These two recent local events fed a framing of a growing threat, placing the Parkland shooting as part of a worrying trend rather than an isolated incident. Contextualizing Parkland alongside these two prior shootings also fed the framing of the known threat that was missed. The shooters in both the Pulse and airport incidents had been on the radar of the FBI, but law enforcement had not stopped either (Staletovich et al. 2018). Omar Mateen, the perpetrator of the Pulse shooting, had been investigated by the FBI for 10 months but the agency had found no evidence of any illegal activity (Staletovich et al. 2018). Esteban Santiago, the perpetrator of the airport shooting, had his weapons confiscated by police in Anchorage, Alaska after exhibiting unstable behavior. Much like Kenneth Anderson in Indiana, however, he had his guns returned when police determined there was no legal grounds to continue holding them (Staletovich et al. 2018). Santiago committed the Florida airport shooting less than a month after having his guns returned (Staletovich et al. 2018). The Parkland shooting was also framed in reference to non-local incidents of mass gun violence, especially the then-recent 2017 shooting massacre of 58 at a Las Vegas concert and the Sandy Hook shooting (Bousquet and Klas 2018; Salimy 2018; Subramanian 2017). Contextualization in light of these

other horrific events only added to the narrative of the growing threat of mass gun violence in the United States.

The shooter's young age was also a frequent point of reference. One *Miami Herald* article emphasized that Cruz was not "old enough to buy a beer" (Bousquet 2018a). Coverage also focused on the specificity of the assault-style rifle Cruz used in the shooting, similar to the discussion in the immediate aftermath of Anderson's rampage in Indiana. News coverage argued mass casualties were enabled by the specifics of the machine used for killing:

With long rifles as the weapon of choice for today's mass murderers, dozens can die in the minutes it takes police to respond, forcing educators and pupils to make life-or-death decisions. And so schools prepare and train for moments like Wednesday afternoon in Parkland, knowing that staff and kids will be alone to confront a problem that America as a society has not. "I don't think we could have been more prepared than we were today," teacher Melissa Falkowski said Wednesday night on the Rachel Maddow Show. "They knew what to do. We knew what to do. Even with that, we still have 17 casualties, 17 people who aren't going to return to their families. And that's so unacceptable."

(Gurney et al. 2018b)

Both of these framings were given to proposed solutions. Former Florida governor Jeb Bush tweeted soon after the shooting that the legal age for purchasing assault weapons should be higher (Bousquet 2018a). Liberals called for banning assault weapons, while conservatives emphasized mental illness and security. One *Miami Herald* article referred to the failure of Florida's system of reporting psychiatric commitments to prevent firearm purchases via the law already on the books. This article directly made reference to Connecticut's ERPO law in discussing the path forward (Staletovich 2018).

Partisan Responses

The responses to the Parkland shooting confirmed the continued polarization of the national gun debate. As in other cases, liberals were quick to call for gun control and conservatives were quick to emphasize that guns themselves were not the problem. The debate was defined by Florida's reputation as the "Gunshine State." Cruz's reported prior behavioral issues made mental illness an important dimension of the debate, a frame that was particularly useful for conservatives who sought to frame the issue as with the user rather than the machine.

In the immediate aftermath, Democrats called for legislative change while Republicans were more divided (Daugherty 2018a). Democratic State Representative Jared Moskowitz reportedly left a meeting with Governor Scott and then-Florida Attorney General Pam Bondi "seething" and frustrated, protesting,

You know what is going to happen after this? Nothing... Politicians need to look these parents in the face and say: We will do nothing... If someone from another country had done this, if the shooter had used the word ISIS, this country would not hesitate to put laws in place to prevent it... But if it's a local student, who buys an AR-15 on the street, we do nothing... We set up a system in which we have gerrymandered the districts so it's all about the primary and we've elected extreme candidates — on both sides... I know these Republicans. They are not the people you see in TV. They are sensible — but they are held hostage to the issue. Elected officials are more worried about losing their seat than saving children.

(Klas 2018a)

One gun reform advocate put it similarly in an op-ed published by *The Miami Herald* the day after the shooting:

Time and again we turn on the news to the revelation of another mass shooting, and time and again we are told that, "Right now is not the time to discuss politics. Right now is the time to mourn the loss of life from this tragedy." They are right, to an extent. Now is not the time to discuss mass school shootings. The time for that was in 2012 after the Sandy Hook Elementary School shooting and in the 291 school shootings since then. The time for that is long gone. Now is the time to get Congress and the state of Florida to act.

(Salimy 2018)

Both of these advocates for gun control express a frustration and resignation with the gun debate as a stalemate with entrenched positions, arguing that gun control is a clear solution which nevertheless continues to be blocked by polarized politics. Their pessimism was not unfounded. *The Miami Herald* noted that “demand for changes to Florida's gun laws faces steep odds in the state legislature, which has been more inclined to expand gun access than restrict it, even after the 2016 shooting at the Pulse Nightclub in which a deranged gunman left 49 people dead” (Klas 2018b). Conservative politicians in the “Gunshine State” had only eased gun laws after the Pulse shooting, batting away calls for a special session on gun control (Smiley 2018a).

Still, more voices started to call for gun control. The chief of Miami’s schools called for national gun control the same day as the shooting, and also framed the violence as related to mental illness (Hanks 2018). A vigil the day after the shooting drew thousands of people and featured calls for gun control laws from Broward Sheriff, the Broward Schools Superintendent, and Democratic U.S. Representatives Debbie Wasserman Schultz and Ted Deutch (Gurney et al. 2018a). Attendees chanted “No more guns!” (Teproff et al. 2018). Another vigil the same day featured speakers from gun reform advocacy organizations such as Everytown for Gun Safety, including a local victim advocate whose son was killed in the Pulse shooting (Ogle 2018). *The*

Miami Herald ran a number of columns and op-eds in favor of gun control (Friedman 2018; Spitzer 2018; Varela 2018; Wahid 2018). A Florida teacher was removed by security from a South Florida fundraiser for Republican House Speaker Paul Ryan after telling him “you're here celebrating the death of 17 children” and chanting “No more guns!” (Harris 2018).

Mental illness was another frame at hand to explain the horrific attack. As in Connecticut and Indiana, this frame was reinforced by the shooter’s history of contact with mental health services. A mental health team had been summoned to evaluate Cruz at school when he admitted to self-harm, at which time counselors considered whether he should be psychiatrically committed but decided this was not necessary (Staletovich 2018). Media reports of the legislation developed in the aftermath of the attack referred to the ERPO measure as a direct response to Cruz’s history of disturbances (Klas 2018i).

Conservatives particularly emphasized the mental illness frame, as it suited their preferred narrative that it was not the gun itself that was the problem, but the user. The usefulness of this partisan reframing was first demonstrated by a lawyer representing the gun shop which had legally sold Cruz the gun. Facing scrutiny in the immediate aftermath of the shooting, the shop’s legal representation sought to reduce the blame placed on the gun shop by instead arguing that gun sellers needed a more robust indicator to assess whether a customer was unstable (Herrera 2018). This rhetorical gesture demonstrates how the mental illness frame was directly related to shifting the emphasis from guns to users. Governor Rick Scott quickly adopted the mental illness frame, stating the day after the shooting that “If someone has mental health problems, they should not have access to a gun” – a sentiment he had already previously expressed in the aftermath of the airport shooting the previous year (Bousquet and Klas 2018; Hitt and Gurney 2018). Florida Republicans quickly rallied around the mental illness frames,

pledging reforms in treatment access but avoiding the question of gun reform in the immediate aftermath (Bousquet and Klas 2018; Mahoney and Koh 2018). Scott stuck with this framing throughout the re-narrativization process. When signing the eventual package of ERPO and other gun reforms, he stated, “I think rather than banning specific weapons, we need to ban specific people from having any weapons” (Bousquet 2018e). As Scott’s comment indicates, the preference by conservatives of the mental illness framing was directly related to their efforts to ward off talk of gun reform. U.S. Senator Marco Rubio gave an interview with *The Miami Herald* the day after the shooting in which he argued gun reform laws were not the solution to mass shootings (Daugherty 2018b). Pro-gun partisans quickly fell back onto arguing that guns were neutral machines. State Senator Dennis Baxley said, “We’re obsessing over the hardware of violence, and it makes as much sense as saying we’re going to stop obesity by collecting spoons” (Mahoney 2018).

The timing of the shooting mattered. It occurred while the legislature was in session, and in an election year (Bosquet and Klas 2018). On the day of the shooting the legislature had just over three weeks remaining in their regular session (Klas 2018b). While this was traditionally considered too late for the introduction of new legislation, this still remained a possibility (Mahoney 2018). Demands for re-narrativization by legislation thus had an immediate bearing for politicians. And despite the rhetoric of prominent members of the governing Republican party, the Republican front against gun reform was not completely unified, signaling a potential opening for reforms before the session concluded. Already by the day following the shooting, *The Miami Herald* reported that “a powerful [Republican state] senator, Rob Bradley, the appropriations chairman, said he won’t hear any [pro-]gun bills this session unless they deal with denying guns to people who are mentally ill” (Bousquet and Klas 2018). Bradley demonstrated

his commitment by blocking a gun-rights bill supported by a prominent state Republican (Bousquet and Klas 2018). Another Republican state legislator tweeted on the Monday after the shooting in favor of a waiting period on assault weapons (Bousquet 2018a). Influential Republican fundraiser Al Hoffman said donors should push Republican politicians to support an assault weapons ban (Smiley 2018a). Mike Fernandez, the top donor to Governor Scott's prior election campaign and an NRA member, later pledged publicly to not give any money to anyone who did not support an assault weapons ban (Hudson 2018). This friction in the party was maximized by the most significant force of pressure in the aftermath of the shooting: the survivors themselves.

