

Canada's Sex Offender Registry a National Embarrassment

When he lived in British Columbia, Peter Whitmore followed the rules. He didn't go anywhere near a pool or a playground. He didn't talk to children, online or otherwise. And he was back home (at his aunt's house in Chilliwack) every night by 10 o'clock. For once in his life - for an entire year, in fact - Whitmore was a law-abiding pedophile.

It was hard to believe. A notorious child molester, Whitmore's rap sheet is full of repulsive crimes and empty promises. In 1993, he was convicted of sexually assaulting four boys. Eight days after his release, he abducted a young girl. In 2000, Toronto residents tried to run him out of town, but he made an impassioned plea on national television: "I have control over what I do." He didn't. Detectives found him in a hotel with a 13-year-old boy. A year later, while back on probation, police discovered a "rape kit" in his possession: latex gloves, duct tape and photographs of kids. A judge shipped him back to jail.

Yet by the summer of 2005, it seemed as though the system finally had a firm grip on Peter Whitmore. After he served every last day of his three-year sentence, authorities slapped him with a Section 810, a court order that imposed a long list of strict living conditions. He wasn't thrilled, but for 12 straight months, the infamous predator did as he was told.

Until June 2006, when Whitmore planned a trip to Morinville, Alta. The RCMP even issued a press release, warning that a "significant risk" to "male and female children" was coming to town for a three-day visit. Whitmore never returned home. By the time police found him again, two more young boys - 14 and 10 - had been kidnapped and raped.

Canadians were furious. How could authorities lose track of such a dangerous criminal? The answer is complicated, but one problem seemed obvious: Canada's national sex offender registry. Unveiled in 2004 by the federal Liberals, the NSOR was supposed to be a state-of-the-art investigative tool, a nationwide database that can tell police which rapists and pedophiles live in which neighbourhoods. But Whitmore - a man so dangerous that the National Parole Board considered him a "100 per cent" guarantee to reoffend - was not listed on the system.

The manhunt finally ended on Aug. 1, 2006, when police cornered Whitmore at an abandoned farmhouse in rural Saskatchewan. A few days later, far away from the cameras and the talk shows, the RCMP wrote a series of confidential memos to Stockwell Day, Stephen HARPER's minister of public safety and emergency preparedness. The Mounties wanted to make sure the new Conservative government, elected six months earlier, understood exactly what it inherited: a sex offender registry in desperate need of repair.

Pointing to "a number of weaknesses and gaps," the RCMP urged "an immediate review" of the Sex Offender Information Registration Act, the legislation that created the database. "The recent media attention, including criticism of the [registry], provides an opportunity for the government to review the legislation and take the necessary steps to strengthen it before an incident occurs that highlights one or more of the concerns raised."

Nothing was done. Sixteen months after those memos were written - and three years after the system was introduced - Canada's sex offender registry remains a dysfunctional mess. Registration isn't even mandatory. A prosecutor must ask a judge to add a defendant to the database, and since the law took effect, barely half of all convicted sex offenders have been ordered to sign up. The rest - thousands of molesters, child pornographers and other loathsome criminals - are under no obligation to tell police where they live.

The registry can barely keep track of sex offenders who *are* ordered to comply. At last count, 16,295 names appear on the system; 1,270 are considered non-compliant. Some of those people never registered at all. Others have failed to check in as required - 317 in Ontario, 201 in Alberta, 134 in British Columbia. Quebec is the worst, by far. The province is home to 2,554 registered sex offenders. One in five (480) are missing.

According to internal government documents obtained by *Maclean's* under the Access to Information Act, the registry is crippled by one major problem: Ottawa's obsession with privacy. The feds are so determined to protect the rights of convicted sex offenders that most police officers are not allowed to access the system. Forget the general public. "I'm not sure that public access is the answer, but I'm bloody sure this isn't the answer," says Paul Gillespie, former head of the Toronto police child exploitation unit. "This is a national embarrassment."

Every aspect of the registry benefits the sex offender, not the public or the police.

The database can only be used to help solve a crime, not prevent one. If a young girl notices a strange man loitering around her school, authorities are not allowed to search the registry for a matching description. If she is sexually assaulted, then it's okay. But even then, local police forces can't conduct the search themselves. They must phone the RCMP.

