


NC CHILD TREATMENT PROGRAM
CENTER FOR CHILD & FAMILY HEALTH

CURRENT SCIENCE REGARDING JUVENILE PROBLEMATIC SEXUAL BEHAVIOR

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OBJECTIVES


- Understand the current research that distinguishes between juvenile and adult problematic or illegal sexual behavior
- Understand the purpose and role of assessment for juveniles with PSB
- Learn how to utilize and incorporate age appropriate language, safety planning and recommendations to PSB in children and youth
- Identify available evidence-informed treatments in NC



PSB IN CHILDREN AND ADOLESCENTS

- Child-initiated behaviors that involve “private parts”
- Developmentally inappropriate
- Illegal, per local and/or national statutes
- Potentially harmful to self or others
- Focuses on the behavior(s)
 - Although the term “sexual” is utilized, the intentions and motivations for these behaviors may be unrelated to sexual gratification
 - Separates behavior from the child

Silovsky & Bonner (2003)



GUIDELINES FOR DETERMINING IF SEXUAL BEHAVIORS ARE A PROBLEM

Frequency	Developmental Considerations	Harm
High Frequency	Among Youth of Significantly Different Ages/ Developmental Abilities	Intrusive Behaviors
Excludes Normal Childhood Activities	Longer in Duration than Developmentally Expected	Use of Force, Intimidation, and/or Coercion
Unresponsive (i.e., does not decrease) to Typical Parenting Strategies	Interferes with Social Development	Elicits Fear or Anxiety in Other Children

Bonner (1995); Davies, Glaser, & Koss (2000); Friedrich (1997); Johnson (2004); Larsson & Svedin (2001)

PREVALENCE

- Adolescents account for more than one-third of all known sexual assaults against minors
- PSB primarily occurs with other children known by the youth, with 25% of victims being family members

Finkelhor, D., Ormrod, R. and Chaffin, M. (2009) Juveniles who commit sex offenses against minors. Juvenile Justice Bulletin. Office of Justice Programs



PREVALENCE

- North Carolina Department of Public Safety
(J. Steinberg, personal communication, April 21, 2017):
 - 4,571 minors were adjudicated for sexual offenses in a 10-year period, ending in December 2016
 - Adjudicated children were between the ages of 6-16 years, with approximately 1/3 under the age of 13
 - 96% were male
- National Children's Alliance (2015):
 - 20-25% of cases of child sexual abuse cases seen at Children's Advocacy Centers (CACs) were initiated by a child or youth under the age of 18

DISTINCTIONS FROM ADULT SEXUAL OFFENDERS

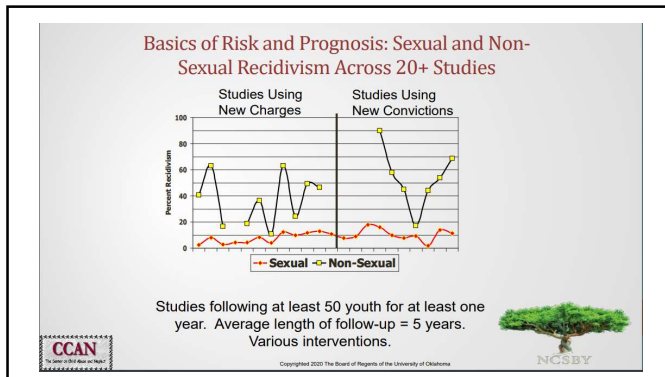
- Compared to adult sexual offenders, most youth (through adolescence) with PSB:
 - Have fewer victims and behaviors and a shorter duration of behavior
 - Engage in fewer behaviors involving penetrative acts
 - Have different motivations for their behavior: more experimental or curiosity-driven behaviors
 - Motivations for adolescents are often sexual exploration, rather than sexual exploitation
 - Few sexual offenses of youth involve strangers

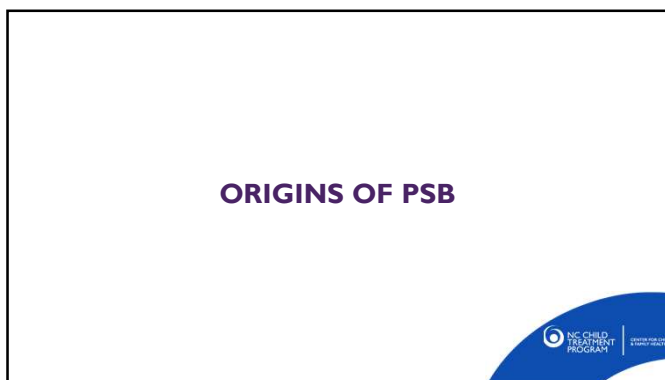
DISTINCTIONS FROM ADULT SEXUAL OFFENDERS

- Have less specific, focused sexual behavior
- Show less evidence of sexual compulsivity, “cycles,” “grooming,” or other features often found in adults
 - Adolescents more often act impulsively, rather than compulsively
 - Less likely to choose secluded, isolated places; more often the behavior occurs in the “open”; opportunistic
- Show no evidence that most have a lifelong, incurable sexual disorder or paraphilia

RECIDIVISM

- The sexual re-offense rate for adolescent sex offenders is in the single digits, typically in the 3-10% range
 - With appropriate treatment intervention; 2-3%
 - 80-95% of adolescents who have engaged in abusive sexual behavior do not sexually reoffend, even without formal therapeutic interventions
 - Future sex crimes are much more likely to be committed by a previously non-sex offending juvenile
 - Youth with previous sex offense are more likely to engage in other non-sexual illegal behaviors





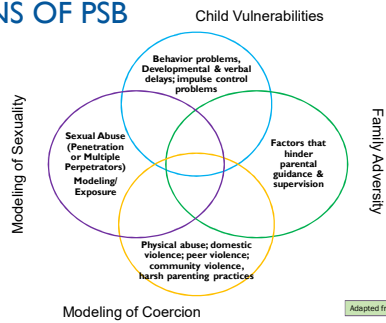
IMPACT OF SEXUAL ABUSE

- Historical assumption – “All children with sexual behavior problems have been abused”
 - Sexual abuse may be more likely in female children with PSB
- Most children who have been sexually abused do not have PSB
 - Of substantiated child sexual abuse cases
 - 36% of preschool children had PSB
 - 6% of school-age children had PSB

Cohen & Mannarino, 1997; Hall, Matthews, & Preme, 2002; Kendall-Tackett, Williams, & Finkelhor, 1991; McMichael & McGee, 1999; Friedrich, 2005

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ORIGINS OF PSB



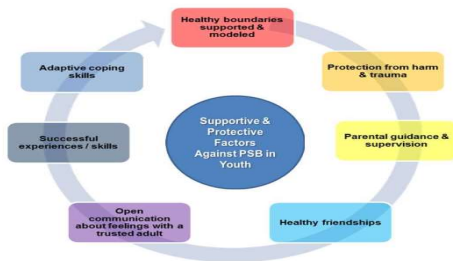
ROLE OF BRAIN DEVELOPMENT

- Adolescent brain is still developing
 - Specifically, the areas related to impulse control, emotional arousal, deliberative thinking, foresight, problem solving and mature judgment
- This has been acknowledged and accepted by the United States Supreme Court: "a lack of maturity and an underdeveloped sense of responsibility are found in youth...these qualities often result in impetuous and ill-considered actions and decisions."

Roper v. Simmons, 543 U.S. 551, 569, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005).



PROTECTIVE FACTORS



NCSBY, Silovsky (2009)

ROLE OF ASSESSMENT



COMPREHENSIVE ASSESSMENT

- Should include:
 - Developmental, Social, Educational and Family history
 - Trauma history
 - Caregiver and child/adolescent interview
 - Non-problematic sexual behavior
 - Problematic and/or illegal sexual behaviors (ongoing)
 - Review of collateral information, including incident reports if available
 - Appropriate standardized measures
 - Current needs and risk factors
 - Treatment recommended should address these specifically



COMPREHENSIVE ASSESSMENT

- Should NOT include:
 - Polygraphs
 - Plethysmography
 - Measures validated for use in the adult sex offender population
- It is appropriate to ask if the assessor is following best practices as outlined by ATSA

Practice Guidelines for Assessment, Treatment, and Intervention with Adolescents who have Engaged in Sexually Abusive Behavior (2017)
https://www.atsa.com/PublicAffairs/ATSA_2017_Adolescent_Guidelines_10C.pdf



TIMING OF ASSESSMENT

- Traditionally done post-adjudication; e.g. SOSE
- Why not at pre-adjudication?

Pros	Cons
Early identification of risks and needs of the juvenile and their family	Self-incrimination/confidentiality
Safety planning begins at the assessment phase	Requires a systems shift
Appropriate intervention can begin immediately	Lack of available assessors



PSB IS **NOT** A DIAGNOSIS

- There is **no** DSM-5 diagnosis for problematic sexual behavior
 - PSB could be a symptom or criterion for a diagnosis
- Common diagnoses include:
 - Disruptive Behavior Disorders: ADD/ADHD, ODD, CD
 - Trauma-Related Disorders: PTSD, adjustment
 - Other internalizing disorders (e.g., depression, anxiety)
 - Learning and language delays
- **Note:** Some children with PSB do not meet a DSM-5 diagnosis



WHY NOT A RISK ASSESSMENT?

- Currently, there is no empirically validated measure that can accurately determine the level of risk of sexual reoffending in juveniles (Rich, 2015)
 - Low population base rates
 - Behavior may not be trait driven
 - Behavior may be more situational and driven by environment or ecology
 - Lack of consistent parental supervision, lack of sexual boundaries in family, peer influences, curiosity combined with opportunity
 - Expected changes in adolescent development and maturity

Caldwell, M. E. (2016). Quantifying the Decline in Juvenile Sexual Recidivism Rates. Psychology, Public Policy, and Law. Advance online publication. <http://dx.doi.org/10.1037/ppa0000094>
 Rich, P. (2014). Assessment of risk for sexual reoffense in juveniles who commit sexual offenses. In Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) (Ed.), Sex Offender Management Assessment and Planning Initiative (SOMAPI) Juvenile Section. Retrieved from http://www.ncjrs.gov/pdffiles1/somapi/2014_rich.pdf

COMMON MISCONCEPTIONS & CULTURE SHIFT



NC CHILD TREATMENT PROGRAM
CHANGING THE CULTURE OF JUVENILE JUSTICE

OUR WORDS MATTER!

How does the system label children and adolescents with PSB?

- Child on child
- Pervert
- Perpetrator
- Predator
- Rapist
- Sex offender
- Juvenile sex offender*
- Future sex offender

Preferred Terms

- Problematic sexual behavior (PSB)
- Concerning sexual behaviors
- Child with sexual behavior problems
- Sexually reactive behaviors
- Juvenile with illegal or harmful sexual behavior

*This term places more negative attributions on the child and their future outcomes (Harris & Socia, 2014).



NC CHILD TREATMENT PROGRAM
CHANGING THE CULTURE OF JUVENILE JUSTICE

STRENGTHENING THE CULTURE AROUND PSB

- These are children first and foremost, not mini-adults
- Using appropriate terminology
- Addressing PSB like any other behavioral problem
- Provide hope and support to families
- Develop a collaborative, multidisciplinary response
 - Coordinating effective interventions and treatment services



NC CHILD TREATMENT PROGRAM
CHANGING THE CULTURE OF JUVENILE JUSTICE

DO YOUTH WITH PSB NEED INTENSIVE RESIDENTIAL TREATMENT?



• Considerations:

- Is the youth actively a danger to self or others, and/or experiencing psychosis?
- Is the youth's PSB highly aggressive and recurs despite appropriate intervention in the community?

• Most youth with PSB can be treated on an outpatient basis while living at home or in the community!

- Residential and inpatient treatment should be reserved for the most severe cases.

Chaffin et al., 2006; Brown, Silovsky, & Hecht, 2001

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CAN YOUTH WITH PSB LIVE WITH OTHER YOUTH?



• Considerations:

- Do the caregivers have the capacity to provide supervision and safety?
- Does the youth with PSB respond to adult supervision and guidance?
- Who are the other youth in the home? What are their vulnerabilities, strengths, and wishes?

• With appropriate treatment and careful supervision, most youth with PSB can live safely with other youth!

- If PSB occurred with other youth in the home, then the other youth's reactions must be considered
- Youth with highly aggressive or intrusive sexual behavior, despite treatment and close supervision, should not live with young children until this behavior is resolved.

Chaffin et al., 2006, 2008

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CAN YOUTH WITH PSB ATTEND SCHOOL SAFELY?



• Considerations:

- What are the youth's risky behaviors and strengths, including impulsivity and responsiveness to supervision and adult guidance?
- What are the strengths and vulnerabilities of the school and teachers?
- What does the school staff need to know to be protective of all youth?

• Most youth with PSB can attend public schools and participate in school activities!

- In some cases, school personnel may need to know information about PSB for safety and protection concerns.
- Youth with serious, aggressive PSB that is unresponsive to outpatient treatment and supervision, may need a more restrictive environment.

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SEX OFFENDER REGISTRY

Current research **does not support** the efficacy of placing adolescents on sex offender registries as a deterrent or sexual abuse prevention mechanism

Brandt, J., Caldwell, M., Davidson, S., Gatch, K., Griffith, A., Lemaire, E., Levenson, T., Lohman-Rustovsky, C., Rich, P., Snyder, A., Sparks, B., Wesselt, S., & Worley, K. (2020). Registration and Community Notification of Children and Adolescents Adjudicated of a Sexual Crime: Recommendations for Evidence-Based Reform. Association for the Treatment of Sexual Abusers. Retrieved from <https://www.atasa.com/Publications/RegistrationCommunityNotificationChildrenAdolescents.pdf>

Lemaire, E. J., Harris, A. J., Strick, R. T., Wafford, S. M., Rutisha, A. E., Budman, C., Kahn, G. D., & Hahn, R. (2018). Effects of juvenile sex offender registration on adolescent well-being: An empirical examination. *Psychology, Public Policy and Law*, 24(1), 105-117. <https://doi.org/10.1037/ppa0000131>

SAFETY PLANNING, & TREATMENT RECOMMENDATIONS



SAFETY PLANNING

- Caregiver should have continuous, visual (eyes-on) supervision when child is with other children.
– **Note:** Plan for occasions, however brief, when the supervising caregiver needs privacy or time away from child.
- Child should be monitored closely when using an electronic device (e.g., phone, computer, television, gaming system) with access to the internet, texting, media, or social media.
- Child should **never** have access to sexually explicit materials (e.g., magazines, catalogs, movies, television, video games, text messages, emails, etc.).

Adapted from the National Center on the Sexual Behavior of Youth (NCSBY)

SAFETY PLANNING

- 1) The child with PSB should not sleep in the same bed as other children
- 2) Privacy rules need to be established and followed
- 3) Clear rules and expectations about privacy and appropriate sexual behavior need to be communicated to all family members
- 4) Personal self-care should occur in private
- 5) An adult should remain in charge of all children
- 6) Parents and other adults should demonstrate modesty in the child's presence

(Silovsky, 2009)



NC CHILD TREATMENT PROGRAM
CREATING THE PATH TO A BETTER FUTURE

TREATMENT

Goal is to:

- Eliminate PSB
- Encourage accountability
- Enhance community safety
- Strengthen protective factors
- Empirically sound
- Assessment driven
- Social ecology lens
- Includes caregivers in treatment



NC CHILD TREATMENT PROGRAM
CREATING THE PATH TO A BETTER FUTURE

EVIDENCE-INFORMED TREATMENT AVAILABLE IN LIMITED AREAS OF NORTH CAROLINA

- Treatment Alternatives for Sexualized Kids (**TASK**)
 - Children's Hope Alliance
 - <https://www.childrenshopealliance.org/task-services-treatment-alternatives-for-sexualized-kids/>
- Multisystemic Therapy - Problematic Sexual Behavior (**MST-PSB**)
 - Amethyst Consulting and Treatment Solutions
 - <http://www.amethystcares.com/behavioral-health-care-our-services/mst-for-problem-sexual-behavior>
 - Alexander Youth Network:
 - <https://www.alexanderyouthnetwork.org/our-services/multi-systemic-therapy/>
- Problematic Sexual Behavior: Cognitive Behavioral Therapy (**PSB-CBT**)
 - Center for Child and Family Health
 - <https://www.ccfhnc.org/treatment/problematic-sexual-behavior/>
 - Other PSB-CBT providers
 - <https://www.ncchildtreatmentprogram.org/program-roster/>

RESOURCES (FOR PROFESSIONALS AND FAMILIES)

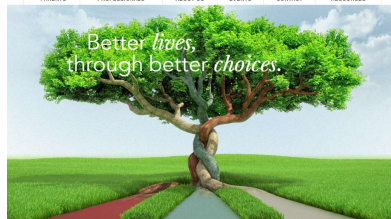


CREATING THE FUTURE
A BETTER PLACE

NATIONAL CENTER ON THE SEXUAL BEHAVIOR OF YOUTH (NCSBY)

www.ncsby.org

- Offers resources for caregivers and professionals, including newsletters by the Parent Partnership Board



CREATING THE FUTURE
A BETTER PLACE

ADDITIONAL WEBSITES

NCTSN

The National Child
Traumatic Stress Network

ATSA
MAKING SOCIETY SAFER®

- **National Child Traumatic Stress Network:** www.nctsn.org
 - Informational materials (assessment, intervention, resources)
 - Juvenile justice-specific: <https://www.nctsn.org/trauma-informed-care/creating-trauma-informed-systems/justice>
- **Association for the Treatment of Sexual Abusers:** www.atsa.com
 - Practice Guidelines for Assessment, Treatment, and Intervention with Adolescents who have Engaged in Sexually Abusive Behavior (2017): https://www.atsa.com/Public/Adolescent/ATSA_2017_Adolescent_Guidelines_TOC.pdf
 - Report of the Task Force on Children with Sexual Behavior Problems (2006): <https://www.atsa.com/pdfs/Report-TFCSBP.pdf>

ONLINE SAFETY

- **Connect Safely:** <https://www.connectsafely.org/>
 - Guides about online safety; including **parental controls**, popular apps (e.g., TikTok, Discord, Roblox, Instagram, etc.), gaming, cyberbullying, and sexting
- **Common Sense:** <https://www.common sense.org/>
 - Common Sense Media: includes reviews and guidance for families of shows, movies, games, etc.
 - Provides education and advocacy to help technology become safer and healthier
- **NetSmartz:** <https://www.missingkids.org/netsmartz/home>
 - Videos and games to teach children about internet safety

Our Minds Are Made Up—Don't Confuse Us With the Facts: Commentary on Policies Concerning Children With Sexual Behavior Problems and Juvenile Sex Offenders

Mark Chaffin

University of Oklahoma Health Sciences Center

This commentary examines four common policy-relevant perceptions of teen and preteen sex offenders—high risk, “specialness,” homogeneity, and intransigence. Each perception is contrasted with long-standing as well as more current scientific facts. It is argued that public policies for these youth have been fundamentally driven by misperceptions, resulting in a set of well-intentioned but ultimately flawed policies and practices that are unlikely to deliver either child protection or juvenile justice benefits. These include federal and state policies pertaining to public registration and notification, community management, institutional placement, treatment approaches, and treatment standards. The research evidence about these juveniles is considerably more positive than current policies or clinical practices might suggest, and reflects a sharp disconnect between popular policy-relevant perceptions and the facts as we know them about these diverse cases.

Keywords: *juvenile sex offenders; policy*

It used to be, everyone was entitled to their own opinion, but not their own facts. But that's not the case anymore. Facts matter not at all. Perception is everything.

- Stephen Colbert in a January 26, 2006, interview about *truthiness*, a word he coined to parody political arguments based on gut feelings to the exclusion of, or contradicting, facts and data. As a sign of the times, *truthiness* was accorded Word of the Year honors in 2005 and 2006.

CHILD MALTREATMENT, Vol. 13, No. 2, May 2008 110-121
DOI: 10.1177/1077559508314510
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The simple truth is that juvenile sex offenders turn into adult predators. . . . I want to challenge you to look deep down inside. Isn't it time to put our kids' safety before the rights of sexual offenders, adult or juvenile? When is enough going to be enough? Must we have even one more Jessica Lunsford or one more Sara Lunde?

- Testimony given by a 17-year-old before the U.S. Congress in 2005 advocating for placing children and teenagers on public sex offender registries and notifying their communities about them. A law was named after the 17-year-old and passed as part of the Adam Walsh Act of 2006, and is beginning to come into effect. Fourteen-year-olds will soon be subject to the same lifetime public labeling and restrictions as the most serious adult sexual predators.

It is difficult to imagine a more reprehensible crime than the sex murder of a child. Child victims such as Jessica Lundsford and Sara Lunde, mentioned in the quote above, and Adam Walsh have touched the hearts of many. These thankfully rare but tragic crimes are heartbreaking, frightening, and infuriating. We want justice for the victims. We want to do something to prevent similar tragedies from happening again. We want to do something to prevent sex crimes against children in general. Seeking to protect children from sex crimes is an entirely good and appropriate policy objective. But heartbreak,

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fear, and anger do not necessarily generate good child protection policy. Good policy requires accurate facts, not just rallying cries and single-case testimonials. It is not enough to be well intentioned or to simply look deep down inside. We must first be well informed and then think rationally, not emotionally, about the problem we hope to solve.

In 1998, as part of a special issue of *Child Maltreatment* focused on juvenile sex offenders and children with sexual behavior problems, Barbara Bonner and I authored a commentary titled "Don't Shoot, We're Your Children: Have We Gone Too Far in Our Treatment of Adolescent Sexual Abusers and Children With Sexual Behavior Problems" (Chaffin & Bonner, 1998). Now, a decade later, I was invited to author a reprise of the commentary on the occasion of this special issue dedicated to Bill Friedrich, a deeply missed advocate for scientifically sound practice and policy. The 1998 commentary voiced the opinion that treatment approaches for these youth were fundamentally founded on a set of unproven assumptions drawn from theories about adult pedophilia. We argued that these untested assumptions, which had shaded into rigid dogma, had led to juvenile treatment practices that were a mismatch for children and teens.

In essence, the article argued that our treatment responses to the problem of juvenile sex offenses showed signs of having "gone too far." Efforts during the 1980s had succeeded in rallying needed attention to the real and long-minimized social problem of juvenile-on-juvenile sex crimes. But in doing so, we had begun to embrace a set of harsh treatment practices based on unproven assumptions. We emphasized how there was a lack of scientific data to inform the conventional wisdom of the day about juvenile sex offender treatment techniques, most of which presumed that juvenile-on-juvenile sex crimes reflected a compulsive and incurable pattern of deviant sexual arousal and calculated deceit similar to characterizations of adult sexual predators. There were disturbing signs on the horizon that these untested treatment assumptions were making inroads into public policy in ways that could ultimately harm children and youth.

Now, 10 years later, circumstances have changed. Some developments are definitely for the better. Unfortunately, several appear to be for the worse. The good news is that the facts, by which I mean scientific data, are considerably more robust and lend themselves to firmer conclusions. The bad news is that the facts have hardly mattered at all in the public policy arena. Public policy has continued to move in the directions feared in 1998, despite an increasing accumulation of data that suggest that the

reasons cited to justify these policies are no longer merely unproven or unexamined assumptions, but are flatly at odds with the facts as we know them. In 1998, we commented on the gap between what was actually known and what was assumed. A decade later, this has evolved into a polarization between facts and perceptions. The question now is not whether we have gone too far—that point was passed long ago. The question now is when or how we will find our way out, and how many children and youth may be needlessly harmed before rational, fact-based policies and practices supersede the minimization of our past and the moral panic of the present.

Perhaps the best place to start is with the facts, by which I mean reasonably rigorous scientific data and not speculative theories, clinical lore, police lore, personal stories, testimonials, or political ideologies. As the articles in this issue illustrate, the body of facts about children with sexual behavior problems has grown considerably. This is especially true in the area of intervention knowledge. There have been multiple randomized clinical trials testing intervention outcomes among children with sexual behavior problems. Treatment outcome studies have been summarized meta-analytically to identify individual intervention elements associated with better outcomes. In addition to data about whether treatment reduces downstream sex crimes and behavior, we now have data on which individual treatment elements appear to most strongly predict behavior change. There has been lesser but still substantial growth in knowledge about teenage sex offenders. Many missing pieces of the factual puzzle cited in our 1998 article are now far clearer. For example, more is known about the heterogeneity and subgroup composition of teenage sex offenders; there are improved epidemiologic data; more is known about actuarial individual risk prediction; and more is known about the relative rates of subsequent sex crimes for both teenage sex offenders and children with sexual behavior problems compared to other groups of children and teens with no documented history of sexual perpetration or sexual misbehavior. Initial randomized trial findings supporting the use of multisystemic therapy with adolescent sex offenders have been replicated, and a third randomized trial is nearing completion. A number of follow-up studies done with teenage sex offenders have supported earlier recidivism findings, and have helped place these rates in context by comparing them with other groups of delinquent youth. Early evidence is accumulating about the intended and unintended impact of public registration and notification. In the sections that follow, both long-established and newer

facts will be examined to illustrate four critical policy-relevant misperceptions about these youth.

MISPERCEIVED RISK

The available facts suggest that children with sexual behavior problems, as a group, pose a *low* long-term risk for future child sexual abuse perpetration and sex crimes. Much the same could be said about teenage sex offenders as a group, for whom low future sex offense and sexual abuse perpetration rates have been well established (Alexander, 1999; Caldwell, 2002). For teenage sex offenders, the low-risk news is not new—decades of U.S. studies typically report long-term future sex offense rates in the range of 5%-15% (the lower end of this range more often characterizing those who complete some sort of treatment program, and the higher end more often characterizing those who do not). The sole long-term follow-up study of preteen children with sexual behavior problems found even lower long-term rates (2%-10% at 10-year follow-up depending on type of treatment received; Carpentier, Silovsky, & Chaffin, 2006). In fact, treated children with sexual behavior problems are as likely to be future sex abuse *victims* as future sex abuse *perpetrators*. In both cases, teen and preteen, the facts are fairly consistent and point in one direction—low long-term risk. Defending the national lifetime juvenile sex offender registration policies of the new Adam Walsh Act in an ABC News interview, the U.S. Justice Department official in charge of implementing the law stated that scientific findings about juveniles were inconclusive and “all over the board” (Rogers, quoted in Michels, 2007). It is difficult to know whether this statement is disingenuous or simply misinformed. In any case, it hardly reflects the facts on risk as we know them. The fact is that low future sex crime rates among juvenile sex offenders in the United States are a well-replicated, robust, and long-standing scientific finding. The long-term risk among children with sexual behavior problems appears to be even lower, especially given correct treatment.

So why has the perception of high risk persisted and the facts about low risk remain largely ignored? Some individuals may prefer the perception of high risk to legitimize their hunger for retribution against sex crimes. A less purposeful explanation might lie in the confusion between retrospective and prospective data, and the logical fallacy of “backwards reasoning.” It is well known that, retrospectively, a significant number of adult sex offenders date the onset of their behavior to childhood or adolescence (Marshall, Barbaree, & Eccles, 1991). By reasoning

backwards, some might erroneously conclude that most children with sexual behavior problems and most teenage sex offenders therefore will persist in committing sex crimes and require management or containment approaches similar to those used with adult predators. This is analogous to reasoning that because many chronic heroin addicts began their drug-using careers as teen marijuana smokers, adolescents caught smoking marijuana should therefore be placed on a lifetime methadone program.

Others may doubt that the recidivism data are accurate. The common, indeed almost reflexive, objection raised is that sex crimes are underreported and therefore the actual number of recidivists is many, many times the number reflected in the official recidivism data. There is little doubt that sex crimes often go unreported. But there are a number of considerations that make underreporting less of a factor than it might ostensibly seem. Even if underreporting is a large factor for isolated events, it can become a small factor in recidivist counts for a repetitive behavior. The odds of a *single* sex crime being reported may be low, but the *cumulative odds* that someone will evade *all* detection for a repetitive behavior decreases exponentially with the number of events. The odds are likely to catch up with recurrent offenders, unless they are masters at evading detection. Given that children with sexual behavior problems and teenage sex offenders are detected committing a high number of nonsexual offenses (primarily property crimes and drug crimes) and, like most other juveniles, tend to be more clumsy than artful in their delinquent actions, they do not fit the bill as skillful masters of evasion. Data are available from numerous studies that have followed these children and youth for long periods of time—a decade or longer—using multiple data sources. The recidivism hazard rates observed in these studies typically decline quickly over time, and have dropped close to zero after 2 to 4 years. Consequently, it is not unreasonable to conclude that the studies have captured a significant portion of true recidivists. But the most persuasive facts supporting low risk come from more recent studies—those that have used comparison groups to track future sex offense rates. These will be addressed in the next section.

