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Youth Who Commit Sexual Offenses:
Tensions Between Public Perception, Legislative Barriers, and Research Findings

by

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Abstract

The juvenile justice system was founded on the beliefs that youth were inherently different from adults, both in the crimes they committed and how they were treated within society, and thus deserved to be punished differently. The court's job was to act as a sort of parent and always in the best interest of the child. Within this empathetic system, there has always been a fundamental misunderstanding of youth who commit sexual offenses and today those misunderstandings are incredibly detrimental to adjudicated youth and society at large. We believe that these youth are dangerous predators, that they will continue to offend throughout adulthood, and that we need to punish them punitively and for long periods of time. Research shows that all of these assumptions are false and that these youth are deserving of rehabilitation and capable of change. Through an analysis of the literature on the history of the juvenile justice system, the characteristics and recidivism rates of youth who commit sexual offenses, and the implications of treatment, incarceration, and sex offender registration, the author discusses the various ways we have failed to meet the goals of the juvenile justice system and reduce sexual crimes.

History

The juvenile justice system was created in the late 19th century in conjunction with other Progressive Era reforms, which also included child labor laws, mandatory education, and school lunches. Attitudes were changing in regards to children who committed crimes, and advocates at the time understood that treating young people as adult criminals would hinder their development and ultimately worsen society. They championed the idea that wayward children did not need to be punished, but cared for. The court began as a stand-in guardian of the child, focusing on rehabilitative capabilities of youth (McCord, Spatz Widom, & Crowell, 2001). The court's job was to act in the best interest of the child (Siegel & Senna, 2000). Keeping court records confidential was also of utmost importance, as people understood the need to protect the child from social stigma and isolation. The early years of the juvenile justice system felt the tension of striking a balance between accountability for crimes, and the knowledge that youth have the ability to change and develop positively if we let them (McCord, Spatz Widom, & Crowell, 2001). Whether or not juvenile courts throughout history have met their founders' goals is debatable, but it is clear that the ways we treat many youth involved in the justice system today are directly counter to the original intent of the system. These contradictions are especially clear when we examine the juvenile justice system's treatment of youth who commit sexual offenses.

Despite children not having the same rights or agency as adults, when they commit crimes, we tend to view them as little adults, requiring punishment just as severe as those over eighteen. Despite having a separate system to try juveniles who commit crimes, many youth are still tried as adults, housed in correctional facilities, and given sentences whose consequences stay with these youth for the rest of their lives. When national crime rates, including those

committed by juveniles rose, policymakers and practitioners within the juvenile justice and correctional systems began to believe that more punitive measures were necessary when dealing with this new generation of violent, predatory youth. In the 1980s and 1990s, when national crime rates rose, the public made it clear to politicians that there was no way to win votes without appearing tough on crime. A war was waged on drugs, or more specifically, drug users, and any hope of prioritizing rehabilitation and treatment above filling prison beds went out the door (Alexander, 2010). This is when the image of the “superpredator” came into public consciousness. A superpredator was a young, usually non-white, male criminal who was inherently deviant and would become a dangerous, lifelong criminal (Linde, 2011). This young person was likely in a gang and in no way wanted out of their life of crime (McElrath-Bey, 2014).

Excessive media attention and public acceptance of the superpredator narrative coupled with a lack of research on youth who commit sexual offenses led to harsher sentences and more youth being waived to and tried in adult court. But this trend was nothing new to the history of criminal justice. How we have dealt with sexual offenses in the past has typically been based on horrific single cases, as opposed to research. There are two points within the last hundred years which marked distinctive turning points in sex crime legislation. Up until the 1940s, sexual offending was thought of as a mental health issue, and one that would last throughout one’s life. It was treated with lifelong institutionalization and forced sterilization. Then in the late 1930s and mid 1940s, two separate incidents changed public perception. First, the stories of the crimes of Albert Fish, a serial killer and sexual offender against children, came to light. The public was rightfully disgusted and terrified. Then, the burgeoning eugenics movement in the United States fell out of favor as its association with Nazism grew after World War II, therefore forced

sterilization as a punishment for criminals became illegal. As a result of these two events, much more attention was paid to sexual offending by forensic psychologists and the idea of the “sexual psychopath” was born. It was thought that sexual offending was lifelong, violent, dangerous to the community, but that those who engaged in it could not control their impulses and needed to be treated in an institution as opposed to incarcerated (Letourneau & Caldwell, 2013).