A registered offender has to inform police if he (or she) is taking a vacation, but only if it's longer than two weeks. Anything less than that (a 10-day visit to Thailand, perhaps) doesn't need to be reported. Even worse, if an offender does admit he's going to Thailand - a hub of child prostitution - the cops are not allowed to warn Thai authorities.

Agencies within Canada are no better at sharing information. Amazingly, the Correctional Service of Canada refuses to tell registry officials when federal inmates, the most dangerous of the bunch, are set free. In other words, the RCMP has no idea when hundreds of sex offenders are supposed to register.

The system is so poorly designed that the RCMP should be thrilled that even a single person is compliant. It's like a typewriter in the Internet age. The computer does not even record an offender's next reporting date. Think about that: a sex offender registry that doesn't know when a sex offender is scheduled to register. In Canada, agriculture officials know the location of every single cow. The department of motor vehicles knows when your driver's licence is set to expire. But the national sex offender registry cannot tell the RCMP the most basic fact of all: when is this offender due to check in?

To compensate, the RCMP has been forced to create separate, hard-copy tracking systems - a Rolodex, for example, or an Excel spreadsheet. "It's shocking," says Paige Esworth, who manages the Alberta registry centre. "We have identified, over and over again, why this is operationally frustrating."

The feds have not listened. Successive governments, both Liberal *and* Conservative, have repeatedly ignored the alarm bells. When the registry went live, the law included a mandatory two-year review, a chance for Parliament to hear from stakeholders and make any necessary improvements. That process should have happened at the end of 2006. It didn't. A year later, there is still no sign of a review on Prime Minister Harper's agenda.

Police found Christopher Stephenson's 11-year-old body on Father's Day afternoon, 1988. The boy's killer, a paroled pedophile named Joseph Fredericks, led the cops to the crime scene. He told the detectives who knocked on his door that he spotted his victim at a nearby mall, sitting on a bench while his mom and sister browsed through a store. Armed with a knife, Fredericks dragged the boy to his apartment, molested him repeatedly, then slit his throat and left him to die near a set of train tracks in Brampton, Ont.

Jim Stephenson spent that Father's Day at the morgue, identifying his only son. Two weeks later he was back at the baseball diamond, coaching Christopher's Little League team again. "I didn't

know how else to cope," he says. "It was a horrible, horrible ending to a boy's life, and to dreams we all had "

Today, Christopher would be 31 years old. Instead, his family has spent two decades coping with a loss that no parent can comprehend. Jim and his wife, Anna, could do nothing but watch as a judge ordered Fredericks to spend the rest of his life behind bars. They relived the horror three years later, when their son's killer was stabbed to death by a fellow inmate. Then came weeks of excruciating testimony at an inquest that picked apart every aspect of Christopher's murder.

When it ended, the coroner's jury released 71 recommendations. One item - number 44 - urged Ottawa to create an electronic registry of high-risk sex offenders. Fredericks's life was a long list of repugnant crimes. The jury believed that if a registry existed the day Christopher disappeared, police could have obtained an immediate list of suspects living in the neighbourhood. Maybe those detectives would have knocked on Fredericks's door while the boy was still alive.

It was 1993, and every U.S. state either had a registry or was in the process of developing one. Some European countries were also on board. Yet in Ottawa, Jean CHRÉTIEN's Liberals were not convinced. By 1999, six years after the coroner's inquest, Canada was no closer to having a sex offender registry.

But Ontario was. The Conservatives, led by Mike HARRIS, were studying the idea of a provincial registry. The Harris team asked the Stephensons for input, and as the legislation evolved, they asked the family something else: "Can we name the law after your son?" "My reaction, quite honestly, was: 'No bloody way. I won't be reminded of Christopher every time I hear somebody talk about this legislation,'" Jim recalls. "But my wife felt very differently about it. She thought that naming the legislation in Christopher's memory would mean that something positive would come out of what he had suffered." Jim relented. On April 23, 2001, "Christopher's Law" took effect, making Ontario the first jurisdiction in Canada to boast a sex offender registry.