MISPERCEIVED “SPECIALNESS”

Often, future sex offense rates among children with sexual behavior problems or teenage sex offenders are interpreted as if these are the only juvenile populations having any future sex offense risk. This is plainly false. Ordinary youth have some

nonzero risk to commit a sex offense. Determining what is an unacceptably high risk is not simply a matter of the absolute risk rate but also the relative risk rate and requires answering the question, "High risk compared to what?" Unlike the bulk of earlier studies that examined risk without the advantages of comparison groups, more recent studies have included reasonably matched (i.e., drawn from the same sectors of society) comparison groups with no known history of illegal or norm-violating sexual behavior. This provides an interpretative context which is lacking in single-group studies. For the sake of example, let us assume that 5% of children and teens completing credible treatment for sexual behavior problems ultimately are found to commit a future sex offense. Some might argue that even this rate is unacceptably high compared to zero, and that "it is better to be safe than sorry" or to "err on the side of protecting victims." But is 5% really too risky in the context of what is ordinary for other groups of youth? We presume that youth with the sex offender label pose an extraordinarily high, perhaps even uniquely high, risk relative to other groups. This is the presumptive foundation for many current policies—after all, if we are going to warn the public, we need to warn them about people who are unusually or extraordinarily dangerous, not about people posing fairly ordinary risk levels.

Many policies are themselves risky—this is why the justifications of better safe than sorry and err on the side of victims are overly simplistic and misguided. Both heuristics presume that there is no downside to the policy in terms of child protection or community safety—only the burdens placed on offenders or offender's rights need to be balanced against the potential good done by the policy (e.g., "Isn't it time to put our kids' safety before the rights of sexual offenders, adult or juvenile?"). The potential community safety risks of policies such as public notification are fairly easy to see. Placing youth on lifetime public registries creates both direct stigmatization and can set in motion a series of cascading policy effects resulting in social exclusion and marginalization. In addition to the obvious social and psychological fallout due to public stigmatization, registered individuals may be subject to related laws and public policies including residency restrictions, employment restrictions, special flagging as a "sex offender" on driver's licenses, automatic expulsion from public schools, and so forth. For example, in jurisdictions where broad sex offender registration and strict residency restriction policies exist and are linked, there are reports of growing numbers of individuals pressed into lives of homelessness and segregation

into sex offender "colonies," including those labeled as sex offenders on the basis of behavior they committed years earlier as young teens (Thompson, 2007).

Permanent stigmatization and exclusion from society are opposite from the ways our juvenile justice system handles other types of serious juvenile offenses. Juvenile records normally are protected from public exposure and the focus is on bringing youth more into the prosocial mainstream rather than excluding them from it. There are good public safety reasons for not turning children and youth into pariahs, in addition to the fairly obvious moral and human rights arguments that could be made. Crime is more likely to occur when bonds with mainstream society are weakened—that is, when individuals lose or fail to develop social anchors such as school involvement, stable employment, stable residence, military service, job advancement, engagement with prosocial institutions, becoming a part of prosocial friendship networks, fitting into a neighborhood, having prospects for marriage or committed relationships, and raising a family (Sampson & Laub, 2005). It is during adolescence and early adulthood that life-course tipping points for these social anchors are met and a future life direction is steered. Serious stigmatization and marginalization diminish the prospects for healthy social anchors and can set a course for criminal behavior as well as numerous other problems. Normally, we believe it is in everyone's interest to stigmatize and isolate juvenile delinquents *far less* than we do adult criminals. For young delinquents labeled as sex offenders, we have now decided to stigmatize and isolate them *far more* than we do most adult criminals—indeed, we are now going out of our way to stigmatize and exclude them to an extent unprecedented in modern juvenile justice history (Zimring, 2004). It is not necessarily that we are ignorant of the risks brought on by stigmatizing and isolating youth or that all proponents of these policies just thoughtlessly bloodthirsty or uninformed, but rather that we are willing to impose these burdens and take this risk because we perceive these groups of youth to be so extraordinarily dangerous compared to other delinquent or behavior problem youth that correspondingly extraordinary steps are warranted. The data suggest that the perception of extraordinary danger forming the foundation for these policies is factually false for both teens and preteens.

Carpentier et al. (2006) followed children with aggressive sexual behavior problems for over a decade, comparing two randomized treatment intervention groups. More importantly, the study used the same follow-up techniques for a third group of general

outpatient clinic children with no history of atypical sexual behavior. Most of these children had common behavior problems such as attention deficit hyperactivity disorder (ADHD) or learning problems in school. Nobody would view children with ADHD or learning problems as an unusually sexually dangerous class. Nobody is proposing placing children with ADHD on lifetime sex offender registries, subjecting them to residency restrictions, forcing their families to relocate, flagging their driver's licenses, limiting their employment opportunities, segregating them from other children, or automatically expelling them from public schools. To even suggest such a policy on the basis of sex crime risk would rightly seem bizarre. Yet, at a 10-year follow-up, the rate of sex abuse perpetration reports among former children with sexual behavior problems who received brief, focused treatment was no different from that found among general outpatient clinic children with ADHD (2%-3%). In other words, the long-term sex crime risk of appropriately treated children with sexual behavior problems was no different from that of children for whom we would never consider extraordinary and burdensome community protection measures. No public notification policies were in effect in the state where the study was conducted, so these sorts of containment policies could not have suppressed offense rates for the sexual behavior problem group.

The first implication of this finding concerns the ubiquitous underreporting objection raised regarding the accuracy of future sex offense rates. There is little reason to expect that underreporting would operate differently between groups. This allows us to determine whether risk is relatively high irrespective of any underreporting bias. Given credible intervention, long-term sex crime risk among former children with sexual behavior problems is not much different from other, far larger and more general groups of children. On the basis of this, we can conclude that their long-term sex crime risk is ordinary, not extraordinary. This is not to suggest that sexual behavior problems do not require some intervention in the short term, but rather that once appropriate short-term efforts are initiated, long-term outcomes become fairly ordinary.

Similar findings have been reported among teenagers. Caldwell (2007) conducted a large sample study of incarcerated teenage sex offenders, comparing their recidivism to that of general nonsexual delinquents from the same or similar juvenile justice facilities. Both groups were released from custody in the same state at about age 17 and followed for 5 years. Seven percent (7%) of the adjudicated teen

sex offenders had a subsequent sex offense. So did 6% of the adjudicated *nonsexual* delinquents. The difference was not statistically significant. Again, there was no widespread juvenile sex offender public notification policy in effect during the time frame of the study, so we can rule out that this might have suppressed recidivism for the sex offender group.

Although the juvenile sex offender groups and the comparison groups in these studies had comparable future sex offense rates, it is important to note that the groups are not comparable in size. There are vastly more children with ADHD or learning problems than children labeled as having sexual behavior problems. There are vastly more nonsexual than sexual teen delinquents (e.g., sex offenses make up a small percentage of all delinquency cases in juvenile courts; Snyder & Sickmund, 2006). Consequently, the total number of future sex offenses attributable to these (and probably many other) comparison groups will be correspondingly large—vastly larger than the number attributable to youth officially labeled as juvenile sex offenders. In fact, this is what Caldwell (2007) found: 85% of all future sex crimes committed by the entire released juvenile delinquent population were committed by former *nonsexual* delinquents, including *all* 3 sex homicides as well as *all* 54 homicides.

The gut emotion provoked by the specter of another Jessica Lundsford or another Sara Lunde is powerful—powerful enough make many overlook the embedded false presumptions and misperceptions. But the fact of the matter is that when these sorts of tragic but thankfully rare events happen again, they are far more likely to be at the hands of someone other than a previously labeled teenage sex offender or child with sexual behavior problems. Consequently, singling out these children and youth for dire public warnings, lifetime stigmatization, and social exclusion cannot possibly prevent much of it. It is doubtful that whatever speck of prevention might be achieved will even be enough to offset the increased risk we will create as a result of isolating and stigmatizing these youth for long and developmentally important periods of their lives, raising the very real possibility that we are not only harming youth needlessly but also doing more harm than good when it comes to community protection.

These facts raise a fundamental question about the juvenile provisions of the Adam Walsh Act and those of many states. If juvenile public notification policies are unlikely to deliver real community protection, then what justification remains for these policies? There are other justifications that could be offered—justifications that are not so easily amenable to scientific

evaluation, such as satisfying a public desire for retribution, as just deserts for bad acts, as a testament to our anger and disgust over sex crimes in general, or as making a public example of some children and teens to deter others. These functions are occasionally offered by proponents to justify these policies and may be their sole *de facto* functions. In other words, it appears that our laws placing broad groups of juveniles on lifetime public sex offender registries are exclusively punitive policies, not community protection policies, and therefore should be evaluated legally for their appropriateness as punishment rather than as community protection.

Other misperceptions of specialness can be seen in the clinical treatment sphere, although this has begun to change over the past decade. The old clinical lore viewing children with sexual behavior problems and teen sex offenders as “incurable” or as “junior pedophiles” is fading. Many treatment opinion leaders have articulately repudiated the adult sex offender treatment model adapted downward to children and teens (Letourneau & Miner, 2005; Longo & Prescott, 2006). In some instances, this has led to genuine and substantive reformulation of treatment models. It also has led to far more selective application of some techniques (e.g., masturbatory reconditioning or covert sensitization) that are now recommended rarely and only in selected individual circumstances rather than categorically. But other adult model techniques persist and continue to be applied on a large scale in the field. Treatment providers may paradoxically state their rejection of the adult model adapted downward to juveniles, though still routinely employing treatment techniques directly derived from it, apparently unconcerned or unaware that the roots of the techniques being used lie directly in the assumptions ostensibly being repudiated. Many juvenile sex offender treatment programs are operated by providers with backgrounds in adult sexual deviancy, not by providers with backgrounds in modern evidence-based child behavior problem or teen delinquency interventions. When it comes to grasping misapplication of the adult sexual deviancy model, their backgrounds may not allow them to see the forest for the trees. Adult model techniques that are still routinely applied include the popular offense cycle and relapse prevention approaches that form the core of most juvenile programs. It also includes the obsession with flushing out presumed hidden deviancy and extracting escalating and questionable confessions of deviant thoughts and tendencies via polygraph interrogations, masturbation logs, fantasy journals, or other suggestive and coercive techniques of doubtful

accuracy, untested benefit, and considerable potential for harm and self-confirmatory bias. These are the elements that make up “sex offender-specific” treatment as mandated by juvenile justice policy in some states, even as these same policies ostensibly repudiate viewing juveniles as simply younger versions of adult pedophiles or predators. It would appear that the sea change in juvenile sex offender treatment is only just getting started.

The fundamental misperception reflected in traditional juvenile sex offender-specific treatment is that of differentness or specialness. In other words, children with sexual behavior problems and teen sex offenders are perceived as behavioral “specialists,” different from other child or teen behavior problem groups, with deeply seated, deviant motivations requiring unique and esoteric treatments known only to a few sexual disorder specialists and deliverable only within the confines of specialized facilities or programs. Unlike virtually every other juvenile delinquent and childhood behavior problem group, sex offending youth are not viewed as “generalists” whose versatile and episodic problem behaviors reflect broad, general problems with self-control, judgment, and social environment (see Gottfredson & Hirschi, 1994; Piquero, Moffitt, & Wright, 2007; Sampson & Laub, 2005). As discussed in the upcoming section on misperceived homogeneity, it is likely that either conceptualization (specialist or generalist) could be true for a given individual case, although the point here is that the specialist conceptualization currently is applied wholesale whereas the generalist conceptualization is probably more often true. Few doubt that compulsive adult pedophiles are a specialized category of offenders demanding specialist attention. But that same principle does not fit many or most juvenile sex offenders and children with sexual behavior problems.

The misperception of specialness has permeated virtually every aspect of service provision, service program funding, juvenile justice policy, and child welfare policy. In many jurisdictions, children with sexual behavior problems or teen sex offenders are required to be segregated within residential and outpatient treatment facilities into separate programs, and can only be treated by certified sex offender treatment staff. State policy and practice guidelines paint services for these youth as the exclusive province of select specialists to the point of establishing specialty licensure categories, practice restrictions, and certification requirements. Regular child and adolescent service providers have been taught to view sex offenders as beyond the pale of their capability and as cases they should automatically decline

to treat. Even when a youth with the sex offender label has decidedly nonsexual problems (which is very common, including problems such as ADHD, depression, substance abuse, or PTSD), he or she is routinely funneled to a sex offender specialist for treatment—much as one might always send a horse to a veterinarian rather than a pediatrician. A decade ago, specialness was an unproven assumption among providers. It is now codified in official policy and clinical lore. From an economic perspective, these policies secure client flow for specialized sex offender practices, and generate considerable business for the polygraph interrogation guild. However, clinical specialness has become a perception frequently at odds with the facts.

To what extent should these clients belong exclusively to sex offender treatment specialists, and to what extent could many be well served via more general evidence-based programming? The available facts suggest two answers to this question. First, the answer depends on the individual youth; and second, a broad swath of these youth clearly *can* be quite well served via more general approaches. Given that many general behavior disorder and delinquency treatment models have been better evaluated and are more scientifically refined than specialized sex offender-specific services, it is likely that many youth might be *better* served by evidence-based generalist programs, although direct comparisons have yet to be scientifically drawn. It has long been established that youth with sexual behavior problems commonly have other nonsexual problems and are many times more likely to have future crimes that are nonsexual in nature than sexual. Now there are additional and more directly relevant data from intervention research suggesting that effective treatment can be correspondingly general in focus.

A larger volume of clearer data exists for preteen children with sexual behavior problems. Randomized trials with preteen children having both sexual abuse-related PTSD and sexual behavior problems (a common combination) have found that short-term trauma-focused cognitive-behavioral therapy (TF-CBT) treatments that also teach parents child behavior management skills are effective in reducing sexual behavior problems (Cohen & Mannarino, 1997; Stauffer & Deblinger, 1996). The treatment used in these studies was an evidence-based trauma-focused treatment, not a sex offender-specific treatment adapted for children. In fact, it appears that adapted sex offender-specific treatment elements may even be counterproductive for children. As the St. Amand, Bard, and Silovsky (2008 [this issue]) meta-analysis found, the largest effect sizes for preteens

are not found among programs including adapted sex offender-specific elements, but among programs that teach parents general child management skills for enforcing behavior rules (sexual and nonsexual) and that teach *victimization* prevention skills. From the “generalist” perspective, this finding is completely predictable: teaching parents or caregivers structured behavior management skills is probably the single best supported intervention element for child and adolescent behavior problems (Brestan & Eyberg, 1998; Kazdin & Weisz, 1998; Reid, Patterson, & Snyder, 2002). Conversely, St. Amand et al. (2008) found that including the more decidedly “specialist” sex offender-specific elements in programs was associated with *reduced* benefits. This too is hardly surprising, given that many of these sex offender-specific approaches (e.g., teaching relapse-prevention chains) have not panned out to reduce recidivism even among the adult sex offenders for whom they were originally designed (Marques, Wiederanders, Day, Nelson, & van Ommeren, 2005). Why should we expect them to work with children? When it comes to children, it is becoming more and more difficult to locate any baby hidden within the traditional sex offender-specific treatment model bathwater.

Among teenagers, the available data are more limited, but findings are beginning to point in a similar direction. Multisystemic therapy (MST), which is a generalist-oriented treatment designed for regular juvenile delinquents, has the strongest evidence of effectiveness among teen sex offenders of any current treatment model—far greater than the level of scientific support that exists for conventional sex offender-specific models. MST focuses directly on teaching parents skills for monitoring and managing their teen’s delinquent behavior, unlike most sex offender-specific models which focus on intrapsychic aspects of the individual teen’s presumed compulsive, cyclical, or stereotypic sexual behavior pattern. The problem, of course, is that in most cases no such compulsive, cyclical, or stereotypic pattern exists, except in the ideology of the treatment program and in policies or treatment standards mandating how treatment must be done.

In summary, there is reasonable evidence suggesting that a substantial number of these youth are generalists, not specialists, and that generally effective child and adolescent treatment approaches *can* work for many teen sex offenders and children with sexual behavior problems providing that they focus to some extent on the problem at hand and include evidence-based elements. Consequently, it is misguided for public policy to mandate that youth can *only* receive sex

offender-specific treatment delivered by sexual disorder specialists. Policies in some states have created barriers to the use of MST with juvenile sex offenders because it did not fit the dogma of sex offender-specific treatment, despite the fact that MST has amassed far stronger scientific support for delivering recidivism reduction outcomes. Improved policy should focus on making an array of well-matched services available to these youth rather than restricting them to sex offender-specific providers and modalities or mandating that all must receive sex offender-specific treatment.

MISPERCEIVED HOMOGENEITY

One of the likely culprits for some of the poor juvenile justice policies just discussed is the imprecision of the term *juvenile sex offender* itself. As a taxonomic category, the term has virtually no value other than as an administrative classification for crimes. Taxonomically, the term misleads more often than it informs. As we have seen in the prior discussion, it has little value as a risk marker, as a prognostic indicator, or prescriptively for intervention purposes. The problem is that youth captured under the sex offender label, although presumed to share common features, are actually incredibly diverse and may have little in common with each other aside from their administrative classification under law and policy. With few exceptions, policy and practice does not adequately reflect population diversity. Testimonials and case stories cannot capture it. Youth labeled as juvenile sex offenders include traumatized young girls reacting to their own sexual victimization; persistently delinquent teens who commit both sexual and nonsexual crimes; otherwise normal early-adolescent boys who are curious about sex and act experimentally but irresponsibly; generally aggressive and violent youth; immature and impulsive youth acting without thinking; so-called Romeo and Juliet cases; those who are indifferent to others and selfishly take what they want; youth misinterpreting what they believed was consent or mutual interest; children imitating actions they have seen in the media; youth ignorant of the law or the potential consequences of their actions; youth attracted to the thrill of rule violation; youth imitating what is normal in their own family or social ecology; depressed or socially isolated teens who turn to younger juveniles as substitutes for agemates; seriously mentally ill youth; youth responding primarily to peer pressure; youth preoccupied with sex; youth under the influence of drugs and alcohol; youth swept away by the sexual arousal of the moment; or

youth with incipient sexual deviancy problems. The list is lengthy and could easily be extended. The reality of population diversity is not new. It was the core feature of one of the earliest adolescent treatment schemes (O'Brien & Bera, 1986), and has been recognized by clinical researchers for decades (Becker, 1998). What is new is that this diversity now has stronger empirical support from the work of Hunter and colleagues (beginning with Hunter, Figueredo, Malamuth, & Becker, 2003, and extending forward), who have used more rigorous empirical methods to delineate broad subgroups among teen sex offenders, and from which we can deduce correspondingly different sets of intervention and management needs. Empirical classification efforts with preteen children suggest possibly even greater diversity. Given that population diversity now has better empirical parameters, it is time for public policy to reflect it.

It will no doubt be frustrating for policy makers to incorporate this degree of heterogeneity, even if they were to become aware of it. It is so much simpler to accept the sound bite that a sex offender is a sex offender or, as noted earlier, "the simple truth is that juvenile sex offenders turn into adult predators." But making intelligent policy requires that the facts about diversity be considered. Sadly, the worst way to reflect diversity in policy—using charged offense or age criteria to create broad categories—is probably the most commonly employed. For example, the Adam Walsh Act sets a maximum age of 14 at which states must begin submitting juveniles with certain charged offenses to the national public sex offender registry. To be in compliance, states may choose to be more inclusive (but not less inclusive) and include youth younger than 14 or broader offense categories. Some states already do, so the Adam Walsh Act provisions ultimately may apply to broader and younger groups.

The Adam Walsh Act definition includes, at a minimum, any youth age 14 or older whose sex offense is against a child under 12. The Justice Department official in charge of implementing the AWA defended this criterion as "teens who committed incredibly horrific sex crimes" (Rogers, quoted in Michels, 2007). But again, this claim is in contrast to the actual facts. Having an under-12 victim says virtually nothing unusual about a 14-year-old in trouble for sexual behavior. In fact, age 14 is the *peak* age for committing sex crimes against children under 12—it is the most common age at which individuals engage in illegal sexual behavior against children under 12. Juvenile-on-juvenile behavior accounts for about half of all under-12 sex crime victims, and the average

age difference in these crimes is about 4 years. Consistent with this, the average victim age for 14-year-old offenders is about age 10 (Ormrod, Finkelhor, & Chaffin, in press). The behaviors involved in these common juvenile-on-juvenile scenarios are quite broad, from touching over the clothes to forced intercourse. Motivations and victim impact are also broad. The Adam Walsh Act definition will sweep up a large and not particularly selective group of youth in their middle teenage years, including a substantial number of situations that would not be characterized as “incredibly horrific” by even the staunchest victim advocate. This is because the definition and victim age cut-off was drawn directly from federal sex crime statutes designed for adults (where victimizing children under age 12 is more appropriately considered aggravated and potentially reflecting a paraphilia). The AWA applied the adult sex crime classification system to juveniles with no accommodation for the developmental differences between an adult and a 14-year-old and no apparent appreciation for the epidemiology and diversity of juvenile-on-juvenile sex crimes. Ultimately, attempts to divine juvenile sex offender risk status or management needs according to criteria such as legal classification or charged offense are doomed to fail. The population is too diverse and the criminal justice administrative categories are too crude and to a certain extent too arbitrary.

As we might expect for such a diverse population, efforts to identify risk on an *individual* basis have yielded far more promising results than efforts to capture risk via broad administrative categorization. Individually focused actuarial risk assessment has been the main success story in the adult sex offender field during the past two decades, and now we are seeing similar progress made among adolescents. A number of objective individual factors predict risk. For example, having completed any sort of credible treatment program conveys a substantially lower risk than failing to complete. So do a number of stable background characteristics and fluid lifestyle elements. Individual risk factors have been grouped into risk prediction tools (such as the JSOAP-II; Righthand et al., 2005), and initial testing suggests that these tools can improve risk prediction. Interestingly, in light of the discussion on specialness, it appears that the “generalist” dimensions of these tools (i.e., those tapping general delinquent or antisocial proclivity or environmental instability) are more significant predictors than the “specialist” items focused on sexual deviancy (Parks & Bard, 2006). Moreover, the studies demonstrate that risk is not fixed and permanent. Risk changes in accordance

with family and environmental stability, treatment completion, and other dynamic factors (Martinez, Flores, & Rosenfeld, 2007; Prentky et al., 2002). As life circumstances change and as time passes, risk can drop significantly. There are no comparable risk assessment tools for preteen children with sexual behavior problems. Frankly, after enrolling in credible treatment, the long-term risk for preteen children is so low that little additional risk assessment may be required, except in dramatically self-evident cases.

How would risk and service need consideration that is individual and dynamic, as opposed to categorical and fixed, translate into better public policy? It would mean more up-front and careful individual case assessment work, to be certain, but it would also mean that many of our specialized monitoring, treatment, and management resources would be freed up to concentrate efforts on the far smaller number of genuinely high-risk cases rather than the far larger number of cases where current policies are onerous. It would also mean far more individualized services plans. Individualized and dynamic consideration of risk and service need also would imply considering how young people’s risks and needs change over time, rather than treating youth as though they have mutated into permanent members of a special species. Young people’s risks and needs at age 14 are unlikely to be their risks and needs after even 1 or 2 years.

But there are obstacles to the individual approach as well, both procedural and due to the level of quality control that individual risk and needs assessment would properly demand. Currently, we might question whether fair and reliable individual juvenile sex offense risk assessments could be expected, although achieving this is not outside our grasp. The technology is improving year by year. But like the policy field, the clinical practice and juvenile justice fields are permeated by urban myths, adult sexual deviancy-based assumptions and misperceptions about these youth. Reeducation would be needed to prevent evaluators and decision makers from reflexively labeling virtually every individual youth with a sex offense as high-risk, or as needing sexual deviancy treatment, in effect replicating the current misguided policies.

MISPERCEIVED INTRANSIGENCE

The final theme contradicted by the available facts is a related one—the perception that youthful sexual behavior problems and sexually abusive behavior are tenacious and difficult to change and require not just specialized intervention but lots of

it. Again, this is a perception arguably borrowed from the adult sex offender field and applied whole cloth to broad populations of children and teens. The misperception is that juvenile sexual behavior problems are so difficult to change that the intervention should be *high dose*, should be delivered over a *long* period of time; and should involve *more intensive, restrictive, and expensive* elements than for other types of juvenile behavior problems. The facts suggest that these perceptions are often false. In fact, treatment research has yet to locate the lower boundary at which treatment dose becomes insufficient for most of these juveniles. As a general rule, juvenile treatment outcome studies report a fairly narrow range of outcomes across treatments of different formats, approaches, doses, settings, intensities, and durations (Caldwell, 2002). There is no scientific justification for the unfortunately common practice of requiring years and years of juvenile sex offender treatment—a practice that is likely unnecessary in all but a few cases, and might potentially even prove harmful in others.

With one exception, all of the preteen treatments described in the research literature have been short-term (St. Amand et al., 2008), although treatments in field practice are not. Carpentier et al. (2005) found that a 12-session outpatient protocol yielded outcomes meeting a functional criteria for “cure.” It is unlikely that adding doses beyond 12 sessions would improve much on cure. Changing childhood sexual behavior problems for the long haul does not appear to require complex treatment, long-term treatment, or in-depth treatment as a general rule. In fact, wait-list studies of preteen children have shown that childhood sexual behavior problems improve naturally with *no* treatment, although treatment accelerates this improvement (Silovsky, Niec, Bard, & Hecht, 2007), and treatment type does appear to matter for achieving long-term success. Moreover, rapid responsivity is not limited to the easier child cases. The children enrolled in many of these studies included the kinds of serious sexual behavior problems and comorbidities commonly misperceived as indicating intransigence. In studies that have separated children by severity, it was the highest symptom groups that showed the most rapid improvement (Silovsky et al., 2007). Given that good response is generally found using fairly limited and low-burden treatments (especially those that include evidence-based elements), there is little foundation to policies or practices dictating long-term treatment or placing these children into residential treatment facilities on more than an occasional basis (Chaffin et al., 2006). Yet this is common in many jurisdictions,

where children or teens with sexual behavior problems are automatically earmarked for highly burdensome, restrictive, and lengthy treatments often delivered in institutional or out-of-home settings.

The available facts also are inconsistent with the therapeutic ideologies sometimes espoused in these types of long-term or residential settings, which hold that sexual behavior problems reflect deep-seated pathological schemata that must be surfaced, processed, worked through, and reintegrated before lasting change can be seen. It does not appear that a total personality overhaul is required. Clinical perceptions that these behaviors are quite difficult to change may say more about the service model being used than about the child’s actual intransigence.

Although we have long realized the guiding principle of using the least restrictive and least burdensome treatment environment for other juvenile populations, juvenile sex offenders are one of the few remaining populations where long-term institutional care is accepted on a routine basis. This is not to suggest that no child with sexual behavior problems or no adolescent sex offender is appropriate for long-term intensive treatment or residential treatment, but rather that both should be used sparingly, far more sparingly than is currently the case in many jurisdictions. This point particularly applies to the poor practice of shipping children off to sex offender treatment facilities hundreds of miles away from their home. We must be careful to disentangle vested corporate or entrepreneurial interests and poorly supported clinical lore from the real needs of children, including the needs of victim children in the same home, when considering policies surrounding out-of-home placement. Decisions about removal and placement are complex, especially in sibling abuse cases, and newer guidelines recommend individualized case-by-case decision making rather than one-size-fits-all policies (Chaffin et al., 2006).

At a policy level, misperceived intransigence to change has cascading service system implications, because the lengthy, restrictive, and expensive treatments dictated deplete funding and workforce resources dramatically. These are funds and workforce resources that could be used to develop a fuller range of services better matched to the actual needs of the service population. For example, the annual cost to place one child in specialized institutional care can easily be more than the annual cost to fund an entire outpatient program for 50 children. Although the equation is not nearly so simple in practice, it is fundamentally true in theory that for every child we *don’t* institutionalize unnecessarily, we

could develop an entire community program using evidence-based practice elements.

