

FAILURE  
*to*  
PROTECT

*America's Sexual Predator  
Laws and the Rise of the  
Preventive State*

ERIC S. JANUS

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ROPER: You would give the devil the benefit of law.

SIR THOMAS MORE: Yes, what would you do? Cut a great road through the law to get at the devil?

ROPER: I would cut down every law in England to do that.

SIR THOMAS MORE: And when the law was down and the devil turned around on you, where would you hide; the laws being all flat? This country's planted thick with laws from coast to coast, and if you cut them down, do you think you could stand in the winds that would blow through them?

ROBERT BOLT, *A Man for All Seasons*

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## Introduction: The Worst of the Worst?

We keep getting sidetracked with issues like castration and pink license plates for sex offenders, as if they can't borrow or drive another car. . . . Don't get me wrong, we need extreme vigilance for some. But these people are coming from us—society—and we have to stop the hemorrhage. We have to stop pretending that these people are coming from other planets.

—NANCY SABIN, executive director  
of the Jacob Wetterling Foundation

**D**ru Sjodin was last seen on November 22, 2003. Age twenty-two and a senior at the University of North Dakota, she was apparently abducted from the parking lot of a shopping center in Grand Forks on a busy Saturday afternoon. Ten days later, Alfonso Rodriguez Jr. was arrested and charged with her kidnapping. Rodriguez had been released from prison seven months earlier at the age of fifty. He had just served a twenty-three-year sentence as a repeat sex offender, a sexual predator who attacked strangers. Though he was classified as a level 3 offender, the highest risk category for released sex offenders, officials decided not to take the extraordinary step of seeking his civil commitment to a secure treatment facility as a “sexually dangerous person.” Dru Sjodin’s body was not found until the snow melted in April 2004. Rodriguez has pleaded not guilty, and his trial for capital murder was still pending as of March 2006.

Sjodin’s death reminds us of the list of young women and children who have been sexually assaulted and murdered by repeat sex offenders following their