On a strictly technical level, the Ontario registry is undeniably impressive. Inclusion is mandatory, and sex crimes investigators anywhere in the province can see exactly how many people in their region are compliant (offenders must sign in every year and every time they move). If a person is one *second* overdue, the system automatically issues a red flag. It also records dozens of different descriptive features, such as height, weight, nicknames and tattoos. Based on a single clue - a scar on the left cheek, for instance - investigators can scan for suspects. They can also search by geographic area, generating a map and a list of all offenders who live within, say, two square kilometres of a crime scene.

Harris was so impressed with his government's creation that he offered the software to the feds, free of charge. They didn't bite. The Liberals insisted that CPIC - the central computer that contains criminal records, and is available in all police cruisers - was more than adequate (this, despite the fact that no one, including sex offenders, are compelled to update their contact information on CPIC). Undeterred, Harris shifted the offer to his fellow premiers. It soon became clear that if the feds didn't create a countrywide registry, the provinces would build their own.

The Liberals had no choice but to act. Lawrence MacAulay, then the solicitor general, announced a \$2-million plan to overhaul CPIC. The changes, he said, will allow police to search for sex offenders based on name, address or description - but it still wouldn't force offenders to update their addresses and phone numbers. That same day, a group of provincial ministers held their own press conference, denouncing MacAulay's plan. "Everybody said: 'This is going to be the front-page story in Canada tomorrow,'" recalls David Turnbull, then the solicitor general of Ontario. "It wasn't. As I walked back into the hotel, someone said: 'Have you seen what's on television?'" It was Sept. 11, 2001.

In an instant, national security became the only item on the federal agenda. To his credit, though, MacAulay agreed to meet the Stephensons a few weeks after 9/11. "There was some shouting and screaming, but he gave us an hour and a half of his time," Jim recalls. "However, he stated categorically that his government was opposed to a sex offender registry and he would have no part of it."

Turnbull kept badgering his federal colleagues, and by Christmas, numerous provinces were ready to accept Harris's offer. Under increasing pressure, MacAulay promised to elaborate on his CPIC plan at a meeting of justice ministers in Moncton. But when that day came - Feb. 13, 2002 - he stunned the audience instead: the feds, he said, are going to build their own registry.

"It was political posturing, straight and simple," says Terry Nicholls, a retired Ontario Provincial Police staff sergeant who managed the Ontario registry. "It was to pacify everybody and allow the then-Liberal government to say: 'We now have a national sex offender registry.' And nobody has asked any questions since."

As soon as the news broke, Turnbull phoned Jim Stephenson. He, too, was floored. "Anna and I were a little bit reluctant to support it, other than to say it's a good news announcement and we'll wait and see what actually results from it," he says. Today, Christopher's father remains unimpressed with the results. "The public believes there is a national sex offender registry," he says. "But it is not a national registry. It is a notional registry."

"In retrospect, to do this over again I think we probably would have done it a lot differently," Glenn Woods says. Now retired after 35 years with the Mounties, Supt. Woods was in charge of the RCMP's Behavioural Sciences Branch when the Liberals changed their minds. The marching orders fell on his desk: build a sex offender registry from scratch.

From the outset, the only sure thing was that Ottawa had no intention of borrowing Ontario's system. The Justice Department crafted its own legislation, collecting input from the Federal/Provincial/Territorial (FPT) High-Risk Offenders Working Group. It was a secretive process, full of compromise and concessions, but Woods and his staff - the people who would build and maintain the registry - had little say in the process. "There wasn't a whole lot of consultation with police," Woods says now. "How do you enact legislation that involves the RCMP or any police organization without getting them in to ask: 'How do you plan on implementing this?'"

The Sex Offender Information Registration Act (SOIRA) was tabled in the House of Commons on Dec. 11, 2002. The bill died a year later, but was reintroduced in 2004. Days before it resurfaced in the House, Woods participated in a video conference with police from every province and territory. Also on the line were Cliff Yumansky, a Public Safety bureaucrat, and Doug Hoover, a Justice official. According to the minutes, obtained by *Maclean's*, many officers were unimpressed with the legislation. "How can police monitor compliance if most cops can't access the system?" "Why are offenders allowed to leave home for two weeks and not tell anyone?"

Hoover said "the police perspective is only one perspective," and that their concerns would be better dealt with after the law is passed. "Police agencies, I hope, if given a bowl of lemons will make lemonade and make it sweeter as time goes by," he said.