CONCLUSION

Juvenile-on-juvenile sex crimes are a real and prevalent problem requiring serious policy consideration. But it is a policy domain currently fraught with misperceptions. Fortunately, the facts as we know them about children with sexual behavior problems and teen sex offenders paint a far more optimistic picture than popular misperceptions would suggest. Given some sort of credible intervention, long-term risk is generally low and not unusually different from that of many other common and far larger juvenile groups. Recidivism hazard rates decline quickly, suggesting that we do not need to take a long-term risk focus with the vast majority of these youth. Risk often can be managed by teaching caregivers basic parenting and monitoring skills and does not require a complete mental health overhaul. For the overwhelming majority of youth, the problem is in no way commensurate with the stereotypic image of pedophilic adult child molesters or sexual predators, let alone child sex murderers. Evidence-based models and practice elements that work for other juvenile behavior problems tend to work for many of these youth as well. Subspecialty expertise or esoteric treatments are not invariably needed in order to be effective. We are not dealing with a special sexually mutant category of human being, but rather with youth who are incredibly diverse in almost every respect. When we deliver fairly straightforward, practical, and low-burden services that include common evidence-based elements, the problem tends to change promptly and the benefits are durable in the long run. We can and probably should refocus our child protection and management concerns on a very small number of higher risk individuals, and reconsider these risk determinations at fairly close intervals because they are likely to go down. We have rapidly improving technology to assist in making objective and reliable individual risk discriminations.

But good news is not always welcome news. Vested political or financial interests and highly emotional advocacy agendas will complicate healthy skepticism about the facts or their dispassionate consideration. Moral panic, righteous indignation, and truthiness have their own allure and satisfaction. The sound bite that we should put our kids' safety before the rights of sexual offenders, adult or juvenile, sounds so intuitively correct that it is a guaranteed political winner, even if the policy it promotes is ultimately destructive and fails to deliver the child protection goods. It has taken

two decades to disseminate and institutionalize our current misperceptions and enshrined them in everything from the juvenile provisions of the Adam Walsh Act, to state and local placement policies, to local treatment standards, to clinical lore. It may take an equivalent period of time before the policy process can digest a different, but better founded, set of facts. It will be important for child abuse professionals and child protection advocates, not just the juvenile sex offender treatment field, to join the educational effort. Who better than child protection advocates to champion that we should not harm our youth in the name of well-intentioned but weakly founded efforts to protect them?

REFERENCES

- Alexander, M. A. (1999). Sexual offender treatment efficacy revisited. *Sexual Abuse: A Journal of Research and Treatment*, 11, 101-116.
- Becker, J. V. (1998). What we know about the characteristics and treatment of adolescents who have committed sexual offenses. *Child Maltreatment*, 3, 317-329.
- Brestan, E. V., & Eyberg, S. M. (1998). Effective psychosocial treatments of conduct-disordered children and adolescents: 29 years, 82 studies, and 5,272 kids. *Journal of Clinical Child Psychology*, 2, 180-189.
- Caldwell, M. (2007). Sexual offense adjudication and sexual recidivism among juvenile offenders. *Sexual Abuse: A Journal of Research and Treatment*, 19, 107-113.
- Caldwell, M. F. (2002). What we do not know about juvenile sexual reoffense risk. *Child Maltreatment*, 7, 291-302.
- Carpentier, M., Silovsky, J. F., & Chaffin, M. (2006). Randomized trial of treatment for children with sexual behavior problems: Ten-year follow-up. *Journal of Consulting and Clinical Psychology*, 74, 482-488.
- Chaffin, M., Berliner, L., Block, R., Johnson, T. C., Friedrich, W. N., Lyon, T. D., et al. (2006). *Report of the ATSA task force on children with sexual behavior problems*. Beaverton, OR: Association for the Treatment of Sexual Abusers.
- Chaffin, M., & Bonner, B. (1998). Don't shoot, we're your children: Have we gone too far in our treatment of adolescent sexual abusers and children with sexual behavior problems. *Child Maltreatment*, 3, 314-316.
- Cohen, J. A., & Mannarino, A. P. (1997). A treatment study for sexually abused preschool children: Outcome during a one-year follow-up. *Journal of the American Academy of Child and Adolescent Psychiatry*, 36, 1228-1235.
- Gottfredson, M. R., & Hirschi, T. (1994). A general theory of adolescent problem behavior: Problems and prospects. In R. D. Ketterlinus & M. E. Lamb (Eds.), *Adolescent problem behaviors: Issues and research* (pp. 41-56). Hillsdale, NJ: Lawrence Erlbaum.
- Hunter, J. A., Figueredo, A. J., Malamuth, N. M., & Becker, J. V. (2003). Juvenile sex offenders: Toward the development of a typology. *Sexual Abuse: Journal of Research & Treatment*, 15, 27-48.
- Kazdin, A. E., & Weisz, J. R. (1998). Identifying and developing empirically supported child and adolescent treatments. *Journal of Consulting and Clinical Psychology*, 66, 19-36.
- Letourneau, E., & Miner, M. (2005). Juvenile sex offenders: The case against legal and clinical status quo. *Sexual Abuse: A Journal of Research and Treatment*, 17, 293-312.
- Longo, R. E., & Prescott, D. S. (2006). *Current perspectives: Working with sexually aggressive youth and children with sexual behavior problems*. Holyoke, MA: NEARI Press.
- Marques, J. K., Wiederanders, M., Day, D. M., Nelson, C., & van Ommeren, A. (2005). Effects of a relapse prevention program on sexual recidivism: Final results from California's Sex

- Offender Treatment and Evaluation Project (SOTEP). *Sexual Abuse: Journal of Research and Treatment*, 17, 79-107.
- Marshall, W., Barbaree, H., & Eccles, A. (1991). Early onset and deviant sexuality in child molesters. *Journal of Interpersonal Violence*, 6, 323-335.
- Martinez, R., Flores, J., & Rosenfeld, B. (2007). Validity of the Juvenile Sex Offender Assessment Protocol-II (JSOAP-II) in a sample of urban minority youth. *Criminal Justice and Behavior*, 34, 1284-1295.
- Michels, S. (2007, August 16). Should 14-year-olds have to register as sex offenders? *ABC News*. Retrieved November 19, 2007, from <http://abcnews.go.com/TheLaw/story?id=3483364&page=1>
- O'Brien, M. J., & Bera, W. (1986). Adolescent sexual offenders: A descriptive typology. *Newsletter of the National Family Life Education Network*, 1, 1-5.
- Ormrod, R. K., Finkelhor, D., & Chaffin, M. (in press). Juvenile sex offenders against minors. *OJJDP Bulletin*.
- Parks, G. A., & Bard, D. E. (2006). Risk factors for adolescent sex offender recidivism: Evaluation of predictive factors and comparison of three groups based upon victim type risk factors for adolescent sex. *Sexual Abuse: A Journal of Research and Treatment*, 18, 319-342.
- Piquero, A. R., Moffitt, T. E., & Wright, B. E. (2007). Self-control and criminal career dimensions. *Journal of Contemporary Criminal Justice*, 23, 72-89.
- Prentky, R., Dube, G., Righthand, S., Schwartz, B., Lee, A., Pimental, A., et al. (2002). *Risk management of sexually abusive youth: A follow-up study*. Boston: Justice Resource Institute.
- Reid, J. B., Patterson, G. R., & Snyder, J. (2002). *Antisocial behavior in children and adolescents: A developmental analysis and model for intervention*. Washington, DC: American Psychological Association.
- Righthand, S., Prentky, R., Knight, R., Carpenter, E., Hecker, J. E., & Nangle, D. (2005). Factor structure and validation of the Juvenile Sex Offender Assessment Protocol (J-SOAP). *Sexual Abuse: Journal of Research and Treatment*, 17, 13-30.
- Sampson, R. J., & Laub, J. H. (2005). A lifecourse view of the development of crime. *The Annals of the American Academy of Political and Social Science* 2005, 602, 12-45.
- Silovsky, J. F., Niec, L., Bard, D., & Hecht, D. (2007). Treatment for preschool children with sexual behavior problems: Pilot Study. *Journal of Clinical Child and Adolescent Psychology*, 36, 378-391.
- Snyder, H. N., & Sickmund, M. (2006). *Juvenile offenders and victims: 2006 national report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Stauffer, L. B., & Deblinger, E. (1996). Cognitive behavioral groups for nonoffending mothers and their young sexually abused children: A preliminary treatment outcome study. *Child Maltreatment*, 1, 65-76.
- St. Amand, A., Bard, D. E., & Silovsky, J. F. (2008). Treatment of child sexual behavior problems: Practice elements and outcomes. *Child Maltreatment*, 13, 145-166.
- Thompson, I. (2007, December 13). Sex offenders set up camp: The Julia Tuttle becomes a colony. Politicians pass the buck. *Miami New Times*.
- Zimring, F. (2004). *An American travesty: Legal responses to adolescent sexual offending*. Chicago: University of Chicago Press.

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AN EMPIRICALLY-BASED
APPROACH FOR PROSECUTING
JUVENILE SEX CRIMES

WHAT SHOULD WE DO ABOUT JACK?

Jack is a 17 year old male. The allegations are that at a party in the home of a high school acquaintance he asked Jill, 14, to come into one of the bedrooms to talk to him. Jill would later report that after talking a little, Jack kissed her. She kissed him back at first "you know, just to be friendly." But as he continued to kiss her she resisted and tried to pull away. Jack, she said, then pulled her down onto the bed with him. She said she asked to leave. He continued to kiss her, and started to remove her blouse and fondle her breasts. He then started to move one hand down her pants. Jill said she squirmed away from him and ran out the door. She did not tell anyone at the party what happened.

The following day Jack called Jill and apologized, asking her not to tell anyone. He said, "If you tell anyone, it would ruin me, and then I would kill you."

Two days later Jill's mother finds her blouse in the laundry with a button ripped off. Confronted by her mother, Jill tells her the facts above and her mother also observes Jill has a small, finger-like bruise on her upper left arm.

When police contact Jack he tells them, "I do know Jill. But, you know, I have watched all those tv shows and I know that the smart thing to do is to not say anything to you guys. So, with all due respect, no comment."

This referral is sent to you, as the prosecutor in charge of juvenile sex crime cases.

INITIAL CONSIDERATIONS:

The answer to that question....in this case and for all the "Jacks" that come onto your caseload...has enormous ramifications. They impact Jack for life, they can impact Jill, and they can impact potential future victims.

Taken in one direction, Jack might be convicted of a felony-level sex offense, required to register as a sex offender; he might be expelled from school, compromising his opportunities to attend college or pursue various avenues of employment. Many career paths will be effectively blocked. He might be incarcerated. Taken in another direction, Jack could go on to prey upon and harm scores of other young women.

WOULD IT MATTER IF JACK:

- Was a nerdy kid who was told at the party by his friend Peter that Jill wanted to have sex with him?
- Was an honor student, already accepted to Harvard?
- Was the captain of the high school football team?
- Had no prior sex related incidents but had been arrested twice: Once for vandalizing a candy machine and once for trespass at a movie theatre.
- Had been accused of being sexually aggressive toward girls three times before?
- Was trying to have sex with Jill as part of a gang initiation?

- Admits that what he did was wrong, but thought Jill was consenting, up until the very end when she left. Jack later says, "I just misread her reactions and misread the situation. I feel terrible. I had never been with a girl before."
- Said Jill and he had consensual sex and that it was at her initiation. He explains that a mutual friend later told him that Jill said she made up the story of force to explain the ripped blouse to her mother.

WOULD IT MATTER IF JILL:

- Had sex with two other people at the party earlier that night?
- Was a naive, innocent girl who had never had a boyfriend?
- Was the daughter of the city's mayor?
- Admitted that she thought Jack was cute, enjoyed kissing Jack and having him fondle her breasts, but wanted to stop before they "went further." As for the threat to "kill her" she didn't take him seriously, believing he was embarrassed and scared and took it as just a figure of speech.

Adolescents account for more than one-third of all known sexual assaults against minors¹; yet 80-95% of adolescents who have engaged in abusive sexual behavior do not sexually reoffend, even without formal therapeutic interventions.² Most adolescents will desist from engaging in sexually abusive behavior after having contact with the criminal justice system. Specialized, quality treatment programs for adolescents with behavioral issues have shown significant reductions in recidivism.³ Those statistics, supported by decades of research, suggest that adolescents who have engaged in sexually abusive behavior do not pose a substantial risk for sexual re-offense, in general. While that is unquestionably true, it is equally true that about half of adults who have sexually offended report that their criminal sexual offenses began when they were adolescents.⁴

Taken together, the empirical research teaches us that adolescents who sexually offend are a large scale issue, but the risk of sexual re-offense appears significantly skewed to a very small minority.

Some interventions have been demonstrated to be extremely successful in reducing recidivism; but as discussed below, other interventions are not only unsuccessful, but have proven to be counter-productive and may actually exacerbate risk of future aggressive behavior.

Is it proper, then, for a prosecutor to ask: Which group is Jack in? Is he part of the 80-95% who will not reoffend; or part of the group which will go to reoffend as an adult? Is he someone who would benefit from participation in specialized treatment; or someone who might become a greater risk to reoffend if directed to engage in a treatment or intervention which is inappropriate for him? Should the questions about Jack, and Jill, raised above matter to a prosecutor's charging decision; or should all "Jacks" be treated alike?

And what about the impact on Jill? The short and long term consequences of being an adolescent victim of sexual assault are well documented.⁵ The filing of criminal charges against an assailant can bring some comfort to a victim because it indicates she has been believed and there will be official efforts to impose responsibility and consequences.

¹Finklehor, D., Ormrod, R. and Chaffin, M. (2009) *Juveniles who commit sex offenses against minors*. *Juvenile Justice Bulletin*. Office of Justice Programs.

²Rothman, D. (2016) *Early detection and intervention for adolescents at risk for engaging in abusive sexual behavior: A case for prevention*. In Laws, D.R. and O'Donohue, W. (Eds.) *Treatment of Sex Offender: Strengths and weaknesses of assessment and intervention*. (pp 191-222). New York: Springer.

³*Sexually abusive adolescents who have participated in specialized treatment to address their sexual offending are approximately 12% less likely to reoffend sexually than youth who have not participated in such treatment*. Worling, J., Littlejohn, A., and Bookalam, D. (2010) *20-year prospective follow-up study of specialized treatment for adolescents who offended sexually*. *Behavioral Sciences and the Law*. 28, 46-57.

⁴Abel, G., Becker, J., Mittleman, M., Cunningham-Rathner, J., Rouleau, J. and Murphy, W. (1987) *Self-reported sex crimes of nonincarcerated paraphiliacs*. *Journal of Interpersonal Violence*. 2, 3-25.

⁵See, for example: Walsh, K., Danielson, C., McCauley, J., Hanson, R., Smith, D., Resnick, H., Saunders, B. and Kilpatrick, D. (2012) *Longitudinal trajectories of posttraumatic stress disorder symptoms and binge drinking among adolescent girls: The role of sexual victimization*, *Journal of Adolescent Health*, 50, 54-59. *The psychological consequences may vary for each individual and it sometimes may be difficult to distinguish the impact of the act(s) of interpersonal violence itself as opposed to other traumas or disorders which may have been a sequela of the exposure to the interpersonal violence*.

Also see, Putnam, F. (2003) *Ten-year research update review: Child Sexual Abuse*, *Journal of the American Academy of Child and Adolescent Psychiatry*, 42:3.

Should the prosecutor's decision as to whether (and how) to prosecute Jack be influenced by the impact that decision may have on Jill? No one should ever be charged with a crime solely because the filing may bring comfort to the alleged victim. The process of prosecutorial decision-making, however, should be considerate of the impact of that decision on the victim. Prosecutors making charging decisions in these cases must be cognizant of trauma informed procedures to be able to better understand the evidence as presented and to minimize the adverse effects of trauma on victims and their families⁶. They should act in ways which supports the healing and recovery of victims. Alleged crime victims must at all times be treated with dignity, respect and sensitivity.

Does the prosecutor assigned to Jack's case know the empirical evidence? If the prosecutor is aware of these various research outcomes, and wants to make the proper decision regarding Jack, does he or she⁷ have the ability under existing State law to do so? Does her office have policies which allow her to exercise her discretion in that way? If she has that authority, are there tools available within the community to guide her ability to seek the right information and make the right choices. What information does she need? How does she know if it's reliable? And if the best options are not available in her community, what can she do to identify them and try to build them. In total: What should prosecutors know about juvenile sex offenders – and should we even call them that; or instead the more accurate *adolescents who have engaged in sexually abusive behavior*⁸- and what gets in the way of making the best possible decisions?

In the fact pattern presented, what if Jack was not 17, but 15 or 14 or 11? Would that – should that - age difference matter? Should 11 year old Jack be treated the same as 14 year old Jack and 17 year old Jack? Would the legal consequences of those age differences matter under your state law? What is the right thing to do? What is the proper paradigm for prosecutors to use in making the best decisions: For Jack, for Jill and for the community?

PURPOSE AND SCOPE OF THIS PAPER

Prosecutors – good prosecutors – respect two basic rules:

1. Follow the evidence
2. Do the right thing.

Follow the evidence, of course, means that prosecutors can – and must – go only where the evidence allows them. Hunches, instincts, wants, feelings, general beliefs may be tempting to rely upon, but in the end good prosecutors can only pursue cases, defendants and theories which are supported by reliable evidence.

Do the right thing is the constant reminder that prosecutors are ethically and morally compelled to always consider not just what they *can* do, but what they *should* do. In pursuing cases and making decisions prosecutors should be mindful of basing those decisions upon the reliable existing evidence, and distinguishing that from doing what they *could* do based upon their instincts, hunches, beliefs, or most troubling, their outrage.

To that end, this paper offers a summary of the existing reliable evidence regarding the prevalence and recidivism risk of juvenile sexual offending and the evidence regarding the benefits, efficacy and consequences of various common treatment modalities and other post-adjudication interventions. It offers a review of articulated rationales for the creation of significant legal and social policies regarding juvenile sex offenders with an examination of the empirical evidence which challenges or supports those policies.

⁶See generally, Conradi, L. and Wilson, C. (2010) *Managing traumatized children: A trauma systems perspective*. *Current Opinion in Pediatrics*, 22, 621-625.

⁷Of course both men and women are prosecutors. But writing with the "he or she" pronoun or "his or her" becomes cumbersome to write and equally cumbersome to read. I am hereafter choosing to pick one pronoun to define all prosecutors. Simply because the juvenile sex offender prosecutor I most worked with was female, I am choosing to use the pronoun "her" from now on. I trust that no reader will take offense to this, as none is intended.

⁸This is the term adopted by the Association for the Treatment of Sexual Abusers (ATSA) in their 2017 *Adolescent Practice Guidelines*. Those guidelines define the best practices, based upon the most current, reliable empirical evidence as guidance for practitioners in the field. ATSA defines itself, in those Guidelines, as the world's leading "multidisciplinary organization that is committed to preventing child sexual abuse by promoting sound research, developing effective practice guidelines for individuals who have engaged in sexually abusive behavior and advancing informed policy." For the sake of full disclosure, the author was a member of the Board of Directors of ATSA from 2003-2005 but had no role in the development of those Guidelines. Another term frequently used in the literature is "adolescents with illegal sexual behavior." (See, e.g. Righthand, S., Baird, B., Way, I. and Seto, M. (2014) *Effective intervention with adolescents who have offended sexually: Translating research into practice*. Brandon, VT: Safer Society Press.) This term is meant to incorporate sexual behavior by adolescents which is illegal, even if it is not abusive. I have chosen to use the term adopted by ATSA but recognize that researchers and practitioners may reasonably debate which is most appropriate.

This monograph is presented with the hope that prosecutors, armed with the proper empirical evidence and a fuller understanding of the strengths and weaknesses of various interventions either currently used or available for youth with sexual behavior problems, can focus their attention on the most relevant questions and issues in these cases, and be in a position to do the right things to hold juvenile offenders responsible, impose appropriate sanctions and therefore, best protect the community.

THE DEFINING CHARACTERISTIC OF ADOLESCENCE

In the progression from childhood to adulthood comes that strange, angst filled, hormone pumping, identity seeking, confidence lacking journey. It is generally an oxymoronic search for independence while simultaneously trying to fit in. It is often filled with acts of defiance while also conforming to the things your friends do. It is influenced by three powerful external forces: The quality of caregiver supervision; peer pressure and; the choice of proper role models.

Child psychologists recognize that the social ecology in which adolescents grow up is generally the most significant influence on the child's development. Ideally the child's parents are loving and able to act as good teachers, protectors and role models. Having high quality caregiver supervision and worthy role models is often critical to the development of a healthy individual. The lack of such supervision, on the contrary, can be enormously problematic. That is perhaps why so many misbehaving children are the product of dysfunctional households. In the absence of supervision and healthy role models at home, children typically turn to others. Sometimes those are teachers, coaches, clergy, neighbors who instill good values, provide proper guidance and offer a sense of love and support. Other times they are already-misbehaving youth, gang members or predatory adults who provide the charade of support but are abusive and destructive.

This journey and struggle is made at the same time that the adolescent brain is still developing. Adolescent judgment is, by definition, often impaired and incomplete. It is marked by poor impulse control and undeveloped social reasoning. This reality is not just recognized in the fields of adolescent development and brain research⁹, it has been acknowledged and accepted by the United States Supreme Court: "a lack of maturity and an underdeveloped sense of responsibility are found in youth...these qualities often result in impetuous and ill-considered actions and decisions."¹⁰

Perhaps the prevailing characteristic of adolescence is that youth typically do not fully appreciate the effects and consequences of their actions.

It is this combination of factors which will have influenced virtually every adolescent whose case is presented to a prosecutor for consideration, because they have made a poor, and sometimes horrific, decision.

⁹ Steinberg, L. and Scott, E. (2003) *Less guilty by reason of adolescence: Developmental immaturity, diminished responsibility and the juvenile death penalty*, *American Psychologist*, Vol. 58, No 12 (1009-1018.) American Psychological Association.

¹⁰ *Roper v. Simmons*, 543 U. S. 551, 569, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005). *Court's decisions to prohibit imposition of death penalty upon juveniles. The Court noted, "In recognition of the comparative immaturity and irresponsibility of juveniles, almost every State prohibits those under 18 years of age from voting, serving on juries, or marrying without parental consent."*

WHO ARE THE OFFENDERS? WHAT DO WE KNOW ABOUT THE ADOLESCENTS WHO HAVE ENGAGED IN SEXUALLY ABUSIVE BEHAVIOR.

Adolescents account for more than one-third of all known sexual assaults against minors.¹¹ The peak age at which juveniles sexually offend against children under age 12 is when the offender is 13-14 years old.¹² The offenders are predominately male.¹³

It's been said that the defining characteristic among sexually offending youth is that there is not a reliable, single defining common characteristic, other than the offenders are predominately male. It is generally accepted that most adolescents who sexually offend fit broadly within these, not necessarily exclusive, subgroups:

- (1) Persistent delinquent youth who criminally offend generally,
- (2) those who offend situationally or out of experimental behavior, and
- (3) a very small number of youth with true paraphilic preferences.¹⁴

Thus in understanding how to identify, respond to, sanction and treat adolescents who have engaged in sexually abusive behavior, prosecutors need to start with the recognition that "juvenile sex offenders" are not a distinct taxonomic group. The most striking commonality of the adolescents who offend sexually is their similarity to those who engage in general delinquent behavior.¹⁵ As two leading researchers summarized it: "...the empirical evidence supports the view that juvenile sex offenders, as a group, are similar in their characteristics to other juvenile delinquents and do not represent a distinct or unique type of offender."¹⁶

As important as recognizing the difficulty of defining what "juvenile sex offenders" are, it is perhaps more important to recognize what they are not. Juvenile sex offenders are not merely younger versions of adult sex offenders.

The motivations for adolescents are often sexual exploration, rather than sexual exploitation. Adolescents more often act impulsively, rather than compulsively. Adolescents are more likely to offend openly, in school or social settings, than in carefully chosen secluded, isolated places as typically selected by the adult offender.

For many of these youth, sexual misbehavior and offending is not their only problem. Some might be mimicking their own victimization experiences. Some will have serious mental health issues, some have early onset neurological issues, some have already become substance abusers. Alone, or in some combination, these youth often are impulsive, immature and self-centered. Some juvenile sexual offenders are otherwise intelligent, productive well-functioning youth.

As one leading researcher explained, "...youth captured under the sex offender label, although presumed to share common features, are actually incredibly diverse, and may have little in common with each other aside from their administrative classification under law and policy."¹⁷

He expounded:

Youth labeled as juvenile sex offenders include.... persistently delinquent teens who commit both sexual and nonsexual crimes; otherwise normal early-adolescent boys who are curious about sex and act experimentally but irresponsibly; generally aggressive and violent youth; immature and impulsive youth acting without thinking; so-called Romeo and Juliet cases; those who are indifferent to others and selfishly take what they want; youth misinterpreting what they believed was consent or mutual interest; children imitating actions they have seen in the media; youth ignorant of the law or the potential consequences of their actions; youth

¹¹ Finklehor, D., Ormrod, R. and Chaffin, M. (2009) *Juveniles who commit sex offenses against minors. Juvenile Justice Bulletin. Office of Justice Programs.*

¹² Finklehor, D., Ormrod, R. and Chaffin, M. (2009) *Juveniles who commit sex offenses against minors. Juvenile Justice Bulletin. Office of Justice Programs. See also, Bureau of Juvenile Statistics, Sexual assault of young children as reported to law enforcement: Victim, incident, and offender characteristics. U.S. Department of Justice, Office of Juvenile Programs (July, 2000).*

¹³ Approximately 7% of juvenile teenagers accused of sexually illegal behavior are girls. Snyder, H. (2002) *Juvenile arrests 2000. OJJDP Juvenile Justice Bulletin. U.S. Department of Justice. Washington, D.C.*

¹⁴ Most adolescents who have engaged in sexually abusive behavior do not exhibit sexual arousal to prepubescent children. Seto, M., LaLumiere, M. and Blanchard, R. (2000) *The discriminative validity of a phallometric test for pedophilia interests among adolescents sex offenders against children. Psychological Assessment, 12, 39-53.*

¹⁵ Caldwell, M. (2002) *What do we know about juvenile sex offender risk. Child Maltreatment. 7, 291-302.*

¹⁶ Letourneau, E., and Miner, M. (2005) *Juvenile sex offenders: A case against the legal and clinical status quo. Sexual Abuse: A Journal of Research and Treatment, Vol. 17, No. 3, 293-312.*

¹⁷ Chaffin, M. (2008) *Our minds are made up don't confuse us with the facts: Commentary on policies concerning children with sexual behavioral problems and juvenile sex offenders. Child Maltreatment, Vol. 13, No. 2, 110-121.*

attracted to the thrill of rule violation; youth imitating what is normal in their own family or social ecology; depressed or isolated teens who turn to younger juveniles as substitutes for agemates; seriously mentally ill youth; youth responding primarily to peer pressure; youth preoccupied with sex; youth under the influence of drugs or alcohol; youth swept away by the sexual arousal of the moment; or youth with incipient sexual deviancy problems.

Each of these youth, once adjudicated as “a juvenile sex offender” is apt to be treated equally under existing law and policy. The reality, of course, is that with proper analysis and assessment – which can only be possible with appropriate and informed prosecutorial oversight – each of these youth might require a different set of interventions and management needs. Why do we care about those particularized management needs? Because if prosecutors, and the professionals within the juvenile justice system, truly care about risk reduction and the prevention of sexual recidivism, then identifying the most effective interventions and treatment needs is necessary to accomplish that goal.

WHAT DO WE KNOW ABOUT JUVENILE SEX OFFENDER RECIDIVISM?

Given the diversity of the offenders, as described above, it is perhaps not surprising that when re-offense by youth does occur, the vast majority involves non-sexual offenses. That is, adolescents adjudicated of sexual offenses are much more likely to repeat delinquent, non-sexual, behavior than they are to recommit criminal sexual behavior.¹⁸ Multiple studies have demonstrated that the sexual re-offense rate for adolescent sex offenders is in the single digits, typically in the 3-10% range.¹⁹ Even if that is considered an unacceptably high rate of re-offense, recognize that the vast majority (some 80-85%) of all sex crimes committed by once incarcerated teens are committed by those without prior sexual offenses.²⁰ That is: future sex crimes are much more likely to be committed by a previously non-sex offending juvenile, than by a previously adjudicated juvenile sexual abuser.