Fears about sexual offending adults calmed down over the next several decades, and sexual offending in youth was largely ignored (Reiss, 1960). For a while, courts were only concerned with sexual deviancy committed by female teenagers because it was necessary to keep their unholy desires in check. Sexual offenses committed by young boys were rarely adjudicated, and treatment and deinstitutionalization was the norm (Reiss, 1960). Then in the 1980s and 1990s, a string of “stranger danger” cases and the superpredator image terrified the public and shaped sex offender legislation and registration as we know it today (Letourneau & Caldwell, 2013). The phenomenon of the chronic adult sexual abuser began to be understood, and the assumptions made about that population were placed on youth who committed sexual crimes (Lussier, Corrado, McCuish, 2016). Punitive measures across the board became the public’s preferred method for dealing with young criminals (Zimring & Allen, 2009). During the 1990s, every state added punitive laws toward sex offending that blurred the lines between youth and adults (McCord, Spatz Widom, & Crowell, 2001). The numbers of youth incarcerated in juvenile detention facilities skyrocketed, waivers to adult court increased, and certain youth were added to sex offender registries (Siegel & Senna, 2000) (Becker & Hicks, 2003). People believed that youth who committed sexual offenses were no different from adult offenders and would undoubtedly grow up to be lifelong predators. It seems that this belief, that all sex offenders are the same, was held by practitioners not because research showed this to be true, but because

there simply was no research. Clinicians working off of this assumption placed juveniles in the same treatment programs as adults. These populations being served together simply fueled the idea that they were the same (Letourneau & Miner, 2008). It was a self-fulfilling prophecy on the part of practitioners, not the youth themselves.

In the beginning of the juvenile justice system, sex crimes were not prosecuted with lengthy and retaliatory sentences, not because the crimes were not serious but because the youth did not have deviant pathologies that required intensive treatment (Zimring & Allen, 2009). Research today shows that this is still very much the case. Today, there is a lot of evidence showing that youth who commit sexual offenses have very low recidivism rates and do not pose a threat to their communities. Because youth do not possess the same inclination towards chronic offending that adults do, they should not be adjudicated and punished as such. And despite the lowest national crime rate in decades, the idea of persistency of juvenile deviancy, violence, and crime still persists (FBI, 2016). Children are placed on sex offender registries for life. Young teenagers are incarcerated with grown men, despite evidence showing their strong ability to change. However, just because this data is available does not mean the majority of the public has access to it. This means that long held, damaging stereotypes are still held by most voters. Voters and politicians have the power to change the lives of youth involved in the juvenile justice system, which is why it is important that the people with this power have an accurate knowledge of the populations they impact and how their decisions have detrimental implications. Youth involved in the justice system, even those who commit sexual offenses, are still part of our communities and we have a responsibility as a society to not forget about them and their needs after they have committed a crime. Researchers and practitioners who actually work within the juvenile justice system acknowledge the fact that we look back on our criminal justice system's

history as archaic and inhumane. It is likely that we will look back on this time right now, how we treat youth, and be ashamed of ourselves (Abrams & Anderson-Nathe, 2012).

Population Characteristics: Perceived and Real

As we have seen in recent years, more attention is being paid to the harms and seriousness of sex crimes. This is a positive swing in public consciousness. However, this increased attention means that we think sex crimes committed by juveniles, are rampant. In actuality, sex crimes make up roughly 2% of caseloads in juvenile courts (Zimring & Allen, 2009). I do not want to make light of the fact that many victims are unable to report what has been done to them. Sexual offenses are serious and those who commit them should be held accountable. But I am advocating for allowing those who commit crimes access to things that will truly rehabilitate them, things that actually decrease the number of future crimes, as opposed to only punishment. This misunderstanding, that juveniles with problematic sexual behavior are deviant, lifelong predators, is exactly that; a misunderstanding, which if uncorrected, can have lasting, damaging effects on these children. Youth as young as nine years old have been placed on sex offender registries for life, denying them access to education, employment, and housing for years, sometimes for the rest of their lives (Stillman, 2016). We do have a dangerous tendency to excuse “boys being boys” when it comes to young men committing sexual crimes, but it is possible to go too far in the opposite direction. Public opinion has done a complete 180 with no room for nuance, from our denial that sex offenders even exist, to the total acceptance of harsh, lengthy, and invasive sentencing laws (Letourneau & Miner, 2005). And in many ways it is understandable. The idea that you can protect your children from sexual predators, whether they are adults or children themselves, by locking them away for life seems inherently good (Chaffin, 2008). But those kinds of policies have not been proven to work. The good news is that

there are ways we can work with youth who offend sexually that will actually prevent future sex crimes from occurring.