When the system was introduced on Dec. 15, 2004, the press release didn't say anything about lemons. Nor did it mention that the official unveiling had to be postponed by 2½ months because the RCMP was still scrambling to build the database.

Still, at \$2 million for start-up costs and an annual budget of \$400,000, Ottawa had found an inexpensive answer to years of criticism. Unlike the much-maligned gun registry, which has cost the feds more than a billion dollars, this registry is a trickle-down operation. The bulk of the costs - and the work - falls on the provinces, territories and municipalities.

Each of the 13 regions houses one central registry office run by the RCMP, except in Ontario (the OPP) and Quebec (the Sûreté du Québec). Nearly 800 other police stations are secondary registration sites. When an offender is ordered onto the list, he must report to one of those detachments and provide basic facts, including name, aliases, height, addresses and phone numbers. A photograph is also snapped. That information is then forwarded to the central registry office in that province or territory, where the details are entered into the database. Offenders are obligated to report every year, and every time they move. Breaching those rules could cost them \$10,000 or six months behind bars.

The registry's main purpose is to help police locate suspects. It has dozens of search options, including description, offence type, and even odour (A victim might not be able to describe her attacker's face, but might remember the unmistakable smell of gasoline on his clothes.) The system can also search by location, although it's not as precise as the Ontario registry. The national searches by postal code, not by specific distance to a crime scene.

There is another big difference: unlike in Ontario, inclusion on the national registry is not mandatory. A prosecutor must apply for an order (a Form 52), and a judge can refuse. As the RCMP wrote in that memo to Day: "There is a fear that some offenders who do pose a risk are falling through the cracks."

Last year, the Mounties tried to pin down the exact figures. Using court statistics, they estimated that in 2006, 3,563 people were convicted of a sex crime. Of those, just 2,066 (58 per cent) were ordered onto the registry. That means every single day, four new sex offenders are spared the hassle of reporting. "It is a very, very false sense of comfort," says Nicholls, the OPP officer. "We don't even know what percentage are getting on."

When they drafted the rules, the feds were rightfully worried about Charter challenges. Months before the national system went live, Abraham Dyck, a sex offender in Ontario, convinced a court that Christopher's Law is unconstitutional because it paints all offenders - from flashers to rapists - with the same brush. Ottawa didn't want to be hit with a similar judgment, so it adopted a series of controversial safety nets. An offender can avoid registering altogether if he can prove that the personal impact will be "grossly disproportionate to the public interest." A long-distance trucker, for example, didn't have to check in because his job makes it "impossible" to tell police where he is at all times.

But in 2005, the Dyck decision was overturned by a higher court judge, who said Ontario's automatic rule places a "modest" but necessary burden on offenders. Justice P.B. Hambly also suggested that the national registry is the weaker of the two. "There is a danger that judges get caught up in the intellectual exercise of applying the standard for exemption set out in the legislation and lose sight of basic common sense," he wrote. The Dyck case is now before the Ontario Court of Appeal, but whatever the result, Hambly's prediction rings true. Judges have refused to register countless sex offenders for reasons that defy basic common sense.

Ian Have, whose computer was loaded with child porn, is not on the national database because a judge decided that such hideous material is "not a crime of a sexual nature." An Alberta man broke into a home, stripped naked, and "fondled" a woman and her 10-year-old daughter, but he, too, isn't on the registry. Neither is G.S., a 38-year-old man who molested his stepson, told him he would "get it" if he tattled, then ran away.

Judges don't deserve all the blame. Prosecutors often neglect to ask the court for authorization. One of the most disturbing oversights involved a repeat pedophile from B.C. who molested his six-year-old daughter, among others. At sentencing, the Crown didn't raise the registry issue. When the judge asked why, he replied: "I forgot."

For all those offenders who fall through the cracks, there are thousands of others who were never included in the first place. The registry was not designed to be retroactive. As of Dec. 15, 2004, everyone listed on the Ontario database, and any other sex offender *currently* serving a sentence, was ordered to comply. But loads of other known criminals, Whitmore included, were left off the list. Many had finished their sentences by 2004, and therefore didn't qualify. And in Whitmore's case, he was in jail for breaching probation, not for committing a sex crime.