Sexually abusive behavior by children and adolescents rarely persists into adulthood. “... most adolescents who have engaged in sexually abusive behavior do not continue to sexually abuse and are not on a life trajectory for repeat offending.”²¹

The importance of this research to prosecutors is this: The vast majority of the adolescents who will come onto your juvenile sex offender case load are not unyielding sex offenders who are juveniles; they are instead generally delinquent offenders who have also committed an offense with sexual connotations. This distinction is vital in understanding the youth's motivation, and more important, in directing them to the most effective interventions.

Some troubled and delinquent youth will persist in their criminal behavior. They may have first been identified by the system for property or non-sexual offenses, but continue to engage in illegal and harmful behavior, to include sexual offenses. Certain members of this troubled and persistent population undoubtedly include those first identified with a sexual offense. However, the overwhelming share of those brought into the juvenile justice system because of a sexual offense will not sexually reoffend.²² There are multiple reasons for non-reoffense, including, self-correction due to the fact of capture, the efficacy of interventions received, a forced recognition that what they did was wrong, enhanced family supervision, and the mere maturing process. Again, the research shows that the rate of their re-offense is considerably smaller than the offense rate by juveniles who have been previously adjudicated of a non-sexual offense.

¹⁸ Caldwell, M. (2002) *What do we know about juvenile sex offender risk.* *Child Maltreatment*, 7, 291-302.

¹⁹ Caldwell, M. (2016) *Quantifying the decline in juvenile sexual recidivism rates.* *Psychology, Public Policy and Law* Vol. 22, No. 4, 414-426. See also, *ATSA Practice Guidelines Assessment, Intervention and Management with adolescents who engaged in sexually abuse behavior.* (2017) *Association for the Treatment of Sexual Abusers*, Beaverton, OR.

²⁰ Caldwell, M. (2016) *Quantifying the decline in juvenile sexual recidivism rates.* *Psychology, Public Policy and Law*. Vol. 22, No. 4, 414-426.

²¹ *ATSA Adolescent Practice Guidelines* (2017).

²² “... juvenile sexual recidivism has very low bases rates: the fact is that the vast majority of youth adjudicated for a sexual offense will not sexually reoffend, even across decades-long follow-up. (citations omitted)...(one of the reasons is) the extensive developmental change that occurs during adolescence. Adolescents experience the onset of sexual impulses and the intensification of other appetitive impulse, undergo tremendous changes in social reasoning and susceptibility to social influences, and develop a greater capacity for impulse control and mature social reasoning.” Letourneau, E. and Caldwell, M. (2013) *Expensive, harmful policies that don't work or how juvenile sexual offending is addressed in the U.S.* *International Journal of Behavioral Consultation and Therapy*, Vol. 8, No 3-4, 23-29.

That said, of course a small percentage of juveniles with a sexual offense history will re-offend. That is the group which should form the primary focus of a prosecutor's concern.

For prosecutors, however, this has been made difficult due to over-reacting legislators and policy makers who have too often relied on folklore and select horrific cases to guide them. In an arena where nuance, thoughtfulness and empirical data are required, juvenile sex crime policy has generally been built on fervor and fear.

THE INFLUENCE OF FEAR, FOLKLORE AND FISCAL INTEREST ON JUVENILE SEX OFFENDER POLICY

The preoccupation with sexual behavior instead of a focus on adolescent development has led to political overreaction which for a long time outpaced the empirical research.

Legislators chose to believe that adolescent sexual behavior foreshadowed adult sexual assault, and that teens who committed sex crimes were no different, and no less dangerous, than adults, despite a wealth of research to the contrary. Politicians and tough talking lawmen called them "Super-predators". And sure enough, every now and then some teenager would commit a heinous act of sexual violence which would test the bounds of all human understanding. Politicians and the media would again have a poster child for all that is wrong with our youth and our criminal justice system.

But while abhorrent individuals might make for a fine poster child for those seeking to score political points, and for a media needing an easy story, it is equally true that reliance on isolated sensational cases makes for terrible public policy.

Let's be clear: Acts of sexual violence against a child are reprehensible and intolerable. They rightfully scare us, anger us, call on us to demand justice. And justice should be meted out, with all appropriate harshness as deserved. A proper society should also want – and demand - that all reasonable efforts be made to prevent sexual crimes and crimes of violence against children.

But for too long the reactions to the heinous have done a disservice to prevention. And thus a disservice to the public. For too long, public policy has been governed by fear and by folklore to create a system which frequently has made things worse.

It is even more troubling than just that. Once new policies or legislation is put in place, systems and entrepreneurs (some well-intended, some not so much) can develop financial or ideological interests in maintaining those systems. Those self-interests often lead to their purveyors disseminating information supporting their views, and dismissing evidence to the contrary, to maintain the status quo.

This point was well stated by Chaffin. Reflecting in 2008 on 10 years of evolving juvenile sex offender policy, he noted the scientific field had come a long way: "The good news," he wrote, "is that the facts, by which I mean scientific data, are considerably more robust and lend themselves to firmer conclusions. The bad news is that the facts have hardly mattered at all in the public policy arena. Public policy has continued to move in the direction feared in 1998, despite an increasing accumulation of data to suggest that the reasons cited to justify these policies are no longer merely unproven or unexamined assumptions, but are flatly at odds with the facts as we know them." Chaffin, M. (2008) Our minds are made up don't confuse us with the facts: Commentary on policies concerning children with sexual behavior problems and juvenile sex offenders. *Child Maltreatment*, Vol. 13, No. 2, 110-121.

Chaffin called for a sweeping review of juvenile sex offender policy to insure it was fact-based but also to prevent needless, politically inflicted harm on our children.

This concern was shared by ATSA in their 2017 Adolescent Practice Guidelines: “public health and public safety are both jeopardized by ineffective or misguided public policy and criminal justice efforts.” (Section H, Public Policy: Promoting the Development of Effective Policy. Overview.) (Adding later, in Appendix D, “no one is served by poor policy.”)

Perhaps more pointed was the observation of Letourneau and Caldwell that “...the accumulated scientific evidence to date has demonstrated that when applied to juveniles (the predominant public policies) fail to achieve their stated goal of improving community safety.” In their critique they also note, “these policies have a wide array of damaging collateral effects.”²³

Which brings me to the major point of this paper: If we care about the victims of crimes at the hands of juvenile sexual abusers; if we care about preventing sexual crimes and reducing recidivism by the adolescents who have committed them; then lawmakers must make policy based upon evidence and research and not fear, folklore or other’s financial interests. But if – and sadly, when – the politicians fail to do that, or fail to correct their errors or over-reactions, or even compensate for the unintended consequences which ensued, and when entrenched practitioners put their fiscal and ideological interests above the adoption of quality research and current state of the art thinking, then it is the prosecutors who must be guided by the very best research and the very best understanding of the empirical evidence. Prosecutors must also do so with full awareness of the financial interests of those involved, and completely cognizant of the implications of their decisions on the offender, on the victim and on society. Prosecutors’ decisions about how to respond to each allegation of sexually abusive behavior by an adolescent must be made not only with full knowledge of the facts of the individual case, but also with an appreciation for the consequences which will flow from those decisions.

To do otherwise, is to commit a great act of irony. It would permit prosecutors to make significant decisions without a full understanding and awareness of the consequences of their actions, in holding juveniles responsible for their significant decisions, when the juveniles had lacked a full understanding and awareness of the consequences of their actions.

REACTIONARY LEGISLATION AND MISGUIDED POLICY: BEFORE WE TRY TO FIX THE PROBLEM, LET’S BE SURE WE RECOGNIZE AND UNDERSTAND IT

I observed above that fear driven public policy regarding juvenile sexual offenders has not only failed to properly address prevention issues, but has actually often made things worse. Let me offer a few examples:

What happened to children like Adam Walsh or the child victims of Wesley Dodd and Earl Shriner²⁴ are acts as reprehensible and despicable as the imagination could allow. In reaction to those horrific crimes, well-intended legislation was enacted. Much of this legislation was designed and crafted by thoughtful, informed policy makers. The goal was to protect the community from predatory sex offenders.²⁵ Those laws have led to various unforeseen, unintended and unfortunate consequences as it relates to the prosecution of juveniles accused of sexual offenses.

In 1991 Washington became the first state in the nation to create and mandate a sexual offender registry and community notification and to enact a Sexually Violent Predator law. The idea was that registration of sex offenders would be beneficial to law enforcement and that community notification would allow parents and the

²³ Letourneau, E. and Caldwell, M. (2013) Expensive, harmful policies that don’t work or how juvenile sexual offending is addressed in the U.S. *International Journal of Behavioral Consultation and Therapy*. Vol. 8, No 3-4, 23-29.

²⁴ These two horrific offenses against children, plus another involving the kidnapping and murder of a woman by a sex offender in work release, are what led Washington State to enact the first Sexually Violent Predator law, community notification and registration statutes, together known as the Community Protection Act.

²⁵ This paper addresses the consequences of these laws only as it relates to juveniles. No comment is made here about the effectiveness or appropriateness of these laws as they pertain to adults, although the author has written about that elsewhere.

community to make informed and thoughtful decisions about how best to protect their children. By 2006 the Adam Walsh Act was passed by the U.S. Congress mandating all states to require registration of sex offenders including those aged 14 and older.

AN OVERVIEW OF THE FAULTY PREMISE OF THESE LAWS AS THEY APPLY TO JUVENILES: AND WHY THIS MATTERS SO MUCH TO PROSECUTORS

Much of the legislation enacted over the past two decades, including community notification and sex offender registration was motivated by the criminal acts of adults. We have seen how adolescents who have engaged in sexually abusive behavior are a diverse group, with little commonality of motive or characteristics and generally a very small risk of sexual re-offense. The laws, however, have been applied to juveniles seemingly without an appreciation or respect for those differences or their general low sexual recidivism risk. The laws, designed primarily in response to the acts of adult sexual predators, or isolated, high profile blood-curdling crimes, have been directed to juveniles with little nuance.²⁶

Some have criticized this movement as overly punitive and carried out with “particularly aggressive zeal.” Reviewing the evolution of sexual crime legislation in the United States, Letourneau and Caldwell noted, “...there is simply no other democratic nation in which youth adjudicated as minors for sexual offenses face penalties as severe as those found in the U. S.”²⁷

Setting aside the discussion about how much zeal is overly “aggressive” zeal, the issue for prosecutors is to maintain their focus on what we “should do”, not what we “can do”.

The number of juveniles who are sent to detention, or the number of months of incarceration obtained should not be used by prosecutors as some kind of professional scorecard.

That can be a particular challenge in the prosecution of juvenile sex cases, because frequently the assignment of prosecutors to juvenile court is treated as a stepping stone to adult felony prosecutions. That is, often the prosecutor tasked with handling juvenile sex cases is a younger prosecutor. Promotions to what are often seen as more prominent positions, such as handling homicides or violent crime cases, are made only after the administration has faith in that person. In prosecution, that faith is frequently measured in the metrics of aggressiveness: Is she willing to take on tough cases, does she fearlessly go to trial, does she obtain a sufficient number of convictions and get stiff sanctions imposed?

This sets up a terrible predicament: What is good for individual career advancement might not be good for community safety.

This is one reason why, below, I call for the prosecutor assigned to handle juvenile sex crime cases to be a senior level prosecutor. It should be someone who is already secure in their position, secure in their career path and experienced in difficult decision making. The goal in this arena is to make the right decision. More specifically, the goal is to make the right decision for the right reasons. In dealing with adolescents who have engaged in sexually abusive behavior, making the wrong decision, either being too harsh or too lenient, can lead to severe, even catastrophic consequences. Having less experienced prosecutors making these decisions is difficult enough, having them do it at a stage when their careers may be being measured by their level of aggressiveness is rife with complications. It is a formula for conflicting interests which can lead to decisions that are bad for the offender, bad for the prosecutor and bad for the community.

²⁶ *The United States Supreme Court has been able to draw a distinction between adult offenders and juveniles: “the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed...youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage...” Roper v. Simmons, 543 U. S. 551, 569, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005).*

²⁷ Letourneau, E and Caldwell, M (2013) *Expensive, harmful policies that don’t work or how juvenile sexual offending is addressed in the U.S. International Journal of Behavioral Consultation and Therapy. Vol. 8, No 3-4, 23-29.*

To be clear, this is not a call for leniency for juvenile sex offenders, nor an urging for prosecutors to be soft, empathetic or even sympathetic to the offenders. It is merely a call to be smart.

Let me review next why over-aggressive prosecution can sometimes be more dangerous than lenient prosecution. To appreciate that we need to examine how what I have called fear based, financially motivated, false claims stack up to the accumulated empirical data.

MISPERCEPTION THAT THERE IS SOMETHING “SPECIAL” ABOUT ADOLESCENTS WHO HAVE ENGAGED IN SEXUALLY ABUSIVE BEHAVIOR THAT REQUIRES “SPECIAL” TREATMENT

I previously noted that there is no common characteristic among adolescents who have engaged in sexually abusive behavior. The most common aspect is they are typically juvenile delinquents who have offended sexually, and not sexual deviants who have offended as juveniles. That distinction cannot be disputed.

As delinquent adolescents, most will gain maturity, impulse control, empathy and an improved understanding of consequences that comes with the natural process of brain development. Others will stop their misbehavior by the adoption of better role models and the choice of healthier peers. For some, participation in appropriate, effective therapeutic treatment can bring about sufficient change to curb the abusive and delinquent behavior.

For only a small percentage is the reason for their sexually abusive behavior a paraphilic preference or a deviant sexual preoccupation.²⁸ And yet a common response to juveniles adjudicated of a sexual offense is to send them into a prolonged sexual deviancy treatment program typically modeled after those used for adults.

Specialized treatment programs for adolescents who have engaged in aggressive sexual behavior have been widely available for more than three decades.²⁹ As Letourneau and Borduin explain, they “were modeled after those designed for adult sexual offenders, with few adaptations for juveniles.”³⁰ More than 80% of these treatment programs are based on cognitive behavior therapy (CBT) or relapse prevention models, designed originally for adults.³¹ Despite their questionable appropriateness for juveniles, these adult-modeled treatment modalities remain the predominant choice of practitioners throughout North America who treat juveniles who have committed sexual crimes.

The concern is that for most of the adolescents who have engaged in sexually abusive behavior, it is not ingrained sexual deviancy which is the driver of their offending actions, but the multitude of developmental, ecological and maturation issues which have been the primary contributors to their conduct. Nevertheless, many juvenile sex offender treatment programs are typically designed to target the “deviancy” and not the ecology.

Thus the most frequently used treatment is fashioned to fix a problem that may not exist, at the expense of thoughtfully addressing the issues which do exist.

That is why researchers who recently conducted a thorough review of the treatment outcome literature concluded: “... the available literature provides limited support for the effectiveness of CBT with youth who have engaged in sexual behaviors.”³² This should not be surprising. In any field, treatments which are not focused on the problem are not apt to be successful.

²⁸ Seto, M., LaLumiere, M. and Blanchard, R. (2000) *The discriminative validity of a phallometric test for pedophilia interests among adolescents sex offenders against children*. *Psychological Assessment*, 12, 39-53.

²⁹ Knopp, F. H., Rosenberg, J. and Stevenson, W. (1986). *Report of nationwide survey of juvenile and adult sex-offender treatment programs and providers*. Orwell, VT: Safer Society.

³⁰ Letourneau, E. and Borduin, C. (2008) *The effective treatment of juveniles who sexually offend: An ethical imperative*. *Ethics and Behavior*, 18 (203), 286-306.

³¹ *Ibid.*

³² Dopp, A., Borduin, C., Rothman, D. and Letourneau, E. (2016) *Evidence-based treatments for youths who engage in illegal sexual behaviors*. *Journal of Clinical Child and Adolescent Psychology*. Advance online publication.

What adolescents who have engaged in sexually abusive behavior typically have in common is they are a lot like adolescents who have engaged in generally delinquent behavior. "Youths who engage in illegal sexual behaviors...share many risk factors at individual, family, peer, school and neighborhood levels with youths who commit non-sexual offenses."³³ As discussed below, that is why treatments which effectively target ecological causes and contributors of delinquency are more effective.

The treatment outcome data confirms the observations and data of the researchers in this field: Most adolescents who have engaged in sexually abusive behavior are not some "special" group of offenders. Treating them as "special" offenders, needing "special" treatments will not bring about the change that prosecutors, courts and probation officers desire. Ineffective treatment also comes at the expense of providing more valuable, developmentally appropriate, interventions, which would focus on risk factors for general delinquency.³⁴

When resources and efforts are spent to provide treatments that are ineffective, based upon a misbelief of the offender's "specialness", public safety is harmed, not enhanced.

MISPERCEPTION OF THE RISK OF RECIDIVISM

The truth is: the risk of sexual recidivism by juveniles is extremely low. That is, left alone or exposed to appropriate, quality treatment, very few juvenile sex offenders reoffend. The truth is: for most juveniles who engage in sexually aggressive behavior, it is not the start of a lifelong pattern.³⁵

Another truth is: various policy makers refuse to accept this truth or just don't like it. In 2008, Chaffin noted the "low future sex crime rates among juvenile sex offenders in the United States are a well-replicated, robust, and long-standing scientific finding."³⁶ Chaffin was appalled when the official then in charge of implementing a policy of lifetime juvenile sex offender registration under the Adam Walsh Act nevertheless publicly claimed the scientific findings of juvenile recidivism risk were "inconclusive". That left Chaffin wondering: "It is difficult to know whether the statement is disingenuous or simply misinformed."³⁷

It is a time-tested winning political strategy to ratchet up fear. Across virtually all industries, from pharmaceuticals, to insurance to self-protection, fear motivates and fear sells.

Prosecutors certainly know this; we are experts at selling defendants as fearful individuals. But prosecutors' decision-making should be influenced by empirical evidence, not fear.

The data, as noted above, is robust and replicated. The most comprehensive review of that data, published in 2016, examined 106 studies spanning more than 75 years and covering 33,783 cases of adjudicated juvenile sexual offenders. The result: "This suggests that the most current sexual recidivism rate is likely to be below 3%."³⁸

³³ Dopp, A., Borduin, C., Rothman, D. and Letourneau, E. (2016) Evidence-based treatments for youths who engage in illegal sexual behaviors. *Journal of Clinical Child and Adolescent Psychology*. Advance online publication.

³⁴ To be clear, some juvenile sexual offenders do have serious deviancy issues or pose other atypical risks which do require specialized and focused treatment interventions. That is discussed later in this paper.

³⁵ Caldwell, M. (2016) Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy and Law*, Vol. 22, No. 4, 414-426.

³⁶ Chaffin, M. (2008) Our minds are made up don't confuse us with the facts: Commentary on policies concerning children with sexual behavior problems and juvenile sex offenders. *Child Maltreatment*, 13, 110.

³⁷ Ibid.

³⁸ Caldwell, M. (2016) Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy and Law*, Vol. 22, No. 4, 414-426.

MISPERCEPTION ABOUT THE EFFICACY OF INCARCERATION: WHAT'S WRONG WITH "WE NEED TO BE TOUGH ON CRIME AND LOCK 'EM UP"?

Some juveniles need to be incarcerated. Some are truly terrifying, dangerous young men who are very apt to inflict great harm on innocent people if not incapacitated. That, fortunately, is the exceptional minority of adolescents who will come onto your juvenile sex crime caseload.

Incapacitation has its functions. Beyond incapacitation, it can reflect the seriousness of the offense; or send a message to the community about prosecutorial priorities; or be a gesture which may feel empowering to the victim. To a certain degree some or all of those rationales might be present in individual cases. But prosecutors in juvenile court need to be careful about locking adolescents up to send a message or empower a victim. Our job is to hold people responsible, obtain appropriate sanctions, and in the special realm of juvenile court, the goal is also to try to rehabilitate the offender when possible.³⁹ Most important, we should want to do this in a way which can best protect the community from future harm.

Thus incarceration of adolescents who have engaged in sexually aggressive behavior should be looked at not as a metric of how tough we can be, but as a measure of how smart we can be.

Detention or incarceration can provide a strong and memorable deterrent effect. It can have a deterrent effect on others in the same social network. A loss of freedom, like other unpleasant sanctions also comes with certain risks. Incarceration of adolescents who have engaged in sexually aggressive behavior will also introduce the juvenile to a new crowd of misbehaving youth. Given that adolescents are enormously influenced by their peer group, we generally do not want the worst of misbehaving youth to become the new role models for the first offenders. It is not surprising, then, that increased incarceration has been linked to increased recidivism.⁴⁰

WHAT DOES THE EMPIRICAL EVIDENCE TEACH US ABOUT THE SUCCESS OF THE PRINCIPLE COMPONENTS OF JUVENILE SEX OFFENDER POLICY?

As discussed, the principle components of current juvenile sex offender policy are those first laid out in Washington's Community Protection Act and later adopted in various other legislation typically named after children who were victims of horrific and appalling crimes: The Adam Walsh Act, Megan's Law and the Wetterling Act, as examples. The basic tenets were: Sex offender registration, community notification and, in 21 states, the District of Columbia and the federal government, the creation of the Sexually Violent Predator law.

Sufficient time has now passed to have permitted researchers to examine the efficacy of these laws, as they pertain to juveniles. How has the promise and intent of those laws stood up to their practice?

³⁹ Perhaps the case for rehabilitation can best be made by example. When Alan was a juvenile he was charged with arson on federal lands for trying to burn a war relocation structure. In a separate event he and his same age friends shot up mailboxes with rifles, shot at government roading equipment and one shot killed a cow. Probation followed, but during his probationary period Alan got into a fight in a pool hall. When police responded, Alan later admitted, he "belted the cop." In reflection, Alan described himself as "I was a monster." In a society that reflectively responds to locking up juvenile "monsters" Alan could have just been another troubled youth. However, since 1978 most people came to know Alan as Senator Alan Simpson of Wyoming, who served in the U.S. Senate for 18 years. (See: Brief of Amicus Curiae in support of Petitioners, in *Graham v. Sullivan*, In the United States Supreme Court, Cases 08-7412 and 09-7621. (July 23, 2009).

⁴⁰ McCarthy, P., Schiraldi, V. and Shark, M. (2016) *The future of youth justice: A community-based alternative to the youth prison model*. New Thinking in Community Corrections. October 2012, No. 2.

THE BENEFITS AND COMPLICATIONS OF SEX OFFENDER REGISTRATION OF JUVENILES AND COMMUNITY NOTIFICATION OF THEIR RELEASE FROM CUSTODY

The two fundamental rationales for sex offender registration and community notification laws were (a) "...to assist local law enforcement agencies' efforts to protect their communities by regulating sex offenders by requiring sex offenders to register with local law enforcement agencies..." and (b) "if the public is provided adequate notice and information, the community can develop constructive plans to prepare themselves and their children for the offender's release." RCW. 9A.44.130. (legislative findings).

The federal Adam Walsh Act of 2006 directed all states to mandate that juveniles 14 years of age and older, convicted of certain sexual offenses, register as sex offenders. States which refused to comply with that mandate faced sanctions by way of a loss of certain federal funding.

Certainly, the goal of consolidating available, but difficult to access, information about those who had sexually offended against children, and making it available to law enforcement and the public was a well-intended strategy. Law enforcement can generally respond better when they have more information, and parents have a right to information which can help them protect their children.

But it hasn't exactly worked out that way.

A study of juvenile sex offender registration in South Carolina found that "registration increased the risk of youth being charged with a new sex crime, but no increase in the rate of conviction."⁴¹ Researchers concluded: "...not only does registration fail to reduce recidivism, it also appears to be associated with increased risk of new charges that do not result in new convictions."⁴²

Perhaps the increase in new charges, but not convictions, merely reflects the inherent difficulty in prosecuting child abuse cases. And perhaps the increased rate of charging, which would have at least required a judicial finding of probable cause, suggests the registered youth were subject to enhanced surveillance by law enforcement, and that, of itself, might be a good thing. Besides, having law enforcement and the general public know where these juvenile sex offenders are must have independent benefit.

Except for the unintended consequences.

When juveniles register as sex offenders, and are subject to community notification, the community typically does respond. The response may include banning those youth from certain locations, barring them from certain types of employment, denying them various social opportunities and perhaps expelling them from school.

These prohibitions might make good public policy if the youth subjected to them posed an enhanced risk to reoffend, or if they had the impact of reducing recidivism. But, as noted, the recidivism rates for this population are exceptionally low, in fact lower than the rates of sexual offending by youth not subject to registration and community notification. Meanwhile, registration showed no decrease in recidivism.⁴³

Then there are those unintended consequences:

The most effective treatments with the population of adolescents who have engaged in sexually abusive behavior are those which involve working with the adolescents' family and community.⁴⁴ A frequent consequence of community notification and registration is to disassemble that community. In the response to criminal misbehavior, which may have been influenced by a poor peer group and

⁴¹ Letourneau, E., Bandyopadhyay, D., Sinha, D., Armstrong, K. (2009). The effects of sex offender registration policies on juvenile justice decision making. *Sexual Abuse: A Journal of Research and Treatment*, 21, 149-165.

⁴² Letourneau, E. and Caldwell, M. (2013) Expensive, harmful policies that don't work or how juvenile sexual offending is addressed in the U.S. *International Journal of Behavioral Consultation and Therapy*. Vol. 8, No 3-4, 23-29.

⁴³ Sandler, J., Freeman, N. and Socia, K. (2008) Does a watched pot boil? A time-series analysis of New York State's sex offender registration and notification law. *Psychology, Public Policy and Law*, Vol. 14, No. 4, 284-302.

⁴⁴ Dopp, A., Borduin, C., Rothman, D. and Letourneau, E. (2016) Evidence-based treatments for youths who engage in illegal sexual behaviors. *Journal of Clinical Child and Adolescent Psychology*. Advance online publication.

bad role models, community notification and registration often provides the indirect consequence of removing the adolescent from locations where he has access to positive role models and more socially appropriate peers.⁴⁵

One of the most damaging repercussions for youth occurs when the sanctions imposed for their offense lead, directly or indirectly, to their expulsion or suspension from school. Higher school suspension rates are closely correlated with increased dropout and delinquency rates. Those lead to a variety of negative consequences which have significant economic costs to the individual student and society.⁴⁶ Setting aside all issues of social stigmatization, loss of peers and increased isolation, a compromised education is a common gateway to diminished employment opportunities. Increasing the probabilities of chronic un- or under-employment is not only a heavy price to pay for a youth's offense, but does not advance the long term best interests of the community. Those consequences increase risk of future crimes. Again, a misguided policy intending to punish, or isolate, frequently results in diminishing, not enhancing, community safety.

It is certainly understandable why school administrators (and more probably their legal counsel) might want to exclude "a convicted sex offender" from access to other children. It is equally understandable that the parents of those other children may have intensely heightened concerns.

Conversely, if the adolescent is unable to attend school, he has to fill his own time. That typically triggers the need to create a new set of associates. The available companions are those who have also been removed from school, and are prone to be an even less well-functioning group of peers. This is unlikely to enhance the troubled teen's peer group, but may instead provide an invitation to associations with already misbehaving youth, or even gang membership.

If the out of school adolescent manages to stay away from that crowd he is frequently choosing social isolation. Such solitary time is often filled with things like video games, which are not typically designed to enhance how adolescents perceive women or engage in respectful decision making, and, of course, the age old substitution for interpersonal interaction: pornography.

None of which is to suggest that misbehaving youth not be punished, not be incarcerated, not be removed from school. But a one-size-fits-all policy without an appreciation for the specific risks and needs of the individual child and the consequences of various interventions has the potential to worsen, not remedy, a problem.

Balancing those legitimate concerns is a challenging and difficult task. Sound public policy, grounded in established empirical evidence and aided by a prosecutor's input which accounts for all party's needs, would be warranted in this area.

That is why I call below for the regular use of quality assessments of adolescents who have engaged in sexually abusive behavior, to help evaluate their level of risk and their needs. Making thoughtful and evidence informed decisions about each individual adolescent will yield better results for the individual youth and for enhancing community safety, than the routine application of existing one-size-fits-all policies.