Victims Speak Directly to Power

Why did Republicans scramble to adopt gun reforms in the week after the Parkland shooting when they had not even after the even deadlier Pulse shooting? The force which differentiated the response to the Parkland shooting the most from other cases of moral panic legislation was the strong organization of violence victims themselves. Other cases involved victim advocates, such as the families of violence victims who participated in the passage of civil commitment in Washington. But Parkland involved the self-advocacy of victims themselves first-hand. They were all the more compelling because they were children. The student survivors quickly developed strong message discipline, sticking closely to effective, clear, and concentrated talking points (Kumar 2007). The new technology of social media allowed their message was able to spread further, faster, and without the intermediaries of traditional media platforms. This meant that a conservative commentator preparing a pro-gun counter-narrative

could have to directly face a student who had survived a school shooting directly accusing him of perpetuating child-killing.

Media accounts of the aftermath of the shooting emphasized the unique force of survivor self-advocacy, a novel dynamic in the aftermath of incidents of horrific violence. Already on February 16, just two days after the shooting, *The Miami Herald* was reporting that the “strongest voices in the reaction to the massacre at Marjory Stoneman Douglas High School were those who lived through the trauma. Young survivors immediately became their own best advocates, eloquently directing their demands for change at state and national lawmakers” (Teproff et al. 2018). Columnist Fabiola Santiago invoked the authority of the activists as victims:

Their classmates' bodies were still being carried and they were already speaking out against assault weapons like the AR-15 rifle Cruz used. Bless them. Hear them. Honor them. Our police chiefs have, calling for a ban on assault weapons. The bodies of these children are still being buried today. These students are attending funerals, grieving — and speaking out, no breaks. Hear them. Honor them. This is their most precious right. (Santiago 2018b)

As survivors, the students possessed a particularly strong moral authority that they wielded effectively in the gun debate. One of the student activists, 15-year-old Rachel Catania, referred to invoking her authority as a victim in meetings with state politicians: “If you're against us, we just listen. Most of them just talked about how they want their family to be safe, and we say, if you want them to be safe, please listen to us” (Koh and Klas 2018). As another student activist, credited with coining the survivors’ slogan #NeverAgain, put it: “My message for people in office is: You're either with us or against us” (Klas 2018b; Rabin 2018).

The students had strong message discipline. As the mass shooting and gun debate had become increasingly polarized, talking points had become distilled on both sides of the debate. The Parkland survivor advocates demonstrated a keen awareness of both the strong talking points for gun reform as well as a savvy ability to counter the pro-gun talking points. The students had a clear demand: state and federal bans on assault weapons (Klas 2018c). The students were able to intervene powerfully in the discursive struggle in the aftermath of the attack to use their moral authority to keep the focus on their demand for an assault weapons ban, their critique of the National Rifle Association and the gun lobby, and their push “to create a new voting bloc with a single-issue litmus test for Florida politicians” (Smiley 2018a). As student survivor Chadwick put it in a message to President Trump, “do something instead of sending prayers. Prayers won't fix this. But Gun control will prevent it from happening again” (Hitt 2018). Senator Marco Rubio and other politicians attending a televised town hall faced pointed questions from student victims invoking their authority, such as: “My best friend was killed in front of me. What are you going to do to strengthen background checks?” and, “My friends and I are afraid that we're going to be murdered in our classrooms. What reassurances can you give us that this won't happen?” (Daugherty and Smiley 2018).

The student activists particularly targeted the NRA when advocating for gun reform. In the televised town hall, student survivor Cameron Kasky asked Marco Rubio directly and repeatedly if he would continue to accept support from the NRA (Daugherty and Smiley 2018). Marjory Stoneman Douglas junior class president and shooting survivor Jaclyn Corin, who helped organize the students' march on the Capitol, said: “The NRA brainwashes us to think these rules and laws can't work here... We think they can. In what world would a civilian need an assault rifle? There's no commonsense reason” (Klas 2018b). Another student activist stated they

wanted to make “a badge of shame for any politicians accepting money from the NRA and using us as collateral” (Klas 2018b). Student Emma Gonzalez, interviewed on NBC, said “These people who are being funded by the NRA are not going to be allowed to remain in office when midterm elections roll around” (Bousquet 2018a).

The students were successful in focusing the debate on the NRA. *The Miami Herald* counterposed Rubio’s arguments against gun control with the fact that he received over \$3 million from the NRA and other gun groups, putting him in the top 20 recipients in the U.S. Congress (Daugherty 2018b). A column published in *The Miami Herald* the same day argued “Our children's right to an education in peace and our teachers' right to educate them in a safe environment trumps that free-for-all Second Amendment interpretation that has brainwashed Americans into submission to the NRA” (Santiago 2018a). Governor Scott’s A+ rating from the NRA and commendation from the group for having “signed more pro-gun bills into law in one term than any other governor in Florida history” were immediately raised against him in the aftermath of the shooting (Hiassen 2018). An article described the students’ “long-game: a lasting movement to keep the pressure on pro-gun politicians and the National Rifle Association” (Smiley and Daugherty 2018). *The Miami Herald* noted that, “Suddenly, the NRA's A-plus rating looks like an albatross, a potential drag on Scott's expected run for the U.S. Senate” (Bousquet 2018a).

The students demonstrated strong message discipline from the very beginning. Strikingly, students first began documenting and delivering their talking points while still taking cover from the shooting. As they took cover, David Hogg, a journalism student, began documenting his peers’ reactions. Even under the duress of the shock of a still unresolved massacre in their

school, the students were able to deliver clear messaging about guns as the problem. One article reported:

And in stark contrast to the lack of political discourse about gun violence in state and federal government, some teens recorded interviews about gun control as they hid. “If you looked around this closet and at all these people hiding together you should know that this shouldn't be happening anymore,” a student said to senior David Hogg as they hid in a culinary classroom behind a David's Cookie machine.

(Gurney et al. 2018b)

Hogg's student journalism during the massacre captured the real-time reaction of his fellow students still hiding in a closet.

She hid in a dark classroom closet, as the world outside was only beginning to learn about the murder of 17 students and teachers at her high school, and quietly told a classmate that she could no longer imagine doing what she'd planned to do on her 18th birthday: Go to the gun range and learn how to shoot. “I personally have rallied for gun rights ... but this experience has changed my viewpoint,” said the student, a young woman speaking to David Hogg, a student journalist who captured her real-time reaction to the violence on video Wednesday afternoon. She spoke in a hushed tone, her face hidden by the darkness. “I wanted to be a junior NRA member. I wanted to learn how to hunt. I was always fascinated by guns as a young girl, but this experience was so traumatizing to the point where now I can't even fathom the idea of a gun in my house or on my bodice.”

(Teproff et al. 2018)

Another student recorded by Hogg while taking cover argued “No amount of money should make it more easily accessible to get guns” (Teproff et al. 2018). These students already articulated what would become the clear message of the student survivor movement: it is unacceptable that school shootings still occur, their continued occurrence is enabled by the availability of guns, and the continued availability of guns is enabled by monetary contributions by the powerful gun lobby to politicians. The students benefited from the distillation of the gun reform critique as the gun debate polarized over the course of the prior decade. They were able to articulate a disciplined and clear message immediately.

Another very important reason for the strength of the student advocates was their skilled use of both traditional and newer social media to pursue their disciplined demands for gun reform. It was on Twitter, soon after the shooting, where their authoritative moral voice as survivors first achieved widespread reach and support. The technology of Twitter provided the students a new frontier for using their authoritative voice as victims to deliver their talking points and reorient the conversation against the talking points of their opponents. Twitter allowed the students themselves to respond directly to pro-gun politicians and commentators. Now, as a conservative commentator mounting a defense of guns, you could find yourself in direct conversation with a student who had just watched their friends and peers die by the same guns you were defending. When then-popular pro-gun commentator Tomi Lahren tweeted a complaint about gun reformers pushing an “anti-gun and anti-gunowner [sic] agenda” the night of the shooting, students responded directly:

I was hiding in a closet for 2 hours. It was about guns. You weren't there, you don't know how it felt," tweeted a student named Carly [Novell]. "Guns give these disgusting people the ability to kill other human beings. This IS about guns and this is about all the people

who had their life abruptly ended because of guns." Another student, Kyra, echoed the sentiment. "A gun has killed 17 of my fellow classmates. A gun has traumatized my friends. My entire school, traumatized from this tragedy. This could have been prevented.

Please stfu tomi

(Teproff et al. 2018)

As of May 19, 2025, Lahren's tweet has received 34,000 likes and 34,000 retweets and quote tweets, while Carly Novell's tweet has received 638,000 likes and 242,000 retweets and quote tweets (Lahren 2018; Novell 2018). Another student, Sarah Chadwick, who included the slogan #NEVERAGAIN in her username, tweeted at President Trump in anger:

I don't want your condolences you fucking piece of shit, my friends and teachers were shot. Multiple of my fellow classmates are dead. Do something instead of sending prayers. Prayers won't fix this. But Gun control will prevent it from happening again.

(Hitt 2018)

Chadwick deleted this tweet, but not before it received over 325,000 likes and 136,000 retweets (Hitt 2018). She then invited Trump to meet with surviving students and reiterated her calls for gun law reform:

@realDonaldTrump hello I'm the 16 year old girl who tweeted you that I didn't want your condolences, I wanted gun control, and went viral because of it. I heard you are coming to my community soon. I would love for you to hear my opinions on gun control in person. - a survivor.

(Teproff et al. 2018)

Her second tweet also received widespread attention on the site, receiving 203,000 likes and 53,000 retweets as of February 16, 2018 (Hitt 2018). Chadwick wrote in another tweet on

February 16: “Dear Marco Rubio, As a student who was inside the school while an active shooter was wreaking terror and havoc on my teachers and classmates with an AR-15, I would just like to say, YOU DON'T UNDERSTAND” (Hitt 2018).

The students’ strong message quickly garnered widespread attention on social media, and this translated into the activists capturing the traditional media spotlight as well. David Hogg quickly became “a constant presence on national television” in the immediate aftermath of the attack (Rabin 2018). One article published the week after the shooting referred to the media attention on Kasky, Hogg, Emma González, and Alex Wind as “enormous” (Smiley and Daugherty 2018). This publicity allowed the student survivors to reach large audiences with their disciplined message backed by moral authority. And this reach inspired actions in support and solidarity. February 20, 2018, around one thousand students from a nearby high school defied authorities and staged a spontaneous walkout in support of the Parkland students (Rabin and Vassolo 2018). Nor were students alone in agitating. On February 21, the Parkland students were joined in a rally at the state capitol by an estimated 5,000 people to demand gun reform, the largest protest in the state since protests over the 2000 election issues (Bousquet 2018b).