Irrational or not, the decision still left police with a monumental task. They had to personally serve every qualified offender - more than 10,500 people - with a written notice to comply (a Form 53). Finding a current address often required the same legwork as solving a crime. In Alberta, police identified 680 eligible offenders; 27 were never found. In B.C., hundreds of Form 53 notices were returned as "unopened/non-deliverable."

The process consumed countless hours of manpower, but the biggest frustration was not the offenders. It was the Correctional Service of Canada (CSC). Many criminals ordered onto the registry were - and still are - serving prison terms. Yet the federal corrections department refuses to tell registry staff when those people finish their sentences. In meeting after meeting, CSC reps have told the RCMP that neither SOIRA, nor any other law, allows them to share that information directly with the registry. Local prison officials have agreed to provide release dates for offenders serving time in *provincial* institutions, but the CSC remains unwilling to budge when it comes to federal inmates. "There is no systemic process in place to ensure that the information gets to the provincial sex offender registry centres, increasing the chance of error," says one RCMP report. "Without this information, it is not possible to properly monitor the compliance of these offenders."

By December 2005, the program's one-year anniversary, the Mounties encountered yet another glitch - the direct result of Ottawa's unwillingness to copy Ontario's software. The OPP suddenly had 12 new computer terminals linked to the national registry, but they also maintained their own system, a completely distinct piece of technology. Rather than manually retype thousands of files into the national mainframe, the OPP asked the RCMP to create an electronic interface that could transfer data between both networks.

From day one, the interface was a disaster. It was supposed to take six weeks to build; it took almost four months. When it finally went online, things only got worse. Almost 5,000 records were transferred from the Ontario to the national, but half were "rejected for various reasons." The RCMP also discovered that OPP officers, unable to pinpoint an offence date for many files, decided to type "Jan. 11, 1911" instead. Up to 2,000 records had to be corrected.

While staff fixed kink after kink, other regions began "expressing signs of displeasure with what appears to be a complete devotion to one province at the expense of all others." By February 2006 - 14 months after the national registry went live, and just weeks after Harper's Conservatives won the election - the system was nothing more than a big pile of information with limited search capabilities. "The RCMP stands to be embarrassed if the NSOR database continues to have only limited functionality," wrote Melissa Martineau, then the registry's manager.

Her boss, Insp. Art Crockett, wrote his own memo to superiors. After months of "crippling" delays, he said the interface should be scrapped. "Although we state that the [registry] was implemented in 2004, there are those who would suggest that the registry cannot be deemed as being rolled out as a completed system until the data can be collected, analysed, searched and retrieved with logical and informative system-generated reports."

The Mounties still can't do that. But they did pull the plug on the interface.

"We're very good at keeping them on their toes," says Dan Noordman, a constable with the Winnipeg city police. Dressed in a black fleece and a bulletproof vest, Noordman is sitting behind the wheel of a brown Lincoln Towncar, steering through the downtown side streets near Portage and Main. His partner, Kurtis Pillipow, is in the passenger seat, flipping through tonight's agenda.

"The fact that we're checking enforces the notion that we're monitoring this, and it's not just some phantom computer," Pillipow says. "We are out knocking on doors."

Pillipow, an RCMP investigator, and Noordman are both assigned to Manitoba's Integrated High Risk Sex Offender Unit, a task force that monitors dozens of remorseless, violent criminals who have served their time. The unit also maintains the NSOR. Again, each person must report once a year, but in Manitoba, police also make surprise house calls. "We are diligent in that," says Sgt. Dave McInnis, who runs the centre. "Without that, there is no sense having a database."

Indeed, a sex offender registry is only as valuable as it is accurate. Yet while some regions, like Manitoba, consider it a top priority to knock on doors and say hello, thousands of offenders in other parts of Canada have never been visited by a police officer. Only now, three years later, is that slowly starting to change. "There are certain provinces that have to do a lot more, but that's up to them to say that," says Gary McLennan, a retired RCMP sergeant who implemented the registry in Saskatchewan.

All told, almost 1,300 of the 16,000 people listed on the national registry (eight per cent) have disappeared. That may seem encouraging. After all, that means 92 per cent are doing what they're told. But remember, thousands of convicted offenders are not on the registry - and that number gets bigger every single day. Where those people are living right now is anybody's guess.