Researchers have found "a host of other negative consequences" of current legal policies.⁴⁷ These have included: Isolation, depression, increased suicidal ideation and increased suicide attempts, denied access to education, fear for their own safety. One study surveyed 265 professionals who provided clinical services to adolescents who had engaged in sexually abusive behavior and found 87% of them endorsed the view that these youth "have less hope for the future."⁴⁸

⁴⁵ The removal from school or social opportunities for example might include prohibiting playing team sports, participating in a band, play or artistic pursuit or joining education clubs. These are all pro-social activities that, typically provide avenues for growth and, in the case of misbehaving youth, self-correction through better role modeling. There are those who suggest that a consequence of juvenile offending, instead of barring youth from these programs, we should be mandating their participation. That is a debate for another day.

⁴⁶ For a general discussion of these issues, see Loren, D. (2015) *Closing the school discipline gap: Equitable remedies for excessive expulsion*. New York: Teachers College Press.

⁴⁷ Letourneau, E. and Caldwell, M. (2013) *Expensive, harmful policies that don't work or how juvenile sexual offending is addressed in the U.S.* *International Journal of Behavioral Consultation and Therapy*. Vol. 8, No 3-4, 23-29.

⁴⁸ Ibid. Also see Human Rights Watch (2013) *Raised on the registry: The irreparable harm of placing children on sex offender registries in the US*. Washington, D.C.

It could be advanced that these negative consequences are acceptable as part of the punitive cost of sexual offending against children. Except they don't make our community safer.

In an effort to evaluate the effectiveness of juvenile registration requirements, researchers examined the recidivism rate of registered and non-registered male juvenile sex crime offenders in South Carolina. South Carolina requires lifetime registration for offenders convicted of specific sexual assault crimes, regardless of the offender's age. Examining cases for an average follow-up period of four years, Letourneau and her colleagues found a sexual offense reconviction rate of less than 1%.⁴⁹ When the researchers went back years later to see how these laws were evolving, they found something even more troubling for community safety.

Apparently aware of the host of negative consequences that flow from sex offender registration and community notification, especially as weighed against its putative benefits, prosecutors had significantly increased their willingness to plea bargain or redefine juvenile sex offense charges to those which would carry no registration and notification requirements.⁵⁰ They found "a 124% increase in plea bargains leading to non-sex offense charges from the period predating registration to the period following initial enactment of registration, and another 50% increase in plea bargains following enactment of online registration notification."⁵¹

In other words: The consequences of the effort to provide enhanced public information about the location of adolescents adjudicated of sexual offenses led to lesser proper labeling of the offender's crimes. The consequences of the effort to learn more, led to the community learning less.

This redefining of criminal acts to avoid community notification and registration requirements creates another problem which has the potential to diminish community safety. Recall that the third prong of the Community Protection Act, and sex offender policy which followed, was the creation of the Sexually Violent Predator laws which have been adopted federally and in 21 states. These laws are designed to target the very "worst of the worst" and when used properly are successful in being very selective.⁵²

The successful evaluation of these cases, and the successful prosecution of these cases, requires prosecutors to understand the full histories of the individual being considered. When the unintended consequences of overly broad community notification and sex offender registration cases leads to a pattern of relabeling the offender's conduct, prosecutors may be denied information about the histories of the most serious of offenders: The very kind of offenders that motivated the creation of these laws in the first place. That does not enhance community safety.

AN ADDITIONAL COST: WHEN WE DO THINGS THAT DON'T WORK, IT MEANS WE LOSE THE OPPORTUNITY TO DO THINGS WHICH DO WORK.

It's not that researchers and informed clinicians don't know what to do with most adolescents who have engaged in sexually abusive behavior. Interventions are known which show substantial effectiveness with this population.

⁴⁹ Letourneau, E. and Armstrong, K. (2008) Recidivism rates for registered and nonregistered juvenile sexual offenders. *Sexual Abuse: A Journal of Research and Treatment*, 20, 393-408.

⁵⁰ How much of this is due to prosecutors' initiative and awareness, or more intransigence by the defense bar to avoid the consequences of these laws, is hard to tease out. A defense strategy that is prepared to challenge more cases, necessitating more trials, and thus requiring more victims to come to court certainly could play a role in reaching compromise resolutions. The researchers offered their view that "prosecutors became significantly less likely to move forward on cases". Either way, the result was the same, and there was a significant increase in the relabeling of charges to avoid sex offender registration requirements.

⁵¹ Letourneau, E., Armstrong, K., Bandyopadhyay, D. and Sinha, D. (2013). Sex offender registration and notification policy increases juvenile plea bargains. *Sexual Abuse: A Journal of Research and Treatment*, 25, 189-207.

⁵² An early analysis of the filing process in Washington State showed that approximately only 2% of all incarcerated sex offenders facing release were closely investigated by the assigned administrative agency for appropriateness of filing a SVP petition; of those barely half were forwarded to prosecutors for consideration of filing, and from that, only about one-third had petitions filed against them. Schram, D. and Milloy, C.D. (1998) Sexually violent predators and civil commitment: A study of the characteristics and recidivism of sex offenders considered for civil commitment but for whom proceedings were declined. Washington State Institute of Public Policy, Olympia, Wa.

Multisystemic therapy (MST) is a family and community-based treatment model that "integrates structural and strategic family therapies, behavioral parent training and cognitive behavioral treatment aspect to reduce adolescent antisocial behaviors."⁵³ The adaptation of MST for the treatment of youth with illegal sexual behaviors is known as MST for Problem Sexual Behaviors: MST-PSB.⁵⁴

We have discussed the nature of most adolescents who engage in sexually aggressive behavior. The research has identified them as more like other generally misbehaving youth, rather than as miniature versions of adult sex offenders. The predominant external forces on these youth are the quality of caregiver supervision, pro-social peer groups and positive role models (which combine with their undeveloped impulse control and moral decision making). MST-PSB seeks to target those external forces.

MST-PSB is described as "an intensive, holistic treatment delivery system which involves rigorous quality assurance system...the overarching goal of MST-PSB is to empower caregivers (and other important adult figures) with the skills and resources needed to address the youth's sexual behaviors and other behavior problems."⁵⁵

It is not surprising, then, that a review of the studies of the effectiveness of MST-PSB on this population "demonstrated significant reductions in posttreatment sexual offense rates in two randomized clinical trials."⁵⁶

MST-PSB is a community based treatment. Researchers have also found effective treatments for those adolescents who have demonstrated too great a risk to remain in the community and have been incarcerated.

Mendota Juvenile Treatment Center (MJTC) is a facility in Wisconsin established "to treat aggressive, severely behaviorally disordered delinquent boys who were unmanageable in other secure corrections settings...it was designed to treat aggression and severe behavioral disorders."⁵⁷ Several studies have evaluated the effect of MJTC treatment. The research documented that MJTC treated youth are charged with violence offenses at less than half the rate of matched but untreated comparison youth.⁵⁸ In addition, the treatment effect appears to specifically alter specific interpersonal exploitation characteristics in treated youth with psychopathic features.⁵⁹ That is, the treatment was effective at positively impacting characteristics most likely to contribute to acts of sexual violence.

The identification of these two treatment programs, one community based and one custodial, specifically designed for otherwise unmanageable youth, are offered as examples of intervention programs that work with adolescents who engage in sexually aggressive behavior. They are by no means the only two treatments that work, and their inclusion here is not to suggest the exclusion of others. But these two programs have one thing in common: They are evidence based. They are grounded in proven scientific principles and subjected to careful oversight and supervision. They have been studied and reviewed and found to be effective.

Despite years of concern and focus on juvenile sexual offenders, most commonly used interventions fail to meet those standards: "...recent estimates (are) that only 5% of serious juvenile offenders receive an evidence-based treatment...(citations omitted)...it seems likely that the vast majority of youths with illegal sexual behaviors are treated with interventions that lack such support."⁶⁰

⁵³ Dopp, A., Borduin, C., Rothman, D. and Letourneau, E. (2016) Evidence-based treatments for youths who engage in illegal sexual behaviors. *Journal of Clinical Child and Adolescent Psychology*. Advance online publication.

⁵⁴ Bourdin, C., Henggler, S., Blaske, D and Stein, R. (1990) Multisystemic treatment of adolescent sexual offenders. *International Journal of Offender Therapy and Comparative Criminology*, 34, 105-114.

⁵⁵ Dopp, A., Borduin, C., Rothman, D. and Letourneau, E. (2016) Evidence-based treatments for youths who engage in illegal sexual behaviors. *Journal of Clinical Child and Adolescent Psychology*. Advance online publication.

⁵⁶ Ibid.

⁵⁷ Caldwell, M. (2011) Treatment-related changes in behavioral outcomes of psychopathy facets in adolescent offenders. *Law and Human Behavior*, 35, 275-287.

⁵⁸ Caldwell, M. and Van Rybroek, G. (2005) Reducing violence in serious juvenile offenders using intensive treatment. *International Journal of Law and Psychiatry*, 28, 622-636.

⁵⁹ Caldwell, M. (2011) Treatment-related changes in behavioral outcomes of psychopathy facets in adolescent offenders. *Law and Human Behavior*, 35, 275-287.

⁶⁰ Dopp, A., Borduin, C., Rothman, D. and Letourneau, E. (2016) Evidence-based treatments for youths who engage in illegal sexual behaviors. *Journal of Clinical Child and Adolescent Psychology*. Advance online publication.

WHAT DOES THIS MEAN FOR PROSECUTORS?

A PROPOSED PARADIGM FOR EVALUATING AND PROSECUTING ADOLESCENTS WHO HAVE ENGAGED IN SEXUALLY ABUSIVE BEHAVIOR

PART I: ASSESSMENT

The major problem of the existing policies regarding juvenile sex offenders is that they generally provide a “one-size fits all” remedy. In well-intended efforts to guard against the risky, the policies have adversely impacted an entire group, much of which poses little risk. Existing policies appear to presume that the majority of adolescents who have engaged in sexually abusive behavior are high risk, despite the research which shows the majority to be low risk. The consequences of these misguided beliefs have raised the specter of impeding the effective rehabilitation of these youth, which does not serve the community well.

Policies which seek to examine each adolescent individually rather than as a member of a heinous group, to be feared, will better serve the community and the youth. Policies which seek to match the offender with the proper intervention, in a meaningful way, will better serve the youth and the community.

Prosecutors can make that happen.

We generally prefer doctors who diagnose before they treat. We like plumbers who evaluate before they rip into walls. We clearly like police officers who thoroughly investigate before they arrest.

Diagnosis, evaluation and investigation are sound, smart prerequisites before action. In working with adolescents who have engaged in sexually abusive behavior, those terms combine into one: Assessment.

A comprehensive, professional assessment of the juvenile can assist the prosecutor, and the Court, in matching each adolescent’s risks and needs with the most appropriate available intervention.

Professional assessments of adolescents include such things as: An understanding of the youth’s history, home situation, caregiver support, school performance and disciplinary history, prior involvement with child welfare, community interventions, family or community support systems, nature of his peer group, socioecological situation, co-occurring psychological or behavioral disorders, learning disabilities, intellectual deficits, substance abuse status, how the youth uses his leisure time, general attitudes, values and beliefs regarding family, authority and crime. This is an illustrative, hardly exclusive listing.

Standards for assessment of adolescents who have engaged in sexually abusive behavior have been set by ATSA.⁶¹ In 2017 ATSA published Practice Guidelines for the Assessment, Intervention and Management with Adolescents Who Have Engaged in Sexually Abusive Behavior. Prosecutors are urged to obtain those guidelines⁶² and become familiar with them. More significantly, prosecutors are urged to make sure all who assess and evaluate⁶³ adolescents are familiar with them.

That said, those who assess these adolescents need not be – and some would argue should not be – exclusively sex offender treatment specialists. Recall that most of the adolescents who engage in sexually aggressive behavior are most similar to adolescents who engage in general delinquent behavior, and are not ingrained sexual abusers. While an understanding of adolescent sexual behavior is important, focusing on that to the exclusion of general adolescent behavior and development is limiting.

⁶¹As noted previously, ATSA is the Association for the Treatment of Sexual Abusers. It is the world’s leading multidisciplinary organization that is committed to preventing child sexual abuse by promoting sound research, developing effective practice guidelines for individuals who have engaged in sexually abusive behavior and advancing informed policy.

Other thoughts and considerations are offered in Grisso, T. (2013) *Forensic Evaluation of Juveniles*, 2nd Edition, Sarasota, FL: Professional Resource Exchange.

⁶²See www.atsa.com.

⁶³Prosecutors must also be aggressive in making sure judges, who ultimately impose sanctions and conditions on these youth, are made familiar with these standards and the existing research.

Well trained professionals, grounded in child development issues, with an understanding of delinquency, juvenile justice issues, and knowledgeable of child and adolescent sexual behavior, who are also familiar with the ATSA Guidelines, are the ideal for doing these assessments.

Over the past two decades exceptional work has been done to create actuarial risk instruments which are now in common use for adults, particularly in Sexually Violent Predator cases. In general these are research-identified, empirically supported, predominately static factors which have demonstrated a correlation to enhanced risk to reoffend (for example, age at first offense, number of failures on past supervision, time free of a new offense⁶⁴). These are sometimes modified by dynamic factors, that is, things which can change (like current age or participation in treatment) which have been shown to also significantly influence risk. (There remains some debate about the reliability and appropriate influence of dynamic factors with adult actuarial instruments, but that is beyond the scope of this paper.)

Structured risk assessment tools have been developed specifically for adolescents. It is generally agreed that these instruments are an improvement over unstructured clinical judgment in offering assessments of future risk. The role of the dynamic factors appears to be more significant with the adolescent population (for the reasons discussed previously; adolescent's behaviors are significantly influenced by their social environment and concurrent brain development, which are fluid events.) These instruments are not "stand-alone" assessment measures and are to be used in conjunction with a thorough assessment of the adolescent's needs and risks. Evaluators (and prosecutors) need to be aware of the most appropriate, current and empirically supported risk assessment measures and have an appreciation for their strengths and limitations.

As important as understanding what these assessments address, it is vitally important to also recognize what they should not be used for.

These are to be used to assess the troubles, strengths, risks, motivators and needs of the youth. They are not to make judgments about the accuracy of the allegations.

As the ATSA Guidelines make clear: "Practitioners recognize that assessments cannot prove or disprove that sexual abuse has occurred, and this is not the role of an assessment, or predict with certainty that such behavior will or will not reoccur, and should educate referral sources accordingly." (Guideline 2.10). There is one other limitation in these assessments.

USE OF POLYGRAPHS AND PLETHYSMOGRAPHS IN THE ASSESSMENT AND TREATMENT OF JUVENILES: DON'T.

The reliability of polygraphs has been debated in the legal community since at least 1923 (*Frye v. United States*, 54 App. D.C. 46, 293 F. 1013 (1923)).⁶⁵ Nevertheless its use in adult sex offender assessment and treatment had been routine in the United States for decades. This article does not seek to address polygraph use with adults.

A 2009 survey of 373 juvenile sex offender treatment programs in the United States reported that 50% of them used polygraph interrogations as part of their protocol.⁶⁶ Yet polygraphs are rarely used and often banned from juvenile sex offender treatment programs in other countries, and are rarely used in other aspects of juvenile delinquent treatment.⁶⁷

⁶⁴ Hanson, R., Harris, A., Letourneau, E., Helmus, L. and Thornton, D. (in press) *Reductions in risk based on time free in the community: Once a sexual offender, not always a sexual offender. Psychology, Public Policy and Law.*

⁶⁵ For more see: National Research Council (2003) *The polygraph and lie detection*, Washington D.C.: The National Academies Press, Committee to Review the Scientific Evidence on the Polygraph, Division of Behavioral and Social Sciences and Education.

⁶⁶ McGrath, R., Cumming, G., Burchard, B, Zeoli S. and Ellerby, L. (2009) *Current practices and emerging trends in sexual abuser management: The Safer Society 2009 North American Survey*. Brandon, VT: Safer Society Press.

⁶⁷ Chaffin, M. (2011) *The case of juvenile polygraphy as a clinical ethics issue. Sexual Abuse: A Journal of Research and Treatment.* 23, No. 3, 314-328.

Chaffin vociferously argued that polygraphs have no place in juvenile sex offender assessment or treatment.⁶⁸ He maintained that the various issues of reliability and a risk- benefit analysis made polygraph use with alleged juvenile sex offenders a breach of ethical practice.

That position was posthumously adopted when in February, 2017 ATSA amended their Guidelines to foreclose the use of polygraphs and plethysmographs for that population. ATSA adopted this standard:

*Polygraph and plethysmography are physiological measurements designed for use with adults. Their use was extended to adolescents (and younger children) without establishing their scientific validity and without full consideration of their potential for harm. In particular, no research has subjected either measurement to controlled evaluation with relevant comparison groups including adolescents who have not offended sexually or otherwise. There are, therefore, no "norms" against which to compare measurement results, which severely limits their interpretability. More generally, neither measurement has been shown to improve treatment outcomes, reduce recidivism, or enhance community safety. Neither measurement is regularly used outside of the United States. Indeed, some countries have banned the use of one or both measurements with minors. Ethical concerns raised for both measurements include the potential for coercion and for engendering fear, shame and other negative responses in adolescent clients. Further ethical concerns relate to the prospect of basing impactful decisions (including those relevant to such things as legal restrictions and/or family reunification) on the results of measurements that are largely unsupported, empirically. Separately, plethysmography involves the ethically concerning practice of exposing adolescents to developmentally inappropriate sexual material. **Without a clearly identified benefit and with a potential for harm, ATSA recommends against using polygraph or plethysmography with adolescents under age 18.***

(emphasis added.)

The use of the polygraph and the plethysmography have no place in the assessment or treatment of adolescents alleged to have engaged in sexually abusive behavior. Prosecutors must be insistent in relying only on reliable, valuable and ethically obtained data. Polygraphy and plethysmography use with juveniles fail to meet that threshold and prosecutors should not be seeking nor accepting such testing. Those practitioners who insist on their use may be in violation of their profession's standards, and prosecutors should be skeptical as to whether they are advocating the use of these tools for financial and not empirical interests.

WHEN SHOULD THESE ASSESSMENTS BE DONE?

I have advocated for the use of thorough assessments of adolescents accused of sexually abusive behavior. These assessments can help identify the individual's risks and needs so as to be able to best match those with the most effective interventions and the imposition of appropriate sanctions. A logical question follows: When in the process should these be done, pre-adjudication or post-adjudication?

Like determining the best interventions and treatment modalities to be utilized in each individual jurisdiction, my answer is "it depends". There are advantages and disadvantages of conducting these assessments at either time in the proceedings. My urging is that each community understand the merits of each alternative and engage in a multi-disciplinary discussion which incorporates an appreciation of the available resources within the community. The existing and available professional labor force, coupled with factors such as geographic, cultural, and fiscal realities and limitations, will combine with prevailing procedures, evolving community philosophies and reliance on the empirical evidence, to develop best practices.

There are several arguments for conducting the evaluations post-adjudication. Certainly one major consideration is financial. There will be a smaller pool of evaluations needed if they are done only on those who have already been

⁶⁸ *Ibid.*

adjudicated and not on all those who have been charged with sexual crimes. That is a practical reality. Further, while some evaluators are skilled at focusing their work on developing an appropriate risk assessment and treatment plan, without resolving the issue of whether the individual “did it or not”, others find it difficult to do a thorough evaluation without first obtaining an admission (or some declaration) from the youth about what conduct they had engaged in which led to the charges. Evaluators might also find it necessary to determine the extent of any prior inappropriate behavior by the adolescent. These data points could obviously be significantly prejudicial to the juvenile if disclosed prior to adjudication. As a practical matter, if these evaluations were to include a requirement of an admission and/or a discussion of past acts, the youth’s attorney may seek to prevent the assessment, making this process moot. Prosecutors, of course, will be loathe to afford immunity for disclosure of unknown past events.

There are arguments for conducting these evaluations pre-adjudication. As a practical matter, the more information prosecutors have about the juvenile, the better they can consider redefining the charges to best label the youth’s conduct and to create (or prevent) various sentencing alternatives. With an informed understanding of the youth’s motivations, the causes of his illegal behavior and a thoughtful risk assessment a prosecutor might more easily be persuaded to reduce charges or seek lighter sanctions.

If the assessments are done after the juvenile has been adjudicated, the charge has already been defined and, as noted, in many states it is the charge itself which controls the sanctions to be imposed. A pre-adjudication assessment gives the parties the best chance to shape the best desired outcome for all concerned.

Additionally, the earlier in the process that the adolescent’s treatment needs can be identified and a risk management plan developed, the faster appropriate safeguards and interventions can be put in place.

Each community should debate the pros and cons of the timing of these evaluations, and decide what information is most needed and when it is best to receive it. Determining the timing of these evaluations will be a part of the prosecutor-led community discussions about developing the best response to sexual crimes committed by adolescents.

I have noted this earlier, but it bears emphasis: It is not appropriate for evaluations (pre- or post- adjudication) to offer opinions on the accuracy of the specific allegations or, more specifically, the guilt or innocence of the individual.

BEWARE FINANCIAL INTERESTS AND IDEOLOGY

I have earlier noted the concern that some policies and practices may be influenced by financial interests. Prosecutors are very familiar with this phenomenon. The realm of juvenile sex offender evaluators and treatment providers is no different. That there are some who “invent” tests and practices which have little benefit to anyone except their own pocketbook, is not news to prosecutors used to dealing with expert witnesses. Prosecutors have been schooled on methods to expose and cross examine irresponsible expert witnesses.⁶⁹

The basic methodology for exposing those experts is to develop a firm understanding of what they believe; and why they believe it. When prosecutors understand the reasons the expert endorses to support his or her opinions, prosecutors can arm themselves with the knowledge to challenge the scientific and logical validity of those reasons, and then skillfully attack the underpinning of the opinions.

⁶⁹Recognizing the irony of the placement of this footnote, I can’t help but recommend as a resource Stern, P. (1997) *Preparing and presenting expert witnesses in child abuse litigation: A guide for expert witnesses and attorneys*. Sage Publications.

To that end, having some grasp of the literature in the field, the empirical evidence which supports or disputes it and a general familiarity with research methodology is essential to successfully confront the irresponsible expert witness.

Beyond challenging the underlying scientific and logical validity, two other forces can play an influential role in why an expert chooses to believe what they believe.

One factor, of course, is money. To be clear, experts in this field should not be criticized or assailed for being compensated for their time and experience. This is a challenging field and we are all better served if it has fiscal rewards sufficient to entice the best minds and skills into the field. But fiscal self-interest should not interfere with the application of best practices. Professionals in this field should be inspired – should be compelled – to follow the best empirical practice. They should not be guided by an interest to reach conclusions favored by their retaining attorney, or by what results might yield the most referrals.

Prosecutors handling cases of adolescents accused of sexual crimes need to be informed (and stay informed) regarding best practices.

Prosecutors must be cautious of evaluators administering or using unneeded or unreliable assessment tools. Prosecutors should be wary of claims by experts that they are merely doing things “because that’s the way we’ve always done it”, as that is usually the single worst reason to do something.

For example, I noted above that ATSA recently declared: “Without a clearly identified benefit and with a potential for harm, ATSA recommends against using polygraph or plethysmography with adolescents under age 18.”

If polygraphy is a regular part of your community’s assessment process with adolescents under 18, that practice has just been severely challenged. If practitioners persist in administering polygraphs to that population, prosecutors rightly must ask: Do you know about the new ATSA Guidelines? Are you aware of the research which was relied upon to approve those guidelines? Do you have a legitimate scientific challenge to those conclusions? If there is awareness and no legitimate scientific challenge, prosecutors must rightly explore - forcibly, and in court as needed - if the reason for continuing that practice is for the financial reward it brings.

This may be true in various aspects of assessments. Why are certain tests administered? What is the scientific reliability of the specific techniques used? For example, as this is written the field of brain scan research and its application to juveniles or delinquent behavior is in the active developmental stage. Information and hypotheses exist, but scientifically valid links and conclusions are far from being generally accepted. Brain scans may be useful in some capacities but unreliable to draw conclusions from in other aspects. Prosecutors need to be aware of those scientific limitations and it is fair to inquire whether certain testing is ordered for sound forensic purposes or financial self-interest.

Similarly, if a treatment program being proposed by either the defense or their evaluator/expert – or even if by the court – is one that has been shown to lack effectiveness, or as is true with some programs, apt to exacerbate a problem,⁷⁰ prosecutors must be prepared to challenge those practices. A thoughtful, informed challenge of these programs or protocols also serves as an opportunity for prosecutors to educate judges.⁷¹

A somewhat more complicated factor to discover is the professional ideology of the expert. Especially in cases involving topics like sexual abuse, children and interpersonal violence, it is not uncommon for personal feelings or professional attitudes about an act or the consequences of that act to influence a viewpoint. Prosecutors should be aware of that potential and be prepared to explore that thinking process.⁷²

⁷⁰ The Washington State Institute for Public Policy reported, for example, that juvenile “boot camp” programs led to higher recidivism rates compared to juvenile offenders who went through regular juvenile institution facilities. Aos, S., Phillips, P., Barnoski, R. and Lieb, R. (2001) *The comparative costs and benefits of programs to reduce crime; Version 4.0.* Washington State Institute on Public Policy. Olympia. Wa.

⁷¹ This is discussed more fully in Stern, P. (1995) *Thoughts on how prosecutors can inform judges on child abuse and neglect issues.* The APSAC Advisor, Vol. 8, No. 1. Spring, 1995. American Professional Society on the Abuse of Children.

⁷² I have written on the influence of ideology in the interplay between SVP laws and the drafting of the DSM-V. Stern, P. (2011) *Wollert (2011) demonstrates again how ideology taints scientific debate.* Letter to the Editor, *Archives of Sexual Behavior.* Vol. 40, Issue 6, 1099-1100.

Prosecutors need to be prepared to question why it is that a professional, be they clinician, forensic examiner, physician or any other expert, has chosen to follow a particular practice. If that individual holds to a protocol in spite of empirical evidence which clearly disputes its efficacy, then prosecutors rightly need to know if that is because of a lack of knowledge of the current science, a legitimate dispute about the accuracy of that science, or because the developed empirical evidence challenges, or supports, a particular ideology or their personal profitability.

This is true in all aspects of prosecution. The task of thoughtfully questioning the scientific validity of an expert's processes and conclusions is a routine part of a prosecutor's job.

In cases of adolescents accused of sexually aggressive behavior, the potential consequences to the community and to the youth from mistaken reliance on unreliable data can be severe. Thoughtful, informed consideration of assessment procedures, with an awareness of the possible motives for the expert to use or rely on inappropriate tools is needed. Prosecutors want to do all they can to avoid making an incorrect decision, relying on an incomplete or improper assessment, or endorsing an ineffectual or even harmful treatment or intervention.

This is one more reason why I advocate that the juvenile sex offender prosecution position be handled by a senior lawyer, with the experience and skills to identify these issues and effectively confront inappropriate practices.

A PROPOSED PARADIGM FOR EVALUATING AND PROSECUTING ADOLESCENTS WHO HAVE ENGAGED IN SEXUALLY ABUSIVE BEHAVIOR

PART II: INDIVIDUALIZED, INFORMED DECISION MAKING

Fear based responses to crime tend to focus on the act, not the actor.

The prosecutorial reason for that is understandable: It is the very concept of the blindfolded Lady Justice and the dedication to punish all acts the same regardless of the status of the offender or the victim. But with juvenile sex offense cases, by focusing on the act itself, and not the actor, prosecutors and court systems are prone to impose inappropriate sanctions which may be more likely to enhance, not diminish, the risk of sexual re-offense.

Properly distinguishing between the dangerous juvenile sex offender and the adolescent who has committed sexually aggressive crimes but has done so out of immaturity, impulsiveness or other reasons which can typically be corrected with proper – and often minimal – interventions, is perhaps the most difficult task prosecutors are responsible to undertake. To refuse to take on that role, however, is to take the blindfold off of Lady Justice and put it on the prosecutor. To merely handle each case as if they all present the same indistinguishable, amorphous offender, and present the same indistinguishable recidivism risk, is to needlessly harm juveniles and imperil the community. The right approach takes time, takes study and is difficult. It's hard. But taking the right approach and doing the right thing is what responsible prosecutors do.

The most significant first step in trying to make the right decision is to have the right person making that decision. I have suggested that the decisions made regarding juvenile sex offense cases are the most difficult prosecutors have to make. Those decisions are usually complicated by unfamiliarity with the existing literature, and may be influenced by incorrect information disseminated by an uncritical media, or reliance on misinformed professionals. They are certainly influenced by fear-based policies, and reinforced by dogmas.