Unprecedented Gun Reforms

The pressure of the student survivor movement produced unprecedented gun reforms in Republican-controlled Florida. The politicians of the Republican majority in the legislature found themselves caught between this force and the real threat of the NRA, who they feared would run candidates against them in upcoming elections if they budged on gun reforms. With some of the more moderate Republicans already signaling openness to some form of gun reform, and the strong presence of the student movement, the way to moderate reforms was opened.

However, the path was treacherous, and the moderate reforms sought by Republicans were opposed by both conservative Republicans and liberal Democrats.

Governor Scott initially identified his agenda for a response as “including school safety improvements and keeping guns away from individuals struggling with mental illness” (Bousquet 2018a). He planned roundtable meetings the week after the shooting with a variety of experts and leaders (Bousquet 2018a). High-ranking Republicans in the state senate began drafting legislation to raise the age of assault rifle purchases and introduce a three-day waiting period on rifle purchases (Klas 2018c). Republican State Senate leader Bill Galvano spearheaded a set of gun reform proposals, attempting to appease conservative and liberal skeptics by emphasizing “political realities” and the “history in the state of trying to be very balanced in the approach of the Second Amendment” (Klas 2018c). Galvano’s proposals also included ERPO, which an article covering the proposals attributes to “the recommendation of Broward County Sheriff Scott Israel, Galvano” (Klas 2018c). A similar measure had previously been introduced in both chambers by Florida Democrats, but were then blocked by Republicans (Klas 2018c). A poll of state legislators conducted by state newspapers found that while no responding Republicans supported an assault weapons ban, there was more widespread support for some kind of limitation, including support for Galvano’s developing proposal (Mahoney 2018). The Republican House Speaker Richard Corcoran, who held an A rating from the NRA, indicated his support for the waiting period and age raise measures (Bousquet 2018b). Republican Florida State Representative Jose Olivia, who led a proposal drafting parallel to Galvano’s, stated that the legislative action was directly spurred in response to pressure from the student victim-advocates (Koh and Klas 2018).

Despite this unprecedented growing openness of some Republicans to some sort of gun reform, and despite the strong and explicit pressure from student activists, the Republican proposals stopped short of the assault weapons ban demanded by the student victims. The student activists had made the situation such that politicians would have to say no directly to the faces of the children who had survived the slaughter. In trying to square public pressure with the pressure of the gun lobby, Florida Republicans did just that. The governing Republicans denied calls by the survivor movement and state Democrats for an assault weapons ban, despite strong pressure from activists, about three hours of public testimony in favor of the measure, and polls showing majority public support (Bousquet et al. 2018; Klas 2018e; Klas 2018f). The state House quickly dismissed an automatic weapon ban proposal as the Parkland survivor activists watched on from the gallery during their visit to the state house (Koh and Klas 2018; Santiago 2018a; Smiley 2018a).

The measures were predictably opposed by the conservative wing of the party and the gun lobby. This was the first advance of gun bills overtly opposed by the NRA in over 10 years, and the first time a Republican-controlled Senate voted to limit gun rights in the state in almost 20 years (Klas 2018e; Klas 2018f). The age raise was openly opposed by a state gun rights group called Florida Carry, which called it a “non-starter” (Klas 2018). The head of Florida’s NRA chapter denounced the measures proposed by Scott and the Republicans as “gratuitous gun control” which was symbolic “political eyewash” and which would only “punish law-abiding gun owners” (Klas 2018d). The organization did offer tentative support for an ERPO measure, with the caveat that they would have to review the actual language of any future legislation to determine their support (Klas 2018d). The NRA sent out an alert to its members, writing,

YOU and every other law-abiding gun owner is [sic] being blamed for an atrocious act of premeditated murder... Neither the 3-day waiting period on all rifles and shotguns, raising the age from 18 to 21 to buy any firearm, or the bump stock ban will have any effect on crime.

(Klas 2018j)

Republicans faced real worries that the NRA would back competitor primary candidates against disobedient conservatives in upcoming elections (Klas 2018k).

The suite of legislation was an attempt at an uneasy compromise between oft-opposed factions. The measure for arming teachers was opposed by the Parkland community and governor Scott, while conservative Republicans objected to the mandatory waiting period clause and Democrats and activists objected to the exclusion of an assault weapons ban (Bousquet 2018c; Bousquet 2018d). The fight over the legislation was characterized as the difficulty of finding a political center, with the legislation opposed by both the conservative wing of the Republicans as well as the most liberal wing of the Democrats (Klas and Mahoney 2018; Klas 2018k). The disagreements were deep enough to seriously jeopardize the effort to pass some legislation before the impending end of the legislative session (Bousquet 2018d; Klas 2018g). The issues coming to consensus on the bill caused the vote on the package to be delayed, something the press attributed to pressure from the NRA (Klas 2018h). Support for different measures was split along party lines, with all Democrats and a handful of Republicans voting for an assault weapons ban and against arming teachers, losing to the conservative Republican majority in both cases (Klas 2018i). Democrats in the house were particularly divided over compromise on the measure to arm teachers, to which the Black caucus were strongly opposed (Klas and Koh 2018). One Black Democrat State Representative argued:

It's hard for people not to think about the kids in their own community... What happened in Parkland breaks my heart. [B]ut look at last year and see how many people died of gun violence in Parkland. It's zero and yet you come to my community and gun violence is a daily worry.

(Klas 2018k)

Debate over the legislation was intense, with a Senate debate scheduled to end at 1pm instead stretching an additional 8 hours beyond that (Klas 2018i). The final bill narrowly passed the Senate on a 20-18 vote – just a single vote away from failing on a tie vote (Klas and Mahoney 2018). It faced a similarly long and tense debate in the House, narrowly passing that chamber as well with a final vote of 67-50 (Bousquet et al. 2018).

Governor Scott indicated he would consult with Parkland families when considering the bill as passed by the legislature (Bousquet et al. 2018). Families of all 17 victims signed a letter in support of the bill (Bousquet et al. 2018). Those parents were gathered around Scott watching as he added his signature cementing the new legislation on March 9 (Bousquet 2018e). As anticipated, the NRA quickly sued in response over the age-raising provision (Klas and Koh 2018).

This surprise victory cemented ERPO as model moderate gun reform achievable even in red states and boosted the popularity of the model across the board. After Parkland, five other states in addition to Florida passed ERPO in 2018 (McCullough 2018a). But despite the hopes of gun reform advocates, ERPO was not ironclad against gun lobby opposition, as its near defeat in Florida demonstrates. When a similar shooting occurred in Texas, gun reform advocates' hopes were raised by conservative governor Greg Abbott's initial interest in the model. But in that case, unlike Florida, the model quickly failed to pass.

Party Discipline: The Death of ERPO in Texas

On May 18, only a few months after Parkland, Texas experienced its own horrific school shooting in the town of Santa Fe outside of Houston (Webb 2018a). This was Texas's "second high-profile mass shooting in six months" (McCullough 2018a). The shooter was a student at the school, 17-year-old junior Dimitrios Pagourtzis (Banks 2018). Around 7:30am, Pagourtzis entered his school armed with a shotgun and revolver, killing 9 students and 1 teacher's aide, and injuring 13 others (Collette and Webb 2018). Pagourtzis was taken into custody alive (Collette and Webb 2018; Collette et al. 2018). Pagourtzis did not legally own the weapons used in the attack, but they were legally owned by his father (Collette and Webb 2018). Pagourtzis also dispensed explosives at the school (Collette and Webb 2018). One of Pagourtzis's victims was a girl who had turned down repeated aggressive sexual advances from him (Collette et al. 2018).

This shooting and its aftermath initially closely resembled the response in Florida to Parkland, which was still fresh in everyone's mind at the time of the Santa Fe shooting. The shooting instantly became a lightning rod for the polarized gun debate in the state, with the liberal minority calling for gun control and the conservative minority emphasizing improvements to school safety and minimizing the importance of guns themselves. Republican Texas Governor Greg Abbott signaled a willingness to consider moderate reforms after the shooting, particularly ERPO. Nevertheless, Texas did not pass ERPO. In my analysis, two important factors prevented Texas from repeating Florida's example. The first was the absence of strong student victim advocacy for gun control. The second was the timing of the Texas Republican Party's convention, which allowed the conservative wing of the party to effectively quash the proposal. Where the Parkland students were able to take advantage of polarized gun politics and the new social media environment to extract moderate concessions from a conservative government,

these factors produced the opposite effect in Texas. In Texas, the conservative wing of the ruling conservative party was able to prevent moderate gun control.

A Familiar Story: Partisan Response

The Santa Fe shooting came just six months after a gunman killed 23 people in a massacre at a church in the town of Sutherland Springs, Texas (Zelinski 2018a). Adding to the tragic sense of déjà vu was the revelation that students at Santa Fe High School had only recently staged a walkout in support of the Parkland survivors (Snyder and Ellis 2018). A theme of the coverage in the immediate aftermath of the Santa Fe shooting was a sense of resignation and fatigue, most tragically among the student victims themselves. A column responding to the shooting refers to a viral clip of an interview with a student after the shooting:

In a TV interview shared nearly 2 million times online, a young girl with long brown hair and shy, downcast eyes explained to a reporter how she kept calm during the school shooting that killed 10 people. When a reporter asked if, at some point, she thought, “This isn't real. This wouldn't happen at my school,” she shook her head and managed a slight smile of awkward resignation. “It's happening everywhere,” she said. “I've always kind of felt like eventually it was going to happen here, too.”

(Falkenberg 2018a)

A student from a nearby district was quoted as saying: “I was kind of just counting down the days until there was a school shooting close to home because it's inevitable” (Snyder and Ellis 2018).

While a direct mental illness connection was not as present in the Santa Fe shooting, the mental illness frame was still ready at hand via reference to the Sutherland Springs shooting.