Even if you ignore that fact, the whole notion of a "compliance rate" is still misleading. In its 2006 update, Saskatchewan claimed 93 per cent compliance. "But that statistic is very skewed and definitely does not speak to the work that is required," the report notes. As McLennan says: "A person might have been non-compliant for two months, but we couldn't locate him. Then one day the light goes on and he walks into Regina city police and registers. But for two months he roamed the streets."

Realistically, a person can provide one address, then live somewhere else unless the law comes knocking. The registry is an honour system, dependent on the goodwill of convicted sex offenders.

That said, the system is so badly designed that it actually encourages defiance. A provincial centre can check on offenders who live in that city. But if they want to verify an address for someone who lives 400 km away, they must ask the local police force. Unlike in Ontario - where many cities have a unit solely dedicated to monitoring compliance - cops in Lethbridge, Alta., or Victoria can't log onto the system themselves. They must wait for the centre to forward a list of offenders who live in their postal codes.

And that doesn't always happen. Take New Brunswick. Officials are trying to institute mandatory door-knocks, and between May and September they forwarded 156 requests to local police. Only 59 checks - barely one-third - were completed. Most officers are just too busy to visit registered sex offenders.

Enforcement efforts across the country are equally inconsistent. In the first half of 2007, 98 people were charged with non-compliance. Most of those cases (84) were in three provinces: B.C., Saskatchewan and Manitoba. In Quebec, where 480 offenders are missing, only one was criminally charged. Authorities in Alberta, despite having 201 non-compliant offenders, laid just two charges. Page Eisworth, the Alberta coordinator, said it comes down to one problem: "Resources. I get that a lot from the field, and I wouldn't be supporting them if I didn't voice that."

Wait a few more years, when the registry is expected to double in size. That's a lot of random door-knocks that won't get done - and a lot of Rolodexes.

And that should disturb Canadians more than anything: the database itself is unable to monitor compliance. If the RCMP knows when a person is scheduled to register, it's not because the computer tells them. The law simply doesn't allow the Mounties to record that information on the database.

The Ontario registry isn't perfect, either. Last month, the provincial auditor general revealed some serious flaws: some offenders have been missing for years, files are incomplete, and budget cash was misspent. But at least the Ontario version resembles a modern piece of technology. It is a one-stop shop for instant statistics, minus the paper trail. On Oct. 23 at 6:45 a.m., there were exactly 7,908 active files. Of those, 495 were in breach of the rules, for an overall compliance rate of 93.74 per cent. Three weeks later, the compliance rate was up to 94.06 per cent (7,923 offenders; 470 non-compliant).

If the Prime Minister wanted up-to-the-minute numbers from the national registry, it would take a few weeks. "The information is recoverable now, although it would be complex," says Insp. Andréa Sloan, the RCMP officer who, up until a few weeks ago, was in charge of the registry. "We are waiting to have a better system in place."

They have been waiting - and complaining - for three years. In 2006, Harper's government introduced Bill S-3, a law that ensures Canadian soldiers court-martialled for sex crimes are added to the registry. Again, much the pre-draft debate occurred behind closed doors. And again, the RCMP felt shut out. In a memo written to the deputy commissioner, Supt. Woods said "the

working relationship between [Public Safety and Emergency Preparedness Canada] and those in the RCMP charged with the implementation of SOIRA is strained and remains the single most challenging issue for the success of this investigative tool for Canadian law enforcement."

The Mounties were so unimpressed with Bill S-3 that they crafted their own list of concerns for the FPT committee. Obtained by *Maclean's*, it is a reality check for anyone who still believes the registry is a high-tech success.

For one, the bill won't mean the end of Rolodexes or calendars. The computer still can't record "next expected reporting date," which means the Mounties aren't able to build an electronic flagging system. The bill also doesn't include an "effective date" beside each address and phone number. "There is no way of knowing if an offender lived in a specific area during a specified period of time," they wrote. "It is only reasonable that police have the information to determine which of numerous addresses recorded for the offender is their current place of residence."

Bill S-3 is now law. It included none of the RCMP's key recommendations.