The person assigned to handle juvenile sex offender cases must have, as a core function of their professional assignment, the commitment to become familiar with the relevant and reliable literature in this field. I have tried here to lay out a summary of complex scientific research and data in a way that makes it accessible to prosecutors.⁷³

Supervisors must provide the time and the opportunities for that study and continuing education. Resources need to be allocated for the education of the prosecutor(s) assigned to juvenile sex crime caseloads. This requires a firm commitment to the juvenile sex crimes position, particularly by large and medium sized offices. That commitment involves permitting sufficient time for the assigned prosecutor(s) to learn, incorporate and be able to thoughtfully apply the research and best practices in this area. Doing so will generally mean a lengthy tenure in that position, as opposed to short term rotational assignments. To accommodate that there must also be a recognition of the emotional nature of these cases and that the often exhausting caseloads can impose a toll on the individual lawyer assigned. Thus, pro-active, flexible policies to guard against burnout and emotional wear are essential.

How to respond to specific sexual offenses committed by adolescents is difficult and of great consequence. The ramifications of making the wrong decision can be catastrophic to the community and to the youth involved. Those decisions should be made by a prosecutor with significant experience in the area.

The assigned prosecutor will need to have a familiarity with the dynamics of sex crimes, issues of victimization, an understanding of the extent and limitations of the medical and scientific evidence available in these cases. The assigned prosecutor will need to possess an appreciation for the ramifications of being a sex crime victim, of what typical reactions are for those victims, and have some skill using trauma focused approaches in working with victims. The prosecutor should understand how best to marshal witnesses and evidence to prove these often one-on-one cases, best practices in presenting children's testimony in court,⁷⁴ how to work with and often direct follow-up investigations to search for corroborative evidence, and how to gain skills at presenting this evidence to a fact finder.

Many prosecutors' offices tend to view the juvenile court as a "starting" position. Because juvenile court doesn't involve jury trials, the juvenile unit is often looked upon as a place for young prosecutors to learn their craft: Learning to review and evaluate more complicated reports, and to interact with families, advocates, police and staff. Because the sanctions are typically much less than in adult court, the juvenile court assignment is often viewed as one where no great mistakes can be made. It is sometimes the stepping stone segue from dealing with misdemeanor cases to adult felonies.

That concept of using the juvenile sex crimes position as an "introduction" to felonies is certainly understandable, but I suggest naive. Asking a new(er) prosecutor to learn about handling felony cases, about all the issues discussed above and to possess a comprehensive understanding of the complexity of issues raised above and in this paper is a lot to ask of a young prosecutor. It is asking an inexperienced prosecutor to properly evaluate risk, assess best outcomes, recommend appropriate interventions and recognize that not all offenders who present "as a nail" need to "be hammered". It is asking them to make decisions so that juveniles and community safety are not made worse by just "doing what we've always done."

It is difficult and likely unfair to ask a young lawyer to learn all the skills of aggressive prosecution and negotiation while at the same time teaching them the importance of nuance and the benefits of more therapeutic and less punitive interventions in appropriate cases.

⁷³ *The limitation of space and the complexity of these issues has allowed me to provide merely a tip of the iceberg: You can see the dangers posed and with that can develop a thoughtful, safe route around the danger. However I acknowledge there is far greater scope and depth of these issues to be explored.*

⁷⁴ Lipovsky, J and Stern, P. (1997) *Preparing children for court: An interdisciplinary view.* Child Maltreatment, Vol. 2, No. 2, 150-163.

It is thus strongly advocated that the prosecutor assigned to making decisions on juvenile sex crime referrals should have previous experience with sex crime cases.

For the best outcomes, practitioners need to apply the best practices. It is incumbent on the prosecutor to question existing practice, and to take a leadership role in ending unproven approaches and segueing the community into adopting sounder methodologies and responses. I believe that a well informed and respected prosecutor can have enormous sway in influencing and redirecting community policy. A prosecutor without a significant track record, no matter how right she might be, will likely find that task draws stronger resistance.

The best decision-making processes and most effective outcomes are possible only if all players are working with the same over-arching philosophies. Only by a community-wide adherence to the best empirical practice can existing but ineffectual practices be rejected and replaced or reformed into effective ones.

A multi-disciplinary approach, with all participants sharing a similar goal, is important. That is much easier when all participants share the same empirical understandings. Professionals might disagree on the approach to take based upon the empirical evidence, but they should be able to first find consensus on what the evidence is. As former Senator Daniel Moynihan said: "Everyone is entitled to his own opinion, but not his own facts."

An informed, thoughtful prosecutor can be the community leader in disseminating the empirical evidence in this area and ensuring that all participants are working off of the same data. It is one more reason that a senior, experienced prosecutor, able to bring an existing credibility and stature to the community discussions, is needed in this area.

What would community-wide adherence to best empirical practice look like? I have discussed the need for quality assessments of the offenders to determine their motivation, needs and risks. I have discussed the preference to properly label their conduct, but with sensitivity to the cascade of consequences that are likely to follow adjudication.

That information should help prosecutors, in conjunction with the multi-disciplinary community, direct the juvenile to the best and most appropriate therapeutic interventions. The over-riding twin goals, of course, being accountability and the reduction of future reoffense.

I earlier made note of two treatment protocols: Community based MST-PSB and the institution based Mendota Juvenile Treatment Center model. They were introduced not because they are what your community should adopt, but as examples of how effective programs need to be evidence based and tested.

Every community will have different needs, strengths and complications. While MST-PSB may currently set the gold standard for effectiveness with this population, its implementation within a specific community can be challenging. A particular community might have fiscal, geographic, labor force limitations sufficient to make adoption of this program unfeasible.

The goal for each community – in an effort which can be spearheaded by the prosecutor – is to identify effective, evidence based programs which can successfully treat this population in a way that best enhances community safety, and that can be made available given the range of resources within the community.

Among the approaches which have been identified in the literature as being effective include:

• **Functional Family Therapy.**⁷⁵ This is one of the earliest family-based interventions which had demonstrated good results with delinquent adolescents, in multiple studies. The program model focuses on family involvement, improving communications and interaction of the family with the juvenile justice system and other social systems.⁷⁶

• **Multidimensional Treatment Foster Care.**⁷⁷ This is designed for youth that cannot remain in the family home, but who do not require a high security setting. The youth are placed with specially trained and supported foster parents and together the child and foster family are engaged in empirically based education and treatment services aimed at family reunification.

• **Oklahoma PSB-CBT for Adolescents.** This program, designed for adolescents 13-18 years old with problematic sexual behavior (PSB) is grounded in behavioral and social learning theory models.⁷⁸ The PSB-CBT (cognitive behavior therapy) approach emphasizes the roles of environment, learning, social models, reinforcement contingencies, social ecology and adult guidance on child behavior. It encourages social involvement with same-age pro-social peers and activities and involves caregiver support and engagement. A study of the program demonstrated that over 97% of the participants who successfully completed the program were free from any sex offense arrests or reports at long-term follow-up.

• **The Adolescent Diversion Programs.** Various communities have adopted robust juvenile sex offender diversion programs which report effective outcomes.⁷⁹

While each of these approaches work in different settings and involve their own nuances, there are some commonalities of these programs. They all are grounded in an empirical foundation, work within the existing social ecology, start with quality initial assessments, provide individualized treatment, utilize well-trained, well-supervised staff, apply multi-dimensional approaches, which involve family/caregivers, and employ valid outcome assessments.

To be clear, none of these treatments is “a panacea” and each presents its own difficulties and challenges.⁸⁰ The point of this list is not to recommend or endorse any particular program or treatment. That is beyond the scope of this paper. It is offered instead to provide a framework for the community discussion about what evidence based programs for this population exist; which have demonstrated efficacy and which would be appropriate in your particular jurisdiction given the existing skills, personnel, geographic, demographic and fiscal resources and realities.

The goal, then, is to use those resources to design and build the best response and intervention system for each individual community, consistent with the concerns raised within this paper.

It is to be noted that some of these programs, while effective, may not “feel” onerous, or punitive or be of a prolonged duration. Research has taught that in working with juvenile populations, longer interventions are often counter-productive. What works is focus, intensity and fidelity to rigorous evidence based principles.

The goal, it is suggested, is to achieve accountability, and to impose consequences and effective interventions. Consequences without accountability is unsatisfactory. Accountability without thoughtful intervention should be equally inadequate. And punishment, without either, is inappropriate.

⁷⁵ Alexander, J and Parsons, B. (1982) *Functional Family Therapy*. Monterey, California: Brooks/Cole.

⁷⁶ See generally, Sexton, T. and Turner, C. (2011) *The effectiveness of functional family therapy for youth with behavioral problems in a community practice setting*. *Couples and Family Psychology: Research and Practice*. 1, 3-15. A review is in Caldwell, M. and Van Rybroek, G. (2013) *Effective treatment programs for violent adolescents: Programmatic challenges and promising features*. *Aggression and Violent Behavior*, 18, 571-578.

⁷⁷ Chamberlain, P. (2003) *Treating chronic juvenile offenders: Advances made through the Oregon multidimensional treatment foster care model*. Washington, D.C.: American Psychological Association.

⁷⁸ Bonner, B. L., Chaffin, M., Pierce, K., Swisher, L., Schmidt, S., and Walker, C. E. (2009). *Treatment manual for adolescent sexual offenders*. Oklahoma City, OK: Authors.

⁷⁹ Several organizations publish reports and reviews of various treatment practices. For example, see: *Updated inventory of evidence-based, research-based, and promising practices: For prevention and intervention services for children and juveniles in the child welfare, juvenile justice and mental health systems*. (June, 2016) Washington State Institute for Public Policy: Olympia, WA. www.wsipp.wa.org.

⁸⁰ Caldwell, M. and Van Rybroek, G. (2013) *Effective treatment programs for violent adolescents: Programmatic challenges and promising features*. *Aggression and Violent Behavior*, 18, 571-578.

BUT WHAT ABOUT THE REALLY DANGEROUS YOUTH?

As noted earlier, while most adolescents will not sexually reoffend, there are a small number who do pose significant concerns. What do prosecutors do with those adolescent sex offenders whose risk and needs assessments raise serious warnings of a heightened risk to reoffend or a strong predilection to engage in sexually predatory behavior?

Many researchers in this field believe that good quality, empirically based treatment for adolescents can be effective for almost all youth who have engaging in sexually aggressive behavior. Others recognize that a small number may be beyond the reach of even the most skilled care providers. It is understandable that prosecutor's philosophies may most align with that second group.

High quality custodial treatment programs exist and have demonstrated excellent results with even the most troubling, "hardened" youth. I previously cited the Mendota Juvenile Treatment Center program as an example of how an outstanding custodial based treatment program might be designed. Policy makers should also be appreciative of these programs because not only has Mendota's treatment program been shown to be effective (a three-fold reduction in violent re-offense), it has also been shown to be significantly cost-effective. A cost-benefit analysis of the program demonstrated that because of the reduction in crime, for every \$1 spent on the treatment programs, taxpayers saved \$7 in future crimes associated costs.⁸¹ Similar programs, if properly administered, should achieve similar long-term financial savings.⁸²

In some states procedures exist to permit certain juvenile cases to be transferred to adult court (or "declining" the case out of juvenile court). The adolescent is thereafter treated as an adult and subject to the penalties imposed on adults. Certainly for some offenders and/or for some crimes, this can be a suitable result.

Transfer typically results in the loss of juvenile focused rehabilitation programs and comes with a variety of negative consequences. Those consequences include the introduction of those youth to more violent and predatory adult offenders which can lead to exceptionally poor role modeling and set the youth up for custodial victimization. Given the overall low recidivism rates, the success of various community based treatments, the success of available custodial juvenile treatment programs, and the adverse effects which are likely to follow transfer, only the most select use of transfer power is warranted.

Researchers evaluated the impact of decline procedures in South Carolina. They compared juveniles whose cases were prosecuted as adults, with those having similar backgrounds who had not been declined out of juvenile court. They found they were equally likely to be charged with a new crime against person offense. However, they reported, the juveniles whose cases were transferred to adult court were four times more likely to be *convicted* of a new violent crime than those who remained in juvenile court.⁸³ Given the similar charge rate but the significantly higher conviction rate, the researchers suggested the difference was based not on the youth's behavior but "rather on the reaction to youth behavior by adults around them." They opined that the transfer led to higher surveillance and targeting of those youth upon release. They suggested this was a "Scarlet Letter" effect; that is once the juvenile had a conviction "as an adult", prosecutors were inappropriately more aggressive with filing future charges against them.

⁸¹ Caldwell, M., Vitacco, M. and Van Rybrock, G. (2006) Are violent delinquents worth treating? A cost-benefit analysis. *Journal of Research in Crime and Delinquency*. Vol. 43, No. 2, 148-168.

⁸² See generally: Washington State Institute for Public Policy, *Benefit Cost-Results. Juvenile Justice*. www.wsipp.wa.gov/BenefitCost

⁸³ Rinehart, J., Armstrong, K., Shields, R. and Letourneau, E. (2016) The effects of transfer laws on youth with sexual or robbery offenses. *Criminal Justice and Behavior*, Vol. 43, No. 11, 1619-1638.

An alternative explanation might be that prosecutors – and judges in granting the transfer motions – did a skillful job at properly identifying those whose risks and behaviors merited extra concern and focus. The careful, thoughtful and conservative use of decline procedures will help make the latter analysis accurate.

SO, WHAT SHOULD WE DO ABOUT JACK?

Before prosecutors do anything about Jack, they need to learn about Jack. Were these the acts of someone mimicking their own victimization, or the acts of someone who has a strong preference for sadistic sexual activity? Were these the acts of someone who by immaturity and inexperience completely misread the situation, or did not appreciate the consequences of their conduct, or were the acts committed as part of a gang initiation?

Only by recognizing that adolescents who engage in sexually abusive behavior are not a homogenous group, can smart decisions be made which bring the proper amount of sanction and intervention to the case. The goal remains to determine how to best punish, deter and rehabilitate the offender, while minimizing the risk of re-offense, so as to enhance community safety.

Existing policies which seek to impose one-size-fits-all punishments fail to recognize that the behavior of adolescents who engage in sexually abusive behavior are more like a “dimmer-switch” and not a binary “on-off” function. That is, there are multiple degrees of causes, motivations, influences, risks and needs in this population, and that leads to varying degrees of risk to the community. The answer of what to do about Jack, lies in the recognition of understanding of his individual motivations, needs and risks. While it is a prosecutor’s role to hold offenders accountable, that role requires prosecutors to be able to understand: Accountable for what?

Providing thoughtful and quality interventions is the most effective way to enhance community safety. Sometimes that might be prolonged incarceration. Sometimes that might be community-based treatment or diversion programs. But the most effective path forward begins only when prosecutors recognize that every “Jack” is different and the juvenile justice system response needs to be tailored as much as is practical to each individual.

Paul Stern was a prosecutor for 35 years, the last 32 of those for Snohomish County, in Everett, Washington. He retired in September, 2016. For those 32 years he handled predominately cases of sexual assault, crimes against children, homicides, domestic violence and the commitment of Sexually Violent Predators. He tried nearly 200 felony cases.

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ATSA

Registration and Community Notification of Children and Adolescents Adjudicated of a Sexual Crime: Recommendations for Evidence-Based Reform

2020

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ATSA's members include leading researchers in the study of sexual violence; practitioners who evaluate and treat individuals adjudicated or convicted of sexual crimes and those at risk of offending; law enforcement and corrections officials; victim advocates; prosecutors, public defenders, and members of the judiciary; and other individuals who seek to end sexual abuse.

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INTRODUCTION

PURPOSE OF THIS PAPER

Registration¹ and community notification² laws originated in the United States, with international adoption of these policies expanding to other countries in subsequent years. Federal and local laws in the United States, as well as a few other Western countries, often require children and adolescents adjudicated for a sexual crime to “register” their living location and other personal information with the local law enforcement agency on a regular basis. This requirement varies in its duration, but can continue for the rest of the child’s or adolescent’s life. Further, in some jurisdictions, identifying information is posted on the internet and is available to the general public – the most common form of “community notification.” Failure of the child or adolescent to comply with registration requirements is a crime.

The purpose of this paper is to review the emergence and development of sexual offender registration and community notification (SORN) laws, identify how these laws have been applied to children and adolescents adjudicated for a sexual crime, and consider the extent to which these laws:

- Are based on research and scientific knowledge;
- Reduce the chances that others will be victimized in the future by those who are required to register;
- Prevent offending by those who have not previously been adjudicated or convicted for a sexual crime;
- Provide actionable information to law enforcement for criminal investigation purposes and to enable the public to take preventive action; and
- Meet their intended goals of preventing sexual abuse and increasing community safety.

This paper presents conclusions about the effectiveness of registration laws as applied to children and adolescents adjudicated for a sexual crime, and makes recommendations on evidence-based reforms regarding registration and community notification.

¹ **Registration:** A set of procedures that individuals adjudicated or convicted of sexual crimes must follow to disclose information to law enforcement authorities and to periodically update that information so it remains current. Initially designed as private and for law enforcement only, it has expanded to include dissemination of information to the public.

² **Community Notification:** Systems in which information about individuals required to register is transmitted to the public.

REGISTRATION AND NOTIFICATION

HISTORICAL TIMELINE

Registration for adults convicted of a sexual offense originated in the United States (U.S.) in the 1930s and initially was a tool available only to law enforcement agencies. California became the first state to implement sex offender registration of adults in 1947, while Washington became the first state to implement public community notification for adults who had committed sexual offenses in 1990. The original purpose for registering adults convicted of a sexual offense was to provide information to law enforcement for future sex crime investigations. However, based on interest by members of the public to know about registrants in their community, community notification was added to registration laws to allow the public to take protective and preventive actions regarding those required to register.

The U.S. government first implemented a federal registration law with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act in 1994. Jacob Wetterling's parents, Patty and Jerry Wetterling, advocated for a national sex offender registry to provide law enforcement agencies with information to investigate sexual crimes, which might have been helpful in the investigation of the disappearance of their son. However, Mrs. Wetterling never intended for children or adolescents to be registered and has expressed grave concerns about public community notification. She now strongly advocates for returning these laws to their original purpose as a non-public law enforcement tool for adult offenders (Wetterling, 2017).

A U.S. federal community notification law was first enacted with the Megan's Law amendment to the Wetterling Act in 1996 based on the case of Megan Kanka, who was sexually assaulted and murdered by an adult male registrant. Megan's parents, Maureen and Richard Kanka, believed their daughter would be alive today had they known of the registrant's status, and it is difficult to argue with their rationale. However, while cases such as Megan's are horrific, they are the rare exception rather than the norm (Bureau of Justice Statistics [BJS], 2000). Laws and policies based on unusual cases may also be less effective, as they use a one-size-fits-all approach that does not recognize the heterogeneity of individuals convicted of sexual crimes or the differences in recidivism risk potential.

Subsequent to enactment of the federal sex offender registration and notification (SORN) laws, all 50 states have implemented these systems in varying ways. The U.S. government has repeatedly refined and expanded the scope of SORN through a series of amendments to the Wetterling Act (the Lychner Act in 1996, the Jacob Wetterling Improvements Act in 1998, the Campus Sex Crimes Prevention Act in

2000, and the PROTECT Act in 2003). Most recently, the U.S. government set forth a new SORN system with the passage of Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), which replaced the Wetterling Act and its subsequent amendments. SORNA's provisions enhanced registration requirements via tiering based solely on the offense of conviction, expanded the requirement of registration to include children 14 and older for the first time,³ increased availability of sex offender registration information to the public, and required additional jurisdictions, including some Native American tribes and U.S. territories, to implement a registration system.

Initially, SORN laws neither required nor prohibited inclusion for children or adolescents adjudicated of a sexual crime in juvenile or family court, and state laws varied widely. For example, many states required only adults convicted of sexual crimes (including children transferred to adult criminal court) to register, while other states required both adults and children to register (Human Rights Watch, 2013). However, as time passed, SORN laws developed for adults were subsequently applied to children and adolescents adjudicated or convicted of a sexual crime, often in the same manner and without consideration of the unique needs of children and adolescents. Today, federal statutes and the majority of state laws require children and adolescents, some as young as 9 years old (Human Rights Watch, 2013), to be subject to similar or identical SORN requirements as adults.

In June 2019, the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) published the latest implementation overview. That review rated all 50 states, the District of Columbia, and five U.S. territories on each jurisdiction's implementation of SORNA across five broad categories. While only 22 jurisdictions met minimum standards in all five categories, the overall compliance rate for all 56 jurisdictions was 61% (172 out of 280). For more information about registration and community notification of adults, please see *The Registration & Community Notification of Adults Convicted of a Sexual Crime: Recommendations for Evidence-Based Reform*.

³ Note, the U.S. Department of Justice has subsequently modified this requirement through a series of supplemental guidelines.

OTHER RESTRICTIONS

As states and local jurisdictions in the U.S. have continued to expand the scope of their SORN systems, adjunct policies related to residence, education, and employment restrictions have been added to SORN laws. The most common example of these resulting adjunct policies are residence restrictions. These restrictions limit where a person who is registered may legally live, and typically prohibits people who are registered from living within 500 to 2,500 feet of schools, daycare centers, parks, and other places where children congregate. The first states to adopt residence restrictions were Delaware and Florida in 1995. Currently, 35 states and many local municipalities have residence restriction laws (Meloy et al., 2008). These adjunct SORN laws have increased the requirements people who are registered must address as they return to a community, and often create unnecessary barriers to community reintegration.

The United States' registration and notification laws were enacted in response to crimes against children that fall outside the norm of the typical sexual offense against a child, crimes that involved kidnapping, rape, murder, and/or mutilation. The visceral response to such acts has, in part, spurred many of the legislative actions throughout the U.S. and resulted in passage of laws based on the desire to act immediately rather than study the outcomes related to the proposed policy. While initially well-intentioned, SORN laws are based upon the myths that individuals who commit sexual crimes are "repetitive, compulsive, predatory and potentially violent abusers of young children" (Ackerman et al., 2011).

INTERNATIONAL APPLICATION OF REGISTRATION AND COMMUNITY NOTIFICATION

Internationally, registration is more common than community notification and, when community notification does occur, it is not as broad-based or publicly available as currently practiced in the United States. Rather, registration is more often a non-public law enforcement tool with no community notification components and, when community notification does occur, it is provided on a limited and/or case-by-case basis. For example, the United Kingdom (U.K.) introduced sex offender registration as part of its 2003 Sex Offender Act. Children over the age of 10 are typically required to register for half the period of adults convicted of a sexual crime in the U.K., but indeterminate registration is automatic for any child who is incarcerated for 30 months or more as a result of a sexual offense.

In many jurisdictions, registration is not applied retroactively as it is a part of the sentence for the crime while, in the U.S., it is civil rather than criminal and able to be applied retroactively. International SORN laws are also applied almost

exclusively to adults convicted of sexual crimes (e.g., Canada, France, India, and Netherlands) and, in some countries, these laws are applied only to adults convicted of sexual crimes involving children (e.g., Australia). As such, some international registries are identified as “child protection” registries rather than “sex offender” registries.

Most of the international registries also provide far less detailed information than the U.S. SORNA requirements. Furthermore, many countries do not have a sex offender or child protection registry (e.g., Denmark, Italy, Pakistan, Sweden, and Switzerland) and those that have a registry do not use registration in the same way as is practiced in the U.S., with some countries having a national registry (e.g., Australia, Canada, France, India, Jamaica, Kenya, Netherlands, New Zealand, Pitcairn Island, Republic of Ireland, South Africa, and the United Kingdom) while others have regional but not national registries (e.g., Australia). More importantly, besides the U.S. and the U.K., no other countries register children or adolescents. Additionally, no country other than the U.S. includes children and adolescents on publicly accessible registries.

FACTS ABOUT CHILDREN AND ADOLESCENTS ADJUDICATED OR CONVICTED OF A SEXUAL CRIME

There are many misconceptions about adults convicted of sexual crimes, which include the myths that all people who commit sexual crimes are at high risk to reoffend, are resistant to treatment efforts, and are relatively homogenous. Contrary to popular belief, adults convicted of sexual crimes recidivate at relatively low rates; indeed, just 18% of convicted adults were shown to reoffend with another sex crime over a cumulative period of 20 years, with significant reductions in recidivism risk potential the longer an individual remained sexual offense free in the community (Hanson et al., 2018). Additionally, they are typically responsive to treatment, and are a heterogeneous group in terms of variable levels of dangerousness to the community (Gannon et al., 2019; Hanson et al., 2009; Schmucker & Losel, 2015). These misconceptions about the sexual offending population are often regularly applied to children and adolescents adjudicated for a sexual crime as well. For example, the concept of “stranger danger,” the belief that children and adolescents offend primarily or predominantly against strangers, has been applied to children and adolescents adjudicated for a sexual crime (Fuselier et al., 2002; Quinn, et al., 2004; Rogers & Ferguson, 2011; Sahlstrom & Jeglic, 2008). Not only is this untrue with respect to adults convicted of sexual crimes, it is also untrue for children and adolescents. For example, most sexual abuse perpetrated against children (approximately 93%) in the U.S. was perpetrated by someone known to the victim (BJS, 2000) and in 88% of all sexual offenses against minors reported to police in Canada, the perpetrator was known to the victim (Cotter &

Beaupre, 2014). With respect to children and adolescents adjudicated for a sexual offense, just 2.5% committed an act against a stranger victim in the U.S. as victims were most commonly composed of family members (25.0%) and acquaintances (63.2%) (Finkelhor, et al., 2009).

The World Health Organization (WHO) defines adolescence as 10 to 19 years of age, and further denotes “children” as 0-17 years of age as set forth in the UN Convention on the Rights of the Child (World Health Organization, 2020). Despite this classification, U.S. juvenile and criminal justice law often cap “juveniles” at age 17, and often refer to “children” as those 11 and younger. It is also important to differentiate between adolescents and children who have engaged in harmful sexual behavior. Despite some jurisdictions adjudicating children as young as 8 for a sexual crime and requiring these children to register as a “sexual offender,” just as adolescents are not “mini adults,” children under the age of 12 are not “mini adolescents.” Children under the age of 12 are best described as engaging in problematic sexual behavior, rather than “sexually abusive behavior,” due to their young age, developmental level, and the continual changes that occur throughout childhood. Children may develop problematic sexual behaviors for a variety of reasons, which include sexual reactivity (i.e., acting out sexually due to a known history of sexual abuse), abusive and/or neglectful environments, exposure to sexualized adults or media, and family violence. Many children and adolescents are also not educated about issues such as consent, physical/emotional/sexual boundaries, and healthy outlets for emerging sexual interests, all factors related to harmful or illegal behavior. For additional information specific to children who engage in problematic sexual behaviors, please see ATSA’s *Report of the Task Force on Children with Sexual Behavior Problems*.

Just as young children differ from adolescents, adolescents who engage in sexually abusive behaviour differ significantly from adults convicted of sexually abusive behavior due to a number of developmental, and particularly neurodevelopmental, factors. Functional Magnetic Resonance Imaging (fMRI) neurological studies have identified several key processes in the reorganization of the adolescent brain that are associated with changes in behavior that occur during adolescence (Gogtay & Thompson, 2010; Lenroot & Giedd, 2006). This and other research has documented that adolescents’ diminished ability to manage their emotions, control impulses, solve problems, and react appropriately to the influence of others is in large part a reflection of adolescent brain development of two processes: (a) a socioemotional system that controls impulses, emotional arousal, and the influence of interpersonal relationships; and (b) a cognitive control system that involves deliberative thinking, foresight, impulse control, problem solving and mature judgment (Conklin et al., 2007; Crone & van der Molen, 2004; Hooper et al., 2004; Luna et al., 2001; Steinberg, 2007, 2010).

Research has demonstrated that, with the onset of puberty, the areas of the adolescent brain that respond to rewards and generate emotions and impulses become more sensitive to the relevant neurotransmitters (Sisk & Foster, 2004; Reynolds et.al., 2017; Rothman et al., 2012). This results in an increase in the intensity of emotions and impulses and the reward value of satisfying those impulses. At the same time, the centers of the brain associated with modulating emotions and control of impulses mature more slowly, resulting in a gap between the neurologically based activation of impulses and the neurologically based ability to maturely control and moderate those impulses (Casey et al., 2008; Steinberg, 2010; Steinberg et al., 2008). The limited ability of an adolescent to modulate emotions, self-monitor behavior, and control reasoning is mirrored by incomplete brain development in the pre-frontal areas combined with greater intensity in emotions and impulses, including those related to sexual behavior (Bufkin & Luttrell, 2005; Casey et al., 2008).