Currently, public perception of youth who commit sexual offenses is that they are inherently predatory, dangerous, and will offend again. We believe these youth are deviant, that their sexual desires are pathological in nature, and that they require intensive intervention and incarceration to change (Campregher & Jeglic, 2016). The term “sex offender” influences public perception, regardless of case specifics. As Albert J. Reiss wrote in 1960, “To classify a person as a sex offender may only serve to develop self and public definitions of the person as a sex offender.” Sexual deviancy makes us uncomfortable, and we want sex offenders, including those too young to even vote, to know we are uncomfortable with them in the hopes we can shame them enough into change. Perhaps we do not even want them to change their ways, because as community protection laws show us, we don’t think they can. We simply want these young people to hate themselves, and to identify themselves as a part of the most detested group in society.

People also tend to believe that people who offend sexually when they are young will undoubtedly grow up to be adult pedophiles and chronic sexual offenders (Campregher & Jeglic, 2016). Because many adult offenders say that their perpetration of abuse began in childhood or adolescence, we falsely conclude that all young people who offend sexually will continue to do so (Chaffin, 2008). We believe that sexual offending is a pathology that starts in adolescence and never ceases. Research shows that the public, as well as those who work in the criminal justice system, believe that all youth who commit sexual offenses are different from other juvenile offenders, but are the same as each other, in that they are all deviant (Chaffin, 2008). They are an exception to other juvenile delinquents and require much more specialized treatment. There is

also a general agreement that all sex offenders, youth and adult, are more similar to each other than those youth are similar to other juvenile delinquents (Letourneau & Miner, 2005). Society also tends to advocate for a punitive response to sexual offenses, including those committed by youth, because we believe long sentences and extra requirements after incarceration will protect the community (Zeimke & Vitacco, 2008). We believe that retaliatory efforts will both punish these heinous crimes as well as prevent them from ever happening again. Because of our increased attention to sexual abuse and how often it goes unreported, we assume this must be the case for juvenile sexual offenders. We have an image of deviousness and deceitfulness, but in reality, because of the nature of sexual crimes that youth commit, it is very unlikely that they will continuously evade detection (Chaffin, 2008). Youth are more likely to be arrested for their crimes than adults, they are less likely to commit these crimes in the first place than adults, and the nature of their sexual offending is very different (Zimring & Allen, 2009).

How we judge and subsequently punish adolescent behavior rarely has typical adolescent behavior as its reference point, and this is very clear with juveniles who commit sexual offenses (Reiss, 1960). Other youth are not our reference point for judging these crimes, adult behavior is our reference point, and because adult sexual offending is much more pathological in nature, we assume youth are acting similarly. Sexual offending among youth tends to derive from social isolation among same-age peers and a negative self-image, combined with a burgeoning sexual interests, not a direct sexual attraction to children (Becker & Hicks, 2003). This is as opposed to sexual offending among adults, which can be indicative of a dangerous pathology. Several studies have shown that youth who have offended against children do not show more sexual arousal when shown sexually suggestive stimuli involving children. Youth do tend to offend

against young victims, but this is far more indicative of opportunity than pedophilia (Zimring & Allen, 2009).