That shooter had previously “escaped from a mental health facility, received a domestic violence conviction and had a standoff with police” (McCullough 2018a). An article discussing the ERPO proposal in *The Texas Tribune* also referred to warnings about Cruz before he committed the Parkland shooting in Florida (McCullough 2018a). That article noted that ERPO was already becoming a re-narrativization model used by “more and more” states (McCullough 2018a). The increased diffusion of ERPO and the presence of the mental illness frame in the aftermath of the Santa Fe shooting helps explain why Republican Governor Abbott initially considered the model.

The immediate framing of the shooting fell along predictable partisan lines, much like in Florida. Voices raised in protest after the shooting, repeating themes still fresh from Parkland only months earlier. Parkland survivor Emma Gonzalez tweeted:

Santa Fe High, you didn't deserve this... You deserve peace all your lives, not just after a tombstone saying that is put over you. You deserve more than Thoughts and Prayers, and after supporting us by walking out we will be there to support you by raising up your voices.

(Snyder and Ellis 2018)

A columnist wrote in *The Houston Chronicle* that “[w]e mumble the vocabulary of a massacre like a sacred yet passionless ritual: Horror. Grief. Thoughts. Prayers,” warned against “[f]ear-mongering by the National Rifle Association,” and called for “common-sense gun reform” (Falkenberg 2018a). A Democrat State Representative tweeted “Y'all been sending thoughts and prayers for two freaking decades now. Time to try something new” (Collette and Webb 2018). Students from across the state published an open letter to Abbott as a full-page ad in *The Houston Chronicle* the week after the shooting, criticizing Abbott’s relationship with the NRA

and asking, “Do you think that the children who were shot in class this week died because they hadn't prayed enough?” (Zelinski 2018b). The students then asked Abbott, “We are dying on your watch. What will you do about it?” (Zelinski 2018b). *The Houston Chronicle* (2018a) published a strongly worded statement condemning the “ritualistic murmurings about thoughts and prayers” uttered by “craven elected officials” whose “shameful obeisance to the National Rifle Association trumps good sense.” That column argued that “[t]he people's response has to take the lead” and referred to images of Santa Fe High School students who had only months prior walked out in support of the Parkland students (*Houston Chronicle* 2018a). Abbott, then running for re-election, had posted a fundraising campaign contest where the prize was to be a gift certificate for a Texas-made shotgun (Ward 2018a). After he drew criticism when his campaigners continued to distribute materials for the promotion, he withdrew the shotgun prize (Ward 2018a). One of the groups criticizing Abbott was a chapter of March for Our Lives which had formed in Austin, TX (Ward 2018a).

The conservative camp also responded along partisan lines. On the day of the shooting, Houston Police Chief Art Acevedo posted on Facebook calling out politicians for failing to pass gun reform (Barned-Smith 2018). He was directly targeted in response by the NRA, who accused him of wanting to “make criminals out of law-abiding gun owners” from their NRATV Twitter account (Barned-Smith 2018). Lieutenant Governor Dan Patrick blamed the shooting on “violent video games and movies, abortion, the breakup of families and cultural devaluing of life” and called for the increased arming of teachers after the shooting (Blakinger et al. 2018; Zelinski 2018a). Patrick emphasized: “We cannot sit back and say it's the gun; it's us as a nation. We take the guns out of society - if you or anyone else thinks that that makes us safer, then - then - then I'm sad to say that you're mistaken” (Blakinger et al. 2018). Thus, the typical partisan division in

framing the shooting was repeated: liberals emphasized guns as the issue and conservative emphasized that the problem was with specific users rather than the guns themselves.

Abbott's Détente

Despite his strong record as a gun proponent and the highly partisan attitude of the Republican majority in the state, Texas Governor Greg Abbott surprised observers by initially signaling openness to some gun reform. In a report published by his office following a series of roundtables on the problem of gun violence, Abbott called on the legislature to hold committee sessions to discuss ERPO, among other suggestions. Governor Abbott initially supported ERPO in response, formally recommending the legislature to look into the measure (McCullough 2018a; Svitek and McCullough 2018). Abbott, like Scott in Florida, had an A+ rating from the NRA but, following a school shooting, considered gun reform (Falkenberg 2018b).

The day after the shooting, Governor Abbott announced he would coordinate three days of closed-door round table discussions, beginning the following week (Collette et al. 2018; Webb 2018b; Zelinski 2018b). The first meeting consisted of law enforcement and school officials and focused on school safety (Zelinski 2018a; Zelinski 2018b). The second meeting focused on possible legislation related to gun violence and mental health, and the third meeting focused on hearing from victims of recent shootings and their families (Foster-Frau and Zelinski 2018; Zelinski 2018b). A leader of the gun reform advocacy group Texas Gun Sense was included in one of the roundtables, a signal of compromise from the Republican government of the state unprecedented in the previous 20 years (Falkenberg 2018b; *Houston Chronicle* 2018c). Abbott was reported to be considering “ideas to speed up background checks, find strategies to keep guns out of the hands of people who are dangerous, beef up security at schools and pay attention

to the links between mental illness and gun violence” (Zelinski 2018a). The Texas Gun Sense representative hoped to achieve ERPO following its success in Florida (Falkenberg 2018b). One *Houston Chronicle* editorial said of Abbott that, until the Santa Fe shooting, he had “been the typical ‘thoughts and prayers and nothing else’ kind of politician” (*Houston Chronicle* 2018b). Abbott seemed to back up the editorial staff’s hope that he would offer more substantial gun reform when he stated, “[w]e need to do more than just pray for the victims and their families,” (*Houston Chronicle* 2018b). The editorial repeated the Parkland survivors’ critique of “thoughts and prayers” as obfuscation, and Abbott seemed to absorb this critique and signal his willingness to go further. Another Republican similarly stated, “I do not denigrate the power of prayer, but this is the season of action” (Zelinski 2018a).

To respond to the shooting, Abbott published on May 30th a school safety plan which included ERPO among its many recommendations for potential legislation. The report reads, “Properly designed, emergency risk protective orders could identify those intent on violence from firearms, but in a way that preserves fundamental rights under the Second Amendment” (Abbott 2018a; McCullough 2018a). The measure had been introduced by state Democrats in the past, and quickly failed in those cases (McCullough 2018a). Abbott asked both chambers of the legislature to hold committee hearings on the policy (McCullough 2018b). Abbott said the plan was derived from the roundtable discussions the previous week (Zelinski and Ward 2018). While ERPO was a stronger move for gun control than anything Abbott had previously suggested, Abbott’s recommendations also stopped short of many of the other measures passed by Scott in Florida (Ward 2018b).

Why Did Texas Not Follow Florida?

Early on, the situation in Texas paralleled in many ways the situation in Florida following Parkland. Abbott, like Scott, was a staunch pro-gun Republican governor who, following a school shooting, was signaling his openness to gun reform. Proponents of gun reform were cautiously optimistic that Abbott might follow Scott in pursuing the moderate gun reforms which had just recently been achieved in that similarly pro-gun state. Yet Abbott quickly distanced himself from his ERPO proposal and the measure quickly was ruled out as a possible re-narrativization of the violence. Why did Texas and Florida diverge here? Two important factors made the difference. The first was the comparative lack of gun reform advocacy by the students of Santa Fe toward gun reform. The second was the timing of the shooting. Whereas Parkland shooting had occurred with time left in the legislative session to draft a quick re-narrativization, the Texas legislation had recessed by the time the Santa Fe shooting occurred. Instead, the Texas Republican Party's convention, which occurred in the month following the shooting and prior to the reconvening of the legislature, allowed the party's conservative wing to sideline the measure. It was on the convention floor that ERPO was declared dead in Texas, and it has remained as such even as other horrific mass shootings have occurred in the state since.

Students in Santa Fe did not respond the same way that students in Parkland had. One article reported that "the fervent gun control activism that emerged after a similar mass shooting in February at Marjory Stoneman Douglas High School in Parkland, Fla., has largely bypassed Santa Fe" (Powell and Ellis 2018). Two students who survived the shooting and who knew Pagourtzis were referenced in a *Houston Chronicle* article as not blaming gun laws for the killing (Banks 2018). Another student was quoted in an article published days after the attack as stating "I think people need to start treating each other better and start listening to things more and start

realizing what the real reason is why these things keep happening... It's not guns. They need to see the bigger picture” (Collette et al. 2018). Another student said of the shooting, “Once it became actually personal, I think it made me realize that it's not one set thing, or it's not necessarily guns that are the problem” (Carpenter 2018). This student and three others hosted a news conference in which they advocated for bipartisan and moderate solutions, such as increased school security, and in which they “repeatedly said they do not want to take away the rights of law-abiding gun owners” (Carpenter 2018). One participating student said, “My dad is a gun owner. My grandfathers are gun owners. I don't want to take away their guns, or your guns for that matter” (Carpenter 2018). Another student told *The Houston Chronicle*:

My biggest fear is that our school is going to become what happened with the Parkland shooting... The best thing that we can do is just be there for each other. It really is about humanity, at this point. It's not about what laws are in place or anything like that.
(Powell and Ellis 2018)

Parents similarly emphasized school safety more than gun reform (Webb 2018c).

One Santa Fe native described Santa Fe students as “less vocal, and less public, than those of Parkland... because in Texas ‘we love our guns’” (Foster-Frau and Zelinski 2018). A *Houston Chronicle* article described the difference as follows:

In Houston, more than 10,000 people attended the March for Our Lives rally, where many called for bans on military-style weapons and denounced the National Rifle Association. The response after Santa Fe, however, has been different. Unlike Parkland, which skews liberal, Santa Fe is a largely conservative town with a deeply ingrained gun culture. As a result, many students and residents have pushed back against those who seek to use campus shootings as evidence of the need for more restrictive gun laws. The

Santa Fe shooting also has not drawn nearly as much media attention or sparked such strident national discussion.

(Carpenter 2018)

Student organizers from the Houston chapter of March for Our Lives sought to co-ordinate with Santa Fe students, but felt compelled to specify that, “[w]e are not here today to talk on behalf of Santa Fe or to push our own agendas,” (Carpenter 2018). The response of students in Santa Fe was markedly different from their peers in Parkland. They tended to emphasize causes other than guns and to themselves reject comprehensive gun control, far cry from the strong message discipline calling for strong gun reform by the Parkland student survivors.