Further, studies have consistently shown that adolescents engage in greater risk-taking in the presence of peers (Albert et al., 2013; Gardner & Steinberg, 2005; Grosbras et. al., 2007; Monahan et al., 2009; Steinberg & Monahan, 2007). This is not solely the result of direct peer pressure, but has been consistently shown to occur even when the youth is alone but believes a peer is present (Smith et al., 2018; Widman et al., 2016). Peer influence produces attitudes more supportive of precocious and impetuous sexual behavior, and more risky and impulsive sexual behavior through two mechanisms. First, peer norms that encourage precocious or aggressive sexual activity directly foster those behaviors and attitudes in young people (Brechwald & Prinstein, 2011; Widman et al., 2016). Second, the perception of the presence of a peer intensifies the reward value of sexual activity by increasing activation of the reward centers of the adolescent brain (Smith et al., 2018; van Hoorn et al., 2018). Thus, adolescents experience stronger sexual impulses and a weaker ability to modulate and rationally analyze those impulses than do adults. Additionally, the impression that other youth are engaging in sexual activity, or the perception of the presence of a peer, increases the reward value of sexual activity and produces more impetuous risk-taking. All of these effects appear to be related to neurodevelopmental processes that occur in the adolescent brain.

The significant developmental changes that occur during adolescence are linked to the low rate of sexual recidivism for adolescents adjudicated for a sexual crime. While there is a tendency for the public to assume that adolescents adjudicated for sexual crimes are unresponsive to treatment and at increased risk for recidivism (Sparks, 2018), research indicates that, once detected, the vast majority of children and adolescents adjudicated for a sexual crime do not continue to engage in these behaviors. Sexual recidivism estimates for adolescents have been reported in scores of studies conducted over decades of research. A recent large scale meta-analytic study reviewed 106 data sets involving 33,783 adolescents who had been adjudicated for a sexual offense. The weighted mean detected sexual recidivism

rate was 4.92% for all studies, and 2.75% for studies conducted since 2000 (Caldwell, 2016). This study additionally documented a 73% decline in adolescent sexual recidivism over the past 30 years. However, similar to adults convicted of sexual crimes, while *sexual* offense recidivism rates for adolescents are low, recidivism rates for *non-sexual* recidivism are higher, ranging from 22% to 49% (Caldwell, 2016; Reitzel & Carbonell, 2006; Worling et al., 2010). Even across a 20-year prospective follow-up study with a clinical sample, sexual recidivism rates remained low, with the lowest recidivism rates identified for youth who participated in specialized treatment (9% in treated compared to 21% untreated; Worling et al., 2010).

There are also notable differences and limitations with regards to the use of empirically based risk assessment instruments for adolescents adjudicated for a sexual crime when compared to adult males convicted of sexual crimes. This is due to the low base rate for sexual recidivism in conjunction with the numerous developmental and environmental factors present for youth. While there are evidence-informed, structured risk assessment tools that have been developed to assess the risk and needs of adolescents adjudicated for a sexual crime, it should be recognized that there are limitations to the current risk assessment tools that are available. Research provides preliminary support that existing instruments predict recidivism with better-than-chance accuracy (Viljoen et al., 2012; Worling et al., 2012). However, research on the accuracy and validity of these instruments remains inconsistent, suggesting that existing instruments do not sufficiently meet the requirements on which to base public policy or inform important court decisions. Existing research has not identified any risk assessment instruments that reliably predict sexual recidivism in adolescents convicted of a sexual crime (Caldwell, 2016). Additionally, due to the difficulty of accurately estimating risk for sexual recidivism in adolescents, there has been a recent shift away from an exclusive focus on risk assessment, and toward the presence and/or absence of protective factors associated with desistance as a more effective method to meaningfully understand risk factors and treatment needs for adolescents adjudicated for sexual crimes (Worling, 2017).

Adolescents adjudicated for sexual crimes are also a heterogeneous group as they vary widely in their histories, skills, and psychosocial functioning despite commonalities not only with one another, but also with adolescents who engage in non-sexual criminal behavior. However, as a collective they nevertheless represent a distinct group in comparison to adolescents adjudicated for non-sexual types of offenses. A meta-analysis of 59 studies found that, relative to non-sexually delinquent adolescents, sexually delinquent adolescents had higher rates of sexual abuse victimization, exposure to sexual violence, exposure to non-sexual abuse or neglect victimization, social isolation, early exposure to sex or pornography, atypical sexual interests, anxiety, and low self-esteem (Seto & Lalumiere, 2010). The fact that social isolation, anxiety, and low self-esteem have been found to be significant

variables should inform our expectations of the impact of contemporary policy interventions (Daversa & Knight, 2007; Miner et al., 2010). For example, to the extent that broadly applied legal policies inhibit or impair normal social and academic endeavors and development, these policies might exacerbate risk factors for non-sexual or sexual recidivism.

In addition to the issues listed above, adolescents adjudicated for sexual crimes also have a higher prevalence of autism spectrum disorders, as well as lower IQ and other neurological deficits when compared to adolescents who have been adjudicated for non-sexual crimes (Mulder et al., 2012). Elevated levels of depression, anger, anxiety, social isolation, disruptive behaviors, rape myth endorsement, psychopathic traits, and sexual arousal are also commonly present in adolescents adjudicated for sexual crimes, as are decreased emotional regulation skills, social skills, number of romantic relationships, body satisfaction, and openness concerning sexuality (Burton et al., 2011; Cale et al., 2015; Huang, 2016; Jones et al., 2017; Mulder et al., 2012; O'Brien et al., 2016; Seto & Lalumiere, 2010; Tidefors et al., 2011). There is also some indication that their criminal histories are not necessarily distinct from their non-sexual offending counterparts (McCuish et al., 2016).

Additionally, while there has been some concern regarding the continuity of sexual offending among adolescents adjudicated for sexual crimes, research has indicated that continuation of sexual offending into adulthood by these youths is unlikely to occur (Lussier et al., 2012; Taylor, 2003). In assessing the histories of sexual offending for adolescents, Lussier et al. (2012) noted that their offending trajectories followed one of two patterns, adolescent-limited or high-rate slow desisters⁴. The adolescent-limited category, which encompassed 89.6% of the juveniles, was characterized by a peak in offenses around the age of 14 followed by a sharp decrease, with considerably low (2%) recidivism rates in adulthood. The high-rate slow desisters category, which encompassed 10.4% of the juveniles, was characterized by earlier onset of sexually offending which peaked around the age of 12 and was followed by a much slower decrease, with considerably higher (60%) recidivism rates in adulthood. Factors that appeared to differentiate the high-rate slow desisters from the adolescent-limited group were evidence of deviant sexual interests; sexual preoccupation/compulsivity; poor perspective-taking; adult/child pornography use; and traits associated with psychopathy (i.e. superficial charm and grandiosity; Lussier et al., 2012). With respect to criminal trajectories more generally, both Cale et al. (2016) and McCuish et al. (2016) found that there were four distinct categories of offending behaviors. In particular, McCuish et al. (2016) found that the prevalence of children and adolescents adjudicated of sexual crimes in each category did not differ from the prevalence of children and adolescents adjudicated for non-sexual crimes, suggesting that both groups may have similar

⁴ **Desistance:** Process of discontinuing and demonstrating long-term abstinence from criminal behavior.

offending patterns (McCuish et al., 2016). These results also align with findings from the Pathways to Desistance study (Steinberg et al., 2015), which noted that almost all adolescents acquitted of crimes (including sexual) desisted from crime as they matured.

Furthermore, despite efforts to distinguish the small percentage of adolescents who are at an increased risk for sexual recidivism from the majority of adolescents who desist from crime, the existing research has not identified any stable, offense-based risk factors that reliably predict sexual recidivism in adolescents adjudicated of a sexual crime (Caldwell, 2016). These difficulties in differentiation are additionally reflected by federal and state standards which typically fail to distinguish between adolescents who will reoffend and those who will not (Batastini et al, 2011; Caldwell et al, 2008; Caldwell & Dickinson, 2009).

IMPACTS TO LEGAL CHARGES AND SENTENCING OUTCOMES

The implementation of punitive policies, such as registration and community notification, applied to children and adolescents who have been adjudicated for sexual offenses has also been associated with a 41% decrease in sexual offense charges being forwarded by prosecutors and an increase in plea bargains for non-sexual offenses (Letourneau et al., 2013; Letourneau et al., 2009). As a result of non-sexual charges being applied, there is a risk that adolescents may not qualify for specialized treatment programs in their jurisdiction that are available only to those adjudicated for a sexual offense. These effects have also been shown to occur for adolescents charged with a sexual crime that result in a non-sexual adjudication, with similar negative outcomes regarding ineligibility for treatment programs and similar services (Letourneau et al., 2009; Letourneau et al., 2013; Letourneau et al., 2010a; Calley, 2008).

At the other end of the spectrum, there is also the possibility that adolescents charged for sexual crimes may be tried and convicted as an adult. Waiver laws accommodating such requests or requiring a waiver of some children to adult court are present in 45 states in the U.S. (Griffin et al., 2011). However, trying children as adults does not appear to be an effective deterrent to further offending (Hansen & Waddell, 2014; Letourneau et al., 2010a). It additionally disregards the research on developmental factors and the low recidivism risk potential for children and adolescents adjudicated for a sexual crime.

RESEARCH ON THE IMPACTS OF REGISTRATION AND COMMUNITY NOTIFICATION

As noted previously, the primary goals of SORN laws are to prevent sexual abuse, protect society and monitor individuals within the community who were adjudicated or convicted of sexual crimes. The majority of studies conducted to date have demonstrated that registration and notification laws have done little to reduce sexual recidivism or prevent sexual abuse whether applied to youths or to adults who have been convicted of a sexual crime (Akerman et al., 2011b; Bouffard & Askew, 2019; Letourneau et al., 2010b; Letourneau & Armstrong, 2008; Levenson & Zgoba, 2015; Levenson et al., 2016; Sandler et al., 2008; Sandler et al., 2017; Vasquez et al., 2008; Veysey et al., 2008; Zgoba et al., 2010). As is true of adults convicted of a sexual offense, children and adolescents adjudicated or convicted of harmful sexual behavior are a heterogeneous group who cross all socioeconomic, ethnic, gender, educational, and cultural lines. While a small percentage of adult registrants may present significant risk to communities, once caught, the majority of individuals – child, adolescent, or adult – sanctioned for a sexual crime desist from sexually abusive behavior, thus dispelling the myth that such individuals are compulsive, repeat offenders.

There are also numerous unintended consequences of registration and notification as practiced within the U.S. that create barriers for successful community reintegration. For adult registrants and their families, this includes difficulties obtaining employment and housing, as well as experiencing threats, harassment and/or property damage (Farkas & Miller, 2007; Levenson & Cotter, 2005; Levenson et al., 2007; Mercado et al., 2008; Tewksbury, 2005; Zevitz & Farkas, 2000; Levenson & Tewksbury, 2009; Tewksbury & Levenson, 2009). These collateral consequences are regularly experienced by not only the registrant, but the registrant's family (e.g., spouse, children).

For adolescents, Comartin et al. (2010) found social, emotional, and psychological consequences of registration. Children and adolescents required to register experienced more stress, shame, stigma, isolation, loss of friendships, and hopelessness (Mercado et al., 2008), all factors which are associated with increased risk for recidivism in adults convicted of sexual crimes (Ackerman & Sacks, 2012; Hanson & Morton-Bourgon, 2005; Levenson, 2007; Levenson & D'Amora, 2007; Ostrowsky & Messner, 2005; Worling & Langstrom, 2006). Sex offender registration was found to be positively correlated to increased severity of depression and suicidal ideation in the adult life of juvenile registrants, regardless of whether registration status was private or public (Denniston, 2016). A recent study (Letourneau et al., 2018) evaluating the consequences of registration on adolescents also revealed that, compared to unregistered adolescents who were in treatment for problematic sexual behavior, registered adolescents were four times as likely to report having attempted suicide in the past 30 days; five times as likely to report

having been approached by an adult for sex in the past year; and twice as likely to report having been sexually victimized (or the victim of a sexual assault) in the past year. Essentially, the registration and notification of adolescents actually increased the risk for these youth to be victimized and sexually abused by others rather than preventing sexual abuse.

Such findings have also been replicated internationally. In a UK study, Hackett et al. (2015) found that stigmatization, social isolation, violence and physical attacks were commonly reported features of the community response to young people who had sexually offended and their families. The overwhelming level of negative community reactions experienced by youth was described by the authors as “akin to a shotgun...with the impact spreading in unpredictable ways across systems” (Hackett et al., 2015; pg. 251). As such, the authors urged extreme caution against the inclusion of children and adolescents in public policies that replicate the U.S. style of community notification measures.

Negative impacts to the mental health of children and adolescents required to register have also overwhelmingly been identified by treatment providers (Harris et al., 2015). Adverse consequences related to harassment and unfair treatment by others, problems in school, lifestyle instability, and risk of reoffending were noted (Harris et al., 2015). Further, reducing access to prosocial activities for these youth has the unintended consequences of weakening the protective factors that prevent reoffending (Tewksbury & Zgoba, 2010).

In addition to the collateral consequences to family members of adult and adolescent registrants mentioned above, there are added concerns for parents and caregivers regarding the safety of their child or adolescent required to register. Parents often experience fear and paranoia over concerns for their child’s public safety, their vulnerability to future false allegations because of their registrant status, unintended mistakes that could have legal consequences to their child as they attempt to abide by complex registration requirements, information about their child being publicly disseminated, and about how ingrained the label might become in their child (Comartin et al., 2010). This often leads to a sense of powerlessness and hopelessness by parents due to their inability to protect their children from these negative consequences, as well as, for some, a prevailing feeling that no matter how many good things their child did, they were not allowed to be proud of them because their offense overrode everything (Comartin et al., 2010). Family members also often suffered the loss of friendships, and even family relationships, when others were embarrassed to associate with them, ostracized them, or if conflicts occurred from misunderstandings about the “sex offender” label or the offense behavior (Comartin et al., 2010). Additionally, public registration and notification essentially results in the “registration” of the parents, family, neighborhood and school as those addresses are often listed on the public registry as well.

As young adults, children and adolescents required to register into adulthood were also found to have significantly more difficulty than older registrants when securing housing, while residence restrictions also made it more likely they were unable to live with supportive family members (Levenson & Hern, 2007). This poses obstacles for children and adolescents required to register as they mature into adulthood and seek to obtain education and secure employment (Comartin et al., 2010; Prescott, 2010). Lack of housing, food, and other basic needs are also associated with increased risk for recidivism (Levenson & Hern, 2007) and, when individuals required to register are unable to find employment, the financial hardship was felt by the whole family as they tried to support the registrant's basic needs in their adult life (Comartin et al., 2010; Levenson & Tewksbury, 2009).

From a law enforcement perspective, SORN laws were viewed as necessary for the monitoring and tracking of registrants in the U.S. and beneficial to law enforcement for criminal investigation purposes. However, law enforcement personnel appeared to be less confident in the public use of this information due to concerns about the public misunderstanding or misinterpreting the currently available registry information (Harris et al., 2016). International research mirrors this perspective on public access to registration information, indicating law enforcement valued the information provided by the adult registry in their respective countries, but they were against the public dissemination of that information due to the unintended consequences, such as those outlined above (see McCartan, 2018; O'Sullivan et al., 2016). Similarly, law enforcement within the U.S. has expressed concerns regarding residence restrictions and similar adjunct laws due to the negative impact on the ability for law enforcement to effectively track, monitor, and provide community supervision of individuals adjudicated or convicted of sexual crimes (Harris et al., 2016). Residence restrictions, as well as some SORN laws, have additionally been subjected to numerous legal and constitutional challenges in the U.S. due to concerns regarding violation of due process, retroactive application, and similar issues (SMART, 2018). See Appendix A for more information on legal challenges within the U.S.

RESIDENCE RESTRICTIONS

As noted above, most states and local jurisdictions in the U.S. have continued to expand the scope of their SORN systems through adjunct policies related to residence, education and employment restrictions. The most common examples are residence restrictions, which have exacerbated many of the unintended negative consequences of registration and community notification. Residence restrictions have been widely used in various forms throughout the U.S. and typically prohibit individuals required to register from residing within 500 to 2,500 feet of schools, parks, playgrounds, day-care centers, bus stops, and other places where children

congregate. This affects not only adults required to register, but also the families of children and adolescents required to register if the child lives at home.

The basis for residence restrictions is the mistaken assumption that, if a person required to register is prohibited from living near children, then that person's access to potential victims is reduced and sexual abuse will be prevented. However, these restrictions are often "one size fits all," based on the myth of "stranger danger," and the assumption that all individuals required to register, adult and juvenile, have sexually abused children and/or present imminent risk to children. To date, the research has provided no evidence to support that the residential proximity to places where children congregate, such as schools or parks, leads to increased recidivism risk. Several studies have shown that the physical distance between the residence of an adult convicted of a sexual crime and schools or day cares was not associated in any way with sexual recidivism (Duwe et al., 2008; Nobles et al., 2012; Zandbergen et al., 2010). Rather, social proximity to children is much more relevant than geographic proximity. While no research has yet been conducted on the outcomes of residence restrictions with children and adolescents required to register, it is important to note that the majority of sexual abuse involving children is perpetrated by someone known to the victim (Finkelhor et al., 2009; Snyder, 2000). Hence, it is not surprising that residence restrictions have done little to prevent sexual abuse.

The unintended consequences of residence restrictions experienced by adults required to register are also present and, in many ways, intensified for children and adolescents required to register due to their reliance on caregivers, educational needs, and the importance of positive social, recreational, cultural and similar activities with peers. Education and prosocial socialization are integral for the healthy development of all children, and removing access to these opportunities for children and adolescents required to register actually inhibits the protective aspects provided by these experiences and opportunities.

LEGAL CHALLENGES

SORN laws in the United States have also come under numerous legal challenges, particularly since the enactment of the Adam Walsh Act in 2006. Similar legal challenges do not exist in other countries due to the differences in application, procedure and use of registration internationally. Challenges to SORN statutes have occurred at both the federal and state levels in the U.S., and are typically focused on violations of the following constitutional and legal tenets – freedom of speech, retroactive application of law, cruel and unusual punishment, and equal protection and due process. In all of these areas, the law is evolving. Please see

Appendix A for a more comprehensive overview of the legal challenges to these laws within the United States.

CONCLUSIONS AND RECOMMENDATIONS

While SORN laws for adults convicted of sexual offenses exist in several countries, only in the U.S. are these laws applied to children and adolescents. The available evidence does not support the effectiveness of SORN laws as applied to children and adolescents while also demonstrating that these laws may actually be counterproductive to the prevention of sexual abuse. Specifically, SORN laws as implemented and applied to children and adolescents within the U.S.:

- Fail to deter sexual reoffending by children and adolescents required to register who, as a group, already have low rates of sexual recidivism;
- Fail to prevent first-time sexual offending by children and adolescents;
- Fail as a risk assessment method to predict sexual recidivism by children and adolescents required to register; and
- Are linked with long-term detrimental outcomes for children and adolescents, including (but not limited to) increased suicide attempts, increased sexual victimization, and increased likelihood of being approached by adults for sex.

Additionally, an often-overlooked unintended consequence of SORN laws is the false sense of security provided to the public as these laws focus only on those adjudicated or convicted of a sexual crime. Research on adults convicted of sexual crimes revealed that 95% of prosecuted sexual crimes were committed by first-time offenders (Sandler et al., 2008), raising questions regarding the ability of SORN laws to meaningfully reduce sexual offending. The enforcement of these laws also diverts time, effort, funding, and resources away from the primary prevention of sexual abuse and evidence-based methods of preventing sexual reoffense by children and adolescents, such as specialized treatment.

Some states, such as Oregon⁵, have recognized the ineffectiveness and harm caused by registration and community notification of children and adolescents adjudicated for sexual crimes and have taken steps towards meaningful reform. While ATSA applauds these state-level efforts, they are not enough and more needs to be done. It is time for legislators to discontinue harmful policies such as the registration and notification of children and adolescents adjudicated for a sexual crime, and instead incorporate what the research has clearly shown are the evidence-based

⁵ <https://www.oregonlaws.org/ors/163A.025>

interventions effective at reducing sexual recidivism and for the primary prevention of sexual abuse.

In looking at what *does* work to prevent sexual abuse and appropriately address sexually abusive behavior committed by children and adolescents, access to and participation in evidence-based, holistic approaches that are individualized according to youth and family risk factors, intervention needs, and learning style are key. This includes interventions that address risk factors, maximize protective factors, and focus on family stability and increasing ties to the community to promote a healthy, prosocial lifestyle.

Based upon current knowledge and research, ATSA offers the following recommendations:

- End policies that subject children or adolescents to sex offender registration and notification requirements and related residence, education, and employment restrictions;
- Implement primary prevention interventions, for example [Shifting Boundaries](#), [Safe Dates](#) and [Coaching Boys into Men](#);
- Offer specialized treatment programs grounded within developmentally appropriate, research informed practices that incorporate trauma-informed practices and adhere to the principles of risk, need, and responsivity⁶;
- Offer sexual education programs that address consent, healthy sexuality, and boundaries offered in an age-appropriate manner throughout childhood development;
- Offer treatment and other interventions that are sensitive to and address the adverse childhood conditions often experienced by at-risk youth (Adverse Childhood Experiences);
- A focus on protective factors that increase emotional, behavioral, and educational stability; and
- Engage family members and community support persons in an effort to maximize success in programs and promote stability and prosocial behaviors.

⁶ **Risk Principle:** intensity of services should be determined by the risk level of the individual

Need Principle: interventions should focus on criminogenic factors associated with recidivism risk

Responsivity Principle: interventions should be provided in a manner that incorporates the person's individual characteristics such as learning style, level of motivation, and other individual factors that may impact delivery of services

Evidence-based assessment, treatment, management, and policy strategies enhance community safety, reduce sexual recidivism, and prevent sexual abuse. However, too often the data surrounding public policy interventions are discounted or ignored, especially when the conclusions of the research do not support the views of policy-makers and their constituents. Although SORN laws were created to protect the public from potentially dangerous offenders, given the research and all that is known about the negative effects of such policies, it is now time to protect children and adolescents from these harmful policy decisions. As evidenced by the research, SORN laws as currently applied to children and adolescents in the U.S. are not evidenced-based, have not been shown to enhance community safety, have not been shown to prevent sexual abuse, and are associated with numerous unintended harmful consequences. It is the position of ATSA that Sex Offender Registration and Notification laws are not appropriate for children and adolescents adjudicated or convicted of sexually abusive behavior, and the application of such practices should be eliminated. Efforts should focus on evidence-based interventions that will prevent re-offense, facilitate healthier lives for these youth, and result in healthier and safer communities.

APPENDIX

LEGAL CHALLENGES AND RULINGS RELATED TO SORN LAWS

Challenges to registration statutes in the United States at both the federal and state levels typically have focused on violations of the following constitutional and legal tenets – freedom of speech, retroactive application of law, cruel and unusual punishment, and equal protection and due process. In all of these areas, the law is evolving. A sampling of recent cases in each of these areas follows.

- ***Freedom of speech:*** The First Amendment to the U.S. Constitution prevents the government from abridging individuals’ right to exercise freedom of speech, freedom of peaceable assembly, and freedom of religious practice.

Recent rulings show support for protecting the free speech of registrants.

- In 2012 (*Doe v. Nebraska*), the U.S. District Court in Nebraska found that preventing registrants from using social networking websites, instant messaging services, and chat rooms violated the First Amendment, and that requiring registrants to provide internet identifiers also violated the First Amendment.
 - In 2017 (*Packingham v. North Carolina*), the U.S. Supreme Court found that North Carolina’s law prohibiting registered sex offenders from accessing social media sites where minors are permitted violated the First Amendment.
 - In 2018 (*Doe v. Marshall*), the U.S. District Court in Alabama ruled that Alabama’s sex offender registration law violated the First Amendment by branding state-issued ID cards with “CRIMINAL SEX OFFENDER” and imposing extensive internet-use reporting requirements.
- ***Ex post facto:*** An ex post facto law retroactively applies new laws to actions that were committed before the law took effect. Ex post facto laws are expressly forbidden by the U.S. Constitution. Ex post facto challenges to the use of sex offender registries have occurred and continue to occur in states where individuals who were not originally required to register were later required to register due to a law change that retroactively applied to the original crime, and where adjunct laws have been imposed.

Rulings on cases involving ex post facto challenges have been mixed, but more recent decisions have found that retroactive application of sex offender registration laws is an ex post facto violation.

- In 2003 (*Smith v. Doe*), the U.S. Supreme Court upheld Alaska’s sex offender registration statute, ruling that sex offender registration laws were civil laws, not punitive measures, and therefore were not unconstitutional ex post facto violations.
- However, in 2008 (*Doe v. State of Alaska*), the Alaska Supreme Court ruled that Alaska’s Sex Offender Registration Act violated the ex post facto clause of the state’s constitution, and ruled that the registration requirement does not apply to persons who committed their crimes before the act became effective.
- Missouri’s courts issued a series of conflicting rulings in 2006, 2007, 2009, and 2010 on whether individuals were required to register if they pled guilty to a registrable offense before the state’s sex offender registration law took effect. As of the 2010 ruling, individuals who pled guilty to a sex offense that occurred prior to the enactment of Missouri’s registration law are not required to register.
- In 2012 (*In re C.P.*), the Ohio Supreme Court ruled that the state’s version of the Adam Walsh Act was punitive, rather than a civil regulatory measure, and barred retroactive application of the law to individuals whose crimes predated the law’s effective date.
- In 2013 (*Doe v. Department of Public Safety and Correctional Services*), the Maryland Court of Appeals ruled that the state could not require the registration of people who committed their crimes before the registry database was established.
- In 2016 (*Does #1-6 v. Snyder*), the U.S. Sixth Circuit Court of Appeals ruled that the actual effects of SORA are punitive with respect to its retroactive application. Therefore, retroactive application of changes to Michigan’s SORA in 2006 (implementing residency restrictions), and in 2011 (implementing SORNA) were unconstitutional and must cease. The court opined that: “A regulatory regime that severely restricts where people can live, work, and “loiter,” that categorizes them into tiers ostensibly corresponding to present dangerousness without any individualized assessment thereof, and that requires time-consuming and cumbersome in-person reporting, all supported by—at best—scant evidence that such restrictions serve the professed purpose of keeping Michigan communities safe, is something altogether different from and more troubling than Alaska’s first-generation registry law. SORA brands registrants as moral lepers solely on the basis of a prior conviction. It consigns them to years, if not a lifetime, of existence on the margins, not only of society, but often, as the record in this case makes painfully evident, from their own families, with whom, due to

school zone restrictions, they may not even live. It directly regulates where registrants may go in their daily lives and compels them to interrupt those lives with great frequency in order to appear in person before law enforcement to report even minor changes to their information.” (Does #1-6 v. Snyder, 2016)

- In 2017 (Commonwealth v. Muniz), the Pennsylvania Supreme Court ruled that Pennsylvania’s retroactive application of SORNA penalties violated the ex post facto provisions of both the U.S. and Pennsylvania constitutions and additionally violated Pennsylvania’s constitutionally protected freedom of reputation.
- ***Cruel and unusual punishment***: The Eighth Amendment to the U.S. Constitution states that no one shall be subjected to cruel and unusual punishment. The four principles used to determine if a punishment is cruel and unusual are whether the punishment 1) is degrading to human dignity, 2) is inflicted in an arbitrary fashion, 3) is clearly rejected throughout society, and 4) is unnecessary. Arguments against registries claim that placing someone on a registry is, in fact, cruel and unusual punishment, because the public’s access to registries results in registrants and their families being subjected to verbal and physical harassment, loss of housing and jobs, and other penalties.

Rulings in this area of law are mixed and still too few in number to show any kind of trend.