There is also plenty of research which now shows us that not only are youth who sexually offend very different from adult offenders, but that they are also unlikely to become them. The vast majority of our assumptions about youth who offend sexually come from our ideas about adult abusers and do not accurately apply. In so many ways, children are not just “little adults,” even though we may punish them the same ways (McCord, Spatz Widom, & Crowell, 2001). Not only does traditional neuroscience show us that the brains of children and adolescents are different from adults, but youth are not afforded the same agency over their lives as adults, legally, politically, and culturally. Adolescents do not have a clear-cut role within society (Reiss, 1960). We deny many rights to youth and prohibit them from things because we firmly believe that their brains are underdeveloped and their behavior is risky. We say that those under 18 years old are not ready to undertake adulthood, and this is shown in our denial of youth the right to vote, to buy alcohol or tobacco, and the various spaces and activities we prohibit them from, because we tell ourselves that we need to protect our youth. But when youth this age commit crimes, they are suddenly entirely on their own, and we wash our hands of societal responsibility for them. Not only does this hurt youth themselves, it hurts our society at large. 19 states allow a child of any age to be waived to adult court. It wasn't until 2005 that the death penalty was outlawed for youth. While juvenile life without parole sentences have been outlawed, this does not apply to youth charged as adults (Allen, Trzcinski, & Kubiak, 2012). Research shows that juveniles do not always fully understand the legal consequences of their actions and do not know all of the legal rights afforded to them (McCord, Spatz Widom, & Crowell, 2001). And yet we don't care, because a child committed a crime, and if we took responsibility for them at that

moment, we would have to acknowledge that we failed. If we want to continue protecting young people, involving ourselves in their lives to the extent that we do, we cannot stop once they commit a crime.

While traditional thoughts about adolescent brain development is detrimental to young people in many ways, this is what the public responds to. This is why using Human Development Theory to argue for rehabilitative measures, although not particularly forward-thinking, is helpful. There is evidence that severe punishments for youth impedes their healthy development (Allen, Trzcinski, & Kubiak, 2012). How can we place youth in punitive and unhealthy conditions when we know their brains are not done developing? We should see teenagers' brain plasticity as a positive thing, something indicative of the potential for growth and change, as opposed to something missing which will inherently lead to risky behavior. Legislation which appears "tough on crime" is not based on research, but on opinion polls which ask emotionally-charged questions about single, high-profile cases (Allen, Trzcinski, & Kubiak, 2012). This is not how public policy should be informed. Wanting to protect children from sexual predators is a great thing, and a great talking point for politicians, but the ways in which we try to do that now are very counter-productive and do not actually reduce the number of sexual crimes.

It is important to remember that youth who offend sexually are still our children, still a part of our community. These are young people, still legally children, many under the age of consent themselves, who need help, support, and positive intervention. Youth who commit sexual offenses are more likely to have experienced maltreatment, been neglected, and been abused than non-offenders (Becker & Hicks, 2003). It has also been found that the parents of juveniles who commit sexual crimes are less likely to have effective communication skills, show less affection, and have higher incidents of parental violence than those of youth who do not

commit crimes (Letourneau & Miner, 2005). It has also been found that youth with sexual behavior problems are “as likely to be sexual abuse victims as they are perpetrators” (Chaffin, 2008). Youth incarcerated for sexual offenses are incredibly likely to have other mental health issues, like PTSD from prior abuse, substance use issues, and depression, just like many other youth who commit crimes, and yet because of the nature of their crime, we send them to sex-offender treatment programs which are unlikely to address these other issues (Chaffin, 2008). Sexual abuse PTSD and sexual behavior problems/crimes are a common combination, but sex offender treatment programs are rarely trauma-informed (Chaffin, 2008).

There is no one cause for sexual crimes, but in general, a history of experiencing abuse, exposure to pornography, aggressive male role models, or substance abuse, sometimes all four, exist in youth with problematic sexual behaviors (Becker & Hicks, 2003). In adults, deviant sexual interest and arousal, minimization of crimes committed, and lack of victim empathy are some of the primary indicators of sexual offenses (Letourneau & Miner, 2005). However, this is not the case for youth. There is no definitive answer for what causes or predicts sexual offenses in youth, but it is more likely social isolation and maltreatment than a desire for sexual deviancy (Letourneau & Miner, 2005). This means that youth are different from adult offenders, and are not likely to grow into them. These youth are not inherently deviant and predatory. These are teenagers who have experienced hardship, and while they need to take responsibility for their actions and commit to learning pro-social behaviors, it is also the responsibility of professionals who work with these youth to understand the ways in which systems, structures, and individuals have failed these youth.