The Mounties are stuck in the middle of two battles. While they beg Ottawa for much-needed improvements, they're also trying to convince detectives that the registry is actually useful. Each provincial centre is available 24 hours a day to conduct a search, but many front-line cops still feel the same way: if I can't access the system myself, what good is it?

"That is an education problem we've identified," Sloan says. "The question of access is sometimes a confusing one within the law enforcement community. We have been careful to respect the two founding principles of the law, which is balancing the privacy of the offender with the release of quick information, as appropriate."

Appropriate is the key word. There are so many occasions on which the registry can't be used that many cops don't bother. Police must be investigating a crime of a *sexual* nature. An attempted rape would warrant a search. So would a case like Stephenson's, where a witness saw the boy being dragged away from the mall. But what if a child goes missing and there is no sign of an abduction? The law doesn't provide such detailed direction, and authorities seem split on the answer. "Are we going to wait for the body to show before we use the benefits of the sex offender registry?" asks Cpl. Dave Ward of the New Brunswick registry centre. "I would hope not."

One thing is clear. The database cannot be used proactively. Police must be dealing with a crime that has already occurred. A suspicious man near a playground isn't enough.

In theory, Ottawa's obsession with privacy is understandable. These offenders have paid their debts to society. But as hard as the feds try, it is impossible to shield the identity of every single one. The media regularly reports the latest case of a person added to the system, as do courthouse websites.

Thierry Jacques, a former Mountie, appears on the registry. He was convicted in Saskatchewan after ejaculating on a female prisoner. Marcello Ianni's name is also there. A 20-year-old from London, Ont., he attacked a female gas station attendant. The list goes on and on: Maluak Jock Gai, a Sudanese immigrant who had sex with a 10-year-old mentally retarded girl in Alberta; James Fairweather, a Boy Scout leader charged with distributing child porn; Justin Raven, who beat a Winnipeg woman with a broomstick, raped her, then tossed her pants into the garbage.

Ask the RCMP, though, and they won't confirm that any of these men are actually on the registry. For privacy reasons.

In fact, the Mounties are so handcuffed by Ottawa's privacy fixation that they are afraid to disclose the names of non-compliant offenders. The practical reality is ridiculous: if you're a drunk driver or a drug dealer, your name will end up in a police press release. If you're a sex offender who hasn't registered on time, you'll be spared the embarrassment.

Maclean's asked the RCMP to release the names of missing sex offenders. We didn't ask for a list of all 1,200 - just the blatant violators who were charged with non-compliance and have a warrant

out for their arrest. The Mounties refused. When *Maclean's* submitted a formal Access to Information request, registry officials did cobble together a list of warrants, but again, the force declined to hand it over. Privacy rights, they said.

Maclean's has appealed the decision to the information commissioner of Canada

"I am serving a 3½-year sentence for one count of sexual exploitation," Ralph says, leaning forward in his chair. "I'm here for molesting my daughter "

Ralph (not his real name) is polite and well-spoken, a former soldier with an unblemished career in uniform. Until the truth emerged. For the past eight months, Ralph has lived at the Alberta Hospital Edmonton, a psychiatric facility that houses the Phoenix Program, one of Canada's most renowned treatment options for sex offenders. "I'm going to struggle for the rest of my life with my behaviour," says Leo, another inmate (numerous patients agreed to speak on the condition that their real names not be published). "But I want to spend the rest of my life acting like an adult and a respectable member of society."

Despite popular myth - that all sex offenders are incurable monsters - the majority of people like Ralph and Leo will re-enter society and never strike again. A recent study of 4,700 offenders found that after 15 years, fewer than one-quarter were rearrested for another sex crime. Those who undergo treatment are even less likely to reoffend

But scientific logic doesn't generate headlines - or, in many cases, good government policy. In 2006, the feds hired Jim Coflin, a former bureaucrat, to examine the registry's implementation. His report mentions some of the concerns raised by police, but it is more of a progress update than an evaluation of the legislation. In an interview, however, Coflin is much more frank. "I have yet to see any solid evidence that [registries] actually assist in investigations," he says. "If they were that effective, it would seem to me that the authorities would want to put that forward."

He's right. As of today, Canada's national sex offender registry has yet to solve a single crime. The same is true of the Ontario system.