- In 2018 (In re C.K.), the New Jersey Supreme Court found that requiring juveniles to register as sex offenders for life was unconstitutional.
- In 2019 (People v. Interest of T.B.), the Colorado Court of Appeals remanded the case for further proceedings to determine whether lifetime registration for juveniles is unconstitutional.
- In 2019 (Doe v. Idaho Sex Offender Registry), the 9th U.S. Circuit Court rejected a lawsuit challenging the Idaho Sex Offender Registry Act as being cruel and unusual punishment and a violation of due process, and upheld the law as valid and constitutional.
- As of 2020 (In re G.M.C.), a case is making its way through the court system regarding the involuntary waiver of a juvenile to adult court for committing a sexual offense. The lawsuit challenges New Jersey’s requirement that juveniles older than 14 must register under Megan’s Law for at least 15 years after being adjudicated as delinquent. The lawsuit states that being registered triggers more than 600 federal,

state, and local consequences and creates a “minefield of collateral effects” for the person.

- ***Equal protection and due process:*** The Fourteenth Amendment to the U.S. Constitution provides that no state shall deprive any person of life, liberty, or property without due process of law. Due process requires that governments must respect all of a person’s constitutional rights when investigating them, charging them, or sentencing them for a crime. A violation of due process occurs when a government does not follow this requirement and a person is harmed as a result. Arguments against registries claim that placing someone on a registry deprives that person of liberty and/or property without due process.

Rulings in this area of law have supported most challenges to sex offender registries.

- In 2001 (*State v. Bani*), the Hawaii Supreme Court ruled that Hawaii's sex offender registration statute violated the due process clause of the state’s constitution. The court determined that the law authorized public notification of the potential registrant’s status as a convicted sex offender without notice, an opportunity to be heard, or any preliminary determination of whether and to what extent a potential registrant actually represented a danger to society.
- In 2003 (*Connecticut Department of Public Safety v. Doe*), the U.S. Supreme Court ruled that Connecticut’s sex offender registration statute did not violate procedural due process. It left open, however, the question of whether Connecticut’s law violates substantive due process principles.
- In 2014 (*In re J.B., L.A.D., D.E., K.O.H., A.M., J.T., and D.T.*), the Pennsylvania Supreme Court ruled that the state's sex offender registry for juvenile offenders was unconstitutional and that the state, by making an irrefutable presumption about adults’ behavior based on crimes they committed as teens, violated their constitutional right to due process.
- In 2017 (*Millard et al. v. Rankin*), the U.S. District Court in Colorado found that the state’s registration and notification system violated both the Eighth and Fourteenth Amendments of the U.S. Constitution.
- In 2018 (*People v. Temelkoski*), the Michigan Supreme Court ruled that retroactive application of a sex offender registration statute to a man who pleaded guilty to a sex offense under a state diversionary statute violated his right to due process under the state and federal constitutions.

ADDITIONAL CHALLENGES

In 2019, the Liberty and Justice Coalition (an organization whose goal is improving public safety by reforming sex offender laws) notified sheriffs throughout New Mexico that it will file a tort claim against any county sheriff's department that violates the New Mexico Sex Offender Notification and Registration Act by imposing additional requirements on registrants beyond those allowed and specified within the statute. Examples of additional requirements cited by the Coalition include requiring registrants to provide advance notice and an itinerary of travel outside the state, requiring registrants to make contact with the sheriff's office more frequently than required by statute, providing more information to employers about their convictions than required by statute, and restricting participation in holiday activities. As this effort proceeds, organizations in other states may choose to follow a similar process for challenging local enforcement variations of state and federal registration laws.

SUMMARY OF LEGAL CHALLENGES

Since states' laws and their application of the federal Sex Offender Registration and Notification Act (SORNA) vary, challenges to registration laws generally must take place on a state-by-state basis. This limits the application of court decisions to residents of one jurisdiction or to plaintiffs in narrow circumstances. Changing laws throughout the U.S. through legal challenges will necessarily require years of casework and a multitude of rulings.

During the past decade, however, some trends have emerged. Rulings on challenges to sex offender registration laws appear to be moving toward increased support for registrants' free speech rights and toward banning retroactive placement of individuals on registries. Rulings on challenges to registries based on cruel and unusual punishment, equal protection, and due process do not yet show a clear trend.

REFERENCES

REFERENCES

- Ackerman, A.R., Harris, A.J., Levenson, J.S., & Zgoba, K. (2011a). Who are the people in your neighborhood? A descriptive analysis of individuals on public sex offender registries. *International Journal of Law and Psychiatry*, 34, 149–159.
- Ackerman, A.R., Sacks, M. & Greenberg, D.F. (2011b). Legislation targeting sex offenders: Are recent policies effective in reducing rape? *Justice Quarterly*, 1-30.
- Ackerman, A. R., & Sacks, M. (2012). Can general strain theory be used to explain recidivism among registered sex offenders? *Journal of Criminal Justice*, 40(3), 187–193.
- Albert, D., Chein, J., & Steinberg, L. (2013). The teenage brain: Peer influences on adolescent decision making. *Current Directions in Psychological Science*, 22, 114-120.
- Batastini, A. B., Hunt, E., Present-Koller, J., & DeMatteo, D. (2011). Federal standards for community registration of juvenile sex offenders: An evaluation of risk prediction and future implications. *Psychology, Public Policy, and Law*, 17(3), 451–474.
- Bufkin, J., & Luttrell, V. (2005). Neuroimaging studies of aggressive and violent behavior: Current findings and implications for criminology and criminal justice. *Trauma, Violence, & Abuse*, Vol. 6, 176 – 191.
- Brechwald, W., & Prinstein, M. (2011). Beyond homophily: A decade of advances in understanding peer influence processes. *Journal of Research on Adolescence*, 21(1), 166 – 179.
- Andrews, D. A., & Bonta, J. (2010). *The psychology of criminal conduct (5th ed.)*. Cincinnati, OH: Anderson Publishing.
- Bouffard, J.A. & Askew, L.N. (2019). Time-series analyses of the impact of sex offender registration and notification law implementation and subsequent

- modifications on rates of sexual offenses. *Crime & Delinquency*, 65(11), 1483-1512.
- Bureau of Justice Statistics. (2000). Sexual assault of young children as reported to law enforcement: Victim, incident, and offender characteristics. (No. NCJ-182990). Washington, DC: U.S. Department of Justice.
- Burton, D. L., Duty, K. J., & Leibowitz, G. A. (2011). Differences between sexually victimized and nonsexually victimized male adolescent sexual abusers: Developmental antecedents and behavioral comparisons. *Journal of Child Sexual Abuse*, 20, 77-93.
- Caldwell, M. F. (2016). Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy, and Law*, 22(4), 414-426.
- Caldwell, M. F., & Dickinson, C. (2009). Sex offender registration and recidivism risk in juvenile sexual offenders. *Behavioral Sciences & the Law*, 27(6), 941-956.
- Caldwell, M. F., Ziemke, M. H., & Vitacco, M. J. (2008). An examination of the sex offender registration and notification act as applied to juveniles: Evaluating the ability to predict sexual recidivism. *Psychology, Public Policy, and Law*, 14(2), 89-114.
- Cale, J., Lussier, P. McCuish, E. & Corrado, R. (2015). The prevalence of psychopathic personality disturbances among incarcerated youth: Comparing serious, chronic, violent and sex offenders. *Journal of Criminal Justice*, 43, 337-344.
- Calley, N. G. (2008). Juvenile sex offenders and sex offender legislation: Unintended consequences. *Federal Probation*, 72(3), 37-41,57. Retrieved from <http://search.proquest.com/docview/213981519?accountid=14872>
- Casey, B., Jones, R., & Hare, T. (2008). The adolescent brain. *Annals of the New York Academy of Sciences*, 1124, 111-126.
- Comartin, E. B., Kernsmith, P. D., & Miles, B. W. (2010). Family experiences of young adult sex offender registration. *Journal of Child Sexual Abuse*, 19(2), 204-225.
- Conklin H, Luciana M, Hooper C, Yarger R. (2007). Working memory performance in typically developing children and adolescents: behavioral evidence of

- protracted frontal lobe development. *Developmental Neuropsychology*, 31, 103–28.
- Cotter, A. & Beaupré, P. (2014). *Police-reported sexual offences against children and youth in Canada, 2012*. Juristat. Vol. 34, no. 1. Statistics Canada Catalogue no. 85-002-X.
- Crone EA, Van Der Molen MW. (2004). Developmental changes in real life decision making: performance on a gambling task previously shown to depend on the ventromedial prefrontal cortex. *Developmental Neuropsychology*, 25, 251 – 279.
- Daversa, M. T., & Knight, R. A. (2007). A structural examination of the predictors of sexual coercion against children in adolescent sexual offenders. *Criminal Justice and Behavior*, 34(10), 1313–1333.
- Denniston, S. E. (2016). *The Relationship Between Juvenile Sex Offender Registration and Depression in Adulthood* (Doctoral dissertation). Walden University. Retrieved from https://pdfs.semanticscholar.org/392f/3537472c09faa2f822932815acd5921fc0e9.pdf?_ga=2.246910596.1008746046.1574472582-825451179.1574472582 .
- Does #1-6 v. Snyder, 834 F.3d 696 (6th Cir. 2016).
- Duwe, G., Donnay, W., & Tewksbury, R. (2008). Does residential proximity matter? A geographic analysis of sex offense recidivism. *Criminal Justice and Behavior*, 35(4), 484-504.
- Farkas, M. A., & Miller, G. (2007). Reentry and reintegration: Challenges faced by the families of convicted sex offenders. *Federal Sentencing Reporter*, 20(2), 88-92.
- Finkelhor, D., Ormrod, R., & Chaffin, M. (2009). Juveniles who commit sex offenses against minors. *Juvenile justice bulletin*. Washington, DC: U.S. Department of Justice.
- Fuselier, D. A., Durham, R. L., & Wurtele, S. K. (2002). The child sexual abuser: Perceptions of college students and professionals. *Sexual Abuse: A Journal of Research and Treatment*, 14(3), 271-280.
- Gannon, T.A., Olver, M.E., Mallion, J.S., & James, M. (2019). Does specialized psychological treatment for offending reduce recidivism? A meta-analysis

- examining staff and program variables as predictors of treatment effectiveness. *Clinical Psychology Review*, 73.
- Gardner, M., & Steinberg, L. (2005). Peer influence on risk taking, risk preference, and risky decision making in adolescence and adulthood: An experimental study. *Developmental Psychology*, 41, 625–635.
- Gogtay, N., & Thompson, P., (2010). Mapping gray matter development: implications for typical development and vulnerability to psychopathology. *Brain Cognition*, 72, 6-15.
- Griffin, P., Addie, S., Adams, B., & Firestine, K. (2011). *Trying juveniles as adults: An analysis of state transfer laws and reporting*. Washington, DC: US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Grosbras, M., Jansen, M., Leonard, G., McIntosh, A., et. al. (2007). Neural mechanisms of resistance to peer influence in early adolescence. *The Journal of Neuroscience*, 27, 8040 – 8045.
- Hackett, S., Masson, H., Balfe, M. & Phillips, J. (2015). Community Reactions to Young People Who Have Sexually Abused and Their Families: A Shotgun Blast, Not a Rifle Shot. *Children and Society*. 29, 243-254.
- Hanson, R. K., Bourgon, G., Helmus, L., & Hodgson, S. (2009). The principles of effective correctional treatment also apply to sexual offenders: A meta-analysis. *Criminal Justice and Behavior*, 36, 865–891.
- Hanson, R. K., Harris, A. J. R., Letourneau, E. J., Helmus, L. M., & Thornton, D. (2018). Reductions in risk based on time offense free in the community: Once a sexual offender, not always a sexual offender. *Psychology, Public Policy, and Law*, 24, 48-63.
- Hansen, B., & Waddell, G. R. (2014). Walk Like a Man: Do Juvenile Offenders Respond to Being Tried as Adults?. *Unpublished Manuscript, University of Oregon, Eugene*.
- Hanson, R. K., & Morton-Bourgon, K. E. (2005). The characteristics of persistent sexual offenders: a meta-analysis of recidivism studies. *Journal of Consulting and Clinical Psychology*, (6), 1154.

- Harris, A. J., Lobanov-Rostovsky, C., & Levenson, J. S. (2010). Widening the net the effects of transitioning to the Adam Walsh Act's federally mandated sex offender classification system. *Criminal Justice and Behavior*, 37(5), 503–519.
- Harris, A.J., Lobanov-Rostovsky, C. & Levenson, J.S. (August 2016). Law enforcement perspectives on sex offender registration and notification: A summary report (Document No. 250181). Retrieved from the National Institute of Justice, Office of Justice Programs:
<https://www.ncjrs.gov/pdffiles1/nij/grants/250181.pdf>
- Harris, A. J., Walfield, S. M., Shields, R. T., & Letourneau, E. J. (2015). Collateral consequences of juvenile sex offender registration and notification: Results from a survey of treatment providers. *Sexual Abuse: A Journal of Research and Treatment*, 28(8), 770-790.
- Hooper C, Luciana M, Conklin H, Yarger R. (2004). Adolescents' performance on the Iowa Gambling Task: implications for the development of decision making and ventromedial prefrontal cortex. *Developmental Psychology*, 40, 1148–58.
- Human Rights Watch (2013). Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the US.
<https://www.hrw.org/report/2013/05/01/raised-registry/irreparable-harm-placing-children-sex-offender-registries-us>
- Huang, J-Y. (2016). Rape myths and rape by juveniles. *The Journal of Forensic Psychiatry & Psychology*, 27(4), 489-503.
- Jones, S., Joyal, C. C., Cisler, J. M., & Bai, S. (2017). Exploring emotion regulation in juveniles who have sexually offended: An fMRI study. *Journal of Child Sexual Abuse*, 26(1), 40-57.
- Lenroot, R., & Giedd, J. (2006). Brain development in children and adolescents: Insights from anatomical magnetic resonance imaging. *Neuroscience and biobehavioral Reviews*, Vol. 30, 718 – 729.
- Letourneau, E. J., & Armstrong, K. S. (2008). Recidivism rates for registered and nonregistered juvenile sexual offenders. *Sexual Abuse: A Journal of Research and Treatment*, 20(4), 393–408.
- Letourneau, E. J., Armstrong, K. S., Bandyopadhyay, D., & Sinha, D. (2013). Sex offender registration and notification policy increases juvenile plea bargains. *Sexual Abuse: A Journal of Research and Treatment*, 25(2), 189–207.

- Letourneau, E. J., Bandyopadhyay, D., Armstrong, K. S., & Sinha, D. (2010a). Do sex offender registration and notification requirements deter juvenile sex crimes? *Criminal Justice and Behavior*, 37(5), 553–569.
- Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. (2009a). Effects of sex offender registration policies on juvenile justice decision making. *Sexual Abuse: A Journal of Research and Treatment*, 21(2), 149–165.
- Letourneau, E. J., Harris, A. J., Shields, R. T., Walfield, S. M., Ruzicka, A. E., Buckman, C., *Kahn, G. D., & Nair, R. (2018). Effects of juvenile sex offender registration on adolescent well-being: An empirical examination. *Psychology, Public Policy, and Law*, 24, 105–117.
- Letourneau, E. J., Levenson, J. S., Bandyopadhyay, D., Armstrong, K. S., & Sinha, D. (2010b). Effects of South Carolina's sex offender registration and notification policy on deterrence of adult sex crimes. *Criminal Justice and Behavior*, 37(5), 537–552.
- Letourneau, E. J., Sheilds, R. T., Nair, R., Kahn, G., Sandler, J. C. & Vandiver, D. M. (2019). Juvenile Registration and Notification Policies Fail to Prevent First-Time Sexual Offenses: An Extension of Findings to Two New States. *Criminal Justice Policy Review*, 30(7), 1109–1123.
- Levenson, J. S. (2007). The new scarlet letter: Sex offender policies in the 21st century. In D. Prescott (Ed.), *Applying Knowledge to Practice: Challenges in the Treatment and Supervision of Sexual Behavior* (pp. 21–41). Oklahoma City, OK: Wood and Barnes Publishing.
- Levenson, J. S., & D'Amora, D. A. (2007). Social policies designed to prevent sexual violence the emperor's new clothes? *Criminal Justice Policy Review*, 18(2), 168–199.
- Levenson, J. S., & Hern, A. (2007). Sex offender residence restrictions: Unintended consequences and community re-entry. *Justice Research and Policy*, 9(1), 59–73.
- Levenson, J., & Tewksbury, R. (2009). Collateral damage: Family members of registered sex offenders. *American Journal of Criminal Justice*, 34(1/2), 54–68.
- Levenson, J. (2016). Hidden challenges: Sex offenders legislated into homelessness. *Journal of Social Work*, 1–16.

- Levenson, J. S., & Cotter, L. P. (2005). The effect of Megan's Law on sex offender reintegration. *Journal of Contemporary Criminal Justice*, 21(1), 49-66.
- Levenson, J. S., D'Amora, D. A., & Hern, A. (2007). Megan's Law and its impact on community re-entry for sex offenders. *Behavioral Sciences & the Law*, 25, 587-602.
- Levenson, J. S., & Zgoba, K. (2015). Community protection policies and repeat sexual offenses in Florida. *International Journal of Offender Therapy and Comparative Criminology*, 60(10), 1140-1158.
- Luna B, Thulborn K, Munoz D, Merriam E, Garver K, et al. (2001). Maturation of widely distributed brain function subserves cognitive development. *Neuroimaging*, 13, 786-793.
- Lussier, P. (2017). Juvenile sex offending through a developmental life course criminology perspective: An agenda for policy and research. *Sexual Abuse: A Journal of Research and Treatment*, 29(1), 51-80.
- Lussier, P., van den Berg, C., Bijleveld, C., & Hendriks, J. (2012). A developmental taxonomy of juvenile sex offenders for theory, research, and prevention: The adolescence-limited and the high-rate slow desister. *Criminal Justice and Behavior*, 39(12), 1559-1581.
- McCuish, E., Lussier, P., & Corrado, R. (2016). Criminal careers of juvenile sex and nonsex offenders: Evidence from a prospective longitudinal study. *Youth Violence and Juvenile Justice*, 14(3), 199-224.
- McCarten, K.F. (2018). Special issue: International approaches to the assessment and management of people who have committed sexual abuse. *Sexual Offender Treatment*, 13 (1/2).
- Meloy, M.L., Miller, S.L., & Curtis, K.M. (2008). Making sense out of nonsense: The deconstruction of state-level sex offender residence restrictions. *American Journal of Criminal Justice*, 33, 209-222.
- Mercado, C. C., Alvarez, S., & Levenson, J. S. (2008). The impact of specialized sex offender legislation on community re-entry. *Sexual Abuse: A Journal of Research & Treatment*, 20(2), 188-205.
- Miner, M. H, Robinson, B. E., Knight, R. A., Berg, D., Swinburne Romine, R., & Netland, J. (2010). Understanding sexual perpetration against children:

- Effects of attachment style, interpersonal involvement, and hypersexuality. *Sexual Abuse: A Journal of Research and Treatment*, 22, 58-77.
- Monahan, K., Steinberg, L., & Cauffman, E. (2009). Affiliation with antisocial peers, susceptibility to peer influence, and antisocial behavior during the transition to adulthood. *Developmental Psychology*, 45, 1520 – 1530.
- Mulder, E., Vermunt, J., Brand, E., Bullens, R., & van Marle, H. (2012). Recidivism in subgroups of serious juvenile offenders: Different profiles, different risks? *Criminal Behaviour and Mental Health*, 22, 122-135.
- Nobles, M.R., Levenson, J.S., & Youstin, T.J. (2012). Effectiveness of residence restrictions in preventing sex offense recidivism. *Crime & Delinquency*, 58(4), 491-513.
- O'Brien, J. E., Burton, D. L., & Li, W. (2016). Body disapproval among adolescent male sexual offenders: Prevalence and links to treatment. *Child and Adolescent Social Work Journal*, 33, 39-46.
- Ostrowsky, M. K., & Messner, S. F. (2005). Explaining crime for a young adult population: An application of general strain theory. *Journal of Criminal Justice*, 33(5), 463–476.
- O'Sullivan, J., Hoggett, J., McCartan, K.F., & Kemshall, H. (2016). Understanding and implications of the sex offender register. *Irish Probation Journal*, 13, 82 1-4.
- Prescott, D. S. (2010). Response to Comartin, Kernsmith, and Miles' (2010) Michigan sex offender registration study. *Journal of Child Sexual Abuse: Research, Treatment, & Program Innovations for Victims, Survivors, & Offenders*, 19(2), 231–233.
- Reitzel, L.R., & Carbonell, J.L. (2006). The effectiveness of sexual offender treatment for juveniles as measured by recidivism: A meta-analysis. *Sexual Abuse: A Journal of Research and Treatment*, 18, 401–421.
- Reynolds, L., Pokinko, M., Torres-Berrio, A., Cuesta, S., Lambert, L, et. al. (2018). DCC receptors drive prefrontal cortex maturation by determining dopamine axon targeting in adolescence. *Biological Psychiatry*, 83, 181–192.

- Rothmond, D., Weickert, C., & Webster, M. (2012). Developmental changes in human dopamine neurotransmission: cortical receptors and terminators. *BMC Neuroscience*, 13:18.
- Rogers, D. L. & Ferguson, C. J. (2011). Punishment and rehabilitation attitudes toward sex offenders versus nonsexual offenders. *Journal of Aggression, Maltreatment & Trauma*, 20, 395-414.
- Sandler, J. C., Freeman, N. J., & Socia, K. M. (2008). Does a watched pot boil? A time-series analysis of New York State's sex offender registration and notification law. *Psychology, Public Policy and Law*, 14(4), 284-302.
- Sandler, J. C., Letourneau, E. J., Vandiver, D. M., Shields, R. T., Chaffin, M. (2017). Juvenile sexual crime reporting rates are not influenced by juvenile sex offender registration policies. *Psychology, Public Policy, and Law*, 23, 131-140.
- Sahlstrom, K. J. & Jeglic, E. L. (2008). Factors affecting attitudes toward juvenile sex offenders. *Journal of Child Sexual Abuse*, 17(2), 180-196.
- Schmucker, M., & Lösel, F. (2015). The effects of sexual offender treatment on recidivism: An international meta-analysis of sound quality evaluations. *Journal of Experimental Criminology*, 11, 597–630.
- Seto, M.C., & Lalumière, M.L. (2010). What is so special about male adolescent sexual offending? A review and test of explanations through meta-analysis. *Psychological Bulletin*, 4, 526–575.
- Sisk, C.L. & Foster, D.L. (2004). The neural basis of puberty and adolescence. *Nature Neuroscience*, 7, 1040-1047.
- SMART (2018). Sex Offender Registration and Notification in the United States Current Case Law and Issues: Residency Restrictions. Retrieved from: <https://www.smart.gov/caselaw/9-Case-Law-Update-2018-Residency-Restrictions.pdf>.
- Smith, A., Rosenbaum, G., Botdorf, M., & Steinberg, L. (2018). Peers influence adolescent reward processing, but not response inhibition. *Cognitive, Affective, & Behavioral Neuroscience*, 18, 284 –295.

- Snyder, H.N. (2000). *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics*. U.S. Department of Justice, Bureau of Justice Statistics.
- Sparks, B. (2018). Evaluating Canadians' attitudes toward juvenile sexual offenders: Toward an understanding of community responses (master's thesis). Saskatoon, SK: University of Saskatchewan.
- Steinberg, L. (2007). Risk-taking in adolescence: New perspectives from brain and behavioral science. *Current Directions in Psychological Science*, 16, 55–59.
- Steinberg, L., (2010). A dual systems model of adolescent risk-taking. *Developmental Psychobiology*, 52, 216-224.
- Steinberg, L., Albert, D., Cauffman, E., Banich, M., Graham, S., & Woolard, J. (2008). Age differences in sensation seeking and impulsivity as indexed by behavior and self-report: Evidence for a dual systems model. *Developmental Psychology*, 44, 1764–1778.
- Steinberg, L. D., Cauffman, E., & Monahan, K. (2015). *Psychosocial maturity and desistance from crime in a sample of serious juvenile offenders*. Laurel, MD: US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Steinberg, L., & Monahan, K. C. (2007). Age differences in resistance to peer influence. *Developmental Psychology*, 43, 1531–1543.
- Taylor, J. F. (2003). Children and young people accused of child sexual abuse: A study within a community. *Journal of Sexual Aggression*, 9(1), 57-70.
- Tidefors, I., Goulding, A., & Arvidsson, H. (2011). A Swedish sample of 45 adolescent males who have sexually offended: Background, individual characteristics, and offending behavior. *Nordic Psychology*, 63(4), 18-34.
- Tewksbury, R. (2005). Collateral consequences of sex offender registration. *Journal of Contemporary Criminal Justice*, 21(1), 67-81.
- Tewksbury, R. & Levenson, J. (2009). Stress experiences of family members of registered sex offenders. *Behavioral Sciences and the Law*, 27, 1-16.
- Tewksbury, R., & Zgoba, K. M. (2010). Perceptions and coping with punishment: How registered sex offenders respond to stress, internet restrictions, and the

- collateral consequences of registration. *International Journal of Offender Therapy and Comparative Criminology*, 54(4), 537–551.
- Quinn, J. F., Forsyth, C. J., & Mullen-Quinn, C. (2004). Societal reaction to sex offenders: a review of the origins and results of the myths surrounding their crimes and treatment amenability. *Deviant Behavior*, 25, 215-232.
- Van Hoorn, J., McCormick, E., Rogers, C., Ivory, S., & Telzer, E. (2018). Differential effects of parent and peer presence on neural correlates of risk taking in adolescence. *Social Cognitive and Affective Neuroscience*, 945–955.
- Vasquez, B. E., Maddan, S., & Walker, J. T. (2008). The influence of sex offender registration and notification laws in the United States. *Crime and Delinquency*, 54(2), 175-192.
- Veysey, B., Zgoba, K., & Dalessandro, M. (2008). A preliminary step towards evaluating the impact of Megan's Law: A trend analysis of sexual offenses in New Jersey from 1985 to 2005. *Justice Research and Policy*, 10(2), 1-18.
- Viljoen, J.L., Mordell, S., & Beneteau, J.L. (2012). Prediction of adolescent sexual reoffending: A meta-analysis of the J-SOAP-II, ERASOR, J-SORRAT-II, and Static-99. *Law and Human Behavior*, 36(5), 423-38.
- Widman, L., Choukas-Bradley, S., Helms, S., & Prinstein, M. (2016). Adolescent susceptibility to peer influence in sexual situations. *Journal of Adolescent Health*, 58, 323-329.
- Wetterling, P. (2017). Jacob's Hope. Association for the Treatment of Sexual Abusers. 36th Annual Research and Treatment Conference. Kansas City, MO. October 26, 2017.
- World Health Organization, (2020). *Recognizing Adolescence*. Available from: <https://apps.who.int/adolescent/second-decade/section2/page1/recognizing-adolescence.html> .
- Worling, J.R., Bookalam, D., & Litteljohn, A. (2012). Prospective validity of the Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR). *Journal of Sexual Abuse: A Journal of Research and Treatment*, 24(3), 203–223.
- Worling, J. R., & Langstrom, N. (2006). Risk of sexual recidivism in adolescents who offend sexually: Correlates and assessment. In H. E. Barabee, W. L.

- Marshall, & S. M. Husdon (Eds.), *The Juvenile Offender* (2nd ed., pp. 219–247). New York, NY: Guilford Press.
- Worling, J. R., Litteljohn, A., & Bookalam, D. (2010). 20-Year prospective follow-up study of specialized treatment for adolescents who offended sexually. *Behavioral Sciences & the Law*, 28(1), 46–57.
- Worling, J.R. (2017). Protective + Risk Observations for Eliminating Sexual Offense Recidivism (PROFESOR). Retrieved from:
www.profesor.ca/uploads/8/7/7/6/8776493/the_profesor_november_2017.pdf
- Zandbergen, P.A., Levenson, J.S., & Hart, T.C. (2010). Residential proximity to schools and daycares: An empirical analysis of sex offense recidivism. *Criminal Justice and Behavior*, 37(5), 482-502.
- Zevitz, R. G., & Farkas, M. A. (2000). Sex offender community notification: Managing high risk criminals or exacting further vengeance? *Behavioral Sciences and the Law*, 18, 375-391.
- Zgoba, K., Veysey, B., & Dalessandro, M. (2010). An analysis of the effectiveness of community notification and registration: Do the best intentions predict best practices? *Justice Quarterly*, 27(5), 667-691.