While the ambivalence of Santa Fe student survivors meant calls for gun reform lacked the force present in Florida, the real death knell for ERPO in Texas occurred at the convention of the Texas State Republican Party. The party convention began on June 14, just two weeks after Abbott issued his recommendations (*Texas Observer Staff* 2018). *The Texas Observer* described the convention as “like summer camp for the GOP’s most diehard conservative activists, many of whom are eager to double down on the most reactionary impulses of the Texas Republican Party” (*Texas Observer Staff* 2018). As another observer put it,

These are the strongest of the strong within the Republican Party," he says. "These are the people who are most likely to work on all of these campaigns in the fall, so that is, of course, job one of a convention is to make sure these people, who are going to put in the most work leading into 2018 election, that they are excited and enthusiastic and energized about putting in the work that needs to get done.

(Ament 2018)

On the second day of the convention, Abbott sought to reassure delegates that any gun reform would be mild, promising “to protect gun rights after the Santa Fe shooting” (*Texas Observer Staff* 2018). Lieutenant Governor Dan Patrick also spoke, reiterating that “A gun is not the problem anymore than a car is the problem when a drunk driver who kills someone” (*Texas Observer Staff* 2018).

The conservative spirit coursed through the convention. A “party unifier” challenger candidate for state party chair was defeated by the incumbent “far-right”-friendly candidate (*Texas Observer Staff* 2018). Convention-goers were upset by the nearby hotel’s no-guns policy, with some instead opting to stay 20 minutes away to keep their guns on them (*Texas Observer Staff* 2018). Guns were emphasized throughout the convention. Conservative Texas Attorney General Ken Paxton led a session on mass shootings, arguing for arming teachers and against gun laws (Raji 2018). Paxton, in fact, borrowed a talking point from gun advocates, arguing that “the more we talk about gun regulation, the more people are gonna die” (Raji 2018). This is an exact inversion of the rhetoric of the Parkland student advocates, who argued that the more we *avoid* talking about gun regulation, the more people are going to die. As in other cases of defeat of legislation in the aftermath of public outrage, opposition successfully argued against emotionally-tinged claims to safety not just by dismissing them but by instead offering emotionally-laden counterclaims, seeking to speak to safety and threat from their preferred re-narrativization.

Terry Holcomb, a member of the State Republican Executive Committee, said that opposition to ERPO was “one of the top three issues for Republicans” (Prazan 2018). In fact, “constitutional carry” (gun rights) was ranked second in an early vote on legislative priorities prior to the convention (Tilove 2018). An article on the subject reported, “Holcomb says the

party's beef with the idea is someone could be penalized before they do anything illegal. 'We all know that is not how this country was founded, you're innocent until proven guilty,' Holcomb said" (Prazan 2018). This could hardly be further from rhetoric used by conservatives and liberals alike in defense of civil commitment, at which time both parties argued that such rights needed to be curbed in the name of public safety. The presence of a powerful gun lobby made the difference here, as in the other cases where ERPO was fought, from the cases where civil commitment was adopted almost always near-unanimously.

A poll taken at the convention placed Abbott's approval rating as low among the party convention delegates: "[US Senator Ted]Cruz received a 'strongly approve' rating from 80 percent of the convention delegates; Trump, 65 percent; Abbott, 44 percent; and [US Senator John] Cornyn, 11 percent" (*Houston Chronicle* 2018d). Ted Cruz had avoided talk of ERPO, while Abbott risked falling to the status of Cornyn, who was censured by the state party for being too soft on gun rights.

Abbott's early exploration of ERPO was roundly rejected at the convention, rendering it politically dead before the legislative committees could hold their hearings. On June 16, 2018, the Texas Republican Party formally incorporated opposition to ERPO into their platform (McCullough 2018a). As passed, point 73 of the party platform reads:

Red Flag: We oppose monitoring programs, including the Red Flag (that would deprive someone of their right to keep and bear arms without being convicted of a crime or found mentally incompetent by a medical psychiatric professional) or iWatch proposals, and any program that causes gun owners to be investigated by law enforcement or appear before a judge when there is no reasonable cause of a crime committed.

(Permanent Platform and Resolutions Committee 2018)

After this formal denunciation, ERPO quickly withered away. Following Abbott's recommendation, consideration of ERPO was still scheduled for a hearing with the House Criminal Jurisprudence Committee on June 25 (McCullough 2018a). However, during that committee meeting, Abbott tweeted a statement distancing himself from the policy, even as students close to those killed in the massacre testified (McCullough 2018b). Earlier that day, Abbott had posted a graphic featuring an American flag overlaid by the Bill of Rights and an image of a revolver with the text "the gun control debate was settled in 1791," a quotation the image attributed to him (Abbott 2018b). Abbott accompanied the graphic with the statement,

The reason I pushed for and signed open carry and campus carry wasn't for hunting or sport, it was to ensure Texans can DEFEND themselves. I will never sign a law that limits self defense [sic]. My school safety plan can make schools safer w/o infringing #2A rights. #txlege #tcot #guns

(Abbott 2018b)

The hashtag #tcot is an acronym meaning "Top Conservatives on Twitter," used by conservatives to communicate with each other (Sheets 2013). A user with the display name Robert Adkins and handle @rebelcowboy32 replied to Abbott's post, writing

I'm against your plan as long as the Red Flag part of it is in there. You have no right to make it so easy to take away someone's 2A without Due Process. Too bad you're failing to tell people this.

(Adkins 2018).

Abbott quote-tweeted this reply, stating

I agree with you 110%. I wish you'd read the plan before commenting. It specifically requires full due process before anyone's right can be compromised. Moreover I don't advocate red flag laws. Only that it is something the legislature can consider. #txlege #2A (Abbott 2018c)

The form that Abbott took for his first statement against ERPO is notable. He is responding to what appears to be an ordinary constituent, and an example of the type of gun-rights conservative voter Abbott was concerned about alienating. This exchange, like the use of Twitter by the Parkland students in response to conservative talking points, demonstrates the potential power of direct communication with representatives. In the Parkland case, liberal constituents moderated conservatives. In this case, a conservative position disciplined moderation.

On June 26, 2018, Lieutenant Governor Dan Patrick spoke out against the ERPO measure, and Governor Abbott continued to hedge his position afterwards, saying he had only suggested that the legislature could look into the matter and that this wasn't per se an endorsement (Svitek and McCullough 2018). The following month, Patrick released a press statement, again stating his opposition and emphasizing that ERPO would not pass through the chamber that he oversaw (McCullough 2018b). An August report issued by the State Senate's Select Committee on Violence in Schools made little mention of ERPO, something commentators took to indicate their disinterest in pursuing the model (Zelinski 2018c).

The defeat of ERPO after the Santa Fe shooting was resounding. Following a horrific massacre of 19 children at Robb Elementary School in Uvalde in 2022, polls showed a majority of Texans supported strengthened background checks, ERPO, and other gun reforms (Everytown for Gun Safety 2022). However, Lieutenant Governor Dan Patrick reiterated his opposition to ERPO after that shooting, stating "After the Santa Fe shooting, we had the same move to do this

and we did not support it... I did not support [that], the Senate did not support that” (Svitek 2022). For Patrick, it was a question that was closed in 2019. The fact of a new shooting, and one in which 19 children were slaughtered, did little to change that. The state Republican party booed and formally censured U.S. Senator John Cornyn for supporting ERPO at a national level (Svitek 2022).

Conclusion

Florida and Texas, two deep-red states, each experienced horrific mass shootings at a high school by a young man who had recently attended that school. These shootings occurred just over three months apart in 2018. In both cases, conservative governors signaled interest in moderate reforms, especially ERPO, against the wishes of the gun lobby and conservative elements of their party. Florida passed ERPO and other moderate but unprecedented gun reforms. In contrast, ERPO was the most substantial measure proposed in Texas, and it was quickly defeated by the conservative wing of the party. This prompts two questions. First, how did gun reform pass in pro-gun Florida? Second, why did Texas not follow suit when in a similar situation?

The most important factor in the passage of gun reform in red Florida was the unprecedented presence of student survivors as vocal advocates. These students were able to stick to strong message discipline to consistently return discussion of the shooting to the problem of guns and to demand gun reform. The new technology of social media allowed for the survivors of violence to wield their moral authority by directly responding to their conservative opponents, who were then forced to figure out how to argue against survivors of gun violence telling them what they wanted. This force had no parallel in Santa Fe, Texas, where students

were less vocal and less committed to a strong program of gun reform. The second important difference is the timing of each shooting with in its respective state's political calendar. The Parkland shooting occurring within the regular legislative session pressured politicians to compromise and act quickly. In Texas, politicians had more time to work out their response, as the legislature had adjourned and would not return to regular session for several months. Instead, the timing worked against gun reform. The ruling Texas Republican Party held its scheduled convention roughly one month after the shooting, and this provided a mechanism for conservative elements in the party to quash the nascent consideration of ERPO by party moderates. Both cases demonstrate the increasingly polarized nature of the gun debate, and provide an important update to the social response to sensational incidents of horrific violence, which today are more polarized, more mediated by partisan competition, and more mediated by social media which adds a new dynamic to the interaction between representative and citizen.

CHAPTER 7

CONCLUSION

In 2024, Louisiana passed a suite of harsh criminal justice measures, including ending parole, reviving execution by electric chair, and adopting surgical castration of sex offenders (Vanderveen 2024). Louisiana is the first state in the country to allow surgical castration as punishment (Diaz 2024). The law was proposed by a Louisiana State Representative, who was inspired by news coverage of a repeat sex offender's assault on a child (Chen 2024; Diaz 2024). There is little evidence that surgical castration is an effective means of preventing sexual violence, and there are numerous ethical and constitutional concerns about the practice (Chen 2024; Vanderveen 2024). Sociologist Emily Horowitz told *The New York Times* the law was motivated by “vengeance,” targeting “a despised and powerless population” without concern for the actual reduction of sexual violence in society (Chen 2024). The State Representative who led the push argued that the punishment fits the crime stating, “[s]ome of the critics say, you know, that's cruel and unusual punishment. Well, I disagree. I think the cruel and usual punishment was the rape of that 5 year old” (Diaz 2024).