Put aside the most basic fact - that a small percentage of sex offenders actually repeat their crimes - and there are still many other myths on which registries are built. For one, it is merely a collection of some known offenders, and the bulk are first-time criminals. In those cases, there is nothing a registry can do to either save their victims or solve the crime. The Ontario database didn't help Holly Jones, the 10-year-old Toronto girl who was kidnapped from her home in May 2003. Nor nine-year-old Cecilia Zhang, abducted and murdered five months later. Their killers - Michael Briere and Min Chen - were first-time offenders. "The stats are really, really clear," says Robin J. Wilson, a clinical psychologist who works with sex offenders. "If you are going to be offended by anyone, it will be by someone you know, most likely in your own home, and that person is not going to be on a sex offender registry."

Wilson is not naive. He knows full well that some sex offenders are unrepentant and untreatable. But he also believes the registry is more of a public relations tool than a crime-fighting tool, and that resources would be better spent on prevention, treatment, and bolstering some of the safeguards already in place to deal with the worst of the worst

Police chiefs have the power to warn the public if a prolific sex offender is back on the streets. Canada has dangerous offender legislation, which allows for indefinite jail terms (think Paul Bernardo) If that doesn't apply, prosecutors can also seek 810 peace bonds, like the one Whitmore was under.

Of course, none of those systems are foolproof, either. Whitmore's peace bond expired after he left B.C., and nobody seemed in any rush to renew it. But that doesn't mean the entire Section 810 system is pointless; it means the system needs to be improved. Same goes for the national sex offender registry.

"There is more to it than strictly the numbers," Jim Stephenson says. He should know. Since his son was killed, he has visited dozens of sex offenders as part of a restorative justice program

"They know who I am," he says. Many have told Jim how much they appreciate the fact that someone is keeping an eye on them. Some have thought twice about reoffending solely because they're listed on a registry, he says. "How do you measure success? When people start saying they don't have any statistics to bear out the success, they're being led down the wrong path."

Every flaw that's crippling the registry will be instantly forgotten if the system saves the next Christopher Stephenson. If police use the database to rescue a kidnapped child, or arrest a rapist, who could call it a failure?

But that "if" works both ways. As the RCMP wrote to Stockwell Day in 2006, it will take just one negative case to expose all the problems. What if that stranger outside a school - the one whose description can't be searched on the database - comes back and abducts a student? What if an offender leaves his house for a week, commits a crime in another province, then returns undetected? Or that child pornographer - the one who wasn't added to the registry - acts on his fetish?

Maclean's wanted to discuss some of those questions with senior officials in both the federal Department of Justice and the Public Safety ministry. Both interview requests were declined. Instead, Day's press secretary, Mélisa Leclerc, provided an email response to a list of written questions. "Concerns related to the limitations in the legislation have been raised by law enforcement," she wrote. "Issues that were known at the time of drafting Bill S-3, and on which there was national consensus, were addressed."

As for specific shortcomings (no proactive use, the 15-day rule, discretionary inclusion), she wrote: "These are important and valid concerns. Our government is prepared to examine options to ensure that any loopholes are closed. . . While the previous government may have seen the registry as primarily a public relations exercise, we regard it as a critical tool and will work with law enforcement agencies and the provinces and territories to strengthen it as required."

For Jim Stephenson, that can't happen soon enough. As he knows better than anyone: "It takes something really, really ugly before people start to get their heads together and say there should be changes."

National Sex Offender Registry Statistics (as of July 2007)

SEX OFFENDERS NON-COMPLIANT (% OF TOTAL)

British Columbia 1,469 134 (9%)

Alberta 1,251 201 (16%)

Saskatchewan 571 26 (5%)

Manitoba 696 83 (12%)

Ontario 8,229 317 (4%)

Quebec 2,554 480 (19%)

New Brunswick 424 5 (1%)

Prince Edward Island 53 0 (0%)

Nova Scotia 407 4 (1%)

Newfoundland 299 3 (1%)

Yukon 32 7 (22%)

Northwest Territories 89 6 (7%)

Nunavut 221 4 (2%)

Total 16,295 1,270 (8%)

See also SEXUAL ABUSE OF CHILDREN

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