Recidivism

Community protection is at the core of the public's fears of youth who commit sexual offenses, so assuring people that these youth actually do not reoffend at high rates is very important. In reality, youth who commit sexual offenses actually have very low recidivism rates ranging from 5%-15%, with the average being roughly 10%. Of those who reoffend, very few do so sexually; the most common new offense after an initial sexual offense is a parole violation. For juveniles who have committed sexual offenses and who re-offend upon release, another sexual crime is among the least common new convictions. While these numbers reveal a common misconception, people will always point to those who do commit crimes again and say "even once is too much." I would say that just like we advocate for treatment as opposed to incarceration for drug offenses, the same should be done for sexual offenses because, as I will discuss, treatment for youth who commit sexual offenses works. Very few of these youth grow up to be chronic sexual offenders. In fact, only 14% of sexual offenses committed in a given year are perpetrated by someone with a prior conviction for a sexual crime (Applebaum, 2008). The vast majority of adult sexual offenses were committed by people who did not have a sexual offense record from their youth (Caldwell, 2010). Youth who have committed sexual offenses have been found, in one study, to have very similar recidivism rates as those who have not actually have very similar rates of new sexual offenses, 7.7% and 6.1% respectively (Lussier, Corrado, & McCuish, 2016). This is one reason why harsh post-incarceration measures for juveniles who commit sexual offenses don't provide much in terms of protection; these youth simply aren't offending at the rates we think they are.

Sexual offending in adolescence has been proven able to predict violent, property, and administrative crimes in adulthood, but will not necessarily predict further sexual offending. One

study found that sexual offenses accounted for only 3% of new, post-incarceration convictions for youth who had been adjudicated for a sex crime (Lussier, Corrado, & McCuish, 2016).

Another follow-up study found that 85% of all future sex crimes committed by adjudicated youth in adulthood were committed by youth who were not originally incarcerated for a sexual offense (Chaffin, 2008). Youth at high risk of re-offending, sexually or not, do exist, but they are a small minority (Letourneau & Miner, 2005).

Incarceration and Treatment

The prevailing myth is that sexual offending is incurable, and if attempts at treatment are going to be made, they need to be intensive, long-term, and sexual offense-specific (Chaffin, 2008). There is actually little to no evidence to suggest this is the right path for youth. What has been proven effective, however, is treatment which focuses on the various systems in which a youth lives, including their peer groups, families, and educational environments. The only reason youth are placed into sex offender-specific treatment programs is because that's what we do with adults. But youth do not have the same pathologies towards sexual offending as adults do. In fact, one study found that youth who had sexually offended who participated in 12 outpatient sessions with a therapist met the criteria to be labeled "cured" (Chaffin, 2008). Allocating resources to community-based treatment methods that are proven to work for youth who sexually offend is not just important for the youth they grant a second chance, but also because the cost to future victims is so high (Borduin, Schaeffer, & Heiblum, 2009). If we truly want to reduce the number of sex crimes, treatment is the way to do it.

Treatment for juveniles who commit sexual offenses is proven to work, meaning it reduces recidivism rates, while punitive measures actually do little to help and protect the community (Becker and Hicks, 2003). For many of these adjudicated youth, healthy, consensual,

appropriate sexual contact has never been modeled for them. Dr. Elizabeth Letourneau, the director of the Moore Center for the Prevention of Child Sexual Abuse at Johns Hopkins Bloomberg School of Public Health and a leading researcher on juvenile sex offenders, has said that most of these youth simply need to be taught which kinds of physical touching are okay and which are not, because the various systems in their lives before adjudication never taught them (Stillman, 2016). For those youth who have more persistent and problematic sexual behavior problems, multi-systemic therapy, which involves parents and other family members, school systems, and peer groups which the child is a part of, works best, as opposed to “sex-offender specific” treatment which adults go through. These treatment models are not an easy way out; they require that youth take accountability for their actions and stop denying the impact of their crimes. But they also address the different systems that should have been teaching the youth necessary skills along the way. MST has been proven to improve youth and parental communication, increase parental affection towards the youth, improve youth’s academic performance, and decrease arrests (Borduin, Schaeffer, & Heiblum, 2009).