This recent Louisiana legislation neatly encapsulates the dynamic I have described in this study. The legislation responded to news coverage of a single sensational event. Proponents of the measure touted it as a way to re-narrativize the problem of sexual violence in a quick closure, despite a lack of evidence that this policy will do anything to address sexual violence in society broadly. While human rights groups voiced concerns about the legislation, it still passed. There was nothing to the degree of counter-organization offered by gun rights organizations in the defeat and moderation of gun reform legislation. The State Representative who pursued the

measure did so in the name of victims, responding to criticism by implying that extreme actions justify extreme measures in response, without regard to effectivity.

In this study, I have described moral panic legislation as quick re-narrativization of the symbolic rift opened up by moral panics. Moral panics are produced by sensational media coverage and moral entrepreneurs. They engender a sense of a growing threat demanding urgent action to address. Moral panics also tend to locate the source of threat in targeted outsider groups. Because moral panics produce an urgent need for closure and strong demand for state action, they serve as an important political resource. Groups compete for the ability to monopolize the re-narrativization of moral panics by advancing proposed solutions which advance their interests.

Some moral panic reactions to sensational violence are much more contested than others. In this study, I have examined the reactions to sexual violence and gun violence. Sensational incidents of sexual violence have tended to reliably produce stronger re-narrativizations, such as the lifelong psychiatric civil commitment policies analyzed in this study, or the more recent surgical castration legislation in Louisiana. While horrific incidents of gun violence also elicit widespread outrage, legislative responses do not follow as commonly or quickly as in cases of sexual violence panic. When legislation does respond to gun violence incidents, it tends to be much milder, as the temporary ERPO measures examined here demonstrate in comparison to the often-lifelong commitment of sex offenders.

I argued that this difference is due to the much more polarized responses to gun violence. Re-narrativizations of gun violence panic are mediated by partisan conflict to a much higher degree than sexual violence panics. Sexual violence panics tend to conform to Zielińska and Pasamonik's (2022) CMP model, and gun violence panics tend to conform to their PMP model.

There is a highly organized, well-connected, and well-funded gun lobby which resists gun reform as a re-narrativization of gun violence. Nothing parallel exists in the case of sexual violence re-narrativizations. Human rights groups such as the ACLU criticize and sometimes successfully oppose strong re-narrativizations of sexual violence, as the defeat of civil commitment in Ohio demonstrates, but they tend to have a minority position which is not comparable to the entrenched partisan politics of the gun debate.

I have argued that this difference is enabled by the presence of the gun as an external mediating machine in incidents of gun violence. The gun as a mediating machine allows for contestation over the role of the gun. Liberals tend to emphasize the specificity of the gun in the commission of gun violence, arguing for increased control of the deadly weapons which enable mass casualties. Conservatives, on the other hand, tend to de-emphasize gun control, arguing instead that the problem lies not with the machine but with its user. The possibility of treating guns as neutral machines allows conservatives to re-frame guns as potential sources of safety in addition to harm. This in turn allows for conservatives to advance their own emotionally charged counter-narratives in which gun control threatens safety.

While I have made much use of the concept of moral panic in the analyses of responses to violence in this study, I do not do so in order to minimize the reality of sexual or gun violence. All of the legislation considered here responded to very real and horrific incidents of violence. Despite widespread outrage over gun violence, many advocates for gun reform have argued there has been a disproportionately *mild* legislative response to these incidents. I have adopted the descriptive definition of moral panic used by Cohen ([1972] 2002) to describe the emotional tenor of the social response to violence, rather than the normative dimension of the definition used by Goode and Ben-Yehuda (1994) in which moral panic is necessarily a disproportionate

over-reaction. Instead, I am interested in analyzing the relationship between emotion and reason in collective action, specifically in passage of legislation. I selected the cases I analyzed in this study due to their horrific and highly emotionally charged nature. As sites of moral panic themes of outrage and demand for action, they provide the opportunity for insight into the relationship of emotion and reason in the legislative process. I have argued that the strong demand for re-narrativization that characterizes moral panics provides an important political resource for groups struggling to monopolize that re-narrativization.

While moral panic outrage in reaction to horrific violence does not necessarily imply over-reaction, the emotionally charged demand for re-narrativization can still be given toward quick closure against sober assessment of social problems. As sociologists studying moral panic have argued, the demand for quick resolution can lead to a displacement of the social response to social problems. Moral panic does not have to be seen as universally implying displacement, but we can nevertheless recognize that emotionally charged demands for quick closure can still tend toward displacement. The traditional moral panic category of the targeting of outsiders is a good example of this dynamic in action. Moral panics often involve quick re-narrativization by locating the source of the social problem within a group of outsiders to be targeted for control, rather than examination of the ways in which that social problem may have structural and routine causes. I have argued that the psychiatric basis of civil commitment and ERPO provides such a function, locating the cause of sexual and gun violence in mentally ill individuals which are then targeted. The lack of legislative response to incidents of gun violence also does not indicate the triumph of sober reason over panic over-reaction in these cases. I have argued that the counter-organization against moral panic legislation in cases of gun violence hinges upon similarly

emotionally charged narratives of safety operationalized by gun partisans against reform advocates.

The potential problems with such quick re-narrativization by the targeting of outsiders can be seen when the incidence of sexual and gun violence is examined on the whole. These are both “inside” problems of the routine operation of society, not just rare incidents caused by mentally ill outsiders. The nationally representative National Intimate Partner and Sexual Violence Survey found that 64% of women and 25% of men surveyed reported experiencing sexual violence in their lifetime; 20% of women surveyed reported having been raped, and of those, 92% reported that they had been raped by an intimate partner or acquaintance (Baldwin et al. 2017). Similarly, the most pressing danger of gun death in the United States is suicide, and gun homicides are much more common among acquaintances than strangers (Gramlich 2025; Siegel et al. 2014). Sexual and gun violence are routine and everyday occurrences in American society and addressing these social problems will require deeper social change beyond the quick targeting of mentally ill outsiders.

Mass Media, Ideology, and Democracy

I began this study by asking about the relationship between emotion and reason in our collective political life. I noted the tension between “power” and “choice” orientations in political theory, noting that political scientists tend to emphasize the rational response by policymakers to external pressures and economic incentives. Across my cases, I argued that the re-narrativization of media-driven moral panic demonstrates a place of emotion in legislation worth taking seriously. The production of moral panics is enabled by sensational media coverage, and the increasing role of social media in our media ecosystem has been accompanied

by an increased polarization of panic re-narrativization struggles in the case of gun violence. I want to conclude this study by reflecting on what the phenomenon of moral panic legislation means for American politics. The re-narrativization process I have shown in this study demonstrates a tension between mass media and democratic ideals in need of further examination. These cases affirm what Green (2010) called the “ocular” perspective of politics, which emphasizes political subjects as emotionally mediated and sometimes passive media consumers in addition to the traditional “vocal” perspective of rational choice political decision-making.

The concepts of ideology and ideological reproduction can help frame an ocular perspective of politics and continue to bridge the social insights of sociology with the political insights of political science. Hall ([1975] 2021) and his collaborators (Hall et al. [1978] 2019) developed a model of moral panics that drew upon the Marxist concept of ideology to situate the phenomenon socially and politically. The Marxist theory of ideology describes deviations in social understanding from reality that are not arbitrary but rather are shaped by the structure of power in a society (Castoriadis 1998; Horkheimer [1937] 1972). For Adorno, ideology is a “socially necessary illusion” (Abazari 2020; Adorno [1963] 1993:31), a set of legitimizing myths which justify a social order. Hegelian Marxists use the term “reification” to refer to the ideological process by which contingent historical phenomena become normalized into a taken-for-granted sense of permanent facts (Adorno [1966] 1993; Lukács [1923] 1971). This concept of reification, especially as elaborated by Lukács and Sartre, was a major influence on Berger and Luckmann’s (1966) development of a constructivist sociological theory.

Hall et al. ([1978] 2019) draw directly on Cohen ([1972] 2002), similarly emphasizing the urgency of the panic, its disproportionality in extrapolation to a sense of a general threat, and

the eclipse of considered response. Hall et al.'s ([1978] 2019) model, elaborated through a close study of the case of panic concerning muggings in the 70's in the UK, further clarifies the role of law enforcement, media, and political ideology in the phenomenon. Hall et al. ([1978] 2019:32) further define moral panic in terms of ideology: When "such discrepancies appear between threat and reaction, between what is perceived and what that is a perception of, we have good evidence to suggest we are in the presence of an ideological displacement. We call this displacement a moral panic." Hall et al. ([1978] 2019) describe how law enforcement, media, and political organs in combination produce this displacement, which is not an arbitrary misunderstanding but a reproduction of the structure of power in society.

However, Hall et al., like the Hegelian Marxists which inform their approach, nevertheless take care to specify the relative autonomy of culture (Castoriadis 1998; Hall et al. [1978] 2019:60; Löwy 1979). Their model of the ideological reproduction of power through the moral panic is not a simple case of elites explicitly dictating false messages through the media to lie and mislead the public. Rather, ideology is reproduced through each involved institution in part through the structure of incentives that define the range of action as well as the set of common-sense assumptions which inform actors' understanding.

Hall et al. ([1978] 2019) helpfully emphasize the important role of media in the production of moral panics, raising the critical question of the role of mass media on contemporary society. Though the concept of news journalism as a major social institution feels obvious to us today, it is a fairly modern institution. Journalism professionalized in the early 20th century, and in recent decades has it has faced increasing pressure to remain financially viable (Allan 2009). Professional journalism was encoded according to liberal ideals of objectivity, independence, rigor, professionalism, and the holding to account of power (Allan 2009). In an

era of increasingly mediated social relations, the liberal ideal holds the press to be a public sphere in which information is disseminated and the potential solutions to the most pressing social problems are rationally discussed by an informed populace (Hampton 2009). This is often referred to as the democratic ideal of the press as the “fourth estate,” a fourth branch of government keeping the public informed and holding power to public account.

