



Written by [Raven Clabough](#) on March 9, 2010

## Sex Offender Laws Called Into Question

John Albert Gardner III, a registered sex offender in Escondido, a north San Diego suburb, from January 2008 to January 2010, is accused of the murder of 17-year old Chelsea King and has now been considered a suspect in the murder of 14-year old Amber Dubois as well.

Chelsea King, last seen in a park in running clothes, went missing last month from San Diego, California. Once Chelsea's father found her 1994 BMW parked at Rancho Bernardo Community Park, signs of foul play quickly emerged. Shortly afterwards, authorities discovered King's semen-stained clothing, leading to the arrest of Gardner outside a restaurant in Escondido. Gardner has pleaded not guilty to murdering Chelsea and raping or attempting to rape her and attempting to rape another woman in an unrelated December 27 incident.



After Gardner was charged with King's death, the search for Amber Dubois intensified. Dubois disappeared in February 2009, last seen walking on February 13, 2009 with a man about 200 yards from Escondido High School. Another neighbor reported seeing her about 300 yards from school. Unfortunately, since Dubois vanished without a trace, and no leads, her case attracted little interest from the media. Without signs of foul play that may put other children at risk, attention of law enforcement and reporters is minimum. However, the discovery of King's body triggered renewed interest in the Dubois case. On Sunday, March 7, Amber's remains were uncovered in a remote area on the Pala Indian Reservation.

The murders of Dubois and King have prompted Americans and the media to take a closer look at local sex offender laws. There are approximately 700,000 sex offenders in the United States at this time, and sex offenders have a 24-percent rate of recidivism. At the same time, there are 115 non-family child abductions a year in the America, averaging 2 a week. In light of the recent accusations against Gardner, and the possible connection with Dubois' death, many families are calling for stricter laws against sex offenders and child abductors.

Gardner was convicted for molesting a 13-year old neighbor in San Diego in 2000, and served five years of a six-year prison term. A court-appointed psychiatrist, Dr. Matthew Carroll, recommended the maximum sentence for Gardner in 2000, claiming that he was an "extremely poor candidate" for treatment and a "continued danger to underage girls in the community." Under a plea agreement, he faced a maximum sentence of nearly 11 years, but prosecutors urged six years. If Gardner had served the maximum sentence, Chelsea King would still be alive today.

Fox News recently covered a story involving convicted sex offender James Donnelly. Donnelly is



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currently living across the street from an elementary school in California, even though a version of Jessica's law that bans sex offenders from living less than 2000 feet away from any school was passed in that state. Unfortunately, police say that they have no way of actually enforcing that law. Civil Rights attorney Remi Spencer explains that if sex offenders do not receive parole or probation, it is much more difficult to monitor this component of the law. Fox News anchor Gretchen Carlson believes that once defense lawyers have figured out this "loophole", they will press for extended sentences to minimize the chances of parole or probation.

While many believe that the laws against sex offenders need to be stricter, others claim the opposite. The state of Georgia has acquired the reputation of having the strictest sex offender laws. Surprisingly, however, on March 6, 2010, the Georgians for Reform held a 12-hour conference in the Georgia State Capitol pushing for more leniency with the sex-offender registry, claiming it is a failing system and an extension of criminal punishment, a violation of due process that deprives the offenders of human dignity.

While the idea that sex offenders deserve to be treated with dignity is laughable, the Georgians for Reform make one good point: The sex offender registries have done little to prevent incidents of sexual offense, as exemplified by Phillip Garrido and Anthony Sowell, registered sexual offenders who committed further abuses.

Nancy Sabin of the Jacob Wetterling Foundation, which combats child exploitation, explains that the laws do not protect the more than 90 percent of abused children who suffer at the hands of people they know. Also, the majority of the restrictions lump all sex offenders together, even though many of them are 18-year-old men who had sex with underage girlfriends.

John Walsh, host of the Fox television show *America's Most Wanted*, adds, "You can't paint sex offenders with a broad brush." He adds that the residency laws are worthwhile only if they can be enforced, but tens of thousands of the nation's sex offenders are giving police fake addresses. Walsh pushed for Congress to pass a 2006 law named for his abducted and murdered son Adam, which makes failure to register by offenders guilty of serious crimes like rape and child molestation a felony.

Oklahoma state Rep. Lucky Lamons wants to loosen his state's law that bans registered sex offenders from living within 2000 feet from a school because it forces offenders to live in rural areas, where they are too difficult to monitor. Likewise, the law does not differentiate between real offenders and those guilty of public urination, a sex offense in Oklahoma. In the past decade, 27 states have instituted strict residency restrictions inhibiting sex offenders from living in large parts of cities, like Tulsa, Atlanta, or Des Moines. Now offenders are claiming that they cannot find a place to live legally.

Jill Levenson, professor of human services at Lynn University in Florida, argues that the residency restriction laws have the opposite of their intended effect, pushing sex offenders back into a life of crime. By forcing offenders to live in rural areas, they have less access to jobs and mental health services.

Other evidence indicates that the restricted residency laws may be unnecessary. According to a 2003 survey conducted by the Minnesota Department of Corrections, sex offenders are likely to seek victims in neighborhoods other than their own. A report in 2004 by Colorado's Department of Public Safety indicated that molesters who convicted more offenses lived no closer to schools or child-care centers than those who had not re-offended.

In contrast to these findings, however, Jeffrey Walker of the University of Arkansas found that child



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molesters are twice as likely to live near schools than those who have sexually assaulted adults.

The consensus seems to be that registry and restricted residency laws should be reserved for the most dangerous of the sex offenders, including those considered likely to repeat their offense. This will make monitoring these individuals a simpler task for law enforcement.

Perhaps increased penalties and sentences should be considered as well. In Korea, as of 2008, many sex offenders are required to wear an electronic ankle bracelet. According to *JoongAng Daily*, “there have rarely been cases in Korea in which former sexual offenders have become repeat offenders since the law was implemented.” Unfortunately, this law does not entail retroactive legal application. Lawmakers in Korea have presented a bill to the National Assembly that pushes for increasing the prison term of sex offenders and increasing the supervision of released offenders. In July 2008, a man convicted of molesting three teenaged girls in Texas was sentenced to 4,060 years in prison. Such a symbolic gesture asserts that child sexual molestation would not be tolerated. Something to think about.

Researchers have proposed alternate approaches to the sex offender residency laws, including more checks by probation officers, mandatory therapy, and polygraphing offenders while imposing driving logs. One thing is for certain — something needs to be done to prevent cases like those of Chelsea King and Amber Dubois.

*Photo: FBI evidence response team members search a creekside area for evidence in the case of Amber Dubois in Escondido, Calif.: AP Images*



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