When we incarcerate youth for lengthy periods of time, both with other youth and adults, we encourage something called “criminal embeddedness.” Criminal embeddedness means that we teach youth only the skills necessary to survive in a prison or lockdown facility, as opposed to the pro-social skills necessary upon release (McCord, Spatz Widom, & Crowell, 2001). Juvenile detention facilities are difficult places to live, places which produce their own criminal culture very similar to those of adult prisons that youth must necessarily adopt to survive. Juvenile detention facilities tend to teach youth to exploit whomever they can, take advantage of weaker youth, don’t snitch, and that staff are not your friends or there to help you (Siegel & Senna, 2000). These are all things inherently counter to the skills necessary to achieve the level

of empathy and positive self-image that we want youth who commit sexual offenses to achieve. There is evidence that shows that incarceration for youth tends to lead to further incarceration (McCord, Spatz Widom, & Crowell, 2001). There are definitely youth who need a residential facility to provide structure and safety, both for themselves and for the community, but these facilities only work if they create a culture conducive to treatment, and are not just mini-prisons.

When professionals and the public replace isolation and shame with community connections and empathy, we can prevent more sexual crimes from taking place. As Zimring and Allen (2009) state, we have a “vested interest” in giving these youth the opportunities to grow, develop and rehabilitate, but punitive sentences do not afford them those opportunities. When we incarcerate juveniles like adults, or with adults in many cases, we deny them the opportunity to grow and learn outside of an environment which entirely revolves around criminal behavior (Zimring & Allen, 2009). Youth who are incarcerated with adults are 36 times more likely to commit suicide than those in juvenile facilities (Allen, Trzcinski, & Kubiak, 2012). It is also known that socialization around violent male role models predicts sexual offending, so to reduce future sexual offenses, we should never be housing young boys with high-risk adult men (Becker & Hicks, 2003). Youth incarcerated in adult prisons also have higher instances of mental health issues, but now they are in facilities that rarely have the resources for proper treatment (Allen, Trzcinski, & Kubiak, 2012).

There is a real possibility of positive benefits when intervening with youth who have committed crimes, but if that intervention is punitive, shaming, and isolating, there is also a possibility of causing more crime (Chaffin, 1998). When we place teenagers in prisons with adults, when we shame them into believing that everything about them is depraved and incapable of change, when we deny them, even after they have finished their sentence, the opportunity to

find a place to live, to get an education, and to get a job, we leave them few other options than committing more crime. Treatment for these youth works, but research has also shown that recidivism rates are very similar, and very low, for both JSOs who receive treatment and those who do not. A lot of the reduction of juvenile crime actually occurs as a result of normal adolescent development. Simply letting teenagers grow up, in a safe, educational, and responsive environment, is mostly what we need to do to reduce sexual offenses among youth.

Youth who are adjudicated as adults are denied that ability to grow up in a healthy, non-criminal behavior oriented environment. These youth have to go through the same treatment models that adult sex offenders do, which often require incredibly embarrassing, invasive, and costly acts. Participants are required to pay for their own treatment, meaning it would provide a more steady income if participants “failed” therapy (Stillman, 2016). There are sex offender treatment handbooks, detailing exercises for patients which include describing masturbatory fantasies in detail for group treatment, and specifically for youth, listing instructions on how to masturbate and then before ejaculation, to picture a “disgusting” image or imagine of being caught and shamed by family members in the act, a similar exercise taught to young gay people during conversion therapy (Stillman, 2016).

Treatment options for youth in the juvenile justice system have also gotten more punitive, with more and more youth being placed in residential facilities than community-based treatment (Letourneau and Miner, 2005). This tends to have a similar impact as incarceration with adults, where youth are surrounded by other criminal youth. This lack of positive peer interaction can actually increase criminal activity upon release (Letourneau and Miner, 2005). We take youth from their families, schools, and communities, despite evidence showing those are the exact

things they need, and then treat them as monsters. It is amazing they don't actually live up to our imagination.