However, Hall ([1975] 2021) argued that while news media does play an increasingly major role in disseminating information in a mass media society, this does not occur on neutral ground. Instead, media news reporting is deeply shaped by the private business context in which news media operates. The need to turn a profit produces an emphasis in news on “immediacy, topicality, the dramatic” (Hall [1975] 2021:142). Crime and especially violent stories are disproportionately covered in news media because such sensational stories are compelling and help attract audiences (Hall et al. [1978] 2019). News media is both “the primary, and often the only, source of information about many important events and topics” not experienced directly by the average person (Hall et al. [1978] 2019:59) and necessarily distorted in their presentation of reality by the business interests and ideological priors which structure them. This combination forms the media’s role as a site of the reproduction of the ideology of power. This understanding of media directly contradicts the liberal ideal of the media as a fourth estate and public sphere – and in fact, the very ideal of the media’s neutrality is a factor in its role in ideological reproduction, masking its real function via the pretense to objectivity (Hall et al. [1978] 2019).

An important structural feature which shapes news media as indirect ideological reproduction is the deep dependency of the media upon official government sources. Professional journalism’s relationship to power and business has always had a conservative ideological tendency (Carey 2000). The soft repressive effect of power takes the form of a

privileging of, and deep dependence upon, official government sources (Hampton 2009; McChesney 2004; Schudson 1978; Tumber and Palmer 2004). The ideal of the adversarial press in practice is only selectively realized, as reporters depend upon official contacts and cannot afford to burn them (Hampton 2009; Jamieson and Waldman 2003).

This closely characterizes the typical press relationship with police as well as national government institutions. As police seek to frame their efforts in media in a legitimizing light, so too do news media rely on police to provide information for the sensational crime stories which dominate media, forming a mostly symbiotic relationship between the two institutions (Chermak and Weiss 2005). Police seek legitimacy (Mawby 2002; McGovern 2017), and increasingly have sought strategic media interventions to improve their image (Chermak and Weiss 2005, Kasinsky 1995; Manning 1992; Wood and McGovern 2021). Departments have adopted specific divisions tasked with shaping the image of the police in the press, hiring media experts (Chermak and Weiss 2005, Lee and McGovern 2013; Surette 2001). More recently, police have pursued a presence on social media in an effort to win more popular appeal (Wood and McGovern 2021). In mass media society, much of the public receives their understanding of police indirectly through media rather than direct encounters (Harkin 2015, Wood and McGovern 2021). Police attempt to recast the image of policing away from its violent reality toward a positive image of the department (Wood and McGovern 2021). In doing so they directly and indirectly contribute to media's role in the reproduction of power ideology. The platform afforded by the media to police allows police to advance their interests in framing moral panic, as the production of moral panic in Washington State considered in this study demonstrated

An important case of the dynamic of power structure, media, police, and ideological reproduction is exemplified by research on rape myths in media. Rape myths are “cultural beliefs

supporting male sexual violence against women,” first identified by feminist researchers in the 70’s (Parrat and Pina 2017:69). Rape myths are ideology in both the descriptive and normatively negative sense articulated by Marxists. They are false but commonly held beliefs which perpetuate the structural social violence of rape, male domination, and harm to rape victims (Brownmiller 1975; Burt 1980; Lonsway and Fitzgerald 1994). Rape myth ideology is carried in media, reinforced by the way media covers sexual violence (Sacks et al. 2018; Benedict 1992; Dowler 2006; Franiuk et al. 2008). One important rape myth underlying the sex offender moral panics examined in this study is the image of the stranger attack, reproduced by the tendency of media to focus on such incidents, when in reality most sexual violence involves known assailants in homes (Sacks et al. 2018; Caringella-MacDonald 1998; Soothill 2004). Rape myths are held by police and other professionals tasked with the social response to the problem of rape, distorting our ability to deal with the problem and minimizing our collective response (Finch and Munro 2005; Parrat and Pina 2017; Schwendinger and Schwendinger 1974).

The prospect of moral panic legislation provides a general picture of politics in the age of mass media which differs from democratic ideals. The shaping of media by business interests mass media society has serious political implications. Sensational ideological reproduction of crime can engender disproportionate panic which urges legislation in response. If such calls for action are successful, the warped media image of crime may pass into objectified law and further reinforce the ideological gap between social understanding and social reality, for the benefit of those who hold power at the expense of the marginal in society. This picture differs greatly from democratic ideals of rational and informed deliberation. And indeed, social critics have repeatedly raised concerns that profit-driven mass media exert a dangerous and reactionary distortion of democracy (Barnett 2002; Bourdieu 1998; O’Neill 2002; Putnam 1995; Zolo 1992).

Habermas, one of the foremost contemporary theorists and normative defenders of democracy, has been unsparing in his critiques of the social harms of mass media, arguing that a profit-driven private press is diametrically opposed to the ideal of a rational democratic public sphere, poisoning discourse rather than affording its flow (Habermas 2006). Mass media, social media and the rise of partisan news have fueled reactionary movements and raised concerns about the quality of democracy in the United States in recent decades (Berry and Sobieraj 2014; Levistky and Ziblatt 2018).

Where Does This All Leave Us?

The profit-driven basis of media production in the United States is unlikely to change any time soon. As such, I expect that the dynamics I have identified in this study to continue to apply. I expect emotionally charged moral panic re-narrativization struggles will continue to play a role in American politics. In fact, as traditional media continues to be eclipsed by new and comparatively fragmented social media platforms, and as political life becomes more polarized, I expect that the PMP model which characterizes gun violence panics will become increasingly common (Pew Research Center 2024; Widodo 2024). As in the cases of gun violence re-narrativization struggles, while this may make the passage of re-narrativization legislation more difficult, it will also mean increasingly partisan entrenchment. The two elections of Donald Trump to the presidency of the United States would certainly seem to indicate an increasing mediation of American politics by emotionally charged media, and social media in particular. The Trump elections have provoked much concern about the relationship of reason and emotion in media, raising worries about fake news. The increasing sophistication of Artificial Intelligence in producing text and images will likely accelerate these concerns.

The basic dynamic of moral panic is derived from the sensationalization inherent in for-profit media. Public funding and political regulation of media could be one solution capable of counteracting these effects and the problems I argue they present for democratic ideals. Such measures are foreign to the current American political climate, but they are not as unheard of as they may first appear. A return to a revitalized Fairness Doctrine, a New Deal regulation of partisanship in news media greatly weakened during the Reagan administration, has been proposed by some commentators as a means to remedy perceived bias and low trust in news media (Klein 2020). Models like NPR and the BBC in the United Kingdom demonstrate that public-funded media can remain high quality and reasonably independent of partisan control. Public regulation and funding of informational news media could be added to the plank of progressive policy agendas alongside public funding of healthcare and infrastructure.

Until the day that our media system operates differently, social movements will continue to adapt to the new media environment to advance their interests. The unprecedented organization and gains of the Parkland student survivors considered in this study provides a good example of what future movements may look like. The decentralized and public-online hybrid Black Lives Matter movement has succeeded in shifting the debate around prisons and policing, though politicians of both parties have remained hesitant to adopt the substantial reforms called for by the movement (Ebbinghaus et al. 2024). Entrenched and polarized panics are more given to partisan deadlock, but cases like Parkland and the passage of ERPO in Washington demonstrate that activist groups can rally supporters to push through reforms in some cases too. As long as sensational media remains the order of the day, successful movements will have to intervene in the production and re-narrativization of moral panics in order to advance their agenda. As Cohen ([1972] 2002:viii) put it, in the meantime we will all have to “carry on panicking.”

APPENDIX A

METHODOLOGY

Data Collection

Newspaper articles were the primary data source for this study. Having identified my cases of interest, I then identified the top-circulation newspapers in the selected states to the best of my ability. I found a circulation ranking of newspapers 1990-2004 (Dedman and Doig 2004), which I used as rough benchmark against which I checked other sources. The states I selected were Washington State, Wisconsin, Illinois, and Ohio for studying civil commitment legislation and Connecticut, Indiana, Washington State again, Florida, and Texas for studying ERPO.

Each chapter consists of analyses of newspapers which have archives available in digital form in online databases. All newspapers examined were accessed via the NewsBank or ProQuest online news archive databases, both of which I had access to via the University of Chicago library. For most cases, with a few exceptions, I examined the top-circulation newspaper in the state. I identified the dates in which the policy model was debated in the state's legislature and searched for articles within those dates. I typically further specified search results by a broad keyword: "sex" for civil commitment cases and "gun" for ERPO legislature. I identified these keywords as broad enough to capture a wide range of articles through early exploratory research with the databases. For example, a term like "sexual predator" was also often used, but articles using this term would also be caught by the search term "sex," while the search term "sexual predator" might miss items which only included terms like "sex offender," etc. The same was true of other terms common in ERPO cases, such as "firearm" or "shooting" - "gun" was the broadest term most likely to return the widest range of articles. In many cases, I

further narrowed the search results by searching an additional term such as the term “law” or the name of a legislator involved in advocating for the law. In all cases, I then specified my dataset by reading the headlines of the articles returned by the search results, including articles which had headlines that indicated they might possibly be related to the case of interest and discarding the rest. I then read through all remaining articles in the dataset per case.

For Chapter 2, I knew from Boerner’s (1992) account of the sex offender panic in Washington State that the first week of news coverage was particularly intense and important for the production of the panic, so I limited my dataset of news articles to those published in this first week after the Shriner attack (Sunday, May 21, 1989 to Sunday, May 28, 1989). Since I was focusing on a narrow period of time, I included the two top newspapers in the state at the time in my dataset: *The Seattle Times* and *The Seattle Post-Intelligencer* (Associated Press 2000; Dedman and Doig 2004). The inclusion of the second newspaper, *The Seattle Post-Intelligencer*, allowed me to examine additional detail. Fully searchable archives of both of these papers were available for this time period in the NewsBank internet archive. Since I had selected such a narrow date range for this chapter, I reviewed all articles published by each paper for this time period, filtering articles by headline as to whether they may be related to the case or not. If an article’s headline indicated it may be related to the case, I selected it for my dataset and read it.