Registration and Community Notification

One very troubling thing which came out of the "stranger danger" panic of the 1990s was the creation of, and inclusion of juveniles on, the sex offender registry. The Jacob Wetterling Act of 1994 created a registry of known adult sexual offenders for police use. Megan's Law was added to the act two years later and required police to inform the public of certain high-risk sexual offenders (Applebaum, 2008). The Adam Walsh Child protection and Safety Act was signed into law in 2006 and included the Sex Offender Registration and Notification Act, which required that youth who were 14 or older at the time of their crime and committed a crime equivalent to aggravated sexual abuse if committed by an adult would be required to register. SORNA uses a tier system for seriousness of offenses, tiers which are solely based on the crime committed, not future risk of re-offending. Tier I requires registration for ten years, tier II is for 25 years, and Tier III is for life (Applebaum, 2008). The basis for aggravated sexual abuse when applied to youth only takes victim age into account, which is twelve years old or younger, and not offender age. This means that potentially, a 14 year old could be placed on the sex offender registry for having sexual contact with a 12 year old. A 14 year old sexually offending against a 12 year old is incredibly different from a 45 year old doing the same (Zimring & Allen, 2009). SORNA decreased the age at which someone could be registered and extended the list of registerable crimes. Every state needs to have some sort of sex offender registration and notification system to receive federal funding, and currently 33 states include youth charged as juveniles in their registries (Applebaum, 2008). A lot of registrants, including juveniles, are required to post a picture of themselves, their address, and sometimes their place of employment,

and they pay for this registration process themselves (Stillman, 2016). Oregon has no lower age limit for juvenile registration and requires that any youth who committed a crime which if committed by an adult would constitute a felony sex crime register, and they must pay the \$70 registration fee themselves every year (Oregon State Police).

We praise community notification as a power of community protection, but when we take away someone's ability to reintegrate properly, is it not partially our fault when they offend again? Despite the decrease in juvenile crime and low recidivism rates, youth are still subjected to harsh incarceration and post-incarceration measures. More and more youth are being waived to adult court and placed on community notification registries. People believe that community notification and sex offender registries do a lot to help promote safety, but one longitudinal study found that youth on registries are subjected to ostracism from other youth and adults, and this ostracism leads to isolation, which leads to association with other deviant peers, and actually increases criminal activity. In fact, a lot of research has shown that community notification and registration systems do very little if not nothing for community safety and actually increase the likelihood that someone will recidivate (Caldwell, Zeimke, & Vitacco, 2008). Youth who commit sexual offenses report feeling powerless, and strong connections to family, peers, and social institutions have beneficial effects towards decreased recidivism, but community notification registries deny youth these connections (Letourneau and Miner, 2005). Registration is much more about our desire for punitive and intense action, as opposed to actually decreasing crime and protecting the community.

Because crime rates have been in decline, including sexual offenses among youth, some may cite this as being a natural consequence to the increased intensity of legal and clinical interventions for these youth, but research actually shows that intensive treatment and punitive

legislative measures, such as community notification, actually have very little to do with recidivism and community protection, but have a lot of negative effects on the youth they are imposed upon (Letourneau and Miner, 2005). Posting pictures and addresses online has subjected not only youth, but also their families and people they live with to harassment and violence (Stillman, 2016). Even Stacie Rumenap, president of the organization Stop Child Predators, which has lobbied for intense registration requirements across the country, acknowledges that “you can’t handle these types of kids—and they’re kids—in the same way you handle an adult and expect them to be rehabilitated” (Stillman, 2016).

One study found that during a ten year follow up of youth with aggressive sexual behavior problems receiving inpatient treatment and youth receiving outpatient treatment services for ADHD (and no juvenile justice system involvement), both groups had nearly identical, very low sexual offense rates, between 2 and 3%. But we would never suggest that all youth with ADHD be placed on a registry and monitored for the rest of their lives. Also, the state where the study was conducted did not have community notification requirements for youth, so that does not account for their low recidivism rates (Chaffin, 2008). They did not offend because they were given the opportunity to receive treatment.

SORNA, Megan’s Law, and the Jacob Wetterling Act use criteria for registration that is not used by clinicians, people who work with juvenile offenders on a daily basis, to determine their risk of recidivism. SORNA uses only victim age and type of offense. Recidivism risk is not easily predicted, but clinicians will use a variety of factors, including antisocial behavior, attitude towards treatment, and community stability, to assess youth. They also understand that a youth’s risk of reoffending is changeable, and likely to lower through treatment. But we do know that the criteria used for registration does not actually identify youth at a high risk of committing new

sexual offenses (Applebaum, 2008). Registration is another example of adult criteria being used on juveniles, and being entirely inaccurate. Registration has also been found to do the exact opposite of its intent. Prosecutors have been found to not pursue charges against youth if they know it would result in lifelong registration requirements. They know that registration ruins youth's lives and they do not want to subject them to that. But by doing so, they deny youth the opportunity to receive treatment (Letourneau & Caldwell, 2013). Once more, if we actually valued reducing the number of sexual crimes, as opposed to enacting an abstract and revengeful form of justice, we would not require children to register for life.