Chapter 3 is unique in that it is the chapter which relies the most on a non-newspaper source. I relied on Boerner’s (1992) firsthand account of his experience creating the civil commitment law, as it provided unparalleled detail and insight into that process from the perspective of a primary participant. I discovered Boerner’s account because it was cited in secondary literature on civil commitment legislation. For this chapter I also did another round of newspaper analysis, this time to capture the debate over the civil commitment legislation after it

was proposed. I knew from Boerner's account that the civil commitment legislation was presented to the governor by the taskforce on November 28, 1989, and that the governor signed the legislature's bill version of the proposal on February 28, 1990. I delimited my newspaper article search to November 28, 1989 to March 10, 1990 to capture discussion of the legislation. I looked only at the top-circulation newspaper, *The Seattle Times*, because of the larger time range (Associated Press 2000; Dedman and Doig 2004). I further narrowed the search within the specified time range by the search term "sex."

In Chapter 4, I examined the debate over civil commitment in three states: Wisconsin, Illinois, and Ohio. I generally repeated the news article data collection method used for Chapter 3: for the top-circulation newspaper in the state, I searched for articles including the term "sex" within the period of time in which civil commitment was debated. *The Milwaukee Journal Sentinel* appears to have long been the top-circulation newspaper in the state, and I made a judgement call that this would have been the case during the period of interest for my case (Byers 2016; Dedman and Doig 2004). *The Milwaukee Journal Sentinel* was available in the NewsBank archive. I found the text of Wisconsin's civil commitment bill via the Wisconsin Legislature's online archive, and the bill document indicated the bill was enacted on May 26, 1994 (Wisconsin Legislature 1994). I first searched for articles matching the term "sex" within the month of May 1994. I learned from these articles that the civil commitment legislation responded to the 1992 panic touched off by the October release of convicted murderer Gerald Turner. To get more information on that prior panic, I additionally searched for articles mentioning "Turner" in the month of October 1994.

My research on Illinois revealed that the civil commitment law, although it was passed in 1997, was related to a sex offender panic following the murder of a child in 1995. I used the

ProQuest newspaper database to access the text-searchable archives of *The Chicago Tribune*, the largest circulation newspaper in the state at the time (Dedman and Doig 2004). Because the date range of articles of potential interest was greater, I specified my search to articles between 1995 and 1997 which included “sex” and either “Tom Dart” or “Jim Edgar.” I knew from exploratory research that Tom Dart was the sponsor of the legislation and often mentioned alongside the bill, as was the governor of the state at the time, Jim Edgar. I supplemented this search by also searching for articles matching the specific term “sexually violent” in the year 1997 to capture any bills that might mention the legislation, which used that specific term, but not either Dart or Edgar. With the articles generated from this process, I felt I reached sufficient saturation (Glaser and Strauss 1967) for the Illinois section of the chapter’s analysis.

My approach for the Ohio case differed because, due to Ohio being a negative case where a law was proposed but quickly failed, there was less news coverage than in other cases. I first searched Ohio’s top-circulation paper, *The Plain Dealer*, and supplemented this search with searches on the second and third ranked papers, *The Columbus Dispatch* and *The Cincinnati Enquirer* (Dedman and Doig 2004). I searched for articles which include both of the terms “sex” and “law” in the year 1993 in *The Plain Dealer* archive on NewsBank. I supplemented this search by searching for articles including the term “Jacobson,” the primary sponsor of the legislation, in the year 1993 in the other two newspaper archives, both of which were also available via NewsBank.

For Chapter 5, I first examined the development of ERPO in Connecticut in 1999. The top-circulation newspaper in the state at that time appeared to be *The Hartford Courant*, which was available on the NewsBank digital archive (Dedman and Doig 2004). I knew from secondary literature that the creation of ERPO in Connecticut was related to a March 1998

shooting at a lottery office, so I first searched for articles matching the term “lottery” in the month of March 1998. I then searched for articles matching both terms “gun” and “law” from March 1998 to May 1998, to examine legislative debates in the aftermath of the shooting. I then search “gun” and “law” from April 20, 1999 through June 29, 1999, as I had read in secondary literature that the ERPO law was passed in late June 1999 and that it was passed in response to the Columbine shooting of April 20. Finally, I had identified from the articles collected up to this point that a legislator named Lawlor was involved in both the 1998 and 1999 legislation. I searched for articles matching the term “Lawlor” between January 1, 1998 and June 29, 1999 to capture any articles discussing his legislative efforts that would not have been captured in previous searches. After this search, I felt I had reached sufficient saturation for the Connecticut section of the chapter.

I then examined the diffusion of ERPO in Indiana by searching the archives of that state’s top-circulation newspaper, *The Indianapolis Star*, in the ProQuest archives (Dedman and Doig 2004). I first searched for articles matching the term “Laird,” which I knew from secondary literature was the name of the officer who was killed which triggered the panic over gun violence and ERPO as a response. I searched for articles matching this term between August 1, 2004, and May 31, 2005, as I knew the shooting occurred in August 2004 and that ERPO was adopted in May 2005. This search alone yielded enough information that I felt I reached saturation for this case.

Finally, I examined the adoption of ERPO in Washington State in 2016. I returned to *The Seattle Times*, which has remained the top-circulation newspaper in the state (Majid 2023). I knew from secondary literature that the proposal had passed by ballot initiative and that it had been introduced sometime in late June 2016, so I first searched for articles matching “ballot

initiative” in the month of June 2016. From these I learned that the proposal was ballot initiative 1491, so I then searched for articles including “1491” for all of 2016. These searches together yielded sufficient information to reach acceptable saturation.

For the final empirical chapter, I compared the debates over ERPO in Florida and Texas. I found conflicting sources of uncertain quality on the top-circulation newspaper in Florida, so I chose *The Miami Herald* as it was listed as among the top-circulation newspapers in the state and it was based close to the Parkland shooting. Similarly, although *The Dallas Morning News* has a slightly higher circulation than *The Houston Chronicle*, I chose to go with coverage from the latter since it had comparably high circulation and was based closer to the site of the Santa Fe shooting to which the legislation responded (Majid 2023). Both *The Miami Herald* and *The Houston Chronicle* were available on the NewsBank archive. I knew from secondary literature that the Florida ERPO measure was signed on March 9, 2018 and that it was introduced after the Parkland shooting of February 14, 2018, so I searched for articles between these dates matching the term “gun”. This generated enough information to reach saturation. I knew from secondary literature that Texas Governor Greg Abbott had walked back his support for ERPO in a tweet on July 24, 2018, and I knew the measure had been floated in the aftermath of the May 18, 2018 Santa Fe school shooting, so I similarly searched for articles matching the term “gun” between these dates. I also included several articles from *The Texas Tribune* which I found in early research on ERPO in Texas, and from *The Texas Observer* offering coverage of the Texas Republican Party convention. In both of these cases, one article snowballed into several others on the subject from the same outlet via internal links.

Analysis

I read the articles in the dataset to identify the basic facts of the case, the parties and organizations involved in reporting and responding to the incident, and the tone those responses took. I kept track inductively of emerging themes in iterative memos as I read and re-read. I combined the techniques of close reading of newspaper articles developed by Bloom (2020) and Savelsberg and Brehm (2015) with the iterative coding and memo method of qualitative grounded theory (Charmaz 2006; Glaser and Strauss 1967). I read through my dataset of articles, making iterative memos tracking my thoughts and emerging clusters of concepts and relations as I went, returning to articles to refine these codes. However, while I made use of the iterative coding methods of grounded theory, my case and analysis are more motivated by an ultimate goal of the refinement of prior theory than by grounded theory's emphasis on the construction of novel theory up from the data alone. In this respect, my approach more closely resembles the theoretical approach of the extended case method (Burawoy 1998, 2009).

APPENDIX B

NEWSPAPER ARTICLES USED AS DATA

Chapter 2

- Bakken, Margaret. 1989. "Tacoma Boy Mutilated in Attack Near His Home." *The Seattle Times*, May 22, B1.
- Barber, Michael A. 1989. "Sex Offenders: Police Can Only Watch and Wait." *The Seattle Post-Intelligencer*, May 25, B5.
- Barber, Michael A. and Joe Mooney. 1989. "Mutilation Suspect Had Been Target of Surveillance." *The Seattle Post-Intelligencer*, May 24, A1.
- Foster, George. 1989. "Mutilation Suspect Denies All Charges – Spectators Cheer as Judge Sets High Bail." *The Seattle Post-Intelligencer*, May 23, A1.
- Lantz, Jon N. 1989. "The Little Boy: Childhood is Under Siege." *The Seattle Times*, May 28, A19, Letter to the Editor.
- Mooney, Joe. 1989. "Public Outrage vs. Private Rights." *The Seattle Post-Intelligencer*, May 26, B1.
- Moore, Pat. 1989. "The Little Boy: I'd Help with Punishment." *The Seattle Times*, May 28, A19, Letter to the Editor.
- Moriarty, Donna. 1989. "The Little Boy: Penalty for Crimes this Horrible Should be Prison, Forever." *The Seattle Times*, May 28, A19, Letter to the Editor.
- P-I Staff. 1989a. "Wandering Tacoma Boy is Found Mutilated." *The Seattle Post-Intelligencer*, May 22, A1.
- P-I Staff. 1989b. "Put Mutilators Away." *The Seattle Post-Intelligencer*, May 24, Editorial.
- P-I Staff. 1989c. "'I Share the Anger,' Gardner Says of Mutilation Attack on Tacoma Boy." *The Seattle Post-Intelligencer*, May 27, B1.
- Paulson, Tom. 1989. "Boy Faces Years of Trauma." *The Seattle Post-Intelligencer*, May 24, A14.
- Rice, Deborah L. 1989. "The Little Boy: Keep Such Monsters at Bay." *The Seattle Times*, May 28, A19, Letter to the Editor.
- Seattle Times* Staff. 1989a. "Hospital Swamped with Gifts 'to the Little Boy.'" *The Seattle Times*, May 24, A1.

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