Implications

Our thoughts on young people who commit sexual crimes tend to arise from our strongly held beliefs that young people, specifically teenagers, are impulsive and engage in risky behavior. We make laws around those beliefs, supposedly protecting young people from themselves and their diminished decision-making abilities, prohibiting them from alcohol, tobacco, marijuana, and denying them the right to vote. But when they commit crimes, we suddenly see them as fully responsible and aware of the repercussions on the same level as adults, and therefore they must be punished and treated accordingly. This is problematic when we look at how neuroscience has been viewed as a way to deny youth many rights, until they commit crimes. In reality, plasticity of the brain is a good thing. It allows for growth, for the ability to learn and incorporate new things into one's life. And yet we say that youth are "not fully developed" cognitively so that we can deny them many privileges, under the guise of protection. When a young child is learning how to walk, talk, or tie their shoes, we don't talk about them as having "something missing" from their brain. We praise their ability to learn and adapt. Why can we not do this for teenagers? Teenagers are not "missing" anything, their brains' systems are just imbalanced (Murphy, 2017).

The unfortunate thing is that these developmental frames which hinder young people in so many ways, are actually beneficial when we look at juvenile sex offenders. The idea that youth will continue to develop is a neurological standpoint that the majority of people believe in and agree with, so we can use this to our advantage when arguing for the rights of youth who commit crimes. All these youth need is time to grow out of adolescence; they are different from chronic, adult offenders, and with treatment they do not recidivate in high numbers. But is pursuing that argument just as detrimental to these young people? Perhaps the argument should not be based upon whether or not science tells us definitively that young people are “underdeveloped,” but that regardless of whether they are or not, that is what society believes. It is entirely possible for the juvenile justice system to strike a balance between requiring youth to take accountability for their actions, and helping them understand how past trauma and their ambiguous place in society could have led to incarceration. To achieve this, first and foremost we need to push individual circumstances within the juvenile court system. We need to take every youth’s life into account, not just their age, when deciding what sentence and method of treatment is best. This includes family history, abuse history, and the possibilities of community support. If we truly want to reduce the number of crimes, instead of getting some false equivalency of revenge as justice by any means necessary, we need to start tailoring youth’s sentences around rehabilitation. We should also focus on alternatives to incarceration and juvenile court, such as community treatment programs and accountability panels. Restorative justice should be a model for youth’s adjudication, so that not only do the victims and community feel restored, but so do the offenders. Public policy can no longer be dictated by a few famous cases and the emotions those arouse, but instead by sound research and ethical principles. The assessment for whether or not a youth needs to be incarcerated or registered

needs to be based upon what clinicians who work with this population feel are the most accurate risk factors for recidivism. We need to stop equating youth who commit crimes to adults who do the same. These are different population who require different kinds of interventions.

We have an opportunity to put our money where our mouths are, and actually reduce the amount of sexual crimes, and thus sexual victims, which appear every year. This information is uncomfortable, reimagining how we think of juvenile sex offenders is hard, but ultimately this is good news. If we can put aside our desire to lock people up and forget about them, we could actually meet the original goals of the juvenile justice system and make our communities and the youth within them safer and healthier. We need to re-educate voters, practitioners, and politicians by focusing on stories of youth who can be labeled “success stories” because they were given the opportunity for treatment, as opposed to simple incarceration (Allen, Trzcinski, & Kubiak, 2012). It is easy to advocate for criminal justice reform up until you get to sexual crimes, and I understand the aversion to even conversations about these things, let alone advocacy work on their behalf. But treating juvenile sex offenders with dignity, giving them opportunities to take responsibility for their crimes as well as opportunities for education, employment, and safe housing, is how we can help mitigate sexual violence. The ultimate goal of the juvenile justice system is rehabilitation, and in the end, these are not capital crimes. These youth will get out. Wouldn't we rather have youth who have been afforded opportunities for treatment, education, and transitional services be the ones who come back to our